

## **Title: volume-04**

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.005 - General definitions.**

As used in sections 1 to 311, chapter 836, Oregon Laws 1973, except as otherwise specifically provided or unless the context requires otherwise:

- (1) "Accusatory instrument" means a grand jury indictment, an information or a complaint.
- (2) "Bench warrant" means a process of a court in which a criminal action is pending, directing a peace officer to take into custody a defendant in the action who has previously appeared before the court upon the accusatory instrument by which the action was commenced, and to bring the defendant before the court. The function of a bench warrant is to achieve the court appearance of a defendant in a criminal action for some purpose other than the initial arraignment of the defendant in the action.
- (3) "Complaint" means a written accusation, verified by the oath of a person and bearing an indorsement of acceptance by the district attorney having jurisdiction thereof, filed with a magistrate, and charging another person with the commission of an offense, other than an offense punishable as a felony. A complaint serves both to commence an action and as a basis for prosecution thereof.
- (4) "Complainant's information" means a written accusation, verified by the oath of a person and bearing an indorsement of acceptance by the district attorney having jurisdiction thereof, filed with a magistrate, and charging another person with the commission of an offense punishable as a felony. A complainant's information serves to commence an action, but not as a basis for prosecution thereof.
- (5) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order. "Correctional facility" does not include a youth correction facility as defined in ORS 162.135 and applies to a state hospital only as to persons detained therein charged with or convicted of a crime, or detained therein after being found guilty except for insanity under ORS 161.290 to 161.373.
- (6) "Criminal action" means an action at law by means of which a person is accused of the commission of a violation, misdemeanor or felony.
- (7) "Criminal proceeding" means any proceeding which constitutes a part of a criminal action or occurs in court in connection with a prospective, pending or completed criminal action.
- (8) "District attorney," in addition to its ordinary meaning, includes a city attorney as prosecuting officer in the case of municipal ordinance offenses, a county counsel as prosecuting officer under a county charter in the case of county ordinance offenses, and the Attorney General in those criminal actions or proceedings within the jurisdiction of the Attorney General.
- (9) "District attorney's information" means a written accusation by a district attorney and:
  - (a) If filed with a magistrate to charge a person with the commission of an offense, other than an offense punishable as a felony, serves both to commence an action and as a basis for prosecution thereof; or
  - (b) If filed with a magistrate to charge a person with the commission of an offense punishable as a felony, serves to commence an action, but not as a basis for prosecution thereof; or
  - (c) If, as is otherwise authorized by law, filed in circuit court to charge a person with the commission of an offense, serves as a basis for prosecution thereof.
- (10) "Information" means a district attorney's information or a complainant's information.
- (11) "Probable cause" means that there is a substantial objective basis for believing that more likely than not an offense has been committed and a person to be arrested has committed it.
- (12) "Trial court" means a court which by law has jurisdiction over an offense charged in an accusatory instrument and has authority to accept a plea thereto, or try, hear or otherwise dispose of a criminal action based on the accusatory instrument.
- (13) "Ultimate trial jurisdiction" means the jurisdiction of a court over a criminal action or proceeding at the highest trial level.
- (14) "Warrant of arrest" means a process of a court, directing a peace officer to arrest a defendant and to bring the defendant before the court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against the defendant has been commenced. [1973 c.836 §1; 1983 c.760 §1; 1995 c.738 §3; 1997 c.249 §42; 1997 c.801 §101; 1999 c.1051 §122; 2017 c.634 §1]

Note:

Legislative Counsel has substituted "chapter 836, Oregon Laws 1973," for the words "this Act" in sections 1 and 2, chapter 836, Oregon Laws 1973, compiled as 131.005 and 131.015. Specific ORS references have not been substituted, pursuant to 173.160. These sections may be determined by referring to the 1973 Comparative Section Table located in Volume 22 of ORS.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.007 - "Victim" defined.**

As used in ORS 40.385, 135.230, 147.417, 147.419 and 147.421 and in ORS chapters 136, 137 and 144, except as otherwise specifically provided or unless the context requires otherwise, "victim" means the person or persons who have suffered financial, social, psychological or physical harm as a result of a crime and includes, in the case of a homicide or abuse of corpse in any degree, a member of the immediate family of the decedent and, in the case of a minor victim, the legal guardian of the minor. In no event shall the criminal defendant be considered a victim. [1987 c.2 §17; 1993 c.294 §3; 1997 c.313 §30; 2009 c.178 §32; 2013 c.144 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.015 - Application to prior and subsequent actions.**

(1) The provisions of chapter 836, Oregon Laws 1973, apply to:

- (a) All criminal actions and proceedings commenced upon or after January 1, 1974, and all appeals and other post-judgment proceedings relating or attaching thereto; and
- (b) All matters of criminal procedure prescribed in chapter 836, Oregon Laws 1973, which do not constitute a part of any particular action or case, occurring upon or after January 1, 1974.

(2) The provisions of chapter 836, Oregon Laws 1973, do not impair or render ineffectual any proceedings or procedural matters which occurred before January 1, 1974. [1973 c.836 §2]

Note:

See note under 131.005.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.025 - Parties in criminal action.**

Except for offenses based on municipal or county ordinances, in a criminal action the State of Oregon is the plaintiff and the person prosecuted is the defendant. [1973 c.836 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.035 - When departures, errors or mistakes in pleadings or proceedings are material.**

No departure from the form or mode prescribed by law, error or mistake in any criminal pleading, action or proceeding renders it invalid, unless it has prejudiced the defendant in respect to a substantial right. [1973 c.836 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.040 - When law enforcement officer may communicate with person represented by counsel.**

A law enforcement officer may communicate with a person who is represented by counsel without obtaining the prior consent of counsel, and an attorney who prosecutes violations of the criminal laws of this state or the United States is not required to forbid or otherwise prevent the communication, if:

- (1) The communication is related to a criminal investigation;
- (2) No accusatory instrument has been filed charging the person with the commission of an offense that is the subject of the investigation or communication, and no juvenile petition has been filed alleging acts that would constitute the commission of an offense that is the subject of the investigation or communication; and
- (3) The communication is not in violation of the Constitution of the United States or of the State of Oregon. [1995 c.657 §19]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.045 - Appearances by simultaneous electronic transmission.**

(1) As used in this section:

- (a) "Criminal proceeding" has the meaning given that term in ORS 131.005.
- (b) "Parties" means the State of Oregon and the person being prosecuted.
- (c) "Simultaneous electronic transmission" means television, telephone or any other form of electronic communication transmission if the form of transmission allows:
  - (A) The court and the person making the appearance to communicate with each other during the proceeding;
  - (B) A defendant who is represented by counsel to consult privately with defense counsel during the proceeding;
  - (C) The victim to participate in the proceeding to the same extent that the victim is entitled to participate when the person making the appearance is physically present in the court; and
  - (D) The public to hear and, if the transmission includes a visual image, to see the appearance if the public has a right to hear and see the appearance when the person making the appearance is physically present in the court.

(2) When a statute authorizes or requires a person to make a personal appearance before a court in a criminal proceeding, the person may appear by being physically present in the court or by simultaneous electronic transmission if:

- (a) Simultaneous electronic transmission is authorized by court rule under subsection (3) of this section;
- (b) Except as otherwise provided by law, the parties in the proceeding and the court agree to appearance by simultaneous electronic transmission; and
- (c) Appearance by simultaneous electronic transmission is not specifically prohibited by statute.

(3) In order for a person to appear by simultaneous electronic transmission as provided in this section, court rules must provide for the use of the specific type of simultaneous electronic transmission at the court location and for the type of proceeding in which the person is appearing. Court rules allowing the use of simultaneous electronic transmission may establish requirements for its use.

(4) Notwithstanding subsection (2)(b) of this section, a witness in a criminal proceeding may not appear before a jury by simultaneous electronic transmission without the written consent of the parties and the agreement of the court.

(5) This section does not apply to a hearing under ORS 138.510 to 138.680. [2005 c.566 §4; 2009 c.219 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.105 - Timeliness of criminal actions.**

A criminal action must be commenced within the period of limitation prescribed in ORS 131.125 to 131.155. [1973 c.836 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.125 - Time limitations.**

(1) A prosecution for aggravated murder, murder, attempted murder or aggravated murder, conspiracy or solicitation to commit aggravated murder or murder or any degree of manslaughter may be commenced at any time after the commission of the attempt, conspiracy or solicitation to commit aggravated murder or murder, or the death of the person killed.

(2) A prosecution for any of the following felonies may be commenced within 20 years after the commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime before the victim attains 30 years of age, whichever occurs later:

(a) Rape in the first degree under ORS 163.375.

(b) Sodomy in the first degree under ORS 163.405.

(c) Unlawful sexual penetration in the first degree under ORS 163.411.

(d) Sexual abuse in the first degree under ORS 163.427.

(3) A prosecution for any of the following felonies may be commenced within six years after the commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime before the victim attains 30 years of age or within 12 years after the offense is reported to a law enforcement agency or the Department of Human Services, whichever occurs first:

(a) Strangulation under ORS 163.187 (4).

(b) Criminal mistreatment in the first degree under ORS 163.205.

(c) Rape in the third degree under ORS 163.355.

(d) Rape in the second degree under ORS 163.365.

(e) Sodomy in the third degree under ORS 163.385.

(f) Sodomy in the second degree under ORS 163.395.

(g) Unlawful sexual penetration in the second degree under ORS 163.408.

(h) Sexual abuse in the second degree under ORS 163.425.

(i) Using a child in a display of sexual conduct under ORS 163.670.

(j) Encouraging child sexual abuse in the first degree under ORS 163.684.

(k) Incest under ORS 163.525.

(L) Promoting prostitution under ORS 167.012.

(m) Compelling prostitution under ORS 167.017.

(n) Luring a minor under ORS 167.057.

(4) A prosecution for any of the following misdemeanors may be commenced within four years after the commission of the crime or, if the victim at the time of the crime was under 18 years of age, anytime before the victim attains 22 years of age or within four years after the offense is reported to a law enforcement agency or the Department of Human Services, whichever occurs first:

(a) Strangulation under ORS 163.187 (3).

(b) Sexual abuse in the third degree under ORS 163.415.

(c) Exhibiting an obscene performance to a minor under ORS 167.075.

(d) Displaying obscene materials to minors under ORS 167.080.

(5) In the case of crimes described in subsection (3)(i) of this section, the victim is the child engaged in sexual conduct. In the case of the crime described in subsection (3)(k) of this section, the victim is the party to the incest other than the party being prosecuted. In the case of crimes described in subsection (3)(L) and (m) of this section, the victim is the child whose acts of prostitution are promoted or compelled.

(6) A prosecution for arson in any degree may be commenced within six years after the commission of the crime.

(7) A prosecution for any of the following felonies may be commenced within six years after the commission of the crime if the victim at the time of the crime was 65 years of age or older:

(a) Theft in the first degree under ORS 164.055.

(b) Aggravated theft in the first degree under ORS 164.057.

(c) Extortion under ORS 164.075.

(d) Robbery in the third degree under ORS 164.395.

(e) Robbery in the second degree under ORS 164.405.

(f) Robbery in the first degree under ORS 164.415.

(g) Forgery in the first degree under ORS 165.013.

(h) Fraudulent use of a credit card under ORS 165.055 (4)(b).

(i) Identity theft under ORS 165.800.

(8) Except as provided in subsection (9) of this section or as otherwise expressly provided by law, prosecutions for other offenses must be commenced within the following periods of limitations after their commission:

(a) For any other felony, three years.

(b) For any misdemeanor, two years.

(c) For a violation, six months.

(9) If the period prescribed in subsection (8) of this section has expired, a prosecution nevertheless may be commenced as follows:

(a) If the offense has as a material element either fraud or the breach of a fiduciary obligation, prosecution may be commenced within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is not a party to the offense, but in no case shall the period of limitation otherwise applicable be extended by more than three years;

(b) If the offense is based upon misconduct in office by a public officer or employee, prosecution may be commenced at any time while the defendant is in public office or employment or within two years thereafter, but in no case shall the period of limitation otherwise applicable be extended by more than three years;

(c) If the offense is an invasion of personal privacy under ORS 163.700 or 163.701, prosecution may be commenced within one year after discovery of the offense by the person aggrieved by the offense, by a person who has a legal duty to represent the person aggrieved by the offense or by a law enforcement agency, but in no case shall the period of limitation otherwise applicable be extended by more than three years; or

(d) If the offense is sexual abuse by fraudulent representation under ORS 163.429, prosecution may be commenced within six years after the victim becomes aware or reasonably should have become aware of the criminal nature of the conduct.

(10) Notwithstanding subsections (2) and (3) of this section, if the defendant is identified after the period described in subsection (2) or (3) of this section on the basis of DNA (deoxyribonucleic acid) sample comparisons, a prosecution for:

(a) Rape in the first degree, sodomy in the first degree, unlawful sexual penetration in the first degree or sexual abuse in the first degree may be commenced at any time after the commission of the crime.

(b) Rape in the second degree, sodomy in the second degree or unlawful sexual penetration in the second degree may be commenced within 25 years after the commission of the crime.

(11) Notwithstanding subsection (10) of this section, if a prosecution for a felony listed in subsection (10) of this section would otherwise be barred by subsection (2) or (3) of this section, the prosecution must be commenced within two years of the DNA-based identification of the defendant.

(12)(a) Notwithstanding subsection (2) of this section, if a prosecuting attorney obtains corroborating evidence of the crimes of rape in the first degree, sodomy in the first degree, unlawful sexual penetration in the first degree or sexual abuse in the first degree, after the period described in subsection (2) of this section, the prosecution may be commenced at any time after the commission of the crime.

(b) The corroborating evidence described in paragraph (a) of this subsection must consist of one of the following:

(A) Physical evidence other than a DNA sample, including but not limited to audio, video or other electronic recordings, text messages, guest book logs, telephone recordings and photographs.

(B) A confession, made by the defendant, to the crime the victim reported.

(C) An oral statement, made by the victim to another person in temporal proximity to the commission of the crime, corroborating the victim's report of the crime to a law enforcement agency.

(D) A written statement, created by the victim in temporal proximity to the commission of the crime and subsequently delivered to another person or to a law enforcement agency, corroborating the victim's report of the crime to a law enforcement agency.

(E) A report made by a different victim to a law enforcement agency, made either before or after the victim's report, alleging that the defendant committed another crime of the same or similar character such that the two crimes could be charged in the same charging instrument under ORS 132.560.

(13)(a) A prosecuting attorney commencing a prosecution pursuant to subsection (12) of this section shall present any evidence reasonably tending to negate the guilt of the defendant to the grand jury considering the indictment for the offense.

(b) The failure to present evidence reasonably tending to negate guilt as required by paragraph (a) of this subsection does not affect the validity of an indictment or prosecution. [1973 c.836 §6; 1989 c.831 §1; 1991 c.386 §5; 1991 c.388 §1; 1991 c.830 §5; 1995 c.768 §8; 1997 c.427 §1; 1997 c.697 §3; 1997 c.850 §5; 2001 c.375 §1; 2005 c.252 §1; 2005 c.839 §1; 2007 c.840 §1; 2007 c.869 §6; 2009 c.585 §1; 2011 c.666 §2; 2011 c.681 §3; 2012 c.70 §2; 2015 c.417 §1; 2015 c.645 §5; 2016 c.47 §5; 2016 c.120 §1; 2023 c.200 §2; 2023 c.265 §1]

Note:

Section 2, chapter 265, Oregon Laws 2023, provides:

Sec. 2.

The amendments to ORS 131.125 by section 1 of this 2023 Act apply to offenses committed before, on or after the effective date of this 2023 Act [January 1, 2024] but do not operate to revive a prosecution barred by the operation of ORS 131.125 before the effective date of this 2023 Act. [2023 c.265 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.135 - When prosecution commenced.**

A prosecution is commenced when a warrant or other process is issued, provided that the warrant or other process is executed without unreasonable delay. [1973 c.836 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.145 - When time starts to run; tolling of statute.**

- (1) For the purposes of ORS 131.125, time starts to run on the day after the offense is committed.
- (2) Except as provided in ORS 131.155, the period of limitation does not run during:
  - (a) Any time when the accused is not an inhabitant of or usually resident within this state; or
  - (b) Any time when the accused hides within the state so as to prevent process being served upon the accused.
- (3) If, when the offense is committed, the accused is out of the state, the action may be commenced within the time provided in ORS 131.125 after the coming of the accused into the state. [1973 c.836 §8; 1987 c.158 §19]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.155 - Tolling of statute; three-year maximum.**

Notwithstanding ORS 131.145, in no case shall the period of limitation otherwise applicable be extended by more than three years. [1973 c.836 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.205 - Definition for ORS 131.205 to 131.235.**

As used in ORS 131.205 to 131.235, "this state" means the land and water and the airspace above the land and water with respect to which the State of Oregon has legislative jurisdiction. [1973 c.836 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.215 - Jurisdiction.**

Except as otherwise provided in ORS 131.205 to 131.235, a person is subject to prosecution under the laws of this state for an offense that the person commits by the conduct of the person or the conduct of another for which the person is criminally liable if:

- (1) Either the conduct that is an element of the offense or the result that is an element occurs within this state; or
- (2) Conduct occurring outside this state is sufficient under the law of this state to constitute an attempt to commit an offense within this state; or
- (3) Conduct occurring outside this state is sufficient under the law of this state to constitute a conspiracy to commit an offense within this state and an overt act in furtherance of the conspiracy occurs within this state; or
- (4) Conduct occurring within this state establishes complicity in the commission of, or an attempt, solicitation or conspiracy to commit an offense in another jurisdiction which also is an offense under the law of this state; or
- (5) The offense consists of the omission to perform a legal duty imposed by the law of this state with respect to domicile, residence or a relationship to a person, thing or transaction in this state; or
- (6) The offense violates a statute of this state that expressly prohibits conduct outside this state affecting a legislatively protected interest of or within this state and the actor has reason to know that the conduct of the actor is likely to affect that interest. [1973 c.836 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.225 - Exceptions.**

- (1) Unless in the statute defining the offense a legislative intent clearly appears to declare the conduct criminal, regardless of the place of the result, ORS 131.215 (1) does not apply if:
  - (a) Either causing a specified result or an intent to cause or danger of causing that result is an element of an offense; and
  - (b) The result occurs or is designed or likely to occur only in another jurisdiction where the conduct charged would not constitute an offense.
- (2) ORS 131.215 (1) does not apply if causing a particular result is an element of an offense and the result is caused by conduct occurring outside this state that would not constitute an offense if the result had occurred there, unless the actor intentionally or knowingly caused the result within this state. [1973 c.836 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.235 - Criminal homicide.**

- (1) If the offense committed is criminal homicide, either the death of the victim or the conduct causing death constitutes a "result" within the meaning of ORS 131.215 (1).
- (2) If the body, or a part thereof, of a criminal homicide victim is found within this state, it shall be prima facie evidence that the result occurred within this state. [1973 c.836 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations;**

**Jurisdiction; Venue; Criminal Forfeiture; Crime PreventionSection 131.305 - Place of trial.**

- (1) Except as otherwise provided in ORS 131.305 to 131.415, criminal actions shall be commenced and tried in the county in which the conduct that constitutes the offense or a result that is an element of the offense occurred.
- (2) All objections of improper place of trial are waived by a defendant unless the defendant objects in the manner set forth in ORS 131.335 to 131.363. [1973 c.836 §14]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime PreventionSection 131.315 - Special provisions.**

- (1) If conduct constituting elements of an offense or results constituting elements of an offense occur in two or more counties, trial of the offense may be held in any of the counties concerned.
- (2) If a cause of death is inflicted on a person in one county and the person dies therefrom in another county, trial of the offense may be held in either county.
- (3) If the commission of an offense commenced outside this state is consummated within this state, trial of the offense shall be held in the county in which the offense is consummated or the interest protected by the criminal statute in question is impaired.
- (4) If an offense is committed on any body of water located in, or adjacent to, two or more counties or forming the boundary between two or more counties, trial of the offense may be held in any nearby county bordering on the body of water.
- (5) If an offense is committed in or upon any railroad car, vehicle, aircraft, boat or other conveyance in transit and it cannot readily be determined in which county the offense was committed, trial of the offense may be held in any county through or over which the conveyance passed.
- (6) If an offense is committed on the boundary of two or more counties or within one mile thereof, trial of the offense may be held in any of the counties concerned.
- (7) A person who commits theft, burglary or robbery may be tried in any county in which the person exerts control over the property that is the subject of the crime.
- (8) If the offense is an attempt or solicitation to commit a crime, trial of the offense may be held in any county in which any act that is an element of the offense is committed.
- (9) If the offense is criminal conspiracy, trial of the offense may be held in any county in which any act or agreement that is an element of the offense occurs.
- (10) A person who in one county commits an inchoate offense that results in the commission of an offense by another person in another county, or who commits the crime of hindering prosecution of the principal offense, may be tried in either county.
- (11) A criminal nonsupport action may be tried in any county in which the dependent child is found, irrespective of the domicile of the parent, guardian or other person lawfully charged with support of the child.
- (12)(a) If the offense is theft, forgery or identity theft and the offense consists of an aggregate transaction involving more than one county, trial of the offense may be held in any county in which one of the acts of theft, forgery or identity theft was committed.
- (b) If the offense is two or more offenses listed in ORS 137.717 (2) committed against the same victim within a 180-day period, trial of the offenses may be held in any county in which one of the offenses was committed.
- (13) When a prosecution is for violation of the Oregon Securities Law, the trial of the offense may be held in the county in which:
  - (a) The offer to purchase or sell securities took place or where the sale or purchase of securities took place; or
  - (b) Any act that is an element of the offense occurred.
- (14) When a prosecution under ORS 165.692 and 165.990 or 411.675 and 411.990 (2) and (3) involves Medicaid funds, the trial of the offense may be held in the county in which the claim was submitted for payment or in the county in which the claim was paid.
- (15)(a) If the offense is stalking under ORS 163.732 and involves contacts as defined in ORS 163.730 in more than one county, trial of the offense may be held in any county in which a contact occurred.
- (b) If the offense is violating a court's stalking protective order under ORS 163.750, trial of the offense may be held in the county in which the defendant engaged in conduct prohibited by the order or in the county in which the order was issued. [1973 c.836 §15; 1987 c.603 §26; 1989 c.384 §1; 1993 c.680 §28; 1995 c.496 §7; 2007 c.584 §3; 2009 c.212 §1; 2023 c.151 §1]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime PreventionSection 131.325 - Place of trial; doubt as to place of crime; conduct outside of state.**

If an offense is committed within the state and it cannot readily be determined within which county the commission took place, or a statute that governs conduct outside the state is violated, trial may be held in the county in which the defendant resides, or if the defendant has no fixed residence in this state, in the county in which the defendant is apprehended or to which the defendant is extradited. [1973 c.836 §16]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime PreventionSection 131.335 - Change of venue.**

In accordance with ORS 131.345 to 131.415, the defendant in a criminal action may have the place of trial changed only once, except for causes arising after the first change was allowed. [1973 c.836 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.345 - Motion for change of venue; when made.**

A motion for change of venue may be made in any criminal action in a circuit court when the case is at issue upon a question of fact. [1973 c.836 §18]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.355 - Change of venue for prejudice.**

The court, upon motion of the defendant, shall order the place of trial to be changed to another county if the court is satisfied that there exists in the county where the action is commenced so great a prejudice against the defendant that the defendant cannot obtain a fair and impartial trial. [1973 c.836 §19]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.363 - Change of venue in other cases.**

For the convenience of parties and witnesses, and in the interest of justice, the court, upon motion of the defendant, may order the place of trial to be changed to another county. [1973 c.836 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.375 - Notification on change of venue.**

When the court has ordered a change of venue, the clerk shall notify the clerk of the proper court. [1973 c.836 §21; 2017 c.252 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.385 - When change of venue is complete.**

The change of the place of trial is complete upon entry of an order changing the place of trial, and thereafter the action shall proceed in the same manner as if it had been commenced in the court to which the trial is transferred. [1973 c.836 §22; 2017 c.252 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.395 - Expenses of change; taxation as costs.**

(1) The expenses of the change of place of trial under ORS 131.363 shall be taxed, as allowed by law, as expenses of the action, and the costs and expenses of the action shall be taxed in the court and paid by the county wherein the trial is held. If the costs and expenses are not recovered from the defendant, the county in which the action was commenced shall repay the county in which the trial is held.

(2) The expenses of a change of place of trial under ORS 131.355 shall not be taxed against the defendant. [1973 c.836 §23]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.405 - Attendance of defendant at new place of trial.**

(1) When the court has ordered a change of place of trial, if the defendant has been released on security release, conditional release or recognizance, the defendant must, without further notice, appear at the time and place appointed for trial and not depart therefrom without permission of the court.

(2) A security deposit is sufficient therefor in all respects as if the action had proceeded to final determination in the court where it was commenced. [1973 c.836 §24]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.415 - Conveyance of defendant in custody after change of venue.**

When the court has ordered a change of place of trial, if the defendant is in custody, the clerk of the court shall issue an order to the sheriff of the county, directing the sheriff to safely convey the defendant and deliver the defendant to the custody of the executive head of the correctional institution of the county where the defendant is to be tried. [1973 c.836 §25]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.505 - Definitions for ORS 131.505 to 131.525.**

As used in ORS 131.505 to 131.525, unless the context requires otherwise:

(1) "Conduct" and "offense" have the meaning provided for those terms in ORS 161.085 and 161.505.

(2) When the same conduct or criminal episode violates two or more statutory provisions, each such violation constitutes a separate and distinct offense.

(3) When the same conduct or criminal episode, though violating only one statutory provision, results in death, injury, loss or other consequences of two or more victims, and the result is an element of the offense defined, there are as many offenses as there are victims.

(4) "Criminal episode" means continuous and uninterrupted conduct that establishes at least one offense and is so joined in time,

place and circumstances that such conduct is directed to the accomplishment of a single criminal objective.

(5) A person is "prosecuted for an offense" when the person is charged therewith by an accusatory instrument filed in any court of this state or in any court of any political subdivision of this state, and when the action either:

(a) Terminates in a conviction upon a plea of guilty, except as provided in ORS 131.525 (2);

(b) Proceeds to the trial stage and the jury is impaneled and sworn; or

(c) Proceeds to the trial stage when a judge is the trier of fact and the first witness is sworn.

(6) There is an "acquittal" if the prosecution results in a finding of not guilty by the trier of fact or in a determination that there is insufficient evidence to warrant a conviction. [1973 c.836 §26; 1983 c.509 §1; 2001 c.104 §42]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.515 - Previous prosecution; when a bar to second prosecution.**

Except as provided in ORS 131.525 and 131.535:

(1) No person shall be prosecuted twice for the same offense.

(2) No person shall be separately prosecuted for two or more offenses based upon the same criminal episode, if the several offenses are reasonably known to the appropriate prosecutor at the time of commencement of the first prosecution and establish proper venue in a single court.

(3) If a person is prosecuted for an offense consisting of different degrees, the conviction or acquittal resulting therefrom is a bar to a later prosecution for the same offense, for any inferior degree of the offense, for an attempt to commit the offense or for an offense necessarily included therein.

(4) A finding of guilty of a lesser included offense on any count is an acquittal of the greater inclusive offense only as to that count. [1973 c.836 §27; 1997 c.511 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.525 - Previous prosecution; when not a bar to subsequent prosecution.**

(1) A previous prosecution is not a bar to a subsequent prosecution when the previous prosecution was properly terminated under any of the following circumstances:

(a) The defendant consents to the termination or waives, by motion, by an appeal upon judgment of conviction, or otherwise, the right to object to termination.

(b) The trial court finds that a termination, other than by judgment of acquittal, is necessary because:

(A) It is physically impossible to proceed with the trial in conformity with law; or

(B) There is a legal defect in the proceeding that would make any judgment entered upon a verdict reversible as a matter of law; or

(C) Prejudicial conduct, in or outside the courtroom, makes it impossible to proceed with the trial without injustice to either the defendant or the state; or

(D) The jury is unable to agree upon a verdict; or

(E) False statements of a juror on voir dire prevent a fair trial.

(c) When the former prosecution occurred in a court which lacked jurisdiction over the defendant or the offense.

(d) When the subsequent prosecution was for an offense which was not consummated when the former prosecution began.

(2) A plea of guilty or resulting judgment is not a bar under ORS 131.515 (2) to a subsequent prosecution under an accusatory instrument which is filed no later than 30 days after entry of the guilty plea. The defendant's prior plea of guilty or resulting judgment, notwithstanding ORS 135.365, shall be vacated upon motion by the defendant if made within 30 days after defendant's arraignment for the subsequent prosecution. The provisions of ORS 135.445 apply to such a vacated plea or resulting judgment and any statements made in relation to those proceedings. [1973 c.836 §28; 1983 c.509 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.535 - Proceedings not constituting acquittal.**

The following proceedings will not constitute an acquittal of the same offense:

(1) If the defendant was formerly acquitted on the ground of a variance between the accusatory instrument and the proof; or

(2) If the accusatory instrument was:

(a) Dismissed upon a demurrer to its form or substance;

(b) Dismissed upon any pretrial motion; or

(c) Discharged for want of prosecution without a judgment of acquittal. [1973 c.836 §29; 2001 c.104 §43]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.550 - Definitions for ORS 131.550 to 131.600.**

As used in ORS 131.550 to 131.600:

(1) "Acquiesce in prohibited conduct" means that a person knew of the prohibited conduct and knowingly failed to take reasonable



action under the circumstances to terminate or avoid the use of the property in the course of prohibited conduct. For purposes of this subsection, "reasonable action under the circumstances" includes, but is not limited to:

- (a) Reporting the prohibited conduct to a law enforcement agency;
  - (b) Commencing action that will assert the rights of the affiant as to the property interest;
  - (c) Terminating a rental agreement; or
  - (d) Seeking an abatement order under the provisions of ORS 105.505 to 105.520 or 105.550 to 105.600 or under any ordinance or regulation allowing abatement of nuisances.
- (2) "All persons known to have an interest" means:
- (a) Any person who has, prior to the time the property is seized for criminal forfeiture, filed notice of interest with any public office as may be required or permitted by law to be filed with respect to the property that has been seized for criminal forfeiture;
  - (b) Any person from whose custody the property was seized; or
  - (c) Any person who has an interest in the property, including all owners and occupants of the property, whose identity and address is known or is ascertainable upon diligent inquiry and whose rights and interest in the property may be affected by the action.
- (3) "Attorney fees" has the meaning given that term in ORCP 68 A.
- (4) "Financial institution" means any person lawfully conducting business as:
- (a) A financial institution or trust company, as those terms are defined in ORS 706.008;
  - (b) A consumer finance company subject to the provisions of ORS chapter 725;
  - (c) A mortgage banker or a mortgage broker as those terms are defined in ORS 86A.100, a mortgage servicing company or other mortgage company;
  - (d) An officer, agency, department or instrumentality of the federal government, including but not limited to:
    - (A) The Secretary of Housing and Urban Development;
    - (B) The Federal Housing Administration;
    - (C) The United States Department of Veterans Affairs;
    - (D) Rural Development and the Farm Service Agency of the United States Department of Agriculture;
    - (E) The Federal National Mortgage Association;
    - (F) The Government National Mortgage Association;
    - (G) The Federal Home Loan Mortgage Corporation;
    - (H) The Federal Agricultural Mortgage Corporation; and
    - (I) The Small Business Administration;
  - (e) An agency, department or instrumentality of this state, including but not limited to:
    - (A) The Housing and Community Services Department;
    - (B) The Department of Veterans' Affairs; and
    - (C) The Public Employees Retirement System;
  - (f) An agency, department or instrumentality of any municipality in this state, including but not limited to such agencies as the Portland Development Commission;
  - (g) An insurer as defined in ORS 731.106;
  - (h) A private mortgage insurance company;
  - (i) A pension plan or fund or other retirement plan; and
  - (j) A broker-dealer or investment adviser representative as defined in ORS 59.015.
- (5) "Forfeiture counsel" means an attorney designated to represent a seizing agency in criminal forfeiture actions or proceedings.
- (6) "Instrumentality" means property that is used or intended for use in prohibited conduct or that facilitates prohibited conduct.
- (7) "Law enforcement agency" means any agency that employs police officers or prosecutes criminal cases.
- (8) "Motor vehicle with a hidden compartment" means a motor vehicle as defined in ORS 801.360 that has had the vehicle's original design modified by a person other than the manufacturer to create a container, space or enclosure for the purpose of concealing, hiding or otherwise preventing discovery of its contents and that is used or intended to be used to facilitate the commission of a criminal offense.
- (9) "Official law enforcement use" means a use that may reasonably be expected to result in the identification, apprehension or conviction of criminal offenders.
- (10) "Police officer" has the meaning given that term in ORS 133.525.
- (11) "Proceeds of prohibited conduct" means property derived directly or indirectly from, maintained by or realized through an act or omission that constitutes prohibited conduct, and includes any benefit, interest or property of any kind without reduction for expenses of acquiring or maintaining it or incurred for any other reason.
- (12) "Prohibited conduct" means:
- (a) For purposes of proceeds, a felony or a Class A misdemeanor.
  - (b) For purposes of instrumentalities, any crime listed in ORS 131.602.
- (13) "Property" means any interest in anything of value, including the whole of any lot or tract of land and tangible and intangible personal property, including currency, instruments or securities or any other kind of privilege, interest, claim or right whether due or to become due.
- (14) "Seizing agency" means a law enforcement agency that has seized property for criminal forfeiture.

(15) "Weapon" means any instrument of offensive or defensive combat or anything used, or designed to be used, to destroy, defeat or injure a person. [2005 c.830 §1; 2007 c.71 §30; 2009 c.874 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.553 - Legislative findings; effect on local laws; remedy not exclusive.**

(1) The Legislative Assembly finds that:

(a) Prohibited conduct is undertaken in the course of activities that result in, and are facilitated by, the acquisition, possession or transfer of property subject to criminal forfeiture under ORS 131.550 to 131.600;

(b) Transactions involving property subject to criminal forfeiture under ORS 131.550 to 131.600 escape taxation;

(c) Perpetrators of crimes should not be allowed to keep the proceeds and instrumentalities of their crimes;

(d) Governments attempting to respond to prohibited conduct require additional resources to meet their needs; and

(e) There is a need to provide for the forfeiture of certain property subject to criminal forfeiture under ORS 131.550 to 131.600, to provide for the protection of the rights and interests of affected persons and to provide for uniformity throughout this state with respect to the laws of this state that pertain to the criminal forfeiture of real and personal property based upon prohibited conduct.

(2) ORS 131.550 to 131.600 do not impair the right of any city or county to enact ordinances providing for the criminal forfeiture of property based upon prohibited conduct if:

(a) The property was used to commit the conduct described in the ordinances, or constitutes proceeds of the conduct; and

(b) The criminal forfeiture is subject to procedures and limitations set forth in ORS 131.550 to 131.600.

(3) Nothing in ORS 131.550 to 131.600 may be construed to limit or impair any right or remedy that any person or entity may have under ORS 166.715 to 166.735. Criminal forfeiture is a remedy separate and apart from any other criminal penalty and from civil forfeiture or any other civil penalty. [2005 c.830 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.556 - Right, title and interest in forfeited property vests in seizing agency.**

Subject to ORS 131.550 to 131.600, all right, title and interest in property forfeited under ORS 131.550 to 131.600 vest in the seizing agency upon commission of the prohibited conduct. [2005 c.830 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.558 - Property subject to forfeiture.**

The following are subject to criminal forfeiture:

(1) All controlled substances that have been manufactured, distributed, dispensed, possessed or acquired in the course of prohibited conduct;

(2) All raw materials, products and equipment of any kind that are used, or intended for use, in providing, manufacturing, compounding, processing, delivering, importing or exporting any service or substance in the course of prohibited conduct;

(3) All property that is used, or intended for use, as a container for property described in subsection (1) or (2) of this section;

(4) All conveyances, including aircraft, vehicles and vessels, that are used, or are intended for use, to transport or facilitate the transportation, sale, receipt, possession or concealment of property described in subsection (1) or (2) of this section, and all conveyances, including aircraft, vehicles and vessels, that are used or intended for use in prohibited conduct or to facilitate prohibited conduct, except that:

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to criminal forfeiture under the provisions of this section unless the owner or other person in charge of such conveyance was a consenting party or knew of and acquiesced in the prohibited conduct; and

(b) No conveyance is subject to criminal forfeiture under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any state;

(5) All books, records, computers and research, including formulae, microfilm, tapes and data that are used or intended for use to facilitate prohibited conduct;

(6) All moneys, negotiable instruments, balances in deposit or other accounts, securities or other things of value furnished or intended to be furnished by any person in the course of prohibited conduct, all proceeds of or from prohibited conduct, and all moneys, negotiable instruments, balances in deposit and other accounts and securities used or intended to be used to facilitate any prohibited conduct;

(7) All real property, including any right, title and interest in the whole of any lot or tract of land and any appurtenances or improvements, that is used or intended to be used to commit or facilitate the commission of prohibited conduct;

(8) All weapons possessed, used or available for use to facilitate conduct giving rise to criminal forfeiture;

(9) All property described in this section that is intended for use in committing or facilitating an attempt to commit a crime as described in ORS 161.405, a solicitation as described in ORS 161.435 or a conspiracy as described in ORS 161.450; and

(10) All personal property that is used or intended to be used to commit or facilitate prohibited conduct. [2005 c.830 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.561 - Seizure of property subject to forfeiture.**

- (1) A person who delivers property in obedience to an order or direction to deliver the property under this section is not liable:
- (a) To any person on account of obedience to the order or direction; or
  - (b) For any costs incurred on account of any contamination of the delivered property. This includes, but is not limited to, any disposal costs for any property forfeited under ORS 131.558, any hazardous waste or material, any contraband or any other contamination contained in property seized under this section.
- (2) In addition to seizures authorized by ORS 133.535, a police officer may seize property without a court order if the police officer has probable cause to believe that the property is subject to criminal forfeiture.
- (3) Except as provided in ORS 131.564, with regard to cash or other assets that at the time of seizure are held in any form of account in a financial institution, if the property is in whole or in part intangible, the person having control or custody of the property shall deliver the same over to the police officer.
- (4)(a) A police officer may seize property pursuant to an order of the court. Forfeiture counsel or a seizing agency may apply for an ex parte order directing seizure of specified property.
- (b) Application may be made to any judge as defined in ORS 133.525. The application must be supported by one or more affidavits setting forth the facts and circumstances tending to show where the objects of the seizure are to be found. The court shall issue the order upon a finding of probable cause to believe that the described property is subject to criminal forfeiture. The order may be set out on the face of a search warrant.
- (c) Except as provided in ORS 131.564, with regard to cash or other assets that at the time of seizure are held in any form of account in a financial institution, if the property is in whole or in part intangible, the order shall direct any person having control or custody of the property to deliver the same over to the seizing agency or to the court to abide judgment.
- (5) Property may be constructively seized by posting notice of seizure for criminal forfeiture on it or by filing notice of seizure for criminal forfeiture or notice of pending criminal forfeiture in the public records that impart constructive notice of matters relating to such property. A notice that is filed must include a description of the property that is the subject of the seizure. Real property, including interests arising out of land sale contracts, may be seized only upon recording a notice of seizure containing a legal description of the property in the mortgage records of the county in which the real property is located.
- (6) Promptly upon seizure, the officer who seized the property shall make an inventory of the property seized and shall deliver a receipt embodying the inventory to the person from whose possession the property is taken or to the person in apparent control of the property at the time it is seized. If the property is unoccupied or there is no one present in apparent control, the officer shall leave the receipt suitably affixed to the property. If the property is physically removed from the location of seizure and it is unoccupied or there is no one present in apparent control, then the officer shall promptly file the receipt in the public records of the seizing agency. Every receipt prepared under this subsection shall contain, in addition to an inventory of the property seized, the following information:
- (a) The identity of the seizing agency; and
  - (b) The address and telephone number of the office or other place where the person may obtain further information concerning the criminal forfeiture.
- (7) In the event that property is seized from the possession of a person who asserts a possessory lien over such property pursuant to applicable law, notwithstanding any other provision of law, any lien of the person from whom the property was seized remains in effect and is enforceable as fully as though the person had retained possession of the property. [2005 c.830 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.564 - Status of seized property; release; maintenance and use.**

- (1)(a) Except as otherwise provided in ORS 131.550 to 131.600, property seized for criminal forfeiture is not subject to replevin, conveyance, sequestration or attachment. The seizure of property or the commencement of a criminal forfeiture proceeding under ORS 131.550 to 131.600 does not abate, impede or in any way delay the initiation or prosecution of a suit or action by a financial institution for the possession of seized property in which the financial institution has or purports to have a lien or security interest or for the foreclosure of such lien or security interest. A financial institution may proceed with any suit or action involving property in which it has a lien or security interest even though a seizure has occurred and criminal forfeiture proceedings have been or will be commenced. If property that may be subject to criminal forfeiture is sold prior to the conclusion of the forfeiture proceedings, the sheriff, trustee or other person who is conducting the sale and who has actual notice of the forfeiture proceedings shall distribute the sale proceeds as follows:
- (A) To the expenses of the sale;
  - (B) If the property is a motor vehicle with a hidden compartment, to reimburse the seizing agency for the cost of disabling the hidden compartment;
  - (C) To the payment of the obligations owed to the foreclosing financial institution that are secured by the property and to any other person whose lien or security interest in the property has been foreclosed in the suit or action in the order determined by the court;
- and

(D) The surplus, if any, shall be distributed to the seizing agency, or to the court in which the forfeiture proceedings are pending.

(b) The sheriff, trustee or other person who distributes the sale proceeds as provided in this subsection is not liable to any person who has or asserts an interest in the property.

(2) Within 30 days following seizure of property for criminal forfeiture, the seizing agency, in consultation with the district attorney of the county in which the property was seized for forfeiture, shall determine whether it will seek the forfeiture of the property. If the seizing agency elects not to seek forfeiture, it shall pay all costs and expenses relating to towing and storage of the property, and shall cause to be discharged any possessory chattel liens arising under ORS 87.152 to 87.162 that have attached to the property since its seizure and release the property. The property may be released to a person other than the person from whose custody or control the property was taken if the seizing agency or forfeiture counsel first mails to the last-known addresses of all persons known to have an interest in the property a notice of intent to release the property. The notice must specify the person to whom the property is to be released and must detail the time and place of the release. An agency that complies with the provisions of this subsection by paying costs and expenses of towing and storage, discharging possessory liens, mailing any required notices and releasing the property is not liable for its actions under this subsection or for any consequences thereof. If the property is a motor vehicle with a hidden compartment, the seizing agency is not liable for any diminution in the value of the property as a result of disabling the compartment.

(3) A seizing agency shall, pending criminal forfeiture and final disposition and subject to the need to retain the property in any criminal proceeding, provide that property in the physical custody of the seizing agency be serviced or maintained as may be reasonably appropriate to preserve the value of the property.

(4) A seizing agency may, pending criminal forfeiture and final disposition and subject to the need to retain seized property in any criminal proceeding:

(a) Provide that the seized property be transferred for criminal forfeiture to any city, county, state or federal agency with criminal forfeiture authority, provided that no such transfer may have the effect of diminishing or reducing the rights of any third party under ORS 131.550 to 131.600.

(b) Apply to the court for an order providing that the seized property may be sold, leased, rented or operated in the manner and on the terms that may be specified in the court's order. The court shall deny any application unless the sale, lease, rental or operation of the property will be conducted in a commercially reasonable manner and will not result in a material reduction of the property's value. The court may enter an order only:

(A) After notice and opportunity to be heard is provided to all persons known to have or to claim an interest in the property; and

(B) With the consent of all persons holding security interests of record in the property.

(c) Provide that the seized property be removed to a storage area for safekeeping.

(5) Unless otherwise ordered by the court, the seizing agency shall hold the proceeds of the sale, leasing, renting or operation under subsection (4) of this section and the rights of holders of security interests of record in the property attach to the proceeds of the sale, leasing, renting or operation in the same order of priority as interests attached to the property.

(6)(a) Except as provided in paragraph (b) of this subsection and except for currency with apparent or known intrinsic collector value, all cash seized for criminal forfeiture, together with all cash received from the sale, leasing, renting or operation of the property, must be immediately deposited in an insured interest-bearing forfeiture trust account or accounts maintained by the seizing agency exclusively for this purpose. Cash may be retained as evidence in a criminal proceeding but must be deposited immediately when the need to retain it as evidence is discharged.

(b) Notwithstanding paragraph (a) of this subsection, all cash seized for criminal forfeiture that at the time of seizure is deposited in any form of account in a financial institution may remain in the account in the financial institution. From the time of seizure until the criminal forfeiture proceeding is abandoned, or until a court ultimately enters a judgment granting or denying criminal forfeiture or enters a judgment of dismissal, all deposits except the deposit of interest by the financial institution, withdrawals or other transactions involving the account are prohibited, unless approved by the court.

(c) Subject to any court order, interest earned upon cash deposited in a forfeiture trust account or held in an account in a financial institution under this subsection must be disbursed as follows:

(A) If the criminal forfeiture proceeding is abandoned, or if the court ultimately enters a judgment denying criminal forfeiture or a judgment of dismissal, the seizing agency shall pay any interest earned, together with the cash deposited in the forfeiture trust account in connection with the seizure in question, to the person from whom it was seized, and the seizing agency shall release any interest earned, together with the cash deposited in an account in a financial institution, to the person from whom it was seized.

(B) If a judgment of criminal forfeiture is entered, but parties other than the seizing agency establish rights to portions of the amount that are in the aggregate larger than or equal to the cash on deposit plus interest earned thereon, the seizing agency shall disburse the interest, together with the cash on deposit, to the parties in the order of their priority.

(C) If a judgment of criminal forfeiture is entered and the total amount arising out of the seizure that is on deposit in the forfeiture trust account or in an account in a financial institution, including interest earned on moneys deposited, is greater than the aggregate amount needed to satisfy the established interests of security interest holders, lienholders and other claimants, the seizing agency shall retain the balance remaining after payment by the seizing agency to parties.

(7) If the property seized for criminal forfeiture consists of stocks, bonds, promissory notes or other security or evidence of indebtedness, and the property is held in some form of account in a financial institution, the property may remain in the account pending a final decision in the criminal forfeiture proceedings. Unless otherwise allowed by order of the court, no transactions

involving the account may be permitted other than the deposit or reinvestment of dividends or other normally recurring payments on the property. Any accrual to the value of the property during the pendency of criminal forfeiture proceedings must be disbursed in the manner provided for the disbursement of interest under subsection (6) of this section.

(8) When property has been seized for criminal forfeiture or a notice of criminal forfeiture has been filed, an owner of or interest holder in the property may file a motion seeking an order to show cause. The motion must be filed no later than 15 days after the owner or interest holder received notice or actual knowledge of the seizure, whichever is earlier. At the time a person files a motion under this subsection, the person must serve a copy of the motion on the forfeiture counsel and the defendant, if any. When a motion is filed under this subsection, the court shall issue an order to show cause to the seizing agency for a hearing on the sole issue of whether probable cause for criminal forfeiture of the property exists. If the court finds that there is no probable cause for criminal forfeiture of the property, the property seized for criminal forfeiture or subjected to the notice of criminal forfeiture must be released pending the outcome of a judicial proceeding under ORS 131.582. As used in this subsection, "owner" or "interest holder" does not include the defendant. [2005 c.830 §6; 2009 c.874 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.566 - Motor vehicle with hidden compartment.**

(1) When a seizing agency lawfully seizes a motor vehicle with a hidden compartment, the agency shall disable the hidden compartment, unless the motor vehicle is forfeited and the agency:

- (a) Retains the motor vehicle for law enforcement purposes; or
- (b) Determines that the cost of disabling the hidden compartment exceeds the value of the motor vehicle.

(2) Notwithstanding ORS 131.594 or 131.597, if the motor vehicle with a hidden compartment is forfeited and the seizing agency:

(a) Retains the motor vehicle for law enforcement purposes, the agency shall deduct the cost of disabling the hidden compartment from the value of the motor vehicle before making the distribution described in ORS 131.594 or 131.597.

(b) Does not retain the motor vehicle for law enforcement purposes and determines that the cost of disabling the hidden compartment exceeds the value of the motor vehicle, the agency shall sell the motor vehicle for scrap or salvage and distribute the proceeds of the sale according to ORS 131.594 or 131.597. The seizing agency shall ensure that the person to whom the motor vehicle is sold disables the hidden compartment or the motor vehicle.

(3) If a motor vehicle with a hidden compartment is forfeited and the seizing agency sells the motor vehicle, the agency shall deduct the cost of disabling the hidden compartment from the proceeds of the sale under ORS 131.594 (1)(a) or 131.597 (1)(a). [2009 c.874 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.567 - Recorded notice of intent to forfeit real property; form.**

(1) Whenever a seizing agency intends to forfeit any real property under ORS 131.550 to 131.600, the seizing agency may have recorded by the county clerk or other recorder of deeds of every county in which any part of the premises or real property lies a notice of intent to forfeit real property under ORS 205.246. The notice must contain the legal description of the real property, the common address of the property, if any, and the name of the forfeiture counsel. From the time of recording the notice, and from that time only, the intent to forfeit is notice to purchasers and holders of encumbrances of the rights and equities in the premises of the party filing the notice. The notice must be recorded in the same book and in the same manner in which mortgages are recorded and may be discharged in like manner as mortgages are discharged, either by such party or the attorney signing the notice.

(2) Unless otherwise prescribed by law, a seizing agency recording a notice of intent to forfeit shall use substantially the following form:

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NOTICE OF INTENT  
TO FORFEIT

Pursuant to ORS 131.567, the undersigned states:

That I, \_\_\_\_\_ do declare that it is my intent to initiate criminal forfeiture proceedings on the following described real property:

1. The description of the real property to be affected is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The common address of the property, if any, is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

This notice of intent to file forfeiture will expire on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_, absent future filings.

Name of agency seeking forfeiture

\_\_\_\_\_  
Name of Forfeiture Counsel

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
State of Oregon )

) ss.

County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

Notary Public for Oregon

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
(3) The notice of intent to forfeit property expires 30 days after the date of filing absent future filings to perfect. [2005 c.830 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.570 - Notice of seizure for forfeiture; service on persons other than defendant; publication of notice.**

(1) As soon as practicable after seizure for criminal forfeiture, the seizing agency shall review the inventory prepared by the police officer under ORS 131.561. Within 30 days after seizure for criminal forfeiture, the forfeiture counsel shall file a criminal information or an indictment alleging facts sufficient to establish that the property is subject to criminal forfeiture. Within 30 days after seizure for criminal forfeiture, the seizing agency or forfeiture counsel shall prepare a notice of seizure for criminal forfeiture containing a copy of the inventory prepared pursuant to ORS 131.561, the identity of the person from whom the property was seized, the name, address and telephone number of the seizing agency and the address and telephone number of the office or other place where further information concerning the seizure and criminal forfeiture may be obtained, and shall make reasonable efforts to serve the notice of seizure for criminal forfeiture on all persons, other than the defendant, known to have an interest in the seized property. A person may be served as provided in ORCP 7 D except that the notice must also include information regarding the right to file a claim under subsection (2) of this section, if applicable, and the deadline for filing the claim. If the property is cash in the amount of \$1,000 or less or if the fair market value of the property is \$1,000 or less, the seizing agency may publish notice of seizure for criminal forfeiture in a newspaper as provided in ORCP 7 D(6)(b) to D(6)(d). In all other cases, the seizing agency shall publish notice of seizure for criminal forfeiture in a newspaper as provided in ORCP 7 D(6)(b) to D(6)(d). The seizing agency shall provide a copy of the notice, inventory and estimate of value to the forfeiture counsel.

(2) Except as otherwise provided in ORS 131.579 (1) to (3), if notice of seizure for criminal forfeiture:

(a) Is given in a manner other than by publication, any person, other than the defendant, claiming an interest in the property must file a claim with the forfeiture counsel within 21 days after service of notice of seizure for criminal forfeiture.

(b) Is published, any person, other than the defendant, claiming an interest in the property must file a claim with the forfeiture counsel within 21 days after the last publication date.

(3) An extension for the filing of a claim under subsection (2) of this section may not be granted. The claim must be signed by the claimant under penalty of perjury and must set forth all of the following:

(a) The true name of the claimant;

(b) The address at which the claimant will accept future mailings from the court or the forfeiture counsel; and

(c) A statement that the claimant has an interest in the seized property.

(4) If a seizing agency publishes notice of seizure for criminal forfeiture in a newspaper in the manner provided by subsection (1) of this section, the agency may include in a single publication as many notices of criminal forfeiture as the agency considers convenient. The publication may contain a single statement of matters from the notices of criminal forfeiture that are common to all of the notices and that would otherwise result in needless repetition. The publication must contain for each notice of criminal forfeiture a separate copy of the inventory prepared pursuant to ORS 131.561, and a separate statement of the identity of the person from whose custody the property was seized. The published inventory need not contain estimates of value for the property seized.

[2005 c.830 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.573 - Petition for expedited hearing.**

(1) A person, other than the defendant, claiming an interest in property seized under ORS 131.550 to 131.600 may file a petition for an expedited hearing within 15 days after notice of seizure for criminal forfeiture or within such further time as the court may allow

for good cause shown.

(2) A petition for an expedited hearing must contain a claim if no claim has previously been filed. The petition must reflect whether the petitioner seeks one or more of the following:

(a) A determination at the hearing that the petitioner is a bona fide purchaser for value and did not acquiesce in the prohibited conduct.

(b) An order restoring custody of seized property to the petitioner during the pendency of the proceedings if the court finds, by a preponderance of the evidence, that it is probable that the property will remain available for forfeiture at the completion of the proceedings and that there is a reasonable possibility that the petitioner will ultimately prevail in the proceeding.

(c) Appointment of a receiver.

(3) A person filing a petition under this section shall serve a copy of the petition on all persons known to have an interest. Service must be accomplished as provided in ORCP 7 D. Service by publication is not required prior to an expedited hearing.

(4) The court shall hold a hearing within 15 days after service of all persons known to have an interest or at such later time as the court may allow for good cause shown. The hearing is limited to:

(a) Deciding whether the petitioner can prove that the petitioner is a bona fide purchaser for value and did not acquiesce in the prohibited conduct;

(b) Determining whether an order should be entered directing the return of the seized property to the claimant during the pendency of the hearing; and

(c) Determining whether an order should be entered directing the appointment of a receiver to manage property seized pursuant to ORS 131.550 to 131.600 pending a final determination as to the disposition of the property, if the petitioner or the seizing agency requests that order.

(5) The parties to a proceeding under ORS 131.582 may at any time stipulate to the entry of an order restoring custody of seized property to a petitioner who claims an interest in the property. The order must comply with the requirements of ORS 131.576 (1). [2005 c.830 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.576 - Order restoring custody of property after expedited hearing.**

(1) An order restoring custody to a petitioner under ORS 131.573 shall:

(a) Prohibit the petitioner from using the property in unlawful conduct of any kind, or from allowing the property to be used by any other person in unlawful conduct;

(b) Require the petitioner to service and maintain the property as may be reasonably appropriate to preserve the value of the property; and

(c) Require the petitioner to inform the court of the exact location of the property at the time of any judicial proceeding under ORS 131.582 and to deliver the property to the seizing agency immediately upon the issuance of a judgment of criminal forfeiture.

(2) An order restoring custody to a petitioner under ORS 131.573 may include such other requirements as the court finds appropriate pending a final determination as to the disposition of the property.

(3) An order restoring custody to a petitioner under ORS 131.573 is enforceable by a contempt proceeding brought on the relation of forfeiture counsel, by a further order directing the petitioner to deliver the property to the custody of the seizing agency, by an order awarding to the seizing agency its reasonably incurred attorney fees, costs and investigative expenses, and by such other remedies or relief as the court finds appropriate. [2005 c.830 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.579 - Affidavit in response to notice of seizure for forfeiture.**

(1)(a) A financial institution holding an interest in property seized under ORS 131.550 to 131.600 shall respond to a notice of seizure for criminal forfeiture by filing an affidavit with the court establishing that the financial institution's interest in the property was acquired:

(A) In the regular course of business as a financial institution;

(B) For valuable consideration;

(C) Without knowledge of the prohibited conduct;

(D) In good faith and without intent to defeat the interest of any potential seizing agency; and

(E) With respect to personal property, prior to the seizure of the property, or with respect to real property, recorded prior to the recording of notice of the seizure of the real property in the mortgage records of the county in which the real property is located.

(b) Failure to file an affidavit constitutes a default. The affidavit must be filed within 30 days from the date of service under ORS 131.570.

(2) Notwithstanding the provisions of subsection (1) of this section, any person, other than a financial institution, who transfers or conveys an interest in real property pursuant to a contract for transfer or conveyance of an interest in real property as defined in ORS 93.905 and who retains an interest in the real property, or any successor in interest, may respond to a notice of seizure for criminal forfeiture by filing an affidavit with the court establishing that the person:

- (a) Received the interest in return for valuable consideration or by way of devise or intestate succession;
  - (b) Had no knowledge at the time of transfer or conveyance of the prohibited conduct;
  - (c) Acted in good faith and without intent to defeat the interest of any potential seizing agency;
  - (d) Recorded the interest in the mortgage records of the county in which the real property is located prior to the recording of any notice of intent to seize or notice of seizure; and
  - (e) Continued to hold the interest without acquiescing in the prohibited conduct.
- (3) The affidavit permitted by subsection (2) of this section must be filed within 30 days from the date of service under ORS 131.570. Failure to file an affidavit as set forth in subsection (2) of this section constitutes a default.
- (4) In response to an affidavit filed under subsection (2) of this section, the seizing agency may controvert any or all of the assertions made in the affidavit. The affidavit of the seizing agency must be filed with the court within 20 days after the date the affidavit is filed under subsection (2) of this section. The transferor, conveyer or successor in interest may respond, within five days after the filing of the affidavit of the seizing agency, with a supplemental affidavit limited to the matters stated in the affidavit of the seizing agency. If the seizing agency does not file an affidavit within the time allowed, the transferor, conveyer or successor in interest is considered to be a financial institution for all purposes under ORS 131.550 to 131.600.
- (5) If the seizing agency files an affidavit under subsection (4) of this section, the court shall decide the issues raised in the affidavit in a proceeding under ORS 131.582. [2005 c.830 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.582 - Prosecution of criminal forfeiture; indictment or information; burden of proof; judgment; notice to claimants.**

- (1) If a district attorney decides to proceed with a criminal forfeiture, the district attorney must present the criminal forfeiture to the grand jury for indictment. The indictment must allege facts sufficient to establish that the property is subject to criminal forfeiture and must comply with ORS 132.510, 132.540, 132.550, 132.557, 132.560 and 132.580.
- (2) If the grand jury returns an indictment for criminal forfeiture, the defendant may admit or deny that the property is subject to criminal forfeiture. If the defendant fails to admit or deny that the property is subject to forfeiture, the court shall enter a denial on behalf of the defendant.
- (3) When the underlying criminal conduct is a Class A misdemeanor, a city or county attorney may prosecute a criminal forfeiture by filing an information in the municipal or justice court.
- (4) A criminal forfeiture proceeding and the underlying criminal case must be tried in the same proceeding.
- (5) The criminal procedure laws of this state apply to criminal forfeiture proceedings.
- (6) The court shall enter a judgment of criminal forfeiture if the forfeiture counsel proves beyond a reasonable doubt that the property for which forfeiture is sought is an instrumentality or the proceeds of the crime of conviction or past prohibited conduct that is similar to the crime of conviction.
- (7) Forfeiture counsel may move the court at any time for an order finding that the defendant is a fugitive and in default. The court may enter an order finding the defendant in default under this subsection and enter a judgment of criminal forfeiture if the court finds that the defendant is not confined or held in custody by another jurisdiction, and that the defendant, after notice or knowledge of the fact that a warrant has been issued for the defendant:
  - (a) Purposely left the state to avoid prosecution;
  - (b) Declines to return to the state and allow execution of the warrant; or
  - (c) Otherwise evades the jurisdiction of the court issuing the warrant.
- (8) No later than 21 days after the entry of a judgment of criminal forfeiture under this section, the forfeiture counsel shall notify by mail all persons who filed claims under ORS 131.570 or affidavits under ORS 131.579 of the judgment of criminal forfeiture. The notice must inform the person of the requirements of subsection (9) of this section.
- (9) If a person who receives notice under subsection (8) of this section wishes to assert the person's interest in the property but was not eligible to file an affidavit under ORS 131.579, the person must file an affidavit with the trial court, and must serve the forfeiture counsel with a copy of the affidavit, no later than 21 days after the date the notice required by subsection (8) of this section was mailed. The person must allege facts in an affidavit filed under this subsection that if true would prove that the person took the property or the interest that the person holds in the property:
  - (a)(A) Before it was seized for criminal forfeiture; and
  - (B) In good faith and without intent to defeat the interest of any seizing agency; or
  - (b) As a bona fide purchaser for value without acquiescing in the prohibited conduct.
- (10)(a) If an affidavit is timely filed under subsection (9) of this section and the forfeiture counsel:
  - (A) Does not contest the affidavit, the forfeiture counsel shall submit a form of judgment to the court for entry under ORS 131.588.
  - (B) Does contest the affidavit, the forfeiture counsel shall request a hearing with the trial court no later than 21 days after receiving the affidavit.
- (b) If no affidavit is filed under subsection (9) of this section but the seizing agency filed an affidavit under ORS 131.579 (4), the forfeiture counsel shall request a hearing with the trial court no later than 21 days after the last date for receiving affidavits under subsection (9) of this section.
- (11)(a) A hearing pursuant to subsection (10) of this section is an ancillary proceeding and the Oregon Rules of Civil Procedure



apply. At the hearing:

- (A) Forfeiture counsel has the burden of proving by a preponderance of the evidence that the person claiming an interest in the property:
  - (i) Took the property with the intent to defeat the interest of a seizing agency; or
  - (ii) Is not a bona fide purchaser for value or acquiesced in the prohibited conduct.
- (B) Forfeiture counsel may present evidence and witnesses and cross-examine witnesses who appear at the hearing.
- (C) The person claiming an interest in the property may testify, present evidence and witnesses and cross-examine witnesses who appear at the hearing.
- (b) In addition to testimony and evidence presented at the hearing, the court shall consider relevant portions of the record of the criminal case that resulted in the judgment of criminal forfeiture.
- (c) The court shall amend the judgment of criminal forfeiture in accordance with its determination if, after the hearing, the court determines that the claimant:
  - (A) Did take the property before it was seized for criminal forfeiture and in good faith and without intent to defeat the interest of the seizing agency; or
  - (B) Is a bona fide purchaser for value of the right, title or interest in the property and did not acquiesce in the prohibited conduct.
- (d) Notwithstanding ORS 19.255 (1), a person may file a notice of appeal within 30 days after entry in the register of an order disposing of the matters at issue in the ancillary proceeding. An appeal under this paragraph is governed by the provisions of ORS chapter 19 relating to appeals in civil actions.
- (12) When a court enters a judgment of criminal forfeiture under this section, the jurisdiction of the court continues for purposes of subsection (11) of this section and the property continues to be subject to the court's jurisdiction. [2005 c.830 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.585 - Extent of judgment.**

- (1) The court shall enter judgment to the extent that the property is proceeds of the crime of conviction or of past prohibited conduct that is similar to the crime of conviction.
- (2) With respect to property that is an instrumentality of the crime of conviction or of past prohibited conduct that is similar to the crime of conviction, the court shall consider:
  - (a) Whether the property constitutes the defendant's lawful livelihood or means of earning a living.
  - (b) Whether the property is the defendant's residence.
  - (c) The degree of relationship between the property and the prohibited conduct, including the extent to which the property facilitated the prohibited conduct or could facilitate future prohibited conduct.
  - (d) The monetary value of the property in relation to the risk of injury to the public from the prohibited conduct.
  - (e) The monetary value of the property in relation to the actual injury to the public from the prohibited conduct.
  - (f) The monetary value of the property in relation to objective measures of the potential or actual criminal culpability of the person or persons engaging in the prohibited conduct, including:
    - (A) The inherent gravity of the prohibited conduct;
    - (B) The potential sentence for similar prohibited conduct under Oregon law;
    - (C) The defendant's prior criminal history; and
    - (D) The sentence actually imposed on the defendant.
  - (g) Any additional relevant evidence. [2005 c.830 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.588 - Judgment of forfeiture; contents; effect.**

- (1) If no financial institution has filed the affidavit described in ORS 131.579 (1), and if the court has failed to uphold the claim or affidavit of any other person claiming an interest in the property, the effect of the judgment is that:
  - (a) Title to the property passes to the seizing agency free of any interest or encumbrance thereon in favor of any person who has been given notice;
  - (b) The seizing agency may transfer good and sufficient title to any subsequent purchaser or transferee, and all courts, the state and the departments and agencies of this state, and any political subdivision shall recognize the title. In the case of real property, the seizing agency shall warrant the title against constitutional defect. A warranty under this paragraph is limited to the purchase price of the real property; and
  - (c) Any department, agency or officer of this state or any political subdivision whose official functions include the issuance of certificates or other evidence of title is immune from civil or criminal liability when such issuance is pursuant to a judgment of criminal forfeiture.
- (2) If an affidavit is filed by a financial institution under ORS 131.579 (1), or if a person files an affidavit under ORS 131.579 (2):
  - (a) The court shall foreclose all security interests, liens and vendor's interests of financial institutions and claimants as to which the court determines that there is a legal or equitable basis for foreclosure; and
  - (b) All other interests applicable to the property that are not foreclosed or otherwise eliminated through a judgment of foreclosure, if and to the extent that they are valid and subsisting, remain in effect and the property remains subject to them upon completion of the

criminal forfeiture proceeding.

(3) Notwithstanding any other provision of law, if a financial institution or other person has filed an affidavit described in ORS 131.579, or if the court has upheld the claim of any claimant, then as to each item of property seized:

(a) If the court has determined that the property should not be forfeited and has not foreclosed the security interests, liens or other interests covering the property, the court shall render judgment in favor of the owner of the property, the property must be returned to the owner and all security interests, liens and other interests applicable to the property remain in effect as though the property had never been seized. If the property is a motor vehicle with a hidden compartment, the seizing agency is not liable for any diminution in the value of the property as a result of disabling the compartment. Upon the return of the property to the owner, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure.

(b) If the court has determined that the property should not be forfeited and has foreclosed one or more interests covering the property, including security interests or liens covering the property or contracts for the transfer or conveyance of the property, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure, and the court shall order the property sold pursuant to a sheriff's sale or other sale authorized by the court within such time as may be prescribed by the court following entry of the judgment. If any interests covering the property have not been foreclosed, including any liens or security interests of a claimant whose claim has been upheld, or of a financial institution that has filed the affidavit described in ORS 131.579, the property must be sold subject to those interests. The judgment shall order the proceeds of the sale applied in the following order:

(A) To the payment of the costs of the sale;

(B) If the property is a motor vehicle with a hidden compartment, to reimburse the seizing agency for the cost of disabling the hidden compartment;

(C) To the satisfaction of the foreclosed liens, security interests and contracts in order of their priority; and

(D) The excess, if any, to the owner of the property.

(c) If the court has determined that the property should be forfeited and has foreclosed one or more security interests, liens, contracts or other interests covering the property, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure, and the court shall order the property sold pursuant to a sheriff's sale or other sale authorized by the court. If any interest in the property was claimed by a financial institution or other claimant and the interest was upheld but not foreclosed, the property must be sold subject to the interest. The sale of the property must be held within such time as may be prescribed by the court following entry of the judgment. The judgment shall also order the proceeds of such sale applied in the following order:

(A) To the payment of the costs of the sale;

(B) If the property is a motor vehicle with a hidden compartment, to reimburse the seizing agency for the cost of disabling the hidden compartment;

(C) To the satisfaction of the foreclosed liens, security interests and contracts in the order of their priority; and

(D) The excess, if any, to the seizing agency to be disposed of as provided in ORS 131.594 or 131.597.

(d) If the court has determined that the property should be forfeited and has not foreclosed the interests of any party in the property, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure. The court shall enter a judgment awarding the property to the seizing agency, subject to the interests of any claimants whose claims or affidavits were upheld by the court, and subject to the interests of any financial institutions that filed affidavits under ORS 131.579 (1), that remain in full force and effect. If the property is a motor vehicle with a hidden compartment, the interests of any claimants or financial institutions shall be reduced on a pro rata basis by the cost of disabling the hidden compartment.

(4) Upon motion of the state, the court may include in the judgment of criminal forfeiture an order that directs the seizing agency to distribute to the victim of the crime of conviction a portion of any proceeds from property received by the seizing agency if the court included an order of restitution in the criminal judgment.

(5) The seizing agency is not liable to any person as a consequence of obedience to a judgment directing conveyance to a financial institution.

(6)(a) On entry of judgment for a claimant in any proceeding to forfeit property under ORS 131.550 to 131.600, unless the court has foreclosed one or more security interests, liens or other interests covering the property, the property or interest in property must be returned or conveyed immediately to the claimant designated by the court.

(b) If it appears that there was reasonable suspicion that the property was subject to criminal forfeiture, the court shall cause a finding to be entered and no claimant or financial institution is entitled to damages nor is the person who made the seizure, the seizing agency or forfeiture counsel liable to suit or judgment on account of the seizure or action. An order directing seizure issued under ORS 131.561 constitutes a finding of reasonable suspicion that the property was subject to criminal forfeiture.

(7) Except for deficiencies resulting from disabling a hidden compartment in a motor vehicle with a hidden compartment, nothing in this section prevents a claimant or financial institution from obtaining any deficiency to which the claimant or financial institution would otherwise be entitled.

(8) Nothing in this section or in ORS 131.564 prevents a seizing agency from entering into an agreement with a claimant or other person for the reimbursement of the seizing agency for the costs and expenses relating to towing and storage of property or the cost of discharging any possessory chattel lien on the property arising under ORS 87.152 to 87.162 that attached to the property in the period between the seizure of the property and the release or criminal forfeiture of the property. [2005 c.830 §14; 2009 c.617 §4; 2009 c.874 §3; 2011 c.504 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.591 - Equitable distribution of property or proceeds; intergovernmental agreements.**

Distribution of property or proceeds in accordance with ORS 131.550 to 131.600 must be made equitably and may be made pursuant to intergovernmental agreement under ORS chapter 190. Intergovernmental agreements providing for such distributions and in effect on September 2, 2005, remain valid unless changed by the parties. The equitable distribution of proceeds targeted for law enforcement must involve sharing the proceeds between the seizing agency and forfeiture counsel. [2005 c.830 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.594 - Disposition and distribution of forfeited property when seizing agency not the state.**

(1) After the seizing agency distributes property under ORS 131.588, and when the seizing agency is not the state, the seizing agency shall dispose of and distribute property as follows:

(a) The seizing agency shall pay costs first from the property or its proceeds. As used in this subsection, "costs" includes the expenses of publication, service of notices, towing, storage and servicing or maintaining the seized property under ORS 131.564.

(b) After costs have been paid, the seizing agency shall distribute to the victim any amount the seizing agency was ordered to distribute under ORS 131.588 (4).

(c) After costs have been paid and distributions under paragraph (b) of this subsection have been made, the seizing agency shall distribute the rest of the property to the general fund of the political subdivision that operates the seizing agency.

(2) Of the property distributed under subsection (1)(c) of this section, the political subdivision shall distribute:

(a) Three percent to the Asset Forfeiture Oversight Account established in ORS 131A.460;

(b) Seven percent to the Illegal Drug Cleanup Fund established in ORS 475.495 for the purposes specified in ORS 475.495 (5) and (6); and

(c) Ten percent to the state General Fund.

(3) Of the property distributed under subsection (1)(c) of this section that remains in the general fund of the political subdivision after the distributions required by subsection (2) of this section have been made:

(a) Fifty percent must be for official law enforcement use; and

(b) Fifty percent must be used for substance abuse treatment pursuant to a plan developed under ORS 430.420.

(4) Except as otherwise provided by intergovernmental agreement, the seizing agency may:

(a) Sell, lease, lend or transfer the property or proceeds to any federal, state or local law enforcement agency or district attorney.

(b) Sell the forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property.

(c) Retain the property.

(d) With written authorization from the district attorney for the seizing agency's jurisdiction, destroy any firearms or controlled substances.

(5) A political subdivision may sell as much property as may be needed to make the distributions required by subsections (1) and (2) of this section. A political subdivision shall make distributions to the Asset Forfeiture Oversight Account, the Illegal Drug Cleanup Fund and the state General Fund that are required by subsection (2) of this section once every three months. The distributions are due within 20 days of the end of each quarter. Interest does not accrue on amounts that are paid within the period specified by this subsection.

(6) A seizing agency may donate growing equipment and laboratory equipment that was used, or intended for use, in manufacturing of controlled substances to a public school, community college or public university listed in ORS 352.002.

(7) This section applies only to criminal forfeiture proceeds arising out of prohibited conduct. [2005 c.830 §16; 2009 c.78 §54; 2011 c.637 §61]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.597 - Disposition and distribution of forfeited property when seizing agency is the state.**

(1) After the seizing agency distributes property under ORS 131.588, and when the seizing agency is the state or when the state is the recipient of property forfeited under ORS 131.550 to 131.600, the seizing agency shall dispose of and distribute property as follows:

(a) The seizing agency shall pay costs first from the property or its proceeds. As used in this subsection, "costs" includes the expenses of publication, service of notices, towing, storage and servicing or maintaining the seized property under ORS 131.564.

- (b) After costs have been paid, the seizing agency shall distribute to the victim any amount the seizing agency was ordered to distribute under ORS 131.588 (4).
- (c) Of the property remaining after costs have been paid under paragraph (a) of this subsection and distributions have been made under paragraph (b) of this subsection, the seizing agency shall distribute:
- (A) Three percent to the Asset Forfeiture Oversight Account established in ORS 131A.460;
  - (B) Seven percent to the Illegal Drug Cleanup Fund established in ORS 475.495 for the purposes specified in ORS 475.495 (5) and (6);
  - (C) Ten percent to the state General Fund;
  - (D) Subject to subsection (5) of this section, 40 percent to the Department of State Police or the Department of Justice for official law enforcement use; and
  - (E) Forty percent to the Drug Prevention and Education Fund established in ORS 430.422.
- (2)(a) Any amount paid to or retained by the Department of Justice under subsection (1) of this section must be deposited in the Criminal Justice Revolving Account in the State Treasury.
- (b) Any amount paid to or retained by the Department of State Police under subsection (1) of this section must be deposited in the State Police Account.
- (3) The state may:
- (a) With written authorization from the district attorney for the jurisdiction in which the property was seized, destroy any firearms or controlled substances.
  - (b) Sell the forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property.
  - (c) Retain any vehicles, firearms or other equipment usable for law enforcement purposes, for official law enforcement use directly by the state.
  - (d) Lend or transfer any vehicles, firearms or other equipment usable for law enforcement purposes to any federal, state or local law enforcement agency or district attorney for official law enforcement use directly by the transferee entity.
- (4) When the state has entered into an intergovernmental agreement with one or more political subdivisions under ORS 131.591, or when a law enforcement agency of this state has entered into an agreement with another law enforcement agency of this state, an equitable portion of the forfeited property distributed under subsection (1)(c)(D) of this section must be distributed to each agency participating in the seizure or criminal forfeiture as provided by the agreement.
- (5) The property distributed under subsection (1)(c)(D) of this section, including any proceeds received by the state under an intergovernmental agreement or under an agreement between state law enforcement agencies, must be divided as follows:
- (a) When no law enforcement agency other than the Department of Justice participated in the seizure or forfeiture, or when the Department of Justice has entered into an agreement under subsection (4) of this section, the property must be deposited in the Criminal Justice Revolving Account.
  - (b) When no law enforcement agency other than the Department of State Police participated in the seizure or forfeiture, or when the Department of State Police has entered into an agreement under subsection (4) of this section, the property must be deposited in the State Police Account.
- (6) The seizing agency may sell as much property as may be needed to make the distributions required by subsection (1) of this section. The seizing agency shall make distributions to the Asset Forfeiture Oversight Account and the Illegal Drug Cleanup Fund that are required by subsection (1) of this section once every three months. The distributions are due within 20 days of the end of each quarter. Interest does not accrue on amounts that are paid within the period specified by this subsection. [2005 c.830 §17; 2009 c.78 §55]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.600 - Record keeping and reporting requirements.**

- (1) A seizing agency and any agency that receives forfeited property or proceeds from the sale of forfeited property under ORS 131.550 to 131.600 shall maintain written documentation of each sale, decision to retain, transfer or other disposition of forfeited property.
- (2)(a) As soon as practicable following the seizure of property for criminal forfeiture, forfeiture counsel shall file with the Asset Forfeiture Oversight Advisory Committee an electronic report that describes the property seized and the circumstances of the seizure.
- (b) As soon as practicable following entry of judgment under ORS 131.588, forfeiture counsel shall file with the committee an electronic report describing the judgment and the manner in which any forfeited property and the proceeds from any sales of forfeited property were distributed.
- (3) Law enforcement agencies shall supply to forfeiture counsel all information requested by forfeiture counsel that is necessary for the preparation of the electronic reports required by subsection (2) of this section.
- (4) Political subdivisions of this state that receive forfeiture proceeds under ORS 131.594 shall submit an electronic report to the committee for any calendar year in which those proceeds are received. The report must be submitted no later than January 31 of the following year and must describe how the proceeds received by the political subdivision have been or will be used.
- (5) The committee may require forfeiture counsel or a political subdivision to include in the electronic reports described in this

section any additional information requested by the committee.

(6) The committee shall develop and make available electronic forms for the purposes of the reports described in this section. [2005 c.830 §18; 2011 c.504 §1; 2013 c.9 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.602 - Prohibited conduct for purposes of instrumentalities of crime.**

The crimes to which ORS 131.550 (12)(b) applies are:

- (1) Bribe giving, as defined in ORS 162.015.
- (2) Bribe receiving, as defined in ORS 162.025.
- (3) Public investment fraud, as defined in ORS 162.117.
- (4) Bribing a witness, as defined in ORS 162.265.
- (5) Bribe receiving by a witness, as defined in ORS 162.275.
- (6) Simulating legal process, as defined in ORS 162.355.
- (7) Official misconduct in the first degree, as defined in ORS 162.415.
- (8) Assisting another person to commit suicide, as defined in ORS 163.193.
- (9) Custodial interference in the second degree, as defined in ORS 163.245.
- (10) Custodial interference in the first degree, as defined in ORS 163.257.
- (11) Buying or selling a person under 18 years of age, as defined in ORS 163.537.
- (12) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670.
- (13) Encouraging child sexual abuse in the first degree, as defined in ORS 163.684.
- (14) Encouraging child sexual abuse in the second degree, as defined in ORS 163.686.
- (15) Encouraging child sexual abuse in the third degree, as defined in ORS 163.687.
- (16) Possession of materials depicting sexually explicit conduct of a child in the first degree, as defined in ORS 163.688.
- (17) Possession of materials depicting sexually explicit conduct of a child in the second degree, as defined in ORS 163.689.
- (18) Theft in the second degree, as defined in ORS 164.045.
- (19) Theft in the first degree, as defined in ORS 164.055.
- (20) Aggravated theft in the first degree, as defined in ORS 164.057.
- (21) Extortion, as defined in ORS 164.075.
- (22) Theft by deception, as defined in ORS 164.085, if it is a felony or a Class A misdemeanor.
- (23) Theft by receiving, as defined in ORS 164.095, if it is a felony or a Class A misdemeanor.
- (24) Theft of services, as defined in ORS 164.125, if it is a felony or a Class A misdemeanor.
- (25) Unauthorized use of a vehicle, as defined in ORS 164.135.
- (26) Mail theft or receipt of stolen mail, as defined in ORS 164.162.
- (27) Laundering a monetary instrument, as defined in ORS 164.170.
- (28) Engaging in a financial transaction in property derived from unlawful activity, as defined in ORS 164.172.
- (29) Burglary in the second degree, as defined in ORS 164.215.
- (30) Burglary in the first degree, as defined in ORS 164.225.
- (31) Possession of a burglary tool or theft device, as defined in ORS 164.235.
- (32) Unlawful entry into a motor vehicle, as defined in ORS 164.272.
- (33) Arson in the second degree, as defined in ORS 164.315.
- (34) Arson in the first degree, as defined in ORS 164.325.
- (35) Computer crime, as defined in ORS 164.377.
- (36) Robbery in the third degree, as defined in ORS 164.395.
- (37) Robbery in the second degree, as defined in ORS 164.405.
- (38) Robbery in the first degree, as defined in ORS 164.415.
- (39) Unlawful labeling of a sound recording, as defined in ORS 164.868.
- (40) Unlawful recording of a live performance, as defined in ORS 164.869.
- (41) Unlawful labeling of a videotape recording, as defined in ORS 164.872.
- (42) A violation of ORS 164.886.
- (43)(a) Endangering aircraft in the first degree, as defined in ORS 164.885.
- (b) Endangering aircraft in the second degree, as defined in ORS 164.885.
- (44) Interference with agricultural operations, as defined in ORS 164.887.
- (45) Forgery in the second degree, as defined in ORS 165.007.
- (46) Forgery in the first degree, as defined in ORS 165.013.
- (47) Criminal possession of a forged instrument in the second degree, as defined in ORS 165.017.
- (48) Criminal possession of a forged instrument in the first degree, as defined in ORS 165.022.
- (49) Criminal possession of a forgery device, as defined in ORS 165.032.
- (50) Criminal simulation, as defined in ORS 165.037.

- (51) Fraudulently obtaining a signature, as defined in ORS 165.042.
- (52) Fraudulent use of a credit card, as defined in ORS 165.055.
- (53) Negotiating a bad check, as defined in ORS 165.065.
- (54) Possessing a fraudulent communications device, as defined in ORS 165.070.
- (55) Unlawful factoring of a payment card transaction, as defined in ORS 165.074.
- (56) Falsifying business records, as defined in ORS 165.080.
- (57) Sports bribery, as defined in ORS 165.085.
- (58) Sports bribe receiving, as defined in ORS 165.090.
- (59) Misapplication of entrusted property, as defined in ORS 165.095.
- (60) Issuing a false financial statement, as defined in ORS 165.100.
- (61) Obtaining execution of documents by deception, as defined in ORS 165.102.
- (62) A violation of ORS 165.543.
- (63) Cellular counterfeiting in the third degree, as defined in ORS 165.577.
- (64) Cellular counterfeiting in the second degree, as defined in ORS 165.579.
- (65) Cellular counterfeiting in the first degree, as defined in ORS 165.581.
- (66) Identity theft, as defined in ORS 165.800.
- (67) A violation of ORS 166.190.
- (68) Unlawful use of a weapon, as defined in ORS 166.220.
- (69) A violation of ORS 166.240.
- (70) Unlawful possession of a firearm, as defined in ORS 166.250.
- (71) A violation of ORS 166.270.
- (72) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer, as defined in ORS 166.272.
- (73) A violation of ORS 166.275.
- (74) Unlawful possession of armor piercing ammunition, as defined in ORS 166.350.
- (75) A violation of ORS 166.370.
- (76) Unlawful possession of a destructive device, as defined in ORS 166.382.
- (77) Unlawful manufacture of a destructive device, as defined in ORS 166.384.
- (78) Possession of a hoax destructive device, as defined in ORS 166.385.
- (79) A violation of ORS 166.410.
- (80) Providing false information in connection with a transfer of a firearm, as defined in ORS 166.416.
- (81) Improperly transferring a firearm, as defined in ORS 166.418.
- (82) Unlawfully purchasing a firearm, as defined in ORS 166.425.
- (83) A violation of ORS 166.429.
- (84) A violation of ORS 166.470.
- (85) A violation of ORS 166.480.
- (86) A violation of ORS 166.635.
- (87) A violation of ORS 166.638.
- (88) Unlawful paramilitary activity, as defined in ORS 166.660.
- (89) A violation of ORS 166.720.
- (90) Prostitution, as defined in ORS 167.007.
- (91) Commercial sexual solicitation, as defined in ORS 167.008.
- (92) Promoting prostitution, as defined in ORS 167.012.
- (93) Compelling prostitution, as defined in ORS 167.017.
- (94) Exhibiting an obscene performance to a minor, as defined in ORS 167.075.
- (95) Unlawful gambling in the second degree, as defined in ORS 167.122.
- (96) Unlawful gambling in the first degree, as defined in ORS 167.127.
- (97) Possession of gambling records in the second degree, as defined in ORS 167.132.
- (98) Possession of gambling records in the first degree, as defined in ORS 167.137.
- (99) Possession of a gambling device, as defined in ORS 167.147.
- (100) Possession of a gray machine, as defined in ORS 167.164.
- (101) Cheating, as defined in ORS 167.167.
- (102) Tampering with drug records, as defined in ORS 167.212.
- (103) A violation of ORS 167.262.
- (104) Research and animal interference, as defined in ORS 167.312.
- (105) Animal abuse in the first degree, as defined in ORS 167.320.
- (106) Aggravated animal abuse in the first degree, as defined in ORS 167.322.
- (107) Animal neglect in the first degree, as defined in ORS 167.330.
- (108) Interfering with an assistance, a search and rescue or a therapy animal, as defined in ORS 167.352.

- (109) Involvement in animal fighting, as defined in ORS 167.355.
- (110) Dogfighting, as defined in ORS 167.365.
- (111) Participation in dogfighting, as defined in ORS 167.370.
- (112) Unauthorized use of a livestock animal, as defined in ORS 167.385.
- (113) Interference with livestock production, as defined in ORS 167.388.
- (114) A violation of ORS 167.390.
- (115) Participation in cockfighting, as defined in ORS 167.431.
- (116) A violation of ORS 471.410.
- (117) Failure to report missing precursor substances, as defined in ORS 475.955.
- (118) Illegally selling drug equipment, as defined in ORS 475.960.
- (119) Providing false information on a precursor substances report, as defined in ORS 475.965.
- (120) Unlawful delivery of an imitation controlled substance, as defined in ORS 475.912.
- (121) A violation of ORS 475.752, if it is a felony or a Class A misdemeanor.
- (122) A violation of ORS 475.914, if it is a felony or a Class A misdemeanor.
- (123) A violation of ORS 475.916.
- (124) A violation of ORS 475.906, if it is a felony or a Class A misdemeanor.
- (125) A violation of ORS 475.904.
- (126) A violation of ORS 475C.337, if it is a felony or a Class A misdemeanor.
- (127) A violation of ORS 475C.341, if it is a felony or a Class A misdemeanor.
- (128) A violation of ORS 475C.345, if it is a felony or a Class A misdemeanor.
- (129) A violation of ORS 475C.349, if it is a felony or a Class A misdemeanor.
- (130) A violation of ORS 475C.229.
- (131) Misuse of an identification card, as defined in ORS 807.430.
- (132) Unlawful production of identification cards, licenses, permits, forms or camera cards, as defined in ORS 807.500.
- (133) Transfer of documents for the purposes of misrepresentation, as defined in ORS 807.510.
- (134) Using an invalid license, as defined in ORS 807.580.
- (135) Permitting misuse of a license, as defined in ORS 807.590.
- (136) Using another's license, as defined in ORS 807.600.
- (137) Criminal driving while suspended or revoked, as defined in ORS 811.182.
- (138) Aggravated driving while suspended or revoked, as defined in ORS 163.196.
- (139) Driving while under the influence of intoxicants, as defined in ORS 813.010, when it is a felony.
- (140) Unlawful distribution of cigarettes, as defined in ORS 323.482.
- (141) Unlawful distribution of tobacco products, as defined in ORS 323.632.
- (142) A violation of ORS 180.440 (2) or 180.486 (2).
- (143) A violation described in ORS 475.806 to 475.894, if it is a felony.
- (144) Subjecting another person to involuntary servitude in the first degree, as defined in ORS 163.264.
- (145) Subjecting another person to involuntary servitude in the second degree, as defined in ORS 163.263.
- (146) Trafficking in persons, as defined in ORS 163.266.
- (147) Luring a minor, as defined in ORS 167.057.
- (148) Online sexual corruption of a child in the second degree, as defined in ORS 163.432.
- (149) Online sexual corruption of a child in the first degree, as defined in ORS 163.433.
- (150) Reckless driving, as defined in ORS 811.140 (1)(b).
- (151) An attempt, conspiracy or solicitation to commit a crime in subsections (1) to (150) of this section if the attempt, conspiracy or solicitation is a felony or a Class A misdemeanor. [2005 c.830 §19; 2005 c.830 §19a; 2007 c.40 §2; 2007 c.71 §31; 2007 c.811 §8; 2007 c.869 §4; 2007 c.876 §7; 2009 c.299 §5; 2009 c.717 §24; 2009 c.796 §3; 2009 c.874 §17; 2011 c.151 §7; 2011 c.552 §3; 2011 c.681 §4; 2013 c.374 §4; 2015 c.98 §5; 2016 c.47 §6; 2017 c.21 §38; 2023 c.158 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.604 - Disposition of forfeited cigarettes.**

Notwithstanding ORS 131.594 and 131.597, if property forfeited under ORS 131.550 to 131.600 consists of cigarettes forfeited because of a violation of ORS 180.440 (2), the seizing agency shall destroy the cigarettes. [2003 c.801 §16a; 2005 c.830 §29]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.605 - Definitions for ORS 131.605 to 131.625.**

As used in ORS 131.605 to 131.625, unless the context requires otherwise:

- (1) "Crime" has the meaning provided for that term in ORS 161.515.
- (2) "Dangerous weapon," "deadly weapon" and "person" have the meanings given those terms in ORS 161.015.
- (3) "Frisk" is an external patting of a person's outer clothing.
- (4) "Is about to commit" means unusual conduct that leads a peace officer reasonably to conclude in light of the officer's training

and experience that criminal activity may be afoot.

(5) "Peace officer" has the meaning given that term in ORS 133.005.

(6) "Reasonably suspects" means that a peace officer holds a belief that is reasonable under the totality of the circumstances existing at the time and place the peace officer acts as authorized in ORS 131.605 to 131.625.

(7) A "stop" is a temporary restraint of a person's liberty by a peace officer lawfully present in any place. [1973 c.836 §30; 1997 c.866 §2; 2011 c.506 §6; 2011 c.644 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.615 - Stopping of persons.**

(1) A peace officer who reasonably suspects that a person has committed or is about to commit a crime may stop the person and, after informing the person that the peace officer is a peace officer, make a reasonable inquiry.

(2) The detention and inquiry shall be conducted in the vicinity of the stop and for no longer than a reasonable time.

(3) The inquiry shall be considered reasonable if it is limited to:

(a) The immediate circumstances that aroused the officer's suspicion;

(b) Other circumstances arising during the course of the detention and inquiry that give rise to a reasonable suspicion of criminal activity; and

(c) Ensuring the safety of the officer, the person stopped or other persons present, including an inquiry regarding the presence of weapons.

(4)(a) The inquiry may include a request for consent to search in relation to the circumstances specified in subsection (3) of this section or to search for items of evidence otherwise subject to search or seizure under ORS 133.535 only if the officer first informs the person that the person has the right to refuse the request.

(b) An officer who obtains consent to search under this subsection shall ensure that there is a written, video or audio record that the person gave informed and voluntary consent to search.

(c) This subsection does not apply to implied consent searches described in ORS 813.100, 813.131 or 813.135.

(5) A peace officer making a stop may use the degree of force reasonably necessary to make the stop and ensure the safety of the peace officer, the person stopped or other persons who are present. [1973 c.836 §31; 1997 c.866 §1; 2022 c.78 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.625 - Frisk of stopped persons.**

(1) A peace officer may frisk a stopped person for dangerous or deadly weapons if the officer reasonably suspects that the person is armed and dangerous to the officer or other persons present.

(2) If, in the course of the frisk, the peace officer feels an object which the peace officer reasonably suspects is a dangerous or deadly weapon, the peace officer may take such action as is reasonably necessary to take possession of the weapon. [1973 c.836 §32; 1997 c.866 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.655 - Detention and interrogation of persons suspected of theft committed in a store or unlawful operation of audiovisual device in a motion picture theater; probable cause.**

(1) Notwithstanding any other provision of law, a person may be detained in a reasonable manner and for a reasonable time by:

(a) A merchant or merchant's employee who has probable cause for believing that the person has committed theft of property of a store or other mercantile establishment; or

(b) The owner or lessee of a motion picture theater or authorized agent or employee of the owner or lessee who has probable cause to believe that the person has violated ORS 164.882.

(2) Probable cause is a defense to any civil or criminal action based on detention and interrogation that a person brings against:

(a) A merchant or merchant's employee who has detained the person in a reasonable manner and for a reasonable time based on probable cause for believing that the person has committed theft of property of a store or other mercantile establishment; or

(b) The owner or lessee of a motion picture theater or authorized agent or employee of the owner or lessee who has detained the person based on probable cause for believing that the person has violated ORS 164.882. [Formerly 133.037; 2005 c.459 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.665 - Prevention by public officers.**

Crimes may be prevented by the action of public officers in accordance with ORS 131.675, 131.685, 131.705 to 131.735, and as otherwise authorized by law. [1973 c.836 §34a (enacted in lieu of 145.010)]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.675 - Dispersal of unlawful assemblages.**

When any five or more persons are unlawfully assembled in any county, city, town or village, the sheriff of the county and the



deputies of the sheriff, the mayor of the city, town or village, or chief executive officer or officers thereof, may go among the persons assembled, or as near to them as they can with safety, and command them in the name of the State of Oregon to disperse. If, so commanded, they do not immediately disperse, the officer may arrest them or cause them to be arrested for any unlawful activity constituting an offense. [Formerly 145.020; 1987 c.526 §1; 2021 c.250 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.685 - Authority of Governor to enter into agreements with other states for crime prevention purposes.**

The Governor of Oregon may enter into agreements or compacts with the Governor of any or all the States of Washington, Idaho, California and Nevada, each acting on behalf of the own state of the Governor, in order to effectuate cooperative effort and mutual assistance in the prevention of crime in those states and in the enforcement of their respective criminal laws and policies. [Formerly 145.060]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.705 - Definitions for ORS 131.705 to 131.735.**

As used in ORS 131.705 to 131.735, unless the context requires otherwise:

- (1) "Police" means the municipal police and the county sheriff of the political subdivision in which the public property is located, and the Department of State Police.
- (2) "Public official" means the officer or employee who is the administrative head of the board, commission, agency or division or department of this state or any political subdivision therein which has jurisdiction over any public property, or the designate of the officer or employee.
- (3) "Public property" means public lands, premises and buildings, including but not limited to any building used in connection with the transaction of public business or any lands, premises or buildings owned or leased by this state or any political subdivision therein. [Formerly 145.610]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.715 - Proclamation of emergency period by Governor.**

After consultation with the public official, or the designate of the public official, and the police, the Governor may proclaim an emergency period if the Governor finds that there exists on any public property a clear and present danger of injury to persons, damage to property or denial of or substantial interference with ingress or egress from public property. The proclamation shall describe the public property affected by the proclamation. The Governor shall cause the proclamation to be publicized. When the Governor finds that the danger has ended, the Governor shall proclaim the end of the emergency period. [Formerly 145.620]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.725 - Exclusion from public property.**

- (1) During the emergency period proclaimed by the Governor under ORS 131.715, the public official shall order excluded from the public property described in the proclamation such persons who in the judgment of the public official are contributing to or aggravating the danger which the Governor has proclaimed to exist.
- (2) After informing the person ordered removed or excluded from the public property of the proclamation and order, the police shall remove or exclude such person from such public property.
- (3) Any person who, having been ordered excluded or removed from any public property, knowingly enters thereon or who remains on such property during an emergency period proclaimed by the Governor under ORS 131.715 and who refuses to leave such property upon request by the police, commits a Class A misdemeanor. [Formerly 145.630]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.735 - Review of exclusion order.**

Any person ordered removed or excluded from any public property under ORS 131.715 and 131.725 shall have immediate access to the circuit court for the county in which the property is located for review of the order of exclusion or removal. Such access shall be in the form of a writ of review and shall be given priority over all other cases on the docket of the circuit court. [Formerly 145.640]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.805 - Authority to employ special agents.**

The Governor may employ, at such salaries as the Governor deems reasonable for the services rendered, special agents to effect the apprehension and conviction of criminals, the return of fugitives from justice, the investigation of cases in which the Governor believes the laws of the state are being violated, the supervision of persons paroled or conditionally pardoned from the Department of Corrections or the collection of evidence in any case, civil or criminal, in which the state is interested whenever in the judgment of the Governor it is necessary from the conditions existing in any case, whenever the Governor is convinced that criminals are

likely to escape punishment and justice cannot be done by the regularly constituted authorities of any county of the state or of the state or whenever any emergency has arisen which in the judgment of the Governor would justify the Governor so doing. [Formerly 148.010; 1987 c.320 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.815 - Presentment of facts to circuit court.**

Whenever in the opinion of the Governor the criminal laws of the state are not being faithfully executed and enforced and the circumstances justify the appointment of any sheriff, district attorney, constable or justice of the peace pro tem, the Governor shall lay the facts of which the Governor is advised before the circuit court, or any judge thereof, of the district of the office in question. The court or judge shall, without delay, in a summary manner consider the facts so presented and such further facts as can be gathered or may be presented by or on behalf of the Governor, the officer or any party interested. [Formerly 148.110]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.825 - Hearing.**

The court, or judge thereof, in conducting such hearing, shall have all the usual powers of the circuit court or judge, including the power to subpoena and examine witnesses of its own motion. The Governor, the officer affected or any party interested may subpoena witnesses and appear and participate in person or by counsel, and the officer shall be given reasonable opportunity to prepare and present this case. The Attorney General shall appear on behalf of the Governor if by the Governor requested so to do. [Formerly 148.120]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.835 - Request that judge of another district conduct hearing; traveling expenses.**

When the Governor has made a request for an investigation before the court or judge of the district of the office affected, the court or judge may request that the hearing be held before the court or judge of any other district and call in such court or judge to conduct the same at the regular place of holding court in the district of the office affected. Such a request shall be made by the court or judge without delay and the court or judge called in shall proceed without delay to conduct the hearing. The actual necessary traveling expenses of any court or judge that is called in shall be paid out of the funds appropriated for the purposes of ORS 131.815 to 131.875 upon properly verified vouchers being presented to the Secretary of State. [Formerly 148.130]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.845 - Findings.**

The court or judge shall make such findings as are justified by the facts adduced at the hearing and shall find as to whether or not the criminal laws of the state are being faithfully executed and enforced by the officers under investigation. [Formerly 148.140]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.855 - Appointment of special officers on finding that laws are not enforced.**

If it is found that the criminal laws of the state are not being faithfully executed and enforced by the officers under investigation, the Governor may appoint, for a period not longer than 90 days, such special officers as may be necessary to correct the failure to execute or enforce the criminal laws. [Formerly 148.150]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.860 - Qualifying of special officers; powers and duties.**

When appointed, special officers shall qualify in the same manner as provided by law for regularly elected officers, shall have all the power and authority of the regularly elected officers necessary to effectuate the purposes of the appointment and shall carry out the directions of the Governor, pursuant to the appointment, in the same manner and to the same extent as the duly elected officers could do or perform; and no greater power shall be conferred upon any special officer than is by law lodged with the regularly elected officers. [Formerly 148.160]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.865 - Compensation of special officers.**

The special officers provided for in ORS 131.855 shall receive a compensation for the time they are appointed equal to that provided for the regularly elected officers, the compensation to be paid in the same manner as the regular officers are paid. [Formerly 148.170]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations;**

**Jurisdiction; Venue; Criminal Forfeiture; Crime PreventionSection 131.875 - Effect of appointment of special officers on salary of regular officers.**

The regularly elected, qualified and acting officers shall, during any appointment of a special officer, receive the salary provided by law, to the same extent as though no special officer had been appointed. [Formerly 148.180]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime PreventionSection 131.880 - Appointment of railroad police officers; liability.**

The Governor, upon application of any railroad company operating in this state, may appoint and commission, during the pleasure of the Governor, persons designated by the company and to serve at the expense of the company, as police officers, with the powers of peace officers and who, after being duly sworn, may act as police officers to protect the railroad company property and the persons or property of the railroad company passengers or employees. The railroad company designating such persons is civilly responsible for any abuse of their authority. [1973 c.676 §1]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime PreventionSection 131.885 - Offer of reward.**

If any person charged with or convicted of any felony within this state breaks prison, escapes, absconds or flees or hides from justice, the county court or county governing body of the county in which the crime was committed, if the court or governing body deems it necessary, may offer a reward for information leading to the apprehension of such person by the appropriate police authority. [Formerly 149.010; 1981 c.300 §1; 1999 c.217 §1]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime PreventionSection 131.890 - Entitlement to reward; use of public money to reward bounty hunter.**

(1) Any person providing information leading to the apprehension of a person for whom a reward has been offered under ORS 131.885 is entitled to and shall be paid the reward offered under ORS 131.885 or a proportionate share thereof if more than one claimant is entitled.

(2) No public money may be used to pay a reward to a bounty hunter under this section. As used in this subsection, "bounty hunter" means a private person who is in the business of apprehending persons who have forfeited security or broken the terms of a security release, fled from justice or escaped from confinement. [Formerly 149.020; 1981 c.300 §2; 1999 c.217 §2]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime PreventionSection 131.892 - Offer of reward for information on commission of criminal offense.**

An organization, association or person may offer a reward for information leading to the apprehension and conviction of any person who has committed a criminal offense. [1993 c.543 §2; 1995 c.461 §1; 1999 c.217 §3]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime PreventionSection 131.895 - Procedure for payment.**

The county court or county governing body, on the claim of the applicant for reward under ORS 131.885 to 131.895, shall determine whether the claimant is entitled to the reward. If it so determines, it shall certify the amount offered in reward, or a proportionate share thereof if more than one claimant is entitled, to the county clerk of the county and the county clerk shall draw a warrant on the treasurer of the county for the amount so authorized. [Formerly 149.030; 1981 c.300 §3]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime PreventionSection 131.897 - Authority to order repayment of reward as part of sentence.**

(1) In addition to any other sentence it may impose as a result of a criminal conviction, the court may order that a defendant reimburse to a person, organization, association or public body or officer, any sum or portion thereof offered and paid by the person, organization, association or public body or officer under ORS 131.885 to 131.895, as a reward for information leading to the apprehension of the defendant. Reimbursement under this section shall be ordered paid into the court, for further transfer by the clerk to the person, organization, association or public body or officer entitled to it.

(2) In determining whether to order reimbursement under this section, the court shall take into account:

(a) The financial resources of the defendant and the burden that reimbursement will impose, with due regard to the other obligations of the defendant; and

(b) The ability of the defendant to make reimbursement on an installment basis or on other conditions to be fixed by the court. [1981 c.300 §4; 1987 c.905 §13; 1993 c.543 §3; 1995 c.461 §2; 1999 c.217 §4; 2011 c.597 §121]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.900 - Liability for medical expenses for person restrained, detained or taken into custody.**

Except as otherwise provided by ORS 30.260 to 30.300, federal civil rights law or written agreement, the state, a county, a city, a law enforcement agency or local correctional facility thereof is not liable for charges or expenses for any medical services provided to an individual who is the object of efforts by a law enforcement officer to restrain or detain or take into custody. [1991 c.778 §8; 1993 c.196 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.905 - Legislative findings.**

The Legislative Assembly finds and declares that:

- (1) Surveys of the trust and confidence placed by Oregonians in state and local law enforcement indicate that there are Oregonians who believe that some law enforcement officers have engaged in practices that inequitably and unlawfully discriminate against individuals solely on the basis of their race, color or national origin.
- (2) State and local law enforcement agencies can perform their missions more effectively when all Oregonians have trust and confidence that law enforcement stops and other contacts with individuals are free from inequitable and unlawful discrimination based on race, color or national origin.
- (3) Representatives of community interest groups and state and local law enforcement agencies agree that collecting certain demographic data about contacts between individuals and state or local law enforcement officers will provide a statistical foundation to ensure that future contacts are free from inequitable and unlawful discrimination based on race, color or national origin.
- (4) Demographic data collection can establish a factual and quantifiable foundation for measuring progress in eliminating discrimination based on race, color or national origin during law enforcement stops and other contacts with individuals, but data collection alone does not provide a sufficient basis for corrective action. Proper analysis of the demographic data and enactment of meaningful reforms in response to the results of that analysis require careful consideration of all relevant factors including the context of the community in which the data has been collected.
- (5) It is the goal of this state that all law enforcement agencies perform their missions without inappropriate use of race, color or national origin as the basis for law enforcement actions. This goal may be achieved by providing assistance to state and local law enforcement agencies and the communities that they serve.
- (6) This state shall foster, encourage and support the collection and analysis of demographic data by state and local law enforcement agencies. [2001 c.687 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.906 - Law Enforcement Contacts Policy and Data Review Committee; duties; report.**

- (1) There is created the Law Enforcement Contacts Policy and Data Review Committee consisting of 11 members appointed by the Governor.
- (2) The purpose of the committee is to receive and analyze demographic data to ensure that law enforcement agencies perform their missions without inequitable or unlawful discrimination based on race, color or national origin.
- (3) To achieve its purpose, the committee shall collect and analyze demographic data to:
  - (a) Provide information to assist communities and state and local law enforcement agencies in evaluating the policies, training and procedures of law enforcement agencies regarding the treatment of individuals during stops and other contacts with law enforcement;
  - (b) Inform state and local law enforcement agencies and communities about law enforcement practices; and
  - (c) Provide opportunities for communities and state and local law enforcement agencies to work together to increase public trust and confidence in law enforcement and to enhance the capacity of communities and law enforcement agencies to provide more effective public safety services.
- (4) The committee shall:
  - (a) Solicit demographic data concerning law enforcement stops and other contacts between state and local law enforcement agencies and individuals;
  - (b) Publicize programs, procedures and policies from communities that have made progress toward eliminating discrimination based on race, color or national origin during law enforcement stops and other contacts with individuals;
  - (c) Provide technical assistance, including refinement of the minimum data elements as necessary for effective analysis, to state and local law enforcement agencies that desire to begin collecting demographic data;
  - (d) Provide technical assistance to communities and state and local law enforcement agencies that desire to engage in local efforts to involve individuals in the establishment and implementation of programs, procedures and policies that will advance the goal of ORS 131.905;
  - (e) Obtain resources for independent analysis and interpretation of demographic data collected by state or local law enforcement agencies;

- (f) Accept and analyze demographic data collected by a state or local law enforcement agency if requested by a state or local law enforcement agency and if resources are available; and
- (g) Report to the public the results of analyses of demographic data.
- (5) In carrying out its purpose, the committee may request and receive data files from participating law enforcement agencies and may analyze data for each reported contact. These data files should contain as many of the following items of information as are collected by the participating law enforcement agency:
  - (a) The reason for the law enforcement stop or other contact;
  - (b) The law enforcement officer's perception of the race, color or national origin of the individual involved in the contact;
  - (c) The individual's gender;
  - (d) The individual's age;
  - (e) Whether a search was conducted in connection with the contact, and if so, what resulted from the search;
  - (f) The disposition of the law enforcement action, if any, resulting from the contact; and
  - (g) Additional data as recommended by the committee that state and local law enforcement agencies should collect and submit.
- (6) Data received by the committee for analysis under this section may not identify a particular law enforcement officer or a particular individual whose demographic data is collected by a state or local law enforcement agency.
- (7) The committee shall elect one of its members to serve as chairperson.
- (8) Members of the committee who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the committee shall be paid out of funds appropriated to Portland State University for purposes of the committee.
- (9) Portland State University shall provide administrative support staff necessary to the performance of the functions of the committee.
- (10) All agencies of state government, as defined in ORS 174.111, are requested to assist the committee in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the committee consider necessary to perform their duties.
- (11) The committee shall make findings and issue recommendations for action to achieve the purpose of this section. The committee shall submit a report containing its findings and recommendations to the appropriate interim legislative committees annually on or before December 1.
- (12) After completion of the analysis of the data from at least two state or local law enforcement agencies, the committee may recommend the collection of additional data elements.
- (13) This section does not prohibit a state or local law enforcement agency from collecting data in addition to the information listed in subsection (5) of this section. [2001 c.687 §6; 2007 c.190 §2; 2009 c.859 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.908 - Funding contributions.**

Portland State University may accept contributions of funds from the United States, its agencies, or from any other source, public or private, and agree to conditions thereon not inconsistent with the purposes of the Law Enforcement Contacts Policy and Data Review Committee. [2001 c.687 §8; 2007 c.190 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.909 - Moneys received.**

All moneys received by Portland State University under ORS 131.908 shall be paid into the State Treasury and deposited into the General Fund to the credit of Portland State University. Such moneys are appropriated continuously to Portland State University for the purposes of ORS 131.906. [2001 c.687 §9; 2007 c.190 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.915 - Definitions.**

As used in ORS 131.915 to 131.925:

- (1) "Gender identity" has the meaning given that term in ORS 174.100.
- (2) "Law enforcement agency" means:
  - (a) The Department of State Police;
  - (b) The Department of Justice;
  - (c) A district attorney's office; and
  - (d) Any of the following that maintains a law enforcement unit as defined in ORS 181A.355:
    - (A) A political subdivision or an instrumentality of the State of Oregon.
    - (B) A municipal corporation of the State of Oregon.
    - (C) A tribal government.
    - (D) A university.
- (3) "Law enforcement officer" means:

- (a) A member of the Oregon State Police;
  - (b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer commissioned by a university under ORS 352.121 or 353.125;
  - (c) An investigator of a district attorney's office if the investigator is or has been certified as a law enforcement officer in this or any other state;
  - (d) An investigator of the Criminal Justice Division of the Department of Justice;
  - (e) A humane special agent as defined in ORS 181A.345;
  - (f) A judicial marshal of the Marshal's Office of the Judicial Department who is appointed under ORS 1.177 and trained pursuant to ORS 181A.540;
  - (g) A regulatory specialist exercising authority described in ORS 471.775 (2); or
  - (h) An authorized tribal police officer as defined in ORS 181A.940.
- (4) "Profiling" means the targeting of an individual by a law enforcement agency or a law enforcement officer, on suspicion of the individual's having violated a provision of law, based solely on the individual's real or perceived age, race, ethnicity, color, national origin, language, sex, gender identity, sexual orientation, political affiliation, religion, homelessness or disability, unless the agency or officer is acting on a suspect description or information related to an identified or suspected violation of a provision of law.
- (5) "Sexual orientation" has the meaning given that term in ORS 174.100. [2015 c.681 §1; 2017 c.17 §7; 2017 c.706 §6; 2021 c.173 §3; 2021 c.367 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.920 - Policies and procedures prohibiting profiling.**

- (1) All law enforcement agencies shall have written policies and procedures prohibiting profiling. The policies and procedures shall, at a minimum, include:
- (a) A prohibition on profiling;
  - (b) Procedures allowing a complaint alleging profiling to be made to the agency:
    - (A) In person;
    - (B) In a writing signed by the complainant and delivered by hand, postal mail, facsimile or electronic mail; or
    - (C) By telephone, anonymously or through a third party;
  - (c) The provision of appropriate forms to use for submitting complaints alleging profiling;
  - (d) Procedures for submitting a copy of each profiling complaint to the Law Enforcement Contacts Policy and Data Review Committee and for receiving profiling complaints forwarded from the committee; and
  - (e) Procedures for investigating all complaints alleging profiling.
- (2) A law enforcement agency shall:
- (a) Investigate all complaints alleging profiling that are received by the agency or forwarded from the committee.
  - (b) Accept for investigation a complaint alleging profiling that is made to the agency within 180 days of the alleged profiling incident.
  - (c) Respond to every complaint alleging profiling within a reasonable time after the conclusion of the investigation. The response must contain a statement of the final disposition of the complaint. [2015 c.681 §2; 2015 c.681 §6; 2017 c.706 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.925 - Complaints alleging profiling; complaint form.**

- (1)(a) A law enforcement agency shall provide to the Law Enforcement Contacts Policy and Data Review Committee information concerning each complaint the agency receives alleging profiling, and shall notify the committee of the disposition of the complaint, in the manner described in this subsection.
- (b) The law enforcement agency shall submit to the committee a profiling complaint report form summarizing each profiling complaint and the disposition of the complaint, and a copy of each profiling complaint, once each year no later than January 31.
- (c) The law enforcement agency shall submit the form described in paragraph (b) of this subsection even if the agency has not received any profiling complaints.
- (d) The profiling complaint report form and copies of profiling complaints submitted to the committee may not include personal information concerning the complainant or a law enforcement officer except as to any personal information recorded on the form as described in subsection (4)(c) of this section.
- (2)(a) A person may submit to the committee a complaint alleging profiling and the committee shall receive the complaints.
- (b) The committee also shall receive complaints alleging profiling that are forwarded from a law enforcement agency.
- (c) The committee shall forward a copy of each profiling complaint the committee receives to the law enforcement agency employing the officer that is the subject of the complaint. The forwarded complaint must include the name of the complainant unless the complainant requests to remain anonymous, in which case the complainant's name must be redacted.
- (3)(a) The committee may not release any personal information concerning a complainant or a law enforcement officer who is the subject of a profiling complaint.
- (b) The personal information of complainants and of law enforcement officers who are the subject of profiling complaints are exempt from public disclosure under ORS 192.355.

(4) The Department of State Police shall develop a standardized profiling complaint report form. The form must provide for recording the following information:

- (a) A summary of total complaints and a certification that a law enforcement agency's profiling policy conforms to ORS 131.920;
  - (b) A summary of each complaint received by the law enforcement agency, including the date, time and location of the incident and the disposition of the complaint; and
  - (c) To the extent known, the complainant's gender, gender identity, age, race, ethnicity, sexual orientation, primary language, national origin, religion, political affiliation, homeless status and disability status, recorded in a manner that does not identify the complainant.
- (5) As used in this section, "personal information" has the meaning given that term in ORS 807.750. [2015 c.681 §3; 2017 c.706 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.930 - Definitions.**

As used in ORS 131.930 to 131.945:

- (1) "Gender identity" has the meaning given that term in ORS 174.100.
- (2) "Law enforcement agency" means an agency employing law enforcement officers to enforce criminal laws.
- (3) "Law enforcement officer" means a member of the Oregon State Police, a sheriff or a municipal police officer.
- (4) "Officer-initiated pedestrian stop" means a detention of a pedestrian by a law enforcement officer that is not associated with a call for service. The term does not apply to detentions for routine searches performed at the point of entry to or exit from a controlled area.
- (5) "Officer-initiated traffic stop" means a detention of a driver of a motor vehicle by a law enforcement officer, not associated with a call for service, for the purpose of investigating a suspected violation of the Oregon Vehicle Code.
- (6) "Profiling" means the targeting of an individual by a law enforcement agency or a law enforcement officer, on suspicion of the individual's having violated a provision of law, based solely on the individual's real or perceived age, race, ethnicity, color, national origin, language, sex, gender identity, sexual orientation, political affiliation, religion, homelessness or disability, unless the agency or officer is acting on a suspect description or information related to an identified or suspected violation of a provision of law.
- (7) "Sexual orientation" has the meaning given that term in ORS 174.100. [2017 c.706 §1; 2019 c.305 §1; 2021 c.367 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.935 - Collection of officer-initiated stop data; use of data; rules.**

(1) No later than July 1, 2018, the Oregon Criminal Justice Commission, in consultation with the Department of State Police and the Department of Justice, shall develop and implement a standardized method to be used by law enforcement officers to record officer-initiated pedestrian stop and officer-initiated traffic stop data. The standardized method must require, and any form developed and used pursuant to the standardized method must provide for, the following data to be recorded for each stop:

- (a) The date and time of the stop;
- (b) The location of the stop;
- (c) The race, ethnicity, age and sex of the pedestrian or the operator of the motor vehicle stopped, based on the observations of the law enforcement officer responsible for reporting the stop;
- (d) The nature of, and the statutory citation for, the alleged traffic violation, or other alleged violation, that caused the stop to be made; and
- (e) The disposition of the stop, including whether a warning, citation or summons was issued, whether a search was conducted, the type of search conducted, whether anything was found as a result of the search and whether an arrest was made.

(2) No later than July 1, 2018, the Department of Public Safety Standards and Training, in consultation with law enforcement agencies, shall develop and implement training and procedures to facilitate the collection of officer-initiated pedestrian and traffic stop data pursuant to subsection (1) of this section.

(3) Beginning on the dates described in subsection (4) of this section, all law enforcement agencies that engage in officer-initiated pedestrian or traffic stops shall record and retain the following data for each stop:

- (a) The date and time of the stop;
- (b) The location of the stop;
- (c) The race, ethnicity, age and sex of the pedestrian or the operator of the motor vehicle stopped, based on the observations of the law enforcement officer responsible for reporting the stop;
- (d) The nature of, and the statutory citation for, the alleged traffic violation, or other alleged violation, that caused the stop to be made; and
- (e) The disposition of the stop, including whether a warning, citation or summons was issued, whether a search was conducted, the type of search conducted, whether anything was found as a result of the search and whether an arrest was made.

(4) Each law enforcement agency shall begin recording the data described in subsection (3) of this section as follows:

- (a) An agency that employs 100 or more law enforcement officers shall begin recording no later than July 1, 2018.
- (b) An agency that employs between 25 and 99 law enforcement officers shall begin recording no later than July 1, 2019.
- (c) An agency that employs between one and 24 law enforcement officers shall begin recording no later than July 1, 2020.

- (5) Each law enforcement agency that engages in officer-initiated traffic or pedestrian stops shall report to the Oregon Criminal Justice Commission the data recorded pursuant to subsection (3) of this section as follows:
- (a) An agency that employs 100 or more law enforcement officers shall report no later than July 1, 2019, and at least annually thereafter.
  - (b) An agency that employs between 25 and 99 law enforcement officers shall report no later than July 1, 2020, and at least annually thereafter.
  - (c) An agency that employs between one and 24 law enforcement officers shall report no later than July 1, 2021, and at least annually thereafter.
  - (6) Data acquired under this section shall be used only for statistical purposes and not for any other purpose. The data may not contain information that reveals the identity of any stopped individual or the identity of any law enforcement officer. Data collected by law enforcement agencies or held by the Oregon Criminal Justice Commission under this section that may reveal the identity of any stopped individual or the identity of any law enforcement officer is exempt from public disclosure in any manner.
  - (7) The Department of Justice, the Department of Public Safety Standards and Training and the Department of State Police may adopt rules to carry out the provisions of ORS 131.930 to 131.945. [2017 c.706 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.940 - Analysis of stop data to identify profiling; report.**

- (1) The Oregon Criminal Justice Commission shall review all data, including the prevalence and disposition of officer-initiated pedestrian and traffic stops, reported by law enforcement agencies pursuant to ORS 131.935 in order to identify patterns or practices of profiling.
- (2) The commission shall select one or more statistical analysis methodologies, determined to be consistent with current best practices, with which to review the data as described in subsection (1) of this section.
- (3) No later than December 1, 2019, and annually thereafter, the commission shall report the results of the review to the Governor, the Department of Public Safety Standards and Training and, in the manner provided in ORS 192.245, to the committees or interim committees of the Legislative Assembly related to the judiciary. [2017 c.706 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131 - Preliminary Provisions; Limitations; Jurisdiction; Venue; Criminal Forfeiture; Crime Prevention Section 131.945 - Training for law enforcement agencies; presentation to local public safety coordinating council.**

- (1) The Department of Public Safety Standards and Training shall receive and review reports provided to the department by the Oregon Criminal Justice Commission pursuant to ORS 131.940.
- (2) Upon receipt of a report described in subsection (1) of this section, the department may provide advice or technical assistance to any law enforcement agency mentioned within the report. Any advice or technical assistance provided shall be based on best practices in policing as determined by the Oregon Center for Policing Excellence established in ORS 181A.660.
- (3) Upon providing advice or technical assistance under this section, the department shall, within a reasonable amount of time, present a summary of the advice and assistance given to the local public safety coordinating council in the county in which the assisted law enforcement agency is located. If the assisted law enforcement agency is the Oregon State Police, the presentation shall occur in Marion County. The presentation shall be open to the public, feature live testimony by presenters and be held in accordance with ORS 192.610 to 192.705. [2017 c.706 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.005 - Definitions.**

As used in this chapter:

- (1) "All persons known to have an interest" means:
  - (a) Any person who filed a notice of interest for seized property with any public office, in the manner required or permitted by law, before the property was seized for forfeiture;
  - (b) Any person from whose custody property is seized for forfeiture; and
  - (c) Any person who has an interest in property seized for forfeiture, including all owners and occupants of the property, whose identity and address is known or is ascertainable upon diligent inquiry and whose rights and interest in the property may be affected by the action.
- (2) "Attorney fees" has the meaning given that term in ORCP 68 A.
- (3) "Financial institution" means any person lawfully conducting business as:
  - (a) A financial institution or trust company, as those terms are defined in ORS 706.008;
  - (b) A consumer finance company subject to the provisions of ORS chapter 725;
  - (c) A mortgage banker or a mortgage broker as those terms are defined in ORS 86A.100, a mortgage servicing company or other mortgage company;
  - (d) An officer, agency, department or instrumentality of the federal government, including but not limited to:
    - (A) The Secretary of Housing and Urban Development;



- (B) The Federal Housing Administration;
- (C) The United States Department of Veterans Affairs;
- (D) Rural Development and the Farm Service Agency of the United States Department of Agriculture;
- (E) The Federal National Mortgage Association;
- (F) The Government National Mortgage Administration;
- (G) The Federal Home Loan Mortgage Corporation;
- (H) The Federal Agricultural Mortgage Corporation; and
- (I) The Small Business Administration;
- (e) An agency, department or instrumentality of the state, including but not limited to:
  - (A) The Housing and Community Services Department;
  - (B) The Department of Veterans' Affairs; and
  - (C) The Public Employees Retirement System;
- (f) An agency, department or instrumentality of any local government, as defined by ORS 174.116, or special government body, as defined by ORS 174.117, including but not limited to such agencies as the Portland Development Commission;
- (g) An insurer as defined in ORS 731.106;
- (h) A private mortgage insurance company;
- (i) A pension plan or fund or other retirement plan; and
- (j) A broker-dealer or investment adviser as defined in ORS 59.015.
- (4) "Forfeiting agency" means a public body that is seeking forfeiture of property under this chapter.
- (5) "Forfeiture counsel" means an attorney designated by a forfeiting agency to represent the forfeiting agency in forfeiture proceedings.
- (6) "Forfeiture proceeds" means all property that has been forfeited in a proceeding under this chapter, including money, earnings from forfeited property and amounts realized from the sale of forfeited property.
- (7) "Instrumentality" has the meaning given in ORS 131.550.
- (8) "Law enforcement agency" means any agency that employs police officers or prosecutes criminal cases.
- (9) "Motor vehicle with a hidden compartment" means a motor vehicle as defined in ORS 801.360 that has had the vehicle's original design modified by a person other than the manufacturer to create a container, space or enclosure for the purpose of concealing, hiding or otherwise preventing discovery of its contents and that is used or intended to be used to facilitate the commission of a criminal offense.
- (10) "Police officer" has the meaning given that term in ORS 133.525.
- (11) "Proceeds of prohibited conduct" means property derived directly or indirectly from prohibited conduct, or maintained by or realized through prohibited conduct. "Proceeds of prohibited conduct" includes any benefit, interest or property of any kind, without reduction for expenses of acquiring or maintaining the property.
- (12) "Prohibited conduct" means:
  - (a) Violation of, solicitation to violate, attempt to violate or conspiracy to violate a provision of ORS 475.005 to 475.285 and 475.744 to 475.980 when the conduct constitutes the commission of a crime as described in ORS 161.515;
  - (b) Violation of, solicitation to violate, attempt to violate or conspiracy to violate ORS 475C.337, 475C.341, 475C.345 or 475C.349 when the conduct constitutes the commission of a crime as described in ORS 161.515;
  - (c) Violation of, solicitation to violate, attempt to violate or conspiracy to violate ORS 475C.229;
  - (d) Violation of, solicitation to violate, attempt to violate or conspiracy to violate a provision of ORS 163.263, 163.264, 163.266 or 167.017; and
  - (e) Other conduct that constitutes the commission of a crime as described in ORS 161.515, that provides for civil forfeiture of proceeds or instrumentalities of the conduct and that is made subject to the provisions of this chapter under ORS 131A.010 (4) or other law.
- (13) "Property" means any interest in anything of value, including the whole of any lot or tract of land and tangible and intangible personal property, including currency, instruments or securities or any other kind of privilege, interest, claim or right whether due or to become due.
- (14) "Public body" has the meaning given in ORS 174.109.
- (15) "Seizing agency" means a law enforcement agency that has seized property for forfeiture.
- (16) "Weapon" means any instrument of offensive or defensive combat or anything used, or designed to be used, in destroying, defeating or injuring a person. [2009 c.78 §1; 2009 c.874 §8; 2011 c.335 §1; 2017 c.21 §39]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.010 - Legislative findings; preemption of local laws; remedy not exclusive.**

- (1) The Legislative Assembly finds that:
  - (a) Prohibited conduct occurs in the course of criminal activities that result in, and are facilitated by, the acquisition, possession or transfer of property subject to civil forfeiture under this chapter.
  - (b) Transactions involving property subject to civil forfeiture under this chapter escape taxation.
  - (c) Governments attempting to respond to prohibited conduct require additional resources.

- (d) Proceeds and instrumentalities of prohibited conduct should be forfeited, the rights and interests of affected persons protected, and the laws of this state relating to civil forfeiture of property based on prohibited conduct should be uniform throughout the state.
- (2) The Legislative Assembly adopts the provisions of this chapter as the sole and exclusive law of the state governing civil forfeiture of real and personal property based on prohibited conduct. This chapter supersedes all charter provisions, ordinances, regulations and other enactments adopted by cities and counties relating to civil forfeitures. All forfeitures under the provisions of this chapter are subject to the limitations of section 10, Article XV of the Oregon Constitution.
- (3) This chapter is applicable throughout this state. The electors or the governing body of a city or county may not enact, and the governing body of a city or county may not enforce, any charter provision, ordinance, resolution or other regulation that is inconsistent with this section.
- (4) This chapter does not impair the right of any city or county to enact ordinances providing for the civil forfeiture of property if:
- (a) The prohibited conduct constitutes the commission of a crime as described in ORS 161.515;
  - (b) The property constitutes proceeds or instrumentalities of the prohibited conduct; and
  - (c) The civil forfeiture is subject to the procedures and limitations set forth in this chapter.
- (5) This chapter does not limit or impair any right or remedy that any person or entity may have under ORS 166.715 to 166.735. The application of any remedy under this chapter is remedial and not punitive and does not affect the application of any other civil or criminal remedy under any other provision of law. Civil remedies under this chapter are supplemental and are not mutually exclusive. [2009 c.78 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.015 - Vesting of title to forfeited property.**

Subject to this chapter, all right, title and interest in property forfeited under this chapter vests in the forfeiting agency upon the occurrence of the prohibited conduct on which the forfeiture is based. [2009 c.78 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.020 - Property subject to forfeiture.**

The following property is subject to forfeiture under this chapter:

- (1) All controlled substances that have been manufactured, distributed, dispensed, possessed or acquired in the course of prohibited conduct.
- (2) All raw materials, products and equipment of any kind that are used in providing, manufacturing, compounding, processing, delivering, importing or exporting any service or substance in the course of prohibited conduct.
- (3) All property that is used as a container for property described in subsection (1) or (2) of this section.
- (4) All conveyances, including aircraft, vehicles or vessels, that are used to transport or in any manner facilitate the transportation, sale, receipt, possession or concealment of property described in subsection (1) or (2) of this section, and all conveyances, including aircraft, vehicles or vessels, that are used in prohibited conduct or that are used to facilitate prohibited conduct in any manner.
- (5) All books, records, computers and research, including formulae, microfilm, tapes and data that are used to facilitate prohibited conduct in any manner.
- (6) All moneys, negotiable instruments, balances in deposit accounts or other accounts, securities or other things of value furnished by any person in the course of prohibited conduct, all proceeds of prohibited conduct, and all moneys, negotiable instruments, balances in deposit and other accounts and securities used to facilitate any prohibited conduct.
- (7) All real property, including any right, title and interest in the whole of any lot or tract of land and any appurtenances or improvements, that is used in any manner, in whole or part, to commit or facilitate prohibited conduct.
- (8) All weapons possessed, used or available for use in any manner to facilitate prohibited conduct.
- (9) Any property described in this section that was intended for use in committing or facilitating an attempt to commit a crime as described in ORS 161.405, a solicitation as described in ORS 161.435 or a conspiracy as described in ORS 161.450. [2009 c.78 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.025 - Consensual search of motor vehicle; required notice.**

- (1) Notwithstanding any other provision of this chapter, property that is seized solely on the basis of a consensual search of a motor vehicle is not subject to forfeiture unless, before obtaining the consent of a person for the search, the person is provided with written, multilingual notice of the right of the person to refuse to consent to the search. The notice shall include at least the following information:
- (a) Notice that the person has a right to refuse to consent to a search.
  - (b) Notice that a refusal to consent to a search cannot be used against the person for any purpose.
  - (c) Notice that anything found in the search can be seized as evidence of a crime or can be seized for forfeiture.
- (2) A notice or consent form under this section shall be considered multilingual if the notice or form provides information in at least English and Spanish. [2009 c.78 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.030 - Seizure of motor vehicle with hidden compartment.**

(1) When a seizing agency lawfully seizes a motor vehicle with a hidden compartment, the agency shall disable the hidden compartment, unless the motor vehicle is forfeited and the agency:

(a) Retains the motor vehicle for law enforcement purposes; or

(b) Determines that the cost of disabling the hidden compartment exceeds the value of the motor vehicle.

(2) Notwithstanding ORS 131A.360 and 131A.365, if the motor vehicle with a hidden compartment is forfeited and the seizing agency:

(a) Retains the motor vehicle for law enforcement purposes, the agency shall deduct the cost of disabling the hidden compartment from the value of the motor vehicle before making the distribution described in ORS 131A.360 and 131A.365.

(b) Does not retain the motor vehicle for law enforcement purposes and determines that the cost of disabling the hidden compartment exceeds the value of the motor vehicle, the agency shall sell the motor vehicle for scrap or salvage and distribute the proceeds of the sale according to ORS 131A.360 and 131A.365. The seizing agency shall ensure that the person to whom the motor vehicle is sold disables the hidden compartment or the motor vehicle.

(3) If a motor vehicle with a hidden compartment is forfeited and the seizing agency sells the motor vehicle, the agency shall deduct the cost of disabling the hidden compartment from the proceeds of the sale as a cost of prosecuting the case under ORS 131A.360

(3) and 131A.365 (2). [2009 c.874 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.035 - Seizure of currency.**

Notwithstanding any other provision of this chapter, United States currency in an amount less than \$15,000 may not be seized for forfeiture solely on the basis that the money is in the form of cash rather than some other form. [2009 c.78 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.050 - Seizure generally.**

(1) Property seized for forfeiture is not subject to replevin, conveyance, sequestration or attachment, and is not subject to a motion or order to return under ORS chapter 133.

(2) Property that has been unconstitutionally seized may be forfeited if the property is determined to be subject to forfeiture under this chapter based on evidence that is not the fruit of the unconstitutional seizure.

(3) Property other than real property may be constructively seized by affixing a forfeiture notice to the property, or by recording a forfeiture notice in the public record. Real property, including equitable interests under land sale contracts, may be seized only by recording a forfeiture notice in the form prescribed by ORS 131A.155.

(4) If property is seized from the possession of a person who has a possessory lien in the property, the lien remains in effect after the seizure and is enforceable as though the person had retained possession of the property. [2009 c.78 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.055 - Inventory and receipt.**

(1) Promptly upon seizure of property for forfeiture, the police officer who seized the property shall make an inventory of the seized property. The inventory may contain an estimate of the value of the seized property.

(2) If seized property is taken from the possession of a person, or there is a person who is in apparent control of the property at the time of the seizure, the officer shall deliver a receipt to that person when the property is seized. The receipt prepared under this subsection must contain:

(a) The inventory prepared under subsection (1) of this section;

(b) The identity of the seizing agency; and

(c) The address and telephone number of the office or other place where the person may obtain further information concerning the forfeiture.

(3) A seizing agency shall amend the inventory prepared by a police officer under this section if the agency determines at any time before the commencement of a forfeiture action under ORS 131A.225 that the inventory is substantially incorrect. The changes to the inventory must be clearly indicated in the amended inventory. A copy of the original inventory and any amendments made to the original inventory must be served with any summons and complaint served under ORS 131A.230. If the amendment occurs after the commencement of a forfeiture action, the amended inventory must be served on all persons previously served with summons and complaint in the proceeding.

(4) If tangible personal property is constructively seized as described in ORS 131A.050 (3), the officer shall affix the receipt to the property. If the property is physically removed from the place of seizure, and the place is unoccupied or nobody is present with apparent control over the property, the officer shall promptly file the receipt in the public records of the forfeiting agency. [2009 c.78 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.060 - Seizure with court order.**

(1) Property may be seized by any police officer pursuant to an order of the court. Forfeiture counsel or a seizing agency may apply

for an ex parte order directing seizure of specified property.

(2) An application for an order directing seizure under subsection (1) of this section may be made to any judge as defined in ORS 133.525. The application shall be supported by one or more affidavits setting forth facts and circumstances that support a finding that probable cause exists to believe that the described property is subject to forfeiture. The court shall issue the order upon a finding of probable cause to believe that the described property is subject to forfeiture. The order may be made as part of a search warrant.

(3) An order issued under this section may specify the manner in which intangible property may be seized for forfeiture.

(4) Except as provided in ORS 131A.080 (3), an order under this section shall direct any person having control or custody of the property, including money and other assets held in the form of an account in a financial institution, to deliver the property to the police officer. [2009 c.78 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.065 - Seizure without court order.**

(1) Property may be seized for forfeiture by a police officer without a court order if:

(a) There is probable cause to believe that property is subject to forfeiture, and the property may constitutionally be seized without a warrant;

(b) The seizure is in the course of a constitutionally valid criminal investigative stop, arrest or search, and there is probable cause to believe that the property is subject to forfeiture;

(c) The property is directly or indirectly dangerous to the health or safety of any person; or

(d) An owner consents to the seizure.

(2) If a police officer finds cash, weapons or negotiable instruments in close proximity to controlled substances or to instrumentalities of prohibited conduct, the officer has probable cause to believe that the property is subject to forfeiture. [2009 c.78 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.070 - Delivery by third person.**

(1) Except as provided in ORS 131A.080 (3), a person who has control or custody of property must deliver the property to a police officer if the police officer presents a court order issued under ORS 131A.060 or the police officer has probable cause to believe that the property is subject to forfeiture.

(2) Any person who delivers property in obedience to a court order or pursuant to a direction from a police officer is not liable to any person by reason of the delivery, and is not liable for any costs incurred by reason of any contamination of the delivered property, including but not limited to any disposal costs for the property, any hazardous waste or material, any contraband or any other contamination contained in property seized under this section. [2009 c.78 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.075 - Liens and security interests of financial institutions.**

(1) Seizure of property for forfeiture and other proceedings under this chapter does not prevent, abate or delay the initiation or prosecution of a suit or action by a financial institution for the possession of seized property in which the financial institution claims a lien or security interest, or initiation or prosecution of a suit or action by a financial institution for the foreclosure of a lien or security interest claimed by the financial institution. A financial institution may proceed with any suit or action involving property in which the institution claims a lien or security interest even though a seizure has occurred and a forfeiture action has been commenced or will be commenced. The financial institution's suit or action may be consolidated with the forfeiture action for the purpose of trial. If seized property is sold before the conclusion of the forfeiture action, the sheriff, trustee or other person who is conducting the sale and who has actual notice of the forfeiture action shall distribute the sale proceeds as follows:

(a) To the payment of the expenses of the sale.

(b) If the property is a motor vehicle with a hidden compartment, after making the payment required by paragraph (a) of this subsection, to reimburse the seizing agency for the cost of disabling the hidden compartment.

(c) After payment of the expenses of the sale and making any reimbursement under paragraphs (a) and (b) of this subsection, to the payment of the obligations owed to the foreclosing financial institution that are secured by the property, and to the payment of the obligations owed to any other person that has a lien or security interest in the property that has been foreclosed in the suit or action. Payment under this paragraph shall be made in the order determined by the court.

(d) If there is any remaining amount after the payments required under paragraphs (a) to (c) of this subsection, to the seizing or forfeiting agency, or to the court in which the forfeiture action is pending.

(2) A sheriff, trustee or other person who distributes sale proceeds as provided in subsection (1) of this section is not liable to any person who has or asserts an interest in the property. [2009 c.78 §12; 2009 c.874 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.080 - Care and custody of seized property generally.**

(1) Pending final disposition of seized property, and subject to the need to retain the property for any criminal proceeding, a

forfeiting agency shall maintain and care for property that is in the physical custody of the seizing or forfeiting agency in a manner that is reasonably appropriate for the preservation of the property's value.

(2) A forfeiting agency may transfer property seized for forfeiture to any city, county, state or federal agency with authority to seek forfeiture of the property, unless the transfer diminishes or reduces the rights of any third party under this chapter or constitutes a violation of section 10 (13), Article XV of the Oregon Constitution.

(3) If property seized for forfeiture consists of money, stocks, bonds, promissory notes or other security or evidence of indebtedness, and the property is held in some form of account in a financial institution, the property may remain in the account pending a final decision in the forfeiture action. Unless otherwise allowed by order of the court, transactions involving the account are not permitted until final disposition of the property, except for the deposit or reinvestment of dividends or other normally recurring payments on the property. Any accrual to the value of the property during the pendency of forfeiture proceedings shall be disbursed in the manner provided for the disbursement of interest under ORS 131A.090.

(4) This chapter does not prevent a seizing agency from entering into an agreement with a person who claims seized property, or with any other person, for the reimbursement of the seizing agency for the costs and expenses relating to towing and storage of seized property, or for the reimbursement of the cost of discharging any possessory chattel lien on the property arising under ORS 87.152 to 87.162 that attaches to the property after seizure of the property and before release or forfeiture of the property. [2009 c.78 §13]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.085 - Order for sale, lease, rental or operation of seized property.**

(1) Pending final disposition of property seized for forfeiture, and subject to the need to retain the property for any criminal proceeding, a forfeiting agency may apply to the court for an order allowing the seized property to be sold, leased, rented or operated in the manner and on terms that may be specified in the court's order. Any sale, lease, rental or operation of seized property under this section must be conducted in a commercially reasonable manner, and may not result in a material reduction of the property's value. An order may be entered under this section only:

(a) After notice and opportunity to be heard is provided to all persons known to have an interest in the property, or who claim to have an interest in the property; and

(b) With the consent of all persons holding security interests of record in the property.

(2) Unless otherwise ordered by the court, the proceeds of the sale, lease, rental or operation of seized property under this section shall be held by the forfeiting agency in a forfeiture trust account established under ORS 131A.090, and the rights of holders of security interests of record in the property attach to the proceeds of the sale, lease, rental or operation in the order of the priority of their claims. [2009 c.78 §14]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.090 - Forfeiture trust accounts.**

(1) Except for currency with collector value, all money seized for forfeiture, together with all money received from the sale, lease, rental or operation of seized property, shall be immediately deposited in an insured interest-bearing forfeiture trust account or accounts maintained by the seizing or forfeiting agency exclusively for this purpose. Cash may be retained as evidence in a criminal proceeding, but must be deposited in a trust account or trust accounts immediately after the cash is no longer needed as evidence.

(2) Subject to any court order, amounts deposited in a forfeiture trust account, or held in an account in a financial institution under ORS 131A.080 (3), including interest on those amounts, shall be disbursed as follows:

(a) If forfeiture proceedings are abandoned, or if the court ultimately fails to enter a judgment of forfeiture, the amount of the account shall be disbursed by the seizing or forfeiting agency to the person from whom the property was seized.

(b) If a judgment of forfeiture is entered, but parties other than the forfeiting agency establish rights to portions of the amount deposited in the account that are in the aggregate equal to or larger than the amount in the account, the account shall be disbursed by the forfeiting agency to the parties in the order of the priority of their claims.

(c) If a judgment of forfeiture is entered, and the total amount in the account is greater than the amount needed to satisfy the interests of security interest holders, lienholders and other claimants, the balance remaining after payment to those claimants shall be retained by the forfeiting agency for distribution as required by ORS 131A.360 and 131A.365. [2009 c.78 §15]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.100 - Hearing on probable cause.**

(1) Any person with an interest in property that has been seized for forfeiture may file an application to have an order to show cause order issued to a forfeiting agency to determine if probable cause exists to seize the property for forfeiture. The application must be filed not more than 15 days after forfeiture notice is served under ORS 131A.150, or within 15 days after the person receives actual knowledge of the seizure, whichever is later. A copy of the application must be served on the forfeiture counsel.

(2) When a hearing is held on a show cause order issued under this section, the court shall determine if probable cause to seize the property for forfeiture exists on the date of the hearing. If the court finds that probable cause for seizure of the property for forfeiture does not exist, the forfeiting agency shall release the property. [2009 c.78 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.105 - Decision on seeking forfeiture.**

(1) A seizing agency, after consultation with the district attorney of the county in which the property was seized, must decide whether to seek forfeiture of seized property not more than 30 days after the property is seized. If the seizing agency elects not to seek forfeiture, the agency shall pay all costs and expenses relating to towing and storage of the property, and shall release the property and cause to be discharged any possessory chattel liens arising under ORS 87.152 to 87.162 that have attached to the property since the seizure. If the property is a motor vehicle with a hidden compartment, the seizing agency is not liable for any diminution in the value of the property as a result of disabling the compartment.

(2) Property may be released under this section to a person other than the person from whose custody or control the property was taken if the seizing agency mails notice to the last-known addresses of all persons known to have an interest in the property. The notice shall specify the person to whom the property is to be released and shall detail the time and place of the release. [2009 c.78 §17; 2009 c.874 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.150 - Forfeiture notice.**

(1) A forfeiture notice must contain:

- (a) A copy of the inventory prepared by the police officer under ORS 131A.055, with any amendments made under ORS 131A.055 (3);
- (b) The name of the person from whom the property was seized;
- (c) The name, address and telephone number of the seizing agency;
- (d) The address and telephone number of the office or other place where further information concerning the seizure may be obtained; and
- (e) A statement in substantially the following form:

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**NOTICE OF SEIZURE FOR FORFEITURE**

Notice to Potential Claimant -

Read These Papers Carefully !!!

If you have any interest in the seized property described in these papers, you must claim that interest or you will automatically lose that interest. If you do not file a claim for the property, the property may be forfeited even if you are not convicted of any crime. To claim an interest, you must file a written claim with the forfeiture counsel named below. The written claim must be signed by you, under penalty of perjury, and state: (a) Your true name; (b) The address at which you will accept future mailings from the court and forfeiture counsel; and (c) A statement that you have an interest in the seized property. Your deadline for filing the claim document is 21 days from the day this form is given to you. If you have any questions, you should see an attorney immediately.

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(2) A police officer who seizes property for forfeiture may serve a forfeiture notice on the person from whose possession the property is taken, or on the person in apparent control of the property, at the time the property is seized.

(3) If a police officer seizes property for forfeiture and does not serve a forfeiture notice under subsection (2) of this section, the forfeiting agency shall issue the forfeiture notice not more than 15 days after the seizure.

(4) Except as provided in subsections (5) and (6) of this section, a forfeiting agency shall make reasonable efforts to serve a forfeiture notice on all persons known to have an interest in the seized property. A person may be served as provided in ORCP 7 D except that summons must include information regarding the right to file a claim as provided by ORS 131A.165, if applicable, and the deadline for filing the claim. If the property is cash in the amount of \$1,000 or less, or if the fair market value of the property is \$1,000 or less, the forfeiting agency may publish notice of seizure for forfeiture in a newspaper as provided in ORCP 7 D(6)(b) to (d). In all other cases, the forfeiting agency shall publish notice of seizure for forfeiture in a newspaper as provided in ORCP 7 D(6)(b) to (d). A copy of the notice and inventory shall be provided to the forfeiting agency's forfeiture counsel.

(5) If a forfeiting agency publishes forfeiture notice under subsection (4) of this section, the agency may include in a single publication as many forfeiture notices as the agency considers convenient. The publication may contain a single statement of matters from the forfeiture notices that are common to all of the notices and that would otherwise result in needless repetition. The publication must contain for each forfeiture notice a separate copy of the inventory and a separate statement of the identity of the person from whose custody the property was seized.

(6) A forfeiture notice need not be served on a person who has received a receipt under ORS 131A.055 if:

- (a) The receipt contains an estimate of the value of the property seized;
- (b) The seizing agency has not amended the inventory under ORS 131A.055 (3); and
- (c) The receipt contains information regarding the right to file a claim as described in ORS 131A.165 and the deadline for filing the claim.

(7) If a person received a receipt as described in subsection (6) of this section, but the person must be served with a forfeiture notice because the seizing agency has amended the inventory under ORS 131A.055 (3), the seizing agency may serve a forfeiture notice on the person by mailing a true copy of the notice to the person by certified mail, return receipt requested. [2009 c.78 §18]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.155 - Recorded forfeiture notice.**

(1) If a forfeiting agency intends to seek forfeiture of real property, the forfeiting agency may record a forfeiture notice in the form prescribed in this section in the County Clerk Lien Record. The notice must contain the legal description of the real property, any street address for the property, and the name and address of the forfeiture counsel. From the time of recording the notice, the recording is notice to purchasers and other transferees of the rights and equities in the premises of the forfeiting agency.

(2) A forfeiture notice must be in substantially the following form:

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**FORFEITURE NOTICE**

Pursuant to ORS 131A.155, the undersigned states:

That \_\_\_\_\_ (forfeiting agency) intends to initiate a forfeiture action against the following described real property:

1. The description of the real property to be affected is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The common address, if any, is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

This forfeiture notice expires on \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, absent future filings.

Name of agency seeking forfeiture

\_\_\_\_\_  
Name of attorney

Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone number

\_\_\_\_\_  
State of Oregon )

) ss.

County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary public for Oregon

My commission expires \_\_\_\_\_.

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(3) A forfeiture notice recorded under this section expires 30 days after the date of filing unless another forfeiture notice is recorded within the 30-day period. If another forfeiture notice is recorded within the 30-day period, the notice remains in effect for 30 days after the notice is recorded. The forfeiting agency may continue to record forfeiture notices in like manner until final disposition of the real property. [2009 c.78 §19]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.160 - Transfer of proceedings prohibited.**

After service of a forfeiture notice under ORS 131A.150, or recording of a forfeiture notice under ORS 131A.155, a forfeiting agency may not transfer the proceedings to the federal government unless a state court has affirmatively found by a preponderance of the evidence that:

(1) The activity giving rise to the forfeiture is interstate in nature and sufficiently complex to justify the transfer;

(2) The seized property may be forfeited only under federal law; or

(3) Pursuing forfeiture under state law would unduly burden the forfeiting agency. [2009 c.78 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.165 - Claims.**

(1) Except as provided in subsection (2) of this section, a person claiming an interest in property seized for forfeiture must file a

claim with the forfeiting agency's forfeiture counsel not more than 21 days after service of a forfeiture notice.

(2) If service of a forfeiture notice is made by publication under ORS 131A.150 (4), a person claiming an interest in the property must file a claim with the forfeiting agency's forfeiture counsel not more than 21 days after the last publication date. Extensions for filing claims may not be granted.

(3) A claim under this section must be signed by the claimant under penalty of perjury and must include:

(a) The true name of the claimant;

(b) The address at which the claimant will accept future mailings from the court and forfeiture counsel; and

(c) A statement that the claimant has an interest in the seized property. [2009 c.78 §21]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.170 - Expedited hearing on claim.**

(1) A person claiming an interest in seized property may file a petition for an expedited hearing within 15 days after service of a forfeiture notice on the person or within such further time as the court may allow for good cause shown.

(2) A petition for an expedited hearing must contain a claim as described in ORS 131A.165 if a claim has not previously been filed. The petition must indicate whether the petitioner seeks one or more of the following:

(a) A determination at the hearing of any of the affirmative defenses provided for in ORS 131A.260.

(b) An order restoring custody of seized property to the petitioner during the pendency of the proceedings.

(c) Appointment of a receiver.

(3) A person filing a petition under this section shall serve a copy of the petition on all persons known to have an interest in the property. Service must be made as provided in ORCP 7 D. Service by publication is not required before an expedited hearing.

(4) A hearing shall be held within 15 days after service of all persons known to have an interest in the property, or at such later time as the court may allow for good cause shown. The hearing shall be limited to deciding whether to grant the relief sought in the petition.

(5) The court may enter an order directing the return of the seized property to the claimant during the pendency of the hearing if the court finds, by a preponderance of the evidence, that it is probable that the property will remain available for forfeiture at the completion of the proceedings and that there is a reasonable possibility that the petitioner will ultimately prevail in the proceeding.

(6) If the petition is denied, and the petitioner subsequently discovers evidence relevant to the claimed relief, the petitioner may file a new petition under this section at any time before a trial in the forfeiture action. The new petition shall be served as provided in ORS 131A.230.

(7) The parties in a forfeiture action may at any time stipulate to the entry of an order restoring custody of seized property to a petitioner who claims an interest in the property. The order shall comply with the requirements of ORS 131A.180 (1). [2009 c.78 §22]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.175 - Expedited hearing on affirmative defenses.**

(1) In any expedited hearing under ORS 131A.170 in which a petitioner seeks a determination at the hearing of any of the affirmative defenses provided for in ORS 131A.260, the court may consider evidence relating to those affirmative defenses and shall make a determination as to any of those defenses that may be asserted by the petitioner.

(2) If the court finds that the petitioner has proven an affirmative defense provided for in ORS 131A.260, the court shall order that custody of the seized property be returned to the petitioner, to the extent of the petitioner's interest, pending a final determination as to the disposition of the property, unless the forfeiting agency can show that the return of the property will result in prejudice to the agency in seeking forfeiture of other claimants' interest in the property.

(3) If the court finds that the petitioner has failed to prove an affirmative defense provided for in ORS 131A.260, the court shall continue the matter for further proceedings as a forfeiture action under this chapter. [2009 c.78 §23]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.180 - Order restoring custody of property after expedited hearing.**

(1) An order restoring custody of property to a petitioner under ORS 131A.170 or 131A.175 shall:

(a) Prohibit the petitioner from using the property in unlawful conduct of any kind, or from allowing the property to be used by any other person in unlawful conduct;

(b) Require the petitioner to service and maintain the property as may be reasonably appropriate to preserve the property's value; and

(c) Require the petitioner to inform the court of the exact location of the property at the time of any trial in a forfeiture action and to deliver the property to the forfeiting agency immediately upon the issuance of a judgment of forfeiture.

(2) An order restoring custody of property to a petitioner under ORS 131A.170 or 131A.175 may include such other requirements as the court finds appropriate pending a final determination as to the disposition of the property. If the property is a motor vehicle with a hidden compartment, the seizing agency is not liable for any diminution in the value of the property as a result of disabling the compartment.

(3) An order restoring custody of property to a petitioner under ORS 131A.170 or 131A.175 is enforceable by a contempt



proceeding brought on the relation of forfeiture counsel, by an order directing the petitioner to deliver the property to the custody of the forfeiting agency, by an order awarding to the forfeiting agency its reasonably incurred attorney fees, costs and investigative expenses, and by such other remedies or relief as the court may find appropriate. [2009 c.78 §24; 2009 c.874 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.200 - Ex parte forfeiture.**

(1) An ex parte judgment of forfeiture may be entered under this section only if:

- (a) The property is personal property;
- (b) The property is not subject to an interest in favor of any person known to have an interest, other than a person who is believed by the forfeiting agency to have engaged in prohibited conduct; and
- (c) A claim is not filed in the manner provided by ORS 131A.165 within the time allowed.

(2) At any time after the time for filing a claim under ORS 131A.165 has expired, a forfeiting agency may petition the circuit court specified in ORS 131A.225 (3) for an ex parte judgment of forfeiture under this section. The petition must state that the requirements of subsection (1) of this section have been met. An affidavit must be attached to the petition that states that forfeiture notice was served on all persons claiming an interest in the property, or that sets forth facts demonstrating the forfeiting agency's efforts to accomplish service, together with proof of any publication of notice.

(3) Upon filing of a petition under this section, the court shall enter a judgment forfeiting the property identified in the petition. [2009 c.78 §25]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.225 - Forfeiture actions generally.**

(1) A civil forfeiture action in rem may be brought as provided in this section in any case in which forfeiture is sought. A civil forfeiture action must be brought if:

- (a) The property is real property;
- (b) The property is in whole or part a manufactured dwelling as defined in ORS 446.003;
- (c) The property is a floating home as defined in ORS 830.700;
- (d) A claim has been made for the property under ORS 131A.165; or
- (e) A person, other than a person who is believed by the forfeiting agency to have engaged in prohibited conduct, is known to have an interest in the property.

(2) If a claim has been made for seized property under ORS 131A.165, forfeiture counsel must commence a forfeiture action not more than 15 days after receipt of the claim. In all other cases, a forfeiture action must be commenced by forfeiture counsel within 30 days after seizure of the property.

(3) If the property to be forfeited is real property, the forfeiture action must be commenced in the circuit court for a county in which the property is situated. In all other cases, the forfeiture action must be commenced in the circuit court for the county in which the property was seized, or in the circuit court for the county in which any part of the prohibited conduct took place.

(4) A forfeiture action is commenced by filing a complaint. A copy of the inventory prepared under ORS 131A.055 must be attached to the complaint. The complaint need only allege that there is probable cause for seizure of the property or that a court order was issued under ORS 131A.060, and need not allege that any claimant has been convicted of a crime. A complaint under this section may be amended at any time to allege that a claimant has been convicted of a crime.

(5) A complaint in a forfeiture action is not subject to a motion to strike, a motion for summary judgment or any other pretrial motion for dismissal that is based solely on the lack of a criminal conviction in support of the forfeiture. This subsection does not affect the ability of a claimant to file a motion to strike or a motion for summary judgment based on the acquittal of the claimant of all criminal charges on which the forfeiture action is based, or based on dismissal of all criminal charges on which the forfeiture action is based.

(6) Forfeiture actions are governed by the Oregon Rules of Civil Procedure except to the extent those rules conflict with this chapter. [2009 c.78 §26]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.230 - Service.**

(1) Upon commencement of a forfeiture action, the forfeiting agency must serve the summons and complaint on all persons known to have an interest in the property in the manner provided by ORCP 5 and 7 D. In addition, notice of the action must be published as provided in ORCP 7 D(6)(b) to (d) unless the forfeiture notice for the property was previously published in the manner provided in ORS 131A.150 (4).

(2) If the property to be forfeited in a forfeiture action is a vehicle, and substitute service on the claimant is required because personal service cannot be reasonably accomplished, service in the manner provided by ORCP 7 D(4) is sufficient to establish jurisdiction over a registered owner or operator of a vehicle.

(3) If the property to be forfeited in a forfeiture action is in whole or part a manufactured dwelling as defined in ORS 446.003 or a floating home as defined in ORS 830.700, the forfeiting agency must record a notice of seizure containing a description of the manufactured dwelling or floating home in all public offices maintaining records that impart constructive notice of matters relating

to manufactured dwellings or floating homes. [2009 c.78 §27]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.235 - Responsive pleading.**

Except as provided by ORS 131A.240, a person claiming an interest in property that is the subject of a forfeiture action must file a responsive pleading as provided in the Oregon Rules of Civil Procedure. If the person has not previously filed a claim under ORS 131A.165, a claim as described in ORS 131A.165 (3) must be attached to the responsive pleading. [2009 c.78 §28]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.240 - Response by affidavit.**

- (1) In lieu of filing a responsive pleading under ORS 131A.235, a financial institution holding an interest in the property may respond to a complaint with an affidavit establishing the financial institution's interest in the property.
- (2) In lieu of filing a responsive pleading under ORS 131A.235, a person who has an interest in the property by reason of being the transferee or conveyor of an interest in the property under a contract for transfer or conveyance of an interest in real property as defined in ORS 93.905 may respond to a complaint in a forfeiture action by filing an affidavit establishing that:
  - (a) The person did not take the property with the intent to defeat forfeiture of the property;
  - (b) The person did not know and did not have reason to know that the property constituted proceeds or an instrumentality of prohibited conduct; and
  - (c) The claimant did not acquiesce in the criminal conduct as described in ORS 131A.255 (4).
- (3) An affidavit under subsection (1) or (2) of this section must be filed within 30 days after service of the summons and complaint. The failure to file the affidavit or other responsive pleading under ORS 131A.235 within the time allowed constitutes a default.
- (4) A forfeiting agency may file objections to any or all of the assertions made in an affidavit filed under subsection (1) or (2) of this section. The objections must be filed within 20 days after the filing of an affidavit under subsection (1) or (2) of this section. The person filing the affidavit may respond to the objections by filing a supplemental affidavit limited to the matters stated in the affidavit of the forfeiting agency. The responding affidavit must be filed not later than five days after the forfeiting agency files objections.
- (5) If a forfeiting agency does not file objections within the time allowed by subsection (4) of this section, the interest of the person filing the affidavit is conclusively established for all purposes under this chapter. [2009 c.78 §29]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.245 - Hearing on objections to affidavit.**

- (1) If a forfeiting agency files objections under ORS 131A.240, the court shall determine from the affidavits whether there is a genuine issue of material fact with respect to the assertions of the financial institution, transferor, conveyor or successor in interest.
- (2) If the court determines that there is no genuine issue of material fact as to the truth of the assertions in an affidavit filed under ORS 131A.240 (2):
  - (a) The interest of the financial institution, transferor, conveyor or successor in interest shall be conclusively established for all purposes under this chapter;
  - (b) A transferor, conveyor or successor in interest shall be considered a financial institution for all purposes under this chapter; and
  - (c) The court shall order the forfeiting agency to pay the costs and disbursements, as described in ORCP 68 A, and the attorney fees of the prevailing financial institution, transferor, conveyor or successor in interest.
- (3) If the court determines that there is a genuine issue of material fact as to the truth of the assertions in an affidavit filed under ORS 131A.240, the financial institution, transferor, conveyor or successor in interest shall, within 15 days, file a responsive pleading as provided by ORS 131A.235. The court may order the financial institution, transferor, conveyor or successor in interest to pay the attorney fees of the forfeiting agency that were incurred in contesting the affidavit of the financial institution, transferor, conveyor or successor in interest if the court determines that the affidavit of the financial institution, transferor, conveyor or successor in interest was frivolous. [2009 c.78 §30]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.250 - Foreclosure of security interests, liens and vendor's interests.**

- (1) If a responsive pleading or affidavit is filed under ORS 131A.235 or 131A.240, the court shall foreclose all security interests, liens and vendor's interests in the property, including contracts for the transfer or conveyance of the property, for which the court determines that there is a legal or equitable basis for foreclosure.
- (2) Except for deficiencies resulting from disabling a hidden compartment in a motor vehicle with a hidden compartment, foreclosure of a security interest, lien or vendor's interest under this section does not prevent a claimant from obtaining any deficiency to which the claimant would otherwise be entitled under the law. [2009 c.78 §31; 2009 c.874 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.255 - Standards of proof in forfeiture action.**

(1) In all forfeiture actions, the forfeiting agency must prove that a person has been convicted of a crime that constitutes prohibited conduct, and that the property to be forfeited is:

- (a) Proceeds of the crime for which the person has been convicted;
- (b) An instrumentality of the crime for which the person has been convicted;
- (c) Proceeds of one or more other crimes similar to the crime for which the person was convicted; or
- (d) An instrumentality of one or more other crimes similar to the crime for which the person was convicted.

(2) A forfeiting agency may seek forfeiture of the property of a claimant who has been convicted of a crime that constitutes prohibited conduct if the property to be forfeited meets the requirements of subsection (1) of this section. A forfeiting agency may seek forfeiture of the property of a claimant who has not been convicted of a crime if the forfeiting agency proves that:

- (a) Another person has been convicted of a crime that constitutes prohibited conduct;
- (b) The property to be forfeited meets the requirements of subsection (1) of this section; and
- (c) The claimant:
  - (A) Took the property with the intent to defeat forfeiture of the property;
  - (B) Knew or should have known that the property was proceeds of prohibited conduct; or
  - (C) Acquiesced in the prohibited conduct.

(3) Except as provided in subsection (5) of this section, if the property to be forfeited in a forfeiture action is personal property, the forfeiting agency must prove the elements specified in subsection (2) of this section by a preponderance of the evidence. If the property to be forfeited in a forfeiture action is real property, the forfeiting agency must prove the elements specified in subsection (2) of this section by clear and convincing evidence.

(4) For the purposes of subsection (2)(c) of this section, a claimant shall be considered to have acquiesced in prohibited conduct if the claimant knew of the prohibited conduct and failed to take reasonable action under the circumstances to terminate the prohibited conduct or prevent use of the seized property to facilitate the prohibited conduct.

(5) If the forfeiting agency establishes in a forfeiture action that cash, weapons or negotiable instruments were found in close proximity to controlled substances or to instrumentalities of prohibited conduct, the burden is on any person claiming the cash, weapons or negotiable instruments to prove by a preponderance of the evidence that the cash, weapons or negotiable instruments are not proceeds of prohibited conduct or an instrumentality of prohibited conduct. [2009 c.78 §32]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.260 - Affirmative defenses in forfeiture action.**

- (1) A claimant may plead as an affirmative defense that the property was seized in violation of ORS 131A.025.
- (2) In any forfeiture action brought against real property claimed to be an instrumentality of prohibited conduct relating to controlled substances, a claimant may plead as an affirmative defense that the controlled substance was solely for personal use.
- (3) If, by a preponderance of the evidence, the claimant proves a defense under this section by a preponderance of the evidence, the court shall enter judgment for the claimant. [2009 c.78 §33]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.265 - Stays.**

(1) The court may stay a forfeiture action upon motion of a party and good cause shown. Good cause may include a reasonable fear on the part of a claimant that the claimant could be prosecuted for conduct arising out of the same factual situation that gave rise to the seizure of property. Good cause for a motion made by forfeiture counsel may include the need for additional time to commence or complete a criminal proceeding related to the forfeiture action.

(2) The court may stay a forfeiture action upon the filing of criminal charges that are related to the prohibited conduct that is the basis for the action. The stay may be granted upon the motion of forfeiture counsel, the motion of the district attorney in the related criminal proceeding, or the motion of the defendant in the related criminal proceeding. A stay granted under this section remains in effect until the final resolution of the related criminal proceeding. A motion for a stay by the defendant in the related criminal proceeding constitutes a waiver of double jeopardy by the defendant as to the forfeiture action and any related criminal proceeding.

(3) A forfeiture action that has been stayed under this section may be consolidated for trial or other resolution with any related criminal proceeding as provided in ORS 131A.270.

(4) Any party may file a motion with the court at any time to lift a stay granted under this section if good cause no longer exists for the stay. [2009 c.78 §34]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.270 - Consolidation of actions.**

(1) A forfeiture action may be consolidated with any other action that relates to the same property or parties on motion by any party in the forfeiture action.

(2) Upon motion by the state or other public body, or any criminal defendant who is also a claimant, a forfeiture action under this section may be consolidated for trial or other resolution with any related criminal proceeding. Trial or other resolution of the forfeiture action shall immediately follow the resolution of the related criminal proceeding, shall be part of the other proceeding and shall be heard by the same trier of fact. Any objection by the defendant to the consolidation, or any motion by the defendant to sever

the related criminal case from the forfeiture action, constitutes a waiver of double jeopardy as to the related criminal action and the forfeiture action. [2009 c.78 §35]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.275 - Special motion for release of property.**

(1) Any claimant who is alleged to have engaged in prohibited conduct, and who has filed a responsive pleading or affidavit in the manner required by ORS 131A.235 or 131A.240, may file a special motion for the release of all or part of the property subject to the forfeiture action if a criminal action alleging the commission of a crime, as described in ORS 161.515, is not brought against any owner of the property within 90 days after the property is seized. The court shall grant the motion except upon good cause shown by the forfeiting agency. The release of the property does not affect the ability of the forfeiting agency to continue the action for the purpose of seeking forfeiture of the released property.

(2) A motion under this section may not be made for the release of any property that is held as evidence or for protective purposes. [2009 c.78 §36]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.300 - Judgment forfeiting property generally.**

(1) A judgment forfeiting property shall recite the basis for the judgment.

(2) After entry of a judgment forfeiting property, the forfeiting agency may transfer good and sufficient title for the property to purchasers and other transferees, and the title shall be recognized by all courts and public bodies. Any public body whose official functions include the issuance of certificates of title or other evidence of title is immune from civil or criminal liability if the issuance is pursuant to a judgment of forfeiture.

(3) If real property is forfeited under a judgment forfeiting property, the forfeiting agency shall warrant the title of the property against constitutional defect. A warranty under this section is limited to the purchase price of the real property.

(4) A forfeiting agency may apply to any circuit court judge for a writ of assistance directing the sheriff of the county to assist the forfeiting agency in seizing property identified in a judgment forfeiting property. [2009 c.78 §37; 2011 c.504 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.305 - Judgment forfeiting property; judgment for forfeiting agency.**

(1) If a judgment forfeiting property is entered, and the judgment finds against all claimants who have filed a responsive pleading or affidavit under ORS 131A.235 or 131A.240, title to the forfeited property passes to the forfeiting agency free of any interest or encumbrance in favor of a person who has been given notice of the proceedings.

(2) If the court has determined that the property should be forfeited and has not foreclosed the interests of any party in the property, the seizing agency shall pay all costs and expenses relating to towing and storage of the property and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure, and the court shall enter a judgment forfeiting the property to the forfeiting agency, subject to the interests of any claimants for whom judgment was entered. If the property is a motor vehicle with a hidden compartment, the interests of any claimants or financial institutions shall be reduced on a pro rata basis by the cost of disabling the hidden compartment.

(3) If a judgment forfeiting property is entered, all valid interests in the property that are not foreclosed or otherwise extinguished under the judgment remain in effect. [2009 c.78 §38; 2009 c.874 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.310 - Judgment for claimant.**

(1) Except as provided in subsection (2) of this section, if a judgment is entered for a claimant in a proceeding under this chapter, the claimant's property or interest in the property shall be returned or conveyed immediately to the claimant. All security interests, liens and other interests applicable to the property shall remain in effect as though the property had never been seized. Upon the return of the property to the owner, the seizing agency shall pay all costs and expenses relating to towing and storage of the property, and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure. The court shall award costs, disbursements and attorney fees in the manner provided by ORCP 68 to the prevailing claimant, to be paid by the forfeiting agency. If the property is a motor vehicle with a hidden compartment, the seizing agency is not liable for any diminution in the value of the property as a result of disabling the compartment.

(2) If a judgment is entered for a claimant in a proceeding under this chapter, but the court has foreclosed one or more interests in the property under ORS 131A.250, the seizing agency shall pay all costs and expenses relating to towing and storage of the property, and shall cause to be discharged any possessory chattel liens on the property arising under ORS 87.152 to 87.162 that have attached to the property since the seizure. The judgment shall require that the property then be sold, pursuant to a sheriff's sale or other sale authorized by the court, within such time as may be prescribed by the court. The property shall be sold subject to any interests in the property that have not been foreclosed, including any liens or security interests of a claimant whose claim has been upheld or of a financial institution that has filed the affidavit described in ORS 131A.240 (1). The judgment shall require that the proceeds of the sale be applied as follows:

- (a) The proceeds shall first be used to pay the costs of the sale.
- (b) If the property is a motor vehicle with a hidden compartment, after making the payment required by paragraph (a) of this subsection, the proceeds shall be used to reimburse the seizing agency for the cost of disabling the hidden compartment.
- (c) After payment of the costs of the sale and making any reimbursement required under paragraphs (a) and (b) of this subsection, the proceeds shall be applied to the satisfaction of the foreclosed liens, security interests and contracts in the order of their priority.
- (d) After making the payments required under paragraphs (a) to (c) of this subsection, any remaining amounts shall be paid to the claimant. [2009 c.78 §39; 2009 c.874 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.315 - Default judgment.**

- (1) The court shall enter a judgment finding that a person who claims an interest in property that is the subject of a forfeiture action is in default, and provide for the forfeiture of the claimant's interest without hearing, if:
- (a) The person does not make a claim for the property under ORS 131A.165 or file a responsive pleading under ORS 131A.235; or
  - (b) The person files a responsive pleading under ORS 131A.235 but is thereafter found to be in default in the forfeiture action.
- (2) A default judgment may be entered under this section only if the forfeiting agency files an affidavit with the court showing that there was probable cause for seizure of the property. [2009 c.78 §40]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.350 - Disposition generally.**

Except as otherwise provided by intergovernmental agreement and this chapter, a forfeiting agency may:

- (1) Sell, lease, lend or transfer forfeited property to any federal, state or local law enforcement agency or district attorney.
- (2) Sell forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property.
- (3) Retain forfeited property.
- (4) With written authorization from the district attorney for the county in which the property was seized, destroy any forfeited firearms or controlled substances. [2009 c.78 §41]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.355 - Intergovernmental agreements.**

A forfeiting agency shall distribute forfeiture proceeds equitably. Distribution of forfeiture proceeds may be made pursuant to intergovernmental agreement under ORS chapter 190. An intergovernmental agreement providing for the distribution of forfeiture proceeds may not provide for a distribution that violates section 10, Article XV of the Oregon Constitution. [2009 c.78 §42]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.360 - Distribution of forfeiture proceeds by local government.**

- (1) The provisions of this section apply only to a forfeiting agency other than the state, and apply only to forfeiture proceeds arising out of prohibited conduct as described in ORS 131A.005 (12)(a), (b) and (c).
- (2) If the forfeiting agency is not a county, the forfeiting agency shall enter into an agreement, under ORS chapter 190, with the county in which the property was seized to provide a portion of the forfeiture proceeds to the county.
- (3) After entry of a judgment of forfeiture, a forfeiting agency shall first pay from the forfeiture proceeds the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, including costs, disbursements and attorney fees as defined in ORCP 68 A, special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle and the expenses of maintaining the seized property. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of a seizing or forfeiting agency under this subsection.
- (4) After payment of costs under subsection (3) of this section, the forfeiting agency shall:
  - (a) Deduct an amount equal to five percent of the forfeiture proceeds and deposit that amount in the Illegal Drug Cleanup Fund established under ORS 475.495 for the purposes specified in ORS 475.495 (5) and (6);
  - (b) Deduct an amount equal to 2.5 percent of the forfeiture proceeds and deposit that amount in the Asset Forfeiture Oversight Account;
  - (c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.662 for support for specialty courts as defined in ORS 137.680;
  - (d) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Department of Early Learning and Care Fund established under ORS 326.435 for disbursement to Relief Nursery programs as defined in ORS 417.786; and
  - (e) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in an account established or designated by the State Treasurer in the higher education qualified tuition savings program of the Oregon 529 Savings Network for disbursement to the scholarship program for children of public safety officers established under ORS 348.270.
- (5) If the forfeiting agency has entered into an agreement with a county under subsection (2) of this section, after paying costs under

subsection (3) of this section and making the deductions required by subsection (4) of this section, the forfeiting agency shall pay the county the amounts required by the agreement.

(6) After making all payments and deductions required by subsections (3), (4) and (5) of this section, the forfeiting agency may use the remaining forfeiture proceeds, including amounts received by a county under subsection (5) of this section or by any other public body under an intergovernmental agreement entered into under ORS 131A.355, only for:

- (a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful delivery, distribution, manufacture or possession of controlled substances;
- (b) Currency for undercover law enforcement operations;
- (c) Drug awareness and drug education programs offered in middle schools and high schools;
- (d) The expenses of a forfeiting agency in operating joint narcotic operations with other forfeiting agencies pursuant to the terms of an intergovernmental agreement, including paying for rental space, utilities and office equipment;
- (e) Expenses of a district attorney in criminal prosecutions for unlawful delivery, distribution, manufacture or possession of controlled substances, as determined through intergovernmental agreement between the forfeiting agency and the district attorney;
- (f) Drug treatment and programs that support drug treatment; and
- (g) A CASA Volunteer Program as defined in ORS 184.489.

(7) Notwithstanding subsection (6) of this section, growing equipment and laboratory equipment seized by a forfeiting agency that was used, or intended for use, in the manufacturing of controlled substances may be donated to a public school, community college or institution of higher education.

(8) A forfeiting agency shall sell as much property as may be needed to make the distributions required by this section. Distributions required under subsection (4) of this section must be made once every three months and are due within 20 days of the end of each quarter. No interest shall accrue on amounts that are paid within the period specified by this subsection. [2009 c.78 §43; 2009 c.874 §15; 2011 c.233 §1; 2011 c.335 §2; 2012 c.37 §33; 2012 c.97 §18; 2013 c.624 §21; 2017 c.21 §97; 2017 c.630 §6; 2017 c.645 §3; 2018 c.23 §1; 2019 c.85 §1; 2021 c.631 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.365 - Distribution of forfeiture proceeds by state.**

(1) The provisions of this section apply only when the forfeiting agency is the state, and apply only to forfeiture proceeds arising out of prohibited conduct as described in ORS 131A.005 (12)(a), (b) and (c).

(2) After entry of a judgment of forfeiture, a forfeiting agency shall first pay from the forfeiture proceeds the costs incurred by seizing and forfeiting agencies in investigating and prosecuting the case, including costs, disbursements and attorney fees as defined in ORCP 68 A, special expenses such as the provision of currency for undercover law enforcement operations, the cost of disabling a hidden compartment in a motor vehicle and the expenses of maintaining the seized property. The forfeiting agency may not pay expenditures made in connection with the ordinary maintenance and operation of a seizing or forfeiting agency under this subsection. Any amount paid to or retained by the Department of Justice under this subsection shall be deposited in the Criminal Justice Revolving Account in the State Treasury. Any amount paid to or retained by the Oregon State Police under this subsection shall be deposited in the State Police Account.

(3) After payment of costs under subsection (2) of this section, the forfeiting agency shall:

- (a) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Illegal Drug Cleanup Fund established under ORS 475.495 for the purposes specified in ORS 475.495 (5) and (6);
- (b) Deduct an amount equal to three percent of the forfeiture proceeds, not to exceed \$50,000 in a biennium, and deposit that amount in the Asset Forfeiture Oversight Account;
- (c) Deduct an amount equal to 20 percent of the forfeiture proceeds and deposit that amount in the Oregon Criminal Justice Commission Account established under ORS 137.662 for support for specialty courts as defined in ORS 137.680;
- (d) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in the Department of Early Learning and Care Fund established under ORS 326.435 for disbursement to Relief Nursery programs as defined in ORS 417.786; and
- (e) Deduct an amount equal to 10 percent of the forfeiture proceeds and deposit that amount in an account established or designated by the State Treasurer in the higher education qualified tuition savings program of the Oregon 529 Savings Network for disbursement to the scholarship program for children of public safety officers established under ORS 348.270.

(4) If the forfeiting agency has entered into an intergovernmental agreement with another public body under ORS 131A.355, or has entered into an agreement with any other law enforcement agency of the state relating to distribution of forfeiture proceeds, after paying costs under subsection (2) of this section and making the deductions required by subsection (3) of this section, the forfeiting agency shall pay an equitable portion of the forfeiture proceeds to each agency participating in the seizure or forfeiture as provided by the agreement.

(5) After making all payments and deductions required by subsections (2), (3) and (4) of this section, the forfeiting agency shall distribute the remaining forfeiture proceeds as follows:

- (a) If no law enforcement agency other than the Department of Justice participated in the seizure or forfeiture, the remaining forfeiture proceeds, and forfeiture proceeds received by the Department of Justice under subsection (4) of this section, shall be divided between the Criminal Justice Revolving Account and the Special Crime and Forfeiture Account according to the following schedule:

- (A) One hundred percent of the first \$200,000 accumulated shall be deposited in the Criminal Justice Revolving Account.
- (B) Seventy-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.
- (C) Fifty percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.
- (D) Twenty-five percent of the next \$200,000 shall be deposited in the Criminal Justice Revolving Account and the balance in the Special Crime and Forfeiture Account.
- (E) One hundred percent of all additional sums shall be deposited in the Special Crime and Forfeiture Account.
- (b) If no law enforcement agency other than the Department of State Police participated in the seizure or forfeiture, the remaining proceeds, and proceeds received by the Department of State Police under subsection (4) of this section, shall be divided between the State Police Account and the Special Crime and Forfeiture Account according to the following schedule:
  - (A) One hundred percent of the first \$600,000 accumulated shall be deposited in the State Police Account.
  - (B) Seventy-five percent of the next \$300,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.
  - (C) Fifty percent of the next \$200,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.
  - (D) Twenty-five percent of the next \$200,000 shall be deposited in the State Police Account and the balance in the Special Crime and Forfeiture Account.
  - (E) One hundred percent of all additional sums shall be deposited in the Special Crime and Forfeiture Account.
- (6) Forfeiture proceeds distributed under subsection (5) of this section may be used only for:
  - (a) The purchase of equipment necessary for the enforcement of laws relating to the unlawful delivery, distribution, manufacture or possession of controlled substances;
  - (b) Currency for undercover law enforcement operations;
  - (c) Drug awareness and drug education programs offered in middle schools and high schools; and
  - (d) The expenses of a forfeiting agency in operating joint narcotic operations with other forfeiting agencies pursuant to the terms of an intergovernmental agreement, including paying for rental space, utilities and office equipment.
- (7) A forfeiting agency shall sell as much property as may be needed to make the distributions required by this section. Distributions required under subsection (3) of this section must be made once every three months and are due within 20 days of the end of each quarter. No interest shall accrue on amounts that are paid within the period specified by this subsection. [2009 c.78 §44; 2009 c.874 §16; 2012 c.37 §34; 2013 c.624 §22; 2017 c.21 §98; 2017 c.645 §4; 2018 c.23 §2; 2019 c.85 §2; 2021 c.631 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.370 - Special Crime and Forfeiture Account.**

The Special Crime and Forfeiture Account is established in the General Fund of the State Treasury. The account shall consist of all forfeiture proceeds deposited in the account under ORS 131A.365. All moneys in the account are continuously appropriated to the Department of Justice and may be used only for the purposes specified in ORS 131A.365 (6). [2009 c.78 §45]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.400 - Prosecuting attorneys and forfeiture counsel.**

- (1) Notwithstanding ORS 8.720 or any other provision of law, but subject to the provisions of ORS 180.060, a district attorney may act as forfeiture counsel in any forfeiture proceeding.
- (2) In any forfeiture proceeding for which related criminal proceedings have been brought or could be brought, a prosecuting attorney or forfeiture counsel may participate in settlement negotiations initiated by the defendant or claimant or by the attorney representing the defendant or claimant. [2009 c.78 §46]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.405 - Liability of seizing agencies, forfeiting agencies and forfeiture counsel.**

- (1) Seizing agencies, forfeiting agencies and forfeiture counsel are not civilly or criminally liable for any acts in seizing or forfeiting property under the provisions of this chapter if there was reasonable suspicion that the property was subject to seizure or forfeiture. An order directing seizure issued under ORS 131A.060 shall constitute a finding of reasonable suspicion that the property was subject to forfeiture. The immunity provided by this section extends to all officers, employees and agents of seizing agencies, forfeiting agencies and forfeiture counsel.
- (2) Nothing in this section affects any liability that may be imposed under the provisions of section 10 (14), Article XV of the Oregon Constitution. [2009 c.78 §47]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.410 - Indemnification of officers, employees and agents; payment of civil penalties.**

- (1) Unless the claim arises out of malfeasance in office or willful or wanton neglect of duty, a public body as defined in ORS 30.260

may defend, save harmless and indemnify any officer, employee or agent of the public body against whom a claim is made under section 10 (14), Article XV of the Oregon Constitution.

(2) Any amount recovered as a civil penalty in a claim made under section 10 (14), Article XV of the Oregon Constitution, shall be paid into the Criminal Injuries Compensation Account of the Department of Justice Crime Victims' Assistance Section to be used for the purposes set forth in ORS chapter 147. [2009 c.78 §48]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.450 - Record keeping and reporting requirements.**

(1) All forfeiting agencies shall maintain written documentation of each seizure for forfeiture made under the provisions of this chapter, sale of seized or forfeited property under this chapter, decision to retain property forfeited under the provisions of this chapter, transfer of property forfeited under this chapter and other dispositions of property seized for forfeiture or forfeited under the provisions of this chapter.

(2)(a) As soon as practicable following the seizure of property for civil forfeiture, forfeiture counsel shall file with the Asset Forfeiture Oversight Advisory Committee an electronic report that describes the property seized and the circumstances of the seizure.

(b) As soon as practicable following the entry of judgment under this chapter, forfeiture counsel shall file with the committee an electronic report describing the judgment and the manner in which any forfeited property and the proceeds from any sales of forfeited property were distributed.

(3) Law enforcement agencies shall supply to forfeiture counsel all information requested by forfeiture counsel that is necessary for the preparation of the electronic reports required by subsection (2) of this section.

(4) Public bodies that receive forfeiture proceeds under ORS 131A.360 (2) and 131A.365 (4) shall submit an electronic report to the committee for any calendar year in which those proceeds are received. The report must be submitted no later than January 31 of the following year and must describe how the proceeds received by the public body have been or will be used.

(5) The committee may require forfeiture counsel or a political subdivision to include in the electronic reports described in this section any additional information requested by the committee.

(6) The committee shall develop and make available electronic forms for the purposes of the reports described in this section. [2009 c.78 §49; 2011 c.504 §2; 2013 c.9 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.455 - Asset Forfeiture Oversight Advisory Committee.**

(1) The Asset Forfeiture Oversight Advisory Committee is created. The committee consists of 10 members to be appointed as follows:

(a) The President of the Senate and the Speaker of the House of Representatives shall appoint four legislators to the committee. Two shall be Senators appointed by the President. Two shall be Representatives appointed by the Speaker.

(b) The Governor shall appoint three members to the committee.

(c) The Attorney General shall appoint three members to the committee.

(2) The term of a legislative member of the committee shall be two years. The term of all other members shall be four years. Members of the committee may be reappointed. If a vacancy occurs on the committee for any reason during the term of membership, the official who appointed the member to the vacant position shall appoint a new member to serve the remainder of the term. A member of the committee may be removed from the committee at any time by the official who appointed the member.

(3)(a) The members of the committee shall select from among themselves a chairperson and vice chairperson.

(b) The committee shall meet at such times and places as determined by the chairperson.

(4) Legislative members shall be entitled to payment of compensation and expense reimbursement under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(5) The committee shall:

(a) Prepare reports detailing the number and nature of forfeitures carried out under this chapter and ORS 131.550 to 131.600, including the disposition and use of the proceeds from the forfeitures. The reports shall be submitted on or before April 30 of each year to the Speaker of the House of Representatives, President of the Senate, Attorney General and Governor.

(b) In consultation with forfeiture counsel, review and, if necessary, modify the reports required from forfeiture counsel and public bodies to ensure that information necessary for oversight is being obtained and is gathered in an efficient and effective manner.

(c) Make any recommendations it deems necessary to increase the effectiveness, fairness and efficiency of forfeiture actions brought under this chapter and ORS 131.550 to 131.600.

(d) Make any recommendations for additional legislation governing forfeiture actions brought under this chapter and ORS 131.550 to 131.600.

(e) Conduct studies or other activities as necessary to accomplish the purposes of this subsection.

(6) The executive director of the Oregon Criminal Justice Commission shall provide the committee with staff, subject to funds available for that purpose.

(7) For purposes of this section, "forfeiture counsel" includes forfeiture counsel as defined in ORS 131.550. [2009 c.78 §50; 2009 c.506 §1; 2013 c.9 §3]



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 131A - Civil Forfeiture Section 131A.460 - Asset Forfeiture Oversight Account.**

- (1) The Asset Forfeiture Oversight Account is established in the State Treasury, separate and distinct from the General Fund.
- (2) The following moneys shall be deposited into the State Treasury and credited to the Asset Forfeiture Oversight Account:
  - (a) Moneys received from a public body under the provisions of ORS 131A.360 and 131A.365; and
  - (b) Any other moneys appropriated to the Asset Forfeiture Oversight Account.
- (3) The State Treasurer may invest and reinvest moneys in the Asset Forfeiture Oversight Account in the manner provided by law. Interest earned by the account shall be credited to the account.
- (4) The moneys in the Asset Forfeiture Oversight Account are continuously appropriated to the Oregon Criminal Justice Commission to be used for the expenses of the Asset Forfeiture Oversight Advisory Committee. [2009 c.78 §51; 2011 c.504 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.010 - Composition.**

A grand jury is a body of seven persons drawn from the jurors in attendance upon the circuit court at a particular jury service term, having the qualifications prescribed by ORS 10.030 and sworn to inquire of crimes committed or triable within the county from which they are selected. [Amended by 1985 c.703 §22]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.020 - Selection of grand juries; law applicable to additional jury; when inquiry void.**

- (1) Under the direction of the court, the clerk shall draw names at random from the names of jurors in attendance upon the court until the names of seven jurors are drawn and accepted by the court. The seven persons thus chosen shall constitute the grand jury.
- (2) When the court, in its discretion, considers that one or more additional grand juries is needed for the administration of justice, one or more additional grand juries shall be selected in the manner provided in subsection (1) of this section.
- (3) Any law applicable to the grand jury is equally applicable to any additional grand jury selected under subsection (2) of this section, except that whenever any duties or functions are imposed upon the grand jury, it shall be sufficient if such duties or functions are performed by one of the grand juries selected under this section.
- (4) Any inquiry or investigation required by law to be made by a grand jury shall be void, unless such inquiry or investigation was made entirely by the same grand jury. [Amended by 1959 c.59 §1; 1985 c.703 §23]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.030 - Challenge of juror prohibited; when juror may be excused.**

Neither the grand jury panel nor any individual juror may be challenged. A judge of the court or clerk of court, as defined in ORS 10.010, may at any time after a juror is drawn and before the juror is sworn excuse the juror from jury service for any reason prescribed in ORS 10.050. [Amended by 1973 c.836 §36; 1979 c.728 §5; 1985 c.703 §24; 1999 c.1085 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.050 - Foreman; alternate.**

The court shall appoint a foreman and an alternate foreman of the grand jury from the persons chosen to constitute that body. The alternate foreman shall have the duties and powers of the foreman in the absence of the foreman. [Amended by 1973 c.836 §37]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.060 - Oath or affirmation of jurors.**

- (1) Before the members of the grand jury enter upon the discharge of their duties, the following oath must be administered to them by or under the direction of the court:

\_\_\_\_\_  
You, as grand jurors for the County of \_\_\_\_\_, do solemnly swear that you will diligently inquire into, and true presentment or indictment make of, all crimes against this state committed or triable within this county that shall come to your knowledge; that you will keep secret the proceedings before you, the counsel of the state, your own counsel and that of your fellows; that you will indict no person through envy, hatred or malice nor leave any person not indicted through fear, favor, affection or hope of reward; but that you will indict upon the evidence before you according to the truth and the laws of this state, so help you God.

- (2) In administering this oath, the blank therein must be filled with the name of the county in which the court is sitting; and if any juror prefers, the juror must be allowed to affirm thereto, in which case, instead of the final phrase thereof there must be added, "and this you promise under the pains and penalties of perjury." [Amended by 1973 c.836 §38]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.070 - Charge of court.**

When the grand jury is formed, the court shall charge it and give it such information as the court deems proper concerning the nature

of its powers and duties, or charges for crime returned to the court or likely to come before the grand jury.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.090 - Presence of persons at sittings or deliberations of jury; interpreters.**

- (1) Except as provided in subsections (2) and (3) of this section and ORS 132.250 and 132.260, no person other than the district attorney or a witness actually under examination shall be present during the sittings of the grand jury.
- (2) Upon a motion filed by the district attorney in the circuit court, the circuit judge may appoint a parent, guardian or other appropriate person 18 years of age or older to accompany any child 12 years of age or younger, or any person with an intellectual disability, during an appearance before the grand jury. The circuit judge, upon the district attorney's showing to the court that it is necessary for the proper examination of a witness appearing before the grand jury, may appoint a guard, medical or other special attendant or nurse, who shall be present in the grand jury room and shall attend such sittings.
- (3) The district attorney may designate an interpreter who is certified under ORS 45.291 to interpret the testimony of witnesses appearing before the grand jury. The district attorney may designate a qualified interpreter, as defined in ORS 45.288, if the circuit court determines that a certified interpreter is not available and that the person designated by the district attorney is a qualified interpreter as defined in ORS 45.288. An interpreter designated under this subsection may be present in the grand jury room and attend the sittings of the grand jury.
- (4) No person other than members of the grand jury shall be present when the grand jury is deliberating or voting upon a matter before it.
- (5) As used in this section, "intellectual disability" has the meaning given that term in ORS 427.005. Intellectual disability may be shown by attaching to the motion of the district attorney:
  - (a) Documentary evidence of intellectual functioning; or
  - (b) The affidavit of a qualified person familiar with the person with an intellectual disability. "Qualified person" includes, but is not limited to, a teacher, therapist or physician. [Amended by 1973 c.836 §39; 1983 c.375 §1; 1991 c.406 §1; 2001 c.243 §1; 2011 c.658 §31; 2013 c.36 §35; 2017 c.650 §§4,12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.100 - Oath to witness before grand jury.**

The foreman of the grand jury or, in the absence of the foreman, any other grand juror shall administer an oath to any witness appearing before the grand jury. [Amended by 1973 c.836 §40]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.110 - When juror discharged; replacement; proceeding with lesser number.**

After the formation of the grand jury and before it is discharged, the court may:

- (1) Discharge a grand juror who:
  - (a) Becomes sick, is out of the county or fails to appear when the grand jury is summoned to reconvene;
  - (b) Is related, by affinity or consanguinity within the third degree, to the accused who is under investigation by the grand jury, or held for the commission of a crime; or
  - (c) Is unable to continue in the discharge of duties.
- (2) Order that another person be drawn at random and sworn from the jurors then in attendance upon the court, or if no other jurors are there in attendance, from the master jury list of the county, to take the place of a discharged juror.
- (3) Allow at least five grand jurors to proceed upon good cause shown. [Amended by 1973 c.836 §41; 1985 c.703 §25]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.120 - Jury service term; continuation.**

When the jury service term is completed the grand jury must be discharged by the court; but the judge may, by an order made either in open court or at chambers anywhere in the judicial district and entered of record, stating the reasons, continue the grand jury in session for such period of time as the judge deems advisable. [Amended by 1959 c.638 §13; 1973 c.836 §42; 1985 c.540 §30; 1985 c.703 §26]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.210 - Immunity of jurors as to official conduct.**

A grand juror cannot be questioned for anything the grand juror says or any vote the grand juror gives, while acting as such, relative to any matter legally pending before the grand jury, except for a perjury or false swearing of which the grand juror may have been guilty in giving testimony before such jury. [Amended by 1973 c.836 §43]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.220 - Disclosure by juror of testimony of witness examined by jury.**

A member of a grand jury may be required by any court to disclose:

- (1) The testimony of a witness examined before the grand jury, for the purpose of ascertaining whether it is consistent with that given by the witness before the court.
- (2) The testimony given before such grand jury by any person, upon a charge against such person for perjury or false swearing or upon trial therefor. [Amended by 1973 c.836 §44]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.250 - District attorney to ensure proceedings are recorded; electronic recording equipment; shorthand reporter; rules.**

- (1)(a) The district attorney of a county shall ensure that proceedings before the grand jury are recorded in the manner described in this section and ORS 132.260.
- (b) The Chief Justice of the Supreme Court shall designate the types of audio electronic recording devices suitable for recording grand jury proceedings and may establish policies and procedures by rule or order to carry out the provisions of this section and ORS 132.260 and 132.270.
- (c) The district attorney shall use to record the grand jury proceedings audio electronic recording devices designated, provided and maintained by the Judicial Department.
- (2)(a) The district attorney shall delegate the recording of grand jury proceedings to a grand juror and shall provide instruction to the grand juror concerning the audio electronic recording equipment and requirements of the recording.
- (b) Notwithstanding paragraph (a) of this subsection, the court may, upon request of the prosecuting attorney, appoint a certified shorthand reporter as defined in ORS 8.415 or a shorthand reporter certified by a national certification association, who shall be permitted to attend all proceedings of the grand jury for the purpose of taking accurate notes. The shorthand reporter's services shall be paid for by the prosecuting attorney. The shorthand reporter shall be sworn to correctly report the proceedings of the grand jury described in ORS 132.260 and to keep secret any information concerning the grand jury proceedings.
- (c) The grand juror or shorthand reporter recording the proceedings is not subject to subpoena, and may not disclose any information, concerning the grand jury proceedings without prior court order.
- (3)(a) A failure of an audio electronic recording device to accurately record all or part of a grand jury proceeding does not affect the validity of any prosecution or indictment.
- (b) A failure of a grand juror to operate an audio electronic recording device in a manner that accurately records all or part of a grand jury proceeding, as required, does not affect the validity of any prosecution or indictment.
- (c) A failure of a shorthand reporter to prepare accurate notes or an accurate report of all or part of a grand jury proceeding, as required, does not affect the validity of any prosecution or indictment.
- (4) This section and ORS 132.260 do not apply to grand jury proceedings under ORS 132.440 that inquire into the condition and management of correctional facilities and youth correction facilities. [2017 c.650 §1; 2017 c.650 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.260 - Recording of testimony required; matters that may not be recorded.**

- (1) Except as provided in subsection (2) of this section, the grand juror described in ORS 132.250 (2)(a), or the shorthand reporter described in ORS 132.250 (2)(b), who is recording grand jury proceedings shall record all testimony given before the grand jury, including:
  - (a) The case name and number;
  - (b) The name of each witness appearing before the grand jury; and
  - (c) Each question asked of, and each response provided by, a witness appearing before the grand jury.
- (2) The grand juror operating the audio electronic recording device or the shorthand reporter may not record:
  - (a) The deliberations or voting of the grand jury.
  - (b) A presentment made pursuant to ORS 132.370.
  - (c) Any statements made by a grand juror who is examined as a witness as provided in ORS 132.350.
  - (d) A procedure related to the production of records, or the unsealing of records, subpoenaed pursuant to ORS 136.583 and to be presented before the grand jury.
- (3) The district attorney shall maintain the audio recordings, or report of the shorthand reporter, produced pursuant to this section and ORS 132.250. [2017 c.650 §2; 2017 c.650 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.270 - Release and use of recording, transcript, notes or report; protective orders; fees.**

- (1) Audio recordings and the notes or report of a shorthand reporter produced pursuant to ORS 132.250 and 132.260 are confidential and may not be released except as described in this section.
- (2) When an indictment resulting from grand jury proceedings is indorsed "a true bill," the audio recording or the notes or report of a shorthand reporter of the grand jury proceedings may be released only in the following manner:
  - (a) The prosecuting attorney may access a copy of the audio recording or the notes or report of a shorthand reporter at any time.
  - (b) When the defendant has been arraigned on the indictment and is represented by an attorney, the district attorney shall:
    - (A) Provide a copy to the defense attorney of all audio recordings, or the notes or report of a shorthand reporter, related to an

indictment after 10 days have passed since the defendant's arraignment on the indictment and no motion described in subsection (4) of this section has been filed; or

(B) Provide a copy of the audio recordings, or the notes or report of a shorthand reporter, to the defense attorney in accordance with the court's ruling on the motion described in subsection (4) of this section, if a motion has been filed.

(c) Unless the court orders otherwise for good cause shown, the prosecuting attorney and the defense attorney may not copy, disseminate or republish the audio recording, the notes or report of a shorthand reporter, or a transcript prepared from the audio recording, notes or report, released pursuant to this subsection, except to provide a copy to an agent of the prosecuting attorney or defense attorney for the limited purpose of case preparation. Unless a court orders otherwise for good cause shown, in consulting with the defendant the defense attorney may not disclose to the defendant:

(A) Any personal identifiers of a victim, witness or grand juror obtained from the audio recording, report, notes or transcript; or

(B) Any portion of the audio recording, report, notes or transcript that contains any personal identifiers of a victim, witness or grand juror.

(d) The defense attorney may not provide a copy of the audio recording, notes or report, or a transcript prepared from the audio recording, notes or report, to the defendant.

(e) When the defendant has been arraigned but is not represented by an attorney, the defendant may request by motion that the court issue an order allowing the defendant access to review the contents of the audio recording or the notes or report of the shorthand reporter. A copy of the motion must be provided to the prosecuting attorney. The prosecuting attorney may request a hearing on the motion within 10 days after receiving a copy. At the hearing, or in response to receiving the motion, the court shall appoint counsel for the defendant for the limited purpose of reviewing the audio recording, notes or report and may set reasonable conditions on the review of the audio recording, notes or report.

(3)(a) When a grand jury inquires into the conduct of a public servant as defined in ORS 162.005 for acts occurring in the performance of the public servant's duties, and an indictment resulting from the grand jury proceedings is indorsed "not a true bill":

(A) The public servant or the prosecuting attorney may file a motion requesting a court order releasing all or a portion of a transcript of the grand jury proceedings. A copy of the motion must be served on the opposing party. In deciding whether to issue such an order, the court shall determine whether the public interest in disclosure outweighs the interest in maintaining the secrecy of the grand jury proceedings. If the court orders disclosure, the court may set reasonable conditions on copying, disseminating or republishing the transcript.

(B) A member of the public may file a motion requesting a court order for production and release of a transcript of the grand jury proceedings. A copy of the motion must be served on the prosecuting attorney and the public servant's attorney, or the public servant if the public servant is not represented by an attorney. The person filing the motion is responsible for the cost of producing the transcript and a court order for production and release of the transcript must be conditioned on receipt of payment. In deciding whether to issue such an order, the court shall determine whether the public interest in disclosure outweighs the interest in maintaining the secrecy of the grand jury proceedings. If the court orders disclosure, the court may set reasonable conditions on copying, disseminating or republishing the transcript.

(b) The release of any transcript under this subsection may not include:

(A) The release of any personal identifiers of a victim or witness; or

(B) The release of the name or any personal identifiers of a grand juror.

(4)(a) A motion for a protective order concerning an audio recording, the notes or report of a shorthand reporter or a transcript of grand jury proceedings may be filed as follows:

(A) The prosecuting attorney may file a motion for a protective order within 10 days after the defendant's arraignment on the indictment. The motion may be filed on behalf of a victim or a witness. The prosecuting attorney shall inform the victim of the ability to seek a protective order.

(B) The prosecuting attorney may file a motion for a protective order within 10 days after receiving a motion described in subsection (2)(e) of this section.

(C) The prosecuting attorney, the public servant who is the subject of an indictment indorsed "not a true bill" or the public servant's attorney may file a motion for a protective order within 10 days of receiving a motion described in subsection (3)(a) of this section.

(b) If the motion for a protective order requests that a portion of the audio recording, notes, report or transcript be redacted, the motion must be accompanied by a specific description, including the date and time, of the portion of the audio recording, notes, report or transcript to be redacted.

(c) In response to a motion filed under this subsection, the court may order that the access of the person requesting release to a copy of the audio recording, notes, report or transcript be denied, restricted or deferred, or may make any other order, upon a finding of substantial and compelling circumstances. In deciding whether to grant the motion and enter a protective order under this paragraph, the court may consider the following:

(A) Protection of witnesses and others from physical harm, threats of harm, bribes, economic interference, reprisal and other forms of intimidation;

(B) Maintenance of secrecy regarding informants, as required for effective investigation of criminal activity;

(C) Confidential information recognized under law, including the protection of confidential relationships and privileges and the contents of confidential records unrelated to a crime alleged in the indictment; and

(D) Any other relevant considerations.

- (d) The court may permit the evidence of substantial and compelling circumstances described in paragraph (c) of this subsection to be made in the form of a written statement to be inspected by the court only or by oral testimony given on the record.
- (5)(a) Except as provided in paragraph (b) of this subsection, when grand jury proceedings do not result in an indictment indorsed as either "a true bill" or "not a true bill," the audio recording or notes or report of the shorthand reporter produced pursuant to ORS 132.250 and 132.260 may not be disclosed or released.
- (b) When subsequent grand jury proceedings occur inquiring into the same criminal episode as the grand jury proceedings described in paragraph (a) of this subsection, and the subsequent proceedings result in an indictment indorsed as "a true bill," the prosecuting attorney shall provide notice to the person charged in the indictment of the occurrence of the earlier grand jury proceedings. After the person is arraigned on the indictment and the time period described in subsection (2)(b) of this section has passed, the audio recording or the notes or report of the shorthand reporter produced during the earlier grand jury proceedings may be obtained in the manner set forth in subsection (2) of this section.
- (c) As used in this subsection, "criminal episode" has the meaning given that term in ORS 131.505.
- (6) The district attorney of each county may establish a fee for the cost of providing a copy of any audio recording, or the notes or report of a shorthand reporter, of a grand jury proceeding to a person requesting a copy under this section.
- (7) An audio recording, the notes or report of a shorthand reporter or a transcript of a grand jury proceeding obtained pursuant to this section and ORS 132.250 and 132.260:
- (a) May not be used as evidence in any subsequent proceeding, except as permitted under ORS 40.375, 40.380, 40.450, 40.460 or 40.465.
- (b) May not be used to challenge the indorsement of an indictment "a true bill" or the proceedings that led to the indorsement.
- (c) May be used as evidence in a prosecution for perjury or false swearing committed by a witness while giving testimony during the grand jury proceeding or during trial.
- (d) May be used as evidence in a proceeding for contempt of court against a person alleged to have violated the terms of a court order concerning the audio recording, notes, report or transcript.
- (e) May be submitted to the court and used as evidence for a hearing on a protective order described in subsection (4) of this section.
- (8) The release of audio recordings, shorthand reporter notes or reports or transcripts of grand jury proceedings under this section does not affect discovery obligations under ORS 135.805 to 135.873.
- (9) As used in this section:
- (a) "Personal identifiers" means:
- (A) In relation to a witness or a grand juror, the person's address, telephone number, driver license, vehicle registration information, Social Security number, date of birth and the identifying number of the person's depository account at a financial institution, as defined in ORS 706.008, or credit card account.
- (B) In relation to a victim, the victim's address, electronic mail address, telephone number, driver license, vehicle registration information, Social Security number, date of birth, any user names or other identifying information associated with the victim's social media accounts and the identifying number of the victim's depository account at a financial institution, as defined in ORS 706.008, or credit card account.
- (b) "Social media" has the meaning given that term in ORS 659A.330. [2017 c.650 §3; 2017 c.650 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.310 - Inquiry into crimes; presentation to court.**

The grand jury shall retire into a private room and may inquire into crimes committed or triable in the county and present them to the court, either by presentment or indictment, as provided in ORS 132.310 to 132.390. [Amended by 1973 c.836 §45]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.320 - Consideration of evidence; appearance by defendant.**

- (1) Except as provided in subsections (2) to (13) of this section, in the investigation of a charge for the purpose of indictment, the grand jury shall receive no other evidence than such as might be given on the trial of the person charged with the crime in question.
- (2) A report or a copy of a report made by a physicist, chemist, medical examiner, physician, firearms identification expert, examiner of questioned documents, fingerprint technician, or an expert or technician in some comparable scientific or professional field, concerning the results of an examination, comparison or test performed by such person in connection with a case which is the subject of a grand jury proceeding, shall, when certified by such person as a report made by such person or as a true copy thereof, be received in evidence in the grand jury proceeding.
- (3) An affidavit of a witness who is unable to appear before the grand jury shall be received in evidence in the grand jury proceeding if, upon application by the district attorney, the presiding judge for the judicial district in which the grand jury is sitting authorizes the receipt after good cause has been shown for the witness' inability to appear. An affidavit taken in another state or territory of the United States, the District of Columbia or in a foreign country must be authenticated as provided in ORS chapter 194 before it can be used in this state.
- (4) A grand jury that is investigating a charge of criminal driving while suspended or revoked under ORS 811.182 may receive in evidence an affidavit of a peace officer with a report or copy of a report of the peace officer concerning the peace officer's investigation of the violation of ORS 811.182 by the defendant.

- (5) A grand jury may receive testimony of a witness by means of simultaneous television transmission allowing the grand jury and district attorney to observe and communicate with the witness and the witness to observe and communicate with the grand jury and the district attorney.
- (6) A grand jury that is investigating a charge of failure to appear under ORS 133.076, 153.992, 162.195 or 162.205 may receive in evidence an affidavit of a court employee certifying that the defendant failed to appear as required by law and setting forth facts sufficient to support that conclusion.
- (7)(a) Except as otherwise provided in this subsection, a grand jury may receive in evidence through the testimony of one peace officer involved in the criminal investigation under grand jury inquiry information from an official report of another peace officer involved in the same criminal investigation concerning the other peace officer's investigation of the matter before the grand jury. The statement of a person suspected of committing an offense or inadmissible hearsay of persons other than the peace officer who compiled the official report may not be presented to a grand jury under this paragraph.
- (b) If the official report contains evidence other than chain of custody, venue or the name of the person suspected of committing an offense, the grand jurors must be notified that the evidence is being submitted by report and that the peace officer who compiled the report will be made available for testimony at the request of the grand jury. When a grand jury requests the testimony of a peace officer under this paragraph, the peace officer may present sworn testimony by telephone if requiring the peace officer's presence before the grand jury would constitute an undue hardship on the peace officer or the agency that employs or utilizes the peace officer.
- (8) A grand jury that is investigating a charge of failure to report as a sex offender under ORS 163A.040 may receive in evidence certified copies of the form required by ORS 163A.050 (2) and sex offender registration forms and an affidavit of a representative of the Oregon State Police, as keepers of the state's sex offender registration records, certifying that the certified copies of the forms constitute the complete record for the defendant.
- (9) The grand jury shall weigh all the evidence submitted to it; and when it believes that other evidence within its reach will explain away the charge, it should order such evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.
- (10) A grand jury that is investigating a charge of driving while under the influence of intoxicants in violation of ORS 813.010 may receive in evidence an affidavit of a peace officer regarding any or all of the following:
- (a) Whether the defendant was driving.
- (b) Whether the defendant took or refused to take tests under any provision of ORS chapter 813.
- (c) The administration of tests under any provision of ORS chapter 813 and the results of such tests.
- (d) The officer's observations of physical or mental impairment of the defendant.
- (11)(a) A grand jury may receive in evidence an affidavit of a representative of a financial institution for the purpose of authenticating records of the financial institution.
- (b) As used in this subsection, "financial institution" means a financial institution as defined in ORS 706.008, an entity that regularly issues, processes or services credit cards or any other comparable entity that regularly produces financial records.
- (12)(a) A defendant who has been arraigned on an information alleging a felony charge that is the subject of a grand jury proceeding and who is represented by an attorney has a right to appear before the grand jury as a witness if, prior to the filing of an indictment, the defense attorney serves upon the district attorney written notice requesting the appearance. The notice shall include an electronic mail address at which the defense attorney may be contacted.
- (b) A district attorney is not obligated to inform a defendant that a grand jury proceeding investigating charges against the defendant is pending, in progress or about to occur.
- (c) Upon receipt of the written notice described in paragraph (a) of this subsection, the district attorney shall provide in writing the date, time and location of the defendant's appearance before the grand jury to the defense attorney at the indicated electronic mail address. In the event of a scheduling conflict, the district attorney shall reasonably accommodate the schedules of the defendant and the defense attorney if the accommodation does not delay the grand jury proceeding beyond the time limit for holding a preliminary hearing described in ORS 135.070 (2).
- (d) Notwithstanding ORS 135.070 and paragraph (c) of this subsection, in order to accommodate a scheduling conflict, upon the request of the defendant the time limit for holding a preliminary hearing described in ORS 135.070 (2) may be extended by a maximum of an additional five judicial days and the district attorney and the defendant may stipulate to an extension of greater duration. During a period of delay caused by a scheduling conflict under this subsection, ORS 135.230 to 135.290 shall continue to apply concerning the custody status of the defendant.
- (13) A grand jury, the proceedings of which are recorded pursuant to ORS 132.250 and 132.260, may receive in evidence, through the testimony of a peace officer involved in the criminal investigation under grand jury inquiry, the statement of:
- (a) A person who cannot readily understand the proceedings, or who cannot communicate in the proceedings, because of a physical disability or developmental disability; or
- (b) A victim under 18 years of age at the time of the proceedings. [Amended by 1973 c.836 §46; 1975 c.576 §1; 1983 c.393 §25; 1995 c.126 §1; 1995 c.781 §38; 1997 c.249 §43; 1999 c.1049 §6; 2001 c.19 §1; 2003 c.645 §3; 2005 c.529 §1; 2009 c.361 §1; 2013 c.219 §55; 2015 c.586 §1; 2017 c.650 §§5,13]

**Accusatory InstrumentsSection 132.330 - Submission of indictment by district attorney.**

The district attorney may submit an indictment to the grand jury in any case when the district attorney has good reason to believe that a crime has been committed which is triable within the county. [Amended by 1973 c.836 §47]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 132 - Grand Jury, Indictments and Other Accusatory InstrumentsSection 132.340 - Duties of district attorney for jury.**

The district attorney, when required by the grand jury, must prepare indictments or presentments for it and attend its sittings to advise it in relation to its duties or to examine witnesses in its presence.

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 132 - Grand Jury, Indictments and Other Accusatory InstrumentsSection 132.350 - Juror's knowledge of an offense; action thereon.**

(1) If a grand juror knows or has reason to believe that a crime which is triable in the county has been committed, the grand juror shall disclose the same to the fellow jurors, who may thereupon investigate the same.

(2) An indictment or presentment must not be found upon the statement of a grand juror unless the grand juror is sworn and examined as a witness.

(3) A grand juror testifying as provided in subsection (2) of this section shall not vote on the indictment nor be present during deliberations thereon. [Amended by 1973 c.836 §48]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 132 - Grand Jury, Indictments and Other Accusatory InstrumentsSection 132.360 - Number of jurors required to concur.**

A grand jury may indict or present facts to the court for instruction as provided in ORS 132.370, with the concurrence of five of its members, if at least five jurors voting for indictment or presentment heard all the testimony relating to the person indicted or facts presented. [Amended by 1973 c.836 §49]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 132 - Grand Jury, Indictments and Other Accusatory InstrumentsSection 132.370 - Presentment of facts to court for instruction as to law.**

(1) When the grand jury is in doubt whether the facts, as shown by the evidence before it, constitute a crime in law or whether the same has ceased to be punishable by reason of lapse of time or a former acquittal or conviction, it may make a presentment of the facts to the court, without mentioning the names of individuals, and ask the court for instructions concerning the law arising thereon.

(2) A presentment cannot be found and made to the court except as provided in subsection (1) of this section, and, when so found and presented, the court shall give such instructions to the grand jury concerning the law of the case as it thinks proper and necessary.

(3) A presentment is made to the court by the foreman in the presence of the grand jury. But being a mere formal statement of facts for the purpose of obtaining the advice of the court as to the law arising thereon, it is not to be filed in court or preserved beyond the sitting of the grand jury.

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 132 - Grand Jury, Indictments and Other Accusatory InstrumentsSection 132.380 - Whom the grand jury may indict.**

The grand jury may indict a person for a crime when it believes the person guilty thereof, whether such person has been held to answer for such crime or not. [Amended by 1973 c.836 §50]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 132 - Grand Jury, Indictments and Other Accusatory InstrumentsSection 132.390 - When the grand jury may indict.**

The grand jury may find an indictment when all the evidence before it, taken together, is such as in its judgment would, if unexplained or uncontradicted, warrant a conviction by the trial jury. [Amended by 1973 c.836 §51]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 132 - Grand Jury, Indictments and Other Accusatory InstrumentsSection 132.400 - Indorsement of indictment as "a true bill."**

An indictment, when found, shall be indorsed "a true bill," and such indorsement signed by the foreman of the jury.

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 132 - Grand Jury, Indictments and Other Accusatory InstrumentsSection 132.410 - Finding of indictment; filing; inspection.**

An indictment, when found and indorsed, as provided in ORS 132.400 and 132.580, shall be filed with the clerk of the court, in whose office it shall remain as a public record. Upon being designated by the district attorney as confidential and until after the arrest of a defendant who has not been held to answer the charge, the indictment or any order or process in relation thereto shall not be inspected by any person other than the judge, the clerk of the court, the district attorney or a peace officer in the discharge of a duty concerning the indictment, order or process. [Amended by 1973 c.836 §52; 1999 c.967 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.420 - Disclosure relative to indictment not subject to inspection.**

No grand juror, reporter or other person except the district attorney or a peace officer in the exercise of duties in effecting an arrest shall disclose any fact concerning any indictment while it is not subject to public inspection. [Amended by 1973 c.836 §53]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.430 - Finding against indictment; indorsement "not a true bill."**

(1) When a person has been held to answer a criminal charge and the indictment in relation thereto is not found "a true bill," the indictment must be indorsed "not a true bill," which indorsement must be signed by the foreman and filed with the clerk of the court, in whose office it shall remain a public record. In the case of an indictment not found "a true bill" against a person who has not been held to answer a criminal charge, the indictment must be destroyed by the grand jury.

(2) When an indictment indorsed "not a true bill" has been filed with the clerk of the court, the effect is to dismiss the charge, and the charge cannot be again submitted to or inquired of by the grand jury unless the court so orders. [Amended by 1973 c.836 §54; 2017 c.650 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.440 - Inquiry into conditions in correctional and youth correction facilities.**

(1) At least once yearly, a grand jury shall inquire into the condition and management of every correctional facility and youth correction facility as defined in ORS 162.135 in the county.

(2) The grand jury is entitled to free access at all reasonable times to such correctional facilities and juvenile facilities, and, without charge, to all public records in the county pertaining thereto.

(3) Other than indictments presented under ORS 132.310 or presentments presented under ORS 132.370, the grand jury shall issue no report other than a report of an inquiry made under this section. [Amended by 1973 c.836 §55; 1985 c.565 §11; 1997 c.249 §44]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.510 - Forms of pleadings.**

The forms of pleading, and the rules by which the sufficiency of pleadings is to be determined, are those prescribed by the statutes relating to criminal procedure. [Amended by 1973 c.836 §56]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.540 - Sufficiency of indictment; previous convictions; use of statutory language; when name of victim not required.**

(1) The indictment is sufficient if it can be understood therefrom that:

(a) The defendant is named, or if the name of the defendant cannot be discovered, that the defendant is described by a fictitious name, with the statement that the real name of the defendant is to the jury unknown.

(b) The crime was committed within the jurisdiction of the court, except where, as provided by law, the act, though done without the county in which the court is held, is triable therein.

(c) The crime was committed at some time prior to the finding of the indictment and within the time limited by law for the commencement of an action therefor.

(2) Except as provided in ORS 136.765 (1) and subsection (3) of this section, the indictment may not contain allegations that the defendant has previously been convicted of the violation of any statute that may subject the defendant to enhanced penalties.

(3) The indictment must allege that the defendant has previously been convicted of an offense when the previous conviction constitutes a material element of the charged offense.

(4) Words used in a statute to define a crime need not be strictly pursued in the indictment, but other words conveying the same meaning may be used.

(5)(a) An indictment may include a pseudonym, initials or another signifier instead of the name of a victim if:

(A) At least one of the crimes alleged to have been committed against the victim in the indictment is a sex crime as defined in ORS 163A.005;

(B) A separate document containing the name of the victim and the corresponding pseudonym, initials or other signifier is filed with the clerk of the court at the same time as the indictment is filed; and

(C) A copy of the document described in subparagraph (B) of this paragraph is provided to the defense attorney or, if the defendant does not have a lawyer, in accordance with paragraph (c) of this subsection, at the time of arraignment on the indictment.

(b) The defense attorney may orally inform the defendant of the name of the victim contained in the document described in paragraph (a)(B) of this subsection but may not provide a copy of the document to the defendant.

(c) If a defendant is not represented by a lawyer, the district attorney shall provide a copy of the document described in paragraph (a)(B) of this subsection to the defendant. At the time of providing the document, the court shall enter an order prohibiting the defendant from copying the document or providing the document to any other person.

(d) The document described in paragraph (a)(B) of this subsection is confidential with respect to any person who is not a party to the



case. At any time during the proceeding the court may, upon a finding of good cause, order that the document is not confidential. Once the final judgment on the case is entered, the document is no longer confidential. [Amended by 1957 c.657 §1; 1973 c.836 §57; 2009 c.180 §1; 2019 c.338 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.550 - Contents of indictment.**

The indictment shall contain substantially the following:

- (1) The name of the circuit court in which it is filed;
- (2) The title of the action;
- (3) A statement that the grand jury accuses the defendant or defendants of the designated offense or offenses;
- (4) A separate accusation or count addressed to each offense charged, if there be more than one;
- (5) A statement in each count that the offense charged therein was committed in a designated county;
- (6) A statement in each count that the offense charged therein was committed on, or on or about, a designated date, or during a designated period of time;
- (7) A statement of the acts constituting the offense in ordinary and concise language, without repetition, and in such manner as to enable a person of common understanding to know what is intended;
- (8) The dates of all grand jury proceedings related to the offense or offenses charged;
- (9) The signatures of the foreman and of the district attorney; and
- (10) The date the indictment is filed with the clerk of the court. [Amended by 1973 c.836 §58; 2007 c.71 §32; 2017 c.650 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.557 - Indictment must contain subcategory facts under certain circumstances.**

- (1) When a person is charged with a crime committed on or after November 1, 1989, that includes subcategories under the rules of the Oregon Criminal Justice Commission, the state is required to plead specially in the indictment, in addition to the elements of the crime, any subcategory fact on which the state intends to rely to enhance the crime for sentencing purposes. The state shall plead the elements and subcategory facts in a single count. Nothing in this subsection precludes the pleading of alternative theories.
- (2) The state must prove each subcategory fact beyond a reasonable doubt and the jury shall return a special verdict of "yes" or "no" on each subcategory fact submitted. [1995 c.520 §6]

Note:

132.557 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 132 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.560 - Joinder of counts and charges; consolidation of charging instruments.**

- (1) A charging instrument must charge but one offense, and in one form only, except that:
  - (a) Where the offense may be committed by the use of different means, the charging instrument may allege the means in the alternative.
  - (b) Two or more offenses may be charged in the same charging instrument in a separate count for each offense if the offenses charged are alleged to have been committed by the same person or persons and are:
    - (A) Of the same or similar character;
    - (B) Based on the same act or transaction; or
    - (C) Based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.
- (2) If two or more charging instruments are found in circumstances described in subsection (1)(b) of this section, the court may order them to be consolidated.
- (3) If it appears, upon motion, that the state or defendant is substantially prejudiced by a joinder of offenses under subsection (1) or (2) of this section, the court may order an election or separate trials of counts or provide whatever other relief justice requires.
- (4) As used in this section, "charging instrument" means any written instrument sufficient under the law to charge a person with an offense, and shall include, but not be limited to, grand jury indictments, informations, complaints and uniform traffic, game or boating complaints. [Amended by 1989 c.842 §1; 1993 c.278 §1; 1999 c.1040 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.570**

[Renumbered 135.713]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.580 - Names of grand jury witnesses required on indictment; exception; effect of failure to include; procedure to remedy failure.**

- (1) Except as provided in subsection (2) of this section, when an indictment is found, the names of the witnesses examined before

the grand jury that returned the indictment, either by testimony in the presence of the grand jury, by affidavit, by means of simultaneous television transmission under ORS 132.320 (5) or by telephone under ORS 132.320 (7), and the names of those whose reports were received by such grand jury pursuant to ORS 132.320 (2) must be inserted at the foot of the indictment, or indorsed thereon, before it is filed. The indorsement shall show whether the witness gave testimony before the grand jury in person, by affidavit, by means of simultaneous television transmission or by telephone or filed a report.

(2)(a) An indictment may include a pseudonym, initials or other signifier instead of the name of a witness examined before the grand jury if:

(A) The witness is also a victim of a sex crime as defined in ORS 163A.005 alleged in the indictment;

(B) A separate document containing the name of the witness and the corresponding pseudonym, initials or other signifier is filed with the clerk of the court at the same time as the indictment is filed; and

(C) A copy of the document described in subparagraph (B) of this paragraph is provided to the defense attorney or, if the defendant does not have a lawyer, in accordance with paragraph (c) of this subsection, at the time of arraignment on the indictment.

(b) The defense attorney may orally inform the defendant of the name of the witness contained in the document described in paragraph (a)(B) of this subsection but may not provide a copy of the document to the defendant.

(c) If a defendant is not represented by a lawyer, the district attorney shall provide a copy of the document described in paragraph (a)(B) of this subsection to the defendant. At the time of providing the document, the court shall enter an order prohibiting the defendant from copying the document or providing the document to any other person.

(d) The document described in paragraph (a)(B) of this subsection is confidential with respect to any person who is not a party to the case. At any time during the proceeding the court may, upon a finding of good cause, order that the document is not confidential. Once the final judgment on the case is entered, the document is no longer confidential.

(3) A witness examined before the grand jury whose name is not indorsed on the indictment shall not be permitted to testify at trial without the consent of the defendant, unless the court finds that:

(a) The name of the witness was omitted from the indictment by inadvertence;

(b) The name of the witness was furnished to the defendant by the state at least 10 days before trial; and

(c) The defendant will not be prejudiced by the omission. [Amended by 1973 c.836 §59; 1995 c.126 §2; 2003 c.645 §8; 2019 c.338 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.586 - Pleading domestic violence in accusatory instrument.**

(1) As used in this section, "domestic violence" has the meaning given that term in ORS 135.230.

(2) When a crime involves domestic violence, the accusatory instrument may plead, and the prosecution may prove at trial, domestic violence as an element of the crime. When a crime is so pleaded, the words "constituting domestic violence" may be added to the title of the crime. [2003 c.319 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.590**

[Renumbered 135.715]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.610**

[Renumbered 135.717]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.620**

[Renumbered 135.720]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.630**

[Renumbered 135.725]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.640**

[Renumbered 135.727]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.660**

[Renumbered 135.730]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.670**

[Amended by 1971 c.743 §319; renumbered 135.733]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.680**

[Renumbered 135.735]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.690**

[Amended by 1971 c.743 §320; renumbered 135.737]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.710**

[Renumbered 135.740]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.720**

[Renumbered 135.743]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 132 - Grand Jury, Indictments and Other Accusatory Instruments Section 132.990 - Premature inspection or disclosure of contents of indictment.**

Violation of ORS 132.420 or the prohibitions of ORS 132.410 is punishable as contempt.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.005 - Definitions for ORS 133.005 to 133.400 and 133.410 to 133.450.**

As used in ORS 133.005 to 133.400 and 133.410 to 133.450, unless the context requires otherwise:

- (1) "Arrest" means to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense. A "stop" as authorized under ORS 131.605 to 131.625 is not an arrest.
- (2) "Federal officer" means a special agent or law enforcement officer employed by a federal agency who is empowered to effect an arrest with or without a warrant for violations of the United States Code and who is authorized to carry firearms in the performance of duty.
- (3) "Peace officer" means:
  - (a) A member of the Oregon State Police;
  - (b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer commissioned by a university under ORS 352.121 or 353.125;
  - (c) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state;
  - (d) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon;
  - (e) A humane special agent as defined in ORS 181A.345;
  - (f) A regulatory specialist exercising authority described in ORS 471.775 (2), 475C.017 or 475C.301;
  - (g) An authorized tribal police officer as defined in ORS 181A.940; or
  - (h) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181A.540.
- (4) "Reserve officer" means an officer or member of a law enforcement agency who is:
  - (a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or a member of the Department of State Police;
  - (b) Armed with a firearm; and
  - (c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security. [1973 c.836 §62; 1979 c.656 §1; 1981 c.808 §1; 1991 c.67 §25; 1993 c.254 §1; 1995 c.651 §6; 2009 c.11 §8; 2011 c.506 §7; 2011 c.641 §1; 2011 c.644 §§13,39; 2012 c.54 §§6,7; 2012 c.67 §§3,4; 2013 c.154 §§4,5; 2013 c.180 §§8,9; 2015 c.174 §4; 2015 c.614 §§137,138; 2021 c.286 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.007 - Sufficiency of information or complaint; previous convictions; use of statutory language.**

- (1) An information or complaint is sufficient if it can be understood therefrom that:
  - (a) The defendant is named, or if the name of the defendant cannot be discovered, the defendant is described by a fictitious name, with the statement that the real name of the defendant is unknown to the complainant.

- (b) The offense was committed within the jurisdiction of the court, except when, as provided by law, the act, though done without the county in which the court is held, is triable within.
- (c) The offense was committed at some time prior to the filing of the information or complaint and within the time limited by law for the commencement of an action therefor.
- (2) The information or complaint shall not contain allegations that the defendant has previously been convicted of any offense that might subject the defendant to enhanced penalties.
- (3) Words used in a statute to define an offense need not be strictly followed in the information or complaint, but other words conveying the same meaning may be used. [1973 c.836 §63; 2005 c.22 §101]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.015 - Contents of information or complaint.**

An information or complaint shall contain substantially the following:

- (1) The name of the court in which it is filed;
- (2) The title of the action;
- (3) A statement that accuses the defendant or defendants of the designated offense or offenses;
- (4) A separate accusation or count addressed to each offense charged, if there be more than one;
- (5) A statement in each count that the offense charged therein was committed in a designated county;
- (6) A statement in each count that the offense charged therein was committed on, or on or about, a designated date, or during a designated period of time;
- (7) A statement of the acts constituting the offense in ordinary and concise language, without repetition, and in such manner as to enable a person of common understanding to know what is intended; and
- (8) The verification by the complainant and the date of the signing of the information or complaint. An information or complaint charging a defendant with an offense, other than an offense punishable as a felony, shall be deemed verified by the complainant if it contains a form of certificate in which the complainant certifies, under the penalties described in ORS 133.992, that the complainant has sufficient grounds to believe, and does believe, that the defendant named in the information or complaint committed the offense specified in the information or complaint. [1973 c.836 §64; 2015 c.250 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.020 - Magistrate defined.**

A magistrate is an officer having power to issue a warrant for the arrest of a person charged with the commission of a crime.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.030 - Who are magistrates.**

The following persons are magistrates:

- (1) Judges of the Supreme Court;
- (2) Judges of the Court of Appeals;
- (3) Judges of the circuit court;
- (4) County judges and justices of the peace; and
- (5) Municipal judges. [Amended by 1961 c.724 §27; 1969 c.198 §59; 1977 c.746 §1; 1995 c.658 §72]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.033 - Peace officer; community caretaking functions.**

- (1) Except as otherwise expressly prohibited by law, any peace officer is authorized to perform community caretaking functions.
- (2) As used in this section, "community caretaking functions" means any lawful acts that are inherent in the duty of the peace officer to serve and protect the public. "Community caretaking functions" includes, but is not limited to:
  - (a) The right to enter or remain upon the premises of another if it reasonably appears to be necessary to:
    - (A) Prevent serious harm to any person or property;
    - (B) Render aid to injured or ill persons; or
    - (C) Locate missing persons.
  - (b) The right to stop or redirect traffic or aid motorists or other persons when such action reasonably appears to be necessary to:
    - (A) Prevent serious harm to any person or property;
    - (B) Render aid to injured or ill persons; or
    - (C) Locate missing persons.
- (3) Nothing contained in this section shall be construed to limit the authority of a peace officer that is inherent in the office or that is granted by any other provision of law. [1991 c.959 §1; 2011 c.506 §9; 2011 c.644 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.035 - Ex parte emergency protective orders; service; expiration; contempt proceeding; required availability of judges; fees; forms.**

- (1) A peace officer may inform a person in danger of abuse of the officer's ability to apply for an ex parte emergency protective order and, with the person's consent or permission, may apply to a circuit court for the order when the peace officer has probable cause to believe:
- (a)(A) The peace officer has responded to an incident of domestic disturbance and the circumstances for mandatory arrest as described in ORS 133.055 (2)(a) exist; or
- (B) The person is in immediate danger of abuse by a family or household member; and
- (b) An emergency protective order is necessary to prevent the person from suffering the occurrence or recurrence of abuse.
- (2)(a) An application for an emergency protective order described in subsection (1) of this section shall consist of the proposed emergency protective order and the peace officer's declaration under penalty of perjury setting forth the facts and circumstances underlying entry of the order.
- (b) The proposed emergency protective order and the declaration may be sent to the court by electronic transmission that delivers a complete printable image of the order and signed declaration.
- (3) Upon examination of the application, a circuit court may enter an emergency protective order if the court finds there is probable cause that:
- (a)(A) The peace officer has responded to an incident of domestic disturbance and the circumstances for mandatory arrest as described in ORS 133.055 (2)(a) exist; or
- (B) A person is in immediate danger of abuse by a family or household member; and
- (b) An emergency protective order is necessary to prevent a person from suffering the occurrence or recurrence of abuse.
- (4) An emergency protective order entered under subsection (3) of this section shall:
- (a) Restrain the respondent from contacting the person protected by the order and from intimidating, molesting, interfering with or menacing the person, or attempting to intimidate, molest, interfere with or menace the protected person;
- (b) Include the findings of probable cause authorizing issuance of the order;
- (c) State the date that the order expires; and
- (d) State a security amount for a violation of the order.
- (5) If the circuit court enters an emergency protective order under subsection (3) of this section:
- (a) The peace officer shall provide, without charge, a certified true copy of the emergency protective order to the protected person and shall ensure that certified true copies of the order and the declaration are filed with the court.
- (b) A peace officer shall serve the respondent personally. Upon completion of service, the peace officer shall prepare a declaration under penalty of perjury of proof of service verifying that the emergency protective order was served personally on the respondent, file a copy of the declaration with the court and enter the order into the Law Enforcement Data System maintained by the Department of State Police.
- (c) If the peace officer cannot complete service within one day of the emergency protective order's entry, the peace officer shall notify the court that the documents have not been served.
- (6) Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the emergency protective order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the emergency protective order may be informed of the existence and terms of the order. The emergency protective order is fully enforceable in any county or tribal land in this state.
- (7)(a) An emergency protective order expires seven calendar days from the date the court signs the order.
- (b) An emergency protective order shall remain in effect until the order expires or is terminated by court order. If the order is terminated by court order, the clerk of the court shall immediately cause to be delivered a copy of the termination order to the peace officer who originally applied for the order. Upon receipt of the termination order, the peace officer shall promptly remove the emergency protective order from the Law Enforcement Data System.
- (8)(a) A contempt proceeding for an alleged violation of an emergency protective order must be conducted by the circuit court that issued the order or by the circuit court for the county in which the alleged violation of the order occurs.
- (b) Pending a contempt hearing for an alleged violation of an emergency protective order, a person arrested and taken into custody pursuant to ORS 133.310 may be released as provided in ORS 135.230 to 135.290.
- (9) The presiding judge of the circuit court in each county shall designate at least one judge to be reasonably available to enter, in person or by electronic transmission, ex parte emergency protective orders at all times whether or not the court is in session.
- (10) A peace officer acting in good faith shall not be liable in any civil action for applying to or not applying to a circuit court for an ex parte emergency protective order under this section.
- (11) A filing fee, service fee or hearing fee may not be charged for proceedings for ex parte emergency protective orders under this section.
- (12) The Department of State Police shall develop forms for emergency protective orders and declarations and shall submit the forms for approval by the State Court Administrator, the Oregon State Sheriffs' Association and the Oregon Association Chiefs of Police. After obtaining approval, the department shall ensure that the forms are appropriately distributed and available for use.
- (13) As used in this section, "peace officer" has the meaning given that term in ORS 161.015. [2015 c.252 §1]

Note:

133.035 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.037**

[1971 c.743 §289; 1973 c.836 §33; renumbered 131.655]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.055 - Criminal citation; exception for domestic disturbance; notice of rights.**

(1) A peace officer may issue a criminal citation to a person if the peace officer has probable cause to believe that the person has committed a misdemeanor or has committed any felony that is subject to misdemeanor treatment under ORS 161.705. The peace officer shall deliver a copy of the criminal citation to the person. The criminal citation shall require the person to appear at the court of the magistrate before whom the person would be taken pursuant to ORS 133.450 if the person were arrested for the offense.

(2)(a) Notwithstanding the provisions of subsection (1) of this section, when a peace officer responds to an incident of domestic disturbance and has probable cause to believe that an assault has occurred between family or household members, as defined in ORS 107.705, or to believe that one such person has placed the other in fear of imminent serious physical injury, the officer shall arrest and take into custody the alleged assailant or potential assailant.

(b) When the peace officer makes an arrest under paragraph (a) of this subsection, the peace officer is not required to arrest both persons.

(c) When a peace officer makes an arrest under paragraph (a) of this subsection, the peace officer shall make every effort to determine who is the assailant or potential assailant by considering, among other factors:

(A) The comparative extent of the injuries inflicted or the seriousness of threats creating a fear of physical injury;

(B) If reasonably ascertainable, the history of domestic violence between the persons involved;

(C) Whether any alleged crime was committed in self-defense; and

(D) The potential for future assaults.

(d) As used in this subsection, "assault" includes conduct constituting strangulation under ORS 163.187.

(3) Whenever any peace officer has reason to believe that a family or household member, as defined in ORS 107.705, has been abused as defined in ORS 107.705 or that an elderly person or a person with a disability has been abused as defined in ORS 124.005, that officer shall use all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community and giving each person immediate notice of the legal rights and remedies available. The notice shall consist of handing each person a copy of the following statement:

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IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE OR ABUSE, you can ask the district attorney to file a criminal complaint. You also have the right to go to the circuit court and file a petition requesting any of the following orders for relief: (a) An order restraining your attacker from abusing you; (b) an order directing your attacker to leave your household; (c) an order preventing your attacker from entering your residence, school, business or place of employment; (d) an order awarding you or the other parent custody of or parenting time with a minor child or children; (e) an order restraining your attacker from molesting or interfering with minor children in your custody; (f) an order awarding you other relief the court considers necessary to provide for your or your children's safety, including emergency monetary assistance. Such orders are enforceable in every state.

You may also request an order awarding support for minor children in your care or for your support if the other party has a legal obligation to support you or your children.

You also have the right to sue for losses suffered as a result of the abuse, including medical and moving expenses, loss of earnings or support, and other out-of-pocket expenses for injuries sustained and damage to your property. This can be done without an attorney in the small claims department of a court if the total amount claimed is under \$10,000.

Similar relief may also be available in tribal courts.

For further information you may contact: \_\_\_\_\_.

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[1969 c.244 §2; 1977 c.845 §1; 1981 c.779 §1; 1991 c.303 §1; 1995 c.666 §23; 1997 c.707 §28; 1999 c.617 §1; 1999 c.738 §8; 1999 c.1051 §54; 2003 c.264 §8; 2007 c.70 §33; 2007 c.125 §7; 2011 c.595 §53b; 2011 c.666 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.060 - Cited person to appear before magistrate; failure to appear; appearance during statewide emergency.**

(1) A person who has been served with a criminal citation shall appear before a magistrate of the county in which the person was cited at the time, date and court specified in the citation, which shall not be later than 30 days after the date the citation was issued.

(2) If the cited person fails to appear at the time, date and court specified in the criminal citation, and a complaint or information is filed, the magistrate shall issue a warrant of arrest, upon application for its issuance, upon the person's failure to appear.

(3)(a) Notwithstanding subsection (1) of this section, during a period of statewide emergency, the date specified in a criminal citation on which a person served with the citation shall appear may be more than 30 days after the date the citation was issued.

(b) During a period of statewide emergency, the presiding judge of a circuit court may, upon the motion of a party or the court's own motion, and upon a finding of good cause, postpone the date of appearance described in paragraph (a) of this subsection for all

proceedings within the jurisdiction of the court.

(c) The presiding judge may delegate the authority described in paragraph (b) of this subsection to another judge of the court.

(d) Nothing in this subsection affects the rights of a defendant under the Oregon and United States Constitutions.

(e) As used in this subsection, "period of statewide emergency" means the period of time during which any declaration of a state of emergency under ORS 401.165, public health emergency under ORS 433.441 or catastrophic disaster under Article X-A, section 1, of the Oregon Constitution, issued by the Governor, and any extension of the declaration, is in effect, and continuing for 60 days after the declaration and any extension is no longer in effect. [1969 c.244 §5; 1983 c.661 §1; 1997 c.548 §1; 1999 c.1051 §55; 2021 c.199 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.065 - Service of criminal citation.**

If a criminal citation is issued as described in ORS 133.055, the peace officer shall serve one copy on the person arrested and shall, as soon as practicable, file a duplicate copy with the magistrate specified in ORS 133.055 along with proof of service. [1969 c.244 §6; 1999 c.1051 §58]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.066 - Criminal citations generally.**

(1) A criminal citation may include a complaint or may be issued without a form of complaint. If a criminal citation is issued without a complaint, the citation must be in the form provided by ORS 133.068. If a criminal citation is issued with a complaint, the citation must be in the form provided by ORS 133.069.

(2) A criminal citation may be issued with a complaint only if a procedure for the issuance of a citation with a complaint has been authorized by the district attorney for the county in which the crime is alleged to have been committed.

(3) A complaint or information may be filed with the court before or after the issuance of a criminal citation without a complaint. Nothing in this section affects the requirement that a complaint or information be filed for the crime charged.

(4) More than one crime may be charged in a single criminal citation. However, if a defendant is to be charged with driving while under the influence of intoxicants in violation of ORS 813.010, a separate criminal citation must be used for the charge of driving while under the influence of intoxicants and that citation may not be used to charge the defendant with the commission of any other crime.

(5) Uniform citation forms for crimes shall be adopted by the Supreme Court under ORS 1.525. In adopting those forms, the Supreme Court may combine the requirements for criminal citations under this section and the requirements for violation citations under ORS 153.045. A crime and a violation may not be charged on the same citation form. [1999 c.1051 §57]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.068 - Contents of criminal citation issued without complaint.**

A criminal citation issued without a form of complaint must contain:

(1) The name of the court at which the cited person is to appear.

(2) The name of the person cited.

(3) A brief description of the offense for which the person is charged, the date, time and place at which the offense occurred, the date on which the citation was issued, and the name of the peace officer who issued the citation.

(4) The date, time and place at which the person cited is to appear in court, and a summons to so appear.

(5) Whether a complaint or information had been filed with the court at the time the citation was issued.

(6) If the arrest was made by a private party, the name of the arresting person.

(7) The following:

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**READ CAREFULLY**

This citation is not a complaint or an information. A complaint or an information may be filed and you will be provided a copy thereof at the time of your first appearance. You **MUST** appear in court at the time set in the citation. **IF YOU FAIL TO APPEAR AND A COMPLAINT OR INFORMATION HAS BEEN FILED, THE COURT WILL IMMEDIATELY ISSUE A WARRANT FOR YOUR ARREST.**

[1999 c.1051 §60]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.069 - Contents of criminal citation issued with complaint; nonconformance.**

(1) A criminal citation issued with a form of complaint must contain:

(a) The name of the court at which the cited person is to appear.

(b) The name of the person cited.

(c) A complaint containing at least the following:

(A) The name of the court, the name of the state or of the city or other public body in whose name the action is brought and the

name of the defendant.

(B) A statement or designation of the crime that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the crime is alleged to have been committed.

(C) A form of certificate in which the peace officer must certify that the peace officer has sufficient grounds to believe, and does believe, that the person named in the complaint committed the offense specified in the complaint. A certificate conforming to this subparagraph shall be deemed equivalent to a sworn complaint.

(d) The date on which the citation was issued, and the name of the peace officer who issued the citation.

(e) The date, time and place at which the person cited is to appear in court, and a summons to so appear.

(f) If the arrest was made by a private party, the name of the arresting person.

(2) The district attorney for the county shall review any criminal citation issued with a form of complaint that is to be filed in a circuit or justice court. The review must be done before the complaint is filed.

(3) If the complaint does not conform to the requirements of this section, the court shall set the complaint aside upon motion of the defendant made before entry of a plea. A pretrial ruling on a motion to set aside may be appealed by the state.

(4) A court may amend a complaint at its discretion. [1999 c.1051 §61; 2001 c.870 §10; 2005 c.566 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.070 - Criminal citation where arrest without warrant is authorized for ordinance violation.**

(1) In any instance in which a person is subject to arrest without a warrant for violation of an ordinance of a county, city or municipal corporation, any peace officer who is authorized to make the arrest may make the arrest or in lieu of taking the person into custody the officer may issue and serve a criminal citation to the person to appear at any court within the jurisdictional unit by which the officer is authorized to act.

(2) Any criminal citation issued under this section must meet the requirements of ORS 133.055 to 133.076.

(3) The person cited shall appear before the court in which the person's appearance is required at the time, date and court specified in the criminal citation. If the person fails to appear at that time and a complaint is filed, the court shall issue a warrant for the person's arrest upon application for its issuance. [1969 c.244 §8; 1983 c.661 §2; 1999 c.1051 §62]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.073 - Electronic filing of criminal citation; court rules.**

(1) Notwithstanding ORS 133.065, a peace officer, following procedures established by court rule, may file a criminal citation with or without a form of complaint with the court by electronic means, without an actual signature of the officer, in lieu of filing a duplicate paper copy of the citation. A criminal citation filed under this section may be of a different size or format than a uniform citation adopted by the Supreme Court under ORS 1.525. A peace officer who files a criminal citation under this section is deemed to certify the citation and any complaint included with the citation by that filing and has the same rights, responsibilities and liabilities in relation to the citation and any complaint included with the citation as an officer has in relation to citations and complaints that are filed with the court in paper form and are certified by actual signature.

(2) A court may allow electronic filing of criminal citations as described under subsection (1) of this section. Procedures established to allow electronic filing of criminal citations under this section shall be established by court rule and shall include procedures necessary to ensure that:

(a) An electronically filed criminal citation with or without a form of complaint includes all information required on a uniform citation adopted by the Supreme Court under ORS 1.525. However, an electronically filed criminal citation containing all required information, but of a different size or format than a uniform citation adopted by the Supreme Court under ORS 1.525, shall not be prohibited by or found in violation of a rule established under this subsection.

(b) An electronically filed criminal citation with or without a form of complaint is verifiable as being filed by a specific peace officer.

(c) Members of the public can obtain copies of and review a criminal citation with or without a form of complaint that is electronically filed and maintained under this section in the same manner as the manner used for those filed on paper.

(3) For a criminal citation with a form of complaint issued under ORS 133.069, the district attorney's review required by ORS 133.069 and, if necessary, amendments for legal sufficiency, must be completed before the electronic filing of the citation with the form of complaint is made with a court under this section. [2005 c.566 §15; 2015 c.13 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.076 - Failure to appear on criminal citation.**

(1) A person commits the offense of failure to appear on a criminal citation if the person has been served with a criminal citation issued under ORS 133.055 to 133.076 and the person knowingly fails to do any of the following:

(a) Make an appearance in the manner required by ORS 133.060.

(b) Make appearance at the time set for trial in the criminal proceeding.

(c) Appear at any other time required by the court or by law.

(2) Failure to appear on a criminal citation is a Class A misdemeanor. [1999 c.1051 §64 (enacted in lieu of 133.075)]



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.110 - Issuance; citation.**

If an information or a complaint has been filed with the magistrate, and the magistrate is satisfied that there is probable cause to believe that the person has committed the crime specified in the information or complaint, the magistrate shall issue a warrant of arrest. If the offense is subject to issuance of a criminal citation under ORS 133.055, the court may authorize a peace officer to issue and serve a criminal citation in lieu of arrest. [Amended by 1969 c.244 §3; 1973 c.836 §68; 1983 c.661 §4; 1999 c.1051 §66]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.120 - Authority to issue warrant.**

(1) A judge of the Supreme Court or the Court of Appeals may issue a warrant of arrest for any crime committed or triable within the state, and any other magistrate mentioned in ORS 133.030 may issue a warrant for any crime committed or triable within the territorial jurisdiction of the magistrate's court.

(2) Notwithstanding subsection (1) of this section, a circuit court judge duly assigned pursuant to ORS 1.615 to serve as a judge pro tempore in a circuit court may issue a warrant of arrest for a crime committed or triable within the territorial jurisdiction of any circuit court in which the judge serves as judge pro tempore if the request for the warrant includes an affidavit showing that a regularly elected or appointed circuit court judge for the judicial district is not available, whether by reason of conflict of interest or other reason, to issue the warrant within a reasonable time. [Amended by 1969 c.198 §60; 1973 c.836 §69; 1977 c.746 §2; 1983 c.661 §5; 2013 c.155 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.140 - Content and form of warrant.**

A warrant of arrest shall:

(1) Be in writing;

(2) Specify the name of the person to be arrested, or if the name is unknown, shall designate the person by any name or description by which the person can be identified with reasonable certainty;

(3) State the nature of the crime;

(4) State the date when issued and the county or city where issued;

(5) Be in the name of the State of Oregon or the city where issued, be signed by and bear the title of the office of the magistrate having authority to issue a warrant for the crime charged;

(6) Command any peace officer, or any parole and probation officer for a person who is being supervised by the Department of Corrections or a county community corrections agency, to arrest the person for whom the warrant was issued and to bring the person before the magistrate issuing the warrant, or if the magistrate is absent or unable to act, before the nearest or most accessible magistrate in the same county;

(7) Specify that the arresting officer may enter premises, in which the officer has probable cause to believe the person to be arrested to be present, without giving notice of the officer's authority and purpose, if the issuing judge has approved a request for such special authorization; and

(8) Specify the amount of security for release. [Amended by 1961 c.443 §1; 1973 c.836 §70; 1977 c.746 §3; 1983 c.661 §6; 2005 c.668 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.220 - Who may make arrest.**

An arrest may be effected by:

(1) A peace officer under a warrant;

(2) A peace officer without a warrant;

(3) A parole and probation officer under a warrant as provided in ORS 133.239;

(4) A parole and probation officer without a warrant for violations of conditions of probation, parole or post-prison supervision;

(5) A private person; or

(6) A federal officer. [Amended by 1981 c.808 §2; 2005 c.668 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.225 - Arrest by private person.**

(1) A private person may arrest another person for any crime committed in the presence of the private person if the private person has probable cause to believe the arrested person committed the crime. A private person making such an arrest shall, without unnecessary delay, take the arrested person before a magistrate or deliver the arrested person to a peace officer.

(2) In order to make the arrest a private person may use physical force as is justifiable under ORS 161.255. [1973 c.836 §74]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.235 - Arrest by peace officer; procedure.**

- (1) A peace officer may arrest a person for a crime at any hour of any day or night.
- (2) A peace officer may arrest a person for a crime, pursuant to ORS 133.310 (1), whether or not such crime was committed within the geographical area of such peace officer's employment, and the peace officer may make such arrest within the state, regardless of the situs of the offense.
- (3) The officer shall inform the person to be arrested of the officer's authority and reason for the arrest, and, if the arrest is under a warrant, shall show the warrant, unless the officer encounters physical resistance, flight or other factors rendering this procedure impracticable, in which case the arresting officer shall inform the arrested person and show the warrant, if any, as soon as practicable.
- (4) In order to make an arrest, a peace officer may use physical force as justifiable under ORS 161.233, 161.242 and 161.245.
- (5) In order to make an arrest, a peace officer may enter premises in which the officer has probable cause to believe the person to be arrested to be present.
- (6) If after giving notice of the officer's identity, authority and purpose, the officer is not admitted, the officer may enter the premises, and by a breaking, if necessary.
- (7) A person may not be arrested for a violation except to the extent provided by ORS 153.039 and 810.410. [1973 c.836 §71; 1981 c.818 §1; 1999 c.1051 §67; 2020 s.s.2 c.3 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.239 - Arrest by parole and probation officer; procedure.**

- (1) As used in this section, "parole and probation officer" has the meaning given that term in ORS 181A.355.
- (2) A parole and probation officer may arrest a person if the person is being supervised by the Department of Corrections or a county community corrections agency.
- (3)(a) A parole and probation officer making an arrest under this section shall, without unnecessary delay, take the arrested person before a magistrate or deliver the arrested person to a peace officer.
- (b) The parole and probation officer retains authority over the arrested person only until the person appears before a magistrate or until the law enforcement agency having general jurisdiction over the area in which the arrest took place assumes responsibility for the person. [2005 c.668 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.245 - Arrest by federal officer; procedure.**

- (1) A federal officer may arrest a person:
  - (a) For any crime committed in the federal officer's presence if the federal officer has probable cause to believe the person committed the crime.
  - (b) For any felony or Class A misdemeanor if the federal officer has probable cause to believe the person committed the crime.
  - (c) When rendering assistance to or at the request of a law enforcement officer, as defined in ORS 414.805.
  - (d) When the federal officer has received positive information in writing or by telephone, telegraph, teletype, radio, facsimile machine or other authoritative source that a peace officer holds a warrant for the person's arrest.
- (2) The federal officer shall inform the person to be arrested of the federal officer's authority and reason for the arrest.
- (3) In order to make an arrest, a federal officer may use physical force as is justifiable and authorized of a peace officer under ORS 161.233, 161.242 and 161.245.
- (4)(a) A federal officer making an arrest under this section without unnecessary delay shall take the arrested person before a magistrate or deliver the arrested person to a peace officer.
- (b) The federal officer retains authority over the arrested person only until the person appears before a magistrate or until the law enforcement agency having general jurisdiction over the area in which the arrest took place assumes responsibility for the person.
- (5) A federal officer when making an arrest for a nonfederal offense under the circumstances provided in this section shall have the same immunity from suit as a state or local law enforcement officer.
- (6) A federal officer is authorized to make arrests under this section upon certification by the Department of Public Safety Standards and Training that the federal officer has received proper training to enable that officer to make arrests under this section. [1981 c.808 §3; 1993 c.254 §2; 1995 c.79 §48; 1997 c.853 §34; 2020 s.s.2 c.3 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.310 - Authority of peace officer to arrest without warrant.**

- (1) A peace officer may arrest a person without a warrant if the officer has probable cause to believe that the person has committed any of the following:
  - (a) A felony.
  - (b) A misdemeanor.
  - (c) An unclassified offense for which the maximum penalty allowed by law is equal to or greater than the maximum penalty allowed for a Class C misdemeanor.
  - (d) Any other crime committed in the officer's presence.
- (2) A peace officer may arrest a person without a warrant when the peace officer is notified by telegraph, telephone, radio or other

mode of communication by another peace officer of any state that there exists a duly issued warrant for the arrest of a person within the other peace officer's jurisdiction.

(3) A peace officer shall arrest and take into custody a person without a warrant when the peace officer has probable cause to believe that:

(a) There exists an order issued pursuant to ORS 30.866, 107.095 (1)(c) or (d), 107.716, 107.718, 124.015, 124.020, 133.035, 163.738, 163.765, 163.767 or 419B.845 restraining the person;

(b) A true copy of the order and proof of service on the person has been filed as required in ORS 107.720, 124.030, 133.035, 163.741, 163.773 or 419B.845; and

(c) The person to be arrested has violated the terms of that order.

(4) A peace officer shall arrest and take into custody a person without a warrant if:

(a) The person protected by a foreign restraining order as defined by ORS 24.190 presents a physical or electronic copy of the foreign restraining order to the officer and represents to the officer that the order supplied is the most recent order in effect between the parties and that the person restrained by the order has been personally served with a copy of the order or has actual notice of the order; and

(b) The peace officer has probable cause to believe that the person to be arrested has violated the terms of the foreign restraining order.

(5) A peace officer shall arrest and take into custody a person without a warrant if:

(a) A foreign restraining order as defined by ORS 24.190 has been filed with a court or has been entered into the Law Enforcement Data System or in the databases of the National Crime Information Center of the United States Department of Justice; and

(b) The peace officer has probable cause to believe that the person to be arrested has violated the terms of the foreign restraining order.

(6) A peace officer shall arrest and take into custody a person without a warrant if the peace officer has probable cause to believe:

(a) The person has been charged with an offense and is presently released as to that charge under ORS 135.230 to 135.290; and

(b) The person has failed to comply with a no contact condition of the release agreement. [Amended by 1963 c.448 §1; 1973 c.836 §72; 1974 c.42 §2; 1977 c.845 §2; 1979 c.522 §2; 1981 c.780 §8; 1981 c.818 §2; 1983 c.338 §887; 1983 c.661 §7; 1987 c.730 §4a; 1989 c.171 §15; 1991 c.208 §2; 1991 c.222 §2; 1993 c.626 §10; 1993 c.731 §3; 1995 c.353 §11; 1995 c.666 §24; 1997 c.249 §45; 1997 c.863 §2; 1999 c.250 §2; 1999 c.1040 §8; 1999 c.1051 §68; 2005 c.753 §1; 2013 c.687 §15; 2015 c.252 §2; 2021 c.326 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.315 - Liability of peace officer making arrest.**

(1) No peace officer shall be held criminally or civilly liable for making an arrest pursuant to ORS 133.055 (2) or 133.310 (3) or (5) provided the peace officer acts in good faith and without malice.

(2) No peace officer shall be criminally or civilly liable for any arrest made under ORS 133.310 (4) if the officer reasonably believes that:

(a) A physical or electronic document or other writing supplied to the officer under ORS 133.310 (4) is an accurate copy of a foreign restraining order as defined by ORS 24.190 and is the most recent order in effect between the parties; and

(b) The person restrained by the order has been personally served with a copy of the order or has actual notice of the order. [1977 c.845 §9; subsection (2) enacted as 1991 c.222 §3; 1999 c.250 §3; 2021 c.326 §4]

Note:

133.315 (2) was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.318 - Providing false foreign restraining order; false representation to peace officer.**

(1) Any person who provides to a peace officer a copy of a writing purporting to be a foreign restraining order as defined by ORS 24.190 knowing that no valid foreign restraining order is in effect shall be guilty of a Class A misdemeanor.

(2) Any person who represents to a peace officer that a foreign restraining order is the most recent order in effect between the parties or that the person restrained by the order has been personally served with a copy of the order or has actual notice of the order knowing that the representation is false commits a Class A misdemeanor. [1991 c.222 §4; 1999 c.250 §4; 2011 c.506 §11; 2011 c.644 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.340 - Authority to order arrest for crime committed in presence of magistrate.**

When a crime is committed in the presence of a magistrate, the magistrate may, by a verbal or written order, command any person to arrest the offender and may thereupon proceed as if the offender had been brought before the magistrate upon a warrant of arrest.

[Amended by 1973 c.836 §73; 1983 c.661 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures;**

**Search and Seizure; ExtraditionSection 133.360 - Arrests on warrant or order transmitted by telegraph.**

Whenever any person has been indicted or accused on oath of any public offense, or thereof convicted, and a warrant of arrest has been issued, the magistrate issuing the warrant, or any judge of the Supreme Court, or of the Court of Appeals, or of a circuit or county court, may indorse thereon an order signed by the magistrate or judge authorizing the service thereof by telegraph. Thereupon the warrant and order may be sent by telegraph to any marshal, sheriff, constable or police officer and on receipt of the telegraphic copy thereof, as defined in ORS 165.840, by any such officer, the officer shall have the same authority and be under the same obligations to arrest, take into custody and detain the person as if the original warrant of arrest with the proper direction for its service duly indorsed thereon had been placed in the hands of the officer. The telegraphic copy shall be entitled to full faith and credit and shall have the same force and effect in all courts and places as the original. Prior to indictment or conviction, no such order shall be made by any officer unless in the judgment of the officer there is probable cause to believe the accused person guilty of the offense charged, but the making of such order by any officer is prima facie evidence of the regularity thereof and of all proceedings prior thereto. The original warrant and order, or a copy thereof certified by the officer making the order, shall be preserved in the telegraph office from which the same is sent and in telegraphing the same, the original or the certified copy may be used. [Amended by 1969 c.198 §61; 1991 c.67 §26]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.375 - Definitions for ORS 133.375 to 133.381.**

As used in ORS 133.375 to 133.381:

- (1) "Animal" has the meaning given that term in ORS 167.310.
- (2) "Owner" or "person" includes corporations as well as individuals. [Formerly 770.210; 1985 c.662 §11; 2011 c.9 §6]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.377 - Arrest of persons for cruelty to animals; immunity of peace officer providing care for animal.**

- (1) Any person violating ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 may be arrested and held without warrant, in the same manner as in the case of persons found breaking the peace.
- (2) The person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owners of the animals found in the charge of the person arrested, and shall properly care and provide for such animals until the owners or their duly authorized agents take charge of them; provided, such owners or agents shall claim and take charge of the animals within 60 days from the date of said notice.
- (3) The person making such arrest shall have a lien upon the animals for the expense of such care and provisions.
- (4) Any peace officer who cares or provides for an animal pursuant to this section and any person into whose care an animal is delivered by a peace officer acting under this section shall be immune from civil or criminal liability based upon an allegation that such care was negligently provided. [Formerly 770.230; 1983 c.648 §2; 1985 c.662 §12; 2001 c.926 §16; 2009 c.550 §4]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.379 - Duty of peace officer to arrest and prosecute violators of cruelty to animals laws.**

It shall be the duty of any peace officer to arrest and prosecute any violator of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 for any violation which comes to the knowledge or notice of the officer. [Formerly 770.240; 1983 c.648 §3; 1985 c.662 §13; 2001 c.926 §17; 2009 c.550 §5; 2012 c.89 §9]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.381 - Procedure in arrests for violation of certain restraining orders; arrest of person not in county where order or warrant issued.**

- (1) When a peace officer arrests a person pursuant to ORS 133.310 (3) or pursuant to a warrant issued under ORS 33.075 by a court or judicial officer for the arrest of a person charged with contempt for violating an order issued under ORS 107.095 (1)(c) or (d), 107.716, 107.718, 124.015, 124.020, 163.765 or 163.767, if the person is arrested in a county other than that in which the warrant or order was originally issued, the peace officer shall take the person before a magistrate as provided in ORS 133.450. If it becomes necessary to take the arrested person to the county in which the warrant or order was originally issued, the costs of such transportation shall be paid by that county.
- (2) If a person arrested for the reasons described in subsection (1) of this section is subsequently found subject to the imposition of sanctions for contempt, the court, in addition to any other sanction it may impose, may order the person to repay a county all costs of transportation incurred by the county pursuant to subsection (1) of this section. [1979 c.162 §2; 1981 c.780 §9; 1991 c.724 §24; 1995 c.666 §25; 2013 c.687 §16]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.400 - Recording of custodial interviews of adults.**

- (1) A custodial interview conducted by a peace officer in a law enforcement facility shall be electronically recorded if the interview is conducted in connection with an investigation into aggravated murder as defined in ORS 163.095 or a crime listed in ORS 137.700 or 137.707.
- (2) Subsection (1) of this section does not apply to:
- (a) A statement made before a grand jury;
  - (b) A statement made on the record in open court;
  - (c) A custodial interview conducted in another state in compliance with the laws of that state;
  - (d) A custodial interview conducted by a federal law enforcement officer in compliance with the laws of the United States;
  - (e) A statement that was spontaneously volunteered and did not result from a custodial interview;
  - (f) A statement made during arrest processing in response to a routine question;
  - (g) A law enforcement agency that employs five or fewer peace officers;
  - (h) A custodial interview conducted in connection with an investigation carried out by a corrections officer, a youth corrections officer or a staff member of the Oregon State Hospital in the performance of the officer's or staff member's official duties of treatment, custody, control or supervision of individuals committed to or confined in a place of incarceration or detention; or
  - (i) A custodial interview for which the state demonstrates good cause for the failure to electronically record the interview.
- (3)(a) If the state offers an unrecorded statement made under the circumstances described in subsection (1) of this section in a criminal proceeding alleging the commission of aggravated murder or a crime listed in ORS 137.700 or 137.707 and the state is unable to demonstrate, by a preponderance of the evidence, that an exception described in subsection (2) of this section applies, upon the request of the defendant, the court shall instruct the jury regarding the legal requirement described in subsection (1) of this section and the superior reliability of electronic recordings when compared with testimony about what was said and done.
- (b) The court may not exclude the defendant's statement or dismiss criminal charges as a result of a violation of this section.
- (c) If each of the statements made by the defendant that the state offers into evidence is recorded, the court may not give a cautionary jury instruction regarding the content of the defendant's statements.
- (4) A law enforcement agency that creates an electronic recording of a custodial interview shall preserve the recording until the defendant's conviction for the offense is final and all direct, post-conviction relief and habeas corpus appeals are exhausted, or until the prosecution of the offense is barred by law.
- (5) The state shall provide an electronic copy of a defendant's custodial interview to a defendant in accordance with ORS 135.805 to 135.873. Providing an electronic copy of the custodial interview to the defendant constitutes compliance with ORS 135.815 (1)(b), and the state is not required to provide the defendant with a transcript of the contents of the interview. Unless the court orders otherwise, the defendant's attorney may not copy, disseminate or republish the electronic copy of the custodial interview, except to provide a copy to an agent of the defendant's attorney for the limited purpose of case preparation.
- (6) An electronic recording of a custodial interview, and any transcription of the recording, that is certified as containing a complete recording, or a complete transcription, of the entirety of the custodial interview, from the advisement of constitutional rights to the conclusion of the custodial interview, is admissible in any pretrial or post-trial hearing for the purpose of establishing the contents of a statement made in the recording and the identity of the person who made the statement, if the statement is otherwise admissible. A certification that complies with this subsection satisfies the requirements of ORS 40.505 and 132.320 for the recording or transcription. This subsection does not prohibit a party from calling a witness to testify regarding the custodial interview.
- (7) As used in this section:
- (a) "Custodial interview" means an interview in which the person questioned is in custody and is required to be advised of the person's constitutional rights.
  - (b) "Good cause" includes, but is not limited to, situations in which:
    - (A) The defendant refused, or expressed an unwillingness, to have the custodial interview electronically recorded;
    - (B) The failure to electronically record the custodial interview was the result of equipment failure and a replacement device was not immediately available;
    - (C) The person operating the recording equipment believed, in good faith, that the equipment was recording the custodial interview;
    - (D) Electronically recording the custodial interview would jeopardize the safety of any person or the identity of a confidential informant;
    - (E) Exigent circumstances prevented the recording of the custodial interview; or
    - (F) The peace officer conducting the custodial interview reasonably believed, at the time the custodial interview began, that the custodial interview was conducted in connection with a crime other than aggravated murder as defined in ORS 163.095 or a crime listed in ORS 137.700 or 137.707.
  - (c) "Law enforcement facility" means a courthouse, building or premises that is a place of operation for a municipal police department, county sheriff's office or other law enforcement agency at which persons may be detained in connection with a juvenile delinquency petition or criminal charge. [2009 c.488 §1; 2017 c.431 §1; 2019 c.216 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.402 - Recording of custodial interviews of juveniles.**

- (1)(a) A custodial interview inside a law enforcement facility that is conducted by a peace officer, a school resource officer or a special campus security officer shall be electronically recorded if the custodial interview is conducted with a person under 18 years

of age in connection with an investigation into a misdemeanor or a felony, or an allegation that the person being interviewed committed an act that, if committed by an adult, would constitute a misdemeanor or a felony.

(b) A custodial interview anywhere outside of a law enforcement facility that is conducted by a peace officer, a school resource officer or a special campus security officer shall be electronically recorded if:

(A) The custodial interview is conducted with a person under 18 years of age in connection with an investigation into a misdemeanor or a felony, or an allegation that the person being interviewed committed an act that, if committed by an adult, would constitute a misdemeanor or a felony; and

(B) A video camera is worn upon the officer's person.

(2) Subsection (1) of this section does not apply to:

(a) A statement made before a grand jury;

(b) A statement made on the record in open court;

(c) A custodial interview conducted in another state in compliance with the laws of that state;

(d) A custodial interview conducted by a federal law enforcement officer in compliance with the laws of the United States;

(e) A statement that was spontaneously volunteered and did not result from a custodial interview;

(f) A statement made during custody processing in response to a routine question;

(g) A law enforcement agency that employs five or fewer peace officers;

(h) A custodial interview conducted in connection with an investigation carried out by a youth corrections officer or a staff member of the Oregon State Hospital in the performance of the officer's or staff member's official duties of treatment, custody, control or supervision of individuals committed to or confined in a place of incarceration or detention;

(i) A custodial interview for which the state demonstrates good cause for the failure to electronically record the custodial interview; or

(j) A custodial interview if the defendant's or youth's age was unknown to the officer or would not have been objectively apparent to a reasonable officer.

(3)(a) If the state offers an unrecorded statement made under the circumstances described in subsection (1) of this section in a criminal proceeding alleging the commission of a misdemeanor or a felony, or an allegation that a person being interviewed committed an act that, if committed by an adult, would constitute a misdemeanor or a felony, and the state is unable to demonstrate, by a preponderance of the evidence, that an exception described in subsection (2) of this section applies, upon the request of the defendant, the court shall instruct the jury regarding the legal requirement described in subsection (1) of this section and the superior reliability of electronic recordings when compared with testimony about what was said and done.

(b) The court may not exclude the defendant's statement or dismiss criminal charges as a result of a violation of this section.

(c) If each of the statements made by the defendant that the state offers into evidence is recorded, the court may not give a cautionary jury instruction regarding the content of the defendant's statements.

(4) If the state offers an unrecorded statement made under the circumstances described in subsection (1) of this section in a juvenile delinquency proceeding alleging the commission of an act that, if committed by an adult would constitute a misdemeanor or a felony, and the state is unable to demonstrate, by a preponderance of the evidence, that an exception described in subsection (2) of this section applies, the court shall consider the superior reliability of electronic recordings when compared with testimony about what was said and done when determining the evidentiary value of the statement.

(5) A law enforcement agency that creates an electronic recording of a custodial interview shall preserve the recording until the defendant's conviction or youth's adjudication for the offense is final and all direct, post-conviction relief and habeas corpus appeals are exhausted, or until the prosecution of the offense is barred by law.

(6) The state shall provide an electronic copy of a defendant's or youth's custodial interview to a defendant or youth in accordance with ORS 135.805 to 135.873. Providing an electronic copy of the custodial interview to the defendant or youth constitutes compliance with ORS 135.815 (1)(b), and the state is not required to provide the defendant or youth with a transcript of the contents of the custodial interview. Unless the court orders otherwise, the defendant's or youth's attorney may not copy, disseminate or republish the electronic copy of the custodial interview, except to provide a copy to an agent of the defendant's or youth's attorney for the limited purpose of case preparation.

(7) An electronic recording of a custodial interview, and any transcription of the recording, that is certified as containing a complete recording, or a complete transcription, of the entirety of the custodial interview, from the advisement of constitutional rights to the conclusion of the custodial interview, is admissible in any preadjudication or post-adjudication hearing for the purpose of establishing the contents of a statement made in the recording and the identity of the person who made the statement, if the statement is otherwise admissible. A certification that complies with this subsection satisfies the requirements of ORS 40.505 and 132.320 for the recording or transcription. This subsection does not prohibit a party from calling a witness to testify regarding the custodial interview.

(8) As used in this section:

(a) "Custodial interview" means an interview in which the person questioned is in custody and is required to be advised of the person's constitutional rights.

(b) "Good cause" includes, but is not limited to, situations in which:

(A) The defendant or youth refused, or expressed an unwillingness, to have the custodial interview electronically recorded;

(B) The failure to electronically record the custodial interview was the result of equipment failure and a replacement device was not

immediately available;

(C) The person operating the recording equipment believed, in good faith, that the equipment was recording the custodial interview;

(D) Electronically recording the custodial interview would jeopardize the safety of any person or the identity of a confidential informant;

(E) Exigent circumstances prevented the recording of the custodial interview; or

(F) The person conducting the custodial interview did not possess a wearable video camera to electronically record the custodial interview outside of a law enforcement facility.

(c) "Law enforcement facility" means a courthouse, building or premises that is a place of operation for a municipal police department, county sheriff's office or other law enforcement agency at which persons may be detained in connection with a juvenile delinquency petition or criminal charge.

(d) "Peace officer" has the meaning given that term in ORS 133.005.

(e) "School resource officer" means a peace officer who is assigned to a school.

(f) "Special campus security officer" means a special campus security officer described in ORS 352.118. [2019 c.216 §2]

Note:

133.402 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.403 - Voluntariness of statement by juvenile during custodial interview.**

(1) A statement made by a person during a custodial interview conducted by a peace officer is presumed to be involuntary if the person is under 18 years of age and the statement is made in connection with an investigation into a misdemeanor or a felony, or an allegation that the person being interviewed committed an act that, if committed by an adult would constitute a misdemeanor or a felony, and the court determines that the peace officer intentionally used information known by the officer to be false to elicit the statement. This presumption may be overcome if the state proves by clear and convincing evidence that the statement was voluntary and not made in response to the false information used by the peace officer to elicit the statement.

(2) As used in this section:

(a) "Custodial interview" has the meaning given that term in ORS 133.402.

(b) "Peace officer" has the meaning given that term in ORS 133.005. [2021 c.487 §1]

Note:

133.403 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.405 - Definitions for ORS 133.405 to 133.408; provision of law enforcement services.**

(1) As used in ORS 133.405 to 133.408:

(a) "Adjoining state" means California, Idaho, Nevada or Washington.

(b) "Certified peace officer" means a regularly employed peace officer or police officer from an adjoining state, including a peace officer or police officer employed by a local government of an adjoining state.

(c) "Employing agency" means a state or local government of an adjoining state that employs a certified peace officer.

(2) A certified peace officer is a peace officer and a police officer in this state when:

(a) The officer enters this state in order to provide, or attempt to provide, law enforcement services described in subsection (3) of this section; and

(b) The law enforcement services occur within 50 miles from the contiguous border of this state and the adjoining state where the officer is employed.

(3) Subsection (2) of this section applies when the certified peace officer is providing, or attempting to provide, law enforcement services under any of the following circumstances:

(a) In response to a request for law enforcement services initiated by an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police.

(b) In response to a reasonable belief that emergency law enforcement services are necessary for the preservation of life, and a request for services by an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police for those services is impractical to obtain under the circumstances. The certified police officer shall obtain authorization from an Oregon law enforcement agency having jurisdiction over the location where the services were provided as soon as is practicable after the services have been provided.

(c) For the purpose of assisting an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State police in providing emergency service in response to criminal activity, traffic accidents, emergency incidents or other similar public safety problems, whether or not an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police is present at the scene of the incident.

(4) When a certified peace officer exercises any authority granted under this section, the officer shall submit, as soon as is

practicable, a written report concerning the incident to the Oregon law enforcement agency having primary jurisdiction over the geographic area in which the incident occurred. Oregon law enforcement agencies may establish reporting procedures and forms to facilitate reporting required under this subsection.

(5) This section does not confer upon a certified peace officer the authority to enforce Oregon traffic or motor vehicle laws. [2011 c.472 §1]

Note:

133.405 to 133.408 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.407 - Immunities and liabilities; supervision; compensation; training.**

(1) A certified peace officer who exercises authority under ORS 133.405 and the officer's employing agency are subject to the same civil immunities and liabilities as a peace officer and the peace officer's employing agency in Oregon.

(2) A certified peace officer who exercises authority under ORS 133.405 is subject to the supervisory control of and limitations imposed by the certified peace officer's employing agency unless supervisory control is temporarily delegated to an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police.

(3) The certified peace officer may not receive separate compensation from an Oregon law enforcement agency for providing law enforcement services within this state under ORS 133.405.

(4) Notwithstanding any other provision of law, any person who is acting as a certified peace officer in this state in the manner described in ORS 133.405 is deemed to have met the requirements of ORS 133.005 (3) if the certified peace officer has completed the basic training required for peace officers in the adjoining state in which the certified peace officer is employed. [2011 c.472 §2]

Note:

See note under 133.405.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.408 - Application of ORS 133.405 and 133.407.**

(1) ORS 133.405 and 133.407 do not limit the authority of an officer of another state to make an arrest or take other action under ORS 133.410 to 133.440. ORS 133.405 and 133.407 apply only in the absence of a mutual aid agreement between the State of Oregon and an adjoining state, or between local governments of this state and adjoining states, or any combination thereof, to which the employing agency is a party.

(2) A certified peace officer exercising authority under ORS 133.405, and the certified peace officer's employing agency, are not officers or employees of the State of Oregon for purposes of ORS 30.260 to 30.300. [2011 c.472 §3]

Note:

See note under 133.405.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.410 - Short title.**

ORS 133.410 to 133.440 may be cited as the Uniform Act on Fresh Pursuit.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.420 - Definitions for ORS 133.410 to 133.440.**

As used in ORS 133.410 to 133.440:

(1) "Fresh pursuit" includes fresh pursuit as defined by the common law; the pursuit of a person who has committed a felony or who reasonably is suspected of having committed a felony; and the pursuit of a person suspected of having committed a felony, though no felony actually has been committed, if there is reasonable ground for believing that a felony has been committed. It does not necessarily imply instant pursuit, but pursuit without unreasonable delay.

(2) "State" includes the District of Columbia.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.430 - Authority to make arrest in fresh pursuit.**

(1) Any member of a duly organized state, county or municipal peace unit of another state of the United States who enters this state in fresh pursuit, and continues within this state in such fresh pursuit, of a person in order to arrest the person on the ground that the person is believed to have committed a felony in the other state has the same authority to arrest and hold such person in custody as has any member of any duly organized state, county or municipal peace unit of this state to arrest and hold in custody a person on the ground that the person is believed to have committed a felony in this state.

(2) This section shall not be construed to make unlawful any arrest in this state which otherwise would be lawful.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.440 - Proceedings following arrest in fresh pursuit.**



If an arrest is made in this state by an officer of another state in accordance with ORS 133.430, the officer shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful, the magistrate shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the Governor of this state. If the magistrate determines that the arrest was unlawful, the magistrate shall discharge the person arrested.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.450 - Return of arrest warrant; release decision.**

(1) If the defendant is arrested in the county in which the warrant issued, the defendant shall be taken before the magistrate who issued the warrant, or, if the magistrate is absent or unable to act, before the nearest or most accessible magistrate in the same county; but if the defendant is arrested in another county and the crime charged in the warrant is a misdemeanor, the officer shall, upon being required by the defendant, take the defendant before a magistrate of that county, who shall make a release decision as provided in ORS 135.230 to 135.290. The officer shall at the same time deliver to the magistrate the warrant with the return of the officer indorsed and subscribed by the officer.

(2) After making the release decision, the magistrate shall certify that fact on the warrant and return the warrant and release agreement or security release to the officer having charge of the defendant. The officer shall then discharge the defendant from arrest and without delay deliver the warrant and release agreement or security release to the clerk of the court in the other county at which the defendant is required to appear.

(3) If the defendant is to be released and does not agree to the release agreement, or a security deposit is not forthwith given, the officer shall take the defendant before the magistrate who issued the warrant or some other magistrate in that county, as provided in this section, together with the warrant. [Formerly 133.520]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.455 - Receipts for property taken from person in custody; penalty.**

(1) Whenever any jailer, peace officer or health officer takes or receives any money or other valuables from any person in custody for safekeeping or for other purposes, the officer or jailer receiving such valuables or money forthwith shall tender one of duplicate receipts for the property being surrendered to the person in custody. If possible, the person in custody shall countersign both the original and duplicate receipts. If the person is unable to sign the receipts or receive the duplicate thereof, the same shall be signed by and delivered to the person when reasonably possible. A file of the original receipts shall be kept for at least six months after the money or valuables have been returned to the person in custody, the agent or representative of the person or other person entitled to the same.

(2) A person violating any of the provisions of subsection (1) of this section commits a Class B misdemeanor. [Formerly 142.210]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.460 - Forfeiture of conveyances used unlawfully to conceal or transport stolen property.**

(1) Any boat, vehicle, aircraft or other conveyance used by or with the knowledge of the owner or the person operating or in charge thereof, other than stolen conveyances, in the unlawful transportation of livestock, livestock carcasses, poultry or other personal property, as provided in ORS 142.070, or in which any such personal property unlawfully possessed is kept or concealed by or with the knowledge of such owner or person operating or in charge thereof, shall be forfeited to the state as provided in this section.

(2) If the person arrested under ORS 133.465 is not the owner of the vehicle or conveyance seized, the sheriff shall make reasonable effort to determine the name and address of the owner. If the sheriff is able to determine the name and address of the owner, the sheriff shall immediately notify the owner by registered or certified mail of the seizure and of the owner's rights and duties under this section and ORS 133.465.

(3) A person notified under subsection (2) of this section, or any other person asserting a claim to rightful possession of the vehicle or conveyance seized, except the defendant, may move the court having ultimate trial jurisdiction over any crime charged in connection with the seizure, to return the vehicle or conveyance to the movant.

(4) The movant shall serve a copy of the motion upon the district attorney of the county in which the vehicle or conveyance is in custody. The court shall order the vehicle or conveyance returned to the movant, unless the court is satisfied by clear and convincing evidence that the movant knowingly consented to the unlawful use that resulted in the seizure. If the court does not order the return of the vehicle or conveyance, the movant shall obtain the return only as provided in ORS 133.465.

(5) If the court orders the return of the vehicle or conveyance to the movant, the movant shall not be liable for any towing or storage costs incurred as a result of the seizure.

(6) If the court does not order the return of the vehicle or conveyance under subsection (4) of this section, and the arrested person is convicted for any offense in connection with the seizure, the vehicle or conveyance shall be subject to forfeiture as provided in this section and ORS 133.470 and 133.475. [Formerly 142.080]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.465 - Seizure of stolen animals or other property being transported; proceedings**

**against person arrested.**

(1) When any peace officer discovers any person in the act of transporting any stolen live meat food animal or fowl, any meat food animal or fowl carcass, or any part thereof, or any wool, hides, grain or any other article which has been stolen in or upon any vehicle, boat, aircraft or conveyance of any kind, the officer shall seize all such articles or things found therein, take possession of the vehicle or other conveyance and arrest any person in charge thereof.

(2) The officer shall at once proceed against the person arrested, under the provisions of the law which has been violated, in any court having competent jurisdiction and shall deliver the vehicle or other conveyance to the sheriff of the county in which such seizure has been made.

(3) The vehicle or other conveyance shall be returned to the owner if the owner is the person arrested, upon execution of a good and valid bond, with sufficient sureties in a sum double the value of the property, which bond shall be approved by the court and shall be conditioned upon the return of said property to the custody of the sheriff at a time to be specified by the court. [Formerly 142.090]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.470 - Sale of seized property; rights of owner and lienholder.**

(1) The court, upon conviction of the person arrested pursuant to ORS 133.465, shall, unless the bona fide owner or a bona fide lienholder registers an objection as provided in this section, subject to the ownership rights of innocent third parties, order a sale of the property at public auction by the sheriff of the county where it was seized.

(2) The sheriff, after deducting the expense of keeping the property and the cost of sale, shall pay, according to their priorities, all liens which are established by intervention or otherwise at such hearing or in other proceedings brought for said purpose and shall pay the balance of the proceeds into the general fund of the county.

(3) No claim of ownership or of any right, title or interest in the vehicle or other conveyance shall be held invalid unless the state shows to the satisfaction of the court, by clear and convincing evidence that the claimant had knowledge that the vehicle or other conveyance was used or to be used in violation of law.

(4) No such conveyance shall be sold under this section and unless the state proves to the court, by clear convincing evidence that the person asserting a claim of ownership or other right, title or interest in the conveyance had knowledge that such conveyance was to be used to convey stolen property, in which case the court shall order the vehicle or other conveyance to be released. All liens against property sold under this section or ORS 133.475 or 133.485 shall be transferred from the property to the proceeds of the sale of the property. [Formerly 142.100]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.475 - Notice to owner.**

If no one claims the vehicle or other conveyance, as provided in ORS 133.470, the taking of the same with description thereof shall be advertised in some daily newspaper published in the city or county where taken or, if there is no daily newspaper published in such county or city, in a newspaper having weekly circulation in the city or county once a week for two weeks and by notice posted in three public places near the place of seizure. The legal owner, in the case of a motor vehicle, if licensed by the State of Oregon, as shown by the name and address of the legal owner in the records of the Department of Transportation, shall be notified by mail. If no claimant appears within 10 days after the last publication of the advertisement, the property shall be sold and the proceeds, after deducting the expenses and costs, shall be paid into the general fund of the county. [Formerly 142.110]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.485 - Perishable property; livestock or fowls.**

If any of the property seized, as provided in ORS 133.465, is perishable, or livestock or fowls where the cost of keeping is great, the sheriff shall, upon order of the court, sell the same in the manner in which property is sold on execution. [Formerly 142.120]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.495 - Retention of property to answer order of court.**

The proceeds of the sale mentioned in ORS 133.485 and other property seized shall be retained by liens, if not released on bond, to answer any order that may be entered by the court upon the trial of the person arrested. [Formerly 142.130]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.515 - Interpreter to be made available to person with a disability.**

(1) As used in this section:

(a) "Person with a disability" means a person who cannot readily understand or communicate the English language, or cannot understand the proceedings or a charge made against the person, or is incapable of presenting or assisting in the presentation of a defense, because of deafness, or because of a physical hearing impairment or physical speaking impairment.

(b) "Qualified interpreter" means a person who is readily able to communicate with the person with a disability, translate the proceedings, and accurately repeat and translate the statements of the person with a disability to the officer or other person.

(2) Upon the arrest of a person with a disability and before interrogating or taking the statement of the person with a disability, the

arresting peace officer, or when the arrest is by a private person, the officer to whom the person with a disability is delivered, shall make available to the person with a disability, at the earliest possible time, a qualified interpreter to assist the person with a disability throughout the interrogation or taking of a statement.

(3) The public employer of the arresting peace officer or officer to whom the person with a disability is delivered shall pay the fees and expenses of the qualified interpreter. [1973 c.386 §3; 1981 s.s. c.3 §139; 1989 c.224 §9; 2007 c.70 §34; 2015 c.397 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.518 - Duty of peace officer to request emergency medical services.**

When a peace officer, as defined in ORS 161.015, encounters a restrained person suffering a respiratory or cardiac compromise, the officer shall request emergency medical services immediately if:

- (1) It is tactically feasible to request emergency medical services; and
- (2) The officer has access to communications. [2021 c.294 §2]

Note:

133.518 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.520**

[Amended by 1965 c.508 §2; 1973 c.836 §75; renumbered 133.450]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.525 - Definitions for ORS 133.525 to 133.703.**

As used in ORS 133.525 to 133.703, unless the context requires otherwise:

- (1) "Interrelated conduct" means engaging in at least two incidents of activity that:
  - (a) Have the same or similar intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics, including a connection to the same enterprise;
  - (b) Are not isolated incidents; and
  - (c) Violate one or more provisions of ORS 475.005 to 475.285, 475.752 to 475.980, 475A.210 to 475A.722, 475C.005 to 475C.525 or 475C.770 to 475C.919.
- (2) "Judge" means any judge of the circuit court, the Court of Appeals, the Supreme Court, any justice of the peace or municipal judge authorized to exercise the powers and perform the duties of a justice of the peace.
- (3) "Police officer" means:
  - (a) A member of the Oregon State Police;
  - (b) A sheriff or municipal police officer, a police officer commissioned by a university under ORS 352.121 or 353.125 or an authorized tribal police officer as defined in ORS 181A.940;
  - (c) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state;
  - (d) An investigator of the Criminal Justice Division of the Department of Justice;
  - (e) A humane special agent as defined in ORS 181A.345; or
  - (f) A regulatory specialist exercising authority described in ORS 471.775 (2). [1973 c.836 §81; 1979 c.656 §2; 1991 c.67 §27; 1995 c.651 §7; 2011 c.506 §13; 2011 c.644 §§16,40; 2012 c.54 §§8,9; 2012 c.67 §§5,6; 2013 c.180 §§10,11; 2015 c.174 §5; 2015 c.614 §§139,140; 2023 c.216 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.535 - Permissible objects of search and seizure.**

The following are subject to search and seizure under ORS 133.525 to 133.703:

- (1) Evidence of or information concerning the commission of a criminal offense;
- (2) Contraband, the fruits of crime, or things otherwise criminally possessed;
- (3) Property that has been used, or is possessed for the purpose of being used, to commit or conceal the commission of an offense; and
- (4) A person for whose arrest there is probable cause or who is unlawfully held in concealment. [1973 c.836 §82]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.537 - Protection of things seized; liability of agency.**

- (1) In all cases of seizure, an agency that seizes property shall take reasonable steps to safeguard and protect the things seized against loss, damage and deterioration.
- (2) Notwithstanding subsection (1) of this section, an agency that seizes property is not liable for loss, damage or deterioration resulting from any reasonable actions taken to secure or develop evidence. [1991 c.540 §2]

Note:

133.537 was added to and made a part of 133.525 to 133.703 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.539 - Obtaining information from portable electronic devices.**

(1) As used in this section:

(a)(A) "Forensic imaging" means using an electronic device to download or transfer raw data from a portable electronic device onto another medium of digital storage.

(B) "Forensic imaging" does not include photographing or transcribing information observable from the portable electronic device by normal unaided human senses.

(b) "Location information service" means a global positioning service or other mapping, locational or directional information service.

(c) "Portable electronic device" means any device designed to be easily moved from one location to another and that contains electronic data or that enables access to, or use of, an electronic communication service as defined in 18 U.S.C. 2510, remote computing service as defined in 18 U.S.C. 2711 or location information service.

(d) "Raw data" means data collected from a source that has not been subsequently altered or manipulated after collection.

(2) A law enforcement agency may not use forensic imaging to obtain information contained in a portable electronic device except:

(a) Pursuant to a search warrant issued under ORS 133.525 to 133.703; or

(b) As authorized by lawful consent.

(3) Information obtained in violation of this section:

(a) Is not admissible in and may not be disclosed in a judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding, against either the owner of the portable electronic device or a person with a reasonable expectation of privacy in the contents of the device; and

(b) May not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed.

(4) A portable electronic device that has been forensically imaged pursuant to subsection (2) of this section may be returned as described in ORS 133.633 and 133.643.

(5) Subsection (2) of this section does not apply to:

(a) A correctional facility, youth correction facility or state hospital, as those terms are defined in ORS 162.135, when the facility or state hospital obtains information from a portable electronic device in an otherwise lawful manner.

(b) A parole and probation officer, juvenile community supervision officer as defined in ORS 420.905, community corrections agency or agency that supervises youths or adjudicated youths, when the officer or agency obtains information from a portable electronic device in an otherwise lawful manner. [2015 c.613 §1; 2021 c.489 §9]

Note:

133.539 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.545 - Issuance of search warrant; where executable; form of application.**

(1) A search warrant may be issued only by a judge. A search warrant issued by a judge of the Supreme Court or the Court of Appeals may be executed anywhere in the state. Except as otherwise provided in subsections (2), (3) and (4) of this section, a search warrant issued by a judge of a circuit court may be executed only within the judicial district in which the court is located. A search warrant issued by a justice of the peace may be executed only within the county in which the justice court is located. A search warrant issued by a municipal judge authorized to exercise the powers and perform the duties of a justice of the peace may be executed only in the municipality in which the court is located.

(2) Notwithstanding subsection (1) of this section, a circuit court judge may authorize execution of a search warrant outside the judicial district in which the court is located, if the judge finds from the application that one or more of the objects of the search relate to an offense committed or triable within the judicial district in which the court is located or that the search involves both conduct that occurred in the judicial district in which the court is located and interrelated conduct that occurred in one or more other judicial districts in this state. If a judge denies a search warrant for interrelated conduct that occurred in more than one judicial district, an application for the same search warrant may not be presented to a judge in another judicial district unless the other judicial district is one in which one or more of the objects of the search relate to an offense committed or triable within the other judicial district. If the warrant authorizes the installation or tracking of a mobile tracking device, the officer may track the device in any county to which it is transported.

(3) Notwithstanding subsection (1) of this section, a circuit court judge duly assigned pursuant to ORS 1.615 to serve as a judge pro tempore in a circuit court, or a senior judge duly assigned to serve in a circuit court under ORS 1.300 and who has authorization from the presiding judge of that judicial district, may authorize execution of a search warrant in any judicial district in which the judge is assigned to serve as judge pro tempore or as senior judge.

(4) Notwithstanding subsection (1) of this section, a circuit court judge may authorize execution of a search warrant outside the judicial district in which the court is located if the judge finds that:

- (a) The search relates to one of the following offenses involving a victim who was 65 years of age or older at the time of the offense:
- (A) Criminal mistreatment in the first degree as described in ORS 163.205 (1)(b)(D) or (E);
  - (B) Identity theft;
  - (C) Aggravated identity theft;
  - (D) Computer crime;
  - (E) Fraudulent use of a credit card;
  - (F) Forgery in any degree;
  - (G) Criminal possession of a forged instrument in any degree;
  - (H) Theft in any degree; or
  - (I) Aggravated theft in the first degree;
- (b) The objects of the search consist of financial records; and
- (c) The person making application for the search warrant is not able to ascertain at the time of the application the proper place of trial for the offense described in paragraph (a) of this subsection.
- (5) Application for a search warrant may be made only by a district attorney, a police officer or a special agent employed under ORS 131.805.
- (6) The application shall consist of a proposed warrant in conformance with ORS 133.565, and shall be supported by one or more affidavits particularly setting forth the facts and circumstances tending to show that the objects of the search are in the places, or in the possession of the individuals, to be searched. If an affidavit is based in whole or in part on hearsay, the affiant shall set forth facts bearing on any unnamed informant's reliability and shall disclose, as far as possible, the means by which the information was obtained.
- (7) Instead of the written affidavit described in subsection (6) of this section, the judge may take an oral statement under oath. The oral statement shall be recorded and a copy of the recording submitted to the judge who took the oral statement. In such cases, the judge shall certify that the recording of the sworn oral statement is a true recording of the oral statement under oath and shall retain the recording as part of the record of proceedings for the issuance of the warrant. The recording shall constitute an affidavit for the purposes of this section. The applicant shall retain a copy of the recording and shall provide a copy of the recording to the district attorney if the district attorney is not the applicant.
- (8)(a) In addition to the procedure set out in subsection (7) of this section, the proposed warrant and the affidavit may be sent to the court by facsimile transmission or any similar electronic transmission that delivers a complete printable image of the signed affidavit and proposed warrant. The affidavit may have a notarized acknowledgment, or the affiant may swear to the affidavit by telephone. If the affiant swears to the affidavit by telephone, the affidavit may be signed electronically. A judge administering an oath telephonically under this subsection must execute a declaration that recites the manner and time of the oath's administration. The declaration must be filed with the return.
- (b) When a court issues a warrant upon an application made under paragraph (a) of this subsection:
- (A) The court may transmit the signed warrant to the person making application under subsection (5) of this section by means of facsimile transmission or similar electronic transmission, as described in paragraph (a) of this subsection. The court shall file the original signed warrant and a printed image of the application with the return.
  - (B) The person making application shall deliver the original signed affidavit to the court with the return. If the affiant swore to the affidavit by telephone, the affiant must so note next to the affiant's signature on the affidavit. [1973 c.836 §83; 1985 c.344 §1; 1989 c.983 §3; 1995 c.658 §73; 1999 c.56 §1; 2007 c.547 §1; 2009 c.334 §1; 2013 c.155 §11; 2013 c.225 §1; 2015 c.415 §1; 2019 c.399 §7; 2023 c.216 §2; 2023 c.302 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.555 - Hearing.**

- (1) Before acting on the application, the judge may examine on oath the affiants, and the applicant and any witnesses the applicant may produce, and may call such witnesses as the judge considers necessary to a decision. The judge shall make and keep a record of any testimony taken before the judge. The record shall be admissible as evidence on any motion to suppress.
- (2) If the judge finds that the application meets the requirements of ORS 133.545 and that, on the basis of the record made before the judge, there is probable cause to believe that the search will discover things specified in the application and subject to seizure under ORS 133.535, the judge shall issue a search warrant based on the finding of the judge and in accordance with the requirements of ORS 133.545 to 133.615. If the judge does not so find, the judge shall deny the application.
- (3) The judge may orally authorize a police officer, a district attorney or a special agent employed under ORS 131.805 to sign the judge's name on a duplicate original warrant. A duplicate original warrant shall be a search warrant for the purposes of ORS 133.535 to 133.615, and it shall be returned to the judge as provided in ORS 133.615. In such cases a judge shall enter on the face of the original warrant the exact time of the issuance of the warrant and shall sign and file the original warrant in the manner provided by law.
- (4) Until the warrant is executed, the proceedings upon application for a search warrant shall be conducted with secrecy appropriate to the circumstances. [1973 c.836 §84; 2009 c.334 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures;**

**Search and Seizure; ExtraditionSection 133.565 - Contents of search warrant.**

(1) A search warrant shall be dated and shall be addressed to and authorize its execution by an officer authorized by law to execute search warrants.

(2) The warrant shall state, or describe with particularity:

- (a) The identity of the judge issuing the warrant and the date the warrant was issued;
- (b) The name of the person to be searched, or the location and designation of the premises or places to be searched;
- (c) The things constituting the object of the search and authorized to be seized; and
- (d) The period of time, not to exceed five days, after execution of the warrant except as provided in subsection (3) of this section, within which the warrant is to be returned to the issuing authority.

(3) Except as otherwise provided herein, the search warrant shall be executed between the hours of 7 a.m. and 10 p.m. and within five days from the date of issuance. The judge issuing the warrant may, however, by indorsement upon the face of the warrant, authorize its execution at any time of the day or night and may further authorize its execution after five days, but not more than 10 days from date of issuance. [1973 c.836 §85]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.575 - Execution of warrant.**

(1) Except as provided in ORS 136.583, a search warrant may be executed only within the period and at the times authorized by the warrant and only by a police officer. A police officer charged with its execution may be accompanied by such other persons as may be reasonably necessary for the successful execution of the warrant with all practicable safety. Other persons may include, but are not limited to:

- (a) Civil enforcement officers;
- (b) Victim services providers;
- (c) Law enforcement agency personnel other than police officers;
- (d) Employees of a utility company;
- (e) The State Fire Marshal and assistants to the State Fire Marshal, as described in ORS 476.060;
- (f) Employees of a county animal shelter or other animal care agency;
- (g) Towers;
- (h) Personnel from federal, state or local regulatory agencies;
- (i) Emergency medical services providers, as defined in ORS 682.025; and
- (j) Contractors and other persons assisting with the destruction of waste.

(2) The executing officer shall, before entering the premises, give appropriate notice of the identity, authority and purpose of the officer to the person to be searched, or to the person in apparent control of the premises to be searched, as the case may be.

(3) Except as provided in ORS 133.619, before undertaking any search or seizure pursuant to the warrant, the executing officer shall read and give a copy of the warrant to the person to be searched, or to the person in apparent control of the premises to be searched. If the premises are unoccupied or there is no one in apparent control, the officer shall leave a copy of the warrant suitably affixed to the premises. [1973 c.836 §86; 1989 c.983 §4; 2009 c.617 §2; 2023 c.216 §3]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.595 - List of things seized.**

Except as provided in ORS 133.619, promptly upon completion of the search, the officer shall make a list of the things seized, and shall deliver a receipt embodying the list to the person from whose possession they are taken, or the person in apparent control of the premises or vehicle from which they are taken. If the vehicle or premises are unoccupied or there is no one present in apparent control, the executing officer shall leave the receipt suitably affixed to the vehicle or premises. [1973 c.836 §88; 1989 c.983 §5]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.605 - Use of force in executing warrants.**

(1) The executing officer and other officers accompanying and assisting the officer may use the degree of force, short of deadly physical force, against persons, or to effect an entry, or to open containers, as is reasonably necessary for the execution of the search warrant with all practicable safety.

(2) The use of deadly physical force in the execution of a search warrant is justifiable only:

- (a) If the officer reasonably believes that there is a substantial risk that things to be seized will be used to cause death or serious physical injury if their seizure is delayed and that the force used creates no substantial risk of injury to persons other than those obstructing the officer; or
- (b) If the officer reasonably believes that the use of deadly physical force is necessary to defend the officer or another person from the use or threatened imminent use of deadly physical force. [1973 c.836 §89]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.610**

[Amended by 1963 c.511 §1; 1965 c.508 §3; 1973 c.836 §138; renumbered 135.070]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.615 - Return of the warrant.**

- (1) If a search warrant is not executed within the time specified by the warrant, the officer shall forthwith return the warrant to the issuing judge.
  - (2) An officer who has executed a search warrant shall, as soon as is reasonably possible and in no event later than the date specified in the warrant, return the warrant to the issuing judge together with a signed list of things seized and setting forth the date and time of the search.
  - (3) Subject to the provisions of subsection (4) of this section, the issuing judge shall file the warrant and list returned to the judge, with the record of the proceedings on the application for the warrant made pursuant to ORS 133.555.
  - (4) If the issuing judge does not have jurisdiction to inquire into the offense in respect to which the warrant was issued or the offense apparently disclosed by the things seized, the judge shall transmit the warrant and the record of proceedings for its issuance, together with the documents submitted on the return, to the clerk of the appropriate court having jurisdiction to inquire into such offense.
- [1973 c.836 §90]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.617 - "Mobile tracking device" defined.**

As used in ORS 133.545 and 133.619, unless the context requires otherwise, "mobile tracking device" means an electronic or mechanical device which permits the tracking of the movement of a person or object. [1989 c.983 §1]

Note:

133.617 and 133.619 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.619 - Execution of warrant authorizing mobile tracking device.**

- (1) A warrant authorizing the installation or tracking of a mobile tracking device shall be executed as provided in this section.
- (2) The officer need not inform any person of the existence or content of the warrant prior to its execution.
- (3) Except as provided in subsection (4) of this section, the officer need not deliver or leave a receipt for things seized or observations made under authority of the warrant.
- (4) Within five days of the execution of the warrant, or, in the case of an ongoing investigation, within such additional time as the issuing judge may allow upon application, the officer shall mail a receipt for things seized or observations made under authority of the warrant to the following:
  - (a) If the mobile tracking device has been affixed to a vehicle, to the registered owner; and
  - (b) To such other persons as the court may direct in the warrant.
- (5) The receipt provided for in subsection (4) of this section must include the dates and times during which the officer monitored or attempted to monitor the mobile tracking device.
- (6) A warrant authorizing the installation or tracking of a mobile tracking device shall be issued only when based upon the submission of an affidavit or oral statement as described in ORS 133.545, which affidavit or statement demonstrates that probable cause exists to believe that an individual is committing or is about to commit:
  - (a) A particular felony of murder, kidnapping, arson, robbery or other crime dangerous to life and punishable as a felony;
  - (b) A crime punishable as a felony arising under ORS 475.752, 475.806 to 475.894, 475C.005 to 475C.525 or 475C.770 to 475C.919;
  - (c) The crime of unlawfully transporting metal property under ORS 164.857 or a crime described in ORS 165.118;
  - (d) Bribery, extortion, burglary or unauthorized use of a motor vehicle punishable as a felony;
  - (e) A violation of a criminal provision of the wildlife laws as described in ORS 496.002;
  - (f) A violation of a criminal provision of the commercial fishing laws as described in ORS 506.001;
  - (g) A violation of ORS 704.020, 704.021, 704.030 or 704.065; or
  - (h) A conspiracy to commit a crime listed in this subsection.
- (7) A court may authorize the installation or tracking of a mobile tracking device for a period not to exceed 30 days. Upon application, the court may grant one or more extensions for a period not to exceed 30 days per extension. [1989 c.983 §2; 1991 c.625 §1; 1993 c.171 §1; 1999 c.56 §2; 2005 c.708 §44; 2009 c.811 §8; 2013 c.359 §1; 2023 c.209 §4]

Note:

See note under 133.617.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.620**

[Amended by 1965 c.508 §4; renumbered 135.075]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.621 - Medical procedures; immunity from liability for performing.**

A duly licensed physician, or a person acting under the direction or control of a duly licensed physician, may withdraw bodily substances, pierce human tissue, perform medical tests and procedures and otherwise use medical procedures to gather evidence in a criminal investigation. A duly licensed physician, or a person acting under the direction or control of a duly licensed physician, shall not be held civilly liable for gathering potential evidence in a criminal investigation in a medically acceptable manner at the request of a peace officer. The civil immunity granted in this section is not conditioned upon the existence of probable cause, the existence of a search warrant or the existence of a court order. Nothing in this section shall be interpreted as requiring a duly licensed physician to act at the request of a peace officer. [1989 c.585 §2]

Note:

133.621 was added to and made a part of ORS chapter 133 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.623 - Handling and disposition of things seized.**

- (1) The provisions of subsections (2), (3) and (4) of this section apply to all cases of seizure, except for a seizure made under a search warrant.
- (2) If an officer makes an arrest in connection with the seizure, the officer shall, as soon thereafter as is reasonably possible, make a written list of the things seized and furnish a copy of the list to the defendant.
- (3) If no claim to rightful possession has been established under ORS 133.633 to 133.663, the things seized may be disposed of in accordance with ORS 98.245 or the court may order that the things be delivered to the officials having responsibility under the applicable laws for selling, destroying or otherwise disposing of contraband, forfeited or unclaimed goods in official custody. If the responsible officials are state officials and the property is forfeited, the clear proceeds shall be deposited with the State Treasury in the Common School Fund.
- (4) If things seized in connection with an arrest are not needed for evidentiary purposes, and if a person having a rightful claim establishes identity and right to possession beyond a reasonable doubt to the satisfaction of the seizing officer, the officer may summarily return the things seized to their rightful possessor. If the things seized are perishable and it is not possible to return them to their rightful possessor, the seizing officer may dispose of the items as justice and the necessities of the case require. [1973 c.836 §109; 1987 c.858 §1; 1997 c.480 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.625**

[1961 c.696 §1; 1967 c.475 §1; 1973 c.836 §135; renumbered 135.050]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.633 - Motion for return or restoration of things seized.**

- (1) Within 90 days after actual notice of any seizure, or at such later date as the court in its discretion may allow:
  - (a) An individual from whose person, property or premises things have been seized may move the appropriate court to return things seized to the person or premises from which they were seized.
  - (b) Any other person asserting a claim to rightful possession of the things seized may move the appropriate court to restore the things seized to the movant.
- (2) The appropriate court to consider such motion is:
  - (a) The court having ultimate trial jurisdiction over any crime charged in connection with the seizure;
  - (b) If no crime is charged in connection with the seizure, the court to which the warrant was returned; or
  - (c) If the seizure was not made under a warrant and no crime is charged in connection with the seizure, any court having authority to issue search warrants in the county in which the seizure was made.
- (3) The movant shall serve a copy of the motion upon the district attorney or the city attorney, whichever is appropriate, of the jurisdiction in which the property is in custody.
- (4) No filing, appearance or hearing fees may be charged for filing or hearing a motion under this section.
- (5)
  - (a) The things seized that are the subject of a motion for return under this section may include raw data obtained from the forensic imaging of a portable electronic device or of a computer.
  - (b) As used in this subsection, "forensic imaging," "portable electronic device" and "raw data" have the meanings given those terms in ORS 133.539. [1973 c.836 §110; 1999 c.37 §1; 2005 c.22 §102; 2015 c.613 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.635**

[1961 c.696 §3; 1967 c.628 §2; renumbered 135.080]



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.643 - Ground for motion for return or restoration of things seized.**

A motion for the return or restoration of things seized shall be based on the ground that the movant has a valid claim to rightful possession thereof, because:

- (1) The things had been stolen or otherwise converted, and the movant is the owner or rightful possessor;
- (2) The things seized were not in fact subject to seizure under ORS 131.550 to 131.600 or 133.525 to 133.703;
- (3) The movant, by license or otherwise, is lawfully entitled to possess things otherwise subject to seizure under ORS 133.525 to 133.703;
- (4) Although the things seized were subject to seizure under ORS 133.525 to 133.703, the movant is or will be entitled to their return or restoration upon the court's determination that they are no longer needed for evidentiary purposes; or
- (5) The parties in the case have stipulated that the things seized may be returned to the movant. [1973 c.836 §111; 2001 c.104 §44; 2001 c.666 §§22,23; 2005 c.830 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.653 - Postponement of return or restoration; appellate review; contents of order.**

- (1) In granting a motion for return or restoration of things seized, the court shall postpone execution of the order until such time as the things in question need no longer remain available for evidentiary use.
- (2) An order granting a motion for return or restoration of things seized shall be reviewable on appeal in regular course. An order denying such a motion or entered under ORS 133.663 shall be reviewable on appeal upon certification by the court having custody of the things in question that they are no longer needed for evidentiary purposes.
- (3)(a) An order granting a motion for return of raw data obtained from the forensic imaging of a portable electronic device or of a computer shall include a provision that a law enforcement agency may not retain a copy of the raw data to be returned.
- (b) As used in this subsection, "forensic imaging," "portable electronic device" and "raw data" have the meanings given those terms in ORS 133.539. [1973 c.836 §112; 2015 c.613 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.660**

[Amended by 1961 c.289 §1; 1965 c.508 §5; 1973 c.836 §139; renumbered 135.085]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.663 - Disputed possession rights.**

- (1) If, upon consideration of a motion for return or restoration of things seized, it appears to the court that the things should be returned or restored, but there is a substantial question whether they should be returned to the person from whose possession they were seized or to some other person, or a substantial question among several claimants to rightful possession, the court may:
  - (a) Return the things to the person from whose possession they were seized; or
  - (b)(A) Impound the things seized and set a further hearing, ensuring that all persons with a possible possessory interest in the things in question receive due notice and an opportunity to be heard; and
  - (B) Upon completion of the hearing provided for in subparagraph (A) of this paragraph, enter an order for the return or restoration of the things seized.
- (2) If there is no substantial question whether the things should be returned to the person from whose possession they were seized, they must be returned to the person upon the release of the defendant from custody.
- (3) Instead of conducting the hearing provided for in subsection (1)(b)(A) of this section and returning or restoring the property, the court, in its discretion, may leave the several claimants to appropriate civil process for the determination of the claims. [1973 c.836 §113; 2005 c.22 §103]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.670**

[Renumbered 135.090]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.673 - Motions to suppress evidence.**

- (1) Objections to use in evidence of things seized in violation of any of the provisions of ORS 133.525 to 133.703 shall be made by a motion to suppress which shall be heard and determined by any department of the trial court in advance of trial.
- (2) A motion to suppress which has been denied may be renewed, in the discretion of the court, on the ground of newly discovered evidence, or as the interests of justice require. [1973 c.836 §114; 1975 c.197 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.680**

[Renumbered 135.095]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.690**

[Renumbered 135.100]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.693 - Challenge to truth of evidence.**

- (1) Subject to the provisions of subsection (2) of this section, in any proceeding on a motion to suppress evidence the moving party shall be entitled to contest, by cross-examination or offering evidence, the good faith, accuracy and truthfulness of the affiant with respect to the evidence presented to establish probable cause for search or seizure.
- (2) If the evidence sought to be suppressed was seized by authority of a search warrant, the moving party shall be allowed to contest the good faith, accuracy and truthfulness of the affiant as to the evidence presented before the issuing authority only upon supplementary motion, supported by affidavit, setting forth substantial basis for questioning such good faith, accuracy and truthfulness.
- (3) In any proceeding under subsection (2) of this section, the moving party shall have the burden of proving by a preponderance of the evidence that the evidence presented before the issuing authority was not offered in good faith, was not accurate and was not truthful.
- (4) Where the motion to suppress challenges evidence seized as the result of a warrantless search, the burden of proving by a preponderance of the evidence the validity of the search is on the prosecution.
- (5) The court shall determine whether, under applicable law, any inaccuracy, untruthfulness or lack of good faith requires suppression. [1973 c.836 §118]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.700**

[Renumbered 135.105]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.703 - Identity of informants.**

- (1) In any proceeding on a motion to suppress evidence wherein, pursuant to ORS 133.693, the good faith of the testimony presented to establish probable cause is contested, and wherein such testimony includes a report of information furnished by an informant whose identity is not disclosed in the testimony, the moving party shall be entitled to prevail on the motion to suppress and evidence obtained as a result of the information furnished by the informant shall be suppressed unless:
  - (a) The evidence sought to be suppressed was seized by authority of a search warrant and the informant testified in person before the issuing authority; or
  - (b) The judge determines from the affiant by a preponderance of the evidence that such confidential informant exists and is reliable.
- (2) If the defendant is entitled to prevail on the motion to suppress under subsection (1) of this section, the evidence obtained as a result of the information furnished by the informant shall be suppressed. [1973 c.836 §119]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.705 - Definitions for ORS 133.705 to 133.717.**

As used in ORS 133.705 to 133.717:

- (1) "Biological evidence" means an individual's blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids or other identified biological material. "Biological evidence" includes the contents of a sexual assault forensic evidence kit.
- (2) "Convicted" includes a finding of guilty or responsible except for insanity and a finding that a person is within the jurisdiction of the juvenile court under ORS 419C.005.
- (3) "Covered offense" means:
  - (a) Aggravated murder under ORS 163.095;
  - (b) Murder in the first degree under ORS 163.107;
  - (c) Murder in the second degree under ORS 163.115;
  - (d) Manslaughter in the first degree under ORS 163.118;
  - (e) Manslaughter in the second degree under ORS 163.125;
  - (f) Aggravated vehicular homicide under ORS 163.149;
  - (g) Rape in the first degree under ORS 163.375;
  - (h) Sodomy in the first degree under ORS 163.405; or
  - (i) Unlawful sexual penetration in the first degree under ORS 163.411.
- (4) "Custodian" means a law enforcement agency as defined in ORS 131.550, or any other person or public body as defined in ORS 174.109, that is charged with the collection, preservation or retrieval of evidence in connection with a criminal investigation or

criminal prosecution. "Custodian" does not include a court.

(5) "DNA" means deoxyribonucleic acid.

(6) "DNA profile" means the unique identifier of an individual that is derived from DNA.

(7) "Sentence" means a term of incarceration in a correctional or juvenile detention facility, a period of probation, parole or post-prison supervision and the period of time during which a person is under the jurisdiction of the Psychiatric Security Review Board.

(8) "Supervisory authority" has the meaning given that term in ORS 144.087.

(9) "Victim" has the meaning given that term in ORS 131.007. [2011 c.275 §2; 2019 c.635 §7]

Note:

133.705 to 133.717 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.707 - Custodian's obligation to preserve biological evidence; effect of inability to produce in judicial proceeding; rules.**

(1) A custodian shall preserve biological evidence in accordance with ORS 133.705 to 133.717 if the evidence:

(a) Is collected as part of a criminal investigation into a covered offense; or

(b) Is otherwise in the possession of the custodian and reasonably may be used to incriminate or exculpate any person for a covered offense.

(2) When a custodian is required to preserve biological evidence under subsection (1) of this section, the custodian shall preserve the evidence in an amount and manner that is sufficient to develop a DNA profile. Except as otherwise provided in ORS 133.705 to 133.717, the biological evidence must be preserved:

(a) If the covered offense is aggravated murder, murder, rape in the first degree, sodomy in the first degree or unlawful sexual penetration in the first degree, for 60 years from the date each person is convicted of the offense or until each person convicted of the offense has died, whichever is earlier.

(b) If the covered offense is aggravated vehicular homicide, manslaughter in the first degree or manslaughter in the second degree, until each person convicted of the offense has served the person's sentence.

(c) If no person is convicted of the covered offense or the law enforcement agency investigating the covered offense closes the case for a reason other than the conviction of a person, until the expiration of the statute of limitations.

(3) A custodian is not required to preserve physical evidence solely because the physical evidence contains biological evidence if the physical evidence is of such a size, bulk or physical character as to render retention impracticable. When the retention of physical evidence is impracticable, the custodian shall remove and preserve portions of the physical evidence likely to contain biological evidence in a quantity sufficient to permit future DNA testing before returning or disposing of the physical evidence.

(4) Upon the conclusion of any trial or hearing involving a covered offense, the court shall return any biological evidence in the possession of the court to the custodian responsible for preserving the biological evidence under ORS 133.705 to 133.717, unless the evidence was collected by the defense. If the evidence was collected by the defense, the court shall return the evidence to the attorney for the defendant.

(5) If a custodian is required to preserve biological evidence under ORS 133.705 to 133.717 and the custodian is unable to produce the evidence in a judicial proceeding, the individual to whom the custodian has delegated the duty to preserve the evidence shall prepare, sign and file with the court a sworn affidavit that indicates that the custodian is unable to produce the evidence and describes the efforts taken to locate the evidence.

(6) If a court finds that biological evidence was destroyed in violation of ORS 133.705 to 133.717, the court, after determining whether the evidence was destroyed maliciously, may impose appropriate sanctions and order appropriate remedies. The court may not order the reversal of a conviction under this subsection on the sole grounds that the biological evidence is no longer available.

(7)(a) The Attorney General shall adopt rules establishing:

(A) Standards for the proper collection, retention, preservation and cataloging of biological evidence applicable to criminal investigations into, and criminal prosecutions for, covered offenses; and

(B) A standard form for use by custodians in providing the written notice described in ORS 133.709 (1).

(b) The Attorney General shall consult with the Department of State Police and custodians before adopting rules under this subsection. [2009 c.489 §1; 2011 c.275 §1]

Note:

See note under 133.705.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.709 - Notice of intent to dispose; motion to preserve.**

(1)(a) A custodian may seek to dispose of biological evidence before the period of time specified in ORS 133.707 (2), by providing written notice, in the form developed under ORS 133.707 (7), to the district attorney having jurisdiction over the prosecution of the covered offense. Upon receipt of the notice, the district attorney shall determine whether to object to the disposal of any of the biological evidence identified in the custodian's notice.

(b) If the district attorney objects to the disposal of any of the biological evidence identified in the custodian's notice, the district attorney shall provide written notice of the objection to the custodian that identifies the biological evidence that the district attorney determines must be preserved. The custodian shall preserve any biological evidence identified by the district attorney in the notice until the period of time specified in ORS 133.707 (2) has elapsed.

(c) If the district attorney does not object to the disposal of all or a portion of the biological evidence identified in the custodian's notice, the district attorney shall provide written notice of the intent to dispose of biological evidence, identifying the biological evidence that the district attorney has determined may be disposed of, to:

- (A) The defendant;
- (B) The most recent attorney of record for the defendant; and
- (C) The Department of Justice.

(2) If evidence that is subject to ORS 133.707 is the property of the victim, the victim may request that the district attorney determine whether the property may be returned to the victim. The request must be in writing and must identify the property that the victim seeks to have returned. If the district attorney:

(a) Objects to the return of any of the property to the victim, the district attorney shall notify the victim of that determination.

(b) Does not object to the return of all or a portion of the property, the district attorney shall provide written notice of the intent to dispose of biological evidence, identifying the property the district attorney has determined may be returned, to:

- (A) The victim;
- (B) The defendant;
- (C) The most recent attorney of record for the defendant; and
- (D) The Department of Justice.

(3)(a) Not later than 120 days after the date the district attorney provides written notice to the defendant under subsection (1)(c) or (2)(b) of this section, the defendant may file a motion to preserve biological evidence in the convicting court. The defendant shall provide a copy of the motion to the district attorney and the custodian. If the motion is timely filed, the court shall enter an order as provided in ORS 133.715.

(b) If the defendant fails to file a motion to preserve biological evidence before the expiration of the 120-day period specified in paragraph (a) of this subsection, the district attorney shall file with the court a copy of the notice of intent to dispose of biological evidence sent to the defendant under subsection (1)(c) or (2)(b) of this section. Following the filing of the notice, the court shall, without hearing, enter an order authorizing the disposal of the biological evidence described in the notice. The court shall provide a copy of the order to the custodian, the district attorney and each person or entity described in subsection (1)(c) or (2)(b) of this section, as applicable.

(c) The 120-day period specified in this subsection begins on the date the notice is mailed. [2011 c.275 §3]

Note:

See note under 133.705.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.710**

[Renumbered 135.115]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.713 - Inventory; right to review.**

(1) Upon written request by the defendant, the district attorney shall provide the defendant with an inventory of biological evidence that has been preserved under ORS 133.705 to 133.717 and is related to the covered offense for which the defendant was convicted.

(2) A defendant or, if the defendant is represented by an attorney, the defendant's attorney has the right to reasonably review biological evidence that is the subject of a written notice of intent to dispose of biological evidence under ORS 133.709 for the purpose of preparing a motion to preserve biological evidence. [2011 c.275 §5]

Note:

See note under 133.705.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.715 - Order; appeal.**

(1) Upon receipt of a timely motion to preserve biological evidence under ORS 133.709 (3), the court shall:

- (a) Conduct a hearing to resolve the motion; or
- (b) Enter an order directing the custodian to preserve the biological evidence.

(2)(a) In determining whether to order the preservation of biological evidence, the court shall consider, in addition to other factors the court considers appropriate, the following factors:

- (A) Whether the identification of the offender was a disputed issue;
- (B) Whether other biological evidence in the case contains DNA in an amount that is sufficient to develop a DNA profile and will not be disposed of;
- (C) If the biological evidence has not previously been tested, whether it is possible to perform testing on the biological evidence;

- (D) Whether the defendant has served all of the sentence imposed; and
- (E) Whether the defendant has exhausted the defendant's appellate or post-conviction rights.
- (b) If the defendant has not exhausted the defendant's appellate and post-conviction rights, there is a presumption that the biological evidence should be preserved.
- (c) In making the determination described in this subsection, except as otherwise provided in paragraph (b) of this subsection, the court may assign the weight the court deems appropriate to the factors described in paragraph (a) of this subsection and to any other factor the court determines is appropriate.
- (d) For purposes of subparagraph (2)(a)(A) of this section, the court need not presume that identification of the offender is not a disputed issue solely because the defendant has pleaded guilty or no contest to the crime, has confessed to the crime or has made an admission.
- (3) If the court enters an order authorizing the disposal of biological evidence, the order may not authorize disposal to occur sooner than 45 days after the date the order is entered. The court shall provide a copy of the order to the custodian, the district attorney and the defendant.
- (4) Either the state or the defendant may appeal from an order entered under this section in the manner provided in ORS chapter 19 for appeals from judgments. Notwithstanding ORS 19.330, the filing of a notice of appeal automatically stays an order entered under this section. [2011 c.275 §4]

Note:

See note under 133.705.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.717 - Provision of notice or order to defendant.**

When a provision of ORS 133.705 to 133.717 requires a district attorney or the court to provide written notice or an order to the defendant and the defendant:

- (1) Is incarcerated for any offense in a Department of Corrections institution, the notice must be sent by regular United States mail in an envelope prominently displaying the words "Legal Mail."
- (2) Is supervised by a supervisory authority for any offense, the notice must be sent by regular United States mail to the defendant's last-known address on record with the supervisory authority.
- (3) Is no longer supervised by a supervisory authority, the notice must be sent by certified mail to the defendant's last-known address. [2011 c.275 §6]

Note:

See note under 133.705.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.720**

[Renumbered 135.125]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.721 - Definitions for ORS 41.910 and 133.721 to 133.739.**

As used in ORS 41.910 and 133.721 to 133.739, unless the context requires otherwise:

- (1) "Aggrieved person" means a person who was a party to any wire, electronic or oral communication intercepted under ORS 133.724 or 133.726 or a person against whom the interception was directed and who alleges that the interception was unlawful.
- (2) "Contents," when used with respect to any wire, electronic or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport or meaning of that communication.
- (3) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a radio, electromagnetic, photoelectronic or photo-optical system, or transmitted in part by wire, but does not include:
  - (a) Any oral communication or any communication that is completely by wire; or
  - (b) Any communication made through a tone-only paging device.
- (4) "Electronic, mechanical or other device" means any device or apparatus that can be used to intercept a wire, electronic or oral communication other than:
  - (a) Any telephone or telegraph instrument, equipment or facility, or any component thereof that is furnished to the subscriber or user by a telecommunications carrier in the ordinary course of its business and that is being used by the subscriber or user in the ordinary course of its business or being used by a telecommunications carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of official duties; or
  - (b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal.
- (5) "Intercept" means the acquisition, by listening or recording, of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device.
- (6) "Investigative or law enforcement officer" means:
  - (a) An officer or other person employed to investigate or enforce the law by:

- (A) A county sheriff or municipal police department, or a police department established by a university under ORS 352.121 or 353.125;
- (B) The Oregon State Police, the Department of Corrections, the Attorney General or a district attorney; or
- (C) Law enforcement agencies of other states or the federal government;
- (b) An authorized tribal police officer as defined in ORS 181A.940; or
- (c) A regulatory specialist exercising authority described in ORS 471.775 (2).
- (7) "Oral communication" means:
  - (a) Any oral communication, other than a wire or electronic communication, uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation; or
  - (b) An utterance by a person who is participating in a wire or electronic communication, if the utterance is audible to another person who, at the time the wire or electronic communication occurs, is in the immediate presence of the person participating in the communication.
- (8) "Telecommunications carrier" means:
  - (a) A telecommunications utility as defined in ORS 759.005; or
  - (b) A cooperative corporation organized under ORS chapter 62 that provides telecommunications services.
- (9) "Telecommunications service" has the meaning given that term in ORS 759.005.
- (10) "Wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception, whether furnished or operated by a public utility or privately owned or leased. [1979 c.716 §2; 1983 c.824 §6; 1987 c.320 §18; 1987 c.447 §103; 1989 c.983 §6; 1999 c.1093 §1; 2001 c.385 §1; 2003 c.14 §53; 2005 c.22 §104; 2011 c.644 §§17,62,70; 2012 c.54 §§10,11; 2013 c.180 §§12,13; 2015 c.174 §6; 2015 c.614 §§141,142]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.723 - Records confidential.**

The application for any order under ORS 133.724 and any supporting documents and testimony in connection therewith shall remain confidential in the custody of the court, and these materials shall not be released or information concerning them in any manner disclosed except upon written order of the court and as required under ORS 135.805 to 135.873. No person having custody of any records maintained under ORS 133.721 to 133.739 shall disclose or release any materials or information contained therein except upon written order of the court and as required under ORS 135.805 to 135.873. [Formerly 141.740; 1979 c.716 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.724 - Order for interception of communications; application; grounds for issuance; contents of order; progress reports.**

- (1) An ex parte order for the interception of wire, electronic or oral communications may be issued by any circuit court judge upon written application made upon oath or affirmation of the individual who is the district attorney or a deputy district attorney authorized by the district attorney for the county in which the order is sought. The application shall include:
  - (a) The name of the district attorney or the deputy district attorney making the application and the authority of the district attorney or the deputy district attorney to make the application;
  - (b) The identity of the investigative or law enforcement officer making the application and the officer authorizing the application;
  - (c) A statement demonstrating that there is probable cause to believe that an individual is committing, has committed or is about to commit:
    - (A) A particular felony of murder, kidnapping, arson, robbery, bribery, extortion or other crime dangerous to life and punishable as a felony;
    - (B) A crime punishable as a felony under ORS 163.266 (1)(b) or (c), 163.413, 166.720, 167.012, 167.017, 475.752, 475.806 to 475.894 or 475.904 to 475.910 or as a misdemeanor under ORS 167.007 or 167.008; or
    - (C) Any conspiracy to commit any of the foregoing crimes;
  - (d) A statement of the details, if known, of the particular crime alleged under paragraph (c) of this subsection;
  - (e) A particular description of the nature and location of the facilities from which or the place where the wire, electronic or oral communication is to be intercepted, if known;
  - (f) A particular description of the type of wire, electronic or oral communication sought to be intercepted;
  - (g) The identity of the person, if known, suspected of committing the crime and whose wire, electronic or oral communications are to be intercepted;
  - (h) A full and complete statement as to whether or not other investigative procedures have been tried and failed or why other investigative procedures reasonably appear to be unlikely to succeed if tried or are likely to be too dangerous;
  - (i) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of wire, electronic or oral communication has been first obtained, a description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;
  - (j) A statement as to whether any prior application has been made to intercept wire, electronic or oral communications from the

same person and, if such prior application exists, a statement of the current status of that application; and

(k) Where the application is for the extension of an existing order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(2) The judge may require the applicant to furnish further testimony or documentary evidence in support of the application.

(3) Upon examination of such application and evidence the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire, electronic or oral communications within the state if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause for belief that an individual is committing, has committed or is about to commit a particular crime described in subsection (1)(c) of this section;

(b) There is probable cause for belief that particular communications concerning that crime will be obtained through such interception;

(c) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or are likely to be too dangerous; and

(d) There is probable cause for belief that the facilities from which, or the place where, the wire, electronic or oral communications to be intercepted are being used, or are about to be used, in connection with the planning or the commission of that crime are open to the public or are owned by, leased to, listed in the name of, or commonly used by the individual suspected.

(4) Each order authorizing or approving the interception of any wire, electronic or oral communication shall specify:

(a) The identity of the person, if known, whose communications are to be intercepted;

(b) The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(c) A particular description of the type of communication sought to be intercepted, and a statement of the particular crime to which it relates;

(d) The identity of the agency authorized to intercept the communications and of the person authorizing the application;

(e) The period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained; and

(f) The name of the applicant, date of issuance, and the signature and title of the issuing judge.

(5) An order entered pursuant to this section may not authorize or approve the interception of any wire, electronic or oral communication for any period longer than is necessary to achieve the objective of authorization and in no event for longer than 30 days. Extensions of any order may be granted, but only when application for an extension is made in accordance with subsection (1)(k) of this section and the court makes the findings required by subsection (3) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purpose for which it is granted and in no event for longer than 30 days. Every order and extension of that order shall contain a provision that the authorization to intercept must be executed as soon as practicable, must be conducted in such a way as to minimize the interception of communications not otherwise subject to interception, and must terminate upon attainment of the authorized objective, or in any event in 30 days.

(6) Whenever an order authorizing interception is entered pursuant to this section, the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the judge may require. [1979 c.716 §4 (enacted in lieu of 133.725); 1989 c.639 §1; 1989 c.983 §7a; 1995 c.224 §1; 2001 c.385 §6; 2005 c.708 §45; 2007 c.442 §1; 2011 c.151 §8; 2013 c.720 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.726 - Interception of oral communication without order; order for interception of oral communication; application; grounds for issuance; contents of order; penalties.**

(1) Notwithstanding ORS 133.724, under the circumstances described in this section, a law enforcement officer is authorized to intercept an oral communication to which the officer or a person under the direct supervision of the officer is a party, without obtaining an order for the interception of a wire, electronic or oral communication under ORS 133.724.

(2) For purposes of this section and ORS 133.736, a person is a party to an oral communication if the oral communication is made in the person's immediate presence and is audible to the person regardless of whether the communication is specifically directed to the person.

(3) An ex parte order for intercepting an oral communication in any county of this state under this section may be issued by any judge as defined in ORS 133.525 upon written application made upon oath or affirmation of the district attorney or a deputy district attorney authorized by the district attorney for the county in which the order is sought or upon the oath or affirmation of any peace officer as defined in ORS 133.005. The application shall include:

(a) The name of the applicant and the applicant's authority to make the application;

(b) A statement demonstrating that there is probable cause to believe that a person whose oral communication is to be intercepted is engaged in committing, has committed or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008, and that intercepting the oral communication will yield evidence thereof; and

(c) The identity of the person, if known, suspected of committing the crime and whose oral communication is to be intercepted.

(4) The judge may require the applicant to furnish further testimony or documentary evidence in support of the application.

(5) Upon examination of the application and evidence, the judge may enter an ex parte order, as requested or as modified,

authorizing or approving the interception of an oral communication within the state if the judge determines on the basis of the facts submitted by the applicant that:

- (a) There is probable cause to believe that a person is engaged in committing, has committed or is about to commit a particular felony, or a misdemeanor under ORS 167.007 or 167.008; and
- (b) There is probable cause to believe that the oral communication to be obtained will contain evidence concerning that crime.
- (6) An order authorizing or approving the interception of an oral communication under this section must specify:
  - (a) The identity of the person, if known, whose oral communication is to be intercepted;
  - (b) A statement identifying the particular crime to which the oral communication is expected to relate;
  - (c) The agency authorized under the order to intercept the oral communication;
  - (d) The name and office of the applicant and the signature and title of the issuing judge;
  - (e) A period of time after which the order shall expire; and
  - (f) A statement that the order authorizes only the interception of an oral communication to which a law enforcement officer or a person under the direct supervision of a law enforcement officer is a party.
- (7) An order under ORS 133.724 or this section is not required when a law enforcement officer intercepts an oral communication to which the officer or a person under the direct supervision of the officer is a party if the oral communication is made by a person whom the officer has probable cause to believe has committed, is engaged in committing or is about to commit:
  - (a) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894, 475.906, 475C.005 to 475C.525 or 475C.770 to 475C.919 or as a misdemeanor under ORS 167.007 or 167.008; or
  - (b) Any other crime punishable as a felony if the circumstances at the time the oral communication is intercepted are of such exigency that it would be unreasonable to obtain a court order under ORS 133.724 or this section.
- (8) A law enforcement officer who intercepts an oral communication pursuant to this section may not intentionally fail to record and preserve the oral communication in its entirety. A law enforcement officer, or a person under the direct supervision of the officer, who is authorized under this section to intercept an oral communication is not required to exclude from the interception an oral communication made by a person for whom probable cause does not exist if the officer or the person under the officer's direct supervision is a party to the oral communication.
- (9) A law enforcement officer may not divulge the contents of an oral communication intercepted under this section before a preliminary hearing or trial in which an oral communication is going to be introduced as evidence against a person except:
  - (a) To a superior officer or other official with whom the law enforcement officer is cooperating in the enforcement of the criminal laws of this state or the United States;
  - (b) To a magistrate;
  - (c) In a presentation to a federal or state grand jury; or
  - (d) In compliance with a court order.
- (10) A law enforcement officer may intercept an oral communication under this section only when acting within the scope of the officer's employment and as a part of assigned duties.
- (11) As used in this section, "law enforcement officer" means:
  - (a) An officer employed to enforce criminal laws by:
    - (A) The United States, this state or a municipal government within this state;
    - (B) A political subdivision, agency, department or bureau of the governments described in subparagraph (A) of this paragraph; or
    - (C) A police department established by a university under ORS 352.121 or 353.125;
  - (b) An authorized tribal police officer as defined in ORS 181A.940; or
  - (c) A regulatory specialist as defined in ORS 471.001.
- (12) Violation of subsection (9) of this section is a Class A misdemeanor. [1983 c.824 §8; 1995 c.224 §2; 2001 c.385 §2; 2003 c.577 §13; 2005 c.708 §46; 2007 c.442 §§2,3; 2011 c.151 §§9,10; 2011 c.644 §§18,19,63,64,71; 2012 c.54 §§12,13; 2013 c.180 §§14,15; 2015 c.174 §7; 2015 c.614 §§143,144; 2023 c.209 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.727 - Proceeding under expired order prohibited.**

Any officer who knowingly proceeds under an order which has expired and has not been renewed as provided in ORS 133.724 is deemed to act without authority under ORS 133.724 and shall be subject to the penalties provided in ORS 165.543, as though the officer had never obtained any such order or warrant. [Formerly 141.730; 1979 c.716 §14; 1983 c.824 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.729 - Recording intercepted communications; method; delivery to court; custody.**

The contents of any wire, electronic or oral communication intercepted in accordance with the provisions of ORS 133.724 shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire, electronic or oral communication under this section shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order issued under ORS 133.724, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under the direction of the judge. Custody of the recordings shall be



wherever the judge orders. They shall not be destroyed before the expiration of the minimum retention period established by the State Court Administrator under ORS 8.125. Duplicate recordings may be made for use or disclosure pursuant to the provisions of ORS 133.737 (1) and (2) for investigations. The presence of the seal provided for by this section, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire, electronic or oral communication or evidence derived therefrom under ORS 133.737 (3). [1979 c.716 §7; 1989 c.983 §8; 1997 c.872 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.730**

[Renumbered 135.135]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.731 - Inventory; contents; inspection of intercepted communications.**

(1) Within a reasonable time but not later than 90 days after the termination of the period of an order issued under ORS 133.724, or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine in the judge's discretion should be served in the interest of justice, an inventory which shall include notice of:

- (a) The fact of the entry of the order or the application;
- (b) The date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and
- (c) The fact that during the period wire, electronic or oral communications were or were not intercepted.

(2) The judge, upon the filing of a motion, may in the judge's discretion make available to such person or the person's counsel for inspection such portions of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge of the circuit court, the serving of the inventory required by this section may be postponed. [1979 c.716 §8; 1989 c.983 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.733 - Procedure for introduction as evidence.**

The contents of any wire, electronic or oral communication intercepted under ORS 133.724, or evidence derived therefrom, shall not be received in evidence or otherwise disclosed in any trial, hearing or other proceeding in any court of this state unless each party, not less than 10 days before the trial, hearing or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This 10-day period may be waived by the judge if the judge finds that it was not possible to furnish the party with the above information 10 days before the trial, hearing or proceeding and that the party will not be prejudiced by the delay in receiving such information. [1979 c.716 §9; 1989 c.983 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.735 - Suppression of intercepted communications; procedure; grounds; appeal.**

(1) Any aggrieved person in any trial, hearing or proceeding in or before any court, department, officer, agency, regulatory body or other authority of the state, or a political subdivision thereof, may move to suppress the contents of any wire, electronic or oral communication intercepted under ORS 133.724, or evidence derived therefrom, on the grounds that:

- (a) The communication was unlawfully intercepted;
- (b) The order of authorization or approval under which it was intercepted is insufficient on its face; or
- (c) The interception was not made in conformity with the order of authorization or approval.

(2) Such motion shall be made before the trial, hearing or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire, electronic or oral communication, or evidence derived therefrom, shall be treated as having been unlawfully obtained. The judge, upon the filing of such motion by the aggrieved person, may in the judge's discretion make available to the aggrieved person or the person's counsel for inspection such portions of the intercepted communications or evidence derived therefrom as the judge determines to be in the interests of justice.

(3) In addition to any other right to appeal, the state shall have the right to appeal from an order granting a motion to suppress under subsection (1) of this section. [1979 c.716 §10; 1989 c.983 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.736 - Suppression of intercepted oral communication; procedure; appeal.**

(1) Any aggrieved person in any trial, hearing or proceeding in or before any court, department, officer, agency, regulatory body or other authority of the state, or a political subdivision thereof, may move to suppress recordings of any oral communication intercepted in violation of ORS 133.726 or testimony or other evidence derived solely from the unlawful interception.

(2) Such motion shall be made before the trial, hearing or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the judge, upon the filing of such motion by the aggrieved person, may in the judge's discretion make available to the aggrieved person or the person's counsel for inspection such

portions of the intercepted communications or evidence derived therefrom as the judge determines to be in the interests of justice.  
(3) In addition to any other right to appeal, the state shall have the right to appeal from an order granting a motion to suppress under subsection (1) of this section. [1983 c.824 §5; 2001 c.385 §3; 2003 c.14 §55]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.737 - Disclosure and use of intercepted communications.**

(1) Any investigative or law enforcement officer who, by any means authorized by ORS 133.721 to 133.739, has obtained knowledge of the contents of any wire, electronic or oral communication under ORS 133.724, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure or to the extent that such disclosure is otherwise authorized by law.

(2) Any investigative or law enforcement officer who, by any means authorized by ORS 133.721 to 133.739, has obtained knowledge of the contents of any wire, electronic or oral communication under ORS 133.724, or evidence derived therefrom, may use such contents to the extent such use is appropriate to the proper performance of official duties.

(3) Any person who has received by any means authorized by ORS 133.721 to 133.739, any information concerning a wire, electronic or oral communication under ORS 133.724, or evidence derived therefrom, intercepted in accordance with the provisions of ORS 133.721 to 133.739, may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of the state or political subdivision thereof.

(4) No otherwise privileged communication intercepted in accordance with, or in violation of, the provisions of ORS 133.721 to 133.739, shall lose its privileged character.

(5) When an investigative or law enforcement officer, while engaged in intercepting wire, electronic or oral communications in any manner authorized by ORS 133.724, intercepts wire, electronic or oral communications relating to crimes other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (1) and (2) of this section. Such contents and any evidence derived therefrom may be used under subsection (3) of this section when authorized or approved by a judge of the circuit court if the judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of ORS 133.724. Such application shall be made as soon as practicable. [1979 c.716 §6; 1989 c.983 §12; 2003 c.14 §56]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.739 - Civil damages for willful interception, disclosure or use of communications; attorney fees; defense; effect on other remedies.**

(1) Any person whose wire, electronic or oral communication was intercepted, disclosed or used in violation of ORS 133.724 or 133.737 shall have a civil cause of action against any person who willfully intercepts, discloses or uses, or procures any other person to intercept, disclose or use such communication and shall be entitled to recover from any such person:

(a) Actual damages but not less than damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is greater; and

(b) Punitive damages.

(2) A good faith reliance on a court order or legislative authorization shall constitute a complete defense to any civil action brought under this section.

(3) Nothing in ORS 41.910, 133.721 to 133.739 and 133.992 is intended to abrogate any other private civil remedy for invasion of privacy.

(4) Except as provided in subsection (5) of this section, the court may award reasonable attorney fees to the prevailing party in an action under this section.

(5) The court may not award attorney fees to a prevailing defendant under the provisions of subsection (4) of this section if the action under this section is maintained as a class action pursuant to ORCP 32. [1979 c.716 §11; 1981 c.897 §38; 1989 c.983 §13; 1995 c.696 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.740**

[Renumbered 135.145]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.741 - Law enforcement agency policies and procedures regarding video and audio recordings; requirements; exceptions.**

(1)(a) A law enforcement agency shall establish policies and procedures for the use, storage and retention of video and audio recordings resulting from the operation of video cameras worn upon a law enforcement officer's person that record the officer's interactions with members of the public while the officer is on duty.

(b) The policies and procedures described in paragraph (a) of this subsection must include:

(A) A requirement that a recording be retained for at least 180 days but no more than 30 months for a recording not related to a court proceeding or ongoing criminal investigation, or for the same period of time that evidence is retained in the normal course of the court's business for a recording related to a court proceeding.

(B) A requirement that a camera worn upon a law enforcement officer's person be set to record continuously, beginning when the officer develops reasonable suspicion or probable cause to believe that a crime or violation has occurred, is occurring or will occur and the law enforcement officer begins to make contact with the person suspected of committing the offense. The policies and procedures must also require that the camera may subsequently cease recording no sooner than the termination of the officer's participation in the contact.

(C) A requirement that in any contract with a third party vendor for data storage, recordings from the camera are the property of the law enforcement agency, are not owned by the vendor and cannot be used by the vendor for any purpose inconsistent with the policies and procedures of the law enforcement agency.

(D) A prohibition on the use of facial recognition or other biometric matching technology to analyze recordings obtained through the use of the camera.

(E) A prohibition on the use of any recordings obtained from the camera for any purpose other than a legitimate law enforcement purpose.

(c) Notwithstanding paragraph (b)(B) of this subsection, a law enforcement agency may in its policies and procedures provide for exceptions to the recording requirements of paragraph (b)(B) of this subsection, provided that the exceptions are based on reasonable privacy concerns, exigent circumstances or the safety of law enforcement officers or other persons.

(2) As used in this section:

(a) "Law enforcement agency" means an agency employing law enforcement officers to enforce criminal laws.

(b) "Law enforcement officer" means an officer employed to enforce criminal laws by:

(A) This state or a municipal government within this state;

(B) A political subdivision, agency, department or bureau of the governments described in subparagraph (A) of this paragraph; or

(C) A police department established by a university under ORS 352.121 or 353.125. [2015 c.550 §1]

Note:

133.741 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.743 - Definitions for ORS 133.743 to 133.857; appointment of legal counsel to assist Governor.**

(1) Where appearing in ORS 133.743 to 133.857, the term "Governor" includes any person performing the extradition functions of Governor by authority of an appointment under subsection (2) of this section. The term "executive authority" includes the Governor and any person performing the functions of Governor in a state other than this state, and the term "state," referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

(2) The Governor may appoint a member of the legal staff of the Governor to act in behalf of the Governor under ORS 133.743 to 133.857 in performing the extradition functions of the Governor. The appointment shall be in writing and be filed with the Secretary of State. [Formerly 147.010; 1983 c.82 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.745 - Determination of security requirements to carry out extradition.**

The Governor shall determine the security requirements necessary to safely carry out the extradition of a person from another state including, but not limited to, the number of agents needed to secure the return of a person under ORS 133.743 to 133.857. [1999 c.867 §12; 2009 c.40 §1]

Note:

133.745 was added to and made a part of 133.743 to 133.857 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.747 - Fugitives from other states; Governor to cause arrest and delivery of criminals.**

Subject to the qualifications of ORS 133.743 to 133.857 and the provisions of the Constitution of the United States controlling, and Acts of Congress in pursuance thereof, it is the duty of the Governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state. [Formerly 147.020]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.750**

[Renumbered 135.155]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.753 - Form of demand.**

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing and accompanied by a copy of an indictment found or by an information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of security release, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand. [Formerly 147.030; 1999 c.1051 §246]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.757 - Investigation of demand and report.**

When a demand shall be made upon the Governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the Governor may call upon the Attorney General or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to the Governor the situation and circumstances of the person so demanded, and whether the person ought to be surrendered. [Formerly 147.040]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.760**

[Amended by 1973 c.836 §140; renumbered 135.165]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.763 - Facts documents must show.**

A warrant of extradition must not be issued unless the documents presented by the executive authority making the demand show that:

- (1) Except in cases arising under ORS 133.767, the accused, when demanded upon a charge of crime, was present in the demanding state at the time of the commission of the alleged crime and thereafter fled from that state;
- (2) The person demanded is in this state; and
- (3) They constitute full compliance with the requirements of ORS 133.753. [Formerly 147.050]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.767 - Extradition of person not present in demanding state at time of commission of crime.**

The Governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in ORS 133.763 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand. The provisions of ORS 133.743 to 133.857 not otherwise inconsistent shall apply to such cases, notwithstanding that the accused was not in that state at the time of the commission of the crime and has not fled therefrom. [Formerly 147.060; 1985 c.565 §12; 2005 c.22 §105]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.770**

[Renumbered 136.345]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.773 - Governor's warrant of arrest.**

If the Governor shall decide that the demand should be complied with, the Governor shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to a sheriff, marshal, coroner or other person whom the Governor may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issue. [Formerly 147.070]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.777 - Execution of the warrant.**

Such warrant shall authorize the officer or other person to whom directed to arrest the accused at any place where the accused may be found within the state and to command the aid of all sheriffs and other peace officers in the execution of the warrant, and to deliver the accused, subject to the provisions of ORS 133.743 to 133.833 and 133.839 to 133.855, to the duly authorized agent of the demanding state. [Formerly 147.080]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.780**

[Renumbered 136.347]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.783 - Authority of arresting officer to command assistance.**

Every such officer or other person empowered to make the arrest shall have the same authority in arresting the accused to command assistance therein as sheriffs and other officers have by law in the execution of any criminal process directed to them, with the like penalties against those who refuse their assistance. [Formerly 147.090]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.787 - Rights of arrested person.**

No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding the person shall have appointed to receive the person unless the person has been informed of the demand made for surrender and of the crime with which the person is charged, and that the person has the right to demand legal counsel; and if the prisoner, the friends, or counsel of the prisoner shall state the desire to test the legality of the arrest, the prisoner shall be taken forthwith before a judge of a court of record in this state, who shall fix a reasonable time to be allowed the prisoner within which to apply for a writ of habeas corpus. And when such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the public prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state. [Formerly 147.100]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.793 - Penalty for disobedience to ORS 133.787.**

Any officer who shall deliver to the agent for extradition of the demanding state a person in the custody of the officer under the Governor's warrant in disobedience to ORS 133.787 commits a Class B misdemeanor. [Formerly 147.110]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.797 - Confinement of prisoner.**

(1) The officer or person executing the Governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which the officer, person or agent may pass; and the keeper of such jail must receive and safely keep the prisoner until the person having charge of the prisoner is ready to proceed on the route, such person being chargeable with the expense of keeping.

(2) The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which the officer or agent may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of the prisoner is ready to proceed on the route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that the officer or agent is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state. [Formerly 147.120]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.803 - Arrest prior to requisition.**

Whenever any person within this state shall be charged on the oath of any credible person before any judge or other magistrate of this state with the commission of a crime in any other state and, except in cases arising under ORS 133.767, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of security release, probation or parole, or whenever complaint shall have been made before any judge or other magistrate in this state setting forth on the affidavit of any creditable person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under ORS 133.767, has fled therefrom or has been convicted of a crime in that state and escaped from confinement, or has broken the terms of security release, probation or parole, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding the peace officer to apprehend the person named therein, wherever the person may be found in this state, and bring the person before the same or any other judge, court or magistrate who may be convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant. [Formerly 147.130; 1999 c.1051 §247]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures;**

**Search and Seizure; ExtraditionSection 133.805 - Arrest without warrant.**

The arrest of a person may be lawfully made also by an officer or a private citizen without a warrant, upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in ORS 133.803; and thereafter the answer of the accused shall be heard as if the accused had been arrested on a warrant. [Formerly 147.140]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.807 - Commitment to await arrest on requisition.**

If from the initial examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged, the judge or magistrate must commit the person to jail by a warrant reciting the accusation for a period of at least 45 days to enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused is released as provided in ORS 133.809, or until the accused shall be legally discharged. The period of time may be extended upon good cause shown demonstrating the need for additional time to allow the executive authority of the state having jurisdiction of the offense to comply with procedural requirements of the Uniform Criminal Extradition Act, 18 U.S.C. 3182, or Article IV, section 2, of the United States Constitution. [Formerly 147.150; 1999 c.553 §1; 2019 c.13 §29]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.809 - Release.**

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, the judge or magistrate must make a release decision concerning the person arrested under ORS 135.230 to 135.290, for the appearance of the person at a time specified in the security release or in the release agreement. [Formerly 147.160]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.810**

[Amended by 1973 c.836 §141; renumbered 135.175]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.813 - Proceedings in absence of arrest under executive warrant within specified time.**

If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant, security release or release agreement, the judge or magistrate may discharge the accused or may recommit the accused to a further day, or may again set a security release or a release agreement for the appearance and surrender of the accused, as provided in ORS 133.809; and at the expiration of the second period of commitment, or if the accused has been released and appeared according to the terms of the security release or release agreement of the accused, the judge or magistrate either may discharge the accused or may require the accused to enter into a new security release or release agreement to appear and surrender at another day. [Formerly 147.170]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.815 - Forfeiture; recovery thereon.**

If the prisoner is released and fails to appear according to the condition of the security release or release agreement of the prisoner, the court, by proper order, shall declare the security release or release agreement forfeited, and recovery may be had thereon in the name of the state as in the case of other security releases and release agreements given by the accused in criminal proceedings within this state. [Formerly 147.180]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.817 - Persons under criminal prosecution in this state at time of requisition.**

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the Governor, at the discretion of the Governor, either may surrender the person on the demand of the executive authority of another state or may hold the person until the person has been tried and discharged, or convicted and punished in this state. [Formerly 147.190]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.820**

[Amended by 1973 c.836 §142; renumbered 135.185]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 133 - Arrest and Related Procedures; Search and Seizure; ExtraditionSection 133.823 - When guilt of accused may be inquired into.**

The guilt or innocence of the accused as to the crime of which the accused is charged may not be inquired into by the Governor or in any proceeding after the demand for extradition, accompanied by a charge of crime in legal form as provided in ORS 133.743 to 133.817, shall have been presented to the Governor, except as it may be involved in identifying the person held as the person charged with the crime. [Formerly 147.200]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.825 - Governor may recall warrant.**

The Governor may recall the Governor's warrant of arrest or may issue another warrant whenever the Governor deems proper. [Formerly 147.210]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.827 - Warrant to agent to return fugitive from this state.**

Whenever the Governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of security release, probation or parole in this state from the chief executive of any other state, or from the Chief Justice or an Associate Justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, the Governor shall issue a warrant under the seal of this state to some agent or agents, commanding the agent to receive the person so charged if delivered to the agent and convey the person to the proper officer of the county in this state in which the offense was committed. [Formerly 147.220; 1999 c.1051 §248]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.830**

[Amended by 1973 c.836 §143; renumbered 135.195]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.833 - Application for requisition; filing and forwarding of papers.**

(1) When the return to this state of a person charged with crime in this state is required, the district attorney of the county in which the alleged crime is committed shall present to the Governor written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against the person, the approximate time, place and circumstances of its commission, the state in which the person is believed to be, including the location of the accused therein at the time the application is made, and certifying that in the opinion of the district attorney the interest of the public in the effective administration of criminal justice requires the arrest and return of the accused to this state for trial, and that the proceeding is not instituted to enforce a private claim.

(2) When the return to this state is required of a person who has been convicted of or found guilty except for insanity of a crime in this state and who has escaped from confinement or broken the terms of the release, probation or parole of such person, the district attorney of the county in which the offense was committed, the parole board, or the superintendent of the institution or sheriff of the county from which escape was made, shall present to the Governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which the person was convicted or found guilty except for insanity, the circumstances of the escape from confinement or of the breach of the terms of release, probation or parole, the state in which the person is believed to be, including the location of the person therein at the time application is made.

(3) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The district attorney, parole board, superintendent or sheriff may also attach such further affidavits and other documents in duplicate as the district attorney, parole board, superintendent or sheriff shall deem proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by indorsement thereon, and one of the certified copies of the indictment, complaint, information and affidavit, or of the judgment of conviction or of the sentence shall be filed in the office of the Secretary of State to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition. [Formerly 147.230; 1985 c.192 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.835 - Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion.**

(1) When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against the person in another state, the Governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or the term of sentence of the person in such other state, upon condition that the person be returned to the other state at the expense of this state as soon as the prosecution in this state is terminated.

(2) The Governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in ORS 133.743 to 133.857 with having violated the laws of the state whose executive

authority is making the demand, even though such person left the demanding state involuntarily. [1973 c.836 §129; 1985 c.565 §13; 2005 c.22 §106]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.837 - Appointment of agent to return fugitive from this state who waives extradition.**

In the event a fugitive from this state shall waive extradition, an agent or agents to secure the return of the fugitive may be appointed by the district attorney of the county in which the offense was committed, and the account of such agent or agents embracing necessary expenses incurred in performing the service, shall be audited and paid in the same manner as accounts presented under ORS 133.857. [Formerly 147.235]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.839 - Immunity from civil process in certain civil cases.**

A person brought into this state by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which the person is being or has been returned, until the person has been convicted in the criminal proceeding, or, if acquitted, until the person has had reasonable opportunity to return to the state from which the person was extradited. [Formerly 147.250]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.840**

[Amended by 1973 c.836 §144; renumbered 135.205]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.843 - Written waiver of extradition proceedings.**

(1) Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of security release, probation or parole may waive the issuance and service of the warrant provided for in ORS 133.773 and 133.777 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that the person consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of rights to the issuance and service of a warrant of extradition and to apply for a writ of habeas corpus as provided for in ORS 133.787.

(2)(a) If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent.

(b) Nothing in this section shall be deemed to limit the right of the accused person to submit voluntarily to the custody of such agent or agents for return without formality to the demanding state.

(c) The waiver procedure described in this section is not an exclusive procedure, nor does it limit the powers, rights or duties of the officers of the demanding state or of this state.

(3) Notwithstanding subsection (1) of this section, a law enforcement or corrections agency in this state holding a person who is alleged to have broken the terms of the person's security release, probation, parole or any other release in the demanding state may deliver the person to the duly accredited agent of the demanding state without the requirement of a warrant if:

(a) The person has signed a prior waiver of extradition as a term of the person's current security release, probation, parole or other release in the demanding state; and

(b) The law enforcement or corrections agency holding the person has received an authenticated copy of the prior waiver of extradition signed by the person and photographs, fingerprints or other evidence properly identifying the person as the person who signed the waiver. [Formerly 147.253; 1999 c.1051 §249; 2001 c.230 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.845 - Nonwaiver by this state.**

Nothing contained in ORS 133.743 to 133.857 shall be deemed to constitute a waiver by this state of its right, power or privilege to try a person demanded under ORS 133.843 for any crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings under ORS 133.743 to 133.857 that result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever. [Formerly 147.256; 1985 c.565 §14; 2005 c.22 §107]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.847 - Trial of extradited person for other crimes.**



After a person has been brought back to this state upon extradition proceedings, the person may be tried in this state for other crimes which the person may be charged with having committed here as well as that specified in the requisition for extradition. [Formerly 147.260]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.850**

[Renumbered 135.215]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.853 - Construction of Act.**

ORS 133.743 to 133.833 and 133.839 to 133.855 shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact the Uniform Criminal Extradition Act. [Formerly 147.270]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.855 - Short title.**

ORS 133.743 to 133.833 and 133.839 to 133.855 may be cited as the Uniform Criminal Extradition Act. [Formerly 147.280]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.857 - Payment of agent's expenses.**

The account of the agent or agents embracing necessary expenses incurred in performing the service, after approval by the Governor, shall be paid, after being audited and allowed as other claims against the state, from any moneys appropriated therefor. [Formerly 147.290]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.860**

[Amended by 1959 c.638 §14; 1965 c.508 §6; 1973 c.836 §145; renumbered 135.225]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.865 - Arrest and Return Account.**

(1) The Arrest and Return Account is established separate and distinct from the General Fund. The account consists of moneys deposited into the account under ORS 144.605 and 161.665, moneys allocated to the account under ORS 137.300 and other moneys received by the Governor for the purpose of paying the costs of extraditing defendants.

(2) Except as provided in subsection (3) of this section, moneys in the account are continuously appropriated to the Governor for the purpose of paying costs incurred in carrying out the provisions of ORS 133.743 to 133.857.

(3) Moneys deposited in the Arrest and Return Account under ORS 144.605 are continuously appropriated to the Governor for the purpose of paying costs incurred in retaking offenders who have transferred supervision under the Interstate Compact for Adult Offender Supervision described in ORS 144.600. [2003 c.615 §3; 2009 c.742 §2; 2011 c.597 §45; 2015 c.198 §3; 2021 c.653 §2]

Note:

133.865 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.870 - Release of booking photo by law enforcement agency.**

(1) Notwithstanding ORS 192.311 to 192.478, a law enforcement agency may not release a booking photo except as provided in subsection (2) of this section.

(2) A law enforcement agency may release a booking photo described in subsection (1) of this section:

(a) To the person depicted in the booking photo;

(b) To another law enforcement agency, or to a law enforcement officer employed by another law enforcement agency, for a law enforcement purpose;

(c) To the public, if the law enforcement agency determines that there is a law enforcement purpose for the release, including but not limited to assistance with the apprehension of a fugitive or a suspect in a criminal investigation, or the identification of additional criminal activity;

(d) To a state mental hospital upon the admission to the hospital of the person depicted in the booking photo;

(e) To a party in a criminal proceeding resulting from the arrest during which the booking photo was obtained;

(f) To the victim of the offense for which the person depicted in the booking photo was arrested;

(g) To the court, if the booking photo is part of a pretrial release report or is provided to the court as part of the pretrial release process for the purposes of confirming the identity of a defendant; or

(h) Upon the conviction of the person depicted in the booking photo, if the conviction results from the arrest during which the

booking photo was obtained.

(3) As used in this section:

(a) "Booking photo" means a photograph of a person taken by a law enforcement agency for identification purposes when the person is booked into custody.

(b) "Law enforcement agency" has the meaning given that term in ORS 131.915.

(c) "Law enforcement officer" means an officer, deputy, member or employee of a law enforcement agency. [2021 c.374 §1; 2021 c.643 §8]

Note:

133.870 and 133.875 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 133 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.875 - Removal of booking photo from publication or website; liability.**

(1) Except as provided in subsection (2) of this section:

(a) A publish-for-pay publication shall remove and destroy a booking photo of a person who submits a request for removal and destruction within 30 calendar days of the date of the request.

(b) A publish-for-pay publication may not condition the removal or destruction of a booking photo on the payment of a fee of more than \$50.

(c) If the publish-for-pay publication does not remove and destroy a booking photo as required by this subsection, the publish-for-pay publication is liable for:

(A) All costs, including reasonable attorney fees, resulting from any legal action the person brings in relation to the failure of the publish-for-pay publication to remove and destroy the booking photo; and

(B) Statutory damages of \$500 per day for each day after the 30-day deadline described in this subsection that the booking photo is visible or accessible in or on the publish-for-pay publication.

(2)(a) A publish-for-pay publication shall remove and destroy a booking photo of a person who submits a request for removal and destruction within seven calendar days of the date of the request if:

(A) The booking photo relates to a criminal charge for which the person was acquitted or not prosecuted, or to a criminal charge resulting a criminal conviction that has been set aside, vacated or pardoned; and

(B) The person submits to the publish-for-pay publication documentation of a disposition described in subparagraph (A) of this paragraph.

(b) A publish-for-pay publication may not condition the removal or destruction of a booking photo described in this subsection on the payment of any fee or other consideration.

(c) If the publish-for-pay publication that receives a request described in paragraph (a) of this subsection does not remove and destroy the booking photo as required by this subsection, the publish-for-pay publication is liable for:

(A) All costs, including reasonable attorney fees, resulting from any legal action the person brings in relation to the failure of the publish-for-pay publication to remove and destroy the booking photo; and

(B) Statutory damages of \$1,000 per day for each day after the seven-day deadline described in this subsection that the booking photo is visible or accessible in or on the publish-for-pay publication.

(d) An act by a publish-for-pay publication seeking to condition removal or destruction of a booking photo described in this subsection on the payment of any fee may be prosecuted as theft by deception under ORS 164.085.

(3) As used in this section:

(a) "Booking photo" means a photograph of a person taken by a law enforcement agency for identification purposes when the person is booked into custody.

(b) "Publish-for-pay publication" means a publication or website that requires the payment of a fee or other consideration in order to remove or delete a booking photo from the publication or website. [2021 c.374 §2]

Note:

See note under 133.870.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.990**

[Renumbered 135.990]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 133 - Arrest and Related Procedures; Search and Seizure; Extradition Section 133.992 - Penalties.**

(1) A person who maliciously and without probable cause causes a search warrant or a court order for interception to be issued and executed is guilty of a Class A misdemeanor.

(2) A person who knowingly falsely certifies an information or complaint under ORS 133.015 (8) is guilty of a Class A misdemeanor. [Formerly 141.990; 1979 c.716 §15; 1983 c.824 §2; 2015 c.250 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.010**  
[Amended by 1973 c.836 §190; renumbered 135.703]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.020**  
[Amended by 1973 c.836 §191; renumbered 135.705]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.030**  
[Renumbered 135.707]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.040**  
[Renumbered 135.709]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.110**  
[Amended by 1959 c.638 §15; 1971 c.286 §1; 1973 c.836 §203; renumbered 135.745]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.120**  
[Amended by 1959 c.638 §16; 1973 c.836 §204; renumbered 135.747]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.130**  
[Amended by 1959 c.638 §17; 1973 c.836 §205; renumbered 135.750]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.140**  
[Amended by 1973 c.836 §206; renumbered 135.753]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.150**  
[Amended by 1973 c.836 §207; renumbered 135.755]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.160**  
[Renumbered 135.757]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.510**  
[1955 c.387 §1; 1973 c.836 §208; renumbered 135.760]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.520**  
[1955 c.387 §2; renumbered 135.763]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.530**  
[1955 c.387 §3; renumbered 135.765]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.540**  
[1955 c.387 §4; 1973 c.836 §209; renumbered 135.767]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.550**  
[1955 c.387 §5; 1973 c.836 §210; renumbered 135.770]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.560**  
[1955 c.387 §6; 1973 c.836 §211; renumbered 135.773]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.605**  
[1969 c.362 §1; 1973 c.836 §212; renumbered 135.775]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.615**  
[1969 c.362 §2; renumbered 135.777]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.625**  
[1969 c.362 §3; renumbered 135.779]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.635**  
[1969 c.362 §4; renumbered 135.783]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.645**  
[1969 c.362 §5; renumbered 135.785]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.655**  
[1969 c.362 §6; renumbered 135.787]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 134 - (Former Provisions) Section 134.665**  
[1969 c.362 §7; renumbered 135.789]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.010 - Time and place.**

When the accusatory instrument has been filed, and if the defendant has been arrested, or as soon thereafter as the defendant may be arrested, the defendant shall be arraigned thereon as provided in ORS 135.030 before the court in which it is found. Except for good cause shown or at the request of the defendant, if the defendant is in custody, the arraignment shall be held during the first 36 hours of custody, excluding holidays, Saturdays and Sundays. In all other cases, except as provided for in ORS 133.060, the arraignment shall be held within 96 hours after the arrest. [Amended by 1973 c.836 §130; 1983 c.344 §1; 1983 c.661 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.020 - Scope of proceedings.**

The arraignment shall be made by the court, or by the clerk or the district attorney under its direction, as provided in ORS 135.030. The arraignment consists of reading the accusatory instrument to the defendant, causing delivery to the defendant of a copy thereof and indorsements thereon, including the list of witnesses indorsed on it or appended thereto if the accusatory instrument is an indictment, asking the defendant how the defendant pleads to the charge. [Amended by 1973 c.836 §131; 1983 c.344 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.030 - When presence of defendant is required; appearance by counsel.**

- (1) When the accusatory instrument charges a crime punishable as a felony, the defendant shall appear in person at the arraignment.
- (2) When the accusatory instrument charges a crime punishable as a misdemeanor, the defendant may appear in person or by counsel.
- (3) The court may require a defendant to appear at the arraignment by simultaneous electronic transmission as provided in ORS 131.045 without the agreement of the state or defendant if the type of simultaneous electronic transmission available allows the defendant to observe the court and the court to observe the defendant. [Formerly 135.110; 1983 c.344 §3; 2005 c.566 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.035 - Bringing in defendant not yet arrested or held to answer.**

When an accusatory instrument is filed in court, if the defendant has not been arrested and held to answer the charge, unless the defendant voluntarily appears for arraignment, the court shall issue a warrant of arrest as provided in ORS 133.110. [Formerly 135.140]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.037 - Omnibus hearing; when held; subject; ruling of court; counsel required.**

- (1) At any time after the filing of the accusatory instrument in circuit court and before the commencement of trial thereon, the court upon motion of any party shall, and upon its own motion may, order an omnibus hearing.
- (2) The purpose of an omnibus hearing shall be to rule on all pretrial motions and requests, including but not limited to the following issues:
  - (a) Suppression of evidence.
  - (b) Challenges to identification procedures used by the prosecution.
  - (c) Challenges to voluntariness of admissions or confession.
  - (d) Challenges to the accusatory instrument.
- (3) The court, at the time of the omnibus hearing, may also consider any matters that will facilitate trial by avoiding unnecessary proof or by simplifying the issues to be tried, or that are otherwise appropriate under the circumstances to facilitate disposition of the proceeding.
- (4) At the conclusion of the hearing and prior to trial the court shall prepare and file an order setting forth all rulings of the court on issues raised under subsection (2) of this section. The court shall further prepare and file a memorandum of other matters agreed upon at the hearing. Except in a prosecution of the defendant for perjury or false swearing, or impeachment of the defendant,

admissions made by the defendant or the attorney of the defendant at the hearing may not be used against the defendant unless the admissions are reduced to writing and signed by the defendant and the attorney.

(5) This section may not be applied in any proceeding or at any stage of any proceeding where the defendant is not represented by counsel. [1973 c.550 §2; 2009 c.11 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.040 - Right to counsel.**

If the defendant appears for arraignment without counsel, the defendant shall be informed by the court that it is the right of the defendant to have counsel before being arraigned and shall be asked if the defendant desires the aid of counsel. [Formerly 135.310]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.045 - Court appointment of counsel; waiver of counsel; appointment of legal advisor.**

(1)(a) If the defendant in a criminal action appears without counsel at arraignment or thereafter, the court shall determine whether the defendant wishes to be represented by counsel.

(b) If the defendant does wish to be represented by counsel, the court, in accordance with ORS 135.050, shall appoint counsel to represent the defendant.

(c) If the defendant wishes to waive counsel, the court shall determine whether the defendant has made a knowing and voluntary waiver of counsel. The court shall accept the waiver of counsel if the defendant is not charged with a capital offense. The court may decline to accept the waiver of counsel if the defendant is charged with a capital offense.

(d) If the court accepts a defendant's waiver of counsel, the court may allow an attorney to serve as the defendant's legal advisor and may, in accordance with ORS 135.050, appoint an attorney as the defendant's legal advisor.

(2) Appointment of counsel, including a legal advisor, under this section is subject to ORS 135.050, 135.055 and 151.485 to 151.497. [Formerly 135.320; 1987 c.803 §13; 1989 c.171 §16; 1989 c.1053 §1a; 1991 c.790 §11; 2001 c.472 §1; 2001 c.962 §24]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.050 - Eligibility for court-appointed counsel; financial statement; termination; civil liability.**

(1) Suitable counsel for a defendant shall be appointed by a municipal, county or justice court if:

(a) The defendant is before a court on a matter described in subsection (5) of this section;

(b) The defendant requests aid of counsel;

(c) The defendant provides to the court a written and verified financial statement; and

(d) It appears to the court that the defendant is financially unable to retain adequate representation without substantial hardship in providing basic economic necessities to the defendant or the defendant's dependent family.

(2) Suitable counsel for a defendant shall be appointed by a circuit court if:

(a) The defendant is before the court on a matter described in subsection (5) of this section;

(b) The defendant requests aid of counsel;

(c) The defendant provides to the court a written and verified financial statement; and

(d)(A) The defendant is determined to be financially eligible under ORS 151.485 and the standards established by the Oregon Public Defense Commission under ORS 151.216; or

(B) The court finds, on the record, substantial and compelling reasons why the defendant is financially unable to retain adequate representation without substantial hardship in providing basic economic necessities to the defendant or the defendant's dependent family despite the fact that the defendant does not meet the financial eligibility standards established by the commission.

(3) Appointed counsel may not be denied to any defendant merely because the defendant's friends or relatives have resources adequate to retain counsel or because the defendant has deposited or is capable of depositing security for release. However, appointed counsel may be denied to a defendant if the defendant's spouse has adequate resources which the court determines should be made available to retain counsel.

(4) The defendant's financial statement under subsection (1) or (2) of this section shall include, but not be limited to:

(a) A list of bank accounts in the name of defendant or defendant's spouse, and the balance in each;

(b) A list of defendant's interests in real property and those of defendant's spouse;

(c) A list of automobiles and other personal property of significant value belonging to defendant or defendant's spouse;

(d) A list of debts in the name of defendant or defendant's spouse, and the total of each; and

(e) A record of earnings and other sources of income in the name of defendant or defendant's spouse, and the total of each.

(5) Counsel must be appointed for a defendant who meets the requirements of subsection (1) or (2) of this section and who is before a court on any of the following matters:

(a) Charged with a crime.

(b) For a hearing to determine whether an enhanced sentence should be imposed when such proceedings may result in the imposition of a felony sentence.

(c) For extradition proceedings under the provisions of the Uniform Criminal Extradition Act.

(d) For any proceeding concerning an order of probation, including but not limited to the revoking or amending thereof.

(6) Unless otherwise ordered by the court, the appointment of counsel under this section shall continue during all criminal

proceedings resulting from the defendant's arrest through acquittal or the imposition of punishment. The court having jurisdiction of the case may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Oregon Public Defense Commission under ORS 151.216.

(7) If, at any time after the appointment of counsel, the court having jurisdiction of the case finds that the defendant is financially able to obtain counsel, the court may terminate the appointment of counsel. If, at any time during criminal proceedings, the court having jurisdiction of the case finds that the defendant is financially unable to pay counsel whom the defendant has retained, the court may appoint counsel as provided in this section.

(8) The court may order the defendant in a circuit court to pay to the Public Defense Services Account established by ORS 151.225, through the clerk of the court, in full or in part the administrative costs of determining the eligibility of the defendant for appointed counsel and the costs of the legal and other services that are related to the provision of appointed counsel under ORS 151.487.

(9) In addition to any criminal prosecution, a civil proceeding may be initiated by any public body which has expended moneys for the defendant's legal assistance within two years of judgment if the defendant was not qualified in accordance with subsection (1) or (2) of this section for legal assistance.

(10) The civil proceeding shall be subject to the exemptions from execution as provided for by law.

(11) As used in this section unless the context requires otherwise, "counsel" includes a legal advisor appointed under ORS 135.045. [Formerly 133.625; 1981 c.3 §118; 1985 c.710 §1; 1989 c.1053 §1b; 1997 c.761 §8; 2001 c.472 §4; 2001 c.962 §25; 2003 c.449 §49; 2012 c.107 §41; 2023 c.281 §25]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.055 - Compensation and expenses of appointed counsel.**

(1) Counsel appointed pursuant to ORS 135.045 or 135.050 shall be paid fair compensation for representation in the case:

(a) By the county, subject to the approval of the governing body of the county, in a proceeding in a county or justice court.

(b) By the executive director of the Oregon Public Defense Commission from funds available for the purpose, in a proceeding in a circuit court.

(2) Except for counsel appointed pursuant to contracts or counsel employed by the Oregon Public Defense Commission, compensation payable to appointed counsel under subsection (1) of this section:

(a) In a proceeding in a county or justice court may not be less than \$30 per hour.

(b) In a proceeding in a circuit court is subject to the applicable compensation established under ORS 151.216.

(3)(a) A person determined to be eligible for appointed counsel is entitled to necessary and reasonable fees and expenses for investigation, preparation and presentation of the case for trial, negotiation and sentencing. The person or the counsel for the person shall upon written request secure preauthorization to incur fees and expenses that are necessary and reasonable in the investigation, preparation and presentation of the case and that require preauthorization under a policy of the Oregon Public Defense Commission, including but not limited to travel, photocopying or other reproduction of documents, necessary costs associated with obtaining the attendance of witnesses for the defense, investigator fees and expenses, expert witness fees and expenses and fees for interpreters and assistive communication devices necessary for the purpose of communication between counsel and a client or witness in the case. Preauthorization to incur a fee or expense does not guarantee that a fee or expense incurred pursuant to the preauthorization will be determined to be necessary or reasonable when the fee or expense is submitted for payment.

(b) In a county or justice court, the request must be in the form of a motion to the court. The motion must be accompanied by a supporting affidavit that sets out in detail the purpose of the requested expenditure, the name of the service provider or other recipient of the funds, the dollar amount of the requested expenditure that may not be exceeded without additional authorization and the date or dates during which the service will be rendered or events will occur for which the expenditure is requested.

(c) In a circuit court, the request must be in the form and contain the information that is required by the policies, procedures, standards and guidelines of the Oregon Public Defense Commission. If the executive director of the commission denies a request for preauthorization to incur fees and expenses subject to a preauthorization requirement, the person making the request may appeal the decision to the presiding judge of the circuit court. The presiding judge has final authority to preauthorize incurring fees and expenses under this paragraph.

(d) Entitlement under subsection (7) of this section to payment for fees and expenses in circuit court is subject to the policies, procedures, standards and guidelines adopted under ORS 151.216. Entitlement to payment of fees and expenses subject to a preauthorization requirement is dependent upon obtaining preauthorization from the court, if the case is in county or justice court, or from the executive director of the Oregon Public Defense Commission, if the case is in circuit court, except as otherwise provided in paragraph (c) of this subsection and in the policies, procedures, standards and guidelines adopted under ORS 151.216. Fees and expenses shall be paid:

(A) By the county, in respect to a proceeding in a county or justice court.

(B) By the executive director of the commission from funds available for the purpose, in respect to a proceeding in a circuit court.

(C) By the city, in respect to a proceeding in municipal court.

(4) Upon completion of all services by the counsel of a person determined to be eligible for appointed counsel, the counsel shall submit a statement of all necessary and reasonable fees and expenses of investigation, preparation and presentation and, if counsel was appointed by the court, a statement of all necessary and reasonable fees and expenses for legal representation, supported by appropriate receipts or vouchers and certified by the counsel to be true and accurate.

(5) In a county or justice court, the total fees and expenses payable under this section must be submitted to the court by counsel or other providers and are subject to the review of the court. The court shall certify that such amount is fair reimbursement for fees and expenses for representation in the case as provided in subsection (6) of this section. Upon certification and any verification as provided under subsection (6) of this section, the amount of the fees and expenses approved by the court and not already paid shall be paid by the county.

(6) In a county or justice court, the court shall certify to the administrative authority responsible for paying fees and expenses under this section that the amount for payment is reasonable and that the amount is properly payable out of public funds.

(7) In a circuit court, the total fees and expenses payable under this section must be submitted to and are subject to review by the executive director of the Oregon Public Defense Commission. The executive director of the commission shall determine whether the amount is necessary, reasonable and properly payable from public funds for fees and expenses for representation in the case as provided by the policies, procedures, standards and guidelines of the commission. The executive director of the commission shall pay the amount of the fees and expenses determined necessary, reasonable and properly payable out of public funds. The court shall provide any information identified and requested by the executive director of the commission as needed for audit, statistical or any other purpose pertinent to ensure the proper disbursement of state funds or pertinent to the provision of appointed counsel compensated at state expense.

(8) If the executive director of the Oregon Public Defense Commission denies, in whole or in part, fees and expenses submitted for review and payment, the person who submitted the payment request may appeal the decision to the presiding judge of the circuit court. The presiding judge or the designee of the presiding judge shall review the executive director's decision for abuse of discretion. The decision of the presiding judge or the designee of the presiding judge is final.

(9) The following may not be disclosed to the district attorney prior to the conclusion of a case:

(a) Requests and administrative or court orders for preauthorization to incur fees and expenses subject to a preauthorization requirement in the investigation, preparation and presentation of the case; and

(b) Billings for such fees and expenses submitted by counsel or other providers.

(10) Notwithstanding subsection (9) of this section, the total amount of moneys determined to be necessary and reasonable for fees and expenses subject to a preauthorization requirement may be disclosed to the district attorney at the conclusion of the trial in the circuit court.

(11) As used in this section unless the context requires otherwise, "counsel" includes a legal advisor appointed under ORS 135.045. [Formerly 135.330; 1979 c.867 §1; 1981 s.s. c.3 §§122,123; 1985 c.502 §19; 1985 c.710 §2; 1987 c.606 §4; 1987 c.803 §§14,14a; 1989 c.1053 §2; 1991 c.724 §25; 1991 c.750 §8; 1993 c.33 §297; 1995 c.677 §1; 1995 c.781 §39; 1997 c.761 §9; 1999 c.163 §8; 1999 c.583 §1; 2001 c.962 §§26,107; 2003 c.449 §§5,43; 2023 c.281 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.060 - Informing defendant as to use of name in accusatory instrument; effect of acknowledging true name at arraignment.**

(1) When the defendant is arraigned, the defendant shall be informed that:

(a) If the name by which the defendant is charged in the accusatory instrument is not the true name of the defendant the defendant must then declare the true name; and

(b) If the defendant does not declare the true name as required by paragraph (a) of this subsection, the defendant is ineligible for any form of release other than a security release under ORS 135.265.

(2) The defendant or the attorney for the defendant may acknowledge the true name of the defendant at arraignment and the acknowledgment may not be used against the defendant at trial on the underlying charge or any other criminal charge or fugitive complaint except that:

(a) The use of different names can be used in determining the defendant's release status if the defendant has used different names in different proceedings; and

(b) A defendant who intentionally falsifies the defendant's name under this section or ORS 135.065 while under oath or affirmation is subject to prosecution under ORS 162.065.

(3) As used in this section and ORS 135.065, "true name" means:

(a) The name on the defendant's certified copy of the record of live birth;

(b) The defendant's birth name; or

(c) If the defendant's name has been changed by court order or by operation of law, the name as changed by court order or operation of law. [Formerly 135.340; 2003 c.645 §4; 2013 c.366 §64]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.065 - Name used in further proceedings; motion to strike false name.**

(1) If the defendant gives no other name, the court may proceed against the defendant by the name in the accusatory instrument. If the defendant is charged by indictment or information and alleges that another name is the true name of the defendant, the court shall direct an entry thereof to be made in its register, and the subsequent proceedings on the accusatory instrument may be had against the defendant by that name, referring also to the name by which the defendant is charged. Before proceeding against the defendant as provided in this subsection, the court shall attempt to determine the true name of the defendant. If a certified copy of

the record of live birth for the defendant was never issued, the court shall ask the defendant, under oath or affirmation, to give the defendant's true name. The court shall proceed under the name given unless the court is persuaded by a preponderance of the evidence that the name is not the defendant's true name.

(2) Upon motion of the defendant, all names, other than the true name of the defendant, shall be stricken from any accusatory instrument read or submitted to the jury.

(3)(a) The following may file a motion requesting that a false name used by a defendant be stricken from an accusatory instrument, warrant of arrest or judgment and that the defendant's true name, if known, be substituted:

(A) The district attorney; or

(B) A person whose name is the same as the false name used by the defendant.

(b) Before the court may grant a motion filed under paragraph (a)(B) of this subsection, the court must provide the district attorney with notice of the motion and an opportunity to respond.

(c) If the court grants a motion under this subsection, the court shall order that the false name be stricken from the accusatory instrument, warrant of arrest or judgment and that the defendant's true name be substituted. In addition, the court shall order that any warrant of arrest of the defendant reflect that the defendant uses a name other than the defendant's true name. [Formerly 135.350; 1985 c.540 §31; 2003 c.645 §5; 2013 c.366 §65]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.067 - Effect of failure to provide true name of defendant on certain types of release.**

If a defendant, on or after August 12, 2003, fails to provide the defendant's true name under ORS 135.060 or 135.065 and is on personal recognizance, conditional release or security release having deposited less than the full security amount set by the magistrate, the magistrate who released the defendant, upon a motion filed by the district attorney and supported by probable cause, shall cause the defendant to be brought before the magistrate. The magistrate shall conduct a hearing to establish release according to ORS 135.245. [2003 c.645 §7]

Note:

135.067 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 135 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.070 - Informing defendant as to charge, right to counsel, use of statement and preliminary hearing.**

When the defendant against whom an information has been filed in a preliminary proceeding appears before a magistrate on a charge of having committed a crime punishable as a felony, before any further proceedings are had the magistrate shall read to the defendant the information and shall inform the defendant:

(1) Of the defendant's right to the aid of counsel, that the defendant is not required to make a statement and that any statement made by the defendant may be used against the defendant.

(2) That the defendant is entitled to a preliminary hearing and of the nature of a preliminary hearing. If a preliminary hearing is requested, it shall be held as soon as practicable but in any event within five judicial days if the defendant is in custody or within 30 days if the defendant is not in custody. The time may be extended for good cause shown.

(3) That if the defendant is on parole, evidence received and the order of the court at the preliminary hearing may be used by the State Board of Parole and Post-Prison Supervision to establish that probable cause exists to believe that a violation of a condition of parole has occurred; and further, that should the defendant waive the defendant's right to a preliminary hearing, such waiver shall also constitute a waiver of a hearing by the board to determine whether there is probable cause to believe that a violation of one or more of the conditions of parole has occurred. [Formerly 133.610; 1981 c.644 §2; 1997 c.823 §1; 2013 c.74 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.073 - Statement by defendant when not advised of rights.**

Evidence obtained directly or indirectly as a result of failure of a magistrate to comply with ORS 135.070 shall not be admissible before the grand jury. [1973 c.836 §61]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.075 - Obtaining counsel.**

The magistrate shall allow the defendant a reasonable time to obtain counsel and shall adjourn the proceeding for that purpose. A defendant who is committed pending examination shall be given a reasonable opportunity to obtain counsel, including but not limited to a reasonable use of the telephone. As used in this section, "counsel" includes a legal advisor appointed under ORS 135.045. [Formerly 133.620; 2001 c.472 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.085 - Subpoenaing witnesses.**

(1) The magistrate shall issue subpoenas for any witness within the state when requested by the district attorney or the defendant for



the preliminary hearing.

(2) If either party desires to subpoena more than five witnesses, application therefor shall be made in the manner provided in ORS 136.570. [Formerly 133.660; 1987 c.606 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.090 - Examination of adverse witnesses.**

The witnesses shall be examined in the presence of the defendant and may be cross-examined in behalf of the defendant or against the defendant. [Formerly 133.670]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.095 - Right of defendant to make or waive making a statement.**

When the examination of the witnesses on the part of the state is closed, the magistrate shall inform the defendant that it is the right of the defendant to make a statement in relation to the charge against the defendant; that the statement is designed to enable the defendant, if the defendant sees fit, to answer the charge and explain the facts alleged against the defendant; that the defendant is at liberty to waive making a statement; and that the waiver of the defendant cannot be used against the defendant on the trial. [Formerly 133.680]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.100 - Statement of defendant.**

If the defendant chooses to make a statement, the magistrate shall take it in a recorded proceeding without oath, and shall put to the defendant the following questions only:

- (1) What is your name and age?
- (2) Where were you born?
- (3) Where do you reside and how long have you resided there?
- (4) What is your business or occupation?
- (5) Give any explanation you think proper of the circumstances appearing in the testimony against you and state any facts which you think will tend to your exculpation. [Formerly 133.690; 1991 c.790 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.105 - Use of statement before grand jury or on trial.**

The statement of the defendant is competent testimony to be laid before the grand jury and may be given in evidence at the trial. [Formerly 133.700]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.110**

[Amended by 1973 c.836 §132; renumbered 135.030]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.115 - Waiver of right to make statement.**

If the defendant waives the right of the defendant to make a statement, the fact of the waiver of the defendant cannot be used against the defendant on the trial. [Formerly 133.710; 1991 c.790 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.125 - Examination of defendant's witnesses.**

After the waiver of the defendant to make a statement or after the defendant has made it, the witnesses of the defendant, if the defendant produces any, shall be sworn and examined. [Formerly 133.720]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.135 - Exclusion of witnesses during examination of others.**

The magistrate may exclude the witnesses who have not been examined during the examination of the defendant or of a witness for the state or the defendant. [Formerly 133.730]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.139 - Notice of availability of testing for HIV and other communicable diseases to person charged with crime; when court may order test; victim's rights; disclosure of test results; penalties.**

(1) When a person has been charged with a crime in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved, the district attorney, upon the request of the victim or the parent or guardian of a minor or incapacitated victim, shall seek the consent of the person charged to submit to a test for HIV and any other

communicable disease. In the absence of such consent or failure to submit to the test, the district attorney shall petition the court for an order requiring the person charged to submit to a test for HIV and any other communicable disease.

(2)(a) At the time of an appearance before a circuit court judge on a criminal charge, the judge shall inform every person arrested and charged with a crime, in which it appears from the nature of the charge that the transmission of body fluids from one person to another may have been involved, of the availability of testing for HIV and other communicable diseases and shall cause the alleged victim of such a crime, if any, or a parent or guardian of the victim, if any, to be notified that testing for HIV and other communicable diseases is available. The judge shall inform the person arrested and charged and the victim, or parent or guardian of the victim, of the availability of counseling under the circumstances described in subsection (7) of this section.

(b) Notwithstanding the provisions of ORS 433.045, when the district attorney files a petition under subsection (1) of this section, the court shall order the person charged to submit to testing if the court determines there is probable cause to believe that:

(A) The person charged committed the crime; and

(B) The victim has received a substantial exposure, as defined by rule of the Oregon Health Authority.

(c) If the district attorney files a petition under subsection (1) of this section at or before the defendant's arraignment on the indictment or information and the court orders the defendant to submit to testing, the testing must be done within 48 hours of the defendant's arraignment.

(d) The results of the test described in this subsection must be provided to the victim of the crime, or a parent or guardian of the victim, and to the defendant, as soon as practicable.

(e) Any necessary follow-up testing must be provided as medically appropriate.

(3) Notwithstanding the provisions of ORS 433.045, upon conviction of a person for any crime in which the court determines from the facts that the transmission of body fluids from one person to another was involved and if the person has not been tested pursuant to subsection (2) of this section, the court shall seek the consent of the convicted person to submit to a test for HIV and other communicable diseases. In the absence of such consent or failure to submit to the test, the court shall order the convicted person to submit to the test if the victim of the crime, or a parent or guardian of the victim, requests the court to make such order.

(4) When a test is ordered under subsection (2) or (3) of this section, the victim of the crime or a parent or guardian of the victim, shall designate an attending physician, a physician assistant licensed under ORS 677.505 to 677.525 or a nurse practitioner licensed under ORS 678.375 to 678.390 to receive such information on behalf of the victim.

(5) If an HIV test results in a negative reaction, the court may order the person to submit to another HIV test six months after the first test was administered.

(6) The result of any test ordered under this section is not a public record and shall be available only to:

(a) The victim.

(b) The parent or guardian of a minor or incapacitated victim.

(c) The attending physician, physician assistant or nurse practitioner.

(d) The Oregon Health Authority.

(e) The person tested.

(7) If an HIV test ordered under this section results in a positive reaction, the individual subject to the test shall receive post-test counseling as required by the Oregon Health Authority by rule. The results of HIV tests ordered under this section shall be reported to the authority. Counseling and referral for appropriate health care, testing and support services as directed by the Director of the Oregon Health Authority shall be provided to the victim or victims at the request of the victim or victims, or the parent or guardian of a minor or incapacitated victim.

(8) The costs of testing and counseling provided under subsections (2), (3) and (7) of this section shall be paid through the compensation for crime victims program authorized by ORS 147.005 to 147.367 from amounts appropriated for such purposes. Restitution to the state for payment of the costs of any counseling provided under this section and for payment of the costs of any test ordered under this section shall be included by the court in any order requiring the convicted person to pay restitution.

(9) When a court orders a convicted person to submit to a test under this section, the withdrawal of blood may be performed only by a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to 677.525 or a nurse practitioner licensed under ORS 678.375 to 678.390, or by another licensed health care provider acting within the provider's licensed scope of practice or acting under the supervision of a physician licensed under ORS chapter 677, a physician assistant licensed under ORS 677.505 to 677.525 or a nurse practitioner licensed under ORS 678.375 to 678.390.

(10) No person authorized by subsection (9) of this section to withdraw blood, no person assisting in the performance of the test nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices.

(11) The results of tests or reports, or information therein, obtained under this section shall be confidential and shall not be divulged to any person not authorized by this section to receive the information. Any violation of this subsection is a Class C misdemeanor.

(12) As used in this section:

(a) "HIV test" means a test as defined in ORS 433.045.

(b) "Parent or guardian of the victim" means a custodial parent or legal guardian of a victim who is a minor or incapacitated person.

(c) "Positive reaction" means a positive HIV test with a positive confirmatory test result as specified by the Oregon Health Authority.

(d) "Transmission of body fluids" means the transfer of blood, semen, vaginal secretions or other body fluids identified by rule of the authority, from the perpetrator of a crime to the mucous membranes or potentially broken skin of the victim.

(e) "Victim" means the person or persons to whom transmission of body fluids from the perpetrator of the crime occurred or was likely to have occurred in the course of the crime. [1989 c.568 §1; 1993 c.331 §1; 1999 c.967 §1; 2009 c.595 §92; 2014 c.45 §21; 2023 c.320 §1]

Note:

135.139 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 135 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.140**

[Amended by 1973 c.836 §133; renumbered 135.035]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.145 - Testimony of witnesses.**

The testimony of the witnesses in a preliminary hearing shall be recorded. [Formerly 133.740; 1991 c.790 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.155 - Retention of record and statements by magistrate; inspection.**

The magistrate shall keep the record of the preliminary hearing and the statement of the defendant, if any, until the record is returned to the proper court and shall not permit the record to be inspected by any person, except the district attorney of the county or the attorney who acts for the district attorney and the defendant and the counsel of the defendant. [Formerly 133.750; 1991 c.790 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.165 - Counsel for complainant; district attorney.**

The complainant may employ counsel to appear against the defendant in every stage of the preliminary hearing; but the district attorney for the county, either in person or by some attorney authorized to act for the district attorney, is entitled to appear on behalf of the state and control and direct the prosecution. [Formerly 133.760]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.173 - Oregon Evidence Code to apply in preliminary hearings; exception.**

The Oregon Evidence Code shall apply in any preliminary hearing under this chapter, except that hearsay may be admitted if the court determines that it would impose an unreasonable hardship on one of the parties or on a witness to require that the primary source of the evidence be produced at the hearing, and if the witness furnishes information bearing on the informant's reliability and, as far as possible, the means by which the information was obtained. [1981 c.892 §88b]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.175 - Discharge.**

After hearing the evidence and the statement of the defendant, if the defendant has made one, unless there is a showing of probable cause that a crime has been committed and that the defendant committed it, the magistrate shall dismiss the information and order the defendant to be discharged. [Formerly 133.810]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.185 - Holding defendant to answer; use of hearsay evidence.**

If it appears from the preliminary hearing that there is probable cause to believe that a crime has been committed and that the defendant committed it, the magistrate shall make a written order holding the defendant for further proceedings on the charge. When hearsay evidence was admitted at the preliminary hearing, the magistrate, in determining the existence of probable cause, shall consider:

- (1) The extent to which the hearsay quality of the evidence affects the weight it should be given; and
- (2) The likelihood of evidence other than hearsay being available at trial to provide the information furnished by hearsay at the preliminary hearing. [Formerly 133.820; 1981 c.892 §88c; 2007 c.71 §33]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.195 - Commitment.**

If the magistrate orders the defendant to be held to answer, the magistrate shall make out a commitment, signed by the magistrate with the name of office of the magistrate, and deliver it with the defendant to the officer to whom the defendant is committed or, if that officer is not present, to any peace officer, who shall immediately deliver the defendant into the proper custody, together with the commitment. [Formerly 133.830]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.205 - Indorsement in certain cases.**

When the magistrate delivers the defendant to a peace officer other than the one to whom the defendant is committed, the magistrate shall first make an indorsement on the commitment directing the officer to deliver the defendant and the commitment to the custody of the appropriate sheriff. [Formerly 133.840]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.215 - Direction to sheriff; detention of defendant.**

The commitment shall be directed to the sheriff of the county in which the magistrate is sitting. Such sheriff shall receive and detain the defendant, as thereby commanded, in a jail located in the county of the sheriff or, if there is no sufficient jail in the county, by such means as may be necessary and proper therefor or by confining the defendant in the jail of an adjoining county within or without the state. [Formerly 133.850; 1987 c.550 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.225 - Forwarding of papers by magistrate.**

When the magistrate has held the defendant to answer, the magistrate shall at once forward to the court in which the defendant would be triable:

- (1) The warrant, if any;
- (2) The information;
- (3) The statement of the defendant, if the defendant made one;
- (4) The memoranda mentioned in ORS 135.115 and 135.145;
- (5) The release agreement or security release of the defendant; and
- (6) If applicable, any security taken for the appearance of witnesses. [Formerly 133.860; 2005 c.22 §108]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.230 - Definitions for ORS 135.230 to 135.290.**

As used in ORS 135.230 to 135.290, unless the context requires otherwise:

- (1) "Abuse" means:
  - (a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury;
  - (b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury; or
  - (c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.
- (2) "Conditional release" means a nonsecurity release which imposes regulations on the activities and associations of the defendant.
- (3) "Domestic violence" means abuse between family or household members.
- (4) "Family or household members" means any of the following:
  - (a) Spouses.
  - (b) Former spouses.
  - (c) Adult persons related by blood or marriage.
  - (d) Persons cohabiting with each other.
  - (e) Persons who have cohabited with each other or who have been involved in a sexually intimate relationship.
  - (f) Unmarried parents of a minor child.
- (5) "Magistrate" has the meaning provided for this term in ORS 133.030.
- (6) "Personal recognizance" means the release of a defendant upon the promise of the defendant to appear in court at all appropriate times.
- (7) "Primary release criteria" includes the following:
  - (a) The reasonable protection of the victim or public;
  - (b) The nature of the current charge;
  - (c) The defendant's prior criminal record, if any, and, if the defendant previously has been released pending trial, whether the defendant appeared as required;
  - (d) Any facts indicating the possibility of violations of law if the defendant is released without regulations; and
  - (e) Any other facts tending to indicate that the defendant is likely to appear.
- (8) "Release" means temporary or partial freedom of a defendant from lawful custody before judgment of conviction or after judgment of conviction if defendant has appealed.
- (9) "Release agreement" means a sworn writing by the defendant stating the terms of the release and, if applicable, the amount of security.
- (10) "Release decision" means a determination by a magistrate, using primary and secondary release criteria, which establishes the form of the release most likely to ensure the safety of the public and the victim, the defendant's court appearance and that the defendant does not engage in domestic violence while on release.
- (11) "Secondary release criteria" includes the following:

- (a) The defendant's employment status and history and financial condition;
  - (b) The nature and extent of the family relationships of the defendant;
  - (c) The past and present residences of the defendant;
  - (d) Names of persons who agree to assist the defendant in attending court at the proper time; and
  - (e) Any facts tending to indicate that the defendant has strong ties to the community.
- (12) "Security release" means a release conditioned on a promise to appear in court at all appropriate times which is secured by cash, stocks, bonds or real property.
- (13) "Surety" is one who executes a security release and binds oneself to pay the security amount if the defendant fails to comply with the release agreement. [1973 c.836 §146; 1993 c.731 §4; 1997 c.313 §18]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.233 - Standing pretrial release orders; guidelines for orders.**

- (1) The presiding judge of a judicial district shall enter a standing pretrial release order specifying to the sheriff of the county, or to the entity supervising the local correctional facility responsible for pretrial incarceration within the judicial district, those persons and offenses:
- (a) Subject to release on recognizance;
  - (b) Subject to release with special conditions as specified in the order; and
  - (c) That are not eligible for release until arraignment.
- (2) The Chief Justice of the Supreme Court, with input from a criminal justice advisory committee appointed by the Chief Justice, shall establish release guidelines for the pretrial release orders described in this section to:
- (a) Provide consistent release decision-making structure across the state;
  - (b) Reduce reliance on the use of security;
  - (c) Include provisions for victim notification and input; and
  - (d) Balance the rights of the defendant and presumption of pretrial release against community and victim safety and the risk of failure to appear. [2021 c.643 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.235 - Release assistance officers; appointment; duties.**

- (1) A presiding judge for a judicial district may appoint release assistance officers under a personnel plan established by the Chief Justice of the Supreme Court.
- (2) A release assistance officer shall, except when impracticable, interview every person detained pursuant to law and charged with an offense. If the person is charged with a person felony or person Class A misdemeanor, as those terms are defined in the rules of the Oregon Criminal Justice Commission, or with contempt of court for violating a court order protecting or prohibiting contact with another person, the release assistance officer shall make reasonable efforts to contact the victim prior to submitting a report or making a release decision under subsection (3) of this section. If the release assistance officer is able to contact the victim:
- (a) Information regarding the victim's position on release, including whether special release conditions should be imposed, must be included in the report described in subsection (3) of this section, and considered by the release assistance officer if the officer makes the release decision; and
  - (b) If the information is available, the release assistance officer shall inform the victim of the location, date and time of the defendant's arraignment or other first appearance.
- (3) The release assistance officer shall verify release criteria information and may either:
- (a) Timely submit a written report to the magistrate containing, but not limited to, an evaluation of the release criteria and a recommendation for the form of release; or
  - (b) If delegated release authority by the presiding judge for the judicial district, make the release decision.
- (4) As used in this section, "victim" means an individual that the charging instrument indicates is the victim of the alleged offense or the person protected by the court order, whether or not the individual is specifically named, so long as the release assistance officer is able to confirm the identity of the individual. [1973 c.836 §147; 1981 s.s. c.3 §37; 1995 c.781 §40; 2021 c.643 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.240 - Releasable offenses.**

- (1) Except as provided in subsections (2) and (4) of this section, a defendant shall be released in accordance with ORS 135.230 to 135.290.
- (2)(a) When the defendant is charged with murder, aggravated murder or treason, release shall be denied when the proof is evident or the presumption strong that the person is guilty.
- (b) When the defendant is charged with murder or aggravated murder and the proof is not evident nor the presumption strong that the defendant is guilty, the court shall determine the issue of release as provided in subsection (4) of this section. In determining the issue of release under subsection (4) of this section, the court may consider any evidence used in making the determination required by this subsection.
- (3) The magistrate may conduct such hearing as the magistrate considers necessary to determine whether, under subsection (2) of

this section, the proof is evident or the presumption strong that the person is guilty.

(4)(a) When the defendant is charged with a violent felony, release shall be denied if the court finds:

(A) Except when the defendant is charged by indictment, that there is probable cause to believe that the defendant committed the crime; and

(B) By clear and convincing evidence, that there is a danger of physical injury or sexual victimization to the victim or members of the public by the defendant while on release.

(b) If the defendant wants to have a hearing on the issue of release, the defendant must request the hearing at the time of arraignment in circuit court. If the defendant requests a release hearing, the court must hold the hearing within five days of the request.

(c) At the release hearing, unless the state stipulates to the setting of security or release, the court shall make the inquiry set forth in paragraph (a) of this subsection. The state has the burden of producing evidence at the release hearing subject to ORS 40.015 (4).

(d) The defendant may be represented by counsel and may present evidence on any relevant issue. However, the hearing may not be used for purposes of discovery.

(e) If the court determines that the defendant is eligible for release in accordance with this subsection, the court shall set security or other appropriate conditions of release.

(f) When a defendant who has been released violates a condition of release and the violation:

(A) Constitutes a new criminal offense, the court shall cause the defendant to be taken back into custody and shall order the defendant held pending trial without release.

(B) Does not constitute a new criminal offense, the court may order the defendant to be taken back into custody and may order the defendant held pending trial or may make a new release decision.

(5) For purposes of this section, "violent felony" means a felony offense in which there was an actual or threatened serious physical injury to the victim, or a felony sexual offense. [1973 c.836 §148; 1997 c.313 §19; 2001 c.104 §45; 2007 c.194 §1; 2007 c.879 §9; 2021 c.643 §4]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.245 - Release decision.**

(1) Except as provided in ORS 135.240, a person in custody has the right to be taken before a magistrate without undue delay.

(2)(a) A magistrate shall make a release decision at the time of arraignment or other first appearance after the defendant is taken into custody unless good cause to postpone the release decision is shown, in which case a release hearing shall be held pursuant to subsection (7) of this section.

(b) The district attorney shall make reasonable efforts to inform the victim of the location, date and time of the arraignment or other first appearance and to determine if the victim is present at the arraignment or appearance. If the victim is present, the victim has the right to reasonably express any views relevant to the issues at the appearance.

(c) As used in this subsection, "good cause" includes circumstances in which:

(A) The district attorney plans to seek preventative detention; or

(B) There is a reasonable belief that additional evidence exists and would be relevant to the release decision, but is not currently available.

(3) If the magistrate, having given priority to the primary release criteria, decides to release a defendant or to set security, the magistrate shall impose the least onerous condition reasonably likely to ensure the safety of the public and the victim and the person's later appearance and, if the person is charged with an offense involving domestic violence, ensure that the person does not engage in domestic violence while on release. A person in custody, otherwise having a right to release, shall be released upon the personal recognizance unless:

(a) Release criteria show to the satisfaction of the magistrate that such a release is unwarranted; or

(b) Subsection (6) of this section applies to the person.

(4) Upon a finding that release of the person on personal recognizance is unwarranted, the magistrate shall proceed to consider conditional release under ORS 135.260. Only after determining that conditional release is unwarranted, or if otherwise required by ORS 135.230 to 135.290, may the magistrate proceed to consider security release under ORS 135.265.

(5) At the release hearing:

(a) The district attorney has a right to be heard in relation to issues relevant to the release decision; and

(b) The victim has the right:

(A) Upon request made within the time period prescribed in the notice required by ORS 147.417, to be notified by the district attorney of the release hearing;

(B) To appear personally at the hearing; and

(C) If present, to reasonably express any views relevant to the issues before the magistrate.

(6) If a person refuses to provide a true name under the circumstances described in ORS 135.060 and 135.065, the magistrate may not release the person on personal recognizance or on conditional release. The magistrate may release the person on security release under ORS 135.265 except that the magistrate shall require the person to deposit the full security amount set by the magistrate.

(7)(a) After the postponement of a release decision under subsection (2) of this section, upon the request of either party, or upon the magistrate's own motion, the magistrate shall make a release decision or reconsider the release decision, as applicable, at a release hearing. The release hearing must be held within 48 hours of arraignment or other first appearance after the defendant is taken into

custody unless both parties agree, or the court finds good cause, to hold the hearing at a later time. Under no circumstances may the release hearing be held more than five days after arraignment or other first appearance after the defendant is taken into custody unless the defendant consents to holding the hearing at a later time.

(b) A hearing held under this subsection may not be used for purposes of discovery.

(8) This section shall be liberally construed to carry out the purpose of relying upon criminal sanctions instead of financial loss to ensure the appearance of the defendant. [1973 c.836 §149; 1993 c.731 §5; 1997 c.313 §20; 2003 c.645 §6; 2009 c.178 §27; 2021 c.643 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.246 - Release conditions related to medical use of cannabis.**

(1) As used in this section, "cannabinoid concentrate," "cannabinoid extract," "medical cannabinoid product," "registry identification card" and "usable marijuana" have the meanings given those terms in ORS 475C.777.

(2) If a person who holds a registry identification card is released under ORS 135.230 to 135.290, any release conditions related to the use of usable marijuana, medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts must be imposed in the same manner as would be imposed release conditions related to prescription drugs. [2016 c.24 §53b; 2019 c.292 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.247 - Order prohibiting contact with victim of sex crime, crime involving bias or domestic violence.**

(1) When a release assistance officer makes a release decision under ORS 135.235 involving a defendant charged with a sex crime, a crime involving bias or a crime constituting domestic violence, the release assistance officer shall include in the decision an order that the defendant be prohibited from contacting or attempting to contact the victim, either directly or through a third party, while the defendant is in custody. The release assistance officer shall provide the defendant with a written copy of the order.

(2) When a defendant who is charged with a sex crime, a crime involving bias or a crime that constitutes domestic violence is arraigned, the court shall enter an order continuing an order issued under subsection (1) of this section or, if no such order has been entered, enter an order prohibiting the defendant from contacting or attempting to contact the victim, either directly or through a third party, while the defendant is in custody.

(3) Except as provided in subsection (4) of this section, an order described in subsection (1) or (2) of this section:

(a) Shall apply at any time during which the defendant is held in custody on the charge; and

(b) Shall remain valid until the defendant is sentenced for the crime, the charge is dismissed or the defendant is acquitted of the crime.

(4) Upon petition of the victim, the court may enter an order terminating an order entered under subsection (1) or (2) of this section if the court finds, after a hearing on the petition, that terminating the order is in the best interests of the parties and the community.

(5) An order described in subsection (1) or (2) of this section shall not limit contact with the victim by the defense attorney, or an agent of the defense attorney other than the defendant, in the manner prescribed by ORS 135.970 (2).

(6) As used in this section:

(a) "Crime involving bias" means intimidation by display of a noose under ORS 163.191, bias crime in the second degree under ORS 166.155 or bias crime in the first degree under ORS 166.165.

(b) "Domestic violence" has the meaning given that term in ORS 135.230.

(c) "Sex crime" has the meaning given that term in ORS 163A.005. [2011 c.232 §1; 2015 c.264 §1; 2021 c.643 §6; 2023 c.549 §5]

Note:

135.247 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 135 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.250 - General conditions of release agreement.**

(1) If a defendant is released before judgment, the conditions of the release agreement shall be that the defendant will:

(a) Appear to answer the charge in the court having jurisdiction on a day certain and thereafter as ordered by the court until the defendant is discharged or the judgment is entered;

(b) Submit to the orders and process of the court;

(c) Not depart this state without leave of the court; and

(d) Comply with such other conditions as the court may impose.

(2)(a) In addition to the conditions listed in subsection (1) of this section, if the defendant is charged with an offense that also constitutes domestic violence, the court shall include as a condition of the release agreement that the defendant not contact the victim of the violence.

(b) Notwithstanding paragraph (a) of this subsection, the court may enter an order waiving the condition that the defendant have no contact with the victim if:

(A) The victim petitions the court for a waiver; and

(B) The court finds, after a hearing on the petition, that waiving the condition is in the best interests of the parties and the community.

(c) If the defendant was provided notice and an opportunity to be heard, the court shall also include in the agreement, when appropriate, terms and findings sufficient under 18 U.S.C. 922 (d)(8) and (g)(8) to affect the defendant's ability to possess firearms and ammunition or engage in activities involving firearms.

(d) ORS 107.720 applies to release agreements executed by defendants charged with an offense that constitutes domestic violence, except that proof of service of the release agreement is not required and the agreement may not be terminated at the request of the victim without a hearing. [1973 c.836 §150; 1991 c.111 §10; 1993 c.731 §6; 1999 c.617 §3; 2013 c.151 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.253 - Waiver of appearance at trial as release condition prohibited.**

(1) The court may not condition a defendant's release on the defendant's waiver of appearance in person at trial.

(2) A release agreement may not contain a provision prohibited by subsection (1) of this section. [2018 c.37 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.255 - Release agreement.**

(1) The defendant shall not be released from custody unless the defendant files with the clerk of the court in which the magistrate is presiding a release agreement duly executed by the defendant containing the conditions ordered by the releasing magistrate or deposits security in the amount specified by the magistrate in accordance with ORS 135.230 to 135.290.

(2) A failure to appear as required by the release agreement shall be punishable as provided in ORS 162.195 or 162.205.

(3) "Custody" for purposes of a release agreement does not include temporary custody under the citation procedures of ORS 133.055 to 133.076. [1973 c.836 §151]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.260 - Conditional release.**

(1) Conditional release may include one or more of the following conditions:

(a) Release of the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall not be required to be financially responsible for the defendant, nor to forfeit money in the event the defendant fails to appear in court. The supervisor, however, shall notify the court immediately in the event that the defendant breaches the conditional release.

(b) Reasonable regulations on the activities, movements, associations and residences of the defendant, including, if the court finds it appropriate, restriction of the defendant to the defendant's own residence or to the premises thereof.

(c) Release of the defendant from custody during working hours.

(d) Any other reasonable restriction designed to assure the defendant's appearance.

(2) Except as otherwise provided in ORS 135.250 (2)(b), conditional release shall include a prohibition against contacting the victim if the defendant is charged with an offense that also constitutes domestic violence. [1973 c.836 §152; 1985 c.818 §1; 1993 c.731 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.265 - Security release.**

(1) If the defendant is not released on personal recognizance under ORS 135.255, or granted conditional release under ORS 135.260, or fails to agree to the provisions of the conditional release, the magistrate shall set a security amount that will reasonably assure the defendant's appearance. The defendant shall execute the security release in the amount set by the magistrate.

(2) The defendant shall execute a release agreement and deposit with the clerk of the court before which the proceeding is pending a sum of money equal to 10 percent of the security amount, but in no event shall such deposit be less than \$25. The clerk shall issue a receipt for the sum deposited. Upon depositing this sum the defendant shall be released from custody subject to the condition that the defendant appear to answer the charge in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court. Once security has been given and a charge is pending or is thereafter filed in or transferred to a court of competent jurisdiction the latter court shall continue the original security in that court subject to ORS 135.280 and 135.285. When conditions of the release agreement have been performed and the defendant has been discharged from all obligations in the cause, the clerk of the court shall return to the person shown by the receipt to have made the deposit, unless the court orders otherwise, 85 percent of the sum which has been deposited and shall retain as security release costs 15 percent, but not less than \$5 nor more than \$750, of the amount deposited. The interest that has accrued on the full amount deposited shall also be retained by the clerk. The amount retained by the clerk of a circuit court shall be paid over as directed by the State Court Administrator for deposit in the General Fund. The amount retained by a justice of the peace shall be deposited in the county treasury. The amount retained by the clerk of a municipal court shall be deposited in the municipal corporation treasury. At the request of the defendant the court may order whatever amount is repayable to defendant from such security amount to be paid to defendant's attorney of record.

(3) Instead of the security deposit provided for in subsection (2) of this section the defendant may deposit with the clerk of the court an amount equal to the security amount in cash, stocks, bonds, or real or personal property situated in this state with equity not exempt owned by the defendant or sureties worth double the amount of security set by the magistrate. The stocks, bonds, real or



personal property shall in all cases be justified by affidavit. The magistrate may further examine the sufficiency of the security as the magistrate considers necessary. [1973 c.836 §153; 1979 c.878 §1; 1981 c.837 §1; 1981 s.s. c.3 §112; 1983 c.763 §44; 1987 c.905 §14; 2009 c.659 §§9,11; 2011 c.595 §§158,159]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.270 - Taking of security.**

(1) When a security amount has been set by a magistrate for a particular offense or for a defendant's release, any person designated by the magistrate may take the security and release the defendant to appear in accordance with the conditions of the release agreement. The person designated by the magistrate shall give a receipt to the defendant for the security so taken and within a reasonable time deposit the security with the clerk of the court having jurisdiction of the offense.

(2) If a magistrate has designated a person to take security and release defendants under subsection (1) of this section, the clerk of the court shall continue to accept the security release deposits described in ORS 135.265 during the normal business hours of the court. [1973 c.836 §154; 2015 c.493 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.275 - Seizure of security by law enforcement agency.**

(1) A law enforcement agency may not seize any cash, cashier's checks, money orders, credit cards, stocks, bonds or real or personal property that a person deposits, or attempts to deposit, with the clerk of the court, or a person designated by a magistrate to take security under ORS 135.270, in order to obtain security release as described in ORS 135.265 unless the law enforcement agency first obtains:

(a) A search warrant issued pursuant to ORS 133.545 authorizing seizure of the cash, cashier's checks, money orders, credit cards, stocks, bonds or real or personal property as items subject to search and seizure as described in ORS 133.535; or

(b) A court order under ORS 131A.060 directing seizure of the cash, cashier's checks, money orders, credit cards, stocks, bonds or real or personal property as property subject to forfeiture under ORS 131A.020.

(2) After seizing cash, cashier's checks, money orders, credit cards, stocks, bonds or real or personal property under subsection (1) of this section, a law enforcement agency may not further transfer or distribute the cash, cashier's checks, money orders, credit cards, stocks, bonds or real or personal property to any person or entity without a court order specifically authorizing the transfer or distribution.

(3) As used in this section, "law enforcement agency" has the meaning given that term in ORS 131A.005. [2015 c.493 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.280 - Arrest warrant; forfeiture.**

(1) Upon failure of a person to comply with any condition of a release agreement or personal recognizance, the court having jurisdiction may, in addition to any other action provided by law, issue a warrant for the arrest of the person at liberty upon a personal recognizance, conditional or security release.

(2) A warrant issued under subsection (1) of this section by a municipal judge may be executed by any peace officer authorized to execute arrest warrants.

(3) If the defendant does not comply with the conditions of the release agreement, the court having jurisdiction shall enter an order declaring the entire security amount to be forfeited. Notice of the order of forfeiture shall be given forthwith by personal service, by mail or by such other means as are reasonably calculated to bring to the attention of the defendant and, if applicable, of the sureties the order of forfeiture. If, within 30 days after the court declares the forfeiture, the defendant does not appear or satisfy the court having jurisdiction that appearance and surrender by the defendant was, or still is, impossible and without fault of the defendant, the court shall enter judgment for the state, or appropriate political subdivision thereof, against the defendant and, if applicable, the sureties for the entire security amount set under ORS 135.265 and the costs of the proceedings. At any time before or after entry of the judgment, the defendant or the sureties may apply to the court for a remission of the forfeiture or to modify or set aside the judgment. The court, upon good cause shown, may remit the forfeiture or any part thereof or may modify or set aside the judgment as in other criminal cases, except the portion of the security deposit that the court ordered to be applied to child support under subsection (4) of this section, as the court considers reasonable under the circumstances of the case. The court shall adopt procedures to ensure that the amount deposited under ORS 135.265 is available for a reasonable period of time for disposition under subsection (4) of this section.

(4) After entry of a judgment for the state, the court, upon a motion filed under ORS 25.715, may order that a portion of the security deposit be applied to any unsatisfied child support award owed by the defendant and to provide security for child support payments in accordance with ORS 25.230. The portion of the security deposit that may be applied to the child support award:

(a) Is limited to the amount deposited under ORS 135.265 (2);

(b) May not exceed 66 percent of the entire security amount set under ORS 135.265 if the deposit has been made under ORS 135.265 (3); and

(c) Does not reduce the money award in the judgment entered under subsection (3) of this section that is owed to the state.

(5) When judgment is entered in favor of the state, or any political subdivision of the state, on any security given for a release, the judgment may be enforced as a judgment in a civil action. If entered in circuit court, the judgment shall be entered in the register,

and the clerk of the court shall note in the register that the judgment creates a judgment lien. The district attorney, county counsel or city attorney may have execution issued on the judgment and deliver same to the sheriff to be executed by levy on the deposit or security amount made in accordance with ORS 135.265, or may collect the judgment as otherwise provided by law. The proceeds of any execution or collection shall be used to satisfy the judgment and costs and paid into the treasury of the municipal corporation wherein the security was taken if the offense was defined by an ordinance of a political subdivision of this state, or paid into the treasury of the county wherein the security was taken if the offense was defined by a statute of this state and the judgment was entered by a justice court, or paid over as directed by the State Court Administrator for deposit in the Criminal Fine Account, if the offense was defined by a statute of this state and the judgment was entered by a circuit court. The provisions of this section shall not apply to amounts deposited upon appearance under ORS 153.061.

(6) When the judgment of forfeiture is entered, the security deposit or deposit with the clerk is, by virtue of the judgment alone and without requiring further execution, forfeited to and may be kept by the state or its appropriate political subdivision. Except as provided in subsection (4) of this section, the clerk shall reduce, by the value of the deposit so forfeited, the debt remaining on the judgment and shall cause the amount on deposit to be transferred to the revenue account of the state or political subdivision thereof entitled to receive the proceeds of execution under this section.

(7) The stocks, bonds, personal property and real property shall be sold in the same manner as in execution sales in civil actions and the proceeds of such sale shall be used to satisfy all court costs, prior encumbrances, if any, and from the balance a sufficient amount to satisfy the judgment shall be paid into the treasury of the municipal corporation wherein the security was taken if the offense was defined by an ordinance of a political subdivision of this state, or paid into the treasury of the county wherein the security was taken if the offense was defined by a statute of this state and the judgment was entered by a justice court, or deposited in the General Fund available for general governmental expenses if the offense was defined by a statute of this state and the judgment was entered by a circuit court. The balance shall be returned to the owner. The real property sold may be redeemed in the same manner as real estate may be redeemed after judicial or execution sales in civil actions. [1973 c.836 §155; 1981 s.s. c.3 §113; 1983 c.763 §45; 1987 c.710 §1; 1987 c.905 §15; 1995 c.658 §74; 1997 c.801 §64; 1999 c.1051 §250; 2001 c.705 §2; 2001 c.829 §10b; 2003 c.576 §161; 2005 c.700 §5; 2011 c.597 §41]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.285 - Modification of release decision.**

If circumstances concerning the defendant's release change, the court, on its own motion or upon request by the district attorney or defendant, may modify the release agreement or the security release. [1973 c.836 §156; 1995 c.658 §75; 2013 c.151 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.290 - Punishment by contempt of court.**

(1) A supervisor of a defendant on conditional release who knowingly aids the defendant in breach of the conditional release or who knowingly fails to report the defendant's breach is punishable by contempt.

(2) A defendant may be punished by contempt if the defendant knowingly:

(a) Breaches any of the regulations in the release agreement imposed pursuant to ORS 135.260; or

(b) Violates an order entered under ORS 135.247. [1973 c.836 §157; 2011 c.232 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.295 - Application of ORS 135.230 to 135.290 to certain traffic offenses.**

Provision for release contained in ORS 135.230 to 135.290 shall not apply to any traffic offenses as defined for the Oregon Vehicle Code except the following:

(1) Reckless driving under ORS 811.140.

(2) Driving while under the influence of intoxicants under ORS 813.010.

(3) Failure to perform the duties of a driver under ORS 811.700 or 811.705.

(4) Criminal driving while suspended or revoked under ORS 811.182.

(5) Fleeing or attempting to elude a police officer under ORS 811.540. [1974 c.35 §1; 1981 c.818 §3; 1983 c.338 §888; 1987 c.730 §5; 1991 c.208 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.305 - Types of answer.**

If the defendant does not require time, as provided in ORS 135.380, or if the defendant does, then on the next day or at such further day as the court may have allowed the defendant, the defendant may, in answer to the arraignment, move against the accusatory instrument or demur or plead thereto. [Formerly 135.420]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.310**

[Renumbered 135.040]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.315 - Types of pleading.**

The only pleadings on the part of the defendant are the demurrer and plea. [Formerly 135.430]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.320**

[Amended by 1961 c.696 §2; 1967 c.475 §2; 1973 c.836 §134; renumbered 135.045]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.325 - Pleading a judgment.**

In pleading a judgment or other determination of or proceeding before a court or officer of special jurisdiction, it is not necessary for the defendant to state the facts conferring jurisdiction; but the judgment, determination, or proceeding may be stated to have been duly given or made. The facts conferring jurisdiction, however, must be established on the trial. [Formerly 135.450]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.330**

[Amended by 1961 c.698 §1; 1967 c.628 §1; 1971 c.677 §1; renumbered 135.055]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.335 - Pleading by defendant; conditional pleas.**

(1) The kinds of plea to an indictment, information or complaint, or each count thereof, are:

- (a) Guilty.
- (b) Not guilty.
- (c) No contest.

(2) A defendant may plead no contest only with the consent of the court. Such a plea shall be accepted by the court only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

(3) With the consent of the court and the state, a defendant may enter a conditional plea of guilty or no contest reserving, in writing, the right, on appeal from the judgment, to a review of an adverse determination of any specified pretrial motion. A defendant who finally prevails on appeal may withdraw the plea. [1973 c.836 §159; 1999 c.134 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.340**

[Amended by 1973 c.836 §136; renumbered 135.060]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.345 - Legal effect of plea of no contest.**

A judgment following entry of a no contest plea is a conviction of the offense to which the plea is entered. [1973 c.836 §160]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.350**

[Amended by 1973 c.836 §137; renumbered 135.065]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.355 - Presentation of plea; entry in register; forms.**

(1) Every plea shall be oral and shall be entered in the register of the court in substantially one of the following forms:

- (a) "The defendant pleads that defendant is guilty of the offense charged in this accusatory instrument."
- (b) "The defendant pleads that defendant is not guilty of the offense charged in this accusatory instrument."
- (c) "The defendant pleads no contest to the offense charged in this accusatory instrument."

(2) When a defendant enters a conditional plea of guilty or no contest, the entry in the register of the court shall so indicate.

(3) For purposes of this section, an oral plea includes a plea made orally by means of simultaneous electronic transmission as described in ORS 131.045. [Formerly 135.830; 1985 c.540 §32; 1999 c.134 §2; 2005 c.566 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.360 - Special provisions relating to presentation of plea of guilty or no contest.**

(1) Except as provided in subsection (2) of this section, a plea of guilty or no contest to a crime punishable as a felony shall in all cases be put in by the defendant in person in open court unless upon an accusatory instrument against a corporation, in which case it may be put in by counsel.

(2) Any circuit judge may, within any county in the own district of the judge other than the county where the accusation is pending,

accept pleas of guilty or no contest from persons charged with a crime punishable as a felony and pass sentence thereon upon written request of the accused and the attorney of the accused and upon not less than one day's notice to the district attorney. Judgments based upon such pleas and sentences entered upon the pleas are as effective as though heard and determined in open court in the county where the accusation is pending. Judges accepting the pleas shall transmit the pleas to the clerk of the court in the county where the accusation is pending, whereupon the clerk shall file and enter the pleas to become effective from the date of filing.

(3) A judge may accept a plea of guilty or no contest under subsection (1) of this section by simultaneous electronic transmission, as defined in ORS 131.045, without the agreement of the state or the defendant if the plea is entered at arraignment and the type of simultaneous electronic transmission available allows the defendant to observe the court and the court to observe the defendant. [Formerly 135.840; 2005 c.566 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.365 - Withdrawal of plea of guilty or no contest.**

The court may at any time before judgment, upon a plea of guilty or no contest, permit it to be withdrawn and a plea of not guilty substituted therefor. [Formerly 135.850]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.370 - Not guilty plea as denial of allegations of accusatory instrument.**

The plea of not guilty controverts and is a denial of every material allegation in the accusatory instrument. [Formerly 135.860]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.375 - Pleading to offenses in other counties.**

(1) As used in this section:

(a) "Initiating county" means the county in which the defendant appears for the purpose of entering a plea to a criminal charge.  
(b) "Responding county" means a county in which another criminal charge is pending against the defendant entering a plea in the initiating county.

(2) Upon entry of a plea of guilty or no contest, or after conviction on a plea of not guilty, if a charge is pending against the defendant for a crime that is within the jurisdiction of a coordinate court of a responding county in the state, the defendant may state in writing that the defendant desires:

- (a) To waive venue and trial in the responding county;
- (b) To waive indictment by the grand jury of the responding county;
- (c) To plead guilty or no contest; and
- (d) To consent to disposition of the case by the court in the initiating county.

(3) Upon receipt of the request and the written approval of the district attorney of the initiating county, the clerk of the court of the initiating county shall notify the court and the district attorney of the responding county.

(4) Upon receipt of written approval from the district attorney of the responding county, the court of the initiating county may allow the defendant to enter the plea.

(5) The original judgment entered by the court of the initiating county after the defendant enters a plea under subsection (4) of this section is the same for all purposes as a judgment of the court of the responding county. [1973 c.836 §165; 1991 c.111 §11; 2017 c.252 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.380 - Time of entering plea; aid of counsel.**

(1) A defendant shall not be required to plead to an offense punishable by imprisonment until the defendant is represented by counsel, unless the defendant knowingly waives the right of the defendant to counsel.

(2) A defendant may plead guilty or no contest on the day of arraignment or any time thereafter except that a defendant without counsel shall not be allowed to plead guilty or no contest to a felony on the day of arraignment.

(3) Upon completion of the arraignment, unless the defendant enters a plea in the manner provided in ORS 135.305 to 135.325, 135.335, 135.355, 135.360 and 135.375, the defendant shall be considered to have entered a plea of not guilty. [1973 c.836 §166; 2001 c.635 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.385 - Defendant to be advised by court; inquiry into immigration status prohibited.**

(1) The court shall not accept a plea of guilty or no contest to a felony or other charge on which the defendant appears in person without first addressing the defendant personally and determining that the defendant understands the nature of the charge.

(2) The court shall inform the defendant:

- (a) That by a plea of guilty or no contest the defendant waives the right:
  - (A) To trial by jury;

- (B) Of confrontation; and
- (C) Against self-incrimination.
- (b) Of the maximum possible sentence on the charge, including the maximum possible sentence from consecutive sentences.
- (c) When the offense charged is one for which a different or additional penalty is authorized by reason of the fact that the defendant may be adjudged a dangerous offender, that this fact may be established after a plea in the present action, thereby subjecting the defendant to different or additional penalty.
- (d) That if the defendant is not a citizen of the United States conviction of a crime may result, under the laws of the United States, in removal proceedings, deportation, exclusion from admission to the United States or denial of naturalization.
- (e) That if the defendant is entering a guilty plea pursuant to a plea offer and agreed disposition recommendation under ORS 135.405, the court will agree to impose sentence as provided in the agreed disposition recommendation.
- (f) That if the defendant enters a plea of guilty or no contest to an offense involving domestic violence, as defined in ORS 135.230, and is convicted of the offense, federal law may prohibit the defendant from possessing, receiving, shipping or transporting any firearm or firearm ammunition and that the conviction may negatively affect the defendant's ability to serve in the Armed Forces of the United States as defined in ORS 366.931 or to be employed in law enforcement.
- (3) At the time of the plea, including while informing the defendant under subsection (2)(d) of this section, the court may not inquire into the defendant's immigration status or require the defendant to disclose the defendant's immigration status.
- (4) After informing the defendant under subsection (2)(d) of this section, upon the defendant's request, the court shall allow the defendant additional time to consider the decision to enter a plea of guilty or no contest. [1973 c.836 §167; 1979 c.118 §1; 2001 c.635 §12; 2007 c.220 §1; 2019 c.384 §13; 2019 c.437 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.390 - Determining voluntariness of plea; nature of plea agreement.**

- (1) The court shall not accept a plea of guilty or no contest without first determining that the plea is voluntary and intelligently made.
- (2) The court shall determine whether the plea is the result of prior plea discussions and a plea agreement. If the plea is the result of a plea agreement, the court shall determine the nature of the agreement.
- (3) If the plea agreement includes an agreement that the district attorney will seek or not oppose dismissal of a charge in exchange for the defendant's plea of guilty or no contest to another charge, the court may not accept the plea of guilty or no contest unless:
  - (a) The agreement includes a written provision that indicates whether the court is required to reinstate charges that are dismissed pursuant to the agreement if the plea of guilty or no contest is withdrawn under ORS 135.365 or the judgment of conviction is subsequently reversed, vacated or set aside; and
  - (b) If the agreement requires the court to reinstate charges under the circumstances described in paragraph (a) of this subsection, the defendant has provided the court with a written waiver of the statute of limitations and any statutory or constitutional speedy trial or double jeopardy rights, applicable to the dismissed charges.
- (4) If the district attorney has agreed to seek charge or sentence concessions which must be approved by the court, the court shall advise the defendant personally that the recommendations of the district attorney are not binding on the court.
- (5)(a) If the district attorney has provided a plea offer and agreed disposition recommendation to the defendant as provided in ORS 135.405 and the defendant is entering a guilty plea based on the plea offer and agreed disposition recommendation, the court shall determine whether the plea is voluntarily made. Except as otherwise provided in paragraph (b) of this subsection, if the court finds that the plea is voluntarily made, the court shall impose sentence as provided in the agreed disposition recommendation.
- (b) If the court determines that the agreed disposition recommendation is inappropriate in a particular case, the court shall so advise the parties and allow the defendant an opportunity to withdraw the plea. [1973 c.836 §168; 2001 c.635 §11; 2009 c.356 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.395 - Determining accuracy of plea.**

After accepting a plea of guilty or no contest, the court shall not enter a judgment without making such inquiry as may satisfy the court that there is a factual basis for the plea. [1973 c.836 §169]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.405 - Plea discussions and plea agreements.**

- (1) In cases in which it appears that the interest of the public in the effective administration of criminal justice would thereby be served, and in accordance with the criteria set forth in ORS 135.415 and the prohibitions set forth in ORS 135.418, the district attorney may engage in plea discussions for the purpose of reaching a plea agreement.
- (2) The district attorney shall engage in plea discussions or reach a plea agreement with the defendant only through defense counsel, except when, as a matter of record, the defendant has effectively waived the right of the defendant to counsel or, if the defendant is not eligible for appointed counsel, has not retained counsel.
- (3) The district attorney in reaching a plea agreement may agree to, but is not limited to, one or more of the following, as required by the circumstances of the individual case:
  - (a) To make or not to oppose favorable recommendations as to the sentence which should be imposed if the defendant enters a plea

of guilty or no contest to the offense charged;

(b) To seek or not to oppose dismissal of the offense charged if the defendant enters a plea of guilty or no contest to another offense reasonably related to the defendant's conduct; or

(c) To seek or not to oppose dismissal of other charges or to refrain from bringing potential charges if the defendant enters a plea of guilty or no contest to the offense charged.

(4) Similarly situated defendants should be afforded equal plea agreement opportunities.

(5)(a) A district attorney may provide a plea offer and agreed disposition recommendation to the defendant at the time of arraignment or first appearance of the defendant for a crime in open court under an early disposition program established under ORS 135.941.

(b) Unless extended by the court, a plea offer and agreed disposition recommendation made under paragraph (a) of this subsection expire upon completion of the arraignment. Except for good cause, a court may not extend a plea offer and agreed disposition recommendation under this paragraph for more than seven days for a misdemeanor or 21 days for a felony. [1973 c.836 §170; 2001 c.635 §10; 2001 c.962 §79; 2013 c.525 §2; 2017 c.650 §8; 2018 c.37 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.407 - Plea agreement must contain defendant's criminal history classification; stipulations.**

In cases arising from felonies committed on or after November 1, 1989:

(1) Whenever a plea agreement is presented to the sentencing judge, the defendant's criminal history classification, as set forth in the rules of the Oregon Criminal Justice Commission, shall be accurately represented to the trial judge in the plea agreement. If a controversy exists as to whether a prior conviction or juvenile adjudication should be included in the defendant's criminal history, or as to its classification under rules of the Oregon Criminal Justice Commission, the district attorney and the defendant may stipulate to the inclusion, exclusion or classification of the conviction or adjudication as part of the plea agreement subject to approval of the court.

(2) The district attorney and the defendant may stipulate to the grid block classification within the sentencing guidelines grid established by the rules of the Oregon Criminal Justice Commission that will provide the presumptive sentence range for the offender. The sentencing judge may accept the stipulated classification and impose the presumptive sentence provided in the rules of the Oregon Criminal Justice Commission for that grid block.

(3) If the district attorney and the defendant stipulate to a grid block classification within the sentencing guidelines grid, and the sentencing judge accepts the stipulated classification but imposes a sentence other than the presumptive sentence provided by rules of the Oregon Criminal Justice Commission, the sentence is a departure sentence and is subject to rules of the Oregon Criminal Justice Commission related to departures.

(4) The district attorney and defendant may stipulate to a specific sentence within the presumptive range provided by rules of the Oregon Criminal Justice Commission for the stipulated offender classification. If the sentencing judge accepts the plea agreement, the judge shall impose the stipulated sentence.

(5) The district attorney and the defendant may stipulate to a sentence outside the presumptive sentence range for a stipulated grid block classification. The sentencing judge may accept an agreement for an optional probationary sentence or a departure sentence as provided in rules of the Oregon Criminal Justice Commission. [1989 c.790 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.415 - Criteria to be considered in plea discussions and plea agreements.**

In determining whether to engage in plea discussions for the purpose of reaching a plea agreement, the district attorney may take into account, but is not limited to, any of the following considerations:

(1) The defendant by the plea of the defendant has aided in insuring the prompt and certain applications of correctional measures to the defendant.

(2) The defendant has acknowledged guilt and shown a willingness to assume responsibility for the conduct of the defendant.

(3) The concessions made by the state will make possible alternative correctional measures which are better adapted to achieving rehabilitative, protective, deterrent or other purposes of correctional treatment, or will prevent undue harm to the defendant from the form of conviction.

(4) The defendant has made public trial unnecessary when there are good reasons for not having the case dealt with in a public trial.

(5) The defendant has given or offered cooperation when the cooperation has resulted or may result in the successful prosecution of other offenders engaged in equally serious or more serious criminal conduct.

(6) The defendant by the plea of the defendant has aided in avoiding delay in the disposition of other cases and thereby has increased the probability of prompt and certain application of correctional measures to other offenders. [1973 c.836 §171]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.418 - Prohibited plea agreement provisions.**

(1) A prosecuting attorney may not condition a defendant's plea offer on:

(a) The defendant's waiver of:

(A) The disclosure obligation of ORS 135.815 (1)(g).

- (B) The ability to receive the audio recording of grand jury proceedings as permitted under ORS 132.270, if the indictment has been indorsed "a true bill."
- (C) Eligibility for transitional leave under ORS 421.168.
- (D) Eligibility for a reduction in the term of incarceration under ORS 421.120 or 421.121.
- (E) Eligibility for any reduction in sentence, leave or release from custody or any other program for which the executing or releasing authority may consider the defendant, including programs for which the executing or releasing authority determines eligibility and programs for which consideration must be ordered by the sentencing court under ORS 137.750.
- (F) The ability to set aside the conviction under ORS 137.225.
- (b) A requirement that the defendant or the defense attorney stipulate to the unconstitutionality of an existing law.
- (2)(a) A plea agreement may not contain a provision prohibited by subsection (1) of this section.
- (b) A prohibited provision described in subsection (1) of this section in a plea agreement is contrary to public policy and is void and unenforceable.
- (3) As used in this section, "executing or releasing authority" has the meaning given that term in ORS 137.750. [2018 c.37 §2; 2019 c.684 §1; 2021 c.486 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.420**

[Amended by 1973 c.836 §158; renumbered 135.305]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.425 - Responsibilities of defense counsel.**

- (1) Defense counsel shall conclude a plea agreement only with the consent of the defendant, and shall insure that the decision whether to enter a plea of guilty or no contest is ultimately made by the defendant.
- (2) To aid the defendant in reaching a decision, defense counsel, after appropriate investigation, shall advise the defendant of the alternatives available and of factors considered important by the defense counsel or the defendant in reaching a decision. [1973 c.836 §172]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.430**

[Renumbered 135.315]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.432 - Judge involvement in plea discussions; responsibilities of trial judge.**

- (1)(a) The trial judge may not participate in plea discussions, except:
  - (A) To inquire of the parties about the status of any discussions;
  - (B) To participate in a tentative plea agreement as provided in subsections (2) to (4) of this section;
  - (C) To make the inquiries required by ORS 147.512; or
  - (D) As provided in subsection (5) of this section.
- (b) Any other judge, at the request of both the prosecution and the defense, or at the direction of the presiding judge, may participate in plea discussions. Participation by a judge in the plea discussion process shall be advisory, and shall in no way bind the parties. If no plea is entered pursuant to these discussions, the advice of the participating judge shall not be reported to the trial judge. If the discussion results in a plea of guilty or no contest, the parties, if they both agree to do so, may proceed with the plea before a judge involved in the discussion. This plea may be entered pursuant to a tentative plea agreement as provided in subsections (2) to (4) of this section.
- (2) If a tentative plea agreement has been reached which contemplates entry of a plea of guilty or no contest in the expectation that charge or sentence concessions will be granted, the trial judge, upon request of the parties, may permit the disclosure to the trial judge of the tentative agreement and the reasons therefor in advance of the time for tender of the plea. The trial judge may then advise the district attorney and defense counsel whether the trial judge will concur in the proposed disposition if the information in the presentence report or other information available at the time for sentencing is consistent with the representations made to the trial judge.
- (3) If the trial judge concurs, but later decides that the final disposition of the case should not include the sentence concessions contemplated by the plea agreement, the trial judge shall so advise the defendant and allow the defendant a reasonable period of time in which to either affirm or withdraw a plea of guilty or no contest.
- (4) When a plea of guilty or no contest is tendered or received as a result of a prior plea agreement, the trial judge shall give the agreement due consideration, but notwithstanding its existence, the trial judge is not bound by it, and may reach an independent decision on whether to grant sentence concessions under the criteria set forth in ORS 135.415.
- (5) With the consent of the parties and upon receipt of a written waiver executed by the defendant, the trial judge may participate in plea discussions. [1973 c.836 §173; 1987 c.202 §1; 1997 c.313 §4; 2009 c.178 §33]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.435 - Discussion and agreement not admissible.**

(1) Except as provided in subsection (2) of this section, none of the following shall be received in evidence for or against a defendant in any criminal or civil action or administrative proceeding:

- (a) The fact that the defendant or the counsel of the defendant and the district attorney engaged in plea discussions.
- (b) The fact that the defendant or the attorney of the defendant made a plea agreement with the district attorney.
- (c) Any statement or admission made by the defendant or the attorney of the defendant to the district attorney and as a part of the plea discussion or agreement.

(2) The provisions of subsection (1) of this section shall not apply if, subsequent to the plea discussions or plea agreement, the defendant enters a plea of guilty or no contest which is not withdrawn. [1973 c.836 §174]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.445 - Withdrawn plea or statement not admissible.**

(1) A plea of guilty or no contest which is not accepted or has been withdrawn shall not be received against the defendant in any criminal proceeding.

(2) No statement or admission made by a defendant or the attorney of the defendant during any proceeding relating to a plea of guilty or no contest which is not accepted or has been withdrawn shall be received against the defendant in any criminal proceeding. [1973 c.836 §175]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.450**

[Renumbered 135.325]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.455 - Notice prior to trial of intention to rely on alibi evidence; content of notice; effect of failure to supply notice.**

(1) If the defendant in a criminal action proposes to rely in any way on alibi evidence, the defendant shall, not less than five days before the trial of the cause, file and serve upon the district attorney a written notice of the purpose to offer such evidence, which notice shall state specifically the place or places where the defendant claims to have been at the time or times of the alleged offense together with the name and residence or business address of each witness upon whom the defendant intends to rely for alibi evidence. If the defendant fails to file and serve such notice, the defendant shall not be permitted to introduce alibi evidence at the trial of the cause unless the court for good cause orders otherwise.

(2) As used in this section "alibi evidence" means evidence that the defendant in a criminal action was, at the time of commission of the alleged offense, at a place other than the place where such offense was committed. [Formerly 135.875]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.465 - Defect in accusatory instrument as affecting acquittal on merits.**

When the defendant is acquitted on the merits, the defendant is considered acquitted of the offense charged in the accusatory instrument, notwithstanding a defect in form or substance in the accusatory instrument on which the defendant is acquitted. [Formerly 135.880]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.470 - Motion to dismiss accusatory instrument on grounds of former jeopardy.**

(1) The court shall dismiss the accusatory instrument if, upon motion of the defendant, it appears, as a matter of law, that a former prosecution bars the prosecution for the offense charged.

(2) The time of making the motion and its effect shall be as provided for a motion to set aside the indictment in ORS 135.520 and 135.530.

(3) An order to dismiss the accusatory instrument on grounds of former jeopardy is a bar to a future prosecution of the defendant for the offense charged in the accusatory instrument. [1973 c.836 §177]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.510 - Grounds for motion to set aside the indictment.**

(1) The indictment shall be set aside by the court upon the motion of the defendant in either of the following cases:

- (a) When it is not found, indorsed and presented as prescribed in ORS 132.360, 132.400 to 132.430 and 132.580.
- (b) When the names of the witnesses examined before the grand jury are not inserted at the foot of the indictment or indorsed thereon.

(2) Subsection (1)(b) of this section does not apply if the absence of a witness's name is permitted under ORS 132.580. [Amended by 1959 c.426 §2; 1973 c.836 §178; 2019 c.338 §3]



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.520 - Time of making motion; hearing.**

A motion to set aside the indictment or dismiss the accusatory instrument shall be made and heard at the time of the arraignment or within 10 days thereafter, unless for good cause the court allows additional time. If not so made, the defendant is precluded from afterwards taking the objections to the indictment or accusatory instrument. [Amended by 1973 c.836 §179]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.530 - Effect of allowance of motion.**

- (1) If the motion to set aside or dismiss is allowed, the court shall order that the defendant, if in custody, be discharged therefrom or, if the defendant has been released, that the release agreement be discharged and the security deposit be refunded as provided by law, unless the court allows the case to be refiled or resubmitted to the same or another grand jury.
- (2) If the court allows the case to be resubmitted or refiled, it must be resubmitted or refiled by the state within 30 days from the date on which the court enters the order. If the case is not resubmitted or refiled within that time, the defendant shall be released from custody or the release agreement discharged or the security deposit returned. [Amended by 1973 c.836 §180]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.540 - Effect of resubmission of case.**

Subject to the limitations of ORS 135.530 (2), if the court allows the case to be resubmitted or refiled, the defendant, if then in custody, shall so remain, unless the defendant is released as provided by law. If the defendant has already been released, the release agreement or any security deposited as provided by law, shall continue to insure the appearance of the defendant to answer a new indictment or information, if one is filed. [Amended by 1973 c.836 §181]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.560 - Order to set aside is no bar to future prosecution.**

Except for an order dismissing an accusatory instrument on grounds of former jeopardy, an order to set aside an indictment or to dismiss an accusatory instrument is no bar to a future prosecution for the same crime. [Amended by 1973 c.836 §182]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.610 - Demurrer; generally.**

- (1) The demurrer shall be entered either at the time of the arraignment or at such other time as may be allowed to the defendant for that purpose.
- (2) The demurrer shall be in writing, signed by the defendant or the attorney of the defendant and filed. It shall distinctly specify the ground of objection to the accusatory instrument. [Amended by 1973 c.836 §183]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.630 - Grounds of demurrer.**

The defendant may demur to the accusatory instrument when it appears upon the face thereof:

- (1) If the accusatory instrument is an indictment, that the grand jury by which it was found had no legal authority to inquire into the crime charged because the same is not triable within the county;
- (2) If the accusatory instrument is an indictment, that it does not substantially conform to the requirements of ORS 132.510 to 132.560, 135.713, 135.715, 135.717 to 135.737, 135.740 and 135.743;
- (3) That the accusatory instrument charges more than one offense not separately stated;
- (4) That the facts stated do not constitute an offense;
- (5) That the accusatory instrument contains matter which, if true, would constitute a legal justification or excuse of the offense charged or other legal bar to the action; or
- (6) That the accusatory instrument is not definite and certain. [Amended by 1973 c.836 §184]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.640 - When objections that are grounds for demurrer may be taken.**

When the objections mentioned in ORS 135.630 appear upon the face of the accusatory instrument, they can only be taken by demurrer, except that the objection to the jurisdiction of the court over the subject of the accusatory instrument, or that the facts stated do not constitute an offense, may be taken at the trial, under the plea of not guilty and in arrest of judgment. [Amended by 1973 c.836 §185]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.650 - Hearing of objections specified by demurrer.**

Upon the filing of the demurrer, the objections presented thereby shall be heard either immediately or at such time as the court may direct.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.660 - Judgment on demurrer; entry in register.**

Upon considering the demurrer, the court shall give judgment, either allowing or disallowing it, and an entry to that effect shall be made in the register. [Amended by 1985 c.540 §33]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.670 - Allowance of demurrer.**

(1) If the demurrer is allowed, the judgment is final upon the accusatory instrument demurred to and is a bar to another action for the same crime unless the court, being of the opinion that the objection on which the demurrer is allowed may be avoided in a new accusatory instrument, allows the case to be resubmitted or refiled.

(2) If the court allows the case to be resubmitted or refiled, it must be resubmitted or refiled by the state within 30 days from the date on which the court enters the order. If the case is not resubmitted or refiled within that time, the defendant shall be discharged from custody or the release agreement discharged or the security deposit returned as provided in ORS 135.680. [Amended by 1973 c.836 §186]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.680 - Procedure if resubmission of case not allowed.**

If the court does not allow the case to be resubmitted or an amended complaint or information filed, the defendant, if in custody, shall be discharged. If the defendant has been released, the release agreement shall be discharged. If the defendant has deposited any security, the security shall be returned to the defendant as provided by law. [Amended by 1973 c.836 §187]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.690 - Resubmission of case.**

If the court allows the case to be resubmitted, the same proceedings shall be had thereon as are prescribed in ORS 135.540. [Amended by 1973 c.836 §188]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.700 - Disallowance of demurrer.**

If the demurrer is disallowed, the court shall permit the defendant, at the election of the defendant, to plead, which the defendant must do forthwith or at such time as the court may allow; but if the defendant does not plead, a plea of not guilty shall be entered. [Amended by 1973 c.836 §189]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.703 - Crimes subject to being compromised; exceptions.**

(1) When a defendant is charged with a crime punishable as a misdemeanor for which the person injured by the act constituting the crime has a remedy by a civil action, the crime may be compromised, as provided in ORS 135.705, except when it was committed:

(a) By or upon a peace officer while in the execution of the duties of office;

(b) Riotously;

(c) With an intent to commit a crime punishable only as a felony; or

(d) By one family or household member upon another family or household member, as defined in ORS 107.705, or by a person upon an elderly person or a person with a disability as defined in ORS 124.005 and the crime was:

(A) Assault in the fourth degree under ORS 163.160;

(B) Assault in the third degree under ORS 163.165;

(C) Menacing under ORS 163.190;

(D) Recklessly endangering another person under ORS 163.195;

(E) Harassment under ORS 166.065; or

(F) Strangulation under ORS 163.187.

(2) Notwithstanding subsection (1) of this section, when a defendant is charged with violating ORS 811.700, the crime may be compromised as provided in ORS 135.705. [Formerly 134.010; 1991 c.938 §1; 1995 c.657 §21; 1995 c.666 §26; 1999 c.738 §9; 2003 c.264 §9; 2003 c.577 §5; 2007 c.70 §35]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.705 - Satisfaction of injured person; dismissal of charges.**

(1)(a) If the person injured acknowledges in writing, at any time before trial on an accusatory instrument for the crime, that the person has received satisfaction for the injury, the court may, in its discretion, on payment of the costs and expenses incurred, enter a judgment dismissing the accusatory instrument.

(b) For purposes of paragraph (a) of this subsection, a written acknowledgment that a civil penalty under ORS 30.875 has been paid is not evidence that the person injured has received full satisfaction for the injury and is not a compromise under this section.

(2) As used in this section, "costs" includes those expenses specially incurred by the state in prosecuting the defendant, including costs under ORS 151.505 for the compensation of counsel appointed pursuant to ORS 135.045 or 135.050 and fees and expenses paid under ORS 135.055. [Formerly 134.020; 1981 s.s. c.3 §121; 1985 c.540 §34; 1985 c.710 §4; 1987 c.803 §25; 1999 c.925 §1; 2003 c.449 §28; 2009 c.484 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.707 - Discharge as bar to prosecution.**

A judgment entered under ORS 135.705 is a bar to another prosecution for the same crime. [Formerly 134.030; 2009 c.484 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.709 - Exclusiveness of procedure.**

No crime can be compromised nor can any proceeding for the prosecution or punishment thereof be stayed upon a compromise, except as provided in ORS 135.703 to 135.709 and 135.745 to 135.757. [Formerly 134.040]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.711 - Facts constituting crime or subcategory of crime required.**

For any felony committed on or after November 1, 1989, the accusatory instrument shall allege facts sufficient to constitute a crime or a specific subcategory of a crime in the Crime Seriousness Scale established by the rules of the Oregon Criminal Justice Commission. [1989 c.790 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.713 - Necessity of stating presumptions of law and matters judicially noticed.**

Neither presumptions of law nor matters of which judicial notice is taken need be stated in an accusatory instrument. [Formerly 132.570]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.715 - Effect of nonprejudicial defects in form of accusatory instrument.**

No accusatory instrument is insufficient, nor can the trial, judgment or other proceedings thereon be affected, by reason of a defect or imperfection in a matter of form which does not tend to the prejudice of the substantial rights of the defendant upon the merits. [Formerly 132.590]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.717 - Time of crime.**

The precise time at which the offense was committed need not be stated in the accusatory instrument, but it may be alleged to have been committed at any time before the finding thereof and within the time in which an action may be commenced therefor, except where the time is a material element in the offense. [Formerly 132.610]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.720 - Place of crime in certain cases.**

In an accusatory instrument for an offense committed as described in ORS 131.315 and 131.325, it is sufficient to allege that the offense was committed within the county where the accusatory instrument is found. [Formerly 132.620]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.725 - Person injured or intended to be injured.**

When a crime involves the commission of or an attempt to commit a private injury and is described with sufficient certainty in other respects to identify the act, an erroneous allegation as to the person injured or intended to be injured is not material. [Formerly 132.630]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.727 - Description of animal.**

When an offense involves the taking of or injury to an animal, the accusatory instrument is sufficiently certain in that respect if it describes the animal by the common name of its class. [Formerly 132.640]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.730 - Judgments; facts conferring jurisdiction.**

In pleading in an accusatory instrument a judgment or other determination of or proceeding before a court or officer of special jurisdiction, it is not necessary to state the facts conferring jurisdiction; but the judgment, determination or proceeding may be stated to have been duly given or made. The facts conferring jurisdiction, however, must be established on the trial. [Formerly 132.660]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.733 - Defamation.**

An accusatory instrument for criminal defamation need not set forth any extrinsic facts for the purpose of showing the application to the party defamed of the defamatory matter on which the accusatory instrument is founded; but it is sufficient to state generally that the same was published concerning the party; and the fact that it was so published must be established on the trial. [Formerly 132.670]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.735 - Forgery; misdescription of forged instrument.**

When an instrument which is the subject of an accusatory instrument for forgery has been destroyed or withheld by the act or procurement of the defendant and the fact of the destruction or withholding is alleged in the accusatory instrument and established on the trial, the misdescription of the instrument is immaterial. [Formerly 132.680]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.737 - Perjury.**

In an accusatory instrument for perjury, attempted perjury, solicitation of perjury or conspiracy to commit perjury it is sufficient to set forth the substance of the controversy or matter in respect to which the crime was committed, in what court or before whom the oath alleged to be false was taken and that the court or person before whom it was taken had authority to administer it, with proper allegations of the falsity of the matter on which the perjury is assigned; but the accusatory instrument need set forth neither the pleadings, record or proceedings with which the oath is connected nor the commission or authority of the court or person before whom the perjury was committed. [Formerly 132.690]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.740 - Construction of words and phrases used.**

The words used in an accusatory instrument must be construed in their usual acceptation in common language, except words and phrases defined by law, which are to be construed according to their legal meaning. [Formerly 132.710]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.743 - Fictitious or erroneous name; insertion of true name.**

When a defendant is charged in an accusatory instrument by a fictitious or erroneous name and in any stage of the proceedings the true name of the defendant is discovered, it may be inserted in the subsequent proceedings, referring to the fact of the defendant being charged by the name mentioned in the accusatory instrument. [Formerly 132.720]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.745 - Delay in finding an indictment or filing an information.**

When a person has been held to answer for a crime, if an indictment is not found against the person within 30 days or the district attorney does not file an information in circuit court within 30 days after the person is held to answer, the court shall order the prosecution to be dismissed, unless good cause to the contrary is shown. [Formerly 134.110]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.746 - Time period within which trial must commence.**

(1) Except as provided in ORS 135.748:

- (a) A trial in which the most serious charge alleged in the charging instrument is designated by statute as a misdemeanor must commence within two years from the date of the filing of the charging instrument.
- (b) A trial in which the most serious charge alleged in the charging instrument is designated by statute as a felony must commence within three years from the date of the filing of the charging instrument.
- (c) A trial in which two or more charges have been consolidated pursuant to ORS 132.560 must commence within the applicable time period required in this subsection for the most serious offense alleged in the charging instrument.
- (d) A joint trial in which two or more defendants are charged in the same charging instrument must commence within the applicable time period required in this subsection for the most serious offense alleged in the charging instrument.

(2) The time limits required in subsection (1) of this section cease to apply to a defendant who fails to appear at the date and time scheduled for trial.

(3) If a trial date is scheduled by the court for a defendant represented by counsel and neither the defendant nor the defendant's counsel objects within seven days of the notice of the trial date to the fact that the scheduled trial date is not within the time limit required in subsection (1) of this section, the time limit is extended until the scheduled trial date, and may be further extended as provided in ORS 135.748. [2014 c.73 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial**

**ProvisionsSection 135.748 - Periods of time excluded from time limits.**

(1) All applicable periods of elapsed time as follows are excluded from the time limits described in ORS 135.746:

(a) A period of time during which the defendant is:

(A) Under observation or examination for fitness to proceed under ORS 161.365, beginning when the issue of the defendant's possible lack of fitness to proceed has been raised by the defendant or the defendant's counsel, until a final determination regarding the defendant's fitness to proceed has been made by the court;

(B) Determined to be unfit to proceed by the court pursuant to ORS 161.360 and 161.370;

(C) Under observation or examination after notice of the issue of the defendant's qualifying mental disorder, partial responsibility, diminished capacity, insanity or other mental defense is raised by the defendant or the defendant's counsel, until the trial date; or

(D) Unable to appear by reason of illness or physical disability.

(b) A period of time following the filing of an interlocutory appeal or an appeal from the dismissal of the charge or charging instrument, or that results from a stay issued by an appellate court in a mandamus or habeas proceeding, until the appellate judgment is issued or the stay is lifted by the appellate court.

(c) A period of time between a scheduled court appearance at which the defendant fails to appear and the next scheduled court appearance other than an appearance that occurs for the purpose of addressing a warrant resulting from the defendant's failure to appear.

(d) A period of time during which the defendant's location is known but the defendant's presence for trial cannot be obtained, or during which the defendant is outside this state and resists being returned to this state for trial.

(e) A period of time during which the defendant's location is unknown and:

(A) The defendant has attempted to avoid apprehension or prosecution; or

(B) The defendant's location cannot be determined by due diligence.

(f) A period of time while the defendant is on trial or engaged in court proceedings in an unrelated matter, whether in the same court or a different court, and was therefore physically unavailable for trial.

(g) A period of time between a mistrial on the charging instrument and a subsequent trial on the charging instrument, not to exceed three months for each mistrial. The three-month limit may be extended by the court for good cause upon request from either party or upon the court's own motion.

(h) A period of time between a continuance or a rescheduling of a trial date, granted at the request of, or with the consent of, the defendant or the defendant's counsel, and the new trial date. A defendant who is proceeding without counsel may not consent to a continuance or a rescheduling unless the court has advised the defendant of the defendant's right to a speedy trial within the time limit required in ORS 135.746 and the consequences of the defendant's consent to the continuance or rescheduling.

(2) Any period of time excluded pursuant to subsection (1) of this section from the time limits described in ORS 135.746 that applies to a defendant shall apply to all other defendants charged in the charging instrument. However, if the court finds that it is clearly inappropriate to apply the time exclusion to all of the other defendants, the court may order any relief that justice requires.

[2014 c.73 §2; 2017 c.634 §2]

Note:

See note under 135.746.

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 135 - Arraignment and Pretrial ProvisionsSection 135.750 - Where there is reason for delay.**

If the defendant is not proceeded against as provided in ORS 135.745, and sufficient reason therefor is shown, the court may order the action to be continued and in the meantime may release the defendant from custody as provided in ORS 135.230 to 135.290, for the appearance of the defendant to answer the charge or action. [Formerly 134.130; 2013 c.431 §2]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 135 - Arraignment and Pretrial ProvisionsSection 135.752 - When trial not commenced within time limit.**

If a trial is not commenced as required by ORS 135.746, the court shall order the charging instrument to be dismissed without prejudice unless the court finds on the record substantial and compelling reasons to allow the proceeding to continue. [2014 c.73 §3]

Note:

See note under 135.746.

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 135 - Arraignment and Pretrial ProvisionsSection 135.753 - Effect of dismissal.**

(1) If the court directs the charge or action to be dismissed, the defendant, if in custody, shall be discharged. If the defendant has been released, the release agreement is exonerated and security deposited shall be refunded to the defendant.

(2) An order for the dismissal of a charge or action, as provided in ORS 135.703 to 135.709 and 135.745 to 135.757, is a bar to another prosecution for the same crime if the crime is a Class B or C misdemeanor; but it is not a bar if the crime charged is a Class A misdemeanor or a felony.

(3) If any charge or action is dismissed for the purpose of consolidation with one or more other charges or actions, then any such

dismissal shall not be a bar to another prosecution for the same offense. [Formerly 134.140; 1975 c.198 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.755 - Dismissal on motion of court or district attorney.**

The court may, either of its own motion or upon the application of the district attorney, and in furtherance of justice, order the proceedings to be dismissed. The reasons for the dismissal shall be set forth in the order, which shall be entered in the register. [Formerly 134.150; 1985 c.540 §35]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.757 - Nolle prosequi; discontinuance by district attorney.**

The entry of a nolle prosequi is abolished, and the district attorney cannot discontinue or abandon a prosecution for a crime, except as provided in ORS 135.755. [Formerly 134.160]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.760 - Notice requesting early trial on pending charge.**

(1) Any adult in the custody of the Department of Corrections or of the supervisory authority of a county pursuant to a commitment under ORS 137.124 (2) against whom there is pending at the time of commitment or against whom there is filed at any time during imprisonment, in any court of this state, an indictment, information or criminal complaint charging the adult in custody with the commission of a crime, may give written notice to the district attorney of the county in which the adult in custody is so charged requesting the district attorney to prosecute and bring the adult in custody to trial on the charge forthwith.

(2) The notice provided for in subsection (1) of this section shall be signed by the adult in custody and set forth the place and term of imprisonment. A copy of the notice shall be sent to the court in which the adult in custody has been charged by indictment, information or complaint. [Formerly 134.510; 1987 c.320 §19; 1995 c.423 §9b; 2019 c.213 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.763 - Trial within 90 days of notice unless continuance granted.**

(1) The district attorney, after receiving a notice requesting trial under ORS 135.760, shall, within 90 days of receipt of the notice, bring the adult in custody to trial upon the pending charge.

(2) The court shall grant any reasonable continuance with the consent of the defendant. Notwithstanding the defendant's lack of consent, the court may grant a continuance on motion of the district attorney or on its own motion, for good cause shown. The fact of imprisonment is not good cause for the purposes of this subsection. [Formerly 134.520; 1993 c.542 §1; 2019 c.213 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.765 - Dismissal of criminal proceeding not brought to trial within allowed time; exceptions.**

(1) On motion of the defendant or the counsel of the defendant, or on its own motion, the court shall dismiss any criminal proceeding not brought to trial in accordance with ORS 135.763.

(2) This section shall not apply:

(a) When failure to bring the adult in custody to trial within 90 days after the district attorney receives notice under ORS 135.760 was the result of motions filed on behalf of the adult in custody, or of a grant by the court of a continuance on motion of the district attorney or on its own motion, for good cause shown; or

(b) When the adult in custody is unavailable for trial, other than by imprisonment, or because of other pending criminal proceedings against the adult in custody. [Formerly 134.530; 1993 c.542 §2; 2019 c.213 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.767 - Presence of prisoner at proceedings.**

(1) Whenever the presence of an adult in the custody of the Department of Corrections or of the supervisory authority of a county pursuant to a commitment under ORS 137.124 (2) is necessary in any criminal proceeding under ORS 135.760 to 135.773, the court wherein the adult in custody is charged with the commission of a crime may:

(a) Issue an order directing the Director of the Department of Corrections or the supervisory authority of a county to surrender the adult in custody to the sheriff of the county where the adult in custody is to be tried; or

(b) Ensure that arrangements for the adult in custody to appear by simultaneous electronic transmission as described in ORS 131.045 have been made.

(2) The county where an adult in custody is charged with commission of a crime shall pay the costs of:

(a) Transportation and maintenance of the adult in custody removed under this section; or

(b) Providing for the adult in custody to appear by simultaneous electronic transmission.

(3) If an adult in custody is transported under this section for a criminal proceeding under ORS 135.760 to 135.773, at the conclusion of the proceeding, notwithstanding the provisions of ORS 137.167, the adult in custody shall be returned by the sheriff to the custody of the Department of Corrections or the supervisory authority of the county in which the adult in custody is imprisoned.

(4) The time during which an adult is in the custody of the sheriff under this section is part of and shall be counted as time served under the original sentence. [Formerly 134.540; 1983 c.740 §14; 1987 c.320 §20; 1995 c.423 §9c; 2005 c.566 §8; 2019 c.213 §18]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.770 - Release of prisoner prohibited.**

No adult in the custody of a sheriff under ORS 135.767 shall be released pending a criminal proceeding under ORS 135.760 to 135.773 or any appeal therefrom. [Formerly 134.550; 2019 c.213 §19]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.773 - District attorney to furnish certain documents.**

The district attorney shall, in all proceedings against adults in custody under ORS 135.760 to 135.773, obtain for and furnish to the court a certified copy of the judgment, sentence or commitment order pursuant to which the adult in custody is imprisoned. [Formerly 134.560; 2019 c.213 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.775 - Agreement on Detainers.**

The Agreement on Detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

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**AGREEMENT ON DETAINERS**

The contracting states solemnly agree that:

**ARTICLE I**

The party states find that charges outstanding against a prisoner, detainees based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainees based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainees, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

**ARTICLE II**

As used in this agreement:

- (a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.
- (b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that the prisoner initiates a request for final disposition pursuant to Article III of this agreement or at the time that a request for custody or availability is initiated pursuant to Article IV of this agreement.
- (c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV of this agreement.
- (d) "Department of Corrections institution" of this state shall mean any institution operated by the Department of Corrections.

**ARTICLE III**

- (a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, the prisoner shall be brought to trial within 180 days after the prisoner shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of imprisonment and the request of the prisoner for a final disposition to be made of the indictment, information or complaint: Provided, that for good cause shown in open court, the prisoner or the counsel of the prisoner being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.
- (b) The written notice and request for final disposition referred to in paragraph (a) of this Article shall be given or sent by the prisoner to the warden or other official having custody of the prisoner, who shall promptly forward it together with the certificate to the prosecuting official and court by registered or certified mail, return receipt requested.
- (c) The warden or other official having custody of the prisoner shall promptly inform the prisoner of the source and contents of any detainer lodged against the prisoner and shall also inform the prisoner of the right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.
- (d) Any request for final disposition made by a prisoner pursuant to paragraph (a) of this Article shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainees have been lodged against the

prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) of this Article shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) of this Article, and a waiver of extradition to the receiving state to serve any sentence there imposed upon the prisoner, after completion of the term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of the body of the prisoner in any court where the presence of the prisoner may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to the execution of the request for final disposition referred to in paragraph (a) of this Article shall void the request.

#### ARTICLE IV

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom the officer has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with paragraph (a) of Article V of this agreement upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated: Provided, that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request; And provided further, that there shall be a period of 30 days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon the own motion of the governor or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) of this Article, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decisions of the state parole agency relating to the prisoner. Such authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this Article, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or the counsel of the prisoner being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this Article shall be construed to deprive any prisoner of any right which the prisoner may have to contest the legality of the delivery of the prisoner as provided in paragraph (a) of this Article, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to paragraph (e) of Article V of this agreement, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

#### ARTICLE V

(a) In response to a request made under Article III or Article IV of this agreement, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of authority to act for the state into whose temporary custody the prisoner is to be given.  
(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of such prisoner, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV of this agreement, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or



charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for attendance of the prisoner at court and while being transported to or from any place at which the presence of the prisoner may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves.

Nothing contained in this paragraph shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

#### ARTICLE VI

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of such time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be a person with mental illness.

#### ARTICLE VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide within and without the state, information necessary to the effective operation of this agreement.

#### ARTICLE VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the agreement into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the agreement. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by prisoners or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

#### ARTICLE IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party to this agreement, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

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§20a; 2013 c.360 §5] [Formerly 134.605; 1987 c.320

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.777 - Definition for ORS 135.775.**

As used in the Agreement on Detainers, the term "appropriate court" means any court of this state that has criminal jurisdiction. [Formerly 134.615]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.779 - Enforcement of ORS 135.775 by public agencies.**

All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the Agreement on Detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purposes. [Formerly 134.625]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.783 - Effect of escape from custody in another state.**

Escape from custody while in another state pursuant to the Agreement on Detainers is an offense against the laws of this state to the same extent and degree as an escape from the institution in which the prisoner was confined immediately prior to having been sent

to another state pursuant to the provision of the Agreement on Detainers and shall be punishable in the same manner as an escape from such institution. [Formerly 134.635]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.785 - Surrender of custody under ORS 135.775.**

The official in charge of a Department of Corrections institution in this state shall give over the person of any adult in custody thereof whenever so required by the operation of the Agreement on Detainers. [Formerly 134.645; 1987 c.320 §21; 2019 c.213 §21]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.787 - Administrator of agreement; appointment; duties.**

The Governor may appoint an administrator who shall perform the duties and functions and exercise the powers conferred upon such person by Article VII of the Agreement on Detainers. [Formerly 134.655]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.789 - Notice of request for temporary custody; prisoner's rights.**

In order to implement paragraph (a) of Article IV of the Agreement on Detainers, and in furtherance of its purposes, the appropriate authorities having custody of the prisoner shall, promptly upon receipt of the officer's written request, notify the prisoner and the Governor in writing that a request for temporary custody has been made and such notification shall describe the source and contents of such request. The authorities having custody of the prisoner shall also advise the prisoner in writing of the rights of the prisoner to counsel, to make representations to the Governor within 30 days, and to contest the legality of the delivery of the prisoner. [Formerly 134.665]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.791 - Request for final disposition of detainer from prisoner in another state.**

When the district attorney of any county shall have received written notice from a prisoner in another state of the prisoner's request for final disposition to be made of any untried accusatory instrument which is the basis of a detainer against the prisoner, the district attorney promptly shall give written notice to the Governor that such request has been received. The notice to the Governor shall describe the charge pending against the prisoner and shall recite the crime of which the prisoner was convicted in the other state, the sentence imposed and the date the sentence commenced, or so much of such information as may be known to the district attorney. The notice to the Governor shall be accompanied by a summary of the evidence against the prisoner on the untried charge. Within 10 days after receiving the notice and summary of evidence, the Governor shall send written direction to the district attorney either to proceed with prosecution of the prisoner when the prisoner is made available, or to move the court for dismissal of the untried indictment, information or complaint and to remove the detainer against the prisoner. The written direction may be signed by the Governor or by a person authorized by the Governor to perform extradition functions. The decision of the Governor shall be final, and the district attorney shall act as so directed. [1973 c.632 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.793 - Procedure where untried instrument pending against prisoner in another state.**

Any officer of a jurisdiction in this state in which an untried accusatory instrument is pending against a prisoner in another state, and who desires to have the prisoner returned for trial, shall give written notice and a summary of the evidence against the prisoner to the Governor in the manner provided in ORS 135.791. The Governor shall, within 10 days after receiving the notice and summary, send written direction to such officer either approving or disapproving the return of the prisoner. The direction by the Governor shall be final, and may be signed as provided in ORS 135.791. The officer desiring return of a prisoner shall not seek the court approval provided for in paragraph (a) of Article IV of the Agreement on Detainers prior to receiving approval by the Governor. [1973 c.632 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.805 - Applicability; scope of disclosure.**

(1) The provisions of ORS 135.805 to 135.873 are applicable to all criminal prosecutions in which the charging instrument has been brought in a court of record.

(2) Except as otherwise provided in a protective order entered under ORS 135.873, or any other provision of law prohibiting or restricting the disclosure of specific material or information, as used in ORS 135.805 to 135.873, "disclose" means to provide:

(a) A copy of the material, including but not limited to any document, photograph, report, audio recording, video recording or electronically stored information;

(b) The opportunity to inspect and photograph tangible physical evidence; and

(c) The opportunity to conduct independent testing of tangible physical evidence, provided that the testing does not destroy the evidence.

(3) Subsection (2)(a) of this section does not apply to any material that contains depictions of sexually explicit conduct involving a

child, as those terms are defined in ORS 163.665. [1973 c.836 §213; 1977 c.617 §1; 2021 c.409 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.815 - Disclosure to defendant.**

- (1) Except as otherwise provided in ORS 135.855 and 135.873, the district attorney shall disclose to a represented defendant the following material and information within the possession or control of the district attorney:
- (a) The names, addresses and telephone numbers of persons whom the district attorney intends to call as witnesses at any stage of the trial, together with their relevant written or recorded statements or memoranda of any oral statements of such persons.
  - (b) Any written or recorded statements or memoranda of any oral statements made by the defendant, or made by a codefendant if the trial is to be a joint one.
  - (c) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons which the district attorney intends to offer in evidence at the trial.
  - (d) Any books, papers, documents, photographs or tangible objects:
    - (A) Which the district attorney intends to offer in evidence at the trial; or
    - (B) Which were obtained from or belong to the defendant.
  - (e) If actually known to the district attorney, any record of prior criminal convictions of persons whom the district attorney intends to call as witnesses at the trial; and the district attorney shall make a good faith effort to determine if such convictions have occurred.
  - (f) All prior convictions of the defendant known to the state that would affect the determination of the defendant's criminal history for sentencing under rules of the Oregon Criminal Justice Commission.
  - (g) Any material or information that tends to:
    - (A) Exculpate the defendant;
    - (B) Negate or mitigate the defendant's guilt or punishment; or
    - (C) Impeach a person the district attorney intends to call as a witness at the trial.
- (2)(a) The disclosure required by subsection (1)(g) of this section:
  - (A) Shall occur regardless of whether the material or information is recorded or in writing.
  - (B) Shall occur without delay in accordance with ORS 135.845 and prior to the entry of any guilty plea pursuant to an agreement with the state. If the existence of the material or information is not known at that time, the disclosure shall be made upon discovery without regard to whether the represented defendant has entered or agreed to enter a guilty plea.
- (b) Nothing in subsection (1)(g) of this section:
  - (A) Expands any obligation under a statutory provision or the Oregon or United States Constitution to disclose, or right to disclosure of, personnel or internal affairs files of law enforcement officers.
  - (B) Imposes any obligation on the district attorney to provide material or information beyond the obligation imposed by the Oregon and United States Constitutions.
- (3) Except as otherwise provided in ORS 135.855 and 135.873, in prosecutions for violation of ORS 813.010 in which an instrument was used to test a person's breath, blood or urine to determine the alcoholic content of the person's blood the district attorney shall disclose to a represented defendant at least the following material and information within the possession or control of the district attorney:
- (a) Any report prepared by a police officer relating to field tests, interviews, observations and other information relating to the charged offense;
  - (b) Any report relating to the test results;
  - (c) A copy of the form provided to the defendant under ORS 813.100 (2)(b); and
  - (d) Any checklist prepared by the operator of the instrument for the test.
- (4)(a) If a defendant is not represented by a lawyer, the district attorney shall disclose to the defendant all of the information described in subsections (1) and (3) of this section except for the personal identifiers of the victim and any witnesses.
- (b) Notwithstanding paragraph (a) of this subsection, the district attorney shall disclose the personal identifiers of the victim and any witnesses if the trial court orders the disclosure. A trial court shall order the district attorney to disclose the personal identifiers of the victim and any witnesses if the trial court finds that:
  - (A) The defendant has requested the information; and
  - (B)(i) The victim or witness is a business or institution and disclosure of the information would not represent a risk of harm to the victim or witness; or
  - (ii) The need for the information cannot reasonably be met by other means.
- (5)(a) Unless authorized by the trial court to disclose the information, a lawyer representing a defendant, or a representative of the lawyer, may not disclose to the defendant personal identifiers of a victim or witness obtained under subsections (1) and (3) of this section.
- (b) The trial court shall order the lawyer, or representative of the lawyer, to disclose to the defendant the personal identifiers of a victim or witness if the court finds that:
    - (A) The defendant's lawyer has requested the district attorney to disclose the information to the defendant;
    - (B) The district attorney has refused to disclose the information to the defendant; and

(C) The need for the information cannot reasonably be met by other means.

(6) As used in this section:

(a) "Personal identifiers" means:

(A) In relation to a witness, the witness's address, telephone number, Social Security number and date of birth and the identifying number of the witness's depository account at a financial institution, as defined in ORS 706.008, or credit card account.

(B) In relation to a victim, the victim's address, electronic mail address, telephone number, Social Security number, date of birth, any user names or other identifying information associated with the victim's social media accounts and the identifying number of the victim's depository account at a financial institution, as defined in ORS 706.008, or credit card account.

(b) "Representative of the lawyer" has the meaning given that term in ORS 40.225.

(c) "Represented defendant" means a defendant who is represented by a lawyer in a criminal action.

(d) "Social media" has the meaning given that term in ORS 659A.330. [1973 c.836 §214; 1989 c.790 §5; 1993 c.469 §2; 1999 c.304 §1; 2005 c.545 §1; 2007 c.581 §1; 2013 c.525 §1; 2017 c.171 §1; 2019 c.475 §11; 2021 c.409 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.825 - Other disclosure to defense; special conditions.**

Except as otherwise provided in ORS 135.855 and 135.873, the district attorney shall disclose to the defense:

(1) The occurrence of a search or seizure; and

(2) Upon written request by the defense, any relevant material or information obtained thereby, the circumstances of the search or seizure, and the circumstances of the acquisition of any specified statements from the defendant. [1973 c.836 §215; 1999 c.304 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.830**

[Amended by 1973 c.836 §161; renumbered 135.355]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.835 - Disclosure to the state.**

Except as otherwise provided in ORS 135.855 and 135.873, the defense shall disclose to the district attorney the following material and information within the possession or control of the defense:

(1) The names and addresses of persons, including the defendant, whom the defense intends to call as witnesses at the trial, together with relevant written or recorded statements or memoranda of any oral statements of such persons other than the defendant.

(2) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons, that the defense intends to offer in evidence at the trial.

(3) Any books, papers, documents, photographs or tangible objects that the defense intends to offer in evidence at the trial. [1973 c.836 §216; 1999 c.304 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.840**

[Amended by 1973 c.836 §162; renumbered 135.360]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.845 - Time of disclosure.**

(1) The obligations to disclose shall be performed as soon as practicable following the filing of an indictment or information in the circuit court or the filing of a complaint or information charging a misdemeanor or violation of a city ordinance. The court may supervise the exercise of discovery to the extent necessary to insure that it proceeds properly and expeditiously.

(2) If, after complying with the provisions of ORS 135.805 to 135.873 and 135.970, a party finds, either before or during trial, additional material or information which is subject to or covered by these provisions, the party must promptly notify the other party of the additional material or information. [1973 c.836 §217; 1999 c.304 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.850**

[Amended by 1973 c.836 §163; renumbered 135.365]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.855 - Material and information not subject to discovery.**

(1) The following material and information shall not be subject to discovery under ORS 135.805 to 135.873:

(a) Work product, legal research, records, correspondence, reports or memoranda to the extent that they contain the opinions, theories or conclusions of the attorneys, peace officers or their agents in connection with the investigation, prosecution or defense of a criminal action.

(b) The identity of a confidential informant where the identity of the informant is a prosecution secret and a failure to disclose will not infringe the constitutional rights of the defendant. Except as provided in ORS 135.873, disclosure shall not be denied hereunder of the identity of witnesses to be produced at trial.

(c) Transcripts, recordings or memoranda of testimony of witnesses before the grand jury, except transcripts or recordings of statements made by the defendant.

(d) Schematics, source codes or software of an instrument that was used to test a person's breath, blood or urine to determine the alcoholic content of the person's blood that are not in the actual possession or control of the state.

(2) When some parts of certain material are discoverable under ORS 135.805 to 135.873 or 135.970, and other parts not discoverable, as much of the material shall be disclosed as is consistent with the provisions thereof. [1973 c.836 §218; 1999 c.304 §5; 2007 c.581 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.857 - Disclosure to victim; conditions.**

(1) In any criminal prosecution arising from an automobile collision in which the defendant is alleged to have been under the influence of alcohol or drugs, the district attorney prosecuting the action shall make available, upon request, to the victim or victims and to their attorney, or to the survivors of the victim or victims and to their attorney, all reports and information disclosed to the defendant pursuant to ORS 135.805 to 135.873. The reports and information shall be made available at the same time as it is disclosed to the defendant or as soon thereafter as may be practicable after a request is received. The district attorney may impose such conditions as may be reasonable and necessary to prevent the release of the reports and information from interfering with the trial of the defendant. The district attorney may apply to the court for an order requiring any person receiving such reports and information to comply with the conditions of release.

(2) For the purpose of this section:

(a) "District attorney" has that meaning given in ORS 131.005.

(b) "Drug" has that meaning given in ORS 475.005. [1991 c.229 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.860**

[Amended by 1973 c.836 §164; renumbered 135.370]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.865 - Effect of failure to comply with discovery requirements.**

Upon being apprised of any breach of the duty imposed by the provisions of ORS 135.805 to 135.873 and 135.970, the court may order the violating party to permit inspection of the material, or grant a continuance, or refuse to permit the witness to testify, or refuse to receive in evidence the material not disclosed, or enter such other order as it considers appropriate. [1973 c.836 §219; 1999 c.304 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.873 - Protective orders.**

(1) As used in this section:

(a) "Local government" has the meaning given that term in ORS 174.116.

(b) "Sexual offense" includes but is not limited to a sex crime as defined in ORS 163A.005.

(c) "State government" has the meaning given that term in ORS 174.111.

(d) "Victim" has the meaning given that term in ORS 131.007.

(2) Upon a showing of good cause, the court may at any time order that specified disclosures be denied, restricted or deferred, or make such other order as is appropriate.

(3) Upon request of any party, the court may permit a showing of good cause for denial or regulation of disclosures, or portion of such showing, to be made in camera. A record shall be made of such proceedings.

(4) If the court enters an order granting relief following a showing in camera, the entire record of the showing shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal. Except for information or materials subject to an order that has been entered under subsection (5) or (6) of this section, the trial court, in its discretion, may, after the case has been concluded, unseal matters previously sealed.

(5) Upon the request of a district attorney or the victim, the court shall enter a protective order prohibiting any party to or attorney in, or the agent of a party to or attorney in, criminal proceedings involving a sexual offense, an offense involving the visual or audio recording of sexual conduct by a child or invasion of personal privacy under ORS 163.700 or 163.701 from copying or disseminating any information of a sexually explicit nature including, but not limited to, photographs depicting a person in a state of nudity, photographs of human genitalia, any information of the prior sexual history of the victim and any visual or audio recording of the sexual victimization.

(6) Upon the request of a district attorney or the victim, unless the court finds good cause to do otherwise, the court shall enter a

protective order prohibiting any party to or attorney in, or the agent of a party to or attorney in, criminal proceedings involving a sexual offense, an offense involving the visual or audio recording of sexual conduct by a child or invasion of personal privacy under ORS 163.700 or 163.701 from copying or disseminating a visual or audio recording of the victim describing the victim's sexual victimization.

(7) Notwithstanding a protective order entered under subsection (5) or (6) of this section, information or materials described in subsections (5) and (6) may be copied or disseminated for the purpose of:

- (a) Providing discovery;
- (b) Submitting evidence to a grand jury, a court, an agency of state government, a local government or a federal agency for use in judicial or administrative proceedings;
- (c) Having the information or materials examined by an expert witness for the court, the state or any party;
- (d) Providing copies of the information or materials to the parties' attorneys or agents; or
- (e) Sharing the information or materials with an agency of state government for use in carrying out duties imposed on the agency by statute.

(8) Upon the request of the victim, the court may order that the victim be provided with a copy of information or materials described in subsections (5) and (6) of this section. [1973 c.836 §220; 2005 c.531 §1; 2009 c.713 §10; 2015 c.645 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.875**

[1969 c.293 §1; renumbered 135.455]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.880**

[Amended by 1973 c.836 §176; renumbered 135.465]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.881 - Definitions for ORS 135.881 to 135.901.**

As used in ORS 135.881 to 135.901:

- (1) "District attorney" has the meaning given that term in ORS 131.005.
- (2) "Diversion" means referral of a defendant in a criminal case to a supervised performance program prior to adjudication.
- (3) "Diversion agreement" means the specification of formal terms and conditions which a defendant must fulfill in order to have the charges against the defendant dismissed.
- (4) "Servicemember" means a person who:
  - (a) Is a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States or the National Guard; or
  - (b)(A) Served as a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States or the National Guard; and
  - (B) Received an honorable discharge, a general discharge under honorable conditions or a discharge under other than honorable conditions. [1977 c.373 §1; 2010 c.25 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.886 - Requirements for diversion; factors considered.**

(1) After an accusatory instrument has been filed charging a defendant with commission of a crime other than driving while under the influence of intoxicants as defined in ORS 813.010, and after the district attorney has considered the factors listed in subsection (2) of this section, if it appears to the district attorney that diversion of the defendant would be in the interests of justice and of benefit to the defendant and the community, the district attorney may propose a diversion agreement to the defendant the terms of which are established by the district attorney in conformance with ORS 135.891. A diversion agreement under this section is not available to a defendant charged with the crime of driving while under the influence of intoxicants as defined in ORS 813.010.

(2) In determining whether diversion of a defendant is in the interests of justice and of benefit to the defendant and the community, the district attorney shall consider at least the following factors:

- (a) The nature of the offense; however, except as provided in subsection (3) of this section, the offense must not have involved physical injury to another person;
- (b) Any special characteristics or difficulties of the offender;
- (c) Whether the defendant is a first-time offender; if the offender has previously participated in diversion, according to the certification of the Department of Justice, diversion may not be offered;
- (d) Whether there is a probability that the defendant will cooperate with and benefit from alternative treatment;
- (e) Whether the available program is appropriate to the needs of the offender;
- (f) The impact of diversion upon the community;
- (g) Recommendations, if any, of the involved law enforcement agency;

(h) Recommendations, if any, of the victim;

(i) Provisions for restitution; and

(j) Any mitigating circumstances.

(3) In determining whether diversion of a defendant who is a servicemember is in the interests of justice and of benefit to the defendant and the community, the district attorney shall consider all of the factors listed in subsection (2) of this section, including the nature of the offense, except that diversion may not be offered if the offense:

(a) Involved serious physical injury to another person;

(b) Is classified as a Class A or B felony and involved physical injury to another person;

(c) Is described in ORS 163.365, 163.375, 163.395, 163.405, 163.408, 163.411 or 163.427; or

(d) Involved domestic violence as defined in ORS 135.230 and, at the time the offense was committed, the defendant was subject to a protective order in favor of the victim of the offense.

(4) As used in this section:

(a) "Physical injury" and "serious physical injury" have the meanings given those terms in ORS 161.015.

(b) "Protective order" means:

(A) An order issued under ORS 30.866, 107.700 to 107.735, 124.005 to 124.040 or 163.730 to 163.750; or

(B) A condition of probation, parole or post-prison supervision, or a release agreement under ORS 135.250, that prohibits the defendant from contacting the victim. [1977 c.373 §2; 1981 c.64 §1; 1981 c.803 §2; 1983 c.338 §889; 2010 c.25 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.891 - Conditions of diversion agreement; dismissal of criminal charges; scope of agreement; program fee.**

(1) A diversion agreement carries the understanding that if the defendant fulfills the obligations of the program described therein, the criminal charges filed against the defendant will be dismissed with prejudice. It shall include specifically the waiver of the right to a speedy trial. It may include, but is not limited to, admissions by the defendant, stipulation of facts, stipulation that depositions of witnesses may be taken pursuant to ORS 136.080 to 136.100, payment of costs as defined in ORS 135.705, restitution, performance of community service, residence in a halfway house or similar facility, maintenance of gainful employment, and participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventive guidance and other rehabilitative services.

(2) As a condition of entering into a diversion agreement under ORS 135.881 to 135.901, the defendant must pay a program fee of \$100. The court may waive all or part of the fee in cases involving indigent defendants, or may provide for payment of the fee on an installment basis. A fee collected under this subsection in the circuit court shall be deposited by the clerk of the court in the Criminal Fine Account. If the fee is collected in a municipal or justice court, \$35 of the fee shall be forwarded by the court to the Department of Revenue for deposit in the Criminal Fine Account, and the remainder of the fee shall be paid to the city or county treasurer. [1977 c.373 §3; 1985 c.710 §5; 2012 c.81 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.893 - Diversion conditions related to medical use of cannabis.**

(1) As used in this section, "cannabinoid concentrate," "cannabinoid extract," "medical cannabinoid product," "registry identification card" and "usable marijuana" have the meanings given those terms in ORS 475C.777.

(2) For a person who holds a registry identification card who is subject to a diversion agreement under ORS 135.891, the diversion conditions related to the use of usable marijuana, medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts must be imposed in the same manner as the diversion conditions related to prescription drugs. [2016 c.24 §53d; 2019 c.292 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.896 - Stay of criminal proceedings during period of agreement; limitation on stay; extension of stay.**

(1) If the district attorney elects to offer diversion in lieu of further criminal proceedings and the defendant, with the advice of counsel, agrees to the terms of the proposed agreement, including a waiver of the right to a speedy trial, the court shall stay further criminal proceedings for a definite period. Except as provided in ORS 135.898 and subsection (2) of this section, the stay shall not exceed 270 days in the case of a defendant charged with commission of a felony, and shall not exceed 180 days in the case of a defendant charged with the commission of a misdemeanor. If the defendant declines diversion, the court shall resume criminal proceedings.

(2) Prior to the end of the stay of criminal proceedings described in subsection (1) of this section, the defendant may request that the district attorney approve an extension of the stay for a period up to 270 days in the case of a defendant charged with the commission of a felony and up to 180 days in the case of a defendant charged with the commission of a misdemeanor. If the district attorney approves the extension, the district attorney shall notify the court and the court shall order an extension of the stay of criminal proceedings for the approved period of time. [1977 c.373 §4; 2010 c.25 §3; 2015 c.258 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.898 - Diversion agreement involving servicemember charged with domestic violence.**

When a diversion agreement authorized under ORS 135.886 (3) involves domestic violence as defined in ORS 135.230, in addition to a waiver of the right to a speedy trial, the agreement must require the servicemember to enter a plea of guilty or no contest to each domestic violence offense charged in the accusatory instrument. If the servicemember, with the advice of counsel, agrees to the terms of the agreement and enters a plea of guilty or no contest to each domestic violence offense charged in the accusatory instrument, the court shall stay further criminal proceedings involving the domestic violence offenses for a definite period not to exceed two years. [2010 c.25 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.901 - Effect of compliance or noncompliance with agreement; effect of partial compliance in subsequent criminal proceedings; record of participation in program.**

- (1) If the district attorney finds at the termination of the diversion period or any time prior thereto that the divertee has failed to fulfill the terms of the diversion agreement, the district attorney shall terminate diversion and the court shall resume criminal proceedings. However, if the former divertee is adjudicated guilty as a result thereof, the court may take into consideration at the time of the sentencing any partially successful fulfillment by such person of the terms of agreement.
- (2) If the district attorney informs the court at the termination of the diversion period that the defendant has fulfilled the terms of the diversion agreement, the court shall dismiss with prejudice the criminal charges filed against the defendant.
- (3) A record of the fact that an individual has participated in diversion shall be forwarded to and kept by the Department of Justice, and shall be made available upon request to any district attorney who subsequently considers diversion of such person. [1977 c.373 §5; 1981 c.64 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.925 - Bad check diversion program; fees.**

- (1) As used in this section, "bad check diversion program" means a program established under subsection (2) of this section.
- (2) A district attorney may establish a bad check diversion program within the office of the district attorney.
- (3) If a district attorney has established a bad check diversion program, upon receipt of a case alleging a violation of ORS 165.065, the district attorney shall determine if the case is appropriate to be referred to the bad check diversion program. In determining whether to refer the case to the bad check diversion program, the district attorney shall consider, in addition to any other factors the district attorney deems appropriate, the following:
  - (a) The amount of the bad check;
  - (b) Whether the person alleged to have negotiated the bad check has a prior criminal record or has previously participated in a bad check diversion program;
  - (c) The number of violations of ORS 165.065 the person is alleged to have committed in the current or prior allegations;
  - (d) Whether current charges of violating ORS 165.065 are pending against the person; and
  - (e) The strength of the evidence of intent to defraud the victim.
- (4) When a case is referred to the bad check diversion program, the district attorney shall send a notice to the person who is alleged to have violated ORS 165.065. The notice must contain:
  - (a) The date and amount of the bad check;
  - (b) The name of the payee;
  - (c) The date before which the person is required to contact the district attorney, or a person designated by the district attorney, concerning the bad check; and
  - (d) The penalty for a violation of ORS 165.065.
- (5) The district attorney may enter into a written agreement with the person alleged to have violated ORS 165.065 to forgo prosecution of the violation if the person agrees to do the following within a six-month period:
  - (a) Complete a class conducted by the district attorney, or by a private entity under contract to the district attorney, relating to writing checks;
  - (b) Make full restitution to the payee; and
  - (c) Pay any collection fee imposed by the district attorney under subsection (6) of this section.
- (6) A district attorney may collect a fee if the district attorney collects and processes a bad check. The amount of the fee may not exceed \$35 for each bad check in addition to the actual amount of any bank charge incurred by the victim as a result of the bad check.
- (7) The district attorney may not require a person alleged to have violated ORS 165.065 to make an admission of guilt as a prerequisite to participating in a bad check diversion program.
- (8) The following are not admissible in any civil or criminal action against a person arising from negotiating a bad check:
  - (a) A statement, or any information derived from the statement, made by the person in connection with the determination of the person's eligibility to participate in a bad check diversion program.
  - (b) A statement, or any information derived from the statement, made by the person after the person is determined to be eligible to participate in a bad check diversion program.
  - (c) A statement, or any information derived from the statement, made by the person while participating in a bad check diversion program.



(d) Information about the person's participation in a bad check diversion program.

(9) A district attorney may not authorize a private entity to use the seal, letterhead or name of the district attorney or district attorney's office to collect debt, including restitution, pursuant to a bad check diversion program. [2001 c.433 §1; 2013 c.551 §2]

Note:

135.925 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 135 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.941 - Early disposition programs.**

To effectuate the purposes set out in ORS 135.942, each local public safety coordinating council established under ORS 423.560:

(1) Shall establish early disposition programs for first-time offenders who have committed a nonperson offense and for persons charged with probation violations. As used in this subsection, "nonperson offense" means an offense other than:

(a) A Class A or B felony; and

(b) A person felony or person Class A misdemeanor, as those terms are defined in the rules of the Oregon Criminal Justice Commission.

(2) May establish early disposition programs for other offenders. [2001 c.635 §6]

Note:

135.941 to 135.949 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 135 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.942 - Purposes of program.**

The purposes of an early disposition program are to:

(1) Hold offenders accountable for their actions;

(2) Ensure a prompt resolution of criminal matters;

(3) Protect the rights of the public and the offender;

(4) Maximize use of community resources to provide alternative sanctions for criminal behavior; and

(5) Reduce the costs to the criminal justice system that are incurred when traditional sanctions are the only option available to district attorneys and courts. [2001 c.635 §7]

Note:

See note under 135.941.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.943 - Provisions of program.**

An early disposition program established under ORS 135.941 must provide, but need not be limited to, the following:

(1) Written criteria for eligibility to participate in the program.

(2) Victim notification and appearance.

(3) A process to ensure legal representation and provision of discovery for offenders who are eligible for the early disposition program.

(4) Specific evaluation criteria and an evaluation schedule. The evaluation criteria must address, but need not be limited to, the following:

(a) Cost avoidance;

(b) Cost savings; and

(c) Outcomes. [2001 c.635 §8]

Note:

See note under 135.941.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.948 - Availability to probationers.**

(1)(a) A district attorney may provide an offer and agreed disposition recommendation under an early disposition program established under ORS 135.941 to a probationer at the time of the first appearance of the probationer in court for a probation violation.

(b) Unless extended by the court, an offer and agreed disposition recommendation made under paragraph (a) of this subsection expire upon completion of the appearance. Except for good cause, a court may not extend an offer and agreed disposition recommendation under this paragraph for more than seven days for a misdemeanor or 21 days for a felony.

(2) If the court determines that the agreed disposition recommendation is inappropriate in a particular case, the court shall so advise the parties and allow the probationer an opportunity to withdraw the admission. [2001 c.635 §14]

Note:

See note under 135.941.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.949 - Other programs authorized.**

Nothing in ORS 135.941, 135.942, 135.943 and 135.948 or in the amendments to ORS 135.380, 135.385, 135.390 and 135.405 by sections 10 to 13, chapter 635, Oregon Laws 2001, prevents the implementation or continuation of an early disposition program other than one established under ORS 135.941. [2001 c.635 §15]

Note:

See note under 135.941.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.951 - Authorization; determining when appropriate; exclusions.**

(1) Law enforcement agencies, city attorneys and district attorneys may consider the availability and likely effectiveness of mediation in determining whether to process and prosecute criminal charges. If it appears that mediation is in the interests of justice and of benefit to the offender, victim and community, the law enforcement agency, city attorney or district attorney may propose mediation through a qualified mediation program.

(2) In determining whether mediation is in the interests of justice and of benefit to the offender, victim and community, the law enforcement agency, city attorney or district attorney shall consider, at a minimum, the following factors:

- (a) The nature of the offense;
- (b) Any special characteristics of the offender or the victim;
- (c) Whether the offender has previously participated in mediation;
- (d) Whether it is probable that the offender will cooperate with and benefit from mediation;
- (e) The recommendations of the victim;
- (f) Whether a qualified mediation program is available or may be made available;
- (g) The impact of mediation on the community;
- (h) The recommendations of the involved law enforcement agency; and
- (i) Any mitigating circumstances.

(3) Mediation may not be used for:

- (a) Disputes between family or household members, as defined in ORS 107.705, that involve conduct that would constitute assault under ORS 163.160, 163.165, 163.175 or 163.185 or strangulation under ORS 163.187; or
- (b) Offenses that involve sex crimes, as defined in ORS 163A.005. [1995 c.323 §1; 2003 c.577 §6]

Note:

135.951 to 135.959 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 135 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.953 - How mediation may be used.**

(1) A defendant may participate in mediation as part of a diversion agreement under ORS 135.881 to 135.901.

(2) A court, including, but not limited to, a justice court, may:

(a) Authorize, in a pretrial release order, contact between a defendant and a victim as part of mediation between the defendant and the victim;

(b) Consider mediation as the basis of a compromise of crimes under ORS 135.703; or

(c) Include participation in mediation as a condition of probation under ORS 137.540.

(3) A district attorney or city attorney:

(a) May suspend prosecution of a case referred to mediation and dismiss the charges in the referred case if the defendant successfully completes the terms of the agreement resulting from the mediation; or

(b) May include, with a defendant, mediation between the defendant and the victim as part of a plea agreement entered into under ORS 135.405.

(4) A county juvenile department may include mediation between a child and a victim as one of the terms of a formal accountability agreement under ORS 419C.230 or an authorized diversion program under ORS 419C.225.

(5) The Department of Corrections may use mediation for the purposes of rehabilitation and treatment.

(6) Mediation may be used in any other appropriate manner in resolving disputes involving criminal matters. [1995 c.323 §2; 2007 c.609 §4]

Note:

See note under 135.951.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.955 - Notifying victims and person charged with crime of mediation opportunities.**

(1) Law enforcement agencies, district attorneys and city attorneys may inform:

(a) The victim of a crime of:

(A) Any mediation opportunities that may be available to the victim in the victim's community, within or as an alternative to the criminal justice system; and

(B) How to request mediation; and

(b) A person charged with a crime of:

(A) Any mediation opportunities that may be available to the person in the person's community, within or as an alternative to the criminal justice system; and

(B) How to request mediation.

(2) No party to a dispute may be compelled to participate in mediation. [1995 c.323 §3]

Note:

See note under 135.951.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.957 - Application of ORS 36.220 to 36.238 to mediation of criminal offenses; information to parties.**

The provisions of ORS 36.220 to 36.238 do not apply to a mediation conducted under ORS 135.951 or 135.953 unless the parties to the mediation enter into a written agreement for confidentiality of the mediation. If the parties enter into a written agreement for confidentiality of the mediation, a court may not receive in evidence in any proceeding any mediation communications or mediation agreement to the extent provided by ORS 36.220 to 36.238. The parties participating in mediation must be informed:

(1) Of the right to enter into a written agreement concerning confidentiality of the mediation proceedings; and

(2) That mediation communications or agreements may not be used as an admission of guilt or as evidence against the offender in any adjudicatory proceeding. [1995 c.323 §4; 1997 c.670 §13]

Note:

See note under 135.951.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.959 - Authority to contract with dispute resolution programs.**

A law enforcement agency, city attorney, district attorney, county juvenile department or court may contract with dispute resolution programs to provide mediation services under ORS 135.951 or 135.953. The programs must meet the standards for dispute resolution programs established by the Dean of the University of Oregon School of Law under ORS 36.175. [1995 c.323 §5; 2003 c.791 §§26,26a; 2005 c.817 §5]

Note:

See note under 135.951.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.970 - Information required when victim contacted by defense; deposition of victim; when contact with victim prohibited; effect of threats by defendant.**

(1) If the victim or a witness requests, the court shall order that the victim's or witness's address and phone number not be given to the defendant unless good cause is shown to the court.

(2) If contacted by the defense or any agent of the defense, the victim must be clearly informed by the defense or other contacting agent, either in person or in writing, of the identity and capacity of the person contacting the victim, that the victim does not have to talk to the defendant's attorney, or other agents of the defendant, or provide other discovery unless the victim wishes, and that the victim may have a district attorney, assistant attorney general or other attorney or advocate present during any interview or other contact.

(3) A victim may not be required to be interviewed or deposed by or give discovery to the defendant, the defendant's attorney or any agent of the defense unless the victim consents. This subsection does not prohibit the defendant from:

(a) Subpoenaing or examining the victim at trial or in a pretrial proceeding when the purpose is other than for discovery; or

(b) Subpoenaing books, papers or documents as provided in ORS 136.580.

(4)(a) Any pretrial release order must prohibit any contact with the victim, either directly or indirectly, unless specifically authorized by the court having jurisdiction over the criminal charge. This subsection shall not limit contact by the defense attorney, or an agent of the defense attorney, other than the defendant, in the manner set forth in subsection (2) of this section.

(b) If a victim notifies the district attorney that the defendant, either directly or indirectly, threatened or intimidated the victim, the district attorney shall notify the court with jurisdiction over the criminal matter and the defense attorney. If the defendant is not in custody and the court finds there is probable cause to believe the victim has been threatened or intimidated by the defendant, either directly or indirectly, the court shall immediately issue an order to show cause why defendant's release status should not be revoked. After conducting such hearing as it deems appropriate, if the court finds that the victim has been threatened or intimidated by the defendant, either directly or indirectly, the defendant's release status shall be revoked and the defendant shall be held in custody with a security amount set in an amount sufficient to ensure the safety of the victim and the community.

(5) As used in this section, "victim" means the person or persons who have suffered financial, social, psychological or physical harm

as a result of a crime against the person or a third person and includes, in the case of a homicide or abuse of corpse in any degree, a member of the immediate family of the decedent and, in the case of a minor victim, the legal guardian of the minor. In no event shall the criminal defendant be considered a victim. [1987 c.2 §3; 1997 c.313 §7; 1999 c.1051 §251; 2013 c.144 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.973 - Medication use by specialty court entrant.**

(1) As used in this section, "specialty court" has the meaning given that term in ORS 137.680.

(2) An individual may not be denied entry into a specialty court in this state solely for the reason that the individual is taking, or intends to take, medication prescribed by a licensed health care practitioner for the treatment of drug abuse or dependency. [2017 c.683 §6]

Note:

135.973 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 135 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.980 - Rehabilitative programs directory; compilation; availability.**

(1) The Director of the Department of Corrections shall maintain a directory of public and private rehabilitative programs known and available to corrections agencies of the state and of each county. For purposes of this subsection, "rehabilitative program" means a planned activity, in a custodial or noncustodial context, designed and implemented to treat drug or alcohol abuse, to prevent criminal sexual behavior, to modify a propensity to commit crimes against persons or property or to achieve restitution for losses caused by an offender and includes programs that employ the device of mediation between the victim and offender. Rehabilitative programs included in the directory that are designed and implemented to treat drug or alcohol abuse must meet minimum standards adopted by the Oregon Health Authority under ORS 430.357. The director shall include:

(a) The name, address and telephone number of the program and the identity of its director or other principal contact;

(b) The geographical jurisdiction of the program;

(c) The types of offenders that the program claims to be able to serve and the criteria that the program applies in selecting or soliciting cases;

(d) The claims of the program regarding its effectiveness in reducing recidivism, achieving restitution or otherwise serving correctional objectives;

(e) An assessment by the relevant corrections agency of the actual effectiveness of the program; and

(f) The capacity of the program for new cases.

(2) The Director of the Department of Corrections shall make the directory available to the Oregon Criminal Justice Commission and to judges in a form that will allow sentencing judges to determine what rehabilitative programs are appropriate and available to the offender during any period of probation, imprisonment or local incarceration and post-prison supervision. The Director of the Department of Corrections shall also make the directory available to its employees who prepare presentence reports and proposed release plans for submission to the State Board of Parole and Post-Prison Supervision.

(3) The directory shall be updated as frequently as is practical, but no less often than every six months. [1989 c.790 §7a; 2011 c.673 §4]

Note:

135.980 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 135 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.983 - Court inquiry into defendant's immigration status prohibited.**

(1) The court may not inquire into a defendant's immigration status, and may not require a defendant to disclose the defendant's immigration status, at any time during a criminal proceeding.

(2) Subsection (1) of this section does not prohibit a defendant from knowingly and voluntarily disclosing to the court the defendant's immigration status at any time during the criminal proceeding. [2019 c.437 §2]

Note:

135.983 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 135 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.985 - Procedure when defendant is servicemember.**

(1) As used in this section, "servicemember" means a person who is a member, or who served as a member, of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States or the National Guard.

(2) At the time of arraignment on a criminal charge, the court shall inform the defendant that the defendant's status as a servicemember may make the defendant eligible for treatment programs, diversion, specialty courts or mitigated sentencing, and that

the defendant may obtain information about these options by consulting with the defendant's attorney.

(3) In a criminal proceeding the defendant's attorney may, with the permission of the defendant, notify the court that the defendant is a servicemember.

(4) The fact that a defendant is a servicemember may not be used as an aggravating factor in determining the defendant's sentence. [2019 c.86 §1]

Note:

135.985 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 135 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 135 - Arraignment and Pretrial Provisions Section 135.990 - Penalties.**

Violation of ORS 135.155 is punishable as a contempt by the court having jurisdiction of the crime charged against the defendant. [Formerly 133.990]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.001 - Right to jury trial; waiver.**

(1) The defendant and the state in all criminal prosecutions have the right to public trial by an impartial jury.

(2) Both the defendant and the state may elect to waive trial by jury and consent to a trial by the judge of the court alone, provided that the election of the defendant is in writing and with the consent of the trial judge. [1973 c.836 §221; 1997 c.313 §21]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.005 - Challenge to jury panel.**

(1) The district attorney or the defendant in a criminal action may challenge the jury panel on the ground that there has been a material departure from the requirements of the law governing selection of jurors by filing a motion with the court supported by an affidavit alleging facts that, if true, constitute a material departure from the requirements of the law governing the selection of jurors. The party making the motion shall serve the motion and supporting affidavit on the other party, the trial court administrator and the State Court Administrator.

(2) A challenge to the panel shall be made before the voir dire examination of the jury.

(3) If the court determines that there has been a material departure from the requirements of the law governing selection of jurors, the court shall:

(a) Stay the proceedings pending the selection of a jury panel in conformity with the applicable provisions of law; and

(b) Grant such other relief as may be appropriate.

(4) The procedures prescribed by this section are the exclusive means by which a district attorney or defendant may challenge a jury panel. [1973 c.836 §222; 2001 c.779 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.010 - When issue of fact arises.**

An issue of fact arises upon a plea of not guilty. [Amended by 1973 c.836 §223]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.030 - How issues are tried.**

An issue of law shall be tried by the judge of the court and an issue of fact by a jury of the county in which the action is triable. [Amended by 1973 c.836 §224]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.040 - When presence of defendant is necessary.**

(1) If the charge is for a misdemeanor, the trial may be had in the absence of the defendant if the defendant appears by counsel; but if it is for a felony, the defendant shall appear in person.

(2) Notwithstanding the provisions of subsection (1) of this section, if the charge is for a misdemeanor, the trial may be had in the absence of the defendant and defendant's counsel if the misdemeanor is treated as a violation under ORS 161.566 or 161.568.

[Amended by 1973 c.836 §225; 1993 c.533 §3; 1999 c.1051 §123]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.050 - Reasonable doubt as to degree of crime committed by defendant.**

When it appears that the defendant has committed a crime of which there are two or more degrees and there is a reasonable doubt as to the degree of which the defendant is guilty, the defendant can be convicted of the lowest of those degrees only.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.060 -**

**Jointly charged defendants to be tried jointly; exception.**

(1) Jointly charged defendants shall be tried jointly unless the court concludes before trial that it is clearly inappropriate to do so and orders that a defendant be tried separately. In reaching its conclusion the court shall strongly consider the victim's interest in a joint trial.

(2) In ruling on a motion by a defendant for severance, the court may order the prosecution to deliver to the court for inspection in camera any statements or confessions made by any defendant that the prosecution intends to introduce in evidence at the trial.

[Amended by 1983 c.705 §1; 1987 c.2 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.070 - Postponement of trial.**

When a case is at issue upon a question of fact and before the same is called for trial, the court may, upon sufficient cause shown by the affidavit of the defendant or the statement of the district attorney, direct the trial to be postponed for a reasonable period of time.

[Amended by 1959 c.638 §18; 1973 c.836 §226]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.080 - Deposition of witness as condition of postponement.**

When an application is made for the postponement of a trial, the court may in its discretion require as a condition precedent to granting the same that the party applying therefor consent that the deposition of a witness may be taken and read on the trial of the case. Unless such consent is given, the court may refuse to allow such postponement for any cause.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.090 - Procedure for taking deposition.**

When the consent mentioned in ORS 136.080 is given, the court shall make an order appointing some proper time and place for taking the deposition of the witness, either by the judge thereof or before some suitable person to be named therein as commissioner and upon either written or oral interrogatories.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.100 - Filing and use of deposition.**

Upon the making of the order provided in ORS 136.090, the deposition shall be taken and filed in court and may be read on the trial of the case in like manner and with like effect and subject to the same objections as in civil cases.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.110 - Commitment of defendant after release.**

When a defendant who has been released appears for trial, the court may in its discretion at any time after such appearance order the defendant to be committed to actual custody to abide the judgment or further order of the court; and the defendant shall be committed and held in custody accordingly. [Amended by 1973 c.836 §227]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.120 - Dismissal when prosecutor unready for trial; effect on subsequent prosecution; release of defendant.**

(1) If the defendant appears at the time set for trial and the prosecuting attorney is not ready and does not show sufficient cause for postponing the trial, the court shall dismiss the accusatory instrument unless the court determines that dismissal is not in the public interest.

(2) If the court dismisses the accusatory instrument under subsection (1) of this section and:

(a) The instrument charges a felony or Class A misdemeanor, the dismissal is not a bar to another action for the same offense unless the court so orders.

(b) The instrument charges an offense other than a felony or Class A misdemeanor, the dismissal shall be a bar to another action for the same offense.

(3) If the dismissal is a bar to another action for the same offense, the court shall follow the procedures described in ORS 135.680 concerning the defendant's release. [Amended by 1973 c.836 §228; 2017 c.529 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.145 - Setting of court dates when presence of victim required.**

When resetting any trial date or setting any court hearing requiring the presence of the victim, the court shall take the victim into consideration. The court shall inquire of the district attorney as to whether the victim has been informed of the prospective date and whether that date is convenient for the victim. [1987 c.2 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.210 - Jury number; examination.**

(1) Except as provided in subsection (2) of this section, in criminal cases the trial jury shall consist of 12 persons unless the parties consent to a less number. It shall be formed, except as otherwise provided in ORS 136.220 to 136.250, in the same manner provided by ORCP 57 B, D(1)(a), D(1)(b), D(1)(g) and E. When the full number of jurors has been called, they shall thereupon be examined as to their qualifications, first by the court, then by the defendant and then by the state. After they have been passed for cause, peremptory challenges, if any, shall be exercised as provided in ORS 136.230.

(2) In criminal cases in the circuit courts in which the only charges to be tried are misdemeanors, the trial jury shall consist of six persons. [Amended by 1973 c.836 §231; 1979 c.284 §112; 1979 c.488 §2; 1991 c.247 §1; 1995 c.658 §76]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.220 - Challenge for implied bias.**

A challenge for implied bias shall be allowed for any of the following causes and for no other:

(1) Consanguinity or affinity within the fourth degree to the person alleged to be injured by the offense charged in the accusatory instrument, to the complainant or to the defendant.

(2) Standing in the relation of guardian and ward, attorney and client, physician and patient, naturopathic physician and patient, physician assistant and patient, nurse practitioner and patient, master and servant, debtor and creditor, principal and agent or landlord and tenant with the:

(a) Defendant;

(b) Person alleged to be injured by the offense charged in the accusatory instrument; or

(c) Complainant.

(3) Being a member of the family, a partner in business with or in the employment of any person referred to in subsection (2)(a), (b) or (c) of this section or a surety in the action or otherwise for the defendant.

(4) Having served on the grand jury which found the indictment or on a jury of inquest which inquired into the death of a person whose death is the subject of the indictment or information.

(5) Having been one of a jury formerly sworn in the same action, and whose verdict was set aside or which was discharged without a verdict after the cause was submitted to it.

(6) Having served as a juror in a civil action, suit or proceeding brought against the defendant for substantially the same act charged as an offense.

(7) Having served as a juror in a criminal action upon substantially the same facts, transaction or criminal episode. [Amended by 1961 c.444 §1; 1967 c.372 §1; 1973 c.836 §232; 1999 c.1051 §252; 2014 c.45 §22; 2017 c.356 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.230 - Peremptory challenges.**

(1) If the trial is upon an accusatory instrument in which one or more of the crimes charged is punishable with imprisonment in a Department of Corrections institution for life or is a capital offense, both the defendant and the state are entitled to 12 peremptory challenges, and no more. In any trial before more than six jurors, both are entitled to six. In any trial before six jurors, both are entitled to three.

(2) Peremptory challenges shall be taken in writing by secret ballot as follows:

(a) The defendant may challenge two jurors and the state may challenge two, and so alternating, the defendant exercising two challenges and the state two until the peremptory challenges are exhausted.

(b) After each challenge the panel shall be filled and the additional juror passed for cause before another peremptory challenge is exercised. Neither party shall be required to exercise a peremptory challenge unless the full number of jurors is in the jury box at the time.

(c) The refusal to challenge by either party in order of alternation does not prevent the adverse party from exercising that adverse party's full number of challenges, and such refusal on the part of a party to exercise a challenge in proper turn concludes that party as to the jurors once accepted by that party. If that party's right of peremptory challenge is not exhausted, that party's further challenges shall be confined, in that party's proper turn, to such additional jurors as may be called.

(3) Notwithstanding subsection (2) of this section, the defendant and the state may stipulate to taking peremptory challenges orally.

(4) Peremptory challenges are subject to ORCP 57 D(4). [Amended by 1973 c.836 §233; 1977 c.63 §1; 1987 c.2 §7; 1987 c.320 §26; 1995 c.530 §2; 1997 c.801 §70]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.240 - Challenge of accepted juror.**

If the peremptory challenges of the moving party are not already exhausted, the court may for good cause shown permit a challenge to be taken to any juror before the jury is completed and sworn, notwithstanding the juror challenged may have been theretofore accepted.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.250 - Taking of challenges; number of challenges if two or more defendants.**

All peremptory challenges may be taken by the state or defendant, but when several defendants are tried together, the defendants are entitled to the number of challenges they would have had if each defendant had been tried separately. When two or more defendants are tried together, the state is entitled to the same total number of peremptory challenges as the sum of the peremptory challenges the defendants could have exercised. [Amended by 1973 c.836 §234; 1997 c.511 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.260 - Selection of alternate jurors; peremptory challenges.**

(1)(a) In the trial of a person charged with a crime, the court may in its discretion direct the calling of additional jurors, to be known as "alternate jurors." The court may call:

(A) One to six additional jurors if the person is charged with a felony; and

(B) One to three additional jurors if the person is charged with a misdemeanor.

(b) Jurors called under paragraph (a) of this subsection:

(A) Must be drawn from the same source and in the same manner and must have the same qualifications as other jurors in the case.

(B) Are subject to the same examination and may be challenged in the same manner as other jurors.

(c) In the drawing of alternate jurors, the names of jurors excused for cause or on peremptory challenges in the selection of the jury to which the jurors shall serve as alternates must be excluded from the names from which the drawing is made.

(2) Each side is entitled to the following peremptory challenges in addition to those otherwise allowed by statute:

(a) If one or two alternate jurors are to be impaneled, each side is entitled to one peremptory challenge.

(b) If three or four alternate jurors are to be impaneled, each side is entitled to two peremptory challenges.

(c) If five or six alternate jurors are to be impaneled, each side is entitled to three peremptory challenges.

(3) The court has discretion to decide:

(a) When and in what manner the alternate jurors are selected;

(b) When and in what manner the additional peremptory challenges described in subsection (2) of this section may be used; and

(c) When and in what manner the alternate jurors are informed of their status as alternate jurors. [Amended by 1991 c.725 §1; 2003 c.358 §1; 2017 c.359 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.270 - Oath, conduct and attendance of alternate jurors at trial.**

Alternate jurors shall take the same oath and shall be subject to the same laws, orders and rules, including any order preventing the separation of the jury during the trial, shall be seated near the other jurors in the case, with equal opportunity and facilities for seeing and hearing the proceedings and shall attend at all times upon the trial of the case in company with the other jurors.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.280 - Substitution of alternate for discharged juror; retention and discharge of alternates.**

(1) If, before the final submission of the case, any juror dies or is unable to perform the duty because of illness or other sufficient cause, the court shall discharge the juror from the case. The court shall draw the name of an alternate juror, who shall then become a member of the jury, replacing the discharged juror as though the alternate juror had been selected as one of the original jurors.

(2) If, after the jury has begun deliberations, any juror dies or is unable to perform the duty because of illness or other sufficient cause, the court shall discharge the juror from the case and may draw the name of an alternate juror to replace the discharged juror if:

(a) An alternate juror is available and has not yet been discharged; and

(b) Both parties agreed to the substitution after the jury was selected but prior to the beginning of the trial.

(3) If an alternate juror replaces a juror under this section after deliberations have begun, the court shall instruct the jury to begin deliberations anew.

(4) The court may retain alternate jurors after the case is submitted to the jury to replace jurors as provided in subsection (2) of this section. An alternate juror retained under this subsection shall not attend or otherwise participate in deliberations unless the alternate juror is selected to replace a juror.

(5) An alternate juror who does not replace a juror as provided in subsection (1) or (2) of this section and who is not retained as provided in subsection (4) of this section shall be discharged after deliberations have begun. [Amended by 1991 c.725 §3; 2005 c.463 §§18,19; 2007 c.16 §8; 2017 c.359 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.285 - Priority in trial schedule for defendants in custody.**

The court shall endeavor to schedule trial dates for defendants in custody before defendants who have been released pending trial, subject however to rights of all defendants to be tried without unreasonable delay. [1971 c.323 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.290 - Limit on custody of defendant prior to trial; release if limit exceeded.**



(1) Except as provided in ORS 136.295, a defendant shall not remain in custody pending commencement of the trial of the defendant more than 60 days after the time of arrest unless the trial is continued with the express consent of the defendant. Absent the consent of the defendant or an extension under ORS 136.295, the court shall order that the trial of the defendant commence within 60 days after arrest if the state is prepared to proceed to trial.

(2) If a trial is not commenced within the period required by subsection (1) of this section, the court shall release the defendant on the own recognizance of the defendant, or in the custody of a third party, or upon whatever additional reasonable terms and conditions the court deems just as provided in ORS 135.230 to 135.290. [1971 c.323 §§3,4; 1973 c.836 §235; 1999 c.923 §1; amendments by 1999 c.923 §3 repealed by 2001 c.870 §19]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.295 - Application of ORS 136.290; when extensions granted.**

(1) ORS 136.290 does not apply to persons charged with crimes that are not releasable offenses under ORS 135.240 or to persons charged with conspiracy to commit murder, or charged with attempted murder, or to prisoners serving sentences resulting from prior convictions.

(2)(a) If the defendant is extradited from another jurisdiction, the 60-day period shall not commence until the defendant enters the State of Oregon, provided that law enforcement authorities from the other jurisdiction and this state have conducted the extradition with all practicable speed. The original 60-day period shall not be extended more than an additional 60 days, except where delay has been caused by the defendant in opposing the extradition.

(b) For purposes of this subsection, an extradition is presumed to have been conducted with all practicable speed if it has been conducted within 90 days after the date the defendant has been delivered to an agent of this state.

(3) Any reasonable delay resulting from examination or hearing regarding the defendant's mental condition or competency to stand trial, or resulting from other motion or appeal by the defendant, shall not be included in the 60-day period.

(4)(a) If a victim or witness to the crime in question is unable to testify within the original 60-day period because of injuries received at the time the alleged crime was committed or upon a showing of good cause, the court may order an extension of custody and postponement of the date of the trial of not more than 60 additional days. The court, for the same reason, may order a second extension of custody and postponement of the date of the trial of not more than 60 days, but in no event shall the defendant be held in custody before trial for more than a total of 180 days. A court may grant an extension based upon good cause as described in paragraph (b)(C), (D) or (E) of this subsection only if requested by the defendant or defense counsel or by the court on its own motion.

(b) As used in this subsection, "good cause" means situations in which:

(A) The court failed to comply with ORS 136.145 and the victim is unable to attend the trial;

(B) The victim or an essential witness for either the state or the defense is unable to testify at the trial because of circumstances beyond the control of the victim or witness;

(C) The attorney for the defendant cannot reasonably be expected to try the case within the 60-day period;

(D) The attorney for the defendant has recently been appointed and cannot be ready to try the case within the 60-day period;

(E) The attorney for the defendant is unable to try the case within the 60-day period because of conflicting schedules;

(F) Scientific evidence is necessary and because of the complexity of the procedures it would be unreasonable to have the procedures completed within the 60-day period;

(G) The defendant has filed notice under ORS 161.309 of the defendant's intention to rely upon a defense of insanity, partial responsibility or diminished capacity;

(H) The defendant has filed any notice of an affirmative defense within the last 20 days of the 60-day period;

(I) A claim under ORS 147.515, or a motion under ORS 147.522, relating to victims' rights is pending, the court has considered the factors described in ORS 147.525 and the court has determined that the trial date should be rescheduled subject to the time limit provided in ORS 147.525; or

(J) The defendant has received discovery of digital video evidence from a video camera worn upon a law enforcement officer's person and, though discovery has occurred in a reasonably timely manner, editing of the digital video evidence is necessary.

(5) Any period following defendant's arrest in which the defendant is not actually in custody shall not be included in the 60-day computation. [1971 c.323 §5; 1973 c.836 §236; 1999 c.923 §2; amendments by 1999 c.923 §4 repealed by 2001 c.870 §19; 2003 c.127 §3; 2009 c.178 §34; 2009 c.357 §1; 2015 c.550 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.300 - Time limit on appeals to circuit court.**

A defendant who is in custody pending an appeal to circuit court from a judgment of a municipal court or justice court shall have the appeal of the defendant heard not more than 60 days after the defendant gives notice of appeal. [1971 c.323 §6; 1977 c.290 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.310 - Function of court; effect of judicial notice of a fact.**

All questions of law, including the admissibility of testimony, the facts preliminary to such admission and the construction of statutes and other writings and other rules of evidence shall be decided by the court. All discussions of law shall be addressed to it.

Whenever the knowledge of the court is by statute made evidence of a fact, the court shall declare such knowledge to the jury, which is bound to accept it as conclusive, except as provided in ORS 40.085. [Amended by 1983 c.433 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.320 - Function of jury; jury to receive law as laid down by court.**

Although the jury may find a general verdict, which includes questions of law as well as fact, it is bound, nevertheless, to receive as law what is laid down as such by the court; but all questions of fact, other than those mentioned in ORS 136.310, shall be decided by the jury, and all evidence thereon addressed to it.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.325 - Jury not to be informed of and not to consider punishment that may be imposed.**

Except as required in ORS 161.313 and 163.150, the jury in a criminal proceeding may not be informed of, and may not consider, any punishment that the court may impose if the defendant is convicted of the charge. [1997 c.852 §10]

Note:

136.325 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 136 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.330 - Trial procedure; polling jurors in writing.**

(1) ORS 10.100 and ORCP 58 B, C and D and 59 B through F and G(1), (3), (4) and (5), apply to and regulate the conduct of the trial of criminal actions. The jury in a criminal action may, in the discretion of the court, be polled in writing. If the jury is polled in writing, the written results shall be sealed and placed in the court record.

(2) ORCP 59 H applies to and regulates exceptions in criminal actions. [Amended by 1959 c.558 §31; 1979 c.284 §113; 1985 c.703 §27]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.345 - When attendance of woman officer is required.**

Whenever any woman or girl is interrogated with reference to the commission of any sexual crime, is accused of or charged with the commission of any sexual crime before any committing magistrate and is taken into custody therefor, or is called as a witness at a hearing before a committing magistrate with reference to any such class of crimes, and whether such crime has been committed by her or by some other person, she shall only be orally examined by or in the presence of a woman officer, appointed as provided in ORS 136.347. [Formerly 133.770]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.347 - Appointment, duties and compensation of woman officer.**

The court or officer before whom any female person mentioned in ORS 136.345 is interrogated, taken into custody or called as a witness, shall appoint some suitable female person who shall conduct or be present at the examination of such accused person or witness or receive or be present at the receiving or making of any confession or statement which such accused person or witness desires to make. The compensation of any such person, when so appointed, shall be paid out of the general funds of the county wherein such proceeding is had by the county treasurer of the county, upon vouchers signed by the judge of the court or the officer making such appointment, which vouchers shall certify the nature and extent of the services performed and the amount of compensation due the person in whose favor the same is drawn. [Formerly 133.780]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.415 - Presumption of innocence; acquittal in case of reasonable doubt.**

A defendant in a criminal action is presumed to be innocent until the contrary is proved. In case of a reasonable doubt whether the guilt of the defendant is satisfactorily shown, the defendant is entitled to be acquitted. [Formerly 136.520]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.420 - Testimony to be given orally in court; exceptions.**

In a criminal action, the testimony of a witness shall be given orally in the presence of the court and jury, except:

(1) In the case of a witness whose testimony is taken by deposition by order of the court in pursuance of the consent of the parties, as provided in ORS 136.080 to 136.100; or

(2) As provided in ORS 131.045. [Formerly 136.530; 2009 c.219 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.425 - Confessions and admissions; corroboration; defendant's conduct in relation to declaration or act of another.**

(1) A confession or admission of a defendant, whether in the course of judicial proceedings or otherwise, cannot be given in

evidence against the defendant when it was made under the influence of fear produced by threats.

(2) Except as provided in ORS 136.427, a confession alone is not sufficient to warrant the conviction of the defendant without some other proof that the crime has been committed.

(3) Evidence of a defendant's conduct in relation to a declaration or act of another, in the presence and within the observation of the defendant, cannot be given when the defendant's conduct occurred while the defendant was in the custody of a peace officer unless the defendant's conduct affirmatively indicated the belief of the defendant in the truth of the matter stated or implied in the declaration or act of the other person. [Formerly 136.540; 2009 c.875 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.427 - Confessions; corroboration not required; notice; hearing.**

(1) A confession alone is sufficient to warrant the conviction of the defendant without some other proof that the crime has been committed if:

(a) The state files notice in accordance with subsection (3) of this section;

(b) The defendant is charged with a crime listed in ORS 163A.005;

(c) The victim of the crime is a vulnerable person;

(d) The victim is incompetent to testify under ORS 40.310;

(e) The confession is made to a peace officer or a federal officer, as those terms are defined in ORS 133.005, or to an individual conducting an investigation under ORS 430.745, while the officer or individual is acting in the course of official duty; and

(f) The court finds that there is sufficient evidence to establish the trustworthiness of the confession.

(2) In making the determination described in subsection (1)(f) of this section, the court shall consider the following factors, in addition to other factors the court considers important:

(a) Whether there is evidence demonstrating the truthfulness of portions of the confession;

(b) Whether the defendant had the opportunity to commit the crime;

(c) The method of interrogation used to solicit the confession; and

(d) Whether the defendant is a vulnerable person.

(3) The state shall file notice of the intention to rely on this section within 60 days of the arraignment, or of the defendant's entry of the initial plea on an accusatory instrument, whichever is sooner. The court shall grant the state an extension for good cause shown.

(4) When the state files the notice described in subsection (3) of this section, the court shall conduct a hearing prior to trial. After the hearing, the court shall enter an order that indicates whether the confession alone is sufficient to warrant the conviction of the defendant without some other proof that the crime has been committed.

(5) As used in this section:

(a) "Activities of daily living" includes dressing, eating, toileting, bathing, exercising appropriate personal hygiene practices and moving from place to place.

(b) "Vulnerable person" means:

(A) A person under 18 years of age;

(B) A person 65 years of age or older;

(C) A person who meets the medical criteria for the receipt of services from a community program or facility as those terms are defined in ORS 430.735;

(D) A person with a developmental disability as that term is defined in ORS 40.460 (18a)(d); or

(E) A person who, as the result of a diagnosed medical condition, requires assistance in two or more activities of daily living. [2009 c.875 §2]

Note:

136.427 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 136 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.430 - Civil laws of evidence in criminal trials; exceptions.**

The law of evidence in civil actions is also the law of evidence in criminal actions and proceedings, except as otherwise specifically provided in the statutes relating to crimes and criminal procedure. [Formerly 136.510]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.432 - Limitation on court's authority to exclude relevant evidence.**

A court may not exclude relevant and otherwise admissible evidence in a criminal action on the grounds that it was obtained in violation of any statutory provision unless exclusion of the evidence is required by:

(1) The United States Constitution or the Oregon Constitution;

(2) The rules of evidence governing privileges and the admission of hearsay; or

(3) The rights of the press. [1997 c.313 §1]

Note:

136.432 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 136 or any series

therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.433 - Proving previous conviction; stipulation; presentation to jury.**

(1) Except as provided in ORS 163.111 and 813.326, if an accusatory instrument or the written notice described in ORS 136.765 (2) alleges that the defendant has previously been convicted of an offense, the state has the burden of proving the previous conviction unless the defendant stipulates to that fact. The stipulation must:

(a) Be in writing;

(b) Admit without qualification that the defendant previously was convicted of the offense and that the conviction is valid;

(c) Include an express waiver of the defendant's right to a jury trial on the fact of the previous conviction; and

(d) Be filed with the court and served on the district attorney.

(2) If the defendant submits a stipulation to a previous conviction that meets the requirements of subsection (1) of this section, the court shall accept the stipulation. Upon acceptance:

(a) The stipulation constitutes a judicial admission to the fact of the previous conviction;

(b) If the previous conviction is a material element of the offense and the jury finds the defendant guilty upon instruction regarding the balance of the elements of the offense, the court shall enter a judgment of guilt on the charged offense in accordance with the stipulation;

(c) Except as provided in subsection (3) of this section, the court may not submit the allegation of the previous conviction to the jury; and

(d) Except as provided in subsections (3) and (4) of this section, neither the court nor the state may reveal to the jury the defendant's previous conviction.

(3)(a) A stipulation that is accepted by the court must be presented to the jury if:

(A) The statute that defines the charged offense includes as a material element that the defendant previously was convicted of the offense that is the subject of the stipulation and the charged conduct does not constitute a criminal offense except with that element; or

(B) The previous conviction is relevant to an enhancement fact that will be submitted to the jury in accordance with ORS 136.765 to 136.785.

(b) Except as provided in subsection (4) of this section, when the court presents a stipulation to the jury under this subsection, the court may not admit any other evidence of the previous conviction.

(4) The state may offer, and the court may receive and submit to the jury, evidence of the previous offense or conviction for any purpose other than establishing the fact of the previous conviction when the evidence of the previous offense or conviction is otherwise admissible for that purpose. When evidence of the previous offense or conviction has been admitted by the court, the state may comment upon, and the court may give instructions about, the evidence of the previous offense or conviction only to the extent that the comments or instructions relate to the purpose for which the evidence was admitted. [2009 c.180 §2]

Note:

136.433 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 136 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.434 - Challenge to validity of previous conviction.**

(1) Except as provided in ORS 813.328, if an accusatory instrument or the written notice described in ORS 136.765 (2) alleges that the defendant has previously been convicted of an offense, the defendant may challenge the validity of the previous conviction by filing a notice of the defendant's intent to do so. The notice must:

(a) Identify the previous conviction that the defendant seeks to challenge;

(b) Specify the factual and legal basis for the challenge; and

(c) Be filed with the court and served on the district attorney within 35 days of the arraignment, or of the defendant's entry of the initial plea on an accusatory instrument, whichever is sooner, unless a different time is permitted by the court for good cause shown.

(2) The validity of the previous conviction shall be determined by the court before trial. At the hearing on the defendant's challenge:

(a) The state has the burden of proving by a preponderance of the evidence that the defendant previously was convicted of the offense; and

(b) The defendant has the burden of proving by a preponderance of the evidence that the previous conviction is not valid.

(3) If the court determines that the defendant was not previously convicted of the offense that is the subject of the challenge or that the previous conviction is not valid, the court shall enter an order prior to trial that so provides and excludes evidence of the previous conviction. The state may appeal from the order pursuant to ORS 138.045 (1)(d).

(4) If the court determines that the defendant previously was convicted of the offense and that the conviction is valid, or if the defendant does not file and serve a notice under subsection (1) of this section, the previous conviction shall be admitted at trial or, if the previous conviction is relevant to an enhancement fact described in ORS 136.770 (4) or 136.773 (1), during the sentencing phase of the proceeding. If the previous conviction is admitted, the defendant may dispute whether the defendant previously was convicted of the alleged offense but may not challenge the validity of the conviction. If the previous conviction is a material element of the

charged offense or is an enhancement fact, the state must prove the previous conviction beyond a reasonable doubt unless the defendant stipulates to the fact of the previous conviction in accordance with ORS 136.433.

(5) For purposes of this section, a previous conviction is not valid if:

(a) In the proceedings resulting in the conviction, the defendant was not represented by counsel and was deprived of the right to counsel in violation of the state or federal Constitution and the defendant is entitled under either Constitution to challenge the validity of the prior conviction in the proceeding before the court.

(b) Before the defendant committed the charged offense, the previous conviction was vacated by the court of conviction, reversed or set aside by a court of competent jurisdiction, expunged or pardoned. [2009 c.180 §3; 2017 c.529 §22]

Note:

136.434 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 136 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.435 - Admissibility of evidence from felony defendant not informed as required under ORS 135.070.**

Evidence obtained directly or indirectly as a result of failure of a magistrate to comply with ORS 135.070 shall not be admissible, over the objection of the defendant, in any court. [Formerly 136.545]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.437 - Use of evidence in prosecution of prostitution offense.**

(1) If a person contacts an emergency communications system or a law enforcement agency to report the commission of a person felony, any statements or other evidence relating to the crime of prostitution under ORS 167.007 obtained as a result of the person making the report may not be used in the prosecution of the person for prostitution or attempted prostitution.

(2) The prohibition on the use of statements or other evidence described in this section does not apply to evidence relating to a criminal offense other than prostitution, or to the prosecution of an offense other than prostitution or attempted prostitution.

(3) As used in this section:

(a) "Emergency communications system" has the meaning given that term in ORS 403.105.

(b) "Person felony" has the meaning given that term in the rules of the Oregon Criminal Justice Commission. [2019 c.179 §1]

Note:

136.437 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 136 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.440 - Testimony of accomplice; corroboration; "accomplice" defined.**

(1) A conviction cannot be had upon the testimony of an accomplice unless it is corroborated by other evidence that tends to connect the defendant with the commission of the offense. The corroboration is not sufficient if it merely shows the commission of the offense or the circumstances of the commission.

(2) As used in this section, an "accomplice" means a witness in a criminal action who, according to the evidence adduced in the action, is criminally liable for the conduct of the defendant under ORS 161.155 and 161.165, or, if the witness is a juvenile, has committed a delinquent act, which, if committed by an adult, would make the adult criminally liable for the conduct of the defendant. [Formerly 136.550]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.445 - Motion for acquittal; standard for granting motion; effect.**

In any criminal action the defendant may, after close of the state's evidence or of all the evidence, move the court for a judgment of acquittal. The court shall grant the motion if the evidence introduced theretofore is such as would not support a verdict against the defendant. The acquittal shall be a bar to another prosecution for the same offense. [Formerly 136.605]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.447 - Medical records.**

Medical records may be obtained by subpoena as provided in ORCP 55 H and shall be sent only to the court or the clerk of the court before which the matter is pending. In relation to grand jury proceedings, notice need not be given as required in ORCP 55 H and the medical records shall be sent only to the grand jury. [1995 c.196 §2]

Note:

ORCP 55 was repealed and replaced by the Council on Court Procedures Amendments promulgated on December 8, 2018, and effective January 1, 2020. The text of 136.447 was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of 136.447 for the repeal of ORCP 55 has not been made. See the ORCP 55 Cross-Reference Chart available from the Council on Court Procedures.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.450 -**

**Number of jurors required for verdict.**

(1) A jury in a criminal action may render a verdict of guilty only by unanimous agreement.

(2) A jury in a criminal action may render a verdict of not guilty only by a concurrence of at least 10 of 12 jurors. [Formerly 136.610; 1997 c.313 §25; 2019 c.635 §8; 2021 c.478 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.455 - General verdict on plea of not guilty.**

A general verdict upon a plea of not guilty is either "guilty," of an offense charged in the accusatory instrument, or "not guilty." [Formerly 136.620]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.460 - Verdict where crime consists of degrees; lesser included offenses.**

(1) Upon a charge for a crime consisting of different degrees, the jury may find the defendant not guilty of the degree charged in the accusatory instrument and guilty of any degree inferior thereto or of an attempt to commit the crime or any such inferior degree thereof.

(2) The jury shall first consider the charged offense. Only if the jury finds the defendant not guilty of the charged offense may the jury consider a lesser included offense. If there is more than one lesser included offense, the jury shall consider the lesser included offenses in order of seriousness. The jury may consider a less serious lesser included offense only after finding the defendant not guilty of any more serious lesser included offenses.

(3) When a jury finds a defendant guilty of a lesser included offense, the court, upon a request by the state or defendant, shall poll the jury on the original charge. If fewer than the required number of jurors vote to find the defendant not guilty on the original charge, the court shall not receive the verdict and shall instruct the jury to continue deliberations.

(4) If the jury is unable to reach a decision on the original charge, the state and defendant may stipulate that the jury may consider any lesser included offense. [Formerly 136.650; 1997 c.511 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.465 - Verdict where crime or attempt included within charge.**

In all cases, the defendant may be found guilty of any crime the commission of which is necessarily included in that with which the defendant is charged in the accusatory instrument or of an attempt to commit such crime. [Formerly 136.660]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.470 - Conviction or acquittal of one or more of several defendants.**

Upon an accusatory instrument against several defendants, any one or more may be convicted or acquitted. [Formerly 136.670]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.475 - Verdict as to some of several defendants; retrial of others.**

Upon an accusatory instrument against several defendants, if the jury cannot agree upon a verdict as to all, it may give a verdict as to those in regard to whom it does agree, on which a judgment shall be given accordingly. The case as to the rest of the defendants may be tried by another jury. [Formerly 136.680]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.480 - Reconsideration of verdict when jury makes mistake as to law.**

When a verdict is found in which it appears to the court that the jury has mistaken the law, the court may explain the reason for that opinion and direct the jury to reconsider its verdict; but if after such reconsideration the jury finds the same verdict, it must be received. [Formerly 136.690]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.485 - Reconsideration of verdict which is not general verdict.**

If the jury finds a verdict which is not a general verdict, the court may, with proper instructions as to the law, direct the jury to reconsider it; and the verdict cannot be received until it is given in some form from which it can be clearly understood that the intent of the jury is to render a general verdict. [Formerly 136.700]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.490 - Discharge of defendant upon acquittal; exception.**

If judgment of acquittal is given on a general verdict and the defendant is not detained for any other legal cause, the defendant shall be discharged as soon as the judgment is given, except that, when the acquittal is for variance between the proof and the accusatory instrument, which may be obviated by a new accusatory instrument, the court may order the detention of the defendant, to the end that a new accusatory instrument may be preferred, in the same manner and with like effect, as provided in ORS 135.540. [Formerly

136.710]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.495 - Proceedings after adverse general verdict.**

If a general verdict against the defendant is given, the defendant shall be remanded, if in custody; if the defendant has been released, the defendant may be committed to await the judgment of the court upon the verdict. When committed, the release agreement of the defendant is exonerated or, if the defendant has deposited money in lieu of a release agreement, it shall be refunded to the defendant. [Formerly 136.720]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.500 - Motion in arrest of judgment; basis and time for making.**

A motion in arrest of judgment is an application on the part of the defendant that no judgment be rendered on a plea or verdict of guilty. It may be founded on either or both of the grounds specified in ORS 135.630 (1) and (4), and not otherwise. The motion must be made within the time allowed to file a motion for a new trial, and both such motions may be made and heard as the court directs. [Formerly 136.810]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.505 - Effect of allowance of motion.**

The effect of allowing a motion in arrest of judgment is to place the defendant in the same situation in which the defendant was before indictment was found. [Formerly 136.820]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.510**

[Amended by 1973 c.836 §237; renumbered 136.430]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.515 - Order when evidence shows guilt; new accusatory instrument.**

If, from the evidence given on the trial, there is reasonable ground to believe the defendant guilty and a new accusatory instrument can be framed upon which the defendant may be convicted, the court shall order the defendant to be recommitted to custody or released and to answer the new accusatory instrument, if one is found; and if the evidence shows the defendant to be guilty of another offense than that charged in the accusatory instrument, the defendant shall in like manner be committed or held thereon. In neither case is the verdict a bar to another action for the same crime. [Formerly 136.830]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.520**

[Renumbered 136.415]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.525 - Order when evidence is insufficient; acquittal.**

If the evidence appears insufficient to charge the defendant with any offense, the defendant shall, if in custody, be discharged or, if the defendant has been released or deposited money in lieu thereof, the release agreement of the defendant is exonerated or the money of the defendant shall be refunded to the defendant; and in such case, the arrest of judgment operates as an acquittal of the charge upon which the accusatory instrument was founded. [Formerly 136.840]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.530**

[Renumbered 136.420]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.535 - New trial; application of ORCP 64 F to motion in arrest of judgment.**

- (1) Except that a new trial may not be granted on application of the state, ORS 19.430 and ORCP 64 A, B and D to G apply to and regulate new trials in criminal actions.
- (2) The provisions of ORCP 64 F governing motions for a new trial apply to and regulate motions in arrest of judgment in criminal actions. [Formerly 136.851; 1979 c.284 §114; 2003 c.288 §1; 2009 c.112 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.540**

[Amended by 1957 c.567 §1; renumbered 136.425]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.545**

[1963 c.511 §2; 1973 c.836 §238; renumbered 136.435]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.550**

[Amended by 1973 c.836 §239; renumbered 136.440]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.555 - Subpoena defined.**

The process by which the attendance of a witness before a court or magistrate is required is a subpoena. [Formerly 139.010]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.557 - Issuance of subpoena by magistrate for witnesses at preliminary examination.**

A magistrate before whom an information is laid or complaint made may issue subpoenas subscribed by the magistrate for witnesses within the state, either on behalf of the state or of the defendant. [Formerly 139.020]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.563 - Issuance of subpoena by district attorney for witnesses before grand jury.**

The district attorney may issue subpoenas subscribed by the district attorney for witnesses within the state in support of the prosecution or for such other witnesses as the grand jury directs to appear before the grand jury upon an investigation pending before it. [Formerly 139.030]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.565 - Issuance of subpoena by district attorney for witnesses at trial.**

The district attorney may issue subpoenas subscribed by the district attorney for not to exceed 10 witnesses within the state in support of an indictment to appear before the court at which it is to be tried. [Formerly 139.040]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.567 - Issuance of subpoena for witnesses for defendant; bar to dismissal.**

(1) A defendant in a criminal action is entitled, at the expense of the state or city, to have subpoenas issued for not to exceed 10 witnesses within the state. A defendant is entitled, at the expense of the defendant, to have subpoenas issued for any number of additional witnesses without an order of the court. The defendant is responsible for the costs of serving the subpoenas and for the costs, as provided in ORS 136.602, of witness per diem and mileage and for expenses allowed under ORS 136.603.

(2) Any subpoena that a defendant in a criminal action is entitled to have issued shall be issued:

(a) Upon application of the defendant, by the clerk of the court in which the criminal action is pending for trial, and in blank, under the seal of the court and subscribed by the clerk; or

(b) By an attorney of record of the defendant, and subscribed by the attorney.

(3) A prosecution for violation of ORS 813.010 may not be dismissed based solely on the unavailability of a witness who was subpoenaed by the defendant to provide testimony with respect to an instrument that was used to test a person's breath, blood or urine to determine the alcoholic content of the person's blood. This subsection does not apply to the subpoena of an officer or employee of a public body, as defined in ORS 174.109. [Formerly 139.050; 1977 c.746 §4; 1981 c.174 §1; 1987 c.606 §2; 1989 c.171 §17; 2007 c.581 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.570 - Application for subpoenas for more than 10 witnesses.**

If either party in a criminal action desires more than 10 witnesses, as provided in ORS 136.565 and 136.567, application therefor shall be made to the court or judge thereof by motion for an order allowing the issuance of subpoenas for such additional witnesses, which motion shall be supported either by the statement of the district attorney or city attorney in writing or by the affidavit of the defendant. The statement or affidavit shall state the names of such witnesses, their places of residence and the facts expected to be proved by each of them. The court or judge thereof shall make an order allowing the issuance of subpoenas for so many of such witnesses as appear from such statement or affidavit to be necessary and material to a fair, full and impartial trial. [Formerly 139.060; 1977 c.746 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.575 - Forms of subpoenas.**

Subpoenas authorized by ORS 136.557 to 136.567 shall be substantially in the following form:

(1) By a magistrate:

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IN THE NAME OF THE

STATE OF OREGON

To A \_\_\_\_\_ B \_\_\_\_\_:

You are hereby commanded to appear before C. D., (adding the name of office and place of jurisdiction), at (naming the place), on



(stating the day and hour), as a witness on the examination of a criminal charge against E. F. on behalf of (the state, city or the defendant, as the case may be).

Dated the \_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

G. H.

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(2) By the district attorney:

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IN THE NAME OF THE

STATE OF OREGON

To A \_\_\_\_\_ B \_\_\_\_\_:

You are hereby commanded to appear before (the grand jury of the County of \_\_\_\_\_ or the Circuit Court for the County of \_\_\_\_\_, as the case may be), at (naming the place), on (stating the day and hour), as a witness (before the grand jury or in a criminal action prosecuted by the State of Oregon against E. F., as the case may be).

Dated the \_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

G. H., District Attorney.

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(3) By the city attorney:

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IN THE NAME OF THE

CITY OF \_\_\_\_\_

To A \_\_\_\_\_ B \_\_\_\_\_:

You are hereby commanded to appear before the Municipal Court for the City of \_\_\_\_\_, at (naming the place), on (stating the day and hour), as a witness in a criminal action prosecuted by the City of \_\_\_\_\_ against E. F.

Dated the \_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

G. H., City Attorney.

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(4) By the clerk:

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IN THE NAME OF THE

STATE OF OREGON

To A \_\_\_\_\_ B \_\_\_\_\_:

You are hereby commanded to appear before the Circuit Court for the County of \_\_\_\_\_ at (naming the place), on (stating the day and hour), as a witness in a criminal action prosecuted by the State of Oregon against E. F. on behalf of the defendant.

Witness my name and the seal of said court, affixed at \_\_\_\_\_, the \_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

G. H., Clerk.

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(5) By the clerk of a municipal court:

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IN THE NAME OF THE

CITY OF \_\_\_\_\_

To A \_\_\_\_\_ B \_\_\_\_\_:

You are hereby commanded to appear before the Municipal Court for the City of \_\_\_\_\_ at (naming the place), on (stating the day and hour), as a witness in a criminal action prosecuted by the City of \_\_\_\_\_ against E. F. on behalf of the defendant.

Witness my name and seal of said court, affixed at \_\_\_\_\_, the \_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

G. H., Clerk.

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(6) By an attorney of record of a defendant:

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IN THE NAME OF THE

STATE OF OREGON

To A \_\_\_\_\_ B \_\_\_\_\_:

You are hereby commanded to appear before (the Circuit Court for the County of \_\_\_\_\_ or the Municipal Court for the City of \_\_\_\_\_, as the case may be) at (naming the place), on (stating the day and hour), as a witness in a criminal action prosecuted by the (State of Oregon or the City of \_\_\_\_\_, as the case may be) against E. F. on behalf of the defendant.

Dated the \_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

G. H., Attorney of Record of Defendant.

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[Formerly 139.070; 1977 c.746  
§6; 1981 c.174 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.580 - Subpoenas when books, papers or documents are required.**

(1) If books, papers or documents are required, a direction to the following effect shall be added to the form provided in ORS 136.575: "And you are required, also, to bring with you the following: (describing intelligibly the books, papers or documents required)."

(2) Upon the motion of the state or the defendant, the court may direct that the books, papers or documents described in the subpoena be produced before the court prior to the trial or prior to the time when the books, papers or documents are to be offered in evidence and may, upon production, permit the books, papers or documents to be inspected and copied by the state or the defendant and the state's or the defendant's attorneys. [Formerly 139.080; 1993 c.304 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.583 - Seizure or production of papers, documents or records from recipient; notice; authentication.**

(1) Notwithstanding ORS 136.557, 136.563, 136.565 or 136.567 and subject to ORS 136.580 (2), criminal process authorizing or commanding the seizure or production of papers, documents, records or other things may be issued to a recipient, regardless of whether the recipient or the papers, documents, records or things are located within this state, if:

(a) The criminal matter is triable in Oregon under ORS 131.205 to 131.235; and

(b) The exercise of jurisdiction over the recipient is not inconsistent with the Constitution of this state or the Constitution of the United States.

(2) Criminal process that authorizes or commands the seizure or production of papers, documents, records or other things from a recipient may be served by:

(a) Delivering a copy to the recipient personally; or

(b) Sending a copy by:

(A) Certified or registered mail, return receipt requested;

(B) Express mail; or

(C) Facsimile or electronic transmission, if the copy is sent in a manner that provides proof of delivery.

(3) When criminal process is served under subsection (2) of this section, the recipient shall provide the applicant, or if the process is described in ORS 136.447 or 136.580 (2), the court, with all of the papers, documents, records or other things described in the criminal process within 20 business days from the date the criminal process is received, unless:

(a) The court, for good cause shown, includes in the process a requirement for production within a period of time that is less than 20 business days;

(b) The court, for good cause shown, extends the time for production to a period of time that is more than 20 business days; or

(c) The applicant consents to a request from the recipient for additional time to comply with the process.

(4) A recipient who seeks to quash or otherwise challenge the criminal process must seek relief from the court that issued the process within the time required for production. The court shall hear and decide the issue as soon as practicable. The consent of the applicant to additional time to comply with the process under subsection (3)(c) of this section does not extend the date by which a recipient must seek relief under this subsection.

(5) Criminal process issued under this section must contain a notice on the first page of the document that indicates:

(a) That the process was issued under this section;

(b) The date before which the recipient must respond to the process; and

(c) That the deadline for seeking relief is not altered by the applicant's consent to additional time to respond to the process.

(6) Upon order of the court or the written request of the applicant, the recipient of the process shall verify the authenticity of the papers, documents, records or other things that the recipient produces in response to the criminal process by providing an affidavit or declaration that includes contact information for the custodian or other qualified person completing the document and attests to the nature of the papers, documents, records or other things. An affidavit or declaration that complies with this subsection may fulfill the requirements of ORS 40.460 (6), 40.505 and 132.320.

(7) A party that intends to offer a paper, document, record or other thing into evidence under this section must file written notice of that intention with the court and must disclose the affidavit or declaration sufficiently in advance of offering the paper, document, record or other thing into evidence to provide the adverse party with an opportunity to challenge the affidavit or declaration and to have that challenge determined without prejudice to the ability of the moving party to produce the custodian or other qualified person at trial. A motion opposing admission of the paper, document, record or other thing into evidence must be filed and determined by the court before trial and with sufficient time to allow the party offering the paper, document, record or other thing, if the motion is granted, to produce the custodian of the record or other qualified person at trial, without creating a hardship on the party or the custodian or other qualified person.

(8) Failure by a party that receives notice under subsection (7) of this section to timely file a motion opposing admission of the paper, document, record or other thing constitutes a waiver of objection to the admission of the evidence on the basis of the insufficiency of the affidavit or declaration unless the court finds good cause to grant relief from the waiver. If the court grants relief from the waiver, the court shall order the trial continued upon the request of the proponent of the evidence and allow the proponent sufficient time to arrange for the necessary witness to appear.

(9) A recipient of criminal process under this section or any individual that responds to the process is immune from civil and criminal liability for complying with the process and for any failure to provide notice of any disclosure to a person who is the subject of, or identified in, the disclosure.

(10) Nothing in this section limits the authority of a court to issue criminal process under any other provision of law or prohibits a party from calling the custodian of the evidence or other qualified person to testify regarding the evidence.

(11) As used in this section:

(a) "Applicant" means:

(A) A police officer or district attorney who applies for a search warrant or other court order or seeks to issue a subpoena under this section; or

(B) A defense attorney who applies for a court order or seeks to issue a subpoena under this section.

(b) "Criminal process" means a subpoena, search warrant or other court order.

(c) "Declaration" means a declaration under penalty of perjury under ORCP 1 E or an unsworn declaration under ORS 194.800 to 194.835, if the declarant is physically outside the boundaries of the United States.

(d) "Defense attorney" means an attorney of record for a person charged with a crime who is seeking the issuance of criminal process for the defense of the criminal case.

(e) "Recipient" means a business entity or nonprofit entity that has conducted business or engaged in transactions occurring at least in part in this state. [2009 c.617 §1; 2013 c.218 §17]

Note:

136.583 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 136 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.585 - By whom subpoena is served.**

A subpoena may be served by the defendant or any other person over 18 years of age and shall be served by any sheriff or constable within the county or district of the sheriff or constable, as the case may be, when delivered to the sheriff or constable for service, either on the part of the prosecution or of the defendant. [Formerly 139.090; 1977 c.746 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.595 - How subpoena is served; proof of service; service on law enforcement agency.**

(1) Except as provided in ORS 136.447 and 136.583 and subsection (2) of this section, a subpoena is served by delivering a copy to the witness personally. If the witness is under 14 years of age, the subpoena may be served by delivering a copy to the witness or to the witness's parent, guardian or guardian ad litem. Proof of the service is made in the same manner as in the service of a summons.

(2)(a) Every law enforcement agency shall designate an individual or individuals upon whom service of subpoena may be made. At least one of the designated individuals shall be available during normal business hours. In the absence of the designated individuals, service of subpoena pursuant to paragraph (b) of this subsection may be made upon the officer in charge of the law enforcement agency.

(b) If a peace officer's attendance at trial is required as a result of employment as a peace officer, a subpoena may be served on such officer by delivering a copy personally to the officer or to one of the individuals designated by the agency that employs the officer. A subpoena may be served by delivery to one of the individuals designated by the agency that employs the officer only if the subpoena is delivered at least 10 days before the date the officer's attendance is required, the officer is currently employed as a peace officer by the agency, and the officer is present within the state at the time of service.

(c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law enforcement agency shall make a good faith effort to actually notify the officer whose attendance is sought of the date, time and location of the court appearance. If the officer cannot be notified, the law enforcement agency shall contact the court and a continuance may be granted to allow the officer to be personally served.

(d) As used in this subsection, "law enforcement agency" means the Oregon State Police, a county sheriff's department, a municipal police department, a police department established by a university under ORS 352.121 or 353.125 or, if the witness whose attendance at trial is required is an authorized tribal police officer as defined in ORS 181A.940, a tribal government as defined in ORS 181A.940.

(3) When a subpoena has been served as provided in ORS 136.583 or subsection (1) or (2) of this section and, subsequent to service, the date on, or the time at, which the person subpoenaed is to appear has changed, a new subpoena is not required to be served if:

(a) The subpoena is continued orally in open court in the presence of the person subpoenaed; or

(b) The party who issued the original subpoena notifies the person subpoenaed of the change by first class mail and by:

(A) Certified or registered mail, return receipt requested; or

(B) Express mail. [Formerly 139.100; 1977 c.789 §1; 1995 c.196 §3; 2005 c.298 §1; 2007 c.158 §1; 2009 c.364 §2; 2009 c.617 §3; 2011 c.644 §§20,65,72; 2013 c.180 §16,17; 2015 c.174 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.600 - Certain civil procedures applicable in criminal context.**

The provisions of ORS 44.150 and ORCP 39 B and 55 A(6)(d) and 55 B(4) apply in criminal actions, examinations and proceedings. [Formerly 139.110; 1979 c.284 §115; 1989 c.980 §6; 2023 c.302 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.602 - Witness fees payable by county; method of payment; defense witness fees payable by defendant.**

(1) Except as otherwise specifically provided by law, the per diem fees and mileage and any expenses allowed under ORS 136.603 due to any witness in a grand jury proceeding, or any prosecution witness in a criminal action or proceeding in a circuit or justice court or before a committing magistrate shall be paid by the county in which the grand jury proceeding or criminal action or proceeding is held. Payment shall be made upon a claim verified by the witness, showing the number of days attended and the number of miles traveled, and a certified statement, prepared by the district attorney, justice of the peace or committing magistrate, showing the amounts due the witness.

(2) The per diem fees and mileage due to any defense witness in a criminal action or proceeding in a circuit or justice court, or before a committing magistrate, and any expenses allowed the witness under ORS 136.603, shall be paid by the defendant. In the case of a defendant determined to be financially eligible for appointed counsel at state expense, these amounts may be paid pursuant to ORS 135.055. [1981 s.s. c.3 §63; 1983 c.401 §1; 1987 c.606 §3; 1989 c.171 §18; 1989 c.1053 §3; 2001 c.962 §87]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.603 - Payment of witness who is from outside state or is indigent.**

(1)(a) Whenever any person attends any court, grand jury or committing magistrate as a witness on behalf of the prosecution or of any person accused of a crime upon request of the district attorney or city attorney or pursuant to subpoena, or by virtue of a recognizance for that purpose, and it appears that the witness has come from outside the state or that the witness is indigent, the court may, by an order entered in its records, direct payment to the witness of such sum of money as the court considers reasonable for the expenses of the witness. The order of the court, so entered, is sufficient authority for the payment.

(b) Except as otherwise specifically provided by law, if a witness who is to be paid expenses pursuant to this subsection:

(A) Attends a grand jury, a circuit court or judge thereof, a judge of a county court or a justice of the peace, on behalf of the prosecution, payment shall be made by the county.

(B) Attends a municipal court or judge thereof on behalf of the prosecution, payment shall be made by the city.

(C) Attends a circuit court or judge thereof on behalf of a financially eligible defendant, payment shall be made by the executive director of the Oregon Public Defense Commission.

(D) Attends a judge of the county court or a justice of the peace on behalf of a financially eligible defendant, payment shall be made by the county.

(E) Attends a municipal court or judge thereof on behalf of a financially eligible defendant, payment shall be made by the city.

(F) Attends any court on behalf of a defendant who is not financially eligible, payment shall be made by the defendant, and the court shall so order.

(2) In the case of a prisoner of a jurisdiction outside of this state who is required to attend as a witness in this state, whether for the prosecution or the defense, the sheriff shall be responsible for transporting the witness to the proper court of this state, and the sheriff shall assume any costs incurred in connection with the witness while the witness is in the custody of the sheriff. However, the sheriff and not the witness shall be entitled to the witness fees, mileage and expenses to which the witness would otherwise be entitled under this section and ORS 136.627 or other applicable law. [Formerly 139.140; 1977 c.746 §8; 1981 s.s. c.3 §64; 1983 c.401 §2; 1987 c.606 §5; 1989 c.171 §19; 2001 c.962 §27; 2023 c.281 §26]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.605**

[1957 c.576 §1; 1973 c.836 §240; renumbered 136.445]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.608 - Application procedure.**

(1) The district attorney or the defendant may apply to the court for a material witness order when:

(a) An indictment has been filed, and is pending, against the defendant in a circuit court;

(b) A grand jury proceeding has been commenced against the defendant; or

(c) A complainant's information or a district attorney's information alleging that the defendant has committed a felony has been filed, and is pending, in a court of competent jurisdiction.

(2) The application must be in writing and sworn to by the applicant. The request must state facts establishing a reasonable belief that the person the applicant desires to call as a witness:

(a) Possesses information material to the determination of the action against the defendant; and

(b) Will not appear at the time when attendance of the witness is required.

(3) The applicant shall file the application:

(a) If an indictment has been filed, a grand jury proceeding has been commenced or the defendant has been held to answer by any court to await the action of a grand jury, in the circuit court in which the indictment is pending or by which the grand jury has been

impaneled; or

(b) If information alleging the commission of a felony is pending in a court authorized to hold a preliminary hearing, in that court or in the circuit court that would have jurisdiction of the case upon holding the defendant to answer to await the action of the grand jury.

(4) As used in this section and ORS 136.612 and 136.614, "material witness order" means an order finding a person to be a material witness in a pending criminal action and fixing a security amount to be posted to secure future attendance of the witness. [1995 c.657 §14]

Note:

136.608 to 136.614 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 136 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.610**

[Amended by 1973 c.836 §241; renumbered 136.450]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.611 - Court action upon receipt of application.**

(1) If, upon receipt of an application under ORS 136.608, the court determines that the application is well founded, the court shall:

(a) Enter an order directing the prospective witness to appear before the court at a designated time; or

(b) Issue a warrant of arrest directing the sheriff to take the person into custody and bring the person before the court, if the application included facts establishing a reasonable belief that the prospective witness would not respond to an order to appear.

(2) An order under subsection (1) of this section must inform the prospective witness of the purpose of the hearing and must be served in the manner provided in ORCP 7 for the service of a summons.

(3) When the prospective witness appears before the court, the court shall inform the person:

(a) Of the nature and purpose of the hearing; and

(b) That the person has all of the rights of a person in a criminal proceeding including, but not limited to, the right to counsel, the right to appointed counsel at state expense if the person is unable to afford counsel and the right to call witnesses and have subpoenas issued.

(4) The hearing may be postponed at the request of the prospective witness for the purpose of obtaining counsel. If the hearing is postponed, the court shall order the prospective witness to appear at a future time. In addition, the court may require the prospective witness to pay an amount to secure the person's appearance. If the person refuses to comply with the order, the court shall commit the person to the jail of the county, or other appropriate detention facility, until the person complies or is discharged. [1995 c.657 §15]

Note:

See note under 136.608.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.612 - Hearing; security amount; vacation or modification of order.**

(1) At the hearing to determine whether a material witness order should be entered:

(a) The applicant has the burden of proving by a preponderance of the evidence all facts essential to support the order;

(b) The prospective witness may testify and may call witnesses;

(c) All testimony is under oath; and

(d) The Oregon Evidence Code shall apply in any material witness proceeding under ORS 136.611, except that hearsay may be admitted if the court determines that it would impose an unreasonable hardship on one of the parties or on a witness to require that the primary source of the evidence be produced at the hearing, and if the witness furnishes information bearing on the informant's reliability and, as far as possible, the means by which the information was obtained.

(2) If the court finds by a preponderance of the evidence that the prospective witness possesses information that is material to the pending action and will not appear at the time the attendance of the witness is required, the court shall establish a security amount calculated to ensure the attendance of the witness and shall enter a material witness order.

(3)(a) If the security amount is paid, the court shall release the witness. If someone other than the witness pays the security amount, the court shall release the witness only if the witness consents, in writing, to the payment of the security.

(b) If the security amount is not paid, the court shall commit the witness to the jail of the county, or other appropriate detention facility, until the witness pays the security amount or the attendance of the witness is no longer needed in the action.

(4) Unless vacated as provided in subsection (5) of this section, a material witness order remains in effect:

(a) If issued by a circuit court, during the pendency of the criminal action in the circuit court; or

(b) If issued by a court other than a circuit court, until the attendance of the witness is no longer needed in any part of the criminal action.

(5) At any time after the entry of a material witness order, the court, upon application of either party to the order and notice to the other party, may vacate or modify the order. The court shall consider new, or changed, facts or circumstances. The court may vacate the order or may modify any part of the order. If the court reduces the security amount, the court shall exonerate any part of the

original security amount in excess of the modified amount that has been paid. [1995 c.657 §16]

Note:

See note under 136.608.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.614 - Witness held in detention facility; payment.**

A witness held in a county jail, or other appropriate detention facility, as the result of a material witness order must be paid \$7.50 for each day of confinement. The county shall pay the fee upon the release of the witness from custody or, in the discretion of the court, at designated times or intervals during the confinement. [1995 c.657 §17]

Note:

See note under 136.608.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.616 - Deposition to perpetuate testimony; procedure.**

(1) As used in this section, "material witness order" has the meaning given that term in ORS 136.608.

(2) At any time after the court enters a material witness order, the court may order, or the district attorney or the defendant may file a petition to conduct, a deposition to perpetuate the testimony of the material witness.

(3)(a) The petition must be in writing and sworn to by the petitioner.

(b) The petitioner shall serve a notice and a copy of the petition on the opposing party and on the material witness.

(4) A petition filed under this section must describe:

(a) The basis on which the court entered the material witness order;

(b) Any findings made by the court in establishing the security amount under ORS 136.612;

(c) Any findings made by the court in detaining the material witness; and

(d) The reasons that perpetuating the testimony of the material witness is necessary.

(5) The court shall grant or deny the petition no later than 30 days after the date the petition is filed. The court shall consider whether the perpetuation of the testimony will prevent failure or delay of justice for the parties and the material witness. If the court orders the deposition of the material witness, the court may specify the subject matter of the deposition, impose limitations on the deposition and require audio or video recording of the deposition.

(6) The deposition of a material witness under this section does not invalidate or otherwise affect the material witness order, but may be considered in connection with an application to vacate or modify the order under ORS 136.612 (5).

(7) The Oregon Evidence Code applies to depositions under this section. [2015 c.623 §7]

Note:

136.616 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 136 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.617 - Motion to compel witness who may be incriminated to testify.**

In any criminal proceeding before a court of record or in any proceeding before a grand jury, or in any proceeding before a court of record under ORS 646.760, or in any proceeding for the imposition of remedial or punitive sanction for contempt, if a witness refuses to testify or produce evidence of any kind on the ground that the witness may be incriminated thereby, the prosecuting attorney may move the court to order the witness to testify or produce evidence. The court shall forthwith hold a summary hearing at which the prosecuting attorney shall show reasonable cause to believe the witness possesses knowledge relevant to the proceeding, or that no privilege protects the evidence sought to be produced. The witness may show cause why the witness should not be compelled to testify or produce evidence. The court shall order the witness to testify regarding the subject matter under inquiry upon such showing of reasonable cause or shall order the production of evidence upon a finding that no privilege protects the evidence sought, unless the court finds that to do so would be clearly contrary to the public interest. The court shall hold the summary hearing outside the presence of the jury and the public and may require the prosecuting attorney to disclose the purpose of the testimony or evidence. The witness shall be entitled to be represented by counsel at the summary hearing. [Formerly 139.190; 1975 c.255 §14; 1981 c.882 §1; 1991 c.724 §25a]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.619 - Immunity of witness compelled to testify.**

(1) A witness who, in compliance with a court order issued under ORS 33.085 or 136.617, testifies or produces evidence that the witness would have been privileged to withhold but for the court order, may be prosecuted or subjected to any penalty or forfeiture for any matter about which the witness testified or produced evidence unless the prosecution, penalty or forfeiture is prohibited by section 12, Article I of the Oregon Constitution. The testimony of the witness or evidence produced or information derived from the testimony or evidence may not be used against the witness in any criminal prosecution. However, the witness may nevertheless be prosecuted or subjected to penalty for any perjury, false swearing or contempt committed in answering, or failing to answer, or in

producing, or failing to produce, evidence in accordance with the order. If a person refuses to testify after being ordered to testify as provided in this section, the person shall be subject to penalty for contempt of court for failure to comply with the order.

(2) Subsection (1) of this section shall not prevent the use of post-judgment collection procedures, including but not limited to wage withholding, income withholding, benefit withholding, assignment, garnishment or execution, based on matters about which a defendant testifies or produces evidence in compliance with a court order issued under ORS 136.617 in any proceeding for the imposition of remedial or punitive sanctions for contempt. [Formerly 139.200; 1981 c.882 §2; 1985 c.709 §1; 1991 c.724 §25b; 1997 c.313 §22]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.620**

[Amended by 1973 c.836 §242; renumbered 136.455]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.623 - Definitions.**

(1) "Witness," as used in ORS 136.623 to 136.637, shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding.

(2) The word "state" shall include any territory of the United States and District of Columbia.

(3) The word "summons" shall include a subpoena, order or other notice requiring the appearance of a witness. [Formerly 139.210]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.625 - Where witness material to proceeding in another state is in this state.**

(1) If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prosecution, or grand jury investigation, and that the presence of the person will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

(2) If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, (and of any other state through which the witness may be required to pass by ordinary course of travel), will give to the witness protection from arrest and the service of civil and criminal process, the judge shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

(3) If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure the attendance of the witness in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before the judge for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state only after the tender of payment of the mileage and per diem herein provided for.

(4) If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of 10 cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$5 for each day, that the witness is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, the witness shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state. [Formerly 139.220]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.627 - Where witness material to proceeding in this state is in another state.**

(1) If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this state, is a material witness in a prosecution pending in a court of record in this state, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the county stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure the attendance of the witness in this state. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

(2) If the witness is summoned to attend and testify in this state the witness shall be tendered the sum of 10 cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$5 for each day that the witness is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not

be required to remain within this state a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this state, fails without good cause to attend and testify as directed in the summons, the witness shall be punished in the manner provided for the punishment of any witness who disobeys a subpoena issued from a court of record in this state. [Formerly 139.230]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.633 - Immunity of witness from arrest or service of process.**

(1) If a person comes into this state in obedience to a summons directing the person to attend and testify in this state the person shall not while in this state pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before the entrance of the person into this state under the summons.

(2) If a person passes through this state while going to another state in obedience to a summons to attend and testify in that state or while returning therefrom, the person shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before the entrance of the person into this state under the summons. [Formerly 139.240]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.635 - Construction of ORS 136.623 to 136.637.**

ORS 136.623 to 136.637 shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of the states which enact the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings. [Formerly 139.250]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.637 - Short title.**

ORS 136.623 to 136.637 may be cited as Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings. [Formerly 139.260]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.643 - Defendant as witness.**

In the trial of or examination upon any indictment, complaint, information or other proceeding before any court, magistrate, jury or other tribunal against a person accused or charged with the commission of a crime, the person so charged or accused shall, at the own request of the person, but not otherwise, be deemed a competent witness, the credit to be given to the testimony of the person being left solely to the jury, under the instructions of the court, or to the discrimination of the magistrate, grand jury or other tribunal before which such testimony is given. The waiver of the person of this right creates no presumption against the person. The defendant or accused, when offering testimony as a witness in the own behalf of the defendant, gives the prosecution a right to cross-examination upon all facts to which the defendant or accused has testified and which tend to the conviction or acquittal of the defendant or accused. [Formerly 139.310]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.645 - Codefendant as witness.**

No person named in an indictment, information or complaint as a codefendant shall be deemed incompetent to testify as a witness at the trial of another defendant solely because the person is so named. [Formerly 139.315]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.650**

[Amended by 1973 c.836 §243; renumbered 136.460]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.655 - Spouse as witness.**

(1) Except as provided in subsection (2) of this section, in all criminal actions in which a spouse in a marriage is the party accused, the other spouse is a competent witness, but neither spouse shall be compelled or allowed to testify in a criminal action, except as provided in ORS 40.255.

(2) There is no privilege under this section, or under ORS 40.255 in all criminal actions in which a spouse is charged with bigamy or with an offense or attempted offense against the person or property of the other spouse or of a child of either, or with an offense against the person or property of a third person committed in the course of committing or attempting to commit an offense against the other spouse. [Formerly 139.320; 1979 c.721 §1; 1981 c.892 §89; 2015 c.629 §29]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.660**

[Amended by 1973 c.836 §244; renumbered 136.465]



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.670**

[Amended by 1973 c.836 §245; renumbered 136.470]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.675 - Conditions for use of testimony of persons subjected to hypnosis.**

If either prosecution or defense in any criminal proceeding in the State of Oregon intends to offer the testimony of any person, including the defendant, who has been subjected to hypnosis, mesmerism or any other form of the exertion of will power or the power of suggestion which is intended to or results in a state of trance, sleep or entire or partial unconsciousness relating to the subject matter of the proposed testimony, performed by any person, it shall be a condition of the use of such testimony that the entire procedure be recorded either on videotape or any mechanical recording device. The unabridged videotape or mechanical recording shall be made available to the other party or parties in accordance with ORS 135.805 to 135.873. [1977 c.540 §1; 1983 c.740 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.680**

[Amended by 1973 c.836 §246; renumbered 136.475]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.685 - Required explanations by law enforcement personnel to hypnosis subject; consent of subject required.**

(1) No person employed or engaged in any capacity by or on behalf of any state or local law enforcement agency shall use upon another person any form of hypnotism, mesmerism or any other form of the exertion of will power or the power of suggestion which is intended to or results in a state of trance, sleep or entire or partial unconsciousness without first explaining to the intended subject that:

- (a) The intended subject is free to refuse to be subject to the processes delineated in this section;
- (b) There is a risk of psychological side effects resulting from the process;
- (c) If the intended subject agrees to be subject to such processes, it is possible that the process will reveal emotions or information of which the intended subject is not consciously aware and which the intended subject may wish to keep private; and
- (d) The intended subject may request that the process be conducted by a doctor licensed under ORS 677.100 to 677.228 or a licensed psychologist, at no cost to the intended subject.

(2) In the event that the prospective subject refuses to consent, none of the processes delineated in subsection (1) of this section shall be used upon that person. [1977 c.540 §2; 2017 c.409 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.690**

[Renumbered 136.480]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.695 - Evidence obtained in violation of ORS 136.675 or 136.685 inadmissible.**

No evidence secured in violation of ORS 136.675 or 136.685 shall be admissible in any criminal proceeding in this state. [1977 c.540 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.700**

[Amended by 1973 c.836 §247; renumbered 136.485]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.710**

[Amended by 1973 c.836 §248; renumbered 136.490]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.720**

[Amended by 1973 c.836 §249; renumbered 136.495]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.750**

[1993 c.379 §1; renumbered 153.805 in 1995]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.753**

[1993 c.379 §2; renumbered 153.808 in 1995]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.756**

[1993 c.379 §3; renumbered 153.810 in 1995]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.760 - Definitions for ORS 136.765 to 136.785.**

As used in ORS 136.765 to 136.785:

(1) "Accusatory instrument" has the meaning given that term in ORS 131.005.

(2) "Enhancement fact" means a fact that is constitutionally required to be found by a jury in order to increase the sentence that may be imposed upon conviction of a crime. [2005 c.463 §1]

Note:

136.760 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 136 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.765 - Notice to defendant.**

In order to rely on an enhancement fact to increase the sentence that may be imposed in a criminal proceeding, the state shall notify the defendant of its intention to rely on the enhancement fact by:

(1) Pleading the enhancement fact in the accusatory instrument; or

(2) Providing written notice to the defendant of the enhancement fact, and the state's intention to rely on it, no later than 60 days after the defendant is arraigned on an indictment, waives indictment or is held to answer following a preliminary hearing, or 14 days before trial, whichever occurs earlier, unless the parties agree otherwise or the court authorizes a later date for good cause shown.

[2005 c.463 §2; 2011 c.267 §1]

Note:

136.765 to 136.785 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 136 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.770 - Enhancement fact related to offense.**

(1) When an enhancement fact relates to an offense charged in the accusatory instrument, the court shall submit the enhancement fact to the jury during the trial phase of the criminal proceeding unless the defendant:

(a) Defers trial of the enhancement fact under subsection (4) of this section; or

(b) Makes a written waiver of the right to a jury trial on the enhancement fact and:

(A) Admits to the enhancement fact; or

(B) Elects to have the enhancement fact tried to the court.

(2) If the defendant makes the election under subsection (1)(b)(B) of this section and is found guilty during the trial phase of the criminal proceeding, the enhancement fact shall be tried during the sentencing phase of the proceeding.

(3) If there is more than one enhancement fact relating to the offense and the defendant does not admit to all of them, the defendant shall elect to try to the jury or to the court all enhancement facts relating to the offense to which the defendant does not admit.

(4) If the court finds that trying an enhancement fact relating to the offense during the trial phase of the criminal proceeding would unfairly prejudice the jury's verdict on an underlying offense, the court shall allow the defendant to defer trial of the enhancement fact to the sentencing phase of the proceeding without waiving the right to a jury trial on the enhancement fact.

(5) If two or more defendants are being tried in the same criminal proceeding, each defendant shall make the elections required by this section. [2005 c.463 §3]

Note:

See note under 136.765.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.773 - Enhancement fact related to defendant.**

(1) When an enhancement fact relates to the defendant, the court shall submit the enhancement fact to the jury during the sentencing phase of the criminal proceeding if the defendant is found guilty of an offense to which the enhancement fact applies unless the defendant makes a written waiver of the right to a jury trial on the enhancement fact and:

(a) Admits to the enhancement fact; or

(b) Elects to have the enhancement fact tried to the court.

(2) If the defendant makes the election under subsection (1)(b) of this section and is found guilty during the trial phase of the criminal proceeding, the enhancement fact shall be tried during the sentencing phase of the proceeding.

(3) If there is more than one enhancement fact relating to the defendant and the defendant does not admit to all of them, the defendant shall elect to try to the jury or to the court all enhancement facts relating to the defendant to which the defendant does not admit.

(4) If two or more defendants are being tried in the same criminal proceeding, each defendant shall make the elections required by this section.

(5) Unless the defendant waives the right to a jury trial on enhancement facts related to the defendant, the sentencing phase shall be conducted in the trial court before the jury following a finding of guilt by the jury. If for any reason a juror is unable to perform the function of a juror, the court shall dismiss the juror from the sentencing phase and draw the name of one of the alternate jurors. The alternate juror then becomes a member of the jury for the sentencing phase notwithstanding the fact that the alternate juror did not

deliberate on the issue of guilt. The court may retain alternate jurors and may allow the substitution of an alternate juror after the jury has begun deliberations in accordance with ORS 136.280. [2005 c.463 §4; 2017 c.359 §3]

Note:

See note under 136.765.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.776 - Effect of waiver of right to jury trial.**

When a defendant waives the right to a jury trial on the issue of guilt or innocence, the waiver constitutes a written waiver of the right to a jury trial on all enhancement facts whether related to the offense or the defendant. [2005 c.463 §5]

Note:

See note under 136.765.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.780 - Evidence.**

All evidence received during the trial phase of a criminal proceeding may be considered by the jury or, if the defendant waives the right to a jury trial, by the court during the sentencing phase of the proceeding. [2005 c.463 §6]

Note:

See note under 136.765.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.785 - Burden of proof; effect of finding.**

- (1) When an enhancement fact is tried to a jury, any question relating to the enhancement fact shall be submitted to the jury.
- (2) The state has the burden of proving an enhancement fact beyond a reasonable doubt.
- (3) An enhancement fact that is tried to a jury is not proven unless:
  - (a) The number of jurors who find that the state has met its burden of proof with regard to the enhancement fact is equal to or greater than the number of jurors that was required to find the defendant guilty of the crime; and
  - (b) Of the jurors who find that the state has met its burden of proof, at least the minimum number of jurors required by this subsection to prove an enhancement fact are also jurors who found the defendant guilty of the crime or alternate jurors as provided by ORS 136.773 (5).
- (4) An enhancement fact that is tried to the court is not proven unless the court finds that the state has met its burden of proof with regard to the enhancement fact.
- (5) A finding relating to an enhancement fact made by a jury during the trial or sentencing phase of a criminal proceeding may not be reexamined by the court. Notwithstanding the findings made by a jury relating to an enhancement fact, the court is not required to impose an enhanced sentence. [2005 c.463 §7; 2007 c.16 §3]

Note:

See note under 136.765.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.790 - Notice to defendant upon remand.**

In order to rely on an enhancement fact, as defined in ORS 136.760, to increase the sentence that may be imposed upon remand of a case described in section 21 (3), chapter 463, Oregon Laws 2005, the state, within a reasonable time before resentencing, shall notify the defendant of its intention to rely on the enhancement fact by providing written notice to the defendant of the enhancement fact and the state's intention to rely on it. [2005 c.463 §22]

Note:

136.790 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 136 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.792 - Jury upon remand.**

- (1) For the purpose of imposing a new sentence in a case that has been remanded to a trial court that will result in resentencing for which a new sentence has not been imposed prior to July 7, 2005, the court may impanel a new jury to determine the enhancement facts as defined in ORS 136.760. Laws relating to impaneling a jury for a criminal trial apply to impaneling a jury under this section.
- (2) ORS 136.785 (3) does not apply to a case in which the court has impaneled a new jury under this section. In a case with a jury impaneled under this section, an enhancement fact is not proven unless the number of jurors who find that the state has met its burden of proof with regard to the enhancement fact is equal to or greater than the number of jurors that was required to find the defendant guilty of the crime. [2005 c.463 §23]

Note:

136.792 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 136 or any series

therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.810**

[Amended by 1973 c.836 §250; renumbered 136.500]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.820**

[Renumbered 136.505]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.830**

[Amended by 1973 c.836 §251; renumbered 136.515]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.840**

[Amended by 1973 c.836 §252; renumbered 136.525]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 136 - Criminal Trials Section 136.851**

[1971 c.565 §18 (136.851 enacted in lieu of 136.850); 1973 c.836 §253; renumbered 136.535]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.010 - Duty of court to ascertain and impose punishment.**

- (1) The statutes that define offenses impose a duty upon the court having jurisdiction to pass sentence in accordance with this section or, for felonies committed on or after November 1, 1989, in accordance with rules of the Oregon Criminal Justice Commission unless otherwise specifically provided by law.
- (2) If it cannot be determined whether the felony was committed on or after November 1, 1989, the defendant shall be sentenced as if the felony had been committed prior to November 1, 1989.
- (3) Except when a person is convicted of a felony committed on or after November 1, 1989, if the court is of the opinion that it is in the best interests of the public as well as of the defendant, the court may suspend the imposition or execution of any part of a sentence for any period of not more than five years. The court may extend the period of suspension beyond five years in accordance with subsection (4) of this section.
- (4) If the court suspends the imposition or execution of a part of a sentence for an offense other than a felony committed on or after November 1, 1989, the court may also impose and execute a sentence of probation on the defendant for a definite or indefinite period of not more than five years. However, upon a later finding that a defendant sentenced to probation for a felony has violated a condition of the probation and in lieu of revocation, the court may order the period of both the suspended sentence and the sentence of probation extended until a date not more than six years from the date of original imposition of sentence. Time during which the probationer has absconded from supervision and a bench warrant has been issued for the probationer's arrest shall not be counted in determining the time elapsed since imposition of the sentence of probation.
- (5) If the court announces that it intends to suspend imposition or execution of any part of a sentence, the defendant may, at that time, object and request imposition of the full sentence. In no case, however, does the defendant have a right to refuse the court's order, and the court may suspend imposition or execution of a part of the sentence despite the defendant's objection or request. If the court further announces that it intends to sentence the defendant to a period of probation, the defendant may, at that time, object and request that a sentence of probation or its conditions not be imposed or that different conditions be imposed. In no case, however, does the defendant have the right to refuse a sentence of probation or any of the conditions of the probation, and the court may sentence the defendant to probation subject to conditions despite the defendant's objection or request.
- (6) The power of the judge of any court to suspend execution of any part of a sentence or to sentence any person convicted of a crime to probation shall continue until the person is delivered to the custody of the Department of Corrections.
- (7) When a person is convicted of an offense and the court does not suspend the imposition or execution of any part of a sentence or when a suspended sentence or sentence of probation is revoked, the court shall impose the following sentence:
  - (a) A term of imprisonment;
  - (b) A fine;
  - (c) Both imprisonment and a fine; or
  - (d) Discharge of the defendant.
- (8) This section does not deprive the court of any authority conferred by law to enter a judgment for the forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty. An order exercising that authority may be included as part of the judgment of conviction.
- (9) When imposing sentence for a felony committed on or after November 1, 1989, the court shall submit sentencing information to the commission in accordance with rules of the commission.
- (10) A judgment of conviction that includes a term of imprisonment for a felony committed on or after November 1, 1989, shall state the length of incarceration and the length of post-prison supervision. The judgment of conviction shall also provide that if the defendant violates the conditions of post-prison supervision, the defendant shall be subject to sanctions including the possibility of

additional imprisonment in accordance with rules of the commission. [Amended by 1971 c.743 §322; 1981 c.181 §1; 1987 c.320 §27; 1989 c.790 §6; 1989 c.849 §1; 1993 c.14 §1; 2003 c.576 §388; 2005 c.10 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.012 - Suspension of imposition or execution of sentence of person convicted of certain sexual offenses; term of probation.**

If the court suspends the imposition or execution of a part of a sentence of, or imposes a sentence of probation on, any person convicted of violating or attempting to violate ORS 163.365, 163.375, 163.395, 163.405, 163.408, 163.411, 163.425 or 163.427, the court shall sentence the defendant to probation for a period of at least five years and no more than the maximum statutory indeterminate sentence for the offense. [1991 c.831 §2; 1993 c.14 §2; 1993 c.301 §2; 1999 c.161 §3]

Note:

137.012 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.013 - Appearance by victim at time of sentencing.**

At the time of sentencing, the victim or the victim's next of kin has the right to appear personally or by counsel, and has the right to reasonably express any views concerning the crime, the person responsible, the impact of the crime on the victim, and the need for restitution and compensatory fine. [1987 c.2 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.017 - Disposition of fines, costs and security deposits received by court.**

Except as otherwise specifically provided by law, all fines, costs, security deposits and other amounts ordered or required to be paid in criminal actions in circuit courts are monetary obligations payable to the state and shall be deposited in the Criminal Fine Account. [1981 s.s. c.3 §102; 1983 c.763 §42; 1987 c.905 §5; 1999 c.1051 §253; 2011 c.597 §122; 2012 c.89 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.020 - Time for pronouncing judgment; delay; notice of right to appeal.**

(1) After a plea or verdict of guilty, or after a verdict against the defendant on a plea of former conviction or acquittal, if the judgment is not arrested or a new trial granted, the court shall appoint a time for pronouncing judgment.

(2)(a) The time appointed shall be at least two calendar days after the plea or verdict if the court intends to remain in session so long. If the court does not intend to remain in session at least two calendar days, the time appointed may be sooner than two calendar days, but shall be as remote a time as can reasonably be allowed. However, in the latter case, the judgment shall not be given less than six hours after the plea or verdict, except with the consent of the defendant.

(b) Except for good cause shown or as otherwise provided in this paragraph, a court shall not delay for more than 31 calendar days after the plea or verdict the sentencing of a defendant held in custody on account of the pending proceedings. Except for good cause shown or as otherwise provided in this paragraph, a court shall not delay for more than 56 calendar days after the plea or verdict the sentencing of a defendant not held in custody on account of the pending proceedings. If the defendant is not in custody and the court does not pronounce judgment within 56 calendar days after the plea or verdict, any period of probation imposed as a part of a subsequent judgment shall begin to run from the date of the plea or verdict.

(3) If the defendant is in custody following the verdict, the court shall pronounce judgment as soon as practicable, but in any case within seven calendar days following the verdict if no presentence investigation is ordered, and within seven calendar days after delivery of the presentence report to the court if a presentence investigation has been ordered; however, the court may delay pronouncement of judgment beyond the limits of this subsection for good cause shown.

(4) If the final calendar day a defendant must be sentenced is not a judicial day then sentencing may be delayed until the next judicial day.

(5)(a) At the time a court pronounces judgment the defendant, if present, shall be advised of the right to appeal and of the procedure for protecting that right. If the defendant is not present, the court shall advise the defendant in writing of the right to appeal and of the procedure for protecting that right.

(b) If the trial court sentences the defendant subsequent to a plea of guilty or no contest or upon probation revocation or sentence suspension, or if the trial court sentences the defendant after judgment of an appellate court or a post-conviction relief court, the court shall advise the defendant of the limitations on reviewability imposed by ORS 138.105 in person or, if the defendant is not present, in writing.

(6) If the defendant is financially eligible for appointment of counsel at state expense on appeal under ORS 138.500, trial counsel shall determine whether the defendant wishes to pursue an appeal. If the defendant wishes to pursue an appeal, trial counsel shall transmit to the Oregon Public Defense Commission, on a form prepared by the office, information necessary to perfect the appeal. [Amended by 1971 c.565 §18a; 1987 c.242 §1; 1991 c.111 §12; 2001 c.644 §4; 2003 c.14 §57; 2017 c.529 §23; 2023 c.281 §27]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and**

**Probation by the CourtSection 137.030 - Presence of defendant at pronouncement of judgment.**

For the purpose of giving judgment, if the conviction is for:

- (1) A felony, the defendant shall be personally present.
- (2) A misdemeanor, judgment may be given in the absence of the defendant. [Amended by 1993 c.581 §1; 1997 c.827 §1; 2005 c.566 §9]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 137 - Judgment and Execution; Parole and Probation by the CourtSection 137.040 - Bringing defendant in custody to pronouncement of judgment.**

If the defendant is in custody, the court shall:

- (1) Direct the officer in whose custody the defendant is to bring the defendant before the court for judgment and the officer shall do so accordingly; or
- (2) Ensure that arrangements for the defendant to appear for judgment by simultaneous electronic transmission as described in ORS 131.045 have been made. [Amended by 2005 c.566 §10]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 137 - Judgment and Execution; Parole and Probation by the CourtSection 137.050 - Nonattendance or nonappearance of released defendant when attendance required by court.**

- (1) If the defendant has been released on a release agreement or security deposit and does not appear for judgment when personal attendance is required by the court, the court may order a forfeiture of the security deposit as provided in ORS 135.280. In addition, if the defendant fails to appear as required by the release agreement or security deposit, the court may direct the clerk to issue a bench warrant for the defendant's arrest.
- (2) At any time after the making of the order for the bench warrant, the clerk, on the application of the district attorney, shall issue such warrant, as by the order directed, whether the court is sitting or not. [Amended by 1973 c.836 §257]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 137 - Judgment and Execution; Parole and Probation by the CourtSection 137.060 - Form of bench warrant.**

The bench warrant shall be substantially in the following form:

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CIRCUIT COURT  
FOR THE COUNTY OF \_\_\_\_\_,  
STATE OF OREGON  
IN THE NAME OF  
THE STATE OF OREGON

To any peace officer in the State of Oregon, greeting:

A B having been on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, convicted in this court of the crime of (designating it generally), you are commanded to arrest the above-named defendant forthwith and bring the defendant before such court for judgment or, if the court has adjourned, deliver the defendant into the custody of the jailor of this county. By order of the court.

Witness my hand and seal of said circuit court, affixed at \_\_\_\_\_, in said county, this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

[L. S.]

C D, Clerk of the Court

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[Amended by 1957 c.659 §1; 1971 c.423 §1; 2015 c.212 §16]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 137 - Judgment and Execution; Parole and Probation by the CourtSection 137.070 - Counties to which bench warrant may issue; service.**

The bench warrant mentioned in ORS 137.050 may issue to one or more counties of the state and may be served in the same manner as any other warrant of arrest issued by a magistrate. [Amended by 1973 c.836 §258]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 137 - Judgment and Execution; Parole and Probation by the CourtSection 137.071 - Requirements for judgment documents.**

- (1) The judge in a criminal action shall ensure that the creation and filing of a judgment document complies with this section. On appeal, the appellate court may give leave as provided in ORS 19.270 for entry of a judgment document that complies with this section but may not reverse or set aside a judgment, determination or disposition on the sole ground that the judgment document fails to comply with this section.
- (2) A judgment document in a criminal action must comply with ORS 18.038. In addition, a judgment document in a criminal action must:
  - (a) Indicate whether the defendant was determined to be financially eligible for purposes of appointed counsel in the action.
  - (b) Indicate whether the court appointed counsel for the defendant in the action.

- (c) If there is no attorney for the defendant, indicate whether the defendant knowingly waived any right to an attorney after having been informed of that right.
  - (d) Include the identity of the recorder or reporter for the proceeding or action who is to be served under ORS 138.081.
  - (e) Include any information specifically required by statute or by court rule.
  - (f) Specify clearly the court's determination for each charge in the information, indictment or complaint.
  - (g) Specify clearly the court's disposition, including all legal consequences the court establishes or imposes. If the determination is one of conviction, the judgment document must include any suspension of sentence, forfeiture, imprisonment, cancellation of license, removal from office, monetary obligation, probation, conditions of probation, discharge, restitution, community service and all other sentences and legal consequences imposed by the court. Nothing in this paragraph requires the judgment document to specify any consequences that may result from the determination but are not established or imposed by the court.
  - (h) Include the identities of the attorney for the state and the attorney, if any, for the defendant.
  - (i) If the court sentences the defendant to a term of incarceration, and the physical custody of the defendant as determined by ORS 137.124 is related to the age of the defendant at the time of committing an offense, indicate the age of the defendant at the time of committing the offense.
- (3) A judgment document in a criminal action that includes a money award, as defined in ORS 18.005, must comply with ORS 18.048.
- (4) The requirements of this section do not apply to a judgment document if the action was commenced by the issuance of a uniform citation adopted under ORS 1.525 and the court has used the space on the citation for the entry of a judgment. The exemption provided by this subsection does not apply if any indictment, information or complaint other than a uniform citation is filed in the action.
- (5) For the purposes of determining the defendant's age at the time of committing an offense under subsection (2) of this section:
- (a) If the defendant is convicted of two or more offenses occurring on different days, the defendant's age shall be calculated using the earliest date.
  - (b) If the defendant is convicted of an offense occurring within a range of dates, the defendant's age shall be calculated using the date at the beginning of the range. [1989 c.472 §2; 1995 c.117 §1; 1997 c.526 §3; 2001 c.962 §88; 2003 c.300 §§1,2; 2003 c.576 §162; 2019 c.634 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.074 - Fingerprints of convicted felons and certain misdemeanants required.**

When a person is convicted of a felony, a Class A misdemeanor or a sex crime, as defined in ORS 163A.005, the court shall ensure that the person's fingerprints have been taken. The law enforcement agency attending upon the court is the agency responsible for obtaining the fingerprints. The agency attending upon the court may, by agreement, arrange for another law enforcement agency to obtain the fingerprints on its behalf. [1989 c.790 §19; 1997 c.538 §14]

Note:

137.074 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.076 - Blood or buccal sample and thumbprint of certain convicted defendants required; application.**

- (1) This section applies to any person convicted of:
  - (a) A felony;
  - (b) Sexual abuse in the third degree or public indecency;
  - (c) Conspiracy or attempt to commit rape in the third degree, sodomy in the third degree, sexual abuse in the second degree, burglary in the second degree or promoting prostitution; or
  - (d) Murder or aggravated murder.
- (2) When a person is convicted of an offense listed in subsection (1) of this section:
  - (a) The person shall, whether or not ordered to do so by the court under paragraph (b) of this subsection, provide a blood or buccal sample at the request of the appropriate agency designated in paragraph (c) of this subsection.
  - (b) The court shall include in the judgment of conviction an order stating that a blood or buccal sample is required to be obtained at the request of the appropriate agency and, unless the convicted person lacks the ability to pay, that the person shall reimburse the appropriate agency for the cost of obtaining and transmitting the blood or buccal sample. If the judgment sentences the convicted person to probation, the court shall order the convicted person to submit to the obtaining of a blood or buccal sample as a condition of the probation.
  - (c) The appropriate agency shall cause a blood or buccal sample to be obtained and transmitted to the Department of State Police. The agency shall cause the sample to be obtained as soon as practicable after conviction. The agency shall obtain the convicted person's thumbprint at the same time the agency obtains the blood or buccal sample. The agency shall include the thumbprint with the identifying information that accompanies the sample. Whenever an agency is notified by the Department of State Police that a sample is not adequate for analysis, the agency shall obtain and transmit a blood sample. The appropriate agency shall be:

(A) The Department of Corrections, whenever the convicted person is committed to the legal and physical custody of the department.

(B) In all other cases, the law enforcement agency attending upon the court.

(3)(a) A blood sample may only be drawn in a medically acceptable manner by a licensed physician, a person acting under the direction or control of a licensed physician, a physician assistant licensed under ORS 677.505 to 677.525, a nurse licensed under ORS chapter 678 or a qualified medical technician.

(b) A buccal sample may be obtained by anyone authorized to do so by the appropriate agency. The person obtaining the buccal sample shall follow the collection procedures established by the Department of State Police.

(c) A person authorized by this subsection to obtain a blood or buccal sample shall not be held civilly liable for obtaining a sample in accordance with this subsection and subsection (2) of this section, ORS 161.325 and 419C.473. The sample shall also be obtained and transmitted in accordance with any procedures that may be established by the Department of State Police. However, no test result or opinion based upon a test result shall be rendered inadmissible as evidence solely because of deviations from procedures adopted by the Department of State Police that do not affect the reliability of the opinion or test result.

(4) No sample is required to be obtained if:

(a) The Department of State Police notifies the court or the appropriate agency that it has previously received an adequate blood or buccal sample obtained from the convicted person in accordance with this section or ORS 161.325 or 419C.473; or

(b) The court determines that obtaining a sample would create a substantial and unreasonable risk to the health of the convicted person.

(5) The provisions of subsections (1) to (4) of this section apply to any person who, on or after September 29, 1991, is serving a term of incarceration as a sentence or as a condition of probation imposed for conviction of an offense listed in subsection (1) of this section, and any such person shall submit to the obtaining of a blood or buccal sample. Before releasing any such person from incarceration, the supervisory authority shall cause a blood or buccal sample and the person's thumbprint to be obtained and transmitted in accordance with subsections (1) to (4) of this section. [1991 c.669 §§2,5; 1993 c.14 §3; 1993 c.33 §298; 1993 c.301 §3; 1999 c.97 §1; 2001 c.852 §1; 2014 c.45 §23]

Note:

137.076 (5) was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.077 - Presentence report; general principles of disclosure.**

The presentence report is not a public record and shall be available only to:

(1) The sentencing court for the purpose of assisting the court in determining the proper sentence to impose and to other judges who participate in a sentencing council discussion of the defendant. The sentencing judge may disclose information from the presentence report that is necessary to address the content of the report, examine the reasoning for a sentencing recommendation or to explain the reasons for the sentence imposed. Appellate judges may disclose information from the presentence report that is necessary for legal analysis of the case or to report the reasoning of the appellate court.

(2) The Department of Corrections, State Board of Parole and Post-Prison Supervision and other persons or agencies having a legitimate professional interest in the information likely to be contained therein. These agencies or persons may make the presentence report, or any reports based on the contents of that report, available to the victim.

(3) Appellate or review courts where relevant to an issue on which an appeal is taken or post-conviction relief sought.

(4) The district attorney, the defendant or the counsel of the defendant, as provided in ORS 137.079. The district attorney and counsel of the defendant may retain a copy of the presentence report as a part of the permanent records of the case. The district attorney and counsel of the defendant may disclose the contents of the presentence report to individuals or agencies when preparing for the sentencing of the defendant. "Individuals and agencies" include victims, psychologists, psychiatrists, physicians licensed under ORS 677.100 to 677.228 and any other person or agency who may assist the state or the defendant at the time of sentencing. [1973 c.836 §260; 1987 c.320 §28; 1989 c.408 §1; 2017 c.409 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.079 - Presentence report; other writings considered in imposing sentence; disclosure to parties; court's authority to except parts from disclosure.**

(1) A copy of the presentence report and all other written information concerning the defendant that the court considers in the imposition of sentence shall be made available to the district attorney, the defendant or defendant's counsel at least five judicial days before the sentencing of the defendant. All other written information, when received by the court outside the presence of counsel, shall either be summarized by the court in a memorandum available for inspection or summarized by the court on the record before sentence is imposed.

(2) The court may except from disclosure parts of the presentence report or other written information described in subsection (1) of this section which are not relevant to a proper sentence, diagnostic opinions which might seriously disrupt a program of rehabilitation if known by the defendant, or sources of information which were obtainable with an expectation of confidentiality.

(3) If parts of the presentence report or other written information described in subsection (1) of this section are not disclosed under



subsection (2) of this section, the court shall inform the parties that information has not been disclosed and shall state for the record the reasons for the court's action. The action of the court in excepting information shall be reviewable on appeal.

(4) A defendant who is being sentenced for felonies committed prior to November 1, 1989, may file a written motion to correct the criminal history contained in the presentence report prior to the date of sentencing. At sentencing, the court shall consider defendant's motion to correct the presentence report and shall correct any factual errors in the criminal history contained in that report. An order allowing or denying a motion made pursuant to this subsection shall not be reviewable on appeal. If corrections are made by the court, only corrected copies of the report shall be provided to individuals or agencies pursuant to ORS 137.077.

(5)(a) The provisions of this subsection apply only to a defendant being sentenced for a felony committed on or after November 1, 1989.

(b) Except as otherwise provided in paragraph (c) of this subsection, the defendant's criminal history as set forth in the presentence report shall satisfy the state's burden of proof as to the defendant's criminal history.

(c) Prior to the date of sentencing, the defendant shall notify the district attorney and the court in writing of any error in the criminal history as set forth in the presentence report. Except to the extent that any disputed portion is later changed by agreement of the district attorney and defendant with the approval of the court, the state shall have the burden of proving by a preponderance of evidence any disputed part of the defendant's criminal history. The court shall allow the state reasonable time to produce evidence to meet its burden.

(d) The court shall correct any error in the criminal history as reflected in the presentence report.

(e) If corrections to the presentence report are made by the court, only corrected copies of the report shall be provided to individuals or agencies pursuant to ORS 137.077.

(f) Except as provided in ORS 138.105 and 138.115, the court's decision on issues relating to a defendant's criminal history shall not be reviewable on appeal. [1973 c.836 §261; 1977 c.372 §11; 1983 c.649 §1; 1989 c.408 §2; 1989 c.790 §8; 2017 c.529 §24]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.080 - Consideration of circumstances in aggravation or mitigation of punishment.**

(1) After a plea or verdict of guilty, or after a verdict against the defendant on a plea of former conviction or acquittal, in a case where discretion is conferred upon the court as to the extent of the punishment to be inflicted, the court, upon the suggestion of either party that there are circumstances which may be properly considered in aggravation or mitigation of the punishment, may, in its discretion, hear the same summarily at a specified time and upon such notice to the adverse party as it may direct.

(2) Notwithstanding any other provision of law, the consideration of aggravating and mitigating circumstances as to felonies committed on or after November 1, 1989, including the maximum sentence that may be imposed because of aggravating circumstances, shall be in accordance with rules of the Oregon Criminal Justice Commission. [Amended by 1989 c.790 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.085 - Age and physical disability of victim as factors in sentencing.**

When a court sentences a defendant convicted of any crime involving a physical or sexual assault, the court shall give consideration to a victim's particular vulnerability to injury in such case, due to the victim's youth, advanced age or physical disability. Such particular vulnerability of the victim is a fact enhancing the seriousness of any assault, and the court shall consider it as such in imposing the sentence within the limits otherwise provided by law. [1985 c.767 §1]

Note:

137.085 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.090 - Considerations in determining aggravation or mitigation.**

(1) In determining aggravation or mitigation, the court shall consider:

- (a) Any evidence received during the proceeding;
- (b) The presentence report, where one is available; and
- (c) Any other evidence relevant to aggravation or mitigation that the court finds trustworthy and reliable.

(2) In determining mitigation, the court may consider:

- (a) Evidence regarding the defendant's status as a servicemember as defined in ORS 135.881.
- (b) Whether the defendant committed the crime while under duress, compulsion, direction or pressure from another person who has:
  - (A) Committed acts of domestic violence, as defined in ORS 135.230, against the defendant;
  - (B) Committed acts of abuse as a family or household member of the defendant, as those terms are defined in ORS 107.705, against the defendant; or
  - (C) Used force, intimidation, fraud or coercion to cause the defendant to engage, or attempt to engage, in a commercial sex act.

(3) In determining aggravation, the court shall consider whether the person was wearing body armor in the course of and in furtherance of the crime, or to facilitate the immediate flight therefrom.

(4) When a witness is so sick or infirm as to be unable to attend a sentencing proceeding, the deposition of the witness may be taken out of court at such time and place, and upon such notice to the adverse party, and before such person authorized to take depositions,

as the court directs. [Amended by 1965 c.400 §1; 1973 c.836 §259; 1989 c.790 §10; 2013 c.331 §1; 2017 c.123 §1; 2023 c.288 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.100 - Defendant as witness in relation to circumstances.**

If the defendant consents thereto, the defendant may be examined as a witness in relation to the circumstances which are alleged to justify aggravation or mitigation of the punishment; but if the defendant gives testimony at the request of the defendant, then the defendant must submit to be examined generally by the adverse party.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.101 - Compensatory fine.**

(1) Whenever the court imposes a fine as penalty for the commission of a crime resulting in injury for which the person injured by the act constituting the crime has a remedy by civil action, unless the issue of punitive damages has been previously decided on a civil case arising out of the same act and transaction, the court may order that the defendant pay any portion of the fine separately to the clerk of the court as compensatory fines in the case. The clerk shall pay over to the injured victim or victims, as directed in the court's order, moneys paid to the court as compensatory fines under this subsection. This section shall be liberally construed in favor of victims.

(2) Compensatory fines may be awarded in addition to restitution awarded under ORS 137.103 to 137.109.

(3) Nothing in this section limits or impairs the right of a person injured by a defendant's criminal acts to sue and recover damages from the defendant in a civil action. Evidence that the defendant has paid or been ordered to pay compensatory fines under this section may not be introduced in any civil action arising out of the facts or events which were the basis for the compensatory fine. However, the court in such civil action shall credit any compensatory fine paid by the defendant to a victim against any judgment for punitive damages in favor of the victim in the civil action. [1981 c.637 §2; 1987 c.2 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.103 - Definitions for ORS 137.101 to 137.109.**

As used in ORS 137.101 to 137.109:

(1) "Criminal activities" means any offense with respect to which the defendant is convicted or any other criminal conduct admitted by the defendant.

(2) "Economic damages":

(a) Has the meaning given that term in ORS 31.705, except that "economic damages" does not include future impairment of earning capacity; and

(b) In cases involving criminal activities described in ORS 163.263, 163.264 or 163.266, includes the greater of:

(A) The value to the defendant of the victim's services as defined in ORS 163.261; or

(B) The value of the victim's services, as defined in ORS 163.261, computed using the minimum wage established under ORS 653.025 and the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(3) "Restitution" means full, partial or nominal payment of economic damages to a victim. Restitution is independent of and may be awarded in addition to a compensatory fine awarded under ORS 137.101.

(4) "Victim" means:

(a) The person or decedent against whom the defendant committed the criminal offense, if the court determines that the person or decedent has suffered or did suffer economic damages as a result of the offense.

(b) Any person not described in paragraph (a) of this subsection whom the court determines has suffered economic damages as a result of the defendant's criminal activities.

(c) The Criminal Injuries Compensation Account, if it has expended moneys on behalf of a victim described in paragraph (a) of this subsection.

(d) An insurance carrier, if it has expended moneys on behalf of a victim described in paragraph (a) of this subsection.

(e) Upon the death of a victim described in paragraph (a) or (b) of this subsection, the estate of the victim.

(f) The estate, successor in interest, trust, trustee, successor trustee or beneficiary of a trust against which the defendant committed the criminal offense, if the court determines that the estate, successor in interest, trust, trustee, successor trustee or beneficiary of a trust suffered economic damages as a result of the offense.

(5) "Victim" does not include any coparticipant in the defendant's criminal activities. [1977 c.371 §1; 1981 c.637 §1; 1983 c.488 §1; 1983 c.740 §16; 1987 c.905 §16; 2005 c.564 §1; 2005 c.642 §4; 2007 c.811 §5; 2015 c.9 §1; 2021 c.478 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.105 - Authority of trial court during pendency of appeal.**

(1) The trial court retains authority during the pendency of an appeal to determine restitution and to enter a supplemental judgment specifying the amount and terms of restitution or an order denying restitution.

(2) If the trial court enters a supplemental judgment or an order under subsection (1) of this section during the pendency of an appeal, the trial court administrator shall immediately provide a copy of the supplemental judgment or the order to the appellate

court. [2017 c.529 §19]

Note:

137.105 was added to and made a part of 137.101 to 137.109 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.106 - Restitution to victims; objections by defendant; disclosure to defendant.**

(1)(a) When a person is convicted of a crime, or a violation as described in ORS 153.008, that has resulted in economic damages, the district attorney shall investigate and present to the court, at the time of sentencing or as provided in paragraph (b) of this subsection, evidence of the nature and amount of the damages.

(b)(A) If the district attorney is unable to present restitution evidence at sentencing, within 90 days after sentencing the district attorney may file a motion requesting that either the judgment be amended to require restitution or that a supplemental judgment be entered requiring restitution. The court may extend the time by which the district attorney must file the motion for good cause. The motion must contain a statement that documentation supporting the requested amount of restitution has been provided to the defendant as described in subsection (7) of this section.

(B) Upon receipt of a motion described in subparagraph (A) of this paragraph, the court shall set a hearing. If the defendant objects to the motion, the objection must be filed at least 15 days prior to the hearing and must contain a description of the nature of the objection.

(C) If the parties stipulate to the order and amount of restitution, the court may cancel the hearing and amend the judgment or enter a supplemental judgment requiring the defendant to pay the stipulated amount of restitution.

(c) At a restitution proceeding, economic damages will be presumed reasonable if the damages are documented in the form of a record, bill, estimate or invoice from a business, health care entity or provider or public body as defined in ORS 174.109.

(2)(a) If the court finds from the evidence presented that a victim suffered economic damages, in addition to any other sanction it may impose, the court shall enter a judgment or supplemental judgment requiring that the defendant pay the victim restitution in a specific amount that equals the full amount of the victim's economic damages as determined by the court. The lien, priority of the lien and ability to enforce the specific amount of restitution established under this paragraph by a supplemental judgment relates back to the date of the original judgment that is supplemented.

(b) Notwithstanding paragraph (a) of this subsection, a court may order that the defendant pay the victim restitution in a specific amount that is less than the full amount of the victim's economic damages only if:

(A) The victim or, if the victim is an estate, successor in interest, trust or other entity, an authorized representative of the victim consents to the lesser amount, if the conviction is not for a person felony; or

(B) The victim or, if the victim is an estate, successor in interest, trust or other entity, an authorized representative of the victim consents in writing to the lesser amount, if the conviction is for a person felony.

(c) As used in this subsection, "person felony" has the meaning given that term in the rules of the Oregon Criminal Justice Commission.

(3) After the district attorney makes a presentation described in subsection (1) of this section, if the court is unable to find from the evidence presented that a victim suffered economic damages, the court shall make a finding on the record to that effect.

(4) No finding made by the court or failure of the court to make a finding under this section limits or impairs the rights of a person injured to sue and recover damages in a civil action as provided in ORS 137.109.

(5)(a) If a judgment or supplemental judgment described in subsection (1) of this section includes restitution, a court may delay the enforcement of the monetary sanctions, including restitution, only if the defendant alleges and establishes to the satisfaction of the court the defendant's inability to pay the judgment in full at the time the judgment is entered. If the court finds that the defendant is unable to pay, the court may establish or allow an appropriate supervising authority to establish a payment schedule, taking into consideration the financial resources of the defendant and the burden that payment of restitution will impose, with due regard to the other obligations of the defendant. The supervising authority shall be authorized to modify any payment schedule established under this section.

(b) As used in this subsection, "supervising authority" means any state or local agency that is authorized to supervise the defendant.

(6) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall allow the defendant to be heard on such issue at the time of sentencing or at the time the court determines the amount of restitution.

(7)(a) At least 10 days prior to the presentation described in subsection (1) of this section, the district attorney shall:

(A) Disclose to the defendant the names of any witnesses that may be called during the presentation; and

(B) Provide the defendant with copies of, or allow the defendant to inspect, any exhibits that will be used or introduced during the presentation.

(b) If the court finds that the district attorney has violated the requirements of this subsection, the court shall grant a continuance to allow additional time for preparation upon request of the defendant. Any additional time granted under this paragraph may not count toward the 90-day time limitation described in subsection (1) of this section. [1977 c.371 §2; 1983 c.724 §1; 1993 c.533 §1; 1997 c.313 §23; 1999 c.1051 §124; 2003 c.670 §1; 2005 c.564 §2; 2007 c.425 §1; 2007 c.482 §1; 2013 c.388 §1; 2015 c.9 §2; 2022 c.57 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.107 - Authority of court to amend part of judgment relating to restitution.**

At any time after entry of a judgment upon conviction of a crime, the court may amend that part of the judgment relating to restitution if, in the original judgment, the court included language imposing, recommending or requiring restitution but failed to conform the judgment to the requirements of ORS 18.048 or any other law governing the form of judgments in effect before January 1, 2004. [1997 c.526 §2; 2003 c.576 §163]

Note:

137.107 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.108 - Restitution when defendant has entered into diversion agreement.**

(1) When a person has entered into a driving while under the influence of intoxicants diversion agreement and the person's actions resulted in economic damages, the district attorney shall investigate and present to the court within 90 days of when the diversion agreement is entered, evidence of the nature and amount of the damages. If the court finds from the evidence presented that a victim suffered economic damages, the court shall order the defendant to pay restitution and include in the diversion agreement one of the following:

- (a) A requirement that the defendant pay the victim restitution in a specific amount that equals the full amount of the victim's economic damages as determined by the court.
  - (b) A requirement that the defendant pay the victim restitution in a specific amount that is less than the full amount of the victim's economic damages, with the consent of the victim.
- (2) After the district attorney makes a presentation described in subsection (1) of this section, if the court is unable to find from the evidence presented that a victim suffered economic damages, the court shall make a finding on the record to that effect.
- (3) A finding made by the court under this section, or a failure of the court to make a finding, does not limit or impair the right of a person injured to sue and recover damages in a civil action as provided in ORS 137.109.
- (4) If the defendant objects to the imposition, amount or distribution of the restitution, the court shall allow the defendant to be heard on such issue at the time the court determines the amount of restitution.
- (5) As used in this section, "victim" includes any person the court determines has suffered economic damages as a result of the act that has brought the defendant before the court for the purpose of entering into a driving while under the influence of intoxicants diversion agreement. [2013 c.78 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.109 - Effect of restitution order on other remedies of victim; credit of restitution against subsequent civil judgment; effect of criminal judgment on subsequent civil action.**

- (1) Nothing in ORS 137.103 to 137.109, 137.540, 144.102, 144.275, 161.675 and 161.685 limits or impairs the right of a person injured by a defendant's commission of a crime, by a defendant's commission of a violation described in ORS 153.008, or by a defendant's commission of an act that has brought the defendant before the court for the purpose of entering into a driving while under the influence of intoxicants diversion agreement, to sue and recover damages from the defendant in a civil action. Evidence that the defendant has paid or been ordered to pay restitution pursuant to ORS 137.103 to 137.109, 137.540, 144.102, 144.275, 161.675 and 161.685 may not be introduced in any civil action arising out of the facts or events that were the basis for the restitution. However, the court shall credit any restitution paid by the defendant to a victim against any judgment in favor of the victim in such civil action.
- (2) If conviction in a criminal trial necessarily decides the issue of a defendant's liability for economic damages of a victim, that issue is conclusively determined as to the defendant if it is involved in a subsequent civil action. [1977 c.371 §7; 1993 c.533 §2; 1997 c.526 §4; 1999 c.1051 §125; 2005 c.564 §3; 2013 c.78 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.118 - Assignment of judgments for collection of monetary obligation; costs of collection.**

- (1) Judgments in criminal actions that impose monetary obligations, including judgments requiring the payment of fines, costs, assessments, compensatory fines, attorney fees, forfeitures or restitution, may be assigned by the state, by a municipal court or by a justice court for collection.
- (2)(a) The state may assign a judgment to the Department of Revenue or a private collection agency.
- (b) A justice court may assign a judgment to a private collection agency or, in a criminal action, to the Department of Revenue for the purposes described in ORS 156.315.
- (c) A municipal court may assign a judgment to:
- (A) A private collection agency; or
  - (B) The Department of Revenue for the purposes described in subsections (6) to (8) of this section, if the judgment was entered in a criminal action and part of the judgment is payable to the State of Oregon.

(d) Nothing in this subsection limits the right of a municipal court or a justice court to assign for collection judgments in matters other than criminal actions.

(3) A municipal or justice court may add to any judgment in a criminal action that includes a monetary obligation a fee for the cost of collection if the court gives the defendant a period of time to pay the obligation after the date of imposition of the sentence or after the date of the hearing or proceeding that results in the imposition of the financial obligation. The fee may not exceed 25 percent of the monetary obligation imposed by the court without the addition of the cost of collection and may not be more than \$250. The fee shall be waived or suspended by the court if the defendant pays the monetary obligation in the manner required by the court.

(4) A state court shall add to any judgment in a criminal action that includes a monetary obligation the fees required by ORS 1.202.

(5) As used in subsections (1) to (5) of this section, "criminal action" has the meaning given that term in ORS 131.005.

(6) If part of a judgment in a criminal action, as described in subsections (1) to (5) of this section, is payable to the State of Oregon, a municipal court may assign the judgment to the Collections Unit in the Department of Revenue for the following purposes:

(a) To determine whether refunds or other sums are owed to the debtor by the department; and

(b) To deduct the amount of debt from any refunds or other sums owed to the debtor by the department.

(7) If the Collections Unit determines that refunds or other sums are owed to the debtor, the department shall deduct the amount of the debt from any refunds or other sums owed to the debtor by the department. After also deducting costs of its actions under subsections (6) to (8) of this section, the department shall remit the amount deducted from refunds or other sums owed to the debtor to the municipal court that assigned the judgment.

(8) A debtor whose account is assigned to the Department of Revenue for setoff under subsections (6) to (8) of this section is entitled to the notice required by ORS 293.250 (5)(d). [1993 c.531 §1; 1995 c.512 §2; 1997 c.801 §99; 1999 c.64 §1; 2001 c.823 §19; 2003 c.375 §1; subsections (6) to (8) of 2005 Edition enacted as 2005 c.501 §1; 2005 c.501 §2; 2015 c.766 §10; 2017 c.746 §22; 2019 c.359 §3]

Note:

137.118 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.120 - Term of sentence; reasons to be stated on record.**

(1) Whenever any person is convicted of a felony committed prior to November 1, 1989, the court shall, unless it imposes other than a sentence to serve a term of imprisonment in the custody of the Department of Corrections, sentence such person to imprisonment for an indeterminate period of time, but stating and fixing in the judgment and sentence a maximum term for the crime, which shall not exceed the maximum term of imprisonment provided by law therefor; and judgment shall be given accordingly. Such a sentence shall be known as an indeterminate sentence. The court shall state on the record the reasons for the sentence imposed.

(2) Whenever any person is convicted of a felony committed on or after November 1, 1989, the court shall impose sentence in accordance with rules of the Oregon Criminal Justice Commission.

(3) This section does not affect the indictment, prosecution, trial, verdict, judgment or punishment of any felony committed before June 14, 1939, and all laws now and before that date in effect relating to such a felony are continued in full force and effect as to such a felony. [Amended by 1967 c.372 §2; 1971 c.743 §324; 1977 c.372 §12; 1987 c.320 §29; 1989 c.790 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.121 - Maximum consecutive sentences.**

Notwithstanding any other provision of law, but subject to ORS 161.605, the maximum consecutive sentences which may be imposed for felonies committed on or after November 1, 1989, whether as terms of imprisonment, probation or both, shall be as provided by rules of the Oregon Criminal Justice Commission. [1989 c.790 §14]

Note:

137.121 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.123 - Provisions relating to concurrent and consecutive sentences.**

(1) A sentence imposed by the court may be made concurrent or consecutive to any other sentence which has been previously imposed or is simultaneously imposed upon the same defendant. The court may provide for consecutive sentences only in accordance with the provisions of this section. A sentence shall be deemed to be a concurrent term unless the judgment expressly provides for consecutive sentences.

(2) If a defendant is simultaneously sentenced for criminal offenses that do not arise from the same continuous and uninterrupted course of conduct, or if the defendant previously was sentenced by any other court within the United States to a sentence which the defendant has not yet completed, the court may impose a sentence concurrent with or consecutive to the other sentence or sentences.

(3) When a defendant is sentenced for a crime committed while the defendant was incarcerated after sentencing for the commission of a previous crime, the court shall provide that the sentence for the new crime be consecutive to the sentence for the previous crime.

(4) When a defendant has been found guilty of more than one criminal offense arising out of a continuous and uninterrupted course of conduct, the sentences imposed for each resulting conviction shall be concurrent unless the court complies with the procedures set forth in subsection (5) of this section.

(5) The court has discretion to impose consecutive terms of imprisonment for separate convictions arising out of a continuous and uninterrupted course of conduct only if the court finds:

(a) That the criminal offense for which a consecutive sentence is contemplated was not merely an incidental violation of a separate statutory provision in the course of the commission of a more serious crime but rather was an indication of defendant's willingness to commit more than one criminal offense; or

(b) The criminal offense for which a consecutive sentence is contemplated caused or created a risk of causing greater or qualitatively different loss, injury or harm to the victim or caused or created a risk of causing loss, injury or harm to a different victim than was caused or threatened by the other offense or offenses committed during a continuous and uninterrupted course of conduct. [1987 c.2 §12; 1991 c.67 §29; 1991 c.111 §14; 1995 c.657 §2; 2003 c.14 §58]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.124 - Commitment of defendant to Department of Corrections or county; place of confinement; transfer of adults in custody; juveniles.**

(1) If the court imposes a sentence upon conviction of a felony that includes a term of incarceration that exceeds 12 months:

(a) The court shall not designate the correctional facility in which the defendant is to be confined but shall commit the defendant to the legal and physical custody of the Department of Corrections; and

(b) If the judgment provides that the term of incarceration be served consecutively to a term of incarceration of 12 months or less that was imposed in a previous proceeding by a court of this state upon conviction of a felony, the defendant shall serve any remaining part of the previously imposed term of incarceration in the legal and physical custody of the Department of Corrections.

(2)(a) If the court imposes a sentence upon conviction of a felony that includes a term of incarceration that is 12 months or less, the court shall commit the defendant to the legal and physical custody of the supervisory authority of the county in which the crime of conviction occurred.

(b) Notwithstanding paragraph (a) of this subsection, when the court imposes a sentence upon conviction of a felony that includes a term of incarceration that is 12 months or less, the court shall commit the defendant to the legal and physical custody of the Department of Corrections if the court orders that the term of incarceration be served consecutively to a term of incarceration that exceeds 12 months that was imposed in a previous proceeding or in the same proceeding by a court of this state upon conviction of a felony.

(3) After assuming custody of the convicted person the Department of Corrections may transfer adults in custody from one correctional facility to another such facility for the purposes of diagnosis and study, rehabilitation and treatment, as best seems to fit the needs of the adult in custody and for the protection and welfare of the community and the adult in custody.

(4) If the court imposes a sentence of imprisonment upon conviction of a misdemeanor, it shall commit the defendant to the custody of the supervisory authority of the county in which the crime of conviction occurred.

(5)(a) When a person under 18 years of age at the time of committing the offense and under 20 years of age at the time of sentencing is committed to the Department of Corrections under ORS 137.707 or due to the fact that criminal proceedings were initiated after the person attained 18 years of age, the Department of Corrections shall transfer the physical custody of the person to the Oregon Youth Authority as provided in ORS 420.011 if:

(A) The person will complete the sentence imposed before the person attains 25 years of age;

(B) The Department of Corrections and the Oregon Youth Authority determine that, because of the person's age, immaturity, mental or emotional condition or risk of physical harm to the person, the person should not be incarcerated initially in a Department of Corrections institution; or

(C) The person is under 18 years of age at the time of sentencing and commitment.

(b) A person placed in the custody of the Oregon Youth Authority under this subsection who is at least 18 years of age shall be returned to the physical custody of the Department of Corrections whenever the Director of the Oregon Youth Authority, after consultation with the Department of Corrections, determines that the conditions or circumstances that warranted the transfer of custody under this subsection are no longer present.

(c) Notwithstanding ORS 137.320, the sheriff may by agreement with the Department of Corrections transfer the person described in this subsection directly to a youth correction facility for physical custody without first delivering the person to the Department of Corrections. As part of the agreement with the Department of Corrections, the sheriff may designate the county juvenile department or the Oregon Youth Authority to conduct the direct transfer described in this paragraph if the sheriff has entered into a written agreement with the county juvenile department, the Oregon Youth Authority, or both, to provide the direct transfer.

(6)(a) When a person under 18 years of age at the time of committing the offense and under 20 years of age at the time of sentencing is committed to the legal and physical custody of the Department of Corrections or the supervisory authority of a county following waiver under ORS 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or 137.712, the Department of Corrections or the supervisory authority of a county shall transfer the person to the physical custody of the Oregon Youth Authority for placement as provided in ORS 420.011 (3). The terms and conditions of the person's incarceration and custody are governed by ORS 420A.200 to 420A.206. Notwithstanding ORS 137.320, the sheriff may by agreement with the

Department of Corrections or the supervisory authority of a county transfer the person described in this subsection directly to a youth correction facility for physical custody without first delivering the person to the Department of Corrections or supervisory authority of the county. As part of the agreement with the Department of Corrections or supervisory authority of the county, the sheriff may designate the county juvenile department or the Oregon Youth Authority to conduct the direct transfer described in this paragraph if the sheriff has entered into a written agreement with the county juvenile department, the Oregon Youth Authority, or both, to provide the direct transfer.

(b) Notwithstanding ORS 137.320, when a person under 16 years of age is waived under ORS 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370 and subsequently is sentenced to a term of imprisonment in the county jail, the sheriff shall transfer the person to a youth correction facility for physical custody as provided in ORS 420.011 (3).

(7) Notwithstanding the provisions of subsection (5)(a)(A) of this section, the department or the supervisory authority of a county may not transfer the physical custody of the person under subsection (5)(a)(A) of this section if the Director of the Oregon Youth Authority, after consultation with the Department of Corrections or the supervisory authority of a county, determines that, because of the person's age, mental or emotional condition or risk of physical harm to other persons, the person should not be incarcerated in a youth correction facility.

(8) Notwithstanding any other provision of this section, under no circumstances may a person under 18 years of age be incarcerated in a Department of Corrections institution.

(9) If a defendant is transferred under subsection (5) or (6) of this section, the defendant shall also be transferred after a resentencing on the same charges resulting from an appellate decision or a post-conviction relief proceeding or for any other reason, even if the defendant is 20 years of age or older at the time of the resentencing.

(10) For the purposes of determining the person's age at the time of committing an offense under this section:

(a) If the person is convicted of two or more offenses occurring on different days, the person's age shall be calculated using the earliest date.

(b) If the person is convicted of an offense occurring within a range of dates, the person's age shall be calculated using the date at the beginning of the range. [1967 c.585 §4; 1971 c.743 §325; 1973 c.836 §262; 1985 c.631 §5; 1987 c.320 §30; 1993 c.33 §299; 1993 c.546 §118; 1995 c.422 §§57,57a; 1995 c.423 §12a; 1999 c.109 §5; 2013 c.355 §1; 2014 c.31 §1; 2017 c.134 §1; 2019 c.213 §22; 2019 c.634 §2; 2023 c.117 §1]

Note:

Section 2, chapter 117, Oregon Laws 2023, provides:

Sec. 2.

(1) Notwithstanding section 32, chapter 634, Oregon Laws 2019, as amended by section 3c, chapter 635, Oregon Laws 2019, and section 4, chapter 685, Oregon Laws 2019, the amendments to ORS 137.124 by section 2, chapter 634, Oregon Laws 2019, and section 1 of this 2023 Act apply to persons who were originally sentenced before, on or after January 1, 2020, and who are subsequently resentenced on or after the effective date of this 2023 Act [May 19, 2023], for any reason.

(2) Notwithstanding section 32, chapter 634, Oregon Laws 2019, as amended by section 3c, chapter 635, Oregon Laws 2019, and section 4, chapter 685, Oregon Laws 2019, the amendments to ORS 137.124 by section 2, chapter 634, Oregon Laws 2019, and section 1 of this 2023 Act apply to persons who were originally sentenced before, on or after January 1, 2020, and who were subsequently resentenced on or after January 1, 2020, but before the effective date of this 2023 Act, for any reason, if the Department of Corrections and the Oregon Youth Authority determine that, because of the person's age, immaturity, mental or emotional condition or risk of physical harm to the person, the person should not be incarcerated in a Department of Corrections institution. [2023 c.117 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.126 - Definitions for ORS 137.126 to 137.131.**

As used in ORS 137.126 to 137.131:

(1) "Community service" means uncompensated labor for an agency whose purpose is to enhance physical or mental stability, environmental quality or the social welfare.

(2) "Agency" means a nonprofit organization or public body agreeing to accept community service from offenders and to report on the progress of ordered community service to the court or its delegate. [1981 c.551 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.128 - Community service as part of sentence; effect of failure to perform community service.**

(1) A judge may sentence an offender to community service either as an alternative to incarceration or fine or probation, or as a condition of probation. Prior to such order of community service the offender must consent to donate labor for the welfare of the public. The court or its delegate may select community service tasks that are within the offender's capabilities and are to be performed within a reasonable length of time during hours the offender is not working or attending school.

(2) Failure to perform a community service sentence may be grounds for revocation of probation or contempt of court. [1981 c.551 §§3,5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.129 - Length of community service sentence.**

The length of a community service sentence shall be within these limits:

- (1) For a violation, not more than 48 hours.
- (2) For a misdemeanor other than driving under the influence of intoxicants in violation of ORS 813.010, not more than 160 hours.
- (3)(a) For a felony committed prior to November 1, 1993, not more than 500 hours.
- (b) For a felony committed on or after November 1, 1993, as provided in the rules of the Oregon Criminal Justice Commission.
- (4) Except as provided in subsection (5) of this section, for a violation of driving while under the influence of intoxicants under ORS 813.010 committed while operating a vehicle, other than a bicycle as defined in ORS 801.150, not less than 80 hours or more than 250 hours.
- (5) For a violation of driving while under the influence of intoxicants under ORS 813.010 committed while riding a bicycle, as defined in ORS 801.150, 48 hours. [1981 c.551 §4; 1983 c.721 §1; 1985 c.16 §447; 1993 c.692 §3; 1999 c.1051 §68a; 2023 c.498 §18]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.131 - Community service as condition of probation for offense involving graffiti.**

- (1) The court shall impose community service as a condition of a probation sentence when a person is convicted of criminal mischief and the conduct engaged in consists of defacing property by creating graffiti unless the sentence includes incarceration in a county jail or a state correctional institution.
- (2) The community service must include removing graffiti, either those that the defendant created or those created by another, or both. [1995 c.615 §5; 2009 c.15 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.138 - Forfeiture of weapons and revocation of hunting license for certain convictions.**

- (1) In addition to and not in lieu of any other sentence it may impose, a court shall require a defendant convicted under ORS 164.365, 166.663, 167.315, 498.056 or 498.146 or other state, county or municipal laws, for an act involving or connected with injuring, damaging, mistreating or killing a livestock animal, to forfeit any rights in weapons used in connection with the act underlying the conviction.
- (2) In addition to and not in lieu of any other sentence it may impose, a court shall revoke any hunting license possessed by a defendant convicted as described in subsection (1) of this section.
- (3) The State Fish and Wildlife Director shall refuse to issue a hunting license to a defendant convicted as described under subsection (1) of this section for a period of two years following the conviction.
- (4) As used in this section, "livestock animal" has the meaning given in ORS 164.055. [1999 c.766 §1; 2001 c.666 §§27,39; 2005 c.830 §21]

Note:

137.138 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.140**

[Amended by 1973 c.836 §263; 1987 c.550 §3; renumbered 137.167 in 2013]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.143 - All monetary obligations constitute single obligation on part of convicted person.**

All fines, costs, restitution, compensatory fines and other monetary obligations imposed upon a convicted person in a circuit, justice or municipal court constitute a single obligation on the part of the convicted person. The clerk shall divide the total obligation as provided in ORS 137.145 to 137.159, based on the different parts of the obligation, and shall credit and distribute all moneys received in payment of the obligation in the manner provided by ORS 137.145 to 137.159. [Formerly 137.288]

Note:

137.143 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.145 - Definitions for ORS 137.145 to 137.159.**

As used in ORS 137.145 to 137.159:

- (1) "Criminal judgment" means a judgment of conviction in a criminal action.
- (2) "Local court" means a justice or municipal court. [2013 c.685 §15]



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.146 - Priorities for application of payments on criminal judgments entered in circuit courts.**

(1) There are five levels of priority for application of payments on criminal judgments entered in circuit courts, with Level I obligations having the highest priority and Level V obligations having the lowest priority. All payments on a criminal judgment entered in a circuit court shall be applied first against the unpaid obligations in the level with highest priority until those obligations have been paid in full, and shall then be applied against the obligations in the level with the next highest level of priority, until all obligations under the judgment have been paid in full.

(2) Except as provided in ORS 137.149, if there is more than one person or public body to whom an obligation is payable under a level, a circuit court shall divide each payment based on each person's or public body's proportionate share of the total amount of obligations in that level. [Formerly 137.289; 2022 c.57 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.147 - Priorities for application of payments on criminal judgments entered in local courts.**

(1) There are four levels of priority for application of payments on criminal judgments entered in local courts, with Level I obligations having the highest priority and Level IV obligations having the lowest priority. All payments on a criminal judgment entered in a local court shall be applied first against the unpaid obligations in the level with highest priority until those obligations have been paid in full, and shall then be applied against the obligations in the level with the next highest level of priority, until all obligations under the judgment have been paid in full.

(2) Except as provided in ORS 137.151, if there is more than one person or public body to whom an obligation is payable under a level, a local court shall divide each payment based on each person's or public body's proportionate share of the total amount of obligations in that level. [2013 c.685 §16; 2022 c.57 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.149 - Level I obligations in circuit court judgments.**

(1) There are two types of Level I obligations in criminal judgments entered in circuit courts:

(a) Type 1 obligations include compensatory fines imposed pursuant to ORS 137.101.

(b) Type 2 obligations include awards of restitution as defined in ORS 137.103, awards of restitution under ORS 419C.450 and money awards made under ORS 811.706.

(2) If a judgment contains both types of Level I obligations, the circuit court shall apply amounts creditable to Type 1 obligations until paid in full. All subsequent amounts creditable to Level I obligations shall be applied against Type 2 obligations until paid in full.

(3) If there is more than one person for whose benefit a Type 2 money award has been made, the circuit court shall pay the moneys credited to Type 2 obligations in the following order of priority:

(a) If the judgment contains a money award payable to the person or persons against whom the defendant committed the offense, the court shall first pay all moneys credited to Type 2 obligations to those persons, and shall continue to do so until all those obligations are paid in full. If there is more than one person to whom an obligation is payable under this paragraph, the court shall divide each payment under this paragraph based on each person's proportionate share of the total amount of obligations subject to payment under this paragraph.

(b) If the judgment contains a money award payable to the Criminal Injuries Compensation Account, the court shall thereafter transfer moneys credited to Type 2 obligations to the account until the award is paid in full.

(c) If the judgment contains a money award payable to any other victims, as defined in ORS 137.103, the court shall thereafter pay the moneys credited to Type 2 obligations to those victims until those victims are paid in full. [Formerly 137.291; 2022 c.57 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.151 - Level I obligations in local court judgments.**

(1) There are two types of Level I obligations in criminal judgments entered in local courts:

(a) Type 1 obligations include compensatory fines imposed pursuant to ORS 137.101.

(b) Type 2 obligations include awards of restitution as defined in ORS 137.103, awards of restitution under ORS 419C.450 and money awards made under ORS 811.706.

(2) If a judgment contains both types of Level I obligations, the local court shall apply amounts creditable to Type 1 obligations until paid in full. All subsequent amounts creditable to Level I obligations shall be applied against Type 2 obligations until paid in full.

(3) If there is more than one person for whose benefit a Type 2 money award has been made, a local court shall pay the moneys credited to Type 2 obligations in the following order of priority:

(a) If the judgment contains a money award payable to the person or persons against whom the defendant committed the offense, the court shall first pay all moneys credited to Type 2 obligations to those persons, and shall continue to do so until all those obligations are paid in full. If there is more than one person to whom an obligation is payable under this paragraph, the court shall divide each

payment under this paragraph based on each person's proportionate share of the total amount of obligations subject to payment under this paragraph.

(b) If the judgment contains a money award payable to the Criminal Injuries Compensation Account, the court shall thereafter transfer moneys credited to Type 2 obligations to the account until the award is paid in full.

(c) If the judgment contains a money award payable to any other victims, as defined in ORS 137.103, the court shall thereafter pay the moneys credited to Type 2 obligations to those victims until those victims are paid in full. [2013 c.685 §17; 2022 c.57 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.153 - Level II obligations in circuit court judgments.**

Level II obligations in criminal judgments entered in circuit courts include all fines and other monetary obligations payable to the state for which the law does not expressly provide other disposition, including fines payable to the state under ORS 153.633, 153.645 and 153.650. [Formerly 137.292; 2022 c.57 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.154 - Level II obligations in local court judgments.**

Level II obligations in criminal judgments entered in local courts include all fines and other monetary obligations payable to the state, a city or a county, after payment of the amount provided for in ORS 153.633 (2). [2013 c.685 §18; 2022 c.57 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.155 - Level III obligations in circuit court judgments.**

Level III obligations in criminal judgments entered in circuit courts are fines payable to a county or city. [Formerly 137.294]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.156 - Level III obligations in local court judgments.**

Level III obligations in criminal judgments entered in local courts are amounts that the law expressly directs be paid to a specific account or public body as defined in ORS 174.109. [2013 c.685 §19]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.157 - Level IV obligations in circuit court judgments.**

Level IV obligations in criminal judgments entered in circuit courts are amounts that the law expressly directs be paid to a specific account or public body as defined in ORS 174.109. [Formerly 137.296]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.158 - Level IV obligations in local court judgments.**

Level IV obligations in criminal judgments entered in local courts are amounts payable for reward reimbursement under ORS 131.897. [2013 c.685 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.159 - Level V obligations in circuit court judgments.**

Level V obligations in criminal judgments entered in circuit courts are amounts payable for reward reimbursement under ORS 131.897. [Formerly 137.297]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.167 - Imprisonment when county jail is not suitable for safe confinement.**

Whenever it appears to the court that there is no sufficient jail of the proper county, as provided in ORS 137.330, suitable for the confinement of the defendant, the court may order the confinement of the defendant in the jail of an adjoining county or, if there is no sufficient and suitable jail in the adjoining county, then in the jail of any county in the state. [Formerly 137.140]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.170 - Entry of judgment in criminal action.**

When judgment in a criminal action is given, the clerk shall enter the same in the register. If the judgment is upon a determination of conviction of an offense, the clerk shall state briefly in the register the offense for which the defendant was convicted. [Amended by 1959 c.638 §19; 1973 c.836 §264; 1985 c.540 §36; 1997 c.801 §65b]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.172 - Entry of corrected judgment.**

(1) The trial court retains authority after entry of judgment of conviction or a supplemental judgment, including during the pendency

of an appeal, to modify the judgment, including the sentence, to correct any arithmetic or clerical errors or to delete or modify any erroneous term in the judgment. The court may correct the judgment either on the motion of one of the parties or on the court's own motion after written notice to all of the parties.

(2) If the trial court enters a corrected judgment under this section during the pendency of an appeal, the trial court administrator shall immediately provide a copy of the corrected judgment to the appellate court. [2017 c.529 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.175 - Judgment in criminal action that effects release of defendant; delivery to sheriff.**

Whenever a judgment in a criminal action will effect the immediate release of a defendant by discharge, probation, sentence to time served, or otherwise, the court shall cause the prompt delivery of a copy of the judgment to the sheriff no later than three calendar days after the judgment is entered. [1987 c.251 §3; 1991 c.111 §15; 1997 c.801 §65c]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.183 - Interest on judgments; waiver; payments.**

(1)(a) Criminal judgments bear interest at the rate provided by ORS 82.010. Except as provided in paragraph (b) of this subsection, criminal judgments bear interest for a period of 20 years after the judgment is entered. Except as provided in paragraph (b) of this subsection, criminal judgments begin to accrue interest on the date the judgment is entered and do not bear interest after the expiration of the 20-year period.

(b) When a person is sentenced to a term of imprisonment, interest on a judgment in a criminal action does not begin to accrue until the first day of the second full calendar month after the person's initial release from custody following the sentencing in which the monetary obligation was imposed. If the judgment includes a money award for restitution, the judgment accrues interest for a period of 20 years after the first day of the second full calendar month after the person's initial release from custody following the sentencing in which the monetary obligation was imposed.

(2) The State Court Administrator may waive interest, or cause waiver of interest, on any criminal judgment or category of criminal judgments for the purpose of administering the collection of judgments of the Supreme Court, the Court of Appeals, the Oregon Tax Court and circuit courts. A judge of the Supreme Court, the Court of Appeals, the Oregon Tax Court or a circuit court may waive interest in any criminal action or proceeding for good cause shown.

(3) A municipal judge may waive interest on any criminal judgment, or category of criminal judgments, entered in the municipal court in which the judge presides. A justice of the peace may waive interest on any criminal judgment, or category of criminal judgments, entered in the justice court in which the justice of the peace presides.

(4) A waiver under subsection (2) or (3) of this section may be for all or part of the interest payable on a criminal judgment and may be for a specified period of time.

(5) All payments collected under a criminal judgment must first be applied against the principal amount of a money award. Payments may be applied against interest on the money award only after the principal amount of the money award is paid. This subsection applies only to judgments of the Supreme Court, the Court of Appeals, the Oregon Tax Court and circuit courts.

(6) Moneys collected as interest under a criminal judgment may be applied against costs of collection. Except as provided in subsection (7) of this section:

(a) Any amounts of moneys collected as interest on judgments of the Supreme Court, Court of Appeals, Oregon Tax Court or circuit courts that remain after payment of collection costs shall be deposited in the Criminal Injuries Compensation Account to be used for the purposes specified in ORS 147.225.

(b) Any amounts of moneys collected as interest on judgments of the municipal or justice courts that remain after payment of collection costs shall be deposited in the general fund of the city or county in which the court operates and be available for general governmental purposes.

(7) After any payment of costs of collection, any interest collected on an award for restitution on and after January 1, 2012, must be paid to the person in whose favor the award of restitution was made.

(8) As used in this section, "criminal judgment" means a judgment entered in a criminal action as defined in ORS 131.005. [1999 c.1064 §2; 2005 c.618 §7; 2007 c.626 §1]

Note:

137.183 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.210 - Taxation of costs against complainant.**

(1) If it is found by any justice or court trying the action or hearing the proceeding that the prosecution is malicious or without probable cause, that fact shall be entered upon record in the action or proceeding by the justice or court.

(2) Upon making the entry prescribed in subsection (1) of this section, the justice or court shall immediately render judgment against the complainant for the costs and disbursements of the action or proceeding.

(3) As used in this section "complainant" means every person who voluntarily appears before any magistrate or grand jury to prosecute any person in a criminal action, either for a misdemeanor or felony. [Amended by 1959 c.426 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.212 - Clerk to prepare trial court file.**

In every criminal proceeding, the clerk shall attach together and file in the office of the clerk, in the order of their filing, all the original papers filed in the court, whether before or after judgment, including but not limited to the indictment and other pleadings, demurrers, motions, affidavits, stipulations, orders, the judgment and the notice of appeal and undertaking on appeal, if any.  
[Formerly 137.220]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.218 - Joint petition for reconsideration of conviction or sentence.**

(1)(a) Notwithstanding ORS 138.540, a person who was sentenced for a felony offense other than aggravated murder and the district attorney of the county in which the person was sentenced may jointly petition the sentencing court for reconsideration of a conviction or sentence if the original sentence no longer advances the interests of justice and the conviction is not eligible to be set aside under ORS 137.225. The petition shall specify each conviction to be reconsidered and the terms of the agreement between the district attorney and the person, which may include the dismissal of charges, the vacating of previous convictions, a plea to a new alternative offense, resentencing for the original conviction or sentencing on the new offense.

(b) If the court is not authorized to impose the new sentence requested in the petition on the original crime of conviction due to the fact that the new sentence is lower than a sentence required by ORS 137.690, 137.700, 164.061, 475.907, 475.925, 475.930 or 813.011, the terms of the agreement shall include the vacating of the original judgment of conviction, and may include the preparation by the district attorney of a new charging instrument with an alternative offense, a plea by the person to the alternative offense and waiver of any challenges to the conviction for the alternative offense and the imposition by the court of the new sentence on the alternative offense.

(2)(a) Upon receipt of the petition described in subsection (1) of this section, the court shall hold a hearing. The court may grant the petition if the court determines that the original sentence no longer advances the interests of justice.

(b) If the court grants the petition, but the court is not authorized to impose the new sentence requested in the petition on the original conviction due to fact that the new sentence is lower than a sentence required by ORS 137.690, 137.700, 164.061, 475.907, 475.925, 475.930 or 813.011, the court shall vacate the original judgment of conviction and proceed in accordance with the agreement. If applicable, the district attorney shall prepare a charging instrument charging the person with an alternative offense, the court shall proceed with taking a plea to the alternative offense, the person shall waive any challenges to the conviction for the alternative offense and the court shall impose the new sentence requested in the petition.

(c) If the court grants the petition and the court is not prohibited from imposing the sentence requested in the petition as described in paragraph (b) of this subsection, the court shall proceed in accordance with the agreement.

(d) If the court imposes a new sentence on the original conviction under this section, the court shall resentence the defendant in the same manner as if the person had not previously been sentenced, provided that the new sentence, if any, is not greater than the original sentence. The court shall impose the new sentence as specified in the petition notwithstanding any other law mandating or requiring a specific sentence.

(3) The court may consider post-conviction factors when determining whether to grant a petition under this section, including but not limited to:

(a) The person's disciplinary record and record of rehabilitation while incarcerated;

(b) Evidence that reflects whether the person's age, time served and diminished physical or mental condition, if any, have reduced the person's risk for future violence;

(c) The safety of the victim associated with each conviction in the petition;

(d) The amount of the original sentence already served by the person; and

(e) Evidence that reflects changed circumstances since the person's original sentencing and shows that the person's continued incarceration no longer advances the interests of justice.

(4)(a) The district attorney shall use all reasonable efforts to inform the victim associated with each conviction in the petition, in a trauma-informed manner, of the fact that a petition has been filed under this section, and provide a copy of the petition to the victim, as soon as practicable and no later than 30 days before any hearing on the petition. The district attorney shall further make all reasonable efforts to provide notification to the victim of the date of the hearing, explain the petition process under this section to the victim, provide opportunities for input by the victim and provide the victim with access to available victim advocates and other related services.

(b) At the hearing described in subsection (2) of this section, the court shall provide an opportunity for victims to make a statement in person, in writing or through a representative.

(5) When a person is resentenced under this section, the person shall receive credit for time served under ORS 137.370. If the person is convicted of a new offense under this section, the court shall indicate that the new crime of conviction was committed as part of the same criminal episode as the original crime of conviction.

(6) A resentencing under this section does not revive any challenge to the resentenced conviction if the challenge would have been barred at the time of resentencing due to the passage of time. [2021 c.414 §1]

Note:

137.218 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.220**

[1959 c.558 §33 (enacted in lieu of 137.190); renumbered 137.212 in 2021]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.221 - Vacation of judgment of conviction for prostitution.**

- (1) Notwithstanding ORS 138.540, a court may vacate a judgment of conviction for the crime of prostitution under ORS 167.007 or for violating a municipal prostitution ordinance as described in this section.
- (2)(a) A person may request vacation of a judgment of conviction for prostitution by filing a motion in the county of conviction. The motion may be filed at least 21 days after the judgment of conviction is entered.
- (b) A copy of the motion shall be served on the district attorney.
- (c) The motion must contain an explanation of facts supporting a claim that the person was the victim of sex trafficking at or around the time of the conduct giving rise to the prostitution conviction. The motion must further contain an explanation of why those facts were not presented to the trial court.
- (3) Upon receiving the motion described in subsection (2) of this section, the court shall hold a hearing. At the hearing, the person has the burden of proof and may present evidence that, at or around the time of the conduct giving rise to the prostitution conviction, the person was the victim of sex trafficking. The court shall consider any evidence the court deems of sufficient credibility and probative value in determining whether the person was a victim of sex trafficking. The evidence may include, but is not limited to:
- (a) Certified records of a state or federal court proceeding demonstrating that the person was a victim of sex trafficking;
  - (b) Certified records from federal immigration proceedings recognizing the person as a victim of sex trafficking; and
  - (c) A sworn statement from a trained professional staff member of a victim services organization, an attorney, a member of the clergy or a medical or other professional, certifying that the person has sought assistance addressing trauma associated with being a sex trafficking victim.
- (4) If the court finds, by clear and convincing evidence, that the person was the victim of sex trafficking at or around the time of the conduct giving rise to the prostitution conviction, the court shall grant the motion.
- (5) If the court grants a motion under this section, the court shall vacate the judgment of conviction for prostitution and may make other orders as the court considers appropriate.
- (6) If the court grants a motion under this section while an appeal of the judgment of conviction is pending, the court shall immediately forward a copy of the vacation order to the appellate court.
- (7) As used in this section:
- (a) "Municipal prostitution ordinance" means a municipal ordinance prohibiting a person from engaging in, or offering or agreeing to engage in, sexual conduct or sexual contact in return for a fee.
  - (b) "Sex trafficking" means the use of force, intimidation, fraud or coercion to cause a person to engage, or attempt to engage, in a commercial sex act. [2017 c.245 §1; 2018 c.120 §7]

Note:

137.221 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.222 - Motion for reduction of marijuana conviction offense classification; entry of amended judgment.**

- (1)(a) Notwithstanding ORS 161.525, a person by motion may request the court to reduce the offense classification of a marijuana conviction as provided in this section.
- (b) A marijuana conviction is eligible for reduction under this section if, since entry of judgment of conviction, the marijuana offense has been:
- (A) Reduced from a felony to a misdemeanor;
  - (B) Reduced from a higher level felony to a lower level felony;
  - (C) Reduced from a higher level misdemeanor to a lower level misdemeanor; or
  - (D) Reduced from a crime to a violation.
- (2) A person filing a motion under this section is not required to pay the filing fee established under ORS 21.135 or any other fee.
- (3)(a) At the time of filing the motion, the person shall serve a copy of the motion upon the office of the prosecuting attorney of the jurisdiction in which the judgment of conviction was entered.
- (b) The prosecuting attorney, within 30 days after the filing of the motion under paragraph (a) of this subsection, may file an objection to granting the motion only on the basis that:
- (A) The person's conviction is not eligible for reduction under this section; or
  - (B) The person has not completed and fully complied with or performed the sentence of the court.

(4) If no objection from the prosecuting attorney is received by the court within 30 days after the filing of the motion, the court shall grant the motion and proceed as provided in subsection (6) of this section if the conviction is eligible for reduction under this section and the court determines that the person has completed and fully complied with or performed the sentence of the court.

(5)(a) If the court receives an objection from the prosecuting attorney, the court shall hold a hearing.

(b) At the hearing, the person has the burden of establishing, by a preponderance of the evidence, that:

(A) The conviction is eligible for reduction under this section; and

(B) The person completed and fully complied with or performed the sentence of the court.

(c) If, at the hearing, the court determines that the conviction is eligible for reduction under this section and the person completed and fully complied with or performed the sentence of the court, the court shall grant the motion and proceed as provided in subsection (6) of this section.

(6) Upon granting a motion under this section, the court shall enter an amended judgment of conviction at the appropriate offense level. [2019 c.473 §1]

Note:

137.222 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.223 - Order setting aside judgment of guilty except for insanity; fees; procedure; effect of order.**

(1) A person who has been found guilty except for insanity of an offense for which, if convicted, the person could apply for entry of an order setting aside the conviction pursuant to ORS 137.225, may by motion apply to the court for entry of an order setting aside the judgment finding the person guilty except for insanity of the offense.

(2)(a) A person described in subsection (1) of this section may file the motion to set aside a judgment of guilty except for insanity any time after the following time periods:

(A) For a judgment of guilty except for insanity on a Class B felony, seven years from the date of entry of the judgment or the date the person is no longer under the jurisdiction of the Psychiatric Security Review Board, whichever is later.

(B) For a judgment of guilty except for insanity on a Class C felony, five years from the date of entry of the judgment or the date the person is no longer under the jurisdiction of the board, whichever is later.

(C) For a judgment of guilty except for insanity on a Class A misdemeanor, three years from the date of entry of the judgment or the date the person is no longer under the jurisdiction of the board, whichever is later.

(D) For a judgment of guilty except for insanity on a Class B or Class C misdemeanor, one year from the date of entry of the judgment or the date the person is no longer under the jurisdiction of the board, whichever is later.

(b) A person is eligible to have a judgment of guilty except for insanity set aside under this section if the person has no other findings of guilty except for insanity and no convictions for offenses other than motor vehicle violations within the following time periods prior to filing the motion:

(A) For a motion concerning a judgment of guilty except for insanity on a Class B felony, seven years.

(B) For a motion concerning a judgment of guilty except for insanity on a Class C felony, five years.

(C) For a motion concerning a judgment of guilty except for insanity on a Class A misdemeanor, three years.

(D) For a motion concerning a judgment of guilty except for insanity on a Class B or Class C misdemeanor, one year.

(3)(a) A copy of the motion shall be served upon the office of the prosecuting attorney who prosecuted the offense. The prosecuting attorney may object to the motion filed and shall notify the court and the person of the objection within 120 days of receiving the motion.

(b) When a prosecuting attorney is served with a copy of a motion to set aside a judgment of guilty except for insanity under this section, the prosecuting attorney shall provide a copy of the motion and notice of the hearing date to the victim, if any, of the offense by mailing a copy of the motion and notice to the victim's last-known address.

(c) When a person files a motion under this section, the person must pay a fee to the Department of State Police for the purpose of the department performing a criminal record check, and shall forward to the department a full set of the person's fingerprints on a fingerprint card or in any other manner specified by the department. The department shall establish a fee in an amount not to exceed the actual cost of performing the criminal record check. If the department is required to perform only one criminal record check for the person, the department may only charge one fee, regardless of the number of counties in which the person is filing a motion to set aside a conviction, arrest, charge or citation under this section. The department shall provide a copy of the results of the criminal record check to the prosecuting attorney.

(d) A person filing a motion under this section is not required to pay the filing fee established under ORS 21.135.

(4)(a) If an objection is received to a motion filed under this section, the court shall hold a hearing, and may require the filing of such affidavits and may require the taking of such proofs as the court deems proper. The court shall allow the victim to make a statement at the hearing. If the person is otherwise eligible for relief under this section, the court shall grant the motion and enter an order as described in paragraph (b) of this subsection unless the court makes written findings, by clear and convincing evidence, that the circumstances and behavior of the person, from the date of the judgment the person is seeking to set aside to the date of the hearing on the motion, do not warrant granting the motion due to the circumstances and behavior creating a risk to public safety.

When determining whether the person's circumstances and behavior create a risk to public safety, the court may only consider criminal behavior, or violations of regulatory law or administrative rule enforced by civil penalty or other administrative sanction that relate to the character of the conviction sought to be set aside. The court may not consider nonpunitive civil liability, monetary obligations and motor vehicle violations.

(b) An order entered under this subsection shall state the original arrest charge and the charge for which the person was found guilty except for insanity. The order shall further state that positive identification has been established by the Department of State Police and further identified as to Department of State Police number or submitting agency number.

(5)(a) Upon the entry of an order under subsection (4) of this section:

(A) The person, for purposes of the law, shall be deemed not to have been previously found guilty except for insanity, and the court shall issue an order sealing the records of the case, including the records of arrest, whether or not the arrest resulted in a further criminal proceeding.

(B) The court shall inform the person that the person's right to possess, purchase or otherwise acquire a firearm remains prohibited under federal law.

(b) For purposes of this subsection, records of the case do not include medical records that are in the possession of the Psychiatric Security Review Board, including medical evaluations and reports submitted from other agencies concerning the status or compliance of the person.

(6) The clerk of the court shall forward a certified copy of the order entered under subsection (5) of this section to such agencies as directed by the court. A certified copy shall be sent to the Psychiatric Security Review Board. Upon entry of the order, the judgment of guilty except for insanity shall be deemed not to have been entered, and the person may answer accordingly any questions relating to its occurrence.

(7) For purposes of any civil action in which truth is an element of a claim for relief or affirmative defense, the provisions of subsection (6) of this section providing that the judgment of guilty except for insanity be deemed not to have been entered do not apply and a party may apply to the court for an order requiring disclosure of the official records in the case as may be necessary in the interests of justice.

(8) Upon motion of any prosecutor or defendant in a case involving records sealed under this section, supported by affidavit showing good cause, the court with jurisdiction may order the reopening and disclosure of any records sealed under this section for the limited purpose of assisting the investigation of the movant. However, such an order has no other effect on the orders setting aside the judgment of guilty except for insanity.

(9) A prosecuting attorney may not condition an agreement not to object to the entry of a judgment of guilty except for insanity on an agreement by a person to waive the ability to set aside the judgment under this section.

(10) As used in this section, "affidavit" includes a declaration under penalty of perjury. [2015 c.320 §1; 2017 c.442 §16; 2021 c.486 §2]

Note:

137.223 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.225 - Order setting aside conviction or record of criminal charge; fees; prerequisites; limitations.**

(1)(a) At any time after the person becomes eligible as described in paragraph (b) of this subsection, any person convicted of an offense who has fully complied with and performed the sentence of the court for the offense, and whose conviction is described in subsection (5) of this section, by motion may apply to the court where the conviction was entered for entry of an order setting aside the conviction. A person who is still under supervision as part of the sentence for the offense that is the subject of the motion has not fully complied with or performed the sentence of the court.

(b) A person is eligible to file a motion under paragraph (a) of this subsection:

(A) For a Class B felony, seven years from the date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later.

(B) For a Class C felony, five years from the date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later.

(C) For a Class A misdemeanor, three years from the date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later.

(D) For a Class B or Class C misdemeanor, a violation or the finding of a person in contempt of court, one year from the date of conviction or finding or the release of the person from imprisonment for the conviction or finding sought to be set aside, whichever is later.

(c) If no accusatory instrument is filed, at any time after 60 days from the date the prosecuting attorney indicates that the state has elected not to proceed with a prosecution or contempt proceeding, an arrested, cited or charged person may apply to the court in the county in which the person was arrested, cited or charged, for entry of an order setting aside the record of the arrest, citation or charge.

(d) At any time after an acquittal or a dismissal other than a dismissal described in paragraph (c) of this subsection, an arrested, cited

or charged person may apply to the court in the county in which the person was arrested, cited or charged, for entry of an order setting aside the record of the arrest, citation or charge.

(e) Notwithstanding paragraph (b) of this subsection, a person whose sentence of probation was revoked may not apply to the court for entry of an order setting aside the conviction for which the person was sentenced to probation for a period of three years from the date of revocation or until the person becomes eligible as described in paragraph (b) of this subsection, whichever occurs later.

(f) A person filing a motion under this section is not required to pay the filing fee established under ORS 21.135.

(2)(a) A copy of the motion shall be served upon the office of the prosecuting attorney who prosecuted the offense, or who had authority to prosecute the charge if there was no accusatory instrument filed. The prosecuting attorney may object to a motion filed under subsection (1)(a) of this section and shall notify the court and the person of the objection within 120 days of the date the motion was filed with the court.

(b) When a prosecuting attorney is served with a copy of a motion to set aside a conviction under subsection (1)(a) of this section, the prosecuting attorney shall provide a copy of the motion and notice of the hearing date to the victim, if any, of the offense by mailing a copy of the motion and notice to the victim's last-known address.

(c) When a person makes a motion under this section, the person shall forward to the Department of State Police a full set of the person's fingerprints on a fingerprint card or in any other manner specified by the department.

(d) When a person makes a motion under subsection (1)(a) of this section, the person must pay a fee to the Department of State Police for the purpose of the department performing a criminal record check. The department shall establish a fee in an amount not to exceed the actual cost of performing the criminal record check. If the department is required to perform only one criminal record check for the person, the department may only charge one fee, regardless of the number of counties in which the person is filing a motion to set aside a conviction, arrest, charge or citation under this section. The department shall provide a copy of the results of the criminal record check to the prosecuting attorney.

(e) The prosecuting attorney may not charge the person a fee for performing the requirements described in this section.

(3)(a) If an objection is received to a motion filed under subsection (1)(a) of this section, the court shall hold a hearing, and may require the filing of such affidavits and may require the taking of such proofs as the court deems proper. The court shall allow the victim to make a statement at the hearing. If the person is otherwise eligible for relief under this section, the court shall grant the motion and enter an order as described in paragraph (b) of this subsection unless the court makes written findings, by clear and convincing evidence, that the circumstances and behavior of the person, from the date of the conviction the person is seeking to set aside to the date of the hearing on the motion, do not warrant granting the motion due to the circumstances and behavior creating a risk to public safety. When determining whether the person's circumstances and behavior create a risk to public safety, the court may only consider criminal behavior, or violations of regulatory law or administrative rule enforced by civil penalty or other administrative sanction that relate to the character of the conviction sought to be set aside. The court may not consider nonpunitive civil liability, monetary obligations and motor vehicle violations. Upon granting the motion, the court shall enter an appropriate order containing the original arrest or citation charge, the conviction charge, if different from the original, the date of charge, the submitting agency and the disposition of the charge. Upon the entry of the order, the person for purposes of the law shall be deemed not to have been previously convicted, and the court shall issue an order sealing the record of conviction and other official records in the case, including the records of arrest, citation or charge.

(b) The court shall grant a motion filed under subsection (1)(c) or (d) of this section, or under subsection (1)(a) of this section if no objection to the motion is received, and shall enter an appropriate order containing the original arrest or citation charge, the conviction charge, if applicable and different from the original, the date of charge, the submitting agency and the disposition of the charge. Upon the entry of the order, the person for purposes of the law shall be deemed not to have been previously convicted, arrested, cited or charged, and the court shall issue an order sealing all official records in the case, including the records of arrest, citation or charge, whether or not the arrest, citation or charge resulted in a further criminal proceeding.

(4) The clerk of the court shall forward a certified copy of the order to such agencies as directed by the court. A certified copy must be sent to the Department of Corrections when the order concerns a conviction. Upon entry of the order, the conviction, arrest, citation, charge or other proceeding shall be deemed not to have occurred, and the person may answer accordingly any questions relating to its occurrence.

(5) The provisions of subsection (1)(a) of this section apply to a conviction for:

(a) A Class B felony, except for a violation of ORS 166.429 or any crime classified as a person felony as defined in the rules of the Oregon Criminal Justice Commission.

(b) Any misdemeanor, Class C felony or felony punishable as a misdemeanor pursuant to ORS 161.705.

(c) An offense constituting a violation under state law or local ordinance.

(d) An offense committed before January 1, 1972, that, if committed after that date, would qualify for an order under this section.

(e) The finding of a person in contempt of court.

(6) Notwithstanding subsection (5) of this section, the provisions of subsection (1)(a) of this section do not apply to a conviction for:

(a) Criminal mistreatment in the second degree under ORS 163.200 if the victim at the time of the crime was 65 years of age or older.

(b) Criminal mistreatment in the first degree under ORS 163.205 if the victim at the time of the crime was 65 years of age or older, or when the offense constitutes child abuse as defined in ORS 419B.005.

(c) Endangering the welfare of a minor under ORS 163.575 (1)(a), when the offense constitutes child abuse as defined in ORS



419B.005.

(d) Criminally negligent homicide under ORS 163.145, when that offense was punishable as a Class C felony.

(e) Assault in the third degree under ORS 163.165 (1)(h).

(f) Any sex crime, unless:

(A) The sex crime is listed in ORS 163A.140 (1)(a) and:

(i) The person has been relieved of the obligation to report as a sex offender pursuant to a court order entered under ORS 163A.145 or 163A.150; and

(ii) The person has not been convicted of, found guilty except for insanity of or found to be within the jurisdiction of the juvenile court based on a crime for which the court is prohibited from setting aside the conviction under this section; or

(B) The sex crime constitutes a Class C felony and:

(i) The person was under 16 years of age at the time of the offense;

(ii) The person is:

(I) Less than two years and 180 days older than the victim; or

(II) At least two years and 180 days older, but less than three years and 180 days older, than the victim and the court finds that setting aside the conviction is in the interests of justice and of benefit to the person and the community;

(iii) The victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age;

(iv) The victim was at least 12 years of age at the time of the offense;

(v) The person has not been convicted of, found guilty except for insanity of or found to be within the jurisdiction of the juvenile court based on a crime for which the court is prohibited from setting aside the conviction under this section; and

(vi) Each conviction or finding described in this subparagraph involved the same victim.

(7) Notwithstanding subsection (5) of this section, the provisions of subsection (1) of this section do not apply to:

(a) A conviction for a state or municipal traffic offense.

(b) A person convicted, within the following applicable time period immediately preceding the filing of the motion pursuant to subsection (1) of this section, of any other offense, excluding motor vehicle violations, whether or not the other conviction is for conduct associated with the same criminal episode that caused the arrest, citation, charge or conviction that is sought to be set aside:

(A) For a motion concerning a Class B felony, seven years.

(B) For a motion concerning a Class C felony, five years.

(C) For a motion concerning a Class A misdemeanor, three years.

(D) For a motion concerning a Class B or Class C misdemeanor a violation or a finding of contempt of court, one year.

(c) A single violation, other than a motor vehicle violation, within the time period specified in paragraph (b) of this subsection is not a conviction under this subsection. Notwithstanding subsection (1) of this section, a conviction that has been set aside under this section shall be considered for the purpose of determining whether paragraph (b) of this subsection is applicable.

(d) A person who at the time the motion authorized by subsection (1) of this section is pending before the court is under charge of commission of any crime.

(8) The provisions of subsection (1)(c) or (d) of this section do not apply to an arrest or citation for driving while under the influence of intoxicants if the charge is dismissed as a result of the person's successful completion of a diversion agreement described in ORS 813.200.

(9) The provisions of subsection (1) of this section apply to convictions, arrests, citations and charges that occurred before, as well as those that occurred after, September 9, 1971. There is no time limit for making an application.

(10) For purposes of any civil action in which truth is an element of a claim for relief or affirmative defense, the provisions of subsection (3) of this section providing that the conviction, arrest, citation, charge or other proceeding be deemed not to have occurred do not apply and a party may apply to the court for an order requiring disclosure of the official records in the case as may be necessary in the interest of justice.

(11)(a) Upon motion of any prosecutor or defendant in a case involving records sealed under this section, supported by affidavit showing good cause, the court with jurisdiction may order the reopening and disclosure of any records sealed under this section for the limited purpose of assisting the investigation of the movant. However, such an order has no other effect on the orders setting aside the conviction or the arrest, citation or charge record.

(b) Notwithstanding paragraph (a) of this subsection, when an arrest, citation or charge described in subsection (1)(c) of this section is set aside, a prosecuting attorney may, for the purpose of initiating a criminal proceeding within the statute of limitations, unseal the records sealed under this section by notifying the court with jurisdiction over the charge, record of arrest or citation. The prosecuting attorney shall notify the person who is the subject of the records of the unsealing under this paragraph by sending written notification to the person's last known address.

(12) The State Court Administrator shall create forms to be used throughout the state for motions and proposed orders described in this section.

(13) As used in this section:

(a) "Affidavit" includes a declaration under penalty of perjury.

(b) "Sex crime" has the meaning given that term in ORS 163A.005. [1971 c.434 §2; 1973 c.680 §3; 1973 c.689 §1a; 1973 c.836 §265; 1975 c.548 §10; 1975 c.714 §2; 1977 c.286 §1; 1983 c.556 §1; 1983 c.740 §17; 1987 c.320 §31; 1987 c.408 §1; 1987 c.864 §6; 1989 c.774 §1; 1991 c.830 §6; 1993 c.546 §98; 1993 c.664 §2; 1995 c.429 §9; 1995 c.743 §1; 1999 c.79 §1; 2007 c.71 §35;

2009 c.360 §1; 2009 c.560 §1; 2011 c.196 §1; 2011 c.533 §1; 2011 c.547 §29; 2011 c.595 §87; 2012 c.70 §4; 2013 c.390 §1; 2015 c.235 §1; 2015 c.820 §§32,32a; 2017 c.338 §1; 2017 c.339 §1; 2018 c.120 §12; 2019 c.553 §12; 2021 c.207 §1; 2021 c.486 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.226 - Eligibility for order setting aside certain marijuana convictions.**

(1) Notwithstanding ORS 137.225 (1)(a), a defendant is eligible for an order setting aside a conviction for a criminal offense in which possession, delivery or manufacture of marijuana or a marijuana item as defined in ORS 475C.009 is an element after one year has elapsed from the date of entry of judgment of conviction if:

- (a) The defendant was under 21 years of age at the time of the conviction;
- (b) The defendant has not been convicted of any other offense, excluding motor vehicle violations; and
- (c) The defendant has fully complied with and performed the sentence of the court.

(2) When a person is convicted of an offense involving possession, delivery or manufacture of marijuana or a marijuana item as defined in ORS 475C.009, and when the conduct that is the basis of the conviction occurred before April 21, 2017, the convicted person may file a motion for a court order setting aside the conviction pursuant to ORS 137.225, and the court, when determining whether the person is eligible for the order, shall consider the offense to be classified under ORS 161.535 or 161.555 as if the conduct occurred on or after April 21, 2017, or, if the offense is no longer a crime, shall consider the offense to be classified as a Class C misdemeanor. [2015 c.844 §3; subsection (2) of 2017 Edition enacted as 2017 c.21 §21; 2017 c.21 §99]

Note:

The amendments to 137.226 by section 99, chapter 21, Oregon Laws 2017, apply to conduct occurring on and after April 21, 2017. See section 127, chapter 21, Oregon Laws 2017.

Note:

137.226 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.227 - Evaluation after conviction to determine if defendant is alcoholic or drug-dependent person; agencies to perform evaluation.**

(1) After a defendant has been convicted of a crime, the court may cause the defendant to be evaluated to determine if the defendant is an alcoholic or a drug-dependent person, as those terms are defined in ORS 430.306. The evaluation shall be conducted by an agency or organization designated under subsection (2) of this section.

(2) The court shall designate agencies or organizations to perform the evaluations required under subsection (1) of this section. The designated agencies or organizations must meet the standards set by the Oregon Health Authority to perform the evaluations for drug dependency and must be approved by the authority. Wherever possible, a court shall designate agencies or organizations to perform the evaluations that are separate from those that may be designated to carry out a program of treatment for alcohol or drug dependency. [1991 c.630 §1; 2009 c.595 §94]

Note:

137.227 to 137.229 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 137 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.228 - Finding that defendant is alcoholic or drug-dependent person; effect.**

(1) When a defendant is sentenced for a crime, the court may enter a finding that the defendant is an alcoholic or a drug-dependent person, as those terms are defined in ORS 430.306. The finding may be based upon any evidence before the court, including, but not limited to, the facts of the case, stipulations of the parties and the results of any evaluation conducted under ORS 137.227.

(2) When the court finds that the defendant is an alcoholic or a drug-dependent person, the court, when it sentences the defendant to a term of imprisonment, shall direct the Department of Corrections to place the defendant in an appropriate alcohol or drug treatment program, to the extent that resources are available. The alcohol or drug treatment program shall meet the standards promulgated by the Oregon Health Authority pursuant to ORS 430.357. [1991 c.630 §§2,3; 2005 c.271 §1; 2009 c.595 §95]

Note:

See note under 137.227.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.229 - Duty of Department of Corrections.**

The Department of Corrections, to the extent that funds are available, shall expand existing and establish new treatment programs for alcohol and drug dependency that meet minimum standards adopted by the Oregon Health Authority pursuant to ORS 430.357. [1991 c.630 §4; 2011 c.673 §5]

Note:

See note under 137.227.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.230 - Definitions for ORS 137.260.**

As used in ORS 137.260, "conviction" or "convicted" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction. [1961 c.412 §1; 1987 c.158 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.260 - Political rights restored to persons convicted of felony before August 9, 1961, and subsequently discharged.**

Any person convicted of a felony prior to August 9, 1961, and subsequently discharged from probation, parole or imprisonment prior to or after August 9, 1961, is hereby restored to the political rights of the person. [1961 c.412 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.270 - Effect of felony conviction on property of defendant.**

No conviction of any person for crime works any forfeiture of any property, except in cases where the same is expressly provided by law; but in all cases of the commission or attempt to commit a felony, the state has a lien, from the time of such commission or attempt, upon all the property of the defendant for the purpose of satisfying any judgment which may be given against the defendant for any fine on account thereof and for the costs and disbursements in the proceedings against the defendant for such crime; provided, however, such lien shall not attach to such property as against a purchaser or incumbrancer in good faith, for value, whose interest in the property was acquired before the entry of the judgment against the defendant. [Formerly 137.460; 2003 c.576 §191]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.275 - Effect of felony conviction on civil and political rights of felon.**

Except as otherwise provided by law, a person convicted of a felony does not suffer civil death or disability, or sustain loss of civil rights or forfeiture of estate or property, but retains all of the rights of the person, political, civil and otherwise, including, but not limited to, the right to vote, to hold, receive and transfer property, to enter into contracts, including contracts of marriage, and to maintain and defend civil actions, suits or proceedings. [1975 c.781 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.281 - Withdrawal of rights during term of incarceration; restoration of rights.**

(1) In any felony case, when the defendant is sentenced to a term of incarceration, the defendant is deprived of all rights and privileges described in subsection (3) of this section from the date of sentencing until:

- (a) The defendant is released from incarceration; or
- (b) The defendant's conviction is set aside.

(2) Subsection (1) of this section applies to any term of incarceration, whether the term of incarceration was imposed as a result of conviction or as a sanction or revocation resulting from the defendant's violation of the terms and conditions of probation, parole or post-prison supervision.

(3) The rights and privileges of which a person may be deprived under this section are:

- (a) Holding a public office or an office of a political party or becoming or remaining a candidate for either office;
- (b) Holding a position of private trust;
- (c) Acting as a juror; or
- (d) Exercising the right to vote.

(4) If the court under subsection (1) of this section temporarily stays execution of sentence for any purpose other than probation, the defendant nonetheless is sentenced for purposes of subsection (1) of this section.

(5) A person convicted of any crime and serving a term of imprisonment in any federal correctional institution in this state is deprived of the rights to register to vote, update a registration or vote in any election in this state from the date of sentencing until:

- (a) The person is discharged or paroled from imprisonment; or
- (b) The person's conviction is set aside.

(6) The county clerk or county official in charge of elections in any county may cancel the registration of any person serving a term of imprisonment in any federal correctional institution in this state.

(7) Except as otherwise provided in ORS 10.030, the rights and privileges withdrawn by this section are restored automatically upon release from incarceration, but in the case of parole shall be automatically withdrawn upon a subsequent imprisonment for violation of the terms of the parole. [1983 c.515 §2 (enacted in lieu of 137.280); 1987 c.320 §32; 1993 c.14 §4; 1997 c.313 §10; 1999 c.499 §1; 2008 c.35 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.285 - Retained rights of felon; regulation of exercise.**

ORS 137.275 to 137.285 do not deprive the Director of the Department of Corrections, or the director's authorized agents, of the authority to regulate the manner in which these retained rights of convicted persons may be exercised as is reasonably necessary for

the control of the conduct and conditions of confinement of convicted persons in the custody of the Department of Corrections.  
[1975 c.781 §3; 1979 c.284 §116; 1987 c.320 §33]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.286 - Minimum fines for misdemeanors and felonies; retention of jurisdiction.**

- (1) Unless a specific minimum fine is provided by law, the minimum fine for a misdemeanor is \$100.
- (2) Unless a specific minimum fine is provided by law, the minimum fine for a felony is \$200.
- (3) A court may waive payment of the minimum fine established by this section, in whole or in part, if the court finds that requiring payment of the minimum fine would be inconsistent with justice in the case. In making its determination under this subsection, the court shall consider:
  - (a) The financial resources of the defendant and the burden that payment of the minimum fine will impose, with due regard to the other obligations of the defendant; and
  - (b) The extent to which that burden can be alleviated by allowing the defendant to pay the monetary obligations imposed by the court on an installment basis or on other conditions to be fixed by the court.
- (4) This section does not affect the manner in which a court imposes or reduces monetary obligations other than fines.
- (5) During any period of supervision that is part of the defendant's sentence, the court retains jurisdiction under this subsection for the limited purpose of waiving any unpaid portion of a fine previously imposed if the defendant is able to establish a financial hardship that prevents the defendant from completing an alcohol or drug treatment program that was required as a condition of supervision. Any moneys received in payment of the fine prior to the waiver may not be returned to the defendant. [2011 c.597 §10; 2015 c.186 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.288**

[Formerly 137.293; renumbered 137.143 in 2013]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.289**

[2011 c.597 §33; 2013 c.685 §21; renumbered 137.146 in 2013]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.290**

[1987 c.905 §1; 1991 c.460 §14; 1993 c.33 §300; 1993 c.637 §1; 1993 c.770 §§1,3; 1995 c.555 §1; 1997 c.872 §27; 1999 c.1051 §127; 1999 c.1056 §1d; 1999 c.1095 §6; 2003 c.737 §112; 2003 c.819 §11; 2005 c.843 §21; 2007 c.899 §§1,2; repealed by 2011 c.597 §118]

Note:

Section 1 (2), chapter 89, Oregon Laws 2012, provides:

Sec. 1.

(2) The repeal of ORS 137.290 by section 118, chapter 597, Oregon Laws 2011, applies to an offense only if the offense was committed on or after January 1, 2012, or, if the offense was committed before January 1, 2012, if the offense arises from the actions of a person who was under 18 years of age at the time of the offense and who was not waived to circuit court for prosecution as an adult under ORS 419C.340. Except as provided in this section, any offense committed before January 1, 2012, shall continue to be governed by ORS 137.290 as in effect immediately before January 1, 2012, and all amounts collected as a unitary assessment for offenses committed before January 1, 2012, shall be deposited in the Criminal Fine Account. [2012 c.89 §1(2); 2021 c.597 §36a(2)]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.291**

[2011 c.597 §34; 2013 c.685 §22; renumbered 137.149 in 2013]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.292**

[2011 c.597 §35; 2013 c.685 §23; renumbered 137.153 in 2013]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.293**

[1987 c.905 §2; 2011 c.597 §123; renumbered 137.288 in 2011]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.294**

**Probation by the CourtSection 137.294**

[2011 c.597 §36; 2013 c.685 §24; renumbered 137.155 in 2013]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 137 - Judgment and Execution; Parole and Probation by the CourtSection 137.296**

[2011 c.597 §37; 2013 c.685 §25; renumbered 137.157 in 2013]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 137 - Judgment and Execution; Parole and Probation by the CourtSection 137.297**

[2011 c.597 §38; 2013 c.685 §26; renumbered 137.159 in 2013]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 137 - Judgment and Execution; Parole and Probation by the CourtSection 137.300 - Criminal Fine Account; rules.**

(1) The Criminal Fine Account is established in the General Fund. Except as otherwise provided by law, all amounts collected in state courts as monetary obligations in criminal actions shall be deposited by the courts in the account. All moneys in the account are continuously appropriated to the Department of Revenue to be distributed by the Department of Revenue as provided in this section. The Department of Revenue shall keep a record of moneys transferred into and out of the account.

(2) The Legislative Assembly shall first allocate moneys from the Criminal Fine Account for the following purposes, in the following order of priority:

(a) Allocations for public safety standards, training and facilities.

(b) Allocations for criminal injuries compensation and assistance to victims of crime and children reasonably suspected of being victims of crime.

(c) Allocations for the forensic services provided by the Oregon State Police, including, but not limited to, services of the Chief Medical Examiner.

(d) Allocations for the maintenance and operation of the Law Enforcement Data System.

(3) After making allocations under subsection (2) of this section, the Legislative Assembly shall allocate moneys from the Criminal Fine Account for the following purposes:

(a) Allocations to the Law Enforcement Medical Liability Account established under ORS 414.815.

(b) Allocations to the State Court Facilities and Security Account established under ORS 1.178.

(c) Allocations to the Department of Corrections for the purpose of planning, operating and maintaining county juvenile and adult corrections programs and facilities and drug and alcohol programs.

(d) Allocations to the Oregon Health Authority for the purpose of grants under ORS 430.345 for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services provided through a county.

(e) Allocations to the Oregon State Police for the purpose of the enforcement of the laws relating to driving under the influence of intoxicants.

(f) Allocations to the Arrest and Return Account established under ORS 133.865.

(g) Allocations to the Intoxicated Driver Program Fund established under ORS 813.270.

(h) Allocations to the State Court Technology Fund established under ORS 1.012.

(4) Notwithstanding subsections (2) and (3) of this section, the Legislative Assembly shall allocate all moneys deposited into the Criminal Fine Account as payment of fines on Class E violations to the Drug Treatment and Recovery Services Fund established under ORS 430.384.

(5) It is the intent of the Legislative Assembly that allocations from the Criminal Fine Account under subsection (3) of this section be consistent with historical funding of the entities, programs and accounts listed in subsection (3) of this section from monetary obligations imposed in criminal proceedings. Amounts that are allocated under subsection (3)(c) of this section shall be distributed to counties based on the amounts that were transferred to counties by circuit courts during the 2009-2011 biennium under the provisions of ORS 137.308, as in effect January 1, 2011.

(6) Moneys in the Criminal Fine Account may not be allocated for the payment of debt service obligations.

(7) The Department of Revenue shall deposit in the General Fund all moneys remaining in the Criminal Fine Account after the distributions listed in subsections (2), (3) and (4) of this section have been made.

(8) The Department of Revenue shall establish by rule a process for distributing moneys in the Criminal Fine Account. The department may not distribute more than one-eighth of the total biennial allocation to an entity during a calendar quarter. [1987 c.905 §6; 2001 c.829 §§1,1a; 2005 c.700 §2; 2011 c.597 §52; 2012 c.89 §14; 2013 c.40 §2; 2013 c.628 §10; 2013 c.685 §27; 2017 c.151 §2; 2017 c.712 §5; 2021 c.591 §31]

Note:

137.300 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 137 - Judgment and Execution; Parole and**

**Probation by the CourtSection 137.301 - Legislative findings.**

The Legislative Assembly finds that:

- (1) Systems critical components of the Oregon criminal justice system exist that require the highest priority considerations for funding from the Criminal Fine Account.
  - (2) The systems critical components of the Oregon criminal justice system are interrelated and essential to the initiation and successful conclusion of criminal investigations.
  - (3) The interests of victims of crime and other Oregonians are advanced by the ability of the public safety community to respond professionally to reports of criminal activity and to successfully investigate criminal cases in a manner that protects the constitutional rights of all Oregonians.
  - (4) The effective training of police officers, corrections officers, parole and probation officers and other first responders increases the likelihood that crimes will be solved quickly and that the needs of victims of crime will be met.
  - (5) The collection of evidence at crime scenes, the forensic processing of the evidence by qualified, well-trained technicians and the work of medical examiners are critical statewide functions that allow all Oregonians an equal opportunity to justice.
  - (6) The collection of criminal information such as that retained in the Law Enforcement Data System enhances the ability of investigators to identify criminals and the unnamed victims of violent crimes.
  - (7) Timely intervention on behalf of victims of crime through effective assistance programs makes recovery from victimization possible and is necessary to the well-being of Oregonians adversely affected by violent crime. [2005 c.700 §1; 2011 c.597 §52b]
- Note:

137.301 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 137 - Judgment and Execution; Parole and Probation by the CourtSection 137.310 - Authorizing execution of judgment; detention of defendant.**

- (1) When a judgment has been pronounced, a certified copy of the entry thereof in the register shall be forthwith furnished by the clerk to the officer whose duty it is to execute the judgment; and no other warrant or authority is necessary to justify or require its execution.
- (2) The defendant may be arrested and detained in any county in the state by any peace officer and held for the authorities from the county to which the execution is directed. Time spent by the defendant in such detention shall be credited toward the term specified in the judgment. [Amended by 1961 c.358 §1; 1967 c.372 §4; 1985 c.540 §37]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 137 - Judgment and Execution; Parole and Probation by the CourtSection 137.315 - Electronic telecommunication of notice of judgment authorized.**

Whenever it is necessary that a copy of the entry of judgment against a defendant be delivered to the Department of Corrections or any other correctional authority of this state, or to the correctional authority of any political subdivision of this state, the court or the sheriff may transmit notice of the judgment by electronic telecommunication. The notice of judgment shall serve as authority for imprisonment under this chapter. The notice need not be a duplicate or photographic copy of judgment, but if it is not a duplicated or photographic copy, then it must be followed in due course by a duplicate or photographic copy with a notation that notice had been sent previously. [1987 c.251 §2]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 137 - Judgment and Execution; Parole and Probation by the CourtSection 137.320 - Delivery of defendant when committed to Department of Corrections; credit on sentence.**

- (1) Except as provided in ORS 137.124, when a judgment includes commitment to the legal and physical custody of the Department of Corrections, the sheriff shall deliver the defendant, together with a copy of the entry of judgment and a statement signed by the sheriff of the number of days the defendant was imprisoned prior to delivery, to the superintendent of the Department of Corrections institution to which the defendant is initially assigned pursuant to ORS 137.124. If at the time of entry of a judgment, the defendant was serving a term of incarceration at the direction of the supervisory authority of a county upon conviction of a prior felony, the sheriff shall also deliver to the Department of Corrections a copy of the prior entry of judgment committing the defendant to the supervisory authority of the county of conviction and a statement of the number of days the defendant has remaining to be served on the term or incarceration imposed in the prior judgment.
- (2) If the defendant is surrendered to another legal authority prior to delivery to an institution of the Department of Corrections, the sheriff shall forward to the Department of Corrections copies of the entry of all pertinent judgments, a statement of the number of days the defendant was imprisoned prior to surrender, a statement of the number of days the defendant has remaining to be served on any term of incarceration the defendant was serving at the direction of the supervisory authority of a county upon conviction of a prior felony and an identification of the authority to whom the prisoner was surrendered.
- (3) Upon receipt of the information described in subsection (1) or (2) of this section, the Department of Corrections shall establish a case file and compute the defendant's sentence in accordance with the provisions of ORS 137.370.
- (4) When the judgment is imprisonment in the county jail or a fine and that the defendant be imprisoned until it is paid, the judgment

shall be executed by the sheriff of the county. The sheriff shall compute the time the defendant was imprisoned after arrest and prior to the commencement of the term specified in the judgment. Such time shall be credited toward the term of the sentence. [Amended by 1955 c.660 §14; 1967 c.232 §1; 1967 c.585 §5; 1971 c.619 §1; 1973 c.631 §1; 1981 c.424 §1; 1987 c.320 §34; 1995 c.423 §29; 2014 c.31 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.330 - Where judgment of imprisonment in county jail is executed.**

(1) Except as provided in ORS 137.167, 137.333 or 423.478, a judgment of imprisonment in the county jail shall be executed by confinement in the jail of the county where the judgment is given, except that when the place of trial has been changed, the confinement shall take place in the jail of the county where the action was commenced.

(2) The jailor of any county jail to which a prisoner is ordered, sentenced or delivered pursuant to ORS 137.167 shall receive and keep such prisoner in the same manner as if the prisoner had been ordered, sentenced or delivered to the jailor by an officer or court of the jailor's own county; but the county in which the prisoner would be imprisoned except for the provisions of ORS 137.167 shall pay all the expenses of keeping and maintaining the prisoner in said jail. [Amended by 1987 c.550 §4; 1996 c.4 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.333 - Exception to ORS 137.330.**

Whenever a judge sentences a person to a term of incarceration in a county jail, the judgment may be executed by confinement in another county or in a state correctional facility if the county in which the person would otherwise be imprisoned:

(1) Has entered into an intergovernmental agreement as provided in ORS 169.053; or

(2) Is located within an intergovernmental corrections entity formed under ORS 190.265. [1996 c.4 §2]

Note:

137.333 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.370 - Commencement and computation of term of imprisonment in state correctional institution; sentences concurrent unless court orders otherwise.**

(1) When a person is sentenced to imprisonment in the custody of the Department of Corrections, the term of confinement therein commences from the day the person is delivered to the custody of an officer of the Department of Corrections for the purpose of serving the sentence executed, regardless of whether the sentence is to be served in a state or federal institution.

(2) Except as provided in subsections (3) and (4) of this section, when a person is sentenced to imprisonment in the custody of the Department of Corrections, for the purpose of computing the amount of sentence served the term of confinement includes only:

(a) The time that the person is confined by any authority after the arrest for:

(A) The crime for which sentence is imposed;

(B) A lesser included or greater inclusive offense of the crime for which sentence was imposed; and

(C) Any other crime constituting a violation of Oregon law within the same county designated by the sentencing court in the judgment as having been committed as part of the same criminal episode as the crime for which sentence was imposed; and

(b) The time that the person is authorized by the Department of Corrections to spend outside a confinement facility, in a program conducted by or for the Department of Corrections.

(3) When a judgment of conviction is vacated and a new sentence is thereafter imposed upon the defendant for the same crime, a lesser included or greater inclusive offense of the crime, or any crime constituting a violation of Oregon law within the same county designated by the sentencing court in the judgment as having been committed as part of the same criminal episode as the crime, the period of detention and imprisonment theretofore served shall be deducted from the maximum term, and from the minimum, if any, of the new sentence.

(4) Unless the court expressly orders otherwise, a person who is confined as the result of a sentence for a crime or conduct that is not directly related to the crime for which the sentence is imposed, or for violation of the conditions of probation, parole or post-prison supervision, shall not receive presentence incarceration credit for the time served in jail toward service of the term of confinement.

(5) Unless the court expressly orders otherwise, a term of imprisonment shall be concurrent with that portion of any sentence previously imposed that remains unexpired at the time the court imposes sentence. This subsection applies regardless of whether the earlier sentence was imposed by the same or any other court, and regardless of whether the earlier sentence is being or is to be served in the same penal institution or under the same correctional authority as will be the later sentence.

(6) As used in this section, "criminal episode" has the meaning given that term in ORS 131.505. [Amended by 1955 c.660 §15; 1965 c.463 §19; 1967 c.232 §2; 1973 c.562 §2; 1973 c.631 §4; 1981 c.424 §2; 1987 c.251 §4; 1987 c.320 §35; 1995 c.657 §20; 2015 c.508 §§1,4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.372 - Credit for time served as part of probationary sentence; diversion program or specialty court program.**

(1)(a) Notwithstanding the provisions of ORS 137.370 (2), an offender who has been revoked from a probationary sentence for a felony committed on or after November 1, 1989, and whose sentence was imposed as a downward dispositional departure under the rules of the Oregon Criminal Justice Commission, shall receive credit for the time served in jail after arrest and before commencement of the probationary sentence and for the time served in jail as part of the probationary sentence. However, if the credit for the time served in jail as described in this paragraph is greater than 90 days, the sentencing judge may limit or deny credit for any of that time that exceeds 90 days.

(b) Notwithstanding the provisions of ORS 137.370 (2), an offender who has been revoked from a probationary sentence for a felony committed on or after November 1, 1989, and whose sentence was imposed as a presumptive or optional probationary sentence under the rules of the Oregon Criminal Justice Commission, shall receive credit for the time served in jail after arrest and before commencement of the probationary sentence and for the time served in jail as part of the probationary sentence, unless the sentencing judge orders otherwise.

(2) Notwithstanding the provisions of ORS 137.370 (2), an offender who is sentenced to imprisonment in the custody of the Department of Corrections following the failure to complete a diversion program described in ORS 430.450 to 430.555 or a specialty court program in which the offender was not on probation shall receive credit for the time served in jail after arrest and before commencement of the program and for the time served in jail as a sanction for violating the terms of the program, unless the sentencing judge orders otherwise.

(3) Notwithstanding the provisions of ORS 137.320 (4), an offender who has been ordered confined as part of a probationary sentence for a felony committed on or after July 18, 1995, shall receive credit for the time served in jail after arrest and before commencement of the term unless the sentencing judge orders otherwise.

(4) As used in this section, "specialty court" has the meaning given that term in ORS 137.680. [1989 c.790 §81; 1993 c.692 §4; 1995 c.657 §13; 2015 c.508 §2; 2018 c.120 §13]

Note:

137.372 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.375 - Release of prisoners whose terms expire on weekends or legal holidays.**

When the date of release from imprisonment of any prisoner in an adult correctional facility under the jurisdiction of the Department of Corrections, or any prisoner in a county or city jail, falls on Saturday, Sunday or a legal holiday, the prisoner shall be released, at the discretion of the releasing authority, on the first, second or third day preceding the date of release which is not a Saturday, Sunday or legal holiday. Prisoners of a county or city jail serving a mandatory minimum term specifically limited to weekends shall be released only at the time fixed in the sentence. [1953 c.532 §1; 1955 c.660 §16; 1971 c.290 §1; 1979 c.487 §10; 1987 c.320 §36; 2001 c.851 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.380 - Discipline, treatment and employment of prisoners.**

A judgment of commitment to the custody of the Department of Corrections need only specify the duration of confinement as provided in ORS 137.120. Thereafter the manner of the confinement and the treatment and employment of a person shall be regulated and governed by whatever law is then in force prescribing the discipline, treatment and employment of persons committed. [Amended by 1955 c.32 §1; 1955 c.660 §17; 1959 c.687 §1; 1973 c.836 §268; 1987 c.320 §37]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.390 - Commencement, term and termination of term of imprisonment in county jail; treatment of prisoners therein.**

The commencement, term and termination of a sentence of imprisonment in the county jail is to be ascertained by the rule prescribed in ORS 137.370, and the manner of such confinement and the treatment of persons so sentenced shall be governed by whatever law may be in force prescribing the discipline of county jails. [Amended by 1973 c.631 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.440 - Return by officer executing judgment; annexation to trial court file.**

When a judgment in a criminal action has been executed, the sheriff or officer executing it shall return to the clerk the warrant or copy of the entry or judgment upon which the sheriff or officer acted, with a statement of the doings of the sheriff or officer indorsed thereon, and the clerk shall file the same and annex it to the trial court file, as defined in ORS 19.005. [Amended by 1967 c.471 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.450 - Enforcement of money judgment in criminal action.**

A judgment against the defendant or complainant in a criminal action, so far as it requires the payment of a fine, fee, assessment, costs and disbursements of the action or restitution, may be enforced as a judgment in a civil action. [Amended by 1973 c.836 §269;



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.452 - Satisfaction of monetary obligation imposed as part of sentence; release of judgment lien from real property; authority of Attorney General.**

When a person is convicted of an offense and sentenced to pay any monetary obligation, the following provisions apply to obtaining a satisfaction of the money award portion of the judgment or a release of a judgment lien from a specific parcel of real property when the money award portion of the judgment is not satisfied:

(1) The Attorney General, by rule, may do any of the following:

(a) Authorize the Attorney General's office, a district attorney's office, any state agency within the executive branch of government or any specific individual or group within any of these to:

(A) Issue satisfactions of the money award portions of judgments; or

(B) Release a judgment lien from a specific parcel of real property when either the judgment lien does not attach to any equity in the real property or the amount of equity in the real property to which the judgment lien attaches, less costs of sale or other reasonable expenses, is paid upon the judgment.

(b) Establish procedures and requirements that any person described under paragraph (a) of this subsection must follow to issue satisfactions or releases.

(2) Authorization of a person under subsection (1) of this section is permissive and such person is not required to issue satisfactions or releases if authorized. However, if a person is authorized under subsection (1) of this section and does issue satisfactions or releases, the person must comply with the procedures and requirements established by the Attorney General by rule.

(3) If the Attorney General establishes a program under subsection (1) of this section, the Attorney General's office shall issue satisfactions and releases under the program unless the Attorney General determines that there are sufficient other agencies authorized under subsection (1) of this section who are actually participating in the program to provide reasonable access to satisfactions and releases on a statewide basis.

(4)(a) Except as provided in paragraph (b) of this subsection, when the entries in the register and the financial accounting records for the court show conclusively that a monetary obligation imposed in a criminal action has been paid in full, the clerk of the court may note in the register that the money award portion of the judgment has been paid in full. Notation in the register under this paragraph constitutes a satisfaction of the money award portion of the judgment. The clerk of the court is not civilly liable for any act or omission in making the notation in the register in the manner authorized by this paragraph.

(b) When a monetary obligation imposed in a criminal action is paid by a negotiable instrument, the clerk of the court shall proceed as provided in paragraph (a) of this subsection only after the expiration of 21 days from the date the negotiable instrument is received by the court. The clerk may proceed as provided in paragraph (a) of this subsection before the expiration of the 21-day period if the judgment debtor or any other interested person makes a request that the clerk proceed and provides information that establishes to the satisfaction of the clerk that the instrument has been honored.

(c) This subsection does not authorize the clerk of a court to compromise, settle or partially satisfy a monetary obligation imposed in a criminal action, or to release part of any property subject to a judgment lien.

(5) Any satisfaction issued by a person authorized under this section may be entered in the same manner and has the same effect on the money award portion of a judgment as a satisfaction issued for the money award portions of a judgment from a civil action or proceeding.

(6) The release of judgment liens on specific parcels of real property by the Attorney General or by a person authorized by the Attorney General under subsection (1) of this section is discretionary. The money award portion of the judgment shall remain a lien against all real property not specifically released. [1989 c.472 §4; 1993 c.145 §1; 1997 c.801 §68; 2003 c.576 §164]

Note:

137.452 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.460**

[Renumbered 137.270]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.463 - Death warrant hearing; death warrant.**

(1) When a sentence of death is pronounced, the clerk of the court shall deliver a copy of the judgment of conviction and sentence of death to the sheriff of the county. The sheriff shall deliver the defendant within 20 days from the date the judgment is entered to the correctional institution designated by the Director of the Department of Corrections pending the determination of the automatic and direct review by the Supreme Court under ORS 138.052.

(2) If the Supreme Court affirms the sentence of death, a death warrant hearing shall take place in the court in which the judgment was rendered within 30 days after the effective date of the appellate judgment or, upon motion of the state, on a later date. The following apply to a death warrant hearing under this subsection:

- (a) The defendant must be present; and
- (b) The defendant may be represented by counsel. If the defendant was represented by appointed counsel on automatic and direct review, that counsel's appointment continues for purposes of the death warrant hearing and any related matters. If that counsel is unavailable, the court shall appoint counsel pursuant to the procedure in ORS 135.050 and 135.055.
- (3)(a) If the defendant indicates the wish to waive the right to counsel for the purpose of the death warrant hearing, the court shall inquire of the defendant on the record to ensure that the waiver is competent, knowing and voluntary.
- (b) If the court finds that the waiver is competent, knowing and voluntary, the court shall discharge counsel.
- (c) If the court finds on the record that the waiver of the right to counsel granted by this section is not competent, knowing or voluntary, the court shall continue the appointment of counsel.
- (d) Notwithstanding the fact that the court finds on the record that the defendant competently, knowingly and voluntarily waives the right to counsel, the court may continue the appointment of counsel as advisor only for the purposes of the death warrant hearing.
- (4) At the death warrant hearing, the court:
  - (a) After appropriate inquiry, shall make findings on the record whether the defendant suffers from a mental condition that prevents the defendant from comprehending the reasons for the death sentence or its implication. The defendant has the burden of proving by a preponderance of the evidence that the defendant suffers from a mental condition that prevents the defendant from comprehending the reasons for the death sentence or its implication.
  - (b) Shall advise the defendant that the defendant is entitled to counsel in any post-conviction proceeding and that counsel will be appointed if the defendant is financially eligible for appointed counsel at state expense.
  - (c) Shall determine whether the defendant intends to pursue any challenges to the sentence or conviction. If the defendant states on the record that the defendant does not intend to challenge the sentence or conviction, the court after advising the defendant of the consequences shall make a finding on the record whether the defendant competently, knowingly and voluntarily waives the right to pursue:
    - (A) A petition for certiorari to the United States Supreme Court;
    - (B) Post-conviction relief under ORS 138.510 to 138.680; and
    - (C) Federal habeas corpus review under 28 U.S.C. 2254.
- (5) Following the death warrant hearing, a death warrant, signed by the trial judge of the court in which the judgment was rendered and attested by the clerk of that court, shall be drawn and delivered to the superintendent of the correctional institution designated by the Director of the Department of Corrections. The death warrant shall specify a day on which the sentence of death is to be executed and shall authorize and command the superintendent to execute the judgment of the court. The trial court shall specify the date of execution of the sentence, taking into consideration the needs of the Department of Corrections. The trial court shall specify a date not less than 90 days nor more than 120 days following the effective date of the appellate judgment.
- (6)(a) Notwithstanding any other provision in this section, if the court finds that the defendant suffers from a mental condition that prevents the defendant from comprehending the reasons for the sentence of death or its implications, the court may not issue a death warrant until such time as the court, after appropriate inquiries, finds that the defendant is able to comprehend the reasons for the sentence of death and its implications.
  - (b)(A) If the court does not issue a death warrant because it finds that the defendant suffers from a mental condition that prevents the defendant from comprehending the reasons for the sentence of death or its implications, the court shall conduct subsequent hearings on the issue on motion of the district attorney or the defendant's counsel or on the court's own motion, upon a showing that there is substantial reason to believe that the defendant's condition has changed.
  - (B) The court may hold a hearing under this paragraph no more frequently than once every six months.
  - (C) The state and the defendant may obtain an independent medical, psychiatric or psychological examination of the defendant in connection with a hearing under this paragraph.
  - (D) In a hearing under this paragraph, the defendant has the burden of proving by a preponderance of the evidence that the defendant continues to suffer from a mental condition that prevents the defendant from comprehending the reasons for the sentence of death or its implications.
- (7) If for any reason a sentence of death is not executed on the date appointed in the death warrant, and the sentence of death remains in force and is not stayed under ORS 138.686 or otherwise by a court of competent jurisdiction, the court that issued the initial death warrant, on motion of the state and without further hearing, shall issue a new death warrant specifying a new date on which the sentence is to be executed. The court shall specify a date for execution of the sentence, taking into consideration the needs of the Department of Corrections. The court shall specify a date not more than 20 days after the date on which the state's motion was filed.
- (8) No appeal may be taken from an order issued pursuant to this section. [1984 c.3 §5; 1999 c.1055 §2; 2001 c.962 §96]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.464 - Administrative assessment of defendant's mental capacity.**

- (1)(a) At the death warrant hearing under ORS 137.463, the court shall order that the Oregon Health Authority or its designee perform an assessment of the defendant's mental capacity to engage in reasoned choices of legal strategies and options if:
  - (A) The defendant indicates the wish to waive the right to counsel; and
  - (B) The court has substantial reason to believe that, due to mental incapacity, the defendant cannot engage in reasoned choices of

legal strategies and options.

(b) The court also shall order an assessment described in paragraph (a) of this subsection upon motion by the state.

(2) If the requirements of subsection (1) of this section are met, the court may order the defendant to be committed to a state mental hospital designated by the authority for a period not exceeding 30 days for the purpose of assessing the defendant's mental capacity. The report of any competency assessment performed under this section must include, but need not be limited to, the following:

(a) A description of the nature of the assessment;

(b) A statement of the mental condition of the defendant; and

(c) A statement regarding the defendant's mental capacity to engage in reasoned choices of legal strategies and options.

(3) If the competency assessment cannot be conducted because the defendant is unwilling to participate, the report must so state and must include, if possible, an opinion as to whether the unwillingness of the defendant is the result of a mental condition affecting the defendant's mental capacity to engage in reasoned choices of legal strategies and options.

(4) The authority shall file three copies of the report of the competency assessment with the clerk of the court, who shall cause copies to be delivered to the district attorney and to counsel for the defendant. [1999 c.1055 §3; 2009 c.595 §96]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.466 - Judicial determination of defendant's mental capacity.**

(1) If the court has ordered the Oregon Health Authority to perform a competency assessment of the defendant under ORS 137.464 and the assessment has been completed, the court shall determine the issue of the defendant's mental capacity to engage in reasoned choices of legal strategies and options. If neither the state nor counsel for the defendant contests the finding of the report filed under ORS 137.464, the court may make the determination of the defendant's mental capacity to engage in reasoned choices of legal strategies and options on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence at the hearing, the party contesting the finding has the right to summon and to cross-examine the psychiatrist or psychologist who submitted the report and to offer evidence on the issue. Either party may introduce other evidence regarding the defendant's mental capacity to engage in reasoned choices of legal strategies and options.

(2) If the court determines that, due to mental incapacity, the defendant cannot engage in reasoned choices of legal strategies and options, the court shall continue the appointment of counsel provided under ORS 137.463.

(3) No appeal may be taken from an order issued pursuant to this section. [1999 c.1055 §4; 2009 c.595 §97]

Note:

See note under 137.464.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.467 - Delivery of warrant when place of trial changed.**

If the place of trial has been changed, the death warrant shall be delivered to the sheriff of the county in which the defendant was tried. [1984 c.3 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.473 - Means of inflicting death; place and procedures; acquisition of lethal substance.**

(1) The punishment of death shall be inflicted by the intravenous administration of a lethal quantity of an ultra-short-acting barbiturate in combination with a chemical paralytic agent and potassium chloride or other equally effective substances sufficient to cause death. The judgment shall be executed by the superintendent of the Department of Corrections institution in which the execution takes place, or by the designee of that superintendent. All executions shall take place within the enclosure of a Department of Corrections institution designated by the Director of the Department of Corrections. The superintendent of the institution shall be present at the execution and shall invite the presence of one or more physicians, physician assistants or nurse practitioners, the Attorney General, the sheriff of the county in which the judgment was rendered and representatives from the media. At the request of the defendant, the superintendent shall allow no more than two members of the clergy designated by the defendant to be present at the execution. At the discretion of the superintendent, no more than five friends and relatives designated by the defendant may be present at the execution. The superintendent shall allow the presence of any peace officers as the superintendent thinks expedient.

(2) The person who administers the lethal injection under subsection (1) of this section shall not thereby be considered to be engaged in the practice of medicine.

(3)(a) Any wholesale distributor drug outlet, as defined in ORS 689.005, registered with the State Board of Pharmacy under ORS 689.305 may provide the lethal substance or substances described in subsection (1) of this section upon written order of the Director of the Department of Corrections, accompanied by a certified copy of the judgment of the court imposing the punishment.

(b) For purposes of ORS 689.527 (7) the director shall be considered authorized to purchase the lethal substance or substances described in subsection (1) of this section.

(c) The lethal substance or substances described in subsection (1) of this section are not controlled substances when purchased, possessed or used for purposes of this section.

(4) The superintendent may require that persons who are present at the execution under subsection (1) of this section view the initial execution procedures, prior to the point of the administration of the lethal injection, by means of a simultaneous closed-circuit television transmission under the direction and control of the superintendent. [1985 c.3 §7; 1987 c.320 §38; 1993 c.137 §1; 2001

c.104 §46; 2001 c.213 §1; 2003 c.103 §4; 2005 c.471 §9; 2014 c.45 §24; 2023 c.93 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.476 - Assistance by licensed health care professional or nonlicensed medically trained person.**

(1) Notwithstanding any other law, a licensed health care professional or a nonlicensed medically trained person may assist the Department of Corrections in an execution carried out under ORS 137.473.

(2) Any assistance rendered in an execution carried out under ORS 137.473 by a licensed health care professional or a nonlicensed medically trained person is not cause for disciplinary measures or regulatory oversight by any board, commission or agency created by this state or governed by state law that oversees or regulates the practice of health care professionals including, but not limited to, the Oregon Medical Board, the Oregon State Board of Nursing and the Oregon Health Authority.

(3) The infliction of the punishment of death by the administration of the required lethal substances in the manner required by ORS 137.473 may not be construed to be the practice of medicine.

(4) As used in this section, "licensed health care professional" includes, but is not limited to, a physician, physician assistant, nurse practitioner or nurse licensed by the Oregon Medical Board or the Oregon State Board of Nursing or an emergency medical services provider licensed by the Oregon Health Authority. [1999 c.1055 §9; 2011 c.703 §25]

Note:

See note under 137.464.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.478 - Return of death warrant after execution of sentence of death.**

Not later than 30 days after the execution of a sentence of death under ORS 137.473, the superintendent of the correctional institution where the sentence was executed shall return the death warrant to the clerk of the trial court from which the warrant was issued with the superintendent's return on the death warrant showing the time, place and manner in which the death warrant was executed. [1999 c.1055 §10]

Note:

See note under 137.464.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.482 - Service of documents on defendant.**

A copy of any document filed in any of the following proceedings shall be served personally on the defendant, even if the defendant is represented by counsel, by providing the copy to the custodian of the defendant, who shall ensure that the copy is provided promptly to the defendant:

(1) A death warrant hearing under ORS 137.463.

(2) A proceeding in which a person other than the defendant seeks to stay execution of the defendant's sentence of death.

(3) A petition for post-conviction relief filed under ORS 138.510 (2). [1999 c.1055 §16]

Note:

See note under 137.464.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.520 - Power of committing magistrate to parole and grant temporary release to persons confined in county jail; authority of sheriff to release persons confined in county jail; disposition of work release earnings.**

(1) The committing magistrate, having sentenced a defendant to confinement in a county jail for a period of up to one year, or as provided by rules adopted by the Oregon Criminal Justice Commission for felonies committed on or after November 1, 1989, may parole the defendant outside the county jail subject to condition and subject to being taken back into confinement upon the breach of such condition. When a court paroles a defendant under this subsection and the defendant is serving a sentence or sanction imposed under ORS 423.478 (2)(d) or (e), the court may order the local supervisory authority to supervise the defendant. The committing magistrate may also authorize, limit or prohibit the release of a sentenced defendant upon pass, furlough, leave, work or educational release.

(2) The committing magistrate, having sentenced a defendant to probation and having confined the defendant as a condition of that probation in a county jail for a period up to one year, or having imposed a sentence of probation with confinement in the county jail in accordance with rules adopted by the Oregon Criminal Justice Commission for felonies committed on or after November 1, 1989, may authorize, limit or prohibit the release of such person upon pass, furlough, leave, work or educational release.

(3) The sheriff of a county in which a defendant is confined in the county jail by sentence or as a condition of probation may allow the release of the defendant upon pass, furlough, leave, work or educational release unless otherwise ordered by the committing magistrate.

(4) A defendant confined in a county jail and placed upon educational release or upon work release shall, during the hours in which not so engaged or employed, be confined in the county jail unless the court by order otherwise directs or unless the sheriff otherwise

directs in the absence of a contrary order by the court. The defendant's net earnings shall be paid to the sheriff, who shall deduct therefrom and pay such sums as may be ordered by the court for the defendant's board, restitution, fine, support of dependents and necessary personal expense. Any balance remaining shall be retained by the sheriff until the defendant's discharge from custody, whereupon the balance shall be paid to the defendant. [Amended by 1959 c.345 §1; 1973 c.836 §270; 1981 c.568 §1; 1989 c.790 §15; 1993 c.14 §8; 1999 c.661 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.523 - Custody of person sentenced to confinement as condition of probation.**

For felonies committed on or after November 1, 1989:

(1) When the judge sentences the defendant to confinement in a county jail as a condition of probation, the judge shall sentence the defendant directly to the custody of the sheriff or the supervisory authority, as defined in rules of the Oregon Criminal Justice Commission, with jurisdiction over the county jail.

(2) When the judge recommends a custodial facility or program other than jail as a condition of probation, the judge shall sentence the defendant directly to the custody of the supervisory authority, as defined in rules of the Oregon Criminal Justice Commission, with jurisdiction over the facility or program. Before imposing such a sentence, the judge must determine from the supervisory authority that space is available in the facility or program and that the defendant meets the eligibility criteria established for the facility or program.

(3) A record of the time served by the defendant in custody under community supervision during probation shall be maintained as provided by rules adopted by the Oregon Criminal Justice Commission. [1989 c.790 §18]

Note:

137.523 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.525 - Probation for person convicted of crime described in ORS 163.305 to 163.467; examination; report; written consent of convicted person.**

(1) If a person pleads guilty or no contest to, or is found guilty of, a crime described in ORS 163.305 to 163.467, and if the court contemplates sentencing the person to probation, the court, before entering judgment, may order that the person undergo an examination by a psychiatrist or other physician found qualified and appointed by the court to determine whether available medical treatment would be likely to reduce such biological, emotional or psychological impulses, including any paraphilia, which may be the cause of the criminal conduct and, if so, whether the person is a suitable candidate medically for such treatment. Such medical treatments may include the taking of prescribed medication.

(2) If the examining psychiatrist or other physician reports that available medical treatment would be likely to reduce the biological, emotional or psychological impulses that were a probable cause of the criminal conduct, and that the person is a suitable candidate medically for such treatment, the court may include as a condition of probation that the person participate in a prescribed program of medicine and accept medical treatment at the person's own expense under the care of the psychiatrist or other physician appointed by the court and that the person faithfully participate in the prescribed program of medical treatment during the course of the probation.

(3) A sentence of probation under this section shall not be imposed except upon the written consent of the convicted person. Probation under this section may be revoked upon any failure of the convicted person to cooperate in the treatment program, including, but not limited to, any failure to meet with the treating physician as directed by the physician or to take medication or otherwise to participate in the prescribed program of medical treatment during the course of the probation. [1987 c.908 §3; 1993 c.14 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.530 - Investigation and report of parole and probation officers; statement of victim.**

(1) Parole and probation officers, when directed by the court, shall fully investigate and report to the court in writing on the circumstances of the offense, criminal record, social history and present condition and environment of any defendant. Unless the court directs otherwise in individual cases, a defendant may not be sentenced to probation until the report of the investigation has been presented to and considered by the court.

(2) Whenever a presentence report is made, the preparer of the report shall make a reasonable effort to contact the victim and obtain a statement describing the effect of the defendant's offense upon the victim. If the victim is under 18 years of age, the preparer shall obtain the consent of the victim's parent or guardian before contacting the victim. The preparer of the report shall include the statement of the victim in the presentence investigation report. If the preparer is unable to contact the victim or if the victim declines to make a statement, the preparer shall report that the preparer was unable to contact the victim after making reasonable efforts to do so, or, if contact was made with the victim, that the victim declined to make a statement for purposes of this section. Before taking a statement from the victim, the preparer of the report shall inform the victim that the statement will be made available to the defendant and the defendant's attorney prior to sentencing as required under ORS 137.079.

(3) Whenever desirable, and facilities exist for conducting physical and mental examinations, the investigation shall include physical

and mental examinations of such defendants.

(4) As used in this section, "victim" means the person or persons who have suffered financial, social, psychological or physical harm as a result of an offense, and includes, in the case of any homicide or abuse of corpse in any degree, an appropriate member of the immediate family of the decedent. [Amended by 1983 c.723 §1; 1993 c.14 §10; 1993 c.294 §4; 2005 c.264 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.532 - Probation without entering plea; waiver of rights; effect of violating probation agreement.**

(1)(a) Whenever a person is charged with a misdemeanor or a Class C felony, other than driving while under the influence of intoxicants, and has been formally accepted into a specialty court, the court, with the consent of the district attorney and the person, may defer further proceedings and place the person on probation. The terms of the probation shall be defined by a probation agreement.

(b) A probation agreement carries the understanding that if the defendant fulfills the terms of the agreement, the criminal charges filed against the defendant will be dismissed with prejudice.

(c) The agreement must contain a waiver of the following rights of the defendant with respect to each criminal charge:

(A) The right to a speedy trial and trial by jury;

(B) The right to present evidence on the defendant's behalf;

(C) The right to confront and cross-examine witnesses against the defendant;

(D) The right to contest evidence presented against the defendant, including the right to object to hearsay evidence; and

(E) The right to appeal from a judgment of conviction resulting from an adjudication of guilt entered under subsection (2) of this section, unless the appeal is based on an allegation that the sentence exceeds the maximum allowed by law or constitutes cruel and unusual punishment.

(d) The agreement must include a requirement that the defendant pay any restitution owed to the victim as determined by the court, and any fees for court-appointed counsel ordered by the court under ORS 135.050.

(e) The agreement may not contain a requirement that the defendant enter a plea of guilty or no contest on any charge in the accusatory instrument.

(f) Entering into a probation agreement does not constitute an admission of guilt and is not sufficient to warrant a finding or adjudication of guilt by a court.

(g) Police reports or other documents associated with the criminal charges in a court file other than the probation agreement may not be admitted into evidence, and do not establish a factual basis for finding the defendant guilty, unless the court resumes criminal proceedings and enters an adjudication of guilt under subsection (2) of this section.

(2) Upon violation of a term or condition of the probation agreement, the court may resume the criminal proceedings and may find the defendant guilty of the offenses in the accusatory instrument in accordance with the waiver of rights in the probation agreement. The defendant may not contest the sufficiency of the evidence establishing the defendant's guilt of the offenses in the accusatory instrument.

(3) Upon fulfillment of the terms and conditions of the probation agreement, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There may be only one discharge and dismissal under this section with respect to any person.

(4) In the event that the period of probation under this section expires, but the terms and conditions of the probation agreement have not been fulfilled and no probation violation proceeding was initiated prior to the expiration of the period of probation, the court may not discharge the person and dismiss the proceedings against the person. The court shall instead issue an order requiring the person to appear and to show cause why the court should not enter an adjudication of guilt as described in subsection (2) of this section due to the failure of the person to fulfill the terms and conditions of the probation agreement prior to expiration of the period of probation. At the hearing on the order to show cause, after considering any evidence or argument from the district attorney and the person, the court may:

(a) Order a new period of probation to allow the person to fulfill the terms and conditions of the probation agreement; or

(b) Enter an adjudication of guilt as described in subsection (2) of this section.

(5) Nothing in this section is intended to restrict a person's participation in a specialty court or conditional discharge under ORS 475.245.

(6) As used in this section, "specialty court" has the meaning given that term in ORS 137.680. [2021 c.330 §1]

Note:

137.532 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.533 - Probation without entering judgment of guilt; when appropriate; effect of violating condition of probation.**

(1) Whenever a person pleads guilty to or is found guilty of a misdemeanor other than driving while under the influence of

intoxicants or other than a misdemeanor involving domestic violence as defined in ORS 135.230, the court may defer further proceedings and place the person on probation, upon motion of the district attorney and without entering a judgment of guilt, if the person:

- (a) Consents to the disposition;
  - (b) Has not previously been convicted of any offense in any jurisdiction;
  - (c) Has not been placed on probation under ORS 137.532 or 475.245;
  - (d) Has not completed a diversion under ORS 135.881 to 135.901; and
  - (e) Agrees to pay a fee equal to \$100. The person must pay the amount within 90 days of imposition unless the court allows payment at a later time.
- (2) A district attorney may submit a motion under subsection (1) of this section if, after considering the factors listed in subsection (3) of this section, the district attorney finds that disposition under this section would be in the interests of justice and of benefit to the person and the community.
- (3) In determining whether disposition under this section is in the interests of justice and of benefit to the person and the community, the district attorney shall consider at least the following factors:
- (a) The nature of the offense. However, the offense must not have involved injury to another person.
  - (b) Any special characteristics or difficulties of the person.
  - (c) Whether there is a probability that the person will cooperate with and benefit from alternative treatment.
  - (d) Whether an available program is appropriate to the needs of the person.
  - (e) The impact of the disposition upon the community.
  - (f) Recommendations, if any, of the involved law enforcement agency.
  - (g) Recommendations, if any, of the victim.
  - (h) Provisions for restitution.
  - (i) Any mitigating circumstances.
- (4) Upon violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon the person's fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against the person. A discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. A person may be discharged and have proceedings dismissed only once under this section.
- (5) Subsections (1) to (4) of this section do not affect any domestic violence sentencing programs. [1999 c.819 §§1,2; 2011 c.597 §124; 2021 c.330 §2]

Note:

137.533 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.540 - Conditions of probation; evaluation and treatment; effect of failure to abide by conditions; modification.**

- (1) The court may sentence the defendant to probation subject to the following general conditions unless specifically deleted by the court. The probationer shall:
- (a) Pay fines, restitution or fees ordered by the court.
  - (b) Submit to testing for controlled substance, cannabis or alcohol use if the probationer has a history of substance abuse or if there is a reasonable suspicion that the probationer has illegally used controlled substances.
  - (c) Participate in a substance abuse evaluation as directed by the supervising officer and follow the recommendations of the evaluator if there are reasonable grounds to believe there is a history of substance abuse.
  - (d) Remain in the State of Oregon until written permission to leave is granted by the Department of Corrections or a county community corrections agency.
  - (e) Not change residence without prior permission from the Department of Corrections or a county community corrections agency and inform the parole and probation officer of any change in employment.
  - (f) Permit the parole and probation officer to visit the probationer or the probationer's work site or residence and to conduct a walk-through of the common areas and of the rooms in the residence occupied by or under the control of the probationer.
  - (g) Consent to the search of person, vehicle or premises upon the request of a representative of the supervising officer if the supervising officer has reasonable grounds to believe that evidence of a violation will be found, and submit to fingerprinting or photographing, or both, when requested by the Department of Corrections or a county community corrections agency for supervision purposes.
  - (h) Obey all laws, municipal, county, state and federal, and in circumstances in which state and federal law conflict, obey state law.
  - (i) Promptly and truthfully answer all reasonable inquiries by the Department of Corrections or a county community corrections agency.
  - (j) Not possess weapons, firearms or dangerous animals.
  - (k) Report as required and abide by the direction of the supervising officer.

- (L) If recommended by the supervising officer, successfully complete a sex offender treatment program approved by the supervising officer and submit to polygraph examinations at the direction of the supervising officer if the probationer:
- (A) Is under supervision for a sex crime as defined in ORS 163A.005 or harassment under ORS 166.065 (4)(a)(A);
  - (B) Was previously convicted of a sex crime as defined in ORS 163A.005; or
  - (C) Was previously convicted in another jurisdiction of an offense that would constitute a sex crime as defined in ORS 163A.005 if committed in this state.
- (m) Participate in a mental health evaluation as directed by the supervising officer and follow the recommendation of the evaluator.
- (n) If required to report as a sex offender under ORS 163A.015, report with the Department of State Police, a city police department, a county sheriff's office or the supervising agency:
- (A) When supervision begins;
  - (B) Within 10 days of a change in residence;
  - (C) Once each year within 10 days of the probationer's date of birth;
  - (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and
  - (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.
- (o) Submit to a risk and needs assessment as directed by the supervising officer and follow reasonable recommendations resulting from the assessment.
- (2) In addition to the general conditions, the court may impose any special conditions of probation that are reasonably related to the crime of conviction or the needs of the probationer for the protection of the public or reformation of the probationer, or both, including, but not limited to, that the probationer shall:
- (a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after November 1, 1989, be confined to the county jail or be restricted to the probationer's own residence or to the premises thereof, or be subject to any combination of such confinement and restriction, such confinement or restriction or combination thereof to be for a period not to exceed one year or one-half of the maximum period of confinement that could be imposed for the offense for which the defendant is convicted, whichever is the lesser.
  - (b) For felonies committed on or after November 1, 1989:
    - (A) Be confined in the county jail, or be subject to other custodial sanctions under community supervision, or both, as provided by rules of the Oregon Criminal Justice Commission; and
    - (B) Comply with any special conditions of probation that are imposed by the supervising officer in accordance with subsection (9) of this section.
  - (c) For crimes committed on or after December 5, 1996, sell any assets of the probationer as specifically ordered by the court in order to pay restitution.
  - (d) For crimes constituting delivery of a controlled substance, as those terms are defined in ORS 475.005, or for telephonic harassment under ORS 166.090, or for crimes involving domestic violence, as defined in ORS 135.230, be prohibited from using Internet websites that provide anonymous text message services.
  - (e) Not use or possess controlled substances except pursuant to a medical prescription.
- (3)(a) If a person is released on probation following conviction of stalking under ORS 163.732 (2)(b) or violating a court's stalking protective order under ORS 163.750 (2)(b), the court may include as a special condition of the person's probation reasonable residency restrictions.
- (b) If the court imposes the special condition of probation described in this subsection and if at any time during the period of probation the victim moves to a location that causes the probationer to be in violation of the special condition of probation, the court may not require the probationer to change the probationer's residence in order to comply with the special condition of probation.
  - (4) When a person who is a sex offender is released on probation, the court shall impose as a special condition of probation that the person not reside in any dwelling in which another sex offender who is on probation, parole or post-prison supervision resides, without the approval of the person's supervising parole and probation officer, or in which more than one other sex offender who is on probation, parole or post-prison supervision resides, without the approval of the director of the probation agency that is supervising the person or of the county manager of the Department of Corrections, or a designee of the director or manager. As soon as practicable, the supervising parole and probation officer of a person subject to the requirements of this subsection shall review the person's living arrangement with the person's sex offender treatment provider to ensure that the arrangement supports the goals of offender rehabilitation and community safety. As used in this subsection:
    - (a) "Dwelling" has the meaning given that term in ORS 469B.100.
    - (b) "Dwelling" does not include a residential treatment facility or a halfway house.
    - (c) "Halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.
    - (d) "Sex offender" has the meaning given that term in ORS 163A.005.
- (5)(a) If the person is released on probation following conviction of a sex crime, as defined in ORS 163A.005, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the court, if requested by the victim, shall include as a special condition of the person's probation that the person not reside within three miles of the victim unless:
- (A) The victim resides in a county having a population of less than 130,000 and the person is required to reside in that county;
  - (B) The person demonstrates to the court by a preponderance of the evidence that no mental intimidation or pressure was brought to



bear during the commission of the crime;

(C) The person demonstrates to the court by a preponderance of the evidence that imposition of the condition will deprive the person of a residence that would be materially significant in aiding in the rehabilitation of the person or in the success of the probation; or

(D) The person resides in a halfway house. As used in this subparagraph, "halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.

(b) A victim may request imposition of the special condition of probation described in this subsection at the time of sentencing in person or through the prosecuting attorney.

(c) If the court imposes the special condition of probation described in this subsection and if at any time during the period of probation the victim moves to within three miles of the probationer's residence, the court may not require the probationer to change the probationer's residence in order to comply with the special condition of probation.

(6) When a person who is a sex offender, as defined in ORS 163A.005, is released on probation, the Department of Corrections or the county community corrections agency, whichever is appropriate, shall notify the city police department, if the person is going to reside within a city, and the county sheriff's office of the county in which the person is going to reside of the person's release and the conditions of the person's release.

(7) Failure to abide by all general and special conditions of probation may result in arrest, modification of conditions, revocation of probation or imposition of structured, intermediate sanctions in accordance with rules adopted under ORS 137.595.

(8) The court may order that probation be supervised by the court.

(9)(a) The court may at any time modify the conditions of probation.

(b) When the court orders a defendant placed under the supervision of the Department of Corrections or a community corrections agency, the supervising officer may file with the court a proposed modification to the special conditions of probation. The supervising officer shall provide a copy of the proposed modification to the district attorney and the probationer, and shall notify the probationer of the right to file an objection and have a hearing as described in subparagraph (A) of this paragraph. The notice requirement may be satisfied by providing the probationer with a copy of a form developed in accordance with rules adopted under ORS 137.595 (2)(b) that describes the right to a hearing. If the district attorney or probationer:

(A) Files an objection to the proposed modification less than five judicial days after the proposed modification was filed, the court shall schedule a hearing no later than 10 judicial days after the proposed modification was filed, unless the court finds good cause to schedule a hearing at a later time.

(B) Does not file an objection to the proposed modification less than five judicial days after the proposed modification was filed, the proposed modification becomes effective five judicial days after the proposed modification was filed.

(10) A court may not order revocation of probation as a result of the probationer's failure to pay restitution unless the court determines from the totality of the circumstances that the purposes of the probation are not being served.

(11) If the court ordered as a special condition of probation that the probationer find and maintain employment, it is not a cause for revocation of probation that the probationer failed to apply for or accept employment at any workplace where there is a labor dispute in progress. As used in this subsection, "labor dispute" has the meaning for that term provided in ORS 662.010.

(12) As used in this section, "attends," "institution of higher education," "works" and "carries on a vocation" have the meanings given those terms in ORS 163A.005. [Amended by 1965 c.346 §1; 1969 c.597 §125; 1977 c.371 §3; 1977 c.380 §2; 1981 c.671 §1; 1983 c.588 §2; 1985 c.818 §2; 1987 c.780 §3; 1989 c.790 §16; 1991 c.196 §1; 1991 c.630 §5; 1991 c.731 §1; 1993 c.14 §11; 1993 c.680 §16; 1997 c.313 §24; 1999 c.626 §11; amendments by 1999 c.626 §34 repealed by 2001 c.884 §1; 2001 c.726 §§1,2; 2001 c.884 §5; 2005 c.264 §3; 2005 c.558 §1; 2005 c.567 §8; 2005 c.576 §1a; 2005 c.642 §1; 2009 c.111 §1; 2009 c.204 §5; 2009 c.659 §§21,23; 2009 c.713 §11; 2011 c.595 §162; 2013 c.649 §24; 2015 c.198 §1; 2015 c.350 §2; 2017 c.21 §40; 2017 c.670 §3; 2017 c.689 §1; 2018 c.120 §10; 2021 c.404 §1; 2021 c.653 §3; 2022 c.78 §10; 2023 c.9 §9; 2023 c.282 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.542 - Probation conditions related to medical use of cannabis.**

(1) As used in this section, "cannabinoid concentrate," "cannabinoid extract," "medical cannabinoid product," "registry identification card" and "usable marijuana" have the meanings given those terms in ORS 475C.777.

(2) Notwithstanding ORS 137.540, if a person who holds a registry identification card is sentenced to probation, supervision conditions related to the use of usable marijuana, medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts must be imposed in the same manner as the court would impose supervision conditions related to prescription drugs. [2016 c.24 §51; 2019 c.292 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.545 - Period of probation; discharge from probation; proceedings in case of violation of conditions.**

(1) Subject to the limitations in ORS 137.010 and to rules of the Oregon Criminal Justice Commission for felonies committed on or after November 1, 1989:

(a) The period of probation shall be as the court determines and may, in the discretion of the court, be continued or extended.

(b) The court may at any time discharge a person from probation.

(2) At any time during the probation period, the court may issue a warrant and cause a defendant to be arrested for violating any of

the conditions of probation. Any parole and probation officer, police officer or other officer with power of arrest may arrest a probationer without a warrant for violating any condition of probation, and a statement by the parole and probation officer or arresting officer setting forth that the probationer has, in the judgment of the parole and probation officer or arresting officer, violated the conditions of probation is sufficient warrant for the detention of the probationer in the county jail until the probationer can be brought before the court or until the parole and probation officer or supervisory personnel impose and the offender agrees to structured, intermediate sanctions in accordance with the rules adopted under ORS 137.595. Disposition shall be made during the first 36 hours in custody, excluding Saturdays, Sundays and holidays, unless later disposition is authorized by supervisory personnel. If authorized by supervisory personnel, the disposition shall take place in no more than five judicial days. If the offender does not consent to structured, intermediate sanctions imposed by the parole and probation officer or supervisory personnel in accordance with the rules adopted under ORS 137.595, the parole and probation officer, as soon as practicable, but within one judicial day, shall report the arrest or detention to the court that imposed the probation. The parole and probation officer shall promptly submit to the court a report showing in what manner the probationer has violated the conditions of probation.

(3) Except for good cause shown or at the request of the probationer, the probationer shall be brought before a magistrate during the first 36 hours of custody, excluding holidays, Saturdays and Sundays. That magistrate, in the exercise of discretion, may order the probationer held pending a violation or revocation hearing or pending transfer to the jurisdiction of another court where the probation was imposed. In lieu of an order that the probationer be held, the magistrate may release the probationer upon the condition that the probationer appear in court at a later date for a probation violation or revocation hearing. If the probationer is being held on an out-of-county warrant, the magistrate may order the probationer released subject to an additional order to the probationer that the probationer report within seven calendar days to the court that imposed the probation.

(4) When a probationer has been sentenced to probation in more than one county and the probationer is being held on an out-of-county warrant for a probation violation, the court may consider consolidation of some or all pending probation violation proceedings pursuant to rules made and orders issued by the Chief Justice of the Supreme Court under ORS 137.547:

(a) Upon the motion of the district attorney or defense counsel in the county in which the probationer is held; or

(b) Upon the court's own motion.

(5)(a) For defendants sentenced for felonies committed prior to November 1, 1989, and for any misdemeanor, the court that imposed the probation, after summary hearing, may revoke the probation and:

(A) If the execution of some other part of the sentence has been suspended, the court shall cause the rest of the sentence imposed to be executed.

(B) If no other sentence has been imposed, the court may impose any other sentence which originally could have been imposed.

(b) For defendants sentenced for felonies committed on or after November 1, 1989, the court that imposed the probationary sentence may revoke probation supervision and impose a sanction as provided by rules of the Oregon Criminal Justice Commission.

(6) Except for good cause shown, if the revocation hearing is not conducted within 14 calendar days following the arrest or detention of the probationer, the probationer shall be released from custody.

(7) A defendant who has been previously confined in the county jail as a condition of probation pursuant to ORS 137.540 or as part of a probationary sentence pursuant to the rules of the Oregon Criminal Justice Commission may be given credit for all time thus served in any order or judgment of confinement resulting from revocation of probation.

(8) In the case of any defendant whose sentence has been suspended but who has not been sentenced to probation, the court may issue a warrant and cause the defendant to be arrested and brought before the court at any time within the maximum period for which the defendant might originally have been sentenced. Thereupon the court, after summary hearing, may revoke the suspension of sentence and cause the sentence imposed to be executed.

(9) If a probationer fails to appear or report to a court for further proceedings as required by an order under subsection (3) of this section, the failure to appear may be prosecuted in the county to which the probationer was ordered to appear or report.

(10) The probationer may admit or deny the violation by being physically present at the hearing or by means of simultaneous electronic transmission as described in ORS 131.045.

(11) The victim has the right:

(a) Upon request made within the time period prescribed in the notice required by ORS 147.417, to be notified of any hearing before the court that may result in the revocation of the defendant's probation for a felony or person Class A misdemeanor. The notification shall be provided by:

(A) The district attorney if the defendant is not supervised by the supervisory authority or if the defendant is supervised by the supervisory authority and the district attorney initiates a request with the court for a probation violation or revocation hearing.

(B) The supervisory authority if the defendant is supervised by the supervisory authority and the supervisory authority initiates a request with the court for a probation violation or revocation hearing.

(b) To appear personally at the hearing.

(c) If present, to reasonably express any views relevant to the issues before the court.

(12) As used in this section:

(a) "Person Class A misdemeanor" has the meaning given that term in the rules of the Oregon Criminal Justice Commission.

(b) "Supervisory authority" has the meaning given that term in ORS 144.087. [Formerly 137.550; 2003 c.577 §14; 2005 c.264 §4; 2005 c.566 §11; 2009 c.178 §28; 2009 c.660 §§20,32; 2011 c.596 §§1,5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.547 - Consolidation of probation violation proceedings; rules.**

(1) Notwithstanding any other provision of law, the Chief Justice of the Supreme Court may make rules or issue orders under ORS 1.002 to establish procedures for the consolidation of probation violation proceedings pending against a probationer in multiple circuit courts.

(2) Rules made or orders issued under this section:

(a) Shall require the consent of the probationer to a consolidated probation violation proceeding and written waivers by the probationer as determined necessary or fair.

(b) Shall require the approval of the judge of any responding court, the initiating court and any appropriate court being considered for a consolidated probation violation proceeding.

(c) Shall require the approval of the district attorney of the county for any responding court, the initiating court and any court being considered as an appropriate court. [1999 c.614 §1; 2005 c.264 §5; 2013 c.155 §1]

Note:

137.547 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.550**

[Amended by 1955 c.688 §2; 1965 c.346 §2; 1971 c.743 §326; 1987 c.908 §1; 1989 c.790 §17; 1991 c.196 §2; 1993 c.14 §12; 1993 c.581 §2; 1993 c.680 §17; 1997 c.313 §11; 1999 c.614 §2; renumbered 137.545 in 1999]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.551 - Revocation of probationary sentences; release dates; rules.**

(1) The State Board of Parole and Post-Prison Supervision shall adopt rules to establish release dates for revocations of probationary sentences imposed for felonies committed before November 1, 1989.

(2) To the extent permissible under law, the release dates for revocation of probationary sentences imposed for felonies committed before November 1, 1989, shall be set consistent with sanctions for probation revocations as provided by rules of the Oregon Criminal Justice Commission for felonies committed on or after November 1, 1989. [1989 c.790 §18a]

Note:

137.551 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.553 - Use of citations for probation violations authorized.**

(1) In addition to any authority granted under ORS 137.545, a court may authorize the use of citations to direct its probationers who violate conditions of probation to appear before the court. The following apply to the use of citations under this subsection:

(a) A court may authorize issuance of citations under this subsection only by officers who are permitted under ORS 137.545 to make an arrest without a warrant.

(b) Nothing in this subsection limits the authority, under ORS 137.545, of a parole and probation officer, police officer or other officer to arrest for violation of conditions of probation even if the officer is authorized under this section to issue a citation.

(c) A court may impose any conditions upon an authorization under this subsection that the court considers appropriate. The conditions may include, but are not limited to, requirements that citation authority be sought on a case-by-case basis, provision for citation in all cases that meet certain conditions, allowance of citation for certain types of cases or designation of certain cases where citations shall not be used.

(2) The cited probationer shall appear before the court at the time, date and court specified in the citation. If the probationer fails to appear at the time, date and court specified in the citation, the court may issue a warrant of arrest, upon the request of the supervisor of probation, or upon request of the district attorney, or upon the court's own motion. [1987 c.761 §2; 2005 c.264 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.557 - Citation; procedure; contents.**

(1) If a citation is issued under ORS 137.553, the officer who issues the citation shall serve one copy of the citation to the probationer who is cited to appear and shall, as soon as practicable, file a duplicate copy with the court in which the probationer is cited to appear, along with proof of service.

(2) Each copy of the citation issued under ORS 137.553 shall contain:

(a) The name of the court at which the cited probationer is to appear.

(b) The name of the probationer cited.

(c) A brief description of the asserted probation violation, the date, the time and the place at which the violation occurred, the date on which the citation was issued and the name of the officer who issued the citation.

(d) The time, date and place at which the cited probationer is to appear in court.

(e) A notice to the effect that:

(A) The citation is not itself a motion to revoke probation, but that such a motion will be filed and a copy provided to the probationer when the probationer appears at court;

(B) The probationer must appear in court at the time set in the citation; and

(C) If the probationer fails to appear as directed, the court may immediately issue a warrant for the probationer's arrest or the probationer may immediately be taken into custody by the officer responsible for supervising the probation. [1987 c.761 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.560 - Copies of certain judgments to be sent to Department of Corrections.**

Within 10 days following the issuing of any judgment of suspension of imposition or execution of sentence or of probation of any person convicted of a crime, or of the continuation, extension, modification or revocation of any such judgment, or of the discharge of such person, or the recommendation by the court to the Governor of the pardon of such person, provided such person is under the jurisdiction of the Department of Corrections, the court issuing such a judgment shall cause prompt delivery of a copy of the same to the Director of the Department of Corrections. [Amended by 1973 c.836 §271; 1979 c.75 §1; 1987 c.320 §39; 1991 c.111 §16; 1993 c.18 §23]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.570 - Authority to transfer probationer from one agency to another; procedure.**

A court may transfer a person on probation under its jurisdiction from the supervision of one probation agency to that of another probation agency. Whenever a person sentenced to probation resides in or is to remove to a locality outside the jurisdiction of the court that sentenced the person to probation, the court may transfer the person to a parole and probation officer appointed to serve for the locality in which the person resides or to which the person is to remove:

(1) If the parole and probation officer sends to the court desiring to make such transfer a written statement that the parole and probation officer will exercise supervision over the person.

(2) If the statement is approved in writing by the judge of the court to which the parole and probation officer is attached. [Amended by 1973 c.836 §272; 1993 c.14 §13; 2005 c.264 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.580 - Effect of transfer of probationer from one agency to another.**

Whenever the transfer mentioned in ORS 137.570 is made, the court making it shall send to the probation agency to whose supervision the probationer is transferred a copy of all the records of the court as to the offense, criminal record and social history of the probationer. The probation agency shall report concerning the conduct and progress of the probationer to the court that sentenced the probationer to probation. Parole and probation officers or agencies shall have, with respect to persons transferred to their supervision from any other jurisdiction, all the powers and be subject to all the duties now imposed by law upon them in regard to probationers received on probation from courts in their own jurisdiction. [Amended by 1973 c.836 §273; 1993 c.14 §14; 2005 c.264 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.590 - Appointment of parole and probation officers and assistants; chief parole and probation officer.**

The judge or judges of any court of criminal jurisdiction, including municipal courts, may appoint, with the prior approval of the governing body of the county or city involved, and at pleasure remove, parole and probation officers and clerical assistants that may be necessary. Parole and probation officers appointed by the court shall be selected because of definite qualifications as to character, personality, ability and training. In courts where more than one parole and probation officer is appointed, one shall be designated chief parole and probation officer and shall have general supervision of the probation work of parole and probation officers appointed by and under the direction of the court. Appointments shall be in writing and entered on the records of the court. Parole and probation officers and clerical assistants appointed under this section are not state officers or employees, and their compensation and expenses shall not be paid by the state. [Amended by 1971 c.633 §12; 1973 c.836 §274; 1981 s.s. c.3 §38; 2005 c.264 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.592 - Policy regarding probation violations.**

The Legislative Assembly finds that:

(1) To protect the public, the criminal justice system must compel compliance with the conditions of probation by responding to violations with swift, certain and fair punishments.

(2) Decisions to incarcerate offenders in state prisons for violation of the conditions of probation must be made upon a reasonably systematic basis that will insure that available prison space is used to house those offenders who constitute a serious threat to the public, taking into consideration the availability of both prison space and local resources. [1993 c.680 §8]

Note:

137.592 to 137.599 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.593 - Duty of corrections agencies to impose structured, intermediate sanctions for probation violations.**

- (1) Except as otherwise provided in subsection (2) of this section, when a court suspends the imposition or execution of sentence and places a defendant on probation, or sentences a defendant to probation under the rules of the Oregon Criminal Justice Commission and orders a defendant placed under the supervision of the Department of Corrections or a county community corrections agency, the Department of Corrections or the county community corrections agency shall impose structured, intermediate sanctions for the violation of conditions of probation in accordance with rules adopted under ORS 137.595. Under no circumstances may the Department of Corrections or a county community corrections agency revoke probation.
- (2) Notwithstanding ORS 137.124 and 423.478 and any other provision of law, the sentencing judge shall retain authority:
- (a) To revoke probation and receive recommendations regarding revocation of probation from the supervising officer made in accordance with rules adopted under ORS 137.595;
- (b) To determine whether conditions of probation have been violated and to impose sanctions for the violations if the court, at the time of sentencing, states on the record that the court is retaining such authority;
- (c) To cause a probationer to be brought before the court for a hearing upon motion of the district attorney or the court's own motion prior to the imposition of any structured, intermediate sanctions or within four judicial days after receiving notice that a structured, intermediate sanction has been imposed on the probationer pursuant to rules adopted under ORS 137.595 and to revoke probation or impose such other or additional sanctions or modify the conditions of probation as authorized by law; and
- (d) To impose and require an offender to serve a period of incarceration not to exceed 180 days as a sanction for revocation of probation.
- (3) In no case may the sentencing judge cause a probationer to be brought before the court for a hearing and revoke probation or impose other or additional sanctions after the probationer has completed a structured, intermediate sanction imposed by the Department of Corrections or a county community corrections agency pursuant to rules adopted under ORS 137.595. [1993 c.680 §10; 1995 c.423 §9a]

Note:

See note under 137.592.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.595 - Establishing system of sanctions; rules.**

- (1) The Department of Corrections shall adopt rules to carry out the purposes of chapter 680, Oregon Laws 1993, by establishing a system of structured, intermediate probation violation sanctions that may be imposed by the Department of Corrections or a county community corrections agency, taking into consideration the severity of the violation behavior, the prior violation history, the severity of the underlying criminal conviction, the criminal history of the offender, protection of the community, deterrence, the effective capacity of the state prisons and the availability of appropriate local sanctions including, but not limited to, jail, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day reporting centers or other local sanctions.
- (2) Rules adopted by the Department of Corrections under this section shall establish:
- (a) A system of structured, intermediate probation violation sanctions that may be imposed by the Department of Corrections or a county community corrections agency on a probationer who waives in writing a probation violation hearing, admits or affirmatively chooses not to contest the violations alleged in a probation violation report and consents to the sanctions;
- (b) Procedures to provide a probationer with written notice of the probationer's right to a hearing before the court to determine whether the probationer violated the conditions of probation alleged in a probation violation report, and if so, whether to continue the probationer on probation subject to the same or modified conditions, or order sanctions for any violations and the right to be represented by counsel at the hearing if the probationer is financially eligible;
- (c) Procedures for a probationer to waive in writing a probation violation hearing, admit or not contest the violations alleged in the probation violation report and consent to the imposition of structured, intermediate sanctions by the Department of Corrections or a county community corrections agency;
- (d) The level and type of sanctions that may be imposed by parole and probation officers and by supervisory personnel;
- (e) The level and type of violation behavior warranting a recommendation to the court that probation be revoked;
- (f) Procedures for notifying district attorneys and the courts of probation violations admitted by probationers and the sanctions imposed by the Department of Corrections or county community corrections agencies; and
- (g) Such other policies or procedures as are necessary to carry out the purposes of chapter 680, Oregon Laws 1993.
- (3) Jail confinement imposed as a custodial sanction by the Department of Corrections or a county community corrections agency pursuant to rules adopted under this section may not exceed 60 days per violation report. The total number of days of jail confinement for all violation reports per conviction may not exceed the maximum number of available jail custody units under rules

adopted by the Oregon Criminal Justice Commission.

(4) Nonjail confinement imposed as a custodial sanction by the Department of Corrections or a county community corrections agency pursuant to rules adopted under this section may not exceed the maximum number of available nonjail custody units under rules adopted by the Oregon Criminal Justice Commission. [1993 c.680 §11; 1999 c.121 §1; 2001 c.962 §93; 2005 c.264 §10]

Note:

See note under 137.592.

Note:

Legislative Counsel has substituted "chapter 680, Oregon Laws 1993," for the words "this Act" in section 11, chapter 680, Oregon Laws 1993, compiled as 137.595. Specific ORS references have not been substituted, pursuant to 173.160. These sections may be determined by referring to the 1993 Comparative Section Table located in Volume 22 of ORS.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.596 - Probation violations; custodial sanctions; rules.**

The Oregon Criminal Justice Commission shall amend its rules to increase the jail and nonjail custody units that can be imposed as custodial sanctions for probation violations under ORS 137.595. The commission shall base the amendments on the existing rule structure and may not increase existing sanction limits by more than 60 days. [2001 c.737 §1]

Note:

See note under 137.592.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.597 - Probationer may consent to imposition of sanctions.**

Subject to rules adopted under ORS 137.595, after receiving written notification of rights, a probationer may waive in writing a probation violation hearing, admit or not contest the violations alleged in the probation violation report and consent to the imposition of structured, intermediate sanctions by the Department of Corrections or a county community corrections agency pursuant to rules adopted under ORS 137.595. [1993 c.680 §12]

Note:

See note under 137.592.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.599 - Hearing prior to, or after, imposition of sanctions.**

Prior to the imposition of any structured, intermediate sanction or within four judicial days after receiving notice that a structured, intermediate sanction has been imposed on a probationer pursuant to rules adopted under ORS 137.595, the court, upon motion of the district attorney or on its own motion, may cause the probationer to be brought before the court for a hearing, and may revoke probation or impose such other or additional sanctions or modify the conditions of probation as authorized by law. In no case may the sentencing judge cause a probationer to be brought before the court for a hearing and revoke probation or impose other or additional sanctions after the probationer has completed a structured, intermediate sanction imposed by the Department of Corrections or a county community corrections agency pursuant to rules adopted under ORS 137.595. [1993 c.680 §13]

Note:

See note under 137.592.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.610 - Performance by Department of Corrections staff of duties of parole and probation officers appointed by judge.**

The judge or judges of any court of criminal jurisdiction, including municipal courts, may request at any time the staff of the Department of Corrections to perform any of the duties that might be required of a parole and probation officer appointed by the court pursuant to ORS 137.590. All requests for services of the staff shall be made upon the Director of the Department of Corrections, who shall order the prompt performance of any such requested service whenever members of the staff are available for such duty. [Amended by 1969 c.597 §126; 1987 c.320 §40; 2005 c.264 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.620 - Powers of parole and probation officers; oath of office; bond; audit of accounts.**

(1) As used in this section, "parole and probation officer" has the meaning given that term in ORS 181A.355.

(2) Parole and probation officers of the Department of Corrections or a county community corrections agency and those appointed by the court have the powers of peace officers in the execution of their duties, but are not active members of the regular police force. Each parole and probation officer appointed by the court, before entering on the duties of office, shall take an oath of office. Each parole and probation officer who collects or has custody of money shall execute a bond in a penal sum to be fixed by the court, with sufficient sureties approved thereby, conditioned for the honest accounting of all money received by the parole and probation officer as a parole and probation officer. The accounts of all parole and probation officers are subject to audit at any time by the proper

fiscal authorities. [Amended by 1973 c.836 §275; 1987 c.320 §41; 2005 c.264 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.630 - Duties of parole and probation officers.**

(1) The duties of parole and probation officers appointed pursuant to ORS 137.590 or 423.500 to 423.560 are:

(a) To make investigations and reports under ORS 137.530 as are required by the judge of any court having jurisdiction within the county, city or judicial district for which the officer is appointed to serve.

(b) To receive under supervision any person sentenced to probation by any court in the jurisdiction area for which the officers are appointed to serve.

(c) To provide release assistance, and supervise any person placed in a diversion, work release or community services alternative program, by any court in the jurisdiction area for which the officers are appointed to serve.

(d) To give each person under their supervision a statement of the conditions of probation or program participation and to instruct the person regarding the conditions.

(e) To keep informed concerning the conduct and condition of persons under their supervision by visiting, requiring reports and otherwise.

(f) To use all suitable methods, not inconsistent with the condition of probation or program participation, to aid and encourage persons under their supervision and to effect improvement in their conduct and condition.

(g) To keep detailed records of the work done and to make reports to the courts and to the Department of Corrections as the courts require.

(h) To perform other duties not inconsistent with the normal and customary functions of parole and probation officers as may be required by any court in the jurisdiction area for which the officers are appointed to serve.

(2) Parole and probation officers of the Department of Corrections have duties as specified by rule adopted by the Director of the Department of Corrections.

(3) Notwithstanding subsection (2) of this section, parole and probation officers may not be required to collect from persons under their supervision any fees to offset the costs of supervising the probation. [Amended by 1969 c.597 §127; 1981 c.447 §1; 1987 c.320 §42; 1993 c.14 §15; 2005 c.264 §12; 2021 c.653 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.633 - Earned reduction of supervision period; rules.**

(1) A person convicted of a felony, a designated drug-related misdemeanor or a designated person misdemeanor and sentenced to probation, to post-prison supervision or to the legal and physical custody of the Department of Corrections or the supervisory authority under ORS 137.124 (2) is eligible for a reduction in the period of probation or post-prison supervision for complying with terms of probation or post-prison supervision, including demonstrating a commitment to the payment of restitution to the extent the person is able to pay, and participation in recidivism reduction programs.

(2) The maximum reduction under this section may not exceed 50 percent of the period of probation or post-prison supervision imposed.

(3) A reduction under this section may not be used to shorten the period of probation or post-prison supervision to less than six months.

(4) A person serving a sentence described as follows is not eligible for a reduction in the term of supervision under this section:

(a) A sentence for a crime described in ORS 163.095, 163.107, 163.115, 163.118, 163.125, 163.149, 163.185, 163.225, 163.235, 163.365, 163.375, 163.395, 163.405, 163.408, 163.411, 163.427, 163.670, 164.325, 164.415 or 167.017;

(b) A sentence for attempt or conspiracy to commit a crime described in ORS 163.095, 163.107 or 163.115;

(c) A sentence for a crime committed prior to November 1, 1989;

(d) A sentence imposed under the provisions of ORS 161.610;

(e) A sentence imposed under the provisions of ORS 161.725 and 161.735;

(f) A sentence imposed under the provisions of ORS 137.635;

(g) A sentence imposed under the provisions of ORS 137.690, 164.061, 475.907, 475.925, 475.930 or 813.011; or

(h) A term of supervision subject to ORS 144.103.

(5)(a) The Department of Corrections shall adopt rules to carry out the provisions of this section.

(b) The rules adopted under this subsection shall include but are not limited to:

(A) Rules creating processes for early and ongoing notification of eligibility for an earned reduction in supervision under this section to persons on supervision; and

(B) Rules establishing consistent standards for determining when a person on supervision is in compliance with the requirements for, and has succeeded in, earning a reduction in supervision under this section.

(c) The supervisory authority shall comply with the rules adopted under this subsection.

(6) As used in this section:

(a) "Designated drug-related misdemeanor" has the meaning given that term in ORS 423.478.

(b) "Designated person misdemeanor" has the meaning given that term in ORS 423.478. [2013 c.649 §17; 2015 c.140 §1; 2017 c.706 §19; 2021 c.450 §1; 2021 c.581 §5]

Note:

Section 2, chapter 450, Oregon Laws 2021, provides:

Sec. 2.

The amendments to ORS 137.633 by section 1, chapter 450, Oregon Laws 2021, apply to sentences imposed before, on or after January 1, 2022. [2021 c.450 §2; 2023 c.75 §1]

Note:

137.633 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.635 - Determinate sentences required for certain felony convictions.**

(1) When, in the case of a felony described in subsection (2) of this section, a court sentences a convicted defendant who has previously been convicted of any felony designated in subsection (2) of this section, the sentence shall not be an indeterminate sentence to which the defendant otherwise would be subject under ORS 137.120, but, unless it imposes a death penalty under ORS 163.105, the court shall impose a determinate sentence, the length of which the court shall determine, to the custody of the Department of Corrections. Any mandatory minimum sentence otherwise provided by law shall apply. The sentence shall not exceed the maximum sentence otherwise provided by law in such cases. The convicted defendant who is subject to this section shall not be eligible for probation. The convicted defendant shall serve the entire sentence imposed by the court and shall not, during the service of such a sentence, be eligible for parole or any form of temporary leave from custody. The person shall not be eligible for any reduction in sentence pursuant to ORS 421.120 or for any reduction in term of incarceration pursuant to ORS 421.121.

(2) Felonies to which subsection (1) of this section applies include and are limited to:

(a) Murder in any degree, as defined in ORS 163.107 or 163.115, and any aggravated form thereof.

(b) Manslaughter in the first degree, as defined in ORS 163.118.

(c) Assault in the first degree, as defined in ORS 163.185.

(d) Kidnapping in the first degree, as defined in ORS 163.235.

(e) Rape in the first degree, as defined in ORS 163.375.

(f) Sodomy in the first degree, as defined in ORS 163.405.

(g) Unlawful sexual penetration in the first degree, as defined in ORS 163.411.

(h) Burglary in the first degree, as defined in ORS 164.225.

(i) Arson in the first degree, as defined in ORS 164.325.

(j) Robbery in the first degree, as defined in ORS 164.415.

(3) When the court imposes a sentence under this section, the court shall indicate in the judgment that the defendant is subject to this section. [1989 c.1 §2,3; 1991 c.386 §6; 1993 c.692 §5; 1995 c.79 §49; 2003 c.14 §59; 2019 c.635 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.637 - Determining length of determinate sentences.**

When a determinate sentence of imprisonment is required or authorized by statute, the sentence imposed shall be the determinate sentence or the sentence as provided by the rules of the Oregon Criminal Justice Commission, whichever is longer. [1989 c.790 §82; 1995 c.520 §2]

Note:

137.637 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.651 - Definitions for ORS 137.654, 137.656 and 137.658.**

As used in ORS 137.654, 137.656 and 137.658:

(1) "Commission" means the Oregon Criminal Justice Commission.

(2) "Criminal justice system" includes all activities and agencies, whether state or local, public or private, pertaining to the prevention, prosecution and defense of offenses, the disposition of offenders under the criminal law and the disposition or treatment of juveniles adjudicated to have committed an act which, if committed by an adult, would be a crime. The "criminal justice system" includes police, public prosecutors, defense counsel, courts, correction systems, mental health agencies, crime victims and all public and private agencies providing services in connection with those elements, whether voluntarily, contractually or by order of a court. [1985 c.558 §1; 1995 c.420 §4; 1997 c.433 §1]

Note:

137.651 to 137.673 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 137 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.654 - Oregon Criminal Justice Commission; membership; terms; meetings.**



(1) There is established the Oregon Criminal Justice Commission consisting of nine members. The Governor shall appoint seven members who are subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution. The President of the Senate shall appoint one state Senator as a nonvoting member. The Speaker of the House of Representatives shall appoint one state Representative as a nonvoting member. Members serve at the pleasure of the appointing authority. The Governor shall appoint members of the commission consistent with the following:

(a) Members shall be appointed with consideration of geographic, racial, ethnic and gender diversity.

(b) Not more than four members may belong to the same political party. Party affiliation is determined by the appropriate entry on official election registration cards.

(2)(a) The term of office of each member is four years or until the end of a legislative member's legislative term, whichever occurs first. Before the expiration of the term of a member, the appointing authority shall appoint a successor whose term begins immediately upon the expiration of the term of the current member. A member is eligible for reappointment but may serve no more than two consecutive terms.

(b) In case of a vacancy for any cause, the appointing authority shall appoint a person to fill the office for the unexpired term. When a person is appointed under this paragraph, the unexpired term may not be considered for purposes of the limitation to two consecutive terms of service.

(3) The Governor shall appoint one of the commissioners as chairperson, to serve at the pleasure of the Governor. The members of the commission shall elect from among themselves a vice chairperson who shall preside over meetings and exercise the functions of the chairperson during absence or disability of the chairperson. The chairperson and vice chairperson shall execute the duties determined by the commission to be necessary.

(4) The chairperson shall appoint one member, subject to the approval of the commission, to serve on an executive committee with the chairperson and vice chairperson. The executive committee may exercise the powers and responsibilities of the commission between meetings of the commission. All action taken by the executive committee not previously authorized must be submitted to the commission for approval at the next regular or special meeting.

(5) A majority of the voting members of the commission constitutes a quorum for the transaction of business.

(6) The commission shall meet at least once a month, at a time and place determined by the commission. The commission shall also meet at such other times and places as are specified by the call of the chairperson. If a majority of members, in writing, request a special meeting, the chairperson shall designate a time for a special meeting as requested.

(7) The Governor shall appoint an executive director for the commission who shall be in the exempt service and who shall be responsible for the performance of duties assigned by the commission. Subject to the State Personnel Relations Law, the executive director may employ appropriate staff to carry out the duties assigned by the commission.

(8) Members of the commission are entitled to expenses as provided in ORS 292.495. Subject to the availability of funds, members of a committee established under ORS 137.658 who are not commission members may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties, subject to ORS 292.495 (2). Any legislative members are entitled to payment of compensation and expense reimbursement under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(9) The commission is subject to the provisions of ORS 291.201 to 291.222 and 291.232 to 291.260.

(10) The commission shall consult with and seek advice and counsel of the Chief Justice of the Supreme Court and the State Court Administrator on any matter that impacts the operation of the courts. The Chief Justice may have a representative participate in any meeting of the commission. [1995 c.420 §1; 1999 c.172 §1; 2001 c.919 §4; 2019 c.598 §2]

Note:

See note under 137.651.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.656 - Purpose and duties of commission; rules.**

(1) The purpose of the Oregon Criminal Justice Commission is to improve the effectiveness and efficiency of state and local criminal justice systems by providing a centralized and impartial forum for statewide policy development and planning.

(2) The primary duty of the commission is to develop and maintain a state criminal justice policy and comprehensive, long-range plan for a coordinated state criminal justice system that encompasses public safety, offender accountability, crime reduction and prevention and offender treatment and rehabilitation. The plan must include, but need not be limited to, recommendations regarding:

(a) Capacity, utilization and type of state and local prison and jail facilities;

(b) Implementation of community corrections programs;

(c) Alternatives to the use of prison and jail facilities;

(d) Appropriate use of existing facilities and programs;

(e) Whether additional or different facilities and programs are necessary;

(f) Methods of assessing the effectiveness of juvenile and adult correctional programs, devices and sanctions in reducing future criminal conduct by juvenile and adult offenders;

(g) Methods of reducing the risk of future criminal conduct; and

(h) The effective utilization of local public safety coordinating councils.

(3) Other duties of the commission are:

- (a) To conduct joint studies by agreement with other state agencies, boards or commissions on any matter within the jurisdiction of the commission.
  - (b) To provide Oregon criminal justice analytical and statistical information to federal agencies and serve as a clearinghouse and information center for the collection, preparation, analysis and dissemination of information on state and local sentencing practices.
  - (c) To provide technical assistance and support to local public safety coordinating councils.
  - (d) To receive grant applications to start or expand drug court programs as defined in ORS 3.450, to make rules to govern the grant process and to award grant funds according to the rules.
  - (e) To prepare the racial and ethnic impact statements described in ORS 137.683 and 137.685.
  - (f) To assess the extent to which each county is reducing racial and ethnic disparities in its correctional population.
  - (4) The commission shall establish by rule the information that must be submitted under ORS 137.010 (9) and the methods for submitting the information. A rule adopted under this subsection must be approved by the Chief Justice of the Supreme Court before it takes effect.
  - (5) The commission may:
    - (a) Apply for and receive gifts and grants from any public or private source.
    - (b) Award grants from funds appropriated by the Legislative Assembly to the commission or from funds otherwise available from any other source, for the purpose of carrying out the duties of the commission.
    - (c) Adopt rules to carry out the provisions of this subsection. [1995 c.420 §3; 1997 c.433 §2; 1999 c.1053 §44; 2005 c.10 §3; 2005 c.503 §11; 2005 c.706 §24; 2007 c.71 §36; 2007 c.682 §3; 2009 c.308 §1; 2013 c.600 §§7,9; 2017 c.614 §7; 2019 c.598 §3]
- Note:  
See note under 137.651.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.658 - Authority of chairperson to create committees within commission; Justice Reinvestment Program advisory committee; report to legislature.**

- (1) The chairperson of the Oregon Criminal Justice Commission may create any committees within the commission as the chairperson may think necessary. Persons who are not commission members may be appointed as members to serve on the committees with the approval of the commission.
  - (2) The chairperson shall appoint members of committees created under this section in such a manner as to ensure representation from all segments of the criminal justice system that are affected by the work of the committee. In selecting members for committee assignments, the chairperson shall consider, but is not limited to, representatives from the following:
    - (a) The Attorney General;
    - (b) The Director of the Department of Corrections;
    - (c) The chairperson of the State Board of Parole and Post-Prison Supervision;
    - (d) The Superintendent of State Police;
    - (e) The chief administrative employee of the Psychiatric Security Review Board;
    - (f) The Director of Human Services;
    - (g) The Director of the Oregon Health Authority;
    - (h) The Director of the Oregon Youth Authority;
    - (i) Trial judges;
    - (j) Judges of the Oregon Supreme Court or Court of Appeals;
    - (k) Majority and minority parties of the House of Representatives and the Senate;
    - (L) District attorneys;
    - (m) Criminal defense attorneys;
    - (n) County sheriffs;
    - (o) County commissioners;
    - (p) County community corrections directors;
    - (q) Chiefs of police;
    - (r) Victims of crime;
    - (s) The public at large;
    - (t) The director of a nonprofit entity created for the purpose of increasing understanding of the adult and juvenile justice systems and promotion of effective policies for prevention and control of crime; and
    - (u) Private contract providers. [1995 c.420 §2; 1997 c.433 §3; 2001 c.900 §23; 2009 c.595 §98; 2019 c.598 §§4,5]
- Note:  
See note under 137.651.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.661 - Agency cooperation with commission.**

All officers, boards, commissions and other agencies of the State of Oregon shall cooperate with the Oregon Criminal Justice Commission to accomplish the duties imposed upon the Oregon Criminal Justice Commission. [1985 c.558 §6; 1995 c.420 §5]

Note:

See note under 137.651.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.662 - Oregon Criminal Justice Commission Account.**

The Oregon Criminal Justice Commission Account is established separate and distinct from the General Fund. All moneys received by the Oregon Criminal Justice Commission, other than appropriations from the General Fund, and except those moneys described in ORS 131A.460, shall be deposited into the account and are continuously appropriated to the commission to carry out the duties, functions and powers of the commission. [2001 c.716 §1; 2009 c.78 §56]

Note:

See note under 137.651.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.667 - Amendments to sentencing guidelines; submitting to Legislative Assembly; rules.**

(1) The Oregon Criminal Justice Commission shall review all new legislation that creates new crimes or modifies existing crimes. The commission shall adopt by rule any necessary modifications to the crime seriousness scale of the guidelines to reflect the actions of the Legislative Assembly and may classify offenses as person felonies or person misdemeanors for purposes of the rules.

(2) The commission may adopt by majority vote of all of its members who are eligible to vote amendments to the sentencing guidelines approved by section 87, chapter 790, Oregon Laws 1989. The commission shall submit the amendments to the Legislative Assembly for its approval. The amendments do not become effective unless approved by the Legislative Assembly by law. The effective date of the amendments is the date specified by the Legislative Assembly in the law approving the amendments or, if the Legislative Assembly does not specify a date, the effective date of the law approving the amendments. The Legislative Assembly may by law amend, repeal or supplement any of the amendments.

(3) The provisions of subsection (2) of this section do not apply to amendments to the guidelines adopted by the commission that:

(a) Are required to implement enactments of the Legislative Assembly;

(b) Are required under ORS 421.512 (2) or subsection (1) of this section; or

(c)(A) Renumber rules or parts of rules, change internal references to agree with statute or rule numbers, delete references to repealed statutes or rules, substitute statute references for chapter numbers, change capitalization and spelling for the purpose of uniformity or correct manifest clerical, grammatical or typographical errors; and

(B) Do not alter the sense, meaning, effect or substance of the rule amended.

(4) If a rule adopted under subsection (1) of this section is not approved by the next regular Legislative Assembly following the adoption of the rule, the rule is repealed on January 1 following adjournment sine die of that Legislative Assembly. [1989 c.790 §94a; 1993 c.681 §6; 1993 c.692 §7; 1995 c.420 §6; 1997 c.691 §3; 1999 c.966 §2; 2003 c.453 §4]

Note:

See note under 137.651.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.669 - Guidelines control sentences; mandatory sentences.**

The guidelines adopted under ORS 137.667, together with any amendments, supplements or repealing provisions, shall control the sentences for all crimes committed after the effective date of such guidelines. Except as provided in ORS 137.637 and 137.671, the incarcerative guidelines and any other guidelines so designated by the Oregon Criminal Justice Commission shall be mandatory and constitute presumptive sentences. [1987 c.619 §5; 1989 c.790 §95; 1995 c.420 §7; 1997 c.691 §4]

Note:

See note under 137.651.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.671 - Authority of court to impose sentence outside guidelines.**

(1) The court may impose a sentence outside the presumptive sentence or sentence range made presumptive under ORS 137.669 for a specific offense if it finds there are substantial and compelling reasons justifying a deviation from the presumptive sentence.

(2) Whenever the court imposes a sentence outside the presumptive sentence it shall set forth the reasons for its decision in the manner required by rules of the Oregon Criminal Justice Commission. [1987 c.619 §6; 1989 c.790 §39; 1995 c.420 §8]

Note:

See note under 137.651.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.672 - Aggravating factor sentencing rules relating to gender identity of victim.**

The Oregon Criminal Justice Commission, in the rules of the commission concerning sentencing departure factors, shall include gender identity as defined in ORS 166.155 as a characteristic of the victim constituting an aggravating factor when the characteristic

was the motivation, entirely or in part, for the commission of the crime. [2019 c.553 §4]

Note:

137.672 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.673 - Validity of rules.**

Rules adopted by the Oregon Criminal Justice Commission shall not be declared invalid solely because of irregularities in procedural rulemaking, including but not limited to the provisions of ORS 183.335 or 183.400 (4)(c). [1989 c.790 §73; 1995 c.420 §9; 2001 c.220 §2; 2005 c.382 §3]

Note:

See note under 137.651.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.674 - Use of force data analysis; report to legislature.**

The Oregon Criminal Justice Commission shall analyze data from the National Use-of-Force Data Collection operated by the Federal Bureau of Investigation and report annually in the manner provided in ORS 192.245 to an appropriate committee or interim committee of the Legislative Assembly on the analysis. [2021 c.625 §2]

Note:

137.674 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.676 - Development of method for district attorneys to record and report bias-related crime data; rules.**

(1)(a) The Oregon Criminal Justice Commission, in consultation with the Oregon District Attorneys Association and the Department of State Police, shall develop and implement a standardized method for district attorneys to record the data described in subsection (2) of this section and report the data to the commission.

(b) The commission shall analyze the data reported under this section to identify gaps or weaknesses in the investigation, presentation, prosecution and sanctioning of crimes motivated by bias.

(2) The data subject to recording and reporting under this section includes, at a minimum, the following data concerning any crime or alleged crime in which the bias of the actor was, in whole or in part, a motivating factor in the commission of the crime or alleged crime:

- (a) Charges presented to the district attorney for prosecution;
- (b) Cases issued by the district attorney;
- (c) Charges indicted;
- (d) Sentencing enhancements requested;
- (e) Sentences imposed, including conditions of supervision;
- (f) Charges to which a defendant enters a plea of guilty or no contest; and
- (g) Trial outcomes.

(3) The district attorney of each county in this state shall record the data described in subsection (2) of this section and report the data to the commission.

(4) The data reported to, and maintained by, the commission under this section:

- (a) Shall be used only for statistical purposes and not for any other purpose.
- (b) Is exempt from public disclosure if the data directly identifies any individual involved in the crime or alleged crime described in subsection (2) of this section.

(5) Any data recorded by a district attorney under this section that reveals the identity of any individual is exempt from public disclosure.

(6) The commission may adopt rules to carry out the provisions of this section. [2019 c.553 §5; 2019 c.553 §6]

Note:

137.676 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.678 - Analysis of bias-related crime and incident data; annual report; rules.**

(1) As used in this section:

- (a) "Bias crime" means the commission, attempted commission or alleged commission of an offense described in ORS 166.155 or 166.165.

(b) "Bias incident" means a person's hostile expression of animus toward another person, relating to the other person's perceived race, color, religion, gender identity, sexual orientation, disability or national origin, of which criminal investigation or prosecution is impossible or inappropriate. "Bias incident" does not include any incident in which probable cause of the commission of a crime is established by the investigating law enforcement officer.

(2) The Oregon Criminal Justice Commission shall review all data pertaining to bias crimes and bias incidents submitted to the commission:

(a) By district attorneys under ORS 137.676;

(b) By the Department of State Police under ORS 181A.225; and

(c) By the Department of Justice under ORS 147.380.

(3) The commission shall select one or more statistical analysis methodologies, determined to be consistent with current best practices, with which to analyze the data described in subsection (2) of this section.

(4) No later than July 1, 2020, and at least annually thereafter, the commission shall report the results of the data analysis to the Governor, the Legislative Assembly, the Attorney General, the Oregon District Attorneys Association, the Department of State Police and the Department of Public Safety Standards and Training.

(5) Except as provided in subsection (7) of this section, the data described in subsection (2) of this section shall be made publicly accessible to the fullest extent possible under state and federal law.

(6) The commission may use the data described in subsection (2) of this section only for statistical purposes and not for any other purpose.

(7) Any data described in subsection (2) of this section that reveals the identity of any individual is exempt from public disclosure.

(8) The commission may adopt rules to carry out the provisions of this section. [2019 c.553 §9]

Note:

137.678 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.679 - Restorative justice grant program; rules.**

(1) The Oregon Criminal Justice Commission shall establish a program to award grants to public and private entities for restorative justice programs.

(2) The commission shall adopt rules to administer the grant program described in subsection (1) of this section. The rules must:

(a) Define restorative justice for the purpose of grant eligibility criteria.

(b) Specify the application process and eligibility criteria for the grant program, including a requirement that:

(A) Each applicant demonstrate in the application coordination with community-based organizations and the ability to work collaboratively with system partners, including local law enforcement entities, courts, district attorneys and defense attorneys.

(B) Each successful applicant demonstrate in the application how the applicant will center the experiences of those harmed, encourage those who have caused harm to take responsibility and repair the harm, and support persons who have been harmed, impacted community members and responsible parties in identifying solutions that promote healing, including promoting dialogue and mutual agreement.

(c) Include a methodology for reviewing and approving grant applications and distributing grant funds.

(3) The commission shall convene an advisory committee to evaluate and approve grant awards under this section. [2021 c.519 §1]

Note:

137.679 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.680 - Development of specialty court standards.**

(1) As used in this section, "specialty courts" means drug court programs as defined in ORS 3.450, veterans' courts, mental health courts or any other similar court or docketing system.

(2)(a) The Oregon Criminal Justice Commission shall serve as a clearinghouse and information center for the collection, preparation, analysis and dissemination of the best practices applicable to specialty courts.

(b) After consulting with the Judicial Department, the commission shall develop evidence-based standards that may be applied to specialty courts. The standards must:

(A) Be designed to reduce recidivism in a cost-effective manner; and

(B) When appropriate, target medium-risk and high-risk offenders.

(3) The Chief Justice of the Supreme Court may issue an order applicable to specialty courts. The order may include a requirement that a circuit court that operates a specialty court review the standards described in subsection (2) of this section. [2013 c.649 §39]

Note:

137.680 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.681 - Innovative Grant Program; rules.**

(1) The Oregon Criminal Justice Commission shall establish and administer the Innovative Grant Program as described in this section.

(2) Using funds in the Innovative Grant Fund described in ORS 137.682, the commission shall award grants to programs that:

- (a) Demonstrate strong potential to have positive impacts on public safety;
- (b) Can produce measurable outcomes;
- (c) Have the potential to benefit the entire state, either through immediate impact or through potential reproducibility after an initial pilot period; and
- (d) Demonstrate coordination with local public safety coordinating councils.

(3) The commission shall adopt rules to carry out the provisions of this section. The rules must include, but are not limited to:

- (a) A methodology for reviewing and approving grant applications and distributing grant funds; and
- (b) A process for evaluating the efficacy of programs receiving grants under this section. [2021 c.609 §2]

Note:

137.681 and 137.682 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.682 - Innovative Grant Fund.**

The Innovative Grant Fund is established in the State Treasury, separate and distinct from the General Fund. All moneys in the fund are continuously appropriated to the Oregon Criminal Justice Commission for the purposes of making grants as part of the Innovative Grant Program described in ORS 137.681. The fund shall consist of moneys appropriated to the commission by the Legislative Assembly for purposes of the grants. [2021 c.609 §1]

Note:

See note under 137.681.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.683 - Racial and ethnic impact statements for proposed legislation; rules.**

(1) As used in this section, "criminal offender population" means all persons who are convicted of a crime or adjudicated for an act that, if committed by an adult, would constitute a crime.

(2)(a) Upon written request from a member of the Legislative Assembly from each major political party, the Oregon Criminal Justice Commission shall prepare a racial and ethnic impact statement on proposed legislation that is related to crime and likely to have an effect on the criminal justice system.

(b) The statement shall describe the effects of the proposed legislation on the racial and ethnic composition of the criminal offender population.

(3) A racial and ethnic impact statement must be impartial, simple and understandable and must include, for racial and ethnic groups for which data are available, the following:

- (a) An estimate of how the proposed legislation would change the racial and ethnic composition of those likely to be convicted of a criminal offense created or modified by the proposed legislation;
- (b) An estimate of the average length of incarceration that each racial and ethnic composition group receives as a sentence, if applicable;
- (c) A statement of the methodologies and assumptions used in preparing the estimate; and
- (d) An estimate of the racial and ethnic composition of the crime victims who may be affected by the proposed legislation.

(4) The commission shall adopt rules to carry out the provisions of this section. [2017 c.614 §2]

Note:

137.683 and 137.685 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.685 - Racial and ethnic impact statements for state measures; hearing.**

(1)(a) Upon written request from a member of the Legislative Assembly from each major political party, the Oregon Criminal Justice Commission shall prepare a racial and ethnic impact statement for a state measure that is related to crime and likely to have an effect on the criminal justice system.

(b) The racial and ethnic impact statement must:

- (A) Describe the effects of the state measure on the racial and ethnic composition of the criminal offender population as defined in ORS 137.683;
- (B) Include the information described in ORS 137.683 (3); and
- (C) Be impartial, simple and understandable.

- (2) If the commission has prepared a racial and ethnic impact statement for a state measure, not later than the 110th day before a special election held on the date of a primary election or any general election at which the state measure is to be submitted to the people, the commission shall file the statement with the Secretary of State.
  - (3) Not later than the 100th day before the election at which the measure is to be voted upon, the Secretary of State shall hold a hearing in Salem upon reasonable statewide notice to receive suggestions for changes to the statement or to receive other information. At the hearing, any person may submit suggested changes or other information orally or in writing. Written suggestions and any other information also may be submitted at any time before the hearing.
  - (4) The commission shall consider suggestions and any other information submitted under subsection (3) of this section and may file a revised statement with the Secretary of State not later than the 90th day before the election at which the measure is to be voted upon.
  - (5) The Secretary of State shall certify the statement not later than the 90th day before the election at which the measure is to be voted upon.
  - (6) All statements prepared under this section shall be made available to the public.
  - (7) A failure to prepare, file or certify a statement does not prevent inclusion of the measure in the voters' pamphlet. [2017 c.614 §3]
- Note:  
See note under 137.683.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.686 - Organized Retail Theft Grant Program; rules.**

- (1) The Organized Retail Theft Grant Program is established to assist:
  - (a) Cities and counties with the costs incurred by local law enforcement agencies in addressing organized retail theft;
  - (b) The Department of State Police with costs incurred by the department in addressing organized retail theft; and
  - (c) Community-based organizations in addressing organized retail theft.
- (2) The Oregon Criminal Justice Commission shall administer the grant program described in subsection (1) of this section and shall award the grants described in this section.
- (3) The commission shall adopt rules to administer the grant program. Rules adopted under this section must include:
  - (a) A methodology for reviewing and approving grant applications and awarding grants; and
  - (b) A process for evaluating the efficacy of programs and services funded by the grant program.
- (4) Moneys distributed to grant recipients under this section must be spent on costs associated with addressing and prosecuting organized retail theft.
- (5) The commission shall establish three categories of grants under this section as follows:
  - (a) Grants awarded, on a competitive basis, to cities and counties;
  - (b) Grants awarded, on a competitive basis, to community-based organizations; and
  - (c) Grants awarded to the department. [2023 c.582 §1]

Note:

137.686 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Temporary provisions relating to Justice Reinvestment Program)

Note:

Sections 52, 53 and 56, chapter 649, Oregon Laws 2013, provide:

Sec. 52.

The Justice Reinvestment Account is established, separate and distinct from the General Fund. All moneys in the account are continuously appropriated to the Oregon Criminal Justice Commission for the purpose of making grants to counties in accordance with section 53 of this 2013 Act. [2013 c.649 §52]

Sec. 53.

- (1)(a) In consultation with the Justice Reinvestment Grant Review Committee established under subsection (2) of this section, the Oregon Criminal Justice Commission shall administer the Justice Reinvestment Program described in this section. From funds appropriated to the commission for purposes of the program, the commission shall award grants to counties that establish a process to assess offenders and provide a continuum of community-based sanctions, services and programs that are designed to reduce recidivism and decrease the county's utilization of imprisonment in a Department of Corrections institution while protecting public safety and holding offenders accountable.
- (b) Notwithstanding paragraph (a) of this subsection, no less than 10 percent of grant funds awarded under this section must be distributed to community-based nonprofit organizations that provide services to victims of crime, with priority given to culturally specific organizations and culturally responsive services.
- (2) The Justice Reinvestment Grant Review Committee is established, consisting of the following members:
  - (a) The Governor shall appoint the following seven members:
    - (A) One member shall be a district attorney.
    - (B) One member shall be a county sheriff.

- (C) One member shall be a chief of police.
- (D) One member shall be a county commissioner.
- (E) One member shall be a community corrections director who is not a sheriff.
- (F) Two members shall be representatives of community-based organizations that provide services for underserved racial, ethnic or minority communities.
- (b) The Chief Justice of the Supreme Court shall appoint one nonvoting member who is a judge.
- (c) The President of the Senate shall appoint two nonvoting members from among members of the Senate.
- (d) The Speaker of the House of Representatives shall appoint two nonvoting members from among members of the House of Representatives.
- (3)(a) A majority of the voting members of the committee constitutes a quorum for the transaction of business.
- (b) The committee shall elect one of its members to serve as chairperson.
- (c) If there is a vacancy for any cause, the appointing authority shall make an appointment to become effective immediately.
- (d) The committee shall meet at times and places specified by the call of the chairperson or a majority of the voting members of the committee.
- (e) Legislative members of the committee shall be entitled to payment of compensation and expenses under ORS 171.072, payable from funds appropriated to the Legislative Assembly.
- (4)(a) An application for a grant described in this section must be submitted by a local public safety coordinating council convened under ORS 423.560.
- (b) The grant application must include a statement of commitment, from the relevant stakeholders of the service or program for which the county is requesting funding and including the district attorney, presiding judge and community corrections director, to reduce recidivism and decrease the county's utilization of imprisonment in Department of Corrections facilities while protecting public safety and holding offenders accountable.
- (5)(a) During a grant application period established by the commission, the proportion of grant funds available to each county shall be determined in accordance with the formula used to distribute baseline funding under ORS 423.483.
- (b) At the conclusion of the grant application period, the commission shall award grants in accordance with rules adopted by the commission. If unallocated funds remain at the conclusion of the grant acceptance period, the commission may establish a supplemental grant period and distribute the unallocated funds.
- (6)(a) The commission shall regularly evaluate the community-based sanctions, services and programs funded under this section. The commission shall specifically assess the extent to which each county is reducing utilization of imprisonment in Department of Corrections facilities by offenders convicted of felonies under ORS 137.717, 475.752 to 475.980, 811.182, 813.010 or 813.011.
- (b) The commission shall report the results of an evaluation conducted under this section to a committee of the Legislative Assembly related to the judiciary.
- (7)(a) Before applying for grant funds to administer a community-based program described in subsection (10)(a)(D) of this section, the county must obtain the consent of the presiding judge of the judicial district in which the county is located.
- (b) A grant application to administer a community-based program described in subsection (10)(a)(D) of this section must include the costs of appointed counsel.
- (8) After consulting with the Justice Reinvestment Grant Review Committee, the commission shall adopt rules to administer the Justice Reinvestment Program. The rules must include:
  - (a) A methodology for reviewing and approving grant applications and distributing grant funds. Rules described in this paragraph must provide the Justice Reinvestment Grant Review Committee with the ability to approve grant applications for submission for final approval by the commission. The commission may either approve the grant application or return the application for reconsideration by the committee.
  - (b) A process for evaluating the efficacy of community-based sanctions, services and programs funded under this section.
  - (c) A requirement that the grant review committee consider, when approving grant applications, each county's historical reduction of utilization of imprisonment in Department of Corrections facilities by offenders convicted of felonies under ORS 137.717, 475.752 to 475.980, 811.182, 813.010 or 813.011.
  - (d) Provisions allowing the grant review committee to submit to the commission, and the commission to approve, provisional funding plans for counties applying for grants under this section.
- (9)(a) If a county does not reduce utilization of imprisonment in Department of Corrections facilities by offenders convicted of felonies under ORS 137.717, 475.752 to 475.980, 811.182, 813.010 or 813.011, upon request of the grant review committee, the commission shall decline to grant the full grant amount requested by a county, provide technical assistance, withhold approved grant funds or terminate further distribution of the grant award.
- (b) If the commission takes an action described in paragraph (a) of this subsection, any remaining moneys may be redistributed by the commission through a supplemental grant program. Priority shall be given to counties funding programs for historically underserved communities including rural communities, racial, ethnic and minority communities and tribal communities. Rural counties may apply for supplemental grants in cooperation with other rural counties.
- (10) As used in this section:
  - (a) "Community-based program" includes:
    - (A) Work release programs;



- (B) Structured, transitional leave programs;
- (C) Evidence-based programs designed to reduce recidivism that include the balanced administration of sanctions, supervision and treatment;
- (D) Administering a reentry court under section 29, chapter 649, Oregon Laws 2013; and
- (E) Specialty courts aimed at medium-risk and high-risk offenders.
- (b) "County" includes a regional collection of counties.
- (c) "Culturally responsive service" means a service that is respectful of, and relevant to, the beliefs, practices, cultures and linguistic needs of diverse consumer or client populations and communities whose members identify as having particular cultural or linguistic affiliations by virtue of their place of birth, ancestry or ethnic origin, religion, preferred language or language spoken at home. A culturally responsive service has the capacity to respond to the issues of diverse communities and require knowledge and capacity at systemic, organizational, professional and individual levels of intervention.
- (d) "Culturally specific organization" means an organization, or a program within an organization, that serves a particular cultural community, that is primarily staffed and led by members of that community and that demonstrates self-advocacy, positive cultural identity and intimate knowledge of the lived experience of the community, including but not limited to:
  - (A) The impact of structural and individual racism or discrimination on the community;
  - (B) Specific disparities in access to services and resources experienced by the community; and
  - (C) Community strengths, cultural practices, beliefs and traditions. [2013 c.649 §53; 2013 c.649 §54; 2019 c.598 §1; 2022 c.78 §18] Sec. 56.

Sections 52 and 53, chapter 649, Oregon Laws 2013, are repealed on July 1, 2033. [2013 c.649 §56; 2022 c.78 §19; 2023 c.572 §1] Note:

Sections 15, 16a and 17, chapter 78, Oregon Laws 2022, provide:  
Sec. 15.

- (1) The Oregon Criminal Justice Commission shall distribute the moneys received pursuant to section 14 of this 2022 Act to the Northwest Health Foundation Fund II to fund the Justice Reinvestment Equity Program. The program shall consist of the provision of subgrants and technical assistance by the Northwest Health Foundation Fund II to culturally specific organizations and culturally responsive service providers for the following purposes:
- (a) Mental health and substance use disorder treatment;
  - (b) Maternal health services;
  - (c) Trauma-informed restorative justice services;
  - (d) Violence reduction programs, including but not limited to violence interruption mentors or after-school programs focused on art, music, theater or dance;
  - (e) Crisis intervention without police involvement;
  - (f) Reentry programs that are connected to education, workforce development and transitional supports;
  - (g) Long-term supportive housing;
  - (h) Support for setting aside conviction records;
  - (i) Pretrial release support;
  - (j) Services for victims, including incarcerated victims or victims on pretrial release;
  - (k) Programs for persons, and families of persons, who are currently or were formerly incarcerated;
  - (L) Programs designed to reduce recidivism and reduce contact with the criminal justice system;
  - (m) Programs for persons who have been impacted by police violence, either directly or through a family member; or
  - (n) Planning grants and technical assistance to support the development of new culturally specific services, or to strengthen existing services, that are aligned with the other purposes described in this subsection.
- (2) Recognizing that systemic racism exists within this state and within the criminal justice system, and that culturally specific organizations and culturally responsive services must be expanded to address those disparities, the purpose of the Justice Reinvestment Equity Program is to promote racial equity, reduce racial disparities, reduce recidivism and decrease a county's utilization of imprisonment in a Department of Corrections institution, all while protecting public safety and holding offenders accountable.
- (3) Notwithstanding subsection (1) of this section, up to three percent of funds distributed under this section may be used by the Northwest Health Foundation Fund II for administrative costs.
- (4) The Oregon Criminal Justice Commission may adopt rules to carry out the provisions of this section.
- (5) As used in this section:
- (a) "Administrative costs" means all costs incurred throughout the administration of the Justice Reinvestment Equity Program that are not directly related to the delivery of program services or projects.
  - (b) "Culturally responsive service" means a service that is respectful of, and relevant to, the beliefs, practices, cultures and linguistic needs of diverse consumer or client populations and communities whose members identify as having particular cultural or linguistic affiliations by virtue of their place of birth, ancestry or ethnic origin, religion, preferred language or language spoken at home. A culturally responsive service has the capacity to respond to the issues of diverse communities and require knowledge and capacity at systemic, organizational, professional and individual levels of intervention.
  - (c) "Culturally specific organization" means an organization, or a program within an organization, that serves a particular cultural

community, that is primarily staffed and led by members of that community and that demonstrates self-advocacy, positive cultural identity and intimate knowledge of the lived experience of the community, including but not limited to:

- (A) The impact of structural and individual racism or discrimination on the community;
- (B) Specific disparities in access to services and resources experienced by the community; and
- (C) Community strengths, cultural practices, beliefs and traditions. [2022 c.78 §15]

Sec. 16a.

(1) The Oregon Criminal Justice Commission shall evaluate the implementation of the Justice Reinvestment Equity Program and monitor the progress of subgrants provided by the Northwest Health Foundation Fund II under section 15 of this 2022 Act.

(2) The commission shall convene a stakeholder group to assist with the evaluation described in subsection (1) of this section. The group must be composed of culturally diverse persons with expertise in culturally responsive evaluations, persons with expertise in criminal justice issues and subgrantees receiving funds under section 15 of this 2022 Act.

(3) The evaluator conducting the evaluation described in subsection (1) of this section must have expertise in racial equity, facilitation of community-based participatory evaluation methods and demonstrated experience with facilitating inclusive processes with diverse communities.

(4) No later than September 30, 2024, the commission shall provide a report detailing the progress of the evaluation described in subsection (1) of this section to the Legislative Assembly, in the manner provided in ORS 192.245, and shall include recommendations for additional evaluation needs. [2022 c.78 §16a]

Sec. 17.

Section 16a of this 2022 Act is repealed on January 2, 2025. [2022 c.78 §17]

(Temporary provisions relating to  
Safety and Savings Act)

Note:

Sections 1, 10 and 14, chapter 673, Oregon Laws 2017, provide:

Sec. 1.

Sections 7 to 10 [section 9 was repealed and section 5, chapter 98, Oregon Laws 2018, was enacted in lieu thereof] of this 2017 Act, the amendments to ORS 137.717 and 421.168 and section 1, chapter 830, Oregon Laws 2015, by sections 2, 4, 5 and 6 of this 2017 Act and the repeal of section 16, chapter 649, Oregon Laws 2013, by section 3 of this 2017 Act shall be known and may be cited as the Safety and Savings Act. [2017 c.673 §1]

Sec. 10.

The Oregon Criminal Justice Commission shall study the impact of this 2017 Act [chapter 673, Oregon Laws 2017] on prison utilization, recidivism and public safety and report the results of the study to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, no later than February 1 of each year. [2017 c.673 §10]

Sec. 14.

Section 10, chapter 673, Oregon Laws 2017, is repealed on January 2, 2028. [2017 c.673 §14; 2018 c.98 §6]

Note:

Sections 4, 5 and 7, chapter 98, Oregon Laws 2018, provide:

Sec. 4.

Section 9, chapter 673, Oregon Laws 2017, is repealed and section 5 of this 2018 Act is enacted in lieu thereof. [2018 c.98 §4]

Sec. 5.

(1) The Oregon Criminal Justice Commission shall establish a program to award supplemental grant funds to counties for downward departure prison diversion programs as part of the Justice Reinvestment Program described in section 53, chapter 649, Oregon Laws 2013. Notwithstanding sections 52 and 53 (1)(a), chapter 649, Oregon Laws 2013, the commission shall use any moneys appropriated to the commission for the supplemental grant program to award supplemental grant funds for downward departure prison diversion programs to counties selected by the commission to receive the funds. The commission shall give preference to counties establishing downward departure prison diversion programs on or after August 8, 2017.

(2) The commission shall monitor the downward departure prison diversion programs described in subsection (1) of this section and evaluate prison utilization by counties that receive the supplemental grant funds. The commission shall annually report the evaluation findings to the Joint Interim Committee on Ways and Means. [2018 c.98 §5]

Sec. 7.

Section 5, chapter 98, Oregon Laws 2018, is repealed on July 1, 2033. [2018 c.98 §7; 2022 c.78 §21; 2023 c.572 §2]

Note:

Sections 26 and 27, chapter 78, Oregon Laws 2022, provide:

Sec. 26.

(1)(a) The Oregon Criminal Justice Commission, in consultation with the Department of Corrections, shall collect data concerning the imposition of supervision conditions on persons on probation or post-prison supervision.

(b) The commission shall review the data described in paragraph (a) of this subsection and make the data, disaggregated by race, ethnicity, gender and county, available to the public in a clear and accessible format, either in a report or on the website of the commission.

(2)(a) The Oregon Criminal Justice Commission, in coordination with the Department of Corrections, shall collect data concerning

the number of persons on supervision, persons revoked from supervision and sentenced to incarceration, and persons sanctioned for violating conditions of supervision and serving a sanction in a local correctional facility.

(b) The commission shall review the data described in paragraph (a) of this subsection and make the data, disaggregated by race, ethnicity, gender and county, available to the public in a clear and accessible format, either in a report or on the website of the commission.

(c) The Department of Corrections, community corrections agencies and local supervisory authorities shall, at intake of a person on supervision, collect and maintain information concerning the person's race, ethnicity and gender, according to standardized designations in census data, and shall at least annually provide the data to the commission. [2022 c.78 §26]

Sec. 27.

Section 26 of this 2022 Act is repealed on January 2, 2033. [2022 c.78 §27]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.689 - Oregon Crimefighting Act.**

This section and ORS 137.690 and 813.011 shall be known as the Oregon Crimefighting Act. [2011 c.1 §1]

Note:

137.689 was enacted into law but was not added to or made a part of ORS chapter 137 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.690 - Major felony sex crime.**

a. Any person who is convicted of a major felony sex crime, who has one (or more) previous conviction of a major felony sex crime, shall be imprisoned for a mandatory minimum term of 25 years.

b. "Major felony sex crime" means rape in the first degree (ORS 163.375), sodomy in the first degree (ORS 163.405), unlawful sexual penetration in the first degree (ORS 163.411), or using a child in a display of sexually explicit conduct (ORS 163.670).

c. "Previous conviction" includes a conviction for the statutory counterpart of a major felony sex crime in any jurisdiction, and includes a conviction in the same sentencing proceeding if the conviction is for a separate criminal episode as defined in ORS 131.505. [2011 c.1 §2]

Note:

137.690 was enacted into law but was not added to or made a part of ORS chapter 137 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.700 - Offenses requiring imposition of mandatory minimum sentences.**

(1) Notwithstanding ORS 161.605, when a person is convicted of one of the offenses listed in subsection (2)(a) of this section and the offense was committed on or after April 1, 1995, or of one of the offenses listed in subsection (2)(b) of this section and the offense was committed on or after October 4, 1997, or of the offense described in subsection (2)(c) of this section and the offense was committed on or after January 1, 2008, the court shall impose, and the person shall serve, at least the entire term of imprisonment listed in subsection (2) of this section. The person is not, during the service of the term of imprisonment, eligible for release on post-prison supervision or any form of temporary leave from custody. The person is not eligible for any reduction in, or based on, the minimum sentence for any reason whatsoever under ORS 421.121 or any other statute. The court may impose a greater sentence if otherwise permitted by law, but may not impose a lower sentence than the sentence specified in subsection (2) of this section.

(2) The offenses to which subsection (1) of this section applies and the applicable mandatory minimum sentences are:

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(a)(A) Murder in the second degree, as defined in

ORS 163.115. 300 months

(B) Murder in the first degree, as defined

in ORS 163.107 360 months

(C) Attempt or conspiracy to commit aggravated murder, as defined

in ORS 163.095. 120 months

(D) Attempt or conspiracy to commit murder

in any degree. 90 months

(E) Manslaughter in the first degree, as defined

in ORS 163.118. 120 months  
(F) Manslaughter in the second degree, as defined in ORS 163.125. 75 months  
(G) Assault in the first degree, as defined in ORS 163.185. 90 months  
(H) Assault in the second degree, as defined in ORS 163.175. 70 months  
(I) Except as provided in paragraph (b)(G) of this subsection, kidnapping in the first degree, as defined in ORS 163.235. 90 months  
(J) Kidnapping in the second degree, as defined in ORS 163.225. 70 months  
(K) Rape in the first degree, as defined in ORS 163.375 (1)(a), (c) or (d). 100 months  
(L) Rape in the second degree, as defined in ORS 163.365. 75 months  
(M) Sodomy in the first degree, as defined in ORS 163.405 (1)(a), (c) or (d). 100 months  
(N) Sodomy in the second degree, as defined in ORS 163.395. 75 months  
(O) Unlawful sexual penetration in the first degree, as defined in ORS 163.411 (1)(a) or (c). 100 months  
(P) Unlawful sexual penetration in the second degree, as defined in ORS 163.408. 75 months  
(Q) Sexual abuse in the first degree, as defined in ORS 163.427. 75 months  
(R) Robbery in the first degree, as defined in ORS 164.415. 90 months  
(S) Robbery in the second degree, as defined in ORS 164.405. 70 months  
(b)(A) Arson in the first degree, as defined in ORS 164.325, when the offense represented a threat of serious physical injury. 90 months  
(B) Using a child in a display of sexually explicit conduct, as defined in ORS 163.670. 70 months  
(C) Compelling prostitution, as defined in ORS 167.017. 70 months

(D) Rape in the first degree,  
as defined in  
ORS 163.375 (1)(b). 300 months  
(E) Sodomy in the first degree,  
as defined in  
ORS 163.405 (1)(b). 300 months  
(F) Unlawful sexual penetration  
in the first degree, as  
defined in  
ORS 163.411 (1)(b). 300 months  
(G) Kidnapping in the first  
degree, as defined in  
ORS 163.235, when the  
offense is committed in  
furtherance of the commission  
or attempted commission of an  
offense listed in subparagraph  
(D), (E) or (F) of  
this paragraph. 300 months  
(c) Aggravated vehicular  
homicide, as defined in  
ORS 163.149. 240 months

[1995 c.2 §1; 1995 c.421 §1; 1995

c.422 §47; 1997 c.852 §2; 2006 c.1 §1; 2007 c.867 §5; 2019 c.635 §10]

Note:

Section 3 (2), chapter 1, Oregon Laws 2006, provides:

Sec. 3.

(2) The amendments to ORS 137.700 by section 1 of this 2006 Act apply only to a person who was at least 18 years of age at the time the person committed an offense described in ORS 137.700 (2)(b)(D), (E), (F) or (G). [2006 c.1 §3(2)]

Note:

137.700 to 137.707 were enacted into law but were not added to or made a part of ORS chapter 137 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.705 - Definitions; adult prosecution of certain juvenile offenders.**

(1)(a) As used in this section and ORS 137.707:

(A) "Charged" means the filing of an accusatory instrument in a court of criminal jurisdiction.

(B) "Detention facility" has the meaning given that term in ORS 419A.004.

(C) "Prosecuted" includes pretrial and trial procedures, requirements and limitations provided for in criminal cases.

(b) Unless otherwise provided in ORS 137.707, ORS chapters 137 and 138 apply to proceedings under ORS 137.707.

(2)(a) If the juvenile court enters an order of waiver under ORS 419C.349 (1)(a), the person waived may be charged with the commission of an offense listed in ORS 137.707 and may be prosecuted as an adult. The person may be detained in custody only in a detention facility, unless the person is 16 or 17 years of age and the director of the county juvenile department and the sheriff agree to detain the person in a jail or other place where adults are detained. A person detained in accordance with this paragraph is subject to release on the same terms and conditions as for adults.

(b) If a person waived under ORS 419C.349 (1)(a) is under 16 years of age, the person may not be detained before conviction, or after conviction but before execution of the sentence, in a jail or other place where adults are detained. [1995 c.422 §48; 2011 c.122 §1; 2019 c.634 §4]

Note:

Section 32, chapter 634, Oregon Laws 2019, provides:

Sec. 32.

(1) Sections 24 [161.740] and 25 [144.397], chapter 634, Oregon Laws 2019, and the amendments to ORS 137.071, 137.124, 137.705, 137.707, 137.712, 144.185, 161.610, 161.620, 163.105, 163.115, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321, 419C.005, 419C.050, 419C.346, 419C.349, 419C.352, 419C.355, 419C.358, 419C.361, 420.011, 420.081 and 420A.203 and section 3, chapter 635, Oregon Laws 2019 [163.107], by sections 1 to 23 and 26 to 29, chapter 634, Oregon Laws 2019, and section 3a, chapter 635, Oregon Laws 2019, apply to sentences imposed on or after January 1, 2020.

(2) Notwithstanding subsection (1) of this section, sections 24 and 25, chapter 634, Oregon Laws 2019, and the amendments to ORS 137.071, 137.124, 137.705, 137.707, 137.712, 144.185, 161.610, 161.620, 163.105, 163.115, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321, 419C.005, 419C.050, 419C.346, 419C.349, 419C.352, 419C.355, 419C.358, 419C.361, 420.011,

420.081 and 420A.203 and section 3, chapter 635, Oregon Laws 2019, by sections 1 to 23 and 26 to 29, chapter 634, Oregon Laws 2019, and section 3a, chapter 635, Oregon Laws 2019, do not apply to persons who were originally sentenced before January 1, 2020, and who are subsequently resentenced on or after January 1, 2020, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason. [2019 c.634 §32; 2019 c.635 §3c; 2019 c.685 §4]

Note:

See second note under 137.700.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.707 - Mandatory minimum sentences for certain juvenile offenders waived to adult court; lesser included offenses; return to juvenile court.**

(1) When a person waived under ORS 419C.349 (1)(a) is convicted of an offense listed in subsection (4) of this section, the court shall impose at least the presumptive term of imprisonment provided for the offense in subsection (4) of this section. The court may impose a greater presumptive term if otherwise permitted by law, but may not impose a lesser term. The person is not, during the service of the term of imprisonment, eligible for release on post-prison supervision or any form of temporary leave from custody. The person is not eligible for any reduction in the minimum sentence for any reason under ORS 421.121 or any other provision of law. The person is eligible for a hearing and conditional release under ORS 420A.203 and 420A.206.

(2) ORS 138.052, 163.105 and 163.150 apply to sentencing a person prosecuted under this section and convicted of aggravated murder under ORS 163.095 except that a person who was under 18 years of age at the time the offense was committed is not subject to a sentence of death or life imprisonment without the possibility of release or parole.

(3) The court shall commit the person to the legal and physical custody of the Department of Corrections.

(4) The offenses to which this section applies and the presumptive sentences are:

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(a)(A) Murder in the second degree, as defined in ORS 163.115. 300 months

(B) Murder in the first degree, as defined in ORS 163.107. 360 months

(C) Attempt or conspiracy to commit aggravated murder, as defined in ORS 163.095. 120 months

(D) Attempt or conspiracy to commit murder in any degree. 90 months

(E) Manslaughter in the first degree, as defined in ORS 163.118. 120 months

(F) Manslaughter in the second degree, as defined in ORS 163.125. 75 months

(G) Assault in the first degree, as defined in ORS 163.185. 90 months

(H) Assault in the second degree, as defined in ORS 163.175. 70 months

(I) Kidnapping in the first degree, as defined in ORS 163.235. 90 months

(J) Kidnapping in the second degree, as defined in ORS 163.225. 70 months

(K) Rape in the first degree, as defined in ORS 163.375. 100 months

(L) Rape in the second degree, as defined in ORS 163.365. 75 months

(M) Sodomy in the first

degree, as defined in  
ORS 163.405. 100 months  
(N) Sodomy in the second  
degree, as defined in  
ORS 163.395. 75 months  
(O) Unlawful sexual  
penetration in the first  
degree, as defined  
in ORS 163.411. 100 months  
(P) Unlawful sexual  
penetration in the  
second degree, as  
defined in ORS 163.408. 75 months  
(Q) Sexual abuse in the first  
degree, as defined in  
ORS 163.427. 75 months  
(R) Robbery in the first  
degree, as defined in  
ORS 164.415. 90 months  
(S) Robbery in the second  
degree, as defined in  
ORS 164.405. 70 months  
(b)(A) Arson in the first degree,  
as defined in ORS 164.325,  
when the offense represented  
a threat of serious  
physical injury. 90 months  
(B) Using a child in a display  
of sexually explicit  
conduct, as defined in  
ORS 163.670. 70 months  
(C) Compelling prostitution,  
as defined in ORS 167.017  
(1)(a), (b) or (d). 70 months  
(c) Aggravated vehicular  
homicide, as defined in  
ORS 163.149. 240 months

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(5) If a person charged with an offense under this section is found guilty of a lesser included offense and the lesser included offense is:

(a) An offense listed in subsection (4) of this section, the court shall sentence the person as provided in subsections (1) and (2) of this section.

(b) Not an offense listed in subsection (4) of this section:

(A) But constitutes an offense for which waiver is authorized under ORS 419C.349 (1)(b), the court, upon motion of the district attorney, shall hold a hearing to determine whether to retain jurisdiction or to transfer the case to juvenile court for disposition. In determining whether to retain jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court retains jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If the court does not retain jurisdiction, the court shall:

(i) Order that a presentence report be prepared;

(ii) Set forth in a memorandum any observations and recommendations that the court deems appropriate;

(iii) Enter an order transferring the case to the juvenile court for disposition under ORS 419C.067 and 419C.411; and

(iv) Enter an order providing that all court records of the case are subject to the same limitations on inspection, copying and disclosure of records, reports and materials as those set forth under ORS 419A.255.

(B) And is not an offense for which waiver is authorized under ORS 419C.349 (1)(b), the court may not sentence the person. The court shall:

(i) Order that a presentence report be prepared;

(ii) Set forth in a memorandum any observations and recommendations that the court deems appropriate;

(iii) Enter an order transferring the case to the juvenile court for disposition under ORS 419C.067 and 419C.411; and

(iv) Enter an order providing that all court records of the case are subject to the same limitations on inspection, copying and

disclosure of records, reports and materials as those set forth under ORS 419A.255.

(6) When a person is charged under this section, other offenses based on the same act or transaction shall be charged as separate counts in the same accusatory instrument and consolidated for trial, whether or not the other offenses are aggravated murder or offenses listed in subsection (4) of this section. If it appears, upon motion, that the state or the person charged is prejudiced by the joinder and consolidation of offenses, the court may order an election or separate trials of counts or provide whatever other relief justice requires.

(7)(a) If a person charged and tried as provided in subsection (6) of this section is found guilty of aggravated murder or an offense listed in subsection (4) of this section and one or more other offenses, the court shall impose the sentence for aggravated murder or the offense listed in subsection (4) of this section as provided in subsections (1) and (2) of this section and shall impose sentences for the other offenses as otherwise provided by law.

(b) If a person charged and tried as provided in subsection (6) of this section is not found guilty of aggravated murder or an offense listed in subsection (4) of this section, but is found guilty of one of the other charges that constitutes an offense for which waiver is authorized under ORS 419C.349 (1)(b), the court, upon motion of the district attorney, shall hold a hearing to determine whether to retain jurisdiction or to transfer the case to juvenile court for disposition. In determining whether to retain jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court retains jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If the court does not retain jurisdiction, the court shall:

(A) Order that a presentence report be prepared;

(B) Set forth in a memorandum any observations and recommendations that the court deems appropriate;

(C) Enter an order transferring the case to the juvenile court for disposition under ORS 419C.067 and 419C.411; and

(D) Enter an order providing that all court records of the case are subject to the same limitations on inspection, copying and disclosure of records, reports and materials as those set forth under ORS 419A.255. [1995 c.422 §49; 1995 c.421 §4; 1997 c.852 §3; 1999 c.1055 §12; 2007 c.867 §6; 2011 c.334 §2; 2019 c.634 §5; 2019 c.635 §11]

Note:

See second note under 137.700.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.709 - Application of ORS 137.700 and 137.707.**

ORS 137.700 and 137.707 do not apply to a person who is under 15 years of age at the time the person commits a crime listed in ORS 137.700 or 137.707. [2011 c.337 §1]

Note:

137.709 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.712 - Exceptions to ORS 137.700 and 137.707.**

(1)(a) Notwithstanding ORS 137.700 and 137.707, when a person is convicted of manslaughter in the second degree as defined in ORS 163.125, assault in the second degree as defined in ORS 163.175 (1)(b), kidnapping in the second degree as defined in ORS 163.225, rape in the second degree as defined in ORS 163.365, sodomy in the second degree as defined in ORS 163.395, unlawful sexual penetration in the second degree as defined in ORS 163.408, sexual abuse in the first degree as defined in ORS 163.427

(1)(a)(A) or robbery in the second degree as defined in ORS 164.405, the court may impose a sentence according to the rules of the Oregon Criminal Justice Commission that is less than the minimum sentence that otherwise may be required by ORS 137.700 or 137.707 if the court, on the record at sentencing, makes the findings set forth in subsection (2) of this section and finds that a substantial and compelling reason under the rules of the Oregon Criminal Justice Commission justifies the lesser sentence. When the court imposes a sentence under this subsection, the person is eligible for a reduction in the sentence as provided in ORS 421.121 and any other statute and is eligible for a hearing and conditional release under ORS 420A.203 and 420A.206.

(b) In order to make a dispositional departure under this section, the court must make the following additional findings on the record:

(A) There exists a substantial and compelling reason not relied upon in paragraph (a) of this subsection;

(B) A sentence of probation will be more effective than a prison term in reducing the risk of offender recidivism; and

(C) A sentence of probation will better serve to protect society.

(2) A conviction is subject to subsection (1) of this section only if the sentencing court finds on the record by a preponderance of the evidence:

(a) If the conviction is for manslaughter in the second degree:

(A) That the victim was a dependent person as defined in ORS 163.205 who was at least 18 years of age;

(B) That the defendant is the mother or father of the victim;

(C) That the death of the victim was the result of an injury or illness that was not caused by the defendant;

(D) That the defendant treated the injury or illness solely by spiritual treatment in accordance with the religious beliefs or practices of the defendant and based on a good faith belief that spiritual treatment would bring about the victim's recovery from the injury or illness;



- (E) That no other person previously under the defendant's care has died or sustained significant physical injury as a result of or despite the use of spiritual treatment, regardless of whether the spiritual treatment was used alone or in conjunction with medical care; and
- (F) That the defendant does not have a previous conviction for a crime listed in subsection (4) of this section or for criminal mistreatment in the second degree.
- (b) If the conviction is for assault in the second degree:
- (A) That the victim was not physically injured by means of a deadly weapon;
- (B) That the victim did not suffer a significant physical injury; and
- (C) That the defendant does not have a previous conviction for a crime listed in subsection (4) of this section.
- (c) If the conviction is for kidnapping in the second degree:
- (A) That the victim was at least 12 years of age at the time the crime was committed; and
- (B) That the defendant does not have a previous conviction for a crime listed in subsection (4) of this section.
- (d) If the conviction is for robbery in the second degree:
- (A) That the victim did not suffer a significant physical injury;
- (B) That, if the defendant represented by words or conduct that the defendant was armed with a dangerous weapon, the representation did not reasonably put the victim in fear of imminent significant physical injury;
- (C) That, if the defendant represented by words or conduct that the defendant was armed with a deadly weapon, the representation did not reasonably put the victim in fear of imminent physical injury; and
- (D) That the defendant does not have a previous conviction for a crime listed in subsection (4) of this section.
- (e) If the conviction is for rape in the second degree, sodomy in the second degree or sexual abuse in the first degree:
- (A) That the victim was at least 12 years of age, but under 14 years of age, at the time of the offense;
- (B) That the defendant does not have a prior conviction for a crime listed in subsection (4) of this section;
- (C) That the defendant has not been previously found to be within the jurisdiction of a juvenile court for an act that would have been a felony sexual offense if the act had been committed by an adult;
- (D) That the defendant was no more than five years older than the victim at the time of the offense;
- (E) That the offense did not involve sexual contact with any minor other than the victim; and
- (F) That the victim's lack of consent was due solely to incapacity to consent by reason of being under 18 years of age at the time of the offense.
- (f) If the conviction is for unlawful sexual penetration in the second degree:
- (A) That the victim was 12 years of age or older at the time of the offense;
- (B) That the defendant does not have a prior conviction for a crime listed in subsection (4) of this section;
- (C) That the defendant has not been previously found to be within the jurisdiction of a juvenile court for an act that would have been a felony sexual offense if the act had been committed by an adult;
- (D) That the defendant was no more than five years older than the victim at the time of the offense;
- (E) That the offense did not involve sexual contact with any minor other than the victim;
- (F) That the victim's lack of consent was due solely to incapacity to consent by reason of being under 18 years of age at the time of the offense; and
- (G) That the object used to commit the unlawful sexual penetration was the hand or any part thereof of the defendant.
- (3) In making the findings required by subsections (1) and (2) of this section, the court may consider any evidence presented at trial and may receive and consider any additional relevant information offered by either party at sentencing.
- (4) The crimes to which subsection (2)(a)(F), (b)(C), (c)(B), (d)(D), (e)(B) and (f)(B) of this section refer are:
- (a) A crime listed in ORS 137.700 (2) or 137.707 (4);
- (b) Escape in the first degree, as defined in ORS 162.165;
- (c) Aggravated murder, as defined in ORS 163.095;
- (d) Criminally negligent homicide, as defined in ORS 163.145;
- (e) Assault in the third degree, as defined in ORS 163.165;
- (f) Criminal mistreatment in the first degree, as defined in ORS 163.205 (1)(b)(A);
- (g) Rape in the third degree, as defined in ORS 163.355;
- (h) Sodomy in the third degree, as defined in ORS 163.385;
- (i) Sexual abuse in the second degree, as defined in ORS 163.425;
- (j) Stalking, as defined in ORS 163.732;
- (k) Burglary in the first degree, as defined in ORS 164.225, when it is classified as a person felony under the rules of the Oregon Criminal Justice Commission;
- (L) Arson in the first degree, as defined in ORS 164.325;
- (m) Robbery in the third degree, as defined in ORS 164.395;
- (n) A bias crime in the first degree, as defined in ORS 166.165;
- (o) Promoting prostitution, as defined in ORS 167.012; and
- (p) An attempt or solicitation to commit any Class A or B felony listed in paragraphs (a) to (L) of this subsection.
- (5) Notwithstanding ORS 137.545 (5)(b), if a person sentenced to probation under this section violates a condition of probation by

committing a new crime, the court shall revoke the probation and impose the presumptive sentence of imprisonment under the rules of the Oregon Criminal Justice Commission.

(6) As used in this section:

(a) "Conviction" includes, but is not limited to:

(A) A juvenile court adjudication finding a person within the court's jurisdiction under ORS 419C.005, if the person was at least 15 years of age at the time the person committed the offense that brought the person within the jurisdiction of the juvenile court.

"Conviction" does not include a juvenile court adjudication described in this subparagraph if the person successfully asserted the defense set forth in ORS 419C.522.

(B) A conviction in another jurisdiction for a crime that if committed in this state would constitute a crime listed in subsection (4) of this section.

(b) "Previous conviction" means a conviction that was entered prior to imposing sentence on the current crime provided that the prior conviction is based on a crime committed in a separate criminal episode. "Previous conviction" does not include a conviction for a Class C felony, including an attempt or solicitation to commit a Class B felony, or a misdemeanor, unless the conviction was entered within the 10-year period immediately preceding the date on which the current crime was committed.

(c) "Significant physical injury" means a physical injury that:

(A) Creates a risk of death that is not a remote risk;

(B) Causes a serious and temporary disfigurement;

(C) Causes a protracted disfigurement; or

(D) Causes a prolonged impairment of health or the function of any bodily organ. [1997 c.852 §1; 1999 c.614 §3; 1999 c.954 §2; 2001 c.851 §5; 2005 c.843 §22; 2011 c.291 §3; 2019 c.553 §13; 2019 c.634 §23]

Note:

137.712 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.717 - Presumptive sentences for certain property offenders.**

(1) When a court sentences a person convicted of:

(a) Aggravated theft in the first degree under ORS 164.057, organized retail theft under ORS 164.098, burglary in the first degree under ORS 164.225 or aggravated identity theft under ORS 165.803, the presumptive sentence is 24 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, organized retail theft under ORS 164.098, burglary in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415 or aggravated identity theft under ORS 165.803;

(B) Two or more previous convictions for any combination of the crimes listed in subsection (2) of this section; or

(C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.

(b) Unauthorized use of a vehicle under ORS 164.135, mail theft or receipt of stolen mail under ORS 164.162, burglary in the second degree under ORS 164.215, criminal mischief in the first degree under ORS 164.365, computer crime under ORS 164.377, robbery in the third degree under ORS 164.395, forgery in the first degree under ORS 165.013, criminal possession of a forged instrument in the first degree under ORS 165.022, fraudulent use of a credit card under ORS 165.055 (4)(b), possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310, the presumptive sentence is 18 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, organized retail theft under ORS 164.098, unauthorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803;

(B) Two or more previous convictions for any combination of the crimes listed in subsection (2) of this section; or

(C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.

(c) Theft in the first degree under ORS 164.055 or identity theft under ORS 165.800, the presumptive sentence is 13 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, organized retail theft under ORS 164.098, unauthorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking

in stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803; or

(B) Four or more previous convictions for any combination of crimes listed in subsection (2) of this section.

(2) The crimes to which subsection (1) of this section applies are:

(a) Theft in the second degree under ORS 164.045;

(b) Theft in the first degree under ORS 164.055;

(c) Aggravated theft in the first degree under ORS 164.057;

(d) Organized retail theft under ORS 164.098;

(e) Unauthorized use of a vehicle under ORS 164.135;

(f) Mail theft or receipt of stolen mail under ORS 164.162;

(g) Burglary in the second degree under ORS 164.215;

(h) Burglary in the first degree under ORS 164.225;

(i) Criminal mischief in the second degree under ORS 164.354;

(j) Criminal mischief in the first degree under ORS 164.365;

(k) Computer crime under ORS 164.377;

(L) Forgery in the second degree under ORS 165.007;

(m) Forgery in the first degree under ORS 165.013;

(n) Criminal possession of a forged instrument in the second degree under ORS 165.017;

(o) Criminal possession of a forged instrument in the first degree under ORS 165.022;

(p) Fraudulent use of a credit card under ORS 165.055;

(q) Identity theft under ORS 165.800;

(r) Possession of a stolen vehicle under ORS 819.300;

(s) Trafficking in stolen vehicles under ORS 819.310; and

(t) Any attempt to commit a crime listed in this subsection.

(3)(a) A presumptive sentence described in subsection (1)(a) or (b) of this section shall be increased by two months for each previous conviction the person has that:

(A) Was for any of the crimes listed in subsection (1) or (2) of this section; and

(B) Was not used as a predicate for the presumptive sentence described in subsection (1)(a) or (b) of this section.

(b) Previous convictions may not increase a presumptive sentence described in subsection (1)(a) or (b) of this section by more than 12 months under this subsection.

(4) The court may impose a sentence other than the sentence provided by subsection (1) or (3) of this section if the court imposes:

(a) A longer term of incarceration that is otherwise required or authorized by law; or

(b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure allowed for a person sentenced under this subsection is double the presumptive sentence provided in subsection (1) or (3) of this section.

(5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under subsection (4) of this section to a term of incarceration that exceeds the period of time described in ORS 161.605.

(6) The court shall sentence a person under this section to at least the presumptive sentence described in subsection (1)(a) or (b) or (3) of this section, unless the parties stipulate otherwise or the court finds that:

(a) The person was not on probation, parole or post-prison supervision for a crime listed in subsection (1) of this section at the time of the commission of the current crime of conviction;

(b) The person has not previously received a downward departure from a presumptive sentence for a crime listed in subsection (1) of this section;

(c) The harm or loss caused by the crime is not greater than usual for that type of crime; and

(d) In consideration of the nature of the offense and the harm to the victim, a downward departure will:

(A) Increase public safety;

(B) Enhance the likelihood that the person will be rehabilitated; and

(C) Not unduly reduce the appropriate punishment.

(7) When the court imposes a sentence of probation for a conviction for theft in the first degree or identity theft or under subsection (6) of this section, the supervisory authority as defined in ORS 144.087 may require the person to receive a high level of supervision for at least 12 months, and may extend the period of high-level supervision for all or part of the remaining probationary term.

(8)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement of sentence in open court. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.

(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.

(9) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

(10) As used in this section:

(a) "Downward departure" means a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission.

(b) "Previous conviction" includes:

(A) Convictions occurring before, on or after July 1, 2003; and

(B) Convictions entered in any other state or federal court for comparable offenses. [1996 c.3 §1; 1999 c.1022 §§2,4,7; 2001 c.784 §1; 2007 c.584 §2; 2008 c.14 §7; 2009 c.660 §§8,11; 2013 c.649 §5; 2017 c.673 §5; 2023 c.151 §2]

Note:

The amendments to 137.717 by section 7, chapter 649, Oregon Laws 2013, become operative July 1, 2033, and apply to crimes committed on or after July 1, 2033. See section 8, chapter 649, Oregon Laws 2013, as amended by section 22, chapter 78, Oregon Laws 2022, and section 3, chapter 572, Oregon Laws 2023. The amendments to 137.717 by section 6, chapter 673, Oregon Laws 2017, become operative July 1, 2033, and apply to sentences imposed on or after July 1, 2033. See section 12, chapter 673, Oregon Laws 2017, as amended by section 7, chapter 572, Oregon Laws 2023, and see section 13, chapter 673, Oregon Laws 2017, as amended by section 8, chapter 572, Oregon Laws 2023. The text that is operative on and after July 1, 2033, including amendments by section 3, chapter 151, Oregon Laws 2023, is set forth for the user's convenience.

(1) When a court sentences a person convicted of:

(a) Aggravated theft in the first degree under ORS 164.057, organized retail theft under ORS 164.098, burglary in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395 or aggravated identity theft under ORS 165.803, the presumptive sentence is 24 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, organized retail theft under ORS 164.098,

burglary in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415 or aggravated identity theft under ORS 165.803;

(B) Two or more previous convictions for any combination of the crimes listed in subsection (2) of this section; or

(C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.

(b) Unauthorized use of a vehicle under ORS 164.135, mail theft or receipt of stolen mail under ORS 164.162, burglary in the second degree under ORS 164.215, criminal mischief in the first degree under ORS 164.365, computer crime under ORS 164.377, forgery in the first degree under ORS 165.013, criminal possession of a forged instrument in the first degree under ORS 165.022, fraudulent use of a credit card under ORS 165.055 (4)(b), possession of a stolen vehicle under ORS 819.300 or trafficking in stolen vehicles under ORS 819.310, the presumptive sentence is 18 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, organized retail theft under ORS 164.098,

unauthorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery in the third degree under ORS 164.395, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803;

(B) Two or more previous convictions for any combination of the crimes listed in subsection (2) of this section; or

(C) A previous conviction for a crime listed in subsection (2) of this section, if the current crime of conviction was committed while the defendant was on supervision for the previous conviction or less than three years after the date the defendant completed the period of supervision for the previous conviction.

(c) Theft in the first degree under ORS 164.055 or identity theft under ORS 165.800, the presumptive sentence is 13 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has:

(A) A previous conviction for aggravated theft in the first degree under ORS 164.057, organized retail theft under ORS 164.098,

unauthorized use of a vehicle under ORS 164.135, burglary in the first degree under ORS 164.225, robbery in the second degree under ORS 164.405, robbery in the first degree under ORS 164.415, possession of a stolen vehicle under ORS 819.300, trafficking in stolen vehicles under ORS 819.310 or aggravated identity theft under ORS 165.803; or

(B) Four or more previous convictions for any combination of crimes listed in subsection (2) of this section.

(2) The crimes to which subsection (1) of this section applies are:

(a) Theft in the second degree under ORS 164.045;

(b) Theft in the first degree under ORS 164.055;

(c) Aggravated theft in the first degree under ORS 164.057;

(d) Organized retail theft under ORS 164.098;

(e) Unauthorized use of a vehicle under ORS 164.135;

(f) Mail theft or receipt of stolen mail under ORS 164.162;

(g) Burglary in the second degree under ORS 164.215;

(h) Burglary in the first degree under ORS 164.225;

(i) Criminal mischief in the second degree under ORS 164.354;

- (j) Criminal mischief in the first degree under ORS 164.365;
  - (k) Computer crime under ORS 164.377;
  - (L) Forgery in the second degree under ORS 165.007;
  - (m) Forgery in the first degree under ORS 165.013;
  - (n) Criminal possession of a forged instrument in the second degree under ORS 165.017;
  - (o) Criminal possession of a forged instrument in the first degree under ORS 165.022;
  - (p) Fraudulent use of a credit card under ORS 165.055;
  - (q) Identity theft under ORS 165.800;
  - (r) Possession of a stolen vehicle under ORS 819.300;
  - (s) Trafficking in stolen vehicles under ORS 819.310; and
  - (t) Any attempt to commit a crime listed in this subsection.
- (3)(a) A presumptive sentence described in subsection (1)(a) or (b) of this section shall be increased by two months for each previous conviction the person has that:
- (A) Was for any of the crimes listed in subsection (1) or (2) of this section; and
  - (B) Was not used as a predicate for the presumptive sentence described in subsection (1)(a) or (b) of this section.
- (b) Previous convictions may not increase a presumptive sentence described in subsection (1)(a) or (b) of this section by more than 12 months under this subsection.
- (4) The court may impose a sentence other than the sentence provided by subsection (1) or (3) of this section if the court imposes:
- (a) A longer term of incarceration that is otherwise required or authorized by law; or
  - (b) A departure sentence authorized by the rules of the Oregon Criminal Justice Commission based upon findings of substantial and compelling reasons. Unless the law or the rules of the Oregon Criminal Justice Commission allow for imposition of a longer sentence, the maximum departure allowed for a person sentenced under this subsection is double the presumptive sentence provided in subsection (1) or (3) of this section.
- (5) Notwithstanding subsection (4)(b) of this section, the court may not sentence a person under subsection (4) of this section to a term of incarceration that exceeds the period of time described in ORS 161.605.
- (6) The court shall sentence a person under this section to at least the presumptive sentence described in subsection (1)(a) or (b) or (3) of this section, unless the parties stipulate otherwise or the court finds that:
- (a) The person was not on probation, parole or post-prison supervision for a crime listed in subsection (1) of this section at the time of the commission of the current crime of conviction;
  - (b) The person has not previously received a downward departure from a presumptive sentence for a crime listed in subsection (1) of this section;
  - (c) The harm or loss caused by the crime is not greater than usual for that type of crime; and
  - (d) In consideration of the nature of the offense and the harm to the victim, a downward departure will:
    - (A) Increase public safety;
    - (B) Enhance the likelihood that the person will be rehabilitated; and
    - (C) Not unduly reduce the appropriate punishment.
- (7) When the court imposes a sentence of probation for a conviction for theft in the first degree or identity theft or under subsection (6) of this section, the supervisory authority as defined in ORS 144.087 may require the person to receive a high level of supervision for at least 12 months, and may extend the period of high-level supervision for all or part of the remaining probationary term.
- (8)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement of sentence in open court. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.
- (b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.
- (9) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.
- (10) As used in this section:
- (a) "Downward departure" means a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission.
  - (b) "Previous conviction" includes:
    - (A) Convictions occurring before, on or after July 1, 2003; and
    - (B) Convictions entered in any other state or federal court for comparable offenses.

Note:

137.717 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.719 - Presumptive life sentence for certain sex offenders upon third conviction.**

- (1) The presumptive sentence for a sex crime that is a felony is life imprisonment without the possibility of release or parole if the

defendant has been sentenced for sex crimes that are felonies at least two times prior to the current sentence.

(2) The court may impose a sentence other than the presumptive sentence provided by subsection (1) of this section if the court imposes a departure sentence authorized by the rules of the Oregon Criminal Justice Commission based upon findings of substantial and compelling reasons.

(3) For purposes of this section:

(a) Sentences for two or more convictions that are imposed in the same sentencing proceeding are considered to be one sentence; and

(b) A prior sentence includes:

(A) Sentences imposed before, on or after July 31, 2001; and

(B) Sentences imposed by any other state or federal court for comparable offenses.

(4) As used in this section, "sex crime" has the meaning given that term in ORS 163A.005. [2001 c.884 §4]

Note:

137.719 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.721**

[2005 c.708 §8; 2009 c.191 §1; 2009 c.660 §§15,16; renumbered 475.935 in 2009]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.725 - Presumptive life sentence for certain sex offenders upon second conviction.**

(1) The presumptive sentence for a crime described in subsection (3) of this section is life imprisonment without the possibility of release or parole if, at the time of the offense, the defendant has a prior conviction for a crime described in subsection (4) of this section.

(2) The court may impose a sentence other than the presumptive sentence provided by subsection (1) of this section if the court imposes a departure sentence authorized by the rules of the Oregon Criminal Justice Commission based upon findings of substantial and compelling reasons.

(3) The crimes to which the sentence described in subsection (1) of this section applies are:

(a) Rape in the first degree under ORS 163.375;

(b) Sodomy in the first degree under ORS 163.405; and

(c) Unlawful sexual penetration in the first degree under ORS 163.411.

(4) The prior convictions that give rise to a sentence described in subsection (1) of this section are:

(a) Rape in the first degree under ORS 163.375;

(b) Sodomy in the first degree under ORS 163.405;

(c) Unlawful sexual penetration in the first degree under ORS 163.411;

(d) An equivalent federal offense; and

(e) An equivalent offense in another state. [2017 c.699 §1]

Note:

137.725 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.750 - Sentencing requirements concerning defendant's eligibility for certain types of leave, release or programs.**

(1) When a court sentences a defendant to a term of incarceration upon conviction of a crime, the court shall order on the record in open court as part of the sentence imposed that the defendant may be considered by the executing or releasing authority for any form of temporary leave from custody, reduction in sentence, work release or program of conditional or supervised release authorized by law for which the defendant is otherwise eligible at the time of sentencing, unless the court finds on the record in open court substantial and compelling reasons to order that the defendant not be considered for such leave, release or program.

(2) The executing or releasing authority may consider the defendant for a program described in subsection (1) of this section only upon order of the sentencing court appearing in the judgment.

(3) As used in this section:

(a) "Executing or releasing authority" means the Department of Corrections, State Board of Parole and Post-Prison Supervision, Oregon Youth Authority, Psychiatric Security Review Board, sentencing court or supervisory authority.

(b) "Supervisory authority" has the meaning given that term in ORS 144.087. [1997 c.313 §14; 2008 c.35 §2; 2011 c.708 §19; 2013 c.229 §8; 2017 c.442 §17]

Note:

137.750 to 137.754 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.751 - Determination of defendant's eligibility for release on post-prison supervision under ORS 421.508.**

(1) When a court sentences a defendant to a term of incarceration that exceeds one year, the defendant may request a determination of the defendant's eligibility for release on post-prison supervision under ORS 421.508 (4). The court shall order in the judgment that the Department of Corrections may release the defendant on post-prison supervision under ORS 421.508 (4) only if, after a hearing, the court finds that:

- (a) The defendant meets the eligibility requirements of subsections (2) and (3) of this section;
- (b) The defendant was not on probation, parole or post-prison supervision for an offense listed in ORS 137.712 (4) or 811.705 (3)(b) at the time of the commission of the current crime of conviction;
- (c) The defendant has not previously been released on post-prison supervision under ORS 421.508 (4);
- (d) The harm or loss caused by the crime is not greater than usual for that type of crime;
- (e) The crime was not part of an organized criminal operation; and
- (f) After considering the nature of the offense and the harm to the victim, the defendant's successful completion of the program would:
  - (A) Increase public safety;
  - (B) Enhance the likelihood that the defendant would be rehabilitated; and
  - (C) Not unduly reduce the appropriate punishment.

(2) Except as provided in subsection (4) of this section, a defendant may not be released on post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime under ORS 163.145, 163.165 (1)(a) or (b), 163.525 or 811.705 (3)(b).

(3) A defendant may not be released on post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime listed in ORS 137.700, 137.707 or 163.095 or a sex crime as defined in ORS 163A.005.

(4) Notwithstanding subsection (1) of this section, the parties may stipulate to a defendant's eligibility for release on post-prison supervision under ORS 421.508 (4). If the court accepts the stipulation, the court does not need to make explicit findings regarding the factors described in subsection (1)(b) to (f) of this section. The parties may not stipulate to the defendant's release on post-prison supervision under ORS 421.508 (4) if the defendant is being sentenced for a crime described in subsection (3) of this section.

(5) If the court makes the findings described in subsection (1) of this section or accepts the stipulation of the parties under subsection (4) of this section, the court shall:

- (a) Order on the record in open court as part of the sentence imposed that the defendant may be considered by the department for release on post-prison supervision under ORS 421.508 (4); and
- (b) Include the order described in paragraph (a) of this subsection in the judgment.

(6) Subject to the requirements of this section, the court may order that the defendant serve a minimum period of incarceration before the defendant is released on post-prison supervision under ORS 421.508 (4). Nothing in this section authorizes the release of the defendant on post-prison supervision before the defendant has served the period of time described in ORS 421.508 (4)(b). [2008 c.35 §1; 2009 c.713 §17; 2018 c.22 §4a]

Note:

See note under 137.750.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.752 - Requirements when defendant committed to custody of county.**

(1) When a court commits a defendant to the custody of a supervisory authority of a county under ORS 137.124, the court shall order on the record in open court as part of the sentence imposed that the defendant may be considered by the supervisory authority for any form of alternative sanction authorized by ORS 423.478, unless the court finds on the record in open court substantial and compelling reasons to order that the defendant not be considered for alternative sanctions.

(2) The supervisory authority may consider the defendant for alternative sanctions only upon order of the sentencing court appearing in the judgment.

(3) As used in this section, "supervisory authority" has the meaning given that term in ORS 144.087. [1997 c.313 §15]

Note:

See note under 137.750.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.754 - Authority of court to modify judgment to comply with ORS 137.750 and 137.752.**

Notwithstanding any other provision of law, a sentencing court retains authority after entry of a judgment of conviction to modify its judgment and sentence to comply with the requirements of ORS 137.750 or 137.752 when:

- (1) The judgment was entered on or after December 5, 1996;
- (2) The crime of conviction was committed on or after December 5, 1996; and
- (3) The judgment and sentence failed to comply with the provisions of ORS 137.750 or 137.752. [1997 c.313 §16]

Note:

See note under 137.750.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.765 - Sexually violent dangerous offenders; definitions; mandatory lifetime post-prison supervision.**

(1) As used in this section:

(a) "History of sexual assault" means that a person has engaged in unlawful sexual conduct that:

(A) Was not committed as part of the same criminal episode as the crime for which the person is currently being sentenced; and

(B) Seriously endangered the life or safety of another person or involved a victim under 12 years of age.

(b) "Sexually violent dangerous offender" means a person who has psychopathic personality features, sexually deviant arousal patterns or interests and a history of sexual assault and presents a substantial probability of committing a crime listed in subsection (3) of this section.

(2) Notwithstanding ORS 161.605, when a person is convicted of a crime listed in subsection (3) of this section, in addition to any sentence of imprisonment required by law, a court shall impose a period of post-prison supervision that extends for the life of the person if:

(a) The person was 18 years of age or older at the time the person committed the crime; and

(b) The person is a sexually violent dangerous offender.

(3) The crimes to which subsection (2) of this section applies are:

(a) Rape in the first degree and sodomy in the first degree if the victim was:

(A) Subjected to forcible compulsion by the person;

(B) Under 12 years of age; or

(C) Incapable of consent by reason of mental incapacitation, physical helplessness or incapability of appraising the nature of the victim's conduct;

(b) Unlawful sexual penetration in the first degree; and

(c) An attempt to commit a crime listed in paragraph (a) or (b) of this subsection. [1999 c.163 §1; 2005 c.463 §§11,16; 2007 c.16 §6; 2021 c.82 §8]

Note:

137.765 to 137.771 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.767 - Presentence investigation and examination.**

(1)(a) A court shall order a presentence investigation and an examination of the defendant by a psychiatrist or psychologist upon motion of the district attorney if:

(A) The defendant is convicted of a crime listed in ORS 137.765 (3); and

(B) In the opinion of the court, there is reason to believe that the defendant is a sexually violent dangerous offender as defined in ORS 137.765.

(b) The court may appoint one or more qualified psychiatrists or psychologists to examine the defendant in the local correctional facility.

(2) The state shall pay all costs connected with an examination under this section.

(3) The examination performed pursuant to this section must be completed within 30 days if the defendant is in custody or within 60 days if the defendant is not in custody. The court may order extensions not exceeding 30 days. Each psychiatrist or psychologist appointed to examine a defendant under this section shall file with the court a written report of findings and conclusions, including an evaluation of whether the defendant is predisposed to commit a crime listed in ORS 137.765 (3) because the defendant has:

(a) Psychopathic personality features; and

(b) Sexually deviant arousal patterns or interests.

(4) No statement made by a defendant under this section may be used against the defendant in any civil proceeding or in any other criminal proceeding.

(5) Upon receipt of the examination and presentence reports the court shall set a time for a sentence hearing. At the sentence hearing the district attorney and the defendant may question any psychiatrist or psychologist who examined the defendant pursuant to this section.

(6) If, after considering the evidence in the case or in the sentence hearing, the jury or, if the defendant waives the right to a jury trial, the court finds that the defendant is a sexually violent dangerous offender, the court shall sentence the defendant as provided in ORS 137.765.

(7) The fact that a person is a sexually violent dangerous offender is an enhancement fact, as defined in ORS 136.760, and ORS 136.765 to 136.785 apply to making a determination of the fact. [1999 c.163 §3; 2005 c.463 §§12,17; 2007 c.16 §7]

Note:

See note under 137.765.



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.769 - Defendant's right to independent examination.**

(1) When a defendant is examined under ORS 137.767, the defendant may retain a psychiatrist, psychologist or other expert to perform an examination on the defendant's behalf. A psychiatrist, psychologist or other expert retained by the defendant must be provided reasonable access to:

- (a) The defendant for the purpose of the examination; and
- (b) All relevant medical and psychological records and reports.

(2) If the defendant is financially eligible for appointed counsel at state expense, the defendant may request preauthorization to incur the fees and expenses of a psychiatrist, psychologist or other expert as provided in ORS 135.055 (3). [1999 c.163 §4; 2001 c.962 §97; 2003 c.449 §6]

Note:

See note under 137.765.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.771 - Resentencing hearing; petition; findings; modification of sentence.**

(1) No sooner than 10 years after a person sentenced under ORS 137.765 is released to post-prison supervision, the person may petition the sentencing court for a resentencing hearing requesting that the judgment be modified to terminate post-prison supervision. The district attorney of the county must be named and served as a respondent in the petition. The district attorney may file a response either in support of or in opposition to the petition.

(2) Upon filing the petition, the court may order an examination as provided in ORS 137.767. If the court orders an examination and the petitioner is financially eligible for appointed counsel at state expense, the court may appoint counsel for the petitioner, as provided in ORS 135.050, if the court determines that there are substantial or complex issues involved and the petitioner appears incapable of self-representation.

(3) The court shall review the petition and may hold a hearing on the petition. However, if the state opposes the petition, the court shall hold a hearing on the petition. In determining whether to amend the judgment, the court shall consider:

- (a) The nature of the crime for which the petitioner was sentenced to lifetime post-prison supervision;
- (b) The degree of violence involved in the crime;
- (c) The age of the victim;
- (d) The petitioner's prior history of sexual assault;
- (e) Whether the petitioner continues to have psychopathic personality features or sexually deviant arousal patterns or interests;
- (f) Other criminal and relevant noncriminal behavior of the petitioner before and after conviction;
- (g) The period of time during which the petitioner has not reoffended;
- (h) Whether the petitioner has successfully completed a court-approved sex offender treatment program; and
- (i) Any other relevant factors.

(4) If the court finds by clear and convincing evidence that the petitioner does not present a substantial probability of committing a crime listed in ORS 137.765 (3), the court shall amend the judgment and impose a lesser sentence.

(5) The sentencing court retains authority to modify its judgment and sentence to reflect the results of a resentencing hearing ordered under this section.

(6) Not less than five years after the denial of a petition under this section, a person sentenced under ORS 137.765 may petition again for a resentencing hearing under subsections (1) to (5) of this section. [1999 c.163 §7; 2001 c.962 §98]

Note:

See note under 137.765.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.924 - Supervisory authority to provide information to agency directors.**

When a defendant is committed to the supervisory authority of the county pursuant to ORS 137.124, the supervisory authority shall forward the name, date of birth and Social Security number of the defendant to:

- (1) The Director of the Employment Department for purposes of making a determination of eligibility under ORS 657.155;
- (2) The Director of the Oregon Health Authority, or the director's designee, for the purposes of suspending any medical assistance as defined in ORS 414.025; and
- (3) The Director of Human Services, or the director's designee, for the purposes of suspending any public assistance as defined in ORS 411.010. [2011 c.90 §1; 2021 c.58 §2]

Note:

137.924 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 137 - Judgment and Execution; Parole and Probation by the Court Section 137.930 - Criminal history data provider requirements.**

(1) A criminal history data provider is prohibited from including criminal history information in a criminal history report if the criminal history information fails to reflect material changes to the official record of a person's criminal history occurring more than 60 days before the date the criminal history report is delivered.

(2) As used in this section, "material changes" include, but are not limited to:

(a) The setting aside of a conviction arrest, record of acquittal or dismissal, or the issuance of a criminal citation or criminal charge, if no accusatory instrument is filed;

(b) The reduction of an offense to a lower level of offense; and

(c) The vacating of a conviction.

(3) A violation of subsection (1) of this section constitutes an unlawful trade practice under ORS 646.607. [2021 c.486 §4]

Note:

137.930 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 137 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.005 - Definitions for ORS 138.010 to 138.310.**

As used in ORS 138.010 to 138.310:

(1) Unless the context requires otherwise, the terms defined in ORS 19.005 have the meanings set forth in ORS 19.005.

(2) "Appealable" means, in reference to a judgment or order rendered by a trial court, that the judgment or order is, by law, subject to appeal by a party.

(3) "Colorable claim of error" means an argument that is plausible, grounded in the facts of the case, and reasonable under current law or a reasonable extension or modification of current law.

(4) "Reviewable" means, in reference to a particular decision of a trial court on appeal from an appealable judgment or order, that the appellate court may, by law, consider the decision and resolve an issue regarding the decision.

(5) "Sentence" means all legal consequences established or imposed by the trial court after conviction of an offense, including but not limited to:

(a) Forfeiture, imprisonment, cancellation of license, removal from office, monetary obligation, probation, conditions of probation, discharge, restitution and community service; and

(b) Suspension of imposition or execution of any part of a sentence, extension of a period of probation, imposition of a new or modified condition of probation or of sentence suspension, and imposition or execution of a sentence upon revocation of probation or sentence suspension. [1959 c.558 §35; 2017 c.529 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.010 - Mode of review; abolition of writs of error and certiorari.**

Writs of error and of certiorari in criminal actions are abolished. The only mode of reviewing a judgment or order in a criminal action is that prescribed by ORS 138.010 to 138.310.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.012**

[1999 c.1055 §5; 2001 c.306 §2; renumbered 138.052 in 2017]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.015 - Statutes applicable to appeals.**

The provisions of ORS 19.250, 19.260, 19.270, 19.365, 19.370, 19.380, 19.385, 19.390, 19.395, 19.435, 19.450 and 19.510 and, if the defendant is the appellant, the provisions of ORS 19.420 (3) shall apply to appeals to the Supreme Court and the Court of Appeals. [Formerly 138.185]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.020 - Who may appeal.**

Either the state or the defendant may as a matter of right appeal from a judgment in a criminal action in the cases prescribed in ORS 138.010 to 138.310, and not otherwise.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.030 - Parties designated "appellant" and "respondent"; title of action.**

The party appealing is known as the appellant and the adverse party as the respondent; but the title of the action is not changed in consequence of the appeal.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.035 - Appeal by defendant.**

(1)(a) A defendant may take an appeal from the circuit court, or from a municipal court or a justice court that has become a court of record under ORS 51.025 or 221.342, to the Court of Appeals from a judgment:

(A) Conclusively disposing of all counts in the accusatory instrument or conclusively disposing of all counts severed from other counts;

(B) Convicting the defendant of at least one count; and

(C) Imposing sentence on all counts of which the defendant was convicted.

(b) For the purposes of this subsection, if the trial court merges a determination of guilt on one count with a determination of guilt on another count and imposes a sentence on the merged determinations of guilt, the trial court has conclusively disposed of the merged counts.

(2)(a) A defendant may appeal a judgment ordering payment of restitution but not specifying the amount of restitution.

(b) A defendant may appeal a supplemental judgment awarding restitution.

(3) A defendant may appeal a judgment or order extending a period of probation, imposing a new or modified condition of probation or of sentence suspension, or imposing or executing a sentence upon revocation of probation or sentence suspension.

(4) A defendant may appeal an amended or corrected judgment entered after the judgment of conviction and sentence.

(5) A defendant may cross-appeal when the state appeals pursuant to ORS 138.045 (1)(d). [2017 c.529 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.045 - Appeal by state.**

(1) The state may take an appeal from the circuit court, or from a municipal court or a justice court that has become a court of record under ORS 51.025 or 221.342, to the Court of Appeals from:

(a) An order made prior to trial dismissing or setting aside one or more counts in the accusatory instrument;

(b) An order allowing a demurrer;

(c) An order arresting the judgment;

(d) An order made prior to trial suppressing evidence;

(e) An order made prior to trial for the return or restoration of things seized;

(f) For a felony committed on or after November 1, 1989, a judgment, amended judgment or corrected judgment of conviction;

(g) For any felony, a judgment, amended judgment, supplemental judgment, corrected judgment or post-judgment order, that denied restitution or awarded less than the amount of restitution requested by the state;

(h) An order or judgment in a probation revocation hearing finding that a defendant who was sentenced to probation under ORS 137.712 has not violated a condition of probation by committing a new crime;

(i) An order made after a guilty finding dismissing or setting aside one or more counts in the accusatory instrument; or

(j) An order granting a new trial.

(2) Notwithstanding subsection (1) of this section, when the state chooses to appeal an order described in subsection (1)(a), (b) or (d) of this section, the state shall take the appeal to the Supreme Court if the defendant is charged with murder or aggravated murder.

[Formerly 138.060]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.052 - Appeal from judgment of conviction and sentence of death; direct review by Supreme Court.**

(1) The judgment of conviction and sentence of death entered under ORS 163.150 (1)(f) is subject to automatic and direct review by the Supreme Court. The review by the Supreme Court has priority over all other cases and shall be heard in accordance with rules adopted by the Supreme Court.

(2) Notwithstanding ORS 163.150 (1)(a), after automatic and direct review of a conviction and sentence of death the following apply:

(a) If a reviewing court finds prejudicial error in the sentencing proceeding only, the court may set aside the sentence of death and remand the case to the trial court. No error in the sentencing proceeding results in reversal of the defendant's conviction for aggravated murder. Upon remand and at the election of the state, the trial court shall either:

(A) Sentence the defendant to imprisonment for life in the custody of the Department of Corrections as provided in ORS 163.105 (1)(c); or

(B) Impanel a new sentencing jury for the purpose of conducting a new sentencing proceeding to determine if the defendant should be sentenced to:

(i) Death;

(ii) Imprisonment for life without the possibility of release or parole as provided in ORS 163.105 (1)(b); or

(iii) Imprisonment for life in the custody of the Department of Corrections as provided in ORS 163.105 (1)(c).

(b) The new sentencing proceeding is governed by the provisions of ORS 163.150 (1), (2), (3) and (5). A transcript of all testimony and all exhibits and other evidence properly admitted in the prior trial and sentencing proceeding are admissible in the new sentencing proceeding. Either party may recall any witness who testified at the prior trial or sentencing proceeding and may present additional relevant evidence.

(c) The provisions of this subsection are procedural and apply to any defendant sentenced to death after December 6, 1984.

[Formerly 138.012]

Note:

138.052 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 138 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.057 - Appeal from judgment involving violation.**

(1)(a) If a justice court or municipal court has become a court of record under ORS 51.025 or 221.342, an appeal from a judgment involving a violation shall be as provided in ORS chapter 19 for appeals from judgments entered by circuit courts, except that the standard of review is the same as for an appeal from a judgment in a proceeding involving a misdemeanor or felony. If a justice court or municipal court has not become a court of record under ORS 51.025 or 221.342, the appeal from a judgment involving a violation entered by the justice court or municipal court may be taken to the circuit court for the county in which the justice court or municipal court is located. An appeal to a circuit court must be taken in the manner provided in this subsection.

(b) Within 30 days after the entry of the judgment by the justice court or municipal court, a party who wishes to appeal the decision must serve a copy of the notice of appeal on the adverse party and must file the original notice of appeal with the justice court or municipal court along with proof of service on the adverse party or an acknowledgment of service signed by the adverse party.

(c) If the appeal is made by the defendant from the decision of a municipal court, the copy of the notice of appeal must be served on the city attorney. If the appeal is made by the defendant from a decision in a justice court, the copy of the notice of appeal must be served on the district attorney for the county.

(d) No undertaking shall be required of the party filing a notice of appeal under the provisions of this subsection.

(e) Upon filing of the notice of appeal, the justice court or municipal court shall forward all files relating to the case to the circuit court to which the appeal is taken.

(f) The circuit court shall treat a matter appealed under this subsection as though the case had been originally filed with the circuit court and shall try the case anew, disregarding any irregularity or imperfection in the proceedings in the justice court or municipal court.

(g) Upon entry of a judgment in the matter, the judgment may be appealed as provided in subsection (2) of this section.

(2) Subject to the provisions of this subsection, an appeal from a judgment involving a violation entered by a circuit court may be taken as provided in ORS chapter 19.

(a) For the purpose of meeting the requirements imposed by ORS 19.240, the copy of the notice of appeal must be served on:

(A) The city attorney, if the appeal is made by the defendant from a decision initially made in a municipal court.

(B) The district attorney for the county, if the appeal is made by the defendant from a decision initially made in a justice court.

(b) Notwithstanding ORS 19.270, timely service on the city attorney or district attorney under the provisions of this subsection is not jurisdictional and the Court of Appeals may extend the time for that service.

(c) Notwithstanding any provision of ORS chapter 19, an undertaking on appeal is not required for an appeal from a judgment involving a violation.

(d) The filing of a notice of an appeal from a judgment involving a violation does not act to automatically stay the judgment.

(e) The standard of review for an appeal under this subsection is the same as for an appeal from a judgment in a proceeding involving a misdemeanor or felony.

(3) In any case in which only violations are charged, the state may not appeal from an order dismissing the case that is entered by reason of a police officer's failure to appear at the trial of the matter. [1993 c.379 §5; 1995 c.658 §79; 1997 c.389 §12; 1999 c.682 §11; 2005 c.266 §2]

Note:

138.057 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 138 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.060**

[Amended by 1963 c.385 §1; 1969 c.198 §64; 1969 c.529 §1; 1971 c.644 §1; 1973 c.836 §276; 1977 c.752 §2; 1989 c.790 §21a; 1997 c.852 §11; 1999 c.946 §2; 2001 c.870 §4; 2011 c.379 §1; 2017 c.529 §4; renumbered 138.045 in 2017]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.065 - Appeal from judgment or order deciding special statutory proceeding.**

A party may appeal a judgment or order deciding a special statutory proceeding as provided in ORS 19.205. [2017 c.529 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.071 - Time within which appeal must be taken.**

(1) Except as provided in this section, a notice of appeal must be served and filed not later than 30 days after the judgment or order appealed from was entered in the register.

(2) If a motion for new trial or motion in arrest of judgment is timely served and filed, a notice of appeal must be served and filed

within 30 days from the earlier of the following dates:

(a) The date of entry of the order disposing of the motion; or

(b) The date on which the motion is deemed denied.

(3) A defendant cross-appealing shall serve and file the notice of cross-appeal within 10 days of the expiration of the time allowed in subsection (1) of this section.

(4)(a) When an appeal is pending and the trial court enters an amended, corrected or supplemental judgment, or an amended or corrected order that is appealable under ORS 138.035 or 138.045 or any other statutory provision:

(A) If the appellant intends to assign error to any part of the amended, corrected or supplemental judgment, or amended or corrected order that is appealable, the appellant shall file an amended notice of appeal from such judgment or order not later than 30 days after the appellant receives notice that such judgment or order has been entered.

(B) If the appellant does not intend to assign error to any part of the amended, corrected or supplemental judgment, or amended or corrected order that is appealable, the appellant need only file a notice of intent to proceed with the appeal not later than 30 days after the appellant receives notice that such judgment or order has been entered. The notice of intent to proceed is not jurisdictional.

(b) As used in this subsection, "appellant" means the attorney of record in the appellate court for the appellant or, if the appellant is not represented by an attorney, the appellant personally.

(5)(a) Upon motion of a defendant, the Court of Appeals shall grant the defendant leave to file a notice of appeal after the time limits described in subsections (1) to (4) of this section if:

(A) The defendant, by clear and convincing evidence, shows that the failure to file a timely notice of appeal is not attributable to the defendant personally; and

(B) The defendant shows a colorable claim of error in the proceeding from which the appeal is taken.

(b) A defendant is not entitled to relief under this subsection for failure to file timely notice of cross-appeal when the state appeals pursuant to ORS 138.045 (1)(d).

(c) The request for leave to file a notice of appeal after the time limits prescribed in subsections (1) to (3) of this section must be filed no later than 90 days after entry of the order or judgment being appealed. The request for leave to file a notice of appeal after the time limit prescribed in subsection (4) of this section must be filed no later than 90 days after the party receives notice that the order or judgment has been entered. A request for leave under this subsection must be accompanied by the notice of appeal, may be filed by mail and is deemed filed on the date of mailing if the request is mailed as provided in ORS 19.260.

(d) The court may not grant relief under this subsection unless the state has notice and opportunity to respond to the defendant's request for relief.

(e) The denial of a motion under paragraph (a) of this subsection is a bar to post-conviction relief under ORS 138.510 to 138.680 on the same ground, unless the court provides otherwise. [1971 c.565 §21 (enacted in lieu of 138.070); 1977 c.752 §3; 1985 c.282 §1; 1985 c.734 §§17,17a; 1987 c.852 §1; 2001 c.870 §7; 2003 c.288 §2; 2007 c.547 §2; 2009 c.11 §10; 2013 c.153 §2; 2017 c.529 §7]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.081 - Service and filing of notice of appeal.**

(1) An appeal shall be taken by causing a notice of appeal in the form prescribed by ORS 19.250 to be served:

(a)(A) When the defendant appeals, on the district attorney for the county in which the judgment is entered or, if the appeal is under ORS 221.360, on the plaintiff's attorney; or

(B) When the state appeals, on the attorney of record for the defendant or, if the defendant has no attorney of record, on the defendant;

(b) On the trial court transcript coordinator if a transcript is required in connection with the appeal; and

(c) On the trial court administrator.

(2)(a) If the state cannot effect service on the defendant as provided in subsection (1)(a)(B) of this section, the trial court may order alternative service in accordance with ORCP 7 D(6) on proof of the state's due diligence in attempting to effect service.

(b) Alternative service is not perfected until the time established by the court for response expires and the state files with the appellate court the affidavit or declaration of alternative service.

(3) The notice of appeal signed by the appellant, along with proof of service of the notice, must be filed with the administrator of the court to which the appeal is taken. Proof of service of the notice of appeal may either be part of, or accompany, the original notice when filed. [1971 c.565 §23 (enacted in lieu of 138.080); 1985 c.734 §18; 1997 c.389 §9; 2001 c.870 §8; 2017 c.529 §8]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.085 - Content requirements for certain notices of appeal.**

(1) If a defendant appeals a judgment of conviction based only on a plea of guilty or no contest, the notice of appeal must:

(a) Include a statement that the defendant has reserved an issue for appeal under ORS 135.335; or

(b) Identify a colorable claim of error reviewable under ORS 138.105.

(2) If a defendant appeals from any of the following judgments or orders, the notice of appeal must identify a colorable claim of error reviewable under ORS 138.105.

(a) A trial court's judgment or order:

(A) Revoking probation;

- (B) Extending the period of probation;
- (C) Imposing a new condition of probation;
- (D) Modifying an existing condition of probation; or
- (E) Revoking a sentence suspension; or
- (b) A judgment resentencing the defendant pursuant to a decision by an appellate court or a circuit court granting post-conviction relief.
- (3) The requirements of subsections (1) and (2) of this section are not jurisdictional, but the appellate court may dismiss the appeal if the notice of appeal fails to contain the required statement or fails to identify the colorable claim of error and the defendant fails to correct the deficiency after having been given the opportunity to do so. [2017 c.529 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.090 - Signature to notice of appeal.**

When the state takes an appeal, the notice of appeal shall be signed by the district attorney for the county or by the Attorney General. When the defendant takes an appeal, the notice of appeal shall be signed by the defendant or an attorney of the court for the defendant. [Amended by 1975 c.119 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.105 - Appeal by defendant.**

- (1) On appeal by a defendant, the appellate court has authority to review the judgment or order being appealed, subject to the provisions of this section.
- (2) The appellate court has authority to review only questions of law appearing on the record.
- (3) Except as otherwise provided in this section, the appellate court has authority to review any intermediate decision of the trial court.
- (4) On appeal from a judgment of conviction and sentence, the appellate court has authority to review:
  - (a) The denial of a motion for new trial based on juror misconduct or newly discovered evidence; and
  - (b) The denial of a motion in arrest of judgment.
- (5) The appellate court has no authority to review the validity of the defendant's plea of guilty or no contest, or a conviction based on the defendant's plea of guilty or no contest, except that:
  - (a) The appellate court has authority to review the trial court's adverse determination of a pretrial motion reserved in a conditional plea of guilty or no contest under ORS 135.335.
  - (b) The appellate court has authority to review whether the trial court erred by not merging determinations of guilt of two or more offenses, unless the entry of separate convictions results from an agreement between the state and the defendant.
- (6) On appeal from a judgment ordering payment of restitution but not specifying the amount of restitution, the appellate court has no authority to review the decision to award restitution.
- (7) Except as otherwise provided in subsections (8) and (9) of this section, the appellate court has authority to review any sentence to determine whether the trial court failed to comply with requirements of law in imposing or failing to impose a sentence.
- (8) Except as otherwise provided in subsection (9) of this section, for a sentence imposed on conviction of a felony committed on or after November 1, 1989:
  - (a) The appellate court has no authority to review:
    - (A) A sentence that is within the presumptive sentence prescribed by the rules of the Oregon Criminal Justice Commission.
    - (B) A sentence of probation when the rules of the Oregon Criminal Justice Commission prescribe a presumptive sentence of imprisonment but allow a sentence of probation without departure.
    - (C) A sentence of imprisonment when the rules of the Oregon Criminal Justice Commission prescribe a presumptive sentence of imprisonment but allow a sentence of probation without departure.
  - (b) If the trial court imposed a sentence that departs from the presumptive sentence prescribed by the rules of the Oregon Criminal Justice Commission, the appellate court's authority to review is limited to whether the trial court's findings of fact and reasons justifying a departure from the sentence prescribed by the rules of the Oregon Criminal Justice Commission:
    - (A) Are supported by the evidence in the record; and
    - (B) Constitute substantial and compelling reasons for departure.
  - (c) Notwithstanding paragraph (a) of this subsection, the appellate court has authority to review whether the sentencing court erred:
    - (A) In ranking the crime seriousness classification of the current crime or in determining the appropriate classification of a prior conviction or juvenile adjudication for criminal history purposes.
    - (B) In imposing or failing to impose a minimum sentence prescribed by ORS 137.700 or 137.707.
- (9) The appellate court has no authority to review any part of a sentence resulting from a stipulated sentencing agreement between the state and the defendant.
- (10)(a) On appeal from a corrected or amended judgment that is entered before expiration of the applicable period under ORS 138.071 (1) or (2) during which the original judgment can be appealed, the appellate court has authority to review the judgment, including the corrections or amendments, as provided in this section.
- (b) On appeal from a corrected or amended judgment that is entered after expiration of the applicable period under ORS 138.071 (1)

or (2) during which the original judgment was or could have been appealed, the appellate court has authority to review, as provided in this section, only the corrected or amended part of the judgment, any part of the judgment affected by the correction or amendment, or the trial court's decision under ORS 137.172 not to correct or amend the judgment.

(c) As used in this subsection, "judgment" means any appealable judgment or order.

(11)(a) On a defendant's cross-appeal under ORS 138.035 (5), the appellate court may, in its discretion, limit review to any decision by the trial court that is inextricably linked, either factually or legally, to the state's appeal.

(b) The failure to file a cross-appeal under ORS 138.035 (5) does not waive a defendant's right to assign error to a particular ruling of the trial court on appeal from a judgment. [2017 c.529 §13]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.115 - Appeal by state.**

(1) On appeal by the state, the appellate court has authority to review the judgment or order being appealed, subject to the provisions of this section.

(2) The appellate court has authority to review only questions of law appearing on the record.

(3) Except as otherwise provided in this section, the appellate court has authority to review any intermediate decision involving the merits of, or necessarily affecting, the judgment or order from which the appeal is taken.

(4)(a) Except as provided in paragraph (b) of this subsection, on appeal from a judgment of conviction of any felony, the appellate court has authority to review only the sentence as provided by subsections (5) and (6) of this section.

(b) The appellate court has authority to review whether the trial court erred in merging determinations of guilt of two or more offenses, unless the merger of determinations of guilt resulted from an agreement between the state and the defendant.

(5) Except as otherwise provided in subsections (6) and (7) of this section, the appellate court has authority to review the sentence imposed on conviction of any felony to determine whether the trial court failed to comply with requirements of law in imposing or failing to impose a sentence.

(6) Except as otherwise provided in subsection (7) of this section, for a sentence imposed on conviction of a felony committed on or after November 1, 1989:

(a) The appellate court has no authority to review:

(A) A sentence that is within the presumptive sentence prescribed by the rules of the Oregon Criminal Justice Commission.

(B) A sentence of probation when the rules of the Oregon Criminal Justice Commission prescribe a presumptive sentence of imprisonment but allow a sentence of probation without departure.

(C) A sentence of imprisonment when the rules of the Oregon Criminal Justice Commission prescribe a presumptive sentence of imprisonment but allow a sentence of probation without departure.

(b) If the trial court imposed a sentence that departs from the presumptive sentence prescribed by the rules of the Oregon Criminal Justice Commission, the appellate court's authority to review is limited to whether the trial court's findings of fact and reasons justifying a departure from the sentence prescribed by the rules of the Oregon Criminal Justice Commission:

(A) Are supported by the evidence in the record; and

(B) Constitute substantial and compelling reasons for departure.

(c) Notwithstanding paragraph (a) of this subsection, the appellate court has authority to review whether the sentencing court erred:

(A) In ranking the crime seriousness classification of the current crime or in determining the appropriate classification of a prior conviction or juvenile adjudication for criminal history purposes.

(B) In imposing or failing to impose a minimum sentence prescribed by ORS 137.700 or 137.707.

(7) The appellate court has no authority to review any part of a sentence resulting from a stipulated sentencing agreement between the state and the defendant.

(8)(a) On appeal from a corrected or amended judgment that is entered before expiration of the applicable period under ORS 138.071 (1) or (2) during which the original judgment can be appealed, the appellate court has authority to review the judgment, including the corrections or amendments, as provided in this section.

(b) On appeal from a corrected or amended judgment that is entered after expiration of the applicable period under ORS 138.071 (1) or (2) during which the original judgment was or could have been appealed, the appellate court has authority to review, as provided in this section, only the corrected or amended part of the judgment, any part of the judgment affected by the correction or amendment, or the trial court's decision under ORS 137.172 not to correct or amend the judgment.

(c) As used in this subsection, "judgment" means any appealable judgment or order. [2017 c.529 §14]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.125**

[2013 c.151 §1; renumbered 138.285 in 2017]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.145**

[1963 c.155 §3 (138.135 and 138.145 enacted in lieu of 138.130, 138.140 and 138.150); 1973 c.836 §277; 1987 c.320 §43; 2003 c.458 §1; renumbered 138.305 in 2017]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.160**

[Amended by 1959 c.638 §20; 1973 c.836 §278; renumbered 138.295 in 2017]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.185**

[1959 c.558 §39; 1969 c.198 §67; 1971 c.193 §29; 1971 c.565 §25; 1985 c.734 §19; 1987 c.852 §2; 1997 c.389 §26; 2017 c.529 §9; renumbered 138.015 in 2017]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.210 - Failure to file brief by appellant; appearance by defendant.**

If the appellant fails to file a brief in the appellate court, the court shall dismiss the appeal. The defendant need not personally appear in the appellate court. [Amended by 2017 c.529 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.225 - Summary affirmation.**

In reviewing the judgment of any court under ORS 138.010 to 138.310, the Court of Appeals, on its own motion or on the motion of the respondent, may summarily affirm, without oral argument, the judgment after submission of the appellant's brief and without submission of the respondent's brief if the court finds that no substantial question of law is presented by the appeal. Notwithstanding ORS 2.570, the Chief Judge of the Court of Appeals may deny or, if the petitioner does not oppose the motion, grant a respondent's motion for summary affirmation. A dismissal of appeal under this section constitutes a decision upon the merits of the appeal. [1995 c.295 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.227 - Joint motion to vacate and remand.**

(1) On joint motion of the parties to an appeal in a criminal case, the appellate court may vacate the judgment or order from which the appeal was taken and remand the matter to the trial court to reconsider the judgment or order, or any intermediate decision by the trial court. On remand, the trial court shall have jurisdiction to enter a modified judgment or order, or to reenter the vacated judgment or order.

(2) After entry of a judgment or order under subsection (1) of this section, either party may appeal in the same time and manner as an appeal from the original judgment or order. [1995 c.295 §3; 2017 c.529 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.255 - Court of Appeals certification of appeal to Supreme Court in lieu of disposition; party request for Supreme Court review.**

(1) An appeal to the Court of Appeals may be certified to the Supreme Court, and the Supreme Court may accept or deny acceptance of the certified appeal, as provided in ORS 19.405.

(2) At any time before the State Court Administrator sends notice to the parties of the date of oral argument or, if the case is not orally argued, the date that the State Court Administrator delivers the briefs to the Court of Appeals for decision, a party may request the Supreme Court to take and decide an appeal taken by the state under ORS 138.045 (1). In determining whether to accept an appeal under this subsection, the Supreme Court shall consider, in addition to other factors that the Supreme Court deems appropriate:

- (a) Whether the defendant is charged with a Class A felony listed under ORS 137.700 or 137.707;
- (b) The extent to which the case presents speedy trial concerns; and
- (c) The extent to which the case presents a significant issue of law. [1981 c.550 §4; 2001 c.870 §4c]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.257 - Determination on appeal.**

(1) Except as otherwise provided in this section, the appellate court may affirm, reverse, vacate or modify the judgment or order, or any part thereof, from which the appeal was taken.

(2) Subject to Article VII (Amended), section 3, Oregon Constitution, the appellate court shall not reverse, modify or vacate a trial court judgment or order if there is little likelihood that any error affected the outcome.

(3) Except as provided in subsection (4) of this section, if the court reverses, vacates or modifies a judgment or order, or any part thereof, the court may do so with or without remanding the case and with or without instructions.

(4)(a) The appellate court shall remand the case to the trial court:

(A) If the appellate court, in a case involving multiple convictions, reverses at least one conviction and affirms at least one other conviction.

(B) If the appellate court determines that the trial court, in imposing or failing to impose a sentence in the case, committed an error



that requires resentencing.

(b) In a case remanded under this section, the trial court, after issuance of the appellate judgment, may impose a new sentence for any conviction.

(5) If the appellate court reverses a conviction without remanding, upon issuance of the appellate judgment, the trial court shall follow the procedures described in ORS 135.680 concerning the defendant's release. [2017 c.529 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.261 - Time within which certain appeals must be decided.**

(1) When a defendant is charged with a felony and is in custody pending an appeal under ORS 138.045 (1)(a), (b) or (d), the Court of Appeals and the Supreme Court shall decide the appeal within the time limits prescribed by this section.

(2)(a) Pursuant to rules adopted by the Court of Appeals, the Court of Appeals shall ensure that the appeal is fully briefed no later than 90 days after the date the transcript is settled under ORS 19.370.

(b) Notwithstanding paragraph (a) of this subsection, the Court of Appeals may allow more than 90 days after the transcript is settled to fully brief the appeal if it determines that the ends of justice served by allowing more time outweigh the best interests of the public, the parties and the victim of the crime.

(3) The Court of Appeals shall decide the appeal no later than 180 days after the date of oral argument or, if the appeal is not orally argued, the date that the State Court Administrator delivers the briefs to the Court of Appeals for decision. Any reasonable period of delay incurred by the Court of Appeals on its own motion or at the request of one of the parties is excluded from the 180-day period within which the Court of Appeals is required to issue a decision if the Court of Appeals determines that the ends of justice served by a decision on a later date outweigh the best interests of the public, the parties and the victim of the crime.

(4)(a) In determining whether to allow more than 90 days after the transcript is settled to fully brief the appeal or more than 180 days after oral argument or delivery of the briefs to decide the appeal, the Court of Appeals shall consider whether:

(A) The appeal is unusually complex or presents novel questions of law so that the prescribed time limit is unreasonable; and

(B) The failure to extend the time limit would likely result in a miscarriage of justice.

(b) If the Court of Appeals decides to allow additional time to fully brief the appeal or to decide the appeal, the Court of Appeals shall state the reasons for doing so in writing and shall serve a copy of the writing on the parties.

(5) If the Supreme Court allows review of a decision of the Court of Appeals on an appeal described in subsection (1) of this section, the Supreme Court shall issue its decision on review no later than 180 days after the date of oral argument or, if the review is not orally argued, the date the State Court Administrator delivers the briefs to the Supreme Court for decision. Any reasonable period of delay incurred by the Supreme Court on its own motion or at the request of one of the parties is excluded from the 180-day period within which the Supreme Court is required to issue a decision if the Supreme Court determines that the ends of justice served by a decision on a later date outweigh the best interests of the public, the parties and the victim of the crime.

(6) In an appeal by the state under ORS 138.045 (2), the Supreme Court shall issue its decision no later than one year after the date of oral argument or, if the appeal is not orally argued, the date that the State Court Administrator delivers the briefs to the Supreme Court for decision.

(7)(a) In determining whether to allow more than 180 days after oral argument or delivery of the briefs to decide the review, the Supreme Court shall consider whether:

(A) The review is unusually complex or presents novel questions of law so that the prescribed time limit is unreasonable; and

(B) The failure to extend the time limit would likely result in a miscarriage of justice.

(b) If the Supreme Court decides to allow additional time to decide the review, the Supreme Court shall state the reasons for doing so in writing and shall serve a copy of the writing on the parties.

(8) Failure of the Court of Appeals or the Supreme Court to decide an appeal or review within the time limits prescribed in this section is not a ground for dismissal of the appeal or review.

(9) Any delay sought or acquiesced in by the defendant does not count against the state with respect to any statutory or constitutional right of the defendant to a speedy trial. [2001 c.870 §4b; 2017 c.529 §17; 2019 c.399 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.275 - Notice to parties concerning modified judgment or order or supplemental judgment.**

If the appellate court, during the pendency of an appeal, receives from the trial court an amended, corrected or supplemental judgment or an amended or corrected appealable order, the appellate court shall notify the attorney of record for the state and the attorney of record for the defendant or, if the defendant is not represented by an attorney, the defendant. [2017 c.529 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.285 - Order staying execution of sentence.**

(1)(a) A justice, municipal or circuit court may enter an order in a criminal action as defined in ORS 131.005 staying execution of a sentence, or a portion of a sentence, pending the resolution of an appeal.

(b) Except for good cause shown, a motion for an order under this section must be filed in the trial court no later than the filing of a notice of appeal. The trial court retains jurisdiction to enter an order under this section irrespective of whether a notice of appeal has been filed.

- (c) Except as otherwise required by this section, the trial court may impose conditions on a stay that the trial court determines are appropriate.
- (2) In determining whether to enter an order staying the execution of all of a sentence, or a portion of a sentence, the trial court shall consider the following factors:
- (a) The nature of the offense;
  - (b) The severity of the sentence imposed;
  - (c) The health of the defendant;
  - (d) The character and strength of the evidence;
  - (e) The criminal history of the defendant;
  - (f) If the sentence, or the portion of the sentence, sought to be stayed includes a term of incarceration, the likelihood that the defendant will:
    - (A) Appear in court at all appropriate times;
    - (B) Comply with any other conditions of release; and
    - (C) Complete, or substantially complete, serving the term of incarceration before the appeal is decided;
  - (g) The likelihood that an appellate court will reverse the sentence, or the portion of the sentence, sought to be stayed or will reverse the judgment of conviction that includes the sentence, or the portion of the sentence, sought to be stayed; and
  - (h) If an appellate court has issued a decision reversing the sentence, or a portion of the sentence, sought to be stayed or reversing the judgment of conviction that includes the sentence, or the portion of the sentence, sought to be stayed:
    - (A) Whether the reversal or any other relief described in the appellate decision will result in the defendant having completed serving the term of incarceration imposed; and
    - (B) Whether the appellate decision remands the case for a new trial.
- (3) If the trial court enters an order staying a term of incarceration, the court:
- (a) May order that the conditions of the release agreement and any posted security stand pending resolution of the appeal or may order an increase or reduction in the amount of security.
  - (b) Shall order that the defendant, as a condition of release:
    - (A) Duly prosecute the appeal of the defendant as required by ORS 138.005 to 138.500;
    - (B) Appear at such time and place as the court may direct;
    - (C) Not depart this state without leave of the court; and
    - (D) If the judgment is affirmed, or the judgment is reversed and the case is remanded for a new trial, immediately appear as required by the trial court.
  - (4) If the court enters an order staying the payment of a monetary obligation, the court may order the defendant:
    - (a) To deposit, pending resolution of the appeal, the whole or any part of the monetary obligation with the clerk of the trial court;
    - (b) To file an undertaking with sufficient sureties;
    - (c) To submit to an examination of assets; or
    - (d) To refrain from dissipating the assets of the defendant. [Formerly 138.125]

Note:

138.285 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 138 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.295 - Stay of judgment or order on appeal by state; release.**

An appeal taken by the state stays the effect of the judgment or order in favor of the defendant, so that the release agreement and, if applicable, the security for release, is held for the appearance and surrender of the defendant until the final determination of the appeal and the proceedings consequent thereon, if any; but if the defendant is in custody, the defendant may be released by the court subject to ORS 135.230 to 135.290, pending the appeal. [Formerly 138.160]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.305 - Delivery of defendant under sentence of imprisonment to intake center.**

If the confinement designated by the court is the custody of the Department of Corrections, the defendant may be taken to a designated intake center during normal business hours unless prior arrangements have been made with the department. To the extent possible, the county taking a defendant to a designated intake center shall notify the department one business day prior to the defendant's arrival. The county may not take the defendant to a designated intake center if the court has ordered the retention of the defendant at the place of original custody for the period of time deemed necessary by the court for preparation of an appeal. [Formerly 138.145]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.310 - Notice to court below when executive director of Oregon Public Defense Commission certifies costs, expenses or compensation.**

When the executive director of the Oregon Public Defense Commission pays costs, expenses or compensation under ORS 138.500

(5) on appeal in a criminal action, the executive director shall notify the court below of the costs, expenses and compensation paid in order that the court below may exercise its discretion under ORS 151.505 or 161.665 (2). [1983 c.763 §14; 1989 c.1053 §10; 1991 c.790 §16; 1997 c.761 §11; 2001 c.962 §69; 2007 c.291 §2; 2023 c.281 §28]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.480 - Oregon Public Defense Commission to provide representation for prisoner in proceeding before appellate court.**

The Supreme Court or the Court of Appeals may, in its discretion, at the request of an individual who is deprived of liberty by a judgment, is without means to retain an attorney and is without the aid of an attorney, direct the Oregon Public Defense Commission to provide representation for the individual in a proceeding before it to test the validity of that judgment. [1963 c.600 §10; 1969 c.198 §69; 2001 c.962 §28; 2023 c.281 §29]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.500 - Appointment of counsel and furnishing of transcript for appellant without funds; compensation.**

(1) If a defendant in a criminal action or a petitioner in a proceeding pursuant to ORS 138.510 to 138.680 wishes to appeal from an appealable adverse final order or judgment of a circuit court and if the person is without funds to employ suitable counsel possessing skills and experience commensurate with the nature and complexity of the case for the appeal, the person may request the circuit court from which the appeal is or would be taken to appoint counsel to represent the person on appeal. The following apply to a request under this subsection:

(a) The request shall be in writing and shall be made within the time during which an appeal may be taken or, if the notice of appeal has been filed, at any time thereafter. The request shall include a brief statement of the assets, liabilities and income in the previous year of the person unless the court already determined the person to be financially eligible for appointed counsel at state expense for purposes of the specific case, in which instance, the written request need only so indicate. However, if a request relies on a court's previous determination that the person is financially eligible, the court, in its discretion, may require the person to submit a new statement of assets, liabilities and income.

(b) If, based upon a request under paragraph (a) of this subsection, the court finds that petitioner or defendant previously received the services of appointed counsel or currently is without funds to employ suitable counsel for an appeal, the court shall appoint counsel to represent petitioner or defendant on the appeal.

(2)(a) Notwithstanding subsection (1) of this section, when a defendant has been sentenced to death, the request for appointed counsel shall be made to the Supreme Court. The Supreme Court shall appoint suitable counsel to represent the defendant on the appeal.

(b) After the notice of appeal has been filed, the Court of Appeals has concurrent authority to appoint or substitute counsel or appoint or substitute a legal advisor for the defendant under ORS 138.504.

(c) The Supreme Court has concurrent authority to appoint or substitute counsel or appoint or substitute a legal advisor for the defendant under ORS 138.504 in connection with review of a Court of Appeals decision under ORS 2.520.

(d) Neither the Court of Appeals nor the Supreme Court may substitute one appointed counsel for another under paragraph (b) or (c) of this subsection except pursuant to the policies, procedures, standards and guidelines of the Oregon Public Defense Commission.

(3) Whenever a defendant in a criminal action or a petitioner in a proceeding pursuant to ORS 138.510 to 138.680 has filed a notice of appeal from an appealable adverse final order or judgment of a circuit court and the person is without funds to pay for a transcript, or portion thereof, necessary to present adequately the case upon appeal, the person may request the executive director of the Oregon Public Defense Commission to have the transcript, or portion thereof, prepared for purposes of appeal. The following apply to a request under this subsection:

(a) The executive director shall authorize the preparation of a transcript after a court has determined that the person is eligible for court-appointed counsel or, if the person has not applied for court-appointed counsel, the person submits a statement of the person's assets, liabilities and income in the previous year and the director determines that the person is eligible for preparation of a transcript at state expense.

(b) The cost of the transcript preparation under paragraph (a) of this subsection shall be in the amount prescribed in ORS 21.345 and paid for as provided by the policies, procedures, standards and guidelines of the Oregon Public Defense Commission.

(4) After submission of the original brief by counsel, the executive director of the Oregon Public Defense Commission shall determine the cost of briefs and any other expenses of appellant, except transcripts, necessary to appellate review and a reasonable amount of compensation for counsel appointed under this section. Compensation payable to appointed counsel shall be as established under ORS 151.216. On any review by the Supreme Court of the judgment of the Court of Appeals the executive director shall similarly determine the costs of briefs and any other expenses necessary for review and a reasonable amount of compensation for counsel appointed under this section.

(5) Costs, expenses and compensation determined by the executive director of the Oregon Public Defense Commission under subsection (4) of this section shall be paid by the executive director from funds available for that purpose.

(6) If the executive director of the Oregon Public Defense Commission denies, in whole or in part, costs, expenses and compensation submitted for review and payment, the person who submitted the payment request may appeal the decision to the Chief Judge of the Court of Appeals, if the appeal is in the Court of Appeals, or to the Chief Justice of the Supreme Court, if the

appeal is in the Supreme Court. The Chief Judge, Chief Justice or the designee of the Chief Judge or Chief Justice, as appropriate, shall review the executive director's decision for abuse of discretion. The decision of the Chief Judge, the Chief Justice or the designee of the Chief Judge or Chief Justice is final.

(7) The provisions of this section shall apply in favor of the defendant in a criminal action or the petitioner in a proceeding pursuant to ORS 138.510 to 138.680 when the person is respondent in an appeal taken by the state in a criminal action or by the defendant in a proceeding pursuant to ORS 138.510 to 138.680.

(8) As used in this section, "criminal action" does not include an action that involves only violations.

(9) As used in subsection (4) of this section, "counsel" includes a legal advisor appointed under ORS 138.504. [1959 c.636 §23; 1961 c.480 §2; 1963 c.600 §8; 1969 c.198 §71; 1971 c.257 §3; 1977 c.752 §6; 1979 c.867 §3; 1981 s.s. c.3 §126; 1983 c.763 §16; 1983 c.774 §5; 1985 c.58 §1; 1985 c.502 §20; 1989 c.1053 §6; 1991 c.790 §17; 1991 c.827 §1; 1995 c.117 §2; 1995 c.194 §1; 2001 c.962 §§29,108; 2003 c.449 §§7,44; 2005 c.454 §1; 2007 c.291 §1; 2023 c.281 §30]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.504 - Waiver of counsel; appointment of legal advisor.**

(1) If the defendant wishes to waive counsel in the appeal of a criminal action to the Court of Appeals or on review of a criminal action by the Supreme Court, the court shall determine whether the defendant has made a knowing and voluntary waiver of counsel. The court shall accept the waiver of counsel if the defendant is not charged with a capital offense. The court may decline to accept the waiver of counsel if the defendant is charged with a capital offense.

(2) If the court accepts a defendant's waiver of counsel, the court may allow an attorney to serve as the defendant's legal advisor and, if the defendant is financially eligible for appointed counsel at state expense, may appoint an attorney as the defendant's legal advisor.

(3) If the court declines to accept a defendant's waiver of counsel under subsection (1) of this section, the court shall give the defendant a reasonable opportunity, as prescribed by order or rule of the court, to file a brief on the defendant's own behalf. [2001 c.472 §2; 2001 c.962 §29a]

Note:

138.504 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 138 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.510 - Persons who may file petition for relief; time limit.**

(1) Except as otherwise provided in ORS 138.540, any person convicted of a crime under the laws of this state may file a petition for post-conviction relief pursuant to ORS 138.510 to 138.680.

(2) A petition for post-conviction relief may be filed by one person on behalf of another person who has been convicted of aggravated murder and sentenced to death only if the person filing the petition demonstrates by a preponderance of the evidence that:

(a) The person sentenced to death is unable to file a petition on the person's own behalf due to mental incapacity or because of a lack of access to the court; and

(b) The person filing the petition has a significant relationship with the person sentenced to death and will act in the best interest of the person on whose behalf the petition is being filed.

(3) A petition pursuant to ORS 138.510 to 138.680 must be filed within two years of the following, unless the court on hearing a subsequent petition finds grounds for relief asserted which could not reasonably have been raised in the original or amended petition:

(a) If no appeal is taken, the date the judgment or order on the conviction was entered in the register.

(b) If an appeal is taken, the date the appeal is final in the Oregon appellate courts.

(c) If a petition for certiorari to the United States Supreme Court is filed, the later of:

(A) The date of denial of certiorari, if the petition is denied; or

(B) The date of entry of a final state court judgment following remand from the United States Supreme Court.

(4) A one-year filing period shall apply retroactively to petitions filed by persons whose convictions and appeals became final before August 5, 1989, and any such petitions must be filed within one year after November 4, 1993. A person whose post-conviction petition was dismissed prior to November 4, 1993, cannot file another post-conviction petition involving the same case.

(5) The remedy created by ORS 138.510 to 138.680 is available to persons convicted before May 26, 1959.

(6) In any post-conviction proceeding pending in the courts of this state on May 26, 1959, the person seeking relief in such proceedings shall be allowed to amend the action and seek relief under ORS 138.510 to 138.680. If such person does not choose to amend the action in this manner, the law existing prior to May 26, 1959, shall govern the case. [1959 c.636 §§1,16,17; 1989 c.1053 §18; 1993 c.517 §1; 1999 c.1055 §7; 2007 c.292 §1]

Note:

Sections 1 and 2, chapter 368, Oregon Laws 2023, provide:

Sec. 1.

(1) Notwithstanding ORS 138.510 (3) and (4), at any time before December 30, 2024, a person may file a petition for

post-conviction relief under ORS 138.510 to 138.680 claiming, as grounds for relief, that the person was convicted of a criminal offense as the result of a nonunanimous jury verdict.

(2) ORS 138.550 does not apply to petitions for post-conviction relief described in this section.

(3)(a) Notwithstanding ORS 138.530, in a post-conviction relief proceeding claiming, as grounds for relief, that the person was convicted of a criminal offense as the result of a nonunanimous jury verdict, the petitioner has the burden of proving, by a preponderance of the evidence, that the conviction resulted from a nonunanimous jury verdict.

(b) Evidence that a jury verdict was nonunanimous is limited to:

(A) A verdict form;

(B) A written jury poll;

(C) An audio or video recording of the trial; or

(D) A transcript of the trial.

(c) Notwithstanding paragraph (b) of this subsection, if a recording or transcript of the trial reflects that the jury was polled after issuing the verdict, but either does not indicate or is ambiguous concerning whether the verdict was unanimous, the court may order a review in camera of the file of the district attorney, the defense attorney or the court, relating to the underlying conviction, and may consider any evidence concerning the jury's verdict within the file or files that the court determines to be credible.

(d) This subsection applies to petitions for post-conviction relief filed on or after the effective date of this 2023 Act [July 18, 2023].

(4) Notwithstanding ORS 138.520, if post-conviction relief is granted under this section, the court shall vacate the judgment as to the specific conviction that resulted from the nonunanimous jury verdict, or grant such other relief as stipulated by the parties.

(5) A petitioner with an appeal pending in an appellate court on the effective date of this 2023 Act, from a judgment on a petition under ORS 138.510 to 138.680, may by motion seek leave of the appellate court to vacate the judgment and remand to the circuit court so that the petitioner may file an amended petition indicating the petitioner's intent to proceed under the provisions of this section. Upon the receipt of such a motion, the appellate court may vacate the judgment and remand to the circuit court if:

(a) The petition asserted as grounds for relief either that the petitioner was convicted of a criminal offense as the result of a nonunanimous jury verdict, or that counsel was ineffective for a reason related to the petitioner's conviction resulting from a nonunanimous jury verdict; and

(b) The motion described in this subsection is filed within 90 days after the effective date of this 2023 Act.

(6) If a judgment of conviction is vacated on the grounds that the person was convicted of a criminal offense as the result of a nonunanimous jury verdict, upon retrial, if the trial court determines that evidence other than witness testimony that was previously admitted during the trial that resulted in the nonunanimous guilty verdict is unavailable because the evidence was lawfully destroyed or otherwise rendered unavailable through no fault of the state or the defendant, or that the evidence is unavailable despite reasonable efforts to preserve the evidence:

(a) The state may present in the state's case in chief or rebuttal case, and the defendant may present in the defendant's case in chief, a transcript or portion thereof, a recording of the prior proceeding or portion thereof, or any other previously admitted exhibit, concerning the unavailable evidence from the previous trial.

(b) The court shall instruct the jury:

(A) That the evidence is unavailable;

(B) That the jury may not attribute the unavailability to the state or the defendant, or fault either party for failing to produce the unavailable evidence; and

(C) That the jury may not speculate as to why the evidence is unavailable.

(c) The court may not instruct the jury pursuant to ORS 10.095 (7) or (8) regarding the transcripts, recordings of the prior proceeding or exhibits described in paragraph (a) of this subsection.

(7) Except as otherwise provided in this section, all provisions of ORS 138.510 to 138.680 apply to petitions for post-conviction relief described in this section.

(8) As used in this section, "conviction" includes a finding of guilty except for insanity. [2023 c.368 §1]

Sec. 2.

(1) Section 1 of this 2023 Act is repealed on January 2, 2026.

(2) The repeal of section 1 of this 2023 Act does not affect:

(a) A petition or amended petition for post-conviction relief described in section 1 of this 2023 Act filed within the time limitations described in section 1 of this 2023 Act.

(b) A retrial resulting from the vacating of a conviction pursuant to section 1 of this 2023 Act. [2023 c.368 §2]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.520 - Relief which court may grant.**

The relief which a court may grant or order under ORS 138.510 to 138.680 shall include release, new trial, modification of sentence, and such other relief as may be proper and just. The court may also make supplementary orders to the relief granted, concerning such matters as rearrangement, retrial, custody and release on security. [1959 c.636 §2; 1999 c.1051 §258]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.525 - Dismissal of meritless petition.**

- (1) The court may, on its own motion or on the motion of the defendant, enter a judgment denying a meritless petition brought under ORS 138.510 to 138.680.
- (2) As used in this section, "meritless petition" means one that, when liberally construed, fails to state a claim upon which post-conviction relief may be granted.
- (3) Notwithstanding ORS 138.650, a judgment dismissing a meritless petition is not appealable.
- (4) A dismissal is without prejudice if a meritless petition is dismissed without a hearing and the petitioner was not represented by counsel. [1993 c.517 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.527 - Frivolous petition or response; attorney fees.**

- (1) In addition to any other relief a court may grant or order under ORS 138.510 to 138.680, the court shall award attorney fees to the prevailing party if the court finds that the other party's petition or response was frivolous.
- (2) An award of attorney fees under this section may not exceed \$100.
- (3) If the party required to pay attorney fees is an adult in the custody of a correctional institution, the fees may be drawn from, or charged against, the trust account of the adult in custody. [1995 c.657 §3; 2019 c.213 §23]

Note:

138.527 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 138 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.530 - When relief must be granted; executive clemency or pardon powers and original jurisdiction of Supreme Court in habeas corpus not affected.**

- (1) Post-conviction relief pursuant to ORS 138.510 to 138.680 shall be granted by the court when one or more of the following grounds is established by the petitioner:
  - (a) A substantial denial in the proceedings resulting in petitioner's conviction, or in the appellate review thereof, of petitioner's rights under the Constitution of the United States, or under the Constitution of the State of Oregon, or both, and which denial rendered the conviction void.
  - (b) Lack of jurisdiction of the court to impose the judgment rendered upon petitioner's conviction.
  - (c) Sentence in excess of, or otherwise not in accordance with, the sentence authorized by law for the crime of which petitioner was convicted; or unconstitutionality of such sentence.
  - (d) Unconstitutionality of the statute making criminal the acts for which petitioner was convicted.
- (2) Whenever a person petitions for relief under ORS 138.510 to 138.680, ORS 138.510 to 138.680 shall not be construed to deny relief where such relief would have been available prior to May 26, 1959, under the writ of habeas corpus, nor shall it be construed to affect any powers of executive clemency or pardon provided by law.
- (3) ORS 138.510 to 138.680 shall not be construed to limit the original jurisdiction of the Supreme Court in habeas corpus as provided in the Constitution of this state. [1959 c.636 §§3,5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.540 - Petition for relief as exclusive remedy for challenging conviction; when petition may not be filed; abolition or availability of other remedies.**

- (1) Except as otherwise provided in ORS 138.510 to 138.680, a petition pursuant to ORS 138.510 to 138.680 shall be the exclusive means, after judgment rendered upon a conviction for a crime, for challenging the lawfulness of such judgment or the proceedings upon which it is based. The remedy created by ORS 138.510 to 138.680 does not replace or supersede the motion for new trial, the motion in arrest of judgment or direct appellate review of the sentence or conviction, and a petition for relief under ORS 138.510 to 138.680 shall not be filed while such motions or appellate review remain available. With the exception of habeas corpus, all common law post-conviction remedies, including the motion to correct the record, coram nobis, the motion for relief in the nature of coram nobis and the motion to vacate the judgment, are abolished in criminal cases.
- (2) When a person restrained by virtue of a judgment upon a conviction of crime asserts the illegality of the restraint upon grounds other than the unlawfulness of such judgment or the proceedings upon which it is based or in the appellate review thereof, relief shall not be available under ORS 138.510 to 138.680 but shall be sought by habeas corpus or other remedies, if any, as otherwise provided by law. As used in this subsection, such other grounds include but are not limited to unlawful revocation of parole or conditional pardon or completed service of the sentence imposed. [1959 c.636 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.550 - Availability of relief as affected by prior judicial proceedings.**

The effect of prior judicial proceedings concerning the conviction of petitioner which is challenged in the petition shall be as specified in this section and not otherwise:

- (1) The failure of petitioner to have sought appellate review of the conviction, or to have raised matters alleged in the petition at the

trial of the petitioner, shall not affect the availability of relief under ORS 138.510 to 138.680. But no proceeding under ORS 138.510 to 138.680 shall be pursued while direct appellate review of the conviction of the petitioner, a motion for new trial, or a motion in arrest of judgment remains available.

(2) When the petitioner sought and obtained direct appellate review of the conviction and sentence of the petitioner, no ground for relief may be asserted by petitioner in a petition for relief under ORS 138.510 to 138.680 unless such ground was not asserted and could not reasonably have been asserted in the direct appellate review proceeding. If petitioner was not represented by counsel in the direct appellate review proceeding, due to lack of funds to retain such counsel and the failure of the court to appoint counsel for that proceeding, any ground for relief under ORS 138.510 to 138.680 which was not specifically decided by the appellate court may be asserted in the first petition for relief under ORS 138.510 to 138.680, unless otherwise provided in this section.

(3) All grounds for relief claimed by petitioner in a petition pursuant to ORS 138.510 to 138.680 must be asserted in the original or amended petition, and any grounds not so asserted are deemed waived unless the court on hearing a subsequent petition finds grounds for relief asserted therein which could not reasonably have been raised in the original or amended petition. However, any prior petition or amended petition which was withdrawn prior to the entry of judgment by leave of the court, as provided in ORS 138.610, shall have no effect on petitioner's right to bring a subsequent petition.

(4) Except as otherwise provided in this subsection, no ground for relief under ORS 138.510 to 138.680 claimed by petitioner may be asserted when such ground has been asserted in any post-conviction proceeding prior to May 26, 1959, and relief was denied by the court, or when such ground could reasonably have been asserted in the prior proceeding. However, if petitioner was not represented by counsel in such prior proceeding, any ground for relief under ORS 138.510 to 138.680 which was not specifically decided in the prior proceedings may be raised in the first petition for relief pursuant to ORS 138.510 to 138.680. Petitioner's assertion, in a post-conviction proceeding prior to May 26, 1959, of a ground for relief under ORS 138.510 to 138.680, and the decision of the court in such proceeding adverse to the petitioner, shall not prevent the assertion of the same ground in the first petition pursuant to ORS 138.510 to 138.680 if the prior adverse decision was on the ground that no remedy heretofore existing allowed relief upon the grounds alleged, or if the decision rested upon the inability of the petitioner to allege and prove matters contradicting the record of the trial which resulted in the conviction and sentence of the petitioner. [1959 c.636 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.560 - Procedure upon filing petition for relief; filing fee; venue and transfer of proceedings.**

(1) A proceeding for post-conviction relief pursuant to ORS 138.510 to 138.680 shall be commenced by filing a petition with the clerk of the circuit court for the county in which the petitioner is imprisoned or, if the petitioner is not imprisoned, with the clerk of the circuit court for the county in which the petitioner's conviction and sentence was rendered. Except as otherwise provided in ORS 138.590, the petitioner must pay the filing fee established under ORS 21.135 at the time of filing a petition under this section. If the petitioner prevails, the petitioner shall recover the fee pursuant to the Oregon Rules of Civil Procedure. The clerk of the court in which the petition is filed shall enter and file the petition and bring it promptly to the attention of such court. A copy of the petition need not be served by petitioner on the defendant, but, in lieu thereof, the clerk of the court in which the petition is filed shall immediately forward a copy of the petition to the Attorney General or other attorney for the defendant named in ORS 138.570.

(2) For the purposes of ORS 138.510 to 138.680, a person released on parole, post-prison supervision or conditional pardon shall be deemed to be imprisoned in the institution from which the person was released.

(3) Except when petitioner's conviction was for a misdemeanor, the release of the petitioner from imprisonment during the pendency of proceedings instituted pursuant to ORS 138.510 to 138.680 shall not cause the proceedings to become moot. Such release of petitioner shall not change the venue of the proceedings out of the circuit court in which the proceedings were commenced and shall not affect the power of such court to transfer the proceedings as provided in subsection (4) of this section.

(4) Whenever the petitioner is imprisoned in a Department of Corrections institution and the circuit court for the county in which the petitioner is imprisoned finds that the hearing upon the petition can be more expeditiously conducted in the county in which the petitioner was convicted and sentenced, the circuit court upon its own motion or the motion of a party may order the petitioner's case to be transferred to the circuit court for the county in which petitioner's conviction and sentence were rendered. The court's order is not reviewable by any court of this state.

(5) When a petitioner who is imprisoned in a Department of Corrections institution is transferred to another Department of Corrections institution, the circuit court in which a post-conviction relief proceeding is pending may deny a motion for a change of venue to the county where the petitioner is transferred. The court's order is not reviewable by any court of this state. [1959 c.636 §6; 1983 c.505 §14; 1987 c.320 §44; 1991 c.249 §17; 1995 c.273 §20; 1995 c.657 §4; 2003 c.261 §1; 2003 c.737 §§65,66; 2005 c.702 §§77,78,79; 2011 c.595 §57; 2015 c.119 §1; 2019 c.399 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.570 - Who shall be named as defendant; counsel for defendant.**

If the petitioner is imprisoned, the petition shall name as defendant the official charged with the confinement of petitioner. If the petitioner is not imprisoned, the defendant shall be the State of Oregon. Whenever the defendant is the superintendent of a Department of Corrections institution, the Attorney General shall act as the superintendent's attorney in the proceedings. Whenever the defendant is some other official charged with the confinement of petitioner, the district attorney of the county wherein the petitioner is imprisoned shall be the attorney for the defendant. Whenever petitioner is not imprisoned, counsel for the State of

Oregon as defendant shall be the district attorney of the county in which petitioner's conviction and sentence were rendered. Whenever the petitioner is released from imprisonment during the pendency of any proceedings pursuant to ORS 138.510 to 138.680, the State of Oregon shall be substituted as defendant. Upon such substitution, counsel for the original defendant shall continue to serve as counsel for the substituted defendant. [1959 c.636 §7; 1983 c.505 §15; 1987 c.320 §45]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.580 - Petition.**

The petition shall be certified by the petitioner. Facts within the personal knowledge of the petitioner and the authenticity of all documents and exhibits included in or attached to the petition must be sworn to affirmatively as true and correct. The Supreme Court, by rule, may prescribe the form of the certification. The petition shall identify the proceedings in which petitioner was convicted and any appellate proceedings thereon, give the date of entry of judgment and sentence complained of and identify any previous post-conviction proceedings that the petitioner has undertaken to secure a post-conviction remedy, whether under ORS 138.510 to 138.680 or otherwise, and the disposition thereof. The petition shall set forth specifically the grounds upon which relief is claimed and shall state clearly the relief desired. All facts within the personal knowledge of the petitioner shall be set forth separately from the other allegations of fact and shall be certified as provided in this section. Except as provided in rules adopted under ORS 1.002, affidavits, records or other documentary evidence supporting the allegations of the petition shall be attached to the petition. Argument, citations and discussion of authorities shall be omitted from the petition but may be submitted in a separate memorandum of law. [1959 c.636 §8; 1991 c.885 §1; 1993 c.517 §4; 2015 c.119 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.585 - Access to confidential jury records.**

(1) A person who files a petition for post-conviction relief under ORS 138.510 to 138.680 and who seeks jury records that are confidential under ORS 10.215 must either include in the petition a request for access to the confidential records or file a motion in the proceedings seeking access to the confidential records. A motion under this subsection must be filed not later than 90 days before the hearing date for the petition, unless the court allows a later filing for good cause shown. The petition or motion, and any supporting affidavit for the petition or motion, must be served on the trial court administrator for the court that entered the judgment of conviction and on the State Court Administrator. The request for confidential records must:

- (a) Specify the purpose for which the jury records are sought; and
  - (b) Identify with particularity the relevant jury records sought to be released, including the type and time period of the records.
- (2) The court in the post-conviction relief proceeding may order release of the jury records if the court finds that:
- (a) The jury records sought are likely to produce evidence relevant to a claim of a substantial denial of the petitioner's rights under the Constitution of the United States, or under the Constitution of the State of Oregon, or both; and
  - (b) Production of the jury records is not unduly burdensome.
- (3) An order under subsection (2) of this section may include, but need not be limited to:
- (a) A requirement that the petitioner provide advance payment to the trial court administrator for the court that entered the judgment of conviction and, if applicable, the State Court Administrator for the reasonable costs of providing copies of the jury records; and
  - (b) Restrictions on further disclosure of the jury records including, but not limited to:
    - (A) A requirement that the petitioner return all originals and copies to the court at the conclusion of the proceeding;
    - (B) A requirement that the jury records may be used only for the purpose of supporting the petition for post-conviction relief;
    - (C) A prohibition against distributing the jury records to a person who is not an agent or representative of the petitioner; and
    - (D) A prohibition against contacting or attempting to contact the persons whose names appear on the jury records without specific authorization of the court.
- (4) The trial court administrator for the court that entered the judgment of conviction or the State Court Administrator may intervene at any time as a matter of right as to any issues relating to the release of jury records under this section.
- (5) The procedure established by this section is the exclusive means for compelling production of confidential jury records as evidence in post-conviction relief proceedings. The procedure established by ORS 10.275 is the exclusive means for compelling production of confidential jury records as evidence relevant to a challenge to a jury panel under ORS 136.005 or ORCP 57A. [2011 c.308 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.590 - Petitioner may proceed as a financially eligible person.**

- (1) Any petitioner who is unable to pay the expenses of a proceeding pursuant to ORS 138.510 to 138.680 or to employ suitable counsel possessing skills and experience commensurate with the nature of the conviction and complexity of the case for the proceeding may proceed as a financially eligible person pursuant to this section upon order of the circuit court in which the petition is filed.
- (2) If the petitioner wishes to proceed as a financially eligible person, the person shall file with the petition an affidavit stating inability to pay the expenses of a proceeding pursuant to ORS 138.510 to 138.680, including, but not limited to, the filing fee required by ORS 138.560, or to employ suitable counsel for such a proceeding. The affidavit shall contain a brief statement of the petitioner's assets and liabilities and income during the previous year. If the circuit court is satisfied that the petitioner is unable to



pay such expenses or to employ suitable counsel, it shall order that the petitioner proceed as a financially eligible person. If the court finds that a petitioner who has been sentenced to death is not competent to decide whether to accept or reject the appointment of counsel, the court shall appoint counsel to represent the petitioner. However, when a circuit court orders petitioner's case transferred to another circuit court as provided in ORS 138.560 (4), the matter of petitioner's proceeding as a financially eligible person shall be determined by the latter court.

(3) If a petitioner who has been sentenced to death qualifies for the appointment of counsel under this section but rejects the appointment, the court shall determine, after a hearing if necessary, whether the petitioner rejected the offer of counsel and made the decision with an understanding of its legal consequences. The court shall make appropriate findings on the record.

(4) In the order to proceed as a financially eligible person, the circuit court shall appoint suitable counsel to represent petitioner. Counsel so appointed shall represent petitioner throughout the proceedings in the circuit court. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Oregon Public Defense Commission.

(5) If counsel appointed by the circuit court determines that the petition as filed by petitioner is defective, either in form or in substance, or both, counsel may move to amend the petition within 15 days following counsel's appointment, or within a further period as the court may allow. The amendment shall be permitted as of right at any time during this period. If appointed counsel believes that the original petition cannot be construed to state a ground for relief under ORS 138.510 to 138.680, and cannot be amended to state a ground for relief, counsel shall, in lieu of moving to amend the petition, inform the petitioner and notify the circuit court of counsel's belief by filing an affidavit stating the belief and the reasons therefor with the clerk of the circuit court. This affidavit does not constitute a ground for denying the petition prior to a hearing upon its sufficiency, but the circuit court may consider the affidavit in deciding upon the sufficiency of the petition at the hearing.

(6) When a petitioner has been ordered to proceed as a financially eligible person, the expenses which are necessary for the proceedings upon the petition in the circuit court and the compensation to appointed counsel for petitioner as provided in this subsection shall be paid by the executive director of the Oregon Public Defense Commission from funds available for the purpose. At the conclusion of proceedings on a petition pursuant to ORS 138.510 to 138.680, the executive director shall determine and pay, as provided by the policies, procedures, standards and guidelines of the Oregon Public Defense Commission, the amount of expenses of petitioner and compensation for the services of appointed counsel in the proceedings in the circuit court.

(7) If the executive director of the Oregon Public Defense Commission denies, in whole or in part, expenses and compensation submitted for review and payment, the person who submitted the payment request may appeal the decision to the presiding judge of the circuit court. The presiding judge or the designee of the presiding judge shall review the executive director's decision for abuse of discretion. The decision of the presiding judge or the designee of the presiding judge is final.

(8)(a) When a petitioner has been authorized to proceed as a financially eligible person, all court fees in the circuit court, except for the filing fee required by ORS 138.560, are waived.

(b) When a petitioner is allowed to file a petition without payment of the fee required by ORS 138.560 due to inability to pay, the fee is not waived but may be drawn from, or charged against, the petitioner's trust account if the petitioner is an adult in custody in a correctional facility.

(9) Notwithstanding any other provision of this chapter, a court may not appoint as counsel for a petitioner who has been sentenced to death a counsel who previously represented the petitioner at trial or on automatic and direct review in the case resulting in the death sentence unless the petitioner and the counsel expressly request continued representation. [1959 c.636 §9; 1961 c.480 §3; 1963 c.600 §9; 1973 c.836 §279a; 1979 c.867 §4; 1981 s.s. c.3 §127; 1983 c.763 §17; 1987 c.320 §46; 1989 c.1053 §7; 1991 c.827 §2; 1995 c.657 §5; 1999 c.1055 §8; 2001 c.962 §30; 2003 c.261 §§5,6; 2003 c.449 §§8,45; 2019 c.213 §24; 2023 c.281 §31]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.610 - Pleadings.**

Within 30 days after the docketing of the petition, or within any further time the court may fix, the defendant shall respond by demurrer, answer or motion. No further pleadings shall be filed except as the court may order. The court may grant leave, at any time prior to entry of judgment, to withdraw the petition. The court may make appropriate orders as to the amendment of the petition or any other pleading, or as to the filing of further pleadings, or as to extending the time of the filing of any pleading other than the original petition. [1959 c.636 §11]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.615 - Disclosure of witness information.**

(1) In any proceeding for post-conviction relief pursuant to ORS 138.510 to 138.680, a party shall provide to the other party, upon written request of the other party or an order of the court, the identity of and, except as provided in subsection (5) of this section, the contact information for any person who is a potential witness, whether the person may be called to testify at the proceeding or provide sworn written testimony.

(2) Unless otherwise ordered by the court, the disclosure required by subsection (1) of this section concerning any witness that a party may use at the proceeding to present evidence under ORS 40.410, 40.415 or 40.420 must be accompanied by a written report that is prepared and signed by the witness. The report must contain:

(a) A complete statement of all opinions the witness intends to assert as an expert witness; and

- (b) The data or other information considered by the witness in forming the opinions.
- (3) The disclosures required by subsections (1) and (2) of this section must be made according to timelines established by the court in each case.
- (4) Upon being apprised of any breach of the duty imposed under subsections (1) and (2) of this section, and after taking into account the reason, if any, for the breach and the prejudice, if any, to the other party, the court may grant a continuance, refuse to permit a witness not properly disclosed from testifying, refuse to receive in evidence the material not disclosed, impose costs incurred by the other party as a result of the breach or enter such other order as the court considers appropriate.
- (5) Unless ordered by the court, the defendant shall not disclose to the petitioner any personal identifiers, as defined in ORS 135.815, of the victim.
- (6) Upon the request of either party, the court may enter a protective order as provided in ORS 135.873. [2013 c.226 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.620 - Hearing.**

- (1) After the response of the defendant to the petition, the court shall proceed to a hearing on the issues raised. If the defendant's response is by demurrer or motion raising solely issues of law, the circuit court need not order that petitioner be present at such hearing, as long as petitioner is represented at the hearing by counsel. At the hearing upon issues raised by any other response, the circuit court shall order that petitioner be present. Whenever the court orders that petitioner be present at the hearing, the court may order that petitioner appear by telephone or other communication device as provided in ORS 138.622 rather than in person.
- (2) If the petition states a ground for relief, the court shall decide the issues raised and may receive proof by affidavits, depositions, oral testimony or other competent evidence. The burden of proof of facts alleged in the petition shall be upon the petitioner to establish such facts by a preponderance of the evidence. [1959 c.636 §12; 1996 c.4 §4; 2003 c.261 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.622 - Appearance by communication device.**

For the purpose of a court appearance under ORS 138.510 to 138.680, the court may approve the appearance of the parties, counsel for the parties or witnesses by telephone or other communication device approved by the court. However, the court may not approve the appearance of the petitioner or counsel for the petitioner by telephone or other communication device unless the facilities used enable the petitioner to consult privately with the petitioner's counsel during the proceedings. [2003 c.261 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.625 - Victim testimony; contact with victim.**

- (1) A petitioner in a post-conviction relief proceeding may not compel a victim to testify, either by deposition, hearing or otherwise, unless the petitioner moves for an order of the court allowing a subpoena.
- (2) A copy of the motion for a subpoena under this section must be served on the counsel for the defendant.
- (3) The court may not grant an order allowing a subpoena under this section unless the petitioner can demonstrate good cause by showing that:
  - (a) The victim's testimony is material to the post-conviction relief proceeding;
  - (b) The testimony is favorable to the petitioner; and
  - (c) The testimony was not introduced at trial.
- (4) If the court grants an order allowing a subpoena under this section, upon a request by the victim for no personal contact between the parties, the court may allow the victim to appear by telephone or other communication device approved by the court.
- (5) If contacted by the petitioner or any agent of the petitioner, the victim must be clearly informed by the petitioner or other contacting agent, either in person or in writing, of the identity and capacity of the person contacting the victim, that the victim does not have to talk to the petitioner's attorney, or other agents of the petitioner, or provide other discovery unless the victim wishes, and that the victim may have a district attorney, assistant attorney general or other attorney or advocate present during any interview or other contact.
- (6) As used in this section, "victim" has the meaning given that term in ORS 135.970. [2007 c.470 §1; 2013 c.144 §2; 2019 c.399 §3]

Note:

138.625 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 138 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.627 - Victim's rights.**

- (1) To accord crime victims due dignity and respect, a victim of a crime that is the subject of a petition for post-conviction relief filed under ORS 138.510 to 138.680 has, upon request, the following rights:
  - (a) The right to have the victim's schedule taken into account in scheduling the post-conviction proceedings;
  - (b) The right to inspect, in advance of the post-conviction proceedings, any public record on which the disposition of the petition

will be based;

(c) The right to be heard, either orally or in writing, at the hearing;

(d) The right to consult with counsel for the state regarding the post-conviction proceeding, including, if applicable, notice of and the opportunity to consult regarding a settlement agreement; and

(e) The right to be informed by counsel for the state of the manner in which the petition was disposed.

(2) As used in this section, "victim" has the meaning given that term in ORS 131.007. [2010 c.89 §2]

Note:

138.627 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 138 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.630 - Evidence of events occurring at trial of petitioner.**

In a proceeding pursuant to ORS 138.510 to 138.680, events occurring at the trial of petitioner may be shown by a duly authenticated transcript, record or portion thereof. If such transcript or record cannot be produced, the affidavit of the judge who presided at the trial setting forth the facts occurring at the trial shall be admissible in evidence when relevant. When necessary to establish any ground for relief specified in ORS 138.530, the petitioner may allege and prove matters in contradiction of the record of the trial of the petitioner. When the record is so contradicted, the defendant may introduce in evidence any evidence which was admitted in evidence at the trial to support the contradicted matter and may call witnesses whose testimony at such trial supported the contradicted matter. Whenever such evidence or such witnesses cannot be produced by defendant for any reason which is sufficient in the opinion of the court, such parts of the duly authenticated record of the trial as support the contradicted matter may be introduced in evidence by the defendant. A duly authenticated record of the testimony of any witness at the trial may be introduced in evidence to impeach the credibility of any testimony by the same witness in the hearing upon the petition. [1959 c.636 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.640 - Judgment; enforcement.**

(1) After deciding the issues raised in the proceeding, the court shall enter a judgment denying the petition or granting the appropriate relief. The judgment may include orders as provided in ORS 138.520. The judgment must clearly state the grounds on which the cause was determined, and whether a state or federal question was presented and decided.

(2) If the court grants the petitioner relief, the judgment is not enforceable in the petitioner's favor until:

(a) The petitioner causes a certified copy of the judgment to be entered in the circuit court in which the petitioner's conviction and sentence were rendered; and

(b) The petitioner serves a certified copy of the judgment on the district attorney of the county in which the petitioner's conviction and sentence were rendered. [1959 c.636 §14; 2003 c.576 §245; 2007 c.193 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.650 - Appeal.**

(1) Either the petitioner or the defendant may appeal to the Court of Appeals within 30 days after the entry of a judgment on a petition pursuant to ORS 138.510 to 138.680. The manner of taking the appeal and the scope of review by the Court of Appeals and the Supreme Court shall be the same as that provided by law for appeals in criminal actions, except that:

(a) The trial court may provide that the transcript contain only such evidence as may be material to the decision of the appeal; and

(b) With respect to ORS 138.081 (1), if petitioner appeals, petitioner shall cause the notice of appeal to be served on the attorney for defendant, and, if defendant appeals, defendant shall cause the notice of appeal to be served on the attorney for petitioner or, if petitioner has no attorney of record, on petitioner.

(2)(a) Upon motion of the petitioner, the Court of Appeals shall grant the petitioner leave to file a notice of appeal after the time limit described in subsection (1) of this section if:

(A) The petitioner, by clear and convincing evidence, shows that the failure to file a timely notice of appeal is not attributable to the petitioner personally; and

(B) The petitioner shows a colorable claim of error in the proceeding from which the appeal is taken.

(b) The request for leave to file a notice of appeal after the time limit described in subsection (1) of this section shall be filed no later than 90 days after entry of the judgment from which the petitioner seeks to appeal and shall be accompanied by the notice of appeal sought to be filed. A request for leave under this subsection may be filed by mail. The date of filing shall be the date of mailing if the request is mailed as provided in ORS 19.260.

(c) The Court of Appeals may not grant relief under this subsection unless the defendant has received notice of and an opportunity to respond to the petitioner's request for relief.

(3) A party cross-appealing shall serve and file the notice of cross-appeal:

(a) Within 10 days of the expiration of the time allowed in subsection (1) of this section; or

(b) If the petitioner's notice of appeal is filed pursuant to subsection (2) of this section, within 10 days of the expiration of the time allowed in subsection (2) of this section.

(4) An appeal under this section taken by the defendant stays the effect of the judgment. If the petitioner is incarcerated, the trial court may stay the petitioner's sentence pending the defendant's appeal and order conditional release or security release, in accordance with ORS 135.230 to 135.290, only if:

(a) The post-conviction court's judgment vacates the judgment of conviction or reduces the sentence or sentences imposed upon conviction;

(b) The petitioner has completed any other sentence of incarceration to which the petitioner is subject; and

(c) The petitioner otherwise would be entitled to immediate release from incarceration under the court's judgment.

(5) In an appeal under this section or to the United States Supreme Court, the Attorney General shall represent the defendant. [1959 c.636 §18; 1963 c.557 §1; 1969 c.198 §72; 1971 c.565 §26; 1987 c.852 §3; 2003 c.576 §246; 2007 c.193 §1; 2019 c.399 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.660 - Summary affirmation of judgment; dismissal of appeal.**

In reviewing the judgment of the circuit court in a proceeding pursuant to ORS 138.510 to 138.680, the Court of Appeals on its own motion or on motion of respondent may summarily affirm, after submission of the appellant's brief and without submission of the respondent's brief, the judgment on appeal without oral argument if it finds that no substantial question of law is presented by the appeal. Notwithstanding ORS 2.570, the Chief Judge of the Court of Appeals may deny or, if the petitioner does not oppose the motion, grant a respondent's motion for summary affirmation. A dismissal of the appeal under this section shall constitute a decision upon the merits of the appeal. [1959 c.636 §19; 1963 c.557 §2; 1969 c.198 §73; 1995 c.295 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.665 - Remand for reconsideration of judgment or order; appeal.**

(1) Upon joint motion of the parties to an appeal in a post-conviction relief proceeding, the court may vacate the judgment or order from which the appeal was taken and remand the matter to the circuit court to reconsider the judgment or order. Upon remand, the circuit court shall have jurisdiction to enter a revised judgment or order.

(2) After entry of a modified judgment or order on reconsideration, or upon reentry of the original judgment or order, either party may appeal in the same time and manner as an appeal from the original judgment or order. [2015 c.12 §1]

Note:

138.665 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 138 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.670 - Admissibility, at new trial, of testimony of witness at first trial.**

In the event that a new trial is ordered as the relief granted in a proceeding pursuant to ORS 138.510 to 138.680, a properly authenticated transcript of testimony in the first trial may be introduced in evidence to supply the testimony of any witness at the first trial who has since died or who cannot be produced at the new trial for other sufficient cause. Such transcript shall not be admissible in any other respect, except that the transcript of testimony of a witness at the first trial may be used at the new trial to impeach the testimony at the new trial by the same witness. [1959 c.636 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.680 - Short title.**

ORS 138.510 to 138.680 may be cited as the Post-Conviction Hearing Act. [1959 c.636 §21]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.686 - Automatic stay of sentence of death for federal appeal and state post-conviction relief.**

(1) The execution of a sentence of death is automatically stayed for 90 days following the effective date of an appellate judgment affirming the sentence of death on automatic and direct review.

(2) If the defendant files a petition for certiorari seeking United States Supreme Court review of the sentence of death within 90 days after the effective date of the appellate judgment or within such other time as allowed by the United States Supreme Court, execution of the sentence of death is automatically stayed until the United States Supreme Court denies the petition or grants the petition and resolves the merits.

(3) Upon final resolution of a petition for certiorari to the United States Supreme Court, execution of the sentence of death is automatically stayed for 30 days after the date the petition is resolved to allow the defendant to file a notice in the circuit court of the county in which the defendant is imprisoned attesting to the defendant's intent to file a petition for post-conviction relief. If the defendant files a first petition for post-conviction relief within 90 days after the notice provided for in this subsection, the execution of the sentence of death is stayed until the post-conviction petition is finally resolved. If a first petition for post-conviction relief is not filed within 90 days after the notice provided for in this subsection, the defendant may apply to the circuit court in which the notice was filed to extend the stay. The circuit court shall extend the stay for a reasonable time upon the defendant's showing that progress is being made in the preparation of the petition and that it will be filed within a reasonable time.

(4) If the defendant does not file a petition for certiorari seeking United States Supreme Court review of the sentence of death but does file a first petition for post-conviction relief within 90 days after the date upon which the appellate judgment becomes effective, execution of the sentence of death is stayed until the petition for post-conviction relief is finally resolved. [1999 c.1055 §6]

Note:

138.686 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 138 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.688 - Definitions.**

As used in ORS 138.688 to 138.700:

- (1) "CODIS" means the Combined DNA Index System.
- (2) "DNA" means deoxyribonucleic acid.
- (3) "Exculpatory results" and "exculpatory evidence" are limited to those DNA test results or evidence that are material to a determination of the identity of the individual who committed the crime, or whether the crime was committed.
- (4) "Federal standards" means the Federal Bureau of Investigation Quality Assurance Standards for Forensic DNA Testing Laboratories, as modified or amended by the Federal Bureau of Investigation, or any successor standards adopted by the Federal Bureau of Investigation.
- (5) "National DNA Index System" or "NDIS" means a national, searchable DNA database created and maintained by the Federal Bureau of Investigation where DNA profiles are stored.
- (6) "NDIS manual" means the Federal Bureau of Investigation's NDIS Operational Procedures Manual, as modified or amended by the Federal Bureau of Investigation, or any successor operational procedures manual.
- (7) "NDIS-participating laboratory" means a forensic laboratory that has been designated to operate CODIS and participate in the National DNA Index System.
- (8) "Nonparticipating laboratory" means a laboratory that does not participate in the National DNA Index System but that is accredited by a nonprofit organization and meets federal standards.
- (9) "State DNA index system" means a statewide, searchable DNA database created and maintained by the Department of State Police where DNA profiles are stored. [2019 c.368 §2]

Note:

138.688 to 138.700 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 138 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.690 - Commencement of DNA testing proceedings; discovery.**

(1) A person may file in the circuit court in which the judgment of conviction was entered a petition requesting the commencement of a DNA testing proceeding, and requesting that the court appoint an attorney for the purpose of determining whether to file a motion under ORS 138.692 for the performance of DNA testing on specific evidence, if the person has been convicted of aggravated murder or a felony in which DNA evidence could exist and is related to the investigation or prosecution that resulted in the judgment of conviction.

(2) After proceedings have been commenced under subsection (1) of this section:

(a) Upon motion of the person, the court shall order that the person be provided with a copy of property and evidence control and disposition records for all evidence related to the investigation or prosecution that resulted in the judgment of conviction. If forensic testing on the evidence has previously occurred, the court shall further order that the person be provided with access to the results of the testing and to any other written materials related to the testing, including reports, underlying data, notes and protocols.

(b) Upon motion of the person and a showing that good faith efforts to obtain discovery materials from prior defense counsel were made and were unsuccessful, the court shall order that the person be provided reasonable access to discovery materials in the possession of the district attorney and law enforcement agencies that the person would have received under ORS 135.815 prior to trial.

(3) At any time after a person files a petition under subsection (1) of this section, the person may file a motion to dismiss the proceeding on the grounds that the person does not wish to proceed with DNA testing. Upon receipt of the motion, the court shall dismiss the petition without prejudice.

(4) The court may not charge a fee for any filing under ORS 138.688 to 138.700.

(5) The State Court Administrator shall develop forms for proceedings under ORS 138.688 to 138.700. The State Court Administrator shall provide the forms to the clerk of each circuit court, who shall make the forms available to the public.

(6) ORS 138.688 to 138.700 are not the exclusive means by which a person convicted of a crime may obtain post-conviction DNA testing, and nothing in ORS 138.688 to 138.700 limits or affects any other means by which a person convicted of a crime may obtain post-conviction DNA testing.

(7) If the victim did not request notification under ORS 147.433, the district attorney may provide notification upon the filing of a petition under this section if the name and address of the victim are known to the district attorney. [2001 c.697 §1; 2005 c.759 §1; 2007 c.800 §1; 2015 c.564 §1; 2019 c.368 §3]

Note:

See note under 138.688.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.692 - Motion for DNA testing; declaration; court order; costs.**

(1) After a person files a petition under ORS 138.690, the person may file a motion requesting the performance of DNA testing on evidence. The motion must be supported by:

(a) A declaration by the person made under penalty of perjury that the person is innocent of the offense for which the person was convicted; and

(b) A statement that:

(A) Identifies the evidence to be tested with as much specificity as is reasonably practicable. The evidence must have been secured in connection with the prosecution, including the investigation, that resulted in the conviction of the person;

(B) Includes the results of any previous DNA test of the evidence if a previous DNA test was conducted by either the prosecution or the defense;

(C)(i) The identity of the individual who committed the crime or conduct was at issue in the underlying prosecution; or

(ii) No crime occurred; and

(D) Explains, in light of all the evidence, how there is a reasonable probability that, had exculpatory results been available at the time of the underlying prosecution:

(i) The person would not have been prosecuted or convicted of the offense; or

(ii) There would have been a more favorable outcome to the underlying prosecution.

(2) Concurrently with the filing of a motion under this section, the person shall serve the district attorney with:

(a) A copy of any prior sworn testimony by the person concerning the underlying prosecution, including but not limited to affidavits, declarations, depositions and any testimony from the person in a prior post-conviction relief action challenging the conviction; or

(b) A document affirming that there are no prior sworn statements.

(3) A person may file a motion under this section notwithstanding the fact that the person pleaded guilty or no contest to the underlying conviction or, before or after conviction, made a confession or admission.

(4) Upon being served as described in subsection (2) of this section, the state shall answer the motion requesting the performance of DNA testing and may refute the basis for the motion.

(5) Upon the motion of a party or the court's own motion, the court may allow the testimony of witnesses if the testimony will assist the court in making its determination to grant or deny the motion requesting the performance of DNA testing. The court may not allow testimony from the victim of the offense without the consent of the victim.

(6) The court shall order the DNA testing requested in a motion under subsection (1) of this section if the court finds that:

(a) Unless the parties stipulate otherwise, the evidence to be tested has been subject to a chain of custody sufficient to establish that the evidence has not been altered in any material aspect;

(b) The motion is made for the purpose of demonstrating the innocence of the person of the offense and not to delay the execution of the sentence or administration of justice;

(c)(A) The identity of the individual who committed the crime or conduct was at issue in the underlying prosecution; or

(B) If the person alleges that no crime occurred, the testing could not have been obtained during the criminal proceedings with the exercise of reasonable diligence; and

(d) In light of all the evidence, there is a reasonable probability that, had exculpatory results been available at the time of the underlying prosecution, the person would not have been prosecuted or convicted of the offense.

(7) The court may order the DNA testing requested in a motion under subsection (1) of this section if the court finds that:

(a) Unless the parties stipulate otherwise, the evidence to be tested has been subject to a chain of custody sufficient to establish that the evidence has not been altered in any material aspect;

(b) The motion is made for the purpose of demonstrating the innocence of the person of the offense and not to delay the execution of the sentence or administration of justice;

(c)(A) The identity of the individual who committed the crime or conduct was at issue in the underlying prosecution; or

(B) If the person alleges that no crime occurred, the testing could not have been obtained during the criminal proceedings with the exercise of reasonable diligence; and

(d) In light of all the evidence, there is a reasonable probability that, had exculpatory results been available at the time of the underlying prosecution, there would have been a more favorable outcome to the underlying prosecution.

(8) In granting a motion under this section, the court may impose reasonable conditions designed to protect the interests of the state in the integrity of the evidence and the testing process.

(9)(a) If a motion is granted under this section, the district attorney shall notify the victim if the name and address of the victim are known to the district attorney.

(b) The district attorney may notify the victim of the results of DNA testing ordered under this section.

(10) Unless both parties agree or the court finds compelling circumstances otherwise, the court shall order the Department of State Police to conduct the DNA testing. The court may order a second test upon a showing that the state police failed to follow appropriate DNA protocols and that failure reasonably affected the accuracy of the DNA test.

(11) A party seeking entry into the National DNA Index System or State DNA Index System of any unknown DNA profile generated through DNA testing ordered under this section shall comply with ORS 138.700.

(12) The costs of DNA testing ordered under this section must be paid by:

(a) The person making the motion for DNA testing if the person is not incarcerated or, if the person is incarcerated, if the person is financially able to pay; or

(b) The state if counsel at state expense has been appointed under ORS 138.694.

(13) The laboratory conducting the DNA test shall provide access to the results of the test and to any other written materials related to the testing, including reports, underlying data, notes and protocols, to the person filing the motion and to the state.

(14) Notwithstanding the fact that an appeal of the conviction or a petition for post-conviction relief in the underlying case is pending at the time a motion is filed under this section, the circuit court shall consider the motion. If the court grants the motion, the court shall notify the court considering the appeal or post-conviction petition of that fact. When a court receives notice under this subsection, the court shall stay the appeal or post-conviction proceedings pending the outcome of the motion filed under this section and any further proceedings resulting from the motion.

(15) The court shall make written findings when issuing an order under this section. [2001 c.697 §2; 2005 c.759 §2; 2007 c.800 §2; 2015 c.564 §2; 2019 c.368 §4]

Note:

See note under 138.688.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.694 - Appointed counsel.**

(1) A person described in ORS 138.690 is entitled to counsel during all stages of the proceedings described in ORS 138.692, 138.696, 138.697 and 138.700.

(2) A person described in ORS 138.690 may file a petition in the circuit court in which the judgment of conviction was entered requesting the appointment of counsel at state expense to assist the person in determining whether to file a motion under ORS 138.692. The petition must be accompanied by:

(a) A completed affidavit of eligibility for appointment of counsel at state expense; and

(b) An affidavit stating that:

(A) The person meets the criteria in ORS 138.690;

(B) The person is innocent of the charge for which the person was convicted; and

(C) The person is without sufficient funds and assets, as shown by the affidavit required by paragraph (a) of this subsection, to hire an attorney to represent the person in determining whether to file a motion under ORS 138.692.

(3) The court shall grant a petition filed under this section if:

(a) The petitioner complies with the requirements of subsection (2) of this section; and

(b) It appears to the court that the petitioner is financially unable to employ suitable counsel possessing skills and experience commensurate with the nature and complexity of the matter.

(4) An attorney appointed under this section:

(a) If other than counsel provided pursuant to ORS 151.460, is entitled to compensation and expenses as provided in ORS 135.055; or

(b) If counsel provided pursuant to ORS 151.460, is entitled to expenses as provided in ORS 135.055. [2001 c.697 §4; 2007 c.800 §3; 2015 c.564 §3; 2019 c.368 §5]

Note:

See note under 138.688.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.696 - Test results; motion for new trial.**

(1) If DNA testing ordered under ORS 138.692 produces inconclusive evidence or evidence that is unfavorable to the person requesting the testing:

(a) The court shall forward the results to the State Board of Parole and Post-Prison Supervision; and

(b) The Department of State Police shall compare the evidence to DNA evidence from unsolved crimes in the Combined DNA Index System.

(2) If DNA testing ordered under ORS 138.692 produces exculpatory evidence, the person who requested the testing may file in the court that ordered the testing a motion for a new trial based on newly discovered evidence. Notwithstanding the time limit established in ORCP 64 F, a person may file a motion under this subsection at any time during the 60-day period that begins on the date the person receives the test results.

(3) Upon receipt of a motion filed under subsection (2) of this section and notwithstanding the time limits in ORCP 64 F, the court shall hear the motion pursuant to ORCP 64.

(4) If the court orders a new trial in response to a motion described in this section, the district attorney shall notify the victim. [2001 c.697 §3; 2003 c.288 §3; 2015 c.564 §4; 2019 c.368 §6]

Note:

See note under 138.688.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.697 - Appeal of court order.**

(1) A person described in ORS 138.690 may appeal to the Court of Appeals from a circuit court's final order or judgment denying or limiting DNA testing under ORS 138.692, denying appointment of counsel under ORS 138.694 or denying a motion for a new trial under ORS 138.696.

(2) The state may appeal to the Court of Appeals from a circuit court's final order or judgment granting a motion for DNA testing under ORS 138.692 or granting a motion for a new trial under ORS 138.696.

(3) The time limits described in ORS 138.071, the notice requirements described in ORS 138.081 and 138.090 and the provisions of ORS 138.225, 138.227, 138.255 and 138.257 apply to appeals under this section unless the context requires otherwise.

(4) A circuit court shall appoint counsel to represent a person described in ORS 138.690 on appeal in the same manner as for criminal defendants under ORS 138.500. [2013 c.152 §1; 2015 c.564 §5; 2017 c.529 §25; 2019 c.368 §9]

Note:

See note under 138.688.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.698 - Effect of setting aside conviction on plea agreement.**

When a conviction has been set aside as the result of evidence obtained through DNA testing conducted under ORS 138.692, the prosecution of any offense that was dismissed or not charged pursuant to a plea agreement that resulted in the conviction that has been set aside may be commenced within the later of:

(1) The period of limitation established for the offense under ORS 131.125 to 131.155; or

(2) Notwithstanding ORS 131.125 and 131.155, two years after the date the conviction was set aside. [2005 c.759 §3; 2019 c.368 §10]

Note:

See note under 138.688.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.700 - Entry of unidentified profile into DNA databases; motion for laboratory evaluation; court order.**

(1) If DNA testing ordered under ORS 138.692 produces an unidentified DNA profile, upon motion of a party the court may order an NDIS-participating laboratory within this state to:

(a) Enter the DNA profile into the National DNA Index System; or

(b) Enter the DNA profile into the State DNA Index System if the profile meets all applicable requirements.

(2) Notwithstanding subsection (1)(a) of this section, the DNA profile shall only be compared to the National DNA Index System if the state administrator of the Combined DNA Index System determines that:

(a) The forensic sample has a nexus to the crime scene, is probative, and was suitable for analysis;

(b) The DNA profile was generated through a technology that complies with all requirements in the NDIS manual and federal standards; and

(c) The DNA profile meets all requirements in the NDIS manual for entry.

(3)(a) If a party to post-conviction DNA testing proceedings seeks to conduct the testing at a nonparticipating laboratory and intends to have any DNA profile resulting from the testing submitted to the National DNA Index System or the State DNA Index System, the party may identify an NDIS-participating laboratory within this state and request the court, by motion, to order the NDIS-participating laboratory to evaluate whether the nonparticipating laboratory is in compliance with federal standards for the purpose of uploading DNA profiles to CODIS. The party shall provide notice of the requested order to the opposing party and to the NDIS-participating laboratory identified in the motion.

(b) The state may appear on the motion as a party to post-conviction DNA testing proceedings or on behalf of the NDIS-participating laboratory if the laboratory is a public entity.

(4) The court may order the NDIS-participating laboratory to conduct an evaluation pursuant to subsection (3) of this section if the moving party demonstrates and the court finds that:

(a)(A) The NDIS-participating laboratory is not able to, or for practical reasons has determined not to, perform the specific testing and analysis sought by the moving party;

(B) The NDIS-participating laboratory's testing and analysis would not be substantially equivalent to testing and analysis by the nonparticipating laboratory; or

(C) Testing and analysis by the NDIS-participating laboratory would not otherwise be appropriate;

(b) The evaluation will not delay investigations or unduly burden the resources of the NDIS-participating laboratory; and

(c) There is a reasonable likelihood that the evaluation would result in a finding that:

(A) The nonparticipating laboratory is in compliance with federal standards; and

(B) If a DNA profile is generated from testing by the nonparticipating laboratory, the profile would meet all requirements in the NDIS manual and federal standards.



(5) If the court orders an evaluation of a nonparticipating laboratory under subsection (4) of this section, within 120 days of receiving the court order, the NDIS-participating laboratory shall comply with the order as follows:

(a) The NDIS-participating laboratory may conduct the evaluation by obtaining and reviewing the records of an on-site visit and assessment of the nonparticipating laboratory previously conducted by the Federal Bureau of Investigation or an NDIS-participating laboratory.

(b) If a previously conducted on-site visit and assessment were not conducted within a time frame required by federal law, the results of the previously conducted on-site visit and assessment are unavailable, or the nonparticipating laboratory is not in compliance with other applicable standards, the NDIS-participating laboratory may:

(A) Evaluate the nonparticipating laboratory by conducting a new on-site visit and assessment, provided that:

(i) The ability to conduct the new on-site visit and assessment is within the limits of available resources of the NDIS-participating laboratory;

(ii) The nonparticipating laboratory agrees to cooperate with the new on-site visit and assessment; and

(iii) The moving party bears the costs associated with the new on-site visit and assessment; or

(B) Notify the court of the inability to evaluate the nonparticipating laboratory by conducting a new on-site visit and assessment due to the available resources of the NDIS-participating laboratory, a refusal by the nonparticipating laboratory to cooperate with the on-site visit and assessment or the refusal by the moving party to bear the costs associated with the new on-site visit and assessment.

(6) A determination by the NDIS-participating laboratory as to whether the nonparticipating laboratory is in compliance with federal standards is not subject to judicial review.

(7) Should any provision of a court order under this section be determined to violate federal law, the NDIS manual, or any memorandum of understanding between the Federal Bureau of Investigation and the Department of State Police concerning forensic laboratories, that portion of the order shall be considered unenforceable and the remaining portions of the order remain in effect.

[2019 c.368 §8]

Note:

See note under 138.688.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.710**

[1963 c.600 §1; renumbered 151.210]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.720**

[1963 c.600 §2; 1969 c.314 §6; renumbered 151.270]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.730**

[1963 c.600 §3; renumbered 151.280]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.740**

[1963 c.600 §4(1),(3),(4),(5),(6),(7); renumbered 151.220]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.750**

[Subsection (1) enacted as 1963 c.600 §4(2); subsection (2) enacted as 1963 c.600 §5(4); 1967 c.35 §1; 1969 c.644 §1; 1971 c.642 §3; renumbered 151.230]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.760**

[1963 c.600 §5(1),(2),(3); renumbered 151.240]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.770**

[1963 c.600 §6; 1967 c.372 §6; renumbered 151.250]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.780**

[1963 c.600 §7; renumbered 151.260]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.790**

[1963 c.600 §13; renumbered 151.290]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.810**

[1955 c.662 §2; 1959 c.558 §42; renumbered 138.410]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.820**

[1955 c.662 §3; 1959 c.558 §43; renumbered 138.420]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.830**

[1955 c.662 §4; renumbered 138.430]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 138 - Appeals; Post-Conviction Relief Section 138.840**

[1955 c.662 §5; 1959 c.558 §44; renumbered 138.440]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.010**

[Renumbered 136.555]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.020**

[Renumbered 136.557]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.030**

[Renumbered 136.563]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.040**

[Amended by 1973 c.836 §254; renumbered 136.565]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.050**

[Amended by 1973 c.836 §255; renumbered 136.567]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.060**

[Amended by 1961 c.289 §2; 1973 c.836 §256; renumbered 136.570]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.070**

[Renumbered 136.575]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.080**

[Renumbered 136.580]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.090**

[Renumbered 136.585]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.100**

[Amended by 1965 c.418 §1; renumbered 136.595]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.110**

[Amended by 1955 c.523 §2; renumbered 136.600]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.140**

[Renumbered 136.603]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.150**

[Renumbered 136.607]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.160**

[Renumbered 136.609]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.170**

[Renumbered 136.613]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.180**

[Amended by 1961 c.474 §1; renumbered 136.615]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.190**

[1971 c.266 §1; renumbered 136.617]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.200**

[1971 c.266 §2; renumbered 136.619]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.210**

[Renumbered 136.623]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.220**

[Renumbered 136.625]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.230**

[Renumbered 136.627]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.240**

[Renumbered 136.633]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.250**

[Renumbered 136.635]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.260**

[Renumbered 136.637]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.310**

[Renumbered 136.643]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.315**

[1961 c.288 §1; renumbered 136.645]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 139 - (Former Provisions) Section 139.320**

[Amended by 1971 c.743 §328; renumbered 136.655]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 141 - (Former Provisions) Section 141.720**

[1955 c.675 §3; 1959 c.681 §4; renumbered 133.725]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 141 - (Former Provisions) Section 141.730**

[1955 c.675 §4; renumbered 133.727]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 141 - (Former Provisions) Section 141.740**

[1955 c.675 §5; 1973 c.836 §120; renumbered 133.723]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 141 - (Former Provisions) Section 141.990**

[Subsection (2) enacted as 1955 c.675 §7; 1971 c.743 §333; 1973 c.836 §121; renumbered 133.992]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.010 -**

**Officer's custody of stolen property is subject to order of magistrate or court.**

When property alleged to have been the subject of a theft comes into the custody of a peace officer, the peace officer shall hold it subject to the order of the magistrate or court, as provided in ORS 142.020. [Amended by 1971 c.743 §334]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.020 - Delivery of stolen property to owner.**

(1) On satisfactory proof of the title of the owner of the property, the magistrate who examines the charge against the person accused of the crime shall order it to be delivered to the owner, or the duly authorized agent of the owner, on the paying by the owner of the reasonable and necessary expenses incurred in its preservation, which shall be ascertained and certified by the magistrate.

(2) If property that is the subject of a theft has not been delivered to the owner, the court before which a trial is had for the stealing thereof may, on like proof and condition, order its delivery to the owner or the agent of the owner. [Amended by 1971 c.743 §335]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.030 - Rights and authority conferred by order of delivery.**

The order provided for in ORS 142.020 entitles the owner or the agent of the owner to demand and receive the possession of the property from the officer having it in custody and authorizes such officer to deliver it accordingly; but it does not affect the rights of third persons.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.040 - Disposal of unclaimed money or property; sale of property.**

If stolen property is not claimed by the owner within 60 days from the conviction of the person charged with the theft, the officer having it in custody shall, if it is money, pay it into the county treasury. If it is other property, the officer may dispose of the property in accordance with ORS 98.245 or sell it as upon an execution and, after paying the expenses of the sale and preservation of the property, which shall be ascertained and certified by the clerk of the court, pay the proceeds into the county treasury. [Amended by 1971 c.743 §336; 1997 c.480 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.050 - Title of purchaser at sale.**

A sale of property pursuant to ORS 142.040 conveys a good title to the purchaser as against any person.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.060 - Crediting and appropriating proceeds of sale paid into county treasury; rights of owner.**

Money paid into the county treasury pursuant to ORS 142.040 shall be credited and appropriated as a fine imposed upon a person convicted of theft; but the owner of the property, at any time within six years of the conviction, upon making satisfactory proof of ownership before the county court of the county, may, by the order of such court, have the proceeds repaid to the owner from the county treasury. [Amended by 1971 c.743 §337]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.070 - Powers and duties of peace officers respecting theft and slaughter of animals and other property.**

All persons serving as special officers for the enforcement of any state or municipal law hereby are vested with the full powers of peace officers in so far as the same may be necessary or convenient for the apprehension of any persons engaged in, or accused of, the theft or slaughter of livestock, livestock carcasses, poultry, killed or dressed, or other personal property and products of the same or different kind from farms, pastures, ranges, industrial plants and other places of production or robbing the owners of such personal property, or other persons in possession of the same; for the prevention of such crimes; and for obtaining and seeking to obtain evidence of such crimes. It is the duty of all peace officers in the State of Oregon to enforce all laws for the protection of the property and the prevention of the crimes above mentioned.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.080**

[Amended by 1973 c.836 §77; renumbered 133.460]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.090**

[Amended by 1973 c.836 §78; renumbered 133.465]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.100**

[Amended by 1973 c.836 §79; renumbered 133.470]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.110**

[Amended by 1973 c.836 §80; renumbered 133.475]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.120**  
[Renumbered 133.485]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.130**  
[Renumbered 133.495]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 142 - Stolen Property Section 142.210**  
[Amended by 1973 c.836 §76; renumbered 133.455]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 143 - (Former Provisions) Section 143.010**  
[Renumbered 144.640]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 143 - (Former Provisions) Section 143.040**  
[Amended by 1973 c.836 §280; renumbered 144.650]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 143 - (Former Provisions) Section 143.050**  
[Amended by 1965 c.616 §91; renumbered 144.660]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 143 - (Former Provisions) Section 143.060**  
[Renumbered 144.670]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.005 - State Board of Parole and Post-Prison Supervision; membership; compensation.**

- (1) A State Board of Parole and Post-Prison Supervision of at least three but no more than five members hereby is created. At least one member must be a woman.
- (2)(a) Members of the board shall be appointed by the Governor and serve for a term of four years.
- (b) If the number of members falls below three for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.
- (c) The Governor at any time may remove any member for inefficiency, neglect of duty or malfeasance in office.
- (3) Each member shall devote the member's entire time to the performance of the duties imposed on the board and shall not engage in any partisan political activity.
- (4) The members shall receive a salary set by the Governor. In addition, all members may receive actual and necessary travel and other expenses incurred in the performance of their official duties within limits as provided by law or under ORS 292.220 and 292.230.
- (5) The Director of the Department of Corrections shall serve as an ex officio nonvoting member of the board and shall not be considered a member for the purposes of subsections (1) to (4) of this section. [1969 c.597 §102; 1973 c.836 §281; 1975 c.217 §1; 1987 c.320 §47; 1989 c.790 §22; 1991 c.126 §1; 2015 c.820 §37]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.015 - Confirmation by Senate.**

Except as provided in ORS 144.005 (2)(b), the appointment of a member of the State Board of Parole and Post-Prison Supervision is subject to confirmation by the Senate as provided in ORS 171.562 and 171.565. [1969 c.597 §107; 1973 c.836 §282; 1985 c.565 §15; 2015 c.820 §38]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.025 - Chairperson; quorum; participation of all members; rules.**

- (1) The Governor shall select one of the members of the State Board of Parole and Post-Prison Supervision as chairperson and another member as vice chairperson, for such terms and with duties and powers, in addition to those established by law, necessary for the performance of the function of such office as the Governor determines.
- (2) A majority of the members of the board constitutes a quorum for decisions concerning rules and policies.
- (3) Except as otherwise provided in this chapter, decisions affecting individuals under the jurisdiction of the board shall be made as designated by the rules of the board.
- (4) Except as otherwise provided by statute, all board hearings are presumed to be panel hearings.
- (5) The chairperson of the board may require all voting members of the board to participate in any hearing or decision requiring at least three board members. The decision to require the participation of all board members is not appealable.

(6) The board shall adopt rules concerning the number of board members that participate in board hearings and decisions. [1969 c.597 §106; 1973 c.836 §283; 1975 c.217 §3; 1981 c.644 §3; 1989 c.589 §1; 1991 c.126 §2; 2015 c.820 §39]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.035 - Board hearings; panels; exception.**

(1) In hearings conducted by the State Board of Parole and Post-Prison Supervision, the board may sit together or in panels.

(2) Panels may consist of one or two board members or of one member and one hearings officer, appointed by the chairperson as a designated representative of the board. A panel consisting of one member or of one member and one hearings officer shall be used only when considering adults in custody convicted of non person-to-person crimes as defined in the rules of the Oregon Criminal Justice Commission. The chairperson of the board from time to time shall make assignments of members to the panels. The chairperson of the board may participate on any panel.

(3) The chairperson shall apportion matters for decision to the panels. Each panel shall have the authority to hear and determine all questions before it. However:

(a) If there is a division in the panel so that a decision is not unanimous, another member shall vote after administrative review of the record.

(b) In case of a panel consisting of one board member, another member shall vote after administrative review of the record.

(c) If the original panel was made up of one board member and the member voting after administrative review of the record disagrees with the decision, the matter shall be reassigned to a panel made up of the remaining board members. If this second panel agrees with neither member of the original panel, the matter will be referred to a hearing before the full board.

(4) The provisions of subsections (1) to (3) of this section shall not apply to a decision to release a prisoner sentenced under ORS 144.110 (1). In such cases, the board shall release the prisoner only upon affirmative vote of a majority of three board members or, if the chairperson requires all voting members to participate, a majority of all voting members.

(5) The chairperson may elect to conduct the hearings described in this section by conference call with the prisoner. [1975 c.217 §4; 1977 c.372 §15; 1989 c.105 §1; 1989 c.589 §2; 1991 c.126 §3; 2015 c.820 §40; 2019 c.213 §117]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.040 - Board to determine parole and post-prison supervision violations.**

The State Board of Parole and Post-Prison Supervision shall determine whether violation of conditions of parole or post-prison supervision exists in specific cases. [Amended by 1955 c.688 §3; 1969 c.597 §108; 1973 c.836 §284; 1989 c.790 §24]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.050 - Power of board to authorize parole; rules.**

Subject to applicable laws, the State Board of Parole and Post-Prison Supervision may authorize any adult in custody, who is committed to the legal and physical custody of the Department of Corrections for an offense committed prior to November 1, 1989, to go upon parole subject to being arrested and detained under written order of the board or as provided in ORS 144.350. The state board may establish rules applicable to parole. [Amended by 1959 c.101 §1; 1967 c.372 §7; 1969 c.597 §109; 1971 c.633 §10; 1973 c.694 §2; 1973 c.836 §285; 1974 c.36 §3; 1981 c.243 §1; 1987 c.320 §48; 1989 c.790 §25; 2019 c.213 §25]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.054 - When board decision must be reviewed by at least three board members.**

Whenever the State Board of Parole and Post-Prison Supervision makes a decision affecting a person sentenced to life imprisonment or convicted of a crime involving the death of a victim, whether or not the prosecution directly charged the person with causing the death of the victim, the decision affecting such person must be reviewed by no fewer than three board members. [1975 c.217 §5; 2015 c.820 §41]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.059 - State Board of Parole and Post-Prison Supervision Account.**

The State Board of Parole and Post-Prison Supervision Account is established separate and distinct from the General Fund. All moneys received by the State Board of Parole and Post-Prison Supervision, other than appropriations from the General Fund, shall be deposited into the account and are continuously appropriated to the board to carry out the duties, functions and powers of the board. [2001 c.716 §2]

Note:

144.059 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series

therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.060 - Acceptance of funds or property; contracts with federal government and others.**

The Department of Corrections, with the written consent of the Governor, shall:

- (1) Accept from the United States of America, or any of its agencies, such funds, equipment and supplies as may be made available to this state to carry out any of the functions of the department and shall enter into such contracts and agreements with the United States, or any of its agencies, as may be necessary, proper and convenient, not contrary to the laws of this state.
- (2) Enter into an agreement with the county court or board of county commissioners of any county, or with the governing officials of any municipality of this state having a population of 300,000 or less for the payment by the county or municipality of all or any part of the cost of the performance by the Department of Corrections or State Board of Parole and Post-Prison Supervision of any parole, post-prison supervision or probation services or of the supervision of any parole, post-prison supervision or probation case arising within the county or municipality.
- (3) Accept any grant or donation of land or any gift of money or other valuable thing made to the state to carry out any of the functions of the department.
- (4) Enter into an agreement with the county court or board of county commissioners of each county within the boundaries of which the largest part of a city having a population of more than 300,000 is situated for the payment by the county of all or any part of the cost of the performance by the department of all or any part of the responsibility for prisoners transferred to the county by section 13, chapter 633, Oregon Laws 1971. [Amended by 1969 c.597 §112; 1971 c.633 §11; 1973 c.836 §286; 1974 c.36 §4; 1987 c.320 §49; 1989 c.790 §26]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.075 - Payment of expenses of returning violators of parole or post-prison supervision, conditional pardon or commutation.**

Any expense incurred by the state for returning to the Department of Corrections any parole or post-prison supervision violator or violator of a conditional commutation or conditional pardon shall be paid out of the biennial appropriations made for the payment of the state's portion of the expenses incident to such transportation. [1953 c.191 §1; 1973 c.836 §287; 1987 c.320 §50; 1989 c.790 §27]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.079 - Determination of total term of certain consecutive sentences of imprisonment; summing of sentences; exceptions.**

- (1)(a) If a prisoner is sentenced to terms of imprisonment that are consecutive to one another and result from crimes committed during the period before the prisoner's first initial parole hearing, or if a prisoner is sentenced to terms of imprisonment that are consecutive to one another and result from crimes committed during the period between any two initial parole hearings, the total term resulting from the crimes committed during each such separate period shall be determined by the State Board of Parole and Post-Prison Supervision as follows, except as provided in subsection (2) of this section, and the total terms so determined shall then be summed as provided in ORS 144.783 (1):
  - (A) First, the board shall establish the appropriate range for the felony determined by the board, according to its rules, to be the most serious of the felonies committed during the period. If two or more felonies are determined to be equally the most serious, the board shall establish the appropriate range under this paragraph only for one of those felonies.
  - (B) Second, the board shall establish a range for each of the remaining felonies committed during the same period. For purposes of establishing the ranges for the remaining felonies under this paragraph, the board shall not consider prior criminal history.
  - (C) Third, the board shall determine the total range applicable in the offender's case for crimes committed during the same period by summing the ranges established under subparagraph (B) of this paragraph with the range established under subparagraph (A) of this paragraph and shall determine an appropriate term within that range.
  - (D) Finally, the board shall vary the term determined under subparagraph (C) of this paragraph according to rules established under ORS 144.785 (1), if the board finds aggravating or mitigating factors in the case. The board shall consider as an aggravating factor the fact that the prisoner has been sentenced to consecutive terms of imprisonment.
- (b) Whenever a prisoner is committed to the custody of the Department of Corrections for a crime that was committed during a period already considered at an initial parole hearing and upon a sentence consecutive to any sentence imposed for crimes committed during that period, the board shall conduct a hearing to consider the previously unconsidered crime. The hearing shall be a hearing supplemental to the original initial hearing concerning crimes committed during the period. Time limitations and other procedural provisions applicable to initial hearings shall apply to a supplemental hearing under this subsection. Upon conclusion of the supplemental hearing, the board shall redetermine the appropriate total term for the period. The redetermination shall be conducted de novo under the provisions of subsection (2) of this section.
- (2) The method established by this section for determining, where applicable, the total term resulting from the summing of consecutive sentences shall apply only if none of the crimes involved is:

- (a) Murder in any degree, as defined in ORS 163.107 or 163.115, or any aggravated form thereof;
- (b) Assault in the first degree, as defined in ORS 163.185;
- (c) Kidnapping in the first degree, as defined in ORS 163.235;
- (d) Rape in the first degree, as defined in ORS 163.375;
- (e) Sodomy in the first degree, as defined in ORS 163.405;
- (f) Unlawful sexual penetration, as defined in ORS 163.411;
- (g) Arson in the first degree, as defined in ORS 164.325; or
- (h) Treason, as defined in ORS 166.005.

(3) The duration of imprisonment pursuant to consecutive sentences may be less than the sum of the terms under subsection (1) of this section if the board finds, by affirmative vote of a majority of three board members or, if the chairperson requires all voting members to participate, a majority of all voting members, that consecutive sentences are not appropriate penalties for the criminal offenses involved and that the combined terms of imprisonment are not necessary to protect community security.

(4) The board shall use the method set forth in subsections (1) to (3) of this section to determine the parole release date for any person serving a sentence in the custody of the Department of Corrections for crimes committed before or after July 11, 1987. [1987 c.634 §§4,7; 1989 c.641 §1; 1991 c.126 §4; 1991 c.386 §7; 2015 c.820 §42; 2019 c.635 §12]

Note:

144.079 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.083 - Early discharge from supervision; rules.**

(1) Notwithstanding ORS 137.765 and 144.103, the State Board of Parole and Post-Prison Supervision may discharge a person from parole or post-prison supervision before the end of the supervision term imposed by the sentencing court if:

- (a) The person is permanently incapacitated and has a condition that requires constant medical care;
- (b) Parole or post-prison supervision prevents the person from accessing a care facility;
- (c) The person provides substantiation and verification of the medical condition from a medical professional; and
- (d) The board, in its discretion, determines that early discharge from supervision is compatible with the best interests of the person and the community.

(2) The board shall adopt rules establishing criteria for discharging persons from parole or post-prison supervision under this section.

(3) If a victim has requested notification of the status of a person on parole or post-prison supervision and has provided the board with contact information, the board shall make a reasonable effort to notify the victim prior to any final decision concerning discharge under this section. [2021 c.203 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.085 - Active parole and post-prison supervision; minimum amounts; extension.**

(1) All prisoners sentenced to prison for more than 12 months shall serve active periods of parole or post-prison supervision as follows:

- (a) Six months of active parole or post-prison supervision for crimes in crime categories one to three;
- (b) Twelve months of active parole or post-prison supervision for crimes in crime categories four to 10;
- (c) Prisoners sentenced as dangerous offenders under ORS 161.725 and 161.735, for aggravated murder under ORS 163.105 or for murder in any degree under ORS 163.107 or 163.115 shall serve at least three years of active parole or post-prison supervision;
- (d) Prisoners sentenced for violating or attempting to violate ORS 163.365, 163.375, 163.395, 163.405, 163.408, 163.411, 163.425 or 163.427 shall serve a term of active parole that extends for the entire term of the offender's sentence or a term of active post-prison supervision as provided in ORS 144.103; and
- (e) Prisoners sentenced for robbery in the first degree under ORS 164.415 or for arson in the first degree under ORS 164.325 shall serve three years of active parole or post-prison supervision.

(2) Except as authorized in subsections (3) and (4) of this section, when an offender has served the active period of parole or post-prison supervision established under subsection (1)(a) or (b) of this section, the supervisory authority shall place the offender on inactive supervision status.

(3) No sooner than 30 days prior to the expiration of an offender's active parole or post-prison supervision period as provided in subsection (1) of this section, the supervisory authority may send to the State Board of Parole and Post-Prison Supervision a report requesting the board to extend the active supervision period or to return the offender to active supervision status, not to exceed the supervision term imposed by the sentencing court under the rules of the Oregon Criminal Justice Commission and applicable laws, if the offender has not substantially fulfilled the supervision conditions or has failed to complete payment of restitution. The report shall include:

- (a) An evaluation of the offender's compliance with supervision conditions;



- (b) The status of the offender's court-ordered monetary obligations, including fines and restitution, if any;
  - (c) The offender's employment status;
  - (d) The offender's address;
  - (e) Treatment program outcome;
  - (f) Any new criminal activity; and
  - (g) A recommendation that the board extend the supervision period or return the offender to active supervision status.
- (4) After reviewing the report submitted under subsection (3) of this section, the board may extend the active supervision period or return the offender to active supervision status, not to exceed the supervision term imposed by the sentencing court under the rules of the Oregon Criminal Justice Commission and applicable laws, if it finds the offender has not substantially fulfilled the supervision conditions or has failed to complete payment of restitution.
- (5) During the pendency of any violation proceedings, the running of the supervision period and the sentence is stayed, and the board has jurisdiction over the offender until the proceedings are resolved.
- (6) The board shall send written notification to the supervised offender of the expiration of the sentence. [1993 c.680 §4; 1995 c.202 §1; 1995 c.423 §22; 1999 c.161 §2; 2006 c.1 §4; 2013 c.708 §30; 2019 c.635 §13]

Note:

144.085 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.086 - Supervision conditions related to medical use of cannabis.**

- (1) As used in this section, "cannabinoid concentrate," "cannabinoid extract," "medical cannabinoid product," "registry identification card" and "usable marijuana" have the meanings given those terms in ORS 475C.777.
- (2) Notwithstanding ORS 144.102 and 144.270, if a person who holds a registry identification card is released on post-prison supervision or parole, the supervision conditions related to the use of usable marijuana, medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts must be imposed in the same manner as supervision conditions related to prescription drugs. [2016 c.24 §53; 2019 c.292 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.087 - "Supervisory authority" defined.**

- (1) As used in ORS 137.124, 144.085 and 423.478, ORS chapter 144 and this section, "supervisory authority" means the state or local corrections agency or official designated in each county by that county's board of county commissioners or county court to operate corrections supervision services, custodial facilities or both.
- (2) Except as provided in ORS 137.124, 137.593 (2)(d) and 423.478, all terms of imprisonment or incarceration of 12 months or less must be served at the direction of the supervisory authority.
- (3) Nothing in this section is intended to repeal ORS 169.320 to 169.360, or in any way affect the sheriff's authority, duties and liabilities set forth in ORS 169.320 to 169.360. [1995 c.423 §27; 1996 c.4 §11]

Note:

144.087 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.089 - Community service exchange programs.**

- (1) As used in this section:
  - (a) "Community-based organization" means a not-for-profit organization or entity or a local or county government.
  - (b) "Community service" has the meaning given that term under ORS 137.126.
  - (c) "Delinquent fees or debts" means:
    - (A) Unpaid costs for conviction;
    - (B) Attorney fees;
    - (C) Costs related to criminal conviction that a person accumulated while incarcerated; or
    - (D) Fees of any judgment that includes a monetary obligation that the court or judicial branch is charged with collecting as described in ORS 1.202.
  - (d) "Person" means an individual who has served a sentence in the legal and physical custody of the Department of Corrections and who is serving an active period of parole or post-prison supervision.
  - (e) "Supervisory authority" has the meaning given that term under ORS 144.087.
- (2)(a) The county governing body of each county shall establish a community service exchange program for the county.
- (b) The local supervisory authority may determine whether to participate in the community service exchange program.

- (c) The local supervisory authority may determine whether a community-based organization qualifies for the community service exchange program.
- (d) A person may not participate in the community service exchange program more than once.
- (3) The community service exchange program may not result in a waiver of unpaid balances for:
  - (a) Restitution or compensatory fines imposed under ORS 137.101 to 137.109;
  - (b) Unpaid obligations imposed by a support order under ORS chapter 25;
  - (c) Fines for misdemeanors and felonies under ORS 137.286; or
  - (d) Fines for traffic offenses.
- (4) In order to be eligible to participate in the community service exchange program, a person must:
  - (a) Enter into a written agreement with a community-based organization to perform community service in exchange for a waiver of delinquent fees or debts; and
  - (b) Obtain the approval of the terms of the written agreement of the local supervisory authority.
- (5) A community-based organization shall supervise and record the community service that a person performs to fulfill the requirements established by the written agreement described under this section. The community-based organization shall notify the local supervisory authority as soon as a person has entered into the community service exchange program and when the person has successfully fulfilled or failed to meet the requirements of the program.
- (6) Within 30 days of the local supervisory authority's receiving notification that a person is participating in the community service exchange program, the local supervisory authority shall notify the court of the county in which the person was convicted. Notwithstanding ORS 137.143, upon notification from the local supervisory authority, the court shall suspend all collection activity of delinquent fees or debts.
- (7)(a) When a person has successfully fulfilled the requirements of the community service exchange program, the community-based organization shall notify the local supervisory authority and the local supervisory authority shall send a notice of completion to the court of the county in which the person was convicted.
- (b) Upon notification of completion from the local supervisory authority, the court shall update the record of monetary obligations imposed for the convictions to reflect a waiver of delinquent fees or debts.
- (8) If a person fails to meet the requirements of the community service exchange program:
  - (a) The community-based organization shall notify the local supervisory authority and, if applicable, the local supervisory authority shall notify the community corrections agency or other local supervisory authority.
  - (b) Within 30 days of the local supervisory authority's receiving notification from the community-based organization, the local supervisory authority shall notify the court of the county in which the person was convicted.
  - (c) Upon notification from the local supervisory authority, the court shall resume collection of delinquent fees or debts. [2017 c.522 §1; 2021 c.653 §5]

Note:

144.089 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.096 - Release plan; contents; rules.**

- (1)(a) The Department of Corrections shall prepare a proposed release plan for an adult in custody and submit the proposed release plan to the State Board of Parole and Post-Prison Supervision prior to the release.
- (b) If the proposed release plan is not approved by the board, the board shall return the plan to the department with its recommended modifications. The department shall submit a revised plan to the board prior to the release.
- (c) If the revised plan is not acceptable to the board, the board shall determine the provisions of the final plan prior to the release.
- (d) The department, in consultation with the board, shall by rule establish deadlines by which a proposed release plan described in paragraph (a) of this subsection and a revised plan described in paragraph (b) of this subsection must be submitted to the board prior to release.
- (e) If an adult in custody was sentenced under section 29, chapter 649, Oregon Laws 2013, and the release plan recommends that the adult in custody participate in a reentry court, the board shall provide a copy of the release plan to the reentry court.
- (2) The local supervisory authority that is responsible for correctional services for an adult in custody shall prepare a proposed release plan for the adult in custody prior to the release from jail. The local supervisory authority shall approve the release plan under its rules. If the adult in custody was sentenced under section 29, chapter 649, Oregon Laws 2013, and the supervisory authority recommends that the adult in custody participate in a reentry court, the supervisory authority shall provide a copy of the release plan to the reentry court.
- (3) A release plan prepared under subsection (1) or (2) of this section must include:
  - (a) A description of support services and program opportunities available to the adult in custody, including any transitional housing or treatment programs to which the adult in custody has been accepted;
  - (b) The recommended conditions of post-prison supervision;
  - (c) The level of supervision that shall be consistent with the risk assessment classification of the adult in custody;

- (d) Any other conditions and requirements as may be necessary to promote public safety;
- (e) For all adults in custody whose sentence to make restitution under ORS 137.106 has been suspended for the term of imprisonment, a restitution payment schedule; and
- (f) Any conditions necessary to assist the reformation of the adult in custody. [1989 c.790 §32; 1997 c.525 §6; 2013 c.649 §30; 2017 c.40 §1; 2017 c.438 §1; 2019 c.213 §26]

Note:

The amendments to 144.096 by section 35, chapter 649, Oregon Laws 2013, become operative July 1, 2033. See section 38, chapter 649, Oregon Laws 2013, as amended by section 25, chapter 78, Oregon Laws 2022, and section 6, chapter 572, Oregon Laws 2023. The text that is operative on and after July 1, 2033, including amendments by section 2, chapter 40, Oregon Laws 2017, section 2, chapter 438, Oregon Laws 2017, and section 27, chapter 213, Oregon Laws 2019, is set forth for the user's convenience.

- (1)(a) The Department of Corrections shall prepare a proposed release plan for an adult in custody and submit the proposed release plan to the State Board of Parole and Post-Prison Supervision prior to the release.
- (b) If the proposed release plan is not approved by the board, the board shall return the plan to the department with its recommended modifications. The department shall submit a revised plan to the board prior to the release.
- (c) If the revised plan is not acceptable to the board, the board shall determine the provisions of the final plan prior to the release.
- (d) The department, in consultation with the board, shall by rule establish deadlines by which a proposed release plan described in paragraph (a) of this subsection and a revised plan described in paragraph (b) of this subsection must be submitted to the board prior to release.
- (2) The local supervisory authority that is responsible for correctional services for an adult in custody shall prepare a proposed release plan for the adult in custody prior to the release from jail. The local supervisory authority shall approve the release plan under its rules.
- (3) A release plan prepared under subsection (1) or (2) of this section must include:
  - (a) A description of support services and program opportunities available to the adult in custody, including any transitional housing or treatment programs to which the adult in custody has been accepted;
  - (b) The recommended conditions of post-prison supervision;
  - (c) The level of supervision that shall be consistent with the risk assessment classification of the adult in custody;
  - (d) Any other conditions and requirements as may be necessary to promote public safety;
  - (e) For all adults in custody whose sentence to make restitution under ORS 137.106 has been suspended for the term of imprisonment, a restitution payment schedule; and
  - (f) Any conditions necessary to assist the reformation of the adult in custody.

Note:

Section 31, chapter 790, Oregon Laws 1989, provides:

Sec. 31.

Sections 32 to 36 of this 1989 Act [144.096, 144.098, 144.102, 144.104, 144.106 and 144.108] apply only to defendants convicted of a felony committed on or after November 1, 1989.

[1989 c.790 §31]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.098 - Review of release plan.**

- (1) When the State Board of Parole and Post-Prison Supervision or a local supervisory authority responsible for correctional services for an adult in custody reviews the release plan prior to approval of the plan as required by ORS 144.096, it may interview the adult in custody and may review the following information:
  - (a) Reports of any physical, psychiatric or psychological examinations of the adult in custody;
  - (b) The presentence investigation report specified by ORS 144.791 or, if no such report has been prepared, a report of similar content prepared by institutional staff;
  - (c) The record of the conduct of the adult in custody during confinement; and
  - (d) Any other information relevant to the reintegration of the adult in custody into the community that may be submitted by the adult in custody, the attorney of the adult in custody, the victim of the crime, the Department of Corrections, local corrections agencies or any other person.
- (2) If the board reviews a release plan, the board must attempt to notify the victim before the review of the release plan by sending written notice to the victim if the victim requests to be notified and furnishes the board with a current address. The notice must inform the victim that the victim may submit information concerning the adult in custody and the crime to the board for the board's consideration.
- (3) The department or local corrections agency shall provide to the board or local supervisory authority reviewing the release plan any psychiatric or psychological reports held by the department or local corrections agency regarding the adult in custody. However, if the psychiatrist or psychologist who prepared the report or any treating psychiatrist or psychologist determines that disclosure to the adult in custody of the contents of the report would be detrimental to the mental or emotional health of the adult in custody, the psychiatrist or psychologist may indorse upon the report a recommendation that it not be disclosed to the adult in custody. The

department or local corrections agency may withhold from the board or supervisory authority reviewing the plan any report so indorsed. [1989 c.790 §32b; 1997 c.525 §7; 2019 c.213 §28]

Note:

See second note under 144.096.

Note:

Sections 29, 33 and 38 (2), chapter 649, Oregon Laws 2013, provide:

Sec. 29. Reentry courts.

(1) When a circuit court in a participating county sentences a person to a term of imprisonment, the court may order that the person participate in a reentry court, subject to admission under subsection (3) of this section, as a condition of post-prison supervision.

(2) At any time prior to the termination of post-prison supervision, the supervisory authority may provide a report to the reentry court recommending that a person sentenced under subsection (1) of this section be admitted into the reentry court.

(3) When a reentry court receives a report described in subsection (2) of this section, or an adult in custody release plan prepared under ORS 144.096, that recommends the admission of a person sentenced under subsection (1) of this section into a reentry court, the court may enter an order admitting the person into the reentry court.

(4) Notwithstanding ORS 137.124 and 423.478 and any other provision of law, when a court enters an order admitting a person into a reentry court, the court may:

(a) Issue a warrant and cause the person to be arrested for violating a condition of post-prison supervision.

(b) Appoint counsel to represent the person in accordance with ORS 135.050, if the person is financially eligible.

(c) Determine whether the conditions of post-prison supervision have been violated and impose sanctions for the violations.

(5)(a) When the court conducts a post-prison supervision violation hearing under this section, the person may admit or deny alleged violations of conditions of post-prison supervision. The person and the state may present evidence at the hearing.

(b) If the court determines by a preponderance of the evidence that a person admitted into a reentry court has violated the conditions of post-prison supervision, the court may impose sanctions for the violations that are consistent with the rules adopted under ORS 144.106 and 144.107, except that the court may not impose a sanction of imprisonment in a correctional facility that exceeds 12 months.

(6)(a) When a court issues a warrant under this section and causes a person admitted into a reentry court to be arrested and taken into custody for violating a condition of post-prison supervision, the person shall be brought before a magistrate during the first 36 hours in custody, excluding Saturdays, Sundays and holidays. The magistrate may order the person held pending a violation hearing or transferred to the county in which the reentry court is located, or may release the person upon the condition that the person appear in court at a later date for a post-prison violation hearing. If the person is held on an out-of-county warrant, the magistrate may order the person released subject to an additional order that the person report within seven calendar days to the reentry court.

(b) Except for good cause shown, if the person is held in custody and the violation hearing is not held within 14 calendar days following the person's arrest, the person shall be released from custody.

(7) As used in this section, "participating county" means a county:

(a) That has applied for and received a grant under section 53, chapter 649, Oregon Laws 2013, to administer a reentry court; and

(b) For which the presiding judge of the judicial district in which the county is located issues an order establishing a reentry court steering committee consisting of:

(A) A circuit court judge;

(B) A district attorney;

(C) A criminal defense attorney;

(D) A parole and probation officer;

(E) A representative of the business community;

(F) A representative of the education community; and

(G) Any other person the presiding judge determines is appropriate. [2013 c.649 §29; 2019 c.213 §118]

Sec. 33.

Section 29, chapter 649, Oregon Laws 2013, is repealed on July 1, 2033. [2013 c.649 §33; 2022 c.78 §24; 2023 c.572 §5]

Sec. 38.

(2) The repeal of section 29, chapter 649, Oregon Laws 2013, by section 33, chapter 649, Oregon Laws 2013, and the amendments to ORS 40.015, 144.096, 144.101 and 144.106 by sections 34 to 37, chapter 649, Oregon Laws 2013, do not affect the jurisdiction of a reentry court over a person sentenced under section 29, chapter 649, Oregon Laws 2013. [2013 c.649 §38(2); 2022 c.78 §25(2); 2023 c.572 §6(2)]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.101 - Board's jurisdiction over conditions of post-prison supervision; reentry court jurisdiction.**

(1) The State Board of Parole and Post-Prison Supervision has jurisdiction over the imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person convicted of a felony if:

(a) The term of imprisonment imposed on the person is more than 12 months;

(b) The felony is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of the Oregon Criminal Justice

Commission;

- (c) The person is subject to a sentence under ORS 137.700 or 137.707;
  - (d) The person is sentenced as a dangerous offender under ORS 161.725 and 161.737;
  - (e) The person is subject to a term of post-prison supervision under ORS 144.103;
  - (f) The person is committed to the custody of the Department of Corrections under ORS 137.124;
  - (g) The responsibility for correctional services for the person has reverted to the department under ORS 423.483; or
  - (h) No local supervisory authority is responsible for correctional services for the person under the laws of this state.
- (2) Except as provided in subsection (1) of this section, a local supervisory authority has jurisdiction over the imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person sentenced to a term of imprisonment of 12 months or less.
- (3) If a local supervisory authority imposes conditions of post-prison supervision or sanctions for violations of those conditions, the person may request the board to review the conditions or sanctions. The board shall review the request and may, at its discretion, review the conditions and sanctions, under rules adopted by the board.
- (4) If a circuit court in a participating county, as defined in section 29, chapter 649, Oregon Laws 2013, enters an order admitting a person into a reentry court under section 29 (3), chapter 649, Oregon Laws 2013, the reentry court has concurrent jurisdiction over the imposition of sanctions for violations of the conditions of post-prison supervision.
- (5) Nothing in this section affects the jurisdiction of the board over the imposition of conditions of parole and sanctions for violations of those conditions. [1997 c.525 §3; 1999 c.59 §28; 2006 c.1 §5; 2013 c.649 §28]

Note:

The amendments to 144.101 by section 34, chapter 649, Oregon Laws 2013, become operative July 1, 2033. See section 38, chapter 649, Oregon Laws 2013, as amended by section 25, chapter 78, Oregon Laws 2022, and section 6, chapter 572, Oregon Laws 2023. The text that is operative on and after July 1, 2033, is set forth for the user's convenience.

(1) The State Board of Parole and Post-Prison Supervision has jurisdiction over the imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person convicted of a felony if:

- (a) The term of imprisonment imposed on the person is more than 12 months;
  - (b) The felony is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;
- (c) The person is subject to a sentence under ORS 137.700 or 137.707;
  - (d) The person is sentenced as a dangerous offender under ORS 161.725 and 161.737;
  - (e) The person is subject to a term of post-prison supervision under ORS 144.103;
  - (f) The person is committed to the custody of the Department of Corrections under ORS 137.124;
  - (g) The responsibility for correctional services for the person has reverted to the department under ORS 423.483; or
  - (h) No local supervisory authority is responsible for correctional services for the person under the laws of this state.
- (2) Except as provided in subsection (1) of this section, a local supervisory authority has jurisdiction over the imposition of conditions of post-prison supervision and sanctions for violations of those conditions for a person sentenced to a term of imprisonment of 12 months or less.
- (3) If a local supervisory authority imposes conditions of post-prison supervision or sanctions for violations of those conditions, the person may request the board to review the conditions or sanctions. The board shall review the request and may, at its discretion, review the conditions and sanctions, under rules adopted by the board.
- (4) Nothing in this section affects the jurisdiction of the board over the imposition of conditions of parole and sanctions for violations of those conditions.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.102 - Conditions of post-prison supervision.**

- (1) The State Board of Parole and Post-Prison Supervision or local supervisory authority responsible for correctional services for a person shall specify in writing the conditions of post-prison supervision imposed under ORS 144.096. A copy of the conditions must be given to the person upon release from prison or jail.
- (2) The board or the supervisory authority shall determine, and may at any time modify, the conditions of post-prison supervision, which may include, among other conditions, that the person shall:
- (a) Comply with the conditions of post-prison supervision as specified by the board or supervisory authority.
  - (b) Be under the supervision of the Department of Corrections and its representatives or other supervisory authority and abide by their direction and counsel.
  - (c) Answer all reasonable inquiries of the board, the department or the supervisory authority.
  - (d) Report to the parole officer as directed by the board, the department or the supervisory authority.
  - (e) Not own, possess or be in control of any weapon.
  - (f) Respect and obey all municipal, county, state and federal laws, and in circumstances in which state and federal law conflict, obey state law.
  - (g) Understand that the board or supervisory authority may, at its discretion, punish violations of post-prison supervision.

- (h) Attend a victim impact treatment session in a county that has a victim impact program.
- (i) For crimes constituting delivery of a controlled substance, as those terms are defined in ORS 475.005, or for telephonic harassment under ORS 166.090, or for crimes involving domestic violence, as defined in ORS 135.230, be prohibited from using Internet websites that provide anonymous text message services.
- (3) If the person is required to report as a sex offender under ORS 163A.010, the board or supervisory authority shall include as a condition of post-prison supervision that the person report with the Department of State Police, a city police department, a county sheriff's office or the supervising agency:
- (a) When supervision begins;
- (b) Within 10 days of a change in residence;
- (c) Once each year within 10 days of the person's date of birth;
- (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and
- (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.
- (4)(a) The board or supervisory authority may establish special conditions that the board or supervisory authority considers necessary because of the individual circumstances of the person on post-prison supervision.
- (b) If the person is on post-prison supervision following conviction of a sex crime, as defined in ORS 163A.005, the board or supervisory authority shall include all of the following as special conditions of the person's post-prison supervision:
- (A) Agreement to comply with a curfew set by the board, the supervisory authority or the supervising officer.
- (B) A prohibition against contacting a person under 18 years of age without the prior written approval of the board, supervisory authority or supervising officer.
- (C) A prohibition against being present more than one time, without the prior written approval of the board, supervisory authority or supervising officer, at a place where persons under 18 years of age regularly congregate.
- (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition against being present, without the prior written approval of the board, supervisory authority or supervising officer, at, or on property adjacent to, a school, child care center, playground or other place intended for use primarily by persons under 18 years of age.
- (E) A prohibition against working or volunteering at a school, child care center, park, playground or other place where persons under 18 years of age regularly congregate.
- (F) Entry into and completion of or successful discharge from a sex offender treatment program approved by the board, supervisory authority or supervising officer. The program may include polygraph and plethysmograph testing. The person is responsible for paying for the treatment program.
- (G) A prohibition against direct or indirect contact with the victim, unless approved by the victim, the person's treatment provider and the board, supervisory authority or supervising officer.
- (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this paragraph, a prohibition against viewing, listening to, owning or possessing sexually stimulating visual or auditory materials that are relevant to the person's deviant behavior.
- (I) Agreement to consent to a search of the person or the vehicle or residence of the person upon the request of a representative of the board or supervisory authority if the representative has reasonable grounds to believe that evidence of a violation of a condition of post-prison supervision will be found.
- (J) Participation in random polygraph examinations to obtain information for risk management and treatment. The person is responsible for paying the expenses of the examinations. The results of a polygraph examination under this subparagraph may not be used in evidence in a hearing to prove a violation of post-prison supervision.
- (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless approved by the board, supervisory authority or supervising officer.
- (L) A prohibition against using a post-office box unless approved by the board, supervisory authority or supervising officer.
- (M) A prohibition against residing in a dwelling in which another sex offender who is on probation, parole or post-prison supervision resides unless approved by the board, supervisory authority or supervising officer, or in which more than one other sex offender who is on probation, parole or post-prison supervision resides unless approved by the board or the director of the supervisory authority, or a designee of the board or director. As soon as practicable, the supervising officer of a person subject to the requirements of this subparagraph shall review the person's living arrangement with the person's sex offender treatment provider to ensure that the arrangement supports the goals of offender rehabilitation and community safety.
- (c)(A) If the person is on post-prison supervision following conviction of a sex crime, as defined in ORS 163A.005, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the board or supervisory authority, if requested by the victim, shall include as a special condition of the person's post-prison supervision that the person not reside within three miles of the victim unless:
- (i) The victim resides in a county having a population of less than 130,000 and the person is required to reside in that county under subsection (7) of this section;
- (ii) The person demonstrates to the board or supervisory authority by a preponderance of the evidence that no mental intimidation or pressure was brought to bear during the commission of the crime;
- (iii) The person demonstrates to the board or supervisory authority by a preponderance of the evidence that imposition of the condition will deprive the person of a residence that would be materially significant in aiding in the rehabilitation of the person or in the success of the post-prison supervision; or

(iv) The person resides in a halfway house.

(B) A victim may request imposition of the special condition of post-prison supervision described in this paragraph at the time of sentencing in person or through the prosecuting attorney. A victim's request may be included in the judgment document.

(C) If the board or supervisory authority imposes the special condition of post-prison supervision described in this paragraph and if at any time during the period of post-prison supervision the victim moves to within three miles of the person's residence, the board or supervisory authority may not require the person to change the person's residence in order to comply with the special condition of post-prison supervision.

(d)(A) If a person is on post-prison supervision following conviction of stalking under ORS 163.732 (2)(b) or violating a court's stalking protective order under ORS 163.750 (2)(b), the board or supervisory authority may include as a special condition of the person's post-prison supervision reasonable residency restrictions.

(B) If the board or supervisory authority imposes the special condition of post-prison supervision described in this paragraph and if at any time during the period of post-prison supervision the victim moves to a location that causes the person to be in violation of the special condition of post-prison supervision, the board or supervisory authority may not require the person to change the person's residence in order to comply with the special condition of post-prison supervision.

(5)(a) The board or supervisory authority may require the person to pay, as a condition of post-prison supervision, compensatory fines, restitution or attorney fees:

(A) As determined, imposed or required by the sentencing court; or

(B) When previously required as a condition of any type of supervision that is later revoked.

(b) The board may require a person to pay restitution as a condition of post-prison supervision imposed for an offense other than the offense for which the restitution was ordered if the person:

(A) Was ordered to pay restitution as a result of another conviction; and

(B) Has not fully paid the restitution by the time the person has completed the period of post-prison supervision imposed for the offense for which the restitution was ordered.

(6) A person's failure to apply for or accept employment at a workplace where there is a labor dispute in progress does not constitute a violation of the conditions of post-prison supervision.

(7)(a) When a person is released from imprisonment on post-prison supervision, the board shall order as a condition of post-prison supervision that the person reside for the first six months after release in the county that last supervised the person, if the person was on active supervision as an adult for a felony at the time of the offense that resulted in the imprisonment.

(b) If the person was not on active supervision as an adult for a felony at the time of the offense that resulted in the imprisonment, the board shall order as a condition of post-prison supervision that the person reside for the first six months after release in the county where the person resided at the time of the offense that resulted in the imprisonment.

(c) For purposes of paragraph (b) of this subsection:

(A) The board shall determine the county where the person resided at the time of the offense by examining records such as:

(i) An Oregon driver license, regardless of its validity;

(ii) Records maintained by the Department of Revenue;

(iii) Records maintained by the Department of State Police;

(iv) Records maintained by the Department of Human Services;

(v) Records maintained by the Department of Corrections; and

(vi) Records maintained by the Oregon Health Authority.

(B) If the person did not have an identifiable address at the time of the offense, or the address cannot be determined, the person is considered to have resided in the county where the offense occurred.

(C) If the person is serving multiple sentences, the county of residence is determined according to the date of the last arrest resulting in a conviction.

(D) In determining the person's county of residence, the board may not consider offenses committed by the person while the person was incarcerated in a Department of Corrections facility.

(d) Upon motion of the board, the supervisory authority, the person, a victim or a district attorney, the board may waive the residency condition under paragraph (b) of this subsection only after making a finding that one of the following conditions has been met:

(A) The person provides proof of employment with no set ending date in a county other than the county of residence determined under paragraph (c) of this section;

(B) The person is found to pose a significant danger to a victim of the person's crime residing in the county of residence, or a victim or victim's family residing in the county of residence is found to pose a significant danger to the person;

(C) The person has a spouse or biological or adoptive family residing in a county other than the county of residence who will be materially significant in aiding in the rehabilitation of the person and in the success of the post-prison supervision;

(D) As another condition of post-prison supervision, the person is required to participate in a treatment program that is not available in the county of residence;

(E) The person requests release to another state; or

(F) The board finds other good cause for the waiver.

(e) The board shall consider eligibility for transitional housing programs and residential treatment programs when determining

whether to waive the residency condition under paragraph (b) of this subsection, and the acceptance of the person into a transitional housing program or a residential treatment program constitutes good cause as described in paragraph (d)(F) of this subsection.

(8) As used in this section:

(a) "Attends," "carries on a vocation," "institution of higher education" and "works" have the meanings given those terms in ORS 163A.005.

(b)(A) "Dwelling" has the meaning given that term in ORS 469B.100.

(B) "Dwelling" does not mean a residential treatment facility or a halfway house.

(c) "Halfway house" means a residential facility that provides rehabilitative care and treatment for sex offenders.

(d) "Labor dispute" has the meaning given that term in ORS 662.010. [1989 c.790 §32a; 1991 c.597 §1; 1995 c.423 §23; 1997 c.525 §8; 1997 c.526 §1; 1999 c.474 §1; 1999 c.626 §12; amendments by 1999 c.626 §35 repealed by 2001 c.884 §1; 2001 c.731 §§1,2; 2005 c.532 §1; 2005 c.567 §9; 2005 c.576 §2; 2005 c.642 §2a; 2007 c.71 §37; 2009 c.204 §6; 2009 c.595 §99; 2009 c.713 §12; 2011 c.258 §1; 2011 c.547 §30; 2017 c.438 §3; 2017 c.670 §4; 2017 c.689 §2; 2021 c.653 §6; 2022 c.78 §11]

Note:

See second note under 144.096.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.103 - Term of active post-prison supervision for person convicted of certain offenses.**

(1) Except as otherwise provided in ORS 137.765 and subsection (2) of this section, any person sentenced to a term of imprisonment for violating or attempting to violate ORS 163.365, 163.375, 163.395, 163.405, 163.408, 163.411, 163.425 or 163.427 shall serve a term of active post-prison supervision that continues until the term of the post-prison supervision, when added to the term of imprisonment served, equals the maximum statutory indeterminate sentence for the violation.

(2)(a) A person sentenced to a term of imprisonment for violating one of the offenses listed in paragraph (b) of this subsection shall serve a term of post-prison supervision that continues for the rest of the person's life if the person was at least 18 years of age at the time the person committed the crime.

(b) The offenses to which paragraph (a) of this subsection applies are:

(A) ORS 163.375 (1)(b);

(B) ORS 163.405 (1)(b);

(C) ORS 163.411 (1)(b); and

(D) ORS 163.235 when the offense is committed in furtherance of the commission or attempted commission of rape in the first degree, sodomy in the first degree or unlawful sexual penetration in the first degree if the victim is under 12 years of age.

(c) When a person is sentenced to a term of post-prison supervision described in paragraph (a) of this subsection, the person must be actively supervised for at least the first 10 years of the post-prison supervision and actively tracked for the remainder of the term. Active tracking may be done by means of an electronic device attached to the person.

(3) A person sentenced to a term of imprisonment for violating ORS 163.185 (1)(b) shall serve a term of post-prison supervision that continues until the term of the post-prison supervision, when added to the term of imprisonment served, equals the maximum statutory indeterminate sentence for the violation. [1991 c.831 §1; 1993 c.301 §4; 1999 c.161 §1; 1999 c.163 §5; subsection (2) of 2005 Edition enacted as 2005 c.513 §2; 2006 c.1 §2; 2013 c.708 §31; 2021 c.653 §7]

Note:

144.103 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.104 - Supervisory authority; revising conditions.**

(1) Upon release from prison, the person shall be supervised by the Department of Corrections or other supervisory authority.

(2) During the period of post-prison supervision, the supervisory authority may adjust the level of supervision and recommend to the State Board of Parole and Post-Prison Supervision revisions to the conditions of supervision appropriate to the released person's conduct in the community. [1989 c.790 §§33,34; 1995 c.423 §24]

Note:

See second note under 144.096.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.106 - Violation of post-prison supervision conditions; sanctions.**

(1) Except as otherwise provided by rules of the Department of Corrections and the State Board of Parole and Post-Prison Supervision concerning parole and post-prison supervision violators, the supervisory authority shall use a continuum of administrative sanctions for violations of the conditions of post-prison supervision.

(2) The sanction continuum shall include adjustments to the level of supervision and, as approved by the board or the local



supervisory authority that imposed the initial conditions of post-prison supervision:

- (a) Modification of or additions to the conditions of supervision; and
  - (b) Any other appropriate available local sanctions including, but not limited to, jail, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day centers or other local sanctions established by agreement with the supervisory authority.
- (3) An offender may not be confined in a restitution center, work release center or jail for more than 15 days for a violation of conditions of post-prison supervision unless:
- (a) The Department of Corrections, county corrections agency or supervisory authority imposes a local sanction under subsection (1) of this section;
  - (b) A reentry court imposes a local sanction under section 29, chapter 649, Oregon Laws 2013; or
  - (c) The board or its designated representative initiates a hearing for the purpose of imposing a sanction under ORS 144.107 or 144.108.
- (4) A hearing before the board is not required if the department, a county corrections agency, the supervisory authority or the court imposes a local sanction under subsection (3) of this section. However, the board may conduct a hearing under the procedures in ORS 144.343 and 144.347 and impose a different sanction on the offender than that imposed by the department, a county corrections agency, the supervisory authority or the court. [1989 c.790 §35; 1991 c.836 §1; 1997 c.525 §4; 2013 c.649 §31]

Note:

The amendments to 144.106 by section 36, chapter 649, Oregon Laws 2013, become operative July 1, 2033. See section 38, chapter 649, Oregon Laws 2013, as amended by section 25, chapter 78, Oregon Laws 2022, and section 6, chapter 572, Oregon Laws 2023. The text that is operative on and after July 1, 2033, is set forth for the user's convenience.

- (1) Except as otherwise provided by rules of the Department of Corrections and the State Board of Parole and Post-Prison Supervision concerning parole and post-prison supervision violators, the supervisory authority shall use a continuum of administrative sanctions for violations of the conditions of post-prison supervision.
- (2) The sanction continuum shall include adjustments to the level of supervision and, as approved by the board or the local supervisory authority that imposed the initial conditions of post-prison supervision:
- (a) Modification of or additions to the conditions of supervision; and
  - (b) Any other appropriate available local sanctions including, but not limited to, jail, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day centers or other local sanctions established by agreement with the supervisory authority.
- (3) An offender may not be confined in a restitution center, work release center or jail for more than 15 days for a violation of conditions of post-prison supervision unless:
- (a) The Department of Corrections, county corrections agency or supervisory authority imposes a local sanction under subsection (1) of this section; or
  - (b) The board or its designated representative initiates a hearing for the purpose of imposing a sanction under ORS 144.107 or 144.108.
- (4) A hearing before the board is not required if the department, a county corrections agency or the supervisory authority imposes a local sanction under subsection (3) of this section. However, the board may conduct a hearing under the procedures in ORS 144.343 and 144.347 and impose a different sanction on the offender than that imposed by the department, a county corrections agency or the supervisory authority.

Note:

See second note under 144.096.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.107 - Sanctions for violations of conditions of post-prison supervision; rules.**

- (1) The State Board of Parole and Post-Prison Supervision and the Department of Corrections, in consultation with local supervisory authorities, shall jointly adopt rules under this section to establish sanctions and procedures to impose sanctions for a violation of the conditions of post-prison supervision for a person serving a term of post-prison supervision subject to subsections (2) and (3) of this section.
- (2) The rules adopted under subsection (1) of this section apply only to a person serving a term of post-prison supervision for a felony committed on or after July 14, 1997.
- (3) In addition to the limitation under subsection (2) of this section, the rules adopted under subsection (1) of this section apply only to a person serving a term of post-prison supervision:
- (a) That follows the completion of a sentence to a term of imprisonment that exceeds 12 months;
  - (b) That is imposed for a felony that is classified as crime category 8, 9, 10 or 11 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;
  - (c) That is imposed as part of a sentence under ORS 137.700 or 137.707;
  - (d) That is imposed as part of a sentence as a dangerous offender under ORS 161.725 and 161.737; or
  - (e) That is subject to ORS 144.103.

(4) The board shall adopt rules under subsection (1) of this section that include, but need not be limited to, a sanction under ORS 144.108 of imprisonment in a correctional facility for a period that may exceed 12 months. The rules adopted by the board may not allow the imposition of more than 24 months of imprisonment as a sanction without a subsequent hearing to determine whether additional imprisonment is appropriate. A subsequent hearing must follow the same procedures as those used in an initial hearing under ORS 144.108.

(5) The rules adopted under subsection (1) of this section must provide that the total time served in Department of Corrections institutions by an offender who is sanctioned under the rules, including the time served on the initial sentence and all periods of incarceration served as sanctions in Department of Corrections institutions, may not exceed the greater of:

(a) The length of incarceration plus the length of post-prison supervision imposed by the court unless the offender was sentenced under ORS 137.765;

(b) A maximum term of imprisonment imposed by the court; or

(c) If the offender was sentenced under ORS 137.765, the length of the maximum statutory indeterminate sentence for the crime of conviction.

(6) As used in this section, "Department of Corrections institutions" has the same meaning given that term in ORS 421.005. [1997 c.525 §2; 1999 c.163 §6; 2006 c.1 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.108 - Recombitment to prison for certain violations; procedure; effect of recommitment.**

(1) If the violation of post-prison supervision is new criminal activity or if the supervisory authority finds that the continuum of sanctions is insufficient punishment for a violation of the conditions of post-prison supervision, the supervisory authority may:

(a) Impose the most restrictive sanction available, including incarceration in jail;

(b) Request the State Board of Parole and Post-Prison Supervision to impose a sanction under subsection (2) of this section; or

(c) Request the board to impose a sanction under ORS 144.107.

(2) If so requested, the board or its designated representative shall hold a hearing to determine whether incarceration in a jail or state correctional facility is appropriate. Except as otherwise provided by rules of the board and the Department of Corrections concerning parole and post-prison supervision violators, the board may impose a sanction up to the maximum provided by rules of the Oregon Criminal Justice Commission. In conducting a hearing pursuant to this subsection, the board or its designated representative shall follow the procedures and the offender shall have all the rights described in ORS 144.343 and 144.347 relating to revocation of parole.

(3) A person who is ordered to serve a term of incarceration in a jail or state correctional facility as a sanction for a post-prison supervision violation is not eligible for:

(a) Earned credit time as described in ORS 169.110 or 421.121;

(b) Transitional leave as defined in ORS 421.168; or

(c) Temporary leave as described in ORS 169.115 or 421.165 (1987 Replacement Part).

(4) A person who is ordered to serve a term of incarceration in a state correctional facility as a sanction for a post-prison supervision violation shall receive credit for time served on the post-prison supervision violation prior to the board's imposition of the term of incarceration. [1989 c.790 §36; 1995 c.423 §17; 1997 c.313 §13; 1997 c.525 §5; 2009 c.178 §29; 2010 c.89 §12]

Note:

See second note under 144.096.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.109 - Violation of post-prison supervision by sexually violent dangerous offender; maximum period of sanction.**

When a person has been sentenced as a sexually violent dangerous offender under ORS 137.765, the maximum period of local custody to which the State Board of Parole and Post-Prison Supervision or the local supervisory authority may sanction the offender for any violation of post-prison supervision is 180 days. Notwithstanding ORS 161.605, the sanction may be imposed repeatedly during the term of the post-prison supervision for subsequent post-prison supervision violations. However, the board or local supervisory authority may impose only a single sanction for all violations known to the board or local supervisory authority as of the date that the sanction is imposed. [1999 c.163 §2]

Note:

144.109 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.110 - Restriction on parole of persons sentenced to minimum terms.**

(1) In any felony case, the court may impose a minimum term of imprisonment of up to one-half of the sentence it imposes.

(2) Notwithstanding the provisions of ORS 144.120 and 144.780:

(a) The State Board of Parole and Post-Prison Supervision shall not release a prisoner on parole who has been sentenced under subsection (1) of this section until the minimum term has been served, except upon affirmative vote of a majority of three board members or, if the chairperson requires all voting members to participate, a majority of all voting members.

(b) The board shall not release a prisoner on parole:

(A) Who has been convicted of murder defined as aggravated murder under the provisions of ORS 163.095, except as provided in ORS 163.105;

(B) Who has been convicted of murder in the first degree under the provisions of ORS 163.107, except as provided in ORS 163.107 (3) or 163.155 (6) to (8); or

(C) Who has been convicted of murder in the second degree under the provisions of ORS 163.115, except as provided in ORS 163.115 (5)(c) to (f) or 163.155 (6) to (8). [1977 c.372 §4; 1991 c.126 §5; 1999 c.782 §1; 2001 c.104 §47; 2007 c.717 §3; 2015 c.820 §43; 2019 c.635 §14]

Note:

Section 28, chapter 790, Oregon Laws 1989, provides:

Sec. 28.

The provisions of ORS 144.110, 144.120, 144.122, 144.125, 144.130, 144.135, 144.185, 144.223, 144.245 and 144.270 apply only to offenders convicted of a crime committed prior to November 1, 1989, and to offenders convicted of aggravated murder or murder regardless of the date of the crime. [1989 c.790 §28; 1999 c.782 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.120 - Initial parole hearing; setting initial parole release date; deferral of setting initial date.**

(1)(a) Within six months of the admission of a prisoner to any Department of Corrections institution, with the exception of those prisoners sentenced to a term of imprisonment for life or for more than five years, the State Board of Parole and Post-Prison Supervision shall conduct a parole hearing to interview the prisoner and set the initial date of release on parole pursuant to subsection (2) of this section. For those prisoners sentenced to a term of imprisonment for more than five years but less than 15 years, the board shall conduct the parole hearing and set the initial date of release within eight months following admission of the prisoner to the institution. For those prisoners sentenced to a term of imprisonment for life or for 15 years or more, with the exception of those sentenced for aggravated murder or murder, the board shall conduct the parole hearing, and shall set the initial release date, within one year following admission of the prisoner to the institution. Release shall be contingent upon satisfaction of the requirements of ORS 144.125.

(b) Those prisoners sentenced to a term of imprisonment for less than 15 years for commission of an offense designated by rule by the board as a non person-to-person offense may waive their rights to the parole hearing. When a prisoner waives the parole hearing, the initial date of release on parole may be set administratively by the board pursuant to subsections (2) to (6) of this section. If the board is not satisfied that the waiver was made knowingly or intelligently or if it believes more information is necessary before making its decision, it may order a hearing.

(2) In setting the initial parole release date for a prisoner pursuant to subsection (1) of this section, the board shall apply the appropriate range established pursuant to ORS 144.780. Variations from the range shall be in accordance with ORS 144.785.

(3) In setting the initial parole release date for a prisoner pursuant to subsection (1) of this section, the board shall consider the presentence investigation report specified in ORS 144.791 or, if no such report has been prepared, a report of similar content prepared by the Department of Corrections.

(4) Notwithstanding subsection (1) of this section, in the case of a prisoner whose offense included particularly violent or otherwise dangerous criminal conduct or whose offense was preceded by two or more convictions for a Class A or Class B felony or whose record includes a psychiatric or psychological diagnosis of severe emotional disturbance such as to constitute a danger to the health or safety of the community, the board may choose not to set a parole date.

(5) After the expiration of six months after the admission of the prisoner to any Department of Corrections institution, the board may defer setting the initial parole release date for the prisoner for a period not to exceed 90 additional days pending receipt of psychiatric or psychological reports, criminal records or other information essential to formulating the release decision.

(6) When the board has set the initial parole release date for a prisoner, it shall inform the sentencing court of the date. [1977 c.372 §5; 1981 c.426 §1; 1985 c.283 §2; 1987 c.2 §14; 1987 c.320 §51; 1987 c.881 §1; 1989 c.589 §3; 1991 c.126 §6; 1993 c.294 §5; 1999 c.782 §3; 2001 c.104 §48; 2010 c.89 §11]

Note:

See note under 144.110.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.122 - Advancing initial release date; requirements; exceptions; rules.**

(1) After the initial parole release date has been set under ORS 144.120 and after a minimum period of time established by the State Board of Parole and Post-Prison Supervision under subsection (2)(a) of this section, the prisoner may request that the parole release date be reset to an earlier date. The board may grant the request upon a determination by the board that continued incarceration is

cruel and inhumane and that resetting the release date to an earlier date is not incompatible with the best interests of the prisoner and society and that the prisoner:

- (a) Has demonstrated an extended course of conduct indicating outstanding reformation;
  - (b) Suffers from a severe medical condition including terminal illness; or
  - (c) Is elderly and is permanently incapacitated in such a manner that the prisoner is unable to move from place to place without the assistance of another person.
- (2) The Advisory Commission on Prison Terms and Parole Standards may propose to the board and the board shall adopt rules:
- (a) Establishing minimum periods of time to be served by prisoners before application may be made for a reset of release date under subsection (1) of this section;
  - (b) Detailing the criteria set forth under subsection (1) of this section for the resetting of a parole release date; and
  - (c) Establishing criteria for parole release plans for prisoners released under this section that, at a minimum, must ensure appropriate supervision and services for the person released.
- (3) The provisions of subsection (1)(b) of this section apply to prisoners sentenced in accordance with ORS 161.610.
- (4) The provisions of this section do not apply to prisoners sentenced to life imprisonment without the possibility of release or parole under ORS 138.052 or 163.150.
- (5) If the victim has requested notification of the release of the prisoner, the board shall notify the victim as described in ORS 144.750 (3) prior to any hearing or administrative decision under this section. [1983 c.489 §2; 1991 c.133 §1; 1993 c.198 §1; 1999 c.1055 §13; 2001 c.104 §49; 2015 c.230 §1]

Note:

See note under 144.110.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.123 - Who may accompany person to parole hearing; rules.**

When appearing before the State Board of Parole and Post-Prison Supervision an adult in custody shall have the right to be accompanied by a person chosen by the adult in custody pursuant to rule promulgated jointly by the State Board of Parole and Post-Prison Supervision and the Department of Corrections. [1981 c.644 §1; 1987 c.320 §52; 2019 c.213 §29]

Note:

144.123 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.125 - Review of parole plan, psychological reports and conduct prior to release; release postponement; elements of parole plan; Department of Corrections assistance; rules.**

(1) Prior to the scheduled release of any prisoner on parole and prior to release rescheduled under this section, the State Board of Parole and Post-Prison Supervision may upon request of the Department of Corrections or on its own initiative interview the prisoner to review the prisoner's parole plan and psychiatric or psychological report, if any, and the record of the prisoner's conduct during confinement. To accommodate such review by the board, the Department of Corrections shall provide to the board any psychiatric or psychological reports held by the department regarding the prisoner. However, if the psychiatrist or psychologist who prepared any report or any treating psychiatrist or psychologist determines that disclosure to the prisoner of the contents of the report would be detrimental to the prisoner's mental or emotional health, the psychiatrist or psychologist may indorse upon the report a recommendation that it not be disclosed to the prisoner. The department may withhold from the board any report so indorsed.

(2) The board shall postpone a prisoner's scheduled release date if it finds, after a hearing, that the prisoner engaged in serious misconduct during confinement. The board shall adopt rules defining serious misconduct and specifying periods of postponement for such misconduct.

(3)(a) If the board finds the prisoner has a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the board may order the postponement of the scheduled parole release until a specified future date. The board may not postpone a prisoner's scheduled release date to a date that is less than two years, or more than 10 years, from the date of the hearing, unless the prisoner would be held beyond the maximum sentence. The board shall determine the scheduled release date, and the prisoner may petition for interim review, in accordance with ORS 144.280.

(b) If the board finds the prisoner has a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, but also finds that the prisoner can be adequately controlled with supervision and mental health treatment and that the necessary supervision and treatment are available, the board may order the prisoner released on parole subject to conditions that are in the best interests of community safety and the prisoner's welfare.

(4) Each prisoner shall furnish the board with a parole plan prior to the scheduled release of the prisoner on parole. The board shall adopt rules specifying the elements of an adequate parole plan and may defer release of the prisoner for not more than three months if it finds that the parole plan is inadequate. The Department of Corrections shall assist prisoners in preparing parole plans. [1977

c.372 §6; 1981 c.426 §2; 1987 c.320 §53; 1989 c.790 §68; 1993 c.334 §1; 1999 c.141 §1; 2009 c.660 §3]

Note:

See note under 144.110.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.126 - Advancing release date of prisoner with severe medical condition including terminal illness or who is elderly and permanently incapacitated; rules.**

(1) The State Board of Parole and Post-Prison Supervision may advance the release date of a prisoner who was sentenced in accordance with rules of the Oregon Criminal Justice Commission or ORS 161.610. The release date may be advanced if the board determines that continued incarceration is cruel and inhumane and that advancing the release date of the prisoner is not incompatible with the best interests of the prisoner and society and that the prisoner is:

(a) Suffering from a severe medical condition including terminal illness; or

(b) Elderly and permanently incapacitated in such a manner that the prisoner is unable to move from place to place without the assistance of another person.

(2) The board shall adopt rules establishing criteria for release plans for prisoners released under this section that, at a minimum, must insure appropriate supervision and services for the person released.

(3) The provisions of this section do not apply to prisoners sentenced to life imprisonment without the possibility of release or parole under ORS 138.052 or 163.150.

(4) If the victim has requested notification of the release of the prisoner, the board shall notify the victim as described in ORS 144.750 (3) prior to any hearing or administrative decision under this section. [1989 c.790 §27a; 1991 c.133 §2; 1993 c.198 §2; 1999 c.1055 §14; 2015 c.230 §2]

Note:

144.126 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.130 - Prisoner to have access to written materials considered at hearings or interviews; access procedures.**

(1) Notwithstanding the provisions of ORS 179.495, prior to a parole hearing or other personal interview, each prisoner shall have access to the written materials which the board shall consider with respect to the release of the prisoner on parole, with the exception of materials exempt from disclosure under ORS 192.355 (5).

(2) The board and the Director of the Department of Corrections shall jointly adopt procedures for a prisoner's access to written materials pursuant to this section. [1977 c.372 §8; 1987 c.320 §54; 1997 c.825 §2]

Note:

See note under 144.110.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.135 - Bases of parole decisions to be in writing.**

The board shall state in writing the detailed bases of its decisions under ORS 144.110 to 144.125. [1977 c.372 §9]

Note:

See note under 144.110.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.140 - Rules.**

(1) The State Board of Parole and Post-Prison Supervision may adopt rules to carry out its responsibilities under the sentencing guidelines system.

(2) The board shall comply with the rulemaking provisions of ORS chapter 183 in the adoption, amendment or repeal of rules pursuant to ORS 144.125, 144.130, 144.395 and 144.780 to 144.791 or this section. [1977 c.372 §17; 1989 c.790 §27b]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.185 - Records and information available to board.**

Before making a determination regarding a prisoner's release on parole as provided by ORS 144.125 or 144.397, the State Board of Parole and Post-Prison Supervision may cause to be brought before it current records and information regarding the prisoner, including:

(1) Any relevant information which may be submitted by the prisoner, the prisoner's attorney, the victim of the crime, the

Department of Corrections, or by other persons;

(2) The presentence investigation report specified in ORS 144.791 or if no such report has been prepared, a report of similar content prepared by institutional staff;

(3) The reports of any physical, mental and psychiatric examinations of the prisoner;

(4) The prisoner's parole plan; and

(5) Other relevant information concerning the prisoner as may be reasonably available. [1973 c.694 §6; 1981 c.426 §3; 1985 c.283 §3; 1987 c.320 §55; 2019 c.634 §26]

Note:

See note under 144.110.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.223 - Examination by psychiatrist or psychologist of parole candidate; report; copies to affected persons.**

(1) The State Board of Parole and Post-Prison Supervision may require any prisoner being considered for parole to be examined by a psychiatrist or psychologist before being released on parole.

(2) Within 60 days after the examination, the examining psychiatrist or psychologist shall file a written report of the findings and conclusions of the psychiatrist or psychologist relative to the examination with the chairperson of the State Board of Parole and Post-Prison Supervision. A certified copy of the report shall be sent to the convicted person, to the attorney of the convicted person and to the executive officer of the Department of Corrections institution in which the convicted person is confined. [1977 c.379 §2; 1987 c.320 §56]

Note:

See note under 144.110.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.226 - Examination by psychiatrist or psychologist of person sentenced as dangerous offender; report.**

(1) Any person sentenced under ORS 161.725 and 161.735 as a dangerous offender shall within 120 days prior to the parole consideration hearing under ORS 144.228 or the last day of the required incarceration term established under ORS 161.737 and at least every two years thereafter be given a complete mental and psychiatric or psychological examination by a psychiatrist or psychologist appointed by the State Board of Parole and Post-Prison Supervision. Within 60 days after the examination, the examining psychiatrist or psychologist shall file a written report of findings and conclusions relative to the examination with the Director of the Department of Corrections and chairperson of the State Board of Parole and Post-Prison Supervision.

(2) The examining psychiatrist or psychologist shall include in the report a statement as to whether or not in the psychiatrist's or psychologist's opinion the convicted person has mental retardation or any mental or emotional disturbance, condition or disorder predisposing the person to the commission of any crime to a degree rendering the examined person a danger to the health or safety of others. The report shall also contain any other information which the examining psychiatrist or psychologist believes will aid the State Board of Parole and Post-Prison Supervision in determining whether the examined person is eligible for release. The report shall also state the progress or changes in the condition of the examined person as well as any recommendations for treatment. A certified copy of the report shall be sent to the convicted person, to the convicted person's attorney and to the executive officer of the Department of Corrections institution in which the convicted person is confined. [1955 c.636 §4; 1961 c.424 §5; 1969 c.597 §114; 1971 c.743 §338; 1973 c.836 §290; 1981 c.644 §4; 1987 c.320 §57; 1989 c.790 §78; 1991 c.318 §1; 1993 c.334 §2; 2005 c.481 §1; 2007 c.70 §36]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.228 - Periodic parole consideration hearings for dangerous offenders; setting of parole date; information to be considered.**

(1)(a) Within six months after commitment to the custody of the Department of Corrections of any person sentenced under ORS 161.725 and 161.735 as a dangerous offender, the State Board of Parole and Post-Prison Supervision shall set a date for a parole consideration hearing instead of an initial release date as otherwise required under ORS 144.120 and 144.125. The parole consideration hearing date shall be the time the prisoner would otherwise be eligible for parole under the board's rules.

(b)(A) At the parole consideration hearing, the prisoner shall be given a release date in accordance with the rules of the board if the board finds the prisoner no longer dangerous or finds that the prisoner remains dangerous but can be adequately controlled with supervision and mental health treatment and that the necessary resources for supervision and treatment are available to the prisoner. If the board is unable to make such findings, a review will be conducted no less than two years, and no more than 10 years, from the date of the previous review, until the board is able to make such findings, at which time release on parole shall be ordered if the prisoner is otherwise eligible under the rules.

(B) The board may not grant the prisoner a review hearing that is more than two years from the date of the previous hearing unless the board finds that it is not reasonable to expect that the prisoner would be granted a release date before the date of the subsequent hearing.

(C) The board shall determine the date of the review hearing in accordance with rules adopted by the board. Rules adopted under this subparagraph must be based on the foundation principles of criminal law described in section 15, Article I of the Oregon Constitution.

(D) In no event shall the prisoner be held beyond the maximum sentence less good time credits imposed by the court.

(c) Nothing in this section precludes a prisoner from submitting a request for a parole consideration hearing prior to the earliest time the prisoner is eligible for parole. If the board grants a prisoner a review hearing that is more than two years from the date of the previous hearing, the prisoner may submit a request for an interim review hearing not earlier than the date that is two years from the date of the previous hearing and at intervals of not less than two years thereafter. Should the board find, based upon a request described in this paragraph, that there is a reasonable cause to believe that the prisoner is no longer dangerous or that necessary supervision and treatment are available based upon the information provided in the request, it shall conduct a review as soon as is reasonably convenient.

(d) When the board grants a prisoner a review hearing that is more than two years from the date of the previous hearing and when the board denies a petition for an interim hearing, the board shall issue a final order. The order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the board's order. Unless the prisoner bears the burden of persuasion, the order shall include findings necessary to deny the prisoner a release date for any period of time when the prisoner would be presumed to be eligible for a release date.

(2) For the parole consideration hearing, the board shall cause to be brought before it and consider all information regarding such person. The information shall include:

(a) The written report of the examining psychiatrist or psychologist which shall contain all the facts necessary to assist the State Board of Parole and Post-Prison Supervision in making its determination. The report of the examining psychiatrist or psychologist shall be made within two months of the date of its consideration; and

(b) A written report to be made by the executive officer of the Department of Corrections institution in which the person has been confined. The executive officer's report shall contain:

(A) A detailed account of the person's conduct while confined, all infractions of rules and discipline, all punishment meted out to the person and the circumstances connected therewith, as well as the extent to which the person has responded to the efforts made in the institution to improve the person's mental and moral condition.

(B) A statement as to the person's present attitude toward society, toward the sentencing judge, toward the prosecuting district attorney, toward the arresting police officer and toward the person's previous criminal career.

(C) The work and program record of the person while in or under the supervision of the Department of Corrections. The program history shall include a summary of any psychological or substance abuse treatment and other activities that will assist the board in understanding the psychological adjustment and social skills and habits of the person and that will assist the board in determining the likelihood for successful community reentry. [1955 c.636 §5; 1961 c.424 §6; 1971 c.743 §339; 1973 c.836 §291; 1981 c.644 §5; 1985 c.283 §4; 1987 c.320 §58; 1991 c.318 §2; 1993 c.334 §3; 2009 c.660 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.232 - Release of dangerous offender to post-prison supervision; eligibility; hearing.**

(1) A person sentenced under ORS 161.725 and 161.735 as a dangerous offender for felonies committed on or after November 1, 1989, shall be considered for release to post-prison supervision. The offender is eligible for release to post-prison supervision after having served the required incarceration term established under ORS 161.737.

(2) The State Board of Parole and Post-Prison Supervision shall hold a release hearing no later than 10 days prior to the date on which the offender becomes eligible for release on post-prison supervision as provided in subsection (1) of this section.

(3) The dangerous offender's eligibility for and release to post-prison supervision shall be determined in a manner consistent with the procedures and criteria required by ORS 144.228 for the parole determination process applicable to dangerous offenders sentenced for crimes committed prior to November 1, 1989.

(4) An offender released under this section shall serve the remainder of the sentence term imposed under ORS 161.725, 161.735 and 161.737 on post-prison supervision, however:

(a) Notwithstanding ORS 137.010 or the rules of the Oregon Criminal Justice Commission, the State Board of Parole and Post-Prison Supervision may sanction an offender to the supervision of the local authority for a maximum period of 180 days for any supervision violation. The sanction may be imposed repeatedly during the term of post-prison supervision for subsequent supervision violations.

(b) After release under this section, the board may at any time return the offender to prison and require the offender to submit to a psychiatric or psychological examination as provided for in ORS 144.226. If the board finds that the offender's dangerousness has returned and cannot be adequately controlled with supervision and mental and physical health treatment, or that resources for supervision and treatment are not available to the offender, the board may defer the offender's release from prison for an indefinite period of time. An offender returned to prison under this paragraph is entitled to periodic reviews for possible release to post-prison supervision as provided by subsection (3) of this section. [1989 c.790 §80; 1993 c.334 §4; 1995 c.423 §18; 2009 c.660 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.245 - Date of release on parole; effect of release order.**

- (1) When the State Board of Parole and Post-Prison Supervision has set a date on which a prisoner is to be released upon parole, the prisoner shall be released on that date unless the prisoner on that date remains subject to an unexpired minimum term during which the prisoner is not eligible for parole, in which case the prisoner shall not be released until the expiration of the minimum term.
  - (2) When the board has not set a date on which a prisoner is to be released upon parole, the prisoner shall be released upon a date six months prior to the expiration of the prisoner's term as computed under ORS 421.120 and 421.122 unless the prisoner on that date remains subject to an unexpired minimum term during which the prisoner is not eligible for parole, in which case the prisoner shall not be released until the expiration of the minimum term.
  - (3) In no case does a prisoner have a right to refuse an order granting the prisoner release upon parole. [1985 c.53 §§2,3]
- Note:  
See note under 144.110.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.260 - Notice of prospective release on parole or post-prison supervision.**

- (1) Prior to the release on parole or post-prison supervision of a convicted person from a Department of Corrections institution, the chairperson of the State Board of Parole and Post-Prison Supervision shall inform the Department of Corrections, the district attorney and the sheriff or arresting agency of the prospective date of release and of any special conditions thereof and shall inform the sentencing judge and the trial counsel upon request. If the person is a sex offender, as defined in ORS 163A.005, the chairperson shall also inform the chief of police, if the person is going to reside within a city, and the county sheriff of the county in which the person is going to reside of the person's release and the conditions of the person's release.
- (2) At least 30 days prior to the release from actual physical custody of any convicted person, other than by parole or post-prison supervision, whether such release is pursuant to work release, institutional leave, or any other means, the Department of Corrections shall notify the district attorney of the impending release and shall notify the sentencing judge upon request.
- (3) The victim may request notification of the release and if the victim has requested notification, the State Board of Parole and Post-Prison Supervision or the Department of Corrections, as the case may be, shall notify the victim in the same fashion and under the same circumstances it is required to give notification to other persons under this section. [Amended by 1969 c.597 §115; 1973 c.836 §293; 1983 c.635 §1; 1987 c.2 §15; 1987 c.320 §59; 1989 c.790 §29; 1993 c.492 §1; 2001 c.884 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.270 - Conditions of parole.**

- (1) The State Board of Parole and Post-Prison Supervision, in releasing a person on parole, shall specify in writing the conditions of the parole. A copy of the conditions must be given to the person paroled.
- (2) The board shall determine, and may at any time modify, the conditions of parole, which may include, among other conditions, that the person paroled must:
  - (a) Accept the parole granted subject to all terms and conditions specified by the board.
  - (b) Be under the supervision of the Department of Corrections and its representatives and abide by their direction and counsel.
  - (c) Answer all reasonable inquiries of the board or the parole officer.
  - (d) Report to the parole officer as directed by the board or parole officer.
  - (e) Not own, possess or be in control of a weapon.
  - (f) Respect and obey all municipal, county, state and federal laws.
  - (g) Understand that the board may, in its discretion, suspend or revoke parole if it determines that the parole is not in the best interest of the person paroled or of society.
- (3) If the person paroled is required to report as a sex offender under ORS 163A.010, the board shall include as a condition of parole that the person report with the Department of State Police, a city police department, a county sheriff's office or the supervising agency:
  - (a) When supervision begins;
  - (b) Within 10 days of a change in residence;
  - (c) Once each year within 10 days of the person's date of birth;
  - (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and
  - (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.
- (4)(a) The board may establish special conditions that it considers necessary because of the individual circumstances of the person paroled.
- (b) If the person is on parole following conviction of a sex crime, as defined in ORS 163A.005, the board shall include all of the following as special conditions of the person's parole:



- (A) Agreement to comply with a curfew set by the board or the supervising officer.
  - (B) A prohibition against contacting a person under 18 years of age without the prior written approval of the board or supervising officer.
  - (C) A prohibition against being present more than one time, without the prior written approval of the board or supervising officer, at a place where persons under 18 years of age regularly congregate.
  - (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition against being present, without the prior written approval of the board or supervising officer, at, or on property adjacent to, a school, child care center, playground or other place intended for use primarily by persons under 18 years of age.
  - (E) A prohibition against working or volunteering at a school, child care center, park, playground or other place where persons under 18 years of age regularly congregate.
  - (F) Entry into and completion of or successful discharge from a sex offender treatment program approved by the board or supervising officer. The program may include polygraph and plethysmograph testing. The person is responsible for paying for the treatment program.
  - (G) A prohibition against direct or indirect contact with the victim, unless approved by the victim, the person's treatment provider and the board or supervising officer.
  - (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this paragraph, a prohibition against viewing, listening to, owning or possessing sexually stimulating visual or auditory materials that are relevant to the person's deviant behavior.
  - (I) Agreement to consent to a search of the person or the vehicle or residence of the person upon the request of a representative of the board if the representative has reasonable grounds to believe that evidence of a violation of a condition of parole will be found.
  - (J) Participation in random polygraph examinations to obtain information for risk management and treatment. The person is responsible for paying the expenses of the examinations. The results of a polygraph examination under this subparagraph may not be used in evidence in a hearing to prove a violation of parole.
  - (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless approved by the board or supervising officer.
  - (L) A prohibition against using a post-office box unless approved by the board or supervising officer.
  - (M) A prohibition against residing in a dwelling in which another sex offender who is on probation, parole or post-prison supervision resides unless approved by the board or supervising officer, or in which more than one other sex offender who is on probation, parole or post-prison supervision resides unless approved by the board or a designee of the board. As soon as practicable, the supervising officer of a person subject to the requirements of this subparagraph shall review the person's living arrangement with the person's sex offender treatment provider to ensure that the arrangement supports the goals of offender rehabilitation and community safety.
- (c)(A) If the person is on parole following conviction of a sex crime, as defined in ORS 163A.005, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the board, if requested by the victim, shall include as a special condition of the person's parole that the person not reside within three miles of the victim unless:
- (i) The victim resides in a county having a population of less than 130,000 and the person is required to reside in that county under subsection (6) of this section;
  - (ii) The person demonstrates to the board by a preponderance of the evidence that no mental intimidation or pressure was brought to bear during the commission of the crime;
  - (iii) The person demonstrates to the board by a preponderance of the evidence that imposition of the condition will deprive the person of a residence that would be materially significant in aiding in the rehabilitation of the person or in the success of the parole; or
  - (iv) The person resides in a halfway house.
- (B) A victim may request imposition of the special condition of parole described in this paragraph at the time of sentencing in person or through the prosecuting attorney. A victim's request may be included in the judgment document.
- (C) If the board imposes the special condition of parole described in this paragraph and if at any time during the period of parole the victim moves to within three miles of the parolee's residence, the board may not require the parolee to change the parolee's residence in order to comply with the special condition of parole.
- (5) It is not a cause for revocation of parole that the person paroled failed to apply for or accept employment at a workplace where there is a labor dispute in progress.
- (6)(a) When the board grants a person parole from the custody of the Department of Corrections, the board shall order, as a condition of parole, that the person reside for the first six months in the county that last supervised the person, if the person was on active supervision as an adult for a felony at the time of the offense that resulted in the imprisonment.
- (b) If the person paroled was not on active supervision as an adult for a felony at the time of the offense that resulted in the imprisonment, the board shall order as a condition of parole that the person reside for the first six months in the county where the person resided at the time of the offense that resulted in the imprisonment.
- (c) For purposes of paragraph (b) of this subsection:
- (A) The board shall determine the county where the person resided at the time of the offense by examining records such as:
    - (i) An Oregon driver license, regardless of its validity;
    - (ii) Records maintained by the Department of Revenue;

- (iii) Records maintained by the Department of State Police;
  - (iv) Records maintained by the Department of Human Services;
  - (v) Records maintained by the Department of Corrections; and
  - (vi) Records maintained by the Oregon Health Authority.
- (B) If the person did not have an identifiable address at the time of the offense, or the address cannot be determined, the person is considered to have resided in the county where the offense occurred.
- (C) If the person is serving multiple sentences, the county of residence is determined according to the date of the last arrest resulting in a conviction.
- (D) If the person is being rereleased after revocation of parole, the county of residence shall be determined according to the date of the arrest resulting in a conviction of the underlying offense.
- (E) In determining the person's county of residence, a conviction for an offense that the adult in custody committed while incarcerated in a state correctional institution may not be considered.
- (d) Upon motion of the board, the supervisory authority, the person paroled, a victim or a district attorney, the board may waive the residency condition under paragraph (b) of this subsection only after making a finding that one of the following conditions has been met:
- (A) The person provides proof of employment with no set ending date in a county other than the county of residence determined under paragraph (c) of this section;
  - (B) The person is found to pose a significant danger to a victim of the person's crime residing in the county of residence, or a victim or victim's family residing in the county of residence is found to pose a significant danger to the person;
  - (C) The person has a spouse or biological or adoptive family residing in a county other than the county of residence who will be materially significant in aiding in the rehabilitation of the person and in the success of the parole;
  - (D) As another condition of parole, the person is required to participate in a treatment program that is not available or located in the county of residence;
  - (E) The person requests to be paroled to another state; or
  - (F) The board finds other good cause for the waiver.
- (7) As used in this section:
- (a) "Attends," "carries on a vocation," "institution of higher education" and "works" have the meanings given those terms in ORS 163A.005.
  - (b)(A) "Dwelling" has the meaning given that term in ORS 469B.100.
  - (B) "Dwelling" does not mean a residential treatment facility or a halfway house.
  - (c) "Halfway house" means a residential facility that provides rehabilitative care and treatment for sex offenders.
  - (d) "Labor dispute" has the meaning given that term in ORS 662.010. [Amended by 1973 c.694 §7; 1973 c.836 §294; 1974 c.36 §5; 1987 c.320 §60; 1987 c.780 §4; 1989 c.1023 §1; 1991 c.278 §1; 1999 c.239 §3; 1999 c.626 §13; amendments by 1999 c.626 §36 repealed by 2001 c.884 §1; 2001 c.731 §§3,4; 2005 c.532 §2; 2005 c.567 §10; 2005 c.576 §3; 2005 c.642 §3a; 2007 c.71 §38; 2009 c.204 §7; 2009 c.595 §100; 2009 c.713 §13; 2011 c.258 §2; 2011 c.547 §31; 2019 c.213 §30]
- Note:  
See note under 144.110.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.275 - Parole of adults in custody sentenced to pay compensatory fines or make restitution; schedule of payments.**

Whenever the State Board of Parole and Post-Prison Supervision orders the release on parole of an adult in custody who has been ordered to pay compensatory fines pursuant to ORS 137.101 or to make restitution pursuant to ORS 137.106, but with respect to whom payment of all or a portion of the fine or restitution was suspended until the release of the adult in custody from imprisonment, the board may establish a schedule by which payment of the compensatory fine or restitution shall be resumed. In fixing the schedule and supervising the performance of the paroled adult in custody thereunder, the board shall consider the factors specified in ORS 137.106 (5). The board shall provide to the sentencing court a copy of the schedule and any modifications thereof. [1977 c.271 §6; 1989 c.46 §1; 2003 c.670 §2; 2019 c.213 §31; 2022 c.57 §2]

Note:

144.275 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.280 - Hearing after parole denied to prisoner sentenced for crime committed prior to November 1, 1989; rules.**

- (1)(a) If the State Board of Parole and Post-Prison Supervision denies parole to a prisoner sentenced for a crime committed prior to November 1, 1989, the board may not grant the prisoner a subsequent hearing that is less than two years, or more than 10 years, from the date parole is denied, unless the two-year period would exceed the maximum sentence imposed by the court.
- (b) The board may not grant the prisoner a hearing that is more than two years from the date parole is denied unless the board finds

that it is not reasonable to expect that the prisoner would be granted parole before the date of the subsequent hearing.

(c) The board shall determine the date of the subsequent hearing pursuant to rules adopted by the board. Rules adopted under this paragraph must be based on the foundation principles of criminal law described in section 15, Article I of the Oregon Constitution.

(2) If the board grants a prisoner a hearing that is more than two years from the date parole is denied, the prisoner may submit a request for an interim hearing not earlier than the date that is two years from the date parole is denied and at intervals of not less than two years thereafter. If the board finds, based upon a request for an interim hearing, that there is reasonable cause to believe that the prisoner may be granted parole, the board shall conduct a hearing as soon as is reasonably convenient.

(3) When the board grants a prisoner a hearing that is more than two years from the date parole is denied and when the board denies a petition for an interim hearing, the board shall issue a final order. The order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the board's order. Unless the prisoner bears the burden of persuasion, the order shall include findings necessary to deny the prisoner parole for any period of time when the prisoner would be presumed to be eligible for parole. [2009 c.660 §2]

Note:

144.280 and 144.285 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.285 - Hearing after petition for change in terms of confinement denied to prisoner convicted of aggravated murder or murder; rules.**

(1)(a) If the State Board of Parole and Post-Prison Supervision denies a petition for a change in the terms of confinement filed by a prisoner convicted of aggravated murder or murder, the board may not grant the prisoner a subsequent hearing that is less than two years, or more than 10 years, from the date the petition is denied.

(b) The board may not grant the prisoner a hearing that is more than two years from the date a petition is denied unless the board finds that it is not reasonable to expect that the prisoner would be granted a change in the terms of confinement before the date of the subsequent hearing.

(c) The board shall determine the date of the subsequent hearing in accordance with rules adopted by the board. Rules adopted under this paragraph must be based on the foundation principles of criminal law described in section 15, Article I of the Oregon Constitution.

(2) If the board grants the prisoner a hearing that is more than two years from the date a petition is denied, the prisoner may submit a request for an interim hearing not earlier than the date that is two years from the date the petition is denied and at intervals of not less than two years thereafter. If the board finds, based upon a request for an interim hearing, that there is reasonable cause to believe that the prisoner may be granted a change in the terms of confinement, the board shall conduct a hearing as soon as is reasonably convenient.

(3) When the board grants a prisoner a hearing that is more than two years from the date a petition is denied and when the board denies a petition for an interim hearing, the board shall issue a final order. The order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the board's order. Unless the prisoner bears the burden of persuasion, the order shall include findings necessary to deny the prisoner a change in the terms of confinement for any period of time when the prisoner would be presumed to be eligible for a change in the terms of confinement. [2009 c.660 §1]

Note:

See note under 144.280.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.315 - Evidence admissible before board; procedures.**

Evidence may be received in proceedings conducted by the State Board of Parole and Post-Prison Supervision even though inadmissible under rules of evidence applicable to court procedure and the board shall establish procedures to regulate and provide for the nature and extent of the proofs and evidence and method of taking and furnishing the same in order to afford the adult in custody a reasonable opportunity for a fair hearing. The procedures shall include the means of determining good cause not to allow confrontation of witnesses or disclosure of the identity of informants who would be subject to risk of harm if their identity is disclosed. [1973 c.694 §22; 2019 c.213 §32]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.317 - Appointment of attorneys; payment.**

(1) The State Board of Parole and Post-Prison Supervision shall have the power to appoint attorneys, at board expense, to represent indigent parolees and offenders on post-prison supervision if the request and determination provided in ORS 144.343 (3)(f) have been made.

(2) Upon completion of the parole or post-prison supervision revocation hearing, the board shall determine whether the person for whom counsel was appointed pursuant to subsection (1) of this section is able to pay a portion of the attorney fees to be paid by the board. In determining whether the person is able to pay such portion, the board shall take into account the other financial obligations of the person, including any existing fines or orders to make restitution. If the board determines that the person is able to pay such portion, the board may order, as a condition of parole or post-prison supervision, that the person pay the portion to the appropriate officer of the state. [1973 c.694 §23; 1981 c.644 §6; 1987 c.803 §16; 1989 c.790 §40]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.331 - Suspension of parole or post-prison supervision; custody of violator; revocation hearing before suspension.**

(1) The State Board of Parole and Post-Prison Supervision may suspend the parole or post-prison supervision of any person under its jurisdiction upon being informed and having reasonable grounds to believe that the person has violated the conditions of parole or post-prison supervision and may order the arrest and detention of such person. The written order of the board is sufficient warrant for any law enforcement officer to take into custody such person. A sheriff, municipal police officer, constable, parole and probation officer, prison official or other peace officer shall execute the order.

(2) The board or its designated representative may proceed to hearing as provided in ORS 144.343 without first suspending the parole or post-prison supervision or ordering the arrest and detention of any person under its jurisdiction upon being informed and having reasonable grounds to believe that the person under its jurisdiction has violated a condition of parole and that revocation of parole may be warranted or that the person under its jurisdiction has violated a condition of post-prison supervision and that incarceration for the violation may be warranted.

(3) During the pendency of any post-prison supervision violation proceedings, the period of post-prison supervision is stayed and the board has jurisdiction over the offender until the proceedings are resolved. [1973 c.694 §9 (enacted in lieu of 144.330); 1977 c.375 §1; 1991 c.108 §1; 2005 c.264 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.334 - Use of citations for parole or post-prison supervision violators; conditions; appearance.**

(1) In addition to the authority granted under ORS 144.331 and 144.370, the State Board of Parole and Post-Prison Supervision may authorize the use of citations to direct alleged parole or post-prison supervision violators to appear before the board or its designated representative. The following apply to the use of citations under this section:

(a) The board may authorize issuance of citations only by officers who are permitted under ORS 144.350 to arrest and detain.

(b) Nothing in this subsection limits the authority, under ORS 144.350, of a supervising officer or other officer to arrest an alleged parole or post-prison supervision violator.

(2) The board may impose any conditions upon an authorization under this section that the board considers appropriate. The conditions may include, but are not limited to, requirements that citation authority be sought on a case-by-case basis, citation authority be granted in all cases that meet certain conditions, citation authority be allowed for certain types of cases or designation of certain cases be made where citations shall not be used.

(3) The cited offender shall appear before the board or its designated representative at the time, date and place specified in the citation. If the offender fails to appear as required, the board may issue a suspend and detain order upon its own motion or upon request of the supervising officer. [1991 c.836 §4]

Note:

144.334 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.335 - Appeal from order of board to Court of Appeals; appointment of master; costs.**

(1) A person over whom the State Board of Parole and Post-Prison Supervision exercises its jurisdiction may seek judicial review of a final order of the board as provided in this section if:

(a) The person is adversely affected or aggrieved by a final order of the board; and

(b) The person has exhausted administrative review as provided by board rule.

(2) A person requesting administrative review shall provide the person's current mailing address in the request. The board shall mail its order disposing of the request for administrative review to the person at that address, unless the person has otherwise notified the board in writing of a change of address.

(3) The order of the board need not be in any special form, and the order is sufficient for purposes of judicial review if it appears that the board acted within the scope of the board's authority. The Court of Appeals may affirm, reverse or remand the order on the same basis as provided in ORS 183.482 (8). The filing of the petition shall not stay the board's order, but the board may do so, or the court may order a stay upon application on such terms as it deems proper.

(4) If a person described in subsection (1) of this section seeks judicial review of a final order of the board, the person shall file a

petition for judicial review with the Court of Appeals within 60 days after the date the board mails the order disposing of the person's request for administrative review. The person shall serve a copy of the petition for judicial review on the board.  
(5) Within 30 days after being served with a copy of the petition for judicial review, or such further time as the court may allow, the board shall:

- (a) Submit to the court the record of the proceeding or, if the petitioner agrees, a shortened record; and
- (b) Deliver a copy of the record to the petitioner or the petitioner's attorney, if the petitioner is represented by an attorney.
- (6) At any time after submission of the petitioner's brief, the court, on its own motion or on motion of the board, without submission of the board's brief and without oral argument, may summarily affirm the board's order if the court determines that the judicial review does not present a substantial question of law. Notwithstanding ORS 2.570, the Chief Judge, or other judge of the Court of Appeals designated by the Chief Judge, may, on behalf of the Court of Appeals, deny or, if the petitioner does not oppose the motion, grant the board's motion for summary affirmance. A summary affirmance under this subsection constitutes a decision on the merits of the petitioner's issues on judicial review.
- (7) During the pendency of judicial review of an order, if the board withdraws the order for the purpose of reconsideration and thereafter issues an order on reconsideration, and the petitioner wishes to proceed with the judicial review, the petitioner need not seek administrative review of the order on reconsideration and need not file a new petition for judicial review. The petitioner shall file, within a time established by the court, a notice of intent to proceed with judicial review.
- (8) In the case of disputed allegations of irregularities in procedure before the board not shown in the record that, if proved, would warrant reversal or remand, the Court of Appeals may refer the allegations to a master appointed by the court to take evidence and make findings of fact upon them.
- (9) If the court determines that a brief filed by the petitioner, when liberally construed, fails to state a colorable claim for review, the court may order the petitioner to pay, in addition to the board's recoverable costs, attorney fees incurred by the board not to exceed \$100. If the petitioner moves to dismiss the petition prior to a summary affirmance described in subsection (6) of this section, the court may not award costs or attorney fees to the board.
- (10) Upon request by the board, the Department of Corrections may draw from or charge to the petitioner's trust account and pay to the board the amount of any costs or attorney fees awarded to the board by the court in any judicial review under this section.
- (11) If the petitioner prevails on judicial review and is represented by an attorney funded by the Oregon Public Defense Commission, any recoverable costs shall be paid to the commission. [1973 c.694 §24; 1983 c.740 §18; 1989 c.790 §41; 1993 c.402 §1; 1995 c.108 §3; 1999 c.141 §3; 1999 c.618 §1; 2001 c.661 §1; 2003 c.352 §1; 2007 c.411 §1; 2023 c.281 §32]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.337 - Oregon Public Defense Commission to provide counsel for eligible petitioners.**

- (1) Pursuant to ORS 151.216 and 151.219, the Oregon Public Defense Commission shall provide for the representation of financially eligible persons petitioning for review under ORS 144.335.
- (2) If the commission determines that a person petitioning for review under ORS 144.335 is not financially eligible for appointed counsel at state expense, the commission shall promptly notify the person of the determination and of the person's right to request review of the determination by the Court of Appeals. The person may request review of the commission's determination by filing a motion in the Court of Appeals no later than 60 days after the date of the commission's notice.
- (3) The determination of the Court of Appeals under subsection (2) of this section as to whether the person is financially eligible is final. [1973 c.694 §25; 2001 c.962 §31; 2003 c.420 §1; 2023 c.281 §33]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.340 - Power to retake and return violators of parole and post-prison supervision.**

- (1) The Department of Corrections, in accordance with the rules and regulations or directions of the State Board of Parole and Post-Prison Supervision or the Governor, as the case may be, may cause to have retaken and returned persons to the institution, or to the supervision of the local supervisory authority, whether in or out of the state, whenever they have violated the conditions of their parole or post-prison supervision.
- (2)(a) Persons retaken and returned to this state from outside the state upon order or warrant of the Department of Corrections, the State Board of Parole and Post-Prison Supervision or the Governor, for violation of conditions of parole or post-prison supervision, shall be detained in a Department of Corrections facility or a local correctional facility pending any hearing concerning the alleged violation and ultimate disposition by the State Board of Parole and Post-Prison Supervision.
- (b) Persons retaken and returned to this state from outside the state upon order or warrant of a local supervisory authority for violation of conditions of post-prison supervision may be detained in a local correctional facility pending a hearing concerning the alleged violation and ultimate disposition by the local supervisory authority.
- (3) Persons retaken and returned to this state from outside the state under this section are liable for the costs and expenses of retaking and returning the person upon:
  - (a) A finding by the State Board of Parole and Post-Prison Supervision of present or future ability to pay; and
  - (b) Order of the State Board of Parole and Post-Prison Supervision. [Amended by 1969 c.597 §116; 1973 c.836 §297; 1987 c.320]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.341 - Procedure upon arrest of violator.**

(1) Except as otherwise provided in subsection (2) of this section, when the State Board of Parole and Post-Prison Supervision or the Department of Corrections orders the arrest and detention of an offender under ORS 144.331 or 144.350, the offender arrested shall be held in a county jail for no more than 15 days.

(2) An offender may be held longer than 15 days:

- (a) If the offender is being held for a combination of probation and parole violation;
- (b) If the offender is being held pending prosecution on new criminal charges; or
- (c) Pursuant to an agreement with a local jail authority. [1993 c.680 §32]

Note:

144.341 was added to and made a part of ORS chapter 144 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.343 - Hearing required on revocation; procedure.**

(1) When the State Board of Parole and Post-Prison Supervision or its designated representative has been informed and has reasonable grounds to believe that a person under its jurisdiction has violated a condition of parole and that revocation of parole may be warranted, the board or its designated representative shall conduct a hearing as promptly as convenient to determine whether there is probable cause to believe a violation of one or more of the conditions of parole has occurred and also conduct a parole violation hearing if necessary. Evidence received and the order of the court at a preliminary hearing under ORS 135.070 to 135.225 may be used by the board to determine the existence of probable cause. A waiver by the defendant of any preliminary hearing shall also constitute a waiver of probable cause hearing by the board. The location of the hearing shall be reasonably near the place of the alleged violation or the place of confinement.

(2) The board may:

- (a) Reinstate or continue the alleged violator on parole subject to the same or modified conditions of parole;
  - (b) Revoke parole and require that the parole violator serve the remaining balance of the sentence as provided by law;
  - (c) Impose sanctions as provided in ORS 144.106; or
  - (d) Delegate the authority, in whole or in part, granted by this subsection to its designated representative as provided by rule.
- (3) Within a reasonable time prior to the hearing, the board or its designated representative shall provide the parolee with written notice which shall contain the following information:
- (a) A concise written statement of the suspected violations and the evidence which forms the basis of the alleged violations.
  - (b) The parolee's right to a hearing and the time, place and purpose of the hearing.
  - (c) The names of persons who have given adverse information upon which the alleged violations are based and the right of the parolee to have such persons present at the hearing for the purposes of confrontation and cross-examination unless it has been determined that there is good cause for not allowing confrontation.
  - (d) The parolee's right to present letters, documents, affidavits or persons with relevant information at the hearing unless it has been determined that informants would be subject to risk of harm if their identity were disclosed.
  - (e) The parolee's right to subpoena witnesses under ORS 144.347.
  - (f) The parolee's right to be represented by counsel and, if indigent, to have counsel appointed at board expense if the board or its designated representative determines, after request, that the request is based on a timely and colorable claim that:
    - (A) The parolee has not committed the alleged violation of the conditions upon which the parolee is at liberty;
    - (B) Even if the violation is a matter of public record or is uncontested, there are substantial reasons which justify or mitigate the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present; or
    - (C) The parolee, in doubtful cases, appears to be incapable of speaking effectively on the parolee's own behalf.
  - (g) That the hearing is being held to determine:
    - (A) Whether there is probable cause to believe a violation of one or more of the conditions of parole has occurred; and
    - (B) If there is probable cause to believe a violation of one or more of the conditions of parole has occurred:
      - (i) Whether to reinstate parole;
      - (ii) Whether to continue the alleged violator on parole subject to the same or modified conditions of parole; or
      - (iii) Whether to revoke parole and require that the parole violator serve a term of imprisonment consistent with ORS 144.346.
- (4) At the hearing the parolee shall have the right:
- (a) To present evidence on the parolee's behalf, which shall include the right to present letters, documents, affidavits or persons with relevant information regarding the alleged violations;
  - (b) To confront witnesses against the parolee unless it has been determined that there is good cause not to allow confrontation;
  - (c) To examine information or documents which form the basis of the alleged violation unless it has been determined that

informants would be subject to risk of harm if their identity is disclosed; and

(d) To be represented by counsel and, if indigent, to have counsel provided at board expense if the request and determination provided in subsection (3)(f) of this section have been made. If an indigent's request is refused, the grounds for the refusal shall be succinctly stated in the record.

(5) Within a reasonable time after the preliminary hearing, the parolee shall be given a written summary of what transpired at the hearing, including the board's or its designated representative's decision or recommendation and reasons for the decision or recommendation and the evidence upon which the decision or recommendation was based. If an indigent parolee's request for counsel at board expense has been made in the manner provided in subsection (3)(f) of this section and refused, the grounds for the refusal shall be succinctly stated in the summary.

(6)(a) The parolee may admit or deny the violation without being physically present at the hearing if the parolee appears before the board or its designee by means of simultaneous television transmission allowing the board to observe and communicate with the parolee and the parolee to observe and communicate with the board or by telephonic communication allowing the board to communicate with the parolee and the parolee to communicate with the board.

(b) Notwithstanding paragraph (a) of this subsection, appearance by simultaneous television transmission or telephonic communication shall not be permitted unless the facilities used enable the parolee to consult privately with counsel during the proceedings.

(7) If the board or its designated representative has determined that there is probable cause to believe that a violation of one or more of the conditions of parole has occurred, the hearing shall proceed to receive evidence from which the board may determine whether to reinstate or continue the alleged parole violator on parole subject to the same or modified conditions of parole or revoke parole and require that the parole violator serve a term of imprisonment as provided by ORS 144.346.

(8) At the conclusion of the hearing if probable cause has been determined and the hearing has been held by a member of the board or by a designated representative of the board, the person conducting the hearing shall transmit the record of the hearing, together with a proposed order including findings of fact, recommendation and reasons for the recommendation to the board. The parolee or the parolee's representative shall have the right to file exceptions and written arguments with the board. The right to file exceptions and written arguments may be waived. After consideration of the record, recommendations, exceptions and arguments a quorum of the board shall enter a final order including findings of fact, its decision and reasons for the decision. [1973 c.694 §13; 1977 c.375 §2; 1981 c.644 §7; 1987 c.158 §20a; 1987 c.803 §17; 1989 c.790 §42a; 1991 c.836 §2; 1993 c.581 §3; 1997 c.313 §12; 2009 c.178 §30; 2010 c.89 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.345 - Revocation of parole; effect of conviction for crime.**

(1) Except as provided in subsection (2) of this section, whenever the State Board of Parole and Post-Prison Supervision considers an alleged parole violator and finds such person has violated one or more conditions of parole and evidence offered in mitigation does not excuse or justify the violation, the board may revoke parole.

(2) When a person released on parole or post-prison supervision is convicted of a crime and sentenced to a term of imprisonment at any institution of the Department of Corrections or its counterpart under the laws of the United States or any other state, such conviction and sentence shall automatically terminate the person's parole or post-prison supervision as of the date of the sentence order. Notwithstanding any other provision of law, the person shall not be entitled to a hearing under ORS 144.343 and shall have a release date set as provided by rule. [1973 c.694 §14; 1977 c.372 §16; 1991 c.836 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.346 - Parole revocation sanctions; rules.**

The State Board of Parole and Post-Prison Supervision shall adopt rules to establish parole revocation sanctions for parole violations committed on or after November 1, 1989. [1989 c.790 §18b; 1997 c.525 §9]

Note:

144.346 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.347 - Subpoena power of board; reimbursement for costs; contempt proceedings.**

(1) Upon request of any party to the hearing provided in ORS 144.343 and upon a proper showing of the general relevance and reasonable scope of the testimony to be offered, the board or its designated representatives shall issue subpoenas requiring the attendance and testimony of witnesses. In any case, the board, on its own motion, may issue subpoenas requiring the attendance and testimony of witnesses.

(2) Upon request of any party to the hearing provided in ORS 144.343 and upon a proper showing of the general relevance and reasonable scope of the documentary or physical evidence sought, the board or its designated representative shall issue subpoenas

duces tecum. In any case, the board, on its own motion, may issue subpoenas duces tecum.

(3) Witnesses appearing under subpoena, other than the parties or state officers or employees, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2). If the board or its designated representative certifies that the testimony of a witness was relevant and material, any person who has paid fees and mileage to that witness shall be reimbursed by the board.

(4) If any person fails to comply with a subpoena issued under subsection (1) or (2) of this section or any party or witness refuses to testify regarding any matter on which the party or witness may be lawfully interrogated, the judge of the circuit court of any county, on the application of the board or its designated representative or of the party requesting the issuance of the subpoena, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued by the court. [1973 c.694 §15; 1983 c.489 §3; 1989 c.980 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.349 - When ORS 144.343 does not apply.**

When an alleged parole or post-prison supervision violator is in custody in a state to which the alleged parole or post-prison supervision violator has not been paroled or released or in federal custody, ORS 144.343 does not apply. [1973 c.694 §16; 1989 c.790 §43]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.350 - Order for arrest and detention of escapee or violator of parole, post-prison supervision, probation, conditional pardon or other conditional release; investigation by department.**

(1)(a) The Department of Corrections or other supervisory authority may order the arrest and detention of any person then under the supervision, custody or control of the department or other supervisory authority upon being informed and having reasonable grounds to believe that such person has:

(A) Violated the conditions of parole, post-prison supervision, probation, conditional pardon or other conditional release from custody; or

(B) Escaped from the supervision, custody or control of the department or other supervisory authority.

(b) Before issuing an order under paragraph (a)(A) of this subsection, the department or other supervisory authority shall investigate for the purpose of ascertaining whether the terms of the parole, post-prison supervision, probation, conditional pardon or other conditional release have been violated.

(2) Notwithstanding subsection (1) of this section, the department or other supervisory authority may order the arrest and detention of any person under its supervision or control if it has reasonable grounds to believe that such person is a danger to self or to others. A hearing shall follow as promptly as convenient to the parties to determine whether probable cause exists to continue detention pending a final determination of the case.

(3) As used in this section, "escape" means the unlawful departure of a person from a correctional facility, as defined in ORS 162.135, or from the supervision, custody or control of a corrections officer or other person authorized by the department or supervisory authority to maintain supervision, custody or control of the person while the person is outside the correctional facility. [Amended by 1969 c.597 §117; 1981 c.644 §8; 1987 c.320 §63; 1989 c.790 §44; 1995 c.423 §25; 1999 c.120 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.360 - Effect of order for arrest and detention of violator.**

Any order issued by the Department of Corrections or other supervisory authority as authorized by ORS 144.350 constitutes full authority for the arrest and detention of the violator, and all the laws applicable to warrants of arrest shall apply to such orders. [Amended by 1973 c.836 §298; 1987 c.320 §64; 1995 c.423 §26]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.370 - Suspension of parole or post-prison supervision following order for arrest and detention; hearing.**

Within 15 days after the issuance of an order, under the provisions of ORS 144.350, the board may order suspension of the detained person's parole or post-prison supervision. A hearing shall then be conducted as promptly as convenient pursuant to ORS 144.343. [Amended by 1973 c.694 §10; 1973 c.836 §299; 1974 c.36 §7; 1981 c.644 §9; 1983 c.740 §19; 1991 c.108 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.374 - Deputization of persons in other states to act in returning Oregon violators.**

(1) The Director of the Department of Corrections may deputize, in writing, any person regularly employed by another state, to act as an officer and agent of this state for the return of any person who has violated the conditions of parole, post-prison supervision,



conditional pardon or other conditional release.

(2) Any person deputized pursuant to subsection (1) of this section shall have the same powers with respect to the return of any person who has violated the conditions of parole, post-prison supervision, conditional pardon or other conditional release from custody as any peace officer of this state.

(3) Any person deputized pursuant to subsection (1) of this section shall carry formal evidence of deputization and shall produce the same on demand. [1955 c.369 §1; 1969 c.597 §118; 1973 c.836 §300; 1987 c.320 §65; 1989 c.790 §45]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.376 - Contracts for sharing expense with other states of cooperative returns of violators.**

The Department of Corrections may enter into contracts with similar officials of any state, for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the conditions of parole, post-prison supervision, probation, conditional pardon or other conditional release. [1955 c.369 §2; 1969 c.597 §119; 1983 c.425 §1; 1987 c.320 §66; 1989 c.790 §46]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.380 - Violator as fugitive from justice.**

After the suspension of parole or post-prison supervision or revocation of probation or conditional pardon of any convicted person, and until the return of the person to custody, the person shall be considered a fugitive from justice. [Amended by 1973 c.694 §11; 1989 c.790 §47]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.395 - Rerelease of persons whose parole has been revoked; rules.**

The board shall adopt rules consistent with the criteria in ORS 144.780 relating to the rerelease of persons whose parole has been revoked. [1977 c.372 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.397 - Release eligibility for juvenile offenders after 15 years of imprisonment; board hearing; rules.**

(1)(a) A person convicted of an offense or offenses committed when the person was under 18 years of age, who is serving a sentence of imprisonment for the offense or offenses, is eligible for release on parole or post-prison supervision as provided in this section after the person has served 15 years of imprisonment.

(b) Nothing in this section is intended to prevent a person from being released prior to serving 15 years of imprisonment under any other provision of law.

(c) As used in this subsection, "served 15 years of imprisonment" means that 15 years have passed since the person began serving the sentence, including pretrial incarceration but not including any reduction in sentence under ORS 421.121 or any other statute.

(2) This section applies notwithstanding ORS 144.110 or the fact that the person was:

(a) Sentenced to a minimum sentence under ORS 163.105, 163.107, 163.115 or 163.155.

(b) Sentenced to a mandatory minimum sentence under ORS 137.700, 137.707 or 137.717, a determinate sentence under ORS 137.635 or a sentence required by any other provision of law.

(c) Sentenced to two or more consecutive sentences under ORS 137.123.

(3) When a person eligible for release on parole or post-prison supervision as described in subsection (1) of this section has served 15 years of imprisonment, the State Board of Parole and Post-Prison Supervision shall hold a hearing. The hearing must provide the person a meaningful opportunity to be released on parole or post-prison supervision.

(4) The board may require the person, before holding a hearing described in this section, to be examined by a psychiatrist or psychologist with expertise in adolescent development. Within 60 days of the evaluation, the examining psychiatrist or psychologist shall file a written report of the findings and conclusions of the examination with the board. A certified copy of the report shall be provided to the person and the person's attorney.

(5) During a hearing under this section, the board shall consider and give substantial weight to the fact that a person under 18 years of age is incapable of the same reasoning and impulse control as an adult and the diminished culpability of minors as compared to that of adults. The board shall also consider the following circumstances, if relevant to the specific person and offense:

(a) The age and immaturity of the person at the time of the offense.

(b) Whether and to what extent an adult was involved in the offense.

(c) The person's family and community circumstances at the time of the offense, including any history of abuse, trauma and involvement in the juvenile dependency system.

(d) The person's subsequent emotional growth and increased maturity during the person's imprisonment.

(e) The person's participation in rehabilitative and educational programs while in custody if such programs have been made

available to the person and use of self-study for self-improvement.

(f) A mental health diagnosis.

(g) Any other mitigating factors or circumstances presented by the person.

(6) Under no circumstances may the board consider the age of the person as an aggravating factor.

(7) If the board finds that, based on the consideration of the age and immaturity of the person at the time of the offense and the person's behavior thereafter, the person has demonstrated maturity and rehabilitation, the board shall release the person as follows:

(a) For a person sentenced under ORS 163.105, 163.107, 163.115 or 163.155, the board shall set a release date that is not more than 60 days from the date of the hearing and, notwithstanding section 28, chapter 790, Oregon Laws 1989, the person shall be released on parole in accordance with ORS 144.125, 144.260 and 144.270.

(b) A person sentenced to a term of imprisonment under a provision of law other than ORS 163.105, 163.107, 163.115 or 163.155 shall be released on post-prison supervision in accordance with ORS 144.096 and 144.098 within 60 days of the date of the hearing.

(8) Unless the context requires otherwise, the provisions of ORS 144.260 to 144.380 apply to a person released on parole under subsection (7)(a) of this section.

(9) If the board determines that the person has not demonstrated maturity and rehabilitation under subsection (7) of this section, the board may postpone a subsequent hearing to a date that is at least two years but no more than 10 years from the date of the hearing.

(10) The person may waive a hearing under this section. Notwithstanding waiver of the hearing, the board shall hold a hearing under this section upon the person's written request.

(11) The board shall provide notice of the hearing to:

(a) The district attorney of the county in which the person was convicted; and

(b) The victim of any offense for which the person is serving a sentence, if the victim requests to be notified and furnishes the board with a current address.

(12) A person has the right to counsel, including counsel appointed at board expense, at a hearing under this section.

(13) The board may adopt rules to carry out the provisions of this section. [2019 c.634 §25; 2019 c.635 §3d]

Note:

Section 32, chapter 634, Oregon Laws 2019, provides:

Sec. 32.

(1) Sections 24 [161.740] and 25 [144.397], chapter 634, Oregon Laws 2019, and the amendments to ORS 137.071, 137.124, 137.705, 137.707, 137.712, 144.185, 161.610, 161.620, 163.105, 163.115, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321, 419C.005, 419C.050, 419C.346, 419C.349, 419C.352, 419C.355, 419C.358, 419C.361, 420.011, 420.081 and 420A.203 and section 3, chapter 635, Oregon Laws 2019 [163.107], by sections 1 to 23 and 26 to 29, chapter 634, Oregon Laws 2019, and section 3a, chapter 635, Oregon Laws 2019, apply to sentences imposed on or after January 1, 2020.

(2) Notwithstanding subsection (1) of this section, sections 24 and 25, chapter 634, Oregon Laws 2019, and the amendments to ORS 137.071, 137.124, 137.705, 137.707, 137.712, 144.185, 161.610, 161.620, 163.105, 163.115, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321, 419C.005, 419C.050, 419C.346, 419C.349, 419C.352, 419C.355, 419C.358, 419C.361, 420.011, 420.081 and 420A.203 and section 3, chapter 635, Oregon Laws 2019, by sections 1 to 23 and 26 to 29, chapter 634, Oregon Laws 2019, and section 3a, chapter 635, Oregon Laws 2019, do not apply to persons who were originally sentenced before January 1, 2020, and who are subsequently resentenced on or after January 1, 2020, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason. [2019 c.634 §32; 2019 c.635 §3c; 2019 c.685 §4]

Note:

144.397 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.404 - Department of Corrections authority to receive, hold and dispose of property.**

(1) The Department of Corrections is authorized to receive, hold and dispose of:

(a) Contraband and other things subject to seizure under ORS 133.535;

(b) Things possessed in violation of supervision conditions; or

(c) Unclaimed goods seized by a parole and probation officer.

(2) As used in this section and ORS 144.405 to 144.409, "supervision" means probation, parole, post-prison supervision or any other form of supervised or conditional release. [1991 c.286 §1; 2021 c.206 §1]

Note:

144.404 to 144.409 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 144 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.405 - Duty of officer upon seizure; disposition of property if no claim to rightful possession is established.**

(1) Notwithstanding ORS 98.302 to 98.436 and ORS 133.623, upon seizing property in connection with a suspected violation of the

conditions of supervision, a parole and probation officer shall, as soon thereafter as is reasonably possible, make a written list of the things seized and furnish a copy to the suspected supervision violator. The list shall contain a notice informing the person of the right to contest the seizure by filing a petition and shall contain such other information as the Department of Corrections, by rule, may require.

(2) If no claim of rightful possession has been established under ORS 144.405 to 144.409, the Department of Corrections may order the sale, destruction or other disposition of the things seized. The department may enter into agreements with other state and local officials responsible under applicable laws for selling, destroying or otherwise disposing of contraband or forfeited or unclaimed goods in official custody for ultimate disposition of the things seized. The clear proceeds, if any, generated by the disposition of things seized shall be deposited in the State Treasury to the credit of the General Fund.

(3) If things seized by a parole and probation officer in execution of duty are not needed for evidentiary purposes, and if a person having a rightful claim establishes identity and right to possession to the satisfaction of the Department of Corrections, the department may summarily return the things seized to their rightful possessor.

(4) If the things seized are contraband, the fruits of crime or things otherwise criminally possessed, the Department of Corrections may:

(a) Relinquish custody of the things seized to appropriate law enforcement officials for disposition; or

(b) Hold and safeguard the things seized until directed by appropriate law enforcement officials that the things in question are no longer needed for purposes of criminal prosecution. [1991 c.286 §2; 2021 c.206 §2]

Note:

See note under 144.404.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.406 - Petition for return of things seized; rules.**

(1) Within 30 days after actual notice of any seizure, or at such later date as the Department of Corrections in its discretion may allow:

(a) An individual from whose person, property or premises things have been seized may petition the department to return the things seized to the person, property or premises from which they were seized.

(b) Any other person asserting a claim to rightful possession of the things seized may petition the department to restore the things seized to the person.

(2) Petitions for return or restoration of things seized shall be served on the department in accordance with rules adopted by the department.

(3) Service of a petition for the return or restoration of things seized shall be made by certified or registered mail, return receipt requested. [1991 c.286 §3; 2021 c.206 §3]

Note:

See note under 144.404.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.407 - Grounds for valid claim to rightful possession.**

A petition for the return or restoration of things seized shall be based on the ground that the petitioner has a valid claim to rightful possession because:

(1) The things had been stolen or otherwise converted and the petitioner is the owner or rightful possessor;

(2) The things seized were not, in fact, subject to seizure in connection with the suspected supervision violation;

(3) Although the things seized were subject to seizure in connection with a suspected supervision violation, the petitioner is or will be entitled to their return or restoration upon a determination by the Department of Corrections, the State Board of Parole and Post-Prison Supervision or a court that they are no longer needed for evidentiary purposes, do not constitute a supervision violation or may be lawfully possessed by the petitioner; or

(4) The suspected supervision violator and the department have stipulated that the things seized may be returned to the petitioner. [1991 c.286 §4; 2021 c.206 §4]

Note:

See note under 144.404.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.408 - Hearing on petition.**

(1) If, upon consideration of a petition for return or restoration of things seized, it appears to the Department of Corrections that the things should be returned or restored, but there is substantial question whether they should be returned to the person from whose possession they were seized or to some other person, or a substantial question among several claimants to rightful possession, the department may set a further hearing, assuring that all persons with a possible possessory interest in the things in question receive

due notice and an opportunity to be heard. Upon completion of the hearing, the department shall enter an order for the return or restoration of the things seized.

(2) Instead of conducting the hearing provided for in subsection (1) of this section and returning or restoring the property, the department in its discretion, may leave the claimants to appropriate civil process for the determination of the claims. [1991 c.286 §5; 2021 c.206 §5]

Note:

See note under 144.404.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.409 - Granting petition for return of things seized; judicial review.**

(1) In granting a petition for return or restoration of things seized, the Department of Corrections shall postpone execution of the order until such time as the things in question are no longer needed for evidentiary purposes in establishing either a criminal or supervision violation.

(2) Judicial review of a department order for return or restoration of things seized shall be available as for review of orders in other than contested cases as provided in ORS chapter 183. [1991 c.286 §6; 2021 c.206 §6]

Note:

See note under 144.404.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.410 - Definitions for ORS 144.410 to 144.525.**

As used in ORS 144.410 to 144.525, unless the context requires otherwise:

(1) "Director" means the Director of the Department of Corrections.

(2) "Department" means the Department of Corrections.

(3) "Department of Corrections institutions" has the meaning found in ORS 421.005. [1965 c.463 §1; 1969 c.597 §120; 1973 c.836 §302; 1987 c.320 §67]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.420 - Department of Corrections to administer work release program; purposes of release; housing of parolee.**

(1) The Department of Corrections shall establish and administer a work release program in which a misdemeanor or felon may participate, and if confined, be authorized to leave assigned quarters for the purpose of:

(a) Participating in an adult in custody work program approved by the Director of the Department of Corrections, including work with public or private agencies or persons, with or without compensation.

(b) Obtaining in this state additional education, including but not limited to vocational, technical and general education.

(c) Participating in alcohol or drug treatment programs.

(d) Participating in mental health programs.

(e) Specific treatment to develop independent living skills.

(2) The Department of Corrections is responsible for the quartering and supervision of persons enrolled in the work release program. The Department of Corrections may house for rehabilitative purposes, in a work release facility, a parolee under the jurisdiction of the State Board of Parole and Post-Prison Supervision, with the written consent of the parolee and the approval of the board, in accordance with procedures established by the department and the board. [1965 c.463 §2; 1967 c.354 §1; 1969 c.597 §138; 1973 c.242 §1; 1973 c.836 §303; 1974 c.36 §8; 1987 c.320 §68; 1989 c.790 §69; 1991 c.161 §1; 1995 c.384 §3; 1997 c.851 §1; 2019 c.213 §33]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.430 - Duties of department in administering program.**

(1) The Department of Corrections shall administer the work release program by means of such staff organization and personnel as the director considers necessary. In addition to other duties, the department shall:

(a) Locate employment for qualified applicants;

(b) Effect placement of persons under the work release program;

(c) Collect, account for and make disbursements from earnings, if any, of persons under the work release program;

(d) Generally promote public understanding and acceptance of the work release program; and

(e) Establish and maintain community centers.

(2) The Department of Corrections may enter into agreements with other public or private agencies or persons for providing services relating to work release programs.

(3) In carrying out the provisions of this section, the Department of Corrections may enter into agreements with the Department of Human Services to provide such services as determined by the Department of Corrections and as the Department of Human Services is authorized to provide under ORS 344.511 to 344.550. [1965 c.463 §3; 1967 c.289 §1; 1969 c.597 §121; 1973 c.836 §304; 1987 c.320 §69; 1995 c.384 §4; 2013 c.130 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.440 - Recommendation by sentencing court.**

When a person is sentenced to the custody of the Department of Corrections, the court may recommend to the department that the person so sentenced be granted the option of serving the sentence by enrollment in the work release program established under ORS 144.420. [1965 c.463 §4; 1973 c.836 §305; 1987 c.320 §70]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.450 - Approval or rejection of recommendations; rules; exemptions from Administrative Procedures Act.**

(1) The Director of the Department of Corrections shall approve or reject each recommendation under ORS 144.440 or 421.170 for enrollment in the work release program. Rejection by the director of a recommendation does not preclude submission under ORS 421.170 of subsequent recommendations regarding enrollment of the same person.

(2) An adult in custody may be assigned by the Department of Corrections to participate in an adult in custody work program, or in education, alcohol and drug treatment or mental health or other specific treatment program to develop independent living skills, without the consent of the adult in custody.

(3) The director shall promulgate rules for carrying out ORS 144.410 to 144.525 and 421.170.

(4) In approving a recommendation and enrolling a person in the work release program, or in assigning an adult in custody to participate in an adult in custody work program or in education, alcohol and drug treatment or mental health or other specific treatment program to develop independent living skills, the director may prescribe any specific conditions that the director finds appropriate to assure compliance by the person with the general procedures and objectives of the work release program.

(5) ORS 183.410 to 183.500 do not apply to actions taken under this section. [1965 c.463 §7; 1973 c.621 §8a; 1973 c.836 §306; 1987 c.320 §70a; 1995 c.384 §5; 1997 c.851 §9; 2019 c.213 §34]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.460 - Contracts for quartering of enrollees.**

The Department of Corrections may contract with the governing bodies of political subdivisions in this state, with the federal government and with any private agencies approved by the department for the quartering in suitable local facilities of persons enrolled in work release programs. [1965 c.463 §8; 1969 c.597 §122; 1969 c.678 §1; 1973 c.836 §307; 1977 c.717 §15; 1987 c.320 §71; 2007 c.71 §39; 2013 c.130 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.470 - Disposition of enrollee's compensation under program; rules.**

(1) Each person enrolled in the work release program shall promptly surrender to the Department of Corrections all compensation the person receives, if any, other than amounts involuntarily withheld by the employer of the person.

(2) The Director of the Department of Corrections shall adopt rules providing for the disposition of any compensation earned by persons under this section. [1965 c.463 §9; 1973 c.836 §308; 1987 c.320 §72; 1995 c.384 §6; 1997 c.851 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.480 - Protections and benefits for enrollees.**

(1) Persons assigned to participate in an adult in custody work program established under ORS 144.420 may be enrolled in an apprenticeship or training program under ORS 660.002 to 660.210 and are entitled to the protection and benefits of ORS 660.002 to 660.210 to the same extent as other employees of their employer, except that the Director of the Department of Corrections shall establish by rule any compensation paid to such persons and the compensation is not subject to any provision establishing or requiring a minimum or prevailing wage unless required to comply with federal law.

(2) Persons assigned to participate in an adult in custody work program established under ORS 144.420 are entitled to the protection and benefits of ORS 655.505 to 655.555.

(3) Persons enrolled, or assigned to participate, in a work release program are not entitled to benefits:

(a) Under ORS chapter 656; or

(b) Under ORS chapter 657 during their enrollment. [1965 c.463 §10; 1969 c.597 §122a; 1969 c.678 §2; 1995 c.384 §7; 1997 c.851

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.490 - Status of enrollees.**

(1) A person enrolled, or assigned to participate, in the work release program is not an agent, employee or servant of a Department of Corrections institution, the department or this state:

(a) While working, seeking gainful employment or otherwise participating, in an adult in custody work program; or

(b) While going to the place of such employment or work assignment from the place where the person is quartered, or while returning therefrom.

(2) For purposes of this chapter, a person enrolled, or assigned to participate, in the work release program established under ORS 144.420 is considered to be an adult in custody in a Department of Corrections institution. [1965 c.463 §§11,13; 1987 c.320 §73; 1995 c.384 §8; 2019 c.213 §36]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.500 - Effect of violation or unexcused absence by enrollee.**

(1) If a person enrolled, or assigned to participate, in the work release program violates any law, or any rule or specific condition applicable to the person under ORS 144.450, the Department of Corrections may immediately terminate that person's enrollment in, or assignment to, the work release program and transfer the person to a Department of Corrections institution for the remainder of the sentence.

(2) Absence, without a reason that is acceptable to the Director of the Department of Corrections, of a person enrolled in, or assigned to, a work release program from the place of employment, work assignment or designated quarters, at any time contrary to the rules or specific conditions applicable to the person under ORS 144.450:

(a) Immediately terminates the enrollment of the person in, or assignment of the person to, the work release program.

(b) Constitutes an escape from a correctional facility under ORS 162.155. [1965 c.463 §§16,17; 1971 c.743 §340; 1987 c.320 §74; 1995 c.384 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.510**

[Amended by 1961 c.656 §1; renumbered 144.560]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.515 - Release terminates enrollment; continued employment.**

A person's enrollment in the work release program terminates upon the release of the person from confinement pursuant to law. To the extent possible, the Department of Corrections shall cooperate with employers in making possible the continued employment of persons released. [1965 c.463 §18; 1973 c.836 §309; 1987 c.320 §75]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.520**

[Renumbered 144.570]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.522 - Revolving fund.**

(1) The Department of Corrections may request in writing the Oregon Department of Administrative Services to, and when so requested the Oregon Department of Administrative Services shall, draw a warrant on the amount available under section 6 or 7, chapter 678, Oregon Laws 1969, in favor of the department for use by the department as a revolving fund. The warrant or warrants drawn to establish or increase the revolving fund, rather than to reimburse it, shall not exceed the aggregate sum of \$20,000. The revolving fund shall be deposited with the State Treasurer to be held in a special account against which the department may draw checks.

(2) The revolving fund may be used by the department for the purpose of making loans to any adult in custody enrolled in the work release program under ORS 144.410 to 144.525, at a rate of interest prescribed by the department, to pay costs of necessary clothing, tools, transportation and other items from the time of initial enrollment to the time the adult in custody receives sufficient income to repay the loan. A loan from the revolving fund shall be made only when other resources available to the enrollee to pay the costs described in this subsection are inadequate.

(3) The Department of Corrections shall enforce repayment of loans under this section by any lawful means. However, the Director

of the Department of Corrections may proceed under ORS 293.235 to 293.245 to write off uncollectible debts arising out of such loans.

(4) All repayments of loans from the revolving fund shall be credited to the fund. Interest earnings realized upon any loan from the revolving fund shall be credited to the fund. [1969 c.597 §122d and 1969 c.678 §5; 1975 c.411 §1; 1987 c.320 §76; 2019 c.213 §37]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.525 - Custody of enrollee earnings deducted or otherwise retained by department.**

The Director of the Department of Corrections shall deposit in the State Prison Work Programs Account, as they are received, moneys surrendered to the Department of Corrections under ORS 144.470. Disbursements from the account for purposes authorized by ORS 144.470 may be made by the director, subject to approval by the Prison Industries Board, by checks or orders drawn upon the account. The director is accountable for the proper handling of the account. [1965 c.463 §21; 1987 c.320 §77; 1995 c.384 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.600 - Interstate Compact for Adult Offender Supervision.**

The Legislative Assembly hereby approves and the Governor is authorized to enter into a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

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**ARTICLE I**

**PURPOSE**

(a) The compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner and, when necessary, return offenders to the originating jurisdictions. The compacting states also recognize that the United States Congress, by enacting 4 U.S.C. 112, has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

(b) It is the purpose of this compact and the Interstate Commission created under this compact, through means of joint and cooperative action among the compacting states: To provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the compacting states.

(c) In addition, this compact is intended to: Create an Interstate Commission that will establish uniform procedures to manage the movement between states of offenders placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities or corrections or other criminal justice agencies that will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials and regular reporting of compact activities to the heads of State Councils, the state executive, judicial and legislative branches and the criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and coordinate training and education on the regulation of interstate movement of offenders for officials involved in such activity.

(d) The compacting states recognize that there is no right of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision, subject to the provisions of this compact and the bylaws and rules promulgated under this compact. It is the policy of the compacting states that the activities conducted by the Interstate Commission are intended to formulate public policy and are therefore public business.

**ARTICLE II**

**DEFINITIONS**

As used in this compact, unless the context clearly requires a different construction:

(a) "Adult" means a person who is 18 years of age or older or a person under 18 years of age who is legally classified, either by statute or court order, as an adult.

(b) "Bylaws" means those bylaws established by the Interstate Commission for its governance or for directing or controlling the Interstate Commission's actions or conduct.

(c) "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

(d) "Compacting state" means any state which has enacted the enabling legislation for this compact.

(e) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

(f) "Interstate Commission" means the Interstate Commission for Adult Offender Supervision created by Article III of this compact.

(g) "Member" means the commissioner of a compacting state or the commissioner's designee, who shall be an individual officially

connected with the commissioner.

(h) "Noncompacting state" means any state that has not enacted the enabling legislation for this compact.

(i) "Offender" means an adult placed under or subject to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities or corrections or other criminal justice agencies.

(j) "Person" means any individual, corporation, business enterprise or other legal entity, either public or private.

(k) "Rules" means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this compact and substantially affecting interested parties in addition to the Interstate Commission, that have the force and effect of law in the compacting states.

(L) "State" means a state of the United States, the District of Columbia or any territorial possession of the United States.

(m) "State Council" means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under Article IV of this compact.

### ARTICLE III

#### THE INTERSTATE COMMISSION

##### FOR ADULT OFFENDER SUPERVISION

(a) The compacting states hereby create the Interstate Commission for Adult Offender Supervision. The Interstate Commission shall be a body corporate and joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers and duties set forth in this compact, including the power to sue and be sued and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(b) The Interstate Commission shall consist of commissioners selected and appointed by each state. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All noncommissioner members of the Interstate Commission shall be nonvoting members. The Interstate Commission may provide in its bylaws for such additional nonvoting members as it deems necessary.

(c) Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(d) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public, except as provided in Article VII of this compact.

(e) The Interstate Commission shall establish an executive committee that shall include commission officers, members and others as shall be determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and Interstate Commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws and rules and as directed by the Interstate Commission and performs other duties as directed by the Interstate Commission or as set forth in the bylaws and rules.

### ARTICLE IV

#### THE COMPACT ADMINISTRATOR AND STATE COUNCIL

(a) The Director of the Department of Corrections, or the director's designee, shall serve as the Compact Administrator for the State of Oregon and as Oregon's commissioner to the Interstate Commission.

(b) The Oregon State Council for Interstate Adult Offender Supervision is established, consisting of seven members. The Director of the Department of Corrections, or the director's designee, is a member of the State Council and serves as chairperson of the State Council. Of the remaining members of the State Council:

(1) The Governor shall appoint three members, one of whom must represent a crime victims' organization; and

(2) The Chief Justice of the Supreme Court, the President of the Senate and the Speaker of the House of Representatives shall each appoint one member.

(c) The term of office of a member is four years.

(d) The State Council shall meet at least once each calendar year.

(e) The State Council may advise the Compact Administrator on participation in the Interstate Commission activities and administration of the compact.

(f) Members of the State Council are entitled to expenses as provided in ORS 292.495. Any legislative members are entitled to payment of compensation and expense reimbursement under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(g) The State Council is subject to the provisions of ORS 291.201 to 291.222 and 291.232 to 291.260.

(h) The Department of Corrections shall provide staff support for the State Council.

### ARTICLE V

#### POWERS AND DUTIES

##### OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

(a) To adopt a seal and suitable bylaws governing the management and operation of the Interstate Commission.



- (b) To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.
- (c) To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the Interstate Commission.
- (d) To enforce compliance with the compact and the rules and bylaws of the Interstate Commission, using all necessary and proper means, including, but not limited to, the use of judicial process.
- (e) To establish and maintain offices.
- (f) To purchase and maintain insurance and bonds.
- (g) To borrow, accept or contract for the services of personnel, including, but not limited to, members and their staffs.
- (h) To establish and appoint committees and hire staff that it deems necessary to carry out its functions, including, but not limited to, an executive committee as required by Article III of this compact, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties under this compact.
- (i) To elect or appoint officers, attorneys, employees, agents or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel.
- (j) To accept any and all donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of same.
- (k) To lease, purchase, accept contributions or donations of any property, or otherwise to own, hold, improve or use any property, whether real, personal or mixed.
- (L) To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed.
- (m) To establish a budget and make expenditures and levy dues as provided in Article X of this compact.
- (n) To sue and be sued.
- (o) To provide for dispute resolution among compacting states.
- (p) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.
- (q) To report annually to the legislatures, governors, judiciary and State Councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.
- (r) To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity.
- (s) To establish uniform standards for the reporting, collecting and exchanging of data.

#### ARTICLE VI

#### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

- (a) The Interstate Commission shall, by a majority of the members, within 12 months of the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:
  - (1) Establishing the fiscal year of the Interstate Commission.
  - (2) Establishing an Executive Committee and such other committees as may be necessary.
  - (3) Providing reasonable standards and procedures:
    - (i) For the establishment of committees; and
    - (ii) Governing any general or specific delegation of any authority or function of the Interstate Commission.
  - (4) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each meeting.
  - (5) Establishing the titles and responsibilities of the officers of the Interstate Commission.
  - (6) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service laws or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the Interstate Commission.
  - (7) Providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of the Interstate Commission's debts and obligations.
  - (8) Providing transition rules for start-up administration of the compact.
  - (9) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.
- (b)(1) The Interstate Commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission, provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

(2) The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission and shall hire and supervise other staff as may be authorized by the Interstate Commission, but shall not be a member of the Interstate Commission.

(c) The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

(d)(1) The liability of any member, officer, executive director, employee or agent of the Interstate Commission acting within the scope of the person's employment or duties for acts, errors or omissions occurring within Oregon may not exceed the limits set forth in ORS 30.260 to 30.300. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) Subject to approval by the Attorney General under ORS chapter 180, the Interstate Commission shall defend the commissioner of a compacting state, the commissioner's representatives or employees or the Interstate Commission's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

(3) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, the appointed representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such persons.

## ARTICLE VII

### ACTIVITIES OF

### THE INTERSTATE COMMISSION

(a) The Interstate Commission shall meet and take such actions as are consistent with the provisions of this compact.

(b) Except as otherwise provided in this compact and unless a greater percentage is required under the bylaws, in order to constitute an act of the Interstate Commission, such act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.

(c) Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person on behalf of the compacting state and shall not delegate a vote to another compacting state. However, the Director of the Department of Corrections may designate another individual, in the absence of the director, to cast a vote on behalf of the director at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

(d) The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(e) The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent the information or records would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(f) Public notice shall be given of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission shall promulgate rules consistent with the principles contained in the Government in the Sunshine Act, 5 U.S.C. 552, as amended. The Interstate Commission and any of its committees may close a meeting to the public when the Interstate Commission determines by two-thirds vote that an open meeting would be likely to:

(1) Relate solely to the Interstate Commission's internal personnel practices and procedures;

(2) Disclose matters specifically exempted from disclosure by statute;

(3) Disclose trade secrets or commercial or financial information that is privileged or confidential;

(4) Involve accusing any person of a crime or formally censuring any person;

(5) Disclose information of a personal nature when such disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) Disclose investigatory records compiled for law enforcement purposes;

(7) Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

(8) Disclose information when such premature disclosure would significantly endanger the life of a person or the stability of a regulated entity; or

(9) Specifically relate to the Interstate Commission's issuance of a subpoena or its participation in a civil action or proceeding.

(g) For every meeting closed pursuant to subsection (f) of this Article, the Interstate Commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public and shall make reference to each relevant provision authorizing closure of the meeting. The Interstate Commission shall keep minutes that fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any action taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(h) The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules that specify the data to be collected, the means of collection and data exchange and reporting requirements.

#### ARTICLE VIII

##### RULEMAKING FUNCTIONS

##### OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact, including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

(b) Rulemaking shall occur pursuant to the criteria set forth in this Article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C. 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, section 1 et seq., as amended. All rules and amendments shall become binding as of the date specified in each rule or amendment.

(c) If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

(d) When promulgating a rule, the Interstate Commission shall:

(1) Publish the proposed rule, stating with particularity the text of the rule that is proposed and the reason for the proposed rule;

(2) Allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;

(3) Provide an opportunity for an informal hearing; and

(4) Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record. Not later than 60 days after a rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the federal district court where the Interstate Commission's principal office is located for judicial review of the rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the federal Administrative Procedure Act, 5 U.S.C. 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, section 1 et seq., as amended.

(e) Rules related to the following subjects must be addressed within 12 months after the first meeting of the Interstate Commission:

(1) Notice to victims and opportunity to be heard;

(2) Offender registration and compliance;

(3) Violations and returns;

(4) Transfer procedures and forms;

(5) Eligibility for transfer;

(6) Collection of restitution and fees from offenders;

(7) Data collection and reporting;

(8) The level of supervision to be provided by the receiving state;

(9) Transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and

(10) Mediation, arbitration and dispute resolution.

(f) The existing rules governing the operation of the previous compact superseded by this compact shall be null and void 12 months after the first meeting of the Interstate Commission created under this compact.

(g) Upon determination by the Interstate Commission that an emergency exists, the Interstate Commission may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided in this Article shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the rule.

#### ARTICLE IX

##### OVERSIGHT, ENFORCEMENT AND

##### DISPUTE RESOLUTION

##### BY THE INTERSTATE COMMISSION

(a)(1) The Interstate Commission shall oversee the Interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states that may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to

intervene in the proceeding for all purposes.

(b)(1) The compacting states shall report to the Interstate Commission on issues or activities of concern to them and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

(2) The Interstate Commission shall attempt to resolve any disputes or other issues that are subject to the compact and that may arise among compacting states and noncompacting states. The Interstate Commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Article XII (b) of this compact.

#### ARTICLE X

##### FINANCE

(a) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(b) The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state. The Interstate Commission shall promulgate a rule binding upon all compacting states that governs said assessment.

(c) The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same, nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(d) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

(e)(1) The Interstate Compact for Adult Offender Supervision Fund is established, separate and distinct from the General Fund. All moneys in the fund are continuously appropriated to the Department of Corrections to be used for the purposes of meeting financial obligations imposed on the State of Oregon as a result of the state's participation in this compact.

(2) An assessment levied or any other financial obligation imposed under this compact is effective against the State of Oregon only to the extent that moneys to pay the assessment or meet the financial obligation have been appropriated and deposited in the fund established in paragraph (1) of this subsection.

#### ARTICLE XI

##### COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

(a) Any state, as defined in Article II of this compact, is eligible to become a compacting state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no fewer than 35 of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. Thereafter, the compact shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of noncompacting states or their designees may be invited to participate in Interstate Commission activities on a non-voting basis prior to adoption of the compact by all states.

(c) Amendments to the compact may be proposed by the Interstate Commission for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

#### ARTICLE XII

##### WITHDRAWAL, DEFAULT,

##### TERMINATION AND

##### JUDICIAL ENFORCEMENT

(a)(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal of the statute that enacted the compact into law.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

(b)(1) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact or the bylaws or rules of the Interstate Commission, the Interstate Commission may impose any or all of the following penalties:

- (i) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;
  - (ii) Remedial training and technical assistance as directed by the Interstate Commission;
  - (iii) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the governor, the chief justice or chief judicial officer of the defaulting state; the majority and minority leaders of the defaulting state's legislature, and the state council.
- (2) The grounds for default include, but are not limited to, failure of a compacting state to perform obligations or responsibilities imposed upon it by this compact or the Interstate Commission bylaws or rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission on the defaulting state pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of suspension. Within 60 days of the effective date of termination of a defaulting state, the Interstate Commission shall notify the governor, the chief justice or chief judicial officer of the defaulting state, the majority and minority leaders of the defaulting state's legislature and the State Council of such termination.
- (3) The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including any obligations, the performance of which extend beyond the effective date of termination.
- (4) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the Interstate Commission and the defaulting state. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.
- (c) The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district court where the Interstate Commission has its principal office to enforce compliance with the provisions of the compact, its rules or bylaws against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.
- (d)(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state.
- (2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

#### ARTICLE XIII

##### SEVERABILITY AND CONSTRUCTION

- (a) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.
- (b) The provisions of this compact shall be liberally construed to effectuate its purposes.

#### ARTICLE XIV

##### BINDING EFFECT OF COMPACT AND OTHER LAWS

- (a)(1) Nothing in this compact prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.
- (2) The laws of the State of Oregon, other than the Oregon Constitution, that conflict with this compact are superseded to the extent of the conflict.
- (b)(1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the State of Oregon unless contrary to the Oregon Constitution.
- (2) All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.
- (3) Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.
- (4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.
- (c) The State of Oregon is bound by the bylaws and rules promulgated under this compact only to the extent that the operation of the bylaws and rules does not impose an obligation exceeding any limitation on state power or authority contained in the Oregon Constitution as interpreted by the state courts of Oregon.

[2001 c.729 §2; 2009 c.67 §13]

#### Note:

144.600 to 144.603 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 144 or

any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.602 - Short title.**

ORS 144.600 shall be known and may be cited as the Interstate Compact for Adult Offender Supervision. [2001 c.729 §1]

Note:

See note under 144.600.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.603 - Withdrawal from compact.**

If a state withdraws from the Interstate Compact for Adult Offender Supervision as provided in Article XII (a) of the compact, the Department of Corrections may negotiate an agreement with the withdrawing state to fulfill the purposes of ORS 144.600. [2001 c.729 §3]

Note:

See note under 144.600.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.605 - Fee for application to transfer supervision.**

A person on probation, parole or post-prison supervision who applies to transfer supervision under the Interstate Compact for Adult Offender Supervision described in ORS 144.600 must pay an application fee in an amount determined by rule of the Department of Corrections. The fee shall be collected by the supervisory authority as defined in ORS 144.087 and forwarded to the Governor's office for deposit in the Arrest and Return Account described in ORS 133.865. [2009 c.742 §1]

Note:

144.605 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

UNIFORM ACT FOR

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.610 - Out-of-state supervision of parolees; contract with other states.**

The Governor of this state may execute a compact on behalf of the State of Oregon with any of the United States joining therein in the form substantially as follows:

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A compact entered into by and among the contracting states signatory hereto with the consent of the Congress of the United States of America granted by an Act entitled, "An Act Granting the Consent of Congress to any Two or More States to Enter into Agreements or Compacts for Cooperative Effort and Mutual Assistance in the Prevention of Crime and for Other Purposes."

The contracting states agree:

(1) That the judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact (herein called "receiving state") while on a probation or parole, if:

(a) Such person is in fact a resident of, or has the family of the person residing within, the receiving state and can obtain employment there;

(b) Though not a resident of the receiving state and not having the family of the person residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which the person has been convicted.

(2) That each receiving state shall assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto as to such persons. The decision of the sending state to retake a person on probation or

parole shall be conclusive upon, and not reviewable within, the receiving state; provided, however, that if at the time when a state seeks to retake a probationer or parolee there is pending against the probationer or parolee within the receiving state any criminal charge or if the probationer or parolee is suspected of having committed within such state a criminal offense, the probationer or parolee shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states party to this compact without interference.

(5) That the Governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its execution by any state as between it and any other state so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

(7) That this compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which executed it by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto.

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**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.613 - Notice when parole or probation violated; hearing; report to sending state; taking person into custody.**

(1) Where supervision of a parolee or probationer is being administered pursuant to the Uniform Act for Out-of-State Supervision, the appropriate judicial or administrative authorities in this state shall notify the Uniform Act for Out-of-State Supervision administrator of the sending state, as defined in ORS 144.610, whenever, in their view, consideration should be given to retaking or reincarceration for a parole or probation violation.

(2) Prior to the giving of any such notification, a hearing shall be held in accordance with ORS 144.613 to 144.617 within a reasonable time, unless such hearing is waived by the parolee or probationer. The appropriate officer or officers of this state shall, as soon as practicable following termination of any such hearing, report to the sending state, furnish a copy of the hearing record and make recommendations regarding the disposition to be made of the parolee or probationer by the sending state.

(3) Pending any proceeding pursuant to this section, the appropriate officers of this state may take custody of and detain the parolee or probationer involved for a period not to exceed 15 days prior to the hearing and, if it appears to the hearing officer or officers that retaking or reincarceration is likely to follow, for such reasonable period after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration. [1973 c.489 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.615 - Hearing procedure.**

(1) Any hearing pursuant to ORS 144.613 to 144.617 may be before the administrator of the Uniform Act for Out-of-State Supervision, a deputy of the Director of the Department of Corrections or any other person authorized pursuant to the laws of this state to hear cases of alleged parole or probation violation, except that no hearing officer shall be the person making the allegation of violation.

(2) With respect to any hearing pursuant to ORS 144.613 to 144.617, the parolee or probationer:

(a) Shall have reasonable notice in writing of the nature and content of the allegations to be made, including notice that its purpose is to determine whether there is probable cause to believe that the parolee or probationer has committed a violation that may lead to a revocation of parole or probation.

(b) Shall be permitted to confer with any person whose assistance the parolee or probationer reasonably desires, prior to the hearing.

(c) Shall have the right to confront and examine any persons who have made allegations against the parolee or probationer, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person or persons.

(d) May admit, deny or explain the violation alleged and may present proof, including affidavits and other evidence, in support of the contentions of the parolee or probationer. A record of the proceedings shall be made and preserved. [1973 c.489 §§2,3; 1987 c.320 §78]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.617 - Hearing on violation in another state; effect of record in such hearing.**

In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Uniform Act for Out-of-State Supervision any appropriate judicial or administrative officer or agency in another state is authorized to hold a hearing

on the alleged violation. Upon receipt of the record of a parole or probation violation hearing held in another state pursuant to a statute substantially similar to ORS 144.613 to 144.617, such record shall have the same standing and effect as though the proceeding of which it is a record was had before the appropriate officer or officers in this state, and any recommendations contained in or accompanying the record shall be fully considered by the appropriate officer or officers of this state in making disposition of the matter. [1973 c.489 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.620 - Short title.**

ORS 144.610 may be cited as the Uniform Act for Out-of-State Supervision.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.622 - "Parole" and "parolee" defined for Uniform Act for Out-of-State Supervision.**

For purposes of ORS 144.610 and 144.613 to 144.617, "parole" includes but is not limited to post-prison supervision, and "parolee" includes but is not limited to persons on post-prison supervision under rules adopted by the Oregon Criminal Justice Commission. [1989 c.790 §37]

Note:

144.622 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.635 - Intensive supervision; duration.**

(1) As used in this section and ORS 144.637:

(a) "History of sexual assault" means that a person has engaged in unlawful sexual conduct that:

(A) Is not related to the crime for which the person is currently on parole or post-prison supervision; and

(B) Seriously endangered the life or safety of another person or involved a victim under 12 years of age.

(b) "Sexually violent dangerous offender" means a person who has psychopathic personality features, sexually deviant arousal patterns or interests and a history of sexual assault, and who the State Board of Parole and Post-Prison Supervision or local supervisory authority finds presents a substantial probability of committing an offense listed in subsection (3) of this section.

(2) When a person is released from custody after serving a sentence of incarceration as a result of conviction for an offense listed in subsection (3) of this section, the board or local supervisory authority shall subject the person to intensive supervision for the full period of the person's parole or post-prison supervision if:

(a) The person was 18 years of age or older at the time the person committed the offense; and

(b) The board or local supervisory authority finds that the person is a sexually violent dangerous offender.

(3) The crimes to which subsection (2) of this section applies are:

(a) Rape in the first degree and sodomy in the first degree if the victim was:

(A) Subjected to forcible compulsion by the person;

(B) Under 12 years of age; or

(C) Incapable of consent by reason of mental incapacitation, physical helplessness or incapability of appraising the nature of the victim's conduct;

(b) Unlawful sexual penetration in the first degree; and

(c) An attempt to commit a crime listed in paragraph (a) or (b) of this subsection. [1999 c.924 §1; 2021 c.82 §9]

Note:

144.635 to 144.639 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.637 - Rules.**

The Department of Corrections and the State Board of Parole and Post-Prison Supervision, in consultation with local supervisory authorities, shall jointly adopt rules establishing:

(1) Procedures for identifying sexually violent dangerous offenders; and

(2) Methods of intensive supervision for sexually violent dangerous offenders. [1999 c.924 §2]

Note:

See note under 144.635.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.639 -**



**Projecting number of persons to be classified as sexually violent dangerous offenders; budgeting.**

Once each biennium, the Department of Corrections, the State Board of Parole and Post-Prison Supervision and local supervisory authorities shall determine the number of offenders expected to be classified as sexually violent dangerous offenders during the following biennium. The department shall use the number in calculating the budget for the community corrections division of the department for the following biennium. [1999 c.924 §4]

Note:

See note under 144.635.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.640**

[Formerly 143.010; renumbered 144.649 in 2001]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.641 - Definitions.**

As used in this section and ORS 144.642, 144.644 and 144.646:

- (1) "Dwelling" has the meaning given that term in ORS 469B.100.
- (2) "Dwelling" does not include a residential treatment facility or a halfway house.
- (3) "Halfway house" means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.
- (4) "Locations where children are the primary occupants or users" includes, but is not limited to, public and private elementary and secondary schools and licensed child care centers.
- (5) "Sex offender" means:
  - (a) A sexually violent dangerous offender as defined in ORS 137.765; or
  - (b) A level three sex offender under ORS 163A.100 (3).
- (6) "Transitional housing" means housing intended to be occupied by a sex offender for 45 days or less immediately after release from incarceration. [2001 c.365 §1; 2005 c.576 §4; 2013 c.708 §11; 2015 c.820 §§16,23; 2017 c.442 §18; 2019 c.430 §§4,8]

Note:

144.641 to 144.646 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.642 - Criteria for determining residence; Department of Corrections; rules; matrix.**

- (1) The Department of Corrections, in consultation with the State Board of Parole and Post-Prison Supervision and community corrections agencies, shall adopt rules establishing criteria to be considered in determining the permanent residence requirements for a sex offender released on post-prison supervision or parole. Transitional housing is not subject to permanent residence requirements. The department shall include in the rules:
  - (a) A general prohibition against allowing a sex offender to reside near locations where children are the primary occupants or users;
  - (b) The bases upon which exceptions to the general prohibition required by paragraph (a) of this subsection are authorized;
  - (c) A prohibition against allowing a sex offender to reside in any dwelling in which another sex offender on probation, parole or post-prison supervision resides unless authorized as provided in ORS 144.102 (4)(b)(M); and
  - (d) A process that allows communities and community corrections agencies that would be affected by a decision about the location of a sex offender's residence to be informed of the decision making process before the offender is released.
- (2) Based upon the rules adopted under subsection (1) of this section, the department shall develop a decision matrix to be used in determining the permanent residence requirements for a sex offender. [2001 c.365 §2; 2005 c.576 §5; 2011 c.258 §3]

Note:

See note under 144.641.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.644 - Criteria for determining residence; State Board of Parole and Post-Prison Supervision; rules; matrix.**

- (1) The State Board of Parole and Post-Prison Supervision, in consultation with the Department of Corrections and community corrections agencies, shall adopt rules establishing criteria to be considered:
  - (a) In reviewing the proposed residence of a sex offender in a release plan under ORS 144.096 or a parole plan under ORS 144.125; and
  - (b) In determining the residence of a sex offender in a release plan under ORS 144.096, as a condition of post-prison supervision under ORS 144.102 or as a condition of parole under ORS 144.270.

(2) The board shall include in the rules:

- (a) A general prohibition against allowing a sex offender to reside near locations where children are the primary occupants or users;
- (b) The bases upon which exceptions to the general prohibition required by paragraph (a) of this subsection are authorized;
- (c) A prohibition against allowing a sex offender to reside in any dwelling in which another sex offender on probation, parole or post-prison supervision resides unless authorized as provided in ORS 144.102 (4)(b)(M); and
- (d) A process that allows communities and community corrections agencies that would be affected by a decision about the location of a sex offender's residence to be informed of the decision making process before the offender is released.

(3) Based upon the rules adopted under subsections (1) and (2) of this section, the board shall develop a decision matrix to be used in determining the specific residence for a sex offender. [2001 c.365 §3; 2005 c.576 §6; 2011 c.258 §4]

Note:

See note under 144.641.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.646 - Use of rules and matrix by community corrections agency.**

When a community corrections agency reviews a proposed release plan for a sex offender, the agency shall follow the rules adopted by and utilize the decision matrix developed by the Department of Corrections under ORS 144.642 in making decisions about the permanent residence of the sex offender. [2001 c.365 §4]

Note:

See note under 144.641.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.649 - Granting reprieves, commutations and pardons generally; remission of penalties and forfeitures.**

Upon such conditions and with such restrictions and limitations as the Governor thinks proper, the Governor may grant reprieves, commutations and pardons, after convictions, for all crimes and may remit, after judgment therefor, all penalties and forfeitures. [Formerly 144.640]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.650 - Notice of intention to apply for pardon, commutation or remission; proof of service; duties of district attorney.**

(1) When an application for a pardon, commutation or remission is made to the Governor, a copy of the application, signed by the person applying and stating fully the grounds of the application, shall be served upon:

- (a) The district attorney of the county where the conviction occurred;
- (b) If the person applying is housed in a correctional facility within the State of Oregon, the district attorney of the county in which the correctional facility is located;
- (c) The State Board of Parole and Post-Prison Supervision; and
- (d) The Director of the Department of Corrections.

(2) Proof by affidavit of the service shall be presented to the Governor.

(3) Upon receiving a copy of the application, the district attorney of the county where the conviction occurred shall:

- (a) Notify the victim of the crime concerning the application and the victim's right to provide the Governor with any information relevant to the Governor's decision;
- (b) Provide the Governor with any information relevant to the Governor's decision that the victim wishes to have provided; and
- (c) Provide the Governor with copies of the following documents:

- (A) Police and other investigative reports;
- (B) The charging instrument;
- (C) The plea petition, if applicable;
- (D) The judgment of conviction and sentence;
- (E) Any victim impact statements submitted or filed; and
- (F) Any documents evidencing the applying person's payment or nonpayment of restitution or compensatory fines ordered by the court.

(4) In addition to providing the documents described in subsection (3) of this section, upon receiving a copy of the application for pardon, commutation or remission, any person or agency named in subsection (1) of this section shall provide to the Governor as soon as practicable such information and records relating to the case as the Governor may request and shall provide further information and records relating to the case that the person or agency considers relevant to the issue of pardon, commutation or remission, including but not limited to:

- (a) Statements by the victim of the crime or any member of the victim's immediate family, as defined in ORS 163.730;
- (b) A statement by the district attorney of the county where the conviction occurred; and
- (c) Photos of the victim and the autopsy report, if applicable.

(5) Following receipt by the Governor of an application for pardon, commutation or remission, the Governor shall not grant the application for at least 30 days. Upon the expiration of 180 days, if the Governor has not granted the pardon, commutation or remission applied for, the application shall lapse. Any further proceedings for pardon, commutation or remission in the case shall be pursuant only to further application and notice. [Formerly 143.040; 1983 c.776 §1; 1987 c.320 §79; 1995 c.805 §1; 2019 c.369 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.653 - Sealing records of pardoned conviction; notice to victim.**

(1) When the Governor grants a pardon, the Governor or the Governor's designee shall within 10 days notify:

(a) The presiding judge of the circuit court of the county in which the pardoned conviction occurred; and

(b) The district attorney of the county in which the pardoned conviction occurred.

(2) Upon receipt of the notification described in subsection (1)(a) of this section, the presiding judge shall issue an order sealing the record of conviction and other official records in the case, including the records of arrest, citation or charge but excluding records of the pardon produced under ORS 144.650 or 144.660 or documents filed with the Secretary of State under ORS 144.670. The clerk of the court shall forward a certified copy of the order to such agencies as directed by the court.

(3) Upon receipt of the notification described in subsection (1)(b) of this section, the district attorney shall notify the victim concerning the pardon and sealing of records. [2019 c.369 §1]

Note:

144.653 and 144.655 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.655 - Request to seal records of pardoned conviction; notice to victim.**

(1) A person pardoned more than five years prior to June 13, 2019, may request, in writing, that the Governor initiate the process of sealing records relating to the pardoned conviction. The request must include the date of the pardon, the crime of conviction and the county in which the pardoned conviction occurred.

(2) Upon receipt of a request to seal records under subsection (1) of this section, the Governor or the Governor's designee shall confirm the information in the request and, upon confirmation, shall notify:

(a) The presiding judge of the circuit court of the county in which the pardoned conviction occurred; and

(b) The district attorney of the county in which the pardoned conviction occurred.

(3) Upon receipt of the notification described in subsection (2)(a) of this section, the presiding judge shall issue an order sealing the record of conviction and other official records in the case, including the records of arrest, citation or charge but excluding records of the pardon produced under ORS 144.650 or 144.660 or documents filed with the Secretary of State under ORS 144.670. The clerk of the court shall forward a certified copy of the order to such agencies as directed by the court.

(4) Upon receipt of the notification described in subsection (2)(b) of this section, the district attorney shall notify the victim concerning the sealing of records. [2019 c.369 §4]

Note:

See note under 144.653.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.660 - Report to legislature by Governor.**

The Governor shall report to the Legislative Assembly in the manner provided in ORS 192.245 each reprieve, commutation or pardon granted since the previous report to the Legislative Assembly required by this section. The report shall include, but not be limited to the reason for granting the reprieve, commutation or pardon, the name of the applicant, the crime of which the applicant was convicted, the sentence and its date, statements by the victim of the crime or any member of the victim's immediate family, as defined in ORS 163.730, a statement by the district attorney where the conviction was had, photos of the victim, the autopsy report, if applicable, and the date of the commutation, pardon or reprieve. The Governor shall communicate a like statement of particulars in relation to each case of remission of a penalty or forfeiture, with the amount remitted. [Formerly 143.050; 1995 c.805 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.670 - Filing of papers by Governor.**

When the Governor grants a reprieve, commutation or pardon or remits a fine or forfeiture, the Governor shall within 10 days thereafter file all the papers presented to the Governor in relation thereto, including any documents provided under ORS 144.650 (3) or (4), in the office of the Secretary of State, by whom they shall be kept as public records, open to public inspection. [Formerly 143.060; 2019 c.369 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.710 - Cooperation of public officials with State Board of Parole and Post-Prison Supervision and Department of Corrections.**

All public officials shall cooperate with the State Board of Parole and Post-Prison Supervision and the Department of Corrections, and give to the board or department, its officers and employees such information as may be necessary to enable them to perform their functions. [Amended by 1973 c.836 §310; 1987 c.320 §80]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.720 - Judge's power to suspend execution of sentence or grant probation prior to commitment.**

Nothing in ORS 144.005 to 144.025, 144.040, 144.050, 144.060, 144.075, 144.185, 144.226, 144.228, 144.260 to 144.380, 144.410 to 144.610, 144.620, 144.710 or this section shall be construed as impairing or restricting the power given by law to the judge of any court to suspend execution of any part of a sentence or to impose probation as part of a sentence to any person who is convicted of a crime before such person is committed to serve the sentence for the crime. [Amended by 1985 c.283 §5; 1989 c.790 §47b; 1993 c.14 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.730 - Failure to complete treatment program.**

If a person on probation, parole or post-prison supervision is required to successfully complete a drug or alcohol treatment program as a condition of supervision and the person refuses or otherwise fails to successfully complete the treatment program, the court or the supervising authority shall impose swift and certain punishment, including incarceration in jail. [2009 c.660 §13]

Note:

144.730 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.740 - Request for appearance by prosecuting attorney at release date hearing.**

(1) For the purposes of obtaining additional information for the hearing, the State Board of Parole and Post-Prison Supervision may make a request to the district attorney of the county in which a person was convicted that a representative of the office of the prosecuting attorney appear at any hearing during which the board is to consider setting or resetting a release date for the person.

(2) Upon a board request for appearance at a hearing described in subsection (1) of this section, the district attorney shall:

(a) Appear at the hearing if the district attorney prosecuted the person.

(b) Notify the Attorney General of the request for appearance if the Attorney General prosecuted the person.

(3) Upon receiving notification from a district attorney of a request for appearance under subsection (2)(b) of this section, the Attorney General shall appear at the hearing described in subsection (1) of this section.

(4) Notwithstanding subsection (2)(a) of this section, a district attorney may request, and the Attorney General may agree, that the Attorney General appear at a hearing described in subsection (1) of this section in lieu of the district attorney.

(5) Any appearance at a hearing made pursuant to this section may be made in person, by telephone or by electronic communication device.

(6) Nothing in this section limits or impairs the right of a district attorney to appear at a board hearing under any other provision of law. [2015 c.161 §1]

Note:

144.740 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 144 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.750 - Victim's rights.**

(1) To accord crime victims due dignity and respect, a victim of a crime that is the subject of a proceeding conducted by the State Board of Parole and Post-Prison Supervision has the following rights:

(a) The right to be reasonably protected from the offender during the proceeding;

(b) The right to attend the proceeding in person or, at the discretion of the victim and with advance notice to the board, to attend the proceeding by alternative means; and

(c) The right to request the district attorney of the county in which the offender was convicted, in the discretion of the district attorney, to participate in the proceeding.

(2)(a) The board must make a reasonable effort to notify the district attorney of the county in which the offender was convicted and

the victim, if the victim requests to be notified and furnishes the board a current address, of any hearing conducted by the board. The board shall send written notice to the current addresses of the district attorney and the victim no later than 30 days before the hearing.

(b) The victim, personally or by counsel, and the district attorney of the county in which the offender was convicted have the right to appear at a hearing conducted by the board and may submit written and oral statements adequately and reasonably expressing any views concerning the crime and the offender.

(c) The victim, personally or by counsel, and the district attorney of the county in which the offender was convicted shall be given access to the information that the board will rely upon in the hearing. The victim and the district attorney shall be given adequate time to rebut the information. The victim or the district attorney may request that the board, in the discretion of the board, obtain and consider additional records, evaluations or other documents.

(3) The board must make a reasonable effort to notify the victim, if the victim requests to be notified and furnishes the board with a current address, of any hearing or administrative decision making process resetting or advancing a release date pursuant to ORS 144.122 or 144.126.

(4)(a) A supervisory authority must make a reasonable effort to notify the victim, if the victim requests to be notified and furnishes the supervisory authority a current address, of any contested hearing conducted by the supervisory authority. The supervisory authority shall send written notice to the current address of the victim as soon as practicable.

(b) The victim, personally or by counsel, has the right to appear at a contested hearing conducted by the supervisory authority and may submit written and oral statements adequately and reasonably expressing any views concerning the crime and the offender.

(c) The victim, personally or by counsel, shall be given access to information that the supervisory authority will rely upon in the contested hearing. The victim shall be given adequate time to rebut the information. The victim may request that the supervisory authority, in the discretion of the supervisory authority, obtain and consider additional records, evaluations or other documents.

(5) For purposes of this section, the victim may appear personally through the victim's next of kin or a representative selected by the victim. [2010 c.89 §4; 2015 c.230 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.775 - Commission members; terms; compensation; rules on duration of prison terms.**

(1) There is hereby established an Advisory Commission on Prison Terms and Parole Standards. The commission shall consist of equal numbers of State Board of Parole and Post-Prison Supervision members and circuit court judges appointed by the Chief Justice of the Supreme Court. The legal counsel to the Governor shall serve as an ex officio member of the commission and shall not vote unless necessary to break a voting deadlock. The Director of the Department of Corrections shall act as an advisor to the commission.

(2) The term of office of each of the members appointed by the Chief Justice is four years. Before the expiration of the term of any of those members, the Chief Justice shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Chief Justice shall make an appointment to become immediately effective for the unexpired term.

(3) A member of the commission shall receive no compensation for services as a member. However, all members may receive actual and necessary travel and other expenses incurred in the performance of their official duties under ORS 292.495.

(4) The chairperson of the State Board of Parole and Post-Prison Supervision and a judge elected by the judicial members shall serve in alternate years as chairperson of the commission. The chairperson and a vice chairperson shall be elected prior to July 1 of each year to serve for the year following. The commission shall adopt its own bylaws and rules of procedure. A majority of the commission members shall constitute a quorum for the transaction of business. An affirmative vote of a majority of the members shall be required to make proposals to the board under ORS 144.775 to 144.791.

(5) The commission shall meet at least annually at a place and time determined by the chairperson and at such other times and places as may be specified by the chairperson or five members of the commission.

(6) The State Board of Parole and Post-Prison Supervision shall provide the commission with the necessary clerical and secretarial staff support and shall keep the members of the commission fully informed of the experience of the board in applying the standards derived from those proposed by the commission.

(7) The commission shall propose to the State Board of Parole and Post-Prison Supervision and the board shall adopt rules establishing ranges of duration of imprisonment and variations from the ranges. In establishing the ranges and variations, factors provided in ORS 144.780 and 144.785 shall be considered. [1977 c.372 §1; 1983 c.740 §20; 1987 c.320 §81; 1991 c.126 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.780 - Rules on duration of imprisonment; objectives; considerations in prescribing rules.**

(1) The commission shall propose to the board and the board shall adopt rules establishing ranges of duration of imprisonment to be served for felony offenses prior to release on parole. The range for any offense shall be within the maximum sentence provided for that offense.

(2) The ranges shall be designed to achieve the following objectives:

- (a) Punishment which is commensurate with the seriousness of the prisoner's criminal conduct; and
- (b) To the extent not inconsistent with paragraph (a) of this subsection:
  - (A) The deterrence of criminal conduct; and
  - (B) The protection of the public from further crimes by the defendant.
- (3) The ranges, in achieving the purposes set forth in subsection (2) of this section, shall give primary weight to the seriousness of the prisoner's present offense and criminal history. Existing correctional resources shall be considered in establishing the ranges. [1977 c.372 §2; 1985 c.163 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.783 - Duration of term of imprisonment when prisoner is sentenced to consecutive terms.**

- (1) When a prisoner is sentenced to two or more consecutive terms of imprisonment, the duration of the term of imprisonment shall be the sum of the terms set by the State Board of Parole and Post-Prison Supervision pursuant to the ranges established for the offenses, subject to ORS 144.079, and subject to the variations established pursuant to ORS 144.785 (1).
- (2) The duration of imprisonment pursuant to consecutive sentences may be less than the sum of the terms under subsection (1) of this section if the board finds, by affirmative vote of a majority of three board members or, if the chairperson requires all voting members to participate, a majority of all voting members, that consecutive sentences are not appropriate penalties for the criminal offenses involved and that the combined terms of imprisonment are not necessary to protect community security. [1987 c.634 §2; 1991 c.126 §9; 2015 c.820 §44]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.785 - Rules on duration of prison terms when aggravating or mitigating circumstances exist; limitation on terms; dangerous offenders.**

- (1) The commission shall propose to the board and the board shall adopt rules regulating variations from the ranges, to be applied when aggravating or mitigating circumstances exist. The rules shall define types of circumstances as aggravating or mitigating and shall set the maximum variation permitted.
- (2) In no event shall the duration of the actual imprisonment under the ranges or variations from the ranges exceed the maximum term of imprisonment fixed for an offense, except in the case of a prisoner who has been sentenced under ORS 161.725 as a dangerous offender, in which case the maximum term shall not exceed 30 years. [1977 c.372 §3; 1981 c.547 §1; 1987 c.634 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.787 - Rules on age or physical disability of victim constituting aggravating circumstance.**

The Advisory Commission on Prison Terms and Parole Standards and the State Board of Parole and Post-Prison Supervision shall provide, in rules adopted under ORS 144.785, that, in the case of a crime involving a physical or sexual assault, a victim's particular vulnerability to injury in such case due to the victim's youth, advanced age or physical disability, shall constitute an aggravating circumstance justifying a variation from the range of duration of imprisonment otherwise applicable in the case. [1985 c.767 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 144 - Parole; Post-Prison Supervision; Work Release; Executive Clemency; Standards for Prison Terms and Parole; Presentence Reports Section 144.791 - Presentence report in felony conviction cases; when required.**

- (1) When a person is convicted of a felony, including a felony sexual offense, the sentencing court may order a presentence report upon its own motion or upon the request of the district attorney or the defendant.
- (2) The sentencing court shall order a presentence report if the defendant is convicted of a felony sexual offense unless:
  - (a) The defendant, as part of the same prosecution, is convicted of aggravated murder;
  - (b) The felony sexual offense requires the imposition of a mandatory minimum prison sentence and no departure is sought by the court, district attorney or defendant; or
  - (c) The felony sexual offense requires imposition of a presumptive prison sentence and no departure is sought by the court, district attorney or defendant.
- (3) The Department of Corrections shall:
  - (a) Require that a presentence report provide an analysis of what disposition is most likely to reduce the offender's criminal conduct, explain why that disposition would have that effect and provide an assessment of the availability to the offender of any relevant programs or treatment in or out of custody, whether provided by the department or another entity;
  - (b) Determine what additional information must be included in the presentence report; and
  - (c) Establish a uniform presentence report form. [1995 c.520 §4 (enacted in lieu of 144.790); 2005 c.473 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 145 - (Former Provisions) Section 145.020**  
[Amended by 1971 c.743 §241; renumbered 131.675]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 145 - (Former Provisions) Section 145.060**  
[Renumbered 131.685]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 145 - (Former Provisions) Section 145.610**  
[1971 c.743 §302; renumbered 131.705]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 145 - (Former Provisions) Section 145.620**  
[1971 c.743 §303; renumbered 131.715]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 145 - (Former Provisions) Section 145.630**  
[1971 c.743 §304; renumbered 131.725]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 145 - (Former Provisions) Section 145.640**  
[1971 c.743 §305; renumbered 131.735]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 145 - (Former Provisions) Section 145.990**  
[Amended by 1971 c.743 §342; renumbered 131.990]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.003 - Definitions for ORS 146.003 to 146.189 and 146.710 to 146.992.**

As used in ORS 146.003 to 146.189 and 146.710 to 146.992, unless the context requires otherwise:

- (1) "Approved laboratory" means a laboratory approved by the Chief Medical Examiner as competent to perform the blood sample analysis required by ORS 146.113 (2).
- (2) "Assistant district medical examiner" means a physician appointed by the district medical examiner to investigate and certify deaths within a county or district.
- (3) "Cause of death" means the primary or basic disease process or injury ending life.
- (4) "Death requiring investigation" means the death of a person occurring in any one of the circumstances set forth in ORS 146.090.
- (5) "District medical examiner" means a physician appointed by the Chief Medical Examiner to investigate and certify deaths within a county or district, including a Deputy State Medical Examiner.
- (6) "Law enforcement agency" means a county sheriff's office, municipal police department, police department established by a university under ORS 352.121 or 353.125 and the Oregon State Police.
- (7) "Legal intervention" includes an execution pursuant to ORS 137.463, 137.467 and 137.473 and other legal use of force resulting in death.
- (8) "Manner of death" means the designation of the probable mode of production of the cause of death, including natural, accidental, suicidal, homicidal, legal intervention or undetermined.
- (9) "Medical examiner" means a physician appointed as provided by ORS 146.003 to 146.189 to investigate and certify the cause and manner of deaths requiring investigation, including the Chief Medical Examiner.
- (10) "Medical-legal death investigator" means a person appointed by the district medical examiner to assist in the investigation of deaths within a county.
- (11) "Pathologist" means a physician holding a current license to practice medicine and surgery and who is eligible for certification by the American Board of Pathology.
- (12) "Unidentified human remains" does not include human remains that are unidentified human remains that are part of an archaeological site or suspected of being Native American and covered under ORS chapters 97 and 390 and ORS 358.905 to 358.961. [1973 c.408 §1a; 1995 c.744 §17; 2007 c.500 §1; 2011 c.506 §18; 2013 c.180 §18; 2017 c.151 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.010**  
[Amended by 1959 c.629 §16; renumbered 10.810]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.015 - State Medical Examiner Advisory Board; appointment of Chief Medical Examiner; rules.**

- (1) There is hereby established the State Medical Examiner Advisory Board.
- (2) The board shall make policies for the administration of ORS 146.003 to 146.189 and the Department of State Police shall adopt rules to effectuate the policies.
- (3) The board shall recommend the name or names of pathologists to the Superintendent of State Police from which the superintendent shall appoint the Chief Medical Examiner.
- (4) The board consists of 11 members appointed by the Governor who are:
  - (a) The Chair of the Department of Pathology of the Oregon Health and Science University, who is the chairperson of the board;

- (b) The State Health Officer;
  - (c) A sheriff;
  - (d) A trauma physician recommended by the State Trauma Advisory Board;
  - (e) A pathologist;
  - (f) A district attorney;
  - (g) A funeral service practitioner and embalmer licensed by the State Mortuary and Cemetery Board;
  - (h) A chief of police;
  - (i) A member of the defense bar;
  - (j) A member of the public at large; and
  - (k) A member of one of the federally recognized Oregon Indian tribes.
- (5) The members described in subsection (4)(a) and (b) of this section may serve as long as they hold their respective positions. The term of office of each member described in subsection (4)(c), (f) and (h) of this section is for four years, except that the position becomes vacant if the member ceases to be a sheriff, district attorney or chief of police, respectively. The terms of office of the other members of the State Medical Examiner Advisory Board are for four years.
- (6) A member of the board is entitled to compensation and expenses as provided in ORS 292.495.
- (7) The board shall meet annually at a time and place determined by the chairperson. The chairperson or any four members of the board may call a special meeting upon not less than one week's notice to the members of the board.
- (8) Six members of the board constitute a quorum. [1973 c.408 §2; 1995 c.744 §9; 2011 c.28 §1; 2017 c.151 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.020**

[Renumbered 10.820]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.025 - Functions of board.**

In addition to the duties set forth in ORS 146.015 the State Medical Examiner Advisory Board shall:

- (1) Recommend to the Oregon Department of Administrative Services the qualifications and compensation for the positions of Chief Medical Examiner and Deputy State Medical Examiner.
- (2) Recommend to the county courts the compensation of the district medical examiners and assistant district medical examiners.
- (3) Recommend to district medical examiners and district attorneys the qualifications for medical-legal death investigators.
- (4) Approve or disapprove of a single district medical examiner's office for two or more counties as provided by ORS 146.065 (5).
- (5) Recommend a proposed budget for the Office of the Chief Medical Examiner to the Department of State Police.
- (6) Annually review the Chief Medical Examiner's report prescribed by ORS 146.055 and report to the Superintendent of State Police and to the State Board of Health regarding the operation of the Office of the Chief Medical Examiner. [1973 c.408 §3; 1995 c.744 §10; 2017 c.151 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.035 - Chief Medical Examiner; personnel; records; right to examine records.**

- (1) There is established within the Department of State Police the Office of the Chief Medical Examiner for the purpose of directing and supporting the state death investigation program.
- (2) The Chief Medical Examiner shall manage all aspects of the Office of the Chief Medical Examiner's program.
- (3) Subject to the State Personnel Relations Law, the Chief Medical Examiner may employ or discharge other personnel of the Office of the Chief Medical Examiner.
- (4) The Office of the Chief Medical Examiner shall:
  - (a) File and maintain appropriate reports on all deaths requiring investigation.
  - (b) Maintain an accurate list of all active district medical examiners, assistant district medical examiners and designated pathologists.
  - (c) Transmit monthly to the Department of Transportation a report for the preceding calendar month of all information obtained under ORS 146.113.
- (5) Notwithstanding ORS 192.345 (36):
  - (a) Any parent, spouse, sibling, child or personal representative of the deceased, or any person who may be criminally or civilly liable for the death, or their authorized representatives respectively, may examine and obtain copies of any medical examiner's report, autopsy report or laboratory test report ordered by a medical examiner under ORS 146.117.
  - (b) The system described in ORS 192.517 (1) shall have access to reports described in this subsection as provided in ORS 192.517. [1973 c.408 §4; 1987 c.142 §1; 1995 c.504 §3; 1995 c.744 §8; 2003 c.14 §60; 2005 c.498 §1; 2009 c.222 §§3,5; 2011 c.9 §7; 2013 c.1 §§6,7; 2015 c.14 §3; 2017 c.151 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.045 - Duties of Chief Medical Examiner; persons missing at sea, in wilderness or in forested**



**environment.**

- (1) After consultation with the State Medical Examiner Advisory Board, the Chief Medical Examiner shall appoint each Deputy State Medical Examiner.
- (2) The Chief Medical Examiner shall:
  - (a) Appoint and discharge each district medical examiner as provided by ORS 146.065 (2).
  - (b) Designate those pathologists authorized to perform autopsies under ORS 146.117 (2).
  - (c) Approve those laboratories authorized to perform the analyses required under ORS 146.113 (2).
- (3) The Chief Medical Examiner may:
  - (a) Assume control of a death investigation in cooperation with the district attorney.
  - (b) Order an autopsy in a death requiring investigation.
  - (c) Certify the cause and manner of a death requiring investigation.
  - (d) Amend a previously completed report on a death requiring investigation.
  - (e) Order a body exhumed in a death requiring investigation.
  - (f) Designate a Deputy State Medical Examiner as Acting Chief Medical Examiner.
  - (g) After a reasonable and thorough investigation, complete and file a report of death for a person whose body is not found.
- (4) Distribution of moneys from the Chief Medical Examiner's budget for partial reimbursement of each county's autopsy expenditures shall be made subject to approval of the Chief Medical Examiner.
- (5) Within 45 days of receipt of information that a person is missing at sea and presumed dead, the Chief Medical Examiner shall determine whether the information is credible and, if so, complete and file a report of death for the person presumed dead. If the information is determined not to be credible, the Chief Medical Examiner may continue the death investigation.
- (6)(a) If the Search and Rescue Coordinator and a county sheriff investigate a person missing in the wilderness or a forested environment and determine that the person is believed to be deceased, the sheriff shall send documentation of the investigation and determination to the Chief Medical Examiner.
  - (b) Within seven days after receiving documentation under paragraph (a) of this subsection, the Chief Medical Examiner shall evaluate the credibility of the investigation and the determination that the person is believed to be deceased.
  - (c) If the Chief Medical Examiner, based on the evaluation under paragraph (b) of this subsection and the Chief Medical Examiner's field of expertise, determines that there is no reasonable suspicion that the person is not deceased, the Chief Medical Examiner shall complete and file a report of death for the person believed to be deceased within 45 days after making the determination.
  - (d)(A) If the Chief Medical Examiner, based on the evaluation under paragraph (b) of this subsection and the Chief Medical Examiner's field of expertise, determines that there is a reasonable suspicion that the person is not deceased, the Chief Medical Examiner shall report to the sheriff with the basis for the determination and a list of any missing information that would aid the Chief Medical Examiner in evaluating the credibility of the investigation and the determination that the person is believed to be deceased.
    - (B) Upon receiving a report under subparagraph (A) of this paragraph, the sheriff shall make a reasonable effort to provide the missing information listed by the Chief Medical Examiner.
    - (C) After issuing a report under this paragraph, the Chief Medical Examiner shall continue the death investigation in conjunction with the sheriff and the Search and Rescue Coordinator until the sheriff issues a final report on the missing person. If, at any time, the Chief Medical Examiner determines, based on the Chief Medical Examiner's field of expertise, that there is no reasonable suspicion that the person is not deceased, the Chief Medical Examiner shall complete and file a report of death for the person believed to be deceased within 45 days after making the determination. [1973 c.408 §5; 2005 c.90 §1; 2013 c.366 §66; 2017 c.151 §7; 2019 c.435 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.055 - Advice; autopsies; training programs; report.**

- (1) The Chief Medical Examiner shall assist and advise district medical examiners in the performance of their duties.
- (2) The Chief Medical Examiner shall perform autopsies, if in the judgment of the Chief Medical Examiner such autopsy is necessary in any death requiring investigation, when requested by a medical examiner or district attorney.
- (3) The Chief Medical Examiner shall regularly conduct training programs for the district medical examiners and law enforcement agencies.
- (4) The Chief Medical Examiner shall submit an annual report to the State Medical Examiner Advisory Board detailing the activities and accomplishments of the state and each county office in the preceding year as well as a cost analysis of the Office of the Chief Medical Examiner. [1973 c.408 §6; 2017 c.151 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.065 - Local medical examiners; appointment; Deputy State Medical Examiner.**

- (1) In each county there shall be a medical examiner for the purpose of investigating and certifying the cause and manner of deaths requiring investigation.
- (2) Each district medical examiner shall be appointed by the Chief Medical Examiner with approval of the appropriate board or

boards of commissioners and may be discharged by the Chief Medical Examiner without such approval.

(3) If the position of district medical examiner is vacant, the local health officer shall temporarily act as medical examiner in cooperation with the Chief Medical Examiner until the vacancy is filled.

(4) If the positions of district medical examiner and local health officer are both vacant, the district attorney shall temporarily act as medical examiner in cooperation with the Chief Medical Examiner until the vacancy is filled.

(5) Two or more counties, with the approval of the State Medical Examiner Advisory Board and commissioners of each county, may form a district medical examiner's office instead of an office for each such county.

(6) When a county or district has a population of 200,000 or more persons, the Chief Medical Examiner may, with the approval of the State Medical Examiner Advisory Board, appoint a Deputy State Medical Examiner for that county or district.

(7) The compensation of the Deputy State Medical Examiner shall be paid by the state from funds available for such purpose.

(8) The services of the Deputy State Medical Examiner may be contracted by the Department of State Police. These contracts may be terminated by either party at any time by written notice to the other party to the agreement and, upon termination, the appointment of such Deputy State Medical Examiner is terminated. [1973 c.408 §7; 1995 c.744 §11; 2015 c.736 §50; 2017 c.151 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.075 - District office duties; personnel; expenses for certain duties; records and reports.**

(1) The district medical examiner shall serve as the administrator of the district medical examiner's office. Subject to applicable provisions of a county personnel policy or civil service law, the district medical examiner may employ such other personnel as the district medical examiner deems necessary to operate the office.

(2) All expenses of equipping, maintaining and operating the district medical examiner's office, including the compensation of the district medical examiner and assistant district medical examiners, shall be paid by the county or counties of the district from funds budgeted for such purpose.

(3) When a district medical examiner also serves as local health officer, the county shall separately budget the compensation and expenses to be paid for medical examiner's duties.

(4) All expenses of death investigations shall be paid from county funds budgeted for such purpose except that, in counties under 200,000 population upon the approval of the Chief Medical Examiner, one-half of the costs of autopsies ordered under ORS 146.117 shall be paid annually by the state from funds for such purpose. If funds available for this payment are insufficient to meet one-half of these costs, even proportional payments to the counties shall be made.

(5) Expenses of burial or other disposition of an unclaimed body shall be paid by the county where the death occurs, as provided by ORS 146.100 (2), in the manner provided by ORS 146.121 (4).

(6) Each district office shall maintain copies of the:

(a) Reports of death investigation by the medical examiner;

(b) Autopsy reports;

(c) Laboratory analysis reports; and

(d) Inventories of money or property of the deceased taken into custody during the investigation.

(7) Reports and inventories maintained by the district office shall be available for inspection as provided by ORS 146.035 (5).

(8) Copies of reports of death investigations by medical examiners and autopsy reports shall be forwarded to the Office of the Chief Medical Examiner.

(9) Each district office shall maintain current records of:

(a) All assistant district medical examiners appointed.

(b) Appointments of each medical-legal death investigator appointed for the county or district.

(c) The name, address and director of each licensed funeral home located within the county or district.

(10) Each district office shall immediately in writing notify the Office of the Chief Medical Examiner of all appointments and resignations of their medical examiners. [1973 c.408 §8; 1987 c.142 §2; 2015 c.736 §51; 2017 c.151 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.080 - Assistant district medical examiner.**

(1) Each district medical examiner may appoint one or more assistant district medical examiners.

(2) The qualifications of an assistant district medical examiner shall be prescribed by the State Medical Examiner Advisory Board.

(3) When delegated by the district medical examiner, an assistant district medical examiner shall:

(a) Assist the district medical examiner in investigating and certifying deaths.

(b) Have the authority and responsibility to investigate and certify deaths requiring investigation. [1973 c.408 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.085 - Medical-legal death investigators.**

(1) The district medical examiner shall appoint, subject to the approval of the district attorney and applicable civil service regulations, qualified medical-legal death investigators, including the sheriff or a deputy sheriff and a member of the Oregon State Police for each county. Other peace officers may also be appointed as medical-legal death investigators.

- (2) The district medical examiner and the district attorney shall establish qualifications for medical-legal death investigators.
- (3) Each medical-legal death investigator shall be individually appointed and the name of the medical-legal death investigator shall be on file in the office of the district medical examiner.
- (4) A medical-legal death investigator shall investigate deaths subject to the control and direction of the district medical examiner or the district attorney.
- (5) A medical-legal death investigator may authorize the removal of the body of a deceased person from the apparent place of death.
- (6) The medical-legal death investigator may not authorize embalming, order a post-mortem examination or autopsy, or certify the cause and manner of death. [1973 c.408 §11; 2017 c.151 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.087**

[1975 c.565 §1; renumbered 146.001]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.088 - Officer or employee of public body.**

A district medical examiner, medical-legal death investigator, assistant district medical examiner or designated pathologist is deemed to be an officer or employee of a public body for purposes of ORS 30.260 to 30.300 while acting as a district medical examiner, medical-legal death investigator, assistant district medical examiner or designated pathologist. [1995 c.744 §13; 2017 c.151 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.090 - Deaths requiring investigation.**

- (1) The medical examiner shall investigate and certify the cause and manner of all human deaths:
  - (a) Apparently homicidal, suicidal or occurring under suspicious or unknown circumstances;
  - (b) Resulting from the unlawful use of controlled substances or the use or abuse of chemicals or toxic agents;
  - (c) Occurring while incarcerated in any jail, correction facility or in police custody;
  - (d) Apparently accidental or following an injury;
  - (e) By disease, injury or toxic agent during or arising from employment;
  - (f) While not under the care of a physician during the period immediately previous to death;
  - (g) Related to disease which might constitute a threat to the public health; or
  - (h) In which a human body apparently has been disposed of in an offensive manner.
- (2) As used in this section, "offensive manner" means a manner offensive to the generally accepted standards of the community. [1973 c.408 §12; 1979 c.744 §4; 1985 c.207 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.095 - Investigation; certification; report; training.**

- (1) The district medical examiner and the district attorney for the county where death occurs, as provided by ORS 146.100 (2), shall be responsible for the investigation of all deaths requiring investigation.
- (2) The medical examiner shall certify the manner and the cause of all deaths which the medical examiner is required to investigate. The report of death shall be submitted to a county registrar as required by ORS 432.133.
- (3) The medical examiner shall make a report of death investigation to the Chief Medical Examiner as soon as possible after being notified of a death requiring investigation.
- (4) Within five days after notification of a death requiring investigation, the medical examiner shall make a written report of the investigation and file it in the district medical examiner's office.
- (5) The district medical examiner shall supervise the assistant district medical examiners and medical-legal death investigators in cooperation with the district attorney.
- (6) The district medical examiner shall regularly conduct administrative training programs for the assistant district medical examiners, medical-legal death investigators and law enforcement agencies. [1973 c.408 §9; 2013 c.366 §67; 2017 c.151 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.100 - Where death considered to have occurred; notification of death required.**

- (1) Death investigations shall be under the direction of the district medical examiner and the district attorney for the county where the death occurs.
- (2) For purposes of ORS 146.003 to 146.189, if the county where death occurs is unknown, the death shall be deemed to have occurred in the county where the body is found, except that if in an emergency the body is moved by conveyance to another county and is dead on arrival, the death shall be deemed to have occurred in the county from which the body was originally removed.
- (3) The district medical examiner or an assistant district medical examiner for the county where death occurs shall be immediately notified of:

- (a) All deaths requiring investigation; and
- (b) All deaths of persons admitted to a hospital or institution for less than 24 hours, although the medical examiner need not investigate nor certify such deaths.
- (4) No person having knowledge of a death requiring investigation shall intentionally or knowingly fail to make notification thereof as required by subsection (3) of this section.
- (5) The district medical examiner or medical-legal death investigator shall immediately notify the district attorney for the county where death occurs of all deaths requiring investigation except for those specified by ORS 146.090 (1)(d) to (g).
- (6) All peace officers, health care providers as defined in ORS 192.556, supervisors of penal institutions, supervisors of youth correction facilities, juvenile community supervision officers as defined in ORS 420.905, and supervisors of hospitals or institutions caring for the ill or helpless shall cooperate with the medical examiner or medical-legal death investigator by providing a decedent's medical records and tissue samples and any other material necessary to conduct the death investigation of the decedent and shall make notification of deaths as required by subsection (3) of this section. A person who cooperates with the medical examiner or medical-legal death investigator in accordance with this subsection does not:
  - (a) Waive any claim of privilege applicable to, or the confidentiality of, the materials and records provided.
  - (b) Waive any claim that the materials and records are subject to an exemption from disclosure under ORS 192.311 to 192.478.
  - (c) Violate the restrictions on disclosing or providing copies of reports and other materials in ORS 419A.257.
- (7) Records or materials described in subsection (6) of this section may be released by the medical examiner or medical-legal death investigator only pursuant to a valid court order.
- (8)(a) If a death is suspected to be suicide and the decedent was 24 years of age or younger, the district medical examiner or medical-legal death investigator shall notify the local mental health authority in the county where the death occurred and, if the decedent was a member of a federally recognized Indian tribe in Oregon, shall also notify the tribe's mental health authority.
- (b) For the purposes of this subsection, the manner of death is suspected to be suicide if the district medical examiner, the assistant district medical examiner, a pathologist authorized under ORS 146.045 (2)(b) or a designee of the district medical examiner, including a medical-legal death investigator, confirms orally or in writing that the district medical examiner, assistant district medical examiner, pathologist or designee of the district medical examiner reasonably believes that the manner of death was suicide.
- (c) The notification under this subsection must include the decedent's name, date of birth, date of death, suspected manner of death and cause of death.
- (d) The notification under this subsection may include any other information that the district medical examiner or medical-legal death investigator determines is necessary to preserve the public health and that is not otherwise protected from public disclosure by state or federal law, including information regarding the decedent's school attended and extracurricular activities.
- (e) The district medical examiner or medical-legal death investigator must provide the notification under this subsection no later than:
  - (A) 48 hours after receiving notification of the death if the county where the death occurred has a population of 400,000 or more; or
  - (B) 72 hours after receiving notification of the death if the county where the death occurred has a population of fewer than 400,000.
- (9)(a) If a death is suspected to be the result of an opioid overdose or other overdose and the decedent was 24 years of age or younger, the district medical examiner or medical-legal death investigator shall notify the local mental health authority in the county where the death occurred and, if the decedent was a member of a federally recognized Indian tribe in Oregon, shall also notify the tribe's mental health authority.
- (b) For purposes of this subsection, the cause of death is suspected to be the result of an opioid overdose or other overdose if the district medical examiner, the assistant district medical examiner, a pathologist authorized under ORS 146.045 (2)(b) or a designee of the district medical examiner, including a medical-legal death investigator, confirms orally or in writing that the district medical examiner, assistant district medical examiner, pathologist or designee of the district medical examiner reasonably believes that the cause of death was the result of an opioid overdose or other overdose.
- (c) The notification under this subsection must include the decedent's name, date of birth, date of death, suspected manner of death and cause of death. The notification may include the information described in subsection (8)(d) of this section and be provided as required under subsection (8)(e) of this section.
- (10) As used in this section:
  - (a) "Local mental health authority" has the meaning given that term in ORS 430.630.
  - (b) "Opioid" means a natural, synthetic or semisynthetic chemical that interacts with opioid receptors on nerve cells in the body and brain to reduce the intensity of pain signals and feelings of pain.
  - (c) "Opioid overdose" means a medical condition that causes depressed consciousness, depressed respiratory function or the impairment of vital bodily functions as a result of ingesting opioids. [1973 c.408 §13; 1985 c.207 §22; 1995 c.744 §14; 2009 c.222 §1; 2017 c.151 §14; 2021 c.185 §1; 2021 c.321 §1; 2023 c.593 §21]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.102 - Guidance concerning overdose death communication; notification.**

- (1) As used in this section:
  - (a) "Cause of death" has the meaning given that term in ORS 146.003.
  - (b) "Local mental health authority" has the meaning given that term in ORS 430.630.

- (c) "Manner of death" has the meaning given that term in ORS 146.003.
- (d) "Opioid" means a natural, synthetic or semisynthetic chemical that interacts with opioid receptors on nerve cells in the body and brain to reduce the intensity of pain signals and feelings of pain.
- (e) "Opioid overdose" means a medical condition that causes depressed consciousness, depressed respiratory function or the impairment of vital bodily functions as a result of ingesting opioids.
- (f) "Third-party notification" means notification from a source other than a patient in a program administered by a local mental health authority during the patient's treatment.
- (g) "Urban Indian health program" means an urban Indian health program in this state that is operated by an urban Indian organization pursuant to 25 U.S.C. 1651 et seq.
- (2)(a) The Oregon Health Authority shall provide guidance for communication among local mental health authorities to improve notifications and information sharing when an individual who is 24 years of age or younger dies and the presumed cause of death is suspected to be the result of an opioid overdose or other overdose. The guidance may address community opioid overdose and other overdose response and efforts to address the potential of future related deaths. The Oregon Health Authority may collaborate with the following entities in providing the guidance described in this subsection:
- (A) Local mental health authorities;
  - (B) The nine federally recognized Indian tribes in this state;
  - (C) County juvenile departments;
  - (D) Community-based substance use disorder treatment programs;
  - (E) Urban Indian health programs;
  - (F) The Oregon Youth Authority;
  - (G) The Department of Human Services;
  - (H) Community developmental disabilities programs; and
  - (I) Any other organization identified by the Oregon Health Authority or a local mental health authority as necessary to preserve the public health.
- (b) The Oregon Health Authority may develop post-intervention guidance to enable local mental health authorities to deploy uniform and effective post-intervention efforts. In developing the guidance, the authority may consult with the entities described in paragraph (a) of this subsection.
- (3) No later than 72 hours after receiving a third-party notification, including notice under ORS 146.100, of the death of an individual described in subsection (2)(a) of this section, if the decedent was not domiciled in the county where the death occurred, the local mental health authority shall provide notice of the death to the local mental health authority in the county where the decedent was domiciled.
- (4) The local mental health authority in the county where an individual described in subsection (2)(a) of this section was domiciled may notify the local mental health authority in any other county in which the decedent had significant contacts, as described by the Oregon Health Authority by rule.
- (5) After receiving notice of the death of an individual described in subsection (2)(a) of this section, each local mental health authority in a county in which the decedent had significant contacts may inform the Oregon Health Authority, in a manner and format determined by the authority, of activities implemented to support individuals and any local entities affected by the death and to prevent the risk of future related deaths. The Oregon Health Authority may serve as a resource to the local mental health authorities as needed by the community.
- (6) In compliance with any state or federal laws regulating public disclosure of such information, the notification described in subsections (3) and (4) of this section must contain the following information regarding the decedent to enable the local mental health authorities described in subsections (3) and (4) of this section to deploy effective post-intervention efforts:
- (a) The name of the decedent;
  - (b) The dates of birth and death of the decedent;
  - (c) The suspected manner of death;
  - (d) The suspected cause of death; and
  - (e) Any other information that the local mental health authority determines necessary to preserve the public health. [2023 c.593 §20]
- Note:

146.102 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 146 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.103 - Removal of body, effects or weapons prohibited without consent.**

- (1) In a death requiring an investigation, no person shall move a human body or body suspected of being human, or remove any of the effects of the deceased or instruments or weapons related to the death without the permission of a medical examiner, medical-legal death investigator or the district attorney.
- (2) No person shall move or remove any of the items specified in subsection (1) of this section if the medical examiner or district attorney objects.
- (3) A medical examiner, district attorney or medical-legal death investigator shall take custody of or exercise control over the body,

the effects of the deceased and any weapons, instruments, vehicles, buildings or premises which the medical examiner, district attorney or medical-legal death investigator has reason to believe were involved in the death, in order to preserve evidence relating to the cause and manner of death.

(4) In a death requiring investigation, no person shall undress, embalm, cleanse the surface of the body or otherwise alter the appearance or the state of the body without the permission of the medical examiner or the district attorney. [1973 c.408 §14; 2017 c.151 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.107 - Authority to enter and secure certain premises; court order.**

(1) A medical examiner, medical-legal death investigator or district attorney may enter any room, dwelling, building or other place in which the medical examiner, medical-legal death investigator or district attorney has reasonable cause to believe that a body or evidence of the circumstances of death requiring investigation may be found.

(2) If refused entry, the medical examiner, medical-legal death investigator or district attorney may apply to any judge authorized to issue search warrants for an order to enter such premises, search for and seize a body or any evidence of the cause or manner of death.

(3) Upon application supported by an affidavit setting forth facts and circumstances tending to show that a body or such evidence of death is in the place to be searched, the judge shall issue such order to enter and search and seize.

(4) To preserve evidence, a medical examiner, medical-legal death investigator or district attorney may:

(a) Place under the custody or control of the medical examiner, medical-legal death investigator or district attorney, or enclose or lock any room, dwelling, building or other enclosure for a period of not more than five days.

(b) Rope off or otherwise restrict entry to any open area.

(c) Forbid the entrance of any unauthorized person into the area specified under paragraphs (a) and (b) of this subsection.

(5) No person shall enter upon the enclosures or areas specified in subsection (4) of this section without the permission of the medical examiner, medical-legal death investigator or district attorney. [1973 c.408 §15; 2017 c.151 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.109 - Notification of next of kin.**

(1) Upon identifying the body, the medical examiner shall immediately attempt to locate the next of kin or responsible friends to obtain the designation of a funeral home to which the deceased is to be taken.

(2) If unable to promptly obtain a designation of funeral home from the next of kin or responsible friends, the medical examiner or medical-legal death investigator shall designate the funeral home. In designating the funeral home, the medical examiner or medical-legal death investigator shall be fair and equitable among the funeral homes listed in the office of the district medical examiner. [1973 c.408 §16; 2017 c.151 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.113 - Authority to order removal of body fluids.**

(1) A medical examiner or district attorney may, in any death requiring investigation, order samples of blood or urine taken for laboratory analysis.

(2) When a death requiring an investigation as a result of a motor vehicle accident occurs within five hours after the accident and the deceased is over 13 years of age, a blood sample shall be taken and forwarded to an approved laboratory for analysis. Such blood or urine samples shall be analyzed for the presence and quantity of ethyl alcohol, and if considered necessary by the Chief Medical Examiner, the presence of any other intoxicants, as defined in ORS 801.321.

(3) Laboratory reports of the analysis shall be made a part of the Chief Medical Examiner's and district medical examiner's files. [1973 c.408 §17; 1979 c.744 §5; 2017 c.21 §41; 2017 c.151 §18; 2023 c.498 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.117 - Autopsies.**

(1) A medical examiner or district attorney may order an autopsy performed in any death requiring investigation. This authorization for an autopsy shall permit the pathologist to remove and retain body tissues or organs from the deceased for the purpose of the legal or medical determination of the manner or cause of death, or other purposes approved under policies established by the State Medical Examiner Advisory Board.

(2) If an autopsy is ordered, the medical examiner shall obtain the services of a pathologist authorized under ORS 146.045 (2)(b).

(3) A pathologist may not receive compensation for performing the autopsy if, as medical examiner, the pathologist ordered the autopsy. [1973 c.408 §18; 1987 c.142 §4; 1995 c.744 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.121 - Disposition of body; filing; expenses.**

(1) No person shall bury or otherwise dispose of the body of a person whose death required investigation, without having first

obtained a burial, cremation or reduction permit, or a report of death completed and signed by a medical examiner.

(2) When a medical examiner investigates the death of a person whose body is not claimed by a friend or relative within five days of the date of death, the sheriff or, in counties having a population of 400,000 or more, the medical examiner shall dispose of the body according to the provisions of ORS 97.170 to 97.210.

(3) If the medical examiner is unable to dispose of the body of a deceased person according to subsection (2) of this section, the medical examiner may order in writing that the body be either cremated, reduced or plainly and decently buried.

(4) The sheriff or medical examiner shall file a copy of the report of death, the order for disposition and a verified statement of the expenses of the cremation, reduction or burial with the board of county commissioners. The board of county commissioners shall pay such expenses, or any proportion thereof as may be available, from county funds annually budgeted for this purpose. [1973 c.408 §19; 1995 c.744 §16; 2013 c.366 §68; 2021 c.296 §25]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.125 - Disposition of personal property.**

(1) The medical examiner, medical-legal death investigator, district attorney or sheriff may temporarily retain possession of any property found on the body or in the possession of the deceased that in the opinion of the medical examiner, medical-legal death investigator, district attorney or sheriff may be useful in establishing the cause or manner of death or may be used in further proceedings.

(2) When a medical examiner, medical-legal death investigator, district attorney or sheriff assumes control or custody of money or personal property found on the body or in the possession of the deceased, the medical examiner, medical-legal death investigator, district attorney or sheriff shall:

(a) Make a verified inventory of such money or property.

(b) File the inventory in the district medical examiner's office.

(c) Deposit the money with the county treasurer to the credit of the county general fund.

(3) If personal property is not retained by the medical examiner, medical-legal death investigator, district attorney or sheriff, and is not claimed within 30 days, the inventory shall be filed with the board of county commissioners to be disposed of as follows:

(a) If the property has value, the board may order it sold and after deducting the cost of sale, shall deposit the proceeds of the sale with the county treasurer to the credit of the county general fund.

(b) If the property has no value in the judgment of the board, the board may order the sheriff to destroy such property.

(4) Any expenses incurred by the county in transporting or disposing of the body may be deducted from the money or proceeds of the sale of personal property before it is delivered to a claimant.

(5) If it appears that the person whose death required investigation died wholly intestate and without heirs, the county whose official has control or custody of the property shall notify an estate administrator of the State Treasurer appointed under ORS 113.235 within 15 days after the death.

(6) If a legally qualified personal representative, spouse, next of kin or estate administrator of the State Treasurer:

(a) Claims the money of the deceased, the county treasurer shall, subject to the provisions of subsection (4) of this section, deliver such money to the claimant.

(b) Within 30 days, claims the personal property of the deceased, the property shall be delivered to such claimant subject to the provisions of subsections (1) and (5) of this section.

(7) If money of the deceased is not claimed within seven years, the money is presumed abandoned as provided by ORS 98.302 to 98.436 and 98.992 and the board of county commissioners shall order the county treasurer to deliver and report the money to the State Treasurer as required by ORS 98.352. [1973 c.408 §20; 1977 c.582 §5; 2003 c.395 §19; 2017 c.151 §19; 2019 c.678 §55]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.135 - Authority to order inquest.**

(1) The district attorney for the county where the death occurs may order an inquest to obtain a jury finding of the cause and manner of death in any case requiring investigation.

(2) For the purpose of conducting an inquest, the district attorney shall have the powers of a judicial officer as described by ORS 1.240 and 1.250.

(3) The district attorney shall advise the jury of inquest as to its duties and instruct the jury on questions of law.

(4) The district attorney shall cause a record of the inquest proceedings to be made which shall include the written order of inquest, a record of the testimony of witnesses and the written verdict of the jury.

(5) Within a reasonable time after the verdict is returned, the record of inquest shall be filed in the district medical examiner's office for the county where the inquest was held.

(6) A copy of the order of inquest and verdict of the jury shall be filed in the Office of the Chief Medical Examiner.

(7) The record of inquest shall be available for inspection as provided by ORS 146.035 (5). [1973 c.408 §21; 1987 c.142 §3; 2017 c.151 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.145 - Jury of inquest.**

- (1) The district attorney shall order the inquest to be held at a specified time and place and as provided in ORS 10.810 and 10.820 shall summon a jury of inquest to inquire into the cause and manner of death.
- (2) Upon receipt of a copy of the order of inquest, the sheriff shall select, as provided by law, not less than eight prospective members of the jury of inquest.
- (3) The sheriff shall obtain a summons for each prospective juror selected and cause the summons to be served upon such juror.
- (4) At the time and place of the inquest the sheriff shall report to the district attorney the names of all prospective jurors summoned.
- (5) A prospective juror may be excused by the district attorney if the juror was related or closely associated with the deceased, was a witness to the death or shows good cause that the juror may be biased.
- (6) From among the prospective jurors not excused, six members of the jury of inquest shall be drawn by lot. [1973 c.408 §22]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.155 - Inquest proceedings.**

- (1) The six members of the jury of inquest shall be sworn by the district attorney to:
  - (a) Inquire into who the deceased person was, when and where the deceased person came to death, the cause of death and the manner of death.
  - (b) Give a true verdict thereof according to the evidence produced during the inquest.
- (2) The district attorney shall subpoena as a witness any person who the district attorney believes has knowledge of facts relevant and material to the inquiry. The jury of inquest may request but may not require that other persons be subpoenaed.
- (3) The district attorney shall examine each witness as to all facts which the district attorney deems relevant and material to the inquiry. After examination by the district attorney, the members of the jury may inquire of the witness provided that their examination is relevant and material.
- (4) When the examination of witnesses is closed, the district attorney shall advise the jury as to their duty under law, and as to questions of law arising from the facts or posed by the jury.
- (5) After having been advised of law, the jury shall retire to deliberate and to arrive at its verdict.
- (6) The verdict shall be delivered to the district attorney. [1973 c.408 §23]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.165 - Verdict; findings; testimony and verdict of inquest as admissible evidence in subsequent proceedings.**

- (1) The jury shall give its verdict in writing, signed by its members, setting forth its findings from the evidence produced:
  - (a) Who the deceased person was;
  - (b) When and where the deceased person came to death;
  - (c) The cause of death; and
  - (d) The manner of death.
- (2) The verdict of a jury of inquest shall not preclude nor require a criminal charge by the grand jury or district attorney.
- (3) The testimony of any witness before a jury of inquest shall not be admissible evidence in any civil or criminal proceeding except:
  - (a) A criminal trial in which the witness is charged with perjury or false swearing arising from the testimony given before the jury of inquest.
  - (b) A civil or criminal trial in which the testimony before the jury of inquest is offered as a prior inconsistent statement to impeach the same witness.
- (4) The verdict of a jury of inquest shall not be admitted into evidence in any trial. [1973 c.408 §24]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.171 - Unidentified human remains; maintenance of records.**

- (1) The Superintendent of State Police shall establish and maintain a file of records relating to unidentified human remains found within the state and of which the Oregon State Police are notified under ORS 146.174. The records shall be maintained in order to facilitate the identification of such remains.
- (2) The Superintendent of State Police shall establish the file described under subsection (1) of this section after consultation with the Chief Medical Examiner to determine what areas of information generally shall be requested, obtained and preserved in the file. General areas of information determined under this section shall be for the purpose of developing file format and standard forms for collecting data to aid in identifying human remains. Information having potential value in identifying human remains shall not be excluded from a file because it does not fall within a general area of information determined under this section or is not required by federal authorities.
- (3) In addition to any other file it maintains, the Department of State Police shall enter appropriate information relating to unidentified human remains into any file maintained by federal authorities to facilitate the identification of such remains. The department shall conform file entries under this subsection to the format prescribed by the authorities responsible for the federal file. [Formerly 146.505; 2017 c.151 §21]



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.174 - Medical examiner to provide information about unidentified human remains; identification.**

(1) If a medical examiner is unable to determine the identity of human remains, the medical examiner shall, not later than 30 days after such remains are brought to the medical examiner's attention, notify and provide to the Superintendent of State Police or the superintendent's designee all information in the medical examiner's records concerning the remains.

(2) The medical examiner shall make reasonable attempts to promptly identify human remains and may consider procedures consistent with current forensic autopsy performance standards of the National Association of Medical Examiners. Reasonable attempts to identify human remains include, but are not limited to, obtaining:

- (a) Photographs of the remains prior to an autopsy;
- (b) Dental or skeletal X-rays of the remains;
- (c) Photographs of items found with the remains;
- (d) Fingerprints of the remains; and
- (e) Samples of tissue, bone or hair from the remains that are suitable for DNA (deoxyribonucleic acid) analysis.

(3) The medical examiner may not dispose of unidentified human remains, or take any action that materially affects the unidentified human remains, before the medical examiner completes the steps described in subsection (2) of this section. [Formerly 146.515]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.177 - Procedures for investigating missing persons.**

Written policies adopted by Oregon law enforcement agencies regarding missing persons shall specify the procedures for investigating missing persons in order to ensure that reported missing persons cases, particularly those involving minor children, are investigated as soon as possible, utilizing all available resources. In adopting policies under this section, Oregon law enforcement agencies may consider standards set by the Oregon Accreditation Alliance and adopt policies consistent with Oregon Accreditation Alliance standards. Policies adopted under this section should include the following:

- (1) Requirements for accepting missing persons reports;
- (2) Procedures for initial investigations;
- (3) Responsibility for follow-up investigations;
- (4) Standards for maintaining and clearing computer data of missing persons information stored in the Law Enforcement Data System and the National Crime Information Center; and
- (5) Initiation and activation criteria for Amber Plan alerts under ORS 181A.315. [2007 c.500 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.181 - Missing persons; police report; supplementary report.**

(1) When a person is reported as missing to any city, county or state police agency, the agency, within 12 hours thereafter, shall enter into state and federal records maintained for that purpose, a report of the missing person in a format and according to procedures established by the authorities responsible respectively for the state and federal records.

(2) The law enforcement agency to which the report is made:

(a) May request from the person making the report information or material likely to be useful in identifying the missing person or the human remains of the missing person, including, but not limited to:

- (A) The name of the missing person and any alternative names the person uses;
- (B) The date of birth of the missing person;
- (C) A physical description of the missing person, including the height, weight, gender, race, eye color, current hair color and natural hair color of the missing person, any identifying marks on the missing person, any prosthetics used by, or surgical implants in, the missing person and any physical anomalies of the missing person;
- (D) The blood type of the missing person;
- (E) The driver license number of the missing person;
- (F) The Social Security number of the missing person;
- (G) A recent photograph of the missing person;
- (H) A description of the clothing the missing person is believed to have been wearing at the time the person disappeared;
- (I) A description of items that the missing person is believed to have had with the person at the time the person disappeared;
- (J) Telephone numbers and electronic mail addresses of the missing person;
- (K) The name and address of any school the missing person attends;
- (L) The name and address of any employer of the missing person;
- (M) The name and address of the physician, physician assistant, naturopathic physician, nurse practitioner or dentist who provides health care services to the missing person;
- (N) A description of any vehicle that the missing person might have been driving or riding in when the person disappeared;
- (O) The reasons why the person making the missing person report believes the person is missing;
- (P) Any circumstances that indicate that the missing person may be at risk of injury or death;

- (Q) Any circumstances that may indicate that the disappearance is not voluntary;
- (R) Information about a known or possible abductor or a person who was last seen with the missing person; and
- (S) The date of the last contact with the missing person.
- (b) May request in writing from any dentist, denturist, physician, physician assistant, naturopathic physician, nurse practitioner, optometrist or other medical practitioner possessing it such medical, dental or other physically descriptive information as is likely to be useful in identifying the missing person or the human remains of the missing person.
- (3) The law enforcement agency, upon obtaining information pursuant to subsection (2) of this section, shall make a supplementary entry of that information into the state and federal records described in subsection (1) of this section. The supplementary report shall be in a format and according to procedures established by the authorities responsible respectively for the state and federal records. [Formerly 146.525; 2014 c.45 §25; 2017 c.356 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.184 - Medical practitioners to provide information about missing persons.**

- (1) A dentist, denturist, physician, naturopathic physician, optometrist or other medical practitioner, upon receipt of a written request from a law enforcement agency for identifying information pursuant to ORS 146.181, shall provide to the agency any information known to the practitioner upon the request forms provided by the agency.
- (2) Information obtained under this section is restricted to use for the identification of missing persons or the identification of unidentified human remains and may not be made available to the public.
- (3) Compliance with a written request for information under this section by a dentist, denturist, physician, naturopathic physician, optometrist or other medical practitioner does not constitute a breach of confidentiality. [Formerly 146.535; 2017 c.356 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.187 - DNA sample.**

- (1) If a person who has been reported as missing has not been located within 30 days after the missing person report is made, the law enforcement agency that accepted the missing persons report shall attempt to obtain a DNA sample from the missing person or from family members of the missing person in addition to any documentation necessary to enable the agency to use the samples in conducting searches of DNA databases.
- (2) A law enforcement agency shall forward a DNA sample obtained for use in a missing persons case as directed by the Department of State Police.
- (3) A person, or the executor of the person's estate, who was a missing person and who had a DNA sample obtained for use in the person's case may request the destruction of the DNA sample, and any resultant database entries, when the missing person has been located or identified. The request shall be made in writing to the department. The department, upon confirming that the status of the missing person has been resolved, shall destroy the DNA sample and remove any database entries related to the DNA sample.
- (4) As used in this section, "DNA" means deoxyribonucleic acid. [2007 c.500 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.189 - Use of records to identify human remains and missing persons; disposition of records.**

- (1) If the Superintendent of State Police is notified that a record of unidentified human remains filed by the Department of State Police under ORS 146.171 corresponds with the record of a person reported as missing, the superintendent shall immediately notify the medical examiner who reported the unidentified human remains and the law enforcement agency that filed the missing person report under ORS 146.181. If the medical examiner identifies the remains, the medical examiner shall immediately notify the superintendent and the superintendent shall cancel the report of unidentified human remains.
- (2) When a person reported as missing under ORS 146.181 is found, or when the remains of the person have been discovered and identified, the law enforcement agency to which the person was reported missing shall cancel the reports to state and federal authorities under ORS 146.181. The agency shall destroy all information and material received under ORS 146.181 relating to a missing person who is discovered to be living. In the case of a missing person found to be no longer living, the agency shall seal the information and material obtained under ORS 146.181, except as otherwise may be necessary to investigate or prosecute a criminal action relating to the person's disappearance or death. [Formerly 146.545]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.505**

[1983 c.390 §1; renumbered 146.171 in 2007]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.515**

[1983 c.390 §2; 2007 c.500 §5; renumbered 146.174 in 2007]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.525**

[1983 c.390 §3; 1989 c.1059 §3; 2007 c.500 §3; renumbered 146.181 in 2007]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.535**

[1983 c.390 §4; 2007 c.500 §6; renumbered 146.184 in 2007]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.545**

[1983 c.390 §5; 2007 c.500 §7; renumbered 146.189 in 2007]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.710 - Definition for ORS 146.710 to 146.780.**

As used in ORS 146.710 to 146.780, "injury" means:

- (1) A physical injury caused by a knife, gun, pistol or other dangerous or deadly weapon; or
- (2) A serious physical injury. [1963 c.621 §1; 1965 c.472 §1; 1967 c.545 §1; 1971 c.451 §9; 2007 c.294 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.730 - Investigation.**

A medical examiner or district attorney may investigate an injury whenever the injury occurred under suspicious or unknown circumstances. All authority granted to the medical examiner or district attorney by ORS 146.003 to 146.189 and 146.710 to 146.992 may be exercised in making such investigation. [1963 c.621 §2; 1965 c.221 §18; 1967 c.545 §§2,3; 1971 c.401 §7; 1971 c.451 §10; 1973 c.408 §26; 2007 c.294 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.740 - Reports of medical examiner.**

Whenever the medical examiner concludes that a crime may have been committed by any person in causing the injury, the medical examiner shall report the conclusion to the district attorney. [1963 c.621 §§5,6; 1965 c.221 §19; 1967 c.545 §§4,5; 1971 c.401 §8; 1971 c.451 §11; 1973 c.408 §27]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.750 - Injuries to be reported to law enforcement agency.**

- (1) Except as required in subsection (3) of this section, a physician, including an intern and resident, a physician assistant licensed under ORS 677.505 to 677.525, a naturopathic physician licensed under ORS chapter 685 or a registered nurse licensed under ORS chapter 678, who has reasonable cause to suspect that a person brought to the physician, physician assistant, naturopathic physician or registered nurse or coming before the physician, physician assistant, naturopathic physician or registered nurse for examination, care or treatment has had injury inflicted upon the person other than by accidental means, shall report or cause reports to be made in accordance with the provisions of subsection (2) of this section.
- (2) An oral report must be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing, to an appropriate law enforcement agency.
- (3) When an injury, or abuse as defined in ORS 419B.005, occurs to an unmarried person who is under 18 years of age, the provisions of ORS 419B.005 to 419B.050 apply. [1965 c.472 §§3,4; 1967 c.545 §6; 1971 c.401 §9; 1971 c.451 §12; 1973 c.408 §28; 1975 c.644 §1; 1993 c.546 §99; 2011 c.347 §1; 2014 c.45 §26; 2017 c.356 §18]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.760 - Immunity of participant in making of report.**

Anyone participating in good faith in the making of a report pursuant to ORS 146.750 and who has reasonable grounds for the making thereof shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of such report. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report. [1965 c.472 §5; 1971 c.451 §13; 1989 c.171 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.770**

[1965 c.472 §6; 1971 c.451 §14; renumbered 418.775]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.780 - Confidentiality of records and reports.**

Notwithstanding the provisions of ORS 192.311 to 192.478 relating to confidentiality and accessibility for public inspection of public records, records and reports made under the provisions of ORS 146.750 are confidential and are not accessible for public

inspection. [1965 c.472 §7; 1967 c.545 §7; 1971 c.401 §10; 1971 c.451 §15; 1973 c.408 §29; 1973 c.794 §15a]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.990**

[Subsection (1) enacted as 1959 c.629 §45; subsection (3) of 1963 Replacement Part enacted as 1963 c.621 §7; 1965 c.221 §20; 1965 c.472 §8; 1971 c.451 §16; repealed by 1973 c.408 §35]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 146 - Investigations of Deaths, Injuries and Missing Persons Section 146.992 - Penalties.**

- (1) A person who violates ORS 146.103 (1) commits a Class A misdemeanor.
- (2) A person who violates ORS 146.103 (2) or (4), 146.107 (5), or 146.121 (1) commits a Class B misdemeanor.
- (3) A person who violates ORS 146.100 (4) commits a Class C misdemeanor. [1973 c.408 §25]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.005 - Definitions.**

As used in ORS 147.005 to 147.367 unless the context requires otherwise:

- (1) "Applicant" means:
  - (a) Any victim of a compensable crime who applies to the Department of Justice for compensation under ORS 147.005 to 147.367;
  - (b) Any person who was a dependent of a deceased victim at the time of the death of that victim;
  - (c) Any person who is a survivor of a deceased victim; or
  - (d) Any person eligible for compensation under ORS 147.025.
- (2) "Board" means the Workers' Compensation Board.
- (3) "Child" means an unmarried person who is under 18 years of age and includes a posthumous child, stepchild or an adopted child.
- (4) "Cleaning expenses" means expenses reasonably related to the cleaning of, and the removal of any organic or inorganic matter from, a private residence or place of business due to physical injury to or the death of a person, or conduct that caused physical injury to or the death of a person.
- (5) "Compensable crime" means abuse of corpse in any degree or an intentional, knowing, reckless or criminally negligent act that results in injury or death of another person and that, if committed by a person of full legal capacity, would be punishable as a crime in this state.
- (6) "Counseling" has the meaning given that term by the department by rule.
- (7) "Dependent" means such relatives of a deceased victim who wholly or partially were dependent upon the victim's income at the time of death or would have been so dependent but for the victim's incapacity due to the injury from which the death resulted.
- (8) "Department" means the Department of Justice.
- (9) "Funeral expenses" means expenses of the funeral, burial, cremation, reduction or other chosen method of interment, including plot or tomb and other necessary incidents to the disposition of the remains and also including, in the case of abuse of corpse in any degree, reinterment.
- (10) "Injury" means abuse of a corpse, actual bodily harm, mental or emotional harm and, with respect to a victim, includes pregnancy and mental or nervous shock.
- (11) "International terrorism" means activities that:
  - (a) Involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or any state or that would be a criminal violation if committed within the jurisdiction of the United States or of any state;
  - (b) Appear to be intended to:
    - (A) Intimidate or coerce a civilian population;
    - (B) Influence the policy of a government by intimidation or coercion; or
    - (C) Affect the conduct of a government by assassination or kidnapping; and
  - (c) Occur primarily outside the territorial jurisdiction of the United States or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.
- (12) "Involved in the hearing" and "involved in the oral argument" have the meaning given those terms by the department by rule.
- (13) "Law enforcement official" means a sheriff, constable, marshal, municipal police officer, police officer commissioned by a university under ORS 352.121 or 353.125 or member of the Oregon State Police and such other persons as may be designated by law as a peace officer.
- (14) "Reduction" has the meaning given that term in ORS 97.010.
- (15) "Relative" means a person related to the victim within the third degree as determined by the common law, a spouse, or an individual related to the spouse within the third degree as so determined and includes an individual in an adoptive relationship.
- (16) "Survivor" means any spouse, parent, grandparent, guardian, sibling, child or other immediate family member or household member of a deceased victim, or a person to whom a deceased victim was engaged to be married when the compensable crime occurred.
- (17) "Victim" means:

(a) A person:

- (A) Killed or injured in this state as a result of a compensable crime perpetrated or attempted against that person;
  - (B) Killed or injured in this state while attempting to assist a person against whom a compensable crime is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable person under the circumstances;
  - (C) Killed or injured in this state while assisting a law enforcement official to apprehend a person who has perpetrated a crime or to prevent the perpetration of any such crime, if that assistance was in response to the express request of the law enforcement official;
  - (D) Killed or injured in another state as a result of a criminal episode that began in this state;
  - (E) Who is an Oregon resident killed or injured as a result of a compensable crime perpetrated or attempted against the person in a state, within the United States, without a reciprocal crime victims' compensation program; or
  - (F) Who is an Oregon resident killed or injured by an act of international terrorism committed outside the United States; or
- (b) In the case of abuse of corpse in any degree, the corpse or a relative of the corpse. [1977 c.376 §1; 1985 c.552 §4; 1987 c.770 §1; 1989 c.542 §1; 1993 c.294 §7; 1997 c.289 §1; 2003 c.351 §1; 2011 c.125 §5; 2013 c.720 §8; 2021 c.296 §26; 2023 c.318 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.010**

[Amended by 1973 c.32 §1; renumbered 133.743]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.015 - Eligibility for compensation generally; rules.**

(1) A person is eligible for an award of compensation under ORS 147.005 to 147.367 if:

- (a) The person is a victim, or is a survivor or dependent of a deceased victim, of a compensable crime that has resulted in or may result in a compensable loss;
  - (b) The appropriate law enforcement officials were notified of the perpetration of the crime allegedly causing the death or injury to the victim, unless the Department of Justice finds that, notwithstanding the failure of notification, the applicant acted reasonably under the circumstances;
  - (c) The application for compensation is not the result of collusion between the applicant and the assailant of the victim;
  - (d) The department determines that the victim acted reasonably with respect to the incident causing the death or injury to the victim, taking into account the specific situation of the victim and what a reasonable action would be for a person in the victim's circumstances; and
  - (e) The application for an award of compensation under ORS 147.005 to 147.367 is filed with the department:
    - (A) Within one year of the date of the injury to the victim; or
    - (B) Within such further extension of time as the department, for good cause shown, allows.
- (2) The requirement under subsection (1)(b) of this section to notify the appropriate law enforcement officials of the perpetration of the crime is satisfied if:
- (a) As a result of the compensable crime for which the victim or applicant is applying for compensation, the victim or applicant obtained:
    - (A) A temporary or permanent stalking protective order under ORS 30.866 or 163.730 to 163.750;
    - (B) A sexual abuse restraining order under ORS 163.760 to 163.777;
    - (C) An abuse prevention order under ORS 107.700 to 107.735 or 124.005 to 124.040;
    - (D) Any other abuse prevention order or no contact order issued by a state, local, tribal or federal court; or
    - (E) A medical assessment, as defined in ORS 147.395, for sexual assault, or any other forensic exam or medical assessment;
  - (b) A health provider, tribal health provider, student health provider or community mental health provider certifies that the victim reported the crime to the provider; or
  - (c) The victim provides to the department documentation that qualifies as law enforcement notification under the rules of the department.
- (3) The department shall adopt rules establishing:
- (a) A limited counseling award for victims who apply for an award of compensation but who do not otherwise qualify under the eligibility requirements of this section.
  - (b) The types of documentation that qualify as notification to the appropriate law enforcement officials of the perpetration of the crime as described in subsection (2)(c) of this section. [1977 c.376 §3; 1987 c.770 §2; 1989 c.542 §2; 1991 c.862 §2; 1997 c.288 §1; 2011 c.125 §3; 2013 c.720 §9; 2017 c.108 §1; 2023 c.318 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.020**

[Renumbered 133.747]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.025 - Eligibility of person not victim or survivor or dependent of deceased victim.**

(1) Notwithstanding that a person is not a victim or a dependent of a deceased victim under ORS 147.015 (1)(a), the person is eligible for compensation for reasonable medical expenses for the victim and for reasonable funeral expenses of the deceased victim if the person:

(a) Paid or incurred such expenses; and

(b) Files a claim in the manner provided in ORS 147.105 and the conditions in ORS 147.015 (1)(b) to (e) are met.

(2) Notwithstanding that a person is not a survivor or dependent of a deceased victim under ORS 147.015 (1)(a), the person is eligible for compensation for reasonable counseling expenses up to a maximum amount of \$5,000 if the person:

(a) Paid or incurred such expenses;

(b)(A) Was the first person to discover the corpse of the victim; or

(B) Was a witness to the crime resulting in the death of a victim; and

(c) Files a claim in the manner provided in ORS 147.105 and the conditions in ORS 147.015 (1)(b) to (e) are met.

(3) Notwithstanding that a person is not a victim or a survivor or dependent of a deceased victim under ORS 147.015 (1)(a), the person is eligible for the compensation described in ORS 147.035 (7) if:

(a) The person is the personal representative, as defined by the Department of Justice by rule, of a victim or of a survivor or dependent of a deceased victim;

(b) The person is involved in the proceeding in lieu of the victim, survivor or dependent; and

(c) The person files a claim in the manner provided in ORS 147.105 and the conditions in ORS 147.015 (1)(b) to (e) are met.

(4) The Department of Justice may pay directly to the provider of the services compensation for medical, funeral or counseling expenses incurred by the person. [1977 c.376 §4; 1987 c.770 §3; 2003 c.353 §1; 2011 c.125 §4; 2013 c.720 §15; 2017 c.108 §7; 2023 c.318 §3]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.030**

[Renumbered 133.753]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.035 - Compensable losses; expiration of claim; rules.**

(1)(a) Except as otherwise provided in ORS 147.025 and 147.390, compensation may be awarded under ORS 147.005 to 147.367 only for losses described in this section.

(b) The maximum amount of compensation that may be awarded, in aggregate, to the victim and the survivors and dependents of a deceased victim is \$47,000.

(c) When a compensable crime results in:

(A) Injury to a victim, the losses described in subsections (2), (4) and (7) of this section are compensable.

(B) Death to a victim, the losses described in subsections (3), (4), (6) and (7) of this section are compensable.

(2) When a claim for compensation is filed in a case of injury, compensation may be awarded for:

(a) The victim's reasonable medical and hospital expenses, including counseling expenses and the cost of any medications, up to a maximum amount of \$20,000;

(b) Loss of the victim's earnings, at a maximum rate of \$600 per week, up to a maximum amount of \$20,000;

(c) The victim's rehabilitation expenses, up to a maximum amount of \$4,000;

(d) Reasonable cleaning expenses, up to a maximum of \$2,500;

(e) The costs of obtaining forensic evidence, using an evidence collection kit, during a medical assessment related to strangulation;

(f) For a parent or legal guardian of a minor victim, lost wages due to providing care for the victim, within the terms and up to a maximum amount determined by the department by rule; and

(g) Expenses related to transportation for the victim's medical care or counseling, at a rate determined by the Department of Justice, up to a maximum amount of \$3,000, when:

(A) The medical care or counseling is compensable under this section;

(B) The medical care or counseling is provided more than 30 miles away from the victim's residence; and

(C) Adequate medical care or counseling is not available in closer proximity to the victim's residence.

(3) When a claim for compensation is filed in a case of death, compensation may be awarded for:

(a) Reasonable funeral expenses, up to a maximum amount of \$5,000, with an additional amount awarded at the discretion of the department;

(b) Reasonable cleaning expenses, up to a maximum of \$2,500;

(c) The victim's reasonable medical and hospital expenses, up to a maximum amount of \$20,000;

(d) Loss of support to the dependents of the victim, at a maximum rate of \$800 per week, up to a maximum amount of \$20,000, less any amounts awarded for loss of earnings under subsection (2)(b) of this section;

(e) Reasonable counseling expenses for the survivors of a deceased victim or witnesses to the crime resulting in the death of the victim, up to a maximum amount of \$20,000 for each deceased victim and including the cost of any prescription medications prescribed in conjunction with the counseling; and

(f) Expenses related to transportation for a survivor's or a dependent's counseling, at a rate determined by the department, up to a

maximum amount of \$3,000, when:

- (A) The counseling is compensable under this section;
  - (B) The counseling is provided more than 30 miles away from the survivor's or dependent's residence; and
  - (C) Adequate counseling is not available in closer proximity to the survivor's or dependent's residence.
- (4) When a claim for compensation is filed in a case of:
- (a) Abuse as defined in ORS 419B.005, counseling expenses of the victim's family, including the cost of any prescription medications prescribed in conjunction with the counseling, are compensable up to a maximum amount of \$20,000, less any amounts awarded for the victim's medical or hospital expenses under subsection (2)(a) of this section.
  - (b) Domestic violence as defined in ORS 135.230, the counseling expenses of children who witnessed the domestic violence, including the cost of any prescription medications prescribed in conjunction with the counseling, are compensable up to a maximum amount of \$10,000.
  - (c) International terrorism, the counseling expenses of a relative of the victim, including the cost of any prescription medications prescribed in conjunction with the counseling, are compensable up to a maximum amount of \$1,000.
- (5) Compensation may not be awarded under ORS 147.005 to 147.367 for property damage or noneconomic damages as defined in ORS 31.705.
- (6) Notwithstanding subsections (2) to (5) of this section, when a claim for compensation is filed in a case of abuse of corpse in the first degree as defined in ORS 166.087 or abuse of corpse in the second degree as defined in ORS 166.085, compensation may be awarded for one or both of the following:
- (a) Reasonable funeral expenses, up to a maximum amount of \$5,000, with an additional amount awarded at the discretion of the department.
  - (b) Reasonable counseling expenses for emotional distress, including the cost of any prescription medications prescribed in conjunction with the counseling, up to a maximum amount of \$5,000 for each incident.
- (7) If the case against the assailant of the victim is under direct or collateral review or the subject of any other post-conviction proceeding, or the assailant of the victim has a hearing scheduled before the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board or has applied for or is being considered for clemency or any other relief, compensation may be awarded for:
- (a) The victim's, survivor's or dependent's counseling expenses, including the cost of any prescription medications prescribed in conjunction with the counseling, up to a maximum amount of \$10,000; and
  - (b) Other expenses related to the proceeding, including transportation, lodging and any other expenses determined by the department by rule that are necessary for the victim, survivor or dependent to be involved in the proceeding, up to a maximum amount determined by the department by rule.
- (8) A claim for compensation expires and no further payments may be made with regard to the claim:
- (a) When three years have elapsed from the entry of a determination order under ORS 147.135; or
  - (b) If the victim, survivor or dependent attains 21 years of age after the date described in paragraph (a) of this subsection, when the victim, survivor or dependent attains 21 years of age.
- (9) Notwithstanding subsection (8) of this section:
- (a) In cases of homicide, a claim for reasonable counseling expenses for survivors may continue until five years have elapsed from the date of the determination order.
  - (b) Claims described in subsection (7) of this section may be filed at any time while an assailant's case is involved in the post-conviction proceeding or the assailant has a hearing scheduled or is being considered for release or clemency and do not expire.
- (10) Notwithstanding subsections (2) and (8) of this section, if a victim suffers catastrophic injuries:
- (a) A claim for compensation and payments may continue beyond the period described in subsection (8) of this section; and
  - (b) The department may award compensation for losses in excess of the individual limitations described in subsection (2) of this section, provided that the aggregate award does not exceed the amount described in subsection (1)(b) of this section.
- (11) The department shall adopt rules:
- (a) Defining the terms and maximum amount of compensation available under subsection (2)(f) of this section.
  - (b) Defining the types of compensable expenses and maximum amount of compensation available under subsection (7)(b) of this section.
  - (c) Defining catastrophic injuries and establishing the length of time that a claim for compensation and payments may continue under subsection (10)(a) of this section.
  - (d) For medical fee schedules. The schedules shall represent at least the 75th percentile of the usual and customary fees charged to the public as determined by the department. An applicant or victim may not be charged for the percentile amount reduced by the department. [1977 c.376 §5; 1987 c.770 §4; 1989 c.542 §3; 1991 c.603 §2; 1991 c.862 §3; 1993 c.294 §8; 1993 c.546 §100; 1993 c.622 §3; 1997 c.549 §1; 1997 c.723 §1; 1997 c.749 §2; 1997 c.873 §31; 1999 c.922 §1; 2001 c.383 §1; 2003 c.349 §1; 2009 c.272 §1; 2011 c.125 §1; 2017 c.108 §2; 2023 c.318 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.050**

[Renumbered 133.763]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.055 - Emergency awards; amount; effect on final award.**

(1) The Department of Justice may make an emergency award to the applicant pending a final decision in the claim, if it appears to the department, prior to taking action upon the claim that:

- (a) The claim is one with respect to which an award probably will be made; and
- (b) Undue hardship will result to the applicant if immediate payment is not made.

(2)(a) The amount of such emergency award shall not exceed \$1,000.

(b) The amount of such emergency award shall be deducted from any final award made as a result of the claim.

(c) The excess of the amount of such emergency award over the amount of the final award, or the full amount of the emergency award if no final award is made, shall be repaid by the recipient to the department. [1977 c.376 §7; 2023 c.318 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.060**

[Renumbered 133.767]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.065 - Limitation on time for commencing action for compensable crime.**

Notwithstanding ORS 12.110 the victim of any compensable crime as defined in ORS 147.005 or the victim's representative may bring an action at any time within the five-year period after the commission of the compensable crime. [1985 c.552 §5]

Note:

147.065 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.070**

[Renumbered 133.773]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.080**

[Renumbered 133.777]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.090**

[Renumbered 133.783]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.100**

[Renumbered 133.787]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.105 - Application for compensation; contents; additional information or materials; amended applications; effect of incarceration of applicant.**

(1) An applicant for compensation under ORS 147.005 to 147.367 must file an application under oath on a form furnished by the Department of Justice. The application shall include:

- (a) The name and address of the victim;
- (b) If the victim is deceased, the name and address of the applicant and relationship to the victim, the names and addresses of the victim's dependents and the extent to which each is so dependent;
- (c) The date and nature of the crime or attempted crime on which the application for compensation is based;
- (d) The date and place where, and the law enforcement officials or other persons described in ORS 147.015 (2)(b) to whom, notification of the crime was given;
- (e) The nature and extent of the injuries sustained by the victim, the names and addresses of those giving medical and hospital treatment to the victim and whether death resulted;
- (f) The loss to the applicant and to such other persons as are specified under paragraph (b) of this subsection, resulting from the injury or death;



- (g) The amount of benefits, payments or awards, if any, payable from any source, which the applicant or other person, listed under paragraph (b) of this subsection, has received or for which the applicant or other person is eligible as a result of the injury or death;
  - (h) Releases authorizing the surrender to the department of reports, documents and other information relating to the matters specified under this subsection; and
  - (i) Such other information as the department determines is necessary.
- (2) The department may require that the applicants submit with the application materials substantiating the facts stated in the application.
- (3) If the department finds that an application does not contain the required information or that the facts stated therein have not been substantiated, it shall notify the applicant in writing of the specific additional items of information or materials required.
- (4) An applicant may file an amended application or additional substantiating materials to correct inadvertent errors or omissions at any time before the department has completed its consideration of the original application.
- (5) The filing of additional information or the amendment of the application pursuant to subsection (3) or (4) of this section shall be considered for the purposes of ORS 147.005 to 147.367 to have been filed at the same time as the original application.
- (6) If at the time of application, the applicant is incarcerated as a result of a conviction of a crime, the department shall process the application in the normal course. The claim shall remain open but the applicant is not eligible for compensation until the applicant is released from custody. [1977 c.376 §8; 1991 c.603 §1; 1991 c.862 §5; 1993 c.18 §24; 2012 c.81 §9; 2023 c.318 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.110**

[Amended by 1973 c.836 §123; renumbered 133.793]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.115 - Confidentiality of application information; board proceedings; use of record; witnesses before board.**

- (1) All information submitted to the Department of Justice by an applicant and all hearings of the Workers' Compensation Board under ORS 147.005 to 147.367 shall be open to the public unless the department or board determines that the information shall be kept confidential or that a closed hearing shall be held because:
- (a) The alleged assailant has not been brought to trial and disclosure of the information or a public hearing would adversely affect either the apprehension or the trial of the alleged assailant;
  - (b) The offense allegedly perpetrated against the victim is rape, sodomy, sexual abuse, trafficking in persons or a crime involving domestic violence as defined in ORS 135.230, and the interests of the victim or of the victim's dependents require that the information be kept confidential or that the public be excluded from the hearing;
  - (c) The victim or alleged assailant is a minor; or
  - (d) The interests of justice would be frustrated rather than furthered, if the information were disclosed or if the hearing were open to the public.
- (2)(a) A record shall be kept of the proceedings held before the board and shall include the board's findings of fact and conclusions concerning the amount of compensation, if any, to which the applicant and the dependents of a deceased victim are entitled.
- (b) No part of the record of any proceedings before the board may be used for any purpose in a criminal proceeding except in the prosecution of a person alleged to have committed perjury in testimony before the board.
- (c) Where the interests of justice require, the board may refuse to disclose to the public the names of victims or other material in the record by which the identity of the victim could be discovered.
- (3) Notwithstanding subsection (2)(b) and (c) of this section, the record of the proceedings held before the board is a public record. However, any record or report obtained by the board, the confidentiality of which is protected by any other law, shall remain confidential subject to such law.
- (4) Witnesses required to appear at any proceeding before the board shall receive such fees and mileage allowance as are provided for witnesses in ORS 44.415 (2). [1977 c.376 §9; 1989 c.980 §7a; 2012 c.81 §10; 2023 c.318 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.120**

[Renumbered 133.797]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.125 - Determining amount of compensation; deduction of other benefits.**

- (1) In determining the amount of compensation for which an applicant is eligible, the Department of Justice shall consider the facts stated on the application filed pursuant to ORS 147.105, and:
- (a) Need not consider whether or not the alleged assailant has been apprehended or brought to trial or the result of any criminal proceedings against that person;
  - (b) Shall determine the amount of the loss to the applicant and, in the case of a deceased victim, of the victim's survivors or

dependents as determined under ORS 147.035;

(c) Except as provided in paragraph (d) of this subsection, shall deduct the amount of benefits, payments or awards that are payable under the Workers' Compensation Law, from local governmental, state or federal funds or from any source, and that the victim or survivors or dependents of the victim have received or to which the victim or survivors or dependents of the victim are entitled as a result of the death or injury of the victim;

(d) Shall not deduct the amount of proceeds from life insurance or contributions from the community that the survivors or dependents of the victim have received or to which the survivors or dependents of the victim are entitled as a result of the death of the victim;

(e) Shall consider the amount of money available for victim compensation awards as provided in the current biennial department budget approved by the Legislative Assembly or the Emergency Board, and the anticipated claims against that money; and

(f) Shall award the resultant amount to the applicant as provided in ORS 147.165.

(2) In determining the amount of an award to be made to an applicant, the department may consider the number and type of claims filed and anticipated to be filed with the department during the current biennial budget period. If the department determines that insufficient funds will be available during the current biennial budget period to pay all filed and anticipated awards, it may prioritize claims or prorate awards based upon the anticipated available funds. The department's decision to prioritize or prorate claims or awards is not subject to administrative or judicial review, including review under ORS 147.155. [1977 c.376 §10; 1987 c.770 §5; 1989 c.542 §4; 1991 c.862 §6; 1999 c.128 §1; 2001 c.372 §1; 2023 c.318 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.130**

[Renumbered 133.803]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.135 - Processing compensation application; order; contents.**

After processing the application filed under ORS 147.105 the Department of Justice shall enter an order stating:

(1) Its findings of fact; and

(2) Its decision as to whether or not compensation is due under ORS 147.005 to 147.367. [1977 c.376 §14; 1999 c.129 §1; 2012 c.81 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.140**

[Renumbered 133.805]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.145 - Review of order; reconsideration; notice to applicant.**

(1) If the applicant disagrees with the order entered under ORS 147.135, the applicant may request review by the Department of Justice.

(2)(a) The department shall reconsider any order for which a request for review is received. The department shall notify the applicant of its decision on review within 30 days of the department's receipt of the request for review.

(b) If the department determines that the request for review does not contain sufficient information to make a decision within 30 days of the department's receipt of the request for review, the 30-day time period may be extended by the department only with the oral or written permission of the applicant. [1977 c.376 §15; 2017 c.108 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.150**

[Amended by 1963 c.550 §1; 1973 c.836 §124; renumbered 133.807]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.155 - Appeal to Workers' Compensation Board; hearing; record; evidence considered; board determination not subject to further review.**

(1) Any applicant who requests review by the Department of Justice under ORS 147.145 and who disagrees with the decision of the department on review may appeal to the Workers' Compensation Board.

(2) The request for hearing shall be in writing. The request shall include the applicant's address, shall be signed by the applicant and shall be mailed to the board.

(3) The board shall conduct a hearing upon at least 10 days' notice by mail to all interested persons.

(4) A record of all proceedings at the hearing shall be kept but need not be transcribed.

(5) The board is not bound by rules of evidence or by technical or formal rules of procedure, and may conduct the hearing in any manner that will achieve substantial justice. However, no evidence is admissible at a hearing that has not previously been considered

by the department. The decision by the board shall be final and shall not be subject to further administrative or judicial review.  
[1977 c.376 §15a]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.160**

[Amended by 1973 c.836 §125; renumbered 133.809]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.165 - Payment of awards; awards to minors and incompetents.**

(1) The award made under ORS 147.005 to 147.367 shall be paid in a manner determined by the Department of Justice. Payment for medical, hospital and funeral expenses may be made directly to the service providers.

(2) Where a person eligible to receive an award under ORS 147.005 to 147.367 is a person under the age of 18 years or an incompetent, the award may be paid to a relative, guardian or attorney of such person on behalf of and for the benefit of such person. In such case the payee shall:

(a) File an annual accounting of the award with the department; and

(b) Take such other action as the department shall determine is necessary and appropriate for the benefit of the beneficiary of the award.

(3) A person who is incarcerated is not eligible for payments for loss of earnings for the period of incarceration.

(4) Payment of claims is subject to availability of funds for victim compensation awards as provided in the department budget approved by the Legislative Assembly or the Emergency Board. [1977 c.376 §16; 1987 c.770 §6; 1991 c.862 §7; 2012 c.81 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.170**

[Amended by 1973 c.836 §126; renumbered 133.813]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.180**

[Amended by 1973 c.836 §127; renumbered 133.815]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.190**

[Renumbered 133.817]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.200**

[Renumbered 133.823]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.205 - Authority of Department of Justice; assistance from other agencies; examination of victims; reports to Governor and Legislative Assembly; rules.**

(1) To carry out the provisions and purposes of ORS 147.005 to 147.367, the Department of Justice has the power and duty to:

(a) Appoint such employees and agents as it determines are necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(b) Request and obtain from law enforcement agencies, district attorneys, county juvenile departments, the Department of Human Services, the Oregon Youth Authority and the Department of Corrections such assistance and information, including police reports, as will enable the Department of Justice to carry out its functions and duties under ORS 147.005 to 147.367. The Department of Justice may obtain assistance and information under this paragraph, notwithstanding any other law relating to the confidentiality or disclosure of records. The Department of Justice:

(A) Shall maintain the confidentiality of any privileged or confidential information or records obtained under this paragraph;

(B) May use the information or records only for the purposes authorized by ORS 147.005 to 147.367; and

(C) May not disclose the contents of any privileged or confidential records to any other person or entity.

(c) Adopt rules pursuant to ORS chapter 183.

(d) Direct medical examination of victims.

(e) Determine all claims for awards filed with the department pursuant to ORS 147.005 to 147.367, and to reinvestigate or reopen cases as the department deems necessary.

(f) Report biennially to the Governor and to the Legislative Assembly on its activities.

(2) Notwithstanding any other law relating to the confidentiality or disclosure of records, when a crime victim applies for compensation under ORS 147.005 to 147.367, a person that provides medical services or supplies or pays the costs of medical

services or supplies provided to the crime victim shall provide to the Department of Justice any individually identifiable health information the person has in the person's possession about the crime victim if:

- (a) The department requests the information; and
  - (b) A release authorizing the surrender has been completed under ORS 147.105 (1)(h).
- (3) As used in subsection (2) of this section:
- (a) "Pays" includes, but is not limited to, payments made directly or indirectly through settlements, judgments, insurance, Medicaid, other compensation or restitution.
  - (b) "Person" includes, but is not limited to, health care providers and their agents, insurers and their agents, employers and public bodies as defined in ORS 174.109. [1977 c.376 §12; 1987 c.770 §7; 1997 c.396 §1; 2003 c.351 §2; 2012 c.81 §13; 2017 c.108 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.210**

[Renumbered 133.825]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.215 - Attorney General as legal adviser to department; assistance by governmental agencies.**

- (1) The Attorney General shall serve as legal adviser to the Department of Justice for all matters arising under ORS 147.005 to 147.367.
- (2) Law enforcement officials and other agencies of the state or local governmental units are authorized to give and shall provide any assistance or information requested by the department under ORS 147.205 (1)(b). [1977 c.376 §13; 2003 c.351 §3; 2012 c.81 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.220**

[Amended by 1961 c.389 §4; renumbered 133.827]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.225 - Criminal Injuries Compensation Account.**

There is established the Criminal Injuries Compensation Account. All moneys in the account are continuously appropriated for and may be used by the Department of Justice for the purposes authorized in ORS 147.005 to 147.367, 147.390 and 147.397. [1977 c.376 §22; 2003 c.789 §§4,6; 2007 c.23 §2; 2007 c.268 §4; 2012 c.81 §15; 2020 s.s.2 c.10 §30]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.227 - Disbursement of moneys to be used for victims' assistance programs; qualifications; rules.**

- (1) The Attorney General shall disburse a portion of the moneys that the Criminal Injuries Compensation Account receives from the Criminal Fine Account to counties and cities where prosecuting attorneys maintain victims' assistance programs approved by the Attorney General. Upon receipt of the moneys, the counties and cities shall provide the moneys to the prosecuting attorney therein to be used exclusively for the approved victims' assistance program.
- (2) To qualify for approval by the Attorney General under this section, a victims' assistance program must:
  - (a) Be administered by the district attorney of the county or city attorney of the city;
  - (b) Provide services to victims of all crimes;
  - (c) Give service priority to victims of serious crimes against persons;
  - (d) Collaborate with community-based and government agencies to benefit victims; and
  - (e) Provide the following core services to victims of crime:
    - (A) Inform victims, as soon as practicable, of the rights granted to victims under Oregon law.
    - (B) Advocate for victims of serious person crimes as they move through the criminal justice system and advocate, when requested, for all other victims of crime.
    - (C) Involve victims, when practicable or legally required, in the decision-making process in the criminal justice system.
    - (D) Ensure that victims are informed, upon request, of the status of the criminal case involving the victim.
    - (E) Assist victims in preparing and submitting crime victims' compensation program claims to the Department of Justice under ORS 147.005 to 147.367.
    - (F) Assist victims in preparing restitution documentation for purposes of obtaining a restitution order.
    - (G) Prepare victims for court hearings by informing them of the procedures involved.
    - (H) Assist victims with the logistics related to court appearances when practicable and requested.
    - (I) Accompany victims to court hearings when practicable and requested.
    - (J) Encourage and facilitate victims' testimony.
    - (K) Inform victims of the processes necessary to request the return of property held as evidence.
- (3) If a victims' assistance program substantially complies with subsection (2) of this section and the Attorney General determines

that it would be impracticable for the program to achieve full compliance, the Attorney General may approve the program on a temporary basis, subject to conditions the Attorney General deems appropriate.

(4) The Attorney General shall adopt administrative rules:

(a) Establishing criteria for the equitable distribution of moneys disbursed under subsection (1) of this section among participating cities and counties; and

(b) Establishing an advisory committee to provide consultation on the distribution of the moneys. The advisory committee shall consist of at least the following members:

(A) A representative of the Department of Justice;

(B) A representative of the Oregon District Attorneys Association; and

(C) A representative of a prosecuting attorney's victim assistance program.

(5) As used in this section, "Attorney General" includes a designee of the Attorney General. [1987 c.905 §11; 1997 c.872 §30; 2001 c.829 §4; 2005 c.700 §7; 2007 c.24 §1; 2009 c.176 §1; 2011 c.597 §126]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.230**

[Amended by 1973 c.836 §128; renumbered 133.833]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.231 - Disbursement of moneys to agencies that provide services to victims of crimes; rules.**

(1) Subject to the availability of sufficient funds in the Criminal Injuries Compensation Account, the Attorney General or the Attorney General's designee may make grants from the Criminal Injuries Compensation Account to eligible public or private nonprofit agencies that provide services to victims of violent crimes, property crimes and crimes involving fraud and deception. The Attorney General may not make grants unless there are sufficient funds in the Criminal Injuries Compensation Account to satisfy both the projected compensation claims of victims of violent crimes and the anticipated costs of complying with ORS 147.227 and of providing the funds deemed necessary by the Attorney General to comply with ORS 147.397. The grants authorized by this section are in addition to federal Victims of Crime Act grants, federal Violence Against Women Act grants and any other state or federal grants related to serving victims of violent crimes, property crimes and crimes involving fraud or deception, that are administered by the Attorney General or the Attorney General's designee.

(2) Funds distributed under this section may be used only for services to victims of violent crimes, property crimes and crimes involving fraud and deception and may not be used to replace funds otherwise available for services to victims of crime.

(3) As used in this section, "services" includes, but is not limited to:

(a) Crisis intervention services;

(b) Providing, in an emergency, transportation to court, short-term child care, temporary housing and security measures;

(c) Assistance in participating in criminal justice proceedings;

(d) Preparation, publication and distribution of materials that inform victims of violent crimes, property crimes and crimes involving fraud and deception of the services that are available;

(e) Salaries of persons who provide direct services to victims of violent crimes, property crimes and crimes involving fraud and deception to the extent that the persons provide the services; and

(f) Counseling for victims of property crimes and crimes involving fraud and deception.

(4) Applicants for grants under subsection (1) of this section shall:

(a) Certify that priority will be given to providing assistance to victims of violent crimes including, but not limited to, victims of sexual assault, domestic violence and child abuse; and

(b) Provide any information and assurances that the Department of Justice may require.

(5) The Attorney General or the Attorney General's designee may administer the grants authorized by this section concurrently with the administration of the federal Victims of Crime Act grants, federal Violence Against Women Act grants and any other state or federal grants related to serving victims of violent crimes, property crimes and crimes involving fraud or deception.

(6) The department shall adopt rules pursuant to ORS chapter 183 to carry out the provisions of this section. [1997 c.758 §2; 2003 c.349 §2; 2003 c.789 §§5,7; 2007 c.23 §3; 2007 c.268 §5; 2009 c.411 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.235**

[1961 c.389 §3; renumbered 133.837]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.240 - Department of Justice to submit claims to account for payment of awards.**

After the entry of an award under ORS 147.005 to 147.367, the Department of Justice shall submit the claim for payment from the Criminal Injuries Compensation Account pursuant to ORS 293.295 to 293.460 and 293.465 to 293.510. [1977 c.376 §23; 2012 c.81 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.245 - Disposition of moneys recovered from assailant; disposition of gifts or grants.**

(1) Any moneys recovered by the Department of Justice under ORS 147.281 to 147.298 and 147.345 shall be credited to the Criminal Injuries Compensation Account.

(2) Any gifts, contributions, grants or federal funds specifically given to the department for the benefit of victims of crimes shall be credited to the Criminal Injuries Compensation Account. [1977 c.376 §24; 2005 c.383 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.250**

[Renumbered 133.839]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.253**

[Renumbered 133.843]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.255 - Recovery of moneys paid on fraudulent claims; recovery of fees.**

The Department of Justice may institute suit:

(1) To recover any awards made because of fraudulent claims.

(2) On behalf of the applicant or recipients, to recover all fees paid to a counsel or agent in violation of ORS 147.315. [1977 c.376 §25]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.256**

[Renumbered 133.845]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.260**

[Renumbered 133.847]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.270**

[Renumbered 133.853]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.275 - Proceeds of compensable crime; escrow account for benefit of victims; notice; distribution; hearing; definitions; rules.**

(1)(a) Before any person or other legal entity pays or delivers the proceeds of a compensable crime to any individual charged with or convicted of committing such a crime in this state or found guilty except for insanity with regard to such a crime, or to a representative or assignee of that individual, the person or legal entity shall promptly notify the Department of Justice and pay or deliver to the department the proceeds that would otherwise be paid to the individual charged, convicted or found guilty except for insanity, or the representative or assignee of the individual.

(b) When any person or other legal entity contracts to pay the proceeds of the compensable crime to any individual charged with or convicted of committing such a crime in this state or found guilty except for insanity with regard to such a crime, or whenever any person or other legal entity contracts with a representative or assignee of that individual to pay the proceeds of the compensable crime committed by that individual, the person or legal entity shall promptly submit a copy of the contract to the Department of Justice and pay to the department any proceeds which otherwise, under the terms of the contract, would be paid to the accused or convicted individual, the person found guilty except for insanity or the representative or assignee of the individual.

(2) The department shall deposit proceeds received under this section in an escrow account established for the benefit of the victims or dependents of the victims of the crime for which the individual whose proceeds are placed in the escrow account is convicted or found guilty except for insanity. Proceeds in the escrow account shall be paid to satisfy judgments as provided in subsection (3) of this section or restitution orders under ORS 137.103 to 137.109.

(3) A person is entitled to payment of proceeds from the escrow account established under this section if:

(a) The person is the victim or a dependent of a deceased victim of a compensable crime for which the individual whose proceeds are placed in the escrow account is convicted or found guilty except for insanity; and

(b) Within five years after the establishment of the escrow account, the person commences a civil action against such individual in a court of competent jurisdiction and receives a money judgment for damages suffered as a result of the crime.

(4) The department, at least once every year for five years from the date it establishes the escrow account, shall cause to have

published a legal notice in a newspaper of general circulation in the county in which the crime was committed and in the counties adjoining such county advising victims that the escrow proceeds are available to satisfy judgments pursuant to this section. The department may, in its discretion, provide for such additional notice as it considers necessary.

(5) Upon dismissal of charges or acquittal of any individual whose proceeds are placed in an escrow account under this section, the department shall immediately pay such individual the proceeds in the escrow account.

(6) Upon a showing by any convicted individual or the individual found guilty except for insanity that five years have elapsed from the establishment of the escrow account in which the individual's proceeds have been placed under this section and that no civil actions by victims or dependents of deceased victims of the individual's crime have been commenced, the department shall immediately pay any proceeds in the escrow account to such individual or the legal representative of the individual.

(7) Any action taken by an individual charged with or convicted of committing a compensable crime in this state, including, but not limited to, execution of a power of attorney or creation of a corporate entity, to defeat the purpose of this section is null and void. Any action taken by an individual found guilty except for insanity with regard to a compensable crime in this state is similarly null and void.

(8) When an escrow account has insufficient funds to meet all judgments presented by victims or their representatives, the escrow account shall be prorated among the victims or their representatives on the basis of the amounts of the unsatisfied judgments or partially satisfied judgments. There shall be no payment from the escrow account to a victim or a victim's representative until either the amounts of all unsatisfied judgments are determined, or it is determined that the payment for an unsatisfied judgment will not diminish the escrow account so that other potential victim claims could not be satisfied.

(9)(a) The Department of Justice may notify any person whom the department believes to be in possession of the proceeds of a compensable crime, or to have contracted to pay the proceeds of a compensable crime as described in subsection (1) of this section, of the requirements of this section.

(b) Any person who disputes whether that person either possesses or has contracted to pay the proceeds of a compensable crime may ask for a contested case hearing on the question before the department. The hearing shall be conducted in accordance with the provisions of ORS chapter 183.

(10) Notwithstanding subsection (9) of this section, the Department of Justice may seek provisional remedies, including garnishment or injunctive relief, to prevent the payment of money or property which the department asserts to be the proceeds of a compensable crime to an individual charged with or convicted of committing such a crime in this state or found guilty except for insanity with regard to such a crime, or to the representative or assignee of that individual, until the character of the property or money is determined.

(11) The Department of Justice may adopt rules to carry out the purposes of this section.

(12) As used in this section, "proceeds of a compensable crime" means any property or assets, tangible or intangible:

(a) That are obtained during the commission of the compensable crime; or

(b) That are obtained after commission of the crime primarily because of commission of the compensable crime.

(13) As used in this section, "proceeds of a compensable crime" does not include property or assets that have been forfeited pursuant to law or that constitute contraband. It also does not include property or assets in which the individual charged or convicted of committing a compensable crime has no legal or equitable interest. [1985 c.552 §3; 1987 c.158 §21; 1995 c.344 §1; 1997 c.249 §46]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.280**

[Renumbered 133.855]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.281 - Definitions.**

As used in ORS 147.281 to 147.298:

(1) "Action" means an action, suit or proceeding.

(2) "Assistance" means compensation paid by the Department of Justice under ORS 147.005 to 147.367 to or on behalf of an applicant or recipient.

(3) "Claim" means a claim of an applicant or recipient for damages for injuries against an assailant or any other person or entity alleged to be liable for the injury constituting the basis for the claim.

(4) "Compromise" means a compromise between an applicant or recipient and an assailant or any other person or entity against whom the applicant or recipient has a claim.

(5) "Judgment" means a judgment in an action brought by an applicant or recipient to enforce the claim of the applicant or recipient.

(6) "Recipient" means a person who has received assistance.

(7) "Settlement" means a settlement between an applicant or recipient and an assailant or any other person or entity against whom the applicant or recipient has a claim. [2005 c.383 §2]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.283 - Notice to Department of Justice of claim or action to enforce claim for injuries.**

An applicant or recipient shall promptly provide written notice to the Department of Justice when making a claim or bringing an

action to enforce a claim for injuries that formed the basis for assistance. The notice must include the name and address of the assailant and of any other person or entity against whom the claim is made or action is brought. If the claim is made or the action is brought against a corporation, the notice must contain the address of the corporation's principal place of business. If the applicant or recipient is a minor, the parents, legal guardian or foster parent of the applicant or recipient shall give the notice required by this section. [2005 c.383 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.285 - Creation of lien.**

The Department of Justice has a lien upon the amount of any judgment in favor of the applicant or recipient and upon any amount payable to the applicant or recipient under a settlement or compromise for all assistance from the date of the injury that forms the basis of the assistance to the date of the satisfaction of the judgment or final payment under the settlement or compromise. [2005 c.383 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.287 - Perfection of lien.**

(1) In order to perfect a lien under ORS 147.285, the Department of Justice shall do all of the following:

(a) Upon receiving notice under ORS 147.283, record a notice of lien in the County Clerk Lien Record of the county in which the person against whom the claim is made or action is brought resides. If the claim or action is against a corporation, the department shall record the notice of lien in the County Clerk Lien Record of the county in which the corporation has its principal place of business. If the claim or action is against a public body, as defined in ORS 174.109, the department shall record the notice of lien in the County Clerk Lien Record of the county in which the public body has its main office.

(b) Prior to the date of the satisfaction of the judgment or final payment under a settlement or compromise, deliver a copy of the notice of lien by certified mail or personal service to all parties bound by the judgment, settlement or compromise or to an attorney or insurer that represents a party bound by the judgment, settlement or compromise. The department may send the notice by first class mail to any party, attorney or insurer that does not accept the certified mail containing the notice.

(2) Upon the recording of a notice of lien under subsection (1)(a) of this section, the recording officer shall enter the name of the injured person, the approximate date of the injury and the name of the department as a lienor in the lien docket under ORS 87.575 and shall make an index to the lien docket in the names of the injured person and the department. [2005 c.383 §5; 2014 c.45 §27]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.289 - Notice of lien; form.**

The form of the notice of lien required by ORS 147.287 shall be substantially as follows:

Notice is given by this form that the Department of Justice has provided assistance to \_\_\_\_\_, a person who was injured on or about the \_\_\_ day of \_\_\_\_\_ in the city of \_\_\_\_\_ and State of \_\_\_\_\_, and the Department of Justice asserts a lien to the extent provided in ORS 147.285 for the amount of the assistance upon any amount due and owing \_\_\_\_\_ (name of injured person) under a judgment, settlement or compromise from \_\_\_\_\_ alleged to have caused such injuries and from any other person or entity liable for the injury or obligated to compensate the injured person on account of such injuries.

Department of Justice

by \_\_\_\_\_,

Attorney General or designee.

State of Oregon, )

) ss.

County of \_\_\_\_\_ )

I, \_\_\_\_\_, being first duly sworn on oath say: That I am the Attorney General or designee; that I have read the foregoing notice of lien and know the contents of the notice of lien and believe the contents to be true.

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_, Notary Public.

[2005 c.383 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.290**

[Amended by 1961 c.389 §1; renumbered 133.857]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.292 - Notice of amount of judgment, settlement or compromise.**

Immediately after a judgment has been rendered in favor of an applicant or recipient or a settlement or compromise has been agreed



upon, all parties bound by the judgment, settlement or compromise shall provide written notice to the Department of Justice of the amount of the judgment, settlement or compromise. After receiving the notice, the department shall send by certified mail a statement of the amount of its lien to all parties bound by the judgment, settlement or compromise or to an attorney or insurer that represents a party bound by the judgment, settlement or compromise. The department may send the statement by first class mail to any party, attorney or insurer that does not accept the certified mail containing the statement. [2005 c.383 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.294 - Liability of person making payment after notice of lien is recorded.**

After a notice of lien is recorded under ORS 147.287, a person or entity that makes a payment to the applicant or recipient or to the heirs, personal representatives, assigns or attorneys of the applicant or recipient under a judgment, settlement or compromise without first having paid to the Department of Justice the amount of the department's lien is liable to the department for the amount of the payment to the extent that the lien attached to the payment under ORS 147.285. [2005 c.383 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.296 - Action for failure to provide notice.**

The Department of Justice has a cause of action against an applicant or recipient who fails to give the notice required by ORS 147.283 for amounts received by the applicant or recipient pursuant to a judgment, settlement or compromise to the extent that the department would have had a lien under ORS 147.285 upon the amounts had the notice been given. [2005 c.383 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.298 - Where action may be initiated.**

The Department of Justice may initiate an action under ORS 147.294 and 147.296 in the circuit court for Marion County, the county where the compensable crime occurred or the county in which any party bound by the judgment, settlement or compromise resides. [2005 c.383 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.305 - Effect of criminal conviction on compensation proceedings.**

If any person is convicted of a crime based on a compensable crime for which application for compensation is made, proof of the conviction shall be conclusive evidence that the crime was committed. [1977 c.376 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.315 - Charging fees to applicants prohibited.**

No fee may be charged to the applicant in any proceeding under ORS 147.005 to 147.367. [1977 c.376 §17; 2012 c.81 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.325 - Compensation not subject to assignment or legal process prior to receipt by beneficiary.**

No compensation payable under ORS 147.005 to 147.367 shall, prior to actual receipt thereof by the person or beneficiary eligible therefor, or their legal representatives, be assignable or subject to execution, garnishment, attachment or any other process, including process to satisfy an order or judgment for support or alimony. [1977 c.376 §18; 1991 c.862 §8; 2012 c.81 §18]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.335 - Compensation rights not to survive beneficiary; death of beneficiary after filing of application.**

The rights to compensation created by ORS 147.005 to 147.367 are personal and shall not survive the death of the person or beneficiary eligible therefor. However, if such death occurs after an application for compensation has been filed with the Department of Justice, the proceeding shall not abate, but may be continued by the legal representative of the decedent's estate. [1977 c.376 §19; 1991 c.862 §9; 2012 c.81 §19]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.345 - State subrogated to rights accruing to beneficiary; suit by state against assailant; disposition of proceeds; settlement.**

(1) The acceptance of an award made pursuant to ORS 147.005 to 147.367 shall subrogate the state, to the extent of such award, to any right or right of action accruing to the applicant or recipient against the assailant or any other person or entity liable for the injury constituting the basis for the award.

(2)(a) On behalf of the state, the Department of Justice may bring suit against an assailant to recover the amount of compensation paid to an applicant or recipient of an award made pursuant to ORS 147.005 to 147.367 as a result of the assailant's commission of a compensable crime. Before initiating a suit under this subsection, the Department of Justice must notify the applicant or recipient that the Department of Justice is going to initiate a suit. A suit under this subsection does not affect any right or right of action accruing to the applicant or recipient against the assailant for the injury constituting the basis for the award, except that the assailant

may be able to offset payments made to the Department of Justice against any award to the applicant or recipient for the same damages. The assailant also may offset any payments the assailant has made to the applicant or recipient for the same damages against any recovery by the Department of Justice under this subsection.

(b) In a suit under this subsection, the Department of Justice may recover attorney fees and costs of suit.

(c) Each separate payment of compensation under ORS 147.005 to 147.367 creates a cause of action under this subsection.

(3) Any settlement of a right or right of action against the assailant or any other person or entity by the victim or the dependent of the victim based on the compensable crime must be approved by the Department of Justice if the department has made an award to the victim or the dependent of the victim. If the settlement is not approved by the department, the department may void the settlement. [1977 c.376 §20; 1987 c.770 §8; 2001 c.371 §1; 2012 c.81 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.365 - Law enforcement agencies to inform crime victims of compensation procedure; agencies not civilly liable for failure to comply.**

(1) All law enforcement agencies in this state shall deliver cards to victims of crime stating the procedure to be followed in applying for compensation under ORS 147.005 to 147.367.

(2) No law enforcement agency shall be civilly liable for a failure to comply with subsection (1) of this section. [1977 c.376 §27; 2012 c.81 §21]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.367 - Services to victims of acts of mass destruction; Department of Justice.**

(1) The Department of Justice may initiate and participate in planning, training and organizational efforts intended to prepare to deliver services to individuals traumatized by an act of war, terrorism or sabotage or a criminal act that results in the death of, or physical injury to, numerous individuals or that results in the massive destruction of property.

(2) The department may assist in delivering services to individuals traumatized by an act of war, terrorism or sabotage or a criminal act that results in the death of, or physical injury to, numerous individuals or that results in the massive destruction of property. [2003 c.770 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.380 - Service referral for bias incidents; telephone hotline; response coordinator; rules.**

(1) As used in this section:

(a) "Bias crime" means the commission, attempted commission or alleged commission of an offense described in ORS 166.155 or 166.165.

(b) "Bias incident" means a person's hostile expression of animus toward another person, relating to the other person's perceived race, color, religion, gender identity, sexual orientation, disability or national origin, of which criminal investigation or prosecution is impossible or inappropriate. "Bias incident" does not include any incident in which probable cause of the commission of a crime is established by the investigating law enforcement officer.

(c) "Hate crimes hotline" means the telephone hotline established by the Department of Justice under subsection (3) of this section.

(d) "Local victims' services" means services provided to a victim of a bias crime or bias incident, including but not limited to safety planning, trauma management and data reporting, by an entity located in the same geographic area as the law enforcement agency that responds to the bias crime or bias incident.

(2)(a) A law enforcement agency that responds to a report of a bias incident shall refer the victim of the bias incident to qualifying local victims' services.

(b) The Department of Justice shall by rule designate qualifying local victims' services.

(c) If qualifying local victims' services are unavailable, the law enforcement agency shall refer the victim of the bias incident to the hate crimes hotline.

(3) The Department of Justice shall establish a staffed hate crimes telephone hotline dedicated to assisting the victims of bias crimes and bias incidents.

(4) There is created in the Department of Justice the position of Hate Crimes Response Coordinator. The Hate Crimes Response Coordinator shall:

(a) Respond to all reports of bias crimes and bias incidents made to the hate crimes hotline.

(b) Provide assistance to victims of bias crimes and bias incidents that is culturally competent and designed to reduce the effects of trauma, prevent further trauma and reach a diverse community.

(c) Assist with safety planning for victims of bias crimes and bias incidents.

(d) Coordinate with local nongovernmental organizations and service providers in assisting victims of bias crimes and bias incidents.

(e) Develop training for nongovernmental organizations and service providers to standardize methods for assisting victims of bias crimes and bias incidents.

(5)(a) The Department of Justice shall:

(A) In coordination with the Oregon Criminal Justice Commission, develop a standardized intake process for all reports of bias

crimes and bias incidents made to the department.

(B) Collect all data possible concerning the character, location and impacted protected class of any bias crime or bias incident reported to the department.

(C) Report to the commission continually and at least quarterly all data collected pursuant to this subsection.

(b) The data reported to the commission under this subsection may not contain information that might reveal the identity of any individual.

(6) Any data collected by the Department of Justice under this section that might reveal the identity of any individual is exempt from public disclosure.

(7) The Department of Justice may adopt rules to carry out the provisions of this section. [2019 c.553 §8; 2023 c.549 §6]

Note:

147.380 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.385 - Training program for victim assistance program employees.**

No later than January 1, 2025, the Department of Justice shall develop and begin delivering a training program for employees of district attorney victim assistance programs to assist the employees with providing services to victims of bias crimes as defined in ORS 147.380. [2023 c.549 §17]

Note:

147.385 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.390 - Payment of expenses by department.**

(1) In cases of suspected child sexual abuse as described in ORS 419B.005 (1)(a)(C), (D) or (E), or child physical abuse by an adult or caretaker as otherwise described in ORS 419B.005 (1)(a)(A), the Department of Justice may pay for services provided by a children's advocacy center, including child abuse assessments, medical assessments and forensic interviews. Payments under this section may be made regardless of whether a finding of abuse is made. The department shall make payments under this section directly to the children's advocacy center.

(2) A children's advocacy center may not charge the department more for medical services than the maximum amounts established in the medical fee schedules adopted under ORS 147.035.

(3) As used in this section, "child abuse assessment," "children's advocacy center," "forensic interview" and "medical assessment" have the meanings given those terms in ORS 418.782. [1997 c.872 §25; 2009 c.296 §3; 2013 c.720 §16; 2017 c.108 §6; 2019 c.141 §7; 2020 s.s.2 c.10 §31]

Note:

147.390 and 147.391 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.391 - Limitation on obligation of Criminal Injuries Compensation Account under ORS 147.390.**

Notwithstanding ORS 147.390, when the moneys provided from the Criminal Injuries Compensation Account for the purposes of ORS 147.390 are expended for any cumulative time period within any biennium, the Criminal Injuries Compensation Account shall have no further obligations under ORS 147.390 for that time period. However, if the Criminal Injuries Compensation Account has unexpended moneys provided for at the end of any biennium, the balance shall be transferred to the account created by ORS 418.796. [1997 c.872 §26; 2001 c.829 §5]

Note:

See note under 147.390.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.395 - Definitions.**

As used in ORS 147.397:

(1) "Complete medical assessment" means an assessment that consists of:

(a) A medical examination;

(b) The collection of forensic evidence using an evidence collection kit approved by the Department of State Police; and

(c) The offering and, if requested, provision of emergency contraception, sexually transmitted infection prevention and, for a victim who is 17 years of age or younger, prescriptions for emergency contraception.

(2) "Medical assessment" means a complete or partial medical assessment.

(3) "Partial medical assessment" means an assessment that consists of:

- (a) A medical examination; and
- (b) The offering and, if requested, provision of emergency contraception, sexually transmitted infection prevention and, for a victim who is 17 years of age or younger, prescriptions for emergency contraception.
- (4) "Sexual assault forensic evidence kit" has the meaning given that term in ORS 181A.323. [2003 c.789 §1; 2007 c.268 §1; 2018 c.120 §3; 2019 c.280 §3]

Note:

147.395 to 147.399 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.397 - Payment of costs; form; provider reimbursement; rules.**

(1) Subject to the availability of funds from gifts, grants and donations in the Sexual Assault Victims' Emergency Medical Response Fund, the Department of Justice shall pay the costs of:

- (a) A complete medical assessment obtained by the victim of a sexual assault if the victim obtains the medical assessment no later than 84 hours after the sexual assault.
- (b) A partial medical assessment obtained by the victim of a sexual assault if the victim obtains the medical assessment no later than seven days after the sexual assault.

(2) The department may not deny payment under this section for any of the following reasons:

- (a) The victim of a sexual assault has not reported the assault to a law enforcement agency.
- (b) The identity of a victim of a sexual assault is not readily available to the department because forensic evidence has been collected from the victim and preserved in a manner intended to protect the victim's identity.

(3) The department shall develop a form that the victim of a sexual assault must complete if the victim wants the department to pay for a medical assessment as provided in subsection (1) of this section. The department shall make copies of the form available to providers of medical assessments. The form must inform the victim that:

- (a) A complete or partial medical assessment can be obtained regardless of whether the victim reports the assault to a law enforcement agency; and
- (b) A complete or partial medical assessment can be performed and evidence collected in a manner intended to protect the victim's identity.

(4) When the victim of a sexual assault completes the form developed by the department under subsection (3) of this section, the victim shall submit the form to the provider of the medical assessment. The provider shall submit the form with a bill for the medical assessment to the department. A provider who submits a bill under this subsection may not bill the victim or the victim's insurance carrier for the medical assessment except to the extent that the department is unable to pay the bill due to lack of funds or declines to pay the bill.

(5) Providers of medical assessments that seek reimbursement under this section shall:

- (a) Maintain records of medical assessments that protect the identity of victims of sexual assault and keep confidential the identity of victims who have not reported the sexual assault to a law enforcement agency;
- (b) Store sexual assault forensic evidence kits and transfer custody of the kits to a law enforcement agency having jurisdiction over the geographic area where the provider is located; and
- (c) Cooperate with law enforcement agencies to develop and implement procedures that protect the identities of victims while allowing retrieval and assessment of sexual assault forensic evidence kits and related evidence.

(6) Law enforcement agencies that receive evidence as provided by subsection (5) of this section shall preserve:

- (a) A sexual assault forensic evidence kit for no less than 60 years after collection of the evidence; and
- (b) Any related evidence for at least six months.

(7) A provider may not charge the department more for a complete medical assessment or a partial medical assessment than the maximum amounts established by the department by rule for the assessments.

(8) The victim of a sexual assault may obtain a medical assessment and complete and submit a form under this section regardless of whether the victim reports the sexual assault to a law enforcement agency.

(9) This section does not require the department to pay any costs of treatment for injuries resulting from the sexual assault.

(10) The department shall create, and make available to medical assessment providers, informational materials describing the services payable by the fund as described in subsection (1) of this section. A provider shall ensure that the informational materials are made available to sexual assault victims.

(11) The department may adopt rules necessary to carry out the provisions of this section. [2003 c.789 §2; 2007 c.268 §2; 2018 c.120 §2]

Note:

See note under 147.395.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.399 - Sexual Assault Victims' Emergency Medical Response Fund.**

(1) The Sexual Assault Victims' Emergency Medical Response Fund is established, separate and distinct from the General Fund. All

moneys in the Sexual Assault Victims' Emergency Medical Response Fund are continuously appropriated to the Department of Justice to be used for the purpose of carrying out the provisions of ORS 147.397.

(2) The Department of Justice may accept moneys from any source for the purpose of carrying out the provisions of ORS 147.397. The department shall deposit moneys accepted under this subsection in the Sexual Assault Victims' Emergency Medical Response Fund. [2003 c.789 §3]

Note:

See note under 147.395.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.401 - Sexual assault response teams.**

(1) The district attorney in each county shall organize a sexual assault response team to consist of:

(a) A representative of the district attorney's office;

(b) A representative of a prosecution-based victim assistance program or unit;

(c) A sexual assault forensic examiner;

(d) At the discretion of the district attorney, a representative of the county sheriff's office or a representative of local law enforcement agencies or both;

(e) A representative of a nonprofit agency or program that receives moneys administered by the Department of Human Services or the Department of Justice and that offers safety planning, counseling, support or advocacy to victims of sexual assault;

(f) A sexual assault nurse examiner or a representative of a hospital; and

(g) Other persons the district attorney considers necessary for the operation of the sexual assault response team or as recommended by the team.

(2) Each sexual assault response team must meet:

(a) At least quarterly at a time appointed by the district attorney of the county; and

(b) Independently of the county child abuse multidisciplinary team for the county.

(3)(a) Each sexual assault response team shall develop and adopt protocols addressing the response to adult and adolescent sexual assault victims in the county.

(b) Protocols adopted pursuant to paragraph (a) of this subsection may incorporate by reference, in part or in whole, protocols relating to child sexual abuse developed pursuant to ORS 418.747. [2011 c.511 §1; 2019 c.105 §1; 2019 c.141 §8]

Note:

147.401 and 147.403 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.403 - Policies, guidelines and training requirements for providers of medical care to sexual assault patients.**

(1) Each hospital, emergency medical service provider, intermediate care facility, skilled nursing facility, long term care facility and residential care facility in this state shall adopt policies for the treatment or referral of acute sexual assault patients, if such policies are not otherwise provided for by statute or administrative rule.

(2)(a) Each hospital, emergency medical service provider, intermediate care facility, skilled nursing facility, long term care facility and residential care facility in this state that performs forensic medical examinations of sexual assault patients shall:

(A) Adopt, in addition to the facility's own guidelines, if any, the State of Oregon Medical Guideline for Sexual Assault Evaluation of Adolescent and Adult Patients developed and published by the Attorney General's Sexual Assault Task Force.

(B) Except as provided in paragraph (b) of this subsection, employ or contract with at least one sexual assault forensic examiner who has completed didactic training sufficient to satisfy the training requirement for certification by the Oregon SAE/SANE Certification Commission established by the Attorney General.

(b) Paragraph (a)(B) of this subsection does not apply to a hospital that performs forensic medical examinations only of sexual assault patients who are minors. A hospital described in this paragraph may use physicians, physician assistants licensed under ORS 677.505 to 677.525, naturopathic physicians licensed under ORS chapter 685 and nurses to conduct the examinations in consultation with a social worker trained in assisting sexual assault victims who are minors. [2011 c.511 §2; 2014 c.45 §28; 2017 c.356 §19]

Note:

See note under 147.401.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.404 - Notification of victim advocate concerning medical assessment.**

(1) Upon a sexual assault victim's decision to participate in a medical assessment, as soon as practicable and in a manner consistent with the county's sexual assault response team protocols adopted under ORS 147.401 and the protocols and procedures of the county child abuse multidisciplinary teams described in ORS 418.747, the provider of the medical assessment or, if applicable, a law enforcement officer shall contact a victim advocate and make reasonable efforts to ensure that the victim advocate is present and available at the medical facility in which the medical assessment occurs.

- (2) A victim advocate contacted under subsection (1) of this section:
- (a) Shall clearly inform the victim that the victim may decline the services of the victim advocate at any time; and
  - (b) May not impede the medical assessment, the provision of medical services to the victim or the collection of evidence.
- (3) As used in this section, "medical assessment" has the meaning given that term in ORS 147.395. [2017 c.349 §1; 2019 c.141 §9]

Note:

147.404 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.405 - Short title.**

Chapter 2, Oregon Laws 1987, shall be known as the "CRIME VICTIMS' BILL OF RIGHTS." [1987 c.2 §1]

Note:

Legislative Counsel has substituted "chapter 2, Oregon Laws 1987," for the words "this Act" in sections 1, 2 and 18, chapter 2, Oregon Laws 1987, compiled as 147.405, 147.410 and 147.415. Specific ORS references have not been substituted, pursuant to 173.160. These sections may be determined by referring to the 1987 Comparative Section Table located in Volume 22 of ORS.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.410 - Purpose.**

We, the people of the State of Oregon, declare that victims of crime are entitled to fair and impartial treatment in our criminal justice system. The purpose of chapter 2, Oregon Laws 1987, is to declare to our legislature and our courts that victims' rights shall be protected at each stage of the criminal justice system. We reject the notion that a criminal defendant's rights must be superior to all others. By chapter 2, Oregon Laws 1987, we seek to secure balanced justice by eliminating unbalanced rules. [1987 c.2 §2]

Note:

See note under 147.405.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.415 - Severability.**

If any section, portion, clause or phrase of chapter 2, Oregon Laws 1987, is for any reason held to be invalid or unconstitutional, the remaining sections, portions, clauses and phrases shall not be affected but shall remain in full force in effect. [1987 c.2 §18]

Note:

See note under 147.405.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.417 - Victim to be notified of constitutional rights.**

(1) As soon as is reasonably practicable in a criminal action in which there is a victim, a law enforcement agency shall notify a person who reasonably appears to be a victim of the offense of the person's rights under section 42, Article I of the Oregon Constitution. The notice may be oral or written and written notice may be provided electronically. If exercise of any of the rights depends upon the victim making a request, the law enforcement agency shall include in the notice the time period in which the victim is required to make the request. A law enforcement agency satisfies the requirements of this section if the law enforcement agency:

- (a) Provides notice to the victim named in the accusatory instrument, the victim's guardian or, in a homicide case, the victim's next of kin; and
  - (b) Presents, if written notice is given, the notice directly to the victim, sends the notice to the last address given to the law enforcement agency by the victim or sends the notice electronically to the cellular phone number or electronic mail address given to the law enforcement agency by the victim.
- (2) Failure by a law enforcement agency to properly notify the victim as required by this section:
- (a) Is not grounds for setting aside a conviction.
  - (b) Does not affect the validity of a plea, except as provided by section 42 or 43, Article I of the Oregon Constitution.
- (3) Nothing in subsection (2) of this section justifies a failure to properly notify the victim.
- (4)(a) As used in this section, "law enforcement agency" means the police agency that initially responds in the case, the police agency that investigates the case or the district attorney who prosecutes the case.
- (b) The district attorney shall determine if the notice required by this section has been given and, if not, shall provide the notice. [1997 c.313 §5; 2009 c.178 §25; 2017 c.171 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.419 - Authority of victim to obtain copy of transcript or tape of criminal proceeding.**

In any criminal proceeding in which a transcript, audiotape or videotape of the proceedings held in open court is prepared, the victim may obtain a copy of the transcript or tape by paying the court or the person who prepared the transcript or tape the actual cost of

copying it. [1997 c.313 §2]

Note:

See note under 147.417.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.421 - Information about defendant that public body is required to provide to victim.**

(1) If a public body is the custodian of any of the following information, upon the request of the victim, the public body shall provide to the victim any of the following information of which it is the custodian and that is about the defendant or convicted criminal:

- (a) The conviction and sentence;
- (b) Criminal history;
- (c) Imprisonment; and
- (d) Future release from physical custody.

(2) A public body, in its discretion, may provide the requested information by furnishing the victim with copies of public records. The public body may charge the victim its actual cost for making public records available as provided in ORS 192.324 (4).

(3) As used in this section:

(a) "Criminal history" means a description of the prior arrests, convictions and sentences of the person.

(b) "Future release" means the projected or scheduled date of release of the person from confinement, the name and location of the correctional facility from which the person is to be released and the community where the person is scheduled to reside upon release.

(c) "Imprisonment" means the name and location of the correctional facility in which the person is confined.

(d) "Public body" has the meaning given that term in ORS 192.311. [1997 c.313 §6; 2007 c.467 §2]

Note:

See note under 147.417.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.425 - Personal representative.**

(1) As used in this section:

(a) "Health care provider" has the meaning given that term in ORS 192.556.

(b) "Law enforcement agency" means:

- (A) A city or municipal police department.
- (B) A county sheriff's office.
- (C) The Oregon State Police.
- (D) A district attorney.

(E) A police department established by a university under ORS 352.121 or 353.125.

(F) A special campus security officer commissioned under ORS 352.118.

(G) An authorized tribal police officer as defined in ORS 181A.940.

(c) "Person crime" means a person felony or person Class A misdemeanor, as those terms are defined in the rules of the Oregon Criminal Justice Commission.

(d) "Personal representative" means a person selected under subsection (2) of this section to accompany the victim of a crime to certain phases of an investigation and prosecution.

(e) "Protective service worker" means an employee or contractor of a local or state agency whose role it is to protect children or vulnerable adults from abuse or neglect.

(2) A victim of a person crime, who is at least 15 years of age at the time the crime is committed, may select a person who is at least 18 years of age as the victim's personal representative for purposes of this section. The victim may not select a person who is a suspect in, or a party or witness to, the crime as a personal representative.

(3) Except for grand jury proceedings and child abuse assessments occurring at a child advocacy center recognized by the Department of Justice, a personal representative may accompany the victim to those phases of the investigation, including medical examinations, and prosecution of the crime at which the victim is entitled or required to be present.

(4) A health care provider, law enforcement agency, protective service worker or court may not prohibit a personal representative from accompanying a victim as authorized by subsection (3) of this section unless the health care provider, law enforcement agency, protective service worker or court believes that the personal representative would compromise the process.

(5) A health care provider, law enforcement agency, protective service worker or court is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to a decision under subsection (4) of this section to prohibit a personal representative from accompanying a victim.

(6) The fact that a personal representative was allowed or was not allowed to accompany a victim may not be used as a basis for excluding otherwise admissible evidence.

(7) The fact that a victim has or has not selected a personal representative under this section may not be used as evidence in the criminal case. [2005 c.490 §1; 2011 c.506 §19; 2011 c.644 §§21,44; 2013 c.180 §§19,20; 2015 c.174 §9; 2015 c.767 §§48,49]

Note:

147.425 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.430 - Speedy trial.**

(1) A victim in a criminal or juvenile delinquency proceeding has the following rights:

(a) The right to have the trial or adjudication, including the imposition and execution of the sentence or disposition, conducted with all practicable speed.

(b) The right to the prompt and final conclusion of the criminal or juvenile delinquency proceeding in any related appellate or post-judgment proceeding.

(2) The sole remedy for a violation of the rights described in subsection (1) of this section is for the trial or proceeding to promptly occur or for the sentence to be promptly imposed or executed. This remedy may not be imposed if the remedy would:

(a) Affect the defendant's due process right to adequately prepare and present a defense;

(b) Impair the right of the defendant to a fair and impartial hearing in accordance with the Oregon and United States Constitutions; or

(c) Impair the ability of the state to prepare and locate witnesses.

(3) Nothing in this section authorizes:

(a) The dismissal of a criminal or juvenile delinquency proceeding;

(b) The imposition of sanctions against the state or the defendant; or

(c) A court to sever into separate trials or proceedings a single charging instrument alleging criminal acts committed against multiple victims.

(4) Upon the victim's request, the state may assert the rights of the victim on behalf of the victim.

(5) A victim who intends to assert a right described in this section must assert the right:

(a) Orally, at any critical stage of the proceedings as described in section 42, Article I of the Oregon Constitution; or

(b) In writing, after providing a copy to the parties.

(6) When a victim asserts a right described in this section, the court may hold a hearing or resolve the issue based on the record of the case.

(7) As used in this section, "victim" means any person determined by the prosecuting attorney or the court to have suffered direct financial, psychological or physical harm as a result of a crime and, in the case of a victim who is a minor, the legal guardian of the minor. [2009 c.563 §1]

Note:

147.430 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.433 - Rights afforded upon request; notice; attendance; protection.**

(1) To accord crime victims due dignity and respect, a victim in a criminal proceeding described in subsection (2) of this section has, upon request to the district attorney before a judgment of conviction is entered, the following rights:

(a) The right to be notified by the district attorney of the victims' rights described in this section and ORS 138.627 and 144.750;

(b) The right to reasonable, accurate and timely notice from the Attorney General when an appeal is taken in the criminal proceeding;

(c) The right to reasonable, accurate and timely notice from the counsel for the state when a conviction in the criminal proceeding is the subject of a petition for post-conviction relief filed under ORS 138.510 to 138.680 or post-conviction DNA (deoxyribonucleic acid) testing under ORS 138.688 to 138.700;

(d) The right to attend any public hearing related to the criminal proceeding that is conducted by an appellate court; and

(e) The right to be reasonably protected from the offender, if the offender is present, at any related appellate or post-conviction relief proceeding.

(2) The provisions of this section apply only to criminal proceedings involving a defendant charged with or convicted of:

(a) A person felony, as that term is defined in the rules of the Oregon Criminal Justice Commission;

(b) A person Class A misdemeanor, as that term is defined in the rules of the Oregon Criminal Justice Commission;

(c) Burglary in the first degree under ORS 164.225;

(d) A sex crime as defined in ORS 163A.005; or

(e) An attempt, conspiracy or solicitation to commit a crime described in paragraph (a) or (b) of this subsection.

(3) As used in this section, "victim" has the meaning given that term in ORS 131.007. [2010 c.89 §1; 2019 c.368 §11]

Note:

147.433 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.438 - Habeas corpus proceedings in federal court.**

In any habeas corpus proceeding brought in federal court to which the State of Oregon is a party, the state shall comply with the rights afforded to crime victims under 18 U.S.C. 3771. Remedies for violations of 18 U.S.C. 3771 are as provided under federal law. [2010 c.89 §5]

Note:

147.438 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.450 - Definitions.**

As used in ORS 147.450 to 147.471:

- (1) "Domestic violence" has the meaning given that term in ORS 135.230 and includes teen dating violence.
- (2) "Sexual assault" means any unwanted sexual contact as defined in ORS 163.305.
- (3) "Teen dating violence" means:
  - (a) A pattern of behavior in which a person uses or threatens to use physical, mental or emotional abuse to control another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age; or
  - (b) Behavior by which a person uses or threatens to use sexual violence against another person who is in a dating relationship with the person, where one or both persons are 13 to 19 years of age. [2001 c.870 §23; 2007 c.71 §40; 2012 c.69 §2]

Note:

147.450 to 147.471 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.453 - Oregon Domestic and Sexual Violence Services Fund.**

There is established in the State Treasury, separate and distinct from the General Fund, the Oregon Domestic and Sexual Violence Services Fund. All moneys in the fund are continuously appropriated to the Department of Justice and shall be used by the department to carry out a program of domestic and sexual violence services that:

- (1) Provides safety for and assists victims of domestic violence and sexual assault, promotes effective intervention and reduces the incidence of domestic violence and sexual assault;
- (2) Advocates for victims and for domestic violence and sexual assault services;
- (3) Promotes and facilitates interagency and interdepartmental cooperation among state agencies, including the Department of Human Services, and among different levels of government in this state in the delivery and funding of services; and
- (4) Encourages and supports services, programs and curricula to educate and inform students in grades 7 through 12 about teen dating violence and domestic violence, to provide assistance to victims of teen dating violence and domestic violence, and to prevent and reduce the incidence of teen dating violence and domestic violence. [2001 c.870 §24; 2009 c.411 §2; 2012 c.69 §3; 2015 c.400 §1]

Note:

See note under 147.450.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.456 - Plan for allocation of funds; Department of Justice.**

- (1) Prior to January 1, 2002, the Department of Justice shall develop a plan for the allocation of funds that are appropriated under section 32, chapter 870, Oregon Laws 2001, in collaboration with:
  - (a) The Department of Human Services;
  - (b) The Department of State Police;
  - (c) The Oregon Coalition Against Domestic and Sexual Violence;
  - (d) The Governor's Council on Domestic Violence;
  - (e) The Attorney General's Sexual Assault Task Force;
  - (f) Victims of domestic and sexual violence;
  - (g) Representatives of county governments and county human services departments;
  - (h) Representatives of local domestic violence councils;
  - (i) Representatives of domestic violence victim services providers or advocacy organizations; and
  - (j) Other interested organizations.
- (2) The plan developed under subsection (1) of this section shall:
  - (a) Set the criteria, procedures and timelines for allocation of funds;
  - (b) Establish uniform systems for reporting requirements, collecting statistical data and reporting measurable outcomes for programs that receive funding;

- (c) Set guidelines for the planning, coordination and delivery of services by programs that receive funding;
- (d) Provide a process whereby the Department of Justice may review all findings from data collected from programs that receive funding. If the department conducts a review, the department shall use the information to develop future economic resources and services and to coordinate services; and
- (e) Further the purposes set forth in ORS 147.453. [2001 c.870 §26]

Note:

See note under 147.450.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.459 - Considerations in developing plan.**

The Department of Justice, in developing the plan under ORS 147.456, shall consider ways to:

- (1) Balance funding for intervention, infrastructure and prevention services;
- (2) Prioritize services;
- (3) Utilize local community plans reflecting local program service needs;
- (4) Establish programs and services for victims of both domestic violence and sexual assault;
- (5) Establish programs that are culturally specific; and
- (6) Ensure that there is a coordinated community response to domestic violence and sexual assault and, to the extent practicable, ensure that domestic violence and sexual assault services are coordinated with other community services. [2001 c.870 §29]

Note:

See note under 147.450.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.462 - Limits on expenditures from fund.**

In administering the Oregon Domestic and Sexual Violence Services Fund, the Department of Justice shall:

- (1) Expend no less than 15 percent of moneys distributed under the plan developed under ORS 147.456 on sexual assault services; and
- (2) Expend no more than 10 percent of the moneys distributed under the plan on administrative costs. [2001 c.870 §28; 2007 c.299 §1]

Note:

See note under 147.450.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.465 - Grantmaking; rules.**

- (1) If sufficient funds are available in the Oregon Domestic and Sexual Violence Services Fund, the Attorney General or the Attorney General's designee may make grants from the fund to carry out the plan developed under ORS 147.456.
- (2) The Attorney General may hire staff necessary to accomplish the purposes of the plan developed under ORS 147.456.
- (3) In accordance with ORS chapter 183, the Attorney General shall adopt rules necessary to carry out the provisions of ORS 147.450 to 147.471. [2001 c.870 §25; 2007 c.71 §41]

Note:

See note under 147.450.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.468 - Authority of Department of Justice.**

To the extent that funds are available, the Department of Justice may:

- (1) Pursue centralized training, technical assistance, policy development and implementation;
- (2) Conduct statewide community outreach and public education;
- (3) Develop innovative projects based on demonstrated effectiveness that address domestic and sexual violence;
- (4) Provide information and policy advice based on current research and demonstrated effectiveness in Oregon and other states, including successful local strategies; and
- (5) Compile, analyze and distribute materials to inform and support statewide coordinated planning. [2001 c.870 §27]

Note:

See note under 147.450.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.471 - Advisory council.**

- (1) There is created an advisory council that shall consist of at least 15, but not more than 20, members. The council shall advise the Department of Justice on the administration of the policies and practices of the domestic and sexual violence services program. Members shall be appointed by and serve at the pleasure of the Attorney General. Membership in the council shall:

- (a) Accurately reflect the diversity of the population in Oregon as well as the diversity of individuals needing services;
- (b) Be composed of both lay and professionally trained individuals with expertise in domestic violence and sexual assault services;
- (c) Include representatives of other state agencies providing services;
- (d) Include representatives of professional, civil or other public or private organizations;
- (e) Include private citizens interested in service programs; and
- (f) Include recipients of assistance or services or their representatives.

(2) Members of the advisory council may not receive compensation for their services. Members of the advisory council other than members employed in full-time public service shall be reimbursed by the Department of Justice for their actual and necessary expenses incurred in the performance of their duties. The reimbursement shall be subject to the provisions of ORS 292.210 to 292.288. Members of the advisory council who are employed in full-time public service may be reimbursed by their employing agencies for their actual and necessary expenses incurred in the performance of their duties. [2001 c.870 §30; 2007 c.71 §42]

Note:

See note under 147.450.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.480 - Fund established; allocation of moneys; application; advisory committee; rules.**

(1) The Fund to End Commercial Sexual Exploitation of Children is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Fund to End Commercial Sexual Exploitation of Children shall be credited to the fund. All moneys deposited in the fund are continuously appropriated to the Department of Justice for the purposes of this section.

(2) The Department of Justice, with the advice of the advisory committee appointed under subsection (5) of this section, shall allocate moneys from the Fund to End Commercial Sexual Exploitation of Children to provide financial assistance to fund one or more of the following:

- (a) Services, interventions and treatment for children who have been or may become the victims of commercial sexual exploitation;
- (b) Efforts to provide outreach to, and to educate, the public, professionals and service providers about the commercial sexual exploitation of children;
- (c) Efforts to prevent and reduce the incidence of commercial sexual exploitation of children;
- (d) Training of investigators, service providers and others regarding the identification and treatment of children who have experienced commercial sexual exploitation;
- (e) Advocacy for children who have been victims of commercial sexual exploitation;
- (f) Promotion and facilitation of interagency and interdepartmental cooperation among state agencies and among different levels of government in this state in the delivery and funding of services for children who have been or may become victims of commercial sexual exploitation; and
- (g) Any other activity, project or program that will encourage and support the provision of preventative and therapeutic assistance to child victims or potential child victims of commercial sexual exploitation.

(3) An individual or entity wishing to apply for funding from the Fund to End Commercial Sexual Exploitation of Children shall submit an application to the department. The application shall be in the form and contain the information required by the department by rule.

(4) The department may solicit and accept contributions of funds and assistance from the United States or its agencies, or from other sources, public or private, and agree to conditions not inconsistent with the purposes of this section. All funds received shall be deposited into the Fund to End Commercial Sexual Exploitation of Children and are continuously appropriated to the department for the purposes of this section.

(5) The department shall appoint an advisory committee to advise the department with respect to policies and procedures to coordinate statewide planning for delivery of services to child victims of commercial sexual exploitation. The advisory committee shall meet with and advise the department, provide the department with information regarding the status of existing services and make recommendations for the making of awards of financial assistance pursuant to this section. The department shall include as members of the advisory committee stakeholders with expertise in child welfare, mental health and addiction, sex trafficking and law enforcement.

(6) The department may adopt rules to carry out the provisions of this section, including but not limited to the role of the advisory committee. [2015 c.703 §1]

Note:

147.480 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.485 - Training for state agencies and county juvenile departments.**

(1) As used in this section:

- (a) "Adjudicated youth" has the meaning given that term in ORS 419A.004.
- (b) "State agency" means any state officer, board, commission, bureau or department, or division thereof, in the executive branch of state government.

(c) "Youth" has the meaning given that term in ORS 419A.004.

(2)(a) The Department of Justice, in consultation with the advisory committee appointed by the department under ORS 147.480, shall develop a one-hour virtual training on sex trafficking.

(b) The department shall make the training developed under this subsection available at no cost to state agencies and county juvenile departments that work with youths and adjudicated youths.

(3) A state agency shall ensure that all staff of the state agency who work with youths and adjudicated youths complete the training developed under subsection (2) of this section at least once every two years.

(4) A county juvenile department shall ensure that all staff of the county juvenile department who work with youths and adjudicated youths complete the training developed under subsection (2) of this section at least once every two years. [2023 c.187 §3]

Note:

147.485 becomes operative January 1, 2025. See section 7, chapter 187, Oregon Laws 2023.

Note:

147.485 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note:

Sections 4, 5 and 6, chapter 187, Oregon Laws 2023, provide:

Sec. 4.

No later than December 31, 2025, the advisory committee appointed by the Department of Justice under ORS 147.480 shall submit a report to the interim committees of the Legislative Assembly related to human services, in the manner described in ORS 192.245, describing:

(1) How many screenings under section 2 of this 2023 Act [419C.030] were conducted between January 1, 2024, and December 1, 2025;

(2) The number of victims of sex trafficking who were identified as a result of the screenings described in subsection (1) of this section;

(3) The types of resources to which the victims described in subsection (2) of this section were referred; and

(4) Any gaps in resources available to victims of sex trafficking that were identified by the advisory committee. [2023 c.187 §4]

Sec. 5.

(1) No later than January 1, 2024, the Department of Justice shall make the referral resource list, screening tool and training described in section 2 of this 2023 Act [419C.030] available to county juvenile departments.

(2) No later than July 1, 2024, a county juvenile department shall ensure that all staff of the county juvenile department who work directly with youths and adjudicated youths have completed the screening tool training developed by the Department of Justice under section 2 of this 2023 Act.

(3) No later than January 1, 2025, the Department of Justice shall develop and begin providing the training described in section 3 of this 2023 Act [147.485].

(4) No later than January 1, 2026, and every two years thereafter, state agencies and county juvenile departments shall ensure that employees described in section 3 (3) and (4) of this 2023 Act have completed the training developed by the Department of Justice under section 3 of this 2023 Act. [2023 c.187 §5]

Sec. 6.

Sections 4 and 5 of this 2023 Act are repealed on January 2, 2026. [2023 c.187 §6]

## **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.500 - Definitions.**

As used in ORS 147.500 to 147.550:

(1) "Authorized prosecuting attorney" means a prosecuting attorney who, at the request of a victim, has agreed to assert and enforce a right granted to the victim by section 42 or 43, Article I of the Oregon Constitution.

(2) "Claim" means the allegation and proposed remedy described in ORS 147.515 (1).

(3) "Crime" includes an act committed by a person who is under 18 years of age that, if committed by an adult, would constitute a misdemeanor or felony.

(4) "Criminal proceeding" means an action at law in which a person is alleged, or has been adjudicated, to have committed a crime for which there is a victim and that is conducted in the trial court before or after sentencing or disposition.

(5) "Critical stage of the proceeding" means:

(a) Release hearings or hearings to modify the conditions of release, except hearings concerning release decisions at arraignment;

(b) Preliminary hearings;

(c) Hearings related to the rescheduling of trial;

(d) Hearings on motions or petitions:

(A) Conducted pursuant to ORS 40.210 or 135.139;

(B) To amend, dismiss or set aside a charge, conviction, order or judgment; or

(C) To suppress or exclude evidence;

(e) Entry of guilty or no contest pleas;

- (f) Trial;
  - (g) Restitution hearings;
  - (h) Sentencing;
  - (i) Probation violation or revocation hearings if the crime of conviction is a felony or person Class A misdemeanor and the victim has requested notice of the hearing from the prosecuting attorney or the supervisory authority as defined in ORS 144.087;
  - (j) Hearings for relief from the requirement to report as a sex offender or for the reclassification of a sex offender;
  - (k) Hearings related to a deferred sentencing agreement;
  - (L) Hearings designated as a critical stage of the proceeding in ORS 419C.273; and
  - (m) Any other stage of a criminal proceeding the court determines is a critical stage of the proceeding for purposes of section 42, Article I of the Oregon Constitution.
- (6) "Defendant" includes a person under 18 years of age alleged to be within the jurisdiction of the juvenile court under ORS chapter 419C.
- (7) "Plea hearing" means a hearing in which a defendant enters a plea of guilty or no contest.
- (8) "Plea of guilty or no contest" includes:
- (a) An admission by a person under 18 years of age that the person is within the jurisdiction of the juvenile court; and
  - (b) If a juvenile court petition has been filed, entering into a formal accountability agreement under ORS 419C.230 or entering an authorized diversion program under ORS 419C.225.
- (9) "Prosecuting attorney" means a district attorney as defined in ORS 131.005. In a criminal proceeding conducted in the juvenile court, "prosecuting attorney" includes the juvenile department.
- (10) "Reasonable efforts to inform the victim" includes, but is not limited to, providing information orally, in writing, electronically or by mail to the victim's last known address.
- (11) "Sentencing hearing" includes the dispositional phase of a juvenile delinquency proceeding under ORS chapter 419C.
- (12) "Trial court" includes the juvenile court.
- (13) "Victim" means any person determined by the prosecuting attorney or the court to have suffered direct financial, psychological or physical harm as a result of the crime alleged in the criminal proceeding and, in the case of a victim who is a minor, the legal guardian of the minor.
- (14) "Violent felony" means a felony in which there was actual or threatened serious physical injury to a victim or a felony sexual offense. [2009 c.178 §1; 2013 c.708 §15a]

Note:

147.500 to 147.550 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.502 - General provisions.**

- (1) A victim may assert a claim under ORS 147.500 to 147.550 personally, through an attorney or through an authorized prosecuting attorney.
- (2) If the defendant or victim is represented by counsel, counsel for the defendant or victim shall be served or notified in lieu of service on or notification to a defendant or victim under ORS 147.500 to 147.550.
- (3) A court may not charge a filing fee, service fee, motion fee or hearing fee for a proceeding under ORS 147.500 to 147.550.
- (4) The time within which an act is to be done under ORS 147.500 to 147.550 is determined under ORS 174.120 and 174.125.
- (5) ORCP 17 applies to the provision of documents to the court under ORS 147.500 to 147.550. [2009 c.178 §2]

Note:

See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.504 - Scope.**

- (1) ORS 147.500 to 147.550 effectuate the provisions of sections 42 and 43, Article I of the Oregon Constitution, for violations that occur in criminal proceedings and do not provide a remedy for violations that occur in any other proceeding. A remedy for a violation of section 42 or 43, Article I of the Oregon Constitution, in any other proceeding may be enforced by writ of mandamus under ORS 34.105 to 34.240.
- (2) Nothing in ORS 147.500 to 147.550:
  - (a) Affects the authority granted by law to the prosecuting attorney to assert the public's interest, including but not limited to:
    - (A) Asserting rights granted to victims by law; and
    - (B) Investigating and presenting to the court evidence relating to restitution.
  - (b) Authorizes a court to order the dismissal of a criminal proceeding or to grant a motion for judgment of acquittal, in arrest of judgment or for a new trial.
  - (c) Reduces a defendant's rights under the United States Constitution or authorizes the suspension of a criminal proceeding if the suspension would violate a right of a defendant guaranteed by the Oregon Constitution or the United States Constitution. [2009 c.178 §19]

Note:

See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.508 - Reconsideration of release decision.**

(1) At the request of a victim, the prosecuting attorney may request that the court schedule a hearing to reconsider a release decision if:

- (a) The victim did not have notice of, or an opportunity to be heard at, a hearing in which the court released the defendant from custody or reduced the defendant's security amount; and
- (b) The victim's request is made no later than 30 days after the victim knew or reasonably should have known of the release decision that is to be reconsidered.

(2) As used in this section, "release decision" includes:

- (a) Decisions made at arraignment; and
- (b) Decisions made at hearings described in ORS 419C.273 (1)(b)(A) to (C). [2009 c.178 §4; 2011 c.659 §2; 2023 c.182 §11]

Note:

See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.510 - Critical stage of criminal proceeding; notice to court.**

(1) This section does not apply:

- (a) In a juvenile delinquency proceeding; or
- (b) In a criminal case in which no person has been determined to be the victim of the crime.

(2) At the beginning of each critical stage of the proceeding:

- (a) The prosecuting attorney shall inform the court whether the victim is present.
- (b) If the victim is not present, the prosecuting attorney shall inform the court, based on the prosecuting attorney's knowledge, whether the victim requested advance notice of any critical stage of the proceeding and, if so, whether the victim:
  - (A) Was notified of the date, time and place of the proceeding;
  - (B) Was informed of the victim's rights implicated in the proceeding; and
  - (C) Indicated an intention to attend the proceeding or requested that the prosecuting attorney assert a particular right associated with the proceeding and, if the victim made such a request, whether the prosecuting attorney agreed to do so.

(3) Subsection (2) of this section does not apply in any criminal proceeding in which the prosecuting attorney provides the court with the notice described in subsection (4) of this section.

(4) In all felony cases, no later than 21 days after the defendant is arraigned on an indictment, waives indictment or is held to answer following a preliminary hearing, the prosecuting attorney shall provide the court with a notice of compliance with victims' rights on a form prescribed by the Chief Justice of the Supreme Court or on a substantially similar form that indicates whether:

- (a) The prosecuting attorney, a person known to the prosecuting attorney or a member of the prosecuting attorney's staff made reasonable efforts to inform the victim of the rights granted to the victim by sections 42 (1)(a) to (f) and 43, Article I of the Oregon Constitution;
  - (b) The charging instrument includes the name or pseudonym of each victim known to the prosecuting attorney. If the charging instrument does not include the name or pseudonym of each victim known to the prosecuting attorney, the prosecuting attorney shall identify any victim not included in the charging instrument, unless it would be impractical to do so;
  - (c) The victim requested that the prosecuting attorney assert and enforce a right granted to the victim by section 42 or 43, Article I of the Oregon Constitution, and whether the prosecuting attorney agreed to do so; and
  - (d) The victim requested to be informed in advance of any critical stage of the proceeding.
- (5) If the victim is present at a critical stage of the proceeding, the prosecuting attorney shall inquire of the victim whether the victim intends to assert a right granted to the victim by section 42 or 43, Article I of the Oregon Constitution, and shall report the results of that inquiry to the court. The court may ask the victim for information about any aspect of the rights granted to the victim by sections 42 and 43, Article I of the Oregon Constitution.

(6)(a) Information provided to the court under subsection (2) or (4) of this section may be based on information obtained from a law enforcement agency, a member of the prosecuting attorney's staff, the prosecuting attorney's file or an electronic data system or other record keeping system regularly maintained by the office of the prosecuting attorney.

(b) If the prosecuting attorney discovers that information provided to the court under subsection (2) or (4) of this section is no longer accurate, the prosecuting attorney shall orally provide the court with updated information prior to or during the critical stage of the proceeding that immediately follows the discovery. [2009 c.178 §3]

Note:

See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.512 - Plea hearings, sentencing hearings and settlement conferences.**

(1) Notwithstanding ORS 147.510, at the beginning of each judicial settlement conference, plea hearing or sentencing hearing, the prosecuting attorney shall inform the court whether the victim is present. If the victim is not present and the case involves a defendant charged with a violent felony or bias crime in the first degree under ORS 166.165, the prosecuting attorney shall inform the court whether the victim was informed of the conference or hearing.

(2) In any case involving a defendant charged with a violent felony or bias crime in the first degree under ORS 166.165:

(a) If the victim requests, the prosecuting attorney shall make reasonable efforts to consult the victim before making a plea offer and before entering into a final plea agreement.

(b) Before the court accepts a plea of guilty or no contest:

(A) If the victim is present, the court shall ask whether the victim was consulted regarding plea negotiations, if the victim agrees or disagrees with the plea agreement as presented to the court and whether the victim wishes to be heard regarding the plea agreement.

(B) If the victim is not present, the court shall ask the prosecuting attorney whether the victim requested to be informed and consulted regarding plea negotiations. If the victim made such a request, the court shall ask the prosecuting attorney what reasonable efforts to inform and consult the victim concerning plea negotiations were made and whether the victim agrees or disagrees with the plea agreement.

(c) If the court finds that the victim requested consultation regarding plea negotiations and that the prosecuting attorney failed to make reasonable efforts to consult the victim, the court shall direct the prosecuting attorney to make reasonable efforts to consult the victim and may not accept the plea unless the court makes a finding on the record that the interests of justice require the acceptance of the plea.

(3) Before the court imposes sentence, the court shall ask whether the victim wishes to express the views described in ORS 137.013. [2009 c.178 §5; 2011 c.659 §1; 2023 c.549 §7]

Note:

See note under 147.500.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.515 - Claims.**

(1) A victim who wishes to allege a violation of a right granted to the victim in a criminal proceeding by Article I, section 42 or 43, of the Oregon Constitution, shall inform the court within 30 days of the date the victim knew or reasonably should have known of the facts supporting the allegation. The victim shall describe the facts supporting the allegation and propose a remedy.

(2) The victim may inform the court of a claim:

(a) On a form prescribed by the Chief Justice of the Supreme Court; or

(b) On the record in open court and in the presence of the defendant and the prosecuting attorney.

(3) If the victim informs the court of a facially valid claim on a form under subsection (2)(a) of this section, the court shall promptly issue the order to show cause described in ORS 147.517.

(4) If the victim informs the court of a facially valid claim orally under subsection (2)(b) of this section and the court determines:

(a) That each person entitled to notice of the claim and a reasonable opportunity to be heard is present, the court shall hold a hearing under ORS 147.530 as soon as practicable; or

(b) That any person entitled to notice of the claim and a reasonable opportunity to be heard is not present, the court shall issue the order to show cause described in ORS 147.517.

(5) If the court determines that the victim has not alleged a facially valid claim, the court shall enter a written order dismissing the claim. The order must:

(a) Include the reasons the claim was dismissed; and

(b) Be without prejudice to file, within seven days from the date the victim receives the written order dismissing the claim, a corrected claim for the sole purpose of correcting the deficiency identified by the court.

(6) If a victim informs the court of a claim orally and the court does not immediately hear the matter, the court may require the victim to complete the form described in subsection (2)(a) of this section. [2009 c.178 §6; 2011 c.659 §3; 2013 c.224 §1]

Note:

See note under 147.500.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.517 - Notice; order to show cause; response.**

(1)(a) Except as provided in subsection (3) of this section, the victim or the prosecuting attorney shall provide notice of a claim asserted by the victim to any person the victim wishes to have bound by an order granting relief by providing the person with a copy of the order to show cause described in this section. The victim or prosecuting attorney shall provide the court with a mailing address for any person the victim or prosecuting attorney provides with a copy of the order to show cause under this paragraph.

(b) An order granting relief under ORS 147.520 or 147.530 is not enforceable against, and has no legal effect on, any person who did not receive notice or have knowledge of the claim and did not have a reasonable opportunity to be heard regarding the claim.

(2) Upon receipt of a facially valid claim under ORS 147.515 (3) or (4)(b), the court shall issue an order to show cause why the victim should not be granted relief. The court shall, after considering the requirements of ORS 147.530 (5)(a), include in the order to show cause the date:

- (a) By which responses to the claim must be submitted to the court; and
  - (b) On which the court will conduct a hearing on timely responses to the claim.
  - (3) The court shall provide a copy of the order to show cause and of the form described in ORS 147.515 (2)(a), if the form was completed, to:
    - (a) The victim;
    - (b) The prosecuting attorney; and
    - (c) The defendant.
  - (4)(a) If the court issues an order to show cause under this section, a victim, the prosecuting attorney, the defendant or any person against whom relief is requested may contest the claim by filing a response with the court before the date specified in the order under subsection (2)(a) of this section.
  - (b)(A) When a claim alleges a violation of a right granted to the victim under section 42, Article I of the Oregon Constitution, the prosecuting attorney may file an ex parte response that includes an affidavit setting forth good cause to suspend the rights established in section 42, Article I of the Oregon Constitution.
  - (B) The court shall review the response and affidavit in camera. If the court finds that the prosecuting attorney has a good faith belief that the criminal proceeding involves a minor victim or organized crime, as that term is defined in ORS 180.600, and the court finds good cause to suspend the rights established in section 42, Article I of the Oregon Constitution, the court shall enter an order suspending those rights. The order may not include the facts that formed the basis of the suspension.
  - (C) The prosecuting attorney shall make a reasonable effort to provide notice of the suspension to the victim and the defendant.
  - (D) The response and affidavit described in this paragraph may not be disclosed and must be sealed and made a part of the record for purposes of appellate review. [2009 c.178 §7]
- Note:  
See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.520 - Resolution of claim when response not filed.**

- (1) If a response to the order to show cause issued under ORS 147.517 is not timely filed, the court shall:
    - (a) Make factual findings supported by the record; and
    - (b) Determine whether the factual findings constitute a violation of a right granted to the victim by section 42 or 43, Article I of the Oregon Constitution.
  - (2) If the court determines that the victim's rights:
    - (a) Have been violated, except as provided in paragraph (c) of this subsection, the court shall issue an order after giving due consideration to the proposed remedy.
    - (b) Have not been violated, the court shall issue an order denying relief.
    - (c) Have been violated but that the Oregon Constitution or the United States Constitution prohibits all appropriate remedies or that the court has suspended the rights of the victim under ORS 147.517 (4)(b), the court shall issue an order denying relief.
  - (3) The order issued under subsection (2) of this section must be in writing and, except as provided in ORS 147.517 (4)(b)(B), must include the reasons relief was granted or denied.
  - (4) The court shall provide a copy of the order issued under subsection (2) of this section to the victim, the prosecuting attorney, the defendant and any person against whom relief was ordered at the mailing address provided under ORS 147.517 (1)(a). [2009 c.178 §8]
- Note:  
See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.522 - Issue that will have impact on trial; challenge to designation as victim or victim's presence at trial.**

- (1) A victim or prosecuting attorney who seeks a determination of an issue involving a right granted by section 42 or 43, Article I of the Oregon Constitution, that will impact the conduct of the trial shall file a motion within 35 days of the arraignment, or of the defendant's entry of the initial plea on an accusatory instrument, whichever is sooner, unless the factual basis of the determination becomes known to the movant at a later time and could not reasonably have been discovered earlier, in which case the motion must be filed promptly.
- (2) A defendant who seeks to challenge the designation of a person as a victim shall:
  - (a) File a response to a claim under ORS 147.517 (4); or
  - (b) File a motion within seven days after the date the victim first exercises a right granted by section 42 or 43, Article I of the Oregon Constitution, unless the court finds good cause to allow the motion at a later time.
- (3) A defendant who seeks to object to a victim's presence at trial shall file a motion within 35 days of arraignment, or of the defendant's entry of the initial plea on an accusatory instrument, whichever is sooner, unless the factual basis of the objection could not reasonably be discovered earlier, in which case the motion must be filed promptly.
- (4) The court shall conduct a hearing on a motion filed under this section and rule on the motion as soon as practicable. The court



may not grant relief under subsection (2) or (3) of this section unless the designation of a person as a victim or the victim's presence at trial violates the Oregon Constitution or the United States Constitution. [2009 c.178 §9]

Note:

See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.525 - Rescheduling matters affected by claim, response or motion.**

(1) Pending the hearing described in ORS 147.530, the court may reschedule any matter in the criminal proceeding that may directly impact, or be directly impacted by, the claim, a response filed under ORS 147.517 (4) or a motion filed under ORS 147.522. All other matters in the criminal proceeding shall continue in the ordinary course.

(2) In determining whether to reschedule a matter under subsection (1) of this section, in addition to other factors the court considers important, the court shall consider:

(a) The likelihood that the requested relief will be granted in light of the support in fact and law for the relief, as shown in the claim, the response filed under ORS 147.517 (4) or the motion filed under ORS 147.522;

(b) Whether the claim, response or motion is made in good faith and not for the purpose of delay;

(c) The nature of the harm to the victim, the prosecuting attorney, the defendant, any person against whom relief is requested and the public that will likely result from rescheduling the matter;

(d) The rights guaranteed to the victim, the prosecuting attorney, the defendant and any person against whom relief is requested under the Oregon Constitution or the United States Constitution and under Oregon statutory and decisional law; and

(e) Whether the defendant is in custody and, if so, whether the defendant has expressly consented to a continuance of the trial under ORS 136.290.

(3) A pretrial release decision may not be continued under this section for more than 14 days.

(4) Unless the court finds good cause to continue the trial to a later date, a trial may not be continued under this section for more than 14 days. [2009 c.178 §10]

Note:

See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.530 - Hearing on claim, response or motion; order.**

(1) A hearing on a claim, a response filed under ORS 147.517 (4) or a motion filed under ORS 147.522 shall be conducted in accordance with this section.

(2) At the hearing, the court may receive evidence relevant to the claim or motion.

(3) As to a particular fact at issue, the court shall find against the person bearing the burden of persuasion unless the person proves the fact by a preponderance of the evidence.

(4) If the court determines that the moving party:

(a) Is entitled to relief, the court shall, after giving due consideration to the requested relief, issue a written order.

(b) Is not entitled to relief or that the Oregon Constitution or the United States Constitution prohibits all appropriate relief, the court shall issue a written order denying relief.

(5) An order issued under subsection (4) of this section must:

(a) Be issued within seven days from the date of the hearing held pursuant to this section, unless the court finds good cause to issue the order at a later date.

(b) Except as provided in ORS 147.517 (4)(b)(B), include the reasons relief was granted or denied.

(6) The court shall provide a copy of the order issued under subsection (4) of this section to the victim, the prosecuting attorney, the defendant, any person who filed a response under ORS 147.517 (4) and any person against whom relief was ordered at the mailing address provided under ORS 147.517 (1)(a). [2009 c.178 §11; 2013 c.224 §2]

Note:

See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.533 - Waiver of remedy.**

(1) A remedy under ORS 147.500 to 147.550 is waived if the remedy is requested:

(a) By a victim who had notice of a related claim and did neither of the following:

(A) File a response under ORS 147.517 (4); or

(B) Participate in a hearing under ORS 147.530; or

(b) By any person after:

(A) The date determined by the court under ORS 147.517 (2)(a) if the person is filing a response;

(B) The period of time described in ORS 147.522 if the person is filing a motion; or

(C) Former jeopardy attaches, unless a motion for new trial or a motion in arrest of judgment is granted.

(2) Subsection (1) of this section does not apply to:

- (a) Remedies that may be effectuated after the disposition of a criminal proceeding;
  - (b) The right to obtain information described in section 42 (1)(b), Article I of the Oregon Constitution;
  - (c) The right to receive prompt restitution described in section 42 (1)(d), Article I of the Oregon Constitution;
  - (d) The right to have a copy of a transcript described in section 42 (1)(e), Article I of the Oregon Constitution; or
  - (e) Remedies requested in a subsequent criminal proceeding arising after a state or federal court has granted a new trial or sentencing, provided the remedy is not waived pursuant to subsection (1) of this section in the subsequent criminal proceeding.
- [2009 c.178 §12]

Note:

See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.535 - Appeals generally.**

- (1)(a) Notwithstanding any other provision of law and except as provided in paragraph (b) of this subsection, appellate review of an order issued under ORS 147.515, 147.520 or 147.530 shall be solely as provided in this section and ORS 147.537, 147.539 and 147.542.
- (b) A defendant who seeks to appeal an order issued under ORS 147.515, 147.520 or 147.530 must do so in the manner provided for appeals in ORS chapter 138. The provisions of this section and ORS 147.537, 147.539 and 147.542 do not apply to an appeal under ORS chapter 138.
- (c) Nothing in ORS 147.500 to 147.550 affects the ability of a defendant to petition for a writ of mandamus.
- (2) Jurisdiction for appellate review of an order issued under ORS 147.515, 147.520 or 147.530 is vested originally and exclusively in the Supreme Court.
- (3) Subject to ORS 147.542, the jurisdiction of the Supreme Court is limited to the order for which appellate review is sought and the trial court retains jurisdiction over all other matters in the criminal proceeding.
- (4) Appellate review of an order issued under ORS 147.515, 147.520 or 147.530 shall be as provided in:
  - (a) ORS 147.537 if the order was issued under ORS 147.520 or 147.530 in a criminal proceeding in which a defendant is charged with a felony or a person Class A misdemeanor, as that term is defined by rule of the Oregon Criminal Justice Commission, and the order arises from a motion or claim alleging a violation that occurred prior to the pronouncement in open court of the sentence or disposition after a plea, admission or trial in the criminal proceeding.
  - (b) ORS 147.539 in all appeals arising under ORS 147.500 to 147.550 except those described in paragraph (a) of this subsection.
- (5) The victim, the state or any person against whom relief was ordered has standing to seek appellate review of an order unless, after notice and a reasonable opportunity to be heard on the claim or motion that resulted in the order or a related claim or motion, the person or party seeking appellate review did none of the following:
  - (a) Inform the court of a claim.
  - (b) File a response under ORS 147.517 (4).
  - (c) File a motion under ORS 147.522.
  - (d) Participate in a hearing under ORS 147.530.
- (6) Pursuant to ORS 180.060, the Attorney General shall appear for the state in all appeals under this section and ORS 147.537, 147.539 and 147.542. [2009 c.178 §13; 2013 c.224 §3]

Note:

See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.537 - Appellate review as matter of right; notice of interlocutory appeal; service; response.**

- (1) Appellate review of an order described in ORS 147.535 (4)(a) must be initiated by filing a notice of interlocutory appeal with the Supreme Court substantially in the form prescribed by rule of the Supreme Court. Review of the order is a matter of right.
- (2) The person or party filing the notice of interlocutory appeal shall be identified as the appellant and the defendant shall be identified as the respondent. Any other person described in subsection (6)(a) to (f) of this section who is a party to the appeal shall be identified as a respondent.
- (3) The notice of interlocutory appeal must contain:
  - (a) A designation of those portions of the trial court record, including oral proceedings, to be included in the record on appeal; and
  - (b) A statement of why the notice is timely.
- (4) The appellant shall include with the notice of interlocutory appeal the following materials:
  - (a) A copy of the order for which appellate review is sought, which must be attached to the notice.
  - (b) Excerpts of the record necessary to determine the question presented and the relief sought. An excerpt of record must include a copy of the form described in ORS 147.515 (2)(a), if the form was completed and provided to the trial court.
  - (c) A memorandum of law containing:
    - (A) A concise but complete statement of facts material to a determination of the question presented and the relief sought; and
    - (B) Supporting arguments and citations of authority.
- (5) The Supreme Court may:

- (a) Direct a party to the appeal to supplement the record with a copy of additional parts of the record or a transcript of the parts of the oral proceedings in the trial court necessary to determine the question presented and the relief sought; or
- (b) Direct the trial court administrator to forward all or part of the trial court record.
- (6) The appellant shall serve a copy of the notice of interlocutory appeal and the accompanying materials described in subsection (4) of this section on the following other persons:
- (a) The victim who asserted the claim that resulted in the order being appealed and any victim who asserted a related claim;
- (b) Any person who filed a response under ORS 147.517 (4) to the claim that resulted in the order being appealed or a related claim;
- (c) Any person who filed the motion that resulted in the order being appealed or a related motion under ORS 147.522;
- (d) Any person against whom relief was sought in the hearing that resulted in the order being appealed or a related hearing under ORS 147.530;
- (e) The prosecuting attorney;
- (f) The Attorney General;
- (g) The defendant; and
- (h) The Oregon Public Defense Commission, if the defendant is represented by appointed counsel.
- (7) The appellant shall serve a copy of the notice of interlocutory appeal on:
- (a) The trial court administrator; and
- (b) The trial court transcript coordinator, if the notice of interlocutory appeal contains a designation of the oral proceedings before the trial court as part of the record on appeal.
- (8)(a) Except as otherwise provided in this subsection, the appellant shall serve and file the notice of interlocutory appeal and, if applicable, the accompanying materials described in subsection (4) of this section within seven days after the date the trial court entered the order being appealed.
- (b) An appellant who seeks to appeal an order issued under ORS 147.530 and who was not provided with a copy of the order as required by ORS 147.530 (6) may serve and file the notice of interlocutory appeal and, if applicable, the accompanying materials described in subsection (4) of this section within seven days after the date of receiving a copy of the order.
- (c) The appellant shall serve the prosecuting attorney and the Attorney General so that the copy of the notice of interlocutory appeal and accompanying materials are received on the same day the notice is filed with the Supreme Court.
- (d) Except as provided in paragraph (c) of this subsection, the appellant shall serve all persons described in subsections (6) and (7) of this section so that the copy of the notice of interlocutory appeal and, if applicable, accompanying materials are received no later than one judicial day after the notice is filed.
- (9) Within three days after receipt of a notice of interlocutory appeal that contains a designation of record under subsection (3) of this section, the trial court administrator shall forward to the Supreme Court an audio record of the designated oral proceedings.
- (10) If the Supreme Court directs a party to provide a transcript of oral proceedings under subsection (5) of this section, the party shall provide the transcript to the Supreme Court within seven days after the date of the Supreme Court's order.
- (11)(a) The following requirements are jurisdictional and may not be waived or extended:
- (A) The timely filing of the original notice of interlocutory appeal and accompanying materials described in subsection (4) of this section with the Supreme Court; and
- (B) The service of the notice of interlocutory appeal within the time limits described in subsection (8) of this section on all persons identified in subsection (6) of this section.
- (b) Failure to timely serve a true and complete copy of the accompanying materials described in subsection (4) of this section is not jurisdictional, provided that the appellant made a good faith effort to do so and substantially complied with those requirements.
- (c) Notwithstanding paragraph (b) of this subsection, the Supreme Court may dismiss the appeal as to any respondent if the appellant, after receipt of a notice of noncompliance, does not promptly cure a deficiency in the materials or if the failure to timely serve a true and complete copy of the accompanying materials substantially prejudices the respondent's ability to respond to the appeal.
- (12) A respondent may file a response, which must be filed within seven days after the date the notice of interlocutory appeal is filed with the Supreme Court.
- (13)(a) Except as provided in paragraph (b) of this subsection, the appellant may not file a reply.
- (b) If the Supreme Court determines that the case is unusually complex, due to the number of persons involved or the existence of novel questions of law, and the court would benefit from additional briefing, the court may extend the briefing schedule described in this section and allow the appellant to file a reply.
- (14) The appellant or respondent may request oral argument. The Supreme Court may grant or deny a request for oral argument or order oral argument on its own motion.
- (15) At any time after submission of the appellant's memorandum of law, the Supreme Court, on its own motion or on the motion of the respondent, may summarily affirm the trial court's order, with or without the submission of a response or oral argument, if the Supreme Court determines that the appeal does not present a substantial question of law. A motion for summary affirmance has no effect on the timelines described in this section.
- (16)(a) Except as provided in paragraph (b) of this subsection, the Supreme Court shall issue its decision on appeal under this section within 21 days after the date the notice of interlocutory appeal is filed.
- (b) The Supreme Court may issue a final decision beyond the 21-day period if the court determines that the ends of justice served by

issuing a final decision at a later date outweigh the best interests of the victim, the prosecuting attorney, the defendant, any person against whom relief was ordered and the public.

(c) In making the determination under paragraph (b) of this subsection, the Supreme Court shall consider:

(A) Whether the case is unusually complex, due to the number of persons involved or the existence of novel questions of law, and whether 21 days is an unreasonable amount of time for the court to issue a decision; and

(B) Whether the failure to extend the 21-day period would be likely to result in a miscarriage of justice.

(17) Appellate review under this section is confined to the record. The Supreme Court may not substitute its judgment for that of the trial court as to any issue of fact and shall review challenges to a factual finding for evidence in the record to support the finding. The Supreme Court shall review for errors of law and, when the law delegates discretion to the trial court, determine whether the trial court's exercise of discretion was outside the range of discretion delegated to the trial court.

(18) The Supreme Court may affirm, modify, reverse or remand the trial court's order. The court may reverse or remand the order only if it finds that the order is unlawful in substance or procedure and that the substantial rights of the appellant were prejudiced as a result.

(19) Notwithstanding any other provision of law, a notice of interlocutory appeal and the response described in subsection (12) of this section are filed under this section when those documents are physically received by the Supreme Court or, if the documents are filed electronically, as provided by rule of the Chief Justice of the Supreme Court.

(20) In addition to any other method authorized by law, service under this section may be accomplished by electronic mail or facsimile transmission, in a manner consistent with any applicable rules of appellate procedure. [2009 c.178 §14; 2011 c.659 §4; 2013 c.224 §4; 2023 c.281 §34]

Note:

See note under 147.500.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.539 - Discretionary review.**

Appellate review of an order described in ORS 147.535 (4)(b) shall be as provided in ORS 147.537, except that:

(1) The Supreme Court's jurisdiction is discretionary. The court may by rule prescribe the criteria the court will use to decide whether to grant review. The initiating document is a petition for review, but the petition must be accompanied by the same materials described in ORS 147.537 (4), and the person seeking review shall be identified as the petitioner.

(2) The respondent may elect not to file a response until after the Supreme Court has decided to accept review, in which case the response must be filed within seven days after the Supreme Court issues an order granting review.

(3) ORS 147.537 (15) does not apply to review under this section. The Supreme Court may dismiss a review improvidently granted.

(4)(a) Except as provided in paragraph (b) of this subsection, the Supreme Court shall issue its decision on appeal under this section within 21 days after the date the court issued the order granting review.

(b) The Supreme Court may issue a final decision beyond the 21-day period if the court determines that the ends of justice served by issuing a final decision at a later date outweigh the best interests of the victim, the prosecuting attorney, the defendant, any person against whom relief was ordered and the public. [2009 c.178 §15]

Note:

See note under 147.500.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.542 - Stay pending appeal.**

(1) The trial court shall stay for a period of 21 days all matters that directly impact, or are directly impacted by, the order on appeal:

(a) Upon receipt of a notice of interlocutory appeal under ORS 147.537; or

(b) Upon the issuance of an order granting review under ORS 147.539.

(2) The Supreme Court may extend or reduce the length of or vacate the stay on its own motion or on the motion of a victim, prosecuting attorney, defendant or any person against whom relief was ordered.

(3) In making the determination described in subsection (2) of this section, in addition to other factors the Supreme Court considers important, the court shall consider:

(a) The likelihood that the appellant will prevail on appeal in light of the support in fact and law for the appeal;

(b) Whether the appeal is taken in good faith and not for the purpose of delay;

(c) The nature of the harm to the victim, the prosecuting attorney, the defendant, any person against whom relief was ordered and the public that will likely result from the grant or denial of a stay;

(d) The rights guaranteed to the victim, the prosecuting attorney, the defendant and any person against whom relief was ordered under the Oregon Constitution or the United States Constitution and under Oregon statutory and decisional law; and

(e) Whether the defendant is in custody and, if so, whether the defendant has expressly consented to a continuance of the trial under ORS 136.290. [2009 c.178 §16]

Note:

See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.545 - Attorney General certification; intervention.**

(1)(a) Prior to the Attorney General's first appearance in an appellate court proceeding in which the State of Oregon is a party and to which Article I, section 42 or 43, of the Oregon Constitution, applies, the Attorney General shall determine whether the Department of Justice has taken all reasonably practicable steps to fulfill the rights granted by Article I, sections 42 and 43, of the Oregon Constitution, to the victim of the crime in the appellate courts.

(b) Unless otherwise provided by rule or order of the Chief Justice of the Supreme Court, the Attorney General shall, in the cases described in paragraph (a) of this subsection, certify the results of that determination to the court simultaneously with the Attorney General's first appearance.

(2) The Attorney General may intervene at any time on behalf of the State of Oregon in any trial court proceeding arising under ORS 147.500 to 147.550. [2009 c.178 §17; 2013 c.224 §5]

Note:

See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.550 - Establishment of requirements and procedures by Chief Justice by rule or order.**

(1) The Chief Justice of the Supreme Court may, by rule or order, establish requirements and procedures necessary to comply with the provisions of ORS 147.500 to 147.550.

(2) The Chief Justice of the Supreme Court shall prescribe the forms described in ORS 147.510 (4) and 147.515 (2)(a). The form described in ORS 147.515 (2)(a) must allow a victim to designate an alternate mailing address or to substitute a person to receive notice or service on behalf of the victim for the purposes of ORS 147.500 to 147.550. [2009 c.178 §18]

Note:

See note under 147.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.560 - Task Force on Victims' Rights Enforcement; duties; reports.**

(1) There is created the Task Force on Victims' Rights Enforcement consisting of the Attorney General and at least nine members appointed as follows:

(a) The Attorney General shall appoint:

(A) Two members employed by or associated with a group advocating for the rights of victims of crime;

(B) A member who represents the Department of Justice Crime Victims' Services Division;

(C) A lawyer routinely engaged in the representation of persons charged with a crime, after consulting with professional organizations serving such lawyers;

(D) A lawyer routinely engaged in prosecuting persons charged with person felony crimes, after consulting with professional organizations serving such lawyers;

(E) A lawyer routinely engaged in prosecuting persons charged with a crime, after consulting with professional organizations serving such lawyers; and

(F) Other persons the Attorney General deems appropriate;

(b) The Chief Justice of the Supreme Court shall appoint:

(A) A person employed by the Judicial Department, other than a judge; and

(B) A judge; and

(c) The executive director of the Oregon Public Defense Commission shall appoint a person employed by the commission.

(2) The task force shall review the implementation of ORS 147.500 to 147.550.

(3) The Attorney General shall serve as chair of the task force and may establish a term of office for the members. The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(4) Members serve at the pleasure of the appointing authority. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(5) The task force may prepare reports that include recommendations for legislation designed to improve, in a cost-efficient manner, the protection of rights granted to victims of crime by the Oregon Constitution. The task force may submit a report prepared under this subsection to the Legislative Assembly in the manner provided in ORS 192.245.

(6) Members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(7) The Department of Justice shall provide staff support to the task force.

(8) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties. [2009 c.178 §20; repealed by 2009 c.178 §21; amendments by 2013 c.582 §2 treated as reenactment; status of statute reaffirmed by 2015 c.27 §13; 2023 c.281 §35]

Note:

147.560 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.575 - Recommendations for achieving full compliance with victims' rights laws; model rules, procedures or policies.**

(1) The Attorney General may adopt rules to establish a nonjudicial process, independent of the process established in ORS 147.500 to 147.550 and applicable to agencies in the executive branch of state government, district attorneys, juvenile departments and local law enforcement agencies, to receive claims of violations of rights granted to victims of crime in the criminal and juvenile justice systems by law, to determine whether violations have occurred and to make nonbinding recommendations for achieving full compliance with victims' rights laws in the future.

(2) The Attorney General, in consultation with agencies in the executive branch of state government, district attorneys, juvenile departments and local law enforcement agencies, may promulgate model rules, procedures or policies, applicable only to entities outside of the judicial branch of state government, effectuating rights granted to victims by law. Model rules, procedures or policies are not enforceable by law, but the Attorney General may condition the provision of victim assistance funds or support by the Department of Justice on compliance with such model rules, procedures or policies. [2009 c.178 §22]

Note:

147.575 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.600 - Confidentiality of certain victim communications and records; exception.**

(1) As used in this section:

(a) "Certified advocate" means a person who:

(A) Has completed at least 40 hours of training in advocacy for victims of domestic violence, sexual assault or stalking, approved by the Attorney General by rule; and

(B) Is an employee or a volunteer of a qualified victim services program.

(b) "Confidential communication" means a written or oral communication that is not intended for further disclosure to third persons except to:

(A) Persons present at the time the communication is made who are present to further the interests of the victim in the course of seeking safety planning, counseling, support or advocacy services;

(B) Persons reasonably necessary for the transmission of the communication; or

(C) Other persons, in the context of group counseling.

(c) "Qualified victim services program" means:

(A) A nongovernmental, nonprofit, community-based program receiving moneys administered by the state Department of Human Services or the Oregon or United States Department of Justice, or a program administered by a tribal government, that offers safety planning, counseling, support or advocacy services to victims of domestic violence, sexual assault or stalking; or

(B) A sexual assault center, victim advocacy office, women's center, student affairs center, health center or other program providing safety planning, counseling, support or advocacy services to victims that is on the campus of or affiliated with a two-year or four-year post-secondary institution that enrolls one or more students who receive an Oregon Opportunity Grant.

(d) "Victim" means a person seeking safety planning, counseling, support or advocacy services related to domestic violence, sexual assault or stalking at a qualified victim services program.

(2) Except as provided in ORS 40.252 and 40.264, without the written, informed consent of the victim that is reasonably limited in duration, a certified advocate or a qualified victim services program may not disclose:

(a) Confidential communications between a victim and the certified advocate or qualified victim services program made in course of safety planning, counseling, support or advocacy services.

(b) Records that are created or maintained in the course of providing services regarding the victim.

(3) Notwithstanding subsection (2) of this section, a certified advocate or a qualified victim services program may disclose confidential communications or records without the victim's consent only:

(a) To the extent necessary for defense in any civil, criminal or administrative action that is brought against the certified advocate, or against the qualified victim services program, by or on behalf of the victim; and

(b) As otherwise required by law.

(4) This section does not prohibit the disclosure of aggregate, nonpersonally identifying data. [2015 c.265 §4; 2017 c.256 §2]

Note:

147.600 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.605 - Definitions for ORS 147.607 and 147.610.**

As used in ORS 147.607 and 147.610:

- (1) "Offender" means a person who has engaged in the commission of a crime.
- (2) "Participant" means a person who is a crime victim, survivor or offender.
- (3) "Restorative justice communication" means:
  - (a) All communications, written and oral that are made in the course of, or in connection with, any phase of a restorative justice program, including but not limited to a phase under which a facilitated dialogue occurs and the referral, preparation, pre-enrollment, enrollment, post-enrollment and post-dialogue phases of the program.
  - (b) All memoranda, work products, documents and other materials that are prepared for or submitted in the course of, or in connection with, any phase of a restorative justice program, including but not limited to a phase under which a facilitated dialogue occurs and the referral, preparation, pre-enrollment, enrollment, post-enrollment and post-dialogue phases of the program.
- (4) "Restorative justice program" means a community-based program administered by a private or public entity that offers as a part of the program a facilitated dialogue between a crime victim or a survivor and the offender.
- (5) "Survivor" means a person who has experienced harm as a result of an offender's crime. [2023 c.95 §1]

Note:

147.605 to 147.610 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.607 - Legislative findings.**

The Legislative Assembly finds and declares that:

- (1) Restorative justice programs can promote justice and healing for crime victims and survivors.
- (2) A facilitated dialogue is most successful when it is conducted in a manner that fosters the participants' maximum openness about a crime, or the impact of the crime, by providing the participants with the knowledge that their communications will not be disclosed or used against them in subsequent adjudicatory or judicial proceedings.
- (3) It is the policy and purpose of this ORS 147.610 that restorative justice communications are confidential, except in limited exceptions as specified in statute. [2023 c.95 §2]

Note:

See note under 147.605.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.610 - Confidentiality of restorative justice communications; exceptions.**

- (1) Except as provided in this section, restorative justice communications are confidential, exempt from public disclosure and:
  - (a) May not be used or disclosed by any restorative justice program staff members, facilitators, participants or any community members or persons who provide support to the restorative justice program, for any purpose unrelated to the program.
  - (b) Are not admissible as evidence in any administrative or judicial proceeding.
- (2) A restorative justice communication is not confidential if:
  - (a) A restorative justice program staff member or facilitator reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or substantial bodily injury to a specific person; or
  - (b) The parties who are participants of a facilitated dialogue under a restorative justice program provide written consent that all or part of the communication may be disclosed.
- (3) Any communication relating to child abuse that is made to a person who is required to report child abuse under the provisions of ORS 419B.010 is not confidential to the extent that the person is required to report child abuse under ORS 419B.010.
- (4) Any communication relating to elder abuse under the provisions of ORS 124.050 to 124.095 is not confidential to the extent that a person is required to report elder abuse under the provisions of ORS 124.050 to 124.095. [2023 c.95 §3]

Note:

See note under 147.605.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 147 - Victims of Crime and Acts of Mass Destruction Section 147.620 - Certification procedures; duties of certifying agency or official; liability.**

- (1) As used in this section:
  - (a) "Certifying agency" means:
    - (A) A state or local law enforcement agency;
    - (B) A prosecutor's or district attorney's office;
    - (C) The Judicial Department, with respect to a judge of a state court acting as a certifying official;
    - (D) A judge other than a judge of a state court; or
    - (E) Any other agency that has responsibility for the detection, investigation or prosecution of a qualifying criminal activity, including but not limited to a certifying agency as defined in 8 C.F.R. 214.14.
  - (b) "Certifying official" means:
    - (A) The head of a certifying agency;

- (B) A judge; or
- (C) A person in a supervisory role who has been designated by the head of a certifying agency to issue certifications under this section on behalf of the agency.
- (c) "Law enforcement agency" has the meaning given that term in ORS 146.003.
- (d) "Petitioner" means a person requesting certification under this section.
- (e) "Qualifying criminal activity" has the meaning given that term in 8 C.F.R. 214.14.
- (f) "Victim of qualifying criminal activity" has the meaning given that term in 8 C.F.R. 214.14.
- (2) Upon the request of a victim or a victim's representative, a certifying official shall in writing certify that a victim has been helpful on a certification form designated by the United States Citizenship and Immigration Services if:
  - (a) The victim is a victim of qualifying criminal activity; and
  - (b) The victim has been helpful, is being helpful or is likely to be helpful to the detection, investigation or prosecution of the qualifying criminal activity.
- (3) An ongoing investigation, a prosecution or a conviction is not required for a certification under this section.
- (4) For purposes of determining victim helpfulness, there is a rebuttable presumption that a victim is helpful, has been helpful or is likely to be helpful to the detection, investigation or prosecution of a qualifying criminal activity if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement officials.
- (5)(a) A certifying official processing a certification under this section shall:
  - (A) Fully complete and sign the certification form; and
  - (B) Except as provided in paragraph (b) of this subsection, include in the form specific details about the nature of the qualifying criminal activity investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness.
  - (b) If the qualifying criminal activity was committed by an adjudicated youth as defined in ORS 419A.004, the certifying official shall include on the certification form only the following information:
    - (A) The name of the adjudicated youth;
    - (B) The case number, if applicable; and
    - (C) A description of the qualifying criminal activity.
- (6) Except under circumstances in which there is good cause for delay, a certifying agency shall grant or deny a request for certification:
  - (a) Within 90 days of the date of the certification request; or
  - (b) Within 14 days of the date of the certification request if the victim is in removal proceedings.
- (7)(a) If a certifying official or agency denies certification under this section, the official or agency shall in writing notify the petitioner of the reason for the denial. The denial notification must contain the following information:
  - (A) An internal case number that allows the certifying agency to individually identify each certification request;
  - (B) The date of the denial; and
  - (C) The reason for the denial consisting of one of the following:
    - (i) Lack of qualifying criminal activity;
    - (ii) Lack of helpfulness;
    - (iii) Lack of jurisdiction over certification request; or
    - (iv) Other circumstances for which a certifying official or agency may lawfully deny certification.
- (b) Upon receiving notice that a request for certification under this section is denied, a petitioner may provide supplemental information to the certifying agency and request that the certification denial be reviewed by the certifying agency.
- (c) A petitioner may submit a new request for certification, after a previous request is denied, to another certifying agency for processing if the other certifying agency was involved in investigating the qualifying criminal activity.
- (d) A certification agency shall keep a copy of a denial notification for at least three years from the date of the notification.
- (e) A decision by a certifying agency to deny certification under this section is not appealable under ORS chapter 19.
- (8)(a) Certifying agencies and certifying officials are prohibited from disclosing the immigration status of a victim or other petitioner unless the disclosure is:
  - (A) Required by federal law or legal process; or
  - (B) Authorized by the victim or other petitioner.
- (b) Documents submitted with a request for certification under this section and any written response to a certification request from a certifying official or agency are confidential and may not be disclosed unless the disclosure is:
  - (A) Required by state or federal law or legal process;
  - (B) Required by ORS 135.815;
  - (C) Constitutionally required;
  - (D) Requested by a law enforcement agency and necessary for the investigation of a criminal charge; or
  - (E) Authorized by the victim.
- (9) A certifying official is immune from civil and criminal liability for, in good faith, certifying or denying certification under this section.
- (10) A certifying agency shall:
  - (a) Designate a person or persons within the agency responsible for processing requests for certification under this section.



(b) Develop written procedures for processing requests for certification under this section. [2019 c.472 §1; 2021 c.489 §10]

Note:

147.620 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 147 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note:

Sections 1 and 3, chapter 110, Oregon Laws 2023, provide:

Sec. 1.

(1)(a) No later than June 1 of each year, a certifying agency shall report to the Oregon Criminal Justice Commission, in the manner described in this subsection, on certification requests under ORS 147.620 received by the agency during the previous calendar year.

(b) A report required under this subsection shall be in a format specified by the commission by rule and must include the following information:

(A) The total number, within the previous year, of certification requests received, requests granted and requests denied, and the number of pending certifications on the date of the report; and

(B) For denied certification requests, the number of times each of the following were the reason for the denial:

(i) Lack of qualifying criminal activity;

(ii) Lack of helpfulness;

(iii) Lack of jurisdiction over certification request; or

(iv) Other circumstances for which a certifying official or agency may lawfully deny certification.

(c) A report made under this subsection may not contain any personally identifying information.

(d) A certifying agency that did not receive any certification requests during the previous calendar year must report to the commission that the certifying agency received zero requests.

(2) The commission shall maintain a list of certifying agencies other than individual judges within this state in order to monitor compliance with the reporting requirement described in subsection (1) of this section.

(3)(a) Within 90 days of receiving reports under subsection (1) of this section, the commission shall prepare a comprehensive report on the certification process within this state and submit the comprehensive report, in the manner described in ORS 192.245, to the interim committees of the Legislative Assembly related to the judiciary. The report shall identify any certifying agency that did not submit a report as required by subsection (1) of this section.

(b) Notwithstanding ORS 147.620 (8)(b), in preparing the report under paragraph (a) of this subsection, the commission may request, from a certifying agency or official, copies of denial notifications containing personally identifying information if the information is needed in order to prepare an accurate report. The certifying agency or official shall provide the denial notification to the commission on request. A denial notification received under this paragraph is confidential. [2023 c.110 §1]

Sec. 3.

Section 1 of this 2023 Act is repealed on January 2, 2027. [2023 c.110 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 148 - (Former Provisions) Section 148.010**

[Amended by 1973 c.836 §35; renumbered 131.805]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 148 - (Former Provisions) Section 148.110**

[Renumbered 131.815]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 148 - (Former Provisions) Section 148.120**

[Renumbered 131.825]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 148 - (Former Provisions) Section 148.130**

[Renumbered 131.835]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 148 - (Former Provisions) Section 148.140**

[Renumbered 131.845]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 148 - (Former Provisions) Section 148.150**

[Renumbered 131.855]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 148 - (Former Provisions) Section 148.160**

[Renumbered 131.860]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 148 - (Former Provisions) Section 148.170**

[Renumbered 131.865]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 148 - (Former Provisions) Section 148.180**  
[Renumbered 131.875]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 149 - (Former Provisions) Section 149.010**  
[Renumbered 131.885]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 149 - (Former Provisions) Section 149.020**  
[Renumbered 131.890]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 149 - (Former Provisions) Section 149.030**  
[Renumbered 131.895]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for Financially Eligible Persons Section 151.010 - Public defender services by county.**

(1) The governing body of a county, on behalf of the county, may contract with an attorney, group of attorneys or full-time not-for-profit public defender organization for the provision by the attorney, group of attorneys or organization of services as counsel for financially eligible persons in proceedings in which a court or magistrate has the power to appoint counsel to represent a financially eligible person and the county is required to pay compensation for that representation.

(2) A court or magistrate may appoint an attorney who is, or an attorney member of a public defender organization that is, under a contract with a county as provided in this section to represent a financially eligible person in any proceeding in which the court or magistrate has the power to appoint counsel to represent a financially eligible person and the county is required to pay compensation for that representation. [1971 c.432 §1; 1973 c.836 §311; 1985 c.502 §11; 2001 c.962 §32]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for Financially Eligible Persons Section 151.150**

[1981 s.s. c.3 §117; 1985 c.502 §9; renumbered 151.460]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for Financially Eligible Persons Section 151.211 - Definitions for ORS 151.211 to 151.221.**

For purposes of ORS 151.211 to 151.221:

(1) "Chief Justice" means the Chief Justice of the Supreme Court.

(2) "Commission" means the Oregon Public Defense Commission. [2001 c.962 §1; 2007 c.71 §43; 2023 c.281 §1]

Note:

The amendments to 151.211 by section 93, chapter 281, Oregon Laws 2023, become operative July 1, 2025. See section 102, chapter 281, Oregon Laws 2023. The text that is operative on and after July 1, 2025, is set forth for the user's convenience.

For purposes of ORS 151.211 to 151.221:

(1) "Appointed counsel" includes trial-level and appellate attorneys who are employees of the Oregon Public Defense Commission, attorneys employed by a nonprofit public defense organization and attorneys on the panel of qualified counsel described in ORS 151.216 (5) who contract with the commission to provide public defense services.

(2) "Chief Justice" means the Chief Justice of the Supreme Court.

(3) "Commission" means the Oregon Public Defense Commission.

(4) "Nonprofit public defense organization" means a nonprofit organization that employs attorneys who provide public defense services.

Note:

151.211 to 151.225 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 151 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for Financially Eligible Persons Section 151.213 - Oregon Public Defense Commission; membership; terms; member duties.**

(1) The Oregon Public Defense Commission is established in the judicial branch of state government. Except for the appointment or removal of commission members, the commission and employees of the commission are not subject to the exercise of administrative authority and supervision by the Chief Justice of the Supreme Court as the administrative head of the Judicial Department.

(2)(a) Nine voting members and four nonvoting members shall be appointed to the commission by order of the Chief Justice as follows:

(A) The Chief Justice shall appoint:

(i) One voting member who is a retired judge.

(ii) Two additional voting members, one of whom has experience as a public defense provider in criminal cases.

(B) The Chief Justice shall appoint, from among persons recommended by the Governor:

- (i) One voting member who has been represented by a public defense provider.
  - (ii) Two additional voting members, one of whom has experience as a public defense provider in juvenile delinquency or dependency cases.
  - (iii) Two nonvoting members who are currently employed as public defense providers in this state, one of whom is from an urban area and one of whom is from a rural area.
- (C) The Chief Justice shall appoint, from among persons recommended by the President of the Senate:
- (i) One voting member who is a current dean or faculty member of an Oregon law school.
  - (ii) One nonvoting member who is a member of the Senate at the time of appointment.
- (D) The Chief Justice shall appoint, from among persons recommended by the Speaker of the House of Representatives:
- (i) One voting member who has expertise in juvenile law and criminal defense, or who is a juvenile justice or criminal justice reform advocate.
  - (ii) One nonvoting member who is a member of the House of Representatives at the time of appointment.
- (E) The Chief Justice shall appoint one voting member from among persons jointly recommended by the President of the Senate and the Speaker of the House of Representatives.
- (b) When recommending and appointing members of the commission, the Chief Justice, Governor, President of the Senate and Speaker of the House of Representatives shall:
- (A) Consider input from individuals and organizations with an interest in the delivery of public defense services.
  - (B) Consider geographic, racial, ethnic and gender diversity.
  - (C) Ensure that members appointed to the commission have significant experience with issues related to public defense or in the case types subject to representation by public defense providers.
  - (D) Ensure that members appointed to the commission have demonstrated a strong commitment to quality public defense representation.
- (c) The following persons may not be appointed to and may not serve as members of the commission:
- (A) A prosecuting attorney.
  - (B) A judge, magistrate or other person who performs judicial functions.
  - (C) An employee of a law enforcement agency or the Department of Human Services.
  - (d) A person who is primarily engaged in providing public defense services and who has a financial interest in the delivery of public defense services at the state level may not serve as a voting member of the commission.
  - (e) As used in this subsection, "law enforcement agency" means an entity that employs corrections officers, parole and probation officers, police officers, certified reserve officers or reserve officers, as those terms are defined in ORS 181A.355.
- (3) The term of a member is four years beginning on the effective date of the order of the Chief Justice appointing the member. A member is eligible for reappointment if qualified for membership at the time of reappointment, but may serve no more than two consecutive four-year terms. The Chief Justice may remove any member of the commission at any time for cause. If a vacancy occurs for any cause before the expiration of the term of a member, the Chief Justice shall make an appointment to fill the vacancy, in the same manner as an appointment to a full term, to become immediately effective for the unexpired term. If the Chief Justice has not filled a vacancy within 45 days after the vacancy occurs, the remaining voting members of the commission shall, by a majority vote, select a member to fill the vacancy for the remainder of the term. The selected member must meet the requirements for membership described in this section.
- (4) A chairperson and a vice chairperson shall be elected by the voting members of the commission every two years with such functions as the commission may determine. A member is eligible for reelection as chairperson or vice chairperson.
- (5) A majority of the voting members constitutes a quorum for the transaction of business.
- (6)(a) All members of the commission shall:
- (A) Review the policies, procedures, standards and guidelines required by ORS 151.216 and provide input before the approval vote described in paragraph (b) of this subsection.
  - (B) Review the budget of the commission and provide input before the approval vote described in paragraph (b) of this subsection.
  - (C) Meet as needed to carry out the duties described in this subsection.
- (b) The voting members of the commission shall:
- (A) Appoint, by a two-thirds vote, an executive director for a term of office of four years. The term may be terminated for cause by a majority vote of the voting members after notice and a hearing. When the term of an executive director ends without termination, the voting members of the commission may reappoint the person currently in the position by a majority vote.
  - (B) Upon the vacancy of the executive director position, immediately designate an acting executive director by a majority vote.
  - (C) Approve by majority vote the policies, procedures, standards and guidelines required by ORS 151.216 before those policies, procedures, standards and guidelines may take effect.
  - (D) Approve by majority vote the budget of the commission before submission to the Legislative Assembly.
- (7) The members of the commission may not:
- (a) Make any decision regarding the handling of any individual case;
  - (b) Have access to any case file; or
  - (c) Interfere with the executive director or any member of the staff of the executive director in carrying out professional duties involving the legal representation of public defense clients.

(8) A member of the commission is entitled to compensation for services as a member, and to expenses, as provided in ORS 292.495. [2001 c.962 §2; 2003 c.449 §15; 2021 c.202 §1; 2023 c.281 §2]

Note 1:

The amendments to 151.213 by section 77, chapter 281, Oregon Laws 2023, become operative January 1, 2025. See section 92, chapter 281, Oregon Laws 2023. The text that is operative from January 1, 2025, until July 1, 2027, is set forth for the user's convenience.

(1) The Oregon Public Defense Commission is established in the executive branch of state government. Except for the appointment or removal of commission members, the commission and employees of the commission are not subject to the exercise of administrative authority and supervision by the Governor.

(2)(a) Nine voting members and four nonvoting members shall be appointed to the commission by the Governor as follows:

(A) The Governor shall appoint:

(i) One voting member who has been represented by a public defense provider.

(ii) Two additional voting members, one of whom has experience as a public defense provider in juvenile delinquency or dependency cases.

(iii) Two nonvoting members who are currently employed as public defense providers in this state, one of whom is from an urban area and one of whom is from a rural area.

(B) The Governor shall appoint, from among persons recommended by the Chief Justice of the Supreme Court:

(i) One voting member who is a retired judge.

(ii) Two additional voting members, one of whom has experience as a public defense provider in criminal cases.

(C) The Governor shall appoint, from among persons recommended by the President of the Senate:

(i) One voting member who is a current dean or faculty member of an Oregon law school.

(ii) One nonvoting member who is a member of the Senate at the time of appointment.

(D) The Governor shall appoint, from among persons recommended by the Speaker of the House of Representatives:

(i) One voting member who has expertise in juvenile law and criminal defense, or who is a juvenile justice or criminal justice reform advocate.

(ii) One nonvoting member who is a member of the House of Representatives at the time of appointment.

(E) The Governor shall appoint one voting member from among persons jointly recommended by the President of the Senate and the Speaker of the House of Representatives.

(b) When recommending and appointing members of the commission, the Governor, Chief Justice, President of the Senate and Speaker of the House of Representatives shall:

(A) Consider input from individuals and organizations with an interest in the delivery of public defense services.

(B) Consider geographic, racial, ethnic and gender diversity.

(C) Ensure that members appointed to the commission have significant experience with issues related to public defense or in the case types subject to representation by public defense providers.

(D) Ensure that members appointed to the commission have demonstrated a strong commitment to quality public defense representation.

(c) The following persons may not be appointed to and may not serve as members of the commission:

(A) A prosecuting attorney.

(B) A judge, magistrate or other person who performs judicial functions.

(C) An employee of a law enforcement agency or the Department of Human Services.

(d) A person who is primarily engaged in providing public defense services and who has a financial interest in the delivery of public defense services at the state level may not serve as a voting member of the commission.

(e) As used in this subsection, "law enforcement agency" means an entity that employs corrections officers, parole and probation officers, police officers, certified reserve officers or reserve officers, as those terms are defined in ORS 181A.355.

(3) The term of a member is four years beginning on the effective date of the Governor's appointment, but members serve at the pleasure of the Governor. A member is eligible for reappointment if qualified for membership at the time of reappointment, but may serve no more than two consecutive four-year terms. The Governor may remove any member of the commission at any time. If a vacancy occurs for any cause before the expiration of the term of a member, the Governor shall make an appointment to fill the vacancy, in the same manner as an appointment to a full term, to become immediately effective for the unexpired term.

(4) A chairperson and a vice chairperson shall be elected by the voting members of the commission every two years with such functions as the commission may determine. A member is eligible for reelection as chairperson or vice chairperson.

(5) A majority of the voting members constitutes a quorum for the transaction of business.

(6)(a) All members of the commission shall:

(A) Review the policies, procedures, standards and guidelines required by ORS 151.216 and provide input before the approval vote described in paragraph (b) of this subsection.

(B) Review the budget of the commission and provide input before the approval vote described in paragraph (b) of this subsection.

(C) Meet as needed to carry out the duties described in this subsection.

(b) The voting members of the commission shall:

(A) Approve by majority vote the policies, procedures, standards and guidelines required by ORS 151.216 before those policies,

procedures, standards and guidelines may take effect.

(B) Approve by majority vote the budget of the commission before submission to the Legislative Assembly.

(7) The members of the commission may not:

(a) Make any decision regarding the handling of any individual case;

(b) Have access to any case file; or

(c) Interfere with the executive director or any member of the staff of the executive director in carrying out professional duties involving the legal representation of public defense clients.

(8) A member of the commission is entitled to compensation for services as a member, and to expenses, as provided in ORS 292.495.

(9)(a) The Governor shall appoint an executive director of the commission, subject to confirmation by the Senate in the manner prescribed by ORS 171.562 and 171.565. The person appointed as executive director must be well qualified by training and experience to perform the functions of the office.

(b) The term of office of the executive director is four years, but the executive director serves at the pleasure of the Governor.

(c) Before the expiration of the executive director's term, the Governor shall appoint a successor to take office upon the date of the expiration. The executive director is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

Note 2:

The amendments to 151.213 by section 100, chapter 281, Oregon Laws 2023, become operative July 1, 2027. See section 102, chapter 281, Oregon Laws 2023. The text that is operative on and after July 1, 2027, is set forth for the user's convenience. (1) The Oregon Public Defense Commission is established in the executive branch of state government. Except for the appointment or removal of commission members, the commission and employees of the commission are not subject to the exercise of administrative authority and supervision by the Governor.

(2)(a) Nine voting members and four nonvoting members shall be appointed to the commission by the Governor as follows:

(A) The Governor shall appoint:

(i) One voting member who has been represented by a public defense provider.

(ii) Two additional voting members, one of whom has experience as a public defense provider in juvenile delinquency or dependency cases.

(iii) Two nonvoting members who are currently employed as public defense providers in this state, one of whom is from an urban area and one of whom is from a rural area.

(B) The Governor shall appoint, from among persons recommended by the Chief Justice of the Supreme Court:

(i) One voting member who is a retired judge.

(ii) Two additional voting members, one of whom has experience as a public defense provider in criminal cases.

(C) The Governor shall appoint, from among persons recommended by the President of the Senate:

(i) One voting member who is a current dean or faculty member of an Oregon law school.

(ii) One nonvoting member who is a member of the Senate at the time of appointment.

(D) The Governor shall appoint, from among persons recommended by the Speaker of the House of Representatives:

(i) One voting member who has expertise in juvenile law and criminal defense, or who is a juvenile justice or criminal justice reform advocate.

(ii) One nonvoting member who is a member of the House of Representatives at the time of appointment.

(E) The Governor shall appoint one voting member from among persons jointly recommended by the President of the Senate and the Speaker of the House of Representatives.

(b) When recommending and appointing members of the commission, the Governor, Chief Justice, President of the Senate and Speaker of the House of Representatives shall:

(A) Consider input from individuals and organizations with an interest in the delivery of public defense services.

(B) Consider geographic, racial, ethnic and gender diversity.

(C) Ensure that members appointed to the commission have significant experience with issues related to public defense or in the case types subject to representation by public defense providers.

(D) Ensure that members appointed to the commission have demonstrated a strong commitment to quality public defense representation.

(c) The following persons may not be appointed to and may not serve as members of the commission:

(A) A prosecuting attorney.

(B) A judge, magistrate or other person who performs judicial functions.

(C) An employee of a law enforcement agency or the Department of Human Services.

(d) A person who is primarily engaged in providing public defense services and who has a financial interest in the delivery of public defense services at the state level may not serve as a voting member of the commission.

(e) As used in this subsection, "law enforcement agency" means an entity that employs corrections officers, parole and probation officers, police officers, certified reserve officers or reserve officers, as those terms are defined in ORS 181A.355.

(3) The term of a member is four years beginning on the effective date of the Governor's appointment. A member is eligible for reappointment if qualified for membership at the time of reappointment, but may serve no more than two consecutive four-year

terms. The Governor may remove any member of the commission at any time for inefficiency, neglect of duty or malfeasance in office. If a vacancy occurs for any cause before the expiration of the term of a member, the Governor shall make an appointment to fill the vacancy, in the same manner as an appointment to a full term, to become immediately effective for the unexpired term.

(4) A chairperson and a vice chairperson shall be elected by the voting members of the commission every two years with such functions as the commission may determine. A member is eligible for reelection as chairperson or vice chairperson.

(5) A majority of the voting members constitutes a quorum for the transaction of business.

(6)(a) All members of the commission shall:

(A) Review the policies, procedures, standards and guidelines required by ORS 151.216 and provide input before the approval vote described in paragraph (b) of this subsection.

(B) Review the budget of the commission and provide input before the approval vote described in paragraph (b) of this subsection.

(C) Meet as needed to carry out the duties described in this subsection.

(b) The voting members of the commission shall:

(A) Appoint an executive director of the commission. The term of office of the executive director is four years, but the executive director serves at the pleasure of the voting members of the commission.

(B) Approve by majority vote the policies, procedures, standards and guidelines required by ORS 151.216 before those policies, procedures, standards and guidelines may take effect.

(C) Approve by majority vote the budget of the commission before submission to the Legislative Assembly.

(7) The members of the commission may not:

(a) Make any decision regarding the handling of any individual case;

(b) Have access to any case file; or

(c) Interfere with the executive director or any member of the staff of the executive director in carrying out professional duties involving the legal representation of public defense clients.

(8) A member of the commission is entitled to compensation for services as a member, and to expenses, as provided in ORS 292.495.

Note 3:

See second note under 151.211.

Note 4:

Section 14 (4), chapter 281, Oregon Laws 2023, provides:

Sec. 14.

(4) Notwithstanding ORS 151.213 (3), and subject to the provisions of sections 92 (3) and 102 (2) of this 2023 Act, the initial terms of persons appointed as voting members to the Oregon Public Defense Commission under this section shall be staggered as follows:

(a) The initial term of one of the voting members described in ORS 151.213 (2)(a)(A), one of the voting members described in ORS 151.213 (2)(a)(B) and the voting member described in ORS 151.213 (2)(a)(E) shall be four years.

(b) The initial term of one of the voting members described in ORS 151.213 (2)(a)(A) and the voting member described in ORS 151.213 (2)(a)(C) shall be three years.

(c) The initial term of one of the voting members described in ORS 151.213 (2)(a)(B) and the voting member described in ORS 151.213 (2)(a)(D) shall be two years.

(d) The initial term of one of the voting members described in ORS 151.213 (2)(a)(A) and one of the voting members described in ORS 151.213 (2)(a)(B) shall be one year. [2023 c.281 §14(4)]

Note 5:

Section 92 (1)(a), chapter 281, Oregon Laws 2023, provides:

Sec. 92.

(1)(a) The Oregon Public Defense Commission is transferred from the judicial branch to the executive branch on January 1, 2025. [2023 c.281 §92(1)(a)]

Note 6:

Section 92 (3)(a), chapter 281, Oregon Laws 2023, provides:

Sec. 92.

(3)(a) A person who is a member of the Oregon Public Defense Commission on January 1, 2025, may finish the person's term as a commission member and is eligible for reappointment if the person meets the requirements described in ORS 151.213 (2), but, beginning on January 1, 2025, and continuing until July 1, 2027, serves at the pleasure of the Governor. [2023 c.281 §92(3)(a)]

Note 7:

Section 102 (2)(a), chapter 281, Oregon Laws 2023, provides:

Sec. 102.

(2)(a) A person who is a member of the Oregon Public Defense Commission on July 1, 2027, may finish the person's term as a commission member and is eligible for reappointment, but, beginning July 1, 2027, may be removed by the Governor only for inefficiency, neglect of duty or malfeasance in office.

[2023 c.281 §102(2)(a)]

## **Financially Eligible Persons Section 151.216 - Commission duties.**

- (1) The Oregon Public Defense Commission shall:
  - (a) Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.
  - (b) Adopt policies for public defense providers that:
    - (A) Ensure compensation, resources and caseloads are in accordance with national and regional best practices;
    - (B) Ensure all public defense provider contracts provide for compensation that is commensurate with the character of service performed;
    - (C) Ensure funding and resources to support required data collection and training requirements; and
    - (D) Recognize the need to consider overhead costs that account for the cost of living and business cost differences in each county or jurisdiction, including but not limited to rent, professional membership dues, malpractice insurance and other insurance and other reasonable and usual operating costs.
  - (c) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.
  - (d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and revise the policies as necessary and at least every four years.
  - (e) Adopt a statewide workload plan, based on the caseload policies described in paragraph (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the commission.
  - (f) Submit the budget of the commission to the Legislative Assembly after the budget is submitted to the commission by the executive director and approved by the voting members of the commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall present the budget to the Legislative Assembly.
  - (g) Adopt a compensation plan, classification system and affirmative action plan for the commission that are commensurate with other state agencies.
  - (h) Adopt policies, procedures, standards and guidelines regarding:
    - (A) The determination of financial eligibility of persons entitled to be represented by appointed counsel at state expense;
    - (B) The appointment of counsel, including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;
    - (C) The fair compensation of counsel appointed to represent a person financially eligible for appointed counsel at state expense;
    - (D) Appointed counsel compensation disputes;
    - (E) The costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state; and
    - (F) The types of fees and expenses subject to a preauthorization requirement.
  - (i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services Account established by ORS 151.225 for the costs of personnel and other costs associated with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.
  - (j) Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state.
  - (k) Set minimum standards by which appointed counsel are trained and supervised.
  - (L) Establish a system, policies and procedures for the mandatory collection of data concerning the operation of the commission and all public defense providers.
  - (m) Enter into contracts and hire attorneys to bring the delivery of public defense services into and maintain compliance with the minimum policies, procedures, standards and guidelines described in this subsection. All contracts for the provision of public defense services to which the commission is a party must include a requirement for collection by the commission of data determined by the commission to be qualitatively necessary for any report required to be submitted to the Legislative Assembly.
  - (n) At least once every two years, report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief Justice, concerning compliance metrics for the minimum standards described in this subsection and recommendations for legislative changes.
  - (o) Develop standard operating expectations for persons and entities providing public defense services.
  - (p) In consultation with the Judicial Department, ensure the existence of policies that create a standardized process for determining and verifying financial eligibility for appointed counsel under ORS 151.485.
  - (q) Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by the commission.
  - (r) Enter into contracts or interagency agreements with the Oregon Department of Administrative Services for the purpose of supporting state public defense population forecasts and other related forecasts.
  - (s) Pay invoices submitted to the commission within 45 days of receipt or in accordance with statewide accounting policies established by the Oregon Department of Administrative Services.

- (t) Establish any other policies, procedures, standards and guidelines for the conduct of the commission's affairs and promulgate policies necessary to carry out all powers and duties of the commission.
- (2) When establishing the minimum policies, procedures, standards and guidelines described in this section, the commission shall adhere to the following principles:
- (a) Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with clients.
- (b) The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. The commission may develop workload controls to enhance appointed counsel's ability to provide effective representation.
- (c) The ability, training and experience of appointed counsel must match the nature and complexity of the case to which the counsel is appointed.
- (d) The same appointed counsel shall continuously represent a client throughout the pendency of the case and shall appear at every court appearance other than ministerial hearings.
- (e) The commission shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.
- (f) The commission and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.
- (3) The commission shall be organized in a manner for the effective delivery of public defense services as prescribed by the policies and procedures created pursuant to statute to financially eligible persons and consistent with the budgetary structure established for the commission by the Legislative Assembly.
- (4) The commission shall hire attorneys to serve as appointed counsel, including at the trial level in Oregon circuit courts, and may establish a trial division within the commission consisting of attorneys employed by the commission who are trial-level public defense providers.
- (5) The policies, procedures, standards and guidelines adopted by the commission must be made available in an accessible manner to the public on the commission's website.
- (6) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission's administrative responsibilities under this section and transferred duties, functions and powers as they occur.
- (7) The commission may accept gifts, grants or contributions from any source, whether public or private. However, the commission may not accept a gift, grant or contribution if acceptance would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the Public Defense Services Account established by ORS 151.225 and expended for the purposes for which given or granted. [2001 c.962 §§3,106; 2003 c.449 §§1,2,42; 2005 c.843 §23; 2011 c.708 §20; 2012 c.107 §42; 2017 c.442 §19; 2021 c.202 §2; 2021 c.597 §9; 2023 c.281 §3]

Note 1:

The amendments to 151.216 by section 78, chapter 281, Oregon Laws 2023, become operative January 1, 2025. See section 92, chapter 281, Oregon Laws 2023. The text that is operative from January 1, 2025, until July 1, 2025, is set forth for the user's convenience.

(1) The Oregon Public Defense Commission shall:

- (a) Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.
- (b) Adopt policies for public defense providers that:
- (A) Ensure compensation, resources and caseloads are in accordance with national and regional best practices;
- (B) Ensure all public defense provider contracts provide for compensation that is commensurate with the character of service performed;
- (C) Ensure funding and resources to support required data collection and training requirements; and
- (D) Recognize the need to consider overhead costs that account for the cost of living and business cost differences in each county or jurisdiction, including but not limited to rent, professional membership dues, malpractice insurance and other insurance and other reasonable and usual operating costs.
- (c) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.
- (d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and revise the policies as necessary and at least every four years.
- (e) Adopt a statewide workload plan, based on the caseload policies described in paragraph (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the commission.
- (f) Submit the budget of the commission to the Legislative Assembly after the budget is submitted to the commission by the executive director and approved by the voting members of the commission. The chairperson of the commission shall present the budget to the Legislative Assembly.
- (g) Adopt a compensation plan, classification system and affirmative action plan for the commission that are commensurate with



other state agencies.

(h) Adopt policies, procedures, standards and guidelines regarding:

(A) The determination of financial eligibility of persons entitled to be represented by appointed counsel at state expense;

(B) The appointment of counsel, including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;

(C) The fair compensation of counsel appointed to represent a person financially eligible for appointed counsel at state expense;

(D) Appointed counsel compensation disputes;

(E) The costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state; and

(F) The types of fees and expenses subject to a preauthorization requirement.

(i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services Account established by ORS 151.225 for the costs of personnel and other costs associated with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

(j) Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state.

(k) Set minimum standards by which appointed counsel are trained and supervised.

(L) Establish a system, policies and procedures for the mandatory collection of data concerning the operation of the commission and all public defense providers.

(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into and maintain compliance with the minimum policies, procedures, standards and guidelines described in this subsection. All contracts for the provision of public defense services to which the commission is a party must include a requirement for collection by the commission of data determined by the commission to be qualitatively necessary for any report required to be submitted to the Legislative Assembly.

(n) At least once every two years, report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief Justice, concerning compliance metrics for the minimum standards described in this subsection and recommendations for legislative changes.

(o) Develop standard operating expectations for persons and entities providing public defense services.

(p) In consultation with the Judicial Department, ensure the existence of policies that create a standardized process for determining and verifying financial eligibility for appointed counsel under ORS 151.485.

(q) Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by the commission.

(r) Enter into contracts or interagency agreements with the Oregon Department of Administrative Services for the purpose of supporting state public defense population forecasts and other related forecasts.

(s) Establish any other policies, procedures, standards and guidelines for the conduct of the commission's affairs and promulgate policies necessary to carry out all powers and duties of the commission.

(2) When establishing the minimum policies, procedures, standards and guidelines described in this section, the commission shall adhere to the following principles:

(a) Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with clients.

(b) The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. The commission may develop workload controls to enhance appointed counsel's ability to provide effective representation.

(c) The ability, training and experience of appointed counsel must match the nature and complexity of the case to which the counsel is appointed.

(d) The same appointed counsel shall continuously represent a client throughout the pendency of the case and shall appear at every court appearance other than ministerial hearings.

(e) The commission shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.

(f) The commission and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.

(3) The commission shall be organized in a manner for the effective delivery of public defense services as prescribed by the policies and procedures created pursuant to statute to financially eligible persons and consistent with the budgetary structure established for the commission by the Legislative Assembly.

(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial level in Oregon circuit courts, and may establish a trial division within the commission consisting of attorneys employed by the commission who are trial-level public defense providers.

(5) The policies, procedures, standards and guidelines adopted by the commission must be made available in an accessible manner

to the public on the commission's website.

(6) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission's administrative responsibilities under this section and transferred duties, functions and powers as they occur.

(7) The commission may accept gifts, grants or contributions from any source, whether public or private. However, the commission may not accept a gift, grant or contribution if acceptance would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the Public Defense Services Account established by ORS 151.225 and expended for the purposes for which given or granted.

(8) With the approval of a majority of the voting members of the commission, the commission may advocate for or against legislation before the Legislative Assembly or policies or budgets being considered by the Legislative Assembly.

(9) The commission shall request that the Governor include in the Governor's requested budget, for each fiscal period, at a minimum, the amount of funds identified by the commission as being necessary to carry out the duties and activities of the commission.

(10) The commission may adopt rules pursuant to ORS chapter 183.

Note 2:

The amendments to 151.216 by section 94, chapter 281, Oregon Laws 2023, become operative July 1, 2025. See section 102, chapter 281, Oregon Laws 2023. The text that is operative from July 1, 2025, until July 1, 2027, is set forth for the user's convenience. (1) The Oregon Public Defense Commission shall:

(a) Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

(b) Adopt policies for public defense providers that:

(A) Ensure compensation, resources and caseloads are in accordance with national and regional best practices;

(B) Ensure all public defense provider contracts provide for compensation that is commensurate with the character of service performed;

(C) Ensure funding and resources to support required data collection and training requirements; and

(D) Recognize the need to consider overhead costs that account for the cost of living and business cost differences in each county or jurisdiction, including but not limited to rent, professional membership dues, malpractice insurance and other insurance and other reasonable and usual operating costs.

(c) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

(d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and revise the policies as necessary and at least every four years.

(e) Adopt a statewide workload plan, based on the caseload policies described in paragraph (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the commission.

(f) Submit the budget of the commission to the Legislative Assembly after the budget is submitted to the commission by the executive director and approved by the voting members of the commission. The chairperson of the commission shall present the budget to the Legislative Assembly.

(g) Adopt a compensation plan, classification system and affirmative action plan for the commission that are commensurate with other state agencies.

(h) Adopt policies, procedures, standards and guidelines regarding:

(A) The determination of financial eligibility of persons entitled to be represented by appointed counsel at state expense;

(B) The appointment of counsel, including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;

(C) The fair compensation of counsel appointed to represent a person financially eligible for appointed counsel at state expense;

(D) Appointed counsel compensation disputes;

(E) The costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state; and

(F) The types of fees and expenses subject to a preauthorization requirement.

(i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services Account established by ORS 151.225 for the costs of personnel and other costs associated with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

(j) Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state.

(k) Set minimum standards by which appointed counsel are trained and supervised.

(L) Establish a system, policies and procedures for the mandatory collection of data concerning the operation of the commission and

all public defense providers.

(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into and maintain compliance with the minimum policies, procedures, standards and guidelines described in this subsection. All contracts for the provision of public defense services to which the commission is a party must include a requirement for collection by the commission of data determined by the commission to be qualitatively necessary for any report required to be submitted to the Legislative Assembly.

(n) At least once every two years, report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief Justice, concerning compliance metrics for the minimum standards described in this subsection and recommendations for legislative changes.

(o) Develop standard operating expectations for persons and entities providing public defense services.

(p) In consultation with the Judicial Department, ensure the existence of policies that create a standardized process for determining and verifying financial eligibility for appointed counsel under ORS 151.485.

(q) Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by the commission.

(r) Enter into contracts or interagency agreements with the Oregon Department of Administrative Services for the purpose of supporting state public defense population forecasts and other related forecasts.

(s) Establish any other policies, procedures, standards and guidelines for the conduct of the commission's affairs and promulgate policies necessary to carry out all powers and duties of the commission.

(2) When establishing the minimum policies, procedures, standards and guidelines described in this section, the commission shall adhere to the following principles:

(a) Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with clients.

(b) The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. The commission may develop workload controls to enhance appointed counsel's ability to provide effective representation.

(c) The ability, training and experience of appointed counsel must match the nature and complexity of the case to which the counsel is appointed.

(d) The same appointed counsel shall continuously represent a client throughout the pendency of the case and shall appear at every court appearance other than ministerial hearings.

(e) The commission shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.

(f) The commission and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.

(3) The commission shall be organized in a manner for the effective delivery of public defense services as prescribed by the policies and procedures created pursuant to statute to financially eligible persons and consistent with the budgetary structure established for the commission by the Legislative Assembly.

(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial level in Oregon circuit courts, and shall establish a trial division within the commission consisting of attorneys employed by the commission who are trial-level public defense providers.

(5)(a) The commission shall establish, supervise and maintain a panel of qualified counsel who contract with the commission and are directly assigned to cases. The commission shall develop a process for certification of attorneys to the panel with periodic eligibility and case review. Panel attorneys are not employees of the commission.

(b) The payment of panel counsel:

(A) May not be lower than the hourly rate established by the commission.

(B) Shall be adjusted to reflect the same percentage amount of any positive cost of living adjustment granted to employees in the management service in other executive branch agencies.

(C) May not provide a financial conflict of interest or economic incentives or disincentives that impair an attorney's ability to provide effective representation.

(6)(a) The commission may enter into contracts for the provision of public defense services with nonprofit public defense organizations.

(b) The commission may enter into contracts with entities that subcontract with other entities or persons for the provision of public defense services.

(c) The commission may not enter into a contract or agreement that pays appointed counsel a flat fee per case.

(7) The policies, procedures, standards and guidelines adopted by the commission must be made available in an accessible manner to the public on the commission's website.

(8) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission's administrative responsibilities under this section and transferred duties, functions and powers as they occur.

(9) The commission may accept gifts, grants or contributions from any source, whether public or private. However, the commission

may not accept a gift, grant or contribution if acceptance would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the Public Defense Services Account established by ORS 151.225 and expended for the purposes for which given or granted.

(10) With the approval of a majority of the voting members of the commission, the commission may advocate for or against legislation before the Legislative Assembly or policies or budgets being considered by the Legislative Assembly.

(11) The commission shall request that the Governor include in the Governor's requested budget, for each fiscal period, at a minimum, the amount of funds identified by the commission as being necessary to carry out the duties and activities of the commission.

(12) The commission may adopt rules pursuant to ORS chapter 183.

Note 3:

The amendments to 151.216 by section 101, chapter 281, Oregon Laws 2023, become operative July 1, 2027. See section 102, chapter 281, Oregon Laws 2023. The text that is operative on and after July 1, 2027, is set forth for the user's convenience. (1) The Oregon Public Defense Commission shall:

(a) Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

(b) Adopt policies for public defense providers that:

(A) Ensure compensation, resources and caseloads are in accordance with national and regional best practices;

(B) Ensure all public defense provider contracts provide for compensation that is commensurate with the character of service performed;

(C) Ensure funding and resources to support required data collection and training requirements; and

(D) Recognize the need to consider overhead costs that account for the cost of living and business cost differences in each county or jurisdiction, including but not limited to rent, professional membership dues, malpractice insurance and other insurance and other reasonable and usual operating costs.

(c) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

(d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and revise the policies as necessary and at least every four years.

(e) Adopt a statewide workload plan, based on the caseload policies described in paragraph (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the commission.

(f) Submit the budget of the commission to the Legislative Assembly after the budget is submitted to the commission by the executive director and approved by the voting members of the commission. The chairperson of the commission shall present the budget to the Legislative Assembly.

(g) Adopt a compensation plan, classification system and affirmative action plan for the commission that are commensurate with other state agencies.

(h) Adopt policies, procedures, standards and guidelines regarding:

(A) The determination of financial eligibility of persons entitled to be represented by appointed counsel at state expense;

(B) The appointment of counsel, including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;

(C) The fair compensation of counsel appointed to represent a person financially eligible for appointed counsel at state expense;

(D) Appointed counsel compensation disputes;

(E) The costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state; and

(F) The types of fees and expenses subject to a preauthorization requirement.

(i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services Account established by ORS 151.225 for the costs of personnel and other costs associated with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

(j) Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state.

(k) Set minimum standards by which appointed counsel are trained and supervised.

(L) Establish a system, policies and procedures for the mandatory collection of data concerning the operation of the commission and all public defense providers.

(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into and maintain compliance with the minimum policies, procedures, standards and guidelines described in this subsection. All contracts for the provision of public defense services to which the commission is a party must include a requirement for collection by the commission of data determined by the commission to be qualitatively necessary for any report required to be submitted to the Legislative Assembly.

(n) At least once every two years, report to the interim committees of the Legislative Assembly related to the judiciary, in the

manner provided in ORS 192.245, and to the Governor and Chief Justice, concerning compliance metrics for the minimum standards described in this subsection and recommendations for legislative changes.

(o) Develop standard operating expectations for persons and entities providing public defense services.

(p) In consultation with the Judicial Department, ensure the existence of policies that create a standardized process for determining and verifying financial eligibility for appointed counsel under ORS 151.485.

(q) Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by the commission.

(r) Enter into contracts or interagency agreements with the Oregon Department of Administrative Services for the purpose of supporting state public defense population forecasts and other related forecasts.

(s) Establish any other policies, procedures, standards and guidelines for the conduct of the commission's affairs and promulgate policies necessary to carry out all powers and duties of the commission.

(2) When establishing the minimum policies, procedures, standards and guidelines described in this section, the commission shall adhere to the following principles:

(a) Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with clients.

(b) The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. The commission may develop workload controls to enhance appointed counsel's ability to provide effective representation.

(c) The ability, training and experience of appointed counsel must match the nature and complexity of the case to which the counsel is appointed.

(d) The same appointed counsel shall continuously represent a client throughout the pendency of the case and shall appear at every court appearance other than ministerial hearings.

(e) The commission shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.

(f) The commission and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.

(3) The commission shall be organized in a manner for the effective delivery of public defense services as prescribed by the policies and procedures created pursuant to statute to financially eligible persons and consistent with the budgetary structure established for the commission by the Legislative Assembly.

(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial level in Oregon circuit courts, and shall establish a trial division within the commission consisting of attorneys employed by the commission who are trial-level public defense providers.

(5)(a) The commission shall establish, supervise and maintain a panel of qualified counsel who contract with the commission and are directly assigned to cases. The commission shall develop a process for certification of attorneys to the panel with periodic eligibility and case review. Panel attorneys are not employees of the commission.

(b) The payment of panel counsel:

(A) May not be lower than the hourly rate established by the commission.

(B) Shall be adjusted to reflect the same percentage amount of any positive cost of living adjustment granted to employees in the management service in other executive branch agencies.

(C) May not provide a financial conflict of interest or economic incentives or disincentives that impair an attorney's ability to provide effective representation.

(6)(a) The commission may enter into contracts for the provision of public defense services with nonprofit public defense organizations.

(b) The commission may not enter into a contract or agreement that pays appointed counsel a flat fee per case.

(7) The policies, procedures, standards and guidelines adopted by the commission must be made available in an accessible manner to the public on the commission's website.

(8) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission's administrative responsibilities under this section and transferred duties, functions and powers as they occur.

(9) The commission may accept gifts, grants or contributions from any source, whether public or private. However, the commission may not accept a gift, grant or contribution if acceptance would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the Public Defense Services Account established by ORS 151.225 and expended for the purposes for which given or granted.

(10) With the approval of a majority of the voting members of the commission, the commission may advocate for or against legislation before the Legislative Assembly or policies or budgets being considered by the Legislative Assembly.

(11) The commission shall request that the Governor include in the Governor's requested budget, for each fiscal period, at a minimum, the amount of funds identified by the commission as being necessary to carry out the duties and activities of the commission.

(12) The commission may adopt rules pursuant to ORS chapter 183.

Note 4:

See second note under 151.211.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for Financially Eligible Persons Section 151.219 - Executive director; duties.**

(1) The executive director of the Oregon Public Defense Commission shall:

- (a) Designate a deputy director of the commission who serves at the pleasure of the executive director.
- (b) Hire necessary staff for the commission.
- (c) Recommend to the commission how to establish and maintain, in a cost-effective manner, the delivery of legal services to persons entitled to, and, where applicable, financially eligible for, appointed counsel at state expense under Oregon statutes, the Oregon Constitution, the United States Constitution and consistent with Oregon and national standards of justice.
- (d) Implement and ensure compliance with contracts, policies, procedures, standards and guidelines adopted by the commission or required by statute.
- (e) Prepare and submit to the commission for its approval the biennial budget of the commission.
- (f) Negotiate contracts, as appropriate, for providing legal services to persons eligible for appointed counsel at state expense.
- (g) Employ personnel or contract for services as necessary to carry out the responsibilities of the executive director and the commission.
- (h) Supervise the personnel, operation and activities of the commission.
- (i) Provide services, facilities and materials necessary for the performance of the duties, functions and powers of the commission.
- (j) Pay the expenses of the commission.
- (k) Prepare and submit to the members of the commission an annual report of the activities of the commission.
- (L) Provide for legal representation, advice and consultation for the commission, its members, the executive director and staff of the commission who require such services or who are named as defendants in lawsuits arising from their duties, functions and responsibilities. If requested by the executive director, the Attorney General may also provide for legal representation, advice and consultation for the commission, its members, the executive director and staff of the commission in litigation.

(2) The executive director may:

- (a) Designate persons as representatives of the executive director for the purposes of determining and paying bills submitted to the commission and determining preauthorization for incurring fees and expenses under ORS 135.055.
- (b) Establish an external advisory group to assist in developing the standard operating expectations for persons and entities providing public defense services. [2001 c.962 §§4,106a; 2003 c.449 §§3,4; 2021 c.597 §10; 2023 c.281 §4]

Note:

The amendments to 151.219 by section 95, chapter 281, Oregon Laws 2023, become operative July 1, 2025. See section 102, chapter 281, Oregon Laws 2023. The text that is operative on and after July 1, 2025, is set forth for the user's convenience.

(1) The executive director of the Oregon Public Defense Commission shall:

- (a) Designate a deputy director of the commission who serves at the pleasure of the executive director.
- (b) Hire necessary staff for the commission.
- (c) Recommend to the commission how to establish and maintain, in a cost-effective manner, the delivery of legal services to persons entitled to, and, where applicable, financially eligible for, appointed counsel at state expense under Oregon statutes, the Oregon Constitution, the United States Constitution and consistent with Oregon and national standards of justice.
- (d) Implement and ensure compliance with contracts, policies, procedures, standards and guidelines adopted by the commission or required by statute.
- (e) Prepare and submit to the commission for its approval the biennial budget of the commission.
- (f) Negotiate contracts, as appropriate, for providing legal services to persons eligible for appointed counsel at state expense in accordance with ORS 151.216 (5) and (6).
- (g) Employ personnel or contract for services as necessary to carry out the responsibilities of the executive director and the commission.
- (h) Supervise the personnel, operation and activities of the commission.
- (i) Provide services, facilities and materials necessary for the performance of the duties, functions and powers of the commission.
- (j) Pay the expenses of the commission.
- (k) Prepare and submit to the members of the commission an annual report of the activities of the commission.
- (L) Provide for legal representation, advice and consultation for the commission, its members, the executive director and staff of the commission who require such services or who are named as defendants in lawsuits arising from their duties, functions and responsibilities. If requested by the executive director, the Attorney General may also provide for legal representation, advice and consultation for the commission, its members, the executive director and staff of the commission in litigation.

(2) The executive director may:

- (a) Designate persons as representatives of the executive director for the purposes of determining and paying bills submitted to the commission and determining preauthorization for incurring fees and expenses under ORS 135.055.
- (b) Establish an external advisory group to assist in developing the standard operating expectations for persons and entities

providing public defense services.

Note:

See second note under 151.211.

Note:

Section 14 (3)(a), chapter 281, Oregon Laws 2023, provides:

Sec. 14.

(3)(a) Notwithstanding ORS 151.213 (6)(b), and subject to the provisions of sections 92 (3) and 102 (2) of this 2023 Act, on January 1, 2024, the public defense services executive director shall begin a four-year term as executive director of the Oregon Public Defense Commission, and is subject to termination or reappointment as described in ORS 151.213 (6)(b). [2023 c.281 §14(3)(a)]

Note:

Section 92 (3)(b), chapter 281, Oregon Laws 2023, provides:

Sec. 92.

(3)(b) The person serving as executive director of the Oregon Public Defense Commission on January 1, 2025, may finish the person's term as executive director and is eligible for reappointment, but, beginning on January 1, 2025, and continuing until July 1, 2027, serves at the pleasure of the Governor. [2023 c.281 §92(3)(b)]

Note:

Section 102 (2)(b), chapter 281, Oregon Laws 2023, provides:

Sec. 102.

(2)(b) The person serving as executive director of the Oregon Public Defense Commission on July 1, 2027, may finish the person's term as executive director and is eligible for reappointment, but, beginning on July 1, 2027, serves at the pleasure of the voting members of the commission.

[2023 c.281 §102(2)(b)]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for Financially Eligible Persons Section 151.221 - Status of officers and employees of commission.**

Officers and employees of the Oregon Public Defense Commission are state officers or employees in the exempt service and are not subject to ORS chapter 240. [2003 c.449 §17; 2023 c.281 §5]

Note:

See second note under 151.211.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for Financially Eligible Persons Section 151.225 - Public Defense Services Account.**

(1) The Public Defense Services Account is established in the State Treasury, separate and distinct from the General Fund. The Public Defense Services Account is continuously appropriated to the Oregon Public Defense Commission for:

(a) Administration and support of the public defense system;

(b) Reimbursement of the State Court Administrator under ORS 151.216 (1)(i); and

(c) Legal representation of parents and children involved in foster care for which matching funds under 45 C.F.R. 1356.60(c) may be used.

(2) The following moneys shall be deposited in the Public Defense Services Account:

(a) Moneys received by the commission from the State Court Administrator under ORS 151.216 (1)(i);

(b) Moneys received by the Judicial Department under ORS 135.050 (8), 151.487 (1), 419A.211 or 419B.198 (1);

(c) Federal matching funds received under 45 C.F.R. 1356.60(c); and

(d) Miscellaneous revenues and receipts of the commission.

(3) All gifts, grants or contributions accepted by the commission under ORS 151.216 shall be deposited in a separate subaccount created in the Public Defense Services Account to be used by the commission for the purpose for which the gift, grant or contribution was given or granted. [2001 c.962 §§5,106b; 2011 c.597 §43a; 2012 c.107 §37; 2015 c.27 §14; 2021 c.202 §4; 2021 c.678 §§7,7a; 2023 c.281 §6]

Note:

See second note under 151.211.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for Financially Eligible Persons Section 151.235 - Public defense population forecasts.**

(1) The Oregon Department of Administrative Services shall issue state public defense population forecasts including, but not limited to, expected populations of adults and juveniles eligible for appointed counsel, to be used by:

(a) The Oregon Public Defense Commission, in preparing budget requests or for any other purpose determined necessary by the commission; or

(b) Any other state agency concerned with the effect of public defense populations or policy developments on budgeting.

(2) The department shall issue state public defense population forecasts on April 15 and October 15 of each year.

(3) When the department issues a state public defense population forecast, the forecast must:

- (a) Discretely identify adult and juvenile populations that are eligible for appointed counsel categorized by either circuit or appellate court;
- (b) Identify the forecast's margin of error for adult and juvenile populations; and
- (c) Attribute growth or decline in the forecast, relative to previously issued forecasts, to specific policies or to specific components of the baseline underlying the forecast.
- (4) The Oregon Public Defense Commission, the Oregon Criminal Justice Commission, the Judicial Department and, if requested by the Oregon Department of Administrative Services, any other state agency, shall provide the Oregon Department of Administrative Services with any information necessary for the department to prepare the forecasts described in this section.
- (5) As used in this section, "baseline underlying the forecast" includes population demographics and crime trends. [2023 c.281 §7a]

Note:

151.235 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 151 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note:

Sections 96 and 97, chapter 281, Oregon Laws 2023, provide:

Sec. 96.

- (1)(a) The Oregon Public Defense Commission shall conduct a survey and economic analysis to establish a formula for the commission to use to calculate an hourly pay rate, taking into account overhead expenses, market rates and regional differences in the cost of living, for appointed counsel who are not employees of the commission or a nonprofit public defense organization.
- (b) The commission may conduct the survey and economic analysis internally or may contract with an outside entity. The survey and economic analysis must be completed and the hourly pay rate calculated no later than July 1, 2025.
- (c) After the hourly pay rate described in paragraph (a) of this subsection has been calculated, and beginning with contracts entered into on or after July 1, 2027, the hourly pay for appointed counsel who are not employees of the commission or a nonprofit public defense organization may not be lower than that amount.
- (d) The commission may conduct another survey and economic analysis as described in this subsection to establish a new formula and calculate a new hourly pay rate.
- (2)(a) By January 1, 2031, at least 20 percent of all appointed counsel at the trial level must be attorneys employed by the Oregon Public Defense Commission.
- (b) By January 1, 2035, at least 30 percent of all appointed counsel at the trial level must be attorneys employed by the Oregon Public Defense Commission. [2023 c.281 §96]

Sec. 97.

Section 96 of this 2023 Act is repealed on January 2, 2035. [2023 c.281 §97]

Note:

Sections 98 and 99, chapter 281, Oregon Laws 2023, provide:

Sec. 98.

- (1) No later than May 15, 2024, the Oregon Public Defense Commission shall provide a comprehensive report on the commission's plan for providing public defense services in this state to the interim committees of the Legislative Assembly related to the judiciary, in the manner described in ORS 192.245, that includes at least the following information:
  - (a) Financial projections for the commission based on anticipated workload;
  - (b) A description of the commission's proposed method for providing public defense services based on anticipated workload;
  - (c) The establishment of training and supervision requirements for public defense providers;
  - (d) Steps taken to determine a reasonable hourly rate for appointed counsel who are not employees of the commission or nonprofit public defense organizations that accounts for overhead expenses; and
  - (e) Steps taken to improve oversight and enforcement of statewide objective standards for the provision of public defense.
- (2) No later than December 1, 2025, and no later than December 1, 2026, the commission shall provide the interim committees of the Legislative Assembly related to the judiciary with an updated version of the report described in subsection (1) of this section.
- (3) Beginning no later than December 1, 2027, and biennially thereafter until December 1, 2035, the commission shall provide the interim committees of the Legislative Assembly related to the judiciary with an updated version of the report described in subsection (1) of this section. [2023 c.281 §98]

Sec. 99.

Section 98 of this 2023 Act is repealed on January 2, 2036. [2023 c.281 §99]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for Financially Eligible Persons Section 151.485 - Financial eligibility; determination; financial statement; termination of appointed counsel.**

- (1) For purposes of determining the financial eligibility for appointed counsel of persons with a constitutional or statutory right to counsel in matters before the state courts and whose counsel is authorized to be paid by the executive director of the Oregon Public Defense Commission, a person is financially eligible for appointed counsel if the person is determined to be financially unable to retain adequate counsel without substantial hardship in providing basic economic necessities to the person or the person's dependent family under standards established by the Oregon Public Defense Commission under ORS 151.216.



(2) A determination of financial eligibility shall be made upon the basis of information contained in a detailed financial statement submitted by the person for whom counsel is requested or appointed or, in an appropriate case, by the person's parent, guardian or custodian. The financial statement shall be in the form prescribed by the Oregon Public Defense Commission. The form shall contain a full disclosure of all assets, liabilities, current income, dependents and other information required by ORS 135.050 (4) and, in addition, any information required by the commission and state courts as necessary to determine eligibility. The commission shall adopt uniform statewide guidelines and procedures that prescribe how to use the form and determine financial eligibility for appointed counsel.

(3) If at any time after the appointment of counsel the court having jurisdiction of the case finds that the defendant is financially able to obtain counsel, the court may terminate the appointment of counsel. If at any time during criminal proceedings the court having jurisdiction of the case finds that the defendant is financially unable to pay counsel whom the defendant has retained, the court may appoint counsel as provided in this section.

(4) In addition to any criminal prosecution, a civil proceeding may be initiated by any public body that has expended moneys for the defendant's legal assistance within two years of judgment if the defendant was not qualified for legal assistance in accordance with subsections (1) and (2) of this section. As used in this subsection, "legal assistance" includes legal counsel, transcripts, witness fees and expenses and any other goods or services required by law to be provided to a financially eligible person at state expense under ORS 151.216 and 151.219.

(5) The civil proceeding shall be subject to the exemptions from execution as provided for by law. [1989 c.1053 §13; 1991 c.825 §6; 2001 c.962 §33; 2023 c.281 §36]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for Financially Eligible Persons Section 151.487 - Ability to pay; effect.**

(1) If in determining that a person is financially eligible for appointed counsel under ORS 151.485, the court finds that the person has financial resources that enable the person to pay in full or in part the administrative costs of determining the eligibility of the person and the costs of the legal and other services to be provided at state expense that are related to the provision of appointed counsel, the court shall enter a limited judgment requiring that the person pay to the Public Defense Services Account established by ORS 151.225, through the clerk of the court, the amount that it finds the person is able to pay without creating substantial hardship in providing basic economic necessities to the person or the person's dependent family. The amount that a court may require the person to pay is subject to the guidelines and procedures issued by the Oregon Public Defense Commission as provided in subsection (4) of this section.

(2) Failure to comply with the requirements of a limited judgment entered under this section is not grounds for contempt or grounds for withdrawal by the appointed attorney.

(3) Except as authorized in this section, a person, organization or governmental agency may not request or accept a payment or promise of payment for assisting in the representation of a person by appointment.

(4) The commission shall promulgate and issue guidelines and procedures:

(a) For the determination of persons provided with appointed counsel who have some financial resources to pay in full or in part the administrative, legal and other costs under subsection (1) of this section; and

(b) Regarding the amounts persons may be required to pay by a court under subsection (1) of this section.

(5) The determination that a person is able to pay or partially able to pay, or that a person no longer has the ability to pay the amount ordered in subsection (1) of this section, is subject to review at any time by the court. [1989 c.1053 §14; 1993 c.33 §305; 1997 c.761 §3; 2001 c.962 §34; 2011 c.597 §42; 2012 c.107 §43; 2023 c.281 §37]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for Financially Eligible Persons Section 151.489 - Personnel to verify financial eligibility.**

For the purpose of aiding courts in making determinations of financial eligibility for appointed counsel at state expense under ORS 151.485 and 151.487, the State Court Administrator may locate eligibility verification and screening personnel or otherwise arrange for such services in the state trial and appellate courts or other locations and shall prescribe the policies and procedures for their use. [1989 c.1053 §15; 2001 c.962 §35]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for Financially Eligible Persons Section 151.491 - Authority of person verifying financial eligibility.**

(1) State courts or authorized designees who conduct the verification of the financial statement submitted by a person seeking or having appointed counsel payable at state expense under ORS 151.216 and 151.219 may require the person to execute and deliver any written requests or authorizations as may be necessary under applicable law to provide the state court or authorized designee with access to records of public or private source, otherwise confidential, as may be needed to evaluate eligibility.

(2) In performing the verification duties under subsection (1) of this section, the state courts are authorized to obtain information from any public record office of the state or of any subdivision or agency of the state upon request and without payment of any fees ordinarily required by law. [1989 c.1053 §16; 2001 c.962 §36]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 151 - Public Defenders; Counsel for**

**Financially Eligible PersonsSection 151.493 - Release of information by state agency to State Court Administrator.**

- (1) Notwithstanding any other provision of law, any state agency as defined in ORS 192.311 that receives a request for release of information from the state courts for the purpose of verifying the financial eligibility of a person under ORS 151.485 to 151.497 shall release all requested information to the state court. The court shall forward to the state agency a certification signed by the person about whom the requested information is sought that authorizes the release of the information.
- (2) Upon its own motion or motion of the executive director of the Oregon Public Defense Commission, a court that has appointed counsel for a person by reason of financial eligibility may order the release of any information relating to the person's financial situation held by any other person. [1991 c.825 §4; 2001 c.962 §37; 2023 c.281 §38]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 151 - Public Defenders; Counsel for Financially Eligible PersonsSection 151.495 - Confidentiality of information obtained by state courts; exceptions.**

- (1) All information supplied by a person seeking appointed counsel and all information collected by the state courts for purposes of determining financial eligibility for appointed counsel under ORS 151.485 to 151.497 is confidential and shall not be used for any purpose other than determining financial eligibility.
- (2) Notwithstanding subsection (1) of this section, information supplied by a person seeking appointed counsel and information collected by the state courts for purposes of determining financial eligibility may be:
  - (a) Introduced in a proceeding, criminal or civil, arising out of a determination that a person is not financially eligible for appointed counsel;
  - (b) Introduced in a proceeding, criminal or civil, arising as a result of an allegation that a person has supplied false information in seeking appointed counsel;
  - (c) Used by the court in a sentencing proceeding resulting from the defendant's conviction on the matter for which the information was provided or collected; and
  - (d) Used by the court, the Department of Revenue, or the assignees of the court or the Department of Revenue, for the purpose of collecting delinquent amounts owed to this state by the person. [1991 c.825 §5; 1997 c.761 §4; 2001 c.962 §38]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 151 - Public Defenders; Counsel for Financially Eligible PersonsSection 151.497 - "Counsel" defined for ORS 151.485 to 151.497.**

As used in ORS 151.485 to 151.497 unless the context requires otherwise, "counsel" includes a legal advisor appointed under ORS 135.045. [2001 c.472 §10]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 151 - Public Defenders; Counsel for Financially Eligible PersonsSection 151.505 - Authority of court to order repayment of costs related to provision of appointed counsel.**

- (1) At the conclusion of a case or matter in which the first accusatory instrument or petition in the trial court was filed after January 1, 1998, and in which the court appointed counsel to represent a person, a trial, appellate or post-conviction court may include in its judgment a money award requiring that the person repay in full or in part the administrative costs of determining the eligibility of the person for appointed counsel, and the costs of the legal and other services that are related to the provision of appointed counsel, that have not previously been required to be paid under a limited judgment entered under ORS 151.487. An award under this section is a monetary obligation payable to the state.
- (2) Costs that may be included in a money award under this section include a reasonable attorney fee for counsel appointed to represent the person and a reasonable amount for expenses authorized under ORS 135.055. A reasonable attorney fee is presumed to be a reasonable number of hours at the hourly rate authorized by the Oregon Public Defense Commission under ORS 151.216. For purposes of this subsection, compensation of counsel is determined by reference to a schedule of compensation established by the commission.
- (3) The court may not require a person to pay costs under this section unless the person is or may be able to pay the costs. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the person and the nature of the burden that payment of costs will impose.
- (4)(a) A person who has been required to pay costs under this section and who is not in contumacious default in the payment of the costs may at any time petition the court for remission of the payment of costs or any unpaid portion of the costs. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the person ordered to repay or on the immediate family of the person, or will interfere with the ability of the person to complete an alcohol or drug treatment program, the court may enter a supplemental judgment that remits all or part of the amount due or modifies the method of payment.
- (b) In accordance with ORS 144.089, a person may enter into a written agreement to participate in a community service exchange program as an alternative to paying costs imposed under this section.
- (5) All moneys collected or paid under a money award made pursuant to this section shall be paid into the Criminal Fine Account. If the money award is part of a criminal judgment of conviction, the award is a Type 2, Level II obligation for the purpose of ORS 137.145 to 137.159. [1997 c.761 §2; 2001 c.962 §39; 2003 c.334 §§1,2; 2003 c.449 §§18,19; 2011 c.597 §43; 2015 c.186 §2; 2017 c.522 §2; 2023 c.281 §39]

Note:

151.505 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 151 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note:

Sections 103, 104, 107 and 108, chapter 281, Oregon Laws 2023, provide:

Sec. 103.

The Legislative Assembly finds that:

(1) Oregonians accused of a crime are entitled, under the Sixth and Fourteenth Amendments of the United States Constitution, and Article I, section 11, of the Oregon Constitution, to have an attorney provided at government expense whenever the person is facing the potential loss of liberty and is unable to afford an attorney.

(2) The current unrepresented defendant crisis represents a threat to the constitutional rights of Oregonians and must be resolved. [2023 c.281 §103]

Sec. 104.

(1)(a) The presiding judge of each judicial district shall immediately develop and implement a coordinated public safety unrepresented defendant crisis plan, and submit the plan to the Oregon Criminal Justice Commission, as soon as practicable and no later than September 1, 2023.

(b) The plan described in this subsection must first prioritize the resolution of the cases of unrepresented defendants who are in custody, and then the cases of unrepresented defendants who are out of custody.

(2) The presiding judge of a judicial district with a total population of over 100,000 shall immediately convene a crisis team to assist in the development of the plan and to coordinate the implementation of the plan described in subsection (1) of this section. The team shall be composed of at least the following persons:

(a) The presiding judge of the judicial district;

(b) District attorneys within the judicial district; and

(c) The public defense services executive director, or the director's designee.

(3) The Chief Justice of the Supreme Court may issue orders related to resolving the unrepresented defendant crisis.

(4) The presiding judge of a judicial district may enter standing orders related to resolving the unrepresented defendant crisis that are consistent with the orders of the Chief Justice described in subsection (3) of this section and the plan of the judicial district described in subsection (1) of this section. [2023 c.281 §104]

Sec. 107.

All agencies of state government, as defined in ORS 174.111, are directed to assist the presiding judges of judicial districts, the Public Defense Services Commission and the Oregon Criminal Justice Commission in the performance of their duties under sections 104 to 106 of this 2023 Act and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice to the judges and commissions necessary to perform their duties. [2023 c.281 §107]

Sec. 108.

Sections 103 to 107 of this 2023 Act are repealed on June 30, 2025. [2023 c.281 §108]

## **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.005 - Definitions.**

As used in this chapter:

(1) "Enforcement officer" means:

(a) A member of the Oregon State Police.

(b) A sheriff or deputy sheriff.

(c) A city marshal or a member of the police of a city, municipal or quasi-municipal corporation.

(d) A police officer commissioned by a university under ORS 352.121 or 353.125.

(e) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or any other state.

(f) An investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon.

(g) A Port of Portland peace officer.

(h) A humane special agent as defined in ORS 181A.345.

(i) A regulatory specialist exercising authority described in ORS 471.775 (2).

(j) An authorized tribal police officer as defined in ORS 181A.940.

(k) Any other person specifically authorized by law to issue citations for the commission of violations.

(2) "Traffic offense" has the meaning given that term in ORS 801.555.

(3) "Violation" means an offense described in ORS 153.008.

(4) "Violation proceeding" means a judicial proceeding initiated by issuance of a citation that charges a person with commission of a violation. [1999 c.1051 §2; 2007 c.71 §44; 2009 c.299 §3; 2011 c.506 §20; 2011 c.644 §§22,45; 2012 c.54 §§14,15; 2012 c.67 §§7,8; 2013 c.180 §21,22; 2015 c.174 §10; 2015 c.614 §§145,146]

## **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.008 - Violations described.**

- (1) Except as provided in subsection (2) of this section, an offense is a violation if any of the following apply:
  - (a) The offense is designated as a violation in the statute defining the offense.
  - (b) The statute prescribing the penalty for the offense provides that the offense is punishable by a fine but does not provide that the offense is punishable by a term of imprisonment. The statute may provide for punishment in addition to a fine as long as the punishment does not include a term of imprisonment.
  - (c) The offense is created by an ordinance of a county, city, district or other political subdivision of this state with authority to create offenses, and the ordinance provides that violation of the ordinance is punishable by a fine but does not provide that the offense is punishable by a term of imprisonment. The ordinance may provide for punishment in addition to a fine as long as the punishment does not include a term of imprisonment.
  - (d) The prosecuting attorney has elected to treat the offense as a violation for purposes of a particular case in the manner provided by ORS 161.566.
  - (e) The court has elected to treat the offense as a violation for purposes of a particular case in the manner provided by ORS 161.568.
- (2) Conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime. [1999 c.1051 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.012 - Violation categories.**

Violations are classified for the purpose of sentencing into the following categories:

- (1) Class A violations.
- (2) Class B violations.
- (3) Class C violations.
- (4) Class D violations.
- (5) Class E violations.
- (6) Unclassified violations as described in ORS 153.015.
- (7) Specific fine violations as described in ORS 153.015. [1999 c.1051 §4; 2021 c.2 §18; 2021 c.591 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.015 - Unclassified and specific fine violations.**

- (1) An offense described in the Oregon Revised Statutes that is designated as a violation but does not specify the classification of the violation is an unclassified violation. An unclassified violation is a Class B violation.
- (2) A specific fine violation is any offense described in the Oregon Revised Statutes that is designated as a specific fine violation or:
  - (a) Is not designated as a crime or as a class A, B, C or D violation;
  - (b) Is not punishable by a term of imprisonment as a penalty for committing the offense; and
  - (c) Is punishable by a specific fine as the penalty for committing the offense. [1999 c.1051 §5; 2011 c.597 §6a]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.018 - Maximum fines.**

- (1) The penalty for committing a violation is a fine. The law creating a violation may impose other penalties in addition to a fine but may not impose a term of imprisonment.
- (2) Except as otherwise provided by law, the maximum fine for a violation committed by an individual is:
  - (a) \$2,000 for a Class A violation.
  - (b) \$1,000 for a Class B violation.
  - (c) \$500 for a Class C violation.
  - (d) \$250 for a Class D violation.
  - (e) \$100 for a Class E violation.
  - (f) \$2,000 for a specific fine violation, or the maximum amount otherwise established by law for the specific fine violation.
- (3) If a special corporate fine is specified in the law creating the violation, the sentence to pay a fine shall be governed by the law creating the violation. Except as otherwise provided by law, if a special corporate fine is not specified in the law creating the violation, the maximum fine for a violation committed by a corporation is:
  - (a) \$4,000 for a Class A violation.
  - (b) \$2,000 for a Class B violation.
  - (c) \$1,000 for a Class C violation.
  - (d) \$500 for a Class D violation. [1999 c.1051 §6; 2003 c.737 §103; 2011 c.597 §7; 2021 c.2 §19; 2021 c.591 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.019 - Presumptive fines; generally.**

- (1) Except as provided in ORS 153.020, 153.062 and 430.391, the presumptive fines for violations are:
  - (a) \$440 for a Class A violation.

- (b) \$265 for a Class B violation.
- (c) \$165 for a Class C violation.
- (d) \$115 for a Class D violation.
- (e) \$100 for a Class E violation.
- (2) The presumptive fine for a specific fine violation is:
  - (a) The amount specified by statute as the presumptive fine for the violation; or
  - (b) An amount equal to the greater of 20 percent of the maximum fine prescribed for the violation, or the minimum fine prescribed by statute for the violation.
- (3) Any surcharge imposed under ORS 1.188 shall be added to and made a part of the presumptive fine. [2011 c.597 §2; 2016 c.78 §3; 2017 c.712 §1; 2021 c.591 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.020 - Presumptive fines; highway work zones, school zones and safety corridors.**

- (1) If a person is charged with a traffic violation, as defined in ORS 801.557, and the enforcement officer issuing the citation notes on the citation that the offense occurred in a highway work zone and is subject to the provisions of ORS 811.230, occurred in a posted school zone and is subject to the provisions of ORS 811.235, or occurred in a safety corridor and is subject to the provisions of ORS 811.483 or section 2, chapter 501, Oregon Laws 2019, the presumptive fine for the violation is:
  - (a) \$875 for a Class A violation.
  - (b) \$525 for a Class B violation.
  - (c) \$325 for a Class C violation.
  - (d) \$225 for a Class D violation.
- (2) Any surcharge imposed under ORS 1.188 shall be added to and made a part of the presumptive fine. [2011 c.597 §3; 2012 c.89 §10; 2016 c.78 §4; 2017 c.712 §2; 2019 c.501 §3]

Note:

The amendments to 153.020 by section 4, chapter 501, Oregon Laws 2019, become operative January 2, 2026. See section 5, chapter 501, Oregon Laws 2019. The text that is operative on and after January 2, 2026, is set forth for the user's convenience.

- (1) If a person is charged with a traffic violation, as defined in ORS 801.557, and the enforcement officer issuing the citation notes on the citation that the offense occurred in a highway work zone and is subject to the provisions of ORS 811.230, occurred in a posted school zone and is subject to the provisions of ORS 811.235, or occurred in a safety corridor and is subject to the provisions of ORS 811.483, the presumptive fine for the violation is:
  - (a) \$875 for a Class A violation.
  - (b) \$525 for a Class B violation.
  - (c) \$325 for a Class C violation.
  - (d) \$225 for a Class D violation.
- (2) Any surcharge imposed under ORS 1.188 shall be added to and made a part of the presumptive fine.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.021 - Minimum fines; waiver; audit of court.**

- (1) Unless a specific minimum fine is prescribed for a violation, and except as otherwise provided by law, the minimum fine a court shall impose for a violation that is subject to the presumptive fines established by ORS 153.019 (1) or 153.020 are as follows:
  - (a) \$225 for a Class A violation.
  - (b) \$135 for a Class B violation.
  - (c) \$85 for a Class C violation.
  - (d) \$65 for a Class D violation.
  - (e) \$45 for a Class E violation.
- (2) Notwithstanding subsection (1) of this section, a court may waive payment of the minimum fine described in this section, in whole or in part, if the court determines that requiring payment of the minimum fine would be inconsistent with justice in the case. In making its determination under this subsection, the court shall consider:
  - (a) The financial resources of the defendant and the burden that payment of the minimum fine would impose, with due regard to the other obligations of the defendant; and
  - (b) The extent to which that burden could be alleviated by allowing the defendant to pay the fine in installments or subject to other conditions set by the court.
- (3) This section does not affect the manner in which a court imposes or reduces monetary obligations other than fines.
- (4) The Department of Revenue or Secretary of State may audit any court to determine whether the court is complying with the requirements of this section. In addition, the Department of Revenue or Secretary of State may audit any court to determine whether the court is complying with the requirements of ORS 137.145 to 137.159 and 153.640 to 153.680. The Department of Revenue or Secretary of State may file an action under ORS 34.105 to 34.240 to enforce the requirements of this section and of ORS 137.145 to 137.159 and 153.640 to 153.680. [2011 c.597 §4; 2012 c.89 §11; 2017 c.712 §3; 2021 c.591 §14; 2022 c.68 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.022 - Authority of agency to specify rule violation as particular level of violation.**

If a statute provides that violation of the rules of an agency constitutes an offense, as described in ORS 161.505, the agency may by rule specify that violation of a specific rule of the agency is subject to a specific fine, or a specific maximum fine, that is less in amount than the maximum fine for the offense specified by the statute. In addition, the agency may specify that violation of the specific rule is a Class A, B, C or D violation under the provisions of ORS 153.012 as long as the class specified in the rule is lower than the statutory classification for the offense. [1999 c.1051 §76]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.025 - Authority of political subdivision to specify ordinance violation as particular level of violation.**

(1) If a statute provides that violation of the ordinances of a political subdivision of this state constitutes an offense, as described in ORS 161.505, the political subdivision may by ordinance specify that violation of a specific ordinance of the political subdivision is subject to a specific fine, or a specific maximum fine, that is less in amount than the maximum fine for the offense specified by the statute. In addition, the political subdivision may specify that violation of the specific ordinance is a Class A, B, C or D violation under the provisions of ORS 153.012 as long as the class specified in the ordinance is lower than the statutory classification for the offense.

(2) Nothing in this section requires a political subdivision to use the classifications established by ORS 153.012 or to use the presumptive fines established under ORS 153.019 and 153.020 for violations of ordinances adopted by the political subdivision. [1999 c.1051 §78; 2011 c.597 §111]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.030 - Applicability; statute of limitations.**

(1) The procedures provided for in this chapter apply to violations described in ORS 153.008. Except as specifically provided in this chapter, the criminal procedure laws of this state applicable to crimes also apply to violations.

(2) Notwithstanding subsection (1) of this section, ORS 153.633 and all other provisions of this chapter and of the criminal procedure laws of this state do not apply to violations that govern the parking of vehicles and that are created by ordinance or by agency rule.

(3) The statute of limitations for proceedings under this chapter is as provided in ORS 131.125.

(4) This chapter does not affect the ability of a city described in ORS 3.136 (1) to engage in the activities described in ORS 3.136

(3). Nothing in this chapter affects the ability of any other political subdivision of this state to provide for the administrative enforcement of the charter, ordinances, rules and regulations of the political subdivision, including enforcement through imposition of monetary penalties. Except for ordinances governing the parking of vehicles, administrative enforcement as described in this subsection may not be used for any prohibition designated as an offense.

(5) Nothing in this chapter affects the ability of any political subdivision of this state to establish rules relating to administrative enforcement as described in subsection (4) of this section, including rules providing for the use of citations or other procedures for initiating administrative enforcement proceedings.

(6) Nothing in this chapter affects the ability of any political subdivision of this state to conduct hearings for administrative enforcement as described in subsection (4) of this section, either before a hearing officer or before the governing body of the political subdivision.

(7) Nothing in this chapter affects the ability of any political subdivision to bring a civil action to enforce the charter, ordinances, rules and regulations of the political subdivision, or to bring a civil action to enforce any order for administrative enforcement as described in subsection (4) of this section.

(8) Nothing in ORS 153.042 affects the authority of any political subdivision of this state to provide for issuance of citations for violation of offenses created by ordinance on the same basis as the political subdivision could under the law in effect immediately before January 1, 2000. [1999 c.1051 §7; 2011 c.597 §111a; 2012 c.89 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.033 - Rules of procedure.**

The Supreme Court may adopt rules for the conduct of violation proceedings. Rules adopted by the Supreme Court under this section must be consistent with the provisions of this chapter. Rules adopted under this section supersede any local rule of a state court to the extent the local rule is inconsistent with the rule adopted by the Supreme Court. All city ordinances and municipal court rules must conform to any rules adopted by the Supreme Court under this section. [1999 c.1051 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.036 - Venue.**

(1) A violation proceeding may be commenced in:

(a) The county in which the violation was committed; or

(b) Any other county whose county seat is a shorter distance by road from the place where the violation was committed than is the

county seat of the county in which the violation was committed.

(2)(a) If a violation proceeding is commenced in the county in which the violation was committed, the proceeding may be commenced in a circuit or justice court of the county or, if the violation was committed within a city, in the municipal court.

(b) If a violation proceeding is commenced in a county other than the county in which the violation was committed, the proceeding may be commenced:

(A) In a circuit court;

(B) Notwithstanding the provisions of ORS 51.050 that limit the jurisdiction of justice courts to offenses committed within the county, in a justice court; or

(C) If the violation was committed within a city, in the municipal court of the city.

(3) A Central Violations Bureau established under ORS 153.806 may conduct violation proceedings for a violation commenced in circuit court notwithstanding the county in which the proceeding is commenced.

(4)(a) Except as otherwise provided in paragraph (b) of this subsection, if a violation proceeding is commenced in a county other than the county in which the violation was committed, at the request of the defendant the place of trial may be changed to the county in which the violation was committed. A request for a change of the place of trial shall be made prior to the date set for the trial and shall be governed by the provisions of ORS 131.305 to 131.415 relating to change of venue.

(b) A defendant may not request that the place of trial be changed if the violation was committed within a city and the proceeding is commenced in the municipal court of the city.

(5) Except as specifically provided in this section, venue in violation proceedings in circuit courts is governed by ORS 131.305 to 131.415. [1999 c.1051 §12; 1999 c.1051 §12a; 2003 c.528 §1; 2019 c.60 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.039 - Stop and detention for violation.**

(1) An enforcement officer may not arrest, stop or detain a person for the commission of a violation except to the extent provided in this section and ORS 810.410.

(2) An enforcement officer may stop and detain any person if the officer has reasonable grounds to believe that the person has committed a violation. An enforcement officer may stop and detain any employee, agent or representative of a firm, corporation or other organization if the officer has reasonable grounds to believe that the firm, corporation or other organization has committed a violation.

(3) Except as provided in subsection (4) of this section, the period of detention may be only as long as is necessary to:

(a) Establish the identity of the person, firm, corporation or organization believed to have committed the violation;

(b) Conduct any investigation reasonably related to the violation; and

(c) Issue a citation for the violation.

(4) The authority of an enforcement officer to stop and detain a person for a traffic violation as defined by ORS 801.557 is governed by ORS 810.410. [1999 c.1051 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.042 - Citations generally; issuance.**

(1) Except as provided in ORS 810.410 for issuance of a citation based on a traffic violation, as that term is defined in ORS 801.557, or as otherwise specifically provided by law, an enforcement officer may issue a violation citation only if the conduct alleged to constitute a violation takes place in the presence of the enforcement officer and the enforcement officer has reasonable grounds to believe that the conduct constitutes a violation.

(2) If the person receiving the citation is a firm, corporation or other organization, the citation may be issued to an employee, agent or representative of the firm, corporation or organization. [1999 c.1051 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.043 - Citations for Class E violations; issuance.**

(1) An enforcement officer issuing a citation for a Class E violation shall provide the person receiving the citation with information concerning how the person may complete a screening, as specified in ORS 430.389 (2)(e)(A).

(2) The requirement described in subsection (1) of this section may be satisfied by providing the person with the number for the telephone hotline established under ORS 430.391. [2021 c.591 §19; 2023 c.248 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.045 - Citation; requirements.**

(1) Except as provided in subsection (5) of this section, a citation conforming to the requirements of this section must be used by enforcement officers for all violations. The citation may contain other language in addition to the language specified in this section.

(2) Uniform citation forms for violations shall be adopted by the Supreme Court under ORS 1.525. In adopting those forms, the Supreme Court may combine the requirements for violation citations under this section and the requirements for criminal citations under ORS 133.066. More than one violation may be charged on a single citation form, but a crime and a violation may not be

charged on the same citation form.

(3) A violation citation shall consist of at least four parts. Additional parts may be inserted for administrative use. The required parts are:

(a) A complaint in the form prescribed by ORS 153.048.

(b) The abstract of court record.

(c) The police record.

(d) A summons in the form prescribed by ORS 153.051.

(4) Each of the parts shall contain the information or blanks required by rules of the Supreme Court under ORS 1.525.

(5) The complaint shall contain a form of certificate in which the enforcement officer must certify, under the penalties provided in ORS 153.990, that the enforcement officer has sufficient grounds to believe, and does believe, that the person named in the complaint committed the violation specified in the complaint. A certificate conforming to this subsection shall be deemed equivalent of a sworn complaint. [1999 c.1051 §13; 2005 c.566 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.048 - Complaint; requirements.**

(1) The complaint in a violation citation must contain at least the following:

(a) The name of the court, the name of the state or of the city or other public body in whose name the action is brought and the name of the defendant.

(b) A statement or designation of the violation that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have been committed.

(c) A certificate under ORS 153.045 (5) signed by the enforcement officer.

(2) If the complaint does not conform to the requirements of this section, the court shall set the complaint aside upon motion of the defendant made before the entry of a plea. A pretrial ruling on a motion to set aside may be appealed by the state.

(3) A court may amend a complaint in its discretion. [1999 c.1051 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.051 - Summons; requirements.**

A summons in a violation citation is sufficient if it contains the following:

(1) The name of the court, the name of the person cited, the date on which the citation was issued, the name of the enforcement officer issuing the citation, and the time and place at which the person cited is to appear in court.

(2) A statement or designation of the violation that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have been committed.

(3) A notice to the person cited that a complaint will be filed with the court based on the violation.

(4) The amount of the presumptive fine, if any, fixed for the violation.

(5) A statement notifying the person that a monetary judgment may be entered against the person for up to the maximum amount of fines, restitution and other costs allowed by law for the violation if the person fails to make all required appearances at the proceedings.

(6) A statement notifying the person that, if the person pleads no contest and delivers to the court the amount of the presumptive fine indicated on the citation, and the court accepts the plea, the amount of the fine imposed against the defendant may not exceed the amount of the presumptive fine indicated on the citation.

(7) A statement notifying the person that, if the person pleads no contest and delivers to the court the amount of the presumptive fine indicated on the citation:

(a) The person may submit an explanation of the circumstances of the violation; and

(b) The court may consider the explanation in establishing the amount of the fine, but in no event can the court impose a fine that is less than the minimum fine established under ORS 153.021 (1) except as provided in ORS 153.021 (2).

(8) A statement notifying the person that, if the person pleads not guilty and requests a trial, the court cannot impose a fine that is less than the minimum fine established under ORS 153.021 (1) except as provided in ORS 153.021 (2) or unless the person is found not guilty, in which case no fine will be imposed. [1999 c.1051 §15; 2011 c.597 §23; 2022 c.68 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.054 - Service and filing.**

Except as provided in ORS 267.153, 810.439, 811.590, 811.615 or 811.617 or other law, an enforcement officer issuing a violation citation shall cause the summons to be delivered to the person cited and shall cause the complaint and abstract of court record to be delivered to the court. [1999 c.1051 §16; 2017 c.427 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.058 - Initiation of violation proceeding by private party.**

(1) A person other than an enforcement officer may commence a violation proceeding by filing a complaint with a court that has



jurisdiction over the alleged violation. The filing of the complaint is subject to ORS 153.048. The complaint shall be entered by the court in the court record.

(2) A complaint under this section must contain:

(a) The name of the court, the name and address of the person bringing the action and the name and address of the defendant.

(b) A statement or designation of the violation that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have occurred.

(c) A certificate signed by the complainant stating that the complainant believes that the named defendant committed the violation specifically identified in the complaint and that the complainant has reasonable grounds for that belief. A certificate conforming to this section shall be deemed equivalent of a sworn complaint. Complaints filed under this section are subject to the penalties provided in ORS 153.990.

(3) Upon the filing of a complaint under this section, the court shall cause a summons to be delivered to the defendant and shall deliver a copy of the complaint to the district attorney for the county in which the complaint is filed. The court may require any enforcement officer to serve the summons.

(4) If the complaint does not conform to the requirements of this section, the court shall set it aside upon motion of the defendant made before the entry of a plea. A pretrial ruling on a motion to set aside may be appealed by the state.

(5) A court may, acting in its sole discretion, amend a complaint filed under the provisions of this section.

(6) A court shall dismiss a complaint filed under this section upon the motion of the district attorney for the county or of the city attorney for a city if:

(a) The district attorney or city attorney has brought a proceeding against the defendant named in the complaint or intends to bring a proceeding against the defendant named in the complaint; and

(b) The proceeding is brought by the district attorney or city attorney by reason of the same conduct alleged in the complaint.

(7) Any political subdivision of this state may require by ordinance that violation proceedings for the purpose of enforcing the charter or ordinances of the political subdivision may not be commenced in the manner provided by this section and that those proceedings may be commenced only by enforcement officers.

(8) A person other than an enforcement officer may commence a violation proceeding under this section only for:

(a) Boating violations under ORS chapter 830, or any violation of rules adopted pursuant to ORS chapter 830 if the violation constitutes an offense;

(b) Traffic violations under ORS chapters 801 to 826, or any violation of rules adopted pursuant to those chapters if the violation constitutes an offense;

(c) Violations under the wildlife laws, as described in ORS 496.002, or any violation of rules adopted pursuant to those laws if the violation constitutes an offense;

(d) Violations under the commercial fishing laws, as described in ORS 506.001, or any violation of rules adopted pursuant to those laws if the violation constitutes an offense; or

(e) Violations of ORS 618.121 to 618.161, and violation of rules adopted pursuant to those laws if the violation constitutes an offense. [1999 c.1051 §11]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.061 - Appearance by defendant.**

(1) Except as provided in subsection (2) of this section, a defendant who has been issued a violation citation must either:

(a) Make a first appearance by personally appearing in court at the time indicated in the summons; or

(b) Make a first appearance in the manner provided in subsection (3) of this section before the time indicated in the summons.

(2) If a defendant is issued a violation citation for careless driving under ORS 811.135 on which a police officer noted that the offense contributed to an accident and that the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user of a public way, the officer may not enter the amount of the presumptive fine on the summons and the defendant must make a first appearance by personally appearing in court at the time indicated in the summons.

(3)(a) Except as provided in this section, a defendant who has been issued a violation citation may make a first appearance in the matter before the time indicated in the summons by one of the following means:

(A) The defendant may submit to the court a written or oral request for a trial.

(B) The defendant may enter a plea of no contest by:

(i) Delivering to the court, a Central Violations Bureau established under ORS 153.806 or a Violations Bureau established by the court under ORS 153.800 the summons and a check or money order in the amount of the presumptive fine set forth in the summons; or

(ii) Appearing by electronic or telephonic means and entering the plea with a Central Violations Bureau established under ORS 153.806 or a Violations Bureau established by the court under ORS 153.800.

(b) The entry of a plea under paragraph (a)(B) of this subsection constitutes a waiver of trial and consent to the entry of a judgment forfeiting the presumptive fine.

(c) A no contest plea under this subsection is not subject to the requirements of ORS chapter 135 relating to the entry of pleas and, upon receipt of the plea, the court may enter judgment against the defendant without taking further evidence.

(4) The court may require that a defendant requesting a trial under subsection (3) of this section deposit an amount equal to the

presumptive fine established under ORS 153.019 and 153.020 or such other amount as the court determines appropriate if the defendant has failed to appear in any court on one or more other charges in the past. If the defendant does not deposit the amount specified by the court, the defendant must personally appear in court at the time indicated in the summons. The amount deposited by the defendant may be applied against any fine imposed by the court, and any amount not so applied shall be refunded to the defendant at the conclusion of the proceedings.

(5) The court may require a defendant to appear personally in any case, or may require that all defendants appear in specified categories of cases.

(6) If a defendant has entered a no contest plea in the manner provided in subsection (3) of this section, and the court determines that the presumptive fine is not adequate by reason of previous convictions of the defendant, the nature of the offense charged or other circumstances, the court may require that a trial be held unless an additional fine amount is paid by the defendant before a specified date. Notice of an additional fine amount under this subsection may be given to the defendant by mail. In no event may the court require a total fine amount in excess of the maximum fine established for the violation by statute.

(7) If a defendant fails to make a first appearance on a citation for a traffic violation, as defined by ORS 801.557, fails to make a first appearance on a citation for a violation of ORS 471.430, or fails to appear at any other subsequent time set for trial or other appearance, the driving privileges of the defendant are subject to suspension under ORS 809.220. [1999 c.1051 §17; 2001 c.817 §2; 2007 c.784 §5; 2011 c.597 §§25,313; 2012 c.89 §4; 2019 c.60 §4; 2021 c.411 §4]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.062 - Class E violation proceedings.**

(1) Notwithstanding ORS 153.018, 153.019 and 153.021, and subject to subsection (2) of this section, a person subject to the penalty for a Class E violation may, in lieu of the fine, complete a screening, as set forth in ORS 430.389 (2)(e)(A), or any other equivalent or more intensive treatment contact, within 45 days of when the person receives the citation for the Class E violation.

(2) Upon receiving verification that the person has obtained a screening through a Behavioral Health Resource Network, including the telephone hotline described in ORS 430.391 (1), or any other equivalent or more intensive treatment contact, within the time period described in subsection (1) of this section, the court shall dismiss the citation.

(3) The failure to pay a fine on a Class E violation is not a basis for further penalties or for a term of incarceration. [2021 c.2 §22; 2021 c.591 §20; 2023 c.248 §14]

Note:

153.062 was enacted into law but was not added to or made a part of ORS chapter 153 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.064 - Warrant for arrest upon failure to appear.**

(1) Except as provided in subsection (2) of this section, a warrant for arrest may be issued against a person who fails to make a first appearance on a citation for a violation, or fails to appear at any other subsequent time set for trial or other appearance, only if the person is charged with failure to appear in a violation proceeding under ORS 153.992.

(2) If a person fails to make a first appearance on a citation for a violation other than a Class E violation, or fails to appear at any other subsequent time set for trial or other appearance on a violation other than a Class E violation, the court may issue an order that requires the defendant to appear and show cause why the defendant should not be held in contempt. The show cause order may be mailed to the defendant by certified mail, return receipt requested. If service cannot be accomplished by mail, the defendant must be personally served. If the defendant is served and fails to appear at the time specified in the show cause order, the court may issue an arrest warrant for the defendant for the purpose of bringing the defendant before the court. [1999 c.1051 §18; 2021 c.591 §15]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.070 - When trial required.**

The court may require that a trial be held in any violation proceeding. If the defendant requests a trial under ORS 153.061, or a trial is required by the court or by law, the court shall set a date, time and place for the trial. [1999 c.1051 §19; 2001 c.19 §2; 2003 c.518 §1]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.073 - Time and place.**

Unless notice is waived by the defendant, the court shall mail or otherwise provide to the defendant notice of the date, time and place at least five days before the date set for trial under ORS 153.070. If the citation is for a traffic violation, or is for a violation of ORS 471.430, the notice must contain a warning to the defendant that if the defendant fails to appear at the trial, the driving privileges of the defendant are subject to suspension under ORS 809.220. [1999 c.1051 §20; 2001 c.817 §3; 2003 c.518 §1a]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.076 - Conduct of trial.**

- (1) Violation proceedings shall be tried to the court sitting without jury. The trial in a violation proceeding may not be scheduled fewer than seven days after the date that the citation is issued unless the defendant waives the seven-day period.
- (2) The state, municipality or political subdivision shall have the burden of proving the charged violation by a preponderance of the evidence.
- (3) The pretrial discovery rules in ORS 135.805 to 135.873 apply in violation proceedings.
- (4) The defendant may not be required to be a witness in the trial of any violation.
- (5) Defense counsel shall not be provided at public expense in any proceeding in which only violations are charged.
- (6) A district attorney or city attorney may aid in preparing evidence and obtaining witnesses but, except upon good cause shown to the court, shall not appear in violation proceedings unless counsel for the defendant appears. The court shall ensure that the district attorney or city attorney is given timely notice if defense counsel is to appear at trial. [1999 c.1051 §21]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.080 - Testimony by affidavit or declaration.**

- (1) Notwithstanding any other provision of law, the court may admit as evidence in any trial in a violation proceeding the affidavit or declaration of a witness in lieu of taking the testimony of the witness orally and in court. The authority granted under this section is subject to all of the following:
  - (a) Testimony may not be presented by affidavit or declaration under the provisions of this section unless the court has adopted rules providing procedures for the introduction and use of testimony by affidavit or declaration.
  - (b) The court shall allow testimony by affidavit or declaration under this section only upon receiving a signed statement from the defendant waiving the right to have the testimony presented orally in court.
  - (c) Testimony by affidavit or declaration under this section is not subject to objection as hearsay.
  - (d) A statement signed by the defendant under paragraph (b) of this subsection does not constitute a waiver of trial unless the affidavit or declaration specifically so provides.
  - (e) Nothing in this section requires that the defendant or any other witness waive the right to appear if other testimony is introduced by affidavit or declaration as provided in this section.
- (2) As used in this section, "declaration" means a declaration under penalty of perjury in the form required by ORCP 1 E. [1999 c.1051 §22; 2015 c.121 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.083 - Who may present evidence.**

- (1) Notwithstanding ORS 9.160 and 9.320, in any trial of a violation, whether created by ordinance or statute, in which a city attorney or district attorney does not appear, the peace officer who issued the citation for the offense may present evidence, examine and cross-examine witnesses and make arguments relating to:
  - (a) The application of statutes and rules to the facts in the case;
  - (b) The literal meaning of the statutes or rules at issue in the case;
  - (c) The admissibility of evidence; and
  - (d) Proper procedures to be used in the trial.
- (2) Notwithstanding ORS 9.160 and 9.320, in any trial of a violation, whether created by ordinance or statute, in which a city attorney or district attorney does not appear, the duly authorized traffic enforcement agent who issued the citation for the offense may present the evidence reviewed by the agent as the basis for issuing a citation under ORS 810.436, 810.437 or 810.444.
- (3) Notwithstanding ORS 9.160 and 9.320, in any trial of a violation, whether created by ordinance or statute, in which a city attorney or district attorney does not appear, the weighmaster or motor carrier enforcement officer who issued the citation for the offense may present the evidence reviewed by the weighmaster or motor carrier enforcement officer as the basis for issuing a citation listed under ORS 810.530.
- (4)(a) As used in this section, "duly authorized traffic enforcement agent" means an individual who:
  - (A) Is employed, appointed and duly sworn in by the governing body of the incorporated city in which the agent performs the agent's duties; and
  - (B) Has completed all necessary technical, administrative and other training to review photographs and issue citations under ORS 810.436, 810.437 or 810.444.
- (b) Duly authorized traffic enforcement agents are not police officers as defined in ORS 801.395. [1999 c.805 §1; 1999 c.805 §2; 2003 c.305 §1; 2022 c.64 §4; 2023 c.400 §15]

Note:

153.083 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 153 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.090 - Provisions of judgment.**

- (1) Judgments entered under this chapter may include:
  - (a) Imposition of a sentence to pay a fine;

- (b) Costs and restitution authorized by law;
  - (c) A requirement that the fine, costs and restitution, if any, be paid out of the presumptive fine;
  - (d) Remission of any balance of a presumptive fine to the defendant; and
  - (e) Any other provision authorized by law.
- (2) Notwithstanding ORS 137.106, if the court orders restitution in a default judgment entered under ORS 153.102, a defendant may allege an inability to pay the full amount of monetary sanctions imposed, including restitution, and request a hearing to determine whether the defendant is unable to pay or to establish a payment schedule by filing a written request with the court within one year after the entry of the judgment. The court shall set a hearing on the issue of the defendant's ability to pay upon receipt of the request and shall give notice to the district attorney. The district attorney shall give notice to the victim of the date, time and place of the hearing. The court may determine a payment schedule for monetary sanctions imposed, including restitution ordered under this subsection, if the defendant establishes at the hearing that the defendant is unable to pay the ordered restitution in full.
- (3) If a trial is held in a violation proceeding, or a default judgment is entered against the defendant under ORS 153.102, the court may impose any fine within the statutory limits for the violation. If a defendant pleads no contest under ORS 153.061 (3) and the court accepts the plea and enters judgment against the defendant, the amount of the fine imposed against the defendant by the court may not exceed the presumptive fine established for the violation under ORS 153.019 and 153.020.
- (4) A judge may suspend operation of any part of a judgment entered under this chapter upon condition that the defendant pay the nonsuspended portion of a fine within a specified period of time. If the defendant fails to pay the nonsuspended portion of the fine within the specified period of time, the suspended portion of the judgment becomes operative without further proceedings by the court and the suspended portion of the fine becomes immediately due and payable.
- (5) The court may not issue notice to the Department of Transportation to suspend the defendant's driving privileges unless a trial has been required. The failure of the defendant to appear at the trial does not prevent the court from issuing notice to the department to suspend the defendant's driving privileges.
- (6) Entry of a default judgment under ORS 153.102 does not preclude the arrest and prosecution of the defendant for the crime of failure to appear in a violation proceeding under ORS 153.992.
- (7) If a person held commercial driving privileges as described in ORS 807.018 at the time the offense was committed, a court may not defer entry of a judgment or allow an individual to enter into a diversion program that would prevent a conviction for a traffic offense from appearing on the driving record of the holder. This subsection applies to all traffic offenses, whether committed while driving a motor vehicle or a commercial motor vehicle, but does not apply to parking violations. [1999 c.1051 §25; 2003 c.670 §3; 2005 c.649 §30; 2007 c.122 §12; 2007 c.784 §7; 2009 c.395 §4; 2011 c.355 §18; 2011 c.597 §27; 2012 c.89 §5; 2013 c.237 §30]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.096 - Suspension of fine in certain cases.**

- (1) In any proceeding for a violation under ORS 830.990 or 830.997, the court may conditionally suspend all or part of any fine or penalty to be imposed on the defendant if the defendant appears personally and agrees to complete at the defendant's own expense a Safe Boating Education Course approved by the State Marine Board under ORS 830.110 (18), within time limits imposed by the court.
- (2) In any proceeding for a violation under ORS 830.990 or 830.997, the court shall notify the State Marine Board if the defendant fails to appear at any time as required by law or the court, or fails to comply with any order of the court. [1999 c.1051 §96b]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.099 - Entry; nondefault cases.**

- (1) If a trial is held in a violation proceeding, the court shall enter a judgment based on the evidence presented at the trial.
- (2) If the defendant appears and enters a plea of no contest in the manner described in ORS 153.061 (3) and a trial is not otherwise required by the court or by law, the court shall make a decision based on the citation. The court may consider any statement of explanation submitted with the plea. [1999 c.1051 §23; 2007 c.784 §8; 2011 c.597 §25a; 2012 c.89 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.102 - Entry; default cases.**

- (1) If the defendant in a violation proceeding does not make a first appearance in the manner required by ORS 153.061 within the time allowed, and a trial is not otherwise required by the court or by law, the court may enter a default judgment based on the complaint and any other evidence the judge determines appropriate.
- (2) If the defendant makes a first appearance in the manner required by ORS 153.061 within the time allowed and requests a trial, and the defendant subsequently fails to appear at the date, time and place set for any trial or other appearance in the matter, and if a trial is not otherwise required by the court or by law, the court shall enter a judgment based on the complaint and any other evidence the judge determines appropriate. [1999 c.1051 §24]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.105 - Relief from default judgment.**

If a default judgment is entered against a defendant under ORS 153.102, the court may relieve a defendant from the judgment upon a showing that the failure of the defendant to appear was due to mistake, inadvertence, surprise or excusable neglect. A motion for relief under this section must be made by the defendant within a reasonable time, and in no event may a motion under this section be made more than one year after entry of judgment. [1999 c.1051 §26]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.108 - Effect of judgment.**

(1) Notwithstanding ORS 131.505 to 131.535, if a person commits both a crime and a violation as part of the same criminal episode, the prosecution for one offense shall not bar the subsequent prosecution for the other. However, evidence of the first conviction shall not be admissible in any subsequent prosecution for the other offense.

(2) Notwithstanding ORS 43.130 and 43.160, a plea, finding or judgment in a violation proceeding, or the fact that a violation proceeding has been brought against a defendant, may not be used for the purpose of res judicata or collateral estoppel, or be admitted as evidence in any civil proceeding. [1999 c.1051 §27; 2011 c.597 §29]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.111 - Distribution of abstracts of convictions.**

(1) Upon entry of a conviction for a traffic offense, the court shall forward to the Department of Transportation an abstract of conviction in the manner required by ORS 810.375, and a copy of the judgment, if required, under the provisions of ORS 810.375.

(2) Upon entry of a conviction for violation of any provision of the wildlife laws or commercial fishing laws, or any rule promulgated pursuant to those laws, the court that enters the judgment of conviction shall forward to the Department of State Police an abstract of conviction.

(3) Upon entry of a conviction for violation of a weights and measures law subject to penalty under ORS 618.991, the court shall forward to the State Department of Agriculture an abstract of conviction.

(4) Upon entry of a conviction of a boating offense, as defined in ORS 830.005, the court shall forward to the State Marine Board an abstract of conviction.

(5) A court may destroy any abstract not required to be forwarded to an agency under the provisions of this section. [1999 c.1051 §51; 2021 c.597 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.121 - Appeal.**

An appeal from a judgment in a violation proceeding may be taken by either party as follows:

(1) From a proceeding in justice court or municipal court, as provided in ORS 138.057 for appeals of violations.

(2) From a proceeding in circuit court, as provided in ORS chapter 19, except that the standard of review is the same as for an appeal from a judgment in a proceeding involving a misdemeanor or felony. [1999 c.1051 §28; 2005 c.266 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.530 - Designation of speed in complaint and summons charging violation of basic speed rule or speed limit.**

The complaint and summons in a citation issued for the charges specified in this section shall specify the speed at which the defendant is alleged to have driven and the posted speed, the speed limit or the speed that constitutes prima facie evidence of violation of the basic speed rule, as appropriate, for the district or location. This section applies to the following charges:

(1) Violating the basic speed rule under ORS 811.100.

(2) Violating a speed limit under ORS 811.111. [Formerly 484.175; 1987 c.5 §7; 1987 c.887 §14; 1999 c.1051 §79; 2003 c.819 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.535 - Delivery of summons for certain traffic offenses.**

(1) Notwithstanding ORS 133.065 and 153.054, a summons may be delivered to a defendant personally or by mail addressed to the defendant's last-known address if:

(a) The summons is for an alleged violation of ORS 803.315, 811.520, 811.530, 815.025, 815.080 to 815.090, 815.115, 815.130, 815.185, 815.210 to 815.255, 815.275, 815.285, 816.030 to 816.300, 816.330, 816.350, 816.360 or 820.360 to 820.380;

(b) The enforcement officer gave a warning for violation of the statute to the defendant based on the officer's observation at the time the violation occurred; and

(c) After the issuance of the warning, the enforcement officer determines that the defendant received two or more warnings within the year immediately preceding the issuance of the warning for violations of the statutes specified in paragraph (a) of this subsection.

(2) Notwithstanding ORS 133.065 and 153.054, a summons may be delivered to a defendant personally or by mail addressed to the defendant's last-known address if:

(a) The summons is for an alleged violation of ORS 807.010, 811.175 or 811.182;

(b) The enforcement officer gave a warning for a traffic violation to the defendant; and

(c) After the issuance of the warning, the enforcement officer determines that the defendant had no valid operator license at the time of the warning.

(3) Proof of mailing summons under this section is sufficient proof of delivery of summons for purposes of ORS 133.065 and 153.054. [Formerly 484.180; 1983 c.338 §890; 1985 c.597 §24; 1987 c.730 §7; 1989 c.782 §36; 1999 c.1051 §80; 2001 c.335 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.624 - Costs for obtaining driving records.**

In addition to any other costs charged a person convicted of a traffic offense, a court may charge as costs and collect from any person convicted of a traffic offense any actual costs incurred in obtaining any driving records relating to the person. [Formerly 484.145; 2011 c.597 §127]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.625**

[Formerly 484.240; 1983 c.507 §1; 1985 c.16 §451; 1987 c.137 §1; 1989 c.636 §32; 1999 c.1051 §52; renumbered 810.375 in 1999]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.633 - Distribution to state.**

(1) In any criminal action in a circuit court in which a fine is imposed, the lesser of the following amounts is payable to the state before any other distribution of the fine is made:

(a) \$65; or

(b) The amount of the fine if the fine is less than \$65.

(2) In any criminal action in a justice or municipal court in which a fine is imposed, the lesser of the following amounts is payable to the state before any other distribution of the fine is made:

(a) \$50; or

(b) The amount of the fine if the fine is less than \$50.

(3) A justice or municipal court shall forward the amount prescribed under subsection (2) of this section to the Department of Revenue for deposit in the Criminal Fine Account.

(4)(a) The provisions of this section do not apply to fines imposed under ORS 339.990.

(b) The provisions of subsection (2) of this section do not apply to fines imposed in justice and municipal courts under ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1). [2011 c.597 §6b; 2012 c.89 §15; 2013 c.685 §9; 2017 c.139 §4; 2017 c.712 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.640 - Disposition of fines for traffic offenses; circuit court.**

(1) If a circuit court enters a judgment of conviction for a traffic offense, the full amount of the fine imposed under the judgment is payable to the state if the conviction resulted from a prosecution arising out of an arrest or complaint made by an officer of the Oregon State Police or by any other enforcement officer employed by state government, as defined in ORS 174.111.

(2)(a) If a circuit court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by a sheriff, deputy sheriff, city police officer or any other enforcement officer employed by a local government, as defined in ORS 174.116:

(A) The amount prescribed by ORS 153.633 (1) is payable to the state and must be deposited in the Criminal Fine Account;

(B) Subject to paragraph (b) of this subsection, one-half of the amount remaining after any payment required by subparagraph (A) of this paragraph is payable to the local government that employs the enforcement officer; and

(C) Subject to paragraph (b) of this subsection, one-half of the amount remaining after any payment required by subparagraph (A) of this paragraph is payable to the state.

(b) If the full amount of the fine imposed by a circuit court is collected and a surcharge imposed under ORS 1.188 is part of the presumptive fine as provided in ORS 153.019 or 153.020, the last \$5 of the amount collected shall be paid to the county for deposit in the county's courthouse surcharge account established under ORS 1.189. If the full amount of the fine imposed is not collected, the \$5 payment required by this paragraph shall be reduced by one dollar for every dollar of the fine that is not collected. [2011 c.597 §47; 2016 c.78 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.645 - Disposition of fines for traffic offenses; justice court.**

(1) If a justice court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by an officer of the Oregon State Police or by any other enforcement officer employed by state government, as defined in ORS 174.111:

(a) The amount prescribed by ORS 153.633 (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

(b) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this

subsection is payable to the county in which the justice court is located; and

(c) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the state.

(2) If a justice court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by a sheriff, deputy sheriff or any other enforcement officer employed by the county:

(a) The amount prescribed by ORS 153.633 (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account; and

(b) Subject to subsection (4) of this section, the remaining amount of the fine is payable to the county in which the court is located.

(3) If a justice court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by an enforcement officer employed by any other local government, as defined in ORS 174.116:

(a) The amount prescribed by ORS 153.633 (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

(b) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the local government that employs the enforcement officer; and

(c) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the county in which the court is located.

(4) If the full amount of the fine imposed by a justice court is collected, the last \$16 of the amount collected shall be paid to the county treasurer for the county in which the court is located and may be used only for the purposes specified in ORS 153.660. If the full amount of the fine imposed is not collected, the \$16 payment required by this subsection shall be reduced by one dollar for every dollar of the fine that is not collected. The provisions of this subsection do not apply to fines imposed for violations of ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1). [2011 c.597 §48; 2013 c.685 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.650 - Disposition of fines for traffic offenses; municipal court.**

(1) If a municipal court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by an officer of the Oregon State Police or by any other enforcement officer employed by state government, as defined in ORS 174.111:

(a) The amount prescribed by ORS 153.633 (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

(b) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the city in which the municipal court is located; and

(c) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the state.

(2) If a municipal court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by a city police officer or any other enforcement officer employed by the city:

(a) The amount prescribed by ORS 153.633 (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account; and

(b) Subject to subsection (4) of this section, the remaining amount of the fine is payable to the city in which the court is located.

(3) If a municipal court enters a judgment of conviction for a traffic offense and the conviction resulted from a prosecution arising out of an arrest or complaint made by an enforcement officer employed by any other local government, as defined in ORS 174.116:

(a) The amount prescribed by ORS 153.633 (2) is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

(b) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the local government that employs the enforcement officer; and

(c) Subject to subsection (4) of this section, one-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the city in which the court is located.

(4) If the full amount of the fine imposed by a municipal court is collected, the last \$16 of the amount collected shall be paid to the county treasurer for the county in which the court is located and may be used only for the purposes specified in ORS 153.660. If the full amount of the fine imposed is not collected, the \$16 payment required by this subsection shall be reduced by one dollar for every dollar of the fine that is not collected. The provisions of this subsection do not apply to fines imposed for violations of ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1). [2011 c.597 §49; 2013 c.685 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.655 - Disposition of fines for mass transit district ordinance violations.**

(1) If a court enters a judgment of conviction for the violation of an ordinance enacted by the district board of a mass transit district under ORS 267.150, amounts collected under the judgment are payable as follows:

(a) The amount prescribed by ORS 153.633 (1) is payable to the state and must be deposited in the Criminal Fine Account;

(b) One-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable to the district that enacted the ordinance; and

(c) One-half of the amount remaining after any payment required by paragraph (a) of this subsection is payable as provided in subsection (2) of this section.

(2)(a) If a judgment of conviction that is subject to subsection (1) of this section is entered in circuit court, the amount specified in subsection (1)(c) of this section shall be paid to the state.

(b) If a judgment of conviction that is subject to subsection (1) of this section is entered in justice court, the amount specified in subsection (1)(c) of this section shall be paid to the county that established the court.

(c) If a judgment of conviction that is subject to subsection (1) of this section is entered in municipal court, the amount specified in subsection (1)(c) of this section shall be paid to the city that established the court. [2012 c.89 §18]

Note:

153.655 was added to and made a part of ORS chapter 153 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.657 - Disposition of fines for violations of homeschooled student requirements.**

(1) If a court enters a judgment of conviction for violation of the requirements of ORS 339.035, amounts collected under the judgment are payable as follows:

(a) One-half of the amount is payable to the school district or the education service district that employs the person who issued the citation under ORS 339.095; and

(b) One-half of the amount is payable as provided in subsection (2) of this section.

(2)(a) If a judgment of conviction that is subject to subsection (1) of this section is entered in circuit court, the amount specified in subsection (1)(b) of this section shall be paid to the state.

(b) If a judgment of conviction that is subject to subsection (1) of this section is entered in justice court, the amount specified in subsection (1)(b) of this section shall be paid to the county that established the court.

(c) If a judgment of conviction that is subject to subsection (1) of this section is entered in municipal court, the amount specified in subsection (1)(b) of this section shall be paid to the city that established the court. [2017 c.139 §2; 2021 c.597 §68]

Note:

153.657 was added to and made a part of ORS chapter 153 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.660 - Use of amounts paid to county treasurer.**

(1) If a justice or municipal court imposes a fine for any offense other than a traffic offense and the full amount of the fine imposed is collected, the last \$16 of the amount collected shall be paid to the county treasurer for the county in which the court is located and may be used only for the purposes specified in this section. If the full amount of the fine imposed is not collected, the \$16 payment required by this subsection shall be reduced by one dollar for every dollar of the fine that is not collected. The provisions of this subsection do not apply to fines imposed for violations of ORS 811.590, 814.485, 814.486, 814.534, 814.536, 814.600 or 830.990 (1).

(2) Sixty percent of the amounts paid to the county treasurer under this section and under ORS 153.645 (4) and 153.650 (4) shall be deposited by the treasurer in the county treasury and may be used only for drug and alcohol programs and for the costs of planning, operating and maintaining county juvenile and adult corrections programs and facilities.

(3) Forty percent of the amounts paid to the county treasurer under this section and under ORS 153.645 (4) and 153.650 (4) shall be deposited by the treasurer in the court facilities security account established under ORS 1.182 for the county in which the court is located. [2013 c.685 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.675 - Disposition of amounts payable to state and local governments.**

(1) Amounts payable to the state under ORS 153.633, 153.645, 153.650 and 153.657 shall be transferred by the court to the Department of Revenue for distribution as provided in ORS 305.830. Except as provided in ORS 153.640 (2)(b), amounts payable to a local government under ORS 153.640 to 153.680 and 153.657 shall be deposited by the court in the local government's general fund and are available for general governmental purposes.

(2) Justice and municipal courts must make the transfer required by subsection (1) of this section under ORS 153.633, 153.645, 153.650 and 153.657 not later than the last day of the month immediately following the month in which a payment on a judgment is received by the court. [2011 c.597 §50; 2016 c.78 §7; 2017 c.139 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.680 - Costs.**

Any amount collected by a circuit court, justice court or municipal court as costs in a criminal action shall be retained by the court. [2011 c.597 §49a]



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.770 - Electronic filing of citation for offenses subject to written uniform citation.**

(1) Notwithstanding ORS 1.525, 153.045, 221.333 and 810.425, a law enforcement officer or a person authorized to enforce parking ordinance violations, following procedures established by court rule, may file a citation with the court by electronic means, without an actual signature of the officer, in lieu of using a written uniform citation. A citation filed under this section may be of a different size or format than a uniform citation adopted by the Supreme Court under ORS 1.525. Law enforcement officers who file citations under this section will be deemed to certify to the complaint and will continue to have the same rights, responsibilities and liabilities in relation to those citations as to citations with complaints that are certified by an actual signature.

(2) A court may allow electronic filing of citations as described under subsection (1) of this section. Procedures established to allow electronic filing of citations under this section shall be established by court rule and shall include procedures necessary to ensure that:

(a) The information electronically filed includes all information required on a uniform citation adopted by the Supreme Court under ORS 1.525, or as required under ORS 221.333 and 810.425 for parking ordinance violations. However, an electronically filed citation containing all required information, but of a different size or format than a uniform citation adopted by the Supreme Court under ORS 1.525, shall not be prohibited by or found in violation of a rule established under this subsection.

(b) The citation filed electronically is verifiable as being filed by a specific law enforcement officer or, for parking ordinance violations, by a person authorized to enforce parking ordinance violations.

(c) Members of the public can obtain copies of and review citations that are electronically filed and maintained under this section in the same manner as for citations filed on paper. [1995 c.781 §53; 1999 c.1051 §129; 2001 c.911 §2; 2015 c.13 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.772 - Suspension of driving privileges for failure to appear; limitation on district attorney's authority.**

When the court issues a notice under ORS 809.220 to suspend the driving privileges of a person for failure to appear on a citation for a violation of ORS 471.430, the district attorney may not file an accusatory instrument charging the person with violating ORS 153.992. [2001 c.817 §9]

Note:

153.772 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 153 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.800 - Violations Bureau established by court; uniform fine schedule.**

(1) Any court of this state may establish a Violations Bureau and designate the clerk or deputy clerk of the court or any other appropriate person to act as a violations clerk for the Violations Bureau. The violations clerk shall serve under the direction and control of the court appointing the clerk.

(2) A violations clerk may exercise authority over any violation. A justice or municipal court establishing a Violations Bureau shall by order specify the violations that are subject to the authority of the violations clerk.

(3) Except as provided in subsection (6) of this section, the violations clerk shall accept:

(a) Written appearance, waiver of trial, plea of no contest and payment of fine, costs and assessments for violations that are subject to the authority of the violations clerk; or

(b) Payment of presumptive fine amounts for violations that are subject to the authority of the violations clerk.

(4)(a) Courts other than circuit courts shall establish schedules, within the limits prescribed by law, of the amounts of penalties to be imposed for first, second and subsequent violations, designating each violation specifically or by class. The order of the court establishing the schedules shall be prominently posted in the place where penalties established under the schedule are paid.

(b) The Chief Justice of the Supreme Court shall establish a uniform fine schedule for violations prosecuted in circuit courts. The schedule must specify the violations that are subject to the authority of the violations clerk.

(c) All amounts must be paid to, receipted by and accounted for by the violations clerk in the same manner as other payments on money judgments are received by the court.

(5) Any person charged with a violation within the authority of the violations clerk may:

(a) Upon signing an appearance, plea of no contest and waiver of trial, pay the clerk the penalty established for the violation charged, including any costs and assessments authorized by law.

(b) Pay the clerk the presumptive fine amount established for the violation. Payment of the presumptive fine amount under this paragraph constitutes consent to forfeiture of the presumptive fine amount and disposition of the violation by the clerk as provided by the rules of the court. Payment of the presumptive fine amount under this paragraph is not consent to forfeiture of the presumptive fine amount if the payment is accompanied by a plea of not guilty or a request for hearing.

(6) A person who has been found guilty of, or who has signed a plea of no contest to, one or more previous offenses in the preceding 12 months within the jurisdiction of the court may not appear before the violations clerk unless the court, by general order applying to certain specified offenses, permits such appearance.

(7) A circuit court may use a Central Violations Bureau established under ORS 153.806 in addition to establishing and operating a

Violations Bureau under this section, and may delegate to the State Court Administrator the authority to designate appropriate persons to act as violations clerks for the Central Violations Bureau. [1995 c.292 §1; 1997 c.801 §149; 1999 c.59 §30; 1999 c.1051 §130; 2011 c.597 §149; 2012 c.89 §8; 2019 c.60 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.806 - Central Violations Bureau; rules.**

- (1) The State Court Administrator may establish a Central Violations Bureau for the processing of violations in circuit courts.
- (2)(a) The administrator may designate employees of the administrator to act as violations clerks for the Central Violations Bureau.
- (b) A violations clerk shall serve under the direction and control of the administrator.
- (c) A violations clerk of the Central Violations Bureau may exercise authority over any violation specified by the Chief Justice of the Supreme Court under subsection (4) of this section.
- (3) A circuit court may use a Central Violations Bureau established under this section in addition to establishing and operating a Violations Bureau under ORS 153.800.
- (4) The uniform fine schedule for violations prosecuted in circuit courts established by the Chief Justice of the Supreme Court under ORS 153.800 must specify the violations that are subject to the authority of the Central Violations Bureau violations clerk.
- (5)(a) Except as provided in subsection (7) of this section, a violations clerk shall accept:
  - (A) Written appearance or appearance by electronic or telephonic means, waiver of trial, plea of no contest and payment of fine, costs and assessments for violations that are subject to the authority of the violations clerk; or
  - (B) Payment of presumptive fine amounts for violations that are subject to the authority of the violations clerk.
- (b) A violations clerk may accept payments made by electronic or telephonic means.
- (c) All amounts must be paid to, receipted by and accounted for by the violations clerk in the same manner as other payments on money judgments are received by the court.
- (6)(a) A person charged with a violation within the authority of the violations clerk may:
  - (A) Upon signing an appearance, plea of no contest and waiver of trial, or upon appearing and entering a plea and waiver by electronic or telephonic means, pay the clerk the penalty established for the violation charged, including any costs and assessments authorized by law.
  - (B) Pay the clerk the presumptive fine amount established for the violation. Payment of the presumptive fine amount under this paragraph constitutes consent to forfeiture of the presumptive fine amount and disposition of the violation by the clerk as provided by the rules of the court. Payment of the presumptive fine amount under this paragraph is not consent to forfeiture of the presumptive fine amount if the payment is accompanied by a plea of not guilty or a request for hearing.
- (b) Notwithstanding ORS 153.021 and paragraph (a) of this subsection, the violations clerk may offer a reduction in the presumptive fine for a person making payment through the Internet.
- (7) A person who has been found guilty of, or who has signed a plea of no contest to, one or more previous offenses in the preceding 12 months within the jurisdiction of the court may not appear before the violations clerk unless the Chief Justice of the Supreme Court, by general order applying to certain specified offenses, permits such appearance.
- (8) The Chief Justice of the Supreme Court may adopt rules to carry out the provisions of this section. [2019 c.60 §1]

Note:

153.806 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 153 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.820 - Special procedures for parking violations in Multnomah County.**

- (1) A court may use the procedure provided in this section only in a county with a population of more than 500,000.
- (2) The court may proceed to make a determination without a hearing on a citation for a parking violation if:
  - (a) None of the registered owners of the vehicle appears within the time allowed at the court specified in the citation;
  - (b) Notice of the citation and the provisions of this section are mailed to the registered owner or owners of the vehicle at the address or addresses reflected in the records of the Department of Transportation; and
  - (c) No request for hearing or other appearance is filed with the court within 60 days after the mailing date of the notice required by paragraph (b) of this subsection.
- (3) The court may proceed to make a determination without a hearing on a citation for a parking violation if at least one of the registered owners of the vehicle appears within the time allowed at the court specified in the citation and requests a hearing, but thereafter fails to appear at the time, date and court set for any subsequent hearing in the matter. If a determination is made under the provisions of this subsection, the court shall mail notice of any sentence and judgment to the registered owner or owners of the vehicle at the address or addresses reflected in the records of the Department of Transportation.
- (4) A determination under this section shall be on the citation and on any evidence that the court may, in its discretion, determine to be appropriate.
- (5) Upon making a determination under this section, the court may enter judgment and, if the determination is one of conviction, may impose a sentence of a fine within the limits established for the parking violation along with a money award for costs, assessments and other amounts authorized by law.

(6) A sentence to pay a fine under this section does not prevent:

(a) Taking any other action against the person as permitted by law for the person's failure to comply, including, but not limited to, sentencing the person further as permitted by law after the person is brought to hearing.

(b) Following any procedures established by law when the person fails to appear.

(7) On motion and upon such terms as are just, the court may relieve a person from a judgment entered under this section upon a showing that the failure of the person to appear was due to mistake, inadvertence, surprise or excusable neglect. The motion must be made within a reasonable time, and in no event more than one year after entry of judgment in the matter.

(8) A judgment may be entered under this section only if the citation issued to the person contains a statement notifying the person that a judgment may be entered against the person up to the maximum amount of fines, assessments and other costs allowed by law for the parking violation if the person fails to appear at the time, date and court specified in the citation or fails to appear at subsequently scheduled hearings in the matter.

(9) Notwithstanding any other provision of law, a judgment entered under this section does not create a judgment lien and cannot become a judgment lien by any means. [1997 c.801 §98; 2003 c.576 §172]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.990 - Penalty for false certification.**

Any person who in connection with the issuance of a citation, or the filing of a complaint, under this chapter, knowingly certifies falsely to the matters set forth therein commits a Class A misdemeanor. [1981 c.692 §14; 1999 c.1051 §31]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 153 - Violations and Fines Section 153.992 - Penalty for failure to appear.**

(1) A person commits the offense of failure to appear in a violation proceeding if the person has been served with a citation issued under this chapter for a violation other than a Class E violation and the person knowingly fails to do any of the following:

(a) Make a first appearance in the manner required by ORS 153.061 within the time allowed.

(b) Make appearance at the time set for trial in the violation proceeding.

(c) Appear at any other time required by the court or by law.

(2) Failure to appear on a violation citation is a Class A misdemeanor. [1999 c.1051 §29; 2021 c.591 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.010 - Criminal procedure statutes govern generally.**

A criminal action in a justice court is commenced and proceeded in to final determination, and the judgment therein enforced, in the manner provided in the criminal procedure statutes, except as otherwise specifically provided by statute. [Amended by 1973 c.836 §329]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.020 - Filing complaint as commencement of action.**

In a justice court, a criminal action is commenced by the filing of the complaint therein, verified by the oath of the person commencing the action, who is thereafter known as the complainant. [Amended by 1959 c.426 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.030 - Form and sufficiency of complaint.**

The form of the complaint and the sufficiency thereof shall be as provided in ORS 133.007 and 133.015. [Amended by 1973 c.836 §330]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.040 - Security for costs.**

Before filing or receiving the complaint in a criminal action, the justice may require the complainant to give security for costs and disbursements in the amount authorized in civil actions; and not otherwise. [Amended by 1959 c.426 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.050 - Warrant of arrest; authority.**

The authority of a justice of the peace to issue a warrant of arrest shall be as provided in ORS 133.110. [Amended by 1969 c.244 §4; 1983 c.661 §13; 1999 c.1051 §131]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.060 - Issuance, requisites and execution of warrant of arrest.**

A warrant of arrest in a criminal action in a justice court is issued, directed and executed in all respects as the warrant mentioned in ORS 133.140. [Amended by 1977 c.746 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.070 - Reading complaint to defendant; defendant to plead.**

When the defendant is brought before the justice, the complaint shall be read to the defendant and the defendant shall plead thereto.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.080 - Defendant's plea; refusal to plead.**

The defendant may plead the same pleas as upon an indictment. The plea shall be oral and entered in the docket. If the defendant refuses to plead, the justice shall enter the fact, together with the plea of not guilty, on behalf of the defendant.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.090 - Action to be tried within one day unless continued.**

When the defendant is brought before the justice upon the warrant of arrest, the action shall be tried within one day thereafter, unless continued for cause.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.100 - Change of place of trial.**

Change of place of trial in criminal actions in justice courts is in all manners and respects governed as provided in ORS 131.305 to 131.415. [Amended by 1973 c.836 §331]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.110 - Trial by court or jury.**

Upon a plea of not guilty, if the defendant does not then demand a trial by jury, the justice shall proceed to try the issue. [Amended by 1973 c.836 §332]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.120 - Injured person must appear or be subpoenaed.**

No judgment of conviction or acquittal can be given in a criminal action in a justice court unless the person injured appears or is subpoenaed to attend the trial as a witness.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.130 - Demand for and selection of jury.**

If a trial by jury is demanded, a jury shall be selected and summoned as in a civil action in a justice court. Each party may take challenges for cause and two peremptory challenges, except that when the jury is selected in the manner provided in ORS 54.060 to 54.160, as to any juror so selected, neither party may take a peremptory challenge.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.140 - Rendition and entry of verdict on docket.**

When the jury has agreed upon a verdict, it shall deliver the same to the justice publicly, who shall enter it in the docket of the justice.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.160 - Jury trial without prepayment of trial fee; payment after judgment.**

In a criminal action in a justice court, prepayment of the trial fee is not a prerequisite to having a jury trial. If a jury trial is demanded and judgment is against the defendant, the fee shall be allowed and taxed in favor of the state as other disbursements in ordinary cases.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.210 - Judgment on plea of guilty, no contest or on conviction.**

When the defendant pleads guilty, no contest, or is convicted, either by the justice or the jury, the justice shall give judgment thereon for such punishment as may be prescribed by law for the crime. [Amended by 1973 c.836 §333]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.220 - Judgment imposing monetary obligation; requirements.**

Except as provided in ORS 18.048 (3) and (4), any judgment rendered by a justice court on an offense that imposes a monetary obligation must contain the separate section required by ORS 18.048 (1). [1973 c.836 §334; 1999 c.788 §39; 2003 c.576 §97; 2005 c.568 §29a]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in**

**Criminal ActionsSection 156.230 - Money judgments; enforcement.**

Money judgments rendered by the court may be enforced in the manner provided by ORS 52.600. [Amended by 1993 c.223 §5; 1999 c.788 §40]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 156 - Proceedings and Judgment in Criminal ActionsSection 156.240 - Judgment entry or certified copy as evidence.**

An entry of judgment or a certified copy of the judgment is conclusive evidence of the facts stated therein. [Amended by 1999 c.788 §41]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 156 - Proceedings and Judgment in Criminal ActionsSection 156.270 - Discharge of defendant upon finding the defendant not guilty.**

When the defendant is found not guilty by the justice or a jury, the defendant shall be immediately discharged.

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 156 - Proceedings and Judgment in Criminal ActionsSection 156.280 - Entry that prosecution was malicious or without probable cause.**

When the defendant is found not guilty, if it appears that the prosecution was malicious or without probable cause, the justice shall make an entry to that effect in the docket of the justice.

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 156 - Proceedings and Judgment in Criminal ActionsSection 156.290 - Judgment against complainant for costs and disbursements.**

Upon making the entry prescribed in ORS 156.280, the justice shall give judgment against the complainant for the costs and disbursements of the action and require the complainant to pay the same or give satisfactory security therefor, by a written undertaking with one or more sureties, to pay the same to the justice within 30 days from the date of the judgment. [Amended by 1959 c.426 §6]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 156 - Proceedings and Judgment in Criminal ActionsSection 156.300 - Enforcement of judgment against complainant.**

If the complainant does not pay the judgment, or give the required security therefor, it may be enforced against the complainant in all respects as a judgment for a fine in a criminal action; but if the complainant gives the required security, the judgment may be enforced at the expiration of the 30 days against the complainant and the sureties of the complainant in the undertaking in all respects as a judgment for money in a civil action. [Amended by 1959 c.426 §7]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 156 - Proceedings and Judgment in Criminal ActionsSection 156.310 - Payment of fine and costs by defendant.**

If the fine and costs, or any part thereof, are paid before commitment, they shall be paid to the justice. Thereafter they shall be paid to the officer in whose custody the defendant is at the time of the payment, which officer shall immediately pay the same to the justice.

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 156 - Proceedings and Judgment in Criminal ActionsSection 156.315 - Assignment of judgment to Department of Revenue.**

(1) A justice court may assign a judgment in a criminal action, as described in ORS 137.118 (1) to (5), to the Collections Unit in the Department of Revenue for the following purposes:

- (a) To determine whether refunds or other sums are owed to the debtor by the department; and
  - (b) To deduct the amount of the debt from any refunds or other sums owed to the debtor by the department.
- (2) If the Collections Unit determines that refunds or other sums are owed to the debtor, the department shall deduct the amount of the debt from any refunds or other sums owed to the debtor by the department. After also deducting costs of its actions under this section, the department shall remit the amount deducted from refunds or other sums owed to the debtor to the justice court that assigned the judgment.
- (3) A debtor whose account is assigned to the Department of Revenue for setoff under this section is entitled to the notice required by ORS 293.250 (5)(d). [2003 c.375 §2; 2015 c.766 §11; 2017 c.746 §23; 2019 c.359 §4]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 156 - Proceedings and Judgment in Criminal ActionsSection 156.410 - Release of defendant before trial.**

At any time before the commencement of the trial, the justice shall release the defendant under the procedures set forth in ORS 135.230 to 135.290. [Amended by 1973 c.836 §335]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 156 - Proceedings and Judgment in Criminal ActionsSection 156.440 - Commitment of defendant.**

If the defendant is not released from custody as provided in ORS 135.230 to 135.290 when brought before the justice upon the warrant of arrest, the defendant shall be continued in the custody of the officer or, if the court is held in the vicinity of the county jail, committed to jail, to answer the action, as the justice may direct. [Amended by 1973 c.836 §336]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.450 - Form of commitment.**

The commitment shall be signed by the justice with the name of office of the justice and may be substantially as follows:

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JUSTICE COURT FOR  
THE DISTRICT OF \_\_\_\_\_  
State of Oregon, County of \_\_\_\_\_  
IN THE NAME OF  
THE STATE OF OREGON

To the sheriff of the county aforesaid:

An order having this day been made by me that A. B. be committed for trial in a criminal action against A. B. for the crime of (designating it generally), you hereby are commanded to receive A. B. into your custody and detain A. B. accordingly or until A. B. is otherwise legally discharged.

Dated at \_\_\_\_\_, this \_\_\_ day of \_\_\_\_\_, 2\_\_.

C. D., Justice of the Peace

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**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.460 - How commitment is executed.**

When committed, the defendant shall be delivered to the custody of the proper officer by any peace officer to whom the justice may deliver the commitment, first indorsing thereon, substantially, as follows: "I hereby authorize and command E. F. to deliver this commitment, together with the defendant therein named, to the custody of the sheriff of the County of \_\_\_\_\_."

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.510 - Proceeding when crime is not within jurisdiction of justice court**

If in the course of the trial it appears to the justice that the defendant has committed a crime not within the jurisdiction of a justice court, the justice shall dismiss the action, state in the entry the reasons therefor, hold the defendant upon the warrant of arrest and proceed to examine the charge as upon an information of the commission of crime.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.520 - Function of district attorney in justice court.**

The district attorney may prosecute an action and if requested by the court shall prosecute an action in a justice court and attend an examination before a magistrate, either in person or by someone appointed by the district attorney for that purpose, and in any case the district attorney shall control the proceedings on behalf of the state. [Amended by 1981 c.863 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.530 - Disposition of money paid on judgment.**

- (1) Any money paid to the justice court upon a judgment in a criminal action shall first be applied to the costs of the action. The remainder shall be paid by the justice court to the treasurer of the county, to be appropriated as provided by law.
- (2) Money paid pursuant to subsection (1) of this section shall be delivered by the justice court to the treasurer not later than the last day of the month immediately following the month in which the money is collected. [Amended by 2003 c.687 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 156 - Proceedings and Judgment in Criminal Actions Section 156.705 - Jurisdiction over offenses against animals.**

Justices of the peace shall have concurrent jurisdiction over all offenses committed under ORS 167.315 to 167.333 and 167.340. [Formerly 770.260; 1985 c.662 §14; 1999 c.788 §48]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 157 - Appeals in Criminal Actions; Writ of Review Section 157.005 - Applicability of chapter.**

The provisions of this chapter apply only to justice courts that have not become courts of record under ORS 51.025. Appeals of criminal judgments in justice courts that have become courts of record under ORS 51.025 shall be as provided in ORS chapter 138 for appeals from judgments of circuit courts. [1999 c.682 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 157 - Appeals in Criminal Actions; Writ of Review Section 157.010 - Appeal to circuit court from justice court.**

In a criminal action in a justice court, except where the judgment is given on a plea of guilty, an appeal may be taken from a judgment of conviction to the circuit court for the county in which the judgment is given, as prescribed in this chapter, and not otherwise. [Amended by 1985 c.342 §12; 1995 c.658 §87]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 157 - Appeals in Criminal Actions; Writ of Review Section 157.020 - Who may appeal; appealable judgments and orders.**

(1) Except as provided in subsection (2) of this section, an appeal may be taken only by the defendant and whether or not the judgment is that the defendant pay a fine or be imprisoned.

(2) The plaintiff may take an appeal from:

(a) An order made before jeopardy attaches dismissing the accusatory instrument;

(b) An order arresting the judgment;

(c) An order made before jeopardy attaches suppressing evidence; or

(d) An order made before jeopardy attaches for the return or restoration of things seized. [Amended by 1959 c.196 §1; 1967 c.528 §1; 1971 c.644 §2; 1985 c.342 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 157 - Appeals in Criminal Actions; Writ of Review Section 157.030 - Time and manner of taking appeal.**

The appeal is taken in the same manner and within the same time as in the case of an appeal from a judgment in a civil action, except that:

(1) The notice thereof shall be served upon the district attorney for the county, or the deputy of the district attorney, or upon the private prosecutor in the action;

(2) When the notice of appeal has been filed with the court from which the appeal is being taken, the appellate court shall have jurisdiction of the cause. Failure to serve a notice of appeal on the appropriate attorney shall not preclude jurisdiction in the appellate court; and

(3) No undertaking providing for the payment of costs and disbursements shall be required. [Amended by 1989 c.123 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 157 - Appeals in Criminal Actions; Writ of Review Section 157.040 - Justice's duty as to making and delivering transcript.**

If the defendant is in custody at the time the appeal is allowed, the justice shall make the proper transcript and deliver it to the clerk of the appellate court within 10 days from the date the appeal is taken. [Amended by 1985 c.342 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 157 - Appeals in Criminal Actions; Writ of Review Section 157.050 - Effect of allowance of appeal.**

An allowance of an appeal does not stay the proceedings on the judgment unless the defendant:

(1) Makes a release agreement or a security release deposit as provided in ORS 135.230 to 135.290; or

(2) Gives the security required by ORS 810.300 to 810.330 as an undertaking on appeal. [Amended by 1973 c.836 §338; 1974 c.35 §2; 1983 c.338 §895A]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 157 - Appeals in Criminal Actions; Writ of Review Section 157.060 - When appeal is perfected; amendment of pleadings in appellate court.**

From the filing of the transcript with the clerk of the appellate court the appeal is perfected and the action is deemed pending therein for trial upon the issue tried in the justice court. In a criminal action, the appellate court has the same authority to allow an amendment of the pleadings on an appeal that it has on an appeal in a civil action. [Amended by 1985 c.342 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 157 - Appeals in Criminal Actions; Writ of Review Section 157.065 - Powers of appellate court.**

The appellate court may give a final judgment in the cause, to be enforced as a judgment of such court; or the appellate court may give such other judgment or order as may be proper, and direct that the cause be remitted to the court below for further proceedings in accordance with the decision of the appellate court. [1959 c.558 §49; 1981 c.178 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 157 - Appeals in Criminal Actions; Writ of Review Section 157.070 - Writ of review in criminal actions.**

No provision of ORS 157.010 to 157.065, in relation to appeals or the right to appeal in criminal actions, shall be construed to prevent either party in a justice court from having an interlocutory order which involves the constitutionality of a statute or of the proceedings which may affect the final judgment or the judgment reviewed in the circuit court for errors in law appearing upon the face of the judgment or the proceedings connected therewith, as provided in ORS 34.010 to 34.100. [Amended by 1959 c.592 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 157 - Appeals in Criminal Actions; Writ of Review Section 157.081**

[1975 c.611 §17 (enacted in lieu of 157.080); renumbered 46.810]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.005 - Short title.**

ORS 161.005 to 161.055, 161.065, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290 to 161.373, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737, 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to 162.425, 162.465, 163.005, 163.095, 163.107, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208, 163.191, 163.196, 163.215 to 163.257, 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to 163.467, 163.429, 163.432, 163.433, 163.472, 163.505 to 163.575, 163.665 to 163.693, 163.700, 163.701, 163.715, 164.005, 164.015 to 164.135, 164.138, 164.140, 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.857, 164.886, 165.002 to 165.102, 165.109, 165.118, 165.805, 165.815, 166.005 to 166.095, 166.119, 166.125, 166.128, 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027, 167.057, 167.060 to 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340, 167.350, 167.810 and 167.820 shall be known and may be cited as Oregon Criminal Code of 1971. [1971 c.743 §1; 1979 c.476 §1; 1983 c.740 §25; 1983 c.792 §1; 1985 c.366 §2; 1985 c.557 §9; 1985 c.662 §10; 1985 c.755 §1; 1989 c.982 §3; 1989 c.1003 §5; 2003 c.383 §3; 2007 c.475 §4; 2007 c.684 §2; 2007 c.811 §6; 2007 c.867 §16; 2007 c.869 §5; 2007 c.876 §5; 2009 c.783 §6; 2009 c.811 §15; 2011 c.681 §5; 2015 c.321 §2; 2015 c.379 §2; 2015 c.645 §9; 2016 c.22 §4; 2017 c.649 §2; 2019 c.635 §15; 2021 c.276 §2; 2023 c.200 §3; 2023 c.205 §2; 2023 c.228 §50; 2023 c.608 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.015 - General definitions.**

As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

- (1) "Dangerous weapon" means any weapon, device, instrument, material or substance which under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.
- (2) "Deadly weapon" means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury.
- (3) "Deadly physical force" means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.
- (4) "Peace officer" means:
  - (a) A member of the Oregon State Police;
  - (b) A sheriff, constable, marshal, municipal police officer or reserve officer as defined in ORS 133.005, or a police officer commissioned by a university under ORS 352.121 or 353.125;
  - (c) An investigator of the Criminal Justice Division of the Department of Justice or investigator of a district attorney's office;
  - (d) A humane special agent as defined in ORS 181A.345;
  - (e) A regulatory specialist exercising authority described in ORS 471.775 (2);
  - (f) An authorized tribal police officer as defined in ORS 181A.940; and
  - (g) Any other person designated by law as a peace officer.
- (5) "Person" means a human being and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.
- (6) "Physical force" includes, but is not limited to, the use of an electrical stun gun, tear gas or mace.
- (7) "Physical injury" means impairment of physical condition or substantial pain.
- (8) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.
- (9) "Possess" means to have physical possession or otherwise to exercise dominion or control over property.
- (10) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation. [1971 c.743 §3; 1973 c.139 §1; 1979 c.656 §3; 1991 c.67 §33; 1993 c.625 §4; 1995 c.651 §5; 2011 c.506 §22; 2011 c.641 §2; 2011 c.644 §§23,46; 2012 c.54 §§16,17; 2012 c.67 §§9,10; 2013 c.180 §§23,24; 2015 c.174 §11; 2015 c.614 §§147,148]

Note:

Legislative Counsel has substituted "chapter 743, Oregon Laws 1971," for the words "this Act" in sections 2, 3, 4, 5, 6, 7, 19, 20, 21 and 36, chapter 743, Oregon Laws 1971, compiled as 161.015, 161.025, 161.035, 161.045, 161.055, 161.085, 161.195, 161.200, 161.205 and 161.295. Specific ORS references have not been substituted, pursuant to 173.160. These sections may be determined by referring to the 1971 Comparative Section Table located in Volume 22 of ORS.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.025 - Purposes; principles of construction.**



(1) The general purposes of chapter 743, Oregon Laws 1971, are:

(a) To insure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the correction and rehabilitation of those convicted, and their confinement when required in the interests of public protection.

(b) To forbid and prevent conduct that unjustifiably and inexcusably inflicts or threatens substantial harm to individual or public interests.

(c) To give fair warning of the nature of the conduct declared to constitute an offense and of the sentences authorized upon conviction.

(d) To define the act or omission and the accompanying mental state that constitute each offense and limit the condemnation of conduct as criminal when it is without fault.

(e) To differentiate on reasonable grounds between serious and minor offenses.

(f) To prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition of differences in rehabilitation possibilities among individual offenders.

(g) To safeguard offenders against excessive, disproportionate or arbitrary punishment.

(2) The rule that a penal statute is to be strictly construed shall not apply to chapter 743, Oregon Laws 1971, or any of its provisions. Chapter 743, Oregon Laws 1971, shall be construed according to the fair import of its terms, to promote justice and to effect the purposes stated in subsection (1) of this section. [1971 c.743 §2]

Note:

See note under 161.015.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.035 - Application of Criminal Code.**

(1) Chapter 743, Oregon Laws 1971, shall govern the construction of and punishment for any offense defined in chapter 743, Oregon Laws 1971, and committed after January 1, 1972, as well as the construction and application of any defense to a prosecution for such an offense.

(2) Except as otherwise expressly provided, or unless the context requires otherwise, the provisions of chapter 743, Oregon Laws 1971, shall govern the construction of and punishment for any offense defined outside chapter 743, Oregon Laws 1971, and committed after January 1, 1972, as well as the construction and application of any defense to a prosecution for such an offense.

(3) Chapter 743, Oregon Laws 1971, shall not apply to or govern the construction of and punishment for any offense committed before January 1, 1972, or the construction and application of any defense to a prosecution for such an offense. Such an offense shall be construed and punished according to the law existing at the time of the commission of the offense in the same manner as if chapter 743, Oregon Laws 1971, had not been enacted.

(4) When all or part of a criminal statute is amended or repealed, the criminal statute or part thereof so amended or repealed remains in force for the purpose of authorizing the accusation, prosecution, conviction and punishment of a person who violated the statute or part thereof before the effective date of the amending or repealing Act. [1971 c.743 §5]

Note:

See note under 161.015.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.045 - Limits on application.**

(1) Except as otherwise expressly provided, the procedure governing the accusation, prosecution, conviction and punishment of offenders and offenses is not regulated by chapter 743, Oregon Laws 1971, but by the criminal procedure statutes.

(2) Chapter 743, Oregon Laws 1971, does not affect any power conferred by law upon a court-martial or other military authority or officer to prosecute and punish conduct and offenders violating military codes or laws.

(3) Chapter 743, Oregon Laws 1971, does not bar, suspend or otherwise affect any right or liability to damages, penalty, forfeiture or other remedy authorized by law to be recovered or enforced in a civil action, regardless of whether the conduct involved in the proceeding constitutes an offense defined in chapter 743, Oregon Laws 1971.

(4) No conviction of a person for an offense works a forfeiture of the property of the person, except in cases where a forfeiture is expressly provided by law. [1971 c.743 §6]

Note:

See note under 161.015.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.055 - Burden of proof as to defenses.**

(1) When a "defense," other than an "affirmative defense" as defined in subsection (2) of this section, is raised at a trial, the state has the burden of disproving the defense beyond a reasonable doubt.

(2) When a defense, declared to be an "affirmative defense" by chapter 743, Oregon Laws 1971, is raised at a trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

(3) The state is not required to negate a defense as defined in subsection (1) of this section unless it is raised by the defendant.

"Raised by the defendant" means either notice in writing to the state before commencement of trial or affirmative evidence by a

defense witness in the defendant's case in chief. [1971 c.743 §4]

Note:

See note under 161.015.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.065 - Evidence of physical injury.**

(1) In a prosecution for an offense that includes, as an element, causing physical injury to another person, evidence of physical injury may include but is not limited to:

- (a) Testimony by the person alleged to have been injured;
- (b) Evidence of physical trauma;
- (c) Testimony from witnesses indicating that the person alleged to have been injured experienced substantial pain or impairment of physical condition; or
- (d) Expert testimony addressing the effect of the type and amount of force used by the defendant.

(2) As used in this section, "physical trauma" includes but is not limited to fractures, cuts, punctures, bruises, burns or other observable effects. [2023 c.205 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.067 - Determining punishable offenses for violation of multiple statutory provisions, multiple victims or repeated violations.**

(1) When the same conduct or criminal episode violates two or more statutory provisions and each provision requires proof of an element that the others do not, there are as many separately punishable offenses as there are separate statutory violations.

(2) When the same conduct or criminal episode, though violating only one statutory provision involves two or more victims, there are as many separately punishable offenses as there are victims. However, two or more persons owning joint interests in real or personal property shall be considered a single victim for purposes of determining the number of separately punishable offenses if the property is the subject of one of the following crimes:

- (a) Theft as defined in ORS 164.015.
- (b) Unauthorized use of a vehicle as defined in ORS 164.135.
- (c) Criminal possession of rented or leased personal property as defined in ORS 164.140.
- (d) Criminal possession of a rented or leased motor vehicle as defined in ORS 164.138.
- (e) Burglary as defined in ORS 164.215 or 164.225.
- (f) Criminal trespass as defined in ORS 164.243, 164.245, 164.255, 164.265 or 164.278.
- (g) Arson and related offenses as defined in ORS 164.315, 164.325 or 164.335.
- (h) Forgery and related offenses as defined in ORS 165.002 to 165.070.

(3) When the same conduct or criminal episode violates only one statutory provision and involves only one victim, but nevertheless involves repeated violations of the same statutory provision against the same victim, there are as many separately punishable offenses as there are violations, except that each violation, to be separately punishable under this subsection, must be separated from other such violations by a sufficient pause in the defendant's criminal conduct to afford the defendant an opportunity to renounce the criminal intent. Each method of engaging in oral or anal sexual intercourse as defined in ORS 163.305, and each method of engaging in unlawful sexual penetration as defined in ORS 163.408 and 163.411 shall constitute separate violations of their respective statutory provisions for purposes of determining the number of statutory violations. [1987 c.2 §13; 1991 c.386 §9; 2003 c.629 §4; 2007 c.684 §3; 2017 c.318 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.085 - Definitions with respect to culpability.**

As used in chapter 743, Oregon Laws 1971, and ORS 166.635, unless the context requires otherwise:

- (1) "Act" means a bodily movement.
- (2) "Voluntary act" means a bodily movement performed consciously and includes the conscious possession or control of property.
- (3) "Omission" means a failure to perform an act the performance of which is required by law.
- (4) "Conduct" means an act or omission and its accompanying mental state.
- (5) "To act" means either to perform an act or to omit to perform an act.
- (6) "Culpable mental state" means intentionally, knowingly, recklessly or with criminal negligence as these terms are defined in subsections (7), (8), (9) and (10) of this section.
- (7) "Intentionally" or "with intent," when used with respect to a result or to conduct described by a statute defining an offense, means that a person acts with a conscious objective to cause the result or to engage in the conduct so described.
- (8) "Knowingly" or "with knowledge," when used with respect to conduct or to a circumstance described by a statute defining an offense, means that a person acts with an awareness that the conduct of the person is of a nature so described or that a circumstance so described exists.
- (9) "Recklessly," when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a

reasonable person would observe in the situation.

(10) "Criminal negligence" or "criminally negligent," when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person fails to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. [1971 c.743 §7; 1973 c.139 §2]

Note:

See note under 161.015.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.095 - Requirements for criminal liability.**

(1) The minimal requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform an act which the person is capable of performing.

(2) Except as provided in ORS 161.105, a person is not guilty of an offense unless the person acts with a culpable mental state with respect to each material element of the offense that necessarily requires a culpable mental state. [1971 c.743 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.105 - Culpability requirement inapplicable to certain violations and offenses.**

(1) Notwithstanding ORS 161.095, a culpable mental state is not required if:

(a) The offense constitutes a violation, unless a culpable mental state is expressly included in the definition of the offense; or

(b) An offense defined by a statute outside the Oregon Criminal Code clearly indicates a legislative intent to dispense with any culpable mental state requirement for the offense or for any material element thereof.

(2) Notwithstanding any other existing law, and unless a statute enacted after January 1, 1972, otherwise provides, an offense defined by a statute outside the Oregon Criminal Code that requires no culpable mental state constitutes a violation.

(3) Although an offense defined by a statute outside the Oregon Criminal Code requires no culpable mental state with respect to one or more of its material elements, the culpable commission of the offense may be alleged and proved, in which case criminal negligence constitutes sufficient culpability, and the classification of the offense and the authorized sentence shall be determined by ORS 161.505 to 161.605 and 161.615 to 161.655. [1971 c.743 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.115 - Construction of statutes with respect to culpability.**

(1) If a statute defining an offense prescribes a culpable mental state but does not specify the element to which it applies, the prescribed culpable mental state applies to each material element of the offense that necessarily requires a culpable mental state.

(2) Except as provided in ORS 161.105, if a statute defining an offense does not prescribe a culpable mental state, culpability is nonetheless required and is established only if a person acts intentionally, knowingly, recklessly or with criminal negligence.

(3) If the definition of an offense prescribes criminal negligence as the culpable mental state, it is also established if a person acts intentionally, knowingly or recklessly. When recklessness suffices to establish a culpable mental state, it is also established if a person acts intentionally or knowingly. When acting knowingly suffices to establish a culpable mental state, it is also established if a person acts intentionally.

(4) Knowledge that conduct constitutes an offense, or knowledge of the existence, meaning or application of the statute defining an offense, is not an element of an offense unless the statute clearly so provides. [1971 c.743 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.125 - Drug or controlled substance use or dependence or intoxication as defense.**

(1) The use of drugs or controlled substances, dependence on drugs or controlled substances or voluntary intoxication shall not, as such, constitute a defense to a criminal charge, but in any prosecution for an offense, evidence that the defendant used drugs or controlled substances, or was dependent on drugs or controlled substances, or was intoxicated may be offered by the defendant whenever it is relevant to negative an element of the crime charged.

(2) When recklessness establishes an element of the offense, if the defendant, due to the use of drugs or controlled substances, dependence on drugs or controlled substances or voluntary intoxication, is unaware of a risk of which the defendant would have been aware had the defendant been not intoxicated, not using drugs or controlled substances, or not dependent on drugs or controlled substances, such unawareness is immaterial. [1971 c.743 §11; 1973 c.697 §13; 1979 c.744 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.150 - Criminal liability described.**

A person is guilty of a crime if it is committed by the person's own conduct or by the conduct of another for which the person is criminally liable, or both. [1971 c.743 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.155 - Criminal liability for conduct of another.**

A person is criminally liable for the conduct of another person constituting a crime if:

- (1) The person is made criminally liable by the statute defining the crime; or
- (2) With the intent to promote or facilitate the commission of the crime the person:
  - (a) Solicits or commands such other person to commit the crime; or
  - (b) Aids or abets or agrees or attempts to aid or abet such other person in planning or committing the crime; or
  - (c) Having a legal duty to prevent the commission of the crime, fails to make an effort the person is legally required to make. [1971 c.743 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.160 - Exclusion of defenses to criminal liability for conduct of another.**

In any prosecution for a crime in which criminal liability is based upon the conduct of another person pursuant to ORS 161.155, it is no defense that:

- (1) Such other person has not been prosecuted for or convicted of any crime based upon the conduct in question or has been convicted of a different crime or degree of crime; or
- (2) The crime, as defined, can be committed only by a particular class or classes of persons to which the defendant does not belong, and the defendant is for that reason legally incapable of committing the crime in an individual capacity. [1971 c.743 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.165 - Exemptions to criminal liability for conduct of another.**

Except as otherwise provided by the statute defining the crime, a person is not criminally liable for conduct of another constituting a crime if:

- (1) The person is a victim of that crime; or
- (2) The crime is so defined that the conduct of the person is necessarily incidental thereto. [1971 c.743 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.170 - Criminal liability of corporations.**

(1) A corporation is guilty of an offense if:

- (a) The conduct constituting the offense is engaged in by an agent of the corporation while acting within the scope of employment and in behalf of the corporation and the offense is a misdemeanor or a violation, or the offense is one defined by a statute that clearly indicates a legislative intent to impose criminal liability on a corporation; or
- (b) The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations by law; or
- (c) The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded or knowingly tolerated by the board of directors or by a high managerial agent acting within the scope of employment and in behalf of the corporation.

(2) As used in this section:

- (a) "Agent" means any director, officer or employee of a corporation, or any other person who is authorized to act in behalf of the corporation.
- (b) "High managerial agent" means an officer of a corporation who exercises authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees, or any other agent in a position of comparable authority. [1971 c.743 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.175 - Criminal liability of an individual for corporate conduct.**

A person is criminally liable for conduct constituting an offense which the person performs or causes to be performed in the name of or in behalf of a corporation to the same extent as if such conduct were performed in the person's own name or behalf. [1971 c.743 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.190 - Justification as a defense.**

In any prosecution for an offense, justification, as defined in ORS 161.195 to 161.275, is a defense. [1971 c.743 §18]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.195 - "Justification" described.**

- (1) Unless inconsistent with other provisions of chapter 743, Oregon Laws 1971, defining justifiable use of physical force, or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when it is required or authorized by law or by a judicial decree or is performed by a public servant in the reasonable exercise of official powers, duties or functions.
- (2) As used in subsection (1) of this section, "laws and judicial decrees" include but are not limited to:

- (a) Laws defining duties and functions of public servants;
- (b) Laws defining duties of private citizens to assist public servants in the performance of certain of their functions;
- (c) Laws governing the execution of legal process;
- (d) Laws governing the military services and conduct of war; and
- (e) Judgments and orders of courts. [1971 c.743 §19]

Note:

See note under 161.015.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.200 - Choice of evils.**

(1) Unless inconsistent with other provisions of chapter 743, Oregon Laws 1971, defining justifiable use of physical force, or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when:

- (a) That conduct is necessary as an emergency measure to avoid an imminent public or private injury; and
- (b) The threatened injury is of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute defining the offense in issue.

(2) The necessity and justifiability of conduct under subsection (1) of this section shall not rest upon considerations pertaining only to the morality and advisability of the statute, either in its general application or with respect to its application to a particular class of cases arising thereunder. [1971 c.743 §20]

Note:

See note under 161.015.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.205 - Use of physical force generally.**

The use of physical force upon another person that would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

(1)(a) A parent or legal guardian of a minor child may use reasonable physical force upon the minor child when and to the extent the person reasonably believes the physical force is necessary to maintain discipline or promote the welfare of the minor child, unless the physical force constitutes abuse as defined in ORS 418.257 or 419B.005.

(b) Personnel of a public education program, as that term is defined in ORS 339.285, may use reasonable physical force upon a student only to the extent that the application of force is consistent with ORS 339.285 to 339.303 and is not corporal punishment as defined in ORS 339.250 (9).

(2) Subject to ORS 161.237 and 421.107, an authorized official of a jail, prison or correctional facility, including a youth correction facility as defined in ORS 162.135, may use physical force when and to the extent that the official reasonably believes it necessary to maintain order and discipline or as is authorized by law.

(3) A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under the direction of the person, may use physical force when and to the extent that the person reasonably believes it necessary to maintain order, but the person may use deadly physical force only when the person reasonably believes it necessary to prevent death or serious physical injury.

(4) A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical self-injury may use physical force upon that person to the extent that the person reasonably believes it necessary to thwart the result.

(5) A person may use physical force upon another person in self-defense or in defending a third person, in defending property, in making an arrest or in preventing an escape, as hereafter prescribed in chapter 743, Oregon Laws 1971. [1971 c.743 §21; 1981 c.246 §1; 2011 c.665 §§10,11; 2013 c.133 §4; 2013 c.267 §4; 2019 c.267 §7; 2019 c.333 §2; 2020 s.s.2 c.3 §2; 2023 c.27 §1]

Note:

See note under 161.015.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.209 - Use of physical force in defense of a person.**

Except as provided in ORS 161.215 and 161.219, a person is justified in using physical force upon another person for self-defense or to defend a third person from what the person reasonably believes to be the use or imminent use of unlawful physical force, and the person may use a degree of force which the person reasonably believes to be necessary for the purpose. [1971 c.743 §22]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.215 - Limitations on use of physical force in defense of a person.**

(1) Notwithstanding ORS 161.209, a person is not justified in using physical force upon another person if:

- (a) With intent to cause physical injury or death to another person, the person provokes the use of unlawful physical force by that person.

- (b) The person is the initial aggressor, except that the use of physical force upon another person under such circumstances is justifiable if the person withdraws from the encounter and effectively communicates to the other person the intent to do so, but the latter nevertheless continues or threatens to continue the use of unlawful physical force.
  - (c) The physical force involved is the product of a combat by agreement not specifically authorized by law.
  - (d) The person would not have used physical force but for the discovery of the other person's actual or perceived gender, gender identity, gender expression or sexual orientation.
- (2) As used in this section, "gender identity" has the meaning given that term in ORS 166.155. [1971 c.743 §24; 2021 c.84 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.219 - Limitations on use of deadly physical force in defense of a person.**

Notwithstanding the provisions of ORS 161.209, a person is not justified in using deadly physical force upon another person unless the person reasonably believes that the other person is:

- (1) Committing or attempting to commit a felony involving the use or threatened imminent use of physical force against a person; or
- (2) Committing or attempting to commit a burglary in a dwelling; or
- (3) Using or about to use unlawful deadly physical force against a person. [1971 c.743 §23]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.225 - Use of physical force in defense of premises.**

- (1) A person in lawful possession or control of premises is justified in using physical force upon another person when and to the extent that the person reasonably believes it necessary to prevent or terminate what the person reasonably believes to be the commission or attempted commission of a criminal trespass by the other person in or upon the premises.
- (2) A person may use deadly physical force under the circumstances set forth in subsection (1) of this section only:
  - (a) In defense of a person as provided in ORS 161.219; or
  - (b) When the person reasonably believes it necessary to prevent the commission of arson or a felony by force and violence by the trespasser.
- (3) As used in subsection (1) and subsection (2)(a) of this section, "premises" includes any building as defined in ORS 164.205 and any real property. As used in subsection (2)(b) of this section, "premises" includes any building. [1971 c.743 §25]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.229 - Use of physical force in defense of property.**

A person is justified in using physical force, other than deadly physical force, upon another person when and to the extent that the person reasonably believes it to be necessary to prevent or terminate the commission or attempted commission by the other person of theft or criminal mischief of property. [1971 c.743 §26]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.233 - Use of physical force by peace officer.**

- (1) A peace officer may use physical force upon another person only when it is objectively reasonable, under the totality of circumstances known to the peace officer, to believe:
  - (a) That the person poses an imminent threat of physical injury to the peace officer or to a third person; or
  - (b) That the use of physical force is necessary to:
    - (A) Make a lawful arrest when the peace officer has probable cause to believe the person has committed a crime; or
    - (B) Prevent the escape from custody of the person when the peace officer has probable cause to believe the person has committed a crime.
- (2) A peace officer may use physical force upon another person under this section only to the degree that the peace officer reasonably believes necessary to prevent physical injury under subsection (1)(a) of this section or to carry out a purpose described in subsection (1)(b) of this section.
- (3) Prior to using physical force upon another person, if the peace officer has a reasonable opportunity to do so, the peace officer shall:
  - (a) Consider alternatives such as verbal de-escalation, waiting or using other available resources and techniques if reasonable, safe and feasible; and
  - (b) Give a verbal warning to the person that physical force may be used and provide the person with a reasonable opportunity to comply. [2020 s.s.2 c.3 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.237 - Use of physical force involving pressure on throat or neck by peace officer or corrections officer.**

- (1) Notwithstanding ORS 161.233, a peace officer or corrections officer is not justified in any circumstance in knowingly using physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person except in circumstances in which physical force is justified under ORS 161.209 and 161.215.

(2) Notwithstanding ORS 161.233, it is not reasonable under any circumstance for a peace officer or corrections officer to knowingly use physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person except in circumstances in which physical force is justified under ORS 161.209 and 161.215.

(3) As used in this section, "corrections officer" means a guard, peace officer or other official employed in a jail, prison or correctional facility, including a youth correction facility, who primarily performs the duty of custody, control or supervision of individuals charged with or convicted of a crime or otherwise confined under a court order. [2020 s.s.1 c.3 §2; 2020 s.s.2 c.3 §§1,10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.242 - Use of deadly physical force by peace officer.**

(1) A peace officer may use deadly physical force upon another person only when it is objectively reasonable, under the totality of circumstances known to the peace officer, to believe that the person poses an imminent threat of death or serious physical injury to the peace officer or to a third person and the use of deadly physical force is necessary to:

(a) Make a lawful arrest when the peace officer has probable cause to believe the person has committed a violent felony;

(b) Defend the peace officer or a third person from the imminent threat of death or serious physical injury; or

(c) Prevent the escape from custody of the person when the peace officer has probable cause to believe the person has committed a violent felony.

(2) Prior to using deadly physical force upon another person, if the peace officer has a reasonable opportunity to do so, the peace officer shall:

(a) Consider alternatives such as verbal de-escalation, waiting, using other available resources and techniques if reasonable, safe and feasible, or using a lesser degree of force; and

(b) Give a verbal warning to the person that deadly physical force may be used and provide the person with a reasonable opportunity to comply.

(3) Nothing in subsection (1) of this section constitutes justification for reckless or criminally negligent conduct by a peace officer constituting an offense against or with respect to innocent persons whom the peace officer is not seeking to arrest or retain in custody.

(4) As used in this section, "violent felony" has the meaning given that term in ORS 419A.004. [2020 s.s.2 c.3 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.245 - "Reasonable belief" described; status of unlawful arrest.**

(1) For the purposes of ORS 161.233 and 161.242, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which, if true, would constitute an offense.

(2) A peace officer who is making an arrest is justified in using the physical force prescribed in ORS 161.233 and 161.242 unless the arrest is unlawful and is known by the officer to be unlawful. [1971 c.743 §29; 2020 s.s.2 c.3 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.249 - Use of physical force by private person assisting an arrest.**

(1) Except as provided in subsection (2) of this section, a person who has been directed by a peace officer to assist the peace officer to make an arrest or to prevent an escape from custody is justified in using physical force when and to the extent that the person reasonably believes that force to be necessary to carry out the peace officer's direction.

(2) A person who has been directed to assist a peace officer under circumstances specified in subsection (1) of this section may use deadly physical force to make an arrest or to prevent an escape only when:

(a) The person reasonably believes that force to be necessary for self-defense or to defend a third person from what the person reasonably believes to be the use or imminent use of deadly physical force; or

(b) The person is directed or authorized by the peace officer to use deadly physical force unless the person knows that the peace officer is not authorized to use deadly physical force under the circumstances. [1971 c.743 §30]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.255 - Use of physical force by private person making citizen's arrest.**

(1) Except as provided in subsection (2) of this section, a private person acting on the person's own account is justified in using physical force upon another person when and to the extent that the person reasonably believes it necessary to make an arrest or to prevent the escape from custody of an arrested person whom the person has arrested under ORS 133.225.

(2) A private person acting under the circumstances prescribed in subsection (1) of this section is justified in using deadly physical force only when the person reasonably believes it necessary for self-defense or to defend a third person from what the person reasonably believes to be the use or imminent use of deadly physical force. [1971 c.743 §31; 1973 c.836 §339]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.260 - Use of physical force in resisting arrest prohibited.**

A person may not use physical force to resist an arrest by a peace officer who is known or reasonably appears to be a peace officer, whether the arrest is lawful or unlawful. [1971 c.743 §32]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.265 - Use of physical force by guard or peace officer employed in correctional facility.**

(1) Except as provided in ORS 161.237, a guard or other peace officer employed in a correctional facility, as that term is defined in ORS 162.135, is justified in using physical force, including deadly physical force, upon another person if the person poses an imminent threat of physical injury to the guard or peace officer or to a third person or the guard or peace officer reasonably believes it necessary to prevent the escape of a prisoner from a correctional facility. The guard or peace officer may use physical force under this subsection only to the degree that the guard or peace officer reasonably believes necessary to prevent the physical injury or escape.

(2) Notwithstanding subsection (1) of this section, a guard or other peace officer employed by the Department of Corrections may not use deadly physical force in the circumstances described in ORS 161.267 (3). [1971 c.743 §33; 2005 c.431 §3; 2020 s.s.2 c.3 §§4,11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.267 - Use of physical force by corrections officer or official employed by Department of Corrections.**

(1) As used in this section:

(a) "Colocated minimum security facility" means a Department of Corrections institution that has been designated by the Department of Corrections as a minimum security facility and has been located by the department on the grounds of a medium or higher security Department of Corrections institution.

(b) "Department of Corrections institution" has the meaning given that term in ORS 421.005.

(c) "Stand-alone minimum security facility" means a Department of Corrections institution that has been designated by the department as a minimum security facility and that has been located by the department separate and apart from other Department of Corrections institutions.

(2) Subject to ORS 161.237 and 421.107, a corrections officer or other official employed by the Department of Corrections is justified in using physical force, including deadly physical force, when and to the extent that the officer or official reasonably believes it necessary to:

(a) Prevent the escape of an adult in custody from a Department of Corrections institution, including the grounds of the institution, or from custody;

(b) Maintain or restore order and discipline in a Department of Corrections institution, or any part of the institution, in the event of a riot, disturbance or other occurrence that threatens the safety of adults in custody, department employees or other persons; or

(c) Prevent serious physical injury to or the death of the officer, official or another person.

(3) Notwithstanding subsection (2)(a) of this section, a corrections officer or other official employed by the department may not use deadly physical force to prevent the escape of an adult in custody from:

(a) A stand-alone minimum security facility;

(b) A colocated minimum security facility, if the corrections officer or other official knows that the adult in custody has been classified by the department as minimum custody; or

(c) Custody outside of a Department of Corrections institution:

(A) While the adult in custody is assigned to an adult in custody work crew; or

(B) During transport or other supervised activity, if the adult in custody is classified by the department as minimum custody and the adult in custody is not being transported or supervised with an adult in custody who has been classified by the department as medium or higher custody.

(4) Nothing in this section limits the authority of a person to use physical force under ORS 161.205 (2) or 161.265. [2005 c.431 §2; 2019 c.213 §38; 2019 c.333 §3; 2020 s.s.2 c.3 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.270 - Duress.**

(1) The commission of acts which would otherwise constitute an offense, other than murder, is not criminal if the actor engaged in the proscribed conduct because the actor was coerced to do so by the use or threatened use of unlawful physical force upon the actor or a third person, which force or threatened force was of such nature or degree to overcome earnest resistance.

(2) Duress is not a defense for one who intentionally or recklessly places oneself in a situation in which it is probable that one will be subjected to duress.

(3) It is not a defense that a spouse acted on the command of the other spouse, unless the spouse acted under such coercion as would establish a defense under subsection (1) of this section. [1971 c.743 §34; 1987 c.158 §22]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.275 - Entrapment.**



(1) The commission of acts which would otherwise constitute an offense is not criminal if the actor engaged in the proscribed conduct because the actor was induced to do so by a law enforcement official, or by a person acting in cooperation with a law enforcement official, for the purpose of obtaining evidence to be used against the actor in a criminal prosecution.

(2) As used in this section, "induced" means that the actor did not contemplate and would not otherwise have engaged in the proscribed conduct. Merely affording the actor an opportunity to commit an offense does not constitute entrapment. [1971 c.743 §35]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.290 - Incapacity due to immaturity.**

(1) A person who is tried as an adult in a court of criminal jurisdiction is not criminally responsible for any conduct which occurred when the person was under 12 years of age.

(2) Incapacity due to immaturity, as defined in subsection (1) of this section, is a defense. [Formerly 161.380; 1995 c.422 §58]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.295 - Effect of qualifying mental disorder; guilty except for insanity.**

(1) A person is guilty except for insanity if, as a result of a qualifying mental disorder at the time of engaging in criminal conduct, the person lacks substantial capacity either to appreciate the criminality of the conduct or to conform the conduct to the requirements of law.

(2) As used in chapter 743, Oregon Laws 1971, the term "qualifying mental disorder" does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct, nor does the term include any abnormality constituting solely a personality disorder. [1971 c.743 §36; 1983 c.800 §1; 2017 c.634 §3]

Note:

See note under 161.015.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.300 - Evidence of qualifying mental disorder admissible as to intent.**

Evidence that the actor suffered from a qualifying mental disorder is admissible whenever it is relevant to the issue of whether the actor did or did not have the intent which is an element of the crime. [1971 c.743 §37; 2017 c.634 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.305 - Qualifying mental disorder as affirmative defense.**

Qualifying mental disorder constituting insanity under ORS 161.295 is an affirmative defense. [1971 c.743 §38; 1983 c.800 §2; 2017 c.634 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.309 - Notice of mental defense; when report required; contents of report; plea.**

(1) The defendant may not introduce evidence on the issue of insanity under ORS 161.295, unless the defendant:

(a) Gives notice of intent to do so in the manner provided in subsection (3) of this section; and

(b) Files with the court a report of a psychiatric or psychological evaluation, conducted by a certified evaluator, in the manner provided in subsection (4) of this section.

(2) The defendant may not introduce in the case in chief expert testimony regarding partial responsibility or diminished capacity under ORS 161.300 unless the defendant gives notice of intent to do so in the manner provided in subsection (3) of this section.

(3)(a) A defendant who is required under subsection (1) or (2) of this section to give notice shall file a written notice of purpose at least 45 days before trial.

(b) Notwithstanding paragraph (a) of this subsection, the court may, for good cause, permit the defendant to file the notice within 45 days before trial.

(c) If the defendant fails to file notice under this subsection, the defendant may not introduce evidence for the establishment of a defense under ORS 161.295 or 161.300 unless the court, in its discretion, permits the evidence to be introduced where just cause for failure to file the notice is shown.

(4) A defendant who is required under subsection (1) of this section to file a report of a psychiatric or psychological evaluation shall file the report before trial. The report must be based on an evaluation conducted after the date of the alleged offense and must address the issue of insanity under ORS 161.295 and the dispositional determination described in ORS 161.325. If the defendant fails to file a complete report before trial, the defendant may not introduce evidence for the establishment of a defense under ORS 161.295 unless:

(a) The court, in its discretion, permits the evidence to be introduced when just cause for failure to file the report is shown; and

(b) If the defendant is charged with a felony, the defendant is tried by a jury.

(5)(a) A court may not accept a plea of guilty except for insanity to a felony unless a report described in subsection (4) of this section is filed with the court. If the report has not been filed, the court may order that a psychiatric or psychological evaluation of

the defendant be conducted by a certified evaluator and a report of the evaluation be filed with the court.

(b) When the court orders an evaluation of a financially eligible person under this subsection, the court shall order the executive director of the Oregon Public Defense Commission to pay a reasonable fee for the evaluation from funds available for that purpose.

(c) A certified evaluator performing an evaluation of a defendant on the issue of insanity under this subsection is not obligated to evaluate the defendant for fitness to proceed unless, during the evaluation, the certified evaluator determines that the defendant's fitness to proceed is drawn in question.

(6) Prior to accepting a plea of guilty except for insanity to a felony, the court shall inform the defendant of the possibility that the court may order commitment or conditional discharge after entry of judgment, and of the maximum total period of commitment or conditional discharge under ORS 161.327 (7).

(7) As used in this section, "certified evaluator" means a psychiatrist or psychologist who holds a valid certification under the provisions of ORS 161.392. [1971 c.743 §§39,40,41; 1983 c.800 §3; 2003 c.127 §2; 2011 c.724 §1; 2017 c.48 §1; 2019 c.326 §1; 2019 c.329 §1; 2021 c.483 §2; 2023 c.281 §40]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.313 - Jury instructions; insanity.**

When the issue of insanity under ORS 161.295 is submitted to be determined by a jury in the trial court, the court shall instruct the jury in accordance with ORS 161.327. [1983 c.800 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.315 - Right of state to obtain mental examination of defendant; limitations; report.**

(1) Upon filing of notice or the introduction of evidence by the defendant as provided in ORS 161.309, the state shall have the right to have at least one psychiatrist or licensed psychologist of its selection examine the defendant. The state shall file notice with the court of its intention to have the defendant examined.

(2)(a) Upon filing of the notice, the court, in its discretion, may order the defendant committed to a state mental hospital or any other suitable facility, if the defendant is 18 years of age or older, for observation and examination, which may include treatment as permitted by law.

(b) If the defendant is under 18 years of age, upon filing of the notice, the court, in its discretion, may order the defendant committed to a secure intensive community inpatient facility designated by the Oregon Health Authority for examination.

(c) The state mental hospital or other facility may retain custody of a defendant committed under this subsection only for the duration necessary to complete the observation and examination of the defendant, not to exceed 30 days.

(3) If the defendant objects to the examiner chosen by the state, the court for good cause shown may direct the state to select a different examiner.

(4) An examiner performing an examination on the issue of insanity of a defendant under this section is not obligated to examine the defendant for fitness to proceed unless, during the examination, the examiner determines that the defendant's fitness to proceed is drawn in question. If, during the examination, the examiner determines that the defendant's fitness to proceed is in doubt, the examiner shall report the issue to the court and to the superintendent of the state mental hospital or the superintendent's designee, or to the director of the facility to which the defendant is committed. The superintendent or director may:

(a) Return the defendant to the facility from which the defendant was transported; or

(b) Inform the court and the parties that the defendant should remain at the state mental hospital or other facility for the purpose of an examination under ORS 161.365. If neither party objects, the court may order an examination under ORS 161.365 without holding a hearing.

(5) A report resulting from an examination under this section may be filed with the court electronically.

(6)(a) Reports resulting from examinations conducted under this section are confidential and may be made available only:

(A) To the court, prosecuting attorney, defense attorney, agent of the prosecuting or defense attorney, defendant, community mental health program director or designee and any facility in which the defendant is housed; or

(B) As ordered by a court.

(b) Any facility in which a defendant is housed may not use a report prepared under this section to support a disciplinary action against the defendant.

(c) Nothing in this subsection prohibits the prosecuting attorney, defense attorney or agent of the prosecuting or defense attorney from discussing the contents of a report prepared under this section with witnesses or victims as otherwise permitted by law. [1971 c.743 §42; 1977 c.380 §3; 2007 c.14 §5; 2009 c.595 §101; 2011 c.724 §10; 2017 c.48 §2; 2019 c.311 §3; 2019 c.538 §3a]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.319 - Form of verdict on guilty except for insanity.**

When the defendant is found guilty except for insanity under ORS 161.295, the verdict and judgment shall so state. [1971 c.743 §43; 1977 c.380 §4; 1983 c.800 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.325 - Finding of guilty except for insanity; dispositional order.**

(1) After the defendant is found guilty except for insanity, the court shall, on the basis of the evidence given at the trial or at a separate hearing, if requested by either party, order a disposition as provided in ORS 161.327, 161.328 or 161.329, whichever is appropriate.

(2) If the court enters an order as provided in ORS 161.327, it shall also:

(a) Determine on the record the offense of which the person otherwise would have been convicted;

(b) State on the record the qualifying mental disorder on which the defendant relied for the guilty except for insanity defense;

(c) State on the record the maximum total period of commitment or conditional discharge under ORS 161.327 (7); and

(d) Make specific findings on whether there is a victim of the crime for which the defendant has been found guilty except for insanity and, if so, whether the victim wishes to be notified, under ORS 161.326, of any hearings and orders concerning the defendant and of any conditional release, discharge or escape of the defendant.

(3) The court shall include in its order the information described in subsection (2) of this section.

(4) Except under circumstances described in ORS 137.076 (4), whenever a defendant charged with any offense listed in ORS 137.076 (1) has been found guilty of that offense except for insanity, the court shall, in any order entered under ORS 161.327, 161.328 or 161.329, direct the defendant to submit to the obtaining of a blood or buccal sample in the manner provided in ORS 137.076. [1971 c.743 §44; 1977 c.380 §5; 1979 c.885 §1; 1981 c.711 §1; 1983 c.800 §5; 1991 c.669 §8; 1999 c.97 §2; 2005 c.337 §1; 2010 c.89 §9; 2011 c.708 §40; 2011 c.724 §2; 2017 c.634 §6; 2019 c.329 §2; 2021 c.483 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.326 - Notice to victim.**

(1) If the trial court or the Psychiatric Security Review Board determines that a victim desires notification as described in ORS 161.325 (2), the board shall make a reasonable effort to notify the victim of hearings and orders, conditional release, discharge or escape. Nothing in this subsection authorizes the board to disseminate information that is otherwise privileged by law.

(2) When the board conducts a hearing involving a person found guilty except for insanity of a crime for which there is a victim, the board shall afford the victim an opportunity to be heard, either orally or in writing, at the hearing.

(3)(a) If the board fails to make a reasonable effort to notify the victim of a hearing under subsection (1) of this section or fails to afford the victim an opportunity to be heard at the hearing under subsection (2) of this section, the victim may request that the board reconsider the order of the board.

(b) If the board determines that the board failed to make a reasonable effort to notify the victim or failed to afford the victim an opportunity to be heard, except as provided in paragraph (c) of this subsection, the board shall grant the request for reconsideration. Upon reconsideration, the board shall consider the statement of the victim and may consider any other information that was not available to the board at the previous hearing.

(c) The board may not grant a request for reconsideration that is made:

(A) After the person has been discharged from the jurisdiction of the board;

(B) After the board has held a subsequent hearing involving the person; or

(C) If the board failed to make a reasonable effort to notify the victim of a hearing, more than 30 days after the victim knew or reasonably should have known of the hearing. [1981 c.711 §9; 2010 c.89 §6; 2011 c.708 §6; 2017 c.442 §7]

Note:

161.326 was enacted into law by the Legislative Assembly but was not added to or made a part of 161.290 to 161.373 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.327 - Commitment or conditional release of person found guilty except for insanity of felony; consultation; evaluation; appeal; rules.**

(1) After the defendant is found guilty except for insanity pursuant to ORS 161.319, if the court finds by a preponderance of the evidence that a person found guilty except for insanity of a felony is affected by a qualifying mental disorder and presents a substantial danger to others, the court shall order as follows:

(a) If the court finds that the person is not a proper subject for conditional release, the court shall order the person committed to a state hospital or, if the person is under 18 years of age, to a secure intensive community inpatient facility for custody, care and treatment. When the court orders a person committed under this paragraph, the court shall place the person under the jurisdiction of the Psychiatric Security Review Board.

(b) If the court finds that the person can be adequately controlled with supervision and treatment if conditionally released and that necessary supervision and treatment are available, the court shall order the person conditionally released.

(2)(a) If a party intends to request conditional release under this section, the party shall, as soon as practicable, notify the opposing party, the court and the board of the request. The party requesting conditional release shall make every effort to provide the notification in a manner that allows sufficient time to carry out the provisions described in this subsection before the court determination on conditional release.

(b) Upon receipt of a request for conditional release under this section:

(A) If the most serious offense in the charging instrument is a Class C felony, the court shall order that a local mental health program designated by the board consult with the person to determine whether the necessary supervision and treatment for the

person are available in the community and appropriate for the person and shall order the release of any records to the program director that are necessary to complete the consultation.

(B) If the most serious offense in the charging instrument is a Class A or Class B felony, the court may order that a local mental health program designated by the board consult with the person to determine whether the necessary supervision and treatment for the person are available in the community and appropriate for the person. If the court orders the consultation, the court shall further order the release of any records to the program director that are necessary to complete the consultation.

(3)(a) If the outcome of a consultation described in subsection (2)(b) of this section indicates that the necessary supervision and treatment are available in the community and appropriate for the person, the local mental health program shall evaluate the person to determine whether the person can be adequately controlled with supervision and treatment if conditionally released, and the program director shall provide to the court and to the board a report of the findings resulting from the consultation, a report of the findings resulting from the evaluation and recommendations for treatment.

(b) If the outcome of a consultation described in subsection (2)(b) of this section indicates that the necessary supervision and treatment for the person are not available in the community or not appropriate for the person, the program director shall submit to the court and to the board a report of the findings resulting from the consultation and may include any recommendations for treatment.

(4) In determining whether a person should be conditionally released, the court:

(a) May order evaluations and examinations as provided in ORS 161.336 (3) and 161.346 (2) or as otherwise needed by the court;

(b) Shall act in conformance with subsection (2)(b) of this section concerning an order for a local mental health program designated by the board to consult with the person;

(c) Shall have as its primary concern the protection of society; and

(d) May not order conditional release without a report from the consultation described in subsection (2)(b) of this section and the evaluation described in subsection (3)(b) of this section.

(5) When a person is conditionally released under this section, the person is subject to those supervisory orders of the court as are in the best interests of justice, the protection of society and the welfare of the person. The court shall designate a person or state, county or local agency to supervise the person upon release, subject to those conditions as the court directs in the order for conditional release. Prior to the designation, the court shall notify the person or agency to whom conditional release is contemplated and provide the person or agency an opportunity to be heard before the court. After receiving an order entered under subsection (1)(b) of this section, the person or agency designated shall assume supervision of the person pursuant to the direction of the board. The person or agency designated as supervisor shall be required to report in writing no less than once per month to the board concerning the supervised person's compliance with the conditions of release.

(6) Upon placing a person on conditional release, the court shall within one judicial day provide to the board an electronic copy of the conditional release order. The court shall additionally notify the board in writing of the supervisor appointed and all other conditions of release, and the person shall be on conditional release pending hearing before the board. Upon compliance with this section, the court's jurisdiction over the person is terminated.

(7) The total period of commitment or conditional release under ORS 161.315 to 161.351 may not exceed the maximum sentence provided by statute for the crime for which the person was found guilty except for insanity.

(8) An order of the court under this section is a final order appealable by the person found guilty except for insanity in accordance with ORS 19.205 (5). Notwithstanding ORS 19.255, notice of an appeal under this section shall be served and filed within 90 days after the order appealed from is entered in the register. The person shall be entitled on appeal to suitable counsel possessing skills and experience commensurate with the nature and complexity of the case. If the person is financially eligible, suitable counsel shall be appointed in the manner provided in ORS 138.500 (1), and the compensation for counsel and costs and expenses of the person necessary to the appeal shall be determined and paid as provided in ORS 138.500.

(9) Following the order described in subsection (1) of this section, the court shall notify the person of the right to appeal and the right to a hearing before the board in accordance with ORS 161.336 (5) and 161.341 (3).

(10) The board shall hold a review hearing within 90 days for a person conditionally released under this section.

(11) The board shall establish by rule standards for the consultations described in subsection (2)(b) of this section and the evaluations described in subsection (3)(a) of this section. [1979 c.867 §5; 1979 c.885 §2; 1981 c.711 §2; 1981 s.s. c.3 §129; 1983 c.800 §6; 1989 c.790 §48; 1995 c.208 §1; 2001 c.962 §89; 2003 c.576 §§578,579; 2005 c.685 §§1,1a; 2009 c.595 §102; 2011 c.708 §36; 2011 c.724 §3; 2013 c.1 §9; 2017 c.442 §12; 2017 c.634 §7; 2019 c.329 §3; 2021 c.483 §1]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.328 - Commitment of person found guilty except for insanity of misdemeanor.**

(1) After the defendant is found guilty except for insanity pursuant to ORS 161.319, the court shall order a person committed to a state mental hospital or other facility designated by the Oregon Health Authority if:

(a) Each offense for which the person is found guilty except for insanity is a misdemeanor; and

(b) The court finds that the person is affected by a qualifying mental disorder and presents a substantial danger to others that requires commitment.

(2) The total period of commitment under this section may not exceed the maximum sentence provided by statute for the crime for which the person was found guilty except for insanity.

(3) If the superintendent of the state mental hospital or the director of the facility to which the person is committed determines that a person committed under this section is no longer affected by a qualifying mental disorder or, if so affected, no longer presents a substantial danger to others that requires commitment, the superintendent or director shall file notice of that determination with the committing court. Upon filing of the notice, the superintendent or director shall discharge the person from custody. [1981 c.711 §3; 1983 c.800 §7; 1987 c.903 §36; 1995 c.529 §1; 2011 c.708 §37; 2011 c.724 §4; 2017 c.634 §8; 2019 c.329 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.329 - Order of discharge.**

After the defendant is found guilty except for insanity pursuant to ORS 161.319, the court shall order that the person be discharged from custody if:

- (1) The court finds that the person is no longer affected by a qualifying mental disorder, or, if so affected, no longer presents a substantial danger to others and is not in need of care, supervision or treatment; or
- (2)(a) Each offense for which the person is found guilty except for insanity is a misdemeanor; and
- (b) The court finds that the person does not present a substantial danger to others that requires commitment. [1971 c.743 §45; 1977 c.380 §6; 1981 c.711 §4; 2011 c.724 §5; 2017 c.634 §9; 2019 c.329 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.332 - "Conditional release" defined.**

As used in ORS 161.315 to 161.351 and 161.385 to 161.395, "conditional release" includes, but is not limited to, the monitoring of mental and physical health treatment. [1977 c.380 §1; 1983 c.800 §8; 2011 c.708 §11a; 2017 c.442 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.336 - Conditional release by board; order for return; termination or modification of conditional release; hearing.**

- (1)(a) When a person is conditionally released under ORS 161.315 to 161.351, the person is subject to those supervisory orders of the Psychiatric Security Review Board as are in the best interests of justice, the protection of society and the welfare of the person.
- (b) An order of conditional release entered by the board may designate any person or state, county or local agency capable of supervising the person upon release, subject to the conditions described in the order of conditional release.
- (c) Prior to the designation, the board shall notify the person or state, county or local agency to whom conditional release is contemplated and provide the person or state, county or local agency an opportunity to be heard.
- (d) After receiving an order entered under this section, the person or state, county or local agency designated in the order shall assume supervision of the person in accordance with the conditions described in the order and any modifications of the conditions ordered by the board.
- (2) Conditions of release contained in orders entered under this section may be modified from time to time and conditional releases may be terminated as provided in ORS 161.351.
- (3)(a) As a condition of release, the person may be required to report to any state or local mental health facility for evaluation. Whenever medical, psychiatric or psychological treatment is recommended, the order may require the person, as a condition of release, to cooperate with and accept the treatment from the facility.
- (b) The facility to which the person has been referred for evaluation shall perform the evaluation and submit a written report of its findings to the board. If the facility finds that treatment of the person is appropriate, it shall include its recommendations for treatment in the report to the board.
- (c) Whenever treatment is provided by the facility, it shall furnish reports to the board on a regular basis concerning the progress of the person.
- (d) Copies of all reports submitted to the board pursuant to this section shall be furnished to the person and the person's counsel. The confidentiality of these reports is determined pursuant to ORS 192.338, 192.345 and 192.355.
- (e) The facility shall comply with the conditional release order and any modifications of the conditions ordered by the board.
- (4)(a)(A) A written or electronic order for the return of a person on conditional release to a state hospital or other facility designated by the supervising entity or, if the person is under 18 years of age, to a secure intensive community inpatient facility or other facility designated by the supervising entity, may be issued by:
  - (i) The supervising entity;
  - (ii) A person designated by the supervising entity, if the designation is made as part of a written policy; or
  - (iii) The community mental health program director, if the person has absconded from conditional release.
- (B) An order described in this paragraph may be issued when the supervising entity, the authorized designee or, if the person has absconded, the community mental health program director, has determined that:
  - (i) The person has violated the terms of conditional release; or
  - (ii) The mental health of the person has changed such that the supervising entity, or, if applicable, the authorized designee or the community mental health program director, reasonably believes that the person may no longer be fit for conditional release.
- (C) A written order under this paragraph is sufficient warrant for any law enforcement officer to take into custody and transport the person named in the order. A peace officer shall execute the order and the person shall be transported as described in paragraph (c) of this subsection.

(b) A peace officer, the director of the facility providing treatment to a person on conditional release or any person responsible for the supervision of a person on conditional release may take a person on conditional release into custody, or request that the person be taken into custody, if there is reasonable cause to believe the person is a substantial danger to others because of a mental disorder and that the person is in need of immediate care, custody or treatment.

(c) When a person is taken into custody by a peace officer under this subsection, the agency employing the peace officer shall cause the person, as soon as practicable, to be transported to a state hospital or other facility designated by the supervising entity. If the person was taken into custody pursuant to an order described in paragraph (a) of this subsection, the supervising entity shall facilitate the reimbursement of reasonable costs of the transport to the agency employing the peace officer.

(d) Within 20 days following the return of the person to a state hospital or secure intensive community inpatient facility under this subsection, the board shall conduct a hearing. The board shall provide notice of the hearing to the person, the attorney representing the person and the Attorney General. The state must prove by a preponderance of the evidence the person's unfitness for conditional release. The hearing shall be conducted in accordance with ORS 161.346.

(e) As used in this subsection, "supervising entity" means the board or the chairperson or executive director of the board.

(5)(a) Any person conditionally released under this section may apply to the board for discharge from or modification of an order of conditional release on the ground that the person is no longer affected by a qualifying mental disorder or, if still so affected, no longer presents a substantial danger to others and no longer requires supervision, medication, care or treatment. Notice of the hearing on an application for discharge or modification of an order of conditional release shall be made to the Attorney General. The applicant, at the hearing pursuant to this subsection, must prove by a preponderance of the evidence the applicant's fitness for discharge or modification of the order of conditional release. Applications by the person for discharge or modification of conditional release may not be filed more often than once every six months.

(b) Upon application by any person or agency responsible for supervision or treatment pursuant to an order of conditional release, the board shall conduct a hearing to determine if the conditions of release shall be continued, modified or terminated. The application shall be accompanied by a report setting forth the facts supporting the application.

(6) A person who has spent five years on conditional release shall be brought before the board for hearing within 30 days before the expiration of the five-year period. The board shall review the person's status and determine whether the person should be discharged from the jurisdiction of the board. [1977 c.380 §11 (enacted in lieu of 161.335); 1979 c.885 §3; 1981 c.711 §5; 1983 c.800 §9; 1987 c.140 §1; 1989 c.790 §49; 2001 c.326 §1; 2005 c.264 §14; 2005 c.685 §2; 2009 c.595 §103; 2011 c.708 §2; 2017 c.442 §3; 2017 c.634 §10; 2018 c.120 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.341 - Application for discharge or conditional release; release plan; examination; right to hearing.**

(1) If at any time after a person is committed under ORS 161.315 to 161.351 to a state hospital or a secure intensive community inpatient facility, the superintendent of the hospital or the director of the secure intensive community inpatient facility is of the opinion that the person is no longer affected by a qualifying mental disorder, or, if so affected, no longer presents a substantial danger to others or that the person continues to be affected by a qualifying mental disorder and continues to be a danger to others, but that the person can be controlled with proper care, medication, supervision and treatment if conditionally released, the superintendent or director shall apply to the Psychiatric Security Review Board for an order of discharge or conditional release. The application shall be accompanied by a report setting forth the facts supporting the opinion of the superintendent or director. If the application is for conditional release, the application must be accompanied by a verified conditional release plan. The board shall hold a hearing on the application within 60 days of its receipt. Not less than 20 days prior to the hearing before the board, copies of the report shall be sent to the Attorney General.

(2) The attorney representing the state may choose a psychiatrist or licensed psychologist to examine the person prior to the initial or any later decision by the board on discharge or conditional release. The results of the examination shall be in writing and filed with the board, and shall include, but need not be limited to, an opinion as to the mental condition of the person, whether the person presents a substantial danger to others and whether the person could be adequately controlled with treatment as a condition of release.

(3) Any person who has been committed to a state hospital, or to a secure intensive community inpatient facility, for custody, care and treatment under ORS 161.315 to 161.351, or another person acting on the person's behalf, may apply to the board for an order of discharge or conditional release upon the grounds:

(a) That the person is no longer affected by a qualifying mental disorder;

(b) That the person, if so affected, no longer presents a substantial danger to others; or

(c) That the person continues to be affected by a qualifying mental disorder and would continue to be a danger to others without treatment, but that the person can be adequately controlled and given proper care and treatment if placed on conditional release.

(4) When application is made under subsection (3) of this section, the board shall require that a report from the superintendent of the hospital or the director of the secure intensive community inpatient facility be prepared and transmitted as provided in subsection (1) of this section. The applicant must prove by a preponderance of the evidence the applicant's fitness for discharge or conditional release under the standards of subsection (3) of this section, unless more than two years has passed since the state had the burden of proof on that issue, in which case the state shall have the burden of proving by a preponderance of the evidence the applicant's lack of fitness for discharge or conditional release. Applications for discharge or conditional release under subsection (3) of this section

may not be filed more often than once every six months commencing with the date of the initial board hearing.

(5) The board is not required to hold a hearing on a first application under subsection (3) of this section any sooner than 90 days after the initial hearing. Hearings resulting from any subsequent requests shall be held within 60 days of the filing of the application.

(6)(a) In no case shall a person committed by the court under ORS 161.327 to a state hospital, or to a secure intensive community inpatient facility, be held in the hospital or facility for more than 90 days from the date of the court's commitment order without an initial hearing before the board to determine whether the person should be conditionally released or discharged.

(b) In no case shall a person be held pursuant to this section for a period of time exceeding two years without a hearing before the board to determine whether the person should be conditionally released or discharged. [1977 c.380 §13 (enacted in lieu of 161.340); 1979 c.885 §4; 1981 c.711 §6; 1983 c.800 §10; 1985 c.192 §3; 1989 c.790 §50; 1991 c.244 §1; 2005 c.685 §3; 2009 c.595 §104; 2011 c.708 §3; 2017 c.442 §4; 2017 c.634 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.346 - Hearings on discharge, conditional release, commitment or modification; psychiatric reports; notice of hearing.**

(1) When the Psychiatric Security Review Board conducts a hearing under ORS 161.315 to 161.351, the board shall enter an order and make findings in support of the order. If the board finds that a person under the jurisdiction of the board:

(a) Is no longer affected by a qualifying mental disorder, or, if so affected, no longer presents a substantial danger to others, the board shall order the person discharged from commitment and conditional release.

(b) Is still affected by a qualifying mental disorder and is a substantial danger to others, but can be controlled adequately if conditionally released with treatment as a condition of release, the board shall order the person conditionally released as provided in ORS 161.336.

(c) Has not recovered from the qualifying mental disorder, is a substantial danger to others and cannot adequately be controlled if conditionally released on supervision, the board shall order the person committed to, or retained in, a state hospital, or if the person is under 18 years of age, a secure intensive community inpatient facility, for care, custody and treatment.

(2) To assist the board in making the determination described in subsection (1) of this section, the board may, at any time, appoint a psychiatrist or licensed psychologist to examine the person and to submit a report to the board. The report must include an opinion as to the mental condition of the person, whether the person presents a substantial danger to others and whether the person could be adequately controlled with treatment as a condition of release.

(3) The board may make the determination regarding discharge or conditional release based upon the written reports submitted pursuant to this section. If any member of the board desires further information from the examining psychiatrist or licensed psychologist who submitted the report, the board shall summon the person to give testimony. The board shall consider all evidence available to it that is material, relevant and reliable regarding the issues before the board. The evidence may include but is not limited to the record of trial, the information supplied by the attorney representing the state or by any other interested party, including the person, and information concerning the person's mental condition and the entire psychiatric and criminal history of the person. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible at hearings. Testimony shall be taken upon oath or affirmation of the witness from whom received. The officer presiding at the hearing shall administer oaths or affirmations to witnesses.

(4) The board shall furnish to the person about whom the hearing is being conducted, the attorney representing the person, the Attorney General and the district attorney of the county from which the person was committed written notice of any hearing pending under this section within a reasonable time prior to the hearing. The notice shall include:

(a) The time, place and location of the hearing.

(b) The nature of the hearing and the specific action for which a hearing has been requested, the issues to be considered at the hearing and a reference to the particular sections of the statutes and rules involved.

(c) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(d) A statement of all rights under subsection (6) of this section.

(5) Prior to the commencement of the hearing, the board shall serve personally or by mail a written notice to each party as provided in ORS 183.413 (2).

(6) At the hearing, the person about whom the hearing is being held shall have the right:

(a) To appear at all proceedings held pursuant to this section, except for deliberations.

(b) To cross-examine all witnesses appearing to testify at the hearing.

(c) To subpoena witnesses and documents as provided in ORS 161.395.

(d) To be represented by suitable legal counsel possessing skills and experience commensurate with the nature and complexity of the case, to consult with counsel prior to the hearing and, if financially eligible, to have suitable counsel appointed at state expense.

(e) To examine all information, documents and reports that the board considers. If then available to the board, the information, documents and reports shall be disclosed to the person so as to allow examination prior to the hearing.

(7) A record shall be kept of all hearings conducted under ORS 161.315 to 161.351, except for deliberations.

(8) Upon request of any party, or on motion of the board, the hearing may be continued for a reasonable period not to exceed 60 days to obtain additional information or testimony or for other good cause shown.

(9) Within 30 days following the conclusion of the hearing, the board shall provide to the person, the attorney representing the person, the Attorney General or other attorney representing the state, if any, written notice of the order entered by the board.

(10) The burden of proof on all issues at hearings under ORS 161.315 to 161.351 shall be by a preponderance of the evidence.

(11) If the board determines that the person about whom the hearing is being held is financially eligible, the board shall appoint suitable counsel to represent the person. Counsel so appointed shall be an attorney who satisfies the minimum standards established by the Oregon Public Defense Commission under ORS 151.216. The executive director of the commission shall determine and allow fair compensation for counsel appointed under this subsection and the reasonable expenses of the person in respect to the hearing. Compensation payable to appointed counsel shall not be less than the applicable compensation level established under ORS 151.216. The compensation and expenses so allowed shall be paid by the executive director from funds available for the purpose.

(12) The Attorney General may represent the state at contested hearings under ORS 161.315 to 161.351 unless the district attorney of the county from which the person was committed elects to represent the state. The district attorney of the county from which the person was committed shall cooperate with the Attorney General in securing the material necessary for presenting a contested hearing. If the district attorney elects to represent the state, the district attorney shall give timely written notice of such election to the Attorney General, the board and the attorney representing the person. [1977 c.380 §15 (enacted in lieu of 161.345); 1979 c.867 §6; 1979 c.885 §5; 1981 c.711 §7; 1981 s.s. c.3 §130; 1983 c.430 §1; 1985 c.502 §23; 1987 c.803 §19; 1991 c.827 §3; 2001 c.962 §40; 2003 c.449 §32; 2005 c.685 §4; 2007 c.288 §7; 2009 c.595 §105; 2011 c.708 §1; 2017 c.232 §1; 2017 c.442 §2; 2017 c.634 §12; 2023 c.281 §41]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.348 - Judicial review.**

(1) When a person over whom the Psychiatric Security Review Board exercises jurisdiction under ORS 161.315 to 161.351 or 419C.544 is adversely affected or aggrieved by a final order of the board, the person is entitled to judicial review of the final order. The person is entitled on judicial review to suitable counsel possessing skills and experience commensurate with the nature and complexity of the case. If the person is financially eligible, suitable counsel shall be appointed by the reviewing court in the manner provided in ORS 138.500 (1). If the person is financially eligible, the executive director of the Oregon Public Defense Commission shall determine and pay, as provided in ORS 138.500, the cost of briefs, any other expenses of the person necessary to the review and compensation for counsel appointed for the person. The costs, expenses and compensation so allowed shall be paid as provided in ORS 138.500.

(2) The order and the proceedings underlying the order are subject to review by the Court of Appeals upon petition to that court filed within 60 days of the order for which review is sought. The board shall submit to the court the record of the proceeding or, if the person agrees, a shortened record. The record may include a certified true copy of a tape recording of the proceedings at a hearing in accordance with ORS 161.346. A copy of the record transmitted shall be delivered to the person by the board.

(3) The court may affirm, reverse or remand the order on the same basis as provided in ORS 183.482 (8).

(4) The filing of the petition does not stay the order of the board, but the board or the Court of Appeals may order a stay upon application on such terms as are deemed proper. [2011 c.708 §9; 2017 c.442 §8; 2023 c.281 §42]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.349 - Person committed under ORS 161.315 to 161.351 sentenced to term of incarceration.**

(1) When a person who is committed to a state hospital or a secure intensive community inpatient facility under ORS 161.315 to 161.351 is convicted of a crime and sentenced to a term of incarceration and when the person is sentenced to a term of incarceration as a sanction for violating the conditions of probation, parole or post-prison supervision, the sentencing court shall stay execution of the sentence pending the conditional release or discharge of the person or the expiration of the period of time described in ORS 161.327 (7). When the person is conditionally released or discharged by the Psychiatric Security Review Board under ORS 161.315 to 161.351, or when the maximum period of jurisdiction described in ORS 161.327 (7) expires, the stay shall be lifted by operation of law and the person shall be delivered to the custody of the Department of Corrections or the supervisory authority to begin service of the sentence imposed.

(2) When a person described in subsection (1) of this section is delivered to the custody of the department or the supervisory authority as described in this section, the board shall notify the department or the supervisory authority when the period of time described in ORS 161.327 (7) will expire.

(3) The department or supervisory authority shall notify the board when the person has served the term of incarceration imposed by the court and the board shall resume exercising active jurisdiction over the person in accordance with ORS 161.315 to 161.351.

(4) As used in this section, "supervisory authority" has the meaning given that term in ORS 144.087. [2011 c.708 §15; 2011 c.708 §39; 2017 c.442 §13; 2021 c.483 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.351 - Discharge by board; effect of remission; protection of society.**

(1) Any person placed under the jurisdiction of the Psychiatric Security Review Board under ORS 161.315 to 161.351 shall be discharged at such time as the board, upon a hearing, finds by a preponderance of the evidence that the person is no longer affected by a qualifying mental disorder or, if so affected, no longer presents a substantial danger to others that requires regular medical care, medication, supervision or treatment.

(2) For purposes of ORS 161.315 to 161.351, a person affected by a qualifying mental disorder in a state of remission is considered



to have a qualifying mental disorder. A person whose qualifying mental disorder may, with reasonable medical probability, occasionally become active and when it becomes active will render the person a danger to others may not be discharged. The person shall continue under supervision and treatment necessary to protect the person and others.

(3) In determining whether a person should be committed to a state hospital or secure intensive community inpatient facility, conditionally released or discharged, the board shall have as its primary concern the protection of society. [1977 c.380 §17 (enacted in lieu of 161.350); 1981 c.711 §13; 1985 c.192 §4; 1989 c.49 §1; 2011 c.708 §4; 2017 c.442 §5; 2017 c.634 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.355 - Definitions.**

As used in ORS 161.355 to 161.371:

(1) "Certified evaluator" has the meaning given that term in ORS 161.309.

(2) "Community restoration services" means services and treatment necessary to safely allow a defendant to gain or regain fitness to proceed in the community, which may include supervision by pretrial services.

(3) "Hospital level of care" means that a defendant requires the type of care provided by an inpatient hospital in order to gain or regain fitness to proceed.

(4) "Public safety concerns" means that the defendant presents a risk to self or to the public if not hospitalized or in custody. [2021 c.395 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.360 - Qualifying mental disorder affecting fitness to proceed.**

(1) If, before or during the trial in any criminal case, the court has reason to doubt the defendant's fitness to proceed by reason of incapacity, the court may order an examination in the manner provided in ORS 161.365.

(2) A defendant may be found incapacitated if, as a result of a qualifying mental disorder, the defendant is unable:

(a) To understand the nature of the proceedings against the defendant;

(b) To assist and cooperate with the counsel of the defendant; or

(c) To participate in the defense of the defendant. [1971 c.743 §50; 1993 c.238 §1; 2017 c.634 §14; 2021 c.97 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.362 - Requirements for recommendations, determinations and orders; confidentiality; electronic appearance.**

(1) A recommendation provided by a certified evaluator, pursuant to ORS 161.355 to 161.371, that a defendant requires a hospital level of care due to the acuity of the defendant's symptoms must be based upon the defendant's current diagnosis and symptomology, the defendant's current ability to engage in treatment, present safety concerns relating to the defendant and any other pertinent information known to the evaluator. If the defendant is in a placement in a facility, the evaluator may defer to the treatment provider's recommendation regarding whether a hospital level of care is needed.

(2) A determination by a community mental health program director, or the director's designee, pursuant to ORS 161.355 to 161.371, that appropriate community restoration services are not present and available in the community must include information concerning the specific services necessary to safely allow the defendant to gain or regain fitness to proceed in the community and must specify the necessary services that are not present and available in the community.

(3)(a) Reports resulting from examinations performed by a certified evaluator, and documents containing the recommendations of or resulting from consultations with a community mental health program director or the director's designee, prepared under ORS 161.355 to 161.371, and any document submitted to the court by a state mental hospital related to the proceedings under ORS 161.355 to 161.371, are confidential and may be made available only:

(A) To the court, prosecuting attorney, defense attorney, agent of the prosecuting or defense attorney, defendant, community mental health program director or designee, state mental hospital and any facility in which the defendant is housed; or

(B) As ordered by a court.

(b) Any facility in which a defendant is housed may not use a report or document described in paragraph (a) of this subsection to support a disciplinary action against the defendant.

(c) Nothing in this subsection prohibits the prosecuting attorney, defense attorney or agent of the prosecuting or defense attorney from discussing the contents of a report or document described in paragraph (a) of this subsection with witnesses or victims as otherwise permitted by law.

(4) The court shall ensure that an order entered under ORS 161.355 to 161.371 is provided, by the end of the next judicial day, to any entity ordered to provide restoration services.

(5) Unless the court orders otherwise or either party objects, a defendant committed to a state mental hospital or other facility, or a certified evaluator or other expert witness, may attend hearings held under ORS 161.355 to 161.371 via simultaneous electronic transmission. [2021 c.395 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.365 - Procedure for determining issue of fitness to proceed; consultation; examination; report; rules.**

(1)(a) When the court has reason to doubt the defendant's fitness to proceed by reason of incapacity as described in ORS 161.360, the court may call any witness to assist it in reaching its decision and, except as provided in paragraph (b) of this subsection, shall order that a community mental health program director, or the director's designee, consult with the defendant and with any local entity that would be responsible for providing community restoration services to the defendant if the defendant were to be released in the community, to determine whether appropriate community restoration services are present and available in the community. After the consultation, the program director or the director's designee shall provide to the court a copy of the findings resulting from the consultation.

(b) If the defendant is charged with one or more of the following offenses the court is not required to, but may in its discretion, order the consultation described in paragraph (a) of this subsection:

- (A) Aggravated murder;
- (B) Murder in any degree;
- (C) Attempted aggravated murder;
- (D) Attempted murder in any degree;
- (E) Manslaughter in any degree;
- (F) Aggravated vehicular homicide;
- (G) Arson in the first degree when classified as crime category 10 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;
- (H) Assault in the first degree;
- (I) Assault in the second degree;
- (J) Kidnapping in the first degree;
- (K) Kidnapping in the second degree;
- (L) Rape in the first degree;
- (M) Sodomy in the first degree;
- (N) Unlawful sexual penetration in the first degree;
- (O) Robbery in the first degree; or
- (P) Robbery in the second degree.

(c) If the court determines the assistance of a psychiatrist or psychologist would be helpful, the court may:

- (A) Order that a psychiatric or psychological examination of the defendant be conducted by a certified evaluator and a report of the examination be prepared; or
  - (B) Order the defendant to be committed for the purpose of an examination to a state mental hospital or other facility designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age. The state mental hospital or other facility may retain custody of a defendant committed under this paragraph for the duration necessary to complete the examination of the defendant, not to exceed 30 days. The examination may include a period of observation.
- (d) The court shall provide a copy of any order entered under this subsection to the community mental health program director or designee and to the state mental hospital or other facility by the end of the next judicial day.

(2)(a) A defendant committed under subsection (1)(c)(B) of this section shall be transported to the state mental hospital or other facility for the examination.

(b) At the conclusion of the examination, the superintendent of the state mental hospital or the superintendent's designee or the director of the facility may:

- (A) Return the defendant to the facility from which the defendant was transported; or
- (B) Inform the court and the parties that the defendant requires a hospital level of care due to the acuity of symptoms of the defendant's qualifying mental disorder and request that the defendant remain at the state mental hospital or other facility pending a hearing or order under ORS 161.370.

(3) The report of an examination described in this section must include, but is not necessarily limited to, the following:

- (a) A description of the nature of the examination;
  - (b) A statement of the mental condition of the defendant;
  - (c) If the defendant suffers from a qualifying mental disorder, an opinion as to whether the defendant is incapacitated within the description set out in ORS 161.360; and
  - (d) If the defendant is incapacitated within the description set out in ORS 161.360, a recommendation of treatment and services necessary to allow the defendant to gain or regain capacity, including whether a hospital level of care is required due to the acuity of symptoms of the defendant's qualifying mental disorder.
- (4) Except when the defendant and the court both request to the contrary, the report may not contain any findings or conclusions as to whether the defendant as a result of a qualifying mental disorder was subject to the provisions of ORS 161.295 or 161.300 at the time of the criminal act charged.
- (5) If the examination by the certified evaluator cannot be conducted by reason of the unwillingness of the defendant to participate in the examination, the report must so state and must include, if possible, an opinion as to whether the unwillingness of the defendant was the result of a qualifying mental disorder affecting fitness to proceed.
- (6) The report resulting from the examination of a defendant under this section may be filed electronically and must be filed with the

clerk of the court, who shall cause copies to be delivered to the district attorney and to counsel for defendant.

(7)(a) When upon motion of the court or a financially eligible defendant, the court has ordered a psychiatric or psychological examination of the defendant, a county or justice court shall order the county to pay, a municipal court shall order the city to pay, and a circuit court shall order the executive director of the Oregon Public Defense Commission to pay from funds available for the purpose:

(A) A reasonable fee if the examination of the defendant is conducted by a certified evaluator in private practice; and

(B) All costs including transportation of the defendant if the examination is conducted by a certified evaluator in the employ of the Oregon Health Authority or a community mental health program established under ORS 430.610 to 430.670.

(b) When an examination is ordered at the request or with the acquiescence of a defendant who is determined not to be financially eligible, the examination shall be performed at the defendant's expense. When an examination is ordered at the request of the prosecution, the county shall pay for the expense of the examination.

(8) The Oregon Health Authority shall establish by rule standards for the consultation described in subsection (1) of this section. [1971 c.743 §51; 1975 c.380 §4; 1981 s.s. c.3 §131; 1983 c.800 §11; 1987 c.803 §18; 1993 c.238 §2; 2001 c.962 §90; 2005 c.685 §5; 2009 c.595 §106; 2011 c.724 §7; 2015 c.130 §1; 2017 c.252 §25; 2017 c.634 §15; 2019 c.311 §4; 2019 c.318 §1; 2019 c.538 §1a; 2021 c.395 §6; 2023 c.281 §43]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.367 - Gaining or regaining fitness; credit for time served; firearm prohibition.**

(1) If at any time the court determines that the defendant lacks fitness to proceed, the court shall further determine whether there is a substantial probability that the defendant, in the foreseeable future, will gain or regain fitness to proceed. If the court determines that there is no substantial probability that the defendant, in the foreseeable future, will gain or regain fitness to proceed, the court shall dismiss, without prejudice and in accordance with subsection (6) of this section, all charges against the defendant and:

(a) Order that the defendant be discharged; or

(b) Initiate commitment proceedings under ORS 426.070, 426.701 or 427.235 to 427.292.

(2)(a) The superintendent of the hospital or director of the facility in which the defendant is committed under ORS 161.370 or a person examining the defendant as a condition of release to community restoration services shall notify the court if the defendant gains or regains fitness to proceed.

(b) A party to the case may notify the court if the defendant has gained or regained fitness to proceed.

(c) The court may, upon its own motion or the request of either party, hold a hearing to determine whether the defendant has gained or regained fitness to proceed. If the court determines that the defendant has gained or regained fitness to proceed, the court shall resume the criminal proceeding unless the court determines that so much time has elapsed since the commitment or release of the defendant to community restoration services that it would be unjust to resume the criminal proceeding. If the court determines that it would be unjust to resume the criminal proceeding, the court, on motion of either party, may dismiss the charge in accordance with subsection (6) of this section, and may order the defendant to be discharged or cause a proceeding to be commenced forthwith under ORS 426.070 to 426.170, 426.701 or 427.235 to 427.292.

(3) If the defendant gains or regains fitness to proceed, the defendant shall be given credit against each charge alleged in the accusatory instrument for each day the defendant was committed under ORS 161.370 to the custody of a state mental hospital, or to the custody of a secure intensive community inpatient facility designated by the Oregon Health Authority.

(4) Notwithstanding the suspension of the criminal proceeding under ORS 161.370 (2), the fact that the defendant is unfit to proceed does not preclude any objection through counsel and without the personal participation of the defendant on the grounds that the indictment is insufficient, that the statute of limitations has run, that double jeopardy principles apply or upon any other ground at the discretion of the court which the court deems susceptible of fair determination prior to trial.

(5) At the time that the court determines that the defendant lacks fitness to proceed under ORS 161.370 (2), the court shall notify the defendant in writing that federal law prohibits the defendant from purchasing or possessing a firearm unless the person obtains relief from the prohibition under federal law. The court shall again notify the defendant in writing of the prohibition if the court finds that the defendant has gained or regained fitness to proceed under subsection (2) of this section.

(6) If the court intends to dismiss all charges involving orders of commitment against a defendant who is committed to and currently located at a state mental hospital or other facility, the court shall order that the defendant be immediately transported back to the jurisdiction in which the charges were initiated, and the dismissal shall take effect only upon the defendant's arrival in that jurisdiction. [2021 c.395 §4; 2023 c.227 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.370 - Determination of fitness to proceed; proceedings upon finding of unfitness; commitment; rules.**

(1)(a) When the defendant's fitness to proceed is drawn in question, the issue shall be determined by the court.

(b) If neither the prosecuting attorney nor counsel for the defendant contests the finding of the report filed under ORS 161.365, the court may make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence in the hearing, the party who contests the finding has the right to summon and to cross-examine any certified evaluator who submitted the report and to offer evidence upon the issue. Other evidence regarding the defendant's fitness to proceed may be introduced by either party.

- (2)(a) If the court determines that the defendant lacks fitness to proceed, the criminal proceeding against the defendant shall be suspended and the court shall proceed in accordance with this subsection.
- (b) After making the determination under paragraph (a) of this subsection, the court shall receive a recommendation from a community mental health program director or the director's designee, and from any local entity that would be responsible for treating the defendant if the defendant were to be released in the community, concerning whether appropriate community restoration services are present and available in the community.
- (c) If the parties agree as to the appropriate action under this section, the court may, after making all findings required by law, enter any order authorized by this section. If the parties do not agree as to the appropriate action, the court and the parties shall, at a hearing, consider an appropriate action in the case, and the court shall make a determination and enter an order necessary to implement the action. In determining the appropriate action, the court shall consider the primary and secondary release criteria as defined in ORS 135.230, the least restrictive option appropriate for the defendant, the needs of the defendant and the interests of justice. Actions may include but are not limited to:
- (A) Commitment for the defendant to gain or regain fitness to proceed under subsection (3) or (4) of this section;
  - (B) An order to engage in community restoration services, as recommended by the community mental health program director or designee, under subsection (6) of this section;
  - (C) Commencement of a civil commitment proceeding under ORS 426.070 to 426.170, 426.701 or 427.235 to 427.292;
  - (D) Commencement of protective proceedings under ORS chapter 125; or
  - (E) Dismissal of the charges pursuant to ORS 135.755 and in accordance with ORS 161.367 (6).
- (d) If the court, while considering or ordering an appropriate action under this subsection, does not order the defendant committed to a state mental hospital or other facility, but finds that appropriate community restoration services are not present and available in the community, for any defendant remaining in custody after such determination, the court shall set a review hearing seven days from the date of the determination under paragraph (a) of this subsection. At the review hearing, the court shall consider all relevant information and determine if commitment to the state mental hospital or other facility is appropriate under subsection (3) or (4) of this section, or if another action described in paragraph (c) of this subsection is appropriate. At the conclusion of the hearing the court shall enter an order in accordance with the defendant's constitutional rights to due process.
- (e) If the court determines that the appropriate action in the case is an order for the defendant to engage in community restoration services, but the defendant has a pending criminal case, warrant or hold in one or more other jurisdictions, the other jurisdictions shall, within two judicial days of becoming aware of the proceeding under this section, communicate with the court and the other jurisdictions, if applicable, to develop a plan to address the interests of all jurisdictions in the defendant in a timely manner.
- (3)(a) If the most serious offense in the charging instrument is a felony, the court shall commit the defendant to the custody of the superintendent of a state mental hospital or director of a facility designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to the custody of the director of a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age, if the court makes the following findings:
- (A) The defendant requires a hospital level of care due to public safety concerns if the defendant is not hospitalized or in custody or the acuity of symptoms of the defendant's qualifying mental disorder; and
  - (B) Based on the findings resulting from a consultation described in ORS 161.365 (1), if applicable, from any information provided by community-based mental health providers or any other sources, and primary and secondary release criteria as defined in ORS 135.230, the appropriate community restoration services are not present and available in the community.
- (b) If the defendant is committed under this subsection, the community mental health program director, or director's designee, shall at regular intervals, during any period of commitment, review available community restoration services and maintain communication with the defendant and the superintendent of the state mental hospital or director of the facility in order to facilitate an efficient transition to treatment in the community when ordered.
- (c) If the court does not order the commitment of the defendant under this subsection, the court shall proceed in accordance with subsection (2)(c) of this section to determine and order an appropriate action other than commitment.
- (4)(a) If the most serious offense in the charging instrument is a misdemeanor, the court may not commit the defendant to the custody of the superintendent of a state mental hospital or director of a facility designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to the custody of the director of a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age, unless the court:
- (A)(i) Receives a recommendation from a certified evaluator that the defendant requires a hospital level of care due to the acuity of symptoms of the defendant's qualifying mental disorder; and
  - (ii) Receives a recommendation from a community mental health program director, or director's designee, that the appropriate community restoration services are not present and available in the community; or
  - (B) Determines that the defendant requires a hospital level of care after making all of the following written findings:
    - (i) The defendant needs a hospital level of care due to the acuity of the symptoms of the defendant's qualifying mental disorder;
    - (ii) There are public safety concerns; and
    - (iii) The appropriate community restoration services are not present and available in the community.
- (b) If at the time of determining the appropriate action for the case, the court is considering commitment under paragraph (a)(A) of this subsection and:
- (A) Has not received a recommendation from a certified evaluator as to whether the defendant requires a hospital level of care due

to the acuity of symptoms of the defendant's qualifying mental disorder, the court shall order a certified evaluator to make such a recommendation.

(B) Has not received a recommendation from the community mental health program director or designee concerning whether appropriate community restoration services are present and available in the community, the court shall order the director or designee to make such a recommendation.

(c) If the court does not order the commitment of the defendant under this subsection, the court shall proceed in accordance with subsection (2)(c) of this section to determine and order an appropriate action other than commitment.

(d) If the defendant is committed under this subsection, the community mental health program director, or director's designee, shall at regular intervals, during any period of commitment, review available community restoration services and maintain communication with the defendant and the superintendent of the state mental hospital or director of the facility in order to facilitate an efficient transition to treatment in the community when ordered.

(5) If the most serious offense in the charging instrument is a violation, the court may not commit the defendant to the custody of the superintendent of a state mental hospital or director of a facility designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to the custody of the director of a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age.

(6)(a) If the court does not order the commitment of the defendant under subsection (3) or (4) of this section, if commitment is precluded under subsection (5) of this section or if the court determines that care other than commitment would better serve the defendant and the community, the court shall release the defendant, pursuant to an order that the defendant engage in community restoration services, until the defendant has gained or regained fitness to proceed, or until the court finds there is no substantial probability that the defendant will, within the foreseeable future, gain or regain fitness to proceed. The court may not order the defendant to engage in community restoration services in another county without permission from the other county.

(b) The court may order a community mental health program director coordinating the defendant's treatment in the community to provide the court with status reports on the defendant's progress in gaining or regaining fitness to proceed. The director shall provide a status report if the defendant is not complying with court-ordered restoration services.

(c) A community mental health program director coordinating the defendant's treatment in the community shall notify the court if the defendant gains or regains fitness to proceed. The notice shall be filed with the court and may be filed electronically. The clerk of the court shall cause copies of the notice to be delivered to both the district attorney and the counsel for the defendant.

(d) When a defendant is ordered to engage in community restoration services under this subsection, the court may place conditions that the court deems appropriate on the release, including the requirement that the defendant regularly report to a state mental hospital or a certified evaluator for examination to determine if the defendant has gained or regained fitness to proceed.

(7) The Oregon Health Authority shall establish by rule standards for the recommendation provided to the court described in subsection (2) of this section. [1971 c.743 §52; 1975 c.380 §5; 1993 c.238 §3; 1999 c.931 §§1,2; 2005 c.685 §6; 2009 c.595 §107; 2011 c.508 §1; 2011 c.724 §8; 2015 c.130 §2; 2017 c.49 §1; 2017 c.233 §3; 2017 c.628 §1; 2017 c.634 §16; 2019 c.311 §5; 2019 c.318 §2; 2019 c.538 §2a; 2021 c.395 §7; 2023 c.227 §2]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.371 - Procedures upon commitment of defendant; maximum term of commitment.**

(1) The superintendent of a state mental hospital or director of a facility to which the defendant is committed under ORS 161.370 shall cause the defendant to be evaluated within 60 days from the defendant's delivery into the superintendent's or director's custody, for the purpose of determining whether there is a substantial probability that, in the foreseeable future, the defendant will have fitness to proceed. In addition, the superintendent or director shall:

(a) Immediately notify the committing court if the defendant, at any time, gains or regains fitness to proceed or if there is no substantial probability that, within the foreseeable future, the defendant will gain or regain fitness to proceed.

(b) Within 90 days of the defendant's delivery into the superintendent's or director's custody, notify the committing court that:

(A) The defendant has present fitness to proceed;

(B) There is no substantial probability that, in the foreseeable future, the defendant will gain or regain fitness to proceed; or

(C) There is a substantial probability that, in the foreseeable future, the defendant will gain or regain fitness to proceed. If the probability exists, the superintendent or director shall give the court an estimate of the time in which the defendant, with appropriate treatment, is expected to gain or regain fitness to proceed.

(c) Notify the court if court-ordered involuntary medication is necessary for the defendant to gain or regain fitness to proceed and, if appropriate, submit a report to the court under ORS 161.372.

(2)(a) If the superintendent of the state mental hospital or director of the facility to which the defendant is committed determines that there is a substantial probability that, in the foreseeable future, the defendant will gain or regain fitness to proceed, unless the court otherwise orders, the defendant shall remain in the superintendent's or director's custody where the defendant shall receive treatment designed for the purpose of enabling the defendant to gain or regain fitness to proceed. In keeping with the notice requirement under subsection (1)(b) of this section, the superintendent or director shall, for the duration of the defendant's period of commitment, submit a progress report to the committing court, concerning the defendant's fitness to proceed, at least once every 180 days as measured from the date of the defendant's delivery into the superintendent's or director's custody.

(b) A progress report described in paragraph (a) of this subsection may consist of an update to:

(A) The original examination report conducted under ORS 161.365; or

(B) An evaluation conducted under subsection (1) of this section, if the defendant did not receive an examination under ORS 161.365.

(3)(a) Notwithstanding subsection (2) of this section, if the most serious offense in the charging instrument is a felony, and the superintendent of the state mental hospital or director of the facility to which the defendant is committed determines that a hospital level of care is no longer necessary due to present public safety concerns and the acuity of symptoms of the defendant's qualifying mental disorder, the superintendent or director may file notice of the determination with the court. Upon receipt of the notice, the court shall order that a community mental health program director or the director's designee, within five judicial days:

(A) Consult with the defendant and with any local entity that would be responsible for providing community restoration services, if the defendant were to be released in the community, to determine whether community restoration services are present and available in the community; and

(B) Provide the court and the parties with recommendations from the consultation.

(b) Notwithstanding subsection (2) of this section, if the most serious offense in the charging instrument is a felony, and the community mental health program director determines that community restoration services that would mitigate any risk posed by the defendant are present and available in the community, the community mental health program director may file notice of the determination with the court. Upon receipt of the notice, the court shall order that the superintendent of the state mental hospital or director of the facility to which the defendant is committed, within five judicial days:

(A) Evaluate the defendant to determine whether a hospital level of care is no longer necessary due to present public safety concerns, or no longer necessary due to the acuity of symptoms of the defendant's qualifying mental disorder; and

(B) Provide the court and the parties with recommendations from the evaluation.

(c) Within 10 judicial days of receiving the recommendations described in paragraph (a) or (b) of this subsection, the court shall hold a hearing to determine an appropriate action in accordance with ORS 161.370 (2)(c) as follows:

(A) If, after consideration of the factors and possible actions described in ORS 161.370 (2)(c) and any recommendations received under paragraph (a) or (b) of this subsection, the court determines that a hospital level of care is necessary due to public safety concerns or the acuity of symptoms of the defendant's qualifying mental disorder, and that based on the consultation or evaluation described in paragraph (a) or (b) of this subsection, any information provided by community-based mental health providers or any other sources, primary and secondary release criteria as defined in ORS 135.230, and any other information the court finds to be trustworthy and reliable, the appropriate community restoration services are not present and available in the community, the court may continue the commitment of the defendant.

(B) If the court does not make the determination described in subparagraph (A) of this paragraph, the court shall terminate the commitment and shall set a review hearing seven days from the date of the commitment termination for any defendant remaining in custody. At the review hearing, the court shall consider all relevant information, determine an appropriate action in the case as described in ORS 161.370 (2)(c) and enter an order in accordance with the defendant's constitutional rights to due process.

(4)(a) Notwithstanding subsection (2) of this section, if the most serious offense in the charging instrument is a misdemeanor, and the superintendent of the state mental hospital or director of the facility to which the defendant is committed determines that the defendant no longer needs a hospital level of care due to the acuity of symptoms of the defendant's qualifying mental disorder or there are not present public safety concerns, the superintendent or director shall file notice of the determination with the court, along with recommendations regarding the necessary community restoration services that would mitigate any risk presented by the defendant. Upon receipt of the notice, the court shall order that a community mental health program director or the director's designee, within five judicial days:

(A) Consult with the defendant and with any local entity that would be responsible for providing community restoration services, if the defendant were to be released in the community, to determine whether appropriate community restoration services are present and available in the community; and

(B) Provide the court and the parties with recommendations from the consultation.

(b) Notwithstanding subsection (2) of this section, if the most serious offense in the charging instrument is a misdemeanor, and the community mental health program director determines that the community restoration services that would mitigate any risk posed by the defendant are present and available in the community, the community mental health program director may file notice of the determination with the court. Upon receipt of the notice, the court shall order that the superintendent of the state mental hospital or director of the facility to which the defendant is committed, within five judicial days:

(A) Evaluate the defendant to determine whether a hospital level of care is no longer necessary due to present public safety concerns, or no longer necessary due to the acuity of symptoms of the defendant's qualifying mental disorder; and

(B) Provide the court and the parties with recommendations from the evaluation.

(c) Within 10 judicial days of receiving the recommendations described in paragraph (a) or (b) of this subsection, the court shall hold a hearing to determine an appropriate action in accordance with ORS 161.370 (2)(c) as follows:

(A) After consideration of the factors and possible actions described in ORS 161.370 (2)(c), the consultation or evaluation and any recommendations described in paragraph (a) or (b) of this subsection, and any other information the court finds to be trustworthy and reliable, the court may continue the commitment of the defendant if the court makes written findings that a hospital level of care is necessary due to public safety concerns and the acuity of symptoms of the defendant's qualifying mental disorder, and that appropriate community restoration services are not present and available in the community.

(B) If the court does not make the findings described in subparagraph (A) of this paragraph, the court shall terminate the commitment and shall set a review hearing seven days from the date of the commitment termination for any defendant remaining in custody. At the review hearing, the court shall consider all relevant information, determine an appropriate action in the case as described in ORS 161.370 (2)(c) and enter an order in accordance with the defendant's constitutional rights to due process.

(5)(a) If a defendant remains committed under this section, the court shall determine within a reasonable period of time whether there is a substantial probability that, in the foreseeable future, the defendant will gain or regain fitness to proceed. However, regardless of the number of charges with which the defendant is accused, in no event shall the defendant be committed for longer than whichever of the following, measured from the defendant's initial custody date, is shorter:

(A) Three years; or

(B) A period of time equal to the maximum sentence the court could have imposed if the defendant had been convicted.

(b) For purposes of calculating the maximum period of commitment described in paragraph (a) of this subsection:

(A) The initial custody date is the date on which the defendant is first committed under this section on any charge alleged in the accusatory instrument; and

(B) The defendant shall be given credit against each charge alleged in the accusatory instrument:

(i) For each day the defendant is committed under this section, whether the days are consecutive or are interrupted by a period of time during which the defendant has gained or regained fitness to proceed; and

(ii) Unless the defendant is charged on any charging instrument with aggravated murder or a crime listed in ORS 137.700 (2), for each day the defendant is held in jail before and after the date the defendant is first committed, whether the days are consecutive or are interrupted by a period of time during which the defendant lacks fitness to proceed.

(c) The superintendent of the state mental hospital or director of the facility to which the defendant is committed shall notify the committing court of the defendant's impending discharge 30 days before the date on which the superintendent or director is required to discharge the defendant under this subsection.

(6)(a) All notices required under this section shall be filed with the court and may be filed electronically. The clerk of the court shall cause copies of the notices to be delivered to both the district attorney and the counsel for the defendant.

(b) When the committing court receives a notice from the superintendent or director under subsection (1) of this section concerning the defendant's progress or lack thereof, or under subsection (5) of this section concerning the defendant's impending discharge, the committing court shall determine, after a hearing if a hearing is requested, whether the defendant presently has fitness to proceed.

(7) If at any time the court determines that the defendant lacks fitness to proceed, the court shall further determine whether the defendant is entitled to discharge under subsection (5) of this section. If the court determines that the defendant is entitled to discharge under subsection (5) of this section, the court shall dismiss, without prejudice and in accordance with ORS 161.367 (6), all charges against the defendant and:

(a) Order that the defendant be discharged; or

(b) Initiate commitment proceedings under ORS 426.070, 426.701 or 427.235 to 427.292. [2021 c.395 §5; 2023 c.227 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.372 - Involuntary administration of medication for fitness to proceed; hearing; court order; confidentiality.**

(1) If, at any point while the defendant is in the custody of the superintendent of the state mental hospital after commitment under ORS 161.370, the superintendent determines that medication is the recommended treatment in order to allow the defendant to gain or regain fitness to proceed, the defendant is refusing to take the recommended medication and the defendant cannot be involuntarily medicated without a court order, the superintendent shall submit a report of the determination to the court.

(2) The report described in subsection (1) of this section shall include:

(a) Information regarding the benefits and side effects of each recommended medication;

(b) Information concerning the defendant's refusal to take the recommended medication; and

(c) The likelihood that the medication will allow the defendant to gain or regain fitness to proceed.

(3)(a) Based upon the report described in subsection (1) of this section, the prosecuting attorney may file a motion requesting that the court authorize the involuntary administration of medication to the defendant. The prosecuting attorney shall provide a copy of the motion to the defendant.

(b) The court shall hold a hearing on the motion if either the prosecuting attorney or the defendant requests a hearing. At the hearing, the court shall determine whether to issue an order authorizing the involuntary administration of medication to the defendant.

(c) In order to enter an order authorizing the involuntary administration of medication to the defendant, the court must find that:

(A) Involuntary medication of the defendant is not otherwise authorized by law;

(B) There are important state interests at stake in the prosecution of the defendant;

(C) The recommended medication will significantly further the important state interests because:

(i) It is substantially likely that the medication will render the defendant fit to proceed; and

(ii) It is substantially unlikely that the medication will cause side effects that will impair the fairness of the criminal proceeding;

(D) Involuntary administration of medication is necessary to further the important state interests because there are no alternative, less intrusive treatments that would produce the same result as the medication; and

(E) Administration of the medication is medically appropriate because it is in the defendant's best medical interest in light of the defendant's medical condition.

- (d) A court order authorizing the involuntary administration of medication to a defendant under this section must specify:
- (A) The specific medication or type of medications permitted to be administered to the defendant;
  - (B) The maximum dosage that may be administered; and
  - (C) The duration of time that the state mental hospital may involuntarily medicate the defendant before reporting back to the court on the defendant's mental condition and progress toward gaining or regaining fitness to proceed. The duration of time shall not exceed the maximum period of the defendant's commitment to the state mental hospital, or 180 calendar days, whichever is shorter.
- (4)(a) Reports, motions and orders concerning the involuntary medication of a defendant under this section are confidential and may be made available only:
- (A) To the court, prosecuting attorney, defense attorney, agent of the prosecuting or defense attorney, defendant, community mental health program director or designee, state mental hospital and any facility in which the defendant is housed; or
  - (B) As ordered by a court.
- (b) Any facility in which a defendant is housed may not use a report or document described in paragraph (a) of this subsection to support a disciplinary action against the defendant.
- (c) Nothing in this subsection prohibits the prosecuting attorney, defense attorney or agent of the prosecuting or defense attorney from discussing the contents of a report or document described in paragraph (a) of this subsection with witnesses or victims as otherwise permitted by law. [2019 c.318 §4; 2021 c.395 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.373 - Records for fitness to proceed examination; compliance with court order.**

- (1) Unless otherwise prohibited by law or for good cause, all public bodies, as defined in ORS 174.109, and any private medical provider in possession of records concerning the defendant, shall, within five business days of receipt of the order, comply with a court order for the release of records to the state mental hospital or other facility designated by the Oregon Health Authority for the purpose of conducting an examination or evaluation under ORS 161.355 to 161.371.
- (2) Notwithstanding subsection (1) of this section, the Oregon Youth Authority, the Department of Corrections, a community college district, a community college service district, a public university, a school district or an education service district may, after notifying the state hospital or other facility designated by the Oregon Health Authority, comply with the court order within 15 business days of receipt of the order without good cause.
- (3) As used in this section, in the case of a community college district, a community college service district, a public university, a school district or an education service district, "business day" does not include any day on which the central administration offices of the district or university are closed. [2019 c.311 §2; 2021 c.395 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.375 - Escape of person placed at hospital or facility; authority to order arrest.**

- (1) When a patient, who has been placed at a state hospital for evaluation, care, custody and treatment under ORS 161.315 to 161.351 or by court order under ORS 161.315, 161.365 or 161.370, has escaped or is absent without authorization from the hospital or from the custody of any person in whose charge the superintendent has placed the patient, the superintendent may order the arrest and detention of the patient.
- (2) When a patient, who has been placed at a secure intensive community inpatient facility for evaluation, care, custody and treatment under ORS 161.315 to 161.351 or by court order under ORS 161.315, 161.365, 161.370 or 419C.527, has escaped or is absent without authorization from the facility or from the custody of any person in whose charge the director of the facility has placed the patient, the director of the facility shall notify the Director of the Oregon Health Authority. The Director of the Oregon Health Authority may order the arrest and detention of the patient.
- (3) The superintendent or the Director of the Oregon Health Authority may issue an order under this section based upon a reasonable belief that grounds exist for issuing the order. When reasonable, the superintendent or the Director of the Oregon Health Authority shall investigate to ascertain whether such grounds exist.
- (4) Any order issued by the superintendent or the Director of the Oregon Health Authority as authorized by this section constitutes full authority for the arrest and detention of the patient and all laws applicable to warrant or arrest apply to the order. An order issued by the superintendent or the Director of the Oregon Health Authority under this section expires 72 hours after being signed by the superintendent or the Director of the Oregon Health Authority.
- (5) As used in this section, "superintendent" means the superintendent of the state hospital to which the person was committed or the superintendent's authorized representative. [1997 c.423 §1; 2005 c.685 §7; 2005 c.843 §24a; 2009 c.595 §108; 2011 c.708 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.380**  
[1971 c.743 §53; renumbered 161.290]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.385 - Psychiatric Security Review Board; composition, term, qualifications, compensation, appointment, confirmation and meetings.**



(1) There is hereby created a Psychiatric Security Review Board consisting of 10 members appointed by the Governor and subject to confirmation by the Senate under section 4, Article III of the Oregon Constitution.

(2) The membership of the board may not include any district attorney, deputy district attorney or public defender. The Governor shall appoint:

(a) A psychiatrist experienced in the criminal justice system and not otherwise employed on a full-time basis by the Oregon Health Authority or a community mental health program;

(b) A licensed psychologist experienced in the criminal justice system and not otherwise employed on a full-time basis by the authority or a community mental health program;

(c) A member with substantial experience in the processes of parole and probation;

(d) A lawyer with substantial experience in criminal trial practice;

(e) A psychiatrist certified, or eligible to be certified, by the Oregon Medical Board in child psychiatry who is experienced in the juvenile justice system and not employed on a full-time basis by the authority or a community mental health program;

(f) A licensed psychologist who is experienced in child psychology and the juvenile justice system and not employed on a full-time basis by the authority or a community mental health program;

(g) A member with substantial experience in the processes of juvenile parole and probation;

(h) A lawyer with substantial experience in juvenile law practice; and

(i) Two members of the general public.

(3) The term of office of each member is four years. The Governor at any time may remove any member for inefficiency, neglect of duty or malfeasance in office. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(4) A member of the board not otherwise employed full-time by the state shall be paid on a per diem basis an amount equal to \$289.22, adjusted according to the executive pay plan for the biennium, for each day during which the member is engaged in the performance of official duties, including necessary travel time. In addition, subject to ORS 292.220 to 292.250 regulating travel and other expenses of state officers and employees, the member shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties.

(5) Subject to any applicable provision of the State Personnel Relations Law, the board may hire employees to aid it in performing its duties.

(6) The board consists of two five-member panels. The adult panel is responsible for persons placed under the board's jurisdiction under ORS 161.315 to 161.351 and 419C.544 and consists of those members appointed under subsection (2)(a) to (d) of this section and one of the public members. The juvenile panel is responsible for young persons placed under the board's jurisdiction under ORS 419C.529 and consists of those members appointed under subsection (2)(e) to (h) of this section and the other public member.

(7)(a) Each panel shall select one of its members as chairperson to serve for a one-year term with such duties and powers as the panel determines.

(b) A majority of the voting members of a panel constitutes a quorum for the transaction of business of the panel.

(8) Each panel shall meet at least twice every month, unless the chairperson determines that there is not sufficient business before the panel to warrant a meeting at the scheduled time. The panel shall also meet at other times and places specified by the call of the chairperson or of a majority of the members of the panel. [1977 c.380 §8; 1979 c.867 §7; 1979 c.885 §6; 1981 c.711 §15; 1981 s.s. c.3 §132; 1983 c.740 §26; 1983 c.800 §12; 1987 c.133 §1; 2001 c.962 §70; 2005 c.843 §20; 2009 c.595 §109; 2011 c.708 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.387 - Board to implement policies; rulemaking.**

(1) The Psychiatric Security Review Board, by rule pursuant to ORS 183.325 to 183.410 and not inconsistent with law, may implement its policies and set out its procedure and practice requirements and may promulgate such interpretive rules as the board deems necessary or appropriate to carry out its statutory responsibilities.

(2) Administrative meetings of the board are not deliberations for the purposes of ORS 192.690. [1981 c.711 §§10,11; 2011 c.708 §11b]

Note:

161.387 was enacted into law by the Legislative Assembly but was not added to or made a part of 161.385 to 161.395 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.390 - Rules for assignment of persons to state mental hospitals or secure intensive community inpatient facilities; release plan prepared by Oregon Health Authority.**

(1) The Oregon Health Authority shall adopt rules for the assignment of persons to state mental hospitals or secure intensive community inpatient facilities after commitment under ORS 161.365 and 161.370 and for establishing standards for evaluation and treatment of persons committed to a state hospital or a secure intensive community inpatient facility or ordered to a community mental health program under ORS 161.315 to 161.351.

(2) When the Psychiatric Security Review Board requires the preparation of a predischarge or preconditional release plan before a

hearing or as a condition of granting discharge or conditional release for a person committed under ORS 161.315 to 161.351 to a state hospital or a secure intensive community inpatient facility for custody, care and treatment, the authority is responsible for and shall prepare the plan.

(3) In carrying out a conditional release plan prepared under subsection (2) of this section, the authority may contract with a community mental health program, other public agency or private corporation or an individual to provide supervision and treatment for the conditionally released person.

(4)(a) The board shall maintain and keep current the medical, social and criminal history of all persons committed to its jurisdiction. The confidentiality of records maintained by the board shall be determined pursuant to ORS 192.338, 192.345, 192.355 and 192.398.

(b) Except as otherwise provided by law, upon request of the board, a state hospital, a community mental health program and any other health care service provider shall provide the board with all medical records pertaining to a person committed to the jurisdiction of the board.

(5) The evidentiary phase of a hearing conducted by the board under ORS 161.315 to 161.351 is not a deliberation for purposes of ORS 192.690. [1975 c.380 §7; 1977 c.380 §18; 1981 c.711 §14; 1993 c.680 §18; 2005 c.22 §109; 2005 c.685 §8; 2009 c.595 §110; 2011 c.708 §5; 2017 c.442 §6; 2018 c.120 §4; 2019 c.328 §1; 2021 c.395 §10]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.392 - Certification of psychiatrists and licensed psychologists; rules; fees.**

(1) The Oregon Health Authority shall adopt rules necessary to certify psychiatrists and licensed psychologists for the purpose of performing evaluations and examinations described in ORS 161.309, 161.355 to 161.371 and 419C.524. The rules must include a description of the standards and qualifications necessary for certification. The authority may charge a fee for certification under this section in an amount determined by rule.

(2) The authority shall consult with the Psychiatric Security Review Board about proposed rules described in subsection (1) of this section before issuing the proposed rules for public comment and before adopting the rules. [2011 c.724 §9; 2021 c.395 §11]

Note:

161.392 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 161 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.395 - Subpoena power.**

(1) Upon request of any party to a hearing before the Psychiatric Security Review Board under ORS 161.315 to 161.351, the board shall issue, or on its own motion may issue, subpoenas requiring the attendance and testimony of witnesses.

(2) Upon request of any party to the hearing before the board and upon a proper showing of the general relevance and reasonable scope of the documentary or physical evidence sought, the board shall issue, or on its own motion may issue, subpoenas duces tecum.

(3) Witnesses appearing under subpoenas, other than the parties or state officers or employees, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2). If the board certifies that the testimony of a witness was relevant and material, any person who has paid fees and mileage to that witness shall be reimbursed by the board.

(4) If any person fails to comply with a subpoena issued under subsections (1) or (2) of this section or any party or witness refuses to testify regarding any matter on which the party or witness may be lawfully interrogated, the judge of the circuit court of any county, on the application of the board or of the party requesting the issuance of the subpoena, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued by the court.

(5) If any person, agency or facility fails to comply with an order of the board issued pursuant to subsection (2) of this section, the judge of a circuit court of any county, on application of the board, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of an order issued by the court. Contempt for disobedience of an order of the board shall be punishable by a fine of \$100. [1977 c.380 §9; 1989 c.980 §8; 2011 c.708 §10; 2017 c.442 §9]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.397 - Psychiatric Security Review Board Account.**

The Psychiatric Security Review Board Account is established separate and distinct from the General Fund. All moneys received by the Psychiatric Security Review Board, other than appropriations from the General Fund, shall be deposited into the account and are continuously appropriated to the board to carry out the duties, functions and powers of the board. [2001 c.716 §3]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.398 - Restorative justice program; rules.**

(1)(a) The Psychiatric Security Review Board may develop a restorative justice program to assist the recovery of crime victims when a person is found guilty except for insanity of a crime or responsible except for insanity for an act.

(b) The board may enter into a contract with a nonprofit educational institution or other nonprofit organization that provides for the

administration of the restorative justice program by the institution or organization.

(2) Any documents or oral communications created, submitted or provided for use in the restorative justice program are confidential, exempt from public disclosure and:

(a) May not be disclosed to or used by board members.

(b) May not be used or disclosed by restorative justice program staff, volunteers or participants for any purpose unrelated to the program.

(c) Are not admissible as evidence in any subsequent administrative or judicial proceeding, including board proceedings and deliberations.

(3) The board may adopt rules to carry out the provisions of this section. [2017 c.442 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.400 - Leave of absence; notice to board.**

If, at any time after the commitment of a person to a state hospital or a secure intensive community inpatient facility under ORS 161.315 to 161.351, the superintendent of the hospital or the director of the facility is of the opinion that a leave of absence from the hospital or facility would be therapeutic for the person and that such leave would pose no substantial danger to others, the superintendent or director may authorize such leave for up to 48 hours in accordance with rules adopted by the Psychiatric Security Review Board. However, the superintendent or director, before authorizing the leave of absence, shall first notify the board for the purposes of ORS 161.326. [1981 c.711 §12; 2005 c.685 §9; 2011 c.708 §11; 2017 c.442 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.405 - "Attempt" described.**

(1) A person is guilty of an attempt to commit a crime when the person intentionally engages in conduct which constitutes a substantial step toward commission of the crime.

(2) An attempt is a:

(a) Class A felony if the offense attempted is any degree of murder, aggravated murder or treason.

(b) Class B felony if the offense attempted is a Class A felony.

(c) Class C felony if the offense attempted is a Class B felony.

(d) Class A misdemeanor if the offense attempted is a Class C felony or an unclassified felony.

(e) Class B misdemeanor if the offense attempted is a Class A misdemeanor.

(f) Class C misdemeanor if the offense attempted is a Class B misdemeanor.

(g) Violation if the offense attempted is a Class C misdemeanor or an unclassified misdemeanor. [1971 c.743 §54; 2019 c.635 §15a]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.425 - Impossibility not a defense.**

In a prosecution for an attempt, it is no defense that it was impossible to commit the crime which was the object of the attempt where the conduct engaged in by the actor would be a crime if the circumstances were as the actor believed them to be. [1971 c.743 §55]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.430 - Renunciation as a defense to attempt.**

(1) A person is not liable under ORS 161.405 if, under circumstances manifesting a voluntary and complete renunciation of the criminal intent of the person, the person avoids the commission of the crime attempted by abandoning the criminal effort and, if mere abandonment is insufficient to accomplish this avoidance, doing everything necessary to prevent the commission of the attempted crime.

(2) The defense of renunciation is an affirmative defense. [1971 c.743 §56]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.435 - Solicitation.**

(1) A person commits the crime of solicitation if with the intent of causing another to engage in specific conduct constituting a crime punishable as a felony or as a Class A misdemeanor or an attempt to commit such felony or Class A misdemeanor the person commands or solicits such other person to engage in that conduct.

(2) Solicitation is a:

(a) Class A felony if the offense solicited is murder or treason.

(b) Class B felony if the offense solicited is a Class A felony.

(c) Class C felony if the offense solicited is a Class B felony.

(d) Class A misdemeanor if the offense solicited is a Class C felony.

(e) Class B misdemeanor if the offense solicited is a Class A misdemeanor. [1971 c.743 §57]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.440 -**

**Renunciation as defense to solicitation.**

(1) It is a defense to the crime of solicitation that the person soliciting the crime, after soliciting another person to commit a crime, persuaded the person solicited not to commit the crime or otherwise prevented the commission of the crime, under circumstances manifesting a complete and voluntary renunciation of the criminal intent.

(2) The defense of renunciation is an affirmative defense. [1971 c.743 §58]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.450 - "Criminal conspiracy" described.**

(1) A person is guilty of criminal conspiracy if with the intent that conduct constituting a crime punishable as a felony or a Class A misdemeanor be performed, the person agrees with one or more persons to engage in or cause the performance of such conduct.

(2) Criminal conspiracy is a:

(a) Class A felony if an object of the conspiracy is commission of murder, treason or a Class A felony.

(b) Class B felony if an object of the conspiracy is commission of a Class B felony.

(c) Class C felony if an object of the conspiracy is commission of a Class C felony.

(d) Class A misdemeanor if an object of the conspiracy is commission of a Class A misdemeanor. [1971 c.743 §59]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.455 - Conspiratorial relationship.**

If a person is guilty of conspiracy, as defined in ORS 161.450, and knows that a person with whom the person conspires to commit a crime has conspired or will conspire with another person or persons to commit the same crime, the person is guilty of conspiring with such other person or persons, whether or not the person knows their identity, to commit such crime. [1971 c.743 §60]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.460 - Renunciation as defense to conspiracy.**

(1) It is a defense to a charge of conspiracy that the actor, after conspiring to commit a crime, thwarted commission of the crime which was the object of the conspiracy, under circumstances manifesting a complete and voluntary renunciation of the criminal purpose of the actor. Renunciation by one conspirator does not, however, affect the liability of another conspirator who does not join in the renunciation of the conspiratorial objective.

(2) The defense of renunciation is an affirmative defense. [1971 c.743 §61]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.465 - Duration of conspiracy.**

For the purpose of application of ORS 131.125:

(1) Conspiracy is a continuing course of conduct which terminates when the crime or crimes which are its object are completed or the agreement that they be committed is abandoned by the defendant and by those with whom the defendant conspired.

(2) Abandonment is presumed if neither the defendant nor anyone with whom the defendant conspired does any overt act in pursuance of the conspiracy during the applicable period of limitation.

(3) If an individual abandons the agreement, the conspiracy is terminated as to the individual only if and when the individual advises those with whom the individual conspired of the abandonment or the individual informs the law enforcement authorities of the existence of the conspiracy and of the participation of the individual therein. [1971 c.743 §62; 1973 c.836 §340]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.475 - Defenses to solicitation and conspiracy.**

(1) Except as provided in subsection (2) of this section, it is immaterial to the liability of a person who solicits or conspires with another to commit a crime that:

(a) The person or the person whom the person solicits or with whom the person conspires does not occupy a particular position or have a particular characteristic which is an element of such crime, if the person believes that one of them does; or

(b) The person whom the person solicits or with whom the person conspires is irresponsible or has an immunity to prosecution or conviction for the commission of the crime, or, in the case of conspiracy, has feigned the agreement; or

(c) The person with whom the person conspires has not been prosecuted for or convicted of the conspiracy or a crime based upon the conduct in question, or has previously been acquitted.

(2) It is a defense to a charge of solicitation or conspiracy to commit a crime that if the criminal object were achieved, the actor would not be guilty of a crime under the law defining the offense or as an accomplice under ORS 161.150 to 161.165. [1971 c.743 §63]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.485 - Multiple convictions barred in inchoate crimes.**

(1) It is no defense to a prosecution under ORS 161.405, 161.435 or 161.450 that the offense the defendant either attempted to

commit, solicited to commit or conspired to commit was actually committed pursuant to such attempt, solicitation or conspiracy.  
(2) A person shall not be convicted of more than one offense defined by ORS 161.405, 161.435 and 161.450 for conduct designed to commit or to culminate in commission of the same crime.  
(3) A person shall not be convicted on the basis of the same course of conduct of both the actual commission of an offense and an attempt to commit that offense or solicitation of that offense or conspiracy to commit that offense.  
(4) Nothing in this section shall be construed to bar inclusion of multiple counts charging violation of the substantive crime and ORS 161.405, 161.435 and 161.450 in a single indictment or information, provided the penal conviction is consistent with subsections (2) and (3) of this section. [1971 c.743 §64]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.505 - "Offense" described.**

An offense is conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law or ordinance of a political subdivision of this state. An offense is either a crime, as described in ORS 161.515, or a violation, as described in ORS 153.008. [1971 c.743 §65; 1975 c.451 §173; 1981 c.626 §2; 1981 c.692 §7; 1999 c.1051 §43]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.515 - "Crime" described.**

(1) A crime is an offense for which a sentence of imprisonment is authorized.  
(2) A crime is either a felony or a misdemeanor. [1971 c.743 §66]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.525 - "Felony" described.**

Except as provided in ORS 161.585, 161.705 and 161.710, a crime is a felony if it is so designated in any statute of this state or if a person convicted under a statute of this state may be sentenced to a maximum term of imprisonment of more than one year. [1971 c.743 §67; 2017 c.439 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.535 - Classification of felonies.**

(1) Felonies are classified for the purpose of sentence into the following categories:  
(a) Class A felonies;  
(b) Class B felonies;  
(c) Class C felonies; and  
(d) Unclassified felonies.  
(2) The particular classification of each felony defined in the Oregon Criminal Code, except murder in any degree under ORS 163.107 or 163.115 and treason under ORS 166.005, is expressly designated in the section defining the crime. An offense defined outside this code which, because of the express sentence provided is within the definition of ORS 161.525, shall be considered an unclassified felony. [1971 c.743 §68; 2019 c.635 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.545 - "Misdemeanor" described.**

A crime is a misdemeanor if it is so designated in any statute of this state or if a person convicted thereof may be sentenced to a maximum term of imprisonment of not more than one year. [1971 c.743 §69]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.555 - Classification of misdemeanors.**

(1) Misdemeanors are classified for the purpose of sentence into the following categories:  
(a) Class A misdemeanors;  
(b) Class B misdemeanors;  
(c) Class C misdemeanors; and  
(d) Unclassified misdemeanors.  
(2) The particular classification of each misdemeanor defined in the Oregon Criminal Code is expressly designated in the section defining the crime. An offense defined outside this code which, because of the express sentence provided is within the definition of ORS 161.545, shall be considered an unclassified misdemeanor.  
(3) An offense defined by a statute of this state, but without specification as to its classification or as to the penalty authorized upon conviction, shall be considered a Class A misdemeanor. [1971 c.743 §70]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.566 - Misdemeanor treated as violation; prosecuting attorney's election.**

(1) Except as provided in subsection (4) of this section, a prosecuting attorney may elect to treat any misdemeanor as a Class A violation. The election must be made by the prosecuting attorney orally at the time of the first appearance of the defendant or in writing filed on or before the time scheduled for the first appearance of the defendant. If no election is made within the time allowed, the case shall proceed as a misdemeanor.

(2) If a prosecuting attorney elects to treat a misdemeanor as a Class A violation under this section, the court shall amend the accusatory instrument to reflect the charged offense as a Class A violation and clearly denominate the offense as a Class A violation in any judgment entered in the matter. Notwithstanding ORS 153.021, the fine that a court may impose upon conviction of a violation under this section may not:

(a) Be less than the presumptive fine established by ORS 153.019 for a Class A violation; or

(b) Exceed the maximum fine established by ORS 153.018 for a Class A violation.

(3) If a prosecuting attorney elects to treat a misdemeanor as a Class A violation under this section, and the defendant fails to make any required appearance in the matter, the court may enter a default judgment against the defendant in the manner provided by ORS 153.102. Notwithstanding ORS 153.021, the fine that the court may impose under a default judgment entered pursuant to ORS 153.102 may not:

(a) Be less than the presumptive fine established by ORS 153.019 for a Class A violation; or

(b) Exceed the maximum fine established by ORS 153.018 for a Class A violation.

(4) A prosecuting attorney may not elect to treat misdemeanors created under ORS 811.540 or 813.010 as violations under the provisions of this section.

(5) The election provided for in this section may be made by a city attorney acting as prosecuting attorney in the case of municipal ordinance offenses, a county counsel acting as prosecuting attorney under a county charter in the case of county ordinance offenses, and the Attorney General acting as prosecuting attorney in those criminal actions or proceedings within the jurisdiction of the Attorney General. [1999 c.1051 §47; 2003 c.737 §89; 2011 c.597 §16; 2012 c.82 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.568 - Misdemeanor treated as violation; court's election.**

(1) Except as provided in subsection (4) of this section, a court may elect to treat any misdemeanor as a Class A violation for the purpose of entering a default judgment under ORS 153.102 if:

(a) A complaint or information has been filed with the court for the misdemeanor;

(b) The defendant has failed to make an appearance in the proceedings required by the court or by law; and

(c) The court has given notice to the district attorney for the county and the district attorney has informed the court that the district attorney does not object to treating the misdemeanor as a Class A violation.

(2) If the court treats a misdemeanor as a Class A violation under this section, the court shall amend the accusatory instrument to reflect the charged offense as a Class A violation and clearly denominate the offense as a Class A violation in the judgment entered in the matter.

(3) Notwithstanding ORS 153.021, if the court treats a misdemeanor as a Class A violation under this section, the fine that the court may impose under a default judgment entered pursuant to ORS 153.102 may not:

(a) Be less than the presumptive fine established by ORS 153.019 for a Class A violation; or

(b) Exceed the maximum fine established by ORS 153.018 for a Class A violation.

(4) A court may not treat misdemeanors created under ORS 811.540 or 813.010 as violations under the provisions of this section. [1999 c.1051 §48; 2003 c.737 §90; 2011 c.597 §17; 2012 c.82 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.570 - Felony treated as misdemeanor.**

(1) As used in this section, "nonperson felony" has the meaning given that term in the rules of the Oregon Criminal Justice Commission.

(2) A district attorney may elect to treat a Class C nonperson felony or a violation of ORS 475.752 (7)(b), 475.854 (2)(c) or 475.874 (2)(c) as a Class A misdemeanor. The election must be made by the district attorney orally or in writing at the time of the first appearance of the defendant. If a district attorney elects to treat a Class C felony or a violation of ORS 475.752 (7)(b), 475.854 (2)(c) or 475.874 (2)(c) as a Class A misdemeanor under this subsection, the court shall amend the accusatory instrument to reflect the charged offense as a Class A misdemeanor.

(3) If, at some time after the first appearance of a defendant charged with a Class C nonperson felony or a violation of ORS 475.752 (7)(b), 475.854 (2)(c) or 475.874 (2)(c), the district attorney and the defendant agree to treat the charged offense as a Class A misdemeanor, the court may allow the offense to be treated as a Class A misdemeanor by stipulation of the parties.

(4) If a Class C felony or a violation of ORS 475.752 (7)(b), 475.854 (2)(c) or 475.874 (2)(c) is treated as a Class A misdemeanor under this section, the court shall clearly denominate the offense as a Class A misdemeanor in any judgment entered in the matter.

(5) If no election or stipulation is made under this section, the case proceeds as a felony.

(6) Before a district attorney may make an election under subsection (2) of this section, the district attorney shall adopt written guidelines for determining when and under what circumstances the election may be made. The district attorney shall apply the guidelines uniformly.

- (7) Notwithstanding ORS 161.635, the fine that a court may impose upon conviction of a misdemeanor under this section may not:
- (a) Be less than the minimum fine established by ORS 137.286 for a felony; or
  - (b) Exceed the amount provided in ORS 161.625 for the class of felony receiving Class A misdemeanor treatment. [2003 c.645 §2; 2005 c.708 §47; 2007 c.286 §1; 2011 c.597 §18; 2013 c.591 §4; 2017 c.706 §25; 2021 c.591 §43]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.585 - Classification of certain crimes determined by punishment.**

- (1) When a crime punishable as a felony is also punishable by imprisonment for a maximum term of one year or by a fine, the crime shall be classed as a misdemeanor if the court imposes a punishment other than imprisonment under ORS 137.124 (1).
- (2) Notwithstanding the provisions of ORS 161.525, upon conviction of a crime punishable as described in subsection (1) of this section, the crime is a felony for all purposes until one of the following events occurs, after which occurrence the crime is a misdemeanor for all purposes:
- (a) Without imposing a sentence of probation, the court imposes a sentence of imprisonment other than to the legal and physical custody of the Department of Corrections.
  - (b) Without imposing a sentence of probation, the court imposes a fine.
  - (c) Upon revocation of probation, the court imposes a sentence of imprisonment other than to the legal and physical custody of the Department of Corrections.
  - (d) Upon revocation of probation, the court imposes a fine.
  - (e) The court declares the offense to be a misdemeanor, either at the time of imposing a sentence of probation, upon suspension of imposition of a part of a sentence, or on application of defendant or the parole and probation officer of the defendant thereafter.
  - (f) The court imposes a sentence of probation on the defendant without imposition of any other sentence upon conviction and defendant is thereafter discharged without any other sentence.
  - (g) Without imposing a sentence of probation and without imposing any other sentence, the court declares the offense to be a misdemeanor and discharges the defendant.
- (3) The provisions of this section shall apply only to persons convicted of a felony committed prior to November 1, 1989. [1971 c.743 §73; 1987 c.320 §85; 1989 c.790 §52; 1993 c.14 §18; 2005 c.264 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.605 - Maximum terms of imprisonment for felonies.**

The maximum term of an indeterminate sentence of imprisonment for a felony is as follows:

- (1) For a Class A felony, 20 years.
- (2) For a Class B felony, 10 years.
- (3) For a Class C felony, 5 years.
- (4) For an unclassified felony as provided in the statute defining the crime. [1971 c.743 §74]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.610 - Enhanced penalty for use of firearm during commission of felony; pleading; minimum penalties; suspension or reduction of penalty.**

- (1) As used in this section, "firearm" has the meaning given that term in ORS 166.210.
- (2) The use or threatened use of a firearm, whether operable or inoperable, by a defendant during the commission of a felony may be pleaded in the accusatory instrument and proved at trial as an element in aggravation of the crime as provided in this section. When a crime is so pleaded, the aggravated nature of the crime may be indicated by adding the words "with a firearm" to the title of the offense. The unaggravated crime shall be considered a lesser included offense.
- (3) Notwithstanding the provisions of ORS 161.605 or 137.010 (3) and except as otherwise provided in subsection (6) of this section, if a defendant is convicted of a felony having as an element the defendant's use or threatened use of a firearm during the commission of the crime, the court shall impose at least the minimum term of imprisonment as provided in subsection (4) of this section. Except as provided in ORS 144.122 and 144.126 and subsection (5) of this section, in no case shall any person punishable under this section become eligible for work release, parole, temporary leave or terminal leave until the minimum term of imprisonment is served, less a period of time equivalent to any reduction of imprisonment granted for good time served or time credits earned under ORS 421.121, nor shall the execution of the sentence imposed upon such person be suspended by the court.
- (4) The minimum terms of imprisonment for felonies having as an element the defendant's use or threatened use of a firearm in the commission of the crime shall be as follows:
- (a) Except as provided in subsection (5) of this section, upon the first conviction for such felony, five years, except that if the firearm is a machine gun, short-barreled rifle, short-barreled shotgun or is equipped with a firearms silencer, the term of imprisonment shall be 10 years.
  - (b) Upon conviction for such felony committed after punishment pursuant to paragraph (a) of this subsection or subsection (5) of this section, 10 years, except that if the firearm is a machine gun, short-barreled rifle, short-barreled shotgun or is equipped with a firearms silencer, the term of imprisonment shall be 20 years.
  - (c) Upon conviction for such felony committed after imprisonment pursuant to paragraph (b) of this subsection, 30 years.

(5) If it is the first time that the defendant is subject to punishment under this section, rather than impose the sentence otherwise required by subsection (4)(a) of this section, the court may:

(a) For felonies committed prior to November 1, 1989, suspend the execution of the sentence or impose a lesser term of imprisonment, when the court expressly finds mitigating circumstances justifying such lesser sentence and sets forth those circumstances in its statement on sentencing; or

(b) For felonies committed on or after November 1, 1989, impose a lesser sentence in accordance with the rules of the Oregon Criminal Justice Commission.

(6) When a defendant who is convicted of a felony having as an element the defendant's use or threatened use of a firearm during the commission of the crime is a person who was waived under ORS 137.707 (5)(b)(A), 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370, the court is not required to impose a minimum term of imprisonment under this section. [1979 c.779 §2; 1985 c.552 §1; 1989 c.790 §72; 1989 c.839 §18; 1991 c.133 §3; 1993 c.692 §9; 1999 c.951 §3; 2005 c.407 §1; 2009 c.610 §5; 2019 c.634 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.615 - Maximum terms of imprisonment for misdemeanors.**

Sentences for misdemeanors shall be for a definite term. The court shall fix the term of imprisonment within the following maximum limitations:

(1) For a Class A misdemeanor, 364 days.

(2) For a Class B misdemeanor, 6 months.

(3) For a Class C misdemeanor, 30 days.

(4) For an unclassified misdemeanor, as provided in the statute defining the crime. [1971 c.743 §75; 2017 c.706 §22]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.620 - Sentences imposed upon waiver.**

Notwithstanding any other provision of law, a sentence imposed upon any person waived under ORS 419C.349, 419C.352, 419C.364 or 419C.370 shall not include any sentence of death or life imprisonment without the possibility of release or parole nor imposition of any mandatory minimum sentence except that a mandatory minimum sentence under:

(1) ORS 137.707 shall be imposed, except as provided in ORS 137.712;

(2) ORS 163.105 (1)(c) shall be imposed; and

(3) ORS 161.610 may be imposed. [1985 c.631 §9; 1989 c.720 §3; 1993 c.33 §306; 1993 c.546 §119; 1995 c.422 §131y; 1999 c.951 §2; 2019 c.634 §8]

Note:

161.620 was added to and made a part of ORS 161.615 to 161.685 by legislative action but was not added to any smaller series in that series. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.625 - Fines for felonies.**

(1) A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding:

(a) \$500,000 for murder or aggravated murder.

(b) \$375,000 for a Class A felony.

(c) \$250,000 for a Class B felony.

(d) \$125,000 for a Class C felony.

(2) A sentence to pay a fine for an unclassified felony shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.

(3)(a) If a person has gained money or property through the commission of a felony, then upon conviction thereof the court, in lieu of imposing the fine authorized for the crime under subsection (1) or (2) of this section, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the crime.

(b) The provisions of paragraph (a) of this subsection do not apply to the felony theft of a companion animal, as defined in ORS 164.055, or a captive wild animal.

(4) As used in this section, "gain" means the amount of money or the value of property derived from the commission of the felony, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority before the time sentence is imposed. "Value" shall be determined by the standards established in ORS 164.115.

(5) When the court imposes a fine for a felony the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support a finding the court may conduct a hearing upon the issue.

(6) Except as provided in ORS 161.655, this section does not apply to a corporation. [1971 c.743 §76; 1981 c.390 §1; 1991 c.837 §11; 1993 c.680 §36; 2003 c.615 §1; 2003 c.737 §86]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.635 - Fines for misdemeanors.**



- (1) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding:
  - (a) \$6,250 for a Class A misdemeanor.
  - (b) \$2,500 for a Class B misdemeanor.
  - (c) \$1,250 for a Class C misdemeanor.
- (2) A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the crime.
- (3) If a person has gained money or property through the commission of a misdemeanor, then upon conviction thereof the court, instead of imposing the fine authorized for the offense under this section, may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense. In that event, ORS 161.625 (4) and (5) apply.
- (4) This section does not apply to corporations. [1971 c.743 §77; 1981 c.390 §2; 1993 c.680 §30; 1995 c.545 §2; 1999 c.1051 §44; 2003 c.737 §87]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.645 - Standards for imposing fines.**

In determining whether to impose a fine and its amount, the court shall consider:

- (1) The financial resources of the defendant and the burden that payment of a fine will impose, with due regard to the other obligations of the defendant; and
- (2) The ability of the defendant to pay a fine on an installment basis or on other conditions to be fixed by the court. [1971 c.743 §78]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.655 - Fines for corporations.**

- (1) A sentence to pay a fine when imposed on a corporation for an offense defined in the Oregon Criminal Code or for an offense defined outside this code for which no special corporate fine is specified, shall be a sentence to pay an amount, fixed by the court, not exceeding:
  - (a) \$50,000 when the conviction is of a felony.
  - (b) \$5,000 when the conviction is of a Class A misdemeanor or of an unclassified misdemeanor for which a term of imprisonment of more than six months is authorized.
  - (c) \$2,500 when the conviction is of a Class B misdemeanor or of an unclassified misdemeanor for which the authorized term of imprisonment is not more than six months.
  - (d) \$1,000 when the conviction is of a Class C misdemeanor or an unclassified misdemeanor for which the authorized term of imprisonment is not more than 30 days.
- (2) A sentence to pay a fine, when imposed on a corporation for an offense defined outside the Oregon Criminal Code, if a special fine for a corporation is provided in the statute defining the offense, shall be a sentence to pay an amount, fixed by the court, as provided in the statute defining the offense.
- (3) If a corporation has gained money or property through the commission of an offense, then upon conviction thereof the court, in lieu of imposing the fine authorized for the offense under subsection (1) or (2) of this section, may sentence the corporation to pay an amount, fixed by the court, not exceeding double the amount of the corporation's gain from the commission of the offense. In that event, ORS 161.625 (4) and (5) apply. [1971 c.743 §79; 1999 c.1051 §45]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.665 - Costs.**

- (1) Except as provided in ORS 151.505, the court, only in the case of a defendant for whom it enters a judgment of conviction, may include in its sentence thereunder a money award for all costs specially incurred by the state in prosecuting the defendant. Costs include a reasonable attorney fee for counsel appointed pursuant to ORS 135.045 or 135.050 and a reasonable amount for fees and expenses incurred pursuant to preauthorization under ORS 135.055. A reasonable attorney fee is presumed to be a reasonable number of hours at the hourly rate authorized by the Oregon Public Defense Commission under ORS 151.216. Costs do not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law.
- (2) Except as provided in ORS 151.505, the court, after the conclusion of an appeal of its initial judgment of conviction, may include in its general judgment, or enter a supplemental judgment that includes, a money award that requires a convicted defendant to pay a reasonable attorney fee for counsel appointed pursuant to ORS 138.500, including counsel who is appointed under ORS 151.216 or counsel who is under contract to provide services for the proceeding under ORS 151.219, and other costs and expenses allowed by the executive director of the Oregon Public Defense Commission under ORS 138.500 (4). A reasonable attorney fee is presumed to be a reasonable number of hours at the hourly rate authorized by the commission under ORS 151.216.
- (3) For purposes of subsections (1) and (2) of this section, compensation of counsel is determined by reference to a schedule of compensation established by the commission under ORS 151.216.
- (4) The court may not sentence a defendant to pay costs under this section unless the defendant is or may be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and

the nature of the burden that payment of costs will impose.

(5) A defendant who has been sentenced to pay costs under this section and who is not in contumacious default in the payment of costs may at any time petition the court that sentenced the defendant for remission of the payment of costs or of any unpaid portion of costs. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the immediate family of the defendant, the court may enter a supplemental judgment that remits all or part of the amount due in costs, or modifies the method of payment under ORS 161.675.

(6) Except as provided in subsection (7) of this section, all moneys collected or paid under this section shall be paid into the Criminal Fine Account.

(7) The court may, in the judgment of conviction, include a money award requiring the defendant to pay the costs of extraditing the defendant to this state. Any amounts awarded to the state under this subsection must be listed separately in the money award portion of the judgment. All moneys collected or paid under this subsection shall be deposited into the Arrest and Return Account established by ORS 133.865. [1971 c.743 §80; 1981 s.s. c.3 §120; 1983 c.763 §12; 1985 c.710 §3; 1987 c.803 §26; 1989 c.1053 §11; 1991 c.460 §12; 1991 c.840 §1; 1997 c.761 §1; 2001 c.962 §§41,113; 2003 c.449 §29; 2003 c.576 §§247,248; 2003 c.615 §2; 2011 c.597 §44; 2015 c.198 §2; 2023 c.281 §44]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.675 - Time and method of payment of fines, restitution and costs.**

(1) When a defendant, as a part of a sentence or as condition of probation or suspension of sentence, is required to pay a sum of money for any purpose, the court may order payment to be made immediately or within a specified period of time or in specified installments. If a defendant is sentenced to a term of imprisonment, any part of the sentence that requires the payment of a sum of money for any purpose is enforceable during the period of imprisonment if the court expressly finds that the defendant has assets to pay all or part of the amounts ordered.

(2) When a defendant whose sentence requires the payment of a sum of money for any purpose is also sentenced to probation or imposition or execution of sentence is suspended, the court may make payment of the sum of money a condition of probation or suspension of sentence.

(3) When a defendant is sentenced to probation or imposition or execution of sentence is suspended and the court requires as a part of the sentence or as a condition of the probation or suspension of sentence that the defendant pay a sum of money in installments, the court, or the court clerk or parole and probation officer if so ordered by the court, shall establish a schedule of payments to satisfy the obligation. A schedule of payments shall be reviewed by the court upon motion of the defendant at any time, so long as the obligation remains unsatisfied. [1971 c.743 §81; 1977 c.371 §4; 1985 c.46 §1; 1993 c.14 §19; 1995 c.512 §3; 2005 c.264 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.685 - Effect of nonpayment of fines, restitution or costs; report to consumer reporting agency; rules.**

(1) When a defendant who has been sentenced or ordered to pay a fine, or to make restitution, defaults on a payment or installment ordered by the court, the court on motion of the district attorney or upon its own motion may require the defendant to show cause why the default should not be treated as contempt of court, and may issue a show cause citation or a warrant of arrest for the appearance of the defendant.

(2) If the court finds that the default constitutes contempt, the court may impose one or more of the sanctions authorized by ORS 33.105.

(3) When a fine or an order of restitution is imposed on a corporation or unincorporated association, it is the duty of the person authorized to make disbursement from the assets of the corporation or association to pay the fine or make the restitution from those assets, and if that person fails to do so, the court may hold that person in contempt.

(4) Notwithstanding ORS 33.105, the term of confinement for contempt for nonpayment of fines or failure to make restitution shall be set forth in the commitment order, and shall not exceed one day for each \$25 of the fine or restitution, 30 days if the fine or order of restitution was imposed upon conviction of a violation or misdemeanor, or one year in any other case, whichever is the shorter period.

(5) If it appears to the satisfaction of the court that the default in the payment of a fine or restitution is not contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the payment or installments due on the payment, or revoking the fine or order of restitution in whole or in part.

(6) A default in the payment of a fine or costs or failure to make restitution or a default on an installment on a fine, costs or restitution may be collected by any means authorized by law for the enforcement of a judgment. The levy of execution or garnishment for the collection of a fine or restitution shall not discharge a defendant confined for contempt until the amount of the fine or restitution has actually been collected.

(7) The court, or the court clerk if ordered by the court, may report a default on a court-ordered payment to a consumer reporting agency.

(8) The Chief Justice of the Supreme Court shall adopt rules under ORS 1.002 establishing policies and procedures for reporting a default under subsection (7) of this section to a consumer reporting agency that may include, but are not limited to, limitations on reporting a default to a consumer reporting agency.

(9) Except as otherwise provided in this section, proceedings under this section shall be conducted:

- (a) As provided in ORS 33.055, if the court seeks to impose remedial sanctions as described in ORS 33.015 to 33.155; and
- (b) As provided in ORS 33.065, if the court seeks to impose punitive sanctions as described in ORS 33.015 to 33.155.
- (10) Confinement under this section may be custody or incarceration, whether actual or constructive.
- (11) As used in this section:
  - (a) "Consumer reporting agency" means any person that regularly engages for fees, dues, or on a nonprofit basis, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.
  - (b) "Restitution" has the meaning given that term in ORS 137.103. [1971 c.743 §82; 1977 c.371 §5; 1987 c.709 §3; 1987 c.873 §28; 1991 c.724 §27a; 1995 c.79 §50; 1995 c.512 §4; 2015 c.9 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.705 - Reduction of certain felonies to misdemeanors.**

- (1) Notwithstanding ORS 161.525, the court may enter judgment of conviction for a Class A misdemeanor and make disposition accordingly when:
  - (a)(A) A person is convicted of any Class C felony; or
  - (B) A person convicted of a Class C felony, of possession or delivery of marijuana or a marijuana item as defined in ORS 475C.009 constituting a Class B felony, of possession of a controlled substance constituting a Class B felony or of a Class A felony pursuant to ORS 166.720, has successfully completed a sentence of probation; and
  - (b) The court, considering the nature and circumstances of the crime and the history and character of the defendant, believes that a felony conviction would be unduly harsh.
- (2) The entry of judgment of conviction for a Class A misdemeanor under this section may be made:
  - (a) At the time of conviction, for offenses described in subsection (1)(a)(A) of this section; or
  - (b) At any time after the sentence of probation has been completed, for offenses described in subsection (1)(a)(B) of this section. [1971 c.743 §83; 1977 c.745 §31; 1979 c.124 §1; 1981 c.769 §8; 2005 c.708 §48; 2009 c.610 §2; 2013 c.591 §5; 2015 c.290 §2; 2015 c.614 §125; 2017 c.21 §100; 2018 c.120 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.710 - Reduction of certain felony driving offenses after completion of sentence.**

- Notwithstanding ORS 161.525, the court has authority, at any time after a sentence of probation has been completed, to enter judgment of conviction for a Class A misdemeanor for a person convicted of criminal driving while suspended or revoked under ORS 811.182 committed before September 1, 1999, and constituting a felony if:
- (1) The suspension or revocation resulted from habitual offender status under ORS 809.640;
  - (2) The person successfully completed the sentence of probation; and
  - (3) The court finds that, considering the nature and circumstances of the crime and the history and character of the person, it would be unduly harsh for the person to continue to have a felony conviction. [2017 c.439 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.715 - Standards for discharge of defendant.**

- (1) Any court empowered to suspend imposition or execution of sentence or to sentence a defendant to probation may discharge the defendant if:
  - (a) The conviction is for an offense other than murder, treason or a Class A or B felony; and
  - (b) The court is of the opinion that no proper purpose would be served by imposing any condition upon the defendant's release.
- (2) If a sentence of discharge is imposed for a felony, the court shall set forth in the record the reasons for its action.
- (3) If the court imposes a sentence of discharge, the defendant shall be released with respect to the conviction for which the sentence is imposed without imprisonment, probationary supervision or conditions. The judgment entered by the court shall include a monetary obligation payable to the state in an amount equal to the minimum fine for the offense established by ORS 137.286.
- (4) If a defendant pleads not guilty and is tried and found guilty, a sentence of discharge is a judgment on a conviction for all purposes, including an appeal by the defendant.
- (5) If a defendant pleads guilty, a sentence of discharge is not appealable, but for all other purposes is a judgment on a conviction. [1971 c.743 §84; 1993 c.14 §20; 2003 c.576 §249; 2011 c.597 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.725 - Standards for sentencing of dangerous offenders.**

- (1) Subject to the provisions of ORS 161.737, the maximum term of an indeterminate sentence of imprisonment for a dangerous offender is 30 years, if because of the dangerousness of the defendant an extended period of confined correctional treatment or custody is required for the protection of the public and one or more of the following grounds exist:
  - (a) The defendant is being sentenced for a Class A felony and the defendant is suffering from a severe personality disorder indicating a propensity toward crimes that seriously endanger the life or safety of another.

- (b) The defendant is being sentenced for a felony that seriously endangered the life or safety of another, the defendant has been previously convicted of a felony not related to the instant crime as a single criminal episode and the defendant is suffering from a severe personality disorder indicating a propensity toward crimes that seriously endanger the life or safety of another.
- (c) The defendant is being sentenced for a felony that seriously endangered the life or safety of another, the defendant has previously engaged in unlawful conduct not related to the instant crime as a single criminal episode that seriously endangered the life or safety of another and the defendant is suffering from a severe personality disorder indicating a propensity toward crimes that seriously endanger the life or safety of another.
- (2) As used in this section, "previously convicted of a felony" means:
- (a) Previous conviction of a felony in a court of this state;
  - (b) Previous conviction in a court of the United States, other than a court-martial, of an offense which at the time of conviction of the offense was and at the time of conviction of the instant crime is punishable under the laws of the United States by death or by imprisonment in a penitentiary, prison or similar institution for a term of one year or more; or
  - (c) Previous conviction by a general court-martial of the United States or in a court of any other state or territory of the United States, or of the Commonwealth of Puerto Rico, of an offense which at the time of conviction of the offense was punishable by death or by imprisonment in a penitentiary, prison or similar institution for a term of one year or more and which offense also at the time of conviction of the instant crime would have been a felony if committed in this state.
- (3) As used in this section, "previous conviction of a felony" does not include:
- (a) An offense committed when the defendant was less than 16 years of age;
  - (b) A conviction rendered after the commission of the instant crime;
  - (c) A conviction that is the defendant's most recent conviction described in subsection (2) of this section, and the defendant was finally and unconditionally discharged from all resulting imprisonment, probation or parole more than seven years before the commission of the instant crime; or
  - (d) A conviction that was by court-martial of an offense denounced only by military law and triable only by court-martial.
- (4) As used in this section, "conviction" means an adjudication of guilt upon a plea, verdict or finding in a criminal proceeding in a court of competent jurisdiction, but does not include an adjudication which has been expunged by pardon, reversed, set aside or otherwise rendered nugatory. [1971 c.743 §85; 1989 c.790 §75; 1993 c.334 §5; 2005 c.463 §§9,14; 2007 c.16 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.735 - Procedure for determining whether defendant dangerous.**

- (1) Upon motion of the district attorney, and if, in the opinion of the court, there is reason to believe that the defendant falls within ORS 161.725, the court shall order a presentence investigation and an examination by a psychiatrist or psychologist. The court may appoint one or more qualified psychiatrists or psychologists to examine the defendant in the local correctional facility.
- (2) All costs connected with the examination shall be paid by the state.
- (3) The examination performed pursuant to this section shall be completed within 30 days, subject to additional extensions not exceeding 30 days on order of the court. Each psychiatrist and psychologist appointed to examine a defendant under this section shall file with the court a written report of findings and conclusions, including an evaluation of whether the defendant is suffering from a severe personality disorder indicating a propensity toward criminal activity.
- (4) No statement made by a defendant under this section or ORS 137.124 or 423.090 shall be used against the defendant in any civil proceeding or in any other criminal proceeding.
- (5) Upon receipt of the examination and presentence reports the court shall set a time for a presentence hearing, unless the district attorney and the defendant waive the hearing. At the presentence hearing the district attorney and the defendant may question any psychiatrist or psychologist who examined the defendant pursuant to this section.
- (6) If, after considering the evidence in the case or in the presentence hearing, the jury or, if the defendant waives the right to a jury trial, the court finds that the defendant comes within ORS 161.725, the court may sentence the defendant as a dangerous offender.
- (7) In determining whether a defendant has been previously convicted of a felony for purposes of ORS 161.725, the court shall consider as prima facie evidence of the previous conviction:
- (a) A copy of the judicial record of the conviction which copy is authenticated under ORS 40.510;
  - (b) A copy of the fingerprints of the subject of that conviction which copy is authenticated under ORS 40.510; and
  - (c) Testimony that the fingerprints of the subject of that conviction are those of the defendant.
- (8) Subsection (7) of this section does not prohibit proof of the previous conviction by any other procedure.
- (9) The facts required to be found to sentence a defendant as a dangerous offender under this section are enhancement facts, as defined in ORS 136.760, and ORS 136.765 to 136.785 apply to making determinations of those facts. [1971 c.743 §86; 1973 c.836 §341; 1981 c.892 §89a; 1983 c.740 §27; 1987 c.248 §1; 1999 c.163 §9; 2005 c.463 §§10,15; 2007 c.16 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.737 - Sentence imposed on dangerous offender as departure from sentencing guidelines.**

- (1) A sentence imposed under ORS 161.725 and 161.735 for felonies committed on or after November 1, 1989, shall constitute a departure from the sentencing guidelines created by rules of the Oregon Criminal Justice Commission. The findings made to classify the defendant as a dangerous offender under ORS 161.725 and 161.735 shall constitute substantial and compelling reasons to depart

from the presumptive sentence as provided by rules of the Oregon Criminal Justice Commission.

(2) When the sentence is imposed, the sentencing judge shall indicate on the record the reasons for the departure and shall impose, in addition to the indeterminate sentence imposed under ORS 161.725, a required incarceration term that the offender must serve before release to post-prison supervision. If the presumptive sentence that would have been imposed if the court had not imposed the sentence under ORS 161.725 and 161.735 as a departure is a prison sentence, the required incarceration term shall be no less than the presumptive incarceration term and no more than twice the maximum presumptive incarceration term. If the presumptive sentence for the offense is probation, the required incarceration term shall be no less than the maximum incarceration term provided by the rule of the Oregon Criminal Justice Commission that establishes incarceration terms for dispositional departures and no more than twice that amount. However, the indeterminate sentence imposed under this section and ORS 161.725 is not subject to any guideline rule establishing limitations on the duration of departures. [1989 c.790 §77; 1993 c.334 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 161 - General Provisions Section 161.740 - Sentencing of juvenile offenders.**

(1) A court may not impose a sentence of life imprisonment without the possibility of release or parole on a person who was under 18 years of age at the time of committing the offense.

(2) In determining the appropriate sentence for a person who was under 18 years of age at the time of committing the offense, if the court is provided information concerning the following circumstances, or any other relevant circumstances, the court shall consider those circumstances in imposing the sentence:

(a) The person's age, intellectual capacity and impetuosity at the time of the offense.

(b) The person's family and community environment, history of trauma and prior involvement in the juvenile dependency system at the time of the offense.

(c) The person's ability at the time of the offense to appreciate the risks and consequences of the conduct constituting the offense.

(d) The person's community involvement prior to the offense.

(e) Any peer or familial pressure to which the person was subjected at the time of the offense.

(f) Whether and to what extent an adult was involved in the commission of the offense.

(g) The person's capacity for rehabilitation.

(h) The person's school records and special education evaluations.

(i) Any other mitigating factors or circumstances presented by the person.

(3)(a) If the court is provided with a report of a mental health evaluation of the person, the court shall give the evaluation substantial weight in imposing the sentence if:

(A) The evaluation was conducted by a psychiatrist or psychologist whose primary practice involves the treatment of adolescents; and

(B) The report includes the assessment of the person's degree of insight, judgment, self-awareness, emotional regulation and impulse control.

(b) Paragraph (a) of this subsection does not constitute a requirement that a person obtain or submit an evaluation for sentencing.

(4) When sentencing a person who was under 18 years of age at the time of committing the offense, under no circumstances may the court consider the age of the person as an aggravating factor.

(5) When sentencing a person who was under 18 years of age at the time of committing an offense to a term of imprisonment, the court shall indicate in the judgment:

(a) The age of the person at the time of committing the offense; and

(b) That the person is eligible for a hearing and release under ORS 144.397. [2019 c.634 §24]

Note:

Section 32, chapter 634, Oregon Laws 2019, provides:

Sec. 32.

(1) Sections 24 [161.740] and 25 [144.397], chapter 634, Oregon Laws 2019, and the amendments to ORS 137.071, 137.124, 137.705, 137.707, 137.712, 144.185, 161.610, 161.620, 163.105, 163.115, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321, 419C.005, 419C.050, 419C.346, 419C.349, 419C.352, 419C.355, 419C.358, 419C.361, 420.011, 420.081 and 420A.203 and section 3, chapter 635, Oregon Laws 2019 [163.107], by sections 1 to 23 and 26 to 29, chapter 634, Oregon Laws 2019, and section 3a, chapter 635, Oregon Laws 2019, apply to sentences imposed on or after January 1, 2020.

(2) Notwithstanding subsection (1) of this section, sections 24 and 25, chapter 634, Oregon Laws 2019, and the amendments to ORS 137.071, 137.124, 137.705, 137.707, 137.712, 144.185, 161.610, 161.620, 163.105, 163.115, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321, 419C.005, 419C.050, 419C.346, 419C.349, 419C.352, 419C.355, 419C.358, 419C.361, 420.011, 420.081 and 420A.203 and section 3, chapter 635, Oregon Laws 2019, by sections 1 to 23 and 26 to 29, chapter 634, Oregon Laws 2019, and section 3a, chapter 635, Oregon Laws 2019, do not apply to persons who were originally sentenced before January 1, 2020, and who are subsequently resentenced on or after January 1, 2020, as the result of an appellate decision or a post-conviction relief proceeding or for any other reason. [2019 c.634 §32; 2019 c.635 §3c; 2019 c.685 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.005 - Definitions for ORS 162.005 to 162.425.**

As used in ORS 162.005 to 162.425, unless the context requires otherwise:

(1) "Pecuniary benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary, in the form of money, property, commercial interests or economic gain, but does not include a political campaign contribution reported in accordance with ORS chapter 260.

(2) "Public servant" means:

(a) A public official as defined in ORS 244.020;

(b) A person serving as an advisor, consultant or assistant at the request or direction of the state, any political subdivision thereof or of any governmental instrumentality within the state;

(c) A person nominated, elected or appointed to become a public servant, although not yet occupying the position; and

(d) Jurors. [1971 c.743 §178; 2007 c.865 §22]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.015 - Bribe giving.**

(1) A person commits the crime of bribe giving if the person offers, confers or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, action, decision or exercise of discretion in an official capacity.

(2) Bribe giving is a Class B felony. [1971 c.743 §179]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.025 - Bribe receiving.**

(1) A public servant commits the crime of bribe receiving if the public servant:

(a) Solicits any pecuniary benefit with the intent that the vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced; or

(b) Accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that the vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced.

(2) Bribe receiving is a Class B felony. [1971 c.743 §180]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.035 - Bribery defenses.**

(1) In any prosecution under ORS 162.015, it is a defense that the defendant offered, conferred or agreed to confer the pecuniary benefit as a result of the public servant's conduct constituting extortion or coercion.

(2) It is no defense to a prosecution under ORS 162.015 and 162.025 that the person sought to be influenced was not qualified to act in the desired way, whether because the person had not assumed office, lacked jurisdiction or for any other reason. [1971 c.743 §181]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.055 - Definitions for ORS 162.055 to 162.425.**

As used in ORS 162.055 to 162.425 and 162.465, unless the context requires otherwise:

(1) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

(2) "Material" means that which could have affected the course or outcome of any proceeding or transaction. Whether a false statement is "material" in a given factual situation is a question of law.

(3) "Statement" means any representation of fact and includes a representation of opinion, belief or other state of mind where the representation clearly relates to state of mind apart from or in addition to any facts which are the subject of the representation.

(4) "Sworn statement" means any statement that attests to the truth of what is stated and that is knowingly given under any form of oath or affirmation or by declaration under penalty of perjury as described in ORCP 1 E.

(5) "Unsworn declaration" has the meaning given that term in ORS 194.805. [1971 c.743 §182; 1981 c.892 §90; 2003 c.194 §4; 2013 c.218 §18]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.065 - Perjury.**

(1) A person commits the crime of perjury if the person makes a false sworn statement or a false unsworn declaration in regard to a material issue, knowing it to be false.

(2) Perjury is a Class C felony. [1971 c.743 §183; 2013 c.218 §19]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.075 - False swearing.**

(1) A person commits the crime of false swearing if the person makes a false sworn statement or a false unsworn declaration, knowing it to be false.

(2) False swearing is a Class A misdemeanor. [1971 c.743 §184; 2013 c.218 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.085 - Unsworn falsification.**

(1) A person commits the crime of unsworn falsification if the person knowingly makes any false written statement to a public servant in connection with an application for any benefit.

(2) Unsworn falsification is a Class B misdemeanor. [1971 c.743 §185]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.095 - Defenses to perjury and false swearing limited.**

It is no defense to a prosecution for perjury or false swearing that:

- (1) The statement was inadmissible under the rules of evidence; or
- (2) The oath or affirmation was taken or administered in an irregular manner; or
- (3) The defendant mistakenly believed the false statement to be immaterial. [1971 c.743 §186]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.105 - Retraction as defense.**

(1) It is a defense to a prosecution for perjury or false swearing committed in an official proceeding that the defendant retracted the false statement:

- (a) In a manner showing a complete and voluntary retraction of the prior false statement; and
- (b) During the course of the same official proceeding in which it was made; and
- (c) Before the subject matter of the official proceeding is submitted to the ultimate trier of fact.

(2) "Official proceeding," as used in this section, means a proceeding before any judicial, legislative or administrative body or officer, wherein sworn statements are received, and includes any referee, hearing examiner, commissioner, notary or other person taking sworn statements in connection with such proceedings. Statements made in separate stages of the same trial or administrative proceeding shall be considered to have been made in the course of the same proceeding. [1971 c.743 §187]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.115 - Corroboration of falsity required.**

In any prosecution for perjury or false swearing, falsity of a statement may not be established solely through contradiction by the testimony of a single witness. [1971 c.743 §188]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.117 - Public investment fraud.**

(1) A person commits the crime of public investment fraud if, for the purpose of influencing in any way the action of the State Treasury, the person knowingly makes any false statement or report.

(2) Public investment fraud is a Class B felony.

(3) Public investment fraud shall be classified as crime category 6 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(4) As used in this section, "action of the State Treasury" includes any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment or loan, or any change or extension of any of them, by renewal, deferment of action or otherwise, or the acceptance, release or substitution of security therefor. [1993 c.768 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.118 - Illegal conduct by State Treasury not a defense.**

Illegal conduct by the State Treasury or any of its employees or agents shall not be a defense for any person charged with the crime of public investment fraud or to any person against whom any civil action is brought under ORS 30.862 and 162.117 to 162.121.

[1993 c.768 §2]

Note:

See note under 162.117.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.119 - Public fraud as racketeering activity.**

(1) Conduct constituting a violation of ORS 162.117 shall be an incident of racketeering activity for purposes of criminal actions brought under ORS 166.715 to 166.735.

(2) Conduct giving rise to the civil cause of action described in ORS 30.862 shall be an incident of racketeering activity for purposes of civil actions brought under ORS 166.715 to 166.735. [1993 c.768 §3]

Note:

See note under 162.117.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.121 - Construction of ORS 162.117 to 162.121.**

The provisions of ORS 30.862 and 162.117 to 162.121 shall be liberally construed to effectuate its remedial purposes. [1993 c.768 §5]

Note:

See note under 162.117.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.135 - Definitions for ORS 162.135 to 162.205.**

As used in ORS 162.135 to 162.205, unless the context requires otherwise:

(1)(a) "Contraband" means:

(A) Controlled substances as defined in ORS 475.005;

(B) Drug paraphernalia as defined in ORS 475.525;

(C) Except as otherwise provided in paragraph (b) of this subsection, currency possessed by or in the control of an adult in custody confined in a correctional facility; or

(D) Any article or thing which a person confined in a correctional facility, youth correction facility or state hospital is prohibited by statute, rule or order from obtaining or possessing, and whose use would endanger the safety or security of such institution or any person therein.

(b) "Contraband" does not include authorized currency possessed by an adult in custody in a work release facility.

(2) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order and includes but is not limited to a youth correction facility. "Correctional facility" applies to a state hospital or a secure intensive community inpatient facility only as to persons detained therein charged with or convicted of a crime, or detained therein after having been found guilty except for insanity of a crime under ORS 161.290 to 161.373.

(3) "Currency" means paper money and coins that are within the correctional institution.

(4) "Custody" means the imposition of actual or constructive restraint by a peace officer pursuant to an arrest or court order, but does not include detention in a correctional facility, youth correction facility or a state hospital.

(5) "Escape" means the unlawful departure of a person from custody or a correctional facility. "Escape" includes the unauthorized departure or absence from this state or failure to return to this state by a person who is under the jurisdiction of the Psychiatric Security Review Board under ORS 161.315 to 161.351. "Escape" does not include failure to comply with provisions of a conditional release in ORS 135.245.

(6) "Youth correction facility" means:

(a) A youth correction facility as defined in ORS 420.005; and

(b) A detention facility as defined in ORS 419A.004.

(7) "State hospital" means the Oregon State Hospital and any other hospital established by law for similar purposes.

(8) "Unauthorized departure" means the unauthorized departure of a person confined by court order in a youth correction facility or a state hospital that, because of the nature of the court order, is not a correctional facility as defined in this section, or the failure to return to custody after any form of temporary release or transitional leave from a correctional facility. [1971 c.743 §189; 1973 c.836 §342; 1983 c.740 §28; 1983 c.815 §7; 1985 c.565 §16; 1989 c.790 §53; 1991 c.809 §1; 1993 c.33 §307; 1995 c.738 §2; 1997 c.249 §47; 1999 c.504 §1; 2001 c.295 §8; 2001 c.900 §24; 2005 c.685 §10; 2007 c.14 §3; 2011 c.708 §21; 2013 c.36 §36; 2015 c.318 §8; 2017 c.442 §20; 2019 c.213 §39]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.145 - Escape in the third degree.**

(1) A person commits the crime of escape in the third degree if the person escapes from custody.

(2) It is a defense to a prosecution under this section that the person escaping or attempting to escape was in custody pursuant to an illegal arrest.

(3) Escape in the third degree is a Class A misdemeanor. [1971 c.743 §190]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.155 - Escape in the second degree.**

(1) A person commits the crime of escape in the second degree if:

(a) The person uses or threatens to use physical force escaping from custody; or

(b) Having been convicted or found guilty of a felony, the person escapes from custody imposed as a result thereof; or

(c) The person escapes from a correctional facility; or

(d) While under the jurisdiction of the Psychiatric Security Review Board under ORS 161.315 to 161.351, the person departs, is absent from or fails to return to this state without authorization of the board.



(2) Escape in the second degree is a Class C felony. [1971 c.743 §191; 1983 c.800 §13; 1985 c.192 §1; 2011 c.708 §22; 2017 c.442 §21]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.165 - Escape in the first degree.**

(1) A person commits the crime of escape in the first degree if:

(a) Aided by another person actually present, the person uses or threatens to use physical force in escaping from custody or a correctional facility; or

(b) The person uses or threatens to use a dangerous or deadly weapon escaping from custody or a correctional facility.

(2) Escape in the first degree is a Class B felony. [1971 c.743 §192]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.175 - Unauthorized departure.**

(1) A person commits the crime of unauthorized departure if:

(a) The person makes an unauthorized departure; or

(b) Not being an adult in custody therein, the person aids another in making or attempting to make an unauthorized departure.

(2) Unauthorized departure is a Class A misdemeanor. [1971 c.743 §193; 1983 c.815 §8; 1989 c.790 §54; 2019 c.213 §40]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.185 - Supplying contraband.**

(1) A person commits the crime of supplying contraband if:

(a) The person knowingly introduces any contraband into a correctional facility, youth correction facility or state hospital; or

(b) Being confined in a correctional facility, youth correction facility or state hospital, the person knowingly makes, obtains or possesses any contraband.

(2) Supplying contraband is a Class C felony. [1971 c.743 §194; 1983 c.815 §9; 1997 c.249 §48]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.193 - Failure to appear; counsel for defendant cannot be witness; exception.**

In no prosecution under ORS 162.195 or 162.205 shall counsel representing the defendant on the underlying charge for which the defendant is alleged to have failed to appear be called to testify by the state as a witness against the defendant at any stage of the proceedings including, but not limited to, grand jury, preliminary hearing and trial. However, upon written motion by the state, and upon hearing the matter, if the court determines that no other reasonably adequate means exists to present evidence establishing the material elements of the charge, the counsel representing the defendant may be called to testify. [1989 c.759 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.195 - Failure to appear in the second degree.**

(1) A person commits the crime of failure to appear in the second degree if the person knowingly fails to appear as required after:

(a) Having by court order been released from custody or a correctional facility under a release agreement or security release upon the condition that the person will subsequently appear personally in connection with a charge against the person of having committed a misdemeanor; or

(b) Having been released from a correctional facility subject to a forced release agreement under ORS 169.046 in connection with a charge against the person of having committed a misdemeanor.

(2) Failure to appear in the second degree is a Class A misdemeanor. [1971 c.743 §195; 1973 c.836 §343; 1993 c.533 §5; 1999 c.1051 §69; 2001 c.517 §3; 2003 c.320 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.205 - Failure to appear in the first degree.**

(1) A person commits the crime of failure to appear in the first degree if the person knowingly fails to appear as required after:

(a) Having by court order been released from custody or a correctional facility under a release agreement or security release upon the condition that the person will subsequently appear personally in connection with a charge against the person of having committed a felony; or

(b) Having been released from a correctional facility subject to a forced release agreement under ORS 169.046 in connection with a charge against the person of having committed a felony.

(2) Failure to appear in the first degree is a Class C felony. [1971 c.743 §196; 1973 c.836 §344; 2001 c.517 §4; 2003 c.320 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.225 - Definitions for ORS 162.225 to 162.375.**

As used in ORS 162.225 to 162.375 and 162.465, unless the context requires otherwise:

- (1) "Firefighter" means any fire or forestry department employee, or authorized fire department volunteer, vested with the duty of preventing or combating fire or preventing the loss of life or property by fire.
- (2) "Official proceeding" means a proceeding before any judicial, legislative or administrative body or officer, wherein sworn statements are received, and includes any referee, hearing examiner, commissioner, notary or other person taking sworn statements in connection with such proceedings.
- (3) "Physical evidence" means any article, object, record, document or other evidence of physical substance.
- (4) "Public record" means any book, document, paper, file, photograph, sound recording, computerized recording in machine storage, records or other materials, regardless of physical form or characteristic, made, received, filed or recorded in any government office or agency pursuant to law or in connection with the transaction of public business, whether or not confidential or restricted in use.
- (5) "Testimony" means oral or written statements that may be offered by a witness in an official proceeding. [1971 c.743 §197; 1991 c.67 §34]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.235 - Obstructing governmental or judicial administration.**

- (1) A person commits the crime of obstructing governmental or judicial administration if the person:
  - (a) Intentionally obstructs, impairs or hinders the administration of law or other governmental or judicial function by means of intimidation, force, physical or economic interference or obstacle;
  - (b) With intent to defraud, engages in the business of or acts in the capacity of a notary public as defined in ORS 194.215 without having received a commission as a notary public from the Secretary of State; or
  - (c) With intent to defraud, engages in the business of or acts in the capacity of an immigration consultant, as defined in ORS 9.280, in violation of ORS 9.160.
- (2) This section shall not apply to the obstruction of unlawful governmental or judicial action or interference with the making of an arrest.
- (3) Obstructing governmental or judicial administration is a Class A misdemeanor. [1971 c.743 §198; 1981 c.902 §1; 2016 c.47 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.245 - Refusing to assist a peace officer.**

- (1) A person commits the offense of refusing to assist a peace officer if upon command by a person known by the person to be a peace officer the person unreasonably refuses or fails to assist in effecting an authorized arrest or preventing another from committing a crime.
- (2) Refusing to assist a peace officer is a Class B violation. [1971 c.743 §199; 1999 c.1051 §150]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.247 - Interfering with a peace officer or parole and probation officer.**

- (1) A person commits the crime of interfering with a peace officer or parole and probation officer if the person, knowing that another person is a peace officer or a parole and probation officer as defined in ORS 181A.355, intentionally or knowingly acts in a manner that prevents, or attempts to prevent, the peace officer or parole and probation officer from performing the lawful duties of the officer with regards to another person or a criminal investigation.
- (2) Interfering with a peace officer or parole and probation officer is a Class A misdemeanor.
- (3) This section does not apply in situations in which the person is engaging in passive resistance.
- (4) A person may not be arrested or charged under this section if the person is arrested or charged for another offense based on the same conduct. [1997 c.719 §1; 1999 c.1040 §7; 2005 c.668 §1; 2021 c.254 §1]

Note:

162.247 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 162 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.255 - Refusing to assist in fire-fighting operations.**

- (1) A person commits the offense of refusing to assist in fire-fighting operations if:
  - (a) Upon command by a person known by the person to be a firefighter the person unreasonably refuses or fails to assist in extinguishing a fire or protecting property threatened thereby; or
  - (b) Upon command by a person known by the person to be a firefighter or peace officer the person intentionally and unreasonably disobeys a lawful order relating to the conduct of the person in the vicinity of a fire.
- (2) Subsection (1) of this section does not apply to a person working for a news organization if the person is reporting on the fire and the person does not unreasonably interfere with fire-fighting operations.
- (3) Refusing to assist in fire-fighting operations is a Class B violation. [1971 c.743 §200; 1991 c.67 §35; 1999 c.1051 §151; 2005 c.626 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.257 - Interfering with a firefighter or emergency medical services provider.**

(1) A person commits the crime of interfering with a firefighter or emergency medical services provider if the person, knowing that another person is a firefighter or emergency medical services provider, intentionally acts in a manner that prevents, or attempts to prevent, a firefighter or emergency medical services provider from performing the lawful duties of the firefighter or emergency medical services provider.

(2) Interfering with a firefighter or emergency medical services provider is a Class A misdemeanor.

(3) As used in this section, "emergency medical services provider" has the meaning given that term in ORS 682.025. [2003 c.529 §2; 2011 c.703 §26]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.265 - Bribing a witness.**

(1) A person commits the crime of bribing a witness if the person offers, confers or agrees to confer any pecuniary benefit upon a witness in any official proceeding, or a person the person believes may be called as a witness, with the intent that:

(a) The testimony of the person as a witness will thereby be influenced; or

(b) The person will avoid legal process summoning the person to testify; or

(c) The person will be absent from any official proceeding to which the person has been legally summoned.

(2) Bribing a witness is a Class C felony. [1971 c.743 §201]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.275 - Bribe receiving by a witness.**

(1) A witness in any official proceeding, or a person who believes the person may be called as a witness, commits the crime of bribe receiving by a witness if the person solicits any pecuniary benefit with the intent, or accepts or agrees to accept any pecuniary benefit upon an agreement or understanding, that:

(a) The testimony of the person as a witness will thereby be influenced; or

(b) The person will avoid legal process summoning the person to testify; or

(c) The person will be absent from any official proceeding to which the person has been legally summoned.

(2) Bribe receiving by a witness is a Class C felony. [1971 c.743 §202]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.285 - Tampering with a witness.**

(1) A person commits the crime of tampering with a witness if:

(a) The person knowingly induces or attempts to induce a witness or a person the person believes may be called as a witness in any official proceeding to offer false testimony or unlawfully withhold any testimony; or

(b) The person knowingly induces or attempts to induce a witness to be absent from any official proceeding to which the person has been legally summoned.

(2) Tampering with a witness is a Class C felony. [1971 c.743 §203; 1979 c.231 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.295 - Tampering with physical evidence.**

(1) A person commits the crime of tampering with physical evidence if, with intent that it be used, introduced, rejected or unavailable in an official proceeding which is then pending or to the knowledge of such person is about to be instituted, the person:

(a) Destroys, mutilates, alters, conceals or removes physical evidence impairing its verity or availability; or

(b) Knowingly makes, produces or offers any false physical evidence; or

(c) Prevents the production of physical evidence by an act of force, intimidation or deception against any person.

(2) Tampering with physical evidence is a Class A misdemeanor. [1971 c.743 §204]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.305 - Tampering with public records.**

(1) A person commits the crime of tampering with public records if, without lawful authority, the person knowingly destroys, mutilates, conceals, removes, makes a false entry in or falsely alters any public record, including records relating to the Oregon State Lottery.

(2)(a) Except as provided in paragraph (b) of this subsection, tampering with public records is a Class A misdemeanor.

(b) Tampering with records relating to the Oregon State Lottery is a Class C felony. [1971 c.743 §205; 1991 c.962 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.315 - Resisting arrest.**

(1) A person commits the crime of resisting arrest if the person intentionally resists a person known by the person to be a peace

officer or parole and probation officer in making an arrest.

(2) As used in this section:

(a) "Arrest" has the meaning given that term in ORS 133.005 and includes, but is not limited to, the booking process.

(b) "Parole and probation officer" has the meaning given that term in ORS 181A.355.

(c) "Resists" means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person and includes, but is not limited to, behavior clearly intended to prevent being taken into custody by overcoming the actions of the arresting officer. The behavior does not have to result in actual physical injury to an officer. Passive resistance does not constitute behavior intended to prevent being taken into custody.

(3) It is no defense to a prosecution under this section that the peace officer or parole and probation officer lacked legal authority to make the arrest or book the person, provided the officer was acting under color of official authority.

(4) Resisting arrest is a Class A misdemeanor. [1971 c.743 §206; 1989 c.877 §1; 1997 c.749 §3; 2005 c.668 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.325 - Hindering prosecution.**

(1) A person commits the crime of hindering prosecution if, with intent to hinder the apprehension, prosecution, conviction or punishment of a person who has committed a crime punishable as a felony, or with the intent to assist a person who has committed a crime punishable as a felony in profiting or benefiting from the commission of the crime, the person:

(a) Harbors or conceals such person; or

(b) Warns such person of impending discovery or apprehension; or

(c) Provides or aids in providing such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; or

(d) Prevents or obstructs, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person; or

(e) Suppresses by any act of concealment, alteration or destruction physical evidence which might aid in the discovery or apprehension of such person; or

(f) Aids such person in securing or protecting the proceeds of the crime.

(2) Hindering prosecution is a Class C felony. [1971 c.743 §207]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.335 - Compounding.**

(1) A person commits the crime of compounding if the person accepts or agrees to accept any pecuniary benefit as consideration for refraining from reporting to law enforcement authorities the commission or suspected commission of any felony or information relating to a felony.

(2) Compounding is a Class A misdemeanor. [1971 c.743 §208]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.345 - Defenses for hindering or compounding limited.**

It is no defense to a prosecution for hindering prosecution or compounding that the principal offender is not apprehended, prosecuted, convicted or punished. [1971 c.743 §209]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.355 - Simulating legal process.**

(1) A person commits the crime of simulating legal process if, with the intent to harass, injure or defraud another person, the person knowingly issues or delivers to another person any document that in form and substance falsely simulates civil or criminal process.

(2) As used in this section:

(a) "Civil or criminal process" means a document or order, including, but not limited to, a summons, lien, complaint, warrant, injunction, writ, notice, pleading or subpoena, that is issued by a court or that is filed or recorded for the purpose of:

(A) Exercising jurisdiction;

(B) Representing a claim against a person or property;

(C) Directing a person to appear before a court or tribunal; or

(D) Directing a person to perform or refrain from performing a specified act.

(b) "Person" has the meaning given that term in ORS 161.015, except that in relation to a defendant, "person" means a human being, a public or private corporation, an unincorporated association or a partnership.

(3) Simulating legal process is a Class C felony. [1971 c.743 §210; 1997 c.395 §1; 2005 c.2 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.365 - Criminal impersonation of a public servant.**

(1) A person commits the crime of criminal impersonation of a public servant if, with intent to obtain a benefit, to injure or defraud

another or to facilitate an unlawful activity, the person does an act in the assumed character of a public servant.

(2) It is no defense to a prosecution under this section that:

(a) The office, position or title that the person pretended to hold did not in fact exist; or

(b) The unit of government that the person pretended to represent did not in fact exist.

(3)(a) Criminal impersonation of a public servant is a Class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, criminal impersonation of a public servant is a Class C felony if the public servant impersonated is a peace officer, judge or justice of the peace.

(4) For the purposes of this section, "public servant" includes an active member or veteran of the Armed Forces of the United States. [1971 c.743 §211; 1993 c.243 §1; 1997 c.395 §2; 2003 c.577 §12; 2007 c.510 §1; 2016 c.22 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.367 - Criminal impersonation of a peace officer.**

(1) A person commits the crime of criminal impersonation of a peace officer if the person, with the intent to obtain a benefit or to injure or defraud another person, uses false law enforcement identification or wears a law enforcement uniform to give the impression that the person is a peace officer and does an act in that assumed character.

(2) Criminal impersonation of a peace officer is a Class C felony.

(3) As used in this section:

(a) "False law enforcement identification" means a badge or an identification card that:

(A) Identifies the possessor of the badge or card as a member of a law enforcement unit; and

(B) Was not lawfully issued to the possessor by the law enforcement unit.

(b) "Law enforcement uniform" means clothing bearing words such as "police," "sheriff," "state trooper" or "law enforcement," or clothing that is an official uniform or substantially similar to an official uniform of a law enforcement unit that would make it reasonably likely that a person would believe that the wearer is a peace officer. [1993 c.243 §2; 2005 c.259 §1]

Note:

162.367 and 162.369 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 162 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.369 - Possession of a false law enforcement identification card.**

(1) A person commits the crime of possession of a false law enforcement identification card if the person possesses a false law enforcement identification card.

(2) Possession of a false law enforcement identification card is a Class A misdemeanor.

(3) As used in this section, "false law enforcement identification card" means an identification card that:

(a) Identifies the possessor of the card as a member of a law enforcement unit; and

(b) Was not lawfully issued to the possessor by the law enforcement unit. [1993 c.243 §3]

Note:

See note under 162.367.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.375 - Initiating a false report.**

(1) A person commits the crime of initiating a false report if the person knowingly initiates a false alarm or report that is transmitted to a fire department, law enforcement agency or other organization that deals with emergencies involving danger to life or property.

(2) Initiating a false report is a Class A misdemeanor.

(3)(a) The court shall include in the sentence of any person convicted under this section a requirement that the person repay the costs incurred in responding to and investigating the false report.

(b) If the response to the false report involved the deployment of a law enforcement special weapons and tactics (SWAT) team or a similar law enforcement group, the court shall impose, and may not suspend, a term of incarceration of:

(A) At least 10 days.

(B) At least 30 days if the deployment resulted in death or serious physical injury to another person. [1971 c.743 §212; 2013 c.490 §1; 2015 c.751 §2; 2018 c.120 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.385 - Giving false information to a peace officer in connection with a citation or warrant.**

(1) A person commits the crime of giving false information to a peace officer in connection with a citation or warrant if the person knowingly uses or gives a false or fictitious name, address or date of birth to any peace officer when:

(a) The peace officer is issuing or serving the person a citation under authority of ORS 133.055 to 133.076 or ORS chapter 153; or

(b) There is an outstanding warrant for the person's arrest.

(2) Giving false information to a peace officer in connection with a citation or warrant is a Class A misdemeanor. [1983 c.661 §11;

1999 c.1051 §70; 2003 c.777 §1; 2007 c.771 §1; 2017 c.99 §1]

Note:

162.385 was added to and made a part of ORS chapter 133 by legislative action. It was not added to ORS chapter 162 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.405 - Official misconduct in the second degree.**

(1) A public servant commits the crime of official misconduct in the second degree if the person knowingly violates any statute relating to the office of the person.

(2) Official misconduct in the second degree is a Class C misdemeanor. [1971 c.743 §214]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.415 - Official misconduct in the first degree.**

(1) A public servant commits the crime of official misconduct in the first degree if:

(a) With intent to obtain a benefit or to harm another:

(A) The public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office; or

(B) The public servant knowingly performs an act constituting an unauthorized exercise in official duties; or

(b) The public servant, while acting as a supervisory employee, violates ORS 162.405 and is aware of and consciously disregards the fact that the violation creates a risk of:

(A) Physical injury to a vulnerable person;

(B) The commission of a sex crime as defined in ORS 163A.005 against a vulnerable person; or

(C) The withholding from a vulnerable person of necessary and adequate food, physical care or medical attention.

(2) Official misconduct in the first degree is a Class A misdemeanor.

(3) As used in this section:

(a) "Supervisory employee" means a person having the authority, in the interest of an employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees.

(b) "Vulnerable person" has the meaning given that term in ORS 136.427. [1971 c.743 §215; 2017 c.519 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.425 - Misuse of confidential information.**

(1) A public servant commits the crime of misuse of confidential information if in contemplation of official action by the public servant or by a governmental unit with which the public servant is associated, or in reliance on information to which the public servant has access in an official capacity and which has not been made public, the public servant acquires or aids another in acquiring a pecuniary interest in any property, transaction or enterprise which may be affected by such information or official action.

(2) Misuse of confidential information is a Class B misdemeanor. [1971 c.743 §216]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.455 - Interfering with legislative operations.**

Any person not a member of the Legislative Assembly who engages in conduct in or near the legislative chambers of either house or in or near any meeting of a joint, standing, interim or special committee of either house, wherever held, with the intention of interrupting, disrupting or otherwise interfering with the orderly conduct of business therein, or who gains or seeks to gain access to the chambers or meeting in such manner shall be guilty of a misdemeanor. [1971 c.276 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 162 - Offenses Against the State and Public Justice Section 162.465 - Unlawful legislative lobbying.**

(1) A person commits the crime of unlawful legislative lobbying if, having an interest in the passage or defeat of a measure being considered by either house of the Legislative Assembly of this state, as either an agent or principal, the person knowingly attempts to influence a member of the assembly in relation to the measure without first disclosing completely to the member the true interest of the person therein, or that of the principal of the person and the person's own agency therein.

(2) Unlawful legislative lobbying is a Class B misdemeanor. [1971 c.743 §213]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.005 - Criminal homicide.**

(1) A person commits criminal homicide if, without justification or excuse, the person intentionally, knowingly, recklessly or with criminal negligence causes the death of another human being.

(2) "Criminal homicide" is murder, manslaughter, criminally negligent homicide or aggravated vehicular homicide.

(3) "Human being" means a person who has been born and was alive at the time of the criminal act. [1971 c.743 §87; 2007 c.867 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.095 - "Aggravated murder" defined.**

As used in ORS 163.105 and this section, "aggravated murder" means:

- (1) Criminal homicide of two or more persons that is premeditated and committed intentionally and with the intent to:
  - (a) Intimidate, injure or coerce a civilian population;
  - (b) Influence the policy of a government by intimidation or coercion; or
  - (c) Affect the conduct of a government through destruction of property, murder, kidnapping or aircraft piracy; or
- (2) Murder in the second degree, as defined in ORS 163.115, that is:
  - (a)(A) Committed while the defendant was confined in a state, county or municipal penal or correctional facility or was otherwise in custody; and
  - (B) Committed after the defendant was previously convicted in any jurisdiction of any homicide, the elements of which constitute the crime of aggravated murder under this section or murder in the first degree under ORS 163.107;
  - (b) Premeditated and committed intentionally against a person under 14 years of age;
  - (c) Premeditated, committed intentionally against a police officer as defined in ORS 801.395, and related to the performance of the victim's official duties; or
  - (d) Premeditated, committed intentionally against a correctional, parole and probation officer or other person charged with the duty of custody, control or supervision of convicted persons, and related to the performance of the victim's official duties. [1977 c.370 §1; 1981 c.873 §1; 1991 c.742 §13; 1991 c.837 §12; 1993 c.185 §20; 1993 c.623 §2; 1997 c.850 §1; 2005 c.264 §17; 2012 c.54 §26; 2015 c.614 §149; 2019 c.635 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.098**

[2014 c.73 §5; 2019 c.635 §17; renumbered 163.109 in 2019]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.103**

[1981 c.873 §3; 2019 c.635 §18; renumbered 163.111 in 2019]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.105 - Sentencing options for aggravated murder.**

Notwithstanding the provisions of ORS chapter 144 and ORS 421.450 to 421.490:

- (1)(a) Except as otherwise provided in ORS 137.707, when a defendant is convicted of aggravated murder as defined by ORS 163.095, the defendant shall be sentenced, pursuant to ORS 163.150, to death, life imprisonment without the possibility of release or parole or life imprisonment.
- (b) A person sentenced to life imprisonment without the possibility of release or parole under this section shall not have that sentence suspended, deferred or commuted by any judicial officer, and the State Board of Parole and Post-Prison Supervision may not parole the prisoner nor reduce the period of confinement in any manner whatsoever. The Department of Corrections or any executive official may not permit the prisoner to participate in any sort of release or furlough program.
- (c) If sentenced to life imprisonment, the court shall order that the defendant shall be confined for a minimum of 30 years without possibility of parole or release to post-prison supervision except as provided in ORS 144.397, and without the possibility of release on work release or any form of temporary leave or employment at a forest or work camp.
- (2) At any time after completion of a minimum period of confinement pursuant to subsection (1)(c) of this section, the State Board of Parole and Post-Prison Supervision, upon the petition of a prisoner so confined, shall hold a hearing to determine if the prisoner is likely to be rehabilitated within a reasonable period of time. The sole issue is whether or not the prisoner is likely to be rehabilitated within a reasonable period of time. At the hearing, the prisoner has:
  - (a) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time;
  - (b) The right, if the prisoner is without sufficient funds to employ an attorney, to be represented by legal counsel, appointed by the board, at board expense; and
  - (c) The right to a subpoena upon a showing of the general relevance and reasonable scope of the evidence sought, provided that any subpoena issued on behalf of the prisoner must be issued by the State Board of Parole and Post-Prison Supervision pursuant to rules adopted by the board.
- (3) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board members or, if the chairperson requires all voting members to participate, a unanimous vote of all voting members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's confinement should be changed to life imprisonment with the possibility of parole, release to post-prison supervision or work release, it shall enter an order to that effect and the order shall convert the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release to post-prison supervision or work release and may set a release date. Otherwise the board shall deny the relief sought in the petition.
- (4) If the board denies the relief sought in the petition, the board shall determine the date of the subsequent hearing, and the prisoner

may petition for an interim hearing, in accordance with ORS 144.285.

(5) The board's final order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the board's order. [1977 c.370 §2; 1981 c.873 §4; 1985 c.3 §1; 1987 c.158 §23; 1987 c.803 §20; 1989 c.720 §1; 1991 c.126 §8; 1995 c.421 §2; 1999 c.59 §31; 1999 c.782 §5; 2007 c.717 §1; 2009 c.660 §6; 2015 c.820 §45; 2019 c.634 §27]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.107 - Murder in the first degree; sentence of life imprisonment required; minimum term.**

(1) "Murder in the first degree" means murder in the second degree as defined in ORS 163.115 which is committed under, or accompanied by, any of the following circumstances:

- (a) The defendant committed the murder pursuant to an agreement that the defendant receive money or other thing of value for committing the murder.
  - (b) The defendant solicited another to commit the murder and paid or agreed to pay the person money or other thing of value for committing the murder.
  - (c) The defendant committed murder after having been convicted previously in any jurisdiction of any homicide, the elements of which constitute the crime of aggravated murder as defined in ORS 163.095, murder in the first degree under this section, murder in the second degree as defined in ORS 163.115 or manslaughter in the first degree as defined in ORS 163.118.
  - (d) There was more than one murder victim in the same criminal episode as defined in ORS 131.505.
  - (e) The homicide occurred in the course of or as a result of intentional maiming or torture of the victim.
  - (f) The victim of the intentional homicide was a person under the age of 14 years.
  - (g) The victim was one of the following and the murder was related to the performance of the victim's official duties in the justice system:
    - (A) A police officer as defined in ORS 181A.355;
    - (B) A correctional, parole and probation officer or other person charged with the duty of custody, control or supervision of convicted persons;
    - (C) A member of the Oregon State Police;
    - (D) A judicial officer as defined in ORS 1.210;
    - (E) A juror or witness in a criminal proceeding;
    - (F) An employee or officer of a court of justice;
    - (G) A member of the State Board of Parole and Post-Prison Supervision; or
    - (H) A regulatory specialist.
  - (h) The defendant was confined in a state, county or municipal penal or correctional facility or was otherwise in custody when the murder occurred.
  - (i) The defendant committed murder by means of an explosive as defined in ORS 164.055.
  - (j) Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally committed the homicide under the circumstances set forth in ORS 163.115 (1)(b).
  - (k) The murder was committed in an effort to conceal the commission of a crime, or to conceal the identity of the perpetrator of a crime.
  - (L) The murder was committed after the defendant had escaped from a state, county or municipal penal or correctional facility and before the defendant had been returned to the custody of the facility.
- (2)(a) Except as otherwise provided in ORS 163.155 and paragraph (b) of this subsection, the court shall sentence a person convicted of murder in the first degree, who was at least 15 years of age at the time of committing the murder, to life imprisonment. The court shall order that the defendant be confined for a minimum of 30 years without possibility of parole or release to post-prison supervision except as provided in ORS 144.397, and without the possibility of release on work release or any form of temporary leave or employment at a forest or work camp.
- (b) The court may sentence the person to life imprisonment without the possibility of parole if the person was at least 18 years of age at the time of committing the murder. The court shall state on the record the reasons for imposing the sentence. A person sentenced to life imprisonment without the possibility of release or parole under this paragraph shall not have that sentence suspended, deferred or commuted by any judicial officer, and the State Board of Parole and Post-Prison Supervision may not parole the prisoner nor reduce the period of confinement in any manner whatsoever. The Department of Corrections or any executive official may not permit the prisoner to participate in any sort of release or furlough program.
- (3)(a) For a person sentenced to life imprisonment, at any time after completion of the minimum period of confinement described in subsection (2)(a) of this section, the State Board of Parole and Post-Prison Supervision, upon the petition of a prisoner so confined, shall hold a hearing to determine if the prisoner is likely to be rehabilitated within a reasonable period of time. The sole issue is whether the prisoner is likely to be rehabilitated within a reasonable period of time. At the hearing the prisoner has:
- (A) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time;
  - (B) The right, if the prisoner is without sufficient funds to employ an attorney, to be represented by legal counsel, appointed by the board, at board expense; and
  - (C) The right to a subpoena upon a showing of the general relevance and reasonable scope of the evidence sought, provided that any



subpoena issued on behalf of the prisoner must be issued by the State Board of Parole and Post-Prison Supervision pursuant to rules adopted by the board.

(b) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board members or, if the chairperson requires all voting members to participate, a unanimous vote of all voting members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's confinement should be changed to life imprisonment with the possibility of parole, release to post-prison supervision or work release, it shall enter an order to that effect and the order shall convert the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release to post-prison supervision or work release and may set a release date. Otherwise, the board shall deny the relief sought in the petition.

(c) If the board denies the relief sought in the petition, the board shall determine the date of the subsequent hearing, and the prisoner may petition for an interim hearing, in accordance with ORS 144.285.

(d) The board's final order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the board's order. [2019 c.635 §3; 2019 c.635 §3a]

(e) The board's final order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the board's order. [2019 c.635 §3; 2019 c.635 §3a]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.109 - Alternative proof of certain victims of murder in the first degree.**

Notwithstanding ORS 163.107, when an element of a crime charged is that the victim of the crime is a police officer as defined in ORS 181A.355 and the crime was related to the officer's performance of official duties, the state may alternatively prove that the victim of the crime is a certified reserve officer or a reserve officer, as those terms are defined in ORS 181A.355, and the crime was related to the officer's performance of official duties. [Formerly 163.098]

Note:

163.109 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.111 - Pleading, proof and stipulation regarding previous conviction element in prosecution for murder in the first degree.**

(1) In a prosecution for murder in the first degree under ORS 163.107 (1)(c), the state shall plead the previous conviction, and shall prove the previous conviction unless the defendant stipulates to that fact prior to trial. If the defendant so stipulates and the trial is by jury:

(a) The court shall accept the stipulation regardless of whether or not the state agrees to it;

(b) The defendant's stipulation to the previous conviction constitutes a judicial admission to that element of the accusatory instrument. The stipulation shall be made a part of the record of the case, but shall not be offered or received in the presence of the jury;

(c) For the purpose of establishing the prior conviction solely as an element of the crime under ORS 163.107 (1)(c), neither the court nor the state shall reveal to the jury the previous conviction, but the previous conviction is established in the record by the defendant's stipulation; and

(d) The court shall not submit the accusatory instrument or evidence of the previous conviction to the jury.

(2) In a proceeding under ORS 163.107 (1)(c), the state may offer, and the court may receive and submit to the jury, evidence of the previous conviction for impeachment of the defendant or another purpose, other than establishing the conviction as an element of the offense, when the evidence of the previous conviction is otherwise admissible for that purpose. When evidence of the previous conviction has been admitted by the court, the state may comment upon, and the court may give instructions about, the evidence of the previous conviction only to the extent that the comments or instructions relate to the purpose for which the evidence was admitted.

(3) When the defendant stipulates to the prior conviction required as an element of murder in the first degree under ORS 163.107

(1)(c), if the jury finds the defendant guilty upon instruction regarding the balance of the elements of the crime, the court shall enter a judgment of guilty of murder in the first degree. [Formerly 163.103]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.115 - Murder in the second degree; affirmative defense to certain felony murders; sentence of life imprisonment required; minimum term.**

(1) Except as provided in ORS 163.095, 163.118 and 163.125, criminal homicide constitutes murder in the second degree:

(a) When it is committed intentionally, except that it is an affirmative defense that, at the time of the homicide, the defendant was under the influence of an extreme emotional disturbance;

(b) When it is committed by a person, acting either alone or with one or more persons, who commits or attempts to commit any of the following crimes and in the course of and in furtherance of the crime the person is committing or attempting to commit, or during the immediate flight therefrom, the person, or another participant if there be any, causes the death of a person other than one of the participants:

(A) Arson in the first degree as defined in ORS 164.325;

- (B) Criminal mischief in the first degree by means of an explosive as defined in ORS 164.365;
- (C) Burglary in the first degree as defined in ORS 164.225;
- (D) Escape in the first degree as defined in ORS 162.165;
- (E) Kidnapping in the second degree as defined in ORS 163.225;
- (F) Kidnapping in the first degree as defined in ORS 163.235;
- (G) Robbery in the first degree as defined in ORS 164.415;
- (H) Any felony sexual offense in the first degree defined in this chapter;
- (I) Compelling prostitution as defined in ORS 167.017; or
- (J) Assault in the first degree, as defined in ORS 163.185, and the victim is under 14 years of age, or assault in the second degree, as defined in ORS 163.175 (1)(a) or (b), and the victim is under 14 years of age; or
- (c) By abuse when a person, recklessly under circumstances manifesting extreme indifference to the value of human life, causes the death of a child under 14 years of age or a dependent person, as defined in ORS 163.205, and:
  - (A) The person has previously engaged in a pattern or practice of assault or torture of the victim or another child under 14 years of age or a dependent person; or
  - (B) The person causes the death by neglect or maltreatment.
- (2) An accusatory instrument alleging murder by abuse under subsection (1)(c) of this section need not allege specific incidents of assault or torture.
- (3) It is an affirmative defense to a charge of violating subsection (1)(b) of this section that the defendant:
  - (a) Was not the only participant in the underlying crime;
  - (b) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid in the commission thereof;
  - (c) Was not armed with a dangerous or deadly weapon;
  - (d) Had no reasonable ground to believe that any other participant was armed with a dangerous or deadly weapon; and
  - (e) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death.
- (4) It is an affirmative defense to a charge of violating subsection (1)(c)(B) of this section that the victim was a dependent person who was at least 18 years of age and was under care or treatment solely by spiritual means pursuant to the religious beliefs or practices of the dependent person or the guardian of the dependent person.
- (5) Except as otherwise provided in ORS 144.397 and 163.155:
  - (a) A person convicted of murder in the second degree, who was at least 15 years of age at the time of committing the murder, shall be punished by imprisonment for life.
  - (b) When a defendant is convicted of murder in the second degree under this section, the court shall order that the defendant shall be confined for a minimum of 25 years without possibility of parole, release to post-prison supervision, release on work release or any form of temporary leave or employment at a forest or work camp.
  - (c) At any time after completion of a minimum period of confinement pursuant to paragraph (b) of this subsection, the State Board of Parole and Post-Prison Supervision, upon the petition of a prisoner so confined, shall hold a hearing to determine if the prisoner is likely to be rehabilitated within a reasonable period of time. The sole issue is whether the prisoner is likely to be rehabilitated within a reasonable period of time. At the hearing the prisoner has:
    - (A) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time;
    - (B) The right, if the prisoner is without sufficient funds to employ an attorney, to be represented by legal counsel, appointed by the board, at board expense; and
    - (C) The right to a subpoena upon a showing of the general relevance and reasonable scope of the evidence sought, provided that any subpoena issued on behalf of the prisoner must be issued by the State Board of Parole and Post-Prison Supervision pursuant to rules adopted by the board.
  - (d) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board members or, if the chairperson requires all voting members to participate, a unanimous vote of all voting members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's confinement should be changed to life imprisonment with the possibility of parole, release to post-prison supervision or work release, it shall enter an order to that effect and the order shall convert the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release to post-prison supervision or work release and may set a release date. Otherwise, the board shall deny the relief sought in the petition.
  - (e) If the board denies the relief sought in the petition, the board shall determine the date of the subsequent hearing, and the prisoner may petition for an interim hearing, in accordance with ORS 144.285.
  - (f) The board's final order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the board's order.
- (6) As used in this section:
  - (a) "Assault" means the intentional, knowing or reckless causation of physical injury to another person. "Assault" does not include the causation of physical injury in a motor vehicle accident that occurs by reason of the reckless conduct of a defendant.
  - (b) "Neglect or maltreatment" means a violation of ORS 163.535, 163.545 or 163.547 or a failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of a child under 14 years of age or a dependent person. This paragraph is not intended to replace or affect the duty or standard of care required under ORS chapter 677.

(c) "Pattern or practice" means one or more previous episodes.

(d) "Torture" means the intentional infliction of intense physical pain upon an unwilling victim as a separate objective apart from any other purpose. [1971 c.743 §88; 1975 c.577 §1; 1979 c.2 §1; 1981 c.873 §5; 1985 c.763 §1; 1989 c.985 §1; 1993 c.664 §1; 1995 c.421 §3; 1995 c.657 §1; 1997 c.850 §2; 1999 c.782 §4; 2007 c.717 §2; 2009 c.660 §7; 2009 c.785 §1; 2011 c.291 §1; 2015 c.820 §46; 2019 c.634 §28; 2019 c.635 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.117 - Causing or aiding suicide as defense to charge of murder.**

It is a defense to a charge of murder that the defendant's conduct consisted of causing or aiding, without the use of duress or deception, another person to commit suicide. Nothing contained in this section shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter or any other crime. [1981 c.873 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.118 - Manslaughter in the first degree.**

(1) Criminal homicide constitutes manslaughter in the first degree when:

(a) It is committed recklessly under circumstances manifesting extreme indifference to the value of human life;

(b) It is committed intentionally by a defendant under the influence of extreme emotional disturbance as provided in ORS 163.135, which constitutes a mitigating circumstance reducing the homicide that would otherwise be murder to manslaughter in the first degree and need not be proved in any prosecution;

(c) A person recklessly causes the death of a child under 14 years of age or a dependent person, as defined in ORS 163.205, and:

(A) The person has previously engaged in a pattern or practice of assault or torture of the victim or another child under 14 years of age or a dependent person; or

(B) The person causes the death by neglect or maltreatment, as defined in ORS 163.115; or

(d) It is committed recklessly or with criminal negligence by a person operating a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 and:

(A) In the 10 years prior to the date of the current offense the person has been convicted of at least three of any of the following offenses in any combination:

(i) Driving under the influence of intoxicants in violation of ORS 813.010, or its statutory counterpart in another jurisdiction;

(ii) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving or operation of a vehicle, an aircraft or a boat due to the use of intoxicants or any combination thereof; or

(iii) An offense in another jurisdiction that involved driving or operating a vehicle, an aircraft or a boat while having a blood alcohol content above that jurisdiction's permissible blood alcohol content; or

(B)(i) The person has a previous conviction for any of the crimes described in subsection (2) of this section, or their statutory counterparts in any jurisdiction; and

(ii) The victim's serious physical injury in the previous conviction was caused by the person driving a motor vehicle.

(2) The previous convictions to which subsection (1)(d)(B) of this section applies are:

(a) Assault in the first degree under ORS 163.185;

(b) Assault in the second degree under ORS 163.175; or

(c) Assault in the third degree under ORS 163.165.

(3) Manslaughter in the first degree is a Class A felony.

(4) It is an affirmative defense to a charge of violating:

(a) Subsection (1)(c)(B) of this section that the victim was a dependent person who was at least 18 years of age and was under care or treatment solely by spiritual means pursuant to the religious beliefs or practices of the dependent person or the guardian of the dependent person.

(b) Subsection (1)(d)(B) of this section that the defendant was not under the influence of intoxicants at the time of the conduct that resulted in the previous conviction.

(5) As used in this section, "intoxicant" has the meaning given that term in ORS 801.321. [1975 c.577 §2; 1981 c.873 §6; 1997 c.850 §3; 2007 c.867 §2; 2011 c.291 §2; 2021 c.480 §4; 2023 c.498 §23]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.125 - Manslaughter in the second degree.**

(1) Criminal homicide constitutes manslaughter in the second degree when:

(a) It is committed recklessly;

(b) A person intentionally causes or aids another person to commit suicide; or

(c) A person, with criminal negligence, causes the death of a child under 14 years of age or a dependent person, as defined in ORS 163.205, and:

(A) The person has previously engaged in a pattern or practice of assault or torture of the victim or another child under 14 years of age or a dependent person; or

(B) The person causes the death by neglect or maltreatment, as defined in ORS 163.115.

(2) Manslaughter in the second degree is a Class B felony. [1971 c.743 §89; 1975 c.577 §3; 1997 c.850 §4; 1999 c.954 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.135 - Extreme emotional disturbance as affirmative defense to murder in the second degree; notice of expert testimony; right of state to psychiatric or psychological examination.**

(1) It is an affirmative defense to murder in the second degree for purposes of ORS 163.115 (1)(a) that the homicide was committed under the influence of extreme emotional disturbance if the disturbance is not the result of the person's own intentional, knowing, reckless or criminally negligent act and if there is a reasonable explanation for the disturbance. The reasonableness of the explanation for the disturbance must be determined from the standpoint of an ordinary person in the actor's situation under the circumstances that the actor reasonably believed them to be. Extreme emotional disturbance does not constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime.

(2)(a) The defendant may not introduce in the defendant's case in chief expert testimony regarding extreme emotional disturbance under this section unless the defendant gives notice of the defendant's intent to do so.

(b) The notice required must be in writing and must be filed at the time the defendant pleads not guilty. The defendant may file the notice at any time after the defendant pleads but before trial if the court determines that there was just cause for failure to file the notice at the time of the defendant's plea.

(c) If the defendant fails to file notice, the defendant may not introduce evidence for the purpose of proving extreme emotional disturbance under ORS 163.115 unless the court, in its discretion, determines that there was just cause for failure to file notice.

(3) After the defendant files notice as provided in subsection (2) of this section, the state may have at least one psychiatrist or licensed psychologist of its selection examine the defendant in the same manner and subject to the same provisions as provided in ORS 161.315.

(4) The discovery of, knowledge about or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression or sexual orientation, including but not limited to circumstances in which the victim made a romantic or sexual advance that was unwanted but did not involve force toward the defendant, does not constitute a reasonable explanation for an extreme emotional disturbance under this section.

(5) As used in this section, "gender identity" has the meaning given that term in ORS 166.155. [1971 c.743 §90; 1977 c.235 §1; 1981 c.873 §7; 2003 c.127 §1; 2019 c.635 §19; 2021 c.84 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.145 - Criminally negligent homicide.**

(1) A person commits the crime of criminally negligent homicide when, with criminal negligence, the person causes the death of another person.

(2) Criminally negligent homicide is a Class B felony. [1971 c.743 §91; 2003 c.815 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.147 - Crime category classification for manslaughter in the second degree and criminally negligent homicide.**

The Oregon Criminal Justice Commission shall classify manslaughter in the second degree as described in ORS 163.125 and criminally negligent homicide as described in ORS 163.145 as crime category 9 of the sentencing guidelines grid of the commission if:

(1) The manslaughter or criminally negligent homicide resulted from the operation of a motor vehicle; and

(2) The driver of the motor vehicle was driving while under the influence of intoxicants. [2003 c.815 §1]

Note:

163.147 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.149 - Aggravated vehicular homicide.**

(1) Criminal homicide constitutes aggravated vehicular homicide when it is committed with criminal negligence, recklessly or recklessly under circumstances manifesting extreme indifference to the value of human life by a person operating a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 and:

(a) The person has a previous conviction for any of the crimes described in subsection (2) of this section, or their statutory counterparts in any jurisdiction; and

(b) The victim's death in the previous conviction was caused by the person driving a motor vehicle.

(2) The previous convictions to which subsection (1) of this section applies are:

(a) Manslaughter in the first degree under ORS 163.118;

(b) Manslaughter in the second degree under ORS 163.125; or

(c) Criminally negligent homicide under ORS 163.145.

(3) It is an affirmative defense to a prosecution under this section that the defendant was not under the influence of intoxicants at the

time of the conduct that resulted in the previous conviction.

(4) Aggravated vehicular homicide is a Class A felony. [2007 c.867 §1]

Note:

163.149 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.150 - Sentencing for aggravated murder; proceedings; issues for jury.**

(1)(a) Upon a finding that the defendant is guilty of aggravated murder, the court, except as otherwise provided in subsection (3) of this section, shall conduct a separate sentencing proceeding to determine whether the defendant shall be sentenced to life imprisonment, as described in ORS 163.105 (1)(c), life imprisonment without the possibility of release or parole, as described in ORS 163.105 (1)(b), or death. The proceeding shall be conducted in the trial court before the trial jury as soon as practicable. If a juror for any reason is unable to perform the function of a juror, the juror shall be dismissed from the sentencing proceeding. The court shall cause to be drawn the name of one of the alternate jurors, who shall then become a member of the jury for the sentencing proceeding notwithstanding the fact that the alternate juror did not deliberate on the issue of guilt. If the defendant has pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose. In the proceeding, evidence may be presented as to any matter that the court deems relevant to sentence including, but not limited to, victim impact evidence relating to the personal characteristics of the victim or the impact of the crime on the victim's family and any aggravating or mitigating evidence relevant to the issue in paragraph (b)(C) of this subsection; however, neither the state nor the defendant shall be allowed to introduce repetitive evidence that has previously been offered and received during the trial on the issue of guilt. The court shall instruct the jury that all evidence previously offered and received may be considered for purposes of the sentencing hearing. This paragraph shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or of the State of Oregon. The state and the defendant or the counsel of the defendant shall be permitted to present arguments for or against a sentence of death and for or against a sentence of life imprisonment with or without the possibility of release or parole.

(b) Upon the conclusion of the presentation of the evidence, the court shall submit the following issues to the jury:

(A) Whether the conduct of the defendant that caused the death of the deceased was committed deliberately and with the reasonable expectation that death of the deceased or another would result;

(B) If raised by the evidence, whether the conduct of the defendant in killing the deceased was unreasonable in response to the provocation, if any, by the deceased; and

(C) Whether the defendant should receive a death sentence.

(c)(A) The court shall instruct the jury to consider, in determining the issues in paragraph (b) of this subsection, any mitigating circumstances offered in evidence, including but not limited to the defendant's age, the extent and severity of the defendant's prior criminal conduct and the extent of the mental and emotional pressure under which the defendant was acting at the time the offense was committed.

(B) The court shall instruct the jury to answer the question in paragraph (b)(C) of this subsection "no" if, after considering any aggravating evidence and any mitigating evidence concerning any aspect of the defendant's character or background, or any circumstances of the offense and any victim impact evidence as described in paragraph (a) of this subsection, one or more of the jurors believe that the defendant should not receive a death sentence.

(d) The state must prove each issue submitted under paragraph (b) of this subsection beyond a reasonable doubt, and the jury shall return a special verdict of "yes" or "no" on each issue considered.

(e) The court shall charge the jury that it may not answer any issue "yes," under paragraph (b) of this subsection unless it agrees unanimously.

(f) If the jury returns an affirmative finding on each issue considered under paragraph (b) of this subsection, the trial judge shall sentence the defendant to death.

(2)(a) Upon the conclusion of the presentation of the evidence, the court shall also instruct the jury that if it reaches a negative finding on any issue under subsection (1)(b) of this section, the trial court shall sentence the defendant to life imprisonment without the possibility of release or parole, as described in ORS 163.105 (1)(b), unless 10 or more members of the jury further find that there are sufficient mitigating circumstances to warrant life imprisonment, in which case the trial court shall sentence the defendant to life imprisonment as described in ORS 163.105 (1)(c).

(b) If the jury returns a negative finding on any issue under subsection (1)(b) of this section and further finds that there are sufficient mitigating circumstances to warrant life imprisonment, the trial court shall sentence the defendant to life imprisonment in the custody of the Department of Corrections as provided in ORS 163.105 (1)(c).

(3)(a) When the defendant is found guilty of aggravated murder, and ORS 137.707 (2) applies or the state advises the court on the record that the state declines to present evidence for purposes of sentencing the defendant to death, the court:

(A) Shall not conduct a sentencing proceeding as described in subsection (1) of this section, and a sentence of death shall not be ordered.

(B) Shall conduct a sentencing proceeding to determine whether the defendant shall be sentenced to life imprisonment without the possibility of release or parole as described in ORS 163.105 (1)(b) or life imprisonment as described in ORS 163.105 (1)(c). If the

defendant waives all rights to a jury sentencing proceeding, the court shall conduct the sentencing proceeding as the trier of fact. The procedure for the sentencing proceeding, whether before a court or a jury, shall follow the procedure of subsection (1)(a) of this section, as modified by this subsection. In the proceeding, evidence may be presented as to any matter that the court deems relevant to sentence, including, but not limited to, victim impact evidence relating to the personal characteristics of the victim or the impact of the crime on the victim's family.

(b) Following the presentation of evidence and argument under paragraph (a) of this subsection, the court shall instruct the jury that the trial court shall sentence the defendant to life imprisonment without the possibility of release or parole as described in ORS 163.105 (1)(b), unless after considering all of the evidence submitted, 10 or more members of the jury find there are sufficient mitigating circumstances to warrant life imprisonment with the possibility of parole as described in ORS 163.105 (1)(c). If 10 or more members of the jury find there are sufficient mitigating circumstances to warrant life imprisonment with the possibility of parole, the trial court shall sentence the defendant to life imprisonment as described in ORS 163.105 (1)(c).

(c) Nothing in this subsection shall preclude the court from sentencing the defendant to life imprisonment, as described in ORS 163.105 (1)(c), or life imprisonment without the possibility of release or parole, as described in ORS 163.105 (1)(b), pursuant to a stipulation of sentence or stipulation of sentencing facts agreed to and offered by both parties if the defendant waives all rights to a jury sentencing proceeding.

(4) If any part of subsection (2) of this section is held invalid and as a result thereof a defendant who has been sentenced to life imprisonment without possibility of release or parole will instead be sentenced to life imprisonment in the custody of the Department of Corrections as provided in ORS 163.105 (2), the defendant shall be confined for a minimum of 30 years without possibility of parole, release on work release or any form of temporary leave or employment at a forest or work camp. Subsection (2) of this section shall apply only to trials commencing on or after July 19, 1989.

(5) Notwithstanding subsection (1)(a) of this section, if the trial court grants a mistrial during the sentencing proceeding, the trial court, at the election of the state, shall either:

(a) Sentence the defendant to imprisonment for life in the custody of the Department of Corrections as provided in ORS 163.105 (1)(c); or

(b) Impanel a new sentencing jury for the purpose of conducting a new sentencing proceeding to determine if the defendant should be sentenced to:

(A) Death;

(B) Imprisonment for life without the possibility of release or parole as provided in ORS 163.105 (1)(b); or

(C) Imprisonment for life in the custody of the Department of Corrections as provided in ORS 163.105 (1)(c). [1985 c.3 §3; 1987 c.320 §86; 1987 c.557 §1; 1989 c.720 §2; 1989 c.790 §135b; 1991 c.725 §2; 1991 c.885 §2; 1995 c.531 §2; 1995 c.657 §23; 1997 c.784 §1; 1999 c.1055 §1; 2001 c.306 §1; 2005 c.480 §1; 2017 c.359 §4; 2019 c.635 §5]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.155 - Sentencing for murder of pregnant victim; proceeding; issues for jury.**

(1) When a defendant, who was at least 15 years of age at the time of committing the murder, is convicted of murdering a pregnant victim under ORS 163.115 (1)(a) and the defendant knew that the victim was pregnant, the defendant shall be sentenced to life imprisonment without the possibility of release or parole if the person was at least 18 years of age at the time of committing the offense or to life imprisonment. The court shall conduct a sentencing proceeding to determine whether the defendant shall be sentenced to life imprisonment without the possibility of release or parole as described in subsection (4) of this section or to life imprisonment as described in subsection (5) of this section. If the defendant waives all rights to a jury sentencing proceeding, the court shall conduct the sentencing proceeding as the trier of fact. The procedure for the sentencing proceeding, whether before a court or a jury, shall follow the procedure of ORS 163.150 (1)(a), as modified by this section.

(2) Following the presentation of evidence and argument under subsection (1) of this section, the court shall instruct the jury that the trial court shall sentence the defendant to life imprisonment without the possibility of release or parole as described in subsection (4) of this section, unless after considering all of the evidence submitted, 10 or more members of the jury find there are sufficient mitigating circumstances to warrant life imprisonment with the possibility of release or parole as described in subsection (5) of this section. If 10 or more members of the jury do not find there are sufficient mitigating circumstances to warrant life imprisonment with the possibility of release or parole, the trial court shall sentence the defendant to life imprisonment without the possibility of release or parole as described in subsection (4) of this section. If 10 or more members of the jury find there are sufficient mitigating circumstances to warrant life imprisonment with the possibility of release or parole, the trial court shall sentence the defendant to life imprisonment as described in subsection (5) of this section.

(3) Nothing in this section precludes the court from sentencing the defendant to life imprisonment, as described in subsection (5) of this section, or life imprisonment without the possibility of release or parole, as described in subsection (4) of this section, pursuant to a stipulation of sentence or stipulation of sentencing facts agreed to and offered by both parties if the defendant waives all rights to a jury sentencing proceeding.

(4) A sentence of life imprisonment without the possibility of release or parole under this section may not be suspended, deferred or commuted by any judicial officer, and the State Board of Parole and Post-Prison Supervision may neither parole the prisoner nor reduce the period of confinement in any manner whatsoever. The Department of Corrections or any executive official may not permit the prisoner to participate in any sort of release or furlough program.

(5) If the defendant is sentenced to life imprisonment, the court shall order that the defendant be confined for a minimum of 30 years without possibility of parole or release to post-prison supervision except as provided in ORS 144.397, and without the possibility of release on work release or any form of temporary leave or employment at a forest or work camp.

(6) At any time after completion of the minimum period of confinement pursuant to subsection (5) of this section, the board, upon the petition of a prisoner so confined, shall hold a hearing to determine if the prisoner is likely to be rehabilitated within a reasonable period of time. The sole issue shall be whether the prisoner is likely to be rehabilitated within a reasonable period of time. The proceeding shall be conducted in the manner prescribed for a contested case hearing under ORS chapter 183, except that:

(a) The prisoner has the burden of proving by a preponderance of the evidence the likelihood of rehabilitation within a reasonable period of time;

(b) The prisoner has the right, if the prisoner is without sufficient funds to employ an attorney, to be represented by legal counsel, appointed by the board, at board expense; and

(c) The prisoner has the right to a subpoena upon a showing of the general relevance and reasonable scope of the evidence sought, provided that any subpoena issued on behalf of the prisoner must be issued by the board pursuant to rules adopted by the board.

(7) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board members or, if the chairperson requires all voting members to participate, a unanimous vote of all voting members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's confinement should be changed to life imprisonment with the possibility of parole, release on post-prison supervision or work release, it shall enter an order to that effect and the order shall convert the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release on post-prison supervision or work release and may set a release date. Otherwise the board shall deny the relief sought in the petition.

(8) Not less than two years after the denial of the relief sought in a petition under this section, the prisoner may petition again for a change in the terms of confinement. Further petitions for a change may be filed at intervals of not less than two years thereafter. [2009 c.785 §1a; 2015 c.820 §47; 2019 c.634 §29]

Note:

163.155 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.160 - Assault in the fourth degree.**

(1) A person commits the crime of assault in the fourth degree if the person:

(a) Intentionally, knowingly or recklessly causes physical injury to another;

(b) With criminal negligence causes physical injury to another by means of a deadly weapon; or

(c) With criminal negligence causes serious physical injury to another who is a vulnerable user of a public way, as defined in ORS 801.608, by means of a motor vehicle.

(2) Assault in the fourth degree is a Class A misdemeanor.

(3) Notwithstanding subsection (2) of this section, assault in the fourth degree under subsection (1)(a) or (b) of this section is a Class C felony if the person commits the crime of assault in the fourth degree and:

(a) The assault is committed in the immediate presence of, or is witnessed by, the person's or the victim's minor child or stepchild or a minor child residing within the household of the person or victim;

(b) The person has been previously convicted of violating this section or ORS 163.165, 163.175, 163.185, 163.187 or 163.190, or of committing an equivalent crime in another jurisdiction, and the victim in the previous conviction is the same person who is the victim of the current crime;

(c) The person has at least three previous convictions for violating this section or ORS 163.165, 163.175, 163.185, 163.187 or 163.190 or for committing an equivalent crime in another jurisdiction, in any combination; or

(d) The person commits the assault knowing that the victim is pregnant.

(4) If a person is convicted of misdemeanor assault in the fourth degree constituting domestic violence as an element of the crime as described ORS 132.586, the court shall ensure that the judgment document reflects that the conviction constitutes domestic violence.

(5) For purposes of subsection (3) of this section, an assault is witnessed if the assault is seen or directly perceived in any other manner by the child. [1977 c.297 §5; 1997 c.694 §1; 1999 c.1073 §1; 2009 c.785 §3; 2015 c.639 §2; 2017 c.337 §1; 2021 c.581 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.165 - Assault in the third degree.**

(1) A person commits the crime of assault in the third degree if the person:

(a) Recklessly causes serious physical injury to another by means of a deadly or dangerous weapon;

(b) Recklessly causes serious physical injury to another under circumstances manifesting extreme indifference to the value of human life;

(c) Recklessly causes physical injury to another by means of a deadly or dangerous weapon under circumstances manifesting extreme indifference to the value of human life;

(d) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical injury to the operator of a public transit vehicle while the operator is in control of or operating the vehicle. As used in this paragraph, "public transit vehicle" has the

meaning given that term in ORS 166.116;

- (e) While being aided by another person actually present, intentionally or knowingly causes physical injury to another;
- (f) While committed to a youth correction facility, intentionally or knowingly causes physical injury to another knowing the other person is a staff member while the other person is acting in the course of official duty;
- (g) Intentionally, knowingly or recklessly causes physical injury to an emergency medical services provider, as defined in ORS 682.025, while the emergency medical services provider is performing official duties;
- (h) Being at least 18 years of age, intentionally or knowingly causes physical injury to a child 10 years of age or younger;
- (i) Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical injury to the operator of a taxi while the operator is in control of the taxi; or
- (j) Intentionally, knowingly or recklessly causes physical injury to a flagger or a highway worker while the flagger or highway worker is performing official duties.

(2)(a) Assault in the third degree is a Class C felony.

(b) Notwithstanding paragraph (a) of this subsection, assault in the third degree under subsection (1)(a) or (b) of this section is a Class B felony if:

- (A) The assault resulted from the operation of a motor vehicle; and
- (B) The defendant was the driver of the motor vehicle and was driving while under the influence of intoxicants.

(3) As used in this section:

(a) "Flagger" has the meaning given that term in ORS 811.230.

(b) "Highway worker" has the meaning given that term in ORS 811.230.

(c) "Staff member" means:

- (A) A corrections officer as defined in ORS 181A.355, a youth correction officer, a youth correction facility staff member, a Department of Corrections or Oregon Youth Authority staff member or a person employed pursuant to a contract with the department or youth authority to work with, or in the vicinity of, adults in custody, youths or adjudicated youths; and
- (B) A volunteer authorized by the department, youth authority or other entity in charge of a corrections facility to work with, or in the vicinity of, adults in custody, youths or adjudicated youths.

(d) "Youth correction facility" has the meaning given that term in ORS 162.135. [1971 c.743 §92; 1977 c.297 §3; 1991 c.475 §1; 1991 c.564 §1; 1995 c.738 §1; 1997 c.249 §49; 1999 c.1011 §1; 2001 c.104 §50; 2001 c.830 §1; 2001 c.851 §4; 2009 c.660 §39; 2009 c.783 §3; 2011 c.529 §1; 2011 c.703 §27; 2017 c.658 §1; 2019 c.213 §119; 2021 c.489 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.168 - Crime category classification for assault in the third degree.**

The Oregon Criminal Justice Commission shall classify assault in the third degree that is committed under the circumstances described in ORS 163.165 (2)(b) as crime category 8 of the sentencing guidelines grid of the commission. [2009 c.660 §40]

Note:

163.168 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.175 - Assault in the second degree.**

(1) A person commits the crime of assault in the second degree if the person:

- (a) Intentionally or knowingly causes serious physical injury to another;
- (b) Intentionally or knowingly causes physical injury to another by means of a deadly or dangerous weapon; or
- (c) Recklessly causes serious physical injury to another by means of a deadly or dangerous weapon under circumstances manifesting extreme indifference to the value of human life.

(2) Assault in the second degree is a Class B felony. [1971 c.743 §93; 1975 c.626 §1; 1977 c.297 §2; 2005 c.22 §110]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.185 - Assault in the first degree.**

(1) A person commits the crime of assault in the first degree if the person:

- (a) Intentionally causes serious physical injury to another by means of a deadly or dangerous weapon;
- (b) Intentionally or knowingly causes serious physical injury to a child under six years of age;
- (c) Violates ORS 163.175 knowing that the victim is pregnant; or
- (d) Intentionally, knowingly or recklessly causes serious physical injury to another while operating a motor vehicle under the influence of intoxicants in violation of ORS 813.010 and:
  - (A) In the 10 years prior to the date of the current offense the person has been convicted of at least three of any of the following offenses in any combination:
    - (i) Driving under the influence of intoxicants in violation of ORS 813.010, or its statutory counterpart in another jurisdiction;
    - (ii) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving or operation of a vehicle, an aircraft or a boat due to the use of intoxicants or any combination thereof; or



- (iii) An offense in another jurisdiction that involved driving or operating a vehicle, an aircraft or a boat while having a blood alcohol content above that jurisdiction's permissible blood alcohol content; or
  - (B)(i) The person has a previous conviction for any of the crimes described in subsection (2) of this section, or their statutory counterparts in any jurisdiction; and
  - (ii) The victim's death or serious physical injury in the previous conviction was caused by the person driving a motor vehicle.
- (2) The previous convictions to which subsection (1)(d)(B) of this section apply are:
- (a) Manslaughter in the first degree under ORS 163.118;
  - (b) Manslaughter in the second degree under ORS 163.125;
  - (c) Criminally negligent homicide under ORS 163.145;
  - (d) Assault in the first degree under this section;
  - (e) Assault in the second degree under ORS 163.175; or
  - (f) Assault in the third degree under ORS 163.165.
- (3) Assault in the first degree is a Class A felony.
- (4) It is an affirmative defense to a prosecution under subsection (1)(d)(B) of this section that the defendant was not under the influence of intoxicants at the time of the conduct that resulted in the previous conviction.
- (5) As used in this section, "intoxicant" has the meaning given that term in ORS 801.321. [1971 c.743 §94; 1975 c.626 §2; 1977 c.297 §1; 2005 c.513 §1; 2007 c.867 §3; 2009 c.785 §2; 2021 c.480 §5; 2023 c.498 §24]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.187 - Strangulation.**

- (1) A person commits the crime of strangulation if the person knowingly impedes the normal breathing or circulation of the blood of another person by:
- (a) Applying pressure on the throat, neck or chest of the other person; or
  - (b) Blocking the nose or mouth of the other person.
- (2) Subsection (1) of this section does not apply to legitimate medical or dental procedures or good faith practices of a religious belief.
- (3) Strangulation is a Class A misdemeanor.
- (4) Notwithstanding subsection (3) of this section, strangulation is a Class C felony if:
- (a) The crime is committed in the immediate presence of, or is witnessed by, the person's or the victim's minor child or stepchild or a minor child residing within the household of the person or the victim;
  - (b) The victim is under 10 years of age;
  - (c) The victim is a family or household member, as defined in ORS 135.230, of the person;
  - (d) During the commission of the crime, the person used, attempted to use or threatened to use a dangerous or deadly weapon, as those terms are defined in ORS 161.015, unlawfully against another;
  - (e) The person has been previously convicted of violating this section or ORS 163.160, 163.165, 163.175, 163.185 or 163.190, or of committing an equivalent crime in another jurisdiction, and the victim in the previous conviction is the same person who is the victim of the current crime;
  - (f) The person has at least three previous convictions for violating this section or ORS 163.160, 163.165, 163.175, 163.185 or 163.190 or for committing an equivalent crime in another jurisdiction, in any combination; or
  - (g) The person commits the strangulation knowing that the victim is pregnant.
- (5) For purposes of subsection (4)(a) of this section, a strangulation is witnessed if the strangulation is seen or directly perceived in any other manner by the child.
- (6) The Oregon Criminal Justice Commission shall classify strangulation committed under the circumstances described in subsection (4)(c) of this section as crime category 5 of the sentencing guidelines grid of the commission. [2003 c.577 §2, 2011 c.666 §1; 2012 c.82 §1; 2015 c.639 §1; 2018 c.84 §1]

Note:

163.187 was added to and made a part of 163.160 to 163.208 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.190 - Menacing.**

- (1) A person commits the crime of menacing if by word or conduct the person intentionally attempts to place another person in fear of imminent serious physical injury.
- (2) Menacing is a Class A misdemeanor.
- (3) If a person is convicted of menacing constituting domestic violence as an element of the crime as described ORS 132.586, the court shall ensure that the judgment document reflects that the conviction constitutes domestic violence. [1971 c.743 §95; 2021 c.581 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section**

**163.191 - Intimidation by display of a noose.**

(1) A person commits the crime of intimidation by display of a noose if:

(a) The person, with the intent to intimidate another person or place another person in fear of imminent bodily harm, knowingly places a noose:

(A) On public property; or

(B) On private property without the written consent of the property owner;

(b) The other person is intimidated or placed in fear of imminent bodily harm by the display; and

(c) A reasonable person would be intimidated or placed in fear of imminent bodily harm by the display.

(2) Intimidation by display of a noose is a Class A misdemeanor.

(3) As used in this section:

(a) "Intimidate" means to threaten another person in a manner that compels or deters the other person's conduct.

(b) "Noose" means a tied loop in the end of a length of rope or cord. [2021 c.276 §1]

Note:

163.191 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.192 - Endangering a person protected by a Family Abuse Prevention Act restraining order.**

(1) A person commits the crime of endangering a person protected by a Family Abuse Prevention Act restraining order if the person:

(a) Has been served with the order as provided in ORS 107.718, unless service was waived under ORS 107.720 because the person appeared before the court;

(b) Intentionally engaged in conduct prohibited by the order while the order was in effect; and

(c) By engaging in the prohibited conduct, recklessly created a substantial risk of physical injury to a person protected by the order, or intentionally attempted to place a person protected by the order in fear of imminent physical injury.

(2) Endangering a person protected by a Family Abuse Prevention Act restraining order is a Class C felony. [2015 c.527 §2]

Note:

163.192 was added to and made a part of 163.160 to 163.208 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.193 - Assisting another person to commit suicide.**

(1) A person commits the crime of assisting another person to commit suicide if the person knowingly sells, or otherwise transfers for consideration, any substance or object, that is capable of causing death, to another person for the purpose of assisting the other person to commit suicide.

(2) This section does not apply to a person:

(a) Acting pursuant to a court order, an advance directive or a form for appointing a health care representative pursuant to ORS 127.505 to 127.660 or a POLST, as defined in ORS 127.663;

(b) Withholding or withdrawing life-sustaining procedures or artificially administered nutrition and hydration pursuant to ORS 127.505 to 127.660; or

(c) Acting in accordance with the provisions of ORS 127.800 to 127.897.

(3) Assisting another person to commit suicide is a Class B felony. [2011 c.552 §2; 2013 c.1 §10; 2018 c.36 §27]

Note:

163.193 was added to and made a part of 163.160 to 163.208 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.195 - Recklessly endangering another person.**

(1) A person commits the crime of recklessly endangering another person if the person recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

(2) Recklessly endangering another person is a Class A misdemeanor. [1971 c.743 §96]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.196 - Aggravated driving while suspended or revoked.**

(1) A person commits the crime of aggravated driving while suspended or revoked if the person operates a motor vehicle that causes serious physical injury to, or the death of, another person while knowingly violating ORS 811.175 or 811.182, if the suspension or revocation resulted from, or if the hardship permit violated is based upon a suspension or revocation that resulted from, a conviction for a criminal offense involving the use of a motor vehicle.

(2) Aggravated driving while suspended or revoked is a Class C felony.

(3) The Oregon Criminal Justice Commission shall classify aggravated driving while suspended or revoked as crime category 7 of the sentencing guidelines grid of the commission. [2009 c.783 §5; 2018 c.76 §3]

Note:

163.196 was added to and made a part of ORS chapter 163 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.197 - Hazing.**

(1) A student organization or a member of a student organization commits the offense of hazing if, as a condition or precondition of attaining membership in the organization or of attaining any office or status in the organization, the organization or member intentionally hazes any member, potential member or person pledged to be a member of the organization.

(2)(a) A student organization that violates subsection (1) of this section commits a Class A violation.

(b) A member of a student organization who personally violates subsection (1) of this section commits a Class B violation.

(3) Consent of the person who is hazed is not a defense in a prosecution under this section.

(4) As used in this section:

(a) "Haze" means:

(A) To subject an individual to whipping, beating, striking, branding or electronic shocking, to place a harmful substance on an individual's body or to subject an individual to other similar forms of physical brutality;

(B) To subject an individual to sleep deprivation, exposure to the elements, confinement in a small space or other similar activity that subjects the individual to an unreasonable risk of harm or adversely affects the physical health or safety of the individual;

(C) To compel an individual to consume food, liquid, alcohol, cannabis, controlled substances or other substances that subject the individual to an unreasonable risk of harm or adversely affect the physical health or safety of the individual; or

(D) To induce, cause or require an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

(b) "Member" includes volunteers, coaches and faculty advisers of a student organization.

(c) "Student organization" means a fraternity, sorority, athletic team or other organization that is organized or operating on a college, university or elementary or secondary school campus for the purpose of providing members an opportunity to participate in student activities of the college, university or elementary or secondary school. [1983 c.202 §2; 1999 c.1051 §152; 2009 c.493 §1; 2017 c.21 §42]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.200 - Criminal mistreatment in the second degree.**

(1) A person commits the crime of criminal mistreatment in the second degree if, with criminal negligence and:

(a) In violation of a legal duty to provide care for another person, the person withholds necessary and adequate food, physical care or medical attention from that person; or

(b) Having assumed the permanent or temporary care, custody or responsibility for the supervision of another person, the person withholds necessary and adequate food, physical care or medical attention from that person.

(2) Criminal mistreatment in the second degree is a Class A misdemeanor.

(3) As used in this section, "legal duty" includes but is not limited to a duty created by familial relationship, court order, contractual agreement or statutory or case law. [1973 c.627 §2; 1993 c.364 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.205 - Criminal mistreatment in the first degree.**

(1) A person commits the crime of criminal mistreatment in the first degree if:

(a) The person, in violation of a legal duty to provide care for another person, or having assumed the permanent or temporary care, custody or responsibility for the supervision of another person, intentionally or knowingly withholds necessary and adequate food, physical care or medical attention from that other person; or

(b) The person, in violation of a legal duty to provide care for a dependent person or elderly person, or having assumed the permanent or temporary care, custody or responsibility for the supervision of a dependent person or elderly person, intentionally or knowingly:

(A) Causes physical injury or injuries to the dependent person or elderly person;

(B) Deserts the dependent person or elderly person in a place with the intent to abandon that person;

(C) Leaves the dependent person or elderly person unattended at a place for such a period of time as may be likely to endanger the health or welfare of that person;

(D) Hides the dependent person's or elderly person's money or property or takes the money or property for, or appropriates the money or property to, any use or purpose not in the due and lawful execution of the person's responsibility;

(E) Takes charge of a dependent or elderly person for the purpose of fraud;

(F) Leaves the dependent person or elderly person, or causes the dependent person or elderly person to enter or remain, in or upon premises:

(i) Where a cannabinoid extract as defined in ORS 475C.009 is being processed; and

- (ii) That have not been licensed under ORS 475C.085; or
- (G) Leaves the dependent person or elderly person, or causes the dependent person or elderly person to enter or remain, in or upon premises where a chemical reaction involving one or more precursor substances:
  - (i) Is occurring as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance; or
  - (ii) Has occurred as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance and the premises have not been certified as fit for use under ORS 453.885.
- (2) As used in this section:
  - (a) "Controlled substance" has the meaning given that term in ORS 475.005.
  - (b) "Dependent person" means a person who because of either age or a physical or mental disability is dependent upon another to provide for the person's physical needs.
  - (c) "Elderly person" means a person 65 years of age or older.
  - (d) "Legal duty" includes but is not limited to a duty created by familial relationship, court order, contractual agreement or statutory or case law.
  - (e) "Precursor substance" has the meaning given that term in ORS 475.940.
- (3) Criminal mistreatment in the first degree is a Class C felony. [1973 c.627 §3; 1981 c.486 §1; 1993 c.364 §2; 2005 c.708 §1; 2017 c.21 §43]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.206 - Exceptions to criminal mistreatment.**

ORS 163.200 and 163.205 do not apply:

- (1) To a person acting pursuant to a court order, an advance directive or a form for appointing a health care representative pursuant to ORS 127.505 to 127.660 or a POLST, as defined in ORS 127.663;
- (2) To a person withholding or withdrawing life-sustaining procedures or artificially administered nutrition and hydration pursuant to ORS 127.505 to 127.660;
- (3) When a competent person refuses food, physical care or medical care;
- (4) To a person who provides an elderly person or a dependent person who is at least 18 years of age with spiritual treatment through prayer from a duly accredited practitioner of spiritual treatment as provided in ORS 124.095, in lieu of medical treatment, in accordance with the tenets and practices of a recognized church or religious denomination of which the elderly or dependent person is a member or an adherent; or
- (5) To a duly accredited practitioner of spiritual treatment as provided in ORS 124.095. [1993 c.364 §3; 1995 c.79 §51; 1999 c.954 §5; 2009 c.595 §1190; 2011 c.291 §4; 2018 c.36 §28]

Note:

163.206 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.207 - Female genital mutilation.**

- (1) A person commits the crime of female genital mutilation if the person:
  - (a) Knowingly circumcises, excises or infibulates the whole or any part of the labia majora, labia minora or clitoris of a child; or
  - (b) Is the parent, guardian or other person legally responsible for the care or custody of a child and knowingly allows the circumcision, excision or infibulation of the whole or any part of the child's labia majora, labia minora or clitoris.
- (2) Female genital mutilation is a Class B felony.
- (3)(a) A person who circumcises, excises or infibulates the whole or any part of a child's labia majora, labia minora or clitoris does not violate subsection (1) of this section if:
  - (A) The person is a physician, licensed to practice in this state; and
  - (B) The surgery is medically necessary for the physical well-being of the child.
- (b) In determining medical necessity for purposes of paragraph (a)(B) of this subsection, a person may not consider the effect on the child of the child's belief that the surgery is required as a matter of custom or ritual. [1999 c.737 §1]

Note:

163.207 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.208 - Assaulting a public safety officer.**

- (1) A person commits the crime of assaulting a public safety officer if the person intentionally or knowingly causes physical injury to the other person, knowing the other person to be a peace officer, corrections officer, youth correction officer, parole and probation officer, animal control officer, firefighter or staff member, and while the other person is acting in the course of official duty.

(2) Assaulting a public safety officer is a Class C felony.

(3)(a) Except as otherwise provided in paragraph (b) of this subsection, a person convicted under this section shall be sentenced to not less than seven days of imprisonment and shall not be granted bench parole or suspension of sentence nor released on a sentence of probation before serving at least seven days of the sentence of confinement.

(b) A person convicted under this section shall be sentenced to not less than 14 days of imprisonment and shall not be granted bench parole or suspension of sentence nor released on a sentence of probation before serving at least 14 days of the sentence of confinement if the victim is a peace officer.

(4) As used in this section:

(a) "Animal control officer" has the meaning given that term in ORS 609.500; and

(b) "Staff member" means:

(A) A corrections officer as defined in ORS 181A.355, a youth correction officer, a Department of Corrections or Oregon Youth Authority staff member or a person employed pursuant to a contract with the department or youth authority to work with, or in the vicinity of, adults in custody or adjudicated youths; and

(B) A volunteer authorized by the department, youth authority or other entity in charge of a corrections facility to work with, or in the vicinity of, adults in custody or adjudicated youths. [1981 c.783 §2; 1993 c.14 §21; 1993 c.358 §1; 1995 c.651 §4; 1999 c.1040 §14; 2001 c.104 §51; 2001 c.828 §1; 2003 c.327 §1; 2019 c.213 §120; 2021 c.489 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.211 - Definitions for ORS 163.211 to 163.213.**

As used in ORS 163.211 to 163.213:

(1) "Corrections officer" and "parole and probation officer" have the meanings given those terms in ORS 181A.355.

(2) "Mace, tear gas, pepper mace or any similar deleterious agent" means a sternutator, lacrimator or any substance composed of a mixture of a sternutator or lacrimator including, but not limited to, chloroacetophenone, alpha-chloroacetophenone, phenylchloromethylketone, orthochlorobenzalmalononitrile, oleoresin capsicum or a chemically similar sternutator or lacrimator by whatever name known, or phosgene or other gas or substance capable of generating offensive, noxious or suffocating fumes, gases or vapor or capable of immobilizing a person.

(3) "Tear gas weapon" includes:

(a) Any shell, cartridge or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of tear gas or oleoresin capsicum.

(b) Any revolver, pistol, fountain pen gun, billy or other form of device, portable or fixed, intended for the projection or release of tear gas or oleoresin capsicum. [1995 c.651 §1]

Note:

163.211 to 163.213 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.212 - Unlawful use of an electrical stun gun, tear gas or mace in the second degree.**

(1) A person commits the crime of unlawful use of an electrical stun gun, tear gas or mace in the second degree if the person recklessly discharges an electrical stun gun, tear gas weapon, mace, tear gas, pepper mace or any similar deleterious agent against another person.

(2) Unlawful use of an electrical stun gun, tear gas or mace in the second degree is a Class A misdemeanor. [1995 c.651 §2]

Note:

See note under 163.211.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.213 - Unlawful use of an electrical stun gun, tear gas or mace in the first degree.**

(1) A person commits the crime of unlawful use of an electrical stun gun, tear gas or mace in the first degree if the person knowingly discharges or causes to be discharged any electrical stun gun, tear gas weapon, mace, tear gas, pepper mace or any similar deleterious agent against another person, knowing the other person to be a peace officer, corrections officer, parole and probation officer, firefighter or emergency medical services provider and while the other person is acting in the course of official duty.

(2) Unlawful use of an electrical stun gun, tear gas or mace in the first degree is a Class C felony. [1995 c.651 §3; 2011 c.703 §50]

Note:

See note under 163.211.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.215 - Definitions for ORS 163.215 to 163.257.**

As used in ORS 163.215 to 163.257, unless the context requires otherwise:

(1) "Without consent" means that the taking or confinement is accomplished by force, threat or deception, or, in the case of a person

under 16 years of age or who is otherwise incapable of giving consent, that the taking or confinement is accomplished without the consent of the lawful custodian of the person.

(2) "Lawful custodian" means a parent, guardian or other person responsible by authority of law for the care, custody or control of another.

(3) "Relative" means a parent, ancestor, brother, sister, uncle or aunt. [1971 c.743 §97]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.225 - Kidnapping in the second degree.**

(1) A person commits the crime of kidnapping in the second degree if, with intent to interfere substantially with another's personal liberty, and without consent or legal authority, the person:

(a) Takes the person from one place to another; or

(b) Secretly confines the person in a place where the person is not likely to be found.

(2) It is a defense to a prosecution under subsection (1) of this section if:

(a) The person taken or confined is under 16 years of age;

(b) The defendant is a relative of that person; and

(c) The sole purpose of the person is to assume control of that person.

(3) Kidnapping in the second degree is a Class B felony. [1971 c.743 §98; 2005 c.22 §111]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.235 - Kidnapping in the first degree.**

(1) A person commits the crime of kidnapping in the first degree if the person violates ORS 163.225 with any of the following purposes:

(a) To compel any person to pay or deliver money or property as ransom;

(b) To hold the victim as a shield or hostage;

(c) To cause physical injury to the victim;

(d) To terrorize the victim or another person; or

(e) To further the commission or attempted commission of any of the following crimes against the victim:

(A) Rape in the first degree, as defined in ORS 163.375 (1)(b);

(B) Sodomy in the first degree, as defined in ORS 163.405 (1)(b); or

(C) Unlawful sexual penetration in the first degree, as defined in ORS 163.411 (1)(b).

(2) Kidnapping in the first degree is a Class A felony. [1971 c.743 §99; 2005 c.22 §112; 2009 c.660 §43]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.245 - Custodial interference in the second degree.**

(1) A person commits the crime of custodial interference in the second degree if, knowing or having reason to know that the person has no legal right to do so, the person takes, entices or keeps another person from the other person's lawful custodian or in violation of a valid joint custody order with intent to hold the other person permanently or for a protracted period.

(2) Expenses incurred by a lawful custodial parent or a parent enforcing a valid joint custody order in locating and regaining physical custody of the person taken, enticed or kept in violation of this section are "economic damages" for purposes of restitution under ORS 137.103 to 137.109.

(3) Custodial interference in the second degree is a Class C felony. [1971 c.743 §100; 1981 c.774 §1; 1987 c.795 §7; 2005 c.564 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.257 - Custodial interference in the first degree.**

(1) A person commits the crime of custodial interference in the first degree if the person violates ORS 163.245 and:

(a) Causes the person taken, enticed or kept from the lawful custodian or in violation of a valid joint custody order to be removed from the state; or

(b) Exposes that person to a substantial risk of illness or physical injury.

(2) Expenses incurred by a lawful custodial parent or a parent enforcing a valid joint custody order in locating and regaining physical custody of the person taken, enticed or kept in violation of this section are "economic damages" for purposes of restitution under ORS 137.103 to 137.109.

(3) Custodial interference in the first degree is a Class B felony. [1971 c.743 §101; 1981 c.774 §2; 1987 c.795 §8; 2005 c.564 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.261 - Definitions for ORS 163.261, 163.263 and 163.264.**

As used in this section and ORS 163.263 and 163.264:

(1) "Controlled substance" has the meaning given that term in ORS 475.005.

(2) "Debt bondage" means the inducement of another person to provide labor or services in payment toward or satisfaction of a real

or purported debt if:

- (a) The reasonable value of the labor or services is not applied toward the repayment of the debt; or
- (b) The length of the labor or services is unlimited and the nature of the labor or services is not defined.
- (3) "Services" means activities performed by one person under the supervision or for the benefit of another person. [2007 c.811 §1; 2023 c.217 §1]

Note:

163.261 to 163.269 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.263 - Subjecting another person to involuntary servitude in the second degree.**

(1) A person commits the crime of subjecting another person to involuntary servitude in the second degree if the person knowingly and without lawful authority forces or attempts to force the other person to engage in or continue to engage in services by:

- (a) Abusing or threatening to abuse the law or legal process;
- (b) Destroying, concealing, removing, confiscating or possessing an actual or purported passport or immigration document or another actual or purported government identification document of a person;
- (c) Threatening to report a person to a government agency for the purpose of arrest or deportation;
- (d) Subjecting the person to debt bondage;
- (e) Instilling in the other person a fear that the actor will withhold from the other person the necessities of life, including but not limited to lodging, food, medical care and clothing;
- (f) Controlling or threatening to control the other person's access to a controlled substance; or
- (g) Fraud or misrepresentation.

(2) When determining whether force or attempted force is present in a prosecution under this section, the finder of fact shall consider the totality of the circumstances, including but not limited to the age of the other person, the relationship between the other person and the defendant, the immigration status of the other person and any handicap or disability of the other person.

(3) Subjecting another person to involuntary servitude in the second degree is a Class C felony.

(4) The Oregon Criminal Justice Commission shall classify subjecting another person to involuntary servitude in the second degree as crime category 8 of the sentencing guidelines grid of the commission when the victim was under 18 years of age at the time of the offense. [2007 c.811 §3; 2023 c.217 §2]

Note:

See note under 163.261.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.264 - Subjecting another person to involuntary servitude in the first degree.**

(1) A person commits the crime of subjecting another person to involuntary servitude in the first degree if the person knowingly and without lawful authority forces or attempts to force the other person to engage in or continue to engage in services by:

- (a) Causing or threatening to cause the death of or serious physical injury to a person; or
- (b) Physically restraining or threatening to physically restrain a person.

(2) When determining whether force or attempted force is present in a prosecution under this section, the finder of fact shall consider the totality of the circumstances, including but not limited to the age of the other person, the relationship between the other person and the defendant, the immigration status of the other person and any handicap or disability of the other person.

(3) Subjecting another person to involuntary servitude in the first degree is a Class B felony.

(4) The Oregon Criminal Justice Commission shall classify subjecting another person to involuntary servitude in the first degree as crime category 9 of the sentencing guidelines grid of the commission when the victim was under 18 years of age at the time of the offense. [2007 c.811 §2; 2023 c.217 §3]

Note:

See note under 163.261.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.266 - Trafficking in persons.**

(1) A person commits the crime of trafficking in persons if the person knowingly recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person and:

- (a) The person knows or recklessly disregards the fact that the other person will be subjected to involuntary servitude as described in ORS 163.263 or 163.264;
- (b) The person knows or recklessly disregards the fact that force, fraud or coercion will be used to cause the other person to engage in a commercial sex act; or
- (c) The person knows or recklessly disregards the fact that the other person is under 18 years of age and will be used in a commercial sex act.

(2) A person commits the crime of trafficking in persons if the person knowingly benefits financially or receives something of value

from participation in a venture that involves an act prohibited by subsection (1) of this section or ORS 163.263 or 163.264.

(3) As used in this section, "commercial sex act" means sexual conduct or sexual contact, as those terms are defined in ORS 167.002, performed in return for a fee or anything of value.

(4) Violation of subsection (1)(a) or (2) of this section is a Class B felony.

(5) Violation of subsection (1)(b) or (c) of this section is a Class A felony. [2007 c.811 §4; 2013 c.720 §1; 2017 c.395 §1; 2023 c.217 §4]

Note:

See note under 163.261.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.269 - Defenses for victims of involuntary servitude and trafficking in persons.**

(1) A person who is the victim of a crime described in ORS 163.263, 163.264 or 163.266 may assert the defense of duress, as described in ORS 161.270, if the person is prosecuted for conduct that constitutes services under ORS 163.261, that the person was caused to provide.

(2) In a prosecution for a crime other than a person crime based on conduct that constitutes services under ORS 163.261 that a person was caused to provide, it is an affirmative defense that the person was a human trafficking victim at the time of engaging in the conduct and engaged in the conduct due to being a human trafficking victim.

(3) As used in this section:

(a) "Human trafficking" means conduct constituting an offense under ORS 163.263, 163.264 or 163.266.

(b) "Human trafficking victim" means a person who is subjected to human trafficking regardless of whether the perpetrator of the human trafficking is identified, apprehended, prosecuted or convicted.

(c) "Person crime" means a person felony or a person Class A misdemeanor, as those terms are defined in the rules of the Oregon Criminal Justice Commission. [2007 c.811 §10; 2023 c.217 §5]

Note:

See note under 163.261.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.275 - Coercion.**

(1) A person commits the crime of coercion when the person compels or induces another person to engage in conduct from which the other person has a legal right to abstain, or to abstain from engaging in conduct in which the other person has a legal right to engage, by means of instilling in the other person a fear that, if the other person refrains from the conduct compelled or induced or engages in conduct contrary to the compulsion or inducement, the actor or another will:

(a) Unlawfully cause physical injury to some person;

(b) Unlawfully cause physical injury to some animal;

(c) Unlawfully cause damage to property;

(d) Engage in conduct constituting a crime;

(e) Falsely accuse some person of a crime or cause criminal charges to be instituted against the person;

(f) Cause or continue a strike, boycott or other collective action injurious to some person's business, except that such a threat is not deemed coercive when the act or omission compelled is for the benefit of the group in whose interest the actor purports to act;

(g) Testify falsely or provide false information or withhold testimony or information with respect to another's legal claim or defense; or

(h) Unlawfully use or abuse the person's position as a public servant by performing some act within or related to official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

(2) Coercion is a Class C felony. [1971 c.743 §102; 1983 c.546 §4; 1985 c.338 §1; 2007 c.71 §45; 2015 c.751 §1]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.285 - Defense to coercion.**

In any prosecution for coercion committed by instilling in the victim a fear that the victim or another person would be charged with a crime, it is a defense that the defendant reasonably believed the threatened charge to be true and that the sole purpose of the defendant was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of the threatened charge. [1971 c.743 §103]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.305 - Definitions.**

As used in chapter 743, Oregon Laws 1971, unless the context requires otherwise:

(1) "Forcible compulsion" means to compel by:

(a) Physical force; or

(b) A threat, express or implied, that places a person in fear of immediate or future death or physical injury to self or another person,



or in fear that the person or another person will immediately or in the future be kidnapped.

(2) "Mentally incapacitated" means that a person is rendered incapable of appraising or controlling the conduct of the person at the time of the alleged offense.

(3) "Oral or anal sexual intercourse" means sexual conduct between persons consisting of contact between the sex organs or anus of one person and the mouth or anus of another.

(4) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(5) "Sexual contact" means any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(6) "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight; emission is not required. [1971 c.743 §104; 1975 c.461 §1; 1977 c.844 §1; 1979 c.744 §7; 1983 c.500 §1; 1999 c.949 §1; 2009 c.770 §1; 2017 c.318 §2; 2017 c.634 §17; 2021 c.82 §1; 2023 c.407 §1]

Note:

Legislative Counsel has substituted "chapter 743, Oregon Laws 1971," for the words "this Act" in section 104, chapter 743, Oregon Laws 1971, compiled as 163.305. Specific ORS references have not been substituted, pursuant to 173.160. These sections may be determined by referring to the 1971 Comparative Section Table located in Volume 22 of ORS.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.310**

[Renumbered 166.180]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.315 - Incapacity to consent; effect of lack of resistance.**

(1) A person is considered incapable of consenting to a sexual act if the person is:

- (a) Under 18 years of age;
- (b) Incapable of appraising the nature of the person's conduct;
- (c) Mentally incapacitated; or
- (d) Physically helpless.

(2) A lack of verbal or physical resistance does not, by itself, constitute consent but may be considered by the trier of fact along with all other relevant evidence.

(3) A person is incapable of appraising the nature of the person's conduct if:

- (a) The person is unable to understand the nature of the conduct;
- (b) The person is unable to understand the right to choose whether and how to engage in conduct, including the right to revoke a prior decision to engage in conduct; or
- (c) The person is unable to communicate a decision to engage in conduct. [1971 c.743 §105; 1999 c.949 §2; 2001 c.104 §52; 2021 c.82 §2]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.320**

[Renumbered 166.190]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.325 - Ignorance or mistake as a defense.**

(1) In any prosecution under ORS 163.355 to 163.445 in which the criminality of conduct depends on a child's being under the age of 16, it is no defense that the defendant did not know the child's age or that the defendant reasonably believed the child to be older than the age of 16.

(2) When criminality depends on the child's being under a specified age other than 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be above the specified age at the time of the alleged offense.

(3) In any prosecution under ORS 163.355 to 163.445 in which the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's conduct, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent.

(4) In any prosecution under ORS 163.415 or 163.425 in which the victim's lack of consent is not based on the incapacity of the victim to consent because of the victim's age, it is an affirmative defense for the defendant to prove that, at the time of the alleged offense, the defendant reasonably believed that the victim consented to the sexual contact, sexual intercourse or oral or anal intercourse. [1971 c.743 §106; 2021 c.82 §3; 2021 c.410 §1]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.345 - Age as a defense in certain cases.**

(1) In any prosecution under ORS 163.355, 163.365, 163.385, 163.395, 163.415, 163.425, 163.427 or 163.435 in which the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense.

(2) In any prosecution under ORS 163.408, when the object used to commit the unlawful sexual penetration was the hand or any part thereof of the actor and in which the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense.

(3) In any prosecution under ORS 163.445 in which the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense if the victim was at least 15 years of age at the time of the alleged offense. [1971 c.743 §108; 1991 c.386 §3; 1991 c.830 §4; 1999 c.626 §24; amendments by 1999 c.626 §45 repealed by 2001 c.884 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.355 - Rape in the third degree.**

(1) A person commits the crime of rape in the third degree if the person has sexual intercourse with another person under 16 years of age.

(2) Rape in the third degree is a Class C felony. [1971 c.743 §109; 1991 c.628 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.365 - Rape in the second degree.**

(1) A person who has sexual intercourse with another person commits the crime of rape in the second degree if the other person is under 14 years of age.

(2) Rape in the second degree is a Class B felony. [1971 c.743 §110; 1989 c.359 §1; 1991 c.628 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.375 - Rape in the first degree.**

(1) A person who has sexual intercourse with another person commits the crime of rape in the first degree if:

(a) The victim is subjected to forcible compulsion by the person;

(b) The victim is under 12 years of age;

(c) The victim is under 16 years of age and is the person's sibling, of the whole or half blood, the person's child or the person's spouse's child; or

(d) The victim is incapable of consent by reason of mental incapacitation, physical helplessness or incapability of appraising the nature of the victim's conduct.

(2) Rape in the first degree is a Class A felony. [1971 c.743 §111; 1989 c.359 §2; 1991 c.628 §3; 2021 c.82 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.385 - Sodomy in the third degree.**

(1) A person commits the crime of sodomy in the third degree if the person engages in oral or anal sexual intercourse with another person under 16 years of age or causes that person to engage in oral or anal sexual intercourse.

(2) Sodomy in the third degree is a Class C felony. [1971 c.743 §112; 2017 c.318 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.395 - Sodomy in the second degree.**

(1) A person who engages in oral or anal sexual intercourse with another person or causes another to engage in oral or anal sexual intercourse commits the crime of sodomy in the second degree if the victim is under 14 years of age.

(2) Sodomy in the second degree is a Class B felony. [1971 c.743 §113; 1989 c.359 §3; 2017 c.318 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.405 - Sodomy in the first degree.**

(1) A person who engages in oral or anal sexual intercourse with another person or causes another to engage in oral or anal sexual intercourse commits the crime of sodomy in the first degree if:

(a) The victim is subjected to forcible compulsion by the actor;

(b) The victim is under 12 years of age;

(c) The victim is under 16 years of age and is the actor's brother or sister, of the whole or half blood, the son or daughter of the actor or the son or daughter of the actor's spouse; or

(d) The victim is incapable of consent by reason of mental incapacitation, physical helplessness or incapability of appraising the nature of the victim's conduct.

(2) Sodomy in the first degree is a Class A felony. [1971 c.743 §114; 1989 c.359 §4; 2017 c.318 §5; 2021 c.82 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.408 - Unlawful sexual penetration in the second degree.**

- (1) Except as permitted under ORS 163.412, a person commits the crime of unlawful sexual penetration in the second degree if the person penetrates the vagina, anus or penis of another with any object and the victim is under 14 years of age.
- (2) Unlawful sexual penetration in the second degree is a Class B felony.
- (3) As used in this section, "object" includes any body part of the actor.
- (4) When multiple crimes are charged based on one penetrative act, the court may not enter separate convictions for each crime, and may enter only one conviction for the conduct. [1981 c.549 §2; 1989 c.359 §5; 1991 c.386 §1; 2023 c.407 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.411 - Unlawful sexual penetration in the first degree.**

- (1) Except as permitted under ORS 163.412, a person commits the crime of unlawful sexual penetration in the first degree if the person penetrates the vagina, anus or penis of another with any object and:
  - (a) The victim is subjected to forcible compulsion;
  - (b) The victim is under 12 years of age; or
  - (c) The victim is incapable of consent by reason of mental incapacitation, physical helplessness or incapability of appraising the nature of the victim's conduct.
- (2) Unlawful sexual penetration in the first degree is a Class A felony.
- (3) As used in this section, "object" includes any body part of the actor.
- (4) When multiple crimes are charged based on one penetrative act, the court may not enter separate convictions for each crime, and may enter only one conviction for the conduct. [1981 c.549 §3; 1989 c.359 §6; 1991 c.386 §2; 2021 c.82 §6; 2023 c.407 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.412 - Exceptions to unlawful sexual penetration prohibition.**

Nothing in ORS 163.408, 163.411 or 163.452 prohibits a penetration described in those sections when:

- (1) The penetration is part of a medically recognized treatment or diagnostic procedure and is for a legitimate medical purpose; or
- (2) The penetration is accomplished by a peace officer or a corrections officer acting in official capacity, or by medical personnel at the request of such an officer, in order to search for weapons, contraband or evidence of crime. [1981 c.549 §4; 2005 c.488 §5; 2023 c.200 §3a]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.413 - Purchasing sex with a minor.**

- (1) A person commits the crime of purchasing sex with a minor if the person pays, or offers or agrees to pay, a fee to engage in sexual intercourse or sexual contact with a minor, a police officer posing as a minor or an agent of a police officer posing as a minor.
  - (2)(a) If the person does not have a prior conviction under this section at the time of the offense, purchasing sex with a minor is a Class C felony and the person may use a defense described in ORS 163.325 only if the minor or, in the case of a police officer or agent of a police officer posing as a minor, the age of the purported minor as reported to the defendant was at least 16 years of age.
  - (b) If the person has one or more prior convictions under this section at the time of the offense, purchasing sex with a minor is a Class B felony, the state need not prove that the person knew the minor or, in the case of a police officer or agent of a police officer posing as a minor, the purported minor was under 18 years of age and the person may not use a defense described in ORS 163.325.
  - (3)(a) When a person is convicted under this section, in addition to any other sentence that may be imposed, the court shall impose and may not suspend the sentence described in paragraph (b) of this subsection.
  - (b) The mandatory minimum sentences that apply to paragraph (a) of this subsection are as follows:
    - (A) For a person's first conviction, a fine in the amount of \$10,000, a term of incarceration of at least 30 days and completion of a john school program.
    - (B) For a person's second or subsequent conviction, a fine in the amount of \$20,000 and the court shall designate the offense as a sex crime under ORS 163A.005.
  - (c) Notwithstanding paragraphs (a) and (b) of this subsection, if the court determines that the person is unable to pay the full amount of the mandatory minimum fine, the court shall impose and may not suspend a fine in an amount the court determines the person is able to pay.
  - (d) For a person's first conviction under this section, the court may designate the offense as a sex crime under ORS 163A.005 if the court finds that the circumstances of the offense and the age of the minor or, in the case of a police officer or agent of a police officer posing as a minor, the purported minor as reported to the defendant require the defendant to register and report as a sex offender for the safety of the community.
- (4) As used in this section:
  - (a) "John school" means any course, class or program intended to educate and prevent recidivism of persons who have been arrested for, charged with or convicted of commercial sexual solicitation or purchasing sex with a minor or attempting to engage in commercial sexual solicitation or purchase sex with a minor.

- (b) "Minor" means a person under 18 years of age.
- (c) "Police officer" has the meaning given that term in ORS 181A.355. [2013 c.720 §4; 2015 c.98 §6; 2015 c.101 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.415 - Sexual abuse in the third degree.**

- (1) A person commits the crime of sexual abuse in the third degree if:
  - (a) The person subjects another person to sexual contact and:
    - (A) The victim does not consent to the sexual contact; or
    - (B) The victim is incapable of consent by reason of being under 18 years of age; or
  - (b) For the purpose of arousing or gratifying the sexual desire of the person or another person, the person intentionally propels any dangerous substance at a victim without the consent of the victim.
- (2) Sexual abuse in the third degree is a Class A misdemeanor.
- (3) As used in this section, "dangerous substance" means blood, urine, semen or feces. [1971 c.743 §115; 1979 c.489 §1; 1991 c.830 §1; 1995 c.657 §11; 1995 c.671 §9; 2009 c.616 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.425 - Sexual abuse in the second degree.**

- (1) A person commits the crime of sexual abuse in the second degree when:
  - (a) The person subjects another person to sexual intercourse, oral or anal sexual intercourse or, except as provided in ORS 163.412, penetration of the vagina, anus or penis with any object other than the penis or mouth of the actor and the victim does not consent thereto; or
  - (b)(A) The person violates ORS 163.415 (1)(a)(B);
  - (B) The person is 21 years of age or older; and
  - (C) At any time before the commission of the offense, the person was the victim's coach or teacher, as those terms are defined in ORS 163.426.
- (2) Sexual abuse in the second degree is a Class C felony. [1971 c.743 §116; 1983 c.564 §1; 1991 c.386 §14; 1991 c.830 §2; 2009 c.876 §2; 2017 c.318 §6; 2021 c.403 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.426 - Crime category classification for sexual abuse in the second degree.**

- (1) As used in this section:
  - (a) "Coach" means a person who instructs or trains an individual or members of a team in a sport.
  - (b) "Teacher" means an employee of a school or school district who has direct responsibility for the instruction of students.
- (2) The Oregon Criminal Justice Commission shall classify sexual abuse in the second degree as described in ORS 163.425 (1)(a) as a crime category 8 of the sentencing guidelines grid of the commission if:
  - (a) The victim is incapable of consent by reason of being under 18 years of age;
  - (b) The offender is 21 years of age or older; and
  - (c) At any time before the commission of the offense, the offender was the victim's coach or teacher. [2009 c.876 §1; 2021 c.403 §2]

Note:

163.426 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.427 - Sexual abuse in the first degree.**

- (1) A person commits the crime of sexual abuse in the first degree when that person:
  - (a) Subjects another person to sexual contact and:
    - (A) The victim is less than 14 years of age;
    - (B) The victim is subjected to forcible compulsion by the actor; or
    - (C) The victim is incapable of consent by reason of being mentally incapacitated, physically helpless or incapable of appraising the nature of the victim's conduct; or
  - (b) Intentionally causes a person under 18 years of age to touch or contact the mouth, anus or sex organs of an animal for the purpose of arousing or gratifying the sexual desire of a person.
- (2) Sexual abuse in the first degree is a Class B felony. [1991 c.830 §3; 1995 c.657 §12; 1995 c.671 §10; 2021 c.82 §7]

Note:

163.427 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section**

**163.429 - Sexual abuse by fraudulent representation.**

- (1) A person commits the crime of sexual abuse by fraudulent representation if the person is a licensee and knowingly:
- (a) Subjects another person to sexual contact; and
  - (b) Falsely or fraudulently represents to the other person that the sexual contact serves a legitimate medical purpose.
- (2) Sexual abuse by fraudulent representation is a Class B felony.
- (3) The Oregon Criminal Justice Commission shall classify sexual abuse by fraudulent representation as a crime category 8 of the sentencing guidelines grid of the commission.
- (4) As used in this section:
- (a) "Licensee" has the meaning given that term in ORS 676.150.
  - (b) "Sexual contact" has the meaning given that term in ORS 163.305. [2023 c.200 §1]

Note:

163.429 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.431 - Definitions for ORS 163.431 to 163.434.**

As used in ORS 163.431 to 163.434:

- (1) "Child" means a person who the defendant reasonably believes to be under 16 years of age.
- (2) "Online communication" means communication that occurs via telephone text messaging, electronic mail, personal or instant messaging, chat rooms, bulletin boards or any other transmission of information by wire, radio, optical cable, cellular system, electromagnetic system or other similar means.
- (3) "Sexual contact" has the meaning given that term in ORS 163.305.
- (4) "Sexually explicit conduct" has the meaning given that term in ORS 163.665.
- (5) "Solicit" means to invite, request, seduce, lure, entice, persuade, prevail upon, coax, coerce or attempt to do so. [2007 c.876 §1; 2009 c.517 §1]

Note:

163.431 to 163.434 were added to and made a part of ORS chapter 163 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.432 - Online sexual corruption of a child in the second degree.**

- (1) A person commits the crime of online sexual corruption of a child in the second degree if the person is 18 years of age or older and:
- (a) For the purpose of arousing or gratifying the sexual desire of the person or another person, knowingly uses an online communication to solicit a child to engage in sexual contact or sexually explicit conduct; and
  - (b) Offers or agrees to physically meet with the child.
- (2) Online sexual corruption of a child in the second degree is a Class C felony. [2007 c.876 §2]

Note:

See note under 163.431.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.433 - Online sexual corruption of a child in the first degree.**

- (1) A person commits the crime of online sexual corruption of a child in the first degree if the person violates ORS 163.432 and intentionally takes a substantial step toward physically meeting with or encountering the child.
- (2) Online sexual corruption of a child in the first degree is a Class B felony. [2007 c.876 §3]

Note:

See note under 163.431.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.434 - Provisions applicable to online sexual corruption of a child.**

- (1) It is an affirmative defense to a prosecution for online sexual corruption of a child in the first or second degree that the person was not more than three years older than the person reasonably believed the child to be.
- (2) It is not a defense to a prosecution for online sexual corruption of a child in the first or second degree that the person was in fact communicating with a law enforcement officer, as defined in ORS 163.730, or a person working under the direction of a law enforcement officer, who is 16 years of age or older.
- (3) Online sexual corruption of a child in the first or second degree is committed in either the county in which the communication originated or the county in which the communication was received. [2007 c.876 §4]

Note:

See note under 163.431.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.435 - Contributing to the sexual delinquency of a minor.**

- (1) A person 18 years of age or older commits the crime of contributing to the sexual delinquency of a minor if:
- (a) Being a male, he engages in sexual intercourse with a female under 18 years of age; or
  - (b) Being a female, she engages in sexual intercourse with a male under 18 years of age; or
  - (c) The person engages in oral or anal sexual intercourse with another person under 18 years of age or causes that person to engage in oral or anal sexual intercourse.
- (2) Contributing to the sexual delinquency of a minor is a Class A misdemeanor. [1971 c.743 §117; 2017 c.318 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.445 - Sexual misconduct.**

- (1) A person commits the crime of sexual misconduct if the person engages in sexual intercourse or oral or anal sexual intercourse with an unmarried person under 18 years of age.
- (2) Sexual misconduct is a Class C misdemeanor. [1971 c.743 §118; 2017 c.318 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.448 - Definitions for ORS 163.452 and 163.454.**

As used in ORS 163.452 and 163.454, "correctional facility" has the meaning given that term in ORS 162.135. [2005 c.488 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.452 - Custodial sexual misconduct in the first degree.**

- (1) A person commits the crime of custodial sexual misconduct in the first degree if the person:
- (a) Engages in sexual intercourse or oral or anal sexual intercourse with another person or penetrates the vagina, anus or penis of another person with any object other than the penis or mouth of the actor knowing that the other person is:
    - (A) In the custody of a law enforcement agency following arrest;
    - (B) Confined or detained in a correctional facility;
    - (C) Participating in an adult in custody or offender work crew or work release program; or
    - (D) On probation, parole, post-prison supervision or other form of conditional or supervised release; and
  - (b) Is employed by or under contract with the state or local agency that:
    - (A) Employs the officer who arrested the other person;
    - (B) Operates the correctional facility in which the other person is confined or detained;
    - (C) Is responsible for supervising the other person in a work crew or work release program or on probation, parole, post-prison supervision or other form of conditional or supervised release; or
    - (D) Engages the other person in work or on-the-job training pursuant to ORS 421.354 (1).
- (2) Consent of the other person to sexual intercourse, oral or anal sexual intercourse or the sexual penetration is not a defense to a prosecution under this section.
- (3) Lack of supervisory authority over the other person is an affirmative defense to a prosecution under this section when the other person is on probation, parole, post-prison supervision or other form of conditional or supervised release.
- (4) Custodial sexual misconduct in the first degree is a Class C felony. [2005 c.488 §3; 2017 c.318 §9; 2019 c.213 §41]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.454 - Custodial sexual misconduct in the second degree.**

- (1) A person commits the crime of custodial sexual misconduct in the second degree if the person:
- (a) Engages in sexual contact with another person knowing that the other person is:
    - (A) In the custody of a law enforcement agency following arrest;
    - (B) Confined or detained in a correctional facility;
    - (C) Participating in an adult in custody or offender work crew or work release program; or
    - (D) On probation, parole, post-prison supervision or other form of conditional or supervised release; and
  - (b) Is employed by or under contract with the state or local agency that:
    - (A) Employs the officer who arrested the other person;
    - (B) Operates the correctional facility in which the other person is confined or detained;
    - (C) Is responsible for supervising the other person in a work crew or work release program or on probation, parole, post-prison supervision or other form of conditional or supervised release; or
    - (D) Engages the other person in work or on-the-job training pursuant to ORS 421.354 (1).
- (2) Consent of the other person to sexual contact is not a defense to a prosecution under this section.
- (3) Lack of supervisory authority over the other person is an affirmative defense to a prosecution under this section when the other

person is on probation, parole, post-prison supervision or other form of conditional or supervised release.

(4) Custodial sexual misconduct in the second degree is a Class A misdemeanor. [2005 c.488 §4; 2019 c.213 §42]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.465 - Public indecency.**

(1) A person commits the crime of public indecency if while in, or in view of, a public place the person performs:

- (a) An act of sexual intercourse;
- (b) An act of oral or anal sexual intercourse;
- (c) Masturbation; or
- (d) An act of exposing the genitals of the person with the intent of arousing the sexual desire of the person or another person.

(2)(a) Public indecency is a Class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, public indecency is a Class C felony if the person has a prior conviction for public indecency or a crime described in ORS 163.355 to 163.445 or 163.665 to 163.693 or for a crime in another jurisdiction that, if committed in this state, would constitute public indecency or a crime described in ORS 163.355 to 163.445 or 163.665 to 163.693. [1971 c.743 §120; 1999 c.962 §1; 2005 c.434 §1; 2017 c.318 §10; 2019 c.65 §1; 2023 c.198 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.466 - Classification of felony public indecency.**

The Oregon Criminal Justice Commission shall classify felony public indecency as a person felony and crime category 6 of the sentencing guidelines grid of the commission. [1999 c.962 §3]

Note:

163.466 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.467 - Private indecency.**

(1) A person commits the crime of private indecency if the person exposes the genitals of the person with the intent of arousing the sexual desire of the person or another person and:

- (a) The person is in a place where another person has a reasonable expectation of privacy;
- (b) The person is in view of the other person;
- (c) The exposure reasonably would be expected to alarm or annoy the other person; and
- (d) The person knows that the other person did not consent to the exposure.

(2) Private indecency is a Class A misdemeanor.

(3) Subsection (1) of this section does not apply to a person who commits the act described in subsection (1) of this section if the person cohabits with and is involved in a sexually intimate relationship with the other person.

(4) For purposes of this section, "place where another person has a reasonable expectation of privacy" includes, but is not limited to, residences, yards of residences, working areas and offices. [1999 c.869 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.472 - Unlawful dissemination of an intimate image.**

(1) A person commits the crime of unlawful dissemination of an intimate image if:

- (a) The person, with the intent to harass, humiliate or injure another person, knowingly causes to be disclosed an identifiable image of the other person whose intimate parts are visible or who is engaged in sexual conduct;
- (b) The person knows or reasonably should have known that the other person does not consent to the disclosure;
- (c) The other person is harassed, humiliated or injured by the disclosure; and
- (d) A reasonable person would be harassed, humiliated or injured by the disclosure.

(2)(a) Except as provided in paragraph (b) of this subsection, unlawful dissemination of an intimate image is a Class A misdemeanor.

(b) Unlawful dissemination of an intimate image is a Class C felony if the person has a prior conviction under this section at the time of the offense.

(3) As used in this section:

- (a) "Disclose" includes, but is not limited to, transfer, publish, distribute, exhibit, advertise and offer.
- (b) "Identifiable" means that a reasonable person would be able to recognize the individual depicted in the image as the other person.
- (c) "Image" includes, but is not limited to, a photograph, film, videotape, recording, digital picture and other visual reproduction, regardless of the manner in which the image is stored.
- (d) "Information content provider" has the meaning given that term in 47 U.S.C. 230(f).
- (e) "Interactive computer service" has the meaning given that term in 47 U.S.C. 230(f).
- (f) "Intimate parts" means uncovered human genitals, pubic areas or female nipples.

(g) "Sexual conduct" means sexual intercourse or oral or anal sexual intercourse, as those terms are defined in ORS 163.305, or masturbation.

(4) This section does not apply to:

(a) Activity by law enforcement agencies investigating and prosecuting criminal offenses;

(b) Legitimate medical, scientific or educational activities;

(c) Legal proceedings, when disclosure is consistent with common practice in civil proceedings or necessary for the proper functioning of the criminal justice system;

(d) The reporting of unlawful conduct to a law enforcement agency;

(e) Disclosures that serve a lawful public interest;

(f) Disclosures of images:

(A) Depicting the other person voluntarily displaying, in a public area, the other person's intimate parts or engaging in sexual conduct; or

(B) Originally created for a commercial purpose with the consent of the other person; or

(g) The provider of an interactive computer service for an image of intimate parts provided by an information content provider.

[2015 c.379 §1; 2017 c.318 §11; 2019 c.304 §1]

Note:

163.472 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.476 - Unlawfully being in a location where children regularly congregate.**

(1) A person commits the crime of unlawfully being in a location where children regularly congregate if the person:

(a)(A) Has been designated a sexually violent dangerous offender under ORS 137.765;

(B) Has been classified as a level three sex offender under ORS 163A.100 (3), and does not have written approval from the State Board of Parole and Post-Prison Supervision or the person's supervisory authority or supervising officer to be in or upon the specific premises;

(C) Has been sentenced as a dangerous offender under ORS 161.725 upon conviction of a sex crime; or

(D) Has been given a similar designation or been sentenced under a similar law of another jurisdiction; and

(b) Knowingly enters or remains in or upon premises where persons under 18 years of age regularly congregate.

(2) As used in this section:

(a) "Premises where persons under 18 years of age regularly congregate" means schools, child care centers, playgrounds, other places intended for use primarily by persons under 18 years of age and places where persons under 18 years of age gather for regularly scheduled educational and recreational programs.

(b) "Sex crime" has the meaning given that term in ORS 163A.005.

(3) Unlawfully being in a location where children regularly congregate is a Class A misdemeanor. [2005 c.811 §1; 2013 c.708 §12; 2015 c.820 §§17,24; 2017 c.442 §34; 2019 c.430 §§5,9]

Note:

163.476 and 163.479 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.479 - Unlawful contact with a child.**

(1) A person commits the crime of unlawful contact with a child if the person:

(a)(A) Has been designated a sexually violent dangerous offender under ORS 137.765;

(B) Has been classified as a level three sex offender under ORS 163A.100 (3);

(C) Has been sentenced as a dangerous offender under ORS 161.725 upon conviction of a sex crime; or

(D) Has been given a similar designation or been sentenced under a similar law of another jurisdiction; and

(b) Knowingly contacts a child with the intent to commit a crime or for the purpose of arousing or satisfying the sexual desires of the person or another person.

(2) As used in this section:

(a) "Child" means a person under 18 years of age.

(b) "Contact" means to communicate in any manner.

(c) "Sex crime" has the meaning given that term in ORS 163A.005.

(3) Unlawful contact with a child is a Class C felony. [2005 c.811 §2; 2013 c.708 §13; 2015 c.820 §§18,25; 2017 c.442 §35; 2019 c.430 §§6,10]

Note:

See note under 163.476.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section**



**163.495**

[1979 c.706 §5; 1987 c.158 §25; 1987 c.864 §14; renumbered 163.676 in 1987]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.505 - Definitions for certain provisions of ORS 163.505 to 163.575.**

As used in ORS 163.505 to 163.575, unless the context requires otherwise:

- (1) "Controlled substance" has the meaning given that term in ORS 475.005.
- (2) "Descendant" includes persons related by descending lineal consanguinity, stepchildren and lawfully adopted children.
- (3) "Precursor substance" has the meaning given that term in ORS 475.940.
- (4) "Support" includes, but is not limited to, necessary and proper shelter, food, clothing, medical attention and education. [1971 c.743 §170; 2005 c.708 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.515 - Bigamy.**

- (1) A person commits the crime of bigamy if the person knowingly marries or purports to marry another person at a time when either is lawfully married.
- (2) Bigamy is a Class C felony. [1971 c.743 §171]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.525 - Incest.**

- (1) A person commits the crime of incest if the person marries or engages in sexual intercourse or oral or anal sexual intercourse with a person whom the person knows to be related to the person, either legitimately or illegitimately, as an ancestor, descendant or brother or sister of either the whole or half blood.
- (2) Incest is a Class C felony. [1971 c.743 §172; 2017 c.318 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.535 - Abandonment of a child.**

- (1) A person commits the crime of abandonment of a child if, being a parent, lawful guardian or other person lawfully charged with the care or custody of a child under 15 years of age, the person deserts the child in any place with intent to abandon it.
- (2) Abandonment of a child is a Class C felony.
- (3) It is an affirmative defense to a charge of violating subsection (1) of this section that the child was left in accordance with ORS 418.017. [1971 c.743 §173; 2001 c.597 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.537 - Buying or selling a person under 18 years of age.**

- (1) A person commits the crime of buying or selling a person under 18 years of age if the person buys, sells, barter, trades or offers to buy or sell the legal or physical custody of a person under 18 years of age.
- (2) Subsection (1) of this section does not:
  - (a) Prohibit a person in the process of adopting a child from paying the fees, costs and expenses related to the adoption as allowed in ORS 109.281.
  - (b) Prohibit a negotiated satisfaction of child support arrearages or other settlement in favor of a parent of a child in exchange for consent of the parent to the adoption of the child by the current spouse of the child's other parent.
  - (c) Apply to fees for services charged by the Department of Human Services or adoption agencies licensed under ORS 412.001 to 412.161 and 412.991 and ORS chapter 418.
  - (d) Apply to fees for services in an adoption pursuant to a surrogacy agreement.
  - (e) Prohibit discussion or settlement of disputed issues between parties in a domestic relations proceeding.
- (3) Buying or selling a person under 18 years of age is a Class B felony. [1997 c.561 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.545 - Child neglect in the second degree.**

- (1) A person having custody or control of a child under 10 years of age commits the crime of child neglect in the second degree if, with criminal negligence, the person leaves the child unattended in or at any place for such period of time as may be likely to endanger the health or welfare of such child.
- (2) Child neglect in the second degree is a Class A misdemeanor. [1971 c.743 §174; 1991 c.832 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.547 - Child neglect in the first degree.**

- (1)(a) A person having custody or control of a child under 16 years of age commits the crime of child neglect in the first degree if

the person knowingly leaves the child, or allows the child to stay:

(A) In a vehicle where controlled substances or cannabinoid extracts as defined in ORS 475C.009 are being criminally delivered or manufactured;

(B) In or upon premises, or in the immediate proximity of premises, where a cannabinoid extract as defined in ORS 475C.009 is being processed, if the premises have not been licensed under ORS 475C.085;

(C) In or upon premises and in the immediate proximity where controlled substances are criminally delivered or manufactured for consideration or profit or where a chemical reaction involving one or more precursor substances:

(i) Is occurring as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance; or

(ii) Has occurred as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance and the premises have not been certified as fit for use under ORS 453.885; or

(D) In or upon premises that have been determined to be not fit for use under ORS 453.855 to 453.912.

(b) As used in this subsection, "vehicle" and "premises" do not include public places, as defined in ORS 161.015.

(2) Child neglect in the first degree is a Class B felony.

(3) Subsection (1) of this section does not apply if the controlled substance is marijuana and is delivered for no consideration.

(4) The Oregon Criminal Justice Commission shall classify child neglect in the first degree as crime category 6 of the sentencing guidelines grid of the commission if the controlled substance being delivered or manufactured is methamphetamine. [1991 c.832 §1; 2001 c.387 §1; 2001 c.870 §11; 2005 c.708 §2; 2017 c.21 §44]

Note:

163.547 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.555 - Criminal nonsupport.**

(1) A person commits the crime of criminal nonsupport if, being the parent, lawful guardian or other person lawfully charged with the support of a child under 18 years of age, born in or out of wedlock, the person knowingly fails to provide support for such child.

(2) It is no defense to a prosecution under this section that either parent has contracted a subsequent marriage, that issue has been born of a subsequent marriage, that the defendant is the parent of issue born of a prior marriage or that the child is being supported by another person or agency.

(3) It is an affirmative defense to a prosecution under this section that the defendant has a lawful excuse for failing to provide child support.

(4) If the defendant intends to rely on the affirmative defense created in subsection (3) of this section, the defendant must give the district attorney written notice of the intent to do so at least 30 days prior to trial. The notice must describe the nature of the lawful excuse upon which the defendant proposes to rely. If the defendant fails to file notice as required by this subsection, the defendant may not introduce evidence of a lawful excuse unless the court finds there was just cause for the defendant's failure to file the notice within the required time.

(5) Criminal nonsupport is a Class C felony. [1971 c.743 §175; 1993 c.33 §308; 1999 c.954 §3; 2005 c.502 §1]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.565 - Evidence of parentage; confidentiality between spouses not applicable; spouses competent and compellable witnesses.**

(1) Proof that a child was born during the time a person lived and cohabited with the child's mother, or held the child's mother out as that person's spouse in a marriage, is prima facie evidence that the person is the parent of the child. This subsection does not exclude any other legal evidence tending to establish the parental relationship.

(2) No provision of law prohibiting the disclosure of confidential communications between spouses in a marriage apply to prosecutions for criminal nonsupport. A spouse is a competent and compellable witness for or against either party. [1971 c.743 §176; 2015 c.629 §30; 2017 c.651 §36]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.575 - Endangering the welfare of a minor.**

(1) A person commits the offense of endangering the welfare of a minor if the person knowingly:

(a) Induces, causes or permits an unmarried person under 18 years of age to witness an act of sexual conduct or sadomasochistic abuse as defined in ORS 167.060;

(b) Permits a person under 18 years of age to enter or remain in a place where unlawful activity involving controlled substances or cannabis is maintained or conducted;

(c) Induces, causes or permits a person under 18 years of age to participate in gambling as defined in ORS 167.117; or

(d) Sells to a person under 18 years of age any device in which cannabis, cocaine or any controlled substance, as defined in ORS 475.005, is burned and the principal design and use of which is directly or indirectly to deliver cannabis smoke, cocaine smoke or

smoke from any controlled substance into the human body, including but not limited to:

- (A) Pipes, water pipes, hookahs, wooden pipes, carburetor pipes, electric pipes, air driven pipes, corncob pipes, meerschaum pipes and ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;
- (B) Carburetion tubes and devices, including carburetion masks;
- (C) Bonges;
- (D) Chillums;
- (E) Ice pipes or chillers;
- (F) Rolling papers and rolling machines; and
- (G) Cocaine free basing kits.

(2) Endangering the welfare of a minor is a Class A misdemeanor. [1971 c.743 §177; 1973 c.827 §20; 1979 c.744 §8; 1981 c.838 §1; 1983 c.740 §31; 1991 c.970 §5; 1995 c.79 §52; 1999 c.1051 §153; 2011 c.597 §79; 2014 c.20 §1; 2015 c.158 §5; 2017 c.21 §45; 2017 c.701 §18]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.577 - Failing to supervise a child.**

(1) A person commits the offense of failing to supervise a child if the person is the parent, lawful guardian or other person lawfully charged with the care or custody of a child under 15 years of age and the child:

- (a) Commits an act that brings the child within the jurisdiction of the juvenile court under ORS 419C.005;
- (b) Violates a curfew law of a county or any other political subdivision; or
- (c) Fails to attend school as required under ORS 339.010.

(2) Nothing in this section applies to a child-caring agency as defined in ORS 418.205 or to foster parents.

(3) In a prosecution of a person for failing to supervise a child under subsection (1)(a) of this section, it is an affirmative defense that the person:

- (a) Is the victim of the act that brings the child within the jurisdiction of the juvenile court; or
- (b) Reported the act to the appropriate authorities.

(4) In a prosecution of a person for failing to supervise a child under subsection (1) of this section, it is an affirmative defense that the person took reasonable steps to control the conduct of the child at the time the person is alleged to have failed to supervise the child.

(5)(a) Except as provided in subsection (6) or (7) of this section, in a prosecution of a person for failing to supervise a child under subsection (1)(a) of this section, the court shall order the person to pay restitution under ORS 137.103 to 137.109 to a victim for economic damages arising from the act of the child that brings the child within the jurisdiction of the juvenile court.

(b) The amount of restitution ordered under this subsection may not exceed \$2,500.

(6) If a person pleads guilty or is found guilty of failing to supervise a child under this section and if the person has not previously been convicted of failing to supervise a child, the court:

(a) Shall warn the person of the penalty for future convictions of failing to supervise a child and shall suspend imposition of sentence.

(b) May not order the person to pay restitution under this section.

(7)(a) If a person pleads guilty or is found guilty of failing to supervise a child under this section and if the person has only one prior conviction for failing to supervise a child, the court, with the consent of the person, may suspend imposition of sentence and order the person to complete a parent effectiveness program approved by the court. Upon the person's completion of the parent effectiveness program to the satisfaction of the court, the court may discharge the person. If the person fails to complete the parent effectiveness program to the satisfaction of the court, the court may impose a sentence authorized by this section.

(b) There may be only one suspension of sentence under this subsection with respect to a person.

(8) The juvenile court has jurisdiction over a first offense of failing to supervise a child under this section.

(9) Failing to supervise a child is a Class A violation. [1995 c.593 §1; 1999 c.1051 §154; 2003 c.670 §5; 2005 c.564 §8]

Note:

163.577 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.580 - Display of sign concerning sale of smoking devices.**

(1) A person who sells any of the smoking devices listed in ORS 163.575 (1)(d) shall display a sign clearly stating that the sale of such devices to persons under 18 years of age is prohibited by law.

(2) A person who violates this section commits a Class B violation. [1981 c.838 §2; 1999 c.1051 §155; 2015 c.158 §32; 2017 c.701 §19]

Note:

163.580 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.665 - Definitions.**

As used in ORS 163.665 to 163.693:

- (1) "Child" means a person who is less than 18 years of age, and any reference to a child in relation to a visual recording of the child is a reference to a person who was less than 18 years of age at the time the original image in the visual recording was created and not the age of the person at the time of an alleged offense relating to the subsequent reproduction, use or possession of the visual recording.
- (2) "Child abuse" means conduct that constitutes, or would constitute if committed in this state, a crime in which the victim is a child.
- (3) "Sexually explicit conduct" means actual or simulated:
  - (a) Sexual intercourse or deviant sexual intercourse;
  - (b) Genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex or between humans and animals;
  - (c) Penetration of the vagina or rectum by any object other than as part of a medical diagnosis or treatment or as part of a personal hygiene practice;
  - (d) Masturbation;
  - (e) Sadistic or masochistic abuse; or
  - (f) Lewd exhibition of sexual or other intimate parts.
- (4) "Visual depiction" includes, but is not limited to, visual recordings, pictures and computer-generated images and pictures, whether made or produced by electronic, mechanical or other means.
- (5) "Visual recording" includes, but is not limited to, photographs, films, videotapes and computer and other digital pictures, regardless of the manner in which the recording is stored. [1985 c.557 §2; 1987 c.864 §1; 1991 c.664 §4; 1995 c.768 §4; 1997 c.719 §5; 2011 c.515 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.670 - Using child in display of sexually explicit conduct.**

- (1) A person commits the crime of using a child in a display of sexually explicit conduct if the person:
  - (a) Employs, authorizes, permits, compels or induces a child to participate or engage in sexually explicit conduct for any person to observe or to record in a visual recording; or
  - (b) Knowingly records in a visual recording a child participating or engaging in sexually explicit conduct.
- (2) Using a child in a display of sexually explicit conduct is a Class A felony. [1985 c.557 §3; 1987 c.864 §3; 1991 c.664 §5; 2011 c.515 §2; 2023 c.407 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.676 - Exemption from prosecution under ORS 163.684.**

- (1) No employee is liable to prosecution under ORS 163.684 or under any city or home rule county ordinance for exhibiting or possessing with intent to exhibit any obscene matter or performance provided the employee is acting within the scope of regular employment at a showing open to the public.
- (2) As used in this section, "employee" means any person regularly employed by the owner or operator of a motion picture theater if the person has no financial interest other than salary or wages in the ownership or operation of the motion picture theater, no financial interest in or control over the selection of the motion pictures shown in the theater, and is working within the motion picture theater where the person is regularly employed, but does not include a manager of the motion picture theater. [Formerly 163.495; 1995 c.768 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.682 - Exceptions to ORS 163.665 to 163.693.**

The provisions of ORS 163.665 to 163.693 do not apply to:

- (1) Any legitimate medical procedure performed by or under the direction of a person licensed to provide medical services for the purpose of medical diagnosis or treatment, including the recording of medical procedures;
- (2) Any activity undertaken in the course of bona fide law enforcement activity or necessary to the proper functioning of the criminal justice system, except that this exception shall not apply to any activity prohibited by ORS 163.670;
- (3) Any bona fide educational activity, including studies and lectures, in the fields of medicine, psychotherapy, sociology or criminology, except that this exception shall not apply to any activity prohibited by ORS 163.670;
- (4) Obtaining, viewing or possessing a visual recording as part of a bona fide treatment program for sexual offenders; or
- (5) A public library, as defined in ORS 357.400, or a library exempt from taxation under ORS 307.090 or 307.130, except that these exceptions do not apply to any activity prohibited by ORS 163.670. [1991 c.664 §3; 2011 c.515 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section**

**163.684 - Encouraging child sexual abuse in the first degree.**

(1) A person commits the crime of encouraging child sexual abuse in the first degree if the person:

(a)(A) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, displays, finances, attempts to finance or sells a visual recording of sexually explicit conduct involving a child or knowingly possesses, accesses or views such a visual recording with the intent to develop, duplicate, publish, print, disseminate, exchange, display or sell it; or

(B) Knowingly brings into this state, or causes to be brought or sent into this state, for sale or distribution, a visual recording of sexually explicit conduct involving a child; and

(b) Knows or is aware of and consciously disregards the fact that creation of the visual recording of sexually explicit conduct involved child abuse.

(2) Encouraging child sexual abuse in the first degree is a Class B felony. [1995 c.768 §2; 2011 c.515 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.686 - Encouraging child sexual abuse in the second degree.**

(1) A person commits the crime of encouraging child sexual abuse in the second degree if the person:

(a)(A)(i) Knowingly possesses or controls, or knowingly accesses with the intent to view, a visual recording of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person; or

(ii) Knowingly pays, exchanges or gives anything of value to obtain or view a visual recording of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person; and

(B) Knows or is aware of and consciously disregards the fact that creation of the visual recording of sexually explicit conduct involved child abuse; or

(b)(A) Knowingly pays, exchanges or gives anything of value to observe sexually explicit conduct by a child or knowingly observes, for the purpose of arousing or gratifying the sexual desire of the person, sexually explicit conduct by a child; and

(B) Knows or is aware of and consciously disregards the fact that the conduct constitutes child abuse.

(2) Encouraging child sexual abuse in the second degree is a Class C felony. [1995 c.768 §3; 2011 c.515 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.687 - Encouraging child sexual abuse in the third degree.**

(1) A person commits the crime of encouraging child sexual abuse in the third degree if the person:

(a)(A)(i) Knowingly possesses or controls, or knowingly accesses with the intent to view, a visual recording of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person; or

(ii) Knowingly pays, exchanges or gives anything of value to obtain or view a visual recording of sexually explicit conduct involving a child for the purpose of arousing or satisfying the sexual desires of the person or another person; and

(B) Knows or fails to be aware of a substantial and unjustifiable risk that the creation of the visual recording of sexually explicit conduct involved child abuse; or

(b)(A) Knowingly pays, exchanges or gives anything of value to observe sexually explicit conduct by a child or knowingly observes, for the purpose of arousing or gratifying the sexual desire of the person, sexually explicit conduct by a child; and

(B) Knows or fails to be aware of a substantial and unjustifiable risk that the conduct constitutes child abuse.

(2) Encouraging child sexual abuse in the third degree is a Class A misdemeanor. [1995 c.768 §3a; 2011 c.515 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.688 - Possession of materials depicting sexually explicit conduct of a child in the first degree.**

(1) A person commits the crime of possession of materials depicting sexually explicit conduct of a child in the first degree if the person:

(a) Knowingly possesses, accesses or views a visual depiction of sexually explicit conduct involving a child or a visual depiction of sexually explicit conduct that appears to involve a child; and

(b) Uses the visual depiction to induce a child to participate or engage in sexually explicit conduct.

(2) Possession of materials depicting sexually explicit conduct of a child in the first degree is a Class B felony. [1997 c.719 §3; 2011 c.515 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.689 - Possession of materials depicting sexually explicit conduct of a child in the second degree.**

(1) A person commits the crime of possession of materials depicting sexually explicit conduct of a child in the second degree if the person:

(a) Knowingly possesses, accesses or views a visual depiction of sexually explicit conduct involving a child or a visual depiction of sexually explicit conduct that appears to involve a child; and

(b) Intends to use the visual depiction to induce a child to participate or engage in sexually explicit conduct.

(2) Possession of materials depicting sexually explicit conduct of a child in the second degree is a Class C felony. [1997 c.719 §4; 2011 c.515 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.690 - Lack of knowledge of age of child as affirmative defense.**

It is an affirmative defense to any prosecution under ORS 163.684, 163.686, 163.687 or 163.693 that the defendant, at the time of engaging in the conduct prohibited therein, did not know and did not have reason to know that the relevant sexually explicit conduct involved a child. [1985 c.557 §7; 1987 c.864 §13; 1991 c.664 §9; 1995 c.768 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.693 - Failure to report child pornography.**

(1) As used in this section:

(a) "Computer technician" means a person who repairs, installs or otherwise services a computer, computer network or computer system for compensation.

(b) "Processor of photographic images" means a person who develops, processes, reproduces, transfers, edits or enhances photographic film into negatives, slides, prints, movies, digital images or video.

(2) A processor of photographic images or a computer technician who reasonably believes the processor or technician has observed a visual recording of a child involved in sexually explicit conduct shall report the name and address, if known, of the person requesting the processing or of the owner or person in possession of the computer, computer network or computer system to:

(a) The CyberTipline at the National Center for Missing and Exploited Children;

(b) The local office of the Department of Human Services; or

(c) A law enforcement agency within the county where the processor or technician making the report is located at the time the visual recording is observed.

(3) Nothing in this section requires a processor of photographic images or a computer technician to monitor any user, subscriber or customer or to search for prohibited materials or media.

(4) Any person, their employer or a third party complying with this section in good faith shall be immune from civil or criminal liability in connection with making the report, except for willful or wanton misconduct.

(5) A person commits the crime of failure to report child pornography if the person violates the provisions of this section.

(6) Failure to report child pornography is a Class A misdemeanor. [1987 c.864 §7; 1991 c.664 §10; 2011 c.515 §§8,11a]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.700 - Invasion of personal privacy in the second degree.**

(1) Except as provided in ORS 163.702, a person commits the crime of invasion of personal privacy in the second degree if:

(a)(A) For the purpose of arousing or gratifying the sexual desire of the person, the person is in a location to observe another person in a state of nudity without the consent of the other person; and

(B) The other person is in a place and circumstances where the person has a reasonable expectation of personal privacy; or

(b)(A) The person knowingly makes or records a photograph, motion picture, videotape or other visual recording of another person's intimate area without the consent of the other person; and

(B) The person being recorded has a reasonable expectation of privacy concerning the intimate area.

(2) As used in this section and ORS 163.701:

(a) "Intimate area" means nudity, or undergarments that are being worn by a person and are covered by clothing.

(b) "Makes or records a photograph, motion picture, videotape or other visual recording" includes, but is not limited to:

(A) Making or recording or employing, authorizing, permitting, compelling or inducing another person to make or record a photograph, motion picture, videotape or other visual recording.

(B) Making or recording a photograph, motion picture, videotape or other visual recording through the use of an unmanned aircraft system as defined in ORS 837.300, even if the unmanned aircraft system is operated for commercial purposes in compliance with authorization granted by the Federal Aviation Administration.

(c) "Nudity" means any part of the uncovered or less than opaquely covered:

(A) Genitals;

(B) Pubic area; or

(C) Female breast below a point immediately above the top of the areola.

(d) "Places and circumstances where the person has a reasonable expectation of personal privacy" includes, but is not limited to, a bathroom, dressing room, locker room that includes an enclosed area for dressing or showering, tanning booth and any area where a person undresses in an enclosed space that is not open to public view.

(e) "Public view" means that an area can be readily seen and that a person within the area can be distinguished by normal unaided vision when viewed from a public place as defined in ORS 161.015.

(f) "Reasonable expectation of privacy concerning the intimate area" means that the person intended to protect the intimate area from being seen and has not exposed the intimate area to public view.

(3) Invasion of personal privacy in the second degree is a Class A misdemeanor. [1997 c.697 §1; 2001 c.330 §1; 2009 c.877 §1; 2013 c.1 §11; 2015 c.321 §§1,4; 2016 c.72 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section**

**163.701 - Invasion of personal privacy in the first degree.**

(1) Except as provided in ORS 163.702, a person commits the crime of invasion of personal privacy in the first degree if:

(a)(A) The person knowingly makes or records a photograph, motion picture, videotape or other visual recording of another person in a state of nudity without the consent of the other person; and

(B) At the time the visual recording is made or recorded the person being recorded is in a place and circumstances where the person has a reasonable expectation of personal privacy; or

(b) The person violates ORS 163.700 and, at the time of the offense, has a prior conviction for:

(A) Invasion of personal privacy in any degree, public indecency, private indecency or a sex crime as defined in ORS 163A.005; or

(B) The statutory counterpart of an offense described in subparagraph (A) of this paragraph in another jurisdiction.

(2)(a) Invasion of personal privacy in the first degree is a Class C felony.

(b) The Oregon Criminal Justice Commission shall classify invasion of personal privacy in the first degree as crime category 6 of the sentencing guidelines grid of the commission.

(3) The court may designate invasion of personal privacy in the first degree as a sex crime under ORS 163A.005 if the court finds that the circumstances of the offense require the defendant to register and report as a sex offender for the safety of the community.

[2015 c.645 §2]

Note:

See note under 163.700.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.702 - Exceptions to ORS 163.700 and 163.701.**

(1) The provisions of ORS 163.700 and 163.701 do not apply to:

(a) Any legitimate medical procedure performed by or under the direction of a person licensed to provide medical service for the purpose of medical diagnosis, treatment, education or research, including, but not limited to, the recording of medical procedures; and

(b) Any activity undertaken in the course of bona fide law enforcement or corrections activity or necessary to the proper functioning of the criminal justice system, including but not limited to the operation and management of jails, prisons and other youth and adult corrections facilities.

(2) The provisions of ORS 163.701 (1)(a) do not apply to a visual recording of a person under 12 years of age if:

(a) The person who makes or records the visual recording is the father, mother, sibling, grandparent, aunt, uncle or first cousin, by blood, adoption or marriage, of the person under 12 years of age; and

(b) The visual recording is made or recorded for a purpose other than arousing or gratifying the sexual desire of the person or another person. [1997 c.697 §2; 2009 c.877 §2; 2015 c.645 §7]

Note:

See note under 163.700.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.705 - Polygraph examination of victims in certain criminal cases prohibited.**

No district attorney or other law enforcement officer or investigator involved in the investigation or prosecution of crimes, or any employee thereof, shall require any complaining witness in a case involving the use of force, violence, duress, menace or threat of physical injury in the commission of any sex crime under ORS 163.305 to 163.575, to submit to a polygraph examination as a prerequisite to filing an accusatory pleading. [1981 c.877 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.707 - Forfeiture of motor vehicle used in drive-by shooting.**

(1) A motor vehicle used by the owner in a drive-by shooting is subject to civil in rem forfeiture.

(2) Seizure and forfeiture proceedings under this section shall be conducted in accordance with ORS chapter 131A.

(3) As used in this section, "drive-by shooting" means discharge of a firearm from a motor vehicle while committing or attempting to commit:

(a) Aggravated murder under ORS 163.095;

(b) Murder in any degree under ORS 163.107 or 163.115;

(c) Manslaughter in any degree under ORS 163.118 or 163.125;

(d) Assault in any degree under ORS 163.160, 163.165, 163.175 or 163.185;

(e) Menacing under ORS 163.190;

(f) Recklessly endangering another person under ORS 163.195;

(g) Assaulting a public safety officer under ORS 163.208; or

(h) A bias crime in any degree under ORS 166.155 or 166.165. [1999 c.870 §1; 2009 c.78 §57; 2019 c.553 §14; 2019 c.635 §20]

Note:

163.707 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series

therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.709 - Unlawful directing of light from a laser pointer.**

(1) A person commits the offense of unlawful directing of light from a laser pointer if the person knowingly directs light from a laser pointer at another person without the consent of the other person and the other person is:

- (a) A peace officer as defined in ORS 161.015 who is acting in the course of official duty; or
- (b) A uniformed private security professional as defined in ORS 181A.840 who is on duty.

(2) The offense described in this section, unlawful directing of light from a laser pointer, is a Class A misdemeanor.

(3) As used in this section, "laser pointer" means a device that emits light amplified by the stimulated emission of radiation that is visible to the human eye. [1999 c.757 §1; 2005 c.447 §9]

Note:

163.709 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.715 - Unlawful use of a global positioning system device.**

(1) A person commits the crime of unlawful use of a global positioning system device if the person knowingly affixes a global positioning system device to a motor vehicle without consent of the owner of the motor vehicle.

(2)(a) Except as provided in paragraph (b) of this subsection, unlawful use of a global positioning system device is a Class A misdemeanor.

(b) Unlawful use of a global positioning system device is a Class C felony if, at the time of the offense, the person:

- (A) Has been previously convicted of stalking under ORS 163.732, violating a court's stalking order under ORS 163.750 or committing an equivalent crime in another jurisdiction; or
- (B) Is the subject of a citation issued under ORS 163.735, an order issued under ORS 30.866, 107.700 to 107.735 or 163.738 or another court order prohibiting the person from contacting another person.

(3) This section does not apply to:

- (a) A police officer who affixes a global positioning system device to a motor vehicle pursuant to a warrant or court order; or
- (b) A person who affixes a global positioning system device to a motor vehicle operated by a motor carrier.

(4) As used in this section:

(a) "Global positioning system device" means an electronic device that permits the tracking of a person or object by means of global positioning system coordinates.

(b) "Motor carrier" has the meaning given that term in ORS 825.005.

(c) "Police officer" has the meaning given that term in ORS 133.525. [2017 c.649 §1]

Note:

163.715 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.730 - Definitions for ORS 30.866 and 163.730 to 163.750.**

As used in ORS 30.866 and 163.730 to 163.750, unless the context requires otherwise:

(1) "Alarm" means to cause apprehension or fear resulting from the perception of danger.

(2) "Coerce" means to restrain, compel or dominate by force or threat.

(3) "Contact" includes but is not limited to:

- (a) Coming into the visual or physical presence of the other person;
  - (b) Following the other person;
  - (c) Waiting outside the home, property, place of work or school of the other person or of a member of that person's family or household;
  - (d) Sending or making written or electronic communications in any form to the other person;
  - (e) Speaking with the other person by any means;
  - (f) Communicating with the other person through a third person;
  - (g) Committing a crime against the other person;
  - (h) Communicating with a third person who has some relationship to the other person with the intent of affecting the third person's relationship with the other person;
  - (i) Communicating with business entities with the intent of affecting some right or interest of the other person;
  - (j) Damaging the other person's home, property, place of work or school;
  - (k) Delivering directly or through a third person any object to the home, property, place of work or school of the other person; or
  - (L) Service of process or other legal documents unless the other person is served as provided in ORCP 7 or 9.
- (4) "Household member" means any person residing in the same residence as the victim.



(5) "Immediate family" means father, mother, child, sibling, spouse, grandparent, stepparent and stepchild.

(6) "Law enforcement officer" means:

(a) A person employed in this state as a police officer by:

(A) A county sheriff, constable or marshal;

(B) A police department established by a university under ORS 352.121 or 353.125; or

(C) A municipal or state police agency; or

(b) An authorized tribal police officer as defined in ORS 181A.940.

(7) "Repeated" means two or more times.

(8) "School" means a public or private institution of learning or a child care facility. [1993 c.626 §1; 1995 c.278 §27; 1995 c.353 §1; 2001 c.870 §1; 2007 c.71 §46; 2009 c.359 §2; 2011 c.644 §§24,66,73; 2013 c.180 §§25,26; 2015 c.174 §12]

Note:

163.730 to 163.753 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.732 - Stalking.**

(1) A person commits the crime of stalking if:

(a) The person knowingly alarms or coerces another person or a member of that person's immediate family or household by engaging in repeated and unwanted contact with the other person;

(b) It is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact; and

(c) The repeated and unwanted contact causes the victim reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household.

(2)(a) Stalking is a Class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, stalking is a Class C felony if the person has a prior conviction for:

(A) Stalking; or

(B) Violating a court's stalking protective order.

(c) When stalking is a Class C felony pursuant to paragraph (b) of this subsection, stalking shall be classified as a person felony and as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission. [1993 c.626 §2; 1995 c.353 §2]

Note:

See note under 163.730.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.735 - Citation; form.**

(1) Upon a complaint initiated as provided in ORS 163.744, a law enforcement officer shall issue a citation ordering the person to appear in court within three judicial days and show cause why the court should not enter a court's stalking protective order when the officer has probable cause to believe that:

(a) The person intentionally, knowingly or recklessly engages in repeated and unwanted contact with the other person or a member of that person's immediate family or household thereby alarming or coercing the other person;

(b) It is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact; and

(c) The repeated and unwanted contact causes the victim reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household.

(2) The Department of State Police shall develop and distribute a form for the citation. The form shall be uniform throughout the state and shall contain substantially the following in addition to any other material added by the department:

\_\_\_\_\_  
OFFICER: \_\_\_\_\_

AGENCY: \_\_\_\_\_

PETITIONER: \_\_\_\_\_

PERSON TO BE PROTECTED IF OTHER THAN PETITIONER: \_\_\_\_\_

RESPONDENT: \_\_\_\_\_

On behalf of petitioner, I affirm that I am a law enforcement officer in the State of Oregon.

You, the respondent, must appear at \_\_\_\_\_ (name and location of court at which respondent is to appear) on \_\_\_\_\_ (date and time respondent is to appear in court). At this hearing, you must be prepared to establish why the court should not enter a court's stalking protective order which shall be for an unlimited duration unless limited by law or court order. If you fail to appear at this hearing, the court shall immediately issue a warrant for your arrest and shall enter a court's stalking protective order.

If the court issues a stalking protective order at this hearing, and while the protective order is in effect, federal law may prohibit you from:

Traveling across state lines or tribal land lines with the intent to violate this order and then violating this order.

Causing the person protected by the order, if the person is your spouse or intimate partner, to cross state lines or tribal land lines for your purpose of violating the order.

Possessing, receiving, shipping or transporting any firearm or firearm ammunition.

Whether or not a stalking protective order is in effect, federal law may prohibit you from:

Traveling across state lines or tribal land lines with the intent to injure or harass another person and during, or because of, that travel placing that person in reasonable fear of death or serious bodily injury to that person or to a member of that person's immediate family.

Traveling across state lines or tribal land lines with the intent to injure your spouse or intimate partner and then intentionally committing a crime of violence causing bodily injury to that person.

Causing your spouse or intimate partner to travel across state lines or tribal land lines if your intent is to cause bodily injury to that person or if the travel results in your causing bodily injury to that person.

It has been alleged that you have alarmed or coerced the petitioner, or person to be protected if other than the petitioner. If you engage in contact that alarms or coerces the petitioner, or person to be protected if other than the petitioner, in violation of ORS 163.732, you may be arrested for the crime of stalking.

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

(Law enforcement officer).

[1993 c.626 §3; 1995 c.353 §3;

1999 c.1052 §10]

Note:

See note under 163.730.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.738 - Effect of citation; contents; hearing; court's order; use of statements made at hearing.**

(1)(a) A citation shall notify the respondent of a circuit court hearing where the respondent shall appear at the place and time set forth in the citation. The citation shall contain:

(A) The name of the court at which the respondent is to appear;

(B) The name of the respondent;

(C) A copy of the stalking complaint;

(D) The date, time and place at which the citation was issued;

(E) The name of the law enforcement officer who issued the citation;

(F) The time, date and place at which the respondent is to appear in court;

(G) Notice to the respondent that failure to appear at the time, date and place set forth in the citation shall result in the respondent's arrest and entry of a court's stalking protective order; and

(H) Notice to the respondent of potential liability under federal law for the possession or purchase of firearms or firearm ammunition and for other acts prohibited by 18 U.S.C. 2261 to 2262.

(b) The officer shall notify the petitioner in writing of the place and time set for the hearing.

(2)(a) The hearing shall be held as indicated in the citation. At the hearing, the petitioner may appear in person or by telephonic appearance. The respondent shall be given the opportunity to show cause why a court's stalking protective order should not be entered. The hearing may be continued for up to 30 days. The court may enter:

(A) A temporary stalking protective order pending further proceedings; or

(B) A court's stalking protective order if the court finds by a preponderance of the evidence that:

(i) The person intentionally, knowingly or recklessly engages in repeated and unwanted contact with the other person or a member of that person's immediate family or household thereby alarming or coercing the other person;

(ii) It is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact; and

(iii) The repeated and unwanted contact causes the victim reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household.

(b) In the order, the court shall specify the conduct from which the respondent is to refrain, which may include all contact listed in ORS 163.730 and any attempt to make contact listed in ORS 163.730. The order is of unlimited duration unless limited by law. If the respondent was provided notice and an opportunity to be heard, the court shall also include in the order, when appropriate, terms and findings sufficient under 18 U.S.C. 922 (d)(8) and (g)(8) to affect the respondent's ability to possess firearms and ammunition or engage in activities involving firearms.

(3) The circuit court may enter an order under this section against a minor respondent without appointment of a guardian ad litem.

(4) If the respondent fails to appear at the time, date and place specified in the citation, the circuit court shall issue a warrant of arrest as provided in ORS 133.110 in order to ensure the appearance of the respondent at court and shall enter a court's stalking protective order.

(5) The circuit court may also order the respondent to undergo mental health evaluation and, if indicated by the evaluation, treatment. If the respondent is without sufficient resources to obtain the evaluation or treatment, or both, the court shall refer the respondent to the mental health agency designated by the community mental health director for evaluation or treatment, or both.

(6) If the circuit court, the mental health evaluator or any other persons have probable cause to believe that the respondent is

dangerous to self or others or is unable to provide for basic personal needs, the court shall initiate commitment procedures as provided in ORS 426.070 or 426.180.

(7) A law enforcement officer shall report the results of any investigation arising from a complaint under ORS 163.744 to the district attorney within three days after presentation of the complaint.

(8) Except for purposes of impeachment, a statement made by the respondent at a hearing under this section may not be used as evidence in a prosecution for stalking as defined in ORS 163.732 or for violating a court's stalking protective order as defined in ORS 163.750. [1993 c.626 §4; 1995 c.353 §4; 1997 c.863 §6; 1999 c.1052 §2; 2003 c.292 §2]

Note:

See note under 163.730.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.741 - Service of stalking protective order; entry of order into law enforcement data systems.**

(1) Service of a stalking protective order shall be made by personal delivery of a copy of the order to the respondent. The respondent need not be served if an order of the court indicates that the respondent appeared in person before the court.

(2) Whenever a stalking protective order, as authorized by ORS 163.735 or 163.738, is served on a respondent, the person serving the order shall immediately deliver to the county sheriff a true copy of proof of service, on which it is stated that personal service of the order was made on the respondent, and a copy of the order. Proof of service may be made by affidavit or by declaration under penalty of perjury in the form required by ORCP 1 E. If service of the order is not required under subsection (1) of this section, a copy of the order must be delivered to the sheriff by the court. Upon receipt of a copy of the order and notice of completion of any required service by a member of a law enforcement agency, the county sheriff shall immediately enter the order into the Law Enforcement Data System maintained by the Department of State Police and into the databases of the National Crime Information Center of the United States Department of Justice. If the order was served on the respondent by a person other than a member of a law enforcement agency, the county sheriff shall enter the order into the Law Enforcement Data System and databases of the National Crime Information Center upon receipt of a true copy of proof of service. The sheriff shall provide the complainant with a true copy of any required proof of service. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the order may be informed of the existence and terms of the order. The order is fully enforceable in any county in this state.

(3) When a stalking protective order has been entered into the Law Enforcement Data System and the databases of the National Crime Information Center of the United States Department of Justice under subsection (1) of this section, a county sheriff shall cooperate with a request from a law enforcement agency from any other jurisdiction to verify the existence of the stalking protective order or to transmit a copy of the order to the requesting jurisdiction.

(4) When a stalking protective order is terminated by order of the court, the clerk of the court shall immediately deliver a copy of the termination order to the county sheriff with whom the original order was filed. Upon receipt of the termination order, the county sheriff shall promptly remove the original order from the Law Enforcement Data System and the databases of the National Crime Information Center of the United States Department of Justice. [1993 c.626 §5; 1999 c.1052 §3; 2007 c.255 §11; 2009 c.364 §3; 2011 c.269 §6; 2015 c.121 §25]

Note:

See note under 163.730.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.744 - Initiation of action seeking citation; complaint form.**

(1) A person may initiate an action seeking a citation under ORS 163.735 by presenting a complaint to a law enforcement officer or to any law enforcement agency. The complaint shall be a statement setting forth with particularity the conduct that is the basis for the complaint. The petitioner must affirm the truth of the facts in the complaint.

(2) The Department of State Police shall develop and distribute the form of the complaint. The form shall include the standards for reviewing the complaint and for action. The form shall be uniform throughout the state and shall include substantially the following material:

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**STALKING COMPLAINT**

Name of petitioner (person presenting complaint): \_\_\_\_\_

Name of person being stalked if other than the petitioner: \_\_\_\_\_

\_\_\_\_\_  
Name of respondent (alleged stalker):

\_\_\_\_\_  
Description of respondent:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Length of period of conduct:

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Description of relationship (if any) between petitioner or person being stalked, if other than the petitioner, and respondent:

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Description of contact:

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Subscribed to and affirmed by:

(printed name of petitioner) \_\_\_\_\_

Dated: \_\_\_\_\_

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- (3) A parent may present a complaint to protect a minor child. A guardian may present a complaint to protect a dependent person.  
(4) By signing the complaint, a person is making a sworn statement for purposes of ORS 162.055 to 162.425. [1993 c.626 §6; 1995 c.353 §5]

Note:

See note under 163.730.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.750 - Violating a court's stalking protective order.**

(1) A person commits the crime of violating a court's stalking protective order when:

- (a) The person has been served with a court's stalking protective order as provided in ORS 30.866 or 163.738 or if further service was waived under ORS 163.741 because the person appeared before the court;  
(b) The person, subsequent to the service of the order, has engaged intentionally, knowingly or recklessly in conduct prohibited by the order; and  
(c) If the conduct is prohibited contact as defined in ORS 163.730 (3)(d), (e), (f), (h) or (i), the subsequent conduct has created reasonable apprehension regarding the personal safety of a person protected by the order.

(2)(a) Violating a court's stalking protective order is a Class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, violating a court's stalking protective order is a Class C felony if the person has a prior conviction for:

(A) Stalking; or

(B) Violating a court's stalking protective order.

(c) When violating a court's stalking protective order is a Class C felony pursuant to paragraph (b) of this subsection, violating a court's stalking protective order shall be classified as a person felony and as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission. [1993 c.626 §8; 1995 c.353 §7]

Note:

See note under 163.730.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.753 - Immunity of officer acting in good faith.**

A law enforcement officer acting in good faith shall not be liable in any civil action for issuing or not issuing a citation under ORS 163.735. [1993 c.626 §11; 1995 c.353 §9]

Note:

See note under 163.730.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.755 - Conduct for which stalking protective order may not be issued.**

(1) Nothing in ORS 30.866 or 163.730 to 163.750 shall be construed to permit the issuance of a court's stalking protective order under ORS 30.866 or 163.738, the issuance of a citation under ORS 163.735, a criminal prosecution under ORS 163.732 or a civil action under ORS 30.866:

(a) For conduct that is authorized or protected by the labor laws of this state or of the United States.

(b) By or on behalf of a person who is in the legal or physical custody of a law enforcement unit or is in custody under ORS chapter 419C.

(c) By or on behalf of a person not described in paragraph (b) of this subsection to or against another person who:

(A) Is a parole and probation officer or an officer, employee or agent of a law enforcement unit, a county juvenile department or the Oregon Youth Authority; and

(B) Is acting within the scope of the other person's official duties.

(2) As used in this section, "law enforcement unit" and "parole and probation officer" have the meanings given those terms in ORS 181A.355. [1995 c.353 §8; 2003 c.292 §1]

Note:

163.755 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.760 - Definitions for ORS 163.760 to 163.777.**

As used in ORS 163.760 to 163.777:

(1) "Declaration under penalty of perjury," "family or household members," "interfere," "intimidate," "menace" and "molest" have the meanings given those terms in ORS 107.705.

(2) "Sexual abuse" means sexual contact with:

(a) A person who does not consent to the sexual contact; or

(b) A person who is considered incapable of consenting to a sexual act under ORS 163.315, unless the sexual contact would be lawful under ORS 163.325 or 163.345.

(3) "Sexual contact" has the meaning given that term in ORS 163.305. [2013 c.687 §1; 2015 c.121 §21]

Note:

163.760 to 163.777 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 163 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.763 - Petition to circuit court for relief; burden of proof.**

(1) A person who has been subjected to sexual abuse and who reasonably fears for the person's physical safety may petition the circuit court for a restraining order if:

(a) The person and the respondent are not family or household members;

(b) The respondent is at least 18 years of age; and

(c) The respondent is not prohibited from contacting the person pursuant to a foreign restraining order as defined in ORS 24.190, an order issued under ORS 30.866, 124.015, 124.020, 163.738 or 419B.845 or an order entered in a criminal action.

(2)(a) A petition seeking relief under ORS 163.760 to 163.777 must be filed in the circuit court for the county in which the petitioner or the respondent resides. The petition may be filed, without the appointment of a guardian ad litem, by a person who is at least 12 years of age or by a parent or lawful guardian of a person who is under 18 years of age.

(b) The petition must allege that:

(A) The petitioner reasonably fears for the petitioner's physical safety with respect to the respondent; and

(B) The respondent subjected the petitioner to sexual abuse.

(c) The petition must include allegations made under oath or affirmation or a declaration under penalty of perjury.

(d) The petitioner has the burden of proving a claim under ORS 163.760 to 163.777 by a preponderance of the evidence. [2013 c.687 §2; 2015 c.121 §22; 2019 c.353 §1]

Note:

See note under 163.760.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.765 - Restraining order; service of order; request for hearing; duration of order.**

(1) When a petition is filed in accordance with ORS 163.763, the circuit court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day. Upon a finding that it is objectively reasonable for a person in the petitioner's situation to fear for the person's physical safety if an order granting relief under ORS 163.760 to 163.777 is not entered and that the respondent has subjected the petitioner to sexual abuse, the circuit court:

(a) Shall enter an order restraining the respondent from contacting the petitioner and from intimidating, molesting, interfering with or menacing the petitioner, or attempting to intimidate, molest, interfere with or menace the petitioner.

(b) If the petitioner requests, may order:

(A) That the respondent be restrained from contacting the petitioner's children or family or household members;

(B) That the respondent be restrained from entering, or attempting to enter, a reasonable area surrounding the petitioner's residence;

(C) That the respondent be restrained from intimidating, molesting, interfering with or menacing any children or family or household members of the petitioner, or attempting to intimidate, molest, interfere with or menace any children or family or household members of the petitioner;

(D) That the respondent be restrained from entering, or attempting to enter, any premises and a reasonable area surrounding the premises when necessary to prevent the respondent from intimidating, molesting, interfering with or menacing the petitioner or the

petitioner's children or family or household members; and

(E) Other relief necessary to provide for the safety and welfare of the petitioner or the petitioner's children or family or household members.

(2) If the respondent is restrained from entering or attempting to enter an area surrounding the petitioner's residence or any other premises, the restraining order must specifically describe the area or premises.

(3) When the circuit court enters a restraining order under this section, the court shall set a security amount for the violation of the order.

(4) If the circuit court enters a restraining order under subsection (1) of this section:

(a) The clerk of the court shall provide, without charge, the number of certified true copies of the petition and the restraining order necessary to provide the petitioner with one copy and to effect service and shall have a true copy of the petition and the restraining order delivered to the county sheriff for service upon the respondent, unless the circuit court finds that further service is unnecessary because the respondent appeared in person before the court. In addition and upon request by the petitioner, the clerk of the court shall provide the petitioner, without charge, two exemplified copies of the petition and the restraining order.

(b) The county sheriff shall serve the respondent personally unless the petitioner elects to have the respondent served personally by another party. Proof of service shall be made in accordance with ORS 163.773. When the restraining order does not contain the respondent's date of birth and service is effected by the sheriff, the sheriff shall verify the respondent's date of birth with the respondent and shall record that date on the restraining order or proof of service entered into the Law Enforcement Data System under ORS 163.773.

(5)(a) If the county sheriff:

(A) Determines that the restraining order and petition are incomplete, the sheriff shall return the restraining order and petition to the clerk of the court. The clerk of the court shall notify the petitioner, at the address provided by the petitioner, of the error or omission.

(B) Cannot complete service within 10 days after accepting the restraining order and petition, the sheriff shall notify the petitioner, at the address provided by the petitioner, that the documents have not been served. If the petitioner does not respond within 10 days, the sheriff shall hold the restraining order and petition for future service and file a return to the clerk of the court showing that service was not completed.

(b) If a petitioner receives notice of incomplete service under paragraph (a)(B) of this subsection and cannot effect service on the respondent within 30 days after the granting or renewal of the restraining order, the circuit court may order service by an alternative method in accordance with ORCP 7 D(6) on proof of the petitioner's due diligence in attempting to effect service. If appropriate, the court may order the use of a summons to effect service. The summons must include notice of where the respondent may obtain a complete copy of the order.

(6)(a) Within 30 days after a restraining order is served under this section, the respondent may request a circuit court hearing upon any relief granted.

(b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the court shall notify the petitioner of the date and time of the hearing and shall supply the petitioner with a copy of the respondent's request for a hearing. The petitioner shall give the clerk of the court information sufficient to allow such notification.

(7) If the respondent fails to request a hearing within 30 days after a restraining order is served, the restraining order is confirmed by operation of law.

(8)(a) A restraining order entered under this section is effective for a period of five years or, if the petitioner is under 18 years of age at the time of entry, until January 1 of the year following the petitioner's 18th birthday, whichever occurs later, except as otherwise provided in paragraph (b) or (c) of this subsection or unless the restraining order is renewed, modified or terminated in accordance with ORS 163.760 to 163.777.

(b) The circuit court shall enter a permanent restraining order if, at the time of the petition or renewal of the order, the respondent has been convicted of a crime described in ORS 163.355 to 163.445 committed against the petitioner.

(c) The circuit court may enter a permanent restraining order if the court finds that it is objectively reasonable for a person in the petitioner's situation to fear for the person's physical safety and that the passage of time or a change in circumstances would not dissipate that fear. In making the finding, the court shall consider any information offered by the petitioner to support the request for a permanent restraining order, including but not limited to:

(A) Information that the respondent has a history of engaging in sexual abuse or domestic violence as defined in ORS 135.230;

(B) If the petitioner is a minor, the fact that the respondent is related to the petitioner by blood or marriage; or

(C) Any vulnerability of the petitioner that is not likely to change over time. [2013 c.687 §3; 2019 c.353 §2; 2021 c.496 §§1,2]

Note:

See note under 163.760.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.767 - Hearing; order; certificate of compliance; consent agreement.**

(1) If the respondent requests a hearing under ORS 163.765 (6), the circuit court shall hold the hearing within 21 days after the request. At the hearing, the circuit court may terminate or modify the restraining order issued under ORS 163.765.

(2)(a) If service of a notice of hearing is inadequate to provide a party with sufficient notice of the hearing, the circuit court may extend the date of the hearing for up to five days so that the party may seek representation.

(b) If one party is represented by an attorney at the hearing, the circuit court may extend the date of the hearing for up to five days at the other party's request so that the other party may seek representation.

(3) If the circuit court continues the restraining order issued under ORS 163.765, with or without modification, at a hearing about which the respondent received actual notice and the opportunity to be heard, the court shall include in the restraining order a certificate in substantially the following form in a separate section immediately above the signature of the judge:

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CERTIFICATE OF COMPLIANCE  
WITH THE VIOLENCE  
AGAINST WOMEN ACT OF 1994

This protective order meets all full faith and credit requirements of the Violence Against Women Act of 1994, 18 U.S.C. 2265. This court has jurisdiction over the parties and the subject matter. The respondent was afforded notice and timely opportunity to be heard as provided by the law of this jurisdiction. This protective order is valid and entitled to enforcement in this and all other jurisdictions.

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(4) The circuit court may approve a consent agreement if the court determines that the agreement provides sufficient protections to the petitioner. The circuit court may not approve a term in a consent agreement that provides for restraint of a party to the agreement unless the other party petitioned for and was granted a restraining order issued under ORS 163.765.

(5) A restraining order entered under this section, or a consent agreement entered into under this section, shall continue for a period of five years from the date of the restraining order issued under ORS 163.765 or, if the petitioner is under 18 years of age at the time of issuance, until the petitioner attains 19 years of age, whichever occurs later, unless the court enters a permanent order under ORS 163.765 (8) or the restraining order is renewed, modified or terminated in accordance with ORS 163.775. [2013 c.687 §4; 2019 c.353 §3]

Note:

See note under 163.760.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.770 - Appearance by telephone or electronic communication device.**

(1) A party may file a motion under ORS 45.400 requesting that the circuit court allow the appearance of the party or a witness by telephone or by other two-way electronic communication device in a proceeding under ORS 163.760 to 163.777.

(2) In determining whether to allow written notice less than 30 days before the proceeding under ORS 45.400 (2), the circuit court shall consider the expedited nature of a proceeding under ORS 163.760 to 163.777.

(3) In addition to the factors listed in ORS 45.400 (3)(b) that would support a finding of good cause, the circuit court shall consider whether the safety or welfare of the party or witness would be threatened if testimony were required to be provided in person at a proceeding under ORS 163.760 to 163.777.

(4) A motion or good cause determination is not required for ex parte hearings held by telephone under ORS 163.765. [2013 c.687 §5; 2017 c.240 §4]

Note:

See note under 163.760.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.773 - Enforcement of restraining order; service by sheriff; termination order; contempt proceeding.**

(1)(a) When a restraining order is issued in accordance with ORS 163.760 to 163.777 and the person to be restrained has actual notice of the restraining order, the clerk of the court or any other person serving the petition and the restraining order shall immediately deliver to a county sheriff copies of the petition and the restraining order and a true copy of proof of service on which it is stated that the petition and the restraining order were served personally on the respondent. If alternative service is ordered by the court, the person performing service shall instead immediately deliver to the county sheriff copies of the petition, the restraining order and, if applicable, the summons, and a true copy of proof of service on which it is stated that alternative service was completed in accordance with ORCP 7 D(6). Proof of service may be made by affidavit or by declaration under penalty of perjury. If a restraining order entered by the circuit court recites that the respondent appeared in person before the court, the necessity for service of the restraining order and proof of service is waived.

(b) Upon receipt of a copy of the restraining order and notice of completion of any required service by a member of a law enforcement agency, the county sheriff shall immediately enter the restraining order into the Law Enforcement Data System maintained by the Department of State Police and the databases of the National Crime Information Center of the United States Department of Justice. If the petition and the restraining order were served on the respondent by a person other than a member of a law enforcement agency, or if alternative service was ordered by the court and completed in accordance with ORCP 7 D(6), the county sheriff shall enter the restraining order into the Law Enforcement Data System and the databases of the National Crime Information Center upon receipt of a true copy of proof of service. The sheriff shall provide the petitioner with a true copy of any required proof of service.

(c) Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the

restraining order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the restraining order may be informed of the existence and terms of the restraining order. The restraining order is fully enforceable in any county or tribal land in this state.

(d) When a restraining order has been entered into the Law Enforcement Data System and the databases of the National Crime Information Center of the United States Department of Justice under this subsection, a county sheriff shall cooperate with a request from a law enforcement agency from any other jurisdiction to verify the existence of the restraining order or to transmit a copy of the restraining order to the requesting jurisdiction.

(2) A sheriff may serve a restraining order issued under ORS 163.760 to 163.777 in the county in which the sheriff was elected and in any county that is adjacent to the county in which the sheriff was elected.

(3)(a) A sheriff may serve and enter into the Law Enforcement Data System a copy of a restraining order issued under ORS 163.760 to 163.777 that was transmitted to the sheriff by a circuit court or law enforcement agency through an electronic communication device. Before transmitting a copy of a restraining order to a sheriff under this subsection through an electronic communication device, the person transmitting the copy must receive confirmation from the sheriff's office that an electronic communication device is available and operating.

(b) For purposes of this subsection, "electronic communication device" means a device by which any kind of electronic communication can be made, including but not limited to communication by telephonic facsimile and electronic mail.

(4) When a circuit court enters an order terminating a restraining order issued under ORS 163.760 to 163.777 before the expiration date, the clerk of the court shall immediately deliver a copy of the termination order to the county sheriff with whom the original restraining order was filed. Upon receipt of the termination order, the county sheriff shall promptly remove the original restraining order from the Law Enforcement Data System and the databases of the National Crime Information Center of the United States Department of Justice.

(5)(a) A contempt proceeding for an alleged violation of a restraining order issued under ORS 163.760 to 163.777 must be conducted by the circuit court that issued the restraining order or by the circuit court for the county in which the alleged violation of the restraining order occurs. If contempt proceedings are initiated in the circuit court for the county in which the alleged violation of the restraining order occurs, the person initiating the contempt proceedings shall file with the court a copy of the restraining order that is certified by the clerk of the court that originally issued the restraining order. Upon filing of the certified copy of the restraining order, the circuit court shall enforce the restraining order as though that court had originally issued the restraining order.

(b) Pending a contempt hearing for an alleged violation of a restraining order issued under ORS 163.760 to 163.777, a person arrested and taken into custody pursuant to ORS 133.310 may be released as provided in ORS 135.230 to 135.290.

(c) Service of process or other legal documents upon the petitioner is not a violation of a restraining order entered under ORS 163.760 to 163.777 if the petitioner is served as provided in ORCP 7 or 9. [2013 c.687 §6; 2015 c.121 §23; 2021 c.496 §3]

Note:

See note under 163.760.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.775 - Renewal and modification of restraining order.**

(1)(a) A circuit court may renew a restraining order entered under ORS 163.760 to 163.777 upon a finding that it is objectively reasonable for a person in the petitioner's situation to fear for the person's physical safety if the restraining order is not renewed. A finding that the respondent has subjected the petitioner to additional sexual abuse is not required.

(b) A circuit court may renew a restraining order on the basis of an ex parte petition alleging facts supporting the required finding. The petition must include allegations made under oath or affirmation or a declaration under penalty of perjury. If the renewal order is granted, the provisions of ORS 163.765 (4) to (8) and 163.767 (3) apply, except that the court may hear no issue other than the basis for renewal, unless requested in the hearing request form and thereafter agreed to by the petitioner. The circuit court shall hold a hearing required under this paragraph within 21 days after the respondent's request.

(2) At any time after the time period set forth in ORS 163.765 (6):

(a) A party may request that the circuit court modify terms in the restraining order for good cause shown.

(b) A petitioner may request that the circuit court remove terms in the restraining order or make terms in the order less restrictive. Application to the circuit court under this paragraph may be by ex parte motion.

(3) The clerk of the court shall provide without charge the number of certified true copies of the request for modification of the restraining order and notice of hearing necessary to effect service and, at the election of the party requesting the modification, shall have a true copy of the request and notice delivered to the county sheriff for service upon the other party.

(4) The county sheriff shall serve the other party with a request for modification of a restraining order under subsection (2)(a) of this section by personal service, unless the party requesting the modification elects to have the other party personally served by a private party or unless otherwise ordered by the circuit court.

(5) The provisions of ORS 163.767 (3) apply to a modification of a restraining order under this section.

(6) The clerk of the court shall deliver a copy of an order of modification entered under this section to the county sheriff for service and entry into the Law Enforcement Data System as provided in ORS 163.773.

(7)(a) The county sheriff shall serve a copy of an order of modification:

(A) Entered under subsection (2)(a) of this section by personal service on the nonrequesting party.



(B) Entered under subsection (2)(b) of this section by mailing a copy of the order of modification to the respondent by first class mail.

(b) If the order of modification recites that the respondent appeared in person before the circuit court, the necessity for service of the order and proof of service is waived.

(8) A restraining order entered under ORS 163.760 to 163.777 may not be terminated on motion of the petitioner, unless the motion is notarized. [2013 c.687 §7; 2015 c.121 §24]

Note:

See note under 163.760.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163 - Offenses Against Persons Section 163.777 - Fees or undertaking may not be required; forms and brochures.**

(1)(a) A filing fee, service fee or hearing fee may not be charged for proceedings seeking only the relief provided under ORS 163.760 to 163.777.

(b) An undertaking may not be required in any proceeding under ORS 163.760 to 163.777.

(2) A proceeding under ORS 163.760 to 163.777 is in addition to any other available civil or criminal remedies.

(3)(a) The State Court Administrator shall produce:

(A) The forms for petitions and restraining orders, hearing requests and any related forms for use under ORS 163.760 to 163.777; and

(B) An instructional brochure explaining the rights set forth in ORS 163.760 to 163.777.

(b) The State Court Administrator shall provide the forms and copies of the instructional brochure to the clerks of the circuit court who shall make the forms and brochures available to the public. [2013 c.687 §§8,10]

Note:

See note under 163.760.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.005 - Definitions for ORS 163A.005 to 163A.235.**

As used in ORS 163A.005 to 163A.235:

(1) "Another United States court" means a federal court, a military court, the tribal court of a federally recognized Indian tribe or a court of:

(a) A state other than Oregon;

(b) The District of Columbia;

(c) The Commonwealth of Puerto Rico;

(d) Guam;

(e) American Samoa;

(f) The Commonwealth of the Northern Mariana Islands; or

(g) The United States Virgin Islands.

(2) "Attends" means is enrolled on a full-time or part-time basis.

(3)(a) "Correctional facility" means any place used for the confinement of persons:

(A) Charged with or convicted of a crime or otherwise confined under a court order.

(B) Found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a crime.

(b) "Correctional facility" applies to a state hospital or a secure intensive community inpatient facility only as to persons detained therein charged with or convicted of a crime, or detained therein after being found guilty except for insanity under ORS 161.290 to 161.373 or responsible except for insanity under ORS 419C.411.

(4) "Institution of higher education" means a public or private educational institution that provides a program of post-secondary education.

(5) "Sex crime" means:

(a) Rape in any degree;

(b) Sodomy in any degree;

(c) Unlawful sexual penetration in any degree;

(d) Sexual abuse in any degree;

(e) Incest with a child victim;

(f) Using a child in a display of sexually explicit conduct;

(g) Encouraging child sexual abuse in any degree;

(h) Transporting child pornography into the state;

(i) Paying for viewing a child's sexually explicit conduct;

(j) Compelling prostitution;

(k) Promoting prostitution;

(L) Kidnapping in the first degree if the victim was under 18 years of age;

- (m) Contributing to the sexual delinquency of a minor;
- (n) Sexual misconduct if the offender is at least 18 years of age;
- (o) Possession of materials depicting sexually explicit conduct of a child in the first degree;
- (p) Kidnapping in the second degree if the victim was under 18 years of age, except by a parent or by a person found to be within the jurisdiction of the juvenile court;
- (q) Online sexual corruption of a child in any degree if the offender reasonably believed the child to be more than five years younger than the offender;
- (r) Luring a minor, if:
  - (A) The offender reasonably believed the minor or, in the case of a police officer or agent of a police officer posing as a minor, the purported minor to be more than five years younger than the offender or under 16 years of age; and
  - (B) The court designates in the judgment that the offense is a sex crime;
- (s) Sexual assault of an animal;
- (t) Public indecency or private indecency, if the person has a prior conviction for a crime listed in this subsection;
- (u) Trafficking in persons as described in ORS 163.266 (1)(b) or (c);
- (v) Purchasing sex with a minor if the court designates the offense as a sex crime pursuant to ORS 163.413 (3)(d), or the offense is the defendant's second or subsequent conviction under ORS 163.413 (3)(b)(B);
- (w) Invasion of personal privacy in the first degree, if the court designates the offense as a sex crime pursuant to ORS 163.701 (3);
- (x) Sexual abuse by fraudulent representation;
- (y) Any attempt to commit any of the crimes listed in paragraphs (a) to (x) of this subsection;
- (z) Burglary, when committed with intent to commit any of the offenses listed in paragraphs (a) to (x) of this subsection; or
- (aa) Criminal conspiracy if the offender agrees with one or more persons to engage in or cause the performance of an offense listed in paragraphs (a) to (x) of this subsection.
- (6) "Sex offender" means a person who:
  - (a) Has been convicted of a sex crime;
  - (b) Has been found guilty except for insanity of a sex crime;
  - (c) Has been convicted in another United States court of a crime:
    - (A) That would constitute a sex crime if committed in this state; or
    - (B) For which the person would have to register as a sex offender in that court's jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state; or
  - (d) Is described in ORS 163A.025 (1).
- (7) "Works" or "carries on a vocation" means full-time or part-time employment for more than 14 days within one calendar year whether financially compensated, volunteered or for the purpose of governmental or educational benefit. [Formerly 181.805; 2023 c.200 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.010 - Reporting by sex offender discharged, paroled or released from correctional facility or another United States jurisdiction.**

- (1) The agency to which a person reports under subsection (3) of this section shall complete a sex offender registration form concerning the person when the person reports under subsection (3) of this section.
- (2) Subsection (3) of this section applies to a person who:
  - (a) Is discharged, paroled or released on any form of supervised or conditional release from a jail, prison or other correctional facility or detention facility in this state at which the person was confined as a result of:
    - (A) Conviction of a sex crime or a crime for which the person would have to register as a sex offender under federal law; or
    - (B) Having been found guilty except for insanity of a sex crime;
  - (b) Is paroled to this state under ORS 144.610 after being convicted in another United States court of a crime:
    - (A) That would constitute a sex crime if committed in this state; or
    - (B) For which the person would have to register as a sex offender in that court's jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state; or
  - (c) Is discharged by the court under ORS 161.329 after having been found guilty except for insanity of a sex crime.
- (3)(a) A person described in subsection (2) of this section shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county to which the person was discharged, paroled or released or in which the person was otherwise placed:
  - (A) Within 10 days following discharge, release on parole, post-prison supervision or other supervised or conditional release;
  - (B) Within 10 days of a change of residence;
  - (C) Within 10 days of a legal change of name;
  - (D) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence;
  - (E) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education;
  - (F) Within 10 days of a change in work, vocation or attendance status at an institution of higher education; and
  - (G) At least 21 days prior to any intended travel outside of the United States.

(b) If a person required to report under this subsection has complied with the initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's last reported residence.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, during the period of supervision or custody authorized by law, the Oregon Youth Authority may authorize an adjudicated youth committed to its supervision and custody by order of the juvenile court or a person placed in its physical custody under ORS 137.124 or any other provision of law to report to the authority regardless of the adjudicated youth's or the person's last reported residence.

(d) In the event that a person reports to the authority under this subsection, the authority shall register the person.

(e) The obligation to report under this subsection terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(4) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, Oregon Youth Authority, city police department or county sheriff's office:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police.

[Formerly 181.806; 2016 c.95 §4; 2019 c.430 §11; 2021 c.489 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.015 - Reporting by sex offender discharged, released or placed on probation by court or another United States jurisdiction.**

(1) The agency to which a person reports under subsection (4) of this section shall complete a sex offender registration form concerning the person when the person reports under subsection (4) of this section.

(2) Subsection (4) of this section applies to a person who is discharged, released or placed on probation:

(a) By the court after being convicted in this state of a sex crime;

(b) By a federal court after being convicted of a crime for which the person would have to register as a sex offender under federal law, regardless of whether the crime would constitute a sex crime in this state; or

(c) To or in this state under ORS 144.610 after being convicted in another United States court of a crime:

(A) That would constitute a sex crime if committed in this state; or

(B) For which the person would have to register as a sex offender in that court's jurisdiction, regardless of whether the crime would constitute a sex crime in this state.

(3) The court shall ensure that the person completes a form that documents the person's obligation to report under ORS 163A.010 or this section. No later than three working days after the person completes the form required by this subsection, the court shall ensure that the form is sent to the Department of State Police.

(4)(a) A person described in subsection (2) of this section shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county to which the person was discharged or released or in which the person was placed on probation:

(A) Within 10 days following discharge, release or placement on probation;

(B) Within 10 days of a change of residence;

(C) Within 10 days of a legal change of name;

(D) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence;

(E) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education;

(F) Within 10 days of a change in work, vocation or attendance status at an institution of higher education; and

(G) At least 21 days prior to any intended travel outside of the United States.

(b) If a person required to report under this subsection has complied with the initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's last reported residence.

(c) The obligation to report under this subsection terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(5) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

- (b) The Department of State Police, the city police department or the county sheriff's office:
- (A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;
- (B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and
- (C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police.
- [Formerly 181.807; 2019 c.430 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.020 - Reporting by sex offender upon moving into state; reporting by certain nonresidents and certain residents.**

- (1)(a) When a person described in subsection (6) of this section moves into this state and is not otherwise required by ORS 163A.010, 163A.015 or 163A.025 to report, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's residence:
- (A) No later than 10 days after moving into this state;
- (B) Within 10 days of a change of residence;
- (C) Within 10 days of a legal change of name;
- (D) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence;
- (E) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education;
- (F) Within 10 days of a change in work, vocation or attendance status at an institution of higher education; and
- (G) At least 21 days prior to any intended travel outside of the United States.
- (b) If a person required to report under this subsection has complied with the initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's last reported residence.
- (2)(a) When a person described in ORS 163A.010 (2) or 163A.015 (2) or subsection (6) of this section attends school or works in this state, resides in another state and is not otherwise required by ORS 163A.010, 163A.015 or 163A.025 to report, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county in which the school or place of work is located, no later than 10 days after:
- (A) The first day of school attendance or the 14th day of employment in this state;
- (B) A change in school enrollment or employment; and
- (C) A legal change of name.
- (b) As used in this subsection, "attends school" means enrollment in any type of school on a full-time or part-time basis.
- (3)(a) When a person described in subsection (6) of this section resides in this state at the time of the conviction or adjudication giving rise to the obligation to report, continues to reside in this state following the conviction or adjudication and is not otherwise required by ORS 163A.010, 163A.015 or 163A.025 to report, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's residence:
- (A) Within 10 days following:
- (i) Discharge, release on parole or release on any form of supervised or conditional release, from a jail, prison or other correctional facility or detention facility; or
- (ii) Discharge, release or placement on probation, by another United States court;
- (B) Within 10 days of a change of residence;
- (C) Within 10 days of a legal change of name;
- (D) Once each year within 10 days of the person's birth date, regardless of whether the person has changed residence;
- (E) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education;
- (F) Within 10 days of a change in work, vocation or attendance status at an institution of higher education; and
- (G) At least 21 days prior to any intended travel outside of the United States.
- (b) If a person required to report under this subsection has complied with the applicable initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's last reported residence.
- (4) When a person reports under this section, the agency to which the person reports shall complete a sex offender registration form concerning the person.
- (5) The obligation to report under this section terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.
- (6) Subsections (1) to (5) of this section apply to a person convicted in another United States court of a crime:
- (a) That would constitute a sex crime if committed in this state; or
- (b) For which the person would have to register as a sex offender in that court's jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state.

(7) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, the city police department or the county sheriff's office:

(A) Shall photograph the person when the person initially reports under this section, each time the person reports annually under subsection (1)(a)(D) or (3)(a)(D) of this section and each time the person reports under subsection (2)(a)(B) of this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police.

[Formerly 181.808; 2019 c.430 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.025 - Reporting by sex offender adjudicated in juvenile court.**

(1) A person found to be within the jurisdiction of the juvenile court under ORS 419C.005, or found by the juvenile court to be responsible except for insanity under ORS 419C.411, for having committed an act that, if committed by an adult, would constitute a felony sex crime shall report as a sex offender as described in subsections (2) to (4) of this section, unless the juvenile court enters an order under ORS 163A.130 or 163A.135 relieving the person of the obligation to report, if:

(a) The person has been ordered under ORS 163A.030 to report as a sex offender;

(b) The person was adjudicated, and the jurisdiction of the juvenile court or the Psychiatric Security Review Board over the person ended, prior to August 12, 2015;

(c) The person was adjudicated prior to August 12, 2015, and the jurisdiction of the juvenile court or the Psychiatric Security Review Board over the person ended after August 12, 2015, and before April 4, 2016; or

(d) The person has been found in a juvenile adjudication in another United States court to have committed an act while the person was under 18 years of age that would constitute a felony sex crime if committed in this state by an adult.

(2) A person described in subsection (1)(a) or (d) of this section, or a person described in subsection (1)(c) of this section who did not make an initial report prior to April 4, 2016, who resides in this state shall make an initial report, in person, to the Department of State Police, a city police department or a county sheriff's office as follows:

(a) The person shall report no later than 10 days after the date of the court order requiring the person to report under ORS 163A.030;

(b) If the person is adjudicated for the act giving rise to the obligation to report in another United States court and the person is found to have committed an act that if committed by an adult in this state would constitute:

(A) A Class A or Class B felony sex crime:

(i) If the person is not a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's residence, no later than 10 days after the date the person moves into this state; or

(ii) If the person is a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's residence, no later than 10 days after the date the person is discharged, released or placed on probation or any other form of supervised or conditional release by the other United States court or, if the person is confined in a correctional facility by the other United States court, no later than 10 days after the date the person is discharged or otherwise released from the facility.

(B) A Class C felony sex crime:

(i) If the person is not a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's residence, no later than six months after the date the person moves into this state; or

(ii) If the person is a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's residence, no later than 10 days after the date the person is discharged, released or placed on probation or any other form of supervised or conditional release by the other United States court or, if the person is confined in a correctional facility by the other United States court, no later than 10 days after the date the person is discharged or otherwise released from the facility; or

(c) For persons described in subsection (1)(c) of this section who did not make an initial report prior to April 4, 2016, the person shall report no later than 120 days after April 4, 2016.

(3) After making the initial report described in subsection (2) of this section or, for a person described in subsection (1)(c) of this section who made an initial report prior to April 4, 2016, or a person described in subsection (1)(b) of this section, beginning after April 4, 2016, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's last reported residence:

(a) Within 10 days of a change of residence;

(b) Within 10 days of a legal change of name;

(c) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence;

(d) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education;

- (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher education; and
- (f) At least 21 days prior to any intended travel outside of the United States.
- (4) When a person described in subsection (1) of this section attends school or works in this state, resides in another state and is not otherwise required to report as a sex offender under this section or ORS 163A.010, 163A.015 or 163A.020, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county in which the person attends school or works, no later than 10 days after:
  - (a) The first day of school attendance or the 14th day of employment in this state;
  - (b) A change in school enrollment or employment; and
  - (c) A legal change of name.
- (5) The agency to which a person reports under this section shall complete a sex offender registration form concerning the person when the person reports under this section.
- (6) As part of the registration and reporting requirements of this section:
  - (a) The person required to report shall:
    - (A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and
    - (B) Submit to the requirements described in paragraph (b) of this subsection.
  - (b) The Department of State Police, Oregon Youth Authority, county juvenile department, city police department or county sheriff's office:
    - (A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;
    - (B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and
    - (C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police.
- (7) The obligation to report under this section is terminated if the adjudication that gave rise to the obligation is reversed or vacated.
- (8) Notwithstanding subsections (2) and (3) of this section:
  - (a) The Oregon Youth Authority may authorize an adjudicated youth committed to its custody and supervision by order of the juvenile court, or a person placed in its physical custody under ORS 137.124 or any other provision of law, to report to the authority regardless of the adjudicated youth's or the person's last reported residence.
  - (b) A county juvenile department may authorize an adjudicated youth or young person, as those terms are defined in ORS 419A.004, to report to the department, regardless of the county of the adjudicated youth's or the young person's last reported residence.
  - (c) In the event that a person reports to the authority or the department under this subsection, the authority or the department shall register the person. [Formerly 181.809; 2016 c.95 §1; 2019 c.430 §14; 2021 c.489 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.030 - Hearing on issue of reporting by sex offender adjudicated in juvenile court; right to counsel.**

- (1)(a) Except as provided in subsection (6) of this section, the juvenile court shall hold a hearing on the issue of reporting as a sex offender by a person who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005, or found by the juvenile court to be responsible except for insanity under ORS 419C.411, for having committed an act that if committed by an adult would constitute a felony sex crime if:
  - (A) The person was adjudicated on or after August 12, 2015; or
  - (B) The person was adjudicated before August 12, 2015, and was still under the jurisdiction of the juvenile court or the Psychiatric Security Review Board on April 4, 2016.
- (b) Unless the court continues the hearing described in this section for good cause, the hearing must be held:
  - (A) During the six-month period before the termination of juvenile court jurisdiction over the person; or
  - (B) During the six-month period after the court receives the notice described in subsection (2) of this section from the Psychiatric Security Review Board, if the person was placed under the jurisdiction of the board.
- (c) The court shall notify the person of the person's right to a hearing under this section upon finding the person within the jurisdiction of the juvenile court under ORS 419C.005.
- (2)(a) The county or state agency responsible for supervising the person shall notify the person and the juvenile court when the agency determines that termination of jurisdiction is likely to occur within six months.
- (b) If the Psychiatric Security Review Board discharges a person prior to the end of the board's jurisdiction over the person, the board shall notify the juvenile court within three business days after the discharge date.
- (3) Upon receipt of the notice described in subsection (2) of this section, the court shall:
  - (a) Appoint an attorney for the person as described in subsection (4) of this section;
  - (b) Set an initial hearing date; and
  - (c) Notify the parties and the juvenile department or the Psychiatric Security Review Board, if the department or board is supervising or has jurisdiction over the person, of the hearing at least 60 days before the hearing date.
- (4)(a) A person who is the subject of a hearing under this section has the right to be represented by a suitable attorney possessing skills and experience commensurate with the nature and complexity of the case, to consult with the attorney prior to the hearing and to have a suitable attorney appointed at state expense.

- (b) In order to comply with the right to counsel under paragraph (a) of this subsection, the court may:
- (A) Continue the appointment of the attorney appointed under ORS 419C.200 at the time of disposition;
  - (B) Set a date prior to the hearing under this section in order to reappoint the attorney appointed under ORS 419C.200; or
  - (C) Appoint or reappoint an attorney at any time in response to a request by the person who is the subject of a hearing under this section.
- (5)(a) The district attorney shall notify the victim prior to the hearing of the right to appear and the right to be heard under ORS 419C.273.
- (b) If the person is under the jurisdiction of the Psychiatric Security Review Board, the board shall notify the following of the hearing:
- (A) The mental health agency providing services to the person, if any;
  - (B) The person's board defense attorney; and
  - (C) The assistant attorney general representing the state at board hearings.
- (6)(a) A person may waive the right to the hearing described in this section only after receiving the notice described in subsection (2)(a) of this section and after consultation with the person's attorney. If the court finds that the person has knowingly waived the right to a hearing, the court shall enter an order requiring the person to report as a sex offender under ORS 163A.025.
- (b) If a person fails to appear at a hearing described in this section, the court may enter an order requiring the person to report as a sex offender under ORS 163A.025.
- (7) At the hearing described in subsection (1) of this section:
- (a) The district attorney, the victim, the person and the juvenile department or a representative of the Oregon Youth Authority shall have an opportunity to be heard.
  - (b) The person who is the subject of the hearing has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public. If the court finds that the person has not met the burden of proof, the court shall enter an order requiring the person to report as a sex offender under ORS 163A.025.
  - (8) In determining whether the person has met the burden of proof, the juvenile court may consider but need not be limited to considering:
    - (a) The extent and impact of any physical or emotional injury to the victim;
    - (b) The nature of the act that subjected the person to the duty of reporting as a sex offender;
    - (c) Whether the person used or threatened to use force in committing the act;
    - (d) Whether the act was premeditated;
    - (e) Whether the person took advantage of a position of authority or trust in committing the act;
    - (f) The age of any victim at the time of the act, the age difference between any victim and the person and the number of victims;
    - (g) The vulnerability of the victim;
    - (h) Other acts committed by the person that would be crimes if committed by an adult and criminal activities engaged in by the person before and after the adjudication;
    - (i) Statements, documents and recommendations by or on behalf of the victim or the parents of the victim;
    - (j) The person's willingness to accept personal responsibility for the act and personal accountability for the consequences of the act;
    - (k) The person's ability and efforts to pay the victim's expenses for counseling and other trauma-related expenses or other efforts to mitigate the effects of the act;
    - (L) Whether the person has participated in and satisfactorily completed a sex offender treatment program or any other intervention, and if so the juvenile court may also consider:
      - (A) The availability, duration and extent of the treatment activities;
      - (B) Reports and recommendations from the providers of the treatment;
      - (C) The person's compliance with court, board or supervision requirements regarding treatment; and
      - (D) The quality and thoroughness of the treatment program;
    - (m) The person's academic and employment history;
    - (n) The person's use of drugs or alcohol before and after the adjudication;
    - (o) The person's history of public or private indecency;
    - (p) The person's compliance with and success in completing the terms of supervision;
    - (q) The results of psychological examinations of the person;
    - (r) The protection afforded the public by records of sex offender registration; and
    - (s) Any other relevant factors.
- (9) In a hearing under this section, the juvenile court may receive testimony, reports and other evidence, without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585, if the evidence is relevant evidence related to the determination and findings required under this section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS 40.150.
- (10)(a) In a hearing under this section, the Oregon Youth Authority or the juvenile department, if either agency is supervising the person, or the Psychiatric Security Review Board, if the board has jurisdiction over the person, shall file with the juvenile court the following records and materials in the possession of the agency or board at least 45 days prior to the hearing unless good cause is shown:

(A) Evaluations and treatment records concerning the person conducted by a clinician or program operating under the standards of practice for the evaluation and treatment of juvenile sex offenders adopted by the Sexual Offense Treatment Board under ORS 675.400, and recommendations contained therein regarding the need for the person to register in order to protect the public from future sex crimes;

(B) All examination preparation material and examination records from polygraph examinations conducted by or for the treatment provider, juvenile department or Oregon Youth Authority; and

(C) The Psychiatric Security Review Board exhibit file.

(b) Any records and materials filed with the court under this subsection shall be made available to the parties in accordance with ORS 419A.255.

(11)(a) When the juvenile court enters an order described in subsection (6)(a) or (7)(b) of this section, the court shall ensure that the person completes a form that documents the person's obligation to report under ORS 163A.025. No later than three business days after the person completes the form required by this subsection, the court shall ensure that the form is sent to the Department of State Police.

(b) If the court enters an order under this section, no later than three business days after entry of the order, the court shall ensure that the order is sent to the Department of State Police.

(12) Notwithstanding ORS 419C.005 (4)(c), (d) and (e), the juvenile court retains jurisdiction over a person for purposes of this section.

(13) As used in this section, "parties" means the person, the state as represented by the district attorney or the juvenile department, and the Oregon Youth Authority or other child care agency, if the person is temporarily committed to the authority or agency. [2015 c.820 §31; 2016 c.95 §2; 2019 c.68 §13; 2019 c.430 §17; 2021 c.597 §33]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.035 - Registration forms; Department of State Police to provide; distribution of information; rules; fee.**

(1) Agencies registering offenders under ORS 163A.010, 163A.015, 163A.020 and 163A.025 shall use forms and procedures adopted by the Department of State Police by administrative rule. The department shall include places on the form to list all the names used by the offender and the address of the offender. No later than three working days after registration, the agency or official completing the form shall forward the registration information to the department in the manner prescribed by the department.

(2) The department shall enter into the Law Enforcement Data System the sex offender information obtained from the sex offender registration forms. If a conviction or adjudication that gave rise to the registration obligation is reversed or vacated or if the registrant is pardoned, the department shall remove from the Law Enforcement Data System the sex offender information obtained from the form.

(3) The Law Enforcement Data System may send sex offender information to the National Crime Information Center as part of the national sex offender registry in accordance with appropriate state and federal procedures.

(4) If the person is no longer under supervision, the department shall verify the residence address of a person determined to be a sexually violent dangerous offender as defined in ORS 137.765 every 90 days by mailing a verification form to the person at the person's last reported residence address. No later than 10 days after receiving the form, the person shall sign and return the form to the department.

(5) The department shall assess a person who is required to report under ORS 163A.010, 163A.015 or 163A.020 and who is not under supervision a fee of \$70 each year. Moneys received by the department under this subsection are continuously appropriated to the department for the purpose of carrying out the department's duties under ORS 163A.005 to 163A.235. [Formerly 181.810; 2021 c.597 §34]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.040 - Failure to report as sex offender; defense.**

(1) A person who is required to report as a sex offender in accordance with the applicable provisions of ORS 163A.010, 163A.015, 163A.020 or 163A.025 and who has knowledge of the reporting requirement commits the crime of failure to report as a sex offender if the person:

(a) Fails to make the initial report to an agency;

(b) Fails to report when the person works at, carries on a vocation at or attends an institution of higher education;

(c) Fails to report following a change of school enrollment or employment status, including enrollment, employment or vocation status at an institution of higher education;

(d) Moves to a new residence and fails to report the move and the person's new address;

(e) Fails to report a legal change of name;

(f) Fails to make an annual report;

(g) Fails to provide complete and accurate information;

(h) Fails to sign the sex offender registration form as required;

(i) Fails or refuses to participate in a sex offender risk assessment as directed by the State Board of Parole and Post-Prison Supervision, Psychiatric Security Review Board, Oregon Health Authority or supervisory authority;



- (j) Fails to submit to fingerprinting or to having a photograph taken of the person's face, identifying scars, marks or tattoos; or
- (k) Fails to report prior to any intended travel outside of the United States.
- (2)(a) It is an affirmative defense to a charge of failure to report under subsection (1)(d) of this section by a person required to report under ORS 163A.010 (3)(a)(B), 163A.015 (4)(a)(B) or 163A.025 (3)(a) that the person reported, in person, within 10 days of a change of residence to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's new residence, if the person otherwise complied with all reporting requirements.
- (b) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this section by a person required to report under ORS 163A.025 (2)(b)(A)(i) that the person reported, in person, to the Department of State Police in Marion County, Oregon, within 10 days of moving into this state.
- (c) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this section by a person required to report under ORS 163A.025 (2)(b)(B)(i) that the person reported, in person, to the Department of State Police in Marion County, Oregon, within six months of moving into this state.
- (d) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.025 (2)(b)(A)(ii) or (B)(ii) that the person reported, in person, to the Department of State Police in Marion County, Oregon, if the person otherwise complied with all reporting requirements.
- (e) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.025 (3) that the person reported, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's residence, if the person otherwise complied with all reporting requirements.
- (f) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.010 (3) that the person reported to the Oregon Youth Authority if the person establishes that the authority registered the person under ORS 163A.010 (3)(c).
- (g) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.025 (2) or (3) that the person reported to the Oregon Youth Authority or a county juvenile department if the person establishes that the authority or department registered the person under ORS 163A.025 (8).
- (3)(a) Except as otherwise provided in paragraph (b) of this subsection, failure to report as a sex offender is a Class A misdemeanor.
- (b) Failure to report as a sex offender is a Class C felony if the person violates:
- (A) Subsection (1)(a) of this section; or
- (B) Subsection (1)(b), (c), (d), (e) or (h) of this section and the crime for which the person is required to report is a felony.
- (4) A person who fails to sign and return an address verification form as required by ORS 163A.035 (4) commits a violation. [Formerly 181.812; 2016 c.95 §4a; 2017 c.418 §§1,2; 2019 c.430 §§15,16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.045 - Purpose of sex offender reporting obligation; rules.**

- (1) The purpose of ORS 163A.005 to 163A.235 is to assist law enforcement agencies in preventing future sex offenses.
- (2) The Department of State Police may adopt rules to carry out the responsibilities of the department under ORS 163A.005 to 163A.235. [Formerly 181.814]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.050 - Notice of reporting obligation to be given by court; procedure at intake.**

- (1) When the court imposes sentence upon a person convicted of a sex crime or finds a person guilty except for insanity of a sex crime, the court shall notify the person of the obligation to report as a sex offender under ORS 163A.010 and 163A.015.
- (2) At the initial intake for incarceration or release on any type of supervised release, the sex offender shall complete a form that documents the offender's obligation to report under ORS 163A.010 or 163A.015 and the effect described in ORS 163A.115 of failing to submit to a sex offender risk assessment. The Department of State Police shall develop and provide the form. No later than three working days after the sex offender completes the form, the person responsible for the intake process shall send the form to the Department of State Police. [Formerly 181.815; 2017 c.233 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.055 - Notice required when offender moves to another state.**

When the Department of State Police learns that a person required to report under ORS 163A.010, 163A.015, 163A.020 or 163A.025 is moving to another state, the department shall notify the appropriate criminal justice agency of that state of that fact. The department is not responsible for registering and tracking a person once the person has moved from this state. [Formerly 181.816]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.060 - Offender profiling.**

- (1) For those sex offenders classified as a level three sex offender under ORS 163A.100 (3), or designated as a predatory sex offender prior to January 1, 2014, the supervising agency or the agency making the classification or designation shall provide the Department of State Police, by electronic or other means, at the termination of supervision, with the following information for the

purpose of offender profiling:

- (a) Presentence investigations;
  - (b) Violation reports;
  - (c) Parole and probation orders;
  - (d) Conditions of parole and probation and other corrections records;
  - (e) Sex offender risk assessments; and
  - (f) Any other information that the supervising agency or the agency making the classification or designation determines is appropriate disclosure of which is not otherwise prohibited by law.
- (2) The Oregon Youth Authority and county juvenile departments shall provide access to information in their files to the Oregon State Police for the purpose of offender profiling.
- (3)(a) Except as otherwise provided by law, the Oregon State Police may not disclose information received under subsection (1) or (2) of this section.
- (b) The Department of State Police may release information on the methodology of offenses and behavior profiles derived from information received under subsection (1) or (2) of this section to local law enforcement agencies. [Formerly 181.817]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.065 - Immunity.**

A public agency and its employees are immune from liability, both civil and criminal, for the good faith performance of the agency's or employee's duties under ORS 163A.005 to 163A.235. [Formerly 181.818]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.100 - Risk assessment methodology; rules.**

The State Board of Parole and Post-Prison Supervision shall, in consultation with community corrections agencies, adopt by rule a sex offender risk assessment methodology for use in classifying sex offenders. Application of the risk assessment methodology to a sex offender must result in placing the sex offender in one of the following levels:

- (1) A level one sex offender who presents the lowest risk of reoffending and requires a limited range of notification.
- (2) A level two sex offender who presents a moderate risk of reoffending and requires a moderate range of notification.
- (3) A level three sex offender who presents the highest risk of reoffending and requires the widest range of notification. [Formerly 181.800]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.105 - When risk assessments performed; classification into risk level; review; rules.**

- (1) When a person convicted of a crime described in ORS 163.355 to 163.427 is sentenced to a term of imprisonment in a Department of Corrections institution for that crime, the State Board of Parole and Post-Prison Supervision shall assess the person utilizing the risk assessment methodology described in ORS 163A.100. The board shall apply the results of the assessment to place the person in one of the levels described in ORS 163A.100 before the person is released from custody.
- (2) When a person convicted of a sex crime is sentenced to a term of incarceration in a jail, or is discharged, released or placed on probation by the court, the supervisory authority as defined in ORS 144.087 shall assess the person utilizing the risk assessment methodology described in ORS 163A.100 and apply the results of the assessment to place the person in one of the levels described in ORS 163A.100 no later than 90 days after the person is released from jail or discharged, released or placed on probation by the court.
- (3)(a) When a person is found guilty except for insanity of a sex crime, the Psychiatric Security Review Board shall assess the person utilizing the risk assessment methodology described in ORS 163A.100 and apply the results of the assessment to place the person in one of the levels described in ORS 163A.100 no later than 90 days after the person is:
  - (A) Placed on conditional release by the Psychiatric Security Review Board;
  - (B) Discharged from the jurisdiction of the Psychiatric Security Review Board;
  - (C) Placed on conditional release by the court pursuant to ORS 161.327; or
  - (D) Discharged by the court pursuant to ORS 161.329.
- (b) If the State Board of Parole and Post-Prison Supervision previously completed a risk assessment and assigned a classification level described in ORS 163A.100 for a person described in paragraph (a) of this subsection, the Psychiatric Security Review Board need not complete a reassessment for an initial classification.
- (c) The court shall notify the Psychiatric Security Review Board when the court conditionally releases or discharges a person described in paragraph (a) of this subsection.
- (d) The Psychiatric Security Review Board shall notify the State Board of Parole and Post-Prison Supervision no later than seven days after the Psychiatric Security Review Board conditionally releases or discharges a person who has a prior sex crime conviction that obligates the person to report as a sex offender, unless the person has also been found guilty except for insanity of a sex crime that obligates the person to report as a sex offender.
- (4)(a) Within 90 days after receiving notice of a person's obligation to report in this state from the Department of State Police, the State Board of Parole and Post-Prison Supervision shall assess the person utilizing the risk assessment methodology described in

ORS 163A.100 and apply the results of the assessment to place the person in one of the levels described in ORS 163A.100 if the person has been convicted in another United States court of a crime:

(A) That would constitute a sex crime if committed in this state; or

(B) For which the person would have to register as a sex offender in that court's jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state.

(b) If a person has been convicted of a sex crime and was sentenced to a term of imprisonment in a Department of Corrections institution for that sex crime, but was not subjected to a risk assessment utilizing the risk assessment methodology described in ORS 163A.100 before release under subsection (1) of this section, within 90 days after the person's release the State Board of Parole and Post-Prison Supervision shall assess the person utilizing the risk assessment methodology described in ORS 163A.100 and apply the results of the assessment to place the person in one of the levels described in ORS 163A.100.

(5) When the State Board of Parole and Post-Prison Supervision, the Psychiatric Security Review Board or a supervisory authority applies the results of a risk assessment to place a person in one of the levels described in ORS 163A.100, the agency shall notify the Department of State Police of the results of the risk assessment within three business days after the agency's classification. Upon receipt, the Department of State Police shall enter the results of the risk assessment into the Law Enforcement Data System.

(6) The State Board of Parole and Post-Prison Supervision, the Psychiatric Security Review Board or a supervisory authority may reassess or reclassify a person placed in one of the levels described in ORS 163A.100 under this section if the classifying board or authority determines that a factual mistake caused an erroneous assessment or classification.

(7)(a) A person classified under this section as a level two or level three sex offender as described in ORS 163A.100 may petition the classifying board or authority for review. Except for good cause shown, the petition may be filed no later than 60 days after the notice of the classification is provided to the person or, if the notice is mailed, no later than 60 days after the notice is sent.

(b) When good cause is shown, the time for filing a petition under this subsection may not be extended more than 60 days beyond the date of the person's next annual report under ORS 163A.010, 163A.015 or 163A.020.

(c) Upon receipt of a petition described in this subsection, the classifying board or authority shall afford the person an opportunity to be heard as to all factual questions related to the classification.

(d) After providing the person with notice and an opportunity to be heard in accordance with this subsection, the board or authority shall classify the person in accordance with the classifications described in ORS 163A.100, based on all of the information available to the classifying board or authority.

(e) As used in this subsection, "good cause" means that, due to a person's transience, lack of housing, ongoing mental health concerns or other similar circumstances, a notice mailed to the person under paragraph (a) of this subsection was not received by the person.

(8)(a) If the State Board of Parole and Post-Prison Supervision, the Psychiatric Security Review Board or a supervisory authority does not classify a person under ORS 163A.100 because the person has failed or refused to participate in a sex offender risk assessment as directed by the board or authority, the classifying board or authority shall classify the person as a level three sex offender under ORS 163A.100 (3).

(b) If person classified as a level three sex offender under this subsection notifies the classifying board or authority of the willingness to participate in a sex offender risk assessment, the classifying board or authority shall perform the assessment and classify the person in one of the levels described in ORS 163A.100.

(9) The State Board of Parole and Post-Prison Supervision and the Psychiatric Security Review Board may adopt rules to carry out the provisions of this section. [Formerly 181.801; 2017 c.442 §30; 2017 c.488 §2; 2019 c.430 §19]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.110 - Applicability of ORS 163A.105.**

(1) ORS 163A.105 applies to persons for whom the event triggering the obligation to make an initial report under ORS 163A.010 (3)(a)(A), 163A.015 (4)(a)(A) or 163A.020 (1)(a)(A), (2)(a)(A) or (3)(a)(A) occurs on or after January 1, 2014.

(2) As used in this section, "event triggering the obligation to make an initial report" means:

(a) If the initial report is described in ORS 163A.010 (3)(a)(A):

(A) Discharge, parole or release on any form of supervised or conditional release from a jail, prison or other correctional facility in this state;

(B) Parole to this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute a sex crime if committed in this state; or

(C) Discharge by the court under ORS 161.329.

(b) If the initial report is described in ORS 163A.015 (4)(a)(A), discharge, release or placement on probation:

(A) By the court; or

(B) To or in this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute a sex crime if committed in this state.

(c) If the initial report is described in ORS 163A.020 (1)(a)(A), moving into this state.

(d) If the initial report is described in ORS 163A.020 (2)(a)(A), the first day of school attendance or the 14th day of employment in this state.

(e) If the initial report is described in ORS 163A.020 (3)(a)(A):

(A) Discharge, release on parole or release on any form of supervised or conditional release, from a jail, prison or other correctional facility or detention facility; or

(B) Discharge, release or placement on probation, by another United States court. [Formerly 181.802; 2017 c.488 §5]

Note:

Section 7, chapter 708, Oregon Laws 2013, provides:

Sec. 7. Existing registrants.

(1) As used in this section and ORS 163A.200 to 163A.210:

(a) "Event triggering the obligation to make an initial report" has the meaning given that term in ORS 163A.110.

(b) "Existing registrant" means a person for whom the event triggering the obligation to make an initial report under ORS 163A.010

(3)(a)(A), 163A.015 (4)(a)(A) or 163A.020 (1)(a)(A), (2)(a)(A) or (3)(a)(A) occurs before January 1, 2014.

(2)(a) No later than December 1, 2026, the State Board of Parole and Post-Prison Supervision shall classify existing registrants in one of the levels described in ORS 163A.100. The Department of State Police shall enter the results of the classifications described in this section into the Law Enforcement Data System within a reasonable time after receipt.

(b) The board shall classify an existing registrant as a level three sex offender under ORS 163A.100 (3), if:

(A) The person was previously designated a predatory sex offender and the designation was made after the person was afforded notice and an opportunity to be heard as to all factual questions at a meaningful time and in a meaningful manner; or

(B) The person is a sexually violent dangerous offender under ORS 137.765.

(c) The Psychiatric Security Review Board may complete the risk assessment of an existing registrant who is under the jurisdiction of the Psychiatric Security Review Board, regardless of whether the person has been found guilty except for insanity of a sex crime or was previously convicted of a sex crime, if the State Board of Parole and Post-Prison Supervision and the Psychiatric Security Review Board mutually agree that the Psychiatric Security Review Board has adequate resources to perform the assessment and that the performance of the assessment by the Psychiatric Security Review Board would assist in classifying the existing registrant in a more timely manner.

(3) As soon as practicable following the classification of an existing registrant under this section, the classifying board shall notify the person of the classification by mail.

(4)(a) An existing registrant who seeks review of a classification made under this section as a level two or level three sex offender as described in ORS 163A.100 may petition the classifying board for review. The petition may be filed no later than 60 days after the board provides the notice described in subsection (3) of this section.

(b) Upon receipt of a petition described in this subsection, the classifying board shall afford the person an opportunity to be heard as to all factual questions related to the classification.

(c) After providing the person with notice and an opportunity to be heard in accordance with this subsection, the board shall classify the person in accordance with the classifications described in ORS 163A.100, based on all of the information available to the classifying board.

(5) The boards shall adopt rules to carry out the provisions of this section.

(6) An existing registrant may not petition for reclassification or relief from the obligation to report as a sex offender as provided in ORS 163A.125 until either all existing registrants have been classified in one of the levels described in ORS 163A.100 or December 1, 2018, whichever occurs first.

(7) Notwithstanding ORS 163A.225 or any other provision of law, the Department of State Police may until December 1, 2018, continue to use the Internet to make information available to the public concerning any adult sex offender designated as predatory as authorized by the law in effect on December 31, 2013.

(8)(a) If the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board does not classify an existing registrant under ORS 163A.100 because the person has failed or refused to participate in a sex offender risk assessment as directed by the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board, the appropriate board shall classify the person as a level three sex offender under ORS 163A.100 (3).

(b) If an existing registrant classified as a level three sex offender under this subsection notifies the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board of the willingness to participate in a sex offender risk assessment, the appropriate board shall perform the assessment and classify the existing registrant in one of the levels described in ORS 163A.100.

(9) The State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board may reassess or reclassify an existing registrant placed in one of the levels described in ORS 163A.100 under this section if the classifying board determines that a factual mistake caused an erroneous assessment or classification. [2013 c.708 §7; 2015 c.820 §27; 2017 c.442 §31; 2017 c.488 §1; 2019 c.430 §1]

Note:

Sections 2 and 22, chapter 430, Oregon Laws 2019, provide:

Sec. 2.

Beginning February 1, 2021, and biennially thereafter, the State Board of Parole and Post-Prison Supervision shall report to the Legislative Assembly, in the manner provided in ORS 192.245, on:

(1) The progress made in assessing and classifying existing registrants as defined in section 7, chapter 708, Oregon Laws 2013, and other sex offenders the board is directed to assess and classify under ORS 163A.105, 163A.110 and 163A.115; and

(2) Efforts to reduce the cost and increase the efficiency and accuracy of the assessments. [2019 c.430 §2]  
Sec. 22.

Section 2 of this 2019 Act is repealed on December 1, 2026. [2019 c.430 §22]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.115 - When certain classification required; persons ineligible for relief from reporting obligation.**

Notwithstanding any other provision of law:

(1) A person who is a sexually violent dangerous offender under ORS 137.765:

(a) Must be classified as a level three sex offender under ORS 163A.100 (3); and

(b) Is not eligible for relief from the obligation to report as a sex offender or reclassification as a level two sex offender under ORS 163A.100 (2), pursuant to a petition filed under ORS 163A.125.

(2) A person who has been convicted or found guilty except for insanity of one of the following offenses is not eligible for relief from the obligation to report as a sex offender pursuant to a petition filed under ORS 163A.125 (1):

(a) Rape in the first degree;

(b) Sodomy in the first degree;

(c) Unlawful sexual penetration in the first degree;

(d) Kidnapping in the first degree as described in ORS 163.235 (1)(e) or when the victim is under 18 years of age; or

(e) Burglary in the first degree when committed with the intent to commit any of the offenses listed in ORS 163A.005 (5)(a) to (x).

(3) A person classified as a level three sex offender under section 7 (2)(b), chapter 708, Oregon Laws 2013, is not eligible for relief from the obligation to report as a sex offender pursuant to a petition filed under ORS 163A.125 (1). [Formerly 181.803; 2023 c.200 §5]

Note:

Section 35, chapter 708, Oregon Laws 2013, provides:

Sec. 35.

Sections 4 to 6 of this 2013 Act [163A.115, 163A.125 and 163A.215] apply to persons for whom the event triggering the obligation to make an initial report, as defined in section 3 of this 2013 Act [163A.110], occurs before, on or after January 1, 2014. [2013 c.708 §35; 2013 c.708 §36]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.125 - Relief from reporting obligation for sex offenders classified under ORS 163A.100; reclassification; procedure.**

(1)(a) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or 163A.020 due to a conviction for a sex crime and is classified as a level one sex offender under ORS 163A.100 (1) may petition the State Board of Parole and Post-Prison Supervision to relieve the person from the obligation to report as a sex offender under ORS 163A.010, 163A.015 or 163A.020.

(b) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or 163A.020 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is classified as a level one sex offender under ORS 163A.100 (1), may petition the Psychiatric Security Review Board to relieve the person from the obligation to report as a sex offender under ORS 163A.010, 163A.015 or 163A.020.

(c)(A) Except as otherwise provided in subparagraph (B) of this paragraph, a person described in paragraph (a) or (b) of this subsection may file the petition no sooner than five years after the date supervision for the sex crime is terminated or, if the person was not subject to supervision for the sex crime, five years after the date the person was discharged from the jurisdiction of the court, Psychiatric Security Review Board or Oregon Health Authority.

(B) A person who was reclassified under subsection (2) of this section from a level two sex offender under ORS 163A.100 (2) to a level one sex offender under ORS 163A.100 (1) may file the petition no sooner than five years after the date of reclassification.

(d) Notwithstanding paragraph (c) of this subsection, if a person is required to report because of a conviction or finding of guilty except for insanity from another United States court as that term is defined in ORS 163A.005, the person may not petition for relief from reporting as a sex offender in Oregon unless the laws of the jurisdiction where the person was convicted or found guilty except for insanity would permit a petition for relief from reporting as a sex offender.

(2)(a) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or 163A.020 due to a conviction for a sex crime and is classified as a level three sex offender under ORS 163A.100 (3) may petition the State Board of Parole and Post-Prison Supervision to reclassify the person as a level two sex offender under ORS 163A.100 (2).

(b) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or 163A.020 due to being found guilty except for insanity under ORS 161.295 for a sex crime, and is classified as a level three sex offender under ORS 163A.100 (3), may petition the Psychiatric Security Review Board to reclassify the person as a level two sex offender under ORS 163A.100 (2).

(c) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or 163A.020 due to a conviction for a sex crime and is classified as a level two sex offender under ORS 163A.100 (2) may petition the State Board of Parole and Post-Prison Supervision to reclassify the person as a level one sex offender under ORS 163A.100 (1).

(d) A person who is required to report as a sex offender under ORS 163A.010, 163A.015 or 163A.020 due to being found guilty

except for insanity under ORS 161.295 for a sex crime, and is classified as a level two sex offender under ORS 163A.100 (2), may petition the Psychiatric Security Review Board to reclassify the person as a level one sex offender under ORS 163A.100 (1).

(e) The petition described in this subsection may be filed no sooner than 10 years after the date supervision for the sex crime is terminated or, if the person was not subject to supervision for the sex crime, 10 years after the date the person was discharged from the jurisdiction of the court, Psychiatric Security Review Board or Oregon Health Authority.

(3)(a) The State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall deny a petition filed under this section if, at any time after the person is convicted or found guilty except for insanity of a sex crime, the person is convicted of or found guilty except for insanity of a person felony or a person Class A misdemeanor, as those terms are defined in the rules of the Oregon Criminal Justice Commission.

(b) The appropriate board shall deny a petition filed under subsection (2)(c) or (d) of this section if the board has previously reclassified the person as a level two sex offender under ORS 163A.100 (2) as the result of a petition filed under subsection (2)(a) or (b) of this section.

(4)(a) Except as otherwise provided in subsection (3) of this section, if a person files a petition under subsection (1) of this section, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter an order relieving the person of the obligation to report as a sex offender under ORS 163A.010, 163A.015 or 163A.020 if the board determines, by clear and convincing evidence, that the person:

(A) Is statistically unlikely to reoffend; and

(B) Does not pose a threat to the safety of the public.

(b)(A) Except as otherwise provided in subsection (3) of this section, if a person files a petition under subsection (2)(a) or (b) of this section, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter an order reclassifying the person as a level two sex offender under ORS 163A.100 (2) if, after completion of a new risk assessment utilizing the risk assessment methodology described in ORS 163A.100, the person is classified as presenting a low or moderate risk of reoffending and the board determines that a lower level of notification is sufficient to protect public safety.

(B) Except as otherwise provided in subsection (3) of this section, if a person files a petition under subsection (2)(c) or (d) of this section, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall hold a hearing. At the hearing, the board shall enter an order reclassifying the person as a level one sex offender under ORS 163A.100 (1) if, after completion of a new risk assessment utilizing the risk assessment methodology described in ORS 163A.100, the person is classified as presenting a low risk of reoffending and the board determines that a lower level of notification is sufficient to protect public safety.

(5) In making the determinations described in subsection (4) of this section, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board shall consider:

(a) The nature of and degree of violence involved in the offense that requires reporting;

(b) The age and number of victims of the offense that requires reporting;

(c) The age of the person at the time of the offense that requires reporting;

(d) The length of time since the offense that requires reporting and the time period during which the person has not reoffended;

(e) The person's performance on supervision for the offense that requires reporting;

(f) Whether the person has participated in or successfully completed a court-approved sex offender treatment program or any other rehabilitative programs;

(g) The person's stability in employment and housing;

(h) The person's community and personal support system;

(i) Other criminal and relevant noncriminal behavior of the person both before and after the offense that requires reporting; and

(j) Any other relevant factors.

(6)(a) The Attorney General may represent the state at a hearing conducted under this section unless the district attorney of the county in which the person was convicted or, if the conviction for which the person is required to report as a sex offender was entered in another United States court, the district attorney of the county in which the person resides, elects to represent the state.

(b) If a district attorney elects to represent the state, the district attorney shall give timely written notice of the election to the Attorney General, the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board and the person who is the subject of the hearing.

(c) If the district attorney declines to represent the state, the district attorney shall cooperate with the Attorney General in securing the material necessary to represent the state.

(7)(a) When the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board enters an order under this section relieving a person of the obligation to report as a sex offender under ORS 163A.010, 163A.015 or 163A.020 or enters an order reclassifying a person as a level two sex offender under ORS 163A.100 (2) or as a level one sex offender under ORS 163A.100 (1), the board shall forward a copy of the order to the Department of State Police.

(b) Upon receipt of an order relieving a person of the obligation to report, the department shall remove from the Law Enforcement Data System the sex offender information obtained from the sex offender registration form submitted under ORS 163A.010, 163A.015 or 163A.020.

(c) Upon receipt of an order reclassifying a person as a level two sex offender under ORS 163A.100 (2) or as a level one sex

offender under ORS 163A.100 (1), the department shall update the Law Enforcement Data System to reflect the reclassification.

(8) The State Board of Parole and Post-Prison Supervision and the Psychiatric Security Review Board shall adopt rules to carry out the provisions of this section. The rules may include a filing fee in an amount determined by the appropriate board. All fees paid under this subsection shall be deposited into the General Fund and credited to the account of the appropriate board.

(9) As used in this section, "supervision" means probation, parole, post-prison supervision or any other form of supervised or conditional release. [Formerly 181.821]

Note:

See note under 163A.115.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.130 - Relief from reporting obligation for juvenile offenders adjudicated in Oregon.**

(1) A person required to report as a sex offender under ORS 163A.025 (1)(a), (b) or (c), or required to report as a sex offender under the laws of another state as a result of an adjudication in an Oregon juvenile court, may file a petition for an order relieving the person of the obligation to report. If the person resides:

(a) In this state and is required to report under ORS 163A.025 (2) or (3), the petition must be filed in the juvenile court in which the person was adjudicated for the act that requires reporting.

(b) In another state and is required to report under ORS 163A.025 (4), the petition must be filed in the juvenile court in the county in which the person attends school or works.

(c) In another state and is required to report under the laws of the other state, the petition must be filed in the juvenile court in which the person was adjudicated for the act that requires reporting.

(2) If the act giving rise to the obligation to report would constitute:

(a) A Class A or Class B felony sex crime if committed by an adult, the petition may be filed no sooner than two years after the termination of juvenile court jurisdiction over the person or, if the person is placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than two years after the person is discharged from the jurisdiction of the board.

(b) A Class C felony sex crime if committed by an adult, the petition may be filed no sooner than 30 days before the termination of juvenile court jurisdiction over the person or, if the person is placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than 30 days before the person is discharged from the jurisdiction of the board.

(3)(a) The juvenile court in which a petition under this section is filed may transfer the matter to the juvenile court of the county that last supervised the person if the court determines that the convenience of the parties, the victim and witnesses require the transfer.

(b) The juvenile court has exclusive original jurisdiction in any proceeding under this section.

(c) The person, the district attorney and the juvenile department are parties to a hearing on a petition filed under this section.

(4) The person filing the petition has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public. In determining whether the person has met the burden of proof, the juvenile court may consider but need not be limited to considering:

(a) The extent and impact of any physical or emotional injury to the victim;

(b) The nature of the act that subjected the person to the obligation of reporting as a sex offender;

(c) Whether the person used or threatened to use force in committing the act;

(d) Whether the act was premeditated;

(e) Whether the person took advantage of a position of authority or trust in committing the act;

(f) The age of any victim at the time of the act, the age difference between any victim and the person and the number of victims;

(g) The vulnerability of the victim;

(h) Other acts committed by the person that would be crimes if committed by an adult and criminal activities engaged in by the person before and after the adjudication;

(i) Statements, documents and recommendations by or on behalf of the victim or the parents of the victim;

(j) The person's willingness to accept personal responsibility for the act and personal accountability for the consequences of the act;

(k) The person's ability and efforts to pay the victim's expenses for counseling and other trauma-related expenses or other efforts to mitigate the effects of the act;

(L) Whether the person has participated in and satisfactorily completed a sex offender treatment program or any other intervention, and if so the juvenile court may also consider:

(A) The availability, duration and extent of the treatment activities;

(B) Reports and recommendations from the providers of the treatment;

(C) The person's compliance with court, board or supervision requirements regarding treatment; and

(D) The quality and thoroughness of the treatment program;

(m) The person's academic and employment history;

(n) The person's use of drugs or alcohol before and after the adjudication;

(o) The person's history of public or private indecency;

(p) The person's compliance with and success in completing the terms of supervision;

(q) The results of psychological examinations of the person;

(r) The protection afforded the public by the continued existence of the records; and

(s) Any other relevant factors.

(5) In a hearing under this section, the juvenile court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS 40.150.

(6) When a petition is filed under this section, the state has the right to have a psychosexual evaluation of the person conducted. The state shall file notice with the juvenile court of its intention to have the person evaluated. If the person objects to the evaluator chosen by the state, the juvenile court for good cause shown may direct the state to select a different evaluator.

(7) As soon as practicable after a petition has been filed under this section, the district attorney or juvenile department shall make a reasonable effort to notify the victim of the crime that the person has filed a petition seeking relief under this section and, if the victim has requested, to inform the victim of the date, time and place of a hearing on the petition in advance of the hearing.

(8)(a) When a petition filed under this section is filed:

(A) While the person is under the jurisdiction of the juvenile court or the Psychiatric Security Review Board or less than three years after the date the jurisdiction is terminated, the court shall hold a hearing no sooner than 60 days and no later than 120 days after the date of filing.

(B) Three years or more after the date the juvenile court or board jurisdiction is terminated, the court shall hold a hearing no sooner than 90 days and no later than 150 days after the date of filing.

(b) Notwithstanding paragraph (a) of this subsection, upon a showing of good cause, the court may extend the period of time in which a hearing on the petition must be held.

(9)(a) When the person proves by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public, the court shall grant the petition.

(b) Notwithstanding paragraph (a) of this subsection, the court may not grant a petition filed under this section before the date the juvenile court or board jurisdiction over the person is terminated.

(10) When a juvenile court enters an order relieving a person of the requirement to report under ORS 163A.025, the person shall send a certified copy of the juvenile court order to the Department of State Police.

(11) If a person commits an act for which the person could be waived under ORS 419C.349 (1)(a) and the person is 15, 16 or 17 years of age at the time the act is committed, the state and the person may stipulate that the person may not petition for relief under this section as part of an agreement that the state not file a motion requesting waiver under ORS 419C.349 (1)(a).

(12) When a petition is filed under subsection (2)(b) of this section before the termination of juvenile court or board jurisdiction, the court shall appoint suitable counsel to represent the person for purposes of the petition described in this section if the appointment of counsel is requested by the person or, if the person is under 18 years of age, by the parent or guardian of the person. Appointment of counsel under this subsection is subject to ORS 419C.200, 419C.206 and 419C.209. [Formerly 181.823; 2016 c.95 §5; 2019 c.634 §9; 2021 c.597 §35]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.135 - Relief from reporting obligation for juvenile offenders adjudicated in another United States jurisdiction.**

(1) Except as provided in subsection (7) of this section, a person required to report under ORS 163A.025 (1)(d) may file a petition in the juvenile court for an order relieving the person of the duty to report. If the person resides:

(a) In this state and is required to report under ORS 163A.025 (2) or (3), the petition must be filed in the juvenile court of the county in which the person resides.

(b) In another state and is required to report under ORS 163A.025 (4), the petition must be filed in the juvenile court of the county in which the person attends school or works.

(2) If the act giving rise to the obligation to report would constitute:

(a) A Class A or Class B felony sex crime if committed in this state by an adult, the petition may be filed no sooner than two years after the termination of the other United States court's jurisdiction over the person.

(b) A Class C felony sex crime if committed in this state by an adult, the petition may be filed no sooner than 30 days before the termination of the other United States court's jurisdiction over the person.

(3) The person filing the petition must submit with the petition all releases and waivers necessary to allow the district attorney for the county in which the petition is filed to obtain the following documents from the jurisdiction in which the person was adjudicated for the act for which reporting is required:

(a) The juvenile court petition;

(b) The dispositional report to the court;

(c) The order of adjudication or jurisdiction;

(d) Any other relevant court documents;

(e) The police report relating to the act for which reporting is required;

(f) The order terminating jurisdiction for the act for which reporting is required; and

(g) The evaluation and treatment records or reports of the person that are related to the act for which reporting is required.

(4) A person filing a petition under this section has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public.



(5) Unless the court finds good cause for a continuance, the court shall hold a hearing on the petition no sooner than 90 days and no later than 150 days after the date the petition is filed.

(6) If a person who files a petition under this section is required to report as a sex offender for having committed an act that if committed in this state could have subjected the person to waiver under ORS 419C.349 (1)(a), the court may not grant the petition notwithstanding the fact that the person has met the burden of proof established in subsection (4) of this section unless the court determines that to do so is in the interest of public safety.

(7) This section does not apply to a person who is required to register as a sex offender for life in the jurisdiction in which the offense occurred.

(8) In a hearing under this section, the court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS 40.150.

(9) If the court is satisfied by clear and convincing evidence that the person is rehabilitated and that the person does not pose a threat to the safety of the public, the court shall enter an order relieving the person of the duty to report. When the court enters an order under this subsection, the person shall send a certified copy of the court order to the Department of State Police. [Formerly 181.826; 2016 c.95 §6; 2019 c.634 §10; 2021 c.597 §36]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.140 - Relief from reporting obligation; circumstances; order.**

A person otherwise required to report under ORS 163A.010, 163A.015, 163A.020 or 163A.025 is not required to report, and if currently reporting is no longer required to report, if:

(1)(a) The person has been convicted of:

(A) Rape in the third degree as defined in ORS 163.355;

(B) Sodomy in the third degree as defined in ORS 163.385;

(C) Sexual abuse in the third degree as defined in ORS 163.415;

(D) Sexual abuse in the second degree as defined in ORS 163.425;

(E) Contributing to the sexual delinquency of a minor as defined in ORS 163.435;

(F) Sexual misconduct as defined in ORS 163.445; or

(G) An attempt to commit an offense listed in subparagraphs (A) to (F) of this paragraph;

(b) The person has been found guilty except for insanity of an offense listed in paragraph (a) of this subsection;

(c) The person has been found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute an offense listed in paragraph (a)(A), (B) or (D) of this subsection; or

(d) The person is paroled to this state under ORS 144.610 after being convicted in another United States court of a crime that would constitute an offense listed in paragraph (a) of this subsection;

(2)(a) The person is less than five years older than the victim;

(b) The victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age;

(c) The victim was at least 14 years of age at the time of the offense or act;

(d) Except for the convictions or findings described in subsection (1) of this section, the person has not been convicted of, found guilty except for insanity of, or found to be within the jurisdiction of the juvenile court based on, a sex crime or an offense, in another United States court, for conduct that if committed in this state would constitute a sex crime; and

(e) Each conviction or finding described in subsection (1) of this section involved the same victim; and

(3) The court enters an order relieving the person of the requirement to report under ORS 163A.145 or 163A.150. [Formerly 181.830; 2021 c.410 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.145 - Procedure for relief under ORS 163A.140; upon conviction or adjudication.**

(1) When a person is convicted of an offense or adjudicated for an act described in ORS 163A.140 (1), the court shall determine whether the person is required to report under ORS 163A.010 or 163A.015.

(2) The court shall enter an order relieving the person of the requirement to report, unless:

(a) The court finds by a preponderance of the evidence that the person does not meet the eligibility requirements described in ORS 163A.140; or

(b) The district attorney and the person stipulate that the person is required to report.

(3) The state has the burden of proving that the person does not meet the eligibility requirements described in ORS 163A.140.

(4) If the court relieves the person from the requirement to report, the person shall send a certified copy of the court order to the Department of State Police. [Formerly 181.832]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.150 - Procedure for relief under ORS 163A.140; after conviction or adjudication; testimony of victim.**

(1) A person who meets the criteria described in ORS 163A.140 and seeks relief from the requirement to report under ORS

163A.010, 163A.015 or 163A.020 shall:

- (a) If the person was convicted in this state of the offense or adjudicated in this state for the act giving rise to the obligation to report, file a petition for relief from the requirement to report with the circuit court of the county in which the person was convicted or adjudicated and serve a copy of the petition on the district attorney for that county.
- (b) If the person was convicted in another United States court of the offense or adjudicated in another United States court for the act giving rise to the obligation to report, file a petition for relief from the requirement to report and declaration of eligibility under penalty of perjury in the form required by ORCP 1 E with the circuit court of the county in which the person resides and serve a copy of the petition and declaration on the district attorney for that county.
- (2) A person filing a petition under subsection (1) of this section must pay the filing fee established under ORS 21.135. The court shall schedule a hearing more than 90 days from the date of the filing. The court shall notify the person and the district attorney of the date of the hearing.
- (3)(a) Upon receipt of the petition described in subsection (1)(a) of this section, or the receipt of petition and declaration described in subsection (1)(b) of this section, the district attorney shall determine whether the district attorney contests the request for relief.
- (b) If the district attorney does not contest the request for relief, the district attorney shall submit an order to the court relieving the person of the reporting requirements described in ORS 163A.010, 163A.015 or 163A.020. The court shall grant the petition.
- (c) If the district attorney contests the request for relief, the district attorney shall notify the person of that determination within 90 days after receipt of the petition and, if required under subsection (1)(b) of this section, the declaration.
- (4) At the hearing, the person has the burden of proving that the person meets the eligibility requirements described in ORS 163A.140.
- (5)(a) At the hearing, the victim of the offense or act giving rise to the obligation to report:
  - (A) May testify voluntarily upon request.
  - (B) May be compelled by the person to testify only if the court issues an order allowing a subpoena upon the motion of the person.
  - (b) A copy of the motion for a subpoena under this subsection must be served on the district attorney.
  - (c) The court may not issue an order allowing a subpoena under this subsection unless the person can demonstrate good cause by showing that the victim's testimony is material and favorable to the person's request for relief.
  - (d) If the court grants an order allowing a subpoena under this subsection, the court may allow the victim to appear by telephone or other communication device approved by the court.
- (6)(a) If the court finds, by a preponderance of the evidence, that the person meets the eligibility requirements described in ORS 163A.140, the court shall enter an order granting the request for relief from the requirement to report.
- (b) If the court does not make the finding described in paragraph (a) of this subsection, the court shall enter an order denying the request for relief.
- (7)(a) If the court relieves the person from the requirement to report, the person shall send a certified copy of the court order to the Department of State Police.
- (b) Upon receipt of the order, the Department of State Police shall remove from the Law Enforcement Data System the sex offender information obtained from the sex offender registration form submitted under ORS 163A.010, 163A.015 or 163A.020.
- (8) The order entered under subsection (6) of this section is not subject to appeal.
- (9) The Oregon Evidence Code and the Oregon Rules of Civil Procedure do not apply to the hearing described in subsection (2) of this section. [Formerly 181.833; 2021 c.274 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.200 - Provision of records by Psychiatric Security Review Board and Oregon Health Authority.**

- (1) Notwithstanding ORS 179.505, the Psychiatric Security Review Board and the Oregon Health Authority shall provide to the State Board of Parole and Post-Prison Supervision any records that would assist the State Board of Parole and Post-Prison Supervision in:
  - (a) Performing an initial classification of a person into one of the three levels described in ORS 163A.100, as required by ORS 163A.105;
  - (b) Deciding whether to reclassify a person as a level one or a level two sex offender or relieve the person from the obligation to report as a sex offender, as described in ORS 163A.125; or
  - (c) Conducting a risk assessment of a person who is an existing registrant to classify the person into one of the three levels described in ORS 163A.100, as required by section 7, chapter 708, Oregon Laws 2013.
- (2) The State Board of Parole and Post-Prison Supervision may not release any records obtained pursuant to this section to any other agency or person unless authorized by law to do so. [2015 c.820 §19]

Note:

163A.200 to 163A.210 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 163A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.205 - Provision of records by Oregon Health Authority.**

- (1) Notwithstanding ORS 179.505, the Oregon Health Authority shall provide to the Psychiatric Security Review Board any records

that would assist the board in:

- (a) Performing an initial classification of a person into one of the three levels described in ORS 163A.100, as required by ORS 163A.105;
  - (b) Deciding whether to reclassify a person as a level one or a level two sex offender or relieve the person from the obligation to report as a sex offender, as described in ORS 163A.125; or
  - (c) Conducting a risk assessment of a person who is an existing registrant to classify the person into one of the three levels described in ORS 163A.100, as required by section 7, chapter 708, Oregon Laws 2013.
- (2) The board may not release any records obtained pursuant to this section to any other agency or person unless authorized by law to do so. [2015 c.820 §20]

Note:

See note under 163A.200.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.210 - Provision of records by Oregon Youth Authority and juvenile department.**

Notwithstanding ORS 419A.257 or any other provision of law, the Oregon Youth Authority and the juvenile department may disclose and provide copies of reports and other materials relating to a child, ward, youth or adjudicated youth's history and prognosis to the Psychiatric Security Review Board or the State Board of Parole and Post-Prison Supervision in order for the boards to determine whether to reclassify the person as a level one or a level two sex offender or relieve the person from the obligation to report as a sex offender, as described in ORS 163A.125, or whether to classify a person who is an existing registrant into one of the three levels described in ORS 163A.100, as required by section 7, chapter 708, Oregon Laws 2013. [2015 c.820 §21; 2017 c.442 §32; 2017 c.488 §6; 2021 c.489 §15]

Note:

See note under 163A.200.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.215 - Release of sex offender information according to classification.**

- (1)(a) A notifying agency or a supervising agency shall release, upon request, any information that may be necessary to protect the public concerning sex offenders who reside in a specific area or concerning a specific sex offender.
- (b) A notifying agency or a supervising agency may release sex offender information to a law enforcement agency if the notifying agency or supervising agency determines that the release of information is in the public interest.
- (c) In addition to the release of information described in this subsection and ORS 137.540, 144.260 and 441.373, a notifying agency or a supervising agency may release sex offender information to the public in accordance with subsections (2) to (4) of this section.
- (2) If the sex offender is classified as a level three sex offender under ORS 163A.100 (3):
  - (a) The Department of State Police shall release sex offender information on a website maintained by the department; and
  - (b) The supervising agency or a notifying agency may release sex offender information to:
    - (A) A person that resides with the sex offender;
    - (B) A person with whom the sex offender has a significant relationship;
    - (C) Residential neighbors and churches, community parks, schools and child care centers, convenience stores, businesses and other places that children or other potential victims may frequent;
    - (D) A long term care facility, as defined in ORS 442.015, or a residential care facility, as defined in ORS 443.400, if the agency knows that the sex offender is seeking admission to the facility; and
    - (E) Local or regional media sources.
- (3) Notwithstanding subsection (2)(a) of this section, the Department of State Police may not use the Internet to make available to the public information concerning a sex offender classified as a level three sex offender under ORS 163A.100 (3) while the person is under the supervision of the Psychiatric Security Review Board, unless the department is authorized to do so by a request of the supervising agency.
- (4) If the sex offender is classified as a level two sex offender under ORS 163A.100 (2), the supervising agency or a notifying agency may release sex offender information to the persons or entities described in subsection (2)(b)(A) to (D) of this section.
- (5) If the sex offender is classified as a level one sex offender under ORS 163A.100 (1), the supervising agency or a notifying agency may release sex offender information to a person described in subsection (2)(b)(A) of this section.
- (6) As used in this section:
  - (a) "Notifying agency" means the Department of State Police, a city police department, a county sheriff's office or a police department established by a university under ORS 352.121.
  - (b) "Sex offender information" means information that the Department of State Police determines by rule is appropriate for release to the public.
  - (c) "Supervising agency" means a governmental entity responsible for supervising a person required to report as a sex offender under ORS 163A.010 or 163A.015. [Formerly 181.835; 2017 c.442 §33]

Note:

See note under 163A.115.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.220 - Internet website.**

The Department of State Police shall consider:

- (1) Contracting with a private vendor to build and maintain the website required by ORS 163A.215 (2)(a).
- (2) Adding links on the website required by ORS 163A.215 (2)(a) that connect to other sex offender websites run by Oregon counties and by the federal government. [Formerly 181.836]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.225 - Release of information concerning sex offender adjudicated in juvenile court.**

(1)(a) Except as otherwise provided in this section, when a sex offender is under the supervision of the Oregon Youth Authority or a county juvenile department for the first time as a result of committing an act that if committed by an adult would constitute a sex crime, the Department of State Police, city police department or county sheriff's office shall release, upon request, only:

- (A) The sex offender's name and year of birth;
- (B) The name and zip code of the city where the sex offender resides;
- (C) The name and telephone number of a contact person at the agency that is supervising the sex offender; and
- (D) The name of institutions of higher education that the sex offender attends or at which the sex offender works or carries on a vocation.

(b) Notwithstanding paragraph (a) of this section, the Oregon Youth Authority or a county juvenile department shall release, upon request, any information that may be necessary to protect the public concerning a sex offender under the supervision of the authority or department.

(2) Except as otherwise limited by subsection (1)(a) of this section regarding persons who are under supervision for the first time as sex offenders, the Department of State Police, a city police department or a county sheriff's office shall release, upon request, any information that may be necessary to protect the public concerning sex offenders required to report under ORS 163A.025 who reside in a specific area or concerning a specific sex offender required to report under ORS 163A.025. However, the entity releasing the information may not release the identity of a victim of a sex crime.

(3)(a) The Department of State Police may make the information described in subsections (1) and (2) of this section available to the public, without the need for a request, by electronic or other means. The Department of State Police shall make information about a person who is under supervision for the first time as a result of committing an act that if committed by an adult would constitute a sex crime accessible only by the use of the sex offender's name. For all other sex offenders required to report under ORS 163A.025, the Department of State Police may make the information accessible in any manner the department chooses.

(b) Notwithstanding paragraph (a) of this subsection, the Department of State Police may not use the Internet to make information available to the public. [Formerly 181.837]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.230 - Victim access to sex offender information; toll-free telephone number.**

(1)(a) When information about a person is first entered into the Law Enforcement Data System under ORS 163A.035, the person will be assigned a registry identification number.

(b) A victim shall be issued a victim identification number and shall be given the registry identification number of the person who committed the crime against the victim:

- (A) At any time, upon request by the victim; and
- (B) Upon verification of the identification of the victim.

(2) The Department of State Police shall establish a toll-free telephone number to provide victims with updates on the prison status, release information, parole status and any other information authorized for release under ORS 163A.005 to 163A.235 regarding the person who committed the crime against the victim. The telephone line shall be operational within the state during normal working hours.

(3) Access of the victim to the telephone line shall be revoked if the victim makes public, or otherwise misuses, information received.

(4) When a victim receives notification under ORS 144.750 of upcoming parole release hearings, or at any other time that the victim is notified concerning the offender, the victim shall be provided a notice of rights under this section and information about the toll-free telephone number. [Formerly 181.843]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 163A - Sex Offender Reporting and Classification Section 163A.235 - Agreements to resolve concerns about community notification.**

Upon the request of the Department of State Police, a city police department, a county sheriff's office or a supervising agency, a supervising agency or an agency having responsibility for community notification shall enter into agreements to resolve concerns regarding community notification. As used in this section:

- (1) "Community notification" means the disclosure of information to the public as provided in ORS 163A.005 to 163A.235.
- (2) "Supervising agency" means a governmental entity responsible for supervising a person required to report under ORS 163A.010,

163A.015 or 163A.025. [Formerly 181.845]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.005 - Definitions.**

As used in chapter 743, Oregon Laws 1971, unless the context requires otherwise:

(1) "Appropriate property of another to oneself or a third person" or "appropriate" means to:

(a) Exercise control over property of another, or to aid a third person to exercise control over property of another, permanently or for so extended a period or under such circumstances as to acquire the major portion of the economic value or benefit of such property; or

(b) Dispose of the property of another for the benefit of oneself or a third person.

(2) "Deprive another of property" or "deprive" means to:

(a) Withhold property of another or cause property of another to be withheld from that person permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to that person; or

(b) Dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.

(3) "Obtain" includes, but is not limited to, the bringing about of a transfer or purported transfer of property or of a legal interest therein, whether to the obtainer or another.

(4) "Owner of property taken, obtained or withheld" or "owner" means any person who has a right to possession thereof superior to that of the taker, obtainer or withholder.

(5) "Property" means any article, substance or thing of value, including, but not limited to, money, tangible and intangible personal property, real property, choses-in-action, evidence of debt or of contract. [1971 c.743 §121]

Note:

Legislative Counsel has substituted "chapter 743, Oregon Laws 1971," for the words "this Act" in sections 121 and 131, chapter 743, Oregon Laws 1971, compiled as 164.005 and 164.115. Specific ORS references have not been substituted, pursuant to 173.160. These sections may be determined by referring to the 1971 Comparative Section Table located in Volume 22 of ORS.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.015 - "Theft" described.**

A person commits theft when, with intent to deprive another of property or to appropriate property to the person or to a third person, the person:

(1) Takes, appropriates, obtains or withholds such property from an owner thereof;

(2) Commits theft of property lost, mislaid or delivered by mistake as provided in ORS 164.065;

(3) Commits extortion as provided in ORS 164.075 by compelling or inducing another person to deliver property;

(4) Commits theft by deception as provided in ORS 164.085; or

(5) Commits theft by receiving as provided in ORS 164.095. [1971 c.743 §123; 2007 c.71 §47; 2016 c.47 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.025 - Consolidation of theft offenses; pleading and proof.**

(1) Except for the crime of extortion, conduct denominated theft under ORS 164.015 constitutes a single offense.

(2) If it is an element of the crime charged that property was taken by extortion, an accusation of theft must so specify. In all other cases an accusation of theft is sufficient if it alleges that the defendant committed theft of property of the nature or value required for the commission of the crime charged without designating the particular way or manner in which the theft was committed.

(3) Proof that the defendant engaged in conduct constituting theft as defined in ORS 164.015 is sufficient to support any indictment, information or complaint for theft other than one charging extortion. An accusation of extortion must be supported by proof establishing extortion. [1971 c.743 §122; 2016 c.47 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.035 - Defenses.**

(1) In a prosecution for theft it is a defense that the defendant acted under an honest claim of right, in that:

(a) The defendant was unaware that the property was that of another; or

(b) The defendant reasonably believed that the defendant was entitled to the property involved or had a right to acquire or dispose of it as the defendant did.

(2) In a prosecution for extortion committed by instilling in the victim a fear that the victim or another person would be charged with a crime, it is a defense that the defendant reasonably believed the threatened charge to be true and that the sole purpose of the defendant was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of the threatened charge.

(3) In a prosecution for theft by receiving, it is a defense that the defendant received, retained, concealed or disposed of the property with the intent of restoring it to the owner.

(4) It is a defense that the property involved was that of the defendant's spouse, unless the parties were not living together as spouses in a marriage and were living in separate abodes at the time of the alleged theft. [1971 c.743 §132; 2001 c.104 §53; 2015 c.629 §31; 2016 c.47 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.043 - Theft in the third degree.**

(1) A person commits the crime of theft in the third degree if:

- (a) By means other than extortion, the person commits theft as defined in ORS 164.015; and
  - (b) The total value of the property in a single or an aggregate transaction is less than \$100.
- (2) Theft in the third degree is a Class C misdemeanor. [1987 c.907 §2; 2009 c.11 §11; 2009 c.16 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.045 - Theft in the second degree.**

(1) A person commits the crime of theft in the second degree if:

- (a) By means other than extortion, the person commits theft as defined in ORS 164.015; and
  - (b) The total value of the property in a single or aggregate transaction is \$100 or more and less than \$1,000.
- (2) Theft in the second degree is a Class A misdemeanor. [1971 c.743 §124; 1987 c.907 §3; 1993 c.680 §19; 2009 c.11 §12; 2009 c.16 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.055 - Theft in the first degree.**

(1) A person commits the crime of theft in the first degree if, by means other than extortion, the person commits theft as defined in ORS 164.015 and:

- (a) The total value of the property in a single or aggregate transaction is \$1,000 or more;
  - (b) The theft is committed during a riot, fire, explosion, catastrophe or other emergency in an area affected by the riot, fire, explosion, catastrophe or other emergency;
  - (c) The theft is theft by receiving committed by buying, selling, borrowing or lending on the security of the property;
  - (d) The subject of the theft is a firearm or explosive;
  - (e) The subject of the theft is a livestock animal, a companion animal or a wild animal removed from habitat or born of a wild animal removed from habitat, pursuant to ORS 497.308 (2)(c);
  - (f) The subject of the theft is a precursor substance; or
  - (g) During the commission of the theft, the person recklessly engages in conduct that creates a substantial risk of serious physical injury to another person.
- (2) As used in this section:
- (a) "Companion animal" means a dog or cat possessed by a person, business or other entity for purposes of companionship, security, hunting, herding or providing assistance in relation to a physical disability.
  - (b) "Explosive" means a chemical compound, mixture or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelly, but excluding fireworks as defined in ORS 480.111, black powder, smokeless powder, small arms ammunition and small arms ammunition primers.
  - (c) "Firearm" has the meaning given that term in ORS 166.210.
  - (d) "Livestock animal" means a ratite, psittacine, horse, gelding, mare, filly, stallion, colt, mule, ass, jenny, bull, steer, cow, calf, goat, sheep, lamb, llama, pig or hog.
  - (e) "Precursor substance" has the meaning given that term in ORS 475.940.
- (3) Theft in the first degree is a Class C felony. [1971 c.743 §125; 1973 c.405 §1; 1983 c.740 §32; 1987 c.907 §4; 1991 c.837 §9; 1993 c.252 §5; 1993 c.680 §20; 2005 c.706 §10; 2009 c.16 §3; 2009 c.610 §6; 2013 c.24 §11; 2023 c.151 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.057 - Aggravated theft in the first degree.**

(1) A person commits the crime of aggravated theft in the first degree, if:

- (a) The person violates ORS 164.055 with respect to property, other than a motor vehicle used primarily for personal rather than commercial transportation; and
  - (b) The value of the property in a single or aggregate transaction is \$10,000 or more.
- (2) Aggravated theft in the first degree is a Class B felony. [1987 c.907 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.061 - Sentence for aggravated theft in the first degree when victim 65 years of age or older.**

When a person is convicted of aggravated theft in the first degree under ORS 164.057, the court shall sentence the person to a term

of incarceration ranging from 16 months to 45 months, depending on the person's criminal history, if:

- (1) The victim of the theft was 65 years of age or older at the time of the commission of the offense; and
- (2) The value of the property stolen from the victim described in subsection (1) of this section, in a single or aggregate transaction, is \$10,000 or more. [2008 c.14 §4]

Note:

164.061 was enacted into law but was not added to or made a part of ORS chapter 164 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.063 - Disproportionate impact; rules.**

(1) As used in this section, "disproportionate impact" means that, in a case of theft in the first degree under ORS 164.055 or aggravated theft in the first degree under ORS 164.057:

(a) The offender caused damage to property during the commission of the theft and the cost to restore the damaged property to the condition the property was in immediately before the theft is more than three times the value of the property that was the subject of the theft; or

(b) The theft of the property creates a hazard to public health or safety or the environment.

(2) The Oregon Criminal Justice Commission shall adopt rules that establish disproportionate impact as an aggravating factor that a court may consider as a substantial and compelling reason to impose an upward departure from a presumptive sentence under the rules of the commission. [2009 c.811 §7]

Note:

164.063 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.065 - Theft of lost, mislaid property.**

A person who comes into control of property of another that the person knows or has good reason to know to have been lost, mislaid or delivered under a mistake as to the nature or amount of the property or the identity of the recipient, commits theft if, with intent to deprive the owner thereof, the person fails to take reasonable measures to restore the property to the owner. [1971 c.743 §126]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.075 - Extortion.**

(1) A person commits the crime of extortion when the person compels or induces another person to either deliver property or services to the person or to a third person, or refrain from reporting unlawful conduct to a law enforcement agency, by instilling in the other person a fear that, if the property or services are not so delivered or if the unlawful conduct is reported, the actor or a third person will in the future:

(a) Unlawfully cause physical injury to some person;

(b) Unlawfully cause damage to property;

(c) Engage in other conduct constituting a crime;

(d) Accuse some person of a crime or cause criminal charges to be instituted against the person;

(e) Report the immigration status, or suspected immigration status, of the other person, or some other person known to the other person, to a law enforcement agency;

(f) Cause or continue a strike, boycott or other collective action injurious to some person's business, except that such conduct is not considered extortion when the property is demanded or received for the benefit of the group in whose interest the actor purports to act;

(g) Testify falsely or provide false information or withhold testimony or information with respect to another's legal claim or defense; or

(h) Unlawfully use or abuse the position as a public servant by performing some act within or related to official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

(2) Extortion is a Class B felony. [1971 c.743 §127; 1987 c.158 §27; 2007 c.71 §48; 2016 c.47 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.085 - Theft by deception.**

(1) A person, who obtains property of another thereby, commits theft by deception when, with intent to defraud, the person:

(a) Creates or confirms another's false impression of law, value, intention or other state of mind that the actor does not believe to be true;

(b) Fails to correct a false impression that the person previously created or confirmed;

(c) Prevents another from acquiring information pertinent to the disposition of the property involved;

(d) Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim or other legal impediment to the

enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance that the person does not intend to perform or knows will not be performed.

(2) "Deception" does not include falsity as to matters having no pecuniary significance, or representations unlikely to deceive ordinary persons in the group addressed. For purposes of this subsection, the theft of a companion animal, as defined in ORS 164.055, or a captive wild animal is a matter having pecuniary significance.

(3) In a prosecution for theft by deception, the defendant's intention or belief that a promise would not be performed may not be established by or inferred from the fact alone that such promise was not performed.

(4) In a prosecution for theft by deception committed by means of a bad check, it is prima facie evidence of knowledge that the check or order would not be honored if:

(a) The drawer has no account with the drawee at the time the check or order is drawn or uttered; or

(b) Payment is refused by the drawee for lack of funds, upon presentation within 30 days after the date of utterance, and the drawer fails to make good within 10 days after receiving notice of refusal. [1971 c.743 §128; 1991 c.837 §10; 2007 c.71 §49]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.095 - Theft by receiving.**

(1) A person commits theft by receiving if the person receives, retains, conceals or disposes of property of another knowing or having good reason to know that the property was the subject of theft.

(2) It is a defense to a charge of violating subsection (1) of this section if:

(a) The person is a scrap metal business as defined in ORS 165.116 or an agent or employee of a scrap metal business;

(b) The person receives or retains metal property as defined in ORS 165.116; and

(c) The person makes a report in accordance with ORS 165.118 (3)(e)(A).

(3) "Receiving" means acquiring possession, control or title, or lending on the security of the property. [1971 c.743 §129; 2009 c.811 §9; 2021 c.412 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.098 - Organized retail theft.**

(1) A person commits the crime of organized retail theft if, acting in concert with another person:

(a) The person violates ORS 164.015 or aids or abets the other person to violate ORS 164.015;

(b) The subject of the theft is merchandise and the merchandise is taken from a mercantile establishment; and

(c) The aggregate value of the merchandise taken within any 180-day period exceeds \$5,000.

(2) As used in this section:

(a) "Merchandise" has the meaning given that term in ORS 30.870.

(b) "Mercantile establishment" has the meaning given that term in ORS 30.870.

(3) Organized retail theft is a Class B felony. [2007 c.498 §2; 2023 c.151 §5]

Note:

164.098 was added to and made a part of ORS chapter 164 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.105 - Right of possession.**

Right of possession of property is as follows:

(1) A person who has obtained possession of property by theft or other illegal means shall be deemed to have a right of possession superior to that of another person who takes, obtains or withholds the property from that person by means of theft.

(2) A joint or common owner of property shall not be deemed to have a right of possession of the property superior to that of any other joint or common owner of the property.

(3) In the absence of a specific agreement to the contrary, a person in lawful possession of property shall be deemed to have a right of possession superior to that of a person having only a security interest in the property, even if legal title to the property lies with the holder of the security interest pursuant to a conditional sale contract or other security agreement. [1971 c.743 §130; 1987 c.158 §28]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.115 - Value of property.**

For the purposes of chapter 743, Oregon Laws 1971, the value of property shall be ascertained as follows:

(1) Except as otherwise specified in this section, value means the market value of the property at the time and place of the crime, or if such cannot reasonably be ascertained, the cost of replacement of the property within a reasonable time after the crime.

(2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value, shall be evaluated as follows:

(a) The value of an instrument constituting an evidence of debt, including, but not limited to, a check, draft or promissory note, shall



be considered the amount due or collectible thereon or thereby.

(b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be considered the greatest amount of economic loss which the owner might reasonably suffer because of the loss of the instrument.

(3) The value of a gambling chip, token, imitation currency or similar device is its face value.

(4)(a) The value of the wildlife listed in ORS 496.705 is the amount of damages as specified in ORS 496.705.

(b) The value of the wildlife listed on the list of prohibited species, as defined in ORS 498.072, is the amount of damages as specified in ORS 498.073.

(5) When the value of property cannot reasonably be ascertained, it shall be presumed to be an amount less than \$100 in a case of theft, and less than \$500 in any other case.

(6) The value of single theft transactions may be added together if the thefts were committed against the same or multiple victims within a one-year period. [1971 c.743 §131; 1987 c.907 §6; 1993 c.680 §22; 1997 c.867 §18; 2011 c.363 §2; 2019 c.399 §5; 2022 c.9 §7; 2023 c.151 §6]

Note:

See note under 164.005.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.125 - Theft of services.**

(1) A person commits the crime of theft of services if:

(a) With intent to avoid payment therefor, the person obtains services that are available only for compensation, by force, threat, deception or other means to avoid payment for the services; or

(b) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, the person uses or diverts to the use of the person or a third person such labor, equipment or facilities with intent to derive for the person or the third person a commercial benefit to which the person or the third person is not entitled.

(2) As used in this section, "services" includes, but is not limited to, labor, professional services, toll facilities, transportation, communications service, entertainment, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water. "Communication service" includes, but is not limited to, use of telephone, computer and cable television systems.

(3) Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately upon the receiving of them is prima facie evidence that the services were obtained with intent to avoid payment therefor. Obtaining the use of any communication system the use of which is available only for compensation, including but not limited to telephone, computer and cable television systems, or obtaining the use of any services of a public utility nature, without payment or offer to pay for such use is prima facie evidence that the obtaining of the use of such system or the use of such services was gained with intent to avoid payment therefor.

(4) The value of single theft transactions may be added together if the thefts were committed:

(a) Against multiple victims by a similar means within a 30-day period; or

(b) Against the same victim, or two or more persons who are joint owners, within a 180-day period.

(5) Theft of services is:

(a) A Class C misdemeanor if the aggregate total value of services that are the subject of the theft is less than \$100;

(b) A Class A misdemeanor if the aggregate total value of services that are the subject of the theft is \$100 or more and less than \$1,000;

(c) A Class C felony if the aggregate total value of services that are the subject of the theft is \$1,000 or more; and

(d) A Class B felony if the aggregate total value of services that are the subject of the theft is \$10,000 or more. [1971 c.743 §133; 1973 c.133 §1; 1985 c.537 §1; 1987 c.907 §8; 1993 c.680 §21; 2009 c.16 §4]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.130 - Application of ORS 164.125 to telephone or telegraph services; jurisdiction.**

(1) ORS 164.125 shall apply when the telephone or telegraph communication involved either originates or terminates, or both originates and terminates, in this state, or when the charges for service would have been billable, in normal course, by a person providing telephone or telegraph service in this state, but for the fact that the charge for service was avoided, or attempted to be avoided by one or more of the means set forth in ORS 164.125.

(2) Jurisdiction of an offense under ORS 164.125 is in the jurisdictional territory where the telephone or telegraph communication involved in the offense originates or where it terminates, or the jurisdictional territory to which the bill for the service is sent or would have been sent but for the fact that the service was obtained or attempted to be obtained by one or more of the means set forth in ORS 164.125. [1973 c.133 §3]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.132 - Unlawful distribution of cable television equipment.**

(1) A person commits the crime of unlawful distribution of cable television equipment if the person knowingly manufactures,

imports into this state, distributes, sells, offers for sale, rental or use, possesses for sale, rental or use, or advertises for sale, rental or use, any device designed to make available the unauthorized reception of cable television signals.

(2) Unlawful distribution of cable television equipment is a Class B misdemeanor. [1985 c.537 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.135 - Unauthorized use of a vehicle.**

(1) A person commits the crime of unauthorized use of a vehicle when:

(a)(A) The person knowingly takes, operates, exercises control over or otherwise uses another's vehicle, boat or aircraft;

(B) The person is aware of and consciously disregards a substantial and unjustifiable risk that the owner of the vehicle, boat or aircraft does not consent to the taking, operation or other use of, or the exercise of control over, the vehicle, boat or aircraft; and

(C) The owner of the vehicle, boat or aircraft did not consent to the taking, operation or other use of, or the exercise of control over, the vehicle, boat or aircraft;

(b)(A) The person knowingly rides in another's vehicle, boat or aircraft;

(B) The person knows that the owner of the vehicle, boat or aircraft does not consent to the person's riding in the vehicle, boat or aircraft; and

(C) The owner or an authorized user of the vehicle, boat or aircraft did not consent to the person's riding in the vehicle, boat or aircraft;

(c) Having custody of a vehicle, boat or aircraft pursuant to an agreement between the person or another and the owner thereof whereby the person or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of such vehicle, boat or aircraft, the person intentionally uses or operates it, without consent of the owner, for the person's own purpose in a manner constituting a gross deviation from the agreed purpose; or

(d) Having custody of a vehicle, boat or aircraft pursuant to an agreement with the owner thereof whereby such vehicle, boat or aircraft is to be returned to the owner at a specified time, the person knowingly retains or withholds possession thereof without consent of the owner for so lengthy a period beyond the specified time as to render such retention or possession a gross deviation from the agreement.

(2) Unauthorized use of a vehicle, boat or aircraft is a Class C felony.

(3) Subsection (1)(a) and (b) of this section does not apply to a person who rides in or otherwise uses a public transit vehicle, as defined in ORS 166.116, if the vehicle is being operated by an authorized operator within the scope of the operator's employment. [1971 c.743 §134; 2001 c.851 §1; 2007 c.71 §50; 2019 c.530 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.138 - Criminal possession of a rented or leased motor vehicle.**

(1) A person commits the offense of criminal possession of a rented or leased motor vehicle if:

(a) After renting a motor vehicle from a commercial renter of motor vehicles under a written agreement that provides for the return of the motor vehicle to a particular place at a particular time, the person fails to return the motor vehicle as specified, is thereafter served in accordance with subsection (2) of this section with a written demand to return the motor vehicle and knowingly fails to return the motor vehicle within three calendar days from the date of the receipt or refusal of the demand; or

(b) After leasing a motor vehicle from a commercial lessor of motor vehicles under a written agreement that provides for periodic lease payments, the person fails to pay the lessor a periodic payment when due for a period of 45 days, is thereafter served with a written demand to return the motor vehicle in accordance with subsection (2) of this section and knowingly fails to return the motor vehicle within three calendar days from the date of the receipt or refusal of the demand.

(2)(a) Service of written demand under this section shall be accomplished by delivery through any commercial overnight service that can supply a delivery receipt. The demand shall be sent to the person who obtained the motor vehicle by rental or lease at the address stated in the rental or lease agreement and any other address of the person provided by the person to the renter or lessor. The person is responsible for providing correct current address information to the renter or lessor until the motor vehicle is returned.

(b) The person shall be considered to have refused the written demand if the commercial delivery service determines that the demand is not deliverable to the person at the address or addresses provided by the person.

(3) A bona fide contract dispute with the lessor or renter shall be an affirmative defense to a charge of criminal possession of a rented or leased motor vehicle.

(4) Criminal possession of a rented or leased motor vehicle is a Class C felony. [2007 c.684 §1]

Note:

164.138 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.140 - Criminal possession of rented or leased personal property.**

(1) A person is guilty of criminal possession of rented or leased personal property if:

(a) After renting an item of personal property from a commercial renter of personal property under a written agreement which provides for the return of the item to a particular place at a particular time, the person fails to return the item as specified, is

thereafter served by mail with a written demand to return the item, and knowingly fails to return the item within 10 business days from the date of mailing of the demand; or

(b) After leasing an item of personal property from a commercial lessor of personal property under a written agreement which provides for periodic lease payments, the person fails to pay the lessor a periodic payment when due for a period of 45 days, is thereafter served by mail with a written demand to return the item, and knowingly fails to return the item within 10 business days from the date of mailing of the demand.

(2) Service of written demand under this section shall be accomplished by certified mail sent to the person who obtained the item of personal property by rental or lease, sent to the address stated in the rental or lease agreement and any other address of the person provided by the person to the renter or lessor. The person is responsible for providing correct current address information to the renter or lessor until the item of personal property is returned.

(3) A bona fide contract dispute with the lessor or renter shall be an affirmative defense to a charge of criminal possession of rented or leased personal property.

(4) For purposes of this section, the value of property shall be ascertained as provided in ORS 164.115. Criminal possession of rented or leased personal property is:

(a) A Class A misdemeanor if the aggregate total value of the personal property not returned is under \$500.

(b) A Class C felony if the aggregate total value of the personal property not returned is \$500 or more. [1979 c.476 §3; 1987 c.907 §9]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.160 - Definitions.**

As used in this section and ORS 164.162:

(1) "Authorized depository" means a mailbox, post office box or rural box used by postal customers to deposit outgoing mail or used by the Postal Service to deliver incoming mail.

(2) "Mail" means any letter, card, parcel or other material that:

(a) Is sent or delivered by means of the Postal Service;

(b) Has postage affixed by the postal customer or Postal Service or has been accepted for delivery by the Postal Service; and

(c) Is placed in any authorized depository or mail receptacle or given to any Postal Service employee for delivery.

(3) "Mail receptacle" means any location used by the Postal Service or postal customers to place outgoing mail or receive incoming mail.

(4) "Postage" means a Postal Service stamp, permit imprint, meter strip or other authorized indication of prepayment for service provided or authorized by the Postal Service for collection and delivery of mail.

(5) "Postal Service" means the United States Postal Service. [1999 c.920 §1]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.162 - Mail theft or receipt of stolen mail.**

(1) A person commits the crime of mail theft or receipt of stolen mail if the person intentionally:

(a) Takes or, by fraud or deception, obtains mail from a post office, postal station, mail receptacle, authorized depository or mail carrier;

(b) Takes from mail any article contained therein;

(c) Secretes, embezzles or destroys mail or any article contained therein;

(d) Takes or, by fraud or deception, obtains mail that has been delivered to or left for collection on or adjacent to a mail receptacle or authorized depository; or

(e) Buys, receives, conceals or possesses mail or any article contained therein knowing that the mail or article has been unlawfully taken or obtained.

(2) Mail theft or receipt of stolen mail is a Class C felony. [1999 c.920 §2; 2008 c.14 §10; 2009 c.660 §§9,14]

Note:

See note under 164.160.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.164 - Defense in prosecution under ORS 164.162; applicability of ORS 164.162.**

(1) In a prosecution under ORS 164.162, it is a defense that the defendant acted under an honest claim of right in that:

(a) The defendant was unaware that the property was that of another person;

(b) The defendant reasonably believed that the defendant was entitled to the property involved or had a right to acquire or dispose of it as the defendant did; or

(c) The property involved was that of the defendant's spouse, unless the parties were not living together as spouses in a marriage and were living in separate abodes at the time of the alleged offense.

(2)(a) ORS 164.162 does not apply to employees charged with the operation of facilities listed in paragraph (b) of this subsection when the employees are carrying out their official duties to protect the safety and security of the facilities.

(b) The facilities to which paragraph (a) of this subsection applies are juvenile detention facilities and local correctional facilities as

defined in ORS 169.005, detention facilities as defined in ORS 419A.004, youth correction facilities as defined in ORS 420.005 and Department of Corrections institutions as defined in ORS 421.005. [1999 c.920 §3; 2015 c.629 §32]

Note:

See note under 164.160.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.170 - Laundering a monetary instrument.**

(1) A person commits the crime of laundering a monetary instrument if the person:

(a) Knowing that the property involved in a financial transaction represents the proceeds of some form, though not necessarily which form, of unlawful activity, conducts or attempts to conduct a financial transaction that involves the proceeds of unlawful activity:

(A) With the intent to promote the carrying on of unlawful activity; or

(B) Knowing that the transaction is designed in whole or in part to:

(i) Conceal or disguise the nature, location, source, ownership or control of the proceeds of unlawful activity; or

(ii) Avoid a transaction reporting requirement under federal law;

(b) Transports, transmits or transfers or attempts to transport, transmit or transfer a monetary instrument or funds:

(A) With the intent to promote the carrying on of unlawful activity; or

(B) Knowing that the monetary instrument or funds involved in the transportation, transmission or transfer represent the proceeds of some form, though not necessarily which form, of unlawful activity and knowing that the transportation, transmission or transfer is designed, in whole or in part, to:

(i) Conceal or disguise the nature, location, source, ownership or control of the proceeds of unlawful activity; or

(ii) Avoid a transaction reporting requirement under federal law; or

(c) Intentionally conducts or attempts to conduct a financial transaction involving property represented to be the proceeds of unlawful activity or property used to conduct or facilitate unlawful activity to:

(A) Promote the carrying on of unlawful activity;

(B) Conceal or disguise the nature, location, source, ownership or control of property believed to be the proceeds of unlawful activity; or

(C) Avoid a transaction reporting requirement under federal law.

(2)(a) Laundering a monetary instrument is a Class B felony.

(b) In addition to any other sentence of imprisonment or fine that a court may impose and notwithstanding ORS 161.625, a court may include in the sentence of a person convicted under this section a fine in an amount equal to the value of the property, funds or monetary instruments involved in the unlawful transaction.

(3) For purposes of subsection (1)(b)(B) of this section, the state may establish the defendant's knowledge through evidence that a peace officer, federal officer or another person acting at the direction of or with the approval of a peace officer or federal officer represented the matter specified in subsection (1)(b)(B) of this section as true and the defendant's subsequent statements or actions indicate that the defendant believed the representations to be true.

(4) For purposes of subsection (1)(c) of this section, "represented" includes, but is not limited to, any representation made by a peace officer, federal officer or another person acting at the direction of or with the approval of a peace officer or federal officer.

(5) As used in this section:

(a) "Conducts" includes initiating, concluding or participating in the initiation or conclusion of a transaction.

(b) "Federal officer" has the meaning given that term in ORS 133.005.

(c) "Financial institution" has the meaning given that term in ORS 706.008.

(d) "Financial transaction" means a transaction involving:

(A) The movement of funds by wire or other means;

(B) One or more monetary instruments;

(C) The transfer of title to any real property, vehicle, vessel or aircraft; or

(D) The use of a financial institution.

(e) "Monetary instrument" means:

(A) Coin or currency of the United States or of any other country, traveler's checks, personal checks, bank checks, cashier's checks, money orders, foreign bank drafts of any foreign country or gold, silver or platinum bullion or coins; or

(B) Investment securities or negotiable instruments, in bearer form or otherwise in such form that title passes upon delivery.

(f) "Peace officer" has the meaning given that term in ORS 133.005.

(g) "Transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition and, with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit or other monetary instrument, use of a safe deposit box or any other payment, transfer or delivery by, through or to a financial institution by whatever means.

(h) "Unlawful activity" means any act constituting a felony under state, federal or foreign law. [1999 c.878 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section**

**164.172 - Engaging in a financial transaction in property derived from unlawful activity.**

(1) A person commits the crime of engaging in a financial transaction in property derived from unlawful activity if the person knowingly engages in or attempts to engage in a financial transaction in property that:

- (a) Constitutes, or is derived from, the proceeds of unlawful activity;
- (b) Is of a value greater than \$10,000; and
- (c) The person knows is derived from or represents the proceeds of some form, though not necessarily which form, of unlawful activity.

(2)(a) Engaging in a financial transaction in property derived from unlawful activity is a Class C felony.

(b) In addition to any other sentence of imprisonment or fine that a court may impose and notwithstanding ORS 161.625, a court may include in the sentence of a person convicted under this section a fine in an amount equal to the value of the property involved in the unlawful transaction.

(3) As used in this section:

(a) "Financial transaction" has the meaning given that term in ORS 164.170. "Financial transaction" does not include any transaction necessary to preserve a person's right to representation as guaranteed by section 11, Article I of the Oregon Constitution, and the Sixth Amendment to the United States Constitution.

(b) "Unlawful activity" has the meaning given that term in ORS 164.170. [1999 c.878 §2]

Note:

See note under 164.170.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.174 - Exceptions.**

Nothing in ORS 164.170 or 164.172 or the amendments to ORS 166.715 by section 4, chapter 878, Oregon Laws 1999, is intended to allow the prosecution of a corporation, business, partnership, limited liability company, limited liability partnership or any similar entity, or an employee or agent of such an entity, that makes a good faith effort to comply with federal and state laws governing the entity. [1999 c.878 §3]

Note:

See note under 164.170.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.205 - Definitions for ORS 164.205 to 164.270.**

As used in ORS 164.205 to 164.270, except as the context requires otherwise:

(1) "Building," in addition to its ordinary meaning, includes any booth, vehicle, boat, aircraft or other structure adapted for overnight accommodation of persons or for carrying on business therein. Where a building consists of separate units, including, but not limited to, separate apartments, offices or rented rooms, each unit is, in addition to being a part of such building, a separate building.

(2) "Dwelling" means a building which regularly or intermittently is occupied by a person lodging therein at night, whether or not a person is actually present.

(3) "Enter or remain unlawfully" means:

(a) To enter or remain in or upon premises when the premises, at the time of such entry or remaining, are not open to the public and when the entrant is not otherwise licensed or privileged to do so;

(b) To fail to leave premises that are open to the public after being lawfully directed to do so by the person in charge;

(c) To enter premises that are open to the public after being lawfully directed not to enter the premises; or

(d) To enter or remain in a motor vehicle when the entrant is not authorized to do so.

(4) "Open to the public" means premises which by their physical nature, function, custom, usage, notice or lack thereof or other circumstances at the time would cause a reasonable person to believe that no permission to enter or remain is required.

(5) "Person in charge" means a person, a representative or employee of the person who has lawful control of premises by ownership, tenancy, official position or other legal relationship. "Person in charge" includes, but is not limited to the person, or holder of a position, designated as the person or position-holder in charge by the Governor, board, commission or governing body of any political subdivision of this state.

(6) "Premises" includes any building and any real property, whether privately or publicly owned. [1971 c.743 §135; 1983 c.740 §33; 1999 c.1040 §10; 2003 c.444 §1; 2015 c.10 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.215 - Burglary in the second degree.**

(1) Except as otherwise provided in ORS 164.255, a person commits the crime of burglary in the second degree if the person enters or remains unlawfully in a building with intent to commit a crime therein.

(2) Burglary in the second degree is a Class C felony. [1971 c.743 §136; 1993 c.680 §24]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section**

**164.225 - Burglary in the first degree.**

(1) A person commits the crime of burglary in the first degree if the person violates ORS 164.215 and the building is a dwelling, or if in effecting entry or while in a building or in immediate flight therefrom the person:

- (a) Is armed with a burglary tool or theft device as defined in ORS 164.235 or a deadly weapon;
- (b) Causes or attempts to cause physical injury to any person; or
- (c) Uses or threatens to use a dangerous weapon.

(2) Burglary in the first degree is a Class A felony. [1971 c.743 §137; 2003 c.577 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.235 - Possession of a burglary tool or theft device.**

(1) A person commits the crime of possession of a burglary tool or theft device if the person possesses a burglary tool or theft device and the person:

- (a) Intends to use the tool or device to commit or facilitate a forcible entry into premises or a theft by a physical taking; or
- (b) Knows that another person intends to use the tool or device to commit or facilitate a forcible entry into premises or a theft by a physical taking.

(2) For purposes of this section, "burglary tool or theft device" means an acetylene torch, electric arc, burning bar, thermal lance, oxygen lance or other similar device capable of burning through steel, concrete or other solid material, or nitroglycerine, dynamite, gunpowder or any other explosive, tool, instrument or other article adapted or designed for committing or facilitating a forcible entry into premises or theft by a physical taking.

(3) Possession of a burglary tool or theft device is a Class A misdemeanor. [1971 c.743 §138; 1999 c.1040 §13; 2003 c.577 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.243 - Criminal trespass in the second degree by a guest.**

A guest commits the crime of criminal trespass in the second degree if that guest intentionally remains unlawfully in a transient lodging after the departure date of the guest's reservation without the approval of the hotelkeeper. "Guest" means a person who is registered at a hotel and is assigned to transient lodging, and includes any individual accompanying the person. [1979 c.856 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.245 - Criminal trespass in the second degree.**

(1) A person commits the crime of criminal trespass in the second degree if the person enters or remains unlawfully in a motor vehicle or in or upon premises.

(2) Criminal trespass in the second degree is a Class C misdemeanor. [1971 c.743 §139; 1999 c.1040 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.255 - Criminal trespass in the first degree.**

(1) A person commits the crime of criminal trespass in the first degree if the person:

- (a) Enters or remains unlawfully in a dwelling;
- (b) Having been denied future entry to a building pursuant to a merchant's notice of trespass, reenters the building during hours when the building is open to the public with the intent to commit theft therein;
- (c) Enters or remains unlawfully upon railroad yards, tracks, bridges or rights of way; or
- (d) Enters or remains unlawfully in or upon premises that have been determined to be not fit for use under ORS 453.855 to 453.912.

(2) Subsection (1)(d) of this section does not apply to the owner of record of the premises if:

- (a) The owner notifies the law enforcement agency having jurisdiction over the premises that the owner intends to enter the premises;
- (b) The owner enters or remains on the premises for the purpose of inspecting or decontaminating the premises or lawfully removing items from the premises; and
- (c) The owner has not been arrested for, charged with or convicted of a criminal offense that contributed to the determination that the premises are not fit for use.

(3) Criminal trespass in the first degree is a Class A misdemeanor. [1971 c.743 §140; 1993 c.680 §23; 1999 c.837 §1; 2001 c.386 §1; 2003 c.527 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.265 - Criminal trespass while in possession of a firearm.**

(1) A person commits the crime of criminal trespass while in possession of a firearm who, while in possession of a firearm, enters or remains unlawfully in or upon premises.

(2) Criminal trespass while in possession of a firearm is a Class A misdemeanor. [1979 c.603 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section**

**164.270 - Closure of premises to motor-propelled vehicles.**

(1) For purposes of ORS 164.245, a landowner or an agent of the landowner may close the privately owned premises of the landowner to motor-propelled vehicles by posting signs on or near the boundaries of the closed premises at the normal points of entry as follows:

- (a) Signs must be no smaller than eight inches in height and 11 inches in width;
  - (b) Signs must contain the words "Closed to Motor-propelled Vehicles" or words to that effect in letters no less than one inch in height;
  - (c) Signs must display the name, business address and phone number, if any, of the landowner or agent of the landowner; and
  - (d) Signs must be posted at normal points of entry and be no further apart than 350 yards.
- (2) A person violates ORS 164.245 if the person operates or rides upon or within a motor-propelled vehicle upon privately owned premises when the premises are posted as provided in this section and the person does not have written authorization to operate a motor-propelled vehicle upon the premises.
- (3) Nothing contained in this section prevents emergency or law enforcement vehicles from entering upon land closed to motor-propelled vehicles. [1981 c.394 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.272 - Unlawful entry into a motor vehicle.**

(1) A person commits the crime of unlawful entry into a motor vehicle if the person enters a motor vehicle, or any part of a motor vehicle, with the intent to commit a crime.

- (2) Unlawful entry into a motor vehicle is a Class A misdemeanor.
- (3) As used in this section, "enters" includes, but is not limited to, inserting:
- (a) Any part of the body; or
  - (b) Any object connected with the body. [1995 c.782 §1]

Note:

164.272 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.274 - Definitions for ORS 164.276 and 164.278.**

As used in ORS 164.276 and 164.278:

- (1) "Coach" means a person who instructs or trains members of a team or directs the strategy of a team participating in a sports event.
- (2) "Inappropriate behavior" means:
  - (a) Engaging in fighting or in violent, tumultuous or threatening behavior;
  - (b) Violating the rules of conduct governing coaches, team players and spectators at a sports event;
  - (c) Publicly insulting another person by abusive words or gestures in a manner intended to provoke a violent response; or
  - (d) Intentionally subjecting another person to offensive physical contact.
- (3) "Premises" has the meaning given that term in ORS 164.205.
- (4) "Spectator" means any person, other than a team player or coach, who attends a sports event.
- (5) "Sports official" has the meaning given that term in ORS 30.882. [2003 c.629 §1]

Note:

164.274 to 164.278 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.276 - Authority of sports official to expel persons from sports event.**

A sports official may order a coach, team player or spectator to leave the premises at which a sports event is taking place and at which the sports official is officiating if the coach, team player or spectator is engaging in inappropriate behavior. [2003 c.629 §2]

Note:

See note under 164.274.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.278 - Criminal trespass at a sports event.**

- (1) A person commits the crime of criminal trespass at a sports event if the person:
- (a) Is a coach, team player or spectator at a sports event;
  - (b) Engages in inappropriate behavior;
  - (c) Has been ordered by a sports official to leave the premises at which the sports event is taking place; and
  - (d) Fails to leave the premises or returns to the premises during the period of time when reentry has been prohibited.

(2) Criminal trespass at a sports event is a Class C misdemeanor. [2003 c.629 §3]

Note:

See note under 164.274.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.305 - Definitions for ORS 164.305 to 164.377.**

As used in ORS 164.305 to 164.377, except as the context requires otherwise:

(1) "Protected property" means any structure, place or thing customarily occupied by people, including "public buildings" as defined by ORS 479.168 and "forestland," as defined by ORS 477.001.

(2) "Property of another" means property in which anyone other than the actor has a legal or equitable interest that the actor has no right to defeat or impair, even though the actor may also have such an interest in the property. [1971 c.743 §141; 1977 c.640 §1; 1989 c.584 §1; 2003 c.543 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.315 - Arson in the second degree.**

(1) A person commits the crime of arson in the second degree if:

(a) By starting a fire or causing an explosion, the person intentionally damages:

(A) Any building of another that is not protected property; or

(B) Any property of another and the damages to the property exceed \$750; or

(b) By knowingly engaging in the manufacture of methamphetamine, the person causes fire or causes an explosion that damages property described in paragraph (a) of this subsection.

(2) Arson in the second degree is a Class C felony. [1971 c.743 §143; 2001 c.432 §1; 2005 c.706 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.325 - Arson in the first degree.**

(1) A person commits the crime of arson in the first degree if:

(a) By starting a fire or causing an explosion, the person intentionally damages:

(A) Protected property of another;

(B) Any property, whether the property of the person or the property of another person, and such act recklessly places another person in danger of physical injury or protected property of another in danger of damage; or

(C) Any property, whether the property of the person or the property of another person, and recklessly causes serious physical injury to a firefighter or peace officer acting in the line of duty relating to the fire; or

(b) By knowingly engaging in the manufacture of methamphetamine, the person causes fire or causes an explosion that damages property described in paragraph (a) of this subsection.

(2) Arson in the first degree is a Class A felony. [1971 c.743 §144; 1991 c.946 §1; 2005 c.706 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.335 - Reckless burning.**

(1) A person commits the crime of reckless burning if the person recklessly damages property of another by fire or explosion.

(2) Reckless burning is a Class A misdemeanor. [1971 c.743 §142]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.338 - Arson incident to the manufacture of a controlled substance in the second degree.**

(1) A person commits the crime of arson incident to the manufacture of a controlled substance in the second degree if, by knowingly engaging in the manufacture of a controlled substance, the person causes a fire or causes an explosion that damages:

(a) Any building of another that is not protected property; or

(b) Any property of another and the damages to the property exceed \$750.

(2) Arson incident to the manufacture of a controlled substance in the second degree is a Class C felony.

(3) As used in this section and ORS 164.342, "controlled substance" and "manufacture" have the meanings given those terms in ORS 475.005. [2017 c.248 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.342 - Arson incident to the manufacture of a controlled substance in the first degree.**

(1) A person commits the crime of arson incident to the manufacture of a controlled substance in the first degree if, by knowingly engaging in the manufacture of a controlled substance, the person causes a fire or causes an explosion that damages:

(a) The protected property of another;

(b) Any property, whether the property of the person or the property of another person, if the fire or explosion recklessly places another person in danger of physical injury or protected property of another in danger of damage; or



(c) Any property, whether the property of the person or the property of another person, if the fire or explosion recklessly causes serious physical injury to a firefighter or peace officer acting in the line of duty relating to the fire or explosion.

(2) Arson incident to the manufacture of a controlled substance in the first degree is a Class A felony. [2017 c.248 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.345 - Criminal mischief in the third degree.**

(1) A person commits the crime of criminal mischief in the third degree if, with intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that the person has such right, the person tampers or interferes with property of another.

(2) Criminal mischief in the third degree is a Class C misdemeanor. [1971 c.743 §145]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.354 - Criminal mischief in the second degree.**

(1) A person commits the crime of criminal mischief in the second degree if:

(a) The person violates ORS 164.345, and as a result thereof, damages property in an amount exceeding \$500; or

(b) Having no right to do so nor reasonable ground to believe that the person has such right, the person intentionally damages property of another, or, the person recklessly damages property of another in an amount exceeding \$500.

(2) Criminal mischief in the second degree is a Class A misdemeanor. [1971 c.743 §146; 2009 c.16 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.365 - Criminal mischief in the first degree.**

(1) A person commits the crime of criminal mischief in the first degree who, with intent to damage property, and having no right to do so nor reasonable ground to believe that the person has such right:

(a) Damages or destroys property of another:

(A) In an amount exceeding \$1,000;

(B) By means of an explosive;

(C) By starting a fire in an institution while the person is committed to and confined in the institution;

(D) Which is a livestock animal as defined in ORS 164.055;

(E) Which is the property of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility used in direct service to the public; or

(F) By intentionally interfering with, obstructing or adulterating in any manner the service of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility; or

(b) Intentionally uses, manipulates, arranges or rearranges the property of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility used in direct service to the public so as to interfere with its efficiency.

(2) As used in subsection (1) of this section:

(a) "Institution" includes state and local correctional facilities, mental health facilities, juvenile detention facilities and state training schools.

(b) "Medical facility" means a health care facility as defined in ORS 442.015, a licensed physician's office or anywhere a licensed medical practitioner provides health care services.

(c) "Public utility" has the meaning provided for that term in ORS 757.005 and includes any cooperative, people's utility district or other municipal corporation providing an electric, gas, water or other utility service.

(d) "Railroad" has the meaning provided for that term in ORS 824.020.

(e) "Public transportation facility" means any property, structure or equipment used for or in connection with the transportation of persons for hire by rail, air or bus, including any railroad cars, buses or airplanes used to carry out such transportation.

(f) "Telecommunications carrier" has the meaning given that term in ORS 133.721.

(3) Criminal mischief in the first degree is a Class C felony. [1971 c.743 §147; 1973 c.133 §6; 1975 c.344 §1; 1979 c.805 §1; 1983 c.740 §33a; 1987 c.447 §104; 1987 c.907 §10; 1989 c.584 §2; 1991 c.837 §13; 1991 c.946 §2; 1993 c.94 §1; 1993 c.332 §3; 1999 c.1040 §11; 1999 c.1093 §2; 2003 c.543 §4; 2009 c.16 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.367 - Determining value of damage; aggregation.**

For purposes of ORS 164.345, 164.354 and 164.365, the value of damage done during single incidents of criminal mischief may be added together if the incidents of criminal mischief were committed:

(1) Against multiple victims in the same course of conduct; or

(2) Against the same victim, or two or more persons who are joint owners, within a 30-day period. [1999 c.1040 §12]

Note:

164.367 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.369**

[1989 c.584 §4; 2003 c.543 §5; renumbered 167.337 in 2003]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.373 - Tampering with cable television equipment.**

(1) A person commits the crime of tampering with cable television equipment if the person:

- (a) Knowingly tampers or otherwise interferes with or connects to by any means, whether mechanical, electrical, acoustical or other means, any cable, wire or other device used for the distribution of cable television service, without authority of the provider of such service; or
  - (b) Knowingly permits another person to tamper or otherwise interfere with, or connect to by any means, whether mechanical, electrical, acoustical or other means, any cable, wire or other device used for the distribution of cable television service, such tampering, interfering or connecting being upon premises under the control of such first person or intended for the benefit of such first person, without authority of the provider of such service.
- (2) Tampering with cable television equipment is a Class B misdemeanor. [1985 c.537 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.377 - Computer crime.**

(1) As used in this section:

- (a) To "access" means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.
- (b) "Computer" means, but is not limited to, an electronic, magnetic, optical electrochemical or other high-speed data processing device that performs logical, arithmetic or memory functions by the manipulations of electronic, magnetic or optical signals or impulses, and includes the components of a computer and all input, output, processing, storage, software or communication facilities that are connected or related to such a device in a system or network.
- (c) "Computer network" means, but is not limited to, the interconnection of communication lines, including microwave or other means of electronic communication, with a computer through remote terminals or a complex consisting of two or more interconnected computers.
- (d) "Computer program" means, but is not limited to, a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from or usage of such computer system.
- (e) "Computer software" means, but is not limited to, computer programs, procedures and associated documentation concerned with the operation of a computer system.
- (f) "Computer system" means, but is not limited to, a set of related, connected or unconnected, computer equipment, devices and software. "Computer system" also includes any computer, device or software owned or operated by the Oregon State Lottery or rented, owned or operated by another person or entity under contract to or at the direction of the Oregon State Lottery.
- (g) "Data" means a representation of information, knowledge, facts, concepts, computer software, computer programs or instructions. "Data" may be in any form, in storage media, or as stored in the memory of the computer, or in transit, or presented on a display device. "Data" includes, but is not limited to, computer or human readable forms of numbers, text, stored voice, graphics and images.
- (h) "Intimate image" means a photograph, film, video, recording, digital picture or other visual reproduction of a person whose intimate parts are visible or who is engaged in sexual conduct.
- (i) "Intimate parts" means uncovered human genitals, pubic areas or female nipples.
- (j) "Property" includes, but is not limited to, financial instruments, information, including electronically produced data, and computer software and programs in either computer or human readable form, intellectual property and any other tangible or intangible item of value.
- (k) "Proprietary information" includes any scientific, technical or commercial information including any design, process, procedure, list of customers, list of suppliers, customers' records or business code or improvement thereof that is known only to limited individuals within an organization and is used in a business that the organization conducts. The information must have actual or potential commercial value and give the user of the information an opportunity to obtain a business advantage over competitors who do not know or use the information.
- (L) "Services" includes, but is not limited to, computer time, data processing and storage functions.
- (m) "Sexual conduct" means sexual intercourse or oral or anal sexual intercourse, as those terms are defined in ORS 163.305, or masturbation.

(2) Any person commits computer crime who knowingly accesses, attempts to access or uses, or attempts to use, any computer, computer system, computer network or any part thereof for the purpose of:

- (a) Devising or executing any scheme or artifice to defraud;
- (b) Obtaining money, property or services by means of false or fraudulent pretenses, representations or promises; or

- (c) Committing theft, including, but not limited to, theft of proprietary information or theft of an intimate image.
- (3) Any person who knowingly and without authorization alters, damages or destroys any computer, computer system, computer network, or any computer software, program, documentation or data contained in such computer, computer system or computer network, commits computer crime.
- (4) Any person who knowingly and without authorization uses, accesses or attempts to access any computer, computer system, computer network, or any computer software, program, documentation or data contained in such computer, computer system or computer network, commits computer crime.
- (5)(a) A violation of the provisions of subsection (2) or (3) of this section shall be a Class C felony. Except as provided in paragraph (b) of this subsection, a violation of the provisions of subsection (4) of this section shall be a Class A misdemeanor.
- (b) Any violation of this section relating to a computer, computer network, computer program, computer software, computer system or data owned or operated by the Oregon State Lottery or rented, owned or operated by another person or entity under contract to or at the direction of the Oregon State Lottery Commission shall be a Class C felony. [1985 c.537 §8; 1989 c.737 §1; 1991 c.962 §17; 2001 c.870 §18; 2015 c.350 §1; 2017 c.318 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.381 - Definitions.**

As used in ORS 137.131, 164.381 to 164.386 and 419C.461:

(1) "Graffiti" means any inscriptions, words, figures or designs that are marked, etched, scratched, drawn, painted, pasted or otherwise affixed to the surface of property.

(2) "Graffiti implement" means paint, ink, chalk, dye or other substance or any instrument or article designed or adapted for spraying, marking, etching, scratching or carving surfaces. [1995 c.615 §1]

Note:

164.381 to 164.388 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.383 - Unlawfully applying graffiti.**

(1) A person commits the offense of unlawfully applying graffiti if the person, having no right to do so nor reasonable ground to believe that the person has such right, intentionally damages property of another by applying graffiti to the property.

(2) Unlawfully applying graffiti is a Class A violation. Upon a conviction for unlawfully applying graffiti, a court, in addition to any fine it imposes and pursuant to ORS 137.128 but notwithstanding ORS 137.129, may order the defendant to perform up to 100 hours of community service. The community service must include removing graffiti, either those that the defendant created or those created by another, or both.

(3) If the court orders community service, the community service must be completed within six months after entry of the order unless the person shows good cause why community service cannot be completed within the six-month time period. [1995 c.615 §2; 1999 c.1051 §156]

Note:

See note under 164.381.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.386 - Unlawfully possessing a graffiti implement.**

(1) A person commits the offense of unlawfully possessing a graffiti implement if the person possesses a graffiti implement with the intent of using the graffiti implement in violation of ORS 164.383.

(2) Unlawfully possessing a graffiti implement is a Class C violation. Upon a conviction for unlawfully possessing a graffiti implement, a court, in addition to any fine it imposes and pursuant to ORS 137.128 but notwithstanding ORS 137.129, may order the defendant to perform up to 50 hours of community service. The community service must include removing graffiti, either those that the defendant created or those created by another, or both.

(3) If the court orders community service, the community service must be completed within six months after entry of the order unless the person shows good cause why community service cannot be completed within the six-month time period. [1995 c.615 §3; 1999 c.1051 §157]

Note:

See note under 164.381.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.388 - Preemption.**

The provisions of ORS 137.131, 164.381 to 164.386 and 419C.461 are not intended to preempt any local regulation of graffiti or graffiti-related activities or any prosecution under ORS 164.345, 164.354 or 164.365. [1995 c.615 §7; 1999 c.1040 §6]

Note:

See note under 164.381.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.395 - Robbery in the third degree.**

(1) A person commits the crime of robbery in the third degree if in the course of committing or attempting to commit theft or unauthorized use of a vehicle as defined in ORS 164.135 the person uses or threatens the immediate use of physical force upon another person with the intent of:

- (a) Preventing or overcoming resistance to the taking of the property or to retention thereof immediately after the taking; or
- (b) Compelling the owner of such property or another person to deliver the property or to engage in other conduct which might aid in the commission of the theft or unauthorized use of a vehicle.

(2) Robbery in the third degree is a Class C felony. [1971 c.743 §148; 2003 c.357 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.405 - Robbery in the second degree.**

(1) A person commits the crime of robbery in the second degree if the person violates ORS 164.395 and the person:

- (a) Represents by word or conduct that the person is armed with what purports to be a dangerous or deadly weapon; or
- (b) Is aided by another person actually present.

(2) Robbery in the second degree is a Class B felony. [1971 c.743 §149]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.415 - Robbery in the first degree.**

(1) A person commits the crime of robbery in the first degree if the person violates ORS 164.395 and the person:

- (a) Is armed with a deadly weapon;
- (b) Uses or attempts to use a dangerous weapon; or
- (c) Causes or attempts to cause serious physical injury to any person.

(2) Robbery in the first degree is a Class A felony. [1971 c.743 §150; 2007 c.71 §51]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.775 - Deposit of trash within 100 yards of waters or in waters; license suspensions; civil penalties; credit for work in lieu of fine.**

(1) It is unlawful for any person to discard any glass, cans or other trash, rubbish, debris or litter on land within 100 yards of any of the waters of the state, as defined in ORS 468B.005, other than in receptacles provided for the purpose of holding such trash, rubbish, debris or litter.

(2) It is unlawful for any person to discard any glass, cans or other similar refuse in any waters of the state, as defined in ORS 468B.005.

(3) In addition to or in lieu of the penalties provided for violation of any provision of this section, the court in which any individual is convicted of a violation of this section may order suspension of certain permits or licenses for a period not to exceed 90 days if the court finds that the violation occurred during or in connection with the exercise of the privilege granted by the permit or license. The permits and licenses to which this section applies are hunting licenses, fishing licenses or boat registrations.

(4)(a) Any person sentenced under subsection (6) of this section to pay a fine for violation of this section shall be permitted, in default of the payment of the fine, to work at clearing rubbish, trash and debris from the lands and waters described by subsections (1) and (2) of this section. Credit in compensation for such work shall be allowed at the rate of \$25 for each day of work.

(b) In any case, upon conviction, if punishment by imprisonment is imposed upon the defendant, the form of the sentence shall include that the defendant shall be punished by confinement at labor clearing rubbish, trash and debris from the lands and waters described by subsections (1) and (2) of this section, for not less than one day nor more than five days.

(5) A citation conforming to the requirements of ORS 133.066 shall be used for all violations of subsection (1) or (2) of this section in the state.

(6) Violation of this section is a Class B misdemeanor.

(7) In addition to and not in lieu of the criminal penalty authorized by subsection (6) of this section, the civil penalty authorized by ORS 468.140 may be imposed for violation of this section.

(8) Nothing in this section or ORS 164.785 prohibits the operation of a disposal site, as defined in ORS 459.005, for which a permit is required by the Department of Environmental Quality, for which such a permit has been issued and which is being operated and maintained in accordance with the terms and conditions of such permit. [Formerly 449.107; 1999 c.1051 §132; 2018 c.76 §18]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.785 - Placing offensive substances in waters, on highways or other property.**

(1)(a) It is unlawful for any person, including a person in the possession or control of any land, to discard any dead animal carcass or part thereof, excrement, putrid, nauseous, noisome, decaying, deleterious or offensive substance into or in any other manner befoul,

pollute or impair the quality of any spring, river, brook, creek, branch, well, irrigation drainage ditch, irrigation ditch, cistern or pond of water.

(b)(A) In a prosecution under this subsection, it is a defense that:

(i) The dead animal carcass that is discarded is a fish carcass;

(ii) The person returned the fish carcass to the water from which the person caught the fish; and

(iii) The person retained proof of compliance with any provisions regarding angling prescribed by the State Fish and Wildlife Commission pursuant to ORS 496.162.

(B) As used in this paragraph, "fish carcass" means entrails, gills, head, skin, fins and backbone.

(2) It is unlawful for any person to place or cause to be placed any polluting substance listed in subsection (1) of this section into any road, street, alley, lane, railroad right of way, lot, field, meadow or common. It is unlawful for an owner thereof to knowingly permit any polluting substances to remain in any of the places described in this subsection to the injury of the health or to the annoyance of any citizen of this state. Every 24 hours after conviction for violation of this subsection during which the violator permits the polluting substances to remain is an additional offense against this subsection.

(3) Nothing in this section shall apply to the storage or spreading of manure or like substance for agricultural, silvicultural or horticultural purposes, except that no sewage sludge, septic tank or cesspool pumpings shall be used for these purposes unless treated and applied in a manner approved by the Department of Environmental Quality.

(4) Violation of this section is a Class A misdemeanor.

(5) The Department of Environmental Quality may impose the civil penalty authorized by ORS 468.140 for violation of this section. [Formerly 449.105; 1983 c.257 §1; 1987 c.325 §1; 2013 c.132 §1]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.805 - Offensive littering.**

(1) A person commits the crime of offensive littering if the person creates an objectionable stench or degrades the beauty or appearance of property or detracts from the natural cleanliness or safety of property by intentionally:

(a) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way or in or upon any public transportation facility;

(b) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank or other contaminated source, upon the land of another without permission of the owner, or upon any public way; or

(c) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle that the person is operating. This subsection does not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Department of Transportation or a person operating a school bus described under ORS 801.460.

(2) As used in this section:

(a) "Public transportation facility" has the meaning given that term in ORS 164.365.

(b) "Public way" includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the state, a county or a local municipality for use by the general public.

(3) Offensive littering is a Class C misdemeanor. [1971 c.743 §283; 1975 c.344 §2; 1983 c.338 §897; 1985 c.420 §20; 2007 c.71 §52; 2015 c.138 §2]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.813 - Unlawful cutting and transport of special forest products.**

(1) As used in this section:

(a) "Harvest" means to separate by cutting, digging, prying, picking, peeling, breaking, pulling, splitting or otherwise removing a special forest product from:

(A) Its physical connection or point of contact with the ground or vegetation upon which it was growing; or

(B) The place or position where it lay.

(b) "Special forest products" means:

(A) Plants, plant parts, fruit, fungi, parts of fungi, rocks or minerals that are identified in State Board of Forestry rules as special forest products;

(B) Firewood;

(C) Trees or parts of trees of a species identified in board rules as a forest tree species not normally used in commercial forest harvests; and

(D) Other items identified by the board by rule as special forest products.

(c) "Special forest products" does not mean mill ends, driftwood and artificially fabricated fireplace logs.

(d) "Transportation" means the physical conveyance of special forest products away from a harvest or collection site and includes, but is not limited to, transportation in or on:

(A) A motor vehicle or trailer, both as defined for purposes of the Oregon Vehicle Code;

(B) A boat, barge, raft or other water vessel; or

(C) An airplane, helicopter, balloon or other aircraft.

(2) Subject to subsection (6) of this section, it is unlawful for any person other than the landowner to cut or split wood into special forest products or to harvest or remove special forest products from a place unless the person has in possession a written permit to do so from the owner of the land from which the wood is cut or the special forest products taken. The written permit required under this subsection must set forth:

- (a) The date of the permit;
- (b) The name, address, telephone number and signature of the person granting the permit;
- (c) The name, address and telephone number of the person to whom the permit is granted;
- (d) The amount and kind of wood, by species, to be cut or split or the amount and kind of special forest products to be taken;
- (e) A description of the premises from which the wood is to be cut or the special forest products taken. The description may be by legal description, tax account number or other description clearly identifying the premises; and
- (f) The date of expiration of the permit.

(3) Subject to subsection (6) of this section, it is unlawful for a person to transport special forest products without possessing a permit as described in subsection (2) of this section or a document of sale showing title to the special forest products. A document of sale must be signed by the landowner, seller or donor, and must set forth:

- (a) The date of the document;
- (b) The name, address and telephone number of the seller or donor of the special forest products;
- (c) The name, address and telephone number of the purchaser or donee;
- (d) The amount and kind of special forest products sold, by species; and
- (e) A description of the premises from which the special forest products were taken. The description may be by legal description, tax account number or other description clearly identifying the premises, or by street address in the event of purchase from a woodlot or fuel dealer or dealer in other special forest products.

(4) Except as provided in subsection (7) of this section, any person who engages in the purchase or other acquisition of special forest products for resale, other than special forest products acquired from property owned by that person, shall keep records of such purchases or acquisitions for a period of one year from the date of purchase or acquisition. The records shall be made available to any peace officer upon request and shall reveal:

- (a) The date of purchase or acquisition;
- (b) The name, address, telephone number and signature of the person from whom the special forest products were obtained and the date they were obtained;
- (c) The license number of any vehicle used to deliver the special forest products to the dealer for resale;
- (d) The quantity of special forest products purchased or acquired; and
- (e) The name and address of the landowner from whose land the special forest product was harvested.

(5) Any permit for the removal of special forest products from public lands issued or required by the United States Forest Service or the Bureau of Land Management is:

- (a) Sufficient for the purposes of subsections (2) and (3) of this section, regardless of whether the permit conforms to the specific requirements as to content set forth in subsections (2) and (3) of this section; and
  - (b) Valid only for the purposes and public lands locations identified in the permit.
- (6) Subsections (2) and (3) of this section do not apply to the following activities conducted on public lands:
- (a) The cutting or transportation of wild edible fungi occupying a volume at harvest of one gallon or less;
  - (b) The cutting or transportation of special forest products, described in subsection (1)(b)(B) and (C) of this section, having a total volume of less than 27 cubic feet;
  - (c) The cutting or transportation of special forest products, other than those specified in paragraphs (a) and (b) of this subsection, having a total volume of less than 12 cubic feet;
  - (d) The cutting or transportation of coniferous trees that are subject to the provisions of ORS 164.825;
  - (e) The cutting or transportation of special forest products by the owner of the land from which they were taken or by the owner's agent; or
  - (f) The transportation of special forest products by a common carrier or contract carrier.

(7) Subsection (4) of this section does not apply to a person who purchases cedar products that are special forest products and who complies with the record keeping requirements of ORS 165.109.

(8) Violation of any provision of subsections (2) to (4) of this section is a Class B misdemeanor. [1981 c.645 §2; 1989 c.368 §1; 1993 c.167 §1; 1995 c.75 §1; 2013 c.276 §§1,2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.814 - State Forester required to develop forms for special forest products.**

The State Forester shall develop a typical form for the permit and document of sale required by ORS 164.813 and for the records required by ORS 164.813 (4). The State Forester shall make copies of the forms available. Use of the forms is not required. [1995 c.75 §2; 2013 c.276 §3]

Note:

164.814 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.825 - Cutting and transport of coniferous trees without permit or bill of sale.**

(1) It is unlawful for any person to cut more than five coniferous trees unless the person has in possession written permission to do so from the owner of the land from which the trees are cut. The written permit required under this subsection must set forth:

- (a) The date of the permit;
- (b) The name, address, telephone number and signature of the person granting the permit;
- (c) The name, address and telephone number of the person to whom the permit is granted;
- (d) The number of trees, by species, to be cut;
- (e) A description of the premises from which the trees are to be cut. The description may be by legal description or tax account number; and
- (f) The date of expiration of the permit.

(2) It is unlawful for any person to transport over the highways of this state more than five coniferous trees without possessing a cutting permit as described in subsection (1) of this section or a document of title showing title thereto. A document of sale must be signed by the landowner, seller or donor, and shall set forth:

- (a) The date of the document;
- (b) The name, address and telephone number of the seller or donor of the trees;
- (c) The name, address and telephone number of the purchaser or donee of the trees;
- (d) The number of trees, by species, sold or transferred by the permit or document of sale; and
- (e) A description of the premises from which the trees were taken. The description may be by legal description, tax account number or other description clearly identifying the premises.

(3) The provisions of subsections (1) and (2) of this section do not apply to:

- (a) The transportation of trees in the course of transplantation, with their roots intact.
- (b) The cutting or transportation of coniferous trees by the owner of the land from which they were taken or by the owner's agent.
- (c) The transportation of coniferous trees by a common carrier or contract carrier.
- (4) Violation of the provisions of subsection (1) or (2) of this section is a Class B misdemeanor. [1971 c.743 §295; 1981 c.645 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.828 - Ownership as affirmative defense under ORS 164.813 and 164.825.**

It is an affirmative defense to any charge under ORS 164.813 or 164.825 that the defendant is in fact the owner of the trees or special forest products cut or transported. [1981 c.645 §7; 1993 c.167 §2]

Note:

164.828 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.835 - Investigation to prevent violations of ORS 164.813 and 164.825.**

- (1) All peace officers shall note and investigate the cutting and transportation of coniferous trees and special forest products as defined in ORS 164.813 for the purpose of preventing violations of ORS 164.813 and 164.825.
- (2) Justice courts and circuit courts have concurrent jurisdiction of violations of ORS 164.813 and 164.825. [1971 c.743 §296; 1981 c.645 §3; 1993 c.167 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.845 - Arrest, summons for cutting or transport of trees or special forest products; effect of failure to appear.**

- (1) Whenever any peace officer has reasonable cause to believe that a person is cutting or transporting trees or special forest products in violation of ORS 164.813 (2) or (3) or 164.825, the peace officer may arrest the person without a warrant and take the person before any court having jurisdiction of the offense. The court shall proceed without delay to hear, try and determine the matter and enter judgment according to the allegations and proofs.
- (2) The peace officer making the arrest, if not immediately taking the person arrested into custody, may issue a summons to the person. The summons shall direct the person to appear at the court named in the summons to answer a complaint to be filed therewith. The violation shall be noted on the summons, which shall be dated and signed by the peace officer.
- (3) Any person to whom a summons is issued under this section who fails to appear at the time and place specified therein commits a Class B misdemeanor. [1971 c.743 §297; 1981 c.645 §4; 1993 c.167 §4; 2013 c.276 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.855 - Seizure of trees or special forest products cut or transported in violation of ORS 164.813 or 164.825.**

(1) Whenever any peace officer has reasonable cause for believing that a person is cutting or transporting trees or special forest products in violation of ORS 164.813 (2) or (3) or 164.825, the peace officer may, at the time of making the arrest or issuing the summons, under ORS 164.845, seize and take possession of the trees or special forest products. The peace officer shall hold the

trees or special forest products subject to the order of the court before which the arrested person is ordered to appear. If the owner of the trees or special forest products appears before the court within 48 hours after the seizure thereof and presents satisfactory evidence of ownership, the court shall order the peace officer to deliver the trees or special forest products to the owner. If the owner does not appear within the 48-hour period and prove ownership of the trees or special forest products, the court may direct the peace officer to sell the trees or special forest products in any manner and for any price that appears to the court to be warranted. If the trees or special forest products have no value, the court may direct the officer to destroy them in any manner practicable. The proceeds of the sale, less the reasonable expenses thereof, shall be paid to the treasurer of the county in which the trees or special forest products are sold. At any time within one year after the seizure of the trees or special forest products the owner thereof may appear before the court, and, upon presentation of satisfactory evidence of ownership, the court shall direct the treasurer of the county to pay the proceeds to the owner. If the owner does not appear within one year from the seizure of the trees or special forest products and prove a right to the proceeds, the proceeds shall thereafter belong to the county, and may be disposed of as the county court may direct.

(2) The return of the trees or special forest products or the payment of the proceeds shall not preclude the court from imposing any fine or penalty for any violation of ORS 164.825 to 164.855. [1971 c.743 §298; 1981 c.645 §5; 1993 c.167 §5; 2013 c.276 §5]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.857 - Unlawfully transporting metal property.**

(1) A person commits the offense of unlawfully transporting metal property if the person transports metal property on a public highway or on premises open to the public with the intent to deliver the metal property to a scrap metal business and the person does not have a metal transportation certificate in the person's possession.

(2) A seller or transferor of metal property that has reason to believe that a buyer or transferee intends to obtain the metal property for delivery to a scrap metal business shall provide the buyer or transferee with a metal transportation certificate.

(3) A metal transportation certificate must include:

(a) The date the metal property was acquired and the amount and type of metal property that the person is transporting;

(b) The location where the metal property was loaded and the destination of the metal property;

(c) The name, address and telephone number of the seller or the transferor;

(d) The signature of the seller or transferor or the authorized agent of the seller or transferor; and

(e) The name, address and telephone number of the person transporting the metal property.

(4) The Department of State Police shall create a form that may serve as a metal transportation certificate and shall make the form available on the department's website.

(5)(a) Subject to paragraph (b) of this subsection, it is a defense to a charge of unlawfully transporting metal property that the person transporting the metal property is the owner of the property or an agent or employee of the owner of the property.

(b) A person who transports private metal property may not raise the defense described in this subsection unless at the time the person was transporting the private metal property:

(A) The person was a commercial seller or an agent or employee of a commercial seller and the person possessed the information required under ORS 165.117 (4)(b)(G);

(B) The person was the owner or an agent or employee of a scrap metal business that maintains a fixed place of business and the person possessed reasonable proof that the person was an owner, agent or employee;

(C)(i) The person was a dismantler or an agent or an employee of a dismantler;

(ii) The person possessed a valid, current dismantler certificate or an identification card issued under ORS 822.125; and

(iii) The stock or yard number assigned to the private metal property under ORS 822.137 was legibly marked on the private metal property; or

(D)(i) The person had physical possession of the title or registration for the vehicle from which the private metal property was removed;

(ii) The person's name was shown as the owner of the vehicle on the title or registration; and

(iii) The person accurately and correctly described the location of the vehicle.

(6) Unlawfully transporting metal property is a Class C misdemeanor.

(7) As used in this section:

(a) "Agent or employee of the owner of the property" includes a motor carrier as defined in ORS 825.005 that is operating in accordance with the provisions of ORS chapter 825.

(b) "Commercial seller," "dismantler," "fixed place of business," "metal property," "private metal property" and "scrap metal business" have the meanings given those terms in ORS 165.116. [2009 c.811 §3; 2010 c.56 §4; 2021 c.412 §1]

Note:

164.857 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.863 - Unlawful transport of meat animal carcasses.**

(1) Except as provided in subsection (2) of this section, it shall be unlawful for any person to transport the carcass or a primal cut



thereof of any meat animal on a public highway without having in possession a transportation certificate signed by the owner or the agent of the owner showing:

- (a) The location where the carcass or primal cut was loaded and its destination;
  - (b) The quantity in possession and the date of acquisition of it; and
  - (c) Transportation or bill of sale.
- (2) Subsection (1) of this section does not apply to the carcass or meat of a meat animal:
- (a) That is transported by common carrier;
  - (b) That is marked, tagged or otherwise identified as required by ORS chapter 619;
  - (c) That is marked, tagged or identified as required by ORS 603.045 (2), or that is the subject of the certificate and tags described in ORS 603.045 (4); or
  - (d) That is marked, tagged or otherwise identified as having been previously inspected under the Federal Meat Inspection Act.
- (3) As used in this section:
- (a) "Common carrier" means:
    - (A) Any person who transports for hire or who purports to be to the public as willing to transport for hire, compensation or consideration by motor vehicle, persons or property, or both, for those who may choose to employ the person; or
    - (B) Any person who leases, rents or otherwise provides a motor vehicle for the use of others and who in connection therewith in the regular course of business provides, procures or arranges for, directly, indirectly or by course of dealing, a driver or operator therefor.
  - (b) "Federal Meat Inspection Act" means the Act so entitled approved March 4, 1907, (34 Stat. 1260), as amended by the Wholesome Meat Act (81 Stat. 584).
  - (c) "Meat animal" means any live cattle, equines, sheep, goats or swine.
  - (d) "Meat" or "meat product" means any edible muscle, except any muscle found in the lips, snout or ears of meat animals, which is skeletal or found in the tongue, diaphragm, heart or esophagus, with or without any accompanying and overlying fat, and any portion of bone, skin, sinew, nerve or blood vessels normally accompanying the muscle tissue and not separated from it in the process of dressing or as otherwise prescribed by the Department of Agriculture.
- (4) Unlawfully transporting the carcass or primal cut of a meat animal is a Class C misdemeanor.
- (5) For the purpose of this section "primal cut" of cattle and equines means round, loin, flank, rib, chuck, brisket, plate or shank; of pork means ham, loin, side, spareribs, shoulder or jowl; of sheep and goats means rib or rack, loin, leg or shoulder. [1975 c.201 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.864 - Definitions for ORS 164.864 to 164.882.**

As used in ORS 164.865, 164.866, 164.868, 164.869, 164.872, 164.873, 164.875 and 164.882 and this section, unless the context requires otherwise:

- (1) "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part of a motion picture by means of any technology now known or later developed.
- (2) "Commercial enterprise" means a business operating in intrastate or interstate commerce for profit. "Commercial enterprise" does not include:
  - (a) Activities by schools, libraries or religious organizations;
  - (b) Activities incidental to a bona fide scholastic or critical endeavor;
  - (c) Activities incidental to the marketing or sale of recording devices; and
  - (d) Activities involving the recording of school or religious events or activities.
- (3) "Fixed" means embodied in a recording or other tangible medium of expression, by or under the authority of the author, so that the matter embodied is sufficiently permanent or stable to permit it to be perceived, reproduced or otherwise communicated for a period of more than transitory duration.
- (4) "Live performance" means a recitation, rendering or playing of musical instruments or vocal arrangements in an audible sequence in a public performance.
- (5) "Manufacturer" means the entity authorizing the duplication of a specific recording, but shall not include the manufacturer of the cartridge or casing itself.
- (6) "Master recording" means the master disk, master tape, master film or other device used for reproducing recorded sound from which a sound recording is directly or indirectly derived.
- (7) "Motion picture" includes any motion picture, regardless of length or content, that is exhibited in a motion picture theater, exhibited on television to paying customers or under the sponsorship of a paying advertiser or produced and exhibited for scientific research or educational purposes. "Motion picture" does not include amateur films that are shown free or at cost to friends, neighbors or civic groups.
- (8) "Motion picture theater" means a movie theater, screening room or other venue that is being utilized primarily for the exhibition of a motion picture.
- (9) "Owner" means a person who owns the sounds fixed in a master phonograph record, master disk, master tape, master film or other recording on which sound is or can be recorded and from which the transferred recorded sounds are directly or indirectly derived.

(10) "Recording" means a tangible medium on which information, sounds or images, or any combination thereof, are recorded or otherwise stored. Medium includes, but is not limited to, an original phonograph record, disk, tape, audio or video cassette, wire, film or other medium now existing or developed later on which sounds, images or both are or can be recorded or otherwise stored or a copy or reproduction that duplicates in whole or in part the original.

(11) "Sound recording" means any reproduction of a master recording.

(12) "Videotape" means a reel of tape upon which a motion picture is electronically or magnetically imprinted by means of an electronic video recorder and which may be used in video playback equipment to project or display the motion picture on a television screen. [1993 c.95 §1; 2001 c.666 §§30,42; 2005 c.459 §§3,4; 2005 c.830 §22]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.865 - Unlawful sound recording.**

(1) A person commits the crime of unlawful sound recording if the person:

(a) Reproduces for sale any sound recording without the written consent of the owner of the master recording; or

(b) Knowingly sells, offers for sale or advertises for sale any sound recording that has been reproduced without the written consent of the owner of the master recording.

(2) Unlawful sound recording is a Class B misdemeanor. [1973 c.747 §1; 1993 c.95 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.866 - Civil action for injuries caused by criminal acts.**

Nothing in ORS 164.864, 164.865, 164.868, 164.869, 164.872, 164.873 or 164.875 or this section limits or impairs the right of a person injured by the criminal acts of a defendant to sue and recover damages from the defendant in a civil action. [1993 c.95 §11; 2001 c.666 §§31,43; 2005 c.830 §23]

Note:

See note under 164.864.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.867 - Applicability of ORS 164.868, 164.869 and 164.872.**

The provisions of ORS 164.868, 164.869 and 164.872 apply only to persons operating commercial enterprises. [1993 c.95 §2]

Note:

See note under 164.864.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.868 - Unlawful labeling of a sound recording.**

(1) A person commits unlawful labeling of a sound recording if the person:

(a) Fails to disclose the origin of a sound recording when the person knowingly advertises or offers for sale or resale, sells, resells, rents, leases, or lends or possesses for any of these purposes, any sound recording that does not contain the true name and address of the manufacturer in a prominent place on the cover, jacket or label of the sound recording; and

(b) Possesses five or more duplicate copies or 20 or more individual copies of recordings produced without consent of the owner or performer and the recordings are intended for sale or distribution in violation of this section.

(2) Unlawful labeling of a sound recording is a Class C felony. [1993 c.95 §7]

Note:

See note under 164.864.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.869 - Unlawful recording of a live performance.**

(1) A person commits unlawful recording of a live performance if the person:

(a)(A) Advertises or offers for sale, sells, rents, transports, or causes the sale, resale, rental or transportation of, or possesses for one or more of these purposes, a recording containing sounds of a live performance with the knowledge that the live performance has been recorded or fixed without the consent of the owner; or

(B) With the intent to sell, records or fixes, or causes to be recorded or fixed on a recording, a live performance with the knowledge that the live performance has been recorded or fixed without the consent of the owner; and

(b) Possesses five or more duplicate copies or 20 or more individual copies of recordings produced without consent of the owner or performer and the recordings are intended for sale or distribution in violation of this section.

(2) Unlawful recording of a live performance is a Class C felony.

(3) For purposes of subsections (1) and (2) of this section, in the absence of a written agreement or law to the contrary, the performer of a live performance is presumed to own the rights to record or fix the performance.

(4) A person who is authorized to maintain custody and control over business records that reflect whether or not the owner of the live performance consented to having the live performance recorded or fixed is a proper witness in a proceeding regarding the issue

of consent. [1993 c.95 §§5,6]

Note:

See note under 164.864.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.872 - Unlawful labeling of a videotape recording.**

(1) A person commits unlawful labeling of a videotape recording if the person:

- (a) Fails to disclose the origin of a recording when the person knowingly advertises or offers for sale or resale, or sells, resells, rents, leases or lends, or possesses for any of these purposes, any videotape recording that does not contain the true name and address of the manufacturer in a prominent place on the cover, jacket or label of the videotape recording; and
- (b) Possesses five or more duplicate copies or 20 or more individual copies of videotape recordings produced without consent of the owner or performer and the videotape recordings are intended for sale or distribution in violation of this section.

(2) Unlawful labeling of a videotape recording is a Class C felony. [1993 c.95 §8]

Note:

See note under 164.864.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.873 - Exemptions from ORS 164.865, 164.868, 164.869, 164.872 and 164.875.**

(1) The provisions of ORS 164.872 and 164.875 do not apply to:

- (a) The production of a videotape of a motion picture that is defined as a public record under ORS 192.005 (5), in accordance with ORS 192.005 to 192.170 or 357.805 to 357.895.
- (b) The production of a videotape of a motion picture that is defined as a legislative record under ORS 171.410, in accordance with ORS 171.410 to 171.430.

(2) The provisions of ORS 164.865, 164.868, 164.869 (1) and (2) and 164.875 do not apply to the reproduction of:

- (a) Any recording that is used or intended to be used only for broadcast by educational radio or television stations.
- (b) A sound recording, or the production of a videotape of a motion picture, that is defined as a public record under ORS 192.005 (5), with or without charging and collecting a fee therefor, in accordance with ORS 192.005 to 192.170 or 357.805 to 357.895.
- (c) A sound recording defined as a legislative record under ORS 171.410, with or without charging and collecting a fee therefor, in accordance with ORS 171.410 to 171.430. [1993 c.95 §§9,10]

Note:

See note under 164.864.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.875 - Unlawful videotape recording.**

(1) A person commits the crime of unlawful videotape recording if the person:

- (a) Produces for sale any videotape without the written consent of the owner of the motion picture imprinted thereon; or
- (b) Knowingly sells or offers for sale any videotape that has been produced without the written consent of the owner of the motion picture imprinted thereon.

(2) Unlawful videotape recording is a Class B misdemeanor. [1979 c.550 §2; 1993 c.95 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.877**

[1989 c.1003 §§2,3; renumbered 164.886 in 2007]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.882 - Unlawful operation of an audiovisual device.**

(1) A person commits the crime of unlawful operation of an audiovisual device if the person knowingly operates the audiovisual recording function of any device in a motion picture theater, while a motion picture is being exhibited, without the written consent of the motion picture theater owner.

(2) Unlawful operation of an audiovisual device is a Class B misdemeanor.

(3) The provisions of subsection (1) of this section do not apply to any activity undertaken in the course of bona fide law enforcement activity or necessary to the proper functioning of the criminal justice system. [2005 c.459 §1]

Note:

164.882 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.885 - Endangering aircraft.**

- (1) A person commits the crime of endangering aircraft in the first degree if the person knowingly:
  - (a) Throws an object at, or drops an object upon, an aircraft;
  - (b) Discharges a bow and arrow, gun, airgun or firearm at or toward an aircraft;
  - (c) Tamper with an aircraft or a part, system, machine or substance used to operate an aircraft in such a manner as to impair the safety, efficiency or operation of an aircraft without the consent of the owner, operator or possessor of the aircraft; or
  - (d) Places, sets, arms or causes to be discharged a spring gun, trap, explosive device or explosive material with the intent of damaging, destroying or discouraging the operation of an aircraft.
- (2)(a) Except as provided in paragraph (b) of this subsection, a person commits the crime of endangering aircraft in the second degree if the person knowingly possesses a firearm or deadly weapon in a restricted access area of a commercial service airport that has at least 2 million passenger boardings per calendar year.
- (b) Paragraph (a) of this subsection does not apply to a person authorized under federal law or an airport security program to possess a firearm or deadly weapon in a restricted access area.
- (3)(a) Endangering aircraft in the first degree is a Class C felony.
- (b) Endangering aircraft in the second degree is a Class A misdemeanor.
- (4) As used in this section:
  - (a) "Aircraft" does not include an unmanned aircraft system as defined in ORS 837.300.
  - (b) "Restricted access area" means an area of a commercial service airport that is:
    - (A) Designated as restricted in the airport security program approved by the federal Transportation Security Administration; and
    - (B) Marked at points of entry with signs giving notice that access to the area is restricted. [1981 c.901 §1; 2009 c.299 §1; 2016 c.72 §3]

Note:

164.885 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.886 - Unlawful tree spiking; unlawful possession of substance that can damage certain wood processing equipment.**

- (1) A person commits the crime of unlawful tree spiking if the person knowingly drives or places in any tree or saw log, without the prior consent of the owner thereof, any iron, steel or other substance sufficiently hard to damage saws or wood manufacturing or processing equipment with intent to cause inconvenience, annoyance or alarm to any other person.
- (2) Except as provided in subsection (3) of this section, unlawful tree spiking is a Class C felony.
- (3) Unlawful tree spiking that results in serious physical injury to another person is a Class B felony.
- (4) Any person who possesses, with the intent to use in violation of subsections (1) to (3) of this section, any iron, steel or other substance sufficiently hard to damage saws or wood manufacturing or processing equipment is guilty of a Class A misdemeanor. [Formerly 164.877]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.887 - Interference with agricultural operations.**

- (1) Except as provided in subsection (3) of this section, a person commits the offense of interference with agricultural operations if the person, while on the property of another person who is engaged in agricultural operations, intentionally or knowingly obstructs, impairs or hinders or attempts to obstruct, impair or hinder agricultural operations.
- (2) Interference with agricultural operations is a Class A misdemeanor.
- (3) The provisions of subsection (1) of this section do not apply to:
  - (a) A person who is involved in a labor dispute as defined in ORS 662.010 with the other person; or
  - (b) A public employee who is performing official duties.
- (4) As used in this section:
  - (a)(A) "Agricultural operations" means the conduct of logging and forest management, mining, farming or ranching of livestock animals or domestic farm animals;
  - (B) "Domestic farm animal" means an animal used to control or protect livestock animals or used in other related agricultural activities; and
  - (C) "Livestock animals" has the meaning given that term in ORS 164.055.
  - (b) "Domestic farm animal" and "livestock animals" do not include stray animals. [1999 c.694 §1]

Note:

164.887 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 164 - Offenses Against Property Section 164.889 - Interference with agricultural research.**

- (1) A person commits the crime of interference with agricultural research if the person knowingly:
  - (a) Damages any property at an agricultural research facility with the intent to damage or hinder agricultural research or

experimentation;

(b) Obtains any property of an agricultural research facility with the intent to damage or hinder agricultural research or experimentation;

(c) Obtains access to an agricultural research facility by misrepresentation with the intent to perform acts that would damage or hinder agricultural research or experimentation;

(d) Enters an agricultural research facility with the intent to damage, alter, duplicate or obtain unauthorized possession of records, data, materials, equipment or specimens related to agricultural research or experimentation;

(e) Without the authorization of the agricultural research facility, obtains or exercises control over records, data, materials, equipment or specimens of the agricultural research facility with the intent to destroy or conceal the records, data, materials, equipment or specimens; or

(f) Releases or steals an animal from, or causes the death, injury or loss of an animal at, an agricultural research facility.

(2) Interference with agricultural research is a Class C felony.

(3) For purposes of this section:

(a) "Agricultural research facility" means any structure or land, whether privately or publicly owned, leased or operated, that is being used for agricultural research or experimentation.

(b) "Agricultural research or experimentation" means the lawful study, analysis or testing of plants or animals, or the use of plants or animals to conduct studies, analyses, testing or teaching, for the purpose of improving farming, forestry or animal husbandry.

(4) In addition to any other penalty imposed for violation of this section, a person convicted of interference with agricultural research is liable for:

(a) Damages to real and personal property caused by acts constituting the violation; and

(b) The costs of repeating an experiment, including the replacement of the records, data, equipment, specimens, labor and materials, if acts constituting the violation cause the failure of an experiment in progress or irreparably damage completed research or experimentation. [2001 c.147 §1]

Note:

164.889 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 164 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.002 - Definitions for ORS 165.002 to 165.070.**

As used in ORS 165.002 to 165.027, and 165.032 to 165.070, unless the context requires otherwise:

(1) "Written instrument" means any paper, document, instrument, article or electronic record containing written or printed matter or the equivalent thereof, whether complete or incomplete, used for the purpose of reciting, embodying, conveying or recording information or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.

(2) "Complete written instrument" means one which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof.

(3) "Incomplete written instrument" means one which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument.

(4) To "falsely make" a written instrument means to make or draw a complete written instrument in its entirety, or an incomplete written instrument which purports to be an authentic creation of its ostensible maker, but which is not, either because the ostensible maker is fictitious or because, if real, the ostensible maker did not authorize the making or drawing thereof.

(5) To "falsely complete" a written instrument means to transform, by adding, inserting or changing matter, an incomplete written instrument into a complete one, without the authority of anyone entitled to grant it, so that the complete written instrument falsely appears or purports to be in all respects an authentic creation of its ostensible maker or authorized by the ostensible maker.

(6) To "falsely alter" a written instrument means to change, without authorization by anyone entitled to grant it, a written instrument, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that the instrument so altered falsely appears or purports to be in all respects an authentic creation of its ostensible maker or authorized by the ostensible maker.

(7) To "utter" means to issue, deliver, publish, circulate, disseminate, transfer or tender a written instrument or other object to another.

(8) "Forged instrument" means a written instrument which has been falsely made, completed or altered.

(9) "Electronic record" has the meaning given that term in ORS 84.004.

(10) "Signature" includes, but is not limited to, an electronic signature, as defined in ORS 84.004. [1971 c.743 §151; 2001 c.535 §27]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.007 - Forgery in the second degree.**

(1) A person commits the crime of forgery in the second degree if, with intent to injure or defraud, the person:

(a) Falsely makes, completes or alters a written instrument; or

- (b) Utters a written instrument which the person knows to be forged.
- (2) Forgery in the second degree is a Class A misdemeanor. [1971 c.743 §152]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.013 - Forgery in the first degree.**

- (1) A person commits the crime of forgery in the first degree if the person violates ORS 165.007:
  - (a) And the written instrument is or purports to be any of the following:
    - (A) Part of an issue of money, securities, postage or revenue stamps, or other valuable instruments issued by a government or governmental agency;
    - (B) Part of an issue of stock, bonds or other instruments representing interests in or claims against any property or person;
    - (C) A deed, will, codicil, contract or assignment;
    - (D) A check for \$1,000 or more, a credit card purchase slip for \$1,000 or more, or a combination of checks and credit card purchase slips that, in the aggregate, total \$1,000 or more, or any other commercial instrument or other document that does or may evidence, create, transfer, alter, terminate or otherwise affect a legal right, interest, obligation or status; or
    - (E) A public record; or
  - (b) By falsely making, completing or altering, or by uttering, at least 15 retail sales receipts, Universal Product Code labels, EAN-8 labels or EAN-13 labels or a combination of at least 15 retail sales receipts, Universal Product Code labels, EAN-8 labels or EAN-13 labels.
- (2) The value of single check or credit card transactions may be added together under subsection (1)(a)(D) of this section if the transactions were committed:
  - (a) Against multiple victims within a 30-day period; or
  - (b) Against the same victim within a 180-day period.
- (3) Forgery in the first degree is a Class C felony. [1971 c.743 §153; 1993 c.680 §25; 2005 c.761 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.017 - Criminal possession of a forged instrument in the second degree.**

- (1) A person commits the crime of criminal possession of a forged instrument in the second degree if, knowing it to be forged and with intent to utter same, the person possesses a forged instrument.
- (2) Criminal possession of a forged instrument in the second degree is a Class A misdemeanor. [1971 c.743 §154]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.022 - Criminal possession of a forged instrument in the first degree.**

- (1) A person commits the crime of criminal possession of a forged instrument in the first degree if, knowing it to be forged and with intent to utter same, the person possesses a forged instrument of the kind and in the amount specified in ORS 165.013 (1).
- (2) Criminal possession of a forged instrument in the first degree is a Class C felony. [1971 c.743 §155; 2005 c.761 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.027 - Evidence admissible to prove forgery or possession of forged instrument.**

- (1) In any prosecution for forgery of a bank bill or note or for criminal possession of a forged bank bill or note, the testimony of any person acquainted with the signature of the officer or agent authorized to sign the bills or notes of the bank of which such bill or note is alleged to be a forgery, or who has knowledge of the difference in appearance of the true and forged bills or notes thereof, may be admitted to prove that it is a forgery.
- (2) In any prosecution for forgery or for criminal possession of any note, certificate, bond, bill of credit, or other security or evidence of debt issued on behalf of the United States or any state or territory, the certificate duly sworn to of the Secretary of the Treasury, or of the Treasurer of the United States, or of the secretary or treasurer of any state or treasury on whose behalf the note, certificate, bond, bill of credit or other security or evidence of debt purports to have been issued, shall be admitted as evidence to prove that it is a forgery. [1971 c.743 §290]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.032 - Criminal possession of a forgery device.**

- (1) A person commits the crime of criminal possession of a forgery device if:
  - (a) The person makes or possesses with knowledge of its character any plate, die or other device, apparatus, equipment or article specifically designed for use in counterfeiting or otherwise forging written instruments; or
  - (b) With intent to use, or to aid or permit another to use, the same for purposes of forgery, the person makes or possesses any device, apparatus, equipment or article capable of or adaptable to such use.
- (2) Criminal possession of a forgery device is a Class C felony. [1971 c.743 §156]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.037 - Criminal simulation.**

- (1) A person commits the crime of criminal simulation if:
  - (a) With intent to defraud, the person makes or alters any object in such a manner that it appears to have an antiquity, rarity, source or authorship that it does not in fact possess; or
  - (b) With knowledge of its true character and with intent to defraud, the person utters or possesses an object so simulated.
- (2) Criminal simulation is a Class A misdemeanor. [1971 c.743 §157]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.042 - Fraudulently obtaining a signature.**

- (1) A person commits the crime of fraudulently obtaining a signature if, with intent to defraud or injure another, the person obtains the signature of a person to a written instrument by knowingly misrepresenting any fact.
- (2) Fraudulently obtaining a signature is a Class A misdemeanor. [1971 c.743 §158]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.047 - Unlawfully using slugs.**

- (1) A person commits the crime of unlawfully using slugs if:
  - (a) With intent to defraud the supplier of property or a service sold or offered by means of a coin machine, the person inserts, deposits or otherwise uses a slug in such machine; or
  - (b) The person makes, possesses, offers for sale or disposes of a slug with intent to enable a person to use it fraudulently in a coin machine.
- (2) As used in this section:
  - (a) "Coin machine" means a coin box, turnstile, vending machine, or other mechanical or electronic device or receptacle designed to receive a coin or bill of a certain denomination or a token made for such purpose, and in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition or use of some property or service.
  - (b) "Slug" means an object, article or device which, by virtue of its size, shape or any other quality is capable of being inserted, deposited, or otherwise used in a coin machine as a fraudulent substitute for a genuine coin, bill or token.
- (3) Unlawfully using slugs is a Class B misdemeanor. [1971 c.743 §159]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.055 - Fraudulent use of a credit card.**

- (1) A person commits the crime of fraudulent use of a credit card if, with intent to injure or defraud, the person uses a credit card for the purpose of obtaining property or services with knowledge that:
  - (a) The card is stolen or forged;
  - (b) The card has been revoked or canceled; or
  - (c) For any other reason the use of the card is unauthorized by either the issuer or the person to whom the credit card is issued.
- (2) "Credit card" means a card, booklet, credit card number or other identifying symbol or instrument evidencing an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.
- (3) The value of single credit card transactions may be added together if the transactions were committed:
  - (a) Against multiple victims within a 30-day period; or
  - (b) Against the same victim within a 180-day period.
- (4) Fraudulent use of a credit card is:
  - (a) A Class A misdemeanor if the aggregate total amount of property or services the person obtains or attempts to obtain is less than \$1,000.
  - (b) A Class C felony if the aggregate total amount of property or services the person obtains or attempts to obtain is \$1,000 or more. [1971 c.743 §160; 1973 c.133 §7; 1987 c.907 §11; 1993 c.680 §26; 2009 c.16 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.065 - Negotiating a bad check.**

- (1) A person commits the crime of negotiating a bad check if the person makes, draws or utters a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.
- (2) For purposes of this section, unless the check or order is postdated, it is prima facie evidence of knowledge that the check or order would not be honored if:
  - (a) The drawer has no account with the drawee at the time the check or order is drawn or uttered; or
  - (b) Payment is refused by the drawee for lack of funds, upon presentation within 30 days after the date of utterance, and the drawer fails to make good within 10 days after receiving notice of refusal.
- (3) Negotiating a bad check is:
  - (a) A Class A misdemeanor, except as provided in paragraph (b) of this subsection.
  - (b) Enhanced from a Class A misdemeanor to a Class C felony if at the time of sentencing it is established beyond a reasonable doubt that the person has been convicted in this state, within the preceding five years, of the crime of negotiating a bad check or of

theft by deception by means of a bad check. [1971 c.743 §161; 1979 c.594 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.070 - Possessing fraudulent communications device.**

- (1) A person commits the crime of possessing a fraudulent communications device if the person:
- (a) Makes, possesses, sells, gives or otherwise transfers to another, or offers or advertises pictures or diagrams concerning an instrument, apparatus or device with intent that the same be used or with knowledge or reason to believe the same is intended to or may be used to avoid any lawful telephone or telegraph toll charge or to conceal the existence or place of origin or destination of any telephone or telegraph communication; or
  - (b) Sells, gives or otherwise transfers to another or offers, or advertises plans or instructions for making or assembling an instrument, apparatus or device described in paragraph (a) of this subsection with knowledge or reason to believe that they may be used to make or assemble such instrument, apparatus or device.
- (2) An instrument, apparatus, device, plans, instructions or written publication described in subsection (1) of this section may be seized under warrant or incident to a lawful arrest, and upon the conviction of a person under subsection (1) of this section, such instrument, apparatus, device, plans, instructions or written publication may be destroyed as contraband by the sheriff of the county in which such person was convicted or turned over to the person providing telephone or telegraph service in the territory in which the same was seized.
- (3) Possessing a fraudulent communications device is a Class C felony. [1973 c.133 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.072 - Definitions for ORS 165.072 and 165.074.**

As used in this section and ORS 165.074, unless the context requires otherwise:

- (1) "Cardholder" means a person to whom a payment card is issued or a person who is authorized to use the payment card.
- (2) "Credit card" means a card, plate, booklet, credit card number, credit card account number or other identifying symbol, instrument or device that can be used to pay for, or to obtain on credit, goods or services.
- (3) "Financial institution" means a financial institution as that term is defined in ORS 706.008.
- (4) "Merchant" means:
  - (a) An owner or operator of a retail mercantile establishment;
  - (b) An agent, employee, lessee, consignee, franchisee, officer, director or independent contractor of an owner or operator of a retail mercantile establishment; and
  - (c) A person who receives what the person believes to be a payment card or information from a payment card from a cardholder as the instrument for obtaining something of value from the person.
- (5) "Payment card" means a credit card, charge card, debit card, stored value card or any card that is issued to a person and allows the user to obtain something of value from a merchant.
- (6) "Payment card transaction" means a sale or other transaction or act in which a payment card is used to pay for, or to obtain on credit, goods or services.
- (7) "Payment card transaction record" means any record or evidence of a payment card transaction, including, without limitation, any paper, sales draft, instrument or other writing and any electronic or magnetic transmission or record.
- (8) "Person" does not include a financial institution or its authorized employee, representative or agent.
- (9) "Previous conviction" has the meaning given that term in ORS 137.712.
- (10) "Reencoder" means an electronic device that places encoded information from one payment card onto another payment card.
- (11) "Scanning device" means an electronic device that is used to access, read, scan, obtain, memorize or store, temporarily or permanently, information encoded on a payment card. [1991 c.398 §1; 1997 c.631 §419; 2003 c.383 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.074 - Unlawful factoring of payment card transaction.**

- (1) A person commits the crime of unlawful factoring of a payment card transaction if the person intentionally or knowingly:
- (a) Presents to or deposits with, or causes another to present to or deposit with, a financial institution for payment a payment card transaction record that is not the result of a payment card transaction between the cardholder and the person;
  - (b) Employs, solicits or otherwise causes a merchant to present to or deposit with a financial institution for payment a payment card transaction record that is not the result of a payment card transaction between the cardholder and the merchant;
  - (c) Employs, solicits or otherwise causes another to become a merchant for purposes of engaging in conduct made unlawful by this section;
  - (d) Uses a scanning device to access, read, scan, obtain, memorize or store information encoded on a payment card:
    - (A) Without the permission of the cardholder; or
    - (B) With the intent to defraud another person; or
  - (e) Uses a reencoder to place encoded information from one payment card onto another payment card:
    - (A) Without the permission of the cardholder of the payment card from which encoded information is being taken; or
    - (B) With the intention to defraud another person.



- (2) Unlawful factoring of a payment card transaction is a Class C felony.
- (3) Notwithstanding subsection (2) of this section, unlawful factoring of a payment card transaction is a Class B felony if the person has one or more previous convictions under this section. [1991 c.398 §2; 2003 c.383 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.075 - Definitions.**

As used in chapter 743, Oregon Laws 1971, unless the context requires otherwise:

- (1) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.
- (2) "Business records" means any writing or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activities.
- (3) "Enterprise" means any private entity of one or more persons, corporate or otherwise, engaged in business, commercial, professional, charitable, political, industrial or organized fraternal activity.
- (4) "Fiduciary" means a trustee, guardian, executor, administrator, receiver or any other person acting in a fiduciary capacity as agent or employee of an organization which is a fiduciary.
- (5) "Financial institution" means a bank, insurance company, credit union, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.
- (6) "Government" means the state, any political subdivision thereof, or any governmental instrumentality within the state.
- (7) "Misapplies" means dealing with property contrary to law or governmental regulation governing the custody or disposition of that property; governmental regulation includes administrative and judicial rules and orders as well as statutes and ordinances.
- (8) "Sports contest" means any professional or amateur sport or athletic game or contest viewed by the public.
- (9) "Sports official" means any person who acts in sports contests as an umpire, referee, judge or sports contest official.
- (10) "Sports participant" means any person who directly or indirectly participates in sports contests as a player, contestant, team member, coach, manager, trainer, or any other person directly associated with a player, contestant or team member in connection with a sports activity. [1971 c.743 §162]

Note:

Legislative Counsel has substituted "chapter 743, Oregon Laws 1971," for the words "this Act" in section 162, chapter 743, Oregon Laws 1971, compiled as 165.075. Specific ORS references have not been substituted, pursuant to 173.160. These sections may be determined by referring to the 1971 Comparative Section Table located in Volume 22 of ORS.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.080 - Falsifying business records.**

- (1) A person commits the crime of falsifying business records if, with intent to defraud, the person:
- (a) Makes or causes a false entry in the business records of an enterprise; or
- (b) Alters, erases, obliterates, deletes, removes or destroys a true entry in the business records of an enterprise; or
- (c) Fails to make a true entry in the business records of an enterprise in violation of a known duty imposed upon the person by law or by the nature of the position of the person; or
- (d) Prevents the making of a true entry or causes the omission thereof in the business records of an enterprise.
- (2) Falsifying business records is a Class A misdemeanor. [1971 c.743 §163]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.085 - Sports bribery.**

- (1) A person commits the crime of sports bribery if the person:
- (a) Offers, confers or agrees to confer any benefit upon a sports participant with intent to influence the sports participant not to give the best effort of the sports participant in a sports contest; or
- (b) Offers, confers or agrees to confer any benefit upon a sports official with intent to influence the sports official to improperly perform duties of a sports official.
- (2) Sports bribery is a Class C felony. [1971 c.743 §164]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.090 - Sports bribe receiving.**

- (1) A person commits the crime of sports bribe receiving if:
- (a) As a sports participant the person solicits, accepts or agrees to accept any benefit from another person with the intent that the person will thereby be influenced not to give the best effort of the person in a sports contest; or
- (b) As a sports official the person solicits, accepts or agrees to accept any benefit from another person with the intent that the person will improperly perform duties of a sports official.
- (2) Sports bribe receiving is a Class C felony. [1971 c.743 §165]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.095 - Misapplication of entrusted property.**

- (1) A person commits the crime of misapplication of entrusted property if, with knowledge that the misapplication is unlawful and that it involves a substantial risk of loss or detriment to the owner or beneficiary of such property, the person intentionally misapplies or disposes of property that has been entrusted to the person as a fiduciary or that is property of the government or a financial institution.
- (2) Misapplication of entrusted property is a Class A misdemeanor. [1971 c.743 §166]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.100 - Issuing a false financial statement.**

- (1) A person commits the crime of issuing a false financial statement if, with intent to defraud, the person:
- (a) Knowingly makes or utters a written statement which purports to describe the financial condition or ability to pay of the person or some other person and which is inaccurate in some material respect; or
- (b) Represents in writing that a written statement purporting to describe a person's financial condition or ability to pay as of a prior date is accurate with respect to that person's current financial condition or ability to pay, knowing the statement to be materially inaccurate in that respect.
- (2) Issuing a false financial statement is a Class A misdemeanor. [1971 c.743 §167]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.102 - Obtaining execution of documents by deception.**

- (1) A person commits the crime of obtaining execution of documents by deception if, with intent to defraud or injure another or to acquire a substantial benefit, the person obtains by means of fraud, deceit or subterfuge the execution of a written instrument affecting or purporting to affect the pecuniary interest of any person.
- (2) Obtaining execution of documents by deception is a Class A misdemeanor. [1971 c.743 §168]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.107.**

[1971 c.743 §169; 1995 c.222 §1; 2007 c.475 §1; 2009 c.811 §6; 2010 c.56 §5; 2011 c.450 §1; 2011 c.597 §80; 2013 c.122 §1; renumbered 165.117 in 2013]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.109 - Failing to maintain a cedar purchase record.**

- (1) A person commits the offense of failing to maintain a cedar purchase record if the person buys or otherwise obtains cedar products directly from any person who has harvested the cedar without keeping a record of the products purchased or obtained.
- (2) The record required by subsection (1) of this section shall be retained by the purchaser for a period of not less than one year and shall be available to any peace officer on demand.
- The record shall contain:
- (a) The name, address, date of sale and signature of the seller or the person making delivery;
- (b) The license number of any motor vehicles used in the delivery of the cedar; and
- (c) The quantity of cedar obtained and the amount paid for the cedar.
- (3) The provisions of this section apply only to the first wholesale transaction involving cedar products and do not apply to retail sales of cedar.
- (4) Failing to maintain a cedar purchase record is a Class B misdemeanor. [1977 c.473 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.114 - Sale of educational assignments.**

- (1) No person shall sell or offer to sell an assignment to another person knowing, or under the circumstances having reason to know, that the whole or a substantial part of the assignment is intended to be submitted under a student's name in fulfillment of the requirements for a degree, diploma, certificate or course of study at any post-secondary institution.
- (2) No person shall sell or offer to sell to another person any assistance in the preparation of an assignment knowing, or under the circumstances having reason to know, that the whole or a substantial part of the assignment is intended to be submitted under a student's name in fulfillment of the requirements for a degree, diploma, certificate or course of study at any post-secondary institution.
- (3) Nothing in this section prohibits a person from rendering for a monetary fee:
- (a) Tutorial assistance if the assistance is not intended to be submitted in whole or in substantial part as an assignment; or
- (b) Service in the form of typing, transcribing, assembling, reproducing or editing an assignment if this service is not intended to make substantive changes in the assignment.
- (4) A person who violates any provision of this section commits a Class A violation.
- (5) A person against whom a judgment has been entered under subsection (4) of this section shall, upon conviction for any subsequent violation of this section, be subject to a fine of not more than \$10,000.

(6) In addition to any fine imposed under subsections (4) and (5) of this section, a court of competent jurisdiction may grant such further relief as is necessary to enforce the provisions of this section, including the issuance of an injunction. A suit for injunction under subsections (1) to (6) of this section may be brought in the name of the State of Oregon upon the complaint of the Attorney General or any district attorney.

(7) As used in subsections (1) to (6) of this section unless the context requires otherwise:

(a) "Assignment" means any specific written, recorded, pictorial, artistic or other academic task, including but not limited to a term paper, thesis, dissertation, essay or report, intended for submission to any post-secondary institution in fulfillment of the requirements for a degree, diploma, certificate or course of study at any such institution.

(b) "Person" means any individual, partnership, corporation or association.

(c) "Post-secondary institution" means any public or private post-secondary educational institution. [1981 c.673 §§1,2; 1999 c.1051 §158]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.116 - Definitions for ORS 165.116 to 165.124.**

As used in ORS 165.116 to 165.124:

(1) "Commercial account" means an agreement or arrangement between a commercial seller and a scrap metal business for regularly or periodically selling, delivering, purchasing or receiving metal property.

(2) "Commercial metal property" means an item fabricated or containing parts made of metal or metal alloys that:

(a) Is used as, used in or used as part of:

(A) A utility access cover or a cover for a utility meter;

(B) A pole, fixture or component of a street light or traffic light;

(C) A sign or marker located, with the permission of a governmental entity, alongside a street, road or bridge for the purpose of directing or controlling traffic or providing information to motorists;

(D) A traffic safety device, including a guardrail for a highway, road or bridge;

(E) A vase, plaque, marker, tablet, plate or other sign or ornament affixed to or in proximity to a historic site, grave, statue, monument or similar property accessible to members of the public;

(F) An agricultural implement, including an irrigation wheel, sprinkler head or pipe;

(G) A forestry implement or structure, including silvicultural equipment, gates, culverts and servicing and maintenance parts or supplies; or

(H) A logging operation implement, including mechanical equipment, rigging equipment and servicing and maintenance parts or supplies;

(b) Bears the name of, or a serial or model number, logo or other device used by, a commercial seller to identify the commercial seller's property including, but not limited to, implements or equipment used by railroads and utilities that provide telephone, commercial mobile radio, cable television, electricity, water, natural gas or similar services;

(c) Consists of material used in building construction or other commercial construction, including:

(A) Copper or aluminum pipe, tubing or wiring;

(B) Aluminum gutters, downspouts, siding, decking, bleachers or risers; or

(C) Aluminum or stainless steel fence panels made of one-inch tubing 42 inches long, with four-inch gaps; or

(d) Constitutes wire of a gauge typically used by utilities to provide electrical or telecommunications service.

(3) "Commercial seller" means:

(a) A business entity, as defined in ORS 60.470, business enterprise with a fixed place of business, nonprofit corporation or governmental entity that regularly or periodically sells or delivers metal property to a scrap metal business as part of the entity's business functions; or

(b) A person with a court order authorizing the possession and sale of particular metal property.

(4) "Dismantler" means the holder of a valid, current dismantler certificate issued under ORS 822.110.

(5) "Electronic funds transfer" has the meaning given that term in ORS 293.525.

(6) "Fixed place of business" means a location:

(a) Where a business enterprise primarily and regularly conducts the enterprise's business activity;

(b) That includes a commercial building; and

(c) That corresponds to the address shown on any licenses required by state law or local ordinance for all applicable business activity conducted at that location.

(7) "Law enforcement agency" has the meaning given that term in ORS 131.550.

(8) "Metal property" means commercial metal property, nonferrous metal property or private metal property.

(9)(a) "Nonferrous metal property" means an item fabricated or containing parts made of or in an alloy with copper, brass, aluminum, bronze, lead, zinc or nickel.

(b) "Nonferrous metal property" does not include gold, silver or platinum that is used in the manufacture, repair, sale or resale of jewelry.

(10) "Nonprofit corporation" means a corporation to which the Secretary of State has issued a certificate of existence or a certificate of authorization under ORS 65.027.

(11) "Private metal property" means a catalytic converter or a component of a catalytic converter that has been removed from a vehicle and is offered for sale as an independent item, whether individually or as part of a bundle, bale or in other bulk form.

(12)(a) "Scrap metal business" means a person that:

(A) Maintains a permanent or fixed place of business at which the person:

(i) Engages in the business of purchasing or receiving metal property;

(ii) Alters or prepares metal property the person receives for use in manufacturing other products; and

(iii) Owns, leases, rents, maintains or uses a device used in metal recycling, including a hydraulic baler, metal shearer or metal shredder;

(B) Maintains a permanent or fixed place of business at which the person engages in the business of purchasing or receiving metal property for the purpose of aggregation and sale to another scrap metal business;

(C) Does not necessarily maintain a permanent or fixed place of business in this state but engages in the business of purchasing or receiving nonferrous metal property for the purpose of aggregation and sale to another scrap metal business and holds any licenses required by state law or local ordinance for conducting all applicable business activity; or

(D) Engages in the business of purchasing or receiving private metal property at a fixed place of business and holds any licenses required by state law or local ordinance for all applicable business activity.

(b) "Scrap metal business" does not include a governmental entity that accepts metal property for recycling.

(13) "Stored value device" means a debit card or other device that draws funds from an account owned or operated by the user and that allows the user to obtain something of value from a merchant.

(14)(a) "Transaction" means a sale, purchase, receipt or trade of, or a contract, agreement or pledge to sell, purchase, receive or trade, private metal property or nonferrous metal property that occurs or forms between an individual and a scrap metal business.

(b) "Transaction" does not include:

(A) A transfer of metal property made without consideration; or

(B) A sale, purchase, receipt or trade of, or a contract, agreement or pledge to sell, purchase, receive or trade, private metal property or nonferrous metal property that occurs or forms between:

(i) A commercial seller or an authorized employee or agent of the commercial seller; and

(ii) A scrap metal business or an authorized employee or agent of the scrap metal business. [2009 c.811 §1; 2010 c.56 §1; 2011 c.450 §2; 2015 c.240 §1; 2021 c.412 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.117 - Metal property transaction records; prohibited conduct; commercial sellers; penalties.**

(1) Before completing a transaction, a scrap metal business engaged in business in this state shall:

(a) Create a metal property record for the transaction at the time and in the location where the transaction occurs. The record must:

(A) Be accurate and written clearly and legibly in English;

(B) Be entered onto a standardized printed form or an electronic form that is securely stored and is capable of ready retrieval and printing; and

(C) Contain all of the following information:

(i) The signature of the individual with whom the scrap metal business conducts the transaction.

(ii) The time, date, location and monetary amount or other value of the transaction.

(iii) The name of the employee who conducts the transaction on behalf of the scrap metal business.

(iv) The name and telephone number of the individual with whom the scrap metal business conducts the transaction and a street address or, if a post office box is listed on the government-issued photo identification described in sub-subparagraph (vi) of this subparagraph, a post office box, to which the scrap metal business will mail payment to the individual.

(v) The make, model year and the license plate number and state of issue of the motor vehicle or motor vehicles, if any, used to transport the individual who conducts the transaction and to transport the nonferrous metal property or private metal property that is the subject of the transaction.

(vi) A photocopy of a current, valid driver license or other government-issued photo identification belonging to the individual with whom the scrap metal business conducts the transaction.

(vii) A photograph of, or video surveillance recording depicting, a recognizable facial image of the individual with whom the scrap metal business conducts the transaction.

(viii) A general description of the nonferrous metal property that constitutes the predominant part of the transaction and a specific description of private metal property, if any, included in the transaction. The description must include any identifiable marks on the property, if readily discernible, and must specify the weight, quantity or volume of the nonferrous metal property or private metal property.

(ix) For private metal property, the vehicle identification number and a copy of the title or vehicle registration for the vehicle from which the private metal property was removed.

(b) Require the individual with whom the scrap metal business conducts a transaction to sign and date a declaration printed in conspicuous type, either on the record described in this subsection or on a receipt issued to the individual with whom the scrap metal business conducts the transaction, that states:

I, \_\_\_\_\_, AFFIRM UNDER PENALTY OF LAW THAT THE PROPERTY I AM SELLING IN THIS TRANSACTION IS NOT, TO THE BEST OF MY KNOWLEDGE, STOLEN PROPERTY.

(c) Require the employee of the scrap metal business who conducts the transaction on behalf of the scrap metal business to witness the individual sign the declaration, and also to sign and date the declaration in a space provided for that purpose.

(d) For one year following the date of the transaction, keep a copy of the record and the signed and dated declaration described in this subsection. If the scrap metal business uses a video surveillance recording as part of the record kept in accordance with this subsection, the scrap metal business need not keep the video surveillance recording for one year, but shall retain the video surveillance recording for a minimum of 30 days following the date of the transaction. The scrap metal business shall at all times keep the copies at the current place of business for the scrap metal business.

(2) A scrap metal business engaged in business in this state may not do any of the following:

(a) Purchase or receive kegs or similar metallic containers used to store or dispense alcoholic beverages, except from a person that manufactures the kegs or containers or from a person licensed by the Oregon Liquor and Cannabis Commission under ORS 471.155.

(b) Conduct a transaction with an individual if the individual does not at the time of the transaction consent to the creation of the record described in subsection (1) of this section and produce for inspection a valid driver license or other valid government-issued photo identification that belongs to the individual.

(c) Conduct a transaction with an individual in which the scrap metal business pays the individual other than by electronic funds transfer, stored value card or stored value device, or by mailing a nontransferable check, made payable to the individual, for the amount of the transaction to the street address or post office box the individual provided under subsection (1)(a)(C)(iv) of this section. Payment must be made not earlier than three business days after the date of the transaction. The check, electronic funds transfer or stored value device must be drawn on or must draw from an account that the scrap metal business maintains with a financial institution, as defined in ORS 706.008. A stored value card may be issued by a money transmission business licensed under ORS 717.200 to 717.320 or exempt from the licensing requirement under ORS 717.210.

(d) Purchase metal property from a nonprofit corporation other than by electronic funds transfer, stored value card or stored value device, or by mailing a nontransferable check, made payable to the nonprofit corporation, for the amount of the purchase price to the business address provided under subsection (4)(a)(B) of this section. Payment must be made not earlier than three business days after the date of the purchase. The check, electronic funds transfer or stored value device must be drawn on or must draw from an account that the scrap metal business maintains with a financial institution, as defined in ORS 706.008. A stored value card may be issued by a money transmission business licensed under ORS 717.200 to 717.320 or exempt from the licensing requirement under ORS 717.210.

(e) Purchase private metal property from a commercial seller other than by electronic funds transfer, credit card, debit card, stored value card or stored value device or by mailing a nontransferable check, made payable to the commercial seller, for the amount of the purchase price to the business address provided under subsection (4)(a)(B) of this section. Except for an electronic funds transfer, credit card transaction or debit card transaction which can be immediate, payment must be made not earlier than three business days after the date of the purchase. The check, electronic funds transfer, credit card, debit card or stored value device must be drawn on or must draw from an account that the scrap metal business maintains with a financial institution, as defined in ORS 706.008. A stored value card may be issued by a money transmission business licensed under ORS 717.200 to 717.320 or exempt from the licensing requirement under ORS 717.210.

(f) Cash or release a check issued in payment for a transaction or for a purchase described in paragraph (c), (d) or (e) of this subsection other than as provided in this paragraph or paragraph (c), (d) or (e) of this subsection. If a check is not delivered to the intended recipient within 10 days of the date of the transaction or the purchase, the scrap metal business may release the check directly to the individual or commercial seller with the written approval of a law enforcement agency having jurisdiction over the scrap metal business. If a check is returned as undelivered or undeliverable, the scrap metal business shall:

(A) Release the check directly to the individual or commercial seller with the written approval of a law enforcement agency having jurisdiction over the scrap metal business; or

(B) Retain the check until the individual or commercial seller to which the check was mailed provides a valid address in accordance with subsection (1)(a)(C)(iv) or (4)(a)(B) of this section. If after 30 days following the date of the transaction or the purchase described in paragraph (c), (d) or (e) of this subsection the individual or commercial seller fails to provide a valid address, the scrap metal business may cancel the check and the individual or commercial seller shall forfeit to the scrap metal business the amount due as payment.

(g) Purchase or receive private metal property, except from:

(A) A commercial seller; or

(B) An individual who is the owner of the vehicle from which the private metal property was removed and who provides the information required under subsection (1)(a)(C) of this section.

(3) If a scrap metal business obtains the approval of a law enforcement agency under subsection (2)(f) of this section, the scrap metal business shall retain the written approval for one year following the date the approval is received.

(4) Before purchasing or receiving metal property from a commercial seller, a scrap metal business shall:

(a) Create and maintain a commercial account with the commercial seller. As part of the commercial account, the scrap metal business shall enter accurately, clearly and legibly in English onto a standardized printed form, or an electronic form that is securely

stored and is capable of ready retrieval and printing, the following information:

- (A) The full name of the commercial seller;
  - (B) The business address and telephone number of the commercial seller; and
  - (C) The full name of each employee, agent or other individual the commercial seller authorizes to receive payment for metal property from the scrap metal business.
- (b) Create a metal property record as part of the commercial account at the time and in the location that the scrap metal business purchases or receives metal property from a commercial seller that contains the following information:
- (A) The time, date and location at which the scrap metal business purchased or received the metal property;
  - (B) The printed name and signature or electronic signature of the employee who conducted the purchase or receipt on behalf of the scrap metal business;
  - (C) The printed name and signature or electronic signature of the individual or individuals who conducted the purchase or receipt of the metal property on behalf of the commercial seller and of the individual or individuals who delivered the metal property on behalf of the commercial seller to the scrap metal business, if different;
  - (D) A photocopy of a valid driver license or other valid government-issued photo identification belonging to the individual or individuals who conducted the purchase or receipt of the metal property on behalf of the commercial seller and of the individual or individuals who delivered the metal property on behalf of the commercial seller to the scrap metal business, if different;
  - (E) The monetary amount or other value of the metal property;
  - (F) A description of the type of metal property that constitutes the predominant part of the purchase or receipt;
  - (G) For private metal property sold or transferred by a commercial seller other than a dismantler, the following information for the vehicle from which the private metal property was removed:
    - (i) The make, model year, vehicle identification number and, if available, the license plate number and issuing state shown on the license plate; and
    - (ii) The date that the commercial seller removed the private metal property; and
  - (H) For private metal property sold or transferred by a dismantler, the stock or yard number or numbers assigned to the private metal property by the dismantler under ORS 822.137.
- (c) Require all signatories to the metal property record to declare the accuracy of the information contained in the record by including on the metal property record in conspicuous type, "I AFFIRM BY MY SIGNATURE THAT UNDER PENALTY OF LAW THAT THE INFORMATION I PROVIDED AND REFLECTED ON THIS FORM IS TRUE AND ACCURATE."
- (5) A scrap metal business may require an individual from whom the business obtains metal property to provide the individual's thumbprint to the scrap metal business.
- (6) A scrap metal business shall make all records and accounts required to be maintained under this section available to any peace officer on demand.
- (7)(a) Except as otherwise provided in ORS 165.118, violation of this section is a specific fine violation, and the presumptive fine for the violation is \$1,000.
- (b) Notwithstanding paragraph (a) of this subsection, the presumptive fine for a violation of a provision of this section is \$5,000 if the scrap metal business has at least three previous convictions for violations of a provision of this section. [Formerly 165.107; 2015 c.240 §2; 2021 c.351 §4; 2021 c.412 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.118 - Metal property offenses.**

- (1) A person commits the offense of unlawfully altering metal property if the person, with intent to deceive a scrap metal business as to the ownership or origin of an item of metal property, knowingly removes, alters, renders unreadable or invisible or obliterates a name, logo, model or serial number, personal identification number or other mark or method that a manufacturer uses to identify the metal property.
- (2)(a) A person commits the offense of making a false statement on a metal property record if the person:
- (A) Knowingly makes, causes or allows to be made a false entry or misstatement of material fact in a metal property record described in ORS 165.117; or
  - (B) Signs a declaration under ORS 165.117 knowing that the nonferrous metal property or private metal property that is the subject of a transaction is stolen.
- (b) As used in this subsection, "material fact" means information required under ORS 165.117 (1)(a)(C) or (4)(b).
- (3) A person commits the offense of unlawfully purchasing or receiving metal property if the person is a scrap metal business, is an agent or employee of a scrap metal business or engages in the business of purchasing or receiving metal property and the person does any of the following:
- (a) Conducts a private metal property transaction or purchases or receives private metal property without holding a license required by state law or local ordinance to engage in all applicable business activity.
  - (b) Fails to create a metal property record under ORS 165.117 when purchasing or receiving private metal property or fails to properly maintain metal property records related to private metal property.
  - (c) Purchases or receives private metal property at any place other than a fixed place of business for either the scrap metal business or the commercial seller.

- (d) Purchases or receives private metal property if the person is not, or is not an agent or employee of, a business enterprise with a fixed place of business.
- (e) Fails to report any of the following to a law enforcement agency within 24 hours:
- (A) The purchase or receipt of metal property that the person knows or has good reason to know was the subject of theft.
- (B) The purchase or receipt of metal property that the person knows or has good reason to know has been unlawfully altered as described in subsection (1) of this section.
- (C) The purchase or receipt of metallic wire from which insulation has been removed, unless the individual offering the wire for purchase or receipt can prove by appropriate documentation that the individual owns or is entitled to offer the wire for purchase or receipt and that the insulation has been removed by accident or was done by legitimate means or for a legitimate purpose. The scrap metal business shall retain a copy of the documentation provided.
- (D) The purchase or receipt of commercial metal property that the person knows or has good reason to know was purchased or received from a person other than:
- (i) A commercial seller that has a commercial account with the scrap metal business; or
- (ii) An individual who can produce written documentation or identification that proves that the individual is an employee, agent or other individual authorized by a commercial seller that has a commercial account with the scrap metal business to deliver commercial metal property for purchase or receipt.
- (E) The purchase or receipt of metal property from an individual whom the person knows or has good reason to know is under 16 years of age or has, according to written or electronically transmitted information provided by a peace officer or government agency, been convicted within the past five years, as a principal, agent or accessory of a crime involving:
- (i) Drugs;
- (ii) Burglary, robbery or theft;
- (iii) Possession or receipt of stolen property;
- (iv) The manufacture, delivery or possession of, with intent to deliver, methamphetamine;
- (v) The manufacture, delivery or possession of, with intent to deliver, ephedrine or a salt, isomer or salt of an isomer of ephedrine;
- (vi) The manufacture, delivery or possession of, with intent to deliver, pseudoephedrine or a salt, isomer or salt of an isomer of pseudoephedrine; or
- (vii) Possession of anhydrous ammonia with intent to manufacture methamphetamine.
- (4) Violation of a provision of subsections (1) to (3) of this section is a Class A misdemeanor. [2009 c.811 §2; 2010 c.56 §2; 2021 c.412 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.122 - Compliance with subpoena for information related to metal transaction; lost or stolen metal property.**

- (1) Not later than two business days after receiving from a peace officer or law enforcement agency a subpoena for information related to a named or specified individual, vehicle or item of metal property, a scrap metal business shall provide to the peace officer or law enforcement agency a copy of a metal property record created under ORS 165.117 or a copy of the relevant portion of a commercial account that contains the information about the individual, vehicle or item of metal property that is the subject of the subpoena. The scrap metal business shall provide the information in any form or by any method reasonably required by the peace officer or law enforcement agency.
- (2) If a scrap metal business knows or has good reason to know that metal property that the scrap metal business purchased or received or possesses or controls was lost by or stolen from the metal property's owner or lawful possessor, the scrap metal business shall promptly notify an appropriate law enforcement agency and shall:
- (a) Name the owner or lawful possessor of the property, if known; and
- (b) Disclose the name of the person that delivered the metal property and the date on which the scrap metal business received the metal property.
- (3) If a peace officer or law enforcement agency notifies a scrap metal business that an item of metal property in the possession or control of the scrap metal business is lost or stolen, the scrap metal business shall:
- (a) Segregate the metal property that is the subject of the notification from other inventory kept by the scrap metal business;
- (b) Protect the metal property from alteration or damage;
- (c) Mark, tag or otherwise identify the metal property; and
- (d) Hold the metal property for the length of time, not to exceed 10 days, that the peace officer or law enforcement agency specifies.
- (4) A peace officer or law enforcement agency may not require a scrap metal business to hold metal property under subsection (3) of this section unless the peace officer or law enforcement agency reasonably suspects that the metal property was lost by or stolen from the owner or lawful possessor of the metal property. Within 10 days after notifying a scrap metal business that an item of metal property may be lost or stolen, the peace officer or law enforcement agency shall:
- (a) Determine that the metal property is lost or stolen and take appropriate lawful action to impound or recover the metal property and return the metal property to the owner or lawful possessor; or
- (b) Determine that the metal property is not lost or stolen and notify the scrap metal business that it is not necessary to hold the metal property any longer. [2009 c.811 §4; 2010 c.56 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.124 - Application of ORS 164.857, 165.116, 165.117, 165.118 and 165.122.**

- (1) Except as provided in subsection (2) of this section, ORS 164.857, 165.116, 165.117, 165.118 and 165.122 do not apply to:
- (a) A person engaged in recycling beverage containers as defined in ORS 459A.700.
  - (b) A person engaged in buying or selling used or empty food containers made of metal.
  - (c) A person to whom a vehicle dealer certificate has been issued under ORS 822.020.
  - (d) A person to whom a dismantler certificate has been issued under ORS 822.110.
  - (e) A person to whom a towing business certificate has been issued under ORS 822.205.
- (2) A person described in subsection (1)(c) to (e) of this section shall comply with and is subject to the penalty provided for violating a provision of ORS 164.857, 165.116, 165.117, 165.118 or 165.122, if the person purchases, receives or transports or acts as a commercial seller of:
- (a) Private metal property; or
  - (b) Commercial metal property or nonferrous metal property, that is not a motor vehicle or a part of a motor vehicle.
- (3) Notwithstanding subsection (2) of this section, ORS 164.857, 165.116, 165.117, 165.118 and 165.122 do not apply to a person who sells private metal property if the person:
- (a) Sells the private metal property as a vehicle repair part;
  - (b) Complies with United States Environmental Protection Agency policies and regulations related to private metal property, including testing and labeling requirements;
  - (c) Maintains a fixed place of business at which the person engages in the business of selling vehicle repair parts;
  - (d) Holds any licenses required by federal or state law or local ordinance for conducting all applicable business activity;
  - (e) Clearly and legibly marks the private metal property:
    - (A) With the vehicle identification number of the vehicle from which the private metal property was removed or with an alternative number;
    - (B) With the date the private metal property was removed from the vehicle; and
    - (C) In English and in a permanent manner, including but not limited to engraving or the use of permanent ink or a permanent label; and
  - (f) Provides the vehicle identification number of the vehicle from which the private metal property was removed upon the request of a law enforcement official, if the person used an alternative number instead of the vehicle identification number. [2009 c.811 §5; 2021 c.412 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.127 - County metal theft plan of action.**

- (1) In each county in which a scrap metal business, as defined in ORS 165.116, has a place of business, the district attorney of the county shall, after consulting with representatives of the affected law enforcement agencies and the business community, create a written plan of action that ensures effective communication between law enforcement and the business community regarding the theft of metal property as defined in ORS 165.116.
- (2) The written plan of action must include, but need not be limited to, a procedure for law enforcement agencies to notify scrap metal businesses of a theft of metal property within 24 hours after the receipt of the report of the theft.
- (3) The district attorney shall provide a copy of the written plan of action to the local public safety coordinating council described in ORS 423.560. [2009 c.811 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.535 - Definitions applicable to obtaining contents of communications.**

As used in ORS 41.910, 133.723, 133.724, 165.540 and 165.545:

- (1) "Conversation" means the transmission between two or more persons of an oral communication which is not a telecommunication or a radio communication, and includes a communication occurring through a video conferencing program.
- (2) "Person" has the meaning given that term in ORS 174.100 and includes:
- (a) Public officials and law enforcement officers of:
    - (A) The state and of a county, municipal corporation or any other political subdivision of the state; and
    - (B) A police department established by a university under ORS 352.121 or 353.125; and
  - (b) Authorized tribal police officers as defined in ORS 181A.940.
- (3)(a) "Radio communication" means the transmission by radio or other wireless methods of writing, signs, signals, pictures and sounds of all kinds, including all instrumentalities, facilities, equipment and services (including, among other things, the receipt, forwarding and delivering of communications) incidental to such transmission.
- (b) "Radio communication" does not include a communication occurring through a video conferencing program.
- (4)(a) "Telecommunication" means the transmission of writing, signs, signals, pictures and sounds of all kinds by aid of wire, cable or other similar connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, equipment and services (including, among other things, the receipt, forwarding and delivering of communications) incidental to such



transmission.

(b) "Telecommunication" does not include a communication occurring through a video conferencing program.

(5) "Video conferencing program" means software or an application for a computer or cellular telephone that allows two or more persons to communicate via simultaneous video transmission. [1955 c.675 §1; 1959 c.681 §1; 1983 c.740 §34; 2011 c.644 §§25,67,74; 2013 c.180 §§27,28; 2015 c.174 §13; 2021 c.357 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.540 - Obtaining contents of communications.**

(1) Except as otherwise provided in ORS 133.724 or 133.726 or subsections (2) to (8) of this section, a person may not:

(a) Obtain or attempt to obtain the whole or any part of a telecommunication or a radio communication to which the person is not a participant, by means of any device, contrivance, machine or apparatus, whether electrical, mechanical, manual or otherwise, unless consent is given by at least one participant.

(b) Tamper with the wires, connections, boxes, fuses, circuits, lines or any other equipment or facilities of a telecommunication or radio communication company over which messages are transmitted, with the intent to obtain unlawfully the contents of a telecommunication or radio communication to which the person is not a participant.

(c) Obtain or attempt to obtain the whole or any part of a conversation by means of any device, contrivance, machine or apparatus, whether electrical, mechanical, manual or otherwise, if not all participants in the conversation are specifically informed that their conversation is being obtained.

(d) Obtain the whole or any part of a conversation, telecommunication or radio communication from any person, while knowing or having good reason to believe that the conversation, telecommunication or radio communication was initially obtained in a manner prohibited by this section.

(e) Use or attempt to use, or divulge to others, any conversation, telecommunication or radio communication obtained by any means prohibited by this section.

(2)(a) The prohibitions in subsection (1)(a), (b) and (c) of this section do not apply to:

(A) Officers, employees or agents of a telecommunication or radio communication company who perform the acts prohibited by subsection (1)(a), (b) and (c) of this section for the purpose of construction, maintenance or conducting of their telecommunication or radio communication service, facilities or equipment.

(B) Public officials in charge of and at jails, police premises, sheriffs' offices, Department of Corrections institutions and other penal or correctional institutions, except as to communications or conversations between an attorney and the client of the attorney.

(b) Officers, employees or agents of a telecommunication or radio communication company who obtain information under paragraph (a) of this subsection may not use or attempt to use, or divulge to others, the information except for the purpose of construction, maintenance, or conducting of their telecommunication or radio communication service, facilities or equipment.

(3) The prohibitions in subsection (1)(a), (b) or (c) of this section do not apply to subscribers or members of their family who perform the acts prohibited in subsection (1) of this section in their homes.

(4) The prohibitions in subsection (1)(a) of this section do not apply to the receiving or obtaining of the contents of any radio or television broadcast transmitted for the use of the general public.

(5) The prohibitions in subsection (1)(c) of this section do not apply to:

(a) A person who records a conversation during a felony that endangers human life;

(b) A person who records a conversation in which a law enforcement officer is a participant, if:

(A) The recording is made while the officer is performing official duties;

(B) The recording is made openly and in plain view of the participants in the conversation;

(C) The conversation being recorded is audible to the person by normal unaided hearing; and

(D) The person is in a place where the person lawfully may be;

(c)(A) A person who, pursuant to ORS 133.400, records an interview conducted by a peace officer in a law enforcement facility; or

(B) A person who, pursuant to ORS 133.402, records a custodial interview, as defined ORS 133.402;

(d) A law enforcement officer who is in uniform and displaying a badge and who is operating:

(A) A vehicle-mounted video camera that records the scene in front of, within or surrounding a police vehicle, unless the officer has reasonable opportunity to inform participants in the conversation that the conversation is being obtained; or

(B) A video camera worn upon the officer's person that records the officer's interactions with members of the public while the officer is on duty, unless:

(i) The officer has an opportunity to announce at the beginning of the interaction that the conversation is being obtained; and

(ii) The announcement can be accomplished without causing jeopardy to the officer or any other person and without unreasonably impairing a criminal investigation; or

(e) A law enforcement officer who, acting in the officer's official capacity, deploys an Electro-Muscular Disruption Technology device that contains a built-in monitoring system capable of recording audio or video, for the duration of that deployment.

(6)(a) The prohibitions in subsection (1)(c) of this section do not apply to persons who intercept or attempt to intercept oral communications that are part of any of the following proceedings, if the person uses an unconcealed recording device or if the communications occur through a video conferencing program:

(A) Public or semipublic meetings such as hearings before governmental or quasi-governmental bodies, trials, press conferences,

public speeches, rallies and sporting or other events;

(B) Regularly scheduled classes or similar educational activities in public or private institutions; or

(C) Private meetings or conferences if all others involved knew or reasonably should have known that the recording was being made.

(b) The prohibitions in subsection (1)(c) of this section do not apply to a person who, with the intent to capture alleged unlawful activity, obtains or attempts to obtain a conversation occurring through a video conferencing program if the person is a participant in the conversation, or at least one participant in the conversation consents to the recording, and:

(A) The person is a law enforcement officer or is acting in coordination with a law enforcement officer;

(B) The person is acting in coordination with an attorney or an enforcement or regulatory entity; or

(C) The person reasonably believes that the recording may be used as evidence in a judicial or administrative proceeding.

(7) The prohibitions in subsection (1)(a), (c), (d) and (e) of this section do not apply to any:

(a) Radio communication that is transmitted by a station operating on an authorized frequency within the amateur or citizens bands; or

(b) Person who intercepts a radio communication that is transmitted by any governmental, law enforcement, civil defense or public safety communications system, including police and fire, readily accessible to the general public provided that the interception is not for purposes of illegal activity.

(8) The prohibitions in subsection (1)(d) and (e) of this section do not apply to a person who did not participate in initially obtaining the conversation, telecommunication or radio communication if the conversation, telecommunication or radio communication is regarding a matter of public concern.

(9) Violation of subsection (1) or (2)(b) of this section is a Class A misdemeanor.

(10) The exception described in subsection (5)(b) of this section does not authorize the person recording the law enforcement officer to engage in criminal trespass as described in ORS 164.243, 164.245, 164.255, 164.265 or 164.278 or to interfere with a peace officer as described in ORS 162.247.

(11) As used in this section:

(a) "Electro-Muscular Disruption Technology device" means a device that uses a high-voltage, low power charge of electricity to induce involuntary muscle contractions intended to cause temporary incapacitation. "Electro-Muscular Disruption Technology device" includes devices commonly known as tasers.

(b) "Law enforcement officer" has the meaning given that term in ORS 133.726. [1955 c.675 §§2,7; 1959 c.681 §2; 1961 c.460 §1; 1979 c.744 §9; 1983 c.693 §1; 1983 c.740 §35; 1983 c.824 §1; 1987 c.320 §87; 1989 c.983 §14a; 1989 c.1078 §1; 2001 c.104 §54; 2001 c.385 §4; 2003 c.14 §62; 2007 c.879 §1; 2009 c.488 §2; 2015 c.550 §2; 2015 c.553 §1; 2019 c.216 §3; 2021 c.357 §2; 2023 c.234 §1]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.542 - Reports required concerning use of electronic listening device.**

(1) Within 30 days after the use of an electronic listening device under ORS 133.726 (7) or 165.540 (5)(a), the law enforcement agency using the device shall report to the district attorney of the county in the agency's jurisdiction:

(a) The number of uses of the device and duration of the interceptions made by the law enforcement agency;

(b) The offense investigated;

(c) The identity of the law enforcement agency intercepting the communication; and

(d) Whether the person wearing the device was a law enforcement officer or a person under the supervision of the officer and the number of persons in each category who wore the device.

(2) During January of each year, the district attorney of a county in which electronic listening devices were used under ORS 133.726 (7) or 165.540 (5)(a) shall report to the Department of Justice:

(a) The information required by subsection (1) of this section with respect to the use of electronic listening devices during the preceding calendar year; and

(b) The aggregate number of instances in which electronic listening devices have been used in the county under ORS 133.726 (7) or 165.540 (5)(a) during the preceding calendar year.

(3) The law enforcement agency shall include as part of the case file any use of electronic listening devices under ORS 133.726 (7) or 165.540 (5)(a).

(4) During April of each odd-numbered calendar year, the Department of Justice shall transmit to the Legislative Assembly a report including a summary of the information required by subsections (1) and (2) of this section.

(5) Failure to comply with the reporting requirements of this section shall not affect the admissibility of evidence. [1989 c.1078 §2; 2001 c.385 §7; 2007 c.879 §2]

### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.543 - Interception of communications.**

(1) Except as provided in ORS 133.724 or as provided in ORS 165.540 (2)(a), any person who willfully intercepts, attempts to intercept or procures any other person to intercept or attempt to intercept any wire or oral communication where such person is not a party to the communication and where none of the parties to the communication has given prior consent to the interception, is guilty

of a Class A misdemeanor.

(2) As used in this section, the terms "intercept" and "wire or oral communication" have the meanings provided under ORS 133.721. [1983 c.824 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.545 - Prohibitions not applicable to fire or police activities.**

Nothing in ORS 165.535, 165.540 and this section, shall be construed as preventing fire or police governmental entities from recording, replaying or broadcasting telecommunication or radio communication that directly concern police or fire operation at the telephone or radio operation center or centers of such governmental entity. [1959 c.681 §6; 1981 c.806 §2; 1983 c.740 §36]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.549 - Prevention of telephone communications when hostage taken; duties of telephone company; defense against liability.**

(1) A supervising law enforcement official having jurisdiction in a geographical area in which the official has probable cause to believe that a hostage is being held may order a telephone company security employee or alternate described in subsection (2) of this section to cut, reroute or divert telephone lines to prevent telephone communications between the individual holding the hostage and any individual other than a peace officer or an individual designated by the peace officer.

(2) The telephone company providing service within a geographical area shall notify, in writing, all law enforcement agencies having jurisdiction in that area of the address and telephone number of its security office or other office designated to provide the assistance to law enforcement officials required under this section. The telephone company shall also provide, in writing, the telephone number where the security representative or other telephone company official authorized to provide assistance under this section can be reached at any time. The telephone company shall notify the law enforcement agencies of any change in the information required under this subsection.

(3) Good faith reliance upon an order by a supervising law enforcement official is a complete defense to any civil or criminal action arising out of the cutting, rerouting or diverting of a telephone line pursuant to this section. [1979 c.605 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.555 - Unlawful telephone solicitation of contributions for charitable purposes.**

(1) No person shall solicit by telephone contributions of money or any other thing of value, whether or not in exchange for a ticket or any other thing of value, for a charitable or eleemosynary purpose, whether bona fide or purported, unless the person:

(a) Has been a member in full standing for at least six months of the charitable organization conducting the solicitation and is participating in the solicitation on an uncompensated basis;

(b) Has been employed directly by the charitable organization conducting the solicitation for at least six months prior to the solicitation and is receiving a substantial salary; or

(c) And the person solicited are personally known to each other.

(2) Any violation of subsection (1) of this section is a Class C misdemeanor. [1973 c.473 §§1,4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.560 - Application of ORS 165.555.**

ORS 165.555 does not apply to solicitations on behalf of hospitals or of nonprofit organizations organized and operated exclusively for religious, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals. [1973 c.473 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.565 - Optional local ordinances; certain existing local ordinances preserved.**

A city or county may enact ordinances which are more strict than ORS 165.555 to 165.565. ORS 165.555 to 165.565 do not affect any ordinances which are more strict than ORS 165.555 to 165.565 and are in effect on October 5, 1973. [1973 c.473 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.570 - Improper use of emergency communications system.**

(1) A person commits the crime of improper use of the emergency communications system if the person knowingly:

(a) Makes an emergency call or calls the tip line for a purpose other than to report a situation that the person reasonably believes requires prompt service in order to preserve human life or property; or

(b) Allows another person to use communications equipment owned, rented or leased by or under the control of the person to make an emergency call or call the tip line for a purpose other than to report a situation that the other person reasonably believes requires prompt service in order to preserve human life or property.

(2) As used in this section:

(a) "Emergency call" has the meaning given that term in ORS 403.105.

(b) "Emergency communications system" has the meaning given that term in ORS 403.105.

(c) "Tip line" means the statewide tip line established under ORS 339.329.

(3) Improper use of the emergency communications system is a Class A misdemeanor. [1995 c.566 §1; 2001 c.619 §4; 2015 c.247 §29; 2016 c.74 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.572 - Interference with making a report.**

(1) A person commits the crime of interference with making a report if the person, by removing, damaging or interfering with a telephone line, telephone or similar communication equipment, intentionally prevents or hinders another person from making a report to a law enforcement agency, a law enforcement official or an agency charged with the duty of taking public safety reports or from making an emergency call as defined in ORS 403.105.

(2) Interference with making a report is a Class A misdemeanor. [1999 c.946 §1; 2015 c.247 §30]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.575 - Definitions for ORS 165.575 to 165.583.**

As used in ORS 165.575 to 165.583:

(1) "Cellular telephone" means a radio telecommunications device that may be used to obtain access to the public and cellular switch telephone networks and that is programmed by the manufacturer with an electronic serial number.

(2) "Cellular telephone service" means all services and cellular telephone equipment and capabilities available from a provider to an end user for a fee.

(3) "Cloned cellular telephone" or "counterfeit cellular telephone" means a cellular telephone, the electronic serial number of which has been altered by someone other than the manufacturer.

(4) "Cloning paraphernalia" means materials that, when possessed in combination, are capable of creating a cloned cellular telephone. "Cloning paraphernalia" includes, but is not limited to:

(a) Scanners to intercept electronic serial numbers and mobile identification numbers;

(b) Cellular telephones;

(c) Cables;

(d) EPROM chips;

(e) EPROM burners;

(f) Software for programming the cellular telephone with a false electronic serial number, mobile identification number, other identifiable data or a combination thereof;

(g) Computers containing software described in paragraph (f) of this subsection; and

(h) Lists of electronic serial number and mobile identification number combinations.

(5) "Electronic serial number" means a unique number that is programmed into a cellular telephone by the manufacturer, transmitted by the cellular telephone and used by cellular telephone providers to validate radio transmissions to the system as having been made by an authorized device.

(6) "End user" is a person who pays a fee to subscribe to cellular telephone service from a provider or a person receiving a call from or sending a call to the person paying or subscribing for cellular telephone service.

(7) "Intercept" means to electronically capture, record, reveal or otherwise access the signals emitted or received during the operation of a cellular telephone by any instrument, device or equipment without the consent of the sender or receiver.

(8) "Mobile identification number" means the cellular telephone number assigned to the cellular telephone by the cellular telephone provider.

(9) "Provider" means a licensed seller of cellular telephone service or a reselling agent authorized by a licensed seller. [1995 c.524 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.577 - Cellular counterfeiting in the third degree.**

(1) A person commits the crime of cellular counterfeiting in the third degree if the person knowingly possesses a cloned cellular telephone and knows that the telephone is unlawfully cloned.

(2) Cellular counterfeiting in the third degree is a Class A misdemeanor. [1995 c.524 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.579 - Cellular counterfeiting in the second degree.**

(1) A person commits the crime of cellular counterfeiting in the second degree if the person knowingly possesses, and knows the unlawful nature of using, any cloning paraphernalia or any instrument capable of intercepting electronic serial numbers, mobile identification numbers, other identifiable data or a combination thereof and:

(a) Causes more than \$100 in losses or damages; or

(b) Intercepts or obtains, or attempts to intercept or obtain, cellular telephone service of more than \$100 in value.

(2) Cellular counterfeiting in the second degree is a Class C felony. [1995 c.524 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.581 - Cellular counterfeiting in the first degree.**

(1) A person commits the crime of cellular counterfeiting in the first degree if the person knowingly possesses or distributes, and knows the unlawful nature of using, any cloning paraphernalia or any instrument capable of intercepting electronic serial numbers, mobile identification numbers, other identifiable data or a combination thereof and agrees with, encourages, solicits or permits one or more other persons to engage in or cause, or obtain cellular telephone service through, cellular counterfeiting and:

- (a) Causes more than \$100 in losses or damages; or
  - (b) Intercepts, obtains or causes to be obtained cellular telephone service of more than \$100 in value.
- (2) Cellular counterfeiting in the first degree is a Class B felony. [1995 c.524 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.583 - Exemptions from ORS 165.577, 165.579 and 165.581.**

The provisions of ORS 165.577, 165.579 and 165.581 do not apply to:

- (1) Officers, employees or agents of cellular telephone service providers who engage in conduct prohibited by ORS 165.577, 165.579 or 165.581 for the purpose of constructing, maintaining or conducting the radio telecommunication service or for law enforcement purposes;
- (2) Law enforcement officers and public officials in charge of jails, police premises, sheriffs' offices, Department of Corrections institutions and other penal or correctional institutions, or any other person under the color of law, who engages in conduct prohibited by ORS 165.577, 165.579 or 165.581 for the purpose of law enforcement or in the normal course of the officer's or official's employment activities or duties; and
- (3) Officers, employees or agents of federal or state agencies that are authorized to monitor or intercept cellular telephone service in the normal course of the officer's, employee's or agent's employment. [1995 c.524 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.657 - Definitions for ORS 165.659 to 165.669.**

As used in ORS 165.659 to 165.669, unless the context requires otherwise:

- (1) "Electronic communication" has the meaning given in ORS 133.721.
- (2) "Pen register" means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but does not include any device used by a provider or customer of a provider of electronic or wire communication service for billing or recording as an incident to billing for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.
- (3) "Police officer" has the meaning given in ORS 133.525.
- (4) "Trap and trace device" means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted.
- (5) "Wire communication" has the meaning given in ORS 133.721. [1989 c.983 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.659 - General prohibition.**

Except as provided in ORS 133.545, 133.575, 133.595, 133.617, 133.619, 133.721, 133.724, 133.729, 133.731, 133.735, 133.737, 133.739, 165.540 and 165.657 to 165.673, no person may install or use a pen register or trap and trace device. [1989 c.983 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.661 - When provider of communication service may use devices.**

The provider of electronic or wire communication service may use a pen register or a trap and trace device:

- (1) In the operation, maintenance and testing of a wire or electronic communication service or in the protection of the rights or property of such provider or in the protection of users of that service from abuse of service or unlawful use of service;
- (2) To record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication or a user of that service, from fraudulent, unlawful or abusive use of service; or
- (3) When the consent of the user of that service has been obtained. [1989 c.983 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.663 - Use by police; application to court; statement required.**

Any police officer may apply to the circuit court in which judicial district the targeted telephone is located for an ex parte order or extension of an order authorizing the installation and use of a pen register or a trap and trace device. The application shall:

- (1) Be in writing under oath;
- (2) Include the identity of the applicant and the identity of the law enforcement agency conducting the investigation;

- (3) Contain a statement demonstrating that there is probable cause to believe that an individual is committing, has committed or is about to commit:
  - (a) A particular felony of murder, kidnapping, arson, robbery, bribery, extortion or other crime dangerous to life and punishable as a felony;
  - (b) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894, 475.906, 475C.005 to 475C.525 or 475C.770 to 475C.919;
  - (c) A crime under ORS 166.720 that includes as part of the pattern of racketeering activity at least one incident of conduct that constitutes a felony; or
  - (d) Any conspiracy to commit a crime described in paragraphs (a) to (c) of this subsection; and
- (4) Contain a statement demonstrating that use of a pen register or trap and trace device will yield evidence relevant to the crime. [1989 c.983 §18; 2003 c.451 §1; 2005 c.708 §49; 2023 c.209 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.667 - Order by court; findings; contents of order.**

- (1) Upon application made under ORS 133.545, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device if the court finds that there is probable cause to believe that:
  - (a) An individual is committing, has committed or is about to commit:
    - (A) A particular felony of murder, kidnapping, arson, robbery, bribery, extortion or other crime dangerous to life and punishable as a felony;
    - (B) A crime punishable as a felony under ORS 475.752, 475.806 to 475.894 or 475.906;
    - (C) A crime under ORS 166.720 that includes as part of the pattern of racketeering activity at least one incident of conduct that constitutes a felony; or
    - (D) Any conspiracy to commit a crime described in subparagraphs (A) to (C) of this paragraph; and
  - (b) Use of a pen register or trap and trace device will yield evidence relevant to the crime.
- (2) The order shall:
  - (a) Specify the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached;
  - (b) Specify the identity, if known, of the person who is the subject of the criminal investigation;
  - (c) Specify the number and, if known, physical location of the telephone number to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order;
  - (d) Contain a statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates;
  - (e) Direct, upon the request of the applicant, the furnishing of information, facilities and technical assistance necessary to accomplish the installation of the pen register or trap and trace device;
  - (f) Authorize the installation and use of a pen register or a trap and trace device for a period not to exceed 30 days, which may be extended by application and order for a period not to exceed an additional 30 days;
  - (g) Direct that the order and application be sealed until otherwise ordered by the court; and
  - (h) Direct the person owning or leasing the line to which the pen register or the trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not to disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber or to any other person, unless or until otherwise ordered by the court. [1989 c.983 §19; 2003 c.451 §2; 2005 c.708 §50]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.669 - Duties imposed upon certain persons upon service of order authorizing installation of pen register or trap and trace device; compensation to persons; immunity.**

- (1) Upon service of an order issued under ORS 133.545, 133.575, 133.595, 133.617, 133.619, 133.721, 133.724, 133.729, 133.731, 133.735, 133.737, 133.739, 165.540 and 165.657 to 165.673, a provider of wire or electronic communication service, landlord, custodian or other person shall furnish the investigating law enforcement agency forthwith with all information, facilities and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by the order.
- (2) Under service of an order issued under ORS 133.545, 133.575, 133.595, 133.617, 133.619, 133.721, 133.724, 133.729, 133.731, 133.735, 133.737, 133.739, 165.540 and 165.657 to 165.673, a provider of wire or electronic communication service, landlord, custodian or other person shall furnish the investigating law enforcement agency forthwith with all information, facilities and technical assistance necessary to accomplish the installation of the trap and trace device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by the order. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the police officer designated in the order at reasonable intervals during regular business hours for the duration of the order.

(3) A provider of wire or electronic communication service, landlord, custodian or other person who furnishes facilities or technical assistance pursuant to ORS 133.545, 133.575, 133.595, 133.617, 133.619, 133.721, 133.724, 133.729, 133.731, 133.735, 133.737, 133.739, 165.540 and 165.657 to 165.673 shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

(4) No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of a court order under ORS 133.545, 133.575, 133.595, 133.617, 133.619, 133.721, 133.724, 133.729, 133.731, 133.735, 133.737, 133.739, 165.540 and 165.657 to 165.673. [1989 c.983 §§20,21,22,23]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.671 - Defense to civil or criminal action.**

A good faith reliance on a court order, a legislative authorization or a statutory authorization is a complete defense against any civil or criminal action brought under ORS 133.545, 133.575, 133.595, 133.617, 133.619, 133.721, 133.724, 133.726, 133.729, 133.731, 133.735, 133.737, 133.739, 165.540 and 165.657 to 165.673. [1989 c.983 §24; 2001 c.385 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.673 - Disclosure of results prohibited; exception.**

No law enforcement agency shall disclose lists of telephone numbers produced by a pen register or trap and trace device except in the performance of a law enforcement function or as otherwise provided by law or order of a court. [1989 c.983 §25]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.690 - Definitions for ORS 165.690, 165.692 and 165.694.**

As used in ORS 165.690, 165.692 and 165.694:

- (1) "Claim for health care payment" means any request or demand for a health care payment, whether made in the form of a bill, claim form, cost report, invoice, electronic transmission or any other document. "Claim for health care payment" does not include any statement by a person on an application for coverage under a contract or certificate of health care coverage issued by an insurer, health care service contractor, health maintenance organization or other legal entity that is self-insured and provides health care benefits to its employees.
- (2) "Health care payment" means money paid in compensation for the delivery of specified health care services, whether under a contract, certificate or policy of insurance, by a health care payor.
- (3) "Health care payor" means:
  - (a) Any insurance company authorized to provide health insurance in this state;
  - (b) A health maintenance organization;
  - (c) A health care service contractor;
  - (d) Any legal entity that is self-insured and provides benefits for health care services to its employees;
  - (e) Any legal entity responsible for handling claims for health care services under a state or federal medical assistance program;
  - (f) The State of Oregon or any local government within this state that makes payments for health care services;
  - (g) Any insurer authorized under ORS chapter 731 to transact workers' compensation or casualty insurance in this state; or
  - (h) Any employer authorized under ORS chapter 656 to self-insure its workers' compensation risk.
- (4) "Health care services" means any medical or remedial care or service, including supplies delivered in connection with the care or service, that is recognized under state law.
- (5) "Person" means an individual, corporation, partnership or association that provides health care services or any other form of legal or business entity that provides health care services. [1995 c.496 §1; 2001 c.556 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.692 - Making false claim for health care payment.**

A person commits the crime of making a false claim for health care payment when the person:

- (1) Knowingly makes or causes to be made a claim for health care payment that contains any false statement or false representation of a material fact in order to receive a health care payment; or
- (2) Knowingly conceals from or fails to disclose to a health care payor the occurrence of any event or the existence of any information with the intent to obtain a health care payment to which the person is not entitled, or to obtain or retain a health care payment in an amount greater than that to which the person is or was entitled. [1995 c.496 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.694 - Aggregation of claims.**

- (1) Single acts of making a false claim for health care payment may be added together into aggregated counts of making false claims for health care payments if the acts were committed:
  - (a) Against multiple health care payors by similar means within a 30-day period; or

- (b) Against the same health care payor, or a contractor, or contractors, of the same health care payor, within a 180-day period.
- (2) The charging instrument must identify those claims that are part of any aggregated counts. [1995 c.496 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.696 - Who may commence prosecution.**

The district attorney or the Attorney General may commence a prosecution under ORS 165.692. [1995 c.496 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.698 - Notice of conviction.**

The prosecuting attorney shall notify the Oregon Health Authority and any appropriate licensing boards of the conviction of a person under ORS 165.692. [1995 c.496 §5; 2009 c.595 §111]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.800 - Identity theft.**

- (1) A person commits the crime of identity theft if the person, with the intent to deceive or to defraud, obtains, possesses, transfers, creates, utters or converts to the person's own use the personal identification of another person.
- (2) Identity theft is a Class C felony.
- (3) It is an affirmative defense to violating subsection (1) of this section that the person charged with the offense:
  - (a) Was under 21 years of age at the time of committing the offense and the person used the personal identification of another person solely for the purpose of purchasing alcohol, tobacco products as defined in ORS 431A.175 or inhalant delivery systems as defined in ORS 431A.175; or
  - (b) Used the personal identification of another person solely for the purpose of misrepresenting the person's age to gain access to a:
    - (A) Place the access to which is restricted based on age; or
    - (B) Benefit based on age.
  - (4) As used in this section:
    - (a) "Another person" means an individual, whether living or deceased, an imaginary person or a firm, association, organization, partnership, business trust, company, corporation, limited liability company, professional corporation or other private or public entity.
    - (b) "Personal identification" includes, but is not limited to, any written document or electronic data that does, or purports to, provide information concerning:
      - (A) A person's name, address or telephone number;
      - (B) A person's driving privileges;
      - (C) A person's Social Security number or tax identification number;
      - (D) A person's citizenship status or an identification number assigned to a noncitizen;
      - (E) A person's employment status, employer or place of employment;
      - (F) The identification number assigned to a person by a person's employer;
      - (G) The maiden name of a person or a person's mother;
      - (H) The identifying number of a person's depository account at a "financial institution" or "trust company," as those terms are defined in ORS 706.008, or a credit card account;
      - (I) A person's signature or a copy of a person's signature;
      - (J) A person's electronic mail name, electronic mail signature, electronic mail address or electronic mail account;
      - (K) A person's photograph;
      - (L) A person's date of birth; and
      - (M) A person's personal identification number. [1999 c.1022 §1; 2001 c.870 §3; 2007 c.583 §1; 2013 c.158 §34; 2015 c.158 §25; 2017 c.701 §15; 2022 c.97 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.803 - Aggravated identity theft.**

- (1) A person commits the crime of aggravated identity theft if:
  - (a) The person violates ORS 165.800 in 10 or more separate incidents within a 180-day period;
  - (b) The person violates ORS 165.800 and the person has a previous conviction for aggravated identity theft;
  - (c) The person violates ORS 165.800 and the losses incurred in a single or aggregate transaction are \$10,000 or more within a 180-day period; or
  - (d) The person violates ORS 165.800 and has in the person's custody, possession or control 10 or more pieces of personal identification from 10 or more different persons.
- (2) Aggravated identity theft is a Class B felony.
- (3) As used in this section, "previous conviction" includes:
  - (a) Convictions occurring before, on or after January 1, 2008; and



- (b) Convictions entered in any other state or federal court for comparable offenses.
- (4) The state shall plead in the accusatory instrument and prove beyond a reasonable doubt, as an element of the offense, the previous conviction for aggravated identity theft. [2007 c.584 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.805 - Misrepresentation of age by a minor.**

- (1) A person commits the crime of misrepresentation of age by a minor if:
  - (a) Being less than a certain, specified age, the person knowingly purports to be of any age other than the true age of the person with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain, specified age; or
  - (b) Being unmarried, the person knowingly represents that the person is married with the intent of securing a right, benefit or privilege which by law is denied to unmarried persons.
- (2) Misrepresentation of age by a minor is a Class C misdemeanor.
- (3)(a) In addition to and not in lieu of any other penalty established by law, if a person, using a driver permit or license or other identification issued by the Department of Transportation of this state or its equivalent in another state, commits the crime of misrepresentation of age by a minor in order to purchase or consume alcoholic liquor or cannabis:
  - (A) The person may be required to perform community service; and
  - (B) The court may order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year upon:
    - (i) The person's second or subsequent conviction or adjudication for an offense described in this paragraph;
    - (ii) The person's first conviction or adjudication if the person has previously entered into a formal accountability agreement under ORS 419C.230 for an offense described in this paragraph; or
    - (iii) The person's first conviction or adjudication if the offense involved the operation of a motor vehicle.
- (b) If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the department under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.
- (4) The prohibitions of this section do not apply to any person acting under the direction of the Oregon Liquor and Cannabis Commission or a regulatory specialist or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages or marijuana items, as defined in ORS 475C.009, to persons who are under a certain, specified age.
- (5) The prohibitions of this section do not apply to a person under the age of 21 years who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages or marijuana items, as defined in ORS 475C.009, to persons who are under the age of 21 years. [1971 c.743 §285; 1991 c.860 §1; 1993 c.18 §25; 2001 c.791 §3; 2011 c.355 §19; 2012 c.54 §28; 2015 c.614 §150; 2018 c.76 §19; 2021 c.351 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.810 - Unlawful possession of a personal identification device.**

- (1) A person commits the crime of unlawful possession of a personal identification device if the person possesses a personal identification device with the intent to use the device to commit a crime. As used in this subsection, "personal identification device" means a device that is used to manufacture or print:
  - (a) A driver license or permit or an identification card issued by any state or the federal government;
  - (b) An employee identification card issued by an employer; or
  - (c) A credit or debit card.
- (2) Unlawful possession of a personal identification device is a Class C felony. [2003 c.632 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.813 - Unlawful possession of fictitious identification.**

- (1) A person commits the crime of unlawful possession of fictitious identification if the person possesses a personal identification card containing identification information for a fictitious person with the intent to use the personal identification card to commit a crime.
- (2) Unlawful possession of fictitious identification is a Class C felony.
- (3) It is an affirmative defense to violating subsection (1) of this section that the person charged with the offense was under 21 years of age at the time of committing the offense and the person possessed the personal identification card solely for the purpose of enabling the person to purchase alcohol, tobacco products as defined in ORS 431A.175 or inhalant delivery systems as defined in ORS 431A.175. [2003 c.632 §2; 2015 c.158 §26; 2017 c.701 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.815 - Criminal impersonation.**

- (1) A person commits the crime of criminal impersonation if:
  - (a) The person, with the intent to injure an individual, intentionally impersonates the individual in a communication to a third person without the individual's consent;
  - (b) The person acts with the intent to deceive the third person into believing that the third person is communicating with the individual;
  - (c) A reasonable person in the circumstances of the third person would believe that the third person is communicating with the individual; and
  - (d) The impersonation causes injury to the individual.
- (2) Criminal impersonation is a Class A misdemeanor.
- (3) As used in this section:
  - (a) "Impersonate" means to use an actual individual's name or likeness to create a representation of the individual that another person would reasonably believe was or is the actual individual being impersonated.
  - (b) "Injure" means to intimidate, threaten, harass or physically harm. [2016 c.22 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.825 - Sale of drugged horse.**

- (1) No person shall sell or offer for sale any horse that is drugged, tranquilized or otherwise sedated without the consent of the buyer.
- (2) Violation of subsection (1) of this section is a misdemeanor. [1971 c.175 §§1,2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.840 - "Telegraphic copy" defined for ORS 165.845 and 165.850.**

As used in ORS 165.845 and 165.850, "telegraphic copy" means any copy of a message made or prepared for delivery at the office to which the message may have been sent by telegraph. [Formerly 757.631]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.845 - Making and drawing of checks and notes by wire.**

- (1) Checks, due bills, promissory notes, bills of exchange and all orders or agreements for the payment or delivery of money or other thing of value may be made or drawn by telegraph, and when so made or drawn:
  - (a) Have the same force and effect to charge the maker, drawer, indorser or acceptor thereof;
  - (b) Create the same rights and equities in favor of the payee, drawee, indorsee, acceptor, holder or bearer thereof; and
  - (c) Are entitled to the same days of grace, as if duly made or drawn and delivered in writing.
- (2) No person other than the maker or drawer thereof shall cause any such instrument to be sent by telegraph so as to charge any person thereby.
- (3) Whenever the genuineness or execution of any such instrument received by telegraph is denied on oath by the person sought to be charged thereby, it is incumbent upon the party claiming under or alleging the same to prove the existence and execution of the original writing from which the telegraphic copy was transmitted.
- (4) The original message shall in all cases be preserved in the telegraph office from which it is sent. [Formerly 757.636; 1981 c.892 §91]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.850 - Manner of expressing private and official seals in telegrams.**

Whenever any document to be sent by telegraph bears a seal, either private or official, it is not necessary for the operator to telegraph a description of the seal, or any word or device thereon, but the seal may be expressed in the telegraphic copy by the letters "L. S.," or by the word "seal." [Formerly 757.641]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 165 - Offenses Involving Fraud or Deception Section 165.990 - Penalties.**

Violation of ORS 165.692 is a Class C felony. Criminal prosecution of violators of ORS 165.692 must be commenced within five years after the commission of the crime. [Formerly 757.992; subsection (4) of 1995 Edition enacted as 1995 c.496 §4; 2011 c.597 §161]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.005 - Treason.**

- (1) A person commits the crime of treason if the person levies war against the State of Oregon or adheres to its enemies, giving them aid and comfort.
- (2) No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or upon confession in open court.

(3) A person convicted of treason shall be punished by imprisonment for life. [1971 c.743 §217]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.015 - Riot.**

(1) A person commits the crime of riot if while participating with five or more other persons the person engages in tumultuous and violent conduct and thereby intentionally or recklessly creates a grave risk of causing public alarm.

(2) Riot is a Class C felony. [1971 c.743 §218]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.023 - Disorderly conduct in the first degree.**

(1) A person commits the crime of disorderly conduct in the first degree if, with intent to cause public inconvenience, annoyance or alarm, or knowingly creating a risk thereof, the person initiates or circulates a report, knowing it to be false:

(a) Concerning an alleged hazardous substance or an alleged or impending fire, explosion, catastrophe or other emergency; and

(b) Stating that the hazardous substance, fire, explosion, catastrophe or other emergency is located in or upon a court facility or a public building, as those terms are defined in ORS 166.360.

(2)(a) Disorderly conduct in the first degree is a Class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, disorderly conduct in the first degree is a Class C felony if the defendant has at least one prior conviction for violating subsection (1) of this section. [2005 c.631 §3; 2015 c.361 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.025 - Disorderly conduct in the second degree.**

(1) A person commits the crime of disorderly conduct in the second degree if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, the person:

(a) Engages in fighting or in violent, tumultuous or threatening behavior;

(b) Makes unreasonable noise;

(c) Disturbs any lawful assembly of persons without lawful authority;

(d) Obstructs vehicular or pedestrian traffic on a public way;

(e) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or

(f) Creates a hazardous or physically offensive condition by any act which the person is not licensed or privileged to do.

(2)(a) Disorderly conduct in the second degree is a Class B misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, disorderly conduct in the second degree is a Class A misdemeanor if the crime is committed within 200 feet of the real property on which the person knows a funeral service is being conducted.

(3) As used in this section, "funeral service" means a burial or other memorial service for a deceased person. [1971 c.743 §220; 1983 c.546 §5; 2001 c.104 §55; 2005 c.631 §1; 2012 c.35 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.065 - Harassment.**

(1) A person commits the crime of harassment if the person intentionally:

(a) Harasses or annoys another person by:

(A) Subjecting such other person to offensive physical contact; or

(B) Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response;

(b) Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or

(c) Subjects another to alarm by conveying a telephonic, electronic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm.

(2)(a) A person is criminally liable for harassment if the person knowingly permits any telephone or electronic device under the person's control to be used in violation of subsection (1) of this section.

(b) Harassment that is committed under the circumstances described in subsection (1)(c) of this section is committed in either the county in which the communication originated or the county in which the communication was received.

(3) Harassment is a Class B misdemeanor.

(4) Notwithstanding subsection (3) of this section, harassment is a Class A misdemeanor if a person violates:

(a) Subsection (1)(a)(A) of this section by subjecting another person to offensive physical contact and:

(A) The offensive physical contact consists of touching the sexual or other intimate parts of the other person; or

(B)(i) The victim of the offense is a family or household member of the person; and

(ii) The offense is committed in the immediate presence of, or is witnessed by, the person's or the victim's minor child or stepchild or a minor child residing within the household of the person or victim; or

(b) Subsection (1)(c) of this section and:

(A) The person has a previous conviction under subsection (1)(c) of this section and the victim of the current offense was the victim or a member of the family of the victim of the previous offense;

(B) At the time the offense was committed, the victim was protected by a stalking protective order, a restraining order as defined in ORS 24.190 or any other court order prohibiting the person from contacting the victim;

(C) At the time the offense was committed, the person reasonably believed the victim to be under 18 years of age and more than three years younger than the person; or

(D)(i) The person conveyed a threat to kill the other person or any member of the family of the other person;

(ii) The person expressed the intent to carry out the threat; and

(iii) A reasonable person would believe that the threat was likely to be followed by action.

(c) Subsection (1)(a)(A), (b) or (c) of this section by committing the crime of harassment against:

(A) An election worker who is performing the election worker's official duties at the time the harassment occurs; or

(B) An election worker because of an action taken or decision made by the election worker during the performance of the election worker's official duties.

(5) The Oregon Criminal Justice Commission shall classify harassment as described in subsection (4)(a)(B) of this section as a person Class A misdemeanor under the rules of the commission.

(6)(a) As used in this section:

(A) "Election worker" has the meaning given that term in ORS 247.965.

(B) "Electronic threat" means a threat conveyed by electronic mail, the Internet, a telephone text message or any other transmission of information by wire, radio, optical cable, cellular system, electromagnetic system or other similar means.

(C) "Family or household member" has the meaning given that term in ORS 135.230.

(b) For purposes of subsection (4) of this section, an offense is witnessed if the offense is seen or directly perceived in any other manner by the minor child. [1971 c.743 §223; 1981 c.468 §1; 1985 c.498 §1; 1987 c.806 §3; 1995 c.802 §1; 2001 c.870 §2; 2009 c.783 §1; 2013 c.649 §26; 2017 c.430 §1; 2019 c.304 §3; 2022 c.114 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.070 - Aggravated harassment.**

(1) A person commits the crime of aggravated harassment if the person, knowing that the other person is a:

(a) Staff member, knowingly propels saliva, blood, urine, semen, feces or other dangerous substance at the staff member while the staff member is acting in the course of official duty or as a result of the staff member's official duties;

(b) Public safety officer, knowingly propels blood, urine, semen or feces at the public safety officer while the public safety officer is acting in the course of official duty or as a result of the public safety officer's official duties; or

(c) Public safety officer, intentionally propels saliva at the public safety officer, and the saliva comes into physical contact with the public safety officer, while the public safety officer is acting in the course of official duty or as a result of the public safety officer's official duties.

(2) Aggravated harassment is a Class C felony. When a person is convicted of violating subsection (1)(a) of this section, in addition to any other sentence it may impose, the court shall impose a term of incarceration in a state correctional facility.

(3) As used in this section:

(a) "Public safety officer" means an emergency medical services provider as defined in ORS 682.025, a regulatory specialist as defined in ORS 471.001 or a fire service professional, a parole and probation officer or a police officer as those terms are defined in ORS 181A.355.

(b) "Staff member" has the meaning given that term in ORS 163.165. [2009 c.783 §2; 2011 c.703 §28; 2012 c.54 §27; 2013 c.477 §1; 2015 c.614 §151]

Note:

166.070 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.075 - Abuse of venerated objects.**

(1) A person commits the crime of abuse of venerated objects if the person intentionally abuses a public monument or structure, a place of worship or the national or state flag.

(2) As used in this section and ORS 166.085, "abuse" means to deface, damage, defile or otherwise physically mistreat in a manner likely to outrage public sensibilities.

(3) Abuse of venerated objects is a Class C misdemeanor. [1971 c.743 §224; 1995 c.261 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.076 - Abuse of a memorial to the dead.**

(1) A person commits the crime of abuse of a memorial to the dead if the person:

(a) Intentionally destroys, mutilates, defaces, injures or removes any:

- (A) Tomb, monument, gravestone or other structure or thing placed as or designed for a memorial to the dead; or
  - (B) Fence, railing, curb or other thing intended for the protection or for the ornamentation of any structure or thing listed in subparagraph (A) of this paragraph;
  - (b) Intentionally destroys, mutilates, removes, cuts, breaks or injures any tree, shrub or plant within any structure listed in paragraph (a) of this subsection; or
  - (c) Buys, sells or transports any object listed in paragraph (a) of this subsection that was stolen from a historic cemetery knowing that the object is stolen.
- (2) Abuse of a memorial to the dead is a Class A misdemeanor.
- (3)(a) Notwithstanding ORS 161.635, the maximum fine that a court may impose for abuse of a memorial to the dead is \$50,000 if:
- (A) The person violates subsection (1)(a) of this section and the object destroyed, mutilated, defaced, injured or removed is or was located in a historic cemetery; or
  - (B) The person violates subsection (1)(c) of this section.
- (b) In addition to any other sentence a court may impose, if a defendant is convicted of violating this section under the circumstances described in paragraph (a)(A) of this subsection, the court shall consider ordering the defendant to pay restitution. The court shall base the amount of restitution on the historical value of the object destroyed, mutilated, defaced, injured or removed.
- (4) This section does not apply to a person who is the burial right owner or that person's representative, an heir at law of the deceased, or a person having care, custody or control of a cemetery by virtue of law, contract or other legal right, if the person is acting within the scope of the person's legal capacity and the person's actions have the effect of maintaining, protecting or improving the tomb, monument, gravestone or other structure or thing placed as or designed for a memorial to the dead.
- (5) As used in this section, "historic cemetery" means a cemetery that is listed with the Oregon Commission on Historic Cemeteries under ORS 97.782. [1995 c.261 §1; 1999 c.731 §12; 2003 c.291 §1; 2005 c.22 §113]

Note:

166.076 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.085 - Abuse of corpse in the second degree.**

- (1) A person commits the crime of abuse of corpse in the second degree if, except as otherwise authorized by law, the person intentionally:
- (a) Abuses a corpse; or
  - (b) Disinters, removes or carries away a corpse.
- (2) Abuse of corpse in the second degree is a Class C felony.
- (3) As used in this section and ORS 166.087, "abuse of corpse" includes treatment of a corpse by any person in a manner not recognized by generally accepted standards of the community or treatment by a professional person in a manner not generally accepted as suitable practice by other members of the profession, as may be defined by rules applicable to the profession. [1971 c.743 §225; 1985 c.207 §2; 1993 c.294 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.087 - Abuse of corpse in the first degree.**

- (1) A person commits the crime of abuse of corpse in the first degree if the person:
- (a) Engages in sexual activity with a corpse or involving a corpse; or
  - (b) Dismembers, mutilates, cuts or strikes a corpse.
- (2) Abuse of corpse in the first degree is a Class B felony. [1993 c.294 §2]

Note:

166.087 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.090 - Telephonic harassment.**

- (1) A telephone caller commits the crime of telephonic harassment if the caller intentionally harasses or annoys another person:
- (a) By causing the telephone of the other person to ring, such caller having no communicative purpose;
  - (b) By causing such other person's telephone to ring, knowing that the caller has been forbidden from so doing by a person exercising lawful authority over the receiving telephone; or
  - (c) By sending to, or leaving at, the other person's telephone a text message, voice mail or any other message, knowing that the caller has been forbidden from so doing by a person exercising lawful authority over the receiving telephone.
- (2) Telephonic harassment is a Class B misdemeanor.
- (3) It is an affirmative defense to a charge of violating subsection (1) of this section that the caller is a debt collector, as defined in ORS 646.639, who engaged in the conduct proscribed by subsection (1) of this section while attempting to collect a debt. The affirmative defense created by this subsection does not apply if the debt collector committed the unlawful collection practice

described in ORS 646.639 (2)(a) while engaged in the conduct proscribed by subsection (1) of this section. [1987 c.806 §2; 1999 c.115 §1; 2005 c.752 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.095 - Misconduct with emergency telephone calls.**

(1) A person commits the crime of misconduct with emergency telephone calls if the person:

(a) Intentionally refuses to relinquish immediately a party line or public pay telephone after being informed that it is needed for an emergency call; or

(b) Requests another to relinquish a party line or public pay telephone to place an emergency call with knowledge that no such emergency exists.

(2) As used in this section:

(a) "Emergency call" means a telephone call to a police or fire department, or for medical aid or ambulance service, necessitated by a situation in which human life or property is in jeopardy and prompt summoning of aid is essential.

(b) "Party line" means a subscriber's line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

(3) Every telephone directory that is distributed to members of the general public in this state shall contain in a prominent place a notice of the offense punishable by this section.

(4) Misconduct with emergency telephone calls is a Class B misdemeanor. [1971 c.743 §288; 2005 c.22 §114]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.116 - Interfering with public transportation.**

(1) A person commits the crime of interfering with public transportation if the person:

(a) Intentionally or knowingly enters or remains unlawfully in or on a public transit vehicle or public transit station;

(b) Intentionally or knowingly interferes with the provision or use of public transportation services by, among other things, interfering with the movement of, or access to, public transit vehicles;

(c) While in or on a public transit vehicle or public transit station, engages in disorderly conduct in the second degree as defined in ORS 166.025; or

(d) Subjects a public transportation passenger, employee, agent or security officer or transit police officer to offensive physical contact.

(2)(a)(A) Interfering with public transportation as provided in subsection (1)(a) of this section is a Class C misdemeanor.

(B) Notwithstanding subparagraph (A) of this paragraph, interfering with public transportation as provided in subsection (1)(a) of this section is a Class A misdemeanor if the person has three or more prior convictions for interfering with public transportation as provided in subsection (1)(a) of this section.

(b) Interfering with public transportation as provided in subsection (1)(b) to (d) of this section is a Class A misdemeanor.

(3) As used in this section:

(a) "Enter or remain unlawfully" has the meaning given that term in ORS 164.205.

(b) "Public transit station" includes all facilities, structures, lands and rights of way that are owned, leased, held or used for the purposes of providing public transportation services.

(c) "Public transit vehicle" means a vehicle that is used for public transportation or operated by or under contract to any public body in order to provide public transportation.

(d) "Public transportation" means transportation provided by a city, county, special district or any other political subdivision or municipal or public corporation. [2001 c.851 §3 (enacted in lieu of 166.115); 2005 c.631 §4; 2017 c.454 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.119 - Interfering with a health care facility.**

(1) A person commits the crime of interfering with a health care facility if the person intentionally, knowingly or recklessly interferes with access to or from a health care facility, or disrupts the normal functioning of a health care facility, by:

(a) Physically obstructing or impeding the free passage of a person seeking to enter or depart from the facility or from the common areas of the real property upon which the facility is located;

(b) Making noise that unreasonably disturbs the peace within the facility;

(c) Trespassing on the facility or the common areas of the real property upon which the facility is located;

(d) Causing the telephone of the facility to ring, vibrate or otherwise alert by visual or auditory means if:

(A) The person has no communicative purpose; or

(B) The person knows that the person has been forbidden from causing the telephone to ring, vibrate or alert by an individual exercising lawful authority over the receiving telephone; or

(e) Subjecting an owner, agent, patient or employee of the facility to alarm by conveying a telephonic, electronic or written threat to inflict serious physical injury on that individual or to commit a felony involving the individual, the property of the individual or a member of the individual's family, when the threat would reasonably be expected to cause alarm.

(2) Interfering with a health care facility is a Class A misdemeanor.

(3)(a) No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right.

(b) Nothing in this section prohibits lawful picketing, lawful protesting or peaceful assembly, or other publicity for the purpose of providing the public with information.

(4) In a criminal proceeding based on a charge described in this section, the court shall take all steps reasonably necessary to safeguard the individual's privacy and prevent harassment of a health care patient or health care provider who is a victim or witness in the proceeding, including granting protective orders and motions in limine when appropriate.

(5) As used in this section:

(a) "Health care facility" means a facility that provides health care services directly to patients, including but not limited to a hospital, clinic, health care provider's office, health maintenance organization, diagnostic or treatment center, mental health facility, hospice or nursing home.

(b) "Health care provider" means an individual licensed, certified, registered or otherwise authorized to practice by a board, as defined in ORS 413.164, or an officer, director, employee or agent of a health care facility. [2023 c.228 §45]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.122 - Definitions for ORS 166.122 to 166.128.**

As used in ORS 166.122 to 166.128:

(1) "Critical infrastructure" means a gas, electric or water utility system, an electric substation, a pipeline or other conveyance for carrying gas, natural gas or fuel, a fiber optic cable network, a base transceiver station or other wireless communication infrastructure, a data center, or a dam, bridge, road, airport, marina or rail line.

(2) "Destructive device" has the meaning given that term in ORS 166.382.

(3) "Toxic substance" means any radiological, biological, pathogenic or chemical substance that may cause death or serious physical injury if ingested, inhaled, consumed or absorbed by a human being.

(4) "Widespread" means impacting at least 50 human beings. [2023 c.608 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.125 - Domestic terrorism in the first degree.**

(1) A person commits the crime of domestic terrorism in the first degree if the person, with the intent to cause widespread sickness, contagion, serious physical injury, death or the disruption of services provided by critical infrastructure:

(a) Intentionally destroys or substantially damages critical infrastructure; or

(b) Intentionally introduces, releases or disperses a toxic substance into widespread contact with human beings.

(2) Domestic terrorism in the first degree is a Class B felony.

(3) The Oregon Criminal Justice Commission shall classify domestic terrorism in the first degree as crime category 9 of the sentencing guidelines grid of the commission. [2023 c.608 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.128 - Domestic terrorism in the second degree.**

(1) A person commits the crime of domestic terrorism in the second degree if the person, with the intent to cause widespread sickness, contagion, serious physical injury, death or the disruption of services provided by critical infrastructure:

(a) Intentionally possesses a toxic substance with the intent to introduce the substance into widespread contact with human beings;

(b) Intentionally possesses a destructive device with the intent to destroy or substantially damage critical infrastructure;

(c) Intentionally attempts to destroy or substantially damage critical infrastructure; or

(d) Intentionally attempts to introduce, release or disperse a toxic substance into widespread contact with human beings.

(2) Domestic terrorism in the second degree is a Class C felony.

(3) The Oregon Criminal Justice Commission shall classify domestic terrorism in the second degree as crime category 7 of the sentencing guidelines grid of the commission. [2023 c.608 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.155 - Bias crime in the second degree.**

(1) A person commits a bias crime in the second degree if the person:

(a) Tamper or interferes with property, having no right to do so nor reasonable ground to believe that the person has such right, with the intent to cause substantial inconvenience to another person because of the person's perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin;

(b) Intentionally subjects another person to offensive physical contact because of the person's perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin; or

(c) Intentionally, because of the person's perception of race, color, religion, gender identity, sexual orientation, disability or national origin of another person or of a member of the other person's family, subjects the other person to alarm by threatening:

(A) To inflict serious physical injury upon or to commit a felony affecting the other person, or a member of the other person's

family; or

(B) To cause substantial damage to the property of the other person or of a member of the other person's family.

(2) A bias crime in the second degree is a Class A misdemeanor.

(3) As used in this section and ORS 166.165:

(a) "Gender identity" means an individual's gender-related identity, appearance, expression or behavior, regardless of whether the identity, appearance, expression or behavior differs from that associated with the gender assigned to the individual at birth.

(b) "Property" means any tangible personal property or real property. [1981 c.785 §1; 1983 c.521 §1; 1989 c.1029 §1; 2007 c.100 §18; 2011 c.421 §1; 2019 c.553 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.165 - Bias crime in the first degree.**

(1) A person commits a bias crime in the first degree if the person:

(a) Intentionally, knowingly or recklessly causes physical injury to another person because of the person's perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin;

(b) With criminal negligence causes physical injury to another person by means of a deadly weapon because of the person's perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin; or

(c) Intentionally, because of the person's perception of another person's race, color, religion, gender identity, sexual orientation, disability or national origin, places another person in fear of imminent serious physical injury.

(2) A bias crime in the first degree is a Class C felony. [1981 c.785 §2; 1983 c.521 §2; 1989 c.1029 §2; 1993 c.332 §1; 1995 c.79 §53; 1997 c.249 §50; 2007 c.100 §19; 2011 c.421 §2; 2019 c.553 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.167 - Community service as sentence for bias crime.**

If a court sentences a person to community service for a violation of ORS 166.155 or 166.165 and the conduct that was the subject of the violation occurred while on the waters of this state or on publicly owned land used for outdoor recreation, the community service may include:

(1) Habitat restoration or restoration or maintenance of outdoor recreation facilities under the supervision of the State Parks and Recreation Department, the State Department of Fish and Wildlife or the State Marine Board; and

(2) Anti-bias training. [2021 c.393 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.170 - State preemption.**

(1) Except as expressly authorized by state statute, the authority to regulate in any matter whatsoever the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition, is vested solely in the Legislative Assembly.

(2) Except as expressly authorized by state statute, no county, city or other municipal corporation or district may enact civil or criminal ordinances, including but not limited to zoning ordinances, to regulate, restrict or prohibit the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms or any element relating to firearms and components thereof, including ammunition. Ordinances that are contrary to this subsection are void. [1995 s.s. c.1 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.171 - Authority of county to regulate discharge of firearms.**

(1) A county may adopt ordinances to regulate, restrict or prohibit the discharge of firearms within their boundaries.

(2) Ordinances adopted under subsection (1) of this section may not apply to or affect:

(a) A person discharging a firearm in the lawful defense of person or property.

(b) A person discharging a firearm in the course of lawful hunting.

(c) A landowner and guests of the landowner discharging a firearm, when the discharge will not endanger adjacent persons or property.

(d) A person discharging a firearm on a public or private shooting range, shooting gallery or other area designed and built for the purpose of target shooting.

(e) A person discharging a firearm in the course of target shooting on public land that is not inside an urban growth boundary or the boundary of a city, if the discharge will not endanger persons or property.

(f) An employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife. [1995 s.s. c.1 §2; 2009 c.556 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.172 - Authority of city to regulate discharge of firearms.**

(1) A city may adopt ordinances to regulate, restrict or prohibit the discharge of firearms within the city's boundaries.



(2) Ordinances adopted under subsection (1) of this section may not apply to or affect:

(a) A person discharging a firearm in the lawful defense of person or property.

(b) A person discharging a firearm on a public or private shooting range, shooting gallery or other area designed and built for the purpose of target shooting.

(c) An employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife. [1995 s.s. c.1 §3; 2009 c.556 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.173 - Authority of city or county to regulate possession of loaded firearms in public places.**

(1) A city or county may adopt ordinances to regulate, restrict or prohibit the possession of loaded firearms in public places as defined in ORS 161.015.

(2) Ordinances adopted under subsection (1) of this section do not apply to or affect:

(a) A law enforcement officer.

(b) A member of the military in the performance of official duty.

(c) A person licensed to carry a concealed handgun.

(d) A person authorized to possess a loaded firearm while in or on a public building or court facility under ORS 166.370.

(e) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a loaded firearm in the course of the lawful taking of wildlife.

(f) An honorably retired law enforcement officer, unless the person who is a retired law enforcement officer has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292. [1995 s.s. c.1 §4; 1999 c.782 §8; 2009 c.556 §3; 2015 c.709 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.174 - Authority of city, county, municipal corporation or district to regulate possession or sale of firearms.**

Notwithstanding any other provision of law, a city, county or other municipal corporation or district may not adopt ordinances that regulate, restrict or prohibit the possession or sale of firearms in a public building that is rented or leased to a person during the term of the lease. [1995 s.s. c.1 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.175 - Authority of city to regulate purchase of used firearms.**

(1) Notwithstanding any other provision of law, a city may continue to regulate the purchase of used firearms by pawnshops and secondhand stores.

(2) As used in this section, "secondhand store" means a store or business whose primary source of revenue is the sale of used merchandise. [1995 s.s. c.1 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.176 - Exception to preemption for certain county ordinances.**

(1) Nothing in ORS 166.170 or 166.171 is intended to preempt, invalidate or in any way affect the operation of any provision of a county ordinance that was in effect on November 2, 1995, to the extent that the provision:

(a) Established a procedure for regulating, restricting or prohibiting the discharge of firearms; or

(b) Regulated, restricted or prohibited the discharge of firearms.

(2) Subsection (1) of this section does not apply to:

(a) Ordinances regulating, restricting or prohibiting the discharge of firearms on a shooting range or in a shooting gallery or other area designed and built for the purpose of target shooting.

(b) An employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife. [1997 c.403 §1; 2009 c.556 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.180 - Negligently wounding another.**

Any person who, as a result of failure to use ordinary care under the circumstances, wounds any other person with a bullet or shot from any firearm, or with an arrow from any bow, commits a Class B misdemeanor. In addition, any person so convicted shall forfeit any license to hunt, obtained under the laws of this state, and shall be ineligible to obtain a license to hunt for a period of 10 years following the date of conviction. [Formerly 163.310; 2011 c.597 §162]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.190 - Pointing firearm at another; courts having jurisdiction over offense.**

Any person over the age of 12 years who, with or without malice, purposely points or aims any loaded or empty pistol, gun, revolver or other firearm, at or toward any other person within range of the firearm, except in self-defense, shall be fined upon conviction in any sum not less than \$10 nor more than \$500, or be imprisoned in the county jail not less than 10 days nor more than six months, or both. Justice courts have jurisdiction concurrent with the circuit court of the trial of violations of this section. When any person is charged before a justice court with violation of this section, the court shall, upon motion of the district attorney, at any time before trial, act as a committing magistrate, and if probable cause be established, hold such person to the grand jury. [Formerly 163.320]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.210 - Definitions.**

As used in ORS 166.250 to 166.270, 166.291 to 166.295 and 166.410 to 166.470:

(1) "Antique firearm" means:

(a) Any firearm, including any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system, manufactured in or before 1898; and

(b) Any replica of any firearm described in paragraph (a) of this subsection if the replica:

(A) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) Uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade.

(2) "Corrections officer" has the meaning given that term in ORS 181A.355.

(3) "Firearm" means a weapon, by whatever name known, which is designed to expel a projectile by the action of powder.

(4) "Firearms silencer" means any device for silencing, muffling or diminishing the report of a firearm.

(5) "Frame" has the meaning given that term in 27 C.F.R. 478.12.

(6) "Handgun" means any pistol or revolver using a fixed cartridge containing a propellant charge, primer and projectile, and designed to be aimed or fired otherwise than from the shoulder.

(7) "Machine gun" means a weapon of any description by whatever name known, loaded or unloaded, which is designed or modified to allow two or more shots to be fired by a single pressure on the trigger device.

(8) "Major component" has the meaning given that term in 18 U.S.C. 922.

(9) "Minor" means a person under 18 years of age.

(10) "Offense" has the meaning given that term in ORS 161.505.

(11) "Parole and probation officer" has the meaning given that term in ORS 181A.355.

(12) "Peace officer" has the meaning given that term in ORS 133.005.

(13) "Receiver" has the meaning given that term in 27 C.F.R. 478.12.

(14) "Security exemplar" has the meaning given that term in 18 U.S.C. 922.

(15) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle if the weapon has an overall length of less than 26 inches.

(16) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun if the weapon has an overall length of less than 26 inches.

(17) "Undetectable firearm" means a firearm:

(a) Constructed or produced, including through a three-dimensional printing process, entirely of nonmetal substances;

(b) That, after removal of grips, stocks and magazines, is not as detectable as a security exemplar by a walk-through metal detector calibrated to detect the security exemplar; or

(c) That includes a major component that, if subjected to inspection by the types of X-ray machines commonly used at airports, would not generate an image that accurately depicts the shape of the component.

(18)(a) "Unfinished frame or receiver" means a forging, casting, printing, extrusion, machined body or similar item that:

(A) Is designed to or may readily be completed, assembled or otherwise converted to function as a frame or receiver; or

(B) Is marketed or sold to the public to be completed, assembled or otherwise converted to function as a frame or receiver.

(b) "Unfinished frame or receiver" does not include a component designed and intended for use in an antique firearm. [Amended by 1977 c.769 §1; 1979 c.779 §3; 1989 c.839 §1; 1993 c.735 §14; 1995 c.670 §3; 1999 c.1040 §2; 2001 c.666 §§32,44; 2003 c.614 §7; 2007 c.368 §1; 2009 c.610 §4; 2023 c.229 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.220 - Unlawful use of weapon.**

(1) A person commits the crime of unlawful use of a weapon if the person:

(a) Attempts to use unlawfully against another, or carries or possesses with intent to use unlawfully against another, any dangerous or deadly weapon as defined in ORS 161.015; or

(b) Intentionally discharges a firearm, blowgun, bow and arrow, crossbow or explosive device within the city limits of any city or within residential areas within urban growth boundaries at or in the direction of any person, building, structure or vehicle within the range of the weapon without having legal authority for such discharge.

(2) This section does not apply to:

(a) Police officers or military personnel in the lawful performance of their official duties;

- (b) Persons lawfully defending life or property as provided in ORS 161.219;
  - (c) Persons discharging firearms, blowguns, bows and arrows, crossbows or explosive devices upon public or private shooting ranges, shooting galleries or other areas designated and built for the purpose of target shooting;
  - (d) Persons lawfully engaged in hunting in compliance with rules and regulations adopted by the State Department of Fish and Wildlife; or
  - (e) An employee of the United States Department of Agriculture, acting within the scope of employment, discharging a firearm in the course of the lawful taking of wildlife.
- (3) Unlawful use of a weapon is a Class C felony. [Amended by 1975 c.700 §1; 1985 c.543 §1; 1991 c.797 §1; 2009 c.556 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.240 - Carrying of concealed weapons.**

- (1) Except as provided in subsection (2) of this section, any person who carries concealed upon the person any knife having a blade that projects or swings into position by force of a spring or by centrifugal force, any dirk, dagger, ice pick, slungshot, metal knuckles, or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person, commits a Class B misdemeanor.
- (2) Nothing in subsection (1) of this section applies to any peace officer as defined in ORS 133.005, whose duty it is to serve process or make arrests. Justice courts have concurrent jurisdiction to try any person charged with violating any of the provisions of subsection (1) of this section. [Amended by 1977 c.454 §1; 1985 c.543 §2; 1989 c.839 §21; 1999 c.1040 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.250 - Unlawful possession of firearms.**

- (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.273, 166.274, 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm if the person knowingly:
- (a) Carries any firearm concealed upon the person;
  - (b) Possesses a handgun that is concealed and readily accessible to the person within any vehicle;
  - (c) Possesses a firearm and:
    - (A) Is under 18 years of age;
    - (B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having committed an act which, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470; and
    - (ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being charged under this section;
    - (C) Has been convicted of a felony;
    - (D) Was committed to the Oregon Health Authority under ORS 426.130;
    - (E) Was found to be a person with mental illness and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
    - (F) Is presently subject to an order under ORS 426.133 prohibiting the person from purchasing or possessing a firearm;
    - (G) Has been found guilty except for insanity under ORS 161.295 of a felony; or
    - (H) The possession of the firearm by the person is prohibited under ORS 166.255; or
  - (d) Possesses an unfinished frame or receiver and is prohibited from possessing firearms under paragraph (c) of this subsection.
- (2) This section does not prohibit:
- (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from possessing a firearm:
    - (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or guardian or by another person with the consent of the minor's parent or guardian; or
    - (B) Temporarily for hunting, target practice or any other lawful purpose; or
  - (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270 and subsection (1) of this section, from owning, possessing or keeping within the person's place of residence or place of business any handgun, and no permit or license to purchase, own, possess or keep any such firearm at the person's place of residence or place of business is required of any such citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle while used, for whatever period of time, as residential quarters.
- (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.
- (4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a handgun is readily accessible within the meaning of this section if the handgun is within the passenger compartment of the vehicle.
- (b) If a vehicle, other than a vehicle described in paragraph (c) of this subsection, has no storage location that is outside the passenger compartment of the vehicle, a handgun is not readily accessible within the meaning of this section if:
    - (A) The handgun is stored in a closed and locked glove compartment, center console or other container; and
    - (B) The key is not inserted into the lock, if the glove compartment, center console or other container unlocks with a key.
  - (c) If the vehicle is a motorcycle, an all-terrain vehicle or a snowmobile, a handgun is not readily accessible within the meaning of this section if:
    - (A) The handgun is in a locked container within or affixed to the vehicle; or
    - (B) The handgun is equipped with a trigger lock or other locking mechanism that prevents the discharge of the firearm.

(5) Unlawful possession of a firearm is a Class A misdemeanor. [Amended by 1979 c.779 §4; 1985 c.543 §3; 1989 c.839 §13; 1993 c.732 §1; 1993 c.735 §12; 1999 c.1040 §1; 2001 c.666 §§33,45; 2003 c.614 §8; 2009 c.499 §1; 2009 c.595 §112; 2009 c.826 §§8a,11a; 2011 c.662 §§1,2; 2013 c.360 §§6,7; 2015 c.50 §§12,13; 2015 c.201 §3; 2015 c.497 §§3,4; 2023 c.229 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.255 - Possession of firearm or ammunition by certain persons prohibited.**

(1) It is unlawful for a person to knowingly possess a firearm or ammunition if:

(a) The person is the subject of a court order that:

(A)(i) Was issued or continued after a hearing for which the person had actual notice and during the course of which the person had an opportunity to be heard; or

(ii) Was issued, continued or remains in effect, by order or operation of law, after the person received notice of the opportunity to request a hearing in which to be heard on the order, and either requested a hearing but did not attend the hearing or withdrew the request before the hearing occurred, or did not request a hearing during the time period in which the opportunity was available;

(B) Restrains the person from stalking, intimidating, molesting or menacing a family or household member of the person, a child of a family or household member of the person or a child of the person; and

(C) Includes a finding that the person represents a credible threat to the physical safety of a family or household member of the person, a child of a family or household member of the person or a child of the person;

(b) The person has been convicted of a qualifying misdemeanor and, at the time of the offense, the person was:

(A) A family or household member of the victim of the offense; or

(B) A parent or guardian of the victim of the offense; or

(c) The person has been convicted of stalking under ORS 163.732.

(2) The prohibition described in subsection (1)(a) of this section does not apply with respect to the transportation, shipment, receipt, possession or importation of any firearm or ammunition imported for, sold or shipped to or issued for the use of the United States Government or any federal department or agency, or any state or department, agency or political subdivision of a state.

(3) As used in this section:

(a) "Convicted" means:

(A) The person was represented by counsel or knowingly and intelligently waived the right to counsel;

(B) The case was tried to a jury, if the crime was one for which the person was entitled to a jury trial, or the person knowingly and intelligently waived the person's right to a jury trial; and

(C) The conviction has not been set aside or expunged, and the person has not been pardoned.

(b) "Deadly weapon" has the meaning given that term in ORS 161.015.

(c) "Family or household member" has the meaning given that term in ORS 135.230.

(d) "Possess" has the meaning given that term in ORS 161.015.

(e) "Qualifying misdemeanor" means a misdemeanor that has, as an element of the offense, the use or attempted use of physical force or the threatened use of a deadly weapon. [2015 c.497 §2; 2018 c.5 §1; 2019 c.201 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.256 - Relinquishment of firearm upon person becoming subject to certain court orders.**

(1)(a) When a respondent becomes subject to an order described in ORS 166.255 (1)(a) prohibiting the respondent from possessing firearms or ammunition, the court shall:

(A) Indicate in the order that the respondent is prohibited from possessing firearms and ammunition under ORS 166.250 and 166.255 while the order is in effect.

(B) Ensure that the respondent is subject to an additional order:

(i) Requiring the respondent to transfer all firearms and ammunition in the respondent's possession in accordance with subsection (2) of this section; and

(ii) Requiring the respondent to file a declaration as described in subsection (4) of this section.

(b) If the respondent becomes subject to the order while the respondent is present in court, the court shall:

(A) Inform the respondent, orally and in writing, that the respondent is prohibited from possessing firearms and ammunition;

(B) Order in writing that the respondent transfer all firearms and ammunition in the respondent's possession in accordance with subsection (2) of this section; and

(C) Order that the respondent file a declaration as described in subsection (4) of this section.

(2)(a) Within 24 hours of becoming subject to the court order under subsection (1)(a)(B) of this section or receiving the court order under subsection (1)(b)(B) of this section, the respondent shall transfer all firearms and ammunition in the respondent's possession to a local law enforcement agency, to a gun dealer as defined in ORS 166.412 or to a third party who does not reside with the respondent, and shall obtain a proof of transfer under paragraph (b) of this subsection. A transfer to a third party under this subsection must be in accordance with ORS 166.435, except that the criminal background check exceptions in ORS 166.435 (4) do not apply.

(b) A law enforcement agency, gun dealer or third party receiving a firearm or ammunition pursuant to this subsection shall issue to the respondent a written proof of transfer. The proof of transfer must include the respondent's name, the date of transfer and the serial number, make and model of each transferred firearm. A proof of transfer issued by a third party must also include the unique approval number from the Department of State Police from the criminal background check conducted under ORS 166.435.

(c) A respondent transferring a firearm or ammunition to a third party under this subsection shall additionally obtain from the third party a declaration under penalty of perjury confirming receipt of the firearm or ammunition and attesting that:

(A) The third party understands that the respondent is prohibited from possessing firearms and ammunition; and

(B) The third party is subject to criminal penalties if the third party allows the respondent access to the firearm or ammunition during the prohibition.

(3)(a) A law enforcement agency may accept a firearm or ammunition transferred under this section.

(b) A gun dealer may purchase or may accept for storage a firearm or ammunition transferred under this section.

(4)(a) Within two judicial days of becoming subject to the court order under subsection (1)(a)(B) of this section or receiving the court order under subsection (1)(b)(B) of this section, the respondent shall file with the court a declaration under penalty of perjury attesting that:

(A) All firearms and ammunition in the respondent's possession have been transferred under subsection (2) of this section to:

(i) A law enforcement agency;

(ii) A gun dealer; or

(iii) A third party;

(B) The respondent was not in possession of any firearms at the time of the court's order and continues to not possess any firearms; or

(C) The respondent is asserting the respondent's constitutional right against self-incrimination.

(b) The respondent shall file with the declaration a copy of the proof of transfer, if applicable, and a copy of the third party declaration, if applicable.

(5) The respondent shall concurrently file with the district attorney copies of the declaration, proof of transfer and third party declaration filed with the court under subsection (4) of this section.

(6) A respondent in possession of a firearm or ammunition in violation of ORS 166.255 (1)(a) may not be prosecuted under ORS 166.250 if:

(a) The respondent is in possession of a court order described in subsection (1)(a)(B) or (1)(b)(B) of this section that went into effect or was issued within the previous 24 hours;

(b) The firearm is unloaded; and

(c) The respondent is transporting the firearm or ammunition to a law enforcement agency, gun dealer or third party for transfer in accordance with subsection (2) of this section.

(7) Upon the expiration or termination of the order described in ORS 166.255 (1)(a), at the request of the respondent:

(a) A law enforcement agency shall return any stored firearms and ammunition to the respondent in accordance with ORS 166.257.

(b) A gun dealer shall return any stored firearms and ammunition to the respondent after performing a criminal background check as defined in ORS 166.432 to confirm that the respondent is not prohibited from possessing a firearm or ammunition under state or federal law.

(c) A third party shall return any stored firearms and ammunition to the respondent only after requesting a criminal background check in accordance with ORS 166.435, except that the criminal background check exceptions in ORS 166.435 (4) do not apply.

(8) If the respondent does not file a declaration described in subsection (4) of this section, the district attorney may commence contempt proceedings under ORS 33.015 to 33.155. [2019 c.201 §4]

Note:

166.256 and 166.257 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.257 - Return of relinquished firearm.**

(1) Upon receiving a request to return a firearm or ammunition relinquished to a law enforcement agency pursuant to ORS 166.256, the law enforcement agency shall:

(a) Notify the Department of Justice of the return request for the purposes of notifying the petitioner of the order; and

(b) Hold the firearm or ammunition for 72 hours after receiving the request.

(2) Prior to returning the firearm or ammunition, the law enforcement agency shall:

(a) Confirm that the person to whom the law enforcement agency will return the firearm or ammunition is the lawful owner of the firearm or ammunition, or a person with a possessory right to the firearm or ammunition; and

(b) Perform a criminal background check as defined in ORS 166.432 to confirm that the person is not prohibited from possessing a firearm or ammunition under state or federal law. [2019 c.201 §5]

Note:

See note under 166.256.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.259 - Relinquishment of firearm upon conviction of certain offenses.**

- (1) When a person is convicted of an offense described in ORS 166.255 (1)(b) or (c), the court shall, at the time of conviction:
- (a) Indicate in the judgment of conviction that the person is prohibited from possessing firearms and ammunition under ORS 166.250 and 166.255;
  - (b) Inform the person, orally and in writing, that the person is prohibited from possessing firearms and ammunition;
  - (c) Order in writing that the person transfer all firearms and ammunition in the person's possession in accordance with subsection (2) of this section; and
  - (d) Order that the person file a declaration as described in subsection (4) of this section.
- (2)(a) Within 24 hours of the court's order under subsection (1) of this section, the person shall transfer all firearms and ammunition in the person's possession to a local law enforcement agency, to a gun dealer as defined in ORS 166.412 or to a third party who does not reside with the person, and shall obtain a proof of transfer under paragraph (b) of this subsection. A transfer to a third party under this subsection must be in accordance with ORS 166.435, except that the criminal background check exceptions in ORS 166.435 (4) do not apply.
- (b) A law enforcement agency, gun dealer or third party receiving a firearm or ammunition pursuant to this subsection shall issue to the person a written proof of transfer. The proof of transfer must include the person's name, the date of transfer and the serial number, make and model of each transferred firearm. A proof of transfer issued by a third party must also include the unique approval number from the Department of State Police from the criminal background check conducted under ORS 166.435.
  - (c) A person transferring a firearm or ammunition to a third party under this subsection shall additionally obtain from the third party a declaration under penalty of perjury confirming receipt of the firearm or ammunition and attesting that:
    - (A) The third party understands that the person is prohibited from possessing firearms and ammunition; and
    - (B) The third party is subject to criminal penalties if the third party allows the person access to the firearm or ammunition during the prohibition.
  - (3)(a) A law enforcement agency may accept a firearm or ammunition transferred under this section.
  - (b) A gun dealer may purchase or may accept for storage a firearm or ammunition transferred under this section.
  - (4)(a) Within two judicial days of the court's order under subsection (1) of this section, the person shall file with the court a declaration under penalty of perjury attesting that:
    - (A) All firearms and ammunition in the person's possession have been transferred under subsection (2) of this section to:
      - (i) A law enforcement agency;
      - (ii) A gun dealer; or
      - (iii) A third party;
    - (B) The person was not in possession of any firearms at the time of the court's order and continues to not possess any firearms; or
    - (C) The person is asserting the person's constitutional right against self-incrimination.
  - (b) The person shall file with the declaration a copy of the proof of transfer, if applicable, and a copy of the third party declaration, if applicable.
- (5) The person shall concurrently file with the district attorney copies of the declaration, proof of transfer and third party declaration filed with the court under subsection (4) of this section.
- (6) A person in possession of a firearm or ammunition in violation of ORS 166.255 (1)(b) or (c) may not be prosecuted under ORS 166.250 if:
- (a) The person is in possession of a court order described in subsection (1) of this section issued within the previous 24 hours;
  - (b) The firearm is unloaded; and
  - (c) The person is transporting the firearm or ammunition to a law enforcement agency, gun dealer or third party for transfer in accordance with subsection (2) of this section.
- (7) If the person does not file the declaration required under subsection (4) of this section, the district attorney may commence contempt proceedings under ORS 33.015 to 33.155. [2019 c.201 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.260 - Persons not affected by ORS 166.250.**

- (1) ORS 166.250 does not apply to or affect:
- (a) A parole and probation officer, police officer or reserve officer, as those terms are defined in ORS 181A.355.
  - (b) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.
  - (c) An honorably retired law enforcement officer, unless the person who is a retired law enforcement officer has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.
  - (d) Any person summoned by an officer described in paragraph (a) or (b) of this subsection to assist in making arrests or preserving the peace, while the summoned person is engaged in assisting the officer.
  - (e) The possession or transportation by any merchant of unloaded firearms as merchandise.
  - (f) Active or reserve members of:

- (A) The Army, Navy, Air Force, Coast Guard or Marine Corps of the United States, or of the National Guard, when on duty;
- (B) The commissioned corps of the National Oceanic and Atmospheric Administration; or
- (C) The Public Health Service of the United States Department of Health and Human Services, when detailed by proper authority for duty with the Army or Navy of the United States.
- (g) Organizations which are by law authorized to purchase or receive weapons described in ORS 166.250 from the United States, or from this state.
- (h) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their organization.
- (i) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.
- (2) It is an affirmative defense to a charge of violating ORS 166.250 (1)(c)(C) that the person has been granted relief from the disability under ORS 166.274.
- (3) Except for persons who are otherwise prohibited from possessing a firearm under ORS 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:
  - (a) Members of any club or organization, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges.
  - (b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.
- (4) The exceptions listed in subsection (1)(d) to (i) of this section constitute affirmative defenses to a charge of violating ORS 166.250. [Amended by 1977 c.207 §1; 1991 c.67 §36; 1993 c.735 §1; 1995 c.670 §2; 1999 c.1040 §3; 2009 c.316 §2; 2009 c.499 §4; 2012 c.106 §3; 2015 c.709 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.262 - Limitation on peace officer's authority to arrest for violating ORS 166.250 or 166.370.**

A peace officer may not arrest or charge a person for violating ORS 166.250 (1)(a) or (b) or 166.370 (1)(a) if the person has in the person's immediate possession:

- (1) A valid license to carry a firearm as provided in ORS 166.291 and 166.292, unless the person possesses a firearm within the Capitol, within the passenger terminal of a commercial service airport with over one million passenger boardings per year or on school grounds subject to a policy described in ORS 166.377;
- (2) Proof that the person is a law enforcement officer; or
- (3) Proof that the person is an honorably retired law enforcement officer, unless the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292. [1999 c.1040 §5; 2015 c.709 §3; 2021 c.146 §11]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.263 - Authority of parole and probation officer to carry firearm.**

When authorized by the officer's employer, a parole and probation officer, as defined in ORS 181A.355, may carry a firearm while engaged in official duties if the officer has completed:

- (1) A firearms training program recognized by the Board on Public Safety Standards and Training; and
- (2) A psychological screening. [1995 c.670 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.265 - Manufacture, importation, sale or transfer of undetectable firearm.**

- (1)(a) A person may not knowingly manufacture or cause to be manufactured within this state, import into this state, or offer for sale, sell or transfer, an undetectable firearm.
- (b) A violation of paragraph (a) of this subsection is a Class B felony.
- (2)(a) A person may not knowingly possess an undetectable firearm.
- (b)(A) A violation of paragraph (a) of this subsection is a Class A misdemeanor.
- (B) Notwithstanding subparagraph (A) of this paragraph, a violation of paragraph (a) of this subsection is a Class B felony if, at the time of the offense, the person has one or more prior convictions under this section or ORS 166.266 or 166.267.
- (3) A person convicted under this section shall forfeit the undetectable firearm.
- (4) As used in this section, "prior conviction" includes a conviction for a violation offense. [2023 c.229 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.266 - Sale, transfer or possession of firearm without serial number.**

- (1)(a) A person may not knowingly offer for sale, sell or transfer a firearm unless the firearm has been imprinted with a serial

number by a federally licensed firearm manufacturer, importer or dealer, or a gunsmith with a federal firearms license, in accordance with federal law.

(b) A person may not knowingly possess a firearm unless the firearm has been imprinted with a serial number by a federally licensed firearm manufacturer, importer or dealer, or a gunsmith with a federal firearms license, in accordance with federal law.

(2) This section does not apply to:

(a) Antique firearms;

(b) Firearms manufactured prior to October 22, 1968;

(c) Firearms rendered permanently inoperable;

(d) The sale, offer to sell, or transfer of a firearm to, or possession of a firearm by, a person licensed as a firearm manufacturer, importer or dealer under 18 U.S.C. 923; or

(e) A gunsmith taking possession of a firearm for the purpose of imprinting the firearm with a serial number in accordance with federal law.

(3)(a) A violation of subsection (1)(a) of this section constitutes a Class B violation.

(b) Notwithstanding paragraph (a) of this subsection, a violation of subsection (1)(a) of this section is a Class A misdemeanor if, at the time of the offense, the person has a prior conviction under this section or ORS 166.265 or 166.267.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, a violation of subsection (1)(a) of this section is a Class B felony if, at the time of the offense, the person has two or more prior convictions under this section or ORS 166.265 or 166.267.

(d) A violation of subsection (1)(b) of this section occurring before September 1, 2024, does not constitute an offense.

(4) A person convicted of any offense under this section shall forfeit the firearm.

(5) As used in this section, "prior conviction" includes a conviction for a violation offense. [2023 c.229 §4]

Note:

The amendments to 166.266 by section 8, chapter 229, Oregon Laws 2023, become operative September 1, 2024. See section 10, chapter 229, Oregon Laws 2023. The text that is operative on and after September 1, 2024, is set forth for the user's convenience.

(1) A person may not knowingly possess, offer for sale, sell or transfer a firearm unless the firearm has been imprinted with a serial number by a federally licensed firearm manufacturer, importer or dealer, or a gunsmith with a federal firearms license, in accordance with federal law.

(2) This section does not apply to:

(a) Antique firearms;

(b) Firearms manufactured prior to October 22, 1968;

(c) Firearms rendered permanently inoperable;

(d) The sale, offer to sell, or transfer of a firearm to, or possession of a firearm by, a person licensed as a firearm manufacturer, importer or dealer under 18 U.S.C. 923; or

(e) A gunsmith taking possession of a firearm for the purpose of imprinting the firearm with a serial number in accordance with federal law.

(3)(a) A violation of subsection (1) of this section constitutes a Class B violation.

(b) Notwithstanding paragraph (a) of this subsection, a violation of subsection (1) of this section is a Class A misdemeanor if, at the time of the offense, the person has a prior conviction under this section or ORS 166.265 or 166.267.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, a violation of subsection (1) of this section is a Class B felony if, at the time of the offense, the person has two or more prior convictions under this section or ORS 166.265 or 166.267.

(4) A person convicted of any offense under this section shall forfeit the firearm.

(5) As used in this section, "prior conviction" includes a conviction for a violation offense.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.267 - Importation, sale, transfer or possession of unfinished frame or receiver.**

(1)(a) A person may not knowingly import into this state, offer for sale, sell or transfer an unfinished frame or receiver unless:

(A) The person is licensed as a firearm dealer under 18 U.S.C. 923;

(B) The name of the manufacturer and an individual serial number is conspicuously placed on the unfinished frame or receiver in accordance with the procedures for the serialization of a firearm in 18 U.S.C. 923(i) and all regulations under the authority of 18 U.S.C. 923(i), including but not limited to 27 C.F.R. 478.92; and

(C) The person maintains records relating to the unfinished frame or receiver in accordance with the procedures for record keeping related to firearms in 18 U.S.C. 923(g) and all regulations issued under the authority of 18 U.S.C. 923(g), including but not limited to 27 C.F.R. 478.121 to 478.134.

(b)(A) A violation of paragraph (a) of this subsection is a Class B violation.

(B) Notwithstanding subparagraph (A) of this paragraph, a violation of paragraph (a) of this subsection is a Class A misdemeanor if, at the time of the offense, the person has a prior conviction under this section or ORS 166.265 or 166.266.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, a violation of paragraph (a) of this subsection constitutes a Class B felony if, at the time of the offense, the person has two or more prior convictions under this section or ORS 166.265 or 166.266.

(2)(a) A person may not knowingly possess an unfinished frame or receiver that is not serialized as provided in subsection (1)(a)(B)



of this section, unless:

(A) The person is a federally licensed gun manufacturer; and

(B) The unfinished frame or receiver is an unfinished part within a manufacturing process that includes serialization.

(b) A violation of paragraph (a) of this subsection occurring before September 1, 2024, does not constitute an offense. [2023 c.229 §5]

Note:

The amendments to 166.267 by section 9, chapter 229, Oregon Laws 2023, become operative September 1, 2024. See section 10, chapter 229, Oregon Laws 2023. The text that is operative on and after September 1, 2024, is set forth for the user's convenience.

(1)(a) A person may not knowingly import into this state, offer for sale, sell or transfer an unfinished frame or receiver unless:

(A) The person is licensed as a firearm dealer under 18 U.S.C. 923;

(B) The name of the manufacturer and an individual serial number is conspicuously placed on the unfinished frame or receiver in accordance with the procedures for the serialization of a firearm in 18 U.S.C. 923(i) and all regulations under the authority of 18 U.S.C. 923(i), including but not limited to 27 C.F.R. 478.92; and

(C) The person maintains records relating to the unfinished frame or receiver in accordance with the procedures for record keeping related to firearms in 18 U.S.C. 923(g) and all regulations issued under the authority of 18 U.S.C. 923(g), including but not limited to 27 C.F.R. 478.121 to 478.134.

(b)(A) A violation of paragraph (a) of this subsection is a Class B violation.

(B) Notwithstanding subparagraph (A) of this paragraph, a violation of paragraph (a) of this subsection is a Class A misdemeanor if, at the time of the offense, the person has a prior conviction under this section or ORS 166.265 or 166.266.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, a violation of paragraph (a) of this subsection constitutes a Class B felony if, at the time of the offense, the person has two or more prior convictions under this section or ORS 166.265 or 166.266.

(2)(a) A person may not knowingly possess an unfinished frame or receiver that is not serialized as provided in subsection (1)(a)(B) of this section, unless:

(A) The person is a federally licensed gun manufacturer; and

(B) The unfinished frame or receiver is an unfinished part within a manufacturing process that includes serialization.

(b)(A) A violation of paragraph (a) of this subsection is a Class B violation.

(B) Notwithstanding subparagraph (A) of this paragraph, a violation of paragraph (a) of this subsection is a Class A misdemeanor if, at the time of the offense, the person has a prior conviction under this section or ORS 166.265 or 166.266.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, a violation of paragraph (a) of this subsection is a Class C felony if, at the time of the offense, the person has two or more prior convictions under this section or ORS 166.265 or 166.266.

(3) A person convicted of any offense under this section shall forfeit the unfinished frame or receiver.

(4) As used in this section, "prior conviction" includes a conviction for a violation offense.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.270 - Possession of weapons by certain felons.**

(1) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the person's possession or under the person's custody or control any firearm commits the crime of felon in possession of a firearm.

(2) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the person's possession or under the person's custody or control any instrument or weapon having a blade that projects or swings into position by force of a spring or by centrifugal force or any blackjack, slungshot, sandclub, sandbag, sap glove, metal knuckles or an Electro-Muscular Disruption Technology device as defined in ORS 165.540, or who carries a dirk, dagger or stiletto, commits the crime of felon in possession of a restricted weapon.

(3) For the purposes of this section, a person "has been convicted of a felony" if, at the time of conviction for an offense, that offense was a felony under the law of the jurisdiction in which it was committed. Such conviction shall not be deemed a conviction of a felony if:

(a) The court declared the conviction to be a misdemeanor at the time of judgment; or

(b) The offense was possession of marijuana and the conviction was prior to January 1, 1972.

(4) Subsection (1) of this section does not apply to any person who has been:

(a) Convicted of only one felony under the law of this state or any other state, or who has been convicted of only one felony under the laws of the United States, which felony did not involve criminal homicide, as defined in ORS 163.005, or the possession or use of a firearm or a weapon having a blade that projects or swings into position by force of a spring or by centrifugal force, and who has been discharged from imprisonment, parole or probation for said offense for a period of 15 years prior to the date of alleged violation of subsection (1) of this section; or

(b) Granted relief from the disability under 18 U.S.C. 925(c) or ORS 166.274 or has had the person's record expunged under the laws of this state or equivalent laws of another jurisdiction.

(5) Felon in possession of a firearm is a Class C felony. Felon in possession of a restricted weapon is a Class A misdemeanor.

[Amended by 1975 c.702 §1; 1985 c.543 §4; 1985 c.709 §2; 1987 c.853 §1; 1989 c.839 §4; 1993 c.735 §2; 1995 c.518 §1; 1999

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.272 - Unlawful possession of machine guns, certain short-barreled firearms and firearms silencers.**

(1) A person commits the crime of unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer if the person knowingly possesses any machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer.

(2) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer is a Class B felony.

(3) A peace officer may not arrest or charge a person for violating subsection (1) of this section if the person has in the person's immediate possession documentation showing that the machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer is registered as required under federal law.

(4) It is an affirmative defense to a charge of violating subsection (1) of this section that the machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer was registered as required under federal law. [1989 c.839 §13a; 1997 c.749 §8; 1997 c.798 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.273 - Relief from firearm prohibitions related to mental health.**

(1) A person barred from transporting, shipping, possessing or receiving a firearm may file a petition with the Psychiatric Security Review Board for relief from the bar if:

(a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);

(b) The person is barred from receiving a firearm under ORS 166.470 (1)(e) or (f) or, if the person has been found guilty except for insanity of a misdemeanor involving violence, ORS 166.470 (1)(g); or

(c) The person is barred from possessing, receiving, shipping or transporting a firearm under 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.

(2) The petitioner shall serve a copy of the petition on:

(a) The Department of Human Services and the Oregon Health Authority; and

(b) The district attorney in each county in which:

(A) The person was committed by a court to the Oregon Health Authority, or adjudicated by a court as a person with mental illness, under ORS 426.130;

(B) The person was committed by a court to the Department of Human Services, or adjudicated by a court as in need of commitment for residential care, treatment and training, under ORS 427.290;

(C) The person was found guilty except for insanity under ORS 161.295;

(D) The person was found responsible except for insanity under ORS 419C.411; or

(E) The person was found by a court to lack fitness to proceed under ORS 161.370.

(3) Following receipt of the petition, the board shall conduct a contested case hearing, make written findings of fact and conclusions of law on the issues before the board and issue a final order. Board members from the adult panel, the juvenile panel or a combination of both panels of the board may conduct the hearings described in this section.

(4) The state and any person or entity described in subsection (2) of this section may appear and object to and present evidence relevant to the relief sought by the petitioner.

(5) The board shall grant the relief requested in the petition if the petitioner demonstrates, based on the petitioner's reputation, the petitioner's record, the circumstances surrounding the firearm disability and any other evidence in the record, that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest.

(6) If the board grants the relief requested in the petition, the board shall provide to the Department of State Police the minimum information necessary, as defined in ORS 181A.290, to enable the department to:

(a) Maintain the information and transmit the information to the federal government as required under federal law; and

(b) Maintain a record of the person's relief from the disqualification to possess or receive a firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 (1)(e), (f) or (g).

(7) The petitioner may petition for judicial review of a final order of the board. The petition shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The review shall be conducted de novo and without a jury.

(8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by the Court of Appeals shall be conducted in accordance with ORS 183.500.

(9) A person may file a petition for relief under this section no more than once every two years.

(10) The board shall adopt procedural rules to carry out the provisions of this section.

(11) As used in this section, "state mental health determination" means:

(a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;

(b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or responsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric Security Review Board thereafter;

(c) A commitment by a court to the Oregon Health Authority, or an adjudication by a court that a person is a person with mental

illness, under ORS 426.130; or

(d) A commitment by a court to the Department of Human Services, or an adjudication by a court that a person is in need of commitment for residential care, treatment and training, under ORS 427.290. [2009 c.826 §5; 2009 c.826 §§18,18a; 2011 c.658 §32; 2013 c.360 §68; 2015 c.201 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.274 - Relief from prohibition against possessing or receiving firearm; fees.**

(1) Except as provided in subsection (11) of this section, a person barred from possessing or receiving a firearm may file a petition for relief from the bar in accordance with subsection (2) of this section if:

(a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(A), (C) or (H) or 166.270; or

(b) The person is barred from receiving a firearm under ORS 166.470 (1)(a) or (b) or, if the person has been convicted of a misdemeanor involving violence, ORS 166.470 (1)(g).

(2) A petition for relief described in this section must be filed in the circuit court in the petitioner's county of residence.

(3) A person may apply once per calendar year for relief under the provisions of this section.

(4)(a) A person petitioning for relief under this section shall serve a copy of the petition on:

(A) The city chief of police if the court in which the petition is filed is located in a city; or

(B) The sheriff of the county in which the court is located.

(b) The copy of the petition shall be served on the chief of police or sheriff at the same time the petition is filed at the court.

(5)(a) When a petition is denied, the judge shall cause that information to be entered into the Department of State Police computerized criminal history files.

(b) When a petition is granted, the judge shall cause that information and a fingerprint card of the petitioner to be entered into the Department of State Police computerized criminal history files. If, after a petition is granted, the petitioner is arrested and convicted of a crime that would disqualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall notify the court that granted relief under this section. The court shall review the order granting relief and determine whether to rescind the order. The Department of State Police may charge a reasonable fee, under ORS 192.324, for the entry and maintenance of information under this section.

(6) Notwithstanding the provisions of ORS 9.320, a party that is not a natural person, the state or any city, county, district or other political subdivision or public corporation in this state, without appearance by attorney, may appear as a party to an action under this section.

(7) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner does not pose a threat to the safety of the public or the petitioner.

(8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall then make findings and conclusions and issue a judgment based on the findings and conclusions in accordance with the requirements of law.

(9) A person filing a petition under this section must pay the filing fee established under ORS 21.135.

(10)(a) Initial appeals of petitions shall be heard de novo.

(b) Any party to a judgment under this subsection may appeal to the Court of Appeals in the same manner as for any other civil action.

(c) If the governmental entity files an appeal under this subsection and does not prevail, it shall be ordered to pay the attorney fees for the prevailing party.

(11) The court may not grant relief under this section to a person who:

(a) Has been convicted of a person felony, as that term is defined in the rules of the Oregon Criminal Justice Commission, or the statutory counterpart to a person felony in any other jurisdiction, if the offense involved the use of a firearm or a deadly weapon as defined in ORS 161.015;

(b) Has been convicted of an offense listed in ORS 137.700 or the statutory counterpart to an offense listed in ORS 137.700 in any other jurisdiction; or

(c) Is currently serving a felony sentence as defined in ORS 10.030 or has served a felony sentence in the one-year period preceding the filing of the petition. [1989 c.839 §11; 1991 c.67 §37; 1993 c.732 §§3,4; 1995 c.518 §2; 1995 c.658 §88; 2009 c.499 §2; 2009 c.826 §§19,20; 2010 c.86 §§1,2,3; 2011 c.595 §§59,60; 2011 c.662 §§3,4; 2015 c.7 §§6,7; 2015 c.201 §4; 2015 c.497 §§5,6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.275 - Possession of weapons by inmates of institutions.**

Any person committed to any institution who, while under the jurisdiction of any institution or while being conveyed to or from any institution, possesses or carries upon the person, or has under the custody or control of the person any dangerous instrument, or any weapon including but not limited to any blackjack, slingshot, billy, sand club, metal knuckles, explosive substance, dirk, dagger, sharp instrument, pistol, revolver or other firearm without lawful authority, is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the custody of the Department of Corrections for a term not more than 20 years. [1953 c.533 §1; 1987 c.320 §88]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.279 - Forfeiture of deadly weapons.**

- (1) Except as provided in subsection (4) of this section, ORS 131.550 to 131.600 do not apply to the forfeiture of a firearm or other deadly weapon that was possessed, used or available for use to facilitate a criminal offense.
- (2) Except as provided in subsection (3) of this section, at the time of sentencing for any criminal offense in which a firearm or other deadly weapon was possessed, used or available for use to facilitate the offense, the court shall declare the weapon to be contraband and order that the weapon be forfeited.
- (3) If a firearm or other deadly weapon that was possessed, used or available for use to facilitate a criminal offense was stolen from its lawful owner and was recovered from a person other than the lawful owner, the court may not order that the weapon be forfeited but shall order that the weapon be restored to the lawful owner as soon as the weapon is no longer needed for evidentiary purposes.
- (4) The court shall release a firearm or other deadly weapon forfeited under subsection (2) of this section to the law enforcement agency that seized the weapon. The law enforcement agency may destroy or sell the weapon, use the weapon as a service weapon or use the weapon for training, identification or demonstration purposes. When a weapon is sold pursuant to this subsection, the law enforcement agency shall pay the proceeds from the sale, less the costs of the sale, as provided in ORS 131.594 and 131.597.
- (5) As used in this section, "deadly weapon" has the meaning given that term in ORS 161.015. [2003 c.614 §4; 2005 c.830 §24]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.282 - Sale of weapons by political subdivision; disposition of proceeds.**

- (1) A political subdivision in this state that sells a weapon described in subsection (2) of this section shall pay the proceeds from the sale of the weapon, less the costs of the sale, to the account of the police agency that received the weapon, to be used for purposes of public safety, law enforcement and crime prevention and detection.
- (2) Subsection (1) of this section applies to a weapon that is donated to the police agency. [1997 c.693 §1; 2001 c.666 §§25,37; 2003 c.614 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.291 - Issuance of concealed handgun license; application; fees; liability.**

- (1) The sheriff of a county, upon a person's application for an Oregon concealed handgun license, upon receipt of the appropriate fees and after compliance with the procedures set out in this section, shall issue the person a concealed handgun license if the person:
  - (a)(A) Is a citizen of the United States; or
  - (B) Is a legal resident noncitizen who can document continuous residency in the county for at least six months and has declared in writing to the United States Citizenship and Immigration Services the intent to acquire citizenship status and can present proof of the written declaration to the sheriff at the time of application for the license;
  - (b) Is at least 21 years of age;
  - (c) Is a resident of the county;
  - (d) Has no outstanding warrants for arrest;
  - (e) Is not free on any form of pretrial release;
  - (f) Demonstrates competence with a handgun by any one of the following:
    - (A) Completion of any hunter education or hunter safety course approved by the State Department of Fish and Wildlife or a similar agency of another state if handgun safety was a component of the course;
    - (B) Completion of any National Rifle Association firearms safety or training course if handgun safety was a component of the course;
    - (C) Completion of any firearms safety or training course or class available to the general public offered by law enforcement, community college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or a law enforcement agency if handgun safety was a component of the course;
    - (D) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, reserve law enforcement officers or any other law enforcement officers if handgun safety was a component of the course;
    - (E) Presents evidence of equivalent experience with a handgun through participation in organized shooting competition or military service;
    - (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been revoked; or
    - (G) Completion of any firearms training or safety course or class conducted by a firearms instructor certified by a law enforcement agency or the National Rifle Association if handgun safety was a component of the course;
  - (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;
  - (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor within the four years prior to the application, including a misdemeanor conviction for the possession of marijuana as described in paragraph (L) of this subsection;

- (i) Has not been committed to the Oregon Health Authority under ORS 426.130;
  - (j) Has not been found to be a person with mental illness and is not subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
  - (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, the person was found to be within the jurisdiction of the juvenile court for having committed an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470;
  - (L) Has not been convicted of an offense involving controlled substances or participated in a court-supervised drug diversion program, except this disability does not operate to exclude a person if:
    - (A) The person can demonstrate that the person has been convicted only once of a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense, and has not completed a drug diversion program for a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense; or
    - (B) The person can demonstrate that the person has only once completed a drug diversion program for a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense, and has not been convicted of a marijuana possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of the offense;
  - (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738;
  - (n) Has not received a dishonorable discharge from the Armed Forces of the United States;
  - (o) Is not required to register as a sex offender in any state; and
  - (p) Is not presently subject to an order under ORS 426.133 prohibiting the person from purchasing or possessing a firearm.
- (2) A person who has been granted relief under ORS 166.273, 166.274 or 166.293 or 18 U.S.C. 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.
- (3) Before the sheriff may issue a license:
- (a) The application must state the applicant's legal name, current address and telephone number, date and place of birth, hair and eye color and height and weight. The application must also list the applicant's residence address or addresses for the previous three years. The application must contain a statement by the applicant that the applicant meets the requirements of subsection (1) of this section. The application may include the Social Security number of the applicant if the applicant voluntarily provides this number. The application must be signed by the applicant.
  - (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff shall fingerprint and photograph the applicant and shall conduct any investigation necessary to corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal records check is necessary, the sheriff shall request the Department of State Police to conduct the check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints. The Department of State Police shall report the results of the fingerprint-based criminal records check to the sheriff. The Department of State Police shall also furnish the sheriff with any information about the applicant that the Department of State Police may have in its possession including, but not limited to, manual or computerized criminal offender information.
- (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon request. The forms shall be uniform throughout this state in substantially the following form:

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APPLICATION FOR LICENSE TO CARRY:LEND  
CONCEALED HANDGUN

Date \_\_\_\_\_

I hereby declare as follows:

I am a citizen of the United States or a legal resident noncitizen who can document continuous residency in the county for at least six months and have declared in writing to the United States Citizenship and Immigration Services my intention to become a citizen and can present proof of the written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, I was found to be within the jurisdiction of the juvenile court for having committed an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years, been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense involving controlled substances or completed a court-supervised drug diversion program. There are no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not been committed to the Oregon Health Authority under ORS 426.130, nor have I been found to be a person with mental illness and presently subject to an order prohibiting me from purchasing or possessing a firearm because of mental illness. I am not under a court order to participate in assisted outpatient treatment that includes an order prohibiting me from purchasing or possessing a firearm. If any of the previous conditions do apply to me, I have been granted relief or wish to petition for relief from the disability under ORS 166.273, 166.274 or 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge from the Armed Forces of the United States. I am not required to register as a sex offender in any state. I understand I will

be fingerprinted and photographed.

Legal name \_\_\_\_\_

Age \_\_\_\_\_ Date of birth \_\_\_\_\_

Place of birth \_\_\_\_\_

Social Security number \_\_\_\_\_

Proof of identification (Two pieces of current identification are required, one of which must bear a photograph of the applicant. The type of identification and the number on the identification are to be filled in by the sheriff.):

1. \_\_\_\_\_

2. \_\_\_\_\_

Height \_\_\_\_\_ Weight \_\_\_\_\_

Hair color \_\_\_\_\_ Eye color \_\_\_\_\_

Current address \_\_\_\_\_

(List residence addresses for the past three years on the back.)

City \_\_\_\_\_ County \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_

I have read the entire text of this application, and the statements therein are correct and true. (Making false statements on this application is a misdemeanor.)

Character references.

\_\_\_\_\_  
Name: Address

\_\_\_\_\_  
Name: Address

Approved \_\_\_ Disapproved \_\_\_ by \_\_\_

Competence with handgun demonstrated by \_\_\_\_\_ (to be filled in by sheriff)

Date \_\_\_\_\_ Fee Paid \_\_\_\_\_

License No. \_\_\_\_\_

(5)(a) Fees for concealed handgun licenses are:

(A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

(B) \$100 to the sheriff for the initial issuance of a concealed handgun license.

(C) \$75 to the sheriff for the renewal of a concealed handgun license.

(D) \$15 to the sheriff for the duplication of a license because of loss or change of address.

(b) The sheriff may enter into an agreement with the Department of Transportation to produce the concealed handgun license.

(6) No civil or criminal liability shall attach to the sheriff or any authorized representative engaged in the receipt and review of, or an investigation connected with, any application for, or in the issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful performance of duties under those sections.

(7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff shall enter the applicant's name into the Law Enforcement Data System indicating that the person is an applicant for a concealed handgun license or is a license holder.

(8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section for a resident of a contiguous state who has a compelling business interest or other legitimate demonstrated need.

(9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the person:

(a) Has a current Oregon driver license issued to the person showing a residence address in the county;

(b) Is registered to vote in the county and has a voter notification card issued to the person under ORS 247.181 showing a residence address in the county;

(c) Has documentation showing that the person currently leases or owns real property in the county; or

(d) Has documentation showing that the person filed an Oregon tax return for the most recent tax year showing a residence address in the county.

(10) As used in this section, "drug diversion program" means a program in which a defendant charged with a marijuana possession offense completes a program under court supervision and in which the marijuana possession offense is dismissed upon successful completion of the diversion program. [1989 c.839 §8 (166.291 to 166.293 enacted in lieu of 166.290); 1991 c.67 §38; 1993 c.732 §2; 1993 c.735 §4; 1995 c.729 §6; 1999 c.1052 §6; 2001 c.104 §56; 2003 c.166 §1; 2005 c.22 §115; 2007 c.368 §2; 2009 c.595 §113; 2009 c.826 §§7,10; 2011 c.547 §§33,34; 2013 c.243 §§4,5; 2013 c.360 §§8,9; 2013 c.591 §§6,7; 2014 c.62 §§1,2; 2015 c.50 §§15,16; 2015 c.201 §5; 2021 c.146 §12; 2022 c.97 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.292 - Procedure for issuing; form of license; duration.**

(1) If the application for the license is approved, the sheriff shall issue and mail or otherwise deliver to the applicant at the address shown on the application, within 45 days of the application, a wallet sized license bearing the photograph of the licensee. The

license must be signed by the licensee and carried whenever the licensee carries a concealed handgun.

(2) Failure of a person who carries a concealed handgun also to carry a concealed handgun license is prima facie evidence that the person does not have such a license.

(3) Licenses for concealed handguns shall be uniform throughout the state in substantially the following form:

---

OREGON CONCEALED HANDGUN  
LICENSE

County \_\_\_\_\_ License Number \_\_\_\_\_

Expires \_\_\_\_\_ Date of birth \_\_\_\_\_

Height \_\_\_\_\_ Weight \_\_\_\_\_

Name \_\_\_\_\_ Address \_\_\_\_\_

Licensee's City \_\_\_\_\_ Zip \_\_\_\_\_ Photograph

Signature \_\_\_\_\_

Issued by \_\_\_\_\_

Date of issue \_\_\_\_\_

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(4) An Oregon concealed handgun license issued under ORS 166.291 and this section, unless revoked under ORS 166.293, is valid for a period of four years from the date on which it is issued.

(5) The sheriff shall keep a record of each license issued under ORS 166.291 and this section, or renewed pursuant to ORS 166.295.

(6) When a sheriff issues a concealed handgun license under this section, the sheriff shall provide the licensee with a list of those places where carrying concealed handguns is prohibited or restricted by state or federal law. [1989 c.839 §9 (166.291 to 166.293 enacted in lieu of 166.290); 1993 c.625 §5; 1993 c.693 §2; 1993 c.735 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.293 - Denial or revocation of license; review.**

(1) If the application for the concealed handgun license is denied, the sheriff shall set forth in writing the reasons for the denial. The denial shall be sent to the applicant by certified mail, restricted delivery, within 45 days after the application was made. If no decision is issued within 45 days, the person may seek review under the procedures in subsection (5) of this section.

(2) Notwithstanding ORS 166.291 (1), and subject to review as provided in subsection (5) of this section, a sheriff may deny a concealed handgun license if the sheriff has reasonable grounds to believe that the applicant has been or is reasonably likely to be a danger to self or others, or to the community at large, as a result of the applicant's mental or psychological state or as demonstrated by the applicant's past pattern of behavior involving unlawful violence or threats of unlawful violence.

(3)(a) Any act or condition that would prevent the issuance of a concealed handgun license is cause for revoking a concealed handgun license.

(b) A sheriff may revoke a concealed handgun license by serving upon the licensee a notice of revocation. The notice must contain the grounds for the revocation and must be served either personally or by certified mail, restricted delivery. The notice and return of service shall be included in the file of the licensee. The revocation is effective upon the licensee's receipt of the notice.

(4) Any peace officer or corrections officer may seize a concealed handgun license and return it to the issuing sheriff if the license is held by a person who has been arrested or cited for a crime that can or would otherwise disqualify the person from being issued a concealed handgun license. The issuing sheriff shall hold the license for 30 days. If the person is not charged with a crime within the 30 days, the sheriff shall return the license unless the sheriff revokes the license as provided in subsection (3) of this section.

(5) A person denied a concealed handgun license or whose license is revoked or not renewed under ORS 166.291 to 166.295 may petition the circuit court in the petitioner's county of residence to review the denial, nonrenewal or revocation. The petition must be filed within 30 days after the receipt of the notice of denial or revocation.

(6) The judgment affirming or overturning the sheriff's decision shall be based on whether the petitioner meets the criteria that are used for issuance of a concealed handgun license and, if the petitioner was denied a concealed handgun license, whether the sheriff has reasonable grounds for denial under subsection (2) of this section. Whenever the petitioner has been previously sentenced for a crime under ORS 161.610 or for a crime of violence for which the person could have received a sentence of more than 10 years, the court shall grant relief only if the court finds that relief should be granted in the interest of justice.

(7) Notwithstanding the provisions of ORS 9.320, a party that is not a natural person, the state or any city, county, district or other political subdivision or public corporation in this state, without appearance by attorney, may appear as a party to an action under this section.

(8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of filing or as soon as practicable thereafter.

(9) Filing fees for actions shall be as for any civil action filed in the court. If the petitioner prevails, the amount of the filing fee shall be paid by the respondent to the petitioner and may be incorporated into the court order.

(10) Initial appeals of petitions shall be heard de novo.

(11) Any party to a judgment under this section may appeal to the Court of Appeals in the same manner as for any other civil action.

(12) If the governmental entity files an appeal under this section and does not prevail, it shall be ordered to pay the attorney fees for

the prevailing party. [1989 c.839 §9a (166.291 to 166.293 enacted in lieu of 166.290); 1993 c.735 §6; 1995 c.518 §3; 1995 c.658 §89; 1999 c.1052 §7; 2003 c.14 §65; 2007 c.202 §1; 2007 c.368 §3; 2015 c.7 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.295 - Renewal of license.**

(1)(a) A concealed handgun license is renewable by repeating the procedures set out in ORS 166.291 and 166.292, except for the requirement to submit fingerprints and provide character references. A licensee may submit the application for renewal by mail if the licensee:

(A) Is an active member of the Armed Forces of the United States, the National Guard of the United States or the Oregon National Guard; and

(B) Submits with the application proof of the licensee's military orders and a copy of the licensee's military identification.

(b) An otherwise expired concealed handgun license continues to be valid for up to 45 days after the licensee applies for renewal if:

(A) The licensee applies for renewal before the original license expires;

(B) The licensee has proof of the application for renewal; and

(C) The application for renewal has not been denied.

(2) If a licensee changes residence, the licensee shall report the change of address and the sheriff shall issue a new license as a duplication for a change of address. The license shall expire upon the same date as would the original. [1989 c.839 §10; 1993 c.735 §7; 2007 c.368 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.297 - Annual report regarding revocation of licenses.**

(1) The sheriff of a county shall submit annually to the Department of State Police a report containing the number of concealed handgun licenses revoked during the reporting period and the reasons for the revocations.

(2) The Department of State Police shall compile the reports submitted under subsection (1) of this section and shall submit the compilation to the Legislative Assembly biennially. [1993 c.735 §13]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.300 - Killing or injuring another with firearm as cause for loss of right to bear arms.**

(1) Any person who has committed, with firearms of any kind or description, murder in any degree, or manslaughter, either voluntary or involuntary, or who in a careless or reckless manner, kills or injures another with firearms, and who, at any time after committing murder or manslaughter or after said careless or reckless killing or injury of another, carries or bears firearms of any kind or description within this state, commits a Class A misdemeanor.

(2) Subsection (1) of this section does not deprive the people of this state of the right to bear arms for the defense of themselves and the state, and does not apply to any peace officer in the discharge of official duties or to a member of any regularly constituted military organization while on duty with such military organization. [Amended by 2011 c.597 §163]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.320 - Setting springgun or setgun.**

(1) Any person who places or sets any loaded springgun, setgun, or any gun, firearm or other device of any kind designed for containing or firing explosives, in any place where it may be fired, exploded or discharged by the contact of any person or animal with any string, wire, rod, stick, spring or other contrivance affixed to or connected with it, or with its trigger, commits a Class B misdemeanor.

(2) Subsection (1) of this section does not apply to any loaded springgun, setgun, firearm or other device placed for the purpose of destroying gophers, moles or other burrowing rodents, and does not prevent the use of a coyote getter by employees of county, state or federal governments engaged in cooperative predatory animal control work. [Amended by 2011 c.597 §164]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.330 - Use of firearms with other than incombustible gun wadding.**

Any person who uses in any firearms discharged on lands within this state, not owned by the person, anything other than incombustible gun wadding, commits a Class C misdemeanor. [Amended by 2011 c.597 §165]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.350 - Unlawful possession of armor piercing ammunition.**

(1) A person commits the crime of unlawful possession of armor piercing ammunition if the person:

(a) Makes, sells, buys or possesses any handgun ammunition the bullet or projectile of which is coated with Teflon or any chemical compound with properties similar to Teflon and which is intended to penetrate soft body armor, such person having the intent that the ammunition be used in the commission of a felony; or



- (b) Carries any ammunition described in paragraph (a) of this subsection while committing any felony during which the person or any accomplice of the person is armed with a firearm.
- (2) As used in this section, "handgun ammunition" means ammunition principally for use in pistols or revolvers notwithstanding that the ammunition can be used in some rifles.
- (3) Unlawful possession of armor piercing ammunition is a Class A misdemeanor. [1985 c.755 §2; 1987 c.158 §29]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.355 - Manufacture, importation, possession, use, purchase, sale or transfer of large-capacity magazine.**

- (1) As used in this section:
  - (a) "Armed Forces of the United States" has the meaning given that term in ORS 348.282.
  - (b) "Detachable magazine" means an ammunition feeding device that can be loaded or unloaded while detached from a firearm and readily inserted in a firearm.
  - (c) "Fixed magazine" means an ammunition feeding device contained in or permanently attached to a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.
  - (d) "Large-capacity magazine" means a fixed or detachable magazine, belt, drum, feed strip, helical feeding device, or similar device, including any such device joined or coupled with another in any manner, or a kit with such parts, that has an overall capacity of, or that can be readily restored, changed, or converted to accept, more than 10 rounds of ammunition and allows a shooter to keep firing without having to pause to reload, but does not include any of the following:
    - (A) An ammunition feeding device that has been permanently altered so that it is not capable, now or in the future, of accepting more than 10 rounds of ammunition;
    - (B) An attached tubular device designed to accept, and capable of operating only with 0.22 caliber rimfire ammunition; or
    - (C) A tubular ammunition feeding device that is contained in a lever-action firearm.
  - (e) "Loaded" has the meaning given that term in ORS 166.360.
  - (f) "Person" means any natural person, corporation, partnership, fire or association.
- (2) Notwithstanding ORS 166.250 to 166.470, and except as expressly provided in subsections (3) to (5) of this section, a person commits the crime of unlawful manufacture, importation, possession, use, purchase, sale or otherwise transferring of large-capacity magazines if the person manufactures, imports, possesses, uses, purchases, sells or otherwise transfers any large-capacity magazine in Oregon on or after December 8, 2022.
- (3) Subsection (2) of this section does not apply during the first 180 days following December 8, 2022, with respect to:
  - (a) A licensed gun dealer that within 180 days of December 8, 2022:
    - (A) Transfers or sells the large-capacity magazines in the gun dealer's inventory to a nonresident gun dealer or other transferee outside of this state;
    - (B) Purchases or acquires temporary custody from an owner of any large-capacity magazine for permanent removal from this state within 180 days of December 8, 2022;
    - (C) Permanently alters any large-capacity magazine in the gun dealer's inventory or custody so that it is not capable, upon alteration or in the future, of accepting more than 10 rounds of ammunition or permanently alter the magazine so it is no longer a; or
    - (D) Permanently disposes of the large-capacity magazines in the gun dealer's custody or inventory.
  - (b) A firearms manufacturer, properly licensed under federal, state and local law, that is a party to a contract, in existence and binding on December 8, 2022, with an entity outside of this state, for the manufacture of large-capacity magazines, provided that:
    - (A) All manufacturing is completed no later than 180 days after December 8, 2022; and
    - (B) The entity outside of Oregon receiving the large-capacity magazines is made aware in writing on or before the delivery of the ammunition devices of the restrictions pertaining to large-capacity magazines in this state as set forth in chapter 1, Oregon Laws 2023.
- (4) Subsection (2) of this section does not apply at any time to:
  - (a) A firearms manufacturer properly licensed under federal, state and local law that manufactures large-capacity magazines, provided:
    - (A) The manufacturing is for exclusive sale or transfer to the Armed Forces of the United States or a law enforcement agency and solely for authorized use by that entity related to the official duties of the entity; and
    - (B) Any large-capacity magazine, permitted to be manufactured under paragraph (a)(A) of this subsection after December 8, 2022, shall include a permanent stamp or marking indicating that the large-capacity magazine was manufactured or assembled after December 8, 2022. The stamp or marking must be legibly and conspicuously engraved or cast upon the outer surface of the large-capacity magazine. The department may promulgate such rules as may be necessary for the implementation of this section, including but not limited to rules requiring such large-capacity magazine be stamped with information indicating the limitation for use only by military and law enforcement or such other identification to distinguish clearly large-capacity magazines manufactured after December 8, 2022. Except as provided in subsection (3)(b) of this section, no large-capacity magazines without such stamp may be manufactured in this state after December 8, 2022.
  - (b) A licensed gun dealer that sells or otherwise transfers large-capacity magazines to the Armed Forces of the United States or a law enforcement agency solely for authorized use by that entity, provided the large-capacity magazines have been engraved as

provided in paragraph (a)(B) of this subsection.

(c) Any government officer, agent or employee, member of the Armed Forces of the United States or peace officer, as that term is defined in ORS 133.005, that is authorized to acquire, possess or use a large-capacity magazine provided that any acquisition, possession or use is related directly to activities within the scope of that person's official duties.

(5) As of December 8, 2022, it shall be an affirmative defense, as provided in ORS 166.055, to the unlawful possession, use and transfer of a large-capacity magazine in this state by any person, provided that:

(a) The large-capacity magazine was owned by the person before December 8, 2022, and maintained in the person's control or possession; or

(b) The possession of a large-capacity magazine was obtained by a person who, on or after December 8, 2022, acquired possession of the large-capacity magazine by operation of law upon the death of a former owner who was in legal possession of the large-capacity magazine; and

(c) In addition to either paragraph (a) or (b) of this subsection the owner has not maintained the large-capacity magazine in a manner other than:

(A) On property owned or immediately controlled by the registered owner;

(B) On the premises of a gun dealer or gunsmith licensed under 18 U.S.C. 923 for the purpose of lawful service or repair;

(C) While engaging in the legal use of the large-capacity magazine, at a public or private shooting range or shooting gallery or for recreational activities such as hunting, to the extent permitted under state law; or

(D) While participating in firearms competition or exhibition, display or educational project about firearms sponsored, conducted by, approved or under the auspices of a law enforcement agency or a national or state-recognized entity that fosters proficiency in firearms use or promotes firearms education; and

(E) While transporting any large-capacity magazines in a vehicle to one of the locations authorized in paragraph (c)(A) to (D) of this subsection, the large-capacity magazine is not inserted into the firearm and is locked in a separate container.

(d) The person has permanently and voluntarily relinquished the large-capacity magazine to law enforcement or to a buyback or turn-in program approved by law enforcement, prior to commencement of prosecution by arrest, citation or a formal charge.

(6) Unlawful manufacture, importation, possession, use, purchase, sale or otherwise transferring of a large-capacity magazine is a Class A misdemeanor. [2023 c.1 §11]

Note:

The Act that comprises chapter 1, Oregon Laws 2023 (Ballot Measure 114 (2022)), was proposed by initiative petition and was approved by the people at the regular general election on November 8, 2022. By proclamation of the Governor dated December 8, 2022, the Act was declared to have received an affirmative majority of the total number of votes cast thereon and to be in full force and effect as provided in Article IV, section 1, of the Oregon Constitution. However, implementation of the Act has been permanently enjoined by the Harney County Circuit Court. See *Arnold v. Kotek*, Harney County Circuit Court Case No. 22CV41008.

Note:

Chapter 1, Oregon Laws 2023 (Ballot Measure 114 (2022)), provided that 166.355, 166.412, 166.435, 166.436, 166.438, 166.500, 166.503, 166.505, 166.508 and 166.512 and section 10, chapter 1, Oregon Laws 2023, were added to and made a part of ORS 166.210 to 166.490, a nonexistent series. This series has not been included in the Oregon Revised Statutes.

Note:

Legislative Counsel has substituted "chapter 1, Oregon Laws 2023," for the words "this 2022 Act," "this Act" and "this Chapter" in sections 2, 11 and 12, chapter 1, Oregon Laws 2023, compiled as ORS 166.355, 166.500 and 166.512. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 2023 Comparative Section Table located in Volume 22 of ORS.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.360 - Definitions for ORS 166.360 to 166.380.**

As used in ORS 166.360 to 166.380, unless the context requires otherwise:

(1) "Capitol building" means the Capitol, the State Office Building, the State Library Building, the Labor and Industries Building, the State Transportation Building, the Agriculture Building or the Public Service Building and includes any new buildings which may be constructed on the same grounds as an addition to the group of buildings listed in this subsection.

(2) "Court facility" means a courthouse or that portion of any other building occupied by a circuit court, the Court of Appeals, the Supreme Court or the Oregon Tax Court or occupied by personnel related to the operations of those courts, or in which activities related to the operations of those courts take place.

(3) "Judge" means a judge of a circuit court, the Court of Appeals, the Supreme Court, the Oregon Tax Court, a municipal court, a probate court or a juvenile court or a justice of the peace.

(4) "Judicial district" means a circuit court district established under ORS 3.012 or a justice of the peace district established under ORS 51.020.

(5) "Juvenile court" has the meaning given that term in ORS 419A.004.

(6) "Loaded firearm" means:

(a) A breech-loading firearm in which there is an unexpended cartridge or shell in or attached to the firearm including but not

limited to, in a chamber, magazine or clip which is attached to the firearm.

(b) A muzzle-loading firearm which is capped or primed and has a powder charge and ball, shot or projectile in the barrel or cylinder.

(7) "Local court facility" means the portion of a building in which a justice court, a municipal court, a probate court or a juvenile court conducts business, during the hours in which the court operates.

(8) "Probate court" has the meaning given that term in ORS 111.005.

(9) "Public building" means:

(a) A hospital, a capitol building, a public or private school, as defined in ORS 339.315, a college or university, a city hall or the residence of any state official elected by the state at large, and the grounds adjacent to each such building. The term also includes that portion of any other building occupied by an agency of the state or by a city, a county, a district as defined in ORS 198.010 or any other entity that falls within the definition of "municipal corporation" in ORS 297.405, other than a court facility; or

(b) The passenger terminal of a commercial service airport with over one million passenger boardings per year.

(10) "Weapon" means:

(a) A firearm;

(b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar instrument or a knife, other than an ordinary pocketknife with a blade less than four inches in length, the use of which could inflict injury upon a person or property;

(c) Mace, tear gas, pepper mace or any similar deleterious agent as defined in ORS 163.211;

(d) An electrical stun gun or any similar instrument;

(e) A tear gas weapon as defined in ORS 163.211;

(f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku, nightstick, truncheon or any similar instrument, the use of which could inflict injury upon a person or property; or

(g) A dangerous or deadly weapon as those terms are defined in ORS 161.015. [1969 c.705 §1; 1977 c.769 §2; 1979 c.398 §1; 1989 c.982 §4; 1993 c.741 §2; 1999 c.577 §2; 1999 c.782 §6; 2001 c.201 §1; 2015 c.351 §1; 2021 c.146 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.370 - Possession of firearm or dangerous weapon in public building or court facility; exceptions; discharging firearm at school.**

(1)(a) Any person who intentionally possesses a loaded or unloaded firearm or any other instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be guilty of a Class C felony.

(b) Notwithstanding paragraph (a) of this subsection, in a prosecution under this section for the possession of a firearm within the Capitol, within the passenger terminal of a commercial service airport with over one million passenger boardings per year or on school grounds subject to a policy described in ORS 166.377, if the person proves by a preponderance of the evidence that, at the time of the possession, the person was licensed under ORS 166.291 and 166.292 to carry a concealed handgun, upon conviction the person is guilty of a Class A misdemeanor.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who intentionally possesses:

(A) A firearm in a court facility is guilty, upon conviction, of a Class C felony. A person who intentionally possesses a firearm in a court facility shall surrender the firearm to a law enforcement officer.

(B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon to a law enforcement officer or to immediately remove it from the court facility. A person who fails to comply with this subparagraph is guilty, upon conviction, of a Class C felony.

(C) A firearm in a local court facility is guilty, upon conviction, of a Class C felony if, prior to the offense, the presiding judge of the local court facility entered an order prohibiting firearms in the area in which the court conducts business and during the hours in which the court operates.

(b) The presiding judge of a judicial district or a municipal court may enter an order permitting the possession of specified weapons in a court facility.

(c) Within a shared court facility, the presiding judge of a municipal court or justice of the peace district may not enter an order concerning the possession of weapons in the court facility that is in conflict with an order entered by the presiding judge of the circuit court.

(3) Subsection (1)(a) of this section does not apply to:

(a) A police officer or reserve officer, as those terms are defined in ORS 181A.355.

(b) A parole and probation officer, as defined in ORS 181A.355, while the parole and probation officer is acting within the scope of employment.

(c) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.

(d) A person summoned by an officer described in paragraph (a), (b) or (c) of this subsection to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

(e) An honorably retired law enforcement officer.

(f) An active or reserve member of the military forces of this state or the United States, when engaged in the performance of duty.

(g) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun, except as provided in subsection (1)(b)

of this section.

- (h) A person who is authorized by the officer or agency that controls the public building to possess a firearm or dangerous weapon in that public building.
- (i) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a firearm in the course of the lawful taking of wildlife.
- (j) Possession of a firearm on school property if the firearm:
  - (A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and
  - (B) Is unloaded and locked in a motor vehicle.
- (k) A person who possesses a firearm in the passenger terminal of a commercial service airport, if the firearm is unloaded and in a locked hard-sided container for the purposes of transporting the firearm as checked baggage in accordance with federal law.
- (4)(a) Except as provided in subsection (1)(b) of this section, the exceptions listed in subsection (3)(d) to (k) of this section constitute affirmative defenses to a charge of violating subsection (1)(a) of this section.
- (b) A person may not use the affirmative defense described in subsection (3)(e) of this section if the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.
- (5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges or attempts to discharge a firearm at a place that the person knows is a school shall upon conviction be guilty of a Class C felony.
- (b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:
  - (A) As part of a program approved by a school in the school by an individual who is participating in the program;
  - (B) By a law enforcement officer acting in the officer's official capacity; or
  - (C) By an employee of the United States Department of Agriculture, acting within the scope of employment, in the course of the lawful taking of wildlife.
- (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS 166.279.
- (7) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes a violation of both subsections (1) and (5) of this section, the district attorney may charge the person with only one of the offenses.
- (8) As used in this section, "dangerous weapon" means a dangerous weapon as that term is defined in ORS 161.015. [1969 c.705 §2,4; 1977 c.207 §2; 1979 c.398 §2; 1989 c.839 §22; 1989 c.982 §5; 1991 c.67 §39; 1993 c.625 §1; 1999 c.782 §7; 1999 c.1040 §4; 2001 c.666 §§24,36; 2003 c.614 §6; 2009 c.556 §6; 2015 c.351 §2; 2015 c.709 §4; 2021 c.146 §10]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.373 - Possession of weapon in court facility by peace officer or federal officer.**

- (1) Notwithstanding ORS 166.370 (2) and except as provided in subsection (2) of this section, a peace officer, as defined in ORS 161.015, or a federal officer, as defined in ORS 133.005, may possess a weapon in a court facility if the officer:
  - (a) Is acting in an official capacity and is officially on duty;
  - (b) Is carrying a weapon that the employing agency of the officer has authorized the officer to carry; and
  - (c) Is in compliance with any security procedures established under subsections (3) and (4) of this section.
- (2) A judge may prohibit a peace officer or a federal officer from possessing a weapon in a courtroom. A notice of the prohibition of the possession of a weapon by an officer in a courtroom must be posted outside the entrance to the courtroom.
- (3) A presiding judge of a judicial district or a municipal court or the Chief Justice of the Supreme Court may establish procedures regulating the possession of a weapon in a court facility by a peace officer or a federal officer subject to the following:
  - (a) The procedures for a circuit court must be established through a plan for court security improvement, emergency preparedness and business continuity under ORS 1.177 or 1.180;
  - (b) The procedures for a justice court or a municipal court may only prohibit the possession of weapons within the area in which the court conducts business and during the hours in which the court operates;
  - (c) Within a shared court facility, the presiding judge of a municipal court or justice of the peace district may not establish procedures in conflict with the procedures established by the presiding judge of the circuit court; and
  - (d) Notice of the procedures must be posted at the entrance to the court facility, or at an entrance for peace officers or federal officers if the entrance is separate from the entrance to the court facility, and at a security checkpoint in the court facility.
- (4) A judge may establish procedures regulating the possession of a weapon in a courtroom by a peace officer or a federal officer. A notice of the procedures regulating the possession of a weapon by an officer must be posted outside the entrance to the courtroom. [2001 c.201 §3; 2005 c.804 §7; 2015 c.351 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.375 - Possession of handgun or ammunition by Department of Corrections authorized staff member; rules.**

- (1) Notwithstanding ORS 162.135 and 162.185 or any Department of Corrections regulation, rule, policy or provision of an employment contract to the contrary, if the department has not provided a secure and locked location for the storage of personal handguns and ammunition by authorized staff, authorized staff may possess a personal handgun and ammunition in the authorized staff member's personal vehicle when the vehicle is parked in a department parking lot if the authorized staff member:

- (a) Is present at a public building owned or occupied by the department;
  - (b) Has a valid concealed handgun license issued pursuant to ORS 166.291 and 166.292; and
  - (c) Has secured the personal handgun and ammunition in a closed and locked container designed for the storage of firearms inside the vehicle.
- (2)(a) Authorized staff may possess and store only the amount and types of ammunition authorized by the department by written policy or rule.
- (b) The department shall adopt written policies or rules to carry out the purposes of this section. The policies or rules shall include, at a minimum, procedures for and responsibilities of authorized staff when possessing and storing personal handguns and ammunition on property owned or occupied by the department under this section.
- (3) As used in this section and ORS 423.045:
- (a) "Authorized staff" means employees of the department and employees of the State Board of Parole and Post-Prison Supervision and Oregon Corrections Enterprises who are assigned to work in or at a public building owned or occupied by the department.
  - (b) "Handgun" has the meaning given that term in ORS 166.210.
  - (c) "Vehicle" means a vehicle that is self-propelled and that is commonly known as a passenger car, van, truck or motorcycle. [2014 c.88 §2; 2015 c.246 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.377 - Possession of firearms in certain public buildings by concealed handgun licensees.**

- (1) The governing board of a public university listed in ORS 352.002, the Oregon Health and Science University Board of Directors, the governing board of a community college or a district school board as defined in ORS 332.002 may adopt a policy providing that the affirmative defense described in ORS 166.370 (3)(g), concerning persons licensed to carry a concealed handgun under ORS 166.291 and 166.292, does not apply to the possession of firearms on the grounds of the schools controlled by the board.
- (2) A board that adopts a policy under this section shall:
- (a) Post a clearly visible sign, at all normal points of entry to the school grounds subject to the policy described in subsection (1) of this section, indicating that the affirmative defense described in ORS 166.370 (3)(g) does not apply.
  - (b) Post a notice on the board's website identifying all school grounds subject to the policy described in subsection (1) of this section. [2021 c.146 §8]

Note:

166.377 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.380 - Examination of firearm by peace officer; presentation of concealed handgun license.**

- (1) Except as provided in subsection (2) of this section, a peace officer may examine a firearm possessed by anyone on the person while in or on a public building to determine whether the firearm is a loaded firearm.
- (2) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun may present a valid concealed handgun license to the peace officer instead of providing the firearm to the peace officer for examination. [1969 c.705 §3; 2015 c.605 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.382 - Possession of destructive device prohibited; exceptions.**

- (1) A person commits the crime of unlawful possession of a destructive device if the person possesses:
- (a) Any of the following devices with an explosive, incendiary or poison gas component:
    - (A) Bomb;
    - (B) Grenade;
    - (C) Rocket having a propellant charge of more than four ounces;
    - (D) Missile having an explosive or incendiary charge of more than one-quarter ounce; or
    - (E) Mine; or
  - (b) Any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) of this subsection and from which a destructive device may be readily assembled.
- (2) As used in this section:
- (a) "Destructive device" does not include any device which is designed primarily or redesigned primarily for use as a signaling, pyrotechnic, line throwing, safety or similar device.
  - (b) "Possess" has the meaning given that term in ORS 161.015.
- (3) This section does not apply to:
- (a) Persons who possess explosives as provided in ORS 480.200 to 480.290.
  - (b) The possession of an explosive by a member of the Armed Forces of the United States while on active duty and engaged in the performance of official duties or by a member of a regularly organized fire or police department of a public agency while engaged in

the performance of official duties.

(c) The possession of an explosive in the course of transportation by way of railroad, water, highway or air while under the jurisdiction of, or in conformity with, regulations adopted by the United States Department of Transportation.

(d) The possession, sale, transfer or manufacture of an explosive by a person acting in accordance with the provisions of any applicable federal law or regulation that provides substantially the same requirements as the comparable provisions of ORS 480.200 to 480.290.

(4) Possession of a destructive device is a Class C felony. [1989 c.982 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.384 - Unlawful manufacture of destructive device.**

(1) A person commits the crime of unlawful manufacture of a destructive device if the person assembles, produces or otherwise manufactures:

(a) A destructive device, as defined in ORS 166.382; or

(b) A pyrotechnic device containing two or more grains of pyrotechnic charge in violation of chapter 10, Title 18 of the United States Code.

(2) Unlawful manufacture of a destructive device is a Class C felony. [1989 c.982 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.385 - Possession of hoax destructive device.**

(1) A person commits the crime of possession of a hoax destructive device if the person knowingly places another person in fear of serious physical injury by:

(a) Possessing, manufacturing, selling, delivering, placing or causing to be placed a hoax destructive device; or

(b) Sending a hoax destructive device to another person.

(2) Possession of a hoax destructive device is a Class A misdemeanor.

(3) Notwithstanding subsection (2) of this section, possession of a hoax destructive device is a Class C felony if a person possesses, or threatens to use, a hoax destructive device while the person is committing or attempting to commit a felony.

(4) As used in this section, "hoax destructive device" means an object that reasonably appears, under the circumstances:

(a) To be a destructive device, as described in ORS 166.382 (1)(a), or an explosive, as defined in ORS 166.660, but is an inoperative imitation of a destructive device or explosive; or

(b) To contain a destructive device, as described in ORS 166.382 (1)(a), or an explosive, as defined in ORS 166.660. [1997 c.749 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.390 - Short title.**

ORS 166.392 to 166.403 shall be known and may be cited as the Cindy Yuille and Steve Forsyth Act. [2021 c.146 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.392 - Definitions.**

As used in ORS 166.392 to 166.403:

(1) "Authorized person" means a person authorized by the owner or possessor of a firearm to temporarily carry or control the firearm while in the presence of the owner or possessor.

(2) "Container" means a box, case, chest, locker, safe or other similar receptacle, including, within a vehicle, a glove compartment, enclosed trunk or center console, equipped with a tamper-resistant lock.

(3) "Control" means, in relation to a firearm:

(a) That the owner or possessor of the firearm is close enough to the firearm to prevent another person who is not an authorized person from obtaining the firearm; or

(b) That the owner or possessor of the firearm is in the person's own residence, either alone or with only authorized persons who also live in the residence and who are not minors, and the residence is secure.

(4) "Firearm" has the meaning given that term in ORS 166.210, except that it does not include a firearm that has been rendered permanently inoperable.

(5) "Gun room" means an area within a building enclosed by walls, a floor and a ceiling, including a closet, that has all entrances secured by a tamper-resistant lock, that is kept locked at all times when unoccupied and that is used for:

(a) The storage of firearms, ammunition, components of firearms or ammunition, or equipment for firearm-related activities including but not limited to reloading ammunition, gunsmithing and firearm cleaning and maintenance; or

(b) Conducting firearm-related activities, including but not limited to reloading ammunition, gunsmithing and firearm cleaning and maintenance.

(6) "Handgun" has the meaning given that term in ORS 166.210.

(7) "Law enforcement agency" has the meaning given that term in ORS 166.525.

- (8) "Minor" means a person under 18 years of age.
- (9) "Possessor" means a person who possesses a firearm with permission from the owner of the firearm for a period of time when the owner is not present.
- (10) "Trigger or cable lock" means:
- (a) A device that, when installed in a firearm, is designed to prevent the firearm from being operated without first deactivating the device; or
- (b) A device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by any person not having access to the device. [2021 c.146 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.395 - Securing firearms; penalties; civil liability.**

- (1)(a) An owner or possessor of a firearm shall, at all times that the firearm is not carried by or under the control of the owner, possessor or authorized person, secure the firearm:
- (A) With an engaged trigger or cable lock;
- (B) In a locked container; or
- (C) In a gun room.
- (b) For purposes of paragraph (a) of this subsection, a firearm is not secured if:
- (A) A key or combination to the trigger or cable lock or the container is readily available to a person the owner or possessor has not authorized to carry or control the firearm.
- (B) The firearm is a handgun, is left unattended in a vehicle and is within view of persons outside the vehicle.
- (2)(a) A violation of subsection (1) of this section is a Class C violation.
- (b) Notwithstanding paragraph (a) of this subsection, a violation of subsection (1) of this section is a Class A violation if a minor obtains an unsecured firearm as a result of the violation and the owner or possessor of the firearm knew or should have known that a minor could gain unauthorized access to the unsecured firearm.
- (c) Each firearm owned or possessed in violation of subsection (1) of this section constitutes a separate violation.
- (3) If a firearm obtained as a result of an owner or possessor of a firearm violating subsection (1) of this section is used to injure a person or property within two years of the violation, in an action against the owner or possessor to recover damages for the injury, the violation constitutes per se negligence, and the presumption of negligence may not be overcome by a showing that the owner or possessor acted reasonably.
- (4) Subsection (3) of this section does not apply if:
- (a) The injury results from a lawful act of self-defense or defense of another person; or
- (b) The unsecured firearm was obtained by a person as a result of the person entering or remaining unlawfully in a dwelling, as those terms are defined in ORS 164.205.
- (5) This section does not apply to a police officer as defined in ORS 181A.355, with respect to a particular firearm, if storage of the firearm is covered by a policy of the law enforcement agency employing the police officer and the firearm is stored in compliance with the policy. [2021 c.146 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.397 - Reporting loss or theft of firearm; penalties; civil liability.**

- (1)(a) A person who owns, possesses or controls a firearm shall report the loss or theft of the firearm to a law enforcement agency in the jurisdiction in which the loss or theft occurred as soon as practicable but not later than within 72 hours of the time the person knew or reasonably should have known of the loss or theft.
- (b) If a means of reporting a loss or theft of a firearm within 72 hours is not reasonably available, the person who owned, possessed or controlled the firearm that was lost or stolen must report the loss or theft within 24 hours of the means of reporting becoming available.
- (c) A person may include the serial number of the firearm in a report under this subsection.
- (2)(a) A violation of subsection (1) of this section is a Class B violation.
- (b) Each firearm for which a person does not make the report within the time required by subsection (1) of this section constitutes a separate violation.
- (c) A person who knowingly provides false information in a report required by subsection (1) of this section commits the crime of initiating a false report under ORS 162.375.
- (3) If a lost or stolen firearm is used to injure a person or property and the person who owned, possessed or controlled the firearm at the time of the loss or theft did not report the loss or theft as required by subsection (1) of this section, in an action against the person who owned, possessed or controlled the firearm at the time of the loss or theft to recover damages for the injury, the violation constitutes negligence per se for two years from the expiration of the time limit for reporting or until the loss or theft report is made, whichever occurs sooner. The presumption of negligence may not be overcome by a showing that the person acted reasonably.
- (4) Subsection (3) of this section does not apply if the injury results from a lawful act of self-defense or defense of another person.
- (5)(a) Within 24 hours of receiving a report under subsection (1) of this section, a law enforcement agency shall create a record concerning the lost or stolen firearm in the Law Enforcement Data System or another electronic database as determined by the

Department of State Police.

(b) A law enforcement agency is exempt from the obligation described in paragraph (a) of this subsection if the agency is unable to create a record concerning the lost or stolen firearm in the electronic database due to insufficient information.

(c) The department may adopt rules to carry out the provisions of this subsection. [2021 c.146 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.400 - Requirement that firearm be locked during transfer; penalties; civil liability.**

(1) If a person transfers a firearm and a criminal background check under ORS 166.435 is required prior to the transfer, the person shall transfer the firearm:

(a) With an engaged trigger or cable lock; or

(b) In a locked container.

(2)(a) A violation of subsection (1) of this section is a Class C violation.

(b) Each firearm transferred in violation of subsection (1) of this section constitutes a separate violation.

(3) If a firearm transferred in a manner that violates subsection (1) of this section is used to injure a person or property within two years of the violation, in an action against the transferor to recover damages for the injury, the violation of subsection (1) of this section constitutes per se negligence, and the presumption of negligence may not be overcome by a showing that the transferor acted reasonably.

(4) Subsection (3) of this section does not apply if the injury results from a lawful act of self-defense or defense of another person.

(5) This section does not apply to:

(a) The transfer of a firearm made inoperable for the specific purpose of being used as a prop in the making of a motion picture or a television, digital or similar production.

(b) A transfer that occurs when a firearm is taken from the owner or possessor of the firearm by force. [2021 c.146 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.403 - Duty to supervise upon transfer of firearm to minor; civil liability.**

(1) Except as provided in subsections (3) and (4) of this section, a person who delivers or otherwise transfers a firearm to a minor shall directly supervise the minor's use of the firearm.

(2)(a) If a person delivers or otherwise transfers a firearm to a minor and fails to directly supervise the minor's use of the firearm as required by subsection (1) of this section, in an action against the person to recover damages for injury to a person or property caused by the minor's use of the firearm, the failure to supervise constitutes negligence per se, and the presumption of negligence may not be overcome by a showing that the person acted reasonably.

(b) Paragraph (a) of this subsection does not apply if the injury results from a lawful act of self-defense or defense of another person.

(3) A person who delivers or otherwise transfers a firearm to a minor may delegate to another person, with the consent of the other person and the minor's parent or guardian, the duty to supervise the minor's use of the firearm. If the duty to supervise is delegated under this subsection, subsection (2) of this section applies to the person assuming the duty to supervise.

(4)(a) This section does not apply, with respect to a particular firearm other than a handgun, if:

(A) The firearm is transferred to a minor in accordance with ORS 166.470, and, as a result of the transfer, the minor is the owner of the firearm; or

(B) The firearm is temporarily transferred to a minor by the minor's parent or guardian or by another person with the consent of the minor's parent or guardian, for the purpose of hunting in accordance with ORS 497.360, hunting of a predatory animal as defined in ORS 610.002 or target shooting at a shooting range, shooting gallery or other area designed for the purpose of target shooting.

(b) The exception described in paragraph (a)(B) of this subsection applies only during the time in which the minor is engaged in activities related to hunting or target shooting. [2021 c.146 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.405 - Gun dealer notice requirement.**

A gun dealer shall post in a prominent location in the gun dealer's place of business a notice, in block letters not less than one inch in height, that states, "The purchaser of a firearm has an obligation to store firearms in a safe manner and to prevent unsupervised access to a firearm by a minor. If a minor or unauthorized person obtains access to a firearm and the owner failed to store the firearm in a safe manner, the owner may be in violation of the law." [2021 c.146 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.410 - Manufacture, importation or sale of firearms.**

Any person who manufactures or causes to be manufactured within this state, or who imports into this state, or offers, exposes for sale, or sells or transfers a handgun, short-barreled rifle, short-barreled shotgun, firearms silencer or machine gun, otherwise than in accordance with ORS 166.250, 166.260, 166.270, 166.291, 166.292, 166.425, 166.450, 166.460 and 166.470, is guilty of a Class B



felony. [Amended by 1979 c.779 §5; 1987 c.320 §89; 1989 c.839 §23; 1995 c.729 §7; 2001 c.666 §§34,46; 2003 c.14 §§66,67; 2003 c.614 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.412 - Definitions; firearms transaction record; criminal history record check; prohibited transfer report; liability; rules.**

(1) As used in this section:

- (a) "Antique firearm" has the meaning given that term in 18 U.S.C. 921;
- (b) "Department" means the Department of State Police;
- (c) "Firearm" has the meaning given that term in ORS 166.210, except that it does not include an antique firearm;
- (d) "Firearms transaction record" means the firearms transaction record required by 18 U.S.C. 921 to 929;
- (e) "Firearms transaction thumbprint form" means a form provided by the department under subsection (11) of this section;
- (f) "Gun dealer" means a person engaged in the business, as defined in 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or otherwise;
- (g) "Purchaser" means a person who buys, leases or otherwise receives a firearm or unfinished frame or receiver from a gun dealer; and
- (h) "Unfinished frame or receiver" has the meaning given that term in ORS 166.210.

(2) Except as provided in subsection (12) of this section, a gun dealer shall comply with the following before a firearm or unfinished frame or receiver is delivered to a purchaser:

- (a) The purchaser shall present to the gun dealer current identification meeting the requirements of subsection (4) of this section and a valid permit issued under ORS 166.505.
- (b) The gun dealer shall complete the firearms transaction record and obtain the signature of the purchaser on the record.
- (c) The gun dealer shall obtain the thumbprints of the purchaser on the firearms transaction thumbprint form and attach the form to the gun dealer's copy of the firearms transaction record to be filed with that copy.
- (d) The gun dealer shall, by telephone or computer, verify that the purchaser has a valid permit-to-purchase a firearm issued under ORS 166.505, and request that the department conduct a criminal history record check on the purchaser and shall provide the following information to the department:
  - (A) The federal firearms license number of the gun dealer;
  - (B) The business name of the gun dealer;
  - (C) The place of transfer;
  - (D) The name of the person making the transfer;
  - (E) The make, model, caliber and manufacturer's number of the firearm being transferred or a description of the unfinished frame or receiver being transferred;
  - (F) The name and date of birth of the purchaser;
  - (G) The Social Security number of the purchaser if the purchaser voluntarily provides this number to the gun dealer; and
  - (H) The type, issuer and identification number of the identification presented by the purchaser.
- (e) The gun dealer shall receive a unique approval number for the transfer from the department and record the approval number on the firearms transaction record and on the firearms transaction thumbprint form.
- (f) The gun dealer may destroy the firearms transaction thumbprint form five years after the completion of the firearms transaction thumbprint form.

(3)(a) Upon receipt of a request of the gun dealer for a criminal history record check, the department shall immediately, during the gun dealer's telephone call or by return call:

- (A) Determine, from criminal records and other information available to it, whether the purchaser is disqualified under ORS 166.470 from completing the purchase; and
- (B) Notify the gun dealer when a purchaser is disqualified from completing the transfer or provide the gun dealer with a unique approval number indicating that the purchaser is qualified to complete the transfer.
- (b) If the department is unable to determine if the purchaser is qualified or disqualified from completing the transfer within 30 minutes, the department shall notify the gun dealer and provide the gun dealer with an estimate of the time when the department will provide the requested information.
- (c) The dealer may not transfer the firearm or unfinished frame or receiver unless the dealer receives a unique approval number from the department and, within 48 hours of completing the transfer, the dealer shall notify the state that the transfer to the permit holder was completed.

(4)(a) Identification required of the purchaser under subsection (2) of this section shall include one piece of current identification bearing a photograph and the date of birth of the purchaser that:

- (A) Is issued under the authority of the United States Government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization or an international quasi-governmental organization; and
- (B) Is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual.

- (b) If the identification presented by the purchaser under paragraph (a) of this subsection does not include the current address of the purchaser, the purchaser shall present a second piece of current identification that contains the current address of the purchaser. The Superintendent of State Police may specify by rule the type of identification that may be presented under this paragraph.
- (c) The department may require that the gun dealer verify the identification of the purchaser if that identity is in question by sending the thumbprints of the purchaser to the department.
- (5) The department shall establish a telephone number that shall be operational seven days a week between the hours of 8 a.m. and 10 p.m. for the purpose of responding to inquiries from gun dealers for a criminal history record check under this section.
- (6) No public employee, official or agency shall be held criminally or civilly liable for performing the investigations required by this section provided the employee, official or agency acts in good faith and without malice.
- (7)(a) The department may retain a record of the information obtained during a request for a criminal history record check for no more than five years, except for the information provided to the dealer under subsection (2)(d) of this section, sufficient to reflect each firearm or unfinished frame or receiver purchased by a permit holder, which must be attached to the electronic record of the permit stored by the department. The department may develop a system for removal of the information in subsection (2)(d)(E) of this section, upon proof of sale or transfer of the firearm or unfinished frame or receiver to another permit holder and for recording of the information to reflect the transfer of ownership to the permit of the new owner.
- (b) The record of the information obtained during a request for a criminal history record check by a gun dealer is exempt from disclosure under public records law.
- (c) If the department determines that a purchaser is prohibited from possessing a firearm under ORS 166.250 (1)(c), the department shall report the attempted transfer, the purchaser's name and any other personally identifiable information to all federal, state and local law enforcement agencies and district attorneys that have jurisdiction over the location or locations where the attempted transfer was made and where the purchaser resides.
- (d) If the department determines that, based on the judgment of conviction, the purchaser is prohibited from possessing a firearm as a condition of probation or that the purchaser is currently on post-prison supervision or parole, the department shall report the attempted transfer to the purchaser's supervising officer and the district attorney of the county in which the conviction occurred.
- (e) If the department determines that the purchaser is prohibited from possessing a firearm due to a court order described in ORS 166.255 (1)(a), the department shall report the attempted transfer to the court that issued the order.
- (f) If the department determines that the purchaser is under the jurisdiction of the Psychiatric Security Review Board, the department shall report the attempted transfer to the board.
- (g) Reports required by paragraphs (c) to (f) of this subsection shall be made within 24 hours after the determination is made, unless a report would compromise an ongoing investigation, in which case the report may be delayed as long as necessary to avoid compromising the investigation.
- (h) On or before January 31 of each year, a law enforcement agency or a prosecuting attorney's office that received a report pursuant to paragraph (c) of this subsection during the previous calendar year shall inform the department of any action that was taken concerning the report and the outcome of the action.
- (i) The department shall annually publish a written report, based on any information received under paragraph (h) of this subsection, detailing the following information for the previous year:
- (A) The number of purchasers whom the department determined were prohibited from possessing a firearm under ORS 166.250 (1)(c), arranged by category of prohibition;
- (B) The number of reports made pursuant to paragraph (c) of this subsection;
- (C) The number of investigations arising from the reports made pursuant to paragraph (c) of this subsection, the number of investigations concluded and the number of investigations referred for prosecution, all arranged by category of prohibition; and
- (D) The number of criminal charges arising from the reports made pursuant to paragraph (c) of this subsection and the disposition of the charges, both arranged by category of prohibition.
- (8) A law enforcement agency may inspect the records of a gun dealer relating to transfers of firearms and unfinished frames or receivers with the consent of a gun dealer in the course of a reasonable inquiry during a criminal investigation or under the authority of a properly authorized subpoena or search warrant.
- (9) When a firearm is delivered, it shall be unloaded.
- (10) In accordance with applicable provisions of ORS chapter 183, the Superintendent of State Police may adopt rules necessary for:
- (a) The design of the firearms transaction thumbprint form;
- (b) The maintenance of a procedure to correct errors in the criminal records of the department;
- (c) The provision of a security system to identify gun dealers that request a criminal history record check under subsection (2) of this section; and
- (d) The creation and maintenance of a database of the business hours of gun dealers.
- (11) The department shall publish the firearms transaction thumbprint form and shall furnish the form to gun dealers on application at cost.
- (12) This section does not apply to transactions between persons licensed as dealers under 18 U.S.C. 923.
- (13)(a) If requested by a transferor who is not a gun dealer, a gun dealer may request a criminal background check pursuant to ORS 166.435 or 166.438 and may charge a reasonable fee for providing the service.
- (b) A gun dealer that requests a criminal background check under this subsection is immune from civil liability for any use of the

firearm or unfinished frame or receiver by the recipient or transferee, provided that the gun dealer requests the criminal background check as described in this section and also provided that the dealer verifies that the recipient has a valid permit-to-purchase the firearm or unfinished frame or receiver and the dealer has received a unique approval number from the department indicating successful completion of the background check.

(14) Knowingly selling or delivering a firearm or unfinished frame or receiver to a purchaser or transferee who does not have a valid permit-to-purchase a firearm in violation of subsection (2)(d) of this section, or prior to receiving a unique approval number from the department based on the criminal background check in violation of subsection (3)(c) of this section, is a Class A misdemeanor. [1995 c.729 §1; 2001 c.900 §25; 2009 c.595 §114; 2009 c.826 §17; 2015 c.50 §4; 2018 c.5 §4; 2018 c.120 §15; 2023 c.1 §6; 2023 c.229 §7]

Note:

See first note under 166.355.

Note:

166.412 to 166.421 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note:

See second note under 166.355.

Note:

See third note under 166.355.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.414 - Fees for conducting criminal history record checks.**

(1) The Department of State Police may adopt a fee schedule for criminal history record checks required under ORS 166.412 and collect a fee for each criminal history record check requested. The fee schedule shall be calculated to recover the cost of performing criminal history record checks required under ORS 166.412, but may not exceed \$10 per record check.

(2) Fees collected under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the State Police Account. [1995 c.729 §2]

Note:

See second note under 166.412.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.416 - Providing false information in connection with a transfer of a firearm.**

(1) A person commits the crime of providing false information in connection with a transfer of a firearm if the person knowingly provides a false name or false information or presents false identification in connection with a purchase or transfer of a firearm.

(2) Providing false information in connection with a transfer of a firearm is a Class A misdemeanor. [1995 c.729 §3; 2001 c.1 §9]

Note:

See second note under 166.412.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.418 - Improperly transferring a firearm.**

(1) A person commits the crime of improperly transferring a firearm if the person is a gun dealer as defined in ORS 166.412 and sells, leases or otherwise transfers a firearm and intentionally violates ORS 166.412.

(2) Improperly transferring a firearm is a Class A misdemeanor. [1995 c.729 §4; 2001 c.1 §10; 2018 c.5 §7]

Note:

See second note under 166.412.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.421 - Stolen firearms; determination; telephone requests.**

The Department of State Police may respond to a telephone request from any person requesting that the department determine if department records show that a firearm is stolen. No public employee, official or agency shall be held criminally or civilly liable for performing the investigation allowed by this section provided that the employee, official or agency acts in good faith and without malice. [1995 c.729 §5]

Note:

See second note under 166.412.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.422 - Enforcement of ORS 166.412.**

Where appropriate, a person may enforce the legal duties imposed by ORS 166.412 (7)(a) or (b), by the provisions of ORS 30.260 to

30.300 and ORS chapter 183. [1989 c.839 §12; 1995 c.729 §8; 2015 c.50 §5]

Note:

166.422 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.425 - Unlawfully purchasing a firearm.**

(1) A person commits the crime of unlawfully purchasing a firearm if the person, knowing that the person is prohibited by state law from owning or possessing the firearm or having the firearm under the person's custody or control, purchases or attempts to purchase the firearm.

(2) Unlawfully purchasing a firearm is a Class A misdemeanor. [1989 c.839 §15; 2011 c.662 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.427 - Register of transfers of used firearms.**

(1) Whenever a person engaged in the business, as defined in 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or otherwise, buys or accepts in trade, a used firearm, the person shall enter in a register the time, date and place of purchase or trade, the name of the person selling or trading the firearm, the number of the identification documentation presented by the person and the make, model and manufacturer's number of the firearm. The register shall be obtained from and furnished by the Department of State Police to the dealer on application at cost.

(2) The duplicate sheet of the register shall, on the day of purchase or trade, be hand delivered or mailed to the local law enforcement authority.

(3) Violation of this section by any person engaged in the business of selling, leasing or otherwise transferring a firearm is a Class C misdemeanor. [1989 c.839 §16; 1993 c.4 §3; 2001 c.539 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.429 - Firearms used in felony.**

Any person who, with intent to commit a felony or who knows or reasonably should know that a felony will be committed with the firearm, ships, transports, receives, sells or otherwise furnishes any firearm in the furtherance of the felony is guilty of a Class B felony. [1989 c.839 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.432 - Definitions for ORS 166.412 and 166.433 to 166.441.**

(1) As used in ORS 166.412, 166.433, 166.434, 166.435, 166.436 and 166.438, "criminal background check" or "criminal history record check" means determining the eligibility of a person to purchase or possess a firearm by reviewing state and federal databases including, but not limited to, the:

- (a) Oregon computerized criminal history system;
- (b) Oregon mental health data system;
- (c) Law Enforcement Data System;
- (d) National Instant Criminal Background Check System; and
- (e) Stolen guns system.

(2) As used in ORS 166.433, 166.435, 166.436, 166.438 and 166.441:

- (a) "Gun dealer" has the meaning given that term in ORS 166.412.
- (b) "Gun show" means an event at which more than 25 firearms are on site and available for transfer. [2001 c.1 §3; 2015 c.50 §6; 2018 c.5 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.433 - Findings regarding transfers of firearms.**

The people of this state find that:

(1) The laws of Oregon regulating the sale of firearms contain a loophole that allows people other than gun dealers to sell firearms at gun shows without first conducting criminal background checks; and

(2) It is necessary for the safety of the people of Oregon that any person who transfers a firearm at a gun show be required to request a criminal background check before completing the transfer of the firearm. [2001 c.1 §1; 2015 c.50 §7]

Note:

See note under 166.432.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.434 - Requirements for criminal background checks; fees.**

(1) In addition to the determination required by ORS 166.412 (3)(a)(A), in conducting a criminal background check or criminal

history record check, the Department of State Police shall also determine whether the recipient is otherwise prohibited by state or federal law from possessing a firearm.

(2) Notwithstanding ORS 166.412 (5), the department is not required to operate the telephone number established under ORS 166.412 (5) on Thanksgiving Day or Christmas Day.

(3)(a) The department may charge a fee, not to exceed the amount authorized under ORS 166.414, for criminal background checks required under this section or ORS 166.435 or 166.436.

(b) The department shall establish a reduced fee for subsequent criminal background checks on the same recipient that are performed during the same day between the hours of 8 a.m. and 10 p.m. [2001 c.1 §5; 2015 c.50 §8; 2018 c.5 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.435 - Firearm transfers by unlicensed persons; requirements; exceptions; penalties.**

(1) As used in this section:

(a) "Transfer" means the delivery of a firearm from a transferor to a transferee, including, but not limited to, the sale, gift, loan or lease of the firearm. "Transfer" does not include the temporary provision of a firearm to a transferee if the transferor has no reason to believe the transferee is prohibited from possessing a firearm or intends to use the firearm in the commission of a crime, and the provision occurs:

(A) At a shooting range, shooting gallery or other area designed for the purpose of target shooting, for use during target practice, a firearms safety or training course or class or a similar lawful activity;

(B) For the purpose of hunting, trapping or target shooting, during the time in which the transferee is engaged in activities related to hunting, trapping or target shooting;

(C) Under circumstances in which the transferee and the firearm are in the presence of the transferor;

(D) To a transferee who is in the business of repairing firearms, for the time during which the firearm is being repaired;

(E) To a transferee who is in the business of making or repairing custom accessories for firearms, for the time during which the accessories are being made or repaired; or

(F) For the purpose of preventing imminent death or serious physical injury, and the provision lasts only as long as is necessary to prevent the death or serious physical injury.

(b) "Transferee" means a person who is not a gun dealer or licensed as a manufacturer or importer under 18 U.S.C. 923 and who intends to receive a firearm from a transferor.

(c) "Transferor" means a person who is not a gun dealer or licensed as a manufacturer or importer under 18 U.S.C. 923 and who intends to deliver a firearm to a transferee.

(2) Except as provided in ORS 166.436 and 166.438 and subsection (4) of this section, a transferor may not transfer a firearm to a transferee unless the transfer is completed through a gun dealer as described in subsection (3) of this section.

(3)(a) A transferor may transfer a firearm to a transferee only as provided in this section. Except as provided in paragraph (b) of this subsection, prior to the transfer both the transferor and the transferee must appear in person before a gun dealer, with the firearm and a valid permit-to-purchase issued to the transferee under ORS 166.505, and request that the gun dealer perform a criminal background check on the transferee.

(b) If the transferor and the transferee reside over 40 miles from each other, the transferor may ship or deliver the firearm to a gun dealer located near the transferee or a gun dealer designated by the transferee, and the transferor need not appear before the gun dealer in person.

(c) A gun dealer who agrees to complete a transfer of a firearm under this section shall request a criminal history record check on the transferee as described in ORS 166.412 and shall comply with all requirements of federal law.

(d) If, upon completion of a criminal background check, the gun dealer:

(A) Receives a unique approval number from the Department of State Police indicating that the transferee is qualified to complete the transfer, the gun dealer shall notify the transferor, enter the firearm into the gun dealer's inventory and transfer the firearm to the transferee.

(B) Receives notification that the transferee is prohibited by state or federal law from possessing or receiving the firearm or that the department is unable to determine if the transferee is qualified or disqualified from completing the transfer, the gun dealer shall notify the transferor and neither the transferor nor the gun dealer shall transfer the firearm to the transferee. If the transferor shipped or delivered the firearm to the gun dealer pursuant to paragraph (b) of this subsection, the gun dealer shall comply with federal law when returning the firearm to the transferor.

(e) A gun dealer may charge a reasonable fee for facilitating a firearm transfer pursuant to this section.

(4) The requirements of subsections (2) and (3) of this section do not apply to:

(a) The transfer of a firearm by or to a law enforcement agency, or by or to a law enforcement officer, private security professional or member of the Armed Forces of the United States, while that person is acting within the scope of official duties.

(b) The transfer of a firearm as part of a firearm turn-in or buyback event, in which a law enforcement agency receives or purchases firearms from members of the public.

(c) The transfer of a firearm to:

(A) A transferor's spouse or domestic partner;

- (B) A transferor's parent or stepparent;
  - (C) A transferor's child or stepchild;
  - (D) A transferor's sibling;
  - (E) A transferor's grandparent;
  - (F) A transferor's grandchild;
  - (G) A transferor's aunt or uncle;
  - (H) A transferor's first cousin;
  - (I) A transferor's niece or nephew; or
  - (J) The spouse or domestic partner of a person specified in subparagraphs (B) to (I) of this paragraph.
- (d) The transfer of a firearm that occurs because of the death of the firearm owner, provided that:
- (A) The transfer is conducted or facilitated by a personal representative, as defined in ORS 111.005, or a trustee of a trust created in a will; and
  - (B) The transferee is related to the deceased firearm owner in a manner specified in paragraph (c) of this subsection.
- (5)(a) A transferor who fails to comply with the requirements of this section commits a Class A misdemeanor.
- (b) Notwithstanding paragraph (a) of this subsection, a transferor who fails to comply with the requirements of this section commits a Class B felony if the transferor has a previous conviction under this section at the time of the offense. [2015 c.50 §2; 2023 c.1 §7]
- Note:  
See first note under 166.355.
- Note:  
Section 1, chapter 50, Oregon Laws 2015, provides:  
Sec. 1.  
Section 2 of this 2015 Act [166.435] and the amendments to ORS 166.250, 166.291, 166.412, 166.422, 166.432, 166.433, 166.434, 166.436, 166.438, 166.460, 166.470, 181.150, 181.740 and 426.133 by sections 3 to 19 of this 2015 Act shall be known and may be cited as the "Oregon Firearms Safety Act." [2015 c.50 §1]
- Note:  
166.435 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 166 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.
- Note:  
See second note under 166.355.
- Note:  
See third note under 166.355.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.436 - Department of State Police criminal background checks for gun show firearm transfers; prohibited transfer report; liability.**

- (1) The Department of State Police shall make the telephone number established under ORS 166.412 (5) available for requests for criminal background checks under this section from persons who are not gun dealers and who are transferring firearms at gun shows.
- (2) Prior to transferring a firearm at a gun show, a transferor who is not a gun dealer shall by telephone verify that the transferee has a valid permit-to-purchase a firearm under ORS 166.505, and request that the department conduct a criminal background check on the recipient upon providing the following information to the department:
- (a) The name, address and telephone number of the transferor;
  - (b) The make, model, caliber and manufacturer's number of the firearm being transferred;
  - (c) The name, date of birth, race, sex and address of the recipient;
  - (d) The Social Security number of the recipient if the recipient voluntarily provides that number;
  - (e) The address of the place where the transfer is occurring; and
  - (f) The type, issuer and identification number of a current piece of identification bearing a recent photograph of the recipient presented by the recipient. The identification presented by the recipient must meet the requirements of ORS 166.412 (4)(a).
- (3)(a) Upon receipt of a request for a criminal background check under this section, the department shall immediately, during the telephone call or by return call:
- (A) Determine from criminal records and other information available to it whether the recipient is disqualified under ORS 166.470 from completing the transfer or is otherwise prohibited by state or federal law from possessing a firearm; and
  - (B) Notify the transferor when a recipient is disqualified from completing the transfer or provide the transferor with a unique approval number indicating that the recipient is qualified to complete the transfer. The unique approval number is a permit valid for 24 hours for the requested transfer. If the firearm is not transferred from the transferor to the recipient within 24 hours after receipt of the unique approval number, a new request must be made by the transferor.
- (b) If the department is unable to determine whether the recipient is qualified for or disqualified from completing the transfer within 30 minutes of receiving the request, the department shall notify the transferor and provide the transferor with an estimate of the time when the department will provide the requested information.

- (c) The transferor may not transfer the firearm unless the transferor receives a unique approval number from the department and, within 48 hours of the completed transfer, the transferor shall notify the state that the transfer to the permit holder was completed.
- (4) A public employee or public agency incurs no criminal or civil liability for performing the criminal background checks required by this section, provided the employee or agency acts in good faith and without malice.
- (5)(a) The department may retain a record of the information obtained during a request for a criminal background check under this section for the period of time provided in ORS 166.412 (7), as amended by section 6, chapter 1, Oregon Laws 2023.
- (b) The record of the information obtained during a request for a criminal background check under this section is exempt from disclosure under public records law.
- (c) If the department determines that a recipient is prohibited from possessing a firearm under ORS 166.250 (1)(c), the department shall report the attempted transfer, the recipient's name and any other personally identifiable information to all federal, state and local law enforcement agencies and district attorneys that have jurisdiction over the location or locations where the attempted transfer was made and where the recipient resides.
- (d) If the department determines that, based on the judgment of conviction, the recipient is prohibited from possessing a firearm as a condition of probation or that the recipient is currently on post-prison supervision or parole, the department shall report the attempted transfer to the recipient's supervising officer and the district attorney of the county in which the conviction occurred.
- (e) If the department determines that the recipient is prohibited from possessing a firearm due to a court order described in ORS 166.255 (1)(a), the department shall report the attempted transfer to the court that issued the order.
- (f) If the department determines that the recipient is under the jurisdiction of the Psychiatric Security Review Board, the department shall report the attempted transfer to the board.
- (g) Reports required by paragraphs (c) to (f) of this subsection shall be made within 24 hours after the determination is made, unless a report would compromise an ongoing investigation, in which case the report may be delayed as long as necessary to avoid compromising the investigation.
- (h) On or before January 31 of each year, a law enforcement agency or a prosecuting attorney's office that received a report pursuant to paragraph (c) of this subsection during the previous calendar year shall inform the department of any action that was taken concerning the report and the outcome of the action.
- (i) The department shall annually publish a written report, based on any information received under paragraph (h) of this subsection, detailing the following information for the previous year:
- (A) The number of recipients whom the department determined were prohibited from possessing a firearm under ORS 166.250 (1)(c), arranged by category of prohibition;
- (B) The number of reports made pursuant to paragraph (c) of this subsection;
- (C) The number of investigations arising from the reports made pursuant to paragraph (c) of this subsection, the number of investigations concluded and the number of investigations referred for prosecution, all arranged by category of prohibition; and
- (D) The number of criminal charges arising from the reports made pursuant to paragraph (c) of this subsection and the disposition of the charges, both arranged by category of prohibition.
- (6) The recipient of the firearm must be present when the transferor requests a criminal background check under this section.
- (7)(a) Except as otherwise provided in paragraph (b) of this subsection, a transferor who receives notification under this section that the recipient is qualified to complete the transfer of a firearm, has the recipient fill out the form required by ORS 166.438 (1)(a) and retains the form as required by ORS 166.438 (2) is immune from civil liability for any use of the firearm from the time of the transfer unless the transferor knows, or reasonably should know, that the recipient is likely to commit an unlawful act involving the firearm.
- (b) The immunity provided by paragraph (a) of this subsection does not apply:
- (A) If the transferor knows, or reasonably should know, that the recipient of the firearm intends to deliver the firearm to a third person who the transferor knows, or reasonably should know, may not lawfully possess the firearm; or
- (B) In any product liability civil action under ORS 30.900 to 30.920. [2001 c.1 §6; 2015 c.50 §3; 2018 c.5 §5; 2018 c.120 §16; 2023 c.1 §8]
- Note:  
See first note under 166.355.
- Note:  
See second note under 166.355.
- Note:  
See third note under 166.355.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.438 - Transfer of firearms at gun shows; penalties.**

- (1) A transferor who is not a gun dealer may not transfer a firearm at a gun show unless the transferor:
- (a)(A) Verifies with the department that the recipient has a valid permit-to-purchase issued under ORS 166.505;
- (B) Requests a criminal background check under ORS 166.436 prior to completing the transfer;
- (C) Receives a unique approval number from the department indicating that the recipient is qualified to complete the transfer; and
- (D) Has the recipient complete the form described in ORS 166.441; or

- (b) Completes the transfer through a gun dealer.
- (2) The transferor shall retain the completed form referred to in subsection (1) of this section for at least five years and shall make the completed form available to law enforcement agencies for the purpose of criminal investigations.
- (3) A person who organizes a gun show shall post in a prominent place at the gun show a notice explaining the requirements of subsections (1) and (2) of this section. The person shall provide the form required by subsection (1) of this section to any person transferring a firearm at the gun show.
- (4) Subsection (1) of this section does not apply if the transferee is licensed as a dealer under 18 U.S.C. 923.
- (5)(a) Failure to comply with the requirements of subsection (1), (2) or (3) of this section is a Class A misdemeanor.
- (b) Notwithstanding paragraph (a) of this subsection, failure to comply with the requirements of subsection (1), (2) or (3) of this section is a Class C felony if the person has two or more previous convictions under this section at the time of the offense.
- (6) It is an affirmative defense to a charge of violating subsection (1) or (3) of this section that the person did not know, or reasonably could not know, that more than 25 firearms were at the site and available for transfer. [2001 c.1 §7; 2015 c.50 §9; 2023 c.1 §9]

Note:

See first note under 166.355.

Note:

See second note under 166.355.

Note:

See third note under 166.355.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.441 - Form for transfer of firearm at gun show.**

- (1) The Department of State Police shall develop a form to be completed by a person seeking to obtain a firearm at a gun show from a transferor other than a gun dealer. The department shall consider including in the form all of the requirements for disclosure of information that are required by federal law for over-the-counter firearms transactions.
- (2) The department shall make the form available to the public at no cost. [2001 c.1 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.445 - Short title.**

ORS 166.432 to 166.445 and the amendments to ORS 166.416, 166.418 and 166.460 by sections 9, 10 and 11, chapter 1, Oregon Laws 2001, shall be known as the Gun Violence Prevention Act. [2001 c.1 §2]

Note:

See note under 166.432.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.450 - Obliteration or change of identification number on firearms.**

Any person who intentionally alters, removes or obliterates the identification number of any firearm for an unlawful purpose, shall be punished upon conviction by imprisonment in the custody of the Department of Corrections for not more than five years. Possession of any such firearm is presumptive evidence that the possessor has altered, removed or obliterated the identification number. [Amended by 1987 c.320 §90; 1989 c.839 §24]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.460 - Antique firearms excepted.**

- (1) ORS 166.250, 166.260, 166.291 to 166.295, 166.410, 166.412, 166.425, 166.434, 166.438 and 166.450 do not apply to antique firearms.
- (2) Notwithstanding the provisions of subsection (1) of this section, possession of an antique firearm by a person described in ORS 166.250 (1)(c)(B) to (D) or (G) constitutes a violation of ORS 166.250. [Amended by 1979 c.779 §6; 1989 c.839 §25; 1993 c.735 §8; 1995 c.729 §9; 2001 c.1 §11; 2001 c.666 §§35,47; 2003 c.614 §10; 2009 c.499 §5; 2015 c.50 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.470 - Limitations and conditions for sales of firearms.**

- (1) Unless relief has been granted under ORS 166.273 or 166.274 or 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another jurisdiction, a person may not intentionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that the recipient:
  - (a) Is under 18 years of age;
  - (b) Has been convicted of a felony;
  - (c) Has any outstanding felony warrants for arrest;
  - (d) Is free on any form of pretrial release for a felony;



- (e) Was committed to the Oregon Health Authority under ORS 426.130;
  - (f) After January 1, 1990, was found to be a person with mental illness and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
  - (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160, 163.187, 163.190, 163.195 or 166.155 (1)(b);
  - (h) Is presently subject to an order under ORS 426.133 prohibiting the person from purchasing or possessing a firearm; or
  - (i) Has been found guilty except for insanity under ORS 161.295 of a felony.
- (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or reasonably should know is stolen.
- (3) Subsection (1)(a) of this section does not prohibit:
- (a) The parent or guardian, or another person with the consent of the parent or guardian, of a minor from transferring to the minor a firearm, other than a handgun; or
  - (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other lawful purpose.
- (4) Violation of this section is a Class A misdemeanor. [Amended by 1989 c.839 §3; 1991 c.67 §40; 1993 c.735 §11; 2001 c.828 §2; 2003 c.577 §7; 2009 c.499 §6; 2009 c.595 §115; 2009 c.826 §§8,11; 2013 c.360 §§10,11; 2015 c.50 §§17,18; 2015 c.201 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.480 - Sale or gift of explosives to children.**

Any person who sells, exchanges, barter or gives to any child, under the age of 14 years, any explosive article or substance, other than an ordinary firecracker containing not more than 10 grains of gunpowder or who sells, exchanges, barter or gives to any such child, any instrument or apparatus, the chief utility of which is the fact that it is used, or is ordinarily capable of being used, as an article or device to increase the force or intensity of any explosive, or to direct or control the discharge of any such explosive, is guilty of a misdemeanor. [Amended by 1989 c.839 §26]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.490 - Purchase of firearms in certain other states.**

- (1) As used in this section, unless the context requires otherwise:
- (a) "Contiguous state" means California, Idaho, Nevada or Washington.
  - (b) "Resident" includes an individual or a corporation or other business entity that maintains a place of business in this state.
- (2) A resident of this state may purchase or otherwise obtain a rifle or shotgun in a contiguous state and receive in this state or transport into this state such rifle or shotgun, unless the purchase or transfer violates the law of this state, the state in which the purchase or transfer is made or the United States.
- (3) This section does not apply to the purchase, receipt or transportation of rifles and shotguns by federally licensed firearms manufacturers, importers, dealers or collectors.
- (4) This section expires and stands repealed upon the date that section 922(b) (3) of the Gun Control Act of 1968 (18 U.S.C. 922(b) (3)) and regulations pursuant thereto are repealed or rescinded. [1969 c.289 §§1,2,3,4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.500 - Findings; short title.**

The People of the State of Oregon find and declare that regulation of sale, purchase and otherwise transferring of all firearms and restriction of the manufacture, import, sale, purchase, transfer, use and possession of ammunition magazines to those that hold no more than 10 rounds will promote the public health and safety of the residents of this state and chapter 1, Oregon Laws 2023, shall be known as the Reduction of Gun Violence Act. [2023 c.1 §2]

Note:

See first note under 166.355.

Note:

See second note under 166.355.

Note:

See fourth note under 166.355.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.503 - Definitions.**

As used in this section and ORS 166.412, 166.435, 166.436, 166.438, 166.505 and 166.508:

- (1) "Criminal background check" has the same meaning given to this term in ORS 166.432 (1)(a) to (e).
- (2) "Department" means the Department of State Police.
- (3) "Gun dealer" means a person engaged in the business, as defined in 18 U.S.C. 921, of selling, leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or otherwise.
- (4) "Permit" or "permit-to-purchase" means an authorization issued to a person to purchase or acquire a firearm, provided all other

requirements at the time of purchase or acquisition are met.

(5) "Permit agent" means a county sheriff or police chief with jurisdiction over the residence of the person making an application for a permit-to-purchase, or their designees.

(6) "Transfer" has the meaning given that term in ORS 166.435 (1)(a).

(7) "Transferor" means a person who is not a gun dealer or licensed as a manufacturer or importer under 18 U.S.C. 923 and who intends to deliver a firearm to a transferee. [2023 c.1 §3]

Note:

See first note under 166.355.

Note:

See second note under 166.355.

Note:

See third note under 166.355.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.505 - Permits to purchase firearms; rules.**

(1)(a) A person may apply for a permit-to-purchase a firearm or firearms under this section to the police chief or county sheriff with jurisdiction over the residence of the person making the application, or their designees, hereinafter referred to as "permit agent."

(b) A person is qualified to be issued a permit-to-purchase under this section if the person:

(A) Is not prohibited from purchasing or acquiring a firearm under state or federal law, including but not limited to successfully completing a criminal background check as described under paragraph (e) of this subsection;

(B) Is not the subject of an order described in ORS 166.525 to 166.543;

(C) Does not present reasonable grounds for a permit agent to conclude that the applicant has been or is reasonably likely to be a danger to self or others, or to the community at large, as a result of the applicant's mental or psychological state or as demonstrated by the applicant's past pattern of behavior involving unlawful violence or threats of unlawful violence;

(D) Provides proof of completion of a firearm safety course as defined in subsection (8) of this section; and

(E) Pays the fee described in subsection (3)(b) of this section.

(c) An application for a permit under this section must state the applicant's legal name, current address and telephone number, date and place of birth, physical description, and any additional information determined necessary by department rules. The application must be signed by the applicant in front of the permit agent.

(d) The permit agent shall verify the applicant's identity with a government-issued form of identification bearing a photograph of the applicant.

(e) The applicant must submit to fingerprinting and photographing by the permit agent. The permit agent shall fingerprint and photograph the applicant and shall conduct any investigation necessary to determine whether the applicant meets the qualifications described in paragraph (b) of this subsection. The permit agent shall request the department to conduct a criminal background check, including but not limited to a fingerprint identification, through the Federal Bureau of Investigation. The Federal Bureau of Investigation shall return the fingerprint cards used to conduct the criminal background check and may not keep any record of the fingerprints. Upon completion of the criminal background check and determination of whether the permit applicant is qualified or disqualified from purchasing or otherwise acquiring a firearm the department shall report the results, including the outcome of the fingerprint-based criminal background check, to the permit agent.

(2)(a) If during the background check, the department determines that:

(A) A purchaser is prohibited from possessing a firearm under ORS 166.250 (1)(c), the department shall report the attempted application for a permit, the purchaser's name and any other personally identifiable information to all federal, state and local law enforcement agencies and district attorneys that have jurisdiction over the location or locations where the attempted application for a permit was made and where the permit applicant resides.

(B) Based on the judgment of conviction, the permit applicant is prohibited from possessing a firearm as a condition of probation or that the permit applicant is currently on post-prison supervision or parole, the department shall report the attempted application for a permit to the permit applicant's supervising officer and the district attorney of the county in which the conviction occurred.

(C) The permit applicant is prohibited from possessing a firearm due to a court order described in ORS 166.255 (1)(a), the department shall report the attempted application for a permit to the court that issued the order.

(D) The permit applicant is under the jurisdiction of the Psychiatric Security Review Board, the department shall report the attempted application for a permit to the board.

(b) Reports required by paragraph (a)(A) to (D) of this subsection shall be made within 24 hours after the determination is made, unless a report would compromise an ongoing investigation, in which case the report may be delayed as long as necessary to avoid compromising the investigation.

(c) On or before January 31 of each year, beginning in 2024, the department shall annually publish a report indicating for each county the number of applications made to any permit agent, the number of permits-to-purchase issued and the number of permits-to-purchase denied and the reasons for denial. The department may, by rule, include any additional information that it determines would be helpful to ensuring the permit-to-purchase process is being administered in a consistent and equitable manner.

(3)(a) Within 30 days of receiving an application for a permit under this section, if the permit agent has verified the applicant's

identity and determined that the applicant has met each of the qualifications described in subsection (1)(b) of this section, the permit agent shall issue the permit-to-purchase.

(b) The permit agent may charge a reasonable fee reflecting the actual cost of the process but shall not exceed \$65, including the cost of fingerprinting, photographing and obtaining a criminal background check.

(4)(a) The department shall develop:

(A) A standardized application form for a permit under this section; and

(B) A form in quadruplicate for use by permit agents in issuing permits under this section.

(b) The issuing permit agent shall maintain a copy of each permit issued under this section.

(c) The person named in a permit shall:

(A) Maintain a copy of the permit as long as the permit is valid.

(B) Present a copy of the permit to the gun dealer or transferor of a firearm when required under ORS 166.412, 166.435, 166.436 or 166.438.

(5)(a) The permit agent shall report the issuance of a permit under this section to the department, and shall provide to the department a copy of the permit and any information necessary for the department to maintain an electronic searchable database of all permits issued under this section. A permit agent revoking a permit shall report the revocation to the department at the time that notice of the revocation has been sent to the permit holder.

(b) The department shall maintain the electronic database described in paragraph (a) of this subsection by ensuring that new permits are added to the database, renewed permits are assigned a new expiration date, and expired or revoked permits are marked expired or revoked but retained in the database.

(6)(a) A permit-to-purchase issued under this section does not create any right of the permit holder to receive a firearm.

(b) A permit-to-purchase issued under this section is not a limit on the number of firearms the permit holder may purchase or acquire during the time period when the permit is valid.

(7)(a) A permit-to-purchase issued under this section is valid for five years from the date of issuance, unless revoked.

(b) A person may renew an unexpired permit issued under this section by repeating the procedures set forth in subsection (1) of this section, except:

(A) A full fingerprint set does not need to be taken again if the original set has been retained by the permit agent or is otherwise available; and

(B) The training course does not need to be completed, provided the course previously taken fully complies with each of the requirements set forth in subsection (8) of this section.

(c) The permit agent may charge a reasonable fee for renewal of the permit, reflecting the actual cost of the process but shall not exceed \$50, including the cost of obtaining a criminal background check and photographing.

(8) As used in this section, "proof of completion of a firearm safety course" means the following:

(a) Proof of completion of any firearms training course or class available to the general public that is offered by law enforcement, a community college, or a private or public institution or organization or firearms training school utilizing instructors certified by a law enforcement agency, and that includes the components set forth in paragraph (c) of this subsection; or

(b) Proof of completion of any law enforcement firearms training course or class that is offered for security guards, investigators, reserve law enforcement officers, or any other law enforcement officers, and that includes the components set forth in paragraph (c) of this subsection;

(c) A firearms training course or class required for issuance of a permit-to-purchase must include:

(A) Review of federal and state laws in place at the time of the class and other safe practices related to ownership, purchase, transfer, use and transportation of firearms;

(B) Review of federal and state safe storage laws in place at the time of the class and other safe practices related to safe storage, including reporting lost and stolen guns;

(C) Prevention of abuse or misuse of firearms, including the impact of homicide and suicide on families, communities and the country as a whole; and

(D) In-person demonstration of the applicant's ability to lock, load, unload, fire and store a firearm before an instructor certified by a law enforcement agency. This requirement may be met separately from the other course requirements in subparagraphs (A), (B) and (C) of this paragraph, which may be completed in an online course, provided the online course has been conducted by a trainer certified by law enforcement.

(d) Proof of successful completion of a training course in order to meet the requirements for a concealed handgun license issued under ORS 166.291 and 166.292 may be submitted for a permit as a substitute for the requirements in paragraph (c) of this subsection, provided the completed course included each of the components set forth in paragraph (c) of this subsection.

(9) The department may adopt rules to carry out the provisions of this section. [2023 c.1 §4]

Note:

See first note under 166.355.

Note:

See second note under 166.355.

Note:

See third note under 166.355.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.508 - Denial of application; revocation; petition to circuit court.**

- (1) If the application for the permit-to-purchase is denied, the permit agent shall set forth in writing the reasons for the denial. The denial shall be placed in the mail to the applicant by certified mail, restricted delivery, within 30 days after the application was made. If no decision is issued within 30 days, the person may seek review under the procedures in subsection (5) of this section.
- (2) Notwithstanding ORS 166.505 (1) to (3), and subject to review as provided in subsection (5) of this section, a permit agent may deny a permit-to-purchase if the permit agent has reasonable grounds to believe that the applicant has been or is reasonably likely to be a danger to self or others, or to the community at large, as a result of the applicant's mental or psychological state or as demonstrated by the applicant's past pattern of behavior involving unlawful violence or threats of unlawful violence.
- (3)(a) Any act or condition that would prevent the issuance of a permit-to-purchase is cause for revoking a permit-to-purchase.
- (b) A permit agent may revoke a permit by serving on the permittee a notice of revocation. The notice must contain the grounds for the revocation and must be served either personally or by certified mail, restricted delivery. The notice and return of service shall be included in the file of the permit holder. The revocation is effective upon the permit holder's receipt of the notice.
- (4) Any peace officer or corrections officer may seize a permit-to-purchase and return it to the issuing permit agent if the permit is held by a person who has been arrested or cited for a crime that can or would otherwise disqualify the person from being issued a permit. The issuing permit agent shall hold the permit for 30 days. If the person is not charged with a crime within the 30 days, the permit agent shall return the permit unless the permit agent revokes the permit as provided in subsection (3) of this section.
- (5) A person denied a permit-to-purchase or whose permit is revoked or not renewed may petition the circuit court in the petitioner's county of residence to review the denial, nonrenewal or revocation. The petition must be filed within 30 days after the receipt of the notice of the denial or revocation.
- (6) The judgment affirming or overturning the permit agent's decision shall be based on whether the petitioner meets the criteria that are used for issuance of a permit-to-purchase and, if the petitioner was denied a permit, whether the permit agent has reasonable grounds for denial under subsection (2) of this section. Whenever the petitioner has been previously sentenced for a crime under ORS 161.610 (Enhanced penalty for use of firearm during commission of felony) or for a crime of violence for which the person could have received a sentence of more than 10 years, the court shall grant relief only if the court finds that relief should be granted in the interest of justice.
- (7) Notwithstanding the provisions of ORS 9.320 (Necessity for employment of attorney), a party that is not a natural person, the state or any city, county, district or other political subdivision or public corporation in this state, without appearance by attorney, may appear as a party to an action under this section.
- (8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of filing or as soon as practicable thereafter.
- (9) Filing fees for actions shall be as for any civil action filed in the court. If the petitioner prevails, the amount of the filing fee shall be paid by the respondent to the petitioner and may be incorporated into the court order.
- (10) Initial appeals of petitions shall be heard de novo.
- (11) Any party to a judgment under this section may appeal to the Court of Appeals in the same manner as for any other civil action.
- (12) If the governmental entity files an appeal under this section and does not prevail, it shall be ordered to pay the attorney fees for the prevailing party. [2023 c.1 §5]

Note:

See first note under 166.355.

Note:

See second note under 166.355.

Note:

See third note under 166.355.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.512 - Severability.**

If any provision of chapter 1, Oregon Laws 2023, or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of chapter 1, Oregon Laws 2023, which can be given effect without the invalid provision or application, and to this end the provisions of chapter 1, Oregon Laws 2023, are severable. The people hereby declare that they would have adopted chapter 1, Oregon Laws 2023, notwithstanding the unconstitutionality, invalidity and ineffectiveness of any one of its articles, sections, subsections, sentences or clauses. [2023 c.1 §12]

Note:

See first note under 166.355.

Note:

See second note under 166.355.

Note:

See fourth note under 166.355.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order;**

## **Firearms and Other Weapons; RacketeeringSection 166.525 - Definitions.**

As used in ORS 166.525 to 166.543:

- (1) "Deadly weapon" means:
  - (a) Any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury; or
  - (b) A firearm, whether loaded or unloaded.
- (2) "Family or household member" means a spouse, intimate partner, mother, father, child or sibling of the respondent, or any person living within the same household as the respondent.
- (3) "Gun dealer" has the meaning given that term in ORS 166.412.
- (4) "Law enforcement agency" means an agency or department of the State of Oregon or of a political subdivision of the State of Oregon whose principal function is the apprehension of criminal offenders.
- (5) "Law enforcement officer" means a member of the Oregon State Police, a sheriff, a municipal police officer or an authorized tribal police officer as defined in ORS 181A.940.
- (6) "Petitioner" means a person who petitions for an order under ORS 166.525 to 166.543.
- (7) "Respondent" means a person against whom an order is filed under ORS 166.525 to 166.543. [2017 c.737 §1]

## **2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 166 - Offenses Against Public Order; Firearms and Other Weapons; RacketeeringSection 166.527 - Petition for ex parte order; issuance and service of order; request for hearing.**

- (1) A law enforcement officer or a family or household member of a person may file a petition requesting that the court issue an extreme risk protection order enjoining the person from having in the person's custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, a deadly weapon.
  - (2) An extreme risk protection order petition shall be heard by the court and issued or denied on the same day the petition is submitted to the court or on the judicial business day immediately following the day the petition is filed.
  - (3) The petition for an extreme risk protection order must be supported by a written affidavit signed by the petitioner under oath, or an oral statement taken under oath by the petitioner or any other witness the petitioner may produce.
  - (4) In determining whether to issue an extreme risk protection order, the court shall consider the following:
    - (a) A history of suicide threats or attempts or acts of violence by the respondent directed against another person;
    - (b) A history of use, attempted use or threatened use of physical force by the respondent against another person;
    - (c) A previous conviction for:
      - (A) A misdemeanor involving violence as defined in ORS 166.470;
      - (B) A stalking offense under ORS 163.732 or 163.750, or a similar offense in another jurisdiction;
      - (C) An offense constituting domestic violence as defined in ORS 135.230;
      - (D) Driving under the influence of intoxicants under ORS 813.010 or 813.011; or
      - (E) An offense involving cruelty or abuse of animals;
    - (d) Evidence of recent unlawful use of controlled substances;
    - (e) Previous unlawful and reckless use, display or brandishing of a deadly weapon by the respondent;
    - (f) A previous violation by the respondent of a court order issued pursuant to ORS 107.716 or 107.718;
    - (g) Evidence of an acquisition or attempted acquisition within the previous 180 days by the respondent of a deadly weapon; and
    - (h) Any additional information the court finds to be reliable, including a statement by the respondent.
  - (5)(a) The petitioner has the burden of proof at the ex parte hearing.
    - (b) The petitioner may appear in person or by electronic video transmission.
    - (c) The court may continue a hearing under this section upon a showing of good cause.
  - (6)(a) The court shall issue an extreme risk protection order if the court finds by clear and convincing evidence, based on the petition and supporting documentation and after considering a statement by the respondent, if provided, that the respondent presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person. The court may not include in the findings any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.
    - (b) Upon making the findings described in paragraph (a) of this subsection, the court shall issue an extreme risk protection order prohibiting the respondent from having in the respondent's custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, a deadly weapon.
  - (7) An extreme risk protection order issued under this section must include:
    - (a) A statement of the evidence and the court's findings supporting issuance of the order;
    - (b) The date and time the order was issued;
    - (c) A description of the manner in which the respondent may request a hearing described in subsection (9) of this section;
    - (d) The address of the court to which a request for a hearing must be sent;
    - (e) A description of the requirements for surrender of deadly weapons in the respondent's possession under ORS 166.537; and
    - (f) A statement in substantially the following form:
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To the subject of this protection order: An extreme risk protection order has been issued by the court and is now in effect. You are required to surrender all deadly weapons in your custody, control or possession. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, deadly weapons while this order is in effect. You must, within 24 hours, surrender all deadly weapons in your custody, control or possession to (insert name of local law enforcement agency), a gun dealer or a third party who may lawfully possess the deadly weapons. You must, within 24 hours, surrender to (insert name of local law enforcement agency) any concealed handgun license issued to you. You may request a hearing to contest this order. If you do not request a hearing, the extreme risk protection order against you will be in effect for one year unless terminated by the court. You have the right to request one hearing to terminate this order during the 12 months that this order is in effect starting from the date of this order. You may seek the advice of an attorney as to any matter connected with this order.

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(8)(a) The respondent shall be personally served with both a copy of the extreme risk protection order and a hearing request form described in subsection (9) of this section.

(b) Whenever an extreme risk protective order is served on a respondent, the person serving the order shall immediately deliver to the county sheriff a true copy of proof of service, on which it is stated that personal service of the order was made on the respondent, and a copy of the order. Proof of service may be made by affidavit or by declaration under penalty of perjury in the form required by ORCP 1 E.

(c) If the person serving the order cannot complete service within 10 days, the person shall notify the petitioner, at the address provided by the petitioner, that the documents have not been served. If the petitioner does not respond within 10 days, the person shall hold the order and petition for future service and file a return to the clerk of the court showing that service was not completed.

(d) Upon receipt of a copy of the order and notice of completion of service by a member of a law enforcement agency, the county sheriff shall immediately enter the order into the Law Enforcement Data System maintained by the Department of State Police and request that the order be entered into the databases of the National Crime Information Center of the United States Department of Justice. If the order was served on the respondent by a person other than a member of a law enforcement agency, the county sheriff shall enter the order into the Law Enforcement Data System, and shall request that the information be entered into the databases of the National Crime Information Center, upon receipt of a true copy of proof of service. The sheriff shall provide the petitioner with a true copy of the proof of service. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the order may be informed of the existence and terms of the order. The order is fully enforceable in any county in this state.

(9)(a) Within 30 days after an extreme risk protection order is served on the respondent under this section, the respondent may request a court hearing using a form prescribed by the State Court Administrator.

(b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the court shall notify the petitioner and the respondent of the date and time of the hearing and shall supply the petitioner with a copy of the respondent's request for a hearing. The petitioner and the respondent shall give to the clerk of the court information sufficient to allow such notification.

(c) The hearing shall occur within 21 days of the date of the respondent's request for a hearing.

(10) If the respondent fails to request a hearing within 30 days after an extreme risk protection order is served, the protection order is confirmed by operation of law and is effective for a period of one year from the date the original order was issued or until the order is terminated, whichever is sooner.

(11) A filing fee, service fee or hearing fee may not be charged for proceedings under this section or ORS 166.530 or 166.533.

(12) If the court declines to issue an extreme risk protection order under this section, the court shall state with particularity the reasons for the denial on the record. [2017 c.737 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.530 - Hearing on order; continuation or termination of order.**

(1) At a hearing on an extreme risk protection order requested by the respondent under ORS 166.527 (9), the court may:

(a) Examine under oath the petitioner, the respondent and any witness either party may produce, including a mental health professional selected by the respondent, or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent or a witness of either party; and

(b) Ensure that a reasonable search has been conducted for criminal history records related to the respondent.

(2)(a) The Oregon Evidence Code shall apply in a hearing under this section.

(b) The court may continue a hearing under this section upon a showing of good cause. If the court continues a hearing under this paragraph, the extreme risk protection order shall remain in effect until the next hearing date.

(3)(a) At the hearing, the court shall determine:

(A) Whether to terminate the extreme risk protection order or continue the order for a duration of one year; and

(B) Whether any deadly weapons surrendered to a law enforcement agency pursuant to ORS 166.537 shall be returned to the respondent or retained by the law enforcement agency.

(b) The petitioner has the burden of proving, by clear and convincing evidence, that the respondent presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person.

(c) If the court finds that the petitioner has met the burden of proof, the court shall:

- (A) Order that the extreme risk protection order continue for the duration of one year from the date the original order was issued.
- (B) Order that any deadly weapons surrendered to a law enforcement agency pursuant to ORS 166.537 remain in the custody of the law enforcement agency while the order is in effect.
- (d) The court may not include in findings made under this subsection any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.
- (4) An extreme risk protection order continued under this section must include:
  - (a) A statement of the evidence and the court's findings supporting issuance of the order;
  - (b) The date and time the order was issued;
  - (c) The date and time of the expiration of the order;
  - (d) A description of the requirements for surrender of deadly weapons in the respondent's possession under ORS 166.537; and
  - (e) A statement in substantially the following form:

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To the subject of this protection order: This order is valid until the date and time noted above. If you have not done so already, you are required to surrender all deadly weapons in your custody. You must immediately surrender all deadly weapons in your custody, control or possession to (insert name of local law enforcement agency), a gun dealer or a third party who may lawfully possess the deadly weapons. You must immediately surrender to (insert name of local law enforcement agency) any concealed handgun license issued to you. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a deadly weapon while this order is in effect. You have the right to request one hearing to terminate this order during the 12 months that this order is in effect starting from the date of this order. You may seek the advice of an attorney as to any matter connected with this order.

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- (5) When the court continues an extreme risk protection order under this section, the court shall inform the respondent that the respondent is entitled to request termination of the order in the manner described in ORS 166.533. The court shall provide the respondent with a form with which to request a termination hearing.
  - (6) The respondent need not be served if an order of the court indicates that the respondent appeared in person before the court.
  - (7) If the court terminates an extreme risk protection order after a hearing under this section:
    - (a) The court shall state with particularity the reasons for the termination on the record.
    - (b) The clerk of the court shall immediately deliver a copy of the termination order to the county sheriff with whom the original order was filed. Upon receipt of the termination order, the county sheriff shall promptly remove the original order from the Law Enforcement Data System and shall request that the order be removed from the databases of the National Crime Information Center of the United States Department of Justice. [2017 c.737 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.533 - Hearing to terminate order.**

- (1) The petitioner or the respondent of an extreme risk protection order issued or continued under ORS 166.527 or 166.530 may each submit a written request once during the 12-month effective period of the order, and once during any 12-month effective period of an order renewed under ORS 166.535, for a hearing to terminate the order. A hearing under this section is in addition to any hearing requested under ORS 166.527.
- (2) Upon receipt of a request described in subsection (1) of this section, the court shall schedule a termination hearing and provide notice of the hearing to both parties at least five days before the hearing.
- (3)(a) The person filing the termination request has the burden of proving, by clear and convincing evidence, that the respondent no longer presents a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person.
- (b) The Oregon Evidence Code shall apply in a hearing under this section.
- (c) The court may continue a hearing under this section upon a showing of good cause. If the court continues a hearing under this paragraph, the extreme risk protection order shall remain in effect until the next hearing date.
- (4)(a) If the court finds that the petitioner has met the burden of proof as described in subsection (3) of this section, the court shall terminate the extreme risk protection order.
- (b) The court may not include in findings made under this subsection any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.
- (5) When an extreme risk protection order is terminated by order of the court, the clerk of the court shall immediately deliver a copy of the termination order to the county sheriff with whom the original order was filed. Upon receipt of the termination order, the county sheriff shall promptly remove the original order from the Law Enforcement Data System and shall request that the order be removed from the databases of the National Crime Information Center of the United States Department of Justice. [2017 c.737 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.535 - Renewal of order.**

- (1) A law enforcement officer or a family or household member of a respondent, including but not limited to the law enforcement officer or family or household member who petitioned the court for the original extreme risk protection order issued under ORS 166.527, may request a renewal of the order within 90 days before the expiration date of the order by filing a written request with

the court.

(2) Upon receipt of the request for renewal described in subsection (1) of this section, the court shall schedule a hearing and provide notice of the hearing to both parties at least 14 days before the hearing.

(3) At a hearing to determine whether to renew an extreme risk protection order under this section, the court may:

(a) Examine under oath the petitioner, the respondent and any witness either party may produce or, in lieu of examination, consider sworn affidavits of the petitioner, the respondent or a witness of either party; and

(b) Ensure that a reasonable search has been conducted for criminal history records related to the respondent.

(4) The person requesting the renewal of the extreme risk protection order has the burden of proving, by clear and convincing evidence, that the respondent continues to present a risk in the near future, including an imminent risk, of suicide or of causing physical injury to another person.

(5)(a) The Oregon Evidence Code shall apply in a hearing under this section.

(b) The court may continue a hearing under this section upon a showing of good cause. If the court continues a hearing under this paragraph, the original extreme risk protection order shall remain in effect until the next hearing date.

(c) The petitioner may appear in person or by electronic video transmission.

(6)(a) If the court finds that the petitioner has met the burden of proof, the court may renew the extreme risk protection order for a duration of up to one year.

(b) The court may not include in findings made under this subsection any mental health diagnosis or any connection between the risk presented by the respondent and mental illness.

(7) An extreme risk protection order renewed under this section must include:

(a) A statement of the evidence and the court's findings supporting issuance of the order;

(b) The date and time the order was issued;

(c) The date and time of the expiration of the order;

(d) A description of the requirements for surrender of deadly weapons in the respondent's possession under ORS 166.537; and

(e) A statement in substantially the following form:

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To the subject of this protection order: This renewed order is valid until the date and time noted above. If you have not done so already, you are required to surrender all deadly weapons in your custody. You must immediately surrender all deadly weapons in your custody, control or possession to (insert name of local law enforcement agency), a gun dealer or a third party who may lawfully possess the deadly weapons. You must immediately surrender to (insert name of local law enforcement agency) any concealed handgun license issued to you. You may not have in your custody or control, purchase, possess, receive, or attempt to purchase or receive, a deadly weapon while this order is in effect. You have the right to request one hearing to terminate this renewed order every 12 months that this order is in effect, starting from the date of this order. You may seek the advice of an attorney as to any matter connected with this order.

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(8) When the court renews an extreme risk protection order, the court shall inform the respondent that the respondent is entitled to request termination of the renewed order in the manner described in ORS 166.533. The court shall provide the respondent with a form with which to request a termination hearing.

(9)(a) Service of a renewed extreme risk protective order shall be made by personal delivery of a copy of the order to the respondent. The respondent need not be served if an order of the court indicates that the respondent appeared in person before the court.

(b) Whenever a renewed extreme risk protective order is served on a respondent, the person serving the order shall immediately deliver to the county sheriff a true copy of proof of service, on which it is stated that personal service of the order was made on the respondent, and a copy of the order. Proof of service may be made by affidavit or by declaration under penalty of perjury in the form required by ORCP 1 E.

(c) If service of the order is not required under paragraph (a) of this subsection, a copy of the order must be delivered to the sheriff by the court.

(d) Upon receipt of a copy of the order and notice of completion of any required service by a member of a law enforcement agency, the county sheriff shall immediately enter the order into the Law Enforcement Data System maintained by the Department of State Police and request that the order be entered into the databases of the National Crime Information Center of the United States Department of Justice. If the order was served on the respondent by a person other than a member of a law enforcement agency, the county sheriff shall enter the order into the Law Enforcement Data System and request that the order be entered into the databases of the National Crime Information Center upon receipt of a true copy of proof of service. The sheriff shall provide the petitioner with a true copy of any required proof of service. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the order may be informed of the existence and terms of the order. The order is fully enforceable in any county in this state.

(10) If the court declines to renew an extreme risk protection order, the court shall state with particularity the reasons for the denial on the record.

(11) A renewed extreme risk protection order may be further renewed as described in this section. [2017 c.737 §5]



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.537 - Surrender of deadly weapons pursuant to order.**

- (1) Upon issuance of an extreme risk protection order under ORS 166.527, the court shall further order that the respondent:
- (a) Within 24 hours surrender all deadly weapons in the respondent's custody, control or possession to a law enforcement agency, a gun dealer or a third party who may lawfully possess the deadly weapons; and
  - (b) Within 24 hours surrender to a law enforcement agency any concealed handgun license issued to the respondent under ORS 166.291 and 166.292.
- (2) Upon continuance of an extreme risk protection order after a hearing under ORS 166.530, or renewal of an extreme risk protection order under ORS 166.535, the court shall further order that the respondent:
- (a) Immediately surrender all deadly weapons in the respondent's custody, control or possession to a law enforcement agency, a gun dealer or a third party who may lawfully possess the deadly weapons; and
  - (b) Immediately surrender to a law enforcement agency any concealed handgun license issued to the respondent under ORS 166.291 and 166.292.
- (3)(a) A law enforcement officer serving an extreme risk protection order issued under ORS 166.527 shall request that the respondent immediately surrender to the officer all deadly weapons in the respondent's custody, control or possession and any concealed handgun license issued to the respondent under ORS 166.291 and 166.292. The law enforcement officer shall take possession of all deadly weapons appearing to be in the custody, control or possession of the respondent that are surrendered by the respondent. If the respondent indicates an intention to surrender the deadly weapons to a gun dealer or a third party, the law enforcement officer shall request that the respondent identify the gun dealer or third party.
- (b) A law enforcement officer serving an extreme risk protection order continued after a hearing under ORS 166.530, or renewed under ORS 166.535, shall request that the respondent immediately surrender to the officer all deadly weapons in the respondent's custody, control or possession and any concealed handgun license issued to the respondent under ORS 166.291 and 166.292. The officer may conduct any search permitted by law for deadly weapons in the custody, control or possession of the respondent and shall take possession of all deadly weapons appearing to be in the custody, control or possession of the respondent that are surrendered, in plain sight or discovered pursuant to a lawful search.
- (4) At the time of the surrender of any deadly weapons or concealed handgun licenses under subsection (3) of this section, the law enforcement officer taking possession shall issue a receipt identifying all surrendered items and provide a copy of the receipt to the respondent. Within 72 hours after service of the order, the law enforcement officer serving the order shall file the original receipt with the court and shall ensure that the law enforcement agency employing the law enforcement officer retains a copy of the receipt.
- (5) If a third party claims lawful ownership or right of possession of a deadly weapon surrendered pursuant to this section, the law enforcement agency may return the deadly weapon to the third party if the third party provides proof of lawful ownership or right of possession of the deadly weapon, in a sworn affidavit, affirms that:
- (a) The third party may lawfully possess the deadly weapon;
  - (b) The third party did not consent to the prior possession of the deadly weapon by the respondent; and
  - (c) The third party will prevent the respondent from accessing or possessing the deadly weapon in the future. [2017 c.737 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.540 - Return of surrendered deadly weapons.**

- (1) If an extreme risk protection order is terminated or expires without renewal, a law enforcement agency holding any deadly weapon or concealed handgun license that has been surrendered pursuant to the order shall return the surrendered items as requested by the respondent of the order only after:
- (a) Confirming through a criminal background check, if the deadly weapon is a firearm, that the respondent is legally eligible to own or possess firearms under state and federal law; and
  - (b) Confirming that the extreme risk protection order is no longer in effect.
- (2) The owner of a deadly weapon, if the deadly weapon is a firearm, in the custody of a law enforcement agency pursuant to ORS 166.537 who does not wish to have the firearm returned is entitled to sell or transfer title of any firearm to a licensed gun dealer as defined in ORS 166.412, provided that the firearm is lawful to own or possess and the person has a legal right to transfer title of the firearm.
- (3) A deadly weapon surrendered by a person pursuant to ORS 166.537 that remains unclaimed by the owner shall be disposed of in accordance with the law enforcement agency's policies and procedures for the disposal of deadly weapons in the agency's custody. [2017 c.737 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.543 - Criminal penalties.**

- (1) A person commits a Class A misdemeanor if:
- (a) The person knowingly possesses a deadly weapon; and
  - (b) The person is prohibited from possessing deadly weapons pursuant to an extreme risk protection order:
- (A) Issued after notice and a hearing under ORS 166.530;

(B) Confirmed by operation of law after the person failed to request a hearing under ORS 166.527 (9); or

(C) Renewed under ORS 166.535.

(2) A person convicted under subsection (1) of this section shall be prohibited from having in the person's custody or control, owning, purchasing, possessing or receiving, or attempting to purchase or receive, any firearms for a five-year period beginning when the extreme risk protection order expires or is terminated, or the judgment of conviction is entered, whichever occurs later.

(3) A person who files a petition for any extreme risk protection order under ORS 166.525 to 166.543 with the intent to harass the respondent, or knowing that the information in the petition is false, is guilty of a Class A misdemeanor. [2017 c.737 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.630 - Discharging weapon on or across highway, ocean shore recreation area or public utility facility.**

(1) Except as provided in ORS 166.220, any person is guilty of a violation who discharges or attempts to discharge any blowgun, bow and arrow, crossbow, air rifle or firearm:

(a) Upon or across any highway, railroad right of way or other public road in this state, or upon or across the ocean shore within the state recreation area as defined in ORS 390.605.

(b) At any public or railroad sign or signal or an electric power, communication, petroleum or natural gas transmission or distribution facility of a public utility, telecommunications utility or railroad within range of the weapon.

(2) Any blowgun, bow and arrow, crossbow, air rifle or firearm in the possession of the person that was used in committing a violation of this section may be confiscated and forfeited to the State of Oregon. This section does not prevent:

(a) The discharge of firearms by peace officers in the performance of their duty or by military personnel within the confines of a military reservation.

(b) The discharge of firearms by an employee of the United States Department of Agriculture acting within the scope of employment in the course of the lawful taking of wildlife.

(3) The hunting license revocation provided in ORS 497.415 is in addition to and not in lieu of the penalty and forfeiture provided in subsections (1) and (2) of this section.

(4) As used in this section:

(a) "Public sign" includes all signs, signals and markings placed or erected by authority of a public body.

(b) "Public utility" has the meaning given that term in ORS 164.365 (2).

(c) "Railroad" has the meaning given that term in ORS 824.020. [Amended by 1963 c.94 §1; 1969 c.501 §2; 1969 c.511 §4; 1973 c.196 §1; 1973 c.723 §118; 1981 c.900 §1; 1987 c.447 §113; 1991 c.797 §2; 2009 c.556 §7]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.635 - Discharging weapon or throwing objects at trains.**

(1) A person shall not knowingly throw an object at, drop an object on, or discharge a bow and arrow, air rifle, rifle, gun, revolver or other firearm at a railroad train, a person on a railroad train or a commodity being transported on a railroad train. This subsection does not prevent a peace officer or a railroad employee from performing the duty of a peace officer or railroad employee.

(2) Violation of subsection (1) of this section is a misdemeanor. [1973 c.139 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.638 - Discharging weapon across airport operational surfaces.**

(1) Any person who knowingly or recklessly discharges any bow and arrow, gun, air gun or other firearm upon or across any airport operational surface commits a Class A misdemeanor. Any bow and arrow, gun, air gun or other firearm in the possession of the person that was used in committing a violation of this subsection may be confiscated and forfeited to the State of Oregon, and the clear proceeds shall be deposited with the State Treasury in the Common School Fund.

(2) As used in subsection (1) of this section, "airport operational surface" means any surface of land or water developed, posted or marked so as to give an observer reasonable notice that the surface is developed for the purpose of storing, parking, taxiing or operating aircraft, or any surface of land or water when actually being used for such purpose.

(3) Subsection (1) of this section does not prohibit the discharge of firearms by peace officers in the performance of their duty or by military personnel within the confines of a military reservation, or otherwise lawful hunting, wildlife control or other discharging of firearms done with the consent of the proprietor, manager or custodian of the airport operational surface.

(4) The hunting license revocation provided in ORS 497.415 is in addition to and not in lieu of the penalty provided in subsection (1) of this section. [1981 c.901 §2; 1987 c.858 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.641 - Definitions for ORS 166.641 to 166.643.**

As used in this section and ORS 166.642 and 166.643:

(1) "Body armor" means any clothing or equipment designed in whole or in part to minimize the risk of injury from a deadly weapon.

(2) "Deadly weapon" has the meaning given that term in ORS 161.015.

(3) "Misdemeanor involving violence" has the meaning given that term in ORS 166.470. [2001 c.635 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.642 - Felon in possession of body armor.**

(1) A person commits the crime of felon in possession of body armor if the person:

(a) Has been convicted of a felony or misdemeanor involving violence under the law of any state or the United States; and

(b) Knowingly is in possession or control of body armor.

(2) Felon in possession of body armor is a Class C felony.

(3) For purposes of subsection (1) of this section, a person who has been found to be within the jurisdiction of a juvenile court for having committed an act that would constitute a felony or misdemeanor involving violence has been convicted of a felony or misdemeanor involving violence.

(4) Subsection (1) of this section does not apply to:

(a) A person who is wearing body armor provided by a peace officer for the person's safety or protection while the person is being transported or accompanied by a peace officer; or

(b) A person who has been convicted of only one felony under the law of this state or any other state, or who has been convicted of only one felony under the law of the United States, which felony did not involve criminal homicide, as defined in ORS 163.005, and who has been discharged from imprisonment, parole or probation for the offense for a period of 15 years prior to the date of the alleged violation of subsection (1) of this section.

(5) It is an affirmative defense to a charge of violating subsection (1) of this section that a protective order or restraining order has been entered to the benefit of the person. The affirmative defense created by this subsection is not available if the person possesses the body armor while committing or attempting to commit a crime. [2001 c.635 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.643 - Unlawful possession of body armor.**

(1) A person commits the crime of unlawful possession of body armor if the person, while committing or attempting to commit a felony or misdemeanor involving violence, knowingly:

(a) Wears body armor; and

(b) Possesses a deadly weapon.

(2) Unlawful possession of body armor is a Class B felony. [2001 c.635 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.645 - Hunting in cemeteries prohibited.**

(1) Hunting in cemeteries is prohibited.

(2) As used in subsection (1) of this section "hunting" has the meaning for that term provided in ORS 496.004.

(3) Violation of subsection (1) of this section is a misdemeanor. [1973 c.468 §2; 1987 c.158 §30]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.649 - Throwing an object off an overpass in the second degree.**

(1) A person commits the crime of throwing an object off an overpass in the second degree if the person:

(a) With criminal negligence throws an object off an overpass; and

(b) Knows, or reasonably should have known, that the object was of a type or size to cause damage to any person or vehicle that the object might hit.

(2) Throwing an object off an overpass in the second degree is a Class A misdemeanor.

(3) As used in this section and ORS 166.651, "overpass" means a structure carrying a roadway or pedestrian pathway over a roadway. [1993 c.731 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.651 - Throwing an object off an overpass in the first degree.**

(1) A person commits the crime of throwing an object off an overpass in the first degree if the person:

(a) Recklessly throws an object off an overpass; and

(b) Knows, or reasonably should have known, that the object was of a type or size to cause damage to any person or vehicle that the object might hit.

(2) Throwing an object off an overpass in the first degree is a Class C felony. [1993 c.731 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.660 - Unlawful paramilitary activity.**

(1) A person commits the crime of unlawful paramilitary activity if the person:

- (a) Exhibits, displays or demonstrates to another person the use, application or making of any firearm, explosive or incendiary device or any technique capable of causing injury or death to persons and intends or knows that such firearm, explosive or incendiary device or technique will be unlawfully employed for use in a civil disorder; or
  - (b) Assembles with one or more other persons for the purpose of training with, practicing with or being instructed in the use of any firearm, explosive or incendiary device or technique capable of causing injury or death to persons with the intent to unlawfully employ such firearm, explosive or incendiary device or technique in a civil disorder.
- (2)(a) Nothing in this section makes unlawful any act of any law enforcement officer performed in the otherwise lawful performance of the officer's official duties.
- (b) Nothing in this section makes unlawful any activity of the State Department of Fish and Wildlife, or any activity intended to teach or practice self-defense or self-defense techniques, such as karate clubs or self-defense clinics, and similar lawful activity, or any facility, program or lawful activity related to firearms instruction and training intended to teach the safe handling and use of firearms, or any other lawful sports or activities related to the individual recreational use or possession of firearms, including but not limited to hunting activities, target shooting, self-defense, firearms collection or any organized activity including, but not limited to any hunting club, rifle club, rifle range or shooting range which does not include a conspiracy as defined in ORS 161.450 or the knowledge of or the intent to cause or further a civil disorder.
- (3) Unlawful paramilitary activity is a Class C felony.
- (4) As used in this section:
- (a) "Civil disorder" means acts of physical violence by assemblages of three or more persons which cause damage or injury, or immediate danger thereof, to the person or property of any other individual.
  - (b) "Firearm" has the meaning given that term in ORS 166.210.
  - (c) "Explosive" means a chemical compound, mixture or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelly, but excluding fireworks as defined in ORS 480.111, black powder, smokeless powder, small arms ammunition and small arms ammunition primers.
  - (d) "Law enforcement officer" means any duly constituted police officer of the United States, any state, any political subdivision of a state or the District of Columbia, and also includes members of the military reserve forces or National Guard as defined in 10 U.S.C. 101 (9), members of the organized militia of any state or territory of the United States, the Commonwealth of Puerto Rico or the District of Columbia not included within the definition of National Guard as defined by 10 U.S.C. 101 (9), members of the Armed Forces of the United States and such persons as are defined in ORS 161.015 (4) when in the performance of official duties. [1983 c.792 §2; 1987 c.858 §3; 2001 c.666 §§26,38; 2005 c.830 §27; 2009 c.610 §7; 2013 c.24 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.663 - Casting artificial light from vehicle while possessing certain weapons prohibited.**

- (1) A person may not cast from a motor vehicle an artificial light while there is in the possession or in the immediate physical presence of the person a bow and arrow or a firearm.
- (2) Subsection (1) of this section does not apply to a person casting an artificial light:
  - (a) From the headlights of a motor vehicle that is being operated on a road in the usual manner.
  - (b) When the bow and arrow or firearm that the person has in the possession or immediate physical presence of the person is disassembled or stored, or in the trunk or storage compartment of the motor vehicle.
  - (c) When the ammunition or arrows are stored separate from the weapon.
  - (d) On land owned or lawfully occupied by that person.
  - (e) On publicly owned land when that person has an agreement with the public body to use that property.
  - (f) When the person is a peace officer, or is a government employee engaged in the performance of official duties.
  - (g) When the person has been issued a license under ORS 166.291 and 166.292 to carry a concealed handgun.
  - (h) When the person is an honorably retired law enforcement officer, unless the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.
- (3) A peace officer may issue a citation to a person for a violation of subsection (1) of this section when the violation is committed in the presence of the peace officer or when the peace officer has probable cause to believe that a violation has occurred based on a description of the vehicle or other information received from a peace officer who observed the violation.
- (4) Violation of subsection (1) of this section is punishable as a Class B violation.
- (5) As used in this section, "peace officer" has the meaning given that term in ORS 161.015. [1989 c.848 §2; 1999 c.1051 §159; 2005 c.22 §116; 2009 c.610 §3; 2015 c.709 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.715 - Definitions for ORS 166.715 to 166.735.**

As used in ORS 166.715 to 166.735, unless the context requires otherwise:

- (1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be

translated into usable form, or other tangible item.

(2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust or other profit or nonprofit legal entity, and includes any union, association or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(3) "Investigative agency" means the Department of Justice or any district attorney.

(4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided at least one of such incidents occurred after November 1, 1981, and that the last of such incidents occurred within five years after a prior incident of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct that constitutes an incident of racketeering activity may be used to establish a pattern of racketeering activity without regard to whether the conduct previously has been the subject of a criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within the jurisdiction of the juvenile court.

(5) "Person" means any individual or entity capable of holding a legal or beneficial interest in real or personal property.

(6) "Racketeering activity" includes conduct of a person committed both before and after the person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:

(a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following provisions of the Oregon Revised Statutes:

(A) ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995, relating to securities;

(B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;

(C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing governmental administration;

(D) ORS 162.405 to 162.425, relating to abuse of public office;

(E) ORS 162.455, relating to interference with legislative operation;

(F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;

(G) ORS 163.160 to 163.205, relating to assault and related offenses;

(H) ORS 163.225 and 163.235, relating to kidnapping;

(I) ORS 163.275, relating to coercion;

(J) ORS 163.665 to 163.693, relating to sexual conduct of children;

(K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.098, 164.125, 164.135, 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and related offenses;

(L) ORS 164.315 to 164.335, relating to arson and related offenses;

(M) ORS 164.345 to 164.365, relating to criminal mischief;

(N) ORS 164.395 to 164.415, relating to robbery;

(O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a recording;

(P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and related offenses;

(Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

(R) ORS 165.540 and 165.555, relating to communication crimes;

(S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating to firearms and other weapons;

(T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365, 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexual conduct, gambling, computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting bird and related offenses;

(U) ORS 171.990, relating to legislative witnesses;

(V) ORS 260.575 and 260.665, relating to election offenses;

(W) ORS 314.075, relating to income tax;

(X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cigarette and tobacco products taxes and the directories developed under ORS 180.425 and 180.477;

(Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments or medical assistance benefits, and ORS 411.990 (2) and (3);

(Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

(AA) ORS 463.995, relating to entertainment wrestling and unarmed combat sports, as defined in ORS 463.015;

(BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445, 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS chapter 471 relating to licenses issued under the Liquor Control Act;

(CC) ORS 475C.005 to 475C.525, relating to marijuana items as defined in ORS 475C.009;

(DD) ORS 475.005 to 475.285 and 475.752 to 475.980, relating to controlled substances;

(EE) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;

(FF) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;

(GG) ORS 658.452 or 658.991 (2) to (4), relating to labor contractors;

(HH) ORS chapter 706, relating to banking law administration;

(II) ORS chapter 714, relating to branch banking;

(JJ) ORS chapter 716, relating to mutual savings banks;

(KK) ORS chapter 723, relating to credit unions;

(LL) ORS chapter 726, relating to pawnbrokers;

(MM) ORS 166.382 and 166.384, relating to destructive devices;

(NN) ORS 165.074;

(OO) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage brokers;

(PP) ORS chapter 496, 497 or 498, relating to wildlife;

(QQ) ORS 163.355 to 163.427, relating to sexual offenses;

(RR) ORS 166.015, relating to riot;

(SS) ORS 166.155 and 166.165, relating to bias crimes;

(TT) ORS chapter 696, relating to real estate and escrow;

(UU) ORS chapter 704, relating to outfitters and guides;

(VV) ORS 165.692, relating to making a false claim for health care payment;

(WW) ORS 162.117, relating to public investment fraud;

(XX) ORS 164.170 or 164.172;

(YY) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;

(ZZ) ORS 164.886;

(AAA) ORS 167.312 and 167.388;

(BBB) ORS 164.889;

(CCC) ORS 165.800; or

(DDD) ORS 163.263, 163.264 or 163.266.

(b) Any conduct defined as "racketeering activity" under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).

(7) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

(A) ORS chapter 462, relating to racing;

(B) ORS 167.108 to 167.164, relating to gambling; or

(C) ORS 82.010 to 82.170, relating to interest and usury.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under federal or state law.

(8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions from what the statute was when this section was enacted, the reference shall extend to and include amendments to the statute. [1981 c.769 §2; 1983 c.338 §898; 1983 c.715 §1; 1985 c.176 §5; 1985 c.557 §8; 1987 c.158 §31; 1987 c.249 §7; 1987 c.789 §20; 1987 c.907 §12; 1989 c.384 §2; 1989 c.839 §27; 1989 c.846 §13; 1989 c.982 §6; 1991 c.398 §3; 1991 c.962 §6; 1993 c.95 §13; 1993 c.215 §1; 1993 c.508 §45; 1993 c.680 §29; 1995 c.301 §35; 1995 c.440 §13; 1995 c.768 §10; 1997 c.631 §420; 1997 c.789 §1; 1997 c.867 §23; 1999 c.722 §8; 1999 c.878 §4; 2001 c.146 §1; 2001 c.147 §3; 2003 c.111 §1; 2003 c.484 §8; 2003 c.801 §15; 2003 c.804 §66; 2007 c.498 §3; 2007 c.585 §26; 2007 c.811 §7; 2007 c.869 §7; 2009 c.717 §25; 2011 c.597 §166; 2011 c.681 §6; 2013 c.584 §27; 2013 c.688 §23; 2017 c.21 §46; 2017 c.235 §21; 2019 c.553 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.720 - Racketeering activity unlawful; penalties.**

(1) It is unlawful for any person who has knowingly received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest or equity in, real property or in the establishment or operation of any enterprise.

(2) It is unlawful for any person, through a pattern of racketeering activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any real property or enterprise.

(3) It is unlawful for any person employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.

(4) It is unlawful for any person to conspire or endeavor to violate any of the provisions of subsections (1), (2) or (3) of this section.

(5)(a) Any person convicted of engaging in activity in violation of the provisions of subsections (1) to (4) of this section is guilty of a Class A felony.

(b) In lieu of a fine otherwise authorized by law, any person convicted of engaging in conduct in violation of the provisions of subsections (1) to (4) of this section, through which the person derived a pecuniary value, or by which the person caused personal injury or property damage or other loss, may be sentenced to pay a fine that does not exceed three times the gross value gained or

three times the gross loss caused, whichever is greater, plus court costs and the costs of investigation and prosecution, reasonably incurred.

(c) The court shall hold a hearing to determine the amount of the fine authorized by paragraph (b) of this subsection.

(d) For the purposes of paragraph (b) of this subsection, "pecuniary value" means:

(A) Anything of value in the form of money, a negotiable instrument, a commercial interest or anything else the primary significance of which is economic advantage; or

(B) Any other property or service that has a value in excess of \$100.

(6) An allegation of a pattern of racketeering activity is sufficient if it contains substantially the following:

(a) A statement of the acts constituting each incident of racketeering activity in ordinary and concise language, and in a manner that enables a person of common understanding to know what is intended;

(b) A statement of the relation to each incident of racketeering activity that the conduct was committed on or about a designated date, or during a designated period of time;

(c) A statement, in the language of ORS 166.715 (4) or other ordinary and concise language, designating which distinguishing characteristic or characteristics interrelate the incidents of racketeering activity; and

(d) A statement that the incidents alleged were not isolated. [1981 c.769 §§3,4; 1997 c.789 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.725 - Remedies for violation of ORS 166.720; time limitation.**

(1) Any circuit court may, after making due provision for the rights of innocent persons, enjoin violations of the provisions of ORS 166.720 (1) to (4) by issuing appropriate orders and judgments, including, but not limited to:

(a) Ordering a divestiture by the defendant of any interest in any enterprise, including real property.

(b) Imposing reasonable restrictions upon the future activities or investments of any defendant, including, but not limited to, prohibiting any defendant from engaging in the same type of endeavor as the enterprise in which the defendant was engaged in violation of the provisions of ORS 166.720 (1) to (4).

(c) Ordering the dissolution or reorganization of any enterprise.

(d) Ordering the suspension or revocation of a license, permit or prior approval granted to any enterprise by any agency of the state.

(e) Ordering the forfeiture of the charter of a corporation organized under the laws of this state, or the revocation of a certificate of authority authorizing a foreign corporation to conduct business within this state, upon finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, has authorized or engaged in conduct in violation of ORS 166.720 (1) to (4) and that, for the prevention of future criminal activity, the public interest requires the charter of the corporation forfeited and the corporation dissolved or the certificate of authority revoked.

(2) All property, real or personal, including money, used in the course of, derived from or realized through conduct in violation of a provision of ORS 166.715 to 166.735 is subject to civil forfeiture to the state. The state shall dispose of all forfeited property as soon as commercially feasible. If property is not exercisable or transferable for value by the state, it shall expire. All forfeitures or dispositions under this section shall be made with due provision for the rights of innocent persons. Forfeited property shall be distributed as follows:

(a)(A) All moneys and the clear proceeds of all other property forfeited shall be deposited with the State Treasurer to the credit of the Common School Fund.

(B) For purposes of subparagraph (A) of this paragraph, "clear proceeds" means proceeds of forfeited property less costs of maintaining and preserving property pending its sale or other disposition, less costs of sale or disposition and, if the Department of Justice has not otherwise recovered its costs and expenses of the investigation and prosecution leading to the forfeiture, less 30 percent of the remaining proceeds of the property which is awarded to the department as reasonable reimbursement for costs of such investigation and prosecution.

(b) Any amounts awarded to the Department of Justice pursuant to paragraph (a) of this subsection shall be deposited in the Criminal Justice Revolving Account in the State Treasury.

(3) Property subject to forfeiture under this section may be seized by a police officer, as defined in ORS 133.525, upon court process. Seizure without process may be made if:

(a) The seizure is incident to a lawful arrest or search or an inspection under an administrative inspection warrant; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(4) In the event of a seizure under subsection (3) of this section, a forfeiture proceeding shall be instituted promptly. Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the police officer making the seizure, subject only to the order of the court. When property is seized under this section, pending forfeiture and final disposition, the police officer may:

(a) Place the property under seal;

(b) Remove the property to a place designated by the court; or

(c) Require another agency authorized by law to take custody of the property and remove it to an appropriate location.

(5) The Attorney General, any district attorney or any state agency having jurisdiction over conduct in violation of a provision of ORS 166.715 to 166.735 may institute civil proceedings under this section. In any action brought under this section, the circuit court

shall give priority to the hearing and determination. Pending final determination, the circuit court may at any time enter such injunctions, prohibitions or restraining orders, or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper. The Attorney General, district attorney or state agency bringing an action under this section may be awarded, upon entry of a judgment in favor of the state, costs of investigation and litigation, reasonably incurred. Amounts recovered may include costs and expenses of state and local governmental departments and agencies incurred in connection with the investigation or litigation.

(6)(a) Any aggrieved person may institute a proceeding under subsection (1) of this section:

(A) If the proceeding is based upon racketeering activity for which a criminal conviction has been obtained, any rights of appeal have expired and the action is against the individual convicted of the racketeering activity; or

(B) If the person is entitled to pursue a cause of action under subsection (7)(a)(B) of this section.

(b) In such proceeding, relief shall be granted in conformity with the principles that govern the granting of injunctive relief from threatened loss or damage in other civil cases, except that no showing of special or irreparable damage to the person shall have to be made. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any such action before a final determination on the merits.

(7)(a) Any person who is injured by reason of any violation of the provisions of ORS 166.720 (1) to (4) shall have a cause of action for three-fold the actual damages sustained and, when appropriate, punitive damages:

(A) If a criminal conviction for the racketeering activity that is the basis of the violation has been obtained, any rights of appeal have expired and the action is against the individual convicted of the racketeering activity; or

(B) If the violation is based on racketeering activity as defined in ORS 166.715 (6)(a)(B) to (J), (K) as it relates to burglary and criminal trespass, (L) to (P), (S), (T), (U), (V), (X) to (Z), (AA) to (EE), (LL), (MM) or (PP) to (WW).

(b) The defendant or any injured person may demand a trial by jury in any civil action brought pursuant to this subsection.

(c) Any injured person shall have a right or claim to forfeited property or to the proceeds derived therefrom superior to any right or claim the state has in the same property or proceeds.

(8) An investigative agency may bring an action for civil penalties for any violation of ORS 166.720 (1) to (4). Upon proof of any such violation, the court shall impose a civil penalty of not more than \$250,000.

(9) A judgment rendered in favor of the state in any criminal proceeding under ORS 166.715 to 166.735 shall estop the defendant in any subsequent civil action or proceeding brought by the state or any other person as to all matters as to which such judgment would be an estoppel as between the state and the defendant.

(10) The Attorney General may, upon timely application, intervene in any civil action or proceeding brought under subsection (6) or (7) of this section if the Attorney General certifies that, in the opinion of the Attorney General, the action or proceeding is of general public importance. In such action or proceeding, the state shall be entitled to the same relief as if the Attorney General instituted the action or proceeding.

(11)(a) Notwithstanding any other provision of law, a criminal or civil action or proceeding under ORS 166.715 to 166.735 may be commenced at any time within five years after the conduct in violation of a provision of ORS 166.715 to 166.735 terminates or the cause of action accrues. If a criminal prosecution or civil action or other proceeding is brought, or intervened in, to punish, prevent or restrain any violation of the provisions of ORS 166.715 to 166.735, the running of the period of limitations prescribed by this section with respect to any cause of action arising under subsection (6) or (7) of this section which is based in whole or in part upon any matter complained of in any such prosecution, action or proceeding shall be suspended during the pendency of such prosecution, action or proceeding and for two years following its termination.

(b) A cause of action arising under subsection (6)(a)(A) or (7)(a)(A) of this section accrues when the criminal conviction for the underlying activity is obtained. In addition to any suspension of the running of the period of limitations provided for in paragraph (a) of this subsection, the period of limitations prescribed by paragraph (a) of this subsection is suspended during any appeal from the criminal conviction for the underlying activity.

(12) The application of one civil remedy under any provision of ORS 166.715 to 166.735 shall not preclude the application of any other remedy, civil or criminal, under ORS 166.715 to 166.735 or any other provision of law. Civil remedies under ORS 166.715 to 166.735 are supplemental and not mutually exclusive.

(13) Notwithstanding subsection (6) or (7) of this section, a person may not institute a proceeding under subsection (6) of this section and does not have a cause of action under subsection (7) of this section if the conduct that is the basis of the proceeding or action could also be the basis of a claim of discrimination because of sex that constitutes sexual harassment.

(14) In an action brought under the provisions of this section by a person other than the Attorney General, a district attorney or a state agency, the court may award reasonable attorney fees to the prevailing party. In a civil action brought under the provisions of this section by the Attorney General, a district attorney or a state agency:

(a) The court may award reasonable attorney fees to the Attorney General, district attorney or state agency if the Attorney General, district attorney or state agency prevails in the action; and

(b) The court may award reasonable attorney fees to a defendant who prevails in an action under this section if the court determines that the Attorney General, district attorney or state agency had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court. [1981 c.769 §5; 1983 c.715 §2; 1995 c.79 §54; 1995 c.618 §58a; 1995 c.619 §1; 1995 c.696 §17; 1997 c.249 §51; 1997 c.789 §3; 2003 c.576 §390; 2007 c.869 §8; 2017 c.21 §101; 2023 c.216



§4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.730 - Authority of investigative agency; compelling compliance with subpoena.**

- (1) If, pursuant to the civil enforcement provisions of ORS 166.725, an investigative agency has reason to believe that a person or other enterprise has engaged in, or is engaging in, activity in violation of ORS 166.715 to 166.735, the investigative agency may administer oaths or affirmations, subpoena witnesses or documents or other material, and collect evidence pursuant to the Oregon Rules of Civil Procedure.
- (2) If matter that the investigative agency seeks to obtain by the subpoena is located outside the state, the person or enterprise subpoenaed may make such matter available to the investigative agency or its representative for examination at the place where such matter is located. The investigative agency may designate representatives, including officials of the jurisdiction in which the matter is located, to inspect the matter on its behalf and may respond to similar requests from officials of other jurisdictions.
- (3) Upon failure of a person or enterprise, without lawful excuse, to obey a subpoena, and after reasonable notice to such person or enterprise, the investigative agency may apply to the circuit court for the judicial district in which such person or enterprise resides, is found or transacts business for an order compelling compliance. [1981 c.769 §6; 1983 c.715 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 166 - Offenses Against Public Order; Firearms and Other Weapons; Racketeering Section 166.735 - Short title; construction.**

- (1) ORS 166.715 to 166.735 may be cited as the Oregon Racketeer Influenced and Corrupt Organization Act.
- (2) The provisions of ORS 166.715 to 166.735 shall be liberally construed to effectuate its remedial purposes. [1981 c.769 §§1,7; 1983 c.715 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.002 - Definitions for ORS 167.002 to 167.027.**

As used in ORS 167.002 to 167.027, unless the context requires otherwise:

- (1) "Place of prostitution" means any place where prostitution is practiced.
- (2) "Prostitute" means a male or female person who engages in sexual conduct or sexual contact for a fee.
- (3) "Prostitution enterprise" means an arrangement whereby two or more prostitutes are organized to conduct prostitution activities.
- (4) "Sexual conduct" means sexual intercourse or oral or anal sexual intercourse.
- (5) "Sexual contact" means any touching of the sexual organs or other intimate parts of a person not married to the actor for the purpose of arousing or gratifying the sexual desire of either party. [1971 c.743 §249; 1973 c.699 §5; 2017 c.318 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.007 - Prostitution.**

- (1) A person commits the crime of prostitution if the person engages in, or offers or agrees to engage in, sexual conduct or sexual contact in return for a fee.
- (2) Prostitution is a Class A misdemeanor.
- (3) It is an affirmative defense to prosecution under this section that the defendant, at the time of the alleged offense, was a victim of the crime of trafficking in persons as described in ORS 163.266 (1)(b) or (c). [1971 c.743 §250; 1973 c.52 §1; 1973 c.699 §6; 2011 c.151 §1; 2017 c.246 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.008 - Commercial sexual solicitation.**

- (1) A person commits the crime of commercial sexual solicitation if the person pays, or offers or agrees to pay, a fee to engage in sexual conduct or sexual contact.
- (2) Commercial sexual solicitation is a Class A misdemeanor. [2011 c.151 §3; 2013 c.720 §2; 2015 c.98 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.012 - Promoting prostitution.**

- (1) A person commits the crime of promoting prostitution if, with intent to promote prostitution, the person knowingly:
  - (a) Owns, controls, manages, supervises or otherwise maintains a place of prostitution or a prostitution enterprise;
  - (b) Induces or causes a person to engage in prostitution or to remain in a place of prostitution;
  - (c) Receives or agrees to receive money, goods, property, services or something else of value, other than as a prostitute being compensated for personally rendered prostitution services, pursuant to an agreement or understanding that the money, goods, property, services or something else of value is derived from a prostitution activity; or
  - (d) Engages in any conduct that institutes, aids or facilitates an act or enterprise of prostitution.
- (2) Promoting prostitution is a Class C felony. [1971 c.743 §251; 2016 c.10 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.017 - Compelling prostitution.**

(1) A person commits the crime of compelling prostitution if the person knowingly:

- (a) Uses force or intimidation to compel another to engage in prostitution or attempted prostitution;
- (b) Induces or causes a person under 18 years of age to engage in prostitution;
- (c) Aids or facilitates the commission of prostitution or attempted prostitution by a person under 18 years of age; or
- (d) Induces or causes the spouse, child or stepchild of the person to engage in prostitution.

(2) Compelling prostitution is a Class B felony.

(3) In a prosecution under subsection (1)(b) or (c) of this section, the state is not required to prove that the defendant knew the other person was under 18 years of age and it is no defense that the defendant did not know the person's age or that the defendant reasonably believed the person to be older than 18 years of age. [1971 c.743 §252; 2011 c.334 §1; 2013 c.271 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.027 - Evidence required to show place of prostitution.**

(1) On the issue of whether a place is a place of prostitution as defined in ORS 167.002, its general repute and repute of persons who reside in or frequent the place shall be competent evidence.

(2) Notwithstanding ORS 136.655, in any prosecution under ORS 167.012 and 167.017, spouses are competent and compellable witnesses for or against either party. [1971 c.743 §254]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.051 - Definitions for ORS 167.057.**

As used in ORS 167.057:

(1) "Furnishes" means to sell, give, rent, loan or otherwise provide.

(2) "Minor" means a person under 18 years of age.

(3) "Sexual conduct" means:

(a) Human masturbation or sexual intercourse;

(b) Genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex or between humans and animals;

(c) Penetration of the vagina or rectum by any object other than as part of a medical diagnosis or as part of a personal hygiene practice; or

(d) Touching of the genitals, pubic areas or buttocks of the human male or female or of the breasts of the human female. [2007 c.869 §1; 2011 c.681 §1]

Note:

167.051 and 167.057 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.057 - Luring a minor.**

(1) A person commits the crime of luring a minor if the person:

(a) Furnishes to, or uses with, a minor, a police officer posing as a minor or an agent of a police officer posing as a minor, a visual representation or explicit verbal description or narrative account of sexual conduct for the purpose of inducing the minor or purported minor to engage in sexual conduct; or

(b) Engages in sexual conduct in the immediate presence of a minor for the purpose of inducing the minor to engage in sexual conduct.

(2) A person is not liable to prosecution for violating subsection (1) of this section if the person furnishes or uses a representation, description or account of sexual conduct that forms merely an incidental part of an otherwise nonoffending whole and serves some purpose other than titillation.

(3) In a prosecution under subsection (1) of this section, it is an affirmative defense:

(a) That the representation, description or account was furnished or used for the purpose of psychological or medical treatment and was furnished by a treatment provider or by another person acting on behalf of the treatment provider;

(b) That the defendant had reasonable cause to believe that the person to whom the representation, description or account was furnished or with whom the representation, description or account was used, or the person in the immediate presence of whom the defendant engaged in sexual conduct, was not a minor; or

(c) That the defendant was less than three years older than the minor or, in the case of a police officer or agent of a police officer posing as a minor, the age of the purported minor as reported to the defendant at the time of the alleged offense.

(4) Luring a minor is a Class C felony.

(5)(a) The court may designate luring a minor as a sex crime under ORS 163A.005 if the court determines that:

(A) The offender reasonably believed the minor or, in the case of a police officer or agent of a police officer posing as a minor, the

purported minor to be more than five years younger than the offender or under 16 years of age; and

(B) Given the nature of the offense, the age of the minor or purported minor as reported to the defendant and the person's criminal history, designation of the offense as a sex crime is necessary for the safety of the community.

(b) The court shall indicate the designation and the findings supporting the designation in the judgment.

(6) As used in this section, "police officer" has the meaning given that term in ORS 181A.355. [2007 c.869 §3; 2011 c.681 §2; 2013 c.293 §1; 2015 c.101 §1; 2023 c.198 §2]

Note:

See note under 167.051.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.060 - Definitions for ORS 167.060 to 167.095.**

As used in ORS 167.060 to 167.095, unless the context requires otherwise:

(1) "Advertising purposes" means purposes of propagandizing in connection with the commercial sale of a product or type of product, the commercial offering of a service, or the commercial exhibition of an entertainment.

(2) "Displays publicly" means the exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public thoroughfare, depot or vehicle.

(3) "Furnishes" means to sell, give, rent, loan or otherwise provide.

(4) "Minor" means an unmarried person under 18 years of age.

(5) "Nudity" means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and areola only are covered.

(6) "Obscene performance" means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sadomasochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

(7) "Obscenities" means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

(8) "Public thoroughfare, depot or vehicle" means any street, highway, park, depot or transportation platform, or other place, whether indoors or out, or any vehicle for public transportation, owned or operated by government, either directly or through a public corporation or authority, or owned or operated by any agency of public transportation that is designed for the use, enjoyment or transportation of the general public.

(9) "Sadomasochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(10) "Sexual conduct" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(11) "Sexual excitement" means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity. [1971 c.743 §255]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.062 - Sadomasochistic abuse or sexual conduct in live show.**

(1) It is unlawful for any person to knowingly engage in sadomasochistic abuse or sexual conduct in a live public show.

(2) Violation of subsection (1) of this section is a Class A misdemeanor.

(3) It is unlawful for any person to knowingly direct, manage, finance or present a live public show in which the participants engage in sadomasochistic abuse or sexual conduct.

(4) Violation of subsection (3) of this section is a Class C felony.

(5) As used in ORS 167.002, 167.007 and this section unless the context requires otherwise:

(a) "Live public show" means a public show in which human beings, animals, or both appear bodily before spectators or customers.

(b) "Public show" means any entertainment or exhibition advertised or in some other fashion held out to be accessible to the public or member of a club, whether or not an admission or other charge is levied or collected and whether or not minors are admitted or excluded. [1973 c.699 §§2,3; 2007 c.869 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.075 - Exhibiting an obscene performance to a minor.**

(1) A person commits the crime of exhibiting an obscene performance to a minor if the minor is unaccompanied by the parent or lawful guardian of the minor, and for a monetary consideration or other valuable commodity or service, the person knowingly or recklessly:

- (a) Exhibits an obscene performance to the minor; or
  - (b) Sells an admission ticket or other means to gain entrance to an obscene performance to the minor; or
  - (c) Permits the admission of the minor to premises whereon there is exhibited an obscene performance.
- (2) No employee is liable to prosecution under this section or under any city or home-rule county ordinance for exhibiting or possessing with intent to exhibit any obscene motion picture provided the employee is acting within the scope of regular employment at a showing open to the public.
- (3) As used in this section, "employee" means any person regularly employed by the owner or operator of a motion picture theater if the person has no financial interest other than salary or wages in the ownership or operation of the motion picture theater, no financial interest in or control over the selection of the motion pictures shown in the theater, and is working within the motion picture theater where the person is regularly employed, but does not include a manager of the motion picture theater.
- (4) Exhibiting an obscene performance to a minor is a Class A misdemeanor. Notwithstanding ORS 161.635 and 161.655, a person convicted under this section may be sentenced to pay a fine, fixed by the court, not exceeding \$10,000. [1971 c.743 §258]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.080 - Displaying obscene materials to minors.**

- (1) A person commits the crime of displaying obscene materials to minors if, being the owner, operator or manager of a business or acting in a managerial capacity, the person knowingly or recklessly permits a minor who is not accompanied by the parent or lawful guardian of the minor to enter or remain on the premises, if in that part of the premises where the minor is so permitted to be, there is visibly displayed:
- (a) Any picture, photograph, drawing, sculpture or other visual representation or image of a person or portion of the human body that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse; or
  - (b) Any book, magazine, paperback, pamphlet or other written or printed matter, however reproduced, that reveals a person or portion of the human body that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse.
- (2) Displaying obscene materials to minors is a Class A misdemeanor. Notwithstanding ORS 161.635 and 161.655, a person convicted under this section may be sentenced to pay a fine, fixed by the court, not exceeding \$10,000. [1971 c.743 §259]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.085 - Defenses in prosecutions under ORS 167.075 and 167.080.**

In any prosecution under ORS 167.075 and 167.080, it is an affirmative defense for the defendant to prove:

- (1) That the defendant was in a parental or guardianship relationship with the minor;
- (2) That the defendant was a bona fide school, museum or public library, or was acting in the course of employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization;
- (3) That the defendant was charged with furnishing, showing, exhibiting or displaying an item, those portions of which might otherwise be contraband forming merely an incidental part of an otherwise nonoffending whole, and serving some purpose therein other than titillation; or
- (4) That the defendant had reasonable cause to believe that the person involved was not a minor. [1971 c.743 §260; 1993 c.18 §27; 2001 c.607 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.090 - Publicly displaying nudity or sex for advertising purposes.**

- (1) A person commits the crime of publicly displaying nudity or sex for advertising purposes if, for advertising purposes, the person knowingly:
- (a) Displays publicly or causes to be displayed publicly a picture, photograph, drawing, sculpture or other visual representation or image of a person or portion of the human body that depicts nudity, sadomasochistic abuse, sexual conduct or sexual excitement, or any page, poster or other written or printed matter bearing such representation or a verbal description or narrative account of such items or activities, or any obscenities; or
  - (b) Permits any display described in this section on premises owned, rented or operated by the person.
- (2) Publicly displaying nudity or sex for advertising purposes is a Class A misdemeanor. [1971 c.743 §261]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.095 - Defenses in prosecutions under ORS 167.090.**

In any prosecution for violation of ORS 167.090, it shall be an affirmative defense for the defendant to prove:

- (1) That the public display, even though in connection with a commercial venture, was primarily for artistic purposes or as a public service; or
- (2) That the public display was of nudity, exhibited by a bona fide art, antique or similar gallery or exhibition, and visible in a normal display setting. [1971 c.743 §262]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.100 - Application of ORS 167.060 to 167.100.**

ORS 167.060 to 167.100 shall be applicable and uniform throughout the state and all political subdivisions and municipalities therein, and no local authority shall enact any ordinances, rules or regulations in conflict with the provisions thereof. [1971 c.743 §262a]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.108 - Definitions for ORS 167.109 and 167.112.**

As used in ORS 167.109 and 167.112:

- (1) "Credit" and "credit card" have the meaning given those terms under the federal Consumer Credit Protection Act (P.L. 90-321, 82 Stat. 146, 15 U.S.C. 1601).
- (2) "Electronic funds transfer" has the meaning given that term in ORS 293.525.
- (3) "Financial institution" has the meaning given that term in ORS 706.008.
- (4) "Money transmission" has the meaning given that term in ORS 717.200. [2001 c.502 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.109 - Internet gambling.**

- (1) A person engaged in an Internet gambling business may not knowingly accept, in connection with the participation of another person in unlawful gambling using the Internet:
  - (a) Credit, or the proceeds of credit, extended to or on behalf of such other person, including credit extended through the use of a credit card;
  - (b) An electronic funds transfer or funds transmitted by or through a money transmission business, or the proceeds of an electronic funds transfer or money transmission service, from or on behalf of the other person;
  - (c) Any check, draft or similar instrument that is drawn by or on behalf of the other person and is drawn on or payable at or through any financial institution; or
  - (d) The proceeds of any other form of financial transaction that involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the other person.
- (2) Violation of subsection (1) of this section is a Class C felony. [2001 c.502 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.112 - Liability of certain entities engaged in certain financial transactions.**

Notwithstanding any other provision of law, a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic funds transfer may be initiated, money transmission business or any national, regional or local network utilized to effect a credit transaction, electronic funds transfer or money transmission service that is not liable under ORS 167.109:

- (1) May collect on any debt arising out of activities that are illegal under ORS 167.109;
- (2) Shall not be deemed to be participating in any activities that are illegal under ORS 167.109 by reason of their processing transactions arising out of such activities or collecting debts arising out of such activities; and
- (3) Shall not be liable under any provision of ORS 166.715 to 166.735, 336.184 or 646.605 to 646.652 by reason of their processing transactions arising out of activities that are illegal under ORS 167.109 or collecting debts arising out of such activities. [2001 c.502 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.114 - Application of ORS 167.109 and 167.112 to Oregon Racing Commission.**

ORS 167.109 and 167.112 do not apply to activities licensed and regulated by the Oregon Racing Commission under ORS chapter 462. [2001 c.502 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.116 - Rulemaking for certain exceptions under ORS 167.117.**

- (1) The Oregon State Lottery Commission shall adopt rules to carry out the provisions of ORS 167.117 (9)(c)(E) and (20)(b).
- (2) Devices authorized by the Oregon State Lottery Commission for the purposes described in ORS 167.117 (9)(c)(E) and (20)(b) are exempted from the provisions of 15 U.S.C. 1172. [1999 c.193 §2; 2001 c.502 §6]

Note:

167.116 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.117 - Definitions for ORS 167.108 to 167.164 and 464.270 to 464.530.**

As used in ORS 167.108 to 167.164 and 464.270 to 464.530, unless the context requires otherwise:

- (1) "Bingo or lotto" means a game, played with cards bearing lines of numbers, in which a player covers or uncovers a number selected from a container, and which is won by a player who is present during the game and who first covers or uncovers the

selected numbers in a designated combination, sequence or pattern.

(2) "Bookmaker" means a person who unlawfully accepts a bet from a member of the public upon the outcome of a future contingent event and who charges or accepts a percentage, fee or vigorish on the wager.

(3) "Bookmaking" means promoting gambling by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events.

(4) "Casino game" means any of the traditional gambling-based games commonly known as dice, faro, monte, roulette, fan-tan, twenty-one, blackjack, Texas hold-'em, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck, Chinese chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panquinqui, red dog, acey-deucey, or any other gambling-based game similar in form or content.

(5)(a) "Charitable, fraternal or religious organization" means any person that is:

(A) Organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal or other nonprofit purposes; and

(B) Exempt from payment of federal income taxes because of its charitable, fraternal or religious purposes.

(b) The fact that contributions to an organization profiting from a contest of chance do not qualify for a charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1986, as amended, constitutes prima facie evidence that the organization is not a bona fide charitable, fraternal or religious organization.

(6) "Contest of chance" means any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(7) "Gambling" means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the control or influence of the person, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. "Gambling" does not include:

(a) Bona fide business transactions valid under the law of contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

(b) Engaging in contests of chance under the following conditions:

(A) The contest is played for some token other than money;

(B) An individual contestant may not purchase more than \$100 worth of tokens for use in the contest during any 24-hour period;

(C) The tokens may be exchanged only for property other than money;

(D) Except when the tokens are exchanged for a beverage or merchandise to be consumed on the premises, the tokens are not redeemable on the premises where the contest is conducted or within 50 miles thereof; and

(E) Except for charitable, fraternal or religious organizations, no person who conducts the contest as owner, agent or employee profits in any manner from operation of the contest.

(c) Social games.

(d) Bingo, lotto or raffle games or Monte Carlo events operated in compliance with ORS 167.118, by a charitable, fraternal or religious organization licensed pursuant to ORS 167.118, 464.250 to 464.380 and 464.420 to 464.530 to operate such games.

(e) Savings promotion raffles, as defined in ORS 708A.660.

(8) "Gambling device" means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine. Lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices within this definition. Amusement devices other than gray machines, that do not return to the operator or player thereof anything but free additional games or plays, shall not be considered to be gambling devices.

(9)(a) "Gray machine" means any electrical or electromechanical device, whether or not it is in working order or some act of manipulation, repair, adjustment or modification is required to render it operational, that:

(A) Awards credits or contains or is readily adaptable to contain, a circuit, meter or switch capable of removing or recording the removal of credits earned by a player, other than removal during the course of continuous play; or

(B) Plays, emulates or simulates a casino game, bingo or keno.

(b) A device is no less a gray machine because, apart from its use or adaptability as such, it may also sell or deliver something of value on the basis other than chance.

(c) "Gray machine" does not include:

(A) Any device commonly known as a personal computer, including any device designed and marketed solely for home entertainment, when used privately and not for a fee and not used to facilitate any form of gambling;

(B) Any device operated under the authority of the Oregon State Lottery;

(C) Any device manufactured or serviced but not operated in Oregon by a manufacturer who has been approved under rules adopted by the Oregon State Lottery Commission;

(D) A slot machine;

(E) Any device authorized by the Oregon State Lottery Commission for:

(i) Display and demonstration purposes only at trade shows; or

(ii) Training and testing purposes by the Department of State Police; or

(F) Any device used to operate bingo in compliance with ORS 167.118 by a charitable, fraternal or religious organization licensed to operate bingo pursuant to ORS 167.118, 464.250 to 464.380 and 464.420 to 464.530.

(10) "Handle" means the total amount of money and other things of value bet on the bingo, lotto or raffle games, the value of raffle chances sold or the total amount collected from the sale of imitation money during Monte Carlo events.

(11) "Internet" means an interactive computer service or system or an information service, system or access software provider that provides or enables computer access by multiple users to a computer server and includes, but is not limited to, an information service, system or access software provider that provides access to a network system commonly known as the Internet, or any comparable system or service and also includes, but is not limited to a World Wide Web page, newsgroup, message board, mailing list or chat area on any interactive computer service or system or other online service.

(12) "Lottery" or "policy" means an unlawful gambling scheme in which:

(a) The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated the winning ones;

(b) The winning chances are to be determined by a drawing or by some other method; and

(c) The holders of the winning chances are to receive something of value.

(13) "Monte Carlo event" means a gambling event at which wagers are placed with imitation money upon contests of chance in which players compete against other players or against the house. As used in this subsection, "imitation money" includes imitation currency, chips or tokens.

(14) "Numbers scheme or enterprise" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome of a future contingent event otherwise unrelated to the particular scheme.

(15) "Operating expenses" means those expenses incurred in the operation of a bingo, lotto or raffle game, including only the following:

(a) Salaries, employee benefits, workers' compensation coverage and state and federal employee taxes;

(b) Security services;

(c) Legal and accounting services;

(d) Supplies and inventory;

(e) Rent, repairs, utilities, water, sewer and garbage;

(f) Insurance;

(g) Equipment;

(h) Printing and promotions;

(i) Postage and shipping;

(j) Janitorial services and supplies; and

(k) Leasehold improvements.

(16) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants therein is a person who does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor and supplying cards or other equipment used therein. A person who engages in bookmaking is not a player.

(17) "Profits from unlawful gambling" means that a person, acting other than solely as a player, accepts or receives money or other property pursuant to an agreement or understanding with another person whereby the person participates or is to participate in the proceeds of unlawful gambling.

(18) "Promotes unlawful gambling" means that a person, acting other than solely as a player, engages in conduct that materially aids any form of unlawful gambling. Conduct of this nature includes, but is not limited to, conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person promotes unlawful gambling if, having control or right of control over premises being used with the knowledge of the person for purposes of unlawful gambling, the person permits the unlawful gambling to occur or continue or makes no effort to prevent its occurrence or continuation.

(19) "Raffle" means a lottery operated by a charitable, fraternal or religious organization wherein the players pay something of value for chances, represented by numbers or combinations thereof or by some other medium, one or more of which chances are to be designated the winning ones or determined by a drawing and the player holding the winning chance is to receive something of value.

(20)(a) "Slot machine" means a gambling device that as a result of the insertion of a coin or other object operates, either completely automatically, or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, it may eject something of value or otherwise entitle the player to something of value. A device so constructed or readily adaptable or convertible to such use is no less a slot machine because it is not in working order or because some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion or workability. Nor is it any less a slot machine because apart from its

use or adaptability as such it may also sell or deliver something of value on the basis other than chance.

(b) "Slot machine" does not include any device authorized by the Oregon State Lottery Commission for:

(A) Display and demonstration purposes only at trade shows; or

(B) Training and testing purposes by the Department of State Police.

(21) "Social game" means:

(a) A game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game; and

(b) If authorized pursuant to ORS 167.121, a game, other than a lottery, between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

(22) "Something of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein.

(23) "Trade show" means an exhibit of products and services that is:

(a) Not open to the public; and

(b) Of limited duration.

(24) "Unlawful" means not specifically authorized by law. [1971 c.669 §3a; 1971 c.743 §263; 1973 c.788 §1; 1974 c.7 §1; 1975 c.421 §1; 1977 c.850 §1; 1983 c.813 §1; 1987 c.914 §1; 1991 c.962 §7; 1995 c.577 §2; 1997 c.867 §1; 1999 c.193 §1; 2001 c.228 §1; 2001 c.502 §7; 2005 c.57 §1; 2005 c.355 §2; 2015 c.137 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.118 - Certain games or events conducted by charitable, fraternal or religious organizations; rules.**

(1) When a charitable, fraternal or religious organization is licensed by the Department of Justice to conduct bingo, lotto or raffle games or Monte Carlo events, only the organization or an employee of the organization authorized by the department may receive money or property or otherwise directly profit from the operation of the games, except that:

(a) The organization operating the games may present a prize of money or other property to any player not involved in the administration or management of the games.

(b) An organization licensed to conduct Monte Carlo events may contract with a licensed supplier of Monte Carlo event equipment to operate the event, including the provision of equipment, supplies and personnel, provided that the licensed supplier is paid a fixed fee to conduct the event and the imitation money is sold to players by employees or volunteers of the licensed charitable, fraternal or religious organization.

(c) A person may sell, rent or lease equipment, including electronic equipment, proprietary computer software and real property to a licensed charitable, fraternal or religious organization. Rent or lease payments must be made in compliance with the provisions of ORS 464.510.

(d) An organization licensed by the department may act as an escrow agent to receive money or property to be awarded as prizes.

(2) A charitable, fraternal or religious organization may not operate bingo, lotto or raffle games or Monte Carlo events except at locations and upon days and for periods of time as the department authorizes pursuant to this section and ORS 464.250 to 464.380, 464.420 and 464.450 to 464.530.

(3)(a) An organization licensed by the department to operate bingo or lotto games may not award a prize exceeding \$5,000 in value in any one game. An organization licensed by the department to operate a Monte Carlo event may not present any prize of money, or a cash equivalent, to any player.

(b) Notwithstanding any provision of ORS 167.108 to 167.164 and 464.270 to 464.530 to the contrary, a bingo licensee may operate two games per year with a prize not to exceed \$10,000 per game and, if approved by the department, may also participate in a linked progressive game involving only Oregon licensees, without regard to the number of games or the size of the prize awarded.

(4) Each charitable, fraternal or religious organization that maintains, conducts or operates any bingo, lotto or raffle game or Monte Carlo event under license of the department must operate the game or event in accordance with rules adopted by the department.

(5) It is unlawful for a licensee to permit the operating expenses of the games to exceed 22 percent of the annual handle of its bingo, lotto and raffle operation.

(6) It is unlawful for a charitable, fraternal or religious organization licensed by the department to operate bingo, lotto or raffle games if:

(a) The handle of the games and events exceeds \$250,000 in a year; and

(b) The games and events do not generate for the organization's purposes, after the cost of prizes and operating expenses are deducted from the handle, an amount that equals or exceeds five percent of the handle. [1987 c.914 §3; 1991 c.274 §2; 1995 c.331 §1; 1997 c.867 §2; 1999 c.218 §1; 2001 c.228 §2; 2003 c.417 §1; 2017 c.60 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.121 - Local authorization of social games.**

Counties and cities may, by ordinance, authorize the playing or conducting of a social game in a private business, private club or in a place of public accommodation. Such ordinances may provide for regulation or licensing of the social games authorized. [1974 c.7 §3]



Note:

167.121 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.122 - Unlawful gambling in the second degree.**

(1) A person commits the crime of unlawful gambling in the second degree if the person knowingly:

(a) Places a bet with a bookmaker; or

(b) Participates or engages in unlawful gambling as a player.

(2) Unlawful gambling in the second degree is a Class A misdemeanor. [1971 c.743 §264; 1997 c.867 §21]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.127 - Unlawful gambling in the first degree.**

(1) A person commits the crime of unlawful gambling in the first degree if the person knowingly promotes or profits from unlawful gambling.

(2) Unlawful gambling in the first degree is a Class C felony. [1971 c.743 §265; 1997 c.867 §22]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.132 - Possession of gambling records in the second degree.**

(1) A person commits the crime of possession of gambling records in the second degree if, with knowledge of the contents thereof, the person possesses any writing, paper, instrument or article:

(a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise; or

(b) Of a kind commonly used in the operation, promotion or playing of a lottery or numbers scheme or enterprise.

(2) Possession of gambling records in the second degree is a Class A misdemeanor. [1971 c.743 §266]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.137 - Possession of gambling records in the first degree.**

(1) A person commits the crime of possession of gambling records in the first degree if, with knowledge of the contents thereof, the person possesses any writing, paper, instrument or article:

(a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, and constituting, reflecting or representing more than five bets totaling more than \$500; or

(b) Of a kind commonly used in the operation, promotion or playing of a lottery or numbers scheme or enterprise, and constituting, reflecting or representing more than 500 plays or chances therein.

(2) Possession of gambling records in the first degree is a Class C felony. [1971 c.743 §267]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.142 - Defense to possession of gambling records.**

In any prosecution under ORS 167.132 or 167.137 it is a defense if the writing, paper, instrument or article possessed by the defendant is neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion or playing of a lottery or numbers scheme or enterprise. [1971 c.743 §268]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.147 - Possession of a gambling device; defense.**

(1) A person commits the crime of possession of a gambling device if, with knowledge of the character thereof, the person manufactures, sells, transports, places or possesses, or conducts or negotiates a transaction affecting or designed to affect ownership, custody or use of:

(a) A slot machine; or

(b) Any other gambling device, believing that the device is to be used in promoting unlawful gambling activity.

(2) Possession of a gambling device is a Class A misdemeanor.

(3) It is a defense to a charge of possession of a gambling device if the slot machine or gambling device that caused the charge to be brought was manufactured:

(a) Prior to 1900 and is not operated for purposes of unlawful gambling; or

(b) More than 25 years before the date on which the charge was brought and:

(A) Is located in a private residence;

(B) Is not operated for the purposes of unlawful gambling; and

(C) Has permanently affixed to it by the manufacturer, the manufacturer's name and either the date of manufacture or the serial number. [1971 c.743 §269; 1977 c.264 §1; 1983 c.403 §1; 1993 c.781 §1; 1995 c.577 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.153 - Proving occurrence of sporting event in prosecutions of gambling offenses.**

In any prosecution under ORS 167.117 and 167.122 to 167.147 in which it is necessary to prove the occurrence of a sporting event, the following shall be admissible in evidence and shall be prima facie evidence of the occurrence of the event:

- (1) A published report of its occurrence in a daily newspaper, magazine or other periodically printed publication of general circulation; or
- (2) Evidence that a description of some aspect of the event was written, printed or otherwise noted at the place in which a violation of ORS 167.117 and 167.122 to 167.147 is alleged to have been committed. [1971 c.743 §270]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.158 - Lottery prizes forfeited to county; exception; action by county to recover.**

- (1) Except for bingo or lotto operated by a charitable, fraternal or religious organization, all sums of money and every other valuable thing drawn as a prize in any lottery or pretended lottery, by any person within this state, are forfeited to the use of the county in which it is found, and may be sued for and recovered by a civil action.
- (2) Nothing contained in ORS 105.550 to 105.600 shall interfere with the duty of officers to take possession of property as provided by subsection (1) of this section. [1971 c.743 §271; 1977 c.850 §3; 1989 c.846 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.162 - Gambling device as public nuisance; defense; seizure and destruction.**

- (1) A gambling device is a public nuisance. Any peace officer shall summarily seize any such device that the peace officer finds and deliver it to the custody of the law enforcement agency that employs the officer, which shall hold it subject to the order of the court having jurisdiction.
- (2) Whenever it appears to the court that the gambling device has been possessed in violation of ORS 167.147, the court shall adjudge forfeiture thereof and shall order the law enforcement agency holding the gambling device to destroy the device and to deliver any coins taken therefrom to the county treasurer, who shall deposit them to the general fund of the county. However, when the defense provided by ORS 167.147 (3) is raised by the defendant, the gambling device or slot machine shall not be forfeited or destroyed until after a final judicial determination that the defense is not applicable. If the defense is applicable, the gambling device or slot machine shall be returned to its owner.
- (3) The seizure of the gambling device or operating part thereof constitutes sufficient notice to the owner or person in possession thereof. The law enforcement agency shall make return to the court showing that the law enforcement agency has complied with the court's order.
- (4) Whenever, in any proceeding in court for the forfeiture of any gambling device except a slot machine seized for a violation of ORS 167.147, a judgment for forfeiture is entered, the court shall have exclusive jurisdiction to remit or mitigate the forfeiture.
- (5) In any such proceeding the court shall not allow the claim of any claimant for remission or mitigation unless and until the claimant proves that the claimant:
  - (a) Has an interest in the gambling device, as owner or otherwise, that the claimant acquired in good faith.
  - (b) At no time had any knowledge or reason to believe that it was being or would be used in violation of law relating to gambling.
- (6) In any proceeding in court for the forfeiture of any gambling device except a slot machine seized for a violation of law relating to gambling, the court may in its discretion order delivery thereof to any claimant who shall establish the right to the immediate possession thereof, and shall execute, with one or more sureties, or by a surety company, approved by the court, and deliver to the court, a bond in such sum as the court shall determine, running to the State of Oregon, and conditioned to return such gambling device at the time of trial, and conditioned further that, if the gambling device be not returned at the time of trial, the bond may in the discretion of the court stand in lieu of and be forfeited in the same manner as such gambling device. [1971 c.743 §272; 1977 c.264 §2; 1999 c.59 §32; 2003 c.576 §391; 2005 c.22 §117; 2009 c.835 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.164 - Possession of a gray machine; disposition of machine; defense.**

- (1) A person commits the crime of possession of a gray machine if the person manufactures, sells, leases, transports, places, possesses or services a gray machine or conducts or negotiates a transaction affecting or designed to affect the ownership, custody or use of a gray machine.
- (2) Possession of a gray machine is a Class C felony.
- (3) If any device is seized by a law enforcement agency based on a contention that the device is a gray machine, and a motion for return or restoration of the device is filed under ORS 133.633, the burden of proof is on the state to establish that the device is in fact a gray machine.
- (4) Violation of, solicitation to violate, attempt to violate or conspiracy to violate subsection (1) of this section constitutes prohibited conduct for purposes of ORS chapter 131A. A device that is claimed to be a gray machine may be destroyed or otherwise disposed of only if a judgment of forfeiture has been entered under ORS 131.550 to 131.600 or ORS chapter 131A.
- (5) It is a defense to a charge of possession of a gray machine if the machine that caused the charge to be brought was manufactured

prior to 1958 and was not operated for purposes of unlawful gambling. [1991 c.962 §5; 1999 c.59 §33; 2009 c.78 §58; 2013 c.128 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.166 - Removal of unauthorized video lottery game terminal.**

On and after December 1, 1991, any video lottery game terminal that is not authorized by the Oregon State Lottery Commission must be removed from the State of Oregon. [1991 c.962 §8]

Note:

167.166 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.167 - Cheating.**

(1) A person commits the crime of cheating if the person, while in the course of participating or attempting to participate in any legal or illegal gambling activity, directly or indirectly:

- (a) Employs or attempts to employ any device, scheme or artifice to defraud any other participant or any operator;
  - (b) Engages in any act, practice or course of operation that operates or would operate as a fraud or deceit upon any other participant or any operator;
  - (c) Engages in any act, practice or course of operation with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator; or
  - (d) Causes, aids, abets or conspires with another person to cause any other person to violate paragraphs (a) to (c) of this subsection.
- (2) As used in this section, "deceit," "defraud" and "fraud" are not limited to common law deceit or fraud.
- (3) Cheating is a Class C felony. [1997 c.867 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.203 - Definitions for ORS 167.212 to 167.252.**

As used in ORS 167.212 to 167.252, unless the context requires otherwise:

- (1) "Apothecary" means a pharmacist, as defined by ORS 689.005, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist.
- (2) "Controlled substance" and "manufacture" have the meaning given those terms by ORS 475.005.
- (3) "Official written order" means an order written on a form provided for that purpose by the United States Commissioner of Internal Revenue, under any laws of the United States making provision therefor, if such order form is not provided, then on an official form provided for that purpose by the State Board of Pharmacy.
- (4) "Practitioner" has the meaning given that term by ORS 475.005.
- (5) "Wholesaler" means a person who supplies controlled substances that the wholesaler has not produced or prepared, on official written orders, but not on prescriptions.
- (6) "Unlawfully" means in violation of any provision of ORS 475.005 to 475.285 and 475.752 to 475.980. [1977 c.745 §33 (enacted in lieu of 167.202); 1979 c.777 §44; 1995 c.440 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.212 - Tampering with drug records.**

(1) A person commits the crime of tampering with drug records if the person knowingly:

- (a) Alters, defaces or removes a controlled substance label affixed by a manufacturer, wholesaler or apothecary, except that it shall not be unlawful for an apothecary to remove or deface such a label for the purpose of filling prescriptions;
  - (b) Affixes a false or forged label to a package or receptacle containing controlled substances;
  - (c) Makes or utters a false or forged prescription or false or forged official written order for controlled substances; or
  - (d) Makes a false statement in any controlled substance prescription, order, report or record required by ORS 475.005 to 475.285 and 475.752 to 475.980.
- (2) Tampering with drug records is a Class C felony. [1971 c.743 §275; 1977 c.745 §34; 1995 c.440 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.222 - Frequenting a place where controlled substances are used.**

(1) A person commits the offense of frequenting a place where controlled substances are used if the person keeps, maintains, frequents, or remains at a place, while knowingly permitting persons to use controlled substances in such place or to keep or sell them in violation of ORS 475.005 to 475.285 and 475.752 to 475.980.

(2) Frequenting a place where controlled substances are used is a Class A misdemeanor.

(3) As used in this section, "frequents" means repeatedly or habitually visits, goes to or resorts to. [1971 c.743 §277; 1974 c.43 §1; 1977 c.745 §35; 1979 c.641 §1; 1991 c.67 §41; 1993 c.469 §3; 1995 c.440 §16; 1999 c.1051 §160; 2017 c.21 §47]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.238 - Prima facie evidence permitted in prosecutions of drug offenses.**

(1) Proof of unlawful manufacture, cultivation, transportation or possession of a controlled substance is prima facie evidence of knowledge of its character.

(2) Proof of possession of a controlled substance not in the container in which it was originally delivered, sold or dispensed, when a prescription or order of a practitioner is required under the provisions of ORS 475.005 to 475.285 and 475.752 to 475.980, is prima facie evidence that the possession is unlawful unless the possessor also has in possession a label prepared by the pharmacist for the drug dispensed or the possessor is authorized by ORS 475.005 to 475.285 and 475.752 to 475.980 to possess the controlled substance. [1971 c.743 §279; 1977 c.745 §36; 1995 c.440 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.243 - Exemption contained in drug laws as defense to drug offenses.**

In any prosecution under ORS 167.212 and 167.222, any exception, excuse, proviso or exemption contained in ORS 475.005 to 475.285 and 475.752 to 475.980 shall be an affirmative defense. [1989 c.791 §16; 1995 c.440 §19; enacted in lieu of 167.242 in 1997]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.248 - Search and seizure of conveyance in which drugs unlawfully transported or possessed.**

A district attorney or peace officer charged with the enforcement of ORS 167.212 and 167.222, having personal knowledge or reasonable information that controlled substances are being unlawfully transported or possessed in any boat, vehicle or other conveyance, may search the same without warrant and without an affidavit being filed. If controlled substances are found in or upon such conveyance, the district attorney or peace officer may seize them, arrest any person in charge of the conveyance and as soon as possible take the arrested person and the seized controlled substances before any court in the county in which the seizure is made. The district attorney or peace officer shall also, without delay, make and file a complaint for any crime justified by the evidence obtained. [1989 c.791 §17; enacted in lieu of 167.247 in 1997]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.252 - Preclusion of state prosecution.**

No person shall be prosecuted under ORS 167.203 to 167.222 if the person has been acquitted or convicted under the federal narcotic laws of the same act or omission which it is alleged constitutes a violation of ORS 167.203 to 167.222. [1971 c.743 §282]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.262 - Use of minor in controlled substance or marijuana item offense.**

(1) It is unlawful for an adult to knowingly use as an aider or abettor or to knowingly solicit, force, compel, coerce or employ a minor, with or without compensation to the minor:

(a) To manufacture a controlled substance or a marijuana item as defined in ORS 475C.009; or

(b) To transport, carry, sell, give away, prepare for sale or otherwise distribute a controlled substance or a marijuana item as defined in ORS 475C.009.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, violation of this section is a Class A felony.

(b) Violation of this section is a Class A misdemeanor if the violation involves delivery for no consideration of less than one ounce of usable marijuana as defined in ORS 475C.009. [1991 c.834 §1; 2017 c.21 §48]

Note:

167.262 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.305 - Legislative findings.**

The Legislative Assembly finds and declares that:

(1) Animals are sentient beings capable of experiencing pain, stress and fear;

(2) Animals should be cared for in ways that minimize pain, stress, fear and suffering;

(3) The suffering of animals can be mitigated by expediting the disposition of abused animals that would otherwise languish in cages while their defendant owners await trial;

(4) The suffering of animals at the hands of unlicensed animal rescue organizations that are unable to provide sufficient food and care for the animals can be reduced by requiring such organizations to comply with regulations;

(5) The State of Oregon has an interest in facilitating the mitigation of costs of care incurred by a government agency, a humane investigation agency or its agent or a person that provides treatment for impounded animals;

(6) A government agency, a humane investigation agency or its agent or a person that provides care and treatment for impounded or seized animals:

- (a) Has an interest in mitigating the costs of the care and treatment in order to ensure the swift and thorough rehabilitation of the animals; and
- (b) May mitigate the costs of the care and treatment through funding that is separate from, and in addition to, any recovery of reasonable costs that a court orders a defendant to pay while a forfeiture proceeding is pending or subsequent to a conviction;
- (7) Use of preconviction civil remedies is not an affront to the presumption of innocence; and
- (8) Amendments to current law are needed to ensure that interested parties are afforded adequate notice and an opportunity to be heard and thus cannot unduly delay or impede animal lien foreclosure and preconviction forfeiture processes through unfounded due process claims. [2013 c.719 §1; 2017 c.677 §1]

Note:

167.305 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.310 - Definitions for ORS 167.310 to 167.351.**

As used in ORS 167.310 to 167.351:

- (1) "Adequate bedding" means bedding of sufficient quantity and quality to permit a domestic animal to remain dry and reasonably clean and maintain a normal body temperature.
- (2)(a) "Adequate shelter" includes a barn, doghouse or other enclosed structure sufficient to protect a domestic animal from wind, rain, snow or sun, that has adequate bedding to protect against cold and dampness and that is maintained to protect the domestic animal from weather and physical injury.
- (b) "Adequate shelter" does not include:
  - (A) Crawl spaces under buildings or parts of buildings, such as steps, decks or stoops;
  - (B) The space under a vehicle;
  - (C) The inside of a vehicle if the domestic animal is kept in the vehicle in a manner or for a length of time that is likely to be detrimental to the domestic animal's health or safety;
  - (D) Shelters made from cardboard or other materials that are easily degraded by the elements;
  - (E) Animal carriers or crates that are designed to provide temporary housing;
  - (F) Shelters with wire or chain-link floors, unless the domestic animal is a bird; or
  - (G) Shelters surrounded by waste, debris, obstructions or impediments that could adversely affect an animal's health.
- (3) "Animal" means any nonhuman mammal, bird, reptile, amphibian or fish.
- (4) "Domestic animal" means an animal, other than livestock or equines, that is owned or possessed by a person.
- (5) "Equine" means a horse, pony, donkey, mule, hinny, zebra or a hybrid of any of these animals.
- (6) "Good animal husbandry" includes, but is not limited to, the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, according to accepted practices of veterinary medicine or animal husbandry.
- (7) "Law enforcement animal" means a dog or horse used in law enforcement work under the control of a corrections officer, parole and probation officer, police officer or youth correction officer, as those terms are defined in ORS 181A.355, who has successfully completed at least 360 hours of training in the care and use of a law enforcement animal, or who has passed the demonstration of minimum standards established by the Oregon Police Canine Association or other accredited and recognized animal handling organization.
- (8)(a) "Livestock," except as provided in paragraph (b) of this subsection, has the meaning provided in ORS 609.125.
- (b) "Livestock" does not include psittacines.
- (9) "Minimum care" means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:
  - (a) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.
  - (b) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Access to snow or ice is not adequate access to potable water.
  - (c) For a domestic animal other than a dog engaged in herding or protecting livestock, access to adequate shelter.
  - (d) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.
  - (e) For a domestic animal, continuous access to an area:
    - (A) With adequate space for exercise necessary for the health of the animal;
    - (B) With air temperature suitable for the animal; and
    - (C) Kept reasonably clean and free from excess waste or other contaminants that could affect the animal's health.
  - (f) For a livestock animal that cannot walk or stand without assistance:
    - (A) Humane euthanasia; or
    - (B) The provision of immediate and ongoing care to restore the animal to an ambulatory state.
- (10) "Physical injury" means physical trauma, impairment of physical condition or substantial pain.
- (11) "Physical trauma" means fractures, cuts, punctures, bruises, burns or other wounds.
- (12) "Possess" has the meaning provided in ORS 161.015.
- (13) "Serious physical injury" means physical injury that creates a substantial risk of death or that causes protracted disfigurement,

protracted impairment of health or protracted loss or impairment of the function of a limb or bodily organ.

(14)(a) "Tethering" means to restrain a domestic animal by tying the domestic animal to any object or structure by any means.

(b) "Tethering" does not include using a handheld leash for the purpose of walking a domestic animal. [1985 c.662 §1; 1995 c.663 §3; 1999 c.756 §13; 2001 c.926 §7; 2003 c.543 §6; 2003 c.549 §1; 2005 c.264 §18; 2009 c.233 §2; 2013 c.382 §3; 2017 c.677 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.312 - Research and animal interference.**

(1) A person commits the crime of research and animal interference if the person:

(a) With the intent to interfere with research, releases, steals or otherwise causes the death, injury or loss of any animal at or from an animal research facility.

(b) With the intent to interfere with research, damages, vandalizes or steals any property in or on an animal research facility.

(c) With the intent to interfere with research, obtains access to an animal research facility to perform acts not authorized by that facility.

(d) Obtains or exerts unauthorized control over records, data, materials, equipment or animals of any animal research facility with the intent to interfere with research by concealing, abandoning or destroying such records, data, materials, equipment or animals.

(e) With the intent to interfere with research, possesses or uses equipment or animals that the person reasonably believes have been obtained by theft or deception from an animal research facility or without the authorization of an animal research facility.

(2) For the purposes of this section, "animal research facility" means any facility engaging in legal scientific research or teaching involving the use of animals.

(3) Research and animal interference is a:

(a) Class C felony if damage to the animal research facility is \$2,500 or more; or

(b) Class A misdemeanor if there is no damage to the facility or if damage to the animal research facility is less than \$2,500.

(4) Determination of damages to an animal research facility shall be made by the court. In making its determination, the court shall consider the reasonable costs of:

(a) Replacing lost, injured or destroyed animals;

(b) Restoring the animal research facility to the approximate condition of the facility before the damage occurred; and

(c) Replacing damaged or missing records, data, material or equipment.

(5) In addition to any other penalty imposed for violation of this section, a person convicted of such violation is liable:

(a) To the owner of the animal for damages, including the costs of restoring the animal to confinement and to its health condition prior to commission of the acts constituting the violation;

(b) For damages to real and personal property caused by acts constituting the violation; and

(c) For the costs of repeating an experiment, including the replacement of the animals, labor and materials, if acts constituting the violation cause the failure of an experiment. [1991 c.843 §2; 2001 c.147 §2; 2001 c.554 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.315 - Animal abuse in the second degree.**

(1) A person commits the crime of animal abuse in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly causes physical injury to an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the second degree is a Class B misdemeanor. [1985 c.662 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.320 - Animal abuse in the first degree.**

(1) A person commits the crime of animal abuse in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly:

(a) Causes serious physical injury to an animal; or

(b) Cruelly causes the death of an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the first degree is a Class A misdemeanor.

(4) Notwithstanding subsection (3) of this section, animal abuse in the first degree is a Class C felony if:

(a) The person committing the animal abuse has previously been convicted of one or more of the following offenses:

(A) Any offense under ORS 163.160, 163.165, 163.175, 163.185 or 163.187 or the equivalent laws of another jurisdiction, if the offense involved domestic violence as defined in ORS 135.230 or the offense was committed against a minor child; or

(B) Any offense under this section or ORS 167.322, or the equivalent laws of another jurisdiction; or

(b) The person knowingly commits the animal abuse in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal abuse if the abuse is seen or directly perceived in any other manner by the minor child.

(5) When animal abuse in the first degree is a felony, the Oregon Criminal Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid. [1985 c.662 §3; 2001 c.926 §8; 2003 c.577 §8; 2013 c.719 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.322 - Aggravated animal abuse in the first degree.**

(1) A person commits the crime of aggravated animal abuse in the first degree if the person:

- (a) Maliciously kills an animal; or
  - (b) Intentionally or knowingly tortures an animal.
- (2) Aggravated animal abuse in the first degree is a Class C felony and the Oregon Criminal Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid.
- (3) As used in this section:
- (a) "Maliciously" means intentionally acting with a depravity of mind and reckless and wanton disregard of life.
  - (b) "Torture" means an action taken for the primary purpose of inflicting pain. [1995 c.663 §2; 2001 c.926 §9; 2013 c.719 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.325 - Animal neglect in the second degree.**

(1) A person commits the crime of animal neglect in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence:

- (a) Fails to provide minimum care for an animal in such person's custody or control; or
  - (b) Tethers a domestic animal in the person's custody or control and the tethering results in physical injury to the domestic animal.
- (2) Animal neglect in the second degree is a Class B misdemeanor.
- (3) Notwithstanding subsection (2) of this section, animal neglect in the second degree is a Class C felony if:
- (a) The person committing the offense has previously been convicted of two or more offenses under this section, ORS 167.330 or the equivalent laws of another jurisdiction;
  - (b) The offense was part of a criminal episode involving 11 or more animals; or
  - (c) The person knowingly commits the offense in the immediate presence of a minor child and the person has one or more previous convictions for an offense involving domestic violence as defined in ORS 135.230. For purposes of this paragraph, a minor child is in the immediate presence of animal neglect if the neglect is seen or directly perceived in any other manner by the minor child.
- (4) The Oregon Criminal Justice Commission shall classify animal neglect in the second degree under subsection (3) of this section:
- (a) As crime category 6 if 11 to 40 animals were the subject of the neglect.
  - (b) As crime category 7 if more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in subsection (3)(a) or (c) of this section. [1985 c.662 §4; 2013 c.382 §5; 2013 c.719 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.330 - Animal neglect in the first degree.**

(1) A person commits the crime of animal neglect in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence:

- (a) Fails to provide minimum care for an animal in the person's custody or control and the failure to provide care results in serious physical injury or death to the animal; or
  - (b) Tethers a domestic animal in the person's custody or control and the tethering results in serious physical injury or death to the domestic animal.
- (2) Animal neglect in the first degree is a Class A misdemeanor.
- (3) Notwithstanding subsection (2) of this section, animal neglect in the first degree is a Class C felony if:
- (a) The person committing the offense has previously been convicted of one or more offenses under this section, ORS 167.325 or the equivalent laws of another jurisdiction;
  - (b) The offense was part of a criminal episode involving 10 or more animals; or
  - (c) The person knowingly commits the offense in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal neglect if the neglect is seen or directly perceived in any other manner by the minor child.
- (4) The Oregon Criminal Justice Commission shall classify animal neglect in the first degree under subsection (3) of this section:
- (a) As crime category 6 if 10 to 40 animals were the subject of the neglect.
  - (b) As crime category 7 if more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in subsection (3)(a) or (c) of this section. [1985 c.662 §5; 2001 c.926 §10; 2013 c.382 §4; 2013 c.719 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.332 - Prohibition against possession of same genus or domestic animal; prohibition period reduction; waiver procedure.**

(1) Except as provided in subsections (3) and (4) of this section:

- (a) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315, 167.340 or 167.355 or of a misdemeanor under ORS 167.320, 167.325 or 167.330 may not possess any animal of the same genus against which the crime was committed or any domestic animal for a period of five years following entry of the conviction.

(b) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322, 167.333, 167.365 or 167.428 or of a felony under ORS 167.320, 167.325 or 167.330 may not possess any animal of the same genus against which the crime was committed or any domestic animal for a period of 15 years following entry of the conviction. However, the sentencing court may reduce the prohibition period if the person successfully completes mental health treatment approved by the court.

(2) A person who possesses an animal in violation of this section commits a Class C misdemeanor. When a person is convicted of possessing an animal in violation of this section, as part of the sentence the court may order the removal of that animal from the person's residence and as a condition of the person's probation may prohibit the person from possessing any animal of the same genus that the person unlawfully possessed under this section or against which the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 was committed.

(3) The animal possession prohibition described in subsection (1) of this section does not apply to a person's first conviction if the person is the owner of a commercial livestock operation and the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 was committed against livestock.

(4)(a) A person subject to an animal possession prohibition described in subsection (1) of this section may file a motion with the sentencing court requesting a waiver of the prohibition. The person must file a sworn affidavit in support of the motion stating that:

(A) The person's conviction leading to the possession prohibition involved only livestock;

(B) During the two years before the conviction triggering the prohibition, the person was the owner of a commercial livestock operation;

(C) The person has not been convicted, in the previous five years, of a crime involving animals or domestic violence or a crime where the victim was under 18 years of age; and

(D) The person's conviction was the result of:

(i) Criminal liability for the conduct of another person under ORS 161.155 (2)(c);

(ii) Criminal liability of a corporation as described in ORS 161.170, and the person is a corporation; or

(iii) Animal neglect as described in ORS 167.325 or 167.330 and the person's criminal conduct was not knowing or intentional.

(b) When a person files a motion and affidavit described in paragraph (a) of this subsection, the sentencing court shall hold a hearing. At the hearing, the sentencing court shall grant the motion if the person proves by clear and convincing evidence that:

(A) Continued enforcement of the prohibition against possessing livestock would result in substantial economic hardship that cannot otherwise be mitigated;

(B) The person no longer poses any risk to animals; and

(C) The person is capable of providing and willing to provide necessary, adequate and appropriate levels of care for all livestock that would come within the person's custody or control if the petition is granted.

(c) When deciding a motion filed under this subsection, the sentencing court may consider the person's financial circumstances and mental health in determining whether the person is capable of adequately caring for livestock.

(d) If the sentencing court grants the motion described in this subsection, the waiver of the prohibition against possessing animals shall apply only to livestock. The sentencing court shall further order that for five years the person must consent to reasonable inspections by law enforcement and the United States Department of Agriculture to ensure the welfare of the livestock under the person's custody or control. A refusal to consent to a reasonable inspection described in this paragraph is contempt of court and, if the person is found in contempt, shall result in the sentencing court revoking the waiver of the possession prohibition.

(e) As used in this subsection, "commercial livestock operation" means a business engaged in the raising, breeding or selling of livestock for profit. [2001 c.926 §3; 2009 c.486 §1; 2013 c.719 §6; 2015 c.324 §4; 2017 c.677 §3]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.333 - Sexual assault of an animal.**

(1) A person commits the crime of sexual assault of an animal if the person:

(a) Touches or contacts, or causes an object or another person to touch or contact, the mouth, anus or sex organs of an animal or animal carcass for the purpose of arousing or gratifying the sexual desire of a person; or

(b) Causes an animal or animal carcass to touch or contact the mouth, anus or sex organs of a person for the purpose of arousing or gratifying the sexual desire of a person.

(2) Subsection (1) of this section does not apply to the use of products derived from animals.

(3) Sexual assault of an animal is a Class C felony. [2001 c.926 §5b; 2003 c.428 §1; 2015 c.324 §3]

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.334 - Evaluation of person convicted of violating ORS 167.333.**

Upon the conviction of a defendant for violation of ORS 167.333, the court may order a psychiatric or psychological evaluation of the defendant for inclusion in the presentence report as described in ORS 137.077. [2001 c.926 §5c]

Note:

167.334 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

#### **2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare**



**and AnimalsSection 167.335 - Exemption from ORS 167.315 to 167.333.**

(1) Except as provided in subsection (2) of this section, unless gross negligence can be shown, the provisions of ORS 167.315 to 167.333 do not apply to:

- (a) The treatment of livestock being transported by owner or common carrier;
- (b) Animals involved in rodeos or similar exhibitions;
- (c) Commercially grown poultry;
- (d) Animals subject to good animal husbandry practices;
- (e) The killing of livestock according to the provisions of ORS 603.065;
- (f) Animals subject to good veterinary practices as described in ORS 686.030;
- (g) Lawful fishing, hunting and trapping activities;
- (h) Wildlife management practices under color of law;
- (i) Lawful scientific or agricultural research or teaching that involves the use of animals;
- (j) Reasonable activities undertaken in connection with the control of vermin or pests; and
- (k) Reasonable handling and training techniques.

(2) Subsection (1) of this section does not create an exemption from ORS 167.332. [1985 c.662 §6; 1995 c.663 §4; 2001 c.926 §10a; 2018 c.19 §4]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 167 - Offenses Against General Welfare and AnimalsSection 167.337 - Interfering with law enforcement animal.**

(1) A person commits the crime of interfering with a law enforcement animal if the person intentionally or knowingly injures or attempts to injure an animal the person knows or reasonably should know is a law enforcement animal while the law enforcement animal is being used in the lawful discharge of its duty.

(2) Interfering with a law enforcement animal is a Class A misdemeanor. [Formerly 164.369; 2009 c.555 §1; 2011 c.597 §167]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 167 - Offenses Against General Welfare and AnimalsSection 167.339 - Assaulting a law enforcement animal.**

(1) A person commits the crime of assaulting a law enforcement animal if:

- (a) The person knowingly causes serious physical injury to or the death of a law enforcement animal, knowing that the animal is a law enforcement animal; and
  - (b) The injury or death occurs while the law enforcement animal is being used in the lawful discharge of the animal's duties.
- (2) Assaulting a law enforcement animal is a Class C felony. [2003 c.543 §3; 2009 c.555 §2; 2011 c.597 §168]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 167 - Offenses Against General Welfare and AnimalsSection 167.340 - Animal abandonment.**

(1) A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly or with criminal negligence leaves a domestic animal or an equine at a location without providing minimum care.

(2) It is no defense to the crime defined in subsection (1) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.

(3) Animal abandonment is a Class B misdemeanor. [1985 c.662 §8; 2001 c.926 §11; 2009 c.233 §1]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 167 - Offenses Against General Welfare and AnimalsSection 167.341 - Encouraging sexual assault of an animal.**

(1) A person commits the crime of encouraging sexual assault of an animal if the person:

- (a) Knowingly possesses or controls, for the purpose of arousing or satisfying the sexual desires of the person or another person, a visual recording of a person engaged in sexual conduct with an animal; and
- (b) Knows or is aware of and consciously disregards the fact that the creation of the visual recording involved the sexual assault of an animal as described in ORS 167.333.

(2) Encouraging sexual assault of an animal is a Class A misdemeanor.

(3) As used in this section:

- (a) "Sexual conduct" means touching or contacting the mouth, anus or sex organs of an animal or animal carcass, or causing an animal or animal carcass to touch or contact the mouth, anus or sex organs of a person, for the purpose of arousing or gratifying the sexual desire of a person.
- (b) "Visual recording" includes, but is not limited to, photographs, films, videotapes and computer and other digital pictures, regardless of the manner in which the recording is stored. [2015 c.324 §2]

**2023 Oregon Revised StatutesVolume : 04 - Criminal Procedure, CrimesChapter 167 - Offenses Against General Welfare and AnimalsSection 167.343 - Unlawful tethering.**

(1) A person commits the offense of unlawful tethering if the person tethers a domestic animal in the person's custody or control:

- (a) With a tether that is not a reasonable length given the size of the domestic animal and available space and that allows the domestic animal to become entangled in a manner that risks the health or safety of the domestic animal;
  - (b) With a collar that pinches or chokes the domestic animal when pulled;
  - (c) For more than 10 hours in a 24-hour period; or
  - (d) For more than 15 hours in a 24-hour period if the tether is attached to a running line, pulley or trolley system.
- (2) A person does not violate this section if the person tethers a domestic animal:
- (a) While the domestic animal remains in the physical presence of the person who owns, possesses, controls or otherwise has charge of the domestic animal;
  - (b) Pursuant to the requirements of a campground or other recreational area;
  - (c) For the purpose of engaging in an activity that requires licensure in this state, including but not limited to hunting;
  - (d) To allow the person to transport the domestic animal; or
  - (e) That is a dog kept for herding, protecting livestock or dogsledding.
- (3) Unlawful tethering is a Class B violation. [2013 c.382 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.345 - Authority to enter premises or motor vehicle; search warrant; notice of impoundment of animal; damage resulting from entry.**

- (1) As used in this section, "peace officer" has the meaning given that term in ORS 161.015.
- (2) If there is probable cause to believe that any animal is being subjected to treatment in violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, a peace officer, after obtaining a search warrant or in any other manner authorized by law, may enter the premises or motor vehicle where the animal is located to provide the animal with food, water and emergency medical treatment and may impound the animal. If after reasonable effort the owner or person having custody of the animal cannot be found and notified of the impoundment, the notice shall be conspicuously posted on the premises or motor vehicle and within 72 hours after the impoundment the notice shall be sent by certified mail to the address, if any, where the animal was impounded.
- (3) A peace officer is not liable for any damages for an entry under subsection (2) of this section, unless the damages were caused by the unnecessary actions of the peace officer that were intentional or reckless.
- (4)(a) A court may order an animal impounded under subsection (2) of this section to be held at any animal care facility in the state. A facility receiving the animal shall provide adequate food and water and may provide veterinary care.
- (b) A court may order a fighting bird impounded under subsection (2) of this section to be held on the property of the owner, possessor or keeper of the fighting bird in accordance with ORS 167.433. [Formerly 167.860; 1993 c.519 §1; 1995 c.663 §5; 2001 c.926 §12; 2009 c.550 §1; 2015 c.177 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.347 - Forfeiture of animal to animal care agency prior to disposition of criminal action.**

- (1)(a) If an animal is impounded pursuant to ORS 167.345 and is being held by a county animal shelter or other animal care agency pending outcome of a criminal action charging a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, prior to the final disposition of the criminal action, the county or other animal care agency or, on behalf of the county or other animal care agency, the district attorney, may file a petition in the criminal action requesting that the court issue an order forfeiting the animal to the county or other animal care agency prior to the final disposition of the criminal action. The petitioner shall serve a true copy of the petition upon the defendant and, unless the district attorney has filed the petition on behalf of the county or other animal care agency, the district attorney.
- (b) A petition may be filed in the criminal action under paragraph (a) of this subsection concerning any animal impounded under ORS 167.345 and held pending the outcome of the criminal action, regardless of whether the specific animal is the subject of a criminal charge, or named in the charging instrument, in the criminal action.
- (2)(a) Upon receipt of a petition pursuant to subsection (1) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within 14 days after the filing of the petition, or as soon as practicable.
- (b) To provide notice on any potential claimant who may have an interest in any animals impounded pursuant to ORS 167.345 and as an alternate form of service upon a defendant who cannot be personally served as required in subsection (1) of this section, a petitioner may publish notice of the filing of the petition, printed twice weekly for up to 14 consecutive days in a daily or weekly newspaper, as defined in ORS 193.010, published in the county in which the hearing is to be held or, if there is none, in a daily or weekly newspaper, as defined in ORS 193.010, generally circulated in the county in which the hearing is to be held. The notice of the filing of the petition required under this subsection shall contain a description of the impounded animal or animals, the name of the owner or reputed owner thereof, the location from which the animal or animals were impounded and the time and place of the hearing if the hearing has been set at the time of publication, or otherwise the name, address and phone number for the attorney for the petitioner, who shall upon request provide further details on the hearing date, place and time.
- (3) At a hearing conducted pursuant to subsection (2) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. The defendant or any other claimant shall have an opportunity to be heard before the court makes its final finding. If the court finds that probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant or any other

claimant, within 72 hours of the hearing, posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the animal from the date of initial impoundment to the date of trial.

(4) If a security deposit or bond has been posted in accordance with subsection (3) of this section, and the trial in the action is continued at a later date, any order of continuance shall require the defendant or any other claimant to post an additional security deposit or bond in an amount determined by the court that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the petitioner in caring for the animal until the new date of trial.

(5) If a security deposit or bond has been posted in accordance with subsection (4) of this section, the petitioner may draw from that security deposit or bond the actual reasonable costs incurred by the petitioner in caring for any impounded animal from the date of initial impoundment to the date of final disposition of the animal in the related criminal action.

(6) The provisions of this section are in addition to, and not in lieu of, the provisions of ORS 167.350 and 167.435 and ORS chapters 87 and 88. [1995 c.369 §2; 2001 c.926 §13; 2009 c.550 §2; 2011 c.455 §1; 2013 c.719 §7; 2017 c.279 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.348 - Placement of forfeited animal.**

(1) If an animal is forfeited according to the provisions of ORS 167.347 or 167.350, the agency to which the animal was forfeited may place the animal with a new owner. The agency may give placement preference to any person or persons who had prior contact with the animal, including but not limited to family members and friends of the former owner whom the agency determines are capable of providing necessary, adequate and appropriate levels of care for the animal. The agency may not, however, place the animal with family members or friends of the former owner who aided or abetted the criminal conduct underlying the forfeiture or had knowledge of the criminal conduct and failed to intervene. As a condition of placement, the agency shall require the new owner to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the former owner to possess the animal constitutes a crime.

(2) Notwithstanding subsection (1) of this section, the agency may not place the animal with any person who resides with the former owner. [1995 c.369 §3; 2009 c.273 §1; 2013 c.719 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.349 - Encouraging animal abuse.**

(1) A person commits the crime of encouraging animal abuse if the person:

(a) Obtains a previously abused, neglected or abandoned animal from an animal care agency under ORS 167.348 or the court under ORS 167.350; and

(b) Knowingly allows the person from whom the animal was forfeited to possess the animal.

(2) Encouraging animal abuse is a Class C misdemeanor. [2009 c.273 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.350 - Forfeiture of rights in mistreated animal; costs; disposition of animal.**

(1)(a) In addition to and not in lieu of any other sentence it may impose, a court may require a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to forfeit any rights of the defendant in the animal subjected to the violation, and to repay the reasonable costs incurred by a government agency, a humane investigation agency or its agent or a person prior to judgment in caring for each animal associated with the criminal proceeding.

(b) If a government agency or a humane investigation agency or its agent provides care and treatment for impounded or seized animals, a court that orders a defendant to repay reasonable costs of care under paragraph (a) of this subsection may not reduce the incurred cost amount based on the agency having received donations or other funding for the care.

(2)(a) When the court orders the defendant's rights in the animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the county or an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. The court may not transfer the defendant's rights in the animal to any person who resides with the defendant.

(b) This subsection does not limit the right of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership. The court shall require a person to whom rights are granted to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the defendant to possess the animal constitutes a crime.

(3) In addition to and not in lieu of any other sentence it may impose, a court may order the owner or person having custody of an animal to repay any reasonable costs incurred by a government agency, a humane investigation agency or its agent or a person in providing minimum care to the animal that are not included in a repayment order under subsection (1) of this section.

(4) A court may order a person convicted under ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 to participate in available animal cruelty prevention programs or education programs, or both, or to obtain psychological counseling for treatment of mental health disorders that, in the court's judgment, contributed to the commission of the crime. The person shall bear any costs incurred by the person for participation in counseling or treatment programs under this subsection.

(5) ORS 131.550 to 131.600 do not apply to the forfeiture of an animal subjected to a violation of ORS 167.315 to 167.333,

167.340, 167.355, 167.365 or 167.428. Any such animal is subject to forfeiture as provided in subsections (1) to (3) of this section or, if the animal is a fighting bird, as provided in ORS 167.435. [Formerly 167.862; 1993 c.519 §2; 1995 c.663 §6; 2001 c.666 §29; 2001 c.926 §§14a,14b; 2005 c.830 §28; 2009 c.273 §2; 2009 c.550 §3; 2017 c.677 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.351 - Trading in nonambulatory livestock.**

(1) As used in this section:

(a) "Nonambulatory" means unable to stand or walk unassisted.

(b) "Livestock auction market" has the meaning given that term in ORS 599.205.

(2) A person commits the crime of trading in nonambulatory livestock if the person knowingly delivers or accepts delivery of a nonambulatory livestock animal at a livestock auction market. This subsection does not apply to the delivery to, or acceptance by, a licensed veterinarian at a livestock auction market for the purpose of humanely euthanizing or providing appropriate medical care to the animal.

(3) The crime of trading in nonambulatory livestock is a Class A misdemeanor. [2003 c.287 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.352 - Interfering with an assistance, a search and rescue or a therapy animal.**

(1) A person commits the crime of interfering with an assistance, a search and rescue or a therapy animal if the person intentionally or knowingly:

(a) Injures or attempts to injure an animal the person knows or reasonably should know is an assistance animal, a search and rescue animal or a therapy animal;

(b) Interferes with an assistance animal while the assistance animal is being used to provide assistance to a person with a disability; or

(c) Interferes with a search and rescue animal or a therapy animal while the animal is being used for search and rescue or therapy purposes.

(2) As used in this section, "assistance animal" has the meaning given that term in ORS 659A.143.

(3) As used in this section and ORS 30.822:

(a) "Search and rescue animal" means that the animal has been professionally trained for, and is actively used for, search and rescue purposes.

(b) "Therapy animal" means an animal other than an assistance animal that has been professionally trained for, and is actively used for, therapy purposes.

(4) Interfering with an assistance, a search and rescue or a therapy animal is a Class A misdemeanor. [1993 c.312 §3; 2007 c.70 §37; 2013 c.530 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.355 - Involvement in animal fighting.**

(1) A person commits the crime of involvement in animal fighting if the person:

(a) Owns or trains an animal with the intention that the animal engage in an exhibition of fighting;

(b) Promotes, conducts, participates in or is present as a spectator at an exhibition of fighting or preparations thereto;

(c) Keeps or uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to any place kept or used for the purpose of an exhibition of fighting; or

(d) Knowingly suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of fighting.

(2) For purposes of this section:

(a) "Animal" means any bird, reptile, amphibian, fish or nonhuman mammal, other than a dog or a fighting bird as defined in ORS 167.426.

(b) "Exhibition of fighting" means a public or private display of combat between two or more animals in which the fighting, killing, maiming or injuring of animals is a significant feature. "Exhibition of fighting" does not include demonstrations of the hunting or tracking skills of an animal or the lawful use of animals for hunting, tracking or self-protection.

(3) Involvement in animal fighting is a Class C felony. [Formerly 167.865; 1987 c.249 §6; 2003 c.484 §9; 2009 c.796 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.360 - Definitions for ORS 167.360 to 167.372.**

As used in ORS 167.360 to 167.372:

(1) "Breaking stick" means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object.

(2) "Cat mill" means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit or other small animal beyond the grasp of the dog.

- (3) "Dogfight" means a fight, arranged by any person, between two or more dogs the purpose or probable result of which fight is the infliction of injury by one dog upon another.
- (4) "Dogfighting paraphernalia" means:
- (a) A breaking stick;
  - (b) A springpole;
  - (c) A cat mill;
  - (d) A treadmill;
  - (e) A fighting pit;
  - (f) A leather or mesh collar with a strap more than two inches in width;
  - (g) A weighted or unweighted chain collar weighing 10 pounds or more; or
  - (h) An unapproved veterinary medicine that is a prescription drug as defined in ORS 689.005.
- (5) "Fighting dog" means a dog that is intentionally bred or trained to be used in, or that is actually used in, a dogfight. A dog does not constitute a fighting dog solely on account of its breed.
- (6) "Fighting pit" means a walled area designed to contain a dogfight.
- (7) "Springpole" means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground.
- (8) "Treadmill" means:
- (a) A carpet mill made of narrow sections of carpet;
  - (b) A modified electric treadmill for the purpose of conditioning dogs; or
  - (c) A slat mill with a running surface constructed of slats made of wood, fiberglass, plastic or other similar material. [1987 c.249 §1; 2005 c.467 §1; 2008 c.42 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.365 - Dogfighting.**

- (1) A person commits the crime of dogfighting if the person knowingly does any of the following:
- (a) Owns, possesses, keeps, breeds, trains, buys, sells or offers to sell a fighting dog, including but not limited to any advertisement by the person to sell such a dog.
  - (b) Promotes, conducts or participates in, or performs any service in the furtherance of, an exhibition of dogfighting, including but not limited to refereeing of a dogfight, handling of dogs at a dogfight, transportation of spectators to a dogfight, organizing a dogfight, advertising a dogfight, providing or serving as a stakes holder for any money wagered on a fight.
  - (c) Keeps, uses or manages, or accepts payment of admission to, any place kept or used for the purpose of dogfighting.
  - (d) Suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of dogfighting.
- (2) Dogfighting is a Class C felony. [1987 c.249 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.370 - Participation in dogfighting.**

- (1) A person commits the crime of participation in dogfighting if the person knowingly:
- (a) Attends or has paid admission at any place for the purpose of viewing or betting upon a dogfight.
  - (b) Advertises or otherwise offers to sell equipment that the person knows or reasonably should know will be used for the purpose of training and handling a fighting dog.
- (2) Participation in dogfighting is a Class C felony. [1987 c.249 §3; 2008 c.42 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.372 - Possessing dogfighting paraphernalia.**

- (1) A person commits the crime of possessing dogfighting paraphernalia if the person owns or possesses dogfighting paraphernalia with the intent that the paraphernalia be used to train a dog as a fighting dog or be used in the furtherance of a dogfight.
- (2) Possessing dogfighting paraphernalia is a Class C felony. [2005 c.467 §3; 2008 c.42 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.374 - Possession or control of dogs for purpose of reproduction; records; exceptions.**

- (1) As used in this section:
- (a) "Boarding kennel" means a facility that provides care for a fee to dogs that stay at the facility an average of less than 30 days.
  - (b) "Dog" means a member of the subspecies *Canis lupus familiaris* or a hybrid of that subspecies.
  - (c) "Litter" means one or more dogs, sold individually or together, that are all or part of a group of dogs born to the same mother at the same time.
- (2) A person may not possess, control or otherwise have charge of at the same time more than 50 sexually intact dogs that are two years of age or older for the primary purpose of reproduction. It is prima facie evidence that a person possesses dogs for the primary

purpose of reproduction if during a 12-month period the person sells, offers for sale, barter or exchanges more than three litters of dogs that are less than eight months of age.

(3) A person that possesses, controls or otherwise has charge of 50 or more sexually intact dogs that are eight months of age or older shall maintain a record for each of those dogs that identifies:

(a) The date of birth for the dog or, if the date of birth is unknown, the date the person acquired possession, control or charge of the dog and the source of the dog;

(b) The dates on which the dog has been bred;

(c) For a female, the number of dogs in each litter produced; and

(d) The disposition the person makes of each dog possessed by, controlled by or in the charge of the person, including the date of disposition, manner of disposition and the name and address information for any person taking possession, control or charge of a dog.

(4) A person shall retain a record required under subsection (3) of this section for a period of three years following the death of the dog or a date on which the person permanently ceased to have possession, control or charge of the dog.

(5) Subsections (2) to (4) of this section do not apply to:

(a) An animal control agency, humane society or animal shelter;

(b) A person who provides care for dogs at the request of a unit of government, government agency, humane society or animal shelter;

(c) A veterinary facility;

(d) A person that is transporting dogs; or

(e) A boarding kennel.

(6) A violation of this section is a Class B misdemeanor. However, a court shall suspend sentence under this subsection for a violation of subsection (2) of this section if the person agrees to have a sufficient number of dogs spayed or neutered to remedy the violation. [2009 c.297 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.376 - Standards of care applicable to dog breeders; records; exceptions.**

(1) As used in this section:

(a) "Boarding kennel" means a facility that provides care for a fee to dogs that stay at the facility an average of less than 30 days.

(b) "Dog" means a member of the subspecies *Canis lupus familiaris* or a hybrid of that subspecies.

(c) "Litter" means one or more dogs, sold individually or together, that are all or part of a group of dogs born to the same mother at the same time.

(d) "Regular exercise" means the removal of the dog from the dog's primary enclosure and:

(A) Walking the dog on a leash;

(B) Allowing the dog to move about freely within a building or an outdoor space at least one hour per day; or

(C) Allowing the dog to walk on a treadmill, jenny mill, slat mill or similar device, if use of the device is prescribed for the dog by a veterinarian to accommodate a specific medical condition.

(2) A person that possesses, controls or otherwise has charge of at the same time 10 or more sexually intact dogs that are eight months of age or older shall, in addition to providing minimum care as defined in ORS 167.310:

(a) Provide each dog with sufficient space to turn about freely, stand and sit and to lie down without the head, face, tail, legs or feet of the dog touching the sides of the enclosure or touching any other dog.

(b) Provide each dog with an enclosure that:

(A) Has a solid floor without slats or gaps;

(B) Is six inches higher than the head of the tallest dog in that enclosure when the tallest dog is in a normal standing position;

(C) If elevated above the floor of a room, is placed so that the floor of the enclosure is no more than 42 inches above the floor of the room; and

(D) Is not stacked or otherwise placed above or below any other dog enclosure.

(c) Provide each dog that is more than four months of age with at least one hour of regular exercise each day, unless a veterinarian has certified that the dog is medically precluded from exercise.

(d) Remove waste and contaminants from the enclosure at least once each day.

(e) Remove the dog from the enclosure when cleaning the enclosure of waste and contaminants.

(f) Maintain a record for each sexually intact dog that is eight months of age or older that identifies:

(A) The date of birth for the dog or, if the date of birth is unknown, the date on which the person acquired possession, control or charge of the dog and the source of the dog;

(B) Any veterinary care provided for the dog; and

(C) The disposition the person makes of each dog possessed by, controlled by or in the charge of the person, including the date of disposition, manner of disposition and the name and address information for any person taking possession, control or charge of a dog.

(3) A person shall retain a record required under subsection (2) of this section for a period of three years following the death of the dog or a date on which the person permanently ceased to have possession, control or charge of the dog.

- (4) Subsections (2) and (3) of this section do not apply to:
- (a) An animal control agency, humane society or animal shelter;
  - (b) A person who provides care for dogs at the request of a unit of government, government agency, humane society or animal shelter;
  - (c) A veterinary facility;
  - (d) A person that is transporting dogs; or
  - (e) A boarding kennel.
- (5) A violation of this section is a Class B misdemeanor. [2009 c.297 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.383 - Equine tripping.**

- (1) As used in this section, "equine" means any member of the family Equidae.
- (2) Except as provided in subsection (3) of this section, a person commits the offense of equine tripping if, for purposes of a rodeo, contest, exhibition, entertainment or sport or as practice for a rodeo, contest, exhibition, entertainment or sport, the person intentionally ropes or lassos the legs of an equine, intentionally causing the equine to trip or fall.
- (3) Subsection (2) of this section does not apply to a person who causes an equine to trip or fall for the purpose of allowing veterinary care for the equine.
- (4) The offense of equine tripping is a Class B misdemeanor. [2013 c.616 §2]

Note:

167.383 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.385 - Unauthorized use of a livestock animal.**

- (1) A person commits the crime of unauthorized use of a livestock animal when the person knowingly:
- (a) Takes, appropriates, obtains or withholds a livestock animal from the owner thereof or derives benefit from a livestock animal without the consent of the owner of the animal; or
  - (b) Takes or holds a livestock animal and thereby obtains the use of the animal to breed, bear or raise offspring without the consent of the owner of the animal.
- (2) Except as otherwise provided by law, offspring born to a female livestock animal or hatched from the egg of a female livestock animal belong to the owner of the female livestock animal until the owner transfers ownership of the offspring.
- (3) As used in this section, "livestock animal" has the same meaning given that term in ORS 164.055.
- (4) Unauthorized use of a livestock animal is a Class A misdemeanor.
- (5) In addition to any criminal sanctions, if a defendant is convicted of the crime of unauthorized use of a livestock animal under this section, the court shall order the defendant to pay restitution to the owner of the animal. [1993 c.252 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.387 - Definitions for ORS 167.387 and 167.388.**

As used in this section and ORS 167.388:

- (1) "Livestock" has the meaning given in ORS 609.125.
- (2) "Livestock production facility" means:
- (a) Any facility or organization engaged in animal breeding, production or processing; or
  - (b) Any facility or institution whose primary purpose is to impound stray animals, as that term is defined in ORS 607.007. [1993 c.252 §4; 1999 c.756 §14]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.388 - Interference with livestock production.**

- (1) A person commits the crime of interference with livestock production when the person, with the intent to interfere with livestock production:
- (a) Takes, appropriates, obtains or withholds livestock from the owner thereof, or causes the loss, death or injury of any livestock maintained at a livestock production facility;
  - (b) Damages, vandalizes or steals any property located on a livestock production facility; or
  - (c) Obtains access to a livestock production facility to perform any act contained in this subsection or any other act not authorized by the livestock production facility.
- (2) The crime of interference with livestock production is:
- (a) A Class C felony if damage to the livestock production facility is \$2,500 or more; or
  - (b) A Class A misdemeanor if there is no damage to the livestock production facility or if damage to the facility is less than \$2,500.
- (3) Determination of damages to a livestock production facility shall be made by the court. In making its determination, the court

shall consider the reasonable costs of:

- (a) Replacing lost, injured or destroyed livestock;
- (b) Restoring the livestock production facility to the approximate condition of the facility before the damage occurred; and
- (c) Replacing damaged or missing records, data, material, equipment or substances used in the breeding and production of livestock.
- (4) In addition to any criminal sanctions, if a defendant is convicted of the crime of interference with livestock production under subsection (1) of this section, the court shall order the defendant to pay restitution to the owner of the animal or the owner of the livestock production facility. [1993 c.252 §§2,3; 2001 c.554 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.390 - Commerce in fur of domestic cats and dogs prohibited; exception.**

- (1) A person may not take, buy, sell, barter or otherwise exchange for commerce in fur purposes the raw fur or products that include the fur of a domestic cat or dog if the fur is obtained through a process that kills or maims the cat or dog. As used in this section, "domestic cat or dog" does not include coyote, fox, lynx, bobcat or any other wild or commercially raised wild feline or wild canine species or a hybrid thereof that is not recognized as an endangered species by the United States Fish and Wildlife Service.
- (2) Violation of subsection (1) of this section, or any rule promulgated pursuant thereto, is a Class A misdemeanor when the offense is committed with a culpable mental state as defined in ORS 161.085. [1999 c.995 §§1,2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.400**

[1991 c.970 §1; 1999 c.1051 §161; 2015 c.158 §7; 2017 c.701 §9; renumbered 167.785 in 2017]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.402**

[1991 c.970 §2; 1999 c.1051 §162; 2009 c.600 §1; 2015 c.158 §9; 2017 c.701 §6; renumbered 167.780 in 2017]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.404**

[1991 c.970 §3; 2015 c.158 §10; 2017 c.701 §7; renumbered 167.775 in 2017]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.407**

[2003 c.804 §84; 2015 c.158 §11; 2017 c.701 §8; renumbered 167.765 in 2017]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.426 - Definitions for ORS 167.426 to 167.439.**

As used in ORS 167.426 to 167.439:

- (1) "Cockfight" means a fight between two or more birds that is arranged by a person and that has the purpose or probable result of one bird inflicting injury to another bird.
- (2) "Constructive possession" means an exercise of dominion and control over the location and treatment of property without taking physical possession of the property.
- (3) "Fighting bird" means a bird that is intentionally reared or trained for use in, or that actually is used in, a cockfight.
- (4) "Gaff" means an artificial steel spur designed for attachment to the leg of a fighting bird in replacement of the bird's natural spurs.
- (5) "Slasher" means a steel weapon resembling a curved knife blade designed for attachment to the foot of a fighting bird.
- (6) "Source bird" means:
  - (a) A hen used to produce one or more chicks intended for eventual use as fighting birds; or
  - (b) A chick being reared with the intent that the chick eventually be used as a fighting bird or as a hen described in paragraph (a) of this subsection. [2003 c.484 §1; 2017 c.276 §1]

Note:

167.426 to 167.439 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.428 - Cockfighting.**

- (1) A person commits the crime of cockfighting if the person knowingly:
  - (a) Owns, possesses, keeps, rears, trains, buys, sells or advertises or otherwise offers to sell a fighting bird.
  - (b) Promotes or participates in, or performs services in furtherance of, the conducting of a cockfight. As used in this paragraph, "services in furtherance" includes, but is not limited to, transporting spectators to a cockfight, handling fighting birds, organizing,



advertising or refereeing a cockfight and providing, or acting as stakeholder for, money wagered on a cockfight.

(c) Keeps, uses or manages, or accepts payment of admission to, a place for the conducting of a cockfight.

(d) Suffers or permits a place in the possession or control of the person to be occupied, kept or used for the conducting of a cockfight.

(2) Subsection (1)(a) of this section does not apply to the owning, possessing, keeping, rearing, buying, selling, advertising or otherwise offering for sale of a bird for purposes other than training the bird as a fighting bird, using or intending to use the bird in cockfighting or supplying the bird knowing that the bird is intended to be used in cockfighting.

(3) Cockfighting is a Class C felony. [2003 c.484 §2; 2018 c.19 §1]

Note:

See note under 167.426.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.431 - Participation in cockfighting.**

(1) A person commits the crime of participation in cockfighting if the person knowingly:

(a) Attends a cockfight or pays admission at any location to view or bet on a cockfight; or

(b) Manufactures, buys, sells, barter, exchanges, possesses, advertises or otherwise offers to sell a gaff, slasher or other sharp implement designed for attachment to a fighting bird, or other equipment, with the intent that the gaff, slasher, implement or equipment be used in training or handling a fighting bird or for enhancing the fighting ability of a fighting bird.

(2) Participation in cockfighting is a Class C felony. [2003 c.484 §3; 2009 c.796 §1; 2018 c.19 §2]

Note:

See note under 167.426.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.433 - Seizure of fighting birds or source birds; procedure.**

(1) Pursuant to ORS 133.525 to 133.703, a judge may order the seizure of an alleged fighting bird or source bird owned, possessed or kept by any person.

(2) A judge ordering the seizure of an alleged fighting bird or source bird under subsection (1) of this section may order that the bird be impounded on the property of the owner, possessor or keeper of the bird. If a judge orders an alleged fighting bird or source bird impounded on the property of the owner, possessor or keeper of the bird, the court shall order the owner, possessor or keeper to provide all necessary care for the bird and to allow regular and continuing inspection of the bird by a person designated by the court, or the agent of a person designated by the court. The owner, possessor or keeper shall pay the costs of conducting the inspections. The court shall further order the owner, possessor or keeper not to sell or otherwise dispose of the bird unless the court authorizes the sale or disposition, or until the seized bird is forfeited pursuant to an order under ORS 167.435 or restored to the person pursuant to an order under ORS 133.643. [2003 c.484 §4; 2017 c.276 §2]

Note:

See note under 167.426.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.435 - Forfeiture of rights in fighting birds, source birds or property; public nuisance.**

(1) In addition to and not in lieu of any other penalty the court may impose upon a person convicted of cockfighting under ORS 167.428 or participation in cockfighting under ORS 167.431, the court shall include in the judgment an order for forfeiture to the city or county where the crime occurred of the person's rights in any property proved to have been used by the person as an instrumentality in the commission of the crime, including any fighting bird or source bird. This subsection does not limit the ability of the court to dispose of a fighting bird or source bird as provided under subsection (2) of this section.

(2) A fighting bird is a public nuisance, regardless of whether a person has been convicted of cockfighting or participation in cockfighting. If a fighting bird is ordered forfeited under subsection (1) of this section or is proved by a preponderance of the evidence in a forfeiture proceeding to be a fighting bird, the court shall order that the bird be destroyed or be otherwise disposed of. Upon the conviction of the person charged, the court shall adjudge all of the seized property of the person to be forfeited and shall order that the property be destroyed or otherwise disposed of. The court shall provide for a humane disposition of any source birds included in the forfeited property. [2003 c.484 §5; 2017 c.276 §3]

Note:

See note under 167.426.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.437 - Constructive possession of fighting birds or source birds; procedure.**

(1) A peace officer having jurisdiction may, upon probable cause to believe that a bird is a fighting bird or source bird, take constructive possession of the bird on behalf of the law enforcement agency employing the officer.

(2) A peace officer who takes constructive possession of an alleged fighting bird or source bird pursuant to this section must do the

following:

- (a) Place a tag or other device approved by the law enforcement agency on the cage or other enclosure where the alleged fighting bird or source bird is located. The tag or other device must clearly state that it is unlawful to conceal, remove or release the bird for purposes of interfering with law enforcement agency control over the bird.
- (b) Notify the owner, possessor or keeper of the bird that the bird has been seized by the law enforcement agency and may not be concealed, removed or released until authorized by a court or as provided in this section.
- (c) Promptly apply to an appropriate court for an order described in ORS 167.433.
- (3) If a law enforcement agency takes constructive possession of an alleged fighting bird or source bird under this section, the owner, possessor or keeper of the bird shall provide all necessary care for the bird.
- (4) Constructive possession of an alleged fighting bird or source bird pursuant to this section terminates when a court order described in ORS 167.433 is served on the owner, possessor or keeper of the bird, or after 24 hours, whichever occurs first. [2003 c.484 §6; 2017 c.276 §4]

Note:

See note under 167.426.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.439 - Forcible recovery of a fighting bird.**

- (1) A person commits the crime of forcible recovery of a fighting bird if the person knowingly dispossesses, or knowingly attempts to dispossess, a law enforcement agency of constructive possession of a fighting bird, a source bird or an alleged fighting bird or source bird.
- (2) Forcible recovery of a fighting bird is a Class C felony. [2003 c.484 §7; 2017 c.276 §5]

Note:

See note under 167.426.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.500 - Definitions for ORS 167.502, 167.506 and 167.508.**

As used in ORS 167.502, 167.506 and 167.508:

- (1) "Baby food" or "infant formula" means food manufactured, packaged and labeled specifically for sale for consumption by a child under the age of two years.
- (2) "Medical device" means an object or substance that is:
  - (a) Required under federal law to bear the label "Caution: Federal law requires dispensing by or on the order of a physician"; or
  - (b) Defined by federal law as a medical device and is intended:
    - (A) For use in the diagnosis of disease or other conditions in humans or animals;
    - (B) For use in the cure, mitigation, treatment or prevention of disease in humans or animals; or
    - (C) To affect the structure or a function of the bodies of humans or animals without achieving any of its principal intended purposes through metabolism or through chemical action within or on the bodies of humans or animals.
- (3) "New and unused property" means tangible personal property:
  - (a) That was acquired by a person directly from a producer, manufacturer, wholesaler or retailer in the ordinary course of business and has not been used since its production or manufacture; or
  - (b) That was packaged when it was originally produced or manufactured and the property is in its original and unopened package.
- (4)(a) "Nonprescription drugs" means drugs that may be sold without a prescription and that, in accordance with the requirements of the statutes and regulations of this state and the federal government, are:
  - (A) Prepackaged for use by a consumer;
  - (B) Prepared by a manufacturer or producer for use by a consumer; and
  - (C) Labeled and unadulterated.
- (b) "Nonprescription drugs" does not include herbal products, dietary supplements, botanical extracts or vitamins.
- (5) "Prior conviction" means a conviction that was entered prior to imposing sentence on the current crime, provided that the prior conviction is based on a crime committed in a separate criminal episode.
- (6) "Unused property market" means an event:
  - (a) Where at least two persons offer new and unused property for sale or exchange and the person organizing or conducting the event charges a fee upon the sale or exchange of the new and unused property;
  - (b) Where at least two persons offer new and unused property for sale or exchange and a prospective buyer must pay a fee for admission to an area where new and unused property is offered for sale or exchange; or
  - (c) Where new and unused property is offered for sale or exchange for more than 12 days in one 12-month period. [2003 c.338 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.502 - Sale of certain items at unused property market prohibited; exceptions.**

- (1) Except as provided in subsection (2) of this section, a person may not offer for sale or exchange or knowingly permit the sale or exchange of baby food, infant formula, cosmetics, personal care products, nonprescription drugs or medical devices at an unused

property market.

(2) A person may sell or exchange the items listed in subsection (1) of this section if the person:

(a) Has a written authorization that identifies the person as an authorized representative of the manufacturer or distributor of those items; and

(b) Makes the written authorization available for public inspection.

(3)(a) A person who violates this section commits a Class C misdemeanor.

(b) A person who violates this section and who has one prior conviction under this section that was entered within the last 10 years commits a Class B misdemeanor.

(c) A person who violates this section and who has two or more prior convictions under this section that were entered within the last 10 years commits a Class A misdemeanor. [2003 c.338 §2]

Note:

See note under 167.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.506 - Recordkeeping requirements.**

(1) When a person purchases more than 10 items of new and unused property for resale at an unused property market, the person shall maintain a record for two years after the date of purchase.

(2) The record required in subsection (1) of this section must contain:

(a) The date of the purchase of the new and unused property;

(b) The name and address of the person from which the new and unused property was purchased;

(c) A description and identification of the new and unused property; and

(d) The price paid for the new and unused property.

(3) A person shall, upon request, provide the record described in subsection (2) of this section for the purpose of inspection within a reasonable time.

(4)(a) A person who violates this section commits a Class C misdemeanor.

(b) A person who violates this section and who has one prior conviction under this section that was entered within the last 10 years commits a Class B misdemeanor.

(c) A person who violates this section and who has two or more prior convictions under this section that were entered within the last 10 years commits a Class A misdemeanor. [2003 c.338 §3]

Note:

See note under 167.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.508 - Exemptions from ORS 167.502 and 167.506.**

(1) ORS 167.502 and 167.506 do not apply to a person who:

(a) Sells or exchanges new and unused property that was not produced or manufactured within the last five years as indicated by the style of the packaging or of the material itself;

(b) Sells by sample, catalog or brochure for future delivery; or

(c) Makes a sales presentation to a consumer who received an individualized invitation to attend the sales presentation prior to the sales presentation from an owner or legal occupant of the premises where the sales presentation takes place.

(2) The recordkeeping requirements in ORS 167.506 do not apply to:

(a) A person who sells or exchanges new and unused property at an event that is organized and operated:

(A) For the exclusive benefit of a community chest, a fund, a foundation, an association or a corporation; and

(B) For religious, educational or charitable purposes.

(b) A person who sells or exchanges motor vehicles or trailers that are subject to state vehicle registration requirements.

(c) A person who sells or exchanges new and unused property at a gun show as defined in ORS 166.432.

(d) A person who sells or exchanges new and unused property at a livestock auction market as defined in ORS 599.205. [2003 c.338 §4]

Note:

See note under 167.500.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.747 - Definitions for ORS 167.750 to 167.780.**

As used in ORS 167.750 to 167.780:

(1) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.

(2) "Tobacco products" has the meaning given that term in ORS 431A.175. [2017 c.701 §1]

Note:

167.747 to 167.780 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.750 - Definition for ORS 167.755 and 431A.175.**

For purposes of ORS 167.755 and 431A.175, "allows to be sold" includes the negligent omission of an act by a manager or other person who supervises the retail sale of tobacco products or inhalant delivery systems, the commission of which would have prevented the distribution or sale of the tobacco products or inhalant delivery system. [2017 c.701 §5]

Note:

See note under 167.747.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.755 - Selling tobacco products or inhalant delivery systems to person under 21 years of age; penalties.**

(1) A person commits the offense of selling tobacco products or inhalant delivery systems to a person under 21 years of age upon the occurrence of one of the following:

- (a) The person knowingly distributes or sells, or allows to be sold, to a person under 21 years of age, tobacco products;
- (b) The person knowingly distributes or sells, or allows to be sold, to a person under 21 years of age, an inhalant delivery system;
- (c) If the person is a manager or other person who supervises the retail sale of tobacco products or inhalant delivery systems, the person is acting within the course and scope of the person's employment and the person has supervisory authority over a person who violates paragraph (a) or (b) of this subsection; or
- (d) If the person is an owner of a business that sells tobacco products or inhalant delivery systems at retail, a violation of paragraph (a) or (b) of this subsection occurs at the business.

(2)(a) Violation of subsection (1)(a) or (b) of this section is a specific fine violation punishable by a fine not to exceed \$50.

(b) Violation of subsection (1)(c) of this section is a specific fine violation punishable by a fine not to exceed:

(A) \$250 for the first or second violation; or

(B) \$500 for the third or subsequent violation.

(c) Violation of subsection (1)(d) of this section is a specific fine violation punishable by a fine not to exceed:

(A) \$500 for the first or second violation; or

(B) \$1,000 for the third or subsequent violation. [2017 c.701 §2]

Note:

See note under 167.747.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.760 - Purchase or attempted purchase of tobacco products or inhalant delivery system by person under 21 years of age.**

(1) Except as provided in subsection (2) of this section, a person under 21 years of age may not purchase or attempt to purchase tobacco products or an inhalant delivery system.

(2) A person under 21 years of age who is acting under the supervision of a person 21 years of age or older may, for the purpose of testing compliance with a federal, state or local law or retailer policy limiting or regulating the distribution or sale of tobacco products or inhalant delivery systems to persons who are under 21 years of age:

(a) Purchase or attempt to purchase tobacco products or an inhalant delivery system; and

(b) Enter or attempt to enter an establishment, or portion of an establishment, where tobacco products or inhalant delivery systems are sold and that is posted or otherwise identified as being prohibited to the entry of persons under 21 years of age. [2017 c.701 §4; 2021 c.179 §1; 2021 c.191 §3]

Note:

See note under 167.747.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.763 - Entry or attempted entry of premises by person under 21 years of age for purpose of assisting with investigation.**

The prohibitions provided in ORS 471.430 (3) and 475C.317 (2) do not apply to a person who is under 21 years of age and who is acting under the direction of the Oregon Health Authority, the Oregon Liquor and Cannabis Commission, a local public health authority as defined in ORS 431.003, a city or a state or local law enforcement agency for the purpose of investigating possible violations of federal, state or local laws that prohibit the sale of tobacco products or inhalant delivery systems to persons under 21 years of age. [2021 c.191 §2]

Note:

See note under 167.747.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.765 - Retail store location of tobacco products or inhalant delivery systems; penalty.**

(1) A person having authority over the location of tobacco products or inhalant delivery systems in a retail store may not locate the tobacco products or inhalant delivery systems in a location in the store where the tobacco products or inhalant delivery systems are accessible by store customers without assistance by a store employee.

(2) Violation of this section is a Class B violation. Each day that the person commits the violation constitutes a separate offense.

(3) This section does not apply to a person if the location at which the tobacco products or inhalant delivery systems are sold is a store or other establishment that prohibits persons under 21 years of age from entering the store or establishment. [Formerly 167.407]

Note:

See note under 167.747.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.770 - Display of sign; penalty.**

(1) A person who sells tobacco products or inhalant delivery systems shall display a sign clearly stating that the sale of the tobacco products or inhalant delivery systems to persons under 21 years of age is prohibited by law.

(2) Failure to display a sign required by this section is a Class A violation. [2017 c.701 §3]

Note:

See note under 167.747.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.775 - Local regulation of vending machines.**

Cities and counties by ordinance or resolution may not regulate vending machines that dispense tobacco products or inhalant delivery systems and that are in any manner accessible to persons under 21 years of age. [Formerly 167.404]

Note:

See note under 167.747.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.780 - Sale or dispensing of tobacco products or inhalant delivery systems by vending machine.**

(1) As used in this section and ORS 167.775, "vending machine" means a device that, upon the insertion of tokens, money or another form of payment, dispenses tobacco products or inhalant delivery systems.

(2) A person may not sell or dispense tobacco products or inhalant delivery systems from a vending machine, except in an establishment where the premises are permanently and entirely off-limits to persons under 21 years of age as required by rules adopted by the Oregon Liquor and Cannabis Commission.

(3) A person who violates this section commits a Class B violation. Each day that the person commits the violation constitutes a separate offense. [Formerly 167.402; 2021 c.351 §6]

Note:

See note under 167.747.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.808 - Unlawful possession of inhalants.**

(1) For the purposes of this section:

(a) "Inhalant" means any glue, cement or other substance that is capable of causing intoxication and that contains one or more of the following chemical compounds:

(A) Acetone;

(B) Amyl acetate;

(C) Benzol or benzene;

(D) Butane;

(E) Butyl acetate;

(F) Butyl alcohol;

(G) Carbon tetrachloride;

(H) Chloroform;

(I) Cyclohexanone;

(J) Difluoroethane;

(K) Ethanol or ethyl alcohol;

(L) Ethyl acetate;

(M) Hexane;

(N) Isopropanol or isopropyl alcohol;

(O) Isopropyl acetate;

(P) Methyl cellosolve acetate;

- (Q) Methyl ethyl ketone;
  - (R) Methyl isobutyl ketone;
  - (S) Nitrous oxide;
  - (T) Toluol or toluene;
  - (U) Trichloroethylene;
  - (V) Tricresyl phosphate;
  - (W) Xylol or xylene; or
  - (X) Any other solvent, material, substance, chemical or combination thereof having the property of releasing toxic vapors or fumes.
- (b) "Intoxication" means any mental or physical impairment or incapacity.
- (2) It is unlawful for a person to possess any inhalant if the person intends to use the inhalant for the purpose of inducing intoxication in the person who possesses the inhalant or for the purpose of inducing intoxication in any other person.
- (3) A person may not use any inhalant for the purpose of inducing intoxication in the person using the inhalant or for the purpose of inducing intoxication in any other person.
- (4) The prohibitions of this section do not apply to any substance that:
- (a) Has been prescribed by a health practitioner, as described in ORS 31.740, and that is used in the manner prescribed by the health practitioner; or
  - (b) Is administered or used under the supervision of a health practitioner, as described in ORS 31.740.
- (5)(a) Any person who violates this section commits a violation. Violation of this section is a Class C violation. In addition to or in lieu of a fine, a juvenile court may require that a minor who engages in conduct prohibited by this section be provided with treatment and counseling.
- (b) Notwithstanding paragraph (a) of this subsection, a second or subsequent violation of this section by a person is a Class B misdemeanor. If a juvenile court finds that a minor has engaged in conduct prohibited by this section on a second or subsequent occasion, the court shall require that the minor receive treatment and counseling. [1999 c.229 §1; 1999 c.1051 §322f; 2011 c.597 §81]
- Note:  
167.808 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.810 - Creating a hazard.**

- (1) A person commits the crime of creating a hazard if:
- (a) The person intentionally maintains or leaves in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot easily be opened from the inside; or
  - (b) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more, the owner intentionally fails or refuses to cover or fence it with a suitable protective construction.
- (2) Creating a hazard is a Class B misdemeanor. [1971 c.743 §284]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.820 - Concealing the birth of an infant.**

- (1) A person commits the crime of concealing the birth of an infant if the person conceals the corpse of a newborn child with intent to conceal the fact of its birth or to prevent a determination of whether it was born dead or alive.
- (2) Concealing the birth of an infant is a Class A misdemeanor. [1971 c.743 §286]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.822 - Improper repair of a vehicle inflatable restraint system.**

- (1) A person commits the crime of improper repair of a vehicle inflatable restraint system if the person knowingly:
- (a) Installs as part of a vehicle inflatable restraint system an object that is not designed in accordance with federal safety regulations for the make, model and year of the motor vehicle; or
  - (b) If requested to repair or replace a vehicle inflatable restraint system, fails to install an object that is required to make a vehicle inflatable restraint system comply with federal safety regulations for the make, model and year of the motor vehicle.
- (2) Improper repair of a vehicle inflatable restraint system is a Class A misdemeanor. [2001 c.439 §1]

Note:

167.822 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.824 - Unlawful possession of undeployed air bags or air bag canisters.**

(1) A person may not possess more than two undeployed air bags or air bag canisters containing sodium azide that have been removed from a vehicle. This subsection does not apply to motor vehicle dealers, automobile repair facilities or dismantlers certified under ORS 822.110.

(2) A violation of subsection (1) of this section is a Class C misdemeanor. [2005 c.514 §2; 2005 c.654 §13b]

Note:

167.824 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.830 - Employment of minors in place of public entertainment.**

Except as provided in ORS 167.840, any person operating or conducting a place of public amusement or entertainment, who employs or allows a child under the age of 18 years to conduct or assist in conducting any public dance, including but not limited to dancing by the child as a public performance, or to assist in or furnish music for public dancing, commits a Class D violation. [1971 c.743 §292; 1987 c.905 §18; 1999 c.1051 §163]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.840 - Application of ORS 167.830 limited.**

(1) ORS 167.830 does not apply if:

- (a) Alcoholic beverages are not permitted to be dispensed or consumed in the place of public amusement or entertainment open to the individuals attending the public dance;
- (b) Alcoholic beverages are not permitted to be dispensed or consumed in any place connected by an entrance to the place of public amusement or entertainment;
- (c) Applicable laws, regulations and ordinances for the protection of children under the age of 18 years are observed in the conduct of the dance; and
- (d) At least one responsible adult is present at all times during the public dance to see that applicable laws, regulations and ordinances for the protection of children under 18 years of age are observed.

(2) ORS 167.830 does not apply if the child has the written permission of the judge of the juvenile court, for the county in which the child resides, to conduct or assist in conducting the public dance. The judge of the juvenile court shall grant such permission only if:

- (a) The parents or legal guardians of the child have consented to the child's participation in such activity; and
  - (b) The judge has found that participation in such activity will not be inconsistent with the health, safety and morals of the child.
- (3) This section is not intended to make lawful any activity that is prohibited within a political subdivision of this state by ordinance or other regulation of the political subdivision.
- (4) The requirements of this section are in addition to, and not in lieu of, the requirements of ORS 653.315. [1971 c.743 §293]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.860**

[1971 c.596 §1; 1973 c.836 §345; 1985 c.662 §7; renumbered 167.345]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.862**

[1983 c.648 §1; 1985 c.662 §9; renumbered 167.350]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 167 - Offenses Against General Welfare and Animals Section 167.865**

[1977 c.539 §2; renumbered 167.355]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 168 - (Former Provisions) Section 168.060**

[Amended by 1955 c.663 §7; 1961 c.648 §10; renumbered 168.090]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.005 - Definitions for ORS 169.005 to 169.685 and 169.730 to 169.800.**

As used in ORS 169.005 to 169.685 and 169.730 to 169.800, unless the context requires otherwise:

- (1) "Detainee" means a person held with no criminal charges.
- (2) "Forced release" means temporary freedom of an adult in custody from lawful custody before judgment of conviction due to a county jail population emergency under ORS 169.046.
- (3) "Juvenile detention facility" means a facility as described in ORS 419A.050 and 419A.052.
- (4) "Local correctional facility" means a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds persons for more than 36 hours.

- (5) "Lockup" means a facility for the temporary detention of arrested persons held up to 36 hours, excluding holidays, Saturdays and Sundays, but the period in lockup shall not exceed 96 hours after booking.
- (6) "Month" means a period of 30 days.
- (7) "Prisoner" means a person held with criminal charges or sentenced to the facility.
- (8) "Temporary hold" means a facility, the principal purpose of which is the temporary detention of a prisoner for four or less hours while awaiting court appearance or transportation to a local correctional facility. [1973 c.740 §1; 1979 c.487 §1; 1985 c.499 §4; 1993 c.33 §309; 2001 c.517 §1; 2019 c.213 §43]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.030 - Construction, maintenance and use of local correctional facilities by county and city; renting suitable structure; provision of facilities by another county or city.**

- (1) Every county and city in this state shall provide, keep and maintain within or without the county or city, as the case may be, a local correctional facility for the reception and confinement of prisoners committed thereto. The local correctional facility shall be constructed of fireproof materials and should have fire exits in sufficient number and suitably located for the removal of prisoners.
- (2) Any county, or incorporated city may rent or lease any structure answering the requirements of subsection (1) of this section, either in connection with or separately from any other county or city building.
- (3) Any county and any incorporated city may, by agreement, provide, maintain, and use for their separate requirements, such a local correctional facility as is required by this section.
- (4) Any county or incorporated city may, by agreement with any other county or incorporated city, provide for one such county or city to furnish local correctional facility accommodations for the imprisonment of prisoners of the other such county or city. Pursuant to such agreement, an Oregon county or city may secure the use of jail accommodations outside the state, but only in a county that adjoins the Oregon county or the county in which the Oregon city is located.
- (5) The jail accommodations provided by or furnished to a county under this section shall be considered to be jail accommodations of the county for purposes of ORS 135.215, 137.167 and 137.330. [Amended by 1963 c.236 §2; 1973 c.740 §10; 1987 c.550 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.040 - Inspection of local correctional facilities.**

- (1) The county court or board of county commissioners of each county is the inspector of the local correctional facilities in the county. The court or board shall visit local correctional facilities operated by the county at least once in each regular term and may visit local correctional facilities within the county that are not operated by the county. When the court or board visits a local correctional facility, it shall examine fully into the local correctional facility, including, but not limited to, the cleanliness of the facility and the health and discipline of the persons confined. If it appears to the court or board that any provisions of law have been violated or neglected, it shall immediately give notice of the violation or neglect to the district attorney of the district.
- (2) The local health officer or the representative of the local health officer may conduct health and sanitation inspections of local correctional facilities on a semiannual basis. If the local health officer determines that the facility is in an insanitary condition or unfit for habitation for health reasons, the officer may notify the appropriate local governmental agency in writing of the required health and sanitation conditions or practices necessary to ensure the health and sanitation of the facility. If the local governmental agency does not comply with the required health and sanitation conditions or practices within an appropriate length of time, the local health officer may recommend the suspension of the operation of the local correctional facility to the local public health authority, as defined in ORS 431.003. If after a hearing the local public health authority finds that the local correctional facility is in an insanitary or unhealthful condition, it may suspend the operation of the facility until such time as the local correctional facility complies with the recommended health and sanitation conditions and practices. [Amended by 1973 c.740 §11; 2005 c.286 §1; 2015 c.736 §52]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.042 - Maximum facility population; recommendation.**

The county court or board of commissioners of a county may institute an examination of the county's local correctional facility for the purpose of obtaining a recommendation regarding the maximum number of adults in custody that should be held in the facility. This recommendation shall be based on consideration of the following:

- (1) The advice of the district attorney, county counsel and sheriff concerning prevailing constitutional standards relating to conditions of incarceration;
- (2) The design capacity of the local correctional facility;
- (3) The physical condition of the local correctional facility; and
- (4) The programs provided for adults in custody of the local correctional facility. [1989 c.884 §2; 2019 c.213 §121]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.044 - Action on recommendation.**

When the county court or board has received a recommendation pursuant to ORS 169.042, it shall either:

- (1) Reject the recommendation and decline to adopt a limit on the number of adults in custody that may be held in the local



correctional facility; or

(2) Adopt the recommendation and, after consultation with the officials listed in ORS 169.046 (1), issue an order establishing the maximum allowable number of adults in custody that may be held in the local correctional facility. This shall include specific standards for determining a county jail population emergency and a specific plan for resolving the emergency. [1989 c.884 §3; 2019 c.213 §122]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.046 - Notice of county jail population emergency; action to be taken; notification if release likely; forced release.**

(1) If a county court or board adopts a jail capacity limit under ORS 169.044 and the number of adults in custody in its local correctional facility exceeds that capacity limit so that a county jail population emergency exists, the sheriff shall notify the presiding circuit judge, each municipal court judge and justice of the peace in the county, the district attorney for the county, the county counsel, the chief law enforcement officer for each city located in the county and the county court or board of commissioners that the number of adults in custody in the local correctional facility has exceeded capacity and that a county jail population emergency exists.

(2) If the county court or board has adopted a jail capacity limit and action plan under ORS 169.044 and if a county jail population emergency occurs under the terms of the plan, the county court or board and the county sheriff may carry out the steps of the plan. This includes any authorization, under the plan, for the sheriff to order adults in custody released in order to reduce the jail population. A sheriff shall be immune from criminal or civil liability for any good faith release of adults in custody under ORS 169.042 to 169.046.

(3) If it becomes necessary to order adults in custody released under ORS 169.042 to 169.046, or if it appears to the sheriff that release of adults in custody is likely to become necessary in the near future, the sheriff shall immediately notify all police agencies in the county to make maximum use of citations in lieu of custody pursuant to ORS 133.055 to 133.076 until further notice.

(4) If it becomes necessary to order the release of adults in custody under ORS 169.042 to 169.046, the sheriff may place adults in custody on forced release subject to a forced release agreement. A forced release agreement must be in writing and be signed by the sheriff and the adult in custody and must include:

(a) The date of the next court appearance of the adult in custody;

(b) A statement that the adult in custody is required to appear at the next court appearance; and

(c) A statement that failure of the adult in custody to appear at the next court appearance is subject to prosecution under ORS 162.195 or 162.205. [1989 c.884 §§4,5,6; 1999 c.1051 §71; 2001 c.517 §2; 2019 c.213 §44]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.050 - Contracts for boarding of prisoners.**

The county court or board of county commissioners of each county in this state, not having more than 300,000 inhabitants, shall advertise for bids for boarding of prisoners confined in the county local correctional facilities of the county, and may award the contract for boarding them to the lowest responsible bidder. If any responsible bidder, other than the sheriff, receives the contract from the county for the boarding of prisoners, such bidder shall receive compensation for boarding such prisoners rather than the sheriff, and the sheriff shall afford to such bidder all facilities for carrying out the county's contract for boarding prisoners.

[Amended by 1973 c.740 §12]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.053 - Agreements with other counties or Department of Corrections for confinement and detention of offenders.**

(1) A county may enter into an agreement with one or more other counties of this state under ORS 190.010 for the confinement and detention of offenders subject to the legal and physical custody of the county. The agreement may provide for the reception, detention, care and maintenance, and work assignment of:

(a) Pretrial detainees;

(b) Offenders convicted of a misdemeanor; and

(c) Offenders convicted of a felony who are:

(A) Sentenced, on or after January 1, 1997, to 12 months or less incarceration; or

(B) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-Prison Supervision to 12 months or less incarceration for a violation of a condition of parole, probation or post-prison supervision.

(2) A county may enter into an agreement with the Department of Corrections under ORS 190.110 for the confinement and detention of offenders subject to the legal and physical custody of the county. The agreement may provide for the reception, detention, care and maintenance, and work assignment of:

(a) Offenders convicted of a misdemeanor; and

(b) Offenders convicted of a felony who are:

(A) Sentenced, on or after January 1, 1997, to 12 months or less incarceration; or

(B) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-Prison Supervision to 12 months or less

incarceration for a violation of a condition of parole, probation or post-prison supervision.

(3) An agreement entered into under ORS 190.110 and subsection (2) of this section shall include a provision that the county reimburse the Department of Corrections for its costs incurred in confining the county adult in custody. Reimbursement shall be made on a per diem basis at a rate determined by the department to be its average daily incarceration cost per adult in custody. In lieu of reimbursement, the department and county may enter into an agreement providing for the comparable exchange of adults in custody as determined by the department. [1996 c.4 §1; 2019 c.213 §45]

Note:

169.053 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 169 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.055 - Contracts with Department of Corrections for county prisoners awaiting sentencing.**

(1) The Department of Corrections may enter into contracts or arrangements with the authorities of any county in this state to provide for the reception, detention, care, maintenance and employment of county prisoners convicted of a felony in the courts of this state who are awaiting sentencing and who, in the judgment of the sentencing court, pose an unusual security risk if they were to remain incarcerated in a local correctional facility pending sentencing.

(2) Nothing in this section requires the Department of Corrections to incarcerate a county prisoner in a Department of Corrections facility.

(3) A county prisoner poses an unusual security risk under this section if the prisoner poses a level of risk of violence or escape that exceeds the security level of the county facility. The risk of violence or escape may result from or be manifested by:

(a) A history of violence against law enforcement or corrections employees;

(b) A history of escape attempts;

(c) Documented enemies in the county facility; or

(d) A charge of aggravated murder. [1997 c.369 §1]

Note:

169.055 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 169 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.070 - Coordination of state services by Department of Corrections; inspections to determine compliance with standards.**

(1) The Department of Corrections shall provide and coordinate state services to local governments with respect to local correctional facilities and juvenile detention facilities. The Director of the Department of Corrections shall designate staff to provide technical assistance to local governmental agencies in the planning and operation of local correctional facilities, lockups, temporary holds and juvenile detention facilities, and advice on provisions of state law applicable to these facilities. The department shall inspect local correctional facilities, lockups, temporary holds and juvenile detention facilities, to ensure compliance with the standards established in ORS 169.076 to 169.078, 169.740 and 419A.059.

(2) In carrying out its duties under subsection (1) of this section, the department may enter into agreements with public or private entities to conduct inspections of local correctional facilities, lockups, temporary holds and juvenile detention facilities.

(3) When a county that operates a local correctional facility has conducted, or caused a public or private entity to conduct, an inspection of the local correctional facility within 24 months before an inspection would be conducted under subsection (1) of this section, the department is not required to conduct the next inspection required under subsection (1) of this section if:

(a) The standards meet or exceed the standards established in ORS 169.076;

(b) The inspection is conducted in a manner that allows the county to satisfy the requirement of paragraph (c) of this subsection; and

(c) Within 45 days after the inspection is completed, the county provides to the department:

(A) A statement or copy of the standards used to conduct the inspection and the date the standards were adopted; and

(B) A portion of the findings and recommendations of the inspection that is the equivalent of the information that would have been obtained in an inspection conducted under subsection (1) of this section.

(4) The information provided to the department under subsection (3) of this section is a public record for the purposes of ORS 192.311 to 192.478 and is subject to the same disclosure requirements and retention schedule that applies to an inspection conducted under subsection (1) of this section. [1973 c.740 §2; 1979 c.338 §2; 1979 c.487 §2; 1987 c.320 §91; 1993 c.33 §310; 2003 c.475 §1; 2013 c.63 §1; 2019 c.382 §19]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.072 - Provision of services or assistance by Department of Corrections through arrangements with local governments.**

(1) The Department of Corrections may enter into arrangements, contracts or agreements with local governments to provide services or other assistance to local governments with respect to local correctional facilities and juvenile detention facilities. Services and

assistance provided to local governments under this section may include health care services and assistance, including providing pharmaceuticals, treatment services, transport services, training assistance, security assistance and tactical assistance.

(2) An arrangement, contract or agreement entered into under subsection (1) of this section may authorize the use of department facilities, personnel, supplies, equipment or material in providing services or other assistance to local governments. [2001 c.194 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.076 - Standards for local correctional facilities.**

Each local correctional facility shall:

- (1) Provide sufficient staff to perform all audio and visual functions involving security, control, custody and supervision of all confined detainees and prisoners, with personal inspection at least once each hour. The supervision may include the use of electronic monitoring equipment when approved by the Department of Corrections and the governing body of the jurisdiction in which the facility is located.
- (2) Have a comprehensive written policy with respect to:
  - (a) Legal confinement authority.
  - (b) Denial of admission.
  - (c) Telephone calls.
  - (d) Admission and release medical procedures.
  - (e) Medication and prescriptions.
  - (f) Personal property accountability that complies with ORS 133.455.
  - (g) Vermin and communicable disease control.
  - (h) Release process to include authority, identification and return of personal property.
  - (i) Rules of the facility governing correspondence and visitations.
- (3) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, rebellions and other types of emergencies, and regulations for the operation of the facility.
- (4) Not administer any physical punishment to any prisoner at any time.
- (5) Provide for emergency medical and dental health, having written policies providing for:
  - (a) Review of the facility's medical and dental plans by a licensed physician, physician assistant, naturopathic physician or nurse practitioner.
  - (b) The security of medication and medical supplies.
  - (c) A medical and dental record system to include request for medical and dental attention, treatment prescribed, prescriptions, special diets and other services provided.
  - (d) First aid supplies and staff first aid training.
- (6) Prohibit firearms from the security area of the facility except in times of emergency as determined by the administrator of the facility.
- (7) Ensure that confined detainees and prisoners:
  - (a) Will be fed daily at least three meals served at regular times, with no more than 14 hours between meals except when routinely absent from the facility for work or other purposes.
  - (b) Will be fed nutritionally adequate meals in accordance with a plan reviewed by a registered dietitian or the Oregon Health Authority.
  - (c) Be provided special diets as prescribed by the facility's designated physician, physician assistant, naturopathic physician or nurse practitioner.
  - (d) Shall have food procured, stored, prepared, distributed and served under sanitary conditions, as defined by the authority under ORS 624.041.
- (8) Ensure that the facility be clean, and provide each confined detainee or prisoner:
  - (a) Materials to maintain personal hygiene.
  - (b) Clean clothing twice weekly.
  - (c) Mattresses and blankets that are clean and fire-retardant.
- (9) Require each prisoner to shower at least twice weekly.
- (10) Forward, without examination or censorship, each prisoner's outgoing written communications to the Governor, jail administrator, Attorney General, judge, Department of Corrections or the attorney of the prisoner.
- (11) Keep the facility safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.
- (12) Have and provide each prisoner with written rules for prisoner conduct and disciplinary procedures. If a prisoner cannot read or is unable to understand the written rules, the information shall be conveyed to the prisoner orally.
- (13) Not restrict the free exercise of religion unless failure to impose the restriction will cause a threat to facility or order.
- (14) Safeguard and ensure that the prisoner's legal rights to access to legal materials are protected.
- (15) In addition to the items listed in subsection (8) of this section, make available tampons, sanitary pads, postpartum pads and panty liners at no cost to all confined detainees and prisoners for use in connection with vaginal discharge. Facilities shall maintain a sufficient supply, which shall be stored, dispensed and disposed of in a sanitary manner. The supply of products available shall

include at least the following:

- (a) Regular absorbent and super absorbent tampons;
- (b) Regular absorbent and super absorbent sanitary pads;
- (c) Postpartum pads; and
- (d) Regular absorbent panty liners. [1979 c.487 §6 (enacted in lieu of 169.075); 1987 c.320 §92; 2005 c.471 §6; 2009 c.595 §116; 2013 c.63 §2; 2014 c.45 §29; 2017 c.356 §20; 2019 c.213 §46; 2019 c.489 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.077 - Standards for lockup facilities.**

Each lockup facility shall:

- (1) Maintain 24-hour supervision when persons are confined. The supervision may include the use of electronic monitoring equipment when approved by the Department of Corrections and the governing body of the jurisdiction in which the facility is located.
- (2) Make a personal inspection of each person confined at least once each hour.
- (3) Prohibit firearms from the security area of the facility except in times of emergency as determined by the administrator of the facility.
- (4) Ensure that confined detainees and prisoners will be fed daily at least three nutritionally adequate meals served at regular times, with no more than 14 hours between meals except when routinely absent from the facility for work or other such purposes.
- (5) Forward, without examination or censorship, each prisoner's outgoing written communications to the Governor, jail administrator, Attorney General, judge, Department of Corrections or the attorney of the prisoner.
- (6) Provide rules of the facility governing correspondence and visitations.
- (7) Keep the facility safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.
- (8) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, rebellions and other types of emergencies, and policies and regulations for the operation of the facility.
- (9) Ensure that the facility be clean, provide mattresses and blankets that are clean and fire-retardant, and furnish materials to maintain personal hygiene.
- (10) Provide for emergency medical and dental health, having written policies providing for review of the facility's medical and dental plans by a licensed physician, physician assistant, naturopathic physician or nurse practitioner.
- (11) In addition to the items listed in subsection (9) of this section, make available tampons, sanitary pads, postpartum pads and panty liners at no cost to all confined detainees and prisoners for use in connection with vaginal discharge. Facilities shall maintain a sufficient supply, which shall be stored, dispensed and disposed of in a sanitary manner. The supply of products available shall include at least the following:
  - (a) Regular absorbent and super absorbent tampons;
  - (b) Regular absorbent and super absorbent sanitary pads;
  - (c) Postpartum pads; and
  - (d) Regular absorbent panty liners. [1979 c.487 §7 (enacted in lieu of 169.075); 1987 c.320 §93; 2013 c.63 §3; 2014 c.45 §30; 2017 c.356 §21; 2019 c.489 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.078 - Standards for temporary hold facilities.**

Each temporary hold shall:

- (1) Provide access to sanitation facilities.
- (2) Provide adequate seating.
- (3) Maintain supervision of prisoners or detainees when confined. The supervision may include the use of electronic monitoring equipment when approved by the Department of Corrections and the governing body of the jurisdiction in which the facility is located.
- (4) Prohibit firearms from the secure area except in times of emergency.
- (5) Keep the facility safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code. [1979 c.487 §8 (enacted in lieu of 169.075); 1987 c.320 §94; 2013 c.63 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.079**

[1979 c.487 §9 (enacted in lieu of 169.075); 1981 c.869 §1; renumbered 169.740]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.080 - Effect of failure to comply with standards; enforcement by Attorney General; private action.**

(1) If the condition or treatment of prisoners in a local correctional facility, lockup or temporary hold or juvenile detention facility is not in accordance with the standards established in ORS 169.076 to 169.078, 169.740 and 419A.059, the staff of the Department of Corrections may notify in writing the appropriate local governmental agency of the standards which are not being met and specific recommendations for the agency to comply with the standards. Corrective measures shall be taken by the local governmental agency to ensure compliance with all standards within a reasonable length of time jointly agreed upon by the agency and the Department of Corrections.

(2) The provisions of ORS 169.076 to 169.078, 169.740, 419A.059, 419B.160 and 419C.130 shall be enforceable by the Attorney General of the State of Oregon. The Attorney General, at the request of the Department of Corrections, may bring suit or action and may seek declaratory judgment as provided in ORS chapter 28 as well as pursue any other form of suit or action provided under Oregon law. Nothing in this section precludes a private right of suit or action. [1973 c.740 §4; 1979 c.338 §3; 1979 c.487 §3; 1987 c.320 §95; 1993 c.33 §311; 2019 c.13 §30; 2019 c.382 §20]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.085 - Submission of construction or renovation plans to Department of Corrections; recommendations by department.**

All plans of new construction or major renovation of local correctional facilities, lockups and juvenile detention facilities shall be submitted to the Department of Corrections for review and advisory recommendations to assist local governmental agencies to provide a safe and secure facility. The recommendations of the Department of Corrections shall be advisory and not binding upon the local governmental agency with the exception of those standards established in ORS 169.076 to 169.078, 169.740 and 419A.059. The Department of Corrections must notify the respective local governmental agency 45 days after submission of the plans of its recommendations on the proposed construction or major renovation of the local correctional facility. [1973 c.740 §5; 1979 c.487 §4; 1987 c.320 §96; 1993 c.33 §312; 2019 c.382 §21]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.090 - Manual of guidelines for local correctional facility operation; guidelines for juvenile detention facility operation.**

(1) The Director of the Department of Corrections shall publish and distribute a manual of recommended guidelines for the operation of local correctional facilities and lockups as developed by a jail standards committee appointed by the director. This manual shall be revised when appropriate with consultation and advice of the Oregon State Sheriffs' Association, the Oregon Association Chiefs of Police, Association of Oregon Counties, the League of Oregon Cities and other appropriate groups and agencies and will be redistributed upon the approval of the Governor.

(2) The Youth Development Council established by ORS 417.847 and the Department of Corrections shall develop guidelines pertaining to the operation of juvenile detention facilities, as defined in ORS 169.005. Guidelines shall be revised by the Youth Development Council and the Department of Corrections, whenever appropriate. The guidelines shall be included in the manual published and distributed under subsection (1) of this section. However, the Youth Development Council may choose to publish and distribute the guidelines independently. [1973 c.740 §6; 1981 c.869 §7; 1987 c.320 §97; 1993 c.18 §28; 1993 c.676 §40; 2001 c.517 §5; 2001 c.904 §1; 2001 c.905 §2; 2003 c.14 §68; 2012 c.37 §108]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.105 - Unconscious person not to be admitted to custody in facility.**

No person who is unconscious shall be admitted to custody in a facility described in ORS 169.005, but shall instead be taken immediately to the nearest appropriate medical facility for medical diagnosis, care and treatment. [1983 c.547 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.110 - Time credit for good behavior.**

(1) Each prisoner convicted of an offense against the laws of this state, who is confined, in execution of the judgment or sentence upon conviction, including confinement imposed as a condition of probation pursuant to ORS 137.540, in a county local correctional facility in this state for a definite term, whose record of conduct shows that the prisoner has faithfully observed all the rules of the facility, is entitled, in the discretion of the sheriff or other officer having custody of such prisoner, to a deduction from the term of the sentence of the prisoner to be calculated as follows, commencing on the first day of the arrival of the prisoner at the facility to serve the sentence of the prisoner:

- (a) Upon a sentence of not less than 10 or more than 30 days, one day for each 10 days.
- (b) Upon a sentence of more than 30 days but not more than 90 days, three days for each 30-day period.
- (c) Upon a sentence of more than 90 days but not more than 180 days, four days for each 30-day period.
- (d) Upon a sentence of more than 180 days but not more than 270 days, five days for each 30-day period.
- (e) Upon a sentence of more than 270 days, six days for each 30-day period.

(2)(a) Deductions under this section may be allowed for time served in an alternative sentencing facility operated pursuant to a community corrections plan if the county governing body authorizes the allowing of deductions.

(b) For purposes of calculating deductions allowable under paragraph (a) of this subsection, each day served in the facility is counted as a day of confinement. [Amended by 1965 c.346 §3; 1971 c.196 §1; 1973 c.740 §13; 1979 c.487 §11; 2011 c.203 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.115 - Temporary leave; rules.**

(1) Any prisoner serving a sentence in a county jail may be eligible for temporary leave for a period not to exceed 10 days for the purpose of visiting a seriously ill relative, attending the funeral of a relative, or obtaining medical services not otherwise available.

(2) All requests for temporary leave must be presented to the sheriff for examination. Exemptions shall be restricted to those prisoners who are considered a possible threat to society, or those who pose a risk of not returning at the termination of such leave.

(3) Upon determining that circumstances are suitable for a prisoner to be granted temporary leave, the sheriff may grant leave to the prisoner and fix the duration and conditions of the leave.

(4) In adopting rules governing temporary leave, the sheriff shall consult with the Department of Corrections in an effort to establish statewide uniform rules governing temporary leave for county jail prisoners. [1973 c.499 §1; 1979 c.487 §12; 1987 c.320 §98]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.120 - Credit for work.**

(1)(a) In addition to the allowances provided for in ORS 169.110, all prisoners in a county local correctional facility who are engaged in work either inside or outside the facility are entitled to an allowance of credits in time or compensation, or both, for the work.

(b) The allowances under paragraph (a) of this subsection may not be inconsistent with ORS 169.170 to 169.210.

(2)(a) The credits provided by this section may not be in excess of 10 days for a period of 30 days and shall be set by the county court, board of county commissioners or local correctional facility supervisor.

(b) Notwithstanding paragraph (a) of this subsection, in the case of a sentence of not less than 10 or more than 30 days the credits provided by this section are one day of credit for each 10 days of sentence.

(3)(a) Credits under this section may be allowed for time served in an alternative sentencing facility operated pursuant to a community corrections plan if the county governing body authorizes the allowing of credits.

(b) For purposes of calculating credits allowable under paragraph (a) of this subsection, each day served in the facility is counted as a day of confinement. [Amended by 1967 c.284 §1; 1971 c.196 §2; 1973 c.740 §14; 1979 c.487 §13; 2011 c.203 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.140 - Furnishing prisoners food, clothing and necessary medical aid.**

The keeper of each local correctional facility shall furnish and keep clean the necessary bedding and clothing for all prisoners in the custody of the keeper, and shall supply them with wholesome food, fuel and necessary medical aid. [Amended by 1973 c.740 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.150 - Payment of expenses of keeping prisoners; health care fees.**

(1) The charges and expenses for safekeeping and maintaining all persons duly committed to the local correctional facility of the county for trial, sentenced to imprisonment in the county local correctional facility, or committed for the nonpayment of any fine or for any contempt, shall, unless otherwise provided by law, be paid out of the treasury of the county. The account of the keeper shall be first allowed by the county court or board of county commissioners of the county from which the prisoner was committed.

(2) A city or, notwithstanding subsection (1) of this section or any other provision of law, the county may charge persons committed to the local correctional facility of the county or city a reasonable health care fee for any health care services, medications and equipment provided to the person while committed if the county or city:

(a) Provides necessary medical care regardless of the person's ability to pay;

(b) Provides equal treatment to all persons committed to the local correctional facility regardless of a person's ability to pay;

(c) Establishes a system that notifies the person of the fees and what services are covered; and

(d) Establishes a grievance system that allows a person to challenge the deduction of a fee from the person's account. [Amended by 1973 c.740 §16; 1995 c.523 §1; 1999 c.801 §1]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.151 - Expenses of keeping prisoners; reimbursement from prisoners; amounts; procedures.**

(1) A city or, notwithstanding ORS 169.150 (1), a county may seek reimbursement from a person who is or was committed to the local correctional facility of the county or city upon conviction of a crime for any expenses incurred by the county or city in safekeeping and maintaining the person. The county or city may seek reimbursement:

(a) At a rate of \$60 per day or its actual daily cost of safekeeping and maintaining the person, whichever is less, multiplied by the total number of days the person was confined to the local correctional facility, including, but not limited to, any period of pretrial detention; and

- (b) For any other charges or expenses that the county or city is entitled to recover under ORS 169.150.
- (2) The county or city may seek reimbursement for expenses as provided in subsection (1) of this section by filing a civil action no later than six years after the person from whom reimbursement is sought is released from the local correctional facility.
- (3) When a person is found liable for expenses described in subsection (1) of this section and an amount is determined, the court shall, before entering a judgment against the person, allow the person to present evidence on the issue of the person's ability to pay. When a person presents such evidence, the court shall determine the person's ability to pay taking into consideration:
- (a) The financial resources of the person and the burden that payment will impose on the person in providing basic economic necessities to the person or the person's dependent family; and
- (b) Any other monetary obligations imposed upon the person by the court as a result of the conviction for which the person was committed to the local correctional facility.
- (4) The court, and not a jury, shall determine the defendant's ability to pay under subsection (3) of this section.
- (5) Upon the conclusion of a proceeding under subsection (3) of this section, the court may enter a judgment:
- (a) Of dismissal if the court finds that the person lacks the ability to pay;
- (b) For less than the full amount determined if the court finds that the person has the ability to pay a portion of the amount; or
- (c) For the full amount determined, plus costs and disbursements, if the court determines the person has the ability to pay.
- (6) Any reimbursements collected under this section must be credited to the general fund of the county or city to be available for general fund purposes. [1997 c.349 §2; 1999 c.801 §2; 2009 c.783 §15]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.152 - Liability for costs of medical care for persons in county facility.**

Notwithstanding ORS 169.140, 169.150 and 169.220, when a person is lawfully confined in a county local correctional facility for violation of a city ordinance, for nonpayment of a fine imposed by a municipal court or as a result of a warrant of arrest issued by a magistrate in another county, the county in which the warrant was issued or the city shall be liable for the costs of medical care provided to the person while confined in the county local correctional facility. The keeper of the local correctional facility shall bill the other county or city for the actual cost of the medical care provided, and the other county or city shall pay the charges within 60 days after receiving the cost statement from the keeper. [1985 c.530 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.153 - Liability of public agency for costs of medical care provided to persons in transport.**

- (1) Subject to ORS 30.260 to 30.300 and 414.805, payment of the costs of medical care provided to a person who becomes ill or is injured while being lawfully transported in the custody of a law enforcement officer at the request of a public agency other than the public agency by which the officer is employed is the responsibility of the public agency that requested the transportation of the person.
- (2) As used in this section, "law enforcement officer" and "public agency" have the meanings given those terms by ORS 414.805. [1985 c.530 §3; 1993 c.196 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.155 - Definitions for ORS 169.155 and 169.166.**

As used in ORS 169.166 and this section:

- (1) "Local correctional facility" includes lockups and temporary hold facilities.
- (2) "Reasonable efforts to collect the charges and expenses" means that the provider has billed the individual to whom the emergency medical services were provided or the insurer or health care service contractor of the individual before seeking to collect from the keeper of the local correctional facility. [1979 c.530 §4; 1993 c.196 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.166 - Liability for costs of medical services.**

Notwithstanding ORS 169.140 and 169.150 and except as otherwise provided in ORS 414.805 and 414.807:

- (1) An individual who receives medical services not provided by the county or city while in the custody of a local correctional facility or juvenile detention facility is liable:
- (a) To the provider of the medical services not provided by the county or city for the charges and expenses therefor; and
- (b) To the keeper of the local correctional facility for any charges or expenses paid by the keeper of the facility for the medical services not provided by the county or city.
- (2) A person providing medical services not provided by the county or city to an individual described in subsection (1)(a) of this section shall first make reasonable efforts to collect the charges and expenses thereof from the individual before seeking to collect them from the keeper of the local correctional facility.
- (3)(a) Except as otherwise provided in subsection (4) of this section, if the provider has not been paid within 45 days of the date of the billing, the provider may bill the keeper of the local correctional facility who shall pay the account in accordance with ORS

169.140 and 169.150.

(b) A bill submitted to the keeper of a local correctional facility under this subsection must be accompanied by evidence documenting that:

(A) The provider has billed the individual or the individual's insurer or health care service contractor for the charges or expenses owed to the provider; and

(B) The provider has made a reasonable effort to collect from the individual or the individual's insurer or health care service contractor the charges and expenses owed to the provider.

(c) If the provider receives payment from the individual or the insurer or health care service contractor after receiving payment from the keeper of the facility, the provider shall repay the keeper the amount received from the keeper less any difference between payment received from the individual, insurer or contractor and the amount of the billing.

(4) Except as otherwise provided by ORS 30.260 to 30.300 and federal civil rights laws, upon release of the individual from the actual physical custody of the local correctional facility, the keeper of the local correctional facility is not liable for the payment of charges and expenses for medical services provided to the individual. [1991 c.778 §6; 1999 c.801 §3; 2007 c.71 §53]

Note:

169.166 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 169 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.170 - Assignment of county prisoners to public works; rules.**

All convicts sentenced by any court or legal authority, whether in default of the payment of a fine, or committed for a definite number of days to serve sentence in a county local correctional facility, during the period of such sentence, for the purposes of ORS 169.120 and 169.170 to 169.210, are under the exclusive and absolute control of the county court or board of county commissioners of the county in which the crime was committed for which the convict was sentenced. The court or board has full power to place such convicts under the control of any road supervisor or other person appointed to take charge of them, and to cause them to work upon the public roads of the county, or such other work of a public nature as said court or board may direct. All such convicts shall be delivered to the supervisor or other person appointed to take charge of them, upon the written request of the court or board. The sheriff shall obtain a receipt from the person to whom such convicts are delivered for each of the convicts, and thereupon the sheriff's liability ceases. The county court may at any time return any convict, taken under the provisions of this section, to the sheriff, who shall thereupon take charge of the convict. The court or board is authorized and directed to provide rules and regulations in regard to the employment of said convicts not inconsistent with ORS 169.170 to 169.210. [Amended by 1959 c.530 §7; 1973 c.740 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.180 - Assignment of city prisoners to public works.**

All convicts sentenced by any court or legal authority in any city, whether in default of the payment of a fine or committed for a definite number of days to serve sentence in any local correctional facility, during the period of the sentence shall, with the consent of the proper city authorities and for the purposes of ORS 169.120 and 169.170 to 169.210, be under the absolute and exclusive control of the county court or board of county commissioners of the county in which said city is located. Such city convicts shall be delivered to the county court by any officer having custody thereof in the same manner as county prisoners, and may be returned to the officer from whom they are received in the same manner, and shall be subject to the same rules and regulations as provided in ORS 169.170 for county prisoners. [Amended by 1973 c.740 §18]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.190 - Transfer of prisoners to another county for public work.**

Any county court or board of county commissioners may transfer to the county court or board of county commissioners of any other county any of the convicts committed to its control, under ORS 169.170 or 169.180. The court or board to which such convicts are so transferred has the same power and authority respecting such convicts as if they had been sentenced to serve in that county. The transfer of convicts from one county to another shall be made upon such terms and conditions as may be agreed upon by the county courts or boards concerned in the transfer.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.210 - Contracts for private employment of prisoners; agencies having power to work prisoners.**

(1) Except for work release programs, no county or city shall enter into any agreement or contract with any private person, firm or corporation for the employment of any convict.

(2) If any board or tribunal is created which has charge and management of the public roads of the county, such board or tribunal shall have the same power and authority as is conferred upon the county court or board of county commissioners by ORS 169.120 and 169.170 to 169.210. [Amended by 1973 c.740 §19]



**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.220 - Care of county prisoners.**

All persons lawfully confined in a county local correctional facility, or as prisoners engaged in work under the custody and jurisdiction of a county, shall be fed and maintained at actual cost to the county. All persons confined in a county local correctional facility shall be given three meals per day. An accurate account of each meal furnished to others than adults in custody of local correctional facilities, together with the names of the recipients thereof, whether facility employees or otherwise, shall be kept and reported by the sheriff each month to the county court or board of county commissioners. The county court or board of county commissioners shall furnish the sheriff with adequate equipment and supplies for carrying out the provisions of this section. The sheriff has authority to employ such assistance therefor as may be necessary. All supplies and equipment needed to feed and maintain such persons as provided in this section shall be purchased by the county court or board of county commissioners upon requisitions duly verified and presented by the sheriff to the county court or board of county commissioners. All supplies so purchased shall be paid for by warrant drawn upon the general fund of the county, upon presentation of vouchers containing itemized statements of all supplies so furnished, duly verified by the sheriff and by the person selling the same, each of whom shall certify that the supplies were actually furnished and received in the quantities represented and were of good quality, and that the price charged therefor was reasonable and just. [Amended by 1957 c.698 §1; 1973 c.740 §20; 2019 c.213 §123]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.320 - Control over prisoners; work by prisoners.**

(1) Except as otherwise provided in ORS 169.170 to 169.210, each county sheriff has custody and control of all persons legally committed or confined in the county local correctional facility of the county of the sheriff during the period of the commitment or confinement. Under the direction of the county court or board of county commissioners of the county, the sheriff may cause the prisoners in the county local correctional facility to engage in any work that is otherwise authorized by law. The work shall be performed at the places and times and in the manner as the court or board may direct. The sheriff may retain and put to work any prisoners as may be required to perform necessary services in and about the facility.

(2)(a) If the county is located within an intergovernmental corrections entity formed under ORS 190.265, the county sheriff of the county in which the facility is located is responsible for the physical custody and control of all persons legally committed to or confined in the facility during the period of the commitment or confinement and as provided in the intergovernmental agreement. The county sheriff may cause the prisoners in the local correctional facility to engage in any work that is otherwise authorized by law. The work shall be performed at the places and times and in the manner as the governing body of the intergovernmental corrections entity may direct. The sheriff may retain and put to work any prisoners as may be required to perform necessary services in and about the facility.

(b) Notwithstanding paragraph (a) of this subsection, a sheriff oversight committee has the responsibilities described in paragraph (a) of this subsection if the following requirements have been met:

(A) The agreement establishing the intergovernmental corrections entity provides for the formation and operation of a sheriff oversight committee;

(B) A sheriff oversight committee consisting of the sheriff of each county that is a member of the intergovernmental corrections entity has been formed; and

(C) Each sheriff has an equal vote on the sheriff oversight committee.

(c) A sheriff oversight committee formed as described in this subsection has all the duties and liabilities regarding the management of the local correctional facility and the physical custody and control of all persons legally committed to or confined in the facility as described in ORS 169.320 to 169.360 and 169.610 to 169.677. [Amended by 1973 c.740 §21; 1996 c.4 §5; 1999 c.801 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.330 - Civil liability for release of prisoner.**

When a prisoner has been committed to the county local correctional facility to be held until the prisoner has paid a sum of money to a private party, or a fine or penalty to the state, and is permitted to depart the facility without legal order or process, the private party or the state may recover in a civil action against the sheriff, the damages sustained by reason of the prisoner's departure. [Amended by 1961 c.649 §8; 1973 c.740 §22]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.340 - Liability for escape of defendant in a civil action.**

(1) A sheriff who suffers the escape of a prisoner, arrested or in a local correctional facility, without the consent or connivance of the party on whose behalf the arrest or imprisonment was made, is liable to an action by such party, as follows:

(a) When the arrest is upon an order of arrest in a civil action, suit or proceeding; when the presence of the defendant at the return of the summons is necessary to enable the plaintiff to proceed therein, and the defendant does not appear at the time and place specified in the summons.

(b) When the arrest or imprisonment is upon an order of arrest in any other civil action, suit or proceeding, or upon a surrender in exoneration of the sheriff or security release, and the defendant is not found upon an execution against the person of the defendant

issued to the proper county on a judgment in such action, suit, or proceeding.

(c) When the arrest is on an execution or commitment to enforce the payment of money, and the party interested is not recaptured or surrendered into custody at the expiration of the time limited for the service thereof, or legally discharged therefrom.

(d) When a person is imprisoned on an execution or commitment to enforce the payment of money, and the person escapes after the time limited for the service, and is not recaptured or surrendered before an action is commenced for the escape.

(2) The measure of damages in an action brought under subsection (1) of this section, is as follows:

(a) For the escape mentioned in subsection (1)(a) of this section, the actual damages sustained.

(b) In any other case, the amount expressed in the execution or commitment. [Amended by 1973 c.740 §23; 1999 c.1051 §259; 2003 c.576 §392]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.350 - Liability for failing to serve papers.**

When a sheriff or the officer of the sheriff, upon whom is served a paper in a judicial proceeding directed to a prisoner in the custody of the sheriff or officer, fails to forthwith deliver it to the prisoner, with a note thereon of the time of its service, the sheriff is liable to the prisoner for all damages occasioned thereby, and if the sheriff or officer willfully fails to so act, such sheriff or officer is guilty of a misdemeanor.

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.360 - Appointment of keeper of local correctional facility.**

The sheriff may appoint a keeper of the county local correctional facility, to be denominated the jailer, for whose acts as such the sheriff is responsible. The appointment shall be in writing, and the sheriff shall file a certified copy thereof in the office of the county clerk. [Amended by 1973 c.740 §24]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.610 - Policy.**

It is the policy of the Legislative Assembly to encourage better rehabilitative care to misdemeanants by encouraging the establishment of regional correctional facilities that can effectively provide a program that not only includes better custodial facilities than can be provided by cities or counties individually, but also that can provide work release, educational and other types of leave, and parole supervision by the Department of Corrections. [1971 c.636 §1; 1987 c.320 §99]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.620 - "Regional correctional facility" defined.**

As used in ORS 169.610 to 169.677, "regional correctional facility" means a correctional facility operated pursuant to agreement as described in ORS 169.630 and used to house prisoners of the parties to the agreement, such prisoners having either pretrial or post-trial status. [1971 c.636 §2; 1985 c.708 §2]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.630 - Joint establishment or operation of facilities; agreement.**

(1) Two or more counties, two or more cities, any combination of them, or the State of Oregon in combination with one or more cities or counties or both, may by agreement entered into pursuant to ORS 190.003 to 190.620, construct, acquire or equip, or may by such agreement operate, a regional correctional facility.

(2) An agreement pursuant to this section shall set forth at least:

(a) The party or combination of parties to the agreement that shall be responsible for the operation and administration of the facility;

(b) The amount of funding to be contributed by each party toward the construction or acquisition and equipping of the facility, or toward the operation of the facility, or toward both, as the case may be; and

(c) The number of beds to be reserved to the use of each party to the agreement. [1971 c.636 §3; 1985 c.708 §3]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.635 - Provision of personal hygiene products.**

Regional correctional facilities shall make available tampons, sanitary pads, postpartum pads and panty liners at no cost to all prisoners for use in connection with vaginal discharge. Facilities shall maintain a sufficient supply, which shall be stored, dispensed and disposed of in a sanitary manner. The supply of products available shall include at least the following:

(1) Regular absorbent and super absorbent tampons;

(2) Regular absorbent and super absorbent sanitary pads;

(3) Postpartum pads; and

(4) Regular absorbent panty liners. [2019 c.489 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional**

**Facilities; Prisoners; Juvenile Facilities****Section 169.640 - Status of facility for custody of misdemeanants and violators.**

(1) For purposes of sentencing and custody of a misdemeanant, a regional correctional facility shall be considered a county local correctional facility.

(2) For purposes of sentencing or custody of a person for violating a city ordinance, the regional correctional facility shall be considered a city local correctional facility. [1971 c.636 §4; 1973 c.740 §27]

**2023 Oregon Revised Statutes****Volume : 04 - Criminal Procedure, Crimes****Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities****Section 169.650 - Status of facility operated by Department of Corrections.**

A regional correctional facility operated under agreement by the Department of Corrections is not a state institution but it may be located in the same buildings as are used for a facility authorized by ORS 421.805. [1971 c.636 §7; 1987 c.320 §100]

**2023 Oregon Revised Statutes****Volume : 04 - Criminal Procedure, Crimes****Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities****Section 169.660 - Status of persons confined in facility operated by Department of Corrections; assignment to regional facility.**

(1) Persons confined in a regional correctional facility operated by the Department of Corrections shall be considered to be in the custody of the department and shall be subject to such rules as the department may prescribe.

(2) Persons committed to the custody of the Department of Corrections may be assigned to Department of Corrections bedspace at a regional correctional facility when the department is a party to the operation of the facility. Prisoners so assigned are subject to such rules as the department may prescribe and shall be considered to remain in the custody of the department regardless of whether, pursuant to agreement, the regional correctional facility is or is not under the actual administration of the department. [1971 c.636 §5; 1985 c.708 §4; 1987 c.320 §101]

**2023 Oregon Revised Statutes****Volume : 04 - Criminal Procedure, Crimes****Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities****Section 169.670 - Transfer of persons to facility operated by Department of Corrections; costs; return; exception.**

Whenever the governing body of a county or city transfers a misdemeanant or violator or a person with pretrial or post-trial status to a regional correctional facility operated by the Department of Corrections, the county or city shall pay the cost of transportation to and from the facility and other expenses incidental thereto, including the expenses of law enforcement officers accompanying the misdemeanant, violator or person with pretrial or post-trial status. The Department of Corrections shall cause at the expense of the county or city, each misdemeanant, violator or person with pretrial or post-trial status transferred to its custody under ORS 169.660 to be returned upon request of the governing body of the county or city. However, such return is not required when the release is pursuant to work release or parole where other arrangements have been made for the placement of the misdemeanant, violator or person with pretrial or post-trial status. [1971 c.636 §6; 1987 c.320 §102]

**2023 Oregon Revised Statutes****Volume : 04 - Criminal Procedure, Crimes****Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities****Section 169.673 - Conversion of state correctional institutions into regional correctional facilities.**

(1) The Department of Corrections shall negotiate with Marion County and Umatilla County, respectively, the conversion of Oregon State Correctional Institution and Eastern Oregon Correctional Institution into regional correctional facilities to house both state and county prisoners. The department shall include in the negotiations any other nearby counties desiring to participate in the operation of the regional correctional facility.

(2) If agreement is reached with Marion County, in the case of the Oregon State Correctional Institution, and with Umatilla County, in the case of Eastern Oregon Correctional Institution, the department shall proceed to operate those institutions, or either of them as to which agreement is negotiated, as regional correctional facilities according to the terms of the agreement. [1985 c.708 §6; 1987 c.320 §103]

**2023 Oregon Revised Statutes****Volume : 04 - Criminal Procedure, Crimes****Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities****Section 169.677 - Converted facilities to house felony or misdemeanor prisoners.**

If a Department of Corrections institution is made to operate as a regional correctional facility pursuant to agreement under ORS 169.673, the purposes of the institution shall include the imprisonment of either felony or misdemeanor prisoners, or both, of the parties to the agreement under which the facility is operated. [1985 c.708 §7; 1987 c.320 §104]

**2023 Oregon Revised Statutes****Volume : 04 - Criminal Procedure, Crimes****Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities****Section 169.681 - Limit on telephone service provider fee or commission; quarterly report; rules.**

(1) An inmate telephone service provider may not provide a fee or commission to a local or regional correctional facility, city or county for the provision of inmate telephone services other than a fee of five cents per minute or less, or other amount authorized by the Public Utility Commission by rule, for completed interstate, intrastate or international calls.

- (2) The per-minute rate limits described in ORS 169.683 apply to the fee described in subsection (1) of this section.
- (3) Any fee or commission received by a local or regional correctional facility, city or county under subsection (1) of this section must be deposited in the Inmate Welfare Fund Account, established under ORS 169.685, of the city or county receiving the fee or commission, or of the city or county in which the correctional facility receiving the fee or commission is located.
- (4)(a) A local or regional correctional facility, city or county that receives a fee or commission described in subsection (1) of this section shall prepare a quarterly report with the following information:
- (A) A monthly accounting of the total revenue received from the inmate telephone service provider;
  - (B) The total per-minute fees received;
  - (C) The share of revenue received by the correctional facility, city or county; and
  - (D) A detailed list of expenditures during the previous quarter from the Inmate Welfare Fund Account established under ORS 169.685.
- (b) The correctional facility, city or county shall make the report described in paragraph (a) of this subsection available to the public and shall place a link to the report on the website of the correctional facility, city or county.
- (5) The Public Utility Commission may adopt rules to carry out the provisions of this section, including rules that authorize fees in an amount other than that described in subsection (1) of this section.
- (6) As used in this section, "regional correctional facility" has the meaning given that term in ORS 169.620. [2019 c.335 §4]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.683 - Requirements for request for proposals; contents of contract; per-minute rate limits; rules.**

- (1) A local or regional correctional facility, city or county that issues a request for proposals to procure inmate telephone services shall:
- (a) Consider call quality as a primary consideration when evaluating proposals; and
  - (b) Weight call quality at not less than 35 percent of the total weight that the correctional facility, city or county gives to all factors in the final evaluation of a proposal.
- (2) A contract between a local or regional correctional facility, city or county and an inmate telephone service provider must include a requirement that the provider submit a monthly report to the correctional facility, city or county containing the following information for the previous month:
- (a) All revenue earned;
  - (b) Any fees charged;
  - (c) Any moneys paid to the correctional facility, city or county;
  - (d) The number of completed calls;
  - (e) The number of dropped calls; and
  - (f) The number of complaints concerning call quality.
- (3) A contract between a local or regional correctional facility, city or county and an inmate telephone service provider must comply with the following per-minute rate limits except as otherwise authorized by the Public Utility Commission by rule:
- (a) For local or regional correctional facilities with less than 350 beds:
    - (A) \$0.21 per minute for prepaid intrastate and interstate calls.
    - (B) \$0.25 per minute for collect intrastate and interstate calls.
    - (C) \$0.50 per minute for international calls to Mexico or Canada.
    - (D) \$0.67 per minute for all other international calls.
  - (b) For facilities with at least 350 beds but less than 1,000 beds:
    - (A) \$0.19 per minute for prepaid intrastate and interstate calls.
    - (B) \$0.23 per minute for collect intrastate and interstate calls.
    - (C) \$0.50 per minute for international calls to Mexico or Canada.
    - (D) \$0.67 per minute for all other international calls.
  - (c) For facilities with at least 1,000 beds:
    - (A) \$0.17 per minute for prepaid intrastate and interstate calls.
    - (B) \$0.21 per minute for collect intrastate and interstate calls.
    - (C) \$0.50 per minute for international calls to Mexico or Canada.
    - (D) \$0.67 per minute for all other international calls.
- (4) A contract between a local or regional correctional facility, city or county and an inmate telephone service provider may not authorize the collection of any fee other than the following:
- (a) The fees described in ORS 169.681 (1).
  - (b) For a paper copy of a billing statement requested by a customer, a \$2 fee per statement or other fee authorized by the commission by rule.
  - (c) For electronic deposits of less than \$25, a deposit fee of \$1.50 or other fee authorized by the commission by rule.
  - (d) For electronic deposits of \$25 or more, a deposit fee of \$3 or other fee authorized by the commission by rule.
  - (e) For deposits facilitated by a live operator, a deposit fee of \$5.95 or other fee authorized by the commission by rule.

- (5) Nothing in this section prohibits a contract from authorizing or collecting taxes or other fees required by law.
- (6) The Public Utility Commission may adopt rules to carry out the provisions of this section, including rules that authorize per-minute rates and fees other than the rates and fees described in this section.
- (7) As used in this section, "regional correctional facility" has the meaning given that term in ORS 169.620. [2019 c.335 §5]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.685 - Inmate Welfare Fund Account.**

(1) A city or county that maintains a local or regional correctional facility shall establish an Inmate Welfare Fund Account, separate and distinct from the general fund of the city or county. All moneys in the account may be expended only for inmate welfare and may not be used for regular inmate meals, inmate clothing, inmate medical care, facility maintenance or staff salaries, staff clothing or staff equipment.

(2) As used in this section:

(a) "Inmate welfare" means items or programs that enhance the lives of inmates, including but not limited to education programs, job training programs, drug and alcohol treatment programs, exercise equipment, televisions, cable subscriptions, electronic law library access, magazine subscriptions, books, board games, microwaves available for inmate use and meals or other foods provided for special events.

(b) "Regional correctional facility" has the meaning given that term in ORS 169.620. [2019 c.335 §6]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.690 - Establishment of halfway houses and other facilities; advice of facility advisory subcommittee of local public safety coordinating council.**

(1)(a) Before the Department of Corrections, Department of Human Services, Oregon Health Authority, Oregon Youth Authority or any city, county or other public agency establishes a facility described in paragraph (b) of this subsection, the city, county, department, authority or agency shall fully inform the local public safety coordinating council convened under ORS 423.560 of the following:

(A) The proposed location, estimated population size and use of the facility;

(B) The proposed number and qualifications of resident professional staff at the facility;

(C) The proposed rules of conduct for residents of the facility; and

(D) Other relevant information that the city, county, department, authority or agency responsible for establishing the facility considers appropriate or that the council requests. Nothing in this subparagraph authorizes the disclosure of information that is protected under state or federal law.

(b) The facilities to which paragraph (a) of this subsection applies are:

(A) Halfway houses, work release centers or any other domiciliary facilities for persons released from any penal or correctional facility but still in the custody of the city, county or public agency;

(B) Youth care centers or other facilities authorized to accept adjudicated youths under ORS 419C.478; and

(C) Residential treatment homes and residential treatment facilities, as those terms are defined in ORS 443.400, for persons who, as a condition of release under ORS 161.315 to 161.351, are required to live in a secure home or facility.

(2) The facility advisory subcommittee of the local public safety coordinating council shall advise the city, county, department, authority or agency responsible for establishing the facility as to the suitability of the proposed facility and may suggest changes in the proposal submitted under subsection (1) of this section. The advice shall:

(a) Be in writing;

(b) Represent the view of the majority of the subcommittee; and

(c) Be provided to the city, county, department, authority or agency no more than 60 days after receiving the information described in subsection (1) of this section.

(3) If the city, county, department, authority or agency responsible for establishing the facility rejects any of the advice of the facility advisory subcommittee, it must submit its reasons in writing to the subcommittee.

(4) This section does not apply if a board of county commissioners has failed to convene a local public safety coordinating council.

(5) As used in this section:

(a) "Establishes" includes entering into a contract to provide for the operation of a facility described in subsection (1)(b) of this section.

(b) "Secure home or facility" has the meaning given that term in rules adopted by the Oregon Health Authority. [1975 c.367 §1; 1977 c.381 §1; 1987 c.320 §105; 1999 c.763 §1; 2009 c.595 §117; 2009 c.828 §38; 2021 c.489 §16]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.730 - Definitions for ORS 169.740 to 169.760.**

As used in ORS 169.740 to 169.760:

(1) "Isolation" means confinement of a juvenile in any room which lacks toilet facilities, furniture, reading and recreation materials or access to light and air comparable to that in other rooms used for the detention of juveniles.

(2) "Roomlock" means confinement of a juvenile in any sleeping room, other than an isolation room, except during regular sleeping

periods; except that, in the case of facilities serving counties with a population less than 70,000, based on the 1980 census, "roomlock" does not include confining a juvenile in a sleeping room when all detained juveniles of the same sex are similarly confined due solely to the limitations of physical facilities or staff. [1981 c.869 §1a]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.740 - Standards for juvenile detention facilities.**

- (1) The standards established in ORS 169.076 to 169.078 apply to juveniles detained in juvenile detention facilities.
- (2) In addition, juvenile detention facilities shall:
  - (a) Provide for personal inspection of each juvenile at least once each hour unless a particular situation requires more frequent inspection;
  - (b) Provide for personal or electronically monitored supervision on each floor where juveniles are detained;
  - (c) Provide for separation of detained juveniles from the sight and sound of detained adults. Juveniles may not be placed in facilities that are designated for isolation of adult prisoners in order to meet this standard;
  - (d) Provide for unrestricted contact between 8 a.m. and 5 p.m. for a period of not less than five hours per day between detained juveniles and their attorneys and unrestricted attorney access to the facility for private attorney-client consultation;
  - (e) Unless otherwise ordered by the juvenile court following a hearing, provide for the private and unrestricted receipt of and sending of mail; except that incoming mail may be opened in the presence of the juvenile upon reasonable suspicion to believe that the mail contains contraband as defined in ORS 162.135 (1) and that incoming packages shall be opened in the presence of the juvenile and their contents may be held until the juvenile is released. The juvenile shall be informed of any confiscated contraband;
  - (f) Provide for the payment of postage for the juvenile's mail to an attorney or to federal, state, county or municipal government officials;
  - (g) Provide for nondispositional counseling and physical exercise of any juvenile held in excess of five judicial days and cause access to the juvenile held in excess of five judicial days for education pursuant to ORS 336.585;
  - (h) Provide for the free exercise of religion by a detained juvenile, unless such provision will cause a threat to the security of the facility or a threat of disorderly conduct within the facility;
  - (i) Make a written report, one copy of which shall be maintained in a general log, of each use of physical force, restraint, isolation, roomlock or internal search, setting forth in detail the reason such action was taken and the name of the staff person taking such action;
  - (j) Notify the attorney and the parent or guardian of the detained juvenile after the use of any physical force, restraint, isolation or internal search upon the juvenile both:
    - (A) As soon as reasonable after the use thereof; and
    - (B) By mailing a copy of the written report within 24 hours after the use thereof;
  - (k) For juveniles detained in an adult correctional facility, provide for in-person contact by juvenile department staff within 24 hours of the juvenile's admission and on a daily basis for as long as the juvenile shall remain in the facility; and
  - (L) Provide for counseling of any detained juvenile found to be within the jurisdiction of the court.
- (3) As used in this section:
  - (a) "Adult" does not include a person who is 18 years of age or older and is alleged to be, or has been found to be, within the jurisdiction of the juvenile court under ORS 419C.005.
  - (b) "Juvenile" means a person alleged to be within the jurisdiction of the juvenile court under ORS 419C.005 and an adjudicated youth. [Formerly 169.079; 1991 c.833 §2; 2003 c.442 §5; 2021 c.489 §17]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.750 - Restrictions on operation of juvenile detention facilities.**

A juvenile detention facility may not:

- (1) Impose upon a detained juvenile for purposes of discipline or punishment any infliction of or threat of physical injury or pain, deliberate humiliation, physical restraint, withholding of meals, or isolation, or detention under conditions that violate the provisions of subsections (2) to (8) of this section or ORS 169.076 (7) to (11) or (13) to (15) or 169.740;
- (2) Use any physical force, other means of physical control or isolation upon a detained juvenile except as reasonably necessary and justified to prevent escape from the facility, physical injury to another person, to protect a detained juvenile from physical self-injury or to prevent destruction of property, or to effectuate the confinement of the juvenile in roomlock or isolation as provided for in ORS 169.090, 169.730 to 169.800, 419A.050 and 419A.052, and for only so long as it appears that the danger exists. A use of force or other physical means of control may not employ:
  - (a) The use of restraining devices for a purpose other than to prevent physical injury or escape, or, in any case, for a period in excess of six hours. However, the time during which a detained juvenile is being transported to another facility pursuant to court order shall not be counted within the six hours; or
  - (b) Isolation for a period in excess of six hours;
- (3) Use roomlock except for the discipline and punishment of a detained juvenile for violation of a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or for conduct that constitutes a crime under the laws of this state or that would justify physical force, control or isolation under subsection (2) of this section;

- (4) Cause to be made an internal examination of a detained juvenile's anus or vagina, except upon probable cause that contraband, as defined in ORS 162.135 (1), will be found upon such examination and then only by a physician licensed under ORS chapter 677, naturopathic physician licensed under ORS chapter 685, physician assistant licensed under ORS 677.505 to 677.525 or nurse licensed under ORS chapter 678;
- (5)(a) Administer to any detained juvenile medication, except upon the informed consent of the juvenile or in the case of an imminent threat to the life of the juvenile or where the juvenile has a contagious or communicable disease that poses an imminent threat to the health of other persons in the facility. However, prescription medication may not be administered except upon a written prescription or written order by a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685 or dentist licensed under ORS chapter 679, and administered by a person authorized under ORS chapter 677, 678 or 679 to administer medication. Facility staff not otherwise authorized by law to administer medications may administer noninjectable medications in accordance with rules adopted by the Oregon State Board of Nursing pursuant to ORS 678.150 (8);
- (b) Nonmedical personnel shall receive training for administering medications, including recognition of and response to drug reactions and unanticipated side effects, from the responsible physician, physician assistant, naturopathic physician or nurse and the official responsible for the facility. All personnel shall be responsible for administering the dosage medications according to orders and for recording the administrations of the dosage in a manner and on a form approved by the responsible physician, physician assistant, naturopathic physician or nurse practitioner; and
- (c) Notwithstanding any other provision of law, medication may not be administered unless a physician, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse licensed under ORS chapter 678 is either physically on the premises or readily available by telephone and within 30 minutes travel time of the patient;
- (6) Administer to any detained juvenile any medication or medical procedure for purposes of experimentation;
- (7) Discipline or punish any juvenile for conduct or behavior by roomlock, for a period in excess of 12 hours, or by denial of any privilege, regularly awarded other detained adults or juveniles, for more than one day, except after:
- (a) Advising the juvenile in writing of the alleged offensive conduct or behavior;
- (b) Providing the juvenile the opportunity to a hearing before a staff member who was not a witness to the alleged offensive conduct or behavior;
- (c) Providing the juvenile the opportunity to produce witnesses and evidence and to cross-examine witnesses;
- (d) Providing the detained juvenile the opportunity to testify, at the sole option of the juvenile; and
- (e) A finding that the alleged conduct or behavior was proven by a preponderance of the evidence and that it violated a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or constituted a crime under the laws of this state; and
- (8) Detain juveniles with emotional disturbances, mental retardation or physical disabilities on the same charges and circumstances for which other juveniles would have been released or provided with another alternative. [1981 c.869 §3; 1983 c.598 §1; 1993 c.33 §313; 1997 c.765 §1; 2007 c.70 §38; 2009 c.535 §32; 2014 c.45 §31; 2017 c.356 §22; 2019 c.489 §8]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.760 - Juvenile detention facilities to establish written policy.**

All juvenile detention facilities, within six months following November 1, 1981, shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility, ORS 169.076, 169.078, 169.740 and 169.750, with respect to:

- (1) The admission and release of juveniles to and from the facility and proper notification of the juvenile's parent, guardian or other person responsible for the juvenile;
- (2) The use of physical restraints, physical force, chemical agents, internal searches and isolation of or upon a detained juvenile;
- (3) A detained juvenile's access to medical and dental treatment, education, counseling and exercise;
- (4) Access to the facility by the public and news media;
- (5) Access to reading materials for detained juveniles;
- (6) Dress and groom code which will allow for individual identity of detained juveniles;
- (7) Access to visitation and telephone calls for a detained juvenile with family and friends;
- (8) Sanctions for violating rules of prisoner conduct made pursuant to ORS 169.076 (12) and procedures for fact-finding and imposition of discipline or punishment; and
- (9) Access to records and grievance procedures for complaints by the detained juvenile, the attorney of the detained juvenile, parent or guardian or other interested person as provided for in ORS 419A.255. [1981 c.869 §5; 1993 c.33 §314; 2019 c.213 §47]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.770 - Release of detained juvenile when detention facility violates standards.**

Notwithstanding the procedures set out in ORS 169.080 and 419A.061, the juvenile court in which venue lies pursuant to 419B.100 or 419C.005 shall, upon motion of any party or on its own motion, and after prompt hearing, release any juvenile detained in a facility which violates ORS 169.076 (7) to (11) or (13) to (15), 169.740 or 169.750, unless the court finds that such violation is not likely to reoccur. The court may comply with the release provisions of this section by transferring a detained juvenile to an available

juvenile detention facility which it finds complies with ORS 169.076 (7) to (11) or (13) to (15), 169.740 and 169.750, or by placing the juvenile in shelter care, or by releasing the juvenile to the custody of a responsible adult under terms and conditions specified by the court, or by releasing the juvenile on personal recognizance under terms and conditions specified by the court. The appeal of a final order under this section does not suspend the jurisdiction of the juvenile court while the appeal is pending. No subsequent order of the juvenile court shall moot the appeal. [1981 c.869 §4; 1985 c.499 §8; 1985 c.618 §11; 1993 c.33 §315; 2001 c.480 §12; 2019 c.489 §9]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.800 - Detention of juveniles before conviction and execution of sentence.**

Notwithstanding a waiver order under ORS 419C.349, 419C.352, 419C.364 or 419C.370, if a person under 16 years of age is detained prior to conviction or after conviction but prior to execution of sentence, such detention shall be in a facility used by the county for detention of juveniles. [1985 c.631 §3; 1993 c.33 §316; 1993 c.546 §120]

**2023 Oregon Revised Statutes Volume : 04 - Criminal Procedure, Crimes Chapter 169 - Local and Regional Correctional Facilities; Prisoners; Juvenile Facilities Section 169.810 - Assumption of duties by regional correctional facility constitutes assumption by public employer; rights of transferred employees.**

(1) Assumption by the regional correctional facility of those custodial duties formerly performed by a county or city jail constitutes an assumption of duties by a public employer subject to ORS 236.610 to 236.640.

(2) An employee who transfers from employment at a county or city jail to employment at a regional correctional facility operated by the county or city by which the employee has been employed shall be accorded the following rights:

(a) If a trial or probationary service period is required for employment at the county or city jail, the period of county or city employment of the employee shall apply to that requirement.

(b) An employee who transfers from employment at a county or city jail to employment at the regional correctional facility shall retain accumulated unused sick leave with pay and the accumulated unused vacation with pay to which the employee was entitled under county or city employment on the day before the transfer that are supported by written records of accumulation and use pursuant to a plan formally adopted and applicable to the employee under county or city employment.

(c) Notwithstanding any other provision of law applicable to a retirement system for county employees or city employees, an employee who transfers from employment at a county or city jail to employment at the regional correctional facility who was participating in a retirement system under county or city employment may elect, not later than the first day of the month following the month in which the employee transfers, to continue under the retirement system in which participating and not to become, if eligible, a member of another retirement system. The election shall be made in writing and shall be submitted to the regional correctional facility administrator, the Public Employees Retirement Board and the governing body of the counties and cities that operate the regional correctional facility.

(d) If an employee elects to continue under the retirement system in which participating under county or city employment, the employee shall continue to make required contributions to that system and the administration of the regional correctional facility shall make contributions on behalf of the employee required of an employer participating in that system.

(e) If an employee fails to elect to continue under the retirement system in which participating under county or city employment as provided in paragraph (c) of this subsection or was not participating in a retirement system under county or city employment, the employee shall become, if eligible, a member of the Public Employees Retirement System. If the employee is eligible to become a member of the Public Employees Retirement System, the period of continuous service of the employee under county or city employment immediately before the transfer of the employee shall apply to the six months' service requirement of ORS 238.015, 238A.100 or 238A.300 (1).

(3) The county or city employment records, or a copy thereof, applicable to an employee transferred under subsection (2) of this section shall be provided by the person having custody of the records to the regional correctional facility administrator. [1985 c.708 §8; 2003 c.733 §48; 2011 c.722 §20]

**Title: volume-14**

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.001 - Definitions for ORS chapters 471 and 473.**

As used in this chapter and ORS chapter 473:

(1) "Alcoholic beverage" and "alcoholic liquor" mean any liquid or solid containing more than one-half of one percent alcohol by volume and capable of being consumed by a human being.

(2) "Commercial establishment" means a place of business:

(a) Where food is cooked and served;

(b) That has kitchen facilities adequate for the preparation and serving of meals;

(c) That has dining facilities adequate for the serving and consumption of meals; and

(d) That:

(A) If not a for-profit private club, serves meals to the general public; or



- (B) If a for-profit private club, serves meals to the club's members and guests and complies with any minimum membership and food service requirements established by Oregon Liquor and Cannabis Commission rules.
- (3) "Commission" means the Oregon Liquor and Cannabis Commission.
- (4) "Distilled liquor" means any alcoholic beverage other than a wine, cider or malt beverage. "Distilled liquor" includes distilled spirits.
- (5) "Licensee" means any person holding a license issued under this chapter.
- (6)(a) "Malt beverage" means beer, ale, porter, stout and other similar fermented beverages that contain more than one-half of one percent and not more than 16 percent of alcohol by volume and that are brewed or produced from malt, wholly or in part, or from rice, grain, bran, glucose, sugar or molasses as a substitute for malt.
- (b) "Malt beverage" does not include cider, mead, sake or wine.
- (7) "Manufacturer" means every person who produces, brews, ferments, manufactures or blends an alcoholic beverage within this state or who imports or causes to be imported into this state an alcoholic beverage for sale or distribution within the state.
- (8) "Permittee" means a person holding a permit issued under ORS 471.360 to 471.385.
- (9) "Premises" or "licensed premises" means a location licensed under this chapter and includes all enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where patrons are permitted to be present. "Premises" or "licensed premises" includes areas outside of a building that the commission has specifically designated as approved for alcoholic beverage service or consumption.
- (10) "Regulatory specialist" means a full-time employee of the commission who is authorized to act as an agent of the commission in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing this chapter, ORS 474.005 to 474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 and 475C.600 to 475C.648, commission rules and any other statutes the commission considers related to regulating liquor, marijuana or marijuana-derived products.
- (11) "Wine" means any fermented vinous liquor or fruit juice, or other fermented beverage fit for beverage purposes that is not a malt beverage, containing more than one-half of one percent of alcohol by volume and not more than 21 percent of alcohol by volume. "Wine" includes fortified wine. "Wine" does not include cider. [1995 c.301 §2; 1999 c.351 §42; 2005 c.100 §1; 2010 c.33 §1; 2012 c.54 §1; 2015 c.614 §160; 2016 c.24 §19; 2021 c.180 §4; 2021 c.351 §38]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.023 - "Cider" defined.**

For the purposes of this chapter, "cider" means an alcoholic beverage made from the fermentation of the juice of apples or pears that contains not more than 8.5 percent of alcohol by volume, including, but not limited to, flavored, sparkling, carbonated or fortified cider. [1999 c.351 §66; 2007 c.45 §1; 2017 c.202 §1; 2021 c.596 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.027 - Short title.**

This chapter and ORS 474.105 and 474.115 shall be known and may be cited as the "Liquor Control Act." [Amended by 1965 c.165 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.030 - Purpose of Liquor Control Act.**

- (1) The Liquor Control Act shall be liberally construed so as:
- (a) To prevent the recurrence of abuses associated with saloons or resorts for the consumption of alcoholic beverages.
- (b) To eliminate the evils of unlicensed and unlawful manufacture, selling and disposing of such beverages and to promote temperance in the use and consumption of alcoholic beverages.
- (c) To protect the safety, welfare, health, peace and morals of the people of the state.
- (2) Consistent with subsection (1) of this section, it is the policy of this state to encourage the development of all Oregon industry.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.035 - Certain products exempted from liquor laws.**

No provision of the Liquor Control Act shall, by reason only that such product contains alcoholic liquor, prevent the sale of any perfume, lotion, tincture, varnish, dressing fluid, extracts, acid vinegar, or of any official medicinal or pharmaceutical preparations, or of any patent or proprietary medicine intended solely for medicinal purposes.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.037 - Homemade beer, wine and fermented fruit juice exemption from liquor laws.**

- (1) As used in this section and ORS 471.268:
- (a)(A) "Financial consideration," except as provided in subparagraph (B) of this paragraph, means value that is given or received directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.

- (B) "Financial consideration" does not mean any of the following:
- (i) A tax deduction or credit for donating beer, wine or fermented fruit juice to a nonprofit organization.
  - (ii) An event admission charge or club or organization dues, if the amount of the admission charge or dues is independent of the amount of alcoholic beverages to be provided or consumed at the event or through club or organization activities.
  - (iii) A prize awarded at a state or county fair or other organized judging, tasting, exhibition, contest or competition at which consumption of a submitted beer, wine or fermented fruit juice is without charge and only by the entrants, submitters, judges, exhibitors, contestants or competitors.
  - (iv) Homemade beers, wines or fermented fruit juices made by other persons.
  - (v) Beer, wine or fermented fruit juice ingredients.
  - (vi) Wages and salaries paid by an educational organization for teaching brewing, winemaking, fermentation science or fermentation processes.
  - (vii) The receipt of donated homemade beers, wines or fermented fruit juices by a nonprofit or charitable organization registered in this state for sale at an auction under ORS 471.162 (6), or the proceeds received by the organization from selling those donated homemade beers, wines or fermented fruit juices at an auction under ORS 471.162 (6).
- (b) "Homemade" means made for noncommercial purposes.
- (c) "Noncommercial" means not dependent or conditioned upon the provision or receipt of financial consideration.
- (2) Except as provided in subsection (3) of this section, the Liquor Control Act does not apply to the following:
- (a) The making of homemade beer, wine or fermented fruit juice, if the total of beer, wine and fermented fruit juice produced during a calendar year does not exceed:
    - (A) One hundred gallons in a household having one person who is 21 years of age or older; or
    - (B) Two hundred gallons in a household having two or more persons who are 21 years of age or older.
  - (b) The keeping, storage or transportation of homemade beer, wine or fermented fruit juice.
  - (c) The possession of mash, wort or wash, for the purpose of making homemade beer, wine or fermented fruit juice.
  - (d) Except as provided in ORS 471.268, the noncommercial consumption at any location of homemade beer, wine or fermented fruit juice.
- (3) Subsection (2) of this section does not exempt any person from ORS 471.410, 471.430 or 471.432. [2011 c.12 §2; 2017 c.533 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.038 - Nonbeverage food products.**

- (1) Nonbeverage food products described in subsection (6) of this section may be sold at retail by any holder of a license issued by the Oregon Liquor and Cannabis Commission that authorizes the sale of alcoholic liquor at retail, or in any store operated by the commission under the provisions of ORS 471.750. Any nonbeverage food product containing more than one-half of one percent of alcohol by volume must be clearly labeled to reflect the alcohol content of the product and clearly labeled on the front of the package to indicate that the product may not be sold to persons under 21 years of age.
- (2) Except as provided by this section, sales of nonbeverage food products described in subsection (6) of this section are subject to all provisions of this chapter, including the prohibitions on sales to persons under 21 years of age and the prohibitions on sales to persons who are visibly intoxicated.
- (3) Nonbeverage food products described in subsection (6) of this section may be imported, stored and distributed in this state without a license issued by the commission. Nonbeverage food products described in subsection (6) of this section are not subject to the privilege taxes imposed by ORS chapter 473.
- (4) Manufacturers of nonbeverage food products described in subsection (6) of this section are not subject to the provisions of ORS 471.392 to 471.400, 471.485, 471.490 or 471.495 or any other provision of this chapter relating to manufacturers of alcoholic liquor. A manufacturer of nonbeverage food products described in subsection (6) of this section may sell and deliver the product directly to a licensee authorized under this section to sell the product at retail.
- (5) The holder of a distillery license issued under ORS 471.230 who is also a manufacturer of nonbeverage food products described in subsection (6) of this section may purchase distilled liquor directly from other distilleries.
- (6) The provisions of this section apply only to nonbeverage food products that contain not more than five percent alcohol by weight or 10 percent alcohol by volume, whichever is greater. [1995 c.250 §2; 1997 c.249 §169; 1997 c.258 §1; 1999 c.351 §43; 2021 c.351 §39]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.039 - Certain cruise ships exempt from liquor laws.**

- (1) Notwithstanding any provision of this chapter, the Oregon Liquor and Cannabis Commission may not require the owners, operators and employees of a cruise ship to have a license or permit issued under the provisions of this chapter for the purpose of possessing, transporting, storing, selling or serving alcoholic beverages that are described in subsection (3) of this section.
- (2) The provisions of ORS 471.740 do not apply to alcoholic beverages that are described in subsection (3) of this section.
- (3) The provisions of this section apply only to alcoholic beverages that are served aboard a cruise ship and that are served solely for the purpose of onboard consumption by a cruise ship's passengers, guests, officers and employees.

(4) For the purposes of this section, "cruise ship" means a marine vessel used primarily for nonfishing purposes that is licensed to carry at least 500 passengers, provides overnight accommodations for those passengers and operates on the rivers or waterways within the boundaries of the State of Oregon, including docking and dry docking, fewer than 45 days during a calendar year. [1997 c.256 §2; 1999 c.351 §44; 2021 c.351 §40]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.040 - General powers and duties of the commission; rules; delegation.**

(1) The Oregon Liquor and Cannabis Commission has the powers and duties specified in this chapter and ORS 474.105 and 474.115, and also the powers necessary or proper to enable it to carry out fully and effectually all the purposes of this chapter and ORS 474.105 and 474.115. It shall make such rules and regulations pertaining to natural and fortified wines as will prevent the importation and sale in Oregon of blended, rectified, adulterated or low-quality wines. The jurisdiction, supervision, powers and duties of the commission extend to any person who buys, sells, manufactures, imports or transports any alcoholic liquor within this state. The commission may sue and be sued.

(2) Except for the power to adopt rules, the commission may delegate any of the commission's powers or duties to the administrator appointed under ORS 471.720. [Amended by 2001 c.785 §10; 2021 c.351 §41]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.045 - Liquor laws supersede and repeal inconsistent charters and ordinances.**

The Liquor Control Act, designed to operate uniformly throughout the state, shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent with it. Such charters and ordinances hereby are repealed.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.105 - Purchaser's qualifications.**

Before being qualified to purchase alcoholic liquor from the Oregon Liquor and Cannabis Commission, a person must be at least 21 years of age. [Amended by 1961 c.687 §5; 1967 c.577 §1; 1971 c.159 §1; 2005 c.22 §343; 2021 c.351 §42]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.115 - Limitations on purchasing may be imposed.**

The Oregon Liquor and Cannabis Commission may limit the quantity of alcoholic liquor purchased at any one time by any person. It may limit the amount of purchases within any length of time so as effectually to prevent the resale of such liquors. [Amended by 2021 c.351 §43]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.130 - Requiring statement of age or identification from certain purchasers.**

(1) Before selling or serving an alcoholic beverage to any person about whom there is any reasonable doubt of the person's having reached 21 years of age, a licensee or permittee shall require the person to produce one of the following pieces of identification:

- (a) The person's passport issued by the United States or a foreign government.
- (b) The person's motor vehicle operator's license issued by this state or another state of the United States or a province or territory of Canada.
- (c) An identification card issued under ORS 807.400.
- (d) A United States military identification card.
- (e) An identification card issued by a federally recognized Indian tribe.
- (f) Any other identification card issued by a state or territory of the United States or province or territory of Canada that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.
- (g) Proof of the person's participation in the Secure Electronic Network for Travelers Rapid Inspection program operated by United States Customs and Border Protection, the NEXUS program jointly operated by that agency and the Canada Border Services Agency, or a successor to either of those programs that is recognized by the Oregon Liquor and Cannabis Commission.
- (h) Any other form of identification as defined by the commission by rule.

(2) If a person does not have identification as described in subsection (1) of this section, the permittee or licensee shall require the person to make a written statement of age and furnish evidence of the person's true age and identity. The written statement of age shall be on a form furnished or approved by the commission, including but not limited to the following information:

Date \_\_\_\_\_

I am 21 years of age or over. \_\_\_\_\_

Signature \_\_\_\_\_

Description of evidence in support of age and identity:

\_\_\_\_ Identification No. (if any) \_\_\_\_

\_\_\_\_ Identification No. (if any) \_\_\_\_

I hereby certify that I have accurately recorded identification of the evidence submitted to complete this form.

\_\_\_\_\_  
Signature of permittee or licensee

A person under 21 years of age who knowingly misrepresents the person's true age with the intent of obtaining alcohol in violation of ORS chapter 471 may be subject to criminal penalties under ORS 165.805.

\_\_\_\_\_  
[Amended by 1955 c.525 §1; 1961 c.687 §4; 1967 c.171 §1; 1967 c.577 §7; 1979 c.313 §1; 1983 c.338 §939; 1995 c.44 §1; 1999 c.526 §1; 2001 c.785 §6; 2003 c.225 §1; 2017 c.533 §5; 2019 c.658 §1; 2021 c.180 §5; 2021 c.351 §44a]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.135 - False statement of age; statement of age as defense.**

(1) No person shall make a written statement of age under ORS 471.130 that is false in whole or in part, or produce any evidence that would falsely indicate the person's age.

(2) If a written statement of age and the information pertaining to the evidence which was exhibited to the permittee or licensee at the time the statement was made that is entered in writing on the statement, are offered as evidence in any administrative or criminal prosecution for sale or service of alcoholic liquor to a person not having reached 21 years of age, the permittee or licensee shall be found to have committed no crime or other wrong unless it is demonstrated that a reasonable person would have determined that the identification exhibited was altered or did not accurately describe the person to whom the alcoholic liquor was sold or served.

[Amended by 1955 c.525 §2; 1967 c.53 §1; 1979 c.313 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.155 - Commission's licensing duties; bonds.**

(1) The Oregon Liquor and Cannabis Commission shall provide for the licensing of persons and cities within the state to manufacture, distribute, take orders for and sell spirits, wines, beer and other alcoholic liquors. Except as provided in subsection (2) of this section, the holder of a brewery, winery, wholesale, warehouse, grower sales privilege or brewery-public house license or the holder of a direct to retailer permit shall give, and at all times maintain on file with the commission, a bond with a corporate surety authorized to transact business in this state. The bond shall be in form and amount acceptable to the commission, shall be payable to the commission and conditioned that the licensee or permittee will pay any fine imposed for any violation of any provision of the Liquor Control Act and that the licensee or permittee will pay all license fees, privilege taxes, taxes imposed under ORS 473.045 and other taxes on alcoholic liquors, together with penalties and interest thereon, levied or assessed against the licensee or permittee under statutes relating to the importation, manufacture, distribution, sale or taxation of alcoholic liquors in the State of Oregon.

(2) Under such conditions as the commission may prescribe, the holder of a brewery, winery, wholesale, warehouse, grower sales privilege or brewery-public house license or the holder of a direct to retailer permit may deposit, in lieu of the bond required by subsection (1) of this section, the equivalent value in cash, bank letters of credit recognized by the State Treasurer or negotiable securities of a character approved by the State Treasurer. The deposit is to be made in a bank or trust company for the benefit of the commission. Interest on deposited funds or securities shall accrue to the depositor. [Formerly 471.210; 2007 c.637 §1; 2007 c.651 §5a; 2021 c.351 §45; 2023 c.391 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.157 - Licenses issuable.**

The licenses described in this chapter may be issued by the Oregon Liquor and Cannabis Commission, subject to its regulations and restrictions and the provisions of the Liquor Control Act. [Formerly 471.215; 2013 c.537 §1; 2021 c.351 §46]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.159 - Enclosure of licensed premises.**

(1) The Oregon Liquor and Cannabis Commission may not license a location that does not have defined boundaries.

(2) A licensed premises need not be enclosed by a wall, fence or other structure, but the commission may require that any licensed premises be enclosed as a condition of issuing or renewing a license.

(3) Except as provided in ORS 471.182, the commission may not license premises that are mobile. [1999 c.351 §14 (enacted in lieu of 471.017); 2021 c.351 §47]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.162 - Exemptions from license requirement.**

(1) Hospitals, sanitariums, convalescent homes, rest homes, retirement homes and facilities for the care of the elderly that have been licensed or registered by the state may sell and serve alcoholic beverages to patients, inmates and residents, and to bona fide visitors and guests of patients, inmates and residents, without a license issued under this chapter. Facilities authorized to sell and serve alcoholic beverages without a license under this subsection may not sell or serve alcoholic beverages after 10 p.m. except upon a

physician's prescription.

(2) A person who operates a private residence that is not a boarding house but that accommodates transient guests for a limited duration may sell and serve wine, malt beverages and cider to registered overnight guests without a license. Facilities authorized to sell and serve alcoholic beverages without a license under this subsection must have six or fewer guest units.

(3) A person who is an employee or agent of the holder of a license issued under this chapter that authorizes wholesale distribution of alcoholic beverages may, on behalf of the licensee, sell alcoholic beverages in factory-sealed containers to retail licensees and wholesalers.

(4) A pharmacist licensed under the laws of this state may sell alcoholic beverages without a license. Pharmacists may only sell alcoholic beverages under the provisions of this section if the alcoholic beverages are drugs as defined in ORS 689.005. A pharmacist may sell alcoholic beverages under the provisions of this subsection pursuant to a prescription, in containers of not more than one quart capacity.

(5) A wine collector, or the agent of a wine collector, may sell wine in factory-sealed containers at auction without a license. Any wine sold under this subsection must have been held by the collector for at least a six-month period. A wine collector must receive written approval from the Oregon Liquor and Cannabis Commission before conducting a sale under this subsection. No more than one sale in a 12-month period may be conducted by a wine collector under the provisions of this subsection.

(6)(a) As used in this subsection, "homemade" has the meaning given that term in ORS 471.037.

(b) A nonprofit or charitable organization registered in this state may sell, including but not limited to through an auction or raffle, alcoholic beverages for up to 45 days in a calendar year without a license issued under this chapter, subject to paragraphs (c) to (f) of this subsection.

(c) Prior to selling or offering for sale an alcoholic beverage, the organization must obtain written approval from the commission to sell or offer for sale an alcoholic beverage on any day on which the organization wishes to sell or offer for sale alcoholic beverages under this subsection.

(d) The organization may sell malt beverages, wine, cider and distilled liquor purchased by or donated to the organization. Except for donated homemade malt beverages, wine and fermented fruit juices, the purchased or donated malt beverages, wine, cider and distilled liquor must be imported into this state by the commission or be manufactured in or imported into this state under a brewery, brewery-public house, distillery, grower sales privilege, winery or wholesale malt beverage and wine license.

(e) The organization may sell:

(A) Malt beverages, wine, cider, distilled liquor and donated homemade malt beverages, wine and fermented fruit juices by the drink for on-premises consumption;

(B) Malt beverages, wine, cider and donated homemade malt beverages, wine and fermented fruit juices in factory-sealed containers or securely covered containers for off-premises consumption; and

(C) Up to a total of four liters per calendar year of distilled liquor in factory-sealed containers for off-premises consumption.

(f) The organization may deliver or arrange for the delivery of alcoholic beverages sold for off-premises consumption as described in this subsection.

(7) A manufacturer may sell proprietary or patent medicines, perfumes, lotions, flavoring extracts, medicinal tinctures and other preparations unfit for beverage purposes without a license. [1999 c.351 §10; 2012 c.16 §1; 2017 c.533 §6; 2021 c.180 §6; 2021 c.351 §48]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.164 - Authority of cities and counties over establishments that offer entertainment or serve alcoholic beverages.**

(1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that offer entertainment or serve alcoholic beverages if the city or county makes specific findings that the establishment would cause adverse effects to occur.

(2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state. [Formerly 471.213]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.166 - Local government recommendations on license issuance and renewal; rules; fees.**

(1) The Oregon Liquor and Cannabis Commission may require that every applicant for issuance or renewal of a license under this chapter acquire a written recommendation from the governing body of the county if the place of business of the applicant is outside an incorporated city, and from the city council if the place of business of the applicant is within an incorporated city. The commission may take such written recommendation into consideration before granting or refusing the license.

(2) If the commission requires that an applicant for issuance of a new license acquire the written recommendation of a local government, the applicant must give notice to the local government when an application is made for issuance of the license. If the local government files a favorable recommendation with the commission within 45 days after the notice is given, the commission shall proceed with consideration of the application. The commission shall proceed with consideration of the application as though the local government had made a favorable recommendation unless, within 45 days after notice is given to the local government:

(a) The local government files an unfavorable recommendation with the commission with a statement of the grounds for the

unfavorable recommendation; or

(b) The local government files a request for additional time with the commission that sets forth the reason additional time is needed by the local government, a statement that the local government is considering making an unfavorable recommendation on the application, and the specific grounds on which the local government is considering making an unfavorable recommendation.

(3) If the commission requires that an applicant for renewal of a license acquire the written recommendation of a local government under this section, the commission shall give notice to the local government when an application is due for renewal of the license. If the local government files a favorable recommendation with the commission within 60 days after the notice is given, the commission shall proceed with consideration of the application. The commission shall proceed with consideration of the application as though the local government had made a favorable recommendation unless within 60 days after notice is given to the local government:

(a) The local government files an unfavorable recommendation with the commission with a statement of the grounds for the unfavorable recommendation; or

(b) The local government files a request for additional time with the commission that sets forth the reason additional time is needed by the local government, a statement that the local government is considering making an unfavorable recommendation on the application, and the specific grounds on which the local government is considering making an unfavorable recommendation.

(4) The commission shall suspend consideration of an application subject to this section for a reasonable period of time if a local government requests additional time under subsection (2)(b) or (3)(b) of this section and the grounds given by the local government are valid grounds for an unfavorable determination under this chapter or rules adopted by the commission. The commission shall by rule establish the period of time that shall be granted to a local government pursuant to a request under subsections (2)(b) and (3)(b) of this section.

(5) The commission shall by rule establish valid grounds for unfavorable recommendations by local governments under this section. Valid grounds established by the commission under this section for an unfavorable recommendation by a local government must be limited to those grounds considered by the commission in making an unfavorable determination on a license application.

(6) A person filing an application for issuance or renewal of a license that is subject to this section must remit to the local government the fees established under subsections (7) and (8) of this section. The commission shall give notice to the applicant for license renewal of the amount of the fees and the name of the local government collecting the fees. The commission is not responsible for collecting the fees charged by the local government or for ensuring that the fees have been paid. An applicant for a license renewal shall certify in the application form filed with the commission that the applicant has paid any fees required under this section.

(7) An applicant required to seek a written recommendation from a local government must pay an application fee to the local government, in an amount determined by the governing body of the city or county, for each application for a license. The application fee established by a local government under this subsection may not exceed \$25.

(8) After public notice and hearing, the governing body of a city or county may adopt an ordinance, rule or resolution prescribing licensing guidelines to be followed in making recommendations on license applications under this chapter and in allowing opportunity for public comment on applications. If the guidelines are approved by the commission as consistent with commission rules, after public notice and hearing the governing body may adopt an ordinance, rule or regulation establishing a system of fees that is reasonable and necessary to pay expenses of processing the written recommendation. Processing fees under this subsection are in lieu of fees under subsection (7) of this section. In no case shall the processing fee under this subsection be greater than \$100 for an original application, \$75 for a change in ownership, change in location or change in privilege application, and \$35 for a renewal or temporary application. [1999 c.351 §20; 2003 c.337 §1; 2021 c.351 §49]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.168 - Certain licensees required to maintain liquor liability insurance or bond; rules.**

(1) For the purpose of providing coverage for injuries suffered by persons by reason of the conduct of intoxicated persons who were served alcoholic beverages on licensed premises while visibly intoxicated, all persons holding a license described in this section must either:

(a) Maintain liquor liability insurance of not less than \$300,000; or

(b) Maintain a bond with a corporate surety authorized to transact business in this state in the amount of not less than \$300,000.

(2) The Oregon Liquor and Cannabis Commission may by rule require liquor liability insurance or bond in an amount larger than the minimum amount provided for in subsection (1) of this section.

(3) The requirements of this section apply to full on-premises sales licenses, limited on-premises sales licenses and brewery-public house licenses. The requirements of this section apply to temporary sales licenses, special events winery licenses, special events grower sales privilege licenses, special events brewery-public house licenses, special events brewery licenses and special events distillery licenses if the event that is licensed is open to the public and attendance at the event is anticipated to exceed 300 individuals per day.

(4) The requirements of this section apply to winery licenses, brewery licenses and grower sales privilege licenses unless an applicant for issuance of the license or renewal of the license submits with the application for issuance or renewal of the license an affidavit that states that the licensee will not allow consumption of alcoholic beverages on the premises.

(5) All licensees subject to the requirements of this section must supply proof of compliance at the time the license is issued or

renewed. The commission by rule shall determine the manner in which proof of compliance may be made under the provisions of this subsection. The commission may require a licensee to present proof of compliance with liquor liability insurance and bond requirements at any time upon request of the commission.

(6) Failure of a licensee to comply with liquor liability insurance or bond requirements imposed under this section constitutes a serious threat to public health and safety. In addition to any action available to the commission under ORS 471.313 or 471.315, the commission may immediately suspend or refuse renewal of a license as provided under ORS 183.430 (2) if the licensee fails to comply with those insurance or bond requirements.

(7) If a licensee fails to provide proof of compliance with liquor liability insurance or bond requirements imposed under this section at the time of license renewal or when requested by the commission, the failure is sufficient reason for the commission to find for purposes of ORS 183.430 (2) that the licensee has failed to comply with the insurance or bond requirements. [Formerly 471.218; 2009 c.140 §1; 2009 c.237 §1; 2009 c.514 §1; 2016 c.3 §3; 2021 c.351 §50]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.175 - Full on-premises sales license; rules.**

(1) The holder of a full on-premises sales license may sell by the drink at retail wine, malt beverages, cider and distilled liquor. Except as provided in this section and ORS 471.176, all alcoholic beverages sold under a full on-premises sales license must be consumed on the licensed premises.

(2) A full on-premises sales license may be issued only to a:

(a) Nonprofit private club, as described in subsection (11) of this section.

(b) Public passenger carrier as provided in ORS 471.182.

(c) Commercial establishment, as defined in ORS 471.001 (2).

(d) Public location that does not qualify for licensing under paragraphs (a) to (c) of this subsection if:

(A) Food is cooked and served at the location;

(B) The predominant business activity at the location is other than the preparation or serving of food or the serving of alcohol; and

(C) The location meets any minimum food service requirements established by Oregon Liquor and Cannabis Commission rule.

(e) Caterer, subject to the requirements of ORS 471.184.

(3) The holder of a full on-premises sales license shall allow a patron to remove a partially consumed bottle of wine from the licensed premises if the wine is served in conjunction with the patron's meal, the patron is not a minor and the patron is not visibly intoxicated.

(4) The holder of a full on-premises sales license may purchase any distilled liquor from an agent of the commission appointed pursuant to ORS 471.750 at a discount of not more than five percent off the regular listed price fixed by the commission, together with all taxes, in a manner prescribed by commission rule. For purposes of compensation by the commission, the appointed agent shall be credited with such sales at full retail cost. The commission may not require the licensee to purchase more than one container of distilled liquor at a time if the distilled liquor:

(a) Except as provided in subsection (12) of this section, has a retail sales price of \$30 or more per container;

(b) Is available through a distributor in the United States that does not require the commission to acquire more than one case of the distilled liquor in a single transaction;

(c) Is not regularly stocked by the commission; and

(d) Is ordered in a 750 milliliter container size if available in that size.

(5) The holder of a full on-premises sales license may purchase distilled liquor only from a retail sales agent of the commission or from another person licensed under this section who has purchased the distilled liquor from a retail sales agent of the commission.

(6) The holder of a full on-premises sales license may purchase for sale at retail malt beverages, wine and cider only from a holder of a license or permit issued by the commission that authorizes sales of malt beverages, wine or cider at wholesale to licensees of the commission.

(7) The holder of a full on-premises sales license may sell for consumption off the licensed premises malt beverages, wine and cider in securely covered containers provided by the consumer that have capacities of not more than two gallons each.

(8) The holder of a full on-premises sales license may sell for consumption off the licensed premises malt beverages, wine and cider in factory-sealed containers.

(9)(a) The holder of a full on-premises sales license may deliver malt beverages, wine and cider that are sold for off-premises consumption under the privileges of the license to retail customers in this state without a direct shipper permit issued under ORS 471.282. Any deliveries by the licensee are subject to any rules adopted by the commission relating to deliveries made under this subsection.

(b) The holder of a full on-premises sales license that uses a third-party delivery facilitator to make deliveries under this subsection is not responsible for ensuring that the deliveries made by the third-party delivery facilitator meet any requirements applicable to the deliveries.

(10) On or before the 20th day of each month, the holder of a full on-premises sales license shall submit to the commission a report showing the quantity of malt beverages, wine or cider received from the holder of a direct to retailer permit issued under ORS 471.274 during the immediately preceding calendar month, and any other information required by the commission by rule.

(11) A nonprofit private club, including but not limited to a fraternal or veterans organization, may qualify for a full on-premises

sales license under this section only if the club meets any minimum membership, nonprofit status and food service requirements established by commission rule.

(12) Beginning January 1, 2017, the commission may annually adjust the price threshold established in subsection (4)(a) of this section by a percentage equal to the percentage change in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30.

(13) The commission may adopt rules to carry out this section. [1999 c.351 §2; 2001 c.104 §213; 2001 c.154 §1; 2010 c.33 §2; 2011 c.180 §1; 2013 c.32 §1; 2019 c.57 §27; 2021 c.180 §7; 2021 c.275 §3; 2021 c.351 §51; 2023 c.391 §2; 2023 c.539 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.176 - Sale of mixed drinks and single servings of wine by holder of full on-premises sales license; rules.**

(1) As used in this section:

(a) "Mixed drink" means a beverage that is a combination of wine or distilled liquor and one or more mixers that is combined on a licensed premises and sold in a sealed container for consumption off the licensed premises.

(b) "Sealed container" means a container with a secure cap or lid:

(A) That is designed to prevent consumption of the contents of the container without removal of the cap or lid; or

(B) That has a seal covering the holes or opening, if the cap or lid has sipping holes or an opening for a straw to allow consumption of the contents of the container without removal of the cap or lid.

(2) Notwithstanding ORS 471.175, the holder of a full on-premises sales license may make retail sales of mixed drinks and single servings of wine for off-premises consumption if the mixed drink or single serving of wine is sold in a sealed container that meets the requirements of subsection (3) of this section. The retail sale must be made directly to the consumer although delivery may be made through a third party that provides a delivery service.

(3) The cap or lid, and any seal, of the sealed container must be affixed to the container in a manner that makes it obvious when the cap or lid, and any seal, has been removed or broken. The cap or lid, and any seal, may be affixed with the use of tape or other adhesive.

(4) The Oregon Liquor and Cannabis Commission may adopt rules to carry out this section, including rules establishing additional requirements for the retail sale of mixed drinks and single servings of wine for off-premises consumption. [2021 c.275 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.178 - Limited on-premises sales license; rules.**

(1) The holder of a limited on-premises sales license may sell by the drink at retail wine, malt beverages and cider. Except as provided in this section, all alcoholic beverages sold under a limited on-premises sales license must be consumed on the licensed premises.

(2) The holder of a limited on-premises sales license may sell malt beverages, wine and cider in factory-sealed containers for consumption off the licensed premises.

(3) The holder of a limited on-premises sales license may sell for consumption off the licensed premises malt beverages, wine and cider in securely covered containers provided by the consumer and that have capacities of not more than two gallons each.

(4)(a) The holder of a limited on-premises sales license may deliver malt beverages, wine and cider that are sold for off-premises consumption under the privileges of the license to retail customers in this state without a direct shipper permit issued under ORS 471.282. Any deliveries by the holder of a limited on-premises sales license are subject to any rules adopted by the commission relating to deliveries made under this subsection.

(b) The holder of a limited on-premises sales license that uses a third-party delivery facilitator to make deliveries under this subsection is not responsible for ensuring that the deliveries made by the third-party delivery facilitator meet any requirements applicable to the deliveries.

(5) The holder of a limited on-premises sales license shall allow a patron to remove a partially consumed bottle of wine from the licensed premises if the wine is served in conjunction with the patron's meal, the patron is not a minor and the patron is not visibly intoxicated.

(6) The holder of a limited on-premises sales license may purchase for sale at retail malt beverages, wine and cider only from the holder of a license or permit issued by the commission that authorizes sales of malt beverages, wine or cider at wholesale to licensees of the commission.

(7) On or before the 20th day of each month, the holder of a limited on-premises sales license shall submit to the commission a report showing the quantity of malt beverages, wine or cider received from the holder of a direct to retailer permit issued under ORS 471.274 during the immediately preceding calendar month, and any other information required by the commission by rule.

(8) The commission may adopt rules to carry out this section. [1999 c.351 §3; 2001 c.154 §2; 2013 c.32 §2; 2021 c.180 §8; 2023 c.391 §3; 2023 c.539 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.180 - In-room supply of alcoholic beverages by hotel or arena.**



A full or limited on-premises sales license issued to a hotel or arena under the provisions of this chapter authorizes the person to whom the license is issued to provide for in-room supplies of the alcoholic beverages otherwise authorized to be sold under the license. Any in-room supply of alcoholic beverages that are available for purchase by patrons of the hotel or arena shall be kept in a locked cabinet, and shall conform with any rules that the Oregon Liquor and Cannabis Commission may promulgate to ensure the enforcement of other provisions of this chapter. [Formerly 471.307; 2021 c.351 §52]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.182 - Issuance of full or limited on-premises sales license to public passenger carrier; airline storage facilities.**

(1) The Oregon Liquor and Cannabis Commission may grant a full or limited on-premises sales license to the owner or operator of a licensed public passenger carrier only as specified in this section. A public passenger carrier licensed by the commission under this section must serve food as required by rules of the commission.

(2) The commission may issue a full on-premises sales license to:

(a) An airline for use in operating aircraft that are licensed to carry at least 40 passengers and that arrive at or depart from an airport in this state.

(b) A railroad corporation for use in operating passenger trains in this state.

(c) The owner or operator of one or more tour boats that are licensed to carry at least 40 passengers to or from any port of this state and that are primarily used for nonfishing purposes.

(3) The commission may issue a limited on-premises sales license to any of the persons specified in subsection (2) of this section. In addition, the commission may issue a limited on-premises sales license to the owner or operator of a licensed public passenger carrier not described in subsection (2) of this section if the carrier is a mobile vehicle that is licensed to carry at least 40 passengers.

(4) A license issued to a commercial airline under this section grants the licensee the privilege of accepting delivery and storing alcoholic liquor at designated storage facilities in this state for subsequent retail sale to the airline's ticketed passengers while aboard a commercial airplane. Storage facilities described in this subsection are subject to the prior written approval of the commission if at a location other than the primary premises address listed on the license certificate. [1999 c.351 §4; 2019 c.373 §3; 2021 c.351 §53]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.184 - Catering and other temporary off-premises service under full or limited on-premises sales license; rules.**

(1) The holder of a full or limited on-premises sales license may cater a temporary event at a location other than the licensed premises if the event is not open to the general public. Catering of an event under this subsection must be pursuant to a contract with a client. The contract must provide that the licensee will furnish food and beverage services for no more than 100 patrons. The licensee must serve food as required by rules of the commission. The licensee may cater events under this subsection without giving advance notice to the Oregon Liquor and Cannabis Commission if, before the event occurs, the commission gives written approval to the licensee authorizing catering pursuant to this subsection. Events catered under the provisions of this subsection must meet all requirements for enclosure of premises that may be imposed by the commission for the purposes of this section. Notwithstanding ORS 471.175 (3), (7) and (8) and 471.178 (2) to (5), the licensee may not permit patrons of the event to remove any alcoholic beverages from the premises of the event.

(2) In addition to catered events under subsection (1) of this section, the commission may by rule allow the exercise of the privileges of a full or limited on-premises sales license at temporary events held at locations other than the licensed premises. The commission may:

(a) Require notice to the commission before the exercise of license privileges at temporary events under this subsection;

(b) Require that written approval by the commission be obtained before the exercise of license privileges at temporary events under this subsection;

(c) Establish eligibility criteria for the exercise of license privileges at temporary events under this subsection; and

(d) Establish fees reasonably calculated to cover administrative expenses incurred by the commission in administering this subsection. [1999 c.351 §5; 2001 c.154 §3; 2021 c.180 §9; 2021 c.351 §54; 2023 c.391 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.186 - Off-premises sales license; deliveries to retail customers; rules.**

(1) The holder of an off-premises sales license may sell factory-sealed containers of malt beverages, wine and cider for consumption off the licensed premises.

(2) The holder of an off-premises sales license may sell for consumption off the licensed premises malt beverages, wine and cider in securely covered containers supplied by the consumer and that have capacities of not more than two gallons each.

(3) The holder of an off-premises sales license may provide sample tasting of alcoholic beverages on the licensed premises if the licensee applies in writing to the Oregon Liquor and Cannabis Commission and receives written approval from the commission to conduct tastings on the premises. Tastings must be limited to the alcoholic beverages that may be sold under the privileges of the license.

(4) An off-premises sales license may not be issued for use at a premises that is mobile.

- (5) Except as provided in ORS 471.402, a manufacturer or wholesaler may not provide or pay for sample tastings of alcoholic beverages for the public on premises licensed under an off-premises sales license.
- (6)(a) The holder of an off-premises sales license may deliver malt beverages, wine or cider that is sold under the privileges of the license to retail customers in this state without a direct shipper permit issued under ORS 471.282. The holder of an off-premises sales license may use a contractor, an agent or employee of the holder, or may use a delivery person or a third-party delivery facilitator, to make the deliveries described in this subsection. Any deliveries by the holder of an off-premises sales license are subject to any rules adopted by the commission relating to deliveries made under this subsection.
- (b) The holder of an off-premises sales license shall ensure that deliveries under this subsection made by a contractor or an agent or employee of the holder:
- (A) Are made only to a person who is at least 21 years of age;
  - (B) Are made only for personal use and not for the purpose of resale;
  - (C) Are made in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY" or similar language adopted by the commission by rule; and
  - (D) Are not completed unless the contractor, agent or employee making the delivery:
    - (i) Obtains the signature of the recipient of the malt beverages, wine or cider upon delivery;
    - (ii) Verifies by inspecting government-issued photo identification that the recipient is at least 21 years of age; and
    - (iii) Determines that the recipient is not visibly intoxicated at the time of delivery.
- (c) The holder of an off-premises sales license that uses a third-party delivery facilitator to make deliveries under this subsection is not responsible for ensuring that deliveries made by the third-party delivery facilitator meet the requirements of this subsection.
- (7) Any person who knowingly or negligently delivers malt beverages, wine or cider under the provisions of this section to a person under 21 years of age, or who knowingly or negligently delivers malt beverages, wine or cider under the provisions of this section to a visibly intoxicated person, violates ORS 471.410.
- (8) If a court determines that deliveries of malt beverages, wine or cider under subsection (6) of this section cannot be restricted to holders of off-premises sales licenses, and the decision is a final judgment that is no longer subject to appeal, the holder of an off-premises sales license may not make deliveries of malt beverages, wine or cider under the provisions of subsection (6) of this section after entry of the final judgment.
- (9) The holder of an off-premises sales license may purchase for sale at retail malt beverages, wine and cider only from the holder of a license or permit issued by the commission that authorizes sales of malt beverages, wine or cider at wholesale to licensees of the commission.
- (10) On or before the 20th day of each month, the holder of an off-premises sales license shall submit to the commission a report showing the quantity of malt beverages, wine or cider received from the holder of a direct to retailer permit issued under ORS 471.274 during the immediately preceding calendar month, and any other information required by the commission by rule.
- (11) The commission may adopt rules to carry out this section. [1999 c.351 §6; 2008 c.34 §1; 2013 c.32 §3; 2015 c.673 §1; 2021 c.180 §10; 2021 c.183 §1a; 2021 c.351 §55; 2023 c.391 §5; 2023 c.539 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.190 - Temporary sales license; rules.**

- (1) The holder of a temporary sales license may:
- (a) Sell at retail by the drink wine, malt beverages, cider and distilled liquor.
  - (b) Sell for consumption off the licensed premises wine, malt beverages and cider in factory-sealed containers.
  - (c) Sell for consumption off the licensed premises wine, malt beverages and cider in securely covered containers supplied by the consumer and having capacities of not more than two gallons each.
- (2) Distilled liquor served by the holder of a temporary sales license must be purchased from a retail sales agent of the Oregon Liquor and Cannabis Commission. The holder of a temporary sales license must provide food service as required by commission rule.
- (3) A temporary sales license may be issued only to:
- (a) Nonprofit or charitable organizations that are registered with the state.
  - (b) A political committee that has filed a statement of organization under ORS 260.039 or 260.042.
  - (c) State agencies.
  - (d) Local governments, and agencies and departments of local governments.
  - (e) Persons not otherwise described in this subsection, as long as the applicant submits a plan that is approved by the commission detailing how minors will be prevented from gaining access to alcoholic beverages and how minors will be prevented from gaining access to any portion of the licensed premises prohibited to minors under ORS 471.430 (3) or any rule adopted by the commission.
- (4) The commission may by rule establish additional eligibility requirements for temporary sales licenses.
- (5) Subject to such qualifications as the commission may establish by rule, persons who hold a full or limited on-premises sales license are eligible for temporary sales licenses.
- (6) A temporary sales license issued to a person described in subsection (3)(a), (c) or (d) of this section authorizes the holder of the temporary sales license to:
- (a)(A)(i) Have on a single licensed premises more than one location at which wine, malt beverages or cider is sold at retail by the

drink or for consumption off the licensed premises; and

(ii) Have on a single licensed premises more than one location at which wine, malt beverages, cider or distilled liquor is sold at retail by the drink; or

(B) Have up to three separate premises in this state licensed under the temporary sales license at which wine, malt beverages or cider is sold for consumption off the licensed premises; and

(b) Operate for up to 30 days, whether or not the days are consecutive.

(7) The commission may adopt rules to carry out subsection (6) of this section.

(8) A person holding a temporary sales license is not required to obtain an intermittent temporary restaurant, seasonal temporary restaurant, single-event temporary restaurant license or mobile unit license under ORS chapter 624 if only wine, malt beverages and cider in single-service containers are served and only nonperishable food items that are exempted from licensure by the Oregon Health Authority are served.

(9) Employees and volunteers serving alcoholic beverages for a nonprofit or charitable organization licensed under this section are not required to have service permits or to complete an alcohol server education program and examination under ORS 471.542. The commission by rule may establish education requirements for servers described in this subsection.

(10) Notwithstanding ORS 471.392 to 471.400, a temporary sales license may be issued to a nonprofit trade association that has a membership primarily composed of persons that hold winery licenses issued under ORS 471.223 or grower sales privilege licenses issued under ORS 471.227.

(11) The holder of a temporary sales license that uses a third-party delivery facilitator to make deliveries on behalf of the holder is not responsible for ensuring that deliveries made by the third-party delivery facilitator meet any requirements applicable to the deliveries.

(12)(a) The holder of a temporary sales license may purchase for sale at retail malt beverages, wine and cider only from the holder of a license or permit issued by the commission that authorizes sales of malt beverages, wine or cider at wholesale to licensees of the commission.

(b) The holder of a temporary sales license that is an entity described in subsection (3)(a) to (d) of this section may accept donations of malt beverages, wine or cider in accordance with rules adopted by the commission.

(13) On or before the 20th day of each month, the holder of a temporary sales license shall submit to the commission a report showing the quantity of malt beverages, wine or cider received from the holder of a direct to retailer permit issued under ORS 471.274 during the immediately preceding calendar month, and any other information required by the commission by rule.

(14) The commission may adopt rules to carry out this section. [1999 c.351 §7; 2001 c.263 §1; 2007 c.443 §2; 2009 c.595 §957; 2011 c.9 §63; 2011 c.664 §16; 2013 c.537 §2; 2021 c.115 §1; 2021 c.351 §56; 2023 c.391 §6; 2023 c.539 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.192 - Purchases by Indian tribe.**

Notwithstanding ORS 471.175, an Indian tribe that holds a full on-premises sales license may purchase distilled liquor for sale by the drink within Indian country directly from the Oregon Liquor and Cannabis Commission at a price negotiated by the Indian tribe and the commission. As used in this section, "Indian country" has the meaning given that term in 18 U.S.C. 1151. [2021 c.180 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.194 - Purchases by airline.**

Notwithstanding ORS 471.175, an airline described in ORS 471.182 that holds a full on-premises sales license may purchase distilled liquor for sale to ticketed passengers aboard a commercial aircraft directly from the Oregon Liquor and Cannabis Commission at a price negotiated by the airline and the commission. [2021 c.180 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.200 - Brewery-public house license; rules.**

(1) A brewery-public house license allows the licensee to:

(a) Manufacture on the licensed premises, store, transport, sell to wholesale malt beverage and wine licensees of the Oregon Liquor and Cannabis Commission and export malt beverages;

(b) Sell malt beverages manufactured on or off the licensed premises at retail for consumption on or off the premises;

(c) Sell malt beverages in brewery-sealed packages at retail directly to the consumer for consumption off the premises;

(d) Sell on the licensed premises at retail malt beverages manufactured on or off the licensed premises in unpasteurized or pasteurized form directly to the consumer for consumption off the premises, delivery of which may be made in a securely covered container supplied by the consumer;

(e) Sell wine and cider at retail for consumption on or off the premises;

(f) Sell for consumption off the premises wines and cider in securely covered containers supplied by the consumer and having capacities of not more than two gallons each;

(g) Conduct the activities, except manufacturing, described in paragraphs (a) to (f) of this subsection at two locations other than the premises where the manufacturing occurs;

(h) Obtain a special events brewery-public house license entitling the holder to conduct the activities allowed under paragraphs (b)

to (f) of this subsection at a designated location other than the location set forth in the brewery-public house license for a period not exceeding five days;

(i) Distribute malt beverages manufactured at the licensed premises to any other premises licensed to the same licensee, whether a manufacturer, wholesaler or retail premises; and

(j) Distribute for export, in any amount, malt beverages manufactured at the licensed premises.

(2) In addition to the privileges specified in subsection (1) of this section, in any calendar year a brewery-public house licensee may sell at wholesale and distribute to licensees of the commission no more than 7,500 barrels of malt beverages produced by the brewery-public house licensee.

(3) A brewery-public house licensee, or any person having an interest in the licensee, is a retail licensee for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.394 and, except as otherwise provided by this section and ORS 471.396, may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any other retail licensee, as defined in ORS 471.392.

(4)(a) Except as provided in this subsection, a brewery-public house licensee, or any person having an interest in the licensee, is a retail licensee for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS 471.400, may not accept directly or indirectly any financial assistance described in ORS 471.398 from any manufacturer or wholesaler, as defined in ORS 471.392. A brewery-public house licensee, or any person having an interest in the licensee, is also a manufacturer for the purposes of ORS 471.398 and, except as otherwise provided by this section and ORS 471.400, may not provide directly or indirectly any financial assistance described in ORS 471.398 to any retail licensee, as defined in ORS 471.392. The prohibitions on financial assistance in ORS 471.398 do not apply to financial assistance between manufacturing and retail businesses licensed to the same person under the provisions of this section.

(b) The commission may issue more than one brewery-public house license at a single premises if each licensee:

(A) Has a valid Brewer's Notice issued by the federal Alcohol and Tobacco Tax and Trade Bureau at the premises address; and

(B) Otherwise complies with ORS 471.398.

(c) A brewery-public house licensee may produce malt beverages for another brewery-public house licensee under a custom order agreement. The commission may adopt rules regarding the contents of custom order agreements.

(5) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person having an interest in the licensee, may also hold a winery license authorized by ORS 471.223. A brewery-public house licensee, or any person having an interest in the licensee, may also hold a warehouse license authorized by ORS 471.242.

(6) Notwithstanding subsection (3) of this section, a brewery-public house licensee is eligible for limited on-premises sales licenses and temporary sales licenses.

(7) Notwithstanding subsection (3) of this section, a brewery-public house licensee, or any person having an interest in the licensee, may also hold a full on-premises sales license. If a person holds both a brewery-public house license and a full on-premises sales license, nothing in this chapter shall prevent the sale by the licensee of both distilled liquor and malt beverages manufactured under the brewery-public house license.

(8) Notwithstanding any other provision of this chapter, a brewery-public house licensee, or any person having an interest in the licensee, may also hold a distillery license. No provision of this chapter prevents a brewery-public house licensee that also holds a distillery license from being appointed by the commission as the distillery's retail outlet agent for the purpose of selling distilled liquors under ORS 471.230.

(9) Notwithstanding subsection (3) of this section, the commission by rule may authorize a brewery-public house licensee to coproduce special events with other manufacturers.

(10)(a) Notwithstanding subsection (3) of this section, a brewery-public house licensee may hold, directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does not result in exercise of control over, or participation in the management of, the manufacturer's or wholesaler's business or business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

(b) Notwithstanding subsection (3) of this section, a manufacturer or wholesaler, and any officer, director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly or indirectly, an interest in a brewery-public house licensee, provided that the interest does not result in exercise of control over, or participation in the management of, the licensee's business or business decisions and does not result in exclusion of any competitor's brand of alcoholic liquor.

(11) A brewery-public house licensee may purchase for sale at retail:

(a) Wine and cider only from the holder of a license or permit issued by the commission that authorizes the sale of wine or cider at wholesale to licensees of the commission; and

(b) Malt beverages not manufactured by the brewery-public house licensee only from the holder of a license or permit issued by the commission that authorizes the sale of malt beverages at wholesale to licensees of the commission.

(12) On or before the 20th day of each month, a brewery-public house licensee shall submit to the commission a report showing the quantity of malt beverages, wine or cider received from the holder of a direct to retailer permit issued under ORS 471.274 during the immediately preceding calendar month, and any other information required by the commission by rule.

(13) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered to be a manufacturer.

(14) The holder of a brewery-public house license that uses a third-party delivery facilitator to make deliveries on behalf of the holder is not responsible for ensuring that deliveries made by the third-party delivery facilitator meet any requirements applicable to the deliveries.

(15) The commission may adopt rules to carry out this section. [Formerly 471.253; 2003 c.15 §1; 2005 c.22 §344; 2007 c.134 §4; 2009 c.38 §1; 2009 c.140 §2; 2009 c.143 §1; 2013 c.32 §4; 2013 c.537 §3; 2015 c.443 §1; 2017 c.34 §1; 2017 c.533 §7; 2019 c.373 §4; 2021 c.351 §57; 2023 c.391 §7; 2023 c.539 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.205**

[Amended by 1999 c.351 §15; renumbered 471.403 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.210**

[Amended by 1967 c.359 §693; 1977 c.518 §3; 1979 c.45 §1; 1979 c.264 §5a; 1983 c.691 §1; 1983 c.740 §187; 1985 c.591 §1; 1987 c.511 §1; 1989 c.48 §1; 1995 c.301 §54; 1999 c.351 §21; renumbered 471.155 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.213**

[1989 c.846 §16; renumbered 471.164 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.215**

[Amended by 1957 c.223 §1; 1995 c.301 §55; 1999 c.351 §45; renumbered 471.157 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.218**

[1997 c.841 §4; 1999 c.351 §22; renumbered 471.168 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.221 - Brewery license; rules.**

(1) As used in this section, "common control" means:

(a) That a manufacturer, or any officer, director, substantial stockholder or other substantial equity holder in the manufacturer:

(A) Directly or indirectly holds 50 percent or more interest in the brewery licensee; or

(B) Has authority to direct the management of the brewery licensee; or

(b) That a brewery licensee, or any officer, director, substantial stockholder or other substantial equity holder in the brewery licensee:

(A) Directly or indirectly holds 50 percent or more interest in another manufacturer; or

(B) Has authority to direct the management of another manufacturer.

(2) A brewery license authorizes the licensee to:

(a) Manufacture malt beverages on the licensed premises.

(b) Sell to wholesale malt beverage and wine licensees, import, store, transport or export:

(A) Malt beverages produced on the licensed premises; or

(B) Malt beverages of a brand produced by a manufacturer that is under common control with the brewery licensee.

(c) Sell wine, malt beverages or cider on the licensed premises at retail for consumption on or off the licensed premises.

(d) Sell, in securely covered containers supplied by the consumer and having a capacity of not more than two gallons each, wine, malt beverages or cider for off-premises consumption.

(e) Obtain a special events brewery license that entitles the holder to conduct the activities allowed under paragraphs (c) and (d) of this subsection at a designated location other than the one set forth in the brewery license for a period not exceeding five days.

(f) Notwithstanding ORS 471.392 to 471.400, subject to ORS 471.175, hold a full on-premises sales license.

(g) Conduct any activities authorized under paragraph (c), (d) or (f) of this subsection at up to two additional locations approved by the Oregon Liquor and Cannabis Commission.

(3) Subject to ORS 471.235, a brewery licensee may hold a wholesale malt beverage and wine license. A brewery licensee must hold a wholesale malt beverage and wine license if the brewery licensee:

(a) Imports, stores, transports or exports malt beverages of brands that are not produced by the licensee or a manufacturer under common control with the licensee; or

(b) Except as provided in this paragraph, sells or distributes malt beverages. This paragraph does not apply to malt beverages described in subsection (2)(a) or (b) of this section sold at a licensed premises described in subsection (2)(a) of this section.

- (4) A brewery licensee and a winery licensee may not be under common control unless the winery licensee:
- (a) Uses its premises to produce wine or cider; and
  - (b) Holds a valid producer and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau.
- (5) Notwithstanding any other provision of this chapter, a brewery licensee, a manufacturer that is under common control with the brewery licensee or any officer, director, substantial stockholder or other substantial equity holder in the brewery licensee or in a manufacturer that is under common control with the brewery licensee may not sell malt beverages at retail at more than three locations in this state regardless of the number or type of licenses held by the licensee, manufacturer, officer, director, stockholder or equity holder.
- (6) A brewery licensee may produce malt beverages for a brewery-public house licensee under a custom order agreement. The commission may adopt rules regarding the contents of custom order agreements.
- (7) A brewery licensee that uses a third-party delivery facilitator to make deliveries on behalf of the licensee is not responsible for ensuring that deliveries made by the third-party delivery facilitator meet any requirements applicable to the deliveries. [2016 c.3 §2; 2019 c.373 §5; 2021 c.351 §58; 2023 c.539 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.223 - Winery license.**

- (1) As used in this section, "control" means that the licensee:
- (a) Owns the brand under which the wine or cider is labeled; or
  - (b) Performs or has the legal right to perform all of the acts common to a brand owner under the terms of a trademark license or similar agreement that for the brand under which the wine or cider is labeled has a term of at least three years.
- (2) The holder of a winery license may:
- (a) Import wine or cider in containers that have a capacity of more than four liters.
  - (b) Import wine or cider in containers that have a capacity of four liters or less if the brand of wine or cider is under the control of the licensee.
  - (c) Bottle, produce, blend, store, transport or export wines or cider.
  - (d) Sell wines or cider at wholesale to the Oregon Liquor and Cannabis Commission or to licensees of the commission.
  - (e) Sell wines or cider at retail directly to the consumer for consumption on or off the licensed premises.
  - (f) Sell malt beverages at retail for consumption on or off the licensed premises.
  - (g) Sell for consumption off the premises malt beverages, wines and cider in securely covered containers that are supplied by the consumer and have capacities of not more than two gallons each.
  - (h) Conduct under the winery license any activities described in paragraphs (a) to (g) of this subsection at five or fewer premises designated by the commission.
  - (i) Purchase from or through the commission brandy or other distilled liquors for fortifying wines or cider.
  - (j) Obtain a special events winery license that entitles the holder to conduct the activities allowed under paragraphs (e) to (g) of this subsection at a designated location other than the one set forth in the winery license for a period not to exceed five days.
- (3) A winery licensee shall allow a patron to remove a partially consumed bottle of wine from the licensed premises if the patron is not a minor and the patron is not visibly intoxicated.
- (4) Except as provided in subsection (5) of this section, in order to hold a winery license the licensee shall:
- (a) Possess at a bonded premises within Oregon a valid producer and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau; or
  - (b) Possess a valid wine blender or valid wholesaler basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau and have a written contract with a winery licensed under paragraph (a) of this subsection that authorizes the winery to produce for the licensee a brand of wine or cider that is under the control of the licensee.
- (5) Subsection (4) of this section does not apply if a licensee produces only cider under the winery license.
- (6) A winery licensee may sell and ship malt beverages, wine or cider directly to a resident of this state only if the licensee has a direct shipper permit issued under ORS 471.282.
- (7) A winery licensee, or any person having an interest in the licensee, may also hold a full on-premises sales license. If a winery licensee, or a person having an interest in the licensee, also holds a full on-premises sales license, the provisions of this chapter do not prevent the licensee or person from both selling wine or cider bottled and produced under the winery license and selling alcoholic liquor as authorized under the full on-premises sales license.
- (8) More than one winery licensee may exercise the privileges of a winery license at a single location. The commission may not refuse to issue a winery license to a person for the production of wine or cider on specified premises based on the fact that other winery licensees also produce wine or cider on those premises.
- (9) If a winery licensee does not possess at a bonded premises within Oregon a valid producer and blender basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau, the licensee may exercise the privileges described in this section only for wine and cider brands that are under the control of the licensee.
- (10) The holder of a winery license that uses a third-party delivery facilitator to make deliveries on behalf of the winery licensee is not responsible for ensuring that deliveries made by the third-party delivery facilitator meet any requirements applicable to the deliveries. [1979 c.264 §2; 1981 c.201 §1; 1989 c.511 §5; 1993 c.202 §1; 1993 c.663 §3; 1995 c.34 §1; 1995 c.188 §1; 1995 c.301

§15; 1999 c.431 §§1,3; 2003 c.44 §1; 2007 c.25 §1; 2007 c.854 §2; 2009 c.38 §2; 2011 c.364 §1; 2013 c.32 §§5,6; 2013 c.537 §§4,5; 2015 c.358 §1; 2015 c.673 §3; 2017 c.202 §2; 2017 c.533 §8; 2019 c.167 §1; 2021 c.351 §59; 2021 c.596 §2; 2023 c.539 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.227 - Grower sales privilege license.**

- (1) A grower sales privilege license shall allow the licensee to perform the following activities only for fruit or grape wine or cider where all of the fruit or grapes used to make the wine or cider are grown in Oregon under the control of the licensee to:
- (a) Import, store, transport or export such wines or cider.
  - (b) Sell such wines or cider at wholesale to the Oregon Liquor and Cannabis Commission or licensees of the commission.
  - (c) Sell such wines or cider at retail directly to the consumer for consumption on or off the licensed premises.
  - (d) Sell at retail for consumption off the licensed premises malt beverages and such wines and cider in securely covered containers provided by the consumer and having capacities of not more than two gallons each.
  - (e) Conduct some or all of the activities allowed under paragraphs (a) to (d) of this subsection at a second or third premises as may be designated by the commission.
  - (f) Obtain a special events grower sales privilege license which shall entitle the holder to conduct the activities allowed under paragraphs (c) and (d) of this subsection at a designated location other than the one set forth in the grower sales privilege license for a period not to exceed five days.
- (2) A grower sales privilege licensee shall allow a patron to remove a partially consumed bottle of wine from the licensed premises if the patron is not a minor and the patron is not visibly intoxicated.
- (3) For purposes of ORS 471.392 to 471.400, a grower sales privilege licensee shall be considered a manufacturer.
- (4) A person holding a winery license in another state is not eligible for a license under this section.
- (5) A person licensed under this section is not eligible for a limited on-premises sales license or an off-premises sales license.
- (6) As used in this section, "control" means the grower either owns the land upon which the fruit or grapes are grown or has a legal right to perform or does perform all of the acts common to fruit farming or viticulture under terms of a lease or similar agreement of at least three years' duration.
- (7) For the purposes of tax reporting, payment and record keeping, the provisions of law that shall apply to a manufacturer under ORS chapter 473 shall apply to a grower sales privilege licensee, but such a licensee is not a manufacturer for purposes of ORS 473.050 (5).
- (8) A grower sales privilege licensee that uses a third-party delivery facilitator to make deliveries on behalf of the licensee is not responsible for ensuring that deliveries made by the third-party delivery facilitator meet any requirements applicable to the deliveries. [1989 c.740 §2; 1995 c.58 §2; 1995 c.301 §82; 1999 c.351 §23a; 2013 c.32 §7; 2013 c.537 §6; 2021 c.351 §60; 2023 c.539 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.229**

[1989 c.511 §2; 1995 c.188 §3; 1999 c.351 §24; 2003 c.44 §3; 2007 c.854 §1; renumbered 471.282 in 2007]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.230 - Distillery license.**

- (1) A distillery license allows the licensee to import, manufacture, distill, rectify, blend, denature and store distilled liquor, to sell the distilled liquor to the Oregon Liquor and Cannabis Commission and to transport the distilled liquor out of this state for sale outside this state. Distillery licensees may purchase and sell distilled liquor from or to another distillery licensee in containers having a capacity greater than one U.S. gallon for blending and manufacturing purposes. A distillery licensee may not sell any alcoholic beverage within this state except to the commission or as provided in this section. However, any agricultural producer or association of agricultural producers or the legal agents of an agricultural producer or association of agricultural producers that manufactures and converts agricultural surpluses, by-products and wastes into denatured ethyl and industrial alcohol for use in the arts and industry are not required to obtain a license from the commission.
- (2) If a distillery licensee holds a valid distilled spirits plant basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau for the licensed premises, the distillery licensee may:
- (a) Permit tastings of distilled liquor approved by the commission for sale in Oregon and manufactured in Oregon by the distillery licensee or by another distillery licensee. Tastings may be of the distilled liquor alone or with a mix of other liquids. If any of the other liquids are distilled liquors, they must be distilled liquors on the list of products approved by the commission for retail sale in Oregon and must be purchased by the licensee at the retail price established by the commission. This paragraph does not authorize sales by the drink of distilled liquor. The tastings may be conducted on the licensed premises of the distillery and at no more than five other premises owned or leased by the licensee. The commission may allow more than one distillery licensee to use the same premises at the same time for conducting tastings if the premises are a primary production location and the licensees share the premises or are owned by the same entity. If the manufacturer of the distilled liquor obtains distilled liquor for conducting tastings from the inventory of the commission, the licensee shall pay the commission a processing fee.

(b) Obtain a special events distillery license.

(c) Apply for appointment by the commission as a distillery retail outlet agent for purposes of retailing distilled liquor at locations where tastings are permitted under paragraph (a) of this subsection or subsection (4)(a) of this section. A distillery retail outlet agent may sell at locations where tastings are allowed under paragraph (a) of this subsection only distilled liquor that is on the list of products approved by the commission for retail sale in Oregon and is manufactured in Oregon by the distillery licensee or by another distillery licensee that uses the same premises as a primary production location or is owned by the same entity as the distillery licensee.

(3) Notwithstanding ORS 471.392 to 471.400, a distillery licensee may hold one or more full on-premises sales licenses. All distilled liquor sold under a full on-premises sales license must be purchased from the commission.

(4) A distillery licensee that holds a special events distillery license may conduct an event on premises designated in the special events distillery license. Except as provided in this subsection, a special events distillery license may be valid for a period not exceeding five days. The commission shall limit the approval of special events distillery licenses for a distillery licensee at the same location to not more than 62 days during a calendar year. A distillery licensee conducting a special event may:

(a) Permit tastings of distilled liquor approved by the commission for sale in Oregon and manufactured in Oregon by the distillery licensee. Tastings may be of the distilled liquor alone or with a mix of other liquids. If any of the other liquids are distilled liquors, they must be distilled liquors on the list of products approved by the commission for retail sale in Oregon and must be purchased by the licensee at the retail price established by the commission. If the manufacturer of the distilled liquor obtains distilled liquor for conducting tastings from the inventory of the commission, the licensee shall pay the commission a processing fee.

(b) Permit sales by the drink of distilled liquor. A drink that a distillery licensee sells under this paragraph must include distilled liquor that the licensee manufactured in Oregon. Any distilled liquor contained in the drink must be on the list of products approved by the commission for retail sale in Oregon. The distillery licensee selling the drink must purchase all distilled liquor contained in the drink at the retail price set by the commission for the month in which the drink is sold.

(c) If the distillery licensee has been appointed as a distillery retail outlet agent under subsection (2)(c) of this section, sell distilled liquor in factory-sealed containers for consumption off the licensed premises. A distillery retail outlet agent may sell at a location where tastings are allowed under paragraph (a) of this subsection only distilled liquor that is on the list of products approved by the commission for retail sale in Oregon and is manufactured in Oregon by the distillery licensee. The distillery retail outlet agent must sell the distilled liquor at the retail price set by the commission for the month of sale.

(5) The commission shall pay a distillery retail outlet agent compensation for distilled liquor retail sales by the agent under subsection (2)(c) or (4)(c) of this section. The compensation rate shall be:

(a) For the first \$250,000 of annual total combined retail sales from all distillery retail outlet agent tasting locations operated by the distillery licensee under subsection (2)(a) or (4)(a) of this section, 45 percent of the retail price set by the commission for the sold distilled liquor.

(b) For distilled liquor retail sales by the agent that are not described in paragraph (a) of this subsection, 17 percent of the retail price set by the commission for the sold distilled liquor. [Amended by 1987 c.558 §1; 1995 c.301 §16; 1997 c.803 §1; 2007 c.134 §1; 2009 c.38 §3; 2009 c.237 §2; 2011 c.9 §64; 2012 c.20 §1; 2013 c.253 §1; 2015 c.549 §1; 2017 c.533 §9; 2019 c.658 §2; 2021 c.351 §61; 2021 c.649 §1]

Note:

The amendments to 471.230 by section 3, chapter 649, Oregon Laws 2021, become operative January 2, 2028, and apply to distilled liquor retail sales made by a distillery retail outlet agent on or after January 2, 2028. See section 4, chapter 649, Oregon Laws 2021. The text that is operative on and after January 2, 2028, is set forth for the user's convenience.

(1) A distillery license allows the licensee to import, manufacture, distill, rectify, blend, denature and store distilled liquor, to sell the distilled liquor to the Oregon Liquor and Cannabis Commission and to transport the distilled liquor out of this state for sale outside this state. Distillery licensees may purchase and sell distilled liquor from or to another distillery licensee in containers having a capacity greater than one U.S. gallon for blending and manufacturing purposes. A distillery licensee may not sell any alcoholic beverage within this state except to the commission or as provided in this section. However, any agricultural producer or association of agricultural producers or the legal agents of an agricultural producer or association of agricultural producers that manufactures and converts agricultural surpluses, by-products and wastes into denatured ethyl and industrial alcohol for use in the arts and industry are not required to obtain a license from the commission.

(2) If a distillery licensee holds a valid distilled spirits plant basic permit issued by the federal Alcohol and Tobacco Tax and Trade Bureau for the licensed premises, the distillery licensee may:

(a) Permit tastings of distilled liquor approved by the commission for sale in Oregon and manufactured in Oregon by the distillery licensee or by another distillery licensee. Tastings may be of the distilled liquor alone or with a mix of other liquids. If any of the other liquids are distilled liquors, they must be distilled liquors on the list of products approved by the commission for retail sale in Oregon and must be purchased by the licensee at the retail price established by the commission. This paragraph does not authorize sales by the drink of distilled liquor. The tastings may be conducted on the licensed premises of the distillery and at no more than five other premises owned or leased by the licensee. The commission may allow more than one distillery licensee to use the same premises at the same time for conducting tastings if the premises are a primary production location and the licensees share the premises or are owned by the same entity. If the manufacturer of the distilled liquor obtains distilled liquor for conducting tastings from the inventory of the commission, the licensee shall pay the commission a processing fee.



(b) Obtain a special events distillery license.

(c) Apply for appointment by the commission as a distillery retail outlet agent for purposes of retailing distilled liquor at locations where tastings are permitted under paragraph (a) of this subsection or subsection (4)(a) of this section. A distillery retail outlet agent may sell at locations where tastings are allowed under paragraph (a) of this subsection only distilled liquor that is on the list of products approved by the commission for retail sale in Oregon and is manufactured in Oregon by the distillery licensee or by another distillery licensee that uses the same premises as a primary production location or is owned by the same entity as the distillery licensee.

(3) Notwithstanding ORS 471.392 to 471.400, a distillery licensee may hold one or more full on-premises sales licenses. All distilled liquor sold under a full on-premises sales license must be purchased from the commission.

(4) A distillery licensee that holds a special events distillery license may conduct an event on premises designated in the special events distillery license. Except as provided in this subsection, a special events distillery license may be valid for a period not exceeding five days. The commission shall limit the approval of special events distillery licenses for a distillery licensee at the same location to not more than 62 days during a calendar year. A distillery licensee conducting a special event may:

(a) Permit tastings of distilled liquor approved by the commission for sale in Oregon and manufactured in Oregon by the distillery licensee. Tastings may be of the distilled liquor alone or with a mix of other liquids. If any of the other liquids are distilled liquors, they must be distilled liquors on the list of products approved by the commission for retail sale in Oregon and must be purchased by the licensee at the retail price established by the commission. If the manufacturer of the distilled liquor obtains distilled liquor for conducting tastings from the inventory of the commission, the licensee shall pay the commission a processing fee.

(b) Permit sales by the drink of distilled liquor. A drink that a distillery licensee sells under this paragraph must include distilled liquor that the licensee manufactured in Oregon. Any distilled liquor contained in the drink must be on the list of products approved by the commission for retail sale in Oregon. The distillery licensee selling the drink must purchase all distilled liquor contained in the drink at the retail price set by the commission for the month in which the drink is sold.

(c) If the distillery licensee has been appointed as a distillery retail outlet agent under subsection (2)(c) of this section, sell distilled liquor in factory-sealed containers for consumption off the licensed premises. A distillery retail outlet agent may sell at a location where tastings are allowed under paragraph (a) of this subsection only distilled liquor that is on the list of products approved by the commission for retail sale in Oregon and is manufactured in Oregon by the distillery licensee. The distillery retail outlet agent must sell the distilled liquor at the retail price set by the commission for the month of sale.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.235 - Wholesale malt beverage and wine license.**

(1) A wholesale malt beverage and wine license shall allow the importation, storage, transportation, wholesale sale and distribution to licensees of the Oregon Liquor and Cannabis Commission, and the export of wine, cider and malt beverages, and the importation and sale to the commission and the export of wine of alcoholic content in excess of 21 percent alcohol by volume. A wholesale malt beverage and wine licensee may not sell any alcoholic liquor for consumption upon the licensed premises. However, a wholesale malt beverage and wine licensee may sell naturally fermented wine or cider in quantities of not less than four gallons nor more than 55 gallons at any one time to consumers for consumption not on the licensed premises. Wholesale malt beverage and wine licensees may sell malt beverages containing not more than nine percent alcohol by volume in quantities not less than four gallons to any unlicensed organization, lodge, picnic party or private gathering. The unlicensed organization, lodge, picnic party or private gathering may not sell the malt beverages. A wholesale malt beverage and wine license shall permit the licensee also to sell malt beverages at wholesale only, to persons holding licenses authorizing the persons to resell such beverages at retail. Employees of wholesale malt beverage and wine licensees may serve sample tastings of malt beverages, cider and wine at alcoholic beverage industry trade shows, seminars and conventions and at alcoholic beverage industry sample tastings for employees of retail licensees.

(2) Subsection (1) of this section does not prohibit the transportation or wholesale sale or distribution of malt beverage or wine by a wholesale malt beverage and wine licensee to any alcoholic treatment center licensed by the Oregon Health Authority.

(3) A wholesale malt beverage and wine licensee may impose an additional handling fee on any wine sold to any retailer in this state if the quantity of wine sold to the retailer is less than the smallest multiple-package case available to be sold and the handling fee is uniform for all licensees. [Amended by 1955 c.657 §2; 1973 c.395 §1; 1974 c.4 §2; 1975 c.123 §1; 1985 c.378 §1; 1987 c.608 §4; 1989 c.178 §8; 1995 c.301 §17; 1999 c.351 §25; 2009 c.595 §958; 2011 c.143 §1; 2021 c.351 §62]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.242 - Warehouse license.**

(1) A warehouse license shall allow the licensee to store, import, bottle, produce, blend, transport and export nontax paid, bonded wine or wine on which the tax is paid and to store, import and export nontax paid malt beverages and cider, or malt beverages and cider on which the tax is paid. Wine, cider and malt beverages may be removed from the licensed premises only for:

(a) Sale for export;

(b) Sale or shipment to a wholesale malt beverage and wine licensee;

(c) Sale or shipment to another warehouse licensee;

(d) Sale or shipment to a winery licensee;

(e) Shipment of wine or cider produced by a winery licensee to a licensee of the Oregon Liquor and Cannabis Commission

authorized to sell wine or cider at retail if the shipment is made pursuant to a sale to the retail licensee by the holder of a winery license issued under ORS 471.223, a grower sales privilege license issued under ORS 471.227 or a wholesale malt beverage and wine license issued under ORS 471.235; or

- (f) Shipment of malt beverages, wine or cider to a person for personal use, as described in subsection (7) of this section.
- (2) A license applicant must hold an approved registration for a bonded wine cellar or winery under federal law.
- (3) For the purposes of tax reporting, payment and record keeping, the provisions that shall apply to a manufacturer under ORS chapter 473 shall apply to a warehouse licensee.
- (4) A warehouse must be physically secure in an area zoned for the intended use and be physically separated from any other use.
- (5) For purposes of ORS 471.392 to 471.400, a warehouse licensee shall be considered a manufacturer.
- (6) For purposes of ORS 473.045, a warehouse licensee shall be considered a winery licensee.
- (7) Malt beverages, wine or cider may be removed from the premises licensed under this section for shipment pursuant to a sale under ORS 471.282. The warehouse licensee shall take reasonable steps to ensure that shipments are made in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY." In addition, the warehouse licensee shall take reasonable steps to ensure that any carrier used by the licensee does not deliver any malt beverages, wine or cider unless the carrier:
  - (a) Obtains the signature of the recipient of the malt beverages, wine or cider upon delivery;
  - (b) Verifies by inspecting government-issued photo identification that the recipient is at least 21 years of age; and
  - (c) Determines that the recipient is not visibly intoxicated at the time of delivery. [1985 c.628 §2; 1989 c.553 §1; 1995 c.35 §1; 1995 c.301 §83; 1999 c.351 §67; 2007 c.638 §1; 2015 c.673 §4; 2021 c.351 §63]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.244 - Certificates of approval for malt beverages, cider or wine; special certificates of approval.**

- (1) A licensee of the Oregon Liquor and Cannabis Commission may not manufacture, import into, or purchase in this state for resale in this state any malt beverages, cider or wine unless the manufacturer of the malt beverages, cider or wine has first obtained from the commission a certificate of approval, except that with respect to malt beverages, cider or wine manufactured outside the United States, the certificate of approval may be obtained by the person importing same into the United States.
- (2) A certificate of approval may be granted only to manufacturers or importers that enter into an agreement with the commission to furnish a report to the commission, on or before the 20th day of each month, showing the quantity of malt beverages, cider or wine delivered to each licensee of the commission during the preceding calendar month, and to faithfully comply with all laws of the State of Oregon pertaining to traffic in malt beverages, cider or wine.
- (3) The commission may grant special certificates of approval to manufacturers and importers of malt beverages, cider or wine. A special certificate of approval has the effect of a certificate of approval granted under this section, but is valid only for a period of 30 days. [Formerly 471.289; 2021 c.351 §64; 2023 c.391 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.251 - Certificates of approval for distilled liquor; rules.**

The Oregon Liquor and Cannabis Commission may issue a manufacturer or other person a certificate of approval authorizing the import of distilled liquor manufactured by a distillery not licensed under ORS 471.230. The commission may establish by rule:

- (1) The conditions under which a manufacturer or other person may qualify for a certificate of approval;
- (2) The products covered by the certificate of approval;
- (3) Any conditions or limitations placed on imports under the certificate of approval; and
- (4) The grounds for suspension or revocation of a certificate of approval. [2009 c.240 §2; 2021 c.351 §65]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.253**

[1985 c.649 §4; 1987 c.608 §1; 1989 c.785 §10; 1991 c.545 §2; 1993 c.418 §1; 1993 c.663 §2; 1995 c.35 §2; 1995 c.301 §84; 1995 c.598 §1; 1995 c.599 §3; 1997 c.803 §2; 1999 c.59 §142; 1999 c.351 §26; renumbered 471.200 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.262**

[1979 c.172 §2; 1995 c.301 §56; 1999 c.351 §27; renumbered 471.302 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.268 - Homemade malt beverages and wines at licensed premises.**

- (1) In addition to any other privilege granted to a licensee under this chapter, a licensee may conduct an organized judging, tasting, exhibition, contest or competition of malt beverages and wines produced under ORS 471.403 (2) and (3) or homemade beers, wines and fermented fruit juices, or related events, at the premises described in a full or limited on-premises sales license, off-premises

sales license, brewery-public house license, brewery license, winery license or warehouse license of the licensee. However, the Oregon Liquor and Cannabis Commission may restrict the portion of the licensed premises that may be used for the judging, tasting, exhibition, contest, competition or related events and may restrict or prohibit sales of alcoholic beverages on the portion of the premises that is being used for conducting the judging, tasting, exhibition, contest, competition or related events.

(2) In addition to any other privilege granted to a licensee under this chapter, a licensee may allow malt beverages and wines produced under ORS 471.403 (2) and (3) or homemade beers, wines and fermented fruit juices to be stored at the premises described in a full or limited on-premises sales license, off-premises sales license, brewery-public house license, brewery license, winery license or warehouse license of the licensee. The malt beverages or wines and the homemade beers, wines or fermented fruit juices must be clearly identified by owner and kept separate from the alcoholic beverage stock of the licensee.

(3) A licensee may not acquire any ownership interest in malt beverages and wines produced under ORS 471.403 (2) and (3) or homemade beers, wines or fermented fruit juices stored under this section. However, this subsection does not prohibit a licensee from using malt beverages and wines produced under ORS 471.403 (2) and (3) or homemade beers, wines or fermented fruit juices in conducting an organized judging, tasting, exhibition, contest or competition of the malt beverages and wines or homemade beers, wines or fermented fruit juices, or related events, if the malt beverages and wines or the homemade beers, wines or fermented fruit juices are stored with the licensee for that purpose. [2011 c.12 §3; 2021 c.351 §66]

Note:

Definitions for 471.268 are found in 471.037.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.271 - Requirement to report human trafficking at licensed premises; rules.**

(1) As used in this section, "law enforcement agency" means:

- (a) A city or municipal police department;
- (b) A county sheriff's office; or
- (c) The Oregon State Police.

(2) An employee of a premises licensed for full on-premises sales or limited on-premises sales who is a permittee shall:

- (a) Report to a law enforcement agency and to the Oregon Liquor and Cannabis Commission if the permittee has a reasonable belief that sex trafficking or other human trafficking is occurring at the licensed premises; and
- (b) Report to the commission if the permittee has a reasonable belief that a minor is employed or contracted as a performer at the licensed premises in a manner that violates commission rules.

(3) A permittee making a report under this section in good faith is immune from any criminal or civil liability for making the report.

(4) The commission may adopt rules to carry out this section. [2021 c.44 §2; 2023 c.217 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.272 - Manner of shipping or transporting malt beverages, wine or cider.**

(1) Malt beverages, wine or cider may be shipped or transported by a licensee or permit holder described in subsection (2) of this section only by employees of the licensee or permit holder, or by a common carrier using a commission-approved delivery plan. The holder of a direct to retailer permit that uses a common carrier to ship or transport malt beverages, wine or cider shall take reasonable steps to ensure that the malt beverages, wine or cider is sold and transported only to licensees that are authorized to receive the malt beverages, wine or cider under ORS 471.274.

(2) The provisions of this section apply to the holders of direct to retailer permits and winery licenses, grower sales privilege licenses, wholesale malt beverage and wine licenses and warehouse licenses issued by the commission. [2007 c.651 §2b; 2023 c.391 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.274 - Direct to retailer permit.**

(1) The Oregon Liquor and Cannabis Commission may issue a direct to retailer permit to a manufacturer of malt beverages, wine or cider that:

- (a) Is a resident of another state or territory of the United States;
- (b) Is licensed by the other state or territory to manufacture malt beverages, wine or cider; and
- (c) Holds a certificate of approval issued under ORS 471.244.

(2) The holder of a direct to retailer permit may, in the manner provided by this section, sell at wholesale and transport malt beverages, wine or cider that the holder of the direct to retailer permit produced, fermented, manufactured or blended directly to the commission or the holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200.

(3) A person may apply for a direct to retailer permit by submitting to the commission, in a form and manner prescribed by the commission:

- (a) An application;
- (b) A copy of the applicant's license described in subsection (1)(c) of this section or information sufficient to allow the commission to verify the license by electronic or other means; and
- (c) Any other information required by the commission to establish that the applicant's license authorizes the manufacture of malt

beverages, wine or cider and that the applicant has a history of compliance with the laws of the other state or territory.

(4) The holder of a direct to retailer permit is responsible for paying all taxes imposed under ORS chapter 473 as a manufacturer or importing distributor, and for complying with all reporting requirements imposed by ORS chapter 473 for all malt beverages, wine and cider sold and transported to a holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200.

(5) The holder of a direct to retailer permit consents to the jurisdiction of the commission and the courts of this state for the purpose of enforcing the provisions of this chapter and ORS chapter 473 and ORS 459A.700 to 459A.744, 474.005 to 474.095 and 474.115 and any related laws or rules.

(6) The holder of a direct to retailer permit shall post a bond or other security as described in ORS 471.155.

(7) The holder of a direct to retailer permit may not in a calendar year sell at wholesale and transport to the holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200 a combined total of more than 7,500 barrels of malt beverages described in subsection (2) of this section.

(8) A direct to retail permit must be renewed annually. The holder of a direct to retail permit may apply for renewal by submitting to the commission:

(a) An application in the form and manner prescribed by the commission; and

(b) The fee specified in ORS 471.311.

(9) The holder of a direct to retailer permit is a:

(a) Manufacturer or wholesaler for the purposes of ORS 471.392 to 471.400.

(b) Wholesale distributor for the purposes of ORS 474.005 to 474.095. [2007 c.651 §2; 2011 c.219 §1; 2021 c.351 §67; 2023 c.391 §10]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.282 - Direct shipper permit; fees.**

(1) Notwithstanding any other provision of this chapter and except as provided by ORS 471.175, 471.178 and 471.186, a person may sell and ship malt beverages, wine or cider directly to a resident of Oregon only if the person holds a direct shipper permit. The Oregon Liquor and Cannabis Commission shall issue a direct shipper permit only to:

(a) A person that holds a license issued by this state or another state or territory of the United States that authorizes the manufacture of malt beverages, wine or cider;

(b) A person that holds a license issued by this state or another state or territory of the United States that authorizes the sale of wine or cider produced only from grapes or other fruit grown under the control of the person;

(c) A person that holds a license authorizing the sale of malt beverages, wine or cider at retail; or

(d) A person that holds a temporary sales license under ORS 471.190, if the shipments of malt beverages, wine or cider made by the person are delivered only during the term of validity of the temporary sales license.

(2)(a) A person may apply for a direct shipper permit by filing an application with the commission in a form and manner prescribed by the commission.

(b) If the application is based on a license issued by another state or territory of the United States, the person shall include in the application a true copy of the license issued to the person by the other state or include sufficient information to allow verification of the license by electronic means or other means acceptable to the commission.

(c) If the application is based on a license issued by another state or territory of the United States, or the application is by a person described in subsection (1)(d) of this section, the person shall pay a \$100 registration fee and maintain a bond or other security described in ORS 471.155 in the minimum amount of \$1,000.

(3)(a) Sales and shipments of malt beverages, wine or cider under a direct shipper permit:

(A) May be made only to a person who is at least 21 years of age;

(B) May be made only for personal use and not for the purpose of resale; and

(C) May not exceed:

(i) Two cases of cider or malt beverages that contain not more than nine liters per case to any resident per month; or

(ii) Five cases of wine that contain not more than nine liters per case to any resident per month.

(b) Only an individual who is at least 21 years of age may receive malt beverages, wine or cider from the holder of a direct shipper permit, for the purposes and in the amount described in paragraph (a) of this subsection.

(4) Sales and shipments under a direct shipper permit must be made directly to a resident of this state in containers that are conspicuously labeled with the words: "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 YEARS OR OLDER REQUIRED FOR DELIVERY" or similar language adopted by the commission by rule.

(5) The holder of a direct shipper permit shall take all actions necessary to ensure that a carrier used by the permit holder does not deliver any malt beverages, wine or cider unless the carrier:

(a) Obtains the signature of the recipient of the malt beverages, wine or cider upon delivery;

(b) Verifies by inspecting government-issued photo identification that the recipient is at least 21 years of age; and

(c) Determines that the recipient is not visibly intoxicated at the time of delivery.

(6) The holder of a direct shipper permit that uses a third-party delivery facilitator to make deliveries on behalf of the permit holder is not responsible for ensuring that deliveries made by the third-party delivery facilitator meet any requirements applicable to the deliveries.

- (7)(a) The holder of a direct shipper permit shall report to the commission on a quarterly basis all shipments of malt beverages, wine or cider made to Oregon residents under the permit. The report must be made in a form prescribed by the commission.
- (b) The holder of a direct shipper permit shall allow the commission to audit the permit holder's records upon request and shall make those records available to the commission in this state.
- (c) The holder of a direct shipper permit consents to the jurisdiction of the commission and the courts of this state for the purpose of enforcing the provisions of this section and any related laws or rules.
- (8)(a) The holder of a direct shipper permit shall comply with all relevant reporting requirements and timely pay to the commission all taxes imposed under ORS chapter 473 on malt beverages, wine and cider sold and shipped under the permit. For the purpose of the privilege tax imposed under ORS chapter 473, all malt beverages, wine or cider sold and shipped pursuant to a direct shipper permit is sold in this state.
- (b) The holder of a direct shipper permit based on a license issued by another state or territory of the United States shall timely pay to the commission all taxes imposed under ORS chapter 473 on all malt beverages, wine or cider sold and shipped directly to Oregon residents under the permit. The permit holder, not the purchaser, is responsible for the tax.
- (9)(a) A direct shipper permit must be renewed annually.
- (b) If the person holds the permit based on an annual license issued by another state or territory of the United States, the person may renew the permit by paying a \$100 renewal fee and providing the commission with a true copy of a current license issued to the person by the other state or with sufficient information to allow verification of the license by electronic means or other means acceptable to the commission.
- (c) If the person holds the permit based on an annual license issued by this state, the person may renew the permit at the same time that the person renews the license.
- (10) Any person who knowingly or negligently delivers malt beverages, wine or cider under the provisions of this section to a person under 21 years of age, or who knowingly or negligently delivers malt beverages, wine or cider under the provisions of this section to a visibly intoxicated person, violates ORS 471.410.
- (11) A person may not make sales and shipments of malt beverages, wine or cider directly to Oregon residents unless the person holds a direct shipper permit issued under this section. Any person who knowingly makes, participates in, transports, imports or receives a shipment of malt beverages, wine or cider that is in violation of this section commits a misdemeanor as provided in ORS 471.990 (1).
- (12) The holder of a direct shipper permit that is based on a license issued by another state or territory of the United States is a manufacturer or wholesaler for the purposes of ORS 471.392 to 471.400. [Formerly 471.229; 2008 c.34 §2; 2011 c.219 §2; 2013 c.32 §8; 2015 c.673 §5; 2019 c.420 §1; 2021 c.78 §1; 2021 c.180 §11; 2021 c.351 §68; 2023 c.391 §11; 2023 c.539 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.289**

[1955 c.657 §6; 1957 c.111 §1; 1973 c.131 §1; 1979 c.264 §6; 1995 c.103 §1; 1999 c.351 §68; renumbered 471.244 in 2007]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.290**

[Amended by 1955 c.657 §9; 1957 c.111 §2; 1965 c.280 §3; 1967 c.28 §1; 1967 c.448 §1; 1971 c.470 §1; 1973 c.313 §1; 1973 c.395 §5; 1975 c.494 §3; 1979 c.264 §7; 1981 c.598 §1; 1985 c.360 §1; 1985 c.591 §2; 1985 c.628 §3; 1985 c.649 §2; 1989 c.178 §4; 1989 c.553 §2; 1989 c.740 §3; 1995 c.58 §3; 1995 c.103 §2; 1995 c.301 §57; 1995 c.363 §3; 1997 c.249 §171; 1997 c.284 §3; 1999 c.351 §18; renumbered 471.311 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.292 - Characteristics of license.**

- (1) A license granted under the Liquor Control Act shall:
- (a) Be a purely personal privilege.
  - (b) Be valid for the period stated in the license.
  - (c) Be renewable in the manner provided in ORS 471.311, except for a cause which would be grounds for refusal to issue such license under ORS 471.313.
  - (d) Be subject to cancellation, suspension or restriction as provided in ORS 471.315.
  - (e) Be transferable from the place for which the license was originally issued to another location subject to the provisions of the Liquor Control Act, any rules of the Oregon Liquor and Cannabis Commission and any municipal ordinance or local regulation.
  - (f) Cease upon the death of the licensee, except as provided in subsection (2) of this section.
  - (g) Not constitute property.
  - (h) Not be alienable.
  - (i) Not be subject to attachment or execution.
  - (j) Not descend by the laws of testate or intestate devolution.
- (2) The commission may, by order, provide for the manner and conditions under which:
- (a) Alcoholic liquors left by any deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be

foreclosed, sold under execution or otherwise disposed of.

(b) The business of any deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.

(c) A business licensed pursuant to this chapter subject to a security interest may be continued in business by a secured party as defined in ORS 79.0102 for a reasonable period after default on the indebtedness by the debtor.

(d) A license granted under this chapter may be transferred from the place for which the license was originally issued to another location. [Formerly 471.301; 2001 c.445 §175; 2017 c.533 §10; 2021 c.351 §69]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.294 - License terms; licenses issued for less than year; determination of fees.**

(1) Except as otherwise provided in this section, all licenses issued under this chapter and renewals of licenses issued under this chapter must be issued for a period of one year that expires at 12 midnight on March 31, June 30, September 30 or December 31 of each year.

(2) Notwithstanding subsection (1) of this section, a license issued for the first time to an applicant may be issued for less than a year. The fee for a license issued for less than a year under this subsection is the annual license fee prescribed by ORS 471.311.

(3)(a) Subject to ORS 471.297, the term of a temporary letter of authority issued under ORS 471.297 is the period fixed by the Oregon Liquor and Cannabis Commission when the temporary letter of authority is issued.

(b) The term of a temporary sales license issued under ORS 471.190 is the period fixed by the commission when the temporary sales license is issued. [Formerly 471.355; 2007 c.269 §1; 2021 c.85 §1; 2021 c.351 §70]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.295**

[Amended by 1953 c.14 §2; 1979 c.744 §33a; 1979 c.881 §3; 1989 c.785 §8; 1995 c.301 §58; 1997 c.841 §5; 1999 c.351 §46; renumbered 471.313 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.297 - Temporary letter of authority on change of ownership; revocation.**

(1)(a) The Oregon Liquor and Cannabis Commission may grant a temporary letter of authority for a period not to exceed 180 days to an applicant for a license issued under this chapter if the applicant meets the eligibility requirements established by the commission by rule and pays the fee prescribed by the commission for a temporary letter of authority.

(b) A temporary letter of authority issued under this section does not constitute a license for the purposes of ORS chapter 183.

(2) The commission may at any time, summarily and without prior administrative proceedings, refuse to issue or revoke a temporary letter of authority if the commission reasonably believes that any of the grounds for refusing a license under ORS 471.313 or canceling or suspending a license under ORS 471.315 exist.

(3) The refusal to issue or the revocation of a temporary letter of authority under subsection (2) of this section is not a contested case under ORS chapter 183. [1987 c.511 §5; 1995 c.301 §59; 1999 c.351 §47; 2003 c.337 §3; 2021 c.85 §2; 2021 c.351 §71]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.301**

[1957 c.220 §2 (enacted in lieu of 471.300); 1971 c.470 §2; 1973 c.311 §1; 1977 c.332 §1; 1977 c.360 §2; 1979 c.264 §9; 1995 c.301 §60; 1999 c.351 §48; renumbered 471.292 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.305 - Delivery of alcoholic beverages.**

A brewery or a wholesale malt beverage and wine licensee shall deliver malt beverages only to or on a licensed premises. The sale of alcoholic liquors under any license issued by the Oregon Liquor and Cannabis Commission authorizing retail sales by a licensee shall be restricted to the premises described in the license, but deliveries may be made by the licensee to customers pursuant to bona fide orders received on the licensed premises prior to delivery. [Amended by 1981 c.199 §2; 2021 c.351 §73]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.307**

[1991 c.273 §2; 1993 c.663 §5; 1999 c.351 §28; renumbered 471.180 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.310 - Cities, counties as licensees.**

Any city or county may, without further charter authority, become a licensee under this chapter. [Amended by 1995 c.301 §61; 1999 c.351 §49; 2021 c.596 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.311 - Application for license; rules; fees.**

(1) An applicant for a license or renewal of a license under this chapter shall submit an application to the Oregon Liquor and Cannabis Commission on a form provided by the commission that includes the name and address of the applicant, location of the place of business that is to be operated under the license, and any other pertinent information the commission may require. The commission may not grant or renew a license until the applicant has complied with the provisions of this chapter and the rules of the commission.

(2) The commission may reject any application that is not submitted in the form required by rule. The commission shall give applicants an opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.

(3) Subject to subsection (4) of this section, the commission shall assess a nonrefundable fee for processing a renewal application for any license authorized by this chapter only if the renewal application is received by the commission less than 20 days before expiration of the license. If the renewal application is received prior to expiration of the license but less than 20 days prior to expiration, the fee shall be 25 percent of the annual license fee. If a renewal application is received by the commission after expiration of the license but no more than 30 days after expiration, the fee shall be 40 percent of the annual license fee. This subsection does not apply to a certificate of approval, a brewery-public house license or any license that is issued for a period of less than 30 days.

(4) The commission may waive the fee imposed under subsection (3) of this section if the commission finds that failure to submit a timely application was due to unforeseen circumstances or to a delay in processing the application by the local governing authority that is no fault of the licensee.

(5) The license fee is nonrefundable and, except as provided in subsection (6) of this section, must be paid by each applicant upon the granting or committing of a license. Subject to ORS 471.155 and 473.065, the annual or daily license fee and the minimum bond required of each class of license under this chapter are as follows:

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Minimum	
License Fee Bond	
Brewery, including Certificate of Approval	\$ 1,000 \$ 1,000
Winery	\$ 500 \$ 1,000
Distillery	\$ 200 None
Wholesale Malt Beverage and Wine	\$ 550 \$ 1,000
Warehouse	\$ 200 \$ 1,000
Brewery-Public House, including Certificate of Approval	\$ 500 \$ 1,000
Limited On-Premises Sales	\$ 400 None
Off-Premises Sales	\$ 200 None
Temporary Sales	\$ 50 per day
Grower sales privilege License	\$ 500 \$ 1,000
Special events brewery license	\$ 10 per day
Special events winery license	\$ 10 per day
Special events grower sales privilege license	\$ 10 per day
Special events brewery-public house license	\$ 10 per day
Special events distillery license	\$ 10 per day

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(6) The commission may allow an applicant to defer payment, or may waive payment, of an annual license fee imposed under subsection (5) of this section, if the Governor declares a state of emergency under ORS 401.165 or a state of public health emergency under ORS 433.441. The commission may by rule establish requirements for an applicant to qualify for deferral or waiver of an annual license fee.

(7) The fee for a certificate of approval or special certificate of approval granted under ORS 471.244 is nonrefundable and must be paid by each applicant upon the granting or committing of a certificate of approval or special certificate of approval. A bond is not required for the granting of a certificate of approval or special certificate of approval. Certificates of approval are valid for a period commencing on the date of issuance and ending on December 31 of the fifth calendar year following the calendar year of issuance. The fee for a certificate of approval is \$350. Special certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval is \$10.

(8) Except as provided in subsection (9) of this section, the annual license fee for a full on-premises sales license is \$800. A bond is not required for any full on-premises sales license.

(9) The annual license fee for a full on-premises sales license held by a nonprofit private club as described in ORS 471.175 (11), or held by a nonprofit or charitable organization that is registered with the state, is \$400.

(10) The fee for temporary use of an annual license is \$10 per day.

(11) The annual fee for a direct to retailer permit is \$200, and the minimum bond is \$1,000. [Formerly 471.290; 2001 c.785 §2; 2005 c.22 §345; 2005 c.632 §3; 2007 c.443 §1; 2007 c.651 §3; 2009 c.140 §3; 2009 c.237 §3; 2010 c.33 §4; 2015 c.60 §1; 2016 c.3 §4; 2019 c.420 §2; 2021 c.180 §12; 2021 c.351 §74; 2021 c.596 §5; 2023 c.391 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.312**

[1989 c.785 §§6,7; 1991 c.734 §39; 1995 c.301 §62; 1999 c.351 §50; renumbered 471.331 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.313 - Grounds for refusing to issue license, certificate or permit, or for issuing restricted license, certificate or permit.**

(1) The Oregon Liquor and Cannabis Commission may refuse to issue a license, or may issue a restricted license, to any applicant under the provisions of this chapter if the commission has reasonable ground to believe any of the following to be true:

(a) That there are sufficient licensed premises in the locality set out in the application, or that the granting of a license in the locality set out in the application is not demanded by public interest or convenience. In determining whether there are sufficient licensed premises in the locality, the commission shall consider seasonal fluctuations in the population of the locality and shall ensure that there are adequate licensed premises to serve the needs of the locality during the peak seasons.

(b) That the applicant has not furnished an acceptable bond as required by ORS 471.311 or is not maintaining the insurance or bond required by ORS 471.168.

(c) That, except as allowed by ORS 471.392 to 471.400, any applicant to sell at retail for consumption on the premises has been financed or furnished with money or property by, or has any connection with, or is a manufacturer of, or wholesale dealer in, alcoholic liquor.

(d) That the applicant:

(A) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess.

(B) Has made false statements to the commission.

(C) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(D) Has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.

(E) Has maintained an insanitary establishment.

(F) Is not of good repute and moral character.

(G) Has failed to comply with ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or this chapter or ORS chapter 473 or rules adopted by the commission pursuant to ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or this chapter or ORS chapter 473.

(H) Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed.

(I) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.

(J) Is unable to read or write the English language or to understand the laws of Oregon relating to alcoholic liquor or the rules of the commission.

(e) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior that is grounds for refusal of a license under this section, where so related to the sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment; unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination. Histories from premises currently or previously operated by the applicant may be considered when reasonable inference may be made that similar activities will occur as to the premises proposed to be licensed. The applicant may overcome the history by showing that the problems are not serious or



persistent or that the applicant demonstrates a willingness and ability to control adequately the premises proposed to be licensed and patrons' behavior in the immediate vicinity of the premises that is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

(2) The commission may refuse to issue a certificate under ORS 471.244 or permit under ORS 471.274 or 471.282, or may issue a restricted certificate or permit, if the commission has reasonable grounds to believe that the applicant:

(a) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess.

(b) Has made false statements to the commission.

(c) Has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities related to the certificate or permit.

(d) Has failed to comply with ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or this chapter or ORS chapter 473 or rules adopted by the commission pursuant to ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or this chapter or ORS chapter 473.

(e) Does not have a good record of compliance with the alcoholic liquor laws and rules of any other jurisdiction. [Formerly 471.295; 2001 c.785 §1; 2011 c.165 §1; 2013 c.149 §1; 2017 c.533 §11; 2021 c.351 §75; 2023 c.391 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.315 - Grounds for cancellation, suspension or restriction of license, certificate or permit, requiring training or imposing civil penalty.**

(1) The Oregon Liquor and Cannabis Commission may cancel, suspend, restrict or require mandatory training for any license issued under this chapter, or impose a civil penalty in lieu of or in addition to a suspension as provided by ORS 471.322, if the commission finds or has reasonable ground to believe any of the following to be true:

(a) That the licensee:

(A) Has violated any provision of this chapter or ORS 474.115 or any rule of the commission adopted pursuant thereto.

(B) Has made any false representation or statement to the commission in order to induce or prevent action by the commission.

(C) Is not maintaining an acceptable bond as required by ORS 471.311 or is not maintaining the insurance or bond required by ORS 471.168.

(D) Has maintained an insanitary establishment.

(E) Is insolvent or incompetent or physically unable to carry on the management of the establishment of the licensee.

(F) Is in the habit of using alcoholic liquor, habit-forming drugs or controlled substances to excess.

(G) Has knowingly sold alcoholic liquor to persons under 21 years of age or to persons visibly intoxicated at the time of sale.

(H) Has allowed the consumption of alcoholic liquor on the licensed premises by a person who is visibly intoxicated at the time of consumption.

(I) Has misrepresented to a customer or the public any alcoholic liquor sold by the licensee.

(J) Since the granting of the license, has been convicted of a felony, of violating any of the liquor laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance committed on the licensed premises.

(b) That any person licensed to sell at retail for consumption on the premises is acting as an agent of, or is a manufacturer or wholesaler of alcoholic liquors, or has borrowed money or property, or has accepted gratuities or rebates, or has obtained the use of equipment from any manufacturer or wholesaler of alcoholic liquor or any agent thereof.

(c) That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises or involving patrons of the establishment in the immediate vicinity of the premises if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege. Behavior that is grounds for cancellation or suspension of a license under this section, where so related to the sale or service of alcohol, includes but is not limited to obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harassment or unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination. Mitigating factors include a showing by the licensee that the problems are not serious or persistent or that the licensee has demonstrated a willingness and ability to control adequately the licensed premises and patrons' behavior in the immediate vicinity of the premises which is related to the licensee's sale or service of alcohol under the licensee's exercise of the license privilege.

(d) That there is any other reason that, in the opinion of the commission, based on public convenience or necessity, warrants canceling or suspending such license.

(2) The commission may cancel, suspend or restrict a certificate issued under ORS 471.244 or permit issued under ORS 471.274 or 471.282, or impose a civil penalty in lieu of or in addition to a suspension of a certificate or permit as provided by ORS 471.327, if the commission has reasonable grounds to believe that the certificate or permit holder:

(a) Is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess.

(b) Has made false statements to the commission.

(c) Has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities related to the certificate or permit.

(d) Has failed to comply with ORS 459A.700 to 459A.744, 474.005 to 474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or this chapter or ORS chapter 473 or rules adopted by the commission pursuant to ORS

459A.700 to 459A.744, 474.005 to 474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.770 to 475C.919 or this chapter or ORS chapter 473.

(e) Does not have a good record of compliance with the alcoholic liquor laws and rules of any other jurisdiction.

(f) Or any officer, agent or employee of the certificate or permit holder, violated any term or provision of an agreement entered into pursuant to ORS 471.244 or submitted a false or fictitious report pursuant to the agreement.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745. [Amended by 1953 c.107 §2; 1971 c.159 §4; 1979 c.744 §34; 1981 c.599 §1; 1989 c.785 §3; 1991 c.734 §40; 1995 c.301 §63; 1997 c.841 §6; 1999 c.351 §51; 2011 c.107 §1; 2017 c.533 §12; 2021 c.351 §76; 2023 c.391 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.316 - Mandatory suspension if licensee fails to prevent certain unlawful drug use or sales on premises; civil penalty.**

(1) Notwithstanding any other provision of this chapter, the Oregon Liquor and Cannabis Commission shall suspend the license of a licensed premises listed in subsection (4) of this section if the commission determines that:

(a) Unlawful drug use or sales are occurring on the licensed premises;

(b) The licensee is aware of the unlawful drug use or sales because of arrests for unlawful drug sales on the licensed premises or seizures of unlawful drugs on the licensed premises, or because the licensee or employees of the licensee have personally witnessed unlawful drug use or sales on the licensed premises; and

(c) The licensee fails to take immediate and effective action to prevent unlawful drug use or sales on the licensed premises.

(2) In addition to any suspension imposed under this section, the commission may impose a civil penalty under the circumstances described in subsection (1) of this section not to exceed the maximum amount established under ORS 471.322 (2). Notwithstanding ORS 471.322 (1), the commission shall not allow payment of a civil penalty under this subsection in lieu of the suspension provided for in subsection (1) of this section. A civil penalty under this section shall be imposed in the manner provided by ORS 183.745.

(3) The commission may cancel a license listed in subsection (4) of this section if the license is suspended under the provisions of this section two or more times within a two-year period.

(4) This section applies only to premises licensed under:

(a) A full on-premises sales license.

(b) A limited on-premises sales license.

(c) A brewery-public house license. [1997 c.815 §2; 1999 c.351 §29; 2021 c.351 §77]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.317**

[1975 c.373 §2; 1979 c.236 §8; 1995 c.301 §64; renumbered 471.333 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.318 - Commission authority following lapse, suspension or revocation.**

Notwithstanding the lapse, suspension or revocation of a certificate, license, permit or other form of authorization issued under this chapter, the Oregon Liquor and Cannabis Commission may:

(1) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the certificate, license, permit or other authorization; or

(2) Revise or render void an order suspending or revoking the certificate, license, permit or other authorization. [2017 c.533 §2; 2021 c.351 §78]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.322 - Civil penalty in lieu of or in addition to short-term suspension of certain licenses and permits; limits on amount.**

(1) If a license issued under this chapter or a service permit issued under ORS 471.360 is suspended for a period of 30 days or less, the Oregon Liquor and Cannabis Commission may impose against the affected licensee or permittee in lieu of or in addition to the suspension a civil penalty fixed by the commission in accordance with subsection (2) of this section if the commission is satisfied that such a penalty in lieu of or in addition to suspension is consistent with the purposes of the Liquor Control Act and the Oregon Distilled Liquor Control Act. Upon payment of the penalty in lieu of suspension, the commission shall cancel the suspension.

(2) Except as provided in ORS 471.327, the penalty which the commission may impose pursuant to subsection (1) of this section against a licensee shall not be less than \$100 nor more than \$5,000. The penalty which the commission may impose pursuant to subsection (1) of this section against a service permittee shall not be less than \$25 nor more than \$500.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745. [1969 c.67 §§2,3; 1973 c.144 §1; 1975 c.735 §1; 1979 c.264 §10; 1981 c.599 §2; 1991 c.61 §1; 1991 c.734 §41; 1995 c.301 §65; 1999 c.351 §52; 1999 c.1062 §1; 2021 c.351 §79]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.326 - Refund of civil penalty if suspension not sustained on judicial review.**

If the action of the Oregon Liquor and Cannabis Commission in suspending a license or permit issued under this chapter is not sustained upon judicial review under ORS chapter 183, the commission shall promptly refund the amount paid pursuant to ORS 471.322 (1) by check or order drawn on the State Treasurer from the Oregon Liquor and Cannabis Commission Account. [1969 c.67 §4; 1973 c.144 §2; 1975 c.735 §2; 1979 c.264 §11; 1991 c.61 §2; 1995 c.301 §66; 1999 c.351 §53; 2021 c.351 §80]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.327 - Civil penalty in addition to or in lieu of suspending certain other licenses, permits or certificates.**

(1) The Oregon Liquor and Cannabis Commission, in suspending any brewery license, wholesale wine license, wholesale malt beverage license, direct shipper permit, direct to retailer permit or certificate of approval, may:

- (a) Further impose against the licensee or the holder of the permit or certificate of approval a civil penalty not to exceed \$5,000; or
  - (b) In the commission's discretion, impose the civil penalty without suspending the license, permit or certificate of approval.
- (2) Civil penalties under this section shall be imposed as provided in ORS 183.745. [1955 c.657 §7; 1973 c.311 §3; 1991 c.734 §42; 2021 c.351 §81; 2023 c.391 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.329 - Serious and persistent problems involving noise as grounds for discipline of licensee or applicant.**

(1) For the purpose of determining whether there is a history of serious and persistent problems involving noise under the provisions of ORS 471.313 and 471.315 (1)(c), or whether the licensee maintains a noisy establishment in violation of the provisions of ORS 471.425:

- (a) Noise from the inside of a licensed premises located within the boundaries of a city or county that has an ordinance regulating excessive noise may be considered obtrusive or excessive only if the noise violates the ordinance;
- (b) Noise caused by patrons outside a licensed premises located within the boundaries of a city or county that has an ordinance regulating excessive noise may be considered obtrusive or excessive only if the noise violates the ordinance or if the noise is of a type that a reasonable person would not expect to hear outside a premises licensed for the sale of alcoholic beverages; and
- (c) Noise caused by patrons inside or outside a licensed premises located within the boundaries of a city or county that does not have an ordinance regulating excessive noise may be considered obtrusive or excessive only if the noise is of the type that a reasonable person would not expect to hear inside or outside a premises licensed for the sale of alcoholic beverages.

(2) For the purpose of determining whether noise is obtrusive under the provisions of ORS 471.313 and 471.315 (1)(c), or whether the licensee maintains a noisy establishment in violation of the provisions of ORS 471.425, the Oregon Liquor and Cannabis Commission shall consider whether persons complaining about the noise have taken any action to mitigate the disturbance alleged to have been caused by the noise. [1999 c.646 §10; 2001 c.785 §4; 2021 c.351 §82; 2023 c.391 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.330**

[Amended by 1977 c.215 §1; 1995 c.301 §67; 1999 c.351 §54; renumbered 471.351 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.331 - Notice to licensee when refusal to renew or suspension or cancellation of license based on adverse neighborhood impact; no stay of order.**

(1) Whenever the Oregon Liquor and Cannabis Commission proposes to refuse to renew or to suspend or cancel any license issued under this chapter because of adverse neighborhood impact of the licensee's operation, notwithstanding ORS 183.435, the commission shall grant the affected licensee 20 days from notification of the proposed commission action to request a hearing.

(2) Notwithstanding ORS 183.482 (3), the Oregon Liquor and Cannabis Commission shall not stay any order refusing a license or suspending or canceling any license if the order was entered on grounds stated in ORS 471.313 or 471.315 (1)(c). [Formerly 471.312; 2021 c.351 §83; 2023 c.391 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.333 - Effect of sanitation violations.**

(1) Except as provided in subsections (2) and (3) of this section, the Oregon Liquor and Cannabis Commission shall not refuse to issue, cancel or suspend a license under ORS 471.313, 471.315 or 471.425 for maintaining an insanitary establishment.

(2) The commission may refuse to issue, cancel or suspend a license under ORS 471.313, 471.315 or 471.425 for maintaining an insanitary establishment in violation of a city ordinance relating to sanitation only if the licensee is convicted of violating the ordinance.

(3) The commission may refuse to issue, cancel or suspend a license under ORS 471.313, 471.315 or 471.425 for maintaining an insanitary establishment in violation of ORS 447.010 to 447.156 and 447.992 or the laws, orders or rules relating to public health of the Oregon Health Authority or the State Department of Agriculture only when the agency charged with enforcing those laws,

orders or rules finds that the licensee is in violation of them and renders a final order adverse to the licensee. [Formerly 471.317; 2001 c.900 §204; 2009 c.595 §959; 2021 c.351 §84]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.335**

[Amended by 1953 c.120 §6; 1974 c.4 §4; 1985 c.592 §3; renumbered 471.404 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.340**

[Amended by 1983 c.316 §1; 1999 c.351 §69; renumbered 471.442 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.341 - Mandatory clerk training course for employees of off-premises sales licensees; rules; fees; civil penalty.**

(1) An employee of an off-premises sales licensee who has been found by the Oregon Liquor and Cannabis Commission to have sold alcoholic beverages to a minor, or to have failed to properly verify identification of a person who purchased alcoholic beverages, must attend a clerk training course approved by the commission as a condition of making sales of alcoholic beverages to members of the public under an off-premises sales license.

(2) The commission shall by rule establish times for employees to complete a required clerk training course under this section. An employee required to complete a clerk training course under this section may continue to make sales of alcoholic beverages to members of the public until taking such training, but may not make any sales of alcoholic beverages after the expiration of the time allowed by commission rule if the employee has not completed the training before the expiration of that time.

(3) Except as provided in subsection (2) of this section, the holder of an off-premises sales license may not allow an employee who has been found by the Oregon Liquor and Cannabis Commission to have sold alcoholic beverages to a minor, or to have failed to properly verify identification of a person who purchased alcoholic beverages, to sell alcoholic beverages under the license unless the employee completes a clerk training course as required by this section.

(4) The Oregon Liquor and Cannabis Commission, as part of the Alcohol Education Program established under ORS 471.541, shall approve all clerk training courses offered for the purpose of this section. The holder of an off-premises sales license may establish a clerk training course for employees of the licensee, but the course must be approved by the commission to meet the requirements of this section. Clerk training courses approved under this section must address at least the following topics:

(a) The importance of not selling alcoholic beverages to minors and visibly intoxicated persons.

(b) Guidelines for recognizing minors and visibly intoxicated persons.

(c) Guidelines for checking and verifying identification, and for recognizing false or altered identification.

(d) Recommended approaches for refusing sales of alcoholic beverages to minors and visibly intoxicated persons.

(5) If an employee of an off-premises sales licensee is found to have sold alcoholic beverages to a minor, or to have failed to properly verify identification of a person who purchased alcoholic beverages, the commission shall notify the licensee that the employee must complete a clerk training course approved under this section and may not sell alcoholic beverages to members of the public after the time established by the commission unless the employee completes the training within the time allowed. If the off-premises sales licensee offers a clerk training course to new employees, and the employee has previously completed that course, the requirements of this section may be met by retaking the clerk training course if the course has been approved by the commission for the purposes of this section.

(6) Upon completion of a clerk training course by an employee of an off-premises sales licensee pursuant to the requirements of this section, the off-premises sales licensee that employs the person must notify the commission in writing that the employee has successfully completed the training. The notification must include the name and address of the employee, the name of the clerk training course attended by the employee, and the date or dates on which the course was attended. The notification shall be kept by the commission in the licensee's file.

(7) The commission shall assess and collect a fee not to exceed \$13 from each person required to attend a clerk training course under this section. Amounts collected under this section shall be used for the administrative expenses incurred by the commission in the performance of the commission's duties under the Alcohol Education Program.

(8) In addition to any other penalty provided for by law, the commission may impose a civil penalty against any employee of an off-premises sales licensee who sells alcoholic beverages to members of the public and who is prohibited from making those sales under this section. A civil penalty under this subsection may not exceed \$500. Civil penalties under this subsection shall be imposed by the commission in the manner provided by ORS 183.745. [1999 c.1062 §§3,9; 2001 c.785 §15; 2021 c.351 §85]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.342 - Acquisition and use of age verification equipment in lieu of other penalty.**

Upon finding that a retail licensee, as defined in ORS 471.392, or an employee of a retail licensee has sold alcoholic beverages to a minor, or has failed to properly verify identification of a person who purchased alcoholic beverages, the Oregon Liquor and

Cannabis Commission may allow the licensee, in lieu of a civil penalty or denial, suspension or cancellation of the license, to acquire and use equipment designed to prevent sales of alcoholic beverages to minors. [1999 c.1062 §5; 2021 c.351 §86]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.344 - Responsible vendor program; rules.**

(1) The Oregon Liquor and Cannabis Commission shall by rule establish a responsible vendor program. The program shall include a list of positive measures that a licensee must take to avoid sales of alcoholic beverages to minors. Any person holding a liquor license that authorizes the person to sell alcoholic beverages at retail may participate in the program.

(2) If a licensee participates in the responsible vendor program and takes all measures specified by the program as necessary to prevent sales of alcoholic beverages to minors, the commission may not cancel the license of the licensee, or deny issuance of a license to the licensee, based on sales of alcoholic beverages to minors by employees of the licensee. [1999 c.1062 §7; 2011 c.102 §1; 2021 c.351 §87]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.345**

[Amended by 1999 c.351 §70; renumbered 471.446 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.346 - Uniform standards for minor decoy operations; rules.**

(1)(a) The Oregon Liquor and Cannabis Commission shall by rule develop uniform standards for minor decoy operations used to investigate licensees, permittees, agents appointed by the commission, third-party delivery facilitators and any person delivering alcoholic beverages to final consumers in this state for violations of the laws of this state prohibiting sales and deliveries of alcoholic beverages to minors.

(b) Uniform standards established by the commission under this section apply to all investigations conducted by the commission that use minor decoys. The commission shall encourage all law enforcement agencies of this state to use the uniform standards established under this section for minor decoy operations conducted by the law enforcement agencies.

(2) To the greatest extent possible, the uniform standards established by the commission under this section must:

(a) Be the same for minor decoy operations conducted by the commission and for minor decoy operations conducted by law enforcement agencies of this state; and

(b) Provide for coordination between the commission and law enforcement agencies of this state in conducting minor decoy operations.

(3)(a) The uniform standards established by the commission under this section for investigating sales by licensees occurring on licensed premises and in-store sales by agents appointed by the commission must provide that:

(A) Minor decoy operations must be conducted on either a random or a targeted basis in cities with populations of 20,000 or more.

(B) Random minor decoy operations must cover a range of licensed premises and retail outlets. For the purpose of implementing standards for random minor decoy operations under this subparagraph, the commission shall by rule adopt a methodology that produces, to the greatest extent possible, an equal chance that any licensee or agent will be subject to a minor decoy operation.

(C) Targeted minor decoy operations may be conducted for a single licensee or agent, but may be used only if there is a documented compliance problem with the specific licensee or agent that is the target of the minor decoy operation.

(b) Investigations of deliveries of alcoholic beverages to final consumers in this state are exempt from the requirements for random and targeted minor decoy operations under paragraph (a) of this subsection.

(4) Except as provided in subsection (5) of this section, the failure of the commission or of a law enforcement agency to follow uniform standards established by the commission under this section is not grounds for challenging any complaint, citation or conviction for violation of the laws prohibiting the sale or delivery of alcoholic beverages to minors.

(5) In determining whether to impose sanctions based on multiple violations of the laws of this state prohibiting sales or deliveries of alcoholic beverages to minors, the commission may not consider any complaint filed against, citation issued to or conviction of a licensee, permittee, agent appointed by the commission, third-party delivery facilitator or a person delivering alcoholic beverages to final consumers for selling or delivering alcoholic beverages to a minor if the complaint, citation or conviction arose out of a minor decoy operation that was not conducted pursuant to the uniform standards established by the commission under this section.

(6) Notwithstanding any other provision of this chapter, the commission may not consider any sale or delivery of alcoholic beverages to a minor that results from a minor decoy operation that is not conducted in compliance with the standards established under this section for the purpose of:

(a) Imposing any civil penalty against a licensee, permittee, agent appointed by the commission, third-party delivery facilitator or a person delivering alcoholic beverages to final consumers;

(b) Making a decision on the renewal, suspension or cancellation of a license, permit, appointment or third-party delivery facilitator permit issued under this chapter or rules adopted under this chapter; or

(c) Otherwise sanctioning a licensee, permittee, agent appointed by the commission, third-party delivery facilitator or a person delivering alcoholic beverages to final consumers for the sale or delivery of alcoholic beverages to a minor.

(7) The commission shall give notice of the uniform standards established under this section to all law enforcement agencies of this

state that conduct minor decoy operations. [2001 c.791 §2; 2021 c.351 §88; 2023 c.539 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.351 - Examination of books and premises of licensees.**

(1) The Oregon Liquor and Cannabis Commission has the right after 72 hours' notice to the owner or the agent of the owner to make an examination of the books and may at any time make an examination of the premises of any person licensed under this chapter, or to check the alcoholic content of liquors carried by the licensee, for the purpose of determining compliance with this chapter and the rules of the commission.

(2) The commission shall not require the books of any licensee to be maintained on the premises of the licensee. [Formerly 471.330; 2021 c.351 §89]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.355**

[1971 c.470 §4; 1981 c.199 §3; 1989 c.178 §5; 1995 c.301 §68; 1997 c.79 §2; 1999 c.351 §30; renumbered 471.294 in 1999]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.360 - Service permit required; waiver; penalty.**

(1) Except as otherwise provided in ORS 471.375:

(a) Any person employed by a licensee of the Oregon Liquor and Cannabis Commission must have a valid service permit issued by the commission if the person:

(A) Participates in any manner in the mixing, selling or service of alcoholic liquor for consumption on the premises where served or sold; or

(B) Participates in the dispensing of malt beverages, wines or cider sold in securely covered containers provided by the consumer.

(b) A licensee of the commission may not permit any person who lacks a service permit required of the person under paragraph (a) of this subsection:

(A) To mix, sell or serve any alcoholic liquor for consumption on licensed premises; or

(B) To dispense malt beverages, wines or cider sold in securely covered containers provided by the consumer.

(c) A permittee shall make the service permit available at any time while on duty for immediate inspection by any regulatory specialist or by any other peace officer.

(2) The commission may waive the requirement for a service permit for an employee of a licensee whose primary function is not the sale of alcoholic liquor or food, including but not limited to public passenger carriers, hospitals, or convalescent, nursing or retirement homes.

(3) Violation of the requirements of this section is a Class B violation. [1979 c.788 §2; 2012 c.54 §2; 2013 c.32 §9; 2015 c.614 §161; 2019 c.44 §1; 2021 c.351 §90]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.365 - Characteristics of permit; verification of identity of permittee.**

(1) A service permit shall be a purely personal privilege, valid only upon licensed premises, for the period of time stated thereon, and may be suspended or revoked for any reason set forth in ORS 471.360 to 471.385.

(2) No service permit shall be used by any person other than the person to whom it is issued. Except as provided in ORS 471.375, the licensee shall verify the identification of the permittee and determine that the permittee has in possession a service permit before allowing the permittee to mix, sell or serve alcoholic liquor for consumption on the licensed premises. [1979 c.788 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.370 - Expiration.**

Unless sooner suspended or revoked, a service permit expires five years after the date the Oregon Liquor and Cannabis Commission issues the permit. [1979 c.788 §3a; 1981 c.599 §3; 2009 c.350 §3; 2017 c.533 §13; 2021 c.351 §91]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.375 - Application; requirements; fee.**

(1) Any person who has not had a permit refused or revoked or whose permit is not under suspension may mix, sell or serve alcoholic beverages as provided under subsection (3) of this section if the person prepares in duplicate an application for a service permit prior to mixing, selling or serving any alcoholic beverage for consumption on licensed premises. Until a person who has prepared an application under this subsection receives a service permit, the licensee for the premises shall make a copy of the application available for immediate inspection by any regulatory specialist or by any other peace officer.

(2) An applicant for a service permit must be 18 years of age or over. Application for a service permit shall be made on a form acceptable to the Oregon Liquor and Cannabis Commission. The applicant shall truly answer all questions, provide any further information required and pay a fee not to exceed \$50.

(3) An applicant described in subsection (1) of this section may:

- (a) Participate in the mixing, selling or service of alcoholic beverages for consumption on the premises where served or sold; and
- (b) Participate in the dispensing of malt beverages, wine or cider sold in securely covered containers provided by the consumer. [1979 c.788 §4; 1981 c.610 §5; 1987 c.511 §6; 1989 c.271 §2; 2001 c.785 §7; 2009 c.39 §1; 2012 c.54 §3; 2013 c.537 §7; 2015 c.614 §162; 2017 c.533 §14; 2019 c.676 §1; 2021 c.351 §92]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.380 - Grounds for refusing to issue permit; request for hearing.**

(1) The Oregon Liquor and Cannabis Commission may refuse to grant a service permit if it has reasonable grounds to believe any of the following to be true:

- (a) That the applicant is in the habit of using alcoholic beverages or controlled substances to excess.
- (b) That the applicant has made false statements to the commission.
- (c) That the applicant is incompetent or physically incapable of performing the duties of a permittee.
- (d) That the applicant has been convicted of violating any of the alcoholic liquor laws of this state, general or local, or has been convicted at any time of a felony.
- (e) That the applicant has not completed the alcohol server education course and examination required by ORS 471.542.

(2) Notwithstanding ORS 183.435, an applicant who seeks review of the refusal of a service permit must request a hearing:

- (a) Within 15 days after notification of the refusal, if the refusal is based on failure to complete the alcohol server education course and examination; or
- (b) Within 30 days after notification of the refusal, if the refusal is based on any grounds other than failure to complete the alcohol server education course and examination. [1979 c.788 §5; 1997 c.79 §3; 2001 c.785 §8; 2005 c.12 §1; 2009 c.350 §1; 2017 c.533 §15; 2021 c.351 §93]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.385 - Grounds for revoking or suspending permit or imposing civil penalty; responsibility of licensee.**

(1) The Oregon Liquor and Cannabis Commission may revoke or suspend a service permit, or impose a civil penalty in lieu of or in addition to suspension as provided by ORS 471.322, if the commission finds or has reasonable grounds to believe any of the following to be true:

- (a) That the permittee has made false statements to the commission.
- (b) That the permittee has been convicted of a felony, of violating any of the liquor laws of the state, general or local, or any misdemeanor or violation of any municipal ordinance committed on the licensed premises.
- (c) That the permittee has performed or permitted any act which would constitute a violation of any provision of this chapter or any rule of the commission, if the act were performed or permitted by any licensee of the commission.
- (d) That the permittee was aware of activities that the permittee had a duty to report under ORS 471.271 and the permittee did not report.

(2) The issuance, suspension or revocation of a permit under ORS 471.360 to 471.385 does not relieve a licensee from responsibility for any act of an employee on the licensee's premises.

(3) When there has been a violation of this chapter or any rule adopted thereunder upon any premises licensed by the commission, the commission may revoke or suspend either the service permit of the employee who violated the law or rule or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(4) Civil penalties under this section shall be imposed as provided in ORS 183.745. [1979 c.788 §§6,8; 1981 c.599 §5; 1991 c.734 §43; 1995 c.301 §39; 1999 c.351 §55; 2009 c.350 §2; 2017 c.533 §16; 2021 c.44 §3; 2021 c.351 §94]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.390**

[1979 c.788 §7; repealed by 2017 c.533 §18]

"TIED HOUSE" PROHIBITIONS

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.392 - Definitions for ORS 471.392 to 471.400.**

For the purposes of ORS 471.392 to 471.400:

(1) "Manufacturer or wholesaler" means:

(a) A person holding a brewery license issued under ORS 471.221, a winery license issued under ORS 471.223, a grower sales privilege license issued under ORS 471.227, a distillery license issued under ORS 471.230, a wholesale malt beverage and wine license issued under ORS 471.235, a warehouse license issued under ORS 471.242, a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282.

(b) Any manufacturer of alcoholic liquors whose products are sold in the State of Oregon.

(2) "Retail licensee" means the holder of a full or limited on-premises sales license, an off-premises sales license or a temporary sales license. "Retail licensee" does not include a bona fide trade association that represents retail licensees and that is open to all persons licensed under at least one type of retail license. [1995 c.301 §76; 1997 c.249 §172; 1999 c.351 §31; 2016 c.3 §5; 2023 c.391 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.394 - Prohibition on sales at both wholesale and retail; prohibition on financial connection between retailer and wholesaler.**

(1) Except as provided in ORS 471.396, a person licensed under the provisions of this chapter may not sell alcoholic liquor at both retail and wholesale.

(2) Except as provided in ORS 471.396, a manufacturer or wholesaler may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of a retail licensee.

(3) Except as provided in ORS 471.396, a retail licensee may not acquire or hold any right, title, lien, claim or other interest, financial or otherwise, in, upon or to the premises, equipment, business or merchandise of any manufacturer or wholesaler. [1995 c.301 §77; 1999 c.351 §56]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.396 - Exceptions to prohibition on financial connection between wholesaler and retailer.**

(1) The prohibitions of ORS 471.394 (1) do not apply to persons holding winery licenses, grower sales privilege licenses, brewery-public house licenses, distillery licenses or brewery licenses, to the extent that retail sales are authorized by the statutes establishing the privileges of each license.

(2)(a) The prohibitions of ORS 471.394 (2) and (3) do not apply to a person who wholesales alcoholic liquor and who is not required to be licensed under the provisions of this chapter if the retail licensee does not sell any brand of alcoholic liquor sold or distributed by the person and does not sell any brand of alcoholic liquor produced by any manufacturer doing business with the person selling at wholesale.

(b) The prohibitions of ORS 471.394 (2) and (3) do not apply to a manufacturer of alcoholic liquor if the retail licensee does not sell any brand of alcoholic liquor sold, distributed or produced by the manufacturer and does not sell any brand of alcoholic liquor sold, distributed or produced by any subsidiary or other business entity that the manufacturer owns or manages, or that the manufacturer exercises control over.

(3) The prohibitions of ORS 471.394 do not apply solely by reason of the family relationship of a spouse or family member to a manufacturer or wholesaler if:

(a) The manufacturer or wholesaler is licensed by the Oregon Liquor and Cannabis Commission to sell alcoholic liquor at wholesale;

(b) The license authorizing sale of alcoholic liquor at wholesale was first issued before January 1, 1965, and has been held continuously since that date;

(c) The spouse or family member holds or seeks a license that authorizes the retail sale of alcoholic liquor for off-premises consumption only; and

(d) The manufacturer or wholesaler does not directly or indirectly sell alcoholic liquor to the spouse or family member.

(4) The prohibitions of ORS 471.394 do not apply solely by reason of the family relationship of a spouse or family member to the retail licensee if the manufacturer or wholesaler is licensed by the commission to sell alcoholic liquor at wholesale and does not directly or indirectly sell alcoholic liquor to the spouse or family member.

(5) Notwithstanding ORS 471.394, a manufacturer or wholesaler, and any officer, director or substantial stockholder of any corporate manufacturer or wholesaler, may hold, directly or indirectly, an interest in a full or limited on-premises sales licensee, provided that the interest does not result in exercise of control over, or participation in the management of, the licensee's business or business decisions, and does not result in exclusion of any competitor's brand of alcoholic liquor.

(6) Notwithstanding ORS 471.394, a full or limited on-premises sales licensee, and any officer, director or substantial stockholder of any corporate full or limited on-premises sales licensee, may hold, directly or indirectly, an interest in a manufacturer or wholesaler, provided that the interest does not result in exercise of control over, or participation in the management of, the manufacturer's or wholesaler's business or business decisions, and does not result in exclusion of any competitor's brand of alcoholic liquor.

(7) Notwithstanding ORS 471.394, an institutional investor with a financial interest in a wholesaler or manufacturer may hold, directly or indirectly, an interest in a retail licensee unless the institutional investor controls, is controlled by, or is under common control with, a wholesaler or manufacturer. Notwithstanding ORS 471.394, an institutional investor with a financial interest in a retail licensee may hold, directly or indirectly, an interest in a wholesaler or manufacturer unless the institutional investor controls, is controlled by, or is under common control with, a retail licensee. The provisions of this subsection apply only to an institutional investor that is a state or federally chartered bank, a state or federally chartered mutual savings bank, a mutual fund or pension fund, or a private investment firm. The principal business activity of the institutional investor must be the investment of capital provided by depositors, participants or investors. The institutional investor must maintain a diversified portfolio of investments. The majority of the institutional investor's investments may not be in businesses that manufacture, distribute or otherwise sell alcoholic beverages. The institutional investor, and the officers, directors, substantial shareholders, partners, employees and agents of the



institutional investor, may not participate in management decisions relating to the sale or purchase of alcoholic beverages made by a licensee in which the institutional investor holds an interest.

(8) Notwithstanding ORS 471.394, a member of the board of directors of a parent company of a corporation that is a manufacturer may serve on the board of directors of a parent company of a corporation that is a retail licensee if:

(a) The manufacturer or parent company of a manufacturer is listed on a national security exchange;

(b) All purchases of alcoholic beverages by the retail licensee are made from holders of wholesale malt beverage and wine licenses, brewery licenses or winery licenses in this state;

(c) The interest of the member of the board of directors does not result in the exclusion of any competitor's brand of alcoholic beverages on the licensed premises of the retail licensee; and

(d) The sale of goods and services other than alcoholic beverages by the retail licensee exceeds 50 percent of the gross receipts of the business conducted by the retail licensee on the licensed premises. [1995 c.301 §78; 1997 c.257 §2; 1997 c.803 §4; 1999 c.351 §32; 1999 c.442 §1; 2007 c.134 §2; 2021 c.351 §95]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.398 - Prohibition of financial assistance from wholesaler to retailer.**

Except as otherwise specifically provided by law, a person holding a retail license may not accept directly or indirectly from a manufacturer or wholesaler, and a manufacturer or wholesaler may not provide directly or indirectly to the retail licensee, any of the following:

(1) Any substantial gratuities;

(2) Any finances, money, credit, discounts or rebates;

(3) Any fixtures, furniture or furnishings;

(4) Any equipment other than advertising and point of sale material and other items of nominal value supplied to all retail licensees without discrimination; or

(5) Any services other than the inspection of equipment, the inspection and rotation of stock, the building of displays and other services of nominal value incidental to merchandising in the usual course of business furnished to all retail licensees without discrimination. [1995 c.301 §79; 1997 c.79 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.400 - Exceptions to prohibition of financial assistance; rules.**

(1)(a) Notwithstanding ORS 471.394 and 471.398, a manufacturer or wholesaler may lease or furnish picnic pumps, cold plates, tubs, refrigerated trailers, refrigerated vans and refrigerated draft systems to a retail licensee if:

(A) The equipment is leased or furnished for a special event;

(B) A reasonable rental or service fee is charged for the equipment; and

(C) Except as provided in paragraph (b) of this subsection, the period that the equipment is leased or furnished does not exceed 14 days.

(b) The maximum period for which equipment may be leased or furnished under this subsection may be extended by periods that are reasonable for the equipment to be set up at or removed from the site of the special event.

(2) Notwithstanding ORS 471.394 and 471.398, the Oregon Liquor and Cannabis Commission may specify by rule the manner and circumstances under which a manufacturer or wholesaler may provide products and services to a nonprofit special licensee.

(3)(a) Notwithstanding ORS 471.394 and 471.398, the commission shall allow the sale of nonalcoholic products in the manner in which the nonalcoholic product is sold by a manufacturer or wholesaler not licensed by the commission. The commission may limit merchandising practices involving nonalcoholic products if the commission finds that the limitations are necessary to prevent abuses of ORS 471.394 and 471.398 by the industry as a whole.

(b) Any fixtures, equipment or furnishings provided by a manufacturer or wholesaler in furtherance of the sale of nonalcoholic products may not be used by the retail licensee to store, service, display, advertise, furnish or sell, or aid in the sale of, alcoholic products regulated by the commission. All fixtures, equipment or furnishings described in this subsection must be identified by the retail licensee as being furnished by a licensed manufacturer or wholesaler. [1995 c.301 §80; 2021 c.180 §13; 2021 c.351 §96]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.401 - Purchase of alcoholic liquor advertising space or time from retail licensee.**

(1) Notwithstanding any other provision of this chapter, a manufacturer or wholesaler of alcoholic liquor may purchase advertising space or time from a licensee authorized to sell alcoholic liquors at retail if the retail licensee:

(a) Holds a full or limited on-premises sales license and has on the licensed premises at least one room or area for which the maximum occupancy approved by the State Fire Marshal or a governmental subdivision granted an exemption under ORS 476.030 is 3,000 or more persons;

(b) Holds a full or limited on-premises sales license and the licensed premises is owned by the United States Government or a public body as defined in ORS 174.109;

(c) Holds a full or limited on-premises sales license and is a foreign corporation or nonprofit corporation, both as defined in ORS 65.001, that possesses a certificate of authorization or certificate of existence issued under ORS 65.027; or

- (d) Holds a temporary sales license and is an entity described in ORS 471.190 (3)(a), (c) or (d).
- (2) A manufacturer or wholesaler may purchase advertising space or time under this section only in connection with events to be held on the licensed premises.
- (3) A retail licensee that sells advertising space or time under this section must serve other brands of distilled liquors, malt beverages, cider or wine in addition to the brand manufactured or sold by the manufacturer or wholesaler purchasing advertising space or time.
- (4) A purchase of advertising space or time under the provisions of this section must be made by written agreement. [1995 c.51 §2; 1999 c.351 §71; 2011 c.173 §1; 2013 c.537 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.402 - Sample tastings authorized.**

The holder of a brewery license issued under ORS 471.221, a winery license issued under ORS 471.223, a grower sales privilege license issued under ORS 471.227, a brewery-public house license issued under ORS 471.200, a warehouse license issued under ORS 471.242 or a manufacturer certificate of approval issued under ORS 471.244 may provide or pay for sample tastings of wine, cider or malt beverages for the public on premises licensed under a full or limited on-premises sales license or under an off-premises sales license. [1995 c.58 §4; 1999 c.351 §33; 2016 c.3 §6]

Note:

471.402 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.403 - License required to produce alcoholic liquor; exception.**

- (1) Except as provided in this section, a person may not brew, ferment, distill, blend or rectify any alcoholic liquor unless licensed so to do by the Oregon Liquor and Cannabis Commission.
- (2) The holder of a brewery-public house license or a brewery license may allow patrons to brew malt beverages not to exceed 14 percent alcoholic content by volume if the brewing is conducted under the direct supervision of the licensee or employees of the licensee. Malt beverages produced under this subsection may not be sold by the patron.
- (3) The holder of a winery license may allow patrons to make wine if the winemaking is conducted under the direct supervision of the licensee or employees of the licensee. Wine produced under this subsection may not be sold by the patron.
- (4) A person may make homemade beer, wine and fermented fruit juice as authorized under ORS 471.037. A person may provide assistance to another in making the homemade beer, wine or fermented fruit juice, if the person does not receive financial consideration as defined in ORS 471.037 for providing the assistance. [Formerly 471.205; 2007 c.414 §1; 2011 c.12 §4; 2021 c.351 §97]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.404 - Importing liquor without license prohibited; exceptions; fee.**

- (1) Alcoholic liquor may not be imported into this state by any person other than a holder of a brewery, winery, distillery or wholesaler's license, except as follows:
  - (a) Alcoholic liquor ordered by and en route to the Oregon Liquor and Cannabis Commission, under a certificate of approval issued by the commission.
  - (b) Wines for sacramental purposes according to rules adopted by the commission.
  - (c) Alcoholic liquor that is in transit on a common carrier to a destination outside Oregon.
  - (d) Alcoholic liquor coming into Oregon on a common carrier according to orders placed by a licensed brewery, winery or wholesaler.
  - (e) Grain and ethyl alcohol for scientific, pharmaceutical, manufacturing, mechanical or industrial use, under a certificate of approval issued by the commission.
  - (f) Malt beverages, wine or cider that is sold and transported by the holder of a direct to retailer permit pursuant to ORS 471.274.
  - (g) Malt beverages, wine or cider shipped directly to a resident of this state under a direct shipper permit issued pursuant to ORS 471.282.
- (2) The commission may require importers of alcoholic liquor to pay a reasonable handling fee based on the quantity and type of alcoholic liquor being imported. [Formerly 471.335; 2007 c.651 §6; 2007 c.854 §3; 2009 c.240 §3; 2015 c.673 §6; 2021 c.351 §98; 2023 c.391 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.405 - Prohibited sales, purchases, possession, transportation, importation or solicitation in general; forfeiture upon conviction.**

- (1) No person shall peddle or deliver alcoholic beverages to or at any place, where, without a license, alcoholic beverages are sold or offered for sale. No licensee shall sell or offer for sale any alcoholic beverage in a manner, or to a person, other than the license

permits the licensee to sell.

(2) No person shall purchase, possess, transport or import, except for sacramental purposes, an alcoholic beverage unless it is procured from or through the Oregon Liquor and Cannabis Commission, except as provided otherwise in the Liquor Control Act.

(3) No person not licensed under the Liquor Control Act shall sell, solicit, take orders for or peddle alcoholic beverages.

(4) Notwithstanding the provisions of subsection (2) of this section, an individual entering the state may have in possession an amount not to exceed four liters (135.2 fluid ounces) of distilled liquor, two cases of wine or cider (620 fluid ounces) and two cases of malt beverages (576 fluid ounces). These quantities of alcoholic beverages are exempt from fees collected by the commission.

(5) Upon conviction for unlawfully purchasing or importing alcoholic beverages into this state, the person convicted shall forfeit to the commission the alcoholic beverage so purchased or imported. The commission shall thereupon seize the forfeited beverage and it shall then become the commission's property. [Amended by 1953 c.120 §6; 1974 c.4 §5; 1981 c.600 §1; 1985 c.592 §2; 1987 c.608 §11; 1995 c.301 §19; 1999 c.351 §72; 2021 c.351 §99]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.406 - Activities covered by prohibitions on sale of alcoholic beverages.**

Any prohibition on the sale of alcoholic beverages provided for in this chapter includes:

(1) Soliciting orders for alcoholic beverages or receiving orders for alcoholic beverages.

(2) Keeping alcoholic beverages for sale or exposing alcoholic beverages for sale.

(3) Delivering alcoholic beverages for value or in any way other than purely gratuitously.

(4) Peddling alcoholic beverages.

(5) Keeping alcoholic beverages with intent to sell.

(6) Trafficking in alcoholic beverages.

(7) For any consideration, promised or obtained, directly or indirectly, or under any pretext or by any means, procuring alcoholic beverages, or allowing alcoholic beverages to be procured, for any other person. [1995 c.301 §8 (enacted in lieu of 471.025); 1999 c.351 §57]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.407 - Offer of alcoholic beverages as inducement to make purchases.**

Except as specifically provided in this chapter, a person who owns, operates or controls a business establishment that sells food or beverages for consumption at the establishment or that offers entertainment to the public for consideration may not provide alcoholic beverages to members of the public for consumption at the establishment, without regard to whether the beverages are offered on a purely gratuitous basis, if:

(1) The alcoholic beverages are offered for the purpose of inducing members of the public to purchase food or beverages or to pay for entertainment; and

(2) The person providing the alcoholic beverages does not hold a license issued under this chapter that authorizes the retail sale of alcoholic beverages. [1999 c.646 §8; 2001 c.104 §214]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.408 - Alcoholic liquor may not be given as prize; exception.**

(1) Except as otherwise provided in this section, alcoholic liquor may not be given as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind.

(2) A nonprofit or charitable organization registered in this state may auction or raffle alcoholic liquor as provided under ORS 471.162 (6) and may deliver or arrange for delivery of the alcoholic liquor to the residence of the successful bidder or raffle winner.

(3) A charitable, fraternal or religious organization may offer alcoholic liquor as a prize, premium or consideration in a contest of chance described in ORS 167.117 (7)(b) or conducted as part of a Monte Carlo event as defined in ORS 167.117.

(4) An auction is not a lottery, contest, game of chance or skill or competition for purposes of this section. [1995 c.363 §2; 1997 c.191 §1; 1997 c.867 §25; 2013 c.150 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.410 - Providing liquor to person under 21 or to intoxicated person; allowing consumption by minor on property; mandatory minimum penalties.**

(1) A person may not sell, give or otherwise make available any alcoholic liquor to any person who is visibly intoxicated.

(2) A person other than the person's parent or guardian may not sell, give or otherwise make available any alcoholic liquor to a person under the age of 21 years. A parent or guardian may give or otherwise make alcoholic liquor available to a person under the age of 21 years only if the person is in a private residence and is accompanied by the parent or guardian. A person violates this subsection if the person sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person to whom the liquor is made available will violate this subsection.

(3)(a) A person who exercises control over private real property may not knowingly allow any other person under the age of 21 years who is not a child or minor ward of the person to consume alcoholic liquor on the property, or allow any other person under

the age of 21 years who is not a child or minor ward of the person to remain on the property if the person under the age of 21 years consumes alcoholic liquor on the property.

(b) This subsection:

(A) Applies only to a person who is present and in control of the location at the time the consumption occurs;

(B) Does not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual unit in which the owner or agent resides; and

(C) Does not apply to a person who exercises control over a private residence if the liquor consumed by the person under the age of 21 years is supplied only by an accompanying parent or guardian.

(4) This section does not apply to sacramental wine given or provided as part of a religious rite or service.

(5) Except as provided in subsection (6) of this section, a person who violates subsection (1) or (2) of this section commits a Class A misdemeanor. Upon violation of subsection (2) of this section, the court shall impose at least a mandatory minimum sentence as follows:

(a) Upon a first conviction, a fine of at least \$500.

(b) Upon a second conviction, a fine of at least \$1,000.

(c) Upon a third or subsequent conviction, a fine of at least \$1,500 and not less than 30 days of imprisonment.

(6)(a) A person who violates subsection (2) of this section is subject to the provisions of this subsection if the person does not act knowingly or intentionally and:

(A) Is licensed or appointed under this chapter;

(B) Is an employee or agent of a person licensed or appointed under this chapter and the employee or agent violates subsection (2) of this section while acting on behalf or at the direction of the licensee or person appointed under this chapter; or

(C) Is a delivery person as defined in ORS 471.521 and was delivering alcoholic beverages to a final consumer.

(b) For a person described in paragraph (a) of this subsection:

(A) A first conviction is a Class A violation.

(B) A second conviction is a specific fine violation, and the presumptive fine for the violation is \$860.

(C) A third conviction is a Class A misdemeanor. The court shall impose a mandatory fine of not less than \$1,000.

(D) A fourth or subsequent conviction is a Class A misdemeanor. The court shall impose a mandatory fine of not less than \$1,000 and a mandatory sentence of not less than 30 days of imprisonment.

(7) The court may waive an amount that is at least \$200 but not more than one-third of the fine imposed under subsection (5) of this section, if the violator performs at least 30 hours of community service.

(8) Except as provided in subsection (7) of this section, the court may not waive or suspend imposition or execution of the mandatory minimum sentence required by subsection (5) or (6) of this section. In addition to the mandatory sentence, the court may require the violator to make restitution for any damages to property where the alcoholic liquor was illegally consumed or may require participation in volunteer service to a community service agency.

(9)(a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (3) of this section commits a Class A violation.

(b) A second or subsequent violation of subsection (3) of this section is a specific fine violation, and the presumptive fine for the violation is \$1,000.

(10) Nothing in this section prohibits any licensee under this chapter from allowing a person who is visibly intoxicated to remain on the licensed premises so long as the person is not sold or served any alcoholic liquor. [Amended by 1963 c.243 §1; 1971 c.159 §5; 1977 c.458 §1; 1977 c.814 §1; 1983 cor. c.736 §1; 1995 c.301 §40; 1995 c.599 §5; 1995 c.756 §1; 1999 c.351 §58; 2009 c.412 §1; 2009 c.587 §4; 2009 c.608 §3; 2011 c.597 §87; 2014 c.20 §3; 2021 c.97 §63; 2021 c.351 §100; 2023 c.539 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.412 - Allowing visibly intoxicated person to consume alcoholic beverages; good faith effort; effect on other liability; letters of reprimand.**

(1) A licensee or permittee may not allow a person to consume or to continue to consume alcoholic beverages on the licensed premises after observing that the person is visibly intoxicated.

(2) A licensee or permittee is not in violation of subsection (1) of this section if the licensee or permittee makes a good faith effort to remove any unconsumed alcoholic beverages from the person's possession when the licensee or permittee observes that the person is visibly intoxicated.

(3) Nothing in this section applies to determining liability under ORS 471.565.

(4) Notwithstanding any other provision of law, the Oregon Liquor and Cannabis Commission shall only impose letters of reprimand for the first three violations of this section within a two-year period. For license renewal purposes, the first three violations of this section in a two-year period do not apply in determining the past record of compliance under ORS 471.313

(1)(d)(G). [1989 c.785 §2; 1995 c.301 §69; 2011 c.107 §2; 2021 c.351 §101; 2023 c.391 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.425 - Misrepresentations by licensee and others; maintenance of disorderly establishment.**

(1) No person shall make false representations or statements to the Oregon Liquor and Cannabis Commission in order to induce or

prevent action by the commission.

(2) No licensee of the commission shall maintain a noisy, lewd, disorderly or insanitary establishment or supply impure or otherwise deleterious alcoholic beverages.

(3) No licensee of the commission shall misrepresent to a customer or to the public any alcoholic liquor sold by such licensee.

[Amended by 2021 c.351 §102]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.430 - Purchase or possession of alcoholic beverages by person under 21; entry of licensed premises by person under 21; penalty; immunity; suspension of driving privileges; assessment and treatment.**

(1) A person under 21 years of age may not attempt to purchase, purchase or acquire alcoholic beverages. Except when a minor is in a private residence accompanied by the parent or guardian of the minor and with the parent's or guardian's consent, a person under 21 years of age may not have personal possession of alcoholic beverages.

(2) For the purposes of this section, personal possession of alcoholic beverages includes the acceptance or consumption of a bottle of alcoholic beverages, or any portion or a drink of alcoholic beverages. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.

(3) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

(4)(a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (1) or (3) of this section commits a Class B violation.

(b) A person commits a Class A violation if the person violates subsection (1) of this section by reason of personal possession of alcoholic beverages while the person is operating a motor vehicle as defined in ORS 801.360.

(c) Notwithstanding ORS 153.018, if a person who violates subsection (1) or (3) of this section was under 18 years of age at the time of the violation, the court may not impose any fine for the violation.

(5) In addition to and not in lieu of any other penalty established by law:

(a) The court may order a person who violates subsection (1) of this section through misrepresentation of age to perform community service; and

(b) The court shall order, when a person violates subsection (1) of this section, that the person's driving privileges and right to apply for driving privileges be suspended pursuant to ORS 809.260 and 809.280. The court notification made to the Department of Transportation under this paragraph may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(6) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty established by law, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).

(7) In addition to and not in lieu of any penalty established by law, the court may order a person who violates this section to undergo assessment and treatment as provided in ORS 471.432. The court shall order a person to undergo assessment and treatment as provided in ORS 471.432 if the person has previously been found to have violated this section.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Liquor and Cannabis Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

(9) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee, an eligible business, as defined in ORS 471.521, or a third-party delivery facilitator, as defined in ORS 471.521, for the purpose of investigating possible violations by employees or agents of the licensee, eligible business or third-party delivery facilitator of laws prohibiting sales or deliveries of alcoholic beverages to persons who are under 21 years of age.

(10)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance due to alcohol consumption and the evidence of the violation was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance due to alcohol consumption and the evidence of the violation was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section. [Amended by 1963 c.243 §2; 1965 c.166 §1; 1971 c.159 §6; 1975 c.493 §1; 1979 c.313 §8; 1991 c.860 §2; 1999 c.646 §1; 1999 c.1051 §186; 2001 c.791 §4; 2007 c.41 §1; 2007 c.298 §1; 2009 c.228 §1; 2011 c.355 §21; 2014 c.11 §1; 2017 c.20 §1; 2021 c.351 §103; 2021 c.597 §30; 2023 c.539 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.432 - Examination for problem condition involving alcohol upon conviction; treatment program.**

When a person is ordered to undergo assessment and treatment as provided in ORS 471.430, the court shall require the person to do

all of the following:

- (1) If the person is 18 years of age or older, pay to the court the fee described under ORS 813.030 in addition to any fine imposed under ORS 471.430.
- (2) Complete an examination by an agency or organization designated by the court to determine whether the person has a problem condition involving alcohol as described in ORS 813.040. The designated agencies or organizations must meet minimum standards established under ORS 430.357 to perform the diagnostic assessment and treatment of problem drinking and alcoholism and must be certified by the Director of the Oregon Health Authority.
- (3) Complete a treatment program, paid at the expense of the person convicted, as follows:
  - (a) If the examination required under this section shows that the person has a problem condition involving alcohol, a program for rehabilitation for alcoholism approved by the director.
  - (b) If the examination required by this section shows that the person does not have a problem condition involving alcohol, an alcohol information program approved by the director. [1999 c.646 §2; 2009 c.595 §960; 2011 c.673 §39; 2021 c.597 §31]

Note:

471.432 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.434 - Immunity for violation of ORS 471.430 when reporting sexual assault crime.**

- (1)(a) A person who contacts emergency medical services or a law enforcement agency to report a sexual assault crime, or to obtain medical or law enforcement assistance for a victim of a sexual assault crime, is immune from arrest or prosecution for a violation of ORS 471.430 if the evidence of the violation was obtained because the person contacted emergency medical services or a law enforcement agency.
- (b) A person who is the victim of a sexual assault crime is immune from arrest or prosecution for a violation of ORS 471.430 if the evidence of the violation was obtained because any person contacted emergency medical services or a law enforcement agency to report the crime or to obtain medical or law enforcement assistance for the victim.
- (2) The immunity from arrest or prosecution described in this section is not grounds for the suppression of evidence relating to a criminal offense other than a violation of ORS 471.430.
- (3) As used in this section, "sexual assault crime" means an offense described in ORS 163.355 to 163.427. [2017 c.347 §1]

Note:

471.434 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.440 - Manufacture, fermentation or possession of mash, wort or wash; establishment or operation of distillery without license; prima facie evidence.**

- (1) Except as provided in ORS 471.037 and 471.403, mash, wort or wash fit for distillation or for the manufacture of spirituous alcoholic liquors may not be made, fermented or possessed within this state by any person that does not at the time own a distillery license under the Liquor Control Act.
- (2) A distillery may not be set up or operated in this state for the purpose of manufacturing alcoholic liquor for beverage purposes except by a person duly licensed under the Liquor Control Act to operate a distillery. Any device or process that separates alcoholic spirits from any fermented substance shall be regarded as a distillery. A distillery is set up if the still is in position over a furnace, or is connected with a boiler, so that heat may be applied, although the worm or worm tank is not in position.
- (3) The finding of any mash, wort, wash or distillery in any house, on any premises or within any enclosure, is prima facie evidence that it was made and fermented by, or set up by, and the property of, the person who is in possession of the house, premises or enclosure. [Amended by 1999 c.351 §73; 2011 c.12 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.442 - Wine compliance with standards.**

- (1) No wine or cider shall be sold or offered for sale within this state unless it complies with the minimum standards fixed pursuant to law.
- (2) The Oregon Liquor and Cannabis Commission may require a manufacturer, importer or wholesaler to provide samples of a particular wine or cider, and to provide a laboratory analysis demonstrating to the satisfaction of the commission that the particular wine or cider complies with the minimum standards in this state.
- (3) No wine or cider offered for sale within this state may be altered or tampered with in any way by any person not licensed to do so by the commission.
- (4) The commission may prohibit the sale of any wine or cider for a reasonable period of time while it is determining whether the wine or cider complies with minimum standards in this state. [Formerly 471.340; 2021 c.351 §104]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic**

**Liquors GenerallySection 471.445 - Use of misleading mark or label on container; mixing liquors.**

(1) No licensee shall use or allow the use of any mark or label on the container of alcoholic liquor which is kept for sale, if the container does not precisely and clearly indicate the nature of its contents or in any way might deceive any customer as to the nature, composition, quantity, age or quality of such liquor.

(2) No licensee other than a winery licensee may mix or permit the mixing of any alcoholic liquor which the licensee is authorized to sell with any other alcoholic liquor which the licensee is not authorized by license to sell.

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.446 - Seals on wine and cider containers; improper labeling; injurious or adulterated ingredients.**

(1) No retail licensee shall purchase any wine or cider for resale except in sealed containers, the seals of which shall remain unbroken when it is sold for consumption off the premises.

(2) The Oregon Liquor and Cannabis Commission may refuse to sell, or may prohibit any licensee from selling, any brand of alcoholic liquor which in its judgment is deceptively labeled or branded as to content, or contains injurious or adulterated ingredients. [Formerly 471.345; 2021 c.351 §105]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.473 - Liquor store business loss compensation.**

(1) A person appointed to operate a store established by the Oregon Liquor and Cannabis Commission under ORS 471.750 qualifies for the payment of business loss compensation under this section if:

(a) The system for selling containers of distilled liquor at retail in this state changes after the person assumes operation of the store; and

(b) The system change results from a law that prohibits the commission from purchasing or selling distilled liquor.

(2) The purpose of business loss compensation is to offset the actual or presumed sales reduction and actual or perceived devaluation of a liquor store business following a system change described in subsection (1) of this section. The commission shall pay a person qualifying under this section business loss compensation equal to four percent of the average annual gross distilled liquor sales made by the store during the five years that preceded the system change, whether or not the person was the store operator during the entire five-year period. If the store has operated less than five years prior to the system change, the commission shall pay compensation equal to four percent of the average annual gross distilled liquor sales made by the store prior to the system change.

(3)(a) The commission shall pay any business loss compensation due under this section from the suspense account described in ORS 471.805. Except as otherwise required by federal or state law or by contract, the commission shall give the payment of business loss compensation priority over the payment of other debts from the suspense account.

(b) Notwithstanding ORS 279A.250 to 279A.290 or the revolving fund balance limit established in ORS 471.805, if a change in the system for selling containers of distilled liquor at retail in this state results in business loss compensation being payable under this section, and the commission declares within five years after the system change that a warehouse established by the commission under ORS 471.750 or the inventory of the commission is surplus property, the net proceeds from sale of the warehouse or inventory remaining after deduction of sales costs shall be deposited to the suspense account described in ORS 471.805. All moneys deposited under this paragraph shall be kept in a subaccount within the suspense account that indicates the source of the moneys.

Notwithstanding ORS 471.805, moneys deposited to the suspense account under this paragraph may not be transferred to the Oregon Liquor and Cannabis Commission Account if any business loss compensation is owed and remains unpaid. This paragraph does not restrict the source for paying business loss compensation from the suspense account or alter the priority of business loss compensation payment established in paragraph (a) of this subsection.

(4) If a person that receives business loss compensation under this section brings any action against the commission for damages resulting from a change in the system for selling containers of distilled liquor at retail in this state, the business loss compensation received by the person as a result of that system change shall be an offset against any damages awarded the person in the action. This subsection does not create any new cause of action.

(5) Business loss compensation received by a person under this section does not affect the claiming of any tax deduction by the person for depreciation of equipment, fixtures or other property improvements, but is ordinary business income of the person, taxable as provided by law. [2015 c.228 §2; 2021 c.351 §106]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.475 - Mixing, storing or serving of liquor without license.**

No person who owns, operates or conducts a private or public club or place and who is not in possession of a license issued by the Oregon Liquor and Cannabis Commission permitting the mixing, storing and serving of alcoholic liquor at said premises, and no agent, servant or employee of such person, for a financial consideration by way of a charge for service, membership fee, admission fee, initiation fee, club dues, contributions, or other fee or charge, shall serve or permit to be served, or use or permit to be used, any room, place, bar, glasses, mixers, locker, storage place, chairs, tables, cash registers, music devices, furniture, furnishings,

equipment or facilities, for the mixing, storing, serving or drinking of alcoholic liquor. [Amended by 2021 c.351 §107]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.480 - Sale of liquor by certain employees 18 years of age or older; minimum age requirements.**

- (1) Any employee 18 years of age or older of a person who holds an off-premises sales license from the Oregon Liquor and Cannabis Commission may sell any alcoholic liquor authorized by such license on the licensed premises.
- (2) Any employee 18 years of age or older of a person who holds a wholesale malt beverage and wine license from the Oregon Liquor and Cannabis Commission may assist the licensee in the delivery of any alcoholic liquor authorized by such license.
- (3) During any inspection of a licensed premises, the commission may require proof that a person performing work at the premises meets any applicable minimum age requirement created under this chapter or under commission rules. If the person does not provide the commission with acceptable proof of age upon request, the commission may require the person to immediately cease any activity that is subject to a minimum age requirement until the commission receives acceptable proof of age. If the activity is the sole lawful basis for the person to be present on the premises, the commission may require that the person leave the premises. This subsection does not apply to a person temporarily at the premises to make a service, maintenance or repair call, to make a delivery or for other purposes independent of the premises operations.
- (4) If a person performing work that is subject to a minimum age requirement has not provided proof of age requested by the commission under subsection (3) of this section, the commission may request that the licensee or a manager of the premises provide proof that the person meets any applicable minimum age requirement created under this chapter or under commission rules. Failure of the licensee or manager to respond to a request made under this subsection by providing acceptable proof of age for a person is prima facie evidence that the licensee has allowed the person to perform work at the licensed premises in violation of a minimum age requirement. [1971 c.490 §1; 1985 c.378 §2; 1999 c.351 §34; 2011 c.92 §1; 2021 c.351 §109]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.482 - Sale or service of liquor by employees 18 years of age or older generally; rules; minimum age requirements.**

- (1) The holder of a license issued under this chapter may employ persons 18, 19 and 20 years of age who may take orders for, serve and sell alcoholic liquor in any part of the licensed premises when that activity is incidental to the serving of food except in those areas classified by the Oregon Liquor and Cannabis Commission as being prohibited to the use of minors. However, no person who is 18, 19 or 20 years of age shall be permitted to mix, pour or draw alcoholic liquor except when pouring is done as a service to the patron at the patron's table or drawing is done in a portion of the premises not prohibited to minors.
- (2) A person who is 18, 19 or 20 years of age may enter areas classified by the commission as being prohibited to the use of minors only for the purpose of ordering and picking up alcoholic liquor for service in other parts of the premises. However, the person shall not remain in the areas longer than is necessary to perform those duties.
- (3) The commission by rule may permit access to prohibited areas by any minor for nonalcoholic liquor employment purposes as long as the minor does not remain longer than is necessary to perform the duties.
- (4) During any inspection of a licensed premises, the commission may require proof that a person performing work at the premises meets any applicable minimum age requirement created under this chapter or under commission rules. If the person does not provide the commission with acceptable proof of age upon request, the commission may require the person to immediately cease any activity that is subject to a minimum age requirement until the commission receives acceptable proof of age. If the activity is the sole lawful basis for the person to be present on the premises, the commission may require that the person leave the premises. This subsection does not apply to a person temporarily at the premises to make a service, maintenance or repair call, make a delivery or for other purposes independent of the premises operations.
- (5) If a person performing work that is subject to a minimum age requirement has not provided proof of age requested by the commission under subsection (4) of this section, the commission may request that the licensee or a manager of the premises provide proof that the person meets any applicable minimum age requirement created under this chapter or under commission rules. Failure of the licensee or manager to respond to a request made under this subsection by providing acceptable proof of age for a person is prima facie evidence that the licensee has allowed the person to perform work at the licensed premises in violation of a minimum age requirement. [1981 c.610 §2; 1993 c.128 §2; 1995 c.301 §70; 1999 c.351 §59; 2011 c.92 §2; 2021 c.351 §110]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.485 - Payment required on or before delivery of liquor.**

No wholesale licensee or agent or employee thereof shall sell or deliver, nor shall any retail licensee purchase or receive any malt beverages, cider or wine for currency on delivery, but such malt beverages, cider or wine shall be paid for prior to delivery thereof, by electronic fund transfer initiated on or before the date of delivery, or by valid check, order, negotiable instrument or voucher payable on the date of delivery. The wholesale licensee may accept cash at the time of delivery if such acceptance does not create or increase the licensee's, or the agents' or employees' of the licensee, exposure to or risk of being victimized by criminal activity. [1971 c.694 §2; 1995 c.525 §1; 1999 c.351 §74]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic**



**Liquors GenerallySection 471.490 - Delivery or acceptance of instrument drawn upon insufficient funds or not payable according to terms; use of credit.**

No retail licensee shall deliver any check, order, negotiable instrument or voucher in payment for malt beverages, cider or wine, knowing at the time of such delivery that the maker or drawer has not sufficient funds in the bank or depository to pay the instrument on presentation, nor shall any wholesale licensee accept any such instrument knowing that said instrument is not payable according to its terms, or that there are not sufficient funds to pay such instrument on presentation. Any extension or acceptance of credit under this section shall constitute a violation of ORS 471.398. [1971 c.694 §3; 1995 c.301 §85; 1999 c.351 §75]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.495 - Report by wholesaler of instruments not paid on presentment required.**

Any wholesale licensee who receives a check, order, negotiable instrument or voucher in payment for malt beverages, cider or wine, who receives an instrument from a retail licensee which, upon presentation, is not paid by the party on whom it is drawn, shall report such fact forthwith to the Oregon Liquor and Cannabis Commission. [1971 c.694 §4; 1999 c.351 §76; 2021 c.351 §111]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.500 - Application of ORS 471.485 to 471.495.**

The provisions of ORS 471.485, 471.490 and 471.495 shall not apply to any common carrier licensed by the Oregon Liquor and Cannabis Commission. [1971 c.694 §5; 1995 c.301 §41; 2021 c.351 §112]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.501 - Malt beverage container refunds.**

Nothing in this chapter prevents a brewery licensed under ORS 471.221 or a brewery-public house licensed under ORS 471.200 from establishing a refund value for malt beverage containers under the provisions of ORS 459A.705 that is in excess of five cents, or in excess of 10 cents as described in ORS 459A.705 (2), per container for the purpose of encouraging purchasers to return the containers directly to the brewery or brewery-public house. A refund value in excess of five cents, or in excess of 10 cents as described in ORS 459A.705 (2), per container may be paid under this section only to persons who are not licensed under this chapter and who return the containers directly to the brewery or brewery-public house. [1997 c.803 §10; 1999 c.351 §60; 2011 c.277 §4; 2016 c.3 §7]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.502**

[1981 c.917 §2; renumbered 474.105 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.503**

[1981 c.917 §3; renumbered 474.115 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.506 - Petition and election for local option.**

(1) The governing body of a city or a county, when a petition is filed as provided in this section, shall order an election on the question whether the sale, for beverage purposes, of alcoholic liquors of any of the classes described in this section shall be prohibited in the city or county. The classes of alcoholic liquor to which this section applies are:

- (a) Alcoholic liquors containing more than five percent alcohol by volume;
- (b) Alcoholic liquors containing more than 14 percent alcohol by volume; and
- (c) All alcoholic liquors.

(2) Except as provided in subsections (3), (4) and (5) of this section, the requirements for preparing, circulating and filing a petition under this section:

- (a) In the case of a city, shall be as provided for an initiative petition under ORS 250.265 to 250.346.
- (b) In the case of a county, shall be as provided for an initiative petition under ORS 250.165 to 250.235.
- (3) A petition under subsection (2) of this section:

- (a) Must be filed not less than 60 days before the day of the election;
- (b) Must specify whether the prohibition would apply to the sale of all alcoholic liquors or only to alcoholic liquors containing more than five percent alcohol by volume or more than 14 percent alcohol by volume; and
- (c) Must be signed by not less than 10 percent of the electors registered in the city or county.

(4) If ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county or if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the county or city charter or an ordinance adopted under the county or city charter.

(5) No signature is valid unless signed within 180 days before the petition is filed.

(6) An election under this section shall be held at the time of the next statewide general election.

(7) An election under this section shall be conducted under ORS chapters 246 to 260. [1983 c.350 §277 (471.506 enacted in lieu of 471.505); 1995 c.301 §87]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.510 - Sales not affected by local option laws.**

ORS 471.506 shall not prohibit the sale of pure alcohol for scientific or manufacturing purposes, or of wines to church officials for sacramental purposes, nor shall it prevent any person residing in the county or city from ordering and having delivered to the home of the person, for the personal use of self and family, alcoholic liquors purchased from the Oregon Liquor and Cannabis Commission or from persons duly licensed to sell them under the Liquor Control Act. [Amended by 1999 c.351 §35; 2021 c.351 §113]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.515 - Effective date of local option.**

In each county or city that returns a majority vote for or against prohibition, as to any classes of alcoholic liquor, the law shall take effect on January 1 following the day of election. [Amended by 1983 c.350 §278]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.521 - Definitions for ORS 471.521 to 471.537.**

As used in ORS 471.521 to 471.537:

- (1) "Deliver" means to transfer alcoholic beverages from a delivery person to a final consumer at a delivery address.
- (2) "Delivery address" means a location with a permanent street address in Oregon that is not licensed by the Oregon Liquor and Cannabis Commission under this chapter or ORS 475C.005 to 475C.525 or 475C.548.
- (3) "Delivery person" means an employee, agent or contractor of a third-party delivery facilitator who delivers alcoholic beverages to the physical possession of a final consumer.
- (4) "Eligible business" means the holder of:
  - (a) A full on-premises sales license issued under ORS 471.175;
  - (b) A limited on-premises sales license issued under ORS 471.178;
  - (c) An off-premises sales license issued under ORS 471.186;
  - (d) A temporary sales license issued under ORS 471.190;
  - (e) A brewery-public house license issued under ORS 471.200;
  - (f) A brewery license issued under ORS 471.221;
  - (g) A winery license issued under ORS 471.223;
  - (h) A grower sales privilege license issued under ORS 471.227;
  - (i) A direct shipper permit issued under ORS 471.282; or
  - (j) Any other authorization, as determined by the commission by rule.
- (5) "Final consumer" means an individual who takes possession of alcoholic beverages at a delivery address for personal or social use, and not for resale.
- (6)(a) "Third-party delivery facilitator" means an individual, person or company that:
  - (A) Delivers, or holds itself out as willing to deliver, alcoholic beverages from an eligible business to a final consumer; or
  - (B) Facilitates, or holds itself out as willing to facilitate, the sale and delivery of alcoholic beverages by an eligible business to a final consumer.
- (b) "Third-party delivery facilitator" does not include a motor carrier as defined in 49 U.S.C. 13102, a freight forwarder as defined in 49 U.S.C. 13102 or an air carrier as defined in 49 U.S.C. 40102. [2023 c.539 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.524 - Third-party delivery facilitator employee or contractor requirements; training; penalties.**

- (1) An eligible business or third-party delivery facilitator may employ or contract with a delivery person to deliver alcoholic beverages to the physical possession of a final consumer at a delivery address only if the individual:
  - (a) Is at least 18 years of age; and
  - (b) Has a valid driver license or other state-issued identification.
- (2) Prior to making any deliveries of alcoholic beverages, a delivery person shall first complete the training program and be issued a certificate of completion, as described in ORS 471.527.
- (3) A delivery person may also be a third-party delivery facilitator that holds a permit issued under ORS 471.534.
- (4) A delivery person may charge an eligible business a fee for delivering alcoholic beverages on behalf of the eligible business.
- (5) A violation of subsection (1) of this section:
  - (a) Upon a first conviction, is a Class A violation.

(b) Upon a second or subsequent conviction, is a Class A misdemeanor. [2023 c.539 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.527 - Third-party delivery facilitator training program; rules.**

- (1) A third-party delivery facilitator shall develop an alcohol delivery training program that includes training on at least:
- (a) Forms of identification required by ORS 471.130 and methods for identifying, inspecting, accepting or rejecting identification;
  - (b) Signs of visible intoxication and methods for recognizing these signs and for refusing to deliver alcoholic beverages to a final consumer; and
  - (c) Rules adopted by the Oregon Liquor and Cannabis Commission relating to the delivery of alcoholic beverages to a final consumer.
- (2) The commission may adopt rules regarding the approval of training programs described in subsection (1) of this section.
- (3) In conjunction with an application for a permit under ORS 471.534, a third-party delivery facilitator shall submit to the commission a copy of the third-party delivery facilitator's training program for approval by the commission.
- (4)(a) A third-party delivery facilitator shall provide the training program described in subsection (1) of this section to delivery persons employed by or contracted with the third-party delivery facilitator, and shall issue to delivery persons who successfully complete the training program a certificate of completion.
- (b) In order to provide the training program described in subsection (1) of this section, a third-party delivery facilitator may offer a training program internally or may contract with another party that offers a training program that is approved by the commission.
- (c) A third-party delivery facilitator may offer a training program described in subsection (1) of this section only if the training program is approved by the commission.
- (5) A delivery person may not engage in the delivery of alcoholic beverages unless the delivery person first completes the training program described in subsection (1) of this section and holds a certificate of completion described in subsection (4) of this section. A delivery person who delivers alcoholic beverages on behalf of more than one third-party delivery facilitator must complete the training program, and hold a certificate of completion, from each third-party delivery facilitator on whose behalf the delivery person delivers alcoholic beverages.
- (6) The commission may adopt rules to carry out this section, including rules to establish a fee for review and approval of a training program described in subsection (1) of this section. [2023 c.539 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.531 - Oregon Liquor and Cannabis Commission rules regarding delivery of alcoholic beverages.**

The Oregon Liquor and Cannabis Commission may adopt rules to regulate the delivery of alcoholic beverages by parties including, but not limited to, eligible businesses, delivery persons and third-party delivery facilitators. [2023 c.539 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.534 - Third-party delivery facilitator permit; grounds to refuse to issue, suspend or revoke permit; rules.**

- (1) In order to engage in the delivery of alcoholic beverages, a third-party delivery facilitator must hold a permit issued by the Oregon Liquor and Cannabis Commission and must comply with applicable requirements under this chapter.
- (2)(a) The commission may refuse to issue a permit, and may suspend or revoke a permit, if the commission finds or has reasonable grounds to believe that:
- (A) A third-party delivery facilitator is, or has a financial interest in, a manufacturer;
  - (B) A third-party delivery facilitator provided material false or misleading information to the commission or omitted information that should have been provided to the commission; or
  - (C) Subject to paragraph (b) of this subsection, a third-party delivery facilitator, or any person used by or acting on behalf or at the direction of the third-party delivery facilitator, does not have a good record of compliance under this chapter, as assessed upon initial application for a permit under this section and annually upon application for renewal of a permit issued under this section.
- (b) The commission shall establish by rule a process through which the commission shall notify a third-party delivery facilitator of a compliance issue as described under paragraph (a)(A) of this subsection and allow the third-party delivery facilitator an opportunity to cure the issue prior to the commission's refusal to issue or renew the third-party delivery facilitator's permit under this section.
- (3) A retail licensee, as defined in ORS 471.392, is eligible to qualify as a third-party delivery facilitator. A retail licensee that is also a third-party delivery facilitator may exercise any privilege granted by the retail license.
- (4)(a) A third-party delivery facilitator acting on behalf of an eligible business may:
- (A) Deliver, or cause to be delivered, alcoholic beverages to the physical possession of a final consumer on behalf of an eligible business;
  - (B) Advertise alcoholic beverages available for retail sale;
  - (C) Solicit, receive and accept orders for alcoholic beverages from final consumers; and
  - (D) Receive payment for alcoholic beverages ordered by final consumers.
- (b) A third-party delivery facilitator may engage in an activity described in this section only when the third-party delivery facilitator

is acting on behalf of an eligible business.

(c) A third-party delivery facilitator may use only a delivery person who meets the requirements of ORS 471.524 to deliver alcoholic beverages to a final consumer.

(d) A third-party delivery facilitator that is an individual who is a delivery person must meet the requirements of ORS 471.524, including the requirement to hold a valid driver license.

(5) A third-party delivery facilitator may charge an eligible business a fee for delivering alcoholic beverages on behalf of the eligible business.

(6) A third-party delivery facilitator shall maintain and make available records to the commission as required by the commission by rule.

(7) The commission may adopt rules as necessary to regulate third-party delivery facilitators.

(8)(a) An eligible business may use a third-party delivery facilitator to carry out, on behalf of the eligible business, deliveries of alcoholic beverages to final consumers that the eligible business is authorized to make. In carrying out a delivery described in this subsection, a third-party delivery facilitator shall ensure that the delivery is made in compliance with any requirements applicable to the delivery.

(b) The commission shall adopt rules to carry out this subsection.

(9) An eligible business that uses a third-party delivery facilitator to deliver alcoholic beverages on behalf of the eligible business is not responsible for any failure of the third-party delivery facilitator, or a delivery person employed by or contracted with the third-party delivery facilitator, to comply with the requirements of ORS 471.521 to 471.537 or rules adopted under ORS 471.521 to 471.537. [2023 c.539 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.537 - Criminal and civil penalties.**

(1) It is a Class A misdemeanor for a person that is not a third-party delivery facilitator that holds a permit issued under ORS 471.534 to engage in any activity for which a permit is required unless the person is a licensee, permittee or agent appointed by the Oregon Liquor and Cannabis Commission, or is an employee or agent of a licensee, permittee or agent acting on behalf of the licensee, permittee or agent, and the activity is allowed by the privileges of the license, permit or appointment.

(2)(a) The commission may assess a civil penalty against a third-party delivery facilitator for a violation of this chapter or rules adopted by the commission under this chapter if the violation is committed by the third-party delivery facilitator or a delivery person acting on behalf of the third-party delivery facilitator.

(b) The civil penalty assessed under paragraph (a) of this subsection must be at least \$500 per violation and may not be more than \$4,000 per violation.

(c) ORS 471.990 does not apply to a violation for which a civil penalty may be issued under this subsection. [2023 c.539 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.541 - Alcohol Education Program.**

The Oregon Liquor and Cannabis Commission shall establish an Alcohol Education Program. The Alcohol Education Program shall consist of all the duties of the commission in administering clerk training courses under ORS 471.341 and alcohol server education courses under ORS 471.542. [2001 c.785 §14; 2021 c.351 §114]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.542 - Alcohol server education course and examination; exemption; fees; rules.**

(1) Except as provided in subsection (2) of this section, the Oregon Liquor and Cannabis Commission shall require a person applying for issuance or renewal of a service permit or any license that authorizes the sale or service of alcoholic beverages for consumption on the premises to complete an approved alcohol server education course and examination as a condition of the issuance or renewal of the permit or license.

(2) A person applying for issuance or renewal of a license that authorizes the sale or service of alcoholic beverages for consumption on the premises need not complete an approved alcohol server education course and examination as a condition of the issuance or renewal of the license if:

(a) The license has been restricted by the commission to prohibit sale or service of alcoholic beverages for consumption on the premises; or

(b) The person applying for issuance or renewal of the license submits a sworn statement to the commission stating that the person will not engage in sale or service of alcoholic beverages for consumption on the premises, will not directly supervise or manage persons who sell or serve alcoholic beverages on the premises, and will not participate in establishing policies governing the sale or service of alcoholic beverages on the premises.

(3) The commission by rule shall establish requirements that licensees and permittees must comply with as a condition of requalifying for a license or permit. The licensee or permittee must comply with those requirements once every five years after completing the initial alcohol server education course and examination. The requirements established by the commission to requalify for a license may include retaking the alcohol server education course and examination. The requirements established by the commission to requalify for a service permit shall include retaking the alcohol server education course and examination.

- (4) The commission may extend the time periods established by this section upon a showing of hardship. The commission by rule may exempt a licensee from the requirements of this section if the licensee does not participate in the management of the business.
- (5) The standards and curriculum of alcohol server education courses shall include but not be limited to the following:
- (a) Alcohol as a drug and its effects on the body and behavior, especially driving ability.
  - (b) Effects of alcohol in combination with commonly used legal, prescription or nonprescription, drugs and illegal drugs.
  - (c) Recognizing the problem drinker and community treatment programs and agencies.
  - (d) State alcohol beverage laws such as prohibition of sale to minors and sale to intoxicated persons, sale for on-premises or off-premises consumption, hours of operation and penalties for violation of the laws.
  - (e) Drunk driving laws and liquor liability statutes.
  - (f) Intervention with the problem customer, including ways to cut off service, ways to deal with the belligerent customer and alternative means of transportation to get the customer safely home.
  - (g) Advertising and marketing for safe and responsible drinking patterns and standard operating procedures for dealing with customers.
- (6) The commission shall adopt rules to impose reasonable fees for administrative costs on alcohol server education course instructors and providers.
- (7) The commission shall provide alcohol server education courses and examinations through independent contractors, private persons or private or public schools certified by the commission. The commission shall adopt rules governing the manner in which alcohol server education courses and examinations are made available to persons required to take the course. In adopting rules under this subsection, the commission shall consider alternative means of providing courses, including but not limited to providing courses through audiotapes, videotapes, the Internet and other electronic media. [1985 c.658 §§2,3; 1987 c.851 §3; 1989 c.120 §6; 1989 c.178 §7; 1989 c.271 §1; 1997 c.803 §7; 1999 c.351 §36; 1999 c.1062 §8; 2001 c.785 §16; 2009 c.350 §4; 2011 c.9 §65; 2019 c.676 §2; 2021 c.351 §115]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.547 - Alcohol Server Education Advisory Committee; members; purpose.**

- (1) The Oregon Liquor and Cannabis Commission shall establish an Alcohol Server Education Advisory Committee. The advisory committee shall consist of the following members:
- (a) One person who represents the commission.
  - (b) One person who represents the Oregon State Police.
  - (c) One person who represents the Oregon District Attorneys Association.
  - (d) One person who represents the Oregon Health Authority.
  - (e) One person who represents the Department of Transportation.
  - (f) One person who represents a nonprofit organization the purpose of which is to reduce the incidence of drunk driving.
  - (g) One person who has general expertise in education.
  - (h) One person who has expertise in health education.
  - (i) One person who represents classroom alcohol server education providers.
  - (j) One person who represents online alcohol server education providers.
  - (k) At least one person who is a service permittee under ORS 471.360.
  - (L) Not more than two persons who represent insurance companies.
  - (m) Not more than three persons who represent retail licensees.
- (2) The purpose of the advisory committee is to assist in the development of:
- (a) The standards, curriculum and materials for the alcohol server education courses required under ORS 471.542;
  - (b) The examination required by ORS 471.542, and procedures for administering that examination;
  - (c) The certification procedures, enforcement policies and penalties for alcohol server education course instructors and providers; and
  - (d) The time requirements for completion of an alcohol server education course and examination and the conditions for probationary extension. [1985 c.658 §1; 1987 c.679 §1; 1991 c.67 §143; 1991 c.453 §3; 2001 c.785 §17; 2009 c.595 §961; 2013 c.58 §1; 2021 c.351 §116]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.549 - Civil penalty.**

In addition to such other sanctions as may be authorized by law, the Oregon Liquor and Cannabis Commission may impose a civil penalty not to exceed \$1,000 against any alcohol server education course instructor or provider who violates a rule promulgated by the commission pursuant to ORS 471.542. The civil penalty may be in addition to or in lieu of any suspension, revocation or cancellation of the certification of an alcohol server education course instructor or provider. [1991 c.61 §4; 2001 c.785 §18; 2021 c.351 §117]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.551 - Warning signs required; contents; size; display.**

- (1) Any person in possession of a valid retail liquor license, who sells liquor by the drink for consumption on the premises or sells for consumption off the premises, shall post a sign informing the public of the effects of alcohol consumption during pregnancy.
- (2) The sign shall:
  - (a) Contain the message: "Pregnancy and alcohol do not mix. Drinking alcoholic beverages, including wine, coolers and beer, during pregnancy can cause birth defects."
  - (b) Be either:
    - (A) A large sign, no smaller than eight and one-half inches by 11 inches in size with lettering no smaller than five-eighths of an inch in height; or
    - (B) A reduced sign, five by seven inches in size with lettering of the same proportion as the large sign described in paragraph (a) of this subsection.
  - (c) Contain a graphic depiction of the message to assist nonreaders in understanding the message. The depiction of a pregnant female shall be universal and shall not reflect a specific race or culture.
  - (d) Be in English unless a significant number of the patrons of the retail premises use a language other than English as a primary language. In such cases, the sign shall be worded in both English and the primary language or languages of the patrons.
  - (e) Be displayed on the premises of all licensed retail liquor premises as either a large sign at the point of entry, or a reduced sized sign at points of sale.
- (3) The person described in subsection (1) of this section shall be encouraged to also post signs of any size at places where alcoholic beverages are displayed.
- (4) Notwithstanding ORS 471.561, the holder of a retail liquor license may produce the sign required by this section insofar as the sign is consistent with the standards established pursuant to this section, ORS 616.286 and 624.060 and the Oregon Liquor and Cannabis Commission, and is displayed in accordance with subsection (2)(e) of this section. [1991 c.324 §2; 1995 c.301 §42; 2021 c.351 §118]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.553 - Consultation with certain groups on production and posting of signs.**

The Oregon Liquor and Cannabis Commission shall consult with representatives of business and industry as well as interested citizens groups, including the March of Dimes and the Junior League, to determine the most cost-effective, convenient method to produce and post the sign described in ORS 471.551, which shall be distributed by the commission. [1991 c.324 §3; 2021 c.351 §119]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.557 - Solicitation of private funds.**

The Oregon Liquor and Cannabis Commission may solicit private funds, if necessary, to produce and distribute the signs. [1991 c.324 §4; 2021 c.351 §120]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.559 - Violations; penalty.**

- (1) If no warning sign is posted:
  - (a) The Oregon Liquor and Cannabis Commission shall furnish a warning sign.
  - (b) The retailer shall have five days from the receipt of the warning sign to post it appropriately.
- (2) If there is a violation of this section or of ORS 471.551, the violator shall be subject to:
  - (a) A written warning from the commission for the first violation accompanied by a copy of the sign.
  - (b) A civil penalty of not to exceed \$25 payable to the commission for a second violation.
  - (c) A civil penalty of not to exceed \$25 for the third and subsequent violations for each day the sign is not posted.
- (3) The civil penalty imposed under subsection (2) of this section shall be separate from any other sanction or penalty imposed by the commission and shall not be used in any progressive violation schedule.
- (4) The penalty provided by this section shall be the sole penalty for violation of this section or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991.
- (5) Violation of this section or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991, shall not be grounds for refusal to issue a license, cancellation of a license or suspension of a license issued under this chapter.
- (6) Nothing in this section or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991, creates any new cause of action or any private right of any person. [1991 c.324 §5; 2011 c.597 §213; 2021 c.351 §121]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.561 - Production and distribution of signs.**

By June 30, 1992, the Oregon Liquor and Cannabis Commission shall produce and complete distribution of the warning signs, free of charge, to all holders of retail liquor licenses. The commission shall produce and distribute additional signs as liquor licenses are granted. [1991 c.324 §9; 2021 c.351 §122]

## LIABILITY FOR PROVIDING OR

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.565 - Liability for providing or serving alcoholic beverages to intoxicated person; notice of claim.**

(1) A patron or guest who voluntarily consumes alcoholic beverages served by a person licensed by the Oregon Liquor and Cannabis Commission, a person holding a permit issued by the commission or a social host does not have a cause of action, based on statute or common law, against the person serving the alcoholic beverages, even though the alcoholic beverages are served to the patron or guest while the patron or guest is visibly intoxicated. The provisions of this subsection apply only to claims for relief based on injury, death or damages caused by intoxication and do not apply to claims for relief based on injury, death or damages caused by negligent or intentional acts other than the service of alcoholic beverages to a visibly intoxicated patron or guest.

(2) A person licensed by the Oregon Liquor and Cannabis Commission, person holding a permit issued by the commission or social host is not liable for damages caused by intoxicated patrons or guests unless the plaintiff proves by clear and convincing evidence that:

(a) The licensee, permittee or social host served or provided alcoholic beverages to the patron or guest while the patron or guest was visibly intoxicated; and

(b) The plaintiff did not substantially contribute to the intoxication of the patron or guest by:

(A) Providing or furnishing alcoholic beverages to the patron or guest;

(B) Encouraging the patron or guest to consume or purchase alcoholic beverages or in any other manner; or

(C) Facilitating the consumption of alcoholic beverages by the patron or guest in any manner.

(3) Except as provided in subsection (4) of this section, an action for damages caused by intoxicated patrons or guests off the premises of a person licensed by the Oregon Liquor and Cannabis Commission, a person holding a permit issued by the commission or a social host may be brought only if the person asserting the claim has given the licensee, permittee or social host the notice required by subsection (5) of this section within the following time periods:

(a) If a claim is made for damages arising out of wrongful death, notice must be given within one year after the date of death, or within one year after the date that the person asserting the claim discovers or reasonably should have discovered the existence of a claim under this section, whichever is later.

(b) If a claim is made for damages for injuries other than wrongful death, notice must be given within 180 days after the injury occurs, or within 180 days after the person asserting the claim discovers or reasonably should have discovered the existence of a claim under this section, whichever is later.

(4) The time provided for the giving of notice under subsection (3) of this section does not include any period during which:

(a) The claimant is under 18 years of age;

(b) The claimant is unable to give notice by reason of the injury or by reason of being financially incapable, as defined in ORS 125.005, or is incapacitated, as defined in ORS 125.005; or

(c) The claimant is unable to determine that the licensee, permittee or social host is liable because the patron or guest who caused the damages asserts a right against self-incrimination and cannot be compelled to reveal the identity of the licensee, permittee or social host, or cannot be compelled to reveal facts that would establish the liability of the licensee, permittee or social host.

(5) A licensee, permittee or social host shall be considered to have been given notice for the purposes of this section if:

(a) The licensee, permittee or social host is given formal notice in the manner specified in subsection (6) of this section;

(b) The licensee, permittee or social host receives actual notice as described in subsection (7) of this section;

(c) An action is commenced by or on behalf of the claimant within the period of time specified by subsections (3) and (4) of this section; or

(d) Any payment on the claim is made to the claimant by or on behalf of the licensee, permittee or social host.

(6) Formal notice of a claim subject to this section must be in writing, must be mailed to the licensee, permittee or social host, or personally served on the licensee, permittee or social host, and must contain all of the following:

(a) A statement that a claim for damages is made against the licensee, permittee or social host.

(b) A description of the time, place and circumstances giving rise to the claim, so far as known to the claimant.

(c) The name of the claimant and mailing address for the claimant to which correspondence regarding the claim may be mailed.

(7) For the purposes of this section, "actual notice" means any communication to a licensee, permittee or social host that gives the licensee, permittee or social host actual knowledge of the time, place and circumstances of the claim, if the communication is such that a reasonable person would conclude that a particular person intends to assert a claim against the licensee, permittee or social host. [Formerly 30.950; 2021 c.351 §123]

Note:

471.565 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.567 - Liability for providing alcoholic beverages to minor; liability of minor for misrepresentation of age.**

(1) Notwithstanding ORS 471.130 and 471.565, no licensee, permittee or social host shall be liable to third persons injured by or through persons under the age of 21 years who obtained alcoholic beverages from the licensee, permittee or social host unless it is demonstrated that a reasonable person would have determined that identification should have been requested or that the identification exhibited was altered or did not accurately describe the person to whom the alcoholic liquor was sold or served.

(2) A person who is under 21 but at least 18 years of age and who through misrepresentation of age causes an Oregon Liquor and Cannabis Commission licensee to be fined or have a license suspended or revoked shall be civilly liable for damages sustained by the licensee. The court may award reasonable attorney fees to the prevailing party in an action under this subsection.

(3) Subsection (2) of this section does not apply to a person under the age of 21 years who is acting under the direction of the Oregon Liquor and Cannabis Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under the age of 21 years.

(4) Subsection (2) of this section does not apply to a person under the age of 21 years who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under the age of 21 years. [Formerly 30.960; 2021 c.351 §124]

Note:

471.567 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 471 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

#### USE OF ALCOHOLIC BEVERAGES

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.575 - School district culinary arts classes.**

(1) Notwithstanding ORS 471.410, an employee of a school district may make alcoholic beverages available to a student in a culinary arts class for use in the culinary arts class if the alcoholic beverages are provided in compliance with a policy adopted under ORS 336.441.

(2) Notwithstanding ORS 471.430, a student of a culinary arts class may have personal possession of alcoholic beverages for use in the culinary arts class if the student has possession of the alcoholic beverages in compliance with a policy adopted under ORS 336.441. [2011 c.367 §3]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.580 - Education provider food or beverage career programs.**

(1) As used in this section:

(a) "Alcohol equivalence" means the amount of ethanol that would be expected to be present in a beverage based on the standard drink measurement used by the Centers for Disease Control and Prevention.

(b) "Education provider" means:

(A) A community college, as defined in ORS 341.005, offering a food or beverage career program approved by the Higher Education Coordinating Commission;

(B) A career school, as defined in ORS 345.010, offering a food or beverage career program approved by the Higher Education Coordinating Commission;

(C) A public university offering a food or beverage career program approved by the Higher Education Coordinating Commission or by the governing board of a public university listed in ORS 352.002; or

(D) A private and independent institution of higher education, as defined in ORS 350.635, offering a food or beverage career program that qualifies for payment under ORS 350.645.

(c) "Food or beverage career program" means a course of study designed to qualify a person for a career in the food service industry or alcoholic beverage industry, including but not limited to a course of study in culinary arts, viticulture, winemaking, enology, brewing or restaurant management.

(2) The charging or payment of tuition or a special fee for enrollment in a class that is part of a food or beverage career program or in a workshop or seminar concerning matters related to food or beverage industry workforce training, offered by an education provider, that includes the consumption of alcoholic beverages for educational purposes, is not a sale or purchase of, or other exchange of consideration for, alcoholic beverages.

(3) Notwithstanding ORS 471.130, 471.406, 471.410 and 471.475, an education provider may serve alcoholic beverages to a person who is 18, 19 or 20 years of age and may allow the person to possess and consume alcoholic beverages on a licensed or unlicensed premises that the education provider uses for educational purposes if:

(a) The person is enrolled as a student in a required or elective class that is part of a food or beverage career program offered by the education provider;

(b) The alcoholic beverages are served to, and possessed and consumed by, the person for educational purposes as part of the class curriculum or a workshop or seminar concerning food or beverage workforce training;

(c) The service, possession and consumption of the alcoholic beverages are supervised by a faculty or staff member of the education provider who is 21 years of age or older;

(d) The person does not purchase the alcoholic beverages; and

(e) The amount served to the person for consumption purposes during any two-hour class, workshop or seminar period does not



exceed two ounces of alcohol equivalence.

(4) Notwithstanding ORS 471.130 or 471.410, a person may serve alcoholic beverages to another person who is 18, 19 or 20 years of age on premises that an education provider uses for educational purposes if:

(a) The person served is enrolled as a student in a required or elective class that is part of a food or beverage career program offered by the education provider;

(b) The alcoholic beverages are served to, and consumed by, the person for educational purposes as part of the class curriculum or, with the approval of the education provider, as part of a workshop or seminar concerning food or beverage workforce training;

(c) The service and consumption of the alcoholic beverages are supervised by a faculty or staff member of the education provider who is 21 years of age or older;

(d) The person served does not purchase the alcoholic beverages; and

(e) The amount served to the person for consumption purposes during any two-hour class period does not exceed two ounces of alcohol equivalence.

(5) Notwithstanding ORS 471.130 or 471.410 or the prohibitions in ORS 471.430, a person who is 18, 19 or 20 years of age may possess and consume alcoholic beverages on a licensed or unlicensed premises that an education provider uses for educational purposes if:

(a) The person is enrolled as a student in a required or elective class that is part of a food or beverage career program offered by the education provider;

(b) The person possesses and consumes the alcoholic beverages for educational purposes as part of the class curriculum or, with the approval of the education provider, as part of a workshop or seminar concerning food or beverage workforce training;

(c) The person possesses and consumes the alcoholic beverages under the supervision of a faculty or staff member of the education provider who is 21 years of age or older;

(d) The person does not purchase the alcoholic beverages; and

(e) The amount consumed by the person during any two-hour class, workshop or seminar period does not exceed two ounces of alcohol equivalence.

(6) Notwithstanding ORS 471.410, a person who exercises control over private real property may allow a person who is 18, 19 or 20 years of age to remain on the property after the person who is 18, 19 or 20 years of age consumes an alcoholic beverage on the property in accordance with this section.

(7) Subsections (3) to (5) of this section do not affect the ability of an education provider, a licensee or a permittee to make alcoholic beverages available to a person 21 years of age or older in accordance with this chapter or the ability of a person 21 years of age or older to possess or consume alcoholic beverages in accordance with this chapter. [2011 c.378 §2; 2012 c.104 §44; 2013 c.1 §§73,74; 2013 c.747 §§166,167; 2013 c.768 §§144,145; 2015 c.767 §176]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.605 - Duty of officers to enforce and to inform district attorney.**

The state police, sheriffs, constables and all police officers within the State of Oregon shall enforce all provisions of the Liquor Control Act and assist the Oregon Liquor and Cannabis Commission in detecting violations of that statute and apprehending offenders. Each such enforcing officer having notice, knowledge or reasonable ground of suspicion of any violation of that statute shall immediately notify the district attorney, and furnish the district attorney with names and addresses of any witnesses, or other information within the officer's knowledge, of such violation. [Amended by 2021 c.351 §125]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.610 - Confiscation of liquor and property by commission.**

Whenever any officer arrests any person for violation of the Liquor Control Act, the officer may take into possession all alcoholic liquor and other property which the person so arrested has in possession, or on the premises, which is apparently being used in violation of that statute. If the person so arrested is convicted, and it is found that the liquor and other property has been used in violation of the law, the same shall be forfeited to the Oregon Liquor and Cannabis Commission, and shall be delivered by the court or officer to the commission. The commission is authorized to destroy or make such other disposition thereof as it considers to be in the public interest. In any such case, all alcoholic liquor purchased or acquired from any source, and all property, including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices, gambling devices, furniture, furnishings, equipment and facilities for the mixing, storing, serving or drinking of alcoholic liquor shall be confiscated and forfeited to the state, and the clear proceeds shall be deposited with the State Treasury in the Common School Fund in the manner provided in this section. [Amended by 1981 c.601 §1; 1987 c.858 §5; 2021 c.351 §126]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.615 - Duty to notify commission of conviction of licensee.**

The county courts, district attorneys and municipal authorities, immediately upon the conviction of any licensee of the Oregon Liquor and Cannabis Commission of a violation of any provision of the Liquor Control Act or the violation of any other law of this state or ordinance of any municipality therein, in which violation alcoholic liquor had any part, shall notify the commission thereof. Such officials shall notify the commission of any acts, practices or other conduct of any such licensee which may be subversive of

the general welfare or contrary to the spirit of the Liquor Control Act and shall recommend such action on the part of the commission as will remove the evil. [Amended by 2021 c.351 §127]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.620 - Property and places as common nuisances.**

Any room, house, building, boat, structure or place of any kind where alcoholic liquor is sold, manufactured, bartered or given away in violation of the law, or where persons are permitted to resort for the purpose of drinking alcoholic beverages in violation of the law, or any place where such beverages are kept for sale, barter or gift in violation of the law, and all liquor or property subject to confiscation under ORS 471.610 kept and used in such place is a common nuisance. Any person who maintains or assists in maintaining such common nuisance or knowingly suffers or permits such nuisance to exist in any place of which the person is the owner, manager or lessor, shall be guilty of a violation of the Liquor Control Act.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.625 - Lien on place used to unlawfully handle liquor.**

If it is proved that the owner of any building or premises knowingly has suffered the same to be used or occupied for the manufacture, sale or possession of alcoholic beverages, contrary to the provisions of the Liquor Control Act, such building or premises are subject to a lien for, and may be sold to pay all fines and costs assessed against their occupants for any violation of that statute. The lien shall be enforced immediately by civil action in any court having jurisdiction, by the district attorney of the county wherein the building or premises are located.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.630 - Authority to abate nuisance.**

The Attorney General, the Oregon Liquor and Cannabis Commission or its administrators, or the district attorney of the county wherein a nuisance as defined in ORS 471.620 exists, or where it has existed but has temporarily ceased and there is good and sufficient cause to believe that it will be maintained in the future, may institute an action in the circuit court for such county in the name of the state to abate, and to temporarily and permanently enjoin, such nuisance. The court has the right to make temporary and final orders as in other injunction proceedings. The plaintiff shall not be required to give bond in such action. [Amended by 1979 c.284 §155; 2021 c.351 §128]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.635 - Issuance of restraining order.**

- (1) After a suit is commenced under ORS 471.630, application for a temporary injunction may be made to the court, which shall grant a hearing thereon within 10 days. Where such application has been made, the court, on application of the plaintiff, may issue an ex parte order restraining the defendants and all other persons from removing or in any manner interfering with the personal property and the contents of the room, house, building, boat, structure or place of any kind where the nuisance is alleged to exist, until the decision of the court granting or refusing such temporary injunction and until the further order of the court.
- (2) This section and ORS 471.640 to 471.655 shall not interfere with the duties of officers as provided in ORS 471.605 and 471.610.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.640 - Service of restraining order.**

The restraining order may be served by delivering a copy to any person in charge of such place or residing therein, or by posting a copy thereof in a conspicuous place at or upon one or more of the principal doors or entrances to such place. The officer serving the order may enter such place and forthwith shall make and return to the court an inventory of the personal property and contents situated in and used in conducting or maintaining such nuisance. Any violation, of the order or mutilation or removal of the order so posted shall be a contempt of court, if the posted order contains a notice to that effect.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.645 - Temporary injunction.**

If a temporary injunction is granted, the court may issue further restraining orders as described in ORS 471.635; and forthwith may issue an order closing such place against its use for any purpose until the final decision, or the court may allow such place to be occupied or used during the pendency of the injunction proceedings by requiring the defendants to furnish an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or a bond with sufficient surety, to be approved by the court, in the penal sum of not less than \$2,500, payable to the state. The bond or letter of credit shall be conditioned that alcoholic liquor will not be manufactured, possessed, sold, served, bartered, or given away, or furnished, or otherwise disposed of thereon or therein, or kept thereon or therein with the intent to sell, barter, serve, or give away, or otherwise dispose of alcoholic liquor contrary to law, and that the defendants will pay all fines, costs and damages assessed against them for any violation of such conditions. The State of Oregon in an action brought by the Attorney General, the Oregon Liquor and Cannabis Commission or its administrators, or the district attorney, may take whatever steps necessary to recover the whole amount as a penalty for the use of the county wherein the

premises are situated. [Amended by 1991 c.331 §69; 1997 c.631 §481; 2021 c.351 §129]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.650 - Nature of permanent injunction.**

If a judgment against the defendants is granted, the court shall order that the place constituting the nuisance be closed for a period not exceeding two years, or closed for a part of said time, and until the owner, lessee, tenant or occupant thereof gives a bond or letter of credit identical to the bond or letter of credit required under ORS 471.645. If any condition of the bond or letter of credit is violated, the whole amount may be recovered as a penalty for the use of the county wherein the premises are situated. In any such suit process to nonresident defendants may be served by publication in a newspaper of general circulation in the county having jurisdiction of the injunction proceedings. Notice shall be published once each week for two consecutive weeks or for such time as the court, by order, may prescribe. [Amended by 1991 c.331 §70; 2003 c.576 §462]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.655 - Owner may defend; evidence concerning nuisance.**

(1) The owner of any property closed or restrained, or to be closed or restrained, may appear at any time between the filing of the complaint and the trial and show cause why the court should cancel or refrain from issuing any judgment orders as against the owner. In order to obtain such relief, the owner must prove to the satisfaction of the court that the owner is the lawful owner of the property and, further, that with reasonable care and diligence the owner could not have known of the illegal use of the owner's property.

(2) Evidence of the general reputation of the premises upon which a nuisance is alleged to exist is admissible in evidence for the purpose of proving the existence of the nuisance, and of knowledge of, and of acquiescence and participation therein, on the part of persons charged with maintaining or assisting in the maintenance of a nuisance. [Amended by 2003 c.576 §463]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.657 - Confiscation and forfeiture for violation of ORS 471.475.**

Upon conviction for violation of ORS 471.475, the premises upon which the violation has occurred shall be declared to be a common nuisance and subject to abatement proceedings as provided by ORS 471.605 to 471.655. Any person who knowingly suffers or permits such nuisance to exist or be kept or maintained in a private or public club or place of which the person is the owner, manager or lessor, may be a party defendant to such abatement proceedings. In any such case, upon conviction, all alcoholic liquor, whether purchased or acquired from any other source, and all property, including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices, gambling devices, and all facilities for the mixing, storing, serving or drinking of alcoholic liquor shall be declared to be a common nuisance and shall be subject to confiscation and forfeiture as provided for by ORS 471.610. No claim of ownership or of any right, title, or interest in or to any of the personal property enumerated in this section or ORS 471.475 shall be held valid unless claimant shows to the satisfaction of the court that claimant is in good faith the owner of the claim and had no knowledge that the personal property was used in violation of ORS 471.475.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.660 - Seizure of conveyance transporting liquor and liquor therein; notice to owner; return of conveyance; costs.**

(1) When any peace officer discovers any person in the act of transporting alcoholic liquors in violation of law, in or upon any vehicle, boat or aircraft, or conveyance of any kind, the officer may seize any alcoholic liquor found therein, take possession of the vehicle or conveyance and arrest any person in charge thereof.

(2) The officer shall at once proceed against the person arrested, under the Liquor Control Act, in any court having competent jurisdiction, and shall deliver the vehicle or conveyance to the sheriff of the county in which such seizure was made.

(3) If the person arrested is the owner of the vehicle or conveyance seized, it shall be returned to the owner upon execution by the owner of a good and valid bond, with sufficient sureties in a sum double the value of the property, approved by the court and conditioned to return the property to the custody of the sheriff at a time to be specified by the court.

(4) If the person arrested is not the owner of the vehicle or conveyance seized, the sheriff shall make reasonable effort to determine the name and address of the owner. If the sheriff is able to determine the name and address of the owner, the sheriff shall immediately notify the owner by registered or certified mail of the seizure and of the owner's rights and duties under this section and ORS 471.666.

(5) A person notified under subsection (4) of this section, or any other person asserting a claim to rightful possession of the vehicle or conveyance seized, except the defendant, may move the court having ultimate trial jurisdiction over any crime charged in connection with the seizure to return the vehicle or conveyance to the movant.

(6) The movant shall serve a copy of the motion upon the district attorney of the county in which the vehicle or conveyance is in custody. The court shall order the vehicle or conveyance returned to the movant, unless the court is satisfied by clear and convincing evidence that the movant knowingly consented to the unlawful use that resulted in the seizure. If the court does not order the return of the vehicle or conveyance, the movant shall obtain the return only as provided in subsection (3) of this section.

(7) If the court orders the return of the vehicle or conveyance to the movant, the movant shall not be liable for any towing or storage costs incurred as a result of the seizure.

(8) If the court does not order the return of the vehicle or conveyance under subsection (6) of this section, and the arrested person is convicted for any offense in connection with the seizure, the vehicle or conveyance shall be subject to forfeiture as provided in ORS 471.666. [Amended by 1973 c.836 §351; 1981 c.601 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.666 - Disposal of seized liquor and of vehicle or other conveyance.**

(1) The court, upon conviction of the person arrested under ORS 471.660, shall order the alcoholic liquor delivered to the Oregon Liquor and Cannabis Commission, and shall, subject to the ownership rights of innocent third parties, order a sale at public auction by the sheriff of the county of the property seized. The sheriff, after deducting the expense of keeping the property and the cost of sale, shall pay all the liens, according to their priorities, which are established by intervention or otherwise at such hearing or in other proceedings brought for that purpose, and shall pay the balance of the proceeds into the general fund of the county. No claim of ownership or of any right, title or interest in or to such vehicle that is otherwise valid shall be held invalid unless the state shows to the satisfaction of the court, by clear and convincing evidence, that the claimant had knowledge that the vehicle was used or to be used in violation of law. All liens against property sold under this section shall be transferred from the property to the proceeds of the sale.

(2) If no person claims the vehicle or conveyance, the taking of the same and the description thereof shall be advertised in some daily newspaper published in the city or county where taken, or if no daily newspaper is published in such city or county, in a newspaper having weekly circulation in the city or county, once a week for two weeks and by handbills posted in three public places near the place of seizure, and shall likewise notify by mail the legal owner, in the case of an automobile, if licensed by the State of Oregon, as shown by the name and address in the vehicle registration records of the Department of Transportation. If no claimant appears within 10 days after the last publication of the advertisement, the property shall be sold and the proceeds, after deducting the expenses and costs, shall be paid into the general fund of the county. [1989 c.791 §18; 1993 c.741 §67; enacted in lieu of 471.665 in 1997; 2021 c.351 §130]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.675 - Resisting arrest or interfering with enforcement.**

A person may not forcibly resist lawful arrest, or by physical contact recklessly interfere with an investigation of any infringement of the Liquor Control Act or with any lawful search or seizure being made by a peace officer or a regulatory specialist if the person knows or should know that the investigation, search or seizure is being performed by a peace officer or regulatory specialist. [Amended by 1981 c.370 §1; 1997 c.249 §174; 2012 c.54 §4; 2015 c.614 §163]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.680 - Allegation and proof in prosecutions.**

In any prosecution for the sale of alcoholic liquor it is not necessary to prove the exact variety, or to mention the quantity of alcoholic liquor sold, except in the case where the variety or quantity is essential to establish the offense. As regards quantity it is sufficient to allege the sale of a quantity, the sale of which quantity is unlawful. The description of any offense, alleged to be a violation of the Liquor Control Act, in the words of that statute or in any words of like effect, is sufficient in law. Any exceptions, exemptions, provisions, excuse or qualification may be proved by the defendant, but need not be specified or negated in the complaint, information or indictment. If it is so specified or negated, no proof in relation to the matter so specified or negated is required on the part of the plaintiff, informant or complainant.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.685 - Governor authorized to suspend license.**

In case of invasion, disaster, insurrection, riot, or imminent danger thereof, the Governor may, for the duration of such invasion, disaster, insurrection, riot, or imminent danger thereof, immediately suspend without notice any license in the area involved granted under the provisions of this chapter. [1963 c.91 §2; 1995 c.301 §43; 1999 c.351 §61]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.695 - Fingerprinting of license applicants and certain commission employees; criminal records check.**

(1) The Oregon Liquor and Cannabis Commission may require each applicant for a full or limited on-premises sales license to submit to fingerprinting. If the applicant is a corporation, the fingerprints of each officer, director and major stockholder of the corporation may be required by the commission. Prior to approving any change in officers, directors or major stockholders, the commission may require the fingerprints of the new officials.

(2) The commission shall require that all employees of the commission who work in the licensing or enforcement divisions or who have access to criminal background information be fingerprinted.

(3) Fingerprints acquired under this section may be used for the purpose of requesting state or nationwide criminal records checks under ORS 181A.195.

(4) As used in this section, "major stockholder" means any person who owns, directly or indirectly, more than 10 percent of any class of any equity security of the corporation. [1979 c.634 §2; 1999 c.351 §37; 2003 c.166 §3; 2005 c.730 §27; 2021 c.351 §131]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.700 - Revocation of license on gambling conviction.**

In carrying out its duties under ORS 471.315, the Oregon Liquor and Cannabis Commission shall not suspend or cancel a license on grounds of any violation of ORS 167.108 to 167.164 until:

(1) The licensee has been convicted thereof in a court of competent jurisdiction; or

(2) An employee of the licensee has been convicted thereof in a court of competent jurisdiction and the violation occurred on the licensed premises. [1979 c.171 §2; 1995 c.301 §72; 2021 c.351 §132]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.703 - Police notice to commission or social host when certain persons involved in motor vehicle accidents; content; commission duty.**

(1) The police shall notify the Oregon Liquor and Cannabis Commission of the name of the alleged provider of alcoholic liquor when:

(a) The police investigate any motor vehicle accident where someone other than the operator is injured or incurs property damage;

(b) The operator appears to have consumed alcoholic liquor;

(c) A citation is issued against the operator that is related to the consumption of alcoholic liquor or could have been issued if the operator had survived; and

(d) The provider of the alcoholic liquor is alleged to be a licensee or permittee of the commission.

(2) The notice shall include the name and address of the operator involved and the name and address of the person who named the alleged provider, if the person is other than the operator.

(3) Upon receipt of the notice described in subsection (1) of this section, the commission shall cause the licensee or permittee named as the alleged provider to be notified of receipt of the notice and of its content. A copy of the notice shall be retained in the files of the commission and shall be open to inspection by the person injured or damaged by the motor vehicle operator or a representative of the person.

(4) The police shall notify the alleged social host when the circumstances described in subsection (1) of this section occur and the alleged social host is named as the provider of the alcoholic liquor. The notice shall include the information described in subsection (2) of this section. [1987 c.774 §15; 2021 c.351 §133]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.705 - Oregon Liquor and Cannabis Commission; qualifications; compensation; term; confirmation.**

(1) There is created the Oregon Liquor and Cannabis Commission, consisting of nine commissioners appointed by the Governor. One commissioner must be from among the residents of each congressional district of this state. One additional commissioner must be from eastern Oregon. One additional commissioner must be from western Oregon. One additional commissioner must represent the public at large. One commissioner must be from the food and alcoholic beverage retail industry. Not more than five commissioners may be of the same political party. The Governor shall designate one commissioner to be chairperson of the commission. The commissioners are entitled to compensation and expenses as provided in ORS 292.495.

(2) Each commissioner at the time of appointment must be a resident of this state and must have resided in this state for at least five years next preceding appointment and qualification. Each commissioner must be an elector in this state and may not be less than 30 years of age. The term of office of a commissioner terminates if the commissioner ceases to possess the residency or industry qualification for appointment. If the term of office of a commissioner terminates under this subsection, the Governor shall appoint a qualified individual to complete the unexpired term of the commissioner.

(3) The term of office of a commissioner is four years from the time of appointment and qualification and until a successor qualifies for appointment. The terms of the commissioners commence April 1. If a commissioner is allowed to hold office after the expiration of a term, the Governor shall appoint the successor for the remainder of the unexpired term. If a vacancy occurs in the commission, the Governor shall appoint the successor for the remainder of the unexpired term. Each commissioner is eligible for reappointment, but an individual is not eligible to serve for more than two full terms.

(4) Appointments of commissioners by the Governor under this section are subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution. [Amended by 1967 c.577 §11; 1969 c.314 §50; 1973 c.792 §17; 1979 c.251 §1; 1981 c.545 §9; 2017 c.183 §95; 2021 c.351 §134; 2023 c.604 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.710 - Removal; prohibited interests of commissioner and employee; rules.**

(1) The Governor may remove any commissioner for inefficiency, neglect of duty, or misconduct in office, giving to the commissioner a copy of the charges made and an opportunity of being publicly heard in person or by counsel, in the commissioner's own defense, upon not less than 10 days' notice. If such commissioner is removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against such commissioner, the findings thereon, and a complete record of the proceedings.

(2) No person, other than the member appointed in accordance with ORS 471.705 who is designated from the food and alcoholic beverage retail industry, is eligible to hold the office of commissioner, or to be employed by the Oregon Liquor and Cannabis Commission if:

(a) The person has any financial interest in any business licensed by the commission or in any business which manufactures alcoholic beverages sold in Oregon;

(b) Anyone in the person's household or immediate family has a financial interest described in paragraph (a) of this subsection;

(c) Anyone in the person's household or immediate family is employed by a business licensed by the commission, unless the person is not in a position to take action or make decisions which could affect the licensed business; or

(d) The person or anyone in the person's household or immediate family has a business connection with any business licensed by the commission, unless the person is not in a position to take action or make decisions which could affect the licensed business.

(3)(a) A retail sales agent appointed by the commission, or a person in the household or immediate family of a retail sales agent, may not have any financial interest in or business connection with:

(A) A person or business that is licensed as a distillery;

(B) A person or business that holds a full on-premises sales license; or

(C) A distillery whose products are sold in Oregon.

(b) Paragraph (a) of this subsection does not apply to a distillery retail outlet agent appointed by the commission under ORS 471.230.

(4) Nothing in this section prohibits a person from having a financial interest resulting from investments made by the Public Employees Retirement System or through mutual funds, blind trusts or similar investments where the person does not exercise control over the nature, amount or timing of the investment.

(5) The commission by rule may establish additional restrictions to prohibit potential conflicts of interest. The commission by rule shall define "immediate family" and "business connection" as used in this section. [Amended by 1979 c.251 §2; 1983 c.168 §1; 1987 c.511 §7; 2009 c.38 §4; 2021 c.351 §135]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.715 - Chairperson; meetings; quorum.**

(1) The member from the food and alcoholic beverage retail industry shall not serve as chairperson. The chairperson shall preside at all meetings of the Oregon Liquor and Cannabis Commission or, in the chairperson's absence, some other member may serve as chairperson.

(2) The commission shall meet at such times and places within this state as it determines. A majority of the commissioners constitutes a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the commission. [Amended by 1979 c.251 §3; 1983 c.168 §2; 2021 c.351 §136]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.720 - Administrator; other personnel.**

The Oregon Liquor and Cannabis Commission shall appoint an administrator who shall serve at its discretion. The administrator shall be subject to policy direction by the commissioners, and shall be the secretary of the commission and custodian of commission records. The administrator shall manage the commission, administer the laws, and appoint, assign and coordinate personnel of the commission within budget limitations and the State Personnel Relations Law. [Amended by 1967 c.630 §4; 1975 c.605 §24; 1985 c.592 §1; 2021 c.351 §137]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.725 - Buying, leasing, contracting and borrowing powers of commission.**

The function, duties and powers of the Oregon Liquor and Cannabis Commission include the following:

(1) To buy, have in its possession, bottle, blend, rectify, transport and sell, for present or future delivery, in its own name, alcoholic liquor in the manner set forth in this chapter.

(2) To purchase, acquire, rent, lease or occupy any building, rooms, stores or land and acquire, own, lease and sell equipment and fixtures required for its operations.

(3) To lease or sublet to others property which it acquires or owns and which is not immediately required for its operations. However, no real property shall be purchased without the consent and approval of the Governor.

(4) To borrow money, guarantee the payment thereof and of the interest thereon, by the transfer or pledge of goods or in any other manner required or permitted by law.

(5) To issue, sign, indorse and accept checks, promissory notes, bills of exchange and other negotiable instruments.

(6) In the event the United States Government provides any plan or method whereby the taxes upon alcoholic liquors are collected at

the source, to enter into any and all contracts and comply with all regulations, even to the extent of partially or wholly abrogating any statutory provisions which might be in conflict with federal law or regulations, to the end that the commission receives the portion thereof allocated to this state, to be distributed as provided by statute.

(7) To secure and pay for such policies of insurance as may be necessary to adequately protect it from loss by fire, theft or other casualty. [Amended by 1995 c.301 §44; 2021 c.351 §138]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.730 - Regulatory powers of commission.**

The function, duties and powers of the Oregon Liquor and Cannabis Commission include the following:

(1) To control the manufacture, possession, sale, purchase, transportation, importation and delivery of alcoholic liquor in accordance with the provisions of this chapter and ORS 474.105 and 474.115.

(2) To grant, refuse, suspend or cancel licenses and permits for the sale or manufacture of alcoholic liquor, or other licenses and permits in regard thereto, and to permit, in its discretion, the transfer of a license of any person.

(3) To collect the taxes and duties imposed by statutes relating to alcoholic liquors, and to issue, and provide for cancellation, stamps and other devices as evidence of payment of such taxes or duties.

(4) To investigate and aid in the prosecution of every violation of statutes relating to alcoholic liquors, to seize alcoholic liquor manufactured, sold, kept, imported or transported in contravention of this chapter and ORS 474.105 and 474.115, and apply for the confiscation thereof, whenever required by statute, and cooperate in the prosecution of offenders before any court of competent jurisdiction.

(5) To adopt such regulations as are necessary and feasible for carrying out the provisions of this chapter and ORS 474.105 and 474.115 and to amend or repeal such regulations. When such regulations are adopted they shall have the full force and effect of law.

(6) To exercise all powers incidental, convenient or necessary to enable it to administer or carry out any of the provisions of this chapter and ORS 474.105 and 474.115.

(7) To control, regulate and prohibit any advertising by manufacturers, wholesalers or retailers of alcoholic liquor by the medium of newspapers, letters, billboards, radio or otherwise.

(8) To sell, license, regulate and control the use of alcohol for scientific, pharmaceutical, manufacturing, mechanical, industrial and other purposes, and to provide by regulation for the sale thereof for such uses. [Amended by 2021 c.351 §139]

Note:

Sections 1 and 2, chapter 264, Oregon Laws 2023, provide:

Sec. 1.

(1) The Task Force on Alcohol Pricing and Addiction Services is established.

(2) The task force consists of 20 members appointed as follows:

(a) The President of the Senate shall appoint two members from among members of the Senate, one from the majority party and one from the minority party.

(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives, one from the majority party and one from the minority party.

(c) The Governor shall appoint 16 members who are:

(A) A representative of the Oregon Liquor and Cannabis Commission;

(B) Two representatives from the malt beverages industry;

(C) Two representatives from the wine industry;

(D) A representative from the cider industry;

(E) A representative of the alcohol addiction advocacy community;

(F) A representative of community care organizations;

(G) A representative of the Oregon Health Authority;

(H) A representative who is a member of the Alcohol and Drug Policy Commission established under ORS 430.221;

(I) A representative of an association representing malt beverages and wine distributors;

(J) A representative of the Association of Oregon Counties;

(K) A representative of the League of Oregon Cities;

(L) A representative of hospitals in this state; and

(M) Two individuals who are community providers of alcohol addiction services.

(3) The task force shall study the following issues:

(a) Alcohol addiction and alcohol addiction prevention;

(b) The distribution of resources for alcohol addiction treatment;

(c) The current overall funding for alcohol addiction treatment programs, including the levels of funding for programs by the state and local governments, existing metrics used to measure effectiveness of funding and of programs and the amount that community care organizations spend on alcohol addiction treatment;

(d) The cost to this state of alcohol addiction;

(e) The benefits and drawbacks of imposing taxes on malt beverages and wine; and

(f) Additional funding options for alcohol addiction treatment, including modifying the current distribution of alcohol tax revenue

and increasing taxes on alcohol, and the potential economic impact of tax increases on relevant industries.

(4) The task force shall consult with the Legislative Revenue Officer in studying the issues described in subsection (3) of this section.

(5) The task force may adopt rules to carry out its responsibilities.

(6) A majority of the voting members of the task force constitutes a quorum for the transaction of business.

(7) Official action by the task force requires the approval of a majority of the voting members of the task force.

(8) The task force shall elect one of its members to serve as chairperson.

(9) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(10) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the task force.

(11) The task force may adopt rules necessary for the operation of the task force.

(12) The task force shall submit a report in the manner provided by ORS 192.245, and may include recommendations for legislation, to the interim committees of the Legislative Assembly related to health no later than September 15, 2024.

(13) The Oregon Liquor and Cannabis Commission shall provide staff support to the task force.

(14) Members of the Legislative Assembly appointed to the task force are nonvoting members of the task force and may act in an advisory capacity only.

(15) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(16) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of the duties of the task force and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties. [2023 c.264 §1]

Sec. 2.

Section 1 of this 2023 Act is repealed on December 31, 2024. [2023 c.264 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.732 - Policy relating to sanitation in licensed premises.**

(1) The Legislative Assembly finds and declares that the regulation of health and sanitation matters in premises licensed by the Oregon Liquor and Cannabis Commission under this chapter can best be performed by the Oregon Health Authority and the State Department of Agriculture.

(2) It is the policy of the Legislative Assembly and the intent of ORS 471.333 and 624.010 and this section that premises licensed by the Oregon Liquor and Cannabis Commission under this chapter shall be subject to the laws governing health and sanitation matters, including any applicable licensing requirements, and to the rules adopted thereunder by the authority and the department. [1979 c.236 §2; 1995 c.301 §20; 1999 c.351 §62; 2009 c.595 §962; 2021 c.351 §140]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.735 - Testing and seizure of wines.**

The Oregon Liquor and Cannabis Commission shall have the power to investigate by sample or chemical analysis, the quality of all wines manufactured, imported, sold or offered for sale within this state, and to seize, confiscate and destroy all wines sold or offered for sale within this state which do not conform in all respects to the minimum standards provided for by the laws of this state.

[Amended by 2021 c.351 §141]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.737 - Vermouth sales.**

(1) As used in this section:

(a) "Stock keeping unit" means a product that is assigned a specific identification code, which states the type, size, brand or other inventory tracking information for the product.

(b) "Vermouth" means fortified wine that is flavored with botanicals.

(2) Notwithstanding ORS 471.230, a distillery retail outlet agent appointed under ORS 471.230 or a store established under ORS 471.750 may sell vermouth at retail for off-premises consumption as provided under this section without holding an off-premises sales license. Vermouth sold under this section must be in factory-sealed containers. A distillery retail outlet agent or store may not offer more than 20 stock keeping units of vermouth for sale under this section.

(3) A distillery retail outlet agent may sell vermouth under this section at the licensed premises of the distillery or at a location described in ORS 471.230 (2) where the agent offers tastings.

(4) Except as provided in this section, vermouth sales under this section are subject to the restrictions and requirements imposed under this chapter and Oregon Liquor and Cannabis Commission rules for retail sales of wine by an off-premises sales licensee.

[2017 c.31 §2; 2021 c.351 §142]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.740 - Exclusive right of commission to handle certain liquors.**



Except as provided in this chapter, the Oregon Liquor and Cannabis Commission is vested with the exclusive right to purchase, sell, have in possession for sale, import or transport alcoholic beverages. [Amended by 1953 c.120 §6; 1974 c.4 §6; 1999 c.351 §77; 2021 c.351 §143]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.745 - Fixing prices and selling liquor.**

The Oregon Liquor and Cannabis Commission shall fix the prices at which alcoholic liquors containing over five percent alcohol by volume may be purchased from it, and has power to bottle, blend, rectify, manufacture or sell alcoholic liquors for itself, or for or to any person or commission within or without this state. [Amended by 1995 c.301 §88; 2021 c.351 §144]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.747 - Granulated alcohol.**

(1) As used in this section, "granulated alcohol" means powders, crystals or other dry preparations designed to produce an alcoholic beverage when added to a liquid.

(2) Granulated alcohol may not be sold at retail in this state. Granulated alcohol may be sold at wholesale only for scientific, industrial, manufacturing or other purposes identified by the Oregon Liquor and Cannabis Commission under terms and conditions the commission considers appropriate to safeguard against the misuse of granulated alcohol. [2015 c.463 §2; 2021 c.351 §145]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.750 - Liquor stores and warehouses; operation; sales; advertising; rules.**

(1) The Oregon Liquor and Cannabis Commission shall establish stores and warehouses in places in this state that in the commission's judgment are required by public convenience or necessity, for the sale of distilled liquors, wines and other alcoholic liquors containing over five percent alcohol by volume, in sealed containers for consumption off the premises. The commission shall keep on hand in the stores or warehouses established under this section quantities and kinds of alcoholic liquors as are reasonably required to supply the public demand.

(2) Any person qualified to purchase alcoholic liquors from the commission may present to the commission, or at any of the stores established by the commission, an application for any kind or brand of alcoholic liquor that the person may desire and that may be manufactured or obtainable in any place in the United States. The commission shall obtain the alcoholic liquor and sell it to the applicant. The commission may not require that an application for a kind or brand of alcoholic liquor include a commitment to purchase a minimum amount of the alcoholic liquor or require that a purchase be for more than one container of a kind or brand of alcoholic liquor if the alcoholic liquor:

(a) Except as provided in subsection (6) of this section, has a retail sales price of \$30 or more per container;

(b) Is available through a distributor in the United States that does not require the commission to acquire more than one case of the distilled liquor in a single transaction;

(c) Is not regularly stocked by the commission; and

(d) Is ordered in a 750 milliliter container size if available in that size.

(3) The commission may not establish a store in any county or incorporated city of this state where a local prohibitory law is in effect.

(4) The commission may appoint agents in the sale of alcoholic liquors pursuant to agreements negotiated between the commission and the agents, or representatives of the agent.

(5)(a) The commission shall adopt rules governing advertising by stores operated by the commission. Rules relating to advertising adopted by the commission under this subsection must allow signs and displays within the commission's stores for the purpose of supplying consumer information to customers, including but not limited to discounts, sales and other specials. Commission discretion with respect to the signs and displays described in this subsection is limited to regulation of the content, size, number per brand, type and duration of the sign or display.

(b) Signs and displays may be supplied by manufacturers, wholesalers or distributors, and may bear the name of a particular distillery, supplier or brand of liquor. The use of signs and displays is optional with the agent appointed by the commission.

(6) The commission may annually adjust the price threshold established in subsection (2)(a) of this section by a percentage equal to the percentage change in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor. However, the commission may not adjust the price threshold to be less than \$30.

(7) The commission shall compensate an agent appointed under this section according to the schedule established in ORS 471.753. [Amended by 1977 c.321 §3; 1977 c.608 §2; 1991 c.379 §1; 1995 c.301 §89; 2001 c.785 §11; amendments by 2002 s.s.1 c.11 §1 repealed by 2002 s.s.2 c.1 §3; 2002 s.s.2 c.1 §1; 2011 c.180 §2; 2019 c.57 §28; 2021 c.180 §14; 2021 c.351 §146; 2021 c.620 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.752 - Agent participation in programs for state employees; preference of spouse or child of deceased agent or agent with disability.**

(1) An agent appointed under ORS 471.750 may participate in a health benefit plan available to state employees pursuant to ORS 243.105 to 243.285 at the expense of the agent and may participate in the state deferred compensation plan established under ORS 243.401 to 243.507. For such purposes, agents shall be considered eligible state employees.

(2) A person who is the surviving spouse or child of a deceased agent or the spouse or child of an agent of the Oregon Liquor and Cannabis Commission who has a disability shall be given preference in the appointment of a successor agent, if otherwise qualified, the spouse having greater preference. The experience of such applicant in the business operation of the deceased agent or the agent who has a disability shall be the primary consideration in determining the qualifications of the applicant. [1979 c.203 §3; 1983 c.624 §1; 1985 c.645 §4; 1997 c.179 §30; 1997 c.222 §53; 2007 c.70 §270; 2021 c.351 §147]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.753 - Agent compensation.**

(1) As used in this section:

(a) "Nonurban county" has the meaning given that term in ORS 653.026.

(b) "Portland metropolitan area county" means a county within the urban growth boundary of a metropolitan service district organized under ORS chapter 268.

(c) "Standard county" means a county that is not a Portland metropolitan area county or a nonurban county.

(2) The Oregon Liquor and Cannabis Commission shall compensate an agent appointed under ORS 471.750 in an amount equal to the sum of the following according to the store class, as determined under subsection (3) of this section, operated by the agent:

(a) The monthly base compensation established in subsection (4) of this section;

(b) The wage escalator amount described in subsection (5) of this section;

(c) The retail escalator amount described in subsection (6) of this section; and

(d) The sales commission according to the rates provided in subsection (7) of this section.

(3) A store shall be classed based on the store's amount of annual sales of alcoholic beverages rounded to the nearest whole dollar, adjusted annually by a percentage equal to any percentage increase in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, as follows:

(a) Class 1: up to \$120,000;

(b) Class 2: at least \$120,001 and not more than \$450,000;

(c) Class 3: at least \$450,001 and not more than \$750,000;

(d) Class 4: at least \$750,001 and not more than \$1,650,000;

(e) Class 5: at least \$1,650,001 and not more than \$2,500,000;

(f) Class 6: at least \$2,500,001 and not more than \$3,700,000;

(g) Class 7: at least \$3,700,001 and not more than \$5,500,000;

(h) Class 8: at least \$5,500,001 and not more than \$8,300,000;

(i) Class 9: at least \$8,300,001 and not more than \$12,500,000; and

(j) Class 10: at least \$12,500,001 and not more than \$18,750,000.

(4) The monthly base compensation for an agent, adjusted annually by a percentage equal to any percentage increase in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, is determined as follows according to the class of store operated by the agent:

(a) Class 1 store: 14.5 percent of the first \$10,000 in monthly sales of alcoholic beverages;

(b) Class 2 store: \$1,660;

(c) Class 3 store: \$1,920;

(d) Class 4 store: \$2,440;

(e) Class 5 store: \$2,700;

(f) Class 6 store: \$3,100;

(g) Class 7 store: \$3,600;

(h) Class 8 store: \$4,150;

(i) Class 9 store: \$4,800; and

(j) Class 10 store: \$5,500.

(5) The wage escalator amount is as follows:

(a) For an agent in a standard county, eight percent of the monthly base compensation; or

(b) For an agent in a Portland metropolitan area county, 18 percent of the monthly base compensation.

(6) The monthly retail escalator amount is as follows:

(a) For a store located in a standard county, 50 percent of the monthly base compensation; or

(b) For a store located in a Portland metropolitan area county, 75 percent of the monthly base compensation.

(7) The sales commission rates are as follows:

(a) For sales of alcoholic beverages to licensees, 6.54 percent of the amount of sales.

(b) For sales of alcoholic beverages to persons other than licensees, 8.38 percent of the amount of sales. [2021 c.620 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic**

**Liquors GenerallySection 471.754 - Commission to develop recycling education materials.**

The Oregon Liquor and Cannabis Commission shall develop recycling education materials for distribution through stores established by the commission under ORS 471.750 that encourage the patrons of the store to recycle bottles sold through the stores. [1997 c.552 §34; 2021 c.351 §148]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.757 - Statement of financial interest in business of licensee.**

(1) At such times as the Oregon Liquor and Cannabis Commission may prescribe and upon forms furnished by the commission, any license applicant or licensee of the commission may be required to submit a sworn statement to the commission showing the name, address and the nature and extent of the financial interest of each person, individual and corporate, having a financial interest in the business operated under the license.

(2) The commission shall review the statement and may refuse to issue a license to any license applicant, or may suspend, cancel or refuse to renew the license of any licensee, when conditions exist in relation to any person having a financial interest in the business or in the place of business which would constitute grounds for refusing to issue a license or for cancellation or suspension of a license if such person were the license applicant or licensee. However, in cases where the financial interest is held by a corporation, only the officers and directors of the corporation, any individual or combination of individuals who own a controlling financial interest in the business and any manager of the business shall be considered persons having a financial interest within the meaning of this subsection. [1963 c.369 §1; 1995 c.301 §45; 1999 c.351 §63; 2001 c.785 §9; 2021 c.351 §149]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.760 - Subpoena; oaths; depositions.**

Each member of the Oregon Liquor and Cannabis Commission, or any of its authorized agents, shall, for the purposes contemplated by this chapter and ORS 474.105 and 474.115, have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within or without this state, as provided by law, and compel the production of pertinent books, payrolls, accounts, papers, records, documents and testimony. [Amended by 1953 c.101 §2; 2021 c.351 §150]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.765 - Procedure when person refuses to testify or produce books.**

If a person in attendance before the Oregon Liquor and Cannabis Commission or a commissioner refuses, without reasonable cause, to be examined or to answer a legal and pertinent question, or to produce a book or paper when ordered so to do by the commission, the commission may apply to the judge of the circuit court of any county where such person is in attendance, upon proof by affidavit of the fact, for a rule or order returnable in not less than two nor more than five days, directing such person to show cause before the judge who made the order, or any other judge of such county, why the person should not be punished for contempt. Upon the return of such order, the judge shall examine such person under oath and the person shall be given an opportunity to be heard. If the judge determines that such person has refused, without reasonable cause or legal excuse, to be examined or to answer a legal or pertinent question, or to produce a book or paper which the person was ordered to bring or produce, the judge may forthwith punish the offender for contempt of court. [Amended by 2021 c.351 §151]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.770 - Self-incrimination as a basis for refusing to testify or produce books.**

No person shall be excused from testifying or from producing any books, papers or documents in any investigation or inquiry by or upon any hearing before the Oregon Liquor and Cannabis Commission or any commissioner when ordered so to do by the commission or any of its authorized agents, upon the ground that the testimony, evidence, books, papers or documents required of the person may tend to incriminate the person or subject the person to penalty or forfeiture. No person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which the person shall, under oath, have, by order of the commission, or a commissioner, or any of its authorized agents, testified to or produced documentary evidence of; but no person so testifying shall be exempt from prosecution or punishment for any perjury committed by the person in testimony. [Amended by 1953 c.101 §2; 2021 c.351 §152]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 471 - Alcoholic Liquors GenerallySection 471.775 - Service of subpoenas; regulatory specialist authority and prohibitions.**

(1) The provisions of ORS 183.440 shall apply to subpoenas issued by each member of the Oregon Liquor and Cannabis Commission or any of its authorized agents.

(2) Subject to subsection (3) of this section, regulatory specialists have authority as provided under this chapter, ORS chapter 153, ORS 133.005 to 133.400, 133.450, 133.525 to 133.703, 133.721 to 133.739, 161.233, 161.242 and 161.245 and chapter 743, Oregon Laws 1971, to conduct inspections or investigations, make arrests and seizures, aid in prosecutions for offenses, issue criminal citations and citations for violations and otherwise enforce this chapter, ORS 474.005 to 474.095 and 474.115, commission rules and any other laws of this state that the commission considers related to alcoholic liquor, including but not limited to:

- (a) Laws regarding the production, processing, manufacture, importation, transportation, possession, distribution, sale or consumption of alcoholic beverages;
  - (b) The manufacture or use of false identification; or
  - (c) The entry of premises licensed to sell alcoholic liquor.
- (3) A regulatory specialist may not:
- (a) Be sworn in as a federal law enforcement official and act in that capacity while performing duties under subsection (2) of this section; or
  - (b) Carry a firearm. [Amended by 1953 c.101 §2; 1971 c.734 §68; 2012 c.54 §5; 2015 c.614 §164; 2016 c.24 §20; 2017 c.21 §110; 2017 c.476 §15; 2017 c.613 §28; 2020 s.s.2 c.3 §15; 2021 c.351 §153]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.790 - Commissioners not liable for official acts; commission funds entitled to priority.**

No member of the Oregon Liquor and Cannabis Commission may be sued for doing or omitting to do any act in the performance of duties as prescribed in the Liquor Control Act. No member of the commission personally shall be liable for any loss caused by the default or failure of the depository of funds of the commission. All funds of the commission deposited in any bank or trust company are entitled to priority of payment as public funds of the state, if the commission funds are only kept in depositories designated by the State Treasurer and under security of the same character required by law for depositories of state funds. [Amended by 2021 c.351 §154]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.795 - Purchase and use of liquor by member or employee of commission.**

No provision of the Liquor Control Act prevents any member or employee of the Oregon Liquor and Cannabis Commission from purchasing and keeping in possession, for the personal use of self or members of the family of the member or employee, any alcoholic liquor in the same manner as it may be purchased or kept by any other person under that statute. [Amended by 2021 c.351 §155]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.800 - Restrictions on out-of-state wine; imposition.**

If by the laws of another state or by the rules and regulations of any administrative body or authorized agency thereof or therein, market restrictions are imposed that prevent or tend to prevent the sale of wine manufactured in Oregon in free and unrestricted competition with like kinds of wine manufactured in such other state, the Oregon Liquor and Cannabis Commission is authorized and directed to impose similar restrictions in Oregon upon such wine manufactured in such other state and offered for sale in Oregon. [Amended by 2021 c.351 §156]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.802 - Wine label designation of American viticultural area; rules.**

- (1) As used in this section, "American viticultural area" means a delimited grape growing region approved under 27 C.F.R. part 9.
- (2) If the appellation of origin on a wine label is an American viticultural area that is wholly or partially within the boundaries of a larger American viticultural area, the Oregon Liquor and Cannabis Commission may require that the wine label also identify the larger American viticultural area. If the commission requires that the wine label identify the larger American viticultural area, the area must be identified in letters:
  - (a) At least two millimeters high if the wine container is more than 187 milliliters in volume; or
  - (b) At least one millimeter high if the wine container is 187 milliliters or less in volume.
- (3) Subsection (2) of this section does not require that the name of the larger American viticultural area:
  - (a) Be included in or near the appellation of origin; or
  - (b) Be in the same size or font as the appellation of origin.
- (4) The commission shall adopt rules specifying any American viticultural areas for which the wine labeling requirement in subsection (2) of this section is applicable. The commission shall, at a minimum, adopt rules to require American viticultural areas that are wholly or partially within the boundaries of the Willamette Valley viticultural area to identify the Willamette Valley viticultural area on the label. For all other areas, the commission shall solicit and consider recommendations by Oregon winemaking industry associations that are associated with an American viticultural area before determining whether the area should be included for purposes of the wine labeling requirement in subsection (2) of this section.
- (5) Except as provided in this subsection, an American viticultural area may not appear on a wine label in a manner that resembles all or part of a brand name or appear in lettering that is larger or more prominent than the brand name. This subsection does not apply if the brand name stating or implying an American viticultural area has been in continuous use as a brand name since December 31, 2017, and prior to December 31, 2017, was:
  - (a) Used in conformance with commission standards;
  - (b) Subject to a federal trademark registration for wine under United States Patent and Trademark Office Class 33; and

(c) Sold in interstate commerce.

(6) The commission may adopt rules to impose additional wine labeling requirements that the commission deems appropriate. The commission may make a wine labeling requirement applicable to wines produced in some or all of the American viticultural areas in this state. [2019 c.425 §2; 2021 c.351 §157]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.805 - Disposition of moneys; revolving fund; agent deposits.**

(1)(a) Except as otherwise provided in subsection (3) of this section and ORS 471.810 (2), all moneys collected by the Oregon Liquor and Cannabis Commission under this chapter and ORS chapter 473 and as privilege taxes shall be remitted to the State Treasurer who shall credit the moneys to a suspense account of the commission. Whenever the commission determines that the commission has received moneys in excess of the amount legally due and payable to the commission, that the commission has received moneys to which the commission has no legal interest or that any license fee or deposit is properly refundable, the commission is authorized and directed to refund such moneys by check drawn upon the State Treasurer and charged to the suspense account of the commission.

(b) After withholding refundable license fees and a sum, not to exceed \$250,000, as the commission considers necessary as a revolving fund for a working cash balance for the purpose of paying travel expenses, advances, other miscellaneous bills and extraordinary items which are payable in cash immediately upon presentation, the commission shall direct the State Treasurer to transfer the moneys remaining in the suspense account to the Oregon Liquor and Cannabis Commission Account in the General Fund. Moneys in the Oregon Liquor and Cannabis Commission Account are continuously appropriated to the commission to be distributed and used as required or allowed by law.

(2) All necessary expenditures of the commission incurred in carrying out the purposes required of the commission by law, including the salaries of the commission's employees, purchases made by the commission and such sums necessary to reimburse the \$250,000 revolving fund, shall be audited and paid from the Oregon Liquor and Cannabis Commission Account in the General Fund, upon warrants drawn by the Oregon Department of Administrative Services, pursuant to claims duly approved by the commission.

(3)(a) Moneys from the retail sale of distilled liquor that are being held by an agent appointed under ORS 471.750 or by a distillery retail outlet agent appointed under ORS 471.230 are not subject to ORS 295.001 to 295.108 if the agent has on deposit with the commission an amount equaling or exceeding an amount the commission, in the commission's discretion, deems to be reasonable and sufficient and that is not less than the average daily gross cash and check receipts from retail sales of distilled liquor by the agent.

(b) The commission shall remit moneys deposited with the commission under this subsection to the State Treasurer for deposit to a separate reserve account of the commission. Moneys in the reserve account are not revenue of the commission for purposes of ORS 221.770. The commission shall return the deposit, and any interest earned on the deposit, if the appointment of the agent terminates and the agent has forwarded to the commission all moneys owed the commission from retail sales of distilled liquor by the agent.

(c) An agent described in paragraph (a) of this subsection shall make the deposits and report the receipts described in paragraph (a) of this subsection to the commission on a monthly basis. The commission may adopt rules to carry out this paragraph. [Amended by 1955 c.26 §1; 1967 c.577 §4; 1975 c.424 §2; 1979 c.367 §3; 1995 c.301 §46; 1999 c.351 §64; 2005 c.755 §45; 2017 c.533 §17; 2021 c.180 §15; 2021 c.186 §1; 2021 c.351 §158]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.810 - Distribution of available moneys in Oregon Liquor and Cannabis Commission Account.**

(1) At the end of each month, the Oregon Liquor and Cannabis Commission shall certify the amount of moneys available for distribution in the Oregon Liquor and Cannabis Commission Account and, after withholding such moneys as it may deem necessary to pay its outstanding obligations, shall within 35 days of the month for which a distribution is made direct the State Treasurer to pay the amounts due, upon warrants drawn by the Oregon Department of Administrative Services, as follows:

(a) Fifty-six percent, or the amount remaining after the distribution under subsection (4) of this section, credited to the General Fund available for general governmental purposes wherein it shall be considered as revenue during the quarter immediately preceding receipt;

(b) Twenty percent to the cities of the state in such shares as the population of each city bears to the population of the cities of the state, as determined by Portland State University last preceding such apportionment, under ORS 190.510 to 190.610;

(c) Ten percent to counties in such shares as their respective populations bear to the total population of the state, as estimated from time to time by Portland State University; and

(d) Fourteen percent to the cities of the state to be distributed as provided in ORS 221.770 and this section.

(2) The commission shall direct the Oregon Department of Administrative Services to transfer 50 percent of the revenues from the taxes imposed by ORS 473.030 and 473.035 to the Mental Health Alcoholism and Drug Services Account in the General Fund to be paid monthly as provided in ORS 430.380.

(3) If the amount of revenues received from the taxes imposed by ORS 473.030 for the preceding month was reduced as a result of credits claimed under ORS 473.047, the commission shall compute the difference between the amounts paid or transferred as described in subsections (1)(b), (c) and (d) and (2) of this section and the amounts that would have been paid or transferred under

subsections (1)(b), (c) and (d) and (2) of this section if no credits had been claimed. The commission shall direct the Oregon Department of Administrative Services to pay or transfer amounts equal to the differences computed for subsections (1)(b), (c) and (d) and (2) of this section from the General Fund to the recipients or accounts described in subsections (1)(b), (c) and (d) and (2) of this section.

(4) Notwithstanding subsection (1) of this section, no city or county shall receive for any fiscal year an amount less than the amount distributed to the city or county in accordance with ORS 471.350 (1965 Replacement Part), 473.190 and 473.210 (1965 Replacement Part) and this section during the 1966-1967 fiscal year unless the city or county had a decline in population as shown by its census. If the population declined, the per capita distribution to the city or county shall be not less than the total per capita distribution during the 1966-1967 fiscal year. Any additional funds required to maintain the level of distribution under this subsection shall be paid from funds credited under subsection (1)(a) of this section.

(5) Notwithstanding subsection (1) of this section, amounts to be distributed from the Oregon Liquor and Cannabis Commission Account that are attributable to a per bottle surcharge imposed by the Oregon Liquor and Cannabis Commission, shall be credited to the General Fund. [Amended by 1955 c.475 §11; 1957 c.222 §1; 1957 c.445 §1; 1961 c.78 §1; 1961 c.635 §1; 1967 c.577 §5; 1969 c.499 §1; 1975 c.424 §4; 1975 c.527 §4a; 1977 c.831 §3a; 1977 c.856 §18; 1987 c.406 §2; 1997 c.348 §15; 2001 c.971 §4; 2007 c.71 §153; 2007 c.854 §4; 2013 c.768 §106j; 2015 c.840 §8; 2021 c.351 §159]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.817 - Alternative transportation organization to report annually.**

Each nonprofit organization formed by licensees to provide alternative transportation for patrons of the licensees shall report annually to the Oregon Liquor and Cannabis Commission. The commission may acknowledge receipt of the notice and shall keep a list of such organizations that have given notice. The commission shall provide information to the Department of Revenue on request for purposes of sections 2 and 4, chapter 700, Oregon Laws 1985. [1985 c.700 §6; 2021 c.351 §160]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 471 - Alcoholic Liquors Generally Section 471.990 - Penalties.**

(1) Except where other punishment is specifically provided for, violation of any provision of this chapter and ORS 474.105 and 474.115 is a Class A misdemeanor.

(2) A second or subsequent violation of ORS 471.440 is a Class C felony.

(3) Subject to ORS 153.022, violation of any regulation promulgated under ORS 471.730 (5) is a Class C violation. [Amended by 1953 c.120 §6; 1963 c.93 §6; 1987 c.320 §236; 1999 c.1051 §187; 2011 c.597 §214]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 472 - (Former Provisions) Section 472.110**

[1953 c.176 §6; 1955 c.434 §1; 1957 c.223 §3; 1961 c.348 §1; 1965 c.280 §4; 1965 c.284 §3; 1973 c.395 §6; 1979 c.881 §1; 1981 c.340 §1; 1981 c.585 §1; 1983 c.625 §1; 1993 c.80 §1; 1993 c.144 §3; 1993 c.169 §1; 1995 c.301 §21a; renumbered 472.100 in 1995]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.005 - Definitions for chapter.**

The definitions provided by ORS 471.001 apply to this chapter. [1995 c.301 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.015 - Definition of "cider."**

For the purposes of this chapter, "cider" means an alcoholic beverage made from the fermentation of the juice of apples or pears that contains not less than one-half of one percent and not more than 8.5 percent of alcohol by volume, including, but not limited to, flavored, sparkling, carbonated or fortified cider. [1995 c.301 §10; 1997 c.348 §1; 1999 c.351 §78; 2017 c.202 §3; 2021 c.596 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.020 - Administration of chapter by commission.**

The Oregon Liquor and Cannabis Commission shall administer this chapter, and shall prescribe forms and make such rules and regulations as it deems necessary to enforce its provisions. [Amended by 2021 c.351 §161]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.030 - Tax on wines and malt beverages.**

(1) A tax at the rate of \$2.60 per barrel of 31 gallons of malt beverages is imposed upon the privilege of engaging in business as:

(a) A manufacturer or an importing distributor of malt beverages;

(b) The holder of a direct to retailer permit issued under ORS 471.274, for malt beverages sold and transported to a holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200; or

- (c) The holder of a direct shipper permit issued under ORS 471.282, for malt beverages sold and delivered directly to an Oregon resident.
- (2) A tax at the rate of 65 cents per gallon of wine is imposed upon the privilege of engaging in business as:
- (a) A manufacturer or an importing distributor of wines;
- (b) The holder of a direct to retailer permit issued under ORS 471.274, for wines sold and transported to a holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200; and
- (c) The holder of a direct shipper permit issued under ORS 471.282, for wines sold and delivered directly to an Oregon resident.
- (3) In addition to the tax imposed by subsection (2) of this section, the following persons shall be taxed at a rate of 10 cents per gallon of wine containing more than 16 percent alcohol by volume:
- (a) A manufacturer or an importing distributor of wines containing more than 16 percent alcohol by volume;
- (b) The holder of a direct to retailer permit issued under ORS 471.274, for wines containing more than 16 percent alcohol by volume sold and transported to a holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200; and
- (c) The holder of a direct shipper permit issued under ORS 471.282, for wines containing more than 16 percent alcohol by volume sold and delivered directly to an Oregon resident.
- (4)(a) In addition to the taxes imposed by subsections (2) and (3) of this section, the following persons shall be taxed at a rate of two cents per gallon of wine:
- (A) A manufacturer or an importing distributor of wines;
- (B) The holder of a direct to retailer permit issued under ORS 471.274, for wines sold and transported by the holder to a holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200; and
- (C) The holder of a direct shipper permit issued under ORS 471.282, for wines sold and delivered directly to an Oregon resident.
- (b) Notwithstanding any other provision of law, all moneys collected by the Oregon Liquor and Cannabis Commission pursuant to this subsection shall be paid into the account established by the Oregon Wine Board under ORS 182.470.
- (5) The rates of tax imposed by this section upon malt beverages apply proportionately to quantities in containers of less capacity than those quantities specified in this section.
- (6)(a) The taxes imposed by this section shall be measured by the volume of wine or malt beverages:
- (A) Produced, purchased or received by any manufacturer;
- (B) Transported by the holder of a direct to retailer permit issued under ORS 471.274 to the holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200; or
- (C) Delivered by the holder of a direct shipper permit issued under ORS 471.282 directly to an Oregon resident.
- (b) If the wine or malt beverage remains unsold and in the possession of the producer at the plant where it was produced, no tax imposed or levied by this section is required to be paid until the wine or malt beverage has become sufficiently aged for marketing at retail, but this subsection shall not be construed so as to alter or affect any provision of this chapter relating to tax liens or the filing of statements. [Amended by 1974 c.4 §9; 1975 c.424 §3; 1977 c.856 §19; 1983 c.651 §9; 1987 c.608 §3; 1995 c.301 §23; 1997 c.249 §176; 1999 c.351 §79; 2003 c.797 §22; 2021 c.180 §16; 2021 c.351 §162; 2023 c.391 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.035 - Tax on cider.**

- (1) A tax at the rate of \$2.60 per barrel of 31 gallons of cider is imposed upon the privilege of engaging in business as:
- (a) A manufacturer or as an importing distributor of cider;
- (b) The holder of a direct to retailer permit issued under ORS 471.274 for all cider sold and transported by the holder to the holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200; and
- (c) The holder of a direct shipper permit issued under ORS 471.282 for all cider sold and delivered directly to an Oregon resident.
- (2) Notwithstanding subsection (1) of this section or any other provision of law, the taxation of the manufacturing, distribution, transportation or delivery of cider shall be at a rate that is not less than the rate imposed for the privilege of manufacturing, distributing, transporting or delivering of malt beverages under ORS 473.030 (1).
- (3) The rate of tax imposed by this section shall apply proportionately to quantities in containers of less capacity than those quantities specified in this section.
- (4)(a) The tax imposed by this section shall be measured by the volume of cider:
- (A) Produced, purchased or received by any manufacturer;
- (B) Transported by the holder of a direct to retailer permit issued under ORS 471.274 to the holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200; and
- (C) Delivered by the holder of a direct shipper permit issued under ORS 471.282 directly to an Oregon resident.
- (b) If the cider remains unsold and in the possession of the producer at the plant where it was produced, no tax imposed or levied by this section is required to be paid until the cider has become sufficiently aged for marketing at retail, but this subsection shall not be construed so as to alter or affect any provision of this chapter relating to tax liens or the filing of statements. [1997 c.348 §3; 2023 c.391 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.045 - Tax on sale or use of agricultural products used by wineries;**

**exemptions; penalty for nonpayment.**

- (1) A tax is hereby imposed upon the sale or use of all agricultural products used in a winery for making wine.
- (2) The amount of the tax shall be \$25 per ton of grapes of the vinifera varieties, whether true or hybrid.
- (3) An equivalent tax is imposed upon the sale or use of vinifera or hybrid grape products imported for use in a winery licensed under ORS chapter 471 for making wine. Such tax shall be \$25 per ton of grapes used to produce the imported grape product. The tax shall be determined on the basis of one ton of grapes for each 150 gallons of wine made from such vinifera or hybrid grape products.
- (4) A tax on the sale or use of products that are not subject to subsection (2) or (3) of this section that are used to make wine in this state shall be imposed at a rate of \$.021 per gallon of wine made from those products.
- (5)(a) In the case of vinifera or hybrid grape products harvested in this state, \$12.50 per ton of the tax shall be levied and assessed against the person selling or providing the grape products to the winery and, except as provided in ORS 473.046, \$12.50 per ton shall be levied and assessed against the winery purchasing the grape products.
- (b) If the purchasing winery is licensed under ORS chapter 471 or holds a direct to retailer permit, direct shipper permit or certificate of approval, the purchasing winery shall pay the \$25 per ton tax and deduct \$12.50 per ton from the price paid to the person selling or providing the grape products to the winery.
- (c) If the purchasing winery is not licensed under ORS chapter 471 and does not hold a direct to retailer permit, direct shipper permit or certificate of approval, the person selling or providing the grape products to the winery shall report the sale on forms provided by the Oregon Liquor and Cannabis Commission and pay \$12.50 per ton as a tax directly to the commission.
- (6) Moneys that a winery deducts for taxes described in subsection (5) of this section and forwards to the commission shall be collected by the commission on behalf of the Oregon Wine Board. The commission may retain an amount sufficient to cover the cost of collecting the taxes paid under subsection (5) of this section and shall transfer the remainder of those taxes to the board for deposit as provided in ORS 576.877. Failure to pay a tax imposed under subsection (5) of this section subjects the violator to the penalty provided in ORS 473.992.
- (7) If a winery deducts and pays the tax imposed on an item under this section, resale of the item in bulk to an out-of-state buyer does not subject the out-of-state buyer to the imposition of tax under this section.
- (8) Except for the tax specified in subsection (4) of this section the taxes specified under this section shall be levied and assessed to the winery at the time of purchase of the product by the winery or of importation of the product, whichever is later. The tax specified in subsection (4) of this section shall be levied and assessed to the licensed winery at the time the wine is made.
- (9) The taxes imposed by this section shall be paid to and collected by the commission subject to the same powers as taxes imposed and collected under ORS chapter 473. The tax obligation for a calendar year shall be paid in two installments. Half shall be due on December 31 of the current calendar year. The remaining half shall be due the following June 30.
- (10) The commission may adopt rules for carrying out this section. [1977 c.690 §5; 1983 c.651 §6; 1987 c.804 §1; 1991 c.459 §415c; 1995 c.301 §47; 2003 c.604 §101; 2003 c.797 §23; 2019 c.542 §1; 2021 c.351 §§163,164; 2023 c.391 §24]

Note:

473.045 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 473 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.046 - Exemption for grapes used for wine produced in certain viticultural areas.**

A purchase of vinifera or hybrid grapes harvested in this state is exempt from the tax under ORS 473.045 (5) levied and assessed against wineries purchasing grape products, if the grapes are used for wine that:

- (1) Is produced within a federally approved American viticultural area located partially within this state; and
- (2) Does not use Oregon designations or use an American viticultural area located wholly within Oregon on its label or packaging or in its advertising or marketing. [2019 c.542 §3]

Note:

473.046 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 473 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.047 - Marketing activity tax credit; rules.**

- (1) As used in this section, "qualified marketing activity" means marketing activity:
  - (a) That promotes the sale of wine or wine products;
  - (b) That does not promote specific brands of wine or wine products or exclusively promote the products of any particular winery; and
  - (c) That has been approved by the Oregon Wine Board.
- (2) A credit against the privilege tax otherwise due under ORS 473.030 (2) is allowed to a manufacturer or importing distributor of wine, the holder of a direct to retailer permit issued under ORS 471.274 for wines sold and transported to a holder of a license issued



under ORS 471.175, 471.178, 471.186, 471.190 or 471.200 or the holder of a direct to shipper permit issued under ORS 471.282 for wines sold and delivered directly to an Oregon resident, for the qualified marketing activity expenditures made by the manufacturer, importing distributor or permit holder in the calendar year prior to the year for which the credit is claimed.

(3) The credit allowed under this section shall be 28 percent of the sum of the following:

(a) One hundred percent of the cost of qualified marketing activity to the extent that the cost of the activity does not exceed the amount of taxes the manufacturer or importing distributor of wine or permit holder described in subsection (2) of this section owed under ORS 473.030 (2) on the first 40,000 gallons, or 151,000 liters, of wine sold annually in Oregon; and

(b) Twenty-five percent of the tax owed under ORS 473.030 (2) for qualified marketing activity on wine sales above 40,000 gallons, or 151,000 liters, of wine sold annually in Oregon.

(4) The credit allowed under this section may not exceed the tax liability of the manufacturer or importing distributor of wine or the permit holder described in subsection (2) of this section under ORS 473.030 (2) for the calendar year following the year in which qualified marketing activity occurred.

(5) A manufacturer or importing distributor of wine or permit holder described in subsection (2) of this section that wishes to claim the credit allowed under this section shall submit with the manufacturer's, importing distributor's or permit holder's tax return form a certificate issued by the board verifying that the marketing activity was a qualified marketing activity. The credit shall be claimed on the form and include the information required by the Oregon Liquor and Cannabis Commission by rule.

(6) The credit shall be claimed against the taxes reported on the return filed under ORS 473.060 for each month in the calendar year following the year in which the qualified marketing activity occurred, until the credit is completely used or the year ends, whichever occurs first.

(7) The board shall by rule further define, consistent with the definition in subsection (1) of this section, the marketing activities that constitute qualified marketing activity. [2001 c.971 §2; 2003 c.797 §24; 2021 c.351 §165; 2023 c.391 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.050 - When privilege tax not imposed.**

In computing any privilege tax imposed by ORS 473.030 or 473.035:

(1) No malt beverage, cider or wine is subject to tax more than once.

(2) No tax shall be levied, collected or imposed upon any malt beverage, cider or wine sold to the Oregon Liquor and Cannabis Commission or exported from the state.

(3) No tax shall be levied, collected or imposed upon any malt beverage given away and consumed on the licensed premises of a brewery licensee, or sold to or by a voluntary nonincorporated organization of army, air corps or navy personnel operating a place for the sale of goods pursuant to regulations promulgated by the proper authority of each such service.

(4) No tax shall be levied, collected or imposed upon any malt beverage, cider or wine determined by the commission to be unfit for human consumption or unsalable.

(5) No tax shall be levied, collected or imposed upon the first 40,000 gallons, or 151,000 liters, of wine sold annually in Oregon from a United States manufacturer of wines producing less than 100,000 gallons, or 379,000 liters, annually. [Amended by 1971 c.158 §1; 1977 c.856 §20; 1981 c.199 §4; 1983 c.651 §7; 1995 c.301 §24; 1997 c.348 §5; 2007 c.854 §5; 2021 c.351 §166]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.060 - Payment of taxes; refunds; interest or penalty; appeal.**

(1) The privilege taxes imposed by ORS 473.030 and 473.035 shall be paid to the Oregon Liquor and Cannabis Commission. The taxes covering the periods for which statements are required to be rendered by ORS 473.070 shall be paid before the time for filing such statements expires or, as concerns wines, on or before the 20th day of the month after such wines have been withdrawn from federal bond. If not so paid, a penalty of 10 percent and interest at the rate of one percent a month or fraction of a month shall be added and collected. The commission may refund any tax payment imposed upon or paid in error by any licensee or holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282, and may waive the collection or refund the payment of any tax imposed and collected on wine, cider or malt beverages subsequently exported from this state, sold to a federal instrumentality or to the commission, or determined by the commission to be unfit for human consumption or unsalable.

(2) The commission may waive any interest or penalty assessed to a manufacturer or holder of a permit described in subsection (1) of this section subject to the tax imposed under ORS 473.030 or 473.035 if the commission, in its discretion, determines that the manufacturer or permit holder has made a good faith attempt to comply with the requirements of this chapter.

(3) Except in the case of fraud, the commission may not assess any interest or penalty on any tax due under ORS 473.030 or 473.035 following the expiration of 36 months from the date on which was filed the statement required under ORS 473.070 reporting the quantity of wine, cider or malt beverages upon which the tax is due.

(4) A manufacturer or holder of a permit described in subsection (1) of this section may appeal a tax imposed under ORS 473.030 or 473.035 in the manner of a contested case under ORS chapter 183. [Amended by 1955 c.241 §1; 1971 c.158 §2; 1981 c.199 §5; 1995 c.301 §25; 1997 c.348 §6; 1999 c.145 §1; 2007 c.854 §6; 2021 c.351 §167; 2023 c.391 §26]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine,**

**Cider and Malt Beverage Privilege Tax Section 473.065 - Deposit in lieu of bond; requirements; refund of excess amounts; waiver of bond.**

- (1) If the total tax liability under ORS 473.030 (1) of a manufacturer or holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282 in the previous calendar year was less than \$1,000, the manufacturer or permit holder may deposit with the Oregon Liquor and Cannabis Commission an amount in cash equal to the manufacturer's or permit holder's total tax liability under ORS 473.030 (1) for the previous calendar year in lieu of the bond required by ORS 471.155 (1).
- (2) If the actual tax liability under ORS 473.030 (1) of a manufacturer or holder of a permit described in subsection (1) of this section is less than the amount deposited under subsection (1) of this section, the manufacturer or permit holder may request that the commission refund the excess funds or may apply those funds toward the manufacturer's or permit holder's tax liability under ORS 473.030 (1) for the next calendar year.
- (3) If the actual tax liability under ORS 473.030 (1) of a manufacturer or holder of a permit described in subsection (1) of this section is greater than the amount deposited under subsection (1) of this section, the manufacturer or permit holder shall pay to the commission the additional amount owed in the manner required under ORS 473.060.
- (4) Unless the commission determines that a winery, grower sales privilege or warehouse licensee or direct shipper or direct to retailer permit holder presents an unusual risk for nonpayment of any license fees, privilege taxes, agricultural products taxes or other tax, penalty or interest imposed under this chapter or ORS chapter 471, the commission shall waive the bond required under ORS 471.155 (1) for the licensee or permit holder if:
  - (a) The licensee or permit holder was not liable for a privilege tax under this chapter in the immediately preceding calendar year and does not expect to be liable for a privilege tax under this chapter in the current calendar year; or
  - (b) The licensee or permit holder of a business established during the current calendar year does not expect to be liable for a privilege tax under this chapter in the current calendar year. As used in this paragraph, "business" means:
    - (A) A winery.
    - (B) A business operated pursuant to a license issued under ORS 471.227.
    - (C) A warehouse.
    - (D) A business operated pursuant to a permit issued under ORS 471.274.
    - (E) A business operated pursuant to a permit issued under ORS 471.282. [2005 c.632 §2; 2007 c.637 §2; 2009 c.330 §1; 2021 c.351 §168; 2023 c.391 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.070 - Statements by manufacturers or permit holders as to quantities produced, transported or delivered; circumstances when annual reporting allowed; electronic means; rules.**

- (1) On or before the 20th day of each month:
  - (a) Every manufacturer shall file with the Oregon Liquor and Cannabis Commission a statement of the quantity of wine, cider and malt beverages produced, purchased or received by the manufacturer during the preceding calendar month.
  - (b) Every holder of a direct to retailer permit issued under ORS 471.274 shall file with the commission a statement of the quantity of wine, cider and malt beverages the holder transported to the holder of a license issued under ORS 471.175, 471.178, 471.186, 471.190 or 471.200 during the preceding calendar month.
  - (c) Every holder of a direct shipper permit issued under ORS 471.282 shall file with the commission a statement of the quantity of wine, cider and malt beverages the holder delivered directly to an Oregon resident during the preceding three calendar months.
- (2) Notwithstanding subsection (1) of this section, a manufacturer of wine, the holder of a direct to retailer permit or the holder of a direct shipper permit that was not liable for a privilege tax under this chapter in the prior calendar year and that does not expect to be liable for a privilege tax under this chapter in the current calendar year, or a manufacturer of wine, the holder of a direct to retailer permit or the holder of a direct shipper permit that is newly established during the current calendar year and that does not expect to be liable for a privilege tax under this chapter in the current calendar year, may file a single annual statement of the quantity of wine produced, purchased or received by the manufacturer, the holder of a direct to retailer permit or the holder of a direct shipper permit during the current calendar year. The annual statement shall be filed with the commission on or before January 20 of the following year.
- (3) The commission shall by rule establish procedures that allow manufacturers, importing distributors, holders of direct to retailer permits and holders of direct shipper permits to use electronic means to:
  - (a) File statements required under this section; and
  - (b) Pay privilege taxes imposed by ORS 473.030 and 473.035. [Amended by 1967 c.52 §1; 1981 c.199 §6; 1995 c.301 §26; 1997 c.348 §7; 2005 c.177 §1; 2017 c.382 §1; 2021 c.351 §169; 2023 c.391 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.080 - Estimate by commission when statement not filed or false statement filed.**

If any manufacturer or holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS

471.282 fails, neglects or refuses to file a statement required by ORS 473.070 or files a false statement, the Oregon Liquor and Cannabis Commission shall estimate the amount of wine, cider and malt beverages produced, purchased or received by the manufacturer or permit holder and assess the privilege tax thereon. The manufacturer or permit holder shall be estopped from complaining of the amount so estimated. [Amended by 1967 c.52 §2; 1995 c.301 §27; 1997 c.348 §8; 2021 c.351 §170; 2023 c.391 §28]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.090 - Lien created by privilege tax.**

The privilege tax required to be paid by ORS 473.030 and 473.035 constitutes a lien upon, and has the effect of an execution duly levied against, any and all property of the manufacturer or the holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282, attaching at the time the beverages subject to the tax were produced, purchased or received, as the case may be, and remaining until the tax is paid or the property sold in payment thereof. The lien created by this section is paramount to all private liens or encumbrances. [Amended by 1997 c.348 §9; 2007 c.854 §7; 2023 c.391 §29]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.100 - Seizure of property; notice of sale.**

(1) Whenever any manufacturer or holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282 is delinquent in the payment of the privilege tax provided for in ORS 473.030 and 473.035, the Oregon Liquor and Cannabis Commission or its duly authorized representative shall seize any property subject to the tax and sell, at public auction, property so seized, or a sufficient portion thereof to pay the privilege tax due, together with any penalties imposed under ORS 473.060 for such delinquency and all costs incurred on account of the seizure and sale.

(2) Written notice of the intended sale and the time and place thereof, shall be given to such delinquent manufacturer or holder of a permit described in subsection (1) of this section and to all persons appearing of record to have an interest in the property, at least 10 days before the date set for the sale. The notice shall be enclosed in an envelope addressed to the manufacturer or permit holder at the last-known residence or place of business of the manufacturer or permit holder in this state, if any, and in the case of any person appearing of record to have an interest in such property, addressed to such person at the last-known place of residence of the person, if any. The envelope shall be deposited in the United States mail, postage prepaid. In addition, notice shall be published for at least 10 days before the date set for such sale, in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in such county, the notice shall be posted in three public places in such county for the 10-day period. The notice shall contain a description of the property to be sold, a statement of the amount of the privilege taxes, penalties and costs, the name of the manufacturer or permit holder and the further statement that, unless the privilege taxes, penalties and costs are paid on or before the time fixed in the notice for the sale, the property, or so much thereof as may be necessary, will be sold in accordance with law and the notice. [Amended by 1997 c.348 §10; 2007 c.854 §8; 2021 c.351 §171; 2023 c.391 §30]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.110 - Sale of property; disposal of proceeds.**

At the sale, the property shall be sold by the Oregon Liquor and Cannabis Commission or by its duly authorized agent in accordance with law and the notice. The commission shall deliver to the purchaser a bill of sale for the personal property, and a deed for any real property so sold. The bill of sale or deed vests title in the purchaser. The unsold portion of any property seized under ORS 473.100 may be left at the place of sale at the risk of the manufacturer or holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282. If upon any such sale, the money received exceeds the amount of all privilege taxes, penalties and costs due the state from the manufacturer or permit holder, the excess shall be returned to the manufacturer, and a receipt therefor obtained. However, if any person having an interest in or lien upon the property has filed with the commission, prior to the sale, notice of interest or lien, the commission shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If the receipt of the manufacturer or permit holder is not available, the commission shall deposit such excess money with the State Treasurer, as trustee for the owner, subject to the order of the manufacturer or permit holder or, the heirs, successors or assigns of the manufacturer or permit holder. [Amended by 2021 c.351 §172; 2023 c.391 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.120 - Collection of sums due state; remedies cumulative.**

(1) The Oregon Liquor and Cannabis Commission shall immediately transmit notice of the delinquency mentioned in ORS 473.100 to the Attorney General. The Attorney General shall at once proceed to collect all sums due to the state from the manufacturer or holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282 under this chapter by bringing suit against the necessary parties to effect forfeiture of the bonds of the manufacturer or permit holder, reducing any deficiency to judgment against the manufacturer or permit holder.

(2) The remedies of the state provided in ORS 473.090 to 473.120 are cumulative and no action taken by the commission or

Attorney General constitutes an election on the part of the state or any of its officers to pursue one remedy to the exclusion of any other remedy provided in this chapter. [Amended by 2021 c.351 §173; 2023 c.391 §32]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.130 - Estimate by commission as prima facie evidence.**

In any suit brought to enforce the rights of the state, the assessment made by the Oregon Liquor and Cannabis Commission under ORS 473.080, or a copy of so much thereof as is applicable in such suit, duly certified by the commission and showing unpaid privilege taxes assessed against any manufacturer or holder of a direct to retailer permit issued under ORS 471.274 or direct shipper permit issued under ORS 471.282, is prima facie evidence:

- (1) Of the assessment of the privilege tax and the delinquency thereof.
- (2) Of the amount of the privilege tax, interest, penalties and costs due and unpaid to the state.
- (3) That the manufacturer or permit holder is indebted to this state in the amount of such privilege tax, interest and penalties therein appearing unpaid.
- (4) That the law relating to assessment and levy of such privilege tax has been fully complied with by all persons required to perform administrative duties under this chapter. [Amended by 2021 c.351 §174; 2023 c.391 §33]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.140 - Records to be kept by manufacturers, permit holders and purchasers.**

Every manufacturer and holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282 shall keep a complete and accurate record of all sales of wine, cider and malt beverages, a complete and accurate record of the number of gallons imported, produced, purchased, manufactured, brewed, fermented or delivered, and the date of importation, production, purchase, manufacturing, brewing, fermentation or delivery. The records must be in the form and contain other information as the Oregon Liquor and Cannabis Commission may prescribe. The commission, by rule or regulation, may require the delivery of statements by distributors to purchasers, with wine, cider and malt beverages, and prescribe the matters to be contained in the statements. The records and statements must be preserved by the distributor and the purchaser respectively, for a period of three years, and must be offered for inspection at any time upon oral or written demand by the commission or its duly authorized agents. [Amended by 1995 c.301 §28; 1997 c.348 §11; 2021 c.180 §17; 2021 c.351 §175; 2023 c.391 §34]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.150 - Inspection of records; records to be kept for prescribed period.**

- (1) The Oregon Liquor and Cannabis Commission may, at any time, examine the books and records of a holder of a direct to retailer permit issued under ORS 471.274 or direct shipper permit issued under ORS 471.282 or of any manufacturer of wine, cider or malt beverages, and may appoint auditors, investigators and other employees that the commission considers necessary to enforce its powers and perform its duties under this section.
- (2) Every holder of a direct to retailer permit or direct shipper permit and every manufacturer shall maintain and keep for three years all records, books and accounts required by this chapter and shall provide copies of those records, books and accounts to the commission when requested by the commission. [Amended by 1995 c.301 §29; 1997 c.348 §14; 2007 c.651 §4; 2021 c.180 §18; 2021 c.351 §176; 2023 c.391 §35]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.160 - Records to be kept by persons transporting wine, cider or malt beverage.**

Every person transporting wine, cider or malt beverages within this state, whether such transportation originates within or without this state, shall keep a true and accurate record of wine, cider or malt beverages transported. The record shall include ingredients which may be used in the manufacture, production, brewing or fermentation of the wine, cider or malt beverages, showing such facts with relation to those beverages, their ingredients and their transportation, as the Oregon Liquor and Cannabis Commission may require. The records shall be open to inspection by the representative of the commission at any time. The commission may require from any such person sworn returns of all or any part of the information shown by the records. [Amended by 1995 c.301 §30; 1997 c.348 §12; 2021 c.351 §177]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.170 - Failure to pay tax or to maintain records.**

- (1) A manufacturer or a holder of a direct to retailer permit issued under ORS 471.274 or a direct shipper permit issued under ORS 471.282 may not:
  - (a) Fail to pay the privilege tax prescribed in ORS 473.030 and 473.035 when it is due; or
  - (b) Falsify the statement required by ORS 473.070.
- (2) A person may not:

- (a) Refuse to permit the Oregon Liquor and Cannabis Commission or any of its representatives to make an inspection of the books and records authorized by ORS 473.140 to 473.160;
- (b) Fail to keep books of account prescribed by the commission or required by this chapter;
- (c) Fail to preserve the books for three years for inspection of the commission; or
- (d) Alter, cancel or obliterate entries in the books of account for the purpose of falsifying any record required by this chapter to be made, maintained or preserved. [Amended by 1967 c.52 §3; 1997 c.348 §13; 2007 c.854 §9; 2021 c.180 §19; 2021 c.351 §178; 2023 c.391 §36]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.180 - Applicability to interstate and foreign commerce.**

None of the provisions of this chapter apply to commerce with foreign nations or commerce with the several states, except in so far as the same may be permitted under the Constitution and laws of the United States.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.190 - State has exclusive right to tax liquor.**

No county or city of this state shall impose any fee or tax, including occupation taxes, privilege taxes and inspection fees, in connection with the production, sale, mixing, serving, transporting, delivering or handling of malt or other alcoholic liquors. [Amended by 1961 c.259 §4; 1967 c.577 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.990 - Penalties.**

- (1) Violation of ORS 473.170 (1) is a Class B misdemeanor.
- (2) Violation of ORS 473.170 (2) is a Class A misdemeanor. [Amended by 2011 c.597 §215]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 473 - Wine, Cider and Malt Beverage Privilege Tax Section 473.992 - Penalty upon failure to pay agricultural products tax.**

Failure to pay a tax under ORS 473.045 (5) is a Class C misdemeanor. [2003 c.797 §9; 2011 c.597 §216]

Note:

473.992 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 473 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.005 - Definitions.**

As used in ORS 474.005 to 474.095, unless the context requires otherwise:

- (1) "Importer" means any wholesale distributor importing malt beverages into this state for sale to retailer accounts or for sale to other wholesalers designated as subjobbers for resale.
- (2) "Malt beverage manufacturer" means any manufacturer, brewer, importer or master distributor of malt beverages located within or outside this state, or any other person, whether located within or outside this state who enters into an agreement of distributorship for the resale of malt beverages in this state with any wholesale distributor doing business in the State of Oregon.
- (3) "Person" means any natural person, corporation, partnership, trust, agency or other entity, as well as any individual officers, directors or other persons in active control of the activities of such entity.
- (4) "Supplier" means any malt beverage manufacturer, agent of a malt beverage manufacturer, importer or holder of a certificate under ORS 471.244 who enters into or is a party to any wholesale distribution agreement with a wholesale distributor.
- (5) "Wholesale distribution agreement" means any contract, agreement, commercial relationship, license, association or any other arrangement for a definite or indefinite period between a supplier and wholesale distributor.
- (6) "Wholesale distributor" means any person importing or causing to be imported into this state, or purchasing or causing to be purchased within this state, any malt beverage for sale or resale to retailers licensed under the laws of this state, regardless of whether the business of such person is conducted under the terms of any agreement with a malt beverage manufacturer. [1989 c.529 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.007 - Wholesale distribution agreements to be in writing.**

All wholesale distribution agreements between a supplier and a wholesaler shall be in writing, signed by the parties or their authorized agents. [1989 c.529 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.011 - Good cause required for termination, cancellation or failure to renew agreement.**

(1) No supplier shall terminate, cancel or fail to renew a distribution agreement upon expiration of its term or refuse to continue under the agreement without good cause. Good cause exists when a wholesaler fails to comply with a provision of the written agreement that is both reasonable and of material significance to the business relationship between the supplier and the wholesaler and all of the following occur:

- (a) The supplier gave written notice to the wholesaler of the failure to comply within two years of acquiring knowledge of the breach;
- (b) The written notice alerted the wholesaler of the failure to comply with the agreement, the intent to terminate and the reasons therefor, and the date the termination would occur, which shall be not less than 90 days after the wholesaler's receipt of the notice;
- (c) The wholesaler has been given 30 days in which to submit a plan of corrective action to comply with the agreement and not less than an additional 60 days to correct the noncompliance; and
- (d) The supplier acted in good faith.

(2) In the event that a wholesale distribution agreement is terminated by a supplier, the wholesaler shall be entitled to reasonable compensation from the supplier for the laid-in cost to the wholesaler of the inventory of the supplier's products, including any taxes paid on the inventory by the wholesaler, together with a reasonable charge for handling of the products.

(3) In the event that a wholesaler is terminated by a supplier in bad faith or for other than good cause, the wholesaler shall be entitled to additional compensation from the supplier for:

(a) The fair market value of any and all assets, including ancillary businesses of the wholesaler used in distributing the supplier's products.

(b) The goodwill of the business.

(4) The total compensation to be paid by the supplier to the wholesaler shall be reduced by any sum received by the wholesaler from sale of assets of the business used in distribution of the supplier's products as well as by whatever value such assets may have to the wholesaler that are unrelated to the supplier's products.

(5) As used in subsection (3) of this section, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy when each possesses all information relevant to the transaction. [1989 c.529 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.015 - Grounds for termination, cancellation, failure to renew or refusal to continue agreement.**

(1) A supplier may terminate or cancel an agreement immediately, fail to renew an agreement upon expiration of its term or refuse to continue under the agreement if:

(a) The state or federal license of the wholesaler has been revoked or suspended for a period of more than 31 days;

(b) The wholesaler is insolvent within the definition of section 101, title 11, United States Code, or there has been a liquidation, dissolution or assignment for the benefit of creditors of substantially all of the assets of the wholesaler's business, or an order for relief under chapter 7, title 11, United States Code, has been entered with respect to the wholesaler;

(c) The wholesaler, or any individual who holds or owns 10 percent or more of the stock or value of the wholesaler, has been convicted of, or pleads guilty to, a felony;

(d) The wholesaler has committed a fraud in its dealings with the supplier or the supplier's products;

(e) The wholesaler makes a substantial misrepresentation to the supplier which the wholesaler knew to be false and which the supplier relied upon to its detriment;

(f) An assignment of the wholesaler's rights under a distribution agreement, or a change of a controlling ownership interest, other than that caused by the death or legal incapacity of the wholesaler, has been made without written notice as provided in the written distribution agreement, and the supplier has given written notice to the wholesaler of the supplier's intention to terminate on the grounds of transfer without notice unless the transfer was reversed within 30 days from receipt of the notice; or

(g) An assignment of wholesaler's rights is made despite timely and proper notice of disapproval.

(2) In the event of a termination pursuant to this section, the termination shall become effective upon the wholesaler's receipt of written notice thereof. [1989 c.529 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.025 - Successor bound by agreement.**

A successor to a supplier or wholesaler, whether by way of merger, purchase of corporate shares, purchase of assets or otherwise, shall be bound by each distribution agreement the predecessor was a party to at the time of transfer with respect to each brand the successor continues to make available for sale in this state. [1989 c.529 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.035 - Transfer by wholesaler; when conditions may be imposed by supplier.**

(1) A wholesaler may transfer, bequeath or devise the wholesaler's business or share in any wholesale business to the deceased wholesaler's spouse, parent, siblings or issue to succeed the decedent in ownership of the business.

(2) A supplier may provide in writing for prior approval of any other individual designed or designated to succeed a wholesaler in ownership of the business. Conditions of approval by the supplier shall be reasonable with respect to both the supplier's and the

wholesaler's interest. [1989 c.529 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.045 - Supplier prohibited from interfering with transfer by wholesaler.**

No supplier shall interfere with, prevent or unreasonably delay the transfer of the wholesaler's business or any interest therein if the wholesaler has provided the supplier with written notice of the intent to transfer and the transferee meets reasonable standards and qualifications required by the supplier which are nondiscriminatory and are applied uniformly to all wholesalers similarly situated. [1989 c.529 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.055 - Supplier prohibited from requiring wholesaler to assent to certain changes in agreement; provisions in violation of ORS 474.005 to 474.095 void.**

(1) No supplier shall require a wholesaler to assent to any condition or amendment to a wholesale distribution agreement that impairs any right guaranteed under ORS 474.005 to 474.095, or that was not made in good faith or that is unreasonable. Nothing in this section shall be construed to limit or prohibit good faith dispute settlements voluntarily entered into by the parties.  
(2) Any terms or conditions of any wholesale distribution agreement contrary to the provisions of ORS 474.005 to 474.095 are void. [1989 c.529 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.065 - Limit on authority of supplier to prohibit change in manager of wholesaler.**

No supplier shall prohibit any change in the manager or successor manager of a wholesaler unless the manager or successor manager fails to meet reasonable standards for such position which are nondiscriminatory and are applied uniformly to all wholesalers similarly situated. [1989 c.529 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.075 - Supplier's duty to show it acted reasonably.**

For each dispute arising out of an allegation of bad faith termination or for termination for other than good cause, the supplier shall have the burden of proving that it acted reasonably and in good faith, that good cause existed for any termination, cancellation, discontinuance or nonrenewal and that the supplier complied with the applicable requirements of the law. [1989 c.529 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.085 - Remedies of party aggrieved by violation of ORS 474.005 to 474.095.**

(1) Any party to a wholesale distribution agreement aggrieved by a violation of any provision of ORS 474.005 to 474.095 shall be entitled to:  
(a) Injunctive relief enjoining the violation; and  
(b) Recovery for damages caused by the violation.  
(2) Except as provided in subsection (3) of this section, the court may award reasonable attorney fees to the prevailing party in an action under this section.  
(3) The court may not award attorney fees to a prevailing defendant under the provisions of subsection (2) of this section if the action under this section is maintained as a class action pursuant to ORCP 32.  
(4) If the violation consists of a termination, cancellation, refusal to renew or refusal to permit a transfer of the wholesaler's business in contravention of ORS 474.005 to 474.095, damages shall include the decrease in the value of the wholesaler's business caused by the violation, including any decrease attributable to the loss of goodwill, less any mitigation. [1989 c.529 §11; 1995 c.696 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.095 - Prohibited conduct of supplier.**

No supplier shall:

- (1) Coerce or induce, or attempt to coerce or induce, any distributor to engage in any illegal act or course of conduct;
  - (2) Require a wholesaler to assent to any unreasonable requirement, condition, understanding or term of an agreement which prohibits a wholesaler from selling the product of any other supplier or suppliers;
  - (3) Require a wholesale distributor to accept delivery of any product or any other item or commodity that was not ordered by the wholesale distributor;
  - (4) Fail or refuse to enter into a wholesale distribution agreement with a wholesale distributor that handles the supplier's products;
- or
- (5) Take any action that is intended to circumvent the provisions of ORS 474.005 to 474.095. [1989 c.529 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade**

**Practices Relating to Malt Beverages Section 474.105 - Legislative finding on ORS 474.115.**

The Legislative Assembly finds that in addition to the purposes specified in ORS 471.030, ORS 474.115 is necessary to maintain and to promote the continued availability of good quality malt beverages for the consumers of Oregon, to promote the orderly marketing of malt beverages, to promote vigorous interbrand malt beverage competition, to encourage competition by the entry of new competitors, to implement the required record-keeping provisions and to facilitate collection of the revenue. [Formerly 471.502]

Note:

474.105 and 474.115 were added to and made a part of ORS chapter 471 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 474 - Trade Practices Relating to Malt Beverages Section 474.115 - Wholesale sale of malt beverage subject to agreement designating territory of sale.**

(1) It shall be unlawful for any wholesaler to sell any brand of malt beverage in this state except in the territory described in an agreement with the manufacturer or importer authorizing sale by the wholesaler of the brand within a designated territory. Within the designated territory the wholesaler must service as provided in subsection (2) of this section all of the customers without discrimination. The territorial agreement must be in writing and must specify the brand or brands it covers. Where a manufacturer or importer sells several brands, the agreement need not apply to all brands sold by the manufacturer or importer and may apply only to one brand. No manufacturer or importer shall provide by the written agreement for the distribution of a brand to more than one distributor for all or any part of the designated territory. All such agreements shall be filed with the Oregon Liquor and Cannabis Commission.

(2) Every malt beverage wholesaler licensed shall service for the purpose of quality control all of the malt beverages it sells to its customers. Each wholesaler shall provide quality control services and comply with quality control standards as are specified in writing from time to time by the owner of the trademark of the brand or brands of malt beverage if:

- (a) These services or standards are reasonable and are reasonably related to the maintenance of quality control; and
- (b) The wholesaler has received written notice of them.

(3) An exclusive territorial designation in any agreement shall be changed only upon the written notice of the manufacturer and shall be filed pursuant to this section and ORS 474.105. The commission shall require the manufacturer to verify that the level of service within the designated territory will not be affected by the change. The notice shall only be given after recognizing all rights of the wholesaler and duties of the manufacturer contained in any written agreement between them. However, if a wholesaler is prevented from servicing the territory due to fire, flood, labor disputes or other causes beyond reasonable control, and if first given permission by the duly licensed exclusive wholesaler of that area and approved by the manufacturer and the commission, another licensed wholesaler not within the designated area may sell the specified brands of malt beverage in that designated area.

(4)(a) It shall be unlawful for any wholesaler, either directly or indirectly, to grant or to afford a quantity discount in connection with the sale of malt beverages to any retailer in this state.

(b) No provision of any agreement between any manufacturer and importer shall expressly or by implication, or in its operation, establish or maintain the resale price of any brand or brands of malt beverage by the wholesaler. [Formerly 471.503; 2021 c.351 §179]

Note:

See note under 474.105.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.005 - Definitions for ORS 475.005 to 475.285 and 475.752 to 475.980.**

As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless the context requires otherwise:

- (1) "Abuse" means the repetitive excessive use of a drug short of dependence, without legal or medical supervision, which may have a detrimental effect on the individual or society.
- (2) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:
  - (a) A practitioner or an authorized agent thereof; or
  - (b) The patient or research subject at the direction of the practitioner.
- (3) "Administration" means the Drug Enforcement Administration of the United States Department of Justice, or its successor agency.
- (4) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.
- (5) "Board" means the State Board of Pharmacy.
- (6) "Controlled substance":
  - (a) Means a drug or its immediate precursor classified in Schedules I through V under the federal Controlled Substances Act, 21



U.S.C. 811 to 812, as modified under ORS 475.035. The use of the term "precursor" in this paragraph does not control and is not controlled by the use of the term "precursor" in ORS 475.752 to 475.980.

(b) Does not include:

(A) The plant Cannabis family Cannabaceae;

(B) Any part of the plant Cannabis family Cannabaceae, whether growing or not;

(C) Resin extracted from any part of the plant Cannabis family Cannabaceae;

(D) The seeds of the plant Cannabis family Cannabaceae;

(E) Any compound, manufacture, salt, derivative, mixture or preparation of a plant, part of a plant, resin or seed described in this paragraph; or

(F) Psilocybin or psilocin, but only if and to the extent that a person manufactures, delivers, or possesses psilocybin, psilocin, or psilocybin products in accordance with the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

(7) "Counterfeit substance" means a controlled substance or its container or labeling, which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, delivered or dispensed the substance.

(8) "Deliver" or "delivery" means the actual, constructive or attempted transfer, other than by administering or dispensing, from one person to another of a controlled substance, whether or not there is an agency relationship.

(9) "Device" means instruments, apparatus or contrivances, including their components, parts or accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals; or

(b) To affect the structure or any function of the body of humans or animals.

(10) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

(11) "Dispenser" means a practitioner who dispenses.

(12) "Distributor" means a person who delivers.

(13) "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of humans or animals; and

(d) Substances intended for use as a component of any article specified in paragraph (a), (b) or (c) of this subsection; however, the term does not include devices or their components, parts or accessories.

(14) "Electronically transmitted" or "electronic transmission" means a communication sent or received through technological apparatuses, including computer terminals or other equipment or mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(15) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance:

(a) By a practitioner as an incident to administering or dispensing of a controlled substance in the course of professional practice; or

(b) By a practitioner, or by an authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

(16) "Person" includes a government subdivision or agency, business trust, estate, trust or any other legal entity.

(17) "Practitioner" means physician, dentist, veterinarian, scientific investigator, licensed nurse practitioner, physician assistant or other person licensed, registered or otherwise permitted by law to dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state but does not include a pharmacist or a pharmacy.

(18) "Prescription" means a written, oral or electronically transmitted direction, given by a practitioner for the preparation and use of a drug. When the context requires, "prescription" also means the drug prepared under such written, oral or electronically transmitted direction. Any label affixed to a drug prepared under written, oral or electronically transmitted direction shall prominently display a warning that the removal thereof is prohibited by law.

(19) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(20) "Research" means an activity conducted by the person registered with the federal Drug Enforcement Administration pursuant to a protocol approved by the United States Food and Drug Administration.

(21) "Ultimate user" means a person who lawfully possesses a controlled substance for the use of the person or for the use of a member of the household of the person or for administering to an animal owned by the person or by a member of the household of the person.

(22) "Usable quantity" means:

(a) An amount of a controlled substance that is sufficient to physically weigh independent of its packaging and that does not fall

below the uncertainty of the measuring scale; or

(b) An amount of a controlled substance that has not been deemed unweighable, as determined by a Department of State Police forensic laboratory, due to the circumstances of the controlled substance.

(23) "Within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from a specified location or from any point on the boundary line of a specified unit of property. [1977 c.745 §1; 1979 c.777 §49; 1979 c.785 §5; 1981 c.220 §1; 1981 c.666 §1; 1987 c.657 §8; 1995 c.440 §22; 2001 c.615 §15; 2001 c.623 §3; 2009 c.897 §4; 2013 c.588 §1; 2017 c.21 §22; 2017 c.706 §16; 2019 c.358 §16; 2021 c.1 §130]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.035 - Authority to control schedule; rules.**

(1) In arriving at any decision on changes in or addition to classification when changes or additions are proposed by the federal Drug Enforcement Administration or by any other reliable source, the State Board of Pharmacy shall review the scientific knowledge available regarding the substance, its pharmacological effects, patterns of use and misuse, and potential consequences of abuse, and consider the judgment of individuals with training and experience with the substance.

(2) Whenever the board determines that a change in or an addition to the schedule of a controlled substance is justified, the board by rule may order the change and fix the effective date thereof.

(3) If a substance is an ingredient of a controlled substance, the ingredient shall be considered to be in the same schedule as that controlled substance. Substances which are precursors of the ingredient shall not be subject to control solely because they are precursors of the ingredient. The use of the term "precursor" in this subsection does not control and is not controlled by the use of the term "precursor" in ORS 475.752 to 475.980.

(4) The board shall administer ORS 475.005 to 475.285 and 475.752 to 475.980 in accordance with ORS chapter 183.

(5) Authority to control under this section does not extend to tobacco or to alcoholic beverages as defined in ORS 471.001. [1977 c.745 §5; 1981 c.666 §2; 1987 c.657 §9; 1995 c.301 §31; 1995 c.440 §23; 2001 c.615 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.055 - Publishing of schedules.**

The State Board of Pharmacy shall publish the classification of controlled substances within 30 days following revision of any classification or reclassification of a controlled substance. [1977 c.745 §6; 1981 c.666 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.065 - Classification of methamphetamine; exceptions.**

(1) The State Board of Pharmacy shall classify methamphetamine as a controlled substance in Schedule I.

(2) Notwithstanding subsection (1) of this section, methamphetamine, its salts, isomers and salts of its isomers shall be classified as a controlled substance in Schedule II for purposes of currently accepted medical use in treatment in the United States and currently accepted medical use with severe restrictions within the meaning of 21 U.S.C. 812(b)(2). [2009 c.898 §3]

Note:

475.065 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.095 - Rules; fees.**

The State Board of Pharmacy may adopt rules relating to fees and charge reasonable fees in addition to any other fees required by statute or rule, relating to the registration and control of the manufacture, delivery and dispensing of controlled substances within this state. [1977 c.745 §7; 1981 c.666 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.101 - Immunity for reporting violation.**

A person who, in good faith, makes a report of a violation of ORS 475.752 to 475.980 and who has reasonable grounds for making the report is immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to making the report or to the content of the report. The person has the same immunity with respect to participating in a judicial proceeding resulting from the report. [2005 c.706 §7]

Note:

475.101 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.125 - Registration requirements.**

(1) Every person who manufactures, delivers or dispenses any controlled substance within this state or who proposes to engage in

the manufacture, delivery or dispensing of any controlled substance within this state, must obtain annually a registration issued by the State Board of Pharmacy in accordance with its rules.

(2) Persons registered by the board under ORS 475.005 to 475.285 and 475.752 to 475.980 to manufacture, deliver, dispense or conduct research with controlled substances may possess, manufacture, deliver, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of ORS 475.095 and 475.125 to 475.185 and other applicable laws of this state.

(3) The following persons need not register and may lawfully possess controlled substances under ORS 475.005 to 475.285 and 475.752 to 475.980:

(a) An agent or employee of any registered manufacturer, distributor or dispenser of any controlled substance if the agent or employee is acting in the usual course of business or employment.

(b) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment.

(c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance, unless otherwise prohibited.

(d) A practitioner otherwise licensed under the laws of this state and authorized to dispense or administer a controlled substance by the licensing authority.

(4) The board may waive by rule the requirement for registration of certain manufacturers or dispensers if it finds it consistent with the public health and safety.

(5) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, delivers or dispenses controlled substances.

(6) The board may inspect the establishment of a registrant or applicant for registration in accordance with the rules of the board.

[1977 c.745 §8; 1995 c.440 §24; 2011 c.524 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.135 - Grounds to grant or deny registration; scope of registration; effect of federal registration.**

(1) The State Board of Pharmacy shall register or renew the registration of an applicant to manufacture or dispense controlled substances included in schedules under procedures defined in ORS 475.035, unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:

(a) Failure to maintain effective controls against diversion of controlled substances into other than legitimate medical, scientific or industrial channels;

(b) Failure to comply with applicable state or local laws;

(c) Any convictions of the applicant under any federal or state laws relating to any controlled substance;

(d) Past experience in the manufacture, delivery or dispensing of controlled substances and the existence in the applicant's establishment of effective controls against diversion;

(e) Furnishing by the applicant of false or fraudulent material in any application filed under ORS 475.005 to 475.285 and 475.752 to 475.980;

(f) Suspension or revocation of the applicant's federal registration to manufacture, deliver or dispense controlled substances as authorized by federal law; or

(g) Any other factors relevant to and consistent with the public health and safety.

(2) Registration under subsection (1) of this section does not entitle a registrant to manufacture, deliver or dispense controlled substances in Schedule I or II other than those specified in the registration.

(3) Practitioners must be registered to conduct research with controlled substances in Schedules I through V if they are authorized to conduct research under the law of this state. The board need not require separate registration under ORS 475.095 and 475.125 to 475.185 for practitioners engaging in research with controlled substances in Schedules I through V where the registrant is already registered under ORS 475.095 and 475.125 to 475.185 in another capacity. Persons with valid registration from the Drug Enforcement Administration for research on controlled substances may conduct research within this state in compliance with other state law upon furnishing the board evidence of that federal registration, and are exempt from state prosecution for possession and distribution of controlled substances to the extent of the registration. Registration under ORS 475.005 to 475.285 and 475.752 to 475.980 does not exempt the registrant from compliance with any other relevant law of this state or the United States, unless such exemption is expressly provided under ORS 475.005 to 475.285 and 475.752 to 475.980.

(4) Notwithstanding this section, the manufacture, delivery or dispensing of any controlled substance excluded from any medical use by federal law is prohibited, except:

(a) For research authorized under subsection (3) of this section and ORS 475.225; or

(b) As otherwise provided by state or federal law.

(5) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration, excluding fees, entitles them to be registered under ORS 475.095 and 475.125 to 475.185. [1977 c.745 §9; 1979 c.777 §53; 1981 c.666 §5; 1995 c.440 §25; 2011 c.524 §24]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.145 - Revocation and suspension of registration.**

(1) A registration under ORS 475.135 to manufacture, deliver or dispense a controlled substance may be suspended or revoked by the State Board of Pharmacy upon a finding that:

(a) The registrant has furnished false or fraudulent material information in any application filed under ORS 475.005 to 475.285 and 475.752 to 475.980;

(b) The registrant has been convicted of a felony under any state or federal law relating to any controlled substance;

(c) The registrant has had the federal registration suspended or revoked to manufacture, deliver or dispense controlled substances;

(d) The registrant has violated any rule of the board under ORS 475.005 to 475.285 and 475.752 to 475.980;

(e) The registrant has failed to maintain proper records or has failed to follow proper refill procedures; or

(f) Continuance of registration would be inconsistent with the public interest under any factor stated in ORS 475.135.

(2) The board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(3) If the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(4) The board shall promptly notify the administration of all orders suspending or revoking registration and all forfeitures of controlled substances. [1977 c.745 §10; 1981 c.666 §6; 1995 c.440 §26]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.155 - Order to show cause.**

(1) Before denying, suspending or revoking a registration, or refusing a renewal of registration, the State Board of Pharmacy shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the board at a time and place not less than 30 days after the date of service of the order. These proceedings shall be conducted in accordance with ORS chapter 183 without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(2) The board may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under ORS 475.145 or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or dissolved by a court of competent jurisdiction. [1977 c.745 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.165 - Records of registrants.**

Persons registered to manufacture, deliver or dispense controlled substances under ORS 475.005 to 475.285 and 475.752 to 475.980 shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with any additional rules the State Board of Pharmacy issues. [1977 c.745 §12; 1995 c.440 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.175 - When order forms required.**

Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section. [1977 c.745 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.185 - When prescriptions required.**

(1)(a) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance in Schedule II may not be dispensed without a written or electronically transmitted prescription of a practitioner.

(b) In emergency situations, as defined by rule of the State Board of Pharmacy, Schedule II drugs may be dispensed with an oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Such prescriptions shall be retained in conformity with the requirements of ORS 475.165.

(c) A prescription for a Schedule II substance may not be refilled.

(2) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in Schedule III or IV may not be dispensed without a written, oral or electronically transmitted prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date on which it was issued and a prescription authorized to be refilled may not be refilled

more than five times. Additional quantities of the controlled substances listed in Schedule III or IV may be authorized by a practitioner only through issuance of a new prescription.

(3) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in Schedule V that is a prescription drug may not be dispensed without a written, oral or electronically transmitted prescription of a practitioner. The prescription may not be filled or refilled more than six months after the date on which it was issued and a prescription authorized to be refilled may not be refilled more than five times. Additional quantities of the controlled substances listed in Schedule V may be authorized by a practitioner only through issuance of a new prescription.

(4) A controlled substance may not be delivered or dispensed other than for a medical purpose.

(5) Except in good faith and in the course of professional practice only, a practitioner or a pharmacist may not dispense controlled substances.

(6) Any oral or electronically transmitted prescription authorized by statute or rule must be stored by electronic means or reduced promptly to writing and filed by the pharmacy.

(7) Issuance, preparation, labeling, dispensing, recordkeeping and filing of prescriptions or medication orders must be in conformance with the requirements of the federal law and rules of the board. [1977 c.745 §14; 1979 c.777 §54; 1981 c.666 §7; 2001 c.623 §4; 2011 c.524 §3; 2014 c.55 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.188 - Prescription drug orders; electronic transmission.**

(1) Prescription drug orders may be transmitted by electronic means from a practitioner authorized to prescribe drugs directly to the dispensing pharmacist.

(2) All prescription drug orders communicated by way of electronic transmission shall:

(a) Be transmitted only by an authorized practitioner;

(b) Be transmitted directly to a pharmacist in a pharmacy of the patient's choice with no intervening person having access to the prescription drug order;

(c) Specify the prescribing practitioner's telephone number for verbal confirmation, the time and date of transmission, the identity of the pharmacy intended to receive the transmission and all other information required for a prescription by federal or state law; and

(d) Be traceable to the prescribing practitioner by an electronic signature or other secure method of validation.

(3) An electronic transmission of a prescription drug order shall be stored by electronic means or reduced promptly to writing, filed by the pharmacy and retained in conformity with the requirements of ORS 475.165.

(4) The dispensing pharmacist shall exercise professional judgment regarding the accuracy, validity and authenticity of an electronically transmitted prescription drug order.

(5) All equipment for transmission, storage or receipt of electronically transmitted prescription drug orders shall be maintained to protect against unauthorized access.

(6) A pharmacist, pharmacy or pharmacy department shall not enter into an agreement with a practitioner or health care facility concerning the provision of any electronic transmission equipment or apparatus that would adversely affect a patient's freedom to select the pharmacy or pharmacy department of the patient's choice.

(7) A pharmacist, pharmacy or pharmacy department shall not provide any electronic equipment or apparatus to a practitioner or health care facility for the purpose of providing an incentive to the practitioner or health care facility to refer patients to a particular pharmacy or pharmacy department.

(8) There shall be no additional charge to the patient because the prescription drug order was electronically transmitted.

(9) Nothing in this section shall be construed as authorizing the electronic transmission of a prescription drug order when a written prescription is required under ORS 127.815, 137.473, 169.750 or 453.025. [2001 c.623 §2; 2003 c.102 §1; 2014 c.55 §2]

Note:

475.188 was added to and made a part of 475.005 to 475.285 by legislative action but was not added to any smaller series therein.

See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.190 - Exception to prescription requirement; rules.**

(1) Notwithstanding the provisions of ORS 475.185, upon registration with the State Board of Pharmacy, a humane society or animal control agency may purchase, possess and, subject to subsection (4) of this section, administer sodium pentobarbital and sedative and analgesic medications to euthanize injured, sick, homeless or unwanted domestic pets and other animals.

(2) The State Board of Pharmacy, after consultation with the Oregon State Veterinary Medical Examining Board, shall adopt rules according to ORS 183.325 to 183.410 establishing requirements for registration, renewal of registration and revocation or suspension of registration under subsection (1) of this section. Those rules shall include a provision that the State Board of Pharmacy will suspend or revoke the registration of any humane society or animal control agency that allows a person who is not certified under subsection (4) of this section to administer sodium pentobarbital and sedative and analgesic medications.

(3) Any person who is registered under ORS 475.005 to 475.285 and 475.752 to 475.980 to deliver or dispense controlled substances may deliver or dispense sodium pentobarbital and sedative and analgesic medications to a humane society or animal control agency registered under subsections (1) and (2) of this section.

(4) The Oregon State Veterinary Medical Examining Board, after consultation with the State Board of Pharmacy, shall adopt rules establishing requirements for certification of persons to administer sodium pentobarbital and sedative and analgesic medications. Those rules may require that a person complete certain educational or training programs in order to be certified. A person may not administer sodium pentobarbital or sedative or analgesic medications unless the person is certified by the Oregon State Veterinary Medical Examining Board. [1983 c.342 §2; 1995 c.440 §28; 2019 c.126 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.215 - Cooperative arrangements.**

The State Board of Pharmacy shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, it may:

- (1) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances; and
- (2) Cooperate in training programs concerning controlled substance law enforcement at local and state levels. [1977 c.745 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.225 - Education and research.**

(1) The Oregon Health Authority shall carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs it may:

- (a) Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;
- (b) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;
- (c) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;
- (d) Evaluate procedures, projects, techniques and controls conducted or proposed as part of educational programs on misuse or abuse of controlled substances;
- (e) Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and
- (f) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

(2) The authority shall encourage research on the medical use, misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of ORS 475.005 to 475.285 and 475.752 to 475.980, it may:

- (a) Establish methods to assess accurately the physiological, psychological and social effects of controlled substances and identify their medical uses, relative hazard potential, and potential for abuse;
- (b) Make studies and undertake programs of research to:
  - (A) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of ORS 475.005 to 475.285 and 475.752 to 475.980;
  - (B) Determine patterns of use, misuse and abuse of controlled substances and the social effects thereof; and
  - (C) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; or
- (c) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations or special projects which bear directly on misuse and abuse of controlled substances.

(3) The authority may enter into contracts for educational and research activities without performance bonds and without regard to ORS 459A.475, 459A.480, 459A.485 and 459A.490. [1977 c.745 §25; 1981 c.666 §8; 1995 c.440 §29; 2003 c.794 §297; 2009 c.595 §963; 2015 c.167 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.230 - Transfer of pseudoephedrine without prescription; limitations; rules; penalty.**

(1) As used in this section, "intern," "pharmacist," "pharmacy" and "pharmacy technician" have the meanings given those terms in ORS 689.005.

(2) A pharmacist, intern or pharmacy technician may transfer a drug containing pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine without a prescription from a practitioner to a person who is 18 years of age or older and who provides to the pharmacist, intern or pharmacy technician the person's valid government-issued photo identification.

(3) Prior to the transfer of a drug described in subsection (2) of this section, a pharmacist, intern or pharmacy technician shall submit the following information to the electronic system described in subsection (6) of this section:

- (a) The date and time of the transfer;
- (b) The name, address and date of birth of the person to whom the transfer will be made;
- (c) The form of government-issued photo identification and identification number of the person to whom the transfer will be made;
- (d) The name of the government agency that issued the photo identification; and

- (e) The name of the drug that will be transferred and the amount of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine, specified in grams, to be transferred.
- (4) If, after receiving the information submitted under subsection (3) of this section, the electronic system generates an alert to not proceed with the transfer, the pharmacist, intern or pharmacy technician may not transfer the drug described in subsection (2) of this section to the person, except as provided in subsection (6) of this section.
- (5)(a) Upon transferring a drug described in subsection (2) of this section, the pharmacist, intern or pharmacy technician shall require the person to whom the drug is transferred to sign an electronic or written log that shows the date of the transfer, the name of the person to whom the transfer is made and the amount transferred of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine, specified in grams.
- (b) The log described in this subsection must be retained at the pharmacy where the transfer was made for at least two years from the date of the transaction.
- (c) A law enforcement agency may obtain information contained in a log described in this subsection through a lawfully issued subpoena accepted by the State Board of Pharmacy. The board shall accept a lawfully issued subpoena under this paragraph, and shall adopt rules to carry out this paragraph. The board may designate a third party vendor as the custodian of records, including of a log described in this subsection.
- (6)(a) For purposes of tracking the transfer of drugs described in subsection (2) of this section, a pharmacy shall use an electronic system designed to prevent illegal transfer of drugs described in subsection (2) of this section. The electronic system must:
- (A) Be capable of tracking transfers nationwide in real time;
- (B) Be capable of generating an alert described in subsection (4) of this section;
- (C) Allow a pharmacist to override an alert described in subsection (4) of this section if, in the discretion of the pharmacist, the transfer is necessary to protect the person to whom the transfer will be made from imminent bodily harm;
- (D) Be able to communicate in real time with similar systems operated in other states and the District of Columbia, including with similar systems that contain information submitted by more than one state;
- (E) For each transfer, allow for the recording of:
- (i) The information described in subsection (3) of this section;
- (ii) The number of packages of the drug transferred;
- (iii) The total amount of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine transferred, specified in grams;
- (iv) The name of the drug transferred;
- (v) Either the signature of the person to whom the drug is transferred or a unique number connecting the transfer transaction to an electronic or written log described in subsection (5) of this section; and
- (vi) The name or initials of the pharmacist, intern or pharmacy technician who transferred the drug;
- (F) Be free of charge to a pharmacy;
- (G) Be accessible at no charge to law enforcement and to other authorized personnel, as determined by the board, through an online portal or at the pharmacy;
- (H) Retain information submitted for at least two years from the date of transaction; and
- (I) Be accompanied by training, 24-hour online support and a toll-free support telephone hotline.
- (b) A pharmacist who uses the override function described in this subsection shall record in the electronic system the use of the override.
- (7) A drug described in subsection (2) of this section must be:
- (a) Transferred from behind a pharmacy counter; and
- (b) Stored behind the pharmacy counter in an area that is closed to the public.
- (8) A person, other than a pharmacy, may not receive more than 3.6 grams per transfer, or more than nine grams in a 30-day period, of pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine.
- (9) This section does not apply to a drug that contains pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine when the drug is transferred pursuant to a prescription.
- (10) In addition to rules adopted under subsection (5) of this section, the board may adopt other rules as necessary to carry out this section.
- (11) Violation of this section, or a rule adopted pursuant to this section, is a Class A misdemeanor. [2021 c.297 §2; 2022 c.45 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.235 - Burden of proof; status of analysis of controlled substance; notice of objection.**

- (1) It is not necessary for the state to negate any exemption or exception in ORS 475.005 to 475.285 and 475.752 to 475.980 in any complaint, information, indictment or other pleading or in any trial, hearing or other proceeding under ORS 475.005 to 475.285 and 475.752 to 475.980. The burden of proof of any exemption or exception is upon the person claiming it.
- (2) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under ORS 475.005 to 475.285 and 475.752 to 475.980, the person is presumed not to be the holder of the registration or form. The burden of proof is upon the person to rebut the presumption.

(3)(a) When a controlled substance is at issue in a criminal proceeding before a grand jury, at a preliminary hearing, in a proceeding on a district attorney's information, during a proceeding on a Class E violation or for purposes of an early disposition program, it is prima facie evidence of the identity of the controlled substance if:

- (A) A sample of the controlled substance is tested using a presumptive test for controlled substances;
- (B) The test is conducted by a law enforcement officer trained to use the test or by a forensic scientist; and
- (C) The test is positive for the particular controlled substance.

(b) When the identity of a controlled substance is established using a presumptive test for purposes of a criminal proceeding before a grand jury, a preliminary hearing, a proceeding on a district attorney's information or an early disposition program, the defendant, upon notice to the district attorney, may request that the controlled substance be sent to a state police forensic laboratory for analysis. The defendant may not make a request under this paragraph concerning a controlled substance at issue in a proceeding on a Class E violation.

(4) Notwithstanding any other provision of law, in all prosecutions in which an analysis of a controlled substance or sample was conducted, a certified copy of the analytical report signed by the director of a state police forensic laboratory or the analyst or forensic scientist conducting the analysis shall be admitted as prima facie evidence of the results of the analytical findings unless the defendant has provided notice of an objection in accordance with subsection (5) of this section.

(5) If the defendant intends to object at trial to the admission of a certified copy of an analytical report as provided in subsection (4) of this section, not less than 15 days prior to trial the defendant shall file written notice of the objection with the court and serve a copy on the district attorney.

(6) As used in this section:

(a) "Analyst" means a person employed by the Department of State Police to conduct analysis in forensic laboratories established by the department under ORS 181A.150.

(b) "Presumptive test" includes, but is not limited to, chemical tests using Marquis reagent, Duquenois-Levine reagent, Scott reagent system or modified Chen's reagent. [1977 c.745 §23; 1989 c.194 §1; 1995 c.440 §6; 1997 c.346 §1; 2001 c.870 §14; 2003 c.538 §1; 2007 c.636 §§1,2; 2009 c.610 §8; 2021 c.591 §42]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.237 - Treatment of offense as Class E violation; dismissal.**

(1) Notwithstanding ORS 161.566, a prosecuting attorney may elect to treat as a Class E violation any offense that would constitute a Class E violation had the offense been committed on or after February 1, 2021, as described in this section.

(2) If the prosecuting attorney elects to treat an offense as a Class E violation under this section, with the consent of the defendant and as part of the same hearing, the prosecuting attorney shall move to dismiss the original offense and simultaneously initiate a Class E violation proceeding. In providing consent under this subsection, the defendant waives any challenge to the Class E violation under ORS 131.125.

(3) If, at the hearing described in subsection (2) of this section, the court has received verification that the defendant has obtained a screening through a Behavioral Health Resource Network, including the telephone hotline described in ORS 430.391 (1), or any other equivalent or more intensive treatment contact, the court shall dismiss the citation. [2021 c.591 §46]

Note:

475.237 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.245 - Conditional discharge.**

(1)(a) Whenever a person is charged with an offense listed in subsection (5) of this section, the court, with the consent of the district attorney and the person, may defer further proceedings and place the person on probation. The terms of the probation shall be defined by a probation agreement.

(b) A probation agreement carries the understanding that if the defendant fulfills the terms of the agreement, the criminal charges filed against the defendant will be dismissed with prejudice.

(c) The agreement must contain a waiver of the following rights of the defendant with respect to each criminal charge:

- (A) The right to a speedy trial and trial by jury;
- (B) The right to present evidence on the defendant's behalf;
- (C) The right to confront and cross-examine witnesses against the defendant;
- (D) The right to contest evidence presented against the defendant, including the right to object to hearsay evidence; and
- (E) The right to appeal from a judgment of conviction resulting from an adjudication of guilt entered under subsection (2) of this section, unless the appeal is based on an allegation that the sentence exceeds the maximum allowed by law or constitutes cruel and unusual punishment.

(d) The agreement must include a requirement that the defendant pay any restitution owed to the victim as determined by the court, and any fees for court-appointed counsel ordered by the court under ORS 135.050.

(e) The agreement may not contain a requirement that the defendant enter a plea of guilty or no contest on any charge in the accusatory instrument.



(f) Entering into a probation agreement does not constitute an admission of guilt and is not sufficient to warrant a finding or adjudication of guilt by a court.

(g) Police reports or other documents associated with the criminal charges in a court file other than the probation agreement may not be admitted into evidence, and do not establish a factual basis for finding the defendant guilty, unless the court resumes criminal proceedings and enters an adjudication of guilt under subsection (2) of this section.

(2) Upon violation of a term or condition of the probation agreement, the court may resume the criminal proceedings and may find the defendant guilty of the offenses in the accusatory instrument in accordance with the waiver of rights in the probation agreement. The defendant may not contest the sufficiency of the evidence establishing the defendant's guilt of the offenses in the accusatory instrument.

(3) Upon fulfillment of the terms and conditions of the probation agreement, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. There may be only one discharge and dismissal under this section with respect to any person.

(4) In the event that the period of probation under this section expires, but the terms and conditions of the probation agreement have not been fulfilled and no probation violation proceeding was initiated prior to the expiration of the period of probation, the court may not discharge the person and dismiss the proceedings against the person. The court shall instead issue an order requiring the person to appear and to show cause why the court should not enter an adjudication of guilt as described in subsection (2) of this section due to the failure of the person to fulfill the terms and conditions of the probation agreement prior to expiration of the period of probation. At the hearing on the order to show cause, after considering any evidence or argument from the district attorney and the person, the court may:

(a) Order a new period of probation to allow the person to fulfill the terms and conditions of the probation agreement; or

(b) Enter an adjudication of guilt as described in subsection (2) of this section.

(5) This section applies to the following offenses:

(a) Possession of a controlled substance under ORS 475.752 (3), 475.814, 475.824, 475.834, 475.854, 475.874, 475.884 or 475.894;

(b) Unlawfully possessing a prescription drug under ORS 689.527 (6);

(c) Unlawfully possessing marijuana plants, usable marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts as described in ORS 475C.337 or 475C.341, if the offense is a misdemeanor or felony;

(d) Endangering the welfare of a minor under ORS 163.575 (1)(b);

(e) Frequenting a place where controlled substances are used under ORS 167.222; and

(f) A property offense that is motivated by a dependence on a controlled substance or a marijuana item as defined in ORS 475C.009. [1977 c.745 §21; 1995 c.440 §30; 1999 c.799 §1; 2001 c.834 §§6,10; 2005 c.706 §26; 2005 c.708 §§56,57; 2011 c.524 §2; 2013 c.75 §1; 2015 c.125 §1; 2016 c.24 §58; 2017 c.21 §23; 2019 c.445 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.255 - Status of penalties.**

Any penalty imposed for violation of ORS 475.005 to 475.285 and 475.752 to 475.980 is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law. [1977 c.745 §18; 1995 c.440 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.265 - When prosecution barred.**

If a violation of ORS 475.005 to 475.285 and 475.752 to 475.980 is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state. [1977 c.745 §19; 1995 c.440 §32]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.275 - Uniformity of interpretation.**

ORS 475.005 to 475.285 and 475.752 to 475.980 shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of ORS 475.005 to 475.285 and 475.752 to 475.980 among those states which enact similar laws. [1977 c.745 §28; 1995 c.440 §33]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.285 - Short title.**

ORS 475.005 to 475.285 and 475.752 to 475.980 may be cited as the Uniform Controlled Substances Act. [1977 c.745 §29; 1995 c.440 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.295**

[1989 c.1075 §2; 1991 c.460 §3; 1993 c.33 §358; renumbered 430.400 in 1993]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.300**

[1999 c.4 §2; 2015 c.614 §90; renumbered 475B.400 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.302**

[1999 c.4 §3; 2001 c.900 §205; 2003 c.14 §305; 2005 c.22 §346; 2005 c.822 §1; 2007 c.573 §1; 2009 c.595 §964; 2013 c.337 §1; 2013 c.726 §3; 2015 c.614 §80; 2015 c.844 §4; renumbered 475B.410 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.303**

[2005 c.822 §7; 2009 c.595 §965; 2015 c.614 §90a; renumbered 475B.520 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.304**

[2005 c.822 §8; 2007 c.573 §2; 2009 c.595 §966; 2011 c.630 §92; 2013 c.726 §4; 2015 c.614 §81; renumbered 475B.420 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.306**

[1999 c.4 §7; 2005 c.822 §2; 2009 c.595 §967; 2015 c.614 §84; renumbered 475B.433 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.309**

[1999 c.4 §4; 1999 c.825 §2; 2003 c.14 §306; 2005 c.822 §3; 2007 c.573 §3; 2009 c.595 §968; 2013 c.726 §5; 2015 c.736 §§103,116; renumbered 475B.415 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.312**

[1999 c.4 §13; 2009 c.595 §969; 2015 c.614 §80b; renumbered 475B.418 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.314**

[2013 c.726 §2; 2014 c.79 §5; 2015 c.614 §86; renumbered 475B.450 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.316**

[1999 c.4 §5; 1999 c.825 §3; 2005 c.822 §13; 2007 c.573 §4; 2009 c.595 §970; 2015 c.614 §87b; renumbered 475B.478 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.319**

[1999 c.4 §6; 1999 c.825 §4; 2005 c.22 §347; 2005 c.822 §12; 2015 c.614 §87a; renumbered 475B.480 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.320**

[2005 c.822 §9; 2007 c.573 §5; 2009 c.595 §971; 2013 c.726 §6; 2015 c.614 §82; renumbered 475B.428 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.323**

[1999 c.4 §8; 1999 c.825 §5; 2005 c.22 §348; 2013 c.726 §7; 2015 c.614 §90b; renumbered 475B.490 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.326**

[1999 c.4 §9; 2005 c.822 §11; 2015 c.614 §90c; renumbered 475B.483 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.328**

[1999 c.4 §10; 2005 c.822 §4; 2015 c.614 §90d; renumbered 475B.485 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.331**

[1999 c.4 §12; 2005 c.822 §5; 2009 c.595 §972; 2013 c.726 §8; 2015 c.614 §90e; renumbered 475B.460 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.334**

[1999 c.4 §14; 2009 c.595 §973; 2015 c.614 §90f; renumbered 475B.517 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.338**

[1999 c.4 §15; 2009 c.595 §974; 2015 c.614 §90g; renumbered 475B.525 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.340**

[1999 c.4 §16; 2015 c.614 §90h; renumbered 475B.413 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.342**

[1999 c.4 §11; 2015 c.614 §90i; renumbered 475B.515 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.346**

[1999 c.4 §1; renumbered 475B.405 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.380 - Prohibition on retail sale of dextromethorphan to individual 17 years of age or younger; penalties; exceptions.**

(1) For purposes of this section and ORS 475.382 and 475.384, "finished drug product" means a drug marketed in accordance with federal Food and Drug Administration requirements that is in a finished dosage form.

(2)(a) A business that makes retail sales of a finished drug product containing dextromethorphan, or an employee of the business, may not sell or deliver the finished drug product to an individual who is 17 years of age or younger.

(b) An individual who is 17 years of age or younger may not purchase or receive a finished drug product containing dextromethorphan from a business that makes retail sales of the finished drug product.

(3)(a) Violation of subsection (2)(a) of this section:

(A) Is punishable by a warning from a law enforcement agency for the first violation.

(B) Is punishable by a specific fine violation in an amount not to exceed:

(i) \$150 for the second violation; and

(ii) \$250 for the third or subsequent violation.

(b) Violation of subsection (2)(b) of this section:

(A) Is punishable by a warning from a law enforcement agency for the first violation.

(B) Is punishable by a specific fine violation in an amount not to exceed \$50 for the second or subsequent violation.

(4) Subsection (2)(a) of this section does not apply to a business or an employee who sells or delivers a finished drug product containing dextromethorphan if:

(a) Based on the outward appearance of the individual to whom the finished drug product is sold or delivered, a person would reasonably presume that the individual is 25 years of age or older; or

(b) Before selling or delivering the finished drug product to an individual:

(A) The business or employee requires the individual to present one of the following pieces of identification:

(i) A passport;

(ii) A driver license, whether issued in this state or by another state;

(iii) An identification card issued under ORS 807.400;

(iv) An identification card issued by the United States military; or

(v) Any other identification card issued by a state that bears a picture of the individual, the name of the individual, the date of birth of the individual and a physical description of the individual;

(B) The piece of identification presented establishes that the individual is 18 years of age or older;

(C) The piece of identification presented accurately describes the individual; and

(D) If the piece of identification presented was falsified, a reasonable person would determine, upon inspecting the piece of identification under the same or similar circumstances, that the piece of identification was not altered and accurately describes the individual.

(5) This section does not apply to the sale, delivery, purchase or receipt of a finished drug product containing dextromethorphan if the finished drug product is sold or delivered pursuant to a valid prescription. [2017 c.345 §1]

Note:

475.380 to 475.386 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.382 - Limitation on compliance requirements.**

ORS 475.380 may not be construed to impose on a business that makes retail sales of a finished drug product containing dextromethorphan any compliance requirement other than manually obtaining and verifying proof of age as a condition of sale. For purposes of this section, compliance requirements include any requirement to place a finished drug product in a specific location within the business, any restriction on an individual's direct access to the finished drug product and any requirement to keep and maintain records of transactions involving the finished drug product. [2017 c.345 §2]

Note:

See note under 475.380.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.384 - Trade association list of marketed products containing dextromethorphan; ability to request.**

Any trade association representing manufacturers of over-the-counter finished drug products containing dextromethorphan must provide to any requesting business that makes retail sales a list of the finished drug products containing dextromethorphan marketed by the trade association's members. A business may make a request pursuant to this section only once per year. [2017 c.345 §3]

Note:

See note under 475.380.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.386 - State preemption.**

Except as expressly authorized by law, the authority to regulate the sale, delivery, purchase, receipt or possession of a product containing dextromethorphan in this state is vested solely in the Legislative Assembly. [2017 c.345 §4]

Note:

See note under 475.380.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.390 - Prohibition on retail sale of nitrous oxide to individual under 18 years of age; penalties.**

(1) A business that makes retail sales of nitrous oxide canisters from which an individual may directly inhale nitrous oxide, or an employee of the business, may not sell or deliver a nitrous oxide canister from which an individual may directly inhale nitrous oxide to an individual who is under 18 years of age.

(2)(a) Except as provided in paragraph (b) of this subsection, violation of this section is a Class A violation.

(b) Violation of this section is a Class C misdemeanor if at the time of sentencing the person has been convicted and sentenced, during a prior proceeding, under this section.

(3) This section does not apply to a business or employee who sells or delivers a nitrous oxide canister from which an individual may directly inhale nitrous oxide if, before selling or delivering the nitrous oxide canister to an individual:

(a) The business or employee requires the individual to present one of the following pieces of identification:

(A) A passport;

(B) A driver license, whether issued in this state or by another state;

(C) An identification card issued under ORS 807.400;

(D) An identification card issued by the United States military; or

(E) Any other identification card issued by a state that bears a picture of the individual, the name of the individual, the date of birth of the individual and a physical description of the individual;

(b) The piece of identification presented establishes that the individual is 18 years of age or older;

(c) The piece of identification presented accurately describes the individual; and

(d) If the piece of identification presented was falsified, a reasonable person would determine, upon inspecting the piece of identification under the same or similar circumstances, that the piece of identification was not altered and accurately describes the individual. [2017 c.402 §1]

Note:

475.390 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.392 - Short title.**

ORS 475.394 to 475.404 shall be known and may be cited as the Oregon Kratom Consumer Protection Act. [2022 c.41 §1]

Note:

475.392 to 475.404 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.394 - Definitions for ORS 475.394 to 475.404.**

As used in ORS 475.394 to 475.404:

- (1) "Kratom product" means a food, food product, food ingredient, dietary ingredient, dietary supplement or beverage for human consumption containing any part of the leaf of the plant *Mitragyna speciosa*.
- (2) "Processor" means a person that sells, distributes or exposes for sale kratom products on a wholesale basis to a retailer.
- (3) "Retailer" means a person that sells, distributes or exposes for sale kratom products to individuals for personal consumption.

[2022 c.41 §2]

Note:

See note under 475.392.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.396 - Prohibition on unregistered processing; civil penalty.**

- (1) A processor may not sell, distribute or expose for sale a kratom product prior to registering with the Department of Revenue under ORS 475.404.
- (2) A processor that violates subsection (1) of this section is subject to a civil penalty of not more than \$500 for the first offense and not more than \$1,000 for a second or subsequent offense.
- (3) Except as otherwise provided by state tax law or the department by rule or order, a civil penalty imposed under this section may be appealed as a contested case proceeding under ORS chapter 183. [2022 c.41 §3]

Note:

See note under 475.392.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.398 - Prohibition on sale, distribution, exposure of kratom product to minor; penalty.**

- (1) A retailer may not sell, distribute or expose for sale a kratom product to an individual under 21 years of age.
- (2) A retailer that violates subsection (1) of this section is guilty of a Class C misdemeanor for each violation. [2022 c.41 §4]

Note:

See note under 475.392.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.400 - Department of Revenue suspense account.**

The Department of Revenue shall deposit all moneys collected under ORS 475.396 and 475.404 in a suspense account established under ORS 293.445. The department may pay expenses for the administration and enforcement of ORS 475.394 to 475.404 with moneys from the suspense account. The department shall pay refunds, if any, with moneys in the suspense account. Moneys necessary to pay administrative and enforcement expenses and refunds are continuously appropriated to the department from the suspense account. [2022 c.41 §5]

Note:

See note under 475.392.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.402 - Application of ORS chapters 305, 314 to civil penalties.**

Except as otherwise provided or where the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the determination and notice of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, stays of collection pending appeal, confidentiality of registration and the related civil penalties, and the related procedures, apply to the determination of civil penalties imposed under ORS 475.396 and registration fees imposed under ORS 475.404. [2022 c.41 §6]

Note:

See note under 475.392.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.404 - Department of Revenue rules; fees.**

- (1) The Department of Revenue shall adopt rules necessary to carry out ORS 475.394 and 475.396, including rules establishing:
- (a) Procedures for a processor to register annually with the department, including a requirement that a processor certify that all of the kratom products the processor will sell, distribute or expose for sale are third-party tested to satisfy industry standards for adulteration;
  - (b) A reasonable registration fee to be paid to the department by a processor to support the administration and enforcement of ORS 475.394 to 475.404; and
  - (c) Any other requirements the department deems appropriate.
- (2) Fees collected under subsection (1) of this section may not exceed the cost to administer and enforce ORS 475.394 to 475.404. [2022 c.41 §7]
- Note:  
See note under 475.392.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.405 - Definitions for ORS 475.405 to 475.495.**

As used in ORS 475.405 to 475.495:

- (1) "Chemical" means:
- (a) Any material defined as a controlled substance or precursor substance as defined by ORS 475.005 to 475.285 and 475.744 to 475.980.
  - (b) Any substance used in the manufacture of a controlled substance as defined by ORS 475.005 to 475.285 and 475.744 to 475.980.
  - (c) Any substance used in the manufacture of a cannabinoid extract as defined in ORS 475C.009.
  - (d) Any material or substance designated by the Environmental Quality Commission under ORS 475.425.
- (2) "Cleanup" includes any action the Department of Environmental Quality, or a person acting on behalf of the department, is required to take pursuant to a request under ORS 475.415.
- (3) "Cleanup costs" means reasonable costs that are attributable to or associated with cleanup at an alleged illegal drug manufacturing site, including but not limited to the costs of administration, investigation, legal or enforcement activities, contracts and health studies.
- (4) "Commission" means the Environmental Quality Commission.
- (5) "Department" means the Department of Environmental Quality.
- (6) "Director" means the Director of the Department of Environmental Quality.
- (7) "Fund" means the Illegal Drug Cleanup Fund established under ORS 475.495.
- (8) "Owner or operator" means any person who owns, leases, operates or controls an alleged illegal drug manufacturing site. "Owner or operator" does not include a person, who, without participating in the management of an alleged illegal drug manufacturing site, holds indicia of ownership primarily to protect a security interest in the site.
- (9) "Site" means an illegal drug manufacturing site. [1987 c.699 §1; 1995 c.440 §8; 2017 c.21 §24]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.415 - Request for cleanup.**

Upon the request of a law enforcement agency, the Department of Environmental Quality may identify, clean up, store and dispose of chemicals located at an alleged illegal drug manufacturing site. [1987 c.699 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.425 - Environmental Quality Commission rules; designation of chemicals.**

- (1) The Environmental Quality Commission shall consult with the law enforcement agencies in adopting rules necessary for the Department of Environmental Quality to carry out its responsibilities under ORS 475.415.
- (2) By rule, the commission may designate as chemical for the purposes of ORS 475.405 to 475.495 any element, compound, mixture or solution that may be a controlled substance or precursor substance as defined by ORS 475.005 to 475.285 and 475.744 to 475.980 or used to illegally manufacture drugs. [1987 c.699 §3; 1995 c.440 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.435 - Authority of director.**

- (1) Upon request of a law enforcement agency, the Director of the Department of Environmental Quality:
- (a) May undertake directly or by contract any cleanup action necessary to protect the public health, safety, welfare and the environment; or
  - (b) May authorize any person to carry out any cleanup action in accordance with any requirements of or directions from the director, if the director determines that the person will commence and complete the cleanup action properly and in a timely manner.
- However, the director in most circumstances shall not require the law enforcement agency to be responsible for carrying out the cleanup action.

- (2) Nothing in ORS 475.415 to 475.455, 475.475 and 475.485 shall prevent the director from taking any emergency cleanup action necessary to protect public health, safety, welfare or the environment.
- (3) The director may require a person liable under ORS 475.455 to conduct any cleanup action or related actions necessary to protect the public health, safety, welfare and the environment. The director's action under this subsection may include but need not be limited to issuing an order specifying the cleanup action the person must take.
- (4) The director may request the Attorney General to bring an action or proceeding for legal or equitable relief, in the circuit court of the county in which the site is located or in Marion County, as may be necessary:
- (a) To enforce an order issued under subsection (3) of this section; or
- (b) To abate any imminent and substantial danger to the public health, safety, welfare or the environment related to a release.
- (5) Notwithstanding any provision of ORS chapter 183, any order issued by the director under subsection (3) of this section shall not be appealable to the Environmental Quality Commission or subject to judicial review.
- (6) If any person who is liable under ORS 475.455 fails without sufficient cause to conduct a cleanup action as required by an order of the director, the person shall be liable to the Department of Environmental Quality for the state's cleanup costs and for punitive damages not to exceed three times the amount of the state's cleanup costs.
- (7) Nothing in this section is intended to interfere with, limit or abridge the authority of the State Fire Marshal or any other state agency or local unit of government relating to an emergency that presents a combustion or explosion hazard. [1987 c.699 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.445 - Site entry; purposes.**

- (1) Upon request of a law enforcement agency under ORS 475.415, the Department of Environmental Quality or its authorized representative may enter any alleged illegal drug manufacturing site at any reasonable time to:
- (a) Sample, inspect, examine and investigate;
- (b) Examine and copy records and other information; or
- (c) Carry out cleanup action authorized by ORS 475.415 to 475.455, 475.475 and 475.485.
- (2) If any person refuses to provide information, documents, records or to allow entry under subsection (1) of this section, the department may request the Attorney General to seek from a court of competent jurisdiction an order requiring the person to provide such information, documents, records or to allow entry. [1987 c.699 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.455 - Liability of certain persons for cleanup costs.**

- (1) The following persons shall be strictly liable for those cleanup costs incurred by the state or any other person that are attributable to or associated with an alleged illegal drug manufacturing site and for damages for injury to or destruction of any natural resources caused by chemicals at the site:
- (a) Any owner or operator at or during the time of the acts or omissions that resulted in a site being created or damage to natural resources.
- (b) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in a site being created or damages, and who knew or reasonably should have known of the site or damages when the person first became the owner or operator.
- (c) Any owner or operator who obtained actual knowledge of the site or damages during the time the person was the owner or operator of the site and then subsequently transferred ownership or operation of the site to another person without disclosing such knowledge.
- (d) Any person who, by any acts or omissions, caused, contributed to or exacerbated the site or damage, unless the acts or omissions were in material compliance with applicable laws, standards, regulations, licenses or permits.
- (e) Any person who unlawfully hinders or delays entry to, investigation of or cleanup action at a site.
- (2) Except as provided in subsection (1)(b) to (e) of this section and subsection (4) of this section, the following persons shall not be liable for cleanup costs incurred by the state or any other person that are attributable to or associated with a site, or for damages for injury to or destruction of any natural resources caused by chemicals at the site:
- (a) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in the site being created or damages, and who did not know and reasonably should not have known of the damages when the person first became the owner or operator.
- (b) Any owner or operator of property that was contaminated by the migration of chemicals from real property not owned or operated by the person.
- (c) Any owner or operator at or during the time of the acts or omissions that resulted in the site or damages, if the site or damage at the site was caused solely by one or a combination of the following:
- (A) An act of God. "Act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.
- (B) An act of war.
- (C) Acts or omissions of a third party, other than an employee or agent of the person asserting this defense, or other than a person

whose acts or omissions occur in connection with a contractual relationship, existing directly or indirectly, with the person asserting this defense. As used in this subparagraph, "contractual relationship" includes but is not limited to land contracts, deeds or other instruments transferring title or possession.

(3) Except as provided in subsection (1)(c) to (e) of this section or subsection (4) of this section, the following persons shall not be liable for cleanup costs incurred by the state or any other person that are attributable to or associated with an alleged illegal drug manufacturing site, or for damages for injury to or destruction of any natural resources caused by chemicals at the site:

(a) A unit of state or local government that acquired ownership or control of a site in the following ways:

(A) Involuntarily by virtue of its function as sovereign, including but not limited to escheat, bankruptcy, tax delinquency or abandonment; or

(B) Through the exercise of eminent domain authority by purchase or condemnation.

(b) A person who acquired a site by inheritance or bequest.

(4) Notwithstanding the exclusions from liability provided for specified persons in subsections (2) and (3) of this section, such persons shall be liable for cleanup costs incurred by the state or any other person that are attributable to or associated with a site, and for damages for injury to or destruction of any natural resources caused by chemicals at a site, to the extent that the person's acts or omissions contribute to such costs or damages, if the person:

(a) Obtained actual knowledge of the chemicals at a site or damages and then failed to promptly notify the Department of Environmental Quality and exercise due care with respect to the chemicals concerned, taking into consideration the characteristics of the chemicals in light of all relevant facts and circumstances; or

(b) Failed to take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the reasonably foreseeable consequences of such acts or omissions.

(5)(a) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from any person who may be liable under this section, to any other person, the liability imposed under this section. Nothing in this section shall bar any agreement to insure, hold harmless or indemnify a party to such agreement for any liability under this section.

(b) A person who is liable under this section shall not be barred from seeking contribution from any other person for liability under this section.

(c) Nothing in ORS 475.415 to 475.455, 475.475 and 475.485 shall bar a cause of action that a person liable under this section or a guarantor has or would have by reason of subrogation or otherwise against any person.

(d) Nothing in this section shall restrict any right that the state or any person might have under federal statute, common law or other state statute to recover cleanup costs or to seek any other relief related to the cleanup of an alleged illegal drug manufacturing site.

(6) To establish, for purposes of subsection (1)(b) of this section or subsection (2)(a) of this section, that the person did or did not have reason to know, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability.

(7)(a) Except as provided in paragraph (b) of this subsection, no person shall be liable under ORS 475.415 to 475.455, 475.475 and 475.485 for costs or damages as a result of actions taken or omitted in the course of rendering care, assistance or advice in accordance with rules adopted by the Environmental Quality Commission or at the direction of the department or its authorized representative, with respect to an incident creating a danger to public health, safety, welfare or the environment as a result of any cleanup of a site. This paragraph shall not preclude liability for costs or damages as the result of negligence on the part of such person.

(b) No state or local government shall be liable under this section for costs or damages as a result of actions taken in response to an emergency created by the chemicals at or generated by or from a site owned by another person. This paragraph shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the state or local government. For the purpose of this paragraph, reckless, willful or wanton misconduct shall constitute gross negligence.

(c) This subsection shall not alter the liability of any person covered by subsection (1) of this section. [1987 c.699 §5]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.465 - Liability of state for cleanup.**

Notwithstanding any other provision of law, the State of Oregon, the Environmental Quality Commission and the Department of Environmental Quality and their officers, employees and agents shall not be liable to a person possessing or owning chemicals located at an alleged illegal drug manufacturing site for any claims or actions arising from the identification, cleanup, storage or disposal of such chemicals by the Department of Environmental Quality. [1987 c.699 §10]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.475 - Department record of costs; collection of costs.**

(1) The Department of Environmental Quality shall keep a record of the state's cleanup costs.

(2) Based on the record compiled by the department under subsection (1) of this section, the department shall require any person liable under ORS 475.435 or 475.455 to pay the amount of the state's cleanup costs and, if applicable, punitive damages.

(3) If the state's cleanup costs and punitive damages are not paid by the liable person to the department within 45 days after receipt of notice that such costs and damages are due and owing, the Attorney General, at the request of the Director of the Department of Environmental Quality, shall bring an action in the name of the State of Oregon in a court of competent jurisdiction to recover the



amount owed, plus reasonable legal expenses.

(4) All moneys received by the department under this section shall be deposited in the Illegal Drug Cleanup Fund established under ORS 475.495. [1987 c.699 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.485 - Costs and penalties as lien; enforcement of lien.**

(1) All of the state's cleanup costs, penalties and punitive damages for which a person is liable to the state under ORS 475.435 or 475.455 shall constitute a lien upon any real and personal property owned by the person.

(2) At the discretion of the Department of Environmental Quality, the department may file a claim of lien on real property or a claim of lien on personal property. The department shall file a claim of lien on real property to be charged with a lien under this section with the recording officer of each county in which the real property is located and shall file a claim of lien on personal property to be charged with a lien under this section with the Secretary of State. The lien shall attach and become enforceable on the day of such filing. The lien claim shall contain:

(a) A statement of the demand;

(b) The name of the person against whose property the lien attaches;

(c) A description of the property charged with the lien sufficient for identification; and

(d) A statement of the failure of the person to conduct cleanup action and pay penalties and damages as required.

(3) The lien created by this section may be foreclosed by a suit on real and personal property in the circuit court in the manner provided by law for the foreclosure of other liens.

(4) Nothing in this section shall affect the right of the state to bring an action against any person to recover all costs and damages for which the person is liable under ORS 475.435 or 475.455.

(5) A lien created under this section shall have priority over any claim of the state under ORS 166.715 to 166.735 or any local government forfeiture ordinance or regulation. [1987 c.699 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.495 - Illegal Drug Cleanup Fund; sources; uses.**

(1) The Illegal Drug Cleanup Fund is established separate and distinct from the General Fund in the State Treasury.

(2) The following moneys shall be deposited into the State Treasury and credited to the Illegal Drug Cleanup Fund:

(a) Moneys recovered or otherwise received from responsible parties for cleanup costs;

(b) Moneys received from a state agency, local government unit or any agency of a local government unit for cleanup of illegal drug manufacturing sites, including moneys received from forfeiture proceeds under the provisions of ORS 131A.360 and 131A.365;

(c) Moneys received from the federal government for cleanup of illegal drug manufacturing sites; and

(d) Any penalty or punitive damages recovered under ORS 475.435, 475.455 or 475.485.

(3) The State Treasurer may invest and reinvest moneys in the Illegal Drug Cleanup Fund in the manner provided by law. Interest earned by the fund shall be credited to the fund.

(4) The moneys in the Illegal Drug Cleanup Fund are appropriated continuously to the Department of Environmental Quality to be used as provided for in subsection (5) of this section.

(5) Moneys in the Illegal Drug Cleanup Fund may be used for the following purposes:

(a) Payment of the state's cleanup costs;

(b) Funding any action or activity authorized by ORS 475.415 to 475.455, 475.475 and 475.485; and

(c) Funding safety certification training and personal protective equipment for law enforcement personnel assigned to respond to illegal drug manufacturing sites.

(6) In addition to the purposes provided for in subsection (5) of this section, moneys in the Illegal Drug Cleanup Fund received from forfeiture proceeds under the provisions of ORS 131A.360 and 131A.365 may be transferred to the Oregon Health Authority to support the administration of the illegal drug manufacturing cleanup program provided for in ORS 453.855 to 453.912.

(7) The department may not expend more than \$250,000 in each biennium of the forfeiture proceeds that are paid into the Illegal Drug Cleanup Fund by political subdivisions under the provisions of ORS 131A.360. If at the end of a biennium more than \$250,000 has been paid into the Illegal Drug Cleanup Fund under the provisions of ORS 131A.360, the department shall refund to each political subdivision that made payments into the fund a pro rata share of the excess amount, based on the amount of forfeiture proceeds paid into the fund by the political subdivision. [1987 c.699 §9; 1989 c.966 §56; 1993 c.699 §5; 2001 c.780 §§19,19a; 2009 c.78 §52; 2011 c.524 §1; 2011 c.597 §217; 2011 c.720 §205a]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.525 - Sale of drug paraphernalia prohibited; definition of drug paraphernalia; exceptions; immunity for distribution of certain items.**

(1) It is unlawful for any person to sell or deliver, possess with intent to sell or deliver or manufacture with intent to sell or deliver drug paraphernalia, knowing that it will be used to unlawfully plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance as defined by ORS 475.005.

(2) For the purposes of this section, "drug paraphernalia" means all equipment, products and materials of any kind that are marketed for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of ORS 475.752 to 475.980. Drug paraphernalia includes, but is not limited to:

(a) Kits marketed for use or designed for use in unlawfully planting, propagating, cultivating, growing or harvesting of any species of plant that is a controlled substance or from which a controlled substance can be derived;

(b) Kits marketed for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(c) Isomerization devices marketed for use or designed for use in increasing the potency of any species of plant that is a controlled substance;

(d) Scales and balances marketed for use or designed for use in weighing or measuring controlled substances;

(e) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, marketed for use or designed for use in cutting controlled substances;

(f) Lighting equipment specifically designed for growing controlled substances;

(g) Containers and other objects marketed for use or designed for use in storing or concealing controlled substances; and

(h) Objects marketed for use or designed specifically for use in ingesting, inhaling or otherwise introducing a controlled substance into the human body, such as:

(A) Smoking and carburetion masks;

(B) Roach clips, meaning objects used to hold burning material that has become too small or too short to be held in the hand; or

(C) Miniature cocaine spoons and cocaine vials.

(3) For purposes of this section, "drug paraphernalia" does not include hypodermic syringes or needles, single-use drug test strips, drug testing tools or any other item designed to prevent or reduce the potential harm associated with the use of controlled substances, including but not limited to items that reduce the transmission of infectious disease or prevent injury, infection or overdose.

(4) The provisions of ORS 475.525 to 475.565 do not apply to persons registered under the provisions of ORS 475.125 or to persons specified as exempt from registration under the provisions of that statute.

(5)(a) The provisions of ORS 475.525 to 475.565 do not apply to a person who sells or delivers marijuana paraphernalia as defined in ORS 475C.373 to a person 21 years of age or older.

(b) In determining whether an object is drug paraphernalia under this section or marijuana paraphernalia under ORS 475C.373, a trier of fact shall consider, in addition to any other relevant factor, the following:

(A) Any oral or written instruction provided with the object related to the object's use;

(B) Any descriptive material packaged with the object that explains or depicts the object's use;

(C) Any national or local advertising related to the object's use;

(D) Any proffered expert testimony related to the object's use;

(E) The manner in which the object is displayed for sale, if applicable; and

(F) Any other proffered evidence substantiating the object's intended use.

(6) A person acting in good faith is immune from civil liability for any act or omission of an acting committed during the course of distributing an item described in subsection (3) of this section. [1989 c.1077 §1; 1995 c.440 §10; 2015 c.1 §75; 2017 c.17 §42a; 2017 c.21 §25; 2023 c.593 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.528 - Provision of single-use drug test strips, drug testing tools to certain minors; exceptions.**

(1) Notwithstanding ORS 475.525 (3), it is unlawful to provide single-use drug test strips or drug testing tools to a minor who is under 15 years of age unless the strips or tools are provided to the minor as part of the minor's substance use disorder treatment provided by a mental health care provider and the strips or tools are provided by the mental health care provider.

(2) As used in this section, "mental health care provider" means a:

(a) Physician licensed under ORS chapter 677;

(b) Physician assistant licensed under ORS 677.505 to 677.525;

(c) Psychologist licensed under ORS 675.010 to 675.150;

(d) Nurse practitioner licensed under ORS 678.375 to 678.390;

(e) Clinical social worker licensed under ORS 675.530;

(f) Licensed professional counselor licensed under ORS 675.715;

(g) Licensed marriage and family therapist licensed under ORS 675.715;

(h) Naturopathic physician licensed under ORS chapter 685;

(i) Chiropractic physician licensed under ORS chapter 684;

(j) Community mental health program established and operated pursuant to ORS 430.620 when approved to do so by the Oregon Health Authority pursuant to rule; or

(k) Organizational provider, as defined in ORS 430.637, that holds a certificate of approval. [2023 c.593 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.535 - Action to enforce ORS 475.525 to 475.565.**

The State of Oregon, any political subdivision of the state, or any official or agency of the state or its political subdivisions may bring an action to enforce ORS 475.525 to 475.565. The court shall award costs and reasonable attorney fees to the prevailing party in any such action. [1989 c.1077 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.545 - Order of forfeiture of paraphernalia; effect.**

If, at the trial or upon a hearing, the trier of fact finds any item received into evidence at the trial or hearing to be drug paraphernalia, the court may order the item forfeited upon motion of the district attorney. The drug paraphernalia may then be destroyed or, if the paraphernalia is of substantial value and is not contraband, may be sold, the proceeds to be deposited in the Common School Fund. [1989 c.1077 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.555 - Seizure of drug paraphernalia.**

An official of the state, its political subdivisions or any agency thereof may seize drug paraphernalia when:

- (1) The drug paraphernalia is the subject of an adverse judgment under ORS 475.525 to 475.565;
- (2) The seizure is in the course of a constitutionally valid arrest or search;
- (3) The owner or person in possession of the drug paraphernalia consents to the seizure; or
- (4) The seizure is pursuant to a lawful order of a court, including an order issued under ORCP 83 or ORS 166.725. [1989 c.1077 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.565 - Civil penalty for violation of ORS 475.525.**

(1) In addition to any other penalty provided by law:

- (a) A person who violates ORS 475.525 shall incur a civil penalty in an amount of at least \$2,000 and not more than \$10,000; and
  - (b) The court may order other equitable remedies including but not limited to injunctive relief.
- (2) Any amounts collected under this section shall be forwarded to the State Treasurer for deposit in the General Fund to the credit of the Oregon Health Authority. The moneys shall be used for the development and implementation of drug abuse prevention activities and adolescent treatment. [1989 c.1077 §4; 2003 c.14 §307; 2009 c.595 §975; 2011 c.597 §218]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.715**

[1969 c.442 §1; renumbered 430.560]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.725**

[1969 c.442 §2; renumbered 430.565]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.744 - Providing hypodermic device or pipe to minor prohibited; exception.**

(1) A person may not sell or give a:

- (a) Hypodermic device to a minor unless the minor demonstrates a lawful need for the hypodermic device by authorization of a physician, naturopathic physician licensed under ORS chapter 685, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, parent or legal guardian or by other means acceptable to the seller or donor.
  - (b)(A) Pipe to a minor unless the minor demonstrates a lawful need for the pipe by authorization of a physician, naturopathic physician licensed under ORS chapter 685, physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS 678.375 to 678.390, or the minor's parent or legal guardian; and
  - (B) The minor obtains the consent of the minor's parent or legal guardian to possess the pipe.
- (2) As used in this section:
- (a) "Hypodermic device" means a hypodermic needle or syringe or medication packaged in a hypodermic syringe or any instrument adapted for the subcutaneous injection of a controlled substance as defined in ORS 475.005.
  - (b) "Pipe" means:
    - (A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens;
    - (B) Water pipes;

- (C) Carburetion tubes and devices;
- (D) Chamber pipes;
- (E) Carburetor pipes;
- (F) Electric pipes;
- (G) Air-driven pipes; and
- (H) Ice pipes or chillers. [Formerly 475.805; 2014 c.45 §65; 2017 c.356 §75; 2023 c.593 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.752 - Prohibited acts generally; penalties; exceptions; affirmative defense for certain peyote uses; causing death by Schedule IV substance.**

(1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture or deliver a controlled substance. Any person who violates this subsection with respect to:

- (a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise provided in ORS 475.886 and 475.890.
- (b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906.

(c) A controlled substance in Schedule III, is guilty of a Class C felony, except as otherwise provided in ORS 475.904 and 475.906.

(d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

(e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

(2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to create or deliver a counterfeit substance. Any person who violates this subsection with respect to:

(a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

(b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

(c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

(d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.

(e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.

(3) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a Class E violation, except as otherwise provided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

(b) A controlled substance in Schedule II, is guilty of a Class E violation, except as otherwise provided in ORS 475.814, 475.824, 475.834 or 475.884 or subsection (8) of this section.

(c) A controlled substance in Schedule III, is guilty of a Class E violation.

(d) A controlled substance in Schedule IV, is guilty of a Class E violation.

(e) A controlled substance in Schedule V, is guilty of a violation.

(4) It is an affirmative defense in any prosecution under this section for manufacture, possession or delivery of the plant of the genus *Lophophora* commonly known as peyote that the peyote is being used or is intended for use:

(a) In connection with the good faith practice of a religious belief;

(b) As directly associated with a religious practice; and

(c) In a manner that is not dangerous to the health of the user or others who are in the proximity of the user.

(5) The affirmative defense created in subsection (4) of this section is not available to any person who has possessed or delivered the peyote while incarcerated in a correctional facility in this state.

(6)(a) Notwithstanding subsection (1) of this section, a person who unlawfully manufactures or delivers a controlled substance in Schedule IV and who thereby causes death to another person is guilty of a Class C felony.

(b) For purposes of this subsection, causation is established when the controlled substance plays a substantial role in the death of the other person.

(7) Notwithstanding subsection (3)(a) of this section:

(a) Unlawful possession of a controlled substance in Schedule I is a Class A misdemeanor if the person possesses:

(A) Forty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide; or

(B) Twelve grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin.

(b) Unlawful possession of a controlled substance in Schedule I is a Class B felony if:

(A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

(B) The person possesses a substantial quantity under ORS 475.900 (2)(b).

(8) Notwithstanding subsection (3)(b) of this section:

(a) Unlawful possession of a controlled substance in Schedule II is a Class A misdemeanor if the person possesses one gram or more or five or more user units of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the State Board of Pharmacy.

(b) Unlawful possession of a controlled substance in Schedule II is a Class C felony if:

- (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or  
(B) The person possesses a substantial quantity under ORS 475.900 (2)(b). [Formerly 475.840; 2013 c.591 §3; 2015 c.1 §76; 2015 c.614 §124; 2016 c.24 §59; 2017 c.21 §26; 2017 c.706 §9; 2021 c.2 §11; 2021 c.591 §32; 2023 c.413 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.754 - Affirmative defense to unlawfully possessing pseudoephedrine.**

It is an affirmative defense to a charge of violating ORS 475.752 by unlawfully possessing pseudoephedrine that the person:

- (1) Obtained the pseudoephedrine lawfully;
- (2) Possessed no more than six grams of pseudoephedrine, the salts, isomers or salts of isomers of pseudoephedrine or a combination of any of these substances; and
- (3) Possessed the pseudoephedrine under circumstances that are consistent with typical medicinal or household use, as indicated by factors that include but are not limited to storage location, purchase date, possession of the products in a variety of strengths, brands, types or purposes and expiration date. [Formerly 475.843]

Note:

475.754 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.757 - Syringe service program as affirmative defense to unlawful possession of controlled substance.**

- (1) As used in this section, "syringe service program" means a program that provides services including free sterile needles and syringes and safe disposal for needles and syringes.
- (2) It is an affirmative defense to unlawful possession of a controlled substance under ORS 475.752 to 475.980 that the person was acting in the capacity of an employee or volunteer of a syringe service program.
- (3) Sterile needles and syringes and other items provided by a syringe service program may not be considered "drug paraphernalia," as that term is defined in ORS 475.525. [2019 c.583 §13]

Note:

475.757 was added to and made a part of 475.752 to 475.980 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.805**

[1983 c.738 §1; renumbered 475.744 in 2011]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.806 - Unlawful manufacture of hydrocodone.**

- (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture hydrocodone.
- (2) Unlawful manufacture of hydrocodone is a Class C felony. [2011 c.524 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.808 - Unlawful manufacture of hydrocodone within 1,000 feet of school.**

- (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture hydrocodone within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.
- (2) Unlawful manufacture of hydrocodone within 1,000 feet of a school is a Class B felony. [2011 c.524 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.810 - Unlawful delivery of hydrocodone.**

- (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver hydrocodone.
- (2) Unlawful delivery of hydrocodone is a Class C felony.
- (3) Notwithstanding subsection (2) of this section, unlawful delivery of hydrocodone is a Class B felony if the delivery is to a person under 18 years of age. [2011 c.524 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.812 - Unlawful delivery of hydrocodone within 1,000 feet of**

**school.**

(1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver hydrocodone within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful delivery of hydrocodone within 1,000 feet of a school is a Class B felony. [2011 c.524 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.814 - Unlawful possession of hydrocodone.**

(1) It is unlawful for any person knowingly or intentionally to possess hydrocodone unless the hydrocodone was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of hydrocodone is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of hydrocodone is a Class A misdemeanor if:

(A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

(B) The person possesses 40 or more pills, tablets, capsules or user units of a mixture or substance containing a detectable amount of hydrocodone. [2011 c.524 §15; 2021 c.591 §33]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.816 - Unlawful manufacture of methadone.**

(1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture methadone.

(2) Unlawful manufacture of methadone is a Class B felony. [2011 c.524 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.818 - Unlawful manufacture of methadone within 1,000 feet of school.**

(1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture methadone within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful manufacture of methadone within 1,000 feet of a school is a Class A felony. [2011 c.524 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.820 - Unlawful delivery of methadone.**

(1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver methadone.

(2) Unlawful delivery of methadone is a Class B felony.

(3) Notwithstanding subsection (2) of this section, unlawful delivery of methadone is a Class A felony if the delivery is to a person under 18 years of age. [2011 c.524 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.822 - Unlawful delivery of methadone within 1,000 feet of school.**

(1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver methadone within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful delivery of methadone within 1,000 feet of a school is a Class A felony. [2011 c.524 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.824 - Unlawful possession of methadone.**

(1) It is unlawful for any person knowingly or intentionally to possess methadone unless the methadone was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of methadone is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a Class A misdemeanor if the person possesses 40 or more user units of a mixture or substance containing a detectable amount of methadone.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of methadone is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b). [2011 c.524 §20; 2017 c.706 §10; 2021 c.2 §12; 2021 c.591 §34]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.826 - Unlawful manufacture of oxycodone.**

(1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture oxycodone.

(2) Unlawful manufacture of oxycodone is a Class B felony. [2011 c.524 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.828 - Unlawful manufacture of oxycodone within 1,000 feet of school.**

(1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture oxycodone within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful manufacture of oxycodone within 1,000 feet of a school is a Class A felony. [2011 c.524 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.830 - Unlawful delivery of oxycodone.**

(1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver oxycodone.

(2) Unlawful delivery of oxycodone is a Class B felony.

(3) Notwithstanding subsection (2) of this section, unlawful delivery of oxycodone is a Class A felony if the delivery is to a person under 18 years of age. [2011 c.524 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.832 - Unlawful delivery of oxycodone within 1,000 feet of school.**

(1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver oxycodone within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful delivery of oxycodone within 1,000 feet of a school is a Class A felony. [2011 c.524 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.834 - Unlawful possession of oxycodone.**

(1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless the oxycodone was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of oxycodone is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of oxycodone is a Class A misdemeanor if the person possesses 40 or more pills, tablets, capsules or user units of a mixture or substance containing a detectable amount of oxycodone.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of oxycodone is a Class C felony if the possession is a commercial drug offense under ORS 475.900 (1)(b). [2011 c.524 §10; 2017 c.706 §11; 2021 c.2 §13; 2021 c.591 §35]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.840**

[Formerly 475.992; 2009 c.898 §1; renumbered 475.752 in 2011]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.843**

[2005 c.706 §13a; renumbered 475.754 in 2011]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.846 - Unlawful manufacture of heroin.**

(1) It is unlawful for any person to manufacture heroin.

(2) Unlawful manufacture of heroin is a Class A felony. [2005 c.708 §24]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.848 - Unlawful manufacture of heroin within 1,000 feet of school.**

(1) It is unlawful for any person to manufacture heroin within 1,000 feet of the real property comprising a public or private

elementary, secondary or career school attended primarily by minors.

(2) Unlawful manufacture of heroin within 1,000 feet of a school is a Class A felony. [2005 c.708 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.850 - Unlawful delivery of heroin.**

(1) It is unlawful for any person to deliver heroin.

(2) Unlawful delivery of heroin is a Class A felony. [2005 c.708 §26]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.852 - Unlawful delivery of heroin within 1,000 feet of school.**

(1) It is unlawful for any person to deliver heroin within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful delivery of heroin within 1,000 feet of a school is a Class A felony. [2005 c.708 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.854 - Unlawful possession of heroin.**

(1) It is unlawful for any person knowingly or intentionally to possess heroin.

(2)(a) Unlawful possession of heroin is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class A misdemeanor if the person possesses one gram or more of a mixture or substance containing a detectable amount of heroin.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of heroin is a Class B felony if:

(A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or

(B) The person possesses a substantial quantity under ORS 475.900 (2)(b). [2005 c.708 §28; 2017 c.706 §12; 2021 c.2 §14; 2021 c.591 §36]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.866 - Unlawful manufacture of 3,4-methylenedioxyamphetamine.**

(1) It is unlawful for any person to manufacture 3,4-methylenedioxyamphetamine.

(2) Unlawful manufacture of 3,4-methylenedioxyamphetamine is a Class A felony. [2005 c.708 §34]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.868 - Unlawful manufacture of 3,4-methylenedioxyamphetamine within 1,000 feet of school.**

(1) It is unlawful for any person to manufacture 3,4-methylenedioxyamphetamine within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful manufacture of 3,4-methylenedioxyamphetamine within 1,000 feet of a school is a Class A felony. [2005 c.708 §35]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.870 - Unlawful delivery of 3,4-methylenedioxyamphetamine.**

(1) It is unlawful for any person to deliver 3,4-methylenedioxyamphetamine.

(2) Unlawful delivery of 3,4-methylenedioxyamphetamine is a Class A felony. [2005 c.708 §36]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.872 - Unlawful delivery of 3,4-methylenedioxyamphetamine within 1,000 feet of school.**

(1) It is unlawful for any person to deliver 3,4-methylenedioxyamphetamine within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.

(2) Unlawful delivery of 3,4-methylenedioxyamphetamine within 1,000 feet of a school is a Class A felony. [2005 c.708 §37]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.874 - Unlawful possession of 3,4-methylenedioxyamphetamine.**

(1) It is unlawful for any person knowingly or intentionally to possess 3,4-methylenedioxyamphetamine.

(2)(a) Unlawful possession of 3,4-methylenedioxyamphetamine is a Class E violation.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of 3,4-methylenedioxyamphetamine is a Class A



misdemeanor if the person possesses one gram or more or five or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

- (A) 3,4-methylenedioxyamphetamine;
- (B) 3,4-methylenedioxymethamphetamine; or
- (C) 3,4-methylenedioxy-N-ethylamphetamine.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of 3,4-methylenedioxymethamphetamine is a Class B felony if:

- (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or
- (B) The person possesses a substantial quantity under ORS 475.900 (2)(b). [2005 c.708 §38; 2017 c.706 §13; 2021 c.2 §15; 2021 c.591 §37]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.876 - Unlawful manufacture of cocaine.**

- (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture cocaine.
- (2) Unlawful manufacture of cocaine is a Class B felony. [2005 c.708 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.878 - Unlawful manufacture of cocaine within 1,000 feet of school.**

- (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture cocaine within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.
- (2) Unlawful manufacture of cocaine within 1,000 feet of a school is a Class A felony. [2005 c.708 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.880 - Unlawful delivery of cocaine.**

- (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver cocaine.
- (2) Unlawful delivery of cocaine is a Class B felony.
- (3) Notwithstanding subsection (2) of this section, unlawful delivery of cocaine is a Class A felony if the delivery is to a person under 18 years of age. [2005 c.708 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.882 - Unlawful delivery of cocaine within 1,000 feet of school.**

- (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver cocaine within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.
- (2) Unlawful delivery of cocaine within 1,000 feet of a school is a Class A felony. [2005 c.708 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.884 - Unlawful possession of cocaine.**

- (1) It is unlawful for any person knowingly or intentionally to possess cocaine unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.
- (2)(a) Unlawful possession of cocaine is a Class E violation.
- (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance containing a detectable amount of cocaine.
- (c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of cocaine is a Class C felony if:
  - (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or
  - (B) The person possesses a substantial quantity under ORS 475.900 (2)(b). [2005 c.708 §23; 2017 c.706 §14; 2021 c.2 §16; 2021 c.591 §38]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.886 - Unlawful manufacture of methamphetamine.**

- (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture methamphetamine.
- (2) Unlawful manufacture of methamphetamine is a Class B felony.
- (3) The minimum fine for unlawful manufacture of methamphetamine is \$1,000. [2005 c.708 §14; 2011 c.597 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled**

**Substances; Illegal Drug Cleanup; MiscellaneousSection 475.888 - Unlawful manufacture of methamphetamine within 1,000 feet of school.**

- (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture methamphetamine within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.
- (2) Unlawful manufacture of methamphetamine within 1,000 feet of a school is a Class A felony.
- (3) The minimum fine for unlawful manufacture of methamphetamine within 1,000 feet of a school is \$1,000. [2005 c.708 §15; 2011 c.597 §12]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475 - Controlled Substances; Illegal Drug Cleanup; MiscellaneousSection 475.890 - Unlawful delivery of methamphetamine.**

- (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver methamphetamine.
- (2) Unlawful delivery of methamphetamine is a Class B felony.
- (3) Notwithstanding subsection (2) of this section, unlawful delivery of methamphetamine is a Class A felony if the delivery is to a person under 18 years of age.
- (4) The minimum fine for unlawful delivery of methamphetamine is \$500. [2005 c.708 §16; 2011 c.597 §13]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475 - Controlled Substances; Illegal Drug Cleanup; MiscellaneousSection 475.892 - Unlawful delivery of methamphetamine within 1,000 feet of school.**

- (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver methamphetamine within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.
- (2) Unlawful delivery of methamphetamine within 1,000 feet of a school is a Class A felony.
- (3) The minimum fine for unlawful delivery of methamphetamine within 1,000 feet of a school is \$500. [2005 c.708 §17; 2011 c.597 §14]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475 - Controlled Substances; Illegal Drug Cleanup; MiscellaneousSection 475.894 - Unlawful possession of methamphetamine.**

- (1) It is unlawful for any person knowingly or intentionally to possess methamphetamine unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.
- (2)(a) Unlawful possession of methamphetamine is a Class E violation.
- (b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine is a Class A misdemeanor if the person possesses two grams or more of a mixture or substance containing a detectable amount of methamphetamine.
- (c) Notwithstanding paragraphs (a) and (b) of this subsection, unlawful possession of methamphetamine is a Class C felony if:
  - (A) The possession is a commercial drug offense under ORS 475.900 (1)(b); or
  - (B) The person possesses a substantial quantity under ORS 475.900 (2)(b). [2005 c.708 §18; 2017 c.706 §15; 2021 c.2 §17; 2021 c.591 §39]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475 - Controlled Substances; Illegal Drug Cleanup; MiscellaneousSection 475.898 - Immunity from drug-related offenses for emergency medical assistance.**

- (1) A person who contacts emergency medical services or a law enforcement agency to obtain medical assistance for another person who needs medical assistance due to a drug-related overdose is immune from arrest or prosecution for an offense listed in subsection (3) of this section if the evidence of the offense was obtained because the person contacted emergency medical services or a law enforcement agency.
- (2) A person who is in need of medical assistance due to a drug-related overdose is immune from arrest or prosecution for an offense listed in subsection (3) of this section if the evidence of the offense was obtained because any person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.
- (3) The immunity conferred under subsections (1) and (2) of this section applies to arrest and prosecution for:
  - (a) Frequenting a place where controlled substances are used as described in ORS 167.222;
  - (b) Possession of a controlled substance as described in ORS 475.752;
  - (c) Unlawful possession of hydrocodone as described in ORS 475.814;
  - (d) Unlawful possession of methadone as described in ORS 475.824;
  - (e) Unlawful possession of oxycodone as described in ORS 475.834;
  - (f) Unlawful possession of heroin as described in ORS 475.854;

- (g) Unlawful possession of 3,4-methylenedioxyamphetamine as described in ORS 475.874;
  - (h) Unlawful possession of cocaine as described in ORS 475.884;
  - (i) Unlawful possession of methamphetamine as described in ORS 475.894;
  - (j) Unlawfully possessing a prescription drug as described in ORS 689.527 (6); and
  - (k) Unlawful possession of drug paraphernalia with intent to sell or deliver as described in ORS 475.525.
- (4)(a) A person may not be arrested for violating, or found to be in violation of, the conditions of the person's pretrial release, probation, post-prison supervision or parole if the violation involves:
- (A) The possession or use of a controlled substance or frequenting a place where controlled substances are used; and
  - (B) The evidence of the violation was obtained because the person contacted emergency medical services or a law enforcement agency to obtain medical assistance for another person who needed medical assistance due to a drug-related overdose.
- (b) A person may not be arrested for violating, or found to be in violation of, the conditions of the person's pretrial release, probation, post-prison supervision or parole if the violation involves:
- (A) The possession or use of a controlled substance or frequenting a place where controlled substances are used; and
  - (B) The evidence of the violation was obtained because the person was in need of medical assistance due to a drug-related overdose and any person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.
- (5)(a) A person may not be arrested on an outstanding warrant for any of the offenses listed in subsection (3) of this section, or on an outstanding warrant for a violation, other than commission of a new crime, of the conditions of the person's probation, post-prison supervision or parole for conduct that would constitute an offense listed in subsection (3) of this section, if the location of the person was obtained because the person contacted emergency medical services or a law enforcement agency to obtain medical assistance for another person who needed medical assistance due to a drug-related overdose.
- (b) A person may not be arrested on an outstanding warrant for any of the offenses listed in subsection (3) of this section, or on an outstanding warrant for a violation, other than commission of a new crime, of the conditions of the person's probation, post-prison supervision or parole for conduct that would constitute an offense listed in subsection (3) of this section, if the location of the person was obtained because the person was in need of medical assistance due to a drug-related overdose and any person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.
- (c) This subsection does not apply to outstanding federal warrants or outstanding warrants issued from other states.
- (6) The immunity from arrest and prosecution described in this section is not grounds for the suppression of evidence relating to a criminal offense other than the offenses listed in subsection (3) of this section.
- (7) As used in this section:
- (a) "Controlled substance" has the meaning given that term in ORS 475.005.
  - (b) "Drug-related overdose" means an acute condition, including mania, hysteria, extreme physical illness, coma or death, resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, that a person would reasonably believe to be a condition that requires medical attention. [2015 c.274 §1; 2016 c.24 §60; 2017 c.21 §27]

Note:

475.898 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.900 - Crime category classification; proof of commercial drug offense.**

- (1) A violation of ORS 475.752, 475.806 to 475.894, 475.904 or 475.906 shall be classified as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:
- (a) The violation constitutes delivery or manufacture of a controlled substance and involves substantial quantities of a controlled substance. For purposes of this paragraph, the following amounts constitute substantial quantities of the following controlled substances:
    - (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;
    - (B) Five grams or more or 25 or more user units of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the State Board of Pharmacy;
    - (C) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;
    - (D) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;
    - (E) Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
    - (F) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or
    - (G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:
      - (i) 3,4-methylenedioxyamphetamine;
      - (ii) 3,4-methylenedioxyamphetamine; or
      - (iii) 3,4-methylenedioxy-N-ethylamphetamine.
  - (b) The violation constitutes possession, delivery or manufacture of a controlled substance and the possession, delivery or manufacture is a commercial drug offense. A possession, delivery or manufacture is a commercial drug offense for purposes of this

subsection if it is accompanied by at least three of the following factors:

- (A) The delivery was of heroin, fentanyl, cocaine, methamphetamine, lysergic acid diethylamide, psilocybin or psilocin and was for consideration;
- (B) The offender was in possession of \$300 or more in cash;
- (C) The offender was unlawfully in possession of a firearm or other weapon as described in ORS 166.270 (2), or the offender used, attempted to use or threatened to use a deadly or dangerous weapon as defined in ORS 161.015, or the offender was in possession of a firearm or other deadly or dangerous weapon as defined in ORS 161.015 for the purpose of using it in connection with a controlled substance offense;
- (D) The offender was in possession of materials being used for the packaging of controlled substances such as scales, wrapping or foil, other than the material being used to contain the substance that is the subject of the offense;
- (E) The offender was in possession of drug transaction records or customer lists;
- (F) The offender was in possession of stolen property;
- (G) Modification of structures by painting, wiring, plumbing or lighting to facilitate a controlled substance offense;
- (H) The offender was in possession of manufacturing paraphernalia, including recipes, precursor chemicals, laboratory equipment, lighting, ventilating or power generating equipment;
- (I) The offender was using public lands for the manufacture of controlled substances;
- (J) The offender had constructed fortifications or had taken security measures with the potential of injuring persons; or
- (K) The offender was in possession of controlled substances in an amount greater than:
  - (i) Three grams or more of a mixture or substance containing a detectable amount of heroin;
  - (ii) Three grams or more or 15 or more user units of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the State Board of Pharmacy;
  - (iii) Eight grams or more of a mixture or substance containing a detectable amount of cocaine;
  - (iv) Eight grams or more of a mixture or substance containing a detectable amount of methamphetamine;
  - (v) Twenty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
  - (vi) Ten grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or
  - (vii) Four grams or more or 20 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:
    - (I) 3,4-methylenedioxyamphetamine;
    - (II) 3,4-methylenedioxymethamphetamine; or
    - (III) 3,4-methylenedioxy-N-ethylamphetamine.
- (c) The violation constitutes a violation of ORS 475.848, 475.852, 475.868, 475.872, 475.878, 475.882, 475.888, 475.892 or 475.904.
  - (d) The violation constitutes manufacturing methamphetamine and the manufacturing consists of:
    - (A) A chemical reaction involving one or more precursor substances for the purpose of manufacturing methamphetamine; or
    - (B) Grinding, soaking or otherwise breaking down a precursor substance for the purpose of manufacturing methamphetamine.
  - (e) The violation constitutes a violation of ORS 475.906 (1) or (2) that is not described in ORS 475.907.
- (2) A violation of ORS 475.752 or 475.806 to 475.894 shall be classified as crime category 6 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if:
  - (a) The violation constitutes delivery of heroin, cocaine, fentanyl, methamphetamine or 3,4-methylenedioxyamphetamine, 3,4-methylenedioxymethamphetamine or 3,4-methylenedioxy-N-ethylamphetamine and is for consideration.
  - (b) The violation constitutes possession of substantial quantities of a controlled substance. For purposes of this paragraph, the following amounts constitute substantial quantities of the following controlled substances:
    - (A) Five grams or more of a mixture or substance containing a detectable amount of heroin;
    - (B) Five grams or more or 25 or more user units of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the State Board of Pharmacy;
    - (C) Ten grams or more of a mixture or substance containing a detectable amount of cocaine;
    - (D) Ten grams or more of a mixture or substance containing a detectable amount of methamphetamine;
    - (E) Two hundred or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide;
    - (F) Sixty grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin; or
    - (G) Five grams or more or 25 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:
      - (i) 3,4-methylenedioxyamphetamine;
      - (ii) 3,4-methylenedioxymethamphetamine; or
      - (iii) 3,4-methylenedioxy-N-ethylamphetamine.
  - (3) Any felony violation of ORS 475.752 or 475.806 to 475.894 not contained in subsection (1) or (2) of this section shall be classified as crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation involves delivery or manufacture of a controlled substance.
  - (4) In order to prove a commercial drug offense, the state shall plead in the accusatory instrument sufficient factors of a commercial drug offense under subsections (1) and (2) of this section. The state has the burden of proving each factor beyond a reasonable doubt.
  - (5) As used in this section, "mixture or substance" means any mixture or substance, whether or not the mixture or substance is in an

ingestible or marketable form at the time of the offense. [Formerly 475.996; 2007 c.494 §1; 2013 c.649 §1; 2015 c.614 §126; 2017 c.21 §28; 2021 c.591 §40; 2023 c.9 §41; 2023 c.413 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.902 - Directives to Oregon Criminal Justice Commission.**

- (1) The Oregon Criminal Justice Commission shall classify causing another person to ingest a controlled substance as a person felony and crime category 8 of the sentencing guidelines grid of the commission.
- (2) The Oregon Criminal Justice Commission shall classify causing another person to ingest a controlled substance with the intent of committing or facilitating a crime of violence against the other person as a person felony and crime category 9 of the sentencing guidelines grid of the commission.
- (3) The Oregon Criminal Justice Commission shall amend its rules and appendices to prohibit persons convicted of manufacturing substantial quantities of methamphetamine, its salts, isomers or salts of its isomers from being eligible for an optional probation sentence.
- (4) As used in subsection (3) of this section, "substantial quantities" means that quantity of methamphetamine, its salts, isomers or salts of its isomers described in ORS 475.900 (1)(a). [Formerly 475.998; 2009 c.11 §70]

Note:

475.902 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.904 - Unlawful manufacture or delivery of controlled substance within 1,000 feet of school; exceptions.**

- (1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture or deliver a schedule I, II or III controlled substance within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors.
- (2) Unlawful manufacture or delivery of a controlled substance within 1,000 feet of a school is a Class A felony.
- (3) This section does not apply to:
  - (a) A licensee or licensee representative, as those terms are defined in ORS 475C.009, that is engaged in lawful activities; or
  - (b) A person acting within the scope of and in compliance with ORS 475C.305. [Formerly 475.999; 2015 c.614 §127]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.906 - Penalties for unlawful delivery to minors.**

Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to deliver a controlled substance to a person under 18 years of age. Any person who violates this section with respect to:

- (1) A controlled substance in Schedule I or II, is guilty of a Class A felony.
- (2) A controlled substance in Schedule III, is guilty of a Class B felony.
- (3) A controlled substance in Schedule IV, is guilty of a Class A misdemeanor.
- (4) A controlled substance in Schedule V, is guilty of a Class B misdemeanor. [Formerly 475.995]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.907 - Sentencing for unlawful delivery of cocaine, methamphetamine, heroin or ecstasy to minors.**

- (1) When a person is convicted of the unlawful delivery of cocaine, methamphetamine, heroin or ecstasy to a person under 18 years of age, the court shall sentence the person to a term of incarceration ranging from 34 months to 72 months, depending on the person's criminal history.
- (2) The sentence described in subsection (1) of this section does not apply to a person who is less than three years older than the person under 18 years of age to whom the controlled substance was delivered, unless the person has a previous conviction for delivery of cocaine, methamphetamine, heroin or ecstasy to a person under 18 years of age. [2008 c.14 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.908 - Causing another person to ingest a controlled substance.**

- (1) A person commits the crime of causing another person to ingest a controlled substance if the person knowingly or intentionally causes the other person to ingest, other than by administering or dispensing, a controlled substance or a controlled substance analog without consent of the other person. A person who violates this subsection is guilty of a Class B felony.
- (2) Notwithstanding subsection (1) of this section, causing another person to ingest a controlled substance is a Class A felony if the person, with the intent of committing or facilitating a crime of violence against the other person, knowingly or intentionally causes the other person to ingest a controlled substance or a controlled substance analog without consent of the other person.
- (3) For the purposes of this section:

- (a)(A) Except as provided in subparagraph (B) of this paragraph, "controlled substance analog" means a substance that:
- (i) Has a chemical structure that is substantially similar to the chemical structure of a controlled substance in Schedule I or II.
  - (ii) Has a stimulant, depressant or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
- (B) "Controlled substance analog" does not include:
- (i) A controlled substance;
  - (ii) Any substance that has an approved drug application;
  - (iii) Any substance exempted under 21 U.S.C. 355 if the ingestion is within the scope of investigation authorized under 21 U.S.C. 355; or
  - (iv) Distilled spirits, wine or malt beverages.
- (b) "Crime of violence" means:
- (A) Rape in the first degree, as defined in ORS 163.375;
  - (B) Sodomy in the first degree, as defined in ORS 163.405;
  - (C) Unlawful sexual penetration in the first degree, as defined in ORS 163.411;
  - (D) Sexual abuse in the first degree, as defined in ORS 163.427;
  - (E) Kidnapping in the first degree, as defined in ORS 163.235;
  - (F) Kidnapping in the second degree, as defined in ORS 163.225;
  - (G) Assault in the first degree, as defined in ORS 163.185; or
  - (H) Assault in the second degree, as defined in ORS 163.175.
- (c) "Ingest" means to consume or otherwise deliver a controlled substance into the body of a person. [Formerly 475.984; 2017 c.21 §29]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.910 - Application of controlled substance to the body of another person; prohibition.**

Except as authorized by ORS 475.005 to 475.285 or 475.752 to 475.980, it is unlawful for any person to intentionally apply a controlled substance to the body of another person by injection, inhalation, ingestion or any other means if the other person is under 18 years of age. A person who violates this section with respect to:

- (1) A controlled substance in Schedule I or II, is guilty of a Class A felony classified as crime category 9 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.
- (2) A controlled substance in Schedule III, is guilty of a Class B felony classified as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.
- (3) A controlled substance in Schedule IV, is guilty of a Class C felony.
- (4) A controlled substance in Schedule V, is guilty of a Class A misdemeanor. [Formerly 475.986; 2017 c.21 §30]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.912 - Unlawful delivery of imitation controlled substance.**

- (1) A person commits the crime of unlawful delivery of an imitation controlled substance if the person knowingly:
- (a) Delivers, other than by administering or dispensing, a substance that is not a controlled substance upon the express or implied representation that the substance is a controlled substance; or
  - (b) Delivers a substance that is not a controlled substance upon the express or implied representation that the substance is of such nature or appearance that the recipient of the delivery will be able to distribute the substance as a controlled substance.
- (2) As used in this section, "deliver" or "delivery" means the actual or constructive transfer, or offer or agreement to transfer, from one person to another of a substance, whether or not there is an agency relationship.
- (3) Unlawful delivery of an imitation controlled substance is a Class A misdemeanor. [Formerly 475.991]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.914 - Prohibited acts for registrants; penalties.**

- (1) It is unlawful for any person:
- (a) Who is subject to ORS 475.095 and 475.125 to 475.185 to deliver or dispense a controlled substance in violation of ORS 475.185;
  - (b) Who is a registrant, to manufacture a controlled substance not authorized by this registration, or to deliver or dispense a controlled substance not authorized by the registration to another registrant or other authorized person;
  - (c) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under ORS 475.005 to 475.285 and 475.752 to 475.980;
  - (d) To refuse an entry into any premises for any inspection authorized by ORS 475.005 to 475.285 and 475.752 to 475.980; or
  - (e) To keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft or other structure or place, while knowingly permitting persons to use controlled substances in such places in violation of ORS 475.005 to 475.285 and 475.752 to 475.980, or which is used for keeping or selling them in violation of ORS 475.005 to 475.285 and 475.752 to 475.980.

- (2) Any person who violates this section with respect to:
- (a) A controlled substance in Schedule I, is guilty of a Class C felony.
  - (b) A controlled substance in Schedule II, is guilty of a Class A misdemeanor.
  - (c) A controlled substance in Schedule III, is guilty of a Class B misdemeanor.
  - (d) A controlled substance in Schedule IV or V, is guilty of a Class C misdemeanor. [Formerly 475.993; 2011 c.524 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.916 - Prohibited acts involving records and fraud; penalties.**

- (1) It is unlawful for any person knowingly or intentionally:
- (a) To deliver as a registrant a controlled substance classified in Schedule I or II, except pursuant to an order form as required by ORS 475.175;
  - (b) To use in the course of manufacture or delivery of a controlled substance a registration number which is fictitious, revoked, suspended or issued to another person;
  - (c) To acquire or to attempt to acquire or obtain or attempt to obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;
  - (d) To furnish false or fraudulent material information in, or omit any material information from, any application, report, record or other document required to be kept or filed under ORS 475.005 to 475.285 and 475.752 to 475.980; or
  - (e) To make, deliver or possess any punch, die, plate, stone or other thing designed to print, imprint or reproduce the trademark, trade name or other identifying mark, imprint or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.
- (2) Any person who violates this section is guilty of a Class A misdemeanor. [Formerly 475.994]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.918 - Falsifying drug test results.**

- (1) A person commits the crime of falsifying drug test results if the person intentionally uses, or possesses with intent to use, any substance or device designed to falsify the results of a drug test of the person.
- (2) Falsifying drug test results is a Class B misdemeanor.
- (3) As used in this section and ORS 475.920, "drug test" means a lawfully administered test designed to detect the presence of a controlled substance. [Formerly 475.981]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.920 - Providing drug test falsification equipment.**

- (1) A person commits the crime of providing drug test falsification equipment if the person intentionally delivers, possesses with intent to deliver or manufactures with intent to deliver a substance or device designed to enable a person to falsify the results of a drug test.
- (2) Providing drug test falsification equipment is a Class A misdemeanor. [Formerly 475.982]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.924 - Definitions for ORS 164.061, 475.907, 475.924 and 475.925.**

As used in ORS 164.061, 475.907, 475.924 and 475.925:

- (1) "Controlled substance" means:
  - (a) Cocaine;
  - (b) Methamphetamine;
  - (c) Heroin; or
  - (d) Ecstasy.
- (2) "Ecstasy" means:
  - (a) 3,4-methylenedioxyamphetamine;
  - (b) 3,4-methylenedioxyamphetamine; or
  - (c) 3,4-methylenedioxy-N-ethylamphetamine.
- (3) "Mixture or substance" means any mixture or substance, whether or not the mixture or substance is in an ingestible or marketable form at the time of the offense. [2008 c.14 §5]

Note:

See note under 475.907.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.925 - Sentences for certain controlled substance offenses.**

When a person is convicted of the unlawful delivery or manufacture of a controlled substance, the court shall sentence the person to a term of incarceration ranging from:

- (1) 58 months to 130 months, depending on the person's criminal history, if the delivery or manufacture involves:
    - (a) 500 grams or more of a mixture or substance containing a detectable amount of cocaine;
    - (b) 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;
    - (c) 100 grams or more of a mixture or substance containing a detectable amount of heroin;
    - (d) 100 grams or more of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the State Board of Pharmacy; or
    - (e) 100 grams or more or 500 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of ecstasy.
  - (2) 34 months to 72 months, depending on the person's criminal history, if the delivery or manufacture involves:
    - (a) 100 grams or more of a mixture or substance containing a detectable amount of cocaine;
    - (b) 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers or salts of its isomers;
    - (c) 50 grams or more of a mixture or substance containing a detectable amount of heroin;
    - (d) 50 grams or more of a mixture or substance containing a detectable amount of fentanyl, or any substituted derivative of fentanyl as defined by the rules of the State Board of Pharmacy; or
    - (e) 50 grams or more or 250 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of ecstasy.
- [2008 c.14 §2; 2021 c.591 §41; 2023 c.9 §42]

Note:

See note under 475.907.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.930 - Imposition of sentence under ORS 164.061, 475.907, 475.924 and 475.925.**

- (1) When a court sentences a person under ORS 164.061, 475.907, 475.924 and 475.925:
  - (a) The court shall use the criminal history scale of the sentencing guidelines grid of the Oregon Criminal Justice Commission to determine the sentence to impose. The sentence described in:
    - (A) ORS 475.925 (1) shall be determined utilizing crime category 10 of the sentencing guidelines grid.
    - (B) ORS 475.907 (1) and 475.925 (2) shall be determined utilizing crime category 9 of the sentencing guidelines grid.
    - (C) ORS 164.061 shall be determined utilizing crime category 8 of the sentencing guidelines grid.
  - (b)(A) Notwithstanding ORS 161.605, the court shall impose the sentence described in ORS 164.061, 475.907, 475.924 and 475.925 and may not impose a sentence of optional probation or grant a downward dispositional departure or a downward durational departure under the rules of the commission.
  - (B) The court may impose a sentence other than the sentence described in ORS 164.061, 475.907, 475.924 and 475.925 if the court imposes a longer term of incarceration that is otherwise required or authorized by law.
- (2) A person sentenced under ORS 164.061, 475.907, 475.924 and 475.925 may not receive a reduction in the term of incarceration for appropriate institutional behavior that exceeds 20 percent of the sentence imposed. [2008 c.14 §11]

Note:

475.930 was enacted into law but was not added to or made a part of ORS chapter 475 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.934 - Sentencing of persons with previous conviction for controlled substance offense.**

- (1) When a court sentences a person convicted of a crime listed in subsection (2) of this section, the court may not impose a sentence of optional probation or grant a downward dispositional departure or a downward durational departure under the rules of the Oregon Criminal Justice Commission if the person has a previous conviction for any of the crimes listed in subsection (2) of this section.
- (2) The crimes to which subsection (1) of this section applies are:
  - (a) Manufacture or delivery of a controlled substance under ORS 475.752 (1);
  - (b) Creation or delivery of a counterfeit substance under ORS 475.752 (2);
  - (c) Manufacture or delivery of heroin under ORS 475.846, 475.848, 475.850 or 475.852;
  - (d) Manufacture or delivery of 3,4-methylenedioxymethamphetamine under ORS 475.866, 475.868, 475.870 or 475.872;
  - (e) Manufacture or delivery of cocaine under ORS 475.876, 475.878, 475.880 or 475.882;
  - (f) Manufacture or delivery of methamphetamine under ORS 475.886, 475.888, 475.890 or 475.892;
  - (g) Manufacture or delivery of a controlled substance within 1,000 feet of a school under ORS 475.904;
  - (h) Delivery of a controlled substance to a person under 18 years of age under ORS 475.906; and
  - (i) Possession of a precursor substance with intent to manufacture a controlled substance under ORS 475.967.
- (3)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement in



open court of sentence. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.

(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.

(4) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079.

(5) As used in this section, "previous conviction" includes convictions entered in any other state or federal court for comparable offenses. [2013 c.649 §11; 2017 c.21 §31]

Note:

475.934 becomes operative July 1, 2033, and applies to crimes committed on or after July 1, 2033. See section 12, chapter 649, Oregon Laws 2013, as amended by section 23, chapter 78, Oregon Laws 2022, and section 4, chapter 572, Oregon Laws 2023.

Note:

475.934 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.935 - Presumptive sentences for certain methamphetamine offenses.**

(1) Except as provided in ORS 475.900, 475.907 or 475.925, when the court sentences a person convicted of delivery of methamphetamine under ORS 475.890 or 475.892, the presumptive sentence is 19 months of incarceration, unless the rules of the Oregon Criminal Justice Commission prescribe a longer presumptive sentence, if the person has two or more previous convictions for any combination of the following crimes:

(a) Delivery or manufacture of methamphetamine under ORS 475.752, 475.886 or 475.890;

(b) Delivery or manufacture of methamphetamine within 1,000 feet of a school under ORS 475.888, 475.892 or 475.904; or

(c) Possession of a precursor substance with intent to manufacture a controlled substance under ORS 475.967.

(2) The court may impose a sentence other than the sentence provided by subsection (1) of this section if the court imposes:

(a) A longer term of incarceration that is otherwise required or authorized by law; or

(b) An upward durational departure sentence that is authorized by law or the rules of the Oregon Criminal Justice Commission based upon findings of substantial and compelling reasons. Unless otherwise authorized by law or rule of the Oregon Criminal Justice Commission, the maximum departure allowed for a person sentenced under this subsection is double the presumptive sentence provided in subsection (1) of this section.

(3) As used in this section, "previous conviction" means:

(a) Convictions occurring before, on or after August 16, 2005; and

(b) Convictions entered in any other state or federal court for comparable offenses.

(4)(a) For a crime committed on or after November 1, 1989, a conviction is considered to have occurred upon the pronouncement of sentence in open court. However, when sentences are imposed for two or more convictions arising out of the same conduct or criminal episode, none of the convictions is considered to have occurred prior to any of the other convictions arising out of the same conduct or criminal episode.

(b) For a crime committed prior to November 1, 1989, a conviction is considered to have occurred upon the pronouncement in open court of a sentence or upon the pronouncement in open court of the suspended imposition of a sentence.

(5) For purposes of this section, previous convictions must be proven pursuant to ORS 137.079. [Formerly 137.721]

Note:

475.935 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.940 - Precursor substances described.**

As used in ORS 475.752 to 475.980:

(1) "Iodine matrix" means iodine at a concentration greater than two percent by weight in a matrix or solution.

(2) "Matrix" means something, as a substance, in which something else originates, develops, or is contained.

(3) "Precursor substance" means:

(a) Phenyl-2-propanone.

(b) Methylamine.

(c) D-lysergic acid.

(d) Ergotamine.

(e) Diethyl Malonate.

(f) Malonic acid.

(g) Ethyl Malonate.

(h) Barbituric acid.

- (i) Piperidine.
- (j) N-acetylanthranilic acid.
- (k) Ethylamine.
- (L) Pyrolidine.
- (m) Phenylacetic acid.
- (n) Anthranilic acid.
- (o) Morpholine.
- (p) Ephedrine.
- (q) Pseudoephedrine.
- (r) Norpseudoephedrine.
- (s) Phenylpropanolamine.
- (t) Benzyl cyanide.
- (u) Ergonovine.
- (v) 3,4-Methylenedioxyphenyl-2-propanone.
- (w) Propionic anhydride.
- (x) Insosafrole (Isosafrole).
- (y) Safrole.
- (z) Piperonal.
- (aa) N-methylephedrine.
- (bb) N-ethylephedrine.
- (cc) N-methylpseudoephedrine.
- (dd) N-ethylpseudoephedrine.
- (ee) Hydriotic acid.
- (ff) Gamma butyrolactone (GBL), including butyrolactone, 1,2-butanolide, 2-oxanolone, tetrahydro-2-furanone, dihydro-2(3H)-furanone and tetramethylene glycol, but not including gamma aminobutyric acid (GABA).
- (gg) 1,4-butanediol.
- (hh) Any salt, isomer or salt of an isomer of the chemicals listed in paragraphs (a) to (gg) of this subsection.
- (ii) Iodine in its elemental form.
- (jj) Iodine matrix.
- (kk) Red phosphorus, white phosphorus, yellow phosphorus or hypophosphorus acid and its salts.
- (LL) Anhydrous ammonia.
- (mm) Lithium metal.
- (nn) Sodium metal.
- (oo) Any substance established as a precursor substance by rule under authority granted in ORS 475.945. [1987 c.657 §§3,3a; 2001 c.615 §1; 2003 c.448 §1; 2005 c.706 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.945 - Authority and duties of Department of State Police; rules.**

This section grants authority to and establishes duties of the Department of State Police in relation to the requirements concerning precursor substances under ORS 475.752 to 475.980. The following are applicable as described:

- (1) The department may adopt rules in accordance with ORS chapter 183 that add substances to those specifically enumerated in ORS 475.940 (3) if the substance is a precursor to a controlled substance. Similarly, the department may delete such substances as it has added by administrative rule.
- (2) Notwithstanding the time period established for reporting under ORS 475.950, the department may authorize the submission of such reports on a monthly basis with respect to repeated, regular transactions between the furnisher and recipient involving the same substance if the department determines that all of the following exist:
  - (a) A pattern of regular supply of such substance exists as between the manufacturer, wholesaler, retailer or other person who sells, transfers or otherwise furnishes such substance and the recipient of the substance.
  - (b) The recipient has established a record of use of the substance for lawful purposes.
  - (3) The department shall establish a common form for reporting or recording for purposes of ORS 475.950, 475.975 (3), 475.976 (3) and 475.978 (1). The department may include as information required to be reported or recorded on the form any information the department determines will be convenient or useful to police agencies in finding potentially illegal uses of precursor substances. The reporting or recording form shall require at least the following information:
    - (a) The name of the substance.
    - (b) The quantity of the substance sold, transferred or furnished.
    - (c) The date the substance was sold, transferred or furnished.
    - (d) The name and address of the person buying or receiving the substance accompanied by a verification of the person's

identification by means the department requires by rule.

(e) The name and address of the person selling, transferring or furnishing the substance accompanied by a verification of the person's identification by means the department requires by rule.

(f) The name of any agent acting on behalf of any party to the transaction accompanied by a verification of the person's identification by means the department requires by rule.

(4) The department shall establish a common reporting form for purposes of ORS 475.955. The department may include as information required to be reported on the form any information the department determines will be convenient or useful to police agencies in finding potentially illegal uses of precursor substances. The reporting form shall require at least the following information:

(a) The name of the person making the report.

(b) The name of the common carrier or person who transports the substance and date of shipment of the substance.

(c) The date and circumstances of discovering the loss, theft or discrepancy.

(5) The department shall furnish a copy of the report to the local law enforcement agency in whose jurisdiction the transaction occurred. [1987 c.657 §6; 2001 c.615 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.947 - Warning notice for precursor substance violation.**

(1) In lieu of making an arrest or issuing a citation, a law enforcement officer may deliver a warning notice to a person or business that the officer has probable cause to believe has sold or otherwise delivered a precursor substance in violation of ORS 475.752 to 475.980 whenever the officer reasonably believes that the public interest will be adequately served under the circumstances by issuance of a written warning notice. The notice must be in substantially the following form:

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**WARNING NOTICE**

Please Read this Notice Carefully!!!

TO: \_\_\_\_\_ (name of person or business)

DATE: \_\_\_\_\_ (date of notice)

FROM: \_\_\_\_\_ (name of law enforcement agency)

RE: \_\_\_\_\_ (name of precursor substance or product)

The undersigned law enforcement officer has probable cause to believe that on \_\_\_\_\_ (date of violation), you sold or otherwise delivered a quantity of the precursor substance identified above in violation of the laws of the State of Oregon.

This warning notice has been given to you in lieu of formal action concerning that violation. Please be aware that any further violation may result in formal action being taken against you, which may include, but is not limited to, the filing of an action in circuit court seeking a court order prohibiting you from selling or delivering any quantity of one or more precursor substances to any person.

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Law Enforcement Officer

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(2) A warning notice issued by a law enforcement officer under subsection (1) of this section shall be personally delivered to the person named in the notice, or personally delivered to the person in charge of the business named in the notice. [2003 c.448 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.949 - Injunctive relief for precursor substance violation.**

(1) Whenever it appears that any person has repeatedly sold or delivered one or more precursor substances in violation of the provisions of ORS 475.752 to 475.980, the county attorney or city attorney may cause a civil suit to be instituted in the circuit court for injunctive relief to restrain the person from selling or delivering one or more of the precursor substances.

(2) Upon a proper showing, the court may grant a permanent or temporary injunction prohibiting the defendant or defendants from any further sale or delivery of any amount of one or more precursor substances.

(3) The court may decline to enter an injunctive order against a defendant who:

(a) Demonstrates no knowledge of the existence of the violation, or demonstrates reasonable efforts to stop the violation from occurring;

(b) Has not been guilty of any contempt of court in the proceedings; and

(c) The court finds will make best efforts to immediately end any violation that may exist and prevent any further violation from occurring. [2003 c.448 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.950 - Failure to report precursor substances transaction.**

(1) A person commits the offense of failure to report a precursor substances transaction if the person does any of the following:

(a) Sells, transfers or otherwise furnishes any precursor substance described in ORS 475.940 (3)(a) to (hh) and (oo) and does not, at least three days before delivery of the substance, submit to the Department of State Police a report that meets the reporting

requirements established by rule under ORS 475.945.

(b) Receives any precursor substance described in ORS 475.940 (3)(a) to (hh) and (oo) and does not, within 10 days after receipt of the substance, submit to the department a report that meets the reporting requirements established by rule under ORS 475.945.

(2) This section does not apply to any of the following:

(a) Any pharmacist or other authorized person who sells or furnishes a precursor substance upon the prescription of a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, dentist or veterinarian.

(b) Any practitioner, as defined in ORS 475.005, who administers or furnishes a precursor substance to patients upon prescription.

(c) Any person licensed by the State Board of Pharmacy who sells, transfers or otherwise furnishes a precursor substance to a licensed pharmacy, physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, dentist or veterinarian for distribution to patients upon prescription.

(d) Any person who is authorized by rule under ORS 475.945 to report in an alternate manner if the person complies with the alternate reporting requirements.

(e) Any patient of a practitioner, as defined in ORS 475.005, who obtains a precursor substance from a licensed pharmacist, physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, dentist or veterinarian pursuant to a prescription.

(f) Any person who sells or transfers ephedrine, pseudoephedrine or phenylpropanolamine in compliance with ORS 475.230 or 475.973.

(g) Any practitioner, as defined in ORS 475.005, who dispenses a precursor substance to a person with whom the practitioner has a professional relationship.

(h) Any person who obtains a precursor substance from a practitioner, as defined in ORS 475.005, with whom the person has a professional relationship.

(i) Any person who sells or transfers an isomer of a precursor substance, unless it is an optical isomer.

(3) Penalties related to providing false information on a report required under this section are provided under ORS 475.965.

(4) The Department of State Police and any law enforcement agency may inspect and remove copies of the sales records of any retail or wholesale distributor of methyl sulfonyl methane or a precursor substance during the normal business hours of the retail or wholesale distributor or may require the retail or wholesale distributor to provide copies of the records.

(5) Failure to report a precursor substances transaction is a Class A misdemeanor. [1987 c.657 §2; 2001 c.615 §2; 2003 c.448 §2; 2005 c.706 §18; 2007 c.253 §1; 2013 c.129 §33; 2014 c.45 §66; 2017 c.356 §76; 2021 c.297 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.955 - Failure to report missing precursor substances.**

(1) A person commits the offense of failure to report missing precursor substances if the person:

(a) Is a licensee or other person regulated by the provisions of ORS 475.005 to 475.285 and 475.752 to 475.980;

(b) Discovers any theft or loss of any precursor substance or any difference between the quantity received and the quantity shipped; and

(c) Within three days after discovery of the theft or loss or actual knowledge of the discrepancy, does not report the theft, loss or discrepancy to the Department of State Police in the manner provided by rule adopted under ORS 475.945.

(2) Penalties for providing false information on any report required under this section are provided under ORS 465.965.

(3) The offense described in this section, failure to report missing precursor substances, is a Class A misdemeanor. [1987 c.657 §4; 1995 c.440 §34; 2001 c.615 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.960 - Illegally selling drug equipment.**

(1) A person commits the offense of illegally selling drug equipment if the person sells any substance, article, apparatus or device with knowledge that the substance, article, apparatus or device will be used to manufacture, compound, convert, process or prepare a controlled substance for unlawful sale or distribution.

(2) The offense described in this section, illegally selling drug equipment, is a Class A misdemeanor. [1987 c.657 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.962 - Distribution of equipment, solvent, reagent or precursor substance with intent to facilitate manufacture of controlled substance.**

(1) A person commits the crime of distribution of equipment, a solvent, a reagent or a precursor substance with intent to facilitate the manufacture of a controlled substance if the person sells or otherwise transfers equipment, a solvent, a reagent or a precursor substance with knowledge that the equipment, solvent, reagent or precursor substance is intended to be used in the manufacture of a controlled substance in violation of ORS 475.752.

(2) Distribution of equipment, a solvent, a reagent or a precursor substance with intent to facilitate the manufacture of a controlled

substance is a Class B felony. [2005 c.706 §8]

Note:

475.962 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.965 - Providing false information on precursor substances report or record.**

(1) A person commits the offense of providing false information on a precursor substances report or record if the person knowingly provides false information in any report or record required under ORS 475.950, 475.955, 475.975, 475.976 or 475.978.

(2) The offense described in this section, providing false information on a precursor substances report or record, is a Class A misdemeanor. [1987 c.657 §7; 2001 c.615 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.967 - Possession of precursor substance with intent to manufacture controlled substance.**

(1) A person commits the crime of possession of a precursor substance with intent to manufacture a controlled substance if the person possesses one or more precursor substances with the intent to manufacture a controlled substance in violation of ORS 475.752 (1), 475.806, 475.808, 475.816, 475.818, 475.826, 475.828, 475.846, 475.848, 475.866, 475.868, 475.876, 475.878, 475.886 or 475.888.

(2) Possession of a precursor substance with intent to manufacture a controlled substance is a Class B felony. [2001 c.615 §10; 2005 c.708 §58; 2011 c.524 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.969 - Unlawful possession of phosphorus.**

(1) Except as otherwise provided in subsection (2) of this section, a person commits the crime of unlawful possession of phosphorus if the person knowingly possesses any amount of phosphorus.

(2) Subsection (1) of this section does not apply to:

(a) A person who is conducting a licensed business that involves phosphorus in the manufacture of:

(A) The striking surface used for lighting matches;

(B) Flame retardant polymers; or

(C) Fireworks if the person possesses a federal license to manufacture explosives;

(b) A person who possesses phosphorus in conjunction with experiments conducted in a chemistry or chemistry related laboratory maintained by a:

(A) Regularly established public or private secondary school; or

(B) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States Department of Education;

(c) A retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these persons, who possesses phosphorus in the regular course of lawful business activities;

(d) The possession of phosphorus as a component of a commercially produced product including, but not limited to, matchbooks, fireworks and emergency flares; or

(e) A person who possesses phosphorus in a chemical compound in the regular course of a lawful agricultural activity.

(3) Unlawful possession of phosphorus is a Class A misdemeanor. [2001 c.615 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.971 - Unlawful possession of anhydrous ammonia.**

(1) A person commits the crime of unlawful possession of anhydrous ammonia if the person knowingly possesses anhydrous ammonia in a container that is not approved by the United States Department of Transportation to hold anhydrous ammonia nor constructed to meet state and federal health and safety standards to hold anhydrous ammonia.

(2) Unlawful possession of anhydrous ammonia is a Class A misdemeanor.

(3) This section does not apply to a person who possesses anhydrous ammonia as part of a cleanup, as defined in ORS 466.605, of anhydrous ammonia by the Department of Environmental Quality under ORS 466.610. [2001 c.615 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.973 - Rulemaking authority regarding products containing ephedrine, pseudoephedrine and phenylpropanolamine; records.**

(1)(a) The State Board of Pharmacy may not adopt rules that exempt a product containing ephedrine or pseudoephedrine from classification as a controlled substance. Except as otherwise provided in this paragraph, the State Board of Pharmacy shall adopt

rules to classify ephedrine, pseudoephedrine and phenylpropanolamine as Schedule III controlled substances. The Schedule III classification may be modified by the State Board of Pharmacy if the State Board of Pharmacy finds that restrictions on products containing ephedrine, pseudoephedrine or phenylpropanolamine under a Schedule III designation do not significantly reduce the number of methamphetamine laboratories within the state.

(b) Records of transactions involving products containing ephedrine, pseudoephedrine or phenylpropanolamine are subject to inspection by the State Board of Pharmacy and law enforcement agencies. A person required to make or maintain records of transactions involving products containing ephedrine, pseudoephedrine or phenylpropanolamine shall forward the records to the Department of State Police if directed to do so by the department. Failure to forward records as required by this paragraph is a Class A misdemeanor.

(2) This section does not apply to products that the State Board of Pharmacy, upon application of a manufacturer, exempts by rule because the product is formulated to effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors. Upon notification from the Department of State Police that the department has probable cause to believe that a product exempted under this subsection does not effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors, the State Board of Pharmacy may issue an emergency rule revoking the exemption for the product pending a full hearing. [2001 c.615 §6; 2003 c.448 §3; 2005 c.706 §11; 2011 c.524 §26]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.975 - Unlawful possession of iodine in its elemental form; recording transfers; unlawful distribution of iodine in its elemental form.**

(1) Except as otherwise provided in subsection (2) of this section, a person commits the crime of unlawful possession of iodine in its elemental form if the person knowingly possesses iodine in its elemental form.

(2) Subsection (1) of this section does not apply to:

(a) A physician, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these persons who possesses iodine in its elemental form in the regular course of lawful business activities;

(b) A person who possesses iodine in its elemental form in conjunction with experiments conducted in a chemistry or chemistry related laboratory maintained by a:

(A) Regularly established public or private secondary school;

(B) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States Department of Education; or

(C) Manufacturing, government agency or research facility in the course of lawful business activities;

(c) A licensed veterinarian;

(d) A person working in a general hospital who possesses iodine in its elemental form in the regular course of employment at the hospital; or

(e) A person who possesses iodine in its elemental form as a prescription drug pursuant to a prescription issued by a licensed veterinarian, physician, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390.

(3) Except as otherwise provided in subsection (4) of this section, a person who sells or otherwise transfers iodine in its elemental form to another person shall make a record of each sale or transfer. The record must be made on a form provided by the Department of State Police, completed pursuant to instructions provided by the department and retained by the person for at least three years or sent to the department if directed to do so by the department. Failure to make and retain or send a record required under this subsection is a Class A misdemeanor.

(4) A licensed veterinarian is not required to make a record of a sale or transfer of iodine in its elemental form under subsection (3) of this section if the veterinarian makes a record of the sale or transfer under other applicable laws or rules regarding the prescribing and dispensing of regulated or controlled substances by veterinarians.

(5) A person commits the crime of unlawful distribution of iodine in its elemental form if the person knowingly sells or otherwise transfers iodine in its elemental form to a person not listed in subsection (2) of this section.

(6) Unlawful possession of iodine in its elemental form is a Class A misdemeanor.

(7) Unlawful distribution of iodine in its elemental form is a Class A misdemeanor. [2001 c.615 §7; 2005 c.706 §14; 2014 c.45 §67; 2017 c.356 §77]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.976 - Unlawful possession of iodine matrix; recording transfers; unlawful distribution of iodine matrix.**

(1) Except as otherwise provided in subsection (2) of this section, a person commits the crime of unlawful possession of an iodine matrix if the person knowingly possesses an iodine matrix.

(2) Subsection (1) of this section does not apply to:

(a) A person who possesses an iodine matrix as a prescription drug, pursuant to a prescription issued by a licensed veterinarian,

physician, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390;

(b) A person who is actively engaged in the practice of animal husbandry of livestock as defined in ORS 609.125;

(c) A person who possesses an iodine matrix in conjunction with experiments conducted in a chemistry or chemistry related laboratory maintained by a:

(A) Regularly established public or private secondary school;

(B) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States Department of Education; or

(C) Manufacturing, government agency or research facility in the course of lawful business activities;

(d) A veterinarian, physician, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these persons who possesses an iodine matrix in the regular course of lawful business activities; or

(e) A person working in a general hospital who possesses an iodine matrix in the regular course of employment at the hospital.

(3) Except as otherwise provided in subsection (4) of this section, a person who sells or otherwise transfers an iodine matrix to another person shall make a record of each sale or transfer. The record must be made on a form provided by the Department of State Police, completed pursuant to instructions provided by the department and retained by the person for at least three years or sent to the department if directed to do so by the department. Failure to make and retain or send a record required under this subsection is a Class A misdemeanor.

(4) A licensed veterinarian is not required to make a record of a sale or transfer of an iodine matrix under subsection (3) of this section if the veterinarian makes a record of the sale or transfer under other applicable laws or rules regarding the prescribing and dispensing of regulated or controlled substances by veterinarians.

(5) A person commits the crime of unlawful distribution of an iodine matrix if the person knowingly sells or otherwise transfers an iodine matrix to a person not listed in subsection (2) of this section.

(6) Unlawful possession of an iodine matrix is a Class A misdemeanor.

(7) Unlawful distribution of an iodine matrix is a Class A misdemeanor. [2001 c.615 §8; 2005 c.706 §15; 2014 c.45 §68; 2017 c.356 §78]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.977 - Possessing or disposing of methamphetamine manufacturing waste.**

(1) As used in this section:

(a) "Dispose of" means to discharge, deposit, inject, spill, leak or place methamphetamine manufacturing waste into or onto land or water.

(b) "Methamphetamine manufacturing waste" means chemical waste or debris, used in or resulting from the manufacture of methamphetamine or the grinding, soaking or otherwise breaking down of a precursor substance for the manufacture of methamphetamine.

(2) A person commits the crime of possessing or disposing of methamphetamine manufacturing waste if the person:

(a) Knowingly possesses methamphetamine manufacturing waste; or

(b) Knowingly disposes of methamphetamine manufacturing waste.

(3) Subsection (2) of this section does not apply to the possession or disposal of methamphetamine manufacturing waste if:

(a) The person was storing, treating or disposing of the waste pursuant to state or federal laws regulating the cleanup or disposal of waste products from unlawful methamphetamine manufacturing;

(b) The person has notified a law enforcement agency of the existence of the waste; or

(c) The person possesses or disposes of waste that had previously been disposed of by another person on the person's property in violation of subsection (2) of this section.

(4) Possessing or disposing of methamphetamine manufacturing waste is a Class C felony. [2005 c.706 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.978 - Methyl sulfonyl methane; transfers; records; rules.**

(1) A person who sells or otherwise transfers more than the amount permitted by administrative rule adopted by the Department of State Police of methyl sulfonyl methane to a person other than a physician, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, naturopathic physician licensed under ORS chapter 685, pharmacist, veterinarian, retail distributor, wholesaler, manufacturer, warehouseman or common carrier or an agent of any of these persons shall make a record of each such sale or transfer. The record must be made on a form provided by the department, completed pursuant to instructions provided by the department and retained by the person for at least three years. Failure to make and retain a record required under this subsection is a Class A violation.

(2) The department shall adopt a rule establishing the minimum amount of methyl sulfonyl methane the sale or transfer of which requires a report under subsection (1) of this section. In establishing the minimum amount, the department shall determine an

amount that is reasonably designed not to infringe upon legitimate uses of methyl sulfonyl methane but that discourages the use of methyl sulfonyl methane in the illicit production and distribution of methamphetamine.

(3) This section applies to the sale or transfer of bulk methyl sulfonyl methane in its powder form only, and does not apply to the sale or transfer of products containing methyl sulfonyl methane in other forms including, but not limited to, liquids, tablets, capsules not containing methyl sulfonyl methane in pure powder form, ointments, creams, cosmetics, foods and beverages. [2001 c.615 §9; 2003 c.448 §4; 2005 c.706 §16; 2014 c.45 §69; 2017 c.356 §79]

Note:

Section 11, chapter 615, Oregon Laws 2001, provides:

Sec. 11.

Until the Department of State Police adopts a rule under section 9 of this 2001 Act [475.978], a person who sells or otherwise transfers two pounds or more of methyl sulfonyl methane shall make the reports required by section 9 of this 2001 Act. [2001 c.615 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.979 - Unlawful possession of lithium metal or sodium metal.**

(1) Except as otherwise provided in subsection (2) of this section, a person commits the crime of unlawful possession of lithium metal or sodium metal if the person knowingly possesses lithium metal or sodium metal.

(2) Subsection (1) of this section does not apply to:

(a) A person who is conducting a lawful manufacturing operation that involves the use of lithium metal or sodium metal;

(b) A person who possesses lithium metal or sodium metal in conjunction with experiments conducted in a chemistry or chemistry related laboratory maintained by a:

(A) Regularly established public or private secondary school; or

(B) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States Department of Education;

(c) A retail distributor, wholesaler, manufacturer, warehouseman or common carrier, or an agent of any of these persons, who possesses lithium metal or sodium metal in the regular course of lawful business activities; or

(d) A person who possesses lithium metal or sodium metal as a component of a commercially produced product including, but not limited to, rechargeable batteries.

(3) Unlawful possession of lithium metal or sodium metal is a Class A misdemeanor. [2005 c.706 §9]

Note:

475.979 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.980 - Affirmative defense to ORS 475.969, 475.971, 475.975 (1) and 475.976 (1).**

It is an affirmative defense to a charge of violating ORS 475.969, 475.971, 475.975 (1) or 475.976 (1) that the person possessed the precursor substance for a lawful purpose. [2001 c.615 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.981**

[2001 c.700 §2; renumbered 475.918 in 2005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.982**

[2001 c.700 §3; renumbered 475.920 in 2005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.984**

[2001 c.510 §2; renumbered 475.908 in 2005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.986**

[2001 c.857 §2; renumbered 475.910 in 2005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.991**

[1981 c.859 §2; renumbered 475.912 in 2005]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.992**

[1977 c.745 §15; 1979 c.777 §55; 1989 c.1075 §3; 1991 c.329 §1; 1991 c.460 §§4,20; 1991 c.818 §5; 1995 c.440 §35; 2005 c.708 §39; renumbered 475.840 in 2005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.993**

[1977 c.745 §16; 1995 c.440 §36; renumbered 475.914 in 2005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.994**

[1977 c.745 §17; 1993 c.571 §25; 1995 c.440 §37; renumbered 475.916 in 2005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.995**

[1977 c.745 §20; 1979 c.777 §56; 1995 c.440 §38; 2005 c.708 §40; renumbered 475.906 in 2005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.996**

[1991 c.690 §§1,2,3,3a; 2001 c.804 §2; 2001 c.870 §9; 2003 c.695 §3; 2005 c.708 §7; renumbered 475.900 in 2005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.998**

[Subsections (1) and (2) of 2001 Edition enacted as 2001 c.510 §3; subsections (3) and (4) of 2001 Edition enacted as 2001 c.804 §1; renumbered 475.902 in 2005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475 - Controlled Substances; Illegal Drug Cleanup; Miscellaneous Section 475.999**

[1989 c.806 §2; 1991 c.574 §1; 1993 c.78 §1; 1995 c.343 §49; 1995 c.440 §39; 2005 c.22 §349; 2005 c.708 §41; renumbered 475.904 in 2005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.200 - Legislative findings.**

The People of the State of Oregon find that:

- (1) Oregon has one of the highest prevalences of mental illness among adults in the nation;
- (2) An estimated one in every five adults in Oregon is coping with a mental health condition;
- (3) The Governor has declared addiction as a public health crisis in this state;
- (4) The 2019-2021 Governor's Budget proposes spending over \$2.8 billion on mental health and behavioral health programs;
- (5) Studies conducted by nationally and internationally recognized medical institutions indicate that psilocybin has shown efficacy, tolerability, and safety in the treatment of a variety of mental health conditions, including but not limited to addiction, depression, anxiety disorders, and end-of-life psychological distress;
- (6) The United States Food and Drug Administration has:
  - (a) Determined that preliminary clinical evidence indicates that psilocybin may demonstrate substantial improvement over available therapies for treatment-resistant depression; and
  - (b) Granted a Breakthrough Therapy designation for a treatment that uses psilocybin as a therapy for such depression;
- (7) The Oregon Health Authority has direct supervision of all matters relating to the preservation of life and health of the people of this state;
- (8) During a two-year program development period, the authority should:
  - (a) Examine, publish, and distribute to the public available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions; and
  - (b) Adopt rules and regulations for the eventual implementation of a comprehensive regulatory framework that will allow persons 21 years of age and older in this state to be provided psilocybin services; and
- (9) An advisory board should be established within the authority for the purpose of advising and making recommendations to the authority. [2021 c.1 §1]

Note:

As originally enacted by the people, the headline to ORS 475A.200 read "Findings." The headline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A -**

**Psilocybin Regulation Section 475A.205 - Purposes of ORS 475A.200 to 475A.722.**

(1) The People of the State of Oregon declare that the purposes of chapter 1, Oregon Laws 2021, are:

- (a) To educate the people of this state about the safety and efficacy of psilocybin in treating mental health conditions;
- (b) To reduce the prevalence of mental illness among adults in this state, and to improve the physical, mental, and social well-being of all people in this state;
- (c) To develop a long-term strategic plan for ensuring that psilocybin services will become and remain a safe, accessible and affordable therapeutic option for all persons 21 years of age and older in this state for whom psilocybin may be appropriate;
- (d) To protect the safety, welfare, health and peace of the people of this state by prioritizing this state's limited law enforcement resources in the most effective, consistent and rational way; and
- (e) After a two-year program development period, to:
  - (A) Permit persons licensed, controlled and regulated by this state to legally manufacture psilocybin products and provide psilocybin services to persons 21 years of age and older, subject to the provisions of chapter 1, Oregon Laws 2021; and
  - (B) Establish a comprehensive regulatory framework concerning psilocybin products and psilocybin services under state law.

(2) The People of the State of Oregon intend that the provisions of chapter 1, Oregon Laws 2021, together with other provisions of state law, will:

- (a) Prevent the distribution of psilocybin products to other persons who are not permitted to possess psilocybin products under the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722, including but not limited to persons under 21 years of age; and
- (b) Prevent the diversion of psilocybin products from this state to other states. [2021 c.1 §2]

Note:

As originally enacted by the people, the leadline to ORS 475A.205 read "Purposes of this 2020 Act." The leadline was changed by editorial action.

Note:

Legislative Counsel has substituted "chapter 1, Oregon Laws 2021," for the words "this 2020 Act" in section 2, chapter 1, Oregon Laws 2021, compiled as 475A.205. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 2021 Comparative Section Table located in Volume 22 of ORS.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.210 - Short title.**

ORS 475A.210 to 475A.722 shall be known and may be cited as the Oregon Psilocybin Services Act. [2021 c.1 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.215 - Construction of ORS 475A.210 to 475A.722.**

ORS 475A.210 to 475A.722 may not be construed:

- (1) To require a government medical assistance program or private health insurer to reimburse a person for costs associated with the use of psilocybin products;
- (2) To amend or affect state or federal law pertaining to employment matters;
- (3) To amend or affect state or federal law pertaining to landlord-tenant matters;
- (4) To prohibit a recipient of a federal grant or an applicant for a federal grant from prohibiting the manufacture, delivery, possession or use of psilocybin products to the extent necessary to satisfy federal requirements for the grant;
- (5) To prohibit a party to a federal contract or a person applying to be a party to a federal contract from prohibiting the manufacture, delivery, possession or use of psilocybin products to the extent necessary to comply with the terms and conditions of the contract or to satisfy federal requirements for the contract;
- (6) To require a person to violate a federal law;
- (7) To exempt a person from a federal law or obstruct the enforcement of a federal law; or
- (8) To amend or affect state law, to the extent that a person does not manufacture, deliver, or possess psilocybin products in accordance with the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722. [2021 c.1 §4]

Note:

As originally enacted by the people, the leadline to ORS 475A.215 read "Construction." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.220 - Definitions for ORS 475A.210 to 475A.722.**

As used in ORS 475A.210 to 475A.722:

- (1) "Administration session" means a session held at a psilocybin service center at which a client purchases, consumes, and experiences the effects of a psilocybin product under the supervision of a psilocybin service facilitator.
- (2) "Client" means an individual that is provided psilocybin services in this state.

- (3) "Integration session" means a meeting between a client and a psilocybin service facilitator that may occur after the client completes an administration session.
- (4) "Legal entity" means a corporation, limited liability company, limited partnership, or other legal entity that is registered with the office of the Secretary of State or with a comparable office of another jurisdiction.
- (5) "Licensee" means a person that holds a license issued under ORS 475A.290, 475A.305, 475A.325 or 475A.594.
- (6) "Licensee representative" means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.
- (7) "Manufacture" means the manufacture, planting, cultivation, growing, harvesting, production, preparation, propagation, compounding, conversion or processing of a psilocybin product, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the psilocybin product or labeling or relabeling of its container.
- (8)(a) "Premises" includes the following areas of a location licensed under ORS 475A.210 to 475A.722:
- (A) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;
- (B) All areas outside a building that the Oregon Health Authority has specifically licensed for the manufacturing of psilocybin products or the operation of a psilocybin service center; and
- (C) For a location that the authority has specifically licensed for the operation of a psilocybin service center outside a building, that portion of the location used to operate the psilocybin service center and provide psilocybin services to clients.
- (b) "Premises" does not include a primary residence.
- (9) "Preparation session" means a meeting between a client and a psilocybin service facilitator that must occur before the client participates in an administration session.
- (10) "Psilocybin" means psilocybin or psilocin.
- (11) "Psilocybin product manufacturer" means a person that manufactures psilocybin products in this state.
- (12)(a) "Psilocybin products" means:
- (A) Psilocybin-producing fungi; and
- (B) Mixtures or substances containing a detectable amount of psilocybin.
- (b) "Psilocybin products" does not include psilocybin services.
- (13) "Psilocybin service center" means an establishment:
- (a) At which administration sessions are held; and
- (b) At which other psilocybin services may be provided.
- (14) "Psilocybin service center operator" means a person that operates a psilocybin service center in this state.
- (15) "Psilocybin service facilitator" means an individual that facilitates the provision of psilocybin services in this state.
- (16) "Psilocybin services" means services provided to a client before, during, and after the client's consumption of a psilocybin product, including:
- (a) A preparation session;
- (b) An administration session; and
- (c) An integration session.
- (17) "Two-year program development period" means the period beginning on January 1, 2021 and ending no later than December 31, 2022. [2021 c.1 §5]

Note:

As originally enacted by the people, the headline to ORS 475A.220 read "Definitions." The headline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.225 - Members of Oregon Psilocybin Advisory Board; terms; meetings; compensation; rules.**

- (1)(a) The Oregon Psilocybin Advisory Board is established within the Oregon Health Authority for the purpose of advising and making recommendations to the authority. The Oregon Psilocybin Advisory Board shall consist of:
- (A) 14 to 16 members appointed by the Governor as specified in paragraph (b) of this subsection;
- (B) The Public Health Director or the Public Health Director's designee;
- (C) If the Public Health Director is not the State Health Officer, the State Health Officer or a physician licensed under ORS chapter 677 acting as the State Health Officer's designee;
- (D) If the Public Health Director is the State Health Officer, a representative from the Oregon Health Authority who is familiar with public health programs and public health activities in this state; and
- (E) A designee of the Oregon Health Policy Board.
- (b) The Governor shall appoint the following individuals to the board:
- (A) Any four of the following:
- (i) A state employee who has technical expertise in the field of public health;
- (ii) A local health officer, as defined in ORS 431.003;
- (iii) An individual who is a member of, or who represents, a federally recognized Indian tribe in this state;

- (iv) An individual who is a member of, or who represents, the Addictions and Mental Health Planning and Advisory Council within the authority;
- (v) An individual who is a member of, or who represents, the Health Equity Policy Committee within the authority;
- (vi) An individual who is a member of, or who represents, the Palliative Care and Quality of Life Interdisciplinary Advisory Council within the authority; and
- (vii) An individual who represents individuals who provide public health services directly to the public;
- (B) A psychologist licensed under ORS chapter 675 who has professional experience engaging in the diagnosis or treatment of a mental, emotional, or behavioral condition;
- (C) A physician licensed under ORS chapter 677 who holds a degree of Doctor of Medicine;
- (D) A naturopathic physician licensed under ORS chapter 685;
- (E) An expert in the field of public health who has a background in academia;
- (F) Any three of the following:
  - (i) A person who has professional experience conducting scientific research regarding the use of psychedelic compounds in clinical therapy;
  - (ii) A person who has experience in the field of mycology;
  - (iii) A person who has experience in the field of ethnobotany;
  - (iv) A person who has experience in the field of psychopharmacology; and
  - (v) A person who has experience in the field of psilocybin harm reduction;
- (G) A person representing the Oregon Liquor and Cannabis Commission who has experience working with the system developed and maintained by the commission under ORS 475C.177 for tracking the transfer of marijuana items;
- (H) A person representing the Department of Justice; and
- (I) The following:
  - (i) During the two-year program development period:
    - (I) One of the chief petitioners of chapter 1, Oregon Laws 2021; and
    - (II) One or two at-large members; and
  - (ii) After the two-year program development period, one, two, or three at-large members.
- (2)(a) The term of office for a board member appointed under this section is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.
- (b) Members of the board described in subsection (1)(a)(B) to (E) of this section are nonvoting ex officio members of the board.
- (3) A majority of the voting members of the board constitutes a quorum for the transaction of business.
- (4) Official action by the board requires the approval of a majority of the voting members of the board.
- (5) The board shall elect one of its voting members to serve as chairperson.
- (6) During the two-year program development period, the board shall meet at least once every two calendar months at a time and place determined by the chairperson or a majority of the voting members of the board. After the two-year program development period, the board shall meet at least once every calendar quarter at a time and place determined by the chairperson or a majority of the voting members of the board. The board also may meet at other times and places specified by the call of the chairperson or of a majority of the voting members of the board.
- (7) The board may adopt rules necessary for the operation of the board.
- (8) The board may establish committees and subcommittees necessary for the operation of the board.
- (9) Members of the board are entitled to compensation and expenses as provided in ORS 292.495. [2021 c.1 §6]

Note:

As originally enacted by the people, the leadline to ORS 475A.225 read "Members; terms; meetings; compensation." The leadline was changed by editorial action.

Note:

Legislative Counsel has substituted "chapter 1, Oregon Laws 2021," for the words "this 2020 Act" in section 6, chapter 1, Oregon Laws 2021, compiled as 475A.225. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 2021 Comparative Section Table located in Volume 22 of ORS.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.230 - Duties of Oregon Psilocybin Advisory Board.**

The Oregon Psilocybin Advisory Board shall:

- (1) Provide advice to the Oregon Health Authority with respect to the administration of ORS 475A.210 to 475A.722;
- (2) Make recommendations to the authority on available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions, including but not limited to addiction, depression, anxiety disorders, and end-of-life psychological distress;
- (3) Make recommendations to the authority on the requirements, specifications and guidelines for providing psilocybin services to a

client, including:

- (a) The requirements, specifications and guidelines for holding and verifying the completion of a preparation session, an administration session, and an integration session; and
- (b) The contents of the client information form that a client must complete and sign before the client participates in an administration session, giving particular consideration to:
  - (A) The information that should be solicited from the client to determine whether the client should participate in the administration session, including information that may identify risk factors and contraindications;
  - (B) The information that should be solicited from the client to assist the psilocybin service center operator and the psilocybin service facilitator in meeting any public health and safety standards and industry best practices during the administration session; and
  - (C) The health and safety warnings and other disclosures that should be made to the client before the client participates in the administration session;
- (4) Make recommendations to the authority on public health and safety standards and industry best practices for each type of licensee under ORS 475A.210 to 475A.722;
- (5) Make recommendations to the authority on the formulation of a code of professional conduct for psilocybin service facilitators, giving particular consideration to a code of ethics;
- (6) Make recommendations to the authority on the education and training that psilocybin service facilitators must complete:
  - (a) Giving particular consideration to:
    - (A) Facilitation skills that are affirming, nonjudgmental, and nondirective;
    - (B) Support skills for clients during an administration session, including specialized skills for:
      - (i) Client safety; and
      - (ii) Clients who may have a mental health condition;
    - (C) The environment in which psilocybin services should occur; and
    - (D) Social and cultural considerations; and
  - (b) Including whether such education and training should be available through online resources;
- (7) Make recommendations to the authority on the examinations that psilocybin service facilitators must pass;
- (8) Make recommendations to the authority on public health and safety standards and industry best practices for holding and completing an administration session, including:
  - (a) Whether group administration sessions should be available;
  - (b) Whether clients should be able to access common or outside areas on the premises of the psilocybin service center at which the administration session is held;
  - (c) The circumstances under which an administration session is considered complete; and
  - (d) The transportation needs of the client after the completion of the administration session;
- (9) Develop a long-term strategic plan for ensuring that psilocybin services will become and remain a safe, accessible and affordable therapeutic option for all persons 21 years of age and older in this state for whom psilocybin may be appropriate;
- (10) Monitor and study federal laws, regulations and policies regarding psilocybin; and
- (11) Attempt to meet with the United States Attorney's Office for the District of Oregon to discuss chapter 1, Oregon Laws 2021, and potential federal enforcement policies regarding psilocybin in Oregon after the expiration of the two-year program development period. [2021 c.1 §7]

Note:

Legislative Counsel has substituted "chapter 1, Oregon Laws 2021," for the words "this 2020 Act" in section 7, chapter 1, Oregon Laws 2021, compiled as 475A.230. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 2021 Comparative Section Table located in Volume 22 of ORS.

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.235 - General powers and duties; rules.**

- (1) The Oregon Health Authority has the duties, functions and powers specified in ORS 475A.210 to 475A.722 and the powers necessary or proper to enable the authority to carry out the authority's duties, functions and powers under ORS 475A.210 to 475A.722. The jurisdiction, supervision, duties, functions and powers of the authority extend to any person that produces, processes, transports, delivers, sells or purchases a psilocybin product in this state or that provides a psilocybin service in this state. The authority may sue and be sued.
- (2) The duties, functions and powers of the authority specified in ORS 475A.210 to 475A.722 include the following:
  - (a) To examine, publish, and distribute to the public available medical, psychological, and scientific studies, research, and other information relating to the safety and efficacy of psilocybin in treating mental health conditions, including but not limited to addiction, depression, anxiety disorders, and end-of-life psychological distress.
  - (b) After the two-year program development period:
    - (A) To regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products and the provision of psilocybin services in this state in accordance with the provisions of ORS 475A.210 to 475A.722;
    - (B) To issue, renew, suspend, revoke or refuse to issue or renew licenses for the manufacturing or sale of psilocybin products, the

provision of psilocybin services, or other licenses related to the consumption of psilocybin products, and to permit, in the authority's discretion, the transfer of a license between persons; and

(C) To regulate the use of psilocybin products and psilocybin services for other purposes as deemed necessary or appropriate by the authority.

(c) To adopt, amend or repeal rules as necessary to carry out the intent and provisions of ORS 475A.210 to 475A.722, including rules that the authority considers necessary to protect the public health and safety.

(d) To exercise all powers incidental, convenient or necessary to enable the authority to administer or carry out the provisions of ORS 475A.210 to 475A.722 or any other law of this state that charges the authority with a duty, function or power related to psilocybin products and psilocybin services. Powers described in this paragraph include, but are not limited to:

(A) Issuing subpoenas;

(B) Compelling the attendance of witnesses;

(C) Administering oaths;

(D) Certifying official acts;

(E) Taking depositions as provided by law;

(F) Compelling the production of books, payrolls, accounts, papers, records, documents and testimony; and

(G) Establishing fees in addition to the application, licensing and renewal fees described in ORS 475A.290, 475A.305, 475A.325 and 475A.594, provided that any fee established by the authority is reasonably calculated not to exceed the cost of the activity for which the fee is charged.

(e) To adopt rules prohibiting advertising psilocybin products to the public.

(f) To adopt rules regulating and prohibiting advertising psilocybin services in a manner:

(A) That is appealing to minors;

(B) That promotes excessive use;

(C) That promotes illegal activity;

(D) That violates the code of professional conduct for psilocybin service facilitators formulated by the authority; or

(E) That otherwise presents a significant risk to public health and safety.

(3) The authority may not require that a psilocybin product be manufactured by means of chemical synthesis.

(4) The authority may not require a client to be diagnosed with or have any particular medical condition as a condition to being provided psilocybin services.

(5) Fees collected pursuant to subsection (2)(d)(G) of this section shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492. [2021 c.1 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.240 - Authority to purchase, possess, seize, transfer to licensee or dispose of psilocybin products.**

Subject to any applicable provision of ORS chapter 183, the Oregon Health Authority may purchase, possess, seize, transfer to a licensee or dispose of psilocybin products as is necessary for the authority to ensure compliance with and enforce the provisions of ORS 475A.210 to 475A.722 and any rule adopted under ORS 475A.210 to 475A.722. [2021 c.1 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.243 - Powers related to decedents and insolvent or bankrupt persons.**

The Oregon Health Authority may, by rule or order, provide for the manner and conditions under which:

(1) Psilocybin products left by a deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed.

(2) The business of a deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.

(3) A secured party, as defined in ORS 79.0102, may continue to operate at a premises for which a license has been issued under ORS 475A.210 to 475A.722 for a reasonable period after default on the indebtedness by the debtor. [2021 c.1 §51]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.245 - Application process for all licensees; rules.**

(1) Except as provided in subsection (2) of this section, an applicant for a license or renewal of a license issued under ORS 475A.210 to 475A.722 shall apply to the Oregon Health Authority in the form required by the authority by rule, showing the name and address of the applicant, location of the premises that is to be operated under the license and other pertinent information required by the authority. The authority may not issue or renew a license until the applicant has complied with the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

(2) The authority may reject any application that is not submitted in the form required by the authority by rule. The authority shall give applicants an opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.

(3) Except as provided in subsection (2) of this section, a revocation of, or a refusal to issue or renew, a license issued under ORS

475A.210 to 475A.722 is subject to the requirements for contested case proceedings under ORS chapter 183.

(4) An applicant for a facilitator license or renewal of a facilitator license issued under ORS 475A.325 need not show the location of any premises. [2021 c.1 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.250 - Grounds for refusing to issue license or issuing restricted license.**

(1) The Oregon Health Authority may not license an applicant under the provisions of ORS 475A.210 to 475A.722 if the applicant is under 21 years of age.

(2) The authority may refuse to issue a license or may issue a restricted license to an applicant under the provisions of ORS 475A.210 to 475A.722 if the authority makes a finding that the applicant:

(a) Has not completed any education or training required by the provisions of ORS 475A.210 to 475A.722 or rules adopted under ORS 475A.210 to 475A.722.

(b) Has not passed any examination required by the provisions of ORS 475A.210 to 475A.722 or rules adopted under ORS 475A.210 to 475A.722.

(c) Is in the habit of using alcoholic beverages, habit-forming drugs, or controlled substances to excess.

(d) Has made false statements to the authority.

(e) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(f) Has been convicted of violating a federal law, state law or local ordinance if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.

(g) Is not of good repute and moral character.

(h) Does not have a good record of compliance with ORS 475A.210 to 475A.722 or any rule adopted under ORS 475A.210 to 475A.722.

(i) Is not the legitimate owner of the premises proposed to be licensed, or has not disclosed that other persons have ownership interests in the premises proposed to be licensed.

(j) Has not demonstrated financial responsibility sufficient to adequately meet the requirements of the premises proposed to be licensed.

(k) Is unable to understand the laws of this state relating to psilocybin products, psilocybin services, or the rules adopted under ORS 475A.210 to 475A.722.

(3) Notwithstanding subsection (2)(f) of this section, in determining whether to issue a license or a restricted license to an applicant, the authority may not consider the prior conviction of the applicant or any owner, director, officer, manager, employee, agent or other representative of the applicant for:

(a) The manufacture of psilocybin or the manufacture of a marijuana item, as defined in ORS 475C.009, if:

(A) The date of the conviction is two or more years before the date of the application; and

(B) The person has not been convicted more than once for the manufacture of psilocybin or a marijuana item; or

(b) The possession of a controlled substance, as defined in ORS 475.005, or a marijuana item, as defined in ORS 475C.009, if:

(A) The date of the conviction is two or more years before the date of the application; or

(B) The person has not been convicted more than once for the possession of a controlled substance or a marijuana item. [2021 c.1 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.255 - Authority to require fingerprints of applicants and other individuals.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of any individual listed on an application submitted under ORS 475A.245. The powers conferred on the authority under this section include the power to require the fingerprints of:

(1) If the applicant is a limited partnership, each general partner of the limited partnership;

(2) If the applicant is a manager-managed limited liability company, each manager of the limited liability company;

(3) If the applicant is a member-managed limited liability company, each voting member of the limited liability company;

(4) If the applicant is a corporation, each director and officer of the corporation; and

(5) Any individual who holds a financial interest of 10 percent or more in the person applying for the license. [2021 c.1 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.260 - Properties of license.**

A license issued under ORS 475A.210 to 475A.722:

(1) Is a personal privilege.

(2) Is renewable in the manner provided in ORS 475A.245, except for a cause that would be grounds for refusal to issue the license under ORS 475A.250.

(3) Is revocable or suspendible as provided in ORS 475A.477.

(4) Except for a license issued to a psilocybin service facilitator under ORS 475A.325, is transferable from the premises for which the license was originally issued to another premises subject to the provisions of ORS 475A.210 to 475A.722, applicable rules

adopted under ORS 475A.210 to 475A.722 and applicable local ordinances.

- (5) If the license was issued to an individual, expires upon the death of the licensee, except as provided in ORS 475A.243.
- (6) Does not constitute property.
- (7) Is not alienable.
- (8) Is not subject to attachment or execution.
- (9) Does not descend by the laws of testate or intestate devolution. [2021 c.1 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.265 - Duties of Oregon Health Authority with respect to issuing licenses.**

- (1) The Oregon Health Authority shall approve or deny an application to be licensed under ORS 475A.210 to 475A.722. Upon receiving an application under ORS 475A.245, the authority may not unreasonably delay processing, approving or denying the application or, if the application is approved, issuing the license.
- (2) The licenses described in ORS 475A.210 to 475A.722 must be issued by the authority, subject to the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.
- (3) The authority may not license a premises that does not have defined boundaries. A premises does not need to be enclosed by a wall, fence or other structure, but the authority may require a premises to be enclosed as a condition of issuing or renewing a license. The authority may not license a mobile premises. [2021 c.1 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.270 - Duty to request land use compatibility statement.**

- (1) Prior to receiving a license under ORS 475A.290 or 475A.305, an applicant shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The Oregon Health Authority may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.
- (2) Except as provided in subsection (3) of this section, a city or county that receives a request for a land use compatibility statement under this section must act on that request within 21 days of:
  - (a) Receipt of the request, if the land use is allowable as an outright permitted use; or
  - (b) Final local permit approval, if the land use is allowable as a conditional use.
- (3) A city or county that receives a request for a land use compatibility statement under this section is not required to act on that request during the period that the authority discontinues licensing those premises pursuant to ORS 475A.718 (4).
- (4) A city or county action concerning a land use compatibility statement under this section is not a land use decision for purposes of ORS chapter 195, 196, 197, 197A, 215 or 227. [2021 c.1 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.275 - Lawful manufacture, delivery and possession of psilocybin products.**

Licensees and licensee representatives may manufacture, deliver and possess psilocybin products subject to the provisions of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722. The manufacture, delivery or possession of psilocybin products by a licensee or a licensee representative in compliance with ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722 does not constitute a criminal or civil offense under the laws of this state. [2021 c.1 §20]

Note:

As originally enacted by the people, the leadline to ORS 475A.275 read "Lawful manufacture, delivery, and possession of psilocybin products." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.280 - Restriction on financial interests in multiple licensees.**

An individual may not have a financial interest in:

- (1) More than one psilocybin product manufacturer; or
- (2) More than five psilocybin service center operators. [2021 c.1 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.285 - Authority to hold multiple licenses.**

Subject to ORS 475A.280:

- (1) A person may hold multiple service center operator licenses under ORS 475A.305; and
- (2) A person may hold both a manufacturer license under ORS 475A.290 and a service center operator license under ORS 475A.305 at the same or different premises. [2021 c.1 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.290 - Manufacturer license; fees; rules.**



- (1) The manufacture of psilocybin products is subject to regulation by the Oregon Health Authority.
- (2) A psilocybin product manufacturer must have a manufacturer license issued by the authority for the premises at which the psilocybin products are manufactured. To hold a manufacturer license issued under this section, a psilocybin product manufacturer:
  - (a) Must apply for a license in the manner described in ORS 475A.245;
  - (b) Must provide proof that the applicant is 21 years of age or older;
  - (c) Must, until January 1, 2025:
    - (A) If the direct owner of the business operating or to be operated under the license is a legal entity, provide proof that more than 50 percent of the shares, membership interests, partnership interests, or other ownership interests of the legal entity are held, directly or indirectly, by one or more individuals who have been residents of this state for two or more years;
    - (B) If the direct owner of the business operating or to be operated under the license is a partnership that is not a legal entity, provide proof that more than 50 percent of the partnership interests of the partnership are held, directly or indirectly, by one or more individuals who have been residents of this state for two or more years; and
    - (C) If the direct owner of the business operating or to be operated under the license is an individual, provide proof that the individual has been a resident of this state for two or more years; and
  - (d) Must meet the requirements of any rule adopted by the authority under subsections (3) and (4) of this section.
- (3)(a) If the applicant is not the owner of the premises at which the psilocybin is to be manufactured, the applicant shall submit to the authority signed informed consent from the owner of the premises to manufacture psilocybin at the premises.
- (b) The authority may adopt rules regarding the informed consent described in this subsection.
- (4) The authority shall adopt rules that:
  - (a) Require a psilocybin product manufacturer to annually renew a license issued under this section;
  - (b) Establish application, licensure and renewal of licensure fees for psilocybin product manufacturers; and
  - (c) Require psilocybin products manufactured by psilocybin product manufacturers to be tested in accordance with ORS 475A.590.
- (5) Fees adopted under subsection (4)(b) of this section:
  - (a) May not exceed, together with other fees collected under ORS 475A.210 to 475A.722, the cost of administering ORS 475A.210 to 475A.722; and
  - (b) Shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492. [2021 c.1 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.295 - Psilocybin product manufacturers; endorsements; rules.**

- (1) The Oregon Health Authority shall adopt rules that designate different types of manufacturing activities. A psilocybin product manufacturer may only engage in a type of manufacturing activity if the psilocybin product manufacturer has received an endorsement from the authority for that type of manufacturing activity.
- (2) An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time following licensure.
- (3) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.
- (4) A psilocybin product manufacturer licensee may hold multiple endorsements.
- (5) The authority may deny a psilocybin product manufacturer's request for an endorsement or revoke an existing endorsement if the psilocybin product manufacturer cannot or does not meet the requirements for the endorsement that is requested. If the authority denies or revokes approval the psilocybin product manufacturer has a right to a hearing under the procedures of ORS chapter 183. [2021 c.1 §24]

Note:

As originally enacted by the people, the leadline to ORS 475A.295 read "Psilocybin product manufacturers; endorsements." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.300 - Psilocybin product quantities; rules.**

The Oregon Health Authority shall adopt rules restricting the quantities of psilocybin products at premises for which a license has been issued under ORS 475A.290. In adopting rules under this section, the authority shall take into consideration the demand for psilocybin services in this state, the number of psilocybin product manufacturers applying for a license under ORS 475A.290, the number of psilocybin product manufacturers that hold a license issued under ORS 475A.290 and whether the availability of psilocybin products in this state is commensurate with the demand for psilocybin services. [2021 c.1 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.305 - Psilocybin service center operator license; fees; rules.**

- (1)(a) The operation of a psilocybin service center is subject to regulation by the Oregon Health Authority.
- (b) A psilocybin service center is not a health care facility subject to ORS chapter 441.
- (2) A psilocybin service center operator must have a service center operator license issued by the authority for the premises at which psilocybin services are provided. To hold a service center operator license under this section, a psilocybin service center operator:

- (a) Must apply for a license in the manner described in ORS 475A.245;
- (b) Must provide proof that the applicant is 21 years of age or older;
- (c) Must, until January 1, 2025:
  - (A) If the direct owner of the business operating or to be operated under the license is a legal entity, provide proof that more than 50 percent of the shares, membership interests, partnership interests, or other ownership interests of the legal entity are held, directly or indirectly, by one or more individuals who have been residents of this state for two or more years;
  - (B) If the direct owner of the business operating or to be operated under the license is a partnership that is not a legal entity, provide proof that more than 50 percent of the partnership interests of the partnership are held, directly or indirectly, by one or more individuals who have been residents of this state for two or more years; and
  - (C) If the direct owner of the business operating or to be operated under the license is an individual, provide proof that the individual has been a resident of this state for two or more years;
- (d) Must ensure that the psilocybin service center is located in an area that is not:
  - (A) Within the limits of an incorporated city or town; and
  - (B) Zoned exclusively for residential use;
- (e) Except as provided in ORS 475A.310, must ensure that the psilocybin service center is not located within 1,000 feet of:
  - (A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
  - (B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and
- (f) Must meet the requirements of any rule adopted by the authority under subsection (3) of this section.
- (3) The authority shall adopt rules that:
  - (a) Require a psilocybin service center operator to annually renew a license issued under this section;
  - (b) Establish application, licensure and renewal of licensure fees for psilocybin service center operators;
  - (c) Require psilocybin products sold by a psilocybin service center operator to be tested in accordance with ORS 475A.590; and
  - (d) Require a psilocybin service center operator to meet any public health and safety standards and industry best practices established by the authority by rule.
- (4) Fees adopted under subsection (3)(b) of this section:
  - (a) May not exceed, together with other fees collected under ORS 475A.210 to 475A.722, the cost of administering ORS 475A.210 to 475A.722; and
  - (b) Shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492. [2021 c.1 §26]

Note:

As originally enacted by the people, the headline to ORS 475A.305 read "Service center operator license; fees; rules." The headline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.310 - Proximity of psilocybin service center to school.**

Notwithstanding ORS 475A.305 (2)(e), a psilocybin service center may be located within 1,000 feet of a school if:

- (1) The psilocybin service center is not located within 500 feet of:
  - (a) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
  - (b) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and
- (2) The Oregon Health Authority determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the psilocybin service center. [2021 c.1 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.315 - Establishment of school after issuance of license.**

If a school described in ORS 475A.305 (2)(e) that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under ORS 475A.305, the psilocybin service center operator located at that premises may remain at that location unless the Oregon Health Authority revokes the license of the psilocybin service center operator under ORS 475A.477. [2021 c.1 §28]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.320 - Requirement to verify person's age; rules.**

The Oregon Health Authority may adopt rules establishing the circumstances under which the authority may require a psilocybin service center operator that holds a license issued under ORS 475A.305 to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the psilocybin service center operator does not sell psilocybin products to a person under 21 years of age. Information obtained under this section may not be retained after verifying a person's age and may not be used for any purpose other than verifying a person's age. [2021 c.1 §29]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.325 - Psilocybin service facilitator license; fees; rules.**

- (1) The facilitation of psilocybin services is subject to regulation by the Oregon Health Authority.
  - (2) A psilocybin service facilitator must have a facilitator license issued by the authority. To hold a facilitator license issued under this section, a psilocybin service facilitator:
    - (a) Must apply for a license in the manner described in ORS 475A.245;
    - (b) Must provide proof that the applicant is 21 years of age or older;
    - (c) Must, until January 1, 2025, provide proof that the applicant has been a resident of this state for two or more years;
    - (d) Must have a high school diploma or equivalent education;
    - (e) Must submit evidence of completion of education and training prescribed and approved by the authority;
    - (f) Must have passed an examination approved, administered or recognized by the authority; and
    - (g) Must meet the requirements of any rule adopted by the authority under subsection (4) of this section.
  - (3) The authority may not require a psilocybin service facilitator to have a degree from a university, college, post-secondary institution, or other institution of higher education.
  - (4) The authority shall adopt rules that:
    - (a) Require a psilocybin service facilitator to annually renew a license issued under this section;
    - (b) Establish application, licensure and renewal of licensure fees for psilocybin service facilitators; and
    - (c) Require a psilocybin service facilitator to meet any public health and safety standards and industry best practices established by the authority by rule.
  - (5) Fees adopted under subsection (4)(b) of this section:
    - (a) May not exceed, together with other fees collected under ORS 475A.210 to 475A.722, the cost of administering ORS 475A.210 to 475A.722; and
    - (b) Shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492.
  - (6) A psilocybin service facilitator may be, but need not be, an employee, manager, director, officer, partner, member, shareholder, or direct or indirect owner of one or more psilocybin service center operators.
  - (7) A license issued to a psilocybin service facilitator under this section is not limited to any one or more premises. [2021 c.1 §30]
- Note:  
As originally enacted by the people, the leadline to ORS 475A.325 read "Facilitator license; fees; rules." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.330 - Examination.**

The Oregon Health Authority shall offer an examination for applicants for licenses to facilitate psilocybin services at least twice a year. An applicant who fails any part of the examination may retake the failed section in accordance with rules adopted by the authority. [2021 c.1 §31]

Note:

As originally enacted by the people, the leadline to ORS 475A.330 read "Examinations; rules." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.335 - Requirement to verify person's age; rules.**

The Oregon Health Authority may adopt rules establishing the circumstances under which the authority may require a psilocybin service facilitator that holds a license issued under ORS 475A.325 to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the psilocybin service facilitator does not provide psilocybin services to a person under 21 years of age. Information obtained under this section may not be retained after verifying a person's age and may not be used for any purpose other than verifying a person's age. [2021 c.1 §32]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.340 - Psilocybin services; rules.**

The Oregon Health Authority shall adopt by rule the requirements, specifications and guidelines for:

- (1) Providing psilocybin services to a client;
- (2) Holding and verifying the completion of a preparation session;
- (3) Having a client complete, sign, and deliver a client information form to a psilocybin service center operator and a psilocybin service facilitator;
- (4) Holding and verifying the completion of an administration session; and
- (5) Holding and verifying the completion of an integration session. [2021 c.1 §33]

Note:

As originally enacted by the people, the leadline to ORS 475A.340 read "Psilocybin services." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A -**

**Psilocybin Regulation Section 475A.345 - Preparation session.**

- (1) Before a client participates in an administration session, the client must attend a preparation session with a psilocybin service facilitator.
- (2) A preparation session may be, but need not be, held at a psilocybin service center.
- (3) If a preparation session is completed in accordance with all applicable requirements, specifications and guidelines, as determined by the Oregon Health Authority, the psilocybin service facilitator must certify, in a form and manner prescribed by the authority, that the client completed the preparation session. [2021 c.1 §34]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.350 - Client information form.**

- (1) Before a client participates in an administration session:
  - (a) The client must complete and sign a client information form, in a form and manner prescribed by the Oregon Health Authority; and
  - (b) A copy of the completed and signed client information form must be delivered to:
    - (A) The psilocybin service center operator that operates the psilocybin service center at which the administration session is to be held; and
    - (B) The psilocybin service facilitator that will supervise the administration session.
- (2) The client information form:
  - (a) Will solicit from the client such information as may be necessary:
    - (A) To enable a psilocybin service center operator and a psilocybin service facilitator to determine whether the client should participate in an administration session, including information that may identify risk factors and contraindications; and
    - (B) If so, to assist the psilocybin service center operator and the psilocybin service facilitator in meeting any public health and safety standards and industry best practices during the administration session; and
  - (b) Will contain such health and safety warnings and other disclosures to the client as the authority may prescribe. [2021 c.1 §35]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.355 - Administration session.**

- (1) After a client completes a preparation session and completes and signs a client information form, the client may participate in an administration session.
- (2) An administration session must be held at a psilocybin service center.
- (3) If an administration session is completed in accordance with all applicable requirements, specifications and guidelines, as determined by the Oregon Health Authority, the psilocybin service facilitator must certify, in a form and manner prescribed by the authority, that the client completed the administration session. [2021 c.1 §36]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.360 - Integration session.**

- (1) After a client completes an administration session, the psilocybin service facilitator who supervised the administration session must offer the client an opportunity to participate in an integration session. The client may, but need not, participate in an integration session.
- (2) An integration session may be, but need not be, held at a psilocybin service center.
- (3) If an integration session is completed in accordance with all applicable requirements, specifications and guidelines, as determined by the Oregon Health Authority, the psilocybin service facilitator must certify, in a form and manner prescribed by the authority, that the client completed the integration session. [2021 c.1 §37]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.365 - Use of client information form in prosecution; reliance on client information form; exception from liability.**

- (1) If a client information form is offered as evidence in any administrative or criminal prosecution of a licensee or licensee representative for sale or service of a psilocybin product to a client, the licensee or licensee representative is not guilty of any offense prohibiting a person from selling or serving a psilocybin product to a client unless it is demonstrated that a reasonable person would have determined that the responses provided by the client on the client information form were incorrect or altered.
- (2) A licensee or licensee representative shall be entitled to rely upon all statements, declarations, and representations made by a client in a client information form unless it is demonstrated that:
  - (a) A reasonable person would have determined that one or more of the statements, declarations, and representations made by the client in the client information form were incorrect or altered; or
  - (b) The licensee or licensee representative violated a provision of ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722 relative to the client information form.
- (3) Except as provided in subsection (2) of this section, no licensee or licensee representative shall incur legal liability by virtue of

any untrue statements, declarations, or representations so relied upon in good faith by the licensee or licensee representative. [2021 c.1 §38]

Note:

As originally enacted by the people, the headline to ORS 475A.365 read "Protections on reliance on client information form." The headline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.370 - Right to terminate or refuse to provide services; exception.**

(1) Subject to other applicable law, a licensee or licensee representative may refuse to provide psilocybin services to a potential client for any or no reason.

(2)(a) Except as provided in paragraph (b) of this subsection, and subject to other applicable law, a licensee or licensee representative may cease providing psilocybin services to a client for any or no reason.

(b) A psilocybin service center operator and a psilocybin service facilitator may not cease providing psilocybin services to a client during an administration session after the client has consumed a psilocybin product, except as authorized by the Oregon Health Authority by rule, or as necessary in an emergency. [2021 c.1 §39]

Note:

As originally enacted by the people, the headline to ORS 475A.370 read "Protections on refusal to provide psilocybin services to a client." The headline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.372 - Requirement of psilocybin service center operator to collect, maintain, aggregate and submit to Oregon Health Authority specified information; client opt-out; exemption from disclosure; rules.**

(1) As used in this section, "adverse behavioral reaction" and "adverse medical reaction" have the meanings given those terms by rule by the Oregon Health Authority.

(2) A psilocybin service center operator that holds a license issued under ORS 475A.305 shall:

(a) Collect and maintain the following information, in addition to the information required to complete a client information form described in ORS 475A.350:

(A) The race, ethnicity, preferred spoken and written languages, disability status, sexual orientation, gender identity, income, age and county of residence of each client; and

(B) The reasons for which a client requests psilocybin services;

(b) Compile and maintain the following information that pertains to the three-month period immediately preceding a quarterly submission under subsection (4) of this section:

(A) The number of clients served;

(B) The number of individual administration sessions provided;

(C) The number of group administration sessions provided;

(D) The number of individuals to whom the psilocybin service center denied psilocybin services and the reasons for which psilocybin services were denied;

(E) The number and severity of:

(i) Adverse behavioral reactions experienced by clients, of which the psilocybin service center operator is aware; and

(ii) Adverse medical reactions experienced by clients, of which the psilocybin service center operator is aware; and

(F) Any additional information required by the authority by rule as described in subsection (7) of this section; and

(c) Compute, for the period described in paragraph (b) of this subsection, and maintain the following information:

(A) The average number of times per client that psilocybin services were received;

(B) The average number of clients participating in each group administration session; and

(C) The average dose of psilocybin per client per administration session.

(3) Pursuant to rules adopted by the authority, a client may request that a psilocybin service center operator not submit to the authority information provided by the client as described in subsection (2) of this section.

(4) Subject to subsection (3) of this section, a psilocybin service center operator shall aggregate and submit, in a manner that protects the personally identifiable information of a client or individual from whom information is collected, to the authority on a quarterly basis the information described in subsection (2) of this section. The authority may exempt from the submission requirement information that the authority determines cannot be adequately deidentified.

(5) The authority shall submit the information received under subsection (4) of this section to the Oregon Health and Science University for the purpose of enabling the evaluation of outcomes of psilocybin services provided under ORS 475A.210 to 475A.722.

(6)(a) Except as otherwise required by law, the information collected, maintained and reported under this section is exempt from disclosure under ORS 192.311 to 192.478.

(b) Information collected, computed, maintained or reported under this section may not be sold.

(7) The authority may adopt rules to carry out this section. Rules adopted under this section may include rules to require a psilocybin service center operator to collect and submit to the authority information in addition to that described in subsection (2) of this

section that, in the discretion of the authority, would be beneficial to understanding the outcomes of psilocybin services provided under ORS 475A.210 to 475A.722. [2023 c.150 §2]

Note:

475A.372 becomes operative January 1, 2025. See section 6, chapter 150, Oregon Laws 2023.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.374 - Oregon Health Authority collection, publication of certain data; rules.**

(1) The Oregon Health Authority shall collect and compile data on:

- (a) The total number of licenses issued under ORS 475A.290, 475A.305, 475A.325 and 475A.594, compiled by each license type;
  - (b) The total number of applications submitted for licenses issued under ORS 475A.290, 475A.305, 475A.325 and 475A.594 and the reasons for any denials of licensure;
  - (c) The race, ethnicity, preferred spoken and written languages, sexual orientation and gender identity of each applicant and each licensee; and
  - (d) The total number of disciplinary actions taken by the authority against licensees, compiled by license type and action taken.
- (2) The authority shall aggregate and annually make publicly available the data described in subsection (1)(a) to (c) of this section.
- (3) The authority may adopt rules to carry out this section. [2023 c.150 §3]

Note:

475A.374 becomes operative January 1, 2025. See section 6, chapter 150, Oregon Laws 2023.

Note:

Section 5, chapter 150, Oregon Laws 2023, provides:

Sec. 5.

A psilocybin service center operator and the Oregon Health Authority shall first submit the information and data described in sections 2 [475A.372] and 3 [475A.374] of this 2023 Act not later than the end of the quarter that begins on January 1, 2025. [2023 c.150 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.375 - Powers and duties relating to psilocybin service facilitators.**

The Oregon Health Authority shall:

- (1) Determine the qualifications, training, education and fitness of applicants for licenses to facilitate psilocybin services, giving particular consideration to:
  - (a) Facilitation skills that are affirming, nonjudgmental, and nondirective;
  - (b) Support skills for clients during an administration session, including specialized skills for:
    - (A) Client safety; and
    - (B) Clients who may have a mental health condition;
  - (c) The environment in which psilocybin services should occur; and
  - (d) Social and cultural considerations;
- (2) Formulate a code of professional conduct for psilocybin service facilitators, giving particular consideration to a code of ethics;
- (3) Establish standards of practice and professional responsibility for individuals licensed by the authority to facilitate psilocybin services;
- (4) Select licensing examinations for licenses to facilitate psilocybin services;
- (5) Provide for waivers of examinations as appropriate; and
- (6) Appoint representatives to conduct or supervise examinations of applicants for licenses to facilitate psilocybin services. [2021 c.1 §40]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.380 - Minimum standards of education and training for psilocybin service facilitators; rules.**

- (1) The Oregon Health Authority shall adopt by rule minimum standards of education and training requirements for psilocybin service facilitators.
- (2) The authority shall approve courses for psilocybin service facilitators. To obtain approval of a course, the provider of a course must submit an outline of instruction to the authority. The outline must include the approved courses, total hours of instruction, hours of lectures in theory and the hours of instruction in application of practical skills. [2021 c.1 §41; 2023 c.199 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.385 - Authority to inspect books and premises; notice.**

- (1) The Oregon Health Authority may, after 72 hours' notice, make an examination of the books of a licensee for the purpose of determining compliance with ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.
- (2) The authority may at any time make an examination of a premises for which a license has been issued under ORS 475A.210 to

475A.722 for the purpose of determining compliance with ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722.

(3) The authority may not require the books of a licensee to be maintained on a premises of the licensee. [2021 c.1 §42]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.390 - Authority to require segregation of premises.**

If a licensee holds more than one license issued under ORS 475A.210 to 475A.722 for the same premises, the Oregon Health Authority may require the premises to be segregated into separate areas for conducting the activities permitted under each license as is necessary to protect the public health and safety. [2021 c.1 §43]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.395 - Authority to require general liability insurance.**

As is necessary to protect the public health and safety, the Oregon Health Authority may require a licensee to maintain general liability insurance in an amount that the authority determines is reasonably affordable and available for the purpose of protecting the licensee against damages resulting from a cause of action related to activities undertaken pursuant to the license held by the licensee. [2021 c.1 §44]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.400 - Use of tracking system for psilocybin products; distribution of moneys.**

(1) The Oregon Health Authority shall:

(a) Develop and maintain a system for tracking the transfer of psilocybin products between premises for which licenses have been issued under ORS 475A.210 to 475A.722; or

(b) Enter into an agreement with the Oregon Liquor and Cannabis Commission under which the commission shall permit the authority to use the system developed and maintained under ORS 475C.177 to track the transfer of psilocybin products between premises for which licenses have been issued under ORS 475A.210 to 475A.722.

(2) The purposes of the system include, but are not limited to:

(a) Preventing the diversion of psilocybin products to other states;

(b) Preventing persons from substituting or tampering with psilocybin products;

(c) Ensuring an accurate accounting of the production, processing and sale of psilocybin products;

(d) Ensuring that laboratory testing results are accurately reported; and

(e) Ensuring compliance with ORS 475A.210 to 475A.722, rules adopted under ORS 475A.210 to 475A.722 and any other law of this state that charges the authority or commission with a duty, function or power related to psilocybin.

(3) The system must be capable of tracking, at a minimum:

(a) The manufacturing of psilocybin products;

(b) The sale of psilocybin products by a psilocybin service center operator to a client;

(c) The sale and purchase of psilocybin products between licensees, as permitted by ORS 475A.210 to 475A.722;

(d) The transfer of psilocybin products between premises for which licenses have been issued under ORS 475A.210 to 475A.722; and

(e) Any other information that the authority determines is reasonably necessary to accomplish the duties, functions and powers of the authority under ORS 475A.210 to 475A.722.

(4) Notwithstanding ORS 475A.710, before making any other distribution from the Oregon Psilocybin Account established under ORS 475A.710, the Department of Revenue shall first distribute moneys quarterly from the account to the commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475C.297 for purposes of paying any costs incurred by the commission under subsection (1)(b) of this section. For purposes of estimating the amount of moneys necessary to pay any costs incurred under this section, the commission shall establish a formulary based on expected costs for each licensee that is tracked under this section. The commission shall provide to the Department of Revenue and the Legislative Fiscal Officer before each quarter the estimated amount of moneys necessary to pay costs expected to be incurred under this section and the formulary. [2021 c.1 §45]

Note:

As originally enacted by the people, the leadline to ORS 475A.400 read "Use of Oregon Liquor Control Commission tracking system for psilocybin products; exemptions; rules." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.405 - Authority to prevent diversion of psilocybin products.**

Except as otherwise provided by law, the Oregon Health Authority has any power, and may perform any function, necessary for the authority to prevent the diversion of psilocybin products from licensees to a source that is not operating legally under the laws of this state. [2021 c.1 §46]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A -**

**Psilocybin Regulation Section 475A.410 - Authority to discipline for unregulated commerce.**

In addition to any other disciplinary action available to the Oregon Health Authority under ORS 475A.210 to 475A.722, the authority may immediately restrict, suspend or refuse to renew a license issued under ORS 475A.210 to 475A.722 if circumstances create probable cause for the authority to conclude that a licensee has purchased or received a psilocybin product from an unlicensed source or that a licensee has sold, stored or transferred a psilocybin product in a manner that is not permitted by the licensee's license. [2021 c.1 §47]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.415 - Authority to require financial disclosure from licensee.**

(1) The Oregon Health Authority may require a licensee or applicant for a license under ORS 475A.210 to 475A.722 to submit, in a form and manner prescribed by the authority, to the authority a sworn statement showing:

(a) The name and address of each person that has a financial interest in the business operating or to be operated under the license; and

(b) The nature and extent of the financial interest of each person that has a financial interest in the business operating or to be operated under the license.

(2) The authority may refuse to issue, or may suspend, revoke or refuse to renew, a license issued under ORS 475A.210 to 475A.722 if the authority determines that a person that has a financial interest in the business operating or to be operated under the license committed or failed to commit an act that would constitute grounds for the authority to refuse to issue, or to suspend, revoke or refuse to renew, the license if the person were the licensee or applicant for the license. [2021 c.1 §48]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.420 - Authority to investigate, discipline licensees.**

(1) Notwithstanding the lapse, suspension or revocation of a license issued under ORS 475A.210 to 475A.722, the Oregon Health Authority may:

(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the license; or

(b) Revise or render void an order suspending or revoking the license.

(2) In cases involving the proposed denial of a license issued under ORS 475A.210 to 475A.722, the applicant for licensure may not withdraw the applicant's application. [2021 c.1 §49]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.425 - Authority to investigate, discipline permit holder.**

(1) Notwithstanding the lapse, suspension or revocation of a permit issued under ORS 475A.483, the Oregon Health Authority may:

(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the permit; or

(b) Revise or render void an order suspending or revoking the permit.

(2) In cases involving the proposed denial of a permit issued under ORS 475A.483, the applicant may not withdraw the applicant's application. [2021 c.1 §50]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.430 - Prohibition against manufacturing psilocybin products outdoors.**

A psilocybin product manufacturer that holds a license under ORS 475A.290 may not manufacture psilocybin products outdoors. [2021 c.1 §52]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.435 - Restrictions on delivery or receipt; waiver by authority.**

(1) A psilocybin product manufacturer that holds a license under ORS 475A.290:

(a) May deliver psilocybin products only to or on a premises for which a license has been issued under ORS 475A.290 or 475A.305; and

(b) May receive psilocybin products only from a psilocybin product manufacturer that holds a license under ORS 475A.290.

(2) A psilocybin service center operator that holds a license under ORS 475A.305:

(a) May deliver psilocybin products only to or on a premises for which a license has been issued under ORS 475A.305; and

(b) May receive psilocybin products only from a psilocybin product manufacturer that holds a license under ORS 475A.290 or a psilocybin service center operator that holds a license under ORS 475A.305.

(3) The sale of psilocybin products to a client by a psilocybin service center operator that holds a license issued under ORS 475A.305 must be restricted to the premises for which the license has been issued.

(4) The Oregon Health Authority may by order waive the requirements of subsections (1) and (2) of this section to ensure compliance with ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722. An order issued under this subsection does not constitute a waiver of any other requirement of ORS 475A.210 to 475A.722 or any other rule adopted under ORS 475A.210 to 475A.722. [2021 c.1 §53]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.440 - Prohibition against selling or delivering psilocybin products to persons under 21 years of age.**

A licensee or licensee representative may not sell or deliver a psilocybin product to a person under 21 years of age. [2021 c.1 §54]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.445 - Identification requirement; rules.**

(1) Subject to subsection (2) of this section, a licensee or licensee representative, before selling or providing a psilocybin product to another person, must require the person to produce one of the following pieces of identification:

- (a) The person's passport.
- (b) The person's driver license, issued by the State of Oregon or another state of the United States.
- (c) An identification card issued under ORS 807.400.
- (d) A United States military identification card.
- (e) An identification card issued by a federally recognized Indian tribe.
- (f) Any other identification card issued by a state or territory of the United States that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

(2) The Oregon Health Authority may adopt rules exempting a licensee or licensee representative from this section.

(3) A client may not be required to procure for the purpose of acquiring or purchasing a psilocybin product a piece of identification other than a piece of identification described in subsection (1) of this section. [2021 c.1 §55]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.450 - Confidentiality of client communications, information; exceptions.**

A psilocybin service center operator, a psilocybin service facilitator, or any employee of a psilocybin service center operator or psilocybin service facilitator may not disclose any information that may be used to identify a client, or any communication made by a client during the course of providing psilocybin services or selling psilocybin products to the client, except:

- (1) When the client or a person authorized to act on behalf of the client gives consent to the disclosure;
- (2) When the client initiates legal action or makes a complaint against the psilocybin service center operator, the psilocybin service facilitator, or the employee;
- (3) When the communication reveals the intent to commit a crime harmful to the client or others;
- (4) When the communication reveals that a minor may have been a victim of a crime or physical, sexual or emotional abuse or neglect; or
- (5) When responding to an inquiry by the Oregon Health Authority made during the course of an investigation into the conduct of the psilocybin service center operator, the psilocybin service facilitator, or the employee under ORS 475A.210 to 475A.722. [2021 c.1 §56]

Note:

The amendments to 475A.450 by section 4, chapter 150, Oregon Laws 2023, become operative January 1, 2025. See section 6, chapter 150, Oregon Laws 2023. The text that is operative on and after January 1, 2025, is set forth for the user's convenience.

A psilocybin service center operator, a psilocybin service facilitator or any employee of a psilocybin service center operator or psilocybin service facilitator may not disclose any information that may be used to identify a client, or any communication made by a client during the course of providing psilocybin services or selling psilocybin products to the client, except when:

- (1) The client or a person authorized to act on behalf of the client gives consent to the disclosure;
- (2) The client initiates legal action or makes a complaint against the psilocybin service center operator, the psilocybin service facilitator or the employee;
- (3) The communication reveals the intent to commit a crime harmful to the client or others;
- (4) The communication reveals that a minor may have been a victim of a crime or physical, sexual or emotional abuse or neglect;
- (5) Responding to an inquiry by the Oregon Health Authority made during the course of an investigation into the conduct of the psilocybin service center operator, the psilocybin service facilitator or the employee under ORS 475A.210 to 475A.722; or
- (6) Reporting to the authority the data described in ORS 475A.372.

Note:

As originally enacted by the people, the leadline to ORS 475A.450 read "Confidentiality of information and communications by clients; exceptions." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.455 - Prohibition against psilocybin service facilitator consuming psilocybin product.**

A psilocybin service facilitator may not consume a psilocybin product during an administration session that the psilocybin service facilitator is supervising. [2021 c.1 §58]

Note:

As originally enacted by the people, the leadline to ORS 475A.455 read "Prohibition against psilocybin service facilitator

consuming a psilocybin product during an administration session." The headline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.460 - Prohibition against employing persons under 21 years of age.**

(1) A licensee may not employ a person under 21 years of age at a premises for which a license has been issued under ORS 475A.210 to 475A.722.

(2) During an inspection of a premises for which a license has been issued under ORS 475A.210 to 475A.722, the Oregon Health Authority may require proof that a person performing work at the premises is 21 years of age or older. If the person does not provide the authority with acceptable proof of age upon request, the authority may require the person to immediately cease any activity and leave the premises until the authority receives acceptable proof of age. This subsection does not apply to a person temporarily at the premises to make a service, maintenance or repair call or for other purposes independent of the premises operations.

(3) If a person performing work has not provided proof of age requested by the authority under subsection (2) of this section, the authority may request that the licensee provide proof that the person is 21 years of age or older. Failure of the licensee to respond to a request made under this subsection by providing acceptable proof of age for a person is prima facie evidence that the licensee has allowed the person to perform work at the premises for which a license has been issued under ORS 475A.210 to 475A.722 in violation of the minimum age requirement. [2021 c.1 §59]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.465 - Prohibition against obfuscating mark or label or using mark or label to deceive.**

(1) A licensee may not use or allow the use of a mark or label on the container of a psilocybin product that is kept for sale if the mark or label does not precisely and clearly indicate the nature of the container's contents or if the mark or label in any way might deceive a person about the nature, composition, quantity, age or quality of the container's contents.

(2) The Oregon Health Authority may prohibit a licensee from selling any psilocybin product that in the authority's judgment is deceptively labeled or contains injurious or adulterated ingredients. [2021 c.1 §60]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.468 - Requirement that psilocybin products comply with minimum standards.**

(1) A psilocybin product may not be sold or offered for sale within this state unless the psilocybin product complies with the minimum standards prescribed by the statutory laws of this state.

(2) The Oregon Health Authority may prohibit the sale of a psilocybin product by a psilocybin service center operator for a reasonable period of time for the purpose of determining whether the psilocybin product complies with the minimum standards prescribed by the statutory laws of this state. [2021 c.1 §61]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.471 - Other prohibitions.**

(1) A person may not make false representations or statements to the Oregon Health Authority in order to induce or prevent action by the authority.

(2) A licensee may not maintain a noisy, lewd, disorderly or insanitary establishment or supply impure or otherwise deleterious psilocybin products.

(3) A licensee may not misrepresent to a person or to the public any psilocybin products. [2021 c.1 §62]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.474 - Purpose of license issued under ORS 475A.210 to 475A.722.**

A license issued under ORS 475A.210 to 475A.722 serves the purpose of exempting the person that holds the license from the criminal laws of this state for possession, delivery or manufacture of psilocybin products, provided that the person complies with all state laws and rules applicable to licensees. [2021 c.1 §63]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.477 - Grounds for revocation, suspension or restriction of license.**

The Oregon Health Authority may revoke, suspend or restrict a license issued under ORS 475A.210 to 475A.722 or require a licensee or licensee representative to undergo training if the authority finds or has reasonable ground to believe any of the following to be true:

(1) That the licensee or licensee representative:

(a) Has violated a provision of ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722, including any code of professional conduct or code of ethics.

(b) Has made any false representation or statement to the authority in order to induce or prevent action by the authority.

(c) Is insolvent or incompetent or physically unable to carry on the management of the establishment of the licensee.

(d) Is in the habit of using alcoholic liquor, habit-forming drugs, marijuana, psilocybin products or controlled substances to excess.

- (e) Has misrepresented to a person or the public any psilocybin products sold by the licensee or licensee representative.
- (f) Since the issuance of the license, has been convicted of a felony, of violating any of the psilocybin products laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance committed on the premises for which the license has been issued.
- (2) That there is any other reason that, in the opinion of the authority, based on public convenience or necessity, warrants revoking, suspending or restricting the license. [2021 c.1 §64]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.480 - Permit required to perform work for or on behalf of licensee.**

(1) An individual who performs work for or on behalf of a licensee must have a valid permit issued by the Oregon Health Authority under ORS 475A.483 if the individual participates in:

- (a) The provision of psilocybin services at the premises for which the license has been issued;
- (b) The possession, manufacturing, securing or selling of psilocybin products at the premises for which the license has been issued;
- (c) The recording of the possession, manufacturing, securing or selling of psilocybin products at the premises for which the license has been issued; or
- (d) The verification of any document described in ORS 475A.445.

(2) A licensee must verify that an individual has a valid permit issued under ORS 475A.483 before allowing the individual to perform any work described in subsection (1) of this section at the premises for which the license has been issued. [2021 c.1 §65]

Note:

As originally enacted by the people, the leadline to ORS 475A.480 read "Permit required to perform work for or on behalf of a licensee." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.483 - Issuing, renewing permits; fees; rules.**

(1) The Oregon Health Authority shall issue permits to qualified applicants to perform work described in ORS 475A.480. The authority shall adopt rules establishing:

- (a) The qualifications for performing work described in ORS 475A.480;
- (b) The term of a permit issued under this section;
- (c) Procedures for applying for and renewing a permit issued under this section; and
- (d) Reasonable application, issuance and renewal fees for a permit issued under this section.

(2)(a) The authority may require an individual applying for a permit under this section to successfully complete a course, made available by or through the authority, through which the individual receives training on:

- (A) Checking identification;
- (B) Detecting intoxication;
- (C) Handling psilocybin products;
- (D) If applicable, the manufacturing of psilocybin products;
- (E) The content of ORS 475A.210 to 475A.722 and rules adopted under ORS 475A.210 to 475A.722; or
- (F) Any matter deemed necessary by the authority to protect the public health and safety.

(b) The authority or other provider of a course may charge a reasonable fee for the course.

(c) The authority may not require an individual to successfully complete a course more than once, except that:

(A) As part of a final order suspending a permit issued under this section, the authority may require a permit holder to successfully complete the course as a condition of lifting the suspension; and

(B) As part of a final order revoking a permit issued under this section, the authority shall require an individual to successfully complete the course prior to applying for a new permit.

(3) The authority shall conduct a criminal records check under ORS 181A.195 on an individual applying for a permit under this section.

(4) Subject to the applicable provisions of ORS chapter 183, the authority may suspend, revoke or refuse to issue or renew a permit if the individual who is applying for or who holds the permit:

(a) Is convicted of a felony or is convicted of an offense under ORS 475A.210 to 475A.722, except that the authority may not consider a conviction for an offense under ORS 475A.210 to 475A.722 if the date of the conviction is two or more years before the date of the application or renewal;

(b) Violates any provision of ORS 475A.210 to 475A.722 or any rule adopted under ORS 475A.210 to 475A.722; or

(c) Makes a false statement to the authority.

(5) A permit issued under this section is a personal privilege and permits work described under ORS 475A.480 only for the individual who holds the permit. [2021 c.1 §66]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.486 - Authority to require fingerprints of individuals listed on application.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may

require the fingerprints of any individual listed on an application submitted under ORS 475A.483. [2021 c.1 §67]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.489 - Whistleblower protection for employees.**

(1) It is an unlawful employment practice for a licensee to discharge, demote, suspend or in any manner discriminate or retaliate against an employee of the licensee with regard to promotion, compensation or other terms, conditions or privileges of employment on the basis that the employee has in good faith reported information to the Oregon Health Authority that the employee believes is evidence of a violation of ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722.

(2) This section is subject to enforcement under ORS chapter 659A. [2021 c.1 §68]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.492 - Psilocybin Control and Regulation Fund.**

The Psilocybin Control and Regulation Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Psilocybin Control and Regulation Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Health Authority to administer and enforce ORS 475A.210 to 475A.722. [2021 c.1 §69]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.495 - Prohibition against person under 21 years of age entering premises; penalty.**

(1) Except as authorized by the Oregon Health Authority by rule, or as necessary in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a premises that is posted or otherwise identified as being prohibited to the use of persons under 21 years of age.

(2) A person who violates subsection (1) of this section commits a Class B violation.

(3) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the authority or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of psilocybin products to persons who are under 21 years of age.

(4) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of psilocybin products to persons who are under 21 years of age.

(5)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance because that person consumed a psilocybin product and the evidence of the violation was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance because the person consumed a psilocybin product and the evidence of the violation was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section. [2021 c.1 §70]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.498 - Use of psilocybin product allowed only at service center and only under facilitator supervision.**

A client may purchase, possess, and consume a psilocybin product:

(1) Only at a psilocybin service center; and

(2) Only under the supervision of a psilocybin service facilitator. [2021 c.1 §57]

Note:

As originally enacted by the people, the leadline to ORS 475A.498 read "Prohibition against purchasing, possessing, and consuming a psilocybin product outside a psilocybin service center." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.501 - Prohibition against producing identification that falsely indicates age; protections for reliance on identification.**

(1) A person may not produce any piece of identification that falsely indicates the person's age.

(2) Violation of this section is a Class A misdemeanor.

(3) If a piece of identification is offered as evidence in any administrative or criminal prosecution of a licensee or licensee representative for sale or service of a psilocybin product to a person under 21 years of age, the licensee or licensee representative is not guilty of any offense prohibiting a person from selling or serving a psilocybin product to a person under 21 years of age unless it is demonstrated that a reasonable person would have determined that the identification exhibited by the person under 21 years of age was altered, or that the identification exhibited by the person under 21 years of age did not accurately describe the person to whom the psilocybin product was sold or served. [2021 c.1 §71]

Note:

As originally enacted by the people, the leadline to ORS 475A.501 read "Prohibition against producing identification that falsely indicates age; protections on reliance on identification." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.504 - Prohibition regarding person who is visibly intoxicated; penalty.**

(1) A person may not sell, give or otherwise make available a psilocybin product to a person who is visibly intoxicated.

(2) Violation of this section is a Class A misdemeanor. [2021 c.1 §72]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.507 - Prohibition against giving psilocybin product as prize; penalty.**

(1) A psilocybin product may not be given as a prize, premium or consideration for a lottery, contest, game of chance, game of skill or competition of any kind.

(2) Violation of this section is a Class A violation. [2021 c.1 §73]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.510 - Authority to issue subpoenas.**

For purposes of ORS 475A.210 to 475A.722, the provisions of ORS 183.440 apply to subpoenas issued by the Oregon Health Authority and to subpoenas issued by an authorized agent of the authority. [2021 c.1 §74]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.513 - Civil penalty for violating ORS 475A.210 to 475A.722.**

In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475A.210 to 475A.722 or a rule adopted under ORS 475A.210 to 475A.722 a civil penalty that does not exceed \$5,000 for each violation. The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

Moneys collected under this section shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492. [2021 c.1 §75]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.516 - Authority of law enforcement to enforce ORS 475A.210 to 475A.722.**

The law enforcement officers of this state may enforce ORS 475A.210 to 475A.722 and assist the Oregon Health Authority in detecting violations of ORS 475A.210 to 475A.722 and apprehending offenders. A law enforcement officer who has notice, knowledge or reasonable ground of suspicion of a violation of ORS 475A.210 to 475A.722 shall immediately notify the district attorney who has jurisdiction over the violation and furnish the district attorney who has jurisdiction over the violation with names and addresses of any witnesses to the violation or other information related to the violation. [2021 c.1 §76]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.519 - Duty to notify Oregon Health Authority of conviction of licensee.**

The county courts, district attorneys and municipal authorities, immediately upon the conviction of a licensee of a violation of ORS 475A.210 to 475A.722, or of a violation of any other law of this state or ordinance of a city or county located in this state an element of which is the possession, delivery or manufacture of a psilocybin product, shall notify the Oregon Health Authority of the conviction. [2021 c.1 §77]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.521 - Penalty for violation of rule adopted under ORS 475A.235.**

Subject to ORS 153.022, violation of a rule adopted under ORS 475A.235 (2)(c) is a Class C violation. [2021 c.1 §78]

Note:

As originally enacted by the people, the leadline to ORS 475A.521 read "Penalty for violating sections 3 to 129 of this 2020 Act." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.524 - Preemption of municipal charter amendments and local ordinances.**

The provisions of ORS 475A.210 to 475A.722 are designed to operate uniformly throughout the state and are paramount and superior to and fully replace and supersede any municipal charter amendment or local ordinance inconsistent with the provisions of ORS 475A.210 to 475A.722. Amendments and ordinances that are inconsistent with the provisions of ORS 475A.210 to 475A.722 are repealed. [2021 c.1 §79]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A -**

**Psilocybin RegulationSection 475A.527 - No local licenses.**

The authority to require a license for the manufacturing or sale of psilocybin products in this state, or for the provision of psilocybin services in this state, is vested solely in the Legislative Assembly. [2021 c.1 §80]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475A - Psilocybin RegulationSection 475A.530 - Local time, place and manner regulations.**

(1) For purposes of this section, "reasonable regulations" includes:

- (a) Reasonable conditions on the manner in which a psilocybin product manufacturer that holds a license issued under ORS 475A.290 may manufacture psilocybin products;
  - (b) Reasonable conditions on the manner in which a psilocybin service center operator that holds a license issued under ORS 475A.305 may provide psilocybin services;
  - (c) Reasonable limitations on the hours during which a premises for which a license has been issued under ORS 475A.210 to 475A.722 may operate;
  - (d) Reasonable requirements related to the public's access to a premises for which a license has been issued under ORS 475A.210 to 475A.722; and
  - (e) Reasonable limitations on where a premises for which a license may be issued under ORS 475A.210 to 475A.722 may be located.
- (2) Notwithstanding ORS 30.935, 215.253 (1) or 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under ORS 475A.210 to 475A.722 if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under ORS 475A.305 from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under ORS 475A.305. [2021 c.1 §81]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475A - Psilocybin RegulationSection 475A.534 - No local tax or fee.**

- (1) The authority to impose a tax or fee on the manufacturing or sale of psilocybin products in this state, or on the provision of psilocybin services in this state, is vested solely in the Legislative Assembly.
  - (2) A county, city or other municipal corporation or district may not adopt or enact ordinances imposing a tax or fee on the manufacturing or sale of psilocybin products in this state or on the provision of psilocybin services in this state. [2021 c.1 §82]
- Note:

As originally enacted by the people, the leadline to ORS 475A.534 read "Local tax or fee; referral to electors for approval." The leadline was changed by editorial action.

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475A - Psilocybin RegulationSection 475A.538 - Repeal of city, county ordinance that prohibits certain establishments.**

- (1) The governing body of a city or county may repeal an ordinance that prohibits the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:
  - (a) Psilocybin product manufacturers that hold a license issued under ORS 475A.290;
  - (b) Psilocybin service center operators that hold a license issued under ORS 475A.305; or
  - (c) Any combination of the entities described in this subsection.
- (2) If the governing body of a city or county repeals an ordinance under this section, the governing body must provide the text of the ordinance to the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a premises for which a license has been issued under ORS 475A.210 to 475A.722. [2021 c.1 §83]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475A - Psilocybin RegulationSection 475A.542 - Duty of Oregon Liquor and Cannabis Commission to assist.**

The Oregon Liquor and Cannabis Commission shall assist and cooperate with the Oregon Health Authority and the State Department of Agriculture to the extent necessary for the authority and the department to carry out the duties of the authority and the department under ORS 475A.210 to 475A.722. [2021 c.1 §84]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475A - Psilocybin RegulationSection 475A.546 - Duty of State Department of Agriculture to assist.**

The State Department of Agriculture shall assist and cooperate with the Oregon Health Authority to the extent necessary for the authority to carry out the duties of the authority under ORS 475A.210 to 475A.722. [2021 c.1 §85]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475A - Psilocybin RegulationSection 475A.550 - Authority of State Department of Agriculture.**

The State Department of Agriculture may possess, test and dispose of psilocybin products. [2021 c.1 §86]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.554 - Prohibition against refusing to perform duties on basis that certain conduct is prohibited by federal law.**

(1) The Oregon Health Authority, the State Department of Agriculture and the Oregon Liquor and Cannabis Commission may not refuse to perform any duty under ORS 475A.210 to 475A.722 on the basis that manufacturing, distributing, dispensing, possessing or using psilocybin products is prohibited by federal law.

(2) The authority may not revoke or refuse to issue or renew a license or permit under ORS 475A.210 to 475A.722 on the basis that manufacturing, distributing, dispensing, possessing or using psilocybin products is prohibited by federal law. [2021 c.1 §87]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.558 - Immunity for state agencies, officers and employees in performance of duties.**

A person may not sue the Oregon Health Authority, the State Department of Agriculture, the Higher Education Coordinating Commission or a member of the commission or the Oregon Liquor and Cannabis Commission or a member of the commission, or any employee of the authority, department or commissions, for performing or omitting to perform any duty, function or power of the authority, department or commissions set forth in ORS 475A.210 to 475A.722 or in any other law of this state requiring the authority, department or commissions to perform a duty, function or power related to psilocybin products. [2021 c.1 §88; 2023 c.555 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.562 - Authority to purchase, possess, seize or dispose of psilocybin products.**

Subject to any applicable provision of ORS chapter 131A or 183, any state officer, board, commission, corporation, institution, department or other state body, and any local officer, board, commission, institution, department or other local government body, that is authorized by the statutory laws of this state to perform a duty, function or power with respect to a psilocybin product, may purchase, possess, seize or dispose of the psilocybin product as the state officer, board, commission, corporation, institution, department or other state body, or the local officer, board, commission, institution, department or other local government body, considers necessary to ensure compliance with and enforce the applicable statutory law or any rule adopted under the applicable statutory law. [2021 c.1 §89]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.566 - Authority of Governor to suspend license or permit without notice.**

In case of invasion, disaster, insurrection or riot, or imminent danger of invasion, disaster, insurrection or riot, the Governor may, for the duration of the invasion, disaster, insurrection or riot, or imminent danger, immediately and without notice suspend, in the area involved, any license or permit issued under ORS 475A.210 to 475A.722. [2021 c.1 §90]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.570 - Psilocybin-producing fungi as crop; exceptions to permitted uses.**

(1) Psilocybin-producing fungi is:

- (a) A crop for the purposes of farm use as defined in ORS 215.203;
- (b) A crop for purposes of a farm and farming practice, both as defined in ORS 30.930;
- (c) A product of farm use as described in ORS 308A.062; and
- (d) The product of an agricultural activity for purposes of ORS 568.909.

(2) Notwithstanding ORS chapters 195, 196, 197, 197A, 215 and 227, the following are not permitted uses on land designated for exclusive farm use:

- (a) A new dwelling used in conjunction with a psilocybin-producing fungi crop;
- (b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a psilocybin-producing fungi crop; and
- (c) Subject to subsection (3) of this section, a commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a psilocybin-producing fungi crop.

(3) The operation of a psilocybin service center may be carried on in conjunction with a psilocybin-producing fungi crop.

(4) A county may allow the manufacture of psilocybin products as a farm use on land zoned for farm or forest use in the same manner as the manufacture of psilocybin products is allowed in exclusive farm use zones under this section and ORS 215.213, 215.283 and 475C.053.

(5) This section applies to psilocybin product manufacturers that hold a license under ORS 475A.290. [2021 c.1 §91]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.574 - Regulation of psilocybin products as food or other commodity subject to regulation by State Department of Agriculture.**

(1) Notwithstanding the authority granted to the State Department of Agriculture under ORS chapters 571, 618 and 633 and ORS 632.275 to 632.290, 632.450 to 632.490, 632.516 to 632.625, 632.705 to 632.815, 632.835 to 632.849 and 632.900 to 632.985, the department may not exercise authority over psilocybin products or a licensee, except that ORS 618.121 to 618.161, 618.991, 618.995, 633.311 to 633.479, 633.992 and 633.994 apply to psilocybin products or to a licensee.

(2) In exercising its authority under ORS chapter 616, the department may not:

(a) Establish standards for psilocybin products as a food additive, as defined in ORS 616.205;

(b) Consider psilocybin products to be an adulterant, unless the concentration of a psilocybin product exceeds acceptable levels established by the Oregon Health Authority by rule; or

(c) Apply ORS 616.256, 616.265, 616.270 or 616.275 to psilocybin products or enforce ORS 616.256, 616.265, 616.270 or 616.275 with respect to psilocybin products. [2021 c.1 §92]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.578 - Enforceability of contracts.**

A contract is not unenforceable on the basis that manufacturing, distributing, dispensing, possessing or using psilocybin products is prohibited by federal law. [2021 c.1 §93]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.582 - Oregon Health Authority hotline for verification of license.**

The Oregon Health Authority shall maintain a telephone hotline for the following persons to inquire if an address is the location of a premises for which a license has been issued under ORS 475A.210 to 475A.722 or is the location of a premises for which an application for licensure has been submitted under ORS 475A.245:

(1) A person designated by a city or a county;

(2) A person designated by the Water Resources Department; and

(3) A person designated by the watermaster of any water district. [2021 c.1 §94]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.586 - Certain information related to licensure exempt from disclosure.**

(1) Subject to subsection (2) of this section, information is exempt from public disclosure under ORS 192.311 to 192.478 if the information is:

(a) Personally identifiable information, as defined in ORS 432.005;

(b) The address of a premises for which a license has been issued or for which an applicant has proposed licensure under ORS 475A.290, 475A.305 or 475A.594;

(c) Related to the security plan or the operational plan for a premises for which a license has been issued or for which an applicant has proposed licensure under ORS 475A.290, 475A.305 or 475A.594; or

(d) Related to any record that the Oregon Health Authority determines contains proprietary information of a licensee.

(2) The exemption from public disclosure as provided by this section does not apply to:

(a) The name of an individual listed on an application, if the individual is a direct owner of the business operating or to be operated under the license; or

(b) A request for information if the request is made by a law enforcement agency.

(3) For purposes of subsection (2)(a) of this section, an individual is not a direct owner of the business operating or to be operated under the license if:

(a) The direct owner of the business operating or to be operated under the license is a legal entity; and

(b) The individual is merely a general partner, limited partner, member, shareholder, or other direct or indirect owner of the legal entity. [2021 c.1 §95]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.590 - Testing standards and processes; rules.**

(1) As is necessary to protect the public health and safety, and in consultation with the Oregon Liquor and Cannabis Commission and the State Department of Agriculture, the Oregon Health Authority shall adopt rules:

(a) Establishing standards for testing psilocybin products.

(b) Identifying appropriate tests for psilocybin products, depending on the type of psilocybin product and the manner in which the psilocybin product was manufactured, that are necessary to protect the public health and safety, which may include, but not be limited to, tests for:

(A) Microbiological contaminants;

(B) Pesticides;

(C) Other contaminants;

(D) Solvents or residual solvents; and

(E) Psilocybin concentration.



- (c) Establishing procedures for determining batch sizes and for sampling psilocybin products.
- (d) Establishing different minimum standards for different varieties of psilocybin products.
- (2) In addition to the testing requirements established under subsection (1) of this section, the authority may require psilocybin products to be tested in accordance with any applicable law of this state, or any applicable rule adopted under a law of this state, related to the production and processing of food products or commodities.
- (3) In adopting rules under ORS 475A.210 to 475A.722, the authority may require a psilocybin product manufacturer that holds a license under ORS 475A.290 to test psilocybin products before selling or transferring the psilocybin products.
- (4) The authority may conduct random testing of psilocybin products for the purpose of determining whether a licensee subject to testing under subsection (3) of this section is in compliance with this section.
- (5) In adopting rules to implement this section, the authority may not require a psilocybin product to undergo the same test more than once unless the psilocybin product is processed into a different type of psilocybin product or the condition of the psilocybin product has fundamentally changed.
- (6) The testing of psilocybin products as required by this section must be conducted by a laboratory licensed by the authority under ORS 475A.594 and accredited by the authority under ORS 475A.606.
- (7) In adopting rules under subsection (1) of this section, the authority:
  - (a) Shall consider the cost of a potential testing procedure and how that cost will affect the cost to the ultimate client; and
  - (b) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [2021 c.1 §96]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.594 - Laboratory licensure; qualifications; fees; rules.**

- (1) A laboratory that conducts testing of psilocybin products as required by ORS 475A.590 must have a license to operate at the premises at which the psilocybin products are tested.
- (2) For purposes of this section, the Oregon Health Authority shall adopt rules establishing:
  - (a) Qualifications to be licensed under this section, including that an applicant for licensure under this section must be accredited by the authority as described in ORS 475A.606;
  - (b) Processes for applying for and renewing a license under this section;
  - (c) Fees for applying for, receiving and renewing a license under this section; and
  - (d) Procedures for:
    - (A) Tracking psilocybin products to be tested;
    - (B) Documenting and reporting test results; and
    - (C) Disposing of samples of psilocybin products that have been tested.
- (3) A license issued under this section must be renewed annually.
- (4) The authority may inspect premises licensed under this section to ensure compliance with ORS 475A.590 to 475A.622 and rules adopted under ORS 475A.590 to 475A.622.
- (5) Subject to the applicable provisions of ORS chapter 183, the authority may refuse to issue or renew, or may suspend or revoke, a license issued under this section for violation of a provision of ORS 475A.210 to 475A.722 or a rule adopted under a provision of ORS 475A.210 to 475A.722.
- (6) Fees adopted under subsection (2)(c) of this section must be reasonably calculated to pay the expenses incurred by the authority under ORS 475A.210 to 475A.722.
- (7) Fee moneys collected under this section shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under ORS 475A.210 to 475A.722. [2021 c.1 §97]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.598 - Authority to require fingerprints of applicants and other individuals.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of any individual listed on an application submitted under ORS 475A.594. The powers conferred on the authority under this section include the power to require the fingerprints of:

- (1) If the applicant is a limited partnership, each general partner of the limited partnership;
- (2) If the applicant is a manager-managed limited liability company, each manager of the limited liability company;
- (3) If the applicant is a member-managed limited liability company, each voting member of the limited liability company;
- (4) If the applicant is a corporation, each director and officer of the corporation; and
- (5) Any individual who holds a financial interest of 10 percent or more in the person applying for the license. [2021 c.1 §98]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.602 - Statement of applicant for license under ORS 475A.594.**

- (1) The Oregon Health Authority may require a licensee or applicant for a license under ORS 475A.594 to submit, in a form and manner prescribed by the authority, to the authority a sworn statement showing:
  - (a) The name and address of each person that has a financial interest in the business operating or to be operated under the license;

and

(b) The nature and extent of the financial interest of each person that has a financial interest in the business operating or to be operated under the license.

(2) The authority may refuse to issue, or may suspend, revoke or refuse to renew, a license issued under ORS 475A.594 if the authority determines that a person that has a financial interest in the business operating or to be operated under the license committed or failed to commit an act that would constitute grounds for the authority to refuse to issue, or to suspend, revoke or refuse to renew, the license if the person were the licensee or applicant for the license. [2021 c.1 §99]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.606 - Laboratory accreditation; qualifications; fees.**

(1) A laboratory that conducts testing of psilocybin products as required by ORS 475A.590 must be accredited under ORS 438.605 to 438.620 and meet other qualifications as established by the Oregon Health Authority under this section.

(2) In addition to other qualifications required pursuant to ORS 438.605 to 438.620, the authority shall require an applicant for accreditation under ORS 438.605 to 438.620 for purposes related to the testing of psilocybin products to:

(a) Complete an application;

(b) Undergo an onsite inspection; and

(c) Meet other applicable requirements, specifications and guidelines for testing psilocybin products, as determined to be appropriate by the authority by rule.

(3) The authority may inspect premises licensed under ORS 475A.594 to ensure compliance with ORS 475A.590 to 475A.622 and rules adopted under ORS 475A.590 to 475A.622.

(4) Subject to the applicable provisions of ORS chapter 183, the authority may refuse to issue or renew, or may suspend or revoke, a laboratory's accreditation granted under this section and ORS 438.605 to 438.620 for violation of a provision of ORS 475A.210 to 475A.722 or a rule adopted under a provision of ORS 475A.210 to 475A.722.

(5) In establishing fees under ORS 438.620 for laboratories that test psilocybin products, the authority shall establish fees that are reasonably calculated to pay the expenses incurred by the authority under this section and ORS 438.605 to 438.620 in accrediting laboratories that test psilocybin products. [2021 c.1 §100]

Note:

As originally enacted by the people, the leadline to ORS 475A.606 read "Laboratory accreditation; qualifications; fees; rules." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.610 - Authority of Oregon Health Authority to discipline licensees of authority.**

Subject to the applicable provisions of ORS chapter 183, if an applicant or licensee violates a provision of ORS 475A.590 to 475A.622 or a rule adopted under a provision of ORS 475A.590 to 475A.622, the Oregon Health Authority may refuse to issue or renew, or may suspend or revoke, a license issued under ORS 475A.290, 475A.305, 475A.325 or 475A.594. [2021 c.1 §101]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.614 - Authority of Oregon Health Authority over certain persons, license actions.**

(1) Notwithstanding the lapse, suspension or revocation of a license issued under ORS 475A.594, the Oregon Health Authority may:

(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the license; or

(b) Revise or render void an order suspending or revoking the license.

(2) In cases involving the proposed denial of a license issued under ORS 475A.210 to 475A.722, the applicant for licensure may not withdraw the applicant's application. [2021 c.1 §102]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.618 - Civil penalty for violating ORS 475A.590 to 475A.622.**

(1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475A.590 to 475A.622, or a rule adopted under a provision of ORS 475A.590 to 475A.622, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under ORS 475A.210 to 475A.722. [2021 c.1 §103]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.622 - Exemption from criminal liability.**

A person who holds a license under ORS 475A.594, and an employee of or other person who performs work for a person who holds a license under ORS 475A.594, are exempt from the criminal laws of this state for possession, delivery or manufacture of

psilocybin, aiding and abetting another in the possession, delivery or manufacture of psilocybin, or any other criminal offense in which possession, delivery or manufacture of psilocybin is an element, while performing activities related to testing as described in ORS 475A.590 to 475A.622. [2021 c.1 §104]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.626 - Labeling requirements; rules.**

(1) As is necessary to protect the public health and safety, and in consultation with the State Department of Agriculture and the Oregon Liquor and Cannabis Commission, the Oregon Health Authority shall adopt rules establishing standards for the labeling of psilocybin products, including but not limited to:

(a) Ensuring that psilocybin products have labeling that communicates:

(A) Health and safety warnings;

(B) If applicable, activation time;

(C) Potency;

(D) If applicable, serving size and the number of servings included in a psilocybin product;

(E) Content of the psilocybin product; and

(b) Labeling that is in accordance with applicable state food labeling requirements for the same type of food product or potable liquid when the food product or potable liquid does not contain psilocybin.

(2) In adopting rules under ORS 475A.210 to 475A.722, the authority shall require all psilocybin products sold or transferred by a psilocybin service center that holds a license issued under ORS 475A.305 to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under subsection (1) of this section, the authority:

(a) May establish different labeling standards for different varieties and types of psilocybin products;

(b) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate client; and

(c) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [2021 c.1 §105]

Note:

As originally enacted by the people, the division heading before ORS 475A.626 read "Packaging, Labeling and Dosage of Psilocybin Products." The division heading was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.630 - Authority to require preapproval of labels; fees.**

(1) The Oregon Health Authority may by rule require a licensee to submit a label intended for use on a psilocybin product for preapproval by the authority before the licensee may sell or transfer a psilocybin product bearing the label. The authority shall determine whether a label submitted under this section complies with ORS 475A.626 and any rule adopted under ORS 475A.626.

(2) The authority may impose a fee for submitting a label for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section. [2021 c.1 §106]

Note:

As originally enacted by the people, the leadline to ORS 475A.630 read "Authority to require preapproval of labels." The leadline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.634 - Packaging requirements; rules.**

(1) As is necessary to protect the public health and safety, and in consultation with the State Department of Agriculture and the Oregon Liquor and Cannabis Commission, the Oregon Health Authority shall adopt rules establishing standards for the packaging of psilocybin products, including but not limited to ensuring that psilocybin products are not marketed in a manner that:

(a) Is untruthful or misleading; or

(b) Otherwise creates a significant risk of harm to public health and safety.

(2) In adopting rules under ORS 475A.210 to 475A.722, the authority shall require all psilocybin products sold or transferred by a psilocybin service center that holds a license issued under ORS 475A.305 to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under subsection (1) of this section, the authority:

(a) May establish different packaging standards for different varieties and types of psilocybin products;

(b) May consider the effect on the environment of requiring certain packaging;

(c) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate client; and

(d) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [2021 c.1 §107]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.638 - Authority to require preapproval of packaging; fees.**

(1) The Oregon Health Authority may by rule require a licensee to submit packaging intended for a psilocybin product for

preapproval by the authority before the licensee may sell or transfer a psilocybin product packaged in the packaging. The authority shall determine whether packaging submitted under this section complies with ORS 475A.634 and any rule adopted under ORS 475A.634.

(2) The authority may impose a fee for submitting packaging for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section. [2021 c.1 §108]

Note:

As originally enacted by the people, the headline to ORS 475A.638 read "Authority to require preapproval of packaging." The headline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.642 - Concentration and servings limits; rules.**

(1) The Oregon Health Authority shall adopt rules establishing:

(a) The maximum concentration of psilocybin that is permitted in a single serving of a psilocybin product; and

(b) The number of servings that are permitted in a psilocybin product package.

(2) In adopting rules under ORS 475A.210 to 475A.722, the authority shall require all psilocybin products sold or transferred by a psilocybin service center that holds a license under ORS 475A.305 to meet the concentration standards and packaging standards adopted by rule pursuant to this section. [2021 c.1 §109]

Note:

As originally enacted by the people, the headline to ORS 475A.642 read "Dosage requirements; rules." The headline was changed by editorial action.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.646 - Authority of Oregon Health Authority to inspect.**

To ensure compliance with ORS 475A.626 to 475A.654 and any rule adopted under ORS 475A.626 to 475A.654, the Oregon Health Authority may inspect the premises of a person that holds a license under ORS 475A.290 or 475A.305. [2021 c.1 §110]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.650 - Authority of Oregon Health Authority to discipline licensees of authority.**

Subject to the applicable provisions of ORS chapter 183, if the applicant or licensee violates a provision of ORS 475A.626 to 475A.654 or a rule adopted under a provision of ORS 475A.626 to 475A.654, the Oregon Health Authority may refuse to issue or renew, or may suspend or revoke, a license issued under ORS 475A.290, 475A.305 or 475A.325. [2021 c.1 §111]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.654 - Civil penalty for violating ORS 475A.626 to 475A.654.**

(1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475A.626 to 475A.654, or a rule adopted under a provision of ORS 475A.626 to 475A.654, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Psilocybin Control and Regulation Fund established under ORS 475A.492 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under ORS 475A.210 to 475A.722. [2021 c.1 §112]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.658 - Definitions for ORS 475A.658 to 475A.714.**

As used in ORS 475A.658 to 475A.714:

(1) "Retail sale" means any transfer, exchange, gift or barter of a psilocybin product by any person to a client.

(2) "Retail sales price" means the price paid for a psilocybin product, excluding tax, to a psilocybin service center operator by or on behalf of a client. [2021 c.1 §113]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.662 - Imposition of tax on retail sale of psilocybin products.**

(1) A tax is hereby imposed upon the retail sale of psilocybin products in this state. The tax imposed by this section is a direct tax on the client, for which payment upon retail sale is required. The tax shall be collected at the point of sale of a psilocybin product by a psilocybin service center operator at the time at which the retail sale occurs.

(2) The tax imposed under this section shall be imposed at the rate of 15 percent of the retail sales price of psilocybin products.

(3) If the tax imposed under this section does not equal an amount calculable to a whole cent, the tax shall be equal to the next higher whole cent.

(4) Except as otherwise provided by the Department of Revenue by rule, the amount of the tax shall be separately stated on an

invoice, receipt or other similar document that the psilocybin service center operator provides to the client at the time at which the retail sale occurs.

(5) A person may not knowingly sell, purchase, install, transfer or possess electronic devices or software programs for the purposes of:

(a) Hiding or removing records of retail sales of psilocybin products; or

(b) Falsifying records of retail sales of psilocybin products.

(6)(a) A psilocybin service center operator may not discount a psilocybin product or offer a psilocybin product for free if the retail sale of the psilocybin product is made in conjunction with the retail sale of any other item or service.

(b) Paragraph (a) of this subsection does not affect any provision of ORS 475A.210 to 475A.722 or any rule adopted by the Oregon Health Authority pursuant to ORS 475A.210 to 475A.722 that is related to the retail sale of psilocybin products.

(7) The authority shall regularly review the rate of tax under subsection (2) of this section and make recommendations to the Legislative Assembly regarding appropriate adjustments to the rate that will further the purposes of:

(a) Providing the authority with moneys sufficient to administer and enforce ORS 475A.210 to 475A.722; and

(b) Not providing the authority with moneys that exceed, together with fees collected under ORS 475A.210 to 475A.722, the cost of administering and enforcing ORS 475A.210 to 475A.722. [2021 c.1 §114]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.666 - Collection of tax; refund; credit; penalties.**

(1) Except as otherwise provided in ORS 475A.658 to 475A.714, the tax imposed upon the client under ORS 475A.662 shall be collected at the point of sale and remitted by each psilocybin service center operator that engages in the retail sale of psilocybin products. The tax is considered a tax upon the psilocybin service center operator that is required to collect the tax, and the psilocybin service center operator is considered a taxpayer.

(2) The psilocybin service center operator shall file a return to the Department of Revenue on or before the last day of January, April, July and October of each year for the previous calendar quarter.

(3) The psilocybin service center operator shall pay the tax to the department in the form and manner prescribed by the department, but not later than with each quarterly return, without regard to an extension granted under subsection (5) of this section.

(4) Psilocybin service center operators shall file the returns required under this section regardless of whether any tax is owed.

(5) For good cause, the department may extend the time for filing a return under this section. The extension may be granted at any time if a written request is filed with the department during or prior to the period for which the extension may be granted. The department may not grant an extension of more than 30 days.

(6) Interest shall be added at the rate established under ORS 305.220 from the time the return was originally required to be filed to the time of payment.

(7) If a psilocybin service center operator fails to file a return or pay the tax as required by this section, the department shall impose a penalty in the manner provided in ORS 314.400.

(8) Except as provided in subsections (9) and (10) of this section, the period prescribed for the department to allow or make a refund of any overpayment of tax paid under ORS 475A.658 to 475A.714 is as provided in ORS 314.415.

(9)(a) The department shall first apply any overpayment of tax by a psilocybin service center operator to any psilocybin tax that is owed by the psilocybin service center operator.

(b) If after any offset against any delinquent amount the overpayment of tax remains greater than \$1,000, the remaining refund shall be applied as a credit against the next subsequent calendar quarter as an estimated payment.

(10) The department may not make a refund of, or credit, any overpayment of tax under ORS 475A.658 to 475A.714 that was credited to the account of a psilocybin service center operator under subsection (9)(b) of this section if the return for that tax period is not filed within three years after the due date of that return. [2021 c.1 §115]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.670 - Psilocybin revenue estimate.**

(1) Not later than 30 days before the beginning of each calendar quarter, the Oregon Department of Administrative Services shall forecast and prepare an estimate of the revenue that will be received during the remainder of the current biennium and subsequent three biennia pursuant to the tax imposed under ORS 475A.662. The estimate may be made on the basis of all pertinent information available to the Oregon Department of Administrative Services. Upon making the estimate, the Oregon Department of Administrative Services shall report the estimate to the Legislative Revenue Officer, the Legislative Fiscal Officer and the Department of Revenue.

(2) The Department of Revenue and the Oregon Health Authority shall provide the Oregon Department of Administrative Services with any information necessary for the Oregon Department of Administrative Services to perform its duties under this section. [2021 c.1 §116]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.674 - Enforcement; liability; notice of liability; notices of determination and assessment.**

(1) Every person who collects any amount under ORS 475A.666 shall hold the same in trust for the State of Oregon and for the

payment thereof to the Department of Revenue in the manner and at the time provided in ORS 475A.666.

(2) At any time a psilocybin service center operator fails to remit any amount collected, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. The warrant shall be issued, recorded and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes.

(3)(a) In the case of a psilocybin service center operator that is assessed pursuant to the provisions of ORS 305.265 (12) and 314.407 (1), the department may issue a notice of liability to any officer, employee or member of the psilocybin service center operator within three years from the time of assessment. Within 30 days from the date the notice of liability is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the liability and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of liability. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal to the tax court in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of liability within 30 days after the notice of liability was mailed, the notice of liability becomes final. In that event, the officer, employee or member may appeal the notice of liability to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(4)(a) In the case of a failure to file a return on the due date, governed by the provisions of ORS 305.265 (10) and 314.400, the department, in addition to any action described in the provisions of ORS 305.265 (10) and 314.400, may send notices of determination and assessment to any officer, employee or member any time within three years after the assessment. The time of assessment against the officer, employee or member is 30 days after the date the notice of determination and assessment is mailed. Within 30 days from the date the notice of determination and assessment is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the assessment and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of determination and assessment. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of determination and assessment within 30 days after the notice of determination and assessment was mailed, the notice of determination and assessment becomes final. In that event, the officer, employee or member may appeal the notice of determination and assessment to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(5)(a) More than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes.

(b) Notwithstanding the confidentiality provisions of ORS 475A.706, if more than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes, the department may require any or all of the officers, members or employees who may be held liable to appear before the department for a joint determination of liability. The department shall notify each officer, member or employee of the time and place set for the determination of liability.

(c) Each person notified of a joint determination under this subsection shall appear and present such information as is necessary to establish that person's liability or nonliability for payment of taxes to the department. If a person who was notified fails to appear, the department shall make its determination on the basis of all the information and evidence presented. The department's determination is binding on all persons notified and required to appear under this subsection.

(d)(A) If an appeal is taken to the Oregon Tax Court pursuant to ORS 475A.706 by any person determined to be liable for unpaid taxes under this subsection, each person required to appear before the department under this subsection shall be impleaded by the plaintiff. The department may implead any officer, employee or member who may be held jointly and severally liable for the payment of taxes. Each person impleaded under this paragraph shall be made a party to the action before the tax court and shall make available to the tax court the information that was presented before the department, as well as other information that may be presented to the court.

(B) The court may determine that one or more persons impleaded under this paragraph are liable for unpaid taxes without regard to any earlier determination by the department that an impleaded person was not liable for unpaid taxes.

(C) If a person required to appear before the court under this subsection fails or refuses to appear or bring such information in part or in whole, or is outside the jurisdiction of the tax court, the court shall make its determination on the basis of all the evidence introduced. Notwithstanding ORS 475A.706, the evidence constitutes a public record and shall be available to the parties and the court. The determination of the tax court is binding on all persons made parties to the action under this subsection.

(e) This section may not be construed to preclude a determination by the department or the Oregon Tax Court that more than one officer, employee or member are jointly and severally liable for unpaid taxes. [2021 c.1 §117]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.678 - Duty to keep receipts, invoices and other records.**

(1) A psilocybin service center operator shall keep receipts, invoices and other pertinent records related to retail sales of psilocybin products in the form required by the Department of Revenue. Each record shall be preserved for five years from the time to which the record relates, or for as long as the psilocybin service center operator retains the psilocybin products to which the record relates, whichever is later. During the retention period and at any time prior to the destruction of records, the department may give written notice to the psilocybin service center operator not to destroy records described in the notice without written permission of the department. Notwithstanding any other provision of law, the department shall preserve reports and returns filed with the department for at least five years.

(2) The department or its authorized representative, upon oral or written demand, may make examinations of the books, papers, records and equipment of persons making retail sales of psilocybin products and any other investigations as the department deems necessary to carry out the provisions of ORS 475A.658 to 475A.714. [2021 c.1 §118]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.682 - Authority to require production of books, papers, accounts and other information.**

(1) The Department of Revenue has authority, by order or subpoena to be served with the same force and effect and in the same manner as a subpoena is served in a civil action in the circuit court, or the Oregon Tax Court, to require the production at any time and place the department designates of any books, papers, accounts or other information necessary to carry out ORS 475A.658 to 475A.714. The department may require the attendance of any person having knowledge in the premises, and may take testimony and require proof material for the information, with power to administer oaths to the person.

(2) If a person fails to comply with a subpoena or order of the department or to produce or permit the examination or inspection of any books, papers, records and equipment pertinent to an investigation or inquiry under ORS 475A.658 to 475A.714, or to testify to any matter regarding which the person is lawfully interrogated, the department may apply to the Oregon Tax Court or to the circuit court of the county in which the person resides or where the person is for an order to the person to attend and testify, or otherwise to comply with the demand or request of the department. The department shall apply to the court by ex parte motion, upon which the court shall make an order requiring the person against whom the motion is directed to comply with the request or demand of the department within 10 days after the service of the order, or within the additional time granted by the court, or to justify the failure within that time. The order shall be served upon the person to whom it is directed in the manner required by this state for service of process, which service is required to confer jurisdiction upon the court. Failure to obey any order issued by the court under this section is contempt of court. The remedy provided by this section is in addition to other remedies, civil or criminal, existing under the tax laws or other laws of this state. [2021 c.1 §119]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.686 - Disclosure of information.**

(1) Notwithstanding the confidentiality provisions of ORS 475A.706, the Department of Revenue may disclose information received under ORS 317.363 and 475A.658 to 475A.714 to the Oregon Health Authority to carry out the provisions of ORS 475A.210 to 475A.722.

(2) The authority may disclose information obtained pursuant to ORS 475A.210 to 475A.722 to the department for the purpose of carrying out the provisions of ORS 475A.210 to 475A.722. [2021 c.1 §120]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.690 - Right to appeal determination of tax liability.**

Except as otherwise provided in ORS 475A.210 to 475A.722, a person aggrieved by an act or determination of the Department of Revenue or its authorized agent under ORS 317.363 and 475A.658 to 475A.714 may appeal, within 90 days after the act or determination, to the Oregon Tax Court in the manner provided in ORS 305.404 to 305.560. These appeal rights are the exclusive remedy available to determine the person's liability for the tax imposed under ORS 475A.658 to 475A.714. [2021 c.1 §121]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.694 - Duty to return excess tax collected.**

(1)(a) When an amount represented by a psilocybin service center operator at retail to a client as constituting the tax imposed under ORS 475A.658 to 475A.714 is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the client to the psilocybin service center operator, the excess tax paid shall be returned by the psilocybin service center operator to the client upon written notification by the Department of Revenue or the client.

(b) The written notification must contain information necessary to determine the validity of the client's claim.

(2) If the psilocybin service center operator does not return the excess tax within 60 days after mailing of the written notification required under subsection (1) of this section, the client may appeal to the department for a refund of the amount of the excess tax, in the manner and within the time allowed under rules adopted by the department.

(3) If excess tax is returned to the client by the department, the department may issue a notice of deficiency for the excess tax to the

psilocybin service center operator in the manner provided under ORS 305.265. [2021 c.1 §122]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.698 - Authority to retain portions of tax to pay expenses incurred.**

For the purpose of compensating psilocybin service center operators for expenses incurred in collecting the tax imposed under ORS 475A.662, each psilocybin service center operator is permitted to deduct and retain two percent of the amount of taxes that are collected by the psilocybin service center operator from all retail sales of psilocybin products conducted by the psilocybin service center operator. [2021 c.1 §123]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.702 - Duties and powers of Department of Revenue; rules; interagency cooperation.**

(1) The Department of Revenue shall administer and enforce ORS 475A.658 to 475A.714. The department is authorized to establish rules and procedures for the implementation and enforcement of ORS 475A.658 to 475A.714 that are consistent with ORS 475A.658 to 475A.714 and that the department considers necessary and appropriate to administer and enforce ORS 475A.658 to 475A.714.

(2) The Oregon Health Authority shall enter into an agreement with the department for the purpose of administering and enforcing those provisions of ORS 475A.658 to 475A.714, and rules or procedures established for the purpose of implementing and enforcing ORS 475A.658 to 475A.714, that the authority and the department determine are necessary for the effective and efficient administration, implementation and enforcement of ORS 475A.658 to 475A.714. [2021 c.1 §124]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.706 - Applicability of tax laws to ORS 475A.658 to 475A.714.**

Except as otherwise provided in ORS 475A.658 to 475A.714 or where the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and examination of returns, periods of limitation, determination of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of returns and the penalties relative thereto, and the procedures relating thereto, apply to the determinations of taxes, penalties and interest under ORS 475A.658 to 475A.714. [2021 c.1 §125]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.710 - Oregon Psilocybin Account.**

(1) There is established the Oregon Psilocybin Account, separate and distinct from the General Fund.

(2) The account shall consist of moneys transferred to the account under ORS 475A.714.

(3)(a) The Department of Revenue shall certify quarterly the amount of moneys available in the Oregon Psilocybin Account.

(b) The department shall transfer quarterly the moneys in the Oregon Psilocybin Account to the Psilocybin Control and Regulation Fund. [2021 c.1 §126]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.714 - Suspense account; payment of expenses; crediting balance to Oregon Psilocybin Account.**

(1) All moneys received by the Department of Revenue under ORS 475A.658 to 475A.714 shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445. The department may pay expenses for the administration and enforcement of ORS 475A.658 to 475A.714 out of moneys received from the tax imposed under ORS 475A.662. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account.

(2) After the payment of administrative and enforcement expenses and refunds or credits arising from erroneous overpayments, the department shall credit the balance of the moneys received by the department under this section to the Oregon Psilocybin Account established under ORS 475A.710. [2021 c.1 §127]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.718 - Adoption of ordinances; referral to electors for approval.**

(1) The governing body of a city or county may adopt ordinances to be referred to the electors of the city or county as described in subsection (2) of this section that prohibit or allow the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:

(a) Psilocybin product manufacturers that hold a license issued under ORS 475A.290;

(b) Psilocybin service center operators that hold a license issued under ORS 475A.305; or

(c) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county adopts an ordinance under this section, the governing body shall submit the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.



(3) If the governing body of a city or county adopts an ordinance under this section, the governing body must provide the text of the ordinance to the Oregon Health Authority.

(4) Upon receiving notice of a prohibition under subsection (3) of this section, the authority shall discontinue licensing those premises to which the prohibition applies until the date of the next statewide general election.

(5) If an allowance is approved at the next statewide general election under subsection (2) of this section, the authority shall begin licensing the premises to which the allowance applies on the first business day of the January immediately following the date of the next statewide general election.

(6) Notwithstanding any other provisions of law, a city or county that adopts an ordinance under this section that prohibits the establishment of an entity described in subsection (1) of this section may not impose a tax or fee on the manufacturing or sale of psilocybin products. [2021 c.1 §128]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475A - Psilocybin Regulation Section 475A.722 - Severability.**

If any section, subsection, paragraph, phrase or word of ORS 475A.210 to 475A.722 is held to be unconstitutional, void or illegal, either on its face or as applied, that holding does not affect the applicability, constitutionality or legality of any other section, subsection, paragraph, phrase or word of ORS 475A.210 to 475A.722. To that end, the sections, subsections, paragraphs, phrases and words of ORS 475A.210 to 475A.722 are intended to be severable. It is hereby declared to be the intent of the people of this state in adopting ORS 475A.210 to 475A.722 that ORS 475A.210 to 475A.722 would have been adopted had such unconstitutional, void or illegal sections, subsections, paragraphs, phrases or words, if any, not been included in ORS 475A.210 to 475A.722. [2021 c.1 §129]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.005**

[2015 c.1 §1; 2015 c.614 §35; 2016 c.71 §13; renumbered 475C.001 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.010**

[2015 c.1 §3; 2015 c.614 §37; 2017 c.183 §1; renumbered 475C.005 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.015**

[2015 c.1 §5; 2015 c.614 §1; 2016 c.24 §63; 2016 c.83 §11; 2017 c.21 §1; 2017 c.183 §46; 2019 c.391 §4; 2021 c.351 §180; 2021 c.542 §1; renumbered 475C.009 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.020**

[2015 c.1 §4; 2015 c.614 §38; renumbered 475C.013 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.025**

[2015 c.1 §7; 2015 c.614 §2; 2017 c.183 §47; 2019 c.391 §5; 2021 c.351 §181; 2021 c.542 §2; 2021 c.646 §1; renumbered 475C.017 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.030**

[2015 c.614 §3; 2017 c.21 §111; 2021 c.351 §182; renumbered 475C.021 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.033**

[2015 c.1 §25(2); 2015 c.614 §5(2); 2017 c.183 §48; 2021 c.351 §183; renumbered 475C.025 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.035**

[2015 c.1 §15; 2017 c.183 §49; 2021 c.351 §184; renumbered 475C.029 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.040**

[2015 c.1 §28; 2015 c.614 §7; 2017 c.183 §50; 2021 c.351 §185; renumbered 475C.033 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.045**

[2015 c.1 §29; 2015 c.614 §8; 2017 c.183 §51; 2017 c.476 §12; 2017 c.613 §24; 2019 c.391 §6; 2021 c.351 §186; renumbered 475C.037 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.050**

[2015 c.614 §10; 2016 c.23 §8; 2021 c.351 §187; renumbered 475C.041 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.055**

[2015 c.1 §25(1); 2015 c.614 §5(1); 2017 c.183 §52; renumbered 475C.045 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.060**

[2015 c.1 §18; 2015 c.614 §11; 2017 c.183 §53; 2021 c.351 §188; 2021 c.397 §1; renumbered 475C.049 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.063**

[2015 c.614 §34(4); 2016 c.24 §11; 2021 c.351 §189; renumbered 475C.053 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.065**

[2015 c.1 §13; 2015 c.614 §43; 2017 c.183 §54; renumbered 475C.057 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.068**

[2015 c.1 §24; 2015 c.614 §47; 2017 c.183 §55; renumbered 475C.061 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.070**

[2015 c.1 §19; 2015 c.614 §12; 2016 c.24 §1; 2016 c.83 §7; 2017 c.183 §56; 2019 c.145 §1; 2021 c.351 §190; 2021 c.397 §12; renumbered 475C.065 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.074**

[2016 c.23 §2; 2019 c.254 §1; 2019 c.391 §7; renumbered 475C.069 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.075**

[2015 c.614 §13; 2016 c.24 §10; 2017 c.183 §57; renumbered 475B.085 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.077**

[2019 c.292 §3; renumbered 475C.073 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.085**

[Formerly 475B.075; 2021 c.351 §191; renumbered 475C.077 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.090**

[2015 c.1 §20; 2015 c.614 §14; 2016 c.24 §2; 2016 c.83 §8; 2021 c.351 §192; 2021 c.542 §3; renumbered 475C.085 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.096**

[2017 c.476 §8; 2019 c.391 §8; 2021 c.351 §193; renumbered 475C.089 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.100**

[2015 c.1 §21; 2015 c.614 §15; 2016 c.24 §3; 2016 c.83 §9; 2021 c.351 §194; renumbered 475C.093 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.105**

[Formerly 475B.110; 2021 c.351 §195; 2021 c.397 §11; renumbered 475C.097 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.109**

[2017 c.613 §20; 2018 c.103 §11; 2021 c.351 §196; renumbered 475C.101 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.110**

[2015 c.1 §22; 2015 c.614 §16; 2016 c.24 §4; 2016 c.83 §10; 2017 c.476 §13; 2017 c.613 §25; renumbered 475B.105 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.115**

[2015 c.614 §17; 2021 c.351 §197; renumbered 475C.105 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.119**

[Formerly 475B.125; 2021 c.351 §198; renumbered 475C.109 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.122**

[2017 c.183 §24; 2021 c.351 §199; renumbered 475C.121 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.125**

[2015 c.614 §26; 2017 c.183 §58; renumbered 475B.119 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.127**

[2017 c.183 §25; 2021 c.351 §200; renumbered 475C.125 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.129**

[2017 c.183 §26; 2021 c.351 §201; renumbered 475C.129 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.130**

[2015 c.1 §23; 2015 c.614 §46; 2017 c.183 §59; renumbered 475B.154 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.131**

[2017 c.183 §27; 2021 c.351 §202; renumbered 475C.133 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.135**

[2015 c.614 §18; 2017 c.183 §60; 2017 c.476 §9; renumbered 475B.158 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.136**

[2016 c.83 §2; 2017 c.183 §19; 2018 c.103 §2; 2021 c.351 §203; renumbered 475C.137 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former**

**Provisions)Section 475B.139**

[2016 c.83 §3; 2017 c.183 §20; 2018 c.103 §3; 2021 c.351 §204; renumbered 475C.141 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.140**

[2015 c.614 §22; 2017 c.183 §61; renumbered 475B.163 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.144**

[2016 c.83 §4; 2017 c.183 §21; 2021 c.351 §205; renumbered 475C.145 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.145**

[2015 c.614 §20c; renumbered 475B.173 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.146**

[2016 c.83 §5; 2017 c.183 §22; 2021 c.351 §206; renumbered 475C.149 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.149**

[2016 c.83 §6; renumbered 475C.153 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.150**

[2015 c.614 §23; 2015 c.736 §120; 2016 c.24 §64; 2017 c.183 §62; renumbered 475B.177 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.154**

[Formerly 475B.130; 2021 c.351 §207; renumbered 475C.157 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.158**

[Formerly 475B.135; 2021 c.351 §208; renumbered 475C.161 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.160**

[2015 c.1 §27; 2015 c.614 §6; 2016 c.23 §23; 2016 c.24 §65; 2016 c.83 §12; 2017 c.183 §63; renumbered 475B.206 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.163**

[Formerly 475B.140; 2021 c.351 §209; renumbered 475C.165 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.165**

[2015 c.1 §14; 2015 c.614 §44; renumbered 475B.211 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.167**

[2016 c.24 §25; 2021 c.351 §210; renumbered 475C.169 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.170**

[2015 c.1 §16; 2015 c.614 §24; 2017 c.183 §64; renumbered 475B.216 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.173**

[Formerly 475B.145; 2021 c.351 §211; renumbered 475C.173 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.177**

[Formerly 475B.150; 2021 c.351 §212; renumbered 475C.177 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.180**

[2015 c.1 §52; 2017 c.183 §65; renumbered 475B.224 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.182**

[2017 c.183 §4; 2021 c.351 §213; renumbered 475C.181 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.185**

[2015 c.1 §45; 2015 c.614 §48; 2016 c.24 §39; 2017 c.21 §15; renumbered 475B.227 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.186**

[2017 c.476 §2; 2019 c.391 §9; 2021 c.351 §214; renumbered 475C.185 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.190**

[2015 c.1 §51; 2015 c.614 §53; 2017 c.183 §67; renumbered 475B.232 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.191**

[2017 c.183 §8; 2021 c.351 §215; renumbered 475C.189 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.194**

[2017 c.183 §12; 2021 c.351 §216; renumbered 475C.193 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.195**

[2015 c.1 §50; 2015 c.614 §52; renumbered 475B.236 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.199**

[2017 c.183 §13; 2019 c.391 §10; 2021 c.351 §217; renumbered 475C.197 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.200**

[2015 c.1 §53; 2015 c.614 §54; 2017 c.183 §68; renumbered 475B.241 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.201**

[2016 c.24 §15; 2021 c.351 §218; renumbered 475C.201 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.205**

[2015 c.1 §48; 2015 c.614 §51; 2017 c.183 §69; renumbered 475B.246 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.206**

[Formerly 475B.160; 2019 c.391 §11; 2021 c.155 §4; 2021 c.351 §219; 2021 c.397 §13; renumbered 475C.205 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.210**

[2015 c.1 §30; 2015 c.614 §9; 2017 c.17 §43; 2017 c.183 §70; 2017 c.476 §14; 2017 c.613 §26; renumbered 475B.256 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.211**

[Formerly 475B.165; 2019 c.391 §12; 2021 c.542 §4; renumbered 475C.213 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.215**

[2015 c.614 §19; 2016 c.23 §16; 2017 c.183 §71; renumbered 475B.261 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.216**

[Formerly 475B.170; 2019 c.391 §13; 2021 c.351 §220; renumbered 475C.217 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.218**

[2015 c.614 §20; 2016 c.24 §13; 2017 c.21 §112; 2017 c.183 §72; renumbered 475B.266 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.220**

[2017 c.18 §2; 2017 c.476 §16; 2021 c.155 §5; renumbered 475C.221 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.224**

[Formerly 475B.180; 2021 c.351 §221; renumbered 475C.225 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.227**

[Formerly 475B.185; 2018 c.103 §21; 2021 c.542 §5; renumbered 475C.229 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.230**

[2015 c.614 §20a; 2017 c.183 §73; renumbered 475B.276 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.232**

[Formerly 475B.190; 2021 c.351 §222; renumbered 475C.233 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.233**

[2015 c.614 §20b; 2017 c.183 §74; renumbered 475B.281 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.235**

[2015 c.614 §113; 2016 c.23 §24; 2016 c.24 §12; 2017 c.183 §75; renumbered 475B.286 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.236**

[Formerly 475B.195; 2021 c.351 §223; renumbered 475C.237 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.240**

[2015 c.614 §32; 2017 c.183 §43; renumbered 475B.296 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former**

**Provisions)Section 475B.241**

[Formerly 475B.200; renumbered 475C.241 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.245**

[2015 c.1 §6(1); 2015 c.614 §39(1); 2016 c.23 §27; 2016 c.24 §36; 2016 c.83 §13; renumbered 475B.301 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.246**

[Formerly 475B.205; 2021 c.351 §224; renumbered 475C.245 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.250**

[2015 c.1 §56; 2015 c.614 §55; 2016 c.24 §37; renumbered 475B.306 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.251**

[2017 c.183 §3; renumbered 475C.249 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.253**

[2018 c.103 §19; 2021 c.351 §225; 2021 c.542 §5a; renumbered 475C.253 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.254**

[2018 c.103 §20; 2021 c.542 §6; renumbered 475C.257 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.255**

[2015 c.1 §57; 2015 c.614 §56; 2016 c.24 §38; 2017 c.21 §113; 2017 c.183 §76; renumbered 475B.311 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.256**

[Formerly 475B.210; 2019 c.391 §14; 2021 c.351 §226; 2021 c.397 §3; renumbered 475C.265 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.260**

[2015 c.1 §49; 2015 c.614 §25; 2017 c.20 §2; 2017 c.183 §77; renumbered 475B.316 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.261**

[Formerly 475B.215; 2021 c.155 §6; 2021 c.351 §227; renumbered 475C.269 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.265**

[2015 c.1 §17; 2015 c.614 §45; 2017 c.21 §114; renumbered 475B.321 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.266**

[Formerly 475B.218; 2021 c.351 §228; renumbered 475C.273 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.270**

[2015 c.1 §47; 2015 c.614 §50; 2017 c.21 §115; renumbered 475B.329 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.271**

[2016 c.23 §9; 2021 c.351 §229; renumbered 475C.277 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.275**

[2015 c.1 §46; 2015 c.614 §49; 2017 c.21 §116; renumbered 475B.333 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.276**

[Formerly 475B.230; renumbered 475C.281 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.280**

[2015 c.1 §54; renumbered 475B.381 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.281**

[Formerly 475B.233; 2021 c.351 §230; renumbered 475C.285 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.286**

[Formerly 475B.235; 2021 c.351 §231; renumbered 475C.289 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.290**

[2015 c.614 §31; 2017 c.183 §78; renumbered 475B.409 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.291**

[2016 c.23 §10; 2021 c.351 §232; renumbered 475C.293 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.295**

[2015 c.614 §29; 2017 c.183 §79; renumbered 475B.416 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.296**

[Formerly 475B.240; 2021 c.351 §233; renumbered 475C.297 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.298**

[2015 c.1 §67; 2015 c.614 §64; 2017 c.183 §80; renumbered 475B.424 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.299**

[2017 c.183 §6; 2020 s.s.2 c.3 §16; 2021 c.351 §234; renumbered 475C.301 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.300**

[2015 c.1 §63; 2015 c.614 §60; 2017 c.183 §81; renumbered 475B.429 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.301**

[Formerly 475B.245; 2018 c.116 §21; 2021 c.155 §7; renumbered 475C.305 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.305**

[2015 c.1 §64; 2015 c.614 §61; 2017 c.183 §82; renumbered 475B.436 in 2017]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.306**

[Formerly 475B.250; renumbered 475C.309 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.310**

[2015 c.1 §65; 2015 c.614 §62; 2017 c.183 §83; renumbered 475B.442 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.311**

[Formerly 475B.255; 2018 c.116 §22; renumbered 475C.313 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.315**

[2015 c.1 §69; 2015 c.614 §66; 2015 c.699 §25; 2017 c.21 §117; 2017 c.183 §66; renumbered 475B.448 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.316**

[Formerly 475B.260; 2021 c.351 §235; renumbered 475C.317 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.320**

[2015 c.1 §58; 2015 c.614 §57; renumbered 475B.454 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.321**

[Formerly 475B.265; renumbered 475C.321 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.325**

[2015 c.1 §60; 2015 c.614 §58; 2017 c.183 §84; renumbered 475B.461 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.326**

[2017 c.20 §4; renumbered 475C.325 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.329**

[Formerly 475B.270; renumbered 475C.329 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.330**

[2015 c.1 §62; renumbered 475B.474 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.333**

[Formerly 475B.275; renumbered 475C.333 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.335**

[2015 c.1 §61; 2015 c.614 §59; renumbered 475B.479 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.337**

[2017 c.21 §3; 2018 c.116 §23; 2021 c.397 §14; renumbered 475C.337 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former**

**Provisions)Section 475B.340**

[2015 c.1 §59; 2015 c.614 §33; 2016 c.23 §4; 2016 c.24 §66; 2017 c.183 §85; renumbered 475B.486 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.341**

[2017 c.21 §4; 2018 c.116 §24; 2021 c.397 §15; renumbered 475C.341 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.345**

[2015 c.614 §34a; 2016 c.91 §3; 2017 c.183 §86; renumbered 475B.491 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.346**

[2017 c.21 §5; renumbered 475C.345 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.349**

[2017 c.21 §6; 2018 c.116 §25; renumbered 475C.349 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.350**

[2015 c.1 §9; renumbered 475B.501 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.353**

[2015 c.1 §8; renumbered 475B.506 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.354**

[2017 c.21 §7; renumbered 475C.353 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.355**

[2015 c.1 §11; 2015 c.614 §41; 2017 c.183 §87; renumbered 475B.514 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.358**

[2015 c.1 §10; 2015 c.614 §40; 2017 c.183 §88; renumbered 475B.518 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.359**

[2017 c.21 §9; renumbered 475C.357 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.360**

[2015 c.614 §4; 2017 c.21 §118; renumbered 475B.521 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.363**

[2017 c.21 §9a; renumbered 475C.361 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.365**

[2015 c.1 §68; 2015 c.614 §65; 2017 c.183 §89; renumbered 475B.523 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.367**

[2017 c.21 §11; renumbered 475C.365 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.370**

[2015 c.614 §34(1) to (3); 2016 c.23 §3; 2017 c.183 §90; renumbered 475B.526 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.371**

[2017 c.21 §12; renumbered 475C.369 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.373**

[2015 c.614 §114; renumbered 475B.529 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.375**

[2015 c.1 §6(2); 2015 c.614 §39(2); 2016 c.23 §6; 2016 c.83 §14; renumbered 475B.531 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.376**

[2017 c.21 §14; 2021 c.351 §236; renumbered 475C.373 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.378**

[2015 c.1 §66; 2015 c.614 §63; renumbered 475B.533 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.380**

[2015 c.1 §12; 2015 c.614 §42; renumbered 475B.535 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.381**

[Formerly 475B.280; renumbered 475C.377 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.385**

[2017 c.21 §17; renumbered 475C.381 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.389**

[2017 c.21 §18; renumbered 475C.385 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.393**

[2017 c.21 §19; renumbered 475C.389 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.395**

[2015 c.1 §70; 2015 c.614 §67; renumbered 475B.545 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.398**

[2017 c.21 §20; renumbered 475C.393 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.399**

[2015 c.614 §170; 2017 c.183 §91; renumbered 475B.548 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.400**

[Formerly 475.300; renumbered 475B.785 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.401**

[2019 c.459 §2; renumbered 475C.397 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.405**

[Formerly 475.346; renumbered 475B.788 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.409**

[Formerly 475B.290; 2021 c.351 §237; renumbered 475C.401 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.410**

[Formerly 475.302; renumbered 475B.791 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.413**

[Formerly 475.340; renumbered 475B.794 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.415**

[Formerly 475.309; 2016 c.24 §9; 2016 c.107 §1; renumbered 475B.797 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.416**

[Formerly 475B.295; 2018 c.98 §8; 2019 c.391 §15; 2021 c.351 §238; renumbered 475C.405 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.418**

[Formerly 475.312; renumbered 475B.804 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.419**

[2015 c.844 §6; renumbered 475B.807 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.420**

[Formerly 475.304; 2016 c.24 §5; renumbered 475B.810 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.423**

[2015 c.614 §81a; renumbered 475B.816 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.424**

[Formerly 475B.298; renumbered 475C.409 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.425**

[2015 c.614 §83; renumbered 475B.822 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former**

**Provisions)Section 475B.428**

[Formerly 475.320; 2016 c.24 §23; 2017 c.183 §37; 2017 c.613 §11; renumbered 475B.831 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.429**

[Formerly 475B.300; 2021 c.351 §239; renumbered 475C.413 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.430**

[2015 c.614 §82a; 2017 c.183 §92; renumbered 475B.834 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.433**

[Formerly 475.306; renumbered 475B.837 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.435**

[2015 c.614 §85; 2016 c.24 §6; renumbered 475B.840 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.436**

[Formerly 475B.305; 2021 c.351 §240; renumbered 475C.417 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.438**

[2015 c.614 §85b; renumbered 475B.846 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.440**

[2015 c.614 §85a; renumbered 475B.849 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.442**

[Formerly 475B.310; 2021 c.351 §241; renumbered 475C.421 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.443**

[2015 c.614 §85c; 2016 c.23 §18; 2016 c.24 §7; renumbered 475B.852 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.445**

[2015 c.614 §85d; renumbered 475B.855 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.448**

[Formerly 475B.315; renumbered 475C.425 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.450**

[Formerly 475.314; 2016 c.24 §8; 2016 c.83 §30; 2017 c.613 §27; renumbered 475B.858 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.453**

[2015 c.614 §86b; renumbered 475B.867 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.454**

[Formerly 475B.320; renumbered 475C.429 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.455**

[2015 c.614 §86a; renumbered 475B.870 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.458**

[2015 c.614 §85e; renumbered 475B.879 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.460**

[Formerly 475.331; renumbered 475B.882 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.461**

[Formerly 475B.325; renumbered 475C.433 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.462**

[2015 c.614 §88d; renumbered 475B.885 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.464**

[2015 c.614 §88e; renumbered 475B.888 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.468**

[2015 c.614 §86c; renumbered 475B.898 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.469**

[2015 c.614 §86d; renumbered 475B.901 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.470**

[2015 c.614 §86e; renumbered 475B.904 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.474**

[Formerly 475B.330; renumbered 475C.437 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.475**

[2015 c.614 §87; renumbered 475B.907 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.477**

[2016 c.24 §33; 2017 c.183 §38; renumbered 475C.441 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.478**

[Formerly 475.316; renumbered 475B.910 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.479**

[Formerly 475B.335; renumbered 475C.445 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.480**

[Formerly 475.319; renumbered 475B.913 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.483**

[Formerly 475.326; renumbered 475B.916 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.485**

[Formerly 475.328; renumbered 475B.919 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.486**

[Formerly 475B.340; renumbered 475C.449 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.490**

[Formerly 475.323; 2016 c.23 §20a; renumbered 475B.922 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.491**

[Formerly 475B.345; renumbered 475C.453 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.495**

[2015 c.614 §88; renumbered 475B.925 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.496**

[2016 c.24 §30; 2017 c.183 §29; 2019 c.599 §3; 2021 c.351 §242; renumbered 475C.457 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.500**

[2014 c.79 §2; 2015 c.614 §89; 2016 c.23 §5; renumbered 475B.928 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.501**

[Formerly 475B.350; 2021 c.351 §243; renumbered 475C.461 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.505**

[2015 c.614 §88a; renumbered 475B.931 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.506**

[Formerly 475B.353; 2021 c.351 §244; renumbered 475C.465 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.507**

[2015 c.614 §88c; renumbered 475B.934 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.510**

[2015 c.614 §88b; 2017 c.21 §119; renumbered 475B.937 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former**

**Provisions)Section 475B.511**

[2017 c.183 §45; renumbered 475C.469 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.513**

[2015 c.614 §88f; renumbered 475B.940 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.514**

[Formerly 475B.355; 2021 c.351 §245; renumbered 475C.473 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.515**

[Formerly 475.342; renumbered 475B.943 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.517**

[Formerly 475.334; renumbered 475B.946 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.518**

[Formerly 475B.358; 2021 c.351 §246; renumbered 475C.477 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.521**

[Formerly 475B.360; renumbered 475C.481 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.523**

[Formerly 475B.365; renumbered 475C.485 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.525**

[Formerly 475.338; renumbered 475B.949 in 2017]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.526**

[Formerly 475B.370; renumbered 475C.489 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.529**

[Formerly 475B.373; 2019 c.108 §2; 2021 c.542 §7; renumbered 475C.493 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.531**

[Formerly 475B.375; renumbered 475C.497 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.533**

[Formerly 475B.378; renumbered 475C.501 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.535**

[Formerly 475B.380; renumbered 475C.505 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.537**



[2017 c.476 §4; 2021 c.351 §248; renumbered 475C.509 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.539**

[2017 c.183 §17; 2021 c.351 §249; renumbered 475C.513 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.541**

[2016 c.24 §22; 2017 c.183 §93; 2021 c.351 §250; renumbered 475C.517 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.543**

[2016 c.24 §35; renumbered 475C.521 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.545**

[Formerly 475B.395; renumbered 475C.525 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.548**

[Formerly 475B.399; 2021 c.351 §251; renumbered 475C.529 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.550**

[2015 c.614 §91; 2019 c.391 §16; 2021 c.542 §8; 2021 c.646 §2; renumbered 475C.540 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.555**

[2015 c.614 §92; 2021 c.351 §252; 2021 c.542 §9; 2021 c.646 §3; renumbered 475C.544 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.560**

[2015 c.614 §93; 2021 c.542 §10; 2021 c.646 §8; renumbered 475C.548 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.562**

[2016 c.23 §11; 2021 c.351 §254; renumbered 475C.552 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.564**

[2017 c.183 §10; 2021 c.351 §255; renumbered 475C.556 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.565**

[2015 c.614 §94; 2021 c.646 §5; renumbered 475C.560 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.570**

[2015 c.614 §95; renumbered 475C.564 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.575**

[2015 c.614 §96; 2021 c.351 §256; renumbered 475C.568 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.577**

[2017 c.183 §15; 2019 c.391 §17; 2021 c.351 §257; renumbered 475C.572 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.580**

[2015 c.614 §97; renumbered 475C.574 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.585**

[2015 c.614 §98; renumbered 475C.578 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.590**

[2015 c.614 §99; renumbered 475C.586 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.593**

[2019 c.391 §1; 2021 c.351 §258; renumbered 475C.590 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.600**

[2015 c.614 §100; 2019 c.391 §18; 2021 c.542 §10; 2021 c.646 §8; renumbered 475C.600 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.605**

[2015 c.614 §101; 2017 c.183 §33; 2021 c.351 §259; 2021 c.646 §9; renumbered 475C.604 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.610**

[2015 c.614 §102; 2021 c.351 §260; 2021 c.646 §10; renumbered 475C.608 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.615**

[2015 c.614 §103; 2021 c.351 §261; 2021 c.397 §17; renumbered 475C.612 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.620**

[2015 c.614 §104; 2021 c.51 §262; renumbered 475C.616 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.625**

[2015 c.614 §105; 2016 c.83 §15; 2021 c.351 §263; 2021 c.397 §16; 2021 c.542 §11a; renumbered 475C.620 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.630**

[2015 c.614 §106; 2018 c.103 §4; renumbered 475C.624 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.635**

[2015 c.614 §108; 2021 c.351 §264; renumbered 475C.628 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.640**

[2015 c.614 §107; renumbered 475C.632 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.645**

[2015 c.614 §110; 2021 c.351 §265; renumbered 475C.636 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former**

**Provisions)Section 475B.650**

[2015 c.614 §109; renumbered 475C.640 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.655**

[2015 c.614 §111; 2017 c.183 §34; 2021 c.351 §266; renumbered 475C.644 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.700**

[2015 c.699 §1; 2017 c.495 §3; renumbered 475C.670 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.705**

[2015 c.699 §2; 2016 c.91 §6; 2019 c.391 §19; 2021 c.351 §267; renumbered 475C.674 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.707**

[2016 c.91 §2; renumbered 475C.678 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.710**

[2015 c.699 §3; 2016 c.91 §7; 2017 c.278 §24; 2017 c.495 §4; 2019 c.391 §20; 2021 c.351 §268; renumbered 475C.682 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.712**

[2017 c.725 §31; 2021 c.351 §269; renumbered 475C.684 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.715**

[2015 c.699 §4; renumbered 475C.688 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.720**

[2015 c.699 §5; renumbered 475C.692 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.725**

[2015 c.699 §6; renumbered 475C.694 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.730**

[2015 c.699 §7(1),(2); 2016 c.91 §4; 2021 c.351 §270; renumbered 475C.698 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.735**

[2015 c.699 §7(3); renumbered 475C.702 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.740**

[2015 c.699 §9; renumbered 475C.706 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.745**

[2015 c.699 §13; renumbered 475C.710 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.750**

[2015 c.699 §8; 2016 c.91 §5; 2021 c.351 §271; renumbered 475C.714 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.752**

[2017 c.495 §2; renumbered 475C.718 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.755**

[2015 c.699 §10; renumbered 475C.722 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.759**

[2015 c.1 §44; 2015 c.699 §14; 2015 c.767 §219; 2017 c.725 §32; 2018 c.81 §§1,2; 2019 c.599 §§1,2; 2019 c.643 §10; 2021 c.2 §10; 2021 c.591 §10; 2021 c.636 §1; renumbered 475C.726 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.760**

[2015 c.699 §11; 2016 c.24 §70; renumbered 475C.734 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.763**

[2016 c.97 §1; renumbered 475C.738 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.766**

[2016 c.97 §2; renumbered 475C.742 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.769**

[2016 c.97 §3; 2021 c.351 §272; renumbered 475C.746 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.772**

[2016 c.97 §4; renumbered 475C.750 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.775**

[2016 c.97 §5; renumbered 475C.754 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.778**

[2016 c.97 §6; renumbered 475C.758 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.785**

[Formerly 475B.400; renumbered 475C.770 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.788**

[Formerly 475B.405; renumbered 475C.773 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.791**

[Formerly 475B.410; 2019 c.391 §21; 2021 c.130 §3; 2021 c.351 §273; renumbered 475C.777 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.794**

[Formerly 475B.413; renumbered 475C.780 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.797**

[Formerly 475B.415; 2021 c.130 §4; 2021 c.141 §1; renumbered 475C.783 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.800**

[2015 c.614 §134; 2016 c.24 §31; 2017 c.183 §28; renumbered 475B.968 in 2017]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.801**

[2017 c.613 §10; renumbered 475C.786 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.804**

[Formerly 475B.418; renumbered 475C.789 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.807**

[Formerly 475B.419; renumbered 475C.791 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.810**

[Formerly 475B.420; 2019 c.145 §2; renumbered 475C.792 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.813**

[2017 c.613 §16a; 2018 c.103 §5; renumbered 475C.794 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.816**

[Formerly 475B.423; renumbered 475C.795 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.819**

[2016 c.23 §20; renumbered 475C.797 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.822**

[Formerly 475B.425; renumbered 475C.798 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.825**

[2017 c.613 §8; 2021 c.351 §274; renumbered 475C.800 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.828**

[2017 c.613 §14; 2021 c.351 §275; renumbered 475C.803 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.831**

[Formerly 475B.428; 2018 c.103 §6; 2018 c.116 §26; renumbered 475C.806 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.834**

[Formerly 475B.430; renumbered 475C.809 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.837**

[Formerly 475B.433; renumbered 475C.812 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.840**

[Formerly 475B.435; renumbered 475C.815 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.843**

[2016 c.23 §13; renumbered 475C.818 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.846**

[Formerly 475B.438; renumbered 475C.821 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.849**

[Formerly 475B.440; renumbered 475C.824 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.852**

[Formerly 475B.443; renumbered 475C.827 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.855**

[Formerly 475B.445; renumbered 475C.830 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.858**

[Formerly 475B.450; renumbered 475C.833 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.861**

[2016 c.23 §14; renumbered 475C.837 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.864**

[2017 c.613 §22; 2018 c.103 §12; renumbered 475C.840 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.867**

[Formerly 475B.453; renumbered 475C.843 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.870**

[Formerly 475B.455; renumbered 475C.847 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.873**

[2016 c.23 §22; renumbered 475C.850 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.876**

[2017 c.476 §6; 2021 c.542 §12a; renumbered 475C.853 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former**

**Provisions)Section 475B.879**

[Formerly 475B.458; renumbered 475C.856 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.882**

[Formerly 475B.460; renumbered 475C.859 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.885**

[Formerly 475B.462; renumbered 475C.862 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.888**

[Formerly 475B.464; renumbered 475C.865 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.892**

[2017 c.183 §31; 2021 c.351 §276; renumbered 475C.868 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.895**

[2017 c.183 §40; 2018 c.103 §§7,7a; 2019 c.456 §§37,38; 2021 c.351 §§277,278; renumbered 475C.871 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.898**

[Formerly 475B.468; renumbered 475C.874 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.901**

[Formerly 475B.469; renumbered 475C.877 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.904**

[Formerly 475B.470; renumbered 475C.880 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.907**

[Formerly 475B.475; renumbered 475C.883 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.910**

[Formerly 475B.478; renumbered 475C.886 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.913**

[Formerly 475B.480; 2021 c.130 §5; renumbered 475C.889 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.916**

[Formerly 475B.483; 2021 c.130 §6; renumbered 475C.891 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.919**

[Formerly 475B.485; renumbered 475C.892 in 2021]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475B - (Former Provisions)Section 475B.922**

[Formerly 475B.490; renumbered 475C.894 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.925**

[Formerly 475B.495; renumbered 475C.895 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.928**

[Formerly 475B.500; renumbered 475C.897 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.931**

[Formerly 475B.505; 2021 c.351 §279; renumbered 475C.898 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.934**

[Formerly 475B.507; 2021 c.351 §280; renumbered 475C.900 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.937**

[Formerly 475B.510; 2021 c.351 §281; renumbered 475C.903 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.940**

[Formerly 475B.513; renumbered 475C.907 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.943**

[Formerly 475B.515; renumbered 475C.910 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.946**

[Formerly 475B.517; renumbered 475C.913 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.949**

[Formerly 475B.525; renumbered 475C.919 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.952**

[2017 c.613 §1; 2021 c.130 §7; 2021 c.351 §282; renumbered 475C.930 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.955**

[2017 c.613 §2; renumbered 475C.933 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.958**

[2017 c.613 §3; renumbered 475C.936 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.961**

[2017 c.613 §6; 2021 c.351 §283; renumbered 475C.939 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.965**

[2017 c.613 §17; renumbered 475C.945 in 2021]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475B - (Former Provisions) Section 475B.968**

[Formerly 475B.800; 2019 c.292 §4; 2021 c.351 §284; renumbered 475C.950 in 2021]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.001 - Purposes of ORS 475C.005 to 475C.525.**

(1) The People of the State of Oregon declare that the purposes of ORS 475C.005 to 475C.525 are:

- (a) To eliminate the problems caused by the prohibition and uncontrolled manufacture, delivery and possession of marijuana within this state;
  - (b) To protect the safety, welfare, health and peace of the people of this state by prioritizing this state's limited law enforcement resources in the most effective, consistent and rational way;
  - (c) To permit persons licensed, controlled and regulated by this state to legally manufacture and sell marijuana to persons 21 years of age and older, subject to the provisions of ORS 475C.005 to 475C.525; and
  - (d) To establish a comprehensive regulatory framework concerning marijuana under existing state law.
- (2) The People of the State of Oregon intend that the provisions of ORS 475C.005 to 475C.525, together with other provisions of state law, will:
- (a) Prevent the distribution of marijuana to persons under 21 years of age;
  - (b) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels;
  - (c) Prevent the diversion of marijuana from this state to other states;
  - (d) Prevent marijuana activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
  - (e) Prevent violence and the use of firearms in association with the cultivation and distribution of marijuana;
  - (f) Prevent drugged driving and the exacerbation of other adverse public health consequences associated with the use of marijuana;
  - (g) Prevent the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
  - (h) Prevent the possession and use of marijuana on federal property. [Formerly 475B.005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.005 - Short title.**

ORS 475C.005 to 475C.525 shall be known and may be cited as the Adult and Medical Use of Cannabis Act. [Formerly 475B.010]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.009 - Definitions for ORS 475C.005 to 475C.525.**

As used in ORS 475C.005 to 475C.525:

- (1) "Adult use cannabinoid" includes, but is not limited to, tetrahydrocannabinols, tetrahydrocannabinolic acids that are artificially or naturally derived, delta-8-tetrahydrocannabinol, delta-9- tetrahydrocannabinol, the optical isomers of delta-8-tetrahydrocannabinol or delta-9-tetrahydrocannabinol and any artificially derived cannabinoid that is reasonably determined to have an intoxicating effect.
- (2) "Adult use cannabis item" means:
  - (a) A marijuana item; or
  - (b) An industrial hemp commodity or product that exceeds:
    - (A) The concentration of adult use cannabinoids established by the Oregon Liquor and Cannabis Commission, in consultation with the Oregon Health Authority and the State Department of Agriculture, by rule; or
    - (B) The greater of:
      - (i) A concentration of more than 0.3 percent total delta-9-tetrahydrocannabinol; or
      - (ii) The concentration of total delta-9-tetrahydrocannabinol allowed under federal law.
- (3)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant Cannabis family Cannabaceae.
- (b) "Artificially derived cannabinoid" does not include:
  - (A) A naturally occurring chemical substance that is separated from the plant Cannabis family Cannabaceae by a chemical or mechanical extraction process;
  - (B) Cannabinoids that are produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst; or
  - (C) Any other chemical substance identified by the commission, in consultation with the authority and the department, by rule.
- (4) "Cannabinoid" means any of the chemical compounds that are the active constituents derived from marijuana.
- (5) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:
  - (a) A mechanical extraction process;
  - (b) A chemical extraction process using a nonhydrocarbon-based solvent, such as water, vegetable glycerin, vegetable oils, animal

fats, isopropyl alcohol or ethanol;

(c) A chemical extraction process using carbon dioxide, provided that the process does not involve the use of high heat or pressure; or

(d) Any other process identified by the commission, in consultation with the authority, by rule.

(6) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.

(7) "Cannabinoid extract" means a substance obtained by separating cannabinoids from marijuana by:

(a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;

(b) A chemical extraction process using carbon dioxide, if the process uses high heat or pressure; or

(c) Any other process identified by the commission, in consultation with the authority, by rule.

(8)(a) "Cannabinoid product" means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers.

(b) "Cannabinoid product" does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate by itself;

(C) A cannabinoid extract by itself; or

(D) Industrial hemp.

(9) "Consumer" means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.

(10) "Deliver" means the actual, constructive or attempted transfer from one person to another of a marijuana item, whether or not there is an agency relationship.

(11) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol.

(12) "Delta-9-tetrahydrocannabinolic acid" or "delta-9-THCA" means

(6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-2-carboxylic acid.

(13) "Designated primary caregiver" has the meaning given that term in ORS 475C.777.

(14)(a) "Financial consideration" means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.

(b) "Financial consideration" does not include marijuana, cannabinoid products or cannabinoid concentrates that are delivered within the scope of and in compliance with ORS 475C.305.

(15) "Homegrown" means grown by a person 21 years of age or older for noncommercial purposes.

(16) "Household" means a housing unit and any place in or around a housing unit at which the occupants of the housing unit are producing, processing, possessing or storing homegrown marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

(17) "Housing unit" means a house, an apartment or a mobile home, or a group of rooms or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building and that has direct access from the outside of the building or through a common hall.

(18) "Immature marijuana plant" means a marijuana plant that is not flowering.

(19) "Industrial hemp" has the meaning given that term in ORS 571.269.

(20) "Licensee" means a person that holds a license issued under ORS 475C.065, 475C.085, 475C.093, 475C.097 or 475C.548.

(21) "Licensee representative" means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.

(22)(a) "Manufacture" means producing, propagating, preparing, compounding, converting or processing a marijuana item, either directly or indirectly, by extracting from substances of natural origin.

(b) "Manufacture" includes any packaging or repackaging of a marijuana item or the labeling or relabeling of a container containing a marijuana item.

(23)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and marijuana seeds.

(b) "Marijuana" does not include:

(A) Industrial hemp; or

(B) Prescription drugs, as that term is defined in ORS 689.005, including those containing one or more cannabinoids, that are approved by the United States Food and Drug Administration and dispensed by a pharmacy, as defined in ORS 689.005.

(24) "Marijuana flowers" means the flowers of the plant genus Cannabis within the plant family Cannabaceae.

(25) "Marijuana items" means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(26) "Marijuana leaves" means the leaves of the plant genus Cannabis within the plant family Cannabaceae.

(27) "Marijuana processor" means:

(a) A person that processes marijuana items in this state; or

(b) A person that holds a license issued under ORS 475C.085 and processes industrial hemp commodities or products pursuant to ORS 571.336.

(28) "Marijuana producer" means a person that produces marijuana in this state.

- (29) "Marijuana retailer" means a person that sells marijuana items to a consumer in this state.
- (30)(a) "Marijuana seeds" means the seeds of the plant Cannabis family Cannabaceae.
- (b) "Marijuana seeds" does not include the seeds of industrial hemp.
- (31) "Marijuana wholesaler" means a person that purchases marijuana items in this state for resale to a person other than a consumer.
- (32) "Mature marijuana plant" means a marijuana plant that is not an immature marijuana plant.
- (33) "Medical grade cannabinoid product, cannabinoid concentrate or cannabinoid extract" means a cannabinoid product, cannabinoid concentrate or cannabinoid extract that has a concentration of adult use cannabinoids that is permitted under ORS 475C.620 in a single serving of the cannabinoid product, cannabinoid concentrate or cannabinoid extract for consumers who hold a valid registry identification card issued under ORS 475C.783.
- (34) "Medical purpose" means a purpose related to using usable marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts to mitigate the symptoms or effects of a debilitating medical condition, as defined in ORS 475C.777.
- (35) "Noncommercial" means not dependent or conditioned upon the provision or receipt of financial consideration.
- (36)(a) "Premises" includes the following areas of a location licensed under ORS 475C.005 to 475C.525 or 475C.548:
- (A) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;
- (B) All areas outside a building that the commission has specifically licensed for the processing, wholesale sale or retail sale of marijuana items; and
- (C) For a location that the commission has specifically licensed for the production of marijuana outside a building, that portion of the location used to produce marijuana.
- (b) "Premises" does not include a primary residence.
- (37)(a) "Processes" means the processing, compounding or conversion of:
- (A) Marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts; or
- (B) Pursuant to ORS 571.336, industrial hemp or industrial hemp commodities or products into industrial hemp commodities or products that contain cannabinoids and are intended for human consumption or use.
- (b) "Processes" does not include packaging or labeling.
- (38)(a) "Produces" means the manufacture, planting, cultivation, growing or harvesting of marijuana.
- (b) "Produces" does not include:
- (A) The drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or
- (B) The cultivation and growing of an immature marijuana plant by a marijuana processor, marijuana wholesaler or marijuana retailer if the marijuana processor, marijuana wholesaler or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.
- (39) "Propagate" means to grow immature marijuana plants or to breed or produce marijuana seeds.
- (40) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and areas used in connection with public passenger transportation.
- (41) "Registry identification cardholder" has the meaning given that term in ORS 475C.777.
- (42) "Total delta-9-tetrahydrocannabinol" or "total delta-9-THC" means the sum of the concentration or mass of delta-9-THCA multiplied by 0.877 plus the concentration or mass of delta-9-THC.
- (43)(a) "Usable marijuana" means the dried leaves and flowers of marijuana.
- (b) "Usable marijuana" does not include:
- (A) Marijuana seeds;
- (B) The stalks and roots of marijuana; or
- (C) Waste material that is a by-product of producing or processing marijuana. [Formerly 475B.015; 2023 c.519 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.013 - Construction of ORS 475C.005 to 475C.525.**

ORS 475C.005 to 475C.525 may not be construed:

- (1) To amend or affect state or federal law pertaining to employment matters;
- (2) To amend or affect state or federal law pertaining to landlord-tenant matters;
- (3) To prohibit a recipient of a federal grant or an applicant for a federal grant from prohibiting the manufacture, delivery, possession or use of marijuana to the extent necessary to satisfy federal requirements for the grant;
- (4) To prohibit a party to a federal contract or a person applying to be a party to a federal contract from prohibiting the manufacture, delivery, possession or use of marijuana to the extent necessary to comply with the terms and conditions of the contract or to satisfy federal requirements for the contract;
- (5) To require a person to violate a federal law;
- (6) To exempt a person from a federal law or obstruct the enforcement of a federal law; or
- (7) To amend or affect the Oregon Medical Marijuana Act. [Formerly 475B.020]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.017 - General powers and duties; rules.**

(1) The Oregon Liquor and Cannabis Commission has the duties, functions and powers specified in ORS 475C.005 to 475C.525 and 475C.540 to 475C.586 and the powers necessary or proper to enable the commission to carry out the commission's duties, functions and powers under ORS 475C.005 to 475C.525 and 475C.540 to 475C.586. The jurisdiction, supervision, duties, functions and powers of the commission extend to any person that produces, processes, transports, delivers, sells, purchases or tests a marijuana item in this state. The commission may sue and be sued.

(2) The duties, functions and powers of the commission specified in ORS 475C.005 to 475C.525 and 475C.540 to 475C.586 include the following:

(a) To regulate the production, processing, transportation, delivery, sale, purchase and testing of marijuana items in accordance with the provisions of ORS 475C.005 to 475C.525 and 475C.540 to 475C.586.

(b) To issue, renew, suspend, revoke or refuse to issue or renew licenses for the production, processing, sale or testing of marijuana items, or other licenses related to the consumption of marijuana items, and to permit, in the commission's discretion, the transfer of a license between persons.

(c) To adopt, amend or repeal rules as necessary to carry out the intent and provisions of ORS 475C.005 to 475C.525 and 475C.540 to 475C.586, including rules that the commission considers necessary to protect the public health and safety.

(d) To exercise all powers incidental, convenient or necessary to enable the commission to administer or carry out the provisions of ORS 475C.005 to 475C.525 and 475C.540 to 475C.586 or any other law of this state that charges the commission with a duty, function or power related to marijuana. Powers described in this paragraph include, but are not limited to:

(A) Issuing subpoenas;

(B) Compelling the attendance of witnesses;

(C) Administering oaths;

(D) Certifying official acts;

(E) Taking depositions as provided by law;

(F) Compelling the production of books, payrolls, accounts, papers, records, documents and testimony; and

(G) Establishing fees in addition to the application, licensing and renewal fees described in ORS 475C.065, 475C.085, 475C.093, 475C.097 and 475C.548, provided that any fee established by the commission is reasonably calculated not to exceed the cost of the activity for which the fee is charged.

(e) To adopt rules regulating and prohibiting advertising marijuana items in a manner:

(A) That is appealing to minors;

(B) That promotes excessive use;

(C) That promotes illegal activity; or

(D) That otherwise presents a significant risk to public health and safety.

(f) To regulate the use of marijuana items for other purposes as deemed necessary or appropriate by the commission.

(g) To establish pilot programs, of not more than three years in duration, to expand access to marijuana for medical use for registry identification cardholders and designated primary caregivers, as defined in ORS 475C.777.

(h) To regulate the processing, transportation, delivery, sale, purchase and testing of artificially derived cannabinoids in accordance with the provisions of ORS 475C.005 to 475C.525 and 475C.540 to 475C.586.

(i) To regulate the testing and labeling of inhalant delivery systems, as defined in ORS 431A.175, that include industrial hemp-derived vapor items, as defined in ORS 475C.540, that are sold in this state by any person.

(3) Fees collected pursuant to subsection (2)(d)(G) of this section shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475C.297. [Formerly 475B.025; 2023 c.519 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.021 - Authority to purchase, possess, seize, transfer to licensee or dispose of marijuana items.**

Subject to any applicable provision of ORS chapter 183, the Oregon Liquor and Cannabis Commission may purchase, possess, seize, transfer to a licensee or dispose of marijuana items as is necessary for the commission to ensure compliance with and enforce the provisions of ORS 475C.005 to 475C.525 and 475C.540 to 475C.586 and any rule adopted under ORS 475C.005 to 475C.525 and 475C.540 to 475C.586. [Formerly 475B.030; 2023 c.519 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.025 - Powers related to decedents and insolvent or bankrupt persons; rules.**

The Oregon Liquor and Cannabis Commission may, by rule or order, provide for the manner and conditions under which:

(1) Marijuana items left by a deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed.

(2) The business of a deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.

(3) A secured party, as defined in ORS 79.0102, may continue to operate at a premises for which a license has been issued under

ORS 475C.005 to 475C.525 or 475C.548 for a reasonable period after default on the indebtedness by the debtor. [Formerly 475B.033; 2023 c.519 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.029 - Authority to limit quantity of marijuana items transferred to individual.**

The Oregon Liquor and Cannabis Commission may limit the quantity of marijuana items transferred to a consumer or other individual if the commission determines that the limitation is necessary to prevent the resale of marijuana items. [Formerly 475B.035]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.033 - Application process for all licensees; rules.**

(1) An applicant for a license or renewal of a license issued under ORS 475C.005 to 475C.525 shall apply to the Oregon Liquor and Cannabis Commission in the form required by the commission by rule, showing the name and address of the applicant, location of the premises that is to be operated under the license and other pertinent information required by the commission. The commission may not issue or renew a license until the applicant has complied with the provisions of ORS 475C.005 to 475C.525 and rules adopted under ORS 475C.005 to 475C.525.

(2) The commission may reject any application that is not submitted in the form required by the commission by rule. The commission shall give applicants an opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.

(3) Except as provided in subsection (2) of this section, a revocation of, or a refusal to issue or renew, a license issued under ORS 475C.005 to 475C.525 is subject to the requirements for contested case proceedings under ORS chapter 183. [Formerly 475B.040]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.037 - Grounds for refusing to issue license or issuing restricted license.**

(1) The Oregon Liquor and Cannabis Commission may not license an applicant under the provisions of ORS 475C.005 to 475C.525 or 475C.548 if the applicant is under 21 years of age.

(2) The commission may refuse to issue a license or may issue a restricted license to an applicant under the provisions of ORS 475C.005 to 475C.525 or 475C.548 if the commission makes a finding that the applicant:

(a) Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana or controlled substances to excess.

(b) Has made false statements to the commission.

(c) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(d) Has been convicted of violating a federal law, state law or local ordinance if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.

(e) Is not of good repute and moral character.

(f) Does not have a good record of compliance with ORS 475C.005 to 475C.525 or 475C.540 to 475C.586 or any rule adopted under ORS 475C.005 to 475C.525 or 475C.540 to 475C.586.

(g) Is not the legitimate owner of the premises proposed to be licensed, or has not disclosed that other persons have ownership interests in the premises proposed to be licensed.

(h) Has not demonstrated financial responsibility sufficient to adequately meet the requirements of the premises proposed to be licensed.

(i) Is unable to understand the laws of this state relating to marijuana items or the rules adopted under ORS 475C.005 to 475C.525 and 475C.540 to 475C.586.

(3) Notwithstanding subsection (2)(d) of this section, in determining whether to issue a license or a restricted license to an applicant, the commission may not consider the prior conviction of the applicant or any owner, director, officer, manager, employee, agent or other representative of the applicant for:

(a) The manufacture of marijuana, if:

(A) The date of the conviction is two or more years before the date of the application; and

(B) The person has not been convicted more than once for the manufacture or delivery of marijuana;

(b) The delivery of marijuana to a person 21 years of age or older, if:

(A) The date of the conviction is two or more years before the date of the application; and

(B) The person has not been convicted more than once for the manufacture or delivery of marijuana; or

(c) The possession of marijuana. [Formerly 475B.045; 2023 c.519 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.041 - Authority to require fingerprints of applicants and other individuals.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Liquor and Cannabis Commission may require the fingerprints of any individual listed on an application submitted under ORS 475C.033. The powers conferred on the commission under this section include the power to require the fingerprints of:

- (1) If the applicant is a limited partnership, each partner of the limited partnership;
- (2) If the applicant is a limited liability company, each member of the limited liability company;
- (3) If the applicant is a corporation, each director and officer of the corporation;
- (4) Any individual who holds a financial interest of 10 percent or more in the person applying for the license; and
- (5) Any individual who is a partner, member, director or officer of a legal entity with a financial interest in the person applying for the license. [Formerly 475B.050]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.045 - Properties of license.**

A license issued under ORS 475C.005 to 475C.525 or 475C.548:

- (1) Is a personal privilege.
- (2) Is renewable in the manner provided in ORS 475C.033 or 475C.548, except for a cause that would be grounds for refusal to issue the license under ORS 475C.037.
- (3) Is revocable or suspendible as provided in ORS 475C.265.
- (4) Is transferable from the premises for which the license was originally issued to another premises subject to the provisions of ORS 475C.005 to 475C.525 or 475C.540 to 475C.586, applicable rules adopted under ORS 475C.005 to 475C.525 or 475C.540 to 475C.586 and applicable local ordinances.
- (5) If the license was issued to an individual, expires upon the death of the licensee, except as provided in ORS 475C.025.
- (6) Does not constitute property.
- (7) Is not alienable.
- (8) Is not subject to attachment or execution.
- (9) Does not descend by the laws of testate or intestate devolution. [Formerly 475B.055; 2023 c.519 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.049 - Duties of Oregon Liquor and Cannabis Commission with respect to issuing licenses.**

- (1) The Oregon Liquor and Cannabis Commission shall approve or deny an application to be licensed under ORS 475C.005 to 475C.525. Except as provided in subsection (2) of this section, upon receiving an application under ORS 475C.033, the commission may not delay processing, approving or denying the application or, if the application is approved, issuing the license.
- (2) The commission may delay processing, approving or denying an application described in subsection (1) of this section only if:
  - (a) The applicant, or a person named on the application, holds a license issued under ORS 475C.005 to 475C.525 and the commission has issued a notice proposing revocation of the license for one or more violations of ORS 475C.005 to 475C.525 that are administrative in nature, as determined by the commission, or a notice proposing suspension of the license pursuant to ORS 305.385;
  - (b) The applicant is applying for a license at a premises where the applicant seeks to assume ownership of an existing business for which a license has been issued under ORS 475C.005 to 475C.525 and the commission has issued a notice proposing revocation of the license for the existing business or a notice proposing suspension of the license for the existing business pursuant to ORS 305.385; or
  - (c) The commission has received information from law enforcement that the applicant or a person named on the application is engaging, or has engaged, in the unregulated commerce of marijuana items or unlawful manufacture or delivery of controlled substances.
- (3) The licenses described in ORS 475C.005 to 475C.525 must be issued by the commission, subject to the provisions of ORS 475C.005 to 475C.525 and rules adopted under ORS 475C.005 to 475C.525.
- (4) The commission may not license a premises that does not have defined boundaries. A premises does not need to be enclosed by a wall, fence or other structure, but the commission may require a premises to be enclosed as a condition of issuing or renewing a license. The commission may not license a mobile premises. [Formerly 475B.060]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.053 - Duty to request land use compatibility statement.**

- (1) Prior to receiving a license under ORS 475C.065, 475C.085, 475C.093, 475C.097 or 475C.548, an applicant shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The Oregon Liquor and Cannabis Commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.
- (2) Except as provided in subsection (3) of this section, a city or county that receives a request for a land use compatibility statement under this section must act on that request within 21 days of:
  - (a) Receipt of the request, if the land use is allowable as an outright permitted use; or
  - (b) Final local permit approval, if the land use is allowable as a conditional use.
- (3) A city or county that receives a request for a land use compatibility statement under this section is not required to act on that request during the period that the commission discontinues licensing those premises pursuant to ORS 475C.950 (4)(b).

(4) A city or county action concerning a land use compatibility statement under this section is not a land use decision for purposes of ORS chapter 195, 196, 197, 197A, 215 or 227. [Formerly 475B.063; 2023 c.519 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.057 - Lawful production, delivery and possession of marijuana items.**

Licensees and licensee representatives may produce, deliver and possess marijuana items subject to the provisions of ORS 475C.005 to 475C.525 and rules adopted under ORS 475C.005 to 475C.525. The production, delivery or possession of marijuana items by a licensee or a licensee representative in compliance with ORS 475C.005 to 475C.525 and rules adopted under ORS 475C.005 to 475C.525 does not constitute a criminal or civil offense under the laws of this state. [Formerly 475B.065]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.061 - Authority for licensee other than laboratory licensee to hold multiple licenses.**

(1) A person may hold:

(a) Multiple licenses to conduct at different premises the same activity for which a license is required under ORS 475C.005 to 475C.525; and

(b) Multiple types of licenses to conduct at the same or different premises different activities for which a license is required under ORS 475C.005 to 475C.525.

(2) A person that holds a license issued under ORS 475C.548 may not hold a license issued under ORS 475C.005 to 475C.525. [Formerly 475B.068; 2023 c.519 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.065 - Production license; fees; rules.**

(1) The production of marijuana is subject to regulation by the Oregon Liquor and Cannabis Commission.

(2) A marijuana producer must have a production license issued by the commission for the premises at which the marijuana is produced. To hold a production license issued under this section, a marijuana producer:

(a) Must apply for a license in the manner described in ORS 475C.033;

(b) Must provide proof that the applicant is 21 years of age or older; and

(c) Must meet the requirements of any rule adopted by the commission under subsections (3) and (4) of this section.

(3)(a) If the applicant is not the owner of the premises at which the marijuana is to be produced, the applicant shall submit to the commission signed informed consent from the owner of the premises to produce marijuana at the premises.

(b) The commission may adopt rules regarding the informed consent described in this subsection.

(4) The commission shall adopt rules that:

(a) Require a marijuana producer to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana producers;

(c) Require marijuana produced by marijuana producers to be tested in accordance with ORS 475C.544;

(d) Assist the viability of marijuana producers that are independently owned and operated and that are limited in size and revenue with respect to other marijuana producers, by minimizing barriers to entry into the regulated system and by expanding, to the extent practicable, transportation options that will support their access to the retail market;

(e) Allow a marijuana producer registered under ORS 475C.137 to produce marijuana for medical purposes in the same manner that rules adopted under ORS 475C.005 to 475C.525 allow a marijuana producer to produce marijuana for nonmedical purposes, excepting those circumstances where differentiating between the production of marijuana for medical purposes and the production of marijuana for nonmedical purposes is necessary to protect the public health and safety;

(f) Require marijuana producers to submit, at the time of applying for or renewing a license under ORS 475C.033, a report describing the applicant's or licensee's electrical or water usage;

(g) Require a marijuana producer to meet any public health and safety standards and industry best practices established by the commission by rule related to the production of marijuana or the propagation of immature marijuana plants and marijuana seeds; and

(h) Support marijuana plant diversity by allowing a qualified marijuana producer to receive marijuana seeds from any source in this state, but not more than a total of 200 marijuana seeds per month from all sources combined.

(5) Fees adopted under subsection (4)(b) of this section:

(a) May not exceed, together with other fees collected under ORS 475C.005 to 475C.525, the cost of administering ORS 475C.005 to 475C.525;

(b) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage or on which more marijuana plants are grown; and

(c) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475C.297. [Formerly 475B.070]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.069 - Exemption from requirement to obtain land use compatibility statement.**

- (1) The requirement under ORS 475C.053 to obtain a land use compatibility statement as a condition of receiving a license under ORS 475C.065 does not apply to an applicant if:
- (a) The applicant is applying for a license at an address where a marijuana grow site registered under ORS 475C.792 is located;
  - (b) The address is outside of city limits;
  - (c) At least one person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475C.792 before January 1, 2015, and is registered with the authority under ORS 475C.792 on the date on which the applicant submitted the application for a license under ORS 475C.065;
  - (d) Each person responsible for a marijuana grow site located at the address first registered with the authority under ORS 475C.792 before February 1, 2016, and is registered with the authority under ORS 475C.792 on the date on which the applicant submitted the application for a license under ORS 475C.065; and
  - (e) The applicant is applying for a mature marijuana plant grow canopy of:
    - (A) 5,000 square feet or less, if the marijuana is produced outdoors; or
    - (B) 1,250 square feet or less, if the marijuana is produced indoors.
- (2) For purposes of this section, an applicant for a license under ORS 475C.065 is not required to demonstrate that:
- (a) At least one person responsible for a marijuana grow site located at the address for which the applicant is applying for a license has been continuously registered with the authority under ORS 475C.792 between January 1, 2015, and the date on which the applicant applies for a license under ORS 475C.065; or
  - (b) Each person responsible for a marijuana grow site located at the address for which the applicant is applying for a license has been continuously registered with the authority under ORS 475C.792 between February 1, 2016, and the date on which the applicant applies for a license under ORS 475C.065. [Formerly 475B.074]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.073 - Marijuana production as nonconforming land use; alterations to premises; continued use requirement.**

- (1) A premises for which a marijuana producer holds a production license issued under ORS 475C.065 and that is located in an area subject to the jurisdiction of a city or county that has adopted a prohibition under ORS 475C.950 on marijuana production, or has adopted or amended a county or local ordinance that causes marijuana production to be a nonconforming land use, since the date on which the production license was first issued may continue to be used to produce marijuana.
- (2) A premises described in subsection (1) of this section is not required to be continually owned or operated by the marijuana producer that was first issued a license under ORS 475C.065.
- (3) A land use compatibility statement, in addition to that required for initial licensure, from the city or county is not required for a premises described in subsection (1) of this section if:
- (a) The marijuana producer is applying for licensure renewal; or
  - (b) A change in ownership of the premises occurs but does not alter the marijuana plant grow canopy size or whether the marijuana plant grow canopy is indoors or outdoors.
- (4)(a) Alterations may be made to premises described in subsection (1) of this section if the alterations:
- (A) Are necessary in order for the premises to comply with a lawful requirement for alteration in production; or
  - (B) In the production or in the buildings, structures or physical improvements associated with the premises have no greater adverse impact to the surrounding area.
- (b) The city or county that has jurisdiction over the premises shall perform an evaluation of proposed alterations and may deny only alterations that do not meet the criteria set out in this subsection.
- (5) If a premises described in subsection (1) of this section is not used for marijuana production for a period of at least 12 calendar months, marijuana production may not be resumed on the premises unless the marijuana production conforms to any zoning requirements or regulations applicable at the time of the proposed resumption. [Formerly 475B.077]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.077 - Marijuana plant grow canopies; rules.**

- (1) Subject to subsection (3) of this section, the Oregon Liquor and Cannabis Commission shall adopt rules restricting the size of marijuana plant grow canopies at premises for which a license has been issued under ORS 475C.065. In adopting rules under this subsection, the commission shall:
- (a) Limit the size of marijuana plant grow canopies, for premises where marijuana is grown outdoors and for premises where marijuana is grown indoors, in a manner calculated to result in premises that produce the same amount of harvested marijuana leaves and harvested marijuana flowers regardless of whether the marijuana is grown outdoors or indoors.
  - (b) Adopt a tiered system under which the permitted size of a marijuana producer's marijuana plant grow canopy increases at the time of licensure renewal under ORS 475C.065, except that the permitted size of a marijuana producer's marijuana plant grow canopy may not increase following any year during which the commission disciplined the marijuana producer for violating a provision of ORS 475C.005 to 475C.525 or a rule adopted under ORS 475C.005 to 475C.525.
  - (c) Take into consideration the market demand for marijuana items in this state, the number of marijuana producers applying for a license under ORS 475C.065, the number of marijuana producers that hold a license issued under ORS 475C.065 and whether the



availability of marijuana items in this state is commensurate with the market demand.

(2) For purposes of this section, the commission may adopt different rules for mature marijuana plant grow canopies and immature marijuana plant grow canopies.

(3) This section applies only to that portion of a premises for which a license has been issued under ORS 475C.065 that is used to produce marijuana plants. [Formerly 475B.085]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.081 - Permissible delivery and receipt by marijuana producer and marijuana processor.**

(1) As used in this section, "commonly owned" means, as further defined by the Oregon Liquor and Cannabis Commission by rule, that a person included on an application for a license under ORS 475C.065 has an interest in or authority over the management of another entity for which a license has been issued under ORS 475C.065.

(2) A marijuana producer that holds a license issued under ORS 475C.065 may deliver to or receive from a marijuana processor that holds a license issued under ORS 475C.085:

(a) Cannabinoid products, cannabinoid extracts and cannabinoid concentrates processed by the marijuana processor from marijuana produced by the marijuana producer and that do not contain marijuana produced by any other marijuana producer; and

(b) Marijuana produced by the marijuana producer that the marijuana processor received from the marijuana producer but that the marijuana processor did not process.

(3) Two or more marijuana producers that hold licenses issued under ORS 475C.065 and are commonly owned by the same person may deliver to and receive from one another marijuana and usable marijuana. [2021 c.397 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.085 - Processor license; fees; rules.**

(1) The processing of marijuana items is subject to regulation by the Oregon Liquor and Cannabis Commission.

(2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed. To hold a processor license under this section, a marijuana processor:

(a) Must apply for a license in the manner described in ORS 475C.033;

(b) Must provide proof that the applicant is 21 years of age or older;

(c) If the marijuana processor processes marijuana extracts or industrial hemp extracts, as defined in ORS 571.269, may not be located in an area zoned exclusively for residential use; and

(d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

(a) Require a marijuana processor to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana processors;

(c) Require marijuana processed by a marijuana processor to be tested in accordance with ORS 475C.544;

(d) Require industrial hemp commodities and products processed by a marijuana processor to meet any requirements for industrial hemp commodities or products established under ORS 571.260 to 571.348 or rules adopted under ORS 571.260 to 571.348;

(e) Allow a marijuana processor registered under ORS 475C.141 to process marijuana and usable marijuana into medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts in the same manner that rules adopted under ORS

475C.005 to 475C.525 allow a marijuana processor to process marijuana and usable marijuana into general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts, excepting those circumstances where differentiating between the processing of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the processing of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and

(f) Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:

(A) Cannabinoid edibles;

(B) Cannabinoid concentrates;

(C) Cannabinoid extracts; and

(D) Any other type of cannabinoid product or industrial hemp commodity or product identified by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed, together with other fees collected under ORS 475C.005 to 475C.525, the cost of administering ORS 475C.005 to 475C.525; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475C.297. [Formerly 475B.090]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.089 - Cannabinoid concentrate; kief.**

(1) Notwithstanding ORS 475C.085, a marijuana producer that holds a license issued under ORS 475C.065 and has a mature marijuana plant grow canopy described in subsection (2) of this section may process marijuana into a cannabinoid concentrate if the process involves separating cannabinoids from marijuana by:

- (a) A mechanical process; or
- (b) An extraction process using water as the solvent.
- (2) To be eligible to process marijuana into a cannabinoid concentrate under this section, a marijuana producer must have a mature marijuana plant grow canopy, as restricted by the Oregon Liquor and Cannabis Commission under ORS 475C.077, that does not exceed:
  - (a) For marijuana grown outdoors, 5,000 square feet; or
  - (b) For marijuana grown indoors, 1,250 square feet.
- (3)(a) A marijuana producer that holds a license issued under ORS 475C.065 and that has a plant grow canopy determined by rule by the commission, may produce and transfer kief.
- (b) For purposes of this subsection, "kief" means the resinous trichomes of marijuana that accumulate or fall off when marijuana flowers are sifted through a mesh screen or sieve.
- (4) The processing of marijuana under this section must comport with any reasonable condition adopted under ORS 475C.449 that is imposed on the manner in which a marijuana processor licensed under ORS 475C.085 may process marijuana. [Formerly 475B.096]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.093 - Wholesale license; fees; rules.**

- (1) The wholesale sale of marijuana items is subject to regulation by the Oregon Liquor and Cannabis Commission.
- (2) A marijuana wholesaler must have a wholesale license issued by the commission for the premises at which marijuana items are received, stored or delivered. To hold a wholesale license under this section, a marijuana wholesaler:
  - (a) Must apply for a license in the manner described in ORS 475C.033;
  - (b) Must provide proof that the applicant is 21 years of age or older;
  - (c) May not be located in an area that is zoned exclusively for residential use; and
  - (d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.
- (3) The commission shall adopt rules that:
  - (a) Require a marijuana wholesaler to annually renew a license issued under this section;
  - (b) Establish application, licensure and renewal of licensure fees for marijuana wholesalers;
  - (c) Require marijuana items received, stored or delivered by a marijuana wholesaler to be tested in accordance with ORS 475C.544;
  - (d) Allow a marijuana wholesaler registered under ORS 475C.145 to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale in the same manner that rules adopted under ORS 475C.005 to 475C.525 allow a marijuana wholesaler to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and
  - (e) Require a marijuana wholesaler to meet any public health and safety standards and industry best practices established by the commission by rule.
- (4) Fees adopted under subsection (3)(b) of this section:
  - (a) May not exceed, together with other fees collected under ORS 475C.005 to 475C.525, the cost of administering ORS 475C.005 to 475C.525; and
  - (b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475C.297. [Formerly 475B.100]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.097 - Retail license; sale of medical grade items; fees; rules.**

- (1) The retail sale of marijuana items is subject to regulation by the Oregon Liquor and Cannabis Commission.
- (2) A marijuana retailer must have a retail license issued by the commission for the premises at which marijuana items are sold. To hold a retail license under this section, a marijuana retailer:
  - (a) Must apply for a license in the manner described in ORS 475C.033;
  - (b) Must provide proof that the applicant is 21 years of age or older;
  - (c) May not be located in an area that is zoned exclusively for residential use;
  - (d) Except as provided in ORS 475C.101, may not be located within 1,000 feet of:
    - (A) A building where a public prekindergarten or kindergarten program is provided by a school district or an education service district;
    - (B) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
    - (C) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and
  - (e) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.
- (3) The commission shall adopt rules that:
  - (a) Require a marijuana retailer to annually renew a license issued under this section;
  - (b) Establish application, licensure and renewal of licensure fees for marijuana retailers;
  - (c) Require marijuana items sold by a marijuana retailer to be tested in accordance with ORS 475C.544;
  - (d) Notwithstanding ORS 475C.205, allow a marijuana retailer to deliver marijuana items to another marijuana retailer that has on

the marijuana retailer's license application a person that has an interest in or authority over the management of the other marijuana retailer;

(e) Subject to the limitations and privileges described in ORS 475C.149 (3), allow a marijuana retailer registered under ORS 475C.149 to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail in the same manner that rules adopted under ORS 475C.005 to 475C.525 allow a marijuana retailer to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and

(f) Require a marijuana retailer to meet any public health and safety standards and industry best practices established by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed, together with other fees collected under ORS 475C.005 to 475C.525, the cost of administering ORS 475C.005 to 475C.525; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475C.297. [Formerly 475B.105; 2022 c.81 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.101 - Proximity of marijuana retailer to prekindergarten, kindergarten or school.**

Notwithstanding ORS 475C.097 (2)(d), a marijuana retailer may be located within 1,000 feet of a building described in ORS 475C.097 (2)(d) if:

(1)(a) The marijuana retailer is not located within 500 feet of:

(A) A building where a public prekindergarten or kindergarten program is provided by a school district or an education service district;

(B) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(C) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(b) The Oregon Liquor and Cannabis Commission determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the marijuana retailer; or

(2) The marijuana retailer was established before August 1, 2017, in accordance with a city or county ordinance adopted under section 29b, chapter 83, Oregon Laws 2016. [Formerly 475B.109; 2022 c.81 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.105 - Establishment of school or other building after issuance of license; retailer relocation; rules.**

(1) If a building described in ORS 475C.097 (2)(d) that has not previously been attended by children is established within 1,000 feet of a premises for which a license has been issued under ORS 475C.097, the marijuana retailer located at that premises may remain at that location unless the Oregon Liquor and Cannabis Commission revokes the license of the marijuana retailer under ORS 475C.265.

(2)(a) If the commission issues a license for a premises under ORS 475C.097 and, after issuance, the commission becomes aware that a school established prior to issuance of the license is located within 1,000 feet of the premises, the commission may allow the marijuana retailer to relocate to a premises that is not within 1,000 feet of the school without applying for and being issued a new license under ORS 475C.097.

(b) The commission may adopt rules to carry out this subsection. [Formerly 475B.115; 2022 c.81 §24; 2022 c.108 §6; 2022 c.117 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.109 - Requirement to verify person's age; rules.**

The Oregon Liquor and Cannabis Commission may adopt rules establishing the circumstances under which the commission may require a marijuana retailer that holds a license issued under ORS 475C.097 to use an age verification scanner or any other equipment used to verify a person's age for the purpose of ensuring that the marijuana retailer does not sell marijuana items to a person under 21 years of age. Information obtained under this section may not be retained after verifying a person's age and may not be used for any purpose other than verifying a person's age. [Formerly 475B.119]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.113 - Ordinance allowing delivery of marijuana items to consumers; prohibition on local tax or fee.**

(1) The governing body of a city or county may adopt ordinances that allow the delivery of marijuana items to consumers located within the jurisdiction of the city or county from an adjacent city or county.

(2) If the governing body of a city or county adopts an ordinance under this section, the governing body must provide the text of the ordinance to the Oregon Liquor and Cannabis Commission.

(3) A city or county that adopts an ordinance under this section may not impose a tax or fee on the retail price or delivery cost of

marijuana items delivered within the city or county. [2021 c.155 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.117 - Delivery of marijuana items to consumer; requirements; limitations; rules.**

(1) A marijuana retailer that holds a license issued under ORS 475C.097 may make deliveries to a consumer pursuant to the consumer's bona fide order received by the marijuana retailer. The delivery of marijuana items under this section may be made to a consumer:

- (a) Within the same city or unincorporated area of the county in which the marijuana retailer is located; or
- (b) In a city or the unincorporated area of a county that is adjacent to the city or unincorporated area of the county in which the marijuana retailer is located, provided the adjacent city or county has adopted an ordinance allowing for the delivery of marijuana items by a marijuana retailer located in an adjacent city or unincorporated area of a county.

(2) A marijuana retailer that makes deliveries under this section shall:

- (a) Ensure that deliveries are made in an efficient and timely manner.
- (b) Upon request, provide to the Oregon Liquor and Cannabis Commission information on each vehicle used to make deliveries of marijuana items under this section, including the make, model, year, color, vehicle identification number and registration plate number.
- (c) Maintain an electronic or physical record of each bona fide order for the delivery of marijuana items that the marijuana retailer fulfills.
- (d) Report to the commission, and as necessary to the appropriate law enforcement agency, any accidents or losses involving a delivery vehicle.

(3) An individual who makes deliveries on behalf of a marijuana retailer under this section:

(a) Shall:

- (A) Hold a permit issued under ORS 475C.273 and carry the permit while making deliveries under this section.
- (B) Have a method of secure electronic communication in order to communicate with the marijuana retailer for which the individual is making deliveries.
- (C) Maintain an electronic or physical record of a bona fide order for a delivery of a marijuana item.
- (D) Present to the consumer a printed or electronic delivery manifest and obtain on the manifest the consumer's written or electronic signature verifying completion of the delivery of marijuana items.
- (E) Except in the case of an emergency or unsafe road conditions or as necessary for fuel, rest or vehicle repair, travel only between the premises of the marijuana retailer and the locations at which the deliveries of marijuana items are made.

(b) May not:

- (A) Leave a delivery vehicle that contains marijuana items unattended unless the delivery vehicle is locked and equipped with an active vehicle alarm system.
- (B) Carry more than \$10,000 worth of marijuana items in a delivery vehicle at any one time.
- (C) Consume, or be under the influence of, marijuana while making deliveries under this section.

(4) A delivery vehicle must:

- (a) While being used for making deliveries, be equipped with an active global positioning system device that tracks the location of the delivery vehicle and enables the marijuana retailer for which the deliveries are being made to identify the location of the delivery vehicle.
  - (b) Be equipped with a lockable container in a secured cargo area of the delivery vehicle that is of a size appropriate to contain the marijuana items being delivered.
  - (c) Be free of any markings that may indicate that the delivery vehicle is used for the purpose of delivering marijuana items.
- (5) A delivery of marijuana items may not be made to a consumer who is located on land owned or leased by the federal government.

(6) The commission may adopt rules to carry out the purposes of this section. [2021 c.155 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.121 - Exclusively medical licensee designation for marijuana producer.**

(1) The Oregon Liquor and Cannabis Commission shall designate any marijuana producer that holds a license issued under ORS 475C.065 and that is registered under ORS 475C.137 as an exclusively medical licensee if the marijuana producer attests, in a form and manner prescribed by the commission, to:

- (a) Producing marijuana only for medical purposes; and
- (b) Transferring usable marijuana only to marijuana processors registered under ORS 475C.141, marijuana wholesalers registered under ORS 475C.145, marijuana retailers registered under ORS 475C.149, registry identification cardholders and designated primary caregivers.

(2) If the commission makes a designation under this section, the commission shall keep a record of the designation. [Formerly 475B.122]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis**

**RegulationSection 475C.125 - Exclusively medical licensee designation for marijuana processor.**

(1) The Oregon Liquor and Cannabis Commission shall designate any marijuana processor that holds a license issued under ORS 475C.085 and that is registered under ORS 475C.141 as an exclusively medical licensee if the marijuana processor attests, in a form and manner prescribed by the commission, to:

- (a) Processing marijuana only for medical purposes;
- (b) Receiving usable marijuana only from a marijuana producer registered under ORS 475C.137; and
- (c) Transferring cannabinoid products, cannabinoid concentrates and cannabinoid extracts only to marijuana wholesalers registered under ORS 475C.145, marijuana retailers registered under ORS 475C.149, registry identification cardholders and designated primary caregivers.

(2) If the commission makes a designation under this section, the commission shall keep a record of the designation. [Formerly 475B.127]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.129 - Exclusively medical licensee designation for marijuana wholesaler.**

(1) The Oregon Liquor and Cannabis Commission shall designate any marijuana wholesaler that holds a license issued under ORS 475C.093 and that is registered under ORS 475C.145 as an exclusively medical licensee if the marijuana wholesaler attests, in a form and manner prescribed by the commission, to:

- (a) Selling marijuana items only for medical purposes;
- (b) Receiving usable marijuana only from marijuana producers registered under ORS 475C.137 and marijuana processors registered under ORS 475C.141;
- (c) Receiving cannabinoid products, cannabinoid concentrates and cannabinoid extracts only from a marijuana processor registered under ORS 475C.141; and
- (d) Transferring usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts only to marijuana retailers registered under ORS 475C.149.

(2) If the commission makes a designation under this section, the commission shall keep a record of the designation. [Formerly 475B.129]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.133 - Exclusively medical licensee designation for marijuana retailer.**

(1) The Oregon Liquor and Cannabis Commission shall designate any marijuana retailer that holds a license issued under ORS 475C.097 and that is registered under ORS 475C.149 as an exclusively medical licensee if the marijuana retailer attests, in a form and manner prescribed by the commission, to:

- (a) Selling marijuana items only for medical purposes;
- (b) Receiving usable marijuana only from marijuana producers registered under ORS 475C.137, marijuana processors registered under ORS 475C.141 and marijuana wholesalers registered under ORS 475C.145;
- (c) Receiving cannabinoid products, cannabinoid concentrates and cannabinoid extracts only from a marijuana processor registered under ORS 475C.141 and marijuana wholesalers registered under ORS 475C.145; and
- (d) Transferring usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts only to registry identification cardholders and designated primary caregivers.

(2) If the commission makes a designation under this section, the commission shall keep a record of the designation. [Formerly 475B.131]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.137 - Production for medical purposes; rules.**

(1) To produce marijuana for medical purposes, a marijuana producer that holds a license issued under ORS 475C.065 must register with the Oregon Liquor and Cannabis Commission under this section.

(2) The commission shall register a marijuana producer for the purpose of producing marijuana for medical purposes if the marijuana producer:

- (a) Holds a license issued under ORS 475C.065;
- (b) Meets any qualifications adopted by the commission by rule;
- (c) Applies to the commission in a form and manner prescribed by the commission; and
- (d) Pays any fee adopted by the commission by rule.

(3) Subject to subsection (4) of this section, a marijuana producer registered under this section may produce marijuana plants on a medically designated grow canopy in addition to producing marijuana plants on the grow canopy allowed under rules adopted under ORS 475C.077. The commission shall specify the size of medically designated grow canopies by rule, provided that the size of any medically designated grow canopy does not exceed 10 percent of the total size of both the medically designated grow canopy and the grow canopy allowed under rules adopted under ORS 475C.077 at the time that the marijuana producer applies for registration under this section.

- (4) A marijuana producer registered under this section must provide, for no consideration, at least 75 percent of the annual yield of usable marijuana harvested from the marijuana producer's medically designated grow canopy to registry identification cardholders and designated primary caregivers.
- (5) A marijuana producer registered under this section may not, during a single transaction, provide a registry identification cardholder or the designated primary caregiver of a registry identification cardholder an amount of usable marijuana that exceeds the amount of usable marijuana that a registry identification cardholder and a designated primary caregiver may jointly possess under ORS 475C.809.
- (6) A marijuana producer registered under this section may provide immature marijuana plants to a person responsible for a marijuana grow site registered under ORS 475C.792, a registry identification cardholder or a designated primary caregiver of a registry identification cardholder.
- (7)(a) The commission shall adopt rules necessary to administer this section.
- (b) The rules must establish sanctions for failure to meet the requirements of this section or a rule adopted under this section, including revocation of permission for the marijuana producer's medically designated grow canopy.
- (c) The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475C.005 to 475C.525, the cost of administering ORS 475C.005 to 475C.525. [Formerly 475B.136]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.141 - Processing for medical purposes; rules.**

- (1) To process marijuana for medical purposes, a marijuana processor that holds a license issued under ORS 475C.085 must register with the Oregon Liquor and Cannabis Commission under this section.
- (2) The commission shall register a marijuana processor for the purpose of processing marijuana for medical purposes if the marijuana processor:
- (a) Holds a license issued under ORS 475C.085;
  - (b) Meets any qualifications adopted by the commission by rule;
  - (c) Applies to the commission in a form and manner prescribed by the commission; and
  - (d) Pays any fee adopted by the commission by rule.
- (3) A marijuana processor registered under this section may:
- (a) Process marijuana and usable marijuana into medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts; and
  - (b) Notwithstanding ORS 475C.205, receive marijuana and usable marijuana from, and for a fee process that marijuana and usable marijuana into cannabinoid products, cannabinoid concentrates and cannabinoid extracts for, a registry identification cardholder or the designated primary caregiver of a registry identification cardholder, provided that the cannabinoid products, cannabinoid concentrates and cannabinoid extracts meet the requirements of ORS 475C.540 to 475C.586 and the concentration standards adopted under ORS 475C.620.
- (4)(a) The commission shall adopt rules necessary to administer this section.
- (b) The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475C.005 to 475C.525, the cost of administering ORS 475C.005 to 475C.525. [Formerly 475B.139]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.145 - Wholesale selling for medical purposes; rules.**

- (1) To sell marijuana items at wholesale for medical purposes, a marijuana wholesaler that holds a license issued under ORS 475C.093 must register with the Oregon Liquor and Cannabis Commission under this section.
- (2) The commission shall register a marijuana wholesaler for the purpose of selling marijuana items at wholesale for medical purposes if the marijuana wholesaler:
- (a) Holds a license under ORS 475C.093;
  - (b) Meets any qualifications adopted by the commission by rule;
  - (c) Applies to the commission in a form and manner prescribed by the commission; and
  - (d) Pays any fee adopted by the commission by rule.
- (3) A marijuana wholesaler registered under this section may sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale.
- (4) The commission shall adopt rules necessary to administer this section. The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475C.005 to 475C.525, the cost of administering ORS 475C.005 to 475C.525. [Formerly 475B.144]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.149 - Retail selling for medical purposes; rules.**

- (1) To sell marijuana items at retail for medical purposes, a marijuana retailer that holds a license issued under ORS 475C.097 must

register with the Oregon Liquor and Cannabis Commission under this section.

(2) The commission shall register a marijuana retailer for the purpose of selling marijuana items at retail for medical purposes if the marijuana retailer:

- (a) Holds a license issued under ORS 475C.097;
- (b) Meets any qualifications adopted by the commission by rule;
- (c) Applies to the commission in a form and manner prescribed by the commission; and
- (d) Pays any fee adopted by the commission by rule.

(3) A marijuana retailer registered under this section:

- (a) May sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers;
- (b) May not sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to individuals other than registry identification cardholders and designated primary caregivers;
- (c) May sell usable marijuana and medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers at a discounted price; and
- (d) May provide, for no consideration, usable marijuana and medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to a registry identification cardholder and the designated primary caregiver of the registry identification cardholder.

(4)(a) The commission shall adopt rules necessary to administer this section.

(b) The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475C.005 to 475C.525, the cost of administering ORS 475C.005 to 475C.525. [Formerly 475B.146]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.153 - Oregon Health Authority rule requirement.**

Notwithstanding the provisions of ORS 475C.770 to 475C.919, rules adopted by the Oregon Health Authority under ORS 475C.770 to 475C.919 must allow for the provision, transfer and sale of usable marijuana as described in ORS 475C.137. [Formerly 475B.149]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.157 - Authority to inspect books and premises; notice.**

(1) The Oregon Liquor and Cannabis Commission may, after 72 hours' notice, make an examination of the books of a licensee for the purpose of determining compliance with ORS 475C.005 to 475C.525 and 475C.540 to 475C.586 and rules adopted under ORS 475C.005 to 475C.525 and 475C.540 to 475C.586.

(2) The commission may at any time make an examination of a premises for which a license has been issued under ORS 475C.005 to 475C.525 or 475C.548 for the purpose of determining compliance with ORS 475C.005 to 475C.525 and 475C.540 to 475C.586 and rules adopted under ORS 475C.005 to 475C.525 and 475C.540 to 475C.586.

(3) The commission may not require the books of a licensee to be maintained on a premises of the licensee.

(4) This section does not authorize the commission to make an examination of a premises of a person registered under ORS 475C.770 to 475C.919. [Formerly 475B.154; 2023 c.519 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.161 - Authority to require segregation of premises.**

As is necessary to protect the public health and safety, the Oregon Liquor and Cannabis Commission may require a premises licensed under ORS 475C.005 to 475C.525 to be segregated into separate areas:

(1) For conducting the activities permitted under each license, if the licensee holds more than one license issued under ORS 475C.005 to 475C.525 for the same premises;

(2) For conducting activities related to processing marijuana into different types of cannabinoid products, cannabinoid concentrates or cannabinoid extracts, if the licensee is a marijuana processor that holds a license issued under ORS 475C.085 and that processes marijuana into any combination of different types of products, concentrates and extracts; or

(3) For producing marijuana and processing marijuana as described in ORS 475C.089 if the licensee is a marijuana producer that holds a license issued under ORS 475C.065 and that processes marijuana as described in ORS 475C.089. [Formerly 475B.158]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.165 - Authority to require general liability insurance.**

As is necessary to protect the public health and safety, the Oregon Liquor and Cannabis Commission may require a licensee to maintain general liability insurance in an amount that the commission determines is reasonably affordable and available for the purpose of protecting the licensee against damages resulting from a cause of action related to activities undertaken pursuant to the license held by the licensee. [Formerly 475B.163]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.169 - Duty to develop procedures to transfer from registration to license; rules.**

(1) The Oregon Liquor and Cannabis Commission shall adopt by rule procedures by which:

- (a) A person responsible for a marijuana grow site registered under ORS 475C.792, or, if multiple persons responsible for a marijuana grow site registered under ORS 475C.792 are located at the same address, each person responsible for a marijuana grow site located at the address, may apply for a license under ORS 475C.065 to transition from being registered by the Oregon Health Authority to being licensed by the commission;
- (b) A marijuana processing site registered under ORS 475C.815 may apply for a license under ORS 475C.085 to transition from being registered by the authority to being licensed by the commission; and
- (c) A medical marijuana dispensary registered under ORS 475C.833 may apply for a license under ORS 475C.097 to transition from being registered by the authority to being licensed by the commission.

(2)(a) In adopting rules under this section, the commission shall adopt, at a minimum, procedures by which the inventory possessed by a person responsible for a marijuana grow site, a marijuana processing site or a medical marijuana dispensary on the date on which the person responsible for a marijuana grow site, the marijuana processing site or the medical marijuana dispensary is first subject to tracking by the commission under ORS 475C.177:

(A) May be delivered to a premises for which a license has been issued under ORS 475C.085, 475C.093 or 475C.097; or

(B) May be sold to consumers by marijuana retailers that hold a license under ORS 475C.097.

(b) Procedures adopted under this subsection must require a person responsible for a marijuana grow site registered under ORS 475C.792, or, if multiple persons responsible for a marijuana grow site registered under ORS 475C.792 are located at the same address, each person responsible for a marijuana grow site located at the address, to return to an individual to whom a registry identification card has been issued under ORS 475C.783, and for whom the person or persons are producing marijuana, all the marijuana and usable marijuana owned by the individual, except as otherwise allowed under a personal agreement entered into under ORS 475C.798, at the time that the person or the persons receive a license under ORS 475C.065. [Formerly 475B.167]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.173 - Authority to establish merit-based criteria for licensure or renewal of licensure.**

In adopting rules related to industry best practices under ORS 475C.065, 475C.085, 475C.093 and 475C.097, the Oregon Liquor and Cannabis Commission may establish merit-based criteria for licensure or renewal of licensure, including, but not limited to, possession of a developed business plan, access to sufficient capital, offering living wages and benefits to employees, provision of training and apprenticeship, provision of community benefits, implementation of best environmental practices and implementation of consumer safety practices. [Formerly 475B.173]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.177 - Duty to develop and maintain system for tracking transfer of marijuana items.**

(1) The Oregon Liquor and Cannabis Commission shall develop and maintain a system for tracking the transfer of marijuana items between premises for which licenses have been issued under ORS 475C.005 to 475C.525 or 475C.548.

(2) The purposes of the system developed and maintained under this section include, but are not limited to:

- (a) Preventing the diversion of marijuana items to criminal enterprises, gangs, cartels and other states;
- (b) Preventing persons from substituting or tampering with marijuana items;
- (c) Ensuring an accurate accounting of the production, processing and sale of marijuana items;
- (d) Ensuring that laboratory testing results are accurately reported; and
- (e) Ensuring compliance with ORS 475C.005 to 475C.525 and 475C.540 to 475C.586, rules adopted under ORS 475C.005 to 475C.525 and 475C.540 to 475C.586 and any other law of this state that charges the commission with a duty, function or power related to marijuana.

(3) The system developed and maintained under this section must be capable of tracking, at a minimum:

- (a) The propagation of immature marijuana plants and the production of marijuana by a marijuana producer;
- (b) The processing of marijuana by a marijuana processor;
- (c) The receiving, storing and delivering of marijuana items by a marijuana wholesaler;
- (d) The sale of marijuana items by a marijuana retailer to a consumer;
- (e) The sale and purchase of marijuana items between licensees, as permitted by ORS 475C.005 to 475C.525;
- (f) The transfer of marijuana items between premises for which licenses have been issued under ORS 475C.005 to 475C.525 or 475C.548; and
- (g) Any other information that the commission determines is reasonably necessary to accomplish the duties, functions and powers of the commission under ORS 475C.005 to 475C.525 and 475C.540 to 475C.586. [Formerly 475B.177; 2023 c.519 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.181 - Authority to prevent diversion of marijuana.**

Except as otherwise provided by law, the Oregon Liquor and Cannabis Commission has any power, and may perform any function,



necessary for the commission to prevent the diversion of marijuana from licensees to a source that is not operating legally under the laws of this state. [Formerly 475B.182]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.185 - Authority to discipline for unregulated commerce; licensing requirements.**

(1) The Legislative Assembly finds and declares that the unregulated commerce of marijuana items constitutes a serious danger to public health and safety.

(2)(a) A person may not produce, process, transport, deliver or sell a marijuana item unless the person holds a valid license issued under ORS 475C.005 to 475C.525 or a registration issued under ORS 475C.770 to 475C.919 or is exempted under ORS 475C.305.

(b) A licensee is engaged in the unregulated commerce of marijuana items if the licensee allows a person who does not hold a license issued under ORS 475C.005 to 475C.525 or 475C.548 to engage in an activity that requires a license issued under ORS 475C.005 to 475C.525 or 475C.548.

(3) In addition to any other disciplinary action available to the Oregon Liquor and Cannabis Commission under ORS 475C.005 to 475C.525 or 475C.540 to 475C.586, the commission may immediately:

(a) Restrict, suspend or refuse to renew a license issued under ORS 475C.005 to 475C.525 or 475C.548 if circumstances create probable cause for the commission to conclude that a licensee has:

(A) Purchased or received a marijuana item from an unlicensed source; or

(B) Sold, stored or transferred a marijuana item in a manner that is not permitted by the licensee's license;

(b) Restrict, suspend or refuse to renew a license issued under ORS 475C.005 to 475C.525 or 475C.548 if circumstances create probable cause for the commission to believe that a person who does not hold a license issued under ORS 475C.005 to 475C.525 or 475C.548 for the licensed premises engaged, or is engaging, in an activity that requires a license under ORS 475C.005 to 475C.525 or 475C.548; or

(c) Seize marijuana items from a licensee if circumstances create probable cause for the commission to conclude that the licensee has:

(A) Engaged, or is engaging, in the unlawful diversion of marijuana items; or

(B) Allowed, or is allowing, a person who does not hold a license issued under ORS 475C.005 to 475C.525 or 475C.548 to engage in an activity that requires a license issued under ORS 475C.005 to 475C.525 or 475C.548 at the premises for which a license is issued. [Formerly 475B.186]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.189 - Authority to require financial disclosure from licensee.**

(1) The Oregon Liquor and Cannabis Commission may require a licensee or applicant for a license under ORS 475C.005 to 475C.525 to submit, in a form and manner prescribed by the commission, to the commission a sworn statement showing:

(a) The name and address of each person that has a financial interest in the business operating or to be operated under the license; and

(b) The nature and extent of the financial interest of each person that has a financial interest in the business operating or to be operated under the license.

(2) The commission may refuse to issue, or may suspend, revoke or refuse to renew, a license issued under ORS 475C.005 to 475C.525 if the commission determines that a person that has a financial interest in the business operating or to be operated under the license committed or failed to commit an act that would constitute grounds for the commission to refuse to issue, or to suspend, revoke or refuse to renew, the license if the person were the licensee or applicant for the license. [Formerly 475B.191]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.193 - Authority to investigate, discipline licensees.**

(1) Notwithstanding the lapse, suspension or revocation of a license issued under ORS 475C.005 to 475C.525, the Oregon Liquor and Cannabis Commission may:

(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the license; or

(b) Revise or render void an order suspending or revoking the license.

(2) In cases involving the proposed denial of a license issued under ORS 475C.005 to 475C.525, the applicant for licensure may not withdraw the applicant's application. [Formerly 475B.194]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.197 - Authority to investigate, discipline permit holder.**

(1) Notwithstanding the lapse, suspension or revocation of a permit issued under ORS 475C.273, the Oregon Liquor and Cannabis Commission may:

(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the permit; or

(b) Revise or render void an order suspending or revoking the permit.

(2) In cases involving the proposed denial of a permit issued under ORS 475C.273, the applicant for the permit may not withdraw

the applicant's application. [Formerly 475B.199]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.201 - Authority to delegate certain duties, functions and powers.**

Except for the power to adopt rules, the Oregon Liquor and Cannabis Commission may delegate to the administrator appointed under ORS 471.720 any of the commission's functions, duties and powers as prescribed by ORS 475C.005 to 475C.525, 475C.540 to 475C.586, 475C.600 to 475C.648, 475C.770 to 475C.919 and 475C.950 or any other law of the state related to the regulation of marijuana items. [Formerly 475B.201]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.203 - License assignment program; rules.**

- (1) The Oregon Liquor and Cannabis Commission may adopt rules to establish a program to assign expired, relinquished or otherwise suspended licenses issued under ORS 475C.005 to 475C.525 to qualified applicants.
- (2) In establishing and operating the program described in subsection (1) of this section, the commission may consult with other state agencies, including the Governor's office, as the commission determines is necessary.
- (3) The commission may adopt other rules as necessary to carry out this section. [2022 c.108 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.205 - Restrictions on delivery or receipt; waiver by commission.**

- (1) Except as provided in ORS 475C.137 and 475C.850 and rules adopted pursuant to ORS 475C.065, a marijuana producer that holds a license issued under ORS 475C.065, marijuana processor that holds a license issued under ORS 475C.085 or marijuana wholesaler that holds a license issued under ORS 475C.093 may deliver marijuana items only to or on a premises for which a license has been issued under ORS 475C.065, 475C.085, 475C.093 or 475C.097, or to a registry identification cardholder or designated primary caregiver as allowed under ORS 475C.005 to 475C.525.
- (2) A licensee to which marijuana items may be delivered under subsection (1) of this section may receive marijuana items only from:
  - (a) A marijuana producer that holds a license issued under ORS 475C.065, marijuana processor that holds a license issued under ORS 475C.085, marijuana wholesaler that holds a license issued under ORS 475C.093, marijuana retailer that holds a license issued under ORS 475C.097 or a laboratory licensed under ORS 475C.548;
  - (b) A researcher of cannabis that holds a certificate issued under ORS 475C.289 and that transfers limited amounts of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts in accordance with procedures adopted under ORS 475C.289 (3)(d) and (e);
  - (c) A marijuana grow site registered under ORS 475C.792, marijuana processing site registered under ORS 475C.815, or a medical marijuana dispensary registered under ORS 475C.833, acting in accordance with procedures adopted by the Oregon Liquor and Cannabis Commission under ORS 475C.169; or
  - (d) A marijuana grow site registered under ORS 475C.792, acting in accordance with ORS 475C.800 and any procedures adopted by rule by the commission.
- (3) Except as provided in ORS 475C.117, the sale of marijuana items by a marijuana retailer that holds a license issued under ORS 475C.097 must be restricted to the premises for which the license has been issued.
- (4) The commission may by order waive the requirements of subsections (1) and (2) of this section to ensure compliance with ORS 475C.005 to 475C.525 or a rule adopted under ORS 475C.005 to 475C.525. An order issued under this subsection does not constitute a waiver of any other requirement of ORS 475C.005 to 475C.525 or any other rule adopted under ORS 475C.005 to 475C.525. [Formerly 475B.206]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.209 - Transport of marijuana item by licensee.**

- (1) In order to transport marijuana items, a licensee must create a manifest that contains the following information:
  - (a) The name of the driver of the transport vehicle;
  - (b) Identifying information for the driver's permit issued under ORS 475C.273;
  - (c) The license plate number, make and model of the transport vehicle;
  - (d) The name of the licensee from which the marijuana or marijuana items are being transported;
  - (e) A detailed inventory of the marijuana and marijuana items being transported;
  - (f) The location of any overnight stop during transportation, and the estimated time of the overnight stop; and
  - (g) The destination of the marijuana and marijuana items being transported.
- (2) Except as provided in subsection (1)(f) of this section, a manifest created under this section is not required to include transport route information.
- (3) The transport driver shall carry in the transport vehicle a copy of the manifest. [2021 c.397 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis**

**RegulationSection 475C.213 - Prohibition against selling or delivering marijuana items to persons under 21 years of age; exception.**

Except for a marijuana retailer registered under ORS 475C.149 to sell or deliver marijuana items to a registry identification cardholder who is 18 years of age or older or as allowed pursuant to ORS 475C.770 to 475C.919, a person may not sell or deliver an adult use cannabis item to a person under 21 years of age. [Formerly 475B.211]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.217 - Identification requirement; rules.**

- (1) Subject to subsection (2) of this section, a licensee or licensee representative, before selling or providing a marijuana item to another person, must require the person to produce one of the following pieces of identification:
  - (a) The person's passport, issued by the United States or a foreign government.
  - (b) The person's driver license, issued by the State of Oregon or another state of the United States.
  - (c) An identification card issued under ORS 807.400.
  - (d) A United States military identification card.
  - (e) An identification card issued by a federally recognized Indian tribe.
  - (f) Any other identification card issued by a state or territory of the United States that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.
  - (g) The person's proof of participation in the United States Customs and Border Protection Secure Electronic Network for Travelers Rapid Inspection program or NEXUS program, or successor programs.
- (2) The Oregon Liquor and Cannabis Commission may adopt rules exempting a licensee or licensee representative from this section. [Formerly 475B.216]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.221 - Identification for purchasing; restrictions on use of information.**

- (1) As used in this section, "information that may be used to identify a consumer" means information that may be acquired through the production of a piece of identification as described in ORS 475C.217, whether the information is contained in a piece of identification described in ORS 475C.217 or in a different document or record.
- (2) A consumer may not be required to procure for the purpose of acquiring or purchasing a marijuana item a piece of identification other than:
  - (a) A piece of identification described in ORS 475C.217; and
  - (b) If the consumer is a registry identification cardholder, as defined in ORS 475C.777, a registry identification card, as defined in ORS 475C.777.
- (3) A marijuana retailer may not record and retain any information that may be used to identify a consumer, except as necessary to make deliveries to consumers pursuant to ORS 475C.117, as required by any rules adopted under ORS 475C.117.
- (4) A marijuana retailer may not transfer any information that may be used to identify a consumer to any other person.
- (5)(a) Notwithstanding subsection (3) of this section, a marijuana retailer may record and retain the name and contact information of a consumer for the purpose of notifying the consumer of services that the marijuana retailer provides or of discounts, coupons and other marketing information if:
  - (A) The marijuana retailer asks the consumer whether the marijuana retailer may record and retain the information; and
  - (B) The consumer consents to the recording and retention of the information.
- (b) This subsection does not authorize a marijuana retailer to transfer information that may be used to identify a consumer.
- (6) This section does not apply to deidentified information the documentation and transfer of which is required by the Department of Revenue for purposes of ORS 475C.678. [Formerly 475B.220]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.225 - Prohibition against employing persons under 21 years of age.**

- (1) A licensee may not employ a person under 21 years of age at a premises for which a license has been issued under ORS 475C.005 to 475C.525 or 475C.548.
- (2) During an inspection of a premises for which a license has been issued under ORS 475C.005 to 475C.525 or 475C.548, the Oregon Liquor and Cannabis Commission may require proof that a person performing work at the premises is 21 years of age or older. If the person does not provide the commission with acceptable proof of age upon request, the commission may require the person to immediately cease any activity and leave the premises until the commission receives acceptable proof of age. This subsection does not apply to a person temporarily at the premises to make a service, maintenance or repair call or for other purposes independent of the premises operations.
- (3) If a person performing work has not provided proof of age requested by the commission under subsection (2) of this section, the commission may request that the licensee provide proof that the person is 21 years of age or older. Failure of the licensee to respond to a request made under this subsection by providing acceptable proof of age for a person is prima facie evidence that the licensee has allowed the person to perform work at the premises for which a license has been issued under ORS 475C.005 to 475C.525 or

475C.548 in violation of the minimum age requirement. [Formerly 475B.224; 2023 c.519 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.229 - Prohibition against importing or exporting marijuana items.**

(1) For purposes of this section:

(a) "Export" includes placing a marijuana item in any mode of transportation for hire, such as luggage, mail or parcel delivery, even if the transportation of the marijuana item is intercepted prior to the marijuana item leaving this state.

(b) "Marijuana item" includes an industrial hemp commodity or product that exceeds the greater of:

(A) A concentration of 0.3 percent total delta-9-tetrahydrocannabinol; or

(B) The concentration of total delta-9-tetrahydrocannabinol allowed under federal law.

(2) A person may not import marijuana items into this state or export marijuana items from this state.

(3) A violation of this section is a Class B violation, except:

(a) As provided in subsection (4) of this section; or

(b) If the item is industrial hemp and does not exceed a total delta-9-tetrahydrocannabinol concentration of one percent.

(4) A violation of this section is a:

(a) Class A misdemeanor, if the importation or exportation:

(A) Is not for consideration and the person holds a license issued under ORS 475C.065, 475C.085, 475C.093 or 475C.097; or

(B) Concerns an amount of marijuana items that exceeds the applicable maximum amount specified in ORS 475C.337 (1)(a) to (f).

(b) Class C felony, if the importation or exportation:

(A) Is for consideration and the person holds a license issued under ORS 475C.065, 475C.085, 475C.093 or 475C.097;

(B) Concerns an amount of marijuana items that exceeds 16 times the applicable maximum amount specified in ORS 475C.337

(1)(a) to (f); or

(C) Concerns a cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS

475C.097. [Formerly 475B.227]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.233 - Prohibition against obfuscating mark or label or using mark or label to deceive.**

(1) A licensee may not use or allow the use of a mark or label on the container of a marijuana item that is kept for sale if the mark or label does not precisely and clearly indicate the nature of the container's contents or if the mark or label in any way might deceive a customer about the nature, composition, quantity, age or quality of the container's contents.

(2) The Oregon Liquor and Cannabis Commission may prohibit a licensee from selling any brand of marijuana item that in the commission's judgment is deceptively branded or labeled or contains injurious or adulterated ingredients. [Formerly 475B.232]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.237 - Requirement that marijuana items comply with minimum standards.**

(1) A marijuana item may not be sold or offered for sale within this state unless the marijuana item complies with the minimum standards prescribed by the statutory laws of this state.

(2) The Oregon Liquor and Cannabis Commission may prohibit the sale of a marijuana item by a marijuana retailer for a reasonable period of time for the purpose of determining whether the marijuana item complies with the minimum standards prescribed by the statutory laws of this state. [Formerly 475B.236]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.241 - Prohibition against certain licensees possessing mature marijuana plants.**

(1) Except for a marijuana producer that holds a license issued under ORS 475C.065 or licensee representative of a marijuana producer that holds a license issued under ORS 475C.065, a licensee or licensee representative may not possess a mature marijuana plant.

(2) A licensee or licensee representative may not sell a mature marijuana plant. [Formerly 475B.241]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.245 - Other prohibitions.**

(1) A person may not make false representations or statements to the Oregon Liquor and Cannabis Commission in order to induce or prevent action by the commission.

(2) A licensee may not maintain a noisy, lewd, disorderly or insanitary establishment or supply impure or otherwise deleterious marijuana items.

(3) A licensee may not misrepresent to a customer or to the public any marijuana items. [Formerly 475B.246]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.249 - Purpose of license issued under ORS 475C.005 to 475C.525 or 475C.548.**

A license issued under ORS 475C.005 to 475C.525 or 475C.548:

- (1) Is issued for both adult use purposes and medical use purposes; and
- (2) Serves the purpose of exempting the person that holds the license from the criminal laws of this state for possession, delivery or manufacture of marijuana items, provided that the person complies with all state laws and rules applicable to licensees. [Formerly 475B.251; 2023 c.519 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.253 - Labeling of industrial hemp commodity or product.**

- (1) An industrial hemp product or commodity offered for sale by a marijuana retailer that holds a license issued under ORS 475C.097 must carry a label that clearly identifies whether the product or commodity is derived from hemp or marijuana.
- (2) The Oregon Liquor and Cannabis Commission may inspect the premises of a marijuana retailer that holds a license issued under ORS 475C.097 to ensure compliance with this section. [Formerly 475B.253]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.257 - Prohibition against sale of certain marijuana items; rules.**

- (1) As used in this section:
  - (a) "Consumer" means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.
  - (b) "Marijuana item" includes an industrial hemp commodity or product that exceeds:
    - (A) The concentration of adult use cannabinoids established by the Oregon Liquor and Cannabis Commission, in consultation with the Oregon Health Authority and the State Department of Agriculture, by rule; or
    - (B) The greater of:
      - (i) A concentration of 0.3 percent total delta-9-tetrahydrocannabinol; or
      - (ii) The concentration of total delta-9-tetrahydrocannabinol allowed under federal law.
  - (2) A person other than a marijuana retailer that holds a license issued under ORS 475C.097 may not sell marijuana items to a consumer. [Formerly 475B.254]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.261 - Schedule of violations; rules.**

The Oregon Liquor and Cannabis Commission shall establish by rule a schedule outlining the numbers and types of violations described in ORS 475C.265 that, if committed within a two-year period by an applicant for a license issued under ORS 475C.005 to 475C.525 or 475C.548 or a licensee indicate a disregard for the law or a failure to control the premises for which a license has been issued under ORS 475C.005 to 475C.525 or 475C.548. The schedule adopted under this section must include a definition of the categories of violations, elements of the violations and a method by which to apply any aggravating or mitigating circumstances to the violations. [2021 c.397 §5; 2023 c.519 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.265 - Grounds for revocation, suspension or restriction of license or permit.**

- (1) Subject to subsection (3) of this section, the Oregon Liquor and Cannabis Commission may revoke, suspend or restrict a license issued under ORS 475C.005 to 475C.525 or 475C.548 or require a licensee or licensee representative to undergo training if the commission finds or has reasonable ground to believe that the licensee or licensee representative:
  - (a) Has violated a provision of ORS 475C.005 to 475C.525 or 475C.540 to 475C.586 or a rule adopted under ORS 475C.005 to 475C.525 or 475C.540 to 475C.586.
  - (b) Has diverted marijuana to the interstate market or an illicit market or has diverted resources to a criminal enterprise.
  - (c) Has introduced into the marijuana industry regulated under ORS 475C.005 to 475C.525 cannabinoids or marijuana not produced or processed by a licensee and not tracked in the system developed and maintained under ORS 475C.177.
  - (d) Has made any false representation or statement to the commission regarding compliance with a provision of ORS 475C.005 to 475C.525 or 475C.540 to 475C.586 or a rule adopted under ORS 475C.005 to 475C.525 or 475C.540 to 475C.586 in order to induce or prevent action by the commission.
  - (e) Is in the habit of using alcoholic liquor, habit-forming drugs, marijuana or controlled substances to excess.
  - (f) Has misrepresented to a customer or the public any marijuana items sold by the licensee or licensee representative.
  - (g) Since the issuance of the license, has been convicted of a felony, of violating any of the marijuana laws of this state, general or local, or of any misdemeanor or violation of any municipal ordinance committed on the premises for which the license has been issued.
  - (h) Has sold a marijuana item to a person under 21 years of age.
- (2) In addition to the grounds listed in subsection (1) of this section, the commission may take an action described in subsection (1) of this section if there is a history of a lack of institutional control involving the premises for which a license has been issued under ORS 475C.005 to 475C.525 or 475C.548.
- (3)(a) The commission may revoke a license under subsection (1)(a) of this section only when the conduct poses a significant risk to

public health or safety.

(b) The commission shall consider as mitigating factors to the conduct described in subsection (1) of this section the following:

(A) Self-reporting by a licensee or applicant;

(B) A demonstration that, to the satisfaction of the commission, the conduct of the licensee or applicant is not persistent or serious; and

(C) A demonstration that, to the satisfaction of the commission, the licensee's willingness and ability to adequately control the premises for which a license has been issued under ORS 475C.005 to 475C.525 or 475C.548 and any inventory stored at the premises.

(4) The commission may suspend or restrict a license issued under ORS 475C.005 to 475C.525 or 475C.548 or require a licensee or licensee representative to undergo training if the commission finds or has reasonable grounds to believe that the licensee or licensee representative has violated a provision of ORS 475C.005 to 475C.525 or 475C.540 to 475C.586 or a rule adopted under ORS 475C.005 to 475C.525 or 475C.540 to 475C.586.

(5) The commission may suspend or revoke a permit issued under ORS 475C.273 to an individual rather than suspend or revoke a license issued under ORS 475C.005 to 475C.525 or 475C.548 if the commission determines that permit suspension or revocation is more appropriate.

(6)(a) The commission may revoke a marijuana retailer license issued under ORS 475C.097 if the licensee fails to:

(A) Pay the tax as required under ORS 475C.682 twice in any four consecutive quarters and the Department of Revenue has issued to the licensee a distraint warrant under ORS 475C.688 for the nonpayment of tax; or

(B) File a return as required under ORS 475C.682 twice in any four consecutive quarters and the department has issued to the licensee a notice of determination and assessment under ORS 475C.688 for failure to file a return.

(b) The department's written notice to the commission that a licensee described under this subsection has failed to pay a tax or file a return twice in any four consecutive quarters, and that the department has issued a distraint warrant or notice of determination and assessment, shall constitute prima facie evidence of the licensee's failure to pay the tax or file a return. [Formerly 475B.256; 2023 c.519 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.269 - Permit required to perform work for or on behalf of marijuana retailer or laboratory.**

(1) An individual who performs work for or on behalf of a licensee or a laboratory licensed under ORS 475C.548 must have a valid permit issued by the Oregon Liquor and Cannabis Commission under ORS 475C.273 if the individual participates in:

(a) The delivery, possession, production, propagation, processing, sampling, securing, selling or testing of marijuana items at the premises or laboratory for which the license has been issued;

(b) The recording of the delivery, possession, production, propagation, processing, sampling, securing, selling or testing of marijuana items at the premises or laboratory for which the license has been issued; or

(c) The verification of any document described in ORS 475C.217.

(2) A licensee or a laboratory licensed under ORS 475C.548 must verify that an individual has a valid permit issued under ORS 475C.273 before allowing the individual to perform, or continue to perform, any work described in subsection (1) of this section at the premises or laboratory for which the license has been issued. [Formerly 475B.261; 2022 c.117 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.273 - Issuing, renewing permits; fees; rules.**

(1) The Oregon Liquor and Cannabis Commission shall issue permits to qualified applicants to perform work described in ORS 475C.269. The commission shall adopt rules establishing:

(a) The qualifications for performing work described in ORS 475C.269;

(b) The term of a permit issued under this section;

(c) Procedures for applying for and renewing a permit issued under this section; and

(d) Reasonable application, issuance and renewal fees for a permit issued under this section.

(2)(a) The commission may require an individual applying for a permit under this section to successfully complete a course, made available by or through the commission, through which the individual receives training on:

(A) Checking identification;

(B) Detecting intoxication;

(C) Handling marijuana items;

(D) If applicable, producing and propagating marijuana;

(E) If applicable, processing marijuana;

(F) The content of ORS 475C.005 to 475C.525 and rules adopted under ORS 475C.005 to 475C.525;

(G) If applicable, the content of ORS 475C.540 to 475C.586 and rules adopted under ORS 475C.540 to 475C.586; or

(H) Any matter deemed necessary by the commission to protect the public health and safety.

(b) The commission or other provider of a course may charge a reasonable fee for the course.

(c) The commission may not require an individual to successfully complete a course more than once, except that:

(A) As part of a final order suspending a permit issued under this section, the commission may require a permit holder to

successfully complete the course as a condition of lifting the suspension; and

(B) As part of a final order revoking a permit issued under this section, the commission shall require an individual to successfully complete the course prior to applying for a new permit.

(3) The commission shall conduct a criminal records check under ORS 181A.195 on an individual applying for a permit under this section.

(4) Subject to the applicable provisions of ORS chapter 183, the commission may suspend, revoke or refuse to issue or renew a permit if the individual who is applying for or who holds the permit:

(a) Is convicted of a felony or is convicted of an offense under ORS 475C.005 to 475C.525, except that the commission may not consider a conviction for an offense under ORS 475C.005 to 475C.525 if the date of the conviction is two or more years before the date of the application or renewal;

(b) Violates any provision of ORS 475C.005 to 475C.525 or 475C.540 to 475C.586 or any rule adopted under ORS 475C.005 to 475C.525 or 475C.540 to 475C.586; or

(c) Makes a false statement to the commission.

(5) A permit issued under this section is a personal privilege and permits work described under ORS 475C.269 only for the individual who holds the permit. [Formerly 475B.266; 2023 c.519 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.277 - Authority to require fingerprints of individuals listed on application.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Liquor and Cannabis Commission may require the fingerprints of any individual listed on an application submitted under ORS 475C.273. [Formerly 475B.271]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.281 - Right of employees to organize.**

(1) An employee of a licensee has the right to form, join and participate in the activities of a labor organization of the employee's own choosing for the purpose of securing representation and collective bargaining for matters concerning employment relations with the licensee.

(2) For purposes of this section, the provisions of ORS chapters 661 to 663 apply to relations between employees of licensees and employers that are licensees in the same manner that those provisions apply to other employment relations. [Formerly 475B.276]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.285 - Whistleblower protection for employees.**

(1) It is an unlawful employment practice for a licensee to discharge, demote, suspend or in any manner discriminate or retaliate against an employee of the licensee with regard to promotion, compensation or other terms, conditions or privileges of employment on the basis that the employee has in good faith reported information to the Oregon Liquor and Cannabis Commission that the employee believes is evidence of a violation of ORS 475C.005 to 475C.525 or 475C.540 to 475C.586 or a rule adopted under ORS 475C.005 to 475C.525 or 475C.540 to 475C.586.

(2) This section is subject to enforcement under ORS chapter 659A. [Formerly 475B.281; 2023 c.519 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.287 - Requirement to report sex trafficking or other human trafficking at licensed premises; immunity; rules.**

(1) As used in this section, "law enforcement agency" has the meaning given that term in ORS 471.271.

(2) An employee or worker at a premises licensed under ORS 475C.005 to 475C.525 or 475C.540 to 475C.586 shall:

(a) Report to a law enforcement agency and to the Oregon Liquor and Cannabis Commission if the employee or worker has a reasonable belief that sex trafficking or other human trafficking is occurring at the licensed premises; and

(b) Report to the commission if the employee or worker has a reasonable belief that a minor is employed or contracted at the licensed premises in a manner that violates commission rules.

(3) An employee or worker making a report under this section in good faith is immune from any criminal or civil liability for making the report.

(4) The commission may adopt rules to carry out this section. [2022 c.117 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.289 - Certification of cannabis researchers; rules.**

(1) The Oregon Liquor and Cannabis Commission, in consultation with the Oregon Health Authority and the State Department of Agriculture, shall establish a program for the purpose of identifying and certifying private and public researchers of cannabis.

(2)(a) The authority shall assist the commission in identifying candidates for certification under this section with respect to potential medical research.

- (b) The department shall assist the commission in identifying candidates for certification under this section with respect to potential agricultural research.
- (3) Subject to subsection (4) of this section, the commission shall adopt by rule or order:
- (a) Qualifications for certification under this section;
  - (b) The term of a certificate issued under this section;
  - (c) Processes for applying for, receiving and renewing a certificate under this section;
  - (d) Procedures for tracking marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts received by and disposed or otherwise made use of by a person that holds a certificate issued under this section; and
  - (e) Procedures for disposing or otherwise making use of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.
- (4) In establishing qualifications under subsection (3) of this section, the commission shall consider the following:
- (a) A research applicant's access to funding and the overall cost of the proposed research;
  - (b) The overall benefit of an applicant's proposed research to this state's cannabis industry or to public health and safety; and
  - (c) Legal barriers to conducting the proposed research or legal risks associated with conducting the proposed research.
- (5) In adopting procedures under subsection (3)(d) and (e) of this section with respect to making use of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts, the commission shall also adopt procedures by which a person that holds a certificate issued under this section may transfer limited amounts of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts to another person that holds a certificate issued under this section or to a premises for which a license has been issued under ORS 475C.065, 475C.085, 475C.093 or 475C.097.
- (6) In adopting procedures under subsection (3)(d) and (e) of this section with respect to making use of marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts, the commission shall also adopt procedures by which a person that holds a certificate issued under this section may give, devise or bequest usable marijuana, immature marijuana plants, marijuana seeds, cannabinoid products, cannabinoid concentrates and cannabinoid extracts to a medical marijuana dispensary registered with the authority under ORS 475C.833 and owned by a nonprofit corporation organized under ORS chapter 65 for purposes described in ORS 475C.850.
- (7) A person that holds a certificate issued under this section:
- (a) May receive marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts from a licensee or a registrant under ORS 475C.770 to 475C.919; and
  - (b) May not sell or otherwise transfer marijuana, usable marijuana, cannabinoid products, cannabinoid concentrates or cannabinoid extracts to any other person, except as provided in this section and rules adopted by the commission under this section.
- (8) Except as otherwise provided by the commission by rule, rules adopted under ORS 475C.005 to 475C.525 with respect to licensees and licensee representatives apply to persons that hold a certificate issued under this section and persons employed by or who otherwise perform work for persons that hold a certificate issued under this section.
- (9) A person that holds a certificate issued under this section, and an employee of or other person who performs work for a person that holds a certificate issued under this section, is exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery and manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element, while performing activities related to conducting research as described in this section. [Formerly 475B.286]

Note:

Section 25, chapter 23, Oregon Laws 2016, provides:

Sec. 25.

The Oregon Health Authority shall solicit proposals through a competitive process for the purpose of choosing one or more entities to conduct research for the purpose of developing public health and safety standards for consumers of marijuana and marijuana-derived products. [2016 c.23 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.293 - Authority to require fingerprints of applicants and other individuals.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Liquor and Cannabis Commission may require the fingerprints of any individual listed on an application submitted under ORS 475C.289. The powers conferred on the commission under this section include the power to require the fingerprints of:

- (1) If the applicant is a limited partnership, each partner of the limited partnership;
- (2) If the applicant is a limited liability company, each member of the limited liability company;
- (3) If the applicant is a corporation, each director and officer of the corporation;
- (4) Any individual who holds a financial interest of 10 percent or more in the person applying for the certificate; and
- (5) Any individual who is a partner, member, director or officer of a legal entity with a financial interest in the person applying for the certificate. [Formerly 475B.291]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.297 - Marijuana Control and Regulation Fund.**



The Marijuana Control and Regulation Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Marijuana Control and Regulation Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Liquor and Cannabis Commission to administer and enforce ORS 475C.005 to 475C.525, 475C.540 to 475C.586, 475C.600 to 475C.648 and 475C.925. [Formerly 475B.296]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.301 - Enforcement authority of regulatory specialist.**

(1) In addition to the duties, functions and powers described in ORS 471.775, and subject to subsection (2) of this section, a regulatory specialist, as defined in ORS 471.001, has the authority as provided in ORS 133.005 to 133.400, 133.450, 133.525 to 133.703, 133.721 to 133.739, 161.233, 161.245, 475C.005 to 475C.525, 475C.540 to 475C.586 and 475C.600 to 475C.648, and chapter 743, Oregon Laws 1971, to conduct inspections and investigations, make seizures, aid in prosecutions of and issue citations to licensees and persons who hold a certificate or permit under ORS 475C.005 to 475C.525 for violations of and offenses related to, and otherwise enforce, ORS 475C.005 to 475C.525, 475C.540 to 475C.586 and 475C.600 to 475C.648, any rule adopted under ORS 475C.005 to 475C.525, 475C.540 to 475C.586 and 475C.600 to 475C.648 and any other law of this state that charges the Oregon Liquor and Cannabis Commission with a duty, function or power related to a marijuana item, including enforcing any law or rule related to individuals who use false identification for purposes of purchasing or possessing a marijuana item or who engage in illegal activity on or near a premises.

(2) A regulatory specialist may not:

(a) Be sworn in as a federal law enforcement official and act in that capacity while performing an activity authorized by this section.

(b) Carry a firearm.

(c) Conduct inspections and investigations of a primary residence.

(d) For purposes of ensuring compliance with ORS 475C.770 to 475C.919, conduct inspections and investigations of registry identification cardholders or designated primary caregivers, the residences of registry identification cardholders or designated primary caregivers, or the locations where registry identification cardholders or designated primary caregivers produce marijuana. [Formerly 475B.299]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.305 - Applicability of provisions to homegrown plants, homemade cannabinoid products and concentrates, specified possession and delivery.**

ORS 475C.017, 475C.021, 475C.025, 475C.029, 475C.033, 475C.037, 475C.041, 475C.045, 475C.049, 475C.053, 475C.057, 475C.061, 475C.065, 475C.077, 475C.085, 475C.093, 475C.097, 475C.105, 475C.109, 475C.113, 475C.117, 475C.137, 475C.141, 475C.145, 475C.149, 475C.157, 475C.161, 475C.165, 475C.173, 475C.177, 475C.205, 475C.213, 475C.217, 475C.225, 475C.233, 475C.237, 475C.241, 475C.245, 475C.265, 475C.269, 475C.273, 475C.281, 475C.285, 475C.289, 475C.297, 475C.433, 475C.437, 475C.445, 475C.449, 475C.453, 475C.461, 475C.465, 475C.473, 475C.477, 475C.481, 475C.485, 475C.489 and 475C.493 do not apply:

(1) To the production or storage of homegrown plants in the genus Cannabis within the plant family Cannabaceae that are otherwise subject to ORS 475C.005 to 475C.525 at a household by one or more persons 21 years of age and older, if the total amount of homegrown plants at the household does not exceed four plants at any time.

(2) To the possession or storage of usable marijuana items at a household by one or more persons 21 years of age or older, if the total amount of usable marijuana at the household does not exceed eight ounces of usable marijuana at any time.

(3) To the making, processing, possession or storage of cannabinoid products at a household by one or more persons 21 years of age and older, if the total amount of cannabinoid products at the household does not exceed 16 ounces in solid form at any time.

(4) To the making, processing, possession or storage of cannabinoid products at a household by one or more persons 21 years of age and older, if the total amount of cannabinoid products at the household does not exceed 72 ounces in liquid form at any time.

(5) To the making, processing, possession or storage of cannabinoid concentrates at a household by one or more persons 21 years of age or older, if the total amount of cannabinoid concentrates at the household does not exceed 16 ounces at any time.

(6) To the possession of cannabinoid extracts at a household by one or more persons 21 years of age or older, if the cannabinoid extracts were purchased from a marijuana retailer that holds a license under ORS 475C.097, or transferred by a medical marijuana dispensary registered by the Oregon Health Authority under ORS 475C.833, and the total amount of cannabinoid extracts at the household does not exceed one ounce at any time.

(7) To the delivery of not more than one ounce of usable marijuana at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

(8) To the delivery of not more than 16 ounces of cannabinoid products in solid form at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

(9) To the delivery of not more than 72 ounces of cannabinoid products in liquid form at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes.

(10) To the delivery of not more than 16 ounces of cannabinoid concentrates at a time by a person 21 years of age or older to another person 21 years of age or older for noncommercial purposes. [Formerly 475B.301]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.309 - Prohibition against producing, processing, possessing or storing homegrown marijuana or homemade cannabinoid products, extracts.**

(1) A person may not produce, process, possess or store homegrown marijuana, cannabinoid products or cannabinoid concentrates if the homegrown marijuana, cannabinoid products or cannabinoid concentrates can be seen by normal unaided vision from a public place.

(2) A person may not possess or store a cannabinoid extract if the cannabinoid extract can be seen by normal unaided vision from a public place.

(3) A violation of subsection (1) or (2) of this section is a Class B violation. [Formerly 475B.306]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.313 - Prohibition against producing, processing or storing homemade cannabinoid extracts, industrial hemp extracts.**

(1) A person other than a marijuana processor that holds a license issued under ORS 475C.085 may not process cannabinoid extracts into a cannabinoid product.

(2) A person may not produce, process or store homemade industrial hemp extracts.

(3) Violation of this section is a Class A misdemeanor. [Formerly 475B.311]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.317 - Prohibition against person under 21 years of age possessing, attempting to purchase or purchasing marijuana item; penalty.**

(1)(a) A person under 21 years of age may not possess, attempt to purchase or purchase a marijuana item.

(b) For purposes of this subsection, purchasing a marijuana item includes accepting a marijuana item, and possessing a marijuana item includes consuming a marijuana item, provided that the consumption of the marijuana item occurred no more than 24 hours before the determination that the person consumed the marijuana item.

(2) Except as authorized by the Oregon Liquor and Cannabis Commission by rule, or as necessary in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a premises that is posted or otherwise identified as being prohibited to the use of persons under 21 years of age.

(3)(a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (1) or (2) of this section commits a Class B violation.

(b) A person commits a Class A violation if the person violates subsection (1) of this section by reason of possessing a marijuana item while the person is operating a motor vehicle as defined in ORS 801.360.

(4) In addition to and not in lieu of any other penalty established by law:

(a) The court may require a person who violates subsection (1) of this section through misrepresentation of age to perform community service; and

(b) The court shall order that, when a person violates subsection (1) of this section, the person's driving privileges and right to apply for driving privileges be suspended pursuant to ORS 809.260 and 809.280. The court notification made to the Department of Transportation under this paragraph may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(5) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty established by law, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).

(6) In addition to and not in lieu of any penalty established by law, the court may order a person who violates this section to undergo assessment and treatment. The court shall order a person to undergo assessment and treatment if the person has previously been found to have violated this section.

(7) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of marijuana items to persons who are under 21 years of age.

(9)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance because that person consumed a marijuana item and the evidence of the violation was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance because the person consumed a marijuana item and the evidence of the violation was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section. [Formerly 475B.316]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.321 - Prohibition against producing identification that falsely indicates age; protections for reliance on identification.**

- (1) A person may not produce any piece of identification that falsely indicates the person's age.
- (2) Violation of this section is a Class A misdemeanor.
- (3) If a piece of identification is offered as evidence in any administrative or criminal prosecution of a licensee or licensee representative for sale or service of a marijuana item to a person under 21 years of age, the licensee or licensee representative is not guilty of any offense prohibiting a person from selling or serving a marijuana item to a person under 21 years of age unless it is demonstrated that a reasonable person would have determined that the identification exhibited by the person under 21 years of age was altered, or that the identification exhibited by the person under 21 years of age did not accurately describe the person to whom the marijuana item was sold or served. [Formerly 475B.321]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.325 - Requirements for assessment and treatment under ORS 475C.317.**

When a person is ordered to undergo assessment and treatment as provided in ORS 475C.317, the court shall require the person to do all of the following:

- (1) Pay to the court the fee described under ORS 813.030 in addition to any fine imposed under ORS 475C.850.
- (2) Complete an examination by an agency or organization designated by the court to determine whether the person has a problem condition involving marijuana as described in ORS 813.040. The designated agencies or organizations must meet minimum standards established under ORS 430.357 to perform the diagnostic assessment and treatment of problem marijuana use and must be certified by the Director of the Oregon Health Authority.
- (3) Complete a treatment program, paid at the expense of the person convicted, as follows:
  - (a) If the examination required under this section shows that the person has a problem condition involving marijuana, a program for rehabilitation for problem marijuana use approved by the director.
  - (b) If the examination required by this section shows that the person does not have a problem condition involving marijuana, a marijuana information program approved by the director. [Formerly 475B.326]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.329 - Prohibition regarding person who is visibly intoxicated; prohibition against allowing consumption of marijuana by person under 21 years of age on private property; penalty.**

- (1) A person may not sell, give or otherwise make available a marijuana item to a person who is visibly intoxicated.
- (2)(a) A person who exercises control over private real property may not knowingly allow a person under 21 years of age to consume a marijuana item on the property, or allow another person under 21 years of age to remain on the property if the person under 21 years of age consumes a marijuana item on the property.
- (b) This subsection:
  - (A) Applies only to a person who is present and in control of the location at the time the consumption occurs; and
  - (B) Does not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual housing unit in which the owner or agent resides.
- (3) Violation of this section is a Class A misdemeanor. [Formerly 475B.329]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.333 - Prohibition against giving marijuana item as prize; penalty.**

- (1) A marijuana item may not be given as a prize, premium or consideration for a lottery, contest, game of chance, game of skill or competition of any kind.
- (2) Violation of this section is a Class A misdemeanor. [Formerly 475B.333]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.337 - Unlawful possession by person 21 years of age or older.**

- (1) Except for licensees and licensee representatives acting in accordance with ORS 475C.005 to 475C.525 and any rule adopted under ORS 475C.005 to 475C.525, it is unlawful for any person 21 years of age or older to possess, knowingly or intentionally:
  - (a) An amount of plants in the genus Cannabis within the plant family Cannabaceae in excess of the amount allowed under ORS 475C.305 (1).
  - (b) More than two ounces of usable marijuana in a public place.
  - (c) More than eight ounces of usable marijuana.
  - (d) More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.

- (e) More than 72 ounces of cannabinoid products in liquid form.
- (f) More than one ounce of cannabinoid extracts.
- (g) A cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475C.097.
- (2) Except as provided in subsection (3) of this section, unlawful possession of a marijuana item is a Class A misdemeanor.
- (3) Unlawful possession of a marijuana item is:
  - (a) A Class B violation, if the amount possessed is not more than two times the applicable maximum amount specified in subsection (1)(a) to (f) of this section.
  - (b) A Class B misdemeanor, if the amount possessed is more than two times, but not more than four times, the applicable maximum amount specified in subsection (1)(a) to (f) of this section.
  - (c) A Class C felony, if the amount possessed is:
    - (A) More than 16 times the applicable maximum amount specified in subsection (1)(a), (c), (d), (e) or (f) of this section;
    - (B) More than eight pounds of usable marijuana in a public place; or
    - (C) More than one-quarter ounce of cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475C.097.
  - (d) A Class B felony, if:
    - (A) The amount possessed is more than 32 times the applicable maximum amount specified in subsection (1)(a), (c), (d), (e) or (f) of this section; or
    - (B) The violation is a marijuana offense involving reckless unlawful conduct under ORS 475C.353 (5) or a marijuana offense involving knowing unlawful conduct under ORS 475C.353 (6). [Formerly 475B.337; 2023 c.209 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.341 - Unlawful possession by person under 21 years of age.**

- (1) Except for licensees and licensee representatives acting in accordance with ORS 475C.005 to 475C.525 and any rule adopted under ORS 475C.005 to 475C.525, it is unlawful for any person under 21 years of age to possess, knowingly or intentionally:
  - (a) An amount of plants in the genus Cannabis within the plant family Cannabaceae in excess of the amount allowed under ORS 475C.305 (1).
  - (b) More than two ounces of usable marijuana in a public place.
  - (c) More than eight ounces of usable marijuana.
  - (d) More than 16 ounces of cannabinoid products in solid form or cannabinoid concentrates.
  - (e) More than 72 ounces of cannabinoid products in liquid form.
  - (f) More than one ounce of cannabinoid extracts.
  - (g) A cannabinoid extract that was not purchased from a marijuana retailer that holds a license under ORS 475C.097.
- (2) Except as provided in subsections (3) and (4) of this section, unlawful possession of a marijuana item by a person under 21 years of age is a Class A misdemeanor.
- (3) Unlawful possession of a marijuana item by a person under 21 years of age is a Class C felony, if the amount possessed is:
  - (a) More than 16 times the applicable maximum amount specified in subsection (1)(a), (c), (d), (e) or (f) of this section;
  - (b) More than eight pounds of usable marijuana in a public place; or
  - (c) More than one-quarter ounce of cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475C.097.
- (4) Unlawful possession of a marijuana item by a person under 21 years of age is a Class B felony, if:
  - (a) The amount possessed is more than 32 times the applicable maximum amount specified in subsection (1)(a), (c), (d), (e) or (f) of this section; or
  - (b) The violation is a marijuana offense involving reckless unlawful conduct under ORS 475C.353 (5) or a marijuana offense involving knowing unlawful conduct under ORS 475C.353 (6). [Formerly 475B.341; 2023 c.209 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.345 - Unlawful delivery of marijuana item.**

- (1) Except for licensees and licensee representatives acting in accordance with ORS 475C.005 to 475C.525 and any rule adopted under ORS 475C.005 to 475C.525, and except for a person acting within the scope of and in compliance with ORS 475C.305, it is unlawful for any person to deliver a marijuana item.
- (2) Except as provided in subsection (3) of this section, unlawful delivery of a marijuana item is a Class A misdemeanor.
- (3) Unlawful delivery of a marijuana item is:
  - (a) A Class B misdemeanor, if a person 21 years of age or older unlawfully delivers usable marijuana, for no consideration, to a person 21 years of age or older, and the total amount of usable marijuana delivered is not more than twice the amount described in ORS 475C.305 (7).
  - (b) A Class C felony, if:
    - (A) The delivery involves:
      - (i) More than 16 times the applicable maximum amount specified in ORS 475C.337 (1)(a), (c), (d), (e) or (f);
      - (ii) More than eight pounds of usable marijuana in a public place; or

(iii) More than one-quarter ounce of cannabinoid extract that was not purchased from a marijuana retailer that holds a license issued under ORS 475C.097.

(B) The marijuana item is delivered to a person under 21 years of age, unless the person delivering the marijuana item is under 24 years of age at the time of the delivery and delivers not more than one ounce of usable marijuana, for no consideration, to a person who is 16 years of age or older. [Formerly 475B.346]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.349 - Unlawful manufacture of marijuana item.**

(1) Except for licensees and licensee representatives acting in accordance with ORS 475C.005 to 475C.525 and any rule adopted under ORS 475C.005 to 475C.525, and except for a person acting within the scope of and in compliance with ORS 475C.305, it is unlawful for any person to manufacture a marijuana item.

(2) Except as provided in subsection (3) of this section, unlawful manufacture of a marijuana item is a Class A misdemeanor.

(3) Unlawful manufacture of a marijuana item is:

(a) A Class B misdemeanor, if a person 21 years of age or older unlawfully manufactures homegrown marijuana at a household and the total number of homegrown plants in the genus Cannabis within the plant family Cannabaceae at the household exceeds four plants but does not exceed eight plants.

(b) A Class C felony, if:

(A) A person unlawfully manufactures marijuana and the total number of plants in the genus Cannabis within the plant family Cannabaceae exceeds 12 plants; or

(B) A person unlawfully manufactures a cannabinoid product or a cannabinoid concentrate and the total amount of cannabinoid products or the total amount of cannabinoid concentrates exceeds twice the applicable maximum amount specified in ORS 475C.337 (1)(d), (e) or (f).

(c) A Class B felony, if:

(A) A person unlawfully manufactures a cannabinoid extract;

(B) The violation involves the manufacture of more than 100 marijuana plants, whether mature or immature; or

(C) The violation is a marijuana offense involving reckless unlawful conduct under ORS 475C.353 (5) or a marijuana offense involving knowing unlawful conduct under ORS 475C.353 (6). [Formerly 475B.349; 2023 c.209 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.353 - Classification of felony under ORS 475C.337, 475C.341, 475C.345 and 475C.349.**

(1) Except as provided in subsections (3), (5) and (6) of this section, a felony under ORS 475C.337 or 475C.341 shall be classified as crime category 1 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(2) Except as provided in subsections (3), (5) and (6) of this section, a felony under ORS 475C.345 or 475C.349 shall be classified as crime category 4 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(3) Subject to subsection (4) of this section, a felony under ORS 475C.337, 475C.341, 475C.345 or 475C.349 shall be classified as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation is a commercial marijuana offense. A violation is a commercial marijuana offense for purposes of this subsection if the violation was accompanied by at least three of the following factors:

(a) The offender delivered a marijuana item for consideration;

(b) The offender was in possession of \$300 or more in cash;

(c) The offender was unlawfully in possession of a firearm or other weapon as described in ORS 166.270 (2), the offender used, attempted to use or threatened to use a deadly weapon or dangerous weapon, as those terms are defined in ORS 161.015, or the offender was in possession of a firearm or other deadly weapon or dangerous weapon for the purpose of using the deadly weapon or dangerous weapon;

(d) The offender was in possession of materials being used for the packaging of marijuana items, such as scales, wrapping or foil, other than a material used to contain the marijuana item that is the subject of the violation;

(e) The offender was in possession of marijuana item transaction records or customer lists;

(f) The offender was in possession of stolen property;

(g) The offender was in possession of manufacturing paraphernalia specifically designed for producing marijuana, such as recipes, precursor chemicals, laboratory equipment, lighting equipment, ventilating equipment or power generation equipment;

(h) The offender modified structures by painting, wiring, plumbing or lighting the structures to facilitate the offense;

(i) The offender used public lands to manufacture the marijuana item; or

(j) The offender constructed fortifications or took security measures that had the potential to injure persons.

(4) To prove that a violation is a commercial marijuana offense for purposes of subsection (3) of this section, the state must plead in the accusatory instrument at least three of the factors described in subsection (3) of this section. The state has the burden of proving each factor beyond a reasonable doubt.

(5) A violation of ORS 475C.337 (3)(d), 475C.341 (4), 475C.349 (3)(c)(B) or 475C.349 (3)(c)(C) shall be classified as a crime category 6 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation constitutes a marijuana offense involving reckless unlawful conduct. A violation of ORS 475C.337 (3)(d), 475C.341 (4), 475C.349 (3)(c)(B) or 475C.349

(3)(c)(C) is a marijuana offense involving reckless unlawful conduct if the person is aware of and consciously disregards a substantial and justifiable risk that the violation is accompanied by:

(a) Any of the following factors:

(A) Abusing or threatening to abuse the law or legal process;

(B) Destroying, concealing, removing, confiscating or possessing an actual or purported passport or immigration document, or other actual or purported government identification document, of another person;

(C) Threatening to report another person to a government agency for the purpose of the other person's arrest or deportation;

(D) Threatening to collect an unlawful debt;

(E) Instilling in another person a fear that the person will withhold from the other person the necessities of life, including but not limited to lodging, food and clothing; or

(F) Withholding wages earned without lawful justification;

(b) The issuance of a citation to a person under ORS 654.071 for a violation of any state occupational safety or health law, regulation, rule or order, including any safety and health standards for agricultural labor housing and related facilities under the Oregon Safe Employment Act; or

(c) Any of the following factors related to the environment:

(A) Discharging, placing or causing to be placed any wastes, as defined in ORS 468B.005, into the waters of this state or in a location where the wastes are likely to escape or be carried into the waters of this state;

(B) The unlawful use, storage, disposal, treatment or transport of hazardous waste, as defined in ORS 466.005;

(C) The unlawful possession, use or application of a pesticide, as defined in ORS 634.006; or

(D) The use of surface water or ground water in violation of ORS chapter 537.

(6) A violation of ORS 475C.337 (3)(d), 475C.341 (4), 475C.349 (3)(c)(B) or 475C.349 (3)(c)(C) shall be classified as a crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission if the violation constitutes a marijuana offense involving knowing unlawful conduct. A violation of ORS 475C.337 (3)(d), 475C.341 (4), 475C.349 (3)(c)(B) or 475C.349

(3)(c)(C) is a marijuana offense involving knowing unlawful conduct if the person acts with knowledge, or with a conscious purpose to avoid knowledge, that the violation is accompanied by:

(a) Any of the following factors:

(A) Abusing or threatening to abuse the law or legal process;

(B) Destroying, concealing, removing, confiscating or possessing an actual or purported passport or immigration document, or other actual or purported government identification document, of another person;

(C) Threatening to report another person to a government agency for the purpose the other person's arrest or deportation;

(D) Threatening to collect an unlawful debt;

(E) Instilling in another person a fear that the person will withhold from the other person the necessities of life, including but not limited to lodging, food and clothing; or

(F) Withholding wages earned without lawful justification;

(b) The issuance of a citation to a person under ORS 654.071 for a violation of any state occupational safety or health law, regulation, rule or order, including any safety and health standards for agricultural labor housing and related facilities under the Oregon Safe Employment Act; or

(c) Any of the following factors related to the environment:

(A) Discharging, placing or causing to be placed any wastes, as defined in ORS 468B.005, into the waters of this state or in a location where the wastes are likely to escape or be carried into the waters of this state;

(B) The unlawful use, storage, disposal, treatment or transport of hazardous waste, as defined in ORS 466.005;

(C) The unlawful possession, use or application of a pesticide, as defined in ORS 634.006; or

(D) The use of surface water or ground water in violation of ORS chapter 537. [Formerly 475B.354; 2023 c.209 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.357 - Arson incident to manufacture of cannabinoid extract in first degree.**

(1) As used in this section:

(a) "Property" has the meaning given that term in ORS 164.005.

(b) "Property of another" and "protected property" have the meanings given those terms in ORS 164.305.

(2) A person commits the crime of arson incident to manufacture of a cannabinoid extract in the first degree if, by knowingly engaging in the manufacture of a cannabinoid extract, the person causes a fire or causes an explosion that damages:

(a) The protected property of another person;

(b) Any property, whether the property of the person or the property of another person, if the fire or explosion recklessly places another person in danger of physical injury or the protected property of another person in danger of damage; or

(c) Any property, whether the property of the person or the property of another person, if the fire or explosion recklessly causes serious physical injury to a firefighter or peace officer acting in the line of duty relating to the fire or explosion.

(3) Arson incident to manufacture of a cannabinoid extract in the first degree is a Class A felony.

(4) This section does not apply to a licensee that is authorized under the laws of this state to engage in the manufacture of cannabinoid extracts. [Formerly 475B.359]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.361 - Arson incident to manufacture of cannabinoid extract in second degree.**

(1) As used in this section:

(a) "Property" has the meaning given that term in ORS 164.005.

(b) "Property of another" and "protected property" have the meanings given those terms in ORS 164.305.

(2) A person commits the crime of arson incident to manufacture of a cannabinoid extract in the second degree if, by knowingly engaging in the manufacture of a cannabinoid extract, the person causes a fire or causes an explosion that damages:

(a) Any building of another person that is not protected property; or

(b) The property of another, if the damages to the property exceed \$750.

(3) Arson incident to manufacture of a cannabinoid extract in the second degree is a Class C felony.

(4) This section does not apply to a licensee that is authorized under the laws of this state to engage in the manufacture of cannabinoid extracts. [Formerly 475B.363]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.365 - Causing another person to ingest marijuana.**

(1) As used in this section:

(a) "Crime of violence" has the meaning given that term in ORS 475.908.

(b)(A) "Ingest" means to consume or otherwise deliver a cannabinoid into the body of a person.

(B) "Ingest" does not include the inhalation of smoke, aerosols or vapors created by smoking, aerosolizing or vaporizing a marijuana item.

(2)(a) A person commits the offense of causing another person to ingest marijuana if the person knowingly or intentionally causes the other person to ingest a marijuana item without the consent of the other person.

(b) Causing another person to ingest marijuana is a Class B felony.

(c) A violation of this subsection shall be classified as a person felony and crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(3)(a) Notwithstanding subsection (2) of this section, causing another person to ingest marijuana is a Class A felony if the person, with the intent of committing or facilitating a crime of violence against the other person, knowingly or intentionally causes the other person to ingest a marijuana item without the consent of the other person.

(b) A violation of this subsection shall be classified as a person felony and crime category 9 of the sentencing guidelines grid of the Oregon Criminal Justice Commission. [Formerly 475B.367]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.369 - Administration to another person under 18 years of age.**

(1) Except as authorized under ORS 475C.005 to 475C.525, 475C.540 to 475C.586, 475C.600 to 475C.648 and 475C.770 to 475C.919 and rules adopted under ORS 475C.005 to 475C.525, 475C.540 to 475C.586, 475C.600 to 475C.648 and 475C.770 to 475C.919, it is unlawful for a person to intentionally administer a marijuana item to the body of another person who is under 18 years of age by inhalation, ingestion or any other means.

(2) Intentionally administering a marijuana item to the body of a person who is under 18 years of age is a Class A felony.

(3) A violation of this section shall be classified as a person felony and crime category 9 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

(4) It is an affirmative defense to a charge of intentionally administering a marijuana item to the body of a person who is under 18 years of age if:

(a) The person administering the marijuana item was less than three years older than the other person at the time of the administration, and the other person consented to the administration; or

(b) The marijuana item was administered for a medical purpose with the consent of the person under 18 years of age, and the person under 18 years of age was a registry identification cardholder as defined in ORS 475C.777 at the time of the administration.

[Formerly 475B.371]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.373 - Unlawful sale or delivery of marijuana paraphernalia.**

(1) As used in this section, "marijuana paraphernalia" means an object that is marketed to be used for, or that is designed for, planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a marijuana item. "Marijuana paraphernalia" does not include hypodermic syringes or needles.

(2) It is unlawful for a person to sell or deliver, to possess with intent to sell or deliver or to manufacture with intent to sell or deliver marijuana paraphernalia to a person who is under 21 years of age, knowing that the marijuana paraphernalia will be used for the purpose for which it was marketed or designed.

(3) Violation of this section is a Class B violation.

(4) Subject to the provisions of ORS chapter 131A, and notwithstanding the violation classification specified in subsection (3) of this section, the Oregon Liquor and Cannabis Commission may purchase, possess, seize or dispose of marijuana paraphernalia as is necessary for the commission to ensure compliance with and enforce this section and any rule adopted under this section.

(5) In determining whether an object is marijuana paraphernalia under this section or drug paraphernalia under ORS 475.525, a trier of fact in an administrative or judicial proceeding must consider, in addition to any other relevant factor, the following:

- (a) Any oral or written instruction provided with the object related to the object's use;
- (b) Any descriptive material packaged with the object that explains or depicts the object's use;
- (c) Any national or local advertising related to the object's use;
- (d) Any proffered expert testimony related to the object's use;
- (e) The manner in which the object is displayed for sale, if applicable; and
- (f) Any other proffered evidence substantiating the object's intended use. [Formerly 475B.376]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.377 - Prohibition against using marijuana item in public place.**

(1) It is unlawful for any person to engage in the use of marijuana items in a public place.

(2) A violation of subsection (1) of this section is a Class B violation. [Formerly 475B.381]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.379 - Unlawful production of marijuana.**

(1) A person commits the crime of unlawful production of marijuana if the person produces marijuana or industrial hemp:

(a) At a location that is not confirmed by the Oregon Health Authority, the Oregon Liquor and Cannabis Commission or the State Department of Agriculture to be the location of an industrial hemp operation registered or licensed under ORS 571.281, a premises for which a license was issued under ORS 475C.085 or a marijuana grow site registered under ORS 475C.792; and

(b) In an amount that is not allowed by state law.

(2) Unlawful production of marijuana is a Class A misdemeanor.

(3) Marijuana or industrial hemp that is unlawfully produced, as described in subsection (1) of this section, is considered contraband and may be destroyed by a law enforcement agency. [2021 c.542 §41]

Note:

475C.379 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475C or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.381 - Immunity for person making report of violation.**

A person who, in good faith, makes a report of a violation of ORS 475C.005 to 475C.525, and who has reasonable grounds for making the report, is immune from any civil or criminal liability that otherwise might be incurred or imposed with respect to making the report or to the content of the report. The person has the same immunity with respect to participating in a judicial proceeding resulting from the report. [Formerly 475B.385]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.385 - Effect of crime under federal law or law of another state.**

If a crime described in ORS 475C.005 to 475C.525 is a crime under federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state. [Formerly 475B.389]

Note:

Section 127, chapter 21, Oregon Laws 2017, provides:

Sec. 127.

Sections 3 to 7, 9, 9a, 11, 12, 14 and 17 to 20 of this 2017 Act, the amendments to statutes by sections 1, 15 and 22 to 125 of this 2017 Act and the repeal of statutes and session laws by section 126 of this 2017 Act apply to conduct occurring on and after the effective date of this 2017 Act [April 21, 2017]. [2017 c.21 §127]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.389 - Protection for person obtaining assistance for cannabis-related overdose.**

(1) As used in this section, "cannabis-related overdose" means an acute condition, including mania, hysteria, extreme physical illness, coma or death, resulting from the consumption or use of cannabis, or another substance with which cannabis was combined, that a person would reasonably believe requires medical attention.

(2)(a) A person who contacts emergency medical services or a law enforcement agency to obtain medical assistance for another person because of a cannabis-related overdose is immune from arrest or prosecution for violating ORS 475C.337, 475C.341 or 475C.373 if the evidence of the offense was obtained because the person contacted emergency medical services or a law enforcement agency.



(b) A person who is in need of medical assistance because of a cannabis-related overdose is immune from arrest or prosecution for violating ORS 475C.337, 475C.341 or 475C.373 if the evidence of the offense was obtained because any person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.

(3) A person may not be arrested for violating, or found to be in violation of, the conditions of the person's pretrial release, probation, post-prison supervision or parole if the violation involves:

(a) The possession or use of a marijuana item or frequenting a place where marijuana items are used; and

(b)(A) The evidence of the violation was obtained because the person contacted emergency medical services or a law enforcement agency to obtain medical assistance for another person who needed medical assistance due to a cannabis-related overdose; or

(B) The evidence of the violation was obtained because the person was in need of medical assistance due to a cannabis-related overdose and any person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.

(4)(a) A person may not be arrested on an outstanding warrant for violating ORS 475C.337, 475C.341 or 475C.373, or on an outstanding warrant for a violation, other than commission of a new crime, of the conditions of the person's probation, post-prison supervision or parole for conduct that would constitute a violation of ORS 475C.337, 475C.341 or 475C.373, if the person was located because:

(A) The person contacted emergency medical services or a law enforcement agency to obtain medical assistance for another person who needed medical assistance due to a cannabis-related overdose; or

(B) The person was in need of medical assistance due to a cannabis-related overdose and any person contacted emergency medical services or a law enforcement agency to obtain medical assistance for the person.

(b) This subsection does not apply to outstanding federal warrants or outstanding warrants issued from other states.

(5) The immunity from arrest and prosecution described in this section is not grounds for the suppression of evidence relating to a criminal offense other than the offenses described in ORS 475C.337, 475C.341 and 475C.373. [Formerly 475B.393]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.393 - Affirmative defense.**

It is an affirmative defense to a charge of violating ORS 475C.337, 475C.345 or 475C.349 that:

(1) The defendant had held a license issued under ORS 475C.005 to 475C.525, or was performing work for or on behalf of a person that had held a license issued under ORS 475C.005 to 475C.525;

(2) The violation concerned an activity for which the license exempts the person from ORS 475C.337, 475C.345 or 475C.349;

(3) The license had lapsed or had been suspended or revoked; and

(4) The defendant reasonably believed that the license had not lapsed or had not been suspended or revoked. [Formerly 475B.398]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.397 - Order setting aside qualifying marijuana conviction.**

(1) Notwithstanding ORS 137.225, a person with a qualifying marijuana conviction may apply to the court in which the judgment of conviction was entered for entry of an order setting aside the conviction as provided in this section.

(2)(a) The person may file a motion under this section at any time following entry of judgment of conviction for a qualifying marijuana conviction.

(b) A person filing a motion under this section is not required to pay the filing fee established under ORS 21.135 or any other fee, or file a set of fingerprints.

(c) No background check or identification by the Department of State Police is required to set aside a conviction under this section.

(3)(a) At the time of filing the motion, the person shall serve a copy of the motion upon the office of the prosecuting attorney of the jurisdiction in which the judgment of conviction was entered.

(b) The prosecuting attorney, within 30 days after the filing of the motion under paragraph (a) of this subsection, may file an objection to granting the motion only on the basis that the person's conviction is not a qualifying marijuana conviction.

(c) If no objection from the prosecuting attorney is received by the court within 30 days after the filing of the motion, the court shall grant the motion and enter an order as described in subsection (5) of this section.

(4) If the court receives an objection from the prosecuting attorney, the court shall hold a hearing to determine whether the conviction sought to be set aside is a qualifying marijuana conviction. The person has the burden of establishing, by a preponderance of the evidence, that the conviction is a qualifying marijuana conviction. If the court determines that the conviction is a qualifying marijuana conviction, the court shall grant the motion and enter an order as provided in subsection (5) of this section.

(5) Upon granting a motion to set aside a qualifying marijuana conviction under this section, the court shall enter an appropriate order. Upon the entry of the order, the person for purposes of the law shall be deemed not to have been previously convicted and the court shall issue an order sealing the record of conviction and other official records in the case, including the records of arrest, citation or charge.

(6) The clerk of the court shall forward a certified copy of the order to such agencies as directed by the court. A certified copy must be sent to the Department of Corrections when the person has been in the custody of the Department of Corrections. Upon entry of the order, the conviction, arrest, citation, charge or other proceeding shall be deemed not to have occurred, and the person may answer accordingly any questions relating to its occurrence.

(7) As used in this section:

(a) "Prosecuting attorney" means a district attorney or a city attorney with a prosecutorial function.

(b) "Qualifying marijuana conviction" means a conviction for a marijuana offense:

(A) Based on conduct described in ORS 475C.305 or possession of less than one ounce of the dried leaves, stems or flowers of marijuana;

(B) Committed prior to July 1, 2015; and

(C) For which the person has completed and fully complied with or performed the sentence of the court. [Formerly 475B.401]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.401 - Authority to issue subpoenas.**

For purposes of ORS 475C.005 to 475C.525, the provisions of ORS 183.440 apply to subpoenas issued by the Oregon Liquor and Cannabis Commission and to subpoenas issued by an authorized agent of the commission. [Formerly 475B.409]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.405 - Civil penalty for violating ORS 475C.005 to 475C.525.**

In addition to any other liability or penalty provided by law, the Oregon Liquor and Cannabis Commission may impose for each violation of a provision of ORS 475C.005 to 475C.525 or a rule adopted under ORS 475C.005 to 475C.525 a civil penalty that does not exceed \$10,000 for each violation. The commission shall impose civil penalties under this section in the manner provided by ORS 183.745. Moneys collected under this section shall be deposited in the General Fund. [Formerly 475B.416]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.409 - Forfeiture of building or premises for violating ORS 475C.005 to 475C.525.**

If the owner of a building or premises knowingly has used the building or premises for, or allowed the building or premises to be occupied for, the production, processing, sale or use of marijuana items contrary to the provisions of ORS 475C.005 to 475C.525, 475C.540 to 475C.586, 475C.600 to 475C.648 or 475C.770 to 475C.919, or contrary to the provisions of any other state law or local ordinance regulating the production, processing, sale or use of marijuana items, the building or premises is subject to a lien for, and may be sold to pay all fines and costs, including but not limited to any costs of cleanup and removal of marijuana, assessed against the occupants of the building or premises for, any violation of ORS 475C.005 to 475C.525, 475C.540 to 475C.586, 475C.600 to 475C.648 or 475C.770 to 475C.919, or any other state law or local ordinance regulating the production, processing, sale or use of marijuana items. The lien may be enforced immediately by civil action in a court that has jurisdiction over the area in which the building or premises is located, by the district attorney of the county in which the building or premises is located. [Formerly 475B.424; 2022 c.108 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.413 - Authority of law enforcement to enforce ORS 475C.005 to 475C.525.**

The law enforcement officers of this state may enforce ORS 475C.005 to 475C.525 and assist the Oregon Liquor and Cannabis Commission in detecting violations of ORS 475C.005 to 475C.525 and apprehending offenders. A law enforcement officer who has notice, knowledge or reasonable ground of suspicion of a violation of ORS 475C.005 to 475C.525 shall immediately notify the district attorney who has jurisdiction over the violation and furnish the district attorney who has jurisdiction over the violation with names and addresses of any witnesses to the violation or other information related to the violation. [Formerly 475B.429]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.417 - Seizure of marijuana items by law enforcement personnel.**

(1) When a law enforcement officer arrests a person for violating ORS 475C.005 to 475C.525, the law enforcement officer may take into possession all marijuana items and other property that the arrested person has in possession, or that is on the premises, that apparently is being used in violation of ORS 475C.005 to 475C.525.

(2) If a person arrested as described in this section is convicted, and the court finds that the marijuana items and other property have been used in violation of ORS 475C.005 to 475C.525:

(a) The marijuana items must be forfeited to an appropriate state or local law enforcement agency and must be delivered by the court or law enforcement officer, at the direction of the court, to the law enforcement agency; and

(b) Subject to any other applicable law, the other property must be forfeited to the Oregon Liquor and Cannabis Commission, and must be delivered by the court or law enforcement officer, at the direction of the court, to the commission.

(3) The commission is authorized to destroy or otherwise dispose of any property the commission receives under subsection (2)(b) of this section, provided that if the commission elects to sell the property, including furniture, furnishings, and equipment and facilities for the storing, serving or using of marijuana items, the clear proceeds of the sale must be credited to the State Treasury and deposited in the Common School Fund. [Formerly 475B.436]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.421 - Duty to notify Oregon Liquor and Cannabis Commission of conviction of licensee.**

The county courts, district attorneys and municipal authorities, immediately upon the conviction of a licensee of a violation of ORS 475C.005 to 475C.525, or of a violation of any other law of this state or ordinance of a city or county located in this state an element of which is the possession, delivery or manufacture of a marijuana item, shall notify the Oregon Liquor and Cannabis Commission of the conviction. [Formerly 475B.442]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.425 - Penalty for violating ORS 475C.005 to 475C.525.**

Subject to ORS 153.022, violation of a rule adopted under ORS 475C.017 (2)(c) is a Class C violation. [Formerly 475B.448]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.429 - Preemption of municipal charter amendments and local ordinances.**

The provisions of ORS 475C.005 to 475C.525 are designed to operate uniformly throughout the state and are paramount and superior to and fully replace and supersede any municipal charter amendment or local ordinance inconsistent with the provisions of ORS 475C.005 to 475C.525. Amendments and ordinances that are inconsistent with the provisions of ORS 475C.005 to 475C.525 are repealed. [Formerly 475B.454]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.433 - Prohibition against operation of premises for which license issued; petition; election.**

- (1) The governing body of a city or a county, when a petition is filed as provided in this section, shall order an election on the question as to whether the operation of premises for which a license has been issued under ORS 475C.005 to 475C.525 should be prohibited in the city or county.
- (2) Except as otherwise provided in this section, the requirements for preparing, circulating and filing a petition under this section:
  - (a) In the case of a city, must be as provided for an initiative petition under ORS 250.265 to 250.346.
  - (b) In the case of a county, must be as provided for an initiative petition under ORS 250.165 to 250.235.
- (3) A petition under this section:
  - (a) Must be filed not less than 60 days before the day of the election; and
  - (b) Must be signed by not less than 10 percent of the electors registered in the city or county.
- (4) If ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county or if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and filing a petition under this section must be as provided for an initiative petition under the county or city charter or an ordinance adopted under the county or city charter.
- (5) A signature is not valid unless signed within 180 days before the petition is filed.
- (6) An election under this section must be held at the time of the next statewide general election.
- (7) An election under this section must be conducted under ORS chapters 246 to 260. [Formerly 475B.461]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.437 - Effective date of prohibition against operation of licensed premises.**

In each county or city that returns a majority vote for or against prohibition, the law shall take effect on January 1 following the day of election. [Formerly 475B.474]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.441 - Ordinance prohibiting possession.**

- (1) As used in this section, "designated primary caregiver," "immature marijuana plant," "marijuana," "medical cannabinoid product" and "registry identification cardholder" have the meanings given those terms in ORS 475C.777.
- (2) A city or county may not adopt an ordinance, by referral or otherwise, that prohibits or otherwise limits:
  - (a) The privileges described in ORS 475C.305; or
  - (b) The right of a registry identification cardholder and the designated primary caregiver of a registry identification cardholder to:
    - (A) Possess the seeds of marijuana, immature marijuana plants or medical cannabinoid products as described in ORS 475C.770 to 475C.919;
    - (B) Jointly possess up to six mature marijuana plants and up to 12 immature marijuana plants under ORS 475C.806 (1); or
    - (C) Jointly possess up to 24 ounces of usable marijuana under ORS 475C.809 (1). [Formerly 475B.477]

Note:

475C.441 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475C or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.445 - Right to possess marijuana items for personal use.**

ORS 475C.433 does not prevent any person residing in the county or city from having, for personal use, a marijuana item purchased from a marijuana retailer licensed under ORS 475C.097. [Formerly 475B.479]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.449 - Local time, place and manner regulations.**

(1) For purposes of this section, "reasonable regulations" includes:

- (a) Reasonable conditions on the manner in which a marijuana producer that holds a license issued under ORS 475C.065 may produce marijuana or in which a researcher of cannabis that holds a certificate issued under ORS 475C.289 may produce marijuana or propagate immature marijuana plants;
- (b) Reasonable conditions on the manner in which a marijuana processor that holds a license issued under ORS 475C.085 may process marijuana or in which a researcher of cannabis that holds a certificate issued under ORS 475C.289 may process marijuana;
- (c) Reasonable conditions on the manner in which a marijuana wholesaler that holds a license issued under ORS 475C.093 may sell marijuana at wholesale;
- (d) Reasonable conditions on the manner in which a marijuana retailer that holds a license issued under ORS 475C.097 may sell marijuana items;
- (e) Reasonable limitations on the hours during which a premises for which a license has been issued under ORS 475C.005 to 475C.525 may operate;
- (f) Reasonable requirements related to the public's access to a premises for which a license or certificate has been issued under ORS 475C.005 to 475C.525; and
- (g) Reasonable limitations on where a premises for which a license or certificate may be issued under ORS 475C.005 to 475C.525 may be located.

(2) Notwithstanding ORS 30.935, 215.253 (1) or 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license or certificate has been issued under ORS 475C.005 to 475C.525 if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not:

- (a) Adopt an ordinance that prohibits a premises for which a license has been issued under ORS 475C.097 from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under ORS 475C.097.
- (b) Adopt an ordinance that imposes a setback requirement for an agricultural building used to produce marijuana located on a premises for which a license has been issued under ORS 475C.065 if the agricultural building:
  - (A) Was constructed on or before July 1, 2015, in compliance with all applicable land use and building code requirements at the time of construction;
  - (B) Is located at an address where a marijuana grow site first registered with the Oregon Health Authority under ORS 475C.792 on or before January 1, 2015;
  - (C) Was used to produce marijuana pursuant to the provisions of ORS 475C.770 to 475C.919 on or before January 1, 2015; and
  - (D) Has four opaque walls and a roof. [Formerly 475B.486]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.453 - Local tax or fee; referral to electors for approval.**

(1)(a) Except as expressly authorized by this section, the authority to impose a tax or fee on the production, processing or sale of marijuana items in this state is vested solely in the Legislative Assembly.

(b) Except as expressly authorized by this section, a county, city or other municipal corporation or district may not adopt or enact ordinances imposing a tax or fee on the production, processing or sale of marijuana items in this state.

(2) Subject to subsection (4) of this section, the governing body of a city or county may adopt an ordinance to be referred to the electors of the city or county as described in subsection (3) of this section that imposes a tax or a fee on the sale of marijuana items that are sold in the area subject to the jurisdiction of the city or the unincorporated area subject to the jurisdiction of a county by a marijuana retailer that holds a license issued under ORS 475C.097.

(3) If the governing body of a city or county adopts an ordinance under this section, the governing body shall refer the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.

(4) An ordinance adopted under this section may not impose a tax or fee:

- (a) In excess of three percent; or
- (b) On a registry identification cardholder or on a designated primary caregiver who is purchasing a marijuana item for a registry identification cardholder. [Formerly 475B.491]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.457 - Repeal of city, county ordinance that prohibits certain establishments.**

(1) The governing body of a city or county may repeal an ordinance that prohibits the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:

- (a) Marijuana processing sites registered under ORS 475C.815;
- (b) Medical marijuana dispensaries registered under ORS 475C.833;
- (c) Marijuana producers that hold a license issued under ORS 475C.065;
- (d) Marijuana processors that hold a license issued under ORS 475C.085;

- (e) Marijuana wholesalers that hold a license issued under ORS 475C.093;
- (f) Marijuana retailers that hold a license issued under ORS 475C.097;
- (g) Marijuana producers that hold a license issued under ORS 475C.065 and that the Oregon Liquor and Cannabis Commission has designated as an exclusively medical licensee under ORS 475C.121;
- (h) Marijuana processors that hold a license issued under ORS 475C.085 and that the commission has designated as an exclusively medical licensee under ORS 475C.125;
- (i) Marijuana wholesalers that hold a license issued under ORS 475C.093 and that the commission has designated as an exclusively medical licensee under ORS 475C.129;
- (j) Marijuana retailers that hold a license issued under ORS 475C.097 and that the commission has designated as an exclusively medical licensee under ORS 475C.133; or
- (k) Any combination of the entities described in this subsection.

(2) If the governing body of a city or county repeals an ordinance under this section, the governing body must provide the text of the ordinance:

- (a) To the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a medical marijuana dispensary registered under ORS 475C.833 or a marijuana processing site registered under ORS 475C.815; or
- (b)(A) To the commission, in a form and manner prescribed by the commission, if the ordinance concerns a premises for which a license has been issued under ORS 475C.005 to 475C.525; and
- (B) To the Oregon Department of Administrative Services, in a form and manner prescribed by the department, within 30 days of enactment of the repeal of the ordinance, if the ordinance concerns a premises for which issuance of a license is required under ORS 475C.065, 475C.085, 475C.093 or 475C.097. [Formerly 475B.496]

Note:

475C.457 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475C or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.459 - Cleanup of waste from certain real property; public nuisance; city or county lien.**

(1) As used in this section:

- (a) "Cleanup" means the removal, disposal and remediation, by an owner or an agent of an owner, of waste from a site in conformance with applicable law.
  - (b) "Cleanup costs" means reasonable costs that are associated with or attributable to cleanup.
  - (c) "Law enforcement agency" has the meaning given that term in ORS 181A.010.
  - (d)(A) "Owner" means a person who owns the real property where a site is located.
  - (B) "Owner" does not include a person who, without participating in the management of the site, holds indicia of ownership primarily to protect a security interest in the real property.
  - (e) "Site" means the location where the unlawful manufacture of a marijuana item, as described in ORS 475C.349, or the unlawful production of marijuana, as described in ORS 475C.379, occurred or is alleged to have occurred.
  - (f) "Waste" means:
    - (A) Marijuana flowers, marijuana leaves, marijuana plants and any parts of marijuana plants;
    - (B) Any items or materials used for an irrigation system if used to facilitate the unlawful manufacture of marijuana items or unlawful production of marijuana, unless:
      - (i) The site where the items or materials are located was leased to a third party that was responsible for the unlawful manufacture of marijuana items or unlawful production of marijuana;
      - (ii) The items or materials are the property of the owner; and
      - (iii) The owner elects to retain ownership and properly store the items or materials;
    - (C) Greenhouses, hoop houses and other structures used to facilitate the unlawful manufacture of marijuana items or unlawful production of marijuana, unless:
      - (i) The site where the greenhouses, hoop houses or other structures are located was leased to a third party that was responsible for the unlawful manufacture of marijuana items or unlawful production of marijuana;
      - (ii) The greenhouses, hoop houses or other structures are the property of the owner and are agricultural buildings, as defined in ORS 455.315, that are allowed on the real property; and
      - (iii) The owner elects to retain ownership and properly care for the greenhouses, hoop houses or other structures; and
    - (D) Any material or substance designated as chemical by the Environmental Quality Commission under ORS 475.425 used to facilitate the unlawful manufacture of marijuana items or unlawful production of marijuana, unless:
      - (i) The site where the material or substance is located was leased to a third party that was responsible for the unlawful manufacture of marijuana items or unlawful production of marijuana;
      - (ii) The material or substance is the property of the owner; and
      - (iii) The owner elects to retain ownership and properly store the material or substance.
- (2) Upon receiving written notification from a law enforcement agency that a site contains waste, the owner shall promptly undertake any cleanup of the site. The owner may contract with a third party for all or part of the cleanup.

- (3) It is a public nuisance, which may be abated pursuant to subsection (4) of this section, if the owner of a site described in subsection (2) of this section fails to complete cleanup of the site within 30 days of the date on which the owner receives the notification described in subsection (2) of this section.
- (4) In order to abate a public nuisance described in subsection (3) of this section, the city or county that has jurisdiction over the real property where a site described in subsection (2) of this section is located may maintain civil proceedings in courts of this state against the owner described in subsection (3) of this section to:
- (a) Enforce the requirements of subsection (2) of this section;
  - (b) Authorize the city or county to conduct cleanup and subject the real property where the site is located to a lien for cleanup costs; and
  - (c) Enjoin any further violation of ORS 475C.349 or 475C.379.
- (5) A court may allow the prevailing party reasonable attorney fees and expenses in a proceeding described in subsection (4) of this section.
- (6)(a) The remedies described in subsection (4) of this section are in addition to any other remedies available to the governing body of a city or county that has jurisdiction over the real property where a site is located.
- (b) Nothing in this section requires the governing body of a city or county to avail itself of a remedy allowed by this section or by any other law.
- (7)(a) The governing body of a city or county described in subsection (4) of this section may, at its discretion, file a claim of lien on real property where a site described in subsection (2) of this section is located. The governing body of the city or county shall file written notice of claim of lien with the recording officer of each county in which the real property where a site described in subsection (2) of this section is located. All cleanup costs incurred by the city or county under subsection (4)(b) of this section shall constitute the lien. The lien must contain the name of the owner of the real property to which the lien is attached and a description of the real property sufficient to accurately identify the real property. The lien shall attach and become enforceable on the day of the filing described in this subsection.
- (b) A lien described in this subsection shall be foreclosed in the manner provided in ORS chapter 88.
- (c) A lien described in this subsection shall have priority over any claim of the state under ORS 166.715 to 166.735 or any local government forfeiture ordinance or regulation.
- (8) Nothing in this section shall affect the right of the governing body of a city or county to bring an action against any person to recover all costs and damages for which the person is liable under this section. [2023 c.209 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.461 - Duty of Oregon Health Authority to assist.**

The Oregon Health Authority shall assist and cooperate with the Oregon Liquor and Cannabis Commission and the State Department of Agriculture to the extent necessary for the commission and the department to carry out the duties of the commission and the department under ORS 475C.005 to 475C.525. [Formerly 475B.501]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.465 - Duty of State Department of Agriculture to assist.**

The State Department of Agriculture shall assist and cooperate with the Oregon Liquor and Cannabis Commission and the Oregon Health Authority to the extent necessary for the commission and the authority to carry out the duties of the commission and the authority under ORS 475C.005 to 475C.525. [Formerly 475B.506]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.469 - Authority of State Department of Agriculture.**

The State Department of Agriculture may possess, test and dispose of marijuana items. [Formerly 475B.511]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.473 - Prohibition against refusing to perform duties on basis that certain conduct is prohibited by federal law.**

- (1) The Oregon Liquor and Cannabis Commission, the State Department of Agriculture and the Oregon Health Authority may not refuse to perform any duty under ORS 475C.005 to 475C.525 or 475C.540 to 475C.586 on the basis that manufacturing, distributing, dispensing, possessing or using marijuana is prohibited by federal law.
- (2) The commission may not revoke or refuse to issue or renew a license, certificate or permit under ORS 475C.005 to 475C.525 or 475C.548 on the basis that manufacturing, distributing, dispensing, possessing or using marijuana is prohibited by federal law. [Formerly 475B.514; 2023 c.519 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.477 - Immunity for state agencies, officers and employees in performance of duties.**

A person may not sue the Oregon Liquor and Cannabis Commission or a member of the commission, the State Department of

Agriculture or the Oregon Health Authority, or any employee of the commission, department or authority, for performing or omitting to perform any duty, function or power of the commission, department or authority set forth in ORS 475C.005 to 475C.525 or 475C.540 to 475C.586 or in any other law of this state requiring the commission, department or authority to perform a duty, function or power related to marijuana items. [Formerly 475B.518; 2023 c.519 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.481 - Authority to purchase, possess, seize or dispose of marijuana items.**

Subject to any applicable provision of ORS chapter 131A or 183, any state officer, board, commission, corporation, institution, department or other state body, and any local officer, board, commission, institution, department or other local government body, that is authorized by the statutory laws of this state to perform a duty, function or power with respect to a marijuana item, may purchase, possess, seize or dispose of the marijuana item as the state officer, board, commission, corporation, institution, department or other state body, or the local officer, board, commission, institution, department or other local government body, considers necessary to ensure compliance with and enforce the applicable statutory law or any rule adopted under the applicable statutory law. [Formerly 475B.521]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.485 - Authority of Governor to suspend license, certificate or permit without notice.**

In case of invasion, disaster, insurrection or riot, or imminent danger of invasion, disaster, insurrection or riot, the Governor may, for the duration of the invasion, disaster, insurrection or riot, or imminent danger, immediately and without notice suspend, in the area involved, any license, certificate or permit issued under ORS 475C.005 to 475C.525 or 475C.548. [Formerly 475B.523; 2023 c.519 §22]

Note:

Sections 1, 2 and 3, chapter 464, Oregon Laws 2019, provide:

Sec. 1.

Section 2 of this 2019 Act is added to and made a part of ORS 475B.010 to 475B.545 [renumbered 475C.005 to 475C.525]. [2019 c.464 §1]

Sec. 2.

(1) The Governor may enter into an agreement with another state for the purposes of:

- (a) Cross-jurisdictional coordination and enforcement of marijuana-related businesses authorized to conduct business in either this state or the other state; and
- (b) Cross-jurisdictional delivery of marijuana items between this state and the other state.

(2) An agreement entered into under this section:

- (a) Must ensure enforceable public health and safety standards, and include a system to regulate and track the interstate delivery of marijuana items;
- (b) Must ensure that any marijuana items delivered into this state, prior to sale to a consumer, are:
  - (A) Tested in accordance with ORS 475B.550 to 475B.590 [renumbered 475C.540 to 475C.586] and any rules adopted pursuant to ORS 475B.550 to 475B.590 [renumbered 475C.540 to 475C.586]; and
  - (B) Packaged and labeled in accordance with ORS 475B.600 to 475B.655 [renumbered 475C.600 to 475C.648] and any rules adopted pursuant to ORS 475B.600 to 475B.655 [renumbered 475C.600 to 475C.648]; and
- (c) May authorize one or more agencies of this state to provide policy recommendations and assist in the implementation and enforcement of the terms of the agreement.

(3) Notwithstanding ORS 475B.227 [renumbered 475C.229] and in accordance with an agreement described in this section:

- (a) A marijuana producer, marijuana processor, marijuana wholesaler or marijuana researcher certified under ORS 475B.286 [renumbered 475C.289] may deliver marijuana items to a person located in, and authorized to receive marijuana items by, the other state.
- (b) A marijuana processor, marijuana wholesaler, marijuana retailer or marijuana researcher certified under ORS 475B.286 [renumbered 475C.289] may receive marijuana items from a person located in, and authorized to export marijuana items by, the other state. [2019 c.464 §2]

Sec. 3.

(1) Section 2, chapter 464, Oregon Laws 2019, becomes operative on the earlier of the date on which:

- (a) Federal law is amended to allow for the interstate transfer of marijuana items between authorized marijuana-related businesses; or
- (b) The United States Department of Justice issues an opinion or memorandum allowing or tolerating the interstate transfer of marijuana items between authorized marijuana-related businesses.

(2) The Oregon Liquor and Cannabis Commission shall notify the interim committees of the Legislative Assembly related to the judiciary and the Legislative Counsel upon the occurrence of an event described in subsection (1) of this section. [2019 c.464 §3; 2021 c.351 §247]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis**

**RegulationSection 475C.489 - Marijuana as crop; exceptions to permitted uses.**

(1) Marijuana is:

- (a) A crop for the purposes of "farm use" as defined in ORS 215.203;
- (b) A crop for purposes of a "farm" and "farming practice," both as defined in ORS 30.930;
- (c) A product of farm use as described in ORS 308A.062; and
- (d) The product of an agricultural activity for purposes of ORS 568.909.

(2) Notwithstanding ORS chapters 195, 196, 197, 197A, 215 and 227, the following are not permitted uses on land designated for exclusive farm use:

- (a) A new dwelling used in conjunction with a marijuana crop;
  - (b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and
  - (c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop.
- (3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213, 215.283 and 475C.053.

(4) This section applies to:

- (a) Marijuana producers that hold a license issued under ORS 475C.065;
- (b) Persons registered under ORS 475C.792 and designated to produce marijuana by one or more persons who hold valid registry identification cards issued under ORS 475C.783; and
- (c) For the purpose of producing marijuana or propagating immature marijuana plants, researchers of cannabis that hold a certificate issued under ORS 475C.289. [Formerly 475B.526]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.493 - Regulation of marijuana items as food or other commodity subject to regulation by State Department of Agriculture.**

(1) Notwithstanding the authority granted to the State Department of Agriculture under ORS chapters 571, 618 and 633 and ORS 632.275 to 632.290, 632.450 to 632.490, 632.516 to 632.625, 632.705 to 632.815, 632.835 to 632.849 and 632.900 to 632.985, the department may not exercise authority over marijuana items or a licensee, except that ORS 618.121 to 618.161, 618.991, 618.995, 633.311 to 633.479, 633.992 and 633.994 apply to marijuana items or to a licensee.

(2) In exercising its authority under ORS chapter 616, the department may not:

- (a) Establish standards for marijuana as a food additive, as defined in ORS 616.205;
- (b) Consider marijuana to be an adulterant, unless the concentration of a cannabinoid in a cannabinoid product, cannabinoid concentrate or cannabinoid extract exceeds acceptable levels established by the Oregon Health Authority by rule; or
- (c) Apply ORS 616.256, 616.265, 616.270 or 616.275 to cannabinoid edibles or enforce ORS 616.256, 616.265, 616.270 or 616.275 with respect to cannabinoid edibles.

(3) Subsection (2)(b) of this section does not prohibit the department from considering artificially derived cannabinoids to be adulterants. [Formerly 475B.529]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.497 - Exceptions from applicability of ORS 475C.005 to 475C.525.**

Except for ORS 475C.489 and 475C.493, ORS 475C.005 to 475C.525:

- (1) Do not apply to the extent a person acts within the scope of and in compliance with the Oregon Medical Marijuana Act; and
- (2) Do not amend or affect duties, functions and powers of the Oregon Health Authority under the Oregon Medical Marijuana Act. [Formerly 475B.531]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.501 - Violation of laws of this state as nuisance.**

Any room, house, building, boat, structure or place of any kind where marijuana items are sold, manufactured, bartered or given away in violation of the laws of this state, or where persons are permitted to resort for the purpose of using marijuana items in violation of the laws of this state, or any place where marijuana items are kept for sale, barter or gift in violation of the laws of this state, and all marijuana items or property subject to confiscation under ORS 475C.417 kept and used in such a place, are a common nuisance. A person who maintains or assists in maintaining the common nuisance or knowingly suffers or permits the nuisance to exist in any place of which the person is the owner, manager or lessor, is guilty of a violation of ORS 475C.005 to 475C.525. [Formerly 475B.533]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.505 - Enforceability of contracts.**

A contract is not unenforceable on the basis that manufacturing, distributing, dispensing, possessing or using marijuana is prohibited by federal law. [Formerly 475B.535]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.509 - Oregon Liquor and Cannabis Commission hotline for verification of license.**

The Oregon Liquor and Cannabis Commission shall maintain a telephone hotline for the following persons to inquire if an address is the location of a premises for which a license has been issued under ORS 475C.005 to 475C.525 or 475C.548 or is the location of a premises for which an application for licensure has been submitted under ORS 475C.033 or 475C.548:

- (1) A person designated by a city or a county;
- (2) A person designated by the Water Resources Department; and
- (3) A person designated by the watermaster of any water district. [Formerly 475B.537; 2023 c.519 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.513 - Transport of marijuana items to trade show; rules.**

(1) Notwithstanding ORS 475C.205 or any other provision prohibiting the transportation of marijuana items to or from a location for which a license has not been issued under ORS 475C.005 to 475C.525 or prohibiting the possession of marijuana items at a location for which a license has not been issued under ORS 475C.005 to 475C.525, a licensee may transport marijuana items to and exhibit marijuana items at a trade show, the Oregon State Fair or a similar event if:

- (a) The marijuana items are tracked using the system developed and maintained under ORS 475C.177;
  - (b) All of the marijuana items are returned to a premises for which a license has been issued under ORS 475C.005 to 475C.525 immediately after the conclusion of the event; and
  - (c) The licensee complies with any other requirement imposed by the Oregon Liquor and Cannabis Commission by rule or order for the purpose of ensuring the security of the marijuana items, for the purpose of preventing minors from having access to the marijuana items or for any other purpose deemed relevant by the commission.
- (2) The commission shall adopt rules to implement this section. [Formerly 475B.539]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.517 - Certain information related to licensure exempt from disclosure.**

(1) Subject to subsection (2) of this section, information is exempt from public disclosure under ORS 192.311 to 192.478 if the information is:

- (a) The address of a premises for which a license has been issued or for which an applicant has proposed licensure under ORS 475C.065, 475C.085, 475C.093 or 475C.548;
  - (b) Is related to the security plan or the operational plan for a premises for which a license has been issued or for which an applicant has proposed licensure under ORS 475C.005 to 475C.525 or 475C.548; or
  - (c) Is related to any record that the Oregon Liquor and Cannabis Commission determines contains proprietary information of a licensee.
- (2) The exemption from public disclosure as provided by this section does not apply to a request for information if the request is made by a law enforcement agency. [Formerly 475B.541; 2023 c.519 §24]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.521 - Governor agreements with Indian tribes; requirements.**

(1) The Governor, or the Governor's designee, may enter into an agreement with the governing body of a federally recognized Indian tribe located in this state for the purpose of cross-jurisdictional coordination and enforcement of marijuana-related businesses licensed to conduct business on tribal trust land by the governing body of the federally recognized Indian tribe.

(2) An agreement entered into under this section:

- (a) May provide for the cross-jurisdictional coordination and enforcement of marijuana producers, marijuana processors, marijuana wholesalers, marijuana retailers and marijuana testing laboratories licensed by the governing body of the federally recognized Indian tribe.
- (b) May require the governing body of the federally recognized Indian tribe to establish the same or similar requirements on marijuana producers, marijuana processors, marijuana wholesalers, marijuana retailers and marijuana testing laboratories that are consistent with the policies set forth in:
  - (A) ORS 475C.005 to 475C.525;
  - (B) ORS 475C.540 to 475C.586; and
  - (C) ORS 475C.600 to 475C.648.
- (c) Must ensure enforceable public health and safety standards and include a system to regulate and track the purchase, sale, production, processing, transportation and delivery of marijuana items for marijuana producers, marijuana processors, marijuana wholesalers, marijuana retailers and marijuana testing laboratories that are licensed by the governing body of the federally recognized Indian tribe.
- (d) May authorize an agency of this state to assist in the implementation and enforcement of the terms of the agreement. [Formerly 475B.543]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.523 - Cannabis reference laboratory; requirements; use of laboratory by State Department of Agriculture, Oregon Health Authority, Oregon Liquor and Cannabis Commission, law enforcement agencies; fees; rules.**

(1) The State Department of Agriculture, in consultation with the Oregon Health Authority and the Oregon Liquor and Cannabis Commission, shall establish a cannabis reference laboratory to provide regulatory and technical support in the enforcement of ORS 475C.005 to 475C.525, 475C.540 to 475C.586, 475C.600 to 475C.648, 475C.770 to 475C.919 and 571.260 to 571.348.

(2)(a) The cannabis reference laboratory established under subsection (1) of this section must be able to verify current analytical methods, and develop new analytical methods, for testing marijuana items, industrial hemp and industrial hemp commodities or products as described in ORS 475C.544, 571.281, 571.330 or 571.333 and confirm test results from laboratories licensed under ORS 475C.548 or accredited under ORS 475C.560 at the request of the authority, commission or department.

(b) At the request of the authority, commission or department, the cannabis reference laboratory must be able to provide ongoing laboratory quality control samples to laboratories licensed under ORS 475C.548 or accredited under ORS 475C.560.

(c) The cannabis reference laboratory is not required to be licensed under ORS 475C.548 or accredited under ORS 475C.560.

(3) The authority, commission and department may independently require a marijuana item, industrial hemp or an industrial hemp commodity or product to be tested by the cannabis reference laboratory if the authority, commission or department has reason to believe that the marijuana item, industrial hemp or industrial hemp commodity or product is not in compliance with ORS 475C.544, 571.281, 571.330 or 571.333, regardless of whether the marijuana item, industrial hemp or industrial hemp commodity or product has undergone testing described in ORS 475C.544, 571.281, 571.330 or 571.333 at a laboratory licensed under ORS 475C.548 or accredited under ORS 475C.560.

(4) If a test conducted by the cannabis reference laboratory of a marijuana item, industrial hemp or industrial hemp commodity or product yields results different than the results of a test conducted by a laboratory licensed under ORS 475C.548 on the marijuana item, industrial hemp or industrial hemp commodity or product, the authority, commission or department may invalidate the results of the test conducted at the laboratory licensed under ORS 475C.548.

(5) A law enforcement agency may request that the cannabis reference laboratory conduct testing to assist the law enforcement agency in investigations related to cannabis.

(6) The department may charge a fee to the authority, the commission or a law enforcement agency in an amount reasonable to reimburse the department for the costs incurred in conducting testing at the cannabis reference laboratory at the request of the authority, commission or law enforcement agency.

(7) The authority, the commission and the department, in consultation with one another, may adopt rules to carry out this section.

[2023 c.519 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.525 - Severability of ORS 475C.005 to 475C.525.**

If any section, subsection, paragraph, phrase or word of ORS 475C.005 to 475C.525 is held to be unconstitutional, void or illegal, either on its face or as applied, that holding does not affect the applicability, constitutionality or legality of any other section, subsection, paragraph, phrase or word of ORS 475C.005 to 475C.525. To that end, the sections, subsections, paragraphs, phrases and words of ORS 475C.005 to 475C.525 are intended to be severable. It is hereby declared to be the intent of the people of this state in adopting ORS 475C.005 to 475C.525 that ORS 475C.005 to 475C.525 would have been adopted had such unconstitutional, void or illegal sections, subsections, paragraphs, phrases or words, if any, not been included in ORS 475C.005 to 475C.525.

[Formerly 475B.545]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.529 - Duty to report to Legislative Assembly.**

(1) As used in this section, "marijuana" and "marijuana item" have the meanings given those terms in ORS 475C.009.

(2) On or before February 1 of each odd-numbered year, the Oregon Liquor and Cannabis Commission shall report to the Legislative Assembly in the manner required by ORS 192.245, the approximate amount of marijuana produced by marijuana producers that hold a license issued under ORS 475C.065 and the approximate amount of marijuana items sold by marijuana retailers that hold a license issued under ORS 475C.097, and whether the supply of marijuana in this state is commensurate with the demand for marijuana items in this state. [Formerly 475B.548]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.531 - Illegal Marijuana Market Enforcement Grant Program; rules.**

(1) The Illegal Marijuana Market Enforcement Grant Program is established to assist cities and counties with the costs incurred by local law enforcement agencies and community-based organizations in addressing unlawful marijuana cultivation or distribution operations.

(2) The Oregon Criminal Justice Commission shall administer the grant program described in subsection (1) of this section and shall award the grants described in this section.

(3) The commission shall adopt rules to administer the grant program. Rules adopted under this section must include:

- (a) A methodology for reviewing and approving grant applications and awarding grants; and
- (b) A process for evaluating the efficacy of local law enforcement programs and services funded by the grant program.
- (4) Moneys distributed to grant recipients under this section must be spent on costs associated with addressing and prosecuting unlawful marijuana cultivation or distribution operations.
- (5) The commission shall prioritize the following when awarding grants under this section:
  - (a) Providing financial assistance to local law enforcement agencies and district attorneys in rural areas of this state to address unlawful marijuana cultivation or distribution operations;
  - (b) Supporting local law enforcement agencies and district attorneys in investigating and prosecuting large-scale unlawful marijuana cultivation or distribution operations;
  - (c) Providing financial assistance to local law enforcement agencies and district attorneys in the investigation and prosecution of organized crime involved in unlawful marijuana cultivation or distribution operations;
  - (d) Providing financial assistance to local law enforcement agencies and district attorneys in the investigation and prosecution of unlawful marijuana cultivation or distribution operations that divert marijuana outside of this state; and
  - (e) Providing financial assistance to local law enforcement agencies and community-based organizations in order to address the ongoing humanitarian crisis associated with unlawful marijuana cultivation or distribution operations and to facilitate connections to any necessary assistance and services for individuals impacted by the humanitarian crisis, including but not limited to language translation services and housing and legal assistance. [2018 c.103 §13; 2021 s.s.2 c.3 §1; 2022 c.117 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.533 - Oregon Criminal Justice Commission reports.**

- (1) Not later than January 1 of each year, the Oregon Criminal Justice Commission shall submit a report in the manner provided in ORS 192.245 on the status and effectiveness of the Illegal Marijuana Market Enforcement Grant Program established under ORS 475C.531 to the interim committees of the Legislative Assembly related to the judiciary.
- (2) Not later than January 1 of each year, the commission shall submit a report in the manner provided in ORS 192.245 on recommendations for changes to the funding of the Illegal Marijuana Market Enforcement Grant Program to the interim committees of the Legislative Assembly related to the judiciary. In making the recommendations described in this subsection, the commission shall consider the best available information and projections regarding unlawful marijuana cultivation and distribution operations in this state and any human trafficking related to those operations. [2018 c.103 §14; 2022 c.117 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.535 - Illegal Marijuana Market Enforcement Grant Program Fund.**

The Illegal Marijuana Market Enforcement Grant Program Fund is established in the State Treasury separate and distinct from the General Fund. Moneys in the Illegal Marijuana Market Enforcement Grant Program Fund are continuously appropriated to the Oregon Criminal Justice Commission for the purposes of carrying out the provisions of ORS 475C.531. Interest earned by the fund shall be credited to the fund. [2018 c.103 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.540 - Definitions for ORS 475C.540 to 475C.586.**

As used in ORS 475C.540 to 475C.586:

- (1) "Adult use cannabinoid" includes, but is not limited to, tetrahydrocannabinols, tetrahydrocannabinolic acids that are artificially or naturally derived, delta-8-tetrahydrocannabinol, delta-9- tetrahydrocannabinol, the optical isomers of delta-8-tetrahydrocannabinol or delta-9-tetrahydrocannabinol and any artificially derived cannabinoid that is reasonably determined to have an intoxicating effect.
- (2) "Artificially derived cannabinoid" has the meaning given that term in ORS 475C.009.
- (3) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.
- (4) "Cannabinoid concentrate or extract" means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.
- (5) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.
- (6)(a) "Cannabinoid product" means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.
- (b) "Cannabinoid product" does not include:
  - (A) Usable marijuana by itself;
  - (B) A cannabinoid concentrate or extract by itself; or
  - (C) Industrial hemp.
- (7) "Industrial hemp" has the meaning given that term in ORS 571.269.
- (8) "Industrial hemp-derived vapor item" means an industrial hemp concentrate or industrial hemp extract, as those terms are defined in ORS 571.269, whether alone or combined with other substances, that is intended for use in an inhalant delivery system.
- (9) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.

(10)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include:

(A) Industrial hemp; or

(B) Prescription drugs, as that term is defined in ORS 689.005, including those containing one or more cannabinoids, that are approved by the United States Food and Drug Administration and dispensed by a pharmacy, as defined in ORS 689.005.

(11) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.

(12) "Processing" means:

(a) The compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.

(b) The compounding or conversion of industrial hemp into industrial hemp concentrates or industrial hemp extracts.

(13) "Producing" means:

(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

(b) Drying marijuana leaves and flowers.

(14)(a) "Usable marijuana" means the dried leaves and flowers of marijuana.

(b) "Usable marijuana" does not include:

(A) The seeds, stalks and roots of marijuana; or

(B) Waste material that is a by-product of producing or processing marijuana. [Formerly 475B.550]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.544 - Testing standards and processes; rules.**

(1) As is necessary to protect the public health and safety, and in consultation with the Oregon Liquor and Cannabis Commission and the State Department of Agriculture, the Oregon Health Authority shall adopt rules:

(a) Establishing standards for testing marijuana items and industrial hemp-derived vapor items.

(b) Identifying appropriate tests for marijuana items and industrial hemp-derived vapor items, depending on the type of marijuana item or industrial hemp-derived vapor item and the manner in which the marijuana item or industrial hemp-derived vapor item was produced or processed, that are necessary to protect the public health and safety, including, but not limited to, tests for:

(A) Microbiological contaminants;

(B) Pesticides;

(C) Other contaminants;

(D) Solvents or residual solvents; and

(E) Adult use cannabinoid and cannabidiol concentration.

(c) Establishing procedures for determining batch sizes and for sampling usable marijuana, cannabinoid products, cannabinoid concentrates or extracts and industrial hemp-derived vapor items.

(d) Establishing different minimum standards for different varieties of usable marijuana and different types of cannabinoid products and cannabinoid concentrates and extracts and, as appropriate, industrial hemp-derived vapor items.

(2) In addition to the testing requirements established under subsection (1) of this section, the authority or the commission may require cannabinoid edibles to be tested in accordance with any applicable law of this state, or any applicable rule adopted under a law of this state, related to the production and processing of food products or commodities.

(3) In adopting rules under ORS 475C.770 to 475C.919, the authority may require:

(a) A person responsible for a marijuana grow site under ORS 475C.792 to test usable marijuana before transferring the usable marijuana to a registrant other than an individual who holds a registry identification card under ORS 475C.783; and

(b) A person processing marijuana to test cannabinoid products or cannabinoid concentrates or extracts before transferring the cannabinoid products or cannabinoid concentrates or extracts to a registrant other than an individual who holds a registry identification card under ORS 475C.783.

(4) In adopting rules under ORS 475C.005 to 475C.525, the commission may require:

(a) A marijuana producer that holds a license under ORS 475C.065 or a marijuana wholesaler that holds a license under ORS 475C.093 to test usable marijuana before selling or transferring the usable marijuana; and

(b) A marijuana processor that holds a license under ORS 475C.085 or a marijuana wholesaler that holds a license under ORS 475C.093 to test cannabinoid products or cannabinoid concentrates or extracts before selling or transferring the cannabinoid products or cannabinoid concentrates or extracts.

(5) The authority and the commission may conduct testing of marijuana items or industrial hemp-derived vapor items for the purpose of determining whether a person subject to testing under subsection (3) of this section or a licensee subject to testing under subsection (4) of this section is in compliance with this section.

(6) In adopting rules to implement this section, the authority and commission may not require a marijuana item or industrial hemp-derived vapor item to undergo the same test more than once unless:

(a) The marijuana item or industrial hemp-derived vapor item is processed into a different type of marijuana item or industrial hemp-derived vapor item or the condition of the marijuana item or industrial hemp-derived vapor item has fundamentally changed;

(b) The authority or the commission has reason to believe that the marijuana item or industrial hemp-derived vapor item is not in compliance with rules adopted under this section; or

(c) The test to which the marijuana item or industrial hemp-derived vapor item is subject more than once is a test described in subsection (5) of this section.

(7) The testing of marijuana items and industrial hemp-derived vapor items as required by this section must be conducted by a laboratory licensed by the commission under ORS 475C.548 and accredited by the authority under ORS 475C.560.

(8) In adopting rules under subsection (1) of this section, the authority:

(a) Shall consider the cost of a potential testing procedure and how that cost will affect the cost to the ultimate consumer of the marijuana item or industrial hemp-derived vapor item; and

(b) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [Formerly 475B.555; 2023 c.519 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.548 - Laboratory licensure; qualifications; fees; rules.**

(1) A laboratory that conducts testing of marijuana items or industrial hemp-derived vapor items as required by ORS 475C.544 must have a license to operate at the premises at which the marijuana items or industrial hemp-derived vapor items are tested.

(2) For purposes of this section, the Oregon Liquor and Cannabis Commission shall adopt rules establishing:

(a) Qualifications to be licensed under this section, including that an applicant for licensure under this section must be accredited by the Oregon Health Authority as described in ORS 475C.560;

(b) Processes for applying for and renewing a license under this section, which may be the same as the application process established under ORS 475C.033;

(c) Fees for applying for, receiving and renewing a license under this section; and

(d) Procedures for:

(A) Tracking usable marijuana, cannabinoid products, cannabinoid concentrates or extracts or industrial hemp-derived vapor items to be tested;

(B) Documenting and reporting test results; and

(C) Disposing of samples of usable marijuana, cannabinoid products, cannabinoid concentrates or extracts or industrial hemp-derived vapor items that have been tested.

(3) A license issued under this section:

(a) Must be renewed annually.

(b) Is subject to the conditions provided in ORS 475C.049 for licenses issued under ORS 475C.005 to 475C.525.

(4) The commission may inspect premises licensed under this section to ensure compliance with ORS 475C.540 to 475C.586 and rules adopted under ORS 475C.540 to 475C.586.

(5) Subject to the applicable provisions of ORS chapter 183, the commission may refuse to issue or renew, or may suspend or revoke, a license issued under this section for violation of:

(a) A provision of ORS 475C.540 to 475C.586 or a rule adopted under a provision of ORS 475C.540 to 475C.586; or

(b) A provision of ORS 475C.005 to 475C.525 or a rule adopted under a provision of ORS 475C.005 to 475C.525.

(6) Fees adopted under subsection (2)(c) of this section must be reasonably calculated to pay the expenses incurred by the commission under ORS 475C.540 to 475C.586.

(7) Fee moneys collected under this section shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475C.297 and are continuously appropriated to the commission for the purpose of carrying out the duties, functions and powers of the commission under ORS 475C.540 to 475C.586. [Formerly 475B.560; 2023 c.519 §26]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.552 - Authority to require fingerprints of applicants and other individuals.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Liquor and Cannabis Commission may require the fingerprints of any individual listed on an application submitted under ORS 475C.548. The powers conferred on the commission under this section include the power to require the fingerprints of:

(1) If the applicant is a limited partnership, each partner of the limited partnership;

(2) If the applicant is a limited liability company, each member of the limited liability company;

(3) If the applicant is a corporation, each director and officer of the corporation;

(4) Any individual who holds a financial interest of 10 percent or more in the person applying for the license; and

(5) Any individual who is a partner, member, director or officer of a legal entity with a financial interest in the person applying for the license. [Formerly 475B.562]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.556 - Statement of applicant for license under ORS 475C.548.**

(1) The Oregon Liquor and Cannabis Commission may require a licensee or applicant for a license under ORS 475C.548 to submit, in a form and manner prescribed by the commission, to the commission a sworn statement showing:

(a) The name and address of each person that has a financial interest in the business operating or to be operated under the license; and

(b) The nature and extent of the financial interest of each person that has a financial interest in the business operating or to be operated under the license.

(2) The commission may refuse to issue, or may suspend, revoke or refuse to renew, a license issued under ORS 475C.548 if the commission determines that a person that has a financial interest in the business operating or to be operated under the license committed or failed to commit an act that would constitute grounds for the commission to refuse to issue, or to suspend, revoke or refuse to renew, the license if the person were the licensee or applicant for the license. [Formerly 475B.564]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.560 - Laboratory accreditation; qualifications; fees; rules.**

(1) A laboratory that conducts testing of marijuana items or industrial hemp-derived vapor items as required by ORS 475C.544 must be accredited under ORS 438.605 to 438.620 and meet other qualifications as established by the Oregon Health Authority under this section.

(2) In addition to other qualifications required pursuant to ORS 438.605 to 438.620, the authority shall require an applicant for accreditation under ORS 438.605 to 438.620 for purposes related to the testing of marijuana items or industrial hemp-derived vapor items to:

(a) Complete an application;

(b) Undergo an onsite inspection; and

(c) Meet other applicable requirements, specifications and guidelines for testing marijuana items or industrial hemp-derived vapor items, as determined to be appropriate by the authority by rule.

(3) The authority may inspect premises licensed under ORS 475C.548 to ensure compliance with ORS 475C.540 to 475C.586 and rules adopted under ORS 475C.540 to 475C.586.

(4) Subject to the applicable provisions of ORS chapter 183, the authority may refuse to issue or renew, or may suspend or revoke, a laboratory's accreditation granted under this section and ORS 438.605 to 438.620 for violation of:

(a) A provision of ORS 475C.540 to 475C.586 or a rule adopted under a provision of ORS 475C.540 to 475C.586; or

(b) A provision of ORS 475C.005 to 475C.525 or a rule adopted under a provision of ORS 475C.005 to 475C.525.

(5) In establishing fees under ORS 438.620 for laboratories that test marijuana items or industrial hemp-derived vapor items, the authority shall establish fees that are reasonably calculated to pay the expenses incurred by the authority under this section and ORS 438.605 to 438.620 in accrediting laboratories that test marijuana items or industrial hemp-derived vapor items. [Formerly 475B.565]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.564 - Applicability of ORS 475C.540 to 475C.586.**

ORS 475C.540 to 475C.586 do not apply to:

(1) A person responsible for a marijuana grow site under ORS 475C.792 if the person is transferring usable marijuana or an immature marijuana plant, as defined in ORS 475C.009, to:

(a) A person who holds a registry identification card under ORS 475C.783 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(b) A person who has been designated as the primary caregiver under ORS 475C.789 of a person who holds a registry identification card under ORS 475C.783 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or

(2) A person who has been designated as the primary caregiver under ORS 475C.789 of a person who holds a registry identification card under ORS 475C.783 if the person is transferring a marijuana item to the person who holds a registry identification card.

[Formerly 475B.570]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.568 - Authority of Oregon Liquor and Cannabis Commission to discipline licensees of commission.**

Subject to the applicable provisions of ORS chapter 183, if an applicant or licensee violates a provision of ORS 475C.540 to 475C.586 or a rule adopted under a provision of ORS 475C.540 to 475C.586, the Oregon Liquor and Cannabis Commission may refuse to issue or renew, or may suspend or revoke, a license issued under ORS 475C.065, 475C.085, 475C.093 or 475C.097.

[Formerly 475B.575]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.572 - Authority of Oregon Liquor and Cannabis Commission over certain persons, license actions.**

(1) Notwithstanding the lapse, suspension or revocation of a license issued under ORS 475C.548, the Oregon Liquor and Cannabis Commission may:

(a) Proceed with any investigation of, or any action or disciplinary proceeding against, the person who held the license; or

(b) Revise or render void an order suspending or revoking the license.

(2) In cases involving the proposed denial of a license issued under ORS 475C.548, the applicant for licensure may not withdraw the

applicant's application. [Formerly 475B.577]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.574 - Authority of Oregon Health Authority to discipline registrants of authority.**

Subject to the applicable provisions of ORS chapter 183, if a person violates a provision of ORS 475C.540 to 475C.586 or a rule adopted under a provision of ORS 475C.540 to 475C.586, the Oregon Health Authority may:

- (1) Refuse to register the person under ORS 475C.770 to 475C.919;
- (2) Suspend activities conducted by a registrant pursuant to ORS 475C.770 to 475C.919; or
- (3) Remove a registrant from a registry kept pursuant to ORS 475C.770 to 475C.919. [Formerly 475B.580]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.578 - Civil penalty for violating ORS 475C.540 to 475C.586.**

(1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475C.540 to 475C.586, or a rule adopted under a provision of ORS 475C.540 to 475C.586, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) Moneys collected under this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under ORS 475C.540 to 475C.586. [Formerly 475B.585]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.582 - Authority of State Department of Agriculture, Oregon Liquor and Cannabis Commission for certain violations of ORS 475C.540 to 475C.586.**

(1) If a person violates a provision of ORS 475C.540 to 475C.586 or a rule adopted under ORS 475C.540 to 475C.586 with regard to an industrial hemp-derived vapor item:

(a) The State Department of Agriculture may impose disciplinary action described in ORS 571.285 and impose a civil penalty under ORS 571.348 if the person is a grower or handler registered under ORS 571.281.

(b) The Oregon Liquor and Cannabis Commission may impose a civil penalty under ORS 475C.644 if the person is not a grower or handler registered under ORS 571.281.

(2) The commission and the department may adopt rules to carry out this section. [2021 c.646 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.586 - Exemption from criminal liability.**

A person who holds a license under ORS 475C.548, and an employee of or other person who performs work for a person who holds a license under ORS 475C.548, are exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element, while performing activities related to testing as described in ORS 475C.540 to 475C.586. [Formerly 475B.590]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.590 - Advisory committee on standards for testing potency of marijuana and marijuana items.**

(1) The Oregon Liquor and Cannabis Commission shall establish an advisory committee to advise the commission, the Oregon Health Authority and the State Department of Agriculture on establishing and maintaining standards for testing the potency of marijuana and marijuana items, as those terms are defined in ORS 475C.009. The members of the committee must include members who are:

- (a) Representatives of the commission, the authority and the department;
- (b) Stakeholders in the marijuana industry; and
- (c) Individuals who have expertise in the potency testing of marijuana and marijuana items.

(2) The commission may adopt rules to carry out this section. [Formerly 475B.593]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.600 - Definitions for ORS 475C.600 to 475C.648.**

As used in ORS 475C.600 to 475C.648:

(1) "Adult use cannabinoid" includes, but is not limited to, tetrahydrocannabinols, tetrahydrocannabinolic acids that are artificially or naturally derived, delta-8-tetrahydrocannabinol, delta-9-tetrahydrocannabinol, the optical isomers of delta-8-tetrahydrocannabinol or delta-9-tetrahydrocannabinol and any artificially derived cannabinoid that is reasonably determined to have an intoxicating effect.

(2) "Artificially derived cannabinoid" has the meaning given that term in ORS 475C.009.

- (3) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.
- (4) "Cannabinoid concentrate or extract" means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.
- (5) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.
- (6)(a) "Cannabinoid product" means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.
- (b) "Cannabinoid product" does not include:
  - (A) Usable marijuana by itself;
  - (B) A cannabinoid concentrate or extract by itself; or
  - (C) Industrial hemp.
- (7) "Industrial hemp" has the meaning given that term in ORS 571.269.
- (8) "Industrial hemp-derived vapor item" means an industrial hemp concentrate or industrial hemp extract, as those terms are defined in ORS 571.269, whether alone or combined with other substances, that is intended for use in an inhalant delivery system.
- (9) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.
- (10)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.
- (b) "Marijuana" does not include:
  - (A) Industrial hemp; or
  - (B) Prescription drugs, as that term is defined in ORS 689.005, including those containing one or more cannabinoids, that are approved by the United States Food and Drug Administration and dispensed by a pharmacy, as defined in ORS 689.005.
- (11) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.
- (12) "Processing" means:
  - (a) The compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.
  - (b) The compounding or conversion of industrial hemp into industrial hemp concentrates or industrial hemp extracts.
- (13) "Producing" means:
  - (a) Planting, cultivating, growing, trimming or harvesting marijuana; or
  - (b) Drying marijuana leaves and flowers.
- (14) "Total delta-9-THC" has the meaning given that term in ORS 475C.009.
- (15)(a) "Usable marijuana" means the dried leaves and flowers of marijuana.
- (b) "Usable marijuana" does not include:
  - (A) The seeds, stalks and roots of marijuana; or
  - (B) Waste material that is a by-product of producing or processing marijuana. [Formerly 475B.600]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.604 - Labeling requirements; rules.**

- (1) As is necessary to protect the public health and safety, and in consultation with the Oregon Health Authority and the State Department of Agriculture, the Oregon Liquor and Cannabis Commission shall adopt rules establishing standards for the labeling of marijuana items and inhalant delivery systems that contain industrial hemp-derived vapor items, including but not limited to:
  - (a) Ensuring that usable marijuana, cannabinoid concentrates and extracts, cannabinoid edibles, other cannabinoid products and inhalant delivery systems that contain industrial hemp-derived vapor items have labeling that communicates:
    - (A) Health and safety warnings;
    - (B) If applicable, activation time;
    - (C) Potency;
    - (D) For cannabinoid products and cannabinoid concentrates and extracts, serving size and the number of servings included in a cannabinoid product or cannabinoid concentrate or extract package; and
    - (E) Content of the marijuana item or inhalant delivery system that contains an industrial hemp-derived vapor item; and
  - (b) Labeling that is in accordance with applicable state food labeling requirements for the same type of food product or potable liquid when the food product or potable liquid does not contain marijuana or cannabinoids.
- (2) In adopting rules under ORS 475C.770 to 475C.919, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475C.833 to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.
- (3) In adopting rules under ORS 475C.005 to 475C.525, the commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license issued under ORS 475C.097 to be labeled in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.
- (4) In adopting rules under subsection (1) of this section, the commission:
  - (a) May establish different labeling standards for different varieties of usable marijuana, for different types of cannabinoid products and cannabinoid concentrates and extracts and for inhalant delivery systems that contain industrial hemp-derived vapor items;
  - (b) May establish different minimum labeling standards for persons registered under ORS 475C.770 to 475C.919 and persons



licensed under ORS 475C.005 to 475C.525;

(c) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate consumer of the marijuana item or inhalant delivery system that contains an industrial hemp-derived vapor item; and

(d) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [Formerly 475B.605]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.608 - Authority to require preapproval of labels.**

(1) As used in this section:

(a) "Licensee" has the meaning given that term in ORS 475C.009.

(b) "Registrant" means a person registered under ORS 475C.770 to 475C.919.

(2) The Oregon Liquor and Cannabis Commission may by rule require a licensee or person responsible for the labeling of an inhalant delivery system that contains an industrial hemp-derived vapor item, and the Oregon Health Authority may by rule require a registrant, to submit a label intended for use on a marijuana item or an inhalant delivery system that contains an industrial hemp-derived vapor item for preapproval by the commission before the licensee, person or registrant may sell or transfer a marijuana item or an inhalant delivery system that contains an industrial hemp-derived vapor item bearing the label. The commission shall determine whether a label submitted under this section complies with ORS 475C.604 and any rule adopted under ORS 475C.604.

(3) The commission may impose a fee for submitting a label for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section. [Formerly 475B.610; 2022 c.108 §8; 2022 c.117 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.612 - Packaging requirements; rules.**

(1) As is necessary to protect the public health and safety, and in consultation with the Oregon Health Authority and the State Department of Agriculture, the Oregon Liquor and Cannabis Commission shall adopt rules establishing standards for the packaging of marijuana items, including but not limited to:

(a) Ensuring that cannabinoid concentrates and extracts, cannabinoid edibles and other cannabinoid products are:

(A) Packaged in child-resistant safety packaging; and

(B) Not marketed in a manner that:

(i) Is untruthful or misleading;

(ii) Is attractive to minors; or

(iii) Otherwise creates a significant risk of harm to public health and safety;

(b) Ensuring that usable marijuana, including usable marijuana that is pre-rolled, is not marketed in a manner that:

(A) Is untruthful and misleading;

(B) Is attractive to minors; or

(C) Otherwise creates a significant risk of harm to public health and safety; and

(c) Ensuring that cannabinoid edibles and other cannabinoid products are not packaged in a manner that is attractive to minors.

(2) In adopting rules under ORS 475C.770 to 475C.919, the authority shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475C.833 to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(3) In adopting rules under ORS 475C.005 to 475C.525, the commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license under ORS 475C.097 to be packaged in accordance with subsection (1) of this section and rules adopted under subsection (1) of this section.

(4) In adopting rules under subsection (1) of this section, the commission:

(a) May establish different packaging standards for different varieties of usable marijuana and for different types of cannabinoid products and cannabinoid concentrates and extracts;

(b) May establish different minimum packaging standards for persons registered under ORS 475C.770 to 475C.919 and persons licensed under ORS 475C.005 to 475C.525;

(c) May consider the effect on the environment of requiring certain packaging;

(d) Shall consider the cost of a potential requirement and how that cost will affect the cost to the ultimate consumer of the marijuana item; and

(e) May not adopt rules that are more restrictive than is reasonably necessary to protect the public health and safety. [Formerly 475B.615]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.616 - Authority to require preapproval of packaging.**

(1) As used in this section:

(a) "Licensee" has the meaning given that term in ORS 475C.009.

(b) "Registrant" means a person registered under ORS 475C.770 to 475C.919.

- (2) The Oregon Liquor and Cannabis Commission may by rule require a licensee, and the Oregon Health Authority may by rule require a registrant, to submit packaging intended for a marijuana item for preapproval by the commission before the licensee or registrant may sell or transfer a marijuana item packaged in the packaging. The commission shall determine whether packaging submitted under this section complies with ORS 475C.612 and any rule adopted under ORS 475C.612.
- (3) The commission may impose a fee for submitting packaging for preapproval under this section that is reasonably calculated to not exceed the cost of administering this section. [Formerly 475B.620]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.620 - Concentration and servings limits; rules.**

- (1) The Oregon Liquor and Cannabis Commission, in consultation with the Oregon Health Authority and the State Department of Agriculture, shall adopt rules establishing:
- (a) The maximum concentration of total delta-9-THC that is permitted in a single serving of a cannabinoid product or cannabinoid concentrate or extract;
- (b) The maximum concentration of adult use cannabinoid, any other cannabinoid or artificially derived cannabinoid that is permitted in a single serving of a cannabinoid product or a cannabinoid concentrate or extract; and
- (c) The number of servings that are permitted in a package of cannabinoid product or cannabinoid concentrate or extract.
- (2)(a) In adopting rules under subsection (1)(a) or (b) of this section, the commission shall prescribe the different levels of concentration of total delta-9-THC, artificially derived cannabinoids, adult use cannabinoids or any other cannabinoid that is permitted in a single serving of a cannabinoid product or cannabinoid concentrate or extract for:
- (A) Consumers who hold a valid registry identification card issued under ORS 475C.783; and
- (B) Consumers who do not hold a valid registry identification card issued under ORS 475C.783.
- (b) In prescribing the levels of concentration of total delta-9-THC, artificially derived cannabinoids, adult use cannabinoids or any other cannabinoid that is permitted in a single serving of a cannabinoid product or cannabinoid concentrate or extract for consumers who hold a valid registry identification card issued under ORS 475C.783, the commission shall consider the appropriate level of concentration necessary to mitigate the symptoms or effects of a debilitating medical condition, as defined in ORS 475C.777.
- (3) In adopting rules under ORS 475C.770 to 475C.919, the authority shall adopt by rule requirements established by the commission by rule to require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts transferred by a medical marijuana dispensary registered under ORS 475C.833 to meet the concentration standards and servings per package standards adopted by rule pursuant to this section.
- (4)(a) In adopting rules under ORS 475C.005 to 475C.525, the commission shall require all usable marijuana, cannabinoid products and cannabinoid concentrates and extracts sold or transferred by a marijuana retailer that holds a license under ORS 475C.097 to meet the concentration standards and servings per package standards adopted by rule pursuant to this section.
- (b) The rules adopted by the commission under this subsection must allow for a concentration of up to 100 milligrams of adult use cannabinoid per package of cannabinoid edibles. [Formerly 475B.625]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.624 - Applicability of ORS 475C.600 to 475C.648.**

- (1) ORS 475C.600 to 475C.648 do not apply to:
- (a) A person responsible for a marijuana grow site under ORS 475C.792 if the person is transferring usable marijuana or an immature marijuana plant, as defined in ORS 475C.009, to:
- (A) A person who holds a registry identification card under ORS 475C.783 and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or
- (B) A person who has been designated as the primary caregiver under ORS 475C.789 of a person who holds a registry identification card under ORS 475C.783, and who designated the person responsible for the marijuana grow site to grow marijuana for the person who holds a registry identification card; or
- (b) A person who has been designated as the primary caregiver under ORS 475C.789 of a person who holds a registry identification card under ORS 475C.783 if the person is transferring a marijuana item to the person who holds a registry identification card.
- (2) The labeling and packaging requirements and standards of ORS 475C.600 to 475C.648 do not apply to a marijuana processor registered under ORS 475C.141 when the marijuana processor receives marijuana and usable marijuana from, and for a fee processes that marijuana and usable marijuana into cannabinoid products, cannabinoid concentrates and cannabinoid extracts for, a registry identification cardholder or the designated primary caregiver of a registry identification cardholder. [Formerly 475B.630]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.628 - Authority of Oregon Liquor and Cannabis Commission to inspect.**

To ensure compliance with ORS 475C.600 to 475C.648 and any rule adopted under ORS 475C.600 to 475C.648, the Oregon Liquor and Cannabis Commission may inspect the premises of a person that holds a license under ORS 475C.065, 475C.085, 475C.093 or 475C.097. [Formerly 475B.635]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis**

**RegulationSection 475C.632 - Authority of Oregon Health Authority to inspect.**

To ensure compliance with ORS 475C.600 to 475C.648 and any rule adopted under ORS 475C.600 to 475C.648, the Oregon Health Authority may inspect the premises of:

- (1) A medical marijuana dispensary registered under ORS 475C.833; and
- (2) A person that processes marijuana to test cannabinoid products or cannabinoid concentrates or extracts for the purpose of transferring the cannabinoid products or cannabinoid concentrates or extracts to a medical marijuana dispensary registered under ORS 475C.833. [Formerly 475B.640]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.636 - Authority of Oregon Liquor and Cannabis Commission to discipline licensees of commission.**

Subject to the applicable provisions of ORS chapter 183, if the applicant or licensee violates a provision of ORS 475C.600 to 475C.648 or a rule adopted under a provision of ORS 475C.600 to 475C.648, the Oregon Liquor and Cannabis Commission may refuse to issue or renew, or may suspend or revoke, a license issued under ORS 475C.065, 475C.085, 475C.093 or 475C.097. [Formerly 475B.645]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.640 - Authority of Oregon Health Authority to discipline registrants of authority.**

Subject to the applicable provisions of ORS chapter 183, if a person violates a provision of ORS 475C.600 to 475C.648 or a rule adopted under a provision of ORS 475C.600 to 475C.648, the Oregon Health Authority may:

- (1) Refuse to register a person under ORS 475C.770 to 475C.919;
- (2) Suspend activities conducted by a registrant pursuant to ORS 475C.770 to 475C.919; or
- (3) Remove a registrant from a registry kept pursuant to ORS 475C.770 to 475C.919. [Formerly 475B.650]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.644 - Civil penalty for violating ORS 475C.600 to 475C.648.**

- (1) In addition to any other liability or penalty provided by law, the Oregon Liquor and Cannabis Commission may impose for each violation of a provision of ORS 475C.600 to 475C.648, or a rule adopted under a provision of ORS 475C.600 to 475C.648, a civil penalty that does not exceed \$500 for each day that the violation occurs.
- (2) The commission shall impose civil penalties under this section in the manner provided by ORS 183.745.
- (3) Moneys collected under this section shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475C.297 and are continuously appropriated to the commission for the purpose of carrying out the duties, functions and powers of the authority under ORS 475C.600 to 475C.648. [Formerly 475B.655]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.648 - Authority of State Department of Agriculture, Oregon Liquor and Cannabis Commission for certain violations of ORS 475C.600 to 475C.648.**

- (1) If a person violates a provision of ORS 475C.600 to 475C.648 or a rule adopted under ORS 475C.600 to 475C.648 with regard to an industrial hemp-derived vapor item:
  - (a) The State Department of Agriculture may impose disciplinary action described in ORS 571.285 and impose a civil penalty under ORS 571.348 if the person is a grower or handler registered under ORS 571.281.
  - (b) The Oregon Liquor and Cannabis Commission may impose a civil penalty under ORS 475C.644 if the person is not a grower or handler registered under ORS 571.281.
- (2) The commission and the department may adopt rules to carry out this section. [2021 c.646 § 12]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.670 - Definitions for ORS 475C.670 to 475C.734.**

As used in ORS 475C.670 to 475C.734:

- (1) "Cannabinoid concentrate," "cannabinoid edible," "cannabinoid extract," "cannabinoid product," "consumer," "immature marijuana plant," "marijuana flowers," "marijuana items," "marijuana leaves," "marijuana processor," "marijuana producer," "marijuana retailer" and "usable marijuana" have the meanings given those terms in ORS 475C.009.
- (2) "Retail sale" means any transfer, exchange, gift or barter of a marijuana item by any person to a consumer.
- (3) "Retail sales price" means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item. [Formerly 475B.700]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 475C - Cannabis RegulationSection 475C.674 - Imposition of tax on retail sale of marijuana items.**

(1) A tax is hereby imposed upon the retail sale of marijuana items in this state. The tax imposed by this section is a direct tax on the consumer, for which payment upon retail sale is required. The tax shall be collected at the point of sale of a marijuana item by a

marijuana retailer at the time at which the retail sale occurs.

(2) The tax imposed under this section shall be imposed at the rate of:

- (a) 17 percent of the retail sales price of usable marijuana;
  - (b) 17 percent of the retail sales price of immature marijuana plants;
  - (c) 17 percent of the retail sales price of a cannabinoid edible;
  - (d) 17 percent of the retail sales price of a cannabinoid concentrate;
  - (e) 17 percent of the retail sales price of a cannabinoid extract;
  - (f) 17 percent of the retail sales price of a cannabinoid product that is intended to be used by applying the cannabinoid product to the skin or hair; and
  - (g) 17 percent of the retail sales price of cannabinoid products other than those described in paragraph (f) of this subsection.
- (3) If the tax imposed under this section does not equal an amount calculable to a whole cent, the tax shall be equal to the next higher whole cent.
- (4) Except as otherwise provided by the Department of Revenue by rule, the amount of the tax shall be separately stated on an invoice, receipt or other similar document that the marijuana retailer provides to the consumer at the time at which the retail sale occurs.

(5) A person may not knowingly sell, purchase, install, transfer or possess electronic devices or software programs for the purposes of:

- (a) Hiding or removing records of retail sales of marijuana items; or
- (b) Falsifying records of retail sales of marijuana items.

(6)(a) A marijuana retailer may not discount a marijuana item or offer a marijuana item for free if the retail sale of the marijuana item is made in conjunction with the retail sale of any other item.

(b) Paragraph (a) of this subsection does not affect any provision of ORS 475C.005 to 475C.525 or any rule adopted by the Oregon Liquor and Cannabis Commission pursuant to ORS 475C.005 to 475C.525 that is related to the retail sale of marijuana items.

[Formerly 475B.705]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.678 - Exemption from tax on retail sale of marijuana items; rules.**

(1) As used in this section, "designated primary caregiver," "registry identification card" and "registry identification cardholder" have the meanings given those terms in ORS 475C.777.

(2) Notwithstanding ORS 475C.674:

(a) A tax is not imposed upon the retail sale of marijuana items in this state to a registry identification cardholder or to a designated primary caregiver who is purchasing a marijuana item for a registry identification cardholder; and

(b) A marijuana retailer may not collect the tax imposed under ORS 475C.674 from a consumer if, at the time at which the retail sale of the marijuana item occurs, the consumer provides proof to the marijuana retailer that the consumer:

(A) Holds a valid registry identification card under ORS 475C.783; or

(B) Holds a valid identification card under ORS 475C.783 (5)(b) and is purchasing the marijuana item for a registry identification cardholder.

(3) The Department of Revenue:

(a) Shall adopt rules establishing procedures by which a marijuana retailer shall document that a consumer holds a valid registry identification card issued under ORS 475C.783 or a valid identification card issued under ORS 475C.783 (5)(b); and

(b) May adopt rules establishing procedures by which the department may verify that a marijuana retailer collects the tax imposed under ORS 475C.674 from consumers of marijuana items who are not registry identification cardholders or designated primary caregivers. [Formerly 475B.707]

Note:

Section 44, chapter 525, Oregon Laws 2021, provides:

Sec. 44.

ORS 475B.707 [renumbered 475C.678] applies to retail sales of marijuana items occurring on or after January 1, 2016, and before January 1, 2028. [2021 c.525 §44]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.682 - Collection of tax; refund; credit; penalties.**

(1) Except as otherwise provided in ORS 475C.670 to 475C.734, the tax imposed upon the consumer under ORS 475C.674 shall be collected at the point of sale and remitted by each marijuana retailer that engages in the retail sale of marijuana items. The tax is considered a tax upon the marijuana retailer that is required to collect the tax, and the marijuana retailer is considered a taxpayer.

(2) The marijuana retailer shall file a return to the Department of Revenue on or before the last day of January, April, July and October of each year for the previous calendar quarter.

(3) The marijuana retailer shall pay the tax to the department in the form and manner prescribed by the department, but not later than with each quarterly return, without regard to an extension granted under subsection (5) of this section.

(4) Marijuana retailers shall file the returns required under this section regardless of whether any tax is owed.

(5) For good cause, the department may extend the time for filing a return under this section. The extension may be granted at any time if a written request is filed with the department during or prior to the period for which the extension may be granted. The department may not grant an extension of more than 30 days.

(6) Interest shall be added at the rate established under ORS 305.220 from the time the return was originally required to be filed to the time of payment.

(7) If a marijuana retailer fails to file a return or pay the tax as required by this section, the department shall:

(a) Impose a penalty in the manner provided in ORS 314.400; and

(b) If the department has issued to the marijuana retailer a distraint warrant or notice of determination and assessment under ORS 475C.688, provide written notification to the Oregon Liquor and Cannabis Commission of the issuance of the distraint warrant or notice of determination and assessment.

(8) Except as provided in subsections (9) and (10) of this section, the period prescribed for the department to allow or make a refund of any overpayment of tax paid under ORS 475C.670 to 475C.734 is as provided in ORS 314.415.

(9)(a) The department shall first apply any overpayment of tax by a marijuana retailer to any marijuana tax that is owed by the marijuana retailer.

(b) If after any offset against any delinquent amount the overpayment of tax remains greater than \$1,000, the remaining refund shall be applied as a credit against the next subsequent calendar quarter as an estimated payment.

(10) The department may not make a refund of, or credit, any overpayment of tax under ORS 475C.670 to 475C.734 that was credited to the account of a marijuana retailer under subsection (9)(b) of this section if the return for that tax period is not filed within three years after the due date of that return. [Formerly 475B.710]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.684 - Marijuana revenue estimate.**

(1) Not later than 30 days before the beginning of each calendar quarter, the Oregon Department of Administrative Services shall forecast and prepare an estimate of the revenue that will be received during the remainder of the current biennium and subsequent three biennia pursuant to the tax imposed under ORS 475C.674. The estimate may be made on the basis of all pertinent information available to the Oregon Department of Administrative Services. Upon making the estimate, the Oregon Department of Administrative Services shall report the estimate to the Legislative Revenue Officer, the Legislative Fiscal Officer and the Department of Revenue.

(2) The Department of Revenue and the Oregon Liquor and Cannabis Commission shall provide the Oregon Department of Administrative Services with any information necessary for the Oregon Department of Administrative Services to perform its duties under this section. [Formerly 475B.712]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.688 - Enforcement; liability; notice of liability; notices of determination and assessment.**

(1) Every person who collects any amount under ORS 475C.682 shall hold the same in trust for the State of Oregon and for the payment thereof to the Department of Revenue in the manner and at the time provided in ORS 475C.682.

(2) At any time a marijuana retailer fails to remit any amount collected, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. The warrant shall be issued, recorded and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes.

(3)(a) In the case of a marijuana retailer that is assessed pursuant to the provisions of ORS 305.265 (12) and 314.407 (1), the department may issue a notice of liability to any officer, employee or member of the marijuana retailer within three years from the time of assessment. Within 30 days from the date the notice of liability is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the liability and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of liability. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal to the tax court in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of liability within 30 days after the notice of liability was mailed, the notice of liability becomes final. In that event, the officer, employee or member may appeal the notice of liability to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(4)(a) In the case of a failure to file a return on the due date, governed by the provisions of ORS 305.265 (10) and 314.400, the department, in addition to any action described in the provisions of ORS 305.265 (10) and 314.400, may send notices of determination and assessment to any officer, employee or member any time within three years after the assessment. The time of assessment against the officer, employee or member is 30 days after the date the notice of determination and assessment is mailed. Within 30 days from the date the notice of determination and assessment is mailed to the officer, employee or member, the officer,

employee or member shall pay the assessment, plus penalties and interest, or advise the department in writing of objections to the assessment and, if desired, request a conference. A conference shall be governed by the provisions of ORS 305.265 pertaining to a conference requested from a notice of deficiency.

(b) After a conference or, if no conference is requested, a determination of the issues considering the written objections, the department shall mail the officer, employee or member a conference letter affirming, canceling or adjusting the notice of determination and assessment. Within 90 days from the date the conference letter is mailed to the officer, employee or member, the officer, employee or member shall pay the assessment, plus penalties and interest, or appeal in the manner provided for an appeal from a notice of assessment.

(c) If the department does not receive payment or written objection to the notice of determination and assessment within 30 days after the notice of determination and assessment was mailed, the notice of determination and assessment becomes final. In that event, the officer, employee or member may appeal the notice of determination and assessment to the tax court within 90 days after it became final in the manner provided for an appeal from a notice of assessment.

(5)(a) More than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes.

(b) Notwithstanding the confidentiality provisions of ORS 475C.722, if more than one officer or employee of a corporation may be held jointly and severally liable for payment of taxes, the department may require any or all of the officers, members or employees who may be held liable to appear before the department for a joint determination of liability. The department shall notify each officer, member or employee of the time and place set for the determination of liability.

(c) Each person notified of a joint determination under this subsection shall appear and present such information as is necessary to establish that person's liability or nonliability for payment of taxes to the department. If a person who was notified fails to appear, the department shall make its determination on the basis of all the information and evidence presented. The department's determination is binding on all persons notified and required to appear under this subsection.

(d)(A) If an appeal is taken to the Oregon Tax Court pursuant to ORS 475C.722 by any person determined to be liable for unpaid taxes under this subsection, each person required to appear before the department under this subsection shall be impleaded by the plaintiff. The department may implead any officer, employee or member who may be held jointly and severally liable for the payment of taxes. Each person impleaded under this paragraph shall be made a party to the action before the tax court and shall make available to the tax court the information that was presented before the department, as well as other information that may be presented to the court.

(B) The court may determine that one or more persons impleaded under this paragraph are liable for unpaid taxes without regard to any earlier determination by the department that an impleaded person was not liable for unpaid taxes.

(C) If a person required to appear before the court under this subsection fails or refuses to appear or bring such information in part or in whole, or is outside the jurisdiction of the tax court, the court shall make its determination on the basis of all the evidence introduced. Notwithstanding ORS 475C.722, the evidence constitutes a public record and shall be available to the parties and the court. The determination of the tax court is binding on all persons made parties to the action under this subsection.

(e) This section may not be construed to preclude a determination by the department or the Oregon Tax Court that more than one officer, employee or member are jointly and severally liable for unpaid taxes. [Formerly 475B.715]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.692 - Duty to keep receipts, invoices and other records.**

(1) A marijuana retailer shall keep receipts, invoices and other pertinent records related to retail sales of marijuana items in the form required by the Department of Revenue. Each record shall be preserved for five years from the time to which the record relates, or for as long as the marijuana retailer retains the marijuana items to which the record relates, whichever is later. During the retention period and at any time prior to the destruction of records, the department may give written notice to the marijuana retailer not to destroy records described in the notice without written permission of the department. Notwithstanding any other provision of law, the department shall preserve reports and returns filed with the department for at least five years.

(2) The department or its authorized representative, upon oral or written demand, may make examinations of the books, papers, records and equipment of persons making retail sales of marijuana items and any other investigations as the department deems necessary to carry out the provisions of ORS 475C.670 to 475C.734. [Formerly 475B.720]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.694 - Authority to require production of books, papers, accounts and other information.**

(1) The Department of Revenue has authority, by order or subpoena to be served with the same force and effect and in the same manner as a subpoena is served in a civil action in the circuit court, or the Oregon Tax Court, to require the production at any time and place the department designates of any books, papers, accounts or other information necessary to carry out ORS 475C.670 to 475C.734. The department may require the attendance of any person having knowledge in the premises, and may take testimony and require proof material for the information, with power to administer oaths to the person.

(2) If a person fails to comply with a subpoena or order of the department or to produce or permit the examination or inspection of any books, papers, records and equipment pertinent to an investigation or inquiry under ORS 475C.670 to 475C.734, or to testify to any matter regarding which the person is lawfully interrogated, the department may apply to the Oregon Tax Court or to the circuit court of the county in which the person resides or where the person is for an order to the person to attend and testify, or otherwise to

comply with the demand or request of the department. The department shall apply to the court by ex parte motion, upon which the court shall make an order requiring the person against whom the motion is directed to comply with the request or demand of the department within 10 days after the service of the order, or within the additional time granted by the court, or to justify the failure within that time. The order shall be served upon the person to whom it is directed in the manner required by this state for service of process, which service is required to confer jurisdiction upon the court. Failure to obey any order issued by the court under this section is contempt of court. The remedy provided by this section is in addition to other remedies, civil or criminal, existing under the tax laws or other laws of this state. [Formerly 475B.725]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.698 - Disclosure of information.**

(1) Notwithstanding the confidentiality provisions of ORS 475C.722, the Department of Revenue may disclose information received under ORS 317.363 and 475C.670 to 475C.734 to:

(a) The Oregon Liquor and Cannabis Commission to carry out the provisions of ORS 475C.005 to 475C.525 and 475C.670 to 475C.734; and

(b) The Oregon Health Authority to carry out the provisions of ORS 475C.678.

(2) The commission may disclose information obtained pursuant to ORS 475C.005 to 475C.525 and 475C.670 to 475C.734 to the department for the purpose of carrying out the provisions of ORS 475C.005 to 475C.525 and 475C.670 to 475C.734.

(3) The authority may disclose information obtained pursuant to ORS 475C.783 or 475C.789 to the department for the purpose of carrying out the provisions of ORS 475C.678, provided that the authority does not disclose personally identifiable information.

[Formerly 475B.730]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.702 - Right to appeal determination of tax liability.**

Except as otherwise provided in ORS 475C.005 to 475C.525 and 475C.670 to 475C.734, a person aggrieved by an act or determination of the Department of Revenue or its authorized agent under ORS 317.363 and 475C.670 to 475C.734 may appeal, within 90 days after the act or determination, to the Oregon Tax Court in the manner provided in ORS 305.404 to 305.560. These appeal rights are the exclusive remedy available to determine the person's liability for the tax imposed under ORS 475C.670 to 475C.734. [Formerly 475B.735]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.706 - Duty to return excess tax collected.**

(1)(a) When an amount represented by a marijuana retailer at retail to a consumer as constituting the tax imposed under ORS 475C.670 to 475C.734 is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the consumer to the marijuana retailer, the excess tax paid shall be returned by the marijuana retailer to the consumer upon written notification by the Department of Revenue or the consumer.

(b) The written notification must contain information necessary to determine the validity of the consumer's claim.

(2) If the marijuana retailer does not return the excess tax within 60 days after mailing of the written notification required under subsection (1) of this section, the consumer may appeal to the department for a refund of the amount of the excess tax, in the manner and within the time allowed under rules adopted by the department.

(3) If excess tax is returned to the consumer by the department, the department may issue a notice of deficiency for the excess tax to the marijuana retailer in the manner provided under ORS 305.265. [Formerly 475B.740]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.710 - Authority to retain portion of tax to pay expenses incurred.**

For the purpose of compensating marijuana retailers for expenses incurred in collecting the tax imposed under ORS 475C.674, each marijuana retailer is permitted to deduct and retain two percent of the amount of taxes that are collected by the marijuana retailer from all retail sales of marijuana items conducted by the marijuana retailer. [Formerly 475B.745]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.714 - Duties and powers of Department of Revenue; rules; interagency cooperation.**

(1) The Department of Revenue shall administer and enforce ORS 475C.670 to 475C.734. The department is authorized to establish rules and procedures for the implementation and enforcement of ORS 475C.670 to 475C.734 that are consistent with ORS 475C.670 to 475C.734 and that the department considers necessary and appropriate to administer and enforce ORS 475C.670 to 475C.734.

(2) The Oregon Liquor and Cannabis Commission shall enter into an agreement with the department for the purpose of administering and enforcing those provisions of ORS 475C.670 to 475C.734, and rules or procedures established for the purpose of implementing and enforcing ORS 475C.670 to 475C.734, that the commission and the department determine are necessary for the effective and efficient administration, implementation and enforcement of ORS 475C.670 to 475C.734.

(3) The Oregon Health Authority shall enter into an agreement with the department for the purpose of administering and enforcing

the provisions of ORS 475C.678, and rules or procedures established for the purpose of implementing and enforcing ORS 475C.678, that the authority and the department determine are necessary for the effective and efficient administration, implementation and enforcement of ORS 475C.678. [Formerly 475B.750]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.718 - Department of Revenue tax rebate agreement with qualified Indian tribe.**

- (1) The Department of Revenue may enter into an agreement with the governing body of a federally recognized Indian tribe that is qualified as described in this section for the purpose of making rebate payments for an estimate of the tax on marijuana items imposed under ORS 475C.674 as described in this section.
- (2) The governing body of a federally recognized Indian tribe is qualified to enter into an agreement under this section if the governing body has entered into an agreement with the Governor, or the Governor's designee, pursuant to ORS 475C.521.
- (3) The department shall provide rebates under this section for:
  - (a) Usable marijuana sold by a marijuana retailer that holds a license issued under ORS 475C.097 that is produced by a marijuana producer that is located on tribal trust land and licensed by the governing body of a federally recognized Indian tribe that has entered into an agreement with the Governor, or the Governor's designee, pursuant to ORS 475C.521, provided that the licensing of the marijuana producer comports with the agreement; and
  - (b) Cannabinoid concentrates, cannabinoid extracts or cannabinoid products sold by a marijuana retailer that holds a license issued under ORS 475C.097 that are processed by a marijuana processor that is located on tribal trust land and licensed by the governing body of a federally recognized Indian tribe that has entered into an agreement with the Governor, or the Governor's designee, pursuant to ORS 475C.521, provided that the licensing of the marijuana processor comports with the agreement.
- (4) Payments made by the department to a federally recognized Indian tribe should represent the department's estimate of the amount of revenue generated under ORS 475C.674 attributable to marijuana items:
  - (a) Produced by a marijuana producer that is located on tribal trust land and licensed by the governing body of a federally recognized Indian tribe that has entered into an agreement with the Governor, or the Governor's designee, pursuant to ORS 475C.521, provided that the licensing of the marijuana producer comports with the agreement; or
  - (b) Processed by a marijuana processor that is located on tribal trust land and licensed by the governing body of a federally recognized Indian tribe that has entered into an agreement with the Governor, or the Governor's designee, pursuant to ORS 475C.521, provided that the licensing of the marijuana processor comports with the agreement.
- (5) There is continuously appropriated from the suspense account established under ORS 475C.734 the amounts necessary to make rebates pursuant to an agreement entered into under this section. [Formerly 475B.752]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.722 - Applicability of tax laws to ORS 475C.670 to 475C.734.**

Except as otherwise provided in ORS 475C.670 to 475C.734 or where the context requires otherwise, the provisions of ORS chapters 305 and 314 as to the audit and examination of returns, periods of limitation, determination of and notices of deficiencies, assessments, collections, liens, delinquencies, claims for refund and refunds, conferences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality of returns and the penalties relative thereto, and the procedures relating thereto, apply to the determinations of taxes, penalties and interest under ORS 475C.670 to 475C.734. [Formerly 475B.755]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.726 - Oregon Marijuana Account.**

- (1) As used in this section, "U.S. City Average Consumer Price Index" means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.
- (2) There is established the Oregon Marijuana Account, separate and distinct from the General Fund. The account consists of moneys transferred to the account under ORS 475C.734.
- (3)(a) The Department of Revenue shall certify quarterly the amount of moneys available in the Oregon Marijuana Account.
- (b)(A) Before making other transfers of moneys required by this section, the department shall transfer quarterly to the Drug Treatment and Recovery Services Fund all moneys in the Oregon Marijuana Account in excess of \$11,250,000.
- (B) The department shall annually adjust the limitation in subparagraph (A) of this paragraph. The department shall multiply \$11,250,000 by the percentage, if any, by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the monthly index for the fourth quarter of the calendar year 2020, and shall add that product to \$11,250,000. Any increase in the limitation shall apply beginning with transfers made in July of each year, based upon receipts in the second calendar quarter of each year.
- (c) Subject to subsection (4) of this section, and after making the transfer of moneys required by paragraph (b) of this subsection, the department shall transfer quarterly 20 percent of the moneys in the Oregon Marijuana Account as follows:
  - (A) Ten percent of the moneys in the account must be transferred to the cities of this state in the following shares:
    - (i) Seventy-five percent of the 10 percent must be transferred in shares that reflect the population of each city of this state that is not exempt from this paragraph pursuant to subsection (4)(a) of this section compared to the population of all cities of this state that are not exempt from this paragraph pursuant to subsection (4)(a) of this section, as determined by Portland State University under ORS



190.510 to 190.610, on the date immediately preceding the date of the transfer; and

(ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475C.065, 475C.085, 475C.093 and 475C.097 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each city compared to the number of licenses held pursuant to ORS 475C.065, 475C.085, 475C.093 and 475C.097 on the last business day of that calendar quarter for all premises in this state located in cities; and

(B) Ten percent of the moneys in the account must be transferred to counties in the following shares:

(i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475C.065 on the last business day of the calendar quarter preceding the date of the transfer for all premises located in each county compared to the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475C.065 on the last business day of that calendar quarter for all premises located in this state; and

(ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475C.085, 475C.093 and 475C.097 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each county compared to the number of licenses held pursuant to ORS 475C.085, 475C.093 and 475C.097 on the last business day of that calendar quarter for all premises in this state.

(d) After making the transfer of moneys required by paragraph (b) of this subsection, 80 percent of the remaining moneys in the Oregon Marijuana Account must be used as follows:

(A) Forty percent of the moneys in the account must be used solely for purposes for which moneys in the State School Fund established under ORS 327.008 may be used;

(B) Twenty percent of the moneys in the account must be used solely for mental health treatment or for alcohol and drug abuse prevention, early intervention and treatment;

(C) Fifteen percent of the moneys in the account must be used solely for purposes for which moneys in the State Police Account established under ORS 181A.020 may be used; and

(D) Five percent of the moneys in the account must be used solely for purposes related to alcohol and drug abuse prevention, early intervention and treatment services.

(4)(a) A city that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475C.065, 475C.085, 475C.093 or 475C.097 is required is not eligible to receive transfers of moneys under subsection (3)(c)(A) of this section.

(b) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475C.065 is required is not eligible to receive transfers of moneys under subsection (3)(c)(B)(i) of this section.

(c) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475C.085, 475C.093 or 475C.097 is required is not eligible to receive transfers of moneys under subsection (3)(c)(B)(ii) of this section.

(d)(A) Paragraphs (b) and (c) of this subsection do not apply to a county ordinance adopted on or after January 1, 2018, that prohibits the establishment of a premises for which a license under ORS 475C.065, 475C.085, 475C.093 or 475C.097 is required but allows in the unincorporated area of the county the continued operation of an existing premises for which a license under ORS 475C.065, 475C.085, 475C.093 or 475C.097 is required.

(B) A county that adopts an ordinance described in subparagraph (A) of this paragraph shall certify the adoption of the ordinance under subsection (6) of this section.

(5)(a) A city or county that is ineligible under subsection (4) of this section to receive a transfer of moneys from the Oregon Marijuana Account during a given quarter but has received a transfer of moneys for that quarter shall return the amount transferred to the Department of Revenue, with interest as described under paragraph (f) of this subsection. An ineligible city or county may voluntarily transfer the moneys to the Department of Revenue immediately upon receipt of the ineligible transfer.

(b) If the Director of the Oregon Department of Administrative Services determines that a city or county received a transfer of moneys under subsection (3)(c) of this section but was ineligible to receive that transfer under subsection (4) of this section, the director shall provide notice to the ineligible city or county and order the city or county to return the amount received to the Department of Revenue, with interest as described under paragraph (f) of this subsection. A city or county may appeal the order within 30 days of the date of the order under the procedures for a contested case under ORS chapter 183.

(c) As soon as the order under paragraph (b) of this subsection becomes final, the director shall notify the Department of Revenue and the ineligible city or county. Upon notification, the Department of Revenue immediately shall proceed to collect the amount stated in the notice.

(d) The Department of Revenue shall have the benefit of all laws of the state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in the notice under paragraph (c) of this subsection. An assessment of tax is not necessary and the collection described in this subsection is not precluded by any statute of limitations.

(e) If a city or county is subject to an order to return moneys from an ineligible transfer, the city or county shall be denied any further relief in connection with the ineligible transfer on or after the date that the order becomes final.

(f) Interest under this section shall accrue at the rate established in ORS 305.220 beginning on the date the ineligible transfer was made.

(g) Both the moneys and the interest collected from or returned by an ineligible city or county shall be redistributed to the cities or counties that were eligible to receive a transfer under subsection (3)(c) of this section on the date the ineligible transfer was made.

(6)(a) Not later than July 1 of each year, each city and county in this state shall certify with the Oregon Department of

Administrative Services whether the city or county has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475C.065, 475C.085, 475C.093 or 475C.097 is required and whether the county has an ordinance described in subsection (4)(d) of this section. The certification shall be made concurrently with the certifications under ORS 221.770, in a form and manner prescribed by the Oregon Department of Administrative Services.

(b) If a city fails to comply with this subsection, the city is not eligible to receive transfers of moneys under subsection (3)(c)(A) of this section. If a county fails to comply with this subsection, the county is not eligible to receive transfers of moneys under subsection (3)(c)(B) of this section.

(c) A city or county that repeals an ordinance as provided in ORS 475C.457 shall file an updated certification with the Oregon Department of Administrative Services in a form and manner prescribed by the department, noting the effective date of the change. A city or county that repeals an ordinance as provided in ORS 475C.457 is eligible to receive quarterly transfers of moneys under this section for quarters where the repeal is effective for the entire quarter and the updated certification was filed at least 30 days before the date of transfer. [Formerly 475B.759; 2022 c.15 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.728 - Distributions from Oregon Marijuana Account.**

Notwithstanding ORS 475C.726, before making any other distribution from the Oregon Marijuana Account established under ORS 475C.726, the Department of Revenue shall first distribute quarterly from the account the following:

(1) \$875,000 to the Oregon Liquor and Cannabis Commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475C.297; and

(2) \$750,000 to the Oregon Criminal Justice Commission for deposit into the Illegal Marijuana Market Enforcement Grant Program Fund established under ORS 475C.535 for the purposes of paying the costs incurred by the commission in carrying out the provisions of ORS 475C.531. [2018 c.103 §16; 2021 c.542 §39; 2022 c.117 §8]

Note:

475C.728 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475C or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.730 - Requirement to establish county cannabis advisory panel prior to adoption of certain local ordinance.**

(1) Prior to adopting an ordinance described in ORS 475C.726 (4)(d), a county shall convene a cannabis advisory panel to provide recommendations to the county commission regarding the county's regulation of marijuana and use of moneys transferred to the county under ORS 475C.726 (4). The county commission shall appoint the following members to the county cannabis advisory panel:

(a) A person who holds a license issued under ORS 475C.065 for a premises located in the county;

(b) A person who holds a license issued under ORS 475C.097 for a premises located in the county;

(c) A designee of the county sheriff;

(d) A designee of the county commission;

(e) A member of the public;

(f) A watermaster, as described in ORS 540.020, who is appointed for a water district in, partially in or near the county; and

(g) A representative of the county who is knowledgeable about economic development in the county.

(2) A county cannabis advisory panel shall provide recommendations to the county commission on at least the following:

(a) The use of moneys transferred to the county under ORS 475C.726;

(b) Increases in public safety measures related to marijuana use and marijuana entities in the county; and

(c) Issues presented by the production, processing, wholesaling and distribution of marijuana in the unincorporated area subject to the jurisdiction of the county.

(3)(a) A county cannabis advisory panel shall meet at least quarterly during the time in which the county receives transfers of moneys under ORS 475C.726, beginning not later than the date on which an ordinance described under ORS 475C.726 (4)(d) is proposed by the county.

(b) A county that adopts an ordinance described in ORS 475C.726 (4)(d) and that does not appoint a county cannabis advisory panel under this section is not eligible to receive transfers of moneys under ORS 475C.726. [2021 c.636 §3]

Note:

475C.730 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 475C or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.734 - Suspense account; payment of expenses; crediting balance to Oregon Marijuana Account.**

(1) All moneys received by the Department of Revenue under ORS 475C.670 to 475C.734 shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445. The department may pay expenses for the administration and enforcement of ORS 475C.670 to 475C.734 out of moneys received from the tax imposed under ORS 475C.674. Amounts

necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account.

(2) After the payment of administrative and enforcement expenses and refunds or credits arising from erroneous overpayments, the department shall credit the balance of the moneys received by the department under this section to the Oregon Marijuana Account established under ORS 475C.726. [Formerly 475B.760]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.738 - Definitions for ORS 475C.738 to 475C.758.**

As used in ORS 475C.738 to 475C.758:

(1) "Deliver" has the meaning given that term in ORS 475.005.

(2) "Financial institution" means:

(a) A financial institution as defined in ORS 706.008.

(b) A trust company as defined in ORS 706.008.

(c) A money transmission business licensed under ORS 717.200 to 717.320, 717.900 and 717.905.

(d) An affiliate of an entity described in paragraph (a), (b) or (c) of this subsection.

(e) An employee or agent of an entity described in paragraph (a), (b) or (c) of this subsection.

(3) "Manufacture" has the meaning given that term in ORS 475.005.

(4) "Marijuana" has the meaning given that term in ORS 475.005.

(5) "Marijuana-derived product" means cannabinoid products, cannabinoid concentrates and cannabinoid extracts, all as defined in ORS 475C.009. [Formerly 475B.763]

Note:

Amendments to 475.005 by section 22, chapter 21, Oregon Laws 2017, deleted the definition of marijuana. The text of 475C.738 was not amended by enactment of the Legislative Assembly to reflect the deletion. Editorial adjustment of 475C.738 for the deletion of the definition of marijuana has not been made.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.742 - Financial institution exempt from certain criminal laws.**

A financial institution that provides financial services customarily provided by financial institutions pursuant to powers granted by ORS 717.200 to 717.320, 717.900 and 717.905, the Bank Act or by ORS chapter 723 to a marijuana processing site registered under ORS 475C.815, a medical marijuana dispensary registered under ORS 475C.833, a marijuana producer that holds a license under ORS 475C.065, a marijuana processor that holds a license under ORS 475C.085, a marijuana wholesaler that holds a license under ORS 475C.093, a marijuana retailer that holds a license under ORS 475C.097, a laboratory that holds a license under ORS 475C.548 or a person to whom a permit has been issued under ORS 475C.273 is exempt from any criminal law of this state an element of which may be proven by substantiating that a person provides financial services customarily provided by financial institutions pursuant to powers granted by ORS 717.200 to 717.320, 717.900 and 717.905, the Bank Act or ORS chapter 723 to a person who possesses, delivers or manufactures marijuana or marijuana derived products. [Formerly 475B.766]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.746 - Required disclosure by Oregon Liquor and Cannabis Commission; fees.**

(1) Notwithstanding any law relating to the exemption of information from public disclosure under ORS 475C.005 to 475C.525 or 475C.540 to 475C.586, upon the request of a financial institution, the Oregon Liquor and Cannabis Commission shall provide to the financial institution the following information:

(a) Whether a person with whom the financial institution is doing business holds a license under ORS 475C.065, 475C.085, 475C.093, 475C.097 or 475C.548 or a permit under ORS 475C.273;

(b) The name of any other business or individual affiliated with the person;

(c) A copy of the application, and any supporting documentation submitted with the application, for a license or a permit submitted by the person;

(d) If applicable, data relating to sales and the volume of product sold by the person;

(e) Whether the person is currently compliant with the provisions of ORS 475C.005 to 475C.525, 475C.540 to 475C.586 and 475C.600 to 475C.648 and rules adopted under ORS 475C.005 to 475C.525, 475C.540 to 475C.586 and 475C.600 to 475C.648;

(f) Any past or pending violation by the person of a provision of ORS 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.600 to 475C.648 or a rule adopted under ORS 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.600 to 475C.648; and

(g) Any penalty imposed upon the person for violating a provision of ORS 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.600 to 475C.648 or a rule adopted under ORS 475C.005 to 475C.525, 475C.540 to 475C.586 or 475C.600 to 475C.648.

(2) Upon receiving a request under subsection (1) of this section, the commission shall provide the requesting financial institution with the requested information.

(3) The commission may charge a financial institution a reasonable fee to cover the administrative costs of providing information under this section. [Formerly 475B.769]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.750 - Required disclosure by Oregon Health Authority; fees.**

(1) Notwithstanding any law relating to the exemption of information from public disclosure under ORS 475C.770 to 475C.919, upon the request of a financial institution, the Oregon Health Authority shall provide to the financial institution the following information:

- (a) Whether a person with whom the financial institution is doing business is registered under ORS 475C.815 or 475C.833;
  - (b) The name of any other business or individual affiliated with the person;
  - (c) A copy of the application, and any supporting documentation submitted with that application, for registration submitted by the person;
  - (d) Data relating to the volume of product transferred by the person;
  - (e) Whether the person is currently compliant with the provisions of ORS 475C.540 to 475C.586, 475C.600 to 475C.648 and 475C.770 to 475C.919 and rules adopted under ORS 475C.540 to 475C.586, 475C.600 to 475C.648 and 475C.770 to 475C.919;
  - (f) Any past or pending violation by the person of a provision of ORS 475C.540 to 475C.586, 475C.600 to 475C.648 or 475C.770 to 475C.919 or a rule adopted under ORS 475C.540 to 475C.586, 475C.600 to 475C.648 or 475C.770 to 475C.919; and
  - (g) Any penalty imposed upon the person for violating a provision of ORS 475C.540 to 475C.586, 475C.600 to 475C.648 or 475C.770 to 475C.919 or a rule adopted under ORS 475C.540 to 475C.586, 475C.600 to 475C.648 or 475C.770 to 475C.919.
- (2) Upon receiving a request under subsection (1) of this section, the authority shall provide the requesting financial institution with the requested information.
- (3) The authority may charge a financial institution a reasonable fee to cover the administrative costs of providing information under this section. [Formerly 475B.772]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.754 - Required disclosure by Department of Revenue; fees.**

(1) Notwithstanding any law relating to the exemption of information from public disclosure under ORS 475C.670 to 475C.734, or relating to the confidentiality of tax return information, upon the request of a financial institution, the Department of Revenue shall provide to the financial institution the following information:

- (a) Whether the person is currently compliant with the provisions of ORS 475C.670 to 475C.734 and rules adopted under ORS 475C.670 to 475C.734;
  - (b) Any past or pending violation by the person of a provision of ORS 475C.670 to 475C.734 or a rule adopted under ORS 475C.670 to 475C.734; and
  - (c) Any penalty imposed upon the person for violating a provision of ORS 475C.670 to 475C.734 or a rule adopted under ORS 475C.670 to 475C.734.
- (2) Upon receiving a request under subsection (1) of this section, the department shall provide the requesting financial institution with the requested information.
- (3) The department may charge a financial institution a reasonable fee to cover the administrative costs of providing information under this section. [Formerly 475B.775]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.758 - Confidentiality of information.**

Information received by a financial institution under ORS 475C.746, 475C.750 or 475C.754 is confidential for purposes of ORS 717.200 to 717.320, 717.900 and 717.905, the Bank Act and ORS chapter 723. Except as otherwise required or permitted by the provisions of ORS 192.583 to 192.607, 717.200 to 717.320, 717.900 and 717.905, or the Bank Act or ORS chapter 723, or by other state law or rule or federal law or regulation, a financial institution may not make the information available to any person other than:

- (1) The customer to whom the information applies; and
- (2) A trustee, conservator, guardian, personal representative or agent of the customer to whom the information applies. [Formerly 475B.778]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.770 - Findings.**

The people of the State of Oregon find that:

- (1) Patients and doctors have found marijuana to be an effective treatment for suffering caused by debilitating medical conditions and, therefore, marijuana must be treated like other medicines;
- (2) Oregonians suffering from debilitating medical conditions should be allowed to use marijuana without fear of civil or criminal penalties when a doctor advises that using marijuana may provide a medical benefit and when other reasonable restrictions are met regarding that use;
- (3) ORS 475C.770 to 475C.919 are intended to allow Oregonians with debilitating medical conditions who may benefit from the medical use of marijuana to be able to freely discuss with doctors the possible risks and benefits associated with the medical use of marijuana and to have the benefit of professional medical advice; and

(4) ORS 475C.770 to 475C.919 are intended to protect patients and doctors from criminal and civil penalties and are not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. [Formerly 475B.785]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.773 - Short title.**

ORS 475C.770 to 475C.919 shall be known as the Oregon Medical Marijuana Act. [Formerly 475B.788]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.777 - Definitions for ORS 475C.770 to 475C.919.**

As used in ORS 475C.770 to 475C.919:

- (1) "Attending provider" means one of the following health care providers who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition:
  - (a) A physician licensed under ORS chapter 677;
  - (b) A physician assistant licensed under ORS 677.505 to 677.525;
  - (c) A nurse practitioner licensed under ORS 678.375 to 678.390;
  - (d) A clinical nurse specialist licensed under ORS 678.370 and 678.372;
  - (e) A certified registered nurse anesthetist as defined in ORS 678.010; or
  - (f) A naturopathic physician licensed under ORS chapter 685.
- (2) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.
- (3) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:
  - (a) A mechanical extraction process;
  - (b) A chemical extraction process using a nonhydrocarbon-based solvent, such as vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;
  - (c) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or
  - (d) Any other process identified by the Oregon Health Authority, in consultation with the Oregon Liquor and Cannabis Commission, by rule.
- (4) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried leaves or flowers of marijuana have been incorporated.
- (5) "Cannabinoid extract" means a substance obtained by separating cannabinoids from marijuana by:
  - (a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;
  - (b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or
  - (c) Any other process identified by the Oregon Health Authority, in consultation with the Oregon Liquor and Cannabis Commission, by rule.
- (6) "Debilitating medical condition" means:
  - (a) Cancer, glaucoma, a degenerative or pervasive neurological condition, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to the treatment of those medical conditions;
  - (b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
    - (A) Cachexia;
    - (B) Severe pain;
    - (C) Severe nausea;
    - (D) Seizures, including seizures caused by epilepsy; or
    - (E) Persistent muscle spasms, including spasms caused by multiple sclerosis;
  - (c) Post-traumatic stress disorder; or
  - (d) Any other medical condition or side effect related to the treatment of a medical condition adopted by the Oregon Health Authority by rule or approved by the authority pursuant to a petition filed under ORS 475C.913.
- (7)(a) "Delivery" has the meaning given that term in ORS 475.005.
  - (b) "Delivery" does not include transfer of marijuana by a registry identification cardholder to another registry identification cardholder if no consideration is paid for the transfer.
- (8)(a) "Designated primary caregiver" means an individual:
  - (A) Who is 18 years of age or older;
  - (B) Who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition; and
  - (C) Who is designated as the person responsible for managing the well-being of a person who has been diagnosed with a debilitating medical condition on that person's application for a registry identification card or in other written notification submitted to the authority.
- (b) "Designated primary caregiver" does not include a person's attending provider.
- (9) "High heat" means a temperature exceeding 180 degrees.
- (10) "Immature marijuana plant" means a marijuana plant that is not flowering.

- (11)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.
- (b) "Marijuana" does not include:
- (A) Industrial hemp, as defined in ORS 571.269; or
  - (B) Prescription drugs, as that term is defined in ORS 689.005, including those containing one or more cannabinoids, that are approved by the United States Food and Drug Administration and dispensed by a pharmacy, as defined in ORS 689.005.
- (12) "Marijuana grow site" means a location registered under ORS 475C.792 where marijuana is produced for use by a registry identification cardholder.
- (13) "Marijuana processing site" means a marijuana processing site registered under ORS 475C.815 or a site for which an applicant has submitted an application for registration under ORS 475C.815.
- (14) "Mature marijuana plant" means a marijuana plant that is not an immature marijuana plant.
- (15)(a) "Medical cannabinoid product" means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or dried leaves or flowers of marijuana.
- (b) "Medical cannabinoid product" does not include:
- (A) Usable marijuana by itself;
  - (B) A cannabinoid concentrate by itself;
  - (C) A cannabinoid extract by itself; or
  - (D) Industrial hemp, as defined in ORS 571.269.
- (16) "Medical marijuana dispensary" means a medical marijuana dispensary registered under ORS 475C.833 or a site for which an applicant has submitted an application for registration under ORS 475C.833.
- (17) "Medical use of marijuana" means the production, processing, possession, delivery or administration of marijuana, or use of paraphernalia used to administer marijuana, to mitigate the symptoms or effects of a debilitating medical condition.
- (18) "Person designated to produce marijuana by a registry identification cardholder" means a person designated to produce marijuana by a registry identification cardholder under ORS 475C.792 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature marijuana plants are produced.
- (19) "Process" means the compounding or conversion of marijuana into medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts.
- (20) "Production" means:
- (a) Planting, cultivating, growing, trimming or harvesting marijuana; or
  - (b) Drying marijuana leaves or flowers.
- (21) "Registry identification card" means a document issued by the Oregon Health Authority under ORS 475C.783 that identifies a person authorized to engage in the medical use of marijuana and, if the person has a designated primary caregiver under ORS 475C.789, the person's designated primary caregiver.
- (22) "Registry identification cardholder" means a person to whom a registry identification card has been issued under ORS 475C.783.
- (23)(a) "Usable marijuana" means the dried leaves and flowers of marijuana.
- (b) "Usable marijuana" does not include:
- (A) The seeds, stalks and roots of marijuana; or
  - (B) Waste material that is a by-product of producing marijuana.
- (24) "Written documentation" means a statement signed by the attending provider of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records. [Formerly 475B.791; 2023 c.346 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.780 - Construction of ORS 475C.770 to 475C.919.**

Nothing in ORS 475C.770 to 475C.919 requires:

- (1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or
- (2) An employer to accommodate the medical use of marijuana in the workplace. [Formerly 475B.794]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.783 - Registry identification cardholders; eligibility; fees; rules.**

- (1) The Oregon Health Authority shall establish a program for the issuance of registry identification cards to applicants who meet the requirements of this section.
- (2) The authority shall issue a registry identification card to an applicant who is 18 years of age or older if the applicant pays a fee in an amount established by the authority by rule and submits to the authority an application containing the following information:
  - (a) Written documentation from the applicant's attending provider stating that the attending provider has diagnosed the applicant as having a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the

applicant's debilitating medical condition;

(b) The name, address and date of birth of the applicant;

(c) The name, address and telephone number of the applicant's attending provider;

(d) Proof of residency, submitted in a form required by the authority by rule;

(e) The name and address of the applicant's designated primary caregiver, if the applicant is designating a primary caregiver under ORS 475C.789; and

(f) The information described in ORS 475C.792 (2), if the applicant is applying to produce marijuana or designate another person under ORS 475C.792 to produce marijuana.

(3)(a) The authority shall issue a registry identification card to an applicant who is under 18 years of age if:

(A) The applicant pays the fee and submits the application described in subsection (2) of this section; and

(B) The custodial parent or legal guardian who is responsible for the health care decisions of the applicant signs and submits to the authority a written statement that:

(i) The applicant's attending provider has explained to the applicant and to the custodial parent or legal guardian the possible risks and benefits of the medical use of marijuana;

(ii) The custodial parent or legal guardian consents to the medical use of marijuana by the applicant;

(iii) The custodial parent or legal guardian agrees to serve as the applicant's designated primary caregiver; and

(iv) The custodial parent or legal guardian agrees to control the acquisition, dosage and frequency of the medical use of marijuana by the applicant.

(b) An applicant who is under 18 years of age may not apply to produce marijuana under subsection (2)(f) of this section.

(4) The authority shall:

(a) On the date on which the authority receives an application described in subsection (2) of this section, issue a receipt to the applicant verifying that the authority received an application under subsection (2) or (3) of this section; and

(b) Approve or deny an application received under subsection (2) or (3) of this section within 30 days after receiving the application.

(5)(a) If the authority approves an application, the authority shall issue a serially numbered registry identification card to the applicant within five days after approving the application. The registry identification card must include the following information:

(A) The registry identification cardholder's name, address and date of birth;

(B) The issuance date and expiration date of the registry identification card;

(C) If the registry identification cardholder designated a primary caregiver under ORS 475C.789, the name and address of the registry identification cardholder's designated primary caregiver; and

(D) Any other information required by the authority by rule.

(b) If the registry identification cardholder designated a primary caregiver under ORS 475C.789, the authority shall issue an identification card to the designated primary caregiver. The identification card must contain the information required by paragraph (a) of this subsection.

(6) A registry identification cardholder shall:

(a) In a form and manner prescribed by the authority, notify the authority of any change concerning the registry identification cardholder's:

(A) Name, address or attending provider;

(B) Designated primary caregiver, including the designation of a primary caregiver made at a time other than at the time of applying for or renewing a registry identification card; or

(C) Person responsible for a marijuana grow site, including the designation of a person responsible for a marijuana grow site made at a time other than at the time of applying for or renewing a registry identification card.

(b) Annually renew the registry identification card by paying a fee in an amount established by the authority by rule and submitting to the authority an application that contains the following information:

(A) Updated written documentation from the registry identification cardholder's attending provider stating that the registry identification cardholder still has a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the registry identification cardholder's debilitating medical condition;

(B) The information described in subsection (2)(b) to (f) of this section; and

(C) If the registry identification cardholder is under 18 years of age, a statement signed by the custodial parent or legal guardian of the registry identification cardholder that meets the requirements of subsection (3) of this section.

(7) The authority shall:

(a) On the date on which the authority receives an application described in subsection (2) of this section, issue a receipt to the applicant verifying that the authority received an application under subsection (6)(b) of this section; and

(b) Approve or deny an application received under subsection (6)(b) of this section within 30 days after receiving the application.

(8)(a) If the registry identification cardholder's attending provider determines that the registry identification cardholder no longer has a debilitating medical condition, or determines that the medical use of marijuana is contraindicated for the registry identification cardholder's debilitating medical condition, the registry identification cardholder shall return the registry identification card to the authority within 30 calendar days after receiving notice of the determination.

(b) If, because of circumstances beyond the control of the registry identification cardholder, a registry identification cardholder is unable to obtain a second medical opinion about the registry identification cardholder's continuing eligibility for the medical use of

marijuana before having to return the registry identification card to the authority, the authority may grant the registry identification cardholder additional time to obtain a second medical opinion.

(9)(a) The authority may deny an application for a registry identification card or an application to renew a registry identification card, or may suspend or revoke a registry identification card, if:

(A) The applicant or registry identification cardholder does not provide the information required by this section;

(B) The authority determines that the applicant or registry identification cardholder provided false information; or

(C) The authority determines that the applicant or registry identification cardholder violated a provision of ORS 475C.770 to 475C.919 or a rule adopted under ORS 475C.770 to 475C.919.

(b) If a registry identification card is revoked, any associated identification card issued under subsection (5)(b) of this section, or marijuana grow site registration card issued under ORS 475C.792 (6), shall also be revoked.

(c) A person whose application is denied, or whose registry identification card is revoked, under this subsection may not reapply for a registry identification card for six months from the date of the denial or revocation unless otherwise authorized by the authority.

(10)(a) The authority may deny a designation of a primary caregiver made under ORS 475C.789, or suspend or revoke an associated identification card issued under subsection (5)(b) of this section, if the authority determines that the designee or the registry identification cardholder violated a provision of ORS 475C.770 to 475C.919 or a rule adopted under ORS 475C.770 to 475C.919.

(b) A person whose designation has been denied, or whose identification card has been revoked, under this subsection may not be designated as a primary caregiver under ORS 475C.789 for six months from the date of the denial or revocation unless otherwise authorized by the authority.

(11)(a) Notwithstanding subsection (2) or (6)(b) of this section, if an applicant for a registry identification card, or a registry identification cardholder applying for renewal of a registry identification card, submits to the authority proof of having served in the Armed Forces of the United States, the authority:

(A) May not impose a fee that is greater than \$20 for the issuance or renewal of the registry identification card; and

(B) Must waive the fee for the issuance or renewal of the registry identification card if the applicant submits proof of having a United States Department of Veterans Affairs total disability rating of at least 50 percent as a result of an injury or illness that the veteran incurred, or that was aggravated, during active military service and who received a discharge or release under other than dishonorable conditions.

(b) Notwithstanding subsection (6)(b)(A) of this section, the requirement that a registry identification cardholder include in the application to renew a registry identification card updated written documentation from the cardholder's attending provider regarding the cardholder's continuing debilitating medical condition does not apply to a service-disabled veteran who:

(A) Has been assigned a total and permanent disability rating for compensation that rates the veteran as unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities as described in 38 C.F.R. 4.16; or

(B) Has a United States Department of Veterans Affairs total disability rating of 100 percent as a result of an injury or illness that the veteran incurred, or that was aggravated, during active military service and who received a discharge or release under other than dishonorable conditions.

(12) For any purpose described in ORS 475C.770 to 475C.919, including exemption from criminal liability under ORS 475C.883, a receipt issued by the authority verifying that an application has been submitted to the authority under subsection (2), (3) or (6)(b) of this section has the same legal effect as a registry identification card for 30 days following the date on which the receipt was issued to the applicant. [Formerly 475B.797]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.786 - Assistance from designated primary caregiver.**

A designated primary caregiver may assist the designating registry identification cardholder with any matter related to the medical use of marijuana, including:

(1) The production of marijuana at the address provided by the registry identification cardholder to the Oregon Health Authority pursuant to ORS 475C.783 (2)(f); and

(2) The processing of marijuana into cannabinoid concentrates or medical cannabinoid products. [Formerly 475B.801]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.789 - Designated primary caregivers.**

(1) If a person who is applying for a registry identification card under ORS 475C.783, or who is a registry identification cardholder, chooses to designate, or to change the designation of, a primary caregiver, the person must include the primary caregiver's name and address:

(a) On the person's application for a registry identification card;

(b) On the person's application to renew a registry identification card; or

(c) In a form and manner prescribed by the authority, in a signed statement notifying the Oregon Health Authority of the designation.

(2) A registry identification cardholder may have only one designated primary caregiver at any given time.

(3) If a registry identification cardholder who previously designated a primary caregiver chooses to designate a different primary caregiver, the authority shall notify the previous designee of the new designation and issue an identification card to the newly



designated primary caregiver. [Formerly 475B.804]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.791 - Registry identification cardholder ability to designate certain entities as additional caregivers.**

(1) Notwithstanding ORS 475C.789, an organization that provides hospice, palliative or home health care services, or a residential facility as defined in ORS 443.400, that has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition may be designated, in addition to an individual designated pursuant to ORS 475C.789, as an additional caregiver for a registry identification cardholder in the same manner that an individual is designated as the primary caregiver for a registry identification cardholder under ORS 475C.789.

(2) An organization or residential facility that is designated under this section has all the duties, functions and powers of a designated primary caregiver as prescribed by ORS 475C.770 to 475C.919 or a rule adopted under ORS 475C.770 to 475C.919. [Formerly 475B.807]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.792 - Marijuana grow site registration system; fees; rules.**

(1)(a) The Oregon Health Authority shall establish by rule a marijuana grow site registration system to track and regulate the production of marijuana by a registry identification cardholder or a person designated by the registry identification cardholder to produce marijuana for the registry identification cardholder.

(b) Except as provided in paragraph (c) of this subsection, a person may not produce marijuana unless the person is registered under this section.

(c) Paragraph (b) of this subsection does not apply to the production of marijuana as provided in ORS 475C.005 to 475C.525 or as otherwise provided for by the statutory laws of this state.

(2) Rules adopted under this section must require an applicant for a registry identification card, or a registry identification cardholder who produces marijuana or who designates another person to produce marijuana, to submit an application to the authority containing the following information at the time of making an application under ORS 475C.783 (2), renewing a registry identification card under ORS 475C.783 (6)(b), or notifying the authority of a change under ORS 475C.783 (6)(a):

(a) The name of the person responsible for the marijuana grow site;

(b) Proof that the person is 21 years of age or older;

(c) If the registry identification cardholder or the person responsible for the marijuana grow site is not the owner of the premises of the marijuana grow site, signed informed consent from the owner of the premises to register the premises as a marijuana grow site;

(d) The address of the marijuana grow site; and

(e) Any other information that the authority considers necessary to track the production of marijuana under ORS 475C.770 to 475C.919.

(3)(a) The authority shall conduct a criminal records check under ORS 181A.195 of any person whose name is submitted under this section as the person responsible for a marijuana grow site.

(b) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not act as or be designated a person responsible for a marijuana grow site for two years from the date of conviction.

(c) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not act as or be designated a person responsible for a marijuana grow site.

(4) Subject to subsection (11) of this section, the authority shall issue a marijuana grow site registration card if the requirements of subsections (2) and (3) of this section are met.

(5) A person who holds a marijuana grow site registration card under this section must display the card at the marijuana grow site at all times.

(6) A marijuana grow site registration card must be obtained and posted for each registry identification cardholder for whom marijuana is being produced at a marijuana grow site.

(7)(a) All seeds, immature marijuana plants, mature marijuana plants and usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site are the property of the registry identification cardholder.

(b) All seeds, immature marijuana plants, mature marijuana plants and usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site must be transferred to the registry identification cardholder upon the request of the registry identification cardholder.

(c) All usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site must be transferred to a marijuana processing site upon the request of the registry identification cardholder. For purposes of this paragraph, a request to transfer usable marijuana constitutes an assignment of the right to possess the usable marijuana.

(d) All seeds, immature marijuana plants and usable marijuana associated with the production of marijuana for a registry identification cardholder by a person responsible for a marijuana grow site must be transferred to a medical marijuana dispensary

upon request of the registry identification cardholder. For purposes of this paragraph, a request to transfer seeds, immature marijuana plants or usable marijuana constitutes an assignment of the right to possess the seeds, immature marijuana plants or usable marijuana.

(e) Information related to transfers made under this subsection must be submitted to the authority in the manner required by ORS 475C.795.

(8) A registry identification cardholder, or the designated caregiver of a registry identification cardholder, may reimburse a person responsible for a marijuana grow site for all costs associated with the production of marijuana for the registry identification cardholder.

(9) The authority may inspect:

(a) The marijuana grow site of a person designated to produce marijuana by a registry identification cardholder to ensure compliance with this section and ORS 475C.795 and 475C.806 and any rule adopted under this section and ORS 475C.795 and 475C.806; and

(b) The records of the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder to ensure compliance with this section and ORS 475C.795 and any rule adopted under this section and ORS 475C.795.

(10) The authority may refuse to register a registry identification cardholder or a designee under this section or may suspend or revoke the registration of a person responsible for a marijuana grow site if the authority determines that the applicant or the person responsible for a marijuana grow site violated a provision of ORS 475C.770 to 475C.919, a rule adopted under ORS 475C.770 to 475C.919 or an ordinance adopted pursuant to ORS 475C.827.

(11) The authority may require a person responsible for a marijuana grow site, prior to issuing a marijuana grow site registration card under subsection (4) of this section, to pay a fee reasonably calculated to pay costs incurred under this section and ORS 475C.795 and 475C.856. [Formerly 475B.810]

Note:

Section 8, chapter 103, Oregon Laws 2018, provides:

Sec. 8.

The fact that a marijuana grow site registered under ORS 475B.810 [renumbered 475C.792] is subject to the provisions of ORS 475B.895 [renumbered 475C.871] does not, by itself, mean that the marijuana grow site is a commercial operation for purposes of state law. [2018 c.103 §8]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.794 - Address of marijuana grow site.**

(1) For purposes of ORS 475C.770 to 475C.919, if a marijuana grow site has a physical United States Postal Service address, an application filed for a marijuana grow site registration card under ORS 475C.792 must include the physical address. If the grow site does not have a physical United States Postal Service address, the application must include:

(a) An assessor's map number with a map showing the exact location of the grow site;

(b) The name of the city or, if outside of a city, the name of the county in which the grow site is located;

(c) The zip code for the location; and

(d) One or more of the following for the location:

(A) Longitude and latitude coordinates;

(B) Township coordinates;

(C) Global positioning system coordinates; or

(D) The tax lot number.

(2) For purposes of ORS 475C.792, the Oregon Health Authority shall accept the forms of evidence described in subsection (1) of this section for the purpose of establishing the address where a marijuana grow site is located. [Formerly 475B.813]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.795 - Duty to submit production data to Oregon Health Authority.**

(1) A person designated to produce marijuana by a registry identification cardholder must submit to the Oregon Health Authority, in a form and manner established by the authority by rule, the following information related to the production of marijuana:

(a) The number of mature marijuana plants and immature marijuana plants, the amount of marijuana leaves and flowers being dried, and the amount of usable marijuana, in the person's possession;

(b) The number of mature marijuana plants and immature marijuana plants, and the amount of usable marijuana, that the person transfers to each registry identification cardholder for whom the person produces marijuana;

(c) The amount of usable marijuana that the person transfers to each marijuana processing site; and

(d) The number of immature marijuana plants, and the amount of usable marijuana, that the person transfers to each medical marijuana dispensary.

(2) The authority shall by rule require a person designated to produce marijuana by a registry identification cardholder to submit the information described in subsection (1) of this section once each month. The authority may not employ any method other than that described in this section to obtain information related to the production of marijuana from a person designated to produce marijuana by a registry identification cardholder.

(3) In addition to submitting the information as required by subsection (1) of this section, a person designated to produce marijuana

by a registry identification cardholder must keep a record of the information described in subsection (1) of this section for two years after the date on which the person submits the information to the authority. [Formerly 475B.816]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.797 - Delegation of duty to submit production data; rules.**

(1) Notwithstanding ORS 475C.795 (2), a person designated to produce marijuana by a registry identification cardholder may delegate the person's duty to submit to the Oregon Health Authority the information described in ORS 475C.795 to another person designated to produce marijuana by a registry identification cardholder if the marijuana grow sites for which the persons are required to submit the information are located at the same address.

(2) A person to whom the duty described in subsection (1) of this section is delegated must inform the authority of the delegation in a form and manner prescribed by the authority.

(3) In adopting rules prescribing the form and manner in which information is submitted to the authority under ORS 475C.795, the authority shall adopt rules that lessen the administrative burden on persons to whom the duty described in subsection (1) of this section is delegated. [Formerly 475B.819]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.798 - Personal agreements.**

Notwithstanding ORS 475C.792 (7), a person responsible for a marijuana grow site may enter into an agreement with a registry identification cardholder under which the registry identification cardholder assigns, to the person responsible for the marijuana grow site, a portion of the right to possess the seeds, immature marijuana plants and usable marijuana that are the property of the registry identification cardholder. [Formerly 475B.822]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.800 - Transfer of usable marijuana.**

(1) Subject to subsection (2) of this section, a marijuana grow site may transfer up to 20 pounds of usable marijuana per year to a person that holds a license issued under ORS 475C.085 or 475C.093, provided that:

(a) The transfer is tracked using the system developed and maintained under ORS 475C.177;

(b) More than 12 mature marijuana plants are produced at the marijuana grow site;

(c) The usable marijuana has been assigned to the person responsible for the marijuana grow site pursuant to ORS 475C.798;

(d) The usable marijuana has been tested in accordance with the provisions of ORS 475C.540 to 475C.586; and

(e) The marijuana grow site first registered with the Oregon Health Authority under ORS 475C.792 on or before August 2, 2017.

(2) If the Oregon Liquor and Cannabis Commission determines that the supply of marijuana items offered for sale by marijuana retailers that hold a license issued under ORS 475C.097 is exceeding consumer demand for the marijuana items, and if the commission determines that the market for marijuana items in this state will not self-correct for the excess, the commission may issue an order that temporarily reduces the amount of usable marijuana that may be transferred pursuant to this section or that temporarily suspends the ability to transfer usable marijuana pursuant to this section. [Formerly 475B.825]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.803 - Marijuana grow site security systems.**

ORS 475C.871 does not authorize the Oregon Health Authority or the Oregon Liquor and Cannabis Commission to require a marijuana grow site to use a security system or any component of a security system, such as video surveillance, an alarm system, sensors or physical barriers. [Formerly 475B.828]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.806 - Possession limits for plants.**

(1)(a) A registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess:

(A) Six or fewer mature marijuana plants; and

(B) Twelve or fewer immature marijuana plants.

(b)(A) Unless an address is the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, the address where a registry identification cardholder or the primary caregiver of a registry identification cardholder produces marijuana may be used to produce not more than:

(i) Six or fewer mature marijuana plants per registry identification cardholder, up to 12 mature marijuana plants; and

(ii) Twelve or fewer immature marijuana plants per registry identification cardholder, up to 24 immature marijuana plants.

(B) Except as provided in subparagraph (C) of this paragraph, an address that is subject to this paragraph may not be used to produce plants in the genus *Cannabis* within the plant family *Cannabaceae* pursuant to ORS 475C.305.

(C) Subject to subparagraph (D) of this paragraph, an address that is subject to this paragraph may be used to produce plants in the genus *Cannabis* within the plant family *Cannabaceae* pursuant to ORS 475C.305 if a person other than a registry identification

cardholder who is using the address to produce marijuana plants pursuant to ORS 475C.770 to 475C.919 resides at the address.

(D) An address that is subject to this paragraph may not be used to produce more than 12 total mature marijuana plants.

(2)(a) A person may be designated to produce marijuana under ORS 475C.792 by no more than eight registry identification cardholders.

(b) A person responsible for a marijuana grow site may produce for a registry identification cardholder who designates the person to produce marijuana no more than:

(A) Six mature marijuana plants;

(B) 12 immature marijuana plants that are 24 inches or more in height; and

(C) The amount, established by the Oregon Health Authority by rule, of immature marijuana plants that are less than 24 inches in height.

(3) If the address of a person responsible for a marijuana grow site registered under ORS 475C.792 is located within city limits in an area zoned for residential use:

(a) Except as provided in paragraph (b) of this subsection, no more than the following amounts of marijuana plants may be produced at the address:

(A) 12 mature marijuana plants;

(B) 24 immature marijuana plants that are 24 inches or more in height; and

(C) The amount, established by the authority by rule, of immature marijuana plants that are less than 24 inches in height; or

(b) Subject to subsection (5) of this section, if each person responsible for a marijuana grow site located at the address first registered with the authority under ORS 475C.792 before January 1, 2015, no more than the following amounts of marijuana plants may be produced at the address:

(A) The amount of mature marijuana plants located at that address on December 31, 2014, in excess of 12 mature marijuana plants, not to exceed 24 mature marijuana plants;

(B) 48 immature marijuana plants that are 24 inches or more in height; and

(C) The amount, established by the authority by rule, of immature marijuana plants that are less than 24 inches in height.

(4) If the address of a person responsible for a marijuana grow site registered under ORS 475C.792 is located in an area other than an area described in subsection (3) of this section:

(a) Except as provided in paragraph (b) of this subsection, no more than the following amounts of marijuana plants may be produced at the address:

(A) 48 mature marijuana plants;

(B) 96 immature marijuana plants that are 24 inches or more in height; and

(C) The amount, established by the authority by rule, of immature marijuana plants that are less than 24 inches in height; or

(b) Subject to subsections (5) and (6) of this section, if each person responsible for a marijuana grow site located at the address first registered with the authority under ORS 475C.792 before January 1, 2015, no more than the following amounts of marijuana plants may be produced at the address:

(A) The amount of mature marijuana plants located at that address on December 31, 2014, in excess of 48 mature marijuana plants, not to exceed 96 mature marijuana plants;

(B) 192 immature marijuana plants that are 24 inches or more in height; and

(C) The amount, established by the authority by rule, of immature marijuana plants that are less than 24 inches in height.

(5)(a) If the authority suspends or revokes the registration of a person responsible for a marijuana grow site that is located at an address described in subsection (3)(b) of this section, no more than the following amounts of marijuana plants may subsequently be produced at any address described in subsection (3) of this section at which the person responsible for the marijuana grow site produces marijuana:

(A) 12 mature marijuana plants;

(B) 24 immature marijuana plants that are 24 inches or more in height; and

(C) The amount, established by the authority by rule, of immature marijuana plants that are less than 24 inches in height.

(b) If the authority suspends or revokes the registration of a person responsible for a marijuana grow site that is located at an address described in subsection (4)(b) of this section, no more than the following amounts of marijuana plants may subsequently be produced at any address described in subsection (4) of this section at which the person responsible for the marijuana grow site produces marijuana:

(A) 48 mature marijuana plants;

(B) 96 immature marijuana plants that are 24 inches or more in height; and

(C) The amount, established by the authority by rule, of immature marijuana plants that are less than 24 inches in height.

(6) If a registry identification cardholder who designated a person to produce marijuana for the registry identification cardholder pursuant to ORS 475C.792 terminates the designation, the person responsible for the marijuana grow site whose designation has been terminated may not be designated to produce marijuana by another registry identification cardholder, except that the person may be designated by another registry identification cardholder if no more than 48 mature marijuana plants and no more than 96 immature marijuana plants that are 24 or more inches in height are produced at the address for the marijuana grow site at which the person produces marijuana.

(7) Subject to the limits described in subsections (2) to (6) of this section, if multiple persons responsible for a marijuana grow site

under ORS 475C.792 are located at the same address, the persons designated to produce marijuana by registry identification cardholders who are located at that address may collectively produce marijuana plants for any number of registry identification cardholders who designate the persons to produce marijuana.

(8) If a law enforcement officer determines that there is a number of marijuana plants at an address in excess of the quantities specified in this section, or that an address is being used to produce a number of marijuana plants in excess of the quantities specified in subsection (1)(b) of this section, the law enforcement officer may confiscate only the excess number of marijuana plants. [Formerly 475B.831]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.809 - Possession limits for usable marijuana.**

(1) Except as provided in subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess no more than 24 ounces of usable marijuana.

(2) Subject to subsection (3) of this section, a person designated to produce marijuana by a registry identification cardholder may possess the amount of usable marijuana that the person harvests from the person's mature marijuana plants, provided that the person may not possess usable marijuana in excess of the amount of usable marijuana in the person's possession as reported to the Oregon Health Authority under ORS 475C.795.

(3) A person designated to produce marijuana by a registry identification cardholder may not possess usable marijuana in excess of:

(a) For a marijuana grow site located outdoors, 12 pounds of usable marijuana per mature marijuana plant; or

(b) For a marijuana grow site located indoors, six pounds of usable marijuana per mature marijuana plant. [Formerly 475B.834]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.812 - Duty to carry card when at location other than address on file with Oregon Health Authority.**

A person to whom a registry identification card has been issued under ORS 475C.783 (5)(a), an identification card has been issued under ORS 475C.783 (5)(b), or a marijuana grow site registration card has been issued under ORS 475C.792, may not possess marijuana, usable marijuana, medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts in a location other than the address on file with the Oregon Health Authority unless the person is carrying the card. [Formerly 475B.837]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.815 - Marijuana processing site registration system; fees; rules.**

(1)(a) The Oregon Health Authority shall establish by rule a marijuana processing site registration system to track and regulate the processing of marijuana by a person responsible for a marijuana processing site.

(b) Except as provided in paragraph (c) of this subsection, a person may not process marijuana unless the person is registered under this section.

(c) Paragraph (b) of this subsection does not apply to the processing of marijuana as provided in ORS 475C.005 to 475C.525 or as otherwise provided for by the statutory laws of this state.

(2) The registration system established under subsection (1) of this section must require an applicant for a marijuana processing site to submit an application to the authority that includes:

(a) The name of the individual who owns the marijuana processing site or, if a business entity owns the marijuana processing site, the name of each individual who has a financial interest in the marijuana processing site;

(b) The name of the individual or individuals responsible for the marijuana processing site, if different from the name of the individual who owns the marijuana processing site;

(c) The address of the marijuana processing site;

(d) Proof that each individual responsible for the marijuana processing site is 21 years of age or older;

(e) Documentation, as required by the authority by rule, that demonstrates the marijuana processing site meets the requirements of subsection (3) of this section; and

(f) Any other information that the authority considers necessary.

(3) To qualify for registration under this section, a marijuana processing site:

(a) May not be located in an area that is zoned for residential use if the marijuana processing site processes cannabinoid extracts;

(b) Must be registered as a business, or have filed an application to register as a business, with the office of the Secretary of State; and

(c) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.

(4)(a) The authority shall conduct a criminal records check under ORS 181A.195 for each individual named in an application under subsection (2) of this section.

(b) An individual convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site for two years from the date the individual is convicted.

(c) An individual convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site.

(5) If a person submits the application required under subsection (2) of this section, if the marijuana processing site identified in the application meets the requirements of this section and any rules adopted under this section and if each individual named in the

application passes the criminal records check required under subsection (4) of this section, the authority shall register the marijuana processing site and issue proof of registration. Proof of registration must be displayed on the premises of the marijuana processing site at all times.

(6) A marijuana processing site that is registered under this section is not required to register with the State Board of Pharmacy under ORS 475.125.

(7) The individual or individuals responsible for a marijuana processing site shall maintain documentation of each transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(8) The authority may inspect:

(a) The premises of a proposed marijuana processing site or a registered marijuana processing site to ensure compliance with this section and ORS 475C.821 and 475C.824 and any rules adopted under this section and ORS 475C.821 and 475C.824; and

(b) The records of a registered marijuana processing site to ensure compliance with subsection (7) of this section.

(9) Subject to the provisions of ORS chapter 183, the authority may refuse to register an applicant under this section or may suspend or revoke the registration of a marijuana processing site if the authority determines that the applicant, the owner of the marijuana processing site, a person responsible for the marijuana processing site, or an employee of the marijuana processing site, violated a provision of ORS 475C.770 to 475C.919, a rule adopted under ORS 475C.770 to 475C.919 or an ordinance adopted pursuant to ORS 475C.897.

(10) The authority shall adopt rules to implement this section, including rules that:

(a) Require a registered marijuana processing site to annually renew the registration for that site;

(b) Establish fees for registering, and renewing the registration of, a marijuana processing site;

(c) Require that medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts transferred by a marijuana processing site be tested to ensure the public health and safety; and

(d) Impose any other standard on the operation of a marijuana processing site to ensure the public health and safety. [Formerly 475B.840]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.818 - Authority to require fingerprints of applicants and other individuals.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of any individual listed on an application submitted under ORS 475C.815. The powers conferred on the authority under this section include the power to require the fingerprints of:

(1) If the applicant is a limited partnership, each partner of the limited partnership;

(2) If the applicant is a limited liability company, each member of the limited liability company;

(3) If the applicant is a corporation, each director and officer of the corporation;

(4) Any individual who holds a financial interest of 10 percent or more in the person applying for the license; and

(5) Any individual who is a partner, member, director or officer of a legal entity with a financial interest in the person applying for the license. [Formerly 475B.843]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.821 - Duty to submit processing data to Oregon Health Authority; rules.**

(1) The Oregon Health Authority shall require by rule a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to ORS 475C.856 the following information:

(a) The amount of usable marijuana transferred to the marijuana processing site;

(b) The amount and type of medical cannabinoid products transferred by the marijuana processing site;

(c) The amount and type of cannabinoid concentrates transferred by the marijuana processing site; and

(d) The amount and type of cannabinoid extracts transferred by the marijuana processing site.

(2) The authority by rule may require a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to ORS 475C.856 information that is in addition to the information described in subsection (1) of this section as the authority considers necessary to fulfill the authority's duties under ORS 475C.815 (1). The authority may not employ any method other than that described in this section to obtain information from a marijuana processing site. [Formerly 475B.846]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.824 - Public health and safety standards for medical cannabinoid products, concentrates and extracts; rules.**

(1) A marijuana processing site must meet any public health and safety standards established by the Oregon Health Authority by rule related to:

(a) Cannabinoid edibles, if the marijuana processing site processes marijuana into cannabinoid edibles;

(b) Cannabinoid concentrates, if the marijuana processing site processes marijuana into cannabinoid concentrates;

(c) Cannabinoid extracts, if the marijuana processing site processes marijuana into cannabinoid extracts; or

(d) Any other type of medical cannabinoid product identified by the authority by rule, if the marijuana processing site processes marijuana into that type of medical cannabinoid product.

(2) The authority shall adopt rules to implement this section. [Formerly 475B.849]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.827 - Prohibition against transferring medical cannabinoid products, concentrates and extracts to certain persons; exceptions.**

(1)(a) Except as provided in paragraph (b) of this subsection, a marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a person other than another marijuana processing site or a medical marijuana dispensary.

(b) A marijuana processing site may transfer a medical cannabinoid product, cannabinoid concentrate or cannabinoid extract to a registry identification cardholder, or the designated primary caregiver of a registry identification cardholder, provided that the registry identification cardholder or designated primary caregiver provides the marijuana processing site with the marijuana to be processed into the medical cannabinoid product, cannabinoid concentrate or cannabinoid extract and the marijuana processing site receives no compensation for the transfer.

(c) A registry identification cardholder, or the designated primary caregiver of a registry identification cardholder, may reimburse a marijuana processing site for all costs associated with the processing of marijuana for the registry identification cardholder.

(2) A person other than a marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a medical marijuana dispensary. [Formerly 475B.852]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.830 - Exception to registration requirement.**

ORS 475C.815 does not apply to a registry identification cardholder or a person who has been designated as a primary caregiver under ORS 475C.789 who processes a medical cannabinoid product or a cannabinoid concentrate for a registry identification cardholder. [Formerly 475B.855]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.833 - Medical marijuana dispensary registration system; fees; rules.**

(1)(a) The Oregon Health Authority shall establish by rule a medical marijuana dispensary registration system for the purpose of tracking and regulating the transfer of:

(A) Usable marijuana, immature marijuana plants and seeds from registry identification cardholders, designated primary caregivers and persons responsible for marijuana grow sites to medical marijuana dispensaries;

(B) Medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from persons responsible for marijuana processing sites to medical marijuana dispensaries; and

(C) Usable marijuana, immature marijuana plants, seeds, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from medical marijuana dispensaries to registry identification cardholders and designated primary caregivers.

(b) A person may not operate an establishment for the purpose of providing the services described in paragraph (a) of this subsection unless the person is registered under this section.

(2) The registration system established under subsection (1) of this section must require an applicant for a medical marijuana dispensary to submit an application to the authority that includes:

(a) The name of the individual who owns the medical marijuana dispensary or, if a business entity owns the medical marijuana dispensary, the name of each individual who has a financial interest in the medical marijuana dispensary;

(b) The name of the individual or individuals responsible for the medical marijuana dispensary, if different from the name of the individual who owns the medical marijuana dispensary;

(c) The address of the medical marijuana dispensary;

(d) Proof that each individual responsible for the medical marijuana dispensary is 21 years of age or older;

(e) Documentation, as required by the authority by rule, that demonstrates the medical marijuana dispensary meets the requirements of subsection (3) of this section; and

(f) Any other information that the authority considers necessary.

(3) To qualify for registration under this section, a medical marijuana dispensary:

(a) May not be located in an area that is zoned for residential use;

(b) May not be located at the same address as a marijuana grow site;

(c) Must be registered as a business, or have filed an application to register as a business, with the office of the Secretary of State;

(d) Except as provided under ORS 475C.840, may not be located within 1,000 feet of:

(A) A building where a public prekindergarten or kindergarten program is provided by a school district or an education service district;

(B) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(C) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a);

(e) Must not be located within 1,000 feet of another medical marijuana dispensary; and

(f) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.

(4)(a) The authority shall conduct a criminal records check under ORS 181A.195 for each individual named in an application

submitted under subsection (2) of this section.

(b) An individual convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a medical marijuana dispensary for two years from the date the individual is convicted.

(c) An individual convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a medical marijuana dispensary.

(5) If a person submits the application required under subsection (2) of this section, if the medical marijuana dispensary identified in the application meets the requirements of this section and any rules adopted under this section and if each individual named in the application passes the criminal records check required under subsection (4) of this section, the authority shall register the medical marijuana dispensary and issue proof of registration. Proof of registration must be displayed on the premises of the medical marijuana dispensary at all times.

(6) A medical marijuana dispensary that is registered under this section is not required to register with the State Board of Pharmacy under ORS 475.125.

(7) The individual or individuals responsible for a medical marijuana dispensary shall maintain documentation of each transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds.

(8) The authority may inspect:

(a) The premises of a proposed medical marijuana dispensary or a registered medical marijuana dispensary to ensure compliance with this section and ORS 475C.843 and any rules adopted under this section or ORS 475C.843; and

(b) The records of a registered medical marijuana dispensary to ensure compliance with subsection (7) of this section.

(9) Subject to the provisions of ORS chapter 183, the authority may refuse to register an applicant under this section or may suspend or revoke the registration of a medical marijuana dispensary if the authority determines that the applicant, the owner of the medical marijuana dispensary, a person responsible for the medical marijuana dispensary, or an employee of the medical marijuana dispensary, violated a provision of ORS 475C.770 to 475C.919, a rule adopted under ORS 475C.770 to 475C.919 or an ordinance adopted pursuant to ORS 475C.897.

(10) The authority shall adopt rules to implement this section, including rules that:

(a) Require a registered medical marijuana dispensary to annually renew the registration for that dispensary;

(b) Establish fees for registering, and renewing the registration of, a medical marijuana dispensary;

(c) Require that each medical marijuana dispensary install and maintain a minimum security system that includes video surveillance, an alarm system and a safe;

(d) Require that usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts and immature marijuana plants transferred by a medical marijuana dispensary be tested to ensure the public health and safety; and

(e) Impose any other standard on the operation of a medical marijuana dispensary to ensure the public health and safety. [Formerly 475B.858; 2022 c.81 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.837 - Authority to require fingerprints of applicants and other individuals.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Oregon Health Authority may require the fingerprints of any individual listed on an application submitted under ORS 475C.833. The powers conferred on the authority under this section include the power to require the fingerprints of:

(1) If the applicant is a limited partnership, each partner of the limited partnership;

(2) If the applicant is a limited liability company, each member of the limited liability company;

(3) If the applicant is a corporation, each director and officer of the corporation;

(4) Any individual who holds a financial interest of 10 percent or more in the person applying for the license; and

(5) Any individual who is a partner, member, director or officer of a legal entity with a financial interest in the person applying for the license. [Formerly 475B.861]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.840 - Medical marijuana dispensary located within 1,000 feet of prekindergarten, kindergarten or school.**

Notwithstanding ORS 475C.833 (3)(d), a medical marijuana dispensary may be located within 1,000 feet of a building described in ORS 475C.833 (3)(d) if:

(1)(a) The medical marijuana dispensary is not located within 500 feet of:

(A) A building where a public prekindergarten or kindergarten program is provided by a school district or an education service district;

(B) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(C) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(b) The Oregon Health Authority determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the medical marijuana dispensary; or

(2) The medical marijuana dispensary was established before August 1, 2017, in accordance with a city or county ordinance adopted



under section 29, chapter 83, Oregon Laws 2016. [Formerly 475B.864; 2022 c.81 §26]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.843 - Duty to submit dispensing data to Oregon Health Authority; rules.**

(1) The Oregon Health Authority shall require by rule a medical marijuana dispensary to submit to the authority for inclusion in the database developed and maintained pursuant to ORS 475C.856 the following information:

- (a) The amount of usable marijuana transferred to and by the medical marijuana dispensary;
- (b) The amount and type of medical cannabinoid products transferred to and by the medical marijuana dispensary;
- (c) The amount and type of cannabinoid concentrates transferred to and by the medical marijuana dispensary;
- (d) The amount and type of cannabinoid extracts transferred to and by the medical marijuana dispensary; and
- (e) The quantity of immature marijuana plants transferred to and by the medical marijuana dispensary.

(2) The authority by rule may require a medical marijuana dispensary to submit to the authority for inclusion in the database developed and maintained pursuant to ORS 475C.856 information that is in addition to the information described in subsection (1) of this section as the authority considers necessary to fulfill the authority's duties under ORS 475C.833 (1). The authority may not employ any method other than that described in this section to obtain information from a medical marijuana dispensary. [Formerly 475B.867]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.847 - Establishment of school or other building after registration.**

If a building described in ORS 475C.833 (3)(d) that has not previously been attended by children is established within 1,000 feet of a medical marijuana dispensary, the medical marijuana dispensary may remain at its current location unless the Oregon Health Authority revokes the registration of the medical marijuana dispensary. [Formerly 475B.870; 2022 c.81 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.850 - Receipt of marijuana by nonprofit dispensary; dispensation to certain cardholders; rules.**

(1) In addition to the powers granted nonprofit corporations under ORS 65.077 and 65.081, a medical marijuana dispensary that is owned by a nonprofit corporation organized under ORS chapter 65 may receive by gift, devise or bequest:

- (a) Usable marijuana, immature marijuana plants and seeds from registry identification cardholders, designated primary caregivers, persons responsible for marijuana grow sites, persons who hold a license under ORS 475C.065 and persons who hold a certificate under ORS 475C.289; and
- (b) Medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from persons responsible for marijuana processing sites, persons who hold a license under ORS 475C.085 and persons who hold a certificate under ORS 475C.289.

(2) If a registry identification cardholder's annual income is at or below the federal poverty guidelines, a medical marijuana dispensary that is owned by a nonprofit corporation organized under ORS chapter 65 shall dispense usable marijuana, immature marijuana plants, seeds, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts to that registry identification cardholder or the designated primary caregiver of that registry identification cardholder free of charge or at a discounted price.

(3) The Oregon Health Authority shall adopt rules necessary to implement this section. [Formerly 475B.873]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.853 - Oregon Health Authority telephone hotline.**

(1) The Oregon Health Authority shall maintain a telephone hotline for the following persons to inquire if an address is the location of a marijuana grow site, marijuana processing site or medical marijuana dispensary or is the proposed location of a marijuana grow site, marijuana processing site or medical marijuana dispensary:

- (a) A person designated by a city or a county;
- (b) A person designated by the Water Resources Department;
- (c) A person designated by the watermaster of any water district; and
- (d) A person designated by the State Department of Agriculture.

(2) The authority may disclose the address of a marijuana grow site for purposes of this section notwithstanding ORS 475C.859. [Formerly 475B.876]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.856 - Database of information related to production, processing and dispensing.**

(1) The Oregon Health Authority shall develop and maintain a database of information related to the production of marijuana by persons designated to produce marijuana by a registry identification cardholder, the processing of marijuana by a marijuana processing site under ORS 475C.815 and the transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts by medical marijuana dispensaries under ORS 475C.833. At a minimum, the database must include the information submitted to the authority under ORS 475C.795, 475C.821 and 475C.843.

- (2)(a) Subject to paragraph (c) of this subsection, the authority may provide information that is stored in the database developed and maintained under this section to a law enforcement agency.
- (b) Subject to paragraph (c) of this subsection, the authority may provide information that is stored in the database developed and maintained under this section to the regulatory agencies of a city or county.
- (c) The authority may not disclose:
- (A) Any personally identifiable information related to a registry identification cardholder or a designated primary caregiver that is stored in the database developed and maintained under this section.
- (B) Any information related to the amount and type of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts transferred to or by persons designated to produce marijuana by a registry identification cardholder, marijuana processing sites or medical marijuana dispensaries.
- (3) Nothing in this section prevents a law enforcement agency from lawfully obtaining information that is stored in the database developed and maintained under this section by subpoena. [Formerly 475B.879]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.859 - Database of information related to cardholders.**

- (1)(a) The Oregon Health Authority shall establish and maintain a list of:
- (A) The names of persons to whom a registry identification card has been issued under ORS 475C.783;
- (B) The names of persons designated as primary caregivers under ORS 475C.789; and
- (C) The addresses of marijuana grow sites registered under ORS 475C.792.
- (b) Except as provided in subsection (2) of this section, the list is confidential and not subject to public disclosure under ORS 192.311 to 192.478.
- (c) The authority shall develop a system by which authorized employees of state and local law enforcement agencies may verify that:
- (A) A person lawfully possesses a registry identification card;
- (B) A person is the designated primary caregiver of a lawful possessor of a registry identification card; or
- (C) A location is a registered marijuana grow site.
- (2) Names, addresses and other identifying information from the list established and maintained pursuant to subsection (1) of this section may be released to:
- (a) Authorized employees of the authority as necessary to perform official duties of the authority.
- (b) Authorized employees of state or local law enforcement agencies who provide to the authority adequate identification, but only as necessary to verify that:
- (A) A person lawfully possesses a registry identification card;
- (B) A person is the designated primary caregiver of a lawful possessor of a registry identification card; or
- (C) A location is a registered marijuana grow site.
- (3) Authorized employees of state or local law enforcement agencies who obtain identifying information as authorized by this section may not release or use the information for any purpose other than to verify that:
- (a) A person lawfully possesses a registry identification card;
- (b) A person is the designated primary caregiver of a lawful possessor of a registry identification card; or
- (c) A location is a registered marijuana grow site.
- (4) In addition to releasing information to authorized employees of state or local law enforcement agencies for purposes of verifying information under subsection (2)(b) of this section, the authority may release to authorized employees of state or local law enforcement agencies the minimum amount of information necessary to enable an employee to determine whether an individual or location is in compliance with a provision of ORS 475C.770 to 475C.919 or a rule adopted under ORS 475C.770 to 475C.919.
- (5) If the authority determines, after conducting an investigation or receiving a complaint of an alleged violation of a provision of ORS 475C.770 to 475C.919 or a rule adopted under ORS 475C.770 to 475C.919, that a violation of a provision of ORS 475C.770 to 475C.919 or a rule adopted under ORS 475C.770 to 475C.919 has occurred, the authority may provide information obtained by the authority, except for information related to a registry identification cardholder's debilitating condition, to authorized employees of state or local law enforcement agencies, or to another state or local government agency with jurisdiction over the matter. [Formerly 475B.882]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.862 - Confidentiality of personally identifiable information.**

- (1) Any personally identifiable information, as defined in ORS 432.005, other than a name of an individual or an address submitted with an application under ORS 475C.815 or 475C.833, that the Oregon Health Authority collects and maintains for purposes of registering a marijuana grow site under ORS 475C.792, a marijuana processing site under ORS 475C.815, or a medical marijuana dispensary under ORS 475C.833, is confidential and not subject to public disclosure under ORS 192.311 to 192.478, except that the authority may provide personally identifiable information to a person registered under ORS 475C.770 to 475C.919 if the registrant requests the information and the information is related to a designation made under ORS 475C.770 to 475C.919.
- (2) Any personally identifiable information, as defined in ORS 432.005, submitted to the authority under ORS 475C.795, 475C.821

or 475C.843 or pursuant to ORS 475C.856 is confidential and not subject to public disclosure under ORS 192.311 to 192.478.

(3) Any record that the authority keeps or maintains for purposes related to the installation or maintenance of a security system by a medical marijuana dispensary pursuant to rules adopted under ORS 475C.833 (10) is confidential and not subject to public disclosure under ORS 192.311 to 192.478. [Formerly 475B.885]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.865 - Disclosure of personally identifiable information upon revocation or suspension of registration.**

Notwithstanding ORS 475C.862, if the Oregon Health Authority suspends or revokes the registration of the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary, or otherwise takes disciplinary action against the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary, the authority shall provide that information to a law enforcement agency. [Formerly 475B.888]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.868 - Oregon Health Authority electronic system; requirements; confidentiality.**

(1) Except as provided in subsection (5) of this section, the Oregon Health Authority shall establish, maintain and operate an electronic system for the keeping of information received by the authority under ORS 475C.783 and 475C.792 or information included on a registry identification card issued under ORS 475C.783 or on a marijuana grow site registration card issued under ORS 475C.792.

(2) The authority may contract with a state agency or private entity to ensure the effective establishment, maintenance or operation of the electronic system.

(3) Except as provided in subsection (4) of this section, information kept in the electronic system is confidential and not subject to public disclosure under ORS 192.311 to 192.478. Except as provided in subsection (4) of this section, the authority may not disclose the information for any reason.

(4) Except as provided in subsection (5) of this section, the authority shall establish the electronic system in a manner that allows the Oregon Liquor and Cannabis Commission and the Department of Revenue to remotely access the electronic system. Information disclosed to the commission and the department under this subsection remains confidential and not subject to public disclosure under ORS 192.311 to 192.478. The commission and the department may not disclose the information for any reason.

(5) The authority is not required to keep in the database, and the commission and the department may not access, the following types of information:

(a) Information related to the debilitating condition of a registry identification cardholder; or

(b) The contact information or address of a registry identification cardholder or a designated primary caregiver, unless the contact information or address are the same as the contact information or address of a marijuana grow site.

(c) The electronic system must be immediately accessible by the commission and the department at all times. [Formerly 475B.892]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.871 - Use of Oregon Liquor and Cannabis Commission tracking system; distribution from Oregon Marijuana Account; exemptions; fees; rules.**

(1) The Oregon Health Authority shall enter into an agreement with the Oregon Liquor and Cannabis Commission under which the commission shall use the system developed and maintained under ORS 475C.177 to track:

(a) The propagation of immature marijuana plants and the production of marijuana by marijuana grow sites;

(b) The processing of marijuana into medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts that are transferred to a medical marijuana dispensary;

(c) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts by a marijuana grow site or a medical marijuana dispensary to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder; and

(d) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts between marijuana grow sites, marijuana processing sites and medical marijuana dispensaries.

(2) Marijuana grow sites, marijuana processing sites and medical marijuana dispensaries are subject to tracking under this section.

(3) On and after the date on which a marijuana grow site becomes subject to tracking under this section, the person is exempt from the requirements of ORS 475C.795 and the provisions of ORS 475C.792 that relate to ORS 475C.795.

(4) On and after the date on which a marijuana processing site becomes subject to tracking under this section, the marijuana processing site is exempt from the requirements of ORS 475C.821 and the provisions of ORS 475C.815 that relate to ORS 475C.821.

(5) On and after the date on which a medical marijuana dispensary becomes subject to tracking under this section, the medical marijuana dispensary is exempt from the requirements of ORS 475C.843 and the provisions of ORS 475C.833 that relate to ORS 475C.843.

(6) The commission may conduct inspections and investigations of alleged violations of ORS 475C.770 to 475C.919 about which

the commission obtains knowledge as a result of performing the commission's duties under this section. Notwithstanding ORS 475C.301, the commission may use regulatory specialists, as defined in ORS 471.001, to conduct the inspections and investigations, including inspections and investigations of marijuana grow sites located at a primary residence.

(7) Notwithstanding ORS 475C.726, before making any other distribution from the Oregon Marijuana Account established under ORS 475C.726, the Department of Revenue shall first distribute moneys quarterly from the account to the commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475C.297 for purposes of paying administrative, inspection and investigatory costs incurred by the commission under this section, provided that the amount of distributed moneys does not exceed \$1.25 million per quarter. For purposes of estimating the amount of moneys necessary to pay costs incurred under this section, the commission shall establish a formulary based on expected costs for each marijuana grow site, marijuana processing site or medical marijuana dispensary that is tracked under this section. The commission shall provide to the Department of Revenue and the Legislative Fiscal Officer before each quarter the estimated amount of moneys necessary to pay costs expected to be incurred under this section and the formulary.

(8) When imposing a fee on a person responsible for a marijuana grow site, marijuana processing site or medical marijuana dispensary under ORS 475C.792, 475C.815 or 475C.833, the authority shall impose an additional fee that is reasonably calculated to pay costs incurred under this section other than costs paid pursuant to subsection (7) of this section. As part of the agreement entered into under subsection (1) of this section, the authority shall transfer fee moneys collected pursuant to this subsection to the commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475C.297. Moneys collected pursuant to this subsection and deposited in the Marijuana Control and Regulation Fund are continuously appropriated to the commission for purposes of this section.

(9) The authority and the commission may adopt rules as necessary to administer this section.

(10) This section does not apply to a marijuana grow site located at an address where:

(a) A registry identification cardholder produces marijuana and no more than 12 mature marijuana plants and 24 immature marijuana plants are produced; or

(b)(A) No more than two persons are registered under ORS 475C.792 to produce marijuana; and

(B) The address is used to produce marijuana for no more than two registry identification cardholders. [Formerly 475B.895]

#### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.874 - Authority to designate responsibility for site or dispensary to another person.**

(1) A person responsible for a marijuana processing site, or a person responsible for a medical marijuana dispensary, may designate that responsibility to another person.

(2) If a designation is made under this section, the designee must submit to the Oregon Health Authority proof that the designee meets the requirements and restrictions set forth in:

(a) For marijuana processing sites, ORS 475C.815 (2)(d) and (4); or

(b) For medical marijuana dispensaries, ORS 475C.833 (2)(d) and (4).

(3) The authority may prescribe the form and manner of submitting proof under subsection (2) of this section. [Formerly 475B.898]

#### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.877 - Authority to assign responsibility for site or dispensary to another person.**

(1) A person responsible for a marijuana processing site, or a person responsible for a medical marijuana dispensary, may assign that responsibility to another person.

(2) If an assignment is made under this section, the assignee must submit to the Oregon Health Authority proof that the assignee meets the requirements and restrictions set forth in:

(a) For marijuana processing sites, ORS 475C.815 (2)(d) and (4); or

(b) For medical marijuana dispensaries, ORS 475C.833 (2)(d) and (4).

(3) The authority may prescribe the form and manner of submitting proof under subsection (2) of this section. [Formerly 475B.901]

#### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.880 - Rights of secured parties.**

(1) In the event that a marijuana processing site or a medical marijuana dispensary is foreclosed or otherwise ceases operations as described in ORS chapter 79, a secured party, as defined in ORS 79.0102, may continue operations at the marijuana processing site or medical marijuana dispensary upon submitting to the Oregon Health Authority proof that the secured party or, if the secured party is a business entity, any individual who has a financial interest in the secured party, meets the requirements and restrictions set forth in:

(a) For marijuana processing sites, ORS 475C.815 (2)(d) and (4); or

(b) For medical marijuana dispensaries, ORS 475C.833 (2)(d) and (4).

(2) The authority may prescribe the form and manner of submitting proof under subsection (1) of this section. [Formerly 475B.904]

#### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.883 - Exemptions from criminal liability.**

Except as provided in ORS 475C.886, a person engaged in or assisting in the medical use of marijuana is exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element if:

- (1) The person holds a registry identification card.
- (2) The person has applied for a registry identification card under ORS 475C.783 and the person has proof of written documentation described in ORS 475C.783 (2)(a) and proof of the date on which the person submitted the application to the Oregon Health Authority. An exemption under this subsection applies only until the authority approves or denies the application.
- (3) The person is designated as a primary caregiver under ORS 475C.789.
- (4) The person is responsible for or is employed by a marijuana grow site registered under ORS 475C.792.
- (5) The person owns, is responsible for, or is employed by, a marijuana processing site.
- (6) The person owns, is responsible for, or is employed by, a medical marijuana dispensary. [Formerly 475B.907]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.886 - Exceptions to exemption from criminal liability.**

A person is not exempt from the criminal laws of this state for possession, delivery or manufacture of marijuana, aiding and abetting another in the possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element, and the person may not assert the affirmative defense established in ORS 475C.889, if the person, in connection with conduct constituting an element of the offense:

- (1) Drives under the influence of marijuana as provided in ORS 813.010;
- (2) Engages in the medical use of marijuana in a public place, as defined in ORS 161.015, in public view or in a correctional facility, as defined in ORS 162.135 (2), or a youth correction facility, as defined in ORS 162.135 (6); or
- (3) Delivers marijuana to any individual who the person knows is not in possession of a registry identification card or to any individual or entity that the person knows has not been designated to receive marijuana or assigned a possessory interest in marijuana by an individual in possession of a registry identification card. [Formerly 475B.910]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.889 - Affirmative defense.**

(1) Except as provided in ORS 475C.886, a person has an affirmative defense to a criminal charge of possession, delivery or manufacture of marijuana, or any other criminal offense in which possession, delivery or manufacture of marijuana is an element, if the person charged with the offense:

- (a) Was diagnosed with a debilitating medical condition within 12 months of the date on which the person was arrested and was advised by the person's attending provider that the medical use of marijuana may mitigate the symptoms or effects of that debilitating medical condition;
  - (b) Is engaged in the medical use of marijuana; and
  - (c) Possesses, delivers or manufactures marijuana only in quantities permitted under ORS 475C.806.
- (2) A person does not need to lawfully possess a registry identification card to assert the affirmative defense established in this section.
- (3) A person engaged in the medical use of marijuana who claims that marijuana provides medically necessary benefits and who is charged with a crime pertaining to the use of marijuana is not precluded from presenting a defense of choice of evils, as set forth in ORS 161.200, or from presenting evidence supporting the necessity of marijuana for treatment of a specific disease or medical condition, provided that:
- (a) The person possesses, delivers or manufactures marijuana only as permitted under ORS 475C.806 (1); and
  - (b) The person has taken a substantial step toward complying with the provisions of ORS 475C.770 to 475C.919.
- (4) A defendant proposing to use the affirmative defense established in this section in a criminal action shall, not less than five days before the trial of the cause, file and serve upon the district attorney a written notice of the intention to assert the affirmative defense. The notice must specifically state the reasons why the defendant is entitled to assert the affirmative defense and the factual basis for the affirmative defense. If the defendant fails to file and serve the notice, the defendant is not permitted to assert the affirmative defense at the trial of the cause unless the court orders, for good cause, otherwise. [Formerly 475B.913]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.891 - Prohibition against taking disciplinary action against attending provider.**

The Oregon Board of Naturopathic Medicine, Oregon Medical Board and Oregon State Board of Nursing may not impose a civil penalty or take other disciplinary action against an attending provider for:

- (1) Advising a person diagnosed as having a debilitating medical condition by the attending provider or another physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, clinical nurse specialist licensed under ORS 678.370 and 678.372, certified registered nurse anesthetist as defined in ORS 678.010 or naturopathic physician licensed under ORS chapter 685 about the risks and benefits associated with the medical use of marijuana or that the medical use of marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, provided that the advice is based on the attending provider's personal assessment of the person's medical history and

current medical condition; or

(2) Providing the written documentation necessary for issuance or renewal of a registry identification card under ORS 475C.783, provided that the written documentation is based on the attending provider's personal assessment of the person's medical history and current medical condition and the attending provider has discussed with the person the potential risks and benefits associated with the medical use of marijuana. [Formerly 475B.916; 2023 c.346 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.892 - Prohibition against taking disciplinary action against professional licensee; right to administer marijuana for medical purposes.**

(1) A professional licensing board may not impose a civil penalty or take other disciplinary action against a licensee based on the licensee's medical use of marijuana under the provisions of ORS 475C.770 to 475C.919 or actions taken by the licensee pursuant to the licensee's designation as a primary caregiver under ORS 475C.789.

(2)(a) A licensed health care professional may administer medical marijuana to a person who possesses a registry identification card and resides in a licensed health care facility if the administration of pharmaceuticals is within the scope of practice of the licensed health care professional. Administration of medical marijuana under this subsection may not take place in a public place as defined in ORS 161.015 or in the presence of a person under 18 years of age. If the medical marijuana administered under this subsection is smoked, adequate ventilation must be provided.

(b) Nothing in this subsection requires:

(A) A licensed health care professional to administer medical marijuana; or

(B) A licensed health care facility to make accommodations for the administration of medical marijuana. [Formerly 475B.919]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.894 - Authority to investigate; rights related to seized property.**

(1) Registration under ORS 475C.770 to 475C.919 or possession of proof of registration under ORS 475C.770 to 475C.919 does not constitute probable cause to search the person or property of the registrant or otherwise subject the person or property of the registrant to inspection by a government agency. However, the Oregon Health Authority may inspect the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site registered under ORS 475C.815, or a medical marijuana dispensary registered under ORS 475C.833, at any reasonable time to determine whether the person responsible for the marijuana grow site, the person responsible for the marijuana processing site, or the person responsible for the medical marijuana dispensary, is in compliance with ORS 475C.770 to 475C.919 and rules adopted under ORS 475C.770 to 475C.919.

(2) Any property interest possessed, owned or used in connection with the medical use of marijuana or acts incidental to the medical use of marijuana that has been seized by state or local law enforcement officers may not be harmed, neglected, injured or destroyed while in the possession of a law enforcement agency, except that a law enforcement agency has no responsibility to maintain live marijuana plants lawfully seized. Such property interest may not be forfeited under any provision of law providing for the forfeiture of property, except pursuant to a sentence imposed after conviction of a criminal offense. Marijuana and equipment or paraphernalia used to produce, process or administer marijuana that was seized by a law enforcement officer shall be returned immediately if the district attorney in whose county the property was seized, or the district attorney's designee, determines that the person from whom the marijuana, equipment or paraphernalia was seized is entitled to the protections provided by ORS 475C.770 to 475C.919. The determination may be evidenced by a decision not to prosecute, the dismissal of charges or acquittal. [Formerly 475B.922]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.895 - Civil penalty for violating ORS 475C.770 to 475C.919.**

(1) In addition to any other liability or penalty provided by law, the Oregon Health Authority may impose for each violation of a provision of ORS 475C.770 to 475C.919, or for each violation of a rule adopted under a provision of ORS 475C.770 to 475C.919, a civil penalty that does not exceed \$500 for each day that the violation occurs.

(2) The authority shall impose civil penalties under this section in the manner provided by ORS 183.745.

(3) All moneys collected pursuant to this section shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purpose of carrying out the duties, functions and powers of the authority under ORS 475C.770 to 475C.919. [Formerly 475B.925]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.897 - Local time, place and manner regulations.**

(1) For purposes of this section, "reasonable regulations" includes:

(a) Reasonable limitations on the hours during which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may operate;

(b) Reasonable conditions on the manner in which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may transfer usable marijuana, medical

cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds;  
(c) Reasonable requirements related to the public's access to the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary; and  
(d) Reasonable limitations on where the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may be located.  
(2) Notwithstanding ORS 30.935, 215.253 (1) or 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of marijuana grow sites of persons designated to produce marijuana by registry identification cardholders, marijuana processing sites and medical marijuana dispensaries that are located in the area subject to the jurisdiction of the city or county. [Formerly 475B.928]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.898 - Duty of State Department of Agriculture and Oregon Liquor and Cannabis Commission to assist.**

Upon request the State Department of Agriculture and the Oregon Liquor and Cannabis Commission, pursuant to an agreement or otherwise, shall assist the Oregon Health Authority in implementing and enforcing the provisions of ORS 475C.770 to 475C.919 and rules adopted under the provisions of ORS 475C.770 to 475C.919. [Formerly 475B.931]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.900 - Immunity for state agencies, officers, employees and agents in performance of duties.**

The Oregon Health Authority, the State Department of Agriculture and the Oregon Liquor and Cannabis Commission, and the officers, employees and agents of the authority, department and commission, are immune from any cause of action for the performance of, or the failure to perform, duties required by ORS 475C.770 to 475C.919. [Formerly 475B.934]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.903 - Authority to possess, seize or dispose of marijuana and marijuana-derived products.**

Subject to any applicable provision of ORS chapter 183, the Oregon Health Authority, the State Department of Agriculture and the Oregon Liquor and Cannabis Commission may possess, seize or dispose of marijuana, usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts as is necessary for the authority to ensure compliance with and enforce the provisions of ORS 475C.770 to 475C.919 and any rule adopted under ORS 475C.770 to 475C.919. [Formerly 475B.937]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.907 - Cannabis seeds as propagant of nursery stock.**

(1) For purposes of ORS 475C.770 to 475C.919, seeds of the plant Cannabis family Cannabaceae are a propagant of nursery stock as defined in ORS 571.005.  
(2) Notwithstanding subsection (1) of this section, the production and processing of seeds under ORS 475C.770 to 475C.919 is not subject to the labeling or other requirements of ORS 576.715 to 576.744 or 633.511 to 633.750. [Formerly 475B.940]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.910 - Applicability of ORS 475C.770 to 475C.919 to criminal causes of action.**

The provisions of ORS 475C.770 to 475C.919 do not protect a person from a criminal cause of action based on possession, delivery or manufacture of marijuana that is not described in ORS 475C.770 to 475C.919. [Formerly 475B.943]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.913 - Petitioning for disease or condition to be included as debilitating medical condition; rules.**

Any person may petition the Oregon Health Authority to request that a disease or condition be included among the diseases and conditions that qualify as debilitating medical conditions under ORS 475C.770 to 475C.919. The authority shall adopt rules establishing the procedure for filing a petition under this section and the manner by which the authority evaluates a request made under this section. Rules adopted under this section must require the authority to approve or deny a petition within 180 days of receiving the petition. Denial of a petition is a final agency action subject to judicial review. [Formerly 475B.946]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.916 - Authority of nurse to discuss medical use of marijuana.**

A nurse licensed under ORS 678.040 to 678.101 may discuss the medical use of marijuana with a person with whom the nurse has a patient-provider relationship. [2021 c.130 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.919 - Authority to adopt rules for ORS 475C.770 to 475C.919.**

(1) The Oregon Health Authority shall adopt rules necessary for the implementation, administration and enforcement of ORS

475C.770 to 475C.919.

(2) The authority may adopt rules as the authority considers necessary to protect the public health and safety. [Formerly 475B.949]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.930 - Oregon Cannabis Commission.**

(1) The Oregon Cannabis Commission is established within the Oregon Health Authority. The commission consists of:

(a) The Public Health Officer or the Public Health Officer's designee; and

(b) Eight members appointed by the Governor as follows:

(A) A registry identification cardholder, as defined in ORS 475C.777;

(B) A person designated to produce marijuana by a registry identification cardholder, as defined in ORS 475C.777;

(C) An attending provider, as defined in ORS 475C.777;

(D) A person representing the Oregon Health Authority;

(E) A person representing the Oregon Liquor and Cannabis Commission;

(F) A local health officer, as described in ORS 431.418;

(G) A law enforcement officer; and

(H) A person knowledgeable about research proposal grant protocols.

(2) The term of office of each member of the commission is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 of the following year. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) The appointment of each member of the commission is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(4) Members of the commission are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495.

[Formerly 475B.952]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.933 - Commission leadership; quorum.**

(1) The Oregon Cannabis Commission shall select one of its members as chairperson and another as vice chairperson, for terms and with duties and powers necessary for the performance of the functions of the offices as the commission determines.

(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

(3) The commission shall meet at least once every quarter at a time and place determined by the commission. The commission also may meet at other times and places specified by the call of the chairperson or of a majority of the members of the commission.

[Formerly 475B.955]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.936 - Staff support for commission.**

The Oregon Health Authority shall provide staff support to the Oregon Cannabis Commission and shall perform other services as necessary for the effective operation of the commission. [Formerly 475B.958]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.939 - Duties of commission.**

In addition to any other duty prescribed by law, the Oregon Cannabis Commission shall:

(1) Provide advice to the Oregon Health Authority with respect to the administration of ORS 475C.770 to 475C.919;

(2) Provide advice to the Oregon Liquor and Cannabis Commission with respect to the administration of ORS 475C.005 to 475C.525, insofar as those statutes pertain to registry identification cardholders and designated primary caregivers, as those terms are defined in ORS 475C.777;

(3) Develop a long-term strategic plan for ensuring that cannabis will remain a therapeutic option for persons with debilitating medical conditions as defined in ORS 475C.777;

(4) Develop a long-term strategic plan for ensuring that cannabis will remain affordable for persons with debilitating medical conditions as defined in ORS 475C.777; and

(5) Monitor and study federal laws, regulations and policies regarding marijuana. [Formerly 475B.961]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.945 - City, county ordinances regarding medical marijuana.**

If a city or county enacts or has enacted an ordinance prohibiting or allowing marijuana processing sites registered under ORS 475C.815 or medical marijuana dispensaries registered under ORS 475C.833, the governing body of the city or the county may amend the ordinance, without referring the amendment to the electors of the city or county under ORS 475C.950, to prohibit or



allow the premises of a licensee, as those terms are defined in ORS 475C.009, that has been designated an exclusively medical licensee under ORS 475C.121, 475C.125, 475C.129 or 475C.133. [Formerly 475B.965]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 475C - Cannabis Regulation Section 475C.950 - Adoption of ordinances; referral to electors for approval.**

- (1) The governing body of a city or county may adopt ordinances to be referred to the electors of the city or county as described in subsection (2) of this section that prohibit or allow the establishment of any one or more of the following in the area subject to the jurisdiction of the city or in the unincorporated area subject to the jurisdiction of the county:
  - (a) Marijuana processing sites registered under ORS 475C.815;
  - (b) Medical marijuana dispensaries registered under ORS 475C.833;
  - (c) Marijuana producers that hold a license issued under ORS 475C.065;
  - (d) Marijuana processors that hold a license issued under ORS 475C.085;
  - (e) Marijuana wholesalers that hold a license issued under ORS 475C.093;
  - (f) Marijuana retailers that hold a license issued under ORS 475C.097;
  - (g) Marijuana producers that hold a license issued under ORS 475C.065 and that the Oregon Liquor and Cannabis Commission has designated as an exclusively medical licensee under ORS 475C.121;
  - (h) Marijuana processors that hold a license issued under ORS 475C.085 and that the commission has designated as an exclusively medical licensee under ORS 475C.125;
  - (i) Marijuana wholesalers that hold a license issued under ORS 475C.093 and that the commission has designated as an exclusively medical licensee under ORS 475C.129;
  - (j) Marijuana retailers that hold a license issued under ORS 475C.097 and that the commission has designated as an exclusively medical licensee under ORS 475C.133; or
  - (k) Any combination of the entities described in this subsection.
- (2) If the governing body of a city or county adopts an ordinance under this section, the governing body shall submit the measure of the ordinance to the electors of the city or county for approval at the next statewide general election.
- (3) If the governing body of a city or county adopts an ordinance under this section, the governing body must provide the text of the ordinance:
  - (a) To the Oregon Health Authority, in a form and manner prescribed by the authority, if the ordinance concerns a medical marijuana dispensary registered under ORS 475C.833 or a marijuana processing site registered under ORS 475C.815; or
  - (b) To the commission, if the ordinance concerns a premises for which a license has been issued under ORS 475C.005 to 475C.525.
- (4)(a) Upon receiving notice of a prohibition under subsection (3) of this section, the authority shall discontinue registering those entities to which the prohibition applies until the date of the next statewide general election.
- (b) Upon receiving notice of a prohibition under subsection (3) of this section, the commission shall discontinue licensing those premises to which the prohibition applies until the date of the next statewide general election.
- (5)(a) If an allowance is approved at the next statewide general election under subsection (2) of this section, and the allowance concerns an entity described in subsection (1)(a) or (b) of this section, the authority shall begin registering the entity to which the allowance applies on the first business day of the January immediately following the date of the statewide general election.
- (b) If an allowance is approved at the next statewide general election under subsection (2) of this section, and the allowance concerns an entity described in subsection (1)(c) to (j) of this section, the commission shall begin licensing the premises to which the allowance applies on the first business day of the January immediately following the date of the next statewide general election.
- (6) If the electors of a city or county approve an ordinance prohibiting or allowing an entity described in subsection (1)(a), (b) or (g) to (j) of this section, the governing body of the city or county may amend the ordinance, without referring the amendment to the electors of the city or county, to prohibit or allow any other entity described in subsection (1)(a), (b) or (g) to (j) of this section.
- (7) Notwithstanding any other provisions of law, a city or county that adopts an ordinance under this section that prohibits the establishment of an entity described in subsection (1) of this section may not impose a tax or fee on the production, processing or sale of marijuana or any product into which marijuana has been incorporated.
- (8) Notwithstanding subsection (1) of this section, a medical marijuana dispensary is not subject to an ordinance adopted under this section if the medical marijuana dispensary:
  - (a) Is registered under ORS 475C.833 on or before the date on which the governing body adopts the ordinance; and
  - (b) Has successfully completed a city or county land use application process.
- (9) Notwithstanding subsection (1) of this section, a marijuana processing site is not subject to an ordinance adopted under this section if the marijuana processing site:
  - (a) Is registered under ORS 475C.815 on or before the date on which the governing body adopts the ordinance; and
  - (b) Has successfully completed a city or county land use application process. [Formerly 475B.968]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.005 - Definitions.**

As used in this chapter, unless the context requires otherwise:

- (1) "Fire protection equipment" means any apparatus, machinery or appliance intended for use by a fire service unit in fire

prevention or suppression activities, excepting forest fire protection equipment.

(2) "Governmental subdivisions" means a city, county or rural fire protection district in this state whose functions include regulation of building use and occupancy and the administration of fire safety laws, ordinances and regulations. [Formerly 476.800; 1985 c.118 §1; 1993 c.185 §24]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.010 - Additional definitions.**

(1) As used in ORS 476.010 to 476.115, 476.150 to 476.170 and 476.210 to 476.270, "alterations," "construction," "family," "hospital," "occupancy" and "private residence" have the meanings given those terms in ORS 479.168.

(2) As used in ORS 476.030 and other laws relating to the duties of the State Fire Marshal, "governmental subdivision" means a city, county, municipal corporation, quasi-municipal corporation and rural fire protection district, created under the laws of Oregon.

(3) As used in ORS 476.380:

(a) "Commercial waste":

(A) Means any waste produced in any business involving the lease or sale, including wholesale and retail, of goods or services, including but not limited to housing.

(B) Means any waste produced by a governmental, educational or charitable institution.

(C) Does not include any waste produced in a dwelling containing four living units or less.

(b) "Demolition material" means any waste resulting from the complete or partial destruction of any man-made structure, such as a house, apartment, commercial building or industrial building.

(c) "Domestic waste" means any nonputrescible waste, consisting of combustible materials, such as paper, cardboard, yard clippings, wood or similar materials, generated in a dwelling, including the real property upon which it is situated, containing four living units or less.

(d) "Field burning" means the burning of any grass field, grain field, pasture, rangeland or other field by open burning or by use of mobile equipment or flaming equipment on any land or vegetation.

(e) "Industrial waste" means any waste resulting from any process or activity of manufacturing or construction.

(f) "Land clearing debris" means any waste generated by the removal of debris, logs, trees, brush or demolition material from any site in preparation for land improvement or construction projects.

(g) "Open burning" means any burning conducted in such a manner that combustion air is not effectively controlled and that combustion products are not vented through a stack or chimney, including but not limited to burning conducted in open outdoor fires, common burn barrels and backyard incinerators. [Subsection (2) formerly part of 476.030; 1975 c.635 §1; 2005 c.22 §353]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.020 - State Fire Marshal; appointment; qualifications.**

(1) The Department of the State Fire Marshal is established. The department is under the supervision and control of the State Fire Marshal.

(2) The Governor shall appoint the State Fire Marshal, who holds the office at the pleasure of the Governor. The appointment of the State Fire Marshal is subject to confirmation by the Senate in the manner prescribed by ORS 171.562 and 171.565.

(3) The State Fire Marshal shall be qualified to direct the technical and executive work of the department as determined by the Governor and shall have education or training related to the programs of the department and significant experience in managing fire protection or related programs.

(4) The State Fire Marshal shall be paid a salary as provided by law or, if not so provided, as prescribed by the Governor.

(5) Subject to the approval of the Governor, the State Fire Marshal may organize and reorganize the administrative structure of the department as the State Fire Marshal considers appropriate to properly conduct the work of the department.

(6) The State Fire Marshal may divide the functions of the department into administrative divisions. Subject to the approval of the Governor, the State Fire Marshal may appoint an individual to administer each division. The administrator of each division serves at the pleasure of the State Fire Marshal and is not subject to the provisions of ORS chapter 240. Each individual appointed under this subsection must be well qualified by technical training and experience in the functions to be performed by the individual. [Amended by 1963 c.523 §1; 1971 c.753 §54; 1987 c.414 §79; 1993 c.186 §1; 2021 c.539 §90]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.030 - Powers and duties of marshal and deputies generally; rules; exemption of certain governmental subdivisions; inspection of adult foster homes.**

(1) The State Fire Marshal shall enforce all statutes, and make rules relating to:

(a) The prevention of fires.

(b) The storage and use of combustibles and explosives.

(c) The maintenance and regulation of structural fire safety features in occupied structures and overseeing the safety of and directing the means and adequacy of exit in case of fire from factories, asylums, hospitals, churches, schools, halls, theaters, amphitheatres, all buildings, except private residences, which are occupied for sleeping purposes, and all other places where large numbers of persons work, live or congregate from time to time for any purpose except that structural changes shall not be required in buildings built,

occupied and maintained in conformity with state building code regulations applicable at the time of construction.

(d) Standards for equipment used for fire protection purposes within this state including standard thread for fire hose couplings and hydrant fittings.

(2) The State Fire Marshal and deputies shall have such powers and perform such other duties as are prescribed by law.

(3) If, in the opinion of the State Fire Marshal, a governmental subdivision of the state has enacted adequate regulations generally conforming to state and national standards concerning fire prevention, fire safety measures and building construction requirements for safety, and if the governmental subdivision provides reasonable enforcement of its regulations, the State Fire Marshal may exempt the area subject to such regulation either partially or fully from the statutes, rules and regulations administered by the State Fire Marshal. Prior to adoption of any such exemption, the State Fire Marshal may request from the Department of Public Safety Standards and Training consideration of and recommendations regarding the exemption. The exemption may extend for a two-year period, and may be renewed from time to time, but may be canceled by the State Fire Marshal following 30 days' written notice if the State Fire Marshal finds that the governmental subdivision's regulations or enforcement thereof are not reasonably sufficient. The governmental subdivision shall furnish a copy of such regulations to the State Fire Marshal and shall file with the State Fire Marshal any amendment thereto within 30 days before the effective date of such amendment. The State Fire Marshal shall designate a person or division within such governmental subdivision as an approved authority for exercising functions relating to fire prevention, fire safety measures and building construction. Upon request of a local official having enforcement responsibility and a showing of unusual fire hazard or other special circumstances, the State Fire Marshal shall make investigation and appropriate recommendations.

(4) The State Fire Marshal may investigate or cause an investigation to be made to determine the probable cause, origin and circumstances of any fire and shall classify such findings as the State Fire Marshal may find appropriate to promote fire protection and prevention.

(5) The State Fire Marshal shall provide training in fire safety inspection to the Department of Human Services, area agencies, the Oregon Health Authority, community mental health programs, developmental disabilities programs and designees of the Long Term Care Ombudsman and the Residential Facilities Ombudsman. If an adult foster home has been inspected by the Department of Human Services, the Oregon Health Authority, an area agency, a community mental health program or a developmental disabilities program and the agency conducting the inspection reasonably believes that the adult foster home is not in compliance with applicable fire safety rules, the agency conducting the inspection may request the State Fire Marshal to inspect or cause an inspection to be made. If a designee of the Long Term Care Ombudsman or the Residential Facilities Ombudsman, in the course of visiting an adult foster home, believes that the adult foster home is not in compliance with applicable fire safety rules, the designee shall report the problem to the appropriate agency to request a fire safety inspection by the State Fire Marshal or by a designated representative of the State Fire Marshal.

(6) Upon the request of the Department of Human Services, the Oregon Health Authority, an area agency, a community mental health program or a developmental disabilities program, the State Fire Marshal shall inspect or cause an inspection to be made to determine if the adult foster home is in compliance with rules jointly adopted by the Department of Human Services and the State Fire Marshal establishing fire safety standards for adult foster homes.

(7) As used in subsections (5) and (6) of this section:

(a) "Adult foster home" has the meaning given that term in ORS 443.705.

(b) "Area agency" has the meaning given that term in ORS 410.040.

(c) "Community mental health program" means a program established under ORS 430.620 (1)(b).

(d) "Developmental disabilities program" means a program established under ORS 430.620 (1)(a). [Amended by 1957 c.265 §1; 1963 c.523 §5; 1965 c.602 §1; part renumbered as part of 476.010; 1967 c.417 §1; 1973 c.667 §16; 1977 c.821 §3; 1985 c.118 §2; 1985 c.726 §18; 1989 c.696 §1; 1993 c.185 §25; 1997 c.13 §1; 1997 c.853 §40; 2001 c.900 §206; 2009 c.595 §976; 2017 c.441 §29; 2021 c.539 §122]

## **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.033 - Discretionary powers of State Fire Marshal.**

The State Fire Marshal may:

(1) Establish headquarters and regional offices of the Department of the State Fire Marshal at places the State Fire Marshal considers advisable for the protection of this state;

(2) Operate, and authorize chief deputy state fire marshals, deputy state fire marshals and assistants of the department to own and operate, emergency response vehicles;

(3) Use land and buildings for the accommodation of department employees and department vehicles and equipment;

(4) Contract or otherwise cooperate with any person or public agency for the procurement of necessary services or property, including by entering into lease agreements and taking title to real property as necessary for the performance of the duties of the department;

(5) As an emergency services agency, control and regulate the acquisition, operation, use, maintenance and disposal of, and access to, motor vehicles and equipment for official state business;

(6) Accept and distribute gifts, grants, donations and funds from any source, including services and property, to carry out the duties of the State Fire Marshal; and

(7) Perform such other duties as required by law. [Formerly 476.855; 2015 c.131 §2; 2023 c.347 §1]

Note:

476.033 was added to and made a part of ORS chapter 476 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.035 - Adjustments and variances in application of statutes and regulations.**

When the State Fire Marshal finds that practical difficulties, unnecessary hardship or consequences inconsistent with the general purposes of statutes and regulations administered by the State Fire Marshal relating to fire protection and fire prevention may result under the provisions of such statutes and regulations, the State Fire Marshal may upon receipt of a verified application from the owner or occupant of the property affected stating fully the grounds of the application and facts relied upon, and upon further investigation, grant adjustments or variances with such conditions and safeguards as the State Fire Marshal may determine in harmony with the general purpose and intent and spirit of such fire protection and fire prevention statutes and regulations, so that the public health, safety and welfare shall be secured and substantial justice done. Such adjustments or variances shall be restricted to unique, unusual or peculiar circumstances or substitute materials or arrangements. The State Fire Marshal may refer the application to a regional appeal advisory board created under ORS 476.113 and 476.115 for recommendation prior to making a decision. Except as otherwise specified by law the order of the State Fire Marshal granting or denying a variance shall be final and conclusive. [1965 c.602 §6]

Note:

476.035 was added to and made a part of 476.010 to 476.115 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.040 - Deputies and assistants.**

The State Fire Marshal shall appoint chief deputy state fire marshals and deputy state fire marshals whose duties shall be to assist in carrying into effect the provisions of ORS 476.010 to 476.090 and 476.155 to 476.170, 476.210 to 476.270 and 479.168 to 479.190. The State Fire Marshal may also employ such other assistants and employees and incur such other expenses as the State Fire Marshal may deem necessary in carrying into effect these provisions. The State Fire Marshal may remove any deputies or assistants for cause. [Amended by 1963 c.523 §6; 1985 c.118 §3; 1993 c.185 §26; 2011 c.97 §1; 2023 c.347 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.050 - Payment of salaries and expenses.**

The salary of the chief deputy state fire marshals and deputy state fire marshals, compensation of clerks and other assistants and other expenses of the Department of the State Fire Marshal necessary in the performance of the duties imposed upon the State Fire Marshal shall be paid in the same manner as are other state officers and the expenses of other state departments, and shall not exceed the amount paid to the State Treasurer for the maintenance of the Department of the State Fire Marshal. [Amended by 1953 c.93 §1; 1987 c.414 §156; 2021 c.539 §123; 2023 c.347 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.055 - State Fire Marshal Fund; uses.**

(1) All moneys received by the Department of the State Fire Marshal shall be paid into the State Treasury, and shall be placed by the State Treasurer to the credit of the State Fire Marshal Fund, except those moneys received and accounted for under the provisions of ORS 279A.290 and 476.565.

(2) Except as otherwise provided by this section, moneys in the State Fire Marshal Fund shall be available and constitute a continuing appropriation for the payment of any expense of the department and for the payment of expenses of the Department of Public Safety Standards and Training and the Board on Public Safety Standards and Training relating to training programs concerning fire services and accreditation of fire service professionals. The Department of the State Fire Marshal shall keep on file an itemized statement of all expenses incurred by the department and shall approve all disbursements as submitted for payment. Administrative expenditures made from the State Fire Marshal Fund shall not exceed a reasonable amount for the services performed. [1953 c.93 §2; 1953 c.199 §2; 1965 c.602 §2; 1967 c.359 §694; 1967 c.417 §2; 1973 c.832 §§6,6a; 1977 c.104 §1; 1985 c.118 §4; 1987 c.414 §157; 1993 c.185 §27; 1993 c.186 §6; 1997 c.853 §41; 2003 c.794 §298; 2021 c.539 §124; 2023 c.602 §52]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.060 - Local officers and constables as assistants to State Fire Marshal.**

(1) All fire marshals in those governmental subdivisions having such officers, and where no such officer exists, the chief of the fire department of every city or rural fire protection district in which a fire department is established, the marshal or chief of police, officer of any city in which no fire department exists, and constables, if any, shall be, by virtue of the offices held by them, assistants

to the State Fire Marshal without additional recompense, subject to the duties and obligations imposed by law, and shall be subject to the direction of the State Fire Marshal in the execution of the provisions of this section and ORS 476.070, 476.090, 476.150, 476.210 and 480.445.

(2) In addition to other duties under subsection (1) of this section, an individual designated as an assistant to the State Fire Marshal shall aid in the administration and enforcement of ORS 480.200 to 480.290 and 480.990 (6) upon the request of the State Fire Marshal. [Amended by 1965 c.602 §3; 1971 c.518 §22; 1983 c.740 §188; 1987 c.158 §103; 2005 c.88 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.070 - Entering buildings and premises.**

The State Fire Marshal, the deputies or assistants of the State Fire Marshal, or any of them, may:

(1) At all reasonable hours, in performance of the duties imposed by the provisions of ORS 476.030, enter upon and examine any building or premises wherein fire has occurred, and other buildings or premises adjoining or near the same.

(2) For just cause and for the purpose of examination, enter, at all reasonable hours, in and upon all buildings and premises within their jurisdiction.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.080**

[Amended by 1973 c.834 §32; renumbered 476.150 in 1987]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.090 - Records of fires.**

(1) The Department of the State Fire Marshal shall keep a record of all fires occurring in this state and of all facts concerning the same, including statistics as to the extent of such fires and the damage caused, whether such losses were covered by insurance, and if so, in what amount. All such records shall be public, except any testimony, information or other evidence taken in an investigation under ORS 476.010 to 476.090, 476.155 to 476.170, 476.210 to 476.270 and 479.180, which shall be considered investigatory information as described in ORS 192.345.

(2) This section shall not apply to forestlands under the jurisdiction of the State Forester. [Amended by 1967 c.417 §3; 1981 c.701 §1; 2021 c.539 §125]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.110 - State police to enforce fire laws.**

The Department of State Police shall employ a sufficient number of state police who shall perform the duties of enforcement of criminal laws and other statutes of Oregon with reference to the suppression and punishment of arson and fraudulent claims and practices in connection with fire laws. [Amended by 1963 c.523 §7; 1965 c.602 §4; 1967 c.417 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.113 - Designation of regions; regional appeal advisory boards; qualifications of members.**

(1) The State Fire Marshal may by order from time to time designate not more than seven regions within the state and establish regional appeal advisory boards for each of the designated regions.

(2) Each regional appeal advisory board shall consist of three regular members and three alternate members appointed by the State Fire Marshal. A member or alternate member of a regional appeal advisory board shall receive no compensation for services as a member, but, subject to any other applicable law regulating travel and other expenses for state offices, shall receive actual and necessary travel and other expenses incurred in the performance of official duties. All appointed members must be persons qualified by experience and training. At least one member of each board must be a qualified architect who has practiced the profession for at least two years. Appointments shall be made for three-year terms. Any member may be removed by the State Fire Marshal for cause. Upon the death, resignation or removal of any member, a successor shall be appointed by the State Fire Marshal to serve the balance of the unexpired term. No member of a regional appeal advisory board shall sit in a case in which the member is interested and if any such case comes before the board, an alternate shall act in the place of the member. [1965 c.602 §7(1),(2); 2005 c.22 §354]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.115 - Functions of regional appeal advisory boards; reports submitted to board.**

(1) Each regional appeal advisory board shall:

(a) Elect a chairperson to whom referral of any matter by the State Fire Marshal shall be effective as to all board members, and who shall call and preside over meetings.

(b) Consider, and make recommendations to the State Fire Marshal concerning, any application for adjustment or variance arising

within that region and referred to the board by the State Fire Marshal within 15 days after such referral. With relation to the referred matter the board may hold a hearing and receive testimony. The recommendations of the board shall be made in writing to the State Fire Marshal and shall be accompanied by a summary of any testimony received, any documentary or physical evidence received, any affidavit submitted by applicant and a summary of any special facts found by the board.

(c) Hear and consider, and make recommendations to the State Fire Marshal concerning, any appeal from an order made appealable by law, within 15 days after referral of such appeal to the board by the State Fire Marshal. Such recommendations shall be accompanied by the same summaries and evidentiary matter as in the case of an application for adjustment or variance referred to the board.

(d) Make recommendations to the State Fire Marshal concerning any matter referred to the board by the State Fire Marshal or considered by the board on its own motion, relating to fire prevention, protection from fire or other safety measures.

(2) At the time of each appeals board meeting a deputy state fire marshal shall submit to the board a report containing the pertinent facts and the manner in which the statutes or regulations apply to the case in point. [1965 c.602 §7(3)]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.120 - Minimum standards for protection of life and property.**

The State Fire Marshal, in making rules and regulations establishing minimum standards for the protection of life and property against fire, shall consider as evidence of generally accepted standards the applicable standards prescribed from time to time by the National Fire Protection Association. The State Fire Marshal may request consideration and recommendations from the Department of Public Safety Standards and Training before adopting any such regulations. [1963 c.523 §4; 1967 c.417 §5; 1973 c.667 §19; 1993 c.185 §28; 1997 c.853 §42]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.125 - Supplies and equipment for employees.**

(1) The Department of the State Fire Marshal shall provide department employees with standard uniforms, response apparatus, motor vehicles and all other emergency supplies and equipment necessary to carry out the duties of the department.

(2) The Oregon Department of Administrative Services may sell, transfer, recycle or otherwise dispose of surplus, obsolete or unused property of the Department of the State Fire Marshal, as described in ORS 279A.280.

(3) The State Fire Marshal shall specify a standard pattern and distinctive design for the uniforms described in subsection (1) of this section. [2023 c.347 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.130 - Statistical reports; price; sale; deposit of proceeds.**

(1) The State Fire Marshal may from time to time cause to be prepared statistical reports on the history and condition of state fire defenses, and an analysis of contributing factors of fire causes for the period of the report. Such reports may be printed at the expense of the Department of the State Fire Marshal and sold at a price not to exceed cost of printing and distribution. Receipts from the sale of such material shall be deposited with the State Treasurer and shall be placed in the State Fire Marshal Fund.

(2) The State Fire Marshal may fix a sale price for each copy of any publication of the department supplied to private persons interested therein, when such publication has been approved as provided by law. [1965 c.602 §8; 2021 c.539 §126]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.132 - Wildfire readiness and response capacity.**

(1) The Department of the State Fire Marshal shall increase the department's wildfire readiness and response capacity to the extent the department receives funding for the increase, by means including:

(a) Increasing fire prevention and response personnel and fire administrative support personnel to address planning, communications, training, deployment and safety.

(b) Implementing innovative technologies and modernizing systems to expedite fire resource deployment in an efficient and safe manner.

(2) The State Fire Marshal may:

(a) Designate funding intended for the Oregon fire mutual aid system to support pre-positioning of resources and costs.

(b) Enter into contracts with federal or state agencies, other states, political subdivisions, corporations and authorities having fire suppression jurisdiction for fire prevention, suppression, coordination and response. [2021 c.592 §30b; 2023 c.9 §43]

Note:

476.132 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.150 - Entry and inspection of premises; interfering with or preventing entry prohibited.**

- (1) The State Fire Marshal and deputies, at all reasonable hours, may enter into all buildings and upon all premises, except private residences, for the purpose of inspection to ascertain if fire hazards exist therein or thereon. Owners of private residences may request a fire inspection of their property.
- (2) No person shall interfere with or prevent any such inspection by such officers.
- (3) When any person interferes with or prevents the State Fire Marshal or deputies from making the inspection mentioned herein, the officer shall apply to the district attorney of the county wherein the inspection was made or attempted to be made, for a warrant for the arrest of the offending person, and it shall be the duty of such district attorney forthwith to prosecute such offending person. [Formerly 476.080]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.155 - When judges authorized to issue inspection warrants.**

Judges authorized by law to issue search warrants, upon application of the State Fire Marshal, or deputies or assistants of the State Fire Marshal, may issue an inspection warrant whenever an inspection or investigation of any building or premises is required or authorized by any state or local statute, ordinance or rule relating to fire cause investigation or fire safety inspection. [1987 c.362 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.160 - Circumstances under which warrant may be issued.**

- (1) An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or rule requiring or authorizing the inspection or investigation, the place, building or premises to be inspected or investigated and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry had been sought and refused or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be jeopardized if entry were sought without an inspection warrant.
- (2) Cause shall be deemed to exist in the following circumstances:
  - (a) There is probable cause to believe that a condition of nonconformity with a fire safety standard or order exists;
  - (b) A fire has occurred in a building or on premises the cause of which has not been determined; or
  - (c) For the purpose of carrying out a routine, periodic inspection. [1987 c.362 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.165 - Establishing cause to issue warrant; content.**

- (1) Before issuing an inspection warrant, the judge may examine under oath the applicant or any other witness to be satisfied of the existence of grounds for granting such application.
- (2) If the judge is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the name and title of the person or persons authorized to execute the warrant, the building or premises to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed as provided for in ORS 476.070 and 476.150. [1987 c.362 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.170 - Execution of warrant.**

- (1) Except as provided in subsection (2) of this section, in executing an inspection warrant, the person authorized to execute the warrant, before entry, shall make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the building or premises and present the warrant or a copy thereof.
- (2) An inspection warrant must be executed and returned to the court by whom it was issued within 10 days from its date, unless such court before the expiration of such time, by indorsement thereon, extends the time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is void. [1987 c.362 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.175 - Contents of citation or order.**

If the State Fire Marshal or a deputy or assistant of the State Fire Marshal, or a person acting for a governmental subdivision described in ORS 476.030, inspects a structure under this chapter and issues a citation or order for nonconformity with a federal, state or local fire safety standard, the citation or order must include:

- (1) An exact reference to the law, regulation, rule or other source of authority that establishes the fire safety standard; and
- (2) A plain statement of the facts upon which the citation or order is based. [2015 c.678 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.210 - Investigation of fires by municipal officers and constables; reports; exemption.**

- (1) The municipal fire marshals, fire department chiefs, constables and other officers referred to in ORS 476.060 shall investigate

the cause, origin and circumstances of each fire occurring in their respective cities, villages or townships, by which property has been destroyed or damaged, and shall make an investigation to determine whether the fire was the result of carelessness or design. The investigation shall be commenced immediately after the occurrence of the fire. The State Fire Marshal may superintend and direct the investigation if the State Fire Marshal deems it necessary.

(2) The fire chief of every city, or rural fire protection district shall provide the State Fire Marshal with a full report of every fire occurring within the jurisdiction of the fire chief on a form provided by the Department of the State Fire Marshal or approved by the State Fire Marshal. Whenever the fire chief of every city under 200,000 population finds any fire is of undetermined or suspicious origin or involves a death or serious injury, the fire chief shall immediately notify the State Fire Marshal or a deputy state fire marshal and shall assemble all known facts and circumstances concerning the fire in an approved report form and shall submit such report to the State Fire Marshal, or the deputy state fire marshal assigned to the territory in which the fire originated. When evidence clearly indicates the cause of fire to be of incendiary origin, the fire chief shall also immediately notify the state, county or municipal police agency.

(3) This section shall not apply to forestlands under the jurisdiction of the State Forester. [Amended by 1965 c.602 §9; 1967 c.417 §6; 2021 c.539 §127]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.220 - Report by officer investigating fire; exemption.**

(1) The officer making an investigation of a fire occurring in a city, village or township shall forthwith notify the State Fire Marshal and, within one week of the occurrence of the fire, shall furnish the State Fire Marshal a written statement of all facts relating to its cause and origin, and such other information as is required by forms provided by the Department of the State Fire Marshal.

(2) This section shall not apply to forestland under the jurisdiction of the State Forester. [Amended by 1967 c.417 §7; 2021 c.539 §128]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.230 - Taking statements of persons knowing facts.**

If in the opinion of the State Fire Marshal further investigation is necessary, the State Fire Marshal or deputy state fire marshal, with the assistance of the district attorney, shall then proceed to take or have taken the statements of all persons supposed to be cognizant of any facts or who have means of knowledge in relation to the matter concerning which the examination is required and have such statements reduced to writing.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.240 - Supplying information to and requesting action by district attorney.**

If the Superintendent of State Police or an authorized assistant is of the opinion that there is evidence sufficient to charge a person with arson, burning with intent to defraud or prejudice the insurer, or a similar crime, the Superintendent of State Police or authorized assistant shall furnish the district attorney with such evidence, with the names of witnesses and a copy of material testimony taken in the case, and request the district attorney to cause the arrest of such person or take such other action as the district attorney deems necessary or advisable. [Amended by 1965 c.602 §10; 1967 c.417 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.250 - District attorney summoning witnesses and requiring production of documents.**

The district attorney may at the discretion of the district attorney, upon the application of the State Fire Marshal or a chief deputy state fire marshal, issue a subpoena to summon the attendance of witnesses before the district attorney to testify in relation to any matter which by law is a subject of inquiry and investigation, and require the production of any books, papers or documents the district attorney deems pertinent to an investigation of or relating to evidence pertaining to the cause of a fire. [Amended by 1967 c.417 §9; 2023 c.347 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.260 - District attorney assisting investigation of fires.**

The district attorney of any county, upon request of the state, county or a municipal police agency, shall assist such officers in the investigation of any fire which in their opinion is of incendiary origin. [Amended by 1967 c.417 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.270 - Insurance company reports of suspicious fires; inspection of company's relevant information.**

(1) If an insurance company has reason to believe that a fire loss to its assured's real or personal property was caused by incendiary means, the company shall immediately make a report to the Department of the State Fire Marshal. The report shall indicate the name



of the assured, the date of the fire, location, occupancy, and facts and circumstances coming to the company's knowledge, tending to establish the cause or origin of the fire.

(2) Any federal, state or local public official or authorized agent thereof having legal authority to investigate a fire loss of real or personal property may request any insurance company to provide relevant information in its possession pertaining to that loss. Upon request, the company shall release such information to the official who requests it. For purposes of this subsection, "relevant information" means information having any tendency to make the existence of any fact that is of consequence to the investigation more probable or less probable.

(3) In the absence of fraud or malice, no insurance company or its authorized representative shall be liable for damages in a civil action or subject to criminal prosecution for the release of information required by subsections (1) and (2) of this section. [Amended by 1967 c.417 §11; 1981 c.701 §2; 1985 c.686 §4; 2021 c.539 §129]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.280 - Municipal fire departments and rural fire protection districts authorized to extinguish fires in unprotected areas.**

(1) The fire chief, or the representative of the fire chief, of any duly organized municipal or rural fire protection district may extinguish any uncontrolled fire found to be burning in any unprotected area, if:

(a) The governing body of the city or the district board of the rural fire protection district, as the case may be, has authorized the fire chief and the representatives of the fire chief to extinguish uncontrolled fires that are found to be burning in unprotected areas situated outside of the boundaries of the city or district and that are causing or may cause an undue jeopardy to life or property; and

(b) The fire chief or the representative of the fire chief believes that such fire is causing or may cause undue jeopardy to life or property.

(2) In extinguishing a fire pursuant to subsection (1) of this section, the fire chief and the representatives of the fire chief may employ the same means and resources used by them to extinguish similar fires within their jurisdiction. [1971 c.683 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.290 - Billing owner of property for cost of extinguishing fire; cost limited; collection; action for recovery of cost.**

Whenever a fire is extinguished pursuant to ORS 476.280, the governing body of the city or the district board of the rural fire protection district that provided the fire suppression service may, on forms furnished by the Department of the State Fire Marshal for such purposes, bill the owner of the property involved in the fire for the cost of providing the fire suppression service. The governing body of the city or the district board of the rural fire protection district that provided the fire suppression service may determine the cost of providing the fire suppression service by use of a state standardized-costs schedule as approved by the State Fire Marshal. The cost charged for providing the fire suppression service may not be greater than the pro rata cost that would have been charged by the city or district for the performance by the city or district of a similar fire suppression service within its jurisdiction. If the cost is not paid within 30 days after the second billing, the governing body of the city or the district board of the rural fire protection district that provided the fire suppression service may bring an action for the recovery of the unpaid cost from the owner of the real property upon which the fire suppression service was rendered. [1971 c.683 §2; 2005 c.22 §355; 2021 c.539 §130]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.310 - Zoning and rezoning of certain lands; hearing on petition of owners in nonzoned territory; duty of landowner to provide fire protection.**

(1) The governing body of each county may, in cooperation with the State Board of Forestry, zone and, as often as necessary, rezone any lands within the county lying outside the boundaries of incorporated cities, organized rural fire protection districts, federal and state-owned lands, lands protected under ORS chapter 477 and railroad rights of way, except that railroad rights of way may be zoned or rezoned if the owners of such rights of way file their written consent with the governing body. Lands, when zoned or rezoned, shall be divided into two zones as follows:

(a) Zone 1 shall be composed of forest, range, grass or undeveloped lands, or any of such lands intermingled with grazing and agricultural lands.

(b) Zone 2 shall be composed of rural lands not included in zone 1.

(2) During the season of the year when there is danger of fire, every owner of zone 1 land shall provide adequate protection against the starting or spread of fire thereon or therefrom, which protection shall meet with the approval of the governing body of the county in which the zone 1 land is located.

(3) An owner shall be deemed to have complied with the requirements of subsection (2) of this section if, on January 1 of each year, the owner files with the governing body of the county a bona fide fire protection plan that meets with the approval of the county governing body. The governing body of the county, or its appointed representative, shall periodically inspect the protection facilities provided under such a plan in order to confirm compliance by the owner.

(4) If any owner of zone 1 land fails or neglects to file a fire protection plan, or to comply with the standard of protection approved by the county governing body, the governing body shall provide for forest protection pursuant to ORS 476.320.

(5) Nothing contained in ORS 476.310 to 476.340 shall prevent interested property owners in any nonzoned territory from petitioning the governing body and State Board of Forestry to hold a hearing on the matter of zoning the territory if a majority of the landowners within the territory file such petition. The governing body, cooperating with the State Board of Forestry, shall give full consideration to the wishes of the landowners as shown by the hearing. [Amended by 1957 c.432 §1; 1963 c.222 §1; 1965 c.253 §143; 1991 c.459 §415a; 2005 c.22 §356]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.320 - Determination of form of fire protection for lands in zone 1; costs.**

- (1) The form of protection from fire for lands lying in zone 1 shall be determined jointly by the governing body of the county, the State Fire Marshal and the State Board of Forestry, which determination shall be reduced to writing, signed by the officers of the agencies and entered in the journal of the governing body of the county.
- (2) The authority of the State Board of Forestry may be extended to include the establishment of forest protection on lands lying within zone 1 for lands not subject to a fire protection plan under ORS 476.310. For such purposes the board of forestry may contract with individuals, associations, agencies, corporations, rural fire protection districts, counties, cities, federal agencies, or any of them. The cost of protection in zone 1 shall be assessed and collected in the same manner as protection costs for lands protected under ORS chapter 477.
- (3) The moneys received by the State Board of Forestry under this section shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used exclusively for the purposes stated in this section.
- (4) As used in this section, the "authority of the State Board of Forestry" means the duties, obligations, requirements and penalties of ORS chapter 477. [Amended by 1957 c.83 §5; 1965 c.253 §144; 1967 c.429 §53; 1981 c.362 §1; 1991 c.459 §415b; 1999 c.355 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.330 - Prevention and control of fires in zone 2; tax levy.**

- (1) The county court or board of county commissioners of any county may prevent and control fire occurring within the limits of zone 2 in such county, and may for such purposes establish and maintain fire fighting and fire control facilities and contract with existing fire control agencies, either individuals, associations, corporations, cities or rural fire protection districts. The State Fire Marshal, upon the request of any county court or board of county commissioners, shall meet with and advise such county court or board of county commissioners as to the establishment and maintenance of fire fighting and fire protection equipment and facilities.
- (2) If the court or board establishes fire fighting and fire protection equipment and facilities, it shall not discontinue such equipment and facilities until at least three years after notice of its intention to do so has been first published in a newspaper considered by the board to be of general circulation in the county. The notice shall be published by four insertions in the newspaper and 12 months shall elapse between each insertion.
- (3) While the county court or board of county commissioners of any county is maintaining fire fighting and fire protection equipment and facilities, the court or board annually shall levy a tax upon the taxable property lying within zone 2 in the county, not to exceed one-fourth of one percent (0.0025) of the real market value of all taxable property within the zone, computed in accordance with ORS 308.207, for the purpose of furnishing such fire protection.
- (4) The court or board of county commissioners, upon approval of the majority of the electors of zone 2 voting at a special election called for such a purpose, may levy a special tax of not to exceed one-fourth of one percent (0.0025) of the real market value of all taxable property within the zone, computed in accordance with ORS 308.207. This special levy may be in addition to the regular levy under subsection (3) of this section.
- (5) To carry into effect any of the powers granted under this section, the court or board, when authorized by a majority of the votes cast by the electors of the zone voting at an election called for that purpose by the court or board, may borrow money and sell and dispose of general obligation bonds, which bonds shall never in the aggregate exceed one and one-fourth of one percent (0.0125) of the real market value of all taxable property within the zone, computed in accordance with ORS 308.207.
- (6) The tax limitations provided in subsections (3) and (4) of this section do not apply to taxes levied to pay principal or interest on outstanding bonds. [Amended by 1955 c.262 §1; 1959 c.288 §1; 1963 c.9 §29; 1967 c.356 §1; 1969 c.590 §1; 1971 c.647 §107; 1991 c.459 §416; 2007 c.154 §63]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.340 - Establishment of rural fire protection districts in zone 2; exemption from taxation of property included in district.**

Nothing contained in the provisions of ORS 476.310 to 476.330 shall be construed to prohibit the establishment of rural fire protection districts as provided by law within the boundaries of zone 2 as the same may be established in any county. In event of the organization of a rural fire protection district comprising lands in zone 2, property included within such fire protection district shall not thereafter be taxed or assessed under the provisions of ORS 476.320 or 476.330. [Amended by 1955 c.262 §2; 1963 c.222 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.380 - Fire permits; limitations upon burning; records.**

(1) No person, outside the boundaries of a rural fire protection district or a forest protection district, shall cause or permit to be initiated or maintained on the property of the person, or cause to be initiated or maintained on the property of another any open burning of commercial waste, demolition material, domestic waste, industrial waste, land clearing debris or field burning without first securing a permit from the county court or board of county commissioners.

(2) The county court or board of county commissioners, or its designated representative, shall prescribe conditions for issuance of any permit and shall refuse, revoke or postpone issuance of permits when necessary to prevent danger to life or property or to protect the air resources of this state. The Environmental Quality Commission shall notify the State Fire Marshal of the type of and time for burning to be allowed on each day under schedules adopted pursuant to ORS 468A.570 and 468A.595. The State Fire Marshal shall cause all county courts and boards of county commissioners or their designated representatives in the affected areas to be notified of the type of and time for burning to be allowed on each day and of any revisions of such conditions during each day. The county court, board or representative shall issue permits only in accordance with schedules of the Environmental Quality Commission adopted pursuant to this section and ORS 468A.555 to 468A.620 and 468A.992, 476.990, 478.960 and 478.990 but may reduce the hours allowed for burning if necessary to prevent danger to life or property from fire. The State Fire Marshal may refuse or postpone permits when necessary in the judgment of the State Fire Marshal to prevent danger to life or property from fire, notwithstanding any determination by the county court or board of county commissioners or its designated officer. Notwithstanding any other provision of this subsection, for a permit for the propane flaming of mint stubble, the county court or board of county commissioners, or its designated representative may only prescribe conditions necessary to prevent the spread of fire or to prevent endangering life or property and may refuse, revoke or postpone permission to conduct the propane flaming only when necessary to prevent danger to life or property from fire.

(3) Nothing in this section:

(a) Requires permission for starting a campfire in a manner otherwise lawful.

(b) Relieves a person starting a fire from responsibility for providing adequate protection to prevent injury or damage to the property of another. If such burning results in the escape of fire and injury or damage to the property of another, such escape and damage or injury constitutes prima facie evidence that the burning was not safe.

(c) Relieves a person who has obtained permission to start a fire, or the agent of the person, from legal liability for property damage resulting from the fire.

(d) Permits an act within a city or regional air quality control authority area that otherwise is unlawful pursuant to an ordinance of the city or rule, regulation or order of the regional authority.

(4) The county court or board of county commissioners shall maintain records of all permits and the conditions thereof, if any, that are issued under this section and shall submit at such times, as the Environmental Quality Commission shall require such records or summaries thereof to the commission. The Environmental Quality Commission shall provide forms for the reports required under this subsection. [1967 c.420 §3; 1969 c.613 §2; 1971 c.563 §8; 1973 c.835 §164; 1975 c.635 §2; 1991 c.920 §21; 1997 c.473 §5]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.390 - Definition.**

As used in ORS 476.392 and 476.394, "defensible space" means a natural or human-made area in which material capable of supporting the spread of fire has been treated, cleared or modified to slow the rate and intensity of advancing wildfire and allow space for fire suppression operations to occur. [2021 c.592 §8]

Note:

476.390 to 476.398 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.392 - Minimum defensible space requirements; rules.**

(1) The State Fire Marshal shall establish minimum defensible space requirements for wildfire risk reduction on lands in areas identified on the statewide wildfire hazard map described in ORS 477.490 as within the wildland-urban interface.

(2) The State Fire Marshal:

(a) Shall consult with the Oregon Fire Code Advisory Board to establish the requirements.

(b) Shall establish requirements that are consistent with and do not exceed the standards pertaining only to defensible space that are set forth in the International Wildland-Urban Interface Code published by the International Code Council, including the standards pertaining only to defensible space that are set forth in sections 603 and 604 of the code.

(c) May consider best practices specific to Oregon in order to establish the requirements.

(d) Shall periodically reexamine the standards set forth in the International Wildland-Urban Interface Code and update the requirements to reflect current best practices, in consultation with the Oregon Fire Code Advisory Board.

(e) Shall enforce the requirements that are applicable to lands within the jurisdiction of a local government.

(f) Shall adopt rules governing administration of the requirements.

(g) May develop and apply a graduated fee structure for use in assessing penalties on property owners for noncompliance with the requirements.

(h) Shall consult on implementation of the requirements.

- (i) May adopt rules concerning reports by local governments described in subsection (4)(a) of this section.
  - (3) Subject to additional local requirements, the requirements shall apply statewide for all lands in the wildland-urban interface that are designated as being in the high wildfire hazard zone, as identified on the map.
  - (4) Notwithstanding subsection (2) of this section, a local government may:
    - (a) Administer, consult on and enforce the requirements established by the State Fire Marshal, within the jurisdiction of the local government. A local government that administers or enforces the requirements established by the State Fire Marshal shall periodically report to the State Fire Marshal regarding compliance with the requirements, including the extent of compliance for each property within the jurisdiction of the local government, any change in the degree of compliance since the last report and any other information required by the State Fire Marshal by rule.
    - (b) Adopt and enforce local requirements for defensible space that are greater than the requirements established by the State Fire Marshal. Any local requirements that a local government adopts for defensible space must be defensible space standards selected from the framework set forth in the International Wildland-Urban Interface Code or other best practices specific to Oregon.
    - (c) Designate local fire districts, fire departments or fire agencies to enforce the requirements established by the State Fire Marshal or the local government pursuant to paragraph (b) of this subsection. A local government that designates enforcement must comply with the reporting requirements in paragraph (a) of this subsection.
  - (5) The State Fire Marshal shall administer a community risk reduction program that emphasizes education and methods of prevention with respect to wildfire risk, enforcement of defensible space requirements, response planning and community preparedness for wildfires.
  - (6) The State Fire Marshal may provide financial, administrative, technical or other assistance to a local government to facilitate the administration and enforcement of requirements within the jurisdiction of the local government. A local government shall expend financial assistance provided by the State Fire Marshal under this subsection to give priority to the creation of defensible space:
    - (a) On lands on which members of socially and economically vulnerable communities, persons with limited proficiency in English and persons of lower income, as defined in ORS 456.055, reside.
    - (b) For critical or emergency infrastructure.
    - (c) For schools, hospitals and facilities that serve seniors. [2021 c.592 §8a; 2023 c.611 §3]
- Note:  
See note under 476.390.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.394 - Limitations on use of minimum defensible space requirements.**

- (1) The minimum defensible space requirements established by the State Fire Marshal pursuant to ORS 476.392 may not be used as criteria to approve or deny:
    - (a) An amendment to a local government's acknowledged comprehensive plan or land use regulations.
    - (b) A permit, as defined in ORS 215.402 or 227.160.
    - (c) A limited land use decision, as defined in ORS 197.015.
    - (d) An expedited land division, as defined in ORS 197.360.
  - (2) Notwithstanding subsection (1) of this section, a local government may:
    - (a) Amend the acknowledged comprehensive plan or land use regulations of the local government to include the requirements; and
    - (b) Use the requirements that are included in the amended acknowledged comprehensive plan or land use regulations as a criterion for a land use decision. [2021 c.592 §8b]
- Note:  
See note under 476.390.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.396 - Community Risk Reduction Fund.**

The Community Risk Reduction Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Community Risk Reduction Fund shall be credited to the fund. The fund shall consist of all moneys placed in the fund as provided by law and any gifts, grants, donations, endowments or bequests from any public or private source, including individuals and private organizations. Moneys in the fund are continuously appropriated to the State Fire Marshal for the purpose of carrying out community risk reduction and the local government financial assistance described in ORS 476.392. [2021 c.592 §9; 2023 c.611 §5]

Note:  
See note under 476.390.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.398 - Biannual reports.**

- (1) The State Fire Marshal shall biannually report regarding the status of State Fire Marshal and local government activities for carrying out ORS 476.392 to a committee or interim committee of the Legislative Assembly related to wildfire, in the manner provided in ORS 192.245, to the State Wildfire Programs Director and to the Wildfire Programs Advisory Council:

- (a) On or before the date of convening of the regular session of the Legislative Assembly as specified in ORS 171.010.
- (b) Approximately six months after the date described in paragraph (a) of this subsection.
- (2) The report shall include, but need not be limited to:
- (a) A status report regarding community risk reduction and the establishment, administration and enforcement of defensible space requirements;
- (b) The amount of moneys expended during the year for community risk reduction and the establishment, administration or enforcement of defensible space requirements;
- (c) The amount of moneys expended during the year for the suppression of fires on wildland-urban interface lands; and
- (d) Any recommendations of the State Fire Marshal for legislative action, including, but not limited to, current or future resource and funding needs for community risk reduction and establishing, administering or enforcing defensible space requirements. [2021 c.592 §10]
- Note:  
See note under 476.390.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.410 - Standard thread hose couplings and hydrant fittings required.**

All equipment for fire protection purposes purchased by state and municipal authorities, or any other authorities having charge of public property, shall be equipped with the standard thread for fire hose couplings and hydrant fittings as adopted by the State Fire Marshal under ORS 476.030. Prior to adopting any such standard, the State Fire Marshal may request from the Department of Public Safety Standards and Training consideration of and recommendations regarding the standard. [Amended by 1963 c.523 §8; 1973 c.667 §20; 1993 c.185 §29; 1997 c.13 §2; 1997 c.853 §43]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.420 - Standardization of existing fire protection equipment; exemption.**

The standardization of existing fire protection equipment in this state shall be arranged for and carried out by or under the direction of the State Fire Marshal who may proceed to make the changes necessary to standardize all existing fire protection equipment in this state. Prior to making any such change, the State Fire Marshal may request from the Department of Public Safety Standards and Training consideration of and recommendations regarding the change. The State Fire Marshal shall provide the appliances necessary for carrying on this work and shall proceed with such standardization as rapidly as possible and complete such work at the earliest date circumstances will permit. However, the State Fire Marshal may exempt from standardization special purpose fire equipment and existing fire protection equipment when it is established that such equipment is not essential to the coordination of public fire protection operations. The provisions of this section and ORS 476.440 shall not apply to fire protection equipment used under authority of ORS chapters 477 and 526. [Amended by 1965 c.602 §11; 1973 c.667 §21; 1993 c.185 §30; 1997 c.13 §3; 1997 c.853 §44]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.430 - Changing private equipment.**

The State Fire Marshal shall notify industrial establishments and property owners having equipment for fire protection purposes, which may be necessary for a fire department to use in protecting the property or putting out fire, of the changes necessary to bring their equipment up to the requirements of the standard established and shall render them such assistance as may be available in converting their defective equipment to standard requirements.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.440 - Sale of nonstandard equipment prohibited; exemption.**

No person shall sell or offer for sale in Oregon any fire hose, hydrant, fire engine or other equipment for fire protection purposes unless such equipment is fitted and equipped with the standard thread for fire hose couplings and hydrant fittings as has been adopted by the State Fire Marshal under ORS 476.030. Fire equipment for special purposes, research programs or special features of fire protection equipment found appropriate for uniformity within a particular protection area, may be exempted from this requirement by order of the State Fire Marshal. [Amended by 1963 c.523 §9; 1965 c.602 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.510 - Short title.**

ORS 476.510 to 476.610 shall be known as the Emergency Conflagration Act.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.515 - Other officers authorized to act when Governor unavailable.**

If the Governor is unavailable to make timely exercise of the authority under ORS 476.510 to 476.610, the Superintendent of State Police may exercise such authority, and if that individual is unavailable the State Fire Marshal may exercise such authority. Any

orders, rules or regulations issued by the Superintendent of State Police or the State Fire Marshal pursuant to this section have the same force and effect as if issued by the Governor. [1979 c.76 §5; 1987 c.414 §81; 1993 c.186 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.520 - Governor authorized to assign fire-fighting forces and equipment.**

The Governor may assign and make available for use and duty in any county, city or district, under the direction and command of an officer designated by the Governor for the purpose, any part of the fire-fighting forces and equipment of any fire-fighting organization in this state other than an organization that possesses only one self-propelled pumping unit. The Governor may make fire-fighting forces and equipment available under this section in response to fire, a heightened danger of fire or a significant reduction in available fire-fighting resources. [Amended by 2005 c.16 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.530 - Chief executive of political subdivision to assign forces and equipment; federal equipment.**

The chief executive of any county, city or fire protection district or the head of any fire department of any political subdivision, including agencies of this state, if so ordered by the Governor, shall assign and make available for duty and use in any county, city or fire district under the direction and command of such officer as may be designated by the Governor for the purpose, any part of the fire-fighting forces and equipment under the control of the chief executive or the head of the fire department, provided that any equipment made available by loan, or otherwise, to any county, city or fire district or this state by the United States or any agency thereof, shall at all times be subject to the order of the United States or such agency in accordance with the terms and conditions upon which the equipment is made available. [Amended by 1961 c.626 §1; 1979 c.76 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.540 - Powers and duties of fire-fighting forces.**

Whenever the fire-fighting forces of any county, city or fire district are rendering outside aid pursuant to ORS 476.520 or 476.530, the officers and members of such fire-fighting forces shall have the same powers, duties, rights, privileges and immunities as though they were performing their duties in the political subdivision in which they are normally employed.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.550 - Loss or damage to equipment.**

When any equipment is used pursuant to ORS 476.520 or 476.530 the state shall be liable for any loss thereof or damage thereto and shall pay any expense incurred in the operation or maintenance thereof. No claim for any such loss, damage or expense shall be allowed unless, within 60 days after it has been sustained or incurred, or within such extension of such time as may have been obtained from the Department of State Police, an itemized notice of such claim, under oath, is served by mail or personally upon the Department of State Police and such loss, damage or expense shall be payable from the Emergency Fund of the state. [Amended by 1979 c.76 §2; 1993 c.186 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.560 - Reimbursement for aid.**

Whenever aid is supplied pursuant to ORS 476.520 to 476.590, the state shall reimburse the political subdivision supplying such aid for the compensation paid to employees supplied under ORS 476.520 to 476.590 during the time the rendition of such aid prevents them from performing their duties in the political subdivision by which they are employed and shall defray the actual traveling and maintenance expenses of such employees while they are rendering such aid. "Employee" as used herein means, and the provisions of ORS 476.520 to 476.610 apply with equal effect to, all firefighters, whether paid, volunteer or call. [Amended by 1991 c.67 §145]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.565 - State Fire Marshal Mobilization Fund.**

- (1)(a) The State Fire Marshal Mobilization Fund is established in the State Treasury, separate and distinct from the General Fund.
  - (b) The State Fire Marshal Mobilization Fund consists of moneys appropriated by the Legislative Assembly for deposit in the fund, grant funds received by the Department of the State Fire Marshal from the Federal Emergency Management Agency, and other moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise.
  - (c) Moneys in the fund are continuously appropriated to the department for eligible mobilization costs incurred by the department and reimbursements pursuant to ORS 476.560.
- (2) As used in this section, "eligible mobilization costs" means expenses incurred for emergency mobilization and pre-positioning activities in Oregon. [2023 c.602 §51]

Note:

476.565 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 476 or any series

therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.570 - Appointment of substitute firefighters; recall of off-duty firefighters.**

Substitute firefighters or recalled off-duty firefighters within any county, city or fire district from which regular firefighters are taken under the provisions of ORS 476.530, not exceeding the number of regular firefighters, may be recalled or appointed by the same persons authorized by law to appoint regular firefighters, provided that substitute firefighters appointed shall not be subject to the requirements of the civil service law or rules and that such substitute firefighters shall not be entitled to any pension or retirement rights or privileges. The substitute firefighters appointed under this section shall have the powers, functions and duties of regular firefighters. Their compensation shall not be greater than the lowest rate of pay for regular firefighters. Persons appointed as substitute firefighters shall exercise their powers, functions and duties only when called upon, during the period all, or any part, of the regular fire-fighting forces of any county, city or fire district are rendering outside aid pursuant to ORS 476.520 or 476.530, and for no longer than two days after the return to duty of the part of the regular fire-fighting forces for which they are substituting. Compensation for recalled off-duty firefighters and substitute firefighters and any allowable expense necessarily incurred by them in the performance of their duties shall be charged against the county, city or fire district for which they were appointed and shall be audited, allowed and paid as other charges against it are audited, allowed and paid, and shall be subject to reimbursement by the state as provided in ORS 476.550 and 476.560. [Amended by 1979 c.76 §3; 1991 c.67 §146]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.574 - Leave of absence for volunteers; employment rights.**

(1) Upon request of an employee who is a volunteer firefighter of a rural fire protection district or a firefighter employed by a city or a private firefighting service to perform service pursuant to ORS 476.510 to 476.610, the employee, upon written notice by the employer, may be granted a leave of absence by the employer until release from such service permits the employee to resume the duties of employment.

(2) The regular employment position of an employee on leave of absence under this section shall be considered vacant only for the period of the leave of absence. The employee shall not be subject to removal or discharge from such position as a consequence of the leave of absence.

(3) Upon the termination of a leave of absence under this section, the employee shall be restored to the employee's position or an equivalent position by the employer without loss of seniority, vacation credits, sick leave credits, service credits under a pension plan or any other employee benefit or right that had been earned at the time of the leave of absence.

(4) An employer is not required to pay wages or other monetary compensation to an employee during a leave of absence under subsection (1) of this section.

(5) As used in this section:

(a) "Employee" means any individual, other than a copartner of the employer or an independent contractor, who renders personal services in this state to an employer who pays or agrees to pay wages or other compensation to the individual for those services.

(b) "Employer" means any person who employs one or more employees in this state. The term includes the State of Oregon or any county, city, district, authority, public corporation or entity and any of their instrumentalities organized and existing under law or charter, but does not include the federal government. [1997 c.266 §2]

Note:

476.574 and 476.576 were added to and made a part of 476.510 to 476.610 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.576 - Violation of job restoration rights of volunteers as unlawful employment practice.**

(1) Any violation of ORS 476.574 by an employer is an unlawful employment practice.

(2) Complaints alleging a violation of ORS 476.574 may be filed by employees with the Commissioner of the Bureau of Labor and Industries. The commissioner shall enforce ORS 476.574 in the manner provided in ORS chapter 659A for the enforcement of other unlawful employment practices.

(3) Any person claiming to be aggrieved by a violation of ORS 476.574 may bring a civil action in the manner provided in ORS 659A.885. [1997 c.266 §3; 2001 c.621 §81]

Note:

See note under 476.574.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.580 - Orders, rules and regulations.**

The Governor may make, amend and rescind such orders, rules and regulations as are necessary or advisable to carry out the

provisions of ORS 476.530 and 476.540. Any order issued by the Governor in relation to carrying out the provisions of ORS 476.520 to 476.610 may be either written or oral. If written, a copy thereof shall be filed in the office of the Secretary of State and another copy dispatched forthwith to the chief executive of any county, city or fire protection district affected. Immediately thereafter such order, rule or regulation shall be in effect. Oral orders may be made by the Governor when in the opinion of the Governor the emergency is such that delay in issuing a written order would be dangerous to the welfare of the people of the state. However, written copies of such oral order shall be filed and dispatched as soon after issuing such oral order as is conveniently possible in the manner above provided for written orders.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.590 - Preparation of plans by State Fire Marshal; advice and counsel to Governor.**

The State Fire Marshal, in consultation with the Director of the Oregon Department of Emergency Management, shall prepare plans for the effective carrying out of the provisions of ORS 476.520 to 476.610 and provide advice and counsel to the Governor for the most practical utilization under ORS 476.520 to 476.610 of the fire-fighting resources of this state. [Amended by 2005 c.16 §2; 2021 c.539 §24]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.600 - Liability for injury to person or property.**

Neither the state nor any county, city or fire district or other political subdivision nor any firefighter acting as the agent of any of the foregoing is liable for any injury to person or property resulting from the performance of any duty imposed by the authority of ORS 476.520 to 476.590. In carrying out the provisions of ORS 476.520 to 476.590 or while acting within the scope of any duty imposed by authority of the provisions of ORS 476.520 to 476.590, no person shall incur civil liability. A person does not, however, escape full liability for injury to person or property resulting from willful misconduct or gross negligence of the person. [Amended by 1991 c.67 §147; 2005 c.22 §357]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.610 - Payment of claims.**

The state shall draw warrants on the State Treasurer for the payment of all duly approved claims lawfully incurred in pursuance of ORS 476.520 to 476.600. [Amended by 1983 c.740 §189; 1993 c.186 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.615 - Urban search and rescue.**

(1) As used in this section, "urban search and rescue" means the provision of technical rescue services involving location, extrication and initial medical stabilization of victims trapped in an urban area, including from structures or trenches collapsed due to natural disaster, war, terrorism or accidents.

(2) The Department of the State Fire Marshal shall coordinate the urban search and rescue function of this state, including:

(a) Coordinating the activities of local, state and federal agencies involved in urban search and rescue;

(b) Establishing liaison with public and private organizations and agencies involved in urban search and rescue, including fire service providers and county sheriffs;

(c) Assisting in developing training and education programs; and

(d) Gathering and disseminating resource information of personnel, equipment and materials available for urban search and rescue.

(3) The department, on behalf of the State of Oregon, may solicit and accept gifts, grants, donations and other moneys from public and private sources for urban search and rescue purposes. Moneys received from such sources must be deposited in the State Fire Marshal Fund established under ORS 476.055 and used for purposes related to urban search and rescue, subject to any restrictions or conditions established by the sources of such moneys. [2023 c.305 §2]

Note:

Sections 5 and 6, chapter 305, Oregon Laws 2023, provide:

Sec. 5.

(1) The Department of the State Fire Marshal shall study the needs of this state related to urban search and rescue, as defined in section 2 of this 2023 Act [476.615].

(2) The study must include:

(a) An assessment of the organization structure needed for urban search and rescue; and

(b) Recommendations for funding urban search and rescue in this state.

(3) The department shall submit a report in the manner provided by ORS 192.245, and may include recommendations for legislation, to the interim committees of the Legislative Assembly related to emergency management no later than September 15, 2024. The department shall prepare to testify as to its findings before the appropriate committees of the Legislative Assembly during the 2024 regular session. [2023 c.305 §5]

Sec. 6.



Section 5 of this 2023 Act is repealed on January 2, 2025. [2023 c.305 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.680 - Governor's Fire Service Policy Council; membership; terms; duties.**

(1) There is created the Governor's Fire Service Policy Council. The council shall include the following nonvoting ex officio members:

(a) The Superintendent of State Police; and

(b) The Director of the Department of Public Safety Standards and Training, or a designee thereof.

(2) The State Fire Marshal shall serve as executive director of the council, but is not a member. The council shall meet at least quarterly. The council shall select a chairperson and vice chairperson at the first council meeting of each odd-numbered year. The council may elect additional officers as the council determines to be reasonable and necessary.

(3) In addition to the ex officio members identified in subsection (1) of this section, the Governor may designate a representative of the Governor to serve as a nonvoting member. The Governor may also appoint not more than nine members to serve on the council for three-year terms. Initial terms of the appointed members may be adjusted to promote council stability. An appointed member may not serve more than two consecutive terms. A member appointed by the Governor must be a representative of one of the following:

(a) The Oregon Fire Chiefs Association or a successor or other organization representing fire chiefs.

(b) The Oregon Fire District Directors Association or a successor or other organization representing fire district directors.

(c) The Oregon Fire Marshals Association or a successor or other organization representing fire marshals.

(d) Property and casualty insurance providers.

(e) Employees of the Department of the State Fire Marshal.

(f) The Oregon State Fire Fighters Council or a successor or other organization representing professional firefighters.

(g) The Oregon Volunteer Firefighters Association or a successor or other organization representing volunteer firefighters.

(h) The League of Oregon Cities or a successor or other organization representing municipalities.

(i) The general public.

(4) Notwithstanding the term of office specified in subsection (3) of this section, the initial term of a member appointed by the Governor may be adjusted to limit the number of member terms expiring in the same year.

(5) To the extent funding is available from moneys appropriated to the Department of the State Fire Marshal, a member of the council is entitled to compensation and expenses as provided in ORS 292.495.

(6) The council shall advise the Governor and the Superintendent of State Police on fire policy issues and serve in an advisory capacity to the State Fire Marshal on strategies for the implementation of fire and life safety issues. The council may initiate advice to the State Fire Marshal, the Superintendent of State Police and the Governor on any matter related to the mission of the council. The council may not participate in the discussion of traditional labor relations issues.

(7) The Department of the State Fire Marshal shall provide staff services to the council. All agencies, departments and officers of this state are directed to assist the council in the performance of its functions and to furnish information and advice as the council considers necessary. [2001 c.647 §1; 2011 c.9 §66; 2021 c.539 §131]

Note:

476.680 and 476.685 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.685 - Biennial reports.**

The Governor's Fire Service Policy Council shall provide a biennial report to the Governor on the overall performance of the Department of the State Fire Marshal. The report shall identify significant successes and improvement opportunities. [2001 c.647 §2; 2021 c.539 §132]

Note:

See note under 476.680.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.687 - State Wildfire Programs Director.**

(1) The Governor shall appoint a State Wildfire Programs Director to serve at the pleasure of the Governor.

(2) The duties of the director shall include:

(a) Overseeing implementation of requirements and authorization provided by chapter 592, Oregon Laws 2021.

(b) Coordinating and integrating activities of state agencies and other entities that are required or authorized by chapter 592, Oregon Laws 2021, in order to optimize the efficiency and effectiveness of the activities.

(c) Ensuring compliance with deadlines set out in chapter 592, Oregon Laws 2021.

(d) Monitoring and assessing any financial impacts of the activities on local jurisdictions and the equity of those financial impacts among the jurisdictions.

- (e) Supervising staffing of the Wildfire Programs Advisory Council.
- (f) Reporting at least every 60 days to the Governor, the President of the Senate, the Speaker of the House of Representatives and the chairs of relevant committees and interim committees of the Legislative Assembly to summarize progress on implementing the activities, note obstacles and opportunities and catalog possibilities for future improvements to further reduce wildfire risk in this state.
- (g) Exploring additional opportunities to reduce wildfire risk, including but not limited to engaging with:
  - (A) Insurance companies regarding insurance policy coverage provisions, underwriting standards, insurance rates and any other topics relevant to enhancing the protection of property from wildfire at a reasonable cost.
  - (B) Electric utilities regarding further actions to protect public safety, reduce risk to electric company customers and promote electrical system resilience to wildfire damage.
  - (C) Congressional delegations and federal agencies to expand opportunities for cost-share partnerships for wildfire mitigation and develop strategies for improvements to federal fire management policies.
- (h) Collaborating with the State Resilience Officer and participating in any relevant emergency preparedness advisory councils.

[2021 c.592 §35]

Note:

476.687 and 476.690 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note:

Legislative Counsel has substituted "chapter 592, Oregon Laws 2021," for the words "this 2021 Act" in section 35, chapter 592, Oregon Laws 2021, compiled as 476.687. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 2021 Comparative Section Table located in Volume 22 of ORS.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.690 - Wildfire Programs Advisory Council.**

- (1) As used in this section, "defensible space" has the meaning given that term in ORS 476.390.
- (2) There is established a Wildfire Programs Advisory Council to advise and assist the State Wildfire Programs Director by:
  - (a) Closely monitoring implementation of activities related to wildfire prevention and response, including receiving and evaluating agency reports related to wildfire prevention and response.
  - (b) Providing advice on potential changes to the activities in order to fulfill the goal of dramatically reducing wildfire risk in this state and ensuring that regional defensible space, building codes and land use applications are appropriate.
  - (c) Strengthening intergovernmental and multiparty collaboration and enhancing collaboration between governments and stakeholders on an ongoing basis.
  - (d) Developing strategies to enhance collaboration among governmental bodies and the general public.
  - (e) Assessing ways the statewide wildfire hazard map described in ORS 477.490 may inform development of building codes and land use laws, rules and decisions, in a regionally appropriate manner.
  - (f) Assessing the application of defensible space requirements to vineyards, crops and other cultivated vegetation.
  - (g) Reviewing Department of Land Conservation and Development findings and recommendations in the report required by section 11, chapter 592, Oregon Laws 2021, and making additional recommendations related to potential updates to the statewide land use planning program, local comprehensive plans and zoning codes to incorporate wildfire hazard maps and minimize wildfire hazards to people, public and private property, businesses, infrastructure and natural resources.
- (3) The council is not a decision-making body but instead is established to provide advice, assistance, perspective, ideas and recommendations to the State Wildfire Programs Director.
- (4) The President of the Senate and Speaker of the House of Representatives shall jointly appoint 19 members to the council as follows:
  - (a) One member who represents county government.
  - (b) One member who is a land use planning director of a county that is wholly or partially within the wildland-urban interface.
  - (c) One member who represents city government.
  - (d) One member who is a land use planning director of a city that is wholly or partially within the wildland-urban interface.
  - (e) One member who represents fire chiefs and has experience with managing, fighting or preventing fire within the wildland-urban interface.
  - (f) One member who represents fire marshals and has experience with managing, fighting or preventing fire within the wildland-urban interface.
  - (g) One member who represents firefighters and has experience with managing, fighting or preventing fire within the wildland-urban interface.
  - (h) One member who represents rural residential property owners whose property is wholly or partially within the wildland-urban interface.
  - (i) One member who represents farming property owners whose property is wholly or partially within the wildland-urban interface.
  - (j) One member who represents ranching property owners whose property is wholly or partially within the wildland-urban interface.

- (k) One member who represents forestland owners whose property is wholly or partially within the wildland-urban interface.
- (L) One member who represents federally recognized Indian tribes with land wholly or partially within the wildland-urban interface.
- (m) One member who represents a utility company.
- (n) One member who represents environmental interests.
- (o) One member who represents forest resiliency interests.
- (p) One member who represents state or regional land use planning organizations.
- (q) One member who represents land and housing development interests or real estate industry interests.
- (r) One member who represents public health professionals.
- (s) One member who represents the environmental justice community.
- (5) The presiding officers shall provide public notice of an opportunity for interested parties to submit names of interest for appointment to the council.
- (6) At least seven days before appointing a member, the presiding officers shall consult in good faith with the minority leaders of the Senate and House of Representatives on the appointment.
- (7) The term of service for each member is four years.
- (8) The members are eligible for reappointment.
- (9) The council shall elect a chairperson and vice chairperson to serve for one-year terms.
- (10) The members shall serve on the council as volunteers and are not entitled to reimbursement for expenses.
- (11) The Department of Consumer and Business Services, Department of Land Conservation and Development, Department of the State Fire Marshal and State Forestry Department shall each provide 15 percent of the time of a full-time equivalent employee to:
  - (a) Cooperatively staff the council.
  - (b) Attend council meetings as informational resources.
  - (c) Assist with drafting reports at the request of the council.
  - (d) Support the work of the State Wildfire Programs Director.
- (12) The Oregon State University Extension Service shall designate a person to serve as staff for the council.
- (13) Each October the council shall submit a report to the Governor and appropriate committees or interim committees of the Legislative Assembly that describes progress on implementing program activities related to defensible space, building codes, land use and community emergency preparedness and that recommends improvements. [2021 c.592 §36; 2023 c.611 §8]

Note:

See first note under 476.687.

Note:

Section 38, chapter 592, Oregon Laws 2021, provides:

Sec. 38.

Notwithstanding section 36 (7) of this 2021 Act [476.690 (7)], the term of service for the members first appointed from each category described in section 36 (4)(a), (c), (e), (g), (i), (k), (m), (o), (q) and (s) of this 2021 Act is three years. [2021 c.592 §38]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.694 - Oregon Conservation Corps Program.**

- (1) The Oregon Conservation Corps Program is established for the purposes of:
  - (a) Reducing the risk wildfire poses to communities and critical infrastructure.
  - (b) Helping to create fire-adapted communities.
  - (c) Engaging youth and young adults in workforce training.
- (2) Youth and young adults between 16 years of age and 26 years of age who have been qualified by a youth development organization may participate in projects undertaken by the corps.
- (3) Notwithstanding any contrary provision of law, participants in projects undertaken by the corps:
  - (a) Are not employees of the corps.
  - (b) Are exempt from prevailing wage laws.
  - (c) Must receive compensation for their participation of at least minimum wage or an allowance or stipend that, when combined with other sources of payment the participant is eligible to receive, including academic credit or an AmeriCorps education award, is equivalent to the value of minimum wage. [2021 c.592 §21; 2022 c.85 §3]

Note:

476.694 to 476.698 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.696 - Oregon Conservation Corps Advisory Committee.**

- (1) As used in this section:
  - (a) "Eligible organization" includes Oregon-based nonprofit youth development organizations, federally recognized Indian tribes in this state, nonprofit associations engaged in workforce development and public entities that provide programs of job training, skill development and forest-related or rangeland-related career path training.

- (b) "Tribe" means a federally recognized Indian tribe in Oregon.
- (2) The Oregon Youth Works Advisory Board created under ORS 660.320 shall, in collaboration with a qualified nonprofit foundation, actively seek and source private donations to support the Oregon Conservation Corps Program.
- (3) The advisory board may direct the expenditure of moneys from the Oregon Conservation Corps Fund for a promotional website and materials to solicit private funds.
- (4) The advisory board shall advise the Higher Education Coordinating Commission on the implementation of a grant process that:
- (a) Provides funding to support the work conducted by the Oregon Conservation Corps Program.
- (b) Defines and uses an equity lens in awarding grants by identifying and supporting populations with greater vulnerability, including communities of color, indigenous communities, communities with members who have limited proficiency in English and communities with lower-income members.
- (c) Awards grants to eligible organizations.
- (d) Ensures that grant awards support activities described in ORS 476.694 (1) and subsection (5) of this section.
- (e) Establishes guidelines for prioritizing grant-supported projects to reduce community fire risks, promote youth and young adult workforce development and educational experiences and reduce hazardous fuels.
- (5) The commission shall consult with the State Forestry Department to ensure that the grant process awards funds to proposals that:
- (a) Protect at-risk communities and infrastructure within the wildland-urban interface, as described in ORS 477.503.
- (b) Meet standards for fuel treatment established by the department.
- (6) The advisory board shall biennially submit a report, on the timeline described in ORS 293.640, to an appropriate committee or interim committee of the Legislative Assembly, as described in ORS 192.245, and to the State Wildfire Programs Director and Wildfire Programs Advisory Council, regarding the expenditure of moneys deposited in the Oregon Conservation Corps Fund. [2021 c.592 §22; 2023 c.556 §6; 2023 c.557 §5]

Note:

See note under 476.694.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.698 - Oregon Conservation Corps Fund.**

- (1) The Oregon Conservation Corps Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Conservation Corps Fund shall be credited to the fund.
- (2) The fund may receive contributions from individuals and private organizations.
- (3) Moneys in the fund are continuously appropriated to the Higher Education Coordinating Commission to be used as directed by the Oregon Youth Works Advisory Board created under ORS 660.320 and for related administrative expenses of the commission.
- (4) The commission shall keep records of all moneys credited to and deposited in the fund and the activity or program against which each withdrawal from the fund is charged. [2021 c.592 §23; 2023 c.556 §7]

Note:

See note under 476.694.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.710 - Setting fires adjacent to structures or timber on ocean shore prohibited; exceptions.**

No person shall set or permit any fire on the Pacific Ocean shore, declared to be a state recreation area under ORS 390.615, adjacent to any structure or any timber or forest area except pursuant to rule, regulation or permit of or from the State Parks and Recreation Department. [Amended by 1965 c.368 §7; 1989 c.904 §65]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.715 - Throwing away of lighted matches, cigarettes and other materials prohibited; posting copy of section in public conveyances.**

No one shall, at any time, throw away any lighted tobacco, cigars, cigarettes, matches or other lighted material, on any forestland, private road, public highway or railroad right of way within this state. Everyone operating a public conveyance shall post a copy of this section in a conspicuous place within the smoking compartments of such conveyance. [Formerly 477.164]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.720 - Certain remedial statutes to be construed liberally.**

ORS 476.010 to 476.090, 476.155 to 476.170, 476.210 to 476.270, 476.990 (1)(a) and 479.168 to 479.190 are remedial in nature and shall be construed liberally. [Amended by 2011 c.97 §2; 2023 c.347 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.725 - Statewide standards for residential carbon monoxide alarms; rules.**

- (1) The State Fire Marshal shall adopt rules establishing minimum standards for carbon monoxide alarms in one and two family dwellings and multifamily housing. The rules adopted by the State Fire Marshal may include, but need not be limited to, rules establishing minimum standards for the design, inspection, testing and maintenance of carbon monoxide alarms.
- (2) The State Fire Marshal shall adopt rules establishing standards for the placement and location of carbon monoxide alarms in one and two family dwellings and multifamily housing that were not subject to state building code requirements for carbon monoxide alarm placement or location at the time of construction.
- (3) In adopting rules under this section, the State Fire Marshal shall give consideration to state building code requirements and any standards adopted by national safety organizations.
- (4) Notwithstanding ORS 476.030, State Fire Marshal rules adopted under this section shall apply for all governmental subdivisions in the state. A governmental subdivision, as defined in ORS 476.005 may not enact or enforce any local ordinance, rule or regulation regarding the design, inspection, testing, maintenance, placement or location of carbon monoxide alarms. [2009 c.591 §4]

Note:

476.725 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.730 - Notice prior to release or after escape of arsonist from state institution.**

- (1) The superintendent of each Department of Corrections institution of this state and of each institution for persons with mental illness shall, prior to the release, or immediately after the escape, from such institution of any person committed to such institution for arson or arsonist activity, notify the State Fire Marshal and the Department of State Police except that such notice shall not be required when such persons are on approved leave from such institutions for periods of not to exceed 10 days. The notice shall state the name of the person to be released or who has escaped, the county in which the person was convicted or from which the person was committed and, if known, the address or locality at which the person will reside.
- (2) Promptly upon receipt of the notice, the State Fire Marshal and the Department of State Police shall notify respectively the fire departments and rural fire protection districts who maintain full-time personnel and the sheriff and police departments of the county in which the person was convicted or from which the person was committed and the county, if known, in which the person will reside. [1957 c.245 §§1,2; 1959 c.26 §1; 1965 c.602 §16; 1987 c.320 §237; 2007 c.70 §271]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.735 - Sky lantern prohibition.**

- (1) As used in this section, "sky lantern" means an unmanned self-contained luminary device that uses heated air produced by an open flame or produced by another source to become or remain airborne.
- (2) A person may not release a sky lantern into the airspace of this state.
- (3) Violation of this section is a Class A violation.
- (4) In addition to any enforcement officer specifically identified in ORS 153.005, a citation for a violation of this section may be issued by:
  - (a) The State Fire Marshal, employees of the Department of the State Fire Marshal or assistants to the State Fire Marshal as described in ORS 476.040 or 476.060;
  - (b) The Director of the Oregon Department of Aviation or employees specifically designated by the director under ORS 837.100 to enforce violations;
  - (c) The State Forester or the State Forestry Department, or any employee specifically designated by the State Forester or the department under ORS 477.985 to enforce violations; or
  - (d) The State Parks and Recreation Director or any State Parks and Recreation Department employee specifically designated by the director under ORS 390.050 to enforce violations. [2016 c.123 §1; 2021 c.539 §133]

Note:

476.735 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.755 - Definitions for ORS 476.755 to 476.790 and 476.995.**

As used in ORS 476.755 to 476.790 and 476.995:

- (1) "Cigarette" means a roll for smoking:
  - (a) That is made wholly of tobacco, or of tobacco and any other substance, regardless of size, shape or flavoring or adulteration by or mixing with other ingredients, the wrapper of which is made of paper or other nontobacco materials; and
  - (b) That, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette.
- (2) "Distribute" means to do any of the following:
  - (a) Sell cigarettes or deliver cigarettes for sale by another person to consumers.

- (b) Receive or retain more than 199 cigarettes at a place of business where the person receiving or retaining the cigarettes customarily sells cigarettes or offers cigarettes for sale to consumers.
- (c) Place cigarettes in vending machines.
- (d) Sell or accept orders for cigarettes that are to be transported from a point outside this state to a consumer within this state.
- (e) Buy cigarettes directly from a manufacturer or wholesale dealer for resale in this state.
- (f) Give cigarettes as a sample, prize, gift or other promotion.
- (3) "Manufacturer" means:
  - (a) An entity that produces, or causes the production of, cigarettes for sale in this state;
  - (b) An importer or first purchaser of cigarettes that intends to resell within this state cigarettes that were produced for sale outside this state; or
  - (c) A successor to an entity, importer or first purchaser described in paragraph (a) or (b) of this subsection.
- (4) "Packaging" includes, but is not limited to, cigarette soft packs, boxes, cartons and cases.
- (5) "Quality control and assurance program" means laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors and equipment-related problems do not affect the results of testing.
- (6) "Reduced ignition propensity" means meeting the fire safety performance standard described in ORS 476.770 (6).
- (7) "Repeatability" means the range of values within which the repeat results of ignition propensity testing by a single laboratory will fall 95 percent of the time.
- (8) "Retail dealer" means a person, other than a manufacturer or wholesale dealer, that engages in distributing cigarettes.
- (9) "Sell" means to transfer, or agree to transfer, title or possession for a monetary or nonmonetary consideration.
- (10) "Variety" means a type of cigarette marketed by the manufacturer as being distinct from other types of cigarettes on the basis of brand name, length, filter, wrapping, flavoring or other characteristics as the State Fire Marshal may provide by rule.
- (11) "Wholesale dealer" means a person that distributes cigarettes to:
  - (a) A retail dealer or other person for resale; or
  - (b) A person that owns, operates or maintains cigarette vending machines on premises owned or operated by another person. [2007 c.34 §1]

Note:

476.755 to 476.806 and 476.995 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.760 - Prohibition against distributing or offering certain cigarettes; improper packaging markings; seizure and forfeiture; interagency agreements; inspections; rules.**

- (1) A person may not distribute or offer to sell a cigarette within this state unless the cigarette is of a variety the State Fire Marshal has determined to have reduced ignition propensity.
- (2) Cigarette packaging may not bear a marking or other device identifying the packaged cigarettes as having reduced ignition propensity other than a packaging marking approved for use with those cigarettes by the State Fire Marshal under ORS 476.785. This subsection does not apply if the cigarettes are in interstate commerce and not intended for distribution in this state.
- (3) The State Fire Marshal, an authorized representative of the State Fire Marshal or any law enforcement agency may immediately seize and subject to forfeiture any cigarettes distributed or offered for sale in violation of subsection (1) of this section and any packaging, and cigarettes contained in that packaging, that violates subsection (2) of this section. The State Fire Marshal shall destroy cigarettes and packaging seized and forfeited under this subsection. However, prior to destroying cigarettes or packaging seized under this subsection, the State Fire Marshal shall allow the true holder of the trademark rights in the cigarette variety to inspect the cigarettes and packaging.
- (4) The State Fire Marshal may enter into a cooperative agreement with any state or local agency that allows the agency to act as an authorized representative of the State Fire Marshal for enforcement purposes under this section.
- (5)(a) The State Fire Marshal or an authorized representative, upon oral or written demand, may inspect the inventory of cigarette manufacturers, wholesale or retail dealers and transporters as the State Fire Marshal or an authorized representative deems necessary to ensure compliance with this section. The State Fire Marshal may adopt rules to require reports, in a form prescribed by the State Fire Marshal, by cigarette manufacturers, wholesale or retail dealers and transporters for the purpose of ensuring compliance with this section.
- (b) As used in this subsection, "transporter" has the meaning given that term in ORS 323.010. [2007 c.34 §2]

Note:

See note under 476.755.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.765 - Imposition of civil penalties; bringing of actions.**

- (1) The State Fire Marshal shall impose civil penalties under ORS 476.995 in the manner provided by ORS 183.745.
- (2) The Attorney General may bring an action at the request of the Department of the State Fire Marshal, in the name of the state, seeking:

- (a) Injunctive relief to prevent or end a violation of ORS 476.760;
- (b) To recover civil penalties imposed under ORS 476.995; or
- (c) To recover attorney fees and other enforcement costs and disbursements. [2007 c.34 §4; 2021 c.539 §134]

Note:

See note under 476.755.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.770 - Determination of cigarette variety ignition propensity; reduced ignition propensity standard; listing; cigarette design; rules.**

- (1) For each variety of cigarette sold or proposed for sale in this state, the State Fire Marshal shall determine whether that variety of cigarette has reduced ignition propensity.
- (2) Any cigarette variety certified by a manufacturer under ORS 476.780 shall be determined to have reduced ignition propensity.
- (3) Except as provided in this section, ignition propensity testing certified, conducted or accepted by a manufacturer or the State Fire Marshal must be performed using ASTM International specification E2187-04, Standard Test Method for Measuring the Ignition Strength of Cigarettes. The ignition propensity testing must be conducted on 10 layers of filter paper. Forty replicate tests shall constitute a complete test trial for each cigarette variety tested. The fire safety performance standard described in subsection (6) of this section applies only to a completed test trial.
- (4) The State Fire Marshal may adopt an ignition propensity testing method developed by ASTM International as a modification or replacement of the method designated by subsection (3) of this section if the State Fire Marshal, by rule, deems the modified or replacement method acceptable for determining cigarette fire safety. However, the State Fire Marshal may not adopt a modified or replacement method that in repeated testing results in a change in the percentage of cigarettes exhibiting full-length burns from the percentage produced on the same variety of cigarettes by use of the ASTM E2187-04 method or that otherwise affects the ability of the cigarette to meet the fire safety performance standard described in subsection (6) of this section.
- (5) If the State Fire Marshal determines that ignition propensity testing cannot be performed on a cigarette using a method described in subsection (3) or (4) of this section, the manufacturer may propose an alternative testing method and an alternative fire safety performance standard for the variety. If the State Fire Marshal approves the alternative testing method and determines that the alternative fire safety performance standard is equivalent to the fire safety performance standard described in subsection (6) of this section, the manufacturer may use the alternative testing method and the alternative fire safety performance standard for the purpose of certifying the variety of cigarette under ORS 476.780. Except as provided under the approved alternative testing method and the alternative fire safety performance standard, a cigarette variety described in this subsection remains subject to ORS 476.755 to 476.790 and 476.995.
- (6) For a cigarette variety to be declared to have reduced ignition propensity, no more than 25 percent of the cigarettes in a complete test trial conducted in accordance with an ignition propensity testing method described in this section shall exhibit full-length burns.
- (7) The State Fire Marshal shall issue, keep current and make available to the public a list of the cigarette varieties the State Fire Marshal has determined to have reduced ignition propensity.
- (8) A cigarette listed in a certification under ORS 476.780 that uses lowered permeability bands in the cigarette paper to achieve compliance with the fire safety performance standard described in subsection (6) of this section must have at least two nominally identical bands on the paper surrounding the tobacco column. If the bands are not positioned on the cigarette by design, at least one complete band must be at least 15 millimeters from the lighting end of the cigarette. If the bands are positioned on the cigarette by design, the cigarette must have at least two bands that are entirely located at least 15 millimeters from the lighting end and:
  - (a) If the cigarette is filtered, that are located at least 10 millimeters from the filter end of the tobacco column; or
  - (b) If the cigarette is nonfiltered, that are located at least 10 millimeters from the labeled end of the tobacco column. [2007 c.34 §5]

Note:

See note under 476.755.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.775 - Laboratories; ignition propensity testing.**

- (1) A laboratory that conducts ignition propensity testing for purposes of ORS 476.770 must have a quality control and assurance program. The program shall be designed to ensure the testing repeatability value for all test trials used to certify a cigarette variety. The repeatability value of ignition propensity testing may not be greater than 0.19.
- (2) Ignition propensity testing used in a manufacturer certification submitted under ORS 476.780 must be conducted in a laboratory that has been accredited under:
  - (a) The ISO/IEC 17025 standard of the International Organization for Standardization, as amended and in effect on April 17, 2007; or
  - (b) A standard recognized in State Fire Marshal rules as comparable to prevailing international accreditation standards. [2007 c.34 §6]

Note:

See note under 476.755.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.780 - Cigarette variety certification by manufacturer; retesting; record retention; unfavorable determination by State Fire Marshal.**

(1) A manufacturer shall submit a written certification attesting that each variety of cigarette listed in the certification has been subjected to ignition propensity testing described in ORS 476.770 and meets the fire safety performance standard described in ORS 476.770 (6).

(2) The certification shall provide the following information for each variety of cigarette listed:

- (a) The brand name shown on the cigarette packaging.
- (b) The style, such as light or ultralight.
- (c) The length in millimeters.
- (d) The circumference in millimeters.
- (e) The flavor, such as menthol or chocolate, if applicable.
- (f) Whether the cigarette is filtered or nonfiltered.
- (g) A packaging description, such as soft pack or box.
- (h) A description of the packaging marking approved by the State Fire Marshal under ORS 476.785.
- (i) The name, address and telephone number of the laboratory conducting the ignition propensity testing, if other than the laboratory of the manufacturer.
- (j) The date of the ignition propensity testing.

(3) The certification of a cigarette variety is valid for three years from the date of receipt by the State Fire Marshal.

(4) If the manufacturer certifies a cigarette variety and later makes any change that is likely to alter the cigarette variety's compliance with the fire safety performance standard described in ORS 476.770 (6), before distributing the changed cigarette variety in this state the manufacturer shall retest the ignition propensity of that variety. Notwithstanding subsection (3) of this section, a manufacturer may not sell a cigarette variety described in this subsection unless that variety continues to meet the fire safety performance standard described in ORS 476.770 (6).

(5) A manufacturer shall retain copies of all ignition propensity test data for cigarette varieties listed in the certification, including any retesting performed under subsection (4) of this section. The manufacturer shall retain the test data for not less than three years. The manufacturer shall provide copies of the test data upon request to the State Fire Marshal and to the Attorney General. Failure of a manufacturer to provide copies of ignition propensity test data requested by the State Fire Marshal or the Attorney General creates a rebuttable presumption that a cigarette variety does not meet the fire safety performance standard described in ORS 476.770 (6).

(6) The State Fire Marshal may determine that a cigarette variety certified under this section does not have reduced ignition propensity only if:

- (a) The test data provided to the State Fire Marshal by the manufacturer demonstrate that the cigarette variety does not meet the fire safety performance standard described in ORS 476.770 (6); or
- (b) The State Fire Marshal conducts ignition propensity testing on the cigarette variety and the test results demonstrate that the cigarette variety does not meet the fire safety performance standard described in ORS 476.770 (6).

(7) Ignition propensity testing by the State Fire Marshal under subsection (6) of this section shall be conducted in accordance with the testing requirements applicable to manufacturers by a laboratory meeting the requirements described under ORS 476.775.

(8) Upon a determination by the State Fire Marshal under subsection (6) of this section, the State Fire Marshal may seek the remedies described in ORS 476.765. [2007 c.34 §7]

Note:

See note under 476.755.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.785 - Cigarette packaging markings.**

(1) A manufacturer shall place a single type of marking on all packaging for cigarettes of the manufacturer sold in this state to indicate that cigarettes of the manufacturer sold in this state meet the fire safety performance standard established in ORS 476.770 (6).

(2) A manufacturer shall submit to the State Fire Marshal a proposal for marking cigarette packaging. The proposed marking must be in an eight-point font or larger and consist of one of the following:

- (a) Modification of the universal product code to indicate a visible mark printed at or around the universal product code. The mark may consist of alphanumeric or symbolic characters permanently printed, stamped, engraved or embossed in conjunction with the universal product code.
- (b) A visible combination of alphanumeric or symbolic characters permanently stamped, engraved or embossed upon the packaging or cellophane wrapping.
- (c) Printed, stamped, engraved or embossed text indicating that the cigarettes meet the fire safety performance standard established in ORS 476.770 (6).

(3) The State Fire Marshal shall approve or disapprove the proposal for packaging marking. In determining whether to approve or disapprove a proposal for packaging marking, the State Fire Marshal:



- (a) Shall give preference to packaging marking that is consistent with the packaging marking in use and approved for that cigarette variety in the State of New York; and
- (b) Shall approve packaging marking that bears the letters "FSC."
- (4) A proposal for packaging marking is approved unless the State Fire Marshal disapproves the proposal on or before the 10th day after receipt. The approved packaging marking may be used for the cigarette variety upon receipt by the State Fire Marshal of the manufacturer certification for that variety under ORS 476.780.
- (5) A manufacturer may not modify the approved packaging marking unless the modification has been submitted to and approved by the State Fire Marshal. [2007 c.34 §8]

Note:

See note under 476.755.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.790 - Providing copies of cigarette certification and illustration of packaging markings.**

(1) A manufacturer selling cigarettes to a wholesale dealer in this state shall provide the wholesale dealer with a copy of the certification for those cigarettes submitted to the State Fire Marshal under ORS 476.780. The manufacturer shall also provide the wholesale dealer with copies of an illustration of the packaging marking required under ORS 476.785. The manufacturer shall supply copies of the illustration to the wholesale dealer in sufficient number to allow one copy for each retail dealer receiving the cigarettes from the wholesale dealer.

(2) A wholesale dealer shall provide a copy of the illustration described in subsection (1) of this section to each retail dealer that receives cigarettes of the manufacturer from the wholesale dealer. A wholesale dealer is not required to provide a retail dealer of the cigarettes of a manufacturer with more than one copy of the illustration for that manufacturer. [2007 c.34 §9]

Note:

See note under 476.755.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.795 - Interpretation of ORS 476.755 to 476.790 and 476.995.**

The interpretations given to the New York Fire Safety Standards for Cigarettes (Part 429, Title 19, New York Environmental Conservation Rules and Regulations) shall be persuasive authority in the interpretation of ORS 476.755 to 476.790 and 476.995. [2007 c.34 §12]

Note:

See note under 476.755.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.800**

[1973 c.667 §1; 1977 c.104 §3; renumbered 476.055]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.801 - Cigarette varieties not subject to ORS 476.755 to 476.790 and 476.995.**

ORS 476.755 to 476.790 and 476.995 do not apply to any cigarette variety that the State Fire Marshal determines is subject to a federal law that imposes a cigarette fire safety performance standard that is at least as strict as the standard imposed under ORS 476.770. [2007 c.34 §13]

Note:

See note under 476.755.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.806 - Cigarette Fire Safety Fund.**

(1) The Cigarette Fire Safety Fund is established in the State Treasury, separate and distinct from the General Fund. The Cigarette Fire Safety Fund shall consist of all moneys recovered from the imposition of civil penalties under ORS 476.995. Interest earned by the Cigarette Fire Safety Fund shall be credited to the fund.

(2) All moneys in the fund are continuously appropriated to the Department of the State Fire Marshal for fire safety, enforcement and fire prevention programs. [2007 c.34 §14; 2021 c.539 §135]

Note:

See note under 476.755.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.831 - Definitions for ORS 476.831 to 476.856.**

As used in ORS 476.831 to 476.856:

- (1) "Audio effects" includes music, animal sounds and whistles, buzzers, beepers or other noises not pertinent to the flame-producing function of the lighter.
- (2) "Distribute" means to:
  - (a) Deliver to a person other than the purchaser; or
  - (b) Provide as part of a commercial promotion or as a prize or premium.
- (3) "Importer" means a person who causes a lighter to enter this state from a manufacturing, wholesale, distribution or retail sales point outside this state, for the purpose of selling or distributing the lighter within this state or with the result that the lighter is sold or distributed within this state.
- (4) "Lighter" means a handheld device of a type typically used for igniting tobacco products by use of a flame.
- (5) "Misleading design" means that a lighter has a shape that resembles or imitates an object other than a lighter.
- (6) "Novelty lighter":
  - (a) Means a lighter that has misleading design, audio effects or visual effects, or that has other features of a type that would reasonably be expected to make the lighter appealing or attractive to a child less than 10 years of age.
  - (b) Does not mean:
    - (A) A lighter manufactured before January 1, 1980; or
    - (B) A lighter that has been rendered permanently incapable of producing a flame or otherwise causing combustion.
- (7) "Sell" means to provide or promise to provide to a wholesale, retail, mail-order or other purchaser in exchange for consideration.
- (8) "Visual effect":
  - (a) Includes flashing lights, color-changing lights and changing images; and
  - (b) Does not include logos, decals, decorative artwork or heat-shrinkable sleeves. [2009 c.6 §1]

Note:

476.831 to 476.856 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.836 - Identification of novelty lighters; rules; disposition of contraband lighters.**

- (1) The State Fire Marshal may adopt rules to identify lighters or classes or types of lighters that are novelty lighters. The novelty lighters identified by the State Fire Marshal may include, but need not be limited to, lighters of misleading design that resemble or imitate:
  - (a) Cartoon characters, figurines or action figures;
  - (b) Toys or game pieces;
  - (c) Musical instruments;
  - (d) Vehicles;
  - (e) Animals;
  - (f) Human body parts;
  - (g) Food, beverages or food or beverage packages;
  - (h) Weaponry;
  - (i) Furniture;
  - (j) Sports equipment;
  - (k) Holiday decoration;
  - (L) Tools; or
  - (m) Household products.
- (2) The State Fire Marshal shall establish and maintain a list of lighters, and of classes and types of lighters, that the State Fire Marshal has determined to be novelty lighters. The State Fire Marshal shall make the list available to the public in electronic form or in other forms selected by the State Fire Marshal.
- (3) A lighter is a contraband item subject to seizure and destruction by the State Fire Marshal or a representative of the State Fire Marshal, or by a law enforcement agency, if the lighter is:
  - (a) Listed, or of a class or type listed, in State Fire Marshal rules as a novelty lighter; and
  - (b) Offered for sale, sold or distributed in this state or manufactured or possessed for the purpose of sale or distribution in this state.
- (4) The State Fire Marshal or a representative of the State Fire Marshal, or a law enforcement agency, may seize a novelty lighter that is not described in subsection (3) of this section. Upon finding that the person from whom the lighter was seized is subject to imposition of a civil penalty under ORS 476.841 for being a manufacturer, importer, wholesaler, storer, seller or distributor of the lighter, the State Fire Marshal or a representative may order that the lighter be forfeited and destroyed. [2009 c.6 §2]

Note:

See note under 476.831.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire**

**Marshal; Protection From Fire Generally****Section 476.841 - Prohibition against sale or distribution of novelty lighters; civil penalties.**

(1) A person may not sell, offer for sale or distribute a novelty lighter in this state. A person may not manufacture a novelty lighter in this state, or import a novelty lighter into this state, for the purpose of selling or distributing the novelty lighter within this state. A person may not possess a novelty lighter in inventory for the purpose of selling or distributing the novelty lighter within this state.

(2) The State Fire Marshal may impose a civil penalty against a person who violates subsection (1) of this section. The civil penalty may not exceed:

(a) \$10,000 if the person is a manufacturer or importer of lighters.

(b) \$1,000 if the person is a wholesaler of lighters or distributes lighters by means other than distribution directly to consumers.

(c) \$500 if the person is:

(A) A retail seller of lighters; or

(B) A person distributing lighters, if the person is other than a manufacturer, importer or wholesaler.

(3) If a person continues to violate this section after the State Fire Marshal gives the person written notice of the violation, each day that the violation continues is a separate offense subject to a civil penalty.

(4) The State Fire Marshal shall impose civil penalties under this section as provided in ORS 183.745. For purposes of ORS 183.417, it is prima facie evidence that a lighter is a novelty lighter if the lighter is listed by the State Fire Marshal as described in ORS 476.836 as a novelty lighter, or is of a class or type of lighter listed by the State Fire Marshal as novelty lighters. However, listing by the State Fire Marshal is not a prerequisite for finding that a lighter is a novelty lighter.

(5) All moneys collected from civil penalties under this section shall be deposited to the credit of the State Fire Marshal Fund. [2009 c.6 §3]

Note:

See note under 476.831.

**2023 Oregon Revised Statutes****Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources****Chapter 476 - State Fire Marshal; Protection From Fire Generally****Section 476.846 - Compliance inspections.**

(1) The State Fire Marshal, or a representative of the State Fire Marshal, may conduct inspections to ensure compliance with ORS 476.841. The State Fire Marshal or representative may:

(a) Have access during reasonable business hours to facilities within this state used in the business of manufacturing, importing, distributing, selling or storing lighters;

(b) Inspect the manufacturing, importing, distribution, sales or storage facilities and any lighters located at the facilities; and

(c) Inspect all business records pertaining to lighter manufacture, import, distribution, sale or storage.

(2) A person engaged in this state in the business of manufacturing, importing, distributing, selling or storing lighters shall grant the State Fire Marshal or a representative reasonable access for conducting inspections as described in subsection (1) of this section.

[2009 c.6 §4]

Note:

See note under 476.831.

**2023 Oregon Revised Statutes****Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources****Chapter 476 - State Fire Marshal; Protection From Fire Generally****Section 476.851 - Agreements with State Fire Marshal representatives.**

The State Fire Marshal may enter into agreements with any state or local agency to allow the agency to act as a representative of the State Fire Marshal for purposes of ORS 476.841 and 476.846. [2009 c.6 §5]

Note:

See note under 476.831.

**2023 Oregon Revised Statutes****Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources****Chapter 476 - State Fire Marshal; Protection From Fire Generally****Section 476.855**

[1973 c.667 §14; 1985 c.118 §11; 1993 c.185 §19; renumbered 476.033 in 1999]

**2023 Oregon Revised Statutes****Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources****Chapter 476 - State Fire Marshal; Protection From Fire Generally****Section 476.856 - Attorney General actions to enforce ORS 476.841 and 476.846.**

The Attorney General may bring an action at the request of the State Fire Marshal, in the name of the state, seeking:

(1) Injunctive relief to prevent or end a violation of ORS 476.841 or 476.846;

(2) To recover civil penalties imposed under ORS 476.841;

(3) To obtain access for inspections under ORS 476.846; or

(4) To recover attorney fees and other enforcement costs and disbursements. [2009 c.6 §6]

Note:

See note under 476.831.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.900 - Application by certain cities and rural fire protection districts to borrow money from loan fund.**

(1) Any city of 5,000 or less in population and any rural fire protection district serving 5,000 or fewer residents may file with the State Fire Marshal an application to borrow from the Fire Protection Equipment Loan Fund moneys for the acquisition of fire protection equipment.

(2) Applications shall be submitted in such manner and shall contain or be accompanied by such information as the State Fire Marshal may prescribe. [1991 c.587 §1]

Note:

476.900 to 476.925 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.905 - Approval of application by State Fire Marshal.**

The State Fire Marshal may approve an application for a fire protection equipment acquisition loan if the State Fire Marshal finds that:

(1) Moneys in the Fire Protection Equipment Loan Fund will be available therefor; and

(2) The application is for the acquisition of equipment determined by the State Fire Marshal to be necessary to provide adequate fire protection service by the applicant. [1991 c.587 §2]

Note:

See note under 476.900.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.910 - Loan agreement; terms; conditions.**

If the State Fire Marshal approves an application for a fire protection equipment acquisition loan, the State Fire Marshal, on behalf of the state, and the applicant may enter into a loan agreement. The agreement shall set forth among other matters:

(1) The amount and purpose of the loan.

(2) A plan for repayment by the applicant to the Fire Protection Equipment Loan Fund of moneys borrowed, upon such terms and conditions as the State Fire Marshal considers appropriate.

(3) That the liability of the state under the contract is contingent upon the availability of moneys in the Fire Protection Equipment Loan Fund.

(4) Such further provisions as the State Fire Marshal determines appropriate to insure expenditure of moneys borrowed for the purposes set forth in the approved application. [1991 c.587 §3]

Note:

See note under 476.900.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.915 - Source of revenue to repay loan.**

A city or rural fire protection district that enters into an agreement with the State Fire Marshal for a fire protection equipment acquisition loan may obtain moneys for repayment thereof in the same manner as other moneys are obtained for purposes of the payment of expenses of the city or rural fire protection district. [1991 c.587 §4]

Note:

See note under 476.900.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.920 - Rules; acceptance of gifts, donations and grants.**

(1) In accordance with any applicable provisions of ORS chapter 183, the State Fire Marshal may adopt rules to carry out the provisions of ORS 476.900 to 476.925. Such rules may include, but are not limited to, specifying the importance and priority of fire protection equipment that may be acquired pursuant to ORS 476.900 to 476.925 and which requires local government matching funds.

(2) The State Fire Marshal may accept gifts, donations and grants from whatever source for the purpose of carrying out ORS 476.900 to 476.925. All moneys received shall be paid into the Fire Protection Equipment Loan Fund. [1991 c.587 §5]

Note:

See note under 476.900.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.925 - Fire Protection Equipment Loan Fund; uses.**

The Fire Protection Equipment Loan Fund is established in the State Treasury, separate and distinct from the General Fund. All

moneys in the Fire Protection Equipment Loan Fund are continuously appropriated to the Department of the State Fire Marshal to carry out the provisions of ORS 476.900 to 476.925. Interest earned by moneys in the fund shall be credited to the fund. [1991 c.587 §6; 2021 c.539 §136]

Note:

See note under 476.900.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.990 - Penalties.**

(1) The following are Class A misdemeanors:

(a) Violation of ORS 476.150 (2).

(b) Violation of ORS 476.380 (1) or 476.510 to 476.610.

(2) Subject to ORS 153.022, violation of ORS 476.710 or 476.715 or of any rule or regulation of the State Parks and Recreation Department promulgated thereunder is a Class B misdemeanor.

(3) Violation of ORS 476.410 to 476.440 is a Class C misdemeanor.

(4)(a) Except as provided in paragraph (b) of this subsection, violation of ORS 476.715 is a Class A violation.

(b) Violation of ORS 476.715 is a Class B misdemeanor if the conduct constituting the offense:

(A) Results in the ignition of a fire; or

(B) Occurs within a forest protection district organized under ORS 477.225, or a part thereof, for which a fire season has been designated pursuant to ORS 477.505. [Subsection (5) of 1959 Replacement Part formerly 477.990(5); 1961 c.52 §1; subsection (2) enacted as 1967 c.420 §4; subsection (6) enacted as 1967 c.417 §13 and 1967 c.417 §15; 1971 c.563 §10; 1971 c.743 §383; 1999 c.1051 §312; 2001 c.104 §216; 2011 c.597 §219; 2023 c.315 §1; 2023 c.347 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 476 - State Fire Marshal; Protection From Fire Generally Section 476.995 - Penalty for violation of ORS 476.760.**

The State Fire Marshal may impose a civil penalty for a violation of ORS 476.760 (1). The civil penalty may not exceed:

(1) For a person that distributes or offers to sell cigarettes to a wholesale or retail dealer, \$10,000 or five times the wholesale invoice cost of the cigarettes involved in the violation, whichever is greater.

(2) For a person that distributes or offers to sell cigarettes to consumers:

(a) For a distribution or offer of not more than 1,000 cigarettes, \$500.

(b) For a distribution or offer of more than 1,000 cigarettes, \$1,000 or five times the retail value of the cigarettes involved in the violation, whichever is greater.

(3) For a continuing violation of ORS 476.760 (1), each day that a person distributes or offers to sell cigarettes after being notified by the State Fire Marshal that the distribution or offer to sell cigarettes violates ORS 476.760 (1) is a separate violation subject to civil penalty. For purposes of this subsection, a person is notified by the State Fire Marshal that the distribution or offer to sell cigarettes violates ORS 476.760 (1) only after the person receives a notice, has been provided an opportunity for a hearing and has exhausted all opportunities for administrative or judicial review of the notice in the manner provided for contested cases under ORS chapter 183. [2007 c.34 §3]

Note:

See note under 476.755.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.001 - Definitions.**

As used in this chapter, unless the context otherwise requires:

(1) "Additional fire hazard" means a hazard that has been determined to exist by the forester pursuant to ORS 477.580.

(2) "Board" means the State Board of Forestry.

(3) "Campfire" means any open fire used for cooking, personal warmth, lighting, ceremonial or aesthetic purposes that is hand built and that is not associated with any debris disposal activities.

(4) "Department" means the State Forestry Department.

(5) "District" means a forest protection district organized under ORS 477.225.

(6) "Every reasonable effort" means the use of the reasonably available personnel and equipment under the supervision and control of an owner or operator, which are needed and effective to fight the fire in the judgment of the forester and which can be brought to bear on the fire in a timely fashion.

(7) "Fire season" means a period designated pursuant to ORS 477.505.

(8) "Fiscal year" means the period beginning on July 1 of any year and ending on June 30 of the next year.

(9) "Forestland" means any woodland, brushland, timberland, grazing land or clearing that, during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed. As used in this subsection, "clearing" means any grassland, improved area, lake, meadow, mechanically or manually cleared area, road, rocky area, stream or other similar forestland opening that is surrounded by or contiguous to forestland and that has been included in areas classified as forestland under ORS 526.305 to 526.370.

- (10) "Forest patrol assessment" means the costs levied and assessed under ORS 477.270.
- (11) "Forest protective association" or "association" means an association, group or agency composed of owners of forestlands, organized for the purpose of protecting such forestlands from fire.
- (12) "Forest resource" means the various types of vegetation normally growing on Oregon's forestland, the associated harvested products and the associated residue, including but not limited to brush, grass, logs, saplings, seedlings, trees and slashing.
- (13) "Forester" means the State Forester or authorized representative.
- (14) "Governing body" of a county means the county court or board of county commissioners.
- (15) "Grazing land" is defined by ORS 477.205.
- (16) "Open fire" means any outdoor fire that occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.
- (17) "Operation" means any industrial activity, any development or any improvement on forestland inside or within one-eighth of one mile of a forest protection district, including but not limited to the harvesting of forest tree species, the clearing of land, the use of power-driven machinery and the use of fire, excluding, however, the culture and harvesting of agricultural crops.
- (18) "Operation area" means the area on which an operation is being conducted and the area on which operation activity may have resulted in the ignition of a fire.
- (19) "Operation in progress" means that time when workers are on an operation area for the purpose of an operation, including the period of time when fire watches are required to be on the operation area pursuant to ORS 477.665.
- (20) "Operator" means any person who, either personally or through employees, agents, representatives or contractors, is carrying on or has carried on any operation.
- (21) "Owner" means an individual, a combination of individuals, a partnership, a corporation, the State of Oregon or a political subdivision thereof, or an association of any nature that holds an ownership interest in land.
- (22) "Political subdivision" includes, but is not limited to, counties, cities and special districts.
- (23) "Rangeland" is defined by ORS 477.315.
- (24) "Routine road maintenance" is defined by ORS 477.625.
- (25) "Side" means any single unit of a logging operation employing power-driven machinery.
- (26) "Slashing" means the forest debris or refuse on any forestland resulting from the cutting, killing, pruning, severing or removal of brush, trees or other forest growth.
- (27) "State Forester" means the person appointed State Forester pursuant to ORS 526.031 or the person serving in the position on an interim or delegated basis.
- (28) "Summit of the Cascade Mountains" is considered to be a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County; thence southerly along the western boundaries of Wasco, Jefferson, Deschutes and Klamath Counties to the southern boundary of the State of Oregon.
- (29) "Timberland" is defined by ORS 477.205.
- (30) "Warden" means a fire warden appointed under ORS 477.355. [1959 c.363 §2 (enacted in lieu of 477.002); 1961 c.603 §1; 1965 c.253 §44; 1967 c.429 §34; 1973 c.46 §1; 1983 c.22 §1; 1985 c.759 §32; 1997 c.274 §1; 1999 c.59 §156; 1999 c.355 §2; 2003 c.54 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.005 - Policy.**

- (1) The preservation of the forests and the conservation of the forest resources through the prevention and suppression of forest fires hereby are declared to be the public policy of the State of Oregon.
- (2) In order to accomplish the purposes of the policy stated in this section:
- (a) The need for a complete and coordinated forest protection system is acknowledged and the primary mission of the State Forestry Department in such a system is protecting forest resources, second only to saving lives. Structural protection, though indirect, shall not inhibit protection of forest resources; and
- (b) This chapter shall include all persons and activities designated in this chapter, irrespective as to whether or not such person or activity is concerned with the harvesting, cutting, removal or marketing of trees, timber or other forest products. [Formerly 477.022; 1965 c.253 §45; 1989 c.615 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.008**

[Amended by 1965 c.253 §87; renumbered 477.360]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.009 - Investigative authority of Attorney General for fire protection administration.**

- (1) For the purpose of an investigation as to liability for cost of hazard abatement, fire abatement or damages under this chapter, the Attorney General, at the request of the State Forester, may administer oaths and affirmations, take testimony or depositions and by subpoena compel the:

- (a) Attendance of witnesses;
  - (b) Production of documents, including but not limited to writings, drawings, graphs, charts, photographs, and other data compilations from which information can be obtained and translated; and
  - (c) Production of any other tangible thing that the Attorney General deems relevant or material to the investigation.
- (2) Each witness subpoenaed under subsection (1) of this section shall receive the fees and mileage provided in ORS 44.415 (2).
- (3) If a person fails to comply with a subpoena issued or a party or witness refuses to testify on any matters, the judge of the circuit court of any county, on the application of the State Forester, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. [1993 c.697 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.012**

[Amended by 1965 c.253 §88; renumbered 477.365]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.013 - Smoke management plan; rules.**

(1) For the purpose of maintaining air quality, the State Forester and the Department of Environmental Quality shall approve a plan for the purpose of managing smoke in areas they shall designate. The plan shall delineate regulated areas to which this section applies. The plan shall also include but not be limited to considerations of weather, volume of material to be burned, distance of the burning from designated areas, burning techniques and provisions for cessation of further burning under adverse air quality conditions. All burning permitted within the regulated areas shall be according to the plan. The plan shall be developed by the State Forestry Department in cooperation with federal and state agencies, landowners and organizations that will be affected by the plan. The approved plan shall be filed with the Secretary of State and may thereafter be amended in the same manner as its formation.

(2) The State Forester shall promulgate rules to carry out the provisions of the smoke management plan approved under this section. [1997 c.274 §47; 2007 c.213 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.014**

[Amended by 1965 c.253 §89; renumbered 477.370]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.015 - Definitions.**

As used in this section and ORS 477.025 and 477.027, "wildland-urban interface" has the meaning given that term in rule by the State Board of Forestry. [1997 c.429 §§3,8; 2021 c.592 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.016**

[1963 c.107 §8; amended by 1965 c.253 §72; renumbered 477.300]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.022**

[1953 c.372 §1; 1961 c.603 §2; renumbered 477.005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.024**

[1953 c.372 §3; 1955 c.318 §1; 1965 c.253 §57; renumbered 477.210]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.025 - Variability of wildland-urban interface fire protection problems.**

The Legislative Assembly recognizes that the wildland-urban interface in Oregon varies by condition, situation, fire hazard and risk, that different wildland-urban interface fire protection problems exist across the state because of this variability, and that these different problems necessitate varied fire prevention and protection practices. [1997 c.429 §9; 2021 c.592 §32]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.026**

[1953 c.372 §4; 1965 c.253 §59; renumbered 477.225]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.027 - Establishment of classes of wildland-urban interface; rules.**

(1) By rule, considering national best practices, the State Board of Forestry shall establish:

(a) A definition of "wildland-urban interface."

(b) Criteria by which the wildland-urban interface must be identified and classified.

(2) The criteria:

(a) Must recognize differences across the state in fire hazard, fire risk and structural characteristics within the wildland-urban interface.

(b) May not exclude a category of land from inclusion in the wildland-urban interface.

(3) Based on the criteria, the wildland-urban interface must be integrated into the comprehensive statewide map described in ORS 477.490. [1997 c.429 §10; 2007 c.30 §3; 2021 c.592 §33; 2023 c.611 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.030**

[1953 c.372 §6; 1959 c.363 §4; 1965 c.253 §60; 1965 c.312 §1; renumbered 477.230]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.032**

[Renumbered 477.062]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.033**

[1953 c.372 §7; 1955 c.318 §2; 1957 c.83 §7; 1961 c.603 §3; 1963 c.107 §2; 1965 c.253 §69; 1965 c.312 §2; 1965 c.428 §10; renumbered 477.270]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.034**

[Amended by 1953 c.661 §2; renumbered 477.064]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.035**

[1953 c.372 §8; 1965 c.253 §70; 1965 c.312 §3; renumbered 477.285]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.036**

[Amended by 1953 c.661 §2; renumbered 477.066]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.038**

[Amended by 1953 c.661 §2; renumbered 477.068]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.039**

[1953 c.372 §10; 1963 c.107 §3; 1965 c.253 §71; renumbered 477.291]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.040**

[Amended by 1953 c.661 §2; renumbered 477.070]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.041**

[1953 c.372 §11; 1965 c.253 §61; renumbered 477.235]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.042**

[Amended by 1953 c.661 §2; renumbered 477.071 and then 477.067]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.043**

[1953 c.372 §§12,16; 1957 c.32 §1; 1965 c.253 §64; renumbered 477.245]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.045**

[1953 c.372 §13; 1965 c.253 §65; renumbered 477.250]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.047**

[1953 c.372 §14; 1965 c.253 §66; renumbered 477.255]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.049**

[1953 c.372 §15; 1965 c.253 §67; renumbered 477.260]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.050**

[Amended by 1953 c.37 §2; renumbered 477.073]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.051**

[1953 c.372 §17; 1965 c.253 §68; renumbered 477.265]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.053**

[1953 c.372 §18; 1955 c.318 §3; 1961 c.603 §6; 1965 c.253 §58; renumbered 477.220]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.056**

[1965 c.253 §47 (enacted in lieu of 477.070); 1967 c.429 §57; renumbered 477.120]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.058**

[1965 c.253 §49 (enacted in lieu of 477.148); 1967 c.429 §58; renumbered 477.130]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.062 - Inadequately protected forestland declared nuisance; notice to protect; work at expense of owner; collection of amount expended.**

(1) All forestland that by reason of its lack of adequate fire protection endangers life, forest resources or property is declared to be a public nuisance.

(2) Whenever the forester learns thereof, the forester may direct the owner or operator of such forestland to take proper steps for its protection and advise the owner or operator of means to that end. In case of refusal or neglect by either to take precautions against fire required by law or when so directed by the forester in writing, within such time as is specified in the writing, then the forester may have such work done as the forester considers necessary for the protection of life, forest resources or property, without the necessity of court action.

(3) The cost of work under subsection (2) of this section and the expense of any patrol rendered necessary by the want of adequate protection of such forestland shall be recoverable from the offender by an action prosecuted in the name of the state.

(4) All moneys collected under this section shall be paid into the State Treasury, credited to the State Forestry Department Account and expended as other moneys in that account are expended. [Formerly 477.032; 1965 c.253 §50; 1997 c.274 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.064 - Uncontrolled fire declared nuisance.**

Any fire on any forestland in Oregon burning uncontrolled or without proper action being taken to prevent its spread, notwithstanding its origin, is declared a public nuisance by reason of its menace to life, forest resources or property. The spread of fire in forestland across an ownership boundary is prima facie evidence of fire burning uncontrolled. [Formerly 477.034; 1997 c.274 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.066 - Duty of owner and operator to abate fire; abatement by authorities.**

(1) Each owner and operator of forestland on which a fire exists or from which it may have spread, notwithstanding the origin or subsequent spread thereof, shall immediately proceed to control and extinguish such fire when its existence comes to the knowledge

of the owner or operator, without awaiting instructions from the forester, and shall continue until the fire is extinguished.

(2) If the forester determines the fire is either burning uncontrolled or the owner or operator does not then have readily and immediately available personnel and equipment to control or extinguish the fire, the forester, or any forest protective association or agency under contract or agreement with the State Board of Forestry for the protection of forestland against fire, and within whose protection area the fire exists, shall summarily abate the nuisance thus constituted by controlling and extinguishing the fire.

(3) An owner may request in writing that the forester employ alternate fire prevention and suppression strategies or techniques on the owner's forestland. The forester may employ some or all of the requested strategies or techniques when, in the judgment of the forester, conditions warrant the use of the alternate strategies or techniques. [Formerly 477.036; 1961 c.603 §7; 1965 c.253 §51; 1967 c.429 §1; 1983 c.22 §2; 1999 c.355 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.067 - Notice of fire.**

For the purpose of ORS 477.066, notification to the owner or operator of the forestland, is considered sufficient notification to the owner of the existence of a fire. [Formerly 477.042 and then 477.071]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.068 - Liability for cost of abatement; interest; lien; foreclosure; attorney fees.**

(1) In case an owner or operator fails to perform the duty required by ORS 477.066, or is willful, malicious or negligent in the origin or subsequent spread of the fire, the actual cost incurred by the forester or a forest protective association or agency in controlling or extinguishing the fire shall be paid by the owner or operator within 90 days after the date on which the first written demand for payment of the actual cost is mailed by the State Forester to the owner or operator. If the actual cost is not paid within such 90-day period, such amount shall bear interest at 10 percent per year from the date on which the first written demand for the payment of the actual costs was mailed by the State Forester and the actual cost together with such interest may be recovered from such owner or operator by an action prosecuted in the name of the State of Oregon, or such forest protective association or agency, or both.

(2) An itemized statement of the actual cost incurred by the forester or association or agency, or both, certified to by the forester, shall be accepted as prima facie evidence of the actual cost in any proceeding authorized by this section.

(3) The actual cost in cases covered by ORS 477.066 shall constitute a general lien upon the real and personal property of such owner or operator. A written notice of the lien, containing a description of the property and a statement of the actual cost, shall be certified under oath by the forester or any warden and filed in the office of the county clerk of the county in which the lands and personal property are situated within 12 months after the calendar year within which the fire originated, and may be foreclosed in the manner provided by law for foreclosure of liens for labor and material. In any proceeding to foreclose a lien created under this subsection, recovery for the plaintiff shall include, in addition to the amount of the actual cost, interest on such amount at the rate of 10 percent per year from the date of the filing of the written notice of the lien.

(4) Upon request of the forester, the district attorney for the district in which the lands and personal property are situated or the Attorney General shall prosecute such action or foreclose the lien in the name of the State of Oregon or such forest protective association or agency, or both. Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted within 12 months from the date of filing under subsection (3) of this section.

(5) In any action under subsection (1) of this section to recover actual cost and in any proceeding to foreclose any lien created by subsection (3) of this section, the court shall award, in addition to costs and disbursements, reasonable attorney fees at trial and on appeal to the prevailing party. [Formerly 477.038; 1955 c.218 §1; 1959 c.363 §6; 1961 c.603 §8; 1965 c.253 §53; 1965 c.428 §§11,12; 1973 c.66 §1; 1981 c.897 §54; 1983 c.22 §3; 1983 c.27 §1; 1997 c.206 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.069 - Negligence in origin and in failure to control fire may be united in one complaint.**

Notwithstanding any other law, in any action authorized by ORS 477.068 to collect the costs incurred, the plaintiff may unite in the same complaint causes of action based upon any or all of the grounds therein mentioned. [1957 c.157 §1; 1961 c.603 §9; 1965 c.253 §54]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.071**

[Formerly 477.042; 1961 c.603 §11; 1965 c.253 §52; renumbered 477.067]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.085 - Liability for cost of protecting land within a forest protection district.**

Any person who willfully or negligently sets a fire or causes a fire to be set for which efforts to control or extinguish the fire in order to protect forestland within a forest protection district from fire are exerted by the forester or any forest protective association or

agency under contract or agreement with the State Board of Forestry is liable for the actual costs incurred by the forester, association or agency in such efforts. The costs shall be recovered from the person liable therefor in the same manner as costs recovered under ORS 477.068. [1965 c.428 §7; 1967 c.429 §2; 1997 c.274 §3a; 1999 c.355 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.089 - Recovery for property damage; liability for firefighting costs.**

(1) As used in this section:

(a) "Economic and property damage" means the sum of:

(A) The lesser of the difference in the fair market value of property immediately before and immediately after a wildfire or the cost of restoring property to the condition the property was in immediately before a wildfire; and

(B) Any other objectively verifiable monetary losses.

(b) "Fair market value" means the amount, as determined by a state certified appraiser, that a willing buyer would pay to a willing seller for property in an arm's-length transaction if both parties were fully informed about all advantages and disadvantages of the property and neither party is acting under a compulsion to buy or sell.

(c) "Forest tree species" means a tree species that is capable of producing logs, fiber or other wood materials that are suitable for the production of lumber, sheeting, pulp, firewood or other commercial forest products.

(d) "State certified appraiser" means an individual who has been certified as a state certified appraiser under ORS 674.310 and is qualified to appraise the property that is the subject of a fair market value determination.

(e) "Wildfire" means a fire that:

(A) Results from a violation of this chapter or of rules adopted under ORS 526.016 or 526.041; or

(B) Originated on land used or capable of being used for growing forest tree species regardless of the existing use of the land.

(2) Except as provided in ORS 477.092 and 477.095, in a civil action for property damage caused by a wildfire, the recoverable damages are:

(a) The amount of economic and property damages, if the wildfire did not occur as the result of recklessness, gross negligence, willfulness or malice; or

(b) Twice the amount of economic and property damages, if the wildfire occurred as the result of recklessness, gross negligence, willfulness or malice.

(3) Except as provided in ORS 477.095 and subject to any other provision of this chapter limiting the recovery of fire fighting costs, a person who causes a wildfire is liable to any person or entity for the full amount of all expenses incurred by the person or entity in fighting the wildfire.

(4) The remedies provided under this section are in addition to any available criminal or civil penalties that may be assessed for the violation of a statute or rule but, subject to Article I, section 10, of the Oregon Constitution, are the exclusive remedies for damages or injury to property caused by a wildfire. This subsection does not:

(a) Prohibit the bringing of any cross claim, counterclaim or joinder of parties;

(b) Prohibit the institution of a suit under ORS 496.705 for the recovery of damages for the unlawful taking of wildlife; or

(c) Affect the applicability of ORS 31.600 to an action.

(5) This section does not create a new cause of action or alter any existing cause of action. [2013 c.307 §2]

Note:

477.089 and 477.092 were added to and made a part of ORS chapter 477 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.092 - Liability for destruction of property by wildfire.**

(1) As used in this section, "wildfire" has the meaning given that term in ORS 477.089.

(2) A person is not liable in a civil action for injury to or destruction of property arising out of a wildfire, except to the extent evidence demonstrates that:

(a) An action or inaction of the person constituted negligence or a higher degree of fault; and

(b) The action or inaction caused or contributed to the cause of the wildfire or caused or contributed to the spreading of the wildfire. [2013 c.307 §3]

Note:

See note under 477.089.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.095 - Applicability of ORS 477.068, 477.085 and 477.089.**

(1) An owner of forestland shall not be subject to the provisions of ORS 477.068 and 477.089, where the origin or subsequent spread of a fire was the direct result of training activity by the Oregon National Guard or of any component of the Armed Forces of the United States.

(2) Notwithstanding any other law, the Oregon National Guard shall be subject to the duties, requirements or penalties of ORS 477.068, 477.085 and 477.089, where the origin or subsequent spread of a fire was the direct result of training activity by the

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.100 - Ability of owner to suppress fire; limitation.**

(1) The State Forester, or any agency or organization with responsibility under this chapter to suppress fires, may not prohibit an owner or the owner's agent from suppressing a fire occurring on the owner's property or that poses a threat to the owner's property.  
(2) Notwithstanding subsection (1) of this section, the forester, agency or organization may prohibit an owner or the owner's agent from suppressing a fire if the owner or agent conducts the action in a manner that the forester, agency or organization reasonably determines is likely to increase the risk of injury or damage to the personnel or equipment of the forester, agency or organization.  
[2005 c.802 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.120 - Liability of owner or operator.**

(1) Except as provided in subsections (2) and (3) of this section, the owner or operator of forestland is not subject to the obligations or penalties of ORS 164.335 and 477.740 or 477.064, 477.066 and 477.068 if:  
(a) Forest patrol assessments are regularly paid for the forestland;  
(b) Such forestland is protected pursuant to membership in a forest protective association in accordance with ORS 477.210, which association has undertaken the control and suppression of fires on such land as provided in the contract; or  
(c) Such forestland is protected pursuant to cooperative agreement or contract under ORS 477.406.  
(2) The provisions of subsection (1) of this section do not apply to such owner or operator if the owner or operator:  
(a) Is willful, malicious or negligent in the origin or subsequent spread of a fire on such forestland;  
(b) Has caused or permitted an operation to exist on such forestland and a fire originates thereon as a result of the operation;  
(c) Has failed to give notice to the forester pursuant to ORS 527.670 (6), has failed to obtain a permit for the use of fire in any form or power-driven machinery pursuant to ORS 477.625 or has failed within the time prescribed in any order or notice issued by the forester to reduce, abate, or offset any hazard determined to exist pursuant to ORS 477.062 or 477.580 and a fire originates on or spreads to the area on which such hazard exists and for which no release has been granted pursuant to ORS 477.580 (3) or (4); or  
(d) Has caused or allowed any burning, including burning regulated by ORS 477.013 or 477.515, whether or not a permit has been obtained and a fire results from or is caused by such burning.  
(3) Unless subsection (2)(a) or (c) of this section applies, the owner or operator shall not be obligated to pay that portion of the actual costs provided in ORS 477.068 which are the ordinary costs of the regular personnel and equipment of the forest protection district wherein the forestland is located.  
(4) If subsection (2)(b) or (d) of this section applies and subsection (2)(a) and (c) of this section do not apply, the owner or operator shall not be liable to the forester for fire suppression costs in excess of \$300,000.  
(5) The provisions of subsections (3) and (4) of this section do not apply to the owner or operator if the owner or operator fails to make every reasonable effort.  
(6) For the purpose of subsection (2)(b) of this section, if a fire originates while an operation is in progress, there is a presumption, under ORS 40.120, that the fire originated as a result of the operation. [Formerly 477.056; 1971 c.743 §385; 1973 c.46 §2; 1983 c.22 §4; 1989 c.615 §1; 1997 c.274 §48; 2007 c.847 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.123 - Volunteer fighters of wildfires.**

(1) As used in this section:  
(a) "Voluntarily" means not undertaken as a condition of employment or with an expectation of remuneration.  
(b) "Wildfire" means a fire burning uncontrolled:  
(A) On private forestland;  
(B) On private cropland, pasture, rangeland or other private agricultural land; or  
(C) That threatens a structure on agricultural land.  
(2) Except as provided in subsection (4) of this section, a person who voluntarily undertakes the fighting of a wildfire is not civilly liable for any injury to person or property resulting from the good faith performance of firefighting efforts.  
(3) Subsection (2) of this section applies to the performance of firefighting efforts that commence when the person arrives at the fire scene or a staging area and end when the person departs from the fire scene or staging area.  
(4) Subsection (2) of this section does not apply to:  
(a) Members of a volunteer fire department or fire district who have been trained in firefighting techniques; or  
(b) The operation of a motor vehicle by a person. [2019 c.245 §1; 2023 c.77 §1]

Note:

477.123 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire**

**Protection of Forests and VegetationSection 477.125 - Liability of forest protective associations, rangeland protection associations and public bodies; limitations.**

(1) A forest protective association, rangeland protection association as defined in ORS 477.315 or public body as defined in ORS 174.109, or a person acting as an agent of a forest protective association, rangeland protection association or public body, is not liable for any injury to persons or property resulting from carrying out the provisions of this chapter or while acting within the scope of a duty imposed by this chapter.

(2) The exemption from liability provided by subsection (1) of this section does not apply to any injury to persons or property resulting from willful misconduct or gross negligence.

(3) An employee of a forest protective association, or a person acting as an agent of a forest protective association, is an agent of a public body acting within the scope of their duties for purposes of ORS 30.260 to 30.300, if the person:

(a) Engages in fire fighting activities occurring on lands located outside of the forest protection district in which the association is located; and

(b) Acts under the direction and control of the forester. [2003 c.54 §2; 2005 c.105 §1; 2007 c.808 §4; 2016 c.69 §1]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.128 - Expenditures for criminal defense related to fire suppression activities.**

(1) As used in this section, "firefighter" means an employee of the State Forestry Department or of a forest protective association, as defined in ORS 477.001, whose duties include the abatement of uncontrolled fire as described in ORS 477.064.

(2) The State Forester may authorize the expenditure of funds from the State Forestry Department revolving account to pay costs and reasonable attorney fees that a firefighter who is charged with a misdemeanor or felony incurs to defend against that charge if the State Forester determines that:

(a) The firefighter was performing fire suppression activities under the direction and control of the State Forester or an authorized representative of the State Forester at the time of the alleged misdemeanor or felony;

(b) The alleged actions underlying the charge, if true, are directly related to the firefighter's performance of fire suppression activities on forestlands; and

(c) The fire suppression actions of the firefighter were within the range of reasonable fire suppression actions.

(3) This section does not confer any right on a firefighter to hearing or appeal regarding determinations made by the State Forester under subsection (2) of this section.

(4) This section does not authorize the expenditure of moneys to pay costs or attorney fees incurred on appeal or in seeking post-conviction relief. [2011 c.218 §1]

Note:

477.128 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.133**

[1953 c.375 §31; 1957 c.309 §10; 1965 c.253 §79; renumbered 477.420]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.135**

[1953 c.375 §32; 1957 c.309 §11; 1965 c.253 §80; renumbered 477.425]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.142**

[1963 c.454 §2; 1965 c.253 §73; renumbered 477.315]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.144**

[1963 c.454 §3; 1965 c.253 §74; renumbered 477.320]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.146**

[1963 c.454 §4; 1965 c.253 §75; renumbered 477.325]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.150 - Smoke detection cameras.**

(1) The State Forestry Department shall establish and maintain an expanded system of automated smoke detection cameras that

includes staffing in detection centers to monitor and alert fire suppression staff when fires are detected.

(2) The system must serve the purposes of quickly detecting, locating and extinguishing fires and keeping fires as small as possible. [2021 c.592 §30]

Note:

477.150 to 477.161 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.155 - Wildfire response capacity.**

The State Forestry Department:

(1) Shall consult and coordinate with federal agencies, private stakeholders and other state agencies to determine the adequacy of state, federal and private wildfire response capacity. The department shall act to facilitate wildfire prevention and wildfire response communication and coordination between federal, state, local and private entities.

(2) Shall increase the department's wildfire readiness and response capacity, including increases to fire suppression response personnel, aviation assets and necessary administrative support personnel, to the extent the department receives funding for the increase.

(3) Shall, to the extent practicable, seek to leverage state moneys to obtain an increase in federal wildfire resources available to Oregon for effective initial response purposes.

(4) Shall consult with the Department of the State Fire Marshal and with local fire defense board chiefs to assess the adequacy of available mutual aid to provide wildfire response on wildland-urban interface lands and to identify means for providing additional resources from the state or other entities to enhance wildfire response capacity on wildland-urban interface lands.

(5) Shall continually identify workforce development needs associated with wildfire risk mitigation and wildfire response and develop funding proposals for meeting those needs on a sustained basis. The identified workforce development needs must align with wildfire risk to provide an adequate level of wildfire protection, as described in ORS 477.062.

(6) May enter into cooperative agreements or contracts with a local or private entity for the purpose of assisting the entity to organize for purposes of wildfire risk mitigation or wildfire response, including, but not limited to, facilitating wildfire training and the acquisition of firefighting equipment for the entity and assisting with payment for liability insurance and other administrative expenses of the entity associated with wildfire risk mitigation or wildfire response. [2021 c.592 §30a]

Note:

See note under 477.150.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.156**

[Amended by 1953 c.68 §19; 1965 c.253 §99; renumbered 477.535]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.158**

[Amended by 1953 c.68 §19; 1957 c.32 §2; 1959 c.363 §9; 1965 c.253 §101; renumbered 477.545]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.160**

[Amended by 1953 c.68 §19; 1965 c.253 §100; renumbered 477.540]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.161 - Fire protection for lands outside forest protection districts.**

(1) The State Forester, in collaboration with the State Fire Marshal, state agencies and local governments as defined in ORS 174.116, shall adopt rules establishing baseline levels of wildfire protection for lands that are outside of forest protection districts and susceptible to wildfire. When establishing the baseline levels for lands, the State Forester shall ensure that the levels are adapted to reflect regional conditions. A county, in collaboration with the State Forester and the State Fire Marshal, may work to ensure that all lands within the county that are outside of forest protection districts and susceptible to wildfire are provided with wildfire protection services at the applicable baseline level or a higher level. As used in this subsection, "forest protection districts" means lands designated in State Forester rules as provided under ORS 477.225.

(2) A county, in collaboration with the State Forester and the State Fire Marshal, may assist:

(a) Landowners, individuals and businesses with forming jurisdictions to provide wildfire protection;

(b) Landowners, individuals, businesses and jurisdictions with obtaining expansion of or other changes to boundaries or facility locations of jurisdictions that provide wildfire protection;

(c) Jurisdictions to expand or adjust jurisdiction service boundaries to ensure adequate wildfire protection for lands; and

(d) Jurisdictions in developing wildfire protection facilities, equipment, training and other resources adequate to ensure that the

jurisdiction provides timely and effective wildfire protection at the baseline level or higher on lands described in subsection (1) of this section throughout the jurisdiction.

(3) The State Forester may provide financial assistance to counties for carrying out county duties under subsection (2) of this section from any funds made available to the State Forester and designated for that purpose. [2021 c.592 §28]

Note:

See note under 477.150.

Note:

Section 29, chapter 592, Oregon Laws 2021, provides:

Sec. 29.

A county shall ensure no later than January 1, 2026, that all lands described in section 28 (1) of this 2021 Act [477.161 (1)] within the county have baseline level or higher wildfire protection as described in section 28 of this 2021 Act. [2021 c.592 §29]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.162**

[Amended by 1965 c.253 §102; renumbered 477.550]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.164**

[Amended by 1953 c.302 §2; renumbered 476.715]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.165**

[1953 c.68 §14; 1965 c.253 §94; renumbered 477.510]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.175 - Definition of "all possible aid" for agreement.**

As used in the Northwest Wildland Fire Protection Agreement as set forth in ORS 477.200, "all possible aid" means the assistance that a member can provide in response to a request for aid without materially diminishing the overall fire prevention or protection capabilities of the member at the time of the request and for the duration of the response to provide assistance. [1999 c.258 §3]

Note:

477.175 to 477.200 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.180 - Ratification of amendment to agreement; withdrawal if Legislative Assembly fails to ratify amendment.**

If the Northwest Wildland Fire Protection Agreement is amended in accordance with Article IX of the agreement, the Governor shall invoke Article X of the agreement to withdraw from the agreement until such time as the Legislative Assembly ratifies the amendment, or during the interim between legislative sessions, until such time as the State Forester submits the amendment to the Emergency Board for review. The State Forester shall submit any amendment reviewed by the Emergency Board to the next Legislative Assembly for ratification. If the Legislative Assembly does not ratify the amendment prior to adjournment sine die, the Governor shall immediately invoke Article X of the agreement to withdraw from the agreement. [1999 c.258 §4]

Note:

See note under 477.175.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.182**

[Amended by 1965 c.253 §111; renumbered 477.645]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.184**

[Amended by 1953 c.68 §19; 1955 c.158 §2; 1965 c.253 §112; renumbered 477.650]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.185 - Use of local fire protection resources.**

The Governor shall make reasonable efforts to use local available fire protection resources within Oregon before calling on forces from other members of the Northwest Wildland Fire Protection Agreement. [1999 c.258 §5]

Note:

See note under 477.175.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.186**

[Amended by 1953 c.68 §19; 1955 c.158 §3; 1957 c.32 §3; 1965 c.253 §113; renumbered 477.655]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.187**

[1953 c.68 §8; 1955 c.158 §4; 1965 c.253 §114; renumbered 477.660]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.188**

[Amended by 1953 c.68 §19; 1955 c.158 §5; 1965 c.253 §115; 1965 c.428 §§13,14; renumbered 477.665]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.190 - Authority of Governor to carry out agreement.**

The Governor may take any action necessary to carry out the Northwest Wildland Fire Protection Agreement as set forth in ORS 477.200. The Governor may delegate the authority granted under this section or ORS 477.180 and 477.185 to the State Forester. [1999 c.258 §6]

Note:

See note under 477.175.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.195 - Ratification of Northwest Wildland Fire Protection Agreement.**

(1) The Legislative Assembly of the State of Oregon hereby ratifies the Northwest Wildland Fire Protection Agreement set forth in ORS 477.200, and the provisions of such agreement hereby are declared to be the law of this state upon such agreement becoming effective as provided in subsection (2) of this section.

(2) This agreement shall become effective when it has been ratified by one or more of the states eligible to be parties to this agreement and has been consented to by the Congress of the United States as required by section 10, Article I of the Constitution of the United States. [1999 c.258 §1]

Note:

See note under 477.175.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.200 - Northwest Wildland Fire Protection Agreement.**

The provisions of the Northwest Wildland Fire Protection Agreement are as follows:

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**ARTICLE I**

The purpose of this agreement is to promote effective prevention, presuppression and control of forest fires in the northwest wildland region of the United States and adjacent areas of Canada by providing mutual aid in prevention, presuppression and control of wildland fires and by establishing procedures in operating plans that will facilitate such aid.

**ARTICLE II**

(1) This agreement shall become effective for those members ratifying it whenever any two or more members, the States of Oregon, Washington, Alaska, Idaho, Montana, the Yukon Territory, the Province of British Columbia or the Province of Alberta have ratified it, and when consented to by an Act of Congress of the United States.

(2) Any state, province or territory not listed in this Article which is contiguous to any member may become a party to this agreement subject to unanimous approval of the members.

**ARTICLE III**

(1) The role of the members is to determine from time to time such methods, practices, circumstances and conditions as may be found for enhancing the prevention, presuppression and control of forest fires in the area comprising the members' territory, to coordinate the plans and the work of the appropriate agencies of the members and to coordinate the rendering of aid by the members to each other in fighting wildland fires.

(2) The members may develop cooperative operating plans for the program covered by this agreement. Operating plans shall include definition of terms, fiscal procedures, personnel contracts, resources available and standards applicable to the program. Other sections may be added as necessary.

**ARTICLE IV**

A majority of members shall constitute a quorum for the transaction of its general business. Motions of members present shall be carried by a simple majority, except as stated in Article II. Each member shall have one vote on motions brought before the



members.

#### ARTICLE V

Whenever a member requests aid from any other member in controlling or preventing wildland fires, the member agrees, to the extent the member possibly can, to render all possible aid.

#### ARTICLE VI

(1) Whenever the forces of any member are aiding another member under this agreement, the employees of such members shall operate under the direction of the officers of the member to whom they are rendering aid and be considered agents of the member they are rendering aid to and, therefore, have the same privileges and immunities as comparable employees of the member to whom they are rendering aid.

(2) No member or its officers or employees rendering aid within another state, territory or province pursuant to this agreement shall be liable on account of any act or omission on the part of such forces while so engaged or on account of maintenance or use of any equipment or supplies in connection therewith to the extent authorized by the laws of the member receiving the assistance. The receiving member, to the extent authorized by the laws of the state, territory or province, agrees to indemnify and save harmless the assisting member from any such liability.

(3) Any member rendering outside aid pursuant to this agreement shall be reimbursed by the member receiving such aid for any loss or damage to, or expense incurred in the operation of, any equipment and for the cost of all materials, transportation, wages, salaries and maintenance of personnel and equipment incurred in connection with such request in accordance with the provisions of Article V of this agreement. Nothing contained herein shall prevent any assisting member from assuming such loss, damage, expense or other cost from lending such equipment or from donating such services to the receiving member without charge or cost.

(4) For purposes of this agreement, personnel shall be considered employees of each sending member for the payment of compensation to injured employees and death benefits to the representatives of deceased employees injured or killed while rendering aid to another member pursuant to this agreement.

(5) The members shall formulate procedures for claims and reimbursement under the provisions of this Article.

#### ARTICLE VII

(1) When appropriations for support of this agreement or for the support of common services in executing this agreement are needed, costs will be allocated equally among the members.

(2) As necessary, members shall keep accurate books of account, showing in full the members' receipts and disbursements, and the books of account shall be open at any reasonable time to the inspection of representatives of the members.

(3) The members may accept any and all donations, gifts and grants of money, equipment, supplies, materials and services from the federal or any local government or any agency thereof and from any person, firm or corporation for any of its purposes and functions under this agreement and may receive and use the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

#### ARTICLE VIII

(1) Nothing in this agreement shall be construed to limit or restrict the powers of any member to provide for the prevention, control and extinguishment of wildland fires or to prohibit the enactment or enforcement of state, territorial or provincial laws, rules or regulations intended to aid in such prevention, control and extinguishment of wildland fires in such state, territory or province.

(2) Nothing in this agreement shall be construed to affect any existing or future cooperative agreement between members or their respective federal agencies.

#### ARTICLE IX

(1) The members may request the United States Forest Service to act as the coordinating agency of the Northwest Wildland Fire Protection Agreement in cooperation with the appropriate agencies of each member.

(2) The members will hold an annual meeting to review the terms of this agreement and any applicable operating plans and make necessary modifications.

(3) Amendments to this agreement can be made by simple majority vote of the members and will take effect immediately upon passage.

#### ARTICLE X

This agreement shall continue in force on each member until such member takes action to withdraw therefrom. Such action shall not be effective until 60 days after notice thereof has been sent to all other members.

#### ARTICLE XI

Nothing in this agreement shall obligate the funds of any member beyond those approved by appropriate legislative action.

[1999 c.258 §2; 2003 c.14 §313]

Note:

See note under 477.175.

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.205 - Definitions for ORS 477.205 to 477.281.**

As used in ORS 477.205 to 477.281, unless the context requires otherwise:

(1) "Grazing land" means forestland, within a forest protection district, that has been classified as Class 3, agricultural class, as provided by ORS 526.305 to 526.370.

(2) "Timberland" means forestland, within a forest protection district, that has not been classified as Class 3, agricultural class, under ORS 526.305 to 526.370. [1965 c.253 §56]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.210 - Duty of owner to protect forestland; forester's duty to provide protection upon noncompliance.**

- (1) During the season of the year when there is danger of fire, every owner of forestland shall provide adequate protection against the starting or spread of fire thereon or therefrom, which protection shall meet with the approval of the State Board of Forestry.
- (2) Subsection (1) of this section is considered to have been complied with if, on January 1 of each year, the owner:
- (a) Files with the forester a bona fide forest protection plan that meets with the approval of the board; or
- (b) Is a member in good standing in a forest protective association maintaining a standard of protection approved by the board.
- (3) The forester shall make periodic inspections of the protection facilities provided in order to ascertain compliance by the owner.
- (4) In case any owner of forestland shall fail or neglect to file such a fire plan or maintain the standard of protection approved by the board, either through compliance with the fire plan or membership in an approved association, then the forester under the direction of the board shall provide forest protection pursuant to ORS 477.205 to 477.281.
- (5) The forester shall provide protection pursuant to ORS 477.205 to 477.281 for forestland owned by the state or by a political subdivision located within a forest protection district, unless adequate protection as required by this section is otherwise provided. [Formerly 477.024; 2003 c.14 §314]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.212**

[Amended by 1953 c.68 §19; 1965 c.253 §104; renumbered 477.615]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.215**

[1953 c.68 §16; 1965 c.253 §105; renumbered 477.620]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.217**

[1957 c.32 §5 (enacted in lieu of 477.216); 1959 c.363 §10; 1965 c.253 §117; renumbered 477.565]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.218**

[Amended by 1953 c.68 §19; 1965 c.253 §103; renumbered 477.605]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.220 - Lands not provided protection; lands not included within ORS 477.205 to 477.281.**

- (1) The forester is not required to provide protection for forestland that is either a small parcel or a tract isolated from a forest protection district and which land is found by the forester as not practicable to be included in a forest patrol system.
- (2) ORS 477.205 to 477.281 do not apply to federal grazing land or federal timberland within this state for which adequate protection is provided unless the lands have been included within the boundaries of a forest protection district pursuant to a cooperative agreement with the federal government approved by the State Board of Forestry.
- (3) Upon written request of the owner of lands that have been incorporated within a rural fire protection district, the forester shall determine whether the lands, or any part thereof, are forestland. Thereafter, those lands that have been so determined shall be included within ORS 477.205 to 477.281 unless excluded pursuant to subsection (1) of this section. [Formerly 477.053; 2005 c.22 §358]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.225 - Establishment and change of forest protection districts; rules.**

The State Forester, by rule, shall designate areas of forestland within this state as forest protection districts within which the forester is required to provide protection pursuant to this chapter. In establishing new boundaries or changes in boundaries of the districts, the State Forester may, for the purposes of administrative convenience, designate mountain ranges, rivers, streams, roads or other recognizable landmarks as boundaries. Boundaries may be established or changed only after a public hearing. [Formerly 477.026; 1997 c.274 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.230 - Basis for computing cost of protection provided by forester; costs to be**

**in accordance with budget.**

- (1) The annual cost of protection provided by the forester for forestland within a forest protection district shall be as follows:
- (a) Grazing land within the district shall be protected by the forester at a pro rata cost per acre for all grazing land within the district boundary. However, forest patrol assessments levied and assessed under ORS 477.270 against such lands that are not owned by public agencies may not exceed one-half of the pro rata cost per acre, exclusive of any assessment per acre under ORS 477.880.
  - (b) Timberland within the district shall be protected by the forester at a pro rata cost per acre for all timberland within the district boundary. However, forest patrol assessments levied and assessed under ORS 477.270 against such lands that are not owned by public agencies may not exceed one-half of the pro rata cost per acre, exclusive of any assessment per acre under ORS 477.880.
- (2) The cost of protection described in this section shall be in accordance with a budget for the district approved by the State Board of Forestry. [Formerly 477.030; 1971 c.60 §1; 1973 c.184 §6; 1977 c.892 §48; 1983 c.16 §1; 1985 c.759 §32a; 1989 c.769 §10; 1997 c.274 §5; 2005 c.22 §359]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.232 - Costs in excess of budget; amounts not expended.**

Subject to the forest patrol assessment limitations set forth in ORS 477.230:

- (1) Actual costs incurred by the forester in the prevention and suppression of fire on grazing land or timberland located within a forest protection district, in excess of the amount budgeted as required by ORS 477.230, but not including those costs eligible for equalization by the Oregon Forest Land Protection Fund, shall be, without regard to proceedings for the collection of the costs:
- (a) Included in the budget for the next fiscal year; and
  - (b) Levied and assessed against the grazing land or timberland in the district.
- (2) Budgeted amounts not expended may be carried forward as a credit to the assessment rate for the ensuing year. [2005 c.802 §6]

Note:

477.232 was added to and made a part of 477.205 to 477.281 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.235 - Forester to prepare tentative budget estimates for districts.**

The forester shall prepare tentative budget estimates for each forest protection district for the ensuing fiscal year beginning July 1, in a manner consistent with accounting and budgetary procedures prescribed by the State Board of Forestry. [Formerly 477.041; 1967 c.429 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.240 - Advisory and guidance committees.**

In any forest protection district wherein the forester has entered into a cooperative agreement or contract with a forest protective association or agency described in ORS 477.406 (1), and the association or agency has appointed an advisory and guidance committee for the purposes of analysis and review of the protection plans and budgets for the district, the forester shall prepare the protection plans and budgets in conjunction with the committee. [1965 c.253 §63]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.242**

[Amended by 1959 c.363 §11; 1965 c.253 §118; renumbered 477.570]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.244**

[Amended by 1953 c.68 §19; 1961 c.123 §2; 1961 c.603 §13; 1965 c.253 §119; 1965 c.428 §§15,16; renumbered 477.575]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.245 - Owners entitled to be heard on budget matters; public budget meetings to be held in district.**

(1) All owners of lands assessed under ORS 477.205 to 477.281 shall have an opportunity to be heard on matters pertaining to the budgeting of moneys required to defray the cost of protection in each forest protection district. The forester, under the direction of the State Board of Forestry, shall provide for the holding of a public budget meeting in each district on or before May 1 of each year. The meeting shall be held at any convenient place designated by the forester.

(2) In forest protection districts wherein the board has entered into cooperative agreements or contracts with forest protective agencies, the board may make provision for the holding of the public budget meeting required in subsection (1) of this section on the same date and at the same place as a regular meeting of the agency. [Formerly 477.043]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire**

**Protection of Forests and VegetationSection 477.246**

[Amended by 1965 c.253 §122; renumbered 477.685]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.248**

[Amended by 1965 c.253 §123; renumbered 477.690]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.250 - Notice of budget meeting; notice of proposed assessment.**

(1) Not more than four weeks preceding each budget meeting, the forester shall cause notice of such meeting to be published once a week for two consecutive weeks in one or more newspapers published in or having general circulation in each of the counties in the forest protection district and in such other media of communication as the forester finds advisable. However, the final publication shall be made at least one week prior to the date of the meeting. The notice shall state the time and place where the tentative budget for the district may be inspected and shall state the time and place of the meeting.

(2) Whenever the forester determines that any privately owned land should be subject to assessment for forest protection and such land was not subject to the assessment during the preceding year, the forester shall give written notice by mail of the determination to each owner of such land not later than March 1 of the year the assessment is to be made. The notice shall inform the owner of the acreage and tax lot number of the lands to be assessed and the name and address of the nearest representative of the forester the owner may contact if review of the proposed assessment is desired. The notice shall also inform the owner of the procedure for hearing and appeals prescribed in ORS 477.205 to 477.281. [Formerly 477.045; 1979 c.276 §1; 1999 c.355 §5]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.255 - Holding of budget meeting; revision and submission of budget for final approval.**

(1) The public budget meeting shall be held at the time and place as stated in the published notice, or at such other time and place to which the meeting may be adjourned.

(2) A member of the State Board of Forestry, or the forester, shall act as chairperson of the meeting. The forester shall cause the minutes of the meeting to be preserved as a public record.

(3) During the meeting the chairperson shall receive from any interested persons suggestions, advice, objections or remonstrances as to the proposed budget for that forest protection district. The forester, under the direction of the board, may make changes in the budget proper and consistent with law, and thereafter submit the budget for final approval under ORS 477.265. [Formerly 477.047]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.260 - Appeal to board.**

(1) Any owner of grazing land or timberland within the boundary of the forest protection district who is adversely affected by the proposed budget may file an appeal within 30 days after the date of the public budget meeting.

(2) Any owner of grazing land or timberland subject to ORS 477.205 to 477.281 shall, upon request, be granted a hearing by the State Board of Forestry on any subject pertaining to the activities of the forester or board affecting the land.

(3) Appeals and hearings shall be conducted by the board in accordance with rules adopted pursuant to ORS 526.016 (4). [Formerly 477.049; 1997 c.274 §6; 1999 c.355 §6]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.265 - Board to deal with budgets annually.**

The State Board of Forestry shall annually review the forest protection district budgets, make any changes in the budgets that are proper and consistent with law, and pass final approval on all district budgets and the prorated acreage rates therein. [Formerly 477.051; 1999 c.355 §7]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.270 - Budgeted cost of forester to be lien; collection; deposit of amounts collected.**

(1) Subject to the forest patrol assessment limitations set forth in ORS 477.230:

(a) The budgeted cost of the forester, as provided for in ORS 477.205 to 477.281, in providing protection for privately owned forestland shall be a lien upon such property, shall be reported by the forester to the governing body of the county in which the lands are situated on or after July 1 of each fiscal year, and shall be levied and collected by the governing body with the next taxes on the land in the same manner and with the same interest, penalty and cost charges as apply to ad valorem property taxes in this state. The governing body shall instruct the proper officer to extend the amounts on the assessment roll in a separate account, and the procedure provided by law for the collection of taxes and delinquent taxes shall apply. Upon collection thereof, the governing body shall repay the entire amount collected to the forester.

(b) In lieu of the procedures under paragraph (a) of this subsection, the forester, under the direction of the State Board of Forestry, may make direct billing of the budgeted cost to owners of forestland and receive payment of the cost therefrom. In the event that under such billing procedures any owners fail to make payment, the unpaid budgeted cost shall become a lien against the property so billed and shall be levied and collected with the next taxes on such property as described in paragraph (a) of this subsection.

(c) The budgeted cost of the forester in providing protection for forestland owned by the state or by a political subdivision shall be paid to the forester on or before the first day of January of the fiscal year for which such protection is to be provided.

(2) Except as provided in ORS 477.230 (2), all moneys received by the forester pursuant to this section shall be paid into the State Treasury, credited to the State Forestry Department Account and used exclusively for the purposes of ORS 477.205 to 477.281. [Formerly 477.033; 1983 c.16 §2; 1999 c.355 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.277 - Additional assessment to maintain unencumbered balance of Oregon Forest Land Protection Fund.**

(1) In addition to any other assessment prescribed by ORS 477.205 to 477.281, in any fiscal year in which the Emergency Fire Cost Committee determines pursuant to ORS 477.760 that the unencumbered balance of the Oregon Forest Land Protection Fund is less than \$22.5 million, a surcharge shall be levied and assessed in the amount of \$47.50 for each improved lot or parcel, except as provided in ORS 477.760, to defray the increased cost of fire suppression on forestland that is caused by the existence of the improvements.

(2) All surcharge moneys collected pursuant to this section shall be paid into the Oregon Forest Land Protection Fund.

(3) If an owner of forestland files a forest protection plan with the forester which is approved by the State Board of Forestry under ORS 477.210 (2), the owner shall not be required to pay the surcharge levied under subsection (1) of this section.

(4) Contiguous lots included in a combined lot that is described in ORS 477.295 (3)(a) and whose owner has made application to the forester under ORS 477.295 (4) are considered one lot for purposes of subsection (1) of this section.

(5) As used in this section, a lot or parcel is "improved" if it is indicated as improved in the county assessor's property classification files or if a manufactured dwelling is sited on the lot or parcel. [1989 c.769 §3; 1991 c.639 §2; 1993 c.430 §1; 2003 c.685 §§1,6; 2005 c.802 §7; 2007 c.779 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.281 - Limitation on obligation of landowner for fire protection.**

(1) The obligation of an owner of timberland or grazing land for payment of assessments and taxes for fire protection of forestland is limited to:

(a) The payment of moneys pursuant to ORS 321.015 (2), 477.277, 477.295, 477.760 (4) and 477.880 to maintain the Oregon Forest Land Protection Fund; and

(b) The payment of forest protection district assessments pursuant to ORS 477.205 to 477.281.

(2) As used in this section, "obligation of an owner of timberland or grazing land for payment of assessments and taxes for fire protection of forestland" does not include the duties or obligations of the owner under ORS 477.066, 477.068 or 477.120 or the obligations of an owner of land included in a rural fire protection district pursuant to ORS 478.010. [1989 c.769 §9; 1991 c.639 §3; 1997 c.206 §2; 1999 c.59 §157; 2003 c.685 §§2,7; 2005 c.802 §8; 2009 c.69 §1; 2021 c.592 §43]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.282**

[1953 c.152 §2; 1965 c.253 §116; renumbered 477.670]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.286**

[1953 c.152 §4; 1965 c.253 §106; renumbered 477.625]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.288**

[1953 c.152 §5; 1965 c.253 §109; renumbered 477.635]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.290**

[1961 c.603 §14; 1965 c.253 §110; renumbered 477.640]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.295 - Minimum assessment under ORS 477.270; combining lots; fees; rules.**

(1) For purposes of making the levy and assessment of costs against forestland under ORS 477.270, the minimum cost to provide

fire protection or suppression for any lot or parcel of real property separately assessed for ad valorem taxes or other taxes provided by law in lieu thereof, on the current assessment roll shall be not less than \$18.75, except as provided in ORS 477.760. Three dollars and seventy-five cents of each minimum assessment shall be paid into the Oregon Forest Land Protection Fund. Otherwise, such assessments shall be determined under ORS 477.230 and 477.270.

(2) In any fiscal year in which the Emergency Fire Cost Committee determines pursuant to ORS 477.760 that the unencumbered balance of the Oregon Forest Land Protection Fund has:

(a) Increased to an amount:

(A) More than \$22.5 million but less than or equal to \$30 million, the minimum assessment referred to in subsection (1) of this section shall be \$16.88 for each lot or parcel. Of that amount, \$1.88 of each minimum assessment shall be paid into the Oregon Forest Land Protection Fund.

(B) More than \$30 million, the minimum assessment referred to in subsection (1) of this section shall be \$15 for each lot or parcel. This amount shall be treated in the same manner as assessments under ORS 477.230 and 477.270.

(b) Decreased to an amount that is at or below \$22.5 million, the minimum assessment referred to in subsection (1) of this section shall be \$18.75 for each lot or parcel. This amount shall be treated in the same manner as assessments under subsection (1) of this section.

(3) Upon application to the forester under subsection (4) of this section, contiguous lots held under identical ownership shall be considered as one combined lot for purposes of subsection (1) of this section. However, the following may not be included in a combined lot:

(a) Except as provided in this paragraph, a lot on which a structure has been placed or improvements made for the purpose of erecting any temporary or permanent structure. One lot on which a single-family dwelling has been placed, and lots on which the structures and improvements that are appurtenant to that single-family dwelling have been placed, may be included in a combined lot that does not exceed 20 acres.

(b) A lot that is in a subdivision containing lots that have been or are being offered for sale.

(c) A lot that is not designated forest or agricultural land for the purpose of land use or special tax assessment purposes.

(4) To qualify under subsection (3) of this section, an owner of forestland shall make application to the forester no later than April 15 of the fiscal year preceding each fiscal year for which the owner desires the land to be assessed under subsection (3) of this section. The application shall be on a form prescribed by the State Forester. A fee of \$25 per combined lot shall be paid to the forester at the time of first application for the combined lot. An additional fee of \$25 per combined lot shall be paid to the forester at the time of subsequent application, if an application for the combined lot was not made for the previous fiscal year.

(5) The State Board of Forestry may adopt rules for the administration of the provisions of subsections (3) and (4) of this section.

(6) For the purposes of this section, "lot" and "subdivision" have the meanings given those terms in ORS 92.010. [1965 c.428 §6; 1969 c.204 §1; 1977 c.153 §1; 1977 c.892 §49; 1981 c.321 §13; 1983 c.108 §1; 1989 c.769 §7; 1991 c.623 §1; 1991 c.639 §4; 1997 c.274 §7; 1999 c.355 §9; 2003 c.685 §§3,8; 2005 c.802 §§9,10; 2007 c.779 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.300 - Use of funds in State Forestry Department Account for capital outlay expenditures of district.**

(1) Moneys available at any time in the State Forestry Department Account for the purposes of this chapter, particularly ORS 477.205 to 477.281, which moneys are not specifically obligated for other purposes, may be used by the forester with the approval of the State Board of Forestry for capital outlay expenditures in any forest protection district. Prior to the making of such capital outlay expenditures, the forester and board may specify that the account shall be reimbursed for all or a part of such expenditures, over a period not to exceed 10 years, from any one or a combination of the following sources:

(a) Forest patrol assessments of the district involved.

(b) Moneys derived from an association under ORS 477.406.

(c) Moneys derived from municipal, county, state or federal agencies under this chapter, for the protection of their forestland from fire.

(2) Any reimbursement of capital outlay expenditures required by the forester and board under subsection (1) of this section shall be a pro rata amount from the source or sources involved, based upon forestland acreage being protected in the district for which the expenditures are made. [Formerly 477.016]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.302**

[Amended by 1965 c.253 §126; renumbered 477.705]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.304**

[Amended by 1965 c.253 §127; renumbered 477.710]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire**

**Protection of Forests and VegetationSection 477.305 - Forester to enforce prohibition against littering on forestland in districts.**

The forester is authorized to enforce the provisions of ORS 164.805 insofar as such affects forestland within forest protection districts established under this chapter. [1965 c.428 §2; 1971 c.743 §387]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.306**

[Amended by 1965 c.253 §132; renumbered 477.730]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.308**

[Amended by 1965 c.253 §133; renumbered 477.735]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.310**

[Amended by 1959 c.363 §12; 1965 c.253 §134; renumbered 477.090]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.315 - Definitions for ORS 477.315 to 477.325.**

As used in ORS 477.315 to 477.325:

(1) "Rangeland" means any land:

- (a) That is located in that part of the state lying easterly of the summit of the Cascade Mountains;
- (b) That has not been classified as Class 1, Class 2 or Class 3 forestland under ORS 526.305 to 526.370; and
- (c) That may contain isolated tracts of forestland not so classified or not within a forest protection district, or that is primarily land used for cultivating crops, rangeland, undeveloped land or undeveloped area containing sagebrush, juniper and similar growths.

(2) "Rangeland protection association" means an entity that has the purpose of protecting rangeland from fire and is:

- (a) Organized by owners of rangeland that is located within a rangeland protection system established under ORS 477.320 and lies wholly outside any forest protection district; or
- (b) Organized with the approval of a county governing body to be a cost-neutral part of the emergency management program in a county having 200,000 or more acres of rangeland that are outside any forest protection district and are not protected by an association formed under paragraph (a) of this subsection. [Formerly 477.142; 2003 c.14 §315; 2016 c.69 §2; 2021 c.587 §1]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.317 - State Forester assistance to rangeland protection association.**

- (1) The forester may enter into cooperative agreements or contracts with a rangeland protection association under the provisions of ORS 477.320 for the purpose of providing the assistance specified in subsection (2) of this section.
- (2) The forester may assist with organizing a rangeland protection association, training association members and acquiring firefighting equipment for the association. The forester may also assist a rangeland protection association with payment for liability insurance and other administrative expenses of the association. The insurance and administrative expense assistance may not exceed 50 percent of the total of budgeted operating costs and the cash equivalent of in-kind supplies and services of the association in any fiscal year. The costs of assistance specified in this subsection may not be paid from funds assessed from forestland owners under ORS 477.230. [2007 c.808 §2; 2016 c.69 §3]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.320 - Request of rangeland owners for protection; hearings; determination; cooperative agreements for protection.**

- (1) Owners of rangeland may request the State Board of Forestry to hold a hearing on the subject of providing protection from fire for rangeland. Upon receipt of such request, the board or its authorized representative shall hold one or more public hearings in order to receive from interested persons information relating to the providing of such protection, and shall cause public notice of the time and place of each hearing to be given. The board or its authorized representatives shall keep the records of the proceedings of such hearings as public records.
- (2) After the hearing referred to in subsection (1) of this section, the board shall determine whether the rangeland should be included within a protection system. If the board determines that rangeland should be included in a rangeland protection system, the board, in cooperation with interested persons, shall establish the extent and type of protection to be provided and direct the forester or a rangeland protection association to provide the protection. Such protection shall be commensurate with the values and uses of the rangeland to be protected.
- (3) After proceedings under subsections (1) and (2) of this section, the forester or a rangeland protection association shall provide the type and extent of protection determined under subsection (2) of this section for rangeland determined to be included within a

protection system under subsection (2) of this section. For the purpose of providing such protection, the forester and a rangeland protection association may enter into cooperative agreements or contracts with each other or, jointly or separately, with owners of rangeland, individuals, associations, corporations, road districts, rural fire protection districts or agencies of the federal government. [Formerly 477.144; 1999 c.355 §10; 2007 c.808 §5; 2016 c.69 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.325 - Budget for rangeland protection; collection of costs; disposition of receipts.**

(1) Before June 1 each year, the owners of rangeland to be protected under ORS 477.320, and all rangeland protection associations, shall prepare in cooperation with the State Board of Forestry or its authorized representative, and submit to the board, a proposed budget for the fiscal year beginning on the next succeeding July 1. The budget shall include the proposed cost of such protection. At the meeting of the board under ORS 477.265, the board shall review the budget, make any changes therein that are proper and consistent with law, and pass final approval thereon.

(2) The cost of protection of rangeland under ORS 477.320 shall be in accordance with the budget approved under subsection (1) of this section. The cost shall be collected pursuant to the cooperative agreement or contract entered into between the forester and the owners of the rangeland under ORS 477.320. All moneys received by the board pursuant to this subsection shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used exclusively for the purposes of ORS 477.315 to 477.325. [Formerly 477.146; 1999 c.355 §11; 2007 c.808 §3; 2016 c.69 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.355 - Fire wardens generally.**

(1) The State Forester shall appoint one or more district fire wardens for each forest protection district.

(2) The State Forester shall appoint such additional fire wardens as are needed to enforce this chapter. [1965 c.253 §86; 1997 c.274 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.360 - Duties of fire warden for forest protection district.**

The district fire warden, under the direction of the State Forester, has charge of the fire prevention and suppression system in the forest protection district of the warden and such other duties as are required by law and the rules of the State Board of Forestry. Any other wardens serving in the district are subject to the direction of the district fire warden. [Formerly 477.008; 1999 c.355 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.365 - Duties and powers of wardens.**

(1) Under instructions from the forester as to their exercise of state authority, all wardens shall:

(a) Take proper steps for the prevention and extinguishment of fires within the localities in which they exercise their functions.

(b) Control the use of fire for clearing land during fire season, as provided by ORS 477.505 to 477.520.

(c) Make such reports of their work and conditions within their localities as may be requested by the forester.

(d) Have the power of peace officers to make arrests or issue citations pursuant to ORS 477.985 for violation of this chapter or rules or orders adopted pursuant thereto.

(e) Enter upon the lands of any owner only in the discharge of their fire prevention and suppression duties, provided that in so entering they exercise due care to avoid doing damage.

(f) Investigate the causes of fires and may secure a fire origin area, at any time, for the purpose of preserving evidence and conducting an investigation pertinent to this chapter and control, restrict or prohibit access by any unauthorized person so long as is reasonably necessary in the judgment of the warden.

(g) Make a written determination, on a form prescribed by the State Forester, of the personnel and equipment reasonably available to an owner or operator who is required to make every reasonable effort pursuant to ORS 477.120 (5) and revise such determination as frequently as is necessary in the judgment of the warden.

(h) Make a written determination, on a form prescribed by the State Forester, of the use of any power-driven machinery in any operation pursuant to ORS 477.670 and revise such determination as frequently as is necessary in the judgment of the warden.

(2) The forester, or any warden coming under the jurisdiction of the forester, may administer oaths in investigations of violations of this chapter and the preparation of reports thereon. [Formerly 477.012; 1971 c.743 §388; 1993 c.697 §4; 1997 c.274 §9; 2003 c.14 §316]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.406 - Cooperative contracts or agreements for forest protection or forest related activities; negotiation.**

(1) The forester and a forest protective association may enter into a contract or agreement with each other or, jointly or separately, with a federal or state agency, political subdivision, corporation, responsible organization or responsible landowner or group of



landowners for the prevention and suppression of fire on forestland or on land other than forestland, or both, to prevent and suppress fire.

(2) Contracts and agreements under subsection (1) of this section, and all renewals and revisions thereof, must be negotiated in accordance with procedures specified by rules of the State Board of Forestry.

(3) The forester and a forest protective association may enter into a contract or agreement for the accomplishment of forestry related activities.

(4) Contracts and agreements between the forester and a forest protective association under subsections (1) and (2) of this section may include the purchase from the forester of supplies and equipment needed to provide and support fire protection services. [1967 c.429 §24 (enacted in lieu of 477.405); 1969 c.204 §2; 1993 c.415 §1; 1999 c.355 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.408 - Provisions of contract or agreement.**

Contracts or agreements under ORS 477.406 may provide, among other things, for any or all of the parties to do any one or more of the following:

(1) Exchange services on a cooperative basis.

(2) Provide services, supplies and equipment in return for cash payment or other compensation.

(3) Loan or lease equipment.

(4) Subcontract obligations. [1967 c.429 §26; 1993 c.415 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.409 - Contracts for off-season services for fire prevention and suppression personnel.**

(1) The Department of Transportation and the Douglas Forest Protective Association, the Coos Forest Protective Association, the Walker Range Forest Protective Association or any successor association may enter into contracts that provide for seasonal fire prevention and suppression personnel employed by an association to render off-season services to the Department of Transportation. Services provided under a contract described in this section must be off-season services that State Forestry Department personnel were authorized to perform under one or more contracts or agreements between the Department of Transportation and the State Forestry Department entered into on or before January 1, 2012.

(2) A contract under this section shall specify the functions or activities to be performed and by what means the functions or activities are to be performed. The contract shall provide for:

(a) Identifying the responsibilities of the parties in ensuring payment of wages to the personnel for the off-season services.

(b) The term or duration of the contract.

(c) The rights of the parties to terminate the contract.

(3) A contract under this section may exclude any clause or condition required by ORS 279B.220, 279B.225, 279B.230, 279B.235, 279B.270 or 279C.500 to 279C.530 from the contract.

(4) If the Department of Transportation enters into a contract under this section, the department shall submit a summary of the contract to the Oregon Department of Administrative Services within the 30-day period immediately following the effective date of the contract. The summary must include the following information:

(a) Names of the parties to the contract.

(b) Date of the contract.

(c) Subject matter of the contract.

(d) The location at which a person may obtain a copy of the contract.

(5) The Department of Transportation shall submit a summary under subsection (4) of this section to the Oregon Department of Administrative Services through electronic means. [2012 c.19 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.410 - Liability of parties; responsibility for equipment; unemployment insurance and workers' compensation; sovereign immunity.**

(1) Unless otherwise provided in a contract or agreement, and except as provided in subsection (2) of this section:

(a) A party to a contract or agreement under ORS 477.406, who is performing services for the benefit of another party, is not liable for injury or damages to persons or property inflicted by the actions of such other party.

(b) If equipment is loaned or leased pursuant to a contract or agreement under ORS 477.406, the party to have primary use of the equipment under the contract or agreement is responsible for any and all damages or loss to such equipment or for insuring the equipment against loss or damage in a manner acceptable to the party owning the equipment.

(c) If the services of personnel are involved pursuant to a contract or agreement under ORS 477.406, the party to have primary control over such personnel under the contract or agreement shall provide such unemployment insurance and workers' compensation coverage as may be required by law.

(2) Nothing in ORS 477.406 to 477.412 or in any contract or agreement under ORS 477.406 constitutes a waiver by the State of Oregon of its immunity from suit under section 24, Article IV of the Oregon Constitution, in addition to any waiver otherwise

provided by law. [1967 c.429 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.412 - Disposition and use of moneys received by forester under contract or agreement.**

All money received by the forester pursuant to a contract or agreement described in ORS 477.406 shall be paid into the State Treasury, credited to the State Forestry Department Account and used pursuant to law for the purposes of the contract or agreement. [1967 c.429 §28]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.415 - Definitions for ORS 477.440 to 477.460.**

The definitions in ORS 321.005 apply to ORS 477.440 to 477.460. [1965 c.253 §78; 1967 c.429 §35; 1981 c.321 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.440 - Emergency Fire Cost Committee; members; terms; vacancies.**

(1) The State Board of Forestry shall appoint an Emergency Fire Cost Committee consisting of four members, who shall be forest landowners or representatives of forest landowners whose forestland is being assessed for forest fire protection within a forest protection district. At least one member shall be selected from each forest region of the state. Members shall serve at the pleasure of the board.

(2) Members of the Emergency Fire Cost Committee shall be appointed by the board for four-year terms. Appointments under this subsection shall be made by the board within 60 days after July 21, 1987. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term. [Formerly 527.280; 1983 c.759 §12; 1987 c.919 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.445 - Distribution of fire emergency funds by committee.**

The Emergency Fire Cost Committee shall supervise and control the distribution of funds from the Oregon Forest Land Protection Fund established under ORS 477.750. [Formerly 527.282; 1967 c.429 §6; 1981 c.321 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.450 - Election of committee chairperson.**

After July 1, 1961, the Emergency Fire Cost Committee shall meet and elect one of its members chairperson. The chairperson shall hold office for a period determined by the committee. Whenever the office of chairperson of the committee becomes vacant, the committee at its next regular or special meeting shall elect one of its members to fill the vacancy. [Formerly 527.288]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.455 - Meetings of committee; committee administrator.**

(1) Regular meetings of the Emergency Fire Cost Committee shall be held quarterly prior to the day set for meetings of the State Board of Forestry, as otherwise provided by law. Special meetings of the committee may be called by its chairperson or by three members. The act or decision of any three members shall be deemed the act or decision of the committee.

(2) A staff member of the State Forestry Department shall be designated by the State Forester to serve as administrator for the committee. [Formerly 527.296; 1987 c.919 §21; 1991 c.639 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.460 - Duties of administrator; compensation and expenses.**

(1) The administrator shall act as secretary of the Emergency Fire Cost Committee and shall carry out the provisions of ORS 477.440 to 477.460 in such manner as the committee shall direct. The salary and other expenses of the administrator shall be paid from the Oregon Forest Land Protection Fund as are other expenses of the committee.

(2) Members of the committee are entitled to compensation and expenses as provided in ORS 292.495. [Formerly 527.292; 1969 c.314 §51; 1981 c.321 §6; 1987 c.919 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.490 - Statewide wildfire hazard map; rules.**

(1) The State Forestry Department shall oversee the development and maintenance of a comprehensive statewide wildfire hazard map that displays the wildfire hazard zones described in subsection (5) of this section and populates the Oregon Wildfire Risk Explorer.

(2) The purposes of the map are to:

(a) Educate Oregon residents and property owners about the residents' and property owners' wildfire exposure by providing transparent and science-based information.

- (b) Assist in prioritizing fire adaptation and mitigation resources for the most vulnerable locations.
- (c) Identify where defensible space standards and home hardening codes will apply.
- (3) The Oregon Wildfire Risk Explorer must be the official wildfire planning and hazard classification mapping tool for the State of Oregon.
- (4) The State Board of Forestry shall establish by rule criteria by which the map must be developed and maintained, including criteria concerning the use of the most current wildfire assessments.
- (5) In consultation with Oregon State University, the department shall establish three statewide wildfire hazard zones that are titled high, moderate and low hazard zones. The zones must be:
  - (a) Consistent with ORS 477.027.
  - (b) Based on weather, climate, topography and vegetation.
- (6) The department shall enter into an agreement with the university that provides that the university will develop and maintain the map and make the map publicly available in electronic form through the Oregon Wildfire Risk Explorer.
- (7) The board shall adopt rules that:
  - (a) Provide opportunities for public input into the assignment of properties to the wildfire hazard zones described in subsection (5) of this section.
  - (b) Require the department to provide notice and information to a property owner whose property is assigned to the high hazard zone within the wildland-urban interface, as defined pursuant to ORS 477.027, about the fact that the property has been assigned to the high hazard zone, the effects of the assignment and how the property owner may appeal the assignment of the property owner's property to the high hazard zone.
  - (c) Allow affected property owners and local governments to appeal the assignment of properties to the wildfire hazard zones after the map is developed, after any updates to the map and within a reasonable time after delivery of the notice and information described in paragraph (b) of this subsection.
  - (d) Provide that assignments of properties to the high hazard zone may be appealed as a contested case as described in ORS chapter 183.
- (8) Before sending notices described in subsection (7)(b) of this section, the department shall seek review of the notices by the Wildfire Programs Advisory Council to receive council recommendations concerning tone, clarity of language and presentation of information.
- (9) The map must:
  - (a) Be based on the wildfire hazard zones.
  - (b) Be sufficiently detailed to allow the assessment of wildfire hazard at the property-ownership level.
  - (c) Include the boundaries of the wildland-urban interface, as defined in ORS 477.015, consistent with national standards.
  - (d) Include a layer that geospatially displays the locations of socially and economically vulnerable communities.
  - (e) Be completed and released expeditiously, following the collaboration described in subsection (10) of this section.
- (10) To develop and maintain the map, the department and the university shall collaborate with the State Fire Marshal, other state agencies, local governments, federally recognized Indian tribes in this state, other public bodies and any other information sources that the university deems appropriate.
- (11) In implementing subsections (7)(a) and (10) of this section, the department and the university shall provide for robust community engagement through a process that:
  - (a) Ensures, through the use of clear language, graphics, visuals and examples, that the underlying criteria for assigning hazard zones are publicly available and comprehensible to a public audience.
  - (b) Is interactive and does not consist solely of delivering information in a top-down manner.
  - (c) Is coordinated with local partners, including counties, relevant state agencies and the Wildfire Programs Advisory Council.
- (12) In addition to the community engagement described in subsection (11) of this section, to ensure that local characteristics in each area of this state are considered in the mapping process and before the draft map is released, the department shall meet with county commissioners and the county commissioners' staff in eight in-person meetings throughout this state.
- (13) When the draft map is released but before final publication of the map occurs:
  - (a) The department shall accept public comment on the map.
  - (b) After the meetings described in subsection (12) of this section, county commissioners, upon request by the county commissioners, must have one additional opportunity, arranged and scheduled by the Association of Oregon Counties, with either in-person attendance or a hybrid of in-person and remote attendance, to discuss concerns about the map and potential changes to the map.
- (14) In maintaining the map, the university shall make technical adjustments as needed and update the map consistent with the results of appeals described in subsection (7)(b) of this section.
- (15) The university shall provide technical assistance to representatives of state and local government, and to landowners, that use the map.
- (16) Agencies of this state shall, as appropriate, use the map layer described in subsection (9)(d) of this section to:
  - (a) Direct resources for wildfire hazard reduction and wildfire resiliency to those most in need; and
  - (b) Assist with identifying communities for extensive, targeted engagement and outreach related to wildfire hazard reduction and wildfire resiliency.

(17) Agencies that use the map layer described in subsection (9)(d) of this section shall conduct outreach:

- (a) In partnership with community leaders and community-based organizations;
- (b) By using different media;
- (c) By disseminating information through local schools, stores, faith-based organizations and medical offices; and
- (d) By offering all information in the languages spoken in the relevant community, as practicable. [2021 c.592 §7; 2023 c.611 §1]

Note:

477.490 to 477.504 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.502 - Landscape Resiliency Fund.**

The Landscape Resiliency Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Landscape Resiliency Fund shall be credited to the fund. The fund shall consist of all moneys placed in the fund as provided by law and any gifts, grants, donations, endowments or bequests from any public or private source. Moneys in the fund are continuously appropriated to the State Forestry Department for landscape resilience projects and implementing ORS 477.503. [2023 c.611 §4]

Note:

477.502 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.503 - Reduction of wildfire risk.**

(1)(a) The State Forestry Department shall design and implement a program to reduce wildfire risk through the restoration of landscape resiliency and the reduction of hazardous fuel on public or private forestlands and rangelands and in communities near homes and critical infrastructure.

(b) The department shall ensure that the program is consistent with the objectives described in this section and biennially select, administer and evaluate projects consistent with the objectives described in this subsection.

(c) When developing program and project selection criteria, the department shall, to the extent practicable, consult and cooperate with state and federal agencies, counties, cities and other units of local government, federally recognized Indian tribes in this state, public and private forestland and rangeland owners, forest and rangeland collaboratives and other relevant community organizations and ensure consistency with the priorities described in subsection (3) of this section.

(2) The department shall develop a 20-year strategic plan, as described in the Shared Stewardship Agreement signed on August 13, 2019, that prioritizes restoration actions and geographies for wildfire risk reduction. The plan must be able to be used to direct federal, state and private investments in a tangible way.

(3) In selecting and administering projects, the department shall:

(a) In collaboration with the Oregon State University Extension Service and other entities, identify strategic landscapes that are ready for treatment, giving priority to projects within the landscapes that are:

(A) On lands in the four highest eNVC risk classes identified in the United States Forest Service report titled "Pacific Northwest Quantitative Wildfire Risk Assessment: Methods and Results" and dated April 9, 2018;

(B) Inclusive of federal lands with treatment projects currently approved under the National Environmental Policy Act (42 U.S.C. 4321 et seq.);

(C) Focusing on treatments protective of human life, property, critical infrastructure, watershed health and forest or rangeland habitat restoration; and

(D) Part of a collaborative partnership with agreements across diverse forestland or rangeland stakeholders that use an expansive, landscape-scale approach to address underlying causes of poor wildfire resilience and elevated risk of wildfire or that establish innovative approaches to addressing the underlying causes that could be implemented on a larger scale.

(b) To the extent practicable, identify and support projects that are designed to:

(A) Evaluate varying types of fuel treatment methods;

(B) Leverage the collective power of public-private partnerships and federal and state funding, including leverage of the coordination of funding to support collaborative initiatives that address the underlying causes of elevated forestland and rangeland wildfire risk across ownerships; and

(C) Optimize the receipt of federal government investments that equal or exceed department investments.

(c) Design the projects to involve existing forest-based and range-based contracting entities.

(d) Design the projects to complement programs and projects of the Oregon Watershed Enhancement Board or other state agencies as needed.

(e) Design the projects to involve the Oregon Conservation Corps Program established by ORS 476.694, to the maximum extent possible, for community protection projects located in the wildland-urban interface, subject to funding available in the Oregon Conservation Corps Fund established by ORS 476.698.

(f) Affirmatively seek, and enhance opportunities for, collaboration from stakeholders holding a wide variety of perspectives

regarding forest and rangeland management and opportunities for significant involvement by communities in proximity to project sites.

(g) Engage in monitoring of the projects to produce useful information on which to base recommendations to the Legislative Assembly.

(4) A project under this section may not include commercial thinning on:

(a) Inventoried roadless areas;

(b) Riparian reserves identified in the Northwest Forest Plan or in federal Bureau of Land Management resource management plans;

(c) Late successional reserves, except to the extent consistent with the 2011 United States Fish and Wildlife Service Revised Recovery Plan for the Northern Spotted Owl (*Strix occidentalis caurina*);

(d) Areas protected under the federal Wild and Scenic Rivers Act (P.L. 90-542), national recreation areas, national monuments or areas protected under ORS 390.805 to 390.925;

(e) Designated critical habitat for species listed as threatened or endangered under the Endangered Species Act of 1973 (P.L. 93-205) or by the State Fish and Wildlife Commission under ORS 496.172, unless commercial thinning is already allowed under an existing environmental review or recognized habitat recovery plan; or

(f) Federally designated areas of critical environmental concern or federally designated wilderness study areas.

(5) The department shall give public notice, and allow reasonable opportunity for public input, when identifying and selecting landscapes under this section. [2021 c.592 §18]

Note:

See note under 477.490.

Note:

Section 20, chapter 592, Oregon Laws 2021, provides:

Sec. 20.

(1) The State Forestry Department shall complete the operation of projects under section 18, chapter 592, Oregon Laws 2021 [477.503], no later than June 30, 2025.

(2) The department shall report regarding progress in carrying out projects under section 18, chapter 592, Oregon Laws 2021, to an interim committee of the Legislative Assembly related to natural resources, in the manner provided by ORS 192.245, and to the Governor, State Wildfire Programs Director and Wildfire Programs Advisory Council no later than January 15, 2022. The report shall include, but need not be limited to:

(a) An explanation of how landscapes were selected, a summary of the selected projects, a description of initial outcomes from projects selected under the requirements established by section 18, chapter 592, Oregon Laws 2021, anticipated time frames for completion of the projects and any initial recommendations concerning landscape identification and projects selected under the requirements established by section 18, chapter 592, Oregon Laws 2021;

(b) A description of the funding source types and amounts secured by the department as matching funds to implement projects; and

(c) A summary of outreach and coordination with relevant federal and state agencies, counties, cities and other units of local government, federally recognized Indian tribes in this state, public and private forestland and rangeland owners, forestland and rangeland collaboratives and other relevant community organizations to identify and select landscapes for treatment and develop selection criteria for projects.

(3)(a) The department shall report its findings and recommendations regarding wildfire risk reduction on forestland and rangeland and in communities, based on information obtained from the projects described in section 18, chapter 592, Oregon Laws 2021, to an interim committee of the Legislative Assembly related to natural resources, in the manner provided by ORS 192.245, and to the Governor, State Wildfire Programs Director and Wildfire Programs Advisory Council no later than July 15, 2023. The report shall include, but need not be limited to:

(A) A qualitative and quantitative summary of the project outcomes that, at a minimum, states the number of acres treated, the treatment actions carried out and any resulting or anticipated changes in landscape conditions related to enhanced resiliency or the mitigation of wildfire risk to public values;

(B) The identification of barriers to more efficient implementation and achievement of goals in future wildfire risk reduction projects;

(C) A qualitative and quantitative summary of the use of prescribed fire activities and invasive annual grass treatments for wildfire risk reduction that, at a minimum, states the number of acres burned or treated and any resulting or anticipated changes in landscape conditions related to enhanced resiliency or the mitigation of wildfire risk to public values;

(D) The identification of existing disincentives to, and recommendation for reducing barriers to, the use of prescribed fire;

(E) Recommendations for creating optimal working relationships with forestland or rangeland collaboratives and other relevant community organizations regarding future wildfire risk reduction projects;

(F) A description of the funding source types and amounts secured by the department as matching funds to carry out projects; and

(G) Recommendations for investment in future wildfire risk reduction projects to be carried out in the 2023-2025 biennium.

(b) In developing the report required under this subsection, the department shall work in coordination with federal land management agencies, institutions of higher education and third parties to develop consistent performance measurements and condition-based metrics for monitoring and communicating the effectiveness of state investments and project actions in reducing wildfire risk on public or private forestlands and rangelands and in communities. [2021 c.592 §20; 2023 c.602 §40]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.504 - No effect on management of private lands.**

ORS 477.503 does not expand, diminish or otherwise affect a right, privilege, duty or function established under federal, state or local laws or rules that pertain to the management of private lands in this state. [2021 c.592 §19]

Note:

See note under 477.490.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.505 - State Forester may declare fire season in district.**

(1) When conditions of fire hazard exist in a forest protection district or any part thereof, the State Forester may designate for that district or any part thereof the date of the beginning of a fire season for that year. The fire season shall continue for that district or part thereof until ended by order of the State Forester when conditions of fire hazard no longer exist in that district or part thereof.

(2) The State Forester may, during the same year and for the same district under circumstances similar to those described in subsection (1) of this section, designate one or more subsequent fire seasons. [1965 c.253 §93; 1969 c.204 §3; 1997 c.274 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.510 - Acts prohibited during fire season.**

It is unlawful, during a fire season inside or within one-eighth of one mile of a forest protection district, to:

(1) Smoke while working in or traveling through any operation area.

(2) Use fuse and caps for blasting unless approval is granted by the forester. [Formerly 477.165; 1997 c.274 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.512 - Additional acts prohibited during fire season.**

(1) As used in this section:

(a) "Exploding target" means a device:

(A) Designed for use or used as a target for small arms ammunition or for other projectiles;

(B) Consisting of a flammable substance or flammable combination of substances; and

(C) Capable of exploding when struck by small arms gunfire or by other projectiles.

(b) "Small arms" means a shotgun, rifle, pistol or revolver.

(c) "Tracer ammunition" means a bullet that contains a flammable substance designed to ignite upon firing of the bullet and to burn with sufficient brightness to allow observation of the bullet trajectory.

(2) A person violates this section if, during a fire season declared under ORS 477.505 for a forest protection district or a part of a forest protection district:

(a) The person discharges an exploding target or tracer ammunition on land that is inside the district or is within one-eighth of a mile of the district; or

(b) Tracer ammunition discharged by the person crosses above land that is inside the district or is within one-eighth of a mile of the district.

(3) Violation of this section is a Class A violation. In addition to any enforcement officer specifically identified in ORS 153.005, the State Fire Marshal, the State Forestry Department or the State Forester may issue a citation for a violation under this section. [2013 c.223 §2; 2016 c.123 §2]

Note:

477.512 was added to and made a part of ORS chapter 477 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.515 - Permits required for fires on forestlands; waiver; permit conditions; cooperative agreements for permit administration; rules.**

(1) It is unlawful to set or cause to be set an open fire inside or within one-eighth of one mile of a forest protection district, either on one's own land or on the land of another, without first securing a written permit for burning from the forester and complying with the conditions of the permit. In granting permits for burning:

(a) The forester may waive the requirement that permits be secured prior to burning, except during a fire season or when required under rules adopted pursuant to subsection (4) of this section.

(b) The forester shall prescribe conditions necessary to be observed in setting a fire and preventing it from spreading out of control.

(c) The forester may prescribe conditions necessary to be observed in maintaining air quality.

(2) Any permit obtained through willful misrepresentation is void.

(3) To avoid confusion or duplication of administration and to promote government efficiency, the forester may enter into a cooperative agreement with a county, a city or a rural fire protection district that:

(a) Allows the forester to administer the requirements of this section, in conjunction with the enforcement authority of ORS 477.980

- to 477.993, on lands not otherwise subject to the requirements of this chapter; or
- (b) Allows the cooperating agency to administer the burning permit requirements of ORS chapter 476 or 478, as appropriate, including applicable enforcement authority, on lands otherwise subject to the requirements of this chapter.
- (4) All burning allowed under this section shall comply with applicable rules that may be adopted by the State Board of Forestry and the Department of Environmental Quality.
- (5) The provisions of this section do not apply to campfires. [1965 c.253 §95; 1969 c.204 §204; 1969 c.680 §1; 1971 c.297 §1; 1997 c.274 §12; 1999 c.355 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.520 - Refusal, suspension or revocation of permits.**

The forester may refuse, suspend or revoke a permit authorized by or issued under ORS 477.515 (1), when necessary in the judgment of the forester to prevent danger to life, health, forest resources or property. The forester may also refuse, suspend or revoke a permit authorized by or issued under ORS 477.515 (1), when necessary in the judgment of the forester, and after consultation with the Environmental Quality Commission to prevent air pollution, as defined in ORS 468A.005. [1965 c.253 §96; 1969 c.680 §2; 1997 c.274 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.532 - Regional air quality authority's functions limited.**

None of the functions of the Environmental Quality Commission under ORS 477.013, 477.515 and 477.520 shall be performed by any regional air quality authority established pursuant to ORS 468A.105. [1969 c.680 §5; 1997 c.274 §49]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.535 - Forester may proclaim forestland subject to restricted uses; coordination of state and federal land restrictions.**

- (1) If the forester determines that any forestland inside or within one-eighth of one mile of a forest protection district is particularly exposed to fire danger, by proclamation the forester may designate such forestland as an extra fire hazard and may restrict the use of such forestland.
- (2) The proclamation shall designate the area to which and the period during which the restrictions apply, and require that the area be subject to use only upon the condition that entrants comply with all the restrictions for the area.
- (3) The proclamation shall designate the type of closure as:
- (a) Regulated closure;
  - (b) Permit closure; or
  - (c) Absolute closure.
- (4) For the purpose of consistency and coordination between all affected agencies in the administration of forestland restrictions, a plan shall be developed by the forester, in cooperation with federal, state and local governmental agencies, landowners and organizations affected by the restrictions. The primary objective of the plan is uniformity of regulations regardless of land ownership. The plan must recognize variation in fire danger and must specify levels of closure by unique but easily recognizable geographic boundaries. [Formerly 477.156; 1967 c.429 §45; 1989 c.615 §3; 1997 c.274 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.540 - Notice of proclamation; suspension or termination; reinstatement.**

- (1) The forester shall cause a notice of the closure proclaimed under ORS 477.535 to be posted in conspicuous locations that are in or near the designated areas. The forester shall cause a notice of each proclamation to be published in at least one newspaper published in each forest protection district containing the designated areas. Each published notice shall describe the area, type, restrictions and effective date of closure, and the manner in which permits may be secured if the area is subject to a permit closure.
- (2) The proclamation shall remain in force until the time designated therein expires or until the forester finds that the restricted use is no longer requisite and by order suspends or terminates it. A reinstatement of a closure after a suspension does not require the notices described in subsection (1) of this section. [Formerly 477.160; 1967 c.429 §46; 1969 c.204 §5; 1997 c.274 §15; 1999 c.355 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.545 - Restricted uses during closure.**

- (1) Regulated closures require entrants into designated areas to comply with the requirements set forth in the proclamation under ORS 477.535, which requirements in the judgment of the forester are necessary to prevent danger to life, forest resources or property.
- (2) Permit closures make the area subject to entry only through permit issued by the forester. The permit shall contain requirements which in the judgment of the forester are necessary to prevent danger to life, forest resources or property. The forester may, during periods of fire hazard conditions, refuse, suspend, revoke or restrict such permits.

(3) Absolute closures restrict the areas to all forms of use and shall be designated only during periods of extreme fire hazard conditions endangering life, forest resources or property. [Formerly 477.158; 1967 c.429 §47; 1969 c.204 §6; 1997 c.274 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.550 - Violation of restrictions; access for fire fighting permitted.**

(1) Except as provided in subsection (2) of this section, it is unlawful to enter any restricted area except in compliance with ORS 477.535 and 477.545, or to violate any of the requirements or restrictions under such sections.

(2) Nothing in this section applies to an owner's right of entry upon the land of the owner or prohibits free access to any area by anyone for the sole purpose of preventing or extinguishing fires. [Formerly 477.162; 1967 c.429 §48]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.552 - Policy.**

It is the policy of the State of Oregon:

(1) To improve the management of prescribed burning as a forest management and protection practice; and

(2) To minimize emissions from prescribed burning consistent with the air quality objectives of the federal Clean Air Act and the State of Oregon Clean Air Act Implementation Plan developed by the Department of Environmental Quality under ORS 468A.035. [1989 c.920 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.554 - Program establishment; content.**

(1) With the advice and assistance of the advisory committee established under ORS 477.556, and subject to the review of the State Board of Forestry, the State Forester shall adopt and implement programs for meeting the objectives set forth in ORS 477.013 and 477.552 to 477.562. The programs shall include:

(a) Collection, analysis and distribution of information regarding prescribed burning and other alternative fuel management techniques;

(b) Assistance to landowners wanting to evaluate alternative burning and nonburning fuel management strategies and the collection of data regarding fuel conditions existing before and after treatment;

(c) Aerial monitoring of prescribed burning activity;

(d) Distribution of information to the Department of Environmental Quality on progress toward meeting federal and state air quality standards;

(e) Establishment of a system to track forest burning on a geographically specific basis; and

(f) Collection, analysis and distribution of information regarding emissions from wildfires for comparison with prescribed burning.

(2) The programs shall be administered by the State Forestry Department. [1989 c.920 §3; 1997 c.274 §50; 2007 c.213 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.556 - Advisory committee; membership; terms; staff.**

(1) An advisory committee shall be created by the State Forester to advise and assist the State Forester in carrying out the programs required by ORS 477.013, 477.515 and 477.552 to 477.562. The advisory committee shall consist of five members as set forth in subsections (2) and (3) of this section.

(2) The following three members shall be appointed by the State Forester:

(a) One member representing a nonindustrial forest landowner;

(b) One member representing an industrial forest landowner; and

(c) One member representing the public.

(3) In addition to the members designated in subsection (2) of this section, representatives of the following federal agencies shall be invited to serve as members of the advisory committee:

(a) A representative of the United States Forest Service.

(b) A representative of the United States Bureau of Land Management.

(4) Each member of the advisory committee shall serve for a term of two years.

(5) Members of the advisory committee are entitled to compensation as provided in ORS 292.495.

(6) A vacancy for any cause occurring before the expiration of a term shall be filled for the unexpired term by a person appointed by the State Forester.

(7) A staff member of the State Forestry Department shall be designated by the State Forester to serve as secretary for the committee. [1989 c.920 §4; 1997 c.274 §51]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.558 - Functions for advisory committee.**

The advisory committee created under ORS 477.556 shall:

(1) Advise the State Forestry Department in collecting information about prescribed burning operations; and



(2) Advise the State Forestry Department on the collection, analysis and distribution of information required under ORS 477.554. [1989 c.920 §5; 2007 c.213 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.560 - Oregon Forest Smoke Management Account; moneys paid to account; use.**

(1) The Oregon Forest Smoke Management Account is established separate and distinct from the General Fund in the State Treasury.

(2) The following moneys shall be credited to the Oregon Forest Smoke Management Account:

(a) Nonrefundable registration fees received by the State Forestry Department for Class 1 forestland under ORS 526.324 to be burned west of the summit of the Cascade Mountains, not including Hood River County.

(b) Fees received by the State Forester for Class 1 forestland under ORS 526.324 treated by a prescription burn method under ORS 477.515 (1) west of the summit of the Cascade Mountains, not including Hood River County.

(c) Fees for federal forestland included within the regulated area under ORS 477.013 to be treated by any prescription burn method subject to the provisions of the State of Oregon Clean Air Act Implementation Plan and the federal Clean Air Act received by the State Forester.

(3) The moneys in the Oregon Forest Smoke Management Account are appropriated continuously for and shall be used by the State Forester exclusively for the administration of the smoke management program approved under ORS 477.013 and 477.554. [1989 c.920 §7; 1997 c.274 §52; 2007 c.213 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.562 - Registration fee; rules.**

(1) The State Forestry Department shall collect a nonrefundable registration fee for Class 1 forestland under ORS 526.324 to be burned west of the summit of the Cascade Mountains, not including Hood River County.

(2) Any owner of Class 1 forestland under ORS 526.324 and any agency managing Class 1 forestland under ORS 526.324 lying within the regulated area as described in the plan required under ORS 477.013 shall register with the State Forester, in accordance with rules adopted by the State Forester, the number of acres to be burned prior to December 31 of the same year.

(3) The State Forester shall establish by rule the amount of fees to be collected under this section. The fees may not exceed:

(a) Fifty cents per acre for registration.

(b) \$5 per acre for forestland classified as Class 1 under ORS 526.324 that has been treated by any prescription burn method authorized by the issuance of a permit under ORS 477.515 (1).

(4) Federal lands included within the regulated area under the provision of the smoke management plan approved under ORS 477.013 shall also be subject to the fees authorized under subsection (3) of this section for forestland to be treated by any prescription burn method subject to the provisions of the State of Oregon Clean Air Act Implementation Plan and the federal Clean Air Act.

(5) The State Forester may establish a minimum fee per billing, combining the fees in subsections (1) and (3) of this section. The combined minimum fee may not exceed \$30.

(6) In order to efficiently collect fees established by this section, the State Forester is authorized to enter into contracts or agreements with a federal land management agency, a person or a public body as defined in ORS 174.109. Such a contract or agreement may provide for payment methods such as estimated annual payments with periodic adjustment to ensure the recovery of actual fees due, or semiannual or quarterly consolidated billings.

(7) Notwithstanding ORS 291.238, moneys collected under this section shall be deposited in the Oregon Forest Smoke Management Account established under ORS 477.560. [1989 c.920 §8; 1991 c.919 §15a; 1997 c.274 §53; 2007 c.213 §5]

SNAGS; SLASHING

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.565 - Felling dead trees and snags; rules.**

(1) In an operation area on forestland inside or within one-eighth of one mile of a forest protection district:

(a) If power-driven machinery is used at any location to load and assemble forest products, the operator shall fell all dead trees and snags of such size and within such distance of the equipment as may be required by rules promulgated by the State Forester.

(b) On forestland west of the summit of the Cascade Mountains, the operator shall fell all dead trees and snags within the operation area of such size, at such times and in such manner as may be required by rules promulgated by the State Forester.

(2) Rules promulgated under this section shall prescribe such felling as reasonably is necessary to prevent the spread of fire.

[Formerly 477.217; 1967 c.429 §49; 1997 c.274 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.580 - Determination of additional fire hazards; notice to landowner; plan for reducing hazard; release from liability.**

(1) Following the issuance of a permit pursuant to ORS 477.625, and after slashing has been created in an operation area inside or within one-eighth of one mile of a forest protection district, the forester may make a determination if such slashing and debris exists on the operation area in sufficient quantity and arrangement as to constitute an additional fire hazard that endangers life, forest resources or property, and if such area is in need of additional work or protection to reduce, abate or offset the additional fire hazard. Whenever practical, the forester shall make the determination referred to in this subsection during the administration and enforcement of the Oregon Forest Practices Act.

(2) If the forester determines that an additional fire hazard exists on the operation area sufficient to endanger life, forest resources or property, and that such area is in need of additional work or protection to reduce, abate or offset the additional fire hazard, the forester shall so notify the landowner and operator or their representatives in writing of such determination. Pursuant to rules promulgated by the State Forester, the notice to the landowner or operator shall contain provisions for offsetting the additional fire hazard by burning, improvements, extra protection or other means. The notice shall also specify a reasonable time for completion of the provisions contained therein.

(3) When the forester finds that the provisions set forth in subsection (2) of this section have been complied with or that the additional hazard has been, in the opinion of the forester, sufficiently reduced by other means to offset the hazard, the forester shall immediately issue to the operator or landowner a release from all obligations imposed by ORS 477.120 (2)(c).

(4) If the forester determines that an additional fire hazard exists, the forester shall, at the request of the owner or operator, with the approval of the owner, grant a release upon payment by the owner or operator of such sum of money as the forester finds necessary to provide additional protection or means necessary to reduce or offset the additional hazard created by such slashing and other debris. In no event may this sum exceed the least of:

(a) \$6 for each 1,000 board feet of timber harvested in an operation;

(b) The forester's estimated cost of reducing or providing other means to offset the additional hazard; or

(c) \$10 for each acre in a stand improvement operation where no timber is harvested.

(5) Moneys received under subsection (4) of this section shall be placed in the State Treasury, credited to the State Forestry Department Account and used exclusively for the purposes of forest protection within the district.

(6) Any owner of forestland may make written request to the forester to assume all obligations for the disposal or reduction of any additional fire hazard determined to exist thereon. If the forester then determines that the owner can comply with such obligation, the forester shall immediately issue to all other persons involved a written release of such obligations.

(7) Any order or determination made by the forester pursuant to this section is final unless modified or vacated in an appeal to the State Board of Forestry taken within 30 days after issuance of the order. [1965 c.253 §121; 1965 c.428 §16; 1967 c.429 §54; 1973 c.46 §5; 1975 c.74 §1; 1979 c.222 §1; 1997 c.274 §18; 2003 c.14 §317; 2017 c.17 §44]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.605 - Enjoining violations of ORS 477.615 and 477.645 to 477.655.**

Any person violating any provisions of ORS 477.615 and 477.645 to 477.655 may be enjoined in an appropriate judicial proceeding from the further use of such equipment until the person complies with these sections. [Formerly 477.218; 1997 c.274 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.610 - Standardization of fire-fighting equipment used to protect forestland; rules.**

(1) Notwithstanding any other law, the State Forester, in cooperation with other forest protection associations and agencies, shall carry on a continuous program for the standardization of equipment used for the protection of forestland from fire, and may issue rules, with the approval of the State Board of Forestry, for such standardization where it is the finding of the forester and board that such standardization is economically feasible.

(2) The provisions of ORS 476.410 to 476.440 shall not apply to equipment used for the protection of forestland from fire. [1965 c.76 §§2,3; 1999 c.355 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.615 - Additional water supply and equipment; rules.**

(1) During a fire season inside or within one-eighth of one mile of a forest protection district, when, in the judgment of the forester, an operation is of sufficient size or so planned and operated as to justify additional protection from fire, the owner or operator, when so directed by the forester in writing, shall provide, within such time as is specified in the writing, additional water supply and equipment for use in fire suppression that is in conformity with rules promulgated by the State Forester.

(2) All such equipment shall be kept in constant readiness for instant use in fighting forest fires. However, nothing in this section prohibits the use of the equipment by the operator for sprinkling roads or other uses within the operation area.

(3) Rules promulgated under this section shall prescribe such water supply and equipment as reasonably are necessary to provide immediate and effective suppression of fires on forestland and may provide for the use of alternate methods and equipment.

[Formerly 477.212; 1967 c.429 §17; 1995 c.605 §2; 1997 c.274 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire**

**Protection of Forests and VegetationSection 477.625 - Permit to use fire or power-driven machinery; exception; conditions; waiver of permit.**

(1) Every person conducting an operation inside or within one-eighth of one mile of a forest protection district that uses fire in any form or power-driven machinery shall first obtain from the forester a written permit, which shall require that the holder of the permit:

(a) Take reasonable precautions that in the judgment of the forester are necessary in the use of fire and power-driven machinery to prevent the spread of fire on or from an operation area.

(b) Designate a representative authorized to act on all matters having to do with fire control, which representatives shall be available at all times by direct means of communication with the forester.

(c) If operating west of the summit of the Cascade Mountains, close down any part or all of the operation during any period of time when notified that, in the judgment of the forester, conditions exist as described in ORS 477.670.

(2) Routine road maintenance is excepted from the requirement to obtain a permit to operate power-driven machinery under this section. As used in this subsection "routine road maintenance" means grading, cleaning ditches, culvert cleaning, spot rocking or mechanical brushing along the roadside to maintain visibility.

(3)(a) The forester may waive the requirement to obtain a written permit under this section when in the judgment of the forester the operation will not constitute a fire hazard sufficient to justify the requirement.

(b) Waiver of the requirement to obtain a written permit under this section does not relieve the owner and operator of the responsibility for complying with other applicable duties, requirements or penalties of this chapter. [Formerly 477.286; 1991 c.634 §1; 1997 c.274 §21]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.630 - Information in permit.**

(1) Each permit issued under ORS 477.625 shall include:

(a) The legal description of the area upon which any operation is to be conducted, or an alternate description of the area permitted by the forester;

(b) The name and address of the operator and owner; and

(c) Any other information considered by the forester to be necessary for the administration of the rules promulgated under this chapter.

(2) The information required in subsection (1) of this section shall be provided by the operator or owner, prior to issuance of the permit by the forester. [1965 c.253 §108; 1975 c.185 §1; 1997 c.274 §22]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.635 - Authority to issue, refuse, suspend or revoke permit.**

The forester may issue the permits required in ORS 477.625 and suspend or revoke such permits because of violation of the terms thereof or noncompliance with this chapter. The forester shall refuse to issue a permit to any person for the conduct of an operation when, in the judgment of the forester, an excessive amount of forest debris in and around the operation area results in an extreme fire hazard that endangers life, forest resources or property. [Formerly 477.288; 1997 c.274 §23]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.640 - Use and refueling of power saws.**

During a fire season, every person using, operating or fueling a saw powered by an internal combustion engine inside or within one-eighth of one mile of a forest protection district shall comply with the rules of the State Forester relating thereto, promulgated for the prevention and suppression of fire. [Formerly 477.290; 1997 c.274 §24]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.645 - Internal combustion engines; rules.**

(1) During a fire season every person operating an internal combustion engine inside or within one-eighth of one mile of a forest protection district shall equip and maintain the engine in conformity with rules promulgated by the State Forester. These rules shall prescribe such equipment as reasonably is necessary to prevent the escape of fire from such an engine.

(2) Escape of fire from any engine described in this section is prima facie evidence that it has not been equipped and maintained adequately in compliance with rules promulgated under this section. [Formerly 477.182; 1967 c.429 §18; 1997 c.274 §25]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 477 - Fire Protection of Forests and VegetationSection 477.650 - Stationary internal combustion engines; rules; waiver.**

(1) During a fire season every person operating a stationary internal combustion engine inside or within one-eighth of one mile of a forest protection district shall provide at each engine on an operation area a water supply, and equipment for its use in fire suppression, in conformity with rules promulgated by the State Forester. These rules shall prescribe such water supply and equipment as reasonably are necessary to prevent the spread of fire and may provide for the use of alternate methods and equipment.

- (2) When a person has equipped one engine as required by subsection (1) of this section, any additional engines operated by the person within 150 feet of the equipped engine shall be exempt from the requirements of subsection (1) of this section.
- (3) For the purposes of this section, an internal combustion engine shall be considered stationary if it is operated for a period of more than two days exclusively at one location in an operation area.
- (4) The forester in writing may waive any requirement of this section when an operation will not constitute a fire hazard sufficient to justify the requirement. [Formerly 477.184; 1967 c.429 §19; 1997 c.274 §26]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.655 - Fire-fighting tools and equipment at operation area and on trucks; rules.**

During a fire season inside or within one-eighth of one mile of a forest protection district:

- (1) Every person conducting an operation shall provide and maintain, at the operation area or at a location designated by the forester, fire-fighting tools that are in conformity with rules promulgated by the State Forester. The tools shall be used only for fighting fire and for no other purpose.
- (2) Each internal combustion engine used in an operation area shall be equipped with fire-fighting tools and equipment that are in conformity with rules promulgated by the State Forester.
- (3) All trucks driven over roads through forestland, excepting county roads and state highways, shall be equipped with fire-fighting tools and equipment that are in conformity with rules promulgated by the State Forester.
- (4) For purposes of this section, the rules promulgated by the State Forester:
  - (a) Shall prescribe such type and number of tools and equipment for extinguishing fires as reasonably are necessary to suppress fires, and the manner of storing such tools when not in use.
  - (b) May provide for the use of alternate methods, tools and equipment.
- (5) The tools and equipment prescribed by these rules shall be kept in constant repair and readiness for instant use. [Formerly 477.186; 1967 c.429 §20; 1997 c.274 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.660 - Additional protection facilities or services at operation area.**

During a fire season when in the judgment of the forester any operation inside or within one-eighth of one mile of a forest protection district has a fire hazard requiring additional protection, the operator shall provide such other facilities or services as the forester by written notice may direct. [Formerly 477.187; 1967 c.429 §21; 1997 c.274 §28]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.665 - Fire watch service; rules; waiver.**

- (1) During a fire season inside or within one-eighth of one mile of a forest protection district, every operator using power-driven machinery in an operation area shall provide fire watch service on the operation area. The fire watch service shall consist of not less than one competent person, who shall be constantly on duty at times prescribed by rules promulgated by the State Forester. These rules shall require fire watch service at such times and at such places as the spread of fire on or from the operation area to forestland reasonably may be expected.
- (2) The forester may modify or waive, in writing, any requirement of this section as to any operation whenever the fire hazard is not sufficient to justify the requirement. [Formerly 477.188; 1967 c.429 §22; 1969 c.204 §7; 1997 c.274 §29; 1999 c.59 §158]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.670 - When use of fire or power-driven machinery prohibited.**

During a fire season inside or within one-eighth of one mile of a forest protection district situated west of the summit of the Cascade Mountains, if the forestland in such district, or any part thereof, is susceptible in the judgment of the forester to damage by fire, the forester shall issue notice to that effect. Thereafter the use of fire in any form by any person in any operation area or the use of power-driven machinery for any operation, is unlawful unless approved by the forester. Approval shall be granted only when in the judgment of the forester the activity will not constitute a fire hazard sufficient to justify the requirement. [Formerly 477.282; 1993 c.415 §3; 1997 c.274 §30]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.695 - Removal of flammable material from railroad rights of way.**

- (1) Every person operating a railroad of any kind in this state inside or within one-eighth of one mile of a forest protection district shall annually or more often, if so ordered in writing by the forester, in a manner and to an extent ordered by the forester, destroy or remove all flammable growth and flammable material from the right of way of the railroad. All burning done to comply with this section must be in accordance with ORS 477.505 to 477.520 and 477.625.
- (2) The forester shall allow a reasonable period of time for compliance with this order. [1965 c.253 §125; 1971 c.562 §1; 1997 c.274 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.698 - Permits for prescribed fires; rules.**

The State Forestry Department shall adopt rules to clarify that a person may:

- (1) Conduct a prescribed fire that burns across land ownership boundaries if the person obtains a permit for the fire as described in ORS 477.515 or 477.625 and complies with the conditions of the permit.
- (2) Obtain a single permit under ORS 477.515 or 477.625 for a prescribed fire that burns across land ownership boundaries if the person demonstrates to the department that the person has obtained consent to conduct the fire from all persons on whose lands the fire is planned to burn. [2021 c.592 §25]

Note:

477.698 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.710 - Starting of campfire or other open fire restricted; exceptions.**

It is unlawful for any person to start a campfire or other open fire without first clearing the area immediately around and above it of material that will carry fire, or leave a campfire or other open fire unattended, or permit a campfire or other open fire to spread. This section does not apply to any activity conducted in compliance with ORS 477.365, 477.515, 477.625, 478.960, 526.041, 526.360 or 527.670. [Formerly 477.304; 1967 c.429 §50; 1993 c.430 §2; 1997 c.274 §32]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.720 - Accidentally setting fire to forestland; failure to prevent spread.**

- (1) It is unlawful, having accidentally set fire to any forestland, or any place from which fire may be communicated to forestland, to fail to extinguish the fire or use every possible effort so to do.
- (2) It is unlawful, having built a fire on or near forestland, through carelessness or neglect to permit the fire to spread to or through the forestland. [1965 c.253 §130]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.740 - Unlawful use of fire.**

A person commits the offense of unlawful use of fire if the person:

- (1) In the ignition of a fire:
  - (a) Unlawfully sets on fire, or causes to be set on fire, any grass, grain, stubble or other material being or growing on any lands within the state;
  - (b) Intentionally or negligently allows fire to escape from the person's own land, or land of which the person is in possession or control; or
  - (c) Accidentally sets any fire on the person's own land or the land of another and allows it to escape from control without extinguishing it, or making a bona fide effort to do so.
- (2) Having knowledge of a fire burning on the person's own land, or land of which the person is in possession or control, fails or neglects to make a bona fide effort to extinguish the same, regardless of whether or not the person is responsible for the starting or existence thereof. [1971 c.743 §307; 1993 c.697 §7; 1997 c.274 §33]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.745 - Liability of parents for costs of suppressing fire caused by minor child.**

- (1) In addition to any other remedy provided by law, the parent or parents of an unemancipated minor child shall be liable for costs incurred by the forester in suppressing fires on forestland caused by such minor child. However, a parent who is not entitled to legal custody of the minor child at the time of the fire shall not be liable for such damages.
- (2) The legal obligation of the parent or parents of an unemancipated minor child to pay damages under this section shall be limited to not more than \$5,000 payable to the forester for one or more acts.
- (3) When an action is brought under this section on parental responsibility for acts of their children, the parents shall be named as defendants therein and, in addition, the minor child shall be named as a defendant. The filing of an answer by the parents shall remove any requirement that a guardian ad litem be required.
- (4) Nothing in subsections (1) to (3) of this section applies to:
  - (a) Foster parents.
  - (b) Parents who have filed a petition for the unemancipated minor child under ORS 419B.809. [1995 c.605 §6; 2001 c.622 §52]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.747 - Policies and plans for restoration of burned forestland.**

The State Forestry Department, the State Parks and Recreation Department, the State Department of Fish and Wildlife, the Department of State Lands and any other state agency with oversight responsibilities for state forestlands shall promote the effective

use of state resources by adopting and implementing policies and management plans to begin efforts to restore and recover forestlands burned by fire so that social, economic and environmental values are not lost due to delay. These agencies shall coordinate, to the extent needed, to promote the efficient use of state resources in developing their fire restoration and recovery policies and plans. The Oregon Department of Administrative Services may assist state agencies under this section in developing contract and other procedures to expedite restoration and recovery efforts. The Oregon Department of Administrative Services shall provide appropriate contracting assistance and exceptions as may be necessary to expedite restoration and recovery efforts. [2003 c.456 §1]

Note:

477.747 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.748 - Small forestland grant program.**

(1) As used in this section, "small forestland owner" means an individual, group, federally recognized Indian tribe in Oregon or association that owns:

(a) Up to 160 acres of nonindustrial private forestland west of the crest of the Cascade Mountains; or

(b) Up to 640 acres of nonindustrial private forestland east of the crest of the Cascade Mountains.

(2) The State Forestry Department shall establish a small forestland grant program for the purpose of providing grants, on a competitive basis, to support small forestland owners in reducing wildfire risk through the restoration of landscape resiliency and the reduction of hazardous fuels on the owners' property.

(3) In consultation with partners and stakeholders, the department shall set criteria for assessing grant applications and awarding grants. The criteria may include, but need not be limited to:

(a) Prioritization of projects on forestland in the high wildfire hazard zone described in ORS 477.490.

(b) Owner commitment to maintaining fuel reduction treatments.

(c) Owner possession of a forest management plan.

(d) Project proximity to current or past fuel mitigation efforts, supported by any owner or funding source, that would contribute to cross-boundary, landscape-scale forest resiliency.

(e) Whether the project addresses additional resource concerns, such as insect and disease management.

(f) Whether critical facilities and infrastructure may receive enhanced protection due to project outcomes. [2021 c.592 §24; 2023 c.611 §12]

Note:

477.748 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 477 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.750 - Oregon Forest Land Protection Fund; source; use.**

(1) The Oregon Forest Land Protection Fund is created, separate and distinct from the General Fund. This fund shall be held by the State Treasurer as a trust fund for the uses and purposes provided in ORS 477.750 to 477.775 and 477.880. The State Treasurer shall deposit and invest moneys in the fund as provided by law, taking into account its uses and purposes. Interest earned by the fund shall be credited to the fund.

(2) Notwithstanding any other law and as limited by ORS 477.750 to 477.775 and 477.880, that part of the suspense account created by ORS 321.145 that is derived from the tax levied by ORS 321.015 (2) after refunds and other costs permitted by law, shall be credited to the Oregon Forest Land Protection Fund. [1969 c.524 §2; 1983 c.16 §3; 1985 c.759 §33; 1989 c.769 §12; 1989 c.966 §57]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.755 - Appropriation of fund; limitation on expenditures.**

(1) As used in this section, "annual expenditure" means the expenses of the Oregon Forest Land Protection Fund obligated in any 12-month period designated by the Emergency Fire Cost Committee by rule, corresponding to the policy period of any insurance for emergency fire costs.

(2) Notwithstanding ORS 291.238, the moneys in the Oregon Forest Land Protection Fund are continuously appropriated to the Emergency Fire Cost Committee for the purposes of:

(a) Equalizing emergency fire suppression costs for safeguarding forestland in any forest protection district;

(b) Paying necessary administrative expenses, not to exceed the limit authorized by the Legislative Assembly each biennium;

(c) Contributing to the payment of emergency fire suppression costs insurance premiums, subject to the payment limitation established in ORS 477.775 (4);

(d) Paying costs related to the availability and mobilization of emergency fire suppression resources on a statewide basis; and

(e) Paying for nonroutine purchases of supplemental fire prevention, detection or suppression resources that will enhance the ability of the forester to perform fire protection responsibilities within a forest protection district.

(3) Notwithstanding any other provision of law, the annual expenditure from the Oregon Forest Land Protection Fund from revenues received from ORS 321.015 (2), 477.277 (1), 477.295 (1) and (2), 477.750 (1) and (2), 477.760 (4) and 477.880 may not exceed the lesser of:

(a) \$13.5 million; or

(b) The sum of:

(A) The lesser of \$10 million or 50 percent of the eligible annual fire suppression costs determined by the committee;

(B) Necessary administrative expenses as determined by the committee and authorized under the limit described in subsection (2)(b) of this section;

(C) Contributions to the payment of emergency fire suppression costs insurance premiums, subject to the payment limitation established in ORS 477.775 (4);

(D) The lesser of \$3 million or three-fifths of the actual cost of activities described in ORS 477.777 (1)(b) and (c); and

(E) Any amounts expended for nonroutine purchases described in subsection (2)(e) of this section. [1969 c.524 §3; 1989 c.23 §1; 1991 c.639 §5; 2003 c.685 §§4,9; 2005 c.802 §§11,12; 2013 c.619 §§1,2,3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.760 - Reserve base of fund fixed; annual determination of excess over base; tax levies and assessments to maintain base.**

(1) The reserve base of the Oregon Forest Land Protection Fund is \$22.5 million. On or about the last day of February of each year the Emergency Fire Cost Committee shall meet and determine the unencumbered balance of the fund as of the preceding February 16.

(2) In order to maintain the reserve base of the fund at \$22.5 million, the Emergency Fire Cost Committee may request and the State Treasurer may approve transfers to the fund in accordance with ORS 293.205 to 293.225, if the moneys in this fund fall below the reserve base, whether or not there are sufficient moneys in the fund to pay the obligations of the fund. Repayment of any such transfers shall be made from moneys paid into the fund pursuant to ORS 321.015 (2), 477.277 and 477.880 and from such other moneys as may be credited to the fund therefor.

(3) If the committee determines that the moneys in the fund exceed:

(a) The reserve base, and that no repayment obligations are outstanding from transfers made pursuant to subsection (2) of this section, then the Department of Revenue shall reduce the taxes described in ORS 321.015 (2) by 50 percent for the following calendar year and the surcharge for each improved lot or parcel described in ORS 477.277 and the assessments described in ORS 477.880 shall be reduced by 50 percent for the following fiscal year.

(b) \$30 million, and that no repayment obligations are outstanding from transfers made pursuant to subsection (2) of this section, then the Department of Revenue may not collect the taxes described in ORS 321.015 (2) for the following calendar year and the surcharge for each improved lot or parcel described in ORS 477.277 and the assessments described in ORS 477.880 may not be collected until the calendar year or fiscal year following the determination of the committee that the unencumbered balance in the fund is less than or equal to \$22.5 million.

(4)(a) Notwithstanding any other provision of law, if the funds referred to in subsection (2) of this section are inadequate to cover repayment of transfers from the State Treasurer or from other sources, the State Forester shall increase the following taxes, assessments and charges in an amount adequate to ensure repayment of the transfers, and any interest accrued thereon, allowing for contingencies in valuation, assessment and collection:

(A) The harvest tax referred to in ORS 321.015 (2).

(B) The surcharge on developed lots referred to in ORS 477.277.

(C) The minimum assessment referred to in ORS 477.295.

(D) The acreage assessments referred to in ORS 477.880 (2).

(b) The increases to taxes, assessments and charges shall be apportioned based upon the proportionate levels of revenues received from each source by the Oregon Forest Land Protection Fund. Any such increases shall be computed on or before January 1 of each year, and shall be based upon revenues received during the previous four quarters. Any such increases shall be made in the appropriate calendar or fiscal year following that in which the requested transfers from the State Treasurer or from other sources are made. [1969 c.524 §4; 1985 c.158 §1; 1985 c.759 §34; 1989 c.769 §4; 1991 c.639 §6; 1993 c.653 §21; 2003 c.685 §§5,10; 2005 c.802 §§13,14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.770 - Rules relating to use of fund.**

The Emergency Fire Cost Committee shall promulgate rules relating to the disposition of moneys from the Oregon Forest Land Protection Fund. Under such rules the committee may require that prior to the payment of moneys from the fund the forest protection district expend an amount for emergency fire suppression not to exceed a per acre amount determined to be 10 percent of the total budgeted amount of all districts as set forth in ORS 477.220 to 477.415 divided by the total protected acres of all districts. However, any such amount per acre shall apply uniformly to each forest protection district. [1969 c.524 §6; 1977 c.182 §3; 1981 c.321 §5; 2007 c.847 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.775 - Emergency fire suppression costs insurance; considerations; payment of premium from fund.**

- (1) Prior to February 1 of each year, the Emergency Fire Cost Committee and the forester shall consult regarding the purchase of emergency fire suppression costs insurance and the level of coverage to purchase for the fire season of that year.
- (2) In determining whether the purchase of insurance is advisable, the forester and the committee shall consider:
  - (a) The cost, coverage and deductible of insurance available from private insurance carriers;
  - (b) The funding available for fire suppression from the Oregon Forest Land Protection Fund and other sources;
  - (c) The current condition of forests;
  - (d) Long-term weather predictions;
  - (e) Available fire fighting resources; and
  - (f) Available funds for the purchase of insurance.
- (3) If the committee and the forester agree to purchase insurance, the forester shall purchase insurance through the Oregon Department of Administrative Services to cover any lawful expense incurred by the State Forestry Department, or contractors or cooperators, that is payable by the Oregon Forest Land Protection Fund. The insurance may be obtained through negotiation or competitive bids, whichever is in the best interest of the state, its contractors and cooperators.
- (4) The Oregon Forest Land Protection Fund may not be charged for payment of more than one-half of any premium for the insurance. [1969 c.524 §10; 1985 c.158 §2; 1989 c.91 §1; 1989 c.769 §11; 1991 c.639 §7; 2005 c.802 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.777 - Agency request budget; expenditures; report.**

- (1) As part of the preparation of the agency request budget submitted to the Oregon Department of Administrative Services pursuant to ORS 291.208 for the State Forestry Department, the State Forester shall prepare, in addition to any amounts budgeted for forest protection districts pursuant to ORS 477.205 to 477.281, a request for a General Fund appropriation for the following purposes:
  - (a) Providing funds for the purchase of emergency fire suppression costs insurance under ORS 477.775.
  - (b) Acquiring and placing centrally managed fire suppression resources for statewide use.
  - (c) Acquiring fast-mobilizing, short-term contingency resources to be used based on predictions of severe fire weather, widespread lightning events or serious resource shortage due to a heavy fire season in this state, in the western region of the United States or nationally.
  - (d) Enhancing forest protection district resources in cases where land productivity or other economic factors seriously limit the ability of the forester to perform fire protection responsibilities.
  - (e) Mitigating forest patrol assessment rates in cases where land productivity or other economic factors seriously limit the ability of the owners of forestlands in the forest protection district to comply with ORS 477.210 (1).
- (2) The State Forester shall utilize critical discretion in the expenditure of the funds provided to the State Forestry Department pursuant to the separate request required under subsection (1) of this section.
- (3) The State Forester shall report to the Emergency Board, each year, after the close of the fire season, on:
  - (a) The nature and severity of the fire season;
  - (b) The moneys expended on fire suppression;
  - (c) The balance remaining from the biennial appropriation; and
  - (d) Any matters arising out of the fire season that may require attention or warrant future consideration by the board or the Legislative Assembly.
- (4) When reporting the nature and severity of the fire season under subsection (3) of this section, for each fire consuming 1,000 or more acres, the State Forester shall provide information regarding the resulting losses on private lands of timber, buildings, fencing and livestock and of grazing land capacity if the land is expected to be unavailable for two or more grazing seasons. [2005 c.802 §2; 2013 c.619 §4; 2015 c.517 §1; 2016 c.117 §72]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.880 - Acreage assessment; east side forestlands; certain forestlands west of Cascade Mountains; rate.**

- (1) An assessment for the cost of fire protection and suppression is levied upon the owners of all forestland that has been classified under ORS 526.305 to 526.370 and that is protected from the start or spread of fire thereon or therefrom by:
  - (a) The forester under ORS 477.210 (4), with the approval of the State Board of Forestry;
  - (b) The United States of America through contract or agreement with the forester or board;
  - (c) Any forest protective agency under contract or agreement with the forester or board pursuant to ORS 477.406; or
  - (d) Any forest protective agency, described in paragraph (c) of this subsection, under a contract or agreement with the United States of America wherein such agency agrees to protect specific federal forestlands, and in return, the United States of America agrees to protect specific lands of such agency.
- (2) Except as otherwise provided in ORS 477.760, for each fiscal year the assessment levied per acre of ownership of forestland



designated in subsection (1) of this section shall be:

(a) Seven and one-half cents for all forestlands east of the summit of the Cascade Mountains and all forestlands which have been classified Class 3, agricultural class, under ORS 526.305 to 526.370; or

(b) Five cents for all forestlands not described in paragraph (a) of this subsection. [1969 c.524 §§7,8; 1981 c.321 §3; 1985 c.759 §35; 1989 c.769 §5; 1991 c.639 §8; 2003 c.14 §318; 2007 c.779 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.960 - Collection of assessment.**

(1) Insofar as applicable, the assessment levied under ORS 477.880 shall be due and payable to the forester in like manner and procedure, including penalties and interest, as set forth for the collection of the protection costs provided in ORS 477.270. Wherever applicable, the assessment levied under ORS 477.880 shall be combined with the budgeted cost certified to the county under ORS 477.270 as one amount for each account listed so that the officer in charge of the roll can extend the amounts on the assessment roll in a separate column in a single figure.

(2) The minimum assessment set forth in ORS 477.295 shall be applied to the combined amount described in subsection (1) of this section. [1959 c.320 §5; 1961 c.689 §8; 1965 c.312 §4; 1967 c.179 §1; 1967 c.429 §43; 1985 c.759 §36; 1991 c.459 §417]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.970 - Disposition of receipts.**

The receipts from the assessment levied by ORS 477.880 shall be paid into the Oregon Forest Land Protection Fund. [1959 c.320 §6; 1961 c.689 §9; 1967 c.429 §44; 1985 c.759 §37]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.980 - Enforcement policy; rules; factors considered.**

The State Board of Forestry, by rule, shall establish the enforcement policy for violations prescribed in ORS 477.993. In determining the enforcement policy, the board may consider the following factors:

(1) Prior violation of the same or similar statutes, rules or orders.

(2) The gravity and magnitude of the violation.

(3) Whether the violations were repeated or continuous.

(4) Whether the cause of the violation was an unavoidable accident or a willful, malicious or negligent act.

(5) Whether the violation directly threatened human life or caused property damage of \$10,000 or more. [1993 c.697 §2; 1999 c.1051 §101]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.985 - Enforcement procedure.**

In addition to any other persons permitted to enforce violations, the State Forestry Department and the State Forester, or any employee specifically designated by the department or by the State Forester, may issue citations for violations established under ORS 477.993 in the manner provided by ORS chapter 153. [1993 c.697 §3; 1999 c.1051 §102; 2011 c.597 §138]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 477 - Fire Protection of Forests and Vegetation Section 477.993 - Penalties.**

(1) Violation of any of the provisions of ORS 477.510, 477.515, 477.535 to 477.550, 477.565, 477.615, 477.625, 477.635 to 477.670, 477.695, 477.710, 477.720 or 477.740, or any rule or order adopted pursuant thereto, is a violation punishable as follows:

(a) For the first offense, as a Class D violation.

(b) For the second offense, as a Class C violation.

(c) For the third offense, as a Class A violation.

(2) Multiple violations of any single requirement of this chapter, or of any rule or order adopted pursuant thereto, in an operation area shall be considered a single violation. However, each day a violation continues shall be considered a separate violation.

(3) Notwithstanding subsection (1) of this section, violations of any of the statutes listed in subsection (1) of this section which proximately cause human injury, loss of human life or property damage of \$10,000 or more, and unauthorized entry into a fire scene secured under the authority of ORS 477.365 (1)(f), may be punishable as a Class A misdemeanor.

(4) Violations and punishments set forth in this section and ORS 477.740 are in addition to and not in lieu of the provisions of ORS 164.305 to 164.335. [Subsections (1) and (2) of 1963 Replacement Part and subsections (1) to (3) enacted as 1959 c.363 §15 (in lieu of 477.990); subsection (6) of 1963 Replacement Part enacted as 1959 c.408 §6; subsection (7) of 1963 Replacement Part enacted as 1959 c.320 §8; subsection (8) of 1963 Replacement Part enacted as 1961 c.689 §11; subsection (5) enacted as 1961 c.603 §15; 1965 c.253 §136; 1971 c.562 §2; 1971 c.743 §390; 1993 c.697 §8; 1995 c.605 §4; 1997 c.274 §34; 1999 c.1051 §103]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.001 - Definitions.**

- (1) As used in this chapter, unless the context requires otherwise:
- (a) "Board of directors" or "district board" means the governing body of a district.
  - (b) "County" means the county in which the district, or the greater portion of the taxable assessed value of the district, is located.
  - (c) "County board" means the county court or board of county commissioners of the county.
  - (d) "District" means a rural fire protection district proposed to be organized or organized under, or subject to, this chapter.
  - (e) "Owner" or "landowner" means a legal owner of real property or the vendee of a contract of purchase of real property, if any, to the exclusion of the vendor. The term includes a unit owner, as defined in ORS 100.005.
- (2) As used in ORS 478.960:
- (a) "Commercial waste" means any waste produced in any business involving the lease or sale, including wholesale and retail, of goods or services, including but not limited to housing, and means any waste produced by a governmental, educational or charitable institution; however, it does not include any waste produced in a dwelling containing four living units or less.
  - (b) "Demolition material" means any waste resulting from the complete or partial destruction of any man-made structure such as a house, apartment, commercial building or industrial building.
  - (c) "Domestic waste" means any nonputrescible waste, consisting of combustible materials, such as paper, cardboard, yard clippings, wood, or similar materials, generated in a dwelling, including the real property upon which it is situated, containing four living units or less.
  - (d) "Field burning" means the burning of any grass field, grain field, pasture, rangeland or other field by open burning or by use of mobile equipment or flaming equipment on any land or vegetation.
  - (e) "Industrial waste" means any waste resulting from any process or activity of manufacturing or construction.
  - (f) "Land clearing debris" means any waste generated by the removal of debris, logs, trees, brush or demolition material from any site in preparation for land improvement or construction projects.
  - (g) "Open burning" means any burning conducted in such a manner that combustion air is not effectively controlled and that combustion products are not vented through a stack or chimney, including but not limited to burning conducted in open outdoor fires, common burn barrels and backyard incinerators. [1969 c.667 §2; 1975 c.635 §3; 1983 c.83 §95; 1983 c.350 §282; 1987 c.834 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.002 - Status of districts existing in 1957.**

- (1) There hereby is created a rural fire protection district territorially coterminous with each rural fire protection district existing on July 2, 1957, or established after July 2, 1957, and prior to November 22, 1957, if such rural fire protection district was at that time a valid district but for the fact that its electorate was restricted to property owners. In determining the boundaries of districts created by this subsection, full effect shall be given to annexations, withdrawals and consolidations effected by rural fire protection districts prior to November 22, 1957, under this chapter or other statutes authorizing or purporting to authorize such action.
- (2) Rural fire protection districts territorially coterminous with the districts created by subsection (1) of this section hereby are abolished.
- (3) Rural fire protection districts created by this section shall be governed by this chapter. [1957 s.s. c.10 §1; 1959 c.344 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.004 - New district succeeds to and replaces abolished district.**

Each rural fire protection district created by ORS 478.002 shall in all respects succeed to and replace the territorially coterminous rural fire protection district abolished by ORS 478.002. Without limiting the foregoing:

- (1) A successor district is:
- (a) The owner of the property of the succeeded district, including real property and funds on deposit with the county treasurer or banks.
  - (b) Successor party to the contracts of the succeeded district.
  - (c) Successor party to the court proceedings of the succeeded district.
  - (d) Successor obligor on the indebtedness of the succeeded district.
- (2) The rules, regulations, fire protection codes and identification numbers of the succeeded district are the rules, regulations, fire protection codes and identification numbers of the successor district, until changed by appropriate action under this chapter.
- (3) The directors and officers of the succeeded district are the directors and officers of the successor district. Each director and officer shall hold office for a term equal to the term of the office of the director or officer in the succeeded district. [1957 s.s. c.10 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.010 - Formation; territories that may not be included in districts.**

- (1) A rural fire protection district may be formed in the manner set forth in ORS 478.010 to 478.100.
- (2) A district may not include:
- (a) Territory within a city unless otherwise authorized by law.
  - (b) Territory within a water supply district organized under ORS chapter 264 if the district has previously been authorized by its

electors to exercise the fire protection powers prescribed by ORS 264.340.

(c) Forestlands included within a forest protection district under ORS 477.205 to 477.281 unless the owner consents and notifies the rural fire protection district, however, forestland protected pursuant to ORS 477.205 to 477.281 and not exceeding five acres in one ownership shall be included in the rural fire protection district without the owner's consent if the ownership includes any structures subject to damage by fire. Forestland included in a rural fire protection district under this subsection subjects the forestland to assessments for fire protection by the rural fire protection district and the forest protection district.

(d) Railroad rights of way or improvements thereon or rolling stock moving thereover unless the owner of such property consents.

(e) Ocean shores as defined by ORS 390.605. [Subsection (2) enacted as 1953 c.144 §1; 1969 c.651 §3; 1969 c.667 §§3,69; 1971 c.727 §137; 1973 c.124 §1; 1973 c.337 §1a; 2001 c.104 §217]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.050 - Qualifications for directors.**

A director of a district shall be an elector or an owner within the district. A district may determine, by ordinance that takes effect at least one year prior to the date of a regular district election, that firefighters of the district, volunteer or otherwise, and other district employees shall not serve as directors. [Amended by 1963 c.299 §1; 1969 c.667 §7; 1971 c.647 §109; 1971 c.727 §§139,197; 1973 c.618 §1; 1987 c.834 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.090 - Effect of 1939 Act on districts then existing.**

Nothing in this chapter shall be construed as impairing the legality or organization of any rural fire protection district existing on June 14, 1939, nor to exclude from such districts any lands then included therein, nor the legality of any act of such district done in accordance with the prior law, nor shall it be deemed to affect the legality of the election of any officer of any such existing rural fire protection district. Nor shall anything in this chapter be deemed in any way to affect any indebtedness or financial obligation lawfully created by any fire protection district existing on June 14, 1939, and such existing rural fire protection district is confirmed and for the purpose of continued and future operation shall be deemed as organized under the terms and conditions of this chapter and entitled to all benefits and clothed with all the rights, powers and duties as by this chapter provided.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.100 - Immaterial defects in organization not to invalidate district organization.**

No final order of a county board establishing a district shall be set aside, or annulled upon appeal or review, on account of any defect or irregularity in the petition asking for organization of such district, or notice thereof, which does not materially affect the substantial rights of an interested party. The following irregularities are declared to be immaterial defects:

(1) Errors of description of the intermediate points, courses or distances of the exterior boundaries of the proposed district set out in the petition for organization or as changed at the hearing by the county board, when the exterior boundaries can be otherwise definitely determined.

(2) Errors in posting notices where it can be shown that all persons objecting to the proceedings had actual notice thereof prior to the hearing.

(3) Errors in or omissions of the names of petitioners or number thereof, or in the percentage thereof of property owners in the district, required to sign the petition for organization, where there is entered upon the records of the county board an order or proclamation establishing or legally forming such district. [Amended by 1969 c.667 §10; 1975 c.326 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.115 - County governing body to determine territory of district.**

Subject to the provisions of ORS 478.010, a county governing body may, under ORS 198.705 to 198.955, include in or exclude from a proposed district, or territory proposed to be annexed to a district, such territory as it determines. [1979 c.473 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.120 - Inclusion of forestland in district.**

The authority to include forestland within a rural fire protection district pursuant to ORS 478.010 (2)(c) applies to forestland within the exterior boundaries of an existing district and to forestland on which structures subject to damage by fire have been added after July 20, 1973. [1973 c.337 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.130 - Certain structures subject to fire damage to be added to tax rolls.**

Any land upon which structures subject to damage by fire have been built shall be added to the assessment roll for the tax year beginning July 1 following the calendar year in which construction on the structure was begun. [1973 c.337 §4; 1993 c.270 §68]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire**

**Protection DistrictsSection 478.140 - Procedure for adding land to district by consent of owner.**

Any owner consenting to add the forestland of the owner to the district under ORS 478.010 (2)(c) shall do so on forms supplied by the Department of Revenue. The owner shall file the original with the district. The district shall forward a copy to the assessor of each county in which the land is located, within 20 days of receipt. [1973 c.337 §5]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 478 - Rural Fire Protection DistrictsSection 478.150 - Conference with State Forestry Department required prior to formation of district or annexation of territory.**

Prior to the formation of any rural fire protection district or the annexation of any territory to an existing rural fire protection district of any territory within the exterior boundaries of a forest protection district established pursuant to ORS chapter 477, the petitioners of the proposed district or annexation shall confer with the State Forestry Department in determining the boundaries and lands to be included within the rural fire protection district. [1973 c.337 §6]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 478 - Rural Fire Protection DistrictsSection 478.155 - Formation of district with tax zones; contents of formation petition and order creating district; determination of tax levy in each zone; boundary changes.**

(1) When formation of a district is proposed after October 15, 1983, the petition or order for formation may include, in addition to other information required under ORS 198.750 or 198.835:

(a) A statement that the district shall be divided into a specified number of zones for the purpose of imposing and levying ad valorem taxes at different rates in each zone based upon differences in services provided by the district in each zone.

(b) The boundaries of the proposed zones.

(2) If an election on formation of the district is held, the county board shall order the questions of whether or not to form the district and, if the district is formed, whether or not to divide it into zones to be submitted to the voters as separate questions to be voted upon separately.

(3) After an election on formation is held, if both the formation of the district and the division of the district into zones are approved by the voters, the order issued under ORS 198.820 (3) creating the district shall declare that the district contains zones with the boundaries specified in the petition or order for formation. If only formation of the district is approved by the voters, the order creating the district shall be issued as provided in ORS 198.820.

(4) If the district is formed without an election, the order issued under ORS 198.820 (3) creating the district shall declare that the district contains zones with the boundaries specified in the petition or order for formation.

(5) When a district containing zones is formed under this section, the first board of directors of the district, prior to the levy of any ad valorem taxes by the district, shall provide notice of a public hearing and conduct the hearing as provided in ORS 478.480 (2) and 478.485. After the public hearing required under this section, the board shall enter an order in its journal stating the percentage of the total amount of ad valorem taxes of the district that will be collected in each zone. The board may then determine, make and declare the ad valorem tax levy for each zone.

(6) The boundaries of the zones and the percentages of taxes collected in each zone that are established for a district under this section shall be effective until the regular district election in the first odd-numbered year following the year in which the district is formed. At that regular district election, a proposal for changing the boundaries of the zones may be submitted to the voters of the district as provided in ORS 478.480 (2), 478.485 and 478.490. If no proposal for a boundary change is submitted, the boundaries of the zones established upon formation of the district shall be retained until notice of a change is given to, and approved by, the voters of the district as provided in ORS 478.480 (2), 478.485 and 478.490. [1983 c.569 §8]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 478 - Rural Fire Protection DistrictsSection 478.160 - Filing of boundary or zone change with county assessor and Department of Revenue.**

For purposes of ad valorem taxation, a boundary or zone change must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225. [2001 c.138 §38]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 478 - Rural Fire Protection DistrictsSection 478.210 - Directors; organization; term; oath.**

(1) The power and authority given to the district, except as otherwise provided, is vested in and shall be exercised by a board of five directors. Except as provided by subsection (3) of this section, the term of director is four years.

(2) The board of directors shall fill any vacancy on the board as provided in ORS 198.320.

(3) Within 10 days after receiving their certificates of election, the members of the first board of a district shall meet and organize by first taking and subscribing an oath of office. At the same meeting, the directors shall determine by lot the length of term each shall hold office. Of the members of the board first elected:

(a) The terms of two directors shall expire June 30 next following the first regular district election; and

(b) The terms of three members shall expire June 30 next following the second regular district election. [Amended by 1969 c.667 §11; 1971 c.727 §140; 1973 c.796 §67; 1975 c.647 §43; 1983 c.350 §283]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.215 - Position numbers for director election.**

- (1) Each office of director shall be designated by number as Position No. 1, Position No. 2 and so forth.
- (2) The secretary of a district shall assign a position number to each office on the board. The number so assigned shall be certified by the secretary to the director in office holding that position. A copy of the certification shall be filed in the records of the elections officer for the district. [1977 c.301 §4; 1983 c.350 §284]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.221 - Nomination and election of directors.**

- (1) Candidates for election from subdistricts created by ORS 478.225 shall be nominated by electors of the subdistricts. Candidates for election at large may be nominated by electors of subdistricts or by electors of the district, or any combination of such methods.
- (2) Subject to ORS 478.225, the directors may be elected in one of the following methods or a combination of both:
  - (a) Elected by electors of subdistricts.
  - (b) Elected at large by position number by the electors of the district. [1957 s.s. c.10 §7 (enacted in lieu of 478.220); 1969 c.667 §§13,66; 1969 c.669 §12; 1971 c.647 §111; 1973 c.796 §68; 1975 c.647 §44; 1979 c.364 §6; 1983 c.350 §285]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.225 - Election subdistricts; petition for formation; election.**

- (1) This section establishes the procedure for determining either of the following questions:
  - (a) Whether subdistricts should be created in a district for the purpose of nominating or electing two or more directors.
  - (b) Whether the method established in a district for nominating and electing directors should be changed to another method.
- (2) A question under this section shall be decided by election. The district board shall order an election when a petition is filed as provided in this section.
- (3) Except as otherwise provided in this section, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition in ORS 255.135 to 255.205.
- (4) If the question proposes creation of subdistricts or a change in the boundaries or the number of existing subdistricts, the following requirements shall apply:
  - (a) The petition shall contain a map indicating the proposed subdistrict boundaries. The map shall be attached to the cover sheet of the petition and shall not exceed 14 inches by 17 inches in size.
  - (b) Notwithstanding ORS 250.035, the statement summarizing the measure and its major effect in the ballot title shall not exceed 150 words.
  - (c) The following apply to the statement summarizing the measure and its major effect in the ballot title:
    - (A) The statement shall specify the method of nomination and election of directors from among the methods described in ORS 478.221.
    - (B) The statement shall specify whether, in filling each position on the board, an elector of the district may sign a petition of nomination or vote for a candidate from any subdistrict or only for a candidate from the subdistrict in which the elector resides.
    - (C) If the method for nominating directors combines nomination of candidates from and by subdistricts and nomination of candidates at large, the statement shall specify the number of candidates to be nominated in each manner. The statement shall include a general description of the proposed boundaries of the subdistricts, using streets and other generally recognized features.
    - (d) The order calling the election shall contain a map of the proposed subdistrict boundaries and a metes and bounds or legal description of the proposed subdistrict boundaries. The map and description shall be prepared by the county surveyor or county assessor and shall reflect any adjustment made in the boundaries under subsection (7) of this section.
  - (5) The map to be contained in the petition under subsection (4) of this section shall be prepared by the county surveyor or county assessor. The chief petitioners shall pay the county for the cost of preparing the map, as determined by the county surveyor or county assessor. The county clerk shall not accept the prospective petition for filing until the chief petitioners have paid the amount due.
  - (6) Subsection (4) of this section does not apply if the question proposes abolition of all subdistricts.
  - (7) If the district board determines or adjusts the boundaries of the subdistricts under ORS 478.228 before submitting the question under this section, the district board shall amend the ballot title as necessary to reflect its adjustment of the boundaries.
  - (8) If the electors of the district approve the creation of subdistricts, or a change in the boundaries or the number of existing subdistricts, directors then holding office shall continue to serve until their terms of office expire. As vacancies occur, positions to be filled by nomination or election by subdistrict shall be filled by persons who reside within subdistricts which are not represented on the board. If more than one subdistrict is not represented on the board when a vacancy occurs, the subdistrict entitled to elect a director shall be decided by lot. [1979 c.364 §2; 1983 c.350 §286; 1995 c.79 §290; 1995 c.534 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.228 - Boundaries of subdistricts.**

The boundaries or proposed boundaries of election subdistricts proposed or established within a district under ORS 478.225 from

which directors are to be nominated or elected shall be as nearly equal in population as is feasible according to the latest available federal census data and shall be adjusted by the board to apportion population, to follow wherever practicable existent election precinct boundaries and to reflect boundary changes of the district. The boundaries shall be determined or adjusted by the board prior to submitting the question of election subdistricts to the electors under ORS 478.225. [1979 c.364 §3; 1983 c.350 §287]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.231 - Election laws applicable.**

(1) ORS chapter 255 governs the following:

(a) The nomination and election of directors.

(b) The conduct of district elections.

(2) The electors of a district may exercise the powers of the initiative and referendum regarding a district measure, in accordance with ORS 255.135 to 255.205. [1983 c.350 §289]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.234 - Subdistricts for nomination or election of directors.**

(1) The question whether subdistricts should be established for the purpose of nominating or electing one or more board members may be submitted at an election called under ORS 198.866 and 198.867, or at an election on merger or consolidation called under ORS 198.903.

(2) The following provisions of ORS 478.225 (4) apply to an election on annexation, merger or consolidation when the question of establishing subdistricts is submitted at that election:

(a) The requirements applicable to the ballot title.

(b) The provision for a map of the proposed subdistrict boundaries. [1983 c.350 §286c]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.240 - Special elections; electors.**

(1) At any regular meeting, the district board may call a special election.

(2) In any district in which there are no electors registered in the district and the property is used for business, industrial or farming purposes and is nonresidential in character, all owners of property located within the district may vote, and the authorized officer or representative of any corporation owning land in the district may vote for the corporation landowner. [Amended by 1969 c.667 §15; 1971 c.647 §112; 1973 c.618 §2; 1983 c.83 §96; 1983 c.350 §290]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.250 - Meetings and officers of board.**

(1) The district board shall hold meetings at such time and place within the district as it determines. It shall hold at least one regular meeting in each month on a day fixed by the board, and may hold special meetings under such rules as it may make.

(2) At the organizational meeting the board shall choose from the members a president, vice president, secretary and a treasurer. The board may choose as secretary and treasurer the same person. Officers shall hold their offices until the first regular meeting in July following or until their successors are elected and qualified. They shall have the powers and perform the duties usual in such cases. In the absence of the president, the vice president or, in the absence of both, any other member of the board may preside at any meeting.

(3) The board shall transact all business pertinent to the establishment, equipment and maintenance of the district and its properties. [Amended by 1969 c.344 §7; 1969 c.345 §11; 1969 c.667 §§16,67; 1983 c.192 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.260 - Fire chief; headquarters; fire evacuation routes; emergency medical services.**

(1) The district board shall select a fire chief qualified by actual experience as a firefighter and person who is trained in fire prevention, or otherwise, and assistants, volunteer or otherwise, and fix their compensation. The fire chief shall be responsible for the equipment and properties of the district. Under the direction of the board, the fire chief shall be responsible for the conduct of the fire department.

(2) The board, with advice and counsel of the fire chief, shall select the location of the fire house or houses or headquarters of the fire department of the district. Such sites shall be chosen with a view to the best service to the residents and properties of the whole district and may be acquired by purchase or exercise of the powers of eminent domain in the manner provided by ORS chapter 35. The board may purchase apparatus and equipment as needed by the district, and provide a water system, ponds or reservoirs for the storage of water for fire-fighting purposes. Or the board may contract with water companies or districts, or both, for water service and facilities at a rate of compensation mutually agreed upon. The board also may divide the district into zones or subdivisions and provide an adequate system or code of fire alarms or signals by telephone, bell, whistle, siren or other means of communication.

(3) A district may:

(a) Acquire real property or an easement, by purchase or other voluntary agreement, for the purpose of establishing a fire evacuation

route.

(b) Construct or maintain a fire evacuation route on property:

(A) Owned by the district or over which the district has an easement for the purpose of a fire evacuation route; or

(B) Owned by a person or governmental entity or over which a person or governmental entity has an easement for the purpose of a fire evacuation route, with authorization from the person or governmental entity.

(c) Participate in an agreement related to the construction, maintenance or use of a fire evacuation route.

(4) A district may operate or acquire and operate, or contract for the operation of, emergency medical service equipment and vehicles both within and without the boundaries of the district. A district may conduct ambulance operations only in conformance with a county plan adopted under ORS 682.062 for ambulance services and ambulance service areas and with rules of the Oregon Health Authority relating to such services and service areas. Service authorized under a county plan includes authorization for a district to provide ambulance services by intergovernmental agreement with any other unit of local government designated by the plan to provide ambulance services.

(5) As used in this section, "ambulance services" has the meaning given that term in ORS 682.027. [Amended by 1953 c.369 §2; 1959 c.658 §1; 1967 c.348 §1; 1969 c.667 §17; 1973 c.192 §1; 1979 c.565 §1; 1981 c.538 §1; 1989 c.722 §1; 2009 c.595 §977; 2021 c.502 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.270 - Reports of directors; State Fire Marshal cooperation; uniform forms.**

(1) The district board shall report monthly to the State Fire Marshal, upon forms prescribed by the State Fire Marshal, information the State Fire Marshal may require, and shall, at any time, upon request furnish further report or information required by the State Fire Marshal.

(2) The State Fire Marshal shall cooperate in the formation, operation and administration of districts. The Department of the State Fire Marshal shall prepare and make available uniform forms for reports required by this section and other uniform forms and blanks the State Fire Marshal considers advisable. [Amended by 1969 c.667 §18; 1983 c.192 §2; 2021 c.539 §137]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.280 - Employment of assistants.**

The board of directors may employ assistants as necessary or convenient in carrying on the work of the district and fix their compensation. The expenses of directors actually incurred in the service of the district may be paid by the board. [Amended by 1969 c.667 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.290 - Additional authority of districts within 10-mile radius of city of 100,000 or more.**

Districts situated within a radius of 10 miles of a city of over 100,000 population may, in addition to the powers granted by ORS 478.210, 478.221 and 478.240 to 478.280, install, maintain and operate systems of street, road or highway lights. The lights shall be maintained upon the streets, roads or intersections as the board considers is needed to furnish the best lighting service to the residents and properties in the district. [Amended by 1969 c.667 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.300 - Contracting with others to provide facilities and services for fire protection or road lighting; authority over open burning and fire permits; rules.**

(1) In addition to the authority to enter into intergovernmental agreements under ORS chapter 190, a rural fire protection district or other public body as defined in ORS 174.109 may contract with any person for the purpose of affording fire fighting, protection or prevention facilities or road-lighting facilities and services, or both, to such person.

(2) When any agreement or contract is entered into pursuant to ORS chapter 190 or subsection (1) of this section to provide fire protection service, the rural fire protection district or other public body providing such service shall have authority over open burning and the issuance of fire permits in the area served, and may in accordance with this chapter make reasonable rules and regulations relating thereto. [Amended by 1965 c.602 §27; 1969 c.667 §21; 2003 c.802 §126]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.305 - Contracting with others for mutual communication system; contracts in other states.**

(1) Any district may contract with other rural fire protection districts or cities operating a fire department for the establishment and maintenance of a mutual communication system for fire prevention and protection and may, in cooperation with the other contracting party or parties, provide for a joint board of control composed of representatives of the contracting parties, to control the operations of such communication system.

(2) Any district any portion of whose boundary coincides with the boundary of this state may contract with any public agency of, or person in, an adjoining state for the purpose of receiving or furnishing fire protection or for the purpose of water supply for fire fighting. [1955 c.579 §1; 1969 c.667 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.308 - Contracting with others for regional oil and hazardous material emergency response team.**

- (1) Any district may contract with another rural fire protection district, city or county to establish, operate and maintain a regional oil and hazardous material emergency response team. The contracting parties may provide for a joint board of control, composed of representatives of the contracting parties, to control the operation of the regional emergency response team.
- (2) A rural fire protection district may receive a grant under section 42, chapter 539, Oregon Laws 1987.
- (3) Any district whose boundary coincides with the boundary of this state may contract with a public agency or person in an adjoining state for the purpose of responding to spills or releases of oil and hazardous material.
- (4) As used in this section, "hazardous material," "oil," "person" and "spill or release" have the meaning established in ORS 466.605. [1987 c.539 §44]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.310 - Response to fire or public safety incident outside its own territory by district or municipality; liability for costs.**

- (1) When a fire or public safety incident occurs outside the limits of a district or of a city and help is asked of the district or city, the fire-fighting or public safety apparatus and force of the district or city may, with or without a contract to do so, be used for extinguishing the fire or responding to the public safety incident in the other unprotected or inadequately protected district or territory. However, the district or city so responding shall be paid the contract or reasonable value for use, including repairs and depreciation, of the apparatus and equipment so used and other expenses reasonably incurred in furnishing the fire-fighting or public safety service.
- (2) When a district or city responds to a call for assistance arising from an incident involving an airplane crash or an occurrence on a transportation route within the city or district, the district or city may recover from the person or property receiving the direct fire or safety services as a result of the incident any cost incurred for the following:
  - (a) The contract or reasonable value of the use, including repairs and depreciation, of the apparatus and equipment used in accordance with a state standardized-costs schedule issued by the State Fire Marshal; and
  - (b) Other expenses or costs reasonably incurred in furnishing the assistance, as adopted by the service provider.
- (3) As used in this section, "transportation route" means a roadway, waterway or railroad right of way against which no taxes or assessments for fire protection are levied by the district or city.
- (4) The provisions of this section do not apply to fire incidents involving only forest resources that occur on lands protected under ORS chapter 477. [Amended by 1969 c.667 §23; 1983 c.572 §1; 1987 c.834 §2; 1997 c.274 §38]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.315 - Response to fire or public safety incident in Columbia River Gorge National Scenic Area; payment of costs.**

- (1) When a district is located entirely or partly within the boundaries of the Columbia River Gorge National Scenic Area established under 16 U.S.C. 544 et seq., if a fire or other public safety incident occurs on state property within the limits of the district and assistance from the district is requested, the fire-fighting and emergency medical vehicles, apparatus and personnel of the district may, with or without a contract to do so, be used for extinguishing the fire or responding to the public safety incident. The district so responding shall recover from the state agency in possession or control of the property:
  - (a) The amount due under a contract with the state agency for the services provided by the district; or
  - (b) If there is no contract, the actual costs incurred by the district in extinguishing the fire or responding to the public safety incident.
- (2) When vehicles, apparatus and personnel are used under subsection (1) of this section, the state agency requesting assistance shall be liable and shall pay the amount due under the contract, if any, or the actual costs incurred by the district. A claim for such costs shall not be allowed unless, within 60 days after the costs have been incurred, an itemized statement of the actual costs, certified under oath by the treasurer of the district, and a demand for payment are served by mail or personal service upon the state agency. Such costs shall be payable from moneys made available to the state agency for such purpose.
- (3) If any such costs are not paid within 90 days after the itemized statement of actual costs and demand for payment are received by the state agency, the district may bring an action against the state agency for the recovery of such unpaid costs.
- (4) As used in this section, "state property" means any public land or other real property controlled by any agency of the State of Oregon and against which no taxes or assessments for fire protection are levied by a district.
- (5) The provisions of this section do not apply to fire incidents involving only forest resources that occur on lands protected under ORS chapter 477. [1989 c.395 §2; 1997 c.274 §39]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.325 - District may levy taxes for purposes of ORS 478.335 to 478.370.**

Expenses incurred by a district in establishing programs or providing benefits authorized by ORS 478.335 to 478.370 are expenses for which a district may levy taxes as provided by ORS 478.410. [1963 c.366 §8]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.335 - Contracts for medical and hospital services or insurance.**

(1) A district board may enter into contracts for medical and hospital services or insurance covering employees of the district for remedial care and hospital benefits. Failure to obtain insurance or service contracts shall not be construed as negligence or lack of diligence on the part of the board or the members thereof.

(2) As used in this section "remedial care" includes services rendered by a person licensed to practice one or more of the healing arts within the scope of the license of the person or any other remedial care recognized under the law of this state. [1963 c.366 §1; 1969 c.667 §24]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.340 - Payment of premiums or charges on contracts; employee contributions; multiple contracts.**

(1) The district may agree to pay none, part or all of the premiums or charges on insurance or service contracts, and it may collect from the salary of any employee covered by the contract the percentage of the premiums or charges the employee is required to provide pursuant to the contract. Contributions for premiums or charges by employees shall be only on a voluntary basis.

(2) The board may negotiate more than one contract with one or more companies or associations if necessary to obtain optimum coverage at minimum cost.

(3) No premium or other periodic charge on any insurance or service contract shall be paid unless the insurer or hospital association issuing such policy or contract is authorized to transact business as an insurance company or hospital association in this state. [1963 c.366 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.355 - Establishment of employee retirement system; provisions of plan.**

(1) A district may establish an employees' retirement system pursuant to ORS 478.355 to 478.370. The board may enter into agreements necessary to establish the system and carry out the plan and may agree to modifications of such agreements from time to time.

(2) The retirement plan may provide for retirement benefits measured on the basis of services rendered or to be rendered by an employee, either before or after the date on which such employee first becomes a member of the retirement plan. The retirement plan may provide for a minimum of years of service and a minimum and maximum age of retirement for the employee. [1963 c.366 §§3,4; 1969 c.667 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.360 - Fund to provide retirement benefits.**

The district may budget and provide for payment into the fund of the retirement plan an amount sufficient:

(1) To provide, on an actuarial reserve basis, the amortized level premium cost of the retirement benefits which, under the provision of the retirement system, are to be provided by the district to its employees who attain the retirement age or retire in accordance with the terms of the retirement plan.

(2) To meet the actuarially computed costs of retirement benefits measured on the basis of services rendered or to be rendered by an employee before or after the date on which such employee becomes a member of the retirement plan. [1963 c.366 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.365 - Employee contributions to retirement fund.**

The district may collect, as a contribution from any employee, that percentage of the salary received by the employee which is necessary to fund on an actuarial reserve basis the cost of retirement benefits which the employee is required to provide pursuant to the provisions of a retirement plan. [1963 c.366 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.370 - Retirement benefits not to be funded for individual not employee of district when membership in system created.**

Nothing in ORS 478.325 and 478.355 to 478.370 authorizes the district to budget, provide for payments or collect contributions to fund retirement benefits for an individual who is not in the employment of the district at the time of the creation of a membership status under a retirement plan. [1963 c.366 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.390 - Investments authorized to fund length of service awards for volunteer firefighters.**

In addition to the investments authorized by ORS 294.035, the board of directors of a rural fire protection district organized under ORS chapter 478 may invest or cause to be invested any surplus funds of the district in contracts described in ORS 294.035 (3)(f) for the purpose of funding length of service awards for the volunteer firefighters of the district. [1993 c.452 §2; 1995 c.245 §13;

2005 c.443 §30]

Note:

478.390 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 478 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.410 - Power of district to levy taxes, borrow money, sell bonds and create fees.**

- (1) To provide funds for defraying expenses for the establishment, equipment and maintenance of the district, the district board may provide for a tax on the assessed value of all taxable property within the district.
- (2) To carry into effect any of the powers granted to the district, the district, when authorized by a majority of the voters voting at an election called for that purpose, may borrow money and sell and dispose of general obligation bonds. The total outstanding general obligation bonds, together with liabilities outstanding incurred under rental or lease-purchase agreements authorized by subsection (3) of this section, may not exceed one and one-fourth percent (0.0125) of the real market value of all taxable property within the district, computed in accordance with ORS 308.207.
- (3) The district board may enter into rental or lease-purchase agreements to rent, lease or acquire real or personal property, or both, required for fire-protection purposes. Except for agreements to rent, lease or acquire real property, an agreement may not run for more than 10 years or be subject to renewal. The aggregate principal obligations under the agreements, and under other like agreements, with outstanding bonded indebtedness, may not exceed the limitation imposed by subsection (2) of this section. ORS 294.305 to 294.565 do not affect or restrict the right of any district to enter into an agreement described in this subsection.
- (4) Unless expressly prohibited by the documents creating the district, a district board may adopt an ordinance as provided under ORS 198.510 to 198.600 to create a fee for any service provided by the district. A fee created under authority of this section may not exceed the cost to the district of providing the service. The fee authority granted to a board by this subsection is in addition to any authority granted to a board under local law or by the documents creating the district. Notwithstanding ORS 198.600, the failure to pay a fee created under authority of this section is not a violation punishable under ORS 198.600. [Amended by 1959 c.520 §1; 1963 c.9 §30; 1967 c.235 §1; 1969 c.667 §26; 1975 c.467 §1; 1981 c.804 §108; 1983 c.192 §3; 1991 c.459 §418; 2005 c.620 §1; 2017 c.26 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.420 - Sale of bonds.**

Bonds authorized under ORS 478.410 shall be issued and sold in the manner prescribed in ORS chapter 287A. The bonds shall be so conditioned that the district agrees to pay, at the place named, to the bearer the sum named in lawful money of the United States with interest at the rate named, payable semiannually each year in accordance with the terms of interest coupons attached. [Amended by 1969 c.667 §27; 1969 c.694 §18; 1971 c.36 §7; 1975 c.642 §25; 1977 c.188 §6; 2001 c.215 §12; 2007 c.783 §208]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.430 - Ad valorem tax.**

A district board shall ascertain and levy annually, in addition to all other taxes, an ad valorem tax on all the taxable property in the district, sufficient to pay the interest accruing and the principal maturing on the bonds promptly as they become due. [Amended by 1969 c.667 §28; 1969 c.694 §19; 1971 c.36 §8; 2001 c.215 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.440 - Gifts; sinking fund.**

The district may receive from any source whatever, gifts, donations, bequests, money or property for any purpose consistent with the terms of this chapter. The district may, from time to time, provide from its current revenue or create or set up sinking funds to be applied to authorized expenditures contemplated to be made beyond the current tax year. [Amended by 1983 c.740 §190]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.450 - Tax for road lighting; method.**

To provide funds for defraying expenses for the installation, maintenance and operation of the road-lighting service to the district, the district board may provide for a tax not exceeding one-tenth of one percent (0.001) of the real market value of all taxable property within the district, computed in accordance with ORS 308.207. Upon approval of the majority of the electors voting at a special election called for such purpose the board may levy a special tax of not to exceed one-fourth of one percent (0.0025) of the real market value of all taxable property within the district for this purpose, computed in accordance with ORS 308.207. [Amended by 1967 c.293 §33; 1969 c.667 §29; 1991 c.459 §419]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.460 - Deposit and disbursement of funds.**

Funds collected on behalf of the district through the levy of taxes, all donations, contributions, bequests or annuities and all

borrowed moneys received by or on behalf of the district shall be deposited in accordance with ORS 295.001 to 295.108 and as designated by the board. Funds shall be drawn out only upon proper order and warrant or check, bearing the signature of those persons authorized to sign warrants or checks by resolution of the board. [Amended by 1965 c.540 §1; 1969 c.667 §30; 1969 c.694 §20; 1971 c.36 §9; 1987 c.834 §3; 2001 c.215 §14; 2019 c.587 §42]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.470 - Interest on unpaid warrants; limitation on amount of warrants.**

All warrants for the payment of any indebtedness of a district which are unpaid for want of funds shall bear interest at a rate to be fixed by the district board but not to exceed six percent per annum from the date of the registering of the unpaid warrants with the county treasurer. The amount of warrants outstanding shall not exceed the revenue provided for the year in which the indebtedness was incurred. [Amended by 1969 c.667 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.480 - Formation of tax zones; basis for zones; public hearing.**

(1) A district board may divide its district into zones for the purpose of imposing and levying ad valorem taxes at different rates on the assessed value of all taxable property in each zone. The establishment of zones within a district under this section shall be based upon differences in the services provided by the district to the residents and their property in each zone.

(2) When a district board decides to divide the district into zones under subsection (1) of this section, it shall conduct a public hearing on the formation of the proposed zones. The hearing shall be held after notice to the public is published as provided in ORS 478.485. The notice shall set forth the date, hour and place of the hearing and the information required under ORS 478.485. The notice shall state that all interested persons may attend and shall be given a reasonable opportunity to be heard. [1983 c.569 §§2,3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.485 - Notice of public hearing.**

(1) The district board shall cause a notice of a public hearing relating to the formation of zones under ORS 478.480 (1) to be published once a week for two successive weeks in the newspaper in general circulation in the district which, in the judgment of the district board, will afford the best notice to the residents of the district.

(2) The notice published under this section shall set forth:

(a) The resolve of the district board to divide the district into zones.

(b) The boundaries of the proposed zones.

(c) The percentage of the total amount of ad valorem taxes of the district that will be collected in each zone. [1983 c.569 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.490 - Election on question of dividing district into tax zones; order creating zones; effect.**

(1) After the public hearing required under ORS 478.480 (2), if the district board decides to proceed with the proposal, it shall submit the question of dividing the district into zones to the voters of the district at the next regular district election on the date specified in ORS 255.335 (1).

(2) If a majority of the voters of the district voting upon the question vote in favor of dividing the district into zones, the district board shall enter an order in its journal declaring that fact. The order shall be conclusive as to the regularity of all proceedings in reference to the election and to the existence of the zones. [1983 c.569 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.495 - Limitation on changes in tax zone boundaries.**

(1) When a proposal for dividing a district into zones is approved by the voters of a district, a proposal for changing the boundaries of the zones shall not be submitted to the voters at the regular district election next following such approval, but may be submitted at any regular district election thereafter.

(2) Following approval of the formation of zones within a district by the voters of the district, the boundaries of the zones shall not be changed by the district board unless notice of that change is given to, and approved by, the voters of the district as provided in ORS 478.480 (2), 478.485 and 478.490. [1983 c.569 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.500 - Determination of tax levy in each tax zone.**

If a district is divided into zones under ORS 478.480 (1), the district board shall determine, make and declare the ad valorem tax levy for each zone when the district board adopts its budget for any fiscal year. The determination of the amount of ad valorem taxes to be levied in each zone shall be in accordance with the proposal approved by the voters under ORS 478.490 and shall be entered in the proper records of the district board. [1983 c.569 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire**

**Protection DistrictsSection 478.505 - Petition for tax zones by district electors; number of signatures required; public hearing.**

(1) The electors of a district may initiate proceedings to divide the district into zones under ORS 478.155 and 478.480 to 478.500 by filing a petition with the district board. The petition shall state the name of the district and contain a request that the district board divide the district into zones consisting of areas zoned for exclusive farm use, areas within urban growth boundaries and all other areas.

(2) A petition filed under this section shall be signed by not less than 10 percent of the electors of the district.

(3) When the district board receives a petition filed under this section, the district board shall hold a public hearing on the formation of the proposed zones, and provide notice thereof, as required by ORS 478.480 (2) and 478.485. [1993 c.424 §13]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 478 - Rural Fire Protection DistrictsSection 478.560 - Deposit and disbursement of funds of districts located in two or more counties.**

Funds accruing to a district, located in two or more counties, from any source shall be deposited in accordance with ORS 295.001 to 295.108 and shall be drawn out only upon proper order and warrant or check bearing the signature of those persons authorized to sign warrants or checks by resolution of the board. [Amended by 1965 c.540 §2; 1969 c.667 §35; 1969 c.694 §24; 1971 c.36 §10; 1971 c.727 §141; 1983 c.185 §1; 1987 c.834 §4; 2001 c.215 §15; 2019 c.587 §43]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 478 - Rural Fire Protection DistrictsSection 478.665 - Withdrawal of territory from district; inclusion in forest protection district; assessment.**

In addition to any other method of initiating proceedings to withdraw territory from a district, the county board may, after appropriate proceedings, order the withdrawal of forestland from a district if:

(1) Written request for the withdrawal is submitted to the county board by the district board;

(2) Inclusion of the withdrawn forestland within a forest protection district under ORS 477.205 to 477.281 is agreed to by the State Forester;

(3) A public hearing for the landowners concerned is held regarding the withdrawal by the county board; and

(4) Any lands so withdrawn and transferred to a forest protection district for purposes of fire protection shall be assessed for this purpose under ORS chapter 477 and, except as provided by ORS 198.880, shall no longer be assessed for fire protection by the rural fire protection district. [1969 c.651 §2; 1971 c.727 §142]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 478 - Rural Fire Protection DistrictsSection 478.702 - Annexing lands to district.**

(1) As used in this section:

(a) "Annex" means to add lands to a district.

(b) "Coverage area" means an area established by a district pursuant to this section that consists of the following:

(A) Lands that are included in the district; and

(B) Some or all of the lands that are within seven road miles of a fire station in the district and are not included in any other district.

(c) "Fire station" means a fire station recognized by a fire insurance rating organization as a fire station that is equipped and has personnel who respond to calls.

(d) "Road" means any public or private thoroughfare that may be used for vehicular traffic.

(2) A district may establish the coverage area of the district one or more times, subject to the requirements of subsection (3) of this section.

(3)(a) If a district intends to establish a coverage area that includes lands that are within seven road miles of a fire station in any other district:

(A) Before establishing the coverage area, the district intending to include the lands must send notice to the other district or districts.

(B) The notified district or districts must:

(i) Reply not more than 90 days after the notice described in subparagraph (A) of this paragraph is sent; and

(ii) State whether the notified district or districts intend to include the lands in the coverage area or areas of the notified district or districts.

(b) If the district that provided notice under paragraph (a)(A) of this subsection does not receive a reply or replies within 90 days, as described in paragraph (a)(B) of this subsection, or receives a reply or replies within 90 days indicating that the notified district or districts do not intend to include the lands, the district that provided the notice may include the lands.

(c) If the district that provided notice under paragraph (a)(A) of this subsection receives a reply or replies within 90 days, as described in paragraph (a)(B) of this subsection, that states that the other district or districts also intend to include the lands, the districts shall all:

(A) Negotiate in good faith to determine which district will include the lands; and

(B) Attempt to reach a resolution not more than 90 days after the reply, or after the latest multiple replies, described in paragraph (a)(B) of this subsection is sent.

- (d) If districts do not reach a resolution described in paragraph (c) of this subsection within 90 days after the reply, or after the latest of multiple replies, described in paragraph (a)(B) of this subsection is sent, the district in which the fire station that is closest to the lands is located shall include the lands.
- (4) If a district establishes the coverage area of the district, after any applicable requirements in subsection (3) of this section are met, the district shall send notice to any owners of lands within the coverage area that are not included in a district that:
- (a) Within 90 days after the notice is sent, the owners may consent to add the lands of the owners to the district as described in ORS 478.140 at no cost for adding the lands; and
- (b) After sending the notice and before consent from the owners is received, or more than 90 days after sending the notice if the district does not receive consent from the owners as described in paragraph (a) of this subsection within the 90 days, the district may decide not to protect the owners' lands and, if the district provides services at the lands, may bill the owners at three times the cost of the services, as determined based on a state standardized-costs schedule approved by the State Fire Marshal.
- (5) Notwithstanding any contrary provision of law:
- (a) A district or county may not charge a fee for adding lands to a district under subsection (4) of this section, including a fee for filing paperwork related to adding the lands.
- (b) A person or a public body, as defined in ORS 174.109, may not bring an action against a district for declining to protect the lands of owners that do not consent to add the lands of the owners to the district under subsection (4) of this section.
- (6)(a) If a district bills an owner as described in subsection (4)(b) of this section and the owner does not pay the bill within 60 days, the district may secure payment of the claim by filing an itemized and sworn statement, setting forth the dates of performance and the nature of the services performed, with the county clerk of the county in which the services were rendered.
- (b) The claim shall constitute a valid lien against the interest of the owner that may be established and enforced in the same manner as provided by law for the enforcement of mechanic's liens.
- (c) The county may not charge a fee related to the claim, including a fee related to filing or processing the claim.
- (7) A person that insures lands within the coverage area of a district:
- (a) Shall confirm with the district whether the lands are included in the district.
- (b) May not provide an insurance discount if the lands are not included in the district.
- (8) If a district identifies the coverage area of the district, subject to the provisions of ORS 478.010, the board of directors of the district shall annex to the district any lands that are within the coverage area of the district, but are not included in the district, when:
- (a) Ownership of the lands transfers;
- (b) A new structure subject to damage by fire is built on the lands;
- (c) A building permit that relates to the lands is issued; or
- (d) A land use decision, as defined in ORS 197.015, a limited land use decision, as defined in ORS 197.015, or a decision concerning a partition, as defined in ORS 92.010, or a subdivision, as defined in ORS 92.010, that relates to the lands is approved or issued.
- (9) A person that owns lands within a coverage area of the district that are not included in the district shall:
- (a) Send notice to the county if an event described in subsection (8) of this section occurs, unless documentation of the event is otherwise filed with the county; and
- (b) Ensure that any information in documentation or a notice that relates to the lands and is provided to the county is accurate.
- (10) If a county receives notice of, receives documentation of or otherwise becomes aware of the occurrence of an event described in subsection (8) of this section on lands in a coverage area of the district, the county shall send notice to the board of directors of the district that the event has occurred.
- (11) After the board of directors receives notice from a county as described in subsection (10) of this section or otherwise becomes aware that an event described in subsection (8) of this section has occurred, if the board of directors confirms that the lands are in the coverage area of the district, the board of directors shall annex the lands and, upon annexing the lands, shall:
- (a) Issue an order of annexation of the lands that includes an attestation that an event described in subsection (8) of this section has occurred;
- (b) File duplicate copies of the order with the Department of Revenue, the Secretary of State and the county clerk and county assessor of each county in which the district is located;
- (c) File a legal description of the change or proposed change and an accurate map showing the change or proposed change, as described in ORS 308.225; and
- (d) Take the steps necessary to ensure that the lands are added to the assessment roll for the tax year beginning July 1 following the calendar year in which the lands are annexed.
- (12) If a board of directors files a legal description and map consistent with ORS 308.225, the county assessor and the department shall act in accordance with ORS 308.225.
- (13) The provisions of ORS 198.705 to 198.955, 478.115 and 478.150 do not apply to an annexation under this section.
- (14) Notwithstanding any contrary provision of law, an annexation under this section is not subject to an election.
- (15) Notwithstanding subsection (13) of this section, an annexation or other addition of lands under this section has the effects described in ORS 198.860.
- (16) Lands annexed or otherwise added under this section may be subject to tax assessment by the district as described in this chapter and a fee described in ORS 478.410.

(17) Upon request by a district, to help the district act as described in this section, a county shall provide information possessed by the county to the district, including mailing addresses the district might need to send notice under subsection (4) of this section or a legal description or map described in subsection (11)(c) of this section. [2023 c.208 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.840 - Definitions for ORS 478.845 to 478.875.**

As used in ORS 478.845 to 478.875:

- (1) "District" means a rural fire protection district organized under ORS chapter 478.
- (2) "Fire safety system" means any device or system that protects structures or people from damage, injury or destruction by fire or that minimizes the effects of fire. The term includes automatic fire sprinkler systems. [1995 c.725 §1]

Note:

478.840 to 478.875 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 478 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.845 - Revenue bonds authorized for fire safety systems.**

(1) Notwithstanding any other provision of law or any restriction on indebtedness contained in a charter, a city or district may issue and sell revenue bonds under ORS 478.845 to 478.875, loan moneys to qualified persons for the installation of fire safety systems and enter into loan contracts with those persons. Moneys borrowed from the loan fund created by ORS 478.855 shall be repaid by the borrowers in accordance with the terms of the loan contract to which the borrower and the city or district are parties.

(2) In addition to authority granted by other laws to issue revenue bonds, a city or district may sell revenue bonds for the purpose of creating a loan fund to finance the installation of fire safety systems in structures located within the city or district.

(3) Revenue bonds authorized by this section may be issued from time to time and shall be issued as prescribed in ORS chapter 287A. [1995 c.725 §2; 2007 c.783 §209]

Note:

See note under 478.840.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.850 - Sources of bond payment restricted.**

(1) Revenue bonds issued under ORS 478.845 to 478.875:

(a) Shall not be payable from nor charged upon any fund other than the revenue pledged to the payment of the revenue bonds.

(b) Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the city or district, except those moneys paid to the loan fund created by ORS 478.855.

(2) No holder of such revenue bonds shall ever have the right to compel any exercise of the taxing power of a city or district to pay the bonds or the interest on the bonds, or to enforce payment of the bonds against any property of the city or district except those moneys pledged in the loan fund created under ORS 478.855.

(3) A revenue bond issued under ORS 478.845 to 478.875 shall not constitute a debt of the city or district within the meaning of any statutory limitation. [1995 c.725 §4; 2007 c.783 §210]

Note:

See note under 478.840.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.855 - Loan fund created from bond proceeds; other sources for fund.**

(1) Proceeds of revenue bonds issued and sold under ORS 478.845 to 478.875 that are to be used to fund loans to persons for acquisition and installation of fire safety systems in structures owned by the borrowers shall be deposited in a loan fund created for the purpose by a city or district.

(2) In addition to proceeds from the sale of revenue bonds, the loan fund created by this section shall consist of:

(a) Moneys repaid to the fund by borrowers who received loans from the fund.

(b) Proceeds of the sales of structures acquired by the city or district as a result of loan defaults.

(c) Other revenues, as defined in ORS 287A.001, as determined by the city or district. [1995 c.725 §7; 2007 c.783 §211]

Note:

See note under 478.840.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.860 - Standards for eligibility for loans for fire safety systems.**

(1) The governing body of a city or district shall adopt standards to determine the eligibility of borrowers to borrow money from the loan fund established under ORS 478.855 for the purpose of acquiring and installing a fire safety system in a privately owned structure owned by the borrower.

(2) The governing body of a city or district shall also adopt a list of fire safety systems that may be financed with loans made under ORS 478.845 to 478.875. [1995 c.725 §3]

Note:

See note under 478.840.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.865 - Loan contract; repayment plan; terms and conditions.**

(1) Any loan contract providing for a loan of moneys to a borrower by a city or district shall include a plan for repayment by the borrower of moneys borrowed plus interest. The repayment plan:

(a) Shall provide that the city or district obtain a lien on the structure in which a fire safety system is installed. Except for tax liens, the lien acquired by the city or district shall have priority over all other liens on the structure.

(b) Shall provide for such other assurance of, and security for, repayment by the borrower as is considered necessary by the city or district.

(c) Shall set forth the interest rate on the loan as reasonably determined by the city or district.

(d) Shall provide for repayment during a period that shall be the lesser of the useful life of the proposed fire safety system or the term of the bond as determined by the city or district.

(2) A loan contract under subsection (1) of this section may provide that the amount of repayment by a borrower include an amount sufficient to reimburse the city or district for the borrower's allocable share of the costs of issuing revenue bonds under ORS 478.845 to 478.875 to finance the loan contract, all administrative expenses relating to the loan contract and such amounts as may be established by the city or district to maintain a reserve in the loan fund created under ORS 478.855 to pay or reimburse future losses directly related to the loans financed with moneys from the loan fund. [1995 c.725 §5]

Note:

See note under 478.840.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.870 - Powers granted to enforce loan contracts and secure payment of bonds; reserve fund.**

In addition to any other powers granted by law, a city or district may:

(1) Make all contracts, execute all instruments and do all things necessary or convenient for the exercise of the powers granted by ORS 478.845 to 478.875, or for the performance of its covenants or duties, or in order to secure the payment of its bonds;

(2) Enter into and perform such contracts and agreements with borrowers as the city or district considers proper and feasible for or concerning the financing and installation of fire safety systems;

(3) Enter into covenants for the benefit of bond owners regarding the use and expenditure of moneys in the loan fund created by ORS 478.855; and

(4) Establish a reserve fund or account for the benefit of bond owners and provide that the reserve fund or account may be funded with bond proceeds, from moneys held in the general fund, an enterprise fund or other fund of the city or district or from such other revenues or sources as the governing body of the city or district may determine. [1995 c.725 §6]

Note:

See note under 478.840.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.875 - Remedies for breach of loan contract.**

If a borrower fails to comply with a contract entered into under ORS 478.865, the city or district may seek appropriate legal remedies to secure any repayment due the loan fund created by ORS 478.855. [1995 c.725 §8]

Note:

See note under 478.840.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.880 - Legislative findings.**

The Legislative Assembly finds and declares that:

(1) The best interest of the state is served by providing financial incentives for the installation of fire safety systems in multifamily housing.

(2) The design and nature of multifamily housing creates a higher fire risk than the risk to single family housing and exposes tenants to fire risks that are not within the control of the tenants.

(3) The presence of fire safety systems helps to defray costs for fire district equipment and equipment maintenance.

(4) Although the state building code allows local jurisdictions to require the installation of fire safety systems in new construction on a cost-neutral basis, there is no equivalent program for retrofitting or remodeling existing multifamily structures.

(5) A fire safety incentive program serves the purpose of providing financial incentive for the installation of fire safety systems in existing multifamily housing. [2001 c.614 §1]

Note:

478.880 and 478.885 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 478 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.885 - Payment or repayment for cost of fire safety system installation in multifamily housing.**

(1) As used in this section:

(a) "District" means a rural fire protection district organized pursuant to ORS chapter 478.

(b) "Fire safety system" means a device or series of devices that protects structures from damage or destruction by fire, protects people from injury by fire or minimizes the effects of fire. "Fire safety system" includes, but is not limited to, automatic fire sprinkler systems.

(c) "Multifamily housing" means a structure established primarily to provide residential spaces and that provides more than one living unit. "Multifamily housing" does not include nursing homes, adult foster homes, hospitals, motels or hotels, dormitories or state institutions.

(d) "Owner" includes a purchaser under a recorded instrument of sale.

(2) A district may, by ordinance, establish a program that pays or repays to landlords part of the costs of installing fire safety systems in multifamily housing existing within the district on the effective date of the ordinance. Except as provided in this subsection, the district may establish the parameters of the program. A payment or repayment rate under the program may not exceed 50 percent of the cost of installing the fire safety system. The payment or repayment amount available for a property may not exceed the total amount paid during the preceding 10 years for all property taxes on the property, less any payment or repayment amount already provided for fire safety system installation on the property. The program must provide for the owner of the multifamily housing to apply on a form approved by the district. The program must include a uniform process for the evaluation of an application submitted by the owner of the multifamily housing. The uniform process must provide for a public hearing to determine whether the property qualifies for payment or repayment by the district. [2001 c.614 §2]

Note:

See note under 478.880.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.910 - Adoption of fire prevention code.**

A district board may, in accordance with ORS 198.510 to 198.600, adopt a fire prevention code. [Amended by 1969 c.667 §54; 1971 c.268 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.920 - Scope of fire prevention code.**

The fire prevention code may provide reasonable regulations relating to:

(1) Prevention and suppression of fires.

(2) Mobile fire apparatus means of approach to buildings and structures.

(3) Providing fire-fighting water supplies and fire detection and suppression apparatus adequate for the protection of buildings and structures.

(4) Storage and use of combustibles and explosives.

(5) Construction, maintenance and regulation of fire escapes.

(6) Means and adequacy of exit in case of fires and the regulation and maintenance of fire and life safety features in factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private residences, which are occupied for sleeping purposes, and all other places where large numbers of persons work, live or congregate from time to time for any purpose.

(7) Requiring the issuance of permits by the fire chief of the district before burning trash or waste materials.

(8) Providing for the inspection of premises by officers designated by the board of directors, and requiring the removal of fire hazards found on premises at such inspections. [Amended by 1969 c.667 §55; 1977 c.292 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.924 - Approval of code by city or county required.**

The provisions of a fire prevention code adopted by a district after October 4, 1977, shall not apply within any city or county within the district unless the governing body of the city or county approves the fire code by resolution. [1977 c.292 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.927 - Building permit review for fire prevention code.**

A district adopting a fire prevention code shall provide plan review at the agency of the city or county responsible for the issuance of building permits for the orderly administration of that portion of the fire prevention code that requires approval prior to the issuance of building permits. [1977 c.292 §4]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.930 - Violation of code; failure to remove hazards; burning waste without permit prohibited.**

When a district has adopted a fire prevention code as provided in ORS 478.910:

- (1) No person shall violate the provisions of the code or fail to remove hazards found on inspection within the time set by the inspecting officer, after written notice to either the owner or occupant of the premises.
- (2) No person shall burn waste materials or trash in an unguarded manner without a permit, when a permit is required by the district code or this chapter. [Amended by 1969 c.667 §56]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.940 - Filing and posting of fire prevention code.**

Copies of the fire prevention code shall be filed with the Department of the State Fire Marshal and a copy shall be posted at each fire station within the district. [Amended by 2021 c.539 §138]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.960 - Burning of certain materials permitted only with permission of fire chief; damage or injury; burning schedules and restrictions.**

- (1) No one, within the boundaries of a district, shall cause or permit to be initiated or maintained on one's own property, or cause to be initiated or maintained on the property of another, any open burning of commercial waste, demolition material, domestic waste, industrial waste, land clearing debris or field burning without first securing permission from the fire chief of the district and complying with the direction of the fire chief. A deputy of a fire chief has the power to perform any act or duty of the fire chief under this section.
- (2) The fire chief shall prescribe conditions upon which permission is granted and which are necessary to be observed in setting the fire and preventing it from spreading and endangering life or property or endangering the air resources of this state. The Environmental Quality Commission shall notify the State Fire Marshal of the type of and time for burning to be allowed on each day under schedules adopted pursuant to ORS 468A.570 and ORS 468A.595. The State Fire Marshal shall cause all fire chiefs and their deputies in the affected area to be notified of the type and time for burning to be allowed on each day with updating messages each day as required. A fire chief or deputy shall grant permission only in accordance with the schedule of the Environmental Quality Commission but may reduce hours to be allowed for burning if necessary to prevent danger to life or property from fire. The State Fire Marshal may refuse, revoke or postpone permission when necessary in the judgment of the State Fire Marshal to prevent danger to life or property from fire, notwithstanding any determination by the fire chief.
- (3) Nothing in this section relieves a person starting a fire from responsibility for providing adequate protection to prevent injury or damage to the person or property of another. If such burning results in the escape of fire and injury or damage to the person or property of another, such escape and damage or injury constitutes prima facie evidence that the burning was not safe.
- (4) Within a district, no person shall, during the fire season declared under ORS 477.505, operate any equipment in forest harvesting or agricultural operations powered by an internal combustion engine on or within one-eighth of one mile of forestland unless each piece of equipment is provided with a fire extinguisher of sufficient size and capacity and with such other tools and fire-fighting equipment as may be reasonably required by the fire chief of the district. The provisions of this subsection do not apply to machinery regulated by ORS chapter 477.
- (5) No person shall dispose of any building or building wreckage within a district by fire without having first secured permission therefor from the fire chief. No person shall refuse to comply with any reasonable requirements of the fire chief as to the safeguarding of such fire from spreading.
- (6) This section is not intended to limit the authority of a district to adopt a fire prevention code as provided in ORS 478.910 to 478.940 or to issue permits when the burning is done by mechanical burners fired by liquefied petroleum gas.
- (7) The fire chief shall maintain records of all permits and the conditions thereof, if any, that are issued for field burning under this section and shall submit at such times, as the Environmental Quality Commission shall require such records or summaries thereof to the commission. The Environmental Quality Commission shall provide forms for the reports required under this subsection.
- (8) Notwithstanding any other provision of this section:
  - (a) A permit is required for field burning authorized pursuant to ORS 468A.550 to 468A.620 and 468A.992.
  - (b) For a permit for the propane flaming of mint stubble, the fire chief may only prescribe conditions necessary to prevent the spread of fire or to prevent endangering life or property and may refuse, revoke or postpone permission to conduct the propane flaming only when necessary to prevent danger to life or property from fire. [1955 c.469 §§1,2; 1959 c.363 §16; 1967 c.420 §1; 1967 c.438 §1; 1969 c.613 §3; 1969 c.667 §57; 1971 c.563 §9; 1973 c.832 §7b; 1975 c.635 §4; 1979 c.321 §1; 1989 c.615 §2; 1991 c.920 §22; 1997 c.274 §40; 1997 c.473 §6; 2009 c.790 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.965 - Recovery by district of costs of suppressing unlawful fire; attorney fees.**

- (1) If the fire-fighting apparatus or personnel, or either of a district, are required to respond and be used actively or on a standby basis in connection with the extinguishment or control of a fire that has been started or allowed to spread in willful violation of ORS

478.960 (1) to (5), the person responsible therefor shall be liable to the district furnishing such apparatus or personnel, or both, for the actual costs incurred by the district in controlling, extinguishing or patrolling the fire. Such costs may be recovered in an action prosecuted in the name of the district. The court may award reasonable attorney fees to the district if the district prevails in an action under this section. The court may award reasonable attorney fees to a defendant who prevails in an action under this section if the court determines that the district had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

(2) An itemized statement of the actual costs incurred by the district, certified under oath by the treasurer of the district, shall be accepted as prima facie evidence of such costs in the action authorized by this section. [1967 c.420 §6; 1969 c.667 §58; 1981 c.897 §55; 1995 c.696 §24]

Note:

Sections 1 and 2, chapter 310, Oregon Laws 2023, provide:

Sec. 1.

(1) The State Fire Marshal shall:

(a) Establish a Rural Structural Fire Protection Review Committee.

(b) Appoint persons to serve on the committee as soon as practicable after the effective date of this 2023 Act [July 18, 2023].

(2) The committee:

(a) Shall conduct a comprehensive review of the provisions of ORS chapter 478 that relate to structural fire protection.

(b) May not review provisions of ORS chapter 478 that relate to forestland assessment, field burning or consultation with the State Forestry Department.

(c) Shall, based on the review described in paragraph (a) of this subsection, develop recommendations to modernize and improve the structural fire protection operations of rural fire protection districts and to make the operations more efficient.

(d) Shall report on the review described in paragraph (a) of this subsection and the recommendations described in paragraph (c) of this subsection, in the manner prescribed in ORS 192.245, to one or more relevant committees or interim committees of the Legislative Assembly on or before September 15, 2024. [2023 c.310 §1]

Sec. 2.

Section 1 of this 2023 Act is repealed on January 2, 2025. [2023 c.310 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.970 - Purpose of district identification names.**

The purpose of ORS 478.970 to 478.982 is to establish an identification name for each district to be used for statistical purposes by the State Fire Marshal and in the process of insurance rating. ORS 478.970 to 478.982 do not alter or add to the corporate title or identification of a district organized or established by law. [1953 c.164 §1; 1969 c.667 §59; 2001 c.426 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.972 - Application by district to State Fire Marshal for identification name.**

(1) When a district is organized the first board shall notify the State Fire Marshal in writing of the identification name for the district.

(2) Except as provided in this subsection, upon receipt of a written notice from the board, the State Fire Marshal shall immediately assign the district the identification name. The fire marshal shall notify the board in writing if the name conflicts with the name of another fire district in this state.

(3) The district board shall notify the fire marshal as provided in subsection (1) of this section within 30 days after the act that completes the organization or establishment of the district. [1953 c.164 §2; 1969 c.667 §60; 2001 c.426 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.980 - Identification name for district formed by consolidation or merger of districts.**

In the event of a consolidation or merger of two or more districts, the consolidated board shall select a name for the surviving or successor district in the manner provided in ORS 478.972. [1953 c.164 §6; 1969 c.667 §63; 1971 c.727 §143; 2001 c.426 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.982 - Reuse of names of dissolved districts.**

In the event of a dissolution of a district, the name assigned to the district is available for assignment to another district. [1953 c.164 §7; 1969 c.667 §64; 2001 c.426 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 478 - Rural Fire Protection Districts Section 478.990 - Penalties.**

(1) Violation of any provision of ORS 478.930 is a Class D violation. Each day's refusal to remove fire hazards after notice by the inspecting officer to the owner of the premises where the hazard exists is a separate offense.

(2) Burning without a permit required under ORS 478.960 (1) or in violation of a condition thereof is a misdemeanor.

(3) Violation of ORS 478.960 (4) is a misdemeanor.

(4) Subject to ORS 153.022 and 153.025, violation of any rule or regulation made by a rural fire protection district or other public body, as defined in ORS 174.109, pursuant to ORS 478.300 (2) is a misdemeanor. [Subsection (2) enacted as 1955 c.469 §3; subsection (3) enacted as 1965 c.602 §28; 1969 c.667 §65; 1971 c.563 §11; 1989 c.615 §4; 1999 c.1051 §188; 2003 c.802 §127]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.010**

[Subsection (4) enacted as 1953 c.569 §1; 1963 c.120 §1; 1979 c.359 §1; 1979 c.764 §1a; 1987 c.158 §105; 1997 c.24 §2; 2005 c.22 §360; renumbered 479.168 in 2005]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.015 - Smoking in public elevator prohibited; penalty.**

(1) It shall be unlawful for any person to smoke cigars, cigarettes or tobacco in any form or to ignite any substance in an elevator used by the public.

(2) A "No Smoking" sign shall be posted and maintained in a conspicuous place on or within any elevator operated in accordance with subsection (1) of this section, pursuant to rules of the State Fire Marshal.

(3) Any person who violates subsection (1) of this section shall incur a penalty of \$10 for each such violation.

(4) Any person who violates subsection (2) of this section commits a Class D violation. [1975 c.474 §2; 1999 c.1051 §189]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.155 - Plan of proposed construction or alteration; declaration of value; approval of plan; effect of approval; rules.**

(1) As used in this section, "director" means the Director of the Department of Consumer and Business Services.

(2) Prior to construction or alteration of a hospital, public building as defined in ORS 479.168, public garage, dry cleaning establishment, apartment house, hotel, bulk oil storage plant, school, institution as defined in ORS 479.210, or any other building or structure regulated by the State Fire Marshal for use and occupancy or requiring approval by the State Fire Marshal pursuant to statute, the owner shall submit to the director two copies of a plan or sketch showing the location of the building or structure with relation to the premises, distances, lengths and details of construction as the director shall require. A filing is not required with respect to any such building or structure in any area exempted by order of the State Fire Marshal pursuant to ORS 476.030.

Approval of the plans or sketches by the director is considered approval by the State Fire Marshal and satisfies any statutory provision requiring approval by the State Fire Marshal.

(3) A declaration of the value of the proposed construction or alteration and the appropriate fee required under ORS 455.210 must accompany the plan or sketch. However, the determination of value or valuation shall be made by the director.

(4) The director shall be furnished with not fewer than two accurate copies of the plan or sketch and details for the purpose of ascertaining compliance with applicable fire prevention and protection statutes and regulations. The plan examiner shall indicate on the plan or sketch and in writing approval or disapproval and conditions for approval of the construction or alteration. One copy of the plan or sketch shall be retained by the director and one copy shall be returned to the applicant. No building or structure referred to in subsection (2) of this section shall be erected or constructed without approval by the director if the building or structure requires approval by the State Fire Marshal. After such approval or issuance of the required permit, construction or alteration must comply with the plan or sketch in all respects unless modified by subsequent permit or order of the director.

(5) The approval of a plan or sketch may not be construed to be a permit for, or an approval of, any violation of any statute or regulation or the applicable ordinances and regulations of any governmental subdivision of the state. The approval of a plan or sketch may not be construed as an approval for noncompliance with fire marshal regulations. Any condition upon approval or disapproval is an order subject to appeal as other orders are appealable.

(6) Notwithstanding the requirements of subsections (2) and (4) of this section, the State Fire Marshal may, by rule, require an additional copy of a plan or sketch for local government use and may specify that plans or sketches submitted for review be drawn clearly and to scale. [1965 c.602 §14; 1967 c.417 §20; 1973 c.834 §33; 1977 c.821 §4; 1987 c.414 §158; 1993 c.744 §116; 1999 c.1082 §13; 2005 c.22 §364]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.165 - Certification of fire officials; rules.**

(1) In accordance with any applicable provisions of ORS chapter 183, the State Fire Marshal, by rule, shall establish a certification system for fire officials who review plans, new construction, alterations and specifications from a uniform fire code.

(2) Fire officials who review plans, new construction, alterations and specifications from a uniform fire code shall be certified under subsection (1) of this section.

(3) Nothing in this section shall be construed to expand the duties of the State Fire Marshal with respect to regulating additional types of structures. [1993 c.463 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection**

**of Buildings From Fire; Electrical Safety LawSection 479.168 - Definitions for ORS 479.168 to 479.190 and 479.990.**

As used in ORS 479.168 to 479.190 and 479.990:

- (1) "Alter" in its various modes and tenses and its participial forms refers to an alteration.
- (2) "Alterations," as applied to a building or structure, means any change, addition or modification in construction or occupancy.
- (3) "Construction" means the making, building, alteration, erection, reconstruction, rebuilding or production of a building or addition or extension thereto, or enlargement thereof, in any manner not included in the term "repair."
- (4) "Family" means an individual or two or more persons related by blood or marriage or a group of not more than five persons, excluding servants, who need not be related by blood or marriage, living together in a dwelling unit.
- (5) "Hospital" means a building of any sort in which sick or injured persons are received or kept for medical, surgical or nursing purposes.
- (6) "Occupancy" means the purpose for which a building or structure is used or intended to be used. Change of occupancy is not intended to include change of tenants or proprietors.
- (7) "Owner" includes a duly authorized agent or attorney, a purchaser, a devisee, a fiduciary and a person having a vested or contingent interest in the property in question.
- (8) "Private residence" means that part of a single, double or multiple dwelling house or building occupied as living or sleeping quarters by one or more family units, exclusive of any portion of such house or building devoted to commercial, processing or manufacturing use.
- (9) "Public building" means a building in which persons congregate for civic, political, educational, religious, social or recreational purposes, including among others, state buildings, courthouses, schools, colleges, libraries, museums, exhibit buildings, lecture halls, churches, assembly halls, lodge rooms, dance halls, theaters, skating rinks, bath houses, armories, recreation piers, grandstands and bleachers in exhibition parks or fields, and jails.
- (10) "Repair" means restoration of an existing thing to its former state, to refit, to mend, to make good. "Repair" does not include construction, reconstruction, alteration or rebuilding of a building or any part thereof. [Formerly 479.010; 2011 c.97 §7]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 479 - Protection of Buildings From Fire; Electrical Safety LawSection 479.170 - Ordering repair of, or removal of material from, buildings.**

- (1) If the State Fire Marshal, or deputies, upon an examination or inspection finds a building or other structure which for want of proper repairs, by reason of age and dilapidated conditions, or poorly installed electric wiring and equipment, defective chimneys, defective gas connection, defective heating apparatus or for any other cause or reason, is especially liable to fire, and which is so situated or occupied as to endanger other buildings or property or human life, the officer shall order the building to be repaired and all dangerous conditions remedied.
- (2) If the officer finds in any building or upon any premises any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable condition of any kind, dangerous to the safety of the buildings or premises or human life, the officer shall order such materials removed or remedied.
- (3) The order shall be made against and served personally or by registered letter upon the owner, lessee or occupant of the building or premises. Thereupon it shall be complied with by the owner, lessee, agent or occupant within the time fixed in the order. Upon failure to comply, the State Fire Marshal may close the building or premises for use or occupancy until compliance has been made.

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 479 - Protection of Buildings From Fire; Electrical Safety LawSection 479.180 - Appeal from order to comply with fire prevention statutes; fee.**

- (1) If the owner, lessee, agent or occupant is aggrieved by the order of an officer under the provisions of ORS 476.030, 479.170, 479.210 to 479.220, 480.123 to 480.160, 480.310 to 480.385, 480.420 to 480.434 or 480.450 and desires a hearing, the person may complain or appeal in writing to the State Fire Marshal within 10 days from the service of the order. The complaint or appeal shall set forth the specific grounds of the complaint or appeal and no other ground shall be considered thereafter. The complaint or appeal shall be accompanied by a fee of \$40 payable to the State Fire Marshal, and the State Fire Marshal may refer the complaint or appeal to the regional appeal advisory board established for that region by notifying the chairperson of that board and sending a copy of the notice to the complainant or appellant. The board shall fix a time for hearing and notify the complainant or appellant of the time and place thereof, which shall be within 10 days after such referral by the State Fire Marshal. If the State Fire Marshal does not refer the matter to a regional appeal advisory board, the State Fire Marshal shall fix a time and place, not less than five and not more than 10 days thereafter, when and where the complaint or appeal will be heard by the State Fire Marshal. Within 10 days after receiving a recommendation from the regional appeal advisory board, or if no referral was made to such board, within 10 days after the hearing before the State Fire Marshal, the State Fire Marshal may affirm, modify, revoke or vacate the order complained of or appealed from. Unless the order is modified, revoked or vacated by the State Fire Marshal, it shall remain in force and be complied with by the owner, lessee, agent or occupant, and within the time fixed in the order or fixed by the State Fire Marshal. If the State Fire Marshal vacates or revokes the order complained of or appealed from, or modified it in any particular other than extending time for compliance, the fee paid with the complaint or appeal shall be refunded. Otherwise, it shall be credited to appropriate state funds, and the State Fire Marshal shall so notify the State Treasurer.

(2) If the complainant or appellant under subsection (1) of this section is aggrieved by the final order of the State Fire Marshal, and if such order necessitates the expenditure of money or involves statutory interpretation, the complainant or appellant may, within 10 days thereafter, appeal to the circuit court of the county in which the property is situated, notifying the State Fire Marshal of the appeal within 10 days thereafter, which notice shall be in writing and delivered personally or by registered letter to the marshal, or left at the principal office of the Department of the State Fire Marshal at the state capital. The party so appealing shall, within two days after filing the appeal, file with the circuit court in which appeal is made a bond in an amount to be fixed by the court or judge, but in no case less than \$100, with two sufficient sureties possessing the qualification of bail on arrest, the bond to be approved by the court and conditioned to pay all the costs on the appeal in case the appellant fails to sustain it or it is dismissed for any cause. In the case of an appeal involving an order under ORS 479.170, the circuit court shall hear and determine the appeal within 10 days after the date of filing the same.

(3) The State Fire Marshal shall make or have made a certified summary of the proceedings at the hearing before the regional appeal advisory board or before the State Fire Marshal, and together with all the evidentiary matter filed with the department or presented to the regional appeal advisory board, transmit them to the circuit court at least three days prior to the date fixed by the court for hearing when it shall be tried de novo. [Amended by 1965 c.602 §20; 1973 c.832 §9; 2011 c.97 §3; 2021 c.539 §139; 2023 c.607 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.190 - Liability in damages for failure to comply with order under ORS 479.170.**

Anyone whose person or property is injured by reason of the failure of the owner or occupant to comply with any order under ORS 479.170 not appealed from, or with any such order of the State Fire Marshal upon appeal to the State Fire Marshal, or by any fire originating in the building or premises while the order is in effect and not complied with, may recover from the owner or occupant the actual damage suffered.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.195 - Assembly occupancy limits; prohibition against exceeding limit; remedies.**

(1) As used in this section, "assembly occupancy" means the use of a building or structure, or a portion of a building or structure, in a manner that is classified as an Assembly Group A occupancy under the structural specialty code described in ORS chapter 455.

(2) If the State Fire Marshal, or deputies, assistants as defined in ORS 476.060, or the approved authority, as provided by ORS 476.030 (3), upon examination or inspection finds that the number of persons present under an assembly occupancy is in excess of the maximum number of persons allowed at any one time as set forth in a capacity notice, the State Fire Marshal, or deputies, assistants as defined in ORS 476.060, or the approved authority, as provided in ORS 476.030 (3), may prohibit the assembly occupancy until compliance has been made.

(3) The owner of any building or structure for which an assembly occupancy is prohibited under subsection (2) of this section shall have immediate access to the circuit court for the county in which the building or structure is located for review of the order prohibiting the occupancy assembly. Such access may be in the form of any appropriate judicial proceeding and shall be given priority over all other cases on the docket of the circuit court.

(4) The prohibition provided for in subsection (2) of this section does not exclude any other remedies available to the State Fire Marshal, deputies, or approved authority, as provided by ORS 476.030 (3). [1967 c.417 §18; 1971 c.689 §1; 1979 c.772 §25; 1993 c.185 §31; 2003 c.14 §320; 2011 c.97 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.200 - Fire protection water supply for public buildings; rules.**

Any public building, as defined in ORS 479.168, erected after July 1, 1967, must have a readily available fire protection water supply. The State Fire Marshal shall adopt rules for determining the fire protection water supply for a public building. [1967 c.417 §19; 2005 c.22 §365; 2011 c.97 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.210 - "Institution" defined for ORS 479.215 to 479.220.**

As used in ORS 479.215 to 479.220, unless the context requires otherwise, "institution" means:

(1) A child-caring facility that provides residential care and that receives state aid under ORS 412.001 to 412.161, 418.005 to 418.025, 418.205 to 418.327, 418.470, 418.475, 418.625 to 418.685, 418.647 and 418.950 to 418.970;

(2) An inpatient care facility required to be licensed under ORS 441.015 to 441.119, 441.525 to 441.595, 441.815, 441.820, 441.990, 441.993, 442.342, 442.344 and 442.400 to 442.463; or

(3) A residential facility subject to licensure under ORS 443.400 to 443.455. [1961 c.316 §1; 1963 c.202 §1; 1969 c.641 §18; 1973 c.832 §10; 1977 c.717 §18; 2007 c.71 §155; 2016 c.106 §51]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection**

**of Buildings From Fire; Electrical Safety LawSection 479.215 - Institution not to be licensed or certificated unless in compliance with fire safety requirements; inspection; list of licensed or approved institutions.**

(1) Except as provided in subsection (3) of this section or in ORS 479.217, the Department of Human Services or the Oregon Health Authority may not issue an initial license or an initial certificate of approval to any institution when the State Fire Marshal, or an approved representative as provided in subsection (3) of this section, notifies in writing that the institution is not in substantial compliance with all applicable laws and rules relating to safety from fire established pursuant to ORS 476.030.

(2) On January 1st of each year or as soon thereafter as practicable, the department and the authority shall furnish the State Fire Marshal with a complete list of all institutions licensed or approved by the department or the authority within the State of Oregon.

(3) The State Fire Marshal, deputy or the approved authority shall make or have made at least once each year an inspection of any such licensed or approved institution to determine its substantial compliance with the laws and rules as provided in subsection (1) of this section. If any required corrective measures are not completed within the reasonable time fixed or an extension thereof made by order of the inspecting authority, the department or the Oregon Health Authority shall be notified of the fact of noncompliance and appropriate action shall be initiated in accordance with provisions of ORS 476.030 and 479.170. Except as provided in ORS 479.217, if, at any time, the State Fire Marshal, or deputy, or the approved authority notifies the department or the Oregon Health Authority in writing that an institution is not in substantial compliance with all applicable laws and rules as provided in subsection (1) of this section, the licensing agency shall deny, withhold, suspend or revoke the license or certificate of approval of the institution.

(4) When an area has been exempted by the State Fire Marshal under ORS 476.030, certification, annual inspection and notification of noncompliance when appropriate, shall be made and performed by the approved authority of the governmental subdivision having jurisdiction in such area. [1961 c.316 §2; 1963 c.202 §2; 1965 c.602 §21; 1973 c.832 §11; 2009 c.595 §978]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 479 - Protection of Buildings From Fire; Electrical Safety LawSection 479.217 - Temporary permit in lieu of inspection approval under ORS 479.215; cancellation; extension or renewal.**

(1) In lieu of an inspection approval by the State Fire Marshal or the approved authority of a governmental subdivision having jurisdiction in an area exempted by the State Fire Marshal, under ORS 479.215 for institutions licensed under ORS 412.001 to 412.161, 418.005 to 418.025, 418.205 to 418.327, 418.470, 418.475, 418.625 to 418.685, 418.647, 418.950 to 418.970, 441.015 to 441.119, 441.525 to 441.595, 441.815, 441.820, 441.990, 441.993, 442.400 to 442.463 or 443.400 to 443.455, the State Fire Marshal or the approved authority may issue a temporary permit which meets the requirements of ORS 479.215 for licensing of such institutions. The temporary permit may be issued only when it appears that:

(a) The facilities for protection from fire in an institution are adequate so that the institution can operate without jeopardizing the health or safety of its residents or patients; and

(b) The institution can comply with all applicable laws and rules relating to safety from fire within a period of two years from the date of issuance of the temporary permit.

(2) In issuing the temporary permit, the State Fire Marshal or approved authority of the governmental subdivision having jurisdiction in an exempt area may require that during the two-year period in which the temporary permit is in effect:

(a) Plans for compliance with all applicable laws and rules relating to safety from fire be submitted with the application for a temporary permit;

(b) Periodic reports be submitted on the progress of the plans for compliance; and

(c) Special temporary provisions specified by the State Fire Marshal or the approved authority be maintained for the protection from fire of the residents or patients of the institution.

(3) If at any time, the State Fire Marshal or the approved authority determines that the facilities for protection from fire at the institution are no longer adequate to protect the residents or patients or that the requirements imposed under subsection (2) of this section are not being maintained, the State Fire Marshal or the approved authority shall cancel the temporary permit and shall notify the licensing agency of such cancellation.

(4) Extensions and renewals may be granted on the temporary permit. [1963 c.202 §5; 1965 c.602 §22; 1973 c.832 §12; 1977 c.717 §21; 2009 c.595 §979; 2016 c.106 §52]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 479 - Protection of Buildings From Fire; Electrical Safety LawSection 479.220 - Institution inspection by State Fire Marshal; notification to licensing agency of noncompliance.**

When application is made for the initial issuance or reinstatement of a license or certificate of approval to operate and maintain an institution, or for an enlargement or addition to a licensed or approved institution, the licensing agency shall notify in writing the State Fire Marshal, and the State Fire Marshal or deputy, or the approved authority in the case of an institution located in an area exempted under ORS 476.030, shall within 30 days inspect the institution as authorized by ORS 476.150 and within that time shall notify the licensing agency in writing when the institution is not substantially in compliance with all applicable laws and rules. [1961 c.316 §3; 1963 c.202 §3; 1965 c.602 §23; 1967 c.89 §9; 1973 c.832 §13; 2009 c.595 §980]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 479 - Protection**

**of Buildings From Fire; Electrical Safety LawSection 479.250 - Definitions for ORS 479.250 to 479.305.**

As used in ORS 479.250 to 479.305, unless the context requires otherwise:

- (1) "Door knock alerting device" or "door knock device" means an approved electronic unit that alerts an occupant who is hard of hearing of a knock on the door of the sleeping room that the person who is hard of hearing is occupying.
- (2) "Dwelling unit" means a structure or part of a structure providing complete, independent living facilities for one or more persons including permanent provisions for sleeping, eating, cooking and sanitation.
- (3) "Hotel" means any building containing six or more guest rooms that are rented, hired out or made available on a regular basis for sleeping purposes but are not used as a primary residence.
- (4) "Landlord" means the owner, lessor or sublessor of the rental dwelling unit or guest room in the building of which it is a part.
- (5) "Lodging house" is any building or portion thereof containing not more than five guest rooms that are made available for sleeping purposes in exchange for compensation paid in money, goods, labor or other tender but are not used as a primary residence.
- (6) "Smoke alarm" means a self-contained single or multiple station detection device for products of combustion other than heat that conforms to the state building code and rules of the State Fire Marshal and that is listed by Underwriters Laboratories or any other nationally recognized testing laboratory. "Smoke alarm" includes but is not limited to devices listed under UL 217 (1998). "Smoke alarm" may include two or more single station units wired to operate in conjunction with each other.
- (7) "Smoke alarm for persons who are hard of hearing" means an approved smoke alarm that, when activated by smoke or products of combustion, produces an audible and a visual warning. The visual warning shall produce a light signal sufficient to warn a person who is hard of hearing of the presence of fire or smoke.
- (8) "Smoke detector" means a device that is not self-contained, that detects products of combustion other than heat, that is intended for use in conjunction with a central control panel, that conforms to the state building code and rules of the State Fire Marshal and that is listed by Underwriters Laboratories or any other nationally recognized testing laboratory. "Smoke detector" includes but is not limited to devices listed under UL 268 (1998).
- (9) "State building code" shall have the meaning for that term provided under ORS 455.010.
- (10) "Tenant" means a person entitled to occupy a dwelling unit on a rental or lease basis. [1979 c.642 §1; 1989 c.247 §1; 1999 c.307 §1; 2007 c.70 §272; 2007 c.71 §156]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 479 - Protection of Buildings From Fire; Electrical Safety LawSection 479.255 - Smoke alarm or smoke detector required in certain structures; alarms and devices for persons who are hard of hearing.**

- (1) Every dwelling unit regulated under ORS chapter 90, every lodging house and every hotel guest room shall contain an approved and properly functioning smoke alarm or smoke detector, installed in accordance with the state building code and rules of the State Fire Marshal.
- (2) A hotel shall provide no fewer than one smoke alarm for persons who are hard of hearing and one door knock device for each 75, or fraction thereof, rooms of the hotel that are regularly used for sleeping.
- (3) If a person renting a room in a hotel requests a room with a smoke detector or a smoke alarm for persons who are hard of hearing and a door knock device, the landlord shall:
  - (a) Install a portable smoke alarm for persons who are hard of hearing and a door knock device; or
  - (b) Provide the person with a room in which a smoke detector or smoke alarm for persons who are hard of hearing and a door knock device have been permanently installed.
- (4) The landlord may require a guest to pay a refundable deposit if the landlord provides the smoke alarm for persons who are hard of hearing under subsection (3)(a) of this section.
- (5) A hotel shall provide a printed notice of the requirements of subsection (3) of this section, posted conspicuously at the place of registration or in each guest room. [1979 c.642 §2; 1989 c.247 §2; 1999 c.307 §2; 2007 c.70 §273]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 479 - Protection of Buildings From Fire; Electrical Safety LawSection 479.257 - Design features required for certain smoke alarms; rules.**

- (1) Not later than January 1, 2002, every smoke alarm installed in a dwelling unit regulated under ORS chapter 90, a lodging house or a hotel guest room, as required under ORS 479.255, shall contain the features described in ORS 479.297 (1) and (2).
- (2) The State Fire Marshal by rule may exempt hotels with sprinkler fire suppression systems from the requirements of this section. [1999 c.307 §2a]

Note:

479.257 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 479 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 479 - Protection of Buildings From Fire; Electrical Safety LawSection 479.258 - Provision of notice of smoke alarm or smoke detector requirements for persons who are hard of hearing; rules.**

A landlord shall provide notice of the requirements of ORS 479.250 to 479.258, 479.280 and 479.295 in a form and manner as

specified by rule by the State Fire Marshal. [1989 c.247 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.260 - Transfer of dwelling unit or lodging house without smoke alarm or smoke detector prohibited.**

(1) A person may not convey fee title to any real property that includes a dwelling unit or lodging house, or transfer possession of any dwelling unit or lodging house pursuant to a land sale contract, unless there is installed in the dwelling unit or lodging house a smoke detector or the required number of approved smoke alarms, installed in accordance with the state building code and rules of the State Fire Marshal adopted under ORS 479.295. The smoke alarms required by this subsection must meet the requirements of ORS 479.297.

(2)(a) A person may not convey ownership or transfer possession of any manufactured dwelling, as defined in ORS 446.003, unless there is installed in the manufactured dwelling the required number of approved smoke alarms or smoke detectors, installed in accordance with the state building code or with the federal manufactured dwelling construction and safety standards adopted under ORS 446.155.

(b) A smoke alarm installed in a manufactured dwelling that is resold by a person other than the manufacturer or authorized dealer must meet the requirements of ORS 479.297. [1979 c.642 §3; 1997 c.647 §5; 1999 c.307 §§3,4; 2003 c.655 §78]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.265 - Action for unlawful transfer of dwelling unit; damages; attorney fees.**

Any purchaser or transferee of a dwelling unit who is aggrieved by a violation of ORS 479.260 may bring an individual action in an appropriate court to recover actual damages or \$50, whichever is greater. In any action brought by a person under this section, the court may award to the prevailing party, in addition to the relief provided in this section, reasonable attorney fees at trial and on appeal and costs. Actions brought under this section must be commenced within one year of the date of sale or transfer. Notwithstanding the provisions of this section, violation of ORS 479.260 does not affect the transfer of the title, ownership or possession of the dwelling unit. [1979 c.642 §4; 1981 c.897 §56; 1995 c.618 §77; 2003 c.655 §79]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.270 - Owner of rental dwelling unit to supply, install and maintain smoke alarm or smoke detector; instructions for testing to be provided.**

(1) The owner of any rental dwelling unit or the owner's authorized agent shall be responsible for supplying, installing and maintaining the required smoke alarms or smoke detectors and shall provide a written notice containing instructions for testing of the devices. The notice shall be given to the tenant at the time the tenant first takes possession of the premises.

(2) The duty of the owner or authorized agent of the owner to maintain the required smoke alarms or smoke detectors, including providing working batteries, arises only:

(a) Prior to the beginning of every new tenancy when the tenant first takes possession of the premises; and

(b) During the tenancy upon written notice from the tenant of any deficiency, not including replacing dead batteries, as provided in ORS 479.275.

(3) Supplying and maintaining a smoke alarm or smoke detector under ORS 479.250 to 479.305 shall be considered a habitable condition under ORS 90.320. [1979 c.642 §5; 1993 c.369 §19; 1999 c.307 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.275 - Tenant of rental dwelling unit to test smoke alarm or smoke detector and replace dead batteries.**

It shall be the responsibility of the tenant of any rental dwelling unit to perform such tests on the smoke alarms or smoke detectors located in a part of the dwelling unit that the tenant is entitled to occupy to the exclusion of others as are recommended by the manufacturer's instructions and immediately notify, in writing, the owner or authorized agent of any deficiencies. Testing intervals shall not exceed six months. It shall also be the responsibility of the tenant during the tenancy to replace any dead batteries, as needed. [1979 c.642 §6; 1981 c.309 §2; 1993 c.369 §20; 1999 c.307 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.280 - Lack of properly operating smoke alarm or smoke detector; complaint; investigation; citation.**

(1) If a rental dwelling unit is not equipped with the required smoke alarm or smoke detector, or if the smoke alarm or smoke detector is not operating properly and the owner or the owner's authorized agent has not installed a properly operating smoke alarm or smoke detector within 10 days after receiving written notice from the tenant of the deficiency, the tenant may file a complaint with the State Fire Marshal or the appropriate official charged with the duty of providing fire protection services within the local jurisdiction.



(2) Upon receipt of a complaint filed under subsection (1) of this section, the State Fire Marshal or the appropriate local fire official shall investigate the alleged violation of ORS 479.250 to 479.305. If the State Fire Marshal or appropriate local fire official finds that the landlord has failed to install a properly operating smoke alarm or smoke detector in the unit under investigation, the State Fire Marshal or local fire official may issue a citation which shall substantially conform to the requirements for a citation under ORS chapter 153.

(3) In the absence of a complaint from the tenant, the State Fire Marshal or an appropriate local fire official may initiate the citation process by presenting the owner with a written notice of the deficiency and specifying a period of not less than 10 days for compliance.

(4) If the State Fire Marshal or appropriate local fire official finds that the landlord of a hotel or lodging house has failed to comply with the requirements of ORS 479.255 (2) or (3), the State Fire Marshal or local fire official may issue a citation which shall substantially conform to the requirements for a citation under ORS chapter 153. [1979 c.642 §7; 1981 c.309 §1; 1989 c.247 §6; 1999 c.307 §8; 1999 c.1051 §135]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.285 - Owner to maintain and test certain smoke alarms and smoke detectors.**

Where the smoke alarm or smoke detector is located in a common area of a lodging house, the owner or the owner's authorized agent shall be responsible for maintenance of the required smoke alarm or smoke detector and for performing such tests as are recommended by the manufacturer and is not required to provide notice of instructions under ORS 479.270. Testing intervals shall not exceed six months. [1979 c.642 §8; 1993 c.369 §21; 1999 c.307 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.290 - Certain persons not liable for damages resulting from mechanical failure of smoke alarm or smoke detector.**

The owner, owner's authorized agent, tenant, contract seller or contract purchaser of a dwelling unit shall not be held liable in any civil action for damages for death or injury to persons or property resulting from the mechanical failure of a smoke alarm or smoke detector required under ORS 479.250 to 479.305. [1979 c.642 §9; 1999 c.307 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.295 - State Fire Marshal to adopt rules setting standards and providing for implementation of certain laws governing smoke alarms and smoke detectors.**

Notwithstanding the provisions of ORS 476.030, the State Fire Marshal shall adopt, by rule:

(1) Standards for the installation and maintenance of smoke alarms and smoke detectors as the State Fire Marshal considers necessary to carry out the purposes of ORS 479.250 to 479.305; and

(2) Standards for the implementation of ORS 479.250 to 479.305 and 479.990 (2). [1979 c.642 §10; 1989 c.247 §5; 1999 c.307 §11; 2001 c.411 §22; 2011 c.97 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.297 - Ionization smoke alarms; required equipment; exemptions.**

(1) All ionization smoke alarms sold in this state that are solely battery-operated shall be packaged with a 10-year battery.

(2) All ionization smoke alarms sold in this state shall include a "hush" mechanism that allows a person to temporarily disengage the alarm for a period of not more than 15 minutes.

(3) The provisions of this section do not apply to:

(a) Smoke alarms specifically designed for persons who are hard of hearing;

(b) Smoke alarms sold in this state for shipment out of state; or

(c) Smoke alarms sold for installation in recreational vehicles, commercial vehicles, railroad equipment, aircraft, marine vessels or manufactured dwellings.

(4) The sale of a recreational vehicle, commercial vehicle, railroad equipment, aircraft, marine vessel or new manufactured dwelling containing a smoke alarm does not constitute sale of a smoke alarm. [1997 c.647 §2,3; 1999 c.307 §12; 2007 c.70 §274]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.300 - Removing or tampering with smoke alarm or smoke detector prohibited.**

No person shall remove or tamper with a properly functioning smoke alarm or smoke detector installed in conformance with ORS 479.250 to 479.305. This prohibition includes removal of working batteries. [1979 c.642 §11; 1993 c.369 §22; 1999 c.307 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.305 - Smoking policy disclosure.**

(1) Except as provided in subsection (2) of this section, the rental agreement for a dwelling unit regulated under ORS chapter 90 must include a disclosure of the smoking policy for the premises on which the dwelling unit is located. The disclosure must state whether smoking is prohibited on the premises, allowed on the entire premises or allowed in limited areas on the premises. If the smoking policy allows smoking in limited areas on the premises, the disclosure must identify the areas on the premises where smoking is allowed.

(2) This section does not apply to a rental agreement subject to ORS 90.505 to 90.850 for space in a facility as defined in ORS 90.100. [2009 c.127 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.510 - Short title.**

ORS 479.510 to 479.945 and 479.995 may be cited as the Electrical Safety Law. [1959 c.406 §1; 1981 c.815 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.520 - Purpose.**

The purpose of the Electrical Safety Law is to protect the health and safety of the people of Oregon from the danger of electrically caused shocks, fires and explosions and to protect property situated in Oregon from the hazard of electrically caused fires and explosions. To accomplish this purpose the Legislative Assembly intends to provide a procedure:

(1) For determining where and by whom electrical installations are being made and where electrical products are sold in this state.

(2) To assure the public that persons making electrical installations in this state are qualified by experience and training.

(3) To assure the public that electrical installations meet minimum safety standards and that electrical products meet electrical product safety standards.

(4) For the administration and enforcement of the Electrical Safety Law by the Department of Consumer and Business Services and the Electrical and Elevator Board.

(5) By which the cost of administering and enforcing the Electrical Safety Law is defrayed by the collection of fees in connection with the issuing of permits and electrical licenses and the collection of civil penalties. [1959 c.406 §2; 1981 c.815 §3; 1987 c.414 §33; 1993 c.744 §117; 2003 c.299 §1; 2011 c.597 §220]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.525 - Application of Electrical Safety Law; uniformity.**

Except as provided in ORS 479.854, the Electrical Safety Law shall be applicable and uniform throughout this state and in all municipalities, and no municipality shall enact or enforce any ordinance, rule or regulation relating to the same matters encompassed by the Electrical Safety Law. [1983 c.580 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.530 - Definitions for ORS 479.510 to 479.945 and 479.995.**

As used in ORS 479.510 to 479.945 and 479.995, unless the context requires otherwise:

(1) "Approved testing laboratory" means a testing laboratory that meets criteria for electrical product evaluation established by the Director of the Department of Consumer and Business Services with the approval of the Electrical and Elevator Board under ORS 479.730.

(2) "Board" means the Electrical and Elevator Board established under ORS 455.138.

(3) "Certified electrical product" means an electrical product that is certified under ORS 479.760 and that is not decertified.

(4) "Competent inspection service" means an electrical inspection service of a city or county administered under ORS 455.148 or 455.150 that employs electrical inspectors who are certified to meet standards under ORS 479.810.

(5) "Commercial electrical air conditioning equipment" means heating, cooling, refrigeration, dehumidifying, humidifying and filtering equipment used for climatizing or moving of air if used in commerce, industry or government and if installed in a place not accessible to the general public other than the switches regulating the operation of the equipment.

(6) "Demarcation point" means the place of interconnection between the communications cabling, terminal equipment or protective apparatus of the telecommunications service provider and the customer's premises.

(7) "Department" means the Department of Consumer and Business Services.

(8) "Director" means the Director of the Department of Consumer and Business Services.

(9) "Dwelling unit" means one or more rooms for the use of one or more persons as a housekeeping unit with space for eating, living and sleeping and permanent provisions for cooking and sanitation.

(10) "Electrical installations" means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product. "Electrical installation" also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. "Electrical installation" does not include an oil module.

(11) "Electrical product" means any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.

- (12) "Equipment" means any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation.
- (13) "Field evaluation firm" means an independent organization that provides:
- (a) Evaluations or testing, or both; and
  - (b) Documentation regarding compliance with electrical product safety standards and with the electrical installation safety code.
- (14) "Industrial electrical equipment" means electrical products used in industry or government that utilize electric energy for mechanical, chemical, heating, lighting or similar purposes, that are designed to service or produce a product and that are used directly in the production of the service or product.
- (15) "Installation label" means an adhesive tag issued by governmental agencies that administer the Electrical Safety Law to licensed electrical contractors for application to those minor electrical installations for which the board by rule determines to be appropriate for random inspections.
- (16) "License" means a permit issued by the department under ORS 479.630 authorizing the person whose name appears as licensee thereon to act as an electrical contractor, supervising electrician, journeyman electrician, electrical apprentice or limited elevator journeyman as indicated thereon.
- (17) "Minimum safety standards" means safety standards prescribed by concurrence of the board and the director under ORS 479.730.
- (18) "Multifamily dwelling" means a building containing more than one dwelling unit.
- (19) "Oil module" means a prefabricated structure manufactured to the specifications of the purchaser and used outside this state in the exploration for or processing or extraction of petroleum products.
- (20) "Permit" means an official document or card issued by the enforcing agency to authorize performance of a specified electrical installation.
- (21) "Single family dwelling" means a building consisting solely of one dwelling unit.
- (22) "Telecommunications service provider" means a telecommunications carrier as defined in ORS 133.721 or a telecommunications utility or competitive telecommunications provider, both as defined in ORS 759.005.
- (23) "Uncertified product" means any electrical product that is not an electrical product certified under ORS 479.760. [1959 c.406 §3; 1971 c.753 §55; 1973 c.834 §35; 1981 c.815 §4; 1983 c.733 §1; 1985 c.826 §3; 1987 c.414 §34; 1987 c.575 §4; 1987 c.874 §2; 1993 c.744 §118; 1995 c.706 §1; 1999 c.59 §159; 1999 c.1031 §1; 2001 c.573 §16; 2003 c.222 §1; 2003 c.299 §2; 2005 c.435 §2; 2007 c.271 §3; 2011 c.9 §67]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.540 - Exemptions; rules.**

- (1) Except as otherwise provided in this subsection, a person is not required to obtain a license to make an electrical installation on residential or farm property that is owned by the person or a member of the person's immediate family if the property is not intended for sale, exchange, lease or rent. The following apply to the exemption established in this subsection:
- (a) The exemption established for a person under this subsection does not exempt the work performed by the person from having to comply with the requirements for such work under ORS chapter 455 or this chapter and rules adopted thereunder.
  - (b) If the property is a building used as a residence and is for rent, lease, sale or exchange, this subsection establishes an exemption for work on, alterations to or replacement of parts of electrical installations as necessary for maintenance of the existing electrical installations on that property, but does not exempt new electrical installations or substantial alterations to existing electrical installations on that property. As used in this paragraph, "new electrical installations or substantial alterations" does not include the replacement of an existing garbage disposal, dishwasher or electric hot water heater with a similar appliance of 30 amps or less, single phase, by a landlord, landlord's agent or the employee of the landlord or landlord's agent.
- (2) An electrical contractor license is not required in connection with an electrical installation:
- (a) Of meters and similar devices for measuring electricity by a person principally engaged in the business of generating or selling electricity in connection with the construction or maintenance of electrical lines, wires or equipment.
  - (b) Of ignition or lighting systems for motor vehicles.
  - (c) To be made by a person on the person's property in connection with the person's business.
  - (d) To be made by a public utility, consumer-owned utility as defined in ORS 757.270, telecommunications carrier as defined in ORS 133.721, competitive telecommunications provider as defined in ORS 759.005 or municipality for generation, transmission or distribution of electricity on property that the utility, carrier, provider or municipality owns or manages.
- (3) A person whose sole business is generating or selling electricity in connection with the construction or maintenance of electrical lines, wires or equipment, is not required to obtain a license to transform, transmit or distribute electricity from its source to the service head of the premises to be supplied thereby.
- (4)(a) A person is not required to obtain a license for the repair or replacement of light fixtures, light switches, lighting ballast, electrical outlets or smoke alarms in a building used for housing purposes that is owned, leased, managed or operated by a housing authority and the person doing the repair or replacement is a member of the housing authority's regular maintenance staff.
- (b) A license is not required for:
    - (A) Temporary demonstrations;
    - (B) A street lighting system located on a public street or in a right of way if the system is similar to a system provided by a public

utility and the installation or maintenance, or both, is performed by a qualified employee of a licensed electrical contractor principally engaged in the business of installing and maintaining such systems; or

(C) An outdoor transmission or distribution system, whether overhead or underground, if the system is similar to a system provided by a public utility and the installation or maintenance, or both, is performed by a qualified employee of a licensed electrical contractor principally engaged in the business of installing and maintaining such systems.

(c) For the purposes of this subsection, "qualified employee" means an employee who has registered with or graduated from a State of Oregon or federally approved apprenticeship course designed for the work being performed. The supervising electrician signature required under ORS 479.560 (1)(b) does not apply to contractors working under this subsection.

(5) The provisions of ORS 479.510 to 479.945 and 479.995 do not apply:

(a) To electrical products owned by, supplied to or to be supplied to a public utility as defined in ORS 757.005, consumer-owned utility as defined in ORS 757.270, telecommunications carrier as defined in ORS 133.721 or competitive telecommunications provider as defined in ORS 759.005;

(b) To electrical installations made by or for a public utility, consumer-owned utility, telecommunications carrier or competitive telecommunications provider if the electrical installations are an integral part of the equipment or electrical products of the utility, carrier or provider; or

(c) To any electrical generation plant owned or operated by a municipality to the same extent that a utility, telecommunications carrier or competitive telecommunications provider is exempted under paragraphs (a) and (b) of this subsection.

(6) A permit is not required:

(a) For the repair or replacement of light fixtures, light switches, lighting ballast, electrical outlets or smoke alarms in a building used for housing purposes that is owned, leased, managed or operated by a housing authority; or

(b) For the repair, alteration or replacement of existing electrical products or electrical installations authorized by ORS 479.560 (3) at an industrial plant, a commercial office building, a building that is owned, leased, managed or operated by the state or a local government entity or other facilities designated by the Electrical and Elevator Board when the owner, operating manager or electrical contractor of the facility meets the provisions of ORS 479.630 (1) and (2) and:

(A) Obtains a master permit for inspection under ORS 479.560 (3); or

(B) Obtains a master individual inspection permit under ORS 479.565.

(7) In cases of emergency in industrial plants, a permit is not required in advance for electrical installation made by a person licensed as a general supervising electrician, a general journeyman electrician or an electrical apprentice under ORS 479.630 if an application accompanied by appropriate fee for a permit is submitted to the Department of Consumer and Business Services within five days after the commencement of such electrical work.

(8)(a) A license or permit is not required for the installation or assembly of industrial electrical equipment by the duly authorized agents of the factory, vendor or owner.

(b) The license and permit exemptions of this subsection do not apply to activity in an area where industrial electrical equipment is installed in or enters a hazardous location or penetrates or enters a fire rated assembly or plenum rated assembly.

(c) As used in this subsection:

(A) "Duly authorized agents" means individuals trained by the factory or a vendor or by experience and who are knowledgeable in the operation, maintenance, repair and installation of industrial electrical equipment.

(B) "Installation or assembly" means the reassembly at a job site of equipment that is wired and assembled at the factory and then disassembled for shipping purposes or of existing equipment that is relocated. "Installation or assembly" does not include work involving field fabricated assemblies or any other electrical product that is not an original part of the industrial electrical equipment. "Installation or assembly" does not include the connection of industrial electrical equipment to a power source.

(9) The provisions of ORS 479.510 to 479.945 and 479.995 do not apply to:

(a) Electrical installations and repairs involving communication and signal systems of railroad companies.

(b) Electrical installations and repairs involving remote and permanent broadcast systems of radio and television stations licensed by the Federal Communications Commission if the systems are not part of the building's permanent wiring.

(c) The installing, maintaining, repairing or replacement of telecommunications systems on the provider side of the demarcation point by a telecommunications service provider.

(d) The maintaining, repairing or replacement of telecommunications equipment on the customer side of the demarcation point by a telecommunications service provider.

(e) Installations, by a telecommunications service provider or an appropriately licensed electrical contractor, of telecommunications systems on the customer side of the demarcation point except:

(A) Installations involving more than 10 telecommunications outlets; and

(B) Installations of any size that penetrate fire-resistive construction or air handling systems or that pass through hazardous locations.

(f) Notwithstanding paragraph (e) of this subsection, installation of telecommunications systems on the customer side of the demarcation point in:

(A) One and two family dwellings; and

(B) Multifamily dwellings having not more than four dwelling units if the installation is by a telecommunications service provider.

(g) Notwithstanding paragraph (e) of this subsection, installation or replacement of cord or plug connected telecommunications

equipment on the customer side of the demarcation point.

(h) Notwithstanding paragraph (e) of this subsection, installation of patch cord and jumper cross-connected equipment on the customer side of the demarcation point.

(10)(a) The board may grant partial or complete exemptions by rule for any electrical product from any of the provisions of ORS 455.610 to 455.630 or 479.510 to 479.945 and 479.995 if the board determines that the electrical product does not present a danger to the health and safety of the people of this state.

(b) If the board grants an exemption pursuant to subsection (1) of this section, the board may determine that the product may be installed by a person not licensed under ORS 479.510 to 479.945.

(11) ORS 479.760 does not apply to products described in this subsection that comply with the electrical product safety standards established by concurrence of the board and the Director of the Department of Consumer and Business Services as described under ORS 479.730. This subsection does not exempt any products used in locations determined to be hazardous in the electrical code of this state. The following apply to this subsection:

(a) Except as provided in paragraph (b) of this subsection, the exemption under this subsection applies to:

(A) The rotating equipment portion of power generation equipment.

(B) Testing equipment used in a laboratory or hospital.

(C) Commercial electrical air conditioning equipment.

(D) Prefabricated work performed by an electrical contractor with licensed electrical personnel in the contractor's place of business for assembly on the job site if the work is composed of parts that meet the electrical product safety standards established by concurrence of the board and the director.

(b) Notwithstanding paragraph (a) of this subsection, the board may require any of the products described in paragraph (a) of this subsection to be subject to the certification requirements under ORS 479.760 if the board determines that the product or class of products has presented a fire or life safety hazard in use. A determination under this paragraph shall be effective as to any such product or class of products installed after the date of the determination becomes final. The board may reinstate any exemption removed under this paragraph if the board determines that the reasons for the removal of the exemption have been corrected.

(12)(a) ORS 479.610 does not apply to installations of industrial electrical equipment unless the board determines that the product or class of products may present a fire or life safety hazard.

(b) The board may reinstate an exemption removed under this subsection if the product qualifies for reinstatement under:

(A) An equipment safety program approved by the board;

(B) Equipment minimum safety standards established by concurrence of the board and the director;

(C) An evaluation by an approved field evaluation firm;

(D) A listing from a nationally recognized testing laboratory;

(E) An evaluation of a first model of a product by the board; or

(F) Any other method approved by the board.

(13) ORS 479.760 does not apply to electrical equipment that has been installed and in use for one year or more.

(14) A person who holds a limited maintenance specialty contractor license or a limited pump installation specialty contractor license issued under ORS 479.510 to 479.945 or a person who is the employee of such license holder and who is listed with the board as an employee is not required to have a journeyman license or supervising electrician's license to perform work authorized under the person's license.

(15) A person is not required to obtain a permit for work on, alterations to or replacement of parts of electrical installations as necessary for maintenance of existing electrical installations on residential property owned by the person or by a member of the person's immediate family. This subsection does not establish an exemption for new electrical installations or substantial alterations to existing electrical installations.

(16) A permit is not required for those minor electrical installations for which the board has authorized an installation label.

(17) A residential home, as defined in ORS 443.580, and an adult foster home, as defined in ORS 443.705, is not a multifamily dwelling and only electrical installation standards and safety requirements applicable to single family dwellings apply to such homes.

(18) The permit requirements of ORS 479.550 and the license requirements of ORS 479.620 do not apply to cable television installations.

(19) The provisions of any electrical products code or rule adopted pursuant to ORS 479.510 to 479.945 and 479.995 apply to cable and such products installed as part of a cable television installation.

(20) A person is not required to obtain a license to make an electrical installation in a structure that is exempt under ORS 455.312

(1).

(21) A person is not required to obtain a license to make electrical installations, repairs or replacements in a recreational vehicle as defined in ORS 174.101.

(22) As used in this section, "smoke alarm" has the meaning given that term under ORS 479.250. [1959 c.406 §4; 1973 c.834 §36; 1977 c.633 §1; 1981 c.815 §5; 1987 c.447 §107; 1987 c.575 §5; 1989 c.481 §1; 1991 c.251 §1; 1991 c.334 §1; 1993 c.451 §1; 1993 c.497 §1; 1993 c.744 §119; 1995 c.553 §3; 1995 c.797 §1; 1997 c.611 §§1,2; 1999 c.307 §23; 1999 c.794 §3; 1999 c.1093 §17; 2001 c.709 §1; 2003 c.14 §321; 2003 c.222 §2; 2003 c.299 §3; 2003 c.344 §1; 2003 c.675 §§65,66a; 2005 c.310 §4; 2005 c.435 §3; 2017 c.364 §8; 2019 c.422 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.545 - License required of state employee; letter of authority.**

(1) Except as provided in subsection (2) of this section, no person is exempted by ORS 479.540 from the requirements under ORS 479.510 to 479.945 to have a license to make electrical installations solely on the basis the person is employed by an agency of this state.

(2) Any person issued a letter of authority under ORS 479.545 (1985 Replacement Part) may continue to make electrical installations under ORS 479.510 to 479.945 on property owned or controlled by an agency of the state. [1981 c.815 §7; 1985 c.568 §1; 1987 c.414 §34a; 2003 c.14 §322]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.550 - No work on new electrical installation until permit issued; temporary permit; rules.**

(1) Except as provided in ORS 479.540, no person shall work on any new electrical installation for which a permit has not been issued.

(2) The Electrical and Elevator Board shall adopt by rule provisions to require a city or a county to issue a temporary permit to be used for emergency or unanticipated work which will be valid for seven days to a licensed electrical contractor prior to the start of an electrical installation to allow contractor response prior to purchase of the actual electrical permit.

(3) The board shall require a city or a county to revoke the temporary permit of the licensed electrical contractor who fails to comply with the Electrical Safety Law. [1959 c.406 §5; 1981 c.815 §9; subsections (2) and (3) enacted as 1991 c.368 §2; 1993 c.744 §120]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.560 - Issuance of permit; when permit becomes void; master electrical inspection permit; rules.**

(1) The Department of Consumer and Business Services or a designated agent shall issue a permit to:

(a) Any applicant who has complied with ORS 479.510 to 479.945 and the rules issued thereunder, covering an electrical installation to be made on residential or farm property owned by the applicant or a member of the applicant's immediate family as allowed under ORS 479.540 (1).

(b) A licensed electrical contractor or an agent the contractor has designated to the department or the department's designated agent in a record signed by the electrical contractor. The department or department's designated agent shall only issue a permit under this subsection if the application for the permit is accompanied by a signed statement that the electrical contractor's general supervising electrician of record will sign the permit before an inspection of the electrical work is requested. A contractor or the contractor's general supervisor will promptly request an inspection of electrical work performed under a permit issued under this subsection. A permit issued under this subsection shall state the name of the electrical contractor.

(2) A permit issued to an electrical contractor upon the request of the contractor's supervising electrician is void upon the end of the employment of such supervising electrician before completion of the electrical installation.

(3) Except for the installation or alteration of an electrical service, the owner, operating manager or electrical contractor of an industrial plant who meets the provisions of ORS 479.630 (1) and (2), a commercial office building, a building that is owned, leased, managed or operated by the state or a local government entity or other facilities designated by the Electrical and Elevator Board, in lieu of the required inspection permit, may apply to the department or municipality providing inspection service for a master electrical inspection permit. Under the permit the authority having jurisdiction shall cause a periodic inspection to be made of the electrical installations. The authority may also cause a cover inspection, which shall be made before electrical installations are covered. The periodic inspection under the permit shall be done at least once a year or more frequently based on the needs of the particular plant, building or facility. The department shall adopt rules in accordance with ORS chapter 183 for:

(a) The annual issuance of the master electrical inspection permit;

(b) The conduct of the inspections on the electrical installations and electrical products;

(c) The granting of a waiver of payment of permit fees other than for the master electrical inspection permit; and

(d) The fixing and collecting of inspection fees at the cost of making the inspection according to the time required of the inspector.

[1959 c.406 §§6,7; 1961 c.693 §1; 1971 c.753 §56; 1981 c.815 §10; 1993 c.451 §2; 2003 c.14 §323; 2003 c.675 §66]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.565 - Master individual inspection permits; fee.**

Notwithstanding ORS 479.560 (3), if a municipality does not elect to provide master electrical inspection permits, the municipality shall, upon request of the owner or operating manager or electrical contractor of the facility otherwise entitled to master permit services under ORS 479.560 (3), issue a master individual inspection permit and provide electrical inspection before any installation is covered or placed into service and charge for the inspection at the municipality's hourly inspection rate. [1995 c.553 §2]

Note:

479.565 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 479 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.570 - Energizing of electrical installations; rules.**

(1) Except as provided in subsection (2) of this section, a person who sells electricity may not energize an electrical installation unless the installation is first approved by an inspector authorized to perform inspections under ORS 479.510 to 479.945.

(2) Subsection (1) of this section does not apply to:

- (a) An installation for which a written request to energize has been made by a licensed supervising electrician qualified pursuant to ORS 479.630 (2) and to which the appropriate electrical permit has been attached;
- (b) A temporary installation of less than 480 volts made to provide service to a construction site or irrigation pump if the installation is properly grounded and the appropriate electrical permit is attached thereto;
- (c) An installation within a plant or system of a person who sells electricity. As used in this paragraph, "person who sells electricity" does not include small power production facilities as defined in ORS 758.500 (1981 Replacement Part); or
- (d) A minor electrical installation for which a valid installation label has been issued.

(3) Electrical installations energized without inspection pursuant to subsection (2)(a) and (b) of this section must receive final inspection as required by ORS 479.510 to 479.945.

(4) Notwithstanding ORS 756.040, 756.060 and 757.035, the Department of Consumer and Business Services, in consultation with the Electrical and Elevator Board, may adopt rules regulating the use of a written request by a licensed supervising electrician as described in subsection (2)(a) of this section as adequate authority for a person who sells electricity to energize an electrical installation. [1959 c.406 §8; 1981 c.815 §11; 1983 c.580 §1; 1987 c.575 §6; 2003 c.14 §324; 2007 c.405 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.610 - Installation of uncertified electrical product prohibited.**

Except as provided under ORS 479.540, a person may not install an electrical product in connection with the person's business unless the product is certified under ORS 479.760. [1959 c.406 §9; 1981 c.815 §12; 1995 c.706 §2; 2003 c.14 §325; 2003 c.299 §4; 2005 c.435 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.620 - Certain electrical license required; electrical installations by unlicensed persons prohibited.**

Subject to ORS 479.540, a person may not:

- (1) Without an electrical contractor's license, engage in the business of making electrical installations, advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations.
- (2) Except as provided in ORS 479.630 (10)(c) and (11)(f), direct, supervise or control the making of an electrical installation without a supervising electrician's license.
- (3) Except as provided in subsection (5) of this section, make any electrical installation without a supervising or journeyman electrician's license.
- (4) Perform work on an electrical installation as an electrical apprentice without an electrical apprentice's license.
- (5) Make any electrical installation on a single or multifamily dwelling unit not exceeding three floors above grade, as provided in ORS 479.630 (14), without a limited residential electrician's license.
- (6) Permit or suffer any electrical installation on property that the person owns, controls, manages or supervises to be made by a person not licensed to make such an installation. [1959 c.406 §10; 1983 c.733 §2; 1987 c.874 §3; 1995 c.715 §3; 2003 c.675 §67; 2007 c.548 §1; 2011 c.9 §68]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.630 - Requirements for obtaining licenses; rules.**

If a person pays the applicable application fee required under ORS 479.840 and complies with ORS 479.510 to 479.945 and the rules adopted under ORS 455.117 and 479.510 to 479.945, the Department of Consumer and Business Services shall issue:

- (1) An electrical contractor's license to a person engaging in or carrying on a business of making electrical installations.
- (2) A general supervising electrician's license to a person who:
  - (a) Passes a written examination prepared by the Electrical and Elevator Board and administered by the department; and
  - (b) Submits proof satisfactory to the board that the person has had at least four years of experience as a general journeyman electrician or its equivalent, as determined by the board by rule, in installing, maintaining and repairing electrical wires and equipment.
- (3) A limited supervising electrician's license to a person who qualifies under this subsection. A person licensed under this subsection is authorized to supervise the class of electrical work included in the branch of the electrical trade and for which the person has passed the examination administered by the department. A person qualifies under this subsection if the person:
  - (a) Passes a written examination prepared by the board and administered by the department; and
  - (b) Submits proof satisfactory to the board that the person has had at least four years of specialized experience in a recognized branch of the electrical trade on the journeyman level.

- (4) A general journeyman electrician's license to a person who:
- (a) Passes a written examination prepared by the board and administered by the department; and
  - (b) Submits proof satisfactory to the board that:
    - (A) The person has had at least four years of general experience as an apprentice or its equivalent, as determined by the board by rule, in installing, maintaining and repairing electrical wires and equipment, including not fewer than 1,000 hours in wiring on single or multifamily dwelling units; or
    - (B) If the person is licensed as a limited residential electrician under subsection (14) of this section, subsequent to receiving that license, the person has worked for at least two years as a limited residential electrician and subsequent to those two years has completed an additional two years' experience as an apprentice or its equivalent, as determined by the board by rule, for that period of apprenticeship time worked exclusively in installing, maintaining and repairing electrical wires and equipment in the commercial and industrial branches of the electrical trade under the supervision of a licensed electrical contractor.
- (5) A limited journeyman electrician's license to a person who qualifies under this subsection. A person licensed under this subsection is authorized to perform the class of electrical work included in the branch of the electrical trade for which the person has passed the examination administered by the department. A person qualifies under this subsection if the person:
- (a) Passes a written examination prepared by the board and administered by the department; and
  - (b)(A) Except as provided in subparagraph (B) of this paragraph, submits proof satisfactory to the board that the person has had at least four years of specialized experience as an apprentice or its equivalent, as determined by the board by rule, in a recognized branch of the electrical trade; or
  - (B) If applying for licensing as a limited journeyman sign electrician or limited journeyman stage electrician, submits proof satisfactory to the board that the person has had at least two years of specialized experience as an apprentice or its equivalent, as determined by the board by rule, in the sign or stage branch of the electrical trade.
- (6) A limited elevator journeyman license to a person who qualifies under this subsection. A person licensed under this subsection is authorized to install, maintain and repair elevators, including all electrical and mechanical systems. A person qualifies under this subsection if the person has completed an elevator apprenticeship program, including both electrical and mechanical training components, approved by the board by rule and the person submits an application for licensure to the board in writing. A person issued a license under this subsection is exempt from continuing education requirements established under ORS 455.117 and 479.680.
- (7) An electrical apprentice's license to a person who has complied with ORS 660.002 to 660.210 as an electrical apprentice.
- (8) An electrical apprentice's license to a trainee toward a limited residential electrician's license who has complied with ORS 660.002 to 660.210 as an electrical apprentice.
- (9) An electrical apprentice's license to a trainee toward a limited journeyman's license in a recognized branch of the electrical trade who is employed by an employer who also:
- (a) Employs a holder of either a general journeyman electrician's license or a limited journeyman electrician's license; and
  - (b) Conducts an electrical training program in a recognized branch of the electrical trade approved by the board as being a training program that will adequately prepare the trainee for the limited journeyman's license.
- (10) A limited maintenance electrician's license to a person who qualifies under this subsection. A person licensed under this subsection is authorized to maintain, repair and replace electrical installations, including electrical components, required on the premises of industrial plants, and maintain, repair and replace electrical installations on systems that are less than 600 volts phase to phase, including electrical components, required on the premises of commercial office buildings, buildings occupied by the state or a local government entity or facilities designated by the board. The following apply to this subsection:
- (a) A person qualifies under this subsection if the person:
    - (A) Passes a written examination prepared by the board and administered by the department on repair, replacement and maintenance of equipment of the type and nature normally used in an industrial plant, commercial office building or government building and on the use of testing equipment; and
    - (B)(i) Completes a two-year training program approved by the board that provides for training and supervision of the trainee or apprentice; or
    - (ii) Submits proof satisfactory to the board that the person has had sufficient experience and related educational training in the repair, replacement and maintenance of electrical wiring and equipment of the type and nature used in an industrial plant, commercial office building or government building, as determined by the board or by an appropriate local apprenticeship committee recognized by the State Apprenticeship and Training Council.
  - (b) An annual inspection of the premises upon which electrical work is performed by persons licensed under this subsection must be made by the electrical inspector for an annual fee determined by the board by rule, based upon the time required for the inspection, payable to the department.
  - (c) A person licensed under this subsection may be employed directly by the owner, or owner's agent, of any government building or commercial office building. A building owner or owner's agent need not be licensed under this section to supervise a limited maintenance electrician.
  - (d) The department, in consultation with the board, shall adopt rules defining government buildings and commercial office buildings subject to this subsection.
- (11) A limited building maintenance electrician's license to a person who qualifies under this subsection. The following apply to this



subsection:

(a) A person licensed under this subsection is authorized to maintain, repair and replace the following electrical installations required on the premises of commercial office buildings, buildings occupied by the state or a local government entity or facilities designated by the board in electrical systems not exceeding 300 volts to ground:

- (A) Electrical appliances;
- (B) Light switches;
- (C) Light fixtures;
- (D) Fans;
- (E) Receptacles; and
- (F) Fluorescent ballasts.

(b) A person qualifies under this subsection if the person:

(A) Passes a written examination prepared by the board and administered by the department on maintenance, repair and replacement of equipment of the type and nature normally used in a commercial office building or government building and on the use of testing equipment; and

(B) Submits proof satisfactory to the board that the person has:

- (i) Had sufficient experience in the maintenance, repair and replacement of electrical wiring and equipment of the type and nature normally used in a commercial office building or government building; or
- (ii) Completed a one-year training course, with classroom and on-the-job training components approved by the board, on the maintenance, repair and replacement of electrical wiring and equipment of the type and nature normally used in a commercial office building or government building.

(c) An annual inspection of the premises upon which electrical work is performed by persons licensed under this subsection must be made by the electrical inspector for an annual fee determined by the board by rule, based upon the time required for the inspection, payable to the department, or the inspection must be performed under an electrical master permit program.

(d) Building owners may perform work regulated by this subsection and for which a license is required under this subsection without obtaining a license.

(e) A person who owns more than 50 percent of a corporation that controls a building is a building owner.

(f) A person licensed under this subsection may be employed by the owner of a commercial office building or the owner's agent. A building owner or owner's agent need not be licensed under this section to supervise a limited building maintenance electrician.

(12) A limited maintenance specialty contractor license to a person who qualifies under this subsection. A person licensed under this subsection is authorized to engage in the electrical work related to the repair, service, maintenance, installation or replacement of existing, built-in or permanently connected appliances, fluorescent ballasts or similar equipment and to employ individuals to engage in that work. This subsection does not authorize the installation of appliances, ballasts or other equipment if there is no existing installation of similar equipment. A person qualifies under this subsection if the person:

(a) Submits proof satisfactory to the board that the person has had sufficient experience in the type of work permitted under the license issued under this subsection; and

(b) Maintains with the board a current list of all individuals employed by the person to engage in work permitted under this subsection.

(13) A limited pump installation specialty contractor license to a person who qualifies under this subsection. A person licensed under this subsection is authorized to engage in electrical work related to the testing, repair, service, maintenance, installation or replacement of new or existing pump equipment for potable or irrigation water systems, sump pumps, effluent pumps and ground water pumps on residential and agricultural property and to employ individuals to engage in such work. A person qualifies under this subsection if the person:

(a) Submits proof satisfactory to the board that the person has had sufficient experience in the type of work permitted under the license issued under this subsection; and

(b) Maintains with the board a current list of all individuals employed by the person to engage in work permitted under this subsection.

(14) A limited residential electrician's license to a person who qualifies under this subsection. A person licensed under this subsection is authorized to perform the class of electrical work included in the branch of the electrical trade for which the person has passed the examination administered by the department and approved by the board. However, a person licensed under this subsection shall perform the electrical work allowed by the license only on single and multifamily dwelling units not exceeding three floors above grade. For purposes of this subsection, the first floor of a building is the floor that is designed for human habitation and that has 50 percent or more of its perimeter level with or above finished grade of the exterior wall line. A person qualifies under this subsection if the person:

(a) Has received the same number of hours of electrical safety training as required by rule for an electrical apprentice or its equivalent and has received training in electrical theory;

(b) Submits documented proof to the board of at least two years of apprenticeship or trainee experience in residential wiring of single and multifamily dwelling units or its equivalent, as determined by the board by rule; and

(c) Passes a written examination prepared by the board and administered by the department.

(15) A limited renewable energy contractor license to a person who:

- (a) Employs at least one full-time renewable energy technician; and
  - (b) Does not engage in electrical work other than work that may be performed by a limited renewable energy technician. A limited renewable energy contractor may not make, direct, supervise or control the making of an electrical installation unless the contractor is licensed for that activity.
- (16) A limited renewable energy technician license to a person who qualifies under this subsection. A person qualifies for licensing as a limited renewable energy technician if the person completes a two-year apprenticeship program and passes an examination approved by the board. A person licensed under this subsection may, while in the employ of a licensed electrical contractor or a limited renewable energy contractor:
- (a) Install, maintain, replace or repair electrical wiring and electrical products that convey energy from or operate on renewable electrical energy generation systems that use wind, solar energy systems, microhydroelectricity, photovoltaic systems or fuel cells that do not exceed 50 kilowatts AC, as measured by the sum of the manufacturer's rated generating capacity; and
  - (b) Make the following connections on renewable energy generation systems described in paragraph (a) of this subsection:
    - (A) All DC wiring and DC connections up to the load side of an inverter;
    - (B) All AC wiring and AC connections to the termination of the final factory-provided interconnecting cable that are made on the exterior of a structure, extending a maximum distance of 10 feet from the renewable energy system, or a longer distance that the board specifies by rule, and extending not more than three feet within an accessible space of a structure, but not including connection to the structure's wiring system; and
    - (C) Connections to generators that are sized to facilitate the inverter in an off-grid system. [1959 c.406 §11; 1961 c.693 §2; 1963 c.151 §1; 1971 c.753 §19; 1981 c.815 §15; 1983 c.733 §3; 1987 c.874 §4; 1993 c.744 §121; 1995 c.715 §1; 1997 c.139 §1; 1997 c.209 §1; 1999 c.609 §1; 1999 c.1031 §2; 2001 c.104 §218; 2001 c.392 §1; 2003 c.14 §326; 2005 c.758 §29; 2007 c.71 §157; 2007 c.271 §4; 2007 c.548 §2; 2021 c.42 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.632 - Applicant training or experience obtained in another state.**

Notwithstanding any other provision of ORS 479.510 to 479.945 or any rule adopted by the Electrical and Elevator Board under ORS 455.117, the board may not administer an examination to, and the Department of Consumer and Business Services may not issue any license to, a person whose practical experience qualification for the license is based upon training or experience in another state if the board determines that the training or experience is not equivalent to the standards for electrical training programs prescribed in this state. [2005 c.758 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.670 - Maintenance of action or suit by unlicensed person prohibited.**

Except to appeal from an act or determination of the Electrical and Elevator Board, no person carrying on, conducting or transacting business regulated by ORS 479.510 to 479.945 and 479.995 is entitled to maintain a suit or action in the courts of this state involving such business or work in connection therewith, without alleging and proving that the person was licensed to perform such work or transact such business. [1959 c.406 §15; 1971 c.753 §21; 1981 c.815 §21; 1993 c.744 §124]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.680 - Adoption of rules by Electrical and Elevator Board; establishment of continuing education program.**

The Electrical and Elevator Board:

- (1) Shall establish, by rule under ORS 455.117, a program of continuing education necessary for renewal of licenses. The board may approve programs for continuing education that meet standards for continuing education established by the board under this subsection.
- (2) Shall adopt any rules necessary to carry out the duties of the board under ORS 479.510 to 479.945 and 479.995.
- (3) Shall establish rules setting forth equivalent experience necessary to qualify for a journeyman license under ORS 479.630.
- (4) Shall establish, by rule, procedures and standards necessary to approve testing laboratories under ORS 479.730 and 479.760.
- (5) May establish exemptions by rule according to authority granted under ORS 479.540. [1981 c.815 §24; 1993 c.744 §125; 2005 c.758 §32]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.710 - Electrical installations must meet minimum safety standards.**

- (1) Except as provided in ORS 479.540, no person shall make, supervise or direct the making of an electrical installation which does not meet minimum safety standards.
- (2) Except for a person authorized by the jurisdiction having authority, no person shall remove, transfer, alter or otherwise tamper with an inspection permit, label, tag or other indicia of inspection placed on or at an electrical job site, electrical installation or electrical product. A property owner may remove the construction inspection permit, label or tag if, after all required inspections are

completed, the installation is found to be in compliance with the electrical code and has been approved by the inspector having jurisdiction. [1959 c.406 §16(1); 1981 c.815 §22; 1991 c.18 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.730 - Adoption of rules by Director of Department of Consumer and Business Services.**

In compliance with ORS chapter 183 the Director of the Department of Consumer and Business Services, with the approval of the Electrical and Elevator Board, shall adopt reasonable rules:

- (1) Establishing, altering or revoking minimum safety standards for workmanship and materials in various classifications of electrical installations.
- (2) Establishing, altering or revoking electrical product safety standards for design and construction of electrical products to be installed in this state. The standards may allow the certification of electrical products that a testing laboratory approved by the director and the board under ORS 479.760 has tested and found to be safe within the electrical product safety standards established under this subsection.
- (3) Relating to the procedure for certifying and decertifying electrical products to be installed in this state. The Department of Consumer and Business Services, with the approval of the board, may limit the type of electrical products it accepts for certification under ORS 479.760 (3).
- (4) Prescribing times, places and circumstances that permits shall be exhibited for inspection.
- (5) Governing the internal organization and procedure for administering and enforcing ORS 479.510 to 479.945 and 479.995.
- (6) Establishing, altering, approving or revoking minimum standards for electrical training programs.
- (7)(a) Establishing which electrical products may be field evaluated by a field evaluation firm rather than certified;
- (b) Establishing cost-based fees, requirements and procedures for approving, maintaining and suspending or revoking approvals of field evaluation firms;
- (c) Establishing:
  - (A) Requirements and procedures for the field evaluation of electrical products; and
  - (B) Requirements and procedures for issuing field evaluation labels for the electrical products evaluated by field evaluation firms and testing laboratories;
- (d) Establishing requirements and procedures for preparation of reports regarding installation safety issued by field evaluation firms;
- (e) Establishing when an inspecting jurisdiction may require a report from a field evaluation firm; and
- (f) Establishing other requirements as necessary to carry out this subsection. [1959 c.406 §19; 1963 c.151 §7; 1971 c.753 §24; 1981 c.815 §25; 1993 c.398 §1; 1993 c.744 §126; 1995 c.706 §3; 1999 c.794 §2; 2001 c.411 §23; 2003 c.299 §6; 2005 c.435 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.740 - Factors to be considered in adopting rules; incorporation of standards by reference.**

- (1) In adopting rules under ORS 479.730 the Department of Consumer and Business Services shall consider:
  - (a) Technological advances in the electrical industry.
  - (b) The practicability of following the standards under consideration, if adopted.
  - (c) The probability, extent and gravity of the injury to the public or property which would result from failure to follow the standards under consideration.
  - (d) Safety standards followed, proposed or approved by responsible members of the electrical industry.
- (2) After considering the factors in subsection (1) of this section, the department may incorporate by reference proposed safety standards of the electrical industry or independent organizations. The department may formulate and adopt independent safety standards if standards proposed by the industry and independent organizations are not acceptable to it. [1959 c.406 §§20,21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.760 - Certification of electrical products; safety indicators.**

- (1) An electrical product may not be certified unless the product meets electrical product safety standards established in rule by concurrence of the Electrical and Elevator Board and the Director of the Department of Consumer and Business Services.
- (2) Any person may apply to have the Department of Consumer and Business Services certify an electrical product. The department shall certify an electrical product if the product is shown to meet electrical product safety standards by one of the following methods:
  - (a) An equipment safety program approved by the board;
  - (b) Equipment minimum safety standards established by concurrence of the board and the director;
  - (c) An evaluation by an approved field evaluation firm;
  - (d) A listing from a nationally recognized testing laboratory;
  - (e) An evaluation of a first model of a product by the board; or
  - (f) Any other method approved by the board.
- (3) To have an electrical product certified, a person may submit a specimen, sample or prototype to the department within a

reasonable time before the date on which certification will be required, together with a fee set by the department sufficient to defray the cost of shipment and evaluation. The department shall evaluate the electrical product to determine whether the product meets electrical product safety standards. Not later than six months after receipt of a specimen, prototype or sample the department shall complete the required evaluation and give a decision certifying or rejecting the product. The department may appoint a special deputy or enter into an appropriate contract with a testing laboratory approved by the board under this section for the evaluation required under this subsection.

(4) The director with the approval of the board may establish standards and procedures for the approval of testing laboratories to test electrical products in the certification process under this section. [1959 c.406 §§16 (2) and (3),22,23; 1981 c.815 §26; 1999 c.794 §1; 2001 c.573 §17; 2003 c.299 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.770 - Approved electric ignition pilot required on certain appliances.**

No person shall sell or offer for sale in this state any new gas-fired, forced-air central space heating equipment, clothes dryer, domestic range or new gas-fired swimming pool heaters, unless such equipment, heater, dryer or range is equipped with an electric ignition pilot that complies with the rules of the Department of Consumer and Business Services adopted pursuant to ORS 479.740. [1977 c.630 §2; 1979 c.197 §1; 1981 c.815 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.810 - Administration and enforcement; Chief Electrical Inspector; inspector qualifications; rules.**

(1) The Electrical and Elevator Board shall administer and enforce ORS 479.510 to 479.945 and 479.995. The Director of the Department of Consumer and Business Services shall appoint an adequate staff of competent persons experienced and trained to serve as electrical inspectors. The board shall assist the director in reviewing determinations made by the staff involving electrical installations or products and to assist in formulating rules under ORS 479.730.

(2) The director, in consultation with the board, shall appoint a representative of the department's staff of electrical inspectors who shall serve ex officio as secretary of the board. This person shall be known as the Chief Electrical Inspector.

(3) The director shall certify a person as an electrical inspector if:

(a) The person:

(A) Completes a general journeyman electrical apprenticeship program in Oregon;

(B) Has two years' experience as a licensed electrician in Oregon; and

(C) Passes the examination required for certification as a supervising electrician; or

(b) For a person with experience outside the State of Oregon, the person:

(A)(i) Has five years' experience in commercial or industrial electrical inspection; and

(ii) Passes the examination required for certification as a general supervising electrician; or

(B) Has six years of out-of-state experience as an electrician and passes the examination required for certification as a general supervising electrician.

(4) The board may, by rule, allow certification of persons as electrical inspectors with experience or training that does not meet the requirements specified in subsection (3) of this section.

(5) Rules adopted under this section shall provide for the recognition of equivalent experience acquired by a person outside the State of Oregon.

(6) An examination taken for purposes of applying for certification as an electrical inspector under this section shall not be valid for use in an application to become licensed as a supervising electrician. [1959 c.406 §18; 1961 c.693 §3; 1969 c.314 §53; 1971 c.753 §22; 1977 c.748 §4; 1981 c.815 §30; 1987 c.383 §2; 1993 c.574 §1; 1993 c.744 §127; 1997 c.677 §3; 2001 c.411 §24]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.815 - Inspector conflicts of interest; rules.**

The Director of the Department of Consumer and Business Services, with the approval of the Electrical and Elevator Board, may adopt rules regulating or prohibiting conflicts of interest for electrical inspectors in regard to any work performed by an inspector or a related party under a license issued under ORS 479.630. [2003 c.675 §64]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.820 - Duties and powers in enforcing law.**

(1) The Department of Consumer and Business Services shall:

(a) Check the authenticity, appropriateness and expiration dates of licenses issued under ORS 479.510 to 479.945.

(b) Inspect electrical installations and products for which a permit or license is required by ORS 479.510 to 479.945.

(c) Inspect permits attached to electrical installations or products for which a permit is required by ORS 479.510 to 479.945.

(2) If the department finds that the electrical installation or product fails to comply with minimum safety standards or electrical

product safety standards, the department may disconnect or order the disconnection of service thereto.

(3) If the department finds that the condition of an electrical installation or product constitutes an immediate hazard to life or property, the department may cut or disconnect any wire necessary to remove such hazard or take corrective action as provided by rules adopted under ORS 479.730.

(4) Upon written request of appropriate municipal personnel, the department may make inspections of electrical installations and products within cities and counties. Such inspections shall be made at cost, in accordance with local municipal ordinances, payable on a monthly basis.

(5) For the purpose of discharging any duty imposed by ORS 479.510 to 479.945 and 479.995 or exercising authority conferred hereby the department may enter, during reasonable hours, any building, enclosure, or upon any premises where electrical work is in progress, where an electrical installation has been made or where electrical equipment or products may be located.

(6) A person may not obstruct or interfere with the department in performance of any of the department's duties or the exercise of any authority conferred under this section. [1959 c.406 §§24,25; 1973 c.834 §37; 1981 c.815 §3; 2003 c.14 §330; 2003 c.299 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.835 - Recovery of purchase price of product not meeting applicable laws.**

Any person who purchases an electrical product may recover the purchase price from the seller if the electrical product does not meet all applicable state and federal law and the purchaser returns the electrical product within 90 days from the date of purchase. [1981 c.815 §14; 2001 c.411 §25; 2005 c.435 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.840 - Fees; rules; means to guarantee payment.**

(1) Upon receiving payment of the applicable application fee, the Department of Consumer and Business Services may issue or renew a license or permit applied for under ORS 479.510 to 479.945. The fee to apply for or renew a license is:

(a) \$125 per year for an electrical contractor license for each place of business operated by the applicant.

(b) \$125 per year for a limited energy contractor, restricted energy contractor or limited sign contractor license.

(c) \$25 per year for a pump specialty contractor or limited maintenance specialty contractor license.

(d) \$150 per year for an elevator contractor license.

(e) \$100 for a three-year license for a:

(A) General journeyman electrician;

(B) General supervising electrician;

(C) Limited supervising industrial electrician;

(D) Limited supervising manufacturing plant electrician;

(E) Limited maintenance industrial electrician; or

(F) Limited journeyman manufacturing plant electrician.

(f) \$50 for a three-year license for a:

(A) Limited elevator journeyman;

(B) Class A or Class B limited energy technician;

(C) Limited journeyman sign electrician;

(D) Limited journeyman stage electrician; or

(E) Limited building maintenance electrician.

(2) The Electrical and Elevator Board shall set uniform permit fees, by rule, not to exceed the cost of administration.

(3) The fees provided for in this section do not apply to persons paying inspection fees under the terms of ORS 479.560 (3) or 479.630 (10).

(4) Each electrical contractor may furnish to the department a corporate surety bond to be approved by the department, an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or a cash bond under procedures approved by the department, in the sum of \$2,000 guaranteeing the payment of all fees provided for under ORS 479.510 to 479.945. Before commencing any electrical job an electrical contractor who has a current bond or letter of credit under this subsection may apply to the department for a working permit which shall cost an amount established by the department by rule. The working permit shall authorize the electrical contractor to commence work. The total of all fees due for permits for each job, and the time such fees are payable, shall be determined by the department by administrative rule under ORS 479.730. The contractor shall keep the bond or letter of credit in force at all times. Any cancellation or revocation of the bond or letter of credit shall revoke and suspend the license issued to the principal until such time as a new bond or letter of credit shall be filed and approved. The department may bring an action against the surety named in the bond or the letter of credit issuer with or without joining in such action the principal named in the bond or letter of credit. [1959 c.406 §27; 1967 c.418 §1; 1969 c.436 §1; 1975 c.199 §1; 1977 c.874 §3; 1981 c.815 §33; 1983 c.733 §4; 1985 c.646 §3; 1987 c.602 §3; 1989 c.591 §3; 1991 c.331 §71; 1995 c.715 §4; 1997 c.631 §482; 1999 c.1031 §3; 2001 c.728 §2; 2003 c.14 §331; 2007 c.271 §5; 2007 c.548 §3; 2017 c.364 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection**

**of Buildings From Fire; Electrical Safety LawSection 479.845 - Limitation on use of local government fees.**

Fees collected by a city or county for the enforcement or administration of the electrical specialty code and rules adopted under ORS 479.730 (1) shall be used only for the enforcement and administration of those laws. [1977 c.874 §5; 1981 c.815 §34; 2001 c.573 §18; 2005 c.435 §7]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 479 - Protection of Buildings From Fire; Electrical Safety LawSection 479.850 - Disposition of receipts.**

All receipts from civil penalties, fees, charges, costs and expenses provided for in ORS 455.895 (1)(b), 479.510 to 479.945, 479.990 and 479.995 when collected shall be:

- (1) Paid into the Consumer and Business Services Fund created by ORS 705.145; and
- (2) Used only for the enforcement and administration of ORS 479.510 to 479.945 and 479.995. [1959 c.406 §28; 1971 c.753 §57; 1973 c.528 §18; 1973 c.834 §48; 1981 c.815 §35; 1987 c.905 §33; 1993 c.744 §131; 2001 c.411 §26]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 479 - Protection of Buildings From Fire; Electrical Safety LawSection 479.853 - Appeal procedure; distribution of major code interpretation decisions.**

If any person is aggrieved by a decision made upon inspection under authority of ORS 455.148, 455.150 or 479.510 to 479.945 and 479.995 of an electrical product or electrical inspection, the person may appeal the decision. The following apply to an appeal under this section:

- (1) An appeal under this section is subject to ORS chapter 183.
- (2) An appeal under this section must be made first to the Chief Electrical Inspector of the Department of Consumer and Business Services. The decision of the Chief Electrical Inspector may be appealed to the Electrical and Elevator Board. The decision of the Electrical and Elevator Board may be appealed to the Director of the Department of Consumer and Business Services only if codes in addition to the electrical code are at issue.
- (3) If the Electrical and Elevator Board determines that a decision by the Chief Electrical Inspector is a major code interpretation, then the inspector shall distribute the decision in writing to all public and private electrical inspection authorities in the state. The decision shall be distributed within 60 days after the board's determination, and there shall be no charge for the distribution of the decision. As used in this subsection, a "major code interpretation" means a code interpretation decision that affects or may affect more than one job site or more than one inspection jurisdiction.
- (4) If an appeal is made under this section, an inspection authority shall extend the electrical plan review deadline by the number of days it takes for a final decision to be issued for the appeal.
- (5) Unless the department determines that the electrical product or electrical installation presents an immediate fire or life safety hazard, a person may operate an electrical product or electrical installation that is the subject of an appeal under this section until the appeal process is complete. If the department determines that an immediate fire or life safety hazard exists and the product or installation may not be operated during appeal, the department shall provide the person with a written report detailing the problems found by the department. If a determination is made under this subsection that products described in ORS 479.540 (11) may not be operated during appeal, that determination may be appealed immediately under the procedure established in subsection (2) of this section without first completing any appeal procedure established by a city or county. [1981 c.815 §38; 1993 c.573 §1; 2001 c.573 §19; 2001 c.709 §2; 2005 c.22 §366; 2005 c.435 §8]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 479 - Protection of Buildings From Fire; Electrical Safety LawSection 479.854 - Authority of municipality to require license; approval of ordinance.**

- (1) A municipality may enact and enforce an ordinance requiring a municipal general supervising electrician's license upon the approval of the Electrical and Elevator Board and the Director of the Department of Consumer and Business Services.
- (2) The Electrical and Elevator Board and director may approve an ordinance under subsection (1) of this section only if electrical installations within the municipality's jurisdiction are of a unique character beyond the education or experience of a general supervising electrician licensed under ORS 479.630 (2), and the ordinance applies only to such installations.
- (3) The director, after obtaining the opinion of the board, shall revoke approval of an ordinance upon a finding that in issuing its general supervising electrician's license, a municipality has engaged in a pattern or practice of discrimination against electricians from outside the municipality. [1983 c.580 §4]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 479 - Protection of Buildings From Fire; Electrical Safety LawSection 479.855 - City and county inspection and enforcement programs.**

- (1) In addition to the provisions of ORS 455.010 to 455.310 and 455.410 to 455.740, any inspection and enforcement program established by a city or county under ORS 455.148 or 455.150 is subject to the provisions of this section. Where the provisions of this section conflict with provisions under ORS 455.010 to 455.310 and 455.410 to 455.740, the provisions of this section shall control.

(2)(a) Except as otherwise provided in this section, any city or county that wishes to establish a program under ORS 455.150 to enforce and administer ORS 479.510 to 479.945 and 479.995, including a program for inspection under a master permit pursuant to ORS 479.560 (3), must first make application to the Department of Consumer and Business Services. The program for inspection under a master permit shall be delegated separately from the general electrical program authorization. The department may authorize the city or county to administer and enforce the provisions of this section and ORS 479.540 and 479.560 if it finds that the city or county can comply with the minimum standards and meet the qualifications for inspections, permit applications and other matters to assure adequate administration and enforcement of electrical inspection programs. The department may authorize the city or county to administer and enforce ORS 479.510 to 479.945 and 479.995 if the department finds that the city or county:

(A) Can comply with minimum standards adopted by the Electrical and Elevator Board by rule for inspections, permit applications and other matters to assure adequate administration and enforcement of ORS 479.510 to 479.945 and 479.995.

(B) Can conduct the electrical plan review, if required by the city or county, in a timely manner and by qualified personnel who meet the standards adopted by rule by the board.

(b) The city or county must assume full responsibility allowed under ORS 455.010 to 455.310 and 455.410 to 455.740 for the enforcement, inspection and administration of the electrical safety laws under that specialty code and ORS 479.510 to 479.945 and 479.995. This subsection does not require a city or county to assume full responsibility for enforcement, inspection and administration of the electrical safety laws if the only enforcement performed by the city or county involves manufactured dwelling electrical utility connections.

(3) The department, subject to ORS chapter 183, shall revoke any authority of a city or county to carry on inspections, enforcement or administration of electrical installations and electrical products under ORS 455.148 or 455.150 if the department determines that the city or county fails to comply with standards adopted by the board or otherwise is not effectively carrying out duties assumed by the city or county under this section.

(4)(a) Except as provided in paragraph (b) of this subsection, a city or county may not contract with competing electrical contractors to provide permit inspection of electrical installations.

(b) A city or county may contract with competing electrical contractors to provide permit inspection of electrical installations on a temporary basis by a supervising electrician if:

(A) Emergency circumstances exist; and

(B) The city or county has requested that the department perform permit inspections and the department is unable to respond in a timely manner.

(c) Nothing in this subsection prohibits a city or county from contracting with another city or county to perform permit inspections of electrical installations by a supervising electrician.

(5) A city or county that performs electrical installation inspections shall perform license enforcement inspections as a part of routine installation inspections. [1981 c.815 §37; 1987 c.575 §1; 1991 c.368 §3; 1991 c.373 §1; 1991 c.439 §1; 1993 c.451 §3; 2001 c.573 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.860 - Persons authorized to design, plan and lay out electrical installations; rules.**

(1) Notwithstanding any other provision of law, a person who is the holder of a supervising electrician's license:

(a) Who is employed by the holder of an electrical contractor's license may design, plan and lay out electrical installations for customers of the electrical contractor without obtaining any other license, permit or certificate; or

(b) Who is employed by an industrial plant may design, plan and lay out electrical installations for that industrial plant.

(2) The Director of the Department of Consumer and Business Services, after consultation with the Electrical and Elevator Board and the State Board of Examiners for Engineering and Land Surveying, may adopt rules designating classes of board licensees that may design, plan and lay out noncomplex electrical installations. Licensees are not subject to any requirement for an additional license, permit, certificate or registration when engaging in the design, planning or laying out of electrical installations as authorized by a rule adopted under this subsection. [1987 c.384 §2; 2005 c.570 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.870 - Electrical and Elevator Board to prescribe uniform fee calculation and permit format; review; rules.**

(1) The Electrical and Elevator Board shall provide by rule for a statewide uniform method of calculating permit fees and a standardized permit application format.

(2) Notwithstanding the provisions of subsection (1) of this section, the board shall provide by rule for a separate limited energy electrical activity permit and the conditions that apply to the permit.

(3) The board shall adopt rules setting standards for timely review, personnel to conduct review and other plan review requirements. [1989 c.591 §2; 1991 c.529 §9; subsection (3) enacted as 1991 c.439 §2; 2001 c.728 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.905 - Definitions for ORS 479.870 and 479.905 to 479.945.**

For the purposes of ORS 479.870 and 479.905 to 479.945, except where the context requires otherwise:

- (1) "Class A limited energy technician" means a person licensed to install, alter and repair all limited energy systems.
- (2) "Class B limited energy technician" means a person licensed to install, alter and repair all limited energy systems that do not include protective signaling, including but not limited to:
  - (a) HVAC;
  - (b) Medical;
  - (c) Boiler controls;
  - (d) Intercom and paging systems;
  - (e) Clock systems;
  - (f) Data telecommunication installations; and
  - (g) Instrumentation.
- (3) "HVAC" means thermostat and associated control wiring of heating, ventilation, air conditioning and refrigeration systems. "HVAC" does not include boiler controls.
- (4) "Limited energy electrical activity" means installation, alteration, maintenance, replacement or repair of electrical wiring and electrical products that do not exceed 100 volt-amperes in Class 2 and Class 3 installations, or that do not exceed 300 volt-amperes for landscape low voltage lighting systems that are cord connected to a ground fault circuit interrupter receptacle, under the electrical specialty code and the Low-Rise Residential Dwelling Code.
- (5) "Protective signaling" includes fire alarm, nurse call, burglar alarm, security and voice evacuation systems and other systems that are part of a fire or life safety system. [1991 c.529 §3; 1999 c.519 §1; 2001 c.728 §4; 2003 c.675 §45]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.910 - Limited energy technician license; compliance with other laws; fees; continuing education.**

- (1) Upon payment of an application or renewal fee, the Department of Consumer and Business Services shall issue a Class B limited energy technician license to a person who qualifies under ORS 479.915. A person licensed under this section may perform limited energy electrical activity except protective signaling as defined in ORS 479.905.
- (2) A person licensed under this section shall comply with the permit and code compliance requirements under ORS 479.510 to 479.945.
- (3) The application fee, and the renewal fee, for a Class B limited energy technician license are the same as those for a Class A limited energy technician license.
- (4) The Electrical and Elevator Board shall establish continuing education requirements for persons licensed under this section, not to exceed 24 hours of classes every three years. [1991 c.529 §2; 1999 c.1031 §10; 2001 c.728 §5; 2003 c.14 §332; 2007 c.271 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.915 - Limited energy technician license requirements.**

- (1) An applicant for a Class B limited energy technician license must:
  - (a) Submit proof satisfactory to the Electrical and Elevator Board that the person has:
    - (A) At least two years of experience as an apprentice in limited energy electrical activity; or
    - (B) At least two years of experience equivalent to an apprenticeship in limited energy electrical activity and completed a board-approved 32-hour training program; and
  - (b) Pass a written examination approved by the board and administered by the Department of Consumer and Business Services.
- (2) An applicant for a Class A limited energy technician license must:
  - (a) Submit proof satisfactory to the board that the person has completed at least three years of experience as an apprentice, or the equivalent as determined by the board by rule, in a recognized branch of the electrical trade; and
  - (b) Pass a written examination prepared by the board and administered by the department.
- (3) The board shall determine the adequacy of any training program for qualification under the requirements of this section and ORS 479.910 and section 1, chapter 728, Oregon Laws 2001.
- (4) The department shall issue a Class A limited energy technician license to a person who qualifies under subsection (2) of this section and pays the required fees. [1991 c.529 §4; 2001 c.728 §6; 2007 c.548 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.940 - Activities not subject to licensure under ORS 479.510 to 479.945; identification cards.**

- (1) The licensure provisions of ORS 479.510 to 479.945 do not apply to the following activity on Class II and III systems in one and two family dwellings regulated under the Low-Rise Residential Dwelling Code:
  - (a) Prewiring of cable television and telephone systems owned by the owner of the residence;
  - (b) Garage door openers;
  - (c) Vacuum systems;
  - (d) Audio and stereo systems;



- (e) HVAC;
- (f) Landscape sprinkler controls;
- (g) Landscape lighting; and
- (h) Doorbells.

(2) The provisions of subsection (1) of this section apply only to residential contractors holding a current license and proper endorsement issued by the Construction Contractors Board.

(3)(a) The licensure provisions of ORS 479.510 to 479.945 do not apply to a landscape contracting business licensed under ORS 671.510 to 671.760 when making installations of landscape irrigation control wiring and outdoor landscape lighting involving a Class II or Class III system that does not exceed 30 volts and 750 volt-amperes.

(b) A landscape contracting business exempt from licensing under this subsection shall issue an identification card to its landscape irrigation control wiring or outdoor landscape lighting installer. The form for the identification card shall be provided by the State Landscape Contractors Board. The identification card shall include the name of the installer, the name and State Landscape Contractors Board identification number of the landscape contracting business and the date of issue of the identification card. The card shall be carried by the installer at the job site when performing the allowed electric installations.

(4) The licensure provisions of ORS 479.510 to 479.945 do not apply to limited energy electrical activity involving the installation, maintenance or repair of lottery equipment at retail locations by employees or vendors of the Oregon State Lottery Commission. The exemption provided by this subsection does not authorize work by unlicensed persons on systems of 115 volts or more.

(5) All nonlicensure requirements of ORS 479.510 to 479.945, including permits for and compliance with the electrical specialty code, apply to activities conducted under subsections (1) to (4) of this section. If any person or business repeatedly violates the permit or code compliance requirements, in addition to any other remedy, the Electrical and Elevator Board may suspend, condition or revoke a person's or business's right to use this provision. [1991 c.529 §7; 1999 c.402 §4; 2001 c.728 §7; 2003 c.14 §333; 2003 c.675 §46; 2007 c.385 §1; 2007 c.541 §5a; 2007 c.836 §46]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.943 - Activities not subject to licensure under ORS 479.905 to 479.945.**

The licensure provisions of ORS 479.905 to 479.945 do not apply to the employees of a telecommunications utility or competitive telecommunications provider, both as defined in ORS 759.005, cooperative corporation organized under ORS chapter 62 or unincorporated association providing intrastate telecommunications service in Oregon engaged in the course of employment in providing, installing or maintaining:

- (1) Voice transmission products;
- (2) Data transmission products; or
- (3) Intercom and paging systems. [1997 c.544 §2; 2003 c.344 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.945 - Restricted energy contractor's license; rules; scope; employees.**

(1) A restricted energy contractor's license is created for persons engaged in HVAC and such other categories as established by the Electrical and Elevator Board by rule under ORS 455.117.

(2) A person licensed as a restricted energy contractor under this section and the person's employees may install, alter, maintain, replace or repair electrical wiring and electrical products that are within the scope of the contractor's license issued under this section. A person covered by this subsection does not have to obtain a license under ORS 479.910.

(3) The license issued under this section shall limit the scope of activities that the licensee and licensee's employees may engage in and in no instance may the scope of the license exceed that of a Class B limited energy technician.

(4) A person applying for licensing under this section shall pay the applicable application fee required under ORS 479.840 and provide proof satisfactory to the board that the person has experience of the type of work covered by the license indorsement.

(5) A restricted energy contractor licensee under this section shall:

- (a) Maintain with the board a current list of all individuals employed by the licensee to engage in work permitted by this section;
- (b) Issue an identification card to each employee working under the provisions of this section and identify the contractor, date of issue, contractor's identification number with the board and the Construction Contractors Board; and
- (c) Maintain with the board a current form of identification card used by the contractor.

(6) A person holding a limited maintenance specialty contractor's license under ORS 479.630 (12) who also registers under this section shall comply with the identification card requirements of subsection (5) of this section, but need not file a separate list of employees unless the work under the contractor's license is done by different employees. [1991 c.529 §8; 1995 c.715 §5; 2001 c.728 §8; 2003 c.14 §334; 2005 c.758 §33; 2007 c.271 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.947 - Electric Vehicle Infrastructure Training Program; approval and audit by Electrical and Elevator Board.**

(1) As used in this section, "equivalent training program" has the meaning given that term in ORS 283.410.

(2) The Electrical and Elevator Board shall approve the Electric Vehicle Infrastructure Training Program (EVITP), and review equivalent training programs for consideration, as a continuing education program that meets the continuing education standards established by the board under ORS 479.680 (1).

(3) The board shall, on an annual basis, request from the EVITP provider information on the number of electricians who have signed up for the course, completed the course and passed the certification exam.

(4) The board may audit the EVITP to ensure that the EVITP includes the most current national electrical codes and best practices for the installation of electrical vehicle charging systems. [2023 c.577 §3]

Note:

479.947 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 479 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.950 - Minimum safety standards; rules; criteria.**

(1) Notwithstanding ORS 479.510 to 479.945, 479.995 and 824.045, the Director of the Department of Consumer and Business Services shall adopt rules establishing, amending or repealing minimum safety standards for workmanship and materials for, and the design and construction of electrical products used in, traction electrification and electrical communications and electrical signaling installations for rail fixed guideway public transportation systems operated by a mass transit district established under ORS 267.010 to 267.394. The rules adopted by the director under this subsection shall be the exclusive rules adopted for this state that establish minimum safety standards for workmanship and materials for, and the design and construction of electrical products used in, traction electrification and electrical communications and electrical signaling installations for rail fixed guideway public transportation systems operated by a mass transit district.

(2) Before adopting rules under subsection (1) of this section, the Director of the Department of Consumer and Business Services shall consider:

(a) Technological advances in the rail fixed guideway industry.

(b) The practicability of following the standards under consideration, if adopted.

(c) The probability, extent and gravity of the injury to the public or to property that will result from failure to follow the standards under consideration.

(d) Safety standards followed, proposed or approved by responsible members of the rail fixed guideway industry.

(3) Notwithstanding ORS 479.510 to 479.945, 479.995 and 824.045, the Department of Consumer and Business Services is designated as the state agency to administer and enforce the standards established by the Director of the Department of Consumer and Business Services under this section. The department shall adopt rules establishing procedures for the administration and enforcement of such standards. [1997 c.275 §42; 2017 c.46 §3]

Note:

479.950 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 479 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.990 - Penalties.**

(1) Any owner or occupant of any building or premises who fails to comply with any order provided for in ORS 479.170 and not appealed from, or with any such order of the State Fire Marshal upon appeal to the State Fire Marshal, shall be punished by a civil penalty of not more than \$500 for each violation. All penalties, fees or forfeitures collected under the provisions of this subsection shall be paid into the State Treasury.

(2) Violation of ORS 479.255, 479.260, 479.270, 479.280, 479.297 or 479.300, or rules adopted under ORS 479.255, 479.260, 479.270, 479.280, 479.297 or 479.300, is punishable by a civil penalty imposed by the State Fire Marshal in an amount not to exceed \$250.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745. [Amended by 1959 c.406 §30; subsection (5) enacted as 1959 c.406 §29; 1977 c.619 §1; subsection (6) enacted as 1979 c.642 §12; 1991 c.863 §58; 1997 c.647 §§6,7; 1999 c.307 §§14,15; 2001 c.411 §§27,28; 2011 c.97 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 479 - Protection of Buildings From Fire; Electrical Safety Law Section 479.995 - Civil penalty for violation of ORS 479.510 to 479.945.**

The Electrical and Elevator Board may impose a civil penalty for a violation of ORS 479.510 to 479.945 or rules adopted for the administration or enforcement of ORS 479.510 to 479.945 and this section. The board shall impose a civil penalty authorized by this section as provided in ORS 455.895. [2001 c.411 §8; 2003 c.14 §335]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.010 - Labels for blasting powder and fuse.**

All blasting powder and fuse shipped into this state for use, or manufactured in this state for use in this state, shall have stamped or printed upon the outside of the original package, box, case or wrapper the date of manufacture of the contents.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.020 - Prohibition against sale of bad powder.**

Whenever any blasting powder shows a state of disintegration or decomposition sufficient so that it remains in a soft condition in a temperature of 32 degrees Fahrenheit, or is in a state of crystallization, which is revealed by some portions being in a hard condition and surrounded by other portions in a soft condition, it shall be deemed bad and dangerous powder, and its sale and use is prohibited.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.030 - Fuse unfit for use and sale; prohibition of use.**

Whenever any fuse shows by its appearance to have been overheated, or if it is in a hard and brittle condition, which is seen by breaks and cracks in the wrapper around the outside of the fuse, the same shall be declared unfit for use and sale, and its use is forbidden.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.040 - Sale, exchange or possession, when unlawful.**

No person shall sell or exchange, or offer or expose for sale or exchange, or have in possession for use by employees of the person:

- (1) Any blasting powder or fuse which has not been stamped or printed upon as required in ORS 480.010.
- (2) Any blasting powder of which the sale and use is prohibited by ORS 480.020.
- (3) Any fuse declared to be unfit for use as prohibited by ORS 480.030.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.050 - Prohibition against intrastate transportation of explosives in passenger vehicle operated by common carrier; exception.**

No person shall transport, carry or convey, or have transported, carried or conveyed, any dynamite, gunpowder or other like explosives, between any places in Oregon, on any car or other vehicle of any description operated by a common carrier which car or vehicle is carrying passengers for hire. However, it shall be lawful to transport on any such car or vehicle small arms, ammunition in any quantity, such fuses, torpedoes, rockets or other signal devices as may be essential to promote safety in operation, and properly packed and marked samples of explosives for laboratory examination, not exceeding a net weight of one-half pound each and not exceeding 20 samples at one time in a single car or vehicle. Such samples shall not be carried in that part of a car or vehicle which is intended for the transportation of passengers for hire. Nothing in this section shall be construed to prevent the transportation of military or naval forces, with their accompanying munitions of war, on passenger equipment, cars or vehicles.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.060 - Transportation of certain explosives prohibited.**

No person shall transport, carry or convey, or have transported, carried or conveyed, liquid nitroglycerine, fulminate in bulk in dry condition, or other like explosives, between any places in Oregon, on any car or other vehicle of any description operated by a common carrier in the transportation of passengers.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.070 - Fire bombs prohibited; exceptions.**

- (1) No person shall possess a fire bomb. For the purpose of this section a "fire bomb" is a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having an integral wick or similar device capable of being ignited, but no device commercially manufactured primarily for the purpose of illuminating shall be deemed to be a fire bomb for the purpose of this section.
- (2) This section shall not prohibit the authorized use or possession of such fire bomb by a member of the Armed Forces of the United States or by any member of a regularly organized public fire or police department. [1967 c.417 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.085 - Requirement for removal of unused explosives from work area.**

- (1) In addition to any other legal requirements, all users of explosives shall be responsible for the removal of all unused explosives from any area of use after the work for which the explosive was required is completed or when the user is absent for more than 30 days from the area of use, unless the explosives are stored in a manner meeting the safety requirements promulgated by the State Fire Marshal pursuant to ORS 476.030.
- (2) As used in this section:
  - (a) "Explosives" means dynamite, blasting powder, black powder, nitroglycerin, detonators, nitro-jelly, prima-cord and detonating

fuse.

(b) "User" means any person using explosives for any purpose whatsoever, and regardless of whether such person is being compensated for such use. [1963 c.384 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.095 - Penalty and civil liability for violation of ORS 480.085.**

Persons violating ORS 480.085 are subject to the penalty provided in ORS 480.990 (4) and are liable in civil action for damages to any person suffering injury from handling or otherwise coming in contact with unused explosives that are left in an area of use in violation of ORS 480.085, regardless of any negligence or lack of negligence on the part of the defendant. [1963 c.384 §2; 2007 c.71 §158]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.111 - Definitions for ORS 480.111 to 480.165.**

As used in ORS 480.111 to 480.165:

(1) "Cone fountain" means a cardboard or heavy paper cone that:

- (a) Contains 50 grams or less of pyrotechnic composition;
- (b) If mounted on a common base with other cones having less than one-half inch of separation, results, when measured in combination with all other cones on the base, in a total pyrotechnic composition of not more than 200 grams;
- (c) If mounted on a common base with other cones having at least one-half inch of separation, results, when measured in combination with all other cones on the base, in a total pyrotechnic composition of not more than 500 grams; and
- (d) Upon ignition has the same effect as a cylindrical fountain.

(2) "Consumer fireworks" means:

- (a) A cone fountain, a cylindrical fountain, a flitter sparkler, a ground spinner, an illuminating torch or a wheel, or a combination of two or more of those items; and
- (b) Any other items, other than exempt fireworks, containing 500 grams or less of pyrotechnic composition that the State Fire Marshal recognizes by rule to be suitable for retail sale to members of the general public for individual use.

(3) "Cylindrical fountain" means a cylindrical tube that:

- (a) Contains 75 grams or less of pyrotechnic composition;
- (b) If mounted on a common base with other tubes having less than one-half inch of separation, results, when measured in combination with all other tubes on the base, in a total pyrotechnic composition of not more than 200 grams;
- (c) If mounted on a common base with other tubes having at least one-half inch of separation, results, when measured in combination with all other tubes on the base, in a total pyrotechnic composition of not more than 500 grams;
- (d) Upon ignition produces a shower of colored sparks and may produce a whistling effect; and
- (e) Is provided with a means for restraining the behavior of the item, such as a spike for insertion into the ground, a wood or plastic base for placing on the ground or, if designed to be handheld, a wood or cardboard handle.

(4) "Display fireworks" means pyrotechnic devices that:

- (a) Are designed for travel into the air or to project effects from a fixed position; and
- (b)(A) Are classified by the United States Department of Transportation as Division 1.3 compatibility group G explosives or Division 1.4 compatibility group G explosives; or
- (B) Contain more than 500 grams of pyrotechnic composition and are classified by the United States Department of Transportation as Division 1.4 compatibility group E or S explosives.

(5) "Exempt fireworks" means the following:

- (a) Paper caps containing 0.25 grains or less of explosive mixture and toy guns, canes or other devices designed for firing those caps.
- (b) Snakes or similar smoke-producing items containing 100 grains or less of combustible substances.
- (c) Model rockets and model rocket motors that are used to propel recoverable models of rocket.
- (d) Novelties and trick noisemakers.
- (e) Emergency signaling devices, if used in railroad, boat, motor vehicle or other means of transportation for warning or illumination purposes.
- (f) Blank cartridges of a type used:
  - (A) For theater or other shows;
  - (B) For signaling or ceremonial purposes in athletics or sports; or
  - (C) By the militia, an organization of war veterans or other organizations, if parading an armed color guard.
- (g) Cartridges, shells or gunpowder for use in legally permitted types of firearms.
- (h) Military pyrotechnic and signaling devices classified by the United States Department of Transportation as Division 1.4 compatibility group S explosives that are assigned to and in the possession of the Armed Forces of the United States, or an authorized agent of the armed forces, as inventory for use by the armed forces or agent in training active members of the armed forces in their duties.
- (i) Other items that in the judgment of the State Fire Marshal do not require regulation or restrictions on sale.

- (6) "Explosive mixture" means a substance arranged in a manner to allow burning in less than one second.
- (7)(a) "Fireworks" means:
- (A) Consumer fireworks;
  - (B) Display fireworks;
  - (C) Exempt fireworks;
  - (D) Pyrotechnic articles;
  - (E) Special effects; and
  - (F) Other pyrotechnic devices that:
    - (i) Are capable of producing audible, visual, mechanical or thermal effects through combustion, deflagration or detonation; and
    - (ii) Contain chemical elements and compounds that are capable of burning independently of atmospheric oxygen or contain flammable liquid mixtures or flammable gas mixtures.
- (b) "Fireworks" does not mean a candle, flaming club, flaming baton or other device that is designed to keep the flame and thermal radiation in close proximity to the device.
- (8) "Fireworks display" means an entertainment feature at which the public or a private group is allowed to view a display or discharge that uses or explodes display fireworks or pyrotechnic articles.
- (9) "Flitter sparkler" means a narrow paper tube that:
- (a) Contains five grams or less of pyrotechnic composition;
  - (b) Produces colored sparks upon ignition; and
  - (c) Is activated by igniting paper located at one end of the tube.
- (10) "Ground spinner" means a small device similar to a wheel in design and effect that:
- (a) Contains 20 grams or less of pyrotechnic composition;
  - (b) Vents from an orifice located on the side of the tube or elsewhere on the device; and
  - (c) When placed on the ground and ignited, spins rapidly and produces a shower of colored sparks.
- (11) "Illuminating torch" means a cylindrical tube that:
- (a) Contains 100 grams or less of pyrotechnic composition; and
  - (b) Is provided with a means for restraining the behavior of the item, such as a spike for insertion into the ground, a wood or plastic base for placing on the ground or, if designed to be handheld, a wood or cardboard handle.
- (12) "Local government" has the meaning given that term in ORS 174.116.
- (13)(a) "Manufacture" means to make, construct, fabricate or produce fireworks.
- (b) "Manufacture" does not mean:
- (A) The assembly or fabrication of sets or mechanical pieces for fireworks displays; or
  - (B) Actions taken within the scope of a certification for conducting fireworks displays or for a pyrotechnics operator.
- (14) "Pyrotechnic articles" means devices that:
- (a) Are designed for professional use;
  - (b) Are similar to consumer fireworks in chemical composition and construction;
  - (c) Contain 500 grams or less of pyrotechnic composition;
  - (d) Are not labeled as consumer fireworks; and
  - (e) Have identification numbers UN0431 or UN0432 in the United States Department of Transportation Hazardous Materials Table set forth in 49 C.F.R. 172.101 or an amendment or replacement of that identification standard recognized by the State Fire Marshal.
- (15) "Pyrotechnic composition" means a mixture that is:
- (a) Composed of a metal powder having a high combustion temperature and an oxidant; and
  - (b) Capable of an exothermic reaction that produces light, heat, smoke, sound or gas.
- (16) "Pyrotechnic device" means consumer fireworks, display fireworks, pyrotechnic articles, special effects and bird and animal control devices, and other combinations or compositions of materials, that produce audible, visual, mechanical or thermal effects.
- (17) "Special effects" means articles containing pyrotechnic composition that, subject to authorization from the appropriate jurisdiction, are:
- (a) Manufactured, assembled, designed or discharged in connection with television, theater or motion picture productions, concerts or conference centers; or
  - (b) Used for commercial, industrial, educational, recreational or entertainment purposes.
- (18) "Wheel" means a pyrotechnic device that:
- (a) Is designed to be attached to a post or tree by means of a nail or string;
  - (b) Has one or more driver units or tubes, each containing not more than 60 grams of pyrotechnic composition;
  - (c) Contains a total of not more than 200 grams of pyrotechnic composition; and
  - (d) Upon ignition revolves and produces a shower of colored sparks and may produce a whistling effect. [2013 c.24 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.120 - Sale, possession and use of fireworks prohibited; exceptions; enforcement.**

(1) No person shall sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks within Oregon,

except as follows:

- (a) Sales by manufacturers and wholesalers to customers residing outside this state in accordance with ORS 480.156;
  - (b) Sales to persons or organizations having obtained a permit from the State Fire Marshal for supervised public display;
  - (c) Sales to railroads, boats, motor vehicle or other transportation agencies, to be used for signal, warning or illumination purposes in connection with such business;
  - (d) Sale or use of blank cartridges for licensed shows or theaters or for signal or ceremonial purposes in athletics or sports;
  - (e) Experimental purposes by a manufacturer of explosives at such places where such experiments are normally conducted;
  - (f) Sale of blank cartridges for use by the militia or any organization of war veterans or other organization authorized by law to parade in public a color guard armed with firearms;
  - (g) Sale of shells, cartridges, gunpowder or explosives for use in legally permitted firearms;
  - (h) Sales of items described in ORS 480.127 to persons who possess the retail sales permit required by ORS 480.127 by a person who holds a manufacturer or wholesaler license issued pursuant to ORS 480.111 to 480.165; or
  - (i) Sales of items described in ORS 480.127 to individual members of the general public for personal use by taking direct delivery of those items at the time of sale from the holder of a retail sale permit issued pursuant to ORS 480.127.
- (2) Law enforcement officers of the state, county or municipality shall enforce the provisions of ORS 480.111 to 480.165.  
[Amended by 1983 c.788 §1; 1985 c.789 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.123 - Use for repelling birds or other animals; permit; rules.**

- (1) As used in this section, "responsible charge" means ownership, a leasehold, management or authority to act as the representative of an owner, lessee or manager.
- (2) The State Fire Marshal may adopt rules for the use of fireworks to repel birds or other animals.
- (3) A person having responsible charge of a property may apply to the State Fire Marshal for a permit to use and explode fireworks to repel birds or other animals from the property. If the State Fire Marshal finds that the proposed use conforms with state and federal law and State Fire Marshal rules, the State Fire Marshal shall issue the permit.
- (4) Notwithstanding ORS 480.120, a person having responsible charge of a property and holding a permit issued under subsection (3) of this section may purchase, possess, use and explode fireworks for the purpose of repelling birds or other animals from the property. Properties for which permits to use and explode fireworks are issued under this section must be:
  - (a) Farms;
  - (b) Forests;
  - (c) Waste and recycling facilities;
  - (d) Airports;
  - (e) Golf courses;
  - (f) Properties used for the production of commercially valuable fish or seafood;
  - (g) Estuaries;
  - (h) Properties located outside of an incorporated city; or
  - (i) Other types of properties identified by the State Fire Marshal by rule.
- (5) Fireworks for use as described in this section must be purchased from a person possessing a wholesaler license issued under ORS 480.111 to 480.165.
- (6) The permit holder shall store fireworks obtained under this section in accordance with any fire codes that the State Fire Marshal adopts by rule to ensure safe storage of those fireworks. When adopting storage rules, the State Fire Marshal shall consider any relevant standards for hazardous materials storage established by a national association for fire protection. A local government has concurrent authority with the State Fire Marshal to enforce State Fire Marshal storage requirements within the jurisdiction of the local government.
- (7) The State Fire Marshal may revoke a permit issued under this section if the State Fire Marshal determines that the permit holder has violated state or federal law regarding fireworks, rules adopted by the State Fire Marshal or the terms and conditions of the permit.
- (8) This section does not require a federal or state agency to obtain a permit under this section for activities carried out by the agency under ORS 480.124. [2015 c.57 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.124 - Use for control of predatory animals allowed.**

Notwithstanding the provisions of ORS 480.111 to 480.165, fireworks may be purchased, maintained, used and exploded by federal or state agencies authorized and required by ORS 610.002 to 610.020 to eradicate and control predatory animals. Such purchase and use shall be in compliance with rules and regulations promulgated by the State Fire Marshal, with the approval of the state agencies authorized and required by ORS 610.002 to 610.020 to eradicate and control predatory animals. [1961 c.293 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.127 - Permit for retail sale of consumer fireworks; fee; rules.**

(1) Any person who desires to sell consumer fireworks at retail to individual members of the general public for personal use shall apply in writing to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale. The State Fire Marshal shall issue the permit only if the State Fire Marshal finds that the applicant is qualified to conduct the proposed sale and that the proposed sale will conform to the provisions of ORS 480.111 to 480.165 and any rules adopted under ORS 480.111 to 480.165. A fee may be charged for the permit. Subject to prior approval by the Oregon Department of Administrative Services, the amount of the fee shall be set by rule and shall be adjusted subsequently by the State Fire Marshal to finance the administrative expenses incurred under this section and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

(2) A retail sales permit issued under this section authorizes the sale of consumer fireworks only in the year for which the permit is issued during the period that begins on June 23 and ends on July 6 of the year for which the permit is issued.

(3) A retail sales permit holder shall store consumer fireworks in accordance with any fire codes that the State Fire Marshal adopts by rule to ensure safe storage of those fireworks. The matters that the State Fire Marshal considers when adopting storage rules for fireworks may include, but are not limited to, any United States Department of Transportation requirements relating to hazardous materials storage. [1983 c.788 §3; 1991 c.703 §14; 2013 c.24 §3; 2023 c.602 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.130 - Permit for fireworks display; permit for wholesale sale of consumer fireworks; fee; rules.**

(1) All persons, municipalities, associations or organizations or groups of individuals desiring to sell, discharge, fire off, explode or display fireworks for a public display, or to sell consumer fireworks to persons who possess the permit referred to in ORS 480.127, shall apply in writing to the State Fire Marshal for a permit at least 15 days in advance of the proposed sale or date of the display. The State Fire Marshal, upon receipt of such application, shall determine if the proposed sale or display will conform to law and any rules promulgated thereunder. If the State Fire Marshal finds that the applicant is qualified to conduct such sale or display and that the proposed sale or display is in accordance with the law and all rules, the State Fire Marshal shall issue a permit; otherwise the State Fire Marshal shall refuse to issue it.

(2) The fee for a permit for the public display of fireworks and each permit for the sale of any fireworks shall be established by rule by the State Fire Marshal, subject to prior approval by the Oregon Department of Administrative Services, and subsequently shall be adjusted to finance the administrative expenses incurred under this section and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board. All fees collected shall be deposited to the credit of the State Fire Marshal Fund.

(3) Sales permits for fireworks are not valid for more than one year from date of issue. A public display permit is not valid for more than 10 days from date of issuance and may authorize only one fireworks display during that period. [Amended by 1967 c.417 §24; 1983 c.788 §6; 1985 c.789 §2; 1991 c.703 §15; 2013 c.24 §4; 2023 c.602 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.140 - Fireworks displays to be under supervision of police and fire department chiefs or county court.**

(1) Every such display held within the boundaries of any municipality shall be under the supervision of the chiefs of police and fire departments of the municipalities in which the display is to be held and shall be of such character, and so located, discharged or fired as, in the opinion of the chief of the fire department, after proper inspection, shall not be hazardous to property or endanger any person.

(2) Every such display held outside the boundaries of any municipality or fire protection district shall be under the supervision of the county court of the county in which the display is to be held and shall be of such character, and so located, discharged or fired as, in the opinion of the county court or of a county official duly authorized by the county court, after proper inspection, shall not be hazardous to property or endanger any person.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.150 - Permits for fireworks sales or displays; rules; security.**

(1) The State Fire Marshal may adopt reasonable rules for granting permits for supervised public displays or sales of fireworks by municipalities, fair associations, amusement parks, and other persons, organizations or groups of individuals. The governing body of any municipality, or of any county, may require liability insurance, or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or other form of indemnity deemed adequate by the municipality, or the county, from any person, in a sum not less than \$500, conditioned for payment of all damages which may be caused either to a person or property by reason of the authorized display or sale and arising from any acts of any person or agents, employees or subcontractors of the person. At the time a permit is revoked, the State Fire Marshal or approving authority may include in the revocation order a provision prohibiting the holder of the revoked permit from applying for or obtaining another such permit, for a period not to exceed three years from the revocation date, if the State Fire Marshal or approving authority finds that the circumstances of the permit holder's failure to comply with applicable sale or display statutes and regulations presented a significant fire hazard or other public safety danger.

(2) The State Fire Marshal or the approving authority of any governmental subdivision may revoke permits for display or sale of

fireworks when in the opinion of the State Fire Marshal or the approving authority the sale or display of fireworks is not in compliance with applicable statutes and regulations governing such sale or displays.

(3) Permit fees required by ORS 480.130 shall not be refunded in the event such permits are revoked. [Amended by 1967 c.417 §25; 1983 c.788 §4; 1985 c.789 §3; 1991 c.331 §72; 1997 c.631 §483; 2013 c.24 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.152 - Publication of advertisement for sale of unlawful fireworks prohibited.**

(1) No person shall publish or cause to be published:

(a) Any advertisement for the sale of fireworks the use or possession of which is declared unlawful by ORS 480.111 to 480.165.

(b) Any advertisement for the sale of fireworks in any county, municipality or fire protection district that by law or ordinance has declared the sale or use of the fireworks is prohibited.

(2) Subsection (1) of this section does not apply to any advertising medium that accepts such advertising in good faith, without knowledge of the violation of law. [1985 c.789 §7; 2013 c.24 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.154 - Manufacturer or wholesaler required to maintain records of sale of fireworks; shipments to show permit number; confiscation.**

(1) Each manufacturer or wholesaler of fireworks shall keep a record of all sales showing the name and address of the purchaser, the state of destination, license and permit numbers, the state and date of permit issuance and a list of the type and quantity of fireworks sold.

(2) All shipments of fireworks coming into this state must show the appropriate permit number of the addressee on the outside of the package. If the permit number is not so shown, such shipment may be confiscated by a law enforcement officer or fire protection enforcement authority having jurisdiction. [1985 c.789 §8; 2013 c.24 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.156 - Sale of fireworks to out-of-state resident without valid license or permit prohibited; seller to ascertain license or permit requirements of other states; seller's records.**

(1) It is unlawful for any person to sell fireworks at wholesale to any out-of-state resident who does not possess and present to the seller for inspection at the time of sale a valid license or permit issued in the name of such out-of-state resident, if such license or permit is required to purchase, possess, transport, store, distribute, sell or otherwise deal with or use fireworks by the laws of such other state.

(2) The burden of ascertaining whether the laws of such other state require a license or permit and whether the purchaser possesses such a valid license or permit shall be entirely on the seller. Each seller shall record, in a manner prescribed by the State Fire Marshal, each sale described in this section. The record shall include the identification of type and quantity of fireworks sold, name of purchaser, state of destination, state issuing license or permit and number or other identifying description and date of issue of license or permit. [1985 c.789 §9; 2013 c.24 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.158 - Parents of minor liable for costs incurred in suppressing fires caused by use of fireworks by minor; exception.**

(1) In addition to any other remedy provided by law, the parent or parents of an unemancipated minor child shall be liable for costs incurred by a public fire agency in suppressing fires caused by use of fireworks by such minor child. However, a parent who is not entitled to legal custody of the minor child at the time of the fire shall not be liable for such damages.

(2) The legal obligation of the parent or parents of an unemancipated minor child to pay damages under this section shall be limited to not more than \$5,000 payable to the same claimant, for one or more acts.

(3) When an action is brought under this section on parental responsibility for acts of their children, the parents shall be named as defendants therein and, in addition, the minor child shall be named as a defendant. The filing of an answer by the parents shall remove any requirement that a guardian ad litem be required.

(4) Nothing in subsections (1) to (3) of this section applies to foster parents. [1985 c.789 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.160 - Local regulation and effect of state law; local enforcement authority.**

(1) Nothing in ORS 480.111 to 480.165, nor in any permit issued thereunder, shall authorize the manufacture, sale, use or discharge of fireworks in any city, county or fire protection district in which such manufacture, sale, use or discharge is otherwise prohibited by law or municipal ordinance; nor shall any city, county or fire protection district authorize the sale or use of any fireworks prohibited by the provisions of ORS 480.111 to 480.165.



(2) For the purposes of enforcing ORS 480.111 to 480.165 in an area exempt under ORS 476.030 (3) within a rural fire protection district, the fire marshal, if there is one, or the fire chief of that rural fire protection district has the same enforcement authority as the State Fire Marshal.

(3) No person shall deliver or cause to be delivered into any county, municipality or rural fire protection district for the purpose of sale to individual members of the general public for personal use any consumer fireworks if the county, municipality or rural fire protection district by law or ordinance has declared that the sale or use of the consumer fireworks is prohibited.

(4) The manufacture, sale, use or discharge of fireworks may be regulated by the governing body of a rural fire protection district, subject to the following conditions:

(a) The regulation must be by ordinance adopted by the governing body of the district, after public notice and hearing, not later than January 1 of any calendar year in which regulation is to be operative.

(b) The regulation shall not be operative within the boundaries of any city that regulates such matters by city ordinance.

(c) The regulation shall not prohibit the manufacture, sale, use or discharge of fireworks the manufacture, sale, use or discharge of which is authorized by ORS 480.111 to 480.165.

(d) The regulation may not limit sales to less than five days per calendar year, and must include the five consecutive day period beginning June 30. [Amended by 1983 c.788 §7; 1985 c.789 §4; 1993 c.185 §32; 2013 c.24 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.165 - Civil penalty for fireworks law violations.**

(1) In addition to any other penalty provided by law, any person who violates any provision of ORS 480.111 to 480.165, or any rule adopted by the State Fire Marshal pursuant thereto, is subject to a civil penalty imposed by the State Fire Marshal in an amount not to exceed \$500 per violation. However, an individual member of the general public who possesses fireworks of a retail value less than \$50 is not subject to a civil penalty. Each day a violation continues shall be considered a separate offense.

(2) All moneys recovered pursuant to this section shall be paid into the State Fire Marshal Fund.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745. [1991 c.856 §§2,3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.200 - Definitions for ORS 480.200 to 480.290.**

As used in ORS 480.200 to 480.290 unless the context requires otherwise:

(1) "Certificate of possession" means a certificate issued under ORS 480.235 by the State Fire Marshal to applicants who have met the requirements of ORS 480.200 to 480.290.

(2) "Certificate of registration" means a certificate of registration issued under ORS 480.244 by the State Fire Marshal for an explosives magazine.

(3) "Explosive" means a chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters, but excludes fireworks, as defined in ORS 480.111, black powder, smokeless powder, small arms ammunition, small arms ammunition primers and fertilizer, as defined in ORS 633.311.

(4) "Issuing authority" means the State Fire Marshal or an assistant appointed by the State Fire Marshal under ORS 480.280 (2).

(5) "Magazine" means an approved facility for the storage of explosives.

(6) "Small arms ammunition" means a shotgun, rifle, pistol or revolver cartridge.

(7) "Small arms ammunition primers" means small percussion-sensitive explosive charges encased in a cup and used to ignite propellant powder. [1971 c.518 §1; 1983 c.100 §3; 1999 c.980 §1; 2001 c.914 §26; 2013 c.24 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.205 - Application.**

ORS 480.200 to 480.290 and 480.990 (6) do not apply to:

(1) The possession of an explosive by a member of the Armed Forces of the United States while on active duty and engaged in the performance of official duties or by a member of a regularly organized public law enforcement agency, public fire department or fire protection agency while engaged in the performance of official duties.

(2) The possession of an explosive in the course of transportation by way of railroad, water, highway or air while under the jurisdiction of, or in conformity with, regulations adopted by the United States Department of Transportation. [1971 c.518 §2; 1987 c.158 §108; 1999 c.980 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.210 - Certificate, license or permit required; display upon demand; defenses.**

(1) A person may not possess an explosive unless:

(a) The person has in immediate possession at all times during the possession of the explosive a valid certificate of possession issued to the person under ORS 480.235;

- (b) The person possesses a license or permit issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives of a type that authorizes the possession; or
- (c) The person is listed as a responsible person or employee possessor under a license or permit described in paragraph (b) of this subsection.
- (2) A person in possession of an explosive shall display a certificate of possession or federal license or permit upon the demand of the State Fire Marshal, an assistant to the State Fire Marshal, a magistrate or a law enforcement agency, public fire department or fire protection agency of this state.
- (3) It is a defense to a charge under subsection (1) of this section that the person so charged produce in court:
  - (a) A certificate described in subsection (1)(a) of this section that was valid at the time of the arrest of the person;
  - (b) Proof that the person has a license or permit issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives of a type authorizing the person to possess the explosives; or
  - (c) Proof that the person is listed as a responsible person or employee possessor under a license or permit described in paragraph (b) of this subsection. [1971 c.518 §3; 1999 c.980 §3; 2007 c.71 §159; 2009 c.164 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.215 - Transfer of explosives limited.**

Possession of an explosive may not be transferred unless:

- (1) The transferee holds a certificate of possession under ORS 480.235 and the certificate is valid at the time of the transfer;
- (2) The transferee holds a license or permit issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives of a type that authorizes possession of the explosive by the transferee; or
- (3) The transferee is a consignee of explosives that have been transported under the jurisdiction of or in conformity with regulations adopted by the United States Department of Transportation. [1971 c.518 §4; 1981 c.635 §2; 1999 c.980 §4; 2001 c.104 §219; 2007 c.71 §160; 2009 c.164 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.225 - Eligibility for certificate of possession.**

- (1) A person is eligible for a certificate of possession under ORS 480.235 if:
  - (a) The person has not been convicted, or found guilty except for insanity under ORS 161.295, of a misdemeanor involving violence, as defined in ORS 166.470, within the previous four years. A person who has been so convicted is eligible under this subsection following the expiration of seven years after the date of final and unconditional discharge from all imprisonment, probation and parole resulting from the conviction.
  - (b) The person has not been convicted, or found guilty except for insanity under ORS 161.295, of, and is not under indictment for, any felony.
  - (c) The person is not a fugitive from justice, has no outstanding warrants for arrest and is not free on any form of pretrial release for any offenses listed in paragraphs (a) and (b) of this subsection.
  - (d) The person has not been determined to be a person with mental illness under ORS 426.130 or to have an intellectual disability under ORS 427.290. A person who previously has been so determined is eligible under this subsection if, at the time of application for such a certificate, the person produces a certified copy of a full discharge from the proper state hospital. The Oregon Health Authority shall provide the State Fire Marshal with direct electronic access to the authority's database of information identifying persons meeting the criteria of this section who were committed or subject to an order under ORS 426.130. The State Fire Marshal and the authority shall enter into an agreement describing the access to information under this subsection.
  - (e) The person is at least 21 years of age.
  - (f) The person does not use a fictitious name or make a material misrepresentation in application for such a certificate.
  - (g)(A) The person has not been convicted of, and is not under indictment for, a criminal offense involving a controlled substance as defined in ORS 475.005, other than the offense of driving under the influence of intoxicants.
  - (B) Notwithstanding subparagraph (A) of this paragraph, a person who has had a certificate denied or revoked due to conviction of a criminal offense involving a controlled substance is eligible under this section following the expiration of seven years after the date of final and unconditional discharge from all imprisonment, probation and parole resulting from the conviction.
  - (h) The person has been discharged from the jurisdiction of the juvenile court for more than four years for an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470.
  - (i) The person is not the subject of a restraining order that alleges the person's possession of explosives presents a credible threat to another person.
  - (j) The person has passed an examination administered by the State Fire Marshal that assesses the person's knowledge of safety in the transportation and storage of explosives as required under federal and state laws and regulations pertaining to explosives. The State Fire Marshal shall examine each applicant prior to issuance of a certificate of possession to the applicant. The State Fire Marshal may by rule establish and collect an examination fee in an amount necessary to cover the cost of administering the examination.
  - (k) The person certifies on the application for a certificate of possession that all explosives in the person's possession will be used, stored and transported in accordance with federal, state and local requirements.

(L) The person certifies that all explosives will be possessed, used, stored and transported in accordance with federal, state and local requirements.

(2) Subsection (1)(a) and (b) of this section does not apply to a conviction or indictment that has been expunged from a person's record under the laws of this state or equivalent laws of another jurisdiction. [1971 c.518 §6; 1981 c.635 §3; 1983 c.100 §4; 1985 c.362 §1; 1999 c.980 §5; 2007 c.70 §275; 2009 c.595 §981; 2011 c.658 §40; 2011 c.720 §206; 2013 c.360 §61]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.230 - Application for certificate of possession; fee.**

A person desiring a certificate of possession shall apply on application forms provided by the Department of the State Fire Marshal. The forms shall be completed in full and shall include:

- (1) The applicant's legal name, current address and current telephone number;
- (2) The applicant's date of birth;
- (3) A statement by the applicant that the applicant is eligible for a certificate of possession under ORS 480.225;
- (4) The number of the certificate of registration issued under ORS 480.244 for the explosives magazine where the applicant intends to store the explosives;
- (5) Any other information that the issuing authority may require to readily identify the applicant;
- (6) A certification, signed and dated by the applicant, that the information contained in the application is true; and
- (7) A nonrefundable application fee of \$50 for a three-year certificate. [1971 c.518 §7; 1983 c.100 §2; 1999 c.980 §6; 2021 c.539 §140]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.235 - Waiting period for issuance of certificate of possession; investigation of applicant; authority of investigating body to require fingerprints; term of certificate; assignment or transfer prohibited; records required.**

- (1) A certificate of possession shall be issued or denied within 45 days after the date of the application or the conclusion of the investigation conducted by the issuing authority pursuant to subsection (2) of this section.
- (2) The issuing authority shall conduct an investigation to ensure that the applicant meets the requirements listed in ORS 480.225 and 480.230. The issuing authority shall include fingerprinting and photographic identification in the investigation. The issuing authority may use fingerprints obtained under this subsection for the purpose of requesting a state or nationwide criminal records check under ORS 181A.195. Unless the issuing authority finds that the applicant is ineligible under ORS 480.225 or 480.230, the authority shall issue a certificate of possession to the applicant. If the issuing authority finds that the applicant is ineligible under ORS 480.225 or 480.230, the authority shall issue a notification of denial. The denial is subject to the provisions of ORS 480.275.
- (3) A certificate of possession is valid for three years from the date of issuance unless suspended or revoked pursuant to ORS 480.270.
- (4) A certificate of possession may not be assigned or transferred.
- (5) The holder of a certificate of possession shall maintain a record of the type and quantity of all explosives possessed during the certificate period. The record shall be made available upon demand of the issuing authority, a magistrate or a law enforcement agency, public fire department or fire protection agency of this state.
- (6) Notwithstanding ORS 181A.195 (5) and (6), the Department of State Police shall maintain in the department's files fingerprint cards submitted to it for purposes of conducting a state or nationwide criminal records check under ORS 181A.195 on applicants for a certificate of possession. [1971 c.518 §8; 1981 c.635 §4; 1983 c.100 §5; 1999 c.980 §7; 2005 c.730 §28]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.239 - Application for renewal of certificate of possession; testing criteria.**

Any applicant for the renewal of an unexpired certificate of possession issued on or after June 1, 2000, shall not be required to retake the safety examination described under ORS 480.225 (1)(j) to obtain the renewal unless the applicant has allowed the certificate to lapse. All other requirements for the issuance of a certificate shall be met before a certificate is renewed. [1999 c.980 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.244 - Storage facility approval; inspection; relocation; rules; fees.**

- (1) A person may store explosives only in an explosives magazine that has been issued a certificate of registration by the State Fire Marshal or has been approved by the Bureau of Alcohol, Tobacco, Firearms and Explosives for storing that type of explosive.
- (2) An application for a certificate of registration shall be submitted on a form approved by the State Fire Marshal and shall contain all information required by rule of the State Fire Marshal, including but not limited to the magazine location and structural information.
- (3) The State Fire Marshal may establish by rule and collect application and registration fees in an amount necessary to cover the cost of administering the magazine registration program.

(4) Except as provided in subsection (5) of this section, prior to issuing a certificate of registration, the State Fire Marshal shall inspect the magazine to ensure that the magazine complies with the rules established by the State Fire Marshal under ORS 480.280. The State Fire Marshal shall issue a certificate of registration for the magazine unless the State Fire Marshal finds that the magazine does not comply with the rules and regulations adopted by the State Fire Marshal. Denial of a certificate of registration shall be in accordance with subsection (9) of this section.

(5) The State Fire Marshal may substitute for its own inspection of the magazine as required under subsection (4) of this section an inspection completed by the Bureau of Alcohol, Tobacco, Firearms and Explosives. The State Fire Marshal shall establish criteria for when the Bureau of Alcohol, Tobacco, Firearms and Explosives inspection may substitute for the State Fire Marshal inspection.

(6) A certificate of registration shall be valid for two years unless suspended or revoked as provided under subsection (9) of this section.

(7) An application for the renewal of a certificate of registration shall be accompanied by any application fee established by the State Fire Marshal. A person who applies to renew a certificate before the person's current certificate expires does not need to retake the safety examination described under ORS 480.225 (1)(j). Each magazine shall be reinspected prior to renewal of the certificate of registration.

(8) If a magazine required to be registered under this section or that is approved by the Bureau of Alcohol, Tobacco, Firearms and Explosives is relocated, the person responsible for the magazine shall notify the State Fire Marshal within 24 hours of the relocation. Upon receiving notification under this subsection, the State Fire Marshal shall notify the fire department or fire protection agency having jurisdiction over the new location.

(9) The State Fire Marshal may deny, suspend or revoke a certificate of registration if the State Fire Marshal finds that the magazine is ineligible for a certificate of registration. If the State Fire Marshal denies, suspends or revokes the certificate of registration, the issuing authority shall issue a notification of denial, suspension or revocation, subject to ORS 480.275.

(10) The issuing authority may revoke the certificate of registration for failure to comply with any provision of ORS 480.200 to 480.290. [1999 c.980 §16; 2007 c.71 §161; 2009 c.164 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.265 - Report of loss, theft or unlawful removal of explosives required.**

The loss, theft or unlawful removal of an explosive from the possession of any person shall be reported by the person within 24 hours to the issuing authority and a law enforcement agency of this state. The report shall include the type and quantity of the explosive. [1971 c.518 §18; 1999 c.980 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.270 - Revocation or suspension for violations; surrender of certificate of possession.**

(1) The issuing authority may suspend or revoke a certificate of possession if the issuing authority finds that the person to whom the certificate of possession was issued is ineligible for the certificate of possession under ORS 480.225 or 480.230 or that the person has been convicted of a violation under ORS 480.990 (6).

(2) A certificate of possession suspended or revoked under subsection (1) of this section shall be void from the date of the suspension or revocation. The person to whom the certificate of possession was issued shall surrender the suspended or revoked certificate of possession to the issuing authority upon the demand of the issuing authority. [1971 c.518 §19; 1987 c.158 §109; 1999 c.980 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.275 - Hearings on denial, suspension or revocation of certificate.**

An applicant who has been denied a certificate of possession or a certificate of registration or a person whose certificate of possession or certificate of registration has been suspended or revoked is entitled to a hearing before the issuing authority under ORS chapter 183. [1971 c.518 §20; 1999 c.980 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.280 - Administration and enforcement by State Fire Marshal; rules; appointment of assistants.**

(1) The State Fire Marshal shall administer and enforce ORS 480.200 to 480.290 and 480.990 (6) and may, in accordance with the applicable provisions of ORS chapter 183, adopt rules considered to be necessary in carrying out ORS 480.200 to 480.290 and 480.990 (6). The rules adopted shall be such as are reasonably necessary for the protection of the public health, welfare and safety and of persons possessing or storing explosives.

(2) The State Fire Marshal may appoint an individual, designated as assistant by ORS 476.060 (1), or any other individual to act as the assistant of the State Fire Marshal in the administration and enforcement of ORS 480.200 to 480.290 and 480.990 (6). [1971 c.518 §§21,23; 1987 c.158 §110; 1999 c.980 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives;**

**Flammable Materials; Pressure VesselsSection 480.290 - Requirements for person driving vehicle transporting explosives.**

- (1) Each person who drives or has charge of a vehicle transporting explosives must comply with the requirements of the United States Department of Transportation.
- (2) Except as provided in subsection (3) of this section, the driver of a vehicle transporting any quantity of explosives must attend the vehicle at all times.
- (3) The driver of a vehicle transporting explosives may leave the vehicle unattended only at a designated location that has been approved for such parking by the State Fire Marshal or by the local government agency that has responsibility for fire protection.
- (4) A vehicle which contains explosives must not be parked within 300 feet of any bridge, tunnel, dwelling, building or place where people work, congregate or assemble except for brief periods when the necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.
- (5) As used in this section, a vehicle is "attended" when the person in charge of the vehicle is on the vehicle, awake and not in a sleeper berth, or is within 100 feet of the vehicle and has it within unobstructed field of view.
- (6) All vehicles containing explosives shall display appropriate placards conforming to the requirements of the United States Department of Transportation. [1985 c.165 §2; 1999 c.980 §12; 2009 c.164 §4]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 480 - Explosives; Flammable Materials; Pressure VesselsSection 480.310 - Definitions for ORS 480.310 to 480.385.**

As used in ORS 480.310 to 480.385:

- (1) "Class 1 flammable liquids" means liquids with a flash point below 25 degrees Fahrenheit, closed cup tester.
- (2) "Nonretail facility" means an unattended facility where Class 1 flammable liquids are dispensed through a card or key activated fuel dispensing device to nonretail customers. [Amended by 1991 c.863 §48]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 480 - Explosives; Flammable Materials; Pressure VesselsSection 480.332 - Fuel dispensing devices.**

- (1) A filling station, service station, garage or other dispensary where Class 1 flammable liquids are dispensed at retail may not designate more than the same number of fuel dispensing devices for self-service use by customers as are designated for attended service by an owner, operator or employee of the dispensary of Class 1 flammable liquids.
- (2) A self-service fuel dispensing device may be equipped with an automated payment device and must be equipped with an automatic nozzle as described in ORS 480.340.
- (3) A filling station, service station, garage or other dispensary offering fuel dispensing devices for self-service must:
  - (a) Post one or more notification signs that are clearly readable by an operator of a motor vehicle stating which fuel dispensing devices are designated for self-service and which fuel dispensing devices are designated for attended service by an owner, operator or employee of the dispensary of Class 1 flammable liquids; and
  - (b) Designate at least one person to provide attended service.
- (4) Except as provided in ORS 480.341 and subsection (7) of this section, a filling station, service station, garage or other dispensary may allow self-service dispensing of Class 1 flammable liquids at retail only during hours that the dispensary makes an owner, operator or employee of the dispensary available for the dispensing of Class 1 flammable liquids.
- (5) The price charged for Class 1 flammable liquids must be identical at a self-service fuel dispensing device and at any fuel dispensing device reserved for use by an owner, operator or employee of a dispensary.
- (6) Sales under subsection (4) of this section do not make a filling station, service station, garage or other dispensary where Class 1 flammable liquids are dispensed at retail subject to any provisions of ORS 480.310 to 480.385 regulating nonretail facilities.
- (7) The operator of a motorcycle, as defined in ORS 801.365, may dispense Class 1 flammable liquids into the operator's motorcycle, regardless of whether an owner, operator or employee of the dispensary offers use of self-service fuel dispensing devices for use by customers.
- (8) This section does not prohibit, limit or condition any dispensing of Class 1 flammable liquids or diesel fuel otherwise authorized under ORS 480.310 to 480.385. [2023 c.607 §2]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 480 - Explosives; Flammable Materials; Pressure VesselsSection 480.340 - Automatic shut-off devices regulated; aviation fuel exception.**

An owner, operator or employee of a filling station, service station, garage or other dispensary where Class 1 flammable liquids, except aviation fuels, are dispensed at retail may not install or use or permit the use of a device that permits the dispensing of the liquids when the operator of the discharge nozzle removes the operator's hand from the control lever, unless the device is equipped with an automatic nozzle of a type that has been approved by the State Fire Marshal and that has as an integral part of the automatic nozzle assembly a latch-open device capable of shutting off the flow of the liquids reliably when the tank is filled or when the nozzle falls or slips from the filling neck of the tank. [Amended by 1959 c.73 §2; 2001 c.285 §2; 2023 c.607 §3]

Note:

Sections 1 and 2, chapter 261, Oregon Laws 2023, provide:  
Sec. 1.

(1) As used in this section, "2020 wildfires" includes all wildfires within Marion County that were identified in an executive order issued by the Governor in accordance with the Emergency Conflagration Act under ORS 476.510 to 476.610 between August 1 and September 30, 2020.

(2) Notwithstanding ORS 480.320 [repealed], 480.330 [repealed], 480.340 and 480.349 [repealed], and subject to ORS 480.344, a filling station, service station, garage or other dispensary where Class 1 flammable liquids are dispensed at retail may permit a customer to use or manipulate a device for dispensing liquids into the fuel tank of a motor vehicle or other retail container, regardless of whether an owner, operator or employee of the dispensary is present at the dispensary if:

(a) The dispensary is located within a city of Marion County that was directly impacted as a result of the 2020 wildfires; and

(b) The city described in paragraph (a) of this subsection is located at least 15 driving miles from another city with a retail dispensary, measured by the shortest distance by public roads between the two dispensaries.

(3) Sales under subsection (2) of this section do not make a filling station, service station, garage or other dispensary where Class 1 flammable liquids are dispensed at retail subject to any provisions of ORS 480.315 to 480.385 [series became 480.310 to 480.385] regulating nonretail facilities.

(4) This section does not prohibit, limit or condition any dispensing of Class 1 flammable liquids or diesel fuel otherwise authorized under ORS 480.315 to 480.385. [2023 c.261 §1]

Sec. 2.

Section 1 of this 2023 Act is repealed on January 2, 2029. [2023 c.261 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.341 - Customer operation of gasoline dispensing device in low-population county of eastern Oregon.**

(1) As used in this section, "rural Oregon" means Baker, Clatsop, Crook, Curry, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler Counties.

(2) Subject to subsection (3) of this section, if a filling station, service station, garage or other dispensary where Class 1 flammable liquids are dispensed at retail is located in rural Oregon, the owner or operator may permit a customer to use or manipulate a device for dispensing liquids into the fuel tank of a motor vehicle or other retail container, regardless of whether an owner, operator or employee of the dispensary is present at the dispensary.

(3) If the site of a dispensary described in subsection (2) of this section includes retail space providing goods or services, other than goods or services for maintaining, repairing or cleaning a motor vehicle, the dispensary shall make an owner, operator or employee available for dispensing Class 1 flammable liquids after 6 a.m. and before 6 p.m.

(4) If a nonretail facility is located in rural Oregon, the owner or operator may, subject to ORS 480.340:

(a) Permit the dispensing of Class 1 flammable liquids at retail;

(b) Permit a person other than an owner, operator, employee or nonretail customer to use or manipulate a device for dispensing liquids into the fuel tank of a motor vehicle or other retail container; and

(c) Permit the use of an installed automated payment or self-service dispensing fuel device for the liquids.

(5)(a) Sales under subsection (2) of this section do not make a filling station, service station, garage or other dispensary where Class 1 flammable liquids are dispensed at retail subject to any provisions of ORS 480.310 to 480.385 regulating nonretail facilities.

(b) Sales under subsection (4) of this section do not require that a nonretail facility possess a license to dispense Class 1 flammable liquids at retail.

(c) Sales under subsection (4) of this section do not require that a nonretail facility possess a conditional use license issued under ORS 480.355. However, sales under subsection (4) of this section do not prevent a nonretail facility that qualifies under ORS 480.355 from also possessing a conditional use license.

(d) Purchasing Class 1 flammable liquids under subsection (4) of this section does not make a retail customer subject to any gallonage requirement set forth in ORS 480.345.

(e) Purchasing Class 1 flammable liquids under subsection (4) of this section does not make a retail customer subject to rules of the State Fire Marshal establishing safety training requirements.

(6) This section does not prohibit, limit or condition any dispensing of Class 1 flammable liquids or diesel fuel otherwise authorized under ORS 480.310 to 480.385.

(7) No later than 90 days prior to commencing sales under subsection (4) of this section, a nonretail facility shall notify the State Fire Marshal that the facility plans to dispense Class 1 flammable liquids at retail under this section. [2015 c.525 §2; 2017 c.207 §1; 2023 c.607 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.344 - Equal access for persons with disabilities.**

A filling station, service station, garage or other dispensary subject to ORS 480.332 or 480.341, that makes an owner, operator or employee available for dispensing Class 1 flammable liquids, shall provide equal access to the dispensing services of the dispensary to persons with disabilities. Equal access shall be provided by:

(1) Posting a sign that is clearly readable by an operator of a motor vehicle that notifies persons with disabilities that refueling assistance may be requested by:

- (a) Contacting the dispensary owner, operator or employee at the telephone number provided in the sign; and
- (b) Signaling to the dispensary owner, operator or employee in any other manner described in the sign;
- (2) Providing refueling assistance upon request of a person with a disability; and
- (3) Providing refueling assistance without charging an additional service fee. [2019 c.237 §1; 2023 c.607 §8]

Note:

480.344 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 480 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.345 - Conditions for operation of dispensing device by certain nonretail customers.**

The owner, operator or employee of a dispensing facility may permit nonretail customers other than the owner, operator or employee to use or manipulate at the dispensing facility a card activated or key activated device for dispensing Class 1 flammable liquids into the fuel tank of a motor vehicle or other container under the following conditions:

- (1) The owner or operator shall hold a current nonretail facility license issued by the State Fire Marshal under ORS 480.350;
- (2) Except as provided in ORS 480.360, a nonretail customer shall purchase at least 900 gallons of Class 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such liquids or fuel purchased is less than 900 gallons annually, file documentation that:
  - (a) The fuel qualifies as a deductible farming expense on the customer's federal income tax return;
  - (b) The fuel was purchased by a governmental agency providing fire, ambulance or police services; or
  - (c) The fuel was purchased by:
    - (A) A people's utility district organized under ORS chapter 261;
    - (B) A domestic water supply district organized under ORS chapter 264;
    - (C) A mass transit district organized under ORS 267.010 to 267.394;
    - (D) A metropolitan service district organized under ORS chapter 268;
    - (E) A special road district organized under ORS 371.305 to 371.360;
    - (F) A 9-1-1 communications district organized under ORS 403.300 to 403.380;
    - (G) A sanitary district organized under ORS 450.005 to 450.245;
    - (H) A sanitary authority, water authority or joint water and sanitary authority organized under ORS 450.600 to 450.989;
    - (I) A rural fire protection district organized under ORS chapter 478;
    - (J) A water improvement district organized under ORS chapter 552;
    - (K) A water control district organized under ORS chapter 553; or
    - (L) A port organized under ORS chapter 777.
- (3) The nonretail customer shall provide a federal employer identification number or equivalent documentation to indicate participation in a business or employment with a government agency or nonprofit or charitable organization;
- (4) The nonretail customer, other than the owner or operator, dispensing Class 1 flammable liquids shall be employed by a business, government agency or nonprofit or charitable organization and shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other container owned or used by the business, government agency or nonprofit or charitable organization;
- (5) The nonretail customer, other than the owner, operator or employee, dispensing Class 1 flammable liquids shall have satisfied safety training requirements in compliance with rules of the State Fire Marshal; and
- (6) The owner or operator shall enter into a written agreement with nonretail customers permitted under this section to dispense fuel at the nonretail facility. Except as otherwise provided in ORS 480.355, the agreement shall at a minimum:
  - (a) Certify that the nonretail customer will purchase at least 900 gallons of Class 1 flammable liquids or diesel fuel from any source during a 12-month period or, if the amount of such liquids or fuel purchased is less than 900 gallons annually, file documentation that:
    - (A) The fuel qualifies as a deductible farming expense on the customer's federal income tax return; or
    - (B) The fuel was purchased by a governmental agency providing fire, ambulance or police services;
  - (b) Provide a federal employer identification number or equivalent documentation to indicate participation in a business or employment with a government agency or nonprofit or charitable organization;
  - (c) Certify that the nonretail customer is employed by a business, government agency or nonprofit or charitable organization and that the nonretail customer shall dispense Class 1 flammable liquids only into the fuel tank of a motor vehicle or other container owned or used by the business, government agency or nonprofit or charitable organization;
  - (d) Certify that the nonretail customer has satisfied safety training requirements in compliance with rules of the State Fire Marshal; and
  - (e) Require the nonretail customer to submit a sworn statement, as defined in ORS 162.055, that the information supplied in the agreement is true and correct. [1991 c.863 §50; 1993 c.469 §7; 2001 c.328 §§1,2; 2010 c.107 §14; 2015 c.207 §1; 2023 c.607 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.347 - Use of gasoline dispensing device by emergency service volunteer;**

**conditions.**

Notwithstanding any restriction in ORS 480.332, 480.341 or 480.345, during an emergency as defined in ORS 401.025, the owner, operator or employee of a dispensing facility may permit nonretail customers, other than the owner, operator or employee, to use or manipulate at the dispensing facility a card activated or key activated device for dispensing Class 1 flammable liquids into the fuel tank of a vehicle or other container if:

- (1) The owner or operator holds a current nonretail facility license issued by the State Fire Marshal under ORS 480.350;
- (2) The fuel is dispensed to an emergency service agency as defined in ORS 401.025 or to an entity authorized by an emergency service agency to provide services during an emergency;
- (3) The nonretail customer, other than the owner or operator, dispensing Class 1 flammable liquids is a qualified emergency service volunteer as defined in ORS 401.358 or an owner or employee of the entity authorized by the emergency service agency to provide services during an emergency and dispenses Class 1 flammable liquids only into the fuel tank of a vehicle or other container owned and used by the emergency service agency or the entity authorized by that agency to provide services during an emergency; and
- (4) The nonretail customer, other than the owner, operator or employee, dispensing Class 1 flammable liquids satisfies safety training requirements in compliance with rules of the State Fire Marshal. [1999 c.456 §2; 2009 c.718 §26; 2023 c.607 §7]

Note:

Sections 10 and 11, chapter 607, Oregon Laws 2023, provide:

Sec. 10.

The Department of the State Fire Marshal, in collaboration with organizations representing filling stations, service stations, garages or other dispensaries, may engage in public outreach efforts to educate the public generally about the changes in attended fuel service laws and to educate operators of filling stations, service stations, garages or other dispensaries where Class 1 flammable liquids are dispensed at retail about the requirements under section 2 of this 2023 Act [480.332], the amendments to ORS 479.180, 480.340, 480.341, 480.344, 480.345 and 480.347 by sections 3 to 8 of this 2023 Act and the repeal of ORS 480.315, 480.320, 480.330, 480.343 and 480.349 by section 9 of this 2023 Act. [2023 c.607 §10]

Sec. 11.

Section 10 of this 2023 Act is repealed on January 2, 2024. [2023 c.607 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.350 - License required for operation of nonretail facility; application; fee; term; renewal; disposition of fees.**

- (1) Except as provided in ORS 480.355, a nonretail facility shall not operate without a license issued under this section.
- (2) The State Fire Marshal shall issue a nonretail facility license to a person if the person submits an application to the State Fire Marshal on a form approved by the State Fire Marshal for each nonretail facility and the application includes:
  - (a) A statement that the applicant will comply with the requirements of ORS 480.345;
  - (b) A copy of the form that will be used by the applicant as the agreement required under ORS 480.345 between the applicant and nonretail customers permitted to dispense fuel at the nonretail facility;
  - (c) A sworn statement, as defined in ORS 162.055, that information supplied in the application is true and correct; and
  - (d) An application fee of \$300.
- (3) The applicant for a nonretail facility license shall bear the burden of proof that the requirements of this section and of any rules of the State Fire Marshal adopted to implement this section are satisfied.
- (4) In addition to any license or renewal fees, a licensee shall pay an annual fee of \$10 for each nonretail customer that enters into a written agreement with the owner or operator of the nonretail facility under ORS 480.345.
- (5) A license issued under this section shall be valid for a period of one year from the date of issuance.
- (6) A license may be renewed upon payment to the State Fire Marshal of an annual license renewal fee of \$300.
- (7) All fees received by the State Fire Marshal pursuant to this section shall be deposited with the State Treasurer and shall be placed in the State Fire Marshal Fund. [1991 c.863 §51; 1995 c.79 §292; 2010 c.107 §§11,12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.355 - Conditional use license; qualifications; application; review of denial.**

- (1) Notwithstanding ORS 480.345, upon application from the owner or operator of a nonretail facility, the State Fire Marshal may issue a conditional use license under which the nonretail facility may permit persons who are not qualified as nonretail customers under ORS 480.345 (2) to (4) to dispense Class 1 flammable liquids at a nonretail facility.
- (2) In issuing a conditional use license, the State Fire Marshal may waive the nonretail customer requirements of ORS 480.345 (2) to (4), but may not waive safety training requirements contained in ORS 480.345.
- (3) The State Fire Marshal may issue a conditional use license under this section if the State Fire Marshal determines that:
  - (a) There is no facility where Class 1 flammable liquids are dispensed by attendants at retail within seven miles of the nonretail facility, and other undue hardship conditions exist, as may be determined by the State Fire Marshal by rule; or
  - (b) The nonretail facility exists on property used as a private, nonprofit golf club not open to the general public and the private,



nonprofit golf club members who are not qualified as nonretail customers use the nonretail facility only for the fueling of vehicles that are used exclusively on the property of the private, nonprofit golf club and are not designed for highway use.

(4) The State Fire Marshal shall consider comments of local residents or local government bodies to determine if undue hardship exists.

(5) The provisions of ORS 480.345 and 480.350 apply to a license application made under this section, except those provisions whose applicability is waived by the State Fire Marshal under this section.

(6) The applicant for a conditional use license shall bear the burden of proof that the requirements of this section and of any rules of the State Fire Marshal adopted pursuant to this section are satisfied.

(7) The State Fire Marshal shall investigate any application made under this section and hold at least one public hearing to determine if the conditional use license should be issued. The State Fire Marshal may waive the requirement for a hearing if the application for a conditional use license is made by a private, nonprofit golf club.

(8) Any person who makes application as provided for in this section, and whose application is denied, shall be entitled to a hearing upon request. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.

(9) Judicial review of an order made after a hearing under subsection (7) of this section shall be as provided in ORS 183.480 to 183.497 for judicial review of contested cases. [1991 c.863 §56; 1995 s.s. c.3 §35; 1996 c.11 §2; 1997 c.463 §1; 1999 c.95 §1; 2001 c.104 §220; 2001 c.285 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.360 - Exemption from gallonage requirements of ORS 480.345.**

Any person who was a customer of a facility that is issued a license under ORS 480.350 and was a customer on and since June 30, 1991, and who qualifies as a nonretail customer under the provisions of ORS 480.345, shall be exempt from the gallonage requirements set forth in ORS 480.345 (2). [1991 c.863 §50a]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.365 - Suspension, revocation, refusal to issue or renew nonretail facility license; procedure.**

In accordance with ORS chapter 183, the State Fire Marshal may revoke or suspend or may refuse to issue or renew a nonretail facility license if the State Fire Marshal finds that an applicant or a person to whom the license was issued:

(1) Falsified the application for the license; or

(2) Failed to comply with any provision of ORS 480.310 to 480.385 or any applicable rule adopted by the State Fire Marshal. [1991 c.863 §52]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.370 - Subpoenas for investigation; effect of failure to comply.**

(1) The State Fire Marshal may issue subpoenas to compel the production of records, documents, books, papers, memoranda or other information necessary to determine compliance with any provision of ORS 480.310 to 480.385 or any rule adopted by the State Fire Marshal.

(2) If a person fails to comply with any subpoena issued under subsection (1) of this section, a judge of the circuit court of any county, on application of the State Fire Marshal, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the circuit court. [1991 c.863 §54]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.375 - Safety inspection of facilities by State Fire Marshal; audit; investigation of law violations.**

(1) The State Fire Marshal shall conduct an annual safety inspection at all nonretail and dual operations facilities dispensing Class 1 flammable liquids to determine if the facility is operating in compliance with the provisions of ORS 480.310 to 480.385 or of any applicable rule adopted by the State Fire Marshal.

(2) The State Fire Marshal shall conduct annual audits of at least five percent of all nonretail accounts to determine if nonretail facilities are in compliance with the provisions of ORS 480.310 to 480.385 and any applicable rule adopted by the State Fire Marshal.

(3) The State Fire Marshal shall have the same authority to enter into all buildings and upon all dispensing facilities for the purpose of inspection as is specified in ORS chapter 476 relating to inspection of fire hazards.

(4) Upon receiving a complaint, or upon the State Fire Marshal's own motion, the State Fire Marshal shall investigate whether a violation of any provision of ORS 480.310 to 480.385 or of any applicable rule of the State Fire Marshal has occurred. [1991 c.863 §53]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.380 - Rules.**

In accordance with applicable provisions of ORS chapter 183, the State Fire Marshal, in consultation with the Department of Environmental Quality, shall adopt rules:

- (1) Necessary for the administration of ORS 480.310 to 480.385;
- (2) Establishing standards for the design, construction, location, installation and operation of retail, automated or dual operations equipment for storing, handling and dispensing Class 1 flammable liquids at any dispensing facility; and
- (3) Establishing standards for public and environmental safety in the operation of nonretail facilities and establishing safety training requirements for nonretail customers authorized to dispense Class 1 flammable liquids at nonretail facilities. [1991 c.863 §57]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.385 - Civil penalty for gasoline dispensing law violations.**

- (1) The State Fire Marshal may impose a civil penalty not to exceed \$500 for each violation of any provision of ORS 480.310 to 480.385 or of any applicable rule adopted by the State Fire Marshal.
- (2) A civil penalty imposed under this section shall become due and payable 10 days after the order imposing the civil penalty becomes final by operation of law or on appeal. A person against whom a civil penalty is to be imposed shall be served with a notice in the form provided in ORS 183.415. Service of the notice shall be accomplished in the manner provided by ORS 183.415.
- (3) The person to whom the notice is addressed shall have 20 days from the date of service of the notice provided for in subsection (2) of this section in which to make written application for a hearing. If no application for a hearing is made, the State Fire Marshal may make a final order imposing the penalty.
- (4) Any person who makes application as provided for in subsection (3) of this section shall be entitled to a hearing. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.
- (5) Judicial review of an order made after a hearing under subsection (4) of this section shall be as provided in ORS 183.480 to 183.497 for judicial review of contested cases.
- (6) When an order assessing a civil penalty under this section becomes final by operation of law or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record.
- (7) All amounts recovered under this section shall be deposited with the State Treasurer and shall be placed in the State Fire Marshal Fund. [1991 c.863 §55]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.387 - Timeline for imposing civil penalties.**

Notwithstanding ORS 480.385, the State Fire Marshal may only impose civil penalties for conduct violating ORS 480.332 or the amendments to ORS 479.180, 480.340, 480.341, 480.344, 480.345 and 480.347 by sections 3 to 8, chapter 607, Oregon Laws 2023, if the conduct occurs on or after March 1, 2024. [2023 c.607 §12]

Note:

480.387 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 480 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.390 - Nonretail facilities at airports; rules.**

- (1) As used in this section, "nonretail facility" has the meaning given that term in ORS 480.310.
- (2) A person may not construct or install a nonretail facility that dispenses aviation fuels at an airport unless the Director of the Oregon Department of Aviation permits the facility.
- (3) The director may not permit the construction or installation of a nonretail facility unless the airport owner permits the facility.
- (4) The director shall by rule establish a procedure to give permission for nonretail facilities that dispense aviation fuels at airports. [2001 c.285 §4]

Note:

480.390 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 480 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.410 - Definition.**

As used in ORS 480.420 to 480.460, "LP gas" or "liquefied petroleum gas" means any liquid composed predominantly of any of the following hydrocarbons or mixtures of the same: Propane, propylene, butanes (normal butane or isobutane) and butylenes. [Amended by 1957 c.712 §1; 2009 c.790 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.420 - Liquefied petroleum gas rules and regulations; conformity with standards of National Fire Protection Association.**

(1) The State Fire Marshal shall make, promulgate and enforce regulations establishing minimum general standards for the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck or tank trailer and utilizing liquefied petroleum gases and specifying the degree of odorization of the gases, and shall establish standards and rules for the issuance, suspension and revocation of licenses and permits provided in ORS 480.410 to 480.460.

(2) The regulations required shall be such as are reasonably necessary for the protection of the health, welfare and safety of the public and of persons using or handling such materials, and shall be in substantial conformity with the generally accepted standards of safety relating to the same matter. Regulations in substantial conformity with the published standards of the National Fire Protection Association pamphlet No. 58 and pamphlet No. 59 for the design, installation and construction of containers and equipment thereto pertaining, for the storage and handling of liquefied petroleum gases, including utility gas plants, as recommended by the National Fire Protection Association, and the published standards of the National Fire Protection Association pamphlet No. 54 for liquefied petroleum gas piping and appliance installations in buildings, shall be deemed to be in substantial conformity with the generally accepted standards of safety relating to the same subject matter. [Amended by 1957 c.712 §2; 1961 c.477 §1; 1967 c.417 §26; 2009 c.790 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.430 - Liquefied petroleum gas containers; certain uses prohibited.**

No person other than the owner of the container or receptacle and those authorized by the owner so to do, shall sell, fill, refill, deliver or permit to be delivered or used in any manner any liquefied petroleum gas container or receptacle for any gas or compound or for any other purpose. [Amended by 1965 c.602 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.432 - Licenses required; exceptions.**

(1) A person may not engage in or work at the business of installing, extending, altering or repairing any LP gas appliance or piping, vent or flue connection pertaining to or in connection with LP gas installations within the state, either as employer or individual, unless the person has received an LP gas installation license from the State Fire Marshal in accordance with ORS 480.410 to 480.460.

(2) A person may not do any LP gas fitting or gas venting work, install, repair or remodel any piping or venting or do any installation, repair service, connection or disconnection of any LP gas appliance that is subject to inspection under ORS 480.410 to 480.460 unless the person has received an LP gas fitter license from the State Fire Marshal in accordance with ORS 480.410 to 480.460.

(3) A person may not operate any LP gas delivery equipment installed on a motorized vehicle unless the person has received an LP gas truck equipment license from the State Fire Marshal in accordance with ORS 480.410 to 480.460.

(4) Any person under the terms of this section who is required to have an LP gas fitter or LP gas truck equipment license is also required to have an LP gas installation license, unless the person is an employee of an employer who has an LP gas installation license as provided by this section.

(5) A person who holds a valid journeyman plumber license under ORS 693.060 or who is in an approved journeyman plumber apprenticeship established under ORS 660.002 to 660.210 is exempt from the licensing requirements of subsections (1) and (2) of this section, except that the apprentice or journeyman plumber may not install an LP gas tank or make any connection to an LP gas tank unless the apprentice or journeyman plumber is licensed as required under this section.

(6) A person who holds a license issued by the Department of Consumer and Business Services under ORS 480.630 of a class that authorizes the person to fabricate, install, alter or repair pressure piping and to install boilers and pressure vessels by attachment of piping connector is exempt from the licensing requirements of subsections (1) and (2) of this section, except that the person may not install an LP gas tank or make any connection to an LP gas tank unless the person is licensed as required under this section.

(7) Subsections (1) to (4) of this section do not apply to LP gas installations in a manufactured dwelling performed during the construction of the manufactured dwelling, or the alteration or repair of an LP gas installation in a manufactured dwelling made pursuant to the manufacturer's warranty. The provisions of this section do not apply to LP gas work on recreational vehicles as defined in ORS 174.101. [1957 c.712 §4; 1967 c.417 §27; 1999 c.558 §4; 1999 c.852 §1; 2001 c.104 §221; 2003 c.652 §1; 2005 c.758 §34; 2019 c.422 §37]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.434 - Examination of applicants for licenses; examination fee; issuance of license.**

(1) The State Fire Marshal shall examine applicants for licenses required under ORS 480.410 to 480.460 as to their knowledge of LP gas, its properties, related equipment and applicable safety regulations. An applicant for examination must submit an examination application, accompanied by an examination fee of \$55, prior to the examination.

(2) LP gas fitters and drivers must be examined and obtain a license after not more than a 60-day probationary period of on-the-job training under licensed supervision.

(3) The State Fire Marshal shall examine LP gas installation license applicants regarding the applicable code and statutory responsibilities. The successful examination of one member of a firm or executive of a corporation at each business or dealership

location fulfills the examination requirement on behalf of the firm or corporation. Each LP gas business or dealership location must obtain an LP gas installation license.

(4) If satisfied that the applicant has the requisite knowledge, the State Fire Marshal shall issue the appropriate license or licenses to the applicant, as provided in ORS 480.410 to 480.460. [1957 c.712 §5; 1967 c.417 §28; 1987 c.346 §1; 2003 c.652 §2; 2009 c.790 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.435 - Licenses; revocation; suspension; refusal to issue or renew.**

In accordance with ORS chapter 183, the State Fire Marshal may revoke or suspend or may refuse to issue or renew a license required pursuant to ORS 480.410 to 480.460, or may place the licensee in a probationary status subject to specified conditions, if the State Fire Marshal finds that the person to whom the license was issued:

- (1) Deliberately falsified the application form for the LP gas license or examination;
- (2) Has committed a violation of ORS 162.305;
- (3) Failed to comply with any provision of ORS 480.410 to 480.460, or any rule adopted pursuant thereto; or
- (4) Failed to maintain the status required under ORS 480.434. [1987 c.346 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.436 - License fees; term of licenses; delinquency penalty.**

- (1) The annual fee for the LP gas installation license is \$130.
- (2) The biennial fee for an LP gas fitter license or an LP gas truck equipment license is \$60.
- (3) All licenses must be renewed on or before a date specified by the State Fire Marshal. Unless revoked or suspended by the State Fire Marshal for failure to comply with the provisions of ORS 480.410 to 480.460, an LP gas installation license continues in force for one year from the date of issuance. An LP gas fitter license or an LP gas truck equipment license continues in force for two years from the date of issuance. The State Fire Marshal, by rule, may establish a system for staggered license expiration dates that includes prorated fees for periods of less than one year for an LP gas installation license and less than two years for an LP gas fitter license or an LP gas truck equipment license.
- (4) If the fees provided for in this section are due and payable and are not paid within 30 days after service of written notice by the State Fire Marshal therefor, the fees are delinquent and a penalty equal to the greater of 10 percent of the license fee amount or \$30 is imposed for the delinquency. [1957 c.712 §6; 1967 c.417 §29; 1973 c.832 §15; 1993 c.115 §1; 1995 c.79 §293; 1999 c.558 §1; 2003 c.652 §3; 2009 c.790 §§6,7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.440 - Inspection of certain storage tanks; fee.**

The State Fire Marshal shall annually inspect an installation of storage tanks located at dealers' plants. The State Fire Marshal may annually inspect an installation of tanks used for delivery purposes. The State Fire Marshal shall collect a fee of \$100 for each plant inspection and \$24 for each delivery unit inspection. [Amended by 1953 c.228 §4; 1957 c.712 §7; 1967 c.417 §30; 1973 c.832 §16; 1999 c.558 §2; 2003 c.652 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.445 - Regulation of liquefied petroleum gas container or receptacle siting and installation.**

- (1) The regulation of liquefied petroleum gas containers or receptacles by the State Fire Marshal pursuant to ORS 480.410 to 480.460 is not a program affecting land use under ORS 197.180.
- (2) A local government may not regulate the siting, installation, maintenance or removal of a liquefied petroleum gas container or receptacle regulated by the State Fire Marshal pursuant to ORS 480.410 to 480.460, except as provided in subsection (3) of this section or ORS 480.450 (7).
- (3) A local government may:
  - (a) Regulate the siting and installation of a liquefied petroleum gas container or receptacle with a capacity of more than 1,200 gallons or a group of containers and receptacles with an aggregate capacity of more than 4,000 gallons to protect the public health and safety.
  - (b) Regulate the siting and installation of liquefied petroleum gas containers or receptacles in a flood plain regulated by local ordinance.
  - (c) Regulate the siting and installation of liquefied petroleum gas containers or receptacles that are not accessory to an authorized or authorizable land use.
  - (d) Prohibit the siting and installation of liquefied petroleum gas containers or receptacles of specified types or sizes in specific zones within an urban growth boundary to protect the public health and safety.
  - (e) Regulate, through the local government's assistant to the State Fire Marshal as described in ORS 476.060, the placement of liquefied petroleum gas containers or receptacles for the purpose of fire prevention. [2005 c.88 §2; 2009 c.790 §8]

Note:

480.445 was added to and made a part of 480.410 to 480.460 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.450 - Notice of new installations; fees; inspections after original inspection; notice of changes; correction of improper installations required.**

(1) The installer shall notify the State Fire Marshal, before the last day of each month, of all new installations made during the preceding month of containers or receptacles for liquefied petroleum gas, including installations for private homes and apartments. The installer shall certify on a form provided by the State Fire Marshal that all of the new installations are duly and properly reported. The State Fire Marshal may require that the notification include the location and description of the installation and the name of the user. All fees due and payable must accompany the notification. The replacement of empty containers or receptacles with other containers constructed in accordance with United States Department of Transportation specifications is not a new installation or change in the original installation that requires notification to the State Fire Marshal or necessitates further inspection of the installation. The State Fire Marshal shall collect from the installer an installation fee of \$50 for each tank installed or for all tanks at the installation if the total combined capacity is 200 gallons or less. The State Fire Marshal or deputies of the fire marshal or assistants shall inspect a reasonable number of the installations and maintain a record of the inspections in the records of the Department of the State Fire Marshal.

(2) In addition to any installation or inspection fee, the State Fire Marshal may charge a plan review fee, not to exceed \$100, for any liquefied petroleum gas container and receptacle plan review required under a uniform fire code prescribed by the State Fire Marshal by rule.

(3) After the initial installation, liquefied petroleum gas containers may be inspected once every 10 years except when changes have been made in the original installation. An installer making changes must notify the State Fire Marshal of the changes in the same manner provided in this section for new installations. The State Fire Marshal shall collect from the owner a fee of \$50 for the inspection of each container. The manner of inspection, requirement of corrections, satisfaction of requirements and collection of fees due and payable must conform with the provisions of ORS 480.410 to 480.460 for new installations. Upon request of the State Fire Marshal, LP gas installation licensees shall furnish a list of the locations of 10-year old installations that they service.

(4) If, upon inspection of any tank, the new installation does not comply with the requirements of the State Fire Marshal, the State Fire Marshal shall instruct the installer as to what corrections are necessary for compliance with the State Fire Marshal's requirements. The installer of the new installation shall, within the time set by the State Fire Marshal, not to exceed 60 days after notification, notify the State Fire Marshal that the new installation complies with the requirements of the fire marshal. If the installer fails to notify the State Fire Marshal, or the State Fire Marshal has reason to believe that the corrections have not been made, the State Fire Marshal shall reinspect the new installation and shall collect from the installer an additional fee of \$125. The user, not the installer, shall pay the additional fee resulting from actions of the user that require correction to achieve compliance with the requirements of the State Fire Marshal.

(5) A person who receives notice from the State Fire Marshal must correct any improper installation within the time set by the State Fire Marshal, not to exceed 60 days after receipt of the notice.

(6) If the fees provided for in this section are due and payable and are not paid within 30 days after service of written notice by the State Fire Marshal therefor, or if the installer fails to notify the State Fire Marshal by the last day of the month succeeding the month a new installation is made or a change is made requiring an inspection, the fees are delinquent and a penalty equal to the greater of 10 percent of the fee amount or \$30, is imposed for the delinquency. The State Fire Marshal shall collect all fees and penalties in the name of the State of Oregon in the same manner that other debts are collected.

(7) The provisions of this section do not apply to liquefied petroleum gas installations if made entirely within the jurisdiction of a governmental subdivision granted the exemption provided by ORS 476.030 (3) and written evidence of the licensing of the installation by the approved authority is submitted to the State Fire Marshal. The provisions of this section do not apply to LP gas installations made in manufactured dwellings that are constructed or altered in accordance with applicable rules of the Department of Consumer and Business Services. The provisions of this section do not apply to LP gas installations in a recreational vehicle as defined in ORS 174.101. [Amended by 1953 c.228 §4; 1957 c.712 §8; part renumbered 480.460; 1967 c.417 §31; 1973 c.832 §17; 1987 c.346 §4; 1987 c.414 §159a; 1993 c.18 §124; 1993 c.185 §33; 1995 c.79 §294; 1995 c.305 §1; 1999 c.558 §3; 2003 c.652 §5; 2009 c.790 §§9,10; 2019 c.422 §38; 2021 c.539 §141]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.460 - Disposition of fees.**

All fees received by the State Fire Marshal under ORS 480.200 to 480.290 and 480.410 to 480.460 shall be paid by the State Fire Marshal to the State Treasurer monthly and shall constitute and be an appropriation to the Department of the State Fire Marshal available for the payment of salaries and expenses of deputies and clerical and other assistants of the State Fire Marshal. [Formerly part of 480.450; 1973 c.832 §18; 2021 c.539 §142]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives;**

**Flammable Materials; Pressure VesselsSection 480.510 - Short title.**

ORS 480.510 to 480.670 may be cited as the Boiler and Pressure Vessel Law. [1961 c.485 §1; 1969 c.582 §1; 1983 c.676 §2]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 480 - Explosives; Flammable Materials; Pressure VesselsSection 480.515 - Definitions for ORS 480.510 to 480.670.**

As used in ORS 480.510 to 480.670, unless the context requires otherwise:

- (1) "Alteration" means a change or addition to equipment, other than the ordinary repair or replacement of an existing part of the equipment.
- (2) "Board" means the Board of Boiler Rules created under ORS 480.535.
- (3) "Boiler" or "boilers" means:
  - (a) A closed vessel or vessels intended for the heating or vaporizing of liquids to be used externally to such vessel or vessels by the application of heat from combustible fuels, electricity or nuclear energy;
  - (b) Related appurtenances including but not limited to pressure piping directly connected and related to the safe operation of a boiler; and
  - (c) Pressure piping consisting of boiler or nonboiler external piping connected to a boiler, but not potable water nonboiler external piping.
- (4) "Boiler external piping" has the meaning given the term in the 1986 Pressure Piping Code B 31.1, adopted by the American Society of Mechanical Engineers.
- (5) "Certificate of competency" means a certificate issued under the provisions of ORS 480.565 (3).
- (6) "Department" means the Department of Consumer and Business Services.
- (7) "Director" means the Director of the Department of Consumer and Business Services.
- (8) "Installation permit" means a permit issued by the department for the installation, alteration or repair of a boiler or pressure vessel.
- (9) "Minimum safety standards" means the rules, regulations, formulae, definitions and interpretations for the safe construction, installation, operation and repair of boilers and pressure vessels either adopted by ORS 480.510 to 480.670 or adopted by the board, under ORS 480.510 to 480.670.
- (10) "Nonboiler external piping" has the meaning given the term in the 1986 Pressure Piping Code B 31.1, adopted by the American Society of Mechanical Engineers.
- (11) "Operating permit" means a permit issued by the department authorizing the operation of a boiler or pressure vessel.
- (12) "Pressure vessel" means containers for the containment of pressure, either internal or external. This pressure may be obtained from an external source or by the application of heat from a direct or indirect source, or any combination thereof.
- (13) "Related appurtenances" means any equipment instrumental to the safe operation of a boiler or pressure vessel.
- (14) "Shop inspection" means an inspection at a boiler or pressure vessel manufacturing, construction or repair facility.
- (15) "Temporary operation authorization" means an authorization issued by the department to operate a boiler or pressure vessel for a specified period pending the issuance of an operating permit. [1961 c.485 §3; 1969 c.582 §2; 1971 c.753 §58; 1973 c.830 §1; 1983 c.676 §3; 1987 c.414 §35; 1991 c.518 §2; 1993 c.744 §142; 2007 c.487 §3; 2009 c.696 §11]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 480 - Explosives; Flammable Materials; Pressure VesselsSection 480.520 - Purpose of ORS 480.510 to 480.670.**

The purpose of ORS 480.510 to 480.670 is to protect the safety of the people of Oregon and to protect property situated in Oregon from the hazard of fires and explosions caused by boilers and pressure vessels. To accomplish this purpose the Legislative Assembly intends by ORS 480.510 to 480.670 to provide a system:

- (1) For determining where and by whom boilers and pressure vessels are being constructed, installed, repaired, used and operated.
- (2) To ensure that only qualified persons do welding on boilers and on pressure vessels.
- (3) To ensure that boilers and pressure vessels are manufactured, installed, repaired, operated, inspected and maintained so as to meet the minimum safety standards formulated and promulgated by the Board of Boiler Rules.
- (4) For the administration and enforcement of ORS 480.510 to 480.670 by the Department of Consumer and Business Services and the board.
- (5) To defray the cost of administration and the cost of enforcing ORS 480.510 to 480.670 by establishing fees to be charged for:
  - (a) Issuing operating permits;
  - (b) Issuing installation permits;
  - (c) Giving examinations; and
  - (d) Making inspections. [1961 c.485 §2; 1969 c.583 §3; 1983 c.676 §4; 2007 c.487 §4; 2009 c.696 §12]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 480 - Explosives; Flammable Materials; Pressure VesselsSection 480.525 - Exempt vessels; rules; fee.**

- (1) ORS 480.510 to 480.670 do not apply to:
  - (a) Boilers and pressure vessels under federal safety regulations or control.

- (b) Domestic water heaters designed for heating potable water, equipped with an approved pressure-relieving device, containing only water and that do not exceed a:
  - (A) Capacity of 120 gallons;
  - (B) Water temperature of 210 degrees Fahrenheit;
  - (C) Pressure of 150 pounds per square inch gauge pressure; or
  - (D) Heat input of 200,000 Btu per hour.
- (c) Domestic water heaters designed to create hot water instantaneously on demand without the use of a storage tank.
- (d) Pressure vessels containing liquefied petroleum gas that are under the jurisdiction of the State Fire Marshal. However, the construction and repair of the vessels must comply with ORS 480.510 to 480.670 and are under the jurisdiction of the Board of Boiler Rules.
- (e) Air tanks used in the operation of brakes on self-propelled vehicles and trailers that are used for transporting freight or passengers.
- (f) Medical sterilizers that do not exceed one and one-half cubic feet in volume.
- (g) Pressure vessels that do not exceed one and one-half cubic feet in volume and:
  - (A) Are not operated at gauge pressure of more than 150 pounds per square inch;
  - (B) Are equipped with a relief valve;
  - (C) Are approved under the American Society of Mechanical Engineers code adopted by the board;
  - (D) Are set at a maximum pressure of 150 pounds per square inch or less; and
  - (E) Are located in a place of public assembly.
- (h) Pressure vessels that do not exceed five cubic feet in volume and:
  - (A) Are not operated at gauge pressure of more than 150 pounds per square inch;
  - (B) Are equipped with a relief valve;
  - (C) Are approved under the American Society of Mechanical Engineers code adopted by the board; and
  - (D) Are set at a maximum pressure of 150 pounds per square inch or less.
- (2) Notwithstanding subsection (1) of this section, if the board, upon presentation of satisfactory evidence, determines that danger to health or safety is evident in any pressure vessel or class of pressure vessels exempted under subsection (1)(g) of this section, the board may require the inspection or reinspection of the pressure vessel or class of pressure vessels and make the pressure vessel or class of pressure vessels subject to the fee, construction or other requirements of ORS 480.510 to 480.670.
- (3) The following boilers and pressure vessels are exempt from ORS 480.510 to 480.670, except as to all provisions relating to construction, installation, alteration or repair and to installation permits:
  - (a) Boilers that are not operated at gauge pressures of more than 15 pounds per square inch and that are located on farms and used solely for agricultural purposes except when used in connection with a greenhouse.
  - (b) Air tanks located on farms and used solely for agricultural purposes.
  - (c) Boilers and pressure vessels that are located in private residences and may be inspected only by a boiler inspector.
  - (d) Pressure vessels being operated at gauge pressures of less than 15 pounds per square inch and equipped with a pressure relief device set to open at a pressure that does not exceed the lesser of the pressure vessel's maximum allowed working pressure or 15 pounds per square inch gauge pressure.
- (4)(a) Beverage service tanks that have a product volume of five cubic feet or less are exempt from ORS 480.510 to 480.670.
- (b) Except as provided in paragraph (c) of this subsection, beverage service tanks that have a product volume of more than five cubic feet are exempt from ORS 480.510 to 480.670, except as to provisions relating to installation permits and installation inspections. The installation permit fee for a beverage service tank is \$50.
- (c) All portable beverage tanks are exempt from ORS 480.510 to 480.670.
- (5) The Director of the Department of Consumer and Business Services may adopt rules identifying boilers and pressure vessels used in single family dwellings or other structures that may be inspected by an inspector certified under ORS 455.715 to 455.740 for a specialty code other than the code adopted under ORS 480.545. The boilers and pressure vessels identified in the rules shall be subject to inspection upon installation, alteration or repair, but be exempt from periodic inspection under ORS 480.560 and from the operating permit requirements of ORS 480.585.
- (6) Notwithstanding any requirement of ORS 480.510 to 480.670 or the state building code, the Department of Consumer and Business Services may adopt rules granting partial or complete exemption from ORS 480.510 to 480.670 for a boiler or pressure vessel if the board determines that the boiler or pressure vessel does not present a danger to public health or safety within this state. [1961 c.485 §11; 1967 c.447 §1; 1969 c.582 §4; 1973 c.830 §2; 1983 c.676 §5; 1985 c.398 §1; 1987 c.847 §1; 1991 c.518 §6; 1999 c.713 §1; 2007 c.386 §1; 2007 c.487 §5; 2009 c.696 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.530 - Powers and duties of department.**

The Department of Consumer and Business Services may:

- (1) Where it appears that a person is engaging in or is about to engage in an act or practice in violation of any provision of ORS 480.510 to 480.670, obtain without furnishing a bond, a restraining order and injunction from the circuit court in the county where the act or practice is occurring, or is threatened, enjoining the act or practice. However, before obtaining a restraining order and

injunction, unless the act or practice constitutes an immediate threat to health and safety, the department shall first notify the person concerned of the department's intentions. The notice shall be in writing, shall advise the person concerned of the department's intentions and shall advise the person concerned of the right to appeal in writing within 10 days and that the appeal will be heard by the Board of Boiler Rules. In case there is a timely request for an appeal, proceedings will be stayed pending the appeal, unless the act or practice constitutes an immediate menace to health or safety or the person concerned fails to prosecute the appeal with diligence.

- (2) Keep a complete record of the types, dimensions, maximum allowable working pressures, age, location and date of the last recorded inspection of all boilers and pressure vessels to which ORS 480.510 to 480.670 apply.
- (3) Publish and distribute copies of the rules and codes applicable to boilers and pressure vessels.
- (4) Check or cause to be checked the authenticity, appropriateness and expiration dates of licenses and certificates issued under ORS 480.510 to 480.670.
- (5) Administer written, oral or practical examinations to all applicants for certification as chief boiler inspector, deputy inspector or special inspector under ORS 480.565. [1961 c.485 §13; 1969 c.582 §5; 1971 c.753 §59; 1983 c.676 §6; 1991 c.518 §3; 2007 c.71 §162; 2013 c.324 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.535 - Board of Boiler Rules; members; duties; qualifications; confirmation; rules.**

(1) The Board of Boiler Rules is established in the Department of Consumer and Business Services. The Governor shall appoint the board, which shall formulate and promulgate rules under ORS 480.510 to 480.670 for the safe construction, installation, inspection, operation, maintenance and repair of boilers and pressure vessels in this state and review determinations made by its staff concerning boilers and pressure vessels.

(2) Eleven persons shall constitute the board, consisting of:

- (a) One person who is an owner and user or who is a representative and employee of an owner and user of a high pressure boiler in Oregon and who has had practical experience with high pressure boilers;
- (b) One person who is a manufacturer or who is a representative and employee of a manufacturer of boilers or of pressure vessels in Oregon;
- (c) One person who is regularly engaged in the inspection of boilers and pressure vessels and who is employed by an insurer who may and does write policies of boiler and pressure vessels explosion insurance in Oregon;
- (d) One person who is a mechanical engineer registered by the State of Oregon;
- (e) One person who is a boilermaker;
- (f) One person who is the owner and user or who is a representative and employee of an owner and user of a low pressure boiler in Oregon;
- (g) One person who is the owner and user or who is a representative and employee of an owner and user of a pressure vessel in Oregon and who has had practical experience with pressure vessels;
- (h) One person who is an owner or employee of a business engaged in the installation and repair of boilers;
- (i) One person who is a steamfitter;
- (j) One person who is a practical steam operating engineer; and
- (k) One person who is a member of the public not otherwise eligible for appointment to the board.

(3) A member of the board who does not continue to meet the qualifications for board membership under subsection (2) of this section during the member's term may not be appointed to a subsequent term.

(4) The appointment of a member of the board is subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution. [1961 c.485 §4; 1969 c.582 §6; 1971 c.753 §60; 1983 c.676 §7; 1991 c.518 §1; 1993 c.744 §142a; 2001 c.512 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.540 - Term of members; removal; compensation and expenses.**

(1) The term of office of a member of the Board of Boiler Rules is four years and a member is not eligible for appointment to more than two full terms of office. A member shall continue to serve until a successor has been appointed and qualified. Vacancies shall be filled by appointment for the unexpired term.

(2) The chief boiler inspector shall serve without a vote as secretary of the board.

(3) The Governor may remove any member of the board for cause.

(4) A member of the board is entitled to compensation and expenses as provided in ORS 292.495. [1961 c.485 §5; 1969 c.314 §54; 1983 c.676 §8; 1993 c.744 §143; 2007 c.71 §163; 2011 c.272 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.545 - Rules; minimum safety standards; fees.**

(1) Under ORS chapter 183 the Board of Boiler Rules may adopt and enforce rules and minimum safety standards to carry out ORS 480.510 to 480.670 and adopt standards for persons performing welding on boilers and pressure vessels.



(2) All proceedings in the administration of ORS 480.510 to 480.670 shall be conducted under ORS chapter 183 and, additionally, where applicable, under ORS 480.615.

(3) In addition to the rules otherwise provided, and subject to ORS chapter 183, the board shall adopt rules concerning the times, dates, frequency and manner of giving notice to interested persons of intention to consider one or more of the things which the board may consider under this section.

(4) All rules and minimum safety standards adopted under this section shall be reasonable and in substantial conformity with generally accepted nationwide engineering standards. In adopting rules the board shall consider the probability, extent and gravity of injuries to health and property which would result from the failure to adopt the standards being considered and the standards followed, proposed or approved by members of affected industries.

(5) The board shall adopt rules establishing a continuing education requirement for persons described in ORS 480.630 (8) and fees necessary for the administration and enforcement of the continuing education requirement.

(6) Any rule adopted by the board under ORS 480.510 to 480.670 shall be submitted to the Director of Department of Consumer and Business Services. The director shall have 30 calendar days from the date of adoption of the rules to review them. If the director fails to disapprove the rules within the 30-day period, the rules become effective in accordance with their terms and as provided by law. If the director disapproves the rules within the 30-day period, the rules immediately shall be returned to the board with the director's written objections, and the rules do not become effective until approved by the director. [1961 c.485 §7; 1969 c.582 §7; 1983 c.676 §9; 1991 c.518 §4; 2001 c.678 §1; 2007 c.271 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.550 - Minimum safety standards; effect on existing vessels; application of subsequent amendments.**

(1) Until different rules are adopted, there is adopted as the minimum safety standards for boilers and pressure vessels the published codification of standard engineering practices and formulae known as the "Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers," together with the published revisions and interpretations thereof in effect as of January 1, 1969.

(2) Any vessel in use on July 1, 1961, or in use on the effective date of any adoption of different rules, shall be deemed to meet the minimum safety standards so long as the same use continues and no change occurs which would reduce the safety of its operation. Provided that if the Board of Boiler Rules finds that there is a variation from the minimum safety standards which is dangerous to health or safety, it may order that all vessels having a like variation be brought into conformity with the rules created under this section, or adopted after July 1, 1961, without variation.

(3) The Board of Boiler Rules shall adopt minimum safety standards for pressure piping substantially equal to the published codification of standard engineering practices and formulae known as the "Code for Pressure Piping" of the American Society of Mechanical Engineers, numbered B 31.1, B 31.3, B 31.5, B 31.7 and B 31.9 together with the published revisions and interpretations thereof. [1961 c.485 §8; 1969 c.582 §8; 1973 c.830 §3; 1983 c.676 §9a; 1999 c.823 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.555 - Prohibitions relating to nonconforming vessels; exemptions.**

(1) Except as provided in ORS 480.525 (1), a person may not:

(a) Make or direct the construction, installation, repair or alteration of a boiler or pressure vessel that does not meet minimum safety standards.

(b) Lend, rent out, or offer to lend or to rent out, sell, offer for sale, or dispose of by gift or otherwise, for operation, a boiler or pressure vessel that does not meet the minimum safety standards.

(c) Use, or attempt to use, a boiler or pressure vessel that fails to meet the minimum safety standards.

(d) Make any installation of a boiler or pressure vessel or repair thereon affecting the strength or safety thereof without notifying the chief boiler inspector as prescribed by rules promulgated under ORS 480.545.

(2) Nothing in this section restricts the construction of boilers or pressure vessels in Oregon that are installed outside Oregon and that do not conform to the provisions of ORS 480.510 to 480.670. [1961 c.485 §9; 1967 c.447 §5; 1969 c.582 §9; 1983 c.676 §10; 1991 c.518 §7; 2007 c.71 §164]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.560 - Inspections; testing; rules.**

(1) The Board of Boiler Rules shall adopt rules to provide for the inspection of the installation, operation and condition of boilers and pressure vessels that are used or proposed for use in this state and not made exempt from periodic inspection under ORS 480.510 to 480.670.

(2) Pressure piping that is nonboiler external piping, but that excludes potable water nonboiler external piping, shall be inspected on installation only and may not thereafter be considered as part of the boiler for the purposes of any subsequent inspections required by this section.

(3) If a hydrostatic test is necessary to determine the safety of a boiler or pressure vessel, the test shall be made by the owner or user of the boiler or pressure vessel and witnessed by a deputy or special inspector.

(4) All boilers and pressure vessels to be installed in this state shall be inspected during construction:

- (a) By an inspector authorized to inspect boilers in this state or authorized under ORS 455.715 to 455.740 to perform inspections of boilers and pressure vessels identified by rule as provided in ORS 480.525 (5); or
- (b) If constructed outside of the state, by an inspector holding a certificate of competency issued by a state that has a standard of examination substantially equal to that of this state. [1961 c.485 §17; 1969 c.582 §10; 1973 c.830 §3a; 1983 c.676 §11; 1991 c.518 §9; 2007 c.487 §6; 2009 c.696 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.565 - Chief and deputy inspectors; special inspectors.**

The Director of the Department of Consumer and Business Services shall:

- (1) Appoint a chief boiler inspector who has had practical experience in the construction, maintenance, repair or operation of high pressure boilers and pressure vessels as a mechanical engineer, practical steam operating engineer, boilermaker or boiler inspector and who:
  - (a) Has passed a written examination, which shall be confined to questions the answers to which will aid in determining the fitness and competency of the applicant to inspect boilers and pressure vessels; or
  - (b) Holds a certificate of competency as an inspector of boilers and pressure vessels issued by a state that has standards of examination equal to those of the State of Oregon and that recognizes certificates of competency issued by the State of Oregon, and has passed an examination that assesses the applicant's knowledge of ORS 480.510 to 480.670 and the rules adopted thereunder.
- (2) Appoint deputy inspectors who shall be responsible to the chief boiler inspector and who shall have qualified as provided in subsection (1) of this section, except that less practical experience shall be required.
- (3) Issue a certificate of competency as a special inspector to any individual who qualifies as provided in subsection (1) of this section, except that no more practical experience shall be required than is required of a deputy inspector, and who is continuously employed by:
  - (a) An insurer who may and does write policies of boiler and pressure vessel insurance in Oregon; or
  - (b) Any person operating pressure vessels in this state whose service, personnel, equipment and supervision meet the requirements prescribed by the Board of Boiler Rules. [1961 c.485 §12; 1969 c.582 §11; 1971 c.753 §61; 1991 c.518 §13; 2007 c.71 §165]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.570 - Inspections by special inspectors or others; effect on permit fees; exempt boilers and vessels.**

- (1) A special inspector receiving a certificate of competency under ORS 480.565 (3)(b) may not inspect under ORS 480.510 to 480.670 any boiler or pressure vessel not used or not to be used by the employer of the special inspector.
- (2) If a special inspector holds a certificate of competency issued under ORS 480.565 (3)(a), the special inspector:
  - (a) May conduct shop inspections of boilers and pressure vessels manufactured or to be installed in this state whether or not the boilers or pressure vessels are insured or will be insured by the employer of the special inspector; and
  - (b) Upon being notified that the boilers or pressure vessels are ready for inspection, shall perform all installation and operating inspections required under ORS 480.510 to 480.670 on boilers and pressure vessels that are operated or insured by the special inspector's employer.
- (3) A boiler contractor licensed under ORS 480.630 that performs an alteration or repair on a boiler or pressure vessel shall utilize the services of:
  - (a) An authorized inspector certified under this chapter with whom the contractor has an agreement for inspection of the alteration or repair;
  - (b) A special inspector of an insurance company with which the contractor has an inspection contract; or
  - (c) A designated inspector who is authorized to inspect the alteration or repair.
- (4) A special inspector's certificate of competency remains in force only while the special inspector is continuously employed by one of the persons mentioned in ORS 480.565 (3).
- (5) If a boiler or pressure vessel is inspected by a special inspector as provided in this section, the boiler or pressure vessel is subject to the installation permit and operating permit fees described in ORS 480.600 (2) instead of the installation permit and operating permit fees established under ORS 480.595.
- (6) The Department of Consumer and Business Services may cause a deputy inspector to inspect or reinspect all boilers and pressure vessels that a special inspector is authorized or required to inspect. However, the deputy inspector may not conduct an internal inspection or reinspection unless:
  - (a) There is a question as to whether or not the boiler or pressure vessel meets the minimum safety standards; and
  - (b) The special inspector who made the original inspection, or the employer of the special inspector, is given reasonable notice and opportunity to be present during the internal inspection or reinspection.
- (7) Subsections (1) to (6) of this section do not apply to boilers or pressure vessels located in a residential structure that contains fewer than six dwelling units. [1961 c.485 §14; 1969 c.582 §12; 1983 c.676 §12; 1991 c.518 §5; 2007 c.487 §7; 2009 c.696 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.580 - Access to buildings and premises by inspectors.**

(1) The chief boiler inspector or any deputy inspector may, at all reasonable hours, in performance of the duties imposed by the provisions of ORS 480.510 to 480.670, enter into all buildings and upon all premises, except private residences, for the purpose of inspecting any boiler or pressure vessel that is covered by ORS 480.510 to 480.670 and that the chief boiler inspector or the deputy inspector has reasonable cause to believe is located therein.

(2) No person shall interfere with or prevent any such inspection by the chief boiler inspector or a deputy inspector. [1961 c.485 §16; 1969 c.582 §14; 1983 c.676 §14; 2007 c.71 §166]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.585 - Temporary operation authorization; operating permit; suspension or revocation.**

(1) After a boiler or pressure vessel has successfully passed an installation inspection, the Department of Consumer and Business Services may issue a temporary operation authorization. The boiler or pressure vessel covered by the temporary operation authorization may only be operated during the period specified in the temporary operation authorization.

(2) An operating permit for a boiler or pressure vessel shall specify the maximum pressure under which the boiler or pressure vessel may be operated.

(3) The department may at any time suspend or revoke an operating permit if the department finds that the boiler or pressure vessel, or related appurtenances, for which the permit was issued does not comply with ORS 480.510 to 480.670. Suspension of any permit continues in effect until the vessel conforms to ORS 480.510 to 480.670 and the permit is reissued. However, before suspending or revoking a permit, the department shall first notify the person concerned of the department's intention. The notice must be in writing and advise the person concerned of the right to appeal in writing within 10 days and that the appeal will be heard by the Board of Boiler Rules. If there is a timely appeal, the department may not suspend or revoke the permit pending the appeal unless the reason for suspension or revocation constitutes an immediate menace to health or safety or the person concerned fails to prosecute an appeal with diligence.

(4)(a) Except as provided in ORS 480.510 to 480.670, a person may not operate a boiler or pressure vessel unless a valid temporary operation authorization or valid operating permit issued under this section is attached to the boiler or pressure vessel or posted in a conspicuous place in the room where the boiler or pressure vessel is located.

(b) A person may not permit or suffer the operation of a boiler or pressure vessel on property the person owns, controls, manages or supervises unless a valid temporary operation authorization or valid operating permit issued under this section is attached to the boiler or pressure vessel or posted in a conspicuous place in the room where the boiler or pressure vessel is located.

(c) The owner or lessee or person having possession of a boiler or pressure vessel may not permit or suffer the operation of the boiler or pressure vessel unless a valid temporary operation authorization or valid operating permit issued under this section is attached to the boiler or pressure vessel or posted in a conspicuous place in the room where the boiler or pressure vessel is located.

(5) The board may adopt rules waiving provisions of this section. [1961 c.485 §18; 1967 c.447 §2; 1969 c.582 §15; 1983 c.676 §15; 1993 c.744 §144; 2005 c.22 §367; 2007 c.487 §8; 2009 c.696 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.595 - Permits; rules; fees.**

(1) The Department of Consumer and Business Services may adopt rules regarding installation permits and operating permits. The rules may include, but need not be limited to, rules creating standardized forms, establishing operating permit fees, establishing permit cycles and setting terms and conditions for permit validity.

(2) Upon timely receipt of an installation permit fee, the department may issue an installation permit, perform an installation inspection and issue a temporary operating authorization.

(3) Upon timely receipt of an operating permit fee, the department may issue or renew an operating permit and may perform a periodic inspection if required during the operating permit cycle.

(4) Except as provided in ORS 480.525 and 480.600, installation permit fees are as follows:

(a) For boilers, \$175.

(b) For pressure vessels, \$125.

(5) Except as provided in ORS 480.600, maximum operating permit fees per year are as follows:

(a) Power boilers of 15 horsepower or less \$110

(b) Other boilers of 15 horsepower or less \$ 55

(c) Power boilers greater than 15 horsepower to 100 horsepower \$110

(d) Other boilers greater than 15 horsepower to 100 horsepower \$ 55

(e) Power boilers greater than 100 horsepower to 500 horsepower \$110

(f) Other boilers greater than 100

horsepower to 500 horsepower \$ 55

(g) Power boilers greater than 500 horsepower \$110

(h) Other boilers greater than 500 horsepower \$ 55

(i) Notwithstanding paragraphs

(a) to (h) of this subsection,

all cast iron boilers \$ 55

(j) Pressure vessels having

a product volume of

20 cubic feet or less \$ 50

(k) Pressure vessels having

a product volume

greater than 20 cubic feet \$ 50

(6) For a reinspection, the fee is \$75.

(7) For the submission of plans and other pertinent data when required, for each boiler or pressure vessel, the fee is \$78. [1961 c.485 §19; 1967 c.447 §3; 1969 c.582 §16; 1973 c.830 §6; 1973 c.832 §18a; 1974 c.36 §17; 1981 c.566 §2; 1983 c.676 §16; 1991 c.201 §3; 2001 c.162 §1; 2007 c.487 §9; 2009 c.696 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.600 - Special provisions on permit and inspection fees; notice from insurer.**

(1) For a quantity of boilers or pressure vessels operated at the same locations, each operating permit fee under ORS 480.595 issued at the same location is \$75.

(2) Notwithstanding ORS 480.595 and except as provided in this subsection, the installing, altering or repairing contractor or the owner or user of any boiler or pressure vessel that is inspected under ORS 480.570 (1) or (2) shall pay an installation permit fee of \$40 and an operating permit fee of \$40. The Department of Consumer and Business Services may establish operating permit cycles by rule. The department may require payment of an installation or operating permit fee as provided in ORS 480.595 if the department finds that the boiler or pressure vessel is in violation of the minimum safety standards.

(3) If an insurance company notifies its insured that the insurance company will no longer insure a boiler or pressure vessel, or that insurance on a boiler or pressure vessel is no longer in force, the insurance company shall also notify the chief boiler inspector, in a form and manner prescribed by the chief boiler inspector, of the description and vessel registration numbers of the boilers or pressure vessels for which insurance is canceled or suspended or is not to be renewed.

(4) If an owner or user of a boiler or pressure vessel fails to pay any fee required by this chapter within 90 days after the billing date, the department may consider the fee delinquent and double the amount of the fee. The court may award reasonable attorney fees to the department if the department prevails in an action to collect a fee required by this chapter. The court may award reasonable attorney fees to a defendant who prevails in an action to collect a fee required by this chapter if the court determines that the department had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court. [1961 c.485 §21; 1967 c.447 §4; 1969 c.582 §17; 1973 c.830 §7; 1973 c.832 §18b; 1974 c.36 §18; 1981 c.566 §3; 1981 c.897 §57; 1983 c.676 §17; 1991 c.201 §4; 1991 c.518 §18; 1995 c.696 §25; 1999 c.711 §1; 2007 c.487 §10; 2009 c.696 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.605 - Miscellaneous fees.**

The Department of Consumer and Business Services may:

(1) Collect fees for shop inspections, or for inspections, testing, consultations, site visits or other services for which no fee is otherwise specified, in the amount of \$75 per hour of travel and inspection time.

(2) Collect a fee for welding and inspectors' examinations and for the renewal of inspectors' certifications. The Board of Boiler Rules shall fix the amount of the fee. [1961 c.485 §22; 1969 c.582 §18; 1973 c.830 §8; 1993 c.744 §145; 2007 c.271 §9; 2009 c.696 §19; 2011 c.9 §69]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.610 - Disposition of fees.**

All receipts from fees, charges, costs and expenses under ORS 480.510 to 480.670 shall be collected by the Department of Consumer and Business Services and paid into the Consumer and Business Services Fund created by ORS 705.145. Such moneys shall be used only for the administration and enforcement of ORS 480.510 to 480.670. [1961 c.485 §23; 1973 c.834 §42; 1983 c.676 §18; 1993 c.744 §146]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.615 - Appeals.**

- (1) The Board of Boiler Rules shall hear the appeal of an appellant who:
  - (a) Has filed a timely written request and:
    - (A) Has received notice that a restraining order or injunction will be sought;
    - (B) Has received notice that an installation permit or operating permit will be suspended or revoked; or
    - (C) Is affected by either of such notices; or
  - (b) Has filed a written request and who has reason to desire a change in the minimum safety standards or the rules.
- (2) The board shall set the time and place for hearing and give the appellant 10 days' written notice.
- (3) The board shall hear an appeal within three months after receipt of the request. However, if an immediate menace to health or safety is involved, the board shall hear the appeal within 20 days after receipt of the request.
- (4)(a) Two or more appeals may be consolidated for hearing, if based upon substantially the same facts.
- (b) The board and the appellant may subpoena witnesses, who shall receive the same compensation and mileage pay as circuit court witnesses.
- (c) The board shall keep a written or recorded record. [1961 c.485 §26; 1983 c.676 §19; 1991 c.518 §10; 2007 c.71 §167; 2007 c.487 §12; 2009 c.696 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.630 - Licensing of boiler contractors and persons installing, altering or repairing boilers or pressure vessels; installation permits; fees; continuing education.**

- (1) A person engaging in the business of installing, repairing or altering boilers or pressure vessels must possess a boiler contractor license issued by the Department of Consumer and Business Services.
- (2) A person who installs, repairs or alters boilers or pressure vessels as the employee or agent of a business engaged in the installation, repair or alteration of boilers or pressure vessels must possess an employee or agent license issued by the department.
- (3) The chief boiler inspector may conduct examinations for licensing an employee or agent of a business to establish the competency of the applicant.
- (4) Upon payment of the applicable application fee, the department shall issue a license to an applicant who qualifies as provided in rules adopted under ORS 455.117 by the Board of Boiler Rules. Upon payment of the applicable renewal application fee, the department shall renew the license of a person who complies with ORS 480.510 to 480.670 and the rules adopted by the board under ORS 455.117 or 480.545. The fee to apply for or renew a license is:
  - (a) \$27.50 per year for an employee or agent license.
  - (b) \$165 per year for a boiler contractor license.
- (5) A person required to be licensed under this section may not install, alter or repair a boiler or pressure vessel unless an installation permit is first secured from the department. The department shall issue permits only to persons possessing a valid boiler contractor license or as provided by the department by rule.
- (6) If an emergency exists, a permit under subsection (5) of this section is not required in advance for boiler or pressure vessel installations or repair, provided that an application accompanied by the appropriate fee for the permit is submitted to the department within five days after the commencing of the boiler or pressure vessel work.
- (7) The license and examination requirements of this section and ORS 480.632 do not apply when a person is brought in from out of state to repair or alter a boiler or pressure vessel utilizing special tools or a special process for which that person is uniquely qualified. The activity shall be limited solely to the special process and the person performing the work shall have qualifications that meet or exceed license standards as determined by the chief boiler inspector. The chief boiler inspector shall be notified prior to performance of any work under this subsection.
- (8) If a license issued under subsection (4) of this section is of a class that authorizes a person to perform work equivalent to that performed by pressure vessel installers, building service mechanics, boilermakers or pressure piping mechanics, the person must comply with continuing education requirements. [1973 c.830 §4; 1983 c.676 §20; 1987 c.414 §36; 1991 c.201 §5; 2001 c.678 §3; 2005 c.758 §36; 2007 c.71 §168; 2007 c.487 §§13,13a; 2009 c.696 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.632 - Employment of unlicensed worker prohibited.**

A person licensed, or required to be licensed, under ORS 480.630 to engage in the business of installing, repairing or altering boilers or pressure vessels may not employ any person to work on a boiler or pressure vessel unless the employed person has a valid license issued under ORS 480.630. [1983 c.676 §24; 2005 c.758 §37; 2007 c.306 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.634 - Exemption of journeyman plumber for certain activities.**

- (1) A person who has a valid journeyman plumber license does not have to obtain a license under ORS 480.630 (2) to work as an employee of a business engaged in installing or replacing by nonwelded means a potable domestic water heater that:
  - (a) Is not used for space heating;
  - (b) Has a capacity that does not exceed 180 gallons;
  - (c) Has a water temperature that does not exceed 210 degrees Fahrenheit;

- (d) Has a pressure that does not exceed 150 pounds per square inch gauge pressure; and
  - (e) Has a heat input that does not exceed 750,000 Btu per hour.
- (2) Subsection (1) of this section does not allow construction, repair or alteration of the domestic potable water heater. [1991 c.518 §15; 2005 c.758 §38]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.640 - When court action not available.**

A person providing services connected with boilers or pressure vessels may not bring or maintain an action in the courts of this state to recover for those services unless the person alleges and proves that, at the time the services were performed, the person performing the services held a license issued under ORS 480.630. This section does not apply to a person exempted from licensing by ORS 480.630 (7). [1983 c.676 §25; 1991 c.518 §11; 2005 c.758 §39; 2007 c.487 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.645 - Standardized examination; administration.**

- (1) The Board of Boiler Rules shall cause to be prepared examinations that are standardized. In standardizing examinations under this subsection, the board may adopt standardized examinations prepared by nationally recognized bodies.
- (2) The board shall allow any person who takes an examination to review the examination and test results of that person. [1983 c.676 §26; 1991 c.518 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.647 - Quality control procedures for welding on nonboiler external piping; rules.**

- (1) The Board of Boiler Rules may adopt rules creating quality control procedures for welding on nonboiler external piping and may adopt its own Oregon welded stamp symbol.
- (2) The board may not require the adoption of "R" stamp provisions of the National Board of Boiler and Pressure Vessel Inspectors or the American Society of Mechanical Engineers Certification of Authorization requirements related to boilers for welding on nonboiler external piping.
- (3) The board shall accept an "R" stamp certificate of authorization by the National Board of Boiler and Pressure Vessel Inspectors or the American Society of Mechanical Engineers as meeting the requirements of subsection (1) of this section and may accept any other quality control program for welding that is at least equivalent to the Oregon quality control procedures adopted under subsection (1) of this section.
- (4) All review by the Department of Consumer and Business Services for individual approval of quality control procedures and requirements shall be charged at the shop inspection rates under ORS 480.605. [1991 c.518 §16; 1993 c.744 §148; 2009 c.696 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.660 - Notice of violation; correction; when use prohibited; appeal.**

- (1) If an inspector determines that any condition exists that is a violation of the safety standards prescribed pursuant to ORS 480.510 to 480.670, the inspector shall post a notice in plain view on or near the affected boiler or pressure vessel that specifies the defective condition, and shall provide a copy of the notice to the owner or user of the affected boiler or pressure vessel, or to a representative of the owner or user.
- (2) If no immediate hazard to health and safety is evident, the notice shall state that correction of the defective condition is required within 30 days of the date of the inspection. If the correction is not completed within the 30-day period, the owner or user of the boiler or pressure vessel may apply to the chief boiler inspector for extension of the time for making the correction. If the chief boiler inspector determines that corrective action was commenced within the time period specified in the notice, an extension may be granted for such time as is required to complete corrective action.
- (3) If an immediate hazard to health and safety is evident, the notice shall prohibit further use of the boiler or pressure vessel. The inspector immediately shall report that action to the chief boiler inspector.
- (4) If any person is aggrieved by a determination made upon inspection under this section, the person first shall appeal that determination to the chief boiler inspector and then to the Board of Boiler Rules. Subsequent appeal shall be as provided in ORS 183.480 to 183.540. [1983 c.676 §28]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.670 - Civil penalty for Boiler and Pressure Vessel Law violations; disposition of penalty moneys.**

The Board of Boiler Rules may impose a civil penalty for a violation of ORS 480.510 to 480.670 or rules adopted for the administration and enforcement of those sections. Moneys received by the Department of Consumer and Business Services or the board from civil penalties imposed under this section or ORS 455.895 (1)(c) shall be deposited to the Consumer and Business Services Fund created under ORS 705.145 and used only for the administration and enforcement of ORS 480.510 to 480.670 and

480.990 (8). [2001 c.411 §10; 2007 c.898 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 480 - Explosives; Flammable Materials; Pressure Vessels Section 480.990 - Penalties.**

- (1) Violation of any provision of ORS 480.010 to 480.040 is a Class B violation.
- (2) Violation of any provision of ORS 480.050, 480.060 or 480.290 is a Class C misdemeanor.
- (3) Violation of ORS 480.070 is a Class A misdemeanor.
- (4) Violation of ORS 480.085 is a Class B violation.
- (5) Violation of any provision of ORS 480.111 to 480.165 is a Class B misdemeanor. Violations thereof may be prosecuted in state or municipal courts when violations occur within the municipality served thereby. Justice courts shall have concurrent jurisdiction with circuit courts in all proceedings arising within ORS 480.111 to 480.165.
- (6) Subject to ORS 153.022, violation of any provision of ORS 480.210, 480.215, 480.235 and 480.265 or of any rule or regulation adopted under ORS 480.280 (1) is a Class B misdemeanor.
- (7) Violation of any provision of ORS 480.420 to 480.460 is a Class B violation.
- (8) Subject to ORS 153.022, violation of any provision of ORS 480.510 to 480.670, or any rule promulgated pursuant thereto, is a Class A misdemeanor. Whenever the Board of Boiler Rules has reason to believe that any person is liable to punishment under this subsection, it may certify the facts to the Attorney General, who may cause an appropriate proceeding to be brought. [Subsection (4) of 1963 Replacement Part enacted as 1961 c.722 §3; subsection (10) enacted as 1961 c.485 §24; subsection (4) enacted as 1963 c.384 §3; 1965 c.602 §24; subsection (3) enacted as 1967 c.417 §22; subsection (7) enacted as 1971 c.518 §25; 1983 c.676 §22; 1985 c.165 §3; 1987 c.158 §111; 1991 c.863 §59; 1999 c.1051 §193]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 481 - (Former Provisions) Section 481.145**

[Subsection (3) (1965 Replacement Part) enacted as 1955 c.90 §2; 1961 c.246 §1; 1967 c.463 §6; 1973 c.727 §3; 1975 c.602 §3; repealed by 1983 c.338 §978]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 481 - (Former Provisions) Section 481.265**

[Subsection (4) of 1961 Replacement Part enacted as 1959 c.15 §2; 1963 c.493 §1; 1973 c.81 §1; 1973 c.727 §7; 1975 c.451 §194; 1981 c.135 §3; 1981 c.297 §2; repealed by 1983 c.338 §978]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 481 - (Former Provisions) Section 481.515**

[Renumbered 481.117]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 481 - (Former Provisions) Section 481.540**

[Amended by 1959 c.480 §5; 1959 c.481 §1; renumbered 481.950]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 481 - (Former Provisions) Section 481.545**

[Amended by 1955 c.287 §25; renumbered 481.955]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 481 - (Former Provisions) Section 481.550**

[Amended by 1955 c.287 §26; renumbered 481.960]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 481 - (Former Provisions) Section 481.998**

[1983 c.288 §3; repealed by 1985 c.16 §475]

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**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 482 - (Former Provisions) Section 482.192**

[1965 c.547 §3; 1973 c.156 §3; 1977 c.169 §1; 1977 c.882 §5; 1979 c.471 §2; 1979 c.809 §12c; 1979 c.871 §20a; 1981 c.473 §6; 1981 c.562 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 482 - (Former**

**Provisions)Section 482.250**

[Subsection (7) enacted as 1957 c.206 §5; 1959 c.421 §1; 1961 c.245 §3; 1961 c.672 §1; 1963 c.97 §6; 1965 c.376 §5; 1967 c.507 §7; 1967 c.554 §§1, 2, 3, 4; 1973 c.156 §4; 1973 c.724 §6; 1975 c.682 §2; 1981 c.400 §1; 1981 c.473 §9; 1981 c.562 §2a; 1983 c.583 §5; 1983 c.681 §2; repealed by 1983 c.338 §978; 1985 c.279 §1]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.018**

[Subsection (3) enacted as 1967 c.500 §2; repealed by 1983 c.338 §978]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.034**

[Amended by 1975 c.451 §111; renumbered 487.665]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.040**

[Amended by 1973 c.615 §3; 1975 c.451 §157; renumbered 487.850]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.045**

[1959 c.350 §1; renumbered 487.660]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.103**

[1974 s.s. c.6 §2; 1975 c.451 §75; renumbered 487.475]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.106**

[Amended by 1975 c.451 §76; renumbered 487.480]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.110**

[Amended by 1957 c.357 §2; 1975 c.451 §79; renumbered 487.495]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.124**

[Amended by 1975 c.451 §84; renumbered 487.520]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.306**

[Amended by 1975 c.451 §26; renumbered 487.190]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.320**

[Renumbered 483.362]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.322**

[Amended by 1959 c.124 §9; renumbered 483.364]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.324**

[Renumbered 483.366]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.326**

[Renumbered 487.685]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.328**

[Renumbered 487.680]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.334**

[Amended by 1975 c.451 §51; renumbered 487.335]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.346**

[1953 c.587 §1; 1975 c.451 §167; renumbered 487.895]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.348**

[1953 c.587 §3; 1975 c.451 §168; renumbered 487.900]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.352**

[1963 c.525 §1; 1973 c.219 §1; 1973 c.302 §1; 1975 c.82 §1; renumbered 487.915]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.354**

[1963 c.525 §2; 1973 c.302 §2; 1975 c.451 §168a; renumbered 487.920]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.356**

[1963 c.525 §3; 1975 c.82 §2; renumbered 487.925]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.380**

[1967 c.484 §8; 1977 c.882 §14; 1981 c.861 §6; renumbered 483.351]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.532**

[Amended by 1953 c.691 §12; 1971 c.273 §1; 1975 c.451 §268a; 1975 c.698 §1; renumbered 487.905]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.616**

[Subsections (3) and (4) of 1957 Replacement Part enacted as 1953 c.587 §5 and 1953 c.257 §4; repealed by 1959 c.664 §30]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.620**

[Renumbered 484.125]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.634**

[1965 c.574 §3; 1969 c.579 §2; 1975 c.451 §149; renumbered 487.805]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.636**

[1965 c.574 §5; renumbered 487.835]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former Provisions) Section 483.638**

[1965 c.574 §8; 1975 c.451 §269a; renumbered 487.810]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 483 - (Former**

**Provisions)Section 483.640**

[1965 c.574 §4; 1975 c.451 §150; renumbered 487.825]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.644**

[1965 c.574 §6; 1975 c.451 §269b; renumbered 487.815]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.646**

[1965 c.574 §7; renumbered 487.830]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.648**

[1973 c.465 §1; 1975 c.451 §269c; renumbered 487.820]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.775**

[1973 c.191 §5; renumbered 487.837]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.780**

[1973 c.191 §2; renumbered 487.839]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.785**

[1973 c.191 §3; renumbered 487.841]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.790**

[1973 c.191 §4; renumbered 487.843]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.815**

[1971 c.454 §17; 1973 c.835 §70; renumbered 468.385]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.835**

[1973 c.580 §5; 1975 c.287 §6; renumbered 487.755]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.865**

[1973 c.580 §11; 1975 c.451 §127; renumbered 487.775]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 483 - (Former Provisions)Section 483.870**

[1973 c.580 §12; 1975 c.451 §129; renumbered 487.785]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.010**

[1959 c.664 §1; 1963 c.510 §4; subsection (6) enacted as 1967 c.579 §3; 1969 c.696 §3; 1973 c.798 §2a; 1973 c.836 §353; 1975 c.451 §151; 1977 c.882 §30; 1979 c.819 §5; 1981 c.818 §13; 1983 c.338 §941; renumbered 153.500]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.030**

[1959 c.664 §3(1), (2), (3); 1971 c.743 §395; 1975 c.451 §169; renumbered 153.565]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former**

**Provisions)Section 484.040**

[1959 c.664 §6; 1961 c.442 §2; 1973 c.836 §355; renumbered 153.570]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.145**

[1983 c.399 §3; renumbered 153.624]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.150**

[1959 c.664 §§10, 11; 1963 c.401 §5; 1965 c.588 §2; 1971 c.388 §1; 1973 c.737 §2; 1974 s.s. c.44 §2; 1975 c.451 §152; 1977 c.882 §31; 1977 c.883 §2; 1979 c.477 §4; renumbered 153.515]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.155**

[1963 c.401 §9; 1979 c.477 §5; renumbered 153.510]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.160**

[1959 c.664 §15; 1963 c.401 §6; renumbered 153.520]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.170**

[1959 c.664 §16; 1963 c.401 §7; 1979 c.477 §6; renumbered 153.525]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.175**

[1975 c.451 §271b; renumbered 153.530]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.180**

[1959 c.664 §12(1); 1963 c.401 §10; 1965 c.473 §1; 1975 c.451 §152a; 1977 c.882 §32; 1979 c.477 §7; renumbered 153.535]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.190**

[1959 c.664 §12(2), (3); 1975 c.451 §153; 1981 c.818 §22; renumbered 153.540]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.200**

[1959 c.664 §13(2); renumbered 153.545]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.210**

[1959 c.664 §13(1); 1965 c.588 §1; 1981 c.818 §26; renumbered 153.550]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.220**

[1959 c.664 §13(3); 1981 c.818 §27; renumbered 153.555]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.225**

[1983 c.721 §25; renumbered 809.710]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.230**

[1959 c.664 §14; 1965 c.473 §2; 1975 c.315 §7; 1977 c.746 §13; 1981 c.818 §28; renumbered 153.560]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former**

**Provisions)Section 484.240**

[1959 c.664 §18; 1971 c.162 §1; 1981 c.818 §28a; renumbered 153.625]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.250**

[1959 c.664 §§20, 21; 1969 c.616 §2; 1971 c.186 §3; 1977 c.263 §7; renumbered 153.630]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.260**

[1959 c.664 §22; renumbered 153.635]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.310**

[1959 c.664 §23; 1981 c.818 §29; renumbered 153.600]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.320**

[1959 c.664 §§24, 25; 1981 c.818 §30; renumbered 153.605]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.350**

[1975 c.451 §131; 1981 c.818 §31; renumbered 153.505]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.355**

[1975 c.451 §132; renumbered 153.610]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.360**

[1975 c.451 §133; 1981 c.803 §9; 1981 c.818 §32; renumbered 153.615]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.370**

[1975 c.451 §135; renumbered 153.620]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.375**

[1975 c.451 §137; 1981 c.818 §34; renumbered 153.575]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.390**

[1975 c.451 §139; 1977 c.882 §35; renumbered 153.580]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.395**

[1975 c.451 §140; renumbered 153.585]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.400**

[1975 c.451 §140a; 1981 c.818 §36; renumbered 153.590]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.405**

[1975 c.451 §140b; 1981 c.803 §11; renumbered 153.595]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 484 - (Former Provisions)Section 484.410**

[1959 c.664 §26; 1967 c.604 §11; 1967 c.620 §15; renumbered 1.520]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 484 - (Former Provisions) Section 484.420**

[1959 c.664 §27; 1967 c.604 §12; 1967 c.620 §16; renumbered 1.510]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 484 - (Former Provisions) Section 484.430**

[1963 c.8 §1; 1967 c.604 §13; renumbered 1.530]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 484 - (Former Provisions) Section 484.990**

[1959 c.664 §19; 1975 c.451 §156; 1981 c.818 §39; renumbered 153.995]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.500**

[1973 c.407 §1; 1975 c.451 §274a; 1975 c.695 §3a; 1979 c.575 §4; 1983 c.338 §942; renumbered 823.020]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.505**

[1973 c.407 §2; 1975 c.451 §275; 1983 c.338 §943; renumbered 823.030]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.510**

[1973 c.407 §3; 1975 c.451 §276; 1979 c.575 §5; 1983 c.451 §1; 1983 c.338 §944; 1985 c.16 §467; renumbered 823.040]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.515**

[1973 c.407 §4; 1975 c.209 §15; 1983 c.451 §2; 1983 c.338 §945; renumbered 823.060]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.520**

[1973 c.407 §5; 1983 c.451 §3; 1983 c.338 §946; renumbered 823.070]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.525**

[1973 c.407 §6; 1975 c.451 §277; 1983 c.451 §4; renumbered 823.080]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.530**

[1973 c.407 §7; 1975 c.451 §278; renumbered 823.090]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.535**

[1973 c.407 §8; 1975 c.451 §279; 1983 c.451 §5; renumbered 823.100]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.540**

[1973 c.407 §9; renumbered 823.110]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.545**

[1973 c.407 §10; 1975 c.451 §280; 1983 c.338 §947; renumbered 823.120]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.550**

[1973 c.407 §13; 1975 c.451 §281; 1975 c.695 §4a; renumbered 823.130]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.555**

[1973 c.407 §14; 1975 c.451 §282; 1975 c.695 §5a; 1977 c.581 §1; 1979 c.744 §42; renumbered 823.140]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.560**

[1973 c.407 §15; 1975 c.451 §283; 1975 c.695 §6a; 1977 c.581 §2; 1981 c.794 §1; 1983 c.338 §948; renumbered 823.150]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.565**

[1973 c.407 §16; 1981 c.794 §2; 1983 c.451 §6; 1983 c.338 §949; renumbered 823.160]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.570**

[1973 c.407 §17; 1975 c.451 §284; 1975 c.695 §7a; 1981 c.545 §10; renumbered 823.170]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.573**

[1977 c.402 §3; 1981 c.503 §1; renumbered 823.180]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.575**

[1973 c.407 §§18, 28; 1975 c.451 §285; 1983 c.338 §950; renumbered 823.190]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.577**

[1979 c.575 §1; renumbered 823.200]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.580**

[1973 c.407 §19; 1975 c.695 §8; 1983 c.451 §7; renumbered 823.210]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.585**

[1973 c.407 §23; 1975 c.451 §286; 1975 c.695 §9a; 1979 c.59 §2; 1983 c.338 §951; renumbered 823.220]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.590**

[1973 c.407 §24; 1975 c.451 §287; 1983 c.338 §952; renumbered 823.230]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.595**

[1973 c.407 §26; 1975 c.451 §288; 1983 c.338 §953; renumbered 823.240]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.990**

[Subsections (2) and (3) enacted as 1959 c.304 §13; repealed by 1983 c.338 §978]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 485 - (Former Provisions) Section 485.992**

[1973 c.407 §22; 1977 c.582 §54; renumbered 823.990]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 486 - (Former Provisions) Section 486.097**

[1983 c.584 §11; 1985 c.16 §470; renumbered 743.774]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 486 - (Former**

**Provisions)Section 486.541**

[1955 c.429 §23; 1977 c.894 §11; 1983 c.338 §955; renumbered 743.776]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 486 - (Former Provisions)Section 486.546**

[1955 c.429 §24; 1977 c.894 §12; 1983 c.338 §956; renumbered 743.778]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 486 - (Former Provisions)Section 486.551**

[1955 c.429 §28; 1983 c.338 §957; renumbered 743.779]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 486 - (Former Provisions)Section 486.556**

[1955 c.429 §25; 1983 c.338 §958; renumbered 743.781]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 486 - (Former Provisions)Section 486.561**

[1955 c.429 §26; 1983 c.338 §959; renumbered 743.782]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 486 - (Former Provisions)Section 486.564**

[1955 c.429 §27; renumbered 743.784]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 486 - (Former Provisions)Section 486.566**

[1955 c.429 §29; 1977 c.894 §13; 1983 c.338 §960; renumbered 743.785]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 487 - (Former Provisions)Section 487.549**

[1983 c.721 §23; renumbered 813.030]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 487 - (Former Provisions)Section 487.743**

[1983 c.380 §6; renumbered 814.330]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 487 - (Former Provisions)Section 487.746**

[1983 c.380 §7; renumbered 814.340]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.005**

[1967 c.620 §2; 1979 c.744 §44; 1981 c.626 §3; 1985 c.725 §12; renumbered 830.010 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.011**

[1957 c.467 §1; 1959 c.686 §64; 1963 c.355 §2; 1969 c.412 §1; 1973 c.304 §1; 1979 c.206 §1; 1987 c.448 §10; 1989 c.186 §1; renumbered 830.005 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.021**

[1957 c.467 §2; 1959 c.686 §65; 1965 c.539 §1; 1981 c.102 §1; renumbered 830.015 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.023**

[1959 c.686 §61; renumbered 830.300 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former**

**Provisions)Section 488.024**

[1959 c.686 §43; renumbered 830.210 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.025**

[1959 c.686 §56; 1961 c.185 §4; renumbered 830.410 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.026**

[1959 c.686 §57; 1975 c.584 §9; 1979 c.206 §2; 1989 c.885 §8; renumbered 830.420 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.027**

[1959 c.686 §59; 1965 c.539 §2; 1967 c.176 §2; 1967 c.620 §17; 1975 c.584 §10; renumbered 830.035 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.028**

[1959 c.686 §60; renumbered 830.040 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.031**

[1957 c.467 §3; 1959 c.686 §66; 1967 c.153 §1; 1973 c.520 §1; 1975 c.584 §1; 1977 c.77 §1; renumbered 830.215 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.041**

[1957 c.467 §4; 1959 c.686 §66a; 1967 c.153 §3; 1983 c.388 §7; renumbered 830.225 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.052**

[1959 c.686 §41; 1967 c.536 §1; renumbered 830.260 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.055**

[1981 c.625 §3; renumbered 830.270 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.060**

[Renumbered 488.610]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.063**

[1983 c.388 §11; renumbered 830.230 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.070**

[Amended by 1953 c.219 §2; part enacted as 1955 c.440 §1; 1957 c.126 §1; renumbered 488.620]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.071**

[1957 c.467 §7; renumbered 830.235 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.080**

[1957 c.467 §8; 1967 c.153 §2; renumbered 830.240 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.090**



[1957 c.467 §9; 1959 c.686 §67a; 1983 c.388 §9; renumbered 830.220 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.092**

[1959 c.686 §42; renumbered 830.245 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.094**

[1959 c.686 §63; 1967 c.153 §4; 1989 c.885 §9; renumbered 830.250 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.098**

[1959 c.686 §55; renumbered 830.415 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.099**

[1981 c.53 §3; renumbered 830.305 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.100**

[1957 c.467 §10; 1959 c.686 §68; 1979 c.206 §3; 1981 c.53 §1; renumbered 830.315 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.101**

[1961 c.185 §3; renumbered 830.335 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.102**

[1959 c.686 §41a; 1967 c.536 §2; 1973 c.624 §1; renumbered 830.350 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.108**

[1959 c.686 §48; 1963 c.355 §3; 1979 c.206 §4; renumbered 830.375 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.110**

[1957 c.467 §11; 1969 c.412 §2; renumbered 830.340 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.120**

[1957 c.467 §12; renumbered 830.345 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.124**

[1959 c.686 §54; renumbered 830.050 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.130**

[1957 c.467 §13; renumbered 830.355 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.140**

[1957 c.467 §14; 1961 c.185 §6; 1989 c.186 §2; renumbered 830.360 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.144**

[1959 c.686 §§44, 45, 46, 47; 1961 c.185 §7; 1979 c.744 §45; renumbered 830.365 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.150**

[1957 c.467 §15; 1959 c.686 §69; 1967 c.176 §1; renumbered 830.370 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.160**

[1957 c.467 §16; 1979 c.744 §46; renumbered 830.325 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.164**

[1959 c.686 §49; renumbered 830.475 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.168**

[1959 c.686 §50; 1973 c.520 §2; 1975 c.584 §2; 1983 c.388 §6; renumbered 830.480 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.172**

[1959 c.686 §51; renumbered 830.485 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.176**

[1959 c.686 §§52, 53; 1979 c.206 §6; renumbered 830.490 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.178**

[1959 c.686 §58; renumbered 830.330 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.180**

[1957 c.467 §19; 1959 c.686 §70; renumbered 830.025 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.190**

[1975 c.584 §12; renumbered 830.495 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.200**

[1975 c.339 §2; renumbered 830.165 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.210**

[1967 c.620 §§3, 5; 1979 c.477 §8; renumbered 153.330]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.220**

[1967 c.620 §4; 1971 c.388 §2; 1979 c.477 §9; 1979 c.744 §47; renumbered 153.335]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.230**

[1967 c.620 §6; renumbered 153.340]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.240**

[1967 c.620 §7; 1979 c.477 §10; renumbered 153.345]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former**

**Provisions)Section 488.250**

[1967 c.620 §8; renumbered 153.350]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.260**

[1967 c.620 §9; 1981 c.625 §4; renumbered 153.355]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.270**

[1967 c.620 §10; renumbered 153.360]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.280**

[1967 c.620 §11; renumbered 153.365]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.290**

[1967 c.620 §12; renumbered 153.370]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.300**

[1967 c.620 §13; renumbered 153.375]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.600**

[1959 c.686 §62; 1961 c.292 §1; 1965 c.539 §3; 1967 c.536 §3; 1969 c.412 §3; 1971 c.734 §§75, 75a; 1973 c.304 §12; 1979 c.206 §5; 1981 c.102 §2; renumbered 830.175 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.610**

[Formerly 488.060; 1961 c.420 §1; 1967 c.547 §1; 1969 c.162 §1; 1971 c.537 §1; 1973 c.493 §1; renumbered 830.180 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.620**

[Formerly 488.070; 1959 c.148 §1; 1961 c.420 §2; 1967 c.547 §2; 1969 c.134 §1; 1971 c.143 §1; 1973 c.493 §2; renumbered 830.185 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.625**

[1967 c.547 §3; renumbered 830.190 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.650**

[1967 c.128 §2; 1973 c.485 §1; 1987 c.141 §1; renumbered 830.905 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.655**

[1967 c.128 §3; 1987 c.141 §2; renumbered 830.910 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.660**

[1967 c.128 §4; 1987 c.141 §3; renumbered 830.915 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 488 - (Former Provisions)Section 488.665**

[1967 c.128 §5; 1987 c.141 §4; renumbered 830.920 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.670**

[1967 c.128 §6; 1987 c.141 §5; renumbered 830.925 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.675**

[1967 c.128 §7; 1987 c.141 §6; renumbered 830.930 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.680**

[1967 c.128 §8; 1987 c.141 §7; renumbered 830.935 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.705**

[1959 c.686 §1; 1963 c.355 §4; 1965 c.477 §1; 1973 c.520 §4; 1977 c.615 §3; renumbered 830.700 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.710**

[1959 c.686 §2; renumbered 830.100 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.715**

[1959 c.686 §3; 1961 c.185 §8; 1963 c.355 §5; 1971 c.631 §1; 1973 c.520 §5; 1974 s.s. c.8 §2; 1975 c.584 §5; 1989 c.885 §10; renumbered 830.705 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.718**

[1977 c.615 §8; 1987 c.448 §1; 1989 c.186 §3; renumbered 830.850 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.720**

[1959 c.686 §4; 1973 c.520 §6; 1981 c.52 §1; 1989 c.186 §4; renumbered 830.770 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.725**

[1959 c.686 §5; 1961 c.185 §9; 1965 c.539 §4; 1977 c.62 §1; renumbered 830.780 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.726**

[1977 c.615 §9; 1987 c.448 §2; renumbered 830.855 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.727**

[1977 c.615 §10; 1987 c.448 §3; renumbered 830.860 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.728**

[1977 c.615 §11; renumbered 830.865 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.729**

[1987 c.448 §5; renumbered 830.870 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.730**

[1959 c.686 §6; 1963 c.355 §6; 1965 c.477 §2; renumbered 830.785 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.732**

[1963 c.355 §§9, 11; 1965 c.86 §2; 1965 c.431 §2; 1967 c.536 §4; 1971 c.475 §1; 1977 c.62 §2; 1977 c.884 §27; 1979 c.206 §9; 1981 c.349 §1; renumbered 830.790 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.735**

[1959 c.686 §7; 1969 c.366 §1; 1977 c.62 §3; 1979 c.206 §10; renumbered 830.795 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.740**

[1959 c.686 §§8, 9; 1963 c.355 §7; 1969 c.366 §2; 1977 c.62 §4; 1979 c.206 §11; renumbered 830.800 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.750**

[1959 c.686 §9a; 1977 c.615 §12; 1987 c.448 §6; renumbered 830.710 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.755**

[1959 c.686 §10; 1961 c.185 §10; 1973 c.520 §7; renumbered 830.805 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.760**

[1959 c.686 §§11, 12, 13, 14; 1963 c.355 §12; 1971 c.475 §2; 1977 c.62 §5; 1977 c.615 §13; 1981 c.103 §1; 1981 c.104 §1; 1981 c.349 §2; 1989 c.186 §5; renumbered 830.830 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.762**

[Formerly 488.770; 1981 c.103 §2; 1983 c.388 §1; 1987 c.448 §7; renumbered 830.810 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.763**

[1977 c.260 §4 (enacted in lieu of 488.764); 1977 c.615 §14; renumbered 830.740 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.766**

[1965 c.477 §5; 1977 c.615 §15; 1983 c.388 §2; renumbered 830.745 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.768**

[1965 c.477 §4; 1977 c.615 §16; 1983 c.388 §3; renumbered 830.750 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.770**

[1959 c.686 §§15, 16, 17; 1961 c.185 §11; 1963 c.355 §15; 1965 c.477 §3; renumbered 488.762]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.772**

[1965 c.477 §8; 1977 c.615 §17; 1983 c.388 §4; renumbered 830.755 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.774**

[1965 c.477 §9; 1977 c.615 §18; renumbered 830.720 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.775**

[1963 c.355 §14; renumbered 488.778]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.778**

[Formerly 488.775; 1973 c.520 §8; renumbered 830.825 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.780**

[1959 c.686 §18; 1977 c.615 §19; 1981 c.103 §3; 1981 c.625 §1; renumbered 830.815 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.805**

[1959 c.686 §22; 1963 c.355 §16; 1969 c.366 §3; 1977 c.62 §6; 1977 c.615 §20; 1983 c.388 §5; renumbered 830.820 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.810**

[1959 c.686 §23; 1961 c.185 §12; 1963 c.355 §17; 1977 c.615 §21; renumbered 830.715 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.815**

[1959 c.686 §25; 1977 c.615 §22; renumbered 830.725 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.820**

[1959 c.686 §24; renumbered 830.730 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.823**

[1963 c.355 §13; 1971 c.475 §3; renumbered 830.775 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.825**

[1959 c.686 §27; 1973 c.792 §18; renumbered 830.105 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.830**

[1959 c.686 §34; 1961 c.292 §2; 1963 c.355 §18; 1965 c.478 §1; 1967 c.536 §5; 1973 c.304 §13; 1975 c.584 §6; 1977 c.615 §23; 1981 c.104 §2; 1983 c.388 §8; 1987 c.644 §1; 1989 c.186 §6; renumbered 830.110 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.833**

[1971 c.475 §6; 1973 c.520 §9; renumbered 830.115 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.840**

[1959 c.686 §28; renumbered 830.120 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.845**

[1959 c.686 §30; 1969 c.314 §57; renumbered 830.125 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.850**

[1959 c.686 §31; renumbered 830.130 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.855**

[1959 c.686 §32; renumbered 830.135 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.860**

[1959 c.686 §35; 1965 c.589 §1; 1967 c.536 §6; 1971 c.475 §4; 1973 c.762 §4; renumbered 830.140 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.865**

[1959 c.686 §§36, 37; 1971 c.186 §4; 1971 c.475 §7; 1983 c.763 §49; 1985 c.156 §1; renumbered 830.145 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.870**

[1959 c.686 §37a; 1979 c.206 §7; renumbered 830.060 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.875**

[1973 c.762 §3; 1975 c.584 §7; 1979 c.206 §8; 1985 c.152 §6; 1987 c.185 §1; renumbered 830.150 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.880**

[1985 c.218 §3; renumbered 830.195 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.883**

[1987 c.644 §3; renumbered 830.160 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.885**

[1987 c.573 §1; renumbered 634.525 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.900**

[1977 c.806 §11; renumbered 830.875 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.905**

[1977 c.806 §12; renumbered 830.880 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.910**

[1977 c.806 §13; renumbered 830.885 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.915**

[1977 c.806 §14; renumbered 830.890 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.920**

[1977 c.806 §15; renumbered 830.895 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.990**

[Subsection (6) enacted as 1955 c.440 §2; subsections (1) and (2) enacted as 1957 c.467 §18; 1959 c.148 §2; subsection (8) enacted as 1959 c.686 §38; 1961 c.185 §13; 1967 c.176 §3; subsection (7) enacted as 1967 c.467 §4 (2); 1967 c.620 §18; 1979 c.206 §12; 1981 c.53 §4; repealed by 1981 c.626 §18 (488.991 enacted in lieu of 488.990)]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.991**

[1981 c.626 §19 (enacted in lieu of 488.990); 1983 c.388 §12; 1987 c.448 §8; 1989 c.186 §7; renumbered 830.990 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.993**

[1977 c.806 §16; 1981 c.626 §20; 1987 c.448 §9; renumbered 830.992 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 488 - (Former Provisions) Section 488.995**

[1967 c.620 §14; 1981 c.626 §21; renumbered 830.995 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.002**

[1969 c.599 §11; 1973 c.249 §63; 1987 c.105 §1; renumbered 835.005 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.005**

[1969 c.599 §10; 1973 c.249 §64; renumbered 835.010 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.050**

[Amended by 1973 c.249 §65; 1987 c.107 §1; renumbered 835.015 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.060**

[Amended by 1973 c.249 §66; 1983 c.66 §1; 1987 c.105 §2; renumbered 835.020 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.070**

[Amended by 1973 c.249 §67; 1987 c.105 §3; renumbered 835.025 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.090**

[Amended by 1973 c.249 §68; 1983 c.389 §2; renumbered 835.030 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.100**

[Amended by 1971 c.734 §23; 1973 c.249 §69; renumbered 835.035 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.110**

[Amended by 1973 c.249 §70; renumbered 835.040 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.120**

[Amended by 1965 c.14 §44; 1969 c.599 §13; 1973 c.249 §71; renumbered 835.045 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.130**

[Amended by 1969 c.599 §14; 1973 c.249 §72; renumbered 835.050 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.140**

[Amended by 1973 c.249 §73; renumbered 835.055 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.150**

[Amended by 1973 c.249 §74; 1975 c.59 §3; renumbered 835.060 in 1989]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.160**

[Amended by 1973 c.249 §75; renumbered 835.065 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.170**

[Amended by 1973 c.249 §76; renumbered 835.070 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 491 - (Former Provisions) Section 491.190**

[1983 c.66 §8; renumbered 835.075 in 1989 and then 401.555 in 1997]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) Section 492.010**

[Amended by 1975 c.302 §1; 1975 c.755 §1; 1983 c.66 §2; 1985 c.565 §77; 1989 c.102 §1; renumbered 836.005 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) Section 492.020**

[Amended by 1987 c.105 §4; renumbered 836.010 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) Section 492.030**

[Amended by 1987 c.105 §5; renumbered 836.015 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) Section 492.040**

[Amended by 1987 c.105 §6; renumbered 836.020 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) Section 492.050**

[Amended by 1987 c.105 §7; renumbered 836.025 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) Section 492.060**

[Amended by 1987 c.105 §8; renumbered 836.030 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) Section 492.070**

[Renumbered 836.035 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) Section 492.080**

[Renumbered 836.040 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) Section 492.090**

[Amended by 1971 c.741 §31; 1987 c.105 §9; renumbered 836.045 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) Section 492.100**

[Amended by 1987 c.447 §108; renumbered 836.050 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) Section 492.110**

[Amended by 1987 c.105 §10; renumbered 836.055 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former**

**Provisions)Section 492.120**

[Amended by 1975 c.302 §2; 1987 c.105 §11; renumbered 836.060 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.130**

[Renumbered 836.065 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.140**

[Amended by 1977 c.433 §1; 1987 c.105 §12; renumbered 836.070 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.150**

[Amended by 1987 c.105 §13; renumbered 836.075 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.160**

[Amended by 1961 c.107 §1; 1983 c.66 §3; 1987 c.105 §14; renumbered 836.080 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.170**

[Amended by 1975 c.302 §3; 1983 c.66 §4; 1985 c.488 §1; 1987 c.105 §15; renumbered 836.085 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.180**

[Amended by 1961 c.107 §2; 1975 c.302 §4; 1987 c.105 §16; renumbered 836.090 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.190**

[Amended by 1983 c.66 §5; 1987 c.105 §17; renumbered 836.095 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.200**

[Amended by 1975 c.302 §5; 1983 c.66 §6; 1987 c.105 §18; renumbered 836.100 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.210**

[Amended by 1985 c.488 §2; 1987 c.105 §19; renumbered 836.105 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.220**

[Amended by 1975 c.302 §6; 1987 c.105 §20; renumbered 836.110 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.230**

[Amended by 1975 c.302 §7; 1987 c.105 §21; renumbered 836.115 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.240**

[Renumbered 836.120 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.310**

[Amended by 1987 c.107 §2; renumbered 836.200 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.320**

[Renumbered 836.205 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.330**

[Renumbered 836.210 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.340**

[Amended by 1971 c.741 §32; renumbered 836.215 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.350**

[Renumbered 836.220 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.360**

[Renumbered 836.230 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.370**

[Renumbered 836.240 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.380**

[Renumbered 836.245 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.390**

[1961 c.701 §§1, 2, 3; renumbered 836.250 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.510**

[Renumbered 836.400 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.520**

[Renumbered 836.300 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.530**

[Renumbered 836.305 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.540**

[Renumbered 836.310 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.550**

[Renumbered 836.315 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.560**

[Renumbered 836.320 in 1989]

**2023 Oregon Revised Statutes** Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 492 - (Former Provisions) **Section 492.570**

[Renumbered 836.325 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.580**

[Renumbered 836.330 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.590**

[Renumbered 836.335 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.600**

[Amended by 1987 c.447 §132; renumbered 836.340 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.610**

[Renumbered 836.345 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.620**

[Renumbered 836.350 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.630**

[Renumbered 836.355 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.640**

[Renumbered 836.360 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.650**

[Renumbered 836.365 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.660**

[Renumbered 836.370 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.670**

[Renumbered 836.375 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.680**

[Renumbered 836.380 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.690**

[Renumbered 836.385 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.700**

[Renumbered 836.390 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)**Section 492.710**

[Renumbered 836.395 in 1989]

**2023 Oregon Revised Statutes**Volume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former

**Provisions)Section 492.760**

[Amended by 1971 c.741 §33; renumbered 836.500 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.770**

[Amended by 1987 c.105 §22; renumbered 836.505 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.780**

[Amended by 1965 c.368 §9; renumbered 836.510 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.790**

[Amended by 1987 c.105 §23; renumbered 836.515 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.800**

[Amended by 1987 c.105 §24; renumbered 836.520 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.810**

[Renumbered 836.525 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 492 - (Former Provisions)Section 492.820**

[1981 c.553 §2; renumbered 836.530 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 493 - (Former Provisions)Section 493.010**

[Amended by 1975 c.302 §8; 1987 c.105 §25; renumbered 837.005 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 493 - (Former Provisions)Section 493.020**

[Amended by 1973 c.312 §1; renumbered 837.010 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 493 - (Former Provisions)Section 493.030**

[Amended by 1987 c.601 §6; renumbered 837.015 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 493 - (Former Provisions)Section 493.040**

[Amended by 1975 c.302 §9; 1977 c.398 §1; 1987 c.105 §26; renumbered 837.020 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 493 - (Former Provisions)Section 493.050**

[Amended by 1965 c.414 §1; 1977 c.398 §2; 1983 c.448 §1; 1987 c.105 §27; 1989 c.102 §2; renumbered 837.025 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 493 - (Former Provisions)Section 493.060**

[Amended by 1989 c.102 §3; renumbered 837.030 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 493 - (Former Provisions)Section 493.070**

[Amended by 1975 c.59 §2; 1981 c.197 §1; 1983 c.66 §9; 1987 c.105 §28; renumbered 837.035 in 1989]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 493 - (Former Provisions)Section 493.080**

[Amended by 1975 c.302 §10; 1985 c.614 §5; 1987 c.105 §29; 1987 c.601 §7; renumbered 837.040 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.090**

[Amended by 1965 c.414 §2; 1973 c.312 §2; 1973 c.567 §1; 1977 c.349 §1; 1979 c.381 §1; 1983 c.448 §2; 1985 c.346 §1; 1985 c.614 §2; 1987 c.134 §3; renumbered 837.045 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.095**

[1987 c.134 §2; renumbered 837.050 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.100**

[Amended by 1975 c.302 §11; 1979 c.381 §2; 1983 c.448 §3; 1985 c.109 §1; renumbered 837.055 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.110**

[Amended by 1973 c.312 §3; 1979 c.381 §3; 1987 c.105 §30; renumbered 837.060 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.120**

[Amended by 1979 c.381 §4; renumbered 837.065 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.130**

[Amended by 1979 c.381 §5; 1987 c.105 §31; 1987 c.134 §4; renumbered 837.070 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.140**

[Amended by 1975 c.302 §12; 1979 c.381 §6; 1979 c.692 §15; 1987 c.105 §32; 1987 c.134 §5; renumbered 837.075 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.160**

[Amended by 1979 c.744 §48; 1983 c.66 §10; renumbered 837.080 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.170**

[Renumbered 837.085 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.180**

[Renumbered 837.090 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.190**

[Renumbered 837.095 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.225**

[1981 c.702 §33; 1985 c.614 §3; renumbered 837.100 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.230**

[1987 c.144 §2; renumbered 837.105 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 493 - (Former Provisions) Section 493.991**

[1981 c.702 §3; 1983 c.66 §11; 1985 c.614 §4; renumbered 837.990 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.010**

[1975 c.281 §1; renumbered 838.005 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.020**

[1975 c.281 §2; 1977 c.521 §1; renumbered 838.010 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.030**

[1975 c.281 §3; 1977 c.521 §2; renumbered 838.015 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.040**

[1975 c.281 §4; 1977 c.521 §3; 1983 c.350 §291; renumbered 838.020 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.043**

[1983 c.350 §293; renumbered 838.025 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.046**

[1983 c.350 §294; renumbered 838.030 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.050**

[1975 c.281 §5; renumbered 838.035 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.060**

[1975 c.281 §6; renumbered 838.040 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.070**

[1975 c.281 §7; renumbered 838.045 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.080**

[1975 c.281 §8; renumbered 838.050 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.090**

[1975 c.281 §9; renumbered 838.055 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.110**

[1975 c.281 §11; renumbered 838.060 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.120**

[1975 c.281 §12; renumbered 838.065 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.130**

[1975 c.281 §14; renumbered 838.070 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 494 - (Former Provisions) Section 494.140**

[1975 c.281 §13; renumbered 838.075 in 1989]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.002 - Short title.**

ORS chapters 496, 497, 498 and 501 may be cited as the wildlife laws. [1973 c.723 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.004 - Definitions.**

As used in the wildlife laws, unless the context requires otherwise:

- (1) "Angle" means to take or attempt to take a fish for personal use by means involving hook and line.
- (2) "Commission" means the State Fish and Wildlife Commission created by ORS 496.090.
- (3) "Compatible" means capable of existing in harmony so as to minimize conflict.
- (4) "Department" means the State Department of Fish and Wildlife created by ORS 496.080.
- (5) "Director" means the State Fish and Wildlife Director appointed pursuant to ORS 496.112.
- (6) "Endangered species" means:
  - (a) Any native wildlife species determined by the commission to be in danger of extinction throughout any significant portion of its range within this state.
  - (b) Any native wildlife species listed as an endangered species pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended.
- (7) "Fund" means the State Wildlife Fund created by ORS 496.300.
- (8) "Fur-bearing mammal" means beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon, red fox and gray fox.
- (9) "Game mammal" means antelope, black bear, cougar, deer, elk, moose, mountain goat, mountain sheep, silver gray squirrel and gray wolf as a special status mammal defined by commission rule.
- (10) "Hunt" means to take or attempt to take any wildlife by means involving the use of a weapon or with the assistance of any mammal or bird.
- (11) "Manage" means to protect, preserve, propagate, promote, utilize and control wildlife.
- (12) "Optimum level" means wildlife population levels that provide self-sustaining species as well as taking, nonconsumptive and recreational opportunities.
- (13) "Person with a disability" means a person who complies with the requirement of ORS 496.018.
- (14) "Shellfish" has the meaning given that term in ORS 506.011.
- (15) "Species" means any species or subspecies of wildlife.
- (16) "Take" means to kill or obtain possession or control of any wildlife.
- (17) "Threatened species" means:
  - (a) Any native wildlife species the commission determines is likely to become an endangered species within the foreseeable future throughout any significant portion of its range within this state.
  - (b) Any native wildlife species listed as a threatened species pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended.
- (18) "Trap" means to take or attempt to take any wildlife by means involving the use of a trap, net, snare or other device used for the purpose of capture.
- (19) "Wildlife" means fish, shellfish, amphibians and reptiles, feral swine as defined by State Department of Agriculture rule, wild birds as defined by commission rule and other wild mammals as defined by commission rule. [1973 c.723 §3; 1975 c.253 §5; 1977 c.136 §1; 1979 c.399 §1; 1979 c.615 §1a; 1985 c.60 §7; 1987 c.686 §1; 1991 c.67 §148; 1993 c.659 §1; 1999 c.25 §3; 2001 c.125 §1; 2003 c.656 §1; 2007 c.523 §1; 2009 c.778 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.007 - "Game bird" defined.**

As used in the wildlife laws, unless the context requires otherwise, "game bird" means:

- (1) Those members of the family Anatidae, commonly known as swans, geese, brant and river and sea ducks.
- (2) Those members of the family Columbidae, commonly known as mourning doves and bandtailed pigeons.
- (3) Those members of the family Tetranidae, commonly known as grouse, ptarmigan and prairie chickens.
- (4) Those members of the family Phasianidae, commonly known as pheasants, quail and partridge.
- (5) Those members of the family Meleagrididae, commonly known as wild turkey.
- (6) Those members of the family Scolopacidae, commonly known as snipe and woodcock.
- (7) Those members of the family Gruidae, commonly known as cranes.
- (8) Those members of the family Rallidae, commonly known as rails, gallinules and coots. [1973 c.723 §4]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.009 - "Game fish" defined.**

As used in the wildlife laws, unless the context requires otherwise, "game fish" means:

- (1) Those members of the family Salmonidae, commonly known as trout, steelhead, char, grayling, Atlantic salmon and whitefish.
- (2) Those members of the family Salmonidae, commonly known as salmon, when under 15 inches in length or when taken by angling.
- (3) Those members of the family Ictaluridae, commonly known as freshwater catfish.
- (4) Those members of the family Centrarchidae, commonly known as freshwater bass, sunfish and crappie.
- (5) Those members of the family Acipenseridae, commonly known as green sturgeon and white sturgeon, when taken by angling.
- (6) *Perca flavescens*, commonly known as yellow perch.
- (7) *Stizostedion vitreum*, commonly known as walleye.
- (8) *Catostomus luxatus*, commonly known as mullet.
- (9) *Morone saxatilis*, commonly known as striped bass.
- (10) *Alosa sapidissima*, commonly known as American shad, when taken by angling. [1973 c.723 §§5,131; 1999 c.1026 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.012 - Wildlife policy.**

It is the policy of the State of Oregon that wildlife shall be managed to prevent serious depletion of any indigenous species and to provide the optimum recreational and aesthetic benefits for present and future generations of the citizens of this state. In furtherance of this policy, the State Fish and Wildlife Commission shall represent the public interest of the State of Oregon and implement the following coequal goals of wildlife management:

- (1) To maintain all species of wildlife at optimum levels.
- (2) To develop and manage the lands and waters of this state in a manner that will enhance the production and public enjoyment of wildlife.
- (3) To permit an orderly and equitable utilization of available wildlife.
- (4) To develop and maintain public access to the lands and waters of the state and the wildlife resources thereon.
- (5) To regulate wildlife populations and the public enjoyment of wildlife in a manner that is compatible with primary uses of the lands and waters of the state.
- (6) To provide optimum recreational benefits.
- (7) To make decisions that affect wildlife resources of the state for the benefit of the wildlife resources and to make decisions that allow for the best social, economic and recreational utilization of wildlife resources by all user groups. [1973 c.723 §6; 1993 c.659 §2; 2001 c.762 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.016 - Applicability of wildlife laws to commercial fishing laws.**

Nothing in the wildlife laws is intended to affect any of the provisions of the commercial fishing laws. However, nothing in the commercial fishing laws is intended to authorize the taking of game fish in any manner prohibited by the wildlife laws. [1973 c.723 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.018 - Person with disability under wildlife laws.**

In order to be considered a person with a disability under the wildlife laws, a person shall provide to the State Fish and Wildlife Commission either:

- (1) Written certification from a licensed physician, licensed nurse practitioner or licensed physician assistant that states that the person:
  - (a) Is permanently unable to walk without the use of, or assistance from, a brace, cane, crutch, prosthetic device, wheelchair, scooter or walker;
  - (b) Is restricted by lung disease to the extent that the person's forced expiratory volume for one second, when measured by a spirometer, is less than 35 percent predicted, or arterial oxygen tension is less than 55 mm/Hg on room air at rest;
  - (c) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV, according to standards established by the American Heart Association;
  - (d) Has a permanent, physical impairment that prevents the person from holding or shooting a firearm or bow or from holding a fishing rod in hand; or
  - (e) Has central visual acuity that permanently does not exceed 20/200 in the better eye with corrective lenses, or the widest diameter of the visual field is no greater than 20 degrees; or
- (2) Written proof that the last official certification of record by the United States Department of Veterans Affairs or any branch of the Armed Forces of the United States shows the person to be at least 65 percent disabled. [1999 c.25 §2; 2001 c.571 §1; 2005 c.471

§12; 2007 c.587 §1; 2019 c.358 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.080 - State Department of Fish and Wildlife.**

There is hereby established in the executive branch of the government of this state under the State Fish and Wildlife Commission a department to be known as the State Department of Fish and Wildlife. The department shall consist of the director of the department and all personnel employed in the department. [1975 c.253 §7; 1993 c.659 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.085 - Fish Screening Task Force; qualifications of members; duties.**

- (1) There is established within the State Department of Fish and Wildlife the Fish Screening Task Force consisting of seven members appointed by the State Fish and Wildlife Commission.
  - (2) Three members shall be appointed to represent agricultural interests, three shall be appointed to represent fishing or fish conservation interests and one member shall be appointed to represent the public. Members of the task force shall serve for two-year terms. No member of the task force shall serve for more than three consecutive two-year terms.
  - (3) A member of the task force shall receive no compensation for services as a member. However, subject to any applicable law regulating travel and other expenses of state officers and employees, a member shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties from such moneys as may be available therefor in the State Wildlife Fund.
  - (4) The task force shall meet at such times and places as may be determined by the chair or by a majority of the members of the task force.
  - (5) The duties of the task force are:
    - (a) To advise the department in the development of a comprehensive cost-sharing program for the installation of fish screening or by-pass devices in water diversions.
    - (b) To advise the department in establishing a stable and equitable funding system for the installation and maintenance of fish screening and by-pass devices.
    - (c) To advise the department in identifying sources and applying for grants from local, state and federal governmental agencies for funding the installation and maintenance of fish screening and by-pass devices.
    - (d) To advise the department in monitoring fish screening programs.
    - (e) To advise the department in a survey and study of fish screening technology to determine the most cost-effective alternatives for screening in the various situations that may be encountered in the implementation of fish screening in this state.
    - (f) To advise the department in preparing a report on the capital costs and effectiveness of the program provided in ORS 498.306.
    - (g) To advise the department on the creation of the priority criteria and the priority listing referred to in ORS 498.306 (14)(a) or (d).
- [1991 c.858 §6; 1995 c.426 §3; 2005 c.22 §368; 2007 c.625 §5a]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.090 - State Fish and Wildlife Commission; members; terms; qualifications; compensation and expenses.**

- (1) There is established a State Fish and Wildlife Commission that shall consist of seven members appointed by the Governor.
- (2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.
- (3) All appointments of members of the commission by the Governor are subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.
- (4) The Governor shall appoint:
  - (a) Two members of the commission from the regional river basin management area set forth in ORS 536.022 (3)(a);
  - (b) One member of the commission from the regional river basin management area set forth in ORS 536.022 (3)(b);
  - (c) Two members of the commission from the regional river basin management area set forth in ORS 536.022 (3)(c);
  - (d) One member of the commission from the regional river basin management area set forth in ORS 536.022 (3)(d); and
  - (e) One member of the commission from the regional river basin management area set forth in ORS 536.022 (3)(e).
- (5) Members appointed to the commission shall be residents of this state, as defined in ORS 497.002.
- (6) All members of the commission shall represent the public interest of the state and make decisions affecting the wildlife resources of the state for the benefit of those resources. Consistent with the requirements of this subsection, the commission shall provide for the productive and sustainable utilization of wildlife resources for all groups of users.
- (7) All members of the commission shall have a general knowledge of fish and wildlife issues, an understanding of the roles of federally recognized Indian tribes in Oregon and of the relationships federally recognized Indian tribes in Oregon have with lands, water and the natural resources that the commission governs, and an understanding of the operation and functions of public policy boards and commissions. In making appointments to the commission, the Governor shall:

- (a) Consider appointing members who possess knowledge or experience relevant to implementing the wildlife policy set forth in ORS 496.012.
- (b) Take into consideration racial, ethnic, gender and geographic diversity.
- (8) Failure of a member to maintain compliance with the eligibility requirements of subsections (4) and (5) of this section shall vacate membership. Members of the commission may otherwise be removed only by the Governor.
- (9) A member of the commission is entitled to compensation and expenses as provided in ORS 292.495. [1975 c.253 §8; 1981 c.545 §11; 1997 c.249 §177; 1999 c.697 §1; 2001 c.762 §1; 2013 c.1 §75; 2023 c.429 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.108 - Commission officers; quorum; meetings.**

- (1)(a) The Governor shall designate one member of the State Fish and Wildlife Commission as chairperson. The member shall serve as chairperson until the member's term expires or until relieved by the Governor. The chairperson shall have the powers and duties as are provided by the rules of the commission.
- (b) The commission shall select one of its members as vice chairperson, for a term and with the duties and powers necessary for the performance of the functions of the office as the commission determines appropriate.
- (2) A majority of the members of the commission constitutes a quorum for the transaction of business.
- (3) The commission shall meet at least once every two months at a time and place determined by the commission. The commission shall also meet at other times and places as are specified by the call of the chairperson or of a majority of the members of the commission.
- (4) The commission may also meet jointly with authorities of other states or of the United States to consider problems of mutual interest.
- (5) The commission shall hold at least one meeting per year in each of the congressional districts in this state. [1973 c.723 §9; 2001 c.762 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.112 - State Fish and Wildlife Director; term; compensation and expenses; delegation of commission powers to director.**

- (1) The State Fish and Wildlife Commission shall appoint a State Fish and Wildlife Director to serve for a term not to exceed four years unless sooner removed by the commission.
- (2) The director shall receive such salary as may be fixed by the commission. In addition to salary, subject to applicable law regulating travel and other expenses of state officers, the director shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties.
- (3) The commission may delegate to the director any of the powers and duties granted to or imposed upon it by law, except to revoke or refuse to issue licenses issued pursuant to the commercial fishing laws.
- (4) The commission may reappoint the director to additional terms. [1975 c.253 §9; 1985 c.529 §3; 1993 c.659 §4; 1999 c.697 §2; 2001 c.762 §§3,4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.116 - Delegation of rulemaking authority to director; requirements.**

- (1) In exercising any authority to adopt administrative rules delegated by the State Fish and Wildlife Commission under ORS 496.112, the State Fish and Wildlife Director shall comply with the requirements of ORS 496.138.
- (2) Notwithstanding ORS 183.400, for any rule adopted by the director pursuant to subsection (1) of this section, before a person may petition the Court of Appeals to determine the validity of the rule, the person shall first request that the State Fish and Wildlife Commission determine the validity of the rule. The determination of the commission may be reviewed in accordance with ORS 183.400. [1999 c.697 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.118 - Duties and powers of director.**

- (1) Subject to policy direction by the State Fish and Wildlife Commission, the State Fish and Wildlife Director shall:
  - (a) Be the administrative head of the State Department of Fish and Wildlife;
  - (b) Have power, within applicable budgetary limitations, and in accordance with ORS chapter 240, to hire, assign, reassign and coordinate personnel of the department;
  - (c) Administer and enforce the wildlife laws of the state;
  - (d) Be authorized to participate in any proceeding before any public officer, commission or body of the United States or any state for the purpose of representing the citizens of Oregon concerning the wildlife resources of this state;
  - (e) Establish such sections and divisions as are necessary to properly carry out the work of the commission;
  - (f) Be responsible for the collection, application and dissemination of information pertinent to the management of the wildlife

resources, and to the regulation of the uses of such resources; and

(g) Coordinate any activities of the department related to a watershed enhancement project approved by the Oregon Watershed Enhancement Board under ORS 541.932 with activities of other cooperating state and federal agencies participating in the project.

(2) In addition to duties otherwise required by law, the director shall prescribe internal policies and procedures for the government of the department, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property in a manner consistent with applicable law.

(3) In addition to any other duties assigned to the director, the director shall report quarterly on the activities of the department to the appropriate legislative committee.

(4) The director may delegate to any employee of the department the exercise or discharge in the director's name of any power, duty or function of whatever character, vested in or imposed by law upon the director. The official act of a person so acting in the director's name and by the director's authority shall be considered to be an official act of the director.

(5) The director may restrict or otherwise limit the participation of an employee of the department in any program administered by the department to ensure that the programs of the department are administered in a fair and equitable manner and that no employee of the department gains an advantage over the public.

(6) Notwithstanding the provisions of ORS 496.112 (3), in times of emergency or with respect to regulating wildlife taking, the director may exercise the full powers of the commission until such times as the emergency ends or the commission meets in formal session. [1975 c.253 §10; 1987 c.734 §12; 1993 c.659 §5; 1999 c.697 §3; 2007 c.354 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.121 - Authority of department to require fingerprints.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the State Department of Fish and Wildlife may require the fingerprints of a person who:

(1)(a) Is employed or applying for employment by the department; or

(b) Provides services or seeks to provide services to the department as a contractor, vendor or volunteer; and

(2) Is, or will be, working or providing services in a position:

(a) In which the person has direct access to persons under 18 years of age, elderly persons or persons with disabilities;

(b) That has personnel or human resources functions as one of the position's primary responsibilities;

(c) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(d) That involves the use, possession, issuance, transport, purchase, sale or forfeiture of firearms or munitions, access to firearms or munitions or the training of others in the use or handling of firearms;

(e) In which the person resides on property managed by the department;

(f) In which the person has access to information, the disclosure of which is prohibited by state or federal laws, rules or regulations or information that is defined as confidential under state or federal laws, rules or regulations;

(g) That has payroll functions or in which the person has responsibility for receiving, receipting or depositing money or negotiable instruments, for billing, collections or other financial transactions or for purchasing or selling property or has access to property held in trust or to private property in the temporary custody of the state;

(h) That has mailroom duties as a primary duty or job function;

(i) In which the person has responsibility for auditing the department;

(j) In which the person has access to Social Security numbers, dates of birth or criminal background information of employees or members of the public; or

(k) In which the person has access to tax or financial information about individuals or business entities. [2005 c.730 §60; 2009 c.208 §1]

Note:

496.121 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.124 - Fish Division; Wildlife Division; authority.**

In addition to such divisions as may be established by the State Fish and Wildlife Director pursuant to ORS 496.118, there are established within the State Department of Fish and Wildlife a Fish Division and a Wildlife Division. The Wildlife Division shall be responsible for the management of all wildlife, except fish and other marine life, over which the State Fish and Wildlife Commission has regulatory jurisdiction. [1975 c.253 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.128 - Reports by commission.**

(1) The State Fish and Wildlife Commission shall report biennially to the Governor and to the Legislative Assembly on the activities of the commission during the preceding biennium. The commission shall make such additional reports as the Governor or the

Legislative Assembly may direct.

(2) The reports required by subsection (1) of this section shall be in such form and contain such information as the commission considers appropriate, and shall contain such other information as the Governor and the Legislative Assembly may require. Such reports shall include all new or amended rules, policies or procedures adopted by the commission and shall include a summary of significant consultation activity under ORS 496.164. [1973 c.723 §11; 1993 c.659 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.138 - Commission policies and programs; rules; public hearings; agency request budgets.**

(1) Consistent with the policy of ORS 496.012, the State Fish and Wildlife Commission shall implement the policies and programs of this state for the management of wildlife. These policies and programs shall consider the uses of public and private lands and utilize voluntary partnerships with private and public landowners to protect and enhance wildlife habitat and effectively manage wildlife. In addition, the commission shall perform any other duty vested in it by law.

(2) In accordance with the applicable provisions of ORS chapter 183, the commission shall adopt such rules and standards as it considers necessary and proper to implement the policy and objectives of ORS 496.012 and perform the functions vested by law in the commission.

(3) Except as provided in ORS 183.335 (5), the commission shall cause a public hearing to be held on any proposed rule or standard prior to its adoption. The hearing may be before the commission, any designated member thereof or any person designated by and acting for the commission.

(4) Before submitting an agency request budget or information to the Governor pursuant to ORS 291.201 to 291.222, the commission shall hold a public hearing on proposals for planned expenditures and enhancement packages that the commission intends to recommend to the Governor for inclusion in the Governor's budget. [1973 c.723 §12; 1993 c.659 §7; 2016 c.117 §73]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.141 - Fish screening program report.**

On or before February 1 of each odd-numbered year, the State Department of Fish and Wildlife shall provide to the Joint Committee on Ways and Means a complete annual report regarding activities initiated by the department in regard to the fish screening program. The report shall include a complete budget analysis of all costs, including in-kind costs associated with the program, the number of screening or by-pass devices installed and the size of the diversions on which such devices were installed. The budget analysis shall identify all costs associated with the construction and installation of screening or by-pass devices, administrative costs and research and development costs associated with the program. [1995 c.426 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.146 - Additional powers of commission; rules; fees; penalties.**

In addition to any other duties or powers provided by law, the State Fish and Wildlife Commission:

(1) May accept, from whatever source, appropriations, gifts or grants of money or other property for the purposes of wildlife management, and use such money or property for wildlife management purposes.

(2) May sell or exchange property owned by the state and used for wildlife management purposes when the commission determines that such sale or exchange would be advantageous to the state wildlife policy and management programs.

(3) May acquire, introduce, propagate and stock wildlife species in such manner as the commission determines will carry out the state wildlife policy and management programs.

(4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking, hunting and trapping and may prescribe such tagging and sealing procedures as the commission determines necessary to carry out the provisions of the wildlife laws or to obtain information for use in wildlife management. Permits issued pursuant to this subsection may include special hunting permits for a person and immediate family members of the person to hunt on land owned by that person in areas where permits for deer or elk are limited by quota. As used in this subsection, "immediate family members" means spouses in a marriage, parents, brothers, brothers-in-law, sisters, sisters-in-law, sons, sons-in-law, daughters, daughters-in-law, stepchildren and grandchildren. A landowner who is qualified to receive landowner preference tags from the commission may request two additional tags for providing public access and two additional tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with supporting evidence that the access is significant and the habitat programs benefit wildlife. The board may recommend that the commission grant the request. When a landowner is qualified under landowner preference rules adopted by the commission and receives a controlled hunt tag for that unit or a landowner preference tag for the landowner's property and does not use the tag during the regular season, the landowner may use that tag to take an antlerless animal, when approved by the State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the landowner's property.

(5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued pursuant to the wildlife laws to keep records and make reports concerning the time, manner and place of taking wildlife, the quantities taken and such other information as the commission determines necessary for proper enforcement of the wildlife laws or to obtain information for use in wildlife management.

- (6) May establish special hunting and angling areas or seasons in which only persons less than 18 years of age or over 65 years of age are permitted to hunt or angle.
- (7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests therein for wildlife management and wildlife-oriented recreation purposes.
- (8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise real property and all interests therein and establish, operate and maintain thereon public hunting areas.
- (9) May establish and develop wildlife refuge and management areas and prescribe rules governing the use of such areas and the use of wildlife refuge and management areas established and developed pursuant to any other provision of law.
- (10) May by rule prescribe fees for licenses, tags, permits and applications issued or required pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of lands owned or managed by the commission, unless such fees or user charges are otherwise prescribed by law. No fee or user charge prescribed by the commission pursuant to this subsection shall exceed \$250.
- (11) May enter into contracts with any person or governmental agency for the development and encouragement of wildlife research and management programs and projects.
- (12) May perform such acts as may be necessary for the establishment and implementation of cooperative wildlife management programs with agencies of the federal government.
- (13) May offer and pay rewards for the arrest and conviction of any person who has violated any of the wildlife laws. No such reward shall exceed \$1,000 for any one arrest and conviction.
- (14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this subsection shall be based on actual or projected costs of administering falconry regulations and shall not exceed \$250.
- (15) May establish special fishing and hunting seasons and bag limits applicable only to persons with disabilities.
- (16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These population levels shall be reviewed at least once every five years.
- (17) Shall establish a preference system so that individuals who are unsuccessful in controlled hunt permit drawings for deer and elk hunting have reasonable assurance of success in those drawings in subsequent years. In establishing the preference system, the commission shall consider giving additional preference points to persons who have been issued a resident annual pioneer combination license pursuant to ORS 497.132 or resident disabled veteran hunting license under ORS 497.102.
- (18) May sell advertising in State Department of Fish and Wildlife publications, including annual hunting and angling regulation publications.
- (19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an organization that sponsors hunting trips for terminally ill children. Except as provided under ORS 497.116, the State Department of Fish and Wildlife may not issue more than 15 tags annually under this subsection.
- (20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or other mammal. The rules may exempt the State Department of Fish and Wildlife or agents of the department from the prohibition.
- (21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per violation, for violations of provisions of the wildlife laws or rules adopted by the commission under the wildlife laws. Civil penalties established under this subsection must be imposed in the manner provided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS 496.300.
- (22) May by rule impose a surcharge not to exceed \$25 for the renewal of a hunting license on any person who fails to comply with mandatory hunting reporting requirements. Amounts collected as surcharges under this subsection must be deposited in the State Wildlife Fund established under ORS 496.300.
- (23)(a) May by rule establish annual and daily Columbia Basin salmon, steelhead and sturgeon recreational fishing endorsements with a fee not to exceed \$9.75 per annual license and \$1 per day per daily license. An endorsement is required to fish for salmon, steelhead or sturgeon in portions of the Columbia Basin as designated by rule and is in addition to and not in lieu of angling licenses and tags required under the wildlife laws. Amounts collected as fees under this subsection must be deposited in the Columbia River Fisheries Enhancement Fund established under section 7, chapter 672, Oregon Laws 2013.
- (b) Notwithstanding paragraph (a) of this subsection, if the commission adopts rules that decrease fishery impacts or the share of salmon allocated to Columbia River recreational fisheries or that expand the areas and seasons where nontribal gillnets are permitted in mainstem lower Columbia River nontribal fisheries as compared to regulatory restrictions in place from 2017 to 2020, the commission may not require or collect the endorsements, beginning in the following calendar year.
- (24) May by rule establish multiyear licenses and may prescribe fees for such licenses. Fees prescribed by the commission for multiyear licenses may provide for a discount from the annual license fees that would otherwise be payable for the period of time covered by the multiyear license.
- (25) May by rule establish a program to offer unique fishing opportunities through drawings, raffles or auctions and charge application and participation fees for the program. [1973 c.723 §13; 1977 c.177 §1; 1977 c.668 §1; 1981 c.445 §9; 1987 c.292 §2; 1993 c.659 §8; 1999 c.25 §4; 2001 c.253 §1; 2003 c.656 §2; 2005 c.365 §1; 2007 c.338 §1; 2009 c.778 §2; 2011 c.521 §1; 2013 c.236 §1; 2013 c.363 §7; 2013 c.672 §§9,10; 2015 c.629 §§51,52; 2015 c.779 §§7,8; 2018 c.100 §§3,4; 2019 c.82 §§1,2; 2021 c.169

§3]

Note:

The amendments to 496.146 by section 5, chapter 169, Oregon Laws 2021, become operative January 2, 2026. See section 6, chapter 169, Oregon Laws 2021. The text that is operative on and after January 2, 2026, is set forth for the user's convenience. In addition to any other duties or powers provided by law, the State Fish and Wildlife Commission:

- (1) May accept, from whatever source, appropriations, gifts or grants of money or other property for the purposes of wildlife management, and use such money or property for wildlife management purposes.
- (2) May sell or exchange property owned by the state and used for wildlife management purposes when the commission determines that such sale or exchange would be advantageous to the state wildlife policy and management programs.
- (3) May acquire, introduce, propagate and stock wildlife species in such manner as the commission determines will carry out the state wildlife policy and management programs.
- (4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking, hunting and trapping and may prescribe such tagging and sealing procedures as the commission determines necessary to carry out the provisions of the wildlife laws or to obtain information for use in wildlife management. Permits issued pursuant to this subsection may include special hunting permits for a person and immediate family members of the person to hunt on land owned by that person in areas where permits for deer or elk are limited by quota. As used in this subsection, "immediate family members" means spouses in a marriage, parents, brothers, brothers-in-law, sisters, sisters-in-law, sons, sons-in-law, daughters, daughters-in-law, stepchildren and grandchildren. A landowner who is qualified to receive landowner preference tags from the commission may request two additional tags for providing public access and two additional tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with supporting evidence that the access is significant and the habitat programs benefit wildlife. The board may recommend that the commission grant the request. When a landowner is qualified under landowner preference rules adopted by the commission and receives a controlled hunt tag for that unit or a landowner preference tag for the landowner's property and does not use the tag during the regular season, the landowner may use that tag to take an antlerless animal, when approved by the State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the landowner's property.
- (5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued pursuant to the wildlife laws to keep records and make reports concerning the time, manner and place of taking wildlife, the quantities taken and such other information as the commission determines necessary for proper enforcement of the wildlife laws or to obtain information for use in wildlife management.
- (6) May establish special hunting and angling areas or seasons in which only persons less than 18 years of age or over 65 years of age are permitted to hunt or angle.
- (7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests therein for wildlife management and wildlife-oriented recreation purposes.
- (8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise real property and all interests therein and establish, operate and maintain thereon public hunting areas.
- (9) May establish and develop wildlife refuge and management areas and prescribe rules governing the use of such areas and the use of wildlife refuge and management areas established and developed pursuant to any other provision of law.
- (10) May by rule prescribe fees for licenses, tags, permits and applications issued or required pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of lands owned or managed by the commission, unless such fees or user charges are otherwise prescribed by law. No fee or user charge prescribed by the commission pursuant to this subsection shall exceed \$250.
- (11) May enter into contracts with any person or governmental agency for the development and encouragement of wildlife research and management programs and projects.
- (12) May perform such acts as may be necessary for the establishment and implementation of cooperative wildlife management programs with agencies of the federal government.
- (13) May offer and pay rewards for the arrest and conviction of any person who has violated any of the wildlife laws. No such reward shall exceed \$1,000 for any one arrest and conviction.
- (14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this subsection shall be based on actual or projected costs of administering falconry regulations and shall not exceed \$250.
- (15) May establish special fishing and hunting seasons and bag limits applicable only to persons with disabilities.
- (16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These population levels shall be reviewed at least once every five years.
- (17) Shall establish a preference system so that individuals who are unsuccessful in controlled hunt permit drawings for deer and elk hunting have reasonable assurance of success in those drawings in subsequent years. In establishing the preference system, the commission shall consider giving additional preference points to persons who have been issued a resident annual pioneer combination license pursuant to ORS 497.132 or resident disabled veteran hunting license under ORS 497.102.
- (18) May sell advertising in State Department of Fish and Wildlife publications, including annual hunting and angling regulation publications.
- (19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an organization that sponsors hunting

trips for terminally ill children. Except as provided under ORS 497.116, the State Department of Fish and Wildlife may not issue more than 15 tags annually under this subsection.

(20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or other mammal. The rules may exempt the State Department of Fish and Wildlife or agents of the department from the prohibition.

(21) May adopt rules establishing a schedule of civil penalties, not to exceed \$6,500 per violation, for violations of provisions of the wildlife laws or rules adopted by the commission under the wildlife laws. Civil penalties established under this subsection must be imposed in the manner provided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS 496.300.

(22) May by rule impose a surcharge not to exceed \$25 for the renewal of a hunting license on any person who fails to comply with mandatory hunting reporting requirements. Amounts collected as surcharges under this subsection must be deposited in the State Wildlife Fund established under ORS 496.300.

(23) May by rule establish multiyear licenses and may prescribe fees for such licenses. Fees prescribed by the commission for multiyear licenses may provide for a discount from the annual license fees that would otherwise be payable for the period of time covered by the multiyear license.

(24) May by rule establish a program to offer unique fishing opportunities through drawings, raffles or auctions and charge application and participation fees for the program.

Note:

Section 2, chapter 460, Oregon Laws 1995, provides:

Sec. 2.

Notwithstanding any other provision of the wildlife laws, the following provisions apply with regard to the issuance and use of landowner preference tags referred to in ORS 496.146 (4):

(1) Landowner preference tags shall be issued for the hunting of deer, elk or antelope.

(2) Landowner preference tags may be used only for hunting on the landowner's property.

(3) Subject to subsection (6) of this section, landowner preference tags for the hunting of deer or elk may be transferred to any person of the landowner's choosing and shall be used for the taking of antlerless animals.

(4) Landowner preference tags for the hunting of antelope are not transferable and may not be used for the taking of buck antelope.

(5) Each landowner preference tag for the hunting of deer may be used to take two antlerless animals before, during or after the hunting season for which the tags are valid for the purpose of alleviating damage that is presently occurring to the landowner's property, in accordance with such rules as the State Fish and Wildlife Commission may adopt.

(6) Landowner preference tags for the hunting of deer or elk may be transferred to a person of the landowner's choosing as follows:

(a) A landowner who is issued only one tag may not transfer that tag.

(b) A landowner who is issued two or more tags may transfer not more than 50 percent of the tags to a person who is not an immediate family member, as defined in ORS 496.146 (4). If the calculation of the number of tags eligible for transfer under the provisions of this paragraph results in a fraction, the commission shall round up the number of tags to the next whole number.

(7)(a) As specified pursuant to a formula determined by the commission by rule, the number of landowner preference tags issued for mule deer must be based upon the management, research and habitat needs set forth in the wildlife management plan for mule deer.

(b) If the population of mule deer in a wildlife management unit is greater than the goal specified in the wildlife management plan for mule deer, a landowner who is issued a landowner preference tag is eligible, pursuant to criteria established by rule of the commission, for the number of tags that corresponds to the number of acres that landowner has registered with the State Department of Fish and Wildlife for participation in the program.

(c) The commission may specify by rule a formula for determining the number of landowner preference tags that are available for controlled hunts for mule deer in a wildlife management unit in which the population of mule deer is less than the goal specified for that wildlife management unit in the wildlife management plan for mule deer.

(8) Landowners shall pay the applicable fee under ORS 497.061 to register for participation in the program.

(9) A landowner shall pay the applicable fee under ORS 497.061 to modify the landowner's tag distribution. [1995 c.460 §2; 2001 c.227 §1; 2009 c.349 §1; 2009 c.832 §2a; 2013 c.363 §1; 2015 c.779 §10; 2021 c.208 §1]

Note:

Section 2, chapter 208, Oregon Laws 2021, provides:

Sec. 2.

Section 2, chapter 460, Oregon Laws 1995, as amended by section 1, chapter 227, Oregon Laws 2001, section 1, chapter 349, Oregon Laws 2009, section 2a, chapter 832, Oregon Laws 2009, section 1, chapter 363, Oregon Laws 2013, and section 10, chapter 779, Oregon Laws 2015, and section 1 of this 2021 Act, is repealed on January 2, 2026.

[2021 c.208 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.148 - Payment by credit card; fee; rules.**

The State Department of Fish and Wildlife may accept payments by credit card for any products or services offered by the department. The department may add a fee to the amount of any purchase made by credit card in an amount reasonably calculated to



offset the impact to the department of financial institution fees related to credit card transactions. The State Fish and Wildlife Commission shall establish the fee amount by rule. [2019 c.102 §1]

Note:

496.148 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.151 - Allocation of nonresident tags for outfitters and guides.**

Notwithstanding any other provision of the wildlife laws, the State Fish and Wildlife Commission by rule shall establish a system for allocating hunting permits that are limited by maximum number for the taking of deer and elk by nonresident hunters so that a number equal to one-half of the number of those permits issued to nonresident hunters in the previous year are made available to the holders of registrations issued pursuant to ORS chapter 704, and who are certified pursuant to ORS 704.060, for the use of the clients of those registration holders. Such a system shall include but not be limited to:

- (1) Provisions to prevent misuse of the permits by the registrant or by employees of the registrant.
- (2) Provisions for revocation and refusal to issue all or any portion of the permits based upon a commission finding of an emergency situation or biological needs. [1997 c.342 §2; 2003 c.644 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.154 - Limitation on authority to condemn certain farm use property.**

(1) The State Fish and Wildlife Commission shall not commence any proceeding to exercise the power of eminent domain to acquire any real property, or interest therein, that was devoted to farm use on January 1, 1974, unless the commission first obtains approval therefor from the Joint Committee on Ways and Means, or from the Emergency Board if the Legislative Assembly is not then in session. Upon a change in the use of such land from farm use, the commission may acquire such property, and interests therein, by exercise of the power of eminent domain without first obtaining legislative approval therefor. As used in this section, "farm use" has the meaning for that term provided in ORS 215.203.

(2) The commission shall not commence any proceeding as provided in subsection (1) of this section unless the commission has obtained approval of its intended use of such property from the local governmental agencies having land use planning authority over such lands. [1973 c.723 §13a; 1975 c.788 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.156 - Expenditure priority for anadromous fish management.**

(1) In carrying out duties, functions and powers regarding the propagation of anadromous fish prescribed in the wildlife laws and the commercial fishing laws, the State Fish and Wildlife Commission shall give high priority to expenditures for propagation assistance by means of transportation of upstream and downstream migrants in those areas where dams and other such obstacles present a passage problem to juvenile or adult salmon.

(2) For the purposes of this section, "transportation" means any method of helping anadromous fish to pass dams and other obstacles so as to reduce the mortality associated with passage.

(3) Nothing in subsection (1) of this section prevents the cooperation of the commission with the federal government in programs financed pursuant to ORS 506.405. [1977 c.653 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.158 - Oregon Landowner Damage Program; fee.**

Notwithstanding any other provision of the wildlife laws, the State Department of Fish and Wildlife shall create and implement an Oregon Landowner Damage Program that:

- (1) Addresses damage caused by elk on privately owned lands in Oregon.
- (2) Provides damage tags only for areas where elk are currently causing damage, where there has been a history of elk damage coupled with actions to alleviate elk damage or where the department has designated the area as an elk deemphasis area.
- (3) Considers elk overpopulation.
- (4) Limits the use of damage tags to taking antlerless elk.
- (5) Limits the use of damage tags to taking elk on property owned, leased or rented by the landowner complaining of elk damage or on property owned, leased or rented by a business entity that includes the landowner as a principal partner or shareholder.
- (6) Allows exchange of unused general season elk tags or controlled hunt elk tags for damage tags.
- (7) Does not impose a limit on the number of total damage tags available for each landowner, except that no more than five damage tags may be valid at any one time.
- (8) Does not impose a minimum acreage requirement for landowner participation.

- (9) Allows landowners to register for participation in the program at any time prior to the issuance of damage tags.
- (10) Establishes a \$30 fee for landowners to register for participation in the program.
- (11) Establishes a \$15 fee for landowners to modify the landowner's damage tag distribution.
- (12) Authorizes department biologists to sell and exchange damage tags.
- (13) Authorizes department biologists to establish the period of validity for damage tags through negotiation with landowners.
- (14) Requires landowners to record the number of elk taken and, within 10 days after the end of a designated hunt period, to report to the local department biologist the number of elk taken. [2013 c.363 §3; 2019 c.324 §1]

Note:

496.158 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.162 - Establishing seasons, amounts and manner of taking wildlife; rules.**

- (1) After investigation of the supply and condition of wildlife, the State Fish and Wildlife Commission, at appropriate times each year, shall by rule:
  - (a) Prescribe the times, places and manner in which wildlife may be taken by angling, hunting, trapping or other method and the amounts of each of those wildlife species that may be taken and possessed.
  - (b) Prescribe such other restrictions or procedures regarding the angling, taking, hunting, trapping or possessing of wildlife as the commission determines will carry out the provisions of wildlife laws.
- (2) In carrying out the provisions of subsection (1) of this section, the power of the commission includes, but is not limited to:
  - (a) Prescribing the amount of each wildlife species that may be taken and possessed in terms of sex, size and other physical characteristics.
  - (b) Prescribing such regular and special time periods and areas closed to the angling, taking, hunting and trapping of any wildlife species when the commission determines such action is necessary to protect the supply of such wildlife.
  - (c) Prescribing regular and special time periods and areas open to the angling, taking, hunting and trapping of any wildlife species, and establishing procedures for regulating the number of persons eligible to participate in such angling, taking, hunting or trapping, when the commission determines such action is necessary to maintain properly the supply of wildlife, alleviate damage to other resources, or to provide a safe and orderly recreational opportunity.
- (3) Notwithstanding subsections (1) and (2) of this section, except as provided in ORS 498.146 or during those times and at those places prescribed by the commission for the hunting of elk, the commission shall not prescribe limitations on the times, places or amounts for the taking of predatory animals. As used in this subsection, "predatory animal" has the meaning for that term provided in ORS 610.002.
- (4) In carrying out the provisions of this section, before prescribing the numbers of deer and elk to be taken, the commission shall consider:
  - (a) The supply and condition of deer and elk herds;
  - (b) The availability of forage for deer, elk and domestic livestock on public and private range and forest lands;
  - (c) The recreational opportunities derived from deer and elk populations; and
  - (d) The effects of deer and elk herds on public and private range and forest lands. [1973 c.723 §14; 1975 c.791 §1; 1981 c.218 §1; 2003 c.656 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.164 - Cooperation with public and private agencies for fish and wildlife management; technical information and policy recommendations; use of recommendations by state agencies.**

The State Fish and Wildlife Commission and the State Department of Fish and Wildlife may advise, consult and cooperate with other agencies of this state and political subdivisions, other states or the federal government and private landowners with respect to fish and wildlife management. The commission and the department shall provide such information, recommendations or advice in writing if requested by another state or federal agency to do so. Technical advice and information shall be based on the best available scientific information. Policy or implementation recommendations provided in administrative rulemaking proceedings shall be based on consideration of all the goals of wildlife management in ORS 496.012, in addition to applicable scientific information. State agencies, boards or commissions receiving policy or implementation recommendations shall consider such recommendations in the context of their respective statutory responsibilities, and shall take into account the extent to which such recommendations are substantiated with the best available scientific information and based on consideration of all of the goals of wildlife management in ORS 496.012. [1993 c.659 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.166**

[1993 c.659 §13; renumbered 496.169 in 2015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.167 - Department recompensable assistance to agencies; tracking and statements.**

(1) Subject to rules prescribed by the State Fish and Wildlife Commission, in rendering recompensable assistance to an agency, the State Department of Fish and Wildlife shall:

(a) For fiscal years beginning on or after July 1, 2015, and before July 1, 2019, track and prepare statements reporting the number of hours spent by department personnel performing recompensable assistance for any executive department agency, including an hourly rate that would be charged, based on the class of department personnel performing the services. The department shall send statements to the agency receiving services, but may not charge for services. This paragraph does not prohibit the department from charging another state agency for services pursuant to an interagency agreement that is in effect between the department and the other agency at any time during the period beginning July 1, 2015, and ending July 1, 2021.

(b) For fiscal years beginning on or after July 1, 2019, track and prepare statements reporting the number of hours spent by department personnel performing recompensable assistance for any executive department agency, including an hourly rate that would be charged, based on the class of department personnel performing the services.

(2)(a) The charges for which statements are prepared and, after July 1, 2019, billed include, but are not limited to, costs of providing professional, investigatory, administrative and clerical services and capital outlay.

(b) An executive department agency may not submit an invoice to a private entity, a member of the public or an applicant for a state-issued permit for services performed by the department, unless the invoice is authorized by a statute, rule or interagency agreement executed:

(A) Prior to June 25, 2015; or

(B) Following consultation with persons representative of those private entities, members of the public or permit applicants that are subject to invoicing under this paragraph.

(3) As used in this section:

(a) "Agency" means any department, board, commission, agency or officer of the executive department.

(b) "Executive department" has the meaning given that term in ORS 174.112.

(c) "Recompensable assistance" means assistance rendered by the department as part of advancing fee-funded programs administered by an agency. [2015 c.566 §1]

Note:

496.167 and 496.168 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.168 - Estimated expenses for recompensable assistance; invoices.**

The State Department of Fish and Wildlife shall estimate in advance the expenses that the department will incur during a biennium under ORS 496.167, and shall render to executive department agencies and other entities described in ORS 496.167 an invoice for their share of such expenses for periods within the biennium and in sufficient amounts to provide reasonable cash operating requirements for the department within the biennial period. Each agency or other entity described in ORS 496.167 shall pay to the credit of the department such invoice as an administrative expense from funds or appropriations available to the invoiced agency or entity in the same manner as other claims against the state are paid. If the estimated expenses for the agency or other entity described in ORS 496.167 are more or less than actual expenses for the period covered by the invoice, the difference shall be reflected in the next following estimate of expenses. [2015 c.566 §2]

Note:

See note under 496.167.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.169 - Citizen involvement for wildlife management on private lands.**

The Legislative Assembly finds, in the interest of all Oregonians, a necessity to improve Oregon's resource access and wildlife habitat through the further involvement of its citizens, through voluntary partnership between the State Department of Fish and Wildlife and landowners to manage wildlife on private lands and through support by additional financial revenues. [Formerly 496.166]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.171 - Definitions for ORS 496.171 to 496.182; applicability date.**

Notwithstanding ORS 496.004, with respect to state agency actions taken under ORS 496.171 to 496.182 after July 17, 1995, as used in ORS 496.171 to 496.182:

- (1) "Conservation" means the use of methods and procedures necessary to bring a species to the point at which the measures provided under ORS 496.171 to 496.182 are no longer necessary. Such methods and procedures include, but are not limited to, activities associated with scientific resource management such as research, census taking, law enforcement, habitat acquisition and maintenance, propagation and transplantation.
- (2) "Native" means indigenous to Oregon, not introduced.
- (3) "Species" means any group or population of wildlife that interbreeds and is substantially reproductively isolated.
- (4) "Verifiable" means scientific information reviewed by a scientific peer review panel of outside experts who do not otherwise have a vested interest in the process. [1995 c.590 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.172 - Commission management authority for threatened or endangered species; rules.**

In carrying out the provisions of the wildlife laws with regard to the management of wildlife that is a threatened species or an endangered species, the State Fish and Wildlife Commission:

- (1) Shall conduct investigations of wildlife species native to this state and shall determine whether any such species is a threatened species or an endangered species.
- (2) By rule, shall establish and publish, and from time to time may revise, a list of wildlife species that are threatened species or endangered species. Listed threatened species or endangered species shall be protected as provided in ORS 496.182.
- (3) Shall work cooperatively with state agencies that have land management authority or regulatory authority to determine their roles within their statutory obligations in the conservation of endangered species, as described in ORS 496.182 (8).
- (4) By rule, shall establish a system of permits for scientific taking of threatened species and endangered species and shall establish a system of state permits for incidental taking of state-designated threatened species and endangered species not listed by the federal government under such terms and conditions as the commission determines will minimize the impact on the species taken. An incidental taking permit or statement issued by a federal agency for a species listed under the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended, shall be recognized by the state as a waiver of any state protection measures or requirements otherwise applicable to the actions allowed under the federal permit.
- (5) Shall cooperate with the State Department of Agriculture in carrying out the provisions of ORS 564.105.
- (6) Shall adopt administrative rules to carry out the provisions of ORS 496.171 to 496.182 and 498.026. [1987 c.686 §3; 1995 c.590 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.176 - Listing species; procedure; matters to be considered; periodic review.**

- (1) The lists of threatened species or endangered species established pursuant to ORS 496.172 (2) shall include:
  - (a) Those species of wildlife listed as of May 15, 1987, as a threatened species or an endangered species pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended; and
  - (b) Those species determined as of May 15, 1987, by the State Fish and Wildlife Commission to be threatened species or endangered species.
- (2) The commission, by rule, may add or remove any wildlife species from either list, or change the status of any species on the lists, upon a determination that the species is or is not a threatened species or an endangered species.
- (3) A determination that a species is a threatened species or an endangered species shall be based on documented and verifiable scientific information about the species' biological status. To list a species as a threatened species or an endangered species under ORS 496.004 and 496.171 to 496.182, the commission shall determine that the natural reproductive potential of the species is in danger of failure due to limited population numbers, disease, predation or other natural or human actions affecting its continued existence and, to the extent possible, assess the relative impact of human actions. In addition, the commission shall determine that one or more of the following factors exists:
  - (a) That most populations are undergoing imminent or active deterioration of their range or primary habitat;
  - (b) That overutilization for commercial, recreational, scientific or educational purposes is occurring or is likely to occur; or
  - (c) That existing state or federal programs or regulations are inadequate to protect the species or its habitat.
- (4) Determinations required by subsection (3) of this section shall be made by the commission on the basis of verifiable scientific and other data after consultation with federal agencies, other interested state agencies, private landowners, affected cities, affected counties, affected local service districts as defined in ORS 174.116, other states having a common interest in the species and interested persons and organizations.
- (5)
  - (a) Any person may petition the commission to, by rule, add, remove or change the status of a species on the list.
  - (b) A petition shall clearly indicate the action sought and shall include documented scientific information about the species' biological status to justify the requested action.
  - (c) Within 90 days of receipt of a petition, the commission shall respond in writing to the petitioner indicating whether the petition presents substantial scientific information to warrant the action requested.
  - (d) If the petition is found to present such information, the commission shall commence rulemaking.

- (e) A final determination by the commission concerning the action requested in a petition shall be provided within one year from the date of receipt of the petition, with the option for an additional 12-month extension of time to complete the listing if the commission determines that limited information or other appropriate considerations require the extension.
- (f) If the petition is denied, the petitioner may seek judicial review as provided in ORS 183.484.
- (6) The commission may determine not to list a species as a threatened species or an endangered species in any of the following cases:
- (a) If the species has been listed pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended.
- (b) If the species is currently on the list as a sensitive species, or is a candidate species or has been petitioned for listing pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended.
- (c) If the species has been determined, pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended, to not qualify as a threatened species or an endangered species.
- (7)(a) Notwithstanding subsections (1) to (5) of this section, the commission shall take emergency action to add a species to the list of threatened species or endangered species if it determines there is a significant threat to the continued existence of the species within the state.
- (b) The commission shall publish notice of such addition in the Secretary of State's bulletin and shall mail notice to affected or interested persons whose names are included on the commission's mailing list for such purposes.
- (c) Such emergency addition shall take effect immediately upon publication in the Secretary of State's bulletin and shall remain valid for a period no longer than one year, unless during the period the commission completes rulemaking procedures as provided in subsection (5) of this section.
- (8) The commission shall periodically review the status of all threatened species and endangered species listed under ORS 496.171 to 496.192. Each species shall be reviewed at least once every five years to determine whether verifiable scientific information exists to justify its reclassification or removal from the list, according to the criteria listed under subsections (3) and (4) of this section. If a determination is made to reclassify a species or remove it from the list, the commission, within 90 days, shall commence rulemaking to change the status of the species.
- (9) Notwithstanding the provisions of this section, the commission:
- (a) May decide not to list a species that otherwise qualifies as a threatened or endangered species within this state if the commission determines that the species is secure outside this state or the species is not of cultural, scientific or commercial significance to the people of this state.
- (b) May not include *Branta canadensis leucopareia*, commonly known as the Aleutian Canada goose, on the lists of threatened species or endangered species. [1987 c.686 §4; 1995 c.590 §4; 2005 c.402 §1; 2011 c.319 §20; 2012 c.40 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.182 - Protection and conservation programs; mitigation of adverse impact on local economies; compliance by state agencies; rules.**

- (1) The burden of protecting and recovering threatened species or endangered species can be a significant cost to the citizens of this state and it is therefore the policy of this state to minimize duplication and overlap between state and federal laws dealing with threatened species or endangered species. To this end, nothing in this section is intended to prevent the adoption of cooperative state or federal programs when such programs provide protection for listed species without significant impact on the primary uses of state lands.
- (2)(a) At the time the State Fish and Wildlife Commission adds a species to the list of threatened species or endangered species under ORS 496.172, the commission shall establish by rule quantifiable and measurable guidelines that it considers necessary to ensure the survival of individual members of the species. These guidelines may include take avoidance and protecting resource sites such as spawning beds, nest sites, nesting colonies or other sites critical to the survival of individual members of the species.
- (b) The commission shall work with private landowners, affected cities, affected counties and affected local service districts, as defined in ORS 174.116, to mitigate the adverse impact on local economies when the commission adds a species to the list of threatened species or endangered species pursuant to ORS 496.172.
- (3) For threatened species listed under ORS 496.172 and in the absence of an approved endangered species management plan described in subsection (8) of this section for an endangered species, if a state agency determines that a proposed action on land it owns or leases, or for which it holds a recorded easement, has the potential to violate the guidelines established under subsection (2) of this section, it shall notify the State Department of Fish and Wildlife. Within 90 days of such notice, the department shall recommend reasonable and prudent alternatives, if any, to the proposed action which are consistent with the guidelines.
- (4) If a state agency fails to adopt the recommendations made under subsection (3) of this section, it shall, after consultation with the department, demonstrate that:
- (a) The potential public benefits of the proposed action outweigh the potential harm from failure to adopt the recommendations; and
- (b) Reasonable mitigation and enhancement measures shall be taken, to the extent practicable, to minimize the adverse impact of the action on the affected species.
- (5) When an action under this section is initiated by a person other than a state agency, the agency shall provide final approval or denial of the proposed action within 120 days of receipt of a written request for final determination.
- (6) The provisions of this section do not apply to lands acquired through foreclosures of loans made pursuant to programs of the

Department of Veterans' Affairs.

(7) State land owning or managing agencies shall set priorities for establishing endangered species management plans required by subsection (8) of this section after consultation with the commission on the level of biological threat and, in consideration of available funds, the immediacy and seriousness of the threat to any listed species.

(8)(a)(A) Within four months of the listing of an endangered species, the commission, in consultation and cooperation with the state land owning or managing agency, shall determine if state land can play a role in the conservation of endangered species. The commission and the land owning or managing agency shall consider species biology and geography of the land base to determine if the species or its habitat is found on state land. If the species or its habitat is not found on state land, the commission shall determine that state land has no role to play in the conservation of the species.

(B) If the species or its habitat is found on state land, the land owning or managing agency, in consultation with the State Department of Fish and Wildlife, shall determine the role its state land shall serve in the conservation of the endangered species. This role may include, but is not limited to conservation, contribution toward conservation or take avoidance. To carry out its consulting role under this subsection, the department shall provide state agencies with an assessment of the conservation needs of the endangered species. In making this determination, the land owning or managing agency shall balance the statutory requirements, rules and policies applicable to the agency's programs, the social and economic impacts that conservation would have on the state, the conservation needs of the species, the purpose of the land and the roles of other ownership categories. The agency shall balance these factors consistent with the commission's rules related to the biological aspects of species management and the statutory obligations of the land owning or managing agency, including the statutory purpose of the land.

(C) After determining the role its state land shall serve in conservation of the species, the land owning or managing agency, in consultation with the State Department of Fish and Wildlife and consistent with the commission's rules related to endangered species management plans, shall develop and approve an endangered species management plan within 18 months from the date the species is first listed as endangered. Endangered species management plans shall be based on the statutes, rules and policies applicable to the agency's programs and shall take into account any social or economic impacts that the plan may have on the state. The land owning or managing agency shall submit the plan to the commission for review and approval as provided in subparagraph (D) of this paragraph.

(D) The commission shall review the endangered species management plan approved by the land owning or managing agency under subparagraph (C) of this paragraph to determine whether the plan achieves the role defined for the land under subparagraph (B) of this paragraph. Based on the biology of the endangered species the commission may modify the endangered species management plan if necessary to be consistent with the role the land owning or managing agency has defined for the land under subparagraph (B) of this paragraph and shall approve the plan as submitted or modified within 24 months from the date the species is listed as endangered.

(b) For state agencies other than land owning or managing agencies, the commission, in consultation and cooperation with the agency, shall determine whether the agency can serve a role in the conservation of endangered species. If the commission determines that the agency has a role to play in conservation of the endangered species, the agency shall determine what role it shall serve in conservation of the endangered species. The agency shall make this determination as provided in the commission's rules related to the biological aspects of species management and in a manner consistent with the agency's statutory obligations. [1987 c.686 §5; 1995 c.590 §5; 2012 c.40 §2]

Note:

Sections 1, 2 and 6, chapter 532, Oregon Laws 2019, provide:

Sec. 1.

Section 2 of this 2019 Act is added to and made a part of ORS chapter 496. [2019 c.532 §1]

Sec. 2.

(1) The State Department of Fish and Wildlife may refuse to disclose information described in subsection (3) of this section regarding the habitat, location or population of a fish or wildlife species that is:

- (a) Listed by the federal government or by the State Fish and Wildlife Commission as a threatened species or an endangered species;
- (b) Under consideration by the commission for listing as a threatened species or an endangered species; or
- (c) A sensitive species as defined by the department by rule.

(2) The department may refuse to disclose data described in subsection (3) of this section if:

- (a) The species has value as a commercial species or game species, or has black market value;
- (b) There exists a history of harm to a local population of the species from malicious or unlawful behavior, accidental taking, disturbance or harassment and the behavior or ecology of the species makes the species especially vulnerable to that harm;
- (c) There is a known demand for illegally taking or harassing the species; or
- (d) The species has limited distribution and concentration or is an endemic species.

(3) The department may refuse to disclose telemetry, radio frequency or other locational data about a species, an individual member of a species or the habitat of a species or individual member of a species, that are described in subsection (1) or (2) of this section if the data concern:

- (a) Present, projected or recent past locations of individual members or populations of the species;
- (b) Present, projected or recent past habitat used by the species, including but not limited to habitat used for breeding, nesting, denning, migration, dispersal or other sensitive or vulnerable life stages, if disclosure of the habitat could be expected to lead to

discovery of the location of the species or of an individual member of the species;

(c) Results or other specific information from the unpublished data and findings of research, monitoring or evaluation efforts conducted by the state or by an entity acting jointly with the state; or

(d) Confidential information provided on a voluntary basis by private landowners or representatives of private landowners.

(4) The department may disclose data that may be withheld under subsections (1) to (3) of this section to a requester that is one or more of the following:

(a) The federal government, a tribal government, a public body as defined in ORS 174.109, a public utility or an accredited college or university;

(b) Owners of, lessees of rights-of-way in or holders of easements on private land to which the data pertain;

(c) Holders of public grazing permits for the land to which the data pertain;

(d) Owners of agricultural land or forestland, if the disclosure might prevent loss to an agricultural or forest operation; and

(e) Resource management partners and stakeholders.

(5) The department shall require a recipient of information disclosed under subsection (4)(b) to (e) of this section to sign an agreement to maintain the confidentiality of the information. The agreement may include, but need not be limited to, a proposed protective order for use, if necessary, in a legal proceeding to maintain confidentiality of the information. If the department is prohibited under subsection (8) of this section from withholding the information, the agreement may prohibit the recipient from disclosing the information, except to further the protection or conservation of a species in a manner described in subsection (8) of this section.

(6) A disclosure of information under subsection (4) of this section does not require that the department disclose the information to any other party.

(7) Subsections (1) to (3) of this section may not be used to withhold data, studies or other information about the total numbers or health of a species in this state or in a region of this state.

(8) The department may not withhold information under subsection (3) of this section if the information is relevant to:

(a) An ongoing petition, litigation or other administrative or legal action in furtherance of the protection or conservation of a species; or

(b) The preparation of a petition, or for a litigation or other administrative or legal action, in furtherance of the protection or conservation of a species.

(9) If the department provides data described in this section, to the extent practicable the department shall aggregate the data to a scale that does not create a risk to the fish or wildlife species or members of the species. [2019 c.532 §2; 2023 c.192 §1]

Sec. 6.

Section 2, chapter 532, Oregon Laws 2019, as amended by section 1 of this 2023 Act, is repealed on January 2, 2029. [2019 c.532 §6; 2023 c.192 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.192 - Effect of law on commercial forestland or other private land; effect on other laws.**

(1) Nothing in ORS 496.004, 496.171 to 496.182 or 498.026 is intended, by itself, to require an owner of any commercial forestland or other private land to take action to protect a threatened species or endangered species, or to impose additional requirements or restrictions on the use of private land.

(2) Notwithstanding subsection (1) of this section, other statutes may authorize administrative rules or programs to protect wildlife species, including threatened species or endangered species, and nothing in ORS 496.004, 496.171 to 496.182 or 498.026 shall diminish the force or effect of such rules or programs. [1987 c.686 §6a]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.201 - Department to furnish salmon for ceremonies; amount; source.**

(1) The State of Oregon shall, through the State Department of Fish and Wildlife, provide surplus salmon:

(a) To the Confederated Coos, Lower Umpqua and Siuslaw Indian tribes for their historical, traditional and cultural salmon ceremonies that take place each year.

(b) To the Cow Creek Band of the Umpqua Indians for their historical, traditional and cultural salmon ceremonies that take place each year.

(c) To the Coquille Tribe for their historical, traditional and cultural salmon ceremonies that take place each year.

(d) To the Burns Paiute Tribe for their historical, traditional and cultural salmon ceremonies that take place each year.

(2) The salmon provided by the state shall meet the expressed needs of the Confederated Coos, Lower Umpqua and Siuslaw tribes, up to 1,000 pounds total, the Coquille Tribe, up to 1,000 pounds total, the Cow Creek Band of the Umpqua Indians, up to 1,000 pounds total, and the Burns Paiute Tribe, up to 500 pounds total.

(3) The salmon provided by the state may be either surplus whole fish or carcasses.

(4) Salmon may be taken from hatcheries under either the complete or joint control of the state. [1981 c.575 §2; 1987 c.99 §1; 1993 c.460 §1; 1995 c.137 §1; 2001 c.611 §2; 2001 c.651 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.206 - Written request for salmon; contents; time for providing salmon.**

(1) The Indian tribes referred to in ORS 496.201 (1) are required to set forth, in writing, their request for salmon. This request shall be submitted by the duly elected tribal governing body no later than 40 days prior to the ceremony and shall include:

- (a) The poundage of salmon required;
  - (b) The date of the ceremony; and
  - (c) A contact person that the state may refer questions to.
- (2) Prior to any state action, the written request must be received by:
- (a) The State Department of Fish and Wildlife;
  - (b) The Attorney General; and
  - (c) The United States Department of Interior.
- (3) The salmon shall be provided to the Indian tribes referred to in ORS 496.201 (1) no later than 30 days after receiving a proper written request therefor. [1981 c.575 §3; 1987 c.99 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.211 - Limitation on amount and use.**

- (1) The State of Oregon shall be limited to a once a year provision of salmon pursuant to ORS 496.201.
- (2) If the Indian tribes referred to in ORS 496.201 (1) use salmon provided by the state for this purpose in any manner other than that described in ORS 496.201, they shall pay to the State Department of Fish and Wildlife the prevailing wholesale rate per pound of the entire amount of salmon supplied to that tribe or tribes for that year. [1981 c.575 §4; 1987 c.99 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.216 - Disposition of salmon remaining after ceremony.**

Any salmon remaining after the ceremony may be distributed to tribal members without charge for their subsistence consumption only and not for sale, barter or gift to others, or may be donated to a nonprofit institution or agency. [1981 c.575 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.221 - ORS 496.201 to 496.221 not intended to extend Indian legal or political rights.**

Nothing in ORS 496.201 to 496.221 is intended to extend legal or political recognition to any Indians described in ORS 496.201 (1) for any purpose other than provided in ORS 496.201 to 496.216. [1981 c.575 §6; 1987 c.99 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.228 - Access and Habitat Board; qualification of members; expenses; term; meetings.**

- (1) There is established within the State Department of Fish and Wildlife the Access and Habitat Board, consisting of seven members appointed by the State Fish and Wildlife Commission.
- (2) Three members shall be appointed to represent the broad spectrum of hunters. In making appointments pursuant to this subsection, the commission shall consider recommendations from the State Fish and Wildlife Director.
- (3) Three members of the board shall be appointed to represent the broad spectrum of agriculture and timber landowners. In making appointments pursuant to this subsection, the commission shall consider recommendations from the State Fish and Wildlife Director from a list of at least five persons submitted by the State Forester and the Director of Agriculture.
- (4) One member of the board shall be appointed to represent the public and shall serve as the board chairperson.
- (5) A member of the board shall receive no compensation for services as a member. However, subject to any applicable law regulating travel and other expenses of state officers and employees, a member shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties from such moneys as are made available by ORS 497.104.
- (6) The term of office of a member of the board is four years. A member of the board is eligible for reappointment.
- (7) An official action of the board may be taken only upon the affirmative vote of at least four members.
- (8) The board shall select such officers for such terms and with such duties and powers as the board considers necessary for the performance of those offices.
- (9) The board shall meet at such times and at such places as may be determined by the chair or by the majority of the members of the board. [1993 c.659 §15; 2009 c.291 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.232 - Board to make program recommendations; commission approval; report; fund expenditure qualifications; gifts and grants.**



- (1) The Access and Habitat Board shall meet, adopt and recommend to the State Fish and Wildlife Commission, within 120 days after November 4, 1993, and at not more than 120-day intervals thereafter, access and habitat programs.
- (2) The commission shall review such programs and may approve or disapprove the program recommendation by the board. Funds may be expended from the subaccount referred to in ORS 496.242 for projects that have been approved by the commission.
- (3) The State Department of Fish and Wildlife and the board jointly shall submit to each odd-numbered year regular session of the Legislative Assembly a report on expenditure of funds for the access and habitat programs and on the status of various projects.
- (4) In recommending access and habitat programs, the board shall:
  - (a) Recommend a mix of projects that provides a balance between access and habitat benefits.
  - (b) Recommend projects that are to be implemented by volunteers under volunteer coordinators and nonprofit organizations engaged in approved access and habitat activities.
  - (c) Recommend programs that recognize and encourage the contributions of landowners to wildlife and programs that minimize the economic loss to those landowners.
  - (d) Encourage agreements with landowners who request damage control hunts to ensure public access to those hunts.
  - (e) Encourage projects that result in obtaining matching funds from other sources.
- (5) All moneys made available for the access and habitat programs under ORS 497.104 and from gifts and grants made to carry out the access and habitat programs may be expended only if the board so recommends and the commission so approves. Such amounts may be expended:
  - (a) On programs that benefit wildlife by improving habitat. These programs shall be in coordination with the Wildlife Division and shall be in addition to programs provided by federal funds. These programs may:
    - (A) Be on private lands.
    - (B) Provide seed and fertilizer to offset forage consumed by wildlife and for other programs that enhance forage.
    - (C) Be adjacent to agricultural and forest land to attract animals from those crops.
  - (b) On programs that promote access to public and private lands:
    - (A) Through contracting for various levels of management of these lands. These management programs may include:
      - (i) Creating hunting lease programs that provide access at present levels or stimulate new access.
      - (ii) Controlling access.
      - (iii) Opening vehicle access.
      - (iv) Promoting land exchanges.
      - (v) Promoting proper hunting behavior.
    - (B) Through the acquisition of easements.
  - (c) On programs that would provide for wildlife feeding to alleviate damage, to intercept wildlife before wildlife becomes involved in a damage situation and for practical food replacement in severe winters.
  - (d) On programs to coordinate volunteers to improve habitat, repair damage to fences or roads by wildlife or recreationists, monitor orderly hunter utilization of public and private lands and assist the Oregon State Police in law enforcement activities.
  - (e) On programs that provide for auction or raffle of tags to provide incentives for habitat or access.
- (6) The board may accept, from whatever source, gifts or grants for the purposes of access and habitat. All moneys so accepted shall be deposited in the subaccount referred to in ORS 496.242. Unless otherwise required by the terms of a gift or grant, gifts or grants shall be expended as provided in subsection (5) of this section. [1993 c.659 §16; 2005 c.22 §369; 2009 c.778 §1a; 2011 c.545 §59; 2015 c.779 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.236 - Advisory councils to board; duties; no compensation or expenses for members.**

- (1) Individuals who reside in the various regions established for administration of the wildlife resources may form advisory councils, with membership in the same proportion as described for the board, to discuss and consider access and habitat programs and projects and to make recommendations thereon to the Access and Habitat Board. When the board considers proposals affecting a region, the board shall consult with the advisory council for that region if one exists.
- (2) Employees of the State Department of Fish and Wildlife or other professional biologists who are residents of the various regions may act in an advisory capacity to the various councils.
- (3) An individual who serves as a member of an advisory council shall receive no compensation or expenses for service as a member. [1993 c.659 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.242 - Access and habitat program funds.**

- (1) Notwithstanding ORS 496.300, all moneys received by the State Fish and Wildlife Commission pursuant to ORS 497.104 shall be deposited in the Access and Habitat Board Subaccount established in the Fish and Wildlife Account. Moneys in the subaccount may be expended only for the access and habitat programs recommended by the Access and Habitat Board for the benefit of the wildlife resources of this state.
- (2) The State Department of Fish and Wildlife shall credit the subaccount with a sum equal to 15 percent of the other fund budget

for the green forage and Deer Enhancement and Restoration programs in each biennium.

(3) The department shall not assess its personnel costs in the administration of ORS 496.169 and 496.228 to 496.242 against the subaccount referred to in this section without the prior approval of the Access and Habitat Board. [1993 c.659 §14; 2001 c.822 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.246 - Use of public lands for hunting; requirements regarding closure of access to public lands; exceptions.**

(1)(a) As used in this section, "public lands" means any land, or improvements thereon, owned by the State of Oregon.

(b) Public lands open to access and use for hunting shall remain open to access and use for hunting, except as limited by a state agency for reasons of public safety or wildlife management or for any other reason determined by a state agency to be in the public interest. However, a state agency is not required to give preference to hunting over other uses of public lands.

(2) In implementing subsection (1) of this section, state agencies shall, to the greatest extent practicable, avoid making determinations that result in a net loss of access to hunting on public lands.

(3)(a) Before a state agency restricts or closes access to public lands open to access and use for hunting, the state agency shall notify the State Department of Fish and Wildlife in a sufficient amount of time of the plans to restrict or close access to the public lands in order to allow the department to post notice pursuant to paragraph (b) of this subsection.

(b) In order to give hunters notice that a state agency plans to restrict or close access to public lands open to access and use for hunting and before a state agency may restrict or close access to the public lands, the department shall post notice on the department's website for 30 days after it receives notification under paragraph (a) of this subsection.

(c) Paragraphs (a) and (b) of this subsection do not apply to restrictions or closures for:

(A) Emergencies.

(B) Fire prevention pursuant to the provisions of ORS 401.165 to 401.236 or 477.535 to 477.550.

(C) Critical wildlife management activities.

(4) On or before January 1 of each year, the State Fish and Wildlife Director shall submit a report to the Legislative Assembly that describes:

(a) The amount, in acres, of public lands open to access and use for hunting that has been closed to hunting by state agencies in the previous calendar year and the reasons for each closure; and

(b) The amount, in acres, of public lands that has been opened to access and use for hunting by state agencies in the previous calendar year. [2011 c.454 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.252 - Oregon Conservation and Recreation Fund.**

(1) The Oregon Conservation and Recreation Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Conservation and Recreation Fund shall be credited to the fund.

(2) Moneys in the fund are continuously appropriated to the State Department of Fish and Wildlife to carry out activities that serve to protect, maintain or enhance fish and wildlife resources in Oregon. The activities for which the department may expend fund moneys include, but are not limited to:

(a) Promoting the health of Oregon's ecosystems and fish and wildlife species by implementing conservation programs and strategies identified in the Oregon Conservation Strategy, as defined in ORS 541.890, including conservation programs and strategies for the nearshore identified in the marine component of the Oregon Conservation Strategy;

(b) Improving engagement of the public in hunting and fishing opportunities and in other outdoor recreation opportunities related to and in support of healthy fish, wildlife and habitats;

(c) Improving educational outreach and engagement of the public, including diverse and underserved communities, related to and in support of healthy fish, wildlife and habitats;

(d) Engaging in, and providing funding for, joint projects of the department and the State Parks and Recreation Department or other state agencies as recommended by the Oregon Conservation and Recreation Advisory Committee established under ORS 496.254; and

(e) Other conservation, management, research, habitat improvement, enforcement, outdoor recreation or education activities.

(3) The fund shall consist of:

(a) Moneys appropriated to the State Department of Fish and Wildlife for deposit in the fund or otherwise transferred to the fund;

(b) Gifts, grants, contributions or other donations for use as described in subsection (2) of this section, that are received by the department from any public or private source and caused to be deposited and credited to the fund; and

(c) Moneys in the subaccount described in subsection (4) of this section.

(4) The Private Forest Accord Mitigation Subaccount is established in the fund. The subaccount shall consist of moneys appropriated to the department for deposit in the subaccount or otherwise transferred to the subaccount and gifts, grants, contributions or other donations that are received by the department from any public or private source and caused to be deposited and credited to the subaccount. Moneys in the subaccount may be used for:

(a) The purposes described in, and the administration of, ORS 496.257.

(b) Conducting outreach to persons that own or operate an artificial obstruction, as defined in ORS 509.580, to further the goal of fish passage.

(c) Conducting outreach to persons that may undertake projects described in ORS 496.257.

(5) The department and the Oregon Conservation and Recreation Advisory Committee shall jointly submit a biennial report to the Legislative Assembly as provided in ORS 293.640 regarding the expenditure of moneys deposited in the fund, other than moneys deposited in the Private Forest Accord Mitigation Subaccount, and on the status of various activities funded by the moneys.

(6) The department and the Private Forest Accord Mitigation Advisory Committee shall jointly submit a biennial report to the Legislative Assembly as provided in ORS 293.640 regarding the expenditure of moneys deposited in the Private Forest Accord Mitigation Subaccount and on the status of various activities funded by the moneys. [2019 c.531 §1; 2022 c.33 §28]

Note:

The amendments to 496.252 by section 66, chapter 33, Oregon Laws 2022, become operative only if certain conditions are met. See sections 54 and 61 to 64, chapter 33, Oregon Laws 2022 (note preceding 496.257). 496.252, as amended by section 66, chapter 33, Oregon Laws 2022, is set forth for the user's convenience.

(1) The Oregon Conservation and Recreation Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Conservation and Recreation Fund shall be credited to the fund.

(2) Moneys in the fund are continuously appropriated to the State Department of Fish and Wildlife to carry out activities that serve to protect, maintain or enhance fish and wildlife resources in Oregon. The activities for which the department may expend fund moneys include, but are not limited to:

(a) Promoting the health of Oregon's ecosystems and fish and wildlife species by implementing conservation programs and strategies identified in the Oregon Conservation Strategy, as defined in ORS 541.890, including conservation programs and strategies for the nearshore identified in the marine component of the Oregon Conservation Strategy;

(b) Improving engagement of the public in hunting and fishing opportunities and in other outdoor recreation opportunities related to and in support of healthy fish, wildlife and habitats;

(c) Improving educational outreach and engagement of the public, including diverse and underserved communities, related to and in support of healthy fish, wildlife and habitats;

(d) Engaging in, and providing funding for, joint projects of the department and the State Parks and Recreation Department or other state agencies as recommended by the Oregon Conservation and Recreation Advisory Committee established under ORS 496.254; and

(e) Other conservation, management, research, habitat improvement, enforcement, outdoor recreation or education activities.

(3) The fund shall consist of:

(a) Moneys appropriated to the State Department of Fish and Wildlife for deposit in the fund or otherwise transferred to the fund; and

(b) Gifts, grants, contributions or other donations for use as described in subsection (2) of this section, that are received by the department from any public or private source and caused to be deposited and credited to the fund.

(4) The department and the Oregon Conservation and Recreation Advisory Committee shall jointly submit a biennial report to the Legislative Assembly as provided in ORS 293.640 regarding the expenditure of moneys deposited in the fund and on the status of various activities funded by the moneys.

Note:

496.252 and 496.254 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.254 - Oregon Conservation and Recreation Advisory Committee.**

(1) The Oregon Conservation and Recreation Advisory Committee is established as an advisory committee to the State Fish and Wildlife Commission and the State Department of Fish and Wildlife for the purpose of carrying out the duties described in subsection (2) of this section. The commission shall determine the number of members of the committee and the geographical representation by the members. The Governor shall appoint the members of the committee. The Associate Director of Outdoor Recreation, or the associate director's designee, shall serve as a nonvoting, ex officio member.

(2) The committee shall review department policies regarding the use of Oregon Conservation and Recreation Fund moneys, other than policies regarding the use of Private Forest Accord Mitigation Subaccount moneys, and make recommendations to the commission and the department regarding the use of fund moneys for implementing and administering department activities.

(3) Members of the committee may not receive compensation for service as members. However, subject to any applicable law regulating travel and other expenses of state officers and employees, a member may be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties from moneys available to the department for the purpose of reimbursement of committee members. [2019 c.531 §2; 2021 c.613 §1; 2022 c.33 §29]

Note:

The amendments to 496.254 by section 67, chapter 33, Oregon Laws 2022, become operative only if certain conditions are met. See sections 54 and 61 to 64, chapter 33, Oregon Laws 2022 (note preceding 496.257). 496.254, as amended by section 67, chapter 33,

Oregon Laws 2022, is set forth for the user's convenience.

(1) The Oregon Conservation and Recreation Advisory Committee is established as an advisory committee to the State Fish and Wildlife Commission and the State Department of Fish and Wildlife for the purpose of carrying out the duties described in subsection (2) of this section. The commission shall determine the number of members of the committee and the geographical representation by the members. The Governor shall appoint the members of the committee. The Associate Director of Outdoor Recreation, or the associate director's designee, shall serve as a nonvoting, ex officio member.

(2) The committee shall review department policies regarding the use of Oregon Conservation and Recreation Fund moneys and make recommendations to the commission and the department regarding the use of fund moneys for implementing and administering department activities.

(3) Members of the committee may not receive compensation for service as members. However, subject to any applicable law regulating travel and other expenses of state officers and employees, a member may be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties from moneys available to the department for the purpose of reimbursement of committee members.

Note:

See second note under 496.252.

#### PRIVATE FOREST ACCORD MITIGATION

Note:

Sections 54 and 60 to 64, chapter 33, Oregon Laws 2022, provide:

Sec. 54. Statement of legislative intent concerning habitat conservation plan and incidental take permit.

(1) The Legislative Assembly intends that the policies described in sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 9, 26 to 29, 40, 41 and 45 to 49 of this 2022 Act shall remain in effect only if:

(a) An incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, is issued on or before December 31, 2027;

(b) The State Board of Forestry has not made a finding that the habitat conservation plan imposes more than a de minimis difference in economic or resource impacts, at the level of landscapes, relative to rules adopted or amended as part of the rule package described in section 2 of this 2022 Act [527.711]; and

(c) The incidental take permit remains in effect.

(2) The legislative intent described in subsection (1) of this section is established by sections 55 to 64 of this 2022 Act. [2022 c.33 §54]

Sec. 60. Conditional repeals.

Sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act are repealed. [2022 c.33 §60]

Sec. 61. Operation of conditional provisions upon finding related to habitat conservation plan.

(1) Except as otherwise provided in sections 62 and 63 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative only if the State Board of Forestry finds, pursuant to section 55 (1) and (2) of this 2022 Act, that the habitat conservation plan described in section 55 (1) of this 2022 Act imposes more than a de minimis difference, as described in section 55 (1) of this 2022 Act.

(2) If the board finds, pursuant to section 55 (1) and (2) of this 2022 Act, that the habitat conservation plan described in section 55

(1) of this 2022 Act imposes more than a de minimis difference, as described in section 55 (1) of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on the 150th day after the date the board makes the finding. [2022 c.33 §61]

Sec. 62. Operation of conditional provisions upon revocation or invalidation of incidental take permit.

(1) Except as otherwise provided in sections 61 and 63 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative only if:

(a) Pursuant to section 55 (1) and (2) of this 2022 Act, the State Board of Forestry does not make a finding or finds that the habitat conservation plan described in section 55 (1) of this 2022 Act does not impose more than a de minimis difference, as described in section 55 (1) of this 2022 Act; and

(b) The incidental take permit is subsequently revoked or invalidated.

(2) If the events described in subsection (1)(a) and (b) of this section occur, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on the 240th day after the date that any appeals process related to the revocation or invalidation has been exhausted or foregone, whichever occurs first. [2022 c.33 §62]

Sec. 63. Operation of conditional provisions upon failure to issue incidental take permit on or before December 31, 2027.

(1) Except as otherwise provided in sections 61 and 62 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630,

527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative only if an incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, is not issued on or before December 31, 2027.

(2) If an incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report is not issued on or before December 31, 2027, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on June 1, 2028. [2022 c.33 §63]

Sec. 64. Repeal of conditionally operative provisions.

Sections 59 and 62 of this 2022 Act are repealed on January 2, 2077.

[2022 c.33 §64]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.257 - Private Forest Accord Grant Program; rules.**

(1) As used in this section, "forestland" and "forest practice" have the meanings given those terms in ORS 527.620.

(2) The State Fish and Wildlife Commission shall establish by rule a Private Forest Accord Grant Program for the purpose of funding projects that mitigate impacts of forest practices by:

(a) Removing structures that block the passage of aquatic organisms or repairing the structures to promote the passage of aquatic organisms.

(b) Placing logs or other wood-based material in streams to promote natural stream functions.

(c) Conserving, recruiting or reintroducing beavers to restore aquatic landscapes.

(d) Developing or sustaining healthy riparian corridors or wet meadow complexes to reduce burn intensity during fires and protect streams from excess sediment after a fire.

(e) Applying restoration treatments to densely stocked, single-species stands of trees to hasten the return of riparian function after tree harvesting.

(f) Applying restoration treatments to stands of trees to enhance historic species diversity that benefits riparian function.

(g) Supporting establishment of conservation easements on land other than forestland to protect riparian areas.

(h) Supporting acquisition of an existing water right for conversion to an in-stream water right, as described in ORS 537.348, to improve in-stream flow conditions.

(i) Installing fencing or otherwise excluding grazing in riparian areas or around seeps or springs.

(j) Installing off-stream stockwater systems or hardened watering gaps to reduce the effects of grazing on aquatic organisms.

(k) Undertaking other measures that effectively conserve or restore habitat for aquatic organisms addressed by a habitat conservation plan that is consistent with the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022.

(3) In administering the program, the commission:

(a) Shall develop criteria for awarding a grant and a process for applying for a grant.

(b) Shall award grants to most effectively mitigate impacts of forest practices, consistent with advice from the Private Forest Accord Mitigation Advisory Committee.

(c) May award a grant to another agency.

(d) May require the recipient of a grant to report to the commission on the use of grant funds. [2022 c.33 §32]

Note:

496.257 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (note preceding 496.257).

Note:

496.257 and 496.259 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.259 - Private Forest Accord Mitigation Advisory Committee.**

(1) The Private Forest Accord Mitigation Advisory Committee is established as an advisory committee to the State Fish and Wildlife Commission and the State Department of Fish and Wildlife for the purpose of carrying out the duties described in subsection (1) of this section.

(2) The committee shall consist of up to 12 members, including seven voting members appointed pursuant to subsections (3) and (4) of this section and up to five nonvoting members as provided for in subsection (5) of this section.

(3)(a) The Governor shall appoint the following six voting members:

(A) Three members who represent the timber industry.

- (B) Three members who represent nongovernmental organizations that promote conservation of freshwater aquatic habitat.
- (b) In appointing members, the Governor shall solicit and consider recommendations from the timber industry and nongovernmental organizations that promote conservation of freshwater aquatic habitat.
- (4) The members of the Oregon Conservation and Recreation Advisory Committee shall select and appoint from among themselves one person to serve as a voting member of the Private Forest Accord Mitigation Advisory Committee.
- (5) The department shall appoint up to five nonvoting members recommended by:
- (a) The State Forestry Department.
  - (b) The Oregon Watershed Enhancement Board.
  - (c) The State Department of Fish and Wildlife.
  - (d) The United States Fish and Wildlife Service.
  - (e) The National Marine Fisheries Service.
- (6)(a) The term of a voting member is four years.
- (b) Before the expiration of the term of a voting member, the appropriate appointing authority shall appoint a successor whose term begins on the following January 31.
- (c) A voting member may be reappointed but may not serve for more than two full terms.
- (d) A voting member appointed by the Governor may be removed only for cause.
- (7) In case of a vacancy, the appropriate appointing authority shall make an appointment to become effective immediately for the unexpired portion of the term.
- (8) The voting members shall biennially select from among themselves a chairperson and vice chairperson.
- (9) The committee shall meet at least four times per year.
- (10) A majority of the voting members constitutes a quorum for the transaction of business.
- (11) The committee shall:
- (a) Review State Department of Fish and Wildlife policies regarding the use of moneys deposited in the Private Forest Accord Mitigation Subaccount of the Oregon Conservation and Recreation Fund and make recommendations to the commission and the department regarding the use of moneys in the subaccount.
  - (b) Solicit and review grant applications under the Private Forest Accord Grant Program described in ORS 496.257 and advise the commission and department on how to award grants in a manner that will most effectively mitigate the impacts of forest practices, as defined in ORS 527.620.
- (12) In undertaking the duties described in subsection (11) of this section, the committee may solicit and consider recommendations from, and otherwise coordinate with, the Oregon Conservation and Recreation Advisory Committee.
- (13) Members of the Private Forest Accord Mitigation Advisory Committee may receive compensation and expenses as described in ORS 292.495. [2022 c.33 §30]

Note:

496.259 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (note preceding 496.257).

Note:

See second note under 496.257.

Note:

Section 31, chapter 33, Oregon Laws 2022, provides:

Sec. 31.

(1) Notwithstanding section 30 (3) of this 2022 Act [496.259 (3)], the voting members first appointed by the Governor to the Private Forest Accord Mitigation Advisory Committee must be representatives of six authors of the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022.

(2) Notwithstanding section 30 (6)(a) of this 2022 Act, of the voting members first appointed by the Governor:

- (a) Two shall serve for terms ending one year after the date of appointment.
- (b) Two shall serve for terms ending two years after the date of appointment.
- (c) Two shall serve for terms ending three years after the date of appointment. [2022 c.33 §31]

Note:

Section 31, chapter 33, Oregon Laws 2022, is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (note preceding 496.257).

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.264 - Findings.**

The Legislative Assembly finds and declares that:

- (1) Many small streams in eastern Oregon were historically inhabited by beaver populations and strongly influenced by beavers' unique ability to modify their physical surroundings. Beaver dams had the effect of slowing the flow of water, allowing for natural overflow onto surrounding ancient floodplains and providing many positive benefits to stream ecosystems and to the hydrologic functioning of streams and adjacent water tables.
- (2) Due, in part, to the near eradication of the once prevalent beaver populations, many stream systems have become severely

degraded during the past century, developing deeply eroded and incised stream channels that have lost connectivity with the natural ancient floodplain. These changes to the stream systems have resulted in adverse environmental and economic impacts.

(3) The public policy of the State of Oregon is to encourage and support a program for voluntary stream restoration actions by landowners that can help restore both environmental and economic health to eastern Oregon through the construction of environmental restoration weirs, provided that the voluntary stream restoration actions do not have significant adverse consequences for the environment or existing water rights.

(4) Environmental restoration weirs constructed pursuant to ORS 496.266 may provide benefits to stream restoration that include:

- (a) Improving habitat conditions;
- (b) Slowing stream runoff;
- (c) Decreasing the chance of catastrophic wildfire;
- (d) Improving carbon sequestration; and
- (e) Improving economic productivity of the adjacent ancient floodplain. [2021 c.63 §2]

Note:

496.264 and 496.266 were added to and made a part of the wildlife laws by legislative action but were not added to ORS chapter 496 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.266 - Environmental restoration weirs; rules.**

(1) As used in this section and ORS 496.264:

(a) "Ancient floodplain" means channel adjacent areas and surfaces constructed by fluvial processes that functioned as floodplains or areas for overbank deposition prior to channel incision.

(b) "Environmental restoration weir" means one or more structures that are constructed:

- (A) For the purpose of delaying or slowing, but not preventing, streamflow to promote restoration of stream and habitat conditions;
- (B) Such that the structures do not store or appropriate water in a manner that would require a permit from the Water Resources Department;

(C) To be no larger than necessary to cause overbank flooding onto the lands constituting the ancient floodplain during ordinary periods of high streamflow; and

(D) From wood, earth, dirt, rock or other natural materials.

(c) "Healthy native migratory fish population" means a population of native migratory fish that, as determined by the State Department of Fish and Wildlife:

- (A) Demonstrates appropriate life stages throughout the year; and
- (B) Reproduces at sufficient levels to be a self-sustaining population into the foreseeable future.

(d) "Incised or eroded stream" means a stream that has been scoured by erosion to the extent that the channel bed elevation has lowered relative to its ancient floodplain and the stream has lost connectivity with the ancient floodplain, as characterized by:

- (A) The loss of natural wetland, riparian or meadow conditions in the adjacent surfaces;
- (B) The absence of overbank flooding or deposition during ordinary periods of high streamflow;
- (C) The loss of diversity of fish or other species; or
- (D) The presence of invasive dry land species that have encroached from adjacent uplands, including but not limited to sagebrush, bunch grass, juniper and pine.

(e) "Native migratory fish" has the meaning given that term in ORS 509.580.

(f) "Qualifying stream" means an incised or eroded stream, a designated reach of an incised or eroded stream or a designated set of adjacent reaches of an incised or eroded stream that, prior to commencement of a project authorized pursuant to subsection (2) of this section:

(A) Has an estimated median monthly natural streamflow of less than one cubic foot per second during at least two months of the year;

(B) Has not had a healthy native migratory fish population for at least three years prior to the time of authorization; and

(C) Is incised or eroded to the extent that the channel bed elevation has lowered by two feet or more relative to the elevation of the ancient floodplain.

(g) "Reach" means a section of a stream that is similar in flow topography and habitat characteristics and is between 50 and 500 feet in length.

(h) "Summit of the Cascade Mountains" has the meaning given that term in ORS 321.805.

(2) The State Department of Fish and Wildlife shall adopt by rule and administer a program for authorizing voluntary projects for stream restoration and habitat improvement through the construction of environmental restoration weirs. The department may only authorize a project under the program if:

(a) The project involves construction of environmental restoration weirs on one or more qualifying streams located in any closed basin:

(A) From which water does not flow to the Pacific Ocean; and

(B) That is located east of the summit of the Cascade Mountains;

(b) Construction of the environmental restoration weirs will be completed no later than July 1, 2031; and

(c) The project complies with local floodplain regulations if the project is located within an area subject to floodplain management.  
(3) Rules adopted under subsection (2) of this section shall identify criteria for evaluating voluntary projects undertaken pursuant to the program.

(4) If the department determines that native migratory fish are present in a qualifying stream prior to the date of construction of environmental restoration weirs, the person engaging in the proposed voluntary project shall provide fish passage pursuant to ORS 509.585.

(5)(a) If the department determines that native migratory fish are not present in a qualifying stream prior to the date of construction of environmental restoration weirs, the person engaging in the proposed voluntary project is exempt from meeting the requirements of ORS 509.585.

(b) If, after construction of environmental restoration weirs, the department determines that native migratory fish have returned to the qualifying stream, the department may require the person engaging in the authorized voluntary restoration project to:

(A) Provide fish passage that:

(i) Is economically practicable to the person engaging in the voluntary restoration project; and

(ii) Can be constructed from locally available natural materials; or

(B) Provide mitigation that, as determined by the department, provides a net benefit to native migratory fish.

(6) For a period of up to 10 years after construction of the environmental restoration weirs is complete, the department:

(a) Shall require the person that engaged in an authorized voluntary project to maintain the environmental restoration weirs for their stream restoration and habitat improvement values;

(b) May require the person to engage in photo monitoring of the environmental restoration weirs; and

(c) May, subject to subsection (9) of this section, require the person to allow a third party to engage in monitoring of the environmental restoration weirs.

(7) The department shall, in coordination with the Water Resources Department, require the person to modify the environmental restoration weirs if the environmental restoration weirs are found:

(a) By the Water Resources Department to result in injury to an existing water right; or

(b) By the State Department of Fish and Wildlife to be having a significant detrimental impact on native migratory fish.

(8)(a) Before authorizing a proposed voluntary project, the State Department of Fish and Wildlife shall coordinate with the Department of Transportation to consider any potential impacts of the project on transportation infrastructure or planned transportation infrastructure, including but not limited to potential impacts on roads, culverts and bridges.

(b) The State Department of Fish and Wildlife, in coordination with the Department of Transportation, may at any time require the person engaging in the authorized voluntary restoration project to modify environmental restoration weirs if the environmental restoration weirs are found to adversely impact transportation infrastructure or planned transportation infrastructure.

(9) If the State Department of Fish and Wildlife requires third-party monitoring of environmental restoration weirs under subsection (6)(c) of this section:

(a) The third party must be chosen through mutual agreement between the person engaging in the voluntary restoration project and the department;

(b) The person engaging in the voluntary restoration project may not unreasonably withhold consent for the third party to engage in monitoring;

(c) The third-party monitoring may not result in a financial cost to the person engaging in the voluntary restoration project; and

(d) The third party engaging in the monitoring must be covered by sufficient liability and casualty insurance.

(10) Planting or removal of brush and trees from stream banks and riparian areas as part of an authorized voluntary project are not subject to riparian management requirements established under the Oregon Forest Practices Act.

(11) Nothing in this section creates any new requirement or exemption with respect to obtaining a permit or certificate to use, store or appropriate water. [2021 c.63 §3]

Note:

See note under 496.264.

Note:

Sections 7 and 8, chapter 63, Oregon Laws 2021, provide:

Sec. 7.

The State Department of Fish and Wildlife shall adopt rules under section 3 of this 2021 Act [496.266] in time for the rules to become operative no later than one year after the effective date of this 2021 Act [May 21, 2021]. [2021 c.63 §7]

Sec. 8.

(1) No later than December 31, 2027, the State Department of Fish and Wildlife shall submit a report, in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to environment and natural resources that provides information summarizing the extent to which voluntary projects have been commenced and completed under the program established by the department pursuant to section 3 of this 2021 Act [496.266], and any known preliminary impacts of the voluntary projects.

(2) No later than September 15, 2032, the State Department of Fish and Wildlife shall submit a report, in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to environment and natural resources on voluntary projects authorized under the program established by the department pursuant to section 3 of this 2021 Act. The report shall include:



- (a) Assessments of the conditions of qualifying streams affected by authorized voluntary projects, which assess stream conditions prior to construction of environmental restoration weirs as well as after construction of environmental restoration weirs; and
- (b) Recommendations, which may include recommendations for legislation, regarding potential amendment of section 3 (2) of this 2021 Act to allow the department to authorize voluntary projects in which construction of environmental restoration weirs will commence on or after January 2, 2036. [2021 c.63 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.268 - Fish and Wildlife Natural Climate Solutions Fund.**

(1) The Fish and Wildlife Natural Climate Solutions Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Fish and Wildlife Natural Climate Solutions Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Department of Fish and Wildlife to:

- (a) Carry out the provisions of ORS 468A.189 (5); and
  - (b) For the administrative expenses of the department in implementing ORS 468A.189, except that no more than 10 percent of moneys may be used for administrative expenses.
- (2) The Fish and Wildlife Natural Climate Solutions Fund consists of moneys transferred to the fund under ORS 468A.187. [2023 c.442 §67]

Note:

496.268 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.270 - Immunity from liability for damages resulting from habitat or water quality improvement project; exceptions.**

(1) The Legislative Assembly declares that it is the policy of the State of Oregon to encourage operators, timber owners and landowners to voluntarily improve fish and wildlife habitat. In order to carry out this policy, the Legislative Assembly encourages cooperation among operators, timber owners and landowners and other volunteers.

(2) Consistent with the limitations of ORS 105.672 to 105.696, a landowner is not liable in contract or tort for any personal injury, death or property damage that arises out of the use of the land by:

- (a) A volunteer conducting a fish and wildlife habitat improvement project; or
  - (b) A participant of a state-funded or federally funded watershed or stream restoration or enhancement program.
- (3) An operator, timber owner or landowner shall not be held liable for any damages resulting from:
- (a) A fish and wildlife habitat improvement project done in cooperation and consultation with the State Department of Fish and Wildlife or the Oregon Watershed Enhancement Board, or conducted as part of a forest management practice in accordance with ORS 527.610 to 527.770, 527.990 and 527.992; or
  - (b) Leaving large woody debris within the waters of this state to protect, retain and recruit large woody debris for the purposes of fish habitat and water quality improvement.

(4) The limitations to liability provided by subsections (2) and (3) of this section do not apply if the damages, injury or death was caused by willful, wanton or intentional conduct on the part of the operator, timber owner or landowner or by the gross negligence of the operator, timber owner or landowner. As used in this subsection "gross negligence" means negligence which is materially greater than the mere absence of reasonable care under the circumstances, and which is characterized by indifference to or reckless disregard of the rights of others.

(5) The limitation on liability provided by subsection (3) of this section does not apply to claims for death or personal injuries. [1993 c.701 §2; 1997 c.207 §1; 1999 c.863 §3]

Note:

496.270 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.272 - Wildlife Corridor Action Plan.**

(1) The State Department of Fish and Wildlife shall collect, analyze and develop the best available science and data regarding the connectivity of wildlife habitat areas. The State Department of Fish and Wildlife, in cooperation with the Department of Transportation, shall use the data to develop a plan, to be known as the Wildlife Corridor Action Plan, to preserve long-term habitat connectivity for wildlife as defined in ORS 496.004. The plan shall provide guidance for all state agencies to develop benchmarks for the designation and protection of wildlife corridors in Oregon.

(2) The Wildlife Corridor Action Plan shall, at a minimum, include:

- (a) Identification of species of concern that are at risk from habitat fragmentation or barriers to species movement.
- (b) Identification of the known migration and dispersal corridors for species identified under paragraph (a) of this subsection.
- (c) A description of the potential effects of climate change on the movement of species identified under paragraph (a) of this

subsection.

(d) Identification of known and potential human-caused barriers in Oregon that negatively affect wildlife habitat connectivity.

(e) A contemporary map showing existing and potential wildlife corridors and core high quality habitat areas.

(f) A list of areas for which designation of wildlife corridors, land acquisition or other agency actions are of high priority to protect wildlife movement or habitat connectivity. The bases for identification of the high priority areas shall include but not be limited to a designation of a species by the federal government or the State Fish and Wildlife Commission as an endangered species or threatened species.

(3) The State Department of Fish and Wildlife shall review and update the Wildlife Corridor Action Plan every five years. Prior to final adoption of the plan or of a plan update the department shall:

(a) Post the plan or update on the department website and provide an opportunity for public comment; and

(b) Deliver a copy of the plan or update to Senate and House interim or regular committees relating to natural resources.

(4) Prior to final adoption of a proposed update, the State Department of Fish and Wildlife shall prepare a report on implementation of the update, including but not limited to information concerning changes in the number of high priority wildlife corridors established or planned. The State Department of Fish and Wildlife shall post the report on the department website and deliver the report to Senate and House interim or regular committees relating to natural resources. [2019 c.272 §1]

Note:

496.272 and 496.273 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.273 - Agency assistance and advice regarding plan.**

All agencies of state government, as defined in ORS 174.111, are directed to assist and advise the State Department of Fish and Wildlife in the development of the Wildlife Corridor Action Plan and in the five-year reviews of the plan required under ORS 496.272. [2019 c.272 §2]

Note:

See note under 496.272.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.275 - Salmon resource protection and restoration; review of public and private production facilities; approval of production facilities by department.**

(1) The Legislative Assembly hereby declares the necessity to review all options and means for the protection and restoration of Oregon's salmon resource that promote local economic development and enjoyment by all the citizens of Oregon. Options and means shall include operation of salmon production facilities, in cooperation with the State Department of Fish and Wildlife, by both public and private nonprofit agencies as well as by public local partnerships, to meet local production and harvest needs as well as to help restore and maintain natural salmon spawning populations. Such cooperative production projects shall be operated using scientifically sound hatchery practices and shall be consistent with objectives to protect and restore natural fish production.

(2) The State Department of Fish and Wildlife shall:

(a) Review and revise existing state administrative rules so that the different forms of hatchery production are recognized as a necessary and critical element in the state's salmon production system in order to provide harvest opportunities for Oregon's citizens. In so doing, the department shall identify low natural production areas and, using genetically compatible stocks approved by the department, encourage volunteer efforts such as the salmon and trout enhancement program to maintain and to enhance production.

(b) Identify existing private and public salmon production facilities that are currently either underutilized or subject to decommissioning and that may be appropriate for other forms of operation.

(c) Inventory other appropriate local sites, identify possible types of production facilities, recommend stock selection and release size, and assist in securing the acquisition of brood stock approved by the department that maximizes local production.

(d) Investigate and implement ways to improve hatchery smolt survival and reduce predation by such means as night releases, net pen acclimation, alternate release sites, volitional and other release strategies, transport and other means that may be effective and consistent with the conservation of native salmon and genetic resources.

(e) Make recommendations on methods by which operations of facilities referred to in this subsection and subsection (3) of this section can generate revenue for sustainable production, including but not limited to state bonding, license surcharges, ad valorem taxes, local economic development funds, service districts, sale of excess eggs and salmon, and gifts, grants and donations.

(f) Identify needed monitoring and evaluation activities to ensure protection of natural spawning fish populations and to assess the contribution of such cooperative projects to public fisheries.

(g) Assist in developing, for department approval, plans of operation for such cooperative hatchery projects consistent with applicable rules and standards of sound, scientific fish management practice.

(3) The department shall encourage and assist in planning hatchery facilities that seek to implement innovative plans or programs designed to meet production for harvest needs consistent with conservation objectives.

(4) The State Fish and Wildlife Commission shall approve, prior to implementation, operational plans for any fish propagation facilities operated by contractor agreement with other state or federal agencies, local governments, special districts and nonprofit organizations. [1995 c.469 §§2,3,4; 2007 c.71 §169]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.280 - Findings.**

The Legislative Assembly finds, in the interest of all Oregonians, a necessity to improve Oregon's fishery resource through the further involvement of its citizens and through support by additional financial revenues. [1989 c.512 §2]

Note:

496.280 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.283 - Use of certain moneys; limitations on expenditures.**

(1) Notwithstanding ORS 506.306, all moneys received by the State Fish and Wildlife Commission pursuant to ORS 497.126, 508.288 and 508.506 shall be deposited in a separate subaccount in the State Wildlife Fund. Except as provided in subsection (2) of this section, moneys in the subaccount may be expended only for State Department of Fish and Wildlife fish restoration and enhancement programs for the benefit of the fish resources of this state.

(2) Fees collected from salmon ranching permits authorized under ORS 508.700 to 508.745 may not be commingled with public fishery funds collected and deposited in the subaccount referred to in this section. Notwithstanding any other provision of law, the department shall use moneys from salmon ranching permits authorized under ORS 508.700 to 508.745 to monitor the effect and impact of private salmon ranching on the fishery resources of Oregon.

(3) The department:

(a) May not divert budgeted funds to other projects as funds pursuant to ORS 497.126, 508.288 and 508.506 become available.

(b) May use the subaccount moneys only for programs vital to the restoration of Oregon fisheries as required by Oregon Revised Statutes and administrative rules.

(c) May not assess department personnel costs in the administration of activities benefiting fish restoration and enhancement programs against the subaccount referred to in this section without the prior approval of the Restoration and Enhancement Board. [1989 c.512 §10; 1991 c.184 §4; 2015 c.779 §42; 2019 c.458 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.286 - Restoration and Enhancement Board.**

(1) There is established within the State Department of Fish and Wildlife the Restoration and Enhancement Board, consisting of seven members appointed by the State Fish and Wildlife Commission.

(2) Three members shall be appointed to represent the ocean and inland recreational fisheries. In making appointments pursuant to this subsection, the commission shall consider recommendations from the State Fish and Wildlife Director.

(3) Three members of the board shall be appointed to represent the commercial salmon industry. In making appointments pursuant to this subsection, the commission shall consider recommendations from the State Fish and Wildlife Director.

(4) One member of the board shall be appointed to represent the public.

(5) A member of the board shall receive no compensation for services as a member. However, subject to any applicable law regulating travel and other expenses of state officers and employees, a member shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties from such moneys made available by ORS 497.126, 508.288 and 508.506.

(6) The term of office of a member of the board is four years. A member of the board is eligible for reappointment.

(7) An official action of the board may be taken only upon the affirmative vote of four members.

(8) The board shall select such officers for such terms and with such duties and powers as the board considers necessary for the performance of those offices.

(9) Subject to ORS 496.289 (2), the board shall meet at such times and at such places as may be determined by the chair or by the majority of the members of the board. [1989 c.512 §11; 2019 c.458 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.289 - Duties of board; report to legislature; recommendations for programs.**

(1) As used in this section:

(a) "Enhancement" includes, but is not limited to, the following activities:

(A) Angler access.

(B) New fishways and screens.

- (C) Habitat.
- (D) New hatchery equipment and technology.
- (E) Public education.
- (F) Aquatic inventories.
- (b) "Restoration" includes, but is not limited to, the following activities:
  - (A) Modification of existing fishways and existing screens.
  - (B) Hatchery restoration.
  - (C) Liberation equipment.
- (2) The Restoration and Enhancement Board shall meet at least four times each biennium.
- (3) The board shall adopt recommendations regarding fish restoration and enhancement programs and present the recommendations to the State Fish and Wildlife Commission.
- (4) The commission shall review fish restoration and enhancement programs and may approve or disapprove program recommendations made by the board. Funds may be expended from the subaccount referred to in ORS 496.283 for projects that have been approved by the commission.
- (5) The State Department of Fish and Wildlife and the board jointly shall submit to each odd-numbered year regular session of the Legislative Assembly a report on expenditure of funds for the fish restoration and enhancement program and on the status of various projects.
- (6) In recommending fish restoration and enhancement programs, the board shall:
  - (a) Recommend a mix of projects that provide a balance between restoration and enhancement benefits.
  - (b) Recommend projects that are to be implemented by the salmon and trout enhancement program and nonprofit organizations engaged in approved restoration and enhancement activities.
  - (c) Encourage projects that result in obtaining matching funds from other sources.
- (7) All moneys made available for the fish restoration and enhancement program from funds received under ORS 497.126, 508.288 and 508.506 and from gifts and grants made to carry out the fish restoration and enhancement program may be expended only if recommended by the board and approved by the commission. Such amounts may be expended:
  - (a) On programs benefiting the commercial fishing industry in the same proportion as revenues received from surcharges under ORS 508.288 and 508.506 bear to the total amount of surcharge revenues.
  - (b) On programs benefiting recreational angling in the same proportion as revenues received from the dedication under ORS 497.126 bear to the total amount of dedicated revenues.
- (8) The board may accept, from whatever source, gifts or grants for the purposes of fish restoration and enhancement. All moneys so accepted shall be deposited in the subaccount referred to in ORS 496.283. Unless otherwise required by the terms of a gift or grant, gifts or grants shall be expended as provided in subsection (7) of this section. [1989 c.512 §12; 1997 c.8 §12; 2011 c.545 §60; 2015 c.779 §43; 2019 c.458 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.291 - Advisory councils; recommendations to board; consultation with councils.**

- (1) Individuals who reside in the various regions established for administration of the salmon and trout enhancement program may form advisory councils to discuss and consider fish restoration and enhancement programs and projects and shall make recommendations thereon to the Restoration and Enhancement Board. When the board considers proposals affecting a region, the board shall consult with the advisory council for that region if one exists.
- (2) Employees of the State Department of Fish and Wildlife who are residents of the various regions may act in an advisory capacity to the various councils.
- (3) Individuals who serve as members of an advisory council shall receive no compensation or expenses for service as a member. [1989 c.512 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.300 - State Wildlife Fund; sources; uses.**

- (1) The State Wildlife Fund is established in the State Treasury separate and distinct from the General Fund. Except as otherwise provided by law, all moneys received by the State Fish and Wildlife Commission pursuant to the wildlife laws, except such as may be required as a revolving fund for payroll and emergency expenses, shall be paid into the State Treasury and credited to the fund. All moneys in the fund are appropriated continuously to the commission to carry out the wildlife laws. Interest earnings on all moneys in the fund shall be retained in the fund.
- (2)(a) The commission shall keep a record of all moneys deposited in the State Wildlife Fund. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged.
- (b) Using the record created pursuant to paragraph (a) of this subsection, the commission shall report, in the budget documents submitted to the Legislative Assembly, on the application of investment and interest earnings to the maintenance of fish hatcheries and other State Department of Fish and Wildlife facilities. [1973 c.723 §15; 1975 c.118 §1; 1975 c.253 §12; 1983 c.8 §1; 1983 c.801

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.303 - Fish and Wildlife Account; sources; subaccounts; uses.**

(1) The Fish and Wildlife Account is established in the State Treasury, separate and distinct from the General Fund. All moneys in the account are continuously appropriated to the State Fish and Wildlife Commission. The Fish and Wildlife Account shall consist of the moneys in its various subaccounts and any moneys transferred to the account by the Legislative Assembly. Unless otherwise specified by law, interest earnings on moneys in the account shall be paid into the State Treasury and credited to the State Wildlife Fund.

(2)(a) The Fish Screening Subaccount is established in the Fish and Wildlife Account. The subaccount shall consist of:

(A) All penalties recovered under ORS 536.900 to 536.920.

(B) All moneys received pursuant to ORS 498.306.

(C) All gifts, grants and other moneys from whatever source that may be used to carry out the provisions of ORS 498.306.

(D) All moneys received from the sale of angling licenses dedicated by ORS 497.124.

(b) All moneys in the subaccount shall be used to carry out the provisions of ORS 315.138, 498.306 and 509.620. However, moneys received from the sale of angling licenses dedicated by ORS 497.124 shall be expended only to carry out the provisions of law relating to the screening of water diversions.

(3) The Fish Endowment Subaccount is established in the Fish and Wildlife Account. The subaccount shall consist of transfers of moneys authorized by the Legislative Assembly from the State Wildlife Fund and gifts and grants of moneys from whatever source for the purpose of paying the expense of maintaining fish hatcheries operated by the department.

(4) The Migratory Waterfowl Subaccount is established in the Fish and Wildlife Account. All moneys received by the commission from the sale of art works and prints related to the migratory waterfowl stamps shall be deposited in the subaccount. Moneys in the subaccount may be expended only for activities that promote the propagation, conservation and recreational uses of migratory waterfowl and for activities related to the design, production, issuance and arrangements for sale of the migratory waterfowl stamps and related art works and prints. Expenditures of moneys in the subaccount may be made within this state, in other states or in foreign countries, in such amounts as the commission determines appropriate. Expenditures in other states and foreign countries shall be on such terms and conditions as the commission determines will benefit most directly the migratory waterfowl resources of this state.

(5) The Halibut Research Subaccount is established in the Fish and Wildlife Account. Based on the annual number of recreational halibut anglers, a portion of the moneys derived from the sale of the salmon, steelhead trout, sturgeon and halibut tag pursuant to ORS 497.121 shall be credited to the subaccount. Moneys in the subaccount may be expended only for halibut population studies and other research.

(6) The Upland Bird Subaccount is established in the Fish and Wildlife Account. All moneys received by the State Fish and Wildlife Commission from the sale of upland bird stamps, from the sale of any art works and prints related to the upland bird stamps and from private hunting preserve permit fees shall be deposited in the subaccount. Moneys in the subaccount may be expended only for promoting the propagation and conservation of upland birds and the acquisition, development, management, enhancement, sale or exchange of upland bird habitat, and for activities related to the design, production, issuance and arrangements for sale of the upland bird stamps and related art works and prints. Expenditures of moneys in the subaccount shall be made for the benefit of programs within this state in such amounts and at such times as the commission determines appropriate to most directly benefit the upland bird resources of the state.

(7) The Access and Habitat Board Subaccount is established in the Fish and Wildlife Account. The subaccount shall consist of moneys transferred to the subaccount pursuant to ORS 496.242. Moneys in the subaccount may be used for the purposes specified in ORS 496.242.

(8) The Marine Shellfish Subaccount is established in the Fish and Wildlife Account. Interest earnings on moneys in the subaccount shall be credited to the subaccount. All moneys received by the commission from the sale of resident and nonresident shellfish licenses pursuant to ORS 497.121 shall be deposited in the subaccount. Moneys in the subaccount shall be used for the protection and enhancement of shellfish for recreational purposes, including shellfish sanitation costs and the cost of enforcement of wildlife laws pertaining to the taking of shellfish. The State Fish and Wildlife Director, or a designee, the Director of Agriculture, or a designee, and the Superintendent of State Police, or a designee, shall jointly make a recommendation to the Governor for inclusion in the Governor's budget beginning July 1 of each odd-numbered year.

(9)(a) The Mountain Sheep Subaccount is established in the Fish and Wildlife Account, consisting of moneys collected under ORS 497.112 (2)(a) to (c).

(b) All moneys in the subaccount shall be used for the propagation and conservation of mountain sheep, for research, development, management, enhancement and sale or exchange of mountain sheep habitat and for programs within the state that in the discretion of the commission most directly benefit mountain sheep resources of this state.

(10)(a) The Antelope Subaccount is established in the Fish and Wildlife Account, consisting of moneys collected under ORS 497.112 (2)(a) to (c).

(b) All moneys in the subaccount shall be used for the propagation and conservation of antelope, for research, development,

management, enhancement and sale or exchange of antelope habitat and for programs within the state that in the discretion of the commission most directly benefit antelope resources of this state.

(11)(a) The Mountain Goat Subaccount is established in the Fish and Wildlife Account, consisting of moneys collected under ORS 497.112 (2)(a) to (c).

(b) All moneys in the subaccount shall be used for the propagation and conservation of mountain goats for research, development, management, enhancement and sale or exchange of mountain goat habitat and for programs within the state that in the discretion of the commission most directly benefit mountain goat resources of this state.

(12) The commission shall keep a record of all moneys deposited in the Fish and Wildlife Account. The record shall indicate by separate cumulative accounts the sources from which the moneys are derived and the individual activity or programs against which each withdrawal is charged.

(13) The Oregon Conservation Strategy Subaccount is established in the Fish and Wildlife Account. All moneys received by the commission from the sale of habitat conservation stamps and from the sale of any art works and prints related to the habitat conservation stamp shall be deposited in the subaccount. Moneys in the subaccount may be expended only to promote and implement habitat and species restoration, enhancement and viewing activities identified in the "Oregon Conservation Strategy," 2006, by the State Department of Fish and Wildlife, and for activities related to the design, production, issuance and arrangements for sale of the habitat conservation stamps and related art works and prints.

(14)(a) The Rogue-South Coast Research and Monitoring Subaccount is established in the Fish and Wildlife Account, consisting of moneys collected under ORS 497.121 (1)(r) and (s).

(b) All moneys in the subaccount shall be used for research and monitoring that is consistent with the Rogue-South Coast Multi-Species Conservation and Management Plan the commission adopted in December 2021, as subsequently amended by the commission.

(c) The commission may amend the plan as needed.

(d) The commission shall make the current version of the plan publicly available on a website of the commission or of the State Department of Fish and Wildlife. [2001 c.822 §3; 2003 c.612 §2; 2003 c.656 §12; 2007 c.625 §§3,14; 2011 c.50 §§3,4; 2011 c.730 §18b; 2015 c.546 §2; 2015 c.779 §44; 2022 c.56 §8]

Note:

496.303 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.306 - Compensation for damage done by bear and cougar not to be paid from State Wildlife Fund.**

If the State Department of Fish and Wildlife is required to pay compensation for damage activities of bear and cougar to people, real property, livestock, or agricultural or forest products, the compensation, and any attorney fees, shall not be paid from the State Wildlife Fund, but shall be paid from such other moneys as shall be available therefor. [1995 c.136 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.311 - Limitation on size of revolving fund.**

Notwithstanding any other provision of law, the revolving fund referred to in ORS 496.300 shall not exceed \$40,000. [1975 c.545 §9; 1979 c.461 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.340 - Payments to counties in lieu of taxes.**

(1) Except as provided in subsection (3) of this section, whenever real property owned by the State Fish and Wildlife Commission is exempt from taxation on January 1 of any year by reason of its ownership by the state, the commission shall pay to the county in which the property is situated an amount equal to the ad valorem taxes that would have been charged against the property if it had been assessed to a taxable owner as of January 1 of such year as provided in subsection (2) of this section. The county assessor shall determine the value of such property and shall notify the commission of the determination of the county assessor. Upon request of the commission, the Department of Revenue shall review the determination of value and shall redetermine the value if it concludes the value initially determined was substantially incorrect.

(2)(a) Except as provided in paragraph (b) or (c) of this subsection, the value of the property shall be computed at its assessed value under ORS 308A.107 or for forestland use, whichever is applicable.

(b) Paragraph (a) of this subsection shall not apply to any property upon which open field burning takes place. If open field burning takes place on any property described in this section, the property shall be valued at its highest and best use rather than the values authorized in paragraph (a) of this subsection on the January 1 following the date of the open field burning. If in the next year, the open field burning is discontinued, paragraph (a) of this subsection shall apply the next January 1 and each year thereafter as long as no open field burning occurs.

(c) Paragraph (a) of this subsection shall not apply to any property acquired by the commission after September 9, 1971, if such property was valued under farm use or forestland use special assessment provisions, at the time the property was acquired by the

commission. However, no payments in lieu of taxes made to a county pursuant to this section prior to January 1, 1974, shall be refunded to the commission.

(3) This section does not apply to real property used for bird farms, fish hatcheries, office quarters, fishing access sites or impoundments, capital improvements or real property acquired pursuant to the Act of May 19, 1948 (62 Stat. 240), Public Law 80-537.

(4) The amount prescribed in subsection (1) of this section shall be determined annually by the assessor of the county in which the property is situated and certified by the assessor to the county court or the board of county commissioners. A notice of the determination, signed by the county judge or the chairperson of the board of county commissioners, shall be mailed to the principal office of the commission not later than October 15. The notice shall contain a statement of the value of the property and a complete explanation of the method used in computing the amount claimed pursuant to subsection (1) of this section. Not later than November 15, the commission shall pay each amount, less a discount equivalent to that which is provided in ORS 311.505. Payment shall be made to the county treasurer, who shall distribute the payment to the taxing districts of the county in accordance with the schedule of percentages computed under ORS 311.390.

(5) Notwithstanding any other provision of the wildlife laws, the commission shall make the payments to counties required by this section annually from the moneys in the State Wildlife Fund established by ORS 496.300. [Amended by 1955 c.729 §1; 1971 c.356 §1; 1971 c.474 §1; 1973 c.723 §16; 1991 c.459 §420; 1997 c.541 §441; 1999 c.314 §73; 2005 c.755 §46]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.350 - Willamette River Basin Bonneville Power Administration Stewardship Fund; sources; uses.**

(1) The Willamette River Basin Bonneville Power Administration Stewardship Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Willamette River Basin Bonneville Power Administration Stewardship Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Department of Fish and Wildlife for long-term operation, maintenance and protection activities that preserve or advance the conservation values of properties purchased under the Willamette River Basin Memorandum of Agreement Regarding Wildlife Habitat Protection and Enhancement between the State of Oregon and the Bonneville Power Administration, dated October 22, 2010. Moneys in the fund may not be used to purchase property or easements.

(2) The Willamette River Basin Bonneville Power Administration Stewardship Fund shall consist of moneys accepted by this state pursuant to the Willamette River Basin Memorandum of Agreement Regarding Wildlife Habitat Protection and Enhancement between the State of Oregon and the Bonneville Power Administration, dated October 22, 2010.

(3) Moneys in the Willamette River Basin Bonneville Power Administration Stewardship Fund may, with the approval of the State Treasurer, be invested as provided by ORS 293.701 to 293.857, and the earnings from such investment shall be credited to the Willamette River Basin Bonneville Power Administration Stewardship Fund. [2013 c.121 §1]

Note:

496.350 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.375 - "Nongame wildlife" defined.**

As used in ORS 496.385 and 496.390 "nongame wildlife" means all wildlife species over which the State Fish and Wildlife Commission has jurisdiction, except game mammals, as defined in ORS 496.004, fur-bearing mammals as defined in ORS 496.004, game birds as defined in ORS 496.007 and game fish as defined in ORS 496.009. [1979 c.566 §1; 2021 c.8 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.385 - Nongame Wildlife Fund.**

(1) There is established as a separate and distinct fund in the State Treasury a Nongame Wildlife Fund. The Nongame Wildlife Fund shall consist of:

(a) An amount credited to the fund under ORS 305.690 to 305.753, which shall be transferred by the Department of Revenue to the fund.

(b) Gifts, grants and donations, in money or otherwise, for use as described in subsection (2) of this section, which the State Treasurer may solicit and accept from private and public sources and shall cause to be deposited and credited to the Nongame Wildlife Fund.

(c) Interest or other earnings on the amounts described in paragraphs (a) and (b) of this subsection which shall inure to the benefit of the Nongame Wildlife Fund.

(2) Moneys contained in the Nongame Wildlife Fund are continuously appropriated for the purposes specified in ORS 496.390. [1979 c.566 §3; 1987 c.758 §4; 1989 c.987 §22; 2007 c.822 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.390 - Control over fund by department; use of**

**moneys.**

The State Department of Fish and Wildlife shall have access to and control of the moneys held in the Nongame Wildlife Fund, but shall use such moneys only to protect and preserve nongame wildlife and their habitat. [1979 c.566 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.430 - Definitions for ORS 496.430 and 496.435 to 496.455.**

As used in this section and ORS 496.435 to 496.455:

- (1) "Enhancement" means resource conservation, utilization and educational activities that contribute to the recovery and sustainability of native fish.
- (2) "Listed unit" means one population or a group of populations of a species, such as an evolutionarily significant unit, that has been listed as threatened or endangered under the federal Endangered Species Act of 1973 (P.L. 93-205), as amended, or under ORS 496.171 to 496.192.
- (3) "Native fish" means indigenous to Oregon and not introduced. Naturally produced fish and hatchery produced fish are both native fish if the fish are indigenous to Oregon and not introduced.
- (4) "Native stocks" means those fish indigenous to Oregon that naturally propagate in a given watershed.
- (5) "Naturally produced" means a fish that reproduces and completes its full life cycle in its natural habitat. The naturally produced progeny of hatchery fish are naturally produced.
- (6) "Population" means a group of fish that:
  - (a) Originates and reproduces in a particular area at a particular time;
  - (b) Does not interbreed to any substantial degree with any other group reproducing in a different area or in the same area at a different time; and
  - (c) Is composed of naturally produced fish, hatchery produced fish or a combination of both.
- (7) "Recovery" means that a proportion of the constituent populations of naturally produced native fish belonging to a listed unit are sufficiently abundant, productive and diverse in life histories and distribution such that the listed unit as a whole will be self-sustaining into the foreseeable future.
- (8) "Self-sustaining" means having a sufficient proportion and distribution of constituent populations that:
  - (a) Are likely to survive prolonged periods of habitat, oceanic, climatic and environmental conditions that are detrimental to a population; and
  - (b) Have habitat of sufficient quality and quantity that is likely to provide survival rates adequate to maintain associated ecological, cultural and economic benefits. [1981 c.317 §2; 2003 c.463 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.435 - Policy to recover and sustain native stocks.**

Consistent with other provisions of law, it is declared to be a goal of the people of the State of Oregon to achieve recovery and sustainability of native stocks of salmon and trout. In order to achieve this goal in a cost-effective manner, the State of Oregon shall engage in a program to rehabilitate and improve natural habitat and native stocks and ensure that the level of harvest does not exceed the capacity of stocks to reproduce themselves. The State of Oregon shall promote rehabilitation of salmon and trout populations by reintroducing the fish to habitats by using the salmon and trout enhancement program and remote hatchboxes. [1981 c.317 §3; 1999 c.189 §1; 2003 c.463 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.440 - Enhancement program to be conducted by commission; objective.**

A salmon and trout enhancement program shall be conducted by the State Fish and Wildlife Commission to benefit all users of the salmon and trout resources in this state. The program shall be conducted in such manner as to provide the greatest possible opportunity for citizen volunteer participation to achieve the goals of the program. [1981 c.317 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.445 - Duties of commission.**

In carrying out the salmon and trout enhancement program, the State Fish and Wildlife Commission shall:

- (1) Provide appropriate State Department of Fish and Wildlife personnel to act as community advisors to cooperatively develop enhancement projects with citizen volunteers and to cooperatively evaluate enhancement projects with the citizens responsible for project implementation.
- (2) Provide technical assistance to citizens responsible for implementation of enhancement projects.
- (3) Coordinate the implementation of enhancement projects with the activities of department staff and other agencies.
- (4) Provide educational and informational materials to promote public awareness and involvement in the salmon and trout enhancement program.



- (5) Supervise the activities of citizens developing local brood stock for enhancement projects.
- (6) Grant funds to citizens for the implementation of approved enhancement projects from such moneys as may be available to the commission therefor.
- (7) Develop and implement a remote hatchbox program as described in ORS 496.458.
- (8) Report annually to the Legislative Assembly on the progress of the salmon and trout enhancement program. [1981 c.317 §5; 1999 c.189 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.450 - Application for project; subjects for projects; conditions for approval.**

- (1) Any citizen or group of citizens may submit to the State Fish and Wildlife Commission a proposal for a project consistent with the recovery or sustainability of native stocks to be implemented under the salmon and trout enhancement program or may submit a request for advice and assistance in developing such a project.
- (2) An enhancement project may include, but is not limited to, habitat improvement, installation and operation of streamside incubators, brood stock development, fish stocking and spawning ground surveys and data collection.
- (3) The commission shall approve for implementation only those enhancement projects based on sound biological principles and shall use fish stocks most adapted to the project locale. To the greatest extent practicable, a project must be designed to maximize survival, adult returns and genetic diversity while minimizing disease.
- (4) Conditions for approval by the commission for implementation of a project include but are not limited to:
  - (a) Provisions satisfactory to the commission for inspection and evaluation of the implementation of a project; and
  - (b) Provisions satisfactory to the commission for controlling the expenditure of and accounting for any funds granted by the commission for implementation of the project. [1981 c.317 §6; 2003 c.463 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.455 - Use of native stocks for projects; conditions.**

In carrying out any duties, functions or power under the wildlife laws or the commercial fishing laws, the State Fish and Wildlife Commission may authorize the taking of native stocks and their sexual products, but may not provide any such native stocks or the sexual products therefrom to any person granted a permit by the commission pursuant to ORS 508.700 to 508.745 unless, at a minimum, sufficient fish are returned to the donor stream to compensate fully for native smolts which might have resulted from eggs removed from the donor stock. When entering into a contract for the taking of native stock with a person granted a permit pursuant to ORS 508.700 to 508.745, the commission shall consider the use of the facilities for the taking of additional native stock for public management activities, including the salmon and trout enhancement program. [1981 c.317 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.458 - Remote hatchbox program; rules.**

- (1) The State Fish and Wildlife Commission shall develop and implement a remote hatchbox program.
- (2) To implement the remote hatchbox program required under subsection (1) of this section, the commission shall:
  - (a) Identify sites in tributaries that are suitable for remote hatchboxes;
  - (b) Adopt rules necessary to implement the remote hatchbox program;
  - (c) Investigate the potential of producing remote hatchboxes through an adult in custody work program of the Department of Corrections; and
  - (d) Report annually to the Legislative Assembly on the progress of the remote hatchbox program. The report shall include but need not be limited to the sites the commission has chosen, a copy of rules the commission has adopted and findings on the extent to which the commission is utilizing labor, supplies or services provided by an adult in custody work program.
- (3) Rules adopted by the commission under subsection (2) of this section shall:
  - (a) Ensure that the program is scientifically sound;
  - (b) Be consistent with the goals of the Oregon Plan, as described in ORS 541.898; and
  - (c) Identify protocols for determining when the use of remote hatchboxes is an appropriate activity under the Oregon Plan. [1999 c.189 §4; 2019 c.213 §104]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.460 - Salmon and Trout Enhancement Program Advisory Committee; members; duties and powers; travel and expenses.**

- (1) The Salmon and Trout Enhancement Program Advisory Committee is established as an advisory committee to the State Fish and Wildlife Commission. The committee shall be of such size and have such geographical representation as the commission determines appropriate. Members of the committee shall be appointed by the Governor.
- (2) The committee shall review the policies of the State Department of Fish and Wildlife and make recommendations to the State

Fish and Wildlife Commission and to the department concerning the implementation of salmon and trout enhancement projects.  
(3) A member of the committee shall receive no compensation for services as a member. However, subject to any applicable law regulating travel and other expenses of state officers and employees, a member shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties from such moneys as may be available to the department therefor.  
[1981 c.317 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.465 - Interference with project prohibited.**

Except for activities or projects authorized by a unit of municipal, state or federal government, no person shall disturb, damage, destroy or interfere with the operation of a salmon and trout enhancement project referred to in ORS 496.450. [1989 c.940 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.470 - Natural production of anadromous fish; rules; priorities.**

(1) The State Fish and Wildlife Commission shall adopt by rule plans for the natural production of anadromous fish runs in the basins set forth in subsection (2) of this section. The commission shall adopt the plans after government-to-government consultation in the forum established pursuant to United States v. Oregon, United States District Court Case No. 68-513 MA, among the State Department of Fish and Wildlife and the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon and the Nez Perce Tribe.

(2) The basins for which plans may be adopted under subsection (1) of this section are:

- (a) Hood;
- (b) Deschutes;
- (c) Fifteenmile Creek;
- (d) John Day;
- (e) Umatilla;
- (f) Walla Walla;
- (g) Grande Ronde; and
- (h) Imnaha.

(3) Of the basins set forth in subsection (2) of this section, the commission shall give priority to adopting plans for the Grande Ronde, Imnaha, Umatilla, Walla Walla and Hood basins. [1999 c. 671 §1; 2001 c.97 §1]

Note:

496.470 to 496.480 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.475 - Adoption of basin plans.**

The plans adopted pursuant to ORS 496.470 shall:

- (1) Incorporate sound science;
- (2) Be based upon adaptive management, incorporating monitoring and evaluation and clearly defined objectives and outcomes;
- (3) Benefit fish and wildlife;
- (4) Be consistent with efforts of the State of Oregon to recover salmonid populations listed under the federal Endangered Species Act, 16 U.S.C. 1531 to 1544; and
- (5) Include a risk versus benefit analysis to wild fish. [1999 c.671 §2; 2001 c.97 §2]

Note:

See note under 496.470.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.480 - Reports on basin plans.**

The State Department of Fish and Wildlife shall report at least once every six months to the appropriate legislative committee and the Governor on the progress of the department and the State Fish and Wildlife Commission in implementing ORS 496.470 and 496.475. [1999 c.671 §3; 2001 c.97 §3]

Note:

See note under 496.470.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.490 - Fishing tackle program.**

(1) The State Department of Fish and Wildlife shall establish a Keep Oregon's Rivers Clean program for the collection, recycling and proper disposal of fishing tackle, including monofilament line, fluorocarbon leaders, lines, lead weights and lures.

(2) The program shall consist of collection points located at or near established fishing areas and boat ramps. At each collection point, the department shall work with conservation and outdoor sports groups to provide a container for collection of tackle and post permanent signs or other notices that explain the program, the benefits of proper tackle recycling and disposal and the Oregon conservation ethic.

(3) The State Department of Fish and Wildlife may work cooperatively with the State Parks and Recreation Department to establish a method by which deposited tackle may be collected for recycling and disposal.

(4) The State Department of Fish and Wildlife shall include in any statewide sportfishing regulations publication produced by the department a statement explaining the collection and recycling program and encouraging nongovernmental organization participation in the program. [2003 c.188 §1; 2005 c.108 §1]

Note:

496.490 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.510 - Assent to federal wildlife-restoration statute; duty of commission with regard thereto.**

The State of Oregon assents to the Act of Congress entitled, "An Act to provide that the United States shall aid the states in wildlife-restoration projects, and for other purposes," approved September 2, 1937, Public Law No. 415, 75th Congress (50 Stat. 917, 16 U.S.C.A. 669). The State Fish and Wildlife Commission shall perform such acts as may be necessary to the conduct and establishment of cooperative wildlife-restoration projects, as defined in said Act of Congress, in compliance with said Act and with rules and regulations promulgated by the Secretary of the Interior thereunder.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.525 - Federal fish restoration and management aid; powers of commission with regard thereto.**

(1) The State of Oregon assents to the provisions of the Act of Congress entitled, "An Act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," approved August 9, 1950, Public Law No. 681, 81st Congress (64 Stat. 430, 16 U.S.C.A. 777).

(2) The State Fish and Wildlife Commission shall perform such acts as may be necessary to the conduct and establishment of cooperative fish restoration projects, as defined in said Act of Congress, in compliance with said Act and rules and regulations promulgated thereunder by the Secretary of the Interior.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.550 - Migratory waterfowl stamps; design selection; production of stamps and art works.**

(1) The State Fish and Wildlife Commission shall arrange, by contest or other appropriate means, for the selection of the design of the annual migratory waterfowl stamps required by ORS 497.151 and for the production and sale of the stamps.

(2) The commission may produce stamps in such number as the commission considers appropriate and may make stamps available for the creation of migratory waterfowl art prints and other related art works and may arrange for the sale of stamps, prints and art works to persons desiring to purchase those items. [1983 c.801 §5; 2015 c.779 §45]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.555 - Contract on migratory waterfowl stamp matters.**

In carrying out its duties, functions and powers with regard to the migratory waterfowl stamps, the State Fish and Wildlife Commission may contract for the performance of those duties, functions and powers. The contract may include, among other matters, provisions for advance payment or reimbursement for services performed pursuant to any such contract. All costs and expenses incurred pursuant to this section shall be paid from the Migratory Waterfowl Subaccount established under ORS 496.303. [1983 c.801 §4; 2001 c.822 §6; 2015 c.779 §46]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.558 - "Upland bird" defined.**

As used in this section and ORS 496.562, 496.566 and 497.153, "upland bird" means those bird family members commonly known as pheasant, quail, grouse and partridge, including chukars. [1989 c.406 §2]

Note:

496.558 and 496.562 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 496 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 -**

**Application, Administration and Enforcement of Wildlife Laws Section 496.562 - Policy.**

The purposes of this section and ORS 496.558, 496.566 and 497.153 are to:

- (1) Authorize the State Fish and Wildlife Commission to issue to hunters an upland bird stamp for a specified fee;
- (2) Establish a fund to be financed by the sale of upland bird stamps and any art works and prints related to the upland bird stamps for the purposes of promoting the propagation and conservation of upland birds and acquiring, developing, managing, enhancing, purchasing or acquiring through lands exchange upland bird habitat; and
- (3) Provide the State Fish and Wildlife Commission with improved data on the location and number of upland bird hunters. [1989 c.406 §1; 2015 c.779 §47]

Note:

See note under 496.558.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.566 - Contest for stamp design; sale of art works; contracts for stamp matters.**

- (1) The State Fish and Wildlife Commission shall arrange, by contest or other appropriate means, for the selection of the design of the annual upland bird stamps authorized by ORS 497.153 and for the production and sale of the stamps.
- (2) The commission may produce stamps in such number as the commission considers appropriate and may make stamps available for the creation of upland bird art prints and other related art works and may arrange for the sale of stamps, prints and art works to persons desiring to purchase those items.
- (3) In carrying out its duties, functions and powers with regard to the upland bird stamp, the State Fish and Wildlife Commission may contract for the performance of those duties, functions and powers. The contract may include, among other matters, provisions for advance payment or reimbursement for services performed pursuant to any such contract. All costs and expenses incurred pursuant to this section shall be paid from the Upland Bird Subaccount established under ORS 496.303. [1989 c.406 §6; 2001 c.822 §7; 2015 c.779 §48]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.571 - Habitat conservation stamp; fees; design selection; production of stamps and art works.**

- (1) The State Fish and Wildlife Commission may issue an annual habitat conservation stamp. The fee for the stamp may not exceed \$50.
- (2) The commission shall arrange, by contest or other appropriate means, for the selection of the design of the annual habitat conservation stamp authorized by subsection (1) of this section and for the production and sale of the stamps.
- (3) The commission may produce the number of stamps the commission considers appropriate and may make stamps available for the creation of art prints and other related art works and may arrange for the sale of stamps, prints and art works to persons desiring to purchase those items.
- (4) In carrying out its duties, functions and powers with regard to the habitat conservation stamp, the commission may contract for the performance of those duties, functions and powers. The contract may include, among other matters, provisions for advance payment or reimbursement for services performed pursuant to the contract. All costs and expenses incurred pursuant to this section shall be paid from the Oregon Conservation Strategy Subaccount established under ORS 496.303. [2011 c.50 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.605 - Enforcement of wildlife laws by State Fish and Wildlife Director, deputies and peace officers.**

The State Fish and Wildlife Director and any deputies of the director and all other peace officers of this state or any political subdivision thereof have jurisdiction of and may enforce any of the provisions of the wildlife laws. [Amended by 1973 c.723 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.610 - State police to enforce wildlife laws; payment of expenses from wildlife fund; appointment of federal agents.**

- (1) The Department of State Police shall employ a sufficient number of state police to enforce the wildlife laws.
- (2) The services and expenses of the Department of State Police incurred in the enforcement of the wildlife laws shall be paid from the State Wildlife Fund.
- (3) The Superintendent of State Police may appoint special enforcement officers authorized to enforce the wildlife laws. Individuals so appointed must be special agents of the United States Fish and Wildlife Service or the National Marine Fisheries Service, and shall serve at the pleasure of the superintendent without additional compensation. Each such special enforcement officer shall have all powers and authority of a peace officer of this state in serving warrants, subpoenas and other legal process in enforcement of the wildlife laws. [Amended by 1971 c.658 §10; 1973 c.723 §18; 1983 c.364 §4; 2003 c.14 §336]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.615 - Commission employees to supplement state police.**

The State Fish and Wildlife Commission, with the approval of the Governor and Superintendent of State Police, may employ such persons as they deem necessary or expedient for the enforcement of the wildlife laws. The services and expenses of these persons are payable out of the State Wildlife Fund. It is the intention of this section and ORS 496.610 that the commission employ only such persons as agreed upon between the commission, the Governor and the Superintendent of State Police, and that the duties of wildlife law enforcement, so far as is economical and practicable, be performed by the Department of State Police. [Amended by 1973 c.723 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.620 - Nonliability of law enforcement officers.**

No person authorized to enforce the wildlife laws shall suffer any civil liability for the enforcement or attempted enforcement of any provisions of the wildlife laws or for the exercise or attempted exercise of any of the duties or privileges granted to or imposed by law upon the State Fish and Wildlife Commission or such persons. [Amended by 1971 c.658 §11; 1973 c.723 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.630 - District attorneys to prosecute criminal cases; jurisdiction of courts.**

(1) Upon information or complaint of the State Fish and Wildlife Commission or any person authorized to enforce the wildlife laws, district attorneys shall prosecute every criminal case in which it appears that there has been a violation of the wildlife laws or any rule promulgated pursuant thereto.

(2) Unless otherwise specifically provided, justice courts have concurrent jurisdiction in the first instance with the circuit court of all wildlife law offenses. [Amended by 1959 c.352 §1; 1959 c.692 §10; 1967 c.523 §6; 1973 c.723 §21; 1999 c.1051 §104]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.640 - Service of process by law enforcement personnel.**

The persons mentioned in ORS 496.645 have all powers and rights of a peace officer in serving warrants, subpoenas or other legal process in the enforcement of the wildlife laws. [Amended by 1971 c.658 §14; 1973 c.723 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.645 - Arrest without warrant of violators; trial.**

Any person authorized to enforce the wildlife laws may, without warrant, arrest any person violating any of the wildlife laws, and take the person before any court having jurisdiction of the offense. The court shall proceed without delay to hear, try and determine the matter and enter judgment according to allegations and proofs. [Amended by 1971 c.658 §15; 1973 c.723 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.650 - Issuance of citation to violator.**

Should any person making an arrest mentioned in ORS 496.645 for the violation of the wildlife laws desire not to forthwith take the person arrested before the justice of the peace or judge having jurisdiction or desire not to immediately take the arrested person into custody, the person making the arrest may issue a citation to the person arrested. [Amended by 1973 c.723 §24]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.665 - Issuance of search warrants; places searched; use and disposition of seized property.**

(1) Any court having jurisdiction of the offense, upon receiving proof or probable cause for believing in the concealment of any wildlife taken, killed or had in possession, under control, or shipped contrary to the wildlife laws, shall issue a search warrant and cause a search to be made in any place, and to that end cause any building, enclosure, car, automobile, boat, apartment, chest, box, parcel, crate or basket to be opened and the contents examined by any person authorized to enforce the wildlife laws.

(2) All wildlife, or parts thereof, thus discovered shall be held by the State Fish and Wildlife Commission as evidence against any party accused of the crime in connection therewith.

(3) Upon conviction of the parties accused, such wildlife, or parts thereof, shall be disposed of by the commission. Any funds arising from the disposal shall become a part of the State Wildlife Fund. [Amended by 1971 c.658 §17; 1973 c.723 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.670 - Arrests made on Sunday.**

The arrests mentioned in ORS 496.645 may be made on Sunday. In this event the persons arrested shall be taken before any justice

of the peace or judge having jurisdiction, who shall bind over the persons arrested to appear and be proceeded against as soon as may be on week day following the arrest. [Amended by 1991 c.267 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.675 - Seizure without warrant by law enforcement personnel.**

The persons mentioned in ORS 496.645 may at any time, without warrant, seize and take possession of:

- (1) Any wildlife which has been caught, taken or killed, or had in possession or under control, which have been killed, had in possession or shipped, at any time, in any manner or for any purpose contrary to the wildlife laws.
- (2) Any guns, boats, fishing or other apparatus used for the purpose of hunting or fishing, at any time, in any manner or for any purpose contrary to the wildlife laws. [Amended by 1971 c.658 §18; 1973 c.723 §28]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.680 - Seizure of unlawful devices and unlawfully taken wildlife; forfeiture; disposition; repayment of administrative costs.**

- (1) All wildlife taken by, or in the possession of any person in violation of the wildlife laws, and all guns, boats, traps, fishing apparatus and implements used in angling, hunting or trapping or taking any wildlife in violation of the wildlife laws may be seized by any person authorized to enforce the wildlife laws, and may be forfeited.
- (2) All wildlife shot by any person while violating any provision of ORS 164.245 to 164.270 or 498.120 shall be seized by any person authorized to enforce the wildlife laws and shall be forfeited.
- (3) If forfeited, such property shall be turned over to the State Fish and Wildlife Commission by order of the court at the time of passing sentence for the violation.
- (4) The commission may dispose of such property in any manner it considers proper, but the clear proceeds derived from the sale of any seized guns, boats, traps, fishing apparatus or implements shall be deposited in the Common School Fund. Any wildlife taken in violation of the wildlife laws may be disposed of forthwith or used for food purposes, under rules of the commission, to prevent spoilage.
- (5) Upon conviction of a person for taking wildlife while violating any provision of ORS 164.245 to 164.270 or 498.120, the court shall include in the sentence a requirement that the convicted person pay to the seizing agency an amount equal to the cost incurred in seizing, storing and disposing of the seized and forfeited wildlife. [Amended by 1971 c.658 §19; 1973 c.723 §29; 1987 c.858 §6; 1993 c.440 §2; 1999 c.1051 §272]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.690 - Possession of wildlife as evidence of illegal taking.**

The fact that any person has any wildlife, or any part thereof, in possession when it is illegal to take or have same is prima facie evidence that such person killed such wildlife illegally. [Amended by 1971 c.658 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.695 - Counseling, aiding or sharing in violation.**

Any person who counsels, aids or assists in any violation of the wildlife laws, or shares in any of the proceeds of such violation by receiving or possessing any wildlife, shall incur the penalties provided for the person guilty of such violation. [Amended by 1971 c.658 §21; 1973 c.723 §30]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.700 - Investigating violations; summoning witnesses.**

- (1) Where the State Fish and Wildlife Commission has been furnished information of the violation of any of the wildlife laws, the commission, or one especially authorized by it, may proceed to the place where the offense is said to have been committed and summon and examine under oath witnesses to ascertain the facts and to avoid useless and frivolous indictments or prosecutions.
- (2) Witnesses shall be paid by the commission from the State Wildlife Fund at the rate of \$5 per day and mileage from their places of residence at the rate of eight cents per mile.
- (3) No witness so summoned shall refuse to attend or testify under this section. [Amended by 1971 c.658 §22; 1973 c.723 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.705 - Damage suits for unlawful killing of wildlife; exception; jurisdiction of courts.**

- (1) The State Fish and Wildlife Commission may institute suit for the recovery of damages for the unlawful taking or killing of any of the wildlife referred to in subsection (2) of this section that are the property of the state.

(2)(a) The damages referred to in subsection (1) of this section are as follows:

(A) Each game mammal other than moose, mountain sheep, mountain goat, elk, gray wolf, black bear, cougar or silver gray squirrel, or deer or antelope described in subparagraphs (D) and (E) of this paragraph, \$1,000.

(B) Each moose, mountain sheep or mountain goat, other than those described in subparagraphs (F), (G) and (H) of this paragraph, \$10,000.

(C) Each elk, other than those described in subparagraph (I) of this paragraph, \$5,000.

(D) Each deer with at least four points on one antler, gray wolf, black bear or cougar, \$7,500.

(E) Each antelope with at least one horn equal to or greater than 14 inches, \$7,500.

(F) Each moose with antlers, \$50,000.

(G) Each mountain sheep that has at least one horn equal to or greater than one half curl, \$50,000.

(H) Each mountain goat that has at least one horn equal to or greater than six inches, \$50,000.

(I) Each elk with at least six points on one antler, \$15,000.

(J) Each silver gray squirrel, \$100.

(K) Each game bird other than wild turkey or sage grouse, \$20.

(L) Each wild turkey or sage grouse, \$1,000.

(M) Each game fish other than salmon, steelhead trout, halibut or sturgeon, \$25.

(N) Each sturgeon other than those specified in subparagraph (O) of this paragraph, salmon, steelhead trout or halibut, \$750.

(O) Each oversized sturgeon, as specified by the commission by rule, \$5,000.

(P) Each fur-bearing mammal other than bobcat or fisher, \$100.

(Q) Each bobcat or fisher, \$700.

(R) Each specimen of any wildlife species whose survival is specified by the wildlife laws or the laws of the United States as threatened or endangered, \$2,500.

(S) Each specimen of any wildlife species otherwise protected by the wildlife laws or the laws of the United States, but not otherwise referred to in this subsection, \$50.

(T) Each bald eagle, golden eagle, goshawk, osprey, peregrine falcon or any other raptor listed as a threatened species or an endangered species by the commission by rule, \$5,000.

(U) Each raptor except those specified in subparagraph (T) of this paragraph, \$2,000.

(b) For purposes of this subsection:

(A) A point must be at least one inch, measured from the main beam of the antler to the tip of the point.

(B) Horn length must be measured from the base of the hairline to the tip of the horn.

(3) In any such action, the court shall award to the prevailing party, in addition to costs and disbursements, reasonable attorney fees.

(4) Such civil damages shall be in addition to other penalties prescribed by the wildlife laws for the unlawful taking or killing of wildlife.

(5) Any circuit or justice court has jurisdiction to try any case for the recovery of damages for the unlawful taking or killing of any of the wildlife as provided by this section.

(6) Each taking or killing of a single animal referred to in subsection (2) of this section constitutes a separate unlawful taking or killing for purposes of this section.

(7) Subject to ORS 496.690, this section does not apply to the unintentional taking or killing of wildlife incident to an otherwise lawful activity. [Amended by 1961 c.343 §4; 1969 c.302 §1; 1973 c.723 §32; 1981 c.108 §1; 1995 c.658 §106; 2003 c.98 §1; 2009 c.778 §3; 2011 c.363 §1; 2016 c.37 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.710 - Compelling testimony in enforcement proceedings.**

In any action or proceeding for the enforcement of any of the provisions of the wildlife laws, or in any investigation before a grand jury, district attorney or other officer, or any criminal proceeding, no person shall be excused from testifying concerning any offense committed by another or by the person on the ground that the testimony of the person may incriminate the person. However, such testimony shall not be used against the person in any prosecution for any crime or misdemeanor under the laws of the state, nor shall the person be subject to any criminal prosecution or any penalty or forfeiture for or on account of any transaction, matter or thing concerning which the person has been compelled to testify or to produce evidence, documentary or otherwise. [Amended by 1971 c.658 §23; 1973 c.723 §33]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.716 - Wildlife inspection stations.**

(1) As used in this section:

(a) "Enforcement officer" has the meaning given that term in ORS 153.005.

(b) "Food establishment" has the meaning given that term in ORS 616.695.

(c) "Taken" means killed or captured, whether inside or outside of this state.

(d) "Vehicle" has the meaning given that term in ORS 801.590.

- (e) "Wildlife" has the meaning given that term in ORS 496.004.
- (2) The State Department of Fish and Wildlife may operate wildlife inspection stations for the purposes of:
- (a) Preventing the spread of chronic wasting disease or other infections or infestations harmful to wildlife; or
- (b) Collecting information in furtherance of wildlife management efforts.
- (3) The operator of a vehicle that is transporting taken wildlife or parts of taken wildlife shall stop for inspection of the wildlife or parts of wildlife when arriving at a wildlife inspection station described in this section. This subsection does not apply to the transporting of parts of taken wildlife that have been processed by a food establishment.
- (4) A wildlife inspection station described in this section must be:
- (a) Operated as provided under policies and guidelines adopted by the State Fish and Wildlife Director;
- (b) Plainly marked by signs that conform to applicable state and federal laws; and
- (c) Staffed by at least one uniformed employee of the State Department of Fish and Wildlife.
- (5) The wildlife inspection station purposes described in subsection (2) of this section do not prohibit or restrict State Department of Fish and Wildlife employees from carrying out other lawful actions while operating a wildlife inspection station, including but not limited to requesting to see angling or hunting licenses.
- (6) The operator of a vehicle that is transporting taken wildlife or parts of taken wildlife commits a Class A violation if the operator fails to stop for inspection of the wildlife when arriving at a wildlife inspection station.
- (7) Notwithstanding ORS 153.042, an enforcement officer authorized to enforce wildlife laws in this state may issue a citation under subsection (6) of this section when the conduct alleged to constitute a violation did not take place in the presence of the enforcement officer, if the enforcement officer has reasonable grounds to believe that the conduct constitutes a violation on the basis of information received from a department employee who is staffing a wildlife inspection station and observes the violation. [2021 c.98 §1]

Note:

496.716 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.730 - Legislative intent.**

It is the intent of the Legislative Assembly to protect wildlife from becoming habituated to humans and to protect the public against the serious health and safety risk posed by wildlife that are drawn into contact with humans and infrastructure by individuals who knowingly feed wildlife. [2011 c.284 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.731 - Written notification requiring removal of attractant for potentially habituated wildlife; exceptions.**

- (1) As used in this section:
- (a) "Officer" means any person authorized to enforce the wildlife laws pursuant to ORS 496.605, 496.610 or 496.615.
- (b) "Potentially habituated wildlife" means bear, cougar, coyote and wolf.
- (2) A person who places, deposits, distributes, stores or scatters food, garbage or any other attractant so as to knowingly constitute a lure, attraction or enticement for potentially habituated wildlife may be issued a written notification by an officer requiring the person to remove the food, garbage or other attractant within two days of notification.
- (3) A person who receives a written notification under subsection (2) of this section shall remove the food, garbage or other attractant as directed.
- (4) This section does not apply to:
- (a) Activities related to an agricultural, forestry or ranching operation.
- (b) Feeding potentially habituated wildlife with the State Fish and Wildlife Director's authorization. The director may authorize the feeding:
- (A) In order to prevent damage to private property;
- (B) In order to mitigate the population loss anticipated by a predicted winter mortality; or
- (C) As a part of a research or management program.
- (c) Waste disposal facilities operating in accordance with applicable federal, state and local laws.
- (d) Zoos, wildlife refuges and persons that have a permit to keep wildlife in captivity for rehabilitation or other purposes pursuant to ORS 497.228, 497.298 or 497.308.
- (5) Nothing in this section affects any provision of ORS 498.164. [2011 c.284 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.750 - Wildlife Law Violator Compact.**

The Wildlife Violator Compact is hereby enacted into law and entered into on behalf of this state with all other states legally joining therein in a form substantially as follows:

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## ARTICLE I

### FINDINGS, DECLARATION OF POLICY AND PURPOSE

(a) The party states find that:

- (1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.
  - (2) The protection of their respective wildlife resources can be materially affected by the degree of compliance with state statute, law, regulation, ordinance or administrative rule relating to the management of those resources.
  - (3) The preservation, protection, management and restoration of wildlife contributes immeasurably to the aesthetic, recreational and economic aspects of these natural resources.
  - (4) Wildlife resources are valuable without regard to political boundaries, therefore, all persons should be required to comply with wildlife preservation, protection, management and restoration laws, ordinances and administrative rules and regulations of all party states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap or possess wildlife.
  - (5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.
  - (6) The mobility of many wildlife law violators necessitates the maintenance of channels of communications among the various states.
  - (7) In most instances, a person who is cited for a wildlife violation in a state other than the person's home state:
    - (i) Must post collateral or bond to secure appearance for a trial at a later date; or
    - (ii) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or
    - (iii) Is taken directly to court for an immediate appearance.
  - (8) The purpose of the enforcement practices described in paragraph (7) of this subdivision is to insure compliance with the terms of a wildlife citation by the person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.
  - (9) In most instances, a person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and to immediately continue on the person's way after agreeing or being instructed to comply with the terms of the citation.
  - (10) The practice described in paragraph (7) of this subdivision causes unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial or pay the fine, and thus is compelled to remain in custody until some alternative arrangement can be made.
  - (11) The enforcement practices described in paragraph (7) of this subdivision consume an undue amount of law enforcement time.
- (b) It is the policy of the party states to:
- (1) Promote compliance with the statutes, laws, ordinances, regulations and administrative rules relating to management of wildlife resources in their respective states.
  - (2) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a party state and treat this suspension as if it had occurred in their state.
  - (3) Allow violators to accept a wildlife citation, except as provided in subdivision (b) of Article III, and proceed on the violator's way without delay whether or not the person is a resident in the state in which the citation was issued, provided that the violator's home state is party to this compact.
  - (4) Report to the appropriate party state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.
  - (5) Allow the home state to recognize and treat convictions recorded for their residents which occurred in another party state as if they had occurred in the home state.
  - (6) Extend cooperation to its fullest extent among the party states for obtaining compliance with the terms of a wildlife citation issued in one party state to a resident of another party state.
  - (7) Maximize effective use of law enforcement personnel and information.
  - (8) Assist court systems in the efficient disposition of wildlife violations.

## ARTICLE II

### DEFINITIONS

As used in this compact, unless the context requires otherwise:

- (a) "Citation" means any summons, complaint, ticket, penalty assessment or other official document issued by a wildlife officer or other peace officer for a wildlife violation containing an order which requires the person to respond.
- (b) "Collateral" means any cash or other security deposited to secure an appearance for trial, in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.
- (c) "Compliance" with respect to a citation means the act of answering the citation through appearance at a court, a tribunal or payment of fines, costs and surcharges, if any, or both such appearance and payment.

(d) "Conviction" means a conviction, including any court conviction, of any offense related to the preservation, protection, management or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance or administrative rule, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, or payment of a penalty assessment, or a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

(e) "Court" means a court of law, including Magistrate's Court and Justice Court.

(f) "Home state" means the state of primary residence of a person.

(g) "Issuing state" means the party state which issues a wildlife citation to the violator.

(h) "License" means any license, permit or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing or taking any wildlife regulated by statute, law, regulation, ordinance or administrative rule of a party state.

(i) "Licensing authority" means the department or division within each party state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(j) "Party state" means any state which enacts legislation to become a member of this Wildlife Compact.

(k) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of that citation.

(L) "State" means any state, territory or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada or other countries.

(m) "Suspension" means any revocation, denial or withdrawal of any or all license privileges, including the privilege to apply for, purchase or exercise the benefits conferred by any license.

(n) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(o) "Wildlife" means all species of animals, including but not necessarily limited to mammals, birds, fish, reptiles, amphibians, mollusks and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance or administrative rule in a party state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.

(p) "Wildlife law" means any statute, law, regulation, ordinance or administrative rule developed and enacted to manage wildlife resources and the use thereof.

(q) "Wildlife officer" means any individual authorized by a party state to issue a citation for a wildlife violation.

(r) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance or administrative rule developed and enacted to manage wildlife resources and the use thereof.

### ARTICLE III

#### PROCEDURES FOR ISSUING STATE

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a party state in the same manner as if the person were a resident of the home state and shall not require the person to post collateral to secure appearance, subject to the exceptions contained in subdivision (b) of this Article, if the officer receives the person's personal recognizance that the person will comply with the terms of the citation.

(b) Personal recognizance is acceptable:

(1) If not prohibited by local law or the compact manual; and

(2) If the violator provides adequate proof of the violator's identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the party state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and shall contain the information specified in the compact manual as minimum requirements for effective processing by the home state.

(d) Upon receipt of the report of conviction or noncompliance required by subdivision (c) of this Article, the licensing authority of the issuing state shall transmit to the licensing authority in the home state of the violator the information in a form and content as contained in the compact manual.

### ARTICLE IV

#### PROCEDURES FOR HOME STATE

(a) Upon receipt of a report of failure to comply with the terms of a citation from the licensing authority of the issuing state, the licensing authority of the home state shall notify the violator, shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as if it occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and make reports to issuing states as provided in the compact manual.

### ARTICLE V

#### RECIPROCAL RECOGNITION

## OF SUSPENSION

All party states shall recognize the suspension of license privileges of any person by any state as if the violation on which the suspension is based had in fact occurred in their state and could have been the basis for suspension of license privileges in their state.

## ARTICLE VI

### APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any party state to apply any of its laws relating to license privileges to any person or circumstance, or to invalidate or prevent any agreement or other cooperative arrangements between a party state and a nonparty state concerning wildlife law enforcement.

## ARTICLE VII

### COMPACT ADMINISTRATOR

#### PROCEDURES

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each of the party states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each party state and will serve and be subject to removal in accordance with the laws of the state the administrator represents. A compact administrator may provide for the discharge of the administrator's duties and the performance of the administrator's functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of the alternate's identity has been given to the board.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor thereof. Action by the board shall be only at a meeting at which a majority of the party states are represented.

(c) The board shall elect annually, from its membership, a chairperson and vice-chairperson.

(d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party state, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States or any governmental agency, and may receive, utilize and dispose of the same.

(f) The board may contract with or accept services or personnel from any governmental or intergovernmental agency, individual, firm, corporation or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the compact manual.

## ARTICLE VIII

### ENTRY INTO COMPACT

#### AND WITHDRAWAL

(a) This compact shall become effective when it has been adopted by at least two states.

(b) (1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairperson of the board.

(2) The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

(i) A citation of the authority by which the state is empowered to become a party to this compact;

(ii) Agreement to comply with the terms and provisions of the compact; and

(iii) That compact entry is with all states then party to the compact and with any state that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying state, but shall not be less than 60 days after notice has been given by the chairperson of the board of the compact administrators or by the secretariat of the board to each party state that the resolution from the applying state has been received.

(c) A party state may withdraw from this compact by official written notice to the other party states, but a withdrawal shall not take effect until 90 days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. No withdrawal shall affect the validity of this compact as to the remaining party states.

## ARTICLE IX

### AMENDMENTS TO THE COMPACT

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairperson of the board of compact administrators and may be initiated by one or more party states.

(b) Adoption of an amendment shall require endorsement by all party states and shall become effective 30 days after the date of the last endorsement.

(c) Failure of a party state to respond to the compact chairman within 120 days after receipt of the proposed amendment shall constitute endorsement.

## ARTICLE X

### CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

#### ARTICLE XI

#### TITLE

This compact shall be known as the Wildlife Violator Compact.

[1989 c.1056 §2]

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**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.815 - Definitions for ORS 496.815 to 496.825.**

As used in ORS 496.815 to 496.825:

- (1) "Department" means the State Department of Fish and Wildlife.
- (2) "Director" means the State Fish and Wildlife Director.
- (3) "Person" means an individual, corporation, association, firm, partnership, joint stock company, municipal corporations and all other political subdivisions of the State of Oregon. The federal government or any of its agencies are specifically excluded. [1985 c.674 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.820 - Permit or license fee.**

- (1) Any person applying for a permit to appropriate water for hydroelectric purposes under ORS 537.150 to 537.252 or any person applying for a preliminary permit or license under ORS 543.010 to 543.610 shall pay an administration fee of \$350 to the State Department of Fish and Wildlife.
- (2) If a person pays the administration fee under subsection (1) of this section at the time the person applies for a preliminary permit under ORS 543.210, the person shall not also be required to pay the fee when applying for a license for the same project under ORS 543.010 to 543.610. [1985 c.674 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.825 - Application fee; exception.**

- (1) In addition to any other fee required by law, at the time the person applies to the Water Resources Department for a license to operate a hydroelectric project under ORS 543.010 to 543.610 or for a permit to appropriate water for hydroelectric purposes under ORS 537.150 to 537.230, the person shall pay to the State Fish and Wildlife Director an application fee the amount of which shall be the greater of:
  - (a) \$1,000; or
  - (b) Thirty-five cents for each kilowatt of proposed capacity of the project.
- (2) The director shall postpone the payment of the fee under subsection (1) of this section for a permit to appropriate water under ORS 537.150 to 537.230 until the person submits final plans and specifications for the project to the Water Resources Department under ORS 537.150.
- (3) Subsection (1) of this section shall not apply to any applicant for a permit or license for a project producing 100 theoretical horsepower or less. [1985 c.674 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.830 - Penalty fee.**

A person who fails to pay the fee required under section 4, chapter 674, Oregon Laws 1985, or the assessment under section 5, chapter 674, Oregon Laws 1985, or ORS 543.265 on the due date shall pay in addition to the assessed amount due, a penalty in the amount of one percent of the fee per month for the period that the fee is past due. The State Fish and Wildlife Director may bring an action to collect an unpaid fee or assessment in the name of the State of Oregon in the Circuit Court of Marion County or the circuit court of the county in which the project is located. The director shall be entitled to recover all costs and attorney fees incurred in the legal action. [1985 c.674 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.835 - Oregon Fish and Wildlife Hydroelectric Fund.**

- (1) There is created within the State Treasury a revolving fund known as the Oregon Fish and Wildlife Hydroelectric Fund, separate and distinct from the General Fund. The moneys in this fund are continuously appropriated for use by the State Department of Fish and Wildlife in its activities related to hydroelectric projects including payment of necessary administrative expenses.

(2) The fund created by subsection (1) of this section shall consist of all moneys received under sections 4 and 5, chapter 674, Oregon Laws 1985, ORS 496.820 and 496.825 and moneys transferred from the Water Resources Department Hydroelectric Fund as provided in ORS 536.015.

(3) Moneys in the fund may be invested as provided in ORS 293.701 to 293.857. Interest from any source derived from the investment of the moneys of the fund shall be credited to the fund. [1985 c.674 §8; 1991 c.869 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.850 - Community outreach and education regarding recreational harvesting of shellfish.**

(1) The State Department of Fish and Wildlife shall establish and administer a program for community outreach and education to provide residents of this state with guidance and instruction regarding opportunities for the recreational harvesting of shellfish. The department shall make information readily available to schools and members of the public through:

- (a) Internet or other electronic means;
- (b) Regulatory signs;
- (c) Brochures, maps and other printed material;
- (d) Workshops and clinics; and
- (e) Special outreach events.

(2) In carrying out the program described in subsection (1) of this section, the department shall cooperate with Indian tribes and the Department of State Police in efforts to enhance the enforcement of commercial and recreational shellfish catch limits. [2019 c.654 §6]

Note:

496.850 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.860 - Authorization to remove nonindigenous aquatic species.**

Notwithstanding ORS 498.042 and 509.112 and any other provision of the wildlife laws or commercial fishing laws, the State Department of Fish and Wildlife may authorize any person to remove from a specified area and dispose of a nonindigenous aquatic species if the department determines that the nonindigenous aquatic species is adversely affecting any population of native fish species within that area. [2023 c.48 §2]

Note:

496.860 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 496 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.905**

[1967 c.604 §1; 1969 c.59 §1; 1971 c.388 §3; 1973 c.723 §35; 1979 c.477 §11; renumbered 153.710]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.910**

[1967 c.604 §2; 1973 c.723 §36; 1979 c.477 §12; renumbered 153.705]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.915**

[1967 c.604 §3; 1973 c.723 §37; renumbered 153.715]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.920**

[1967 c.604 §4; 1973 c.723 §38; 1979 c.477 §13; renumbered 153.720]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.925**

[1967 c.604 §5; renumbered 153.725]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.927**

[1977 c.350 §2; 1979 c.477 §14; renumbered 153.730]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.930**

[1967 c.604 §6; renumbered 153.745]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.935**

[1967 c.604 §7; renumbered 153.750]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.940**

[1967 c.604 §8; renumbered 153.755]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.945**

[1967 c.604 §9; renumbered 153.760]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.950**

[1967 c.604 §10; renumbered 153.765]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.992 - Penalties; revocation; forfeiture.**

- (1) Except as otherwise provided by this section or other law, a violation of any provision of the wildlife laws, or any rule adopted pursuant to the wildlife laws, is a Class A misdemeanor if the offense is committed with a culpable mental state.
- (2) Except as otherwise provided by this section or other law, a violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that does not involve the taking of wildlife is a Class D violation if the offense is committed without a culpable mental state.
- (3) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that involves the taking of wildlife, other than nongame mammals and game birds, is a Class A violation if the offense is committed without a culpable mental state.
- (4) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that involves the taking of nongame mammals or game birds is a Class C violation if the offense is committed without a culpable mental state.
- (5) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that involves the size or quantity limits for salmon, steelhead trout and sturgeon is a Class A violation if the offense is committed without a culpable mental state.
- (6) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, relating to the size or quantity limits for fish or shellfish, other than size and quantity limits for salmon, steelhead trout and sturgeon, is a Class C violation if the offense is committed without a culpable mental state.
- (7) A violation of the nonresident licensing provisions of ORS 497.102 or 497.121 is a Class A violation if the offense is committed without a culpable mental state.
- (8) A violation of ORS 496.994 is a Class A violation if the offense is committed without a culpable mental state.
- (9) A violation of ORS 498.136, 498.142 or 498.146 is a Class A violation if the offense is committed without a culpable mental state.
- (10) The second and each subsequent conviction within a 10-year period for the taking of a raptor or the taking of game fish with a total value of \$200 or more or the taking of antelope, black bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of any provision of the wildlife laws, or any rule adopted pursuant thereto, that occurs more than one hour prior to, or more than one hour subsequent to, a season established for the lawful taking of such game mammals or game fish is a Class C felony if the offense is committed with a culpable mental state.
- (11) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, is a Class C felony if the offense involves any of the following and is committed intentionally, knowingly or recklessly:
  - (a) The unlawful taking of wildlife with the intent to sell or to barter, trade, import, export or otherwise exchange the wildlife or a part of the wildlife.
  - (b) Except as provided in this paragraph, the second and each subsequent unlawful taking of a game mammal during a 12-month period. This paragraph does not apply to the taking of silver gray squirrel.
  - (c) The unlawful taking of a moose, mountain sheep, Rocky Mountain goat or wolf.
  - (d) The third and each subsequent taking of a game fish in excess of a bag limit during a 12-month period.
  - (e) The second and each subsequent unlawful taking of nonadipose clipped steelhead during a 12-month period.
  - (f) The unlawful taking of members of the family Acipenseridae that are commonly known as green sturgeon or that are oversized and commonly known as white sturgeon.
  - (g) The unlawful taking of wildlife that is a threatened species or endangered species.

(12) If a person is convicted of a Class A misdemeanor under subsection (1) of this section, in addition to any other penalty authorized by law, the court shall impose a fine that is:

(a) Equal to the maximum fine described in ORS 161.635 (1)(a), if the person has two or more previous convictions for a Class A misdemeanor under subsection (1) of this section or if the offense involves taking three or more times the daily bag limit of any wildlife.

(b) Not less than one-half of the maximum fine described in ORS 161.635 (1)(a), if the offense involves:

(A) Failing to release a sturgeon more than six feet in length;

(B) Unlawfully taking wildlife to sell, barter, trade, import or export the wildlife, or parts thereof, or selling, bartering, trading, importing or exporting unlawfully taken wildlife, or parts thereof; or

(C) Taking a raptor and the person has a previous conviction for taking a raptor.

(c) Not less than one-fourth of the maximum fine described in ORS 161.635 (1)(a), if the offense involves taking a raptor and the person does not have a previous conviction for taking a raptor.

(13) If more than one minimum fine described in subsection (12) of this section applies, the court shall impose a fine in an amount that is not less than the highest of the applicable minimum fines.

(14)(a) If a court imposes a fine as penalty for an offense under the wildlife laws that involves the unlawful taking or killing of wildlife listed under ORS 496.705 (2), the court shall order that the defendant pay all or a portion of the fine separately to the clerk of the court for paying over to the State Fish and Wildlife Commission. The clerk shall pay over to the commission the amount that the court ordered the defendant to pay separately for that purpose. The amount that the court orders to be paid separately to the clerk for paying over to the commission shall be the lesser of:

(A) The amount of the fine imposed; or

(B) The amount that the commission could recover under ORS 496.705 (2) as damages for the unlawful taking or killing.

(b) If the amount that the commission could recover under ORS 496.705 (2) as damages for the unlawful taking or killing of wildlife is more than the maximum fine established for the offense under ORS 153.018, 161.625 or 161.635 or a specific fine statute, notwithstanding ORS 153.018, 161.625 or 161.635 or any specific fine statute, the maximum fine for the offense is the amount that the commission could recover under ORS 496.705 (2) as damages for the unlawful taking or killing.

(c) If an amount paid over to the commission under this subsection is less than the amount that the commission could recover under ORS 496.705 (2) as damages for the unlawful taking or killing of wildlife, payment of the amount does not prevent the commission from bringing an action under ORS 496.705 (2) to recover damages for the unlawful taking or killing. However, notwithstanding ORS 496.705, the amount recoverable under ORS 496.705 (2) by the commission as damages for the unlawful taking or killing shall be reduced by the amount paid to the commission under this subsection from a fine imposed for the unlawful taking or killing.

(15)(a) If a court imposes a fine as penalty for an offense under the wildlife laws that involves a violation of a rule related to the list of prohibited species, as defined in ORS 498.072, the court shall order that the defendant pay all or a portion of the fine separately to the clerk of the court for paying over to the commission. The clerk shall pay over to the commission the amount that the court ordered the defendant to pay separately for that purpose, which shall be the lesser of:

(A) The amount of the fine imposed; or

(B) The amount that the commission could recover under ORS 498.073 as civil damages.

(b) The amount recoverable under ORS 498.073 shall be reduced by the amount paid to the commission under this subsection.

(16)(a) In addition to any other penalty authorized by law, the court shall order the commission to revoke all licenses, tags and permits issued to a person in the manner provided for in ORS 497.415 (3), (5) and (6) if the person is convicted of:

(A) A Class A misdemeanor under subsection (1) of this section if the offense involves:

(i) A violation of ORS 498.042; or

(ii) The unlawful taking of wildlife to sell, barter, trade, import or export the wildlife, or parts thereof, or selling, bartering, trading, importing or exporting unlawfully taken wildlife, or parts thereof; or

(B) A Class C felony under subsection (10) of this section.

(b) Notwithstanding ORS 497.415 (5), upon having a license, tag or permit revoked under paragraph (a)(A)(i) of this subsection for the second time in a 10-year period, a person is prohibited from applying for or obtaining another such license, tag or permit.

(17) Upon the third conviction within a 10-year period for violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, the court shall order all guns, boats, vehicles, traps, fishing apparatus, electronic devices and other implements used in committing the third or subsequent offense to be seized and forfeited to the State of Oregon, to be turned over to the commission for disposal in the manner provided for in ORS 496.680.

(18) As used in this section:

(a) "Culpable mental state" has the meaning given that term in ORS 161.085.

(b) "Previous conviction" includes a conviction entered in the same sentencing proceeding if the conviction is for a separate criminal episode as defined in ORS 131.505.

(c) "Raptor" means a member of the order Falconiformes or Strigiformes and includes owls, hawks, falcons, eagles, osprey and harriers. [1973 c.723 §39; 1975 c.578 §3; 1977 c.350 §3; 1977 c.353 §1; 1983 c.364 §1; 1985 c.372 §1; 1995 c.545 §5; 1999 c.1051 §106; 2009 c.778 §4; 2011 c.517 §§1,3; 2011 c.597 §§315,316; 2015 c.378 §1; 2016 c.37 §2; 2018 c.14 §1; 2019 c.274 §1; 2022 c.9 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.994 - Obstructing the taking of wildlife prohibited.**

- (1) A person commits the offense of obstructing the taking of wildlife if the person, having no right to do so, interferes with the lawful taking, or the process of taking, of wildlife by another with the intent to prevent the taking.
- (2) Obstructing the taking of wildlife is a Class A misdemeanor. [1987 c.473 §2; 1989 c.171 §67; 1995 c.468 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 496 - Application, Administration and Enforcement of Wildlife Laws Section 496.996 - Attempts to take wildlife decoy as unlawful wildlife taking.**

- (1) A person commits the crime of unlawful taking of wildlife if:
  - (a) The person discharges a firearm or other hunting device, traps, or acts toward a wildlife decoy in any manner consistent with an unlawful taking of wildlife; and
  - (b) The wildlife decoy is under the control of law enforcement officials.
- (2) As used in this section, "wildlife decoy" means any simulation or replication of wildlife, in whole or in part, used by law enforcement officials for purposes of enforcing state wildlife laws. [1995 c.125 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.002 - "Resident" and "nonresident" defined.**

Except as provided in ORS 497.006, as used in this chapter:

- (1)(a) "Resident" means a person who has physically resided in this state for not less than six consecutive months immediately prior to the date of making application for a license, tag or permit issued by the State Fish and Wildlife Commission.
- (b) "Resident" does not include a person:
  - (A) Who merely owns real property or pays property taxes in this state; or
  - (B) Who claims resident privileges in another state or country for any purpose.
- (2) "Nonresident" means any person other than a resident. [1973 c.723 §41; 2021 c.128 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.006 - Certain persons as residents for licensing purposes.**

- (1) As used in this section:
  - (a) "Dependent children" includes any children of an active member of the Armed Forces of the United States who:
    - (A) Are under 18 years of age and not married, otherwise emancipated or self-supporting; or
    - (B) Are under 23 years of age, unmarried, enrolled in a full-time course of study in an institution of higher learning and dependent on the resident member of the uniformed services for over one-half of their support.
  - (b) "Resident member of the uniformed services" means a member of the uniformed services who:
    - (A) Resides in this state while assigned to duty at any base, station, shore establishment or other facility in this state;
    - (B) Resides in this state while serving as a member of the crew of a ship that has an Oregon port or shore establishment as its home port or permanent station; or
    - (C) Resides in another state or a foreign country and establishes Oregon residency by filing Oregon state income taxes no later than 12 months before leaving active duty.
  - (c) "Uniformed services" means:
    - (A) The Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;
    - (B) The reserves of the Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;
    - (C) The Oregon National Guard and the National Guard of any other state or territory;
    - (D) The commissioned corps of the National Oceanic and Atmospheric Administration; and
    - (E) The Public Health Service of the United States Department of Health and Human Services while detailed by proper authority for duty with the Army or Navy of the United States.
- (2) The following persons are resident persons for the purpose of purchasing licenses, tags and permits issued by the State Fish and Wildlife Commission:
  - (a) A resident member of the uniformed services and the member's spouse and dependent children.
  - (b) A member of the uniformed services who is not a resident member of the uniformed services, except for the purpose of purchasing controlled hunt tags issued by the commission.
  - (c) A noncitizen who furnishes to the commission evidence satisfactory to the commission that the noncitizen is attending a school in this state pursuant to a foreign student exchange program. [1973 c.723 §42; 1987 c.158 §112; 1987 c.162 §8; 1989 c.264 §4; 2003 c.242 §5; 2005 c.831 §10; 2012 c.106 §10; 2013 c.236 §3; 2022 c.97 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.012 - Validity of licenses on Snake River.**



(1) Angling, hunting or trapping in the waters of the Snake River or on the islands of the Snake River, where the river forms the boundary line between the State of Oregon and the State of Idaho, by a holder of either a valid Oregon or Idaho license therefor in accordance with the laws and rules of the respective states is lawful.

(2) Nothing in this section is intended to authorize:

(a) The holder of an Oregon license to angle, hunt or trap on the shoreline, sloughs or tributaries on the Idaho side of the Snake River.

(b) The holder of an Idaho license to angle, hunt or trap on the shoreline, sloughs or tributaries on the Oregon side of the Snake River. [1973 c.723 §43]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.014 - Validity of licenses in Pacific Ocean or Columbia River; rules.**

(1) A person may take fish or shellfish in the waters of the Pacific Ocean within three miles of the coast of the State of Oregon or the State of Washington, between the Oregon-Washington boundary and Cape Falcon, or in the waters of the Columbia River where it forms the Oregon-Washington boundary, if the person holds either a valid Oregon or Washington license therefor in accordance with the laws and rules of the respective state. However, a person other than a Washington resident landing fish or taking shellfish by boat in Oregon must hold a valid Oregon angling or shellfish license. All persons landing fish by boat in Oregon are subject to all Oregon laws, rules and regulations relating to taking fish or shellfish, including bag and length requirements.

(2) Subsection (1) of this section applies only if the State Fish and Wildlife Commission by rule determines that laws, rules or regulations of the State of Washington, in substance or effect, contain provisions that make a valid Oregon license lawful in the waters of the Pacific Ocean within three miles of the coast of the State of Oregon or the State of Washington, between the Oregon-Washington boundary and Leadbetter Point, or in the waters of the Columbia River where it forms the Oregon-Washington boundary. [1983 c.173 §§2, 3; 1985 c.373 §1; 2003 c.656 §4; 2005 c.260 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.016 - Term of licenses, tags and permits.**

Unless otherwise provided by law, all licenses, tags and permits issued by the State Fish and Wildlife Commission shall be valid for such period of time as the commission prescribes. [1973 c.723 §44; 1981 c.445 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.022 - Issuance of licenses, tags or permits by commission agents; fees.**

(1) The State Fish and Wildlife Commission may appoint agents to issue any of the licenses, tags or permits the commission is authorized by law to issue. The commission shall prescribe the procedure for the issuance of the licenses, tags and permits. Agents of the commission shall issue licenses, tags and permits in accordance with the prescribed procedure and shall charge and collect the fees prescribed by law for the licenses, tags and permits.

(2)(a) As part of the fees prescribed in the fee schedule under ORS 497.061 and in addition to fees otherwise prescribed by law for the issuance of a license, tag or permit, the issuing agent shall charge and collect:

(A) For each resident annual sportspac license issued pursuant to ORS 497.132 (3)(a) and (4)(a), \$5.

(B) For each nonresident annual hunting license issued pursuant to ORS 497.102, \$10.

(C) For each nonresident annual deer tag, nonresident annual elk tag, nonresident annual black bear tag, nonresident annual mountain goat tag, nonresident annual mountain sheep tag and nonresident annual antelope tag issued pursuant to ORS 497.112 (1), \$10.

(D) For any other license, tag or permit, \$2 each.

(b) If the agent is a county clerk, the agent shall deposit the agent fees provided for in this section in the general fund of the county for which the agent is the clerk. If the agent is an employee of the State Department of Fish and Wildlife, the agent fees shall be deposited in the State Wildlife Fund. Agents other than county clerks or department employees who issue licenses without the use of a state computerized licensing system may retain the agent fees for their license tag or permit issuance services. Agents other than county clerks or department employees who issue licenses, tags or permits using a state computerized licensing system may retain a portion of the agent fees in not less than the following amounts:

(A) For each resident annual sportspac license issued pursuant to ORS 497.132 (3)(a) and (4)(a), \$2.50.

(B) For each nonresident annual hunting license issued pursuant to ORS 497.102, \$7.50.

(C) For each nonresident annual deer tag, nonresident annual elk tag, nonresident annual black bear tag, nonresident annual mountain goat tag, nonresident annual mountain sheep tag and nonresident annual antelope tag issued pursuant to ORS 497.112 (1), \$7.50.

(D) For any other license, tag or permit, or for other provided services, as may be specified by contract between the department and the agent for license, tag or permit issuance service or other services performed by the agent, \$1 each.

(3) If the commission finds that an agent appointed pursuant to this section has violated any of the provisions of law or the procedures prescribed by the commission for the issuance of licenses, tags or permits or the collection and disposition of fees from licenses, tags or permits, the commission may revoke the authority of the agent to issue licenses, tags and permits, or may suspend the authority of the agent for such time as the commission considers appropriate. [1973 c.723 §45; 1975 c.183 §1; 1981 c.445 §2;

1987 c.345 §1; 1989 c.573 §1; 1993 c.103 §1; 1999 c.1006 §2; amendments by 1999 c.1006 §13 repealed by 2001 c.949 §1; 2001 c.104 §223; 2009 c.832 §3; 2013 c.236 §2; 2015 c.779 §9; 2019 c.102 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.026 - Duty of license agents to remit funds; rules.**

- (1) No agent appointed by the State Fish and Wildlife Commission to issue licenses, tags or permits shall fail to remit to the commission moneys received from the issuance of licenses, tags and permits in the manner required by this section.
- (2) The commission shall, by rule, prescribe the method in which license agents shall remit all moneys belonging to the state accruing from the issuance of licenses, tags and permits.
- (3) Notwithstanding subsection (2) of this section, the commission shall not require a license agent to remit moneys from the issuance of licenses, tags and permits more often than once each month if:
  - (a) The license agent issues licenses, tags and permits in the amount of \$12,500 or less each year; and
  - (b) The license agent does not use a state computerized licensing system to issue licenses, tags and permits. [1973 c.723 §46; 1975 c.85 §1; 1987 c.345 §2; 1989 c.573 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.032 - Duplicate licenses, tags and permits; fees.**

If one or more licenses, tags or permits issued by the State Fish and Wildlife Commission are lost, destroyed or stolen, the commission may require the holder of the licenses, tags or permits to attest to an agent of the commission that the licenses, tags or permits have been lost, destroyed or stolen and to submit any applicable fee determined by the commission. The commission may not charge a fee under this section that exceeds the lesser of the cost of the original document or the fee listed under the fee schedule in ORS 497.061 for filing a duplicate certificate. [1973 c.723 §47; 1981 c.445 §3; 1985 c.60 §6; 2009 c.832 §4; 2015 c.779 §11; 2019 c.102 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.036 - Inspection of licenses, tags, permits and wildlife.**

The holder of any license, tag or permit to angle, take, hunt or trap must consent to the inspection of any such license, tag or permit and any wildlife taken pursuant to such license, tag or permit:

- (1) By any employee of the State Fish and Wildlife Commission or any person authorized to enforce the wildlife laws.
- (2) By the owner, or the agent of the owner, of any land upon which the license, tag or permit holder is angling for, taking, hunting or trapping any wildlife. [1973 c.723 §48; 1981 c.445 §4; 1991 c.67 §149; 2003 c.656 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.041 - Applications for licenses, tags and permits to include certain statement for applicant attestation.**

- (1) As used in this section, "hunt" and "wildlife" have the meanings given those terms in ORS 496.004.
- (2) Each application for the issuance of a license, tag or permit to hunt wildlife with firearms under the wildlife laws shall include the following statement to which the applicant shall attest prior to the issuance of any license, tag or permit to the applicant:

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I am not a convicted felon who is prohibited from possessing a firearm under the laws of Oregon or the United States; and  
I am not a person who has been found guilty except for insanity of a felony and who is prohibited from possessing a firearm under the laws of Oregon or the United States.

[2011 c.383 §1]

Note:

497.041 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 497 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.061 - License, tag and permit fee schedule.**

- (1) Except as otherwise provided by law, the State Fish and Wildlife Commission shall charge the fees listed in the fee schedule under this section for the issuance of the specified licenses, tags and permits.
- (2) Fee Schedule:

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Prices shown include agent fees  
under ORS 497.022 and dedications  
of funds collected as otherwise  
prescribed by law. Resident Nonresident Statutory  
Fee Fee Reference

## HUNTING LICENSE

ANNUAL HUNTING LICENSE \$34.50 \$172.00 497.102  
RESIDENT SENIOR HUNTING LICENSE \$22.00 - 497.102  
RESIDENT DISABLED VET HUNTER LICENSE FREE - 497.102  
RESIDENT UNIFORMED SERVICES  
HUNTER LICENSE \$17.00 - 497.102  
NONRESIDENT THREE-DAY BIRD LICENSE - \$32.50 497.102  
HUNTING TAGS/VALIDATIONS  
DEER TAG \$28.50 \$443.50 497.112  
ELK TAG \$49.50 \$588.00 497.112  
SPECIAL ELK TAG (DV/PIONEER) \$26.00 - 497.112  
BLACK BEAR TAG \$16.50 \$16.50 497.112  
TURKEY TAG \$26.50 \$90.00 497.112  
ANTELOPE TAG \$51.50 \$395.50 497.112  
MOUNTAIN SHEEP TAG \$142.00 \$1,513.50 497.112  
COUGAR TAG \$16.50 \$16.50 497.112  
MOUNTAIN GOAT TAG \$142.00 \$1,513.50 497.112  
RESIDENT UPLAND BIRD STAMP \$10.00 - 497.153  
RESIDENT WATERFOWL STAMP \$13.50 - 497.151  
NONRESIDENT BIRD-WATERFOWL STAMP - \$44.50 497.156  
FISHING LICENSES/VALIDATIONS  
ANNUAL ANGLING LICENSE \$44.00 \$110.50 497.121  
RESIDENT SENIOR ANGLING LICENSE \$29.00 - 497.121  
RESIDENT DISABLED VET ANGLER LICENSE FREE - 497.121  
ONE-DAY ANGLING AND SHELLFISH LICENSE \$23.00 \$23.00 497.121  
TWO-DAY ANGLING LICENSE \$42.00 \$42.00 497.121  
THREE-DAY ANGLING LICENSE \$59.50 \$59.50 497.121  
NONRESIDENT SEVEN-DAY ANGLING LICENSE - \$93.50 497.121  
ANNUAL COMBINED ANGLING TAG \$46.00 \$66.00 497.12  
HATCHERY HARVEST TAG \$33.00 \$33.00 497.121  
TWO-ROD ANGLING LICENSE \$28.00 \$28.00 497.121  
SHELLFISH LICENSES  
ANNUAL SHELLFISH LICENSE \$10.00 \$28.00 497.121  
NONRESIDENT THREE-DAY SHELLFISH LICENSE - \$19.00 497.121  
RESIDENT DISABLED VET SHELLFISH LICENSE FREE - 497.121  
COMBINATION LICENSE \$73.00 - 497.132  
RESIDENT SPORTSPAC LICENSE \$196.50 - 497.132  
RESIDENT SENIOR COMBINATION LICENSE \$47.50 - 497.132  
RESIDENT PIONEER COMBINATION LICENSE \$6.00 - 497.132  
YOUTH LICENSES/VALIDATIONS (ages 12-17)  
YOUTH LICENSE \$10.00 \$10.00 497.127  
RESIDENT YOUTH SPORTSPAC LICENSE \$55.00 - 497.132  
YOUTH ANNUAL COMBINED ANGLING TAG \$5.00 \$5.00 497.121  
YOUTH UPLAND BIRD STAMP \$4.00 \$4.00 497.153  
YOUTH WATERFOWL STAMP \$4.00 \$4.00 497.151  
YOUTH TURKEY TAG \$10.50 \$10.50 497.112  
YOUTH HUNT/TRAP FUR-BEARERS LICENSE \$17.00 \$17.00 497.142  
MISCELLANEOUS  
DUPLICATE CERTIFICATE FILING \$25.50 \$25.50 497.032  
GUIDE TAG — DEER - \$575.00 497.112  
GUIDE TAG — ELK - \$848.00 497.112  
RESIDENT HUNT/TRAP FUR-BEARERS LICENSE \$54.50 - 497.142  
NONRESIDENT FUR-TAKERS HUNT/TRAP LICENSE - \$407.00 497.142  
RESIDENT HUNT FUR-BEARERS LICENSE \$26.00 - 497.142  
PRIVATE HUNTING PRESERVE PERMIT \$6.50 \$14.00 497.102  
OUTDOOR CLUB LICENSE \$100.00 \$100.00 498.418  
LOP REGISTRATION \$35.00 \$35.00 496.146  
LOP TAG REDISTRIBUTION \$17.00 \$17.00 496.146  
RSC STEELHEAD VALIDATION \$2.00 \$4.00 497.121

RSC WILD STEELHEAD HARVEST CARD \$10.00 \$20.00 497.121  
OCCUPATIONAL LICENSES/PERMITS  
FUR DEALER LICENSE \$111.00 - 497.258  
TAXIDERMIST LICENSE \$111.00 - 497.258  
WILDLIFE PROPAGATION LICENSE \$58.00 - 497.258  
FISH PROPAGATION LICENSE \$151.50 - 497.258  
PRIVATE HUNTING PRESERVE LICENSE \$232.00 - 497.258  
STURGEON PROPAGATION PERMIT \$3,573.00 \$3,573.00 497.325

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[2015 c.779 §2; 2015 c.779 §§55,57,59; 2022 c.56 §1]

Note:

The amendments to 497.061 by section 61, chapter 779, Oregon Laws 2015, become operative January 1, 2027. See section 62, chapter 779, Oregon Laws 2015. The text that is operative on and after January 1, 2027, including amendments by section 2, chapter 56, Oregon Laws 2022, is set forth for the user's convenience.

(1) Except as otherwise provided by law, the State Fish and Wildlife Commission shall charge the fees listed in the fee schedule under this section for the issuance of the specified licenses, tags and permits.

(2) Fee Schedule:

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Prices shown include agent fees  
under ORS 497.022 and dedications  
of funds collected as otherwise  
prescribed by law. Resident Nonresident Statutory  
Fee Fee Reference

#### HUNTING LICENSES

ANNUAL HUNTING LICENSE \$34.50 \$172.00 497.102  
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TURKEY TAG \$26.50 \$90.00 497.112  
ANTELOPE TAG \$51.50 \$395.50 497.112  
MOUNTAIN SHEEP TAG \$142.00 \$1,513.50 497.112  
COUGAR TAG \$16.50 \$16.50 497.112  
MOUNTAIN GOAT TAG \$142.00 \$1,513.50 497.112  
RESIDENT UPLAND BIRD STAMP \$10.00 - 497.153  
RESIDENT WATERFOWL STAMP \$13.50 - 497.151  
NONRESIDENT BIRD-WATERFOWL STAMP - \$44.50 497.156  
FISHING LICENSES/VALIDATIONS  
ANNUAL ANGLING LICENSE \$43.00 \$109.00 497.121  
RESIDENT SENIOR ANGLING LICENSE \$29.00 - 497.121  
RESIDENT DISABLED VET ANGLER LICENSE FREE - 497.121  
ONE-DAY ANGLING AND SHELLFISH LICENSE \$23.00 \$23.00 497.121  
TWO-DAY ANGLING LICENSE \$42.00 \$42.00 497.121  
THREE-DAY ANGLING LICENSE \$59.50 \$59.50 497.121  
NONRESIDENT SEVEN-DAY ANGLING LICENSE - \$92.00 497.121  
ANNUAL COMBINED ANGLING TAG \$46.00 \$66.00 497.121  
HATCHERY HARVEST TAG \$33.00 \$33.00 497.121  
TWO-ROD ANGLING LICENSE \$28.00 \$28.00 497.121  
SHELLFISH LICENSES  
ANNUAL SHELLFISH LICENSE \$10.00 \$28.00 497.121  
NONRESIDENT THREE-DAY SHELLFISH LICENSE - \$19.00 497.121  
RESIDENT DISABLED VET SHELLFISH LICENSE FREE - 497.121  
COMBINATION LICENSE \$72.00 - 497.132

RESIDENT SPORTSPAC LICENSE \$196.50 - 497.132  
 RESIDENT SENIOR COMBINATION LICENSE \$47.50 - 497.132  
 RESIDENT PIONEER COMBINATION LICENSE \$6.00 - 497.132  
 YOUTH LICENSES/VALIDATIONS (ages 12-17)  
 YOUTH LICENSE \$10.00 \$10.00 497.127  
 RESIDENT YOUTH SPORTSPAC LICENSE \$55.00 - 497.132  
 YOUTH ANNUAL COMBINED ANGLING TAG \$5.00 \$5.00 497.121  
 YOUTH UPLAND BIRD STAMP \$4.00 \$4.00 497.153  
 YOUTH WATERFOWL STAMP \$4.00 \$4.00 497.151  
 YOUTH TURKEY TAG \$10.50 \$10.50 497.112  
 YOUTH HUNT/TRAP FUR-BEARERS LICENSE \$17.00 \$17.00 497.142  
 MISCELLANEOUS  
 DUPLICATE CERTIFICATE FILING \$25.50 \$25.50 497.032  
 GUIDE TAG :B1EM. DEER - \$575.00 497.112  
 GUIDE TAG :B1EM. ELK - \$848.00 497.112  
 RESIDENT HUNT/TRAP FUR-BEARERS LICENSE \$54.50 - 497.142  
 NONRESIDENT FUR-TAKERS HUNT/TRAP LICENSE - \$407.00 497.142  
 RESIDENT HUNT FUR-BEARERS LICENSE \$26.00 - 497.142  
 PRIVATE HUNTING PRESERVE PERMIT \$6.50 \$14.00 497.102  
 OUTDOOR CLUB LICENSE \$100.00 \$100.00 498.418  
 LOP REGISTRATION \$35.00 \$35.00 496.146  
 LOP TAG REDISTRIBUTION \$17.00 \$17.00 496.146  
 RSC STEELHEAD VALIDATION \$2.00 \$4.00 497.121  
 RSC WILD STEELHEAD HARVEST CARD \$10.00 \$20.00 497.121  
 OCCUPATIONAL LICENSES/PERMITS  
 FUR DEALER LICENSE \$111.00 - 497.258  
 TAXIDERMIST LICENSE \$111.00 - 497.258  
 WILDLIFE PROPAGATION LICENSE \$58.00 - 497.258  
 FISH PROPAGATION LICENSE \$151.50 - 497.258  
 PRIVATE HUNTING PRESERVE LICENSE \$232.00 - 497.258  
 STURGEON PROPAGATION PERMIT \$3,573.00 \$3,573.00 497.325

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**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.071 - Dedication of certain license, tag and permit fee increases.**

The Legislative Assembly finds it imperative that the wildlife resources of the State of Oregon be augmented to a level sufficient to provide Oregonians the recreational benefits of hunting and angling, an abundance of wildlife, and the reasonable expectation that their efforts will result in the taking of game or fish. The intent of this legislation is to provide adequate revenue to the State Fish and Wildlife Commission whereby game mammal herds and game fish populations may be increased for the benefit of Oregon hunters and anglers. Concomitant with the purposes for which the Legislative Assembly approves this legislation, the State Fish and Wildlife Commission is directed to expend the revenues created by this section and ORS 497.102 to 497.134 in achieving wildlife management objectives including, but not limited to the following:

- (1) Habitat management.
- (2) Predator control.
- (3) Replenishment of fish and game populations.
- (4) Reduction of the anadromous bag limit.
- (5) Adjustment of seasons and deadlines to protect returning anadromous adults.
- (6) Supplemental wildlife feeding.
- (7) Protection of game mammals and game birds with characteristics of high reproductive potential.
- (8) Enforcement of closings necessitated by herd or population depletion.
- (9) Expansion of the road and access closure program when necessary to reduce hunting pressure in specific areas. [1975 c.454 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.075 - General license, tag and permit requirements; exemptions.**

- (1) Except as provided in subsections (2), (3) and (4) of this section, no person shall angle for, take, hunt or trap, or assist another in angling for, taking, hunting or trapping, any wildlife unless the person has in possession such valid licenses, tags and permits therefor as the State Fish and Wildlife Commission issues.
- (2) An angling or shellfish license is not required:
  - (a) Of a person younger than 12 years of age. However, each such person who angles for salmon, steelhead trout, sturgeon or halibut

must have in possession a valid annual youth combined angling tag to angle for salmon, steelhead trout, sturgeon and halibut while so angling.

(b) Of a resident person to angle or take shellfish on land owned by that person. However, each such person who angles for salmon, steelhead trout, sturgeon or halibut must have in possession a valid annual combined angling tag to angle for salmon, steelhead trout, sturgeon and halibut while so angling.

(c) Of a resident person to angle or take shellfish on land owned by a member of the person's immediate family and upon which the person resides. However, each such person who angles for salmon, steelhead trout, sturgeon or halibut must have in possession a valid annual combined angling tag to angle for salmon, steelhead trout, sturgeon and halibut while so angling.

(d) Of a person to take crayfish or freshwater clams.

(3) A hunting license is not required:

(a) Of a person younger than 12 years of age to hunt wildlife, except those species for which a tag or permit is required by the wildlife laws or by any rule promulgated pursuant thereto.

(b) Of a resident person to hunt wildlife, except those species of wildlife for which a tag or permit is required by the wildlife laws or by any rule promulgated pursuant thereto, on land upon which the person resides and is owned by the person or a member of the person's immediate family.

(c) Of a person who holds a valid trapping license to take, by any means involving the use of a weapon, fur-bearing mammals during authorized trapping seasons or predators.

(d) Of a person to take wildlife pursuant to ORS 498.012, notwithstanding any other provision of this subsection.

(4) A trapping license is not required:

(a) Of a resident person to trap fur-bearing mammals or predators, except those species for which a tag or permit is required by the wildlife laws or any rule promulgated pursuant thereto, on land upon which the person resides and is owned by the person or a member of the person's immediate family.

(b) Of a person younger than 12 years of age to trap fur-bearing mammals or predators, except those species for which a tag or permit is required by the wildlife laws or by any rule promulgated pursuant thereto.

(c) Of a person to trap wildlife that is not protected by the wildlife laws or the laws of the United States. [1973 c.723 §49; 1975 c.214 §1; 1985 c.60 §3; 1999 c.1006 §3; 2003 c.656 §6; 2015 c.779 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.079 - Open fishing and shellfish taking days.**

Notwithstanding ORS 497.075, 497.121 and 497.132, the State Fish and Wildlife Commission may issue, up to four times each year, an order that authorizes individuals to angle for fish or take shellfish in the waters of this state without the licenses or tags, or without the licenses and tags otherwise required by law, on any two consecutive days. [1989 c.344 §2; 1995 c.177 §1; 2003 c.656 §7; 2015 c.764 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.102 - Hunting licenses and permits.**

(1) The State Fish and Wildlife Commission is authorized to issue, upon application, to persons desiring to hunt wildlife the following licenses and permits and shall charge the applicable fees under the fee schedule in ORS 497.061:

(a) Resident annual hunting license to hunt wildlife.

(b) Nonresident annual hunting license to hunt wildlife.

(c) Resident annual senior citizen hunting license to hunt wildlife for persons 70 years of age or older who have resided in the state for not less than five years prior to the date of application.

(d) Resident disabled veteran hunting license to hunt wildlife for a person who files with the commission written proof that the last official certification of record by the United States Department of Veterans Affairs or any branch of the Armed Forces of the United States shows the person to be at least 25 percent disabled.

(e) Resident uniformed services hunting license to hunt wildlife for a person who is a resident member of the uniformed services as defined in ORS 497.006.

(f) Resident annual private hunting preserve permit to hunt privately owned hunting preserve game birds.

(g) Nonresident annual private hunting preserve permit to hunt privately owned hunting preserve game birds.

(h) Nonresident hunting license to hunt migratory waterfowl and upland birds for three consecutive days.

(2) The hunting preserve permits referred to in subsection (1)(f) and (g) of this section are in lieu of the hunting licenses required by the wildlife laws. [1973 c.723 §50; 1975 c.454 §2; 1979 c.218 §1; 1979 c.377 §1a; 1979 c.774 §2c; 1981 c.445 §5; 1987 c.255 §1; 1991 c.67 §150; 1991 c.661 §1; 1993 c.659 §20; 1999 c.667 §2; 1999 c.1006 §4; amendments by 1999 c.1006 §14 repealed by 2001 c.949 §1; 2001 c.571 §§2,3; 2003 c.644 §1; 2009 c.41 §22; 2009 c.832 §5; 2015 c.779 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.104 - Access and habitat program funding.**

Notwithstanding any other provision of the wildlife laws, of the moneys received from the sale of the following licenses, the following amounts shall be deposited as provided for in ORS 496.242:

- (1) Resident annual combination license issued under ORS 497.132, \$4.
- (2) Resident annual hunting license issued under ORS 497.102 (1)(a), \$4.
- (3) Nonresident annual hunting license issued under ORS 497.102 (1)(b), \$4. [1993 c.659 §19; 1997 c.246 §1; 1999 c.1006 §12; 2003 c.203 §1; 2009 c.291 §1; 2015 c.779 §17; 2019 c.99 §2]

Note:

497.104 was added to and made a part of ORS chapter 497 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.112 - Hunting tags; restrictions; violation reporting; rules.**

(1) The State Fish and Wildlife Commission may issue to applicants desiring to hunt wildlife the following tags and shall charge the applicable fees under the fee schedule in ORS 497.061:

- (a) Resident annual elk tag to hunt elk.
- (b) Nonresident annual elk tag to hunt elk.
- (c) Special annual elk tag for holders of pioneer combination licenses or disabled veteran hunting licenses to hunt elk.
- (d) Resident annual deer tag to hunt deer.
- (e) Nonresident annual deer tag to hunt deer.
- (f) Resident annual black bear tag to hunt black bear.
- (g) Nonresident annual black bear tag to hunt black bear.
- (h) Resident annual mountain sheep tag to hunt mountain sheep.
- (i) Nonresident annual mountain sheep tag to hunt mountain sheep.
- (j) Resident annual mountain goat tag to hunt mountain goat.
- (k) Nonresident annual mountain goat tag to hunt mountain goat.
- (L) Resident annual cougar tag to hunt cougar.
- (m) Nonresident annual cougar tag to hunt cougar.
- (n) Resident annual antelope tag to hunt antelope.
- (o) Nonresident annual antelope tag to hunt antelope.
- (p) Resident annual turkey tag to hunt turkey.
- (q) Resident annual youth turkey tag to hunt turkey.
- (r) Nonresident annual youth turkey tag to hunt turkey.
- (s) Nonresident annual turkey tag to hunt turkey.
- (t) Outfitter and guide annual deer tag for a nonresident to hunt deer.
- (u) Outfitter and guide annual elk tag for a nonresident to hunt elk.

(2)(a) Notwithstanding ORS 496.146 (10), the commission may issue each year one special tag that is auctioned to the highest bidder in a manner prescribed by the commission for each of the following:

- (A) Mountain sheep;
- (B) Antelope; and
- (C) Mountain goat.

(b) In addition to the tags referred to in paragraph (a) of this subsection, the commission may issue each year one special tag that is raffled in a manner prescribed by the commission for each of the following:

- (A) Mountain sheep;
- (B) Antelope; and
- (C) Mountain goat.

(c) Moneys received under this subsection for:

- (A) Mountain sheep tags shall be placed in the Mountain Sheep Subaccount established in ORS 496.303;
- (B) Antelope tags shall be placed in the Antelope Subaccount established in ORS 496.303; and
- (C) Mountain goat tags shall be placed in the Mountain Goat Subaccount established in ORS 496.303.

(d) Notwithstanding ORS 496.146 (10), the commission, upon the recommendation of the Access and Habitat Board to fulfill the board's charge of providing incentives to increase public access and habitat improvements to private land, may issue each year up to 10 elk and 10 deer tags to hunt deer or elk. The tags shall be auctioned or raffled to the highest bidder in a manner prescribed by the commission. The Access and Habitat Board, in recommending any tags, shall include a proposal as to the land on which each tag can be used and a percentage of funds received from the tags that may revert to the landowner if the tag is limited to private land. However, the percentage may not be more than 50 percent and the programs must, by written agreement, provide for public access and habitat improvements.

(3) The tags referred to in subsection (1) of this section are in addition to and not in lieu of the hunting licenses required by law.

(4) The commission may, at the time of issue only, indorse upon the tags referred to in subsection (1) of this section an appropriate designation indicating whether it is for a game animal to be taken with bow and arrow or with firearms, at the choice of the applicant. The commission may prescribe by rule that the holder of such a tag may not take the game animal by any other means than the tag so indorsed.

- (5) Except as provided in subsection (6) of this section, a person is not eligible to obtain, in a lifetime, more than one controlled hunt tag issued by the commission to hunt mountain sheep and one controlled hunt tag issued by the commission to hunt mountain goat.
- (6)(a) A person is eligible to obtain mountain sheep tags, antelope tags or mountain goat tags described in subsection (2)(a) and (b) of this section, regardless of whether the person has previously taken a mountain sheep, antelope or mountain goat or previously obtained a mountain sheep tag, antelope tag or mountain goat tag issued pursuant to subsection (1) or (2)(a) or (b) of this section.
- (b) A person is eligible to obtain a tag described in subsection (1) or (2)(a) or (b) of this section for a female mountain sheep regardless of whether the person has previously taken a mountain sheep or previously obtained a tag for a mountain sheep issued pursuant to subsection (1) or (2)(a) or (b) of this section.
- (7) The number of nonresident mountain goat tags and nonresident mountain sheep tags shall be decided by the commission, but:
- (a) The number of nonresident mountain goat tags may not be less than five percent nor more than 10 percent of all mountain goat tags issued.
- (b) The number of nonresident mountain sheep tags may not be less than five percent nor more than 10 percent of all mountain sheep tags issued.
- (8) The number of tags issued by drawing under subsection (1)(o) of this section shall be decided by the commission, but for each class of tag so issued, the number may not be more than three percent of all tags of that class issued for hunting in a particular area except one nonresident tag may be issued for each hunt when the number of authorized tags is less than 35.
- (9) The commission shall decide the number of tags in each class described under subsection (1)(b), (e), (g) and (m) of this section to be issued by drawing. However, the number of tags issued by drawing in each class may not be more than five percent of all tags of that class issued for hunting in a particular area except one nonresident tag may be issued for each hunt when the number of authorized tags is fewer than 35. The commission shall set the percentage by rule each year after holding a public hearing.
- (10) If a controlled hunt for game mammals is undersubscribed during the primary controlled hunt drawing, the commission may issue the unallocated tags to licensed hunters at up to four times the standard tag fee. This controlled hunt tag program shall be in addition to and not replace any existing controlled hunt tag program.
- (11) The commission by rule may authorize the issuance of free tags to hunt antelope, deer and elk to provide an incentive to increase compliance with hunting reporting requirements.
- (12) The commission shall implement a program to encourage persons to report violations of the wildlife laws. The program shall include, but need not be limited to, provisions for offering a person either preference points in a scaled system determined by the commission, or a cash reward, for information leading to citations or arrest for unlawful take, possession, take while in violation of criminal trespass laws or waste of antelope, bear, cougar, deer, elk, moose, mountain goat, mountain sheep or wolf. [1973 c.723 §53; 1975 c.454 §3; 1975 c.487 §1a; 1979 c.715 §1; 1981 c.445 §6; 1985 c.60 §1; 1987 c.255 §2; 1991 c.364 §1; 1991 c.661 §2; 1993 c.336 §1; 1993 c.659 §21; 1997 c.225 §1; 1997 c.341 §1; 1999 c.624 §1; 1999 c.685 §1; 1999 c.1006 §5; amendments by 1999 c.1006 §15 repealed by 2001 c.949 §1; 2003 c.612 §1; 2003 c.644 §2; 2009 c.832 §6; 2011 c.523 §1; 2015 c.779 §14; 2017 c.144 §1; 2017 c.174 §1; 2019 c.100 §1; 2019 c.101 §1; 2019 c.103 §1; 2019 c.274 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.116 - Dedication of certain tags for qualified veteran use.**

(1) As used in this section:

- (a) "Disabled veteran" and "veteran" have the meanings given those terms in ORS 408.225.
- (b) "Organization" means a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code and has the principal purpose of granting hunting and fishing adventures for disabled veterans.
- (c) "Qualified veteran" means a disabled veteran who is sponsored by an organization and who provides the State Department of Fish and Wildlife with documentation demonstrating that the veteran is a disabled veteran.

(2) Annually upon approval by the State Fish and Wildlife Director, notwithstanding ORS 497.112, the department may issue big game tags free of charge to organizations for use by qualified veterans. Tags issued under this section must be for black bear, deer, elk or pronghorn antelope.

(3)(a) Except as provided in subsection (4)(a) of this section, the department may not issue more than 20 tags annually under this section.

(b) The department may not issue an organization a total of more than five tags annually under this section. However, tags for black bear do not count toward the annual tag limit for an organization. An organization is limited to two tags for black bear annually.

(4)(a) If any tags made available under ORS 496.146 (19) to sponsors of hunting trips for terminally ill children have not been requested by a sponsor 30 days prior to the relevant open season, the department may make the unrequested tags available for issuance under this section. If any tags made available under this section have not been requested by an organization 30 days prior to the relevant open season, the department may make the unrequested tags available to sponsors described in ORS 496.146 (19).

(b) Not more than 10 of the total tags issued under this section and ORS 496.146 (19) in a year may be for hunting black bear. Not more than 10 of the total tags issued under this section and ORS 496.146 (19) in a year may be for hunting deer. Not more than 10 of the total tags issued under this section and ORS 496.146 (19) in a year may be for hunting elk. Not more than five of the total tags issued under this section and ORS 496.146 (19) in a year may be for hunting pronghorn antelope.

(5) A qualified veteran may obtain only one tag under this section annually. A tag issued under this section authorizes the taking of a single animal. A qualified veteran need not be a resident of this state.



(6) A qualified veteran may use a tag issued under this section to hunt within any wildlife management unit except specific area closures identified in department rules regulating the hunting of big game animals, Hart Mountain National Antelope Refuge and the Starkey Experimental Forest enclosure.

(7) A tag issued under this section does not exempt a qualified veteran from any requirement to:

(a) Comply with department rules regarding hunting hours;

(b) Hold a valid Oregon hunting license; and

(c) Use a lawful weapon to hunt the species for which the tag is issued. [2018 c.100 §2]

Note:

497.116 was added to and made a part of the wildlife laws by legislative action but was not added to ORS chapter 497 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.121 - Angling and shellfish licenses and tags; rules.**

(1) The State Fish and Wildlife Commission may, upon application and payment of the applicable fees established by the fee schedule under ORS 497.061, issue the following licenses and tags to persons desiring to angle for fish or take shellfish:

(a) Resident annual angling license.

(b) Nonresident annual angling license.

(c) Nonresident angling license to angle for seven consecutive days.

(d) Angling and shellfish license to angle and take shellfish for one day.

(e) Angling license to angle for two days.

(f) Angling license to angle for three days.

(g) Resident annual shellfish license.

(h) Nonresident annual shellfish license.

(i) Nonresident three-day shellfish license.

(j) Two rod angling license for anglers who also hold a valid annual angling license.

(k) Resident annual senior citizen angling license for persons 70 years of age or older who have resided in the state for not less than five years prior to the date of application.

(L) Resident disabled veteran angling license for a person who files with the commission written proof that the last official certification of record by the United States Department of Veterans Affairs or by any branch of the Armed Forces of the United States shows the person to be at least 25 percent disabled.

(m) Resident disabled veteran shellfish license for a person who files with the commission written proof that the last official certification of record by the United States Department of Veterans Affairs or by any branch of the Armed Forces of the United States shows the person to be at least 25 percent disabled.

(n) Resident annual combined angling tag to angle for salmon, steelhead trout, sturgeon and halibut.

(o) Nonresident annual combined angling tag to angle for salmon, steelhead trout, sturgeon and halibut.

(p) Annual youth combined angling tag for persons under 18 years of age to angle for salmon, steelhead trout, sturgeon and halibut.

(q) Renewable tag to angle for hatchery salmon and steelhead.

(r) Rogue-South Coast steelhead validation.

(s) Rogue-South Coast wild steelhead harvest card.

(2) Any person who holds a valid permanent angling license for persons who are blind or a permanent angling license for persons in a wheelchair issued by the commission before January 1, 2000, need not obtain a resident annual angling license under this section.

(3) The annual combined angling tags to angle for salmon, steelhead trout, sturgeon and halibut referred to in subsection (1)(n), (o), (p) and (q) of this section and the Rogue-South Coast steelhead validation and Rogue-South Coast wild steelhead harvest card referred to in subsection (1)(r) and (s) of this section are in addition to and not in lieu of the angling licenses required by the wildlife laws. However, an annual combined angling tag to angle for salmon, steelhead trout, sturgeon and halibut is not required of a person who holds a valid angling license referred to in subsection (1)(c) to (f) of this section.

(4) The commission shall adopt rules concerning issuance of, and requirements related to, the Rogue-South Coast steelhead validation and the Rogue-South Coast wild steelhead harvest card described in subsection (1)(r) and (s) of this section. The rules must address when the validation and harvest card are required, relative to licenses, tags and permits that are required under the wildlife laws.

(5) Notwithstanding any other provision of the wildlife laws, the moneys received from the sale of the Rogue-South Coast steelhead validation and the Rogue-South Coast wild steelhead harvest card described in subsection (1)(r) and (s) of this section shall be credited to the Rogue-South Coast Research and Monitoring Subaccount established under ORS 496.303. [1973 c.723 §51; 1975 c.34 §1; 1975 c.454 §4; 1979 c.377 §2; 1981 c.445 §7; 1983 c.740 §202; 1985 c.60 §2; 1985 c.390 §1; 1991 c.67 §151; 1991 c.435 §1; 1993 c.619 §1; 1999 c.25 §5; 1999 c.1006 §6; amendments by 1999 c.1006 §16 repealed by 2001 c.949 §1; 2001 c.94 §§2,3; 2001 c.571 §§4,5; 2003 c.644 §3; 2003 c.656 §8; 2007 c.70 §277; 2009 c.41 §23; 2009 c.425 §2; 2009 c.832 §7; 2015 c.779 §15; 2022 c.56 §3]

Note:

Section 3, chapter 734, Oregon Laws 2015, provides:

Sec. 3. Special dedication of fees through 2026.

Notwithstanding any other provision of the wildlife laws and during the period beginning January 1, 2016, and ending December 31, 2026, of the moneys received from the sale of the following licenses, the following amounts shall be deposited in the Oregon Hatchery Research Center Fund:

- (1) Resident annual combination license issued under ORS 497.132, \$1.
- (2) Resident annual angling license issued under ORS 497.121 (1)(a), \$1.
- (3) Angling and shellfish license to angle and take shellfish for one day issued under ORS 497.121 (1)(d), \$0.50.
- (4) Nonresident annual angling license issued under ORS 497.121 (1)(b), \$1.50.
- (5) Nonresident angling license to angle for seven consecutive days issued under ORS 497.121 (1)(c), \$1.50. [2015 c.734 §3; 2015 c.779 §52; 2022 c.56 §7]

Note:

Sections 2, 3 and 5, chapter 334, Oregon Laws 2021, provide:

Sec. 2.

Section 3 of this 2021 Act is added to and made a part of the wildlife laws. [2021 c.334 §2]

Sec. 3. Veteran no-charge angling or shellfish harvesting program.

- (1) Notwithstanding any contrary provision in the wildlife laws, the State Fish and Wildlife Commission may authorize a nonprofit organization registered in this state that serves veterans, or armed forces members whose duty station is a warrior transition unit, through a program of angling or shellfish harvest established on or before January 1, 2021, to conduct excursions during which the veterans or armed forces members may angle or take shellfish at no charge using licenses, tags or permits described in subsection (2) of this section and need not obtain additional licenses, permits, tags or endorsements for the angling or taking.
- (2) Notwithstanding ORS 497.022, upon request by a representative of the nonprofit organization, an agent of the commission that issues licenses, tags or permits shall issue at no charge daily licenses, tags or permits to representatives of the nonprofit organization for use by the veterans or armed forces members during the excursions and may not retain any portion of an agent fee for issuance of the daily licenses, tags or permits.
- (3) The commission may suspend or revoke authorization issued under this section if the nonprofit organization ceases to qualify under this section or violates a commission rule.
- (4) The commission may adopt rules as necessary to implement this section. [2021 c.334 §3]

Sec. 5.

Section 3 of this 2021 Act is repealed on January 2, 2027. [2021 c.334 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.123 - Hatchery harvest tag rules.**

The State Fish and Wildlife Commission shall adopt rules for the issuance of hatchery harvest tags to persons holding an annual angling license and an annual tag to angle for salmon and steelhead. The rules shall allow persons holding a hatchery harvest tag to angle for 10 fin clipped or otherwise marked returning hatchery salmon and steelhead. [2001 c.94 §1]

Note:

497.123 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 497 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.124 - Special dedication of fees to Fish Screening Subaccount.**

Notwithstanding any other provision of the wildlife laws, of the moneys received from the sale of the following licenses, 75 cents from the sale of each license shall be credited to the Fish Screening Subaccount under ORS 496.303:

- (1) Resident annual combination license issued under ORS 497.132.
- (2) Resident annual angling license issued under ORS 497.121 (1)(a).
- (3) Angling and shellfish license to angle and take shellfish for one day issued under ORS 497.121 (1)(d).
- (4) Angling license to angle for two days issued under ORS 497.121 (1)(e).
- (5) Angling license to angle for three days issued under ORS 497.121 (1)(f).
- (6) Nonresident annual angling license issued under ORS 497.121 (1)(b).
- (7) Nonresident angling license to angle for seven consecutive days issued under ORS 497.121 (1)(c). [1991 c.858 §15; 1993 c.619 §4; 1995 c.426 §4; 1999 c.25 §6; 2009 c.832 §8; 2015 c.779 §19; 2022 c.56 §4]

Note:

497.124 was added to and made a part of ORS chapter 497 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.126 - Use of certain moneys from angling licenses.**

Notwithstanding any other provision of the wildlife laws, of the moneys received from the sale of the following licenses, the following amounts shall be deposited as provided for in ORS 496.283:

- (1) Resident annual combination license issued under ORS 497.132, \$4.
- (2) Resident annual angling license issued under ORS 497.121 (1)(a), \$4.
- (3) Angling and shellfish license to angle and take shellfish for one day issued under ORS 497.121 (1)(d), \$2.
- (4) Angling license to angle for two days issued under ORS 497.121 (1)(e), \$2.
- (5) Angling license to angle for three days issued under ORS 497.121 (1)(f), \$2.
- (6) Nonresident annual angling license issued under ORS 497.121 (1)(b), \$10.
- (7) Nonresident angling license to angle for seven consecutive days issued under ORS 497.121 (1)(c), \$5. [1989 c.512 §4; 1991 c.184 §1; 1993 c.619 §3; 1997 c.8 §9; 1999 c.1006 §11; 2003 c.643 §1; 2009 c.765 §1; 2015 c.779 §16; 2019 c.458 §4; 2022 c.56 §5]

Note:

497.126 was added to and made a part of ORS chapter 497 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.127 - Youth licenses.**

The State Fish and Wildlife Commission is authorized to issue, upon application, youth licenses for resident and nonresident persons at least 12 years of age and under 18 years of age and shall charge the applicable fee under the fee schedule in ORS 497.061. The youth license shall be equivalent to, and authorize the purchaser to engage in the activities authorized by, the following adult licenses:

- (1) Resident annual hunting license;
- (2) Resident annual angling license; and
- (3) Resident annual shellfish license. [2015 c.779 §21]

Note:

497.127 was added to and made a part of ORS chapter 497 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

Note:

Section 22, chapter 779, Oregon Laws 2015, provides:

Sec. 22.

The youth license under ORS 497.127 and the pioneer combination license under ORS 497.132 include authorization for the purchaser to engage in angling activities for which an endorsement to fish for salmon, steelhead or sturgeon in the Columbia Basin under ORS 496.146 is required. [2015 c.779 §22; 2021 c.169 §7]

Note:

Section 8, chapter 169, Oregon Laws 2021, provides:

Sec. 8.

Section 22, chapter 779, Oregon Laws 2015, is repealed on January 2, 2026. [2021 c.169 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.132 - Combined licenses for residents.**

(1)(a) In lieu of issuing to resident persons separate licenses for hunting and angling, the State Fish and Wildlife Commission is authorized to issue resident annual combination hunting and angling licenses, and charge the applicable fee under the fee schedule in ORS 497.061.

(b) In lieu of issuing to resident senior citizens separate licenses for hunting and angling, the commission is authorized to issue resident annual senior citizen combination hunting and angling licenses for persons 70 years of age or older who have resided in the state for not less than five years prior to the date of application.

(2) The commission is authorized to issue, upon application, resident annual pioneer combination hunting and angling licenses for persons who will be 65 years of age or older in the license year and who have resided in the state for not less than 50 years prior to the date of application, and to charge the applicable fee under the fee schedule in ORS 497.061. The resident annual pioneer combination license shall be equivalent to, and authorize the purchaser to engage in the activities authorized by, a resident annual combination license.

(3)(a) In lieu of issuing to resident persons separate licenses and tags for various hunting and angling activities, the commission is authorized to issue resident annual sportspac licenses and shall charge the applicable fee under the fee schedule in ORS 497.061. The purchaser of each sportspac license is authorized to engage in those hunting and angling activities for which the following licenses and tags are required:

- (A) Combination license;
- (B) Black bear tag;
- (C) Cougar tag;
- (D) General season elk tag;
- (E) General season deer tag;
- (F) Upland bird stamp;

(G) Oregon migratory waterfowl stamp;

(H) Turkey tag;

(I) Annual combined angling tag to angle for salmon, steelhead trout, sturgeon and halibut; and

(J) Resident annual shellfish license.

(b) The holder of each sportspac license who wishes to engage in hunting or angling activities for which permits are required that are limited by quota must participate in the process for allocation of the permits in the same manner as all other permit applicants. However, if the holder of a sportspac license is unsuccessful in obtaining a permit limited by quota for a particular activity, the holder will be issued a tag valid for any general season for that species.

(c) Notwithstanding any other provision of the wildlife laws, of the moneys received from the sale of sportspac licenses:

(A) Four dollars from each license shall be credited to the subaccount referred to in ORS 496.242.

(B) Four dollars from each license shall be credited to the subaccount referred to in ORS 496.283.

(C) Seventy-five cents from each license shall be credited to the Fish Screening Subaccount established under ORS 496.303.

(D) Twenty-five cents from each license shall be credited to the Fish Passage Fund established under ORS 497.139.

(4)(a) In lieu of issuing to resident persons at least 12 years of age and under 18 years of age separate licenses and tags for hunting and angling, the commission is authorized to issue resident annual youth sportspac licenses for persons at least 12 years of age and under 18 years of age and shall charge the applicable fee under the fee schedule in ORS 497.061. The purchaser of each youth sportspac license is authorized to engage in those hunting and angling activities for which the following licenses and tags are required:

(A) Youth license;

(B) Black bear tag;

(C) Cougar tag;

(D) General season elk tag;

(E) General season deer tag;

(F) Youth upland bird stamp;

(G) Youth Oregon migratory waterfowl stamp;

(H) Youth turkey tag; and

(I) Annual youth combined angling tag for persons under 18 years of age to angle for salmon, steelhead trout, sturgeon and halibut.

(b) The holder of each resident annual youth sportspac license who wishes to engage in hunting or angling activities for which permits are required that are limited by quota must participate in the process for allocation of the permits in the same manner as all other permit applicants. However, if the holder of a resident annual youth sportspac license is unsuccessful in obtaining a permit limited by quota for a particular activity, the holder will be issued a tag valid for any general season for that species.

(c) Notwithstanding any other provision of the wildlife laws, of the moneys received from the sale of resident annual youth sportspac licenses:

(A) One dollar from each license shall be credited to the subaccount referred to in ORS 496.242.

(B) One dollar from each license shall be credited to the subaccount referred to in ORS 496.283.

(C) Seventy-five cents from each license shall be credited to the Fish Screening Subaccount established under ORS 496.303.

(D) Twenty-five cents from each license shall be credited to the Fish Passage Fund established under ORS 497.139. [1973 c.723 §52; 1975 c.454 §5; 1981 c.445 §8; 1987 c.255 §3; 1991 c.661 §3; 1993 c.619 §2; 1997 c.341 §2; 1999 c.59 §161; 1999 c.1006 §7; amendments by 1999 c.1006 §17 repealed by 2001 c.949 §1; 2001 c.822 §§8,8a; 2003 c.644 §4; 2009 c.291 §2; 2009 c.765 §2; 2009 c.832 §9; 2015 c.779 §23]

Note:

See first note under 497.121.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.134 - Voluntary contributions.**

(1) The State Fish and Wildlife Commission may provide a means for persons to make voluntary contributions to be used for special fish and wildlife management programs, including programs to improve access for recreational angling. The commission may seek voluntary contributions in conjunction with the sale of hunting and angling licenses and tags or by such other means as the commission considers appropriate.

(2) If the commission implements an electronic licensing system, the commission shall provide a means for persons to make voluntary contributions in conjunction with the sale of licenses and tags referred to in ORS 497.121 (1). All such voluntary contributions received by the commission may be expended only for projects for which applications are made pursuant to ORS 496.450. [1985 c.391 §2; 1989 c.204 §1; 1999 c.25 §7; 1999 c.1006 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.136 - Uses of certain fee increases.**

The moneys received from the fee increases prescribed in the amendments to ORS 497.121, 497.124, 497.126 and 497.132 by sections 1 to 4, chapter 619, Oregon Laws 1993, shall be used by the State Department of Fish and Wildlife for recreational fishing activities, including fish hatchery production, freshwater fish programs, groundfish sampling, fish research projects, Oregon State

Police Game Bureau enforcement, a name and address database, and the Hatchery Maintenance Information System. [1993 c.619 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.138 - Special dedication of fees to Fish Passage Fund.**

Notwithstanding any other provision of the wildlife laws, of the moneys received from the sale of the following licenses, 25 cents from the sale of each license shall be credited to the Fish Passage Fund established under ORS 497.139:

- (1) Resident annual combination hunting and angling license issued under ORS 497.132.
- (2) Resident annual angling license issued under ORS 497.121 (1)(a).
- (3) Angling and shellfish license to angle and take shellfish for one day issued under ORS 497.121 (1)(d).
- (4) Angling license to angle for two days issued under ORS 497.121 (1)(e).
- (5) Angling license to angle for three days issued under ORS 497.121 (1)(f).
- (6) Nonresident annual angling license issued under ORS 497.121 (1)(b).
- (7) Nonresident angling license to angle for seven consecutive days issued under ORS 497.121 (1)(c). [2009 c.832 §17; 2015 c.779 §24; 2022 c.56 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.139 - Fish Passage Fund.**

The Fish Passage Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Fish Passage Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Department of Fish and Wildlife for purposes related to fish passage. [2009 c.832 §14]

Note:

497.139 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 497 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.141 - Fish Passage Restoration Subaccount; sources; uses.**

(1) There is created a Fish Passage Restoration Subaccount within the Fish Passage Fund established under ORS 497.139. Fees described in ORS 543.765 (15) shall be paid into the subaccount. The State Department of Fish and Wildlife may solicit and accept additional moneys for crediting to the subaccount, including but not limited to federal funds, appropriations, donations, grants from nongovernmental entities and moneys from other public or private sources. Any interest earned by moneys within the subaccount shall be credited to the subaccount.

(2) The department shall use the subaccount moneys to fund priority fish passage restoration projects. The department shall give priority to the funding of projects on the statewide inventory of artificial obstructions priority list described in ORS 509.585, with an emphasis on those statewide priority list projects that also pay fees under ORS 543.765 (15), and give priority to projects that have the ability to leverage matching dollars. The department may not use subaccount moneys to fund culvert projects or projects that are state-owned structures. The department may not expend more than six percent of the annual contributions to the subaccount to pay staffing costs associated with the advancement of capital projects funded by the subaccount. [2013 c.674 §1; 2023 c.49 §3]

Note:

497.141 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 497 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.142 - Fur-bearer trapping or hunting license and tag.**

(1) The State Fish and Wildlife Commission is authorized to issue, upon application, to persons desiring to take fur-bearing mammals the following licenses and shall charge the applicable fee under the fee schedule in ORS 497.061:

- (a) Resident annual license to trap or hunt fur-bearing mammals.
- (b) Annual youth license to trap or hunt fur-bearing mammals.
- (c) Resident annual license to hunt fur-bearing mammals.
- (d) Nonresident annual fur-takers license to trap or hunt fur-bearing mammals.

(2) The commission is authorized to issue, upon application, fur-bearer annual tags to take fur-bearing mammals.

(3) The tags referred to in subsection (2) of this section are in addition to and not in lieu of the licenses referred to in subsection (1)(c) and (d) of this section. [1973 c.723 §55; 1979 c.774 §1; 1987 c.255 §4; 2009 c.832 §10; 2015 c.779 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.146 - Trapper education program; when certificate required; exceptions.**

(1) The State Fish and Wildlife Commission, by rule, shall prescribe and administer a trapper education program to provide instruction in the proper use of trapping equipment. The program may also include instruction on wildlife and natural resource

conservation, firearms safety, first aid and survival and such other subjects as the commission considers desirable to promote good outdoor conduct and respect for the rights and property of others. The commission may cooperate and enter into agreements with other public or private agencies and individuals in carrying out the provisions of this section.

(2) Except as provided in subsection (3) of this section, no person shall trap mammals with commercial fur value unless the person has in possession a certificate issued by the commission indicating that the person has satisfactorily completed a course in trapper education prescribed or approved by the commission. However, the commission shall issue the certificate automatically, without the necessity of completing the course, to any person who has previously held a valid trapping license issued by the commission and who is 18 years of age or older on July 1, 1986.

(3) The certificate referred to in subsection (2) of this section is not required of a person to trap mammals with commercial fur value on land owned or leased by that person or a member of that person's immediate family.

(4) Nothing in this section is intended to prevent any person or the persons' agent from taking mammals with commercial fur value that are damaging livestock or agricultural crops on lands the person owns or leases.

(5) As used in this section, "mammals with commercial fur value" means badger, beaver, bobcat, coyote, red fox, gray fox, marten, mink, muskrat, nutria, opossums, raccoon, river otter, striped skunk, spotted skunk and weasel. [1979 c.774 §4; 1985 c.467 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.151 - Annual migratory waterfowl stamp; effect of purchase by nonresident.**

(1)(a) The State Fish and Wildlife Commission is authorized to issue, upon application, to resident persons desiring to hunt migratory waterfowl an annual migratory waterfowl stamp and shall charge the applicable fee under the fee schedule in ORS 497.061.

(b) The commission is authorized to issue, upon application, to resident and nonresident persons at least 12 years of age and under 18 years of age desiring to hunt migratory waterfowl an annual youth migratory waterfowl stamp and shall charge the applicable fee under the fee schedule in ORS 497.061.

(2) The stamps referred to in subsection (1) of this section are in addition to and not in lieu of the hunting licenses required by ORS 497.102 and 497.127.

(3) A migratory waterfowl stamp is not required of a person younger than 12 years of age.

(4) ORS 497.016 to 497.026 and 497.036 apply to the stamps referred to in subsection (1) of this section.

(5) Nothing in this section is intended to prevent nonresident persons 18 years of age or older from purchasing resident migratory waterfowl stamps for stamp collecting or other purposes. However, possession of a resident migratory waterfowl stamp does not authorize a nonresident 18 years of age or older to hunt migratory waterfowl. [1983 c.801 §2; 1993 c.659 §22; 1999 c.1006 §9; amendments by 1999 c.1006 §18 repealed by 2001 c.949 §1; 2009 c.832 §11; 2015 c.779 §26]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.153 - Annual upland bird stamp; effect of purchase by nonresident.**

(1)(a) The State Fish and Wildlife Commission is authorized to issue, upon application, to resident persons desiring to hunt upland birds an annual upland bird stamp and shall charge the applicable fee under the fee schedule in ORS 497.061.

(b) The commission is authorized to issue, upon application, to resident and nonresident persons at least 12 years of age and under 18 years of age desiring to hunt upland birds an annual youth upland bird stamp and shall charge the applicable fee under the fee schedule in ORS 497.061.

(2) The stamps referred to in subsection (1) of this section are in addition to and not in lieu of the hunting licenses required by ORS 497.102 and 497.127.

(3) An upland bird stamp is not required of a person younger than 12 years of age.

(4) ORS 497.016 to 497.026 and 497.036 apply to the stamps referred to in subsection (1) of this section.

(5) Nothing in this section is intended to prevent nonresident persons 18 years of age or older from purchasing resident upland bird stamps for stamp collecting or other purposes. However, possession of a resident upland bird stamp does not authorize a nonresident 18 years of age or older to hunt upland birds. [1989 c.406 §4; 1993 c.659 §23; 2009 c.832 §12; 2015 c.779 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.156 - Annual nonresident bird-waterfowl stamp.**

(1) The State Fish and Wildlife Commission is authorized to issue, upon application, to nonresident persons 18 years of age or older desiring to hunt either migratory waterfowl or upland birds an annual bird-waterfowl stamp and shall charge the applicable fee under the fee schedule in ORS 497.061.

(2) The stamp referred to in subsection (1) of this section is in addition to and not in lieu of the hunting licenses required by ORS 497.102.

(3) Notwithstanding subsection (1) of this section, a bird-waterfowl stamp is not required of:

(a) A person younger than 12 years of age;

(b) A nonresident person at least 12 years of age and under 18 years of age who holds an annual youth migratory waterfowl stamp and an annual youth upland bird stamp; or

(c) A nonresident hunter on a private hunting preserve who holds an annual private hunting preserve permit issued under ORS

497.102.

(4) ORS 497.016 to 497.026 and 497.036 apply to the stamp referred to in subsection (1) of this section. [1993 c.659 §25; 1999 c.667 §3; 1999 c.1006 §10; amendments by 1999 c.1006 §19 repealed by 2001 c.949 §1; 2009 c.832 §13; 2015 c.779 §28]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.158 - Mail or Internet license renewal.**

The State Fish and Wildlife Commission may adopt a system for renewing licenses issued under ORS 497.102, 497.121, 497.127 and 497.132 through the mail or the World Wide Web. [2001 c.559 §2; 2015 c.779 §49; 2019 c.102 §4]

Note:

497.158 was added to and made a part of the wildlife laws by legislative action but was not added to ORS chapter 497 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.162 - Angling and shellfish licenses for persons in state care or persons receiving certain services; rules.**

(1) Upon application of the Oregon Youth Authority, the Oregon Health Authority or the Department of Human Services, the State Fish and Wildlife Commission shall issue, without fee, a license to angle for the temporary use of any person in a state institution as described in ORS 179.610, any student in a youth correction facility or related camps or programs operated by the Oregon Youth Authority, any child placed by the department and under the care of a foster home or a child-caring agency licensed, certified or otherwise authorized by the department under ORS 418.205 to 418.327, any person in an alternative to state hospitalization program as described in ORS 430.630 (2)(b) or (c), or any person receiving services from a community developmental disabilities program under ORS 430.620 (1)(a) or (c). The licenses issued under this subsection shall be in bearer form and, subject to applicable laws and regulations relating to angling, shall be used as the agency applying for the license directs.

(2) Upon application of the Department of Human Services, the commission shall issue, without fee, a license to take shellfish for the temporary use of any child placed by the department and under the care of a foster home or a child-caring agency licensed, certified or otherwise authorized by the department under ORS 418.205 to 418.327. The licenses issued under this subsection shall be in bearer form and, subject to applicable laws and regulations relating to taking shellfish, shall be used as the department directs.

(3) Upon application of the director of any veteran's administration hospital or domiciliary within this state, the commission shall issue, without fee, to each hospital or domiciliary 30 licenses to angle or to take shellfish for the temporary use of any person who is a patient or resident in the hospital or domiciliary. The licenses issued under this subsection shall be in bearer form and, subject to applicable laws and regulations relating to angling and to taking shellfish, shall be used as the director of the hospital or domiciliary provides.

(4) The commission may adopt rules for the administration and enforcement of this section. [Formerly 497.840; 1977 c.492 §1; 1979 c.70 §1; 1997 c.249 §178; 1999 c.59 §162; 2001 c.900 §207; 2003 c.656 §16; 2009 c.595 §982; 2011 c.720 §207; 2016 c.106 §53; 2021 c.192 §6; 2021 c.334 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.170 - Columbia River Indians; free hunting and fishing licenses.**

The State Fish and Wildlife Commission shall furnish a permanent hunting and angling license, without payment of fee, to all Columbia River Indians who are eligible to hunt and angle under the terms of the Treaty of 1855 between the Columbia River Indians and the United States of America. The chief authority of the Columbia River Indians shall furnish from time to time to the commission a list of all Indians who have become eligible, and shall certify under oath that the Indians named in the list are included in the terms of the treaty. [Amended by 1973 c.723 §56]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.218 - Fur dealer license; records.**

(1) No person shall engage in the business of buying the skins or pelts of any fur-bearing mammal unless the person has first obtained from the State Fish and Wildlife Commission a fur dealer license.

(2) Every fur dealer shall maintain a record of transactions involving the skins or pelts of fur-bearing mammals. The record shall be in such form and contain such information as the commission, by rule, prescribes to accurately indicate the date, type and number of skins or pelts received and the name and address of the person with whom such transaction was made. [1973 c.723 §60]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.228 - Wildlife propagation license; grounds for license denial; records; rules.**

(1) No person shall engage in the business of propagating game birds or game mammals for sale unless a wildlife propagation license is first obtained from the State Department of Fish and Wildlife.

(2) The State Fish and Wildlife Commission may refuse to issue a license to an applicant if the commission finds that the conduct of the wildlife propagation business would tend to be harmful to existing wildlife populations.

(3) The commission, by rule, may prescribe requirements for the care, inspection, transportation and the sale, taking or other disposition of the game birds or game mammals and for such record keeping and reporting procedures as will insure that the propagation activities are conducted in such manner as will not be harmful to existing wildlife populations. [1973 c.723 §61; 1987 c.139 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.238 - Taxidermy license; records.**

(1) No person shall engage in the business of taxidermy unless the person first obtains from the State Fish and Wildlife Commission a taxidermist license.

(2) Every licensed taxidermist shall maintain a record of the taxidermy work the person performs. The record shall be in such form and contain such information as the commission, by rule, prescribes to accurately indicate the date, type and number of wildlife species received for taxidermy work and the name and address of the persons from whom the wildlife species were received. [1973 c.723 §62]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.248 - Private hunting preserve license; requirements for preserve; rules; records.**

(1) No person shall engage in the business of operating a private hunting preserve for the hunting of privately owned or propagated game birds unless the person first obtains from the State Fish and Wildlife Commission a private hunting preserve license.

(2) The commission shall issue a private hunting preserve license to an applicant therefor if the commission finds that the operation of the preserve will meet the following requirements:

(a) The preserve is on one continuous tract of land owned by the applicant or leased by the applicant and contains:

(A) Not more than 640 acres, if the preserve is located in the area west of the summit of the Cascade Mountains; or

(B) Not more than 1,280 acres, if the preserve is located in the area east of the summit of the Cascade Mountains.

(b) The preserve is located at least one-half mile from any other licensed private hunting preserve.

(c) No portion of the preserve is located closer than one-half mile to any park, wilderness area, refuge or wildlife management area operated by any agency of the state or federal government.

(d) The exterior boundaries of the preserve are clearly defined and posted with signs erected around the extremity at intervals of 1,320 feet or less. The signs shall comply with requirements prescribed by the State Department of Fish and Wildlife.

(e) The applicant has facilities to propagate or hold not less than 500 of each wildlife species to be released for hunting.

(f) The applicant will not prevent or attempt to prevent public hunting on lands adjacent to the preserve.

(3)(a) The commission, by rule, shall prescribe the time, manner and place of hunting on private preserves, the wildlife species to be hunted, requirements for the care and marking of wildlife raised on the preserve, the release of wildlife received from another state, the procedures for marking indigenous wildlife incidentally taken on the preserve and the fees therefor, and record keeping and reporting procedures.

(b) Pursuant to paragraph (a) of this subsection, the commission shall:

(A) Allow private hunting preserve operators to use plastic poultry leg bands for marking wildlife species to be released for hunting.

(B) Allow the transportation of game birds killed on a private hunting preserve if the birds are cleaned, wrapped, packaged and accompanied by a transportation form from the preserve that states the number and sex of the birds being transported.

(C) Require private hunting preserve operators to have at least 10 resident private hunting preserve permits, 10 nonresident private hunting preserve permits and 10 wild bird seals. This requirement shall apply to each operator, regardless of the number of preserves operated by that person.

(4) No person shall hunt on a private hunting preserve unless the person first obtains from the commission a hunting license or a private hunting preserve permit. [1973 c.723 §63; 1999 c.667 §4; 2001 c.151 §1; 2001 c.161 §1; 2003 c.616 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.249 - Revocation or refusal to renew private hunting preserve license.**

(1) In addition to the penalties provided in ORS 496.992, the State Department of Fish and Wildlife may revoke or refuse to renew a license issued under ORS 497.248 if the operator fails to comply with any provision of ORS 497.248 or any rule adopted by the State Fish and Wildlife Commission in relation to the operation of private hunting preserves.

(2) A new license may not be issued to a person whose license has been revoked unless it appears to the satisfaction of the department that the person will comply with the provisions of ORS 497.248 and the rules adopted by the commission in relation to the operation of private hunting preserves.

(3) Notwithstanding subsection (1) of this section, the department may not revoke a license for a first violation.

(4) Prior to revoking or refusing to renew a license, the department shall serve written notice, in the manner prescribed for contested case proceedings pursuant to ORS 183.415, on the operator of the private hunting preserve, ordering the operator to:

(a) Notify the department within 30 days of the service of the notice if the operator seeks a review of the proposed revocation or refusal to renew the license in the manner provided for contested case proceedings in ORS 183.413 to 183.470; and

(b) Set forth in any notification under paragraph (a) of this subsection the operator's reasons why the license should be renewed or not be revoked.



(5) At the conclusion of a contested case proceeding conducted by the department pursuant to subsection (4) of this section, an operator may petition the commission for a review of the determination by the department. [2001 c.151 §3]

Note:

497.249 was added to and made a part of the wildlife laws by legislative action but was not added to ORS chapter 497 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.252 - Fish propagation license; terms and conditions; rules; applicability of other licensing laws.**

(1) Except as provided in ORS 508.700 to 508.745 and 622.220, no person shall engage in the business of propagating game fish or food fish for sale unless a fish propagation license is first obtained from the State Department of Fish and Wildlife.

(2) The State Fish and Wildlife Commission may refuse to issue a license to an applicant if the commission finds that the conduct of the fish propagation business would tend to be harmful to existing game fish or food fish populations.

(3) The commission, by rule, may prescribe requirements for the care, inspection, transportation and the sale, taking or other disposition of the game fish or food fish, and for such record keeping and reporting procedures as will insure that the propagation activities are conducted in such manner as will not be harmful to existing game fish or food fish populations.

(4) Persons propagating the following food fish under the license prescribed in subsection (1) of this section are exempt from the licensing provisions of ORS 508.025 and 508.035:

(a) Food fish raised entirely in, then harvested from facilities which are enclosed or designed to prevent escape and from which the fish are not released for natural rearing.

(b) Food fish harvested from the wild under licenses prescribed in ORS 508.025 and 508.035 and on which the appropriate fee has been paid at the time holding or rearing commences in the licensed fish propagation facility.

(5) As used in this section, food fish has the meaning as defined in ORS 506.011. [1987 c.139 §3; 1991 c.701 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.258 - Licensing authority.**

The State Department of Fish and Wildlife is authorized to issue, upon application, to persons desiring to engage in the following occupations the following licenses and shall charge the applicable fees under the fee schedule in ORS 497.061:

(1) Resident annual fur dealer license.

(2) Resident annual taxidermist license.

(3) Resident annual wildlife propagation license.

(4) Resident annual fish propagation license.

(5) Resident annual private hunting preserve license. [1973 c.723 §54; 1979 c.615 §3; 1985 c.565 §79; 1987 c.139 §4; 2009 c.832 §15; 2015 c.779 §29]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.268 - Inspection of occupational licenses.**

The holder of any license issued pursuant to ORS 497.218 to 497.248 shall consent to the inspection by any person authorized to enforce the wildlife laws of any such license and any records the holder is required to keep by the wildlife laws or any rule promulgated pursuant thereto. [1973 c.723 §64]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.298 - Scientific taking permit; rules.**

(1) Any person desiring to take wildlife for scientific purposes shall first obtain from the State Fish and Wildlife Commission a scientific taking permit. The commission, by rule, shall prescribe a procedure for applying for permits and the form thereof, and shall prescribe the terms and conditions of taking wildlife under the permit to insure that wildlife taken pursuant to the permit will be used only for scientific purposes.

(2) No person who holds a scientific taking permit shall violate any of the terms or conditions of the permit.

(3) As used in this section, "scientific purposes" means the study or examination of wildlife for the acquisition of knowledge thereof. [1973 c.723 §65]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.308 - Wildlife holding and habitat removal permits; rules.**

(1) No person shall remove from its natural habitat or acquire and hold in captivity any live wildlife in violation of the wildlife laws or any rule adopted thereunder.

(2) The State Fish and Wildlife Commission may adopt rules to carry out the provisions of subsection (1) of this section that include but are not limited to:

(a) Providing for the issuance and form of permits for the holding or removal from habitat of wildlife.

- (b) Prescribing the wildlife species for which holding or habitat removal permits are required.
- (c) Prescribing the terms and conditions of holding wildlife and removing wildlife from habitat to ensure the humane care and treatment of the wildlife.
- (3) In adopting rules authorized by subsection (2) of this section, the commission shall:
  - (a) Strive to protect public health;
  - (b) Consider any public health risks related to holding wildlife or transmitting zoonotic disease, including any public health risks identified by the Oregon Health Authority; and
  - (c) Consult with the authority.
- (4) No person to whom a wildlife holding or removal from habitat permit has been issued shall violate any of the terms or conditions thereof. [1973 c.723 §66; 2022 c.9 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.312 - Special restrictions on holding coyotes.**

- (1) Any rules promulgated by the State Fish and Wildlife Commission pursuant to ORS 497.308 that authorize the acquisition and holding in captivity of a coyote must require, among other matters:
  - (a) That the holder of the permit obtain for the animal rabies inoculations;
  - (b) That the animal must at all times wear an identification tag issued by the commission;
  - (c) That the holder of the permit notify the commission upon the death or the sale, transfer, removal from the state or other disposition of the animal;
  - (d) That the holder of the permit not abandon the animal; and
  - (e) That the holder of the permit cause the animal to be neutered.
- (2) The holder of a permit referred to in subsection (1) of this section is subject to the same liability and other requirements of ORS 609.135 to 609.190 as provided for dogs.
- (3) The holder of any permit referred to in subsection (1) of this section shall at all times be able to demonstrate to the satisfaction of the commission that the holder has physical custody of the animal or evidence of the death or other disposition of the animal in compliance with the provisions of this section and ORS 497.308.
- (4) Nothing in this section or in ORS 497.308 authorizes the acquisition and holding in captivity of any coyote not held in captivity at the State Fish and Wildlife Facility at Pendleton before September 10, 1976, or held pursuant to a scientific taking permit issued pursuant to ORS 497.298. [1977 c.247 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.318 - Revocation of scientific taking or wildlife holding and habitat removal permits.**

In accordance with any applicable provision of ORS chapter 183, the State Fish and Wildlife Commission may revoke a permit issued pursuant to ORS 497.298 or 497.308 if the commission determines that the holder of the permit has violated any of the terms or conditions thereof. Revocation of a permit is in addition to and not in lieu of any other penalty provided by law for violation of the terms or conditions of the permit. [1973 c.723 §67]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.325 - Sturgeon hatchery operation permits; conditions; permit restrictions; rules.**

- (1) A person may not operate a fish hatchery for those members of the family Acipenseridae, commonly known as green sturgeon or white sturgeon, without holding a permit therefor from the State Fish and Wildlife Commission.
- (2) Any permit issued pursuant to this section shall be subject to such terms and conditions as the commission considers appropriate to protect, perpetuate and enhance the sturgeon population of the Columbia River and other waters of this state.
- (3) The commission by rule shall specify:
  - (a) The number of permits under this section that may be issued each calendar year;
  - (b) The method for allocating the permits; and
  - (c) The standards and criteria under which a permit must be exercised.
- (4) When issuing a permit under this section, the commission may impose any additional conditions that the commission deems necessary to ensure compliance with this section.
- (5)(a) A permit issued under this section for a fish hatchery operated for commercial purposes may not authorize the use of green sturgeon or white sturgeon broodstock taken from the wild.
- (b) The commission shall annually collect the applicable fee under the fee schedule in ORS 497.061 for any permit issued under this section that allows the artificial propagation of green sturgeon or white sturgeon for commercial purposes. Payment of a fee under this subsection satisfies the payment of the fee required for a fish propagation license under ORS 497.252. [1989 c.1038 §2; 2007 c.342 §1; 2015 c.779 §30]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.327 - Priority for certain applications for permit for sturgeon hatchery operation.**

When considering an application for a permit under ORS 497.325, the State Fish and Wildlife Commission shall, to the greatest extent practicable, give priority to any person who holds a permit on December 31, 2007, unless the commission finds good cause not to give such priority. [2007 c.342 §2]

Note:

497.327 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 497 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.350 - Hunting restriction; generally.**

(1) No person younger than 12 years of age shall hunt antelope, black bear, cougar, deer, elk, mountain goat, mountain sheep or moose.

(2) No person younger than 14 years of age shall hunt with a firearm or bow and arrow unless the person is accompanied by an adult, or is hunting on land owned by the parent or legal guardian of the person. [1973 c.723 §68]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.360 - Hunter safety certificate; training program; youth hunter mentoring program; rules.**

(1) No person younger than 18 years of age shall hunt wildlife, except on the person's own land or land owned by the parent or legal guardian of the person, unless the person:

(a) Has in possession a certificate, issued by the State Fish and Wildlife Commission or by an agency of another state, stating that the person has satisfactorily completed a course prescribed or approved by the commission in the safe handling of lawful hunting weapons; or

(b) Is participating in a supervised hunt as provided in subsection (3) of this section.

(2) The commission, by rule, shall prescribe and administer a hunter safety training program to provide instruction in the safe handling of lawful hunting weapons. The program may also include instruction on wildlife and natural resource conservation, first aid and survival and such other subjects as the commission considers desirable to promote good outdoor conduct and respect for the rights and property of others. The commission may cooperate and enter into agreements with other public or private agencies and individuals in carrying out the provisions of this subsection. The Department of State Police and the Department of Education are directed to cooperate with the commission in carrying out the provisions of this section.

(3)(a) The commission, by rule, shall prescribe and administer a youth hunter mentoring program that allows a person who is between nine and 16 years of age to hunt while in the presence of a supervisory hunter who is 21 years of age or older and who holds the appropriate licenses, tags and permits issued pursuant to the wildlife laws. Only one lawful hunting weapon may be carried during a supervised hunt under this subsection. A person participating in a supervised hunt under this subsection may hunt wildlife under the same conditions applicable to the supervisory hunter's licenses, tags and permits.

(b) The commission, by rule, may prescribe any relevant safety and ethical standards for participation in a supervised hunt under this subsection. [1973 c.723 §69; 2007 c.352 §1; 2017 c.77 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.400 - Prohibited conduct.**

No person shall:

(1) Apply for, obtain or possess for personal use or for the use of any other person more licenses, tags or permits issued by the State Fish and Wildlife Commission than are authorized for personal use during the current year by the wildlife laws and rules promulgated pursuant thereto.

(2) Alter, borrow, loan or transfer to another person any license, tag or permit issued by the commission.

(3) In applying for a license, tag or permit issued by the commission, knowingly make any false statement of any information required by the application regarding the person in whose name the license, tag or permit is to be issued.

(4) Possess any license, tag or permit that has been altered, borrowed, loaned or transferred or for which any false statements were knowingly made in applying therefor.

(5) Apply for or obtain any license, tag or permit issued by the commission when civil damages due pursuant to ORS 496.705, moneys due the State Department of Fish and Wildlife from court-ordered restitutions for violations of the wildlife laws or moneys due the commission under ORS 496.992 (14) have not been paid. [1973 c.723 §70; 1981 c.108 §2; 1987 c.213 §3; 2018 c.14 §2; 2019 c.274 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.415 - Revocation or denial of licenses, tags or permits for wildlife law violations or failure to comply with citation.**

(1) When any person is convicted of a violation of law or any rule adopted pursuant thereto or otherwise fails to comply with the requirements of a citation in connection with such violation as provided in subsection (2) of this section, the court may order the State Fish and Wildlife Commission to revoke all licenses, tags and permits issued to that person pursuant to the wildlife laws.

Revocation of licenses, tags and permits is in addition to and not in lieu of other penalties provided by law.

(2) The license, tag and permit revocation provisions of subsection (1) of this section apply to the following persons:

(a) Any person who is convicted of a violation of the wildlife laws, or any rule adopted pursuant thereto, or who otherwise fails to comply with the requirements of a citation in connection with any such offense.

(b) Any person who is convicted of a violation of ORS 164.245, 164.255, 164.265, 164.345, 164.354 or 164.365 committed while the person was angling, taking shellfish, hunting or trapping or who otherwise fails to comply with the requirements of a citation in connection with any such offense.

(c) Any person who is convicted of a violation of ORS 166.630 or 166.638 committed while hunting or who otherwise fails to comply with the requirements of a citation in connection with any such offense.

(d) Any person who is convicted of a violation of ORS 166.155 or 166.165 committed while the person was angling, taking shellfish, hunting or trapping or while the person was on the waters of this state or on publicly owned land used for outdoor recreation.

(3) When a court orders the revocation of a license, tag or permit pursuant to this section, the court shall take up any such licenses, tags and permits and forward them, together with a copy of the revocation order, to the commission. Upon receipt thereof, the commission shall cause revocation of the appropriate licenses, tags and permits in accordance with the court order.

(4) For purposes of the Wildlife Violator Compact:

(a) The commission shall suspend a violator's license as defined in ORS 496.750 for failure to comply with the terms of a citation from a party state. A copy of a report of failure to comply from the licensing authority of the issuing state shall be conclusive evidence. Suspension under this paragraph commences on the date the commission issues a final order pursuant to the provisions of ORS chapter 183 to suspend the license in this state. The period of suspension under this paragraph is the period provided by Oregon law or such longer period as provided by commission rule based on the period of suspension imposed by the party state.

(b) The commission shall revoke a violator's license as defined in ORS 496.750 for a conviction in a party state. A report of conviction from the licensing authority of the issuing state shall be conclusive evidence. Revocation under this paragraph commences on the date the commission issues a final order pursuant to the provisions of ORS chapter 183 to revoke the license in this state. The period of revocation under this paragraph is the period provided by Oregon law or such longer period as provided by commission rule based on the period of revocation imposed by the party state.

(5)(a) No person who has had a license, tag or permit revoked pursuant to this section for the first time shall apply for or obtain another such license, tag or permit for the period of 36 months from the date the court or commission ordered the revocation.

(b) Upon having a license, tag or permit revoked for a second time pursuant to this section, no person shall apply for or obtain another such license, tag or permit for the period of five years.

(c) Upon having a license, tag or permit revoked for a third or subsequent time pursuant to this section, a person is prohibited from applying for or obtaining another such license, tag or permit.

(6)(a) If a person convicted of conduct described in subsection (2) of this section does not possess at the time of conviction those licenses, tags and permits issued pursuant to the wildlife laws that the court would have revoked pursuant to this section, the court shall specify by order those licenses, tags and permits that would have been revoked and shall forward a copy of the order to the commission. No person who is the subject of such a court order shall apply for, possess or obtain another such license, tag or permit for the period of 36 months from the date of the order.

(b) Upon being the subject of a court order under this subsection for a second time, no person shall apply for or obtain another such license, tag or permit for the period of five years.

(c) Upon being the subject of a court order under this subsection for a third time, a person is prohibited from applying for or obtaining another such license, tag or permit. [1973 c.723 §71; 1975 c.578 §4; 1977 c.350 §4; 1979 c.603 §3; 1981 c.900 §2; 1981 c.901 §3; 1983 c.740 §203; 1989 c.1056 §3; 1999 c.1051 §273; 2003 c.656 §9; 2007 c.257 §1; 2009 c.778 §5; 2010 c.58 §1; 2011 c.597 §64; 2021 c.393 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.423 - Outfitter or guide unlawfully taking or killing wildlife.**

(1) In addition to any other penalty authorized by law, a court may order the State Fish and Wildlife Commission to revoke all licenses, tags and permits issued to a person in the manner provided for in ORS 497.415 if the person:

(a) Is, as provided for in ORS 496.992, convicted of a violation of the wildlife laws, or any rule adopted pursuant to the wildlife laws, that involves the taking or killing of wildlife with a culpable mental state; and

(b) Was, at the time the violation occurred, acting or offering to act as an outfitter and guide subject to registration with the State Marine Board pursuant to ORS 704.020.

(2) Notwithstanding ORS 497.415 (5), upon having a license, tag or permit revoked under subsection (1) of this section, a person is prohibited from applying for or obtaining another such license, tag or permit. [2017 c.293 §2]

Note:

497.423 was added to and made a part of the wildlife laws by legislative action but was not added to ORS chapter 497 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses,**

**Tags and Permits Section 497.441 - Prohibited activities by those whose license, tag or permit has been revoked.**

No person who has had a license, tag or permit revoked pursuant to ORS 497.415 shall engage in the activity for which the license, tag or permit is required:

- (1) During the remainder of the period for which the license, tag or permit was issued; or
  - (2) During the period for which the person is prohibited by law from applying for or obtaining another such license, tag or permit.
- [1981 c.86 §2; 2009 c.778 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.505**

[Amended by 1957 c.259 §1; renumbered 496.006]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.655 - Voluntary contributions; county predatory animal control program; State Department of Fish and Wildlife duties.**

(1) As used in this section:

- (a) "Fur-bearing mammal," "hunt" and "wildlife" have the meanings given those terms in ORS 496.004.
- (b) "Predatory animals" means those animals listed in ORS 610.002, black bears, cougars, fur-bearing mammals and gray wolves.
- (2)(a) Each application for the purchase and issuance of a license, tag or permit to hunt wildlife pursuant to ORS 497.102 or 497.112 must include a separate section under which the applicant may make a voluntary contribution to be used for predatory animal control, to the extent allowable under federal and state law, in the county or counties in which the license, tag or permit allows the person to hunt.
- (b) A voluntary contribution made under this section does not convey a privilege to hunt wildlife, and is considered separate from any moneys paid by the applicant for the issuance of a license, tag or permit.
- (c) Before developing a predatory animal control program, a county shall consult with the State Department of Fish and Wildlife or the State Department of Agriculture, depending on the predatory animals that are part of the program.
- (d) Voluntary contributions received under this section shall be deposited in the Wildlife Conservation Fund established under ORS 497.660.
- (3)(a) The State Department of Fish and Wildlife shall keep track of voluntary contributions made under this section. Each quarter the department shall pay to each county in which hunting took place under a license, tag or permit issued under the wildlife laws an amount equal to the total of the voluntary contributions made in association with applications for licenses, tags or permits allowing persons to hunt in the county.
- (b) If a license, tag or permit allows the holder to hunt in an area that includes land within more than one county, the department shall designate a proportionate share of any voluntary contribution under this section to each county based on the percentage of the area that is in each county. [2011 c.728 §1]

Note:

497.655 and 497.660 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 497 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.660 - Wildlife Conservation Fund; sources; uses.**

- (1) The Wildlife Conservation Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Wildlife Conservation Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Department of Fish and Wildlife to be paid to counties as provided in ORS 497.655.
- (2) The Wildlife Conservation Fund shall consist of voluntary contributions received by the State Department of Fish and Wildlife pursuant to ORS 497.655. [2011 c.728 §2]

Note:

See note under 497.655.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.760**

[Amended by 1959 c.217 §1; 1967 c.501 §1; 1973 c.723 §59; renumbered 497.208]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.840**

[1965 c.224 §1; 1971 c.62 §1; 1973 c.723 §57; renumbered 497.162]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 497 - Licenses, Tags and Permits Section 497.990**

[Subsection (7) of 1965 Replacement Part enacted as 1955 c.295 §2; 1959 c.352 §2; subsection (8) of 1965 Replacement Part enacted as 1961 c.335 §5; 1967 c.523 §2; repealed by 1973 c.723 §130]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.002 - Wildlife as state property; taking, angling, hunting or trapping in violation of wildlife law or rules prohibited.**

(1) Wildlife is the property of the state. No person shall angle for, take, hunt, trap or possess, or assist another in angling for, taking, hunting, trapping or possessing any wildlife in violation of the wildlife laws or of any rule promulgated pursuant thereto.

(2) No person shall angle for, take, hunt or trap, or assist another in angling for, taking, hunting or trapping any wildlife while intentionally violating ORS 164.245 to 164.270 or 498.120. [1973 c.723 §73; 1993 c.440 §1; 2003 c.656 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.006 - Chasing or harassing wildlife prohibited.**

Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall chase, harass, molest, worry or disturb any wildlife except while engaged in lawfully angling for, taking, hunting or trapping such wildlife. [1973 c.723 §74; 2003 c.656 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.012 - Taking wildlife causing damage, posing public health risk or that is public nuisance; rules.**

(1) Nothing in the wildlife laws is intended to prevent any person from taking any wildlife that is causing damage, is a public nuisance or poses a public health risk on land that the person owns or lawfully occupies. However, no person shall take, pursuant to this subsection, at a time or under circumstances when such taking is prohibited by the State Fish and Wildlife Commission, any game mammal or game bird, fur-bearing mammal or nongame wildlife species, unless the person first obtains a permit for such taking from the commission.

(2) Subsection (1) of this section does not:

(a) Require a permit for the taking of cougar, bobcat, red fox or bear pursuant to that subsection. However, any person who takes a cougar, bobcat, red fox or bear must have in possession written authority therefor from the landowner or lawful occupant of the land that complies with subsection (4) of this section.

(b) Require the commission to issue a permit for the taking of any wildlife species for which a U. S. Fish and Wildlife Service permit is required pursuant to the Migratory Bird Treaty Act (16 U.S.C. 703 to 711), as amended.

(c) Require a permit for the taking of a beaver:

(A) If the beaver damages or imminently threatens infrastructure or agricultural crops.

(B) By an owner of small forestland, as defined in ORS 498.062, or a designee of the owner, if the beaver is causing damage or has the potential to cause damage.

(3) Any person who takes, pursuant to subsection (1) of this section, any cougar, bobcat, red fox, bear, game mammal, game bird, fur-bearing mammal or wildlife species whose survival the commission determines is endangered shall immediately report the taking to a person authorized to enforce the wildlife laws, and shall dispose of the wildlife in such manner as the commission directs. In determining procedures for disposal of bear and cougar, the commission shall direct the State Department of Fish and Wildlife to first offer the animal to the landowner incurring the damage.

(4) The written authority from the landowner or lawful occupant of the land required by subsection (2) of this section for the taking of cougar, bobcat, red fox or bear must set forth all of the following:

(a) The date of issuance of the authorization;

(b) The name, address, telephone number and signature of the person granting the authorization;

(c) The name, address and telephone number of the person to whom the authorization is granted;

(d) The wildlife damage control activities to be conducted, whether for bear, cougar, red fox or bobcat; and

(e) The expiration date of the authorization, which shall be not later than one year from the date of issuance of the authorization.

(5) Any regional office of the State Department of Fish and Wildlife ordering the disposal of an animal under subsection (3) of this section shall file a report with the State Fish and Wildlife Director within 30 days after the disposal. The report shall include but need not be limited to the loss incurred, the financial impact and the disposition of the animal. The director shall compile all reports received under this subsection on a bimonthly basis. The reports compiled by the director shall be available to the public upon request.

(6) ORS 498.014 governs the taking of wolves that are causing damage.

(7)(a) The commission shall adopt rules governing the taking of beavers authorized by subsection (1) of this section.

(b) The rules must:

(A) Require a person who takes a beaver to report the taking, even if the taking is authorized by the commission for emergency purposes.

(B) Address the taking of beavers that occurs on private land and the taking of beavers that occurs during a time other than an

authorized trapping season.

(C) Be consistent with the provisions of subsection (2)(c) of this section.

(c) In adopting the rules, the commission shall consider:

(A) Ways to encourage coexistence with beavers.

(B) The use of tools to manage or prevent damage caused by beavers, including tools such as tree protection, pond levelers and culvert protection systems.

(C) Whether to require a person who takes a beaver to report the location of the taking, including the watershed or subwatershed in which the taking occurred.

(D) Under which conditions to authorize a person to take a beaver without a permit if the beaver is causing damage to property or infrastructure.

(8) A person who takes a beaver pursuant to subsection (2)(c)(A) of this section shall report the taking as required by rules adopted by the commission under subsection (7) of this section.

(9) Rules adopted pursuant to subsection (7) of this section do not apply to the taking of a beaver on privately owned forestland if the taking is subject to the provisions of ORS 498.061, 498.062 or 498.063.

(10) The department shall publish data related to takings of beavers in an annual report and shall make the report available to the public.

(11) As used in this section:

(a) "Damage" means loss of or harm inflicted on land, livestock or agricultural or forest crops.

(b) "Forestland" has the meaning given that term in ORS 527.620.

(c) "Nongame wildlife" has the meaning given that term in ORS 496.375.

(d) "Public nuisance" means loss of or harm inflicted on gardens, ornamental plants, ornamental trees, pets, vehicles, boats, structures or other personal property.

(e) "Small forestland" has the meaning given that term in ORS 498.062. [1973 c.723 §75; 1977 c.136 §2; 1979 c.399 §3; 1985 c.332 §1; 1985 c.489 §1a; 1999 c.531 §1; 2003 c.248 §1; 2013 c.626 §4; 2023 c.445 §2]

Note:

Sections 3 and 4, chapter 445, Oregon Laws 2023, provide:

Sec. 3.

The State Fish and Wildlife Commission shall adopt rules required under ORS 498.012 (7) on or before December 31, 2024. [2023 c.445 §3]

Sec. 4.

(1) The amendments to ORS 610.002 by section 1 of this 2023 Act become operative on the date the State Fish and Wildlife Commission adopts the rules required under ORS 498.012 (7).

(2) The commission shall notify the Legislative Counsel upon adoption of rules required under ORS 498.012 (7). [2023 c.445 §4]

Note:

Sections 1 to 3, chapter 331, Oregon Laws 2017, provide:

Sec. 1. Urban deer and elk population control.

(1) As used in this section, "food bank or other charitable organization" has the meaning given that term in ORS 315.154.

(2) The State Fish and Wildlife Commission shall develop and adopt by rule a pilot program for urban deer and elk population control that:

(a) Following the passage by a city of an ordinance, resolution or order declaring that a deer or elk population has risen to a level that constitutes a public nuisance, allows the city to petition the State Department of Fish and Wildlife for assistance in reducing the deer or elk population level within city limits; and

(b) In cities where the department determines that a deer or elk population constitutes a public nuisance, allows a local government body or an appropriate agent to take the deer or elk for the purpose of reducing the deer or elk population level.

(3) To implement the pilot program under this section, the department shall consult with:

(a) The governing bodies of cities where high urban deer or elk populations are a concern; and

(b) Food banks or other charitable organizations that serve the governing bodies described in paragraph (a) of this subsection.

(4) Rules for the pilot program adopted by the commission must include, but need not be limited to:

(a) Provisions for the means and manner by which deer and elk may be taken under the pilot program, which must include a prohibition on taking deer or elk by dart or lethal injection;

(b) Provisions for ensuring, to the extent feasible, that the edible portions of any deer or elk taken under the pilot program are distributed, at the expense of the local government, to a local food bank or other charitable organization;

(c) A requirement that, if the hides and antlers of a deer or elk taken under the program are not sold by the local government to persons licensed under ORS 498.019, that the antlers must be surrendered to the department; and

(d) Provisions for ensuring that the number of deer and elk taken under the pilot program do not exceed the number necessary to be taken to reduce the deer or elk population to a level that no longer constitutes a public nuisance.

(5) Prior to exercising any power granted by the pilot program adopted under this section, the governing body of a city shall adopt by ordinance restrictions on placing, depositing, distributing, storing or scattering food, garbage or any other attractant so as to knowingly constitute a lure, attractant or enticement for deer or elk. [2017 c.331 §1; 2021 c.144 §1]

Sec. 2. Report on pilot program.

(1) The State Department of Fish and Wildlife shall first allow a local government to engage in activities related to deer pursuant to the pilot program adopted under section 1, chapter 331, Oregon Laws 2017, no later than January 1, 2019.

(2) The department may first allow a local government to engage in activities related to elk pursuant to the pilot program described in section 1, chapter 331, Oregon Laws 2017, as amended by section 1 of this 2021 Act, on or after the effective date of this 2021 Act [January 1, 2022].

(3) The department shall prepare and submit a report in the manner provided in ORS 192.245 on the implementation of the urban deer and elk population control pilot program, that may include recommendations for legislation, to the committees of the Legislative Assembly related to the environment and natural resources during the 2027 regular session of the Legislative Assembly. [2017 c.331 §2; 2021 c.144 §2]

Sec. 3.

Sections 1 and 2 of this 2017 Act are repealed on January 1, 2029. [2017 c.331 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.014 - Taking of wolves by State Department of Fish and Wildlife to address chronic depredation; taking by landowners; rules.**

(1) As used in this section:

(a) "Chronic depredation":

(A) Means at least four confirmed qualifying incidents of depredation by wolves upon livestock or working dogs within a consecutive six-month period during phase 1 of the Oregon Wolf Conservation and Management Plan adopted by the State Fish and Wildlife Commission; or

(B) Has the meaning given that term by the commission for periods of time after the expiration of phase 1 of the Oregon Wolf Conservation and Management Plan adopted by the State Fish and Wildlife Commission.

(b) "Livestock" has the meaning given that term in ORS 610.150.

(c) "Working dog" has the meaning given that term in ORS 610.150.

(2) Nothing in the wildlife laws prevents the State Fish and Wildlife Commission or the State Department of Fish and Wildlife from lethally taking wolves to address chronic depredation pursuant to rules adopted by the commission, regardless of the management status of wolves under the Oregon Wolf Conservation and Management Plan adopted by the commission.

(3) Pursuant to rules adopted by the State Fish and Wildlife Commission, a person who owns or lawfully occupies land may take wolves on land that is owned or occupied by the person, without a permit issued by the commission, if:

(a) The person has not used bait to attract wolves or taken any other intentional action to attract wolves other than engaging in regular and ordinary livestock management practices;

(b) The taking is allowed under the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 et seq.); and

(c) The wolves are:

(A) Caught in the act of biting, wounding or killing livestock or working dogs; or

(B) Caught in the act of chasing livestock or working dogs. If the taking in response to chasing occurs during phase 1 of the Oregon Wolf Conservation and Management Plan adopted by the commission:

(i) A person must have first undertaken nonlethal actions as specified by the State Department of Fish and Wildlife to minimize conflict between the wolves and livestock or working dogs; and

(ii) The taking must occur during a time period in which the department has determined a situation of chronic depredation exists.

(4) A person who is a landowner or a lawful occupant of land may authorize another person to enter the land for the purpose of taking wolves under subsection (3) of this section on behalf of the landowner or occupant. The authorization must be in writing and must include:

(a) The date of issuance of the authorization;

(b) The name, address, telephone number and signature of the person granting the authorization;

(c) The name, address and telephone number of the person to whom the authorization is granted; and

(d) The expiration date of the authorization, which may not be later than one year from the date of issuance of the authorization.

(5) The person taking wolves on behalf of a landowner or lawful occupant under subsection (4) of this section must be carrying the written authorization when wolves are taken.

(6) If a person takes wolves under the provisions of this section, the person shall report the taking to the State Department of Fish and Wildlife within 24 hours and make all reasonable efforts to preserve, and to keep undisturbed, the scene of the taking. The department and the Oregon State Police shall immediately investigate the report of the taking to determine compliance with the provisions of this section. [2013 c.626 §2]

Note:

Sections 3 and 4, chapter 192, Oregon Laws 2023, provide:

Sec. 3.

(1) On or before September 15, 2024, the State Department of Fish and Wildlife shall submit a report, in the manner prescribed in ORS 192.245, to the committees or interim committees of the Legislative Assembly related to natural resources.

(2) The report must include:



(a) Data on conflicts between wolves and livestock.

(b) A summary of discussions, during the department's five-year review of the Oregon Wolf Conservation and Management Plan, related to the release of wolf location data, including any discussion of other states' models for sharing wolf location data with livestock producers and others. [2023 c.192 §3]

Sec. 4.

Section 3 of this 2023 Act is repealed on January 2, 2025. [2023 c.192 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.016 - Taking crippled or helpless wildlife.**

Nothing in the wildlife laws is intended to prohibit any person from killing any crippled or helpless wildlife when the killing is done for a humane purpose. Any person so killing any wildlife shall immediately report such killing to a person authorized to enforce the wildlife laws, and shall dispose of the wildlife in such manner as the State Fish and Wildlife Commission directs. [1973 c.723 §76]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.018 - Commercial cervid attractants.**

(1) As used in this section:

(a) "Chronic wasting disease" means a type of spongiform encephalopathy that is transmissible among cervids and typified by chronic and fatal weight loss.

(b) "Commercial cervid attractant" means a marketed product that contains or is derived from cervid urine and is designed for use in luring, attracting or enticing a cervid.

(2) The Legislative Assembly finds and declares that:

(a) Commercial cervid attractants sometimes contain the source of chronic wasting disease;

(b) There is no reliable test for determining the presence or absence of chronic wasting disease in commercial cervid attractants; and

(c) Banning the possession and use of commercial cervid attractants will reduce the threat to the cervid population of this state from chronic wasting disease.

(3) A person may not possess or use commercial cervid attractants. [2019 c.396 §2]

Note:

498.018 was added to and made a part of the wildlife laws by legislative action but was not added to ORS chapter 498 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.019 - Purchase, sale or exchange of hides, antlers and other parts of deer, elk and antelope; records required.**

(1) If the State Fish and Wildlife Commission, pursuant to its authority under ORS 498.022, establishes a license for the purchase of deer, elk and antelope hides and antlers, any person holding such license shall also be authorized to purchase, sell or exchange, or offer to purchase, sell or exchange, the hooves, dewclaws and sinews of deer, elk and antelope.

(2) A licensee under subsection (1) of this section shall maintain a record of transactions involving specimens of deer, elk or antelope. The record shall be in such form and contain such information as the commission, by rule, prescribes to accurately indicate the date, type and number of specimens received and the name and address of the person with whom such transaction was made.

[1995 c.711 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.021 - Short title.**

This section and the amendments to ORS 498.022 by section 2, chapter 3, Oregon Laws 2017, shall be known and cited as the "Wildlife Trafficking Prevention Act." [2017 c.3 §1]

Note:

498.021 was enacted into law but was not added to or made a part of ORS chapter 498 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.022 - Purchase, sale, exchange or possession of wildlife or wildlife parts or products; rules; penalty.**

(1) Except as the State Fish and Wildlife Commission by rule may provide otherwise, but subject to subsection (2) of this section, a person may not purchase, sell or exchange, or offer to purchase, sell or exchange any wildlife, or any part of any wildlife.

(2)(a) Except as provided in paragraphs (b) and (c) of this subsection, and notwithstanding any other provision of law, or rule enacted pursuant to subsection (1) of this section, a person may not purchase, sell, offer for sale or possess with intent to sell any

item that the person knows or should know is a covered animal species part or product.

(b) This subsection does not apply:

(A) To employees or agents of the federal or state government undertaking any law enforcement activities pursuant to federal or state law or any mandatory duties required by federal or state law;

(B) When the activity is expressly authorized by federal law;

(C) When the activity involves a species that is subject to a federal management plan under Title III of P.L. 94-265 (16 U.S.C. 1851 to 1869), as amended;

(D) When the activity is exempt under ORS 498.257 (3) or 509.160 (3);

(E) When the covered animal species part or product is a fixed component of an antique that is not made wholly or primarily of the covered animal species part or product, provided that the antique status is established by the owner or seller of the antique with documentation evidencing provenance and showing the covered animal species part or product to be not less than 100 years old and provided that the total weight of the covered animal species part or product is less than 200 grams;

(F) When the covered animal species part or product is a fixed component of a musical instrument, including, but not limited to, string instruments and bows, wind and percussion instruments and pianos, provided that the covered animal species part or product was legally acquired and provided that the total weight of the covered animal species part or product is less than 200 grams;

(G) To the noncommercial transfer of ownership of a covered animal species part or product to a legal beneficiary of an estate, trust or other inheritance;

(H) To the possession of a covered animal species part or product by any enrolled member of a federally recognized Indian tribe; or

(I) To the sale of a covered animal species part or product by or to a bona fide scientific or educational institution when the sale is made pursuant to a written gift agreement or similar instrument entered into before July 1, 2017.

(c)(A) Unless otherwise prohibited by federal law, the State Department of Fish and Wildlife may permit the purchase, sale or donation of a lawfully acquired covered animal species part or product by or to a bona fide scientific or educational institution for scientific or educational purposes on or after July 1, 2017.

(B) For each covered animal species part or product that is purchased, sold or donated under this paragraph, the bona fide scientific or educational institution shall:

(i) Keep documentation from the transaction detailing the type of part or product acquired and the source of the part or product; and

(ii) Provide the department with a copy of the documentation described in sub-subparagraph (i) of this subparagraph.

(d) There is a presumption of possession with intent to sell a covered animal species part or product when the part or product is possessed by a retail or wholesale establishment or other forum engaged in the business of buying or selling of similar items. This rebuttable presumption does not preclude a finding of intent to sell based on any other evidence that may serve to independently establish such intent.

(e) Each violation of this subsection is punishable by a civil penalty not to exceed \$6,500 or an amount equal to two times the total value of the covered animal species part or product that is the subject of the violation, whichever is higher. The civil penalty authorized by this paragraph shall be imposed in the manner provided by ORS 183.745.

(f) Any covered animal species part or product that is subject to seizure by or forfeiture to the department may not be sold by the department.

(g) The commission may adopt rules necessary for the implementation of this subsection, including rules restricting the purchase, sale, offer for sale or possession with intent to sell of parts or products of any animal species that so closely resemble in appearance parts or products of a covered animal species that law enforcement personnel would have substantial difficulty in attempting to differentiate between the species.

(h) As used in this subsection:

(A) "Bona fide scientific or educational institution" means:

(i) A career school granted authority to operate under ORS 345.010 to 345.340;

(ii) A community college established under ORS chapter 341;

(iii) An education service district as defined in ORS 334.003;

(iv) The Oregon Health and Science University;

(v) A public high school;

(vi) A public university listed in ORS 352.002;

(vii) Any institution not otherwise listed in this subparagraph that is exempt from ORS 348.594 to 348.615 under ORS 348.597 (2); or

(viii) A zoo or aquarium that is accredited under standards that equal or exceed the accreditation standards of the Association of Zoos and Aquariums in effect on May 18, 2017.

(B) "Covered animal species" means any species of:

(i) Elephant;

(ii) Rhinoceros;

(iii) Whale;

(iv) Tiger;

(v) Lion;

(vi) Leopard;

- (vii) Cheetah;
- (viii) Jaguar;
- (ix) Pangolin;
- (x) Sea Turtle;
- (xi) Shark (excluding spiny dogfish as defined in ORS 498.257); or
- (xii) Ray.

(C) "Covered animal species part or product" means any item that contains, or is wholly or partially made from, any covered animal species.

(D) "Person" means any individual, firm, partnership, joint venture, corporation, limited liability company, joint stock company, estate, trust, receiver, syndicate, association or other legal entity.

(E) "Sale" or "sell" means any act of selling, trading or bartering for monetary or nonmonetary consideration and includes any transfer of ownership that occurs in the course of a commercial transaction, but does not include a nonmonetary transfer of ownership by way of gift, donation or bequest.

(F) "Total value" means either the fair market value or the actual price paid for a covered animal species part or product, whichever is greater. [1973 c.723 §77; 2017 c.3 §2; 2017 c.107 §1]

Note:

The repeal of statutes in ORS chapter 345 by section 17, chapter 273, Oregon Laws 2023, becomes operative July 1, 2024. See section 19, chapter 273, Oregon Laws 2023. Until July 1, 2024, a reference to the series 345.010 to 345.340 should be considered a reference to the series 345.010 to 345.450. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.025**

[Amended by 1961 c.276 §1; renumbered 498.820]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.026 - Transaction in threatened or endangered wildlife species prohibited.**

(1) Except as provided in subsection (2) of this section, no person shall take, import, export, transport, purchase or sell, or attempt to take, import, export, transport, purchase or sell, any threatened species or endangered species, or the skin, hides or other parts thereof, or any article made in whole or in part from the skin, hide or other parts of any threatened species or endangered species.

(2) Nothing in subsection (1) of this section is intended to prevent the taking, importation, transportation or sale of any threatened species or endangered species in such manner as may be authorized in ORS 496.172, 497.218 to 497.238, 497.298 or 497.308.

(3) Nothing in this section applies to the resale of used skins, hides or other parts of a threatened species or endangered species or an article made in whole or part thereof if the seller acquired the item sold prior to October 5, 1973. [1973 c.425 §2; 1977 c.242 §1; 1987 c.686 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.029 - Purchase, sale or exchange of fox, skunk or raccoon prohibited; exceptions.**

(1) No person shall offer for sale, trade, barter or exchange as a household pet any fox, skunk or raccoon.

(2) An animal specified in subsection (1) of this section may be offered for sale, trade, barter or exchange to a public park, zoo, museum or educational institution for educational, medical, scientific or exhibition purposes if the organization possesses a permit from the State Fish and Wildlife Commission. The commission may refuse to issue a permit if the commission finds that the organization requesting the permit does not have physical facilities adequate to maintain the animal in health and safety and to prevent the escape of the animal from confinement. [1979 c.560 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.032 - Angling or hunting for compensation in violation of wildlife laws or rules prohibited.**

No person shall angle for or hunt, or offer to angle for or hunt, for compensation, any wildlife in violation of any provision of the wildlife laws or any rule promulgated pursuant thereto. [1973 c.723 §78]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.036 - Possession in field of skinned or plucked wildlife prohibited.**

Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall possess in the field or forest, or in transit from the field or forest, the carcass of any wildlife that has been skinned, plucked or mutilated in any manner so that the sex, size or species of the wildlife cannot be determined. [1973 c.723 §79]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.038 - Sale of wildlife for human consumption prohibited.**

(1) In this state, a person may not sell, offer for sale or otherwise participate in the sale or offer for sale of wildlife that is sold alive for the purpose of human consumption.

(2) This section does not apply to the otherwise lawful sale, offer for sale or other participation in the sale or offer for sale of an animal:

(a) Utilized in farm use, as defined in ORS 308A.056.

(b) Described in ORS 506.011 that is lawfully raised or harvested. [2023 c.9 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.042 - Removal of parts of wildlife and waste of wildlife prohibited.**

(1) Except as provided in subsection (2) of this section, a person may not remove the following parts from the carcass of any wildlife and utilize only those parts so removed:

(a) From the carcass of any game mammal or game bird, the head, antlers, horns, hide or plumage.

(b) From the carcass of a black bear or cougar, the paws, gallbladder, sex organs or bones.

(c) From the carcass of a sturgeon, salmon or steelhead, the eggs.

(2) Subsection (1) of this section does not apply to the removal of wildlife parts by a person:

(a) When engaged in lawful trapping activities.

(b) When utilizing those game mammals or game birds that the State Fish and Wildlife Commission by rule declares to be inedible.

(3) No person shall waste any edible portion of any game mammal, game bird or game fish or the pelt of any fur-bearing mammal. [1973 c.723 §80; 2016 c.37 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.046 - Making toxic substances accessible to wildlife prohibited.**

No person shall place any toxic substance where it is accessible to wildlife unless the substance used and the method of application is approved by the state governmental agencies having authority to prescribe or implement environmental control programs. [1973 c.723 §81]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.048 - Devices propelling cyanide.**

A person may not use an M44 cyanide device, cyanide trap, cyanide gun or similar device designed to propel a dose of sodium cyanide into an animal for the purpose of taking the animal. [2019 c.81 §2]

Note:

498.048 was added to and made a part of the wildlife laws by legislative action but was not added to ORS chapter 498 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.052 - Releasing domestically raised or imported wildlife without permit prohibited.**

No person shall release within this state any domestically raised wildlife or wildlife brought to this state from any place outside this state unless the person first obtains a permit therefor from the State Fish and Wildlife Commission. [1973 c.723 §82]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.056 - Aiming rifle from moving motor vehicle prohibited.**

No person who is the occupant of a motor vehicle that is moving on a road open to the public shall aim a rifle or other firearm from the motor vehicle at a time when the hunting of wildlife is lawful. [1993 c.440 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.061 - Reporting takings of beaver; rules.**

(1) As used in this section:

(a) "Beaver" means a member of the species *Castor canadensis*.

(b) "Forestland" has the meaning given that term in ORS 527.620.

(2) A person that takes a beaver on privately owned forestland shall report the taking to the State Department of Fish and Wildlife,

including the reason for the taking, the location of the taking and the number of beavers taken.

(3) The department shall:

(a) Annually submit a summary of the takings of beaver reported under subsection (2) of this section to the State Fish and Wildlife Commission to help the commission better understand the scale of trapping on privately owned forestland.

(b) Make the summary described in paragraph (a) of this subsection available to the public on a department website.

(4) The commission shall adopt rules to implement this section. [2022 c.33 §22]

Note:

498.061 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (note below).

Note:

Sections 54 and 60 to 64, chapter 33, Oregon Laws 2022, provide:

Sec. 54. Statement of legislative intent concerning habitat conservation plan and incidental take permit.

(1) The Legislative Assembly intends that the policies described in sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 9, 26 to 29, 40, 41 and 45 to 49 of this 2022 Act shall remain in effect only if:

(a) An incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, is issued on or before December 31, 2027;

(b) The State Board of Forestry has not made a finding that the habitat conservation plan imposes more than a de minimis difference in economic or resource impacts, at the level of landscapes, relative to rules adopted or amended as part of the rule package described in section 2 of this 2022 Act [527.711]; and

(c) The incidental take permit remains in effect.

(2) The legislative intent described in subsection (1) of this section is established by sections 55 to 64 of this 2022 Act. [2022 c.33 §54]

Sec. 60. Conditional repeals.

Sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act are repealed. [2022 c.33 §60]

Sec. 61. Operation of conditional provisions upon finding related to habitat conservation plan.

(1) Except as otherwise provided in sections 62 and 63 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative only if the State Board of Forestry finds, pursuant to section 55 (1) and (2) of this 2022 Act, that the habitat conservation plan described in section 55 (1) of this 2022 Act imposes more than a de minimis difference, as described in section 55 (1) of this 2022 Act.

(2) If the board finds, pursuant to section 55 (1) and (2) of this 2022 Act, that the habitat conservation plan described in section 55

(1) of this 2022 Act imposes more than a de minimis difference, as described in section 55 (1) of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on the 150th day after the date the board makes the finding. [2022 c.33 §61]

Sec. 62. Operation of conditional provisions upon revocation or invalidation of incidental take permit.

(1) Except as otherwise provided in sections 61 and 63 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative only if:

(a) Pursuant to section 55 (1) and (2) of this 2022 Act, the State Board of Forestry does not make a finding or finds that the habitat conservation plan described in section 55 (1) of this 2022 Act does not impose more than a de minimis difference, as described in section 55 (1) of this 2022 Act; and

(b) The incidental take permit is subsequently revoked or invalidated.

(2) If the events described in subsection (1)(a) and (b) of this section occur, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on the 240th day after the date that any appeals process related to the revocation or invalidation has been exhausted or foregone, whichever occurs first. [2022 c.33 §62]

Sec. 63. Operation of conditional provisions upon failure to issue incidental take permit on or before December 31, 2027.

(1) Except as otherwise provided in sections 61 and 62 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative only if an incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, is not issued on or before December 31, 2027.

(2) If an incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report is not issued on or before December 31, 2027, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on June 1, 2028. [2022

c.33 §63]

Sec. 64. Repeal of conditionally operative provisions.

Sections 59 and 62 of this 2022 Act are repealed on January 2, 2077. [2022 c.33 §64]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.062 - Takings of beaver by owners of forestland; rules.**

(1) As used in this section:

(a) "Beaver" means a member of the species *Castor canadensis*.

(b) "Forest practices" has the meaning given that term in ORS 527.620.

(c) "Forestland" has the meaning given that term in ORS 527.620.

(d) "Small forestland" means forestland whose owner owns or holds common ownership interest in less than 5,000 acres of forestland in this state.

(2) Notwithstanding ORS 498.012 (1), an owner of forestland, other than small forestland, or a designee of the owner, may take a beaver on the owner's forestland only if:

(a) The beaver apparently poses a threat to infrastructure.

(b) The owner or a designee of the owner first requests that the State Department of Fish and Wildlife address the threat to infrastructure apparently posed by the beaver.

(c) The owner or a designee of the owner waits 30 days after making the request described in paragraph (b) of this subsection before taking the beaver.

(3) If the department receives a request under subsection (2)(b) of this section, the department shall make a reasonable attempt to nonlethally relocate the beaver, as department resources allow, or otherwise address the threat to infrastructure apparently posed by the beaver, in consultation with the owner or a designee of the owner.

(4) Notwithstanding subsection (2) of this section and ORS 498.012 (1), if a beaver on privately owned forestland damages or imminently threatens infrastructure, an owner of forestland, other than small forestland, or a designee of the owner, may take the beaver without submitting a request to the department under subsection (2) of this section.

(5) An owner, or a designee of an owner, that takes a beaver under subsection (2) or (4) of this section must report the taking as described in ORS 498.061.

(6) In consultation with persons engaged in forest practices and other interested stakeholders, the department shall:

(a) Make reasonable attempts to nonlethally relocate beavers, as department resources allow.

(b) Develop a program for voluntarily relocating beavers.

(7) Notwithstanding ORS 496.162 (3), the State Fish and Wildlife Commission shall adopt rules to implement this section. [2022 c.33 §23]

Note:

498.062 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (second note following 498.061).

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.063 - Restrictions related to trapping of beavers.**

(1) As used in this section:

(a) "Forestland" has the meaning given that term in ORS 527.620.

(b) "Small forestland" has the meaning given that term in ORS 498.062.

(2) A person may not solicit or accept a fee for trapping a beaver on privately owned forestland other than small forestland, unless the trapping occurs pursuant to ORS 498.062 (2) or (4).

(3) A person that traps a beaver on privately owned forestland other than small forestland may not sell or exchange the pelt of the beaver, unless the trapping occurs pursuant to ORS 498.062 (2) or (4). [2022 c.33 §25]

Note:

498.063 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (second note following 498.061).

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.072 - Updating list of prohibited species; risk from zoonotic disease.**

(1) As used in this section, "prohibited species" means a species that may not be imported, possessed, sold, purchased, exchanged or transported in this state, as established by rule by the State Fish and Wildlife Commission.

(2) The commission shall review and update the list of prohibited species as the commission deems necessary to protect against significant risks to public health from zoonotic disease.

(3) If the Oregon Health Authority identifies a wildlife species as posing a significant risk to public health from zoonotic disease:

- (a) The authority shall notify the commission of the risk as soon as practicable.
- (b) After the notification, the commission shall review and update relevant rules related to wildlife as necessary to protect the public from the risk, including by adding the species to the list of prohibited species.
- (4) In making decisions under this section, the commission:
  - (a) Shall use the best available science.
  - (b) Shall consult with the authority and the State Department of Agriculture.
  - (c) May consult with bona fide scientific or educational institutions, as defined in ORS 498.022, and any other experts with relevant expertise.
- (5) In addition to actions described in this section, the commission may take any lawful action the commission deems necessary to protect the public from a potential for transmission of zoonotic disease.
- (6) Notwithstanding subsection (5) of this section, this section does not authorize commission action related to a species utilized in farm use, as defined in ORS 308A.056. [2022 c.9 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.073 - Suit for violation related to list of prohibited species.**

- (1) The State Fish and Wildlife Commission may institute suit for recovery of damages in the amount of \$2,500 for a violation of a rule related to the list of prohibited species, as defined in ORS 498.072.
- (2) Each action in violation of a rule related to the list of prohibited species that pertains to an individual animal constitutes a separate violation for purposes of this section.
- (3) The amount recoverable under this section shall be reduced by any amount paid to the commission under ORS 496.992 (15).
- (4) In a suit brought under this section, the court shall award to the prevailing party, in addition to costs and disbursements, reasonable attorney fees.
- (5) Civil damages awarded pursuant to this section are in addition to other penalties prescribed by the wildlife laws.
- (6) Any circuit or justice court has jurisdiction to try a case for recovery of damages for violation of a rule related to the list of prohibited species as defined in ORS 498.072. [2022 c.9 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.102 - Use of dogs to hunt or track game mammals or birds.**

- (1) Any dog that is not wearing a collar with a license number thereon in compliance with ORS 609.100 that is found unlawfully hunting, running or tracking any game mammal or game bird may be killed at such time by any person authorized to enforce the wildlife laws.
- (2) If a dog that is found unlawfully hunting, running or tracking any game mammal or game bird is wearing a collar with a license number thereon in compliance with ORS 609.100, the owner of the dog shall be notified by any person authorized to enforce the wildlife laws. If the owner or reputed owner of the dog disclaims ownership of the dog, the dog may be killed at such time by a person authorized to enforce the wildlife laws.
- (3) If the owner of a dog has been notified that the dog has been found unlawfully hunting, running or tracking game mammals or game birds and thereafter fails to prevent the dog from unlawfully hunting, running or tracking game mammals or game birds, such dog may be killed by any person authorized to enforce the wildlife laws.
- (4) No person shall permit any dog the person owns to unlawfully hunt, run or track any game mammal or game bird. [1973 c.723 §84]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.106 - Competitive field trials for hunting dogs.**

Competitive field trials for hunting dogs may be held at such times and places and under such conditions as the State Fish and Wildlife Commission may prescribe by rule. [1973 c.723 §85]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.112 - Use of live birds for competitive shooting prohibited.**

No person shall use any live bird as a target for the purpose of competitive shooting. [1973 c.723 §86]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.120 - Hunting on another's cultivated or enclosed land.**

- (1) No person shall hunt upon the cultivated or enclosed land of another without first obtaining permission from the owner or lawful

occupant thereof, or the agent of such owner or occupant. No prosecution shall be commenced under this section except upon written complaint filed with a magistrate. The complaint shall be verified by the oath of the owner or lawful occupant of the cultivated or enclosed land, or the agent of such owner or occupant.

(2) For the purpose of subsection (1) of this section, the boundaries of "enclosed" land may be indicated by wire, ditch, hedge, fence, water or by any visible or distinctive lines that indicate a separation from the surrounding or contiguous territory, and includes the established and posted boundaries of Indian reservations established by treaties of the United States and the various Indian tribes. [Amended by 1959 c.318 §1; 1971 c.580 §1; 1973 c.723 §83]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.126 - Hunting or assisting others to hunt or locate game animals or birds by aircraft prohibited; exemption; rules.**

(1) A person may not:

(a) Hunt game mammals or game birds from or with the aid of an aircraft.

(b) Transmit from an aircraft to a person not in the aircraft information regarding the location of any game mammals or game birds.

(c) Otherwise use an aircraft to assist another person in hunting or locating game mammals or game birds for the purpose of hunting.

(2) A person may not hunt any game mammal within eight hours after having been transported by aircraft to or from any place other than a recognized airport that the Oregon Department of Aviation has licensed as a public use airport, registered as a personal use airport or specifically exempted from licensing or registration.

(3) Every pilot shall maintain a log book that shows the names and addresses of record of the persons transported, point of departure, point of destination, time and date of each flight that the pilot makes in an aircraft within this state to transport a person to or from any place to hunt. The log book is subject to inspection by any person authorized to enforce the wildlife laws.

(4)(a) Notwithstanding subsections (1) to (3) of this section, and except as provided in subsection (5) of this section, the State Department of Fish and Wildlife, or its agents, may conduct wildlife management activities necessary for scientific research or, in emergency situations, to protect human safety, wildlife species or property by:

(A) Hunting game mammals or game birds from or with the aid of an aircraft; or

(B) Transmitting from an aircraft information regarding the location of any game mammal or game bird.

(b) The State Fish and Wildlife Commission shall define by rule the terms "emergency situations" and "necessary" for purposes of implementation of this section.

(5) If the definition of "game mammal" in ORS 496.004 is modified to include wolves, then the department may conduct wolf management activities under this section only under a statewide wolf management plan adopted by the commission. [1973 c.723 §87; 1987 c.277 §1; 1989 c.448 §1; 1999 c.935 §30; 2003 c.566 §1; 2003 c.762 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.128 - Use of drones for pursuit of wildlife prohibited; rules.**

(1) The State Fish and Wildlife Commission shall adopt rules prohibiting the use of drones for the following purposes related to the pursuit of wildlife:

(a) Angling;

(b) Hunting;

(c) Trapping;

(d) Aiding angling, hunting or trapping through the use of drones to harass, track, locate or scout wildlife; and

(e) Interfering in the acts of a person who is lawfully angling, hunting or trapping.

(2) Rules adopted to carry out the prohibitions provided for in this section may include exemptions for:

(a) Subject to ORS 837.360, the State Department of Fish and Wildlife and the department's agents and contractors for the use of drones in carrying out the duties of the department; or

(b) The use of drones in a manner otherwise prohibited under this section if the purpose of the use is to benefit wildlife management or habitat or for the protection of property.

(3) Nothing in this section is meant to limit the use of drones by a person who is lawfully engaging in activities authorized under the commercial fishing laws.

(4) As used in this section, "drone" means:

(a) An unmanned flying machine;

(b) An unmanned water-based vehicle; or

(c) Any other vehicle that is able to operate in the air, in or under the water or on land, either remotely or autonomously, and without a human occupant. [2015 c.61 §1; 2016 c.72 §14]

Note:

498.128 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 498 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting,**



**Angling and Trapping Regulations; Miscellaneous Wildlife Protective MeasuresSection 498.136 - Hunting from motor-propelled vehicle restricted; rules.**

- (1) Except as provided in subsection (2) of this section, a person may not hunt wildlife from a motor-propelled vehicle.
- (2) The State Fish and Wildlife Commission, by rule, may authorize hunting from a motor-propelled vehicle by a person with a disability or for the purpose of alleviating damage by wildlife to other resources.
- (3)(a) Nothing in the wildlife laws, or rules adopted pursuant thereto, is intended to prohibit the companion of a person with a disability who is lawfully hunting from a motor-propelled vehicle from killing an animal wounded by the person and applying to the animal the tag issued to the person for the taking of the animal, even if the companion has already validated any tag required for the taking of such an animal.
- (b) For purposes of this subsection, "companion" means a person who does not have a disability. [1973 c.723 §88; 1987 c.292 §1; 1999 c.25 §8; 2007 c.70 §278]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective MeasuresSection 498.142 - Hunting with artificial light restricted; rules.**

- (1) Except as provided in subsection (2) of this section, no person shall hunt wildlife with the aid of any artificial light.
- (2) The State Fish and Wildlife Commission, by rule, may authorize hunting with the aid of an artificial light for the purpose of taking raccoon, opossum or bobcat or to alleviate damage by wildlife to other resources. [1973 c.723 §88a; 1977 c.136 §3]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective MeasuresSection 498.145**

[Renumbered 498.272]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective MeasuresSection 498.146 - Shining artificial light on game mammal, predatory animal or livestock while in or near motor vehicle and while in possession of weapon restricted.**

- (1) No person shall cast from a motor vehicle or from within 500 feet of a motor vehicle an artificial light upon any game mammal, predatory animal or livestock while there is in the possession or in the immediate physical presence of the person a weapon with which the game mammal, predatory animal or livestock could be killed.
- (2) Subsection (1) of this section does not apply to a person who casts artificial light upon a game mammal, predatory animal or livestock:
  - (a) From the headlights of a motor vehicle that is being operated on a road in the usual manner, if that person makes no attempt to kill the game mammal or livestock; or
  - (b) When the weapon that person has in the possession or immediate physical presence of the person is disassembled or stored, or in the trunk or storage compartment of a motor vehicle; or
  - (c) On land owned or lawfully occupied by that person; or
  - (d) On publicly owned land when that person has an agreement with the public body to use that property.
- (3) As used in this section, "predatory animal" has the meaning for that term provided in ORS 610.002. [1973 c.542 §2; 1975 c.791 §2]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective MeasuresSection 498.152 - Agreements restricting parking or use of motor vehicles on certain lands.**

- (1) The State Fish and Wildlife Commission may enter into agreements with the owners or lawful possessors of land to restrict the operation or parking of motor-propelled vehicles on the land when the commission determines that such operation or parking is damaging wildlife or wildlife habitat.
- (2) An agreement shall restrict the types and uses of motor-propelled vehicles on the land and shall specify the times and places that such restrictions apply.
- (3) The commission shall cause notice of the restrictions, including the effective date thereof, to be posted on the main traveled roads entering the area to which the restrictions apply.
- (4) Nothing in this section authorizes the establishment of any restrictions that impede normal forest or range management operations. [1973 c.723 §89; 1987 c.798 §1]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective MeasuresSection 498.153 - Parking vehicle in violation of restrictions; vehicle owner subject to penalty.**

A person who operates or parks a motor-propelled vehicle in violation of restrictions established and posted under ORS 498.152, and any owner of the vehicle who authorizes the operation or parking of the vehicle, commits a Class A violation. [1987 c.798 §3;

1999 c.1051 §194; 2011 c.597 §65]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.154 - Notice adequate to charge defendant; delivery or posting.**

(1) In all prosecutions against the owner of a motor-propelled vehicle under ORS 498.153, it shall be sufficient for a police officer to charge the defendant by an unsworn written notice if the notice clearly states:

- (a) The date, place and nature of the charge.
- (b) The time and place for defendant's appearance in court.
- (c) The name of the issuing officer.
- (d) The license number of the vehicle.

(2) The notice provided for in subsection (1) of this section shall either be delivered to the defendant or placed in a conspicuous place upon the vehicle involved in the violation. A duplicate original of the notice shall serve as the complaint in the case when it is filed with the court. The issuing officer need not have observed the act of parking, but need only have observed that the vehicle appeared to be parked in violation of restrictions established and posted under ORS 498.152. [1987 c.798 §4; 1995 c.658 §108; 2011 c.597 §65a]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.155 - Failure to appear; issuance of warrant.**

If a vehicle owner cited under ORS 498.154 to appear in a circuit or justice court upon an alleged parking offense fails to appear on or before the date and time stated on the citation, the court and the Department of Transportation may take such actions as are otherwise authorized by law under the Oregon Vehicle Code in the case of a failure to appear, except that in no case may a warrant of arrest be issued nor a criminal prosecution for failure to appear be commenced unless the citing or prosecuting authority, more than 10 days prior thereto, has sent a letter to the registered owner at the address shown upon the vehicle registration records of the department advising such owner of the charge pending and informing the owner that the owner may be subject to arrest if the owner does not appear in the court within 10 days to answer the charge. The letter must be sent by certified mail, restricted delivery, return receipt requested. A warrant of arrest may not be issued, nor a criminal prosecution for failure to appear be commenced if such a letter has not been sent or if the owner appears in court to answer the charge within 10 days after receiving the letter. [1987 c.798 §5; 1993 c.741 §69; 1995 c.658 §109; 1999 c.1051 §274]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.158 - Hunting or trapping wildlife in certain governmental districts restricted.**

(1) Except as provided in ORS 448.305 and in subsection (2) of this section, no person shall hunt or trap any wildlife within the boundaries of any city, public park, cemetery or on any school lands.

(2) No hunting or trapping shall be allowed on any lands within the boundaries of any city, public park or on any school lands unless:

- (a) The governing body or other agency that administers the affairs of the city, public park or school, after notice and hearing, authorizes such hunting or trapping by ordinance or resolution; and
- (b) The State Fish and Wildlife Commission, after notice and hearing, determines that such hunting or trapping would not adversely affect public safety or unreasonably interfere with other authorized uses of such lands. [1973 c.723 §90]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.164 - Use of dogs or bait to hunt black bears or cougars; prohibitions; exemptions; penalties.**

(1) Except as provided in subsections (2) and (3) of this section, a person may not use bait to attract or take black bears or use one or more dogs to hunt or pursue black bears or cougars.

(2) Nothing in subsection (1) of this section prohibits the use of bait or one or more dogs by employees or agents of county, state or federal agencies while acting in their official capacities.

(3) Nothing in subsection (1) of this section prohibits the use of bait or dogs by persons for the taking of black bears or cougars in accordance with the provisions of ORS 498.012 relating to taking wildlife that is causing damage.

(4) Any person who violates subsection (1) of this section commits a Class A misdemeanor and, upon conviction, shall in addition to appropriate criminal penalties have the person's privilege to apply for any hunting license suspended for a period of five years for a first offense and permanently suspended for any subsequent offense.

(5) For the purposes of this section, "bait" means any material placed for the purpose of attracting or attempting to attract bears. [1995 c.4 §1; 2003 c.248 §2; 2007 c.675 §§1,2; 2013 c.376 §§2,3; 2021 c.97 §64]

Note:

498.164 was enacted into law but was not added to or made a part of ORS chapter 498 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.166 - Bears or cougars posing threat to human safety.**

(1) Notwithstanding the licensing and tag requirements of ORS 497.102, 497.112, 497.127 and 497.132, a person may take a cougar or bear that poses a threat to human safety.

(2) Any person who takes a cougar or bear pursuant to subsection (1) of this section shall immediately report the taking to a person authorized to enforce the wildlife laws and shall dispose of the animal in such manner as the State Fish and Wildlife Commission directs.

(3) Any regional office of the State Department of Fish and Wildlife ordering the disposal of an animal under subsection (2) of this section shall file a report with the State Fish and Wildlife Director within 30 days after the disposal. The report shall include but need not be limited to the disposition of the animal, the events leading to the taking of the animal and any injury caused by the animal to humans or domesticated animals. The director shall compile all reports received under this subsection on a bimonthly basis. The reports compiled by the director shall be available to the public upon request.

(4) As used in this section:

(a) "Structure" includes a building being used as a residence, a building located on land actively used for agricultural, timber management, ranching or construction purposes or a building used as part of a business.

(b) "Threat to human safety" means the exhibition by a cougar or bear of one or more of the following behaviors:

(A) Aggressive actions directed toward a person or persons, including but not limited to charging, false charging, growling, teeth popping and snarling.

(B) Breaking into, or attempting to break into, a residence.

(C) Attacking a pet or domestic animal as defined in ORS 167.310.

(D) Loss of wariness of humans, displayed through repeated sightings of the animal during the day near a permanent structure, permanent corral or mobile dwelling used by humans at an agricultural, timber management, ranching or construction site. [2001 c.431 §2; 2015 c.779 §50]

Note:

498.166 was added to and made a part of the wildlife laws by legislative action but was not added to ORS chapter 498 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.170 - Hunters who have a visual impairment.**

(1) A person who does not have a visual impairment and who accompanies a hunter who possesses a visually impaired hunter license may:

(a) Assist the hunter in selecting a game animal or bird;

(b) Assist the aiming or sighting of a firearm;

(c) Advise the hunter when to fire a firearm;

(d) Shoot a game animal or bird on behalf of the hunter while in the immediate presence of the hunter; and

(e) Tag and retrieve game animals and birds on behalf of the hunter.

(2) The person accompanying a hunter who has a visual impairment shall be required to possess a valid hunting license. The person accompanying a hunter who has a visual impairment may also hunt game animals or birds if the person possesses the appropriate tags, permits and stamps for the area and time period.

(3) A hunter who possesses a visually impaired hunter license must comply with all other tag, permit and stamp requirements of the State Fish and Wildlife Commission and applicable hunting laws.

(4) As used in this section, "hunter who has a visual impairment" means a person who files proof with the commission that the person's central visual acuity does not exceed 20/200 in the better eye with best correction or that the person's visual acuity, if better than 20/200, is accompanied by a limit to the field of vision to such a degree that its widest diameter subtends an angle of no greater than 20 degrees. [1997 c.407 §1; 2007 c.70 §279]

Note:

498.170 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 498 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.172 - Trap check requirements.**

(1) A person holding a license issued under ORS 497.142 may not set a trap for fur-bearing mammals without checking the trap at least once during each 48-hour period.

(2) A person may not set a trap for a predatory animal, as defined in ORS 610.002, without checking the trap on a regular basis.

[2001 c.562 §2]

Note:

498.172 was added to and made a part of the wildlife laws by legislative action but was not added to ORS chapter 498 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.180 - Sale of hunts for feral swine prohibited; penalties; revocation of hunting licenses, tags and permits.**

(1) A person may not offer for sale or sell a hunt for feral swine on public or private lands.

(2) Violation of subsection (1) of this section is a Class A misdemeanor. A person may not be convicted under this subsection if a civil penalty has been imposed against the person under subsection (3) of this section.

(3)(a) The State Fish and Wildlife Commission may impose a civil penalty of \$1,000 for a violation of subsection (1) of this section.

(b) Civil penalties described in this subsection shall be imposed in the manner provided in ORS 183.745. A civil penalty may not be imposed against a person under this subsection if the person has been convicted under subsection (2) of this section.

(4) Notwithstanding ORS 497.415 (1), (2), (3) and (5) and in addition to any criminal penalty or civil penalty imposed under this section, when a person is convicted under subsection (2) of this section or a civil penalty is imposed under subsection (3) of this section, the commission shall revoke all hunting licenses, tags and permits issued to the person under the wildlife laws, and the person may not apply for or obtain any hunting license, tag or permit for a period of 24 months after the conviction or imposition of the civil penalty. [2009 c.605 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.182 - Knowingly allowing feral swine to roam on certain lands prohibited; rules.**

(1) A person, or an employee of that person who acts as a land manager, may not knowingly, as defined in ORS 161.085, allow feral swine to roam on land owned or controlled by that person.

(2) A person, or an employee of that person who acts as a land manager, shall take action in a manner consistent with rules adopted by the State Fish and Wildlife Commission to remove any feral swine that roams on land owned or controlled by that person if the person or employee knows that feral swine roam on land owned or controlled by that person. ORS 497.075 does not apply to this subsection.

(3) A person, or an employee of that person who acts as a land manager, shall, within 10 days after discovering feral swine on land owned or controlled by that person, inform the State Department of Fish and Wildlife about the feral swine. [2009 c.605 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.205**

[Amended by 1973 c.723 §109; renumbered 501.400]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.208 - Use of electricity or foreign substances to take game fish prohibited; rules.**

(1) Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall:

(a) Use in any body of water any electric current that may attract, frighten, retard, stun, kill or obstruct the movement of any game fish.

(b) Place in any body of water any foreign substance such as blood or fish offal or any gas, chemical, drug or powder that may attract, frighten, retard, stun, kill or obstruct the movement of any game fish.

(c) Use in any body of water any explosive device for the purpose of taking game fish.

(2) No person shall possess any game fish that the person knows or has reason to know was taken in violation of subsection (1) of this section. [1973 c.723 §92]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.210**

[Amended by 1973 c.723 §110; renumbered 501.405]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.215**

[Amended by 1973 c.723 §111; renumbered 501.425]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.216 - Angling from fishways**

**restricted; rules.**

Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall trespass upon or angle from any fishway or angle within an area of a body of water bounded by a line extending across the body of water 200 feet above the upper end of a fishway and a line across the body of water 200 feet below the lower end of a fishway. [1973 c.723 §93]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.222 - Transportation or release of fish without permit prohibited; penalties; revocation of angling licenses and tags; suit for recovery of damages.**

(1) No person shall:

- (a) Transport any live fish unless the person has first obtained a permit therefor from the State Fish and Wildlife Commission.
- (b) Release or attempt to release into any body of water any live fish that was not taken from that body of water, unless the person has first obtained a permit therefor from the commission.
- (2) The commission may refuse to issue the permit referred to in subsection (1)(b) of this section if the commission finds that release of the fish into a body of water would adversely affect existing fish populations.
- (3) Subsection (1)(a) of this section does not apply to live fish that are for aquaria use.
- (4) Violation of subsection (1)(b) of this section is:
  - (a) A Class C felony if the violation is committed intentionally or knowingly.
  - (b) A Class A misdemeanor if the violation is committed recklessly or with criminal negligence.
- (5)(a) Notwithstanding ORS 497.415 (1), (2), (3) and (5), when a person is convicted of violating subsection (1)(b) of this section, the court in which the conviction occurs shall notify the commission, which shall revoke all angling licenses and tags issued to that person pursuant to the wildlife laws. Revocation of licenses and tags is in addition to and not in lieu of other penalties provided by law.
- (b) No person who has been convicted of violating subsection (1)(b) of this section shall apply for, obtain or possess any angling license or tag issued pursuant to the wildlife laws within five years after the conviction.
- (6)(a) The commission may institute suit for the recovery of damages for the control or eradication of live fish released into a body of water in violation of subsection (1)(b) of this section. The damages awarded under this subsection shall be the amount necessary to return the body of water to its condition prior to the violation.
- (b) In any action under this subsection, the court shall award to the prevailing party, in addition to costs and disbursements, reasonable attorney fees.
- (c) Damages awarded under this subsection shall be in addition to other penalties prescribed by the wildlife laws for releasing or attempting to release live fish without a permit.
- (d) Any circuit or justice court has jurisdiction to try any case for the recovery of damages as provided by this subsection. [1973 c.723 §94; 2009 c.243 §1; 2011 c.597 §66]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.228 - Possession of fish taken outside state restricted.**

(1) Except as provided in subsection (2) of this section:

- (a) No person shall possess or import into this state from the waters of the Pacific Ocean beyond the boundaries of this state any game fish unless the person has in possession those valid angling licenses, tags and permits required therefor by the wildlife laws or rules promulgated pursuant thereto.
- (b) No person shall possess or import into this state from any waters beyond the boundaries of this state any game fish in excess of the amount prescribed by the wildlife laws or rules promulgated pursuant thereto.
- (2) Subsection (1) of this section does not apply to:
  - (a) The possession or importation of fish taken pursuant to the commercial fishing laws; or
  - (b) The possession or importation of fish taken in the waters of another state, a territory of the United States or a foreign country pursuant to the laws of such state, territory or foreign country. [1973 c.723 §95]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.234 - Protection of finfish and shellfish from introduction of disease; exceptions; rules.**

- (1) The State Fish and Wildlife Commission shall, by rule, establish a program to protect all finfish and shellfish in waters of this state, both public and private, from infection by the introduction of detrimental fish diseases.
- (2) Rules adopted under subsection (1) of this section shall not apply to live aquaria species imported or transported for aquaria use unless those species are reared in facilities from which effluent directly enters waters of this state.
- (3) The requirements of subsection (1) of this section are in addition to any other requirement of law, or rule promulgated pursuant thereto, regarding the importation into this state of live game fish or game fish eggs. [1973 c.723 §96; 1987 c.294 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.242 - Possession of walking catfish and piranha restricted.**

(1) Except as provided in subsections (2) and (3) of this section, no person shall possess any live fish of the various species:

(a) Of the family Clariidae, commonly known as walking catfish; or

(b) Of the subfamily Serrasalminae of the family Characidae, commonly known as caribe or piranha.

(2) A public park, zoo, museum or educational institution may possess any of the fish referred to in subsection (1) of this section for educational, medical, scientific or exhibition purposes if the organization first obtains a permit from the State Fish and Wildlife Commission. The commission may refuse to issue the permit if the commission finds that the organization requesting the permit has physical facilities for holding the fish that are inadequate to prevent their escape from confinement.

(3) Subsections (1) and (2) of this section do not prohibit the possession or require a permit for the possession of live fish that are of the genera *Pygocentrus*, *Serrasalmus* or *Pristobrycon* that are carnivorous fish in the subfamily Serrasalminae, from the family Characidae, commonly known as piranha or caribe. [1973 c.723 §97; 1995 c.355 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.247 - Protection of juvenile salmonids from cormorants.**

(1) The State Fish and Wildlife Commission shall issue not more than three permits annually for activities involving the protection of juvenile salmonids from cormorants (*Phalacrocoracidae*) on Oregon coastal river systems between Cape Falcon and Cascade Head.

(2) Activities authorized under the permits shall not include the killing, trapping or other taking of cormorants.

(3) Persons to whom permits are issued may subcontract with others for the performance of protection activities. [1996 c.7 §3 (enacted in lieu of 498.246)]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.248**

[1973 c.723 §98; 1987 c.488 §1; 1995 c.426 §5; renumbered 498.311 in 1995]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.256**

[1989 c.933 §§6,7; 1995 c.426 §10; renumbered 498.326 in 1995]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.257 - Prohibition on possession, sale, trade or distribution of shark fins; exceptions.**

(1) As used in this section:

(a) "Shark fin" means the raw or dried fin or tail of a shark.

(b) "Spiny dogfish" means a shark belonging to the family Squalidae in the order Squaliformes that has two spines, one anterior to each dorsal fin, and that does not have an anal fin.

(2) A person may not possess, sell or offer for sale, trade or distribute a shark fin in this state.

(3) This section does not apply to:

(a) A person who possesses, sells or offers for sale, trades or distributes a shark fin from a spiny dogfish that was legally taken or landed under rules adopted by the State Department of Fish and Wildlife and in accordance with federal regulations; and

(b) A person who holds a license or permit issued by the State Department of Fish and Wildlife under the wildlife laws to take a shark and who possesses, sells or offers for sale, trades or distributes a shark fin consistent with the terms of that license or permit. [2011 c.371 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.262**

[1973 c.723 §100; 1987 c.488 §3; 1995 c.426 §8; renumbered 498.316 in 1995]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.268**

[1973 c.723 §101; renumbered 498.351 in 1995]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.274**

[1973 c.723 §102; 1987 c.488 §4; 1995 c.426 §9; renumbered 498.346 in 1995]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.276**

[1991 c.858 §9; renumbered 498.336 in 1995]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.279 - Black bass and walleye angling contests; rules.**

(1) A person, or group of persons, may conduct, sponsor and participate in any competition or contest in which prizes are offered for the amount, quality, size, weight or other physical characteristics of black bass or walleye, provided that the rules of a competition or contest are prepared and distributed by the sponsors to the contestants and are administered and enforced by the sponsors. Except as provided in subsection (2) of this section, such rules shall include, but are not limited to:

(a) A requirement that the contestants use aerated live wells or other equipment so that all reasonable efforts are made to maintain the fish taken in a live and healthy condition.

(b) A requirement that all fish caught that are in a healthy condition are immediately returned to the water where they were caught, after weighing. Black bass may be turned over to the State Department of Fish and Wildlife for restocking.

(c) A requirement that bass tournament contestants use only artificial or other such prepared baits.

(2) The State Department of Fish and Wildlife may waive any of the requirements described in subsection (1) of this section if the department determines that limiting a population of black bass or walleye in a body of water would benefit native fish species or the ecological health of the body of water.

(3) As used in this section, "black bass" means largemouth bass, smallmouth bass, redeye bass, spotted bass and all other basses of the genus *Micropterus*.

(4) The State Fish and Wildlife Commission may adopt rules to limit the number of contests and participants, determine the location of contests and prescribe other terms and conditions regarding the conduct of contests under this section. [1981 c.510 §3; 1985 c.562 §1; 1987 c.299 §1; 2001 c.186 §1; 2023 c.48 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.286 - Prize limitation.**

(1) Except as provided in subsection (2) of this section and ORS 498.279, no person shall conduct, sponsor or participate in any competition or contest in which any prize of a retail value of more than \$1,000 is offered for the amount, quality, size, weight or other physical characteristic of game fish taken.

(2) When a prize is offered that exceeds \$1,000 for the amount, quality, size, weight or other physical characteristic of a game fish taken, the State Fish and Wildlife Commission, by rule, may limit the number of contests and participants, determine the location of contests and prescribe other terms and conditions regarding the conduct of contests. [1989 c.373 §4; 1997 c.12 §1; 2001 c.186 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.301 - Policy.**

It is the policy of the State of Oregon to prevent appreciable damage to game fish populations or populations of nongame fish that are classified as sensitive species, threatened species or endangered species by the State Fish and Wildlife Commission as the result of the diversion of water for nonhydroelectric purposes from any body of water in this state. [1993 c.478 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.306 - Screening or by-pass devices for water diversions; fees; costs.**

(1) Any person who diverts water from any body of water in this state in which any fish, subject to the State Fish and Wildlife Commission's regulatory jurisdiction, exist may be required to install, operate and maintain screening or by-pass devices to provide adequate protection for fish populations present at the water diversion in accordance with the provisions of this section.

(2)(a) The State Department of Fish and Wildlife shall establish a cost-sharing program to implement the installation of screening or by-pass devices on not less than 150 water diversions or 150 cubic feet per second of diverted water per biennium. The department shall select the water diversions to be screened from the priority listing of diversions established by the department and reviewed by the Fish Screening Task Force. The installation of a screening or by-pass device may be required only if:

(A) The water diversion is 30 cubic feet per second or more;

(B) A new water right is issued for the water diversion;

(C) The point of water diversion is transferred as described in ORS 540.525;

(D) Fewer than 150 persons per biennium volunteer to request such installation on the diversions for which they are responsible; or

(E) The Fish Screening Task Force has reviewed and approved the department's request to require installation of screening or by-pass devices in order to complete the screening of a stream system or stream reach.

(b) The limitations on the number of diversions or cubic feet per second of diverted water to be screened as provided in this section do not prevent the installation of screening and by-pass devices for diversions by persons responsible for diversions who are willing

to pay the full cost of installing screening and by-pass devices.

(c) Cost-sharing program funds may not be provided under this subsection for screening or by-pass devices on a water diversion involving water rights issued on or after January 1, 1996, unless the Fish Screening Task Force finds there is good cause to allow an exception. The department shall give preference to diversions of 30 cubic feet per second or less when making cost-sharing program funds available.

(3) When selecting diversions to be equipped with screening or by-pass devices, the department shall attempt to solicit persons who may volunteer to request the installation of such devices on the diversions for which they are responsible. When selecting diversions to be equipped with screening or by-pass devices, the department shall select those diversions that will provide protection to the greatest number of indigenous naturally spawning fish possible.

(4) If the department constructs and installs the screening or by-pass device, a fee shall be assessed against the person responsible for the diversion in an amount that does not exceed 40 percent of the construction and installation costs of the device. The fee shall be paid into the Fish Screening Subaccount. If the person responsible for the diversion constructs and installs the by-pass or screening device, the person shall be reimbursed from the Fish Screening Subaccount or other state funds in an amount that does not exceed 60 percent of the actual construction and installation costs of the device.

(5) The department's cost of major maintenance and repair of screening or by-pass devices shall be paid from the Fish Screening Subaccount.

(6) The department is responsible for major maintenance and repair of screening or by-pass devices at water diversions of less than 30 cubic feet per second, and if failure by the department to perform major maintenance on or repair such devices results in damage or blockage to the water diversion on which a device has been installed, the person responsible for the water diversion shall give written notice of such damage or blockage to the department. If within seven days of the notice, the department fails to take appropriate action to perform major maintenance on or repair the device, and to repair any damage that has occurred, the person responsible for the water diversion may remove the device. If an emergency exists that will result in immediate damage to livestock or crops, the person responsible for the water diversion may remove the screening or by-pass device. A person required to comply with this section is responsible for minor maintenance and shall, in a timely manner, notify the department of the need for activities associated with major maintenance.

(7) A person who diverts water at a rate of 30 cubic feet per second or more is responsible for all maintenance of an installed screening or by-pass device.

(8) A person required to comply with this section may design, construct and install screening or by-pass devices adequate to prevent fish from leaving the body of water and entering the diversion or may request the department to design, construct and install such devices. However, if a person required to comply with this section fails to comply within 180 days after notice to comply by the department, the department shall design, install, operate and maintain on that person's water diversion appropriate screening or by-pass devices and shall charge and collect from the person the actual costs thereof in an amount not to exceed the average cost for diversions of that size.

(9) If the diversion requiring screening or by-pass devices is located on public property, the department shall obtain from the property owner approval or permits necessary for such devices. Activities of the department pursuant to this section may not interfere with existing rights of way or easements of the person responsible for the diversion.

(10)(a) The department or its agent has the right of ingress and egress to and from those places where screening or by-pass devices are required, doing no unnecessary injury to the property of the landowner, for the purpose of designing, installing, inspecting, performing major maintenance on or repairing such devices.

(b) If a screening or by-pass device installed by the department must be removed or replaced due to inadequate design or faulty construction, the person responsible for the diversion shall bear no financial responsibility for its replacement or reconstruction.

(c) If a screening or by-pass device installed by the person responsible for the diversion must be removed or replaced due to faulty construction, the person shall bear full financial responsibility for its replacement or reconstruction.

(d) If the person responsible for a diversion on which a screening or by-pass device is installed fails to conduct appropriate inspection and minor maintenance, the department may perform such activities and charge and collect from the person responsible a fee not to exceed \$150 for each required visit to the location of the screening or by-pass device.

(e) If the department determines that a person must install, operate, maintain, repair or replace a screening or by-pass device under this section, the department shall notify the person, by registered mail, of the specific action the person is required to take. The person may request a contested case hearing before the State Fish and Wildlife Commission, to be conducted as provided in ORS chapter 183.

(11) A person may not interfere with, tamper with, damage, destroy or remove in any manner not associated with regular and necessary maintenance procedures any screening or by-pass devices installed pursuant to this section.

(12) The department may maintain an action to cover any costs incurred by the department when a person who is required to comply with this section fails to comply. Such action shall be brought in the circuit court for the county in which the screening or by-pass device is located.

(13) Upon receiving notice from the department to comply with this section, a person responsible for a water diversion may be excused from compliance if the person demonstrates to the Fish Screening Task Force that:

(a) The installation and operation of screening or by-pass devices would not prevent appreciable damage to the fish populations in the body of water from which water is being diverted.



- (b) Installation and operation of screening or by-pass devices would not be technically feasible.
- (c) Installation of screening or by-pass devices would result in undue financial hardship.
- (14)(a) Not later than January 1, 1996, the department, with the assistance of the Fish Screening Task Force and the Water Resources Department, shall establish and publish an updated priority listing of 3,500 water diversions in the state that should be equipped with screening or by-pass devices. Changes may be made to the list whenever deletions are made for any reason. The priority listing shall include the name and address of the person currently responsible for the water diversion, the location of the diversion, size of the diversion, type of screening or by-pass device required, estimated costs for construction and installation of screening or by-pass devices for the individual diversion and species of fish present in the water body. When developing the priority listing, the department shall base priorities for the installation of screening or by-pass devices on unscreened diversions on the following criteria:
- (A) Fish species status.
- (B) Fish numbers.
- (C) Fish migration.
- (D) Diversion size.
- (E) Diversion amount.
- (F) Any other criteria that the department, in consultation with the Fish Screening Task Force, considers appropriate.
- (b) Criteria identified in this subsection shall be given appropriate consideration by the department when updating its priority listing. The priority listing will be updated to give the highest priority to those diversions that save the greatest number of fish and simultaneously protect the greatest number of threatened or endangered fish species.
- (c) After the priority listing has been updated, the persons responsible for the diversions on the list shall be notified that their diversions appear on the list. Such persons also shall be furnished a description of the fish screening cost-sharing program.
- (d)(A) The department shall notify, by means of registered mail, each person responsible for the first 250 diversions on the priority listing on or before January 1, 1996. The department shall furnish information regarding the fish screening cost-sharing program to each person responsible for a diversion included in the first 250 diversions on the priority listing on or before January 1, 1996. A person may not be required to install a screening or by-pass device unless previously notified by the department of the requirement to install such devices.
- (B) On January 1 of each even-numbered year, the department shall notify each person responsible for a diversion included in the first 250 diversions on the priority listing. However, the department is not required to notify in a subsequent year any person previously notified. The department shall include with such notification information regarding the fish screening cost-sharing program.
- (C) Before any person is required to install a screening or by-pass device, the department shall confirm the need for the device through a visual, on-site inspection by appropriate staff of the fish screening division of the department, or a district biologist of the department.
- (15) As used in this section:
- (a) "Behavioral barrier" means a system that utilizes a stimulus to take advantage of natural fish behavior to attract or repel fish. A behavioral barrier does not offer a physical impediment to fish movement, but uses such means as electricity, light, sound or hydraulic disturbance to move or guide fish.
- (b) "Body of water" includes but is not limited to irrigation ditches, reservoirs, stock ponds and other artificially created structures or impoundments.
- (c) "By-pass device" means any pipe, flume, open channel or other means of conveyance that transports fish back to the body of water from which the fish were diverted but does not include fishways or other passages around a dam.
- (d) "Fish screen" means a screen, bar, rack or other barrier, including related improvements necessary to ensure its effective operation, to provide adequate protection for fish populations present at a water diversion.
- (e) "Major maintenance" means all maintenance work done on a screening or by-pass device other than minor maintenance.
- (f) "Minor maintenance" means periodic inspection, cleaning and servicing of screening or by-pass devices at such times and in such manner as to ensure proper operation of the screening or by-pass device.
- (g) "Person" means any person, partnership, corporation, association, municipal corporation, political subdivision or governmental agency.
- (h) "Screening device" means a fish screen or behavioral barrier. [1991 c.858 §2; 1993 c.478 §4; 1995 c.426 §1; 2005 c.22 §370; 2007 c.625 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.316 - Exemption from screening or by-pass devices.**

ORS 498.306 does not require the installation of screening or by-pass devices in those water diversions for which the State Fish and Wildlife Commission, by contract or other form of agreement with the person diverting the water, has made such other provision as the commission determines is adequate for the protection of the game fish in the body of water from which water is being diverted. [Formerly 498.262; 2007 c.625 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.321 - Screening or by-pass standards.**

(1) In order to carry out the provisions of ORS 498.301 and 498.306, the following minimum standards and criteria apply to actions of the State Fish and Wildlife Commission and the State Department of Fish and Wildlife with regard to fish screening or by-pass devices:

(a) Standards and criteria shall address the overall level of protection necessary at a given water diversion and may not favor one technology or technique over another.

(b) Standards and criteria shall take into account at least the following factors relating to the fish populations present at a water diversion:

(A) The source of the population, whether native or introduced and whether hatchery or wild.

(B) The status of the population, whether endangered, threatened or sensitive.

(c) Standards and criteria may take into account the cumulative effects of other water diversions on the fish populations being protected.

(d) Design and engineering recommendations shall consider cost-effectiveness.

(e) Alternative design and installation proposals must be approved if they can be demonstrated to provide an equal level of protection to fish populations as those recommended by the department.

(2) In order to maximize effectiveness and promote consistency relating to the protection of fish at nonhydroelectric water diversions, the department shall establish a single organizational entity to administer all agency activities related to fish screening and by-pass devices.

(3) The department shall emphasize cooperative effort and mutual understanding with those responsible for water diversions that need fish screening or by-pass devices.

(4) The department shall aggressively investigate and encourage the development of new technologies and techniques to provide protection for fish populations at water diversions in order to reduce initial costs, reduce operating costs and improve cost-effectiveness. [1993 c.478 §3; 2005 c.22 §371]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.326 - Department guidelines for screening and by-pass projects; expenditure of funds.**

(1) The State Department of Fish and Wildlife shall establish guidelines to determine the need for and location of potential fish screening and by-pass projects. The guidelines shall include a plan to be used for determining priorities for and expected costs of installing and maintaining the fish screening and by-pass devices.

(2) Nothing in subsection (1) of this section is intended to prevent the State Department of Fish and Wildlife from expending federal or other funds if such funds become available for the installation and maintenance of fish screening and by-pass projects. [Formerly 498.256]

Note:

498.326 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 498 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.336 - Statutes not construed to limit ability to acquire funding for screening or by-pass devices.**

Nothing in ORS 498.306 or 509.585 shall be construed:

(1) To limit the eligibility of a person required to install and operate screening or by-pass devices to obtain funding from the Water Development Fund pursuant to ORS 541.700 to 541.855.

(2) To limit the acquisition or acceptance of any federal funds available for the installation, operation, maintenance, improvement or repair of screening or by-pass devices on water diversions in this state. [Formerly 498.276; 2001 c.923 §6; 2007 c.625 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.341 - Additional funding.**

Notwithstanding the limitations imposed by ORS 498.306, if sufficient funds are made available in the Fish Screening Subaccount of the Fish and Wildlife Account, by allocation from the Administrative Services Economic Development Fund or from other sources, the State Department of Fish and Wildlife may provide financial assistance for construction and installation of screening or by-pass devices on additional water diversions. [1993 c.478 §8; 2001 c.822 §10; 2005 c.22 §372; 2007 c.625 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.346 - Injunction to require compliance with screening or by-pass requirements.**

The State Fish and Wildlife Commission may maintain a suit to enjoin any person, including governmental agencies of this state and political subdivisions of this state, from violating the provisions of ORS 498.306. The circuit court for any county in which are situated any waters in which any such violations are threatened has jurisdiction of the suit authorized by this section. [Formerly 498.274; 2001 c.923 §7; 2007 c.625 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.400 - Definitions for ORS 498.400 to 498.464.**

As used in ORS 498.400 to 498.464, unless the context requires otherwise:

- (1) "Advertise" means to make public distribution by any means of communication any material relating to the sale of membership in an outdoor club.
- (2) "Outdoor club" means a business entity organized for profit that:
  - (a) Conducts, or under whose authority is conducted, hunting or angling or both hunting and angling activities exclusively for its members and their guests; and
  - (b) Engages in promotional plan activities for the sale of membership in such club.
- (3) "Promotional plan" includes, but is not limited to advertising. [1973 c.749 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.406 - License to operate certain outdoor clubs required; promotional activities for sale of membership without license prohibited.**

- (1) Except as provided in ORS 498.412, no person shall operate an outdoor club unless the person has a valid license for such operation issued by the State Fish and Wildlife Commission, if the outdoor club activities are to be conducted on land that is leased from the owners thereof and if:
  - (a) The members of the club are not parties to the lease; and
  - (b) The members of the club do not have any financial or proprietary interest in the club.
- (2) No person required by subsection (1) of this section to obtain a license to operate an outdoor club shall engage in promotional plan activities for the sale of membership in the outdoor club unless the person first obtains the license. [1973 c.749 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.412 - Application of ORS 498.406.**

ORS 498.406 does not apply to any landowner offering to sell recreational access to property the landowner owns. [1973 c.749 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.418 - License application; form; fee.**

- (1) A person who is required to obtain a license from the State Fish and Wildlife Commission to operate an outdoor club shall submit to the commission an application for such license, on a form approved by the commission, that contains such information as the commission may require regarding the ownership, financial condition and operation of the club and promotional plans for sale of membership therein.
- (2) The application shall be accompanied by the applicable fee under the fee schedule in ORS 497.061. [1973 c.749 §5; 2015 c.779 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.424 - Report to commission required; suspension of license pending investigation of reported information.**

- (1) A person who is licensed to operate an outdoor club shall report immediately to the State Fish and Wildlife Commission any material changes in the information required to be contained in the application.
- (2) Upon receipt of any such report, the commission may suspend a license that has been issued for such time as the commission considers necessary to adequately investigate and approve the information submitted. [1973 c.749 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.432 - Notice to applicant upon receipt of license application; order granting or denying license; procedure.**

- (1) Upon receipt in proper form of an application for a license to operate an outdoor club, the State Fish and Wildlife Commission shall issue a notice of filing to the applicant. Within 30 days from the date of the notice of filing, the commission shall enter an order granting or denying the license. If the license is denied, the commission shall give the applicant notice of the reasons therefor.
- (2) If an order denying a license is not entered within 60 days from the date of notice of filing of an application, a license shall be

considered granted unless the applicant has consented in writing to a delay.

(3) Orders of the commission regarding the issuance, renewal, suspension or revocation of a license shall be issued and reviewed in accordance with ORS chapter 183. [1973 c.749 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.438 - Investigatory power of commission over outdoor clubs required to be licensed.**

The State Fish and Wildlife Commission may cause to be investigated, to such extent as the commission considers appropriate, the activities and operations of an outdoor club for which a license to operate has been received, previously granted or previously denied. The commission's power to investigate includes, but is not limited to:

(1) Contracting for investigative services with, and receiving information and recommendations from, any other agency or political subdivision of this state, another state or of the United States.

(2) Making on-site inspections of all lands upon which outdoor club activities are to be conducted. [1973 c.749 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.444 - Information developed in licensing process as public record.**

Each application to the State Fish and Wildlife Commission for a license to operate an outdoor club, all information submitted with the application, and all information obtained by the commission through investigation of applications, is a public record. [1973 c.749 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.452 - Grounds for denial or revocation of license.**

The State Fish and Wildlife Commission may refuse to issue or renew a license to operate an outdoor club, or may revoke a license that has been previously issued if the commission finds:

(1) Failure by the outdoor club or person advertising the sale of membership in the outdoor club to comply with the provisions of ORS 498.400 to 498.464 and 498.993 or any rule promulgated pursuant thereto;

(2) That the promotional plan for the sale of outdoor club membership is false, deceptive or misleading, or that the promotional plan for the sale of membership is not in conformity with the plan submitted with the license application and approved by the commission;

(3) That any land upon which it has been represented that outdoor club activities are to be conducted is unsuitable for the purposes for which represented;

(4) That any obligation, guaranty or warranty to members of the club by the outdoor club that was included in the promotional plan for the sale of membership or in the contract or other documents relating to membership is not being fulfilled or that adequate financial arrangements to secure performance of such obligations, guaranties or warranties has not been made; or

(5) That the proposed outdoor club activities would have adverse effect upon existing wildlife populations or habitat or upon wildlife-oriented recreation. [1973 c.749 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.458 - Term of license; renewal fee.**

A license to operate an outdoor club expires one year from the date of its issuance. A person who desire to renew a license shall submit an application therefor to the State Fish and Wildlife Commission, together with a fee of \$100. The application shall be in such form, contain such information and be submitted at such time as the commission prescribes. [1973 c.749 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.464 - Commission authority to restrain violations of outdoor club laws.**

(1) Whenever the State Fish and Wildlife Commission has cause to believe that any person is engaged in or is about to engage in any acts or practices that constitute a violation of ORS 498.400 to 498.464 and 498.993, or any rule promulgated pursuant thereto, that requires immediate action to protect the wildlife resources of this state, the commission shall institute actions or proceedings for legal or equitable remedies to restrain the violation or threatened action.

(2) The actions or proceedings authorized by subsection (1) of this section may be instituted without necessity of a prior administrative proceeding, or at any time during an administrative proceeding if a proceeding has been commenced. [1973 c.749 §12; 1979 c.284 §160]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.500 - Mitigation of adverse**

**effects on core area habitat; policy.**

(1) To assist persons with meeting the requirements of this state and local and federal governments concerning the mitigation of the adverse effects that a proposed action may have on core area habitat of sage grouse, the State Department of Fish and Wildlife, after consultation with interested local and tribal governments, state and federal agencies and private organizations, may develop and administer a uniform policy for mitigating the adverse effects that the proposed actions may have on core area habitat of sage grouse.

(2) If the department develops a mitigation policy under this section, the policy may include:

(a) Provisions for the recognition or establishment of mitigation banks; and

(b) Any other framework, criteria or goals developed to facilitate the mitigation of the adverse effects that a proposed action may have on core area habitat of sage grouse in a manner that ensures a landscape approach to the conservation of sage grouse.

(3) If the department develops a mitigation policy under this section, the policy must:

(a) Provide that the department review, at least once every five years, the mapping by the department of core area habitat of sage grouse and revise the mapping, if necessary, to account for any new and substantial biological information; and

(b) Ensure that any use of a mitigation bank or other mitigation framework provided for under the policy does not result in a net loss of either the quality or quantity of sage grouse habitat and provides a net benefit to the quality or quantity of sage grouse habitat.

(4) If the department develops a mitigation policy under this section for the purpose of benefiting sage grouse as a result of a listing as a sensitive, threatened or endangered species under ORS 496.171 to 496.182, or a listing as a candidate, threatened or endangered species pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 et seq.), the policy shall ensure, to the greatest extent practicable, that any use of land, water or other natural resources occurring in a habitat identified as part of a mitigation bank or other mitigation framework developed under the policy may continue after the department identifies the habitat as part of a mitigation bank or other mitigation framework.

(5)(a) Subsections (1) to (4) of this section do not affect the ability of a person to develop a proposal under ORS 498.502 for off-site mitigation or a mitigation bank in order to meet the requirements of this state and local and federal governments concerning the mitigation of the adverse effects that a proposed action by the person may have on core area habitat of sage grouse.

(b) Any proposal for off-site mitigation or a mitigation bank developed under this section and ORS 498.502 must not result in a net loss of either the quality or quantity of sage grouse habitat and must provide a net benefit to the quality or quantity of sage grouse habitat. [2013 c.710 §1]

Note:

498.500 and 498.502 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 498 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.502 - Actions that affect core area habitat; reports; orders; rules.**

(1) Subject to and consistent with the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 et seq.) and notwithstanding any provision of ORS 496.171 to 496.182:

(a) If a person applies for a permit, license, authorization or other form of permission required by law from a state agency for a proposed action that may affect core area habitat of sage grouse, the person may file with the State Department of Fish and Wildlife, at any time before or after the commencement of the relevant permitting, licensing, authorization or other form of permission process, a report that uses the best scientific and commercial data available to provide a description of the proposed action and its possible effects on the habitat.

(b) The report described in this section must describe the core area habitat of sage grouse affected by the proposed action, specify whether the habitat is essential and irreplaceable and provide proposals for off-site mitigation or a mitigation bank.

(c)(A) Within 60 days after the filing of the report described in this section, the department shall evaluate whether the proposals specified in the report result in a net loss of either the quality or quantity of sage grouse habitat and provide a net benefit to the quality or quantity of sage grouse habitat.

(B)(i) If the department concludes that the proposals specified in the report do not result in a net loss of either the quality or quantity of sage grouse habitat and do provide a net benefit to the quality or quantity of sage grouse habitat, the department shall issue an order finding that the core area habitat of sage grouse affected by the proposed action is not irreplaceable. The department may not thereafter reverse or modify the order except pursuant to a judgment of a court.

(ii) If the department concludes that the proposals specified in the report result in a net loss of either the quality or quantity of sage grouse habitat and do not provide a net benefit to the quality or quantity of sage grouse habitat, a person affected by the action may request a contested case hearing before the State Fish and Wildlife Commission, to be conducted as provided in ORS chapter 183.

(2) The provisions of this section apply to a site certificate for an energy facility described in ORS 469.300 (11)(a)(F), but do not apply to a site certificate for any other facility under the provisions of ORS 469.300 to 469.563.

(3) The commission may adopt rules to carry out the provisions of this section. [2013 c.710 §2]

Note:

See note under 498.500.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.504 - Sage Grouse Mitigation Program In-Lieu Fee Fund.**

(1) The Sage Grouse Mitigation Program In-Lieu Fee Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Sage Grouse Mitigation Program In-Lieu Fee Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Department of Fish and Wildlife for supporting efforts to restore, protect, enhance or increase habitat for sage grouse. Expenditures from the fund may include but are not limited to expenditures for related administrative costs, related research or assessment activities or insurance for sage grouse habitat.

(2) The fund shall consist of moneys received by the department as fees in lieu of compensatory mitigation, pursuant to department rules adopted to implement the Oregon Sage-Grouse Action Plan and Executive Order 15-18 issued on September 16, 2015.

(3) Except as provided in this subsection, fund moneys may be deposited in the Oregon Short Term Fund established under ORS 293.728. Subject to approval by the State Treasurer, all or part of Sage Grouse Mitigation Program In-Lieu Fee Fund moneys may be placed in an investment pool designed for intermediate-term investment, as provided by ORS 293.701 to 293.857. Earnings from the investment of fund moneys shall be credited to the fund. [2021 c.48 §1]

Note:

498.504 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 498 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.825 - Oregon Hatchery Research Center Board.**

(1) There is established the Oregon Hatchery Research Center Board within the State Department of Fish and Wildlife. The board shall consist of 15 members, including 12 voting members appointed by the State Fish and Wildlife Director under subsection (3) of this section and three nonvoting members specified in subsection (4) of this section. Members of the board must be residents of this state who are well informed on matters related to fish management policy and scientific research and who demonstrate an interest in research related to the propagation of fish in hatcheries.

(2) In making appointments under subsection (3) of this section, the director shall consult with organizations that represent or that are engaged in the same interests as those interests that appointees to the board are required to represent, and shall take into consideration nominations or recommendations of persons for appointment as members of the board that are received in the course of the consultation required by this subsection.

(3) The 12 voting members appointed by the director shall be representative of each of the following interests:

(a) One member shall represent the Oregon Salmon Commission established under ORS 576.062.

(b) One member shall represent the Columbia River gillnet salmon fishery established under ORS 508.775 to 508.796.

(c) Two members shall represent wild fish advocacy organizations.

(d) Two members shall represent statewide sport angling organizations.

(e) One member shall represent the agricultural industry.

(f) One member shall represent coastal ports.

(g) One member shall represent the forest products industry.

(h) One member shall represent the independent scientific community and have scientific background related to fish management and the propagation of fish in hatcheries.

(i) One member shall represent fish habitat restoration interests and have experience in the management or implementation of habitat restoration projects.

(j) One member shall represent Oregon Indian tribes, to be appointed by the director after consultation with the Commission on Indian Services.

(4) In addition to the members appointed under subsection (3) of this section, the director shall:

(a) Appoint the following two nonvoting members of the board who have a background in fish management and the propagation of fish in hatcheries:

(A) One member to represent the State Department of Fish and Wildlife.

(B) One member to represent Oregon State University.

(b) Invite a representative of agencies of the federal government related to fish management to serve as a nonvoting member of the board.

(5) The term of office of each member is four years, but a member serves at the pleasure of the director. Before the expiration of the term of a member, the director shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(6) A member of the board is not entitled to compensation under ORS 292.495. At the discretion of the board, board members may be reimbursed from funds available to the board for actual and necessary travel and other expenses incurred by members of the board in the performance of their official duties, subject to the limits described in ORS 292.495. [2013 c.664 §1; 2017 c.173 §1]

Note:

498.825 to 498.833 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 498 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.827 - Duties of Oregon Hatchery Research Center Board.**

The Oregon Hatchery Research Center Board shall report to the Director of the Oregon Hatchery Research Center and shall:

- (1) Establish strategic directions and operational objectives for the Oregon Hatchery Research Center located on Fall Creek, near Alsea, consistent with ORS 496.275.
- (2) Develop, after consultation with the Director of the Oregon Hatchery Research Center, Oregon State University and the State Department of Fish and Wildlife, the proposed operating budget for the center.
- (3) Recommend research projects for the Oregon Hatchery Research Center and issue requests for research proposals as needed to carry out the activities of the Oregon Hatchery Research Center specified in ORS 498.831.
- (4) Review and prioritize all research proposals submitted to the Oregon Hatchery Research Center before research takes place and prioritize the research according to whether the research is consistent with the strategic directions and operational objectives specified in subsection (1) of this section and with the activities of the Oregon Hatchery Research Center specified in ORS 498.831.
- (5) Make recommendations, as needed, regarding how the research projects at the Oregon Hatchery Research Center may be enhanced to meet the strategic directions and operational objectives specified in subsection (1) of this section and the activities specified in ORS 498.831.
- (6) On or before February 1 of each calendar year, report to the Legislative Assembly in the manner required by ORS 192.245, and to the State Fish and Wildlife Director and the State Fish and Wildlife Commission, regarding the findings of research projects carried out by the Oregon Hatchery Research Center and any recommendations regarding current hatchery management practices based on the research projects. The Director of the Oregon Hatchery Research Center shall post the report on the center's website for public access. [2013 c.664 §3]

Note:

See note under 498.825.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.829 - Officers; quorum; meetings.**

- (1) The Oregon Hatchery Research Center Board shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the board determines.
- (2) A majority of the voting members of the board constitutes a quorum for the transaction of business.
- (3) The board shall meet at least once every three months at a place, day and hour determined by the board. The board may also meet at other times and places specified by the call of the chairperson or of a majority of the members of the board. [2013 c.664 §4]

Note:

See note under 498.825.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.831 - Oregon Hatchery Research Center; activities.**

- (1) The hatchery research center located on Fall Creek, near Alsea, is named the Oregon Hatchery Research Center.
- (2) Pursuant to the strategic directions and operation objectives established by the Oregon Hatchery Research Center Board under ORS 498.827, the center shall carry out the following activities:
  - (a) Conduct research that assists in the implementation and advancement of native fish population recovery as well as viable fisheries.
  - (b) Conduct research on methods to minimize the genetic and ecological risks to naturally produced native fish when hatchery produced fish are released in the waters of this state for population recovery or consumptive fishery objectives.
  - (c) Conduct research to determine the genetic and ecological risk to naturally produced native fish when wild native broodstock hatchery produced native fish are released into the waters of this state.
  - (d) Conduct research to determine the effect of hatchery operations on naturally produced native fish and the habitat of naturally produced native fish.
  - (e) Provide educational and research opportunities for undergraduate students, graduate students and post-graduate students.
  - (f) Provide educational opportunities for the public and for students in grades 1 through 12.
  - (g) Consider any recommendations made by the Oregon Hatchery Research Center Board pursuant to ORS 498.827.
- (3) The Director of the Oregon Hatchery Research Center shall post information about the research specified in subsection (2) of this section on the center's website for public access.
- (4) As used in this section, "waters of this state" has the meaning given that term in ORS 196.800. [2013 c.664 §5]

Note:

See note under 498.825.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.833 - Oregon Hatchery Research Center; director.**

The State Fish and Wildlife Director, after consultation with the chairperson of a department related to fish and wildlife at Oregon State University and the Oregon Hatchery Research Center Board established under ORS 498.825, shall appoint a Director of the Oregon Hatchery Research Center. [2013 c.664 §6]

Note:

See note under 498.825.

Note:

Sections 1, 7 and 8, chapter 734, Oregon Laws 2015, provide:

Sec. 1.

(1) The Oregon Hatchery Research Center Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Hatchery Research Center Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Department of Fish and Wildlife. The fund shall consist of:

(a) All moneys received from the surcharge on angling licenses imposed by section 3, chapter 734, Oregon Laws 2015; and

(b) All moneys received from the ad valorem fee imposed by section 4, chapter 734, Oregon Laws 2015.

(2) Moneys in the fund may be expended only on research projects recommended by the Oregon Hatchery Research Center Board. [2015 c.734 §1; 2017 c.120 §1]

Sec. 7.

(1) The State Department of Fish and Wildlife shall provide a financial report quarterly to the Oregon Hatchery Research Center Board showing all revenues and deposits to and transfers and expenditures from the Oregon Hatchery Research Center Fund.

(2) The department shall provide a financial report annually to the interim committees of the Legislative Assembly related to the environment and natural resources showing all revenues and deposits to and transfers and expenditures from the Oregon Hatchery Research Center Fund. [2015 c.734 §7]

Sec. 8.

(1)(a) Sections 4 and 7, chapter 734, Oregon Laws 2015, are repealed on January 2, 2027.

(b) Section 3, chapter 734, Oregon Laws 2015, as amended by section 52, chapter 779, Oregon Laws 2015, is repealed on January 2, 2027.

(c) Section 1, chapter 734, Oregon Laws 2015, as amended by section 1 of this 2017 Act, is repealed on January 2, 2027.

(2) Any balance in the Oregon Hatchery Research Center Fund that is unexpended and unobligated on the date of the repeal of section 1, chapter 734, Oregon Laws 2015, and all moneys that would have been deposited in the Oregon Hatchery Research Center Fund had section 1, chapter 734, Oregon Laws 2015, remained in effect, shall be transferred to and deposited in the Hatchery Construction Fund, and are appropriated for expenditure as in the case of other moneys in the Hatchery Construction Fund. [2015 c.734 §8; 2015 c.779 §53; 2017 c.120 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.850 - Disposition of hatchery-produced fish carcasses; rules.**

The State Fish and Wildlife Commission shall adopt rules governing the disposition of carcasses of adult hatchery-produced fish returning to hatchery facilities that include but are not limited to requirements that:

(1) At least 45 percent of the carcasses from all adult hatchery-produced fish that return to hatchery facilities, averaged over 10 years, beginning in a year after the rules are adopted, must be retained and placed at seasonally appropriate times in natural spawning and rearing areas to enhance nutrient recycling, consistent with pathology constraints; and

(2) When selling eggs and carcasses from hatchery facilities to provide revenues to support hatchery programs and facilities, the State Department of Fish and Wildlife shall prioritize sales to, in the following order:

(a) Oregon small businesses in communities with high rates of unemployment; and

(b) Other Oregon small businesses. [2021 c.258 §2]

Note:

498.850 was added to and made a part of the wildlife laws by legislative action but was not added to ORS chapter 498 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.990**

[Subsection (5) of 1965 Replacement Part enacted as 1953 c.184 §4; subsection (1) of 1965 Replacement Part enacted as 1955 c.506 §2; 1959 c.352 §3; 1967 c.523 §3; subsection (2) enacted as 1971 c.223 §4; repealed by 1973 c.723 §130]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 498 - Hunting, Angling and Trapping Regulations; Miscellaneous Wildlife Protective Measures Section 498.993 - Penalty for violation of outdoor club laws; penalty for violation of law related to sale of certain animals as household pets.**

Violation of any provision of ORS 498.029 or 498.400 to 498.464 is a Class A violation, if committed by an individual. If the violation is committed by any person other than an individual, violation of any provision of ORS 498.029 or 498.400 to 498.464 is a specific fine violation punishable by a fine not to exceed \$10,000. [1973 c.749 §13; 1979 c.560 §3; 1999 c.1051 §195; 2011 c.597 §90]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 501 - Refuges and Closures Section 501.005 - Closure of hunting season for fire danger.**

- (1) The Governor by proclamation may suspend any season established by the State Fish and Wildlife Commission for hunting when the Governor determines that hunting may result in extreme fire danger in any part of the state.
- (2) The suspension referred to in subsection (1) of this section may be applicable in all or any portion of this state, and shall be effective for a specified or indeterminate period until it appears to the Governor that the possible excessive fire danger no longer exists. A suspension for an indeterminate period shall be terminated by proclamation of the Governor.
- (3) No person shall hunt during a period when or in an area where the appropriate season has been suspended pursuant to this section. [1973 c.723 §104]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 501 - Refuges and Closures Section 501.015 - Hunting or trapping on refuge prohibited.**

Except as the State Fish and Wildlife Commission by rule may provide otherwise, no person shall hunt or trap any wildlife on any wildlife refuge created by any law of this state or any rule promulgated pursuant thereto. [1973 c.723 §105]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 501 - Refuges and Closures Section 501.025 - Authority to manage supply or condition of wildlife on refuge.**

Notwithstanding any restrictions to the contrary regarding the uses of any wildlife refuge created by any law of this state or any rule promulgated pursuant thereto, the State Fish and Wildlife Commission may authorize the hunting or trapping of wildlife on any such wildlife refuge when the commission determines that such action is necessary to properly manage the supply or condition of the wildlife on such refuge. [1973 c.723 §106]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 501 - Refuges and Closures Section 501.035 - Posting signs around refuge; defacing or alteration of signs prohibited.**

- (1) When any wildlife refuge is created by the laws of this state or any rule promulgated thereto, the State Fish and Wildlife Commission shall post signs around the boundary of the refuge giving notice of restrictions on hunting or trapping of wildlife on the refuge and on such other uses of the refuge as are specified by law or rule.
- (2) No person shall remove, deface, alter or destroy any sign referred to in subsection (1) of this section. [1973 c.723 §107]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 501 - Refuges and Closures Section 501.045 - Contracts to establish refuges on private lands.**

The State Fish and Wildlife Commission may enter into contracts with the owners of land for the purpose of establishing a wildlife refuge on the land. The contract shall be for such period and shall contain such terms, conditions and restrictions regarding the hunting and trapping of wildlife and other uses of the land as the commission considers appropriate to properly manage the supply and condition of the wildlife on the land. [1973 c.723 §108]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 501 - Refuges and Closures Section 501.400 - Columbia River Wildlife Refuge.**

There is created a wildlife refuge within the following described area: Beginning at the railroad bridge at Celilo in Wasco County; thence easterly along the railroad right of way to Boardman; thence due north to the center of the Columbia River (Washington State Line); thence westerly down the center of the Columbia River to a point due north of the point of beginning; thence south to the point of beginning. [Formerly 498.205]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 501 - Refuges and Closures Section 501.405 - Deschutes River Wildlife Refuge.**

There is created a wildlife refuge within the area that includes any island or sandbar along or in the Deschutes River from the Columbia River to a point one-half mile south of the Oregon Trail highway bridge where it crosses the Deschutes River. [Formerly 498.210]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 501 - Refuges**

**and ClosuresSection 501.410 - Brown's Island and Minto Island Wildlife Refuge.**

There is created a wildlife refuge which shall be known as the Brown's Island and Minto Island Wildlife Refuge and shall be bounded and described as follows: Beginning at the point of intersection of the center line of State Street in Salem, Oregon, with the center line of the Oregon Electric Railway tracks on Front Street in Salem; thence southwesterly along the center line of the Oregon Electric Railway tracks to the north boundary of the east ell of the donation land claim of R. E. Ekin and wife in township 8 south, range 3 west of the Willamette Meridian in Marion County; thence west to the re-entrant corner in the west boundary of such donation land claim; thence north to the most northerly northeast corner of such donation land claim; thence west to the middle of the Willamette River; thence down the meanderings of such river to the westerly projection of the center line of State Street in Salem; thence easterly to the place of beginning. [Amended by 1973 c.723 §112]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 501 - Refuges and ClosuresSection 501.425 - John Day River Wildlife Refuge.**

There is created a wildlife refuge within the area that is one-fourth mile from the high-water flowline along the John Day River from the Columbia River south to its junction with Thirty Mile Creek. [Formerly 498.215]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 501 - Refuges and ClosuresSection 501.440 - Carlton Lake Wildlife Refuge.**

The following described lands, including Carlton Lake, situated in Yamhill County, shall be known as the Carlton Lake Wildlife Refuge: Beginning at the northwest corner of the W. C. Hembree D.L.C. (claim) No. 59, in section 17, township 3 south, range 4 west, Willamette Meridian; running thence east along the north line of Hembree D.L.C. and along this north line produced, or extended 4,500 feet to the west line of the state highway, known as the Tualatin Valley Highway; thence southerly along the west line of such highway 6,600 feet to north line of Main Street in the City of Carlton; thence westerly along the north line of Main Street and the county road, which is an extension of Main Street, 6,300 feet to the northeast corner of the intersection of the county road, leading west from Carlton and the county road running north and south through the James Fulton D. L. C. just west of Carlton Lake; thence northerly along the east line of such county road 6,700 feet to the intersection of the east line of the county road with the north line of the James Fulton D. L. C.; thence east along the north line of Fulton D. L. C. 1,950 feet to the northeast corner of the claim; thence north about 60 feet to the northwest corner of the W. C. Hembree D. L. C., the place of beginning, situated in parts of sections 16, 17, 20 and 21, township 3 south, range 4 west. [Amended by 1973 c.723 §113]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 501 - Refuges and ClosuresSection 501.490 - Lake Lytle Wildlife Refuge.**

There is created a wildlife refuge in Tillamook County, to be known as Lake Lytle Wildlife Refuge of the land and waters within the following described boundaries: Beginning at the northeast corner of section 29, township 2 north, range 10 west of Willamette Meridian; running thence west to the mean low water line of Pacific Ocean; thence southerly along the mean low water line of Pacific Ocean to the middle east and west line of section 32, in such township and range; thence east to the east line of section 32; thence north to the place of beginning. [Amended by 1973 c.723 §114]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 501 - Refuges and ClosuresSection 501.505 - Sturgeon Lake Wildlife Refuge; rules.**

(1) The following described lakes, the islands therein and the lands adjacent thereto shall be known as the Sturgeon Lake Wildlife Refuge:

- (a) Big Sturgeon Lake, situated in sections 9, 10, 15, 16, 21, 22, 23, 26, 27, 28, 33 and 34, township 3 north, range 1 west, Willamette Meridian.
- (b) West Sturgeon Lake, situated in sections 20, 28, 29, 30, 32 and 33, township 3 north, range 1 west, Willamette Meridian.
- (c) Little Sturgeon Lake, situated in sections 32 and 33, township 3 north, range 1 west, Willamette Meridian, and sections 4 and 5, township 2 north, range 1 west, Willamette Meridian.
- (d) Marquam Lake, situated in sections 34 and 35, township 3 north, range 1 west, Willamette Meridian, and sections 2 and 3, township 2 north, range 1 west, Willamette Meridian.

(2) The State Fish and Wildlife Commission by rule shall establish the exact boundaries of the wildlife refuge referred to in subsection (1) of this section in such manner as the commission determines will provide adequate protection for the wildlife within the area. However, the boundaries so established shall not include land adjacent to any lake referred to in subsection (1) of this section that is further than 100 yards from the line of ordinary high water of such lake. [1973 c.723 §116]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 501 - Refuges and ClosuresSection 501.540 - Multnomah-Clackamas Wildlife Refuge.**

The following described land situated in Multnomah and Clackamas Counties shall be known as the Multnomah-Clackamas Wildlife Refuge: Beginning at intersection of center line of the channels of the Willamette River and Willamette slough; thence westerly along center line of channel of Willamette slough to its intersection with the south line of section 27, township 2 north,

range 1 west, Willamette Meridian; thence west along south line of sections 27 and 28 to intersection with the Columbia River Highway; thence in southerly direction along Columbia River Highway to intersection with Harborton Road; thence southwesterly along Harborton Road to its intersection with Skyline Boulevard; thence southeasterly along Skyline Boulevard to its intersection with Cornell Road; thence west along Cornell Road to its intersection with the Washington-Multnomah County line; thence south and east along the Washington-Multnomah County line to the Willamette Meridian; thence south along the Willamette Meridian to section 19, township 2 south, range 1 east, Willamette Meridian; thence east along the north lines of sections 19, 20 and 21 to Stafford Road; thence east and north on Stafford Road to the west bank of the Willamette River; thence southerly along the west bank of said Willamette River to a point opposite the intersection of the east bank of the Willamette River and the north bank of the Clackamas River; thence easterly across the Willamette River to said intersection; thence easterly along the north bank of Clackamas River to a point where the east line of Ninety-second Street in the City of Portland extended southerly intersects the north bank of the Clackamas River; thence north along the southerly extension of Ninety-second Street to the point of the Multnomah and Clackamas County line, such point being at the quarter-section corner of south side of section 21, township 1 south, range 2 east, Willamette Meridian; thence east along the Multnomah County line to its intersection with Foster Road; thence northwesterly along Foster Road to the intersection of Foster Road with Jenne Road; thence northeasterly and northerly along Jenne Road to its intersection with Section Line Road; thence east along Section Line Road to its intersection with Rockwood Road; thence north along Rockwood Road to the north side of Sandy Boulevard; thence west along the north side of Sandy Boulevard to the Government Island Road; thence north along the Government Island Road to the high-water flowline of the south bank of the south channel of the Columbia River; thence westerly along high-water flowline of the waters of the Columbia River to the easterly line of the Spokane, Portland and Seattle railroad; thence south along the Spokane, Portland and Seattle railroad to the junction of the Oregon-Washington Railroad and Navigation Company right of way; thence south along the Oregon-Washington Railroad and Navigation Company right of way to the city boundaries of the City of Portland; thence westerly along the north line of the boundary of the City of Portland to the center of the channel of the Willamette River; thence in a northerly direction along the center line of the channel of the Willamette River to the point of beginning. [Amended by 1953 c.255 §2; 1973 c.723 §115]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.001 - Contents of commercial fishing laws.**

All laws enacted for the protection, propagation and preservation of food fish or for the protection and development of commercial fisheries in this state, including but not limited to ORS chapters 506, 507, 508, 509, 511 and 513, may be cited as the commercial fishing laws. [1965 c.570 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.006 - General definitions.**

As used in the commercial fishing laws, unless the context requires otherwise:

- (1) "Angling" means fishing for personal use with one line attached to a pole held in hand while landing the fish, or with a hand-operated line without rod or reel, to which may be attached not to exceed three hooks, except on floating bass plugs.
- (2) "Boat" means any vessel, any floating craft, powered, towed, rowed or otherwise propelled which is used for landing or taking food fish.
- (3) "Buy" includes offer to buy, barter, exchange or trade.
- (4) "Commercial purposes" means taking food fish with any gear unlawful for angling, or taking or possessing food fish in excess of the limits permitted for personal use, or taking, fishing for, handling, processing, or otherwise disposing of or dealing in food fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels.
- (5) "Commission" means the State Fish and Wildlife Commission created by ORS 496.090.
- (6) "Department" means the State Department of Fish and Wildlife.
- (7) "Director" means the State Fish and Wildlife Director appointed pursuant to ORS 496.112.
- (8) "Fishing gear" means any appliance or device intended for or capable of being used to take food fish except by angling.
- (9) "Fixed fishing gear" includes but is not limited to stationary gear operated at a fixed location.
- (10) "Personal use" means taking or fishing for food fish by angling or by such other means and with such gear as the commission may authorize for fishing for personal use, or possessing the same for the use of the person fishing for, taking or possessing the same and not for sale or barter.
- (11) "Sell" includes offer or possess for sale, barter, exchange or trade.
- (12) "Take" means fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt, pursue, catch, capture or kill.
- (13) "Transport" means transport by any means, and includes offer or receive for transportation.
- (14) "Waters of this state" means all waters over which the State of Oregon has jurisdiction, or joint or other jurisdiction with any other state or government, including waters of the Pacific Ocean and all bays, inlets, lakes, rivers and streams within or forming the boundaries of this state. [1965 c.570 §3; 1975 c.253 §13; 1995 c.602 §1; 2003 c.14 §337]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.011 - Types of marine life defined.**

As used in the commercial fishing laws, unless the context requires otherwise:

- (1) "Anadromous fish" includes but is not limited to salmon, as defined in ORS 506.016; *Roccus saxatilis*, commonly known as striped bass; *Alosa sapidissima*, commonly known as shad; *Acipenser medirostris* and *Acipenser transmontanus*, commonly known as sturgeon; and *Thaleichthys pacificus*, commonly known as smelt.
- (2) "Animals living intertidally on the bottom" includes but is not limited to starfish, sea urchins, sea cucumbers, snails, bivalves, worms, coelenterates and shore, hermit and other small crabs not included within subsection (1) or (7) of this section.
- (3) "Black rockfish" means *Sebastes melanops*, commonly known as black rockfish.
- (4) "Blue rockfish" means *Sebastes mystinus*, commonly known as blue rockfish.
- (5) "Food fish" means any animal over which the State Fish and Wildlife Commission has jurisdiction pursuant to ORS 506.036.
- (6) "Nearshore fish" means:
  - (a) *Enophrys bison*, commonly known as buffalo sculpin;
  - (b) *Hemilepidotus hemilepidotus*, commonly known as red Irish lord;
  - (c) *Hemilepidotus spinosus*, commonly known as brown Irish lord;
  - (d) *Scorpaenichthys marmoratus*, commonly known as cabezon;
  - (e) *Hexagrammos decagrammus*, commonly known as kelp greenling;
  - (f) *Hexagrammos lagocephalus*, commonly known as rock greenling;
  - (g) *Hexagrammos stelleri*, commonly known as whitespotted greenling;
  - (h) *Oxylebius pictus*, commonly known as painted greenling;
  - (i) *Sebastes atrovirens*, commonly known as kelp rockfish;
  - (j) *Sebastes auriculatus*, commonly known as brown rockfish;
  - (k) *Sebastes carnatus*, commonly known as gopher rockfish;
  - (L) *Sebastes caurinus*, commonly known as copper rockfish;
  - (m) *Sebastes chrysomelas*, commonly known as black and yellow rockfish;
  - (n) *Sebastes dalli*, commonly known as calico rockfish;
  - (o) *Sebastes maliger*, commonly known as quillback rockfish;
  - (p) *Sebastes miniatus*, commonly known as vermilion rockfish;
  - (q) *Sebastes nebulosus*, commonly known as china rockfish;
  - (r) *Sebastes nigrocinctus*, commonly known as tiger rockfish;
  - (s) *Sebastes rastrelliger*, commonly known as grass rockfish;
  - (t) *Sebastes serranoides*, commonly known as olive rockfish; or
  - (u) *Sebastes serripes*, commonly known as treefish.
- (7) "Shellfish" includes but is not limited to abalone, clams, crabs, crayfish or crawfish, mussels, oysters, piddocks, scallops and shrimp. [1965 c.570 §4; 2003 c.809 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.016 - "Salmon" defined.**

As used in the commercial fishing laws, "salmon" means all anadromous species of salmon, including but not limited to:

- (1) *Oncorhynchus gorboscha*, commonly known as humpback, humpies or pink salmon.
- (2) *Oncorhynchus keta*, commonly known as chum or dog salmon.
- (3) *Oncorhynchus kisutch*, commonly known as coho or silver salmon.
- (4) *Oncorhynchus nerka*, commonly known as sockeye, red or blueback salmon.
- (5) *Oncorhynchus tshawytscha*, commonly known as chinook salmon. [1965 c.570 §5; 1969 c.411 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.025 - "Unlawful to buy" defined.**

Whenever the commercial fishing laws state that it is unlawful to buy any food fish, illegally taken, this prohibition means that it is unlawful to buy, knowing or having reasonable cause to believe that the fish have been illegally taken or transported within this state, or unlawfully imported or otherwise unlawfully brought into this state. [Amended by 1965 c.570 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.028 - "Conservation" defined.**

As used in the commercial fishing laws, unless the context requires otherwise, "conservation" means providing for the utilization and management of the food fish of Oregon to protect the ultimate supply for present and future generations, preventing waste and implementing a sound management program for sustained economic, recreational and aesthetic benefits. [1971 c.187 §5; 1973 c.271 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.031 - Effect of wildlife laws on commercial fishing laws.**

(1) Nothing in the wildlife laws of this state affects the lawful operation of any fishing gear or the lawful taking of any food fish under the commercial fishing laws.

(2) The commercial fishing laws apply to food fish except as otherwise provided in ORS 506.045 and 506.050, and shall be enforced regardless of any conflicting provisions in the wildlife laws of this state. No act lawfully done under the commercial fishing laws is unlawful in the event that such act conflicts with any provision of the wildlife laws of this state. [1965 c.570 §7; 1975 c.545 §10; 1977 c.242 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.036 - Jurisdiction of commission; duty to protect and propagate fish.**

(1) Except as otherwise provided in subsection (4) of this section and in ORS 506.045 and 506.050, the State Fish and Wildlife Commission has exclusive jurisdiction over all fish, shellfish, and all other animals living intertidally on the bottom, within the waters of this state. The commission has joint or other jurisdiction with any other state or government over all such fishes within the waters of the Columbia River and its tributaries where such waters form the boundaries of this state.

(2) The commission has jurisdiction over those species of fish, shellfish and all other animals living intertidally on the bottom referred to in subsection (1) of this section transported into or landed in this state which have been taken in waters outside this state.

(3) The duty of protection, preservation, propagation, cultivation, development and promotion of all fishes under its jurisdiction is delegated to and imposed upon the commission.

(4) The commission has no regulatory authority or jurisdiction over the commercial cultivation of oysters in the waters of this state. However, nothing in this subsection is intended to affect the authority of the commission under ORS 509.140. [1965 c.570 §8; 1975 c.253 §20; 1981 c.638 §13; 1983 c.364 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.045 - Fishing rights of treaty Indians not affected.**

There are excluded from the operation of ORS 506.129, 506.136, 507.030, 508.025, 508.285 and 509.025 (1), any Warm Springs, Umatilla, Yakima, Wasco, Tenino, Wyum and other Columbia River Indians affiliated with these tribes and entitled to enjoy fishing rights, who have not severed their tribal relations, in so far as it would conflict with any rights or privileges granted to such Indians under the terms of the treaties made by the United States with the Warm Springs Indians on June 25, 1855, and with the Umatilla and Yakima Indians on June 9, 1855. [Formerly 506.195; 1975 c.545 §11; 1977 c.242 §3; 2013 c.672 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.050 - Federal and state fish cultural operations and scientific investigations; commission to propagate fish and to stock waters.**

(1) The United States Fish and Wildlife Service, the State Fish and Wildlife Commission and their duly authorized agents may conduct fish cultural operations and scientific investigations in the waters of this state in such manner and at such times as may be considered necessary and proper by the service, the commission or their agents.

(2) The commission shall propagate and stock the waters of this state with such fish as it considers proper. [1965 c.570 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.109 - Food fish management policy.**

It is the policy of the State of Oregon that food fish shall be managed to provide the optimum economic, commercial, recreational and aesthetic benefits for present and future generations of the citizens of this state. In furtherance of this policy, the goals of food fish management are:

(1) To maintain all species of food fish at optimum levels in all suitable waters of the state and prevent the extinction of any indigenous species.

(2) To develop and manage the lands and waters of this state in a manner that will optimize the production, utilization and public enjoyment of food fish.

(3) To permit an optimum and equitable utilization of available food fish.

(4) To develop and maintain access to the lands and waters of the state and the food fish resources thereon.

(5) To regulate food fish populations and the utilization and public enjoyment of food fish in a manner that is compatible with other uses of the lands and waters of the state and provides optimum commercial and public recreational benefits.

(6) To preserve the economic contribution of the sports and commercial fishing industries in a manner consistent with sound food fish management practices.

(7) To develop and implement a program for optimizing the return of Oregon food fish for Oregon's recreational and commercial fisheries. [1975 c.253 §15; 1985 c.529 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.119 - General duties and powers of**

**commission; rulemaking authority.**

(1) The State Fish and Wildlife Commission has the authority to formulate and implement the policies and programs of this state for the management of food fish, and may perform all acts necessary to administer and carry out the provisions of the commercial fishing laws.

(2) In accordance with any applicable provision of ORS chapter 183, the commission may promulgate rules to carry out the provisions of the commercial fishing laws. [1975 c.253 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.124 - Hatchery practice rules; reports.**

The State Fish and Wildlife Commission shall adopt rules governing public and private salmon hatchery practices by July 1, 1984. The commission shall also submit quarterly reports to the Emergency Board on matters related to the adoption of rules and the impact of hatchery practices on the salmon resource. [1983 c.797 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.129 - Establishing seasons, amounts and manner of taking food fish; rules.**

(1) After investigation of the supply and condition of food fish, the State Fish and Wildlife Commission, at appropriate times each year, shall by rule:

(a) Prescribe the times, places and manner in which food fish may be taken or sold, except when canned or otherwise processed, and the amount of those food fish species that may be taken or sold.

(b) Prescribe such other restrictions or procedures regarding the taking, selling or possessing of food fish as the commission determines will carry out the provisions of the commercial fishing laws.

(2) In carrying out the provisions of subsection (1) of this section, the power of the commission includes, but is not limited to:

(a) Prescribing the amount of each food fish species that may be taken and possessed in terms of sex, size and other physical characteristics.

(b) Prescribing such regular and special time periods and areas closed to the taking and selling of any food fish species when the commission determines such action is necessary to protect the supply of such food fish.

(c) Prescribing regular and special time periods and areas open to the taking and selling of any food fish species, and prescribing means by which the taking of food fish is permitted. [1975 c.253 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.136 - Commission to study and classify food fish and fishing gear.**

The State Fish and Wildlife Commission shall:

(1) Investigate the habits, supply and economic uses of, and classify all food fish.

(2) Classify all fishing gear and such classification shall be final. [1965 c.570 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.142 - Authority of Fish Division.**

The Fish Division established pursuant to ORS 496.124 shall be responsible for the management of all fish and other marine life over which the State Fish and Wildlife Commission has regulatory jurisdiction. [1975 c.253 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.147 - Record keeping regarding food fish commerce.**

(1) In addition to any other authority under the commercial fishing laws, and except as provided in this subsection, the State Fish and Wildlife Commission may adopt record keeping requirements for a person that engages in taking, landing, buying or selling food fish for commercial purposes or otherwise deals in food fish for commercial purposes. Records that the commission may require under this section include, but need not be limited to, records sufficient to show the source and disposition of food fish and any other information the commission deems necessary for tracing the chain of possession for food fish. The commission may not make record keeping requirements under this section applicable to tribal members exercising the treaty-reserved rights of an Indian tribe.

(2) A person that the commission makes subject to a record keeping requirement under this section shall make the records available for inspection by the commission, the State Department of Fish and Wildlife or the State Department of Agriculture, or by a designee of the commission, State Department of Fish and Wildlife or State Department of Agriculture. The State Department of Agriculture may request copies of, or information from, the records for the purpose of programs under ORS chapter 616 or other food safety law programs administered or enforced by the department. The State Department of Agriculture may, as part of a

general pattern of administering and enforcing programs under ORS chapter 616 or other food safety law programs, during normal business hours enter premises where records described in this section are kept.

(3) A person may keep records required by the commission under this section in electronic form and may satisfy a request for inspection of the records by supplying a copy of the records in electronic form to the requester. If the records are not supplied to the requester in electronic form, the person shall allow inspection of the records upon request during normal business hours. [2018 c.104 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.154 - Duties of director.**

The State Fish and Wildlife Director shall:

(1) Be responsible to the State Fish and Wildlife Commission for the administration and enforcement of the commercial fishing laws.

(2) Be responsible for the collection, application and dissemination of information pertinent to the management of food fish resources and to the regulation of the uses of such resources. [1975 c.253 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.195**

[Amended by 1965 c.570 §10; renumbered 506.045]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.201 - Powers of commission in regard to real property.**

The State Fish and Wildlife Commission may:

(1) Acquire by purchase, lease, gift, agreement or donation, real property, or any right or interest therein, including any easement or right of access, necessary:

(a) To construct or maintain fish hatcheries, fishways or research facilities;

(b) To remove logjams; or

(c) Otherwise to carry out the duties imposed on the commission by law.

(2) Acquire by exercise of the power of eminent domain any easement or right of access necessary to construct or maintain fishways or remove logjams. Proceedings instituted by the commission under this subsection shall be conducted in accordance with ORS chapter 35.

(3) Lease, dispose of or grant easements upon any property owned by the state and used for the protection, propagation or preservation of food fish, which is found to be of no further use or value to the state. The commission shall turn over the proceeds arising from such disposition to the State Treasurer to be credited to the General Fund. [1965 c.570 §16; 1971 c.741 §34]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.211 - Acquisition of fish, eggs and larvae for certain purposes; returning salmon to Rogue River.**

(1) Subject to subsection (2) of this section, the State Fish and Wildlife Commission may acquire by gift or purchase, and may acquire by capture or otherwise in this state, any fish, eggs or larvae thereof for propagation, experimental or scientific purposes.

(2) The commission or any other person authorized by it who takes salmon eggs from the waters of the Rogue River for the purpose of supplying the various hatcheries of this state, shall return at least 40 percent of the fish hatched from the eggs to the Rogue River. [1965 c.570 §28]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.213 - Coho and chinook salmon hatchery on Oregon coast.**

(1) The State Fish and Wildlife Commission shall cause to be commenced and shall supervise the construction of a fish hatchery on the Oregon coast for the purpose of rearing coho and chinook salmon. The location for the site of the hatchery shall be at the discretion of the commission. Selection of the site shall be based upon the most recent research data available to the commission.

(2) The hatchery constructed pursuant to subsection (1) of this section shall be maintained and operated by the commission. [1967 c.360 §§1,4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.214 - Hatchery Construction Fund.**

The Hatchery Construction Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Hatchery Construction Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Department of Fish and Wildlife. The fund shall consist of any moneys appropriated to the fund by the Legislative Assembly and

moneys received by the department for the purposes established in this section in the form of gifts, grants, bequests, endowments or donations. Moneys in the fund may be expended only to improve, upgrade or replace current coastal hatchery facilities in order to incorporate new technologies. [2015 c.734 §2; 2017 c.120 §2]

Note:

506.214 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 506 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.215 - Maintaining hatcheries in adjoining states.**

The State Fish and Wildlife Commission may construct, maintain or operate hatcheries in an adjoining state, but no hatchery shall be constructed or operated on any stream in an adjoining state that is not a tributary of the Columbia River, or whose waters do not flow into the Columbia River.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.220 - Erecting markers of closed waters; interference with markers.**

Whenever deadlines are established on any of the waters of this state, either by legislative enactment or by order of the State Fish and Wildlife Commission, the commission shall, within a reasonable time, erect suitable monuments or markers in the water or on the banks of the water designating the closed portion of the water. It is unlawful to remove, destroy, alter or mutilate any of these monuments or markers. [Amended by 1965 c.570 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.226 - Use of electric shock to take adult salmonids for private hatchery permittees prohibited.**

Notwithstanding any other provision of law the State Department of Fish and Wildlife shall not use in any body of water any electric current or electric shock device for the purpose of capturing any adult salmonids for a person granted a permit pursuant to ORS 508.700 to 508.745. [1981 c.646 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.231 - Public report of fish hatchery activities.**

The State Department of Fish and Wildlife shall prepare and make available to the public upon request monthly reports of fish hatchery operations. Information in the report shall include, but is not limited to:

- (1) The location of each state facility at which salmon eggs were taken and the number of eggs taken.
- (2) The number and destination of salmon eggs transferred from one state facility to another.
- (3) The number of salmon eggs to be reared at each state facility.
- (4) The number of salmon eggs sold from each state facility to any person granted a permit pursuant to ORS 508.700 to 508.745.
- (5) The number of salmon eggs from state facilities allocated for volunteer salmonid improvement program activities.
- (6) The location and circumstances of each mortality incident involving 10,000 or more salmon eggs at a state facility. [1981 c.646 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.235**

[1957 c.141 §1; renumbered 506.321]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.241 - Commercial fishing vessel fleet reduction program; rules.**

The State Fish and Wildlife Commission, by rule, may prescribe a commercial fishing vessel fleet reduction program that complies with the federal Salmon and Steelhead Conservation and Enhancement Act of 1980. [1981 c.365 §38]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.306 - Collecting moneys under commercial fishing laws; deposit into Commercial Fisheries Fund.**

The State Fish and Wildlife Commission shall collect all moneys to be paid to this state for the protection, preservation, propagation and development of the commercial fishing industry and arising under the commercial fishing laws and deposit such moneys in the Commercial Fisheries Fund. [1965 c.570 §29; 1987 c.905 §26; 1991 c.701 §23; 1997 c.545 §1; 2011 c.597 §139]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.316 - Payment of commission expenditures.**

Except as otherwise provided in ORS 506.321, all expenditures of the State Fish and Wildlife Commission pursuant to the commercial fishing laws shall be made from moneys appropriated for the purposes for which such moneys are used, upon claims presented and warrants drawn pursuant to law. [1965 c.570 §30; 1967 c.454 §108]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.321 - Acceptance and use of gifts of money and property to commission.**

The State Fish and Wildlife Commission may accept gifts of money, lands or other property and use the same for the protection, preservation, propagation and development of the fishery resource, subject to the terms of the gift. Subject to such terms the gifts may be used or exchanged for the acquisition of other lands, waters, rights, easements or other property. Any moneys received under this section not otherwise appropriated hereby are appropriated for such purposes. [Formerly 506.235]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.405 - Powers of commission regarding federal aid for fish and fisheries.**

The State Fish and Wildlife Commission may:

- (1) Enter into such contracts, appoint such officers and do any other act or thing necessary fully to meet the requirements of the United States and the officers acting under federal statute in aid of the conservation and preservation of fish and fisheries in this state or concerning any federal project wherein the conservation and preservation of such fish and fisheries are involved.
- (2) Accept contributions of funds from the federal government for such purposes.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.450 - Definitions for ORS 506.450 to 506.465; rules.**

As used in ORS 506.450 to 506.465, "developmental fishery" means activity for the development of commercial taking of an underutilized food fish species. The State Fish and Wildlife Commission by rule shall determine those species of food fish that are underutilized. [1993 c.765 §115]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.455 - Policy.**

It is the policy of the State of Oregon to institute a management system for developmental fishery resources that addresses both long term commercial and biological values and that protects the long term sustainability of those resources through planned commercial development when appropriate. [1993 c.765 §116]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.460 - Developmental fishery species harvest programs; biological surveys; permits; fees.**

In consultation with the Developmental Fisheries Board, the State Fish and Wildlife Commission shall:

- (1) Establish an annual list of food fish species that are considered to be developmental fishery species.
- (2) Establish and review commercial harvest programs for developmental fishery species.
- (3) Establish methods to obtain biological information necessary to determine the long term sustainability of the resource.
- (4) Establish limited entry harvest systems for developmental fisheries. An annual fee of not more than \$100 to participate in a developmental fishery may be charged by the commission.
- (5) Issue permits for developmental fisheries within 14 days of receiving a written request for a permit. [1993 c.765 §118]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.462 - Review of denial of applications; removal of fishery from developmental fisheries list; fees; rules.**

- (1) A person whose application for a developmental fisheries permit or a restricted permit established under subsection (6) of this section, or for the renewal or transfer of a developmental fisheries permit or restricted permit, is denied may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any review by the State Department of Fish and Wildlife or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the board considers appropriate. The request shall be accompanied by a nonrefundable fee of \$125. The fee shall apply toward any applicable permit fees resulting from an order of the board in favor of the requesting applicant.
- (2) The board shall review a denial as a contested case under ORS chapter 183. Orders issued by the board are not subject to review

by the commission, but may be appealed as provided in ORS 183.482.

(3) The board may waive requirements for renewal of a developmental fisheries permit or a restricted permit established under subsection (6) of this section if the board finds that an individual applicant fails to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(4) The board may delegate to the department the board's authority to waive requirements for renewal of developmental fisheries permits or restricted permits established under subsection (6) of this section.

(5) The board may adopt such rules as it determines necessary to carry out its duties, functions and powers under this section.

(6) Once the commission determines that a commercial harvest of a developmental fishery can be sustained, it may remove that fishery from the developmental fisheries list, and may, by rule, establish a restricted participation system or a restricted vessel permit system for that fishery. These restricted permit systems may include, but are not limited to, provisions relating to the following matters:

(a) Establishment of criteria for initial entry into the restricted permit system and criteria for annual qualification for continued participation in the system; and

(b) Establishment of terms and conditions for transferring participation rights. [2007 c.95 §2; 2009 c.832 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.465 - Developmental Fisheries Board; members; qualifications; expenses.**

(1) The Developmental Fisheries Board is established in the State Department of Fish and Wildlife. The board shall consist of members appointed by the State Fish and Wildlife Commission after consultation with commercial fishing industry representatives to insure representation on the board of a broad range of fishing interests.

(2) The commission shall appoint:

(a) Two members who are commercial fishermen licensed in this state and who are the operators of commercial fishing vessels that are less than 60 feet in length.

(b) Two members who are commercial fishermen licensed in this state and who are the operators of commercial fishing vessels that are 60 feet or more in length.

(c) One member who represents commercial fishing interests in general.

(d) One member who is employed by a fish processor having fewer than 50 employees.

(e) One member who is employed by a fish processor having 50 or more employees.

(f) One member who is an employee of the State Department of Fish and Wildlife.

(g) One member who is an employee of the State Department of Agriculture.

(3) A member of the board shall receive no compensation for services as a member. However, subject to any applicable law regulating travel and other expenses of state officers and employees, a member shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of duties as a board member. The board shall meet at least once each year. [1993 c.765 §117]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.501 - Jurisdiction and authority to enforce commercial fishing laws.**

The State Fish and Wildlife Commission has jurisdiction and authority to enforce the commercial fishing laws, except as provided in ORS 506.506 to 506.516. [1965 c.570 §34]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.506 - Intent of ORS 506.511 and 506.516.**

It is the intent of ORS 506.511 and 506.516 to permit the State Fish and Wildlife Commission to employ only such deputy fish wardens as are agreed necessary or expedient among the commission, the Governor and the Superintendent of State Police, and that the duties of enforcing criminal provisions of the commercial fishing laws, so far as is economical and practicable, be performed by the Department of State Police. [1965 c.570 §35]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.511 - State police to enforce commercial fishing laws; appointment of federal agents.**

(1) The Department of State Police shall employ a sufficient number of state police to perform the duties required in the enforcement of criminal provisions of the commercial fishing laws.

(2) The Superintendent of State Police may appoint special enforcement officers authorized to enforce the commercial fishing laws. Individuals so appointed must be special agents of the United States Fish and Wildlife Service or the National Marine Fisheries Service, and shall serve at the pleasure of the superintendent without additional compensation. Each such special enforcement

officer shall have all powers and authority of a peace officer of this state in serving warrants, subpoenas and other legal process in enforcement of the commercial fishing laws. [1965 c.570 §36; 1983 c.364 §5; 2003 c.14 §338]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.516 - Employment of deputy fish wardens by commission.**

The State Fish and Wildlife Commission, with the approval of the Governor and the Superintendent of State Police, may employ deputy fish wardens to the extent necessary or expedient. [1965 c.570 §37]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.518 - Appointment of special deputy fish wardens.**

The State Fish and Wildlife Commission may appoint special deputy fish wardens who shall serve without compensation except for what the commission may allow for special services. [Amended by 1965 c.570 §38]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.521 - Enforcement of commercial fishing laws; officers subject to direction and control of commission or director.**

Each member of the State Fish and Wildlife Commission, the State Fish and Wildlife Director and every inspector, deputy fish warden, special deputy fish warden, and all peace officers of this state or any political subdivision therein, including police officers commissioned by a university under ORS 352.121 or 353.125, shall enforce the commercial fishing laws within their respective jurisdictions. In the performance of these duties such officers are subject to the direction and control of the commission or director. [1965 c.570 §39; 2001 c.104 §224; 2011 c.506 §43; 2013 c.180 §47]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.526 - Peace officer powers of director, inspectors and deputies; reporting arrests.**

(1) The State Fish and Wildlife Director or any inspector, deputy fish warden or special deputy fish warden may arrest any person the officer has probable cause to believe is in the act of committing a violation of the commercial fishing laws. Such officers are peace officers of the state for this purpose and may execute all criminal process issued for the arrest or detention of any person complained against for violation of the commercial fishing laws. It is unlawful knowingly or willfully to resist or oppose such officers in the discharge of their duties.

(2) Any officer described in subsection (1) of this section who makes an arrest must report it, together with the disposition of the case, to the director within 30 days after the date of the arrest. Failure so to report subjects the officer to removal from office by the authority that appointed the officer.

(3) The officers described in subsection (1) of this section have all the powers and authority of a peace officer in serving warrants, subpoenas and other legal process in the enforcement of the commercial fishing laws. [1965 c.570 §40; 1973 c.836 §356]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.531 - Arrests, searches and seizures made on Sunday.**

The arrests, searches and seizures provided for in the commercial fishing laws may be made on Sunday. In this event the persons arrested shall be taken before any justice of the peace or judge having jurisdiction, who shall bind over the persons arrested to appear and be proceeded against as soon as may be on a week day following the arrest. [1965 c.570 §41]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.535 - Jurisdiction of courts over commercial fishing law violations; commencement of prosecutions.**

(1) Unless otherwise specifically provided, justice courts have concurrent jurisdiction in the first instance with circuit courts of all offenses under the commercial fishing laws.

(2) Any action or proceedings under the commercial fishing laws shall be commenced on order of the State Fish and Wildlife Commission or a person duly authorized to enforce such laws, or by any district attorney, in the county in which the offense is alleged to have been committed. [Amended by 1965 c.570 §43]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.540 - Payment of rewards.**

The State Fish and Wildlife Commission may offer and authorize payment of rewards for the arrest and conviction of any person who has violated any of the commercial fishing laws, but no reward of more than \$100 shall be offered or paid for any one arrest or

conviction. [Amended by 1965 c.570 §48]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.550 - Search by peace officers to enforce commercial fishing laws.**

The officers mentioned in ORS 506.521 may search and examine all places where food fish may be kept, sold or secreted and examine all packages, boxes and bundles held either for storage or shipment which they have reason to believe contain evidence of violation of the commercial fishing laws. [Amended by 1965 c.570 §50]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.555 - Issuance of search warrants.**

Any court having jurisdiction of any offense against the commercial fishing laws, upon receiving proof or probable cause for believing in the concealment of any food fish taken or possessed contrary to law, shall issue a search warrant and cause a search to be made in any place, and to that end cause any place where concealment may be effected, to be opened and the contents examined by any officer charged with the enforcement of the commercial fishing laws. [Amended by 1965 c.570 §51]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.560 - Nonliability of peace officers enforcing commercial fishing laws.**

The officers described in ORS 506.521 shall not suffer civil or criminal liability for any arrest, seizure or search as provided under the commercial fishing laws. [Amended by 1965 c.570 §52]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.575**

[Amended by 1965 c.570 §54a; renumbered 506.655]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.580**

[Amended by 1965 c.570 §54b; renumbered 506.660]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.585**

[Amended by 1953 c.636 §2; 1965 c.570 §54c; renumbered 506.665]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.590**

[Amended by 1965 c.570 §54d; renumbered 506.670]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.595**

[Renumbered 506.675]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.600**

[Renumbered 506.680]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.602**

[1957 c.298 §1; 1965 c.570 §53; renumbered 506.690]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.603**

[1957 c.298 §2; 1965 c.570 §54; renumbered 506.695]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.605 - Naming place of offense in complaint, information or indictment.**

In any criminal prosecution under the commercial fishing laws, it is not necessary in the complaint, information or indictment to

name the particular waters of the state if they are unknown to the person signing or filing the complaint or information or to the grand jury returning the indictment. It is sufficient if it is stated in such cases in the complaint, information or indictment that the particular waters of the state are to such person, or to the grand jury, unknown. [Amended by 1965 c.570 §44]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.610 - When possession prima facie evidence of taking fish unlawfully.**

(1) The possession or custody of food fish on, near, adjacent to or in the vicinity of any waters of this state, during the closed season on such waters, is prima facie evidence that such fish were unlawfully taken during the closed season on such waters.

(2) In all cases where such possession or custody by accused persons on, near, adjacent to or in the vicinity of any of such closed waters is proven, the burden of proof is shifted to the persons found having such possession or custody, to establish that the fish were lawfully taken during an open season and from waters from which it was at such time lawful to take such fish. [Amended by 1965 c.570 §45]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.620 - Inspections by director or agent.**

The State Fish and Wildlife Director or authorized agent may enter and inspect all canneries, cold storage houses, packing establishments, business places, boats, fishing gear, and all property used in the taking, processing and packing of food fish, for the purpose of enforcing the commercial fishing laws. [Amended by 1965 c.570 §49]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.625 - Compelling testimony in commercial fishing law enforcement proceedings.**

In any action or proceeding for the enforcement of any of the provisions of the commercial fishing laws, or in any investigation before a grand jury, district attorney or other officer, or any criminal proceeding, no person shall be excused from testifying concerning any offense committed by another or by the person on the ground that the testimony of the person may incriminate the person. However, such testimony shall not be used against the person in any prosecution for any crime or misdemeanor under the laws of the state, nor shall the person be subjected to any criminal prosecution or any penalty or forfeiture for or on account of any transaction, matter or thing concerning which the person has been compelled to testify or to produce evidence, documentary or otherwise. [Amended by 1965 c.570 §46]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.635 - Execution for payment of fines and costs.**

Any fishing gear used in violation of the commercial fishing laws, including boats or vehicles of any kind and other appliances, is subject to execution for the payment of fines and costs provided for in the commercial fishing laws. [1965 c.570 §55]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.690 - Seizure, forfeiture and disposition of fish unlawfully taken.**

(1) All fish taken by or in the possession of any person in violation of the commercial fishing laws or the rules of the State Fish and Wildlife Commission shall be seized by any member of the commission or any officer described in ORS 506.521.

(2) Any fish seized under the provisions of subsection (1) of this section may be disposed of, sold, preserved or used for food purposes, under the rules of the commission, to prevent loss or spoilage. At the time the court passes sentence in the criminal prosecution for violation of the commercial fishing laws, the court may order that any fish seized under subsection (1) of this section or the proceeds from the sale of such fish shall be forfeited. Any moneys derived from the sale of any forfeited fish shall be deposited in the Commercial Fisheries Fund.

(3) If the fish seized under subsection (1) of this section are not subsequently forfeited, the commission shall pay to the person from whom the fish were seized an amount equal to the fair market value, as established by rule pursuant to ORS 506.720, of the fish at the time of seizure.

(4) The commission shall approve the amount to be paid under subsection (3) of this section, and the claim shall be paid from the Commercial Fisheries Fund in the manner provided by law for the payment of claims against the state. There is appropriated continuously from the Commercial Fisheries Fund an amount equal to the amounts approved by the commission under this subsection. [Formerly 506.602; 1975 c.253 §27; 1977 c.652 §4; 1999 c.1013 §1; 1999 c.1051 §275; 2023 c.166 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.695 - Seizure, forfeiture and disposition of fishing gear and vehicles used unlawfully; removal of unlawful piling.**

- (1) All boats, fishing gear and vehicles used in violation of the commercial fishing laws or the rules of the State Fish and Wildlife Commission may be seized, and piling driven for the sole or primary purposes of violation of such laws may be removed, by any member of the commission or any officer described in ORS 506.521. The agency that seizes property under this subsection shall retain custody of the seized property until it is ordered returned to the owner or confiscation is adjudged pursuant to this section.
- (2) Upon the order of the court at the time of passing sentence for a crime, the property seized under subsection (1) of this section may be forfeited. If forfeited, such property shall be turned over to the commission.
- (3) The commission may dispose of such forfeited property in any manner it deems proper, but the clear proceeds derived from the sale of any forfeited property shall be deposited with the State Treasury to be placed in the Common School Fund. [Formerly 506.603; 1977 c.652 §5; 1987 c.858 §7; 1993 c.699 §26; 2009 c.835 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.700 - Return of seized property; undertaking; effect of judgment ordering forfeiture or confiscation.**

- (1) At any time after the seizure mentioned in ORS 506.695, but before the entry of judgment pursuant to ORS 506.695, the owner of the seized property may require the return thereof upon giving to the agency that seized the property a written undertaking, executed by sufficient surety, to be approved by the court described in ORS 506.695, to the effect that such surety is bound in double the value of the property as determined by the court, for the delivery thereof to the plaintiff, if such delivery be adjudged, and for the payment to the plaintiff of such sum as may, for any cause, be recovered against the owner. The owner shall file such written undertaking with the clerk of the court for the county in which the seizure occurred and shall serve a true copy thereof upon the district attorney for the same county.
- (2) If confiscation or forfeiture of such property is required by a judgment of the court under ORS 506.695, the owner shall return the property to the plaintiff. If the owner fails to return the property, any officer described under ORS 506.521 may maintain an action upon such undertaking, and the clear proceeds shall be deposited with the State Treasury in the Common School Fund. [1977 c.652 §7; 1987 c.858 §8; 1993 c.699 §27; 2009 c.835 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.720 - Suit for damages; amount; rules; application for or obtaining license when money due prohibited.**

- (1) The State Fish and Wildlife Commission may institute suit for the recovery of damages for the unlawful taking, possession or killing of food fish that are the property of the state.
- (2) The damages shall be twice the fair market value of the food fish.
- (3) The commission shall establish by rule the fair market value of food fish.
- (4) No person shall apply for or obtain any license, tag or permit issued by the commission when civil damages due pursuant to this section, or when moneys due the State Department of Fish and Wildlife from court-ordered restitution for a violation of the commercial fishing laws, have not been paid. [1987 c.213 §2; 2023 c.166 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.750 - Policy for ORS 506.755.**

The Legislative Assembly finds and declares that:

- (1) The preservation of complex interrelationships of marine environment within the continental shelf of the Pacific Ocean off the coast of the State of Oregon is necessary to conserve coastal species of fish and to guarantee the well-being of the economy and welfare of the state and its people.
- (2) The uncontrolled use of the marine commercial fisheries to harvest coastal species of fish and other marine fisheries resources by foreign nationals is of public concern and constitutes an immediate threat to the marine environment and its ultimate survival.
- (3) The State of Oregon has a special interest in the maintenance of the productivity of the living resources in the area of the high seas adjacent to its territorial sea. [1974 c.3 §1]

Note:

506.750 and 506.755 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 506 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.755 - Fisheries Conservation Zone; rules; jurisdiction over zone; penalty; construction.**

- (1) The State of Oregon adopts a Fisheries Conservation Zone for the maintenance, preservation and protection of all coastal species of fish and other marine fisheries resources between the mean high water mark of the state and a straight line extension of the lateral boundaries of the state drawn seaward to a distance of 50 statute miles.
- (2) Activities of marine commercial fishing within the limits and boundaries of the Fisheries Conservation Zone shall be under the jurisdiction and regulation of the commission.

(3) The commission shall study the fishery within the zone and when appropriate adopt, amend or repeal all rules, according to the provisions of ORS 506.119 and 506.129 necessary for the maintenance, preservation and protection of all coastal species of fish and other marine fisheries resources.

(4) The jurisdiction within the Fisheries Conservation Zone shall include, but not be limited to, provisions for inspection of catch, particularly regarding anadromous fish; rules relating to methods of fishing, size and kind of gear and nets; rules designating seasons, closures and restricted areas.

(5) ORS 506.501 to 506.695 shall provide the authority for enforcing rules adopted by the commission as specified in this section.

(6) Subject to ORS 153.022, any person convicted of violating any rule authorized under the provisions of this section shall be punished by a fine not to exceed \$10,000.

(7) Nothing contained within this section is intended to abrogate a nation's right of free passage or navigation of the high seas.

(8) Nothing contained within this section is intended to abrogate international fish compacts, agreements or treaties providing for the management of anadromous or pelagic fish species. [1974 c.3 §2; 1983 c.740 §204; 1999 c.1051 §313]

Note:

See note under 506.750.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.800 - Names for marketing certain fish and shellfish.**

In order to obtain uniform names to be used for the marketing of fish:

(1) The common names Pacific red snapper, Pacific snapper, Oregon red snapper, Oregon snapper, red snapper and snapper may be used as alternate names for the purpose of marketing the following fish:

(a) Widow rockfish (*Sebastes entomelas*).

(b) Yellowtail rockfish (*Sebastes flavidus*).

(c) Chilipepper (*Sebastes goodei*).

(d) Cowcod (*Sebastes levis*).

(e) Black rockfish (*Sebastes melanops*).

(f) Vermillion rockfish (*Sebastes miniatus*).

(g) Speckled rockfish (*Sebastes ovalis*).

(h) Bocaccio (*Sebastes paucispinnis*).

(i) Canary rockfish (*Sebastes pinniger*).

(j) Yelloweye rockfish (*Sebastes ruberrimus*).

(k) Bank rockfish (*Sebastes rufus*).

(L) Olive rockfish (*Sebastes serranoides*).

(2) The common names butterfish and black cod may be used as alternate names for purposes of marketing sablefish (*Anoplopoma fimbria*).

(3) The common names Pacific ocean shrimp, Pacific shrimp, pink shrimp and Oregon shrimp may be used as alternate names for the purpose of marketing *Pandalus jordani* (shrimp). [1979 c.457 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.895 - Person aiding in commercial fishing law violation punishable as principal.**

Any person who counsels, aids or assists in any violation of the commercial fishing laws shall incur the penalties provided for the person guilty of such violation. [1981 c.365 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.898 - Tillamook Bay Clam Advisory Committee.**

(1) The State Department of Fish and Wildlife shall establish a Tillamook Bay Clam Advisory Committee.

(2) The department shall appoint to the committee a balance of persons who take bay clams for commercial purposes, take bay clams for noncommercial purposes, are members of a group that advocates conservation or have another interest in bay clams.

(3) The committee shall make recommendations to the department on:

(a) Adopting rules related to bay clams;

(b) Ensuring the sustainability of the take of bay clams in Tillamook Bay;

(c) Balancing the take of bay clams in Tillamook Bay for commercial purposes with the take of bay clams in Tillamook Bay for noncommercial purposes;

(d) Establishing physical boundaries for, or seasonal restrictions on, the take of bay clams in Tillamook Bay for commercial purposes, to reduce conflicts between persons who take bay clams in Tillamook Bay for commercial purposes and salmon anglers in and around the Ghost Hole fishing area in Tillamook Bay;

(e) Establishing areas in Tillamook Bay that are closed to the take of bay clams for commercial purposes and open to the take of bay

- clams for noncommercial purposes;
  - (f) Monitoring the take of bay clams;
  - (g) Establishing additional restrictions on the annual take of bay clams in intertidal and subtidal areas in Oregon bays;
  - (h) Limiting the take of bay clams in Oregon bays for commercial purposes; and
  - (i) Assessing bay clam populations in Oregon bays.
- (4) The department shall consider the recommendations of the committee.
- (5) The committee shall assist the department in preparing any funding requests related to bay clams.
- (6) In addition to the recommendations identified in subsection (3) of this section, the committee may advise the department on other matters related to bay clams. [2019 c.564 §2]

Note:

506.898 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 506 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.991 - Criminal penalties.**

- (1) Except as otherwise provided by this section or other law, violation of any provision of the commercial fishing laws, or of any rule adopted by the State Fish and Wildlife Commission in carrying out the commercial fishing laws, is a Class A misdemeanor if the offense is committed with a culpable mental state.
- (2) Except as otherwise provided by this section or other law, violation of any provision of the commercial fishing laws, or of any rule adopted by the State Fish and Wildlife Commission in carrying out the commercial fishing laws, is a Class A violation if the offense is committed without a culpable mental state.
- (3) In lieu of the fine provided in ORS 161.635, and in addition to the imprisonment provided in ORS 161.615, any violation of subsection (1) of this section is punishable as follows:
- (a) For the first conviction, a fine not to exceed \$2,500.
  - (b) For the second conviction within a 10-year period, a fine not to exceed \$4,000.
  - (c) For the third conviction within a 10-year period, a fine not to exceed \$10,000.
  - (d) For the fourth and subsequent convictions within a 10-year period, a fine not to exceed \$25,000.
- (4) Violation of any provision of ORS 509.011 that occurs more than 12 hours prior to or more than 12 hours subsequent to a season established under ORS 506.129 by the commission for the lawful taking of food fish when the total value of the food fish is \$200 or more is a Class C felony.
- (5) In addition to the penalties of this section and notwithstanding the provisions of ORS 506.690, all fish or sexual products therefrom taken by or in the possession of any person sentenced under this section shall be seized and confiscated, condemned, and sold.
- (6) As used in this section, "culpable mental state" has the meaning given that term in ORS 161.085. [1965 c.570 §56; 1975 c.517 §1; 1977 c.242 §4; 1977 c.353 §2; 1983 c.364 §2; 1993 c.699 §28; 1999 c.1051 §314; 2013 c.164 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 506 - Application, Administration and Enforcement of Commercial Fishing Laws Section 506.995 - Civil penalties.**

- (1) As used in this section, "gain" means the amount of money and the value of any property derived from the violation.
- (2) In addition to any other sanction imposed by law, if a person derives a gain of at least \$5,000 from violating any commercial fishing law or rule promulgated pursuant to such laws, the person shall be subject to a civil penalty that is equal to twice the amount of the gain.
- (3) Civil penalties under this section shall be imposed pursuant to ORS 183.745.
- (4) Any civil penalty received by the State Department of Fish and Wildlife under this section shall be deposited in the Commercial Fisheries Fund. [1999 c.672 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 507 - Compacts with Other States Section 507.010 - Oregon-Washington Columbia River fish compact.**

Congress, by virtue of the authority vested in it under section 10, Article I, United States Constitution, providing for compacts and agreements between states, having ratified the recommendations of the conference committees of the States of Oregon and Washington, appointed to agree on legislation necessary for the regulation, preservation and protection of fish in the waters of the Columbia River, over which said states have concurrent jurisdiction, and other waters within either state which would be affected by such concurrent interest, recommendations being as follows: "We further recommend that a resolution be passed by the legislatures of Washington and Oregon, whereby the ratification by Congress of the laws of the States of Oregon and Washington shall act as a treaty between said states, subject to modification only by joint agreement by said states;" and the recommendation having been approved by resolution adopting the report of the conference committee, there exists between the States of Oregon and Washington a definite compact and agreement, the purport of which is substantially as follows: All laws and regulations now existing, or which may be necessary for regulating, protecting or preserving fish in the waters of the Columbia River, over which the States of Oregon and Washington have concurrent jurisdiction, or any other waters within either of said states, which would affect the concurrent



jurisdiction, shall be made, changed, altered and amended in whole or in part, only with the mutual consent and approbation of both states.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 507 - Compacts with Other States Section 507.020 - Oregon-Washington concurrent jurisdiction waters.**

The waters over which the States of Oregon and Washington are deemed to have concurrent jurisdiction comprise the waters of the Columbia River and its tributaries, within the confines of the States of Oregon and Washington, where such waters are state boundaries.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 507 - Compacts with Other States Section 507.030 - Modification of Oregon-Washington Columbia River fish compact; hearing.**

(1) The State Fish and Wildlife Commission, on behalf of the State of Oregon, may enter into an agreement with the constituted authority of the State of Washington, to modify the existing agreement with respect to fishing in the waters of the Columbia River and its tributaries, within the confines of the States of Oregon and Washington, where such waters are state boundaries between the States of Oregon and Washington, as approved by the United States Congress on April 8, 1918.

(2) The commission, in entering into any agreement with the constituted authority of the State of Washington, as provided in subsection (1) of this section, may hold a hearing jointly with such constituted authority of the State of Washington within the State of Washington. However, any such joint meeting scheduled in either state shall be held not more than 25 miles from an area of the Columbia River where commercial fishing is permitted. [Amended by 1959 c.321 §1; 1965 c.570 §150; 1971 c.187 §2; 1975 c.545 §14; 1987 c.244 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 507 - Compacts with Other States Section 507.040 - Pacific Marine Fisheries Compact.**

A compact, in form as in this section fully set forth, shall be in effect when one or both of the States of California and Washington become parties thereto, and the consent of Congress has been granted as required by section 10, Article I, of the Constitution of the United States.

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The contracting states do hereby agree as follows:

**ARTICLE I**

The purposes of this compact are and shall be to promote the better utilization of fisheries, marine, shell and anadromous, which are of mutual concern, and to develop a joint program of protection and prevention of physical waste of such fisheries in all of those areas of the Pacific Ocean and adjacent waters over which the compacting states jointly or separately now have or may hereafter acquire jurisdiction.

Nothing herein contained shall be construed so as to authorize the compacting states or any of them to limit the production of fish or fish products for the purpose of establishing or fixing the prices thereof or creating and perpetuating a monopoly.

**ARTICLE II**

This agreement shall become operative immediately as to those states executing it in the form that is in accordance with the laws of the executing states and the Congress has given its consent.

**ARTICLE III**

Each state joining herein shall appoint, as determined by state statutes, one or more representatives to a commission hereby constituted and designated as the Pacific States Marine Fisheries Commission, of whom one shall be the administrative or other officer of the agency of such state charged with the conservation of the fisheries resources to which this compact pertains. This commission shall be invested with the powers and duties set forth herein.

The term of each commissioner of the Pacific States Marine Fisheries Commission shall be four years. A commissioner shall hold office until a successor shall be appointed and qualified but such successor's term shall expire four years from legal date of expiration of the term of the predecessor. Vacancies occurring in the office of such commissioner from any reason or cause shall be filled for the unexpired term, or a commissioner may be removed from office, as provided by the statutes of the state concerned.

Each commissioner may delegate in writing from time to time, to a deputy, the power to be present and participate, including voting as the representative or substitute, at any meeting of or hearing by or other proceeding of the commission.

Voting powers under this compact shall be limited to one vote for each state regardless of the number of representatives.

**ARTICLE IV**

The duty of the said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell, and anadromous, in all of those areas of the Pacific Ocean over which the states signatory to this compact jointly or separately now have or may hereafter acquire jurisdiction. The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions and said conservation zones to promote the preservation of those fisheries and their protection against over-fishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fisheries resources of the signatory parties hereto.

To that end the commission shall draft and, after consultation with the advisory committee hereinafter authorized, recommend to the

Governors and legislative branches of the various signatory states hereto legislation dealing with the conservation of the marine, shell, and anadromous fisheries in all of those areas of the Pacific Ocean over which the signatory states jointly or separately now have or may hereafter acquire jurisdiction. The commission shall, more than one month prior to any regular meeting of the legislative branch in any state signatory hereto, present to the Governor of such state its recommendations relating to enactments by the legislative branch of that state in furthering the intents and purposes of this compact.

The commission shall consult with and advise the pertinent administrative agencies in the signatory states with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable and which lie within the jurisdiction of such agencies.

The commission shall have power to recommend to the states signatory hereto the stocking of the waters of such states with marine, shell or anadromous fish and fish eggs or joint stocking by some or all of such states and when two or more of the said states shall jointly stock waters the commission shall act as the coordinating agency for such stocking.

#### ARTICLE V

The commission shall elect from its number a chairman and a vice chairman and shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications and compensation. Said commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place within the territorial limits of the signatory states but must meet at least once a year.

#### ARTICLE VI

No action shall be taken by the commission except by the affirmative vote of a majority of the whole number of compacting states represented at any meeting. No recommendation shall be made by the commission in regard to any species of fish except by the vote of a majority of the compacting states which have an interest in such species.

#### ARTICLE VII

The fisheries research agencies of the signatory states shall act in collaboration as the official research agency of the Pacific States Marine Fisheries Commission.

An advisory committee to be representative of the commercial fishermen, commercial fishing industry and such other interests of each state as the commission deems advisable shall be established by the commission as soon as practicable for the purpose of advising the commission upon such recommendations as it may desire to make.

#### ARTICLE VIII

Nothing in this compact shall be construed to limit the powers of any state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any state imposing additional conditions and restrictions to conserve its fisheries.

#### ARTICLE IX

Continued absence of representation or of any representative on the commission from any state party hereto, shall be brought to the attention of the Governor thereof.

#### ARTICLE X

The States agree to make available annual funds for the support of the Commission on the following basis:

Eighty percent (80%) of the annual budget shall be shared equally by those member States having as a boundary the Pacific Ocean; and five percent (5%) of the annual budget shall be contributed by each other member State; the balance of the annual budget shall be shared by those member States, having as a boundary the Pacific Ocean, in proportion to the primary market value of the products of their commercial fisheries on the basis of the latest five-year catch records.

The annual contribution of each member State shall be figured to the nearest one hundred dollars.

This amended article shall become effective upon its enactment by the States of Alaska, California, Idaho, Oregon and Washington and upon ratification by Congress by virtue of the authority vested in it under Article I, section 10, of the Constitution of the United States.

#### ARTICLE XI

This compact shall continue in force and remain binding upon each state until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other parties hereto.

#### ARTICLE XII

The States of Alaska or Hawaii, or any state having rivers or streams tributary to the Pacific Ocean may become a contracting state by enactment of the Pacific Marine Fisheries Compact. Upon admission of any new state to the compact, the purposes of the compact and the duties of the commission shall extend to the development of joint programs for the conservation, protection and prevention of physical waste of fisheries in which the contracting states are mutually concerned and to all waters of the newly admitted state necessary to develop such programs.

This article shall become effective upon its enactment by the States of California, Oregon and Washington and upon ratification by Congress by virtue of the authority vested in it under Article I, section 10, of the Constitution of the United States.

[Amended by 1961 c.481 §1; 1969

c.129 §1; 2009 c.11 §71]

Note:

The Pacific Marine Fisheries Compact was enacted into law by the Legislative Assembly of Oregon by chapter 131, Oregon Laws 1947 (approved by Governor on March 11, 1947). The compact was enacted into law by the Washington State Legislature by

chapter 29, Washington Laws 1947 (approved by Governor on February 20, 1947). The Congress of the United States consented to the compact by Public Law 232, 80th Congress (signed by President on July 24, 1947). In 1990, Congress redesignated the "Pacific Marine Fisheries Commission" as the "Pacific States Marine Fisheries Commission" by Public Law 101-627, 101st Congress (signed by President on November 28, 1990).

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 507 - Compacts with Other States Section 507.050 - Representation on Pacific States Marine Fisheries Commission.**

- (1) The State Fish and Wildlife Director, one legislator appointed as provided in this section and one public member appointed by the Governor shall act as representatives of the State of Oregon on the Pacific States Marine Fisheries Commission in accordance with the provisions of and with the powers and duties in the compact set forth in ORS 507.040.
- (2) The legislative member shall be appointed by the President of the Senate or the Speaker of the House of Representatives.
- (3) The legislative member shall serve for a term of four years. The Speaker of the House of Representatives and the President of the Senate shall alternate in making the appointment of the legislative member.
- (4) Notwithstanding ORS 171.072, the legislative member is not entitled to mileage expenses or a per diem and serves as a volunteer on the commission.
- (5) Members of the commission who are not members of the Legislative Assembly are not entitled to compensation or reimbursement of expenses and serve as volunteers on the commission. [Amended by 1961 c.192 §1; 1975 c.253 §29; 1987 c.436 §1; 2007 c.71 §170; 2009 c.11 §72; 2011 c.272 §16; 2015 c.27 §53]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.006 - Definitions.**

The definitions prescribed by ORS 506.001 to 506.025 apply to this chapter. [1965 c.570 §58]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.011 - Activities relating to oysters exempted.**

This chapter does not apply to oysters or to any activity of any person relating to oysters. [1965 c.570 §59b]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.025 - License required to take, process or deal in fish.**

- (1) It is unlawful for any person, without first procuring a license from the State Fish and Wildlife Commission, to:
  - (a) Take food fish in any of the waters of this state for commercial purposes or land food fish in this state for commercial purposes.
  - (b) Buy, sell or otherwise deal in food fish for commercial purposes.
  - (c) Process or can food fish for commercial purposes.
- (2) In a prosecution under this section, it is no defense that a person did take the person's own food fish for commercial purposes. [1965 c.570 §60]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.030 - License required for fishing gear.**

It is unlawful for any individual to operate, or leave in a condition to take food fish in any of the waters of this state, any fishing gear used in taking food fish, without first obtaining from the State Fish and Wildlife Director or the authorized agent of the director such license as may be prescribed by this chapter. The license must be in the possession of such individual at the time the fishing gear is being used. [1965 c.570 §61]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.035 - Separate licenses required for certain fishing gear and activities.**

- (1) Separate licenses are required for each:
  - (a) Person other than an employee operating as a canner of food fish.
  - (b) Person other than an employee operating as a wholesale fish dealer, for each separate place of business.
  - (c) Individual acting or engaged as a fish buyer by a person licensed under paragraph (a) or (b) of this subsection.
  - (d) Person licensed under paragraph (a) or (b) of this subsection, for each permanent site or location operated by such person as a fish-buying station.
  - (e) Individual taking or assisting in the taking of food fish for commercial purposes as described in ORS 508.235.
  - (f) Boat, used in taking food fish for commercial purposes, as described in ORS 508.260.
  - (g) Single delivery of food fish from the Pacific Ocean for commercial purposes in the absence of licenses under paragraphs (e) and (f) of this subsection.
  - (h) Person other than an employee operating as a fish bait dealer, for each separate place of business.
  - (i) Individual taking or assisting in the taking of food fish for sale to a fish bait dealer.
- (2) The State Fish and Wildlife Commission shall classify and define the various licenses provided for in this section and shall direct

the State Fish and Wildlife Director to issue licenses accordingly and the classification shall be final. [1965 c.570 §62; 1969 c.172 §1; 1971 c.540 §4; 1973 c.768 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.040 - Unlawful to knowingly buy or receive fish from unlicensed person.**

It is unlawful for a wholesaler, canner or buyer to buy or receive food fish from a person who the wholesaler, canner or buyer does not have reasonable cause to believe is licensed as required under ORS 508.035, unless such person is exempt from the requirements of ORS 508.035. [1965 c.570 §62a]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.045 - Exemption of retail fish dealers.**

Notwithstanding ORS 508.025 and 508.035, no license is required to handle or deal in food fish and shellfish for human consumption as a retail fish dealer. [1965 c.570 §63; 1969 c.172 §2; 1971 c.540 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.106 - Permit to take carp or other nongame fish; fee.**

(1) Upon receiving a written application therefor, accompanied by a fee of \$30, the State Fish and Wildlife Commission may issue to any person a permit to take carp or other nongame fish.

(2) The kind or kinds of fish, the method to be used and the name and location of the body of water from which the fish are to be taken, shall be specified in the permit.

(3) After having obtained a permit as provided for in subsection (1) of this section, and subject to any rules of the commission, any person may take carp or nongame fish from any of the waters of this state described in the permit.

(4) It is unlawful to:

(a) Retain any fish other than described in the permit in connection with the use of any permit issued under subsection (1) of this section, and any other fish taken shall at once be set free; or

(b) Take any fish for commercial purposes by a permit issued under subsection (1) of this section without first having obtained a license under ORS 508.035. [1965 c.570 §64; 1973 c.768 §12; 1975 c.253 §30; 2009 c.832 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.111 - Permit to take food fish for educational and scientific purposes.**

The State Fish and Wildlife Director may issue to any person a permit to take food fish solely for educational and scientific purposes. [1965 c.570 §64a]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.116 - Permit to take animals living intertidally on bottom; fees.**

(1)(a) The State Fish and Wildlife Director may issue to any person a permit to take animals living intertidally on the bottom.

(b) The annual fee for a resident permit issued under this section is \$125.

(c) The annual fee for a nonresident permit issued under this section is \$175.

(2) It is unlawful to take animals living intertidally on the bottom for commercial purposes by a permit issued under subsection (1) of this section without first having obtained a license under ORS 508.035. [1965 c.570 §64b; 2009 c.832 §20; 2015 c.779 §32]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.121 - Juvenile jig line license.**

(1) Any juvenile may secure from the State Fish and Wildlife Commission free of charge a juvenile jig line license to take herring, pilchard, perch, anchovies and candlefish by a hand or jig line and to sell such fish so taken by the juvenile to a wholesale fish dealer or a fish bait dealer.

(2) As used in this section, "juvenile" means any individual 17 years of age or younger as of January 1 of the year for which the license is issued.

(3) The license, for the purposes authorized in this section, is in lieu of the commercial fisherman and boat licenses required under ORS 508.235 and 508.260. [1965 c.103 §2; 1971 c.540 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.124 - Northern pikeminnow fishing derby license; rules.**

(1) An organizer of a fishing derby may apply for and obtain from the State Fish and Wildlife Commission a fishing derby license to take northern pikeminnow and to sell, for charitable fund-raising purposes, northern pikeminnow taken during the duration of the derby. A fee may not be charged for the license.

(2) Upon receipt of an application for a fishing derby license, the commission shall review the application and issue a fishing derby license if the commission determines that the fishing derby will comply with the rules of the commission related to the protection of

native fish species, including northern pikeminnow, and will be conducted in a manner that minimizes impacts on sensitive populations or habitats, except that the commission may issue no more than two fishing derby licenses per year for a given body of water.

(3) A fishing derby for which a fishing derby license has been obtained under this section may have a duration of no longer than three days.

(4) An organizer of a fishing derby is required to obtain a separate fishing derby license for each fishing derby.

(5) The commission may adopt rules necessary to implement the provisions of this section. Notwithstanding ORS 508.025, 508.030, 508.035, 508.235, 508.260, 508.505 and 508.535, rules adopted by the commission may provide that separate licenses under the commercial fishing laws are not required for an organizer or a person to participate in a fishing derby for which the organizer holds a fishing derby license issued under this section.

(6) This section is not intended to and may not be interpreted to exempt an organizer or a person participating in a fishing derby from any applicable licensing requirements under the wildlife laws. [2015 c.590 §1]

Note:

508.124 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 508 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.230**

[Amended by 1963 c.224 §5; 1965 c.570 §83; renumbered 508.290]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.235 - Commercial fishing license; fees.**

(1) A commercial fishing license must be obtained by each individual who, for commercial purposes:

- (a) Takes or assists in the taking of any food fish from the waters or land of this state;
- (b) Operates or assists in the operation of any boat or fishing gear for the taking of food fish in the waters of this state; or
- (c) Lands food fish from the waters of the Pacific Ocean at any point in this state.

(2) A commercial fishing license must be in the possession of the licensee, when engaged in the taking or landing of commercial fish, and is required in addition to any other license under this chapter.

(3) Notwithstanding any other provision of this section or ORS 508.035, upon application of the holder of a boat license, the State Fish and Wildlife Commission shall issue to the applicant in the name of the boat, one commercial fishing license for each individual who assists the holder of the boat license in the taking of fish for commercial purposes. Notwithstanding ORS 508.465, licenses issued pursuant to this subsection are transferable to all individuals who assist in the taking of fish for commercial purposes on the boat for which the licenses are issued. Notwithstanding ORS 508.285, the fee for the license issued pursuant to this subsection in the name of a boat:

- (a) With a resident boat license is \$125 for each individual.
- (b) With a nonresident boat license is \$175 for each individual. [1965 c.570 §77; 1993 c.501 §1; 2009 c.832 §21; 2011 c.613 §1]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.240 - Acts by commercial fishing licensee prohibited.**

It is unlawful for any person licensed to take food fish for commercial purposes, as required under ORS 508.035, to:

- (1) Keep any food fish the person takes under such license for personal use; or
- (2) Sell any food fish the person takes under such license to other than a wholesaler, canner, fish bait dealer or buyer licensed as required under ORS 508.035. [1965 c.570 §77a; 1971 c.540 §6]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.260 - Boat license; plates; decals; rules.**

(1) A boat license must be obtained by the owner or operator of any boat used in taking food fish or shellfish for commercial purposes except for the taking of clams or crayfish.

(2) A pair of decals bearing the last two numbers of the year for which the license is issued shall be included with the license for placement on the licensed boat.

(3) In accordance with rules promulgated by it, the State Fish and Wildlife Commission shall assign a number to each licensed boat and shall designate the size, location and manner of placement of the number and license year decal on the boat. [1965 c.570 §81; 1973 c.768 §13; 1975 c.756 §1]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.265 - Boat licensing constitutes registration for purposes of federal laws.**

The licensing of any boat pursuant to this chapter to take food fish for commercial purposes from the waters of this state or land food fish from the waters of the Pacific Ocean at any point in this state shall constitute registration of such vessel under the laws of

this state for the purposes of section 306(a) of the Fishery Conservation and Management Act of 1976 (Act of April 13, 1976, 90 Stat. 331). [1977 c.202 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.270 - Fishing, boat license fees in lieu of other taxes and licenses on crab pots; reports to county assessor.**

- (1) Either the commercial fishing license required by ORS 508.235 or the boat license required by ORS 508.260 is in lieu of all taxes and licenses on crab pots used by a person so licensed or used in connection with a boat so licensed.
- (2) Crab pots shall be reported to the county assessor by each owner and listed for ad valorem taxation, but if the owner of such crab pots furnishes documentary proof to the assessor, not later than August 1 of each year, that the owner possesses a current commercial fishing license under ORS 508.235 or that the boat of the owner is currently licensed under ORS 508.260, the assessor shall cancel any assessment made by the assessor of crab pots used by such person or used in connection with such person's licensed boat. [1969 c.649 §2; 1993 c.270 §69]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.285 - License fees.**

- (1) The fee for each license required by this chapter is as follows:
  - (a) Resident albacore tuna landing license for boats that do not hold a valid commercial fishing license from Oregon or another state, \$250.
  - (b) Nonresident albacore tuna landing license for boats that do not hold a valid commercial fishing license from Oregon or another state, \$300.
  - (c) Albacore tuna landing license for boats that hold a valid commercial fishing license from another state and do not hold a valid commercial fishing license from Oregon, \$25.
  - (d) Resident boat license for a vessel less than 50 feet in length, \$350.
  - (e) Nonresident boat license for a vessel less than 50 feet in length, \$400.
  - (f) Resident boat license for a vessel 50 feet in length or more, \$400.
  - (g) Nonresident boat license for a vessel 50 feet in length or more, \$450.
  - (h) Resident commercial fishing license, \$100.
  - (i) Nonresident commercial fishing license, \$150.
  - (j) Commercial fishing license for resident persons 18 years of age or younger, \$30.
  - (k) Resident commercial bait fishing license, \$125.
  - (L) Nonresident commercial bait fishing license, \$175.
  - (m) Fish buyer license, \$275.
  - (n) Fish bait dealer license, \$125.
  - (o) Food fish canner license, \$500.
  - (p) Shellfish canner license, \$500.
  - (q) Resident single delivery license, \$125.
  - (r) Nonresident single delivery license, \$175.
  - (s) Wholesale fish dealer license, \$500.
- (2) As used in this section, "resident" means a person who has resided in this state at least 12 consecutive months immediately prior to the date of making application for a license. [1965 c.570 §82; 1969 c.172 §3; 1971 c.540 §7; 1973 c.768 §14; 1975 c.756 §2; 1977 c.245 §3; 1979 c.679 §11; 1991 c.701 §1; 1999 c.59 §163; 2005 c.629 §1; 2009 c.832 §22; 2011 c.613 §2; 2015 c.779 §33]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.288 - Commercial fishing permit surcharges.**

In addition to the fees otherwise prescribed by law, the issuer of each of the following permits shall charge and collect the following surcharges each time the permit is issued:

- (1) Ocean Troll Salmon Fishery permit issued under ORS 508.816, \$65.
- (2) Columbia River Gillnet Fishery permit issued under ORS 508.790, \$74. [1989 c.512 §6; 1991 c.184 §2; 1997 c.8 §10; 2003 c.643 §2; 2009 c.765 §3; 2019 c.458 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.300 - Albacore tuna landing license in lieu of other licenses.**

Notwithstanding any other provision of this chapter, the only license required for landing albacore tuna from the waters of the Pacific Ocean at any point in this state is an albacore tuna landing license. [1973 c.768 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.305**

[Amended by 1957 s.s. c.9 §1; 1963 c.197 §1; 1965 c.310 §1; renumbered 508.505]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.306 - Fish bait dealer license; authority of commission to designate fish or shellfish bait.**

(1) Any person may obtain a fish bait dealer license to purchase food fish directly from a commercial fisherman licensed under ORS 508.235 or commercial bait fisherman licensed under ORS 508.312, for retail sale as fish or shellfish bait.

(2) The State Fish and Wildlife Commission by regulation may designate those species of food fish or parts thereof which may not be used for fish or shellfish bait. [1971 c.540 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.310**

[Amended by 1965 c.570 §86; renumbered 508.515]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.312 - Commercial bait fishing license; license in lieu of commercial fishing and boat licenses.**

(1) Any individual may obtain a commercial bait fishing license to take food fish for sale to a fish bait dealer licensed under ORS 508.306.

(2) The license for the purpose authorized in this section is in lieu of the commercial fishing and boat licenses required under ORS 508.235 and 508.260. [1971 c.540 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.316 - Disqualification from receiving more than one single delivery license.**

Except as provided in ORS 508.843 and 508.883, the State Fish and Wildlife Director shall not issue a boat more than one single delivery license under ORS 508.285 during a 12-month period as established by rule of the director. For purposes of this section, the disqualification from receiving additional single delivery licenses shall apply to a boat without regard to ownership or changes in ownership. [1999 c.164 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.320**

[Amended by 1963 c.197 §2; 1965 c.310 §2; renumbered 508.510]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.325**

[Renumbered 508.520]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.326 - Commercial Fisheries Fund; uses.**

(1) The Commercial Fisheries Fund is created in the State Treasury, separate and distinct from the General Fund. Except as provided in ORS 506.690, all moneys in the Commercial Fisheries Fund are appropriated continuously to the State Fish and Wildlife Commission for the administration and enforcement of the commercial fishing laws and for the management, propagation, research, habitat improvement and other activities that protect, maintain or enhance the food fish resource of this state. Interest earned on moneys in the fund shall be credited to the fund.

(2) Except as provided in ORS 508.949, all moneys collected pursuant to ORS 508.505 to 508.550 for fish species taken pursuant to developmental fishery activities referred to in ORS 506.460 shall be credited to a separate account in the Commercial Fisheries Fund. Notwithstanding subsection (1) of this section or ORS 506.306, 25 percent of such moneys shall be expended for general fish management purposes and 75 percent of such moneys shall be expended to pay the expenses of developmental fishery activities pursuant to ORS 506.460. [1991 c.701 §21; 1993 c.765 §119; 1999 c.1013 §2; 2003 c.809 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.330**

[Renumbered 508.525]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.335**

[Amended by 1965 c.570 §87; renumbered 508.530]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.340**

[Amended by 1961 c.373 §1; 1963 c.197 §3; 1965 c.570 §88; renumbered 508.535]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.345**

[Amended by 1961 c.373 §2; 1965 c.570 §89; renumbered 508.540]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.350**

[Renumbered 508.545]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.406 - Director or agent to issue and renew licenses.**

The State Fish and Wildlife Director or the authorized agent of the director shall issue or renew any license required by the commercial fishing laws to a qualified person upon proper application and payment of the license fee required by ORS 508.285. [1965 c.570 §66 (enacted in lieu of 508.405)]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.410 - Contents of license applications.**

All applications for licenses under ORS 508.406 shall be made on blanks furnished by the State Fish and Wildlife Director and shall contain such information as the State Fish and Wildlife Commission determines to be necessary for proper administration and enforcement of the commercial fishing laws. [Amended by 1957 c.208 §1; 1963 c.196 §2; 1965 c.570 §67]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.415 - Security for fees.**

- (1) In case of license applications by canners or wholesalers, the State Fish and Wildlife Director, in addition to license fees provided by law, may exact from the applicant a bond from a corporate surety, authorized to do business in this state, guaranteeing the payment of fees, if the director considers such action is necessary to insure compliance with ORS 508.505 to 508.540.
- (2) In lieu of any bond that may be required under subsection (1) of this section, any applicant may deposit with the State Fish and Wildlife Commission, under such terms and conditions as the director may prescribe, a like amount of lawful money of the United States or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008. The commission shall turn over to the State Treasurer for safekeeping all such deposits so received. [Amended by 1963 c.196 §3; 1965 c.570 §68; 1969 c.52 §1; 1991 c.331 §73; 1991 c.701 §17; 1997 c.631 §484]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.445 - Certificate evidence as to license issuance.**

In all prosecutions requiring proof as to the issuance or nonissuance of a license by the State Fish and Wildlife Director under any of the laws of this state, the certificate of the director as to the issuance or nonissuance of the license by the director shall be sufficient proof on that question to establish the fact. This certificate shall be admitted in evidence as to the issuance or nonissuance of the license in any such prosecution.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.450 - Contents of license.**

Each license issued under ORS 508.406 shall be numbered and dated by the State Fish and Wildlife Director or an authorized agent and contain the site or address where the appliance or business is located and the name of the person to whom the license is granted. [Amended by 1957 c.132 §1; 1963 c.196 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.460 - Oregon-Washington reciprocity on gillnet licenses.**

All gillnet licenses issued by the States of Oregon and Washington are valid as to the waters of the Columbia River in Oregon and Washington, as though issued by the department of fisheries of either state. The department of fisheries of each state or the officials who have charge of issuing licenses shall furnish to each other the names of licensees and the number of the licenses, without cost or expense to either state.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.465 - Licenses nontransferable.**

Licenses may not be transferred from one licensee to another.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses**



**and PermitsSection 508.470 - When licenses expire; renewal.**

All licenses for which fees are provided for under ORS 508.285 unless otherwise specified in law expire as of midnight, December 31, following the dates of their issuance or on such date as may be specified by rule of the State Department of Fish and Wildlife. The licenses may be renewed annually thereafter upon application and payment of fees required therefor. [Amended by 1959 c.123 §1; 1961 c.374 §3; 1963 c.196 §7; 1965 c.570 §71; 1977 c.245 §4; 1979 c.679 §12; 2007 c.768 §6]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 508 - Licenses and PermitsSection 508.475 - Failure to renew license for fixed fishing gear constitutes abandonment; exception for Armed Forces.**

The failure to renew the license, or make application therefor, for any location for a fixed fishing gear in any of the waters of this state, on January 1 of any year, constitutes abandonment of the location. However, any licensee entering the Armed Forces of the United States during any period which would qualify the licensee as a veteran, as defined in ORS 408.225, is not deemed to have abandoned such location or gear so licensed, either by reason of absence from the location during such service or by failure to renew the license as required. Such licensee may file application for renewal of the license at any time following the date of release from the Armed Forces of the United States, until January 1 of the following year, and shall have preference over other persons therefor. [Amended by 1965 c.570 §72; 2009 c.41 §21]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 508 - Licenses and PermitsSection 508.480 - Failure to construct or install fishing gear held to be abandonment.**

Should the holder of any license neglect to construct or install at the site the fishing gear called for by the license during two consecutive years covered by the license, the location shall be deemed abandoned. [Amended by 1965 c.570 §73]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 508 - Licenses and PermitsSection 508.485 - Revocation of license or permit for violation of commercial fishing laws or rules or theft of crab fishing gear.**

(1) Except for vessel licenses described in ORS 508.285 and 508.470 and vessel permits described in ORS 508.775 to 508.796, 508.801 to 508.825, 508.880, 508.883, 508.889 to 508.910 and 508.926, the State Fish and Wildlife Commission may, in its discretion, revoke for the remainder of the license or permit year any license or permit issued to a person under the authority of the commission, or the State Fish and Wildlife Director, pursuant to the commercial fishing laws, and in its discretion may refuse the issuance of any license or permit issued under the authority of the commission, or director, pursuant to the commercial fishing laws, during any period not to exceed one year from the date of the license or permit revocation order:

- (a) Upon conviction within this state of any person of violation of any of the commercial fishing laws or rules;
- (b) Upon receiving notice from the agency that regulates commercial fishing in the State of Washington of the conviction of any person in that state of an offense that was a violation of Columbia River commercial fishing rules adopted pursuant to the Columbia River Compact and that if committed in this state would be grounds for license revocation pursuant to paragraph (a) of this subsection;
- (c) Upon conviction within this state of any person for violation of ORS 498.022, or any rule adopted pursuant thereto, involving game fish, through the use of a license issued pursuant to the commercial fishing laws; or
- (d) Upon conviction within this state of a person for violation of ORS 164.043 to 164.065 when the subject of the theft is commercial fishing crab rings or crab pots, or the crabs taken therefrom.

(2)(a) Except for vessel licenses described in ORS 508.285 and 508.470 and vessel permits described in ORS 508.775 to 508.796, 508.801 to 508.825, 508.880, 508.883, 508.889 to 508.910 and 508.926, a court may order the commission to revoke any licenses or permits issued to a person under the authority of the commission, or the director, pursuant to the commercial fishing laws. Such revocations may not exceed a period of two years from the date of the license or permit revocation order. Revocation of licenses and permits is in addition to and not in lieu of other penalties provided by law.

(b) The license and permit revocation provisions of paragraph (a) of this subsection apply to the following persons:

- (A) Any person who is convicted of a violation of the commercial fishing laws, or any rule adopted pursuant thereto, or who otherwise fails to comply with the requirements of a citation in connection with any such offense;
- (B) Any person who is convicted of a violation of ORS 498.022, or any rule adopted pursuant thereto, involving game fish, through the use of a license issued pursuant to the commercial fishing laws; or
- (C) Any person who is convicted of a violation of ORS 164.043 to 164.065 when the subject of the theft is commercial fishing crab rings or crab pots, or the crabs taken therefrom.

(c) When a court orders the revocation of a license or permit under the provisions of this subsection, the court shall take up any such licenses and permits and forward them, together with a copy of the revocation order, to the commission. Upon receipt thereof, the commission shall cause revocation of the appropriate licenses and permits in accordance with the court order.

(d) Nothing in this subsection requires a court to take additional action, after the conclusion of the sentencing hearing, to secure the licenses or permits if the defendant does not have the license or permit in the defendant's possession at the time of sentencing.

(3) Any person whose license revocation involves the buying, selling or dealing of food fish is prohibited from engaging in such

activity under any license issued by the commission during the period the court orders the revocation. [Amended by 1965 c.570 §74; 1971 c.569 §1; 1977 c.350 §6; 1987 c.213 §4; 1997 c.252 §1; 1999 c.1051 §276; 2009 c.11 §73; 2013 c.164 §1; 2014 c.1 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.490 - Refusal to issue license or permit pursuant to commercial fishing laws within two years after revocation.**

Except for vessel licenses described in ORS 508.260, 508.285 and 508.470 and vessel permits described in ORS 508.775 to 508.796, 508.801 to 508.825, 508.880, 508.883, 508.889 to 508.910 and 508.926, the State Fish and Wildlife Commission may, in its discretion, refuse the issuance of any license or permit issued under the authority of the commission, or the State Fish and Wildlife Director, pursuant to the commercial fishing laws, during any period not to exceed two years from the date of the license or permit revocation order:

- (1) Upon conviction within this state of any person of violation of any of the commercial fishing laws or rules after the person has once been convicted and penalized under ORS 508.485; or
- (2) Upon receiving notice from the agency that regulates commercial fishing in the State of Washington of the conviction of any person in that state of an offense that was a violation of Columbia River commercial fishing rules adopted pursuant to the Columbia River Compact and that if committed in this state would be grounds for refusal to issue a license or permit pursuant to subsection (1) of this section. [Amended by 1965 c.570 §75; 1977 c.350 §7; 1987 c.213 §5; 2009 c.11 §74; 2013 c.164 §6; 2014 c.1 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.495 - Certificate in lieu of lost or destroyed license; fee.**

Upon the receipt of a fee of \$16.50 and the filing of an affidavit that a license issued under authority of ORS 508.406 has been lost or destroyed, the State Fish and Wildlife Director or the authorized agent of the director shall issue a certificate that such license has been issued and has been lost or destroyed. Except as provided in ORS 508.260, the certificate may be used in lieu of the lost or destroyed license. [1957 c.140 §1; 1965 c.570 §76; 1973 c.768 §18; 2009 c.832 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.500 - Alteration, false application and multiple possession of licenses prohibited.**

No person shall:

- (1) Alter, borrow or loan to any other person any license or permit issued by the department.
- (2) In applying for a license or permit issued by the State Department of Fish and Wildlife knowingly make any false statement of any information required by the application regarding the person in whose name the license or permit is to be issued.
- (3) Possess any license or permit that has been altered, borrowed or loaned or for which any false statements were knowingly made in applying therefor. [1981 c.365 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.502 - Seller operation of vessel pending proceeding against buyer; rules.**

(1) In a circuit court proceeding concerning a claim by a seller of a vessel permit transferable under ORS 508.760, 508.793, 508.864, 508.907, 508.936 or 508.957 that the buyer of the vessel permit has failed to fulfill one or more terms of the sale, the seller may petition the circuit court for a preliminary injunction requiring the State Department of Fish and Wildlife and the Commercial Fishery Permit Board to take such actions as are necessary to allow the seller to continue to operate a vessel in the appropriate fishery during the pendency of the proceeding. An order granting a preliminary injunction under this section must include a finding that allowing the seller to continue to operate a vessel in the appropriate fishery during the pendency of the proceeding will not cause excessive harvest pressure on the fishery resource.

(2) Notwithstanding any other provision of law, the State Fish and Wildlife Commission may adopt rules necessary to allow for the issuance of temporary vessel permits or other relief necessary to comply with a preliminary injunction issued pursuant to a petition filed under subsection (1) of this section. [2017 c.158 §2]

Note:

508.502 was added to and made a part of the commercial fishing laws by legislative action but was not added to ORS chapter 508 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.505 - Additional fees based on value of fish at time of landing; exceptions.**

(1) Additional fees shall be collected by the State Fish and Wildlife Director in the amount prescribed by this section, except as provided in ORS 508.510. Every person operating within the state as a canner, buyer, bait dealer or wholesaler of any food fish or shellfish shall pay, in addition to all other licenses or fees provided by law, a fee equal to the value of the food fish at the point of landing multiplied by the following rates:

- (a) All salmon and steelhead, 3.15 percent.
- (b) All black rockfish, blue rockfish and nearshore fish, 5.00 percent.

- (c) All tuna, 1.09 percent.
  - (d) All crab, 2.35 percent.
  - (e) All shrimp, 2.40 percent.
  - (f) All sardines, 2.25 percent.
  - (g) All sablefish, 2.40 percent.
  - (h) All whiting, 2.30 percent.
  - (i) All other groundfish, 2.25 percent.
  - (j) All other food fish and shellfish, 2.30 percent.
- (2) Only live, fresh or frozen in the round or dressed food fish or shellfish are subject to the fees provided in this section. "Dressed" includes but is not limited to beheaded, gutted, filleted, loined or shucked. However, frozen food fish or frozen shellfish received in a wrapped package to which a legible label is stamped or printed showing the name, address, brand or trade name of the original processor or wholesale distributor under which the package is marketed and the kind of frozen food fish or frozen shellfish contained therein, for distribution and ultimate sale in the original package are not subject to the fees provided in this section. [Formerly 508.305; 1969 c.172 §4; 1971 c.243 §1; 1973 c.768 §15; 1979 c.378 §1; 1989 c.166 §1; 1991 c.701 §2; 2003 c.809 §12; 2009 c.832 §24; 2015 c.779 §34]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.506 - Additional payments on certain fish species.**

In addition to the ad valorem fee prescribed by law, there shall be paid for each fish species referred to in ORS 508.505 (1)(a), an additional fee of four cents per pound. The ad valorem fee referred to in this section is subject to ORS 508.505 to 508.540. [1989 c.512 §8; 1991 c.184 §3; 1997 c.8 §11; 2003 c.643 §3; 2009 c.765 §4; 2015 c.734 §5; 2019 c.458 §6]

Note:

Section 4, chapter 734, Oregon Laws 2015, provides:

Sec. 4. Additional fee through 2026.

- (1) In addition to the ad valorem fee prescribed by law, during the period beginning January 1, 2016, and ending December 31, 2026, there shall be paid for each fish species referred to in ORS 508.505 (1)(a), an additional fee of four cents per pound. The ad valorem fee referred to in this section is subject to ORS 508.505 to 508.540.
- (2) Notwithstanding ORS 506.306, all moneys received by the State Fish and Wildlife Commission pursuant to subsection (1) of this section shall be deposited in the Oregon Hatchery Research Center Fund. [2015 c.734 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.510 - Place where fish caught is immaterial; exceptions; special fee.**

- (1) The fee provided for in ORS 508.505 shall be paid irrespective of where the fish were caught. However, the fees shall not be paid on any food fish or shellfish brought into this state after having been landed:
  - (a) In another state, territory or possession of the United States, and upon or in regard to which a tax or fee has been levied and collected in the other state, territory or possession; or
  - (b) In another country.
- (2) Notwithstanding ORS 508.505, there shall be paid a fee of one percent of the value of all food fish or shellfish brought into this state after having been landed in another state, territory or possession of the United States, and upon or in regard to which a tax or fee has not been levied and collected in the other state, territory or possession. [Formerly 508.320; 1991 c.701 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.515 - Time of paying fees; report; interest on overdue fees; waiver or extension of payment.**

- (1) The fee required by ORS 508.505 shall be paid to the State Fish and Wildlife Director on or before the 20th day of each calendar month for the preceding calendar month.
- (2) The fee shall be accompanied by a report showing the total number of pounds of all varieties of food fish, stated separately upon blanks furnished by the director, and the value at the point of landing.
- (3) In the event that such fee is not paid within the time for payment provided in subsection (1) of this section, there shall be added as a late payment charge a sum equal to five percent of the unpaid fees or \$5, whichever is greater, and there shall be charged an interest rate of one percent per month until the principal and interest is paid.
- (4) Notwithstanding subsection (1), (2) or (3) of this section, the State Fish and Wildlife Commission may waive or extend payment of any fees required by ORS 508.505 amounting to less than \$10 during any calendar year. [Formerly 508.310; 1971 c.243 §2; 1981 c.646 §5; 1991 c.701 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.520 - Determination of disputes.**

It is the intention that only one fee based on the value of the fish at the point of landing shall be collected for each fish purchased or received, and in order that this end may be accomplished the State Fish and Wildlife Commission and the State Fish and Wildlife

Director may determine finally any dispute arising out of the operation and enforcement of ORS 508.505. [Formerly 508.325; 1991 c.701 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.525 - Lien for unpaid fee; foreclosure; jurisdiction of courts.**

The fee required by ORS 508.505 constitutes a first lien upon the cannery, packing plant, scow, boat and its equipment used in the canning, receiving or transporting of the fish. This lien may be foreclosed by the State Fish and Wildlife Commission in the name of the state by a suit in equity in the circuit court of the county in which the property upon which a lien is given by this section is situated. If situated in two or more counties the court first acquiring jurisdiction of a part of the property shall have jurisdiction of all the property described in such foreclosure suit. [Formerly 508.330; 1991 c.701 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.530 - Rules; reports; violation or falsification.**

(1) The State Fish and Wildlife Commission may make such rules and require such reports to be made as, in its judgment, are necessary to insure the collection and payment of the fee required by ORS 508.505.

(2) It is unlawful for any person to falsify any of the reports or to violate any of the rules made or required by the commission. [Formerly 508.335; 1991 c.701 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.535 - Keeping record of food fish received and bought; inspection.**

(1) Every fish canner, fish buyer, retail fish dealer, fish bait dealer or wholesale fish dealer shall keep a record, of all food fish received and bought, in accordance with rules promulgated by the State Fish and Wildlife Commission. Such information may be required as is necessary to enable the commission to carry out its duties of conservation, protection, administration or enforcement under the commercial fishing laws without imposing undue hardship on the licensees.

(2) At least one copy of this record shall be kept:

(a) On each boat, vessel, scow, pickup boat or other craft, truck, automobile, motor vehicle or other vehicle of any kind whatsoever used in buying, receiving or transporting the fish.

(b) By the canner, buyer, retailer, fish bait dealer or wholesaler.

(3) This record is subject to inspection by the commissioners, the State Fish and Wildlife Director, the authorized agent of the director, or any duly authorized police officer. This record shall be transmitted to the office of the director at such times and in such manner as the commission directs.

(4) Every person shall always keep open to inspection by the commission or its agent any books, records, papers or memoranda which are pertinent to the administration of ORS 508.505 to 508.540. For the purpose of ascertaining the correctness of any fee record or report or the number of pounds or value of fish upon which the additional fee is based or such other information as may be necessary to the administration of ORS 508.505 to 508.540, the commission or its agent may inspect such books, records, papers or memoranda.

(5) Restaurants licensed under ORS 624.020 shall keep a record of all fresh or frozen fish received or bought while such fish are in the restaurant's possession. This record shall be subject to inspection by the commissioners, the director, the authorized agent of the director, or any duly authorized police officer. An invoice or receipt shall be adequate for the purposes of this subsection. [Formerly 508.340; 1969 c.172 §5; 1971 c.540 §11; 1973 c.437 §1; 1977 c.242 §5; 1991 c.701 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.540 - Failure to keep or submit records or to pay fee.**

(1) In addition to the penalty prescribed by ORS 506.991, the State Fish and Wildlife Director, under the authority of the State Fish and Wildlife Commission, may suspend or revoke any license for which a fee is required under ORS 508.285 if the person holding the license fails to keep the record required by ORS 508.535 or fails to submit the books, records, papers or memoranda of the person for inspection, pursuant to ORS 508.535 (4), to any member of the commission or any of its representatives presenting written authority from the commission.

(2) The State Fish and Wildlife Director may suspend, deny the renewal of or refuse to issue any license for which a fee is required under ORS 508.285 if the person holding or applying for the license is more than 60 days past due in an amount of more than \$400 owed:

(a) From fees pursuant to ORS 508.505;

(b) From overage, incidental catch or bycatch charges; or

(c) To any food fish commodity commission established under ORS chapter 576.

(3) The State Fish and Wildlife Commission may contact any food fish commodity commission at any time to obtain lists of persons who owe past due fees to the commodity commission.

(4) For purposes of this section:

(a) "Bycatch" means the unintended taking of a species of food fish that:

- (A) Occurs while targeting another species of food fish; and
- (B) Is prohibited due to time, place, manner, regulations or quota restrictions.
- (b) "Incidental catch" means the unintended legal taking of a species of food fish that occurs while targeting another species of food fish.
- (c) "Overage" means the amount of food fish taken for commercial purposes that exceeds the amount allowed by federal and state law. [Formerly 508.345; 1991 c.701 §10; 2003 c.39 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.550 - Sale of fish from license holder's boat; permit; fee; reports; payment of fees.**

Notwithstanding any other provision of this chapter, a person who holds a valid Oregon commercial fishing license may sell any species of food fish taken in lawful commercial fishing activity directly from the license holder's boat, subject to the following conditions:

- (1) The person must first obtain from the State Fish and Wildlife Commission an annual limited fish seller permit for such sales, the annual fee for which is:
  - (a) \$100 for resident applicants.
  - (b) \$150 for nonresident applicants.
- (2) The commission by rule may limit the number of permits available for any species of food fish.
- (3) Prior to making any sale pursuant to this section, the person must notify the commission, in such manner as the commission prescribes, of the estimated number of food fish on board the boat and of the location where the sale is to take place.
- (4) Within seven days of making any sale pursuant to this section, the person shall submit to the commission a report thereof, in such form as the commission may prescribe. The person must pay the fees required as prescribed in ORS 508.505 to 508.540, or in such other manner as the commission by rule may prescribe.
- (5) The person may sell food fish from any port and dock location in this state.
- (6) If a person fails to comply with subsection (3) of this section, the commission may revoke and thereafter refuse to issue another limited fish seller permit. [1985 c.533 §2; 1987 c.802 §1; 1991 c.701 §11; 1999 c.585 §1; 2009 c.832 §25; 2015 c.779 §35]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.700 - Permits for salmon hatcheries; fees.**

- (1) The State Fish and Wildlife Commission may issue a permit, subject to such restrictions and regulations as the commission deems desirable, to any person to construct and operate a hatchery for:
  - (a) Chinook salmon, also known as *Oncorhynchus tshawytscha*; or
  - (b) Chum salmon, also known as *Oncorhynchus keta* or dog salmon; or
  - (c) Silver salmon, also known as *Oncorhynchus kisutch* or coho salmon; or
  - (d) Pink salmon, also known as *Oncorhynchus gorbuscha* or humpback salmon.
- (2) The application for a permit to construct and operate a chum salmon, chinook salmon, silver salmon, or pink salmon hatchery shall include an application fee of \$3,000. [1971 c.203 §1; 1973 c.356 §1; 1979 c.556 §1; 2009 c.832 §26]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.705 - Hearing for permits.**

- (1) Prior to issuance of any permit by the State Fish and Wildlife Commission, a public hearing shall be held. Notice of the hearing shall be published at least once and at least 10 days prior to the hearing in a newspaper of general circulation in each of the counties in which the hearing is to be held, or if no such newspaper is published in that county or counties, then such a newspaper in an adjoining county.
- (2) The hearing shall be conducted by either the commission or a representative designated by the commission. [1971 c.203 §2; 1975 c.253 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.710 - Grounds for denial of permit.**

No permit shall be issued:

- (1) Which may tend to deplete any natural run of anadromous fish or any population of resident game fish.
- (2) Which may result in waste or deterioration of fish.
- (3) If the proposed operation is to be located on the same stream or river or tributary thereof on which a state or federal fish culture facility is established or is planned to be established.
- (4) If the proposed operation is not consistent with sound resource management and is not in close proximity to the ocean.
- (5) If the State Fish and Wildlife Commission determines the applicant does not have the financial capability to successfully construct and operate the hatchery or may not properly conduct the operation authorized under the permit. [1971 c.203 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.715 - Conditions of permits.**

Any permit granted by the State Fish and Wildlife Commission pursuant to ORS 508.700 to 508.745 shall contain at least the following conditions:

- (1) All propagated fish released into state waters shall be marked annually at no less than the level of marking of the same species of fish by hatcheries operated by the commission for the purpose of determining contributions to ocean fisheries.
- (2) All propagated coho and chinook salmon released into state waters shall be marked annually, consistent with subsection (8) of this section, at a minimum level necessary to determine the proportion of straying of hatchery coho and chinook salmon into the spawning beds of natural and hatchery produced native stocks of salmon. However, the commission shall not require private hatcheries to meet marking standards that the commission would not apply to its own operations in similar circumstances.
- (3) Prior to release into state waters, the fish must be subject to examination by a qualified fish pathologist approved by the commission to determine that they are not diseased or infected with any disease which in the opinion of the commission may be detrimental to the state fishery resources. Cost of such examination shall be paid by the permittee. No fish shall be released without written approval from the commission. The commission may require diseased fish to be destroyed. The commission shall not suffer civil or criminal liability for any fish destroyed under this section.
- (4) The permittee may be authorized by the commission to divert all fish returning to the stream to an inspection area, the location of such area to be approved by the commission, to examine all fish for the purpose of identifying propagated fish.
- (5) Notwithstanding the provisions of ORS chapters 509 and 511, the permittee shall have the right to take for commercial purposes, only those fish the commission determines were propagated by the permittee, and the commission's decision is final.
- (6) It shall be unlawful for the permittee to select stocks of fish or to genetically alter the life history or habits of propagated fish in a way the State Department of Fish and Wildlife determines is inconsistent with the provisions of ORS 496.012 or 506.109.
- (7) It shall be unlawful for the permittee to conduct any activity not authorized by the permit or fail to conduct activities required by the permit without approval of the commission after public hearings.
- (8) The permittee shall pay all reasonable costs incurred by the commission as a result of the operation of the private hatchery. [1971 c.203 §5; 1979 c.556 §5; 1985 c.529 §1; 1989 c.817 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.718 - Program for protecting natural runs and genetic diversity of anadromous fish stocks; rules; findings.**

- (1) The Legislative Assembly finds that protecting the natural runs and genetic diversity of anadromous fish is essential to the long-term health of Oregon's natural resources and sport and commercial fisheries.
- (2) Not later than January 1, 1990, the State Department of Fish and Wildlife shall:
  - (a) Develop and implement monitoring programs, consistent with ORS 508.715 (8) at a minimum level necessary to determine the proportion of straying of hatchery fish into the spawning beds of natural and hatchery produced native stocks of salmon.
  - (b) Utilizing the best available scientific evidence, adopt rules, after public hearing, that determine the proportion of straying that by indicator stock is likely to cause deterioration of the genetic diversity and habitat necessary to maintain long-term species viability or that causes a deterioration of natural or native stocks of salmon.
- (3) The Legislative Assembly further finds that private hatcheries are a significant part of Oregon's salmon resource and that the Legislative Assembly relies on the State Fish and Wildlife Commission to monitor and regulate private hatcheries in a way that will optimize their long-term contribution to Oregon's salmon resource in conformity with the findings under subsection (1) of this section. [1989 c.817 §5; 1995 c.79 §295]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.720 - Altering terms of permits; findings; hearing; restoration of fish population.**

- (1) If the State Fish and Wildlife Commission finds that the operation described in the permit is not in the best public interest, it shall alter the conditions of the permit to mitigate such adverse effects or may cause an orderly termination of the operation under the permit. Proceedings to cause such alteration or termination shall be conducted in accordance with ORS chapter 183. An orderly termination shall not exceed a four-year period and shall culminate in the revocation of the permit in its entirety. During this period the permittee may continue to examine and take specified propagated chum salmon, chinook salmon, silver salmon or pink salmon according to the provisions of the permit but may not release additional fish.
- (2) If the commission finds the operation has caused deterioration of the natural run of anadromous fish or any population of resident game fish in the waters covered by the permit, it may require the permittee to return the fish populations to the same condition that existed prior to issuance of the permit. If the permittee fails to take appropriate action, the commission shall take such action and the permittee shall bear any cost incurred by the commission. [1971 c.203 §6; 1973 c.356 §2; 1975 c.253 §32; 1979 c.556 §2; 1989 c.817 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.725 - Released fish as state property; consideration by commission of adverse economic impact on hatcheries.**

- (1) All fish released under ORS 508.700 to 508.745 during the time they are in the wild will be the property of the state and may be taken under angling or commercial fishing laws of this state until they return to the private hatchery.

(2) In carrying out the provisions of ORS 496.162 or 506.129, the State Fish and Wildlife Commission shall not consider evidence of or argument regarding the prospect of adverse economic impact on the activities of hatcheries for which permits have been issued unless the commission determines that it is necessary in order to comply with the policies set forth in ORS 496.012 or 506.109. [1971 c.203 §4; 1979 c.335 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.730 - Disposal of salmon products.**

After first ensuring that all natural and artificial fish production needs of the State Department of Fish and Wildlife have been met, the State Fish and Wildlife Commission may provide at a reasonable fee chum salmon, chinook salmon, silver salmon or pink salmon, or the sexual products therefrom, for the needs of any person granted a permit by the commission pursuant to ORS 508.700 to 508.745 in the following order of priority:

- (1) The needs of the salmon and trout enhancement program.
- (2) The needs of fish propagation facilities operated under contract or agreement with other state or federal agencies, local governments, special districts and nonprofit organizations.
- (3) The needs of all federal and other fish propagation facilities located on the Columbia River and its tributaries. [1971 c.203 §7; 1973 c.356 §3; 1979 c.556 §3; 1981 c.317 §9; 1995 c.469 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.735 - Application of chapter to taking and sale of salmon.**

The provisions of this chapter shall apply to the taking and sale of chum salmon, chinook salmon, silver salmon or pink salmon artificially reared under any permit granted by the State Fish and Wildlife Commission pursuant to ORS 508.700 to 508.745. [1971 c.203 §8; 1973 c.356 §4; 1979 c.556 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.737 - Policy for marketing of salmon products.**

It is the policy of the State of Oregon that all holders of permits issued pursuant to ORS 508.700 to 508.745 are encouraged to market salmon products obtained pursuant to permit activities in such manner as to promote the development and growth of locally based industries and to provide the maximum benefit to the economy of this state. [1979 c.556 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.740 - Authority under ORS 508.700 to 508.745.**

- (1) Nothing in ORS 508.700 to 508.745 is intended to give the permittee any equity in any of the waters or fish of the state.
- (2) Nothing in ORS 508.700 to 508.745 shall imply an intent to permit commercial fishing in any rivers south of the mouth of the Columbia River except as provided in ORS 508.715 (5). [1971 c.203 §§9,10; 1989 c.817 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.745 - Disposition of moneys received under ORS 508.700 to 508.745.**

All moneys received by the State Fish and Wildlife Commission under ORS 508.700 to 508.745 except those under ORS 508.735 shall be paid over to the State Treasurer to be held in a suspense account established under ORS 293.445. After the payment of costs of administration incurred by the commission in carrying out the provisions of ORS 508.700 to 508.745, that portion of the balance of the moneys in this suspense account as of the end of each fiscal year shall be deposited to the General Fund for general governmental purposes. [1971 c.203 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.755 - Membership; duties; meetings; expenses.**

- (1) There is established within the State Department of Fish and Wildlife the Commercial Fishery Permit Board. The board shall consist of members appointed by the State Fish and Wildlife Commission as follows:
  - (a) Three members shall be chosen to represent the Columbia River gillnet salmon fishing industry.
  - (b) Three members shall be chosen to represent the ocean troll salmon fishing industry.
  - (c) Three members shall be chosen to represent the ocean pink shrimp fishing industry.
  - (d) Three members shall be chosen to represent the Yaquina Bay roe-herring fishing industry.
  - (e) Three members shall be chosen to represent the sea urchin commercial fishery.
  - (f) Three members shall be chosen to represent the ocean Dungeness crab fishing industry.
  - (g) Three members shall be chosen to represent the black rockfish and blue rockfish fishing industry and the nearshore fish fishing industry.
  - (h) Three members shall be chosen to represent developmental fisheries as described in ORS 506.450 to 506.465.
  - (i) Three members shall be chosen to represent each restricted participation system or restricted vessel permit system established by rule of the commission under ORS 506.462.

- (j) Two members shall be chosen to represent the public.
- (2) A member of the board shall receive no compensation for services as a member. However, subject to any applicable law regulating travel and other expenses of state officers and employees, a member shall be reimbursed for travel and other expenses incurred in the performance of official duties.
- (3) The board shall select such officers, for such terms and with such duties and powers, as the board considers necessary for the performance of those offices.
- (4) A majority of the members of the board constitutes a quorum for the transaction of business.
- (5) The board shall meet at such times and places as may be determined by the chairperson or by a majority of the members of the board.
- (6) Notwithstanding any other provision of law:
  - (a) Members of the board representing the Columbia River gillnet salmon fishing industry shall participate in actions of the board only on matters arising under ORS 508.285, 508.470 and 508.775 to 508.796.
  - (b) Members of the board representing the ocean troll salmon fishing industry shall participate in actions of the board only on matters arising under ORS 508.801 to 508.825.
  - (c) Members of the board representing the ocean pink shrimp fishing industry shall participate in actions of the board only on matters arising under ORS 508.880, 508.883 and 508.889 to 508.910.
  - (d) Members of the board representing the Yaquina Bay roe-herring fishing industry shall participate in actions of the board only on matters arising under ORS 508.765.
  - (e) Members of the board representing the sea urchin commercial fishery shall participate in actions of the board only on matters arising under ORS 508.760.
  - (f) Members of the board representing the ocean Dungeness crab fishing industry shall participate in actions of the board only on matters arising under ORS 508.921 and 508.934.
  - (g) Members of the board representing the black rockfish and blue rockfish fishing industry and the nearshore fish fishing industry shall participate in actions of the board only on matters arising under ORS 508.947, 508.957 or 508.960.
  - (h) Members of the board representing developmental fisheries shall participate in actions of the board only on matters arising under ORS 506.450 to 506.465.
  - (i) Members of the board representing a restricted participation system or a restricted vessel permit system established by rule of the commission under ORS 506.462 shall participate in actions of the board only on matters related to that system. [Formerly 508.920; 2003 c.809 §13; 2007 c.95 §3; 2014 c.1 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.760 - Sea urchin limited participation; terms; conditions; fees; rules.**

- (1) Notwithstanding any other provision of the commercial fishing laws, in order to provide a sea urchin (*Strongylocentrotus franciscanus*, *S. purpuratus* and *S. droebachiensis*) commercial fishery with optimum profits to those engaged in the fishery and to prevent a concentration of fishing effort that would deplete the resource, the State Fish and Wildlife Commission, by rule, shall establish a system for limiting participation in the sea urchin commercial fishery. Any such system may include, but is not limited to, provisions on the following matters:
  - (a) Establishment of criteria for initial entry into fishery participation and for annual qualification for participation thereafter.
  - (b) Establishment of terms and conditions for transferring participation rights.
- (2)(a) The annual fee to participate in the sea urchin fishery is:
  - (A) \$125 for resident applicants.
  - (B) \$175 for nonresident applicants.
- (b) A fee of \$100 shall be charged for each transfer of participation rights under this section. [1987 c.374 §2; 1991 c.701 §12; 1995 c.602 §2; 2009 c.832 §27; 2011 c.613 §3; 2015 c.779 §36]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.762 - Review of denial of sea urchin permit renewal or transfer; fee; rules.**

- (1) A person whose application for renewal or transfer of a permit established pursuant to ORS 508.760 is denied may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the State Department of Fish and Wildlife or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the board considers appropriate. The request shall be accompanied by a nonrefundable fee of \$125. Such fee shall apply toward the permit fee of an applicant seeking review who is successful in obtaining a permit.
- (2) The board shall review a denial of an application for renewal or request to transfer a permit according to the applicable provisions of ORS chapter 183. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183.480 to 183.500.
- (3) According to the applicable provisions of ORS chapter 183, the board may promulgate such rules as it considers necessary to carry out its duties, functions and powers.
- (4) The board may delegate to the department its authority to waive requirements for renewal of permits. [1995 c.602 §3; 2009 c.832 §28]



Note:

508.762 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 508 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.765 - Roe-herring limited participation; terms; conditions; fees; rules.**

(1) Notwithstanding any other provision of the commercial fishing laws, in order to provide a roe-herring commercial fishery with optimum profits to those engaged in the fishery and to prevent a concentration of fishing effort that would deplete the resource, the State Fish and Wildlife Commission, by rule, shall establish a system for limiting participation in the roe-herring commercial fishing. Any such system may include, but is not limited to, provisions on the following matters:

(a) Establishment of criteria for initial entry into fishery participation and for annual qualification for participation thereafter.

(b) Establishment of terms and conditions for transferring participation rights.

(2)(a) The annual fee to participate in the roe-herring fishery is:

(A) \$125 for resident applicants.

(B) \$175 for nonresident applicants.

(b) A fee of \$100 shall be charged for each transfer of participation rights under this section.

(3)(a) A denial by the commission of an application for renewal of any permit or transfer of any permit established under this section shall be subject to review by the Commercial Fishery Permit Board upon written request of the applicant. The review provided under this subsection shall be in lieu of any such review by the commission or the State Department of Fish and Wildlife.

(b) Request for review under this subsection shall be on such forms and contain such information as the board shall determine.

Requests for review shall be accompanied by a \$125 fee, which fee shall apply toward any applicable permit fees resulting from an order of the board in favor of the requesting applicant.

(4) Orders issued by the board are not subject to review by the commission but may be appealed as provided in ORS chapter 183.

(5) According to the provisions of ORS chapter 183, the board shall adopt such rules as it determines necessary to carry out its duties, functions and powers. [Formerly 508.800; 1991 c.701 §13; 1995 c.602 §4; 2009 c.832 §29; 2011 c.613 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.775 - Vessel permit required to engage in fishery; purchase of fish by dealer from individual without permit prohibited.**

(1) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for an individual to operate a vessel in the Columbia River gillnet salmon fishery without first obtaining a vessel permit issued pursuant to ORS 508.775 to 508.796. However, an individual who holds valid commercial fishing licenses and vessel permits required by and issued pursuant to the laws of the State of Washington for commercial salmon fishing in the Columbia River may land salmon in this state that were taken in the Columbia River gillnet salmon fishery without the permit otherwise required by this subsection.

(2) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for a wholesaler, canner or buyer to buy or receive salmon taken in the Columbia River gillnet fishery from an individual who does not have the permit required by subsection (1) of this section.

(3) The permit required by subsection (1) of this section is in addition to and not in lieu of the boat license required by ORS 508.260. [1979 c.679 §2; 1981 c.365 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.778 - Limitation on issuance of permits.**

Except as provided in ORS 508.792, no new vessel permits shall be issued. [1979 c.679 §3; 1981 c.365 §40; 1989 c.940 §3; 1995 c.602 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.781 - Renewal of permit; rules.**

An individual who obtained the permit required by ORS 508.775 for a particular calendar year is eligible to obtain renewal of the permit in a subsequent calendar year, upon application and payment of the fees therefor by December 31 of the permit year or by such date as may be specified by rule of the State Department of Fish and Wildlife. [1979 c.679 §4; 1981 c.365 §12; 1995 c.602 §6; 2007 c.768 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.784 - Considerations in determining eligibility for permit.**

In making determinations regarding renewal of the permits required by ORS 508.775, the State Department of Fish and Wildlife and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements department records and such receipts, accounts, contracts and other business records of private parties as the department or the board consider reliable evidence of the qualifications or requirements in question. [1979 c.679 §5; 1989 c.940 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.787 - Permit revocation procedure.**

The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of a permit required by ORS 508.775 in the manner provided in ORS 508.485 (1) and 508.490. [1979 c.679 §6; 2013 c.164 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.790 - Fee; application form.**

(1) The annual fee for the vessel permit required by ORS 508.775 is:

(a) \$51 for resident applicants.

(b) \$101 for nonresident applicants.

(2) Applications shall be in such form and contain such information as the State Department of Fish and Wildlife, by rule, may prescribe. [1979 c.679 §7; 1981 c.43 §3; 2009 c.832 §30; 2011 c.613 §5; 2015 c.779 §37]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.792 - Lottery system for permit issuance.**

(1) Except as provided in subsection (2) of this section, if the number of permits renewed under ORS 508.781 falls below 200, the State Department of Fish and Wildlife shall issue permits by a lottery system for vessels that do not meet the requirements of ORS 508.781. However, the number of permits issued pursuant to any such lottery system shall not increase the number of permits issued to a total number greater than 200.

(2) The State Fish and Wildlife Commission may, in its discretion, suspend the lottery for up to two years. Suspension shall be based on the commission's assessment of the condition of the resource and shall account for the recommendations of the Gillnet Salmon Review Board. [1989 c.940 §5b; 1995 c.602 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.793 - Permit transfer restrictions; fee.**

(1) The vessel permit required by ORS 508.775 is transferable:

(a) To a replacement vessel of the permit holder.

(b) To the purchaser of the vessel when the vessel is sold.

(2) Notwithstanding subsection (1) of this section, upon request of a permit holder, the State Department of Fish and Wildlife may authorize transfer of a permit to a replacement vessel owned by an individual other than the permit holder. However, any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void.

(3) A fee of \$100 shall be charged for each transfer of a vessel permit under this section. [1979 c.679 §9; 1981 c.365 §14; 2009 c.832 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.796 - Review of permit denial; fee; rules; limitation on transfer of certain permits.**

(1) An individual whose application for renewal of the permit required by ORS 508.775 is denied by the State Department of Fish and Wildlife may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the department or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the board considers appropriate. The request shall be accompanied by a nonrefundable fee of \$125. Such fees shall apply toward the permit fee of successful applicants.

(2) In accordance with any applicable provision of ORS chapter 183, the board shall review denials of applications for renewal of permits. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183.480 to 183.500. The board may waive requirements for renewal of permits if the board finds:

(a) That the individual for personal or economic reasons chose to actively commercially fish in some other fishery during the Columbia River gillnet salmon seasons; or

(b) That the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(3) In accordance with any applicable provision of ORS chapter 183, the board may promulgate such rules as it considers necessary to carry out its duties, functions and powers.

(4) The board may delegate to the department its authority to waive requirements for renewal of permits.

(5) Notwithstanding any other provision of law, without the prior approval of the Commercial Fishery Permit Board, a Columbia River gillnet salmon vessel permit acquired as a result of a waiver pursuant to subsection (2) of this section may not be transferred to another vessel until the vessel for which the permit was issued has been used in the Columbia River gillnet salmon fishery for two or more calendar years. [1979 c.679 §10; 1981 c.365 §15; 1989 c.940 §5; 1995 c.602 §8; 2009 c.832 §32]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.800**

[1983 c.419 §2; renumbered 508.765 in 1987]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.801 - Vessel permit required to engage in fishery; purchase of fish by dealer from individual without permit prohibited.**

(1) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for an individual to operate a vessel in the ocean troll salmon fishery without first obtaining a vessel permit issued pursuant to ORS 508.801 to 508.825.

(2) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for a wholesaler, canner or buyer to buy or receive salmon taken in the ocean troll fishery from a vessel for which the permit required by subsection (1) of this section has not been issued.

(3) The permit required by subsection (1) of this section is in addition to and not in lieu of the boat license required by ORS 508.260. [1979 c.613 §2; 1981 c.365 §1; 2009 c.11 §75]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.804 - Prohibition on issuance of permits.**

No new vessel permits shall be issued in the ocean troll salmon fishery after March 5, 2012. [1979 c.613 §3; 1989 c.940 §6; 1995 c.602 §9; 2012 c.17 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.807 - Renewal of permit; replacement vessel; rules.**

(1) An individual who obtained the permit required by ORS 508.801 for a particular calendar year is eligible to obtain renewal of the permit in a subsequent calendar year upon obtaining the annual boat license referred to in ORS 508.285. The permit must be renewed, and the boat license obtained, not later than December 31 of each year or such date as may be established by rule of the State Department of Fish and Wildlife.

(2) Notwithstanding any other provision of law, an individual who permanently loses the services of a vessel through capsizing, sinking, fire, collision or other catastrophic accident has a period of two years from the date of loss to replace the vessel without losing eligibility to renew the vessel permit. [1979 c.613 §4; 1981 c.43 §5; 1987 c.912 §1; 1995 c.602 §10; 2007 c.768 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.808 - Special renewal and fee provisions.**

(1) In order to be able to renew the vessel permit in any subsequent year, an individual is not required to renew the boat license as provided in ORS 508.807 if:

(a) In the year prior to renewal there was not an ocean troll salmon season of more than 20 consecutive days between May 1 and July 31 in the Pacific Fisheries Management Council management area adjacent to the port where the vessel lands fish; and

(b) The vessel landed salmon in only one single Oregon port and no other during the preceding three years in which there was a salmon season of more than 20 consecutive days between May 1 and July 31 in the Pacific Fisheries Management Council management area adjacent to the port.

(2) The State Department of Fish and Wildlife may, upon written request by the purchaser, refund any amount paid for a boat license for a boat that qualifies under the provisions of subsection (1) of this section. [1993 c.227 §§2,3; 1995 c.540 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.810 - Considerations in determining eligibility for permit.**

In making determinations regarding renewal of the permits required by ORS 508.801, the State Department of Fish and Wildlife and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements department records and such receipts, accounts, contracts and other business records of private parties as the department or the board considers reliable evidence of the qualifications or requirements in question. [1979 c.613 §5; 1989 c.940 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.813 - Permit revocation procedure.**

The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of a permit required by ORS 508.801 in the manner provided in ORS 508.485 (1) and 508.490. [1979 c.613 §6; 2013 c.164 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.816 - Fee; application form; rules.**

(1) The annual fee for the vessel permit required by ORS 508.801 is:

(a) \$60 for resident applicants.

(b) \$110 for nonresident applicants.

(2) Applications shall be in such form and contain such information as the State Department of Fish and Wildlife, by rule, may

prescribe. [1979 c.613 §7; 1981 c.43 §1; 1987 c.912 §2; 2009 c.832 §33; 2011 c.613 §6; 2015 c.779 §38]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.819 - Permits transferred to federal government.**

The State Department of Fish and Wildlife shall consider a permit transferred to, purchased by or otherwise held by the federal government as a permit renewed under ORS 508.807. [1979 c.613 §8; 1981 c.365 §2; 1987 c.912 §3; subsection (2) of 1987 Replacement Part enacted as 1983 c.797 §4; 1993 c.555 §1; 1995 c.602 §13; 2001 c.235 §1; 2007 c.461 §1; 2012 c.17 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.822 - Permit transfer restrictions; fee.**

(1) The vessel permit required by ORS 508.801 is transferable:

(a) To a replacement vessel of the permit holder.

(b) To the purchaser of the vessel when the vessel is sold.

(c) Upon request of a permit holder, to a replacement vessel owned by an individual other than the permit holder if authorized by the State Department of Fish and Wildlife. However, any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void.

(2) Permits may be transferred between vessels where both vessels fall within any one of the following categories:

(a) Vessels less than or equal to 30 feet;

(b) Vessels greater than 30 feet and less than or equal to 42 feet; or

(c) Vessels greater than 42 feet.

(3) A permit may be transferred from a vessel that is in one of the categories defined in subsection (2) of this section to a vessel that is in a different category provided that no vessel permit may be transferred to a vessel more than five feet longer than the vessel from which the permit is being transferred.

(4) A vessel permit may not be transferred more than once in any 12-month period. However, the Commercial Fishery Permit Board may waive the waiting period for additional transfer if the board finds that strict adherence to the waiting period would create undue hardship for the individual seeking transfer of the permit.

(5) Persons requesting the transfer of a permit pursuant to subsection (1)(c) of this section shall provide to the department copies of documents or state registration for each vessel as proof of the length and ownership.

(6) A fee of \$100 shall be charged for each transfer of a vessel permit under this section. [1979 c.613 §9; 1981 c.365 §3; 1983 c.797 §5; 1985 c.159 §1; 1987 c.912 §4; 1989 c.441 §1; 1995 c.602 §14; 2007 c.461 §2; 2009 c.832 §34; 2012 c.17 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.825 - Review of permit denial; rules; fee.**

(1) An individual whose application for renewal or transfer of the permit required by ORS 508.801 is denied by the State Department of Fish and Wildlife may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the department or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the board considers appropriate. The request shall be accompanied by a nonrefundable fee of \$125. Such fee shall apply toward the permit fee of successful applicants.

(2) In accordance with any applicable provision of ORS chapter 183, the board shall review denials of applications for renewal or transfer of permits. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183.480 to 183.540. The board may waive requirements for renewal or transfer of permits if the board finds that the individual fails to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(3) In accordance with any applicable provision of ORS chapter 183, the board may promulgate such rules as it considers necessary to carry out its duties, functions and powers.

(4) The board may delegate to the department its authority to waive requirements for renewal or transfer of permits. [1979 c.613 §11; 1981 c.365 §4; 1983 c.797 §6; 1987 c.912 §5; 1989 c.940 §8; 1995 c.602 §15; 2009 c.832 §35]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.828 - Single delivery license in lieu of vessel permit.**

Notwithstanding ORS 508.801 to 508.825, 508.880, 508.883 and 508.889 to 508.910, subject to ORS 508.316, a vessel not having a permit may in an emergency and with the approval of the State Department of Fish and Wildlife land salmon by purchase of a single delivery license. [1981 c.365 §21; 1999 c.164 §3; 2009 c.11 §76]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.840 - Vessel permit required to engage in fishery; purchase of scallops by dealer from individual without permit prohibited.**

(1) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for an individual to operate a vessel in the ocean scallop fishery without first obtaining a vessel permit issued pursuant to ORS 508.840 to 508.867.

(2) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for a wholesaler, canner or buyer to buy or receive scallops taken in the ocean fishery from a vessel for which the permit required by subsection (1) of this section has not been issued.

(3) The permit required by subsection (1) of this section is in addition to and not in lieu of the boat license required by ORS 508.260. [1981 c.365 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.843 - Use of single delivery license in lieu of permit; reciprocity of law.**

(1) Notwithstanding ORS 508.840, an individual who holds a valid scallop fishing permit required by or issued pursuant to the laws of the states of Washington or California may land scallops in this state that were taken in the ocean fishery without the permit required by ORS 508.840 if the vessel possesses a single delivery license referred to in ORS 508.285.

(2) This section remains operative only while laws or administrative rules in California and Washington are operative that contain, in substance or effect, provisions similar to the provisions of ORS 508.840 (1). [1981 c.365 §26; 1995 c.602 §16; 1999 c.164 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.846 - Issuance of permits restricted.**

Except as provided in ORS 508.861, no new vessel permits shall be issued. [1981 c.365 §27; 1989 c.940 §9; 1995 c.602 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.849 - Renewal of permit.**

An individual who obtained the permit required by ORS 508.840 for calendar year 1981 is eligible to obtain renewal of the permit in a subsequent calendar year, upon application by December 31 of the permit year and payment of the fees therefor, if during the preceding calendar year the vessel for which permit renewal application is made was used in the ocean fishery to take at least 5,000 pounds of food fish which were lawfully landed in this state. [1981 c.365 §28; 1995 c.602 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.852 - Considerations in determining eligibility for permit.**

In making determinations regarding renewal of the permits required by ORS 508.840, the State Department of Fish and Wildlife and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements department records and such receipts, accounts, contracts and other business records of private parties as the department or the board considers reliable evidence of the qualifications or requirements in question. [1981 c.365 §29; 1989 c.940 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.855 - Permit revocation procedure.**

The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of a permit required by ORS 508.840 in the manner provided in ORS 508.485 (1) and 508.490. [1981 c.365 §30; 2013 c.164 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.858 - Fee.**

The annual fee for the vessel permit required by ORS 508.840 is:

(1) \$125 for resident applicants.

(2) \$175 for nonresident applicants. [1981 c.365 §31; 1991 c.701 §14; 2009 c.832 §36; 2011 c.613 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.861 - Lottery system for permit issuance; rules.**

The State Department of Fish and Wildlife may establish by rule a lottery system for issuing permits to vessels that do not meet the requirements of ORS 508.849. The department, by rule, shall determine the number of permits and the criteria for issuance. [1981 c.365 §32; 1989 c.940 §11a; 1995 c.602 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.864 - Permit transfer restrictions; fee.**

(1) Notwithstanding any other provision of law, an ocean scallop vessel permit issued pursuant to ORS 508.840 to 508.867 may not be transferred to another vessel:

(a) Until the vessel for which the permit was issued has been used in the ocean scallop fishery for three or more calendar years to land at least 5,000 pounds of food fish annually.

(b) More than once in any 12-month period. However, the Commercial Fishery Permit Board may waive the waiting period if the board finds that strict adherence to the waiting period would create undue hardship for the individual seeking transfer of the permit.

(c) That is more than five feet longer than the vessel from which the permit is transferred.

(2) A fee of \$100 shall be charged for each transfer of a vessel permit under this section. [1981 c.365 §33; 1995 c.602 §20; 2009 c.832 §37]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.867 - Review of permit denial; fee; rules.**

(1) Notwithstanding ORS 508.755 (6)(b) and (c), an individual whose application for renewal of the permit required by ORS 508.840 is denied by the State Department of Fish and Wildlife may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the department or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the board considers appropriate. The request shall be accompanied by a nonrefundable fee of \$125. Such fee shall apply toward the permit fee of successful applicants.

(2) In accordance with any applicable provision of ORS chapter 183, the board shall review denials of applications for renewal of permits. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183.480 to 183.540. The board may waive requirements for renewal of permits if the board finds that the individual for personal or economic reasons chooses to actively fish the permit vessel in some other ocean fishery or if the board finds that the individual fails to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(3) In accordance with any applicable provision of ORS chapter 183, the board may promulgate such rules as it considers necessary to carry out its duties, functions and powers.

(4) The board may delegate to the department the authority to waive eligibility requirements for renewal of permits. [1981 c.365 §34; 1989 c.940 §11; 1995 c.602 §21; 2009 c.832 §38]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.880 - Vessel permit required to engage in fishery; purchase of shrimp by dealers from individual without permit prohibited.**

(1) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for an individual to operate a vessel in the ocean pink shrimp fishery without first obtaining a vessel permit issued pursuant to ORS 508.880, 508.883 and 508.889 to 508.910.

(2) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for a wholesaler, canner or buyer to buy or receive pink shrimp (*Pandalus jordani*) taken in the ocean pink shrimp fishery from a vessel for which the permit required by subsection (1) of this section or the license required by ORS 508.883 has not been issued.

(3) The permit required by subsection (1) of this section is in addition to and not in lieu of the boat license required by ORS 508.260. [1979 c.613 §13; 1981 c.365 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.883 - Use of single delivery license in lieu of vessel permit; reciprocity of law.**

(1) Notwithstanding ORS 508.880, an individual who holds valid commercial fishing permits required by or issued pursuant to the laws of the states of Washington or California to take pink shrimp may land pink shrimp in this state that were taken in the ocean pink shrimp fishery without the permit required by ORS 508.880 if the vessel possesses a single delivery license referred to in ORS 508.285. However, a single delivery license may be used to land pink shrimp only once in a 12-month period as established by rule of the State Fish and Wildlife Director.

(2) Subsection (1) of this section shall apply to a vessel registered under the laws of another state only while laws or administrative rules are operative in that state that contain, in substance or effect, provisions similar to the provisions of subsection (1) of this section. [1979 c.613 §14; 1987 c.912 §9; 1995 c.602 §22; 1999 c.164 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.886 - Limitation on number of permits; eligibility.**

Notwithstanding any other provision of law, until the number of vessel permits required by ORS 508.880 reaches 235:

(1) For calendar year 1987, those persons who delivered pink shrimp by use of a single delivery license referred to in ORS 508.285 during calendar year 1986 are eligible to obtain a permit.

(2) For calendar year 1988, those persons who deliver pink shrimp from their own boats by use of a single delivery license referred to in ORS 508.285 during calendar year 1987 are eligible to obtain a permit, giving priority in the order of the date of delivery.

[1987 c.912 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.889 - Issuance of permits limited.**

Except as provided in ORS 508.904, no new vessel permits shall be issued. [1979 c.613 §15; 1989 c.940 §12; 1995 c.602 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.892 - Renewal of permit; rules.**

(1) An individual who obtained the permit required by ORS 508.880 for a particular calendar year is eligible to obtain renewal of the

permit in a subsequent calendar year upon application and payment of the fees therefor and upon obtaining the annual boat license referred to in ORS 508.285. The permit must be applied for, and the boat license obtained, not later than December 31 of each year or such date as may be established by rule of the State Department of Fish and Wildlife.

(2) An individual who permanently loses the services of a vessel through capsizing, sinking, fire, collision or other catastrophic accident shall remain eligible to obtain a vessel permit for a replacement vessel for two years from the date of loss. [1979 c.613 §16; 1981 c.365 §6; 1985 c.453 §1; 1987 c.912 §8; 1995 c.602 §24; 1999 c.165 §1; 2007 c.768 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.895 - Considerations in determining eligibility for permit.**

In making determinations regarding renewal of the permits required by ORS 508.880, the State Department of Fish and Wildlife and the Commercial Fishery Permit Board may consider as evidence of permit qualifications or requirements department records and such receipts, accounts, contracts and other business records of private parties as the department or the board considers reliable evidence of the qualifications or requirements in question. [1979 c.613 §17; 1989 c.940 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.898 - Permit revocation procedure.**

The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of a permit required by ORS 508.880 in the manner provided in ORS 508.485 (1) and 508.490. [1979 c.613 §18; 2013 c.164 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.901 - Fee; application form; rules.**

(1) The annual fee for the vessel permit required by ORS 508.880 is:

(a) \$200 for resident applicants.

(b) \$250 for nonresident applicants.

(2) Applications shall be in such form and contain such information as the State Department of Fish and Wildlife, by rule, may prescribe. [1979 c.613 §19; 1981 c.43 §2; 1987 c.912 §7; 1991 c.701 §15; 2009 c.832 §39; 2011 c.613 §8; 2015 c.779 §39]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.904 - Lottery system for permit issuance.**

(1) Except as provided in subsection (2) of this section, if the number of permits renewed under ORS 508.892 falls below 150, the State Department of Fish and Wildlife shall issue permits by lottery systems for vessels that do not meet such requirements, first among those individuals who landed pink shrimp pursuant to a single delivery license referred to in ORS 508.285, and then among all other individuals making application therefor. However, the number of permits issued pursuant to any such lottery system may not increase the total number of permits issued beyond 150.

(2) The department shall consider a permit transferred to, purchased by or otherwise held by the federal government as a permit renewed under ORS 508.892. A permit transferred to, purchased by or otherwise held by the federal government is a permit under the limit of 150 permits established by this section. [1979 c.613 §20; 1981 c.365 §7; 1987 c.912 §6; 1989 c.940 §15; 1995 c.602 §25; 2001 c.235 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.907 - Permit transfer restrictions; fee.**

(1) The vessel permit required by ORS 508.880 is transferable:

(a) To a replacement vessel of the permit holder. A replacement is any vessel that is purchased for any reason to replace a vessel previously owned by and licensed to the permit holder;

(b) To the purchaser of the vessel when the vessel is sold; or

(c) To a replacement vessel owned by an individual other than the permit holder. However, any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void.

(2) A permit may be transferred to a vessel of greater length only if that vessel is within 5 feet in overall length of the vessel from which the permit is being transferred. This provision does not apply if the permit is being transferred from one vessel owned by an individual to another vessel not exceeding 80 feet in length that is owned by the same individual.

(3) A permit may not be transferred to another vessel more than once in a 12-month period. However, the Commercial Fishery Permit Board may waive the waiting period if the board finds that strict adherence to the waiting period would create undue hardship for the individual seeking transfer of the permit.

(4) A fee of \$100 shall be charged for each transfer of a vessel permit under this section. [1979 c.613 §21; 1981 c.365 §8; 1995 c.602 §26; 1999 c.165 §2; 2009 c.832 §40]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.908 - Limits on authority of Commercial Fishery Permit Board to prohibit transfer of valid pink shrimp vessel permits.**

The Commercial Fishery Permit Board may not prohibit the transfer under ORS 508.907 of a valid ocean pink shrimp vessel permit on the basis that:

- (1) The vessel for which the permit was issued did not participate in the ocean pink shrimp fishery for three or more preceding consecutive years to annually land at least 5,000 pounds of shrimp in Oregon, California or Washington; or
- (2) The holder of the permit did not obtain an exemption from the catch requirement. [1999 c.165 §4]

Note:

508.908 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 508 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.910 - Review of permit denial; fee; rules; limitation on transfer of certain permits.**

(1) An individual whose application for renewal of the permit required by ORS 508.880 is denied by the State Department of Fish and Wildlife may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the department or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the board considers appropriate. The request shall be accompanied by a nonrefundable fee of \$125. Such fee shall apply toward the permit fee of successful applicants.

(2) In accordance with any applicable provision of ORS chapter 183, the board shall review denials of applications for renewal of permits. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183.480 to 183.540. The board may waive requirements for renewal of permits if the board finds that the individual fails to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(3) In accordance with any applicable provision of ORS chapter 183, the board may promulgate such rules as it considers necessary to carry out its duties, functions and powers.

(4) The board may delegate to the department its authority to waive requirements for renewal of permits. [1979 c.613 §22; 1981 c.365 §9; 1989 c.940 §14; 1995 c.602 §27; 1999 c.165 §3; 2009 c.832 §41]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.913 - Issuance of permits for vessels engaged in groundfish fishery; permit transfer restriction.**

(1) The Commercial Fishery Permit Board is authorized to receive applications and issue ocean pink shrimp vessel permits for 1982 to trawl vessel owners for those vessels that did not qualify for or receive an ocean pink shrimp permit in 1980, if the board finds that the vessel has been actively engaged in Oregon's groundfish fishing since January 1, 1974, or entered that fishery subsequent to January 1, 1974, but prior to July 1, 1979, and has continued to be actively engaged in that Oregon fishery.

(2) Notwithstanding any other provision of law, without the prior approval of the Commercial Fishery Permit Board, an ocean pink shrimp vessel permit acquired pursuant to subsection (1) of this section may not be transferred to another vessel until the vessel for which the permit was issued has been used in the ocean pink shrimp fishery for two or more calendar years. [1981 c.365 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.915 - Negotiations to establish reciprocal agreements pertaining to pink shrimp.**

The State Fish and Wildlife Director shall work with the appropriate authorities in the states of California and Washington to negotiate reciprocal agreements that would allow vessels registered under the laws of those states to land pink shrimp in Oregon to the same extent that vessels registered in Oregon may land pink shrimp in California or Washington. [1999 c.164 §6]

Note:

508.915 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 508 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.920**

[1979 c.613 §10; 1983 c.419 §3; 1987 c.374 §3; 1995 c.484 §8; renumbered 508.755 in 1995]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.921 - Findings; rules.**

The Legislative Assembly finds that the Oregon ocean Dungeness crab fishery is overcapitalized. This overcapitalization has led to economic destabilization of the ocean Dungeness crab industry and the coastal communities relying on the crab harvest and can cause excessive harvesting pressure on Oregon's ocean Dungeness crab resources. Since the state legislatures of Washington and California have enacted programs restricting participation in the ocean Dungeness crab fishery, the possibility of increased effort in Oregon coastal waters by displaced vessels is increased. Notwithstanding any other provision of the commercial fishing laws, in order to promote the economic well-being of the Oregon ocean Dungeness crab industry and the coastal communities relying on the harvest, to protect the livelihood of participants in the Oregon ocean Dungeness crab fishery who have historically and continuously participated in the ocean Dungeness crab fishery and to prevent a concentration of fishing effort, the State Fish and Wildlife



Commission by rule shall establish a system for restricting participation in the Oregon ocean Dungeness crab fishery. [1995 c.484 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.926 - Vessel permit required to engage in fishery; purchase of crab by dealer from individual without permit prohibited.**

(1) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for an individual to operate a vessel in the ocean Dungeness crab fishery without first obtaining a vessel permit issued pursuant to ORS 508.931 or 508.941.

(2) Notwithstanding any other provision of the commercial fishing laws, it is unlawful for a wholesaler, canner or buyer to buy or receive ocean Dungeness crab taken in the ocean fishery from a vessel for which the permit required by subsection (1) of this section has not been issued.

(3) The permit required by subsection (1) of this section is in addition to and not in lieu of the boat license required by ORS 508.260. [1995 c.484 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.931 - Eligibility for permit.**

(1) The system established under ORS 508.921 shall provide initial eligibility for vessels to participate in the ocean Dungeness crab fishery seasons established by the State Fish and Wildlife Commission, beginning on December 1, 1995, with a transferable ocean Dungeness crab permit only if:

(a) The vessel for which application is made was continuously licensed pursuant to ORS 508.260 for the calendar years 1991 through 1994, and was used in the ocean Dungeness crab fishery to lawfully land into Oregon ports at least 500 pounds of ocean Dungeness crab in each of two crab fishing seasons between December 1, 1988, and December 31, 1994;

(b) The vessel for which application is made was under construction between December 1, 1988, and August 14, 1991, for the purpose of ocean Dungeness crab fishing in waters of this state, and the vessel lawfully landed into Oregon ports at least 500 pounds of ocean Dungeness crab in each of two crab fishing seasons between December 1, 1988, and December 31, 1994, and was licensed as an Oregon vessel from the date of completion;

(c) The vessel for which application is made was used in the ocean Dungeness crab fishery to lawfully land into Oregon ports at least 500 pounds of ocean Dungeness crab in each of two crab fishing seasons between December 1, 1991, and December 31, 1994, and is owned by a person who, prior to December 31, 1994, sold a vessel that was used prior to sale in the ocean Dungeness crab fishery to lawfully land into Oregon ports at least 500 pounds of ocean Dungeness crab in each of two crab fishing seasons between December 1, 1988, and December 31, 1994, and who, as a condition of the sale, retained the sold vessel's commercial fishing rights to fish for ocean Dungeness crab in the ocean waters of Oregon;

(d) The vessel for which application is made was continuously licensed pursuant to ORS 508.260 for the calendar years 1991 through 1994, was used in the ocean Dungeness crab fishery to lawfully land into Oregon ports at least 10,000 pounds of ocean Dungeness crab in one crab fishing season between December 1, 1988, and December 31, 1994, and the owner of the vessel on December 31, 1994, demonstrates possession of one or more vessel licenses described in ORS 508.260 in each of 10 separate years during the period December 1, 1980, to December 31, 1994; or

(e) The vessel for which application is made was licensed pursuant to ORS 508.260 during 1994, is 26 feet or less in length and was used in the ocean Dungeness crab fishery to lawfully land into Oregon ports at least 100 pounds of ocean Dungeness crab in at least one crab fishing season between December 1, 1988, and December 31, 1994.

(2) As used in this section:

(a) "Crab fishing season" is the time period from December 1 of one year through August 14 of the next year.

(b) "Owner" includes any ownership interest in a vessel, including interests arising from partnership or corporation. [1995 c.484 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.934 - Permit revocation procedure.**

The Commercial Fishery Permit Board may revoke and refuse subsequent issuance of a vessel permit required by ORS 508.926 in the manner provided in ORS 508.485 (1) and 508.490. [2014 c.1 §2]

Note:

508.934 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 508 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.936 - Permit transfer restrictions; rules; fee.**

(1) The system established under ORS 508.921 shall include provisions to make the vessel ocean Dungeness crab permit required by ORS 508.926 transferable:

(a) To another vessel; or

(b) To the purchaser of the vessel when the vessel is sold.

- (2) Except as provided in subsection (3) of this section, the vessel to which a permit is transferred may not be:
- (a) More than 10 feet longer than the vessel from which the permit is transferred; or
  - (b) More than 99 feet in length.
- (3) A permit that is transferred to a vessel that is more than 10 feet shorter than the vessel for which the permit was held on January 1, 2013, may subsequently be transferred to a vessel of a length equal to or less than the length of the vessel for which the permit was held on January 1, 2013.
- (4) Notwithstanding subsections (2) and (3) of this section, a permit issued to a vessel:
- (a) Under ORS 508.931 (1)(e) shall be transferred only to a vessel that is 26 feet or less in length.
  - (b) May not be transferred to a vessel that is more than 10 feet longer than the vessel for which the permit was held on January 1, 2006. However, the Commercial Fishery Permit Board may waive the length restriction in this paragraph if the board finds that strict adherence to the length restriction would create undue hardship, as that term is defined by rule by the State Fish and Wildlife Commission, for the individual seeking transfer of the permit.
- (5) Transfer of a permit under this section is subject to the approval of the State Department of Fish and Wildlife according to such rules as the State Fish and Wildlife Commission may adopt. Any transfer of a permit from a vessel without the written consent of each person holding a security interest in the vessel is void.
- (6) For purposes of this section, the length of a vessel shall be determined by the manufacturer's specification of overall length, United States Coast Guard documentation stating overall length or a survey of overall length by a certified marine surveyor, as the State Fish and Wildlife Commission by rule shall establish.
- (7) A fee of \$100 shall be charged for each transfer of a vessel permit under this section. [1995 c.484 §5; 2005 c.629 §3; 2009 c.832 §42; 2014 c.1 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.941 - Review of eligibility determinations; reciprocity with other states; fee.**

- (1) The system established under ORS 508.921 shall include any other provisions for participation that the State Fish and Wildlife Commission considers appropriate.
- (2) Any determination by the commission regarding the eligibility of a vessel to participate in the ocean Dungeness crab commercial fishery or to transfer participation rights is subject to review by the Commercial Fishery Permit Board, in accordance with ORS chapter 183. The board may waive the eligibility requirements contained in ORS 508.931 if the board finds that the individual fails to meet the requirements as the result of illness, fire, sinking, accident or other circumstances beyond the individual's control. In making a determination of eligibility under this section, the board shall consider the applicant's history of participation in the Oregon ocean Dungeness crab fishery. If a vessel for which application is made is owned by a person who has served in the Armed Forces of the United States and the person establishes that a service-related disability prevented the person from lawfully landing crab in two seasons during the prescribed time period, there is a rebuttable presumption in favor of issuing an illness waiver for one of the two seasons of lawfully landing crab in Oregon required under ORS 508.931 so as to require the landing of crab in only one season during the prescribed time period. The rebuttable presumption created by this subsection may be overcome only by clear and convincing evidence that the service-related disability of the person did not prevent the person from lawfully landing crab in two seasons during the prescribed time period. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183.480 to 183.540.
- (3) A commercial fishing vessel that holds a valid Washington or California permit to fish for ocean Dungeness crab shall be eligible to participate in the Oregon ocean Dungeness crab fishery provided there is reciprocal statutory authority in Washington or California that provides for equal access for vessels holding Oregon ocean Dungeness crab permits to Washington or California coastal waters and Washington waters of the Columbia River. If such reciprocal statutory authority exists, a vessel licensed by Washington or California is eligible to participate in accordance with rules that establish reciprocal border agreements that recognize traditional fishing patterns.
- (4) The annual fee to participate in the ocean Dungeness crab fishery is:
- (a) \$200 for resident applicants.
  - (b) \$250 for nonresident applicants. [1995 c.484 §6; 1997 c.837 §9; 2009 c.832 §43; 2011 c.613 §9; 2015 c.779 §40]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.943 - Requirements related to removal of crab pots; exemptions; permits for removal; rules.**

- (1) As used in this section, "crab fishing season" has the meaning given that term in ORS 508.931.
- (2) A person may not leave a crab pot used as part of the ocean Dungeness crab fishery in the waters of this state more than 15 days after the closure of the crab fishing season.
- (3) The State Fish and Wildlife Commission may issue permits to persons for the removal of crab pots left in violation of subsection (2) of this section:
- (a) Regardless of whether the person who removes the crab pot originally set the crab pot; and
  - (b) If the permit holder also holds a boat license issued pursuant to ORS 508.260.
- (4) By rule the commission:
- (a) Shall establish provisions related to the disposition of the crab pots by the permit holder who removes the crab pots.

- (b) May restrict the removal of crab pots to specific geographic areas.
- (5) The State Department of Fish and Wildlife may exempt certain owners of crab pots from the requirements of subsection (2) of this section. If the department exempts certain owners under this subsection, the department must notify the holders of permits issued under subsection (3) of this section.
- (6) The provisions of ORS 98.005, 98.015, 98.025 and 98.302 to 98.436 do not apply to crab pots removed under the provisions of this section. [2013 c.142 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.945 - Vessel permit required; rules; purchase of black or blue rockfish or nearshore fish from individual without permit prohibited; exemptions.**

- (1) Notwithstanding any other provision of the commercial fishing laws and except as provided in subsection (4) of this section, a person may not operate a vessel for:
  - (a) Landing black rockfish or blue rockfish in a fishery without a black rockfish and blue rockfish vessel permit issued under ORS 508.947; or
  - (b) Landing nearshore fish in a fishery without a black rockfish and blue rockfish vessel permit with a nearshore fish endorsement issued under ORS 508.947.
- (2)(a) The State Fish and Wildlife Commission may prescribe by rule the type of fishing gear that a vessel required to have a permit under this section shall use to land black rockfish, blue rockfish or nearshore fish.
- (b) The commission may not prescribe a rule under this subsection that allows a vessel to use:
  - (A) Diving gear.
  - (B) Pots, unless a vessel was issued a pot endorsement in the Interim Nearshore Fisheries Plan through the Developmental Fisheries Program enacted by the commission.
- (3) Notwithstanding any other provision of the commercial fishing laws, a wholesaler, canner or buyer may not buy or receive black rockfish, blue rockfish or nearshore fish taken in a fishery from a vessel for which the permit required by this section has not been issued, unless the black rockfish, blue rockfish or nearshore fish were taken pursuant to subsection (4)(a), (b) or (c) of this section.
- (4) A person may operate a vessel without a permit required by this section if the person:
  - (a) For only one landing per day, lands no more than 15 pounds of black rockfish, blue rockfish, nearshore fish or a combination of black rockfish, blue rockfish or nearshore fish and if the black rockfish, blue rockfish and nearshore fish:
    - (A) Make up 25 percent or less of the total poundage of the landing; and
    - (B) Are landed with fishing gear that is legal to use in the fishery in which the black rockfish, blue rockfish or nearshore fish are landed;
  - (b) Operates a vessel in the ocean troll salmon fishery pursuant to ORS 508.801 to 508.825 and the person lands black rockfish, blue rockfish or a combination of black rockfish and blue rockfish in the same landing in which the person lands a salmon under the permit required by ORS 508.801 to 508.825. The black rockfish or blue rockfish landed under this paragraph must be landed dead. A person who lands black rockfish and blue rockfish under this paragraph may land up to the greater of:
    - (A) 30 black rockfish or 30 blue rockfish per landing or a combination of 30 black rockfish and blue rockfish per landing;
    - (B) 100 pounds of black rockfish, blue rockfish or a combination of black rockfish and blue rockfish per landing;
  - (c) Operates a vessel in the west coast groundfish trawl fishery pursuant to federal regulations and lands no more than 1,000 pounds of black rockfish, blue rockfish or a combination of black rockfish and blue rockfish per calendar year and if the black rockfish and blue rockfish:
    - (A) Make up 25 percent or less of the total poundage of each landing; and
    - (B) Are landed dead; or
  - (d) Is a nonprofit aquarium or has contracted with a nonprofit aquarium to land black rockfish, blue rockfish or nearshore fish for the purpose of displaying or conducting research on the black rockfish, blue rockfish or nearshore fish.
- (5) Notwithstanding the amounts set forth in subsection (4)(b) of this section, the State Fish and Wildlife Commission may change the amounts of black rockfish, blue rockfish or the combination of black rockfish and blue rockfish allowed to be landed under subsection (4)(b) of this section by rule based on an assessment of the resource. [2003 c.809 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.947 - Eligibility for permit; renewal; rules.**

- (1) The State Department of Fish and Wildlife may issue a black rockfish and blue rockfish vessel permit to an owner of a vessel that landed a minimum of 750 pounds of nontrawl caught black rockfish, blue rockfish or nearshore fish in any one calendar year between January 1, 1995, and January 1, 2001, or in the six-month period between January 1, 2001, and July 1, 2001, for delivery to a fish processor licensed pursuant to ORS 508.025.
- (2) The department may issue a black rockfish and blue rockfish vessel permit with a nearshore fish endorsement to an owner of a vessel that was issued a permit under the Interim Nearshore Fisheries Plan through the Developmental Fisheries Program.
- (3) The department may renew a black rockfish and blue rockfish vessel permit or a black rockfish and blue rockfish vessel permit with a nearshore fish endorsement if the vessel made a minimum of five commercial fish landings during the calendar year prior to the request for renewal for delivery to a fish processor licensed pursuant to ORS 508.025.

(4) Permits issued under this section expire on December 31 of each year or on such date as may be specified by department rule. An owner of a vessel with a permit must submit a renewal application to the department by January 1 of each year or by such date as may be specified by department rule. If the owner of a vessel with a permit does not timely submit a renewal application, the department shall, not more than 30 days after the application was due, send to the owner by certified letter a notice of the failure to submit the renewal application. An owner may submit a late application to renew a permit not more than 90 days after the application was due if the owner pays a \$150 late fee in addition to the fee required in ORS 508.949.

(5) In making determinations regarding initial eligibility for and renewal of a permit issued under this section, the department may consider department records and receipts and accounts, contracts and other business records of private parties that the department considers reliable.

(6) Except as provided in ORS 508.955, new vessel permits may not be issued under this section after December 30, 2005. [2003 c.809 §3; 2005 c.629 §2; 2007 c.768 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.949 - Fees; application form; rules.**

(1) The annual fee for a black rockfish and blue rockfish vessel permit or a black rockfish and blue rockfish vessel permit with a nearshore fish endorsement issued under ORS 508.947 is:

(a) \$125 for resident applicants.

(b) \$175 for nonresident applicants.

(2) Applications for a permit shall be in such form and contain such information as the State Department of Fish and Wildlife, by rule, may prescribe.

(3) All fees collected under this section and ORS 508.505 (1)(b) and 508.947 shall be placed into the Black Rockfish, Blue Rockfish and Nearshore Species Research Account established in ORS 508.951. [2003 c.809 §4; 2009 c.832 §44; 2015 c.779 §41]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.951 - Black Rockfish, Blue Rockfish and Nearshore Species Research Account; sources; uses.**

(1) There is established a Black Rockfish, Blue Rockfish and Nearshore Species Research Account in the State Treasury, separate and distinct from the General Fund. Interest on moneys in the account shall be credited to the account.

(2) The account shall consist of moneys deposited into the account by the State Department of Fish and Wildlife from fees collected for the value of black rockfish, blue rockfish or nearshore fish at the point of landing pursuant to ORS 508.505 (1)(b) and black rockfish and blue rockfish vessel permit fees and late fees collected under ORS 508.947 and 508.949. The moneys in the account are continuously appropriated to the State Department of Fish and Wildlife for gathering and analyzing data and conducting research on the black rockfish and blue rockfish fishery and the nearshore species fishery. [2003 c.809 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.953 - Log book required; collection and report of data.**

(1) An owner of a vessel that has a black rockfish and blue rockfish vessel permit or a black rockfish and blue rockfish vessel permit with a nearshore fish endorsement shall keep a log book that includes:

(a) The amount of food fish that are caught;

(b) The date on which the food fish are caught;

(c) The species of food fish that are caught by the vessel; and

(d) Any other information that the State Department of Fish and Wildlife may prescribe.

(2) The State Department of Fish and Wildlife shall:

(a) Annually collect and summarize the information required by subsection (1) of this section; and

(b) Present a report on the black rockfish and blue rockfish fishery and the nearshore species fishery, including the summary prepared in paragraph (a) of this subsection, to the State Fish and Wildlife Commission during a public meeting held by July 1.

[2003 c.809 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.955 - Lottery system for permit issuance; rules.**

(1) The State Fish and Wildlife Commission may establish by rule a lottery for issuing permits to vessels under ORS 508.947.

(2) A vessel may qualify for the lottery if the vessel:

(a) Has a boat license issued pursuant to ORS 508.260 for the current year; and

(b) Had a boat license issued pursuant to ORS 508.260 for the previous year.

(3) Based on an assessment of the resource, the commission may:

(a) Suspend the lottery for up to two years; and

(b) Renew a suspension of the lottery every two years.

(4) The commission shall establish by rule a threshold number of permits below which the department shall issue permits through the lottery. [2003 c.809 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.957 - Permit transfer restrictions; fee.**

- (1) A black rockfish and blue rockfish vessel permit with a nearshore fish endorsement issued under ORS 508.947 may be transferred to another vessel if:
- (a) The permit has been renewed a minimum of five times; and
  - (b) The vessel operating under the permit has made, in the previous calendar year, a minimum of five landings that contained at least 15 pounds of black rockfish, blue rockfish or nearshore fish.
- (2) Notwithstanding subsection (1) of this section, a black rockfish and blue rockfish vessel permit with a nearshore fish endorsement:
- (a) May be transferred one time per calendar year to a replacement vessel that is owned by the same person that owns the vessel to which the permit was originally issued.
  - (b) That is issued to a vessel owned by a sole proprietor may be transferred upon the death of the sole proprietor.
- (3) A black rockfish and blue rockfish vessel permit with a nearshore fish endorsement may not be transferred to a vessel that is more than five feet longer than the vessel to which the permit was originally issued.
- (4) A black rockfish and blue rockfish vessel permit issued under ORS 508.947:
- (a) May be transferred to another vessel except as provided in paragraph (b) of this subsection.
  - (b) May not be transferred to a vessel that is more than five feet longer than the vessel to which the permit was originally issued.
- (5) A fee of \$100 shall be charged for each transfer of a vessel permit under this section. [2003 c.809 §8; 2009 c.832 §45]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.960 - Review of permit denial; fee; rules.**

- (1) A person whose application for issuance, renewal or transfer of a permit under ORS 508.947 is denied by the State Department of Fish and Wildlife may make written request to the Commercial Fishery Permit Board for review of the denial. The review provided in this subsection is in lieu of any such review by the department or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the board considers appropriate. The request shall be accompanied by a nonrefundable fee of \$125, which shall apply toward the permit fee if the application is approved.
- (2) In accordance with the applicable provisions of ORS chapter 183, the board shall review denials of applications for issuance, transfer or renewal of permits. Orders issued by the board are not subject to review by the commission, but may be appealed as provided in ORS 183.480 to 183.540. The board may waive requirements for renewal or transfer of permits if the board finds that the person fails to meet the requirements as the result of illness, accident or other circumstances beyond the person's control.
- (3) In accordance with the applicable provisions of ORS chapter 183, the board may promulgate such rules as it considers necessary to carry out its duties, functions and powers under this section. [2003 c.809 §9; 2009 c.832 §46]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 508 - Licenses and Permits Section 508.980 - Legislative findings and policy; Columbia River fish management and reform; adaptive management actions; rules.**

- (1) The Legislative Assembly finds that it is the policy of the State of Oregon that rules as a whole related to Columbia River fish management and reform that are adopted by the State Fish and Wildlife Commission:
- (a) Optimize overall economic benefits to this state;
  - (b) Enhance the economic viability of Oregon's recreational and commercial fisheries and the communities that rely on these fisheries;
  - (c) Contribute to native fish conservation and recovery;
  - (d) Promote orderly fishery management with the State of Washington; and
  - (e) Provide consistency with agreements made with Indian tribes pursuant to state or federal court orders.
- (2) If economic, including commercial harvest, or conservation objectives related to Columbia River fish management and reform adopted by rule of the commission are not met, then by rule the commission must provide for adaptive management actions that are designed to efficiently achieve the respective economic, including commercial harvest, or conservation objectives, including but not limited to:
- (a) Modifying or halting the schedule and degree of shifts in harvest and impact allocations specified in rules of the commission as necessary to attain harvest objectives through improved harvest levels in either off-channel or mainstem fisheries, within the context of naturally varying run sizes;
  - (b) Advancing additional fishery opportunities, seasons or selective fishing gear; or
  - (c) Improving hatchery fish production or the timing, size or location of hatchery fish releases.
- (3) As part of the rules related to Columbia River fish management and reform, the commission shall establish a zone at the mouth of Youngs Bay in which recreational fishing, including recreational fishing taking place with guide boats, is prohibited in order to reduce the interception of hatchery fish returning to the off-channel commercial fishery in Youngs Bay. At least once every three years, the commission shall evaluate the impacts and effectiveness of this zone and make adjustments, including the removal of the prohibition described in this subsection, as necessary to meet the objectives described in subsection (1) of this section. [2013 c.672]

§3a]

Note:

508.980 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 508 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note:

Sections 7 and 8, chapter 672, Oregon Laws 2013, provide:

Sec. 7. Fishery enhancement on Columbia River.

(1) The Columbia River Fisheries Enhancement Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Columbia River Fisheries Enhancement Fund shall be credited to the fund.

(2) Moneys in the fund are continuously appropriated to the State Fish and Wildlife Commission to implement measures that enhance fisheries, advance selective harvest practices, optimize the economic benefits of fisheries, improve monitoring and data regarding fishery-related mortality and advance native fish conservation directly related to Columbia River fish management and reform adopted by rule of the commission.

(3) The commission shall annually make available on a website of the commission or State Department of Fish and Wildlife a summary of the uses of the moneys in the fund.

(4) The commission may accept grants, donations, contributions or gifts from any source for deposit in the Columbia River Fisheries Enhancement Fund.

(5) The Columbia River Fisheries Enhancement Fund shall consist of:

(a) Moneys accepted by the commission pursuant to subsection (2) of this section.

(b) Fees collected by the commission under ORS 496.146 (23). [2013 c.672 §7; 2021 c.169 §1]

Sec. 8.

(1) Section 7, chapter 672, Oregon Laws 2013, is repealed on January 2, 2026.

(2) The Columbia River Fisheries Enhancement Fund established under section 7, chapter 672, Oregon Laws 2013, is abolished January 2, 2026.

(3) Any unexpended moneys remaining in the Columbia River Fisheries Enhancement Fund on January 2, 2026, shall be transferred to the State Wildlife Fund. [2013 c.672 §8; 2021 c.169 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.001 - Definitions.**

The definitions prescribed by ORS 506.001 to 506.025 apply to this chapter. [1965 c.570 §91]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.006 - General prohibition regarding taking, possessing, buying, selling or handling food fish.**

It is unlawful to take, possess, buy, sell or otherwise handle any food fish in or from any waters of this state, during times, in a manner or by means of the fishing gear prohibited by law. [1965 c.570 §92]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.011 - Prohibited activities during closed season.**

(1) It is unlawful, during a closed season on any of the waters of this state, to:

(a) Take or transport food fish taken in or upon such waters.

(b) Make use of a boat or any fishing gear to take or transport food fish taken in such waters.

(c) Have, leave or cause to be left in such waters any fishing gear in a condition to take food fish.

(2) It is unlawful to:

(a) Buy, receive, possess or sell food fish unlawfully caught during a closed season.

(b) Make use of a vehicle of any kind whatsoever for transporting, or intended to be used for transporting, in any place, food fish unlawfully taken during a closed season, or unlawfully brought into this state. [1965 c.570 §93]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.015 - Forfeiture of boat, vessel or fishing gear unlawfully used; seizure and disposition of food fish unlawfully taken.**

(1) In addition to the penalty prescribed by ORS 506.991, upon conviction of a violation of ORS 509.011, the court may order the forfeiture of the boat, vessel, vehicle and fishing gear unlawfully used, in the manner provided by ORS 506.695 and 506.700, and the clear proceeds of the property forfeited shall be deposited with the State Treasury in the Common School Fund.

(2) All food fish taken, transported or possessed in violation of ORS 509.011 are subject to seizure by the State Fish and Wildlife Director, a deputy fish or game warden or a member of the state police, either with or without arrest. Upon such seizure, the fish are subject to forfeiture and disposition pursuant to ORS 506.690. [Amended by 1957 c.133 §1; 1965 c.570 §95; 1977 c.652 §8; 1987 c.858 §9; 1993 c.699 §29]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.019 - Consumption of catch at sea lawful without payment of fee.**

Notwithstanding any other provision of law, an individual lawfully engaged in commercial fishing, while at sea, may consume a portion of the lawful commercial catch, without payment of the fees required under ORS 508.505. [1987 c.178 §2; 1991 c.701 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.025 - Selling or transporting food fish taken by angling.**

It is unlawful to sell within this state, or transport out of this state for the purpose of sale, food fish taken from any waters of this state by means of angling. [Amended by 1965 c.570 §94; subsection (2) enacted as 1965 c.570 §107; 1977 c.242 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.031 - Rainbow trout as game fish; return to water of incidental commercial catch.**

(1) It shall be the policy of the State of Oregon that rainbow trout, *Oncorhynchus mykiss*, including steelhead trout are game fish, and shall be managed to provide recreational angling for the people and to protect wild native stocks. Recognizing that rainbow trout are sometimes intermingled with food fish, the State Fish and Wildlife Commission shall regulate to minimize the incidental catch of rainbow trout that may be taken under subsection (2) of this section by commercial fishing gear, including but not limited to regulations as to season, gear and area.

(2) Any rainbow trout, *Oncorhynchus mykiss*, including steelhead trout taken as an incidental catch, by any person fishing commercially shall be returned immediately to the water and shall not be bought or sold within the state.

(3) Nothing in this section is intended to affect Indian fishing rights as granted by federal treaties. [1975 c.1 §2 (enacted in lieu of 509.030); 1987 c.199 §1; 1991 c.47 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.040 - Small or immature salmon protected; exceptions; rules.**

(1) Any person who takes any immature salmon of any variety less than 20 inches in length, or any mature salmon of any variety less than 15 inches in length, by any means other than angling, shall immediately return such salmon alive to the water.

(2) It is unlawful to:

(a) Take, buy, sell or possess immature salmon less than 20 inches or mature salmon less than 15 inches in length, taken in any waters of this state, at any time or in any manner except by angling.

(b) Take, molest, kill or injure, in any manner at any time, or expose for sale or have in possession, except for the purpose of propagation when authorized by law, any spawning salmon.

(3) Notwithstanding subsections (1) and (2) of this section it is lawful to take precocious salmon commonly called jack salmon less than 15 inches in length from the waters of this state, except the Pacific Ocean and to buy, sell or possess such salmon.

(4) To further protect immature salmon the State Fish and Wildlife Commission may establish by rule a minimum size for any species of salmon which is greater than 20 inches. [Amended by 1965 c.570 §97]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.060**

[Amended by 1965 c.570 §96; renumbered 509.185]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.065**

[Amended by 1959 c.254 §1; 1965 c.570 §101; renumbered 509.112]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.070 - Selling, canning, processing or preserving food fish out of water longer than 60 hours.**

It is unlawful to sell, can, process or preserve for food any food fish that have been removed from the water for a longer period than 60 hours, unless such fish have been artificially chilled. [Amended by 1965 c.570 §102]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.075 - Packing or selling food fish unfit for human consumption.**

If the State Fish and Wildlife Commission or its authorized representatives finds that food fish about to be processed, packed, canned, preserved in ice or sold in the open market are unfit for human consumption, it or they shall notify the packer or possessor of such fish of the fact. If, in spite of any warning given to such packer or possessor, such fish are packed, demand shall be made upon the packer to keep such fish separate and apart from the balance of the output or pack of the packer, and a full report shall be made of the matter to both the state and the federal health authorities. [Amended by 1965 c.570 §103]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.105 - Possession, importation or transportation of food fish unlawfully taken in other state.**

It is unlawful to possess, import into this state or transport within this state any food fish which have been unlawfully taken or transported under the laws of another state. [Amended by 1957 c.291 §1; 1965 c.570 §108]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.110 - Fish transporters to require statement from shipper; examination by commission.**

(1) All transportation companies, common carriers or other persons or agencies transporting food fish, fresh, frozen, salted, smoked, kippered or preserved in ice, shall require of the shipper, before accepting such shipments, a signed statement in writing showing:

- (a) The name of the consignor or shipper.
- (b) The name of the consignee.
- (c) The net weight in pounds of each species of fish in the shipment, in the whole or round, or dressed.
- (d) The date of the shipment.

(2) The State Fish and Wildlife Commission may require such statement to be forwarded to its office.

(3) The State Fish and Wildlife Director or the authorized representative of the director may at any time examine the records of any such transportation companies, common carriers or other persons or agencies, for the purpose of enforcing this section. [Amended by 1965 c.570 §109]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.112 - Wasting food fish.**

It is unlawful for any person wantonly to waste or destroy any food fish. [Formerly 509.065]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.115 - Placing in waters fish harmful to food fish.**

It is unlawful, without written authority from the State Fish and Wildlife Commission, to place in any of the waters of this state any species or variety of fish whatsoever which are inimical to or destructive of food fish. [Amended by 1965 c.570 §105]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.120 - Using electricity to disturb food fish.**

It is unlawful to use or permit to be used in any of the waters of this state any electrical device, appliance or current which in any manner has a tendency to retard, scare, frighten or obstruct any food fish in their migrations or movements in such waters without first having obtained the consent of and a permit from the State Fish and Wildlife Director. [Amended by 1965 c.570 §106]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.122 - Definitions for ORS 509.125 to 509.155.**

As used in ORS 509.125 to 509.155, unless the context requires otherwise:

- (1) "Explosives" means any explosive substances whatever, including but not limited to powder, dynamite and nitroglycerine.
- (2) "Substance deleterious to fish" includes but is not limited to any drug, powder, chemical, medicated bait, gas, cocculus indicus or extract therefrom, inimical to fish. [1965 c.570 §110]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.125 - Placing substances in water to drive fish from closed areas.**

It is unlawful to place or cause to be placed in any stream of this state where anadromous or food fish run or exist, within the distance from any dam, fishway or object in which the taking of any anadromous or food fish by means other than angling is prohibited by law, any blood or offal of fish, or any other substance, matter or contrivance that will frighten or drive anadromous or food fish, or with intent to drive or frighten, out of that part of the waters of any stream in which it is unlawful to take such fish. [Amended by 1965 c.570 §111]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.130 - Placing substances in water or using explosives to take or destroy food fish.**

It is unlawful, for the purpose of taking or destroying any food fish, to:

- (1) Throw, cast or pass, or cause or permit to be thrown, cast or passed, in any waters of this state in which food fishes are wont to be, any substance deleterious to fish; or
- (2) Explode or cause to be exploded in any waters of this state, any explosives. [Amended by 1963 c.112 §1; 1965 c.570 §112]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.140 - Placing explosives or harmful substances in waters in course of lawful work; permit.**



(1) Whenever in the course of removing any obstruction in any waters of this state, or in constructing any foundations for dams, bridges or other structures, or in carrying on any trade or business, any person, municipal corporation, political subdivision or governmental agency desires to use explosives or any substances deleterious to fish, such person, municipal corporation, political subdivision or governmental agency shall make application to the State Fish and Wildlife Commission for a permit to use the explosives or substances in such waters.

(2) If the commission finds it necessary that the explosives or substances be used, it may make an order granting such person, municipal corporation, political subdivision or governmental agency the right to use the explosives or substances and shall:

(a) Designate the places and period within which the explosives or substances may be used; and

(b) Prescribe such precautions as will save fish from injury.

(3) It is unlawful to disregard such order or fail to obtain such order or permit before using explosives or substances deleterious to fish. [Amended by 1963 c.112 §2; 1965 c.570 §113]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.150 - Use by commission of explosives or substances to destroy predatory fish.**

Nothing in ORS 509.125 to 509.155 prevents the State Fish and Wildlife Commission from using any explosives or substances deleterious to fish for the purpose of destroying German carp or any other predatory fish inimical to food fish, or from carrying out any of the commercial fishing laws. [Amended by 1965 c.570 §114]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.155 - Possession of fish taken by explosives or harmful substance justifies arrest; burden of proof.**

Having in possession any food fish under circumstances which make it reasonable to believe that they were taken by means of explosives or substances deleterious to fish justifies the arrest of the person having the fish in possession. It is then incumbent upon such person to prove and show that the fish were taken by lawful means. [Amended by 1965 c.570 §115]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.160 - Prohibition on possession, sale, trade or distribution of shark fins; exceptions.**

(1) As used in this section:

(a) "Shark fin" means the raw or dried fin or tail of a shark.

(b) "Spiny dogfish" means a shark belonging to the family Squalidae in the order Squaliformes that has two spines, one anterior to each dorsal fin, and that does not have an anal fin.

(2) A person may not possess, sell or offer for sale, trade or distribute a shark fin in this state.

(3) This section does not apply to:

(a) A person who possesses, sells or offers for sale, trades or distributes a shark fin from a spiny dogfish that was legally taken or landed under rules adopted by the State Department of Fish and Wildlife and in accordance with federal regulations;

(b) A person who holds a license or permit issued by the State Department of Fish and Wildlife under the commercial fishing laws to take a shark and who possesses, sells or offers for sale, trades or distributes a shark fin consistent with the terms of that license or permit; and

(c) A fish processor who holds a license under the commercial fishing laws, who possesses and processes a shark obtained from a person described in paragraph (a) of this subsection and who sells or offers for sale, trades or distributes the shark fin consistent with the terms of the license of that fish processor. [2011 c.371 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.230 - Possession of fish taken by lawful gear from Pacific Ocean outside Oregon jurisdiction; taking salmon only by troll within Oregon jurisdiction.**

(1) Subject to the conditions provided in this section and ORS chapter 513, it is unlawful to have in possession any food fish taken in the waters of the Pacific Ocean outside the territorial jurisdiction of this state by means of any fishing gear except as provided by law or rule of the State Fish and Wildlife Commission, for:

(a) The purpose of commercially packing, canning or preserving the fish.

(b) The manufacture of fish meal, fish oil or other fish products or by-products.

(c) Sale as fresh fish for general consumption.

(d) Bait.

(2) It is also unlawful to take any salmon for commercial purposes in any of the waters of the Pacific Ocean within the jurisdiction of this state or over which this state has concurrent jurisdiction by means of any fishing gear other than by "troll." [Amended by 1955 c.178 §1; 1961 c.680 §1; 1965 c.570 §122; 2013 c.672 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.235 - Certain sturgeon lines prohibited.**

It is unlawful to use or assist in using any Chinese sturgeon line, or lines of a similar character, in the waters of this state. [Amended by 1965 c.570 §119]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.240 - Snagging nets during closed season allowed.**

It is lawful to operate or use a net consisting of a single nylon or cotton web of a mesh not less than 14 inches, taut measure, hung or attached to not to exceed two lead lines combined and used as a single line and a single cork line, in any of the waters of this state, during any season or period closed to commercial fishing by law or by rule of the State Fish and Wildlife Commission, for the purpose of clearing away or removing snags or similar obstructions from gillnet drifts and other suitable or desirable fishing areas. [Amended by 1961 c.370 §1; 1965 c.570 §120]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.245 - Notice to director of use of snagging net.**

Any person desiring to operate a snagging net as provided in ORS 509.240 shall, before operating or attempting to so operate such net, obtain from the State Fish and Wildlife Director a snagging permit by forwarding a written request to the office of the State Fish and Wildlife Commission specifically providing:

- (1) The particular gillnet drift, fishing ground or other area to be cleared;
- (2) The waters in which located;
- (3) The mesh size of the snagging net to be used; and
- (4) The dates on which or within which the proposed snagging operations will be carried on. In specifying any such dates, no one notice is valid for a period of more than 30 days from the date thereof. [Amended by 1965 c.570 §121]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.355 - Definitions for ORS 509.355 to 509.385.**

As used in ORS 509.355 to 509.385:

- (1) "Citizen of this state" means a person who maintains the usual place of abode of the person within this state or who otherwise qualifies as a citizen of this state under the laws of this state.
- (2) "International waters" means waters outside the territorial boundaries of any state, territory or country. [1957 c.152 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.360 - When ORS 509.355 to 509.385 operative; proof.**

- (1) ORS 509.355 to 509.385 shall not be operative at any time unless laws or rules or regulations of California, Washington and Canada are effective which, in substance or effect, contain provisions:
    - (a) Similar to and which accomplish the purposes of ORS 509.355 to 509.385; or
    - (b) Which prohibit the possession or transportation within their respective territorial waters of the Pacific Ocean of salmon taken by any type of net within the international waters of the Pacific Ocean or within their respective territorial waters of the Pacific Ocean and not accompanied by a certificate issued under the authority of this state or of another state, territory or country showing that such salmon were lawfully taken.
  - (2) Such laws or rules or regulations of California, Washington and Canada shall be considered effective upon receipt by the Secretary of State of this state of certified written statements from the respective secretaries of state of California and Washington and from the Department of State of the United States on behalf of Canada setting forth such laws or rules or regulations and the date on which they are effective. Such certified written statements, together with a written statement of the Attorney General of this state that the provisions of subsection (1) of this section are satisfied by such laws or rules or regulations, are conclusive proof that the provisions of subsection (1) of this section are so satisfied. In any prosecution for violation of any provision of ORS 509.365, 509.370 or 509.375, proof of the existence of such certified written statements and written statement of the Attorney General of this state need not be made unless demanded by the defendant prior to the commencement of trial. [1957 c.152 §§9,10; 1965 c.570 §123]
- Note:

509.355 to 509.385 are operative and in full force and effect. A written statement of the Attorney General of the State of Oregon, dated October 16, 1957, states that the provisions of 509.360 are satisfied.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.365 - Taking salmon by net in waters of Pacific Ocean over which Oregon has jurisdiction prohibited.**

No person shall fish for or take, by the use of any type of net, any salmon within the waters of the Pacific Ocean, over which this state has jurisdiction, lying westerly of the following described line: Commencing at the point of intersection of the California-Oregon state boundary with the Pacific Ocean high water mark shoreline; thence northerly along such high water mark shoreline, including extensions thereof across the waters of the bays or tidal areas of streams emptying into the Pacific Ocean, to the mouth of the Columbia River; thence northerly across the waters of the Columbia River along the line designating and defining the

mouth of such river under ORS 511.130 (1961 Replacement Part) to the point of intersection of such line with the Oregon-Washington state boundary. [1957 c.152 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.370 - Taking of salmon by net in international waters of Pacific Ocean by Oregon citizen prohibited.**

No citizen of this state shall fish for or take, by the use of any type of net, any salmon within the international waters of the Pacific Ocean. [1957 c.152 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.375 - Transporting or possessing salmon unlawfully taken by net in certain waters prohibited.**

No person shall transport through the waters of this state wherein net fishing for salmon is prohibited or have in possession anywhere within this state any salmon which were taken by any type of net within the international waters of the Pacific Ocean or within the territorial waters of this state or of another state, territory or country wherein such fishing is prohibited and which are not accompanied by a certificate issued under the authority of this state or of another state, territory or country showing that such salmon were lawfully taken. [1957 c.152 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.385 - Exceptions.**

ORS 509.355 to 509.385 do not apply to:

- (1) Those species of salmon in those areas within the international waters of the Pacific Ocean that are regulated by the Pacific Salmon Commission or by United States laws or rules or regulations promulgated pursuant to such laws.
- (2) The use of nets for fishing for or taking salmon for purposes of scientific investigation authorized by the laws of this state. [1957 c.152 §6; 2011 c.9 §70]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.415 - Gear used in taking crab; selling crabs unlawfully taken.**

- (1) No person shall take a crab from any of the waters of the state for commercial purposes, with or by the use of any other gear than that specifically known as crab ring or crab pot, or sell or offer for sale crabs unlawfully caught.
- (2) The taking of Dungeness crab (Cancer magister) for commercial purposes from any of the waters of this state, by the use of any gear except that commonly known as crab ring or crab pot, is prohibited.
- (3) Each crab ring or crab pot used for the taking of crabs for commercial purposes must have attached to it a tag identifying the owner or the vessel from which the rings or pots are operated. [Amended by 1997 c.252 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.425**

[Amended by 1965 c.570 §128; 1969 c.675 §1; 1981 c.638 §3; renumbered 622.220]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.427**

[1969 c.675 §10; 1981 c.638 §4; renumbered 622.230]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.429**

[1969 c.675 §11a; 1981 c.638 §5; renumbered 622.240]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.431**

[1969 c.675 §11; 1981 c.638 §6; renumbered 622.250]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.433**

[1969 c.675 §12; 1981 c.638 §7; renumbered 622.260]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.436**

[1965 c.570 §59d; 1969 c.675 §2; 1981 c.638 §8; renumbered 622.270]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.439**

[1969 c.675 §13; 1981 c.638 §9; renumbered 622.280]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.441**

[1969 c.675 §8; 1981 c.638 §10; renumbered 622.290]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.451**

[1969 c.675 §9; 1981 c.638 §11; renumbered 622.300]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.455**

[Amended by 1969 c.675 §3; renumbered 622.320]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.460**

[Amended by 1963 c.113 §1; 1965 c.570 §124; renumbered 509.505]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.470**

[Renumbered 622.330]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.475**

[Amended by 1965 c.570 §125; renumbered 509.510]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.495**

[Amended by 1969 c.675 §4; renumbered 622.340]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.500**

[Amended by 1977 c.242 §7; renumbered 622.350]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.505 - Placing in water matter injurious to shellfish.**

It is unlawful for any person, municipal corporation, political subdivision or governmental agency to deposit or allow to escape into, or cause or permit to be deposited or escape into any public waters of this state, any substance of any kind which will or shall in any manner injuriously affect the life, growth or flavor of shellfish in or under such waters. [Formerly 509.460]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.510 - Taking shellfish from marked beds without permission; disturbing beds.**

It is unlawful, without the permission of the legal occupants, to take up shellfish from natural or artificially planted beds, which beds have been lawfully and plainly marked. It is unlawful willfully to disturb the shellfish in such beds, the surfaces of such beds, or the markers. [Formerly 509.475]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.515 - Landing or possession of krill prohibited.**

A person who holds a license or permit issued under the commercial fishing laws may not possess or land any species of euphausiids, commonly known as krill, or take euphausiids from any waters of the Pacific Ocean over which this state has jurisdiction, including the area outside the territorial jurisdiction of this state but within the part of the exclusive economic zone of the United States represented by a straight line extension of the boundaries of the state drawn seaward a distance of 200 nautical miles. [2003 c.809 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.580 - Definitions for ORS 509.580 to 509.590, 509.600 to 509.645 and 509.910; rules.**

As used in ORS 509.580 to 509.590, 509.600 to 509.645 and 509.910:

- (1) "Artificial obstruction" means any dam, diversion, culvert or other human-made device placed in the waters of this state that precludes or prevents the migration of native migratory fish.
- (2) "Construction" means:
  - (a) Original construction;
  - (b) Major replacement;
  - (c) Structural modifications that increase storage or diversion capacity; or
  - (d) For purposes of culverts, installation or replacement of a roadbed or culvert.
- (3) "Emergency" means unforeseen circumstances materially related to or affected by an artificial obstruction that, because of adverse impacts to a population of native migratory fish, requires immediate action. The State Fish and Wildlife Director may further define the term "emergency" by rule.
- (4) "Fundamental change in permit status" means a change in regulatory approval for the operation of an artificial obstruction where the regulatory agency has discretion to impose additional conditions on the applicant, including but not limited to licensing, relicensing, reauthorization or the granting of new water rights, but not including water right transfers or routine maintenance permits.
- (5) "In-proximity" means within the same watershed or water basin and having the highest likelihood of benefiting the native migratory fish populations directly affected by an artificial obstruction.
- (6) "Native migratory fish" means those native fish that migrate for their life cycle needs and that are listed in the rules of the State Fish and Wildlife Director.
- (7) "Net benefit" means an increase in the overall, in-proximity habitat quality or quantity that is biologically likely to lead to an increased number of native migratory fish after a development action and any subsequent mitigation measures have been completed.
- (8) "Oregon Plan" means the guidance statement and framework described in ORS 541.898. [2001 c.923 §1]

Note:

509.580 to 509.590 and 509.595 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 509 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.585 - Fish passage required for artificial obstructions; statewide inventory; waiver of requirement by commission; rules; exemptions.**

- (1) It is the policy of the State of Oregon to provide for upstream and downstream passage for native migratory fish and the Legislative Assembly finds that cooperation and collaboration between public and private entities is necessary to accomplish the policy goal of providing passage for native migratory fish and to achieve the enhancement and restoration of Oregon's native salmonid populations, as envisioned by the Oregon Plan. Therefore, except as provided in ORS chapter 509, fish passage is required in all waters of this state in which native migratory fish are currently or have historically been present.
- (2) Except as otherwise provided by this section or ORS 496.266 or 509.645, a person owning or operating an artificial obstruction may not construct or maintain any artificial obstruction across any waters of this state that are inhabited, or historically inhabited, by native migratory fish without providing passage for native migratory fish.
- (3) The State Department of Fish and Wildlife shall complete and maintain a statewide inventory of artificial obstructions in order to prioritize enforcement actions based on the needs of native migratory fish. This prioritization shall include, but need not be limited to, the degree of impact of the artificial obstruction on the native migratory fish, the biological status of the native migratory fish stocks in question and any other factor established by the department by rule. The department shall establish a list of priority projects for enforcement purposes. Priority artificial obstructions are subject to the State Fish and Wildlife Commission's authority as provided in ORS 509.625. Unless requested by persons owning or operating an artificial obstruction, the department shall primarily direct its enforcement authority toward priority projects, emergencies and projects described in subsection (4) of this section. The priority project list shall be subject to periodic review and amendment by the department and to formal review and amendment by the commission no less frequently than once every five years.
- (4) A person owning or operating an artificial obstruction shall, prior to construction, fundamental change in permit status or abandonment of the artificial obstruction in any waters of this state, obtain a determination from the department as to whether native migratory fish are or historically have been present in the waters. If the department determines that native migratory fish are or historically have been present in the waters, the person owning or operating the artificial obstruction shall either submit a proposal for fish passage to the department or apply for a waiver pursuant to subsection (7) of this section. Approval of the proposed fish passage facility or of the alternatives to fish passage must be obtained from the department prior to construction, permit modification or abandonment of the artificial obstruction.
- (5) Consistent with the purpose and goals of the Oregon Plan, the department shall seek cooperative partnerships to remedy fish passage problems and to ensure that problems are corrected as soon as possible. The department and the person owning or operating the artificial obstruction are encouraged to negotiate the terms and conditions of fish passage or alternatives to fish passage, including appropriate cost sharing. The negotiations may include, but are not limited to, consideration of equitable factors.
- (6) The department shall submit a proposed determination of the required fish passage or alternatives to fish passage to the commission for approval. The determination may be the result of the negotiations described in subsection (5) of this section or, if no

agreement was reached in the negotiations, a determination proposed by the department. If a protest is not filed within the time period specified in ORS 509.645, the proposed determination shall become a final order.

(7)(a) The commission shall waive the requirement for fish passage if the commission determines that the alternatives to fish passage proposed by the person owning or operating the artificial obstruction provide a net benefit to native migratory fish.

(b) Net benefit to native migratory fish is determined under this subsection by comparing the benefit to native migratory fish that would occur if the artificial obstruction had fish passage to the benefit to native migratory fish that would occur using the proposed alternatives to fish passage. Alternatives to fish passage must result in a benefit to fish greater than that provided by the artificial obstruction with fish passage. The net benefit to fish shall be determined based upon conditions that exist at the time of comparison.

(c) The State Fish and Wildlife Director shall develop rules establishing general criteria for determining the adequacy of fish passage and of alternatives to fish passage. The general criteria shall include, but not be limited to:

(A) The geographic scope in which alternatives must be conducted;

(B) The type and quality of habitat;

(C) The species affected;

(D) The status of the native migratory fish stocks;

(E) Standards for monitoring, evaluating and adaptive management;

(F) The feasibility of fish passage and alternatives to fish passage;

(G) Quantified baseline conditions;

(H) Historic conditions;

(I) Existing native migratory fish management plans;

(J) Financial or other incentives and the application of incentives;

(K) Data collection and evaluation; and

(L) Consistency with the purpose and goals of the Oregon Plan.

(d) To the extent feasible, the department shall coordinate its requirements for adequate fish passage or alternatives to fish passage with any federal requirements.

(8) A person owning or operating an artificial obstruction may at any time petition the commission to waive the requirement for fish passage in exchange for agreed-upon alternatives to fish passage that provide a net benefit to native migratory fish as determined in subsection (7) of this section.

(9)(a) Artificial obstructions without fish passage are exempt from the requirement to provide fish passage if the commission:

(A) Finds that a lack of fish passage has been effectively mitigated;

(B) Has granted a legal waiver for the artificial obstruction; or

(C) Finds there is no appreciable benefit to providing fish passage.

(b) The commission shall review, at least once every seven years, the artificial obstructions exempted under this subsection that do not have an exemption expiration date to determine whether the exemption should be renewed. The commission may revoke or amend an exemption if it finds that circumstances have changed such that the relevant requirements for the exemption no longer apply. The person owning or operating the artificial obstruction may protest the decision by the commission pursuant to ORS 509.645.

(10) If the fundamental change in permit status is an expiration of a license of a federally licensed hydroelectric project, the commission's determination shall be submitted to the Federal Energy Regulatory Commission as required by ORS 543A.060 to 543A.410.

(11) To the extent that the requirements of this section are preempted by the Federal Power Act or by the laws governing hydroelectric projects located in waters governed jointly by Oregon and another state, federally licensed hydroelectric projects are exempt from the requirements of this section.

(12) A person subject to a decision of the commission under this section shall have the right to a contested case hearing according to the applicable provisions of ORS chapter 183. [2001 c.923 §2; 2021 c.63 §6]

Note:

See note under 509.580.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.590 - Fish Passage Task Force; reports to legislature.**

(1) The State Fish and Wildlife Director shall establish a Fish Passage Task Force to advise the director and the State Department of Fish and Wildlife on matters related to fish passage in Oregon, including but not limited to funding, cost sharing and prioritization of efforts. The director shall determine the members and the specific duties of the task force by rule.

(2) The department shall provide staff necessary for the performance of the functions of the task force.

(3) A member of the task force may not receive compensation for services as a member of the task force. In accordance with ORS 292.495, a member of the task force may receive reimbursement for actual and necessary travel or other expenses incurred in the performance of official duties.

(4) The task force shall report semiannually to the appropriate legislative committee with responsibility for salmon restoration or species recovery, to advise the committee on matters related to fish passage. [2001 c.923 §3; 2007 c.354 §17]

Note:

See note under 509.580.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.592 - Task force advice to department regarding project funding; department report on deposits and expenditures.**

(1) The Fish Passage Task Force established pursuant to ORS 509.590 shall provide advice to the State Department of Fish and Wildlife regarding the projects to be funded and the expenditures to be made from the Fish Passage Restoration Subaccount created under ORS 497.141.

(2) The department shall maintain a record of all moneys deposited to or expended from the subaccount. The department shall make an annual report of the deposits and expenditures available to the public on the department's website. [2013 c.674 §2]

Note:

509.592 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 509 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.595 - Director to report on fish passage rules, adequacy and implementation.**

The State Fish and Wildlife Director shall report to the Governor, the Speaker of the House of Representatives, the President of the Senate and the appropriate legislative committee with responsibility for salmon restoration or species recovery:

(1) Prior to the adoption of rules relating to fish passage;

(2) Prior to the establishment of the general criteria for determining the adequacy of fish passage and of alternatives to fish passage required to be established under ORS 509.585 (7)(c); and

(3) Semiannually on the progress that the director has made in implementing ORS 509.580 to 509.590. [2001 c.923 §20; 2007 c.354 §18]

Note:

See note under 509.580.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.600 - Destroying, injuring or taking fish near fishway; permits to take fish.**

(1) A person may not willfully or knowingly destroy, injure or take fish within 600 feet of any fishway, except as permitted by subsection (2) of this section. Actions that violate this section include, but are not limited to:

(a) Hindering, annoying or disturbing fish entering, passing through, resting in or leaving such fishway, or obstructing the passage of fish through the fishway at any time or in any manner.

(b) Placing anything in the fishway.

(c) Using any fishing gear within 600 feet of the fishway.

(d) Taking fish at any time anywhere within 600 feet of the fishway.

(e) Doing any injury to the fishway.

(2) The State Fish and Wildlife Commission may by rule or by issuance of permits authorize the taking of fish within 600 feet of any fishway. [1965 c.570 §104; 1973 c.723 §122; 1981 c.646 §6; 2001 c.923 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.610 - Maintenance of fish passage required.**

(1) Subject to ORS 509.645, when the State Department of Fish and Wildlife requires fish passage to be provided pursuant to ORS 509.585, the person owning or operating an artificial obstruction shall keep the fish passage in such repair as to provide adequate fish passage of native migratory fish at all times.

(2) Each day of neglect or refusal to comply with subsection (1) of this section, after notification in writing by the department, constitutes a separate offense.

(3) A person owning or operating an artificial obstruction is responsible for maintaining, monitoring and evaluating the effectiveness of fish passage or alternatives to fish passage. [Amended by 1955 c.707 §52; 1965 c.570 §132; 2001 c.923 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.620 - Condemning inadequate or nonfunctioning fish passage; requiring new fish passage.**

If, in the judgment of the State Department of Fish and Wildlife, fish passage is not functioning as intended or is inadequate, as constructed under ORS 509.585, the State Fish and Wildlife Commission may condemn the fish passage and order new fish passage installed in accordance with plans and specifications determined by the department. [Amended by 2001 c.923 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.625 - Power of department to inspect artificial obstructions and have fish passage constructed or remove obstruction.**

(1) The State Department of Fish and Wildlife may determine or ascertain by inspection of any artificial obstruction whether it would be advisable to construct fish passage, or order the construction pursuant to ORS 509.585 of fish passage, at the artificial obstruction. Without affecting other remedies to enforce the requirement to install fish passage, if the State Fish and Wildlife Commission determines that an emergency exists, the commission may order the construction, pursuant to ORS 509.585, of fish passage in the waters of this state inhabited by native migratory fish as deemed adequate to provide passage for native migratory fish.

(2) Where fish passage has previously been constructed with or without the approval of the commission and has proved useless or inadequate for the purposes for which it is intended, the commission may improve or rebuild such fish passage. However, such construction or reconstruction shall not interfere with the prime purpose of the artificial obstruction. This subsection may not be construed to require the improvement or rebuilding of fish passage by the commission.

(3)(a) The commission may order a person owning or operating an artificial obstruction on the priority list created pursuant to ORS 509.585 who has been issued a water right, owners of lawfully installed culverts or owners of other lawfully installed obstructions to install fish passage or to provide alternatives to fish passage if the commission can arrange for nonowner or nonoperator funding of at least 60 percent of the cost.

(b) Notwithstanding paragraph (a) of this subsection, the commission may order installation of fish passage or alternatives to fish passage without regard to funding sources:

(A) If the person owning or operating the artificial obstruction is already subject to an obligation to install fish passage or to provide alternatives to fish passage under ORS 509.585;

(B) If the commission declares an emergency under this section; or

(C) If the person owning or operating the artificial obstruction has not been issued a water right or if the artificial obstruction has been otherwise unlawfully installed.

(4) If a person who owns or operates an artificial obstruction and who is required to provide fish passage under ORS 509.585 fails to provide fish passage in the manner and time required by the State Department of Fish and Wildlife, the commission may remove, replace or repair the artificial obstruction or any parts of the obstruction at the expense of the owner or operator. [Amended by 1955 c.707 §53; 1963 c.232 §1; 1965 c.570 §133; 2001 c.923 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.630 - Power of department to establish fish passage in natural stream obstructions.**

The State Department of Fish and Wildlife may determine or ascertain by inspection of any natural obstruction whether it would be advisable to construct fish passage over or around such natural obstruction. If it is deemed advisable the State Fish and Wildlife Commission may construct fish passage that provides adequate passage for native migratory fish in the waters of this state inhabited by native migratory fish. [Amended by 1965 c.570 §134; 2001 c.923 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.635 - Oregon City fishway under control of commission; removal of obstructions.**

(1) The fishways over the falls in the Willamette River, near Oregon City, are under the care and control of the State Fish and Wildlife Commission, which may make any extensions, additions, alterations or repairs to the same that become necessary.

(2) The commission, or its duly authorized representatives, may remove any artificial obstructions placed in the Willamette River above the falls which would prevent the free passage of fish up the river. [Amended by 1965 c.570 §136]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.645 - Filing protest with commission; review and determination by commission; alternative dispute resolution.**

(1) A person owning or operating an artificial obstruction may request alternative dispute resolution at any point in the process of determining fish passage requirements.

(2) A person owning or operating an artificial obstruction may file a protest with the State Fish and Wildlife Commission within 30 days from the receipt of the State Department of Fish and Wildlife determinations under ORS 509.585. The person shall identify the grounds for protesting the department's determinations.

(3) The commission may, after sufficient opportunity for public review and comment, approve, deny or modify the proposed determinations. [1955 c.707 §51; 1973 c.723 §124; 2001 c.923 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.910 - Injunction to prevent certain violations; jurisdiction; service on corporation.**

(1) The State Fish and Wildlife Commission may maintain an action for an injunction to enjoin and restrain any person, municipal corporation, political subdivision or governmental agency of this state from violating any of the provisions of ORS 509.130, 509.140, 509.505, 509.585, 509.610 and 509.625.

(2) Any action authorized by this section shall be tried in the circuit court of the county in which the violation occurs or in Marion or Multnomah County.



(3) If the defendant is a corporation with its principal office and place of business in a county other than in which the waters flow or are situated, such action shall be deemed an action of local nature and service of summons made on a corporation in any county where the corporation has its principal office and place of business. If it is a foreign corporation, service may be made on the statutory agent but if there is no such statutory agent then upon the Secretary of State as in other cases provided by law. [1963 c.303 §1; 1977 c.242 §8; 1979 c.284 §16; 2001 c.923 §14; 2007 c.625 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 509 - General Protective Regulations Section 509.990**

[Subsection (8) of 1963 Replacement Part enacted as 1955 c.477 §2; subsection (10) of 1963 Replacement Part enacted as 1957 c.152 §8; repealed by 1965 c.570 §152]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.006 - Definitions.**

The definitions prescribed by ORS 506.001 to 506.025 apply to this chapter. [1965 c.570 §138]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.011 - "Mouth" of river defined.**

The "mouth" of any river emptying into the Pacific Ocean including the bay or tidal area formed by each such river is the seaward end of the jetty or jetties of each such river. If no jetties exist, the extension of the Pacific Ocean, shoreline high watermark across the river, bay or tidal area, is the "mouth" of such river. [1965 c.570 §139]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.016 - Taking striped bass prohibited.**

It is unlawful to take striped bass for commercial purposes from any of the waters of this state. [1973 c.500 §2; 1975 c.416 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.060 - Taking salmon for commercial purposes in coastal streams prohibited.**

It is unlawful to take salmon for commercial purposes from all waters inland from the mouth of all streams or tributaries thereof that empty into the Pacific Ocean south of the mouth of the Columbia River, except as provided in ORS 511.070. [1965 c.570 §143]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.070 - Open season for chum salmon and incidental take of salmon in Tillamook Bay; rules.**

It shall be lawful for the State Fish and Wildlife Commission by rule to establish a season for commercial fishing for chum salmon and the incidental take of salmon in Tillamook Bay. Such season may not exceed 30 calendar days total length each year and may only be between October 25 and December 5. Fishing areas under this section shall be limited to:

- (1) Tillamook Bay except that portion of Hathaway Slough above a line extended due south from a point on the northerly bank or shoreline of the slough 1,000 feet downstream from the Southern Pacific railroad trestle.
- (2) The Miami River below a line drawn across the Miami River due north and south through a point 1,000 feet west from the northwest corner of the Southern Pacific railroad bridge crossing the Miami River.
- (3) The Kilchis River below a point at the intersection of the Kilchis River by the section line between sections 11 and 12, township 1 south, range 10 west of the Willamette Meridian.
- (4) The Wilson River below a point 500 feet below the bridge crossing the Wilson River in section 13, township 1 south, range 10 west of the Willamette Meridian.
- (5) The Tillamook River below a point 100 feet below the mouth of Frasier Slough. [1965 c.570 §144]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.106 - Commercial fishing in Columbia River and tributaries restricted.**

It is unlawful in the Columbia River and its tributaries to:

- (1) Take salmon for commercial purposes east of its confluence with the Deschutes River.
- (2) Take food fish for commercial purposes in a closed area at and adjacent to the mouth of the Sandy River, Hood River and Deschutes River. The closed area shall be one-fourth of a mile in width, extending out into the Columbia River at right angles to the thread of the stream, and one mile in length below the upper or right-hand bank or shoreline of such tributary where the tributary intersects the left-hand bank or shoreline of the Columbia River. [1965 c.570 §140; 1969 c.358 §1; 1989 c.126 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.206 - Taking food fish for commercial purposes in or near Rogue River prohibited.**

It is unlawful to take any food fish except shellfish for commercial purposes from the Rogue River and its tributaries and within a radius of one mile from the center of the mouth of the Rogue River. [1965 c.570 §148; 1995 c.269 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.306 - Taking food fish for commercial purposes in certain Curry County waters prohibited.**

It is unlawful to take any food fish for commercial purposes from the following waters in Curry County:

- (1) Floras Creek.
- (2) Sixes River.
- (3) Elk River.
- (4) Euchre Creek.
- (5) Hunters Creek.
- (6) Pistol River.
- (7) Chetco River.
- (8) Winchuk River. [1965 c.570 §142]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.506 - Taking shad for commercial purposes in Coos Bay or in Siuslaw, Umpqua or Smith Rivers restricted.**

It is unlawful to take shad for commercial purposes in the following waters of this state:

- (1) That portion of Coos Bay and all of Isthmus Inlet, a tributary thereof, southerly of the bridge connecting Coos Bay and Eastside in Coos County; the area designated as Coos Bay Sports Area and consisting of Isthmus Inlet, Catching Inlet and Cold Bank Slough in Coos County; the north fork of Coos River above a line drawn across the north fork at right angles to the thread of the stream at the lower end of the old John Hendrickson ranch and the south fork of Coos River above a line drawn across the south fork at right angles to the thread of the stream at the lower end of the H. H. Roger's ranch.
- (2) The Siuslaw River above a line across the river drawn at right angles to the thread of the stream at the lower end of the mouth or confluence of Morgan Creek with the Siuslaw River; the north fork of the Siuslaw River above the state highway bridge crossing the north fork between Cushman and Florence in Lane County; and Duncan Inlet or South Inlet or tributaries.
- (3) The Umpqua River above the confluence of Mill Creek, outlet of Loon Lake with the Umpqua River in Douglas County; and the Smith River above the confluence of the North Fork of the Smith River with the Smith River. [1965 c.570 §145; 1973 c.500 §3; 1989 c.127 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.511 - Taking sturgeon for commercial purposes in Umpqua River prohibited.**

It is unlawful to take sturgeon for commercial purposes from the waters of the Umpqua River or any of its bays or tributaries. [1965 c.570 §147]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.516 - Taking shad for commercial purposes from Coos River prohibited.**

It is unlawful to take shad from the waters of the Coos River or any of its tributaries for commercial purposes. [1983 c.34 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.521 - Taking shad or sturgeon for commercial purposes in Coquille River waters prohibited.**

It is unlawful to take shad or sturgeon for commercial purposes from the waters of the Coquille River or any of its bays or tributaries. [1989 c.127 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.606 - Taking food fish for commercial purposes in Nestucca Bay prohibited.**

It is unlawful to take any food fish except shellfish for commercial purposes from Nestucca Bay or any of its tributaries. [1965 c.570 §149]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.611 - Taking shad and sturgeon for commercial purposes in Netarts Bay prohibited.**

It is unlawful to take shad and sturgeon in Netarts Bay for commercial purposes. [1965 c.570 §146]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.625 - Natural and artificial oyster beds in Netarts Bay.**

That portion of Netarts Bay, in Tillamook County, lying south of the quarter section line running east and west through the center of section 19, in township 2 south, range 10 west of the Willamette Meridian, is designated as natural oyster beds. That portion of Netarts Bay lying north of such quarter section line is designated and set apart for artificial plantations of oysters. [Amended by 1969 c.675 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.640 - Sale of oyster lands in Tillamook Bay prohibited.**

All the tidelands and lands under the waters of Tillamook Bay in Tillamook County which are located as oyster claims as provided by law, are withdrawn from the lands of this state which may be sold, are designated as oyster lands, and are set aside for the location of artificial oyster claims. However, all such lands are subject to the provisions of ORS 622.210 to 622.300 and 622.320. [Amended by 1969 c.675 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 511 - Local and Special Regulations Section 511.806 - Taking salmon, shad, striped bass or sturgeon for commercial purposes in Willamette River prohibited; taking shad for commercial purposes in Willamette Slough restricted.**

- (1) It is unlawful in the waters of the Willamette River or any of its tributaries or sloughs to take salmon, shad, striped bass or sturgeon for commercial purposes.
- (2) Notwithstanding subsection (1) of this section, it shall be lawful to take shad for commercial purposes in the Willamette Slough from the Gilbert Lake farm dock to the mouth of the Willamette Slough. [1965 c.570 §141]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 513 - Packing Fish and Manufacture of Fish Products Section 513.010 - "Reduction plant" defined.**

As used in this chapter, "reduction plant" applies to any plant engaged in the reduction of fish into fish flour, fish meal, fish scrap, fertilizer, fish oil or other fish products or by-products.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 513 - Packing Fish and Manufacture of Fish Products Section 513.020 - Control and regulation of means of handling fish and fish products.**

In order that all fish or parts thereof suitable for human consumption may be conserved and used for that purpose, and to provide sanitary methods and prevent waste in the use, sale, packing, preserving, manufacturing, processing or other handling of fish or fish products, other than salmon, the State Fish and Wildlife Commission may control and regulate fishing boats, barges, lighters or tenders, receptacles or vehicles containing fish or fishing gear, fish reduction plants or plants where fish products are manufactured, in so far as may be necessary to insure the taking, catching, delivery of fish, canning, packing, preserving, reduction of and manufacture of fish products or by-products in a wholesome and sanitary manner, and to prevent deterioration or waste of any fish.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 513 - Packing Fish and Manufacture of Fish Products Section 513.030 - Inspection of means of handling fish and fish products.**

Any member, assistant or employee of the State Fish and Wildlife Commission, or duly authorized officer of the state, may enter any canning, packing, preserving or reduction plant or place of business where fish or other fish products are packed, preserved, manufactured, bought or sold, or board and inspect any fishing boat, barge, lighter or tender, receptacle or vehicle, containing fish, for the purpose of examining any fish or fish products and to ascertain the amount of fish received, or kind and amount of fish products packed or manufactured and the number and size of containers or cans for fish products purchased, received, used or on hand.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 513 - Packing Fish and Manufacture of Fish Products Section 513.040 - Control and regulation of amount and kind of fish commercially handled; sardine processing.**

The State Fish and Wildlife Commission may:

- (1) Control, regulate and establish, by order, the proportion or percentage of sardines, pilchards, herring or other species of fish other than salmon, to be used for reduction purposes or the manufacture of fish flour, fish meal, fish scrap, fertilizer or oil, and may further, through such order, specifically name or prescribe the particular species of fish which may be used for reduction purposes, food for animals or other purposes.
- (2) Exercise full jurisdiction and control over the processing, packing or preserving of sardines, and prescribe and specify the process to be used in the canning of such fishes in order to assure a quality product and prevent the use of certain substitute oils resulting in inferior grades.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.010 - Definitions.**

As used in this chapter:

- (1) "Board" means the governing board of the State Department of Geology and Mineral Industries established pursuant to ORS 516.080.
- (2) "Department" means the State Department of Geology and Mineral Industries established pursuant to ORS 516.020.
- (3) "Mine" includes all mineral-bearing properties of whatever kind and character, whether underground, quarry, pit, well, spring or other source from which any mineral substance is obtained.

- (4) "Mineral" includes any and all mineral products, metallic and nonmetallic, solid, liquid or gaseous, and mineral waters of all kinds.
- (5) "Mineral industries" includes all enterprises engaged in developing and exploiting the natural substances of the earth.
- (6) "Geologic hazard" means a geologic condition that is a potential danger to life and property which includes but is not limited to earthquake, landslide, flooding, erosion, expansive soil, fault displacement, volcanic eruption and subsidence.
- (7) "Geology" means the study of the earth, and in particular the study of the origin, history and topographic form of rocks, ores and minerals, either under the ground or upon the surface, and their alteration by surface agencies, such as wind, water, ice and other agencies, and the economics of their use. [Amended by 1989 c.954 §1; 1993 c.260 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.020 - Creation of department.**

There is created a State Department of Geology and Mineral Industries.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.030 - Duties of department.**

The State Department of Geology and Mineral Industries shall:

- (1) Initiate and conduct studies and surveys of the geological and mineral resources of the state and their commercial utility.
- (2) Conduct as a continuing project a geological survey of Oregon, including quadrangle geologic mapping, either as a department undertaking or jointly with federal or other agencies.
- (3) Initiate, carry out or administer studies and programs that will, in cooperation with universities, federal, state and local government agencies, reduce the loss of life and property by understanding and mitigating geologic hazards. These studies and programs may include but need not be limited to:
  - (a) Statewide hazard assessment, including identification and mapping of geologic hazards, estimation of their potential consequences and likelihood of occurrence and monitoring and assessment of potentially hazardous geologic activity;
  - (b) Studies of paleoseismicity including but not limited to providing evidence of whether prehistoric subduction zone and crustal earthquakes have occurred in Oregon;
  - (c) Operation of a state seismic network in cooperation with universities or federal agencies or both through the strategic placement of instrumentation to monitor earthquake activity as it occurs; and
  - (d) Operation of a state geodetic network through the monitoring and periodic survey of markers in order to detect modern deformation of the earth's crust and the subsequent buildup of stress.
- (4) Consider and study kindred scientific and economic questions in the field of geology and mining that are deemed of value to the people of Oregon.
- (5) Cooperate with federal or other agencies for the performance of work in Oregon deemed of value to the state and of advantage to its people, under rules, terms and conditions to be arranged between the governing board of the State Department of Geology and Mineral Industries and such agencies. But in no case shall the cost to the department be in excess of the amount appropriated therefor, and the results of any joint undertakings shall be made available without restrictions to this department.
- (6) Serve as a bureau of information and advisory services concerning geologic resources and hazards, including:
  - (a) Maintaining a library, a public education program and a geologic database;
  - (b) Maintaining a website that identifies the seismic risk category, as determined under an assessment process approved by the department, for every public kindergarten through grade 12 school and that is updated when the department makes a new assessment or becomes aware of information that could change the conclusions of a previous assessment;
  - (c) Providing a review of functions;
  - (d) Providing expert advice to federal, state and local government agencies;
  - (e) Operating as a clearinghouse for post-hazard event earth science investigations; and
  - (f) Providing technical assistance to local governments on aggregate mining and reclamation during preparation and amendment of comprehensive plans and land use regulations.
- (7) Serve as a bureau of information concerning Oregon mineral resources, mineral industries and geology, conduct a mineral survey of the state, and catalog each and every mineral occurrence and deposit, metallic and nonmetallic, together with its location, production, method of working, name of owner or agent, and other detailed information capable of being tabulated and published in composite form for the use, guidance and benefit of the mineral industry of the state and of the people in general and deemed necessary in compiling mineral statistics of the state.
- (8) Collect a library of literature describing the geology and mineral deposits, metallic and nonmetallic, of Oregon.
- (9) Make qualitative examinations of rocks, mineral samples and specimens.
- (10) Study minerals and ores, additional uses for the state's minerals, and explore the possibilities for using improved treatment, processes, mining methods and reclamation techniques for regulated mines and abandoned mined lands.
- (11) Establish in the department or in cooperation with universities and other organizations a repository for drill cores and samples considered by the department to be of long term use in developing information. [Amended by 1989 c.954 §2; 1991 c.243 §3; 1993 c.260 §2; 2001 c.104 §225; 2012 c.61 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.035 - Powers of department.**

The State Department of Geology and Mineral Industries may:

- (1) Make or have made qualitative and quantitative determinations of ores and minerals that are submitted for such purpose and that are from within the State of Oregon. The department shall mail to the sender of such ores or minerals the results of such determination as soon as practicable after making such determination. Such services shall be performed by the department at the request of a member of the general public at a reasonable charge.
- (2) Perform geological surveys or analyses at the request of any state agency if department funding allows undertaking such surveys or analyses and may make reasonable charges for these services.
- (3) Collect and exhibit specimens, samples and photographs, models and drawings of appliances in the mines, mills and metallurgical plants of Oregon.
- (4) Enter into contracts or agreements with the federal government or any agency thereof, pursuant to which the department shall operate or act as the agent of the federal government in the operation of a mineral assay service or similar analytical service, the cost of which is to be reimbursed by the federal government.
- (5) Establish, equip and operate a geochemical laboratory which may:
  - (a) Make geochemical determinations at the request of any department, institution or other agency of the state, without any charge in excess of the actual cost thereof.
  - (b) Make other geochemical determinations at a reasonable charge in excess of the actual cost thereof.
- (6) Enter into contracts or agreements with a person, a public body as defined in ORS 174.109 or the federal government or an agency thereof, pursuant to which the department performs geoscientific surveys or analyses. [1971 c.441 §4; 1973 c.180 §1; 1993 c.260 §3; 2011 c.72 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.061 - Department surcharge to fund electronic permitting system; reduction.**

- (1) The State Department of Geology and Mineral Industries may impose and collect a surcharge as a percentage of each invoice generated by the department's electronic permitting system. The surcharge percentage rate is 10.7 percent.
- (2)(a) Notwithstanding subsection (1) of this section, the department may reduce the surcharge percentage rate under subsection (1) of this section to a rate that the department determines will be sufficient to cover the anticipated expenses of the Electronic Permitting System Subaccount under ORS 516.070 (5) during the next biennium and to maintain an adequate operational reserve in the subaccount.
- (b) The department shall implement a reduced rate, if any, by issuing an order on or before January 1 of the odd-numbered year that sets forth the reduced rate for the next biennium.
- (c) The department shall notify all persons with an active account within the electronic permitting system of the reduced rate, if any.
- (d) Unless extended by a subsequent order under this subsection, the reduced rate expires at the end of the biennium, after which the department shall charge the surcharge percentage rate as described in subsection (1) of this section.
- (3) Surcharge moneys collected by the department under this section shall be deposited into the same fund or account as the fee or invoice payment associated with the surcharge. The department shall periodically transfer all surcharge moneys collected by the department under this section into the Electronic Permitting System Subaccount established under ORS 516.070 (5). [2023 c.274 §2]

Note:

516.061 was added to and made a part of ORS chapter 516 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.070 - Geology and Mineral Industries Account; subaccounts; sources; uses.**

- (1) There is established in the General Fund of the State Treasury an account to be known as the Geology and Mineral Industries Account. All moneys received by the State Department of Geology and Mineral Industries shall be paid over to the State Treasurer and by the State Treasurer deposited in the General Fund to the credit of the account. All moneys within the account are continuously appropriated for the use of the department in carrying out its lawful functions.
- (2) The Federal Locatable Mineral Royalties Subaccount is established within the Geology and Mineral Industries Account. Notwithstanding subsection (1) of this section, all moneys received from the federal government by the State of Oregon as the state's distributive share of the amounts collected for royalties for locatable minerals shall be credited to the subaccount. All moneys in the Federal Locatable Mineral Royalties Subaccount are continuously appropriated to the State Department of Geology and Mineral Industries to conduct investigations of new mineral resources and to carry out the provisions of ORS 517.840 (6).
- (3) The State Treasurer may invest and reinvest the moneys in the Federal Locatable Mineral Royalties Subaccount as provided in ORS 293.701 to 293.857. Interest from the moneys deposited in the subaccount and earnings from investment of the moneys in the

subaccount shall be credited to the subaccount.

(4) The Mined Land Regulation and Reclamation Program Subaccount is established within the Geology and Mineral Industries Account. Notwithstanding subsection (1) of this section, all moneys received by the State Department of Geology and Mineral Industries from fees assessed pursuant to ORS 517.800 shall be credited to the subaccount. All moneys in the subaccount are continuously appropriated to the department for the purpose of administering ORS 517.702 to 517.951.

(5) The Electronic Permitting System Subaccount is established within the Geology and Mineral Industries Account.

Notwithstanding subsection (1) of this section, moneys received by the State Department of Geology and Mineral Industries under ORS 516.061 shall be credited to the subaccount. Moneys in the subaccount are continuously appropriated to the department for the costs of maintaining the department's electronic permitting system, that allows the department to electronically issue permits and receive applications and fees under this chapter and ORS chapters 517, 520 and 522. Costs of maintaining the system include the costs of hosting, operating, repairing, upgrading, staffing and administering the system. [Amended by 1957 c.233 §1; 1961 c.671 §14; 1971 c.441 §5; 1993 c.260 §4; 1995 c.509 §1; 2005 c.650 §2; 2013 c.371 §35; 2023 c.274 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.080 - Governing board; members; term; confirmation; meetings; compensation and expenses; quorum.**

(1) The State Department of Geology and Mineral Industries shall be administered by a governing board composed of five citizens of Oregon appointed by the Governor.

(2)(a) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term. The term of a board member shall continue until a successor has been appointed and confirmed.

(b) All appointments shall be made subject to approval by the Senate in the manner provided in ORS 171.562 and 171.565.

(3) The board shall hold meetings four times each year and special meetings may be called by the chairperson or by a majority of the board.

(4) Each member of the board is entitled to compensation and expenses as provided in ORS 292.495.

(5) A majority of the members of the board constitutes a quorum for the transaction of business.

(6) The members of the State Department of Geology and Mineral Industries governing board must be citizens of this state. The members chosen shall, to the greatest extent possible, represent all geographic regions of the state. [Amended by 1961 c.167 §42; 1969 c.314 §61; 1969 c.695 §11; 1983 c.740 §204a; 1993 c.260 §5; 2001 c.75 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.090 - General duties and powers of board; rules.**

(1) The governing board of the State Department of Geology and Mineral Industries shall:

(a) Direct and review the performance of the State Geologist and the State Department of Geology and Mineral Industries in carrying out its duties and responsibilities pursuant to this chapter and ORS chapters 517, 520 and 522.

(b) Carry out the policies set forth in this chapter and ORS chapters 517, 520 and 522.

(c) Establish policies and approve plans that lead to an understanding of geology and mineral resources of the state, geologic processes and hazards and scientific, economic and tourism issues relating to geology and mineral industries.

(d) At the discretion of the board, accept from the United States or any of its agencies such funds as may be made available to this state for any of the purposes contemplated by this chapter, and shall enter into such contracts and agreements with the United States or any of its agencies or with Oregon or any of its agencies as may be necessary, proper and convenient, and not contrary to the laws of this state.

(e) Review and approve budget requests of the department.

(f) In accordance with applicable provisions of ORS chapter 183, adopt rules establishing criteria and procedures by which the department may enter into contracts or agreements pursuant to ORS 516.035 (6), including but not limited to criteria and procedures that ensure protection of the public interest and advance the duties of the department as described in ORS 516.030.

(2) The board may:

(a) In accordance with applicable provisions of ORS chapter 183, adopt rules necessary for the administration of the laws that the board is charged with administering.

(b) Receive on behalf of this state, for the use and benefit of the department, gifts, devises and legacies of real or other property, and use them in accordance with the wishes of the donors, or, in the absence of specific instructions by the donors, manage, use and dispose of the gifts and legacies as may be deemed by the board for the best interest of the state. [Amended by 1993 c.260 §6; 2011 c.72 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.100 - Reports and publications of department.**

(1) The State Department of Geology and Mineral Industries shall have prepared, printed and published reports, pamphlets, charts and maps, embracing the matters addressed in ORS 516.030 and ORS chapters 517, 520 and 522. All maps, charts, special bulletins

and other publications shall be for public distribution, but the department may make a reasonable charge to cover publication and distribution costs.

(2)(a) When a report embodies results of surveys or studies of economic importance, no information of any kind concerning the contents of such report shall be given out prior to publication, if such prior information could place the recipient in a preferential position as regards its use.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, if an investigation of a mineral property or geologic hazard within the state is made by an employee of the department at the request of either the owner or a person in control of such property, results of the investigation shall be conveyed to the owner or person in control prior to the publication of a report of such results. After they have been conveyed to the owner or person, the results shall be open to public inspection prior to their publication.

[Amended by 1975 c.605 §26; 1993 c.260 §7; 2005 c.22 §373]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.120 - State Geologist; appointment; qualifications.**

(1) The position of State Geologist within the State Department of Geology and Mineral Industries is created. In consultation with the Governor, the governing board of the State Department of Geology and Mineral Industries shall appoint the State Geologist.

(2) The State Geologist shall be qualified to perform as well as to direct the technical and executive work of the department as determined by the board and shall be a geologist, engineer or other technical specialist with a broad background of practical experience related to programs of the department. [Amended by 1963 c.192 §1; 1983 c.740 §205; 1993 c.260 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.130 - Duties of State Geologist; bond; employment of personnel; report to board.**

(1) The State Geologist shall be covered by a bond as set forth in ORS 291.011.

(2) The State Geologist may employ qualified persons subject to any applicable provisions of the State Personnel Relations Law.

(3) The State Geologist shall report to the governing board of the State Department of Geology and Mineral Industries as requested by the board concerning the administration of the State Department of Geology and Mineral Industries.

(4) The State Geologist shall make every effort to complete promptly for publication all notes, charts and maps covering mineral and geological investigations of the department, so that public distribution of same may take place as closely as possible after the completion of field investigations.

(5) The State Geologist shall have charge of, organize and supervise the work of the department and perform such other duties as may be necessary to carry out the work of the department. [Amended by 1991 c.331 §74; 1993 c.260 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.133 - Prohibited activities; conflicts of interest.**

(1) No member of the staff of the State Department of Geology and Mineral Industries shall hold a direct pecuniary interest in or accept compensation from an industry regulated by the department.

(2) No member of the staff of the department shall:

(a) Hold a direct pecuniary interest in or accept compensation from any producing or prospective mineral operation of any kind of any entity that does business in this state.

(b) Act as agent or broker for any purchaser, owner, or an agent of a purchaser or owner, of any mineral interest.

(c) Accept a commission for any service rendered during the period of employment with the department, if such service is concerned with mining, geology or any mineral industry that does business in this state.

(d) Make any investigation or report of any individual property in this state for purposes of evaluation, except as provided in ORS 516.100.

(3) For purposes of this section:

(a) "Direct pecuniary interest" means a mining claim, stock, royalty interest, partnership, joint venture or other interest over which the employee may control acquisition or disposal of the interest.

(b) "Direct pecuniary interest" does not mean an interest in a mutual fund, retirement fund or other interest described in subsection (1) or (2) of this section over which the employee may not control acquisition or disposal.

(4) The provisions of this section are in addition to and not in lieu of the provisions of ORS chapter 244. [1993 c.260 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 516 - Department of Geology and Mineral Industries Section 516.135 - Avoidance of ground water resource contamination; department actions.**

(1) In carrying out its duties related to mineral resources, mineral industries and geology, the State Department of Geology and Mineral Industries shall act in a manner that is consistent with the goal set forth in ORS 468B.155.

(2) In order to assist in the development of a statewide repository of information about Oregon's ground water resource, the department shall provide any information, acquired by the department in carrying out its statutory duties, that is related to ground

water quality to the centralized repository established pursuant to ORS 468B.167. [1989 c.833 §46]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.005 - Legislative findings.**

The Legislative Assembly finds and declares that:

(1) Mining contributes to the economy and well-being of the people of Oregon. Mining creates high-paying jobs in parts of this state that, due to a lack of infrastructure and development, are less likely to be capable of diversifying beyond a regional economy based on natural resources. Mining creates secondary industries in the surrounding region and attracts numerous providers of goods and services. Mining also generates significant tax revenues for local governments and provides support for civic and educational projects in local communities.

(2) The mining of minerals is a natural resource use.

(3) In eastern Oregon, including Lake, Harney, Malheur, Baker and Grant Counties, diversifying the types of natural resource uses that contribute to local economies enables those economies to better withstand temporary economic declines that affect specific natural resource uses. In the same way that a diversified economy is good for a large metropolitan area, a diversified natural resource economy is good for eastern Oregon.

(4) Technological advances in the mining industry, coupled with reclamation efforts, have greatly reduced the environmental impacts of mining operations. The size and scope of modern operations is such that the operations do not cause interference with other natural resource uses, particularly in an area as vast as eastern Oregon.

(5) Mining operations should be encouraged and supported in eastern Oregon as a means for residents and communities to improve their economies and well-being. [2015 c.826 §1]

Note:

517.005 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 517 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.010 - Location of mining claims upon veins or lodes.**

(1) Any person, a citizen of the United States, or one who has declared an intention to become such, who discovers a vein or lode of mineral-bearing rock in place upon the unappropriated public domain of the United States within this state, may locate a claim upon such vein or lode by posting thereon a notice of such discovery and location. The notice shall contain:

(a) The name of the lode or claim.

(b) The names of the locators.

(c) The date of the location.

(d) The number of linear feet claimed along the vein or lode each way from the point of discovery, with the width on each side of the lode or vein.

(e) The general course or strike of the vein or lode as nearly as may be, with reference to some natural object or permanent monument in the vicinity, and by defining the boundaries upon the surface of each claim so that the same may be readily traced.

(2)(a) Such boundaries shall be marked within 30 days after posting of such notice by four substantial posts, projecting not less than three feet above the surface of the ground, and made of wood measuring not less than one and one-half inch by one and one-half inch, or by substantial mounds of stone, or earth and stone, at least two feet in height, one such post or mound of rock at each corner of such claims.

(b) During the course of normal maintenance of the claim location posts or monuments, any post that requires replacement and is not constructed of naturally occurring materials shall be replaced by posts that are made of wood measuring not less than one and one-half inch by one and one-half inch on a side and that project not less than three feet above the surface of the ground.

(3) At such time as any lode mining claim is declared invalid by the United States Department of the Interior, Bureau of Land Management or is otherwise dropped by the last claim holder of record without transfer through lease or sale to another person, all claim location posts not made of natural materials shall be removed from the public domain of the United States and at the same time any post made of natural materials shall be removed or dismantled. [Amended by 1991 c.215 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.030 - Recording copy of location notice; fee.**

The locator shall, within 60 days from the posting of the location notices by the locator upon the lode or claim, record with the clerk of the county where the claim is situated, who shall be the custodian of mining records and miners' liens, a copy of the notice posted by the locator upon the lode or claim and shall pay the clerk a fee for such recording as provided in ORS 205.320, which sum the clerk shall immediately pay over to the treasurer of the county and shall take a receipt therefor, as in case of other county funds coming into the possession of such officer. The clerk shall immediately record the location notice. [Amended by 1971 c.228 §2; 1971 c.621 §33; 1973 c.598 §4; 1975 c.607 §36; 1979 c.833 §31; 1991 c.230 §25; 1999 c.654 §28]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.040 - Abandoned claims.**



Abandoned claims are unappropriated mineral lands, and titles thereto shall be obtained as specified in ORS 517.010 and 517.030, without reference to any work previously done thereon.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.042 - "Legal subdivision" defined for ORS 517.042 to 517.052.**

As used in ORS 517.042 to 517.052, unless the context requires otherwise, "legal subdivision" means a subdivision of a state survey or of a United States survey which has been extended over the geographic area to be described. [1961 c.525 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.044 - Location of claims upon placer deposits; posting notice.**

Any individual, a citizen of the United States, or one who has declared an intention to become such, who discovers a placer deposit of minerals upon the unappropriated public domain of the United States within this state, which minerals are subject to location under the mineral and mining laws of the United States, may locate a placer claim thereon by posting in a conspicuous place thereon a notice of such discovery and location. The notice shall contain:

- (1) The name of the claim.
- (2) The name of the individual or individuals locating the claim.
- (3) The date of the location of the claim.
- (4) The number of feet or acres claimed, together with a description, either by legal subdivisions, if practicable, or if not, then by reference to some natural object or permanent monument in the vicinity of the claim, which will identify the claim located. [1961 c.525 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.046 - Marking boundaries of claim or locating by legal subdivisions.**

- (1) Unless the claim for placer deposit referred to in ORS 517.044 is located by legal subdivisions, the surface boundaries of the claim must be marked so that the same may be readily traced. Such boundaries shall be marked within 30 days after the posting of the notice described in ORS 517.044 by substantial posts or other monuments of the same size, materials and dimensions as in the case of quartz claims. The boundaries of the claim shall be marked at each corner or angle, and, when any side or end of the claim extends for more than 1,320 feet without a corner or angle, then at intervals of not less than 1,320 feet along such side or end.
- (2) Where the claim for placer deposit referred to in ORS 517.044 is taken by legal subdivisions, no other reference in the notice of claim required to be posted and filed under the provisions of ORS 517.042 to 517.052 than to the legal subdivisions shall be required and the boundaries of a claim so located and described need not be staked or monumented. The description by legal subdivisions in the notice required to be filed under ORS 517.052 shall be deemed the equivalent of marking the surface boundaries of the claim. [1961 c.525 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.050**

[Renumbered as part of 517.065]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.052 - Recording copy of location notice; fee.**

The individual locating a placer deposit shall, within 60 days from the posting of the location notice upon the claim, record with the clerk of the county where the claim is situated, a copy of the notice posted by the individual upon the claim. The fee for recording such location notice shall be the fee provided for in ORS 205.320. The clerk shall immediately record the location notice. [1961 c.525 §5; 1971 c.228 §3; 1991 c.230 §26; 1999 c.654 §29]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.060 - Correcting defective notice of location.**

If at any time an individual who has located a mining claim within the meaning of ORS 517.010 or 517.044, or the assigns of the individual, apprehends that the original notice of location of the mining claim was defective, erroneous, or that the requirements of the law had not been complied with before the filing of the notice, such locator or assigns may post and record in the manner now provided by law, an amended notice of the location which shall relate back to the date of the original location. However, the posting and recording of the amended notice of location shall not interfere with the existing rights of others at the time of posting the amended notice. [Amended by 1961 c.525 §7; 1991 c.230 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.065 - Effect of noncompliance with law in locating claim.**

- (1) Subject to ORS 517.060, all locations or attempted locations of quartz mining claims subsequent to December 31, 1898, that do not comply with ORS 517.010 and 517.030 are void.

(2) Except as provided in ORS 517.060, all locations or attempted locations of placer mining claims made after August 9, 1961, that do not comply with the provisions of ORS 517.042 to 517.052 are void. [Subsection (1) formerly 517.050; subsection (2) enacted as 1961 c.525 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.070 - Certain locations subject to prior rights.**

Any location of any mining claim made upon any natural stream, or contiguous or near to any placer mine, or upon or below the dump of any placer mine, shall be subject to the prior right of all mines in operation prior to the making of such location, to discharge debris, gravel, earth, and slickens which were or may be discharged at the time of making such subsequent location.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.080 - Mining claims as realty.**

All mining claims, whether quartz or placer, are real estate. The owner of the possessory right thereto has a legal estate therein within the meaning of ORS 105.005.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.090 - Application to claims of law governing transfers and mortgages of realty.**

All conveyances of mining claims or of interests therein, either quartz or placer, whether patented or unpatented, are subject to the provisions governing transfers and mortgages of other realty as to execution, recordation, foreclosure, execution sale and redemption. However, such redemption by the judgment debtor must take place within 60 days from date of confirmation, or such right is lost. [Amended by 2003 c.14 §339]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.100 - Sums payable on redemption of claim; interest.**

In case of redemption from sale under judgment, the redemptioner shall pay such sums as are now required by law for redemption under execution sale, and such additional sum as may have been expended upon the property so redeemed by the purchaser under execution, or the assigns of the purchaser, in order to keep alive the possessory right thereto after the execution sale, not exceeding \$100 for each claim, with 10 percent interest thereon from date of such expenditures. [Amended by 2003 c.576 §466]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.110 - Grubstaking contracts.**

All contracts of mining copartnership, commonly known as "grubstaking," shall be in writing, and recorded with the clerk of the county wherein the locations thereunder are made. Unless contracts of mining copartnership contain the names of the parties thereto and the duration thereof, the contracts are void. [Amended by 1991 c.230 §28]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.120 - Definitions for ORS 517.120 to 517.133.**

As used in ORS 517.120 to 517.133:

- (1) "Mining" means the removal of gold, silver or other precious minerals from aggregate or a vein of ore.
- (2) "Mining claim" means a portion of the public lands claimed for the valuable minerals occurring in those lands and for which the mineral rights are obtained under federal law or a right that is recognized by the United States Bureau of Land Management and given an identification number.
- (3) "Prospecting" means to search or explore, using motorized or nonmotorized methods, for samples of gold, silver or other precious minerals from among small quantities of aggregate or ore.
- (4) "Recreational mining" means mining in a manner that is consistent with a hobby or casual use, including use on public lands set aside or withdrawn from mineral entry for the purpose of recreational mining, or using pans, sluices, rocker boxes, other nonmotorized equipment and dredges with motors of 16 horsepower or less and a suction nozzle of four inches or less in diameter.
- (5) "Small scale mining" means mining on a valid federal mining claim operating under a notice of intent or plan of operations while using whatever equipment is necessary, as approved by the notice of intent or plan of operations, to locate, remove and improve the claim. [1999 c.354 §1]

Note:

517.120 to 517.135 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 517 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.123 - Legislative findings.**

The Legislative Assembly finds that prospecting, small scale mining and recreational mining:

- (1) Are important parts of the heritage of the State of Oregon; and

(2) Provide economic benefits to the state and local communities. [1999 c.354 §2; 2013 c.783 §10]

Note:

See note under 517.120.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.125 - Rules to be adopted in consultation with affected parties.**

Any rule pertaining to recreational or small scale mining adopted after June 28, 1999, shall be adopted in consultation with affected parties. [1999 c.354 §3]

Note:

See note under 517.120.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.128 - Restricting access to open mining area or mining claim prohibited.**

A person may not attempt to restrict access to any open mining area or valid mining claim or to harass or interfere in any way with a person engaged in lawful mining activities. [1999 c.354 §4]

Note:

See note under 517.120.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.130 - Mineral trespass.**

(1) As used in this section:

(a) "Bedrock sluice" means a wood or metal flume or trough that is permanently attached to the bedrock of the creek and is equipped with transverse riffles across the bottom of the unit and used to recover heavy mineral sands.

(b) "Deface" includes but is not limited to altering, pulling down, damaging or destroying.

(c) "Dredge" means a subsurface hose from 1.5 to 10 inches in diameter that is powered by an engine and is used to draw up auriferous material that is then separated in the sluice portion of the unit.

(d) "Flume" means a trough used to convey water.

(e) "Quartz mill" means a facility for processing ores or gravel.

(f) "Rocker box" means a unit constructed of a short trough attached to curved supports that allow the unit to be rocked from side to side.

(g) "Sluice box" means a portable unit constructed of a wood or metal flume or trough equipped with transverse riffles across the bottom of the unit and that is used to recover heavy mineral sands.

(2) A person commits the crime of mineral trespass if the person intentionally and without the permission of the claim holder:

(a) Enters a mining claim posted as required in ORS 517.010 or 517.044 and disturbs, removes or attempts to remove any mineral from the claim site;

(b) Tampers with or disturbs a flume, rocker box, bedrock sluice, sluice box, dredge, quartz mill or other mining equipment at a posted mining claim; or

(c) Defaces a location stake, side post, corner post, landmark, monument or posted written notice within a posted mining claim.

(3) Mineral trespass is a Class C misdemeanor. [1999 c.354 §5]

Note:

See note under 517.120.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.133 - Interfering with a mining operation.**

(1) As used in this section, "lawful mining operation" means any small scale mining operation that is in full compliance with state and federal laws.

(2) A person commits the crime of interfering with a mining operation if the person intentionally:

(a) Interferes with a lawful mining operation; or

(b) Stops, or causes to be stopped, a lawful mining operation.

(3) Interfering with a mining operation is a Class C misdemeanor. [1999 c.354 §6]

Note:

See note under 517.120.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.135 - Exemption from crimes of mineral trespass and interfering with a mining operation.**

(1) ORS 517.128 to 517.133 do not apply to conduct that would otherwise constitute an offense when it is required or authorized by law or judicial decree or is performed by a public servant in the reasonable exercise of official powers, duties or functions.

(2) As used in subsection (1) of this section, "laws or judicial decrees" includes but is not limited to:

- (a) Laws defining duties and functions of public servants;
- (b) Laws defining duties of private citizens to assist public servants in the performance of certain of their functions; and
- (c) Judgments and orders of courts. [1999 c.354 §7]

Note:

See note under 517.120.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.140 - Legislative findings; mining using motorized equipment in beds and banks of rivers.**

The Legislative Assembly finds that:

- (1) Prospecting, small scale mining and recreational mining are part of the unique heritage of the State of Oregon.
- (2) Prospecting, small scale mining and recreational mining provide economic benefits to the State of Oregon and local communities and support tourism, small businesses and recreational opportunities, all of which are economic drivers in Oregon's rural communities.
- (3) Exploration of potential mine sites is necessary to discover the minerals that underlie the surface and inherently involves natural resource disturbance.
- (4) Mining that uses motorized equipment in the beds and banks of the rivers of Oregon can pose significant risks to Oregon's natural resources, including fish and other wildlife, riparian areas, water quality, the investments of this state in habitat enhancement and areas of cultural significance to Indian tribes.
- (5) Between 2007 and 2013, mining that uses motorized equipment in the beds and banks of the rivers of Oregon increased significantly, raising concerns about the cumulative environmental impacts.
- (6) The regulatory system related to mining that uses motorized equipment in the beds and banks of the rivers of Oregon should be efficient and structured to best protect environmental values. [2013 c.783 §1]

Note:

517.140 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 517 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.160 - Location of nonmineral land as millsite; notice; fee.**

- (1) The proprietor of a vein or lode, or placer claim, or the owner of a quartz mill or reduction works, may locate not more than five acres of nonmineral land as a millsite. Such locations shall be made in the same manner as provided in ORS 517.044 for locating placer claims, except that no discovery or location work is required. Where a millsite is appurtenant to a mining claim, either lode or placer, the notice of location of such millsite shall describe by appropriate reference the mining claim to which it is appurtenant.
- (2) The locator of a millsite shall, within 30 days from the date of posting a notice thereon, record a copy thereof with the same county officer. The fee for recording such location notice shall be the fee provided for in ORS 205.320. Such location notices shall be recorded in the same manner as location notices of quartz or placer claims but need have no affidavit of location work attached. [1963 c.123 §1; 1999 c.654 §30]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.170 - Policy.**

It is in the interest of the State of Oregon to provide a mechanism for the removal of dormant encumbrances on property which prevent a landowner from using or developing that property in a manner which contributes to the economy and increases the state's tax base. [1983 c.421 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.180 - Procedure for extinguishing dormant mineral interest.**

- (1) An owner of land in which another person holds a mineral interest, may extinguish the holder's interest by publishing notice and submitting an affidavit of publication for recording as described in subsections (4) to (9) of this section, unless:
  - (a) Within the last 30 years, the holder of the mineral interest has submitted a statement of claim for recording in the manner set out in subsection (3) of this section; or
  - (b) The holder of the mineral interest acquired the mineral interest within the previous 30 years.
- (2) For the purposes of this section:
  - (a) "Mineral interest" includes any interest that is created by an instrument transferring, either by grant, assignment, reservation or otherwise, an interest of any kind in coal, oil, gas or other minerals and geothermal resources, except an interest vested in the United States, the State of Oregon or a political subdivision of the State of Oregon. A mineral interest does not include an interest in sand or gravel.
  - (b) "Owner of land" includes a vested fee simple owner or a contract purchaser.
- (3) The statement of claim referred to in subsection (1) of this section shall be submitted for recording in the office of the clerk of the county in which the land affected by the mineral interest is located and shall contain:

- (a) The name and address of the holder of the mineral interest as that name is shown in the instrument that created the original mineral interest; and
- (b) The name and address of the current holder of the mineral interest.
- (4) To extinguish the mineral interest held by another person, and acquire ownership of that interest, the owner of the land shall publish notice of the lapse of the mineral interest at least once each week for three consecutive weeks in a newspaper of general circulation in the county in which the lands affected by the mineral interest are located. If the address of the mineral interest holder is known or can be determined by due diligence, the notice shall also be mailed by the owner of the land to the holder of the mineral interest before the first publication.
- (5) The notice required in subsection (4) of this section shall include:
  - (a) The name of the holder of the mineral interest, as shown of record;
  - (b) A reference to the instrument creating the original mineral interest, including where it is recorded;
  - (c) A description of the lands affected by the mineral interest;
  - (d) The name and address of the person giving the notice;
  - (e) The date of first publication of the notice; and
  - (f) A statement that the holder of the mineral interest must submit a statement of claim to the county clerk within 60 days after the date of the last publication or the mineral interest of the holder may be extinguished.
- (6) A copy of the notice and an affidavit of publication of the notice, as described in subsection (7) of this section, shall be submitted to the county clerk within 15 days after the date of the last publication of the notice in the office of the clerk of the county where the lands affected by the mineral interest are located.
- (7) The affidavit of publication shall contain either:
  - (a) A statement that a copy of the notice was mailed to the holder of the mineral interest and the address to which it was mailed; or
  - (b) If no copy of the notice was mailed, a detailed description, including dates, of the efforts made to determine with due diligence the address of the holder of the mineral interest.
- (8) If the owner of the land affected by the mineral interest gives notice as required in subsection (4) of this section and submits a copy of the notice and the affidavit of publication for recording as required by subsection (6) of this section, the mineral interest of the holder shall be extinguished and become the property of the owner of the lands, unless the holder of the mineral interest submits a statement of claim to the county clerk within 60 days after the date of the last publication of the notice.
- (9) Upon receipt, the clerk of the county shall record a statement of claim or a notice and affidavit of publication of notice in the Mineral and Mining Record. When possible, the clerk shall also indicate by marginal notation on the instrument creating the original mineral interest the recording of the statement of claim or notice and affidavit of publication of notice. The clerk of the county shall record a statement of claim by cross-referencing in the Mineral and Mining Record the name of the current holder of the mineral interest and the name of the original holder of the mineral interest as set out in the statement of claim.
- (10) The provisions of this section may not be waived at any time. [1983 c.421 §2; 1997 c.819 §10; 1999 c.654 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.210 - Recording affidavit of annual compliance.**

Within 30 days after the performance of labor or making of improvements, or making federal fee payments required by law to be annually performed or made upon any mining claim, the person in whose behalf such labor was performed or improvement or payment was made, or someone in behalf of the person, knowing the facts, shall make and have recorded in the Mineral and Mining Record of the county in which the mining claim is situated, an affidavit setting forth:

- (1) The name of the claim or claims if grouped and a reference to the record where the location notice of each such claim is recorded.
- (2) The number of days' work done and the character and value of the improvements placed thereon, together with their location.
- (3) The dates of performing the labor and making the improvements.
- (4) At whose instance or request the work was done or improvements made.
- (5) The actual amount paid for the labor and improvements, and by whom paid, when the same was not done by the claim owner.
- (6) That the federal fee requirements have been met by the owner or agent and that the owner or agent intends to hold the claim in good standing for the applicable assessment year. [Amended by 1993 c.443 §1; 1999 c.654 §32]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.220 - Affidavit or lack thereof as evidence; recording fee.**

The affidavit described in ORS 517.210, when so recorded, or a duly certified copy thereof, is prima facie evidence of the facts therein stated. Failure to file such affidavit within the prescribed time is prima facie evidence that such labor has not been done. The fee for recording the affidavit shall be the fee provided by ORS 205.320. [Amended by 1971 c.621 §34; 1975 c.607 §37; 1979 c.833 §32; 1991 c.230 §29; 1999 c.654 §33]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.230 - Performance of assessment work by co-owners.**

Whenever any quartz or placer mines are owned by one or more persons, or are owned in common by any persons, any person

owning any legal or equitable interest in the mines may perform the annual assessment work upon them which is required by the laws of the United States and Oregon. Such work, when it complies with said laws, shall protect the mines from relocation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.240 - Failure of co-owner to contribute; notice.**

Upon failure of any co-owner of any mine to contribute that co-owner's proportion of expenditures required in assessment work, or to perform or pay for such proportion, the co-owners who performed or caused to be performed the labor or assessment work, may, at the expiration of the year for which the assessment work was performed, give the delinquent co-owner notice that the assessment work for that year has been performed, stating by whom performed, the amount of work performed and the dates between which it was performed; together with a statement of the amount due from the delinquent co-owner for the delinquent co-owner's proportion of the work, and requiring the delinquent co-owner, within 90 days from the date of service of the notice, to pay to the co-owners who performed or caused to be performed such work, the delinquent co-owner's proportion. The notice shall further state that if the delinquent co-owner fails or refuses to contribute the proportion due for the work, the interest of the delinquent co-owner in the mine will become the property of the co-owners who performed or caused to be performed the assessment work.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.250 - Form of notice; service; publication.**

The notice shall be in writing and signed by the co-owner who performed or caused to be performed the assessment work. It shall be served upon the delinquent co-owner personally by the sheriff of the county in which the mine is situated, if the delinquent co-owner is within the county. If the delinquent co-owner can be found in any other county, then the notice shall be served by the sheriff of that county. If the delinquent co-owner cannot be found within the state, or if at the time of giving the notice the delinquent co-owner is without the state, service of the notice shall be made by publication thereof in the weekly newspaper published in the county nearest to where the mine is situated. If there are two or more papers published in the county at the same distance from the mine, the co-owner giving notice may elect in which paper the notice shall be published. If no weekly newspaper is published within the county, service of the notice shall be made by publication in any other weekly newspaper within the state published nearest the mine. The notice shall be published at least once a week for a period of 90 days after the first publication.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.260 - Notice; return and proof of service.**

If the notice is served by any sheriff as provided in ORS 517.250, the sheriff shall make return by filing the notice with the return showing service with the county recorder, or if there is none, with the county clerk, for the county within which the mine is situated. If personal service cannot be had as provided in ORS 517.250, proof of service shall be made by filing with the county recorder, or if there is none, with the county clerk of the county in which the mine is situated, the notice as published, attached to an affidavit made by the printer, foreman, or publisher of the newspaper, to the effect that it is of general circulation throughout the county, is published weekly, and that the notice was published at least once a week in that newspaper for a period of not less than 90 days after the first publication of the notice.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.270 - Vesting of interest of delinquent co-owner.**

If at the expiration of 90 days from the date of personal service of the notice upon the delinquent co-owner or from the date of the last publication of the notice, the delinquent co-owner has not paid the proportion of the delinquent co-owner to the co-owners who performed or caused to be performed the assessment work, the title to the interest of the delinquent co-owner in the mine shall be immediately vested in the co-owners who performed or caused to be performed the assessment work.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.280 - Certificate of ownership; issuance.**

The co-owners who performed the assessment work may file with the county clerk of the county where the mine is situated, their affidavits that the payment has not been made. Upon the filing of such affidavits, the clerk shall record the notice, proof of service and affidavits in the Mineral and Mining Record. The clerk shall then and there issue to the co-owners who performed or caused to be performed the assessment work, a certificate to the effect that the clerk has recorded the notice, proof of service and affidavits of nonpayment, and that the co-owners who performed or caused to be performed the assessment work have become and are the owners of all the right, title and interest of the delinquent co-owner or co-owners of the property. [Amended by 1991 c.230 §30; 1999 c.654 §34]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.290 - Fee for certificate.**

The certificate described in ORS 517.280 shall not be issued until the co-owners entitled to it pay to the clerk a fee as set by ORS 205.320. [Amended by 1971 c.621 §35; 1975 c.607 §38; 1979 c.833 §33; 1991 c.230 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.300 - Effect of certificate; certified copy of certificate, notice and return admissible as evidence.**

(1) A certificate issued as provided in ORS 517.280 shall be equivalent to a deed from a delinquent co-owner of all the interest of the delinquent co-owner in and to all mines described in the notice, and shall convey the interest of the delinquent co-owner in the premises to the co-owner or co-owners who performed or caused to be performed the assessment work. The certificate may be introduced in evidence in any cause where ownership of the property may become material. When so introduced, it shall have the same force and effect as would a duly executed and delivered deed from the delinquent co-owner.

(2) A certified copy of the certificate, and of the notice and return, when made and certified to by the county clerk, shall be admissible in evidence in any trial where it is material to establish proof of service of the notice or ownership of the property.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.310 - Recording and indexing certificate; fee; effect.**

The certificate given by the county clerk shall be recorded in the office of the officer issuing it, upon payment of the fee established under ORS 205.320. The officer shall record and index the certificates in the Mineral and Mining Record. Such indexing and recording shall have the same force and effect as the indexing and recording of deeds to other real property, and shall give like constructive notice. [Amended by 1999 c.654 §35]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.320 - Counteraffidavits of delinquent owner; suit to quiet title; judgment.**

If prior to the issuing of the certificate there has been filed with the county clerk an affidavit by the delinquent co-owner that the payment has been made, the clerk shall not issue a certificate, but the parties shall be left to establish such fact by suit to quiet the title to the premises. If in the suit it appears either that the assessment work was not performed by the co-owners claiming to have performed it, or that the delinquent co-owner has performed or paid the delinquent co-owner's proportion of the assessment work, a judgment shall be entered in the suit to that effect; but if it is established that the assessment has been performed by or has been caused to be performed by the co-owners so claiming and that the delinquent co-owner has not performed or paid the delinquent co-owner's proportion, a judgment shall be entered providing that the co-owners who performed the assessment work to be the owners of all the interest of the delinquent co-owner in the premises. The judgment shall be entitled to record in the Mineral and Mining Record kept by the county clerk in the county, and shall be indexed in the Mineral and Mining Record for the county.

[Amended by 1999 c.654 §36; 2003 c.576 §467]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.330 - Accounting for fees.**

All fees collected under ORS 517.290 and 517.310 are the property of the county in which they are collected, and shall be accounted for by the officer collecting them as other recording fees are accounted for.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.410**

[Amended by 1961 c.419 §1; part renumbered 273.920; remainder renumbered 273.355]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.430 - Use of timber by lessee.**

(1) The lessee of the Department of State Lands under ORS 273.551 may use down timber found on the premises for fuel, and may cut and use green timber in the construction of buildings required in the operation of a mine on the premises, or for lining test pits or shafts, or for timbering drifts or excavations, or for other mining purposes, but for no other purpose.

(2) The lessee of the State Forester under ORS 273.551 may use down timber found on the premises for fuel and may cut and use green timber for lining test pits or shafts, or for timbering drifts or excavations, or for other mining purposes, but for no other purpose. [Amended by 1953 c.65 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.440 - Lessee, licensee, or operator of mine deemed bailee of yield until payment of lessor and workers.**

Any lessee, licensee, or person other than the owner, who operates or works a mine, lode, mining claim, or deposit yielding metal or mineral of any kind, has custody and control of whatever metal or mineral may be produced in such operation or work, as bailee only and not as owner, until the sum due the lessor is paid and the wages due from such lessee to the lessor or to any worker who has performed labor under contract of service on, in or about such mine, lode, mining claim, or deposit are wholly paid.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining**

**and Mining ClaimsSection 517.702 - Legislative findings.**

(1) The Legislative Assembly finds and declares that:

- (a) Mineral exploration is recognized as an integral part of the mineral industry with inherently less risk to the environment than surface or underground mining operations.
  - (b) Mineral exploration assists in the orderly identification of mineral resources in the state.
  - (c) Mineral exploration activities are recognized as distinct from operational activities.
- (2) The Legislative Assembly, therefore, declares that the purposes of ORS 517.702 to 517.755, 517.790, 517.810, 517.910 and 517.920 are to encourage efficient and environmentally sound identification and development of the mineral resources of this state. [Formerly 517.960]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.705 - Exploration permit; application; information required; fees; confidentiality of production records, mineral assessments or trade secrets.**

(1) A person may not engage in onshore exploration that disturbs more than one surface acre or involves drilling to greater than 50 feet except in compliance with a permit issued by the State Department of Geology and Mineral Industries under this section.

(2) An application for an onshore exploration permit must include:

- (a) The name and address of the surface owner and mineral owner.
  - (b) The names and addresses of the persons conducting the exploration.
  - (c) The name and address of any designated agent.
  - (d) A brief description of the exploration activities, including:
    - (A) The amount of road to be constructed;
    - (B) The number, depth and location of proposed drill holes;
    - (C) The number, depth and location of proposed monitoring wells; and
    - (D) The number, length, width and depth of exploration trenches.
  - (e) Provisions for the reclamation of surface disturbance caused by exploration activities.
  - (f) Exploration drill hole or monitoring well abandonment procedures, including:
    - (A) The capping of all holes;
    - (B) The plugging of any hole producing surface flow; and
    - (C) Appropriate sealing for any holes which have encountered aquifers.
  - (g) An exploration boundary map with the location of the proposed exploration and delineation of exploration boundaries.
  - (h) Such other information as the department by rule may require to assess the impacts of the proposed exploration.
  - (i) A nonrefundable fee of \$2,000 per application.
- (3) Each permit application may include a single contiguous exploration boundary that is no more than 640 acres.
- (4) Any production records, mineral assessments or trade secrets submitted as part of the application under subsection (2) of this section are confidential. [Formerly 517.962; 1999 c.492 §11; 2020 s.s.2 c.4 §1]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.710 - Fees.**

(1) If the person conducting an exploration under a permit issued under ORS 517.705 is not in violation of ORS 517.702 to 517.740 or 517.810 or any terms of the permit and has paid an annual renewal fee not to exceed \$1,460 prior to the anniversary date of the permit as established by the State Department of Geology and Mineral Industries, the department shall renew the permit.

(2) Nothing in this section prevents the department from suspending or revoking a permit for violations of ORS 517.702 to 517.740 or 517.810 or taking any other action authorized under this chapter. [Formerly 517.964; 2020 s.s.2 c.4 §2]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.715 - Exemptions from permit requirement.**

(1) When exploration will result in less than one acre of surface disturbance or drilling to 50 feet or less, any person conducting exploration is exempted from the requirements of the permit procedure described in ORS 517.702 to 517.740. However, nothing in this section exempts a person from the requirements of ORS chapter 273 or the requirements of other departments.

(2) All mineral exploration drill holes shall comply with the abandonment procedures specified in ORS 517.705 (2)(f). [Formerly 517.966; 1999 c.492 §12; 2020 s.s.2 c.4 §11]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.720 - Persons with operating permit exempted.**

The provisions of ORS 517.702 to 517.740 do not apply if the applicant has obtained an operating permit, described in ORS 517.790, for the area described in the exploration permit. [Formerly 517.968; 1999 c.492 §13]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining**



**and Mining ClaimsSection 517.725 - Department inspection of exploration site.**

(1) The State Department of Geology and Mineral Industries may inspect the exploration site prior to initiation of exploration to review the existing environmental conditions, assess impacts of the proposed exploration and establish the amount of financial assurance required.

(2) The department may inspect lands not later than 60 days following notification by the person conducting the exploration that reclamation is complete. If the department determines that the reclamation complies with the approved reclamation plan, including establishment of vegetation, the department may release the bond or other security required by ORS 517.810 within 60 days of that determination.

(3) The department is authorized to inspect any ongoing exploration site in order to establish compliance with ORS 517.702 to 517.755, 517.790, 517.810, 517.910 and 517.920. [Formerly 517.970]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.730 - Drill hole or well abandonment; rules.**

(1) The State Department of Geology and Mineral Industries shall consult with the Water Resources Department on the development of rules covering drill hole or monitoring well abandonment procedures, including procedures for the abandonment of holes and wells for which no exploration permit is required in ORS 517.705.

(2) Nothing in ORS 517.702 to 517.740 prohibits the conversion of exploration drill holes or monitoring wells to water wells, provided that the conversion conforms to the standards and rules of the Water Resources Department. [Formerly 517.972; 2020 s.s.2 c.4 §12]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.735 - Exploration on land administered by Department of State Lands.**

The Department of State Lands and the State Department of Geology and Mineral Industries shall coordinate the regulation of any exploration project on land administered by the Department of State Lands. [Formerly 517.974]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.740 - Rules.**

In consultation with the Environmental Quality Commission, Water Resources Commission and the State Land Board, the State Department of Geology and Mineral Industries governing board shall adopt rules to carry out the provisions of ORS 517.702 to 517.755, 517.790, 517.810, 517.910 and 517.920. [Formerly 517.976]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.750 - Definitions for ORS 517.702 to 517.989.**

As used in ORS 517.702 to 517.989, unless the context requires otherwise:

(1) "Board" means the governing board of the State Department of Geology and Mineral Industries.

(2) "Completion" means termination of surface mining activities including reclamation of the surface-mined land in accordance with the approved reclamation plan and operating permit.

(3) "Cooperating agency" means the State Department of Agriculture, the State Department of Fish and Wildlife or any agency that has statutory responsibility related to a mining operation but that does not issue a permit for the mining operation.

(4) "Department" means the State Department of Geology and Mineral Industries.

(5) "Exploration" means all activities conducted on or beneath the surface of the earth for the purpose of determining presence, location, extent, grade or economic viability of a deposit. "Exploration" does not include prospecting or chemical processing of minerals.

(6) "Explorer" means a person that is engaged in exploration.

(7) "Landowner" means:

(a) The person possessing fee title to the natural mineral deposit being surface mined or explored; and

(b) The owner of an equitable interest in land that is subject to a deed of trust.

(8) "Minerals" includes soil, coal, clay, stone, sand, gravel, metallic ore and any other solid material or substance excavated for commercial, industrial or construction use from natural deposits situated within or upon lands in this state.

(9) "Operator" means any individual, public or private corporation, political subdivision, agency, board or department of this state, any municipality, partnership, association, firm, trust, estate or any other legal entity whatsoever that is engaged in surface mining operations.

(10) "Overburden" means the soil, rock and similar materials that lie above natural deposits of minerals.

(11) "Person" means any person, any federal agency or any public body, as defined in ORS 174.109.

(12) "Processing" includes, but is not limited to, crushing, washing, milling and screening as well as the batching and blending of mineral aggregate into asphalt and portland cement concrete located within the operating permit area.

(13) "Reclamation" means the employment in a surface mining operation or exploration of procedures reasonably designed to:

(a) Minimize, as much as practicable, the adverse effects of the surface mining operation or exploration on land, air and water

resources; and

(b) Provide for the rehabilitation of surface resources adversely affected by the surface mining operations or exploration through the rehabilitation of plant cover, soil stability and water resources and through other measures that contribute to the subsequent beneficial use of the explored, mined or reclaimed lands.

(14) "Reclamation plan" means a written proposal, submitted to the department as required by ORS 517.702 to 517.989 and subsequently approved by the department as provided in ORS 517.702 to 517.989, for the reclamation of the land area adversely affected by a surface mining operation or exploration and including, but not limited to the following information:

(a) Proposed measures to be undertaken by the operator in protecting the natural resources of adjacent lands.

(b) Proposed measures for the rehabilitation of the explored or surface-mined lands and the procedures to be applied.

(c) The procedures to be applied in the surface mining operation or exploration to control the discharge of contaminants and the disposal of surface mining refuse.

(d) The procedures to be applied in the surface mining operation or exploration in the rehabilitation of affected stream channels and stream banks to a condition minimizing erosion, sedimentation and other factors of pollution.

(e) The map required by ORS 517.790 (1)(e) and such other maps and supporting documents as may be requested by the department.

(f) A proposed time schedule for the completion of reclamation operations.

(g) Requirements of the exploration permit.

(15) "Surface impacts of underground mining" means all waste materials produced by underground mining and placed upon the surface including, but not limited to, waste dumps, mill tailings, washing plant fines and all surface subsidence related to underground mining.

(16)(a) "Surface mining" includes:

(A) All or any part of the process of mining minerals by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method by which more than 5,000 cubic yards of minerals are extracted or by which at least one acre of land is affected within a period of 12 consecutive calendar months, including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits, except those constructed for use as access roads.

(B) Removal or filling, or both, within the beds or banks of any waters of this state that is the subject of a memorandum of agreement between the Department of State Lands and the State Department of Geology and Mineral Industries in which the State Department of Geology and Mineral Industries is assigned sole responsibility for permitting as described in ORS 517.797.

(b) "Surface mining" does not include:

(A) Excavations of sand, gravel, clay, rock or other similar materials conducted by the landowner or tenant for the primary purpose of construction, reconstruction or maintenance of access roads on the same parcel or on an adjacent parcel that is under the same ownership as the parcel that is being excavated;

(B) Excavation or grading operations, reasonably necessary for farming;

(C) Nonsurface effects of underground mining;

(D) Removal of rock, gravel, sand, silt or other similar substances removed from the beds or banks of any waters of this state pursuant to a permit issued under ORS 196.800 to 196.900;

(E) Excavations or reprocessing of aggregate material, or grading operations, within the highway right of way reasonably necessary for the construction, reconstruction or maintenance of a highway as defined in ORS 801.305;

(F) Excavation or movement of materials on site at a landfill, as defined in ORS 459.005, for the primary purpose of construction, reconstruction or maintenance of access roads or for landfill operations, including but not limited to landfill cell construction and daily, interim and final cover operations, if the excavation or movement of materials is covered by a permit issued by the Department of Environmental Quality under ORS 459.205 to 459.385;

(G) Excavation or grading operations necessary for construction and maintenance of utilities or drainage facilities, where the excavated material is used on site and is not sold into the commercial market as aggregate material; or

(H) Excavation or grading operations that:

(i) Are associated with on-site construction activities; and

(ii) Do not result in any excavated materials being sold into the commercial market.

(17) "Surface mining refuse" means all waste materials, soil, rock, mineral, liquid, vegetation and other materials resulting from or displaced by surface mining operations within the operating permit area, including all waste materials deposited in or upon lands within the operating permit area.

(18) "Underground mining" means all human-made excavations below the surface of the ground through shafts or adits for the purpose of exploring for, developing or producing valuable minerals. [1971 c.719 §2; 1975 c.724 §1; 1977 c.59 §1; 1981 c.622 §1; 1983 c.46 §1; 1985 c.292 §2; 1989 c.347 §12; 1999 c.353 §2; 2007 c.318 §5; 2009 c.279 §1; 2011 c.406 §2; 2017 c.736 §2; 2017 c.743 §1; 2019 c.502 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.753 - Exclusion certificate required for certain small-scale surface mining operations; application; fees.**

(1) Notwithstanding the yard and acre limitations of ORS 517.750 (16), a person may not engage in surface mining that results in the extraction of 5,000 cubic yards or less of minerals or affects less than one acre of land within a period of 12 consecutive calendar months except in compliance with an exclusion certificate issued by the State Department of Geology and Mineral Industries under this section. Except as provided in ORS 517.755, a mining operation subject to a valid exclusion certificate is not subject to the operating permit or reclamation requirements set forth in ORS 517.702 to 517.989.

(2) A person shall submit an exclusion certificate application on a form provided by the department, accompanied by a fee not to exceed \$400. If the department does not approve or disapprove the application within 90 days after the date the application is filed with the department, the application shall be deemed approved.

(3) Each holder of an exclusion certificate shall annually pay to the department a renewal fee not to exceed \$165, accompanied by a description of:

(a) The amount of minerals extracted pursuant to the certificate during the previous 12 months;

(b) The total acreage of surface disturbance by the mining operation as of the date that the renewal is submitted; and

(c) Any additional information required by the department to determine that the mining operation continues to qualify for an exclusion certificate. [2015 c.834 §2; 2017 c.736 §12; 2020 s.s.2 c.4 §3]

Note:

517.753 was added to and made a part of 517.702 to 517.989 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.755 - Mining operations affecting more than five acres.**

Notwithstanding the yard and acre limitations of ORS 517.750 (16), as soon as any mining operation begun after July 1, 1975, affects more than five acres of land the provisions of ORS 517.702 to 517.989 apply to the mining operation. [1975 c.724 §1a; 1979 c.435 §3; 1985 c.292 §3; 1985 c.565 §80; 1989 c.347 §13; 1999 c.353 §7; 2007 c.318 §15; 2017 c.736 §13]

Note:

517.755 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 517 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.760 - Policy.**

(1) The Legislative Assembly finds and declares that:

(a) It is the policy of the State of Oregon to recognize the important and essential contribution that the extraction of minerals makes to the economic well-being of the state and the nation and to prevent unacceptable adverse impacts to environmental, scenic, recreational, social, archaeological and historic resources of the state that may result from mining operations, while permitting operations that comply with the provisions set forth in ORS 517.702 to 517.951.

(b) Proper reclamation of surface-mined lands is necessary to prevent undesirable land and water conditions that would be detrimental to the general welfare, health, safety and property rights of the citizens of this state.

(c) Surface mining takes place in diverse areas where the geologic, topographic, climatic, biological and social conditions are significantly different and that reclamation operations and the specifications therefor must vary accordingly.

(d) It is not practical to extract minerals required by our society without disturbing the surface of the earth and producing waste materials and that the very character of many types of surface mining operations precludes complete restoration of the affected lands to their original condition.

(e) Reclamation of surface-mined lands as provided by ORS 517.702 to 517.951 will allow the mining of valuable minerals in a manner designed for the protection and subsequent beneficial use of the mined and reclaimed lands.

(2) The Legislative Assembly, therefore, declares that the purposes of ORS 517.702 to 517.951 are:

(a) To provide that the usefulness, productivity and scenic values of all lands and water resources affected by surface mining operations within this state shall receive the greatest practical degree of protection and reclamation necessary for their intended subsequent use.

(b) To provide for cooperation between private and governmental entities in carrying out the purposes of ORS 517.702 to 517.951 and reclamation of abandoned mined lands that may pose a hazard to public health, safety or the environment. [1971 c.719 §1; 1985 c.292 §4; 1993 c.342 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.770 - Exemptions from reclamation requirements.**

(1) The following mining operations are exempt from the reclamation requirements set forth in ORS 517.702 to 517.989:

(a) Lands within the surfaces and contours of surface mines in existence on July 1, 1972, or vertical extensions of those surfaces and contours, provided that the State Department of Geology and Mineral Industries issued a certificate of exemption to the mining operation on or before October 31, 2000.

(b) Lands within the surfaces and contours of surface mines in existence on July 1, 1972, or vertical extensions of those surfaces and contours, provided that:

- (A) The surface mining operations at the site were allowed under a comparable certificate of exemption that was issued by a county and current on the date of repeal of a county zoning law or ordinance described in ORS 517.780 (1); and
- (B) The landowner or operator applies for and receives a certificate of exemption from the department. An application for a certificate of exemption must be filed with the department within 90 days after the date the county's repeal of a zoning law or ordinance becomes effective. If the department does not approve or disapprove the application within 90 days after the date the application is filed with the department, the application will be deemed to be approved.
- (c) Lands within the surfaces and contours of surface mining operations that are owned or operated by a person that, on July 1, 1972, was a party to a surface mining contract that was valid on January 1, 1971, provided that the department issued a certificate of exemption to the mining operation on or before September 20, 1985.
- (2) A certificate of exemption terminates if the landowner or operator does not renew the certificate annually. [1971 c.719 §15; 1973 c.709 §1; 1975 c.724 §2; 1985 c.292 §5; 1987 c.260 §2; 1987 c.361 §§1,1a; 1999 c.492 §1; 2009 c.270 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.775 - Permit fee for certain landowners and operators; erosion stabilization at mining operations exempt from reclamation.**

Notwithstanding the provisions of ORS 517.770:

- (1) Any landowner or operator conducting surface mining on July 1, 1972, shall pay the permit fee as provided in ORS 517.800; and
- (2) The State Department of Geology and Mineral Industries shall require the landowner or operator to complete erosion stabilization upon completion of mining at a mining operation exempt from reclamation under ORS 517.770. [1971 c.719 §17; 1979 c.435 §4; 1985 c.292 §17; 1987 c.260 §3; 1987 c.361 §2; 1999 c.492 §2; 2009 c.270 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.780 - Effect on county zoning laws or ordinances; rules; certain operations exempt.**

- (1)(a) The provisions of ORS 517.702 to 517.989 and the rules and regulations adopted thereunder do not supersede any county zoning laws or ordinances in effect on July 1, 1972. However, if the county zoning laws or ordinances are repealed on or after July 1, 1972, the provisions of ORS 517.702 to 517.989 and the rules and regulations adopted thereunder are controlling. The governing board of the State Department of Geology and Mineral Industries may adopt rules and regulations with respect to matters covered by county zoning laws and ordinances in effect on July 1, 1972.
- (b) If the county zoning laws or ordinances specified in paragraph (a) of this subsection are repealed by a county:
- (A) The department may allow a surface mining operation that previously operated under a valid county operating permit and reclamation plan to continue to operate for a period not to exceed one year if the landowner or operator applies for an operating permit under ORS 517.790 within 60 days after the date the county's repeal of the zoning laws or ordinances becomes effective, pays all applicable fees to the department and submits a bond or security to the department as required by ORS 517.810. Pending issuance of an operating permit and approval of a reclamation plan by the department, the county permit is deemed to remain in effect and is enforceable by the department.
- (B) The department, in issuing a permit and approving a reclamation plan for a surface mining operation that previously operated under a valid county operating permit as described in paragraph (a) of this subsection, may incorporate any provisions from the county operating permit into the permit issued by the department and the reclamation plan approved by the department if the department determines that the provisions provide adequate protection of the public health, safety and welfare and the environment.
- (C) The department may issue a certificate of exemption from reclamation requirements as described in ORS 517.770 (1)(b).
- (2) City or county operated surface mining operations that sell less than 5,000 cubic yards of minerals within a period of 12 consecutive calendar months are exempt from the state mining permit requirements of ORS 517.702 to 517.989 if the city or county adopts an ordinance that includes a general reclamation scheme establishing the means and methods of achieving reclamation for city or county operated surface mining sites exempted from the state permit requirements by this subsection. [1971 c.719 §16; 1975 c.724 §3; 1977 c.524 §1; 1979 c.435 §1; 1983 c.20 §1; 1985 c.292 §6; 1987 c.361 §9; 2003 c.14 §340; 2007 c.318 §6; 2009 c.270 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.790 - Operating permit required for surface mining on certain lands; application for permit; proposed reclamation plans; waiver of requirement for preparation and approval of reclamation plan; refusal to issue operating permit; provisional operating permit.**

- (1) A landowner or operator may not allow or engage in surface mining on land not surface mined on July 1, 1972, without holding a valid operating permit from the State Department of Geology and Mineral Industries for the surface mining operation. A separate permit is required for each separate surface mining operation. A person seeking an operating permit from the department shall submit an application on a form provided by the department that contains the following information:
- (a) The name and address of the landowner and the operator and the names and addresses of any persons designated by them as their agents for the service of process.
- (b) The materials for which the operation is to be conducted.
- (c) The type of surface mining to be employed in the operation.

- (d) The proposed date for the initiation of the operation.
  - (e) The size and legal description of the lands that will be affected by the operation, and, if more than 10 acres of land will be affected by the operation and if the department determines that the conditions warrant it, a map of the lands to be surface mined that includes the boundaries of the affected lands, topographic details of the lands, the location and names of all streams, roads, railroads, utility facilities, wells, irrigation ditches, ponds, stockpiles, buffers, setbacks and excavation boundaries within or adjacent to the lands, the location of all proposed access roads to be protected or constructed in conducting the operation and the names and addresses of the owners of all surface and mineral interests of the lands included within the surface mining area.
  - (f) If practicable, a plan for visual screening by vegetation or otherwise that will be established and maintained on the lands within the operation for the purpose of screening the operation from the view of persons using adjacent public highways, public parks and residential areas.
  - (g) The type of monitoring well abandonment procedures.
  - (h) A proposed reclamation plan that is acceptable to and approved by the department.
  - (i) Any other information that the department considers pertinent in its review of the application.
- (2) The department may waive the requirement for preparation and approval of a reclamation plan if:
- (a) The operation is conducted as part of the on-site construction of a building, public works project or other physical improvement of the subject property;
  - (b) The operation is reasonably necessary for such construction; and
  - (c) The proposed improvements are authorized by the local jurisdiction with land use authority.
- (3) The department may not issue an operating permit to an operator other than the owner or owners of the surface and mineral interests of the lands included within the surface mining area unless the operator:
- (a) Has written approval from the owner or owners of all surface and mineral interests of the lands included within the surface mining area; and
  - (b) Maintains a legal interest in the lands that is sufficient to ensure that the operator has the authority to operate and reclaim the lands as provided in the operating permit and reclamation plan.
- (4) The department may refuse to issue an operating permit to a person who has not, in the determination of the department, substantially complied with the conditions of an operating permit or reclamation plan, the provisions of this chapter or the rules adopted by the department to carry out the purposes of this chapter.
- (5) The department shall issue a provisional operating permit to an applicant that has not obtained all required federal, state and local permits and approvals for the proposed mining operation, provided:
- (a) The applicant has complied with this chapter and the rules adopted by the department to carry out the purposes of this chapter; and
  - (b) The permit:
    - (A) Does not become effective until the applicant obtains all required permits and approvals; and
    - (B) Contains conditions:
      - (i) Requiring the applicant to obtain an amendment to the provisional operating permit if necessary to conform with a subsequently obtained federal, state or local permit or approval; and
      - (ii) Prohibiting the applicant from allowing or engaging in any surface mining operations on the land prior to the effective date of the provisional operating permit. [1971 c.719 §4; 1973 c.709 §2; 1987 c.361 §10; 1989 c.347 §10; 1999 c.353 §3; 2007 c.318 §7; 2017 c.736 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.795 - Department to consult with and cooperate with other agencies.**

- (1) The State Department of Geology and Mineral Industries shall consult with other state agencies as necessary to ensure that rules developed by the department and those agencies regarding exploration or monitoring well requirements for sites described under ORS 517.790 do not conflict.
- (2) The department and any other state agencies imposing requirements for exploration or monitoring wells for sites described under ORS 517.790 may enter into agreements for the department to act on behalf of the agencies in informing the landowner or operator of the requirements and overseeing enforcement of the requirements. [1997 c.184 §1]

Note:

517.795 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 517 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.797 - Memorandum of agreement with Department of State Lands regarding permitting.**

- (1) As used in this section, "surface mining" has the meaning given that term in ORS 517.750 and "waters of this state" has the meaning given that term in ORS 196.800.
- (2) The Department of State Lands and the State Department of Geology and Mineral Industries may enter into a memorandum of agreement concerning surface mining as described in subsection (3) of this section.
- (3) The memorandum described in subsection (2) of this section may assign sole responsibility for permitting to the State

Department of Geology and Mineral Industries when the surface mining would otherwise be under the permitting jurisdiction of both the Department of State Lands and the State Department of Geology and Mineral Industries because:

- (a) Part of the surface mining is located within the beds or banks of any waters of this state; and
  - (b) Part of the surface mining is located upland from the beds or banks of any waters of this state.
- (4) Prior to any permitting pursuant to the provisions of subsection (3) of this section, the State Department of Geology and Mineral Industries shall consult with the Department of State Lands regarding any conditions necessary to protect the waters of this state. [2011 c.406 §1]

Note:

517.797 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 517 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.800 - Fees; rules; annual report.**

- (1)(a) Except for an application for a mining operation submitted under ORS 517.910 to 517.989, each applicant for an operating permit under ORS 517.702 to 517.989 shall pay to the State Department of Geology and Mineral Industries a fee established by the State Geologist in an amount not to exceed \$2,000.
- (b) If an application for a new permit or an amendment to an existing permit requires extraordinary department resources because of concerns about slope stability or proximity to waters of the state or other environmentally sensitive areas, the applicant shall pay to the department an additional fee in an amount the State Geologist deems adequate to cover the additional costs for staff and other related expenses. The State Geologist shall consult with the applicant when determining the amount of the fee.
- (2) A holder of an operating permit that did not extract minerals during the preceding 12-month period shall pay to the department an annual renewal fee of \$1,200. A holder of an operating permit that extracted minerals during the preceding 12-month period shall pay to the department an annual renewal fee of \$1,460 and \$0.0125 per ton of minerals extracted during the preceding 12-month period.
- (3) If a reclamation plan is changed, the operator may be assessed for staff time and other related costs an amount not to exceed \$2,000 in addition to the annual renewal fee. This subsection does not apply to a mining operation that is subject to the fee established by ORS 517.973 (2)(a).
- (4) If an operator requests that the department respond to requests for information required by a local government in making a land use planning decision, the State Geologist may require the operator to pay the department a fee for staff time and related costs. The department shall notify the operator in advance of the estimated costs of providing the information, and the assessment may not exceed the estimate.
- (5) The State Geologist may require the operator of a site to pay to the department a special inspection fee in an amount not to exceed \$2,000 for an inspection conducted under the following circumstances:
- (a) Investigation of surface mining operations conducted without the operating permit required under ORS 517.790; or
  - (b) Investigation of surface mining operations conducted outside the area authorized in an operating permit.
- (6) Upon request of an applicant or operator, the department shall provide an itemized list and documentation of expenses used to determine a fee under subsection (1)(b), (3) or (4) of this section.
- (7) Notwithstanding the per ton fee established in subsection (2) of this section, the governing board of the department may lower to zero or raise the per ton fee up to \$0.015 to reflect actual expenses of the department in administering ORS 517.702 to 517.951.
- (8) All fees collected by the department under this section shall be deposited in the Mined Land Regulation and Reclamation Program Subaccount within the Geology and Mineral Industries Account. The department shall prepare and submit to the governing board of the department an annual report on the financial status of the Mined Land Regulation and Reclamation Program Subaccount.
- (9) The governing board of the department shall adopt rules establishing:
- (a) Procedures for the administrative review of the determinations of fees under this section.
  - (b) The payment date for fees required under this section.
  - (c) Late fees of up to five percent of the unpaid amount of a fee owed under this section if the fee is more than 60 days past due. [1971 c.719 §7; 1973 c.709 §3; 1977 c.524 §2; 1979 c.435 §2; 1981 c.274 §1; 1983 c.88 §1; 1985 c.292 §8; 1987 c.598 §1; 1989 c.346 §1; 1991 c.735 §28; 1993 c.399 §1; 1995 c.79 §297; 1997 c.62 §1; 1999 c.353 §4; 2003 c.520 §1; 2005 c.650 §§1,1a; 2007 c.318 §16; 2013 c.371 §29; 2015 c.834 §3; 2020 s.s.2 c.4 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.810 - Requirement for bond or security; rules; other security in lieu of bond.**

(1) Before issuing or reissuing an operating permit for any surface mining operation or issuing or reissuing an exploration permit for any exploration activity, the State Department of Geology and Mineral Industries shall require that the applicant for the permit file with it a bond or security acceptable to the department in a sum to be determined by the department but in an amount not to exceed the total cost for reclamation if the department were to perform the reclamation. The decision of the department may be appealed to the governing board of the State Department of Geology and Mineral Industries as provided in ORS chapter 183. The bond or security shall be conditioned upon the faithful performance of the reclamation plan and of the other requirements of ORS 517.702 to

517.989 and the rules adopted thereunder.

(2) Nothing in this section shall apply to any public body, as defined in ORS 174.109.

(3) In lieu of the bond or other security required of the applicant in subsection (1) of this section, the department may accept a similar security from the landowner, equal to the estimated cost of reclamation as determined by the department in consultation with the operator or explorer. The decision of the department may be appealed to the governing board as provided in ORS chapter 183.

(4) In lieu of the bond required by subsection (1) of this section, the department may accept a blanket bond covering two or more surface mining sites or exploration projects operated by a single company, owned by a single landowner or operated by all members of an established trade association, in an amount, established by the department, not to exceed the amount of the bonds that would be required for separate sites.

(5) The governing board shall identify by rule the procedures for the determination of the amount of the bond or other security required of an applicant for an operating permit or exploration permit. The rules:

(a) Shall provide an opportunity for participation by the applicant as part of the procedures; and

(b) May allow for the amount of the bond to be calculated and adjusted based upon the total area expected to be in a disturbed condition in the following year as a result of the surface mining or exploration operation.

(6) Any deposit of moneys accepted and held by the department as a form of security pursuant to the provisions of this section shall be deposited in the Reclamation Guarantee Fund. [1971 c.719 §8; 1975 c.724 §4; 1979 c.435 §5; 1983 c.497 §1; 1985 c.291 §1a; 1985 c.292 §9; 1987 c.361 §5; 1989 c.347 §11; 1999 c.492 §3; 2005 c.34 §6; 2015 c.834 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.813 - Reclamation Guarantee Fund.**

(1) The Reclamation Guarantee Fund is established in the State Treasury, separate and distinct from the General Fund. The Reclamation Guarantee Fund shall consist of deposits of moneys received under ORS 517.810.

(2) Interest earned on the Reclamation Guarantee Fund shall be paid to the State Treasury and deposited in the General Fund to the credit of the Geology and Mineral Industries Account.

(3) The State Department of Geology and Mineral Industries shall annually prepare and submit to the governing board of the department a report on the financial status of the Reclamation Guarantee Fund. [2015 c.834 §5]

Note:

517.813 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 517 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.815 - Reclamation bond pooling program; requirements; rules.**

(1) The State Department of Geology and Mineral Industries may establish and administer a program that provides for the pooling of reclamation bonds to assist:

(a) An operator in complying with the reclamation bond requirements of ORS 517.810;

(b) A person engaging in small mining operations or small exploration projects on federally managed lands to comply with financial guarantee requirements imposed by the Federal Land Policy and Management Act of 1976 (P.L. 94-579) or regulations adopted to implement the Act under 43 U.S.C. 1740; or

(c) A person engaging in any form of mining or exploration to comply with bonding requirements imposed pursuant to county ordinance.

(2) The program must:

(a) Be designed to reduce the financial burden of obtaining a reclamation bond for mining or exploration.

(b) Require each person participating in the program to:

(A) Pay an amount into the pool each year that is actuarially determined to enable the program to be self-sustaining and pay for the costs of the department in administering the program;

(B) Execute an agreement, on a form provided by the department, to indemnify the pool for any claims made against the reclamation bond; and

(C) Provide security approved by the State Geologist, if the State Geologist considers security necessary to ensure against the possible forfeiture of the reclamation bond.

(c) Use the moneys in the pool to cover the bonded liability of persons participating in the program.

(d) Provide a limit on the total bonded liability of any person that may be covered under the program.

(e) Provide conditions for the release or forfeiture of bonds.

(f) Provide that a person that participates in the program has obtained security acceptable to the department as required by ORS 517.810.

(3) The department may adopt rules relating to the development and administration of the program established under this section. [2003 c.646 §2]

Note:

517.815 was added to and made a part of 517.702 to 517.989 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.820 - Extensions of time for submission of proposed reclamation plans; time limit for reclamation completion; consultation with cooperating agencies.**

(1) Upon good cause shown, the State Department of Geology and Mineral Industries may grant reasonable extensions of time for the completion by the landowner or operator and the submission to the department of a proposed reclamation plan required by ORS 517.790. Each reclamation plan submitted to the department must provide that all reclamation activities shall be completed within three years after the termination of mineral extraction from the surface mining operation conducted within each separate area for which an operating permit is requested. Each such reclamation plan shall be approved by the department if it adequately provides for the reclamation of surface-mined lands.

(2) Prior to approving a proposed reclamation plan, the department shall consult with all other cooperating agencies and appropriate local planning authorities. [1971 c.719 §5; 1977 c.59 §2; 2007 c.318 §17; 2017 c.736 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.825 - Mining aggregate on high-value farmland; requirements; rules.**

(1) As used in this section, "significant aggregate resource" means the average minimum depth of aggregate, determined by rule of the Land Conservation and Development Commission, that is required for a local government to find that the aggregate resource is significant pursuant to a statewide land use planning goal that protects natural resources and conserves scenic, historic and open space resources.

(2) When the State Department of Geology and Mineral Industries issues an operating permit under ORS 517.790 for mining aggregate on high-value farmland composed predominantly of Class I and Class II soils in the Willamette Valley, the department shall require:

(a) An operator or owner to excavate substantially all of the significant aggregate resource within the operating permit boundary, not including any buffer, setback and sloping areas:

(A) To the extent that the removal of the significant aggregate resource can be done in a manner that is consistent with operating permit conditions imposed by the department; and

(B) Subject to limitations imposed by other federal, state or local regulatory requirements.

(b) An applicant to demonstrate to the satisfaction of the department that the operator or owner has the mechanical ability to comply with paragraph (a) of this subsection.

(c) Performance of the requirements of paragraph (a) of this subsection before approving final reclamation and closure of the mining operation, unless:

(A) The operator or owner defaults as described in ORS 517.860; or

(B) Performance is not required due to changed conditions or new information that justify a permit modification under ORS 517.831.

(3) The acceptance by the department of a plan to mine in compliance with subsection (2)(a) of this section does not establish a depth standard for purposes of land use permits or authorizations.

(4) The time limitations imposed on the department under ORS 517.830 do not apply to an application for an operating permit, or the transfer of a permit under ORS 517.833, that is subject to this section.

(5) This section does not require the operator or owner to provide bond or security to excavate to the permitted depth. [2013 c.706 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.830 - Operating permit approval process; appeal from denial of plan; consolidated application process.**

(1) Upon receipt of an application for an operating permit, the State Department of Geology and Mineral Industries shall:

(a) Inspect the operating site described in the application;

(b) Provide notice to the local jurisdiction and an opportunity for the local jurisdiction to, within 30 days after the date of the notice, request that the department delay a decision on an operating permit and reclamation plan as provided in subsection (4) of this section; and

(c) If the application is not subject to the consolidated application process under ORS 517.952 to 517.989, provide notice to each federal and state permitting agency, as defined in ORS 517.952, and each cooperating agency and provide an opportunity for the agencies to, within 30 days after the date of the notice, respond in writing to the department identifying reasonably expected adverse effects of the proposed mining operation on land, air, water or wildlife resources.

(2) Within 90 days after the date that the application and the required permit fee are received, the department shall issue the operating permit applied for or, if it considers the application incomplete, return the application to the applicant for correction of the deficiencies indicated by the department. An operating permit that is not subject to ORS 517.952 to 517.989 shall contain reasonable conditions designed to avoid or minimize an adverse effect identified by an agency pursuant to subsection (1)(c) of this section, provided:

(a) A permit issued by a federal, state or local permitting agency approving the mining operation does not include provisions to



mitigate the adverse effect; and

(b) The land use decision issued by the local government approving the mining operation does not include provisions to mitigate the adverse effect.

(3) Failure by the department to act upon the reclamation plan submitted with an application for an operating permit within the 90-day period referred to in subsection (2) of this section is not a denial by the department of the operating permit applied for. The department, pending final approval of a reclamation plan, may issue a provisional permit subject to reasonable limitations that may be prescribed by the department and conditioned upon the applicant's compliance with the bond and security requirements established by ORS 517.810.

(4)(a) Notwithstanding subsections (2) and (3) of this section, if an application involves an aggregate site that requires a permit issued pursuant to ORS 215.427 or 227.178, and if the local jurisdiction requests that the application not be decided until the local jurisdiction has taken final action, the department shall make a final decision on the operating permit and reclamation plan no later than 165 days after the date a complete land use application is submitted to the local jurisdiction, unless the applicant agrees to allow additional time under ORS 215.427, 215.429, 227.178 or 227.179. If a plan amendment is required as part of issuance of a permit, the provisions of paragraph (b) of this subsection apply. The department may not approve an operating permit and reclamation plan if the land use application is denied.

(b) Notwithstanding subsections (2) and (3) of this section, if an application involves an aggregate site that requires amendment to a comprehensive plan, as defined in ORS 197.015, and if the local jurisdiction requests that the application not be decided until the local jurisdiction has taken final action on the plan amendment, the department may not make a final decision on the operating permit and reclamation plan until the local jurisdiction has taken final action on the plan amendment. The department shall make its final decision within 45 days of the date that the local jurisdiction has taken final action on the plan amendment. The department may not approve an operating permit and reclamation plan if the plan amendment is denied.

(5) Conditions and requirements imposed on an operating permit and reclamation plan, and modifications thereto, issued subsequent to issuance of a local jurisdiction permit shall be compatible with the requirements and conditions of the local government permit, unless more stringent requirements are necessary to comply with the provisions of ORS 517.750 to 517.901.

(6)(a) If a local jurisdiction does not request that the department delay a decision on an operating permit and reclamation plan as provided in subsections (1)(b) and (4) of this section, the department shall, prior to issuing the operating permit, give the local jurisdiction notice and an opportunity to provide comments and the following information about the proposed operating permit and reclamation plan:

(A) Information about any applicable local land use regulations;

(B) Whether the site described in the proposed operating permit and reclamation plan is included on a local government inventory required by any open spaces, scenic and historic areas and natural resources land use planning goal;

(C) A statement that an application has or has not been filed for local approval; and

(D) Any other information that the local jurisdiction considers pertinent in its review of the application.

(b) A local jurisdiction shall respond to a notice provided under paragraph (a) of this subsection within 35 days after the date of the notice.

(7) If the department refuses to approve a submitted reclamation plan, it shall notify the applicant, in writing, of its reasons for the refusal to approve the reclamation plan, including additional requirements as may be prescribed by the department for inclusion in the reclamation plan. Within 60 days after the receipt of the notice, the applicant shall comply with the additional requirements prescribed by the department for the reclamation plan or file with the department a notice of appeal from the decision of the department with respect to the reclamation plan. If a notice of appeal is filed with the department by the applicant, the department may issue a provisional permit to the applicant.

(8) If an application is submitted as part of the consolidated application process under ORS 517.952 to 517.989, review of the application and approval or denial of the application shall be in accordance with ORS 517.952 to 517.989. However, the review and approval or denial shall take into consideration all policy considerations for issuing a permit under ORS 517.702 to 517.989. [1971 c.719 §6; 1975 c.724 §5; 1985 c.292 §10; 1991 c.243 §2; 1991 c.735 §29; 1999 c.353 §5; 1999 c.492 §4; 1999 c.533 §13; 2001 c.104 §226; 2007 c.318 §8; 2015 c.492 §1; 2017 c.736 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.831 - Modification of operating permit or reclamation plan; opportunity for alternative dispute resolution.**

(1) Except as provided in subsection (2) of this section, the State Department of Geology and Mineral Industries may not modify an operating permit or reclamation plan without the consent of the operator.

(2) The department may modify an operating permit or reclamation plan without the consent of the operator if, because of changed conditions at the permitted site or because of information otherwise not available to the department at the time of permit issuance or reclamation plan establishment, the department finds, by substantial evidence, that a modification is justified due to the potential for:

(a) Substantial harm to off-site property;

(b) Harm to threatened or endangered species; or

(c) Channel changes or unstable pit walls.

(3) Modification of an operating permit or reclamation plan without the consent of the operator must be limited to the areas or

matters affected by the changed conditions or new information.

(4) If the department modifies an operating permit or reclamation plan without the consent of the operator, the department must provide the operator with an opportunity for alternative dispute resolution in the manner provided in ORS 183.502. [2007 c.318 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.832 - Emergency operating permit; rules.**

(1) Notwithstanding ORS 517.810 and 517.830, the State Department of Geology and Mineral Industries may issue an emergency operating permit if:

(a) A natural disaster, including but not limited to a flood or an earthquake, or the effects of a natural disaster threaten significant damage to property or to natural resources; and

(b) A surface mining operation is necessary to abate the threat.

(2) The governing board of the department shall adopt rules governing the issuance of emergency operating permits. The rules shall include provisions:

(a) Ensuring that emergency operating permits are not issued over the objection of affected federal agencies or public bodies, as defined in ORS 174.109;

(b) Specifying the terms of an emergency operating permit;

(c) Establishing procedures for converting an emergency operating permit to a standard operating permit; and

(d) Establishing procedures for payment of fees under ORS 517.800. [2005 c.34 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.833 - Transfer of operating permit; rules.**

(1) A person who by sale, assignment, lease or other means has succeeded in interest to an uncompleted surface mining operation may request that the State Department of Geology and Mineral Industries release the existing operator from any reclamation obligations and transfer the operating permit to the successor. The department shall transfer the operating permit, unless:

(a) The successor does not agree to full assumption of the reclamation requirements in the operating permit and reclamation plan;

(b) The successor fails to provide a bond or security as required by ORS 517.810;

(c) More than one person has a claim to the property or operating permit and there is a dispute between the claimants that presents a justiciable controversy; or

(d) The successor, as the operator of another permitted site in this state, has failed to substantially comply with the conditions of an operating permit or reclamation plan, the provisions of ORS 517.702 to 517.989 or the rules adopted by the department to carry out the purposes of ORS 517.702 to 517.989.

(2) The governing board of the State Department of Geology and Mineral Industries may adopt rules relating to the responsibilities and duties of a person requesting a transfer of an operating permit under this section. [2007 c.318 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.834 - Temporary operating permit; rules.**

(1) Notwithstanding ORS 517.810 and 517.830, the State Department of Geology and Mineral Industries may issue a temporary operating permit to a person if:

(a) After consultation, the local jurisdiction with land use authority over the permitted site does not raise substantive objections to the issuance of the permit;

(b) All cooperating agencies approve of the permit issuance; and

(c) There is no objection from persons owning property adjacent to the permitted site.

(2) A temporary operating permit issued under this section is subject to reasonable limitations that may be prescribed by the department.

(3) Within 30 days after issuing the temporary operating permit, the operator shall:

(a) Comply with the bond and security requirements established by ORS 517.810;

(b) Pay any applicable fee pursuant to ORS 517.800; and

(c) Submit a reclamation plan to the department.

(4) The governing board of the department shall adopt rules governing the issuance of temporary operating permits. The rules shall include provisions:

(a) Ensuring opportunities for notice and comment by federal agencies;

(b) Specifying the terms of a temporary operating permit; and

(c) Establishing procedures for converting a temporary operating permit to a standard operating permit. [2005 c.34 §4; 2017 c.736 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.835 - Conditions on operating permit or reclamation plan to prevent impact on ground water.**

(1) Notwithstanding ORS 517.831, the State Department of Geology and Mineral Industries may require conditions on any new or existing surface mining operating permit or reclamation plan sufficient to prevent or mitigate off-site impacts to ground water resources from the removal of water from surface mining operations. The department may include ground water monitoring as one of the conditions.

(2) The department shall consult with the operator and the Water Resources Department in assessing off-site impacts and in developing prevention or mitigation measures prior to imposing any conditions on an operating permit or reclamation plan pursuant to this section.

(3) As used in this section, "mitigation" has the meaning given that term in ORS 517.952. [2003 c.470 §2; 2007 c.318 §9; 2013 c.371 §30]

Note:

517.835 was added to and made a part of 517.702 to 517.989 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.836 - Surveying or marking surface mining operations; rules.**

(1)(a) The governing board of the State Department of Geology and Mineral Industries may adopt rules requiring the surveying or marking of surface mining operations.

(b) The rules may include, but are not limited to, requirements for maps or diagrams showing areas excavated or approved for excavation, setbacks or buffers established by the operating permit and the location of buildings, wells, ponds, haul roads, stockpiles, bodies of water and floodways.

(c) The rules may require that information required under this subsection be updated if the mining operations are subject to:

(A) A notice of violation under ORS 517.860;

(B) A suspension order under ORS 517.880; or

(C) A significant modification of the operating permit or reclamation plan under ORS 517.831.

(d) The rules may exempt mining operations from survey or marking requirements based on the size or location of the operations or on the distance of the operations from ground and surface waters.

(e) The rules must allow for reasonable compliance schedules for existing mining operations.

(2) The governing board may adopt rules requiring surface mining operators to collect and report information relating to amount and nature of materials excavated or processed at a surface mining operation and the impacts of mining operations on ground or surface water. [2007 c.318 §4a]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.837 - Annual report by permittee; rules.**

A person holding an operating permit issued pursuant to ORS 517.830 shall, no later than March 31 of each year, file an annual report with the State Department of Geology and Mineral Industries. The governing board of the department shall adopt rules describing the information relating to the permit and operations under the permit that must be included in the annual report. [2005 c.34 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.840 - Administration and enforcement of ORS 517.702 to 517.989; rules.**

The governing board of the State Department of Geology and Mineral Industries shall administer and enforce the provisions of ORS 517.702 to 517.989 and:

(1) May conduct or cause to be conducted investigations, research, experiments and demonstrations and may collect and disseminate information related to surface mining and the reclamation of surface-mined lands.

(2) May cooperate with other governmental and private agencies of this state or of other states and with agencies of the federal government, including the reimbursement for any services provided by such agencies to the State Department of Geology and Mineral Industries at its request.

(3) May apply for, accept and expend public and private funds made available for the reclamation of lands affected by surface mining in accordance with the purposes of ORS 517.702 to 517.989.

(4) May, in accordance with the applicable provisions of ORS chapter 183, adopt rules to carry out the provisions of ORS 517.702 to 517.989.

(5) Shall establish by rule a program to encourage voluntary reclamation practices that exceed the normal reclamation standards to provide maximum enhancement and benefits from mined lands. The program shall include incentives and other actions that will encourage voluntary reclamation practices.

(6) May receive and manage abandoned mined land funds received for abandoned mined land reclamation from the federal government. [1971 c.719 §3; 1985 c.292 §11; 1989 c.461 §1; 1993 c.342 §2; 1995 c.509 §2; 2007 c.318 §10; 2013 c.371 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.850 - Inspection of permit area.**

At such reasonable times as the State Department of Geology and Mineral Industries may elect, the department, after reasonable advance notice has been given to the operator, may cause the permitted site to be inspected to determine if the operator has complied with the operating permit, reclamation plan, this chapter and the rules of the department. [1971 c.719 §9; 1997 c.183 §2; 2007 c.318 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.855 - Disruption of portion of mining property preserved from mining.**

(1) Any portion of a mining property that is preserved from mining, including, but not limited to, a setback, buffer zone or no-impact area, may be excavated, reduced, added to, elevated, reshaped, contoured, graded or otherwise disrupted for the purpose of facilitating the reclamation of the mined area or integrating the reclaimed area with its surroundings.

(2) Subsection (1) of this section does not permit the removal for profit of any valuable mineral. [1997 c.186 §2]

Note:

517.855 was added to and made a part of 517.702 to 517.989 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.860 - Effect of failure to comply with operating permit or reclamation plan; department may perform work and assess costs against bond or security.**

(1) If, from inspections conducted pursuant to ORS 517.850 or from any other source, the State Department of Geology and Mineral Industries determines that the operator has not complied with or is not complying with the operating permit, the reclamation plan, the provisions of this chapter or the rules of the department, the department may issue either or both of the following to the operator:

(a) Written notice of the violation. The notice shall specifically outline the deficiencies.

(b) A compliance order. The order may specify a date by which the operator shall rectify any deficiencies. The department may extend the period if delays occasioned for causes beyond the operator's control necessitate more time, but only when the operator is, in the opinion of the department, making a reasonable effort to comply with the order.

(2) The department may recover against the bond or alternative form of financial security and reclaim the area affected by surface mining if the department determines that an operator:

(a) Has failed to comply with a department order issued under subsection (1) of this section;

(b) Fails to complete reclamation in conformance with the reclamation plan on any segment of the permitted site or fails to complete reclamation in a timely manner; or

(c) Fails to maintain an operating permit and pay all fees required under ORS 517.800.

(3) If the department makes a claim on the bond or security filed pursuant to ORS 517.810, the surety on the bond or holder of the other security shall pay to the department the amount of the bond or other security required. The department may reclaim the surface-mined land in a manner determined by the department, including by public or private contractor. If the amount is not paid within 30 days, the Attorney General, upon request of the department, shall institute proceedings to recover the amount.

(4) If the landowner has given security as provided in ORS 517.810 (3) and the operator is in default as specified in subsection (2) of this section, the landowner shall be held responsible for complying with the reclamation plan of the operator. The department shall furnish written notice of the default to the landowner and require the landowner to complete the reclamation as specified in the operator's reclamation plan acceptable to the department. If the landowner has not commenced action to rectify the deficiencies within 30 days after receiving notice, or if the landowner fails to diligently pursue reclamation in conformance with the plan, the department may demand payment of the amount of the bond or other security from the surety or other holder and otherwise proceed as provided in subsections (2) and (3) of this section.

(5) The department, in performing reclamation of surface-mined land, shall pursue a goal for reclamation designed to:

(a) Remove hazards;

(b) Protect from drainage problems and from pollution;

(c) Meet local land use requirements for reclamation; and

(d) Comply with all federal and state laws.

(6) The department may delay, for a reasonable time not to exceed one year, all or part of any reclamation activities if the department determines that it is likely that:

(a) Marketable mineral reserves exist at the permitted site; and

(b) A new operator will seek an operating permit for the site and assume all reclamation responsibilities. [1971 c.719 §10; 1975 c.724 §6; 1977 c.59 §3; 1983 c.497 §2; 1985 c.291 §3; 1997 c.183 §1; 1999 c.353 §6; 1999 c.492 §5; 2007 c.318 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.862 - Revocation, termination or refusal to renew operating permit.**

(1) Except as provided in subsection (2) of this section, the State Department of Geology and Mineral Industries may not revoke, terminate or refuse to renew an operating permit if marketable reserves exist at the permitted site and if there is a significant potential for continued mining opportunities given reasonably foreseeable economic conditions.

(2) The department may revoke, terminate or refuse to renew an operating permit if the operator:

- (a) Requests termination, provided that all reclamation requirements in the operating permit and reclamation plan have been satisfied;
  - (b) Fails to pay a fee as required by ORS 517.800 within 60 days of the due date;
  - (c) Fails to provide or maintain a bond or security as required by ORS 517.810;
  - (d) Fails to comply with an order issued under ORS 517.860; or
  - (e) Fails to comply with a suspension order issued under ORS 517.880.
- (3) If an operating permit is revoked, terminated or not renewed, the operator may not perform any actions at the permitted site, except that the operator may, after receiving written approval from the department:
- (a) Perform actions at the permitted site that are necessary to comply with reclamation requirements in the operating permit or reclamation plan, including but not limited to removal of mining-related stockpiles;
  - (b) Excavate materials at the permitted site that are necessary for reclamation; and
  - (c) Remove any excavated materials from buffers, setbacks or other areas not approved for disturbance and restore the areas to the approximate pre-mining contours with materials approved by the department.
- (4) The department, in lieu of or in addition to revoking, terminating or refusing to renew an operating permit for the reasons specified in subsection (2) of this section, may recover against the bond or security filed pursuant to ORS 517.810 and reclaim the area affected by surface mining. [2007 c.318 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.865 - Effect of failure to perform reclamation and insufficient bond; lien; notice; priority; foreclosure.**

- (1) If an operator fails to faithfully perform the reclamation required by the reclamation plan and if the bond or security required by ORS 517.810 is not sufficient to compensate the State Department of Geology and Mineral Industries for all reasonably necessary costs and expenses incurred by it in reclaiming the surface-mined land, the amount due shall be a lien in favor of the department upon all property, whether real or personal, belonging to the operator. However, for any operator that is first issued a permit after June 30, 1989, the lien shall not exceed \$2,500 for each site plus \$1,500 per acre.
- (2) The lien shall attach upon the filing of a notice of claim of lien with the county clerk of the county in which the property is located. The notice of lien claim shall contain a true statement of the demand, the insufficiency of the bond or security to compensate the department and the failure of the operator to perform the reclamation required.
- (3) The lien created by this section is prior to all other liens and encumbrances, except that the lien shall have equal priority with tax liens.
- (4) The lien created by this section may be foreclosed by a suit in the circuit court in the manner provided by law for the foreclosure of other liens on real or personal property. [1975 c.724 §8; 1983 c.497 §3; 1985 c.291 §4; 1987 c.361 §7; 1999 c.492 §6; 2007 c.318 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.870 - Adjustment of bond or security of operator upon satisfactory completion of reclamation work.**

Upon request of the operator, and when in the judgment of the State Department of Geology and Mineral Industries the reclamation has been completed in accordance with the reclamation plan, the operator shall be notified that the work has been found to be satisfactorily performed and is acceptable and the bond or security of the operator shall be adjusted accordingly. [1971 c.719 §11; 1999 c.492 §7; 2007 c.318 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.880 - Order for suspension of surface mining operation operating without required permit; enjoining operation upon failure of operator to comply; completion of reclamation by department.**

- (1) When the State Department of Geology and Mineral Industries finds that an operator is conducting a surface mining operation for which an operating permit is required by ORS 517.702 to 517.989 or by rules adopted by the department, but has not been issued by the department, the department may issue an order to the operator to suspend the operation until an operating permit has been issued by the department for the surface mining operation or until the department is assured that the operator will comply with the requirement to obtain a permit.
- (2) The department may issue an order to an operator to suspend operations if the operator has not complied with or is not complying with the operating permit, reclamation plan, this chapter or rules of the department. Failure to comply includes, but is not limited to, disturbing land within the permit boundary that has not been approved by the department for excavation, placement of debris or removal of vegetation.
- (3) If the operator fails or refuses to comply with a suspension order, the Attorney General, at the request of the department, shall initiate any necessary legal proceeding to enjoin the surface mining operation and to provide for completion of the reclamation of the lands affected by the operation, including the restoration of buffers, setbacks or other areas not approved for disturbance. [1971 c.719 §12; 1985 c.292 §12; 1997 c.183 §3; 2007 c.318 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.890 - Review of final determination.**

Any final determinations made by the State Department of Geology and Mineral Industries in carrying out the provisions of ORS 517.702 to 517.989 and the rules and regulations adopted thereunder may be reviewed in the manner provided by the applicable provisions of ORS chapter 183. [1971 c.719 §13; 1985 c.292 §13; 1999 c.492 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.901 - Confidentiality of production records, mineral assessments and trade secrets.**

Any production records, mineral assessments and trade secrets submitted by a mine operator or landowner to the State Department of Geology and Mineral Industries shall be confidential. [1999 c.492 §10 (enacted in lieu of 517.900)]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.905 - Applicability of ORS 517.910 to 517.989 and 517.910 to 517.951.**

- (1) ORS 517.910 to 517.989 only apply to surface mines for nonaggregate minerals.
- (2) ORS 517.910 to 517.951 do not apply to surface mines for nonaggregate minerals that are subject to the provisions for consolidated operating permits set forth in ORS 517.952 to 517.989. [1981 c.622 §15; 2013 c.371 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.910 - Definitions for ORS 517.910 to 517.989.**

For the purposes of ORS 517.910 to 517.989:

- (1) "Impact area" has the meaning given that term in ORS 215.298 (1).
- (2) "Nonaggregate minerals" means coal and metal-bearing ores, including but not limited to ores that contain nickel, cobalt, lead, zinc, gold, molybdenum, uranium, silver, aluminum, chrome, copper or mercury.
- (3) "Reclamation" means, notwithstanding ORS 517.750 (13), the employment in a surface mining operation of procedures reasonably designed to minimize, as much as practicable, the disruption from the surface mining operation or surface mining processing operation and to provide for the rehabilitation of any such surface resources through the use of plant cover, soil stability techniques, measures to protect the surface and subsurface water resources, including but not limited to domestic water use and agricultural water use, and other measures appropriate to the subsequent beneficial use of any land or water resource affected by a surface mining or processing operation.
- (4) "Significant mineral resource site" has the meaning given that term in ORS 215.298 (1). [1981 c.622 §3; 1987 c.158 §113; 1987 c.693 §5; 1989 c.347 §14; 1999 c.353 §8; 2007 c.318 §21; 2013 c.371 §2; 2017 c.736 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.915 - Additional operating permit requirements for nonaggregate mineral mines; denial of permit if reclamation not possible.**

- (1) In addition to any other provision of law, the State Department of Geology and Mineral Industries shall not issue an operating permit until:
  - (a) The department has received a reclamation plan that contains but is not limited to:
    - (A) A description of the proposed mining operation;
    - (B) A description of what is to be mined;
    - (C) The present use of the land, the planned subsequent beneficial use of the land and a list of plant species to be established;
    - (D) The measures that will adequately conserve the quantity and quality of the affected aquifers;
    - (E) A description of any toxic or radioactive materials known to be present in the ore, spoil, tailings, overburden or any other material involved in the mining operation and their approximate concentrations;
    - (F) A description of how the materials described in subparagraph (E) of this paragraph will be handled during mining and reclamation;
    - (G) Environmental baseline information as may be required by the department; and
    - (H) The name and address of the landowner, the owner of the surface estate, the operator and any parent corporations of the operator.
  - (b) The department has received a performance bond as it may require.
  - (c) The department finds that reclamation is possible and that the reclamation plan as approved will achieve the reclamation of affected lands.
- (2) If the department finds that reclamation cannot be accomplished, it shall not issue an operating permit.
- (3) The department shall obtain, whenever possible, a list of plant species suitable for reseeding in the area pursuant to a reclamation plan and comments on the feasibility of permanent revegetation from the soil and water conservation district in which the mined land is situated.
- (4) The department shall consult with affected public bodies, as defined in ORS 174.109, regarding the feasibility of reclamation, with particular attention to possible impacts on ground water aquifers. [1981 c.622 §§4,5,9; 1985 c.292 §18; 1987 c.361 §3; 2013

c.371 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.917 - Activation of project coordinating committee.**

Upon receipt of an application for an operating permit subject to ORS 517.915 to mine a significant mineral resource site, the State Department of Geology and Mineral Industries shall activate a project coordinating committee as defined in ORS 517.952. The project coordinating committee shall be composed as provided in, and shall carry out the responsibilities as set forth in, ORS 517.965. [2017 c.736 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.920 - Permit application fees under ORS 517.910 to 517.989.**

Each application for an operating permit under ORS 517.910 to 517.989 shall be accompanied by a fee sufficient to cover the costs of the State Department of Geology and Mineral Industries in processing the application as determined by the department. [1981 c.622 §8; 1989 c.347 §15; 1989 c.461 §2; 1991 c.735 §30; 2013 c.371 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.925 - Time limit for action on permit application.**

The State Department of Geology and Mineral Industries shall have 120 days to act upon a completed permit application. [1981 c.622 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.930 - Department inspection.**

Notwithstanding ORS 517.850, if the State Department of Geology and Mineral Industries has reason to believe that the provisions of an operating permit are being violated or that a surface mining operation is being conducted without a valid operating permit, it may inspect such surface mining areas without prior notice. [1981 c.622 §7; 1991 c.735 §31; 2007 c.318 §22; 2013 c.371 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.951 - Legislative intent not to assume exclusive jurisdiction.**

The Legislative Assembly declares that ORS 517.910 to 517.989 are not intended to provide the legal basis for assumption by the State of Oregon of exclusive jurisdiction over the environmental regulation of surface coal mining and reclamation operations described in section 503 of the federal Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1253). [Formerly 517.955]

Note:

517.951 was added to and made a part of 517.702 to 517.989 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.952 - Definitions for ORS 517.952 to 517.989.**

As used in ORS 517.952 to 517.989:

- (1) "Affected agency" includes permitting agencies, cooperating agencies and commenting agencies.
- (2) "Baseline data" means information gathered to characterize the natural and cultural environments of a mining operation site before a mining operation begins.
- (3) "Commenting agency" means any agency that makes recommendations to the State Department of Geology and Mineral Industries or to a permitting agency regarding permit conditions or whether to approve or deny a permit under the consolidated application process established under ORS 517.952 to 517.989.
- (4) "Consolidated application" means the single application required under ORS 517.971.
- (5) "Environmental evaluation" means an analysis prepared under ORS 517.979 to address specific impacts of the mining operation to allow affected agencies to develop permit conditions.
- (6) "Gravity separation" means the separation of mineral particles, with the aid of water or air, according to the differences in the specific gravities of the particles.
- (7) "Mining operation" means a surface or underground mine that processes, produces or reclaims metal ore using a method other than, or in addition to, gravity separation to process the ore.
- (8) "Mitigation" means the reduction of adverse effects of a proposed mining operation by considering, in the following order:
  - (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
  - (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
  - (c) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
  - (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate corrective measures; or
  - (e) Compensating for the impact by replacing or providing comparable substitute resources or environments.

(9) "Permitting agency" means an agency that has a separate permitting authority for a mining operation.

(10) "Project coordinating committee" means the interagency governmental committee established in accordance with ORS 517.965.

(11) "Technical review team" means the interagency group established in accordance with ORS 517.967. [1991 c.735 §3; 2013 c.371 §6; 2017 c.736 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.953 - Policy.**

Notwithstanding the policy set forth in ORS 517.760, the Legislative Assembly finds and declares that it is the policy of the State of Oregon to protect the environmental, scenic, recreational, social, archaeological and historic resources of this state from unacceptable adverse impacts that may result from mining operations, while permitting operations that comply with the provisions set forth in ORS 517.952 to 517.989 and ensure the protection of the public health, safety, welfare and the environment. [1991 c.735 §2; 2013 c.371 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.954 - Application of ORS 517.952 to 517.989.**

ORS 517.952 to 517.989 apply only to mining operations as defined in ORS 517.952. ORS 517.952 to 517.989 do not apply to placer mining. [1991 c.735 §3a; 2013 c.371 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.955**

[1981 c.622 §16; renumbered 517.951 in 1991]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.956 - Requirements for mining operations; rules.**

Mining operations in Oregon shall comply with the following:

(1) Mining operations shall be undertaken in a manner that minimizes environmental damage through the use of the best available, practicable and necessary technology to ensure compliance with environmental standards.

(2) Protection measures for fish and wildlife shall be consistent with policies of the State Department of Fish and Wildlife, including:

(a) Protective measures to maintain an objective of zero wildlife mortality. All chemical processing solutions and associated waste water shall be covered or contained to preclude access by wildlife or maintained in a condition that is not harmful to wildlife.

(b) On-site and off-site mitigation ensuring that there is no overall net loss of habitat value.

(c) No loss of existing critical habitat of any state or federally listed threatened or endangered species.

(d) Fish and wildlife mortality shall be reported in accordance with a monitoring and reporting plan approved by the State Department of Fish and Wildlife.

(e) The State Department of Fish and Wildlife shall establish by rule standards for review of a proposed mining operation for the purpose of developing conditions for fish and wildlife habitat protection that satisfy the terms of this section for inclusion in a consolidated permit by the State Department of Geology and Mineral Industries.

(3) Surface reclamation of a mine site shall:

(a) Ensure protection of human health and safety, as well as that of livestock, fish and wildlife;

(b) Ensure environmental protection;

(c) Require certification to the operator, by the State Department of Fish and Wildlife and the State Department of Agriculture, that a self-sustaining ecosystem, comparable to undamaged ecosystems in the area, has been established in satisfaction of the operator's habitat restoration obligations; and

(d) Include backfilling or partial backfilling as determined on a case-by-case basis by the State Department of Geology and Mineral Industries when necessary to achieve reclamation objectives that cannot be achieved through other mitigation activities. [1991 c.735 §4; 2003 c.14 §341; 2007 c.318 §25; 2013 c.371 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.957 - Department coordination of activities of affected agencies.**

The State Department of Geology and Mineral Industries shall coordinate the activities of the affected agencies related to the consolidated application process established under ORS 517.952 to 517.989. [1991 c.735 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.958 - Compliance with preapplication process; purpose.**

Any person proposing to conduct a mining operation shall comply with the requirements for the preapplication process set forth in ORS 517.961 to 517.969. The purpose of such process shall be to identify significant issues to be addressed in the consolidated application process set forth in ORS 517.971 to 517.987. [1991 c.735 §6; 2013 c.371 §10]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.959 - Public notice requirements for ORS 517.952 to 517.989; master list of interested parties; fees.**

(1) Whenever required in ORS 517.952 to 517.989, public notice shall include information sufficient to inform the public of the proposed activity or event and shall include:

(a) Notification to all permitting and cooperating agencies.

(b) Notice by mail to each owner of property located within one-half mile of the perimeter of the proposed site of the mining operation. As used in this paragraph, "owner" means the owner of the title to real property or the contract purchaser of real property of record as shown on the last available complete tax assessment roll.

(c) Notice by mail to persons on the master list.

(d) Notice by mail to mineral claimants for claims located within one-half mile of the proposed mining operation or as otherwise required by rule of a permitting or cooperating agency.

(e) Notice by publication in a newspaper of general circulation in the state and in a local newspaper of general circulation in the county or counties in which the proposed mining operation is located. Notice by publication shall be given at least once each week for two weeks immediately preceding the action.

(2) The notice provided pursuant to this section shall satisfy any notice requirement of an individual permitting or cooperating agency related to a permit included in the consolidated application process established under ORS 517.952 to 517.989.

(3) As used in this section, "master list" means a consolidated list of all interested parties compiled by the State Department of Geology and Mineral Industries and each permitting and cooperating agency and maintained by the department. Any person may request in writing that the State Department of Geology and Mineral Industries add the person's name to the agency master list. The State Department of Geology and Mineral Industries may establish a procedure for establishing and maintaining an agency master list, and the governing board of the department may establish a fee to be paid by a person requesting to be added to the master list. The fee shall be sufficient to defray the department's costs of mailing notices to persons on the master list and maintaining the master list. [1991 c.735 §7; 2013 c.371 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.960**

[1989 c.347 §2; renumbered 517.702 in 1991]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.961 - Notice of intent to submit application; posting of notice.**

A prospective applicant for a mining operation permit shall file with the State Department of Geology and Mineral Industries a notice of intent to submit an application and post copies of the notice along the perimeter of the location of the proposed operation. The posting shall be sufficient to inform the public of the intended action and a legal description of the proposed mining operation location and shall comply with requirements adopted by rule by the governing board of the department. [1991 c.735 §8; 2013 c.371 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.962**

[1989 c.347 §3; renumbered 517.705 in 1991]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.963 - Department duties upon receipt of notice of intent.**

Upon receipt of a notice of intent under ORS 517.961, the State Department of Geology and Mineral Industries shall:

(1) Provide notice as required under ORS 517.959. The notice shall be sufficient to inform the public of the nature, size and location of the proposed mining operation.

(2) Activate a project coordinating committee for the proposed mining operation and coordinate the participation of federal agencies, affected agencies, local government agencies and the prospective applicant in the activities of the project coordinating committee.

(3) Activate a technical review team for the proposed mining operation.

(4) Identify to the prospective applicant all permitting and cooperating agencies that will be participating in the consolidated application process. [1991 c.735 §9; 2013 c.371 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.964**

[1989 c.347 §4; renumbered 517.710 in 1991]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining**

**and Mining ClaimsSection 517.965 - Project coordinating committee.**

(1)(a) A project coordinating committee shall be composed of representatives from the State Department of Geology and Mineral Industries, all permitting and cooperating agencies, local government agencies and affected federal agencies. Each permitting and cooperating agency shall designate an appropriate staff member to serve on the committee. The project coordinating committee shall share information and coordinate county, state and federal permitting requirements in order to avoid contradictory requirements, facilitate the exchange of ideas, optimize communication and avoid duplicative effort.

(b) If a mining operation is proposed on federal land, the project coordinating committee shall work with the affected federal agency in accordance with a memorandum of agreement established by the department and the federal agency to facilitate the state and federal application process and to coordinate the two processes to the fullest extent possible.

(2)(a) For a proposed mining operation that is a significant mineral resource site, if the owner or lessee of private property within the impact area of the proposed mining operation identifies a conflict between the proposed mining operation and the agricultural activities conducted on the private property within the impact area, the project coordinating committee shall analyze and address the identified conflict. In analyzing and addressing the identified conflict, the project coordinating committee:

(A) Shall consider compliance with federal, state or local standards for air quality, noise, water quality or other environmental considerations that are applicable to the identified conflict to be sufficient to resolve the conflict; and

(B) If there are not applicable federal, state or local standards as provided for in subparagraph (A) of this paragraph, may suggest to the department permit conditions for avoiding or reducing the identified conflict.

(b) The department shall avoid or minimize the conflicts identified by the project coordinating committee under this subsection through the imposition of one or more permit conditions. The permit conditions imposed by the department pursuant to this paragraph may include, but are not limited to:

(A) A permit condition suggested by the project coordinating committee;

(B) A requirement that the operator fulfill the terms of a written agreement to compensate one or more owners or lessees of private property located within the impact area for loss of crops or reduced agricultural production or use of the land; or

(C) Other reasonable and practicable measures to avoid or minimize the conflicts, as determined by the department.

(c) For purposes of this subsection, the department shall determine the impact area of the proposed mining operation.

(3) In carrying out its responsibilities, the project coordinating committee shall include opportunities for public participation. [1991 c.735 §10; 2013 c.371 §14; 2017 c.736 §8]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.966**

[1989 c.347 §8; renumbered 517.715 in 1991]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.967 - Technical review team.**

(1) A technical review team shall be composed of representatives from the State Department of Geology and Mineral Industries and each permitting agency and cooperating agency. The technical review team shall:

(a) Establish methodology guidelines to be followed in the collection of baseline data;

(b) Coordinate with the applicant the use of baseline data collection methodologies as approved by the permitting and cooperating agencies; and

(c) Determine whether the mining operation as proposed in the consolidated application complies with ORS 517.956 and any other applicable requirements for a permit listed under ORS 517.971.

(2) Each permitting agency and cooperating agency shall designate an appropriate staff member to serve on the technical review team. [1991 c.735 §11; 2013 c.371 §15]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.968**

[1989 c.347 §6; renumbered 517.720 in 1991]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.969 - Collection of baseline data; public informational meetings; collection methodology.**

(1) Upon receipt of notice from a prospective applicant that the prospective applicant is ready to begin collecting baseline data, the State Department of Geology and Mineral Industries shall:

(a) Provide notice in accordance with ORS 517.959 that the prospective applicant intends to begin baseline data collection and the location where additional background information may be obtained or reviewed.

(b) Within 30 days after receiving the notice from the applicant, conduct two public information meetings. One public meeting shall be conducted in the population center closest to the site of the proposed mining operation and one public meeting shall be conducted in a major population center for the state, as determined by State Department of Geology and Mineral Industries.

(c) Receive written comments from the public and affected agencies for 45 days after receiving notice under this subsection.

- (2) The purpose of the public informational meetings and public comment period under subsection (1) of this section shall be to:
- (a) Identify the issues raised by the proposed mining operation;
  - (b) Receive information from the public that the State Department of Geology and Mineral Industries and the permitting and cooperating agencies may need to know in order to evaluate the application; and
  - (c) Determine the data that should be collected during the baseline data collection phase of the consolidated application process to address the issues identified.
- (3) Upon receipt of notice under subsection (1) of this section, the technical review team activated under ORS 517.963 shall determine the specific methodologies to be applied by the applicant in collecting baseline data.
- (4) The applicant shall collect data according to the methodology established by the permitting and cooperating agencies through the technical review team. The data collected shall be verified by the appropriate agency in accordance with procedures adopted by the agency. [1991 c.735 §12; 2013 c.371 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.970**

[1989 c.347 §5; renumbered 517.725 in 1991]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.971 - Consolidated application.**

Each applicant for a permit to operate a mining operation shall submit a consolidated application to the State Department of Geology and Mineral Industries. The department and the permitting and cooperating agencies shall not begin deliberating on whether to issue a permit until the department receives an application fee and a complete consolidated application that includes but is not limited to:

- (1) Name and location of the proposed facility.
- (2) Name, mailing address and phone number of the applicant and a registered agent for the applicant.
- (3) The legal structure of the applicant as filed in the business registry with the Secretary of State and the legal residence of the applicant.
- (4) Mineral and surface ownership status of the proposed facility.
- (5) Baseline data, including but not limited to environmental, socioeconomic, historical, archaeological conditions, land use designations and special use designations in the area of the state in which the proposed mining operation is located.
- (6) Appropriate maps, aerial photos, cross sections, plans and documentation.
- (7) A proposed:
  - (a) Mine plan;
  - (b) Processing plan;
  - (c) Water budget;
  - (d) Fish and wildlife protection and mitigation plan;
  - (e) Operational monitoring and reporting plan;
  - (f) Reclamation and closure plan;
  - (g) Plan for controlling water runoff and run on;
  - (h) Operating plan;
  - (i) Solid and hazardous waste management plan;
  - (j) Plan for transporting and storing toxic chemicals;
  - (k) Employee training plan as required by agency rule;
  - (L) Seasonal or short term closure plan;
  - (m) Spill prevention and credible accident contingency plan;
  - (n) Post-closure monitoring and reporting plan; and
  - (o) Identification of special natural areas, including but not limited to areas designated as areas of critical environmental concern, research natural areas, outstanding natural areas and areas designated by the Oregon Natural Areas Plan, as defined in state rules and federal regulations.
- (8) All information required by the permitting agencies to determine whether to issue or deny the following permits as applicable to the proposed operation:
  - (a) Surface mining operating permits required under ORS 517.790 and 517.915;
  - (b) Fill and removal permits required under ORS 196.600 to 196.921;
  - (c) Permits to appropriate surface water or ground water under ORS 537.130 and 537.615, to store water under ORS 537.400 and impoundment structure approval under ORS 540.449;
  - (d) National Pollutant Discharge Elimination System permit under ORS 468B.050;
  - (e) Water pollution control facility permit under ORS 468B.050;
  - (f) Air contaminant discharge permit under ORS 468A.040 to 468A.060;
  - (g) Solid waste disposal permit under ORS 459.205;
  - (h) Permit for use of power driven machinery on forestland under ORS 477.625;

- (i) Permit for placing explosives or harmful substances in waters of the state under ORS 509.140;
  - (j) Hazardous waste storage permit under ORS 466.005 to 466.385;
  - (k) Local land use permits; and
  - (L) Any other state permit required for the mining operation.
- (9) All other information required by the department, a permitting agency, a cooperating agency or the technical review team. [1991 c.735 §13; 1995 c.605 §3; 2009 c.217 §12; 2013 c.371 §17; 2019 c.390 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.972**

[1989 c.347 §7; renumbered 517.730 in 1991]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.973 - Fees; payment of expenses of department and permitting and cooperating agencies.**

- (1) In addition to any permit fee required by any other permitting agency, each notice of intent to submit a consolidated application under ORS 517.961 must be accompanied by an initial fee established by the State Geologist in an amount not to exceed \$2,000.
- (2)(a) Annually on the anniversary date of an operating permit, each holder of an operating permit shall pay to the State Department of Geology and Mineral Industries a renewal fee established by the State Geologist in an amount not less than \$2,500.
- (b) In addition to the fee prescribed in paragraph (a) of this subsection, the department may charge an amount not to exceed \$1,200 for inspections made at sites if the surface mining is:
- (A) Conducted without the permit required by ORS 517.790;
  - (B) Abandoned; or
  - (C) Conducted in an area not described in the surface mining permit.
- (3) Subject to the provisions of subsection (5) of this section, the prospective applicant or applicant shall pay all expenses incurred by the department and the permitting and cooperating agencies related to the consolidated application process under ORS 517.952 to 517.989. These expenses may include legal expenses, expenses incurred in processing and evaluating the consolidated application, issuing a permit or final order and expenses of hiring a third party contractor under ORS 517.979 and 517.980.
- (4) If the costs exceed the fee, the prospective applicant or applicant shall pay any excess costs shown in an itemized statement prepared by the department. The department and permitting and cooperating agencies may not incur evaluation expenses in excess of 110 percent of the fee initially paid unless the department provides prior notification to the prospective applicant or applicant and a detailed projected budget the department believes necessary to complete the process or a portion of the process under ORS 517.952 to 517.989. If the actual costs are less than the fee paid, the department shall refund the excess to the prospective applicant or applicant.
- (5) All expenses incurred by the department and the permitting and cooperating agencies under ORS 517.952 to 517.989 that are charged to or allocated to the fee paid by a prospective applicant or an applicant shall be necessary, just and reasonable. Upon request, the department shall provide a detailed justification for all charges to the prospective applicant or applicant. [1991 c.735 §13a; 2013 c.371 §18; 2020 s.s.2 c.4 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.974**

[1989 c.347 §9; renumbered 517.735 in 1991]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.975 - Distribution of completed consolidated application; notice of receipt of application.**

Upon receipt of a completed consolidated application, the State Department of Geology and Mineral Industries shall:

- (1) Provide copies of the application to each affected local government, permitting agency, cooperating agency or federal agency.
- (2) Provide notice of the receipt of the consolidated application in accordance with ORS 517.959. The notice shall include information about the opportunity for submitting written comments on the application and about the public hearing conducted as required under ORS 517.977. [1991 c.735 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.976**

[1989 c.347 §16; renumbered 517.740 in 1991]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.977 - Preparation of draft permits; public hearing; determination of completeness of consolidated application.**

- (1) When all members of the technical review team concur that the permitting agencies and the cooperating agencies are ready to begin preparing draft permits, the State Department of Geology and Mineral Industries shall conduct a public hearing and accept

written comments on whether the information contained in the consolidated application is complete and sufficient to allow the permitting agencies to determine whether to issue a permit. The date and location of the public hearing and the period allowed for written comment shall be established by the department. Notice of the public hearing and comment period shall be given in accordance with ORS 517.959.

(2) At the conclusion of the public hearing and comment period under subsection (1) of this section and within 90 days after the State Department of Geology and Mineral Industries receives a consolidated application for a mining operation, the department, in conjunction with all permitting and cooperating agencies, shall make a determination of whether the application is complete. On the basis of the determination the department shall either:

(a) If the permitting and cooperating agencies determine that the consolidated application is complete, issue a notice to proceed with the permitting process and the preparation of draft permits; or

(b) If the permitting and cooperating agencies determine that additional information is necessary, notify the applicant of the additional information that is required.

(3) If the permitting and cooperating agencies do not require the applicant to provide additional information as suggested at the public hearing or comment period under subsection (1) of this section, the agencies shall prepare a written response explaining why the additional information is not being requested from the applicant.

(4) Upon receipt of any additional information requested, the State Department of Geology and Mineral Industries shall accept public comments related to the additional information for a period of two weeks. Except as provided in ORS 517.978, the department shall not conduct additional public hearings. [1991 c.735 §15; 2013 c.371 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.978 - Review of application; additional information.**

(1) After the State Department of Geology and Mineral Industries issues a notice to proceed, the consolidated application shall be considered complete unless:

(a) New information is available that could not have been presented at the time of the completeness hearing; or

(b) Additional information is necessary to allow the permitting or cooperating agencies to make a determination regarding whether to issue or deny a permit or to issue the permit with conditions attached.

(2) The permitting and cooperating agencies may continue to review an application while in the process of requesting additional information. However, the department shall conduct an additional public hearing under ORS 517.977 if the agencies determine that additional information is significant to the issuance or denial of a permit. [1991 c.735 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.979 - Environmental evaluation; review of baseline data; payment of costs of third party contractor.**

(1) The State Department of Geology and Mineral Industries shall direct staff or shall hire a third party contractor to:

(a) Prepare an environmental evaluation;

(b) Review baseline data submitted by the applicant; and

(c) Review application material if a permitting agency or a cooperating agency lacks the expertise.

(2) The applicant shall pay costs of hiring a third party contractor. If the applicant shows cause why a particular third party contractor should not be allowed to perform a function under subsection (1) of this section, the department shall hire an alternate contractor.

(3) The contents of the environmental evaluation under subsection (1) of this section shall include:

(a) An analysis of the reasonably foreseeable impacts of an activity including catastrophic consequences, even if the probability of occurrence is low, if the analysis is supported by credible scientific evidence and is not based on pure conjecture.

(b) An assessment of the total cumulative impact on the environment that results from the incremental impact of an action when added with other past, present and reasonably foreseeable future actions, regardless of the agency or persons that undertake the other action, or whether the actions are on private, state or federal land. To the extent possible, the department shall enter into a memorandum of agreement with federal agencies to ensure that information required by the state in evaluating the cumulative impact of a proposed mining operation may be used by the applicant to satisfy federal requirements for such an assessment.

(c) A review and analysis of alternatives analyzed by the applicant or a contractor hired by the applicant that:

(A) Rigorously explores and objectively evaluates all reasonable alternatives and briefly discusses alternatives that were eliminated and the reasons the alternatives were eliminated;

(B) Treats each alternative, including the proposed action, in detail so that the permitting agencies, cooperating agencies and the public may evaluate the comparative merits of the alternatives; and

(C) Identifies all alternatives within the authority of each permitting or cooperating agency.

(4) Upon completion of the environmental evaluation, the State Department of Geology and Mineral Industries shall provide notice in accordance with ORS 517.959. The notice shall state that the environmental evaluation is complete and that the persons may respond with written comments for a period of two weeks after the notice is given. [1991 c.735 §17; 2013 c.371 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining**

**and Mining ClaimsSection 517.980 - Socioeconomic impact analysis.**

Concurrent with the development of the environmental evaluation, the State Department of Geology and Mineral Industries shall direct staff or hire a third party contractor to prepare a socioeconomic impact analysis for the use of the applicant, local government and affected agencies. [1991 c.735 §18]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.981 - Draft permit and permit conditions; denial of permit; time limits; public hearing on draft permit.**

(1) Within 225 days after receiving the completed consolidated application and the environmental evaluation conducted under ORS 517.979, each permitting agency shall provide its draft permit and permit conditions or its denial document to the State Department of Geology and Mineral Industries. If a permitting agency includes in its draft permit a condition that is inconsistent with the environmental evaluation conducted pursuant to ORS 517.979, the agency shall include with its draft permit a written explanation of the condition setting forth the findings of the agency that support the condition. The State Department of Geology and Mineral Industries shall assure that the conditions imposed on the permits by the cooperating agencies do not conflict. If the department finds a conflict exists, the technical review team shall resolve the conflict.

(2) Within 15 days after receiving all draft permits and the completion of its draft operating permit, the State Department of Geology and Mineral Industries shall issue notice of an opportunity for public comment and a consolidated public hearing on all draft permits. The public hearing shall occur not sooner than 45 days after the department issues the notice. The notice shall be issued in accordance with ORS 517.959. [1991 c.735 §19]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.982 - Final permits; permit conditions submitted by cooperating agencies.**

(1) Based on information received at the consolidated public hearing, from persons submitting written comments, commenting agencies and the review of the affected agencies, each permitting agency shall, within 45 days after the consolidated public hearing under ORS 517.981 or within the time period required by any applicable federal law, whichever is sooner, approve, deny or modify the agency's permit with conditions necessary to ensure that the mining operation allowed under a permit complies with the standards and requirements applicable to the permit.

(2) Each cooperating agency shall:

(a) Develop permit conditions within the expertise and authority of the cooperating agency that are reasonable and designed to avoid or minimize the adverse effect; and

(b) Submit the permit conditions to the State Department of Geology and Mineral Industries to be included as conditions on the department's permit.

(3) The department may not issue a permit until each cooperating agency has submitted a written concurrence with the terms and conditions of the permit pertaining to the statutory responsibility of each cooperating agency or 60 days after the consolidated public hearing, whichever is earlier.

(4) Upon completion of the permits, the department shall issue a notice in accordance with ORS 517.959 to notify interested persons that the final permits are issued. [1991 c.735 §20; 2013 c.371 §21; 2017 c.736 §9]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 517 - Mining and Mining ClaimsSection 517.983 - Consolidated contested case hearing; judicial review; stay of permit.**

(1) The applicant or any person who appeared before a permitting agency at the consolidated public hearing under ORS 517.981, either orally or in writing, regarding a permit granted or denied by the permitting agency may file with the State Geologist a written request for a consolidated contested case hearing. The request shall be filed within 30 days after the date the permit was granted or denied.

(2) Upon receipt of a request under subsection (1) of this section, the State Department of Geology and Mineral Industries shall schedule a consolidated contested case hearing which shall be held not less than 60 days or more than 75 days after the notice of permit issuance under ORS 517.982. The hearing shall be conducted in accordance with the provisions applicable to contested case proceedings under ORS chapter 183. Any permit granted by a permitting agency shall be suspended until completion of the administrative hearings process.

(3) Hearings under this section shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(4) The administrative law judge shall prepare a proposed order for each contested permit. A party may file written exceptions to the proposed order with the permitting agency. If the permitting agency determines that additional information may be included in the record, the agency shall remand the order to the appropriate administrative law judge for further consideration. After receiving exceptions and hearing argument on the exceptions, the governing body or person within the permitting agency responsible for making a final decision on a permit may adopt the proposed order or issue a new order.

(5) Jurisdiction for judicial review of a permitting agency's issuance or denial of a permit is conferred upon the Supreme Court. Proceedings for review shall be instituted by filing a petition in the Supreme Court. The petition shall be filed within 60 days

following the date the permit is issued or denied. If the permit with prescribed conditions is approved, the filing of the petition for review shall stay the permit during the pendency of judicial review for a period of up to six months from the date the petition for review is filed. The Supreme Court may extend the stay beyond the six-month period upon written request and a showing by the petitioner that the activities under the permit could result in irreparable harm to the site. Except as otherwise provided in this subsection, the review by the Supreme Court shall be as provided in ORS 183.482. The Supreme Court shall give priority on its docket to such a petition for review.

(6) When only the applicant files a petition for judicial review, the six-month stay imposed under subsection (5) of this section may be removed by the permitting agency upon written request within 60 days after the filing of the petition and a showing by the applicant to support a finding by the permitting agency that proceeding with any or all activities under the permit will not result in irreparable harm to the site. In making such findings the permitting agency may require an additional bond or alternative security to be filed with the State Department of Geology and Mineral Industries as provided in ORS 517.987. The bond shall be in an amount the permitting agency determines necessary to assure complete restoration of the site if the petitioner elects not to complete the project following judicial review. Agency denial of the request to remove the stay is subject to review by the Supreme Court under such rules as the Supreme Court may establish. [1991 c.735 §21; 1999 c.849 §§104a,104c; 2003 c.75 §44]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.984 - Modification of permit; project coordinating committee.**

(1) The operator, the State Department of Geology and Mineral Industries, any other permitting agency or a cooperating agency may request modification of a permit issued under the process established under ORS 517.952 to 517.989.

(2) If a permitting agency is requested to make a permit modification that the permitting agency or a cooperating agency finds is a significant permit modification under the provisions of ORS 517.952 to 517.989, the agency shall notify the State Department of Geology and Mineral Industries. The department shall coordinate the organization of a project coordinating committee. The project coordinating committee shall review the proposed modification and determine those portions of ORS 517.952 to 517.989 with which the applicant must comply. The decision of the project review committee shall be:

(a) Limited to those portions of the mining operation to be modified; and

(b) Consistent with public participation as set forth in ORS 517.952 to 517.989. [1991 c.735 §22; 2007 c.318 §26; 2013 c.371 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.985 - Rulemaking.**

In accordance with applicable provisions of ORS chapter 183, the governing board of the State Department of Geology and Mineral Industries shall adopt rules necessary to implement the provisions of ORS 517.952 to 517.989. The rules shall include but need not be limited to:

(1) The information required to be submitted in a notice of intent;

(2) The fee that the department may collect from a person requesting inclusion on the master list under ORS 517.959; and

(3) The form and content of the consolidated application. [1991 c.735 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.986 - Time limit for final action on permit subject to consolidated application process.**

Notwithstanding any other provision of law, the State Department of Geology and Mineral Industries and any other permitting agency shall take final action to issue or deny a permit subject to the consolidated application process set forth in ORS 517.952 to 517.989 within one year after issuance of a notice to proceed under ORS 517.977. However, with the concurrence of the applicant, the processing of the application may be suspended for a period of time to allow the applicant to resolve issues having a bearing on, or necessary to any permitting agency's decision or the department's decision on whether to issue or deny a permit. [1991 c.735 §24]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.987 - Reclamation bond or security; annual assessment of cost of reclamation; lien; release of security; post-reclamation security.**

(1) At the time of submitting a consolidated application under ORS 517.971, the applicant shall estimate the total cost of reclamation consistent with the standards imposed under ORS 517.702 to 517.989. Using the reclamation estimate and a credible accident analysis as a guide, the State Department of Geology and Mineral Industries shall make an initial determination as to the amount of the reclamation bond necessary to protect human health and the environment. The department shall distribute a bond proposal to all permitting and cooperating agencies. The amount of the bond that the department may require to cover the actual cost of reclamation shall not be limited.

(2) The reclamation bond or alternative security acceptable to the department shall be posted before the start of mining operations. The bond shall be issued by a bonding company licensed to operate in Oregon. A mining operation may not satisfy the requirements for a bond through self-insurance.

(3) The department shall assess annually the overall cost of reclamation. If changes in the operation or modifications to a permit

cause the cost of reclamation to exceed the amount of the reclamation bond currently held by the state, the operator shall post an additional bond for the difference. All reclamation calculations shall be approved by the department. Incremental surety increases shall be provided for, with the level of surety being consistent with the degree and forms of surface disturbance anticipated within a time period specified by the department. When the actual surface area to be disturbed approaches the level expected by the department, the operator shall notify the department sufficiently in advance of reaching the acreage limit specified to allow for a review of surety requirements and posting of additional surety by the operator prior to exceeding the acreage limit set by the department.

(4) If reclamation costs will exceed the posted bond and the operator does not increase the bond amount, the department and other permitting agencies shall suspend all permits until the operator posts the additional bond security.

(5) The department may seek a lien against the assets of the operator to cover the cost of reclamation if the bond posted is insufficient. The amount of the lien shall be the amount of the costs incurred by the department to complete reclamation. All current operating permits of the operator shall be suspended and the department shall deny immediately all pending applications of the operator to conduct mining operations.

(6)(a) The operator shall submit to the department a written request for the release of its reclamation bond. If the operator has conducted concurrent reclamation, the operator shall submit an application for bond reduction which estimates the percentage of reclamation done to date and the corresponding percentage of reclamation funds that the operator believes should be returned. A bond release or reduction request shall state in unambiguous terms all measures taken to reclaim the site and any problem or potential problems that may inhibit reclamation in accordance with permit requirements.

(b) The department shall distribute the request to each permitting or cooperating agency, to members of the public who participated in the consolidated application under ORS 517.952 to 517.989, and to any person who requests notification. In addition, the department shall publish a notice as provided in ORS 517.959 announcing receipt of a request for bond release or bond reduction.

(c) No sooner than 60 days after distributing the request and providing notice of the receipt of the request, the department shall conduct an informal public hearing to determine whether to allow the bond release or bond reduction.

(7) The department may require security or an annuity for post-reclamation monitoring and care to be paid before the final bond release. The security or annuity shall be sufficient to cover long-term site care and monitoring needs. The department shall determine the amount of the proposed security or annuity and distribute a proposal to all permitting and cooperating agencies. [1991 c.735 §24a; 2007 c.318 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.988 - Permit conditions by State Department of Fish and Wildlife; violations of State Department of Fish and Wildlife conditions.**

(1) The State Department of Fish and Wildlife shall develop conditions for the protection of fish and wildlife resources that shall be included in any permit issued by the State Department of Geology and Mineral Industries under the process established under ORS 517.952 to 517.989.

(2) The State Department of Fish and Wildlife shall have the right of ingress and egress to and from a mine operating under a permit that includes conditions imposed pursuant to subsection (1) of this section, doing no unnecessary injury to the property of the mine operator, to determine whether the operator is complying with such conditions. If the State Department of Fish and Wildlife determines that a violation has occurred, the State Department of Fish and Wildlife shall inform the State Department of Geology and Mineral Industries of the violation and the State Department of Geology and Mineral Industries shall cooperate with the State Department of Fish and Wildlife to take appropriate enforcement action. [1991 c.735 §24b; 2013 c.371 §23]

Note:

517.988 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 517 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.989 - Rules applicable to consolidated application.**

(1) Except as provided in subsections (2) and (3) of this section, the State Department of Geology and Mineral Industries and all permitting and commenting agencies shall review and take action on a consolidated application in accordance with rules in effect at the time the notice of intent to submit an application is filed under ORS 517.961.

(2) Subsection (1) of this section shall not apply to a consolidated application if:

(a) An applicant is responsible for unreasonable delays in the processing of the application or fails to make a good faith effort to comply with all requirements for issuance of the permit;

(b) Application of a statute or rule is required under federal law or is a requirement for the state to maintain approval of or delegation of administration of a federal program; or

(c) The department, or a permitting agency or commenting agency, finds that application of a rule is necessary to protect the public from a serious threat to human health or safety. [1995 c.503 §2; 2013 c.371 §24]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.990 - Criminal penalties.**



- (1) A person who conducts a surface mining operation without a valid operating permit as required by ORS 517.750 to 517.901 commits a Class A violation.
- (2) Subject to ORS 153.022, violation of any provision of ORS 517.750 to 517.901, or any rules promulgated pursuant thereto, or of any conditions of an operating permit is a Class A violation.
- (3) Subject to ORS 153.022, violation of ORS 517.910 to 517.989, or any rules promulgated pursuant thereto, or of any conditions of an operating permit for a nonaggregate surface mining operation is punishable, upon conviction, by a fine of not more than \$10,000.
- (4) Notwithstanding any other provision of the law, a person who conducts a nonaggregate surface mining operation without a valid operating permit as required by ORS 517.910 to 517.989 shall be punished, upon conviction, by a fine of not more than \$10,000.
- (5) A person commits a violation subject to a fine of not more than \$10,000 if the person knowingly or recklessly causes substantial harm to human health or the environment while:
  - (a) Conducting a surface mining operation without a valid operating permit as required by ORS 517.750 to 517.901; or
  - (b) Violating an operating permit, a reclamation plan, a provision of this chapter or any rule adopted by the State Department of Geology and Mineral Industries to carry out the provisions of this chapter.
- (6) For purposes of this section, "substantial harm to human health or the environment" means:
  - (a) Physical injury, as defined in ORS 161.015, or risk of serious physical injury, as defined in ORS 161.015, to humans; or
  - (b) Substantial damage to wildlife, plants, aquatic and marine life, habitat or stream buffers. [Amended by 1953 c.188 §2; subsection (3) enacted as 1957 c.580 §11; 1971 c.743 §398; subsection (4) enacted as 1971 c.719 §18; subsections (5) and (6) enacted as 1981 c.622 §14; 1985 c.292 §1; 1987 c.260 §4; 1993 c.742 §115; 1999 c.1051 §196; 2007 c.318 §13; 2013 c.371 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 517 - Mining and Mining Claims Section 517.992 - Civil penalties; rules.**

- (1) In addition to any other sanction authorized by law, the governing board of the State Department of Geology and Mineral Industries may impose a civil penalty of not less than \$200 per day and not more than \$50,000 per day for any violation of ORS 517.952 to 517.989, of any rules adopted under those provisions, of any orders issued under those provisions or of any conditions of a permit issued under those provisions. A penalty may be imposed under this subsection without regard to whether the violation occurs on property covered by a permit issued under ORS 517.952 to 517.989.
- (2)(a) In addition to any other sanction authorized by law, and subject to the limitations of paragraph (b) of this subsection, the governing board of the State Department of Geology and Mineral Industries may impose a civil penalty of not more than \$10,000 per day for any violation of ORS 517.702 to 517.740, 517.750 to 517.901 and 517.905 to 517.951, of any rules adopted under those provisions, of any orders issued under those provisions or of any conditions of a permit issued under those provisions.
  - (b) A penalty may be imposed under this subsection only if a landowner or operator fails to complete erosion stabilization as required by ORS 517.775 or board rules adopted to implement that section, if the operator has failed to comply with an order issued under ORS 517.860 or 517.880, if the operation is being conducted in violation of conditions imposed on an operating permit or reclamation plan pursuant to ORS 517.835 or if the operation is being conducted:
    - (A) Without a permit;
    - (B) Outside the permit boundary; or
    - (C) Outside a permit condition regarding boundaries, setbacks, buffers or the placement of surface mining refuse.
- (3) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.
- (4) Failure to pay a civil penalty that has become final under this section shall be grounds for revocation of any permit issued under ORS 517.702 to 517.989 to the person against whom the penalty has been assessed.
- (5) Any civil penalty received by the State Treasurer under this section shall be deposited in the General Fund to the credit of the Geology and Mineral Industries Account and is continuously appropriated to the State Department of Geology and Mineral Industries to the extent necessary for the administration and enforcement of the laws, rules and orders under which the penalty was assessed.
- (6) A reclamation fund shall be established into which funds not used as described in subsection (5) of this section shall be deposited. This money shall be used by the State Department of Geology and Mineral Industries for the purpose of the reclamation of abandoned mine and drill sites.
- (7) When a single incident violates statutes, rules, board orders or permit conditions administered by more than one agency, the department shall coordinate with the other agencies having civil penalty authority before imposing a civil penalty.
- (8) In implementing this section, the department shall adopt rules that provide civil penalties that are commensurate with the severity of violations.
- (9) A civil penalty may be imposed against the board of directors and high managerial agents of a corporation if those persons engage in, authorize, solicit, request, command or knowingly tolerate the conduct for which the penalty is to be imposed. As used in this subsection, "agent" and "high managerial agent" have the meanings given those terms in ORS 161.170. [1991 c.735 §24c; 1993 c.341 §1; 1997 c.183 §4; 2001 c.262 §1; 2003 c.470 §3; 2007 c.318 §14; 2013 c.371 §26]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.005 - Definitions.**

As used in this chapter, unless the context requires otherwise:

- (1) "Condensate" means liquid hydrocarbons that were originally in the gaseous phase in the reservoir.
- (2) "Field" means the general area underlain by one or more pools.
- (3) "Gas" means all natural gas and all other fluid hydrocarbons not defined as oil in subsection (5) of this section, including condensate originally in the gaseous phase in the reservoir.
- (4) "Information hole" means a hole drilled for information purposes only, including but not limited to core holes, stratigraphic holes or other test holes.
- (5) "Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include liquid hydrocarbons that were originally in a gaseous phase in the reservoir.
- (6) "Person" means any natural person, partnership, corporation, association, receiver, guardian, fiduciary, administrator, representative of any kind, or the State of Oregon and any public body as defined in ORS 174.109.
- (7) "Pool" means an underground reservoir containing a common accumulation of oil and natural gas. A zone of a structure that is completely separated from any other zone in the same structure is a pool.
- (8) "Owner" means a person who has the right to drill into and to produce from any pool and to appropriate the oil or gas produced therefrom either for others, for the person or for the person and others.
- (9) "Protect correlative rights" means that the action or regulation by the board affords a reasonable opportunity to each person entitled thereto to recover or receive the oil or gas in the tract or tracts of the person or the equivalent thereof, without being required to drill unnecessary wells or to incur other unnecessary expense to recover or receive such oil or gas or its equivalent.
- (10) "Seismic program" means the collection of seismic exploration data through a continuous field operation.
- (11) "Sidetrack" means to reenter a well from the well's surface location with drilling equipment for the purpose of deviating from the existing well bore to achieve production from an alternate zone or bottom hole location, or to remedy an engineering problem encountered in the existing well bore.
- (12) "Unit area" means one or more pools or parts thereof under unit operation pursuant to ORS 520.260 to 520.330 and 520.230 (2).
- (13) "Underground reservoir" means any subsurface sand, strata, formation, aquifer, cavern or void whether natural or artificially created, suitable for the injection and storage of natural gas therein and the withdrawal of natural gas therefrom, but excluding a pool.
- (14) "Underground storage" means the process of injecting and storing natural gas within and withdrawing natural gas from an underground reservoir.
- (15) "Waste of oil or gas" means:
  - (a) The inefficient, excessive or improper use or dissipation of reservoir energy of any pool, or the locating, spacing, drilling, equipping, operating or producing of any oil well or gas well in a manner that results or may result in reducing the quantity of oil or gas ultimately recoverable from any pool; or
  - (b) The inefficient storing of oil and the locating, spacing, drilling, equipping, operating or producing of oil wells or gas wells in a manner that causes or may cause unnecessary or excessive surface loss or destruction of oil or gas.
- (16)(a) "Well" means a well drilled for the purpose of producing or storing oil or gas or other gaseous substances, reservoir pressure maintenance, disposal of produced fluids, and injection of water as part of a water flood.
- (b) "Well" includes a well drilled in search of a new or undiscovered pool, or with the intent of extending the limits of a developed pool.
- (c) "Well" does not include an information hole or a hole drilled as part of a seismic program. [1953 c.667 §1; 1961 c.671 §15; 1973 c.276 §1; 1977 c.296 §1; 2007 c.672 §1; 2009 c.294 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.017 - Fees; rules; disposition of fees.**

- (1) The following fees are established under this chapter:
  - (a) The application fee for a permit to drill a well is \$2,000.
  - (b) The fee to modify a well permit, information hole permit or seismic program permit is \$2,000.
  - (c) The annual renewal fee for a well permit, information hole permit or seismic program permit is \$1,160.
  - (d) The application fee for a permit to drill an information hole may not exceed \$2,000 per five information holes drilled in a contiguous 640-acre area. The State Department of Geology and Mineral Industries shall base the fee on the estimated cost of review and approval and the number and location of information holes to be drilled.
  - (e) The fee for approval of a seismic program may not exceed \$2,000. The department shall base the fee on the estimated cost of review and approval.
  - (f) A permittee that requests to transfer a well permit, information hole permit or seismic program permit must pay a nonrefundable fee of \$2,000 at the time of the request.
- (2) The governing board of the department by rule may specify a schedule of fees for costs incurred by the department for activities related to field designation for purposes of this section.
- (3) All moneys received by the department under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the Geology and Mineral Industries Account established in ORS 516.070. [2007 c.672 §3; 2020 s.s.2 c.4 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.025 - Permit for drilling well or using well; extension; annual report; grounds for granting or denying permit.**

(1) A person may not drill or use a well without first obtaining a permit from the State Department of Geology and Mineral Industries and posting any bond that may be required pursuant to ORS 520.095 (1). When drilling has been completed, the well must be maintained under a permit until it is properly plugged and the site is reclaimed.

(2) A permittee maintaining or operating a well shall provide the department with an annual report on a form provided by the department. Subject to the determinations in subsection (3) of this section, a permittee shall renew the permit for a well by paying the fee established under ORS 520.017.

(3)(a) If upon receipt of the application the department determines that the method and equipment to be used by the applicant in drilling or operating the well comply with applicable laws and rules, the department shall issue the permit.

(b) The department may refuse to issue, refuse to renew or revoke a permit issued pursuant to this section if the department determines that methods or equipment to be used or being used in drilling or operating the well do not comply with applicable laws or rules, or that the well will not be operated and maintained or is not being operated or maintained in compliance with the permit and applicable laws or rules. [1953 c.667 §5; 1973 c.276 §2; 1977 c.296 §3; 1981 c.146 §1; 1991 c.526 §1; 2007 c.672 §4; 2020 s.s.2 c.4 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.027 - Information holes; holes drilled as part of seismic program; trade secrets.**

(1) A person may not drill an information hole or a hole drilled as part of a seismic program without first applying for approval from the State Department of Geology and Mineral Industries and paying the fee established in ORS 520.017. The application must be submitted on a form provided by the department and must include all information requested by the department.

(2) A person issued an approval under this section shall comply with all terms of the department's approval and any other applicable law or rule. The department may not require the person receiving approval under this section to provide information from seismic programs. The department may require the submittal of information from information holes, but the information is a trade secret under ORS 192.345 and is not subject to public disclosure under ORS 192.311 to 192.478. [2007 c.672 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.035 - Waste of oil or gas prohibited.**

The waste of oil or gas, as defined in ORS 520.005, is prohibited. [1953 c.667 §3; 2007 c.672 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.045 - Determination of waste of oil or gas.**

The State Department of Geology and Mineral Industries may determine whether waste of oil or gas over which it has jurisdiction exists or is imminent. In the exercise of such power the department may:

- (1) Collect data.
- (2) Make investigations and inspections.
- (3) Examine properties, leases, papers, books and records, including drilling records and logs.
- (4) Examine, check, test and gauge oil and gas wells and tanks.
- (5) Hold hearings.
- (6) Provide for the keeping of records and the making of reports.
- (7) Take such action as may be reasonably necessary to enforce this chapter. [1953 c.667 §6; 2007 c.672 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.055 - General jurisdiction and authority of board; tidal lands; rules.**

(1) The governing board of the State Department of Geology and Mineral Industries has jurisdiction and authority over all persons and property, including tidal submerged and submersible lands of this state under ORS 274.705 to 274.860, necessary to enforce effectively this chapter and all other laws relating to the conservation of oil and gas.

(2) In addition to and not in lieu of any other powers granted under this chapter, the board may adopt rules and issue orders necessary to regulate geological, geophysical and seismic surveys on, and operations to remove sulfur from, the tidal submerged and submersible lands of this state under ORS 274.705 to 274.860. [1953 c.667 §4; subsection (2) enacted as 1961 c.619 §40; 1969 c.594 §57; 2007 c.672 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.065**

[1953 c.667 §8; renumbered 520.210]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 -**

**Conservation of Gas and OilSection 520.075**

[1953 c.667 §9; 1961 c.671 §16; renumbered 520.220]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 520 - Conservation of Gas and OilSection 520.085**

[1953 c.667 §10; 1961 c.671 §17; renumbered 520.230]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 520 - Conservation of Gas and OilSection 520.095 - Rules and orders; bond.**

The governing board of the State Department of Geology and Mineral Industries may adopt rules and issue orders, and the department may issue orders, as may be necessary in the proper administration and enforcement of this chapter, including but not limited to rules and orders for the following purposes:

- (1) To require the drilling, casing and plugging of wells to be done in such a manner as to prevent the escape of oil or gas out of one stratum to another; to prevent the intrusion of water into oil or gas strata; to prevent the pollution of fresh water supplies by oil, gas or salt water; and to require reasonable bond conditioned upon compliance with applicable laws and rules and upon the performance of the duty to plug each dry or abandoned well.
- (2) To compel the filing of logs from wells, including electrical logs, if any are taken, drilling records, typical drill cuttings or cores, if cores are taken, with the office of the State Geologist.
- (3) To prevent wells from being drilled, operated and produced in such a manner as to cause injury to neighboring leases or property.
- (4) To prevent the drowning by water of any stratum or part thereof capable of producing oil or gas in paying quantities, and to prevent the premature and irregular encroachment of water that reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.
- (5) To require the operation of wells with efficient gas-oil ratios, and to fix ratios.
- (6) To prevent blowouts, caving and seepage in the same sense that conditions indicated by such terms are generally understood in the oil and gas business.
- (7) To prevent fires.
- (8) To identify the ownership of all oil and gas wells, producing leases, tanks, plants, structures and all storage equipment and facilities.
- (9) To regulate the stimulation and chemical treatment of wells.
- (10) To regulate secondary recovery methods, including the introduction of gas, air, water or other substance into producing formations.
- (11) To require the filing currently of information as to the volume of oil and gas, or either of them, produced and saved from the respective properties.
- (12) To require the protection of ground water.
- (13) To require the disposal of salt water and oil field waste so as not to damage land or property unnecessarily.
- (14) To require that wells drilled for oil or gas be logged adequately enough to identify the geologic formations penetrated by the wells.
- (15) To regulate the underground storage of natural gas and the drilling and operation of any wells required therefor.
- (16) To require the mitigation of off-site impacts of drilling and to require reclamation for subsequent beneficial use of drill sites and adjacent areas adversely affected by drilling or use of the well and the filling of sumps.
- (17) To require performance bonds or other forms of financial security for compliance with the requirements of this chapter and rules adopted or orders issued under this chapter.
- (18) To regulate exploratory wells, including stratigraphic wells and seismic program test wells, subject to the limitations in ORS 520.027.
- (19) To regulate geological, geophysical and seismic surveys on, and operations to remove oil, gas and sulfur from, the tidal submerged and submersible lands of this state under ORS 274.705 to 274.860. [1953 c.667 §7; 1961 c.671 §18; 1973 c.276 §3; 1977 c.296 §2; 1981 c.146 §2; 1989 c.365 §1; 2007 c.672 §10]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 520 - Conservation of Gas and OilSection 520.097 - Abandonment or completion of well; well logs and records; trade secrets.**

- (1) For a period of two years from the date of abandonment or completion of a well, all well logs and records and well reports submitted to the State Department of Geology and Mineral Industries are trade secrets under ORS 192.345 and are not subject to public disclosure under ORS 192.311 to 192.478, and all drill cuttings and cores may not be disclosed to the public unless such protection is waived by the permittee or disclosure is required by a court order.
- (2) The department may extend the period under subsection (1) of this section up to an additional five years on the request of the permittee or the permittee's successor in interest. [2007 c.672 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.125 - Authority of board to summon witnesses and require production of evidence.**

(1) The governing board of the State Department of Geology and Mineral Industries may summon witnesses, administer oaths and require the production of records, books and documents for examination at any hearing or investigation conducted before the board.

(2) In case of failure or refusal on the part of any person to comply with the subpoena issued by the board or in the case of the refusal of any witness to testify as to any matter regarding which the witness may lawfully be interrogated it shall be the duty of the circuit court of any county or any judge thereof, upon application of the board, to issue an order to show cause why such person should not be held for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

(3) The board may, in any matter before the board, cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil suits in the circuit courts of this state. [1953 c.667 §13; 2005 c.22 §374; 2007 c.672 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.145 - Judicial review of board or department actions.**

Any person adversely affected by any rule adopted by the governing board of the State Department of Geology and Mineral Industries under this chapter or any order issued by the board or the State Department of Geology and Mineral Industries under this chapter may obtain judicial review thereof pursuant to ORS chapter 183. [1953 c.667 §15; 1961 c.671 §20; 1979 c.562 §15; 1981 c.146 §3; 2007 c.672 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.155 - Records, accounts, reports and writings not to be falsified, altered, destroyed or removed from state.**

A person may not, for the purpose of evading the provisions of this chapter or any rule adopted or order issued under this chapter, make or cause to be made any false entry or statement in a report required by this chapter or by any rule or order under this chapter, make or cause to be made any false entry in any record, account or other writing required by this chapter or by any rule or order under this chapter, omit or cause to be omitted from any such record, account or writing full, true and correct entries as required by this chapter or any rule or order under this chapter, or remove from this state or destroy, mutilate, alter or falsify any such record, account or writing. [1953 c.667 §16; 2007 c.672 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.165 - Aiding or abetting in violation of chapter prohibited.**

A person may not knowingly aid or abet any other person in the violation of any provision of this chapter or any rule adopted or order issued under this chapter. [1953 c.667 §17; 2007 c.672 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.175 - Injunctions to restrain violation or threatened violation of chapter.**

(1) Whenever it appears that any person is violating or threatening to violate any provision of this chapter or any rule adopted or order issued under this chapter, the governing board of the State Department of Geology and Mineral Industries may bring an action against such person in the circuit court of any county where the violation occurs or is threatened, to restrain such person from continuing such violation. In any such action, the court shall have jurisdiction to grant to the board, without bond or other undertaking, such temporary restraining orders or final prohibitory and mandatory injunctions as the facts may warrant, including any such orders restraining the movement or disposition of oil or gas.

(2) If the board fails to bring an action to enjoin a violation or threatened violation of any provision of this chapter or any rule adopted or order issued under this chapter, within 60 days after receipt of a written request to do so by any person who is or will be adversely affected by such violation, then the person making such request may bring an action to restrain such violation or threatened violation in any court in which the board might have brought such action. The board shall be made a party defendant in such action in addition to the person or persons bringing the action and the action shall proceed and injunctive relief may be granted without bond in the same manner as if the action had been brought by the board. [1953 c.667 §18; 1979 c.284 §162; 2007 c.672 §17]

Note:

Sections 1 to 3, chapter 406, Oregon Laws 2019, provide:

Sec. 1.

Section 2 of this 2019 Act is added to and made a part of ORS chapter 520. [2019 c.406 §1]

Sec. 2.

(1) A person may not use hydraulic fracturing in the exploration for or the production of oil and gas in this state.

(2) As used in this section, "hydraulic fracturing" means the drilling technique of expanding existing fractures or creating new fractures in rock by injecting water, with or without chemicals, sand or other substances, into or underneath the surface of the rock

for the purpose of stimulating oil or gas production. "Hydraulic fracturing" does not mean drilling required for:

- (a) Natural gas storage wells;
- (b) Geothermal wells or activities related to exploration for geothermal energy; and
- (c) Coal bed methane extraction wells in existence as of the effective date of this 2019 Act [June 17, 2019]. [2019 c.406 §2] Sec. 3.

This 2019 Act is repealed on January 2, 2025. [2019 c.406 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.210 - Establishment of spacing units for pool or field; purpose; scope; effect.**

- (1) When necessary to prevent waste of oil or gas, to avoid the drilling of unnecessary wells or to protect correlative rights, the governing board of the State Department of Geology and Mineral Industries shall establish spacing units for a pool or field. Spacing units when established shall be of uniform size and shape for the entire pool or field, except that when found to be necessary for any of the above purposes the board is authorized to divide any pool or field into zones and establish spacing units for each zone, which units may differ in size and shape from those established in any other zone. The board may not establish spacing units for injection wells, withdrawal wells or monitoring wells drilled for the purpose of storing gas or other gaseous substances, or wells drilled for the underground disposal of fluids.
- (2) The size and shape of spacing units shall be such as will result in efficient and economical development of the pool or field as a whole and the size thereof may not be smaller than the maximum area that can be efficiently drained by one well.
- (3) An order establishing spacing units for a pool or field shall specify the size and shape of each unit and the location of each permitted well thereon in accordance with a reasonably uniform spacing plan. If an owner finds that a well drilled at the prescribed location would not produce in paying quantities or that surface conditions would substantially add to the burden or hazard of drilling such well, then the owner may apply to the department for permission to drill a well at a location other than that prescribed by such spacing order. The department shall notify adjacent mineral owners of such application and any such owner may request a hearing by the board to consider the application. If no request for a hearing is made in writing within 20 days, the department may issue an order approving the drilling site. Any order by the board or department under this section shall include in the order suitable provisions to prevent the production from the spacing unit of more than its just and equitable share of the oil and gas in the pool.
- (4) An order establishing spacing units for a pool or field shall cover all lands determined or believed to be underlain by such pool or field and may be modified by the board from time to time to include additional areas determined to be underlain by such pool or field. When necessary to prevent waste of oil or gas, to protect correlative rights or to provide for more efficient drainage, an order establishing spacing units in a pool or field may be modified by the board to increase the size of spacing units for future wells in a pool or field or any zone thereof or to permit the drilling of additional wells on a reasonably uniform plan in such pool, field or zone. [Formerly 520.065; 1981 c.146 §4; 2007 c.672 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.220 - Integrating interests or tracts within spacing unit.**

- (1) When two or more separately owned tracts are embraced within a spacing unit or when there are separately owned interests in all or a part of such spacing unit, then the interested persons may integrate their tracts or interests for the development and operation of the spacing unit.
- (2) In the absence of voluntary integration, the governing board of the State Department of Geology and Mineral Industries, upon the application of any interested person, shall make an order integrating all tracts or interests in the spacing unit for the development and operation thereof and for the sharing of production therefrom. The board, as a part of the order establishing one or more spacing units, may prescribe the terms and conditions upon which the royalty interests in the units shall, in the absence of voluntary agreement, be deemed to be integrated without the necessity of a subsequent order integrating royalty interests. Each such integration order shall be upon terms and conditions that are just and reasonable. [Formerly 520.075]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.230 - Approved agreement for cooperative or unit development of pool not to be construed as violating certain regulatory laws.**

- (1) An agreement for the unit or cooperative development and operation of a field or pool in connection with the conduct of repressuring or pressure maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas in connection therewith, or any other method of operation, including water floods, is authorized and may be performed and shall not be held or construed to violate ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995 or any of the statutes of this state relative to trusts, monopolies or contracts and combinations in restraint of trade, if such agreement is approved by the governing board of the State Department of Geology and Mineral Industries as being in the public interest, for the protection of correlative rights and reasonably necessary to increase ultimate recovery or prevent waste of oil or gas. The failure to submit such an agreement to the board for approval does not, for that reason, imply or constitute evidence that the agreement or operations conducted pursuant thereto violate ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995 or any statute of this state now or hereafter in effect relating to trusts and monopolies.
- (2) An agreement for the unit or cooperative development or operation of a field, pool or part thereof may be submitted to the board

for approval as being in the public interest or reasonably necessary to prevent waste or protect correlative rights. Approval by the board constitutes a complete defense to any proceeding charging violation of ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995 or of any statute of this state now or hereafter in effect relating to trusts and monopolies on account thereof or on account of operations conducted pursuant thereto. The failure to submit such an agreement to the board for approval does not, for that reason, imply or constitute evidence that the agreement or operations conducted pursuant thereto violate ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995 or any statute of this state now or hereafter in effect relating to trusts and monopolies. [Formerly 520.085; subsection (2) enacted as 1961 c.671 §13; 1963 c.69 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.240 - Voluntary unitization of operations by lessees of tidal or submersible lands; Department of State Lands' function.**

(1) For the purpose of properly conserving the natural resources of any single oil or gas pool or field, lessees under ORS 274.705 to 274.860 and their representatives may unite with each other jointly or separately, or jointly or separately with others owning or operating lands not belonging to the state, in collectively adopting and operating under a cooperative or unit plan of development or operation of the pool or field, whenever it is determined by the Department of State Lands to be necessary or advisable in the public interest.

(2) The Department of State Lands may, with the consent of the holders of the leases involved, establish, alter, change and revoke any drilling and production requirements of such leases, and make such regulations with reference to such leases, with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan, as the Department of State Lands deems necessary or proper to secure the proper protection of the interests of the state. [1961 c.619 §33]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.260 - Hearing to determine need for unitization of operations; required findings; order.**

(1) The governing board of the State Department of Geology and Mineral Industries upon its own motion may, and upon the application of any interested person shall, hold a hearing to consider the need for the operation as a unit of one or more pools or parts thereof in a field.

(2) The board shall make an order providing for the unit operation of a pool or part thereof if it finds that:

(a) Unit operation is reasonably necessary to effectively carry on pressure control, pressure maintenance or repressuring operations, cycling operations, water flooding operations, injection operations, or any combination thereof, or any other method of recovery designed to substantially increase the ultimate recovery of oil from the pool or pools; and

(b) The value of the estimated additional recovery of oil or gas exceeds the estimated additional cost incident to conducting unit operations. [1961 c.671 §2; 2007 c.672 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.270 - Plan for unit operations.**

An order issued pursuant to ORS 520.260 shall be upon terms and conditions that are just and reasonable, and shall prescribe a plan for unit operations that includes the following:

(1) A description of the pool or pools or parts thereof to be so operated.

(2) A statement of the nature of the operations contemplated.

(3) An allocation to the separately owned tracts in the unit area of all the oil and gas that is produced from the unit area and is saved, being the production that is not used in the conduct of operations on the unit area or not unavoidably lost.

(4) A provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials and equipment contributed to the unit operations.

(5) A provision stating how the costs of unit operations, including capital investments, shall be determined and charged to the separately owned tracts and how these costs shall be paid, including a provision stating when, how and by whom the unit production allocated to an owner who does not pay the share of the cost of unit operations charged to such owner, or the interest of such owner, may be sold and the proceeds applied to the payment of such costs.

(6) A provision, if necessary, for carrying or otherwise financing any person who elects to be carried or otherwise financed, allowing a reasonable interest charge for such service payable out of that person's share of the production.

(7) A provision for the supervision and conduct of the unit operations, in respect to which each person shall have a vote with a value corresponding to the percentage of the costs of unit operations chargeable against the interest of that person.

(8) The time when the unit operations shall commence, and the manner in which, and the circumstances under which, the unit operations shall terminate.

(9) Additional provisions that are found appropriate for carrying on the unit operations, and for the protection of correlative rights. [1961 c.671 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.280 - Allocation of production under plan; ownership.**

(1) The allocation described in ORS 520.270 (3) shall be in accord with the agreement, if any, of the interested parties. If there is no such agreement, the governing board of the State Department of Geology and Mineral Industries shall determine the relative value, from evidence introduced at the hearing, of the separately owned tracts in the unit area, exclusive of physical equipment, for development of oil and gas by unit operations. The production allocated to each tract shall be the proportion that the relative value of each tract so determined bears to the relative value of all tracts in the unit area.

(2) That portion of the unit production allocated to any tract, and the proceeds from the sale thereof, are the property and income of the several persons to whom, or to whose credit, they are allocated or payable under the order providing for unit operations. [1961 c.671 §§4,10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.290 - When unitization order to become effective; supplemental hearings.**

(1) No order of the governing board of the State Department of Geology and Mineral Industries providing for unit operations is effective until:

(a) The plan for unit operations prescribed by the board under ORS 520.270 has been approved in writing by (A) those owners who, under the board's order, will be required to pay at least 75 percent of the costs of the unit operation, and (B) those persons who, at the time of the order of the board, owned of record legal title to 75 percent of royalty and overriding royalty payable with respect to oil and gas produced from the pool or part thereof over the entire unit area; and

(b) The board has made a finding, either in the order providing for unit operations or in a supplemental order, that the plan for unit operations has been so approved.

(2) If the plan for unit operations has not been approved pursuant to subsection (1) of this section at the time the order providing for unit operations is made, the board shall upon application and notice hold such supplemental hearings as are required to determine if and when the plan for unit operations has been approved. If the persons owning the percentage of interest in the unit area required by subsection (1) of this section do not approve the plan for unit operations within a period of six months after the date on which the order providing for unit operations is made, the order is ineffective and shall be revoked by the board unless the board, for good cause shown, extends the time for approval. [1961 c.671 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.300 - Amending unitization order.**

An order providing for unit operations may be amended by an order made by the governing board of the State Department of Geology and Mineral Industries in the same manner and subject to the same conditions as an original order providing for unit operations. However:

(1) If the amendment affects only the rights and interests of the owners, the approval of the amendment by the royalty owners is not required.

(2) The order of amendment may not change the percentage for the allocation of:

(a) Oil and gas as established for any separately owned tract by the original order, except with the consent of all persons owning oil and gas rights in the tract; or

(b) Cost as established for any separately owned tract by the original order, except with the consent of all owners in the tract. [1961 c.671 §6; 2007 c.672 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.310 - Unitization of area including area previously unitized; partial unitization of pool.**

(1) The governing board of the State Department of Geology and Mineral Industries by order may provide for the unit operation of a pool or pools or parts thereof that embrace a unit area established by a previous order of the board. The order, in providing for the allocation of unit production, shall first treat as a single tract the unit area previously established, and the portion of the unit production so allocated thereto shall then be allocated among the separately owned tracts included in the previously established unit area in the same proportions as those specified in the previous order.

(2) An order may provide for unit operations on less than the whole of a pool where the unit area is of such size and shape as may reasonably be required for that purpose, and the conduct thereof will have no adverse effect upon other portions of the pool. [1961 c.671 §§7,8; 2007 c.672 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.320 - Unitization order does not terminate prior agreements or affect oil and gas rights; acquisition of property during unit operations.**

(1) No division order or other contract relating to the sale or purchase of production from a separately owned tract may be terminated by the order providing for unit operations, but remains in force and applies to oil and gas allocated to that tract until terminated in accordance with the provisions thereof.

(2) Except to the extent that the parties affected so agree, no order providing for unit operations results in a transfer of all or any part



of the title of any person to the oil and gas rights in any tract in the unit area.

(3) All property, whether real or personal, that may be acquired in the conduct of unit operations under ORS 520.260 to 520.330 and 520.230 (2) shall be acquired for the account of the owners within the unit area, and is the property of such owners in the proportion that the expenses of unit operations are charged. [1961 c.671 §§11,12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.330 - Effect of operations in unit area.**

All operations, including but not limited to the commencement, drilling or operation of a well, upon any portion of the unit area, are considered for all purposes the conduct of such operations upon each separately owned tract in the unit area by the several owners thereof. The portion of the unit production allocated to a separately owned tract in a unit area, when produced, is considered for all purposes to have been actually produced from that tract by a well drilled thereon. Operations conducted pursuant to an order of the governing board of the State Department of Geology and Mineral Industries providing for unit operations constitute a fulfillment of all the express or implied obligations of each lease or contract covering lands in the unit area to the extent that compliance with such obligations cannot be had because of the order of the board. [1961 c.671 §9; 2007 c.672 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.340 - Legislative findings.**

The underground storage of natural gas in Oregon is found by the Legislative Assembly to be in the public interest in that the establishment of underground reservoirs of natural gas will help insure the continued, uninterrupted availability of natural gas supplies to residential, commercial and industrial consumers in Oregon during periods of peak demand and during interruptions in the normal flow of natural gas supplies. [1977 c.296 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.350 - Property rights in underground reservoirs for natural gas storage.**

(1) All natural gas in an underground reservoir utilized for underground storage, whether acquired by eminent domain or otherwise, shall at all times be the property of the natural gas company utilizing said underground storage, its heirs, successors, or assigns. In no event shall such gas be subject to the rights of the owner of the surface of the land under which said underground reservoir lies or of the owner of any mineral interest therein or of any person other than said natural gas company, its heirs, successors and assigns to release, produce, take, reduce to possessions, or otherwise interfere with or exercise any control thereof.

(2) Any right of condemnation granted for the purposes of ORS 520.340, 772.610 to 772.625 and this section shall be without prejudice to the rights of the owner of the condemned lands or of the rights and interest therein to drill or bore through the underground reservoir in such a manner as shall protect the underground reservoir against pollution and against the escape of natural gas in a manner which complies with the orders and rules of the State Department of Geology and Mineral Industries. Such condemnation shall be without prejudice to the owners of such lands or other rights or interests therein as to all other uses thereof. The additional costs of complying with rules or orders to protect the underground shall be paid by the condemnor. [1977 c.296 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 520 - Conservation of Gas and Oil Section 520.991 - Penalties.**

Subject to ORS 153.022, violation of any provision of this chapter, any rule adopted by the governing board of the State Department of Geology and Mineral Industries under this chapter or any order issued by the board or the State Department of Geology and Mineral Industries under this chapter is a Class B misdemeanor. [1953 c.667 §19; 1999 c.1051 §315; 2007 c.672 §23; 2011 c.597 §221]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.005 - Definitions.**

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the governing board of the State Department of Geology and Mineral Industries.

(2) "By-product" means any mineral or minerals, exclusive of helium or of oil, hydrocarbon gas or other hydrocarbon substances, that are found in solution or in association with geothermal resources and that have a value of less than 75 percent of the value of the geothermal resource or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves.

(3) "Completed geothermal well" means a well producing geothermal resources for which the operator has received the department's written assurance that the manner of drilling of and producing geothermal resources from the well are satisfactory.

(4) "Cooperative agreement" means an agreement or plan of development and operation for the production or utilization of geothermal resources in which separate ownership units independently operate without allocation of production.

(5) "Correlative rights" means the right of each owner in a geothermal area to obtain that owner's just and equitable share of the underlying geothermal resource, or an economic equivalent of that share of the resource, produced in a manner and in an amount that does not injure the reservoir to the detriment of others.

- (6) "Department" means the State Department of Geology and Mineral Industries.
- (7) "Drilling" includes drilling, re-drilling and deepening of a geothermal well.
- (8) "Enhanced recovery" means the increased recovery from a reservoir achieved by artificial means or by the application of energy extrinsic to the reservoir. The artificial means include, but are not limited to, reinjection of hot brine, fluid or water into a reservoir.
- (9) "Geothermal area" means any parcel of land that is, or reasonably appears to be, underlain by geothermal resources.
- (10) "Geothermal reinjection well" means any well or converted well constructed to dispose of geothermal fluids derived from geothermal resources into an underground reservoir.
- (11) "Geothermal resources" means the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or that may be extracted from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam, in whatever form, found below the surface of the earth, exclusive of helium or of oil, hydrocarbon gas or other hydrocarbon substances, but including, specifically:
- (a) All products of geothermal processes, including indigenous steam, hot water and hot brines;
  - (b) Steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations;
  - (c) Heat or other associated energy found in geothermal formations; and
  - (d) Any by-product derived from them.
- (12) "Geothermal well" includes any excavation made for producing geothermal resources and any geothermal reinjection well.
- (13) "Land" means both surface and mineral rights.
- (14) "Operator" means the person:
- (a) Who possesses the legal right to drill a geothermal well;
  - (b) Who has obtained a drilling permit pursuant to ORS 522.135; or
  - (c) Who possesses the legal right to operate a completed geothermal well or who has been granted the authority to operate the well by that person.
- (15) "Prospect well" includes any well drilled as a geophysical test well, seismic shot hole, mineral exploration drilling, core drilling or temperature gradient test well and drilled in prospecting for geothermal resources. "Prospect well" does not include a geothermal well.
- (16) "Reservoir" means an aquifer or combination of aquifers or zones containing a common geothermal or ground water resource. "Reservoir" includes, but is not limited to, a hot dry rock conductive system.
- (17) "Royalty interest" means a right or interest in geothermal resources produced from land or in the proceeds of the first sale of those resources.
- (18) "Unit agreement" means an agreement or plan of development and operation developed under the provisions of ORS 273.775, 308A.050 to 308A.128, 522.015, 522.405 to 522.545, 522.815 and 522.990 and this section for the production or use of geothermal resources in separately owned interests as a single consolidated unit and that provides for the allocation of costs and benefits.
- (19) "Unit area" means the area described in a unit agreement that constitutes the land subject to development under the agreement.
- (20) "Unit operator" means the person designated in the unit agreement to manage and conduct the operation involving unitized land.
- (21) "Unit production" means all geothermal resources produced from a unit area from the effective date of a unit agreement approved by the board under ORS 522.405.
- (22) "Waste" means:
- (a) Any physical waste, including, but not limited to, underground waste resulting from the inefficient, excessive or improper use or dissipation of reservoir energy or resulting from the location, spacing, drilling, equipping, operation or production of a geothermal resource well in such a manner that reduces or tends to reduce the ultimate economic recovery of the geothermal resources within a reservoir; and
  - (b) Surface waste resulting from the inefficient storage of geothermal resources and the location, spacing, drilling, equipping, operation or production of a geothermal resource well in such a manner that causes or tends to cause the unnecessary or excessive surface loss or destruction of geothermal resources released from a reservoir.
- (23) "Working interest" means an interest in geothermal resources or in land containing geothermal resources that is held under a lease, operating agreement, fee title or otherwise and under which, except as otherwise provided in a unit or cooperative agreement, the owner of the interest has the right to explore for, develop, produce or utilize the resources. "Working interest" does not include a right delegated to a unit operator as such by a unit agreement. [1975 c.552 §3; 1979 c.163 §1; 1981 c.588 §3; 1981 c.694 §4; 1999 c.314 §74; 2005 c.22 §375; 2009 c.794 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.015 - Policy.**

- (1) The Legislative Assembly hereby finds and declares that:
- (a) The people of the State of Oregon have a direct and primary interest in the development of geothermal resources situated in this state.
  - (b) The State of Oregon, through the State Department of Geology and Mineral Industries, shall control the drilling, re-drilling and deepening of wells for the discovery and production of geothermal resources so that such wells will be constructed, operated,

maintained, plugged and decommissioned in the manner necessary to safeguard the life, health, property and welfare of the people of this state, to safeguard the air, water and other natural resources of this state, and to encourage the maximum economic recovery of geothermal resources therefrom.

(2) It is the policy of the Legislative Assembly that this chapter be administered:

- (a) To prevent damage to and waste of geothermal resources;
- (b) To prevent interference with or damage to waters used or to be used for beneficial purposes that may result from improper drilling, operation, maintenance, plugging or decommissioning of geothermal or prospect wells;
- (c) To supervise the drilling, operation, maintenance, plugging and decommissioning of geothermal or prospect wells in a manner permitting the operator to utilize all methods known to the industry for the purpose of increasing the ultimate economic recovery of geothermal resources, that are suitable, and consistent with protection of the air, water and other natural resources of the state; and
- (d) To provide for the development, management and production of geothermal resources in a manner that minimizes state involvement, enhances resource recovery, prevents waste, maximizes economic development and protects correlative rights of the resource owners. [Formerly 522.050; 1981 c.588 §4; 2009 c.794 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.019 - Injection of geothermal fluids; rules; water quality permit.**

(1)(a) In order to accomplish the policy of ORS 522.015 all geothermal fluids derived from geothermal resources shall be reinjected into the same reservoir from which withdrawn unless it is determined by the State Department of Geology and Mineral Industries that these policies and the public interest require other disposal of the fluids.

(b) Subject to the determination in paragraph (a) of this subsection, injection into other reservoirs or disposal by other means may be allowed by the department in specific instances where it is shown that such action is consistent with the policies cited in this section. Disposal by other means may include any secondary use of geothermal fluid after the primary use of such fluid for electrical power generation or for other direct application of the heat or other associated energy contained in such fluids or for by-product extraction. Secondary uses may include, but shall not be limited to, use of condensate resulting from electrical power plant operations for plant-cooling purposes, or use of such geothermal fluid for agricultural, commercial or industrial purposes.

(2) The State Department of Geology and Mineral Industries shall adopt rules governing the disposal by reinjection or other means of geothermal fluids derived from geothermal resources from wells of 250 or more degrees Fahrenheit bottom hole temperature or wells 2,000 or more feet deep. The rules shall include standards whereby contamination may be determined, construction standards for reinjection wells, testing procedures for identifying aquifers, standards and procedures for determining whether adjacent aquifers are being degraded by the reinjection process, guidelines for conservation of the resource, criteria for evaluating reservoirs or zones for geothermal fluid disposal and requirements for prior approval of all geothermal fluid reinjection proposals.

(3) In addition to the permit required by ORS 522.115, an operator of a geothermal well must obtain a water quality permit from the Department of Environmental Quality under ORS 468B.050 or under rules authorized by ORS 468B.195 before injection of any fluid, except well drilling fluids. Nothing in this chapter limits the authority of the Department of Environmental Quality to regulate the subsurface injection of fluids pursuant to ORS 468B.195 and 468B.197. [1979 c.163 §4; 1979 c.547 §1; 2009 c.794 §3; 2023 c.258 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.025 - Application.**

(1) The provisions of this chapter relating to the location and drilling of any well for the production of geothermal resources do not apply to any wells producing geothermal resources on July 1, 1975, or wells, other than prospect wells, where:

- (a) The geothermal fluids produced are of less than 250 degrees Fahrenheit bottom hole temperature; or
- (b) Such fluids have been appropriated pursuant to ORS 537.505 to 537.795 and 537.992.

(2) The provisions of this chapter relating to regulation of production of geothermal resources from a geothermal reservoir apply only to wells with a bottom hole temperature of at least 250 degrees Fahrenheit.

(3) If the bottom hole temperature of a well that was initially at least 250 degrees Fahrenheit falls below 250 degrees Fahrenheit, the State Geologist and the Water Resources Director, after consulting with the well owner, shall determine the agency with regulatory responsibility for that specific well. This determination shall be documented in writing and shall supersede a determination made under subsection (1) or (2) of this section. This chapter does not limit the authority of the Water Resources Department to regulate the appropriation of water pursuant to ORS 537.505 to 537.795 and 537.992. [1975 c.552 §4; 1981 c.589 §1; 2009 c.794 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.035 - Ownership rights.**

Ownership rights to geothermal resources shall be in the owner of the surface property underlain by the geothermal resources unless such rights have been otherwise reserved or conveyed. However, nothing in this section shall divest the people or the state of any rights, title or interest they may have in geothermal resources. [1975 c.552 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.045 - Decommissioned well; jurisdiction.**

Any well drilled under authority of this chapter from which usable geothermal resources cannot be derived, or the owner or operator has no intention of deriving usable geothermal resources, and that is not expected to provide information useful to the development of geothermal resources shall be plugged and decommissioned as provided in this chapter or, upon the operator's written application to the State Department of Geology and Mineral Industries and with the concurrence and approval of the Water Resources Director, jurisdiction over the well may be transferred to the Water Resources Director and, in such case, the well shall no longer be subject to the provisions of this chapter but shall be subject to any applicable laws and rules relating to wells drilled for appropriation and use of ground waters. If an application is made to transfer jurisdiction, a copy of all logs, records, histories and descriptions shall be provided to the Water Resources Director by the applicant. [1975 c.552 §4e; 2009 c.794 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.050**

[1971 c.776 §1; 1975 c.552 §1; renumbered 522.015]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.055 - Permit; application; fees.**

- (1) A person may not engage in drilling a prospect well except in compliance with a permit issued by the State Department of Geology and Mineral Industries under this section.
- (2) An application for a permit to drill prospect wells must include:
  - (a) A plugging and decommissioning plan;
  - (b) Such other information as the department by rule may require to assess the impacts of the proposed prospect well; and
  - (c) A nonrefundable fee as determined by the department based on the estimated cost of review of the proposed prospect wells, not to exceed \$2,000 per application or permit modification.
- (3) Each application may include up to five prospect wells per project area. The project area must be contiguous and include no more than 640 acres.
- (4) A permit to drill remains valid until it is revoked or modified by the department based on new information or changed conditions.
- (5) The permittee shall pay the department an annual nonrefundable renewal fee of \$2,725 on or before the anniversary of each active permit.
- (6) A permittee that requests to transfer a permit issued under this section shall pay a nonrefundable fee of \$2,000 at the time of the request.
- (7) All moneys received by the department under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the Geology and Mineral Industries Account established by ORS 516.070. [1975 c.552 §4a; 1991 c.526 §2; 2009 c.794 §6; 2020 s.s.2 c.4 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.065 - Circulation of application to state agencies; suggested conditions to permit; time limit for permit action.**

- (1) Upon receipt of a complete application to drill prospect wells, the State Department of Geology and Mineral Industries shall circulate copies of the application to the Water Resources Department, the Department of Environmental Quality, the Department of Land Conservation and Development and the Department of State Lands. The State Department of Geology and Mineral Industries may circulate copies to other public agencies that may have an interest in the permit application.
- (2) Any public agency receiving a copy of the application as provided in subsection (1) of this section may suggest conditions under which a permit should be granted. A public agency shall submit any suggested conditions to the State Department of Geology and Mineral Industries within 45 days of the public agency's receipt of the copy of the application. The department shall consider any suggested conditions that a public agency submits to the department within the 45-day period.
- (3) A permit issued under this section is subject to such conditions as the department may impose. Included among the conditions shall be provision for the proper and safe plugging and decommissioning of each prospect well. Subject to ORS 522.075, the department shall issue or deny the permit by a written order within 60 days after receipt of a complete application unless the department determines that a longer period is necessary to respond to comments or new information or for other good cause. [1975 c.552 §4b; 2009 c.794 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.075 - Bond or security; conditions; cancellation.**

- (1)(a) The State Department of Geology and Mineral Industries may not issue a permit for a prospect well until the applicant has provided a bond or alternative form of financial security as specified in rules adopted by the governing board of the State Department of Geology and Mineral Industries.
- (b) The amount of the bond or alternative form of financial security may not be less than \$10,000 for each prospect well or not less than \$50,000 for all prospect wells to be drilled.

(2) The bond or alternative form of financial security must be conditioned upon compliance with the requirements of this chapter and rules adopted and orders issued pursuant to this chapter and must secure the state against all losses, charges and expenses, including court costs and attorney fees, incurred by the state in obtaining such compliance.

(3) With the consent of the department, any bond or acceptable alternative form of financial security submitted pursuant to this section may be terminated or canceled. However, the department may not consent to the termination or cancellation of any bond or security until each prospect well covered by such bond or security has been properly and safely plugged and decommissioned pursuant to the plan required by the permit or until another bond or security for each well has been submitted and approved by the department. [1975 c.552 §4c; 1977 c.87 §1; 1979 c.163 §2; 1995 c.146 §1; 2009 c.794 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.080 - Operator liability.**

In addition to any other liability imposed by law, the operator of a prospect well shall be liable to any person or public agency that sustains damages from failure of the operator to comply with:

- (1) A condition in a permit requiring the operator to provide for the protection of ground water in the area affected by the well; or
- (2) Any rules of the governing board of the State Department of Geology and Mineral Industries establishing standards for blowout prevention, equipment and casing design and removal, and any other procedures necessary to shut out detrimental substances from strata containing ground or surface water usable for beneficial purposes. [2009 c.794 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.085 - Report certifying completion of decommissioning plan.**

Upon completion of all drilling and testing undertaken pursuant to an application to drill prospect wells, the applicant shall file with the State Department of Geology and Mineral Industries a report certifying the completion of the plugging and decommissioning plan required by the permit. [1975 c.552 §4d; 2009 c.794 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.115 - Permit; application; fees.**

- (1) A person may not engage in the drilling or operating of any geothermal well except in compliance with a permit issued by the State Department of Geology and Mineral Industries under this section.
- (2) An application for a permit to drill or operate a geothermal well must include:
  - (a) The location and elevation of the floor of the proposed derrick.
  - (b) The number or other designation approved by the department by which the well shall be known.
  - (c) The applicant's estimate of the depths to be drilled.
  - (d) The nature and character of the geothermal resource sought.
  - (e) A reclamation plan for the well pad.
  - (f) Such other information as the department by rule may require to assess the impact of the proposed geothermal well.
  - (g) A nonrefundable fee of \$2,000.
- (3) The permittee shall pay an annual nonrefundable renewal fee of \$2,725 on or before the anniversary of each active permit.
- (4) A request by a permittee to modify a permit shall be accompanied by a nonrefundable fee not to exceed \$2,000.
- (5) A request by a permittee to transfer a permit issued under this section must be accompanied by a nonrefundable fee of \$2,000.
- (6) All moneys received by the department under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the Geology and Mineral Industries Account established by ORS 516.070. [1975 c.552 §5; 1977 c.87 §2; 1991 c.526 §3; 2009 c.794 §11; 2020 s.s.2 c.4 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.125 - Circulation of application to state agencies; suggested conditions to permit.**

- (1) Upon receipt of a complete application for a permit to drill or operate a geothermal well, the State Department of Geology and Mineral Industries shall circulate copies of the application to the Water Resources Department, the State Department of Fish and Wildlife, the Department of Environmental Quality, the State Parks and Recreation Department, the Department of Land Conservation and Development, the State Department of Energy, the Department of State Lands and the governing body of the county and the geothermal heating district in which the well will be located. The State Department of Geology and Mineral Industries may circulate copies to other public agencies that have an interest in the application.
- (2) Any public agency receiving a copy of the application as provided in subsection (1) of this section may suggest conditions under which a permit should be granted. A public agency shall submit any suggested conditions to the State Department of Geology and Mineral Industries within 45 days of the public agency's receipt of the copy of the application. The department shall consider any suggested conditions that a public agency submits to the department within the 45-day period. [1975 c.552 §6; 1981 c.694 §5; 1989 c.904 §66; 2009 c.794 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.135 - Permit; time limit for action; grounds for issuance; conditions; fees.**

(1) Within 60 days after receipt of a complete application for a permit to drill or operate a geothermal well, the State Department of Geology and Mineral Industries shall by order issue or deny the permit unless the department determines that a longer period is necessary to respond to comments or new information or for other good cause.

(2) Except as provided in ORS 522.145, the department shall issue the permit if, after receipt of comments from the agencies referred to in ORS 522.125, the department determines that issuance of the permit would be consistent with the provisions of this chapter and ORS chapters 468A, 468B and 537, any rule adopted under this chapter by the governing board of the department, any rule adopted by the Water Resources Commission under ORS chapter 537 and any rule adopted under ORS chapter 468 or 468B by the Environmental Quality Commission.

(3) If the department issues a permit pursuant to this section, the department shall impose such conditions as the department considers necessary to carry out the provisions of this chapter and ORS chapters 468A, 468B and 537, any rule adopted under this chapter by the governing board of the department, any rule adopted by the Water Resources Commission under ORS chapter 537 and any rule adopted under ORS chapter 468 or 468B by the Environmental Quality Commission. The department shall include in the permit a statement that issuance of the permit does not relieve any person from any obligation to comply with ORS 468B.035, 468B.050, 468B.195, 537.090 or 537.535 or any other applicable state or federal environmental laws.

(4) The State Geologist shall incorporate into the permit requirements:

(a) Any conditions made by the Water Resources Director necessary to comply with the purposes set forth in ORS 537.525; and

(b) Any conditions made by the Department of Environmental Quality necessary to comply with the purposes set forth in ORS 468A.010 and 468B.015. [1975 c.552 §7; 1981 c.694 §6; 1991 c.526 §4; 2009 c.794 §13; 2020 s.s.2 c.4 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.145 - Bond or security; conditions; cancellation.**

(1)(a) The State Department of Geology and Mineral Industries may not issue a permit for a geothermal well until the applicant has provided a bond or alternative form of financial security as specified in rules adopted by the governing board of the State Department of Geology and Mineral Industries.

(b) The amount of the bond or alternative form of financial security may not be less than \$25,000 for each well or not less than \$150,000 for all wells to be drilled.

(2) The bond or alternative form of financial security must be conditioned upon compliance with the requirements of this chapter and rules adopted and orders issued pursuant to this chapter and must secure the state against all losses, charges and expenses, including court costs and attorney fees, incurred by the state in obtaining such compliance.

(3) With the consent of the department, any bond or acceptable alternative form of financial security submitted pursuant to this section may be terminated or canceled. However, the department may not consent to the termination or cancellation of any bond or security until each geothermal well covered by such bond or security has been properly and safely plugged and decommissioned pursuant to the plan required by the permit or until another bond or security for each well has been submitted and approved by the department. [1975 c.552 §8; 1977 c.87 §3; 1981 c.694 §7; 1995 c.146 §2; 2009 c.794 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.155 - Liability for failure to protect ground water and surface water; rules.**

In addition to any other liability imposed by law, the operator of a geothermal well shall be liable to any person or public agency that sustains damages from failure of the operator to comply with:

(1) A condition in a permit requiring the operator to provide for the protection of ground water in the area affected by the well; or

(2) Any rules of the governing board of the State Department of Geology and Mineral Industries establishing standards for blowout prevention, equipment and casing design and removal, and any other procedures necessary to shut out detrimental substances from strata containing ground or surface water usable for beneficial purposes. [1975 c.552 §9; 2009 c.794 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.165 - Request for permit modification; fee.**

(1) A permittee must make a request to modify a permit before changing the location, number or designation specified for any geothermal well or before undertaking to alter in any manner the casing of a geothermal well.

(2) A request to modify a permit under this section, except for changes to a well name, shall be accompanied by the nonrefundable fee specified in ORS 522.115. [1975 c.552 §10; 2009 c.794 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.175 - Plugging and decommissioning; rules.**

(1) No person shall abandon a geothermal well without first plugging and decommissioning the well in conformance with a plugging and decommissioning plan approved by the State Department of Geology and Mineral Industries and complying with the provisions of ORS 522.245.

(2) The governing board of the department shall adopt rules designed to:

(a) Protect underground and surface water usable for beneficial purposes from pollution resulting from infiltration or addition of any

detrimental substance;

(b) Prevent the escape of all fluids to the surface;

(c) Close the surface aperture of the well; and

(d) Remove all surface equipment except that necessary to maintain permanent closure of the well. [1975 c.552 §11; 1981 c.694 §8; 2009 c.794 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.195 - Monthly production statement; rules.**

Except as excluded by rule adopted by the governing board of the State Department of Geology and Mineral Industries, the operator of any completed geothermal well shall file with the department a monthly statement of the geothermal resources production from such well during the preceding calendar month. [1975 c.552 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.205 - Notice by prospective operator of transfer or purchase of well; application; fee; notice by buyer of land of transfer or purchase; rules.**

(1) Except as excluded from the provisions of this section by rule of the governing board of the State Department of Geology and Mineral Industries, any prospective operator of a geothermal well shall notify the department in such form as the department may direct of the purchase, assignment, transfer, conveyance or exchange of the well within 45 days of the purchase and shall accompany such notice with an application for transfer of the permit for the particular well. The application must include the transfer fee specified in ORS 522.115.

(2) Any buyer of land on which a geothermal well is located shall notify the department of the purchase, assignment, transfer, conveyance or exchange of the land upon which such well is situated within 45 days of such purchase. [1975 c.552 §15; 2009 c.794 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.215 - Suspension of drilling or operation; application; terms; extension; presumption of abandonment; unlawful abandonment; notice; proceedings against operator.**

(1) No operator shall suspend drilling or operation of a geothermal well without obtaining permission from the State Department of Geology and Mineral Industries.

(2) The department may authorize an operator to suspend for a specific period operations or remove equipment from an uncompleted geothermal well upon such terms as the department may specify, upon written application of the operator and an affidavit showing good cause therefor.

(3) Within a period of six months from the ending date specified for such suspension, the operator may make written application for an extension of suspension and file it with an affidavit showing good cause for such an extension. Upon a finding that the extension is merited, the governing board of the department may extend the suspension for an additional specific period.

(4) If, after suspension, operations are not resumed by the operator within six months from the ending date specified for the suspension or extension thereof, an intention to abandon and unlawful abandonment shall be presumed.

(5) Whenever an operator whose operations have been suspended fails to comply with such terms as the department may specify in its authorization, the geothermal well shall be presumed unlawfully abandoned. A well shall also be deemed unlawfully abandoned, if, without notice to the department, any drilling or producing equipment is removed.

(6) An unlawful abandonment shall be declared by order of the board, and written notice thereof shall be mailed by registered mail or by certified mail with return receipt both to such operator at the last-known post-office address of the operator, to the registered agent of the operator, if any, and to the operator's sureties.

(7) After declaration of unlawful abandonment, the board may proceed against the operator and the surety of the operator as provided for in ORS 522.145 and may bring suit pursuant to ORS 522.810 or take any other enforcement or recovery action authorized by law. [1975 c.552 §16; 1981 c.694 §9; 1991 c.249 §39; 2009 c.794 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.225 - Notice of intent to plug and decommission.**

(1) Before commencing any operation to discontinue the use of a geothermal well, the operator shall give notice to the State Department of Geology and Mineral Industries of the intention to plug and decommission the well and the date upon which the work will begin.

(2) Such notice shall be given at least 24 hours before the commencement of plugging and decommissioning operations and shall indicate:

(a) The condition of the well;

(b) The proposed method of the plugging and decommissioning operation; and

(c) Any additional information that may be required by the department. [1975 c.552 §17; 2009 c.794 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 -**

**Geothermal ResourcesSection 522.245 - Department approval of plugging and decommissioning; report by operator; effect of failure to comply; proceedings against operator.**

- (1) A representative of the State Department of Geology and Mineral Industries may be present during any operation to plug and decommission a geothermal well. If the representative determines that the plugging and decommissioning is satisfactory, the representative shall approve the plugging and decommissioning of the well.
- (2) Within 45 days after the completion of the plugging and decommissioning of any geothermal well, the operator of the well shall make a written report of all work done. Within 45 days after the receipt of the report, the department shall furnish the operator with a written final approval of the plugging and decommissioning or a written disapproval setting forth the conditions upon which the disapproval is based.
- (3) Failure to plug and decommission in accordance with the approved method, failure to submit to the department any notice or report required by this chapter or failure to furnish the department with any required information shall constitute sufficient grounds for disapproval of the plugging and decommissioning and shall constitute unlawful abandonment of the well.
- (4) When the department has issued a written disapproval of the plugging and decommissioning, the governing board of the department may proceed against the operator and the surety of the operator as provided for in ORS 522.145 and may bring suit pursuant to ORS 522.810 or take any other enforcement or recovery action authorized by law. [1975 c.552 §19; 1981 c.694 §10; 2009 c.794 §21]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 522 - Geothermal ResourcesSection 522.255 - Resolution of conflicts between geothermal and water uses.**

If interference between an existing geothermal well permitted under this chapter and an existing water appropriation permitted under ORS chapter 537 is found by either the State Geologist or the Water Resources Director, the State Geologist and the Water Resources Director shall work cooperatively to resolve the conflict and develop a cooperative management program for the area. In determining what action should be taken, they shall consider the following goals:

- (1) Achieving the most beneficial use of the water and heat resources;
- (2) Allowing all existing users of the resources to continue to use those resources to the greatest extent possible; and
- (3) Insuring that the public interest in efficient use of water and heat resources is protected. [1981 c.589 §8]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 522 - Geothermal ResourcesSection 522.275 - Administration by State Geologist.**

Subject to policy direction by the governing board of the State Department of Geology and Mineral Industries, the State Geologist shall administer this chapter, the rules and orders made pursuant thereto, and supervise the department in carrying out the provisions of this chapter. [1975 c.552 §23]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 522 - Geothermal ResourcesSection 522.305 - Rules.**

- (1) In accordance with the applicable provisions of ORS chapter 183, the governing board of the State Department of Geology and Mineral Industries may adopt rules necessary to implement the provisions of this chapter. This authority includes, but is not limited to, rules relating to:
  - (a) Establishing procedures for the issuance, modification, transfer, denial, suspension and revocation of permits;
  - (b) Establishing procedures for enforcing permit conditions, for enforcing the requirements of this chapter and for enforcing rules adopted to implement the provisions of this chapter; and
  - (c) Establishing civil penalties for violations of this chapter, for violations of rules adopted to implement the provisions of this chapter and for violations of permits and orders issued pursuant to this chapter.
- (2) Any final determination made by the State Department of Geology and Mineral Industries in carrying out the provisions of this chapter or in rules adopted thereunder may be reviewed in the manner provided by the applicable provisions of ORS chapter 183. [1975 c.552 §22; 2009 c.794 §25]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 522 - Geothermal ResourcesSection 522.315 - Final order of department; delivery to operator.**

Whenever the State Department of Geology and Mineral Industries gives any written direction concerning any geothermal well and the operator requests in writing that a final order for purposes of ORS chapter 183 be made, the department shall, within 15 days after receipt of the notice, deliver such final written order to the operator. [1975 c.552 §24]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 522 - Geothermal ResourcesSection 522.325 - Compliance with final order; appeal.**

- (1) The operator of any geothermal well shall within 15 days from the date of the service of any order, either comply with the order or file with the State Department of Geology and Mineral Industries a written statement that the order is not acceptable, and the reasons therefor, and the statement shall constitute an appeal from such order to the governing board of the department.



(2) Any final written order of the board may be appealed in the manner provided in ORS chapter 183 for appeals from final orders in contested cases. [1975 c.552 §25]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.355 - Records of well; contents; drill cutting and core samples.**

(1) The operator of any geothermal well shall keep, or cause to be kept, a careful and accurate log, core record and history of the drilling of the well.

(2) The log referred to in subsection (1) of this section shall show the character and depth of each formation encountered in the drilling of the well; the amount, size and weight of casing used; and the location, depth and temperature of water-bearing strata, including the temperature, chemical composition and other chemical and physical characteristics of fluid encountered from time to time, so far as determined.

(3) The core record referred to in subsection (1) of this section shall show the depth, character and fluid content of cores obtained, so far as determined from the study and analysis thereof.

(4) The history referred to in subsection (1) of this section shall show the location and amount of sidetracked casings, tools or other material; the depth and quantity of cement in cement plugs; the shots of dynamite or other explosives used; the results of production and other tests during drilling operations; and completion data.

(5) The log referred to in subsections (1) and (2) of this section shall be kept in the local office of the operator and, together with the tour reports of the operator, shall be subject, during business hours, to inspection by the governing board of the State Department of Geology and Mineral Industries, or the department.

(6) The operator of any geothermal well shall, in addition to furnishing the log, records, and tests required by this section, collect representative drill cuttings. The operator shall additionally, in the event cores are taken, collect representative core samples. The drill cuttings and core samples shall be filed with the department promptly upon completion or upon its written request, and upon plugging and decommissioning or upon suspension of operations for a period of at least six months. [1975 c.552 §26; 1977 c.87 §4; 2009 c.794 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.365 - Filing record with department; exemption from disclosure.**

(1) Each operator of any geothermal well or the designated agent of the operator shall file with the State Department of Geology and Mineral Industries a copy of the log, history and core record, or any portion thereof, promptly upon completion, or upon the written request of the department at any time after the commencement of the work of drilling any geothermal well, and upon plugging and decommissioning or upon suspension of operations for a period of at least six months.

(2) For a period of four years after the receipt of any log, history, core record, or any portion thereof, such record shall be exempt from disclosure as a trade secret pursuant to ORS 192.345 unless the operator gives approval to release the data. [1975 c.552 §27; 2009 c.794 §23]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.405 - Unitization; development of unit agreement; rules.**

(1) When two or more separately owned tracts of land are within an area under which a reservoir is located or reasonably believed to be located, or when there are separately owned interests in all or part of such an area, the governing board of the State Department of Geology and Mineral Industries, upon its own motion may or upon the application of an interested person or state or local governmental governing body, special district or agency, shall review the need for unitization of the area. The board by rule or order may require the development of a unit agreement for the geothermal resource area if it finds:

(a) Unitized management, operation and development of the geothermal resources in a reservoir is necessary to increase the ultimate recovery of the resources;

(b) The application of unitized methods of operation will prevent waste and aid efficient production and utilization of the resource; or

(c) Unitization and the unitized method of operation are in the public interest and reasonably necessary to protect the correlative rights of owners.

(2) When the board requires the development of a unit agreement under this section, it shall encourage the development of a voluntary agreement between the affected parties. In the absence of a voluntary agreement, the board shall itself develop or cause to be developed a unit agreement that satisfies the provisions of ORS 273.775, 308A.050 to 308A.128, 522.005, 522.015, 522.405 to 522.545, 522.815 and 522.990. In adopting a rule or entering an order for a unit agreement, the board shall consider any plant dedicated area agreement in effect and shall not contravene or interfere with that agreement unless it finds that a term or condition of that agreement violates the policies stated in ORS 522.015. The board shall require the development of the resource in accordance with a proposed unit agreement if it finds that the agreement conforms with the provisions of ORS 273.775, 308A.050 to 308A.128, 522.005, 522.015, 522.405 to 522.545, 522.815 and 522.990.

(3) The development of a unit agreement under subsections (1) and (2) of this section shall be conducted as a rulemaking proceeding in accordance with ORS chapter 183 unless an interested party requests that it be conducted as a contested case in accordance with ORS chapter 183. In either event, notice shall be given in accordance with the applicable provisions of ORS chapter 183.

(4) As used in this section, "plant dedicated area agreement" means a contractual relationship in geothermal energy development between a geothermal resource owner and a customer which makes a specific surface area and related resource base available exclusively to that customer. [1981 c.588 §8; 1999 c.314 §75]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.415 - Unit operation plan.**

A voluntary or board-sponsored unit agreement developed in response to a rule adopted or an order issued under ORS 522.405 shall provide a unit operation plan that includes:

- (1) A description of the geothermal reservoir and the overlaying land to be operated as a unit.
- (2) A statement of the nature of the operations contemplated.
- (3) A provision for credits and charges to be made in the adjustment among the owners in a unit area for their respective investments in geothermal wells, prospect wells, machinery, materials and equipment used in the unit operation.
- (4) The division of interest or a formula for apportionment of unit production among the separately owned tracts within the unit area which reasonably permits a person or state or local governing body, special district or agency otherwise entitled to share in or benefit by production from a tract to receive an equitable and reasonable share of the unit production or other benefit. An equitable and reasonable share of unit production is measured by the proportion the value of the separately owned tract for geothermal resources recovery bears to the value of the unit for that purpose, taking acreage into account.
- (5) Provisions which state how the costs will be paid, how unit production is to be measured and when, how and by whom unit production is to be allocated. The provision shall provide that unit production due to an owner who does not pay that owner's share of the cost of unit operation or that owner's interest may be sold and the proceeds applied to the cost.
- (6) A provision, if necessary, for making financing available to any person or state or local governing body, special district or agency that wishes to obtain financing. The provision shall allow a reasonable interest charge for the service payable out of that respective share of production.
- (7) A provision for the supervision and conduct of the unit operation. Each person or state or local governing body, special district or agency shall have a vote on the provision with a weight corresponding to the percentage of the cost of unit operation chargeable against that respective interest.
- (8) The time when the unit operation shall begin and the manner and circumstances under which the unit operation shall terminate.
- (9) Provisions, if necessary, for the protection of preexisting water users within the unit area and for administration of future water development from the reservoir covered by the unit agreement. [1981 c.588 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.425 - Provisions in rule or order requiring unit operation.**

Any rule or order of the governing board of the State Department of Geology and Mineral Industries providing for the unit operation of a geothermal resource area may include provisions for:

- (1) Division of a reservoir into zones;
- (2) Establishment of spacing units, including a description of their location, size and shape;
- (3) The integration of separately owned tracts or interests within a spacing unit, the development and operation of the spacing unit and the sharing of production;
- (4) The protection of existing and future beneficial uses of water;
- (5) Maintenance of the renewability of geothermal resources and any other natural resources; and
- (6) Any additional provisions the board considers necessary for carrying out the provisions of this chapter or for protection of the public health, safety and welfare. [1981 c.588 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.435 - Rule, order to supersede previous board action.**

Any rule adopted or order entered under ORS 522.405 shall supersede any right or privilege previously granted by the governing board of the State Department of Geology and Mineral Industries to the same person or state or local governing body, special district or agency with respect to the reservoir. [1981 c.588 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.445 - Condition to effectiveness of unitization plan and unit agreement.**

- (1) No rule or order of the governing board of the State Department of Geology and Mineral Industries which creates a unit and prescribes a unitization plan and no applicable unit agreement shall be effective unless the plan of unit operation required by the board under ORS 522.405 has been approved in writing by:
  - (a) The operators who will be required to pay under the board's rule or order at least 75 percent of the unit operation costs; and
  - (b) The persons or state or local governing body, special district or agency that, at the time of the board rule or order, own record legal title to 75 percent of the royalties payable with respect to the geothermal resource produced from the unit area.
- (2) If the royalty owners who own the required percentage interest in the unit area and the operators have not approved the

unitization plan within six months of the date on which the rule or order creating the unit is adopted or entered, that rule or order shall become ineffective and shall be considered to have been repealed or revoked by the board. [1981 c.588 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.455 - Rehearing on rule or order; judicial review.**

(1) Any person or state or local governing body, special district or agency with an interest in geothermal resources within an area to be designated as a unit that is adversely affected by any rule or order of the governing board of the State Department of Geology and Mineral Industries may apply to the board for a rehearing within 30 days after the adoption of the rule or entry of the order. The board shall decide within 45 days after the filing date of the rule or order whether to grant a rehearing. If granted, the rehearing shall be held without undue delay. Failure to act within the 45-day period constitutes approval of the rehearing request.

(2) Any person or state or local governing body, special district or agency that holds a working interest in geothermal resources in a designated or proposed unit area that is adversely affected by any rule promulgated or order entered by the board may obtain judicial review of the rule or order pursuant to ORS chapter 183. [1981 c.588 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.465 - Appointment of unit operator.**

As part of a proposed rule or order designating a unit area and approving a unitization plan or as part of a unit agreement, the working interest owners under the agreement, within the time specified by the governing board of the State Department of Geology and Mineral Industries, shall appoint the unit operator. If the working interest owners do not make the appointment within the specified time, the board shall appoint the unit operator. [1981 c.588 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.475 - Board review of disputes over unit operation; appeal.**

(1) Any disagreement with respect to the unit operation between persons or between persons and state or local governing bodies, special districts or agencies owning any interest in the geothermal resources in a unit area, or between persons or state and local governing bodies, special districts or agencies owning an interest in geothermal resources in a unit area and a unit operator, including a dispute over replacement of a unit operator, may be submitted to the governing board of the State Department of Geology and Mineral Industries for its review and decision.

(2) The board decision under this section may be appealed to the Court of Appeals. The appeal must be filed within 60 days of the date of the board's decision. [1981 c.588 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.485 - Amendment of unitization plan.**

Subject to the same conditions and limitations provided with respect to the creation of a unit, the following may occur:

(1) A unit area may be enlarged to include adjoining portions of the same geothermal resource area, including another unit area, and a new unit created for the unitized management, operation and development of the enlarged unit area; or

(2) The unitization plan may be otherwise amended, including, but not limited to, an amendment reducing unit area size. [1981 c.588 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.495 - Presumptions regarding conduct of operation.**

Any operation on any portion of the unit area, including, but not limited to, the drilling or operation of a well, is considered for all purposes the conduct of the same operation on the whole unit area. The portion of unit production allocated to a separately owned tract in a unit area is considered for all purposes to actually have been produced from a well drilled upon that tract. An operation conducted pursuant to a board rule adopted or order issued under ORS 522.405 constitutes a fulfillment of all express or implied obligations under each lease or contract covering lands in the unit area. [1981 c. 588 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.505 - Unauthorized operation in unit area prohibited; exemption.**

(1) The operation of a geothermal well in a unit area by anyone other than by a person or state or local governing body, special district or agency acting under the unit's authority shall be unlawful. That operation is prohibited from the effective date of the board rule or order creating the unit and prescribing the unitization plan or the unit agreement, except in the manner and to the extent provided in the unitization plan or agreement.

(2) The provisions of ORS 273.775, 308A.050 to 308A.128, 522.005, 522.015, 522.405 to 522.545, 522.815 and 522.990 shall not affect the ability of a ground water user to exercise a water right that existed before the initiation of a unit agreement. [1981 c.588 §18; 1999 c.314 §76]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 -**

**Geothermal ResourcesSection 522.515 - When agreement or plan held not to violate state securities or trade law.**

(1) A unit agreement or unitization plan under a board rule adopted or order issued pursuant to ORS 522.405 shall not be held or construed to violate ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995 or any state statute relating to trusts, monopolies or contracts and combinations in restraint of trade if the board has made a finding that the agreement is in the public interest for the protection of correlative rights and is necessary to enhance recovery of geothermal resources or to prevent waste.

(2) Any voluntary unit agreement or plan for unitization between owners, holders of working interests and holders of royalty interests for the exploration, development and operation of a unit area shall not be held or construed to violate ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995 or any state statute relating to trusts, monopolies or contracts and combinations in restraint of trade if the agreement is approved by the board as being in the public interest for the protection of correlative rights and necessary to enhance recovery of geothermal resources or to prevent waste.

(3) A voluntary agreement may be submitted to the board for approval as being in the public interest for the protection of correlative rights and necessary to enhance recovery of geothermal resources or to prevent waste. Board approval constitutes a complete defense to any proceeding charging violation of ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995 or of any state statute relating to trusts or monopolies on account of operations conducted pursuant to the agreement.

(4) The failure to submit a voluntary agreement for board approval does not constitute evidence that the agreement or operation violates ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995 or any state statute relating to trusts or monopolies. [1981 c.588 §19]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 522 - Geothermal ResourcesSection 522.525 - Land subject to board authority; federal lands.**

Board authority applies to all private, municipal, state and federal land in the state which is subject to the state's regulatory authority. When land subject to federal jurisdiction is committed to a unit agreement or cooperative agreement the board may suspend the operation of this chapter or any provision of this chapter if:

(1) The unit operation is regulated by the United States; and

(2) The unit agreement prevents waste and encourages maximum economic development of the resource. [1981 c.588 §20]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 522 - Geothermal ResourcesSection 522.535 - Fees; rules.**

(1) The governing board of the State Department of Geology and Mineral Industries shall establish reasonable fees by rule pursuant to ORS chapter 183 for the purpose of the development and administration of a unit agreement to be paid by all persons or state or local governing bodies, special districts or agencies with a royalty interest in that unitized development. The fee schedule shall recognize the reduced workload involved in review of a voluntary unit agreement that complies with this chapter.

(2) When a person or state or local governing body, special district or agency with a royalty interest fails to pay a fee imposed by the board under ORS 522.545 or this section, the board may require that the fee be paid from the proceeds of the sale of the unit production attributable to that interest. [1981 c.588 §21]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 522 - Geothermal ResourcesSection 522.545 - Rulemaking authority.**

The governing board of the State Department of Geology and Mineral Industries may make, in compliance with ORS chapter 183, rules and orders for the following purposes:

(1) To review and enforce voluntary unit agreements governing production of geothermal resources in a manner that is consistent with the provisions of this chapter.

(2) To provide application forms and procedures to enable a person to request the board to initiate a unit agreement.

(3) To develop and enforce, when necessary, unit agreements satisfying the requirements of this chapter.

(4) To settle disagreements between the parties to a unit agreement over unit operation.

(5) To change the boundaries of a unit area.

(6) To prevent the drilling and operation of geothermal wells and the production of geothermal resources in a manner that causes injury to neighboring leaseholds or property.

(7) To levy fees on any operator, person, state or local governing body, special district or agency that holds a royalty interest in a unit area to cover reasonable costs associated with the development and administration of a unit agreement. [1981 c.588 §22]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 522 - Geothermal ResourcesSection 522.810 - Suits to enjoin violations.**

Whenever it appears that any person is violating or threatening to violate any provision of this chapter or any rule or order of the governing board of the State Department of Geology and Mineral Industries made thereunder, or is threatening to or committing waste, the board may bring suit against such person in the circuit court of any county where the violation or waste occurs or is threatened, to restrain such person from continuing such violation or waste. In any such suit, the court shall have jurisdiction to grant to the board, without bond or other undertaking, such temporary restraining orders or final prohibitory and mandatory injunctions as

the facts may warrant, including any such orders restraining the movement, disposition or waste of geothermal resources. [1971 c.776 §41; 1973 c.388 §7; 1975 c.552 §29]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.815 - Rules by board; scope; adoption; notice.**

(1) In accordance with the rulemaking provisions of ORS chapter 183, the governing board of the State Department of Geology and Mineral Industries may adopt rules necessary to conserve geothermal resources or other natural resources, or to protect the environment, the correlative rights of any person having an ownership interest in the affected land or resource, or beneficial uses of water, or to accomplish the efficient and economical development of a geothermal reservoir. The rules shall include a description of the geothermal reservoir and the overlying land and may also include provisions for the following:

- (a) Division of a geothermal reservoir into zones;
- (b) Establishment of spacing units including a description of the location, size and shape of such spacing units;
- (c) The integration of separately owned tracts or interests within a spacing unit for the development and operation of the spacing unit and the sharing of production therefrom;
- (d) The protection of existing and future beneficial uses of water;
- (e) Maintaining the renewability of geothermal resources and any other natural resources; and
- (f) Any additional provisions the board deems necessary for carrying out the provisions of this chapter or for protecting the public health, safety and welfare.

(2) Any rule adopted under this section may in the board's discretion supersede any right or privilege previously granted by or previously entered by the board with respect to such reservoir and may be amended in accordance with the rulemaking provisions of ORS chapter 183 as appears necessary to the board to further the policy stated in ORS 522.015.

(3) Any proceeding under this section shall be conducted as a rulemaking proceeding in accordance with ORS chapter 183 unless an interested party requests that it be conducted as a contested case in accordance with ORS chapter 183. In either event, notice shall be given in accordance with the requirements of ORS chapter 183. Notice shall always be given to the following persons:

- (a) Any operator who has a drilling permit issued pursuant to ORS 522.135 or has a legal right to operate a completed geothermal well in the geothermal reservoir; and
- (b) Any person who has an ownership interest in the geothermal reservoir. [1975 c.552 §43; 1981 c.588 §5; 1981 c.694 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.910 - Aiding in violations prohibited.**

No person shall knowingly aid or abet any other person in the violation of any provision of this chapter or of any rule or order of the governing board of the State Department of Geology and Mineral Industries made thereunder. [1971 c.776 §40; 1975 c.552 §30]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.915 - False entries, omissions, destruction or removal of records or reports.**

No person shall:

- (1) Make or cause to be made any false entry or statement in a report, record, log, account or other writing required by this chapter or any rule adopted pursuant thereto;
- (2) Omit or cause to be omitted from any such report, record, log, account or writing, full, true and correct entries as required by this chapter or any rule or order adopted pursuant thereto;
- (3) Destroy, mutilate, alter or falsify any such report, record, log, account or writing; or
- (4) Remove from this state the original copy of any such report, record, log, account or writing before the plugging and decommissioning of a geothermal well has been approved pursuant to ORS 522.245 (2). [1975 c.552 §28; 2009 c.794 §24]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 522 - Geothermal Resources Section 522.990 - Penalties.**

Subject to ORS 153.022, violation of any provision of this chapter or of any rule or order of the governing board of the State Department of Geology and Mineral Industries made thereunder, excluding ORS 522.405 to 522.545 and any rule promulgated thereunder, is a Class B misdemeanor. [1971 c.776 §42; 1975 c.552 §31; 1981 c.588 §6; 1999 c.1051 §316; 2011 c.597 §222]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.010 - Definitions.**

As used in this chapter unless the context requires otherwise:

- (1) "Board" or "board of commissioners" means the governing body of a district.
- (2) "By-product" means any mineral or minerals (exclusive of oil, hydrocarbon gas, helium or other hydrocarbon substances) which are found in solution or in association with geothermal resources and which have a value of less than 75 percent of the value of the geothermal resources or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves.

- (3) "District" means a geothermal heating district formed under this chapter.
- (4) "County" means the county in which the district, or the greater portion of the taxable assessed value of the district, is located.
- (5) "County board" means the county court or board of county commissioners of the county.
- (6) "County clerk" means the county clerk of the county.
- (7) "Geothermal heat" means heat derived from geothermal resources.
- (8) "Geothermal resources" means the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam, in whatever form, found below the surface of the earth, exclusive of oil, hydrocarbon gas, helium or other hydrocarbon substances, but including, specifically:
  - (a) All products of geothermal processes, embracing indigenous steam, hot water and hot brines;
  - (b) Steam and other gases, hot water and hot brines resulting from water, gas or other fluids artificially introduced into geothermal formations;
  - (c) Heat or other associated energy found in geothermal formation; and
  - (d) Any by-product derived from them.
- (9) "Inhabitant" when used with respect to a district includes a business located within the district.
- (10) "Owner" means the holder of the record title to real property or the vendee under a land sale contract, if there is such a contract. [1975 c.782 §1; 1983 c.83 §98]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.015 - Definitions for ORS 523.020.**

For the purposes of ORS 523.020 and this section, notwithstanding ORS 523.610 to 523.670, "board," as defined in ORS 523.010, includes the governing body of a city. "District," as defined in ORS 523.010, includes an incorporated city. [1977 c.212 §1]

Note:

523.015 and 523.020 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 523 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.020 - City as geothermal heating district.**

(1) An incorporated city, when empowered by its charter to do so, may provide geothermal heating services to persons within and without its boundaries in accordance with the provisions of ORS chapter 523, where not in conflict with ORS 523.015 and this section.

(2) The powers conferred by ORS chapter 523 and ORS 523.015 and this section are in addition to the powers conferred by any other law and not in substitution for any right, power or privilege vested in a city. [1977 c.212 §2]

Note:

See note under 523.015.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.030 - Formation of geothermal heating districts; disposal of surplus; exclusion from district.**

A geothermal heating district may be formed for the purpose of supplying inhabitants of the district with geothermal heat as provided by this chapter. In connection with supplying geothermal heat, a district may supply, furnish and sell for any use any surplus geothermal heat over and above the heating needs of its inhabitants to persons outside the district, or to school districts or other local governments as defined in ORS 174.116. All railroad rights of way or improvements thereon or rolling stock moving thereover shall be excluded from districts organized under ORS 198.010, 198.180, 198.510, 198.705, 199.420, 255.012, 366.321, 451.573 and this chapter and for purposes of this chapter shall not be considered as property within the boundaries of such districts, unless the owner of the railroad property expressly consents to its inclusion. [1975 c.782 §2; 2003 c.802 §128; 2007 c.179 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.040 - Powers of district; emergency power; applying for financing gifts and grants.**

(1) A district formed under this chapter shall have the power to make contracts, hold and receive and dispose of real and personal property within and without its described boundaries and do all other acts and things which may be requisite, necessary or convenient in carrying out the objects of the district or exercising the powers conferred upon it by this chapter, sue and be sued, plead and be impleaded in all actions and suits or other proceedings brought by or against it.

(2) In an emergency or in order to meet peak demand a district may supply its inhabitants with heat derived from an energy source other than from geothermal resources for purposes of supplementing the geothermal heat supplied by the district.

(3) In addition to any other power of a district, it may apply and qualify for and receive any private or federal grants, loans or other funds available for carrying out the objects of the district. [1975 c.782 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 -**

**Geothermal Heating DistrictsSection 523.050 - Water and real property transactions; right to obtain geothermal heat from other sources.**

A geothermal heating district may purchase, sell and hold interests in water and real property in carrying out the objects of the district. A district also has the right to purchase or obtain from cities or other geothermal heating districts, geothermal heat, or an interest in geothermal heat, or an interest in a geothermal heat pipeline owned or operated by a city or other geothermal heating district, or to obtain jointly with a city or other geothermal heating district, any right, or to lay and own individually or jointly with any city or other geothermal heating district, any geothermal heat pipeline for the purposes specified in ORS 523.030. [1975 c.782 §5; 2003 c.802 §129]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.060 - Cooperative agreements; bonds.**

(1) Districts may enter into cooperative agreements with each other providing for the joint acquisition, construction, ownership, use or control of facilities for the collection, treatment, distribution or supply of geothermal heat.  
(2) Each district may issue and sell general obligation, revenue or refunding bonds, subject to the limitations and procedures contained or referred to in this chapter for the authorization, issuance or sale of such bonds, for the purpose of paying its share of the cost of the acquisition or construction of facilities provided for in cooperative agreements authorized by this section. [1975 c.782 §18]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.070 - Authority to perform drainage work.**

Any district may perform drainage work for the purpose of reclaiming real property located within the district, protecting real or personal property located within the district from the effects of geothermal heating, promoting sanitation, providing for the public health, convenience and welfare or providing services of public utility or benefit. The district may use all applicable powers granted to it by this chapter, including the rights and powers of eminent domain, in performing the drainage work authorized by this section. [1975 c.782 §17]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.110 - Regulations on use of geothermal heat; effect of failure to comply.**

Any district may adopt and promulgate regulations concerning the use of geothermal heat and the property of the district. The board of commissioners may refuse to supply any building, place or premises with geothermal heat where the user fails after 10 days' written notice to comply with the regulations. The written notice shall be by registered mail or by certified mail with return receipt and shall be deemed given when it is deposited in the United States Post Office properly addressed with postage prepaid. [1975 c.782 §11; 1991 c.249 §40]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.120 - Deposit or other security for use of heat.**

Any district may require a reasonable cash deposit or an irrevocable letter of credit to insure payment for the use or rent of geothermal heat to be furnished by the district. [1975 c.782 §12; 1991 c.331 §75]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.130 - Rates; contracts with users.**

A geothermal heating district shall charge consumers for the geothermal heat furnished and fix and collect the rates therefor. Rates charged may be fixed and classified according to the type of use and according to the amount of geothermal heat used. Any contract entered into by a district with persons other than domestic users shall provide for immediate cancellation whenever no surplus supply of geothermal heat exists over and above any and all demands of domestic users. A district also may contract with any person or may enter into an intergovernmental agreement under ORS chapter 190 to supply, furnish and sell surplus geothermal heat on such terms and conditions and at such rates as the board of commissioners considers advisable. [1975 c.782 §13; 2003 c.802 §130]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.140 - Rate increase procedure.**

(1) Whenever any increase is proposed in the existing rates charged geothermal heat consumers by a district pursuant to ORS 523.130, the board of commissioners shall first provide for a public hearing on such proposal before any increased rates are ordered into effect.  
(2) The public hearing required under subsection (1) of this section shall be held at a place designated by the board after notice thereof has been given by inclusion of a notice of the public hearing in the geothermal heating bills sent to consumers by the district during the period of 30 days prior to the date of the hearing. [1975 c.782 §14]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 -**

**Geothermal Heating DistrictsSection 523.150 - Termination of service for nonpayment of heating charge.**

In case prompt payment of geothermal heating rent or charge is not made, a district may shut off the geothermal heating supply to the building, place or premises to which the district supplied the geothermal heating. [1975 c.782 §15]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.160 - Refund of heating service extension costs by owner of adjacent property.**

If any person is required by a district to pay the cost of extending a geothermal heating pipeline adjacent to property other than the property of the person so that geothermal heating service is provided for such other property without further extension of the geothermal heating pipeline, the district shall require the owner of the other property, prior to providing geothermal heating service to that property, to refund to the person required to pay the cost of extending the geothermal heating pipeline, a pro rata portion of the cost of the extension. The right to require such refund shall not continue for more than 10 years after the date of installation of the extension of the geothermal heating pipeline. The amount to be refunded shall be determined by the district and such determination shall be final. [1975 c.782 §16]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.210 - Special assessment for improvements; report; contents.**

Whenever the district board considers it necessary, upon its own motion, or upon the petition of the owners of one-half of the property that benefits specially from the improvement, to make any improvement to be paid for in whole or in part by special assessment according to benefits, the board shall, by motion, cause a survey and written report for such project to be made and filed with the secretary. Unless the district board directs otherwise, the report shall contain:

- (1) A map or plat showing the general nature, location and extent of the proposed improvement and the land to be assessed for the payment of any part of the cost thereof.
- (2) Plans, specifications and estimates of the work to be done; however, where the proposed project is to be carried out in cooperation with any other governmental agency, the district board may adopt the plans, specifications and estimates of such agency.
- (3) An estimate of the probable cost of the improvement, including any legal, administrative and engineering costs attributable thereto.
- (4) An estimate of the unit cost of the improvement to the specially benefited properties.
- (5) A recommendation as to the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefited.
- (6) The description and assessed value of each lot, parcel of land or portion thereof, to be specially benefited by the improvement, with the names of the record owners thereof and, when readily available, the names of the contract purchasers thereof.
- (7) A statement of outstanding assessments against property to be assessed. [1975 c.782 §19]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.220 - Action on special assessment report by board.**

After the report has been filed with the secretary, the district board may by motion approve the report, modify the report and approve it as modified, require additional or different information for the improvement, or it may abandon the improvement. [1975 c.782 §20]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.230 - Approval of special assessment report; notice of improvement; contents.**

After the district board approves the report as submitted or modified, the board shall, by resolution, declare its intention to make the improvement, provide the manner and method of carrying out the improvement and direct the secretary to give notice of the improvement. Such notice shall be given by two publications one week apart in a newspaper of general circulation within the district, and by mailing copies of the notice by registered or certified mail to the owners to be assessed for the costs of the improvement. The notice shall contain the following:

- (1) That the report of the improvement is on file in the office of the secretary and is subject to public examination.
- (2) That the district board will hold a public hearing on the proposed improvement on a specified date, which shall not be earlier than 10 days following the first publication of notice, at which objections and remonstrances to the improvement will be heard by the board; and that if prior to such hearing there shall be presented to the secretary valid, written remonstrances of the owners of two-thirds of the property or two-thirds of the front footage of the property to be specifically affected for the improvement, then the improvement will be abandoned for at least six months, unless the improvement is unanimously declared by the district board to be needed at once because of an emergency.
- (3) A description of the property to be specially benefited by the improvement, the owners of the property and the estimate of the unit cost of the improvement to be paid for by special assessments to benefited properties. [1975 c.782 §21]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 -**



**Geothermal Heating DistrictsSection 523.240 - Means of constructing improvement.**

The board of a geothermal heating district may provide in the improvement resolution that the construction work will be done in whole, or in part, by the district, by a contract or by any other public body as defined in ORS 174.109, or by any combination thereof. [1975 c.782 §22; 2003 c.802 §131]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.250 - Order to carry out or abandon improvement after public hearing; assessment ordinance.**

(1) At the time of the public hearing on the proposed improvement, if the written remonstrances represent less than the amount of property required to defeat the proposed improvement, if such an improvement is one that can be remonstrated against, then on the basis of such hearing of written remonstrances and oral objections, if any, the district board may, by motion, at the time of the hearing or within 60 days thereafter, order the improvement to be carried out in accordance with the resolution, or the district board may, on its own motion, abandon the improvement.

(2) After the public hearing on the proposed improvement and after the district board has moved to proceed with the improvement, it may pass an ordinance assessing the various lots, parcels of land or parts thereof, to be specially benefited with their apportioned share of the cost of the improvement; but the passage of an assessment ordinance may be delayed until the contract for the work is let, or until the improvement is completed and the total cost thereof is determined. [1975 c.782 §23]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.260 - Method of assessment.**

The district board in adopting a method of assessment of the costs of the improvement may:

(1) Use any just and reasonable method of determining the extent of any improvement district consistent with the benefits derived.

(2) Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.

(3) Authorize payment by the district of all, or any part, of the cost of any such improvement, when in the opinion of the board the topographical or physical conditions, or unusual or excessive public travel, or other character of the work involved warrants only a partial payment or no payment by the benefited property of the costs of the improvement. [1975 c.782 §24]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.270 - Appeal of assessment.**

Any person feeling aggrieved by the assessments made under an assessment ordinance may, within 20 days after the passage of the ordinance levying the assessment by the district board, appeal to the circuit court for the county in which the district is located. The appeal and the requirements and formalities thereof shall be heard, governed and determined, and the judgment thereon rendered and enforced, in the manner provided for appeals from assessments in ORS 223.005 to 223.105 and 223.205 to 223.930. The result of the appeal shall be a final and conclusive determination of the matter of the assessment, except with respect to the district right of reassessment provided by ORS 523.360. [1975 c.782 §25]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.280 - Notice of assessment to property owners; publication; contents.**

Within 10 days after the ordinance levying assessments is adopted, the secretary of the district shall send by registered or certified mail a notice of assessment to the owner of the assessed property, and shall publish notice of the assessment twice in a newspaper of general circulation in the district, the first publication of which shall be made not later than 10 days after the date of the assessment ordinance. The notice of assessment shall recite the date of the assessment ordinance and shall state that upon the failure of the owner of the property assessed to make application to pay the assessment in installments within 10 days from the date of the first publication of notice, or upon the failure of the owner to pay the assessment in full within 30 days after the date of the assessment ordinance, then interest will commence to run on the assessment and the property assessed will be subject to foreclosure. The notice shall also set forth a description of the property assessed, the name of the owner of the property and the amount of each assessment. [1975 c.782 §26]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.290 - Entry of amount of assessment; lien; priority; foreclosure.**

After passage of the assessment ordinance by the district board, the secretary shall enter in the docket of district liens a statement of the amounts assessed upon each particular lot, parcel of land or portion thereof, together with a description of the improvement, the name of the owners and the date of the assessment ordinance. Upon such entry in the lien docket, the amount so entered shall become a lien upon the respective lots, parcels of land or portions thereof, which have been assessed for such improvement. All assessment liens of a district shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the state permit. Interest shall be charged at the rate of six percent per annum until paid on all amounts not paid within 30 days from the date of an assessment ordinance. After expiration of 30 days following the date of an assessment ordinance the district may proceed to

foreclose or enforce collection of the assessment liens in the amount provided by the general law of the state. However, the district may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the state to redeem the property. [1975 c.782 §27]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.310 - Errors in assessment.**

Claimed errors in the calculation of assessments shall be called to the attention of the secretary of the district, who shall determine whether there has been an error in fact. If the secretary finds that there has been an error in fact, the secretary shall recommend to the district board an amendment to the assessment ordinance to correct the error. Upon enactment of the amendment, the secretary shall make the necessary correction in the lien docket and send a correct notice of assessment by registered or certified mail. [1975 c.782 §28]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.320 - Deficit assessment; hearing; objections; notices.**

In the event that an assessment is made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the district board may, by motion, declare such deficit and prepare a proposed deficit assessment. The board shall set a time for a hearing of objections to such deficit assessment and shall direct the secretary to publish one notice thereof in a newspaper of general circulation in the district. After the hearing the board shall make a just and equitable deficit assessment by ordinance, which shall be entered in the lien docket as provided by ORS 523.210 to 523.380. Notices of the deficit assessment shall be published and mailed and the collection of the assessment shall be made in accordance with ORS 523.280 and 523.290. [1975 c.782 §29]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.330 - Excess assessment; credit; rebate.**

Upon the completion of the improvement project, if it is found that the assessment previously levied upon any property is more than sufficient to pay the costs of the improvements, the district board shall ascertain and declare the amount of the excess by ordinance. When declared, the excess amounts shall be entered on the lien docket as a credit upon the appropriate assessment. If any assessment has been paid, the person who paid it, or the legal representative of the person, shall be entitled to the repayment of the rebate credit, or the portion thereof which exceeds the amount unpaid on the original assessment. [1975 c.782 §30]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.340 - Abandonment of improvement; cancellation of liens; refunds.**

The district board may abandon proceedings for an improvement at any time prior to the final completion of the improvement. If liens have been assessed upon any property under ORS 523.210 to 523.380, they shall be canceled, and any payments made on such assessments shall be refunded to the person paying the same, the assigns or legal representatives of the person. [1975 c.782 §31]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.350 - Restriction on rendering assessment invalid; correction by board.**

No improvement assessment shall be rendered invalid by reason of a failure of the improvement report to contain all of the information required by ORS 523.210, or by reason of a failure to have all of the information required to be in the improvement resolution, the assessment ordinance, the lien docket or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the owner of any property as required by ORS 523.210 to 523.380, or by reason of any other error, mistake, delay, omission, irregularity or other act, jurisdiction or otherwise, in any of the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining. The district board may remedy and correct all such matters by suitable action and proceedings. [1975 c.782 §32]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.360 - Reassessment.**

Whenever any assessment, deficit assessment or reassessment for any improvement which has been made by the district is set aside, or its enforcement restrained by any court having jurisdiction thereof, or when the district board is in doubt as to the validity of an assessment, deficit assessment or reassessment, or any part thereof, the district board may make a reassessment in the manner provided by ORS 223.405 to 223.485. [1975 c.782 §33]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.380 - Foreclosure of assessment lien.**

(1) In case the whole or any portion of the cost of an improvement is assessed against the property directly benefited and the owner of the property fails to pay the amount of the lien, or any portion thereof, or the interest thereon, when they become due, the board may proceed to foreclose the lien in any manner provided by law for the collection of liens by municipalities and may provide by

ordinance a general procedure for the collection of liens in any manner not inconsistent with law.

(2) The provisions of ORS 223.405 to 223.485 relating to reassessment shall be available to districts where applicable. [1975 c.782 §35]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.410 - Ad valorem taxation; special tax; collection; enforcement; boundary changes.**

(1) A district may assess, levy and collect taxes in an amount each year not to exceed one-fourth of one percent (0.0025) of the real market value of all taxable property within the limits of the district, computed in accordance with ORS 308.207. The proceeds of the tax shall be applied by it in carrying out the objects and purposes of ORS 523.030 to 523.050 and 523.420 to 523.490 and for the purpose of financing the employees' retirement system.

(2) A district may annually also assess, levy and collect a special tax upon all such property in an amount sufficient to pay the yearly interest on bonds theretofore issued by the district and then outstanding, together with any portion of the principal of such bonds maturing within the year. The special tax shall be applied only in payment of interest and principal of bonds issued by the district, but the district may apply any funds it may have toward payment of principal and interest of any such bonds.

(3) Taxes shall be levied in each year and returned to the county officer whose duty it is to extend the tax roll by the time required by law for city taxes to be levied and returned.

(4) Taxes levied by the district shall become payable at the same time and be collected by the same officer who collects county taxes, and the proceeds shall be turned over to the district according to law. The county officer whose duty it is to extend the county levy shall extend the levy of the district in the same manner as city taxes are extended.

(5) Property is subject to sale for nonpayment of taxes levied by the district in like manner and with like effect as in the case of county and state taxes.

(6) For purposes of ad valorem taxation, a boundary change must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225. [1975 c.782 §10; 1991 c.459 §421; 2001 c.215 §16; subsection (6) of 2001 Edition enacted as 2001 c.138 §40]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.420 - Disposal of taxes levied by invalid district.**

When an attempt has been made to organize a district under the provisions of this chapter and subsequently by a judgment of a court it has been declared that the organization is invalid, but prior to such judgment the invalid organization has levied taxes, the funds derived from the levy shall be disposed of as follows:

(1) If the area embraced in the invalid organization is embraced in a subsequently created organization composed of unincorporated or incorporated territory, or combinations thereof, for the purpose of furnishing geothermal heat to the inhabitants thereof, the custodian of the taxes collected for the invalid organization shall turn them over to the subsequent organization to be used only for the purpose of furnishing geothermal heat to such inhabitants.

(2) If the subsequent organization does not embrace all territory embraced in the invalid organization, such taxes as have been collected from the levy upon property in areas not embraced in the subsequent organization shall be refunded to the payers thereof by the custodian of the taxes before the balance is turned over to the subsequent organization.

(3) If no such subsequent organization is created to provide geothermal heat for the inhabitants of such an area, within a period of two years after the entry of the judgment of invalidation, the taxes collected shall be refunded by the custodian of them to the taxpayers who paid them. [1975 c.782 §4; 2003 c.576 §468]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.460 - General obligation bonds; limit; issuance; maturity; interest; election; pledge of revenue.**

(1) For the purpose of carrying into effect all or any powers granted by this chapter, the district, when authorized at any properly called election held for that purpose, may borrow money and sell and dispose of general obligation bonds. Except as otherwise provided by this section, the bonds shall never exceed in the aggregate two and one-half percent of the real market value of all taxable property within the limits of the district, computed in accordance with ORS 308.207.

(2) The bonds shall be issued from time to time by the board of commissioners in behalf of the district as authorized by the voters, and may be issued in an amount not to exceed one-half of one percent of the real market value referred to in subsection (1) of this section without the approval of the electors. The bonds shall mature serially within not to exceed 30 years from issue date, and shall bear interest not exceeding seven percent per annum payable semiannually as the board shall determine. The bonds shall be so conditioned that the district agrees to pay to the bearer, at a place named, the principal sum of the bonds with interest at the rate named, payable semiannually in accordance with the tenor and terms of the interest coupons attached.

(3) If the district has within its corporate limits a population of 300 or over, it may issue bonds in an amount which shall not exceed in the aggregate 10 percent of the real market value referred to in subsection (1) of this section.

(4) For the purpose of additionally securing the payment of the principal and interest on general obligation bonds issued under this section, the district may, by resolution of its board which shall constitute part of the contract with the holders of the bonds, pledge all or any part of the net revenue of its geothermal heating system. The board may adopt such a resolution without submitting the

question of the pledge to the electors of the district. [1975 c.782 §6; 1977 c.188 §7; 1983 c.347 §29; 1991 c.459 §422; 2001 c.215 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.470 - Revenue bonds; terms; issuance.**

In addition to the authority to issue general obligation bonds, the district, when authorized at any properly called election, shall have the power to sell and dispose of revenue bonds, and to pledge as security therefor all or any part of the unobligated net revenue of the district or system, to purchase, acquire, lay out, construct, reconstruct, extend, enlarge or improve a geothermal heating system, for the purpose of obtaining geothermal heating for the use of consumers, within or without the boundaries of the district. The revenue bonds shall be issued in the same manner and form as are general obligation bonds of the district, but they shall be payable, both as to principal and interest, from revenues only, as specified by this section. The revenue bond shall not be subject to the percentage limitation applicable to general obligation bonds and shall not be a lien upon any of the taxable property within the corporate limits of such district, but shall be payable solely from such part of the revenues of the district as remain after payment of obligations having a priority and of all expenses of operation and maintenance of the district, including any taxes levied against it. All revenue bonds shall contain a clause reciting that both the principal and interest are payable solely from operating revenues of the district remaining after paying such obligations and expenses. [1975 c.782 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.480 - Refunding bonds.**

Refunding bonds of the same character and tenor as those replaced thereby may be issued pursuant to a resolution duly adopted by the board of commissioners without submitting to the electors the question of authorizing the issuance of such bonds. [1975 c.782 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.490 - Issuance of bonds.**

All general obligation and revenue bonds, including refunding bonds, authorized under ORS 523.460 to 523.480 shall be issued as prescribed in ORS chapter 287A. [1975 c.782 §9; 2007 c.783 §212]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.510 - Assumption of debts and obligations of district upon dissolution.**

(1) A city may enter into a written agreement with a geothermal heating district contemplating dissolution undertaking to assume, in the event of such dissolution, all of the outstanding debts and obligations of the district and to continue to furnish geothermal heat to the inhabitants of the dissolving district for domestic and municipal use for a term therein specified, not to exceed 25 years. Subject to the provisions of this section, the successor city shall, if the dissolution is approved, have the powers and assume the responsibilities of geothermal heating districts under this chapter. Any person entitled to geothermal heating service within the area of the dissolved district has the same remedies at law or in equity to enforce the rights to geothermal heating service as are available to enforce the right to geothermal heating service within the district.

(2) The successor city or district shall furnish geothermal heat to persons owning or occupying property within the dissolved district on the same terms and conditions as in the case of those owning or occupying property within the city, or elsewhere within the district. If the district assets and obligations are transferred to a city, the city may charge a rate for the service that is no more than the rate which is uniformly applied to all users in similar classifications outside the city. No such differential rate may be charged, however, unless such a differential is provided for, and specifically limited, by the terms of the agreement made prior to the dissolution. Nothing in this section authorizes a city to levy an ad valorem real property tax on property outside the city or district.

(3) Any debts or obligations assumed by the successor city by reason of, or during the period of, its commitment under the agreement shall bind the city until they are fully paid and discharged. No contract shall be effective unless all of the terms thereof are reduced to writing, signed by the entities and filed with the county clerk. [1975 c.782 §47]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.610 - Board; election; authority; term; vacancy.**

(1) Except as otherwise provided by this chapter, the power and authority given to districts is vested in and shall be exercised by a board of five commissioners, each of whom shall be an elector registered in the district. Except as provided by subsection (2) of this section, each commissioner shall be elected for a term of four years.

(2) Not later than the 40th day after the formation of a district and the election of the members of the first board, the commissioners shall meet and organize, first taking and subscribing an oath of office. The commissioners first elected shall determine by lot the length of term each shall hold office as follows:

(a) The terms of two commissioners shall expire June 30 next following the first regular district election; and

(b) The terms of the other three commissioners shall expire June 30 next following the second regular district election.

(3) The board of commissioners shall fill any vacancy on the board as provided in ORS 198.320. [1975 c.782 §36; 1983 c.83 §99;

1983 c.350 §295]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.625 - Election laws applicable.**

(1) ORS chapter 255 governs the following:

- (a) The nomination and election of commissioners.
- (b) The conduct of district elections.

(2) The electors of a district may exercise the powers of the initiative and referendum regarding a district measure, in accordance with ORS 255.135 to 255.205. [1983 c.350 §298]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.630 - Meetings; officers; quorum; employees; employee benefits.**

(1) The board of commissioners shall hold meetings at such time and place within the district as it may determine. The board shall hold at least one regular meeting in each month on a day to be fixed by it, and may hold special meetings under such rules as it may make.

(2) The board shall, at the time of its organization, choose from the commissioners a president, a secretary and a treasurer, who shall hold their offices until the first regular meeting in January, or until their successors are elected and qualified. The officers shall have, respectively, the powers and shall perform the duties usual in such cases. A majority shall constitute a quorum to do business and, in the absence of the president, any other member may preside at a meeting.

(3) The board of commissioners may employ engineers, superintendents, mechanics, clerks or other persons as it may find requisite, necessary or convenient in carrying on any work of the district and at a rate of remuneration as it may consider just.

(4) The board may provide life insurance and retirement or pension plans for employees of a district, if the insurer issuing the policy is licensed to do business in the State of Oregon. [1975 c.782 §39]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.640 - Special election.**

The board of commissioners at any regular meeting may call a special election of the electors of the district. [1975 c.782 §38]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.660 - District funds; deposit; records.**

(1) Moneys of a district shall be deposited in accordance with ORS 295.001 to 295.108 and as designated by the board of commissioners. Moneys shall be withdrawn or paid out only when previously ordered by vote of the board, and upon checks signed by the treasurer or such other person as may be authorized by resolution of the board. Receipts or vouchers, showing clearly the nature and items covered by each check drawn, shall be kept on file.

(2) All the proceedings of the board of commissioners shall be entered at large in a record book. All books, maps, plans, documents, correspondence, vouchers, reports and other papers and records pertaining to the business of the district shall be carefully preserved and shall be open to inspection as public records. [1975 c.782 §41; 2001 c.215 §18; 2019 c.587 §44]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.670 - Agreements between district and annexed or joined city.**

If a city has been annexed to a district under ORS 198.866 and 198.867 or joined to a district under ORS 198.910, the city and the district may:

- (1) Enter into contracts and agreements to do any act or thing which either could have done if the annexation had not occurred.
- (2) Contract and agree for the collection by the district of any geothermal heat tax or charge imposed by the city upon geothermal heat users within the territory of the city, and the district thereupon may provide for such collection according to its rules and regulations for the collection of amounts due the district by geothermal heat users, including but not limited to shutting off the geothermal heat supply for nonpayment. [1975 c.782 §42; 1983 c.142 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 - Geothermal Heating Districts Section 523.680 - Employees' retirement system; establishment; contents.**

(1) A district may establish an employees' retirement system. The board of commissioners may enter into agreements necessary to establish the system and carry out the plan and may agree to modifications of such agreements from time to time.

(2) The retirement plan may provide for retirement benefits measured on the basis of services rendered or to be rendered by an employee, either before or after the date on which such employee first becomes a member of the retirement plan. The retirement plan may provide for a minimum of years of service and a minimum and maximum age of retirement for the employee. [1975 c.782 §43]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 523 -**

**Geothermal Heating DistrictsSection 523.690 - Payments to retirement plan fund.**

The district may budget and provide for payment into the fund of the retirement plan an amount sufficient:

- (1) To provide on an actuarial reserve basis the amortized level premium cost of the retirement benefits which, under the provision of the retirement system, are to be provided by the district to its employees who attain the retirement age or retire in accordance with the terms of the retirement plan.
- (2) To meet the actuarially computed costs of retirement benefits measured on the basis of services rendered or to be rendered by an employee before or after the date on which such employee becomes a member of the retirement plan. [1975 c.782 §44]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.700 - Employee contributions to retirement plan.**

The district may collect, as a contribution from any employee, that percentage of the salary received by the employee which is necessary to fund on an actuarial reserve basis the cost of retirement benefits which the employee is required to provide pursuant to the provisions of a retirement plan. [1975 c.782 §45]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 523 - Geothermal Heating DistrictsSection 523.710 - Limit on eligible individuals in retirement plan.**

Nothing in this chapter authorizes the district to budget, provide for payments or collect contributions to fund retirement benefits for an individual who is not in the employment of the district at the time of the creation of a membership status under a retirement plan. [1975 c.782 §46]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.005 - Definitions.**

As used in this chapter, unless the context otherwise requires:

- (1) "Biomass" means any organic matter, including woody biomass, agricultural crops, wood wastes and residues, plants, aquatic plants, grasses, residues, fibers, animal wastes, municipal wastes and other waste materials.
- (2) "Board" means the State Board of Forestry.
- (3) "Certified Burn Manager" means an individual, other than the forester, who is currently certified under a program established pursuant to ORS 526.360 (3).
- (4) "Department" means the State Forestry Department.
- (5) "Forester" means the State Forester or the authorized representative of the forester.
- (6)(a) "Forestland" means any woodland, brushland, timberland, grazing land or clearing that, during any time of the year, contains enough forest growth, slashing or vegetation to constitute, in the judgment of the forester, a fire hazard, regardless of how the land is zoned or taxed.
- (b) As used in this subsection, "clearing" means any grassland, improved area, lake, meadow, mechanically or manually cleared area, road, rocky area, stream or other similar opening that is surrounded by or contiguous to land described in paragraph (a) of this subsection and that has been included in areas classified as forestland under ORS 526.305 to 526.370.
- (7) "Forestry carbon offset" means a transferable unit based on a measured amount of carbon storage expressed as a carbon dioxide emission equivalent, or other equivalent standard, and accruing on forestland as live or dead matter in trees, shrubs, forest litter and soil.
- (8) "Nonindustrial private forest landowner" means any forest landowner who does not own a forest products manufacturing facility that employs more than six people.
- (9) "Nonindustrial private forestland" means any forestland owned by a nonindustrial private forest landowner.
- (10)(a) "Woody biomass" means material from trees and woody plants, including limbs, tops, needles, leaves and other woody parts, grown in a forest, woodland, farm, rangeland or wildland-urban interface environment that is the by-product of forest management, ecosystem restoration or hazardous fuel reduction treatment.
- (b) "Woody biomass" does not mean:
  - (A) Wood pieces that have been treated with creosote, pentachlorophenol, copper chrome arsenic or other chemical preservatives;
  - (B) Wood that must be retained under state or federal regulations;
  - (C) Wood required for large woody debris recruitment; or
  - (D) Municipal solid waste. [Amended by 1961 c.123 §3; 1965 c.253 §1; 1977 c.893 §14; 1997 c.274 §41; 1999 c.101 §1; 2001 c.752 §6; 2009 c.69 §2; 2011 c.276 §3]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.008 - State Forestry Department.**

The State Forestry Department consists of the State Forester and the deputy, assistants and employees of the forester, acting under direction of the State Board of Forestry. [1961 c.123 §1; 1965 c.253 §2]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry**

**AdministrationSection 526.009 - State Board of Forestry; chairperson; terms; vacancies; confirmation; qualifications; removal.**

(1) There is created a State Board of Forestry consisting of seven members appointed by the Governor. The members appointed to the board shall be subject to confirmation by the Senate as provided in ORS 171.562 and 171.565. The Governor shall designate one member of the board as chairperson to hold that position until that member's term expires or until relieved by the Governor as provided in subsection (6) of this section. The chairperson shall have such powers and duties as are provided by the rules of the board.

(2) The term of office of a member of the board is four years. A member shall be eligible for reappointment, but no member shall serve more than two consecutive full terms. In case of a vacancy for any cause, the Governor shall make an appointment as provided in subsection (1) of this section.

(3) Appointments made by the Governor under subsection (1) of this section shall include appointment of at least one member from each of the forest regions established under ORS 527.640 and the rules adopted thereunder by January 1, 1987.

(4) No more than three members of the board may derive any significant portion of their income directly from persons or organizations that are subject to regulation under ORS 527.610 to 527.770, 527.990 (1) and 527.992.

(5) Except as provided in subsection (4) of this section, no member of the board shall have any relationship or pecuniary interest that would interfere with the member representing the public interest.

(6) The Governor may at any time remove any member of the board for inefficiency, incompetence, neglect of duty, malfeasance in office, unfitness to render effective service or failure to continue to meet the criteria of appointment pursuant to this section. [1965 c.253 §4; 1973 c.230 §1; 1979 c.394 §1; 1983 c.759 §5; 1987 c.919 §6]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.016 - General duties; limits; compensation and expenses; meetings; rules.**

(1) The State Board of Forestry shall supervise all matters of forest policy and management under the jurisdiction of this state and approve claims for expenses incurred under the statutes administered by the board except as otherwise provided by law. Advisory committees may be appointed by the board to make recommendations concerning any function vested by law in the board.

Notwithstanding any other provisions of law, the board shall not supervise or direct the State Forester in matters relating to the geographic scheduling, annual volume and species allocation, appraisals and competitive timber sale techniques used in the sale of forest products from lands managed under the provisions of ORS chapter 530.

(2) The members of the board are entitled to compensation and expenses as provided in ORS 292.495.

(3) The board shall meet on the first Wednesday after the first Monday in January, March, June and September, at places designated by the chairperson of the board or the State Forester. The board may meet at other times and places in this state on the call of the chairperson or the State Forester. A majority of the voting members of the board constitutes a quorum to do business.

(4) In accordance with the applicable provisions of ORS chapter 183, the board shall adopt rules to perform the functions defined by statute. [1965 c.253 §6; 1969 c.314 §62; 1973 c.230 §3; 1983 c.759 §8; 1987 c.919 §8]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.030**

[Amended by 1953 c.23 §2; 1955 c.27 §1; 1961 c.123 §4; 1965 c.253 §11; renumbered 526.046]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.031 - State Forester; deputy and assistants; compensation.**

(1) The State Board of Forestry shall appoint a State Forester, who must be a practical forester familiar with western conditions and experienced in organization for the prevention of forest fires. The forester shall be the chief executive officer of the State Forestry Department. The forester shall hold office at the pleasure of the board, and shall act as its secretary.

(2) With the approval of the board and subject to applicable provisions of the State Personnel Relations Law, the State Forester may appoint a Deputy State Forester, assistant state foresters and other employees of the department. During the State Forester's absence or disability, all authority shall be exercised by the Deputy State Forester or by the assistant whom the State Forester or the board, by written order filed with the Secretary of State, has designated as Acting State Forester.

(3) The board shall fix the compensation of the State Forester. In addition to their salaries, the forester, the deputy and assistants shall be reimbursed, subject to the limitations otherwise provided by law, for their actual and necessary travel and other expenses incurred in the performance of their duties. [1965 c.253 §7; 1983 c.759 §13]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.036 - Fidelity bonds.**

(1) Before entering upon the duties of office, the forester shall furnish a fidelity bond in favor of the State of Oregon in the penal sum of \$100,000 issued by one or more corporate sureties authorized to do business in the State of Oregon, conditioned upon the faithful and honest handling and disposition of the moneys in the State Forestry Department Account and any other moneys in the hands of the forester. The bond and sureties are subject to approval by the Director of the Oregon Department of Administrative

Services as provided in ORS 291.011.

(2) The premium for the bond shall be paid from the appropriation of the State Board of Forestry.

(3) Except as provided in subsection (1) of this section, the board may require a fidelity bond, with one or more corporate sureties authorized to do business in this state, of any officer or employee of the State Forestry Department. The board shall fix the amount of the bond, which otherwise is subject to subsections (1) and (2) of this section. [Formerly 526.070; 1967 c.419 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.041 - General duties of State Forester; rules.**

The forester, under the general supervision of the State Board of Forestry, shall:

(1) In compliance with ORS chapter 183, promulgate rules consistent with law for the enforcement of the state forest laws relating directly to the protection of forestland and the conservation of forest resources.

(2) Appoint and instruct fire wardens as provided in ORS chapter 477.

(3) Direct the improvement and protection of forestland owned by the State of Oregon.

(4) Collect data relative to forest conditions.

(5) Take action authorized by law to prevent and extinguish forest, brush and grass fires.

(6) Enforce all laws pertaining to forestland and prosecute violations of such laws.

(7) Cooperate with landowners, political subdivisions, private associations and agencies and others in forest protection.

(8) Advise and encourage reforestation.

(9) Publish such information on forestry as the forester determines to be in the public interest.

(10) Enter into contracts and cooperative agreements pertaining to experiments and research in forestry.

(11) Sell, exchange or otherwise dispose of any real property heretofore or hereafter acquired by the board for administrative purposes and no longer needed.

(12) Coordinate any activities of the State Forestry Department related to a watershed enhancement project approved by the Oregon Watershed Enhancement Board under ORS 541.932 with activities of other cooperating state and federal agencies participating in the project.

(13) Prescribe uniform state standards for certification of wildland fire training courses and educational programs.

(14) Serve as the Governor's authorized representative for the purpose of initiating the fire management assistance declaration process with the Federal Emergency Management Agency and administering Federal Emergency Management Agency fire management assistance grants. [1965 c.253 §10 (enacted in lieu of 526.020); 1969 c.249 §2; 1975 c.605 §27; 1987 c.734 §13; 1993 c.415 §5; 1997 c.413 §5; 2003 c.539 §38; 2011 c.49 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.046 - State Forester to cooperate with other agencies and persons; contracts for supervision; costs.**

(1) Under the direction of the State Board of Forestry, the forester:

(a) Shall, upon request, and whenever the forester deems that it is in the public interest, assist and cooperate with any federal or state department or any institution, political subdivision or person owning or controlling forestland within this state, in the preparation of plans for their protection, management, replacement or extension. Unless otherwise provided by law, the parties obtaining such assistance shall pay the necessary costs of travel, subsistence and other field expenses incurred by the forester or the assistants of the forester in the preparation and execution of these plans.

(b) May enter into contracts with the applicants under which the forester will supervise the execution of the plans. However, the costs of carrying out the plans shall be paid by the applicants.

(2) In carrying out this section the forester may require the applicant to deposit in one or more installments the moneys needed to cover the cost of preparing and executing the plans. These deposits shall be placed in the State Treasury, credited to the State Forestry Department Account and used exclusively for the purposes of this section. [Formerly 526.030]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.048**

[1977 c.893 §16; renumbered 526.425]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.052 - Credits for former forest protective association employees.**

(1) For purposes of this section, "forest protective association" or "association" has the meaning for that term provided in ORS 477.001.

(2) Subject to subsection (3) of this section, a person employed by a forest protective association at a time when the association was under contract or cooperative agreement with the forester or State Board of Forestry by authority of ORS chapter 477 and this chapter, with specific reference to ORS 477.406 to 477.412, or predecessor statutes, shall receive the following credits when transferring directly from association employment to employment by the State Forestry Department:



- (a) Sick leave accrual earned during employment as an association employee.
- (b) Rate of accumulating annual leave based on years of service as an association employee.
- (c) Credit for current service under the Public Employees Retirement System equal to periods of service as an association employee as determined by the Public Employees Retirement Board, if the person, before the effective date of retirement of the person as a member of the system, applies in writing to the retirement board for that credit or any part thereof and pays to the retirement board in a lump sum for credit to the member account of the member an amount determined by the retirement board to be equal to the total amount of employee and employer contributions with interest that would have accumulated had the person been a member of the system as an employee of the State Forestry Department in a position equivalent to that held by the person for the periods of service or part thereof as an association employee.
- (3) The credits granted by subsection (2) of this section shall be granted if the employee makes an immediate transfer from association employment to state employment, and if the person earned employment credits as an association employee under standards comparable to laws and rules of the State of Oregon governing similar credits in state employment.
- (4) Unless the employee transferring to employment with the State Forestry Department first becomes a member of the Public Employees Retirement System before January 1, 2000, as described in subsection (6) of this section:
  - (a) The employee may acquire credit under subsection (2)(c) of this section only after the employee has been a member of the Public Employees Retirement System for at least 60 calendar months; and
  - (b) The maximum number of years of retirement credit that a person may acquire under subsection (2)(c) of this section is five years.
- (5) If a person subject to the limitation imposed by subsection (4)(b) of this section is also eligible for credit under ORS 238.145, and the person is subject to the limitation imposed by ORS 238.145 (4), the total years of credit that the person may acquire under this section and under the provisions of ORS 238.145 may not exceed five years.
- (6) A person becomes a member of the Public Employees Retirement System before January 1, 2000, for the purposes of this section if:
  - (a) The person is a member of the system on January 1, 2000; or
  - (b) The person was a member of the system before January 1, 2000, ceased to be a member of the system under the provisions of ORS 238.095, 238.265 or 238.545 before January 1, 2000, but restores part or all of the forfeited creditable service from before January 1, 2000, under the provisions of ORS 238.105 or 238.115 after January 1, 2000. [1969 c.249 §5; 1973 c.46 §6; 1987 c.617 §14; 1999 c.317 §13; 2001 c.945 §67]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.054 - Authority of department to require fingerprints.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the State Forestry Department may require the fingerprints of a person who:

- (1)(a) Is employed or is applying for employment by the department; or
- (b) Provides services or seeks to provide services to the department as a contractor or volunteer; and
- (2) Is, or will be, working or providing services in a position:
  - (a) That provides forest education or recreation programs for persons under 18 years of age; or
  - (b) In which the person investigates or fights wildland fires and the criminal records check is requested to search for crimes associated with arson. [2005 c.730 §75]

Note:

526.054 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.060 - State Forestry Department Account; subaccounts.**

- (1) Except as provided in ORS 526.121, 530.147 and 530.280, all assessments, federal apportionments or contributions, and other moneys received by the forester or State Board of Forestry, shall be paid into the State Treasury and credited to the State Forestry Department Account, which is established separate and distinct from the General Fund. All moneys in the State Forestry Department Account are continuously appropriated, and shall be used by the forester, under the supervision and direction of the board, for the purposes authorized by law.
- (2) The forester shall keep a record of all moneys deposited in the State Forestry Department Account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged. All moneys in the account received pursuant to ORS 527.610 to 527.770 and 527.992 shall be used only for carrying out the duties, functions and powers of the State Forestry Department in administering ORS 527.610 to 527.770 and 527.992.
- (3) The Urban and Community Forestry Subaccount is established as a subaccount of the State Forestry Department Account. Moneys in the Urban and Community Forestry Subaccount are continuously appropriated to the State Forestry Department to be used for urban and community forest activities described in ORS 469.634 and 469.652.
- (4) The State Forest Enhancement Donation Subaccount is established as a subaccount to the State Forestry Department Account.

Moneys in the State Forest Enhancement Donation Subaccount are continuously appropriated to the State Forestry Department to be used for the purposes described in ORS 526.065.

(5) The State Forest Nursery Subaccount is established as a subaccount to the State Forestry Department Account. Moneys in the State Forest Nursery Subaccount are continuously appropriated to the State Forestry Department to be used for the purposes described in ORS 526.235.

(6) The State Forest Tree Seed Bank Subaccount is established as a subaccount to the State Forestry Department Account. Moneys in the State Forest Tree Seed Bank Subaccount are continuously appropriated to the State Forestry Department to be used for the purposes described in ORS 526.470.

(7) The State Forest Tree Seed Orchard Subaccount is established as a subaccount to the State Forestry Department Account. Moneys in the State Forest Tree Seed Orchard Subaccount are continuously appropriated to the State Forestry Department to be used for the purposes described in ORS 526.472.

(8) Notwithstanding ORS 291.238, the moneys credited to the subaccounts established under subsections (5), (6) and (7) of this section shall be continuously available on a revolving basis. [1957 c.83 §1; 1965 c.253 §12; 1975 c.224 §7; 1989 c.966 §58; 1993 c.388 §5; 2001 c.159 §1; 2007 c.248 §4; 2009 c.831 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.065 - Authority to accept gifts and other donations for management of state forests and forest legacy programs; use of moneys in subaccount.**

(1) The State Forestry Department may receive gifts, grants, bequests, endowments and donations of moneys, labor or materials from public and private sources for the purpose of contributing to the management and enhancement of state forests, including but not limited to activities such as recreation, education, interpretation, research and monitoring, cultural resources management and habitat improvement.

(2) The department may apply for, accept and utilize grants from the federal government to accomplish the goals of a federal forest legacy program. In implementing the federal forest legacy program, the department shall ensure that the program complies with all land use laws and regulations.

(3) On or before January 15 of each odd-numbered year, the State Forester shall report to the committee created by ORS 171.555 and to any legislative committee with responsibility for forestry issues regarding:

(a) The number and monetary amounts of grants applied for under the federal forest legacy program;

(b) The number and monetary amounts of grants awarded under the federal forest legacy program; and

(c) The location and disposition of areas affected by the federal forest legacy program.

(4) The department shall deposit moneys received under this section into the State Forest Enhancement Donation Subaccount created under ORS 526.060. The department may expend moneys, materials or labor received under this section only for the purposes specified in the gift, grant, bequest, endowment or donation. If no purpose is specified, the department may use the moneys, materials or labor for the management and enhancement of state forests. [2001 c.159 §3; 2005 c.745 §1; 2007 c.206 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.070**

[1957 c.83 §22; 1965 c.253 §8; renumbered 526.036]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.080**

[1957 c.83 §25; renumbered 526.131]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.090 - Acceptance and use of moneys under Agricultural Act of 1956 (soil bank and reforestation provisions).**

The forester, under the supervision and direction of the State Board of Forestry, may receive moneys from the federal government in connection with cooperative work and programs set out in the Agricultural Act of 1956, as amended (Public Law 84-540, 70 Stat. 188), particularly the provisions of Title I (7 U.S.C. 1801 to 1837) and Title IV (16 U.S.C. 568e to 568g), and Acts amendatory thereof and supplemental or complementary thereto. [1957 c.83 §4; 1965 c.253 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.095 - Clarke-McNary Act accepted; State Forester is agent of state.**

The State of Oregon has accepted the provisions of the Clarke-McNary Act (43 Stat. 653), as amended, and will observe and comply with the requirements of that Act. The forester, under the supervision and direction of the State Board of Forestry, is the agent of the State of Oregon for the purposes of that Act, and may cooperate with the authorities of the United States having powers and duties under that Act to do all things necessary to secure to the State of Oregon the benefits of that Act or Acts amendatory thereof and supplemental or complementary thereto. [1957 c.83 §2; 1965 c.253 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.105 - Disposition of receipts under ORS 526.090 and 526.095.**

All moneys received pursuant to the Acts of Congress mentioned in ORS 526.090 and 526.095 shall be paid into the State Treasury, credited to the State Forestry Department Account, and used exclusively for the purposes of the respective Acts. [1965 c.253 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.111 - State Forestry Department Revolving Account; purposes.**

(1) Notwithstanding ORS 291.238 or any other law, a revolving account in the sum of \$750,000 deposited with the State Treasurer shall be at the disposal of the forester for the payment of:

(a) Lawful expenses incurred under the direction of the forester and the State Board of Forestry in the prevention or suppression of fire and the protection of forestlands; and

(b) Miscellaneous bills and extraordinary items which are payable in cash immediately upon presentation.

(2) The forester may draw checks upon the State Treasurer in making disbursements from the revolving account for the purposes stated in this section. Reimbursement of such disbursements shall be made from funds and accounts budgeted and allotted for expenses of the State Forestry Department. The revolving account is not subject to allotment or allocation of moneys pursuant to ORS 291.234 to 291.260. [1953 c.327 §1; 1965 c.253 §18; 1969 c.249 §1; 1987 c.155 §1; 1997 c.467 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.121 - Reimbursement of revolving account; keeping records.**

(1) Reimbursement vouchers for claims paid from the revolving account created by ORS 526.111 shall be approved by the forester. Warrants in payment of the vouchers shall be drawn in favor of the forester and deposited with the State Treasurer to reimburse the revolving account.

(2) The forester shall maintain such records as readily disclose the true status of vouchers payable from, and checks outstanding against, the revolving account and the balance to the credit thereof. [1953 c.327 §2; 1957 c.83 §23; 1965 c.253 §19; 1983 c.740 §207]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.122 - State Forestry Department Cash Flow Repayment Fund.**

(1) The State Forestry Department Cash Flow Repayment Fund is established in the State Treasury, separate and distinct from the General Fund. The State Forestry Department Cash Flow Repayment Fund consists of moneys deposited in the fund by the State Forestry Department pursuant to subsection (2) of this section. Moneys in the fund are continuously appropriated to the department for the purposes set forth in subsection (3) of this section.

(2)(a) When the State Forestry Department determines that moneys are available to the department in an amount greater than necessary to satisfy the current cash flow needs of the department, the department shall deposit excess amounts in the State Forestry Department Cash Flow Repayment Fund, except as provided in paragraph (b) of this subsection.

(b) The department is not required to deposit moneys in the fund if the balance of the fund is equal to or greater than the outstanding balance of moneys appropriated, allocated or otherwise made available to the department specifically for cash flow purposes.

(c) The moneys deposited in the fund under this subsection shall not be considered as a budget item on which a limitation is otherwise fixed by law, but shall be in addition to any specific biennial appropriations or amounts authorized to be expended from continuously appropriated moneys for any biennial period.

(3) On July 1 of each odd-numbered year, the department shall cause the balance of the fund to be transferred to the General Fund for general governmental purposes. [2022 c.76 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.123 - Reporting on cash flow.**

On or before March 31 of each odd-numbered year, the State Forestry Department shall report to the standing or interim Joint Committee on Ways and Means on the following matters:

(1) The amounts appropriated, allocated or otherwise made available to the department specifically for cash flow purposes, both within the current biennium and cumulatively;

(2) The amounts deposited in the State Forestry Department Cash Flow Repayment Fund pursuant to ORS 526.122 (2), both within the current biennium and cumulatively;

(3) The current balance of the fund; and

(4) The amount currently in use by the department for cash flow purposes. [2022 c.76 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.125 - Tillamook Forest Interpretive Center Fund; sources; use of moneys in fund.**

(1) The State Forestry Department may receive and disburse gifts, grants, bequests, endowments and donations of labor and material from public and private sources for the purpose of developing and operating a forest interpretation and education center in the

Tillamook State Forest.

(2) The Tillamook Forest Interpretive Center Fund is created in the State Treasury, separate and distinct from the General Fund. All moneys received by the State Forestry Department under subsection (1) of this section shall be paid into the State Treasury and credited to the Tillamook Forest Interpretive Center Fund. All interest earned by the fund shall be credited to the fund.

(3) All moneys in the Tillamook Forest Interpretive Center Fund are continuously appropriated to the State Forestry Department and may be expended only for the purposes specified in the gift or donation, or, if no purpose is specified, only for the purpose of forest interpretation and education. [1999 c.928 §1]

Note:

526.125 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.127 - Forestry Natural Climate Solutions Fund.**

(1) The Forestry Natural Climate Solutions Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Forestry Natural Climate Solutions Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Forestry Department to:

(a) Carry out the provisions of ORS 468A.189 (3); and

(b) For the administrative expenses of the department in implementing ORS 468A.189, except that no more than 10 percent of moneys may be used for administrative expenses.

(2) The Forestry Natural Climate Solutions Fund consists of moneys transferred to the fund under ORS 468A.187. [2023 c.442 §65]

Note:

526.127 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.131 - Purchase or acceptance of federal surplus property.**

Subject to the allotment provisions of ORS 291.238, the State Forester and State Board of Forestry hereby are authorized to purchase or accept excess and surplus property from the United States. [Formerly 526.080]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.135 - Leasing departmental equipment to federal agency.**

The forester, with the approval of the State Board of Forestry, may lease equipment that is under the jurisdiction and control of the forester and board to any agency of the United States. However:

(1) The lease must include a reasonable rental fee and require the lessee to maintain the equipment during the lease period; and

(2) The federal agency must be a cooperator with the forester and board in common activities and programs for which the equipment is leased. [1965 c.87 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.142 - Definition for ORS 526.142 to 526.152.**

As used in ORS 526.142 to 526.152, "equipment" includes the necessary materials and supplies for the operation of equipment in the equipment pool authorized by ORS 526.144. [1965 c.253 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.144 - Equipment pool; participation.**

(1) The equipment pool operated by the forester and the State Board of Forestry, which furnishes transportation and equipment for the various activities and programs of the board, is for the acquisition, operation, storage, maintenance and replacement of equipment. Notwithstanding any other law, the forester, under the direction of the board, may:

(a) Determine each activity or program of the board that shall participate in the equipment pool, and in so doing, cause the transfer of moneys from the account representing such activity or program in an amount determined advisable for equipment pool purposes. However, in each instance the transfer of moneys must be based on the proportionate use of the equipment pool, or the proposed use thereof, by the activity or program.

(b) Transfer equipment to the equipment pool, which items of transfer are owned by the State of Oregon and under the jurisdiction of the board or forester. In such event the records shall reveal the cash value of the transferred items as of the date of the transfer.

(2) Forest protective associations or agencies under contract or cooperative agreement with the board pursuant to ORS 477.406 may, with the approval of the board, participate in the equipment pool for the purposes of the contract or agreement. Participation by such an association or agency shall be on the same basis as an activity or program of the board that participates in the equipment pool.

[1965 c.253 §22]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry**

**AdministrationSection 526.146 - Charges.**

(1) All items transferred under ORS 526.144, together with any equipment purchased from moneys transferred to the equipment pool, are available for all activities or programs participating in the equipment pool. However, upon use of such equipment for any activity or program, a reasonable use charge shall be made against such activity or program. The charge shall be based upon the maintenance and replacement costs for the equipment used, including operational expenses.

(2) At the end of each month the forester, under the supervision and direction of the State Board of Forestry, shall render a statement on a basis of mileage or rental against each activity or program for transportation or equipment used or furnished for such activity or program. Administrative costs in connection with the operation of the equipment pool shall be included in the computation of the mileage or rental statement. The forester shall at all times keep records showing the mileage and rental charges, and against which activity or program the charges are a claim. The amount specified in the statement shall be a charge against the moneys available for such activity or program. All amounts so charged shall be credited to the State Forestry Department Account and, notwithstanding ORS 291.238, are available and shall be used exclusively for:

- (a) The acquisition, operation, storage, maintenance, repair and replacement of equipment by the forester;
- (b) Administrative expenses of the forester and the board in connection therewith; and
- (c) The payment of insurance premiums for such equipment. [1965 c.253 §23]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.148 - Leasing communication equipment.**

(1) The forester and State Board of Forestry may lease communication equipment owned or acquired under ORS 526.144 to any forest protective association or agency under contract or agreement with the board for the protection of forestland against fire. However, the communication equipment may be used only for purposes of the forest protection system designated in ORS 477.005. Any lease so made must provide for a rental at the current rates established for the equipment pool. All amounts so charged shall be credited as provided in ORS 526.146.

(2) At the option of the board, the lease agreements made under this section may be merged under the equipment pool administration and equities set forth in ORS 526.152. [1965 c.253 §24]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.152 - Disposition of equipment; termination of pool.**

(1) Any proceeds from the sale or other disposition of equipment of the equipment pool shall be credited to the State Forestry Department Account for equipment pool purposes.

(2) Should the equipment pool be terminated by the State Board of Forestry, each activity or program shall have an equity in the moneys of the pool and in the cash value of the equipment and personalty of the pool. The equity shall be in proportion to the amount of moneys and value of the equipment and personalty transferred to the pool under ORS 526.144. By this subsection, each activity or program participating in the equipment pool has a continuing and recognized interest in the total value of the pool so long as the equipment pool exists unless otherwise such equity is purchased. [1965 c.253 §25]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.156 - Forest Trust Land Advisory Committee; membership; advisory function.**

(1) A Forest Trust Land Advisory Committee is established to be composed of the board of directors of the Council of Forest Trust Land Counties.

(2) Members may receive reimbursement for actual and reasonable traveling and other expenses necessarily incurred in performing official duties. This reimbursement shall not be deemed lucrative.

(3) The committee shall advise the State Board of Forestry and the State Forester on the management of lands subject to the provisions of ORS 530.010 to 530.170 and on other matters in which counties may have a responsibility pertaining to forestland. The board and the State Forester shall consult with the committee with regard to such matters. [Formerly 527.735; 1997 c.120 §1]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.162 - Taking title in fee simple.**

In all cases where a title in fee simple to real property is acquired by the State Board of Forestry under ORS 526.166 or 526.168, such title shall be taken in the name of the State of Oregon. [Formerly 526.176]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.164 - Exchange of property.**

The State Board of Forestry may convey to any person all or parts of the real property described in ORS 526.166 or 526.168, in exchange for other property, real or personal, which, in the judgment of the board, is of equal or superior value for public use. [Formerly 526.174]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry**

**AdministrationSection 526.166 - Acquisition of real property by purchase, agreement or donation.**

In addition to any authority otherwise granted by law, the State Board of Forestry may acquire, by purchase, agreement or donation, real property or any interest therein, including easements and ways, found necessary by the board for:

- (1) Rights of way to lands of the state, which lands are under the management or jurisdiction of the board or forester.
- (2) Forest patrol sites, administrative sites, nursery sites, communication sites, construction of shops, equipment sheds and office buildings.
- (3) Quarry sites, gravel pits and rights of way for pipelines, communication lines and power lines.
- (4) Any other use or purpose necessary in carrying out the powers and duties of the board or forester. [1965 c.253 §29]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.168 - Acquisition of real property by eminent domain.**

In addition to any authority otherwise granted by law, the State Board of Forestry may acquire, by the exercise of the power of eminent domain, real property or any interest therein, including easements and ways, found necessary by the board for:

- (1) Rights of way to lands of the state, which lands are under the management or jurisdiction of the board or forester.
- (2) Forest patrol or communication sites.
- (3) Rights of way for pipelines, communication lines and power lines. [1965 c.253 §30]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.174**

[1959 c.287 §2; 1965 c.253 §27; renumbered 526.164]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.176**

[1959 c.287 §3; 1965 c.253 §26; renumbered 526.162]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.178 - Going upon private property.**

The State Board of Forestry, or any duly authorized representative of the board, may go upon private property in the manner provided by ORS 35.220 to determine the advisability or practicability of acquiring real property or any interest in real property. [1959 c.287 §4; 2003 c.477 §6]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.192 - Attorney General to conduct proceedings.**

After request of the State Board of Forestry pursuant to ORS 35.235 (1), the Attorney General shall commence and prosecute, in any court of competent jurisdiction in the name of the State of Oregon, the necessary or appropriate suit, action or proceeding for condemnation of the amount of or interest in the property required for such purposes, and for the assessment of the damages for the taking thereof. [1959 c.287 §12; 1983 c.740 §208]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.194 - Disposition or leasing of property.**

The State Board of Forestry may sell, lease, exchange, permit use of or otherwise dispose of any real property, or interest therein, acquired pursuant to ORS 526.162 to 526.194, when, in the judgment of the board, such will best serve the interests of the state. In the case of real property, interest in or title to the same may be conveyed by deed or other instrument executed in the name of the state, by and through the board. All funds or moneys derived from the sale or lease of any such property shall be paid by the board to the State Treasurer and by the State Treasurer credited to the funds from which moneys originally were used for the acquisition of the property involved. [1959 c.287 §11]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.215 - Oregon State University research and experimentation programs.**

To aid in the economic development of the State of Oregon, Oregon State University shall institute and carry on research and experimentation to develop the maximum yield from the forestlands of Oregon, to obtain the fullest utilization of the forest resource, and to study air and water pollution as it relates to the forest products industries. [1961 c.297 §2(1); 1967 c.377 §6; 2013 c.768 §145a; 2015 c.767 §179]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.225 - Forest Research Laboratory; cooperative programs; advisory committee.**

(1) The Forest Research Laboratory is established at Oregon State University. In administering the laboratory, Oregon State University shall cooperate with individuals, corporations, associations and public agencies wherever and whenever advisable to

further the purposes of ORS 526.215, and may enter into any necessary agreements therefor.

(2) In order that there may be close coordination between the research and experimentation programs and the wise management and use of Oregon's forests for the production of goods and services that benefit all its citizens, the Higher Education Coordinating Commission, in consultation with Oregon State University, shall appoint a Forest Research Laboratory Advisory Committee composed of 15 members. Nine members shall be individuals who are actively and principally engaged in timber management on forestlands, harvesting or the processing of forest products, one of whom shall be from a small woodland owner's association, three members shall be individuals who are the heads of state and federal public forestry agencies and three members shall be individuals from the public at large. No individual who is a public member may have any relationship or pecuniary interest that would interfere with that individual representing the public interest. The advisory committee shall render practical counsel in the fields of forest management and use and forest harvest and utilization as they relate to the economic and social well-being of the people of Oregon. [1961 c.297 §2(2); 1965 c.253 §31; 1965 c.433 §1; 1975 c.96 §1; 1991 c.223 §1; 2015 c.767 §180]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.231 - Findings.**

The Legislative Assembly finds and declares that:

(1) Nonindustrial private forests make a vital contribution to Oregon by providing jobs, products, an expanded tax base and other social and economic benefits.

(2) Providing a source of forest tree seedlings to owners of nonindustrial private forests is essential to securing the benefits described in subsection (1) of this section. [2005 c.541 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.233 - Application of antitrust laws.**

The Legislative Assembly intends that ORS 526.237 and the amendments to ORS 526.235 by section 4, chapter 541, Oregon Laws 2005, authorize the displacement of competition in the forest tree seedling industry to a limited degree. The regulatory program of the State Forester described in ORS 526.237 is intended to grant immunity from state and federal antitrust laws to a cooperative and its members that enter into an agreement with the forester or the State Board of Forestry for the members to produce nonindustrial private forest tree seedlings for the forester and the board. The activities that any person performs in compliance with ORS 526.237 may not be considered in restraint of trade, a conspiracy or combination or any other unlawful activity in violation of ORS 646.705 to 646.805 or federal antitrust laws. [2005 c.541 §2]

Note:

See note under 526.231.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.235 - State forest nursery; securing seedlings; sale of seedlings and stock; disposition of sales receipts.**

(1) A state forest nursery may be operated by the forester and the State Board of Forestry to provide forest tree seedlings for the reforestation of forestland. The nursery program may provide for the growth, care and maintenance of nursery stock and for the sale of such stock to private, state and other public owners of forestland.

(2) The forester and the board may use means in addition to, or instead of, operating a state forest nursery under subsection (1) of this section to secure forest tree seedlings and may sell those forest tree seedlings to private, state and other public owners of forestland. The means of securing forest tree seedlings may include, but need not be limited to:

(a) Contracting with private nurseries to grow forest tree seedlings;

(b) Allocating all or part of forest tree seedling production on behalf of the forester and the board to a cooperative of private growers under ORS 526.237; and

(c) Leasing or otherwise making state nursery property available for operation by private growers of forest tree seedlings.

(3) Each year the forester shall determine the costs of nursery operation and of securing forest tree seedlings under subsection (2) of this section and shall offer nursery stock or otherwise secured forest tree seedlings for sale to forest owners at prices that will recover actual costs.

(4) All revenues derived from the selling of nursery stock and otherwise secured forest tree seedlings shall be credited to the State Forestry Department Account and deposited in the State Forest Nursery Subaccount established in ORS 526.060. [1971 c.59 §2; 2005 c.541 §4; 2007 c.248 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.237 - Acquisition of forest tree seedlings; agreements with grower cooperatives; fees.**

(1) As used in this section:

(a) "Cooperative" means a cooperative of forest tree seedling growers formed under ORS chapter 62 for the purpose of allocating among those growers agreements to grow forest tree seedlings under this section.

(b) "Member" means a grower who qualifies and is accepted for membership in the cooperative.

(2) The State Forester and the State Board of Forestry may secure forest tree seedlings for the reforestation of forestlands by means that include, but need not be limited to, entering into agreements with a cooperative to allocate among the members of the cooperative the production of forest tree seedlings for the forester and the board in amounts, types and species specified by the board.

(3) The forester shall actively supervise the conduct of the cooperative and members in carrying out agreements described in subsection (2) of this section to ensure that the activities of the cooperative and members are consistent with the provision of a reasonably priced, adequate and reliable source of high-quality forest tree seedlings. The forester may inspect during reasonable hours any facility or land used by a member to produce forest tree seedlings for the forester and the board. The forester may examine, test and take samples of forest tree seedlings being produced by the member for the forester and the board.

(4) The forester may assess a charge on forest tree seedlings grown by a member under a production allocation. Any charges collected under this subsection shall be deposited in the State Forestry Department Account and are continuously appropriated to the forester for purposes of carrying out the duties of the forester under this section. [2005 c.541 §3]

Note:

See note under 526.231.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.255 - Long range management, marketing and harvest report.**

The forester shall submit a biennial report to the Governor and to those committees of the Legislative Assembly with responsibility for forestry matters. The report shall contain matters that include, but are not limited to:

(1) The long range management plans based on current resource descriptions and technical assumptions, including sustained yield calculations for the purpose of maintaining economic stability in each management region.

(2) Marketing, reforestation and intensive management programs for the last completed biennium and the current biennium, and projected programs for the ensuing biennium. The marketing report shall include volume and value of new sales, volume and value of timber harvested and timber sales receipts distributed to counties and to the Common School Fund.

(3) The programmed harvest level on federal lands or federal policy changes that would impact that level of harvest on lands in Oregon. [1983 c.759 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.265 - Hearings to publish report and receive testimony; management regions.**

(1) The State Forester may conduct biennial public hearings in each management region to report the matters included in ORS 526.255 and to accept public testimony.

(2) For the purpose of this section and ORS 526.255, the following forest management regions are established:

(a) Northwest Region, consisting of Clatsop, Columbia, Tillamook, Washington and Yamhill Counties.

(b) Willamette Region, consisting of Multnomah, Clackamas, Marion, Polk, Lincoln, Benton, Linn and Lane Counties.

(c) Southern Region, consisting of Douglas, Coos, Curry, Josephine and Jackson Counties.

(d) Eastern Region, consisting of Hood River, Wasco, Gilliam, Sherman, Morrow, Umatilla, Union, Wallowa, Jefferson, Wheeler, Grant, Baker, Deschutes, Crook, Klamath, Lake, Harney and Malheur Counties. [1983 c.759 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.271 - Findings.**

The Legislative Assembly finds and declares that:

(1) The State Forestry Department is well-positioned, due to experience in managing Oregon forests and its understanding of science-based, active forest management, to facilitate state government participation in forest management on federal lands located within the state.

(2) The State Department of Fish and Wildlife has expertise with fish and wildlife habitat and the Department of Environmental Quality has expertise with water quality. Both departments have an important role to play in the management of federal forests located within the state.

(3) A collaborative relationship between the State Forestry Department, the federal government, other agencies of the executive department, as defined in ORS 174.112, interested persons and nongovernmental organizations may restore the health, diversity and resilience of federal forests by increasing the information shared and by providing a variety of perspectives on site-specific and landscape-level determinations.

(4) In cooperation with the State Forestry Department and the federal government, many communities in wildfire-prone areas have completed a community wildfire protection plan that identifies priority areas for hazardous fuel removal from federal lands.

(5) The federal government has provided opportunities for agencies of the executive department, as defined in ORS 174.112, to become involved, to a greater extent, in the management of federal lands. [2005 c.772 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.272 - Expanding activities under the Good Neighbor Authority Agreement.**



(1) The State Forestry Department shall:

(a) In collaboration with any forest protective association or agency that is under contract or agreement with the State Board of Forestry for the protection of forestland against fire, and whose protection area is or may be affected by a fire on nearby federal lands, and with a focus on protecting lands and rural communities within the wildland-urban interface, as defined pursuant to ORS 477.027, from fire on federal lands, endeavor to further shared stewardship to decrease wildfire risk across Oregon through increased partnership with federal agencies to expand activities under the Good Neighbor Authority Agreement described in ORS 526.275 in federal forests through:

(A) Increasing forest thinning.

(B) Reducing ladder fuels and other hazardous fuel loading.

(C) Restoring meadowland.

(D) Increasing biomass utilization.

(E) Increasing post-disturbance recovery and restoration activities.

(b) Request that the federal agencies fund portions of the activities described in paragraph (a) of this subsection.

(2) Activities undertaken pursuant to subsection (1) of this section must be executed in a manner that protects and enhances the long-term ecological health of a landscape, in conformance with the most broadly accepted scientific principles of forestry. [2023 c.214 §1]

Note:

526.272 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.273 - Cooperation with federal agencies.**

The State Forestry Department shall cooperate with federal agencies to increase the effectiveness of activities undertaken pursuant to ORS 526.271, 526.274 and 526.275. [2021 c.592 §27a]

Note:

526.273 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.274 - Authority to participate in federal forest management.**

In furtherance of the policy established in ORS 526.271, the State Board of Forestry, in consultation with the Governor, may:

(1) In conformance with federal law, including Public Law 108-7, direct the State Forester to facilitate the development of stewardship contracts utilizing private contractors and, when appropriate, to seek and enter into a stewardship contract agreement with federal agencies to carry out forest management activities on federal lands. The State Forester may, under the stewardship contract agreements:

(a) Perform road and trail maintenance;

(b) Set prescribed fires to improve forest health, composition, structure and condition;

(c) Manage vegetation;

(d) Perform watershed restoration and maintenance;

(e) Restore wildlife habitat;

(f) Control exotic weeds and species; and

(g) Perform other activities related to stewardship.

(2) Create a forum for interagency cooperation and collaborative public involvement regarding federal forest management issues that may include, at the discretion of the board, the appointment of advisory committees, the use of existing advisory committees and procedures for holding public hearings.

(3) Provide guidelines for the State Forestry Department and State Forester to follow that contain directions regarding the management of federal lands and that specify the goals and objectives of the board regarding the management of federal lands.

(4) Participate, to the extent allowed by federal law, in the development of federal forest policies and the forest management planning processes of federal agencies.

(5) Provide guidelines for the department to follow in implementing this section.

(6) Coordinate with Oregon State University, the State Department of Fish and Wildlife, the Oregon Forest Resources Institute, the Department of Environmental Quality, the Oregon Business Development Department, the State Department of Energy and other agencies of the executive department, as defined in ORS 174.112, to assist the State Forestry Department in carrying out the provisions of this section. [2005 c.772 §2]

Note:

See note under 526.271.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.275 - Policy regarding Good Neighbor Authority Agreement projects.**

(1) As used in this section:

(a) "Additive" means an increase in the pace, scale and quality of forest, rangeland and water restoration services on federal lands within Oregon, including but not limited to services to produce timber harvest volumes that exceed outputs that would be produced by federal land management agencies alone.

(b) "Federal land management agencies" means the United States Forest Service and the Bureau of Land Management.

(c) "Forest, rangeland and water restoration services" means activities that:

(A) Treat insect-infested or disease-infected trees;

(B) Reduce hazardous fuels; or

(C) Restore or improve forest, rangeland or watershed health, including but not limited to fish or wildlife habitat health.

(d) "Good Neighbor Authority Agreement" means the Good Neighbor Authority Agreement that the Governor, the State Forester and the State Fish and Wildlife Director entered into with the United States Forest Service on March 29, 2016.

(2) It is the policy of the state to pursue projects under the Good Neighbor Authority Agreement that increase timber harvest volume, contribute to job creation, reduce wildfire risks to all lands, improve wildlife habitat and watershed health and stimulate local economies. To the extent allowed by the agreement, state agencies that are signatories to the agreement shall work with federal land management agencies to give priority to projects that:

(a) Consist of additive activities;

(b) Maximize economic benefit to this state; and

(c) Recover the state agency costs of implementing the projects. [2018 c.96 §1]

Note:

526.275 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.276 - Reporting on Good Neighbor Authority Agreement projects.**

The State Forestry Department shall report outcomes from all projects pursued in this state under the Good Neighbor Authority Agreement described in ORS 526.275. No later than December 31 of every even-numbered year, the department shall submit the report, in the manner provided by ORS 192.245, to an interim committee of the Legislative Assembly relating to economic development. [2019 c.273 §1]

Note:

526.276 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.277 - Findings.**

The Legislative Assembly finds and declares that:

(1) Forestlands in federal, state and private ownership comprise some of the most important environmental, economic and recreational resources in the State of Oregon. However, federal lands, and to a lesser extent state and private lands, are increasingly jeopardized by the risk of drought-induced mortality, severe insect and disease outbreaks and catastrophic wildfires.

(2) Enhancing forest health, wildlife habitat and other ecological values and reducing the risk of severe insect and disease outbreaks and catastrophic wildfires through forest management are of interest to the residents of this state. Federal and state funds have not proved sufficient to carry out the management activities necessary to achieve these goals on federal lands, and it is unlikely that the funds will be available on a continuous basis.

(3) The development of new market-based solutions to reduce the risk of severe insect and disease outbreaks and catastrophic wildfires may reduce the requirement for public funding. The development of biomass markets, including energy markets, that use woody biomass unsuitable for lumber, pulp and paper products as a primary source of raw material may assist in the creation of a sustainable, market-based model for restoring complexity and structure to Oregon's forests.

(4) A biomass-based industry may provide a renewable source of energy, reduce net greenhouse gas emissions, reduce air pollution from wildfires, improve fish and wildlife habitat, create jobs and provide economic benefits to rural communities. Through the collection and conversion of woody biomass, ancillary benefits may be realized through the improvement in forest health, the protection of infrastructure and the stabilization of soils within critical watersheds.

(5) The collection and conversion of woody biomass diminishes fuel loads and is an ecologically and economically sustainable practice where the reintroduction of fire is not appropriate.

(6) The policy of this state is to support efforts to build, and place in service, biomass-fueled energy production facilities that utilize biomass collected from forests or derived from other sources such as agricultural crop residue when:

(a) The facilities utilize sustainable supplies of biomass from cost-effective sources;

(b) The use of woody biomass for energy maintains or enhances the biological productivity of the land, taking into consideration transportation costs, existing forest conditions, management objectives, vegetation growth rates and the need to sustain water quality and fish and wildlife habitat; and

(c) The set of forest values to be sustained, in addition to wood and biomass for energy, is considered. Forest values include forest

products, water, wildlife and recreation. [2005 c.772 §3; 2011 c.276 §4]

Note:

See note under 526.271.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.280 - Responsibilities of State Forester; woody biomass utilization; report.**

In furtherance of the policy established in ORS 526.277, the State Forester shall:

(1) Establish a policy of active and inclusive communication with the federal government, public bodies as defined in ORS 174.109, residents of Oregon and interested parties regarding the utilization of woody biomass produced through forest health restoration. The State Forester shall actively utilize the statutory provisions of the National Forest Management Act of 1976, the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Environmental Policy Act of 1969, the Federal Land Policy and Management Act of 1976 and the Healthy Forests Restoration Act of 2003 that allow the state to participate in federal policy development in a manner that expresses the policy established in ORS 526.277.

(2) Promote public involvement in the identification of the areas of interface between urban lands and forestlands that pose the highest potential to threaten lives and private property.

(3) Solicit public comment on the location of biomass-based energy projects and conversion facilities.

(4) Promote public understanding, through education and outreach, of forest conditions, forest management options, the potential benefits and potential consequences of woody biomass utilization, the quality and quantity of woody biomass on federal lands and the potential for woody biomass utilization to assist in reducing wildfire risk and in enhancing forest health, diversity and resilience. The State Forestry Department may coordinate with the State Department of Energy, the Oregon Business Development Department, Oregon State University, the State Department of Fish and Wildlife, the Department of Environmental Quality and other entities in any education and outreach performed pursuant to this subsection.

(5) Assess the types of woody biomass available and serve as an information resource for persons seeking to utilize woody biomass for energy development. Notwithstanding ORS 192.345, reports on any assessment of woody biomass conducted by the State Forester shall be made available for public inspection.

(6) Promote public understanding that woody biomass utilization may be an effective tool for restoration of forest health and for economic development in rural communities.

(7) Develop and apply, with advice from the forestry program at Oregon State University, the State Department of Fish and Wildlife, the Department of Environmental Quality and other sources, the best available scientific knowledge and technologies pertaining to forest and wildlife habitat restoration and woody biomass utilization when developing rules under ORS 527.630.

(8) Seek opportunities to provide a source of woody biomass from federal, tribal, state and private forests.

(9) Periodically prepare a report utilizing, to the greatest extent practicable, data collected from state and federal sources that specify the effect of woody biomass collection and conversion on the plant and wildlife resources and on the air and water quality of this state. The report shall identify any changes that the State Forester determines are necessary to encourage woody biomass collection and conversion and to avoid negative effects on the environment from woody biomass collection and conversion. The State Forester shall submit the report to the Governor and to an appropriate legislative interim committee with jurisdiction over forestry issues.

[2005 c.772 §4; 2011 c.276 §5]

Note:

See note under 526.271.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.285 - Contracts for providing woody biomass from state-managed forestlands.**

Notwithstanding ORS 530.059, the State Forester may enter into contracts under ORS 530.050 to provide a supply of woody biomass from forestlands managed by the State Forestry Department as needed to facilitate the development of projects, including but not limited to bioenergy projects. The department shall ensure that the provisions of contracts described in this section comply with applicable state forestland management plans. A contract described in this section is a sale of timber for purposes of the public contracting exemption described in ORS 279A.025 (2)(L). [2011 c.276 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.287 - Definitions for ORS 526.287 to 526.299 and 526.991.**

As used in ORS 526.287 to 526.299 and 526.991:

(1) "Large commercial event":

(a) Means a gathering that:

(A) Has an organizer;

(B) Is held for the purpose of a shared or common activity or experience;

(C) Has more than 50 participating individuals or more than 15 motor vehicles of participating individuals present at any time; and

(D) Continues or is scheduled to continue for more than four consecutive hours.

(b) Does not mean:

(A) An outdoor mass gathering regulated under ORS 433.735 to 433.770; or

(B) A gathering held by arrangement with the State Forestry Department at a permanent facility or officially designated area that is designed and equipped for accommodating gatherings of that type and size.

(2) "Organizer":

(a) Means a person that organizes, holds or sponsors a gathering having the characteristics described in subsection (1)(a)(B) to (D) of this section and directly or indirectly accepts moneys or other items of value, whether or not resulting in a profit, from one or more persons participating or reasonably expected to participate in the gathering in exchange for:

(A) Admittance;

(B) Parking;

(C) The receipt of on-site goods or services;

(D) The reservation or rental of camping or commercial space;

(E) Rights to sell on-site goods or services; or

(F) On-site advertising rights.

(b) Does not mean:

(A) A person acting in a regular business relationship with, on behalf of or under contract with the department;

(B) A person that receives money only from a coapplicant for purposes of obtaining a permit under ORS 526.291; or

(C) An individual receiving only hourly wages, commissions or tips for services personally provided by that individual. [2015 c.713 §1]

Note:

526.287 to 526.299 and 526.991 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.289 - Legislative findings.**

The Legislative Assembly finds that:

(1) State forestlands are especially vulnerable to the effects of uncontrolled gatherings of persons at large commercial events; and

(2) To avoid detriment to the best interest of the state it is necessary to protect the health of state forestlands, the viability of state forestlands as a public resource, the well-being of fish and wildlife and the health and safety of persons on state forestlands through the establishment of reasonable health and safety standards to mitigate the adverse effects of large commercial events held on state forestlands. [2015 c.713 §2]

Note:

See note under 526.287.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.291 - Large commercial event permits; fees; rules.**

(1) An organizer may not organize, hold or sponsor a large commercial event on state forestland unless the organizer holds a large commercial event permit issued by the State Forestry Department.

(2) A permit issued under this section does not entitle an organizer to make any permanent physical alterations to or on state forestland.

(3) The department may issue a permit to a person that demonstrates compliance with, or the ability and willingness to comply with, applicable health and safety standards governing large commercial events on state forestland. The application shall include all of the following:

(a) The name and address of the applicant.

(b) A description adequate to allow the department to accurately identify the location of the proposed event.

(c) The dates of the proposed event.

(d) Estimated total and peak attendance at the proposed event.

(e) Estimated total and peak demand for parking at the proposed event.

(f) The nature of the proposed event.

(g) Other information the department deems appropriate in order to ensure the identification of and compliance with applicable health and safety standards.

(4) The department may not issue a permit that authorizes a large commercial event to continue for more than 120 hours in any 90-day period.

(5) Subsection (3) of this section does not require the department to issue a large commercial event permit to a person that has a history of:

(a) Acting as an organizer for a gathering without obtaining a required large commercial event permit; or

(b) Violating, or recklessly allowing others to violate, the terms and conditions of a large commercial event permit issued to the person.

(6) The department, with the consent of the permit holder, may amend a large commercial event permit.

(7)(a) The department may charge a fee for reviewing and processing an application for a large commercial event permit. The fee may not exceed an amount reasonably calculated to reimburse the department for its reasonable and necessary costs in receiving,

processing and reviewing applications for permits. An application fee is refundable only if the application is withdrawn prior to any review of the application by the department.

(b) The department may adopt rules establishing a fee schedule for large commercial event permits. The department may establish fees under the schedule in amounts that the department deems adequate to fund an effective monitoring and enforcement program for large commercial events.

(c) The fees established or authorized under this subsection are in addition to any other fees or charges authorized by law. [2015 c.713 §3]

Note:

See note under 526.287.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.294 - Large commercial event health and safety standards; rules.**

(1) The State Forestry Department may adopt rules establishing health and safety standards for large commercial events held on state forestlands. The department shall consult with the Oregon Health Authority and the Department of Environmental Quality prior to establishing health and safety standards under this section. The State Forestry Department shall design the standards to protect the health of state forestlands, the viability of state forestlands as a public resource, the well-being of fish and wildlife and the health and safety of persons on state forestlands. The standards may address matters that include, but need not be limited to:

(a) Alcohol consumption;

(b) Buffer zones between large commercial events and ecologically sensitive areas;

(c) Buffer zones between large commercial events and known cultural resources;

(d) Buffer zones between large commercial events and forest practices as defined in ORS 527.620;

(e) Crowd and traffic control;

(f) Fire and flammable material use;

(g) Insurance and bonding;

(h) Lighting;

(i) Noise levels and hours; and

(j) Sanitation.

(2) The department shall include applicable health and safety standards in the terms and conditions of any large commercial event permit issued under ORS 526.291. [2015 c.713 §4]

Note:

See note under 526.287.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.297 - Suspension or revocation of permit.**

The State Forestry Department may suspend or revoke a large commercial event permit if:

(1) An emergency, significant law enforcement problem, substantial threat to public safety or welfare or substantial threat to public property arises from, or is likely to affect, event activities; or

(2) The department discovers that a violation of permit terms and conditions has occurred. [2015 c.713 §5; 2017 c.17 §45]

Note:

See note under 526.287.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.299 - Organizer responsibility for compliance with permit terms and conditions.**

An organizer may not recklessly allow a person to violate the terms and conditions of a large commercial event permit held by the organizer. As used in this section, "recklessly" has the meaning given that term in ORS 161.085. [2015 c.713 §6]

Note:

See note under 526.287.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.305 - Definitions for ORS 526.305 to 526.370.**

As used in ORS 526.305 to 526.370, unless the context requires otherwise:

(1) "Committee" means a forestland classification committee.

(2) "Governing body" means the board of county commissioners or county court of a county, as the case may be. [1965 c.253 §33; 2009 c.69 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.310 - Forestland classification committees; rules.**

(1) Pursuant to a request by the State Forester:

(a) The governing body of a county may establish a forestland classification committee of six persons, of whom one shall be appointed by the State Forester, one by the Director of the Oregon State University Extension Service, one by the State Fire Marshal and three by the governing body. Of the members appointed by the governing body, one must be an owner of forestland or the representative of an owner of forestland, and, if the land to be investigated and studied by the committee includes or is expected to include grazing land, one must be an owner of grazing land or the representative of an owner of grazing land; or

(b) The governing bodies of two or more counties may, by written agreement, establish a joint forestland classification committee. One member of a joint committee shall be appointed by the State Forester, one by the Director of the Oregon State University Extension Service and one by the State Fire Marshal. The governing body of each participating county shall appoint two members. Of the members appointed by a governing body to a joint committee, one must be an owner of forestland or the representative of an owner of forestland.

(2) Each appointing authority shall file with the State Forester the name of its appointee or appointees, and the persons so named shall constitute the committee. Unless otherwise provided for by the appointing authority, members of the committee shall serve a term of four years and may be reappointed to any number of terms. Each member of the committee at all times is subject to replacement by the appointing authority, effective upon the filing with the State Forester by that authority of written notice of the name of the new appointee.

(3) The committee shall elect from among its members a chair and a secretary and may elect other officers as it finds advisable. It shall adopt rules governing its organization and proceedings and the performance of its duties, and shall keep written minutes of all its meetings.

(4)(a) The governing body of a county may provide for the committee and its members such accommodations and supplies and such county funds not otherwise appropriated as the governing body finds necessary for the proper performance of the committee's functions.

(b) The forester may provide for the committee and its members such accommodations and supplies and such forest protection district funds as the forester finds necessary for the proper performance of the committee's functions.

(5) The members of the committee shall receive no compensation for their services but a governing body or a forest protection district may reimburse them for their actual and necessary travel and other expenses incurred in the performance of their duties.

[Amended by 1965 c.253 §34; 1967 c.429 §30; 1997 c.274 §42; 2009 c.69 §4; 2013 c.148 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.320 - Determination of forestland.**

Upon establishment of a forestland classification committee under ORS 526.310, the committee shall periodically investigate and study all land within the boundaries of its county or counties and determine which of the land is forestland. Such determination shall take into consideration climate, topography, elevation, rainfall, soil conditions, roads, extent of fire hazards, recreation needs, scenic values, and other physical, economic and social factors and conditions relating to the land involved. [Amended by 1965 c.253 §35; 1967 c.429 §31; 2009 c.69 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.324 - Classification of forestland by committee; publication.**

(1) Upon the basis of its investigation and determination under ORS 526.320, a committee shall assign all forestland within the boundaries of its county or counties and within a forest protection district to one of the following classifications:

(a) Class 1, timber class, includes forestland suitable for the production of timber and may include lands on which structures are present.

(b) Class 2, timber and grazing class, includes forestland suitable for joint use for timber production and the grazing of livestock and may include lands on which structures are present.

(c) Class 3, agricultural class, includes forestland suitable for grazing of livestock or other agricultural use and may include lands on which structures are present.

(2) The committee shall adopt preliminary classifications and shall cause notice thereof to be published once a week for two consecutive weeks in one or more newspapers of general circulation within the boundaries of its county or within the boundaries of each of its counties and to be posted in three public places within the boundaries of its county or within the boundaries of each of its counties. The notice shall state the time and place for the public hearing required pursuant to ORS 526.328 and where maps of the preliminary classifications may be inspected. [1965 c.253 §37; 1967 c.429 §32; 2009 c.69 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.328 - Hearing; final classification.**

(1) The committee shall hold a public hearing within the boundaries of its county or within the boundaries of each of its counties at the time and place stated in the notice published under ORS 526.324 (2), or at such other time and place as the hearing may then be adjourned to, to receive from any interested persons objections, remonstrances or suggestions relating to the preliminary classifications. Following the hearing the committee may make such changes to the preliminary classifications as it finds to be proper, and thereafter shall adopt final classifications.

(2) All action by the committee in adopting final classifications shall be by formal written order that must include a statement of

findings of fact on the basis of which the order is made and must include a list of tax lots affected by the classifications or reclassifications. The committee shall prepare one or more maps showing the final classifications, but the maps may not be included as part of the formal written order. The original of the order shall be filed with the county clerk of its county or with the county clerk of each of its counties. The order need not meet the requirements of ORS 205.232, 205.234 and 205.236 to be filed and recorded. A copy of the order certified by the secretary of the committee shall be sent to the State Forester. [1965 c.253 §38; 2009 c.69 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.332 - Appeal.**

(1) Any owner of land classified under ORS 526.328 or 526.340 who is aggrieved by the classification may, within 30 days after the date of the order making the classification, appeal to the circuit court for the county in which the property is located. If the forestland classification committee has been established for more than one county and the property is located in more than one of those counties, the owner of the land may appeal to the circuit court for any of those counties. Notice of an appeal shall be promptly served on the secretary of the committee or, if the classification was made under ORS 526.340, on the State Forester.

(2) The appeal shall be tried by the circuit court as an action not triable by right to a jury.

(3) The State Forester may intervene as a matter of right in an appeal under this section from a forestland classification committee order. The State Forester may defend a forestland classification committee order whether or not the forestland classification committee also defends the order. [1965 c.253 §39; 1979 c.284 §163; 2009 c.69 §8; 2013 c.148 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.335 - State Board of Forestry rules.**

The State Board of Forestry may adopt rules as necessary to implement ORS 526.305 to 526.340. [2009 c.69 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.340 - Classification by State Forester.**

(1) The State Forester may identify and classify forestland in a county, consistent with ORS 526.324 and 526.328, if:

(a) The governing body of a county has failed to establish a forestland classification committee within two years after the State Forester made a request under ORS 526.310 (1);

(b) A forestland classification committee has failed to adopt and file a final classification pursuant to ORS 526.328 within the five-year period after the date the forestland classification committee was first established; or

(c) A forestland classification committee has failed to act in a manner consistent with ORS 526.310, 526.320, 526.324 and 526.328.

(2) Classifications by the State Forester have the same force and effect as though made by a forestland classification committee. However, classifications made by the State Forester cease to be effective if replaced by classifications made pursuant to ORS 526.320, 526.324 and 526.328. [Amended by 1965 c.253 §40; 1997 c.274 §43; 2009 c.69 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.350 - Policy in administering forest and fire laws; contracts for care of forestland.**

(1) All forest laws relating to forestland classified pursuant to ORS 526.328 or 526.340, and all rules promulgated under such laws, shall be so administered as best to promote the primary use for which that land is classified. Any contract by the State Board of Forestry or the State Forester with any forest protective association or agency for the care of any such forestland shall provide that the care shall be in accord with the provisions of this section relating to that land.

(2) It shall be the policy of the board and the forester as to all forestland classified in:

(a) Class 1, to give primary consideration to timber production and reforestation, in preference to grazing or agricultural uses, not excluding, however, recreation needs or scenic values.

(b) Class 2, to give equal consideration and value to timber production and the development or maintenance of grazing, either as a temporary use for the interim between logging and reforestation or as a permanent or semipermanent joint use.

(c) Class 3, to give primary consideration to the development of grazing or agriculture, in preference to timber production.

(3) The forester, on forestland classified pursuant to ORS 526.328 or 526.340, shall administer the forest laws of this state in accordance with the policy stated in this section as it applies to the land involved. [Amended by 1965 c.253 §41]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.360 - Assistance with developing lands; supervision of certain burning; refusal of supervision or permit; Certified Burn Manager program; rules; liability for damage.**

(1) The State Board of Forestry, the State Forester and forest protective associations may assist to the extent practical in developing, for forestry, grazing or agricultural uses, lands within a forest protection district, as described in ORS 477.205 to 477.281, for such uses, including the burning of brush or other flammable material for the purpose of:

(a) Removing a fire hazard to any property;

(b) Preparing seed beds;

(c) Removing obstructions to or interference with the proper seeding or agricultural or grazing development or use of that land;

- (d) Promoting the establishment of new forest crops on cutover, denuded or underproductive lands;
  - (e) Implementing pest prevention and suppression activities, as provided in ORS 527.310 to 527.370; or
  - (f) Promoting improvements to forest health, including improvements to fish and wildlife habitat.
- (2) Upon request of the owner or the agent of the owner of lands within a forest protection district, the forester or a forest protective association may perform or supervise burning operations thereon for any of the purposes stated in subsection (1) of this section. The owner or the agent of the owner shall supply such personnel and equipment and shall perform such fire control actions and activities as the forester or forest protective association may require while there is danger of the fire spreading. The forester or forest protective association may refuse to perform or supervise burning or to issue any burning permit when, in the judgment of the forester or forest protective association, conditions so warrant.
- (3) To accomplish the purposes set forth in subsection (1) of this section, the board shall establish by rule a Certified Burn Manager program.
- (4) The rules shall include:
- (a) Certification standards, requirements and procedures;
  - (b) Standards, requirements and procedures to revoke certification;
  - (c) Actions and activities that a Certified Burn Manager must perform;
  - (d) Actions and activities that a Certified Burn Manager may not allow or perform;
  - (e) Limitations on the use of a Certified Burn Manager; and
  - (f) Any other standard, requirement or procedure that the board considers necessary for the safe and effective administration of the program.
- (5) The rules may establish and impose fees for participation in the program.
- (6) When a burning for any of the purposes stated in subsection (1) of this section on lands within a forest protection district is started under the supervision of and supervised by the forester, a forest protective association or a Certified Burn Manager, a person may not be held liable for property damage resulting from that burning unless the damage is caused by the negligence of the person. [Amended by 1965 c.253 §42; 1967 c.429 §33; 1999 c.101 §2; 2021 c.592 §26; 2023 c.611 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.370 - Seeding agreements as condition of supervision of burning on forestlands; seeding at owner's expense on breach; lien; foreclosure.**

- (1) The forester may, as a condition precedent to supervising of any burning as provided in ORS 526.360, require the owner or the agent of the owner in control of the land involved to agree in writing to seed properly the land over which the burning operation is to be conducted, with such seed or seed mixtures as may be suitable for that area.
- (2) In the event of failure by the owner or agent of the owner to seed the property in accordance with such agreement, the governing body of that county may cause the seeding to be done and the cost thereof may be recovered by the governing body from the owner or the agent of the owner by legal action. The cost shall constitute a lien upon the land seeded. The governing body shall cause a written statement and notice of such lien, describing the land and stating the amount of the cost, to be certified under oath and filed in the office of the county clerk within 90 days following the completion of reseeded. The lien may be foreclosed, within six months after such filing, by suit, in the manner provided by law for foreclosure of liens for labor and material. [Amended by 1965 c.253 §43; 1999 c.101 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.400 - Small Forestland Owner Assistance Office; rules.**

- (1) The Small Forestland Owner Assistance Office is created within the State Forestry Department.
- (2) The office shall:
- (a) Support and promote implementation of financial incentives and technical assistance programs for small forestland owners that align with the intent of the Private Forest Accord Report dated February 2, 2022, and published by the department on February 7, 2022.
  - (b) Carry out duties related to the Small Forestland Investment in Stream Habitat Program, as described in ORS 526.402.
  - (c) To support compliance with a habitat conservation plan that is consistent with the requirements of the Private Forest Accord Report, develop and maintain a database of:
    - (A) Landowners that the department has determined meet the requirements set forth in ORS 527.738 (3).
    - (B) Forestland in this state that is owned by the landowners.
    - (C) The types and conditions of the forestland.
    - (D) The roads and streams located within the forestland.
  - (d) Serve as the lead coordination and support body within the department for programs, partnerships and educational opportunities not otherwise described in this section that support forestland owners that own or hold common ownership interest in less than 5,000 acres of forestland in this state.
  - (e) Identify and implement opportunities to leverage the programs, partnerships and educational opportunities to support activities consistent with the habitat conservation plan, including activities that provide for adequate fish passage, remove fish passage barriers, maintain roads or collect data related to the habitat conservation plan.



(f) Engage in any other duties delegated to the office by the State Board of Forestry or the department.

(3) The board may adopt rules as necessary to implement this section. [2022 c.33 §19]

Note:

526.400 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (second note below).

Note:

Sections 54 and 60 to 64, chapter 33, Oregon Laws 2022, provide:

Sec. 54. Statement of legislative intent concerning habitat conservation plan and incidental take permit.

(1) The Legislative Assembly intends that the policies described in sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 9, 26 to 29, 40, 41 and 45 to 49 of this 2022 Act shall remain in effect only if:

(a) An incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, is issued on or before December 31, 2027;

(b) The State Board of Forestry has not made a finding that the habitat conservation plan imposes more than a de minimis difference in economic or resource impacts, at the level of landscapes, relative to rules adopted or amended as part of the rule package described in section 2 of this 2022 Act [527.711]; and

(c) The incidental take permit remains in effect.

(2) The legislative intent described in subsection (1) of this section is established by sections 55 to 64 of this 2022 Act. [2022 c.33 §54]

Sec. 60. Conditional repeals.

Sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act are repealed. [2022 c.33 §60]

Sec. 61. Operation of conditional provisions upon finding related to habitat conservation plan.

(1) Except as otherwise provided in sections 62 and 63 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative only if the State Board of Forestry finds, pursuant to section 55 (1) and (2) of this 2022 Act, that the habitat conservation plan described in section 55 (1) of this 2022 Act imposes more than a de minimis difference, as described in section 55 (1) of this 2022 Act.

(2) If the board finds, pursuant to section 55 (1) and (2) of this 2022 Act, that the habitat conservation plan described in section 55

(1) of this 2022 Act imposes more than a de minimis difference, as described in section 55 (1) of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on the 150th day after the date the board makes the finding. [2022 c.33 §61]

Sec. 62. Operation of conditional provisions upon revocation or invalidation of incidental take permit.

(1) Except as otherwise provided in sections 61 and 63 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative only if:

(a) Pursuant to section 55 (1) and (2) of this 2022 Act, the State Board of Forestry does not make a finding or finds that the habitat conservation plan described in section 55 (1) of this 2022 Act does not impose more than a de minimis difference, as described in section 55 (1) of this 2022 Act; and

(b) The incidental take permit is subsequently revoked or invalidated.

(2) If the events described in subsection (1)(a) and (b) of this section occur, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on the 240th day after the date that any appeals process related to the revocation or invalidation has been exhausted or foregone, whichever occurs first. [2022 c.33 §62]

Sec. 63. Operation of conditional provisions upon failure to issue incidental take permit on or before December 31, 2027.

(1) Except as otherwise provided in sections 61 and 62 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative only if an incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, is not issued on or before December 31, 2027.

(2) If an incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report is not issued on or before December 31, 2027, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on June 1, 2028. [2022 c.33 §63]

Sec. 64. Repeal of conditionally operative provisions.

Sections 59 and 62 of this 2022 Act are repealed on January 2, 2077. [2022 c.33 §64]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.402 - Small Forestland Investment in Stream Habitat Program; rules.**

- (1) The State Board of Forestry shall adopt by rule a Small Forestland Investment in Stream Habitat Program.
- (2) The purpose of the program is to provide grants to certain small forestland owners to fund projects that:
  - (a) Result in environmental benefits to fish species addressed in the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022; or
  - (b) Mitigate risks to natural resources arising from the construction, operation or maintenance of forest roads or related activities.
- (3) The Small Forestland Owner Assistance Office established by ORS 526.400 shall implement and administer the program.
- (4)(a) To be eligible for a grant under the program, a landowner must:
  - (A) Own or hold common ownership interest in less than 5,000 acres of forestland in this state.
  - (B) Submit documentation showing that no more than an average yearly volume of two million board feet of merchantable forest products has been harvested from the landowner's forestland in this state, when averaged over the three years prior to the date the office receives the grant application.
  - (C) Affirm to the office that the landowner does not expect to exceed an average yearly volume of two million board feet of merchantable forest products to be harvested from the landowner's forestland in this state during the 10 years following the date the office receives the grant application.
  - (D) Have on file with the State Forestry Department a road condition assessment that includes assessment of all the roads, abandoned roads, culverts and fish passage barriers located anywhere in the parcel of land on which the project for which grant funding is requested will occur.
- (b) For purposes of this subsection, a landowner must be considered to hold common ownership interest in forestland if the forestland is owned by the landowner directly or by a corporation, partnership, association or other entity in which the landowner owns a significant interest.
- (c) Notwithstanding paragraph (a)(B) and (C) of this subsection, a landowner may be eligible for a grant if the landowner establishes to the department's reasonable satisfaction that any exceedance of the harvest limits set forth in paragraph (a)(B) or (C) of this subsection was or will be necessary to raise funds to pay estate taxes or for a compelling and unexpected obligation.
- (5) In administering and implementing the program, the office shall coordinate with the State Department of Fish and Wildlife to prioritize awarding grants for projects on high conservation value sites, as described in section 5.3.5.3 of chapter 5 of the Private Forest Accord Report.
- (6) In addition to the requirements described in subsection (4) of this section, when awarding grants under the program, the office may consider:
  - (a) The length of time that has elapsed since an application for a grant was received.
  - (b) Any potential efficiencies gained through coordinating grant-funded activities with other activities at a proposed project site.
- (7) The office shall annually publish, and make publicly available on a website of the State Forestry Department, a report for the previous calendar year that addresses:
  - (a) Each funded project that was completed during the calendar year.
  - (b) The costs of each completed project and the mileage of streams improved as a result of the completed project.
- (8) The department shall submit a copy of the report to an appropriate committee or interim committee of the Legislative Assembly, in the manner described in ORS 192.245, no later than September 15 of each year. [2022 c.33 §17]

Note:

526.402 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 526.400).

Note:

See second note under 526.400.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.404 - Small Forestland Investment in Stream Habitat Program Fund.**

- (1) The Small Forestland Investment in Stream Habitat Program Fund is established, separate and distinct from the General Fund. Interest earned by the Small Forestland Investment in Stream Habitat Program Fund shall be credited to the fund.
- (2) Moneys in the fund are continuously appropriated to the State Forestry Department to be distributed by the Small Forestland Owner Assistance Office described in ORS 526.400 as grants to small forestland owners under the Small Forestland Investment in Stream Habitat Program established under ORS 526.402.
- (3) The fund shall consist of:
  - (a) Moneys appropriated to the department for deposit in the fund or otherwise transferred to the fund.
  - (b) Any gifts, grants, contributions or other donations for use as described in subsection (2) of this section that are received by the department from any public or private source and caused to be deposited in the fund or otherwise transferred to the fund. [2022 c.33 §18]

Note:

526.404 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note

following 526.400).

Note:

See second note under 526.400.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.406 - Adopting rules as part of rule package.**

The State Board of Forestry shall adopt the rules described in ORS 526.400, 526.402 and 527.738 as part of the rule package described in ORS 527.711. [2022 c.33 §20]

Note:

526.406 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 526.400).

Note:

See second note under 526.400.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.425 - Management assistance to nonindustrial private forest landowners; rules.**

Recognizing that nonindustrial private forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, it is hereby declared to be the public policy of the State of Oregon to encourage management of nonindustrial private forestlands for tree production. Therefore, under the direction of the State Board of Forestry and to the extent funds are available, the State Forester shall:

- (1) Provide for coordinated technical and financial assistance to the nonindustrial private forest landowner;
- (2) Provide management planning for nonindustrial private forestlands;
- (3) Advise and encourage nonindustrial private forest landowners to carry out young growth management activities, such as converting underproductive forestlands, reforestation, release, precommercial thinning and salvaging insect or disease damaged trees;
- (4) Administer federal programs, such as the Agricultural Conservation Program or Forestry Incentives Program, that are designed to help encourage management of nonindustrial private forestlands;
- (5) Advise and encourage nonindustrial private forest landowners to form cooperatives or aggregates for the purpose of more efficiently carrying out their young growth management activities;
- (6) Periodically advise and recommend changes to the Legislative Assembly on laws conflicting with the intent of this statute; and
- (7) In compliance with ORS chapter 183, promulgate rules consistent with law for providing management planning for nonindustrial private forestlands. [Formerly 526.048]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.450 - Short title.**

ORS 315.104, 318.031 and 526.450 to 526.475 may be cited as the "Woodland Management Act of 1979." [1979 c.578 §1]

Note:

The amendments to 526.450 by section 5, chapter 883, Oregon Laws 2007, become operative January 2, 2028. See section 10, chapter 883, Oregon Laws 2007, as amended by section 36, chapter 33, Oregon Laws 2009. The text that is operative on and after January 2, 2028, is set forth for the user's convenience.

ORS 318.031 and 526.450 to 526.475 may be cited as the "Woodland Management Act of 1979."

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.455 - Definitions for ORS 526.450 to 526.475.**

As used in ORS 315.104, 318.031 and 526.450 to 526.475, unless the context requires otherwise:

- (1) "Approved forest management practice" means and includes site preparation, tree planting, precommercial thinning, release, fertilization, animal damage control, insect and disease management or such other young growth management practices that increase wood growth as the State Forester shall approve or determine proper generally with regard to any particular applicant.
- (2) "Board" means State Board of Forestry.
- (3) "Commercial forestland" means land for which a primary use is the growing and harvesting of forest tree species and other forest resource values.
- (4) "Eligible owner" means any private individual, group, Indian tribe or other native group, association, corporation or other nonpublic legal entity owning 10 to 500 acres of Oregon commercial forestland.
- (5) "Forest management plan" means an operation plan to reach landowner objectives and assures public benefits as they relate to producing timber and other values. It shall include a cover map, basic forest stand description data, treatment opportunities, landowner objectives and a schedule for implementing the forest management plan.
- (6) "Forest management practices" means and includes site preparation, tree planting, precommercial thinning, release, fertilization, animal damage control, insect and disease management and other young growth management practices that increase wood growth.

- (7) "Industrial private forestlands" means lands capable of producing crops of industrial wood, greater than 10 acres and owned by other than an eligible owner.
- (8) "Industrial wood" means forest products used to sustain a sawmill, plywood mill, pulp mill or other forest industry related manufacturing facility.
- (9) "Landowner" means any private individual, group, Indian tribe or other native group, association, corporation or other legal entity, owning both the forestland and any timber thereon.
- (10) "Nonindustrial private forestlands" means lands capable of producing crops of industrial wood and owned by an eligible owner.
- (11) "State Forester" means the individual appointed pursuant to ORS 526.031, or the authorized representative of the State Forester.
- (12) "Timber" means wood growth, mature or immature, growing or dead, standing or down of species acceptable for regeneration under the Oregon Forest Practices Act.
- (13) "Underproductive forestlands" means commercial forestlands not meeting the minimum stocking standards of the Oregon Forest Practices Act. [1979 c.578 §2]

Note:

The amendments to 526.455 by section 6, chapter 883, Oregon Laws 2007, become operative January 2, 2028. See section 10, chapter 883, Oregon Laws 2007, as amended by section 36, chapter 33, Oregon Laws 2009. The text that is operative on and after January 2, 2028, is set forth for the user's convenience.

As used in ORS 318.031 and 526.450 to 526.475, unless the context requires otherwise:

- (1) "Approved forest management practice" means and includes site preparation, tree planting, precommercial thinning, release, fertilization, animal damage control, insect and disease management or such other young growth management practices that increase wood growth as the State Forester shall approve or determine proper generally with regard to any particular applicant.
- (2) "Board" means State Board of Forestry.
- (3) "Commercial forestland" means land for which a primary use is the growing and harvesting of forest tree species and other forest resource values.
- (4) "Eligible owner" means any private individual, group, Indian tribe or other native group, association, corporation or other nonpublic legal entity owning 10 to 500 acres of Oregon commercial forestland.
- (5) "Forest management plan" means an operation plan to reach landowner objectives and assures public benefits as they relate to producing timber and other values. It shall include a cover map, basic forest stand description data, treatment opportunities, landowner objectives and a schedule for implementing the forest management plan.
- (6) "Forest management practices" means and includes site preparation, tree planting, precommercial thinning, release, fertilization, animal damage control, insect and disease management and other young growth management practices that increase wood growth.
- (7) "Industrial private forestlands" means lands capable of producing crops of industrial wood, greater than 10 acres and owned by other than an eligible owner.
- (8) "Industrial wood" means forest products used to sustain a sawmill, plywood mill, pulp mill or other forest industry related manufacturing facility.
- (9) "Landowner" means any private individual, group, Indian tribe or other native group, association, corporation or other legal entity, owning both the forestland and any timber thereon.
- (10) "Nonindustrial private forestlands" means lands capable of producing crops of industrial wood and owned by an eligible owner.
- (11) "State Forester" means the individual appointed pursuant to ORS 526.031, or the authorized representative of the State Forester.
- (12) "Timber" means wood growth, mature or immature, growing or dead, standing or down of species acceptable for regeneration under the Oregon Forest Practices Act.
- (13) "Underproductive forestlands" means commercial forestlands not meeting the minimum stocking standards of the Oregon Forest Practices Act.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.460 - Policy to manage forests to maximize benefits.**

- (1) The State of Oregon recognizes that the forest makes a vital contribution to Oregon. Economic benefits provided include a large tax base, substantial employment and wood products for a world market. The environmental benefits include maintenance of a forest cover and soil, air and water resources. Other benefits provided are habitats for wildlife and aquatic life, recreation and forest range. Management of all forestlands in Oregon should be encouraged to provide continuous production of all forest benefits.
- (2) Nonindustrial private forestlands are an important part of Oregon's forest resource base. They can make major contributions to Oregon's economy and provide many other social benefits. Therefore, it is the policy of the State of Oregon to provide conditions favorable for long term forestry investments that lead to increased management of and harvest from these lands. [1979 c.578 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.465 - Purpose of ORS 526.450 to 526.475.**

The purpose of ORS 315.104, 318.031 and 526.450 to 526.475 is to encourage long term forestry investments that lead to increased management of Oregon's forestlands by:

- (1) Providing the forest owner with tax relief during the timber growth period.
- (2) Promoting programs that provide forest credit on young stands and encourage harvesting of mature forest crops.

- (3) Promoting the establishment of new forest crops on cutover, denuded or underproductive privately owned forestlands.
- (4) Protecting the public interest by assuring that the citizens of the state and future generations shall have the benefits to be derived from the continuous production of forest products from the private forestlands of Oregon, including jobs, taxes, water, erosion control and habitat for wild game. [1979 c.578 §4]

Note:

The amendments to 526.465 by section 7, chapter 883, Oregon Laws 2007, become operative January 2, 2028. See section 10, chapter 883, Oregon Laws 2007, as amended by section 36, chapter 33, Oregon Laws 2009. The text that is operative on and after January 2, 2028, is set forth for the user's convenience.

The purpose of ORS 318.031 and 526.450 to 526.475 is to encourage long term forestry investments that lead to increased management of Oregon's forestlands by:

- (1) Promoting programs that provide forest credit on young stands and encourage harvesting of mature forest crops.
- (2) Promoting the establishment of new forest crops on cutover, denuded or underproductive privately owned forestlands.
- (3) Protecting the public interest by assuring that the citizens of the state and future generations shall have the benefits to be derived from the continuous production of forest products from the private forestlands of Oregon, including jobs, taxes, water, erosion control and habitat for wild game.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.470 - Forest tree seed bank; sale to recover costs; disposition of funds; use of funds for research and development activities.**

- (1) A state forest tree seed bank may be operated by the State Forester and the State Board of Forestry to provide forest tree seed for the raising of forest tree seedlings suitable for reforestation. Such tree seed bank is to provide for the research and development, production, purchase, collection, storage, care and maintenance of forest tree seed and for the sale of such tree seed to private, state and other public owners of forest nurseries or forestland.
- (2) Each year the State Forester shall determine the costs of tree seed bank operation and shall offer tree seed for sale to forest or nursery owners at prices that will recover actual costs.
- (3) All revenues derived from the operation of the tree seed bank shall be credited to the State Forestry Department Account and deposited in the State Forest Tree Seed Bank Subaccount established in ORS 526.060.
- (4) In order to develop and produce high quality forest tree seed, the moneys deposited in the State Forest Tree Seed Bank Subaccount may be used for research and development activities, including establishing and maintaining seed production areas, seed orchards or select forest trees from which seed, cuttings or pollen may be collected. The activities described in this subsection may be conducted independently by the State Forester or in collaboration, partnership or cooperation with private entities and public bodies as defined in ORS 174.109. [1979 c.578 §5; 2005 c.541 §5; 2007 c.248 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.472 - Forest tree seed orchard; purposes; cooperative agreements; recovery of costs; revenues.**

- (1) A state forest tree seed orchard may be operated by the State Forester and the State Board of Forestry to produce high quality forest tree seed suitable for reforestation. The purposes of the state forest tree seed orchard are to:
  - (a) Grow, care for and maintain seed orchard stock and produce seed, pollen, cuttings and other propagules for reforestation uses by private entities and public bodies as defined in ORS 174.109;
  - (b) Promote the conservation of genetic resources; and
  - (c) Support research and development activities for the purpose of producing high quality, well adapted seeds.
- (2) The State Forester may enter into cooperative cost sharing and management agreements with private entities and public bodies as defined in ORS 174.109 to carry out the purposes set forth in subsection (1) of this section.
- (3) Each year the State Forester shall determine the costs of operating the state forest tree seed orchard and shall recover actual costs.
- (4) All revenues derived from the operation of the state forest tree seed orchard shall be credited to the State Forestry Department Account and deposited in the State Forest Tree Seed Orchard Subaccount established in ORS 526.060. [2007 c.248 §3]

Note:

526.472 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.475 - Appeal of decisions by State Forester.**

- (1) Any owner affected by a determination of the State Forester made under ORS 315.104, 318.031 and 526.450 to 526.475 may appeal to the State Board of Forestry under such rules as it may adopt. An appeal to set aside any decision of the board with respect to ORS 315.104 or 318.031 may be taken within 60 days of the decision to the Oregon Tax Court in the manner provided for tax cases under ORS chapter 305.
- (2) Any owner affected by a determination of the Department of Revenue made under ORS 315.104 or 318.031 may appeal directly to the tax court under ORS 305.404 to 305.560. [1979 c.578 §11; 1995 c.650 §40]

Note:

The amendments to 526.475 by section 8, chapter 883, Oregon Laws 2007, become operative January 2, 2028. See section 10, chapter 883, Oregon Laws 2007, as amended by section 36, chapter 33, Oregon Laws 2009. The text that is operative on and after January 2, 2028, is set forth for the user's convenience.

(1) Any owner affected by a determination of the State Forester made under ORS 318.031 and 526.450 to 526.475 may appeal to the State Board of Forestry under such rules as it may adopt. An appeal to set aside any decision of the board with respect to ORS 318.031 may be taken within 60 days of the decision to the Oregon Tax Court in the manner provided for tax cases under ORS chapter 305.

(2) Any owner affected by a determination of the Department of Revenue made under ORS 318.031 may appeal directly to the tax court under ORS 305.404 to 305.560.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.490 - Afforestation of certain idle lands; harvest requirements; inspection fees; lands subject to Oregon Forest Practices Act; rules; fees.**

(1) It is the policy of the State of Oregon to encourage the afforestation of idle land for the purpose of establishing commercial forests if such afforestation is consistent with landowner objectives. The purpose of this section is to provide an incentive for afforestation by providing assurance that the State of Oregon will not prohibit the harvesting of trees planted on such lands within the first crop rotation.

(2) As used in this section:

(a) "Free to grow" means a stand of well-distributed trees that has a high probability of remaining or becoming vigorous, healthy and dominant over undesired competing vegetation.

(b) "Parcel" has the meaning given that term in ORS 92.010.

(3) Notwithstanding ORS 527.676, 527.710 or 527.755 or any rules promulgated thereunder, and except as provided in subsection (4) of this section, a person who, after September 9, 1995, plants or causes to be planted a stand of timber that is intended to become a merchantable stand of timber as defined in ORS 321.005 on a parcel owned by the person, or a portion of such parcel not less than five contiguous acres, shall not be prohibited from harvesting the planted timber provided that:

(a) Prior to the time of planting, the parcel or portion thereof has not been subject to any forest practice as defined in ORS 527.620 since July 1, 1972; and

(b) Prior to the time of planting, the stocking of forest tree species on the subject parcel or portion thereof is less than 25 square feet of basal area per acre.

(4) The provisions of subsection (3) of this section shall not apply to any land or timber located within 20 feet of any large or medium stream, or any small stream that is a fish-bearing or domestic use stream, as defined by the State Board of Forestry.

(5)(a) If, within two to five years of planting under subsection (3) of this section, the person notifies the State Forester, the State Forester shall inspect the timber and shall issue a certificate to the owner indicating that a free to grow stand of timber has been established under subsection (3) of this section and identifying the location of the timber. Upon request of the owner and payment of any applicable fee, the county clerk in the county wherein the parcel is located shall record the certificate as specified under ORS 205.130.

(b) A person who notifies the State Forester and requests certification shall provide an accurate plat of the parcel or portion planted under subsection (3) of this section to the State Forester as well as photographs that accurately depict the condition of the land prior to planting.

(c) The State Forester may, by rule, establish a fee or schedule of fees adequate to cover such necessary expenses incurred by the State Forester in conducting inspection and certification activities. Fees may be charged to the person requesting certification.

(6)(a) Except as provided in subsection (3) of this section, all forest practices conducted on the planted parcel or portion thereof shall be subject to the provisions of ORS 527.610 to 527.770, 527.990 (1) and 527.992.

(b) No parcel or portion of such parcel shall be subject to the provisions of subsections (3) and (5) of this section more than once. [1995 c.266 §1; 2001 c.340 §2]

Note:

526.490 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.500 - Definitions for ORS 526.500 to 526.515.**

As used in ORS 526.500 to 526.515, unless the context requires otherwise:

(1) "Urban forest" means the area in and around a city that contains trees and associated plant and animal life. The area may be public or private and may include single trees, small groups of trees or trees in large groups that would be identified commonly as a forest or woodland.

(2) "Urban and community forestry" means the practice of managing, planning, maintaining and promoting the health of the urban forest as a community resource. [1993 c.347 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.505 - Policy.**

Trees not only are important to the economic and environmental well-being of Oregon, but also represent a significant component of the quality of life for urban residents. As a matter of policy, it is important to promote and protect the human habitat values that accrue from a healthy urban forest. Therefore, it is declared to be the public policy of the State of Oregon to encourage cities to plant and properly care for trees within the cities' urban growth boundaries and develop management plans to protect and promote urban forests. [1993 c.347 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.510 - Department to provide technical assistance to governmental units.**

(1) The State Forestry Department shall provide technical assistance to cities, counties, other governmental units, nonprofit and civic organizations and other groups interested in planting and caring for trees in communities. Technical assistance may include, but is not limited to, the following areas:

- (a) Establishing and maintaining local urban and community forestry programs;
- (b) Developing local tree management ordinances;
- (c) Developing public information programs to promote awareness of the values and benefits of the urban forest as a resource of the urban community;
- (d) Implementing appropriate tree management and care practices;
- (e) Performing street tree inventories; and
- (f) Planning and coordinating local tree planting projects.

(2) The department shall make the fullest use of cooperative agreements, projects and resource sharing with local grassroots organizations, community action groups, businesses, local and state agencies, federal agencies, public and private schools, colleges and universities in designing, developing and implementing local programs, plans and activities. [1993 c.347 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.515 - Gifts, grants and donations; fees for services.**

(1) The State Forestry Department may receive and disburse such gifts, grants, bequests, federal moneys and endowments and donations of labor, material, seedlings, trees and equipment from public and private sources for the purpose of conducting an urban and community forestry program. In addition, the department is authorized to charge fees for services and for attendance at workshops and conferences and to sell various publications and other materials that the department prepares.

(2) All revenues received under subsection (1) of this section and any interest earned on all cash balances except federal moneys shall be credited to the State Forestry Department Account and may be expended only for urban and community forestry purposes. [1993 c.347 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.520 - Urban tree canopy assessment.**

(1) The State Forestry Department shall acquire and maintain a statewide urban tree canopy assessment tool.

(2) The assessment tool must provide geospatial mapping that includes:

- (a) A visualization of urban tree canopies, viewable at the census tract level;
- (b) Community demographic, economic, social and health data;
- (c) A comprehensive inventory of tree canopies on public lands;
- (d) Rights of way and their associated jurisdictions;
- (e) An urban green space assessment that includes an evaluation of vegetation health and a comparison of pervious surfaces to impervious surfaces within the green space; and
- (f) An assessment of tree canopy and green space in the urban-rural gradient.

(3) The department may integrate the urban tree canopy assessment tool with data from other agency mapping tools, including the environmental justice mapping tool developed pursuant to ORS 182.555.

(4) The department shall make the urban tree canopy assessment tool available on a website maintained by the department, along with guidance for using the tool to promote environmental, social and economic well-being.

(5) Using the urban tree canopy assessment tool, the department shall designate as green infrastructure improvement zones areas of this state that have a high level of poverty density and any of the following:

- (a) Low levels of tree canopy cover;
- (b) Poor vegetation health;
- (c) High risk of pests, disease or other threats to plant life; or
- (d) Other needs for revegetation or holistic native plant restoration. [2023 c.442 §28]

Note:

526.520 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.600 - Definitions for ORS 526.600 to 526.675.**

As used in ORS 526.600 to 526.675, unless the context requires otherwise:

- (1) "Institute" means the Oregon Forest Resources Institute.
- (2) "Producer" means a producer of forest products and includes any person, partnership, association, corporation, cooperative or other business entity involved in the growing, harvesting or producing of timber or timber products. "Producer" does not include landowners who meet the requirement of ORS 526.610 (4). [1991 c.949 §2; 1995 c.225 §2; 2003 c.423 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.605 - Findings.**

The State of Oregon recognizes that the forest products industry is one of the largest industries in the state. It provides monetary returns to labor, forestland owners, mill owners and operators, public timber purchasers, timber harvesters, investors and others. It is a source of local and state taxes. It is a major supporter of many secondary businesses that supply goods and services in our communities. The welfare of the state is therefore largely dependent on the health and vigor of the forest products industry. The Oregon Forest Resources Institute's objectives support this important industry and the wise stewardship of natural resources for the benefit of Oregonians. [1991 c.949 §3; 2003 c.423 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.610 - Oregon Forest Resources Institute; board of directors; eligibility.**

There is created the Oregon Forest Resources Institute. The institute shall be governed by a board of directors appointed by the State Forester. In making the appointments, the State Forester shall take into consideration any nominations or recommendations made to the State Forester by producers or organizations that represent producers. The board shall consist of 11 voting members plus two nonvoting members appointed as follows:

- (1) Three voting members to represent small producers of 20 million board feet or less per year.
- (2) Three voting members to represent medium producers of more than 20 million board feet but less than 100 million board feet per year.
- (3) Three voting members to represent large producers of 100 million board feet or more per year.
- (4) One voting member who is an owner of between 100 and 2,000 acres of forestland and who has no direct financial interest in any forest products processing activity.
- (5) After consideration of the recommendations of the other appointed members in subsections (1) to (4) of this section, one voting member who is an hourly wage employee of a producer or a person who represents such employees. The member appointed under this subsection need not comply with the requirements of ORS 526.615 (3) to (6).
- (6)(a) Two nonvoting members:
  - (A) The Dean of the College of Forestry at Oregon State University.
  - (B) An individual jointly appointed by the President of the Senate and the Speaker of the House of Representatives to represent the public. The public representative may not be a member of or significantly affiliated with any organization of or business in the timber industry or any organization or business known to support or promote environmental or conservation issues. A person appointed under this subparagraph serves at the pleasure of the President of the Senate and the Speaker of the House of Representatives.
- (b) Members referred to in this subsection are not subject to ORS 526.615 to 526.625. [1991 c.949 §4; 1993 c.584 §3; 1995 c.225 §3; 1999 c.40 §1; 2003 c.423 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.615 - Qualifications of voting members.**

Except as provided in ORS 526.610 (5), each voting member of the board of directors of the Oregon Forest Resources Institute shall have the following qualifications:

- (1) Be a citizen of the United States.
- (2) Be a bona fide resident of this state.
- (3) Be a producer in this state, an employee of such a producer or own between 100 and 2,000 acres of forestland in this state on which harvest taxes are paid, but have no direct financial interest in any forest products processing activity.
- (4) Have been actively engaged in producing forest products for a period of at least five years.
- (5) Derive a substantial proportion of income from the production of forest products.
- (6) Have demonstrated, through membership in producers' organizations or organizations representing landowners who meet the requirements of ORS 526.610 (4), a profound interest in the development of Oregon's forest products industry. [1991 c.949 §6; 1995 c.225 §4; 1999 c.40 §2; 2003 c.423 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.620 - Terms of voting members; vacancies.**



Each voting member of the board of directors of the Oregon Forest Resources Institute shall be appointed for a term ending three years from the date of the expiration of the term for which the member's predecessor was appointed. If there is a vacancy on the board of a voting member, other than a vacancy caused by expiration of a term, the State Forester shall fill the vacancy for the remainder of the unexpired term with a person who represents the same class as the member whose term was vacated. [1991 c.949 §7; 1995 c.225 §5; 2003 c.423 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.625 - Effect of failure to maintain qualification; removal of member.**

(1) The State Forester shall immediately declare the office of any member of the board of directors of the Oregon Forest Resources Institute vacant whenever the member becomes a resident of another state or is unable to perform the duties of office. In addition, the State Forester shall immediately declare the office of any member of the board who represents producers vacant if the member ceases to be an active producer in the state.

(2) The State Forester may remove any member of the board of directors for inefficiency, neglect of duty or misconduct in office, but not until after a public hearing thereon and service upon such member of a copy of the charges together with a notice of the time and place of such hearing. Service shall be made not less than 10 days prior to the hearing. At the hearing the member shall be given an opportunity to be heard in person or by counsel and shall be permitted to present evidence to answer the charges and explain the facts alleged. [1991 c.949 §8; 2003 c.423 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.630 - Expenses of members and staff.**

Directors, officers and employees of the institute may receive their actual and necessary travel and other expenses incurred in the performance of their official duties. The board of directors shall adopt uniform and reasonable rules governing the incurring and paying of such expenses. [1991 c.949 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.632 - Employees not subject to certain personnel regulation.**

Notwithstanding any other provision of law, wages or salaries of employees of the Oregon Forest Resources Institute are not subject to personnel compensation plans for state employees established by the Oregon Department of Administrative Services under ORS 240.235 to 240.250. [1993 c.584 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.635 - Officers.**

(1) The board of directors annually shall elect a chairperson.

(2) The board of directors shall meet regularly at least once each quarter, and at such other times as called by the chairperson. [1991 c.949 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.640 - General authority of institute.**

The Oregon Forest Resources Institute shall enhance and provide support for Oregon's forest products industry. In achieving these objectives the institute may:

(1) Increase public understanding of the practice of forestry and the use and benefits of forest products.

(2) Support education and cooperative efforts among private forest landowners and within the forest products industry to:

(a) Practice good stewardship of the land, and protect water and other public resources to the maximum extent practicable;

(b) Encourage the conversion of underproductive rural lands to forest uses, and provide information to private landowners on the means to facilitate such conversions;

(c) Encourage, facilitate and assist private forest landowners to meet or exceed state and federal regulations governing forest operations;

(d) Evaluate and communicate to private forest landowners the stewardship responsibility expectations of the public; and

(e) In cooperation with the State Forestry Department, Oregon State University and other appropriate government or private entities, serve as a clearinghouse for the dissemination of information to private forest landowners, through conferences, workshops and other means, about modern land management practices.

(3) Conduct research and help facilitate continued improvement in wood utilization and in secondary wood products manufacturing.

(4) Publish and sell publications and other materials relating to any program or function authorized by ORS 526.600 to 526.675. The institute may contract for the publication of the materials described in this subsection, including the research, design and writing of the materials. The contract may include, among other matters, provisions for advance payment or reimbursement for services performed under the contract. The price of such publications shall include the cost of publishing and distributing the materials. All moneys received by the institute from the sale of publications shall be deposited in the Oregon Forest Resources Institute Fund.

[1991 c.949 §11; 1997 c.15 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.645 - Additional powers.**

In addition to the functions listed in ORS 526.640, the Oregon Forest Resources Institute may:

- (1) Conduct research and disseminate reliable information based upon such research.
- (2) Sue and be sued as an institute without individual liability for acts of the board of directors within the scope of the powers conferred upon it by law.
- (3) Enter into contracts which the board of directors considers necessary to carry out the duties, functions and powers imposed upon the institute by law.
- (4) Borrow money in amounts not to exceed 50 percent of the board of directors' estimate of the institute's revenue from the current year's harvest.
- (5) Appoint subordinate officers and employees of the institute and prescribe their duties and fix their compensation.
- (6) Adopt, rescind, modify or amend all proper orders, regulations, rules and resolutions for the exercise of its duties, functions and powers. [1991 c.949 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.650 - Expenditure of funds restricted.**

- (1) Notwithstanding ORS 526.645 (2), no funds shall be expended by the Oregon Forest Resources Institute for the purpose of supporting or opposing litigation or other legal action which is unrelated to the administration of the institute.
- (2) No funds shall be expended by the institute for the purpose of influencing, or attempting to influence, any legislation or any rulemaking or other administrative activity of any state board, commission or agency. [1991 c.949 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.655 - Acceptance of grants, donations and gifts.**

The Oregon Forest Resources Institute may accept grants, donations or gifts from any source for expenditures for any purposes consistent with the purposes of ORS 526.600 to 526.675. All funds so received shall be handled as specified in ORS 526.600 to 526.675 for other moneys received by the institute. [1991 c.949 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.660 - Application of budget and expenditure control laws.**

The provisions of ORS 576.410 to 576.450 as set forth in the 2001 Edition of Oregon Revised Statutes, pertaining to budget and expenditure control, apply to budgets and expenditures of the Oregon Forest Resources Institute except that:

- (1) All references in such statutes to the Director of Agriculture shall be considered references to the State Forester.
- (2) All references in such statutes to the board shall be considered references to the State Board of Forestry.
- (3) All references in such statutes to the commission shall be considered references to the board of directors of the institute.
- (4) Copies of proposed budgets required as described by ORS 576.425 (1) as set forth in the 2001 Edition of Oregon Revised Statutes shall not be sent to county extension agents, but shall be available for inspection at the institute office and at the office of the State Forester in Salem.
- (5) The State Forester shall examine and certify the budget in the manner provided under ORS 576.430 (2) as set forth in the 2001 Edition of Oregon Revised Statutes and make the determination in the same manner as a determination by the Director of Agriculture under ORS 576.445 (2) as set forth in the 2001 Edition of Oregon Revised Statutes. [1991 c.949 §16; 1995 c.225 §6; 2003 c.604 §102]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.665 - Exemption from certain financial administration laws.**

Except as otherwise provided in ORS 526.600 to 526.675, ORS 291.026, 291.201 to 291.222, 291.232 to 291.260, 291.322 to 291.334, 292.210 to 292.250, 293.260 to 293.280, 293.295 to 293.346 and 293.590 to 293.640 do not apply to the Oregon Forest Resources Institute or to the administration and enforcement of ORS 526.600 to 526.675. [1991 c.949 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.670 - Books and records; audit.**

The Oregon Forest Resources Institute shall keep accurate books, records and accounts of all its dealings which shall be open to inspection and audit by the Secretary of State. [1991 c.949 §18]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.675 - Oregon Forest Resources Institute Fund; use of moneys; rules.**

- (1) The Oregon Forest Resources Institute Fund is created in the State Treasury, separate and distinct from the General Fund. Except as otherwise provided by law, all moneys received by the Oregon Forest Resources Institute shall be paid into the State Treasury and credited to the fund. All moneys in the fund are appropriated continuously to the institute to carry out its duties, functions and

powers. Interest earnings on all moneys in the fund shall be retained in the fund.

(2) The board of directors of the institute may repay moneys from the fund to persons who paid a privilege tax levied under ORS 321.017. The board may repay the amount of tax paid upon application by the person who paid the tax. The board shall adopt rules necessary for the implementation of this subsection. Rules adopted by the board shall include standards for the repayment of moneys and limits on the amount that may be requested. [1991 c.949 §20; 2003 c.423 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.695 - Definitions for ORS 526.695 to 526.775.**

As used in ORS 526.695 to 526.775, unless the context otherwise requires:

- (1) "Contract" means the contract signed by the forestland owner and the State Forester, acting on behalf of the Forest Resource Trust pursuant to ORS 526.705.
- (2) "Ecosystem services" means environmental benefits arising from the conservation and management of forestland, including, but not limited to, fish and wildlife habitat, clean water and air, pollination, mitigation of environmental hazards, control of pests and diseases, carbon sequestration, avoidance of carbon dioxide emissions and maintenance of soil productivity.
- (3) "Forestland owner" means the individual, corporation, limited liability company, partnership, association, joint stock company, trustee, business trust or unincorporated organization holding fee simple ownership of land capable of producing forest products.
- (4) "Forest products" includes, but is not limited to, trees, logs, poles, lumber, chips or pulp that flow from investment of the Forest Resource Trust.
- (5) "Forest Resource Trust programs" means the voluntary cost share program established by ORS 526.703, the voluntary loan program established by ORS 526.705 and other programs administered by the State Board of Forestry to further the purposes of the Forest Resource Trust pursuant to ORS 526.695 to 526.775.
- (6) "Qualified private or local government forestland owner" means a private or local government forestland owner that qualifies for a specific Forest Resource Trust program, as described in rules adopted by the board. [Formerly 526.735]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.700 - Forest Resource Trust; purpose; trustees; advisory committee; rules; duties.**

- (1) The Forest Resource Trust is established in the State Forestry Department. The Forest Resource Trust shall provide funds for financial, technical and related assistance to qualified private and local government forestland owners for stand establishment and improved management of forestlands for timber production as well as wildlife, water quality and other environmental purposes.
- (2) The members of the State Board of Forestry shall have overall responsibility for management of the Forest Resource Trust. The board is authorized to establish policies and programs in addition to those created by ORS 526.695 to 526.775 to further the purposes of the trust.
- (3) The board shall appoint an advisory committee consisting of no more than 15 members representing the public, nonindustrial private forestland owners, the forest products industry, forest consultants and contractors, the financial community, environmental and conservation organizations and other related interests including affected state agencies. The advisory committee shall assist the board in setting policy for the best use and investment of funds available to the trust and otherwise assist board members in the performance of their duties as trustees.
- (4) In accordance with any applicable provisions of ORS chapter 183, the board shall adopt rules to carry out the duties, functions and powers of the Forest Resource Trust and to guide implementation of the Forest Resource Trust programs.
- (5) The State Forester is responsible for implementing board policies and programs for the Forest Resource Trust. [1993 c.765 §57; 2007 c.201 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.703 - Cost share program; purpose; advance of moneys and assistance.**

- (1) The State Board of Forestry shall establish a voluntary cost share program to ensure that the purposes of the Forest Resource Trust are achieved. The purpose of the program is to provide financial and other incentives for stand establishment and improved management of nonindustrial private forestlands.
- (2) In advancing moneys and providing other assistance for stand establishment and improved forest management, the State Forester shall:
  - (a) Give priority, to the extent possible, to lands zoned for forest use under county comprehensive plans and to other lands with moderate to high probability of success for long-term stand establishment and improved forest management activities; and
  - (b) Assist landowners in securing payments for ecosystem services. [2007 c.201 §2]

Note:

526.703 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.705 - Loan program; financial assistance terms and conditions; rules.**

- (1) To carry out the duties, functions and powers of the Forest Resource Trust, there is created a voluntary loan program to finance establishment of stands of trees and the improved management of qualified private and local government forestlands.
- (2) In advancing moneys and providing other assistance for stand establishment, the State Board of Forestry shall:
- (a) Give priority to lands zoned for forest uses under county comprehensive plans and to other lands with moderate to high probability of success for long-term stand establishment and improved forest management activities; and
- (b) Assist landowners in securing payments for ecosystem services.
- (3) The State Board of Forestry may, by rule, establish financial agreements for the repayment of moneys advanced consistent with subsection (2) of this section and including but not limited to the following, singly or in combination:
- (a) A revenue-sharing proposal that guarantees the landowner a percentage of the receipts upon harvest after payment of harvest and severance taxes;
- (b) Financial agreements; and
- (c) Repayment in full with interest if a landowner fails to get the stand free to grow as that term is defined in the Oregon Forest Practices Act, unless said failure is through no fault of the landowner.
- (4) The terms of repayment shall be based on considerations that represent the best use and investment of funds including:
- (a) Rates of return, as established by the State Board of Forestry, that provide a reasonable payback to the Forest Resource Trust of project costs;
- (b) Measurable anticipated public benefits such as job creation, tax revenue, increased timber supply and environmental improvement; and
- (c) The extent to which landowner contributions of money, labor or other resources reduce the risk to the Forest Resource Trust.
- (5) Participating landowners shall not be required to comply with forest practices beyond those required by state and federal law with the exception that planting standards for stand establishment may be more than the required minimum.
- (6) The State Forester is authorized, on behalf of the Forest Resource Trust, to enter into contracts with eligible landowners to carry out the provisions of the voluntary loan program. The contracts may include, but are not limited to:
- (a) Partial to full financing to the landowner, as specified in rules of the State Board of Forestry, from such moneys as may be available in the Forest Resource Trust Fund.
- (b) Any obligations of the landowner for repayment of moneys advanced including, but not limited to:
- (A) Terms for sharing the revenue gained from the sales of timber and forest products, including salvage, from the lands enrolled under the voluntary loan program;
- (B) Acknowledgment that the rights and obligations of the landowner and the Forest Resource Trust and all of the terms of the contract are covenants that run with the land upon sale, lease or transfer of the land benefiting from the voluntary loan program until all future obligations of the contract are met;
- (C) Financial terms allowing the landowner to terminate the contract;
- (D) Agreement that there is no obligation to repay the moneys advanced prior to sale of timber and forest products from the land;
- (E) Terms to protect the contract from modification unless both parties consent to modification;
- (F) Allowance for different prescriptions for stand management; and
- (G) Repayment in full with interest if the landowner fails to meet any terms of the contract.
- (c) Acknowledgment by the landowner that the State Forester may require a statutory lien on the forest products.
- (7) In addition to the contracts provided for in subsection (6) of this section, the State Forester, on behalf of the Forest Resource Trust, may require landowners to execute security agreements in favor of the trust to secure any repayment or other obligations of the landowner. Any security interest required shall have priority from the date of recording or filing.
- (8)(a) The State Forester shall record a contract described in subsection (6) of this section with the recording officer of the county or counties in which the forestland is located.
- (b) Upon recording, the rights and obligations of the landowner and the Forest Resource Trust under the contract shall become covenants that run with the land and shall be binding upon successors and assigns.
- (c) The interest of the Forest Resource Trust created by recording the contract constitutes a purchaser's interest in real property for purposes of ORS 93.640.
- (d) A memorandum of contract must include, but is not limited to:
- (A) The date of execution of the contract;
- (B) The name of each landowner of the forestland identified in the contract;
- (C) A legal description of the forestland subject to the contract that conforms with ORS 93.600; and
- (D) If the contract is secured by a lien as provided in ORS 526.695 and 526.740 to 526.775, a statement from each landowner acknowledging the lien.
- (9) As used in this section, "eligible landowner" means a qualified private or local government forestland owner who:
- (a) Owns land that qualifies as forestland, as defined by the State Board of Forestry.
- (b) Has not received an exemption from reforestation requirements pursuant to rules adopted by the board under ORS 527.760.

To assist the State Board of Forestry in carrying out the duties of the Forest Resource Trust, the State Forestry Department shall:

- (1) Identify potentially suitable lands, and educate the owners of those lands on Forest Resource Trust programs.
- (2) Provide technical and other management assistance to participating landowners.
- (3) Monitor compliance with Forest Resource Trust programs by participating landowners.
- (4) Encourage involvement of the landowner.
- (5) Encourage the use of private contractors, consultants, forestry extension programs, nongovernmental organizations and landowner cooperatives.
- (6) Develop project plans in cooperation with landowners that establish clear benchmarks for compliance with terms of the plan.
- (7) Release from financial obligation for any portion of the qualified private and local government forestlands included under Forest Resource Trust programs and irretrievably lost to insects, disease, fire, storm, flood or other natural destruction through no fault of the landowner.
- (8) Secure provisions for access to the land by the State Forester.
- (9) Give consideration to conservation plans or strategies adopted by the State Department of Fish and Wildlife when setting priorities for Forest Resource Trust programs. [1993 c.765 §59; 2007 c.201 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.720 - Forest Resource Trust Fund.**

The Forest Resource Trust Fund is created in the State Treasury, separate and distinct from the General Fund. The Forest Resource Trust Fund shall consist of all moneys received from whatever source to carry out the duties, functions and powers of the Forest Resource Trust. All earnings on moneys in the fund shall be retained in the fund. All moneys in the fund are appropriated continuously to the State Forestry Department to carry out the duties, functions and powers of the Forest Resource Trust, including State Forestry Department administrative expenses. [1993 c.765 §61]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.725 - Agreements with private, governmental or other organizations; land acquisitions; investment of funds; forestry carbon offsets; trust on governmental agencies or officers not created.**

- (1) The State Board of Forestry or the State Forester may enter into agreements with private, governmental or other organizations and may accept contributions, gifts or grants from any source to carry out the duties, functions and powers of the Forest Resource Trust. All moneys received by the board or the State Forester pursuant to this section shall be deposited in the Forest Resource Trust Fund.
- (2) The board may acquire, on behalf of the Forest Resource Trust, through exchange, lease or purchase, land only to the extent necessary to carry out the duties, functions and powers of the trust.
- (3) Agreements with private, governmental or other organizations under subsection (1) of this section may specify the terms under which funds are invested and benefits accrue to the contributing party to the extent the agreement is consistent with the provisions of ORS 526.695 to 526.775.
- (4) The State Forester may, on behalf of the Forest Resource Trust, market, register, transfer or sell forestry carbon offsets attributable to the lands enrolled in the stand establishment program under ORS 526.705. Prices for the transfer or sale of forestry carbon offsets may be negotiated but must be at or greater than fair market value.
- (5) Nothing in ORS 526.695 to 526.775 is intended to create an enforceable trust on any agency or officer of the State of Oregon. [1993 c.765 §62; 2001 c.752 §7; 2007 c.201 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.730 - Report to legislature.**

The State Board of Forestry, after consultation with the advisory committee appointed pursuant to ORS 526.700, shall prepare and submit a report to the Seventy-sixth Legislative Assembly that contains the following information regarding the Forest Resource Trust Fund:

- (1) Program accomplishments;
- (2) Financial assistance payments to participating landowners;
- (3) Revenues received by the fund; and
- (4) Expenditures made from the fund. [1993 c.765 §63; 2007 c.201 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.735**

[1995 c.207 §2; 2001 c.51 §2; 2007 c.201 §6; renumbered 526.695 in 2007]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.740 - Lien for moneys payable to trust by forestland owner; attachment to severed forest products and accounts receivable.**

(1) From and after recording of the notice of lien pursuant to ORS 526.745, the Forest Resource Trust has a lien for the moneys payable to the trust by the forestland owner under the terms of the contract.

(2) The lien created by subsection (1) of this section constitutes a general lien upon all forest products grown or growing on the forestland described in the contract, whether standing on the forestland, severed and remaining on the forestland, severed and transported to another area for sale or processing, or made into forest products on the forestland. If the forest product is severed and delivered to a purchaser or mill, the lien continues against the forest product and the lien also attaches to accounts receivable evidencing indebtedness of the purchaser or mill. The lien attaches to the accounts receivable on the date on which the forestland owner sells the forest products and relates to the date on which notice of lien was filed under ORS 526.745. [1995 c.207 §3; 2001 c.51 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.745 - Notice of lien; filing.**

(1) The State Forester may file a notice of lien under ORS 526.740 anytime after the contract is executed.

(2) The State Forester shall file the notice of lien with the recording officer of the county or counties where the forestland is located. The notice shall be in writing verified by the State Forester and shall contain:

(a) The name of each owner of the forestland identified in the contract;

(b) A legal description of the forestland identified in the contract in conformance with ORS 93.600;

(c) A description of the forest products to be covered by the lien;

(d) A statement that the lien includes a lien on accounts receivable from the sale of any forest products covered by the lien and that the lien on forest products and accounts receivable shall have priority as of the date of filing of the notice of lien under this section; and

(e) A statement of the amount of funds to be paid under the contract.

(3) Within 10 days after the State Forester files the notice of lien under this section, the State Forester shall send a copy of the notice to each of the following persons whose interest in the forestland referred to in subsection (2)(a) of this section is of record as of the date the State Forester files the notice of lien with the county recording officer:

(a) Each seller on a land sale contract covering all or any part of the forestland referred to in subsection (2)(a) of this section;

(b) Each mortgagee upon a mortgage covering all or part of the forestland referred to in subsection (2)(a) of this section; and

(c) Each beneficiary of a trust deed covering all or part of the forestland referred to in subsection (2)(a) of this section. [1995 c.207 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.750 - Recording of notice; fee.**

The recording officer of the county shall record the notices made under ORS 526.745. The record shall be indexed in the same manner as the record of deeds and mortgages. The recording officer shall charge and collect from the Forest Resource Trust, for the benefit of the county, the fee established in ORS 205.320. [1995 c.207 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.755 - Foreclosure; costs.**

(1) The lien created by and filed under ORS 526.740 and 526.745 shall be foreclosed in the manner provided by law for the foreclosure of liens generally.

(2) In all suits under ORS 526.695 and 526.740 to 526.775, the court, upon entering judgment for the plaintiff, shall allow as a part of the costs all moneys paid for the filing and recording of the lien, all moneys paid for sending notices of the lien to third parties pursuant to ORS 526.745 (3), all moneys paid for title reports and policies required for preparing and foreclosing the lien, and a reasonable amount for attorney fees at trial and on appeal to the party who prevails on the issue of the validity of the lien. [1995 c.207 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.760 - Priority; lien survives land foreclosure proceedings.**

(1) The lien on forest products and accounts receivable created by ORS 526.740 is valid and shall have priority over all other liens, security interests and encumbrances on the forest products and accounts receivable covered by the lien even though it does not create a lien on the land on which the forest products are growing, except that ad valorem taxes and duly perfected liens, security interests and encumbrances which were perfected prior to the filing of the notice of lien under ORS 526.745 shall have priority over a lien created under ORS 526.740.

(2) Notwithstanding subsection (1) of this section, the lien upon forest products and accounts receivable created by ORS 526.740 shall survive the foreclosure of any land sale contract, mortgage, trust deed or other lien or encumbrance upon or security interest in the forest products or the forestland described in the notice of lien filed under ORS 526.745, and shall remain in full force and effect until released, fully satisfied or foreclosed. [1995 c.207 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry**

**AdministrationSection 526.765 - Payment of funds advanced; release of lien.**

(1) When the State Forester receives full payment of funds described in the notice of lien filed under ORS 526.745, or if the lien is released, the State Forester shall file with the recording officer of the county in which the claim is recorded a certificate declaring that full payment has been received, or that the lien has been released, and that the claim of lien is discharged. The certificate shall include the name of the forestland owner, the date of filing of the notice of lien under ORS 526.745 and a legal description of the land affected in conformance with ORS 93.600.

(2) Upon receiving the certificate, the recording officer shall enter it in full length in the book kept to record such liens. [1995 c.207 §8]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.770 - Notice of forest products harvest; contents; forest products purchasers.**

(1) No harvest or removal of forest products on forestland covered by a contract between the forest landowner and the Forest Resource Trust shall occur without the landowner or the timber owner first notifying the State Forester in writing, on forms prepared by the State Forester, of intent to harvest or remove forest products. Notice shall be made in the same manner as notice provided under ORS 527.670 (6).

(2) The notification shall specify where and when the harvest or removal of forest products will take place, the nature of the harvest or removal of forest products and where and to whom the forest products will be sold or delivered and shall include maps or other information as required by the State Forester. Upon receipt of notification pursuant to subsection (1) of this section, the State Forester shall notify the landowner, and any person to whom the forest products will be sold or delivered, of the repayment obligation specified in any contract between the forest landowner and the State Forester. The landowner shall make payment to the State Forester. Such payment shall be deposited in the Forest Resource Trust Fund. If payment is not made within 60 days of harvest or removal of forest products, the lien shall be delinquent and may be foreclosed in the manner described in ORS 526.755. [1995 c.207 §9]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.775 - Execution of judgment against other property when forest products and accounts not subject to lien.**

Notwithstanding ORS 526.695 and 526.740 to 526.775, if the forest landowner and the State Forester entered into a contract as provided in ORS 526.705 and the contract is terminated or breached, and there are no forest products or accounts receivable subject to the lien created under ORS 526.740, any judgment entered against the landowner for breach or termination of the contract may be executed on any property of the landowner. [1995 c.207 §10; 2007 c.201 §10]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 526 - Forestry AdministrationSection 526.780 - Agreements for forestry carbon offsets; requirements; creation; disposition of revenues.**

(1) The State Forester may enter into agreements with nonfederal forest landowners as a means to market, register, transfer or sell forestry carbon offsets on behalf of the landowners to provide a stewardship incentive for nonfederal forestlands.

(2) The State Forester may enter into an agreement described in this section if all of the following criteria are met:

(a) The agreement must ensure continuous management of the nonfederal forestlands at a standard that, in the judgment of the State Forester, would not occur in the absence of the agreement.

(b) Any forestry carbon offsets managed by the agreement must be attributable to the subject nonfederal forestland as determined by the forestry carbon offset accounting system established in ORS 526.783.

(c) Prices for the transfer or sale of forestry carbon offsets may be negotiated on behalf of the nonfederal forest landowner and must be at or greater than fair market value.

(d) The agreement must provide for the following distribution of proceeds from the transfer or sale of forest carbon offsets attributable to the subject nonfederal forestland:

(A) Not less than 50 percent to the nonfederal forest landowner;

(B) Not more than 25 percent to the State Forester to fund programs providing coordinated technical, financial or management planning assistance to nonindustrial private forest landowners; and

(C) Not more than 25 percent to the State Forester to fund administration of the forestry carbon offset program.

(3) All revenues received and any interest earned on moneys distributed to the State Forester under subsection (2)(d)(B) and (C) of this section shall be credited to the State Forestry Department Account and may be expended only for the purposes stated in subsection (2)(d)(B) and (C) of this section.

(4) A person or governmental agency may create a forestry carbon offset by performing, financing or otherwise causing one or more of the following activities:

(a) Afforestation or reforestation of underproducing lands that are not subject to required reforestation under the Oregon Forest Practices Act;

(b) Forest management activities not required under law existing at the point of creation of the forestry carbon offset, including but not limited to the following practices:

- (A) Stand density control treatments in overstocked, underproducing stands of timber;
- (B) Silvicultural practices that increase forest stand biomass, including but not limited to structure based management, variable retention, uneven age management, longer rotation ages and no harvest reserves;
- (C) Expanded riparian buffers and other leave areas; and
- (D) Deferred harvest rotations past 50 years or the age of economic maturity, whichever is longer; and
- (c) Other activities as defined by rule by the State Board of Forestry. [2001 c.752 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.783 - Development of forestry carbon offset accounting system.**

As a means of consistently reporting forestry carbon offsets created through programs established under ORS 526.725, 526.780 to 526.789, 530.050 or 530.500, the State Forester shall develop a forestry carbon offset accounting system for the registration, transfer or sale of forestry carbon offsets. The forestry carbon offset accounting system shall:

- (1) Use accepted principles and standards relating to creating, measuring, monitoring, marketing, verifying, registering, transferring and selling carbon offsets used as mitigation for carbon dioxide emissions; and
- (2) Be consistent with any rules adopted by the State Board of Forestry under ORS 526.786. [2001 c.752 §3; 2007 c.201 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.786 - Rules relating to forestry carbon offsets; rules advisory committee.**

(1) The State Board of Forestry may develop administrative rules that define principles and standards relating to the creation, measurement, accounting, marketing, verifying, registering, transferring and selling of forestry carbon offsets from nonfederal forestlands.

(2) Rules adopted by the board under this section shall set standards to ensure that in order to be marketed, registered, transferred or sold, a forestry carbon offset must be created as a result of forest management activities that:

- (a) Have the effect of increasing carbon storage on forestlands as measured by a forestry carbon offset accounting system;
- (b) Would not otherwise occur but for the carbon storage objective; and
- (c) Provide environmental, social and economic benefits for Oregon and its citizens, including but not limited to, protection or enhancement of long term timber supplies, native fish and wildlife habitat and water quality.

(3) Rules adopted by the board under this section shall establish principles to ensure that the forestry carbon offset accounting system shall:

- (a) Account for relevant sources of carbon dioxide emission debits and credits for carbon storage or sequestration;
- (b) Account for the duration and permanence of the carbon dioxide storage or emission reductions;
- (c) Include provisions for establishing the appropriate baseline for projects, practices, rotation ages, harvest schedules and ownership from which measured carbon dioxide emission debits, and credits for carbon storage or sequestration are made;
- (d) Account for other relevant and measurable greenhouse gas consequences, specifically credits and debits expressed as a carbon dioxide emissions equivalent, when establishing baselines or otherwise as appropriate;
- (e) Account for the specific forest management practices used on-site and include provisions for monitoring carbon dioxide emission debits and credits for carbon storage or sequestration, from the implementation of specific practices;
- (f) Account for continuing carbon dioxide emission debits, and credits for carbon storage or sequestration, based on the end product use of harvested biomass;
- (g) Account for environmental, social and economic benefits of forestry carbon offsets and ensure that practices with unsustainable, long term consequences are not used to create forestry carbon offsets;
- (h) Allow for public access to information in monitoring reports; and
- (i) Encourage third-party verification of forestry carbon offsets.

(4) Rules adopted by the board under this section may address qualifications for persons and agencies that provide third-party verification and registration of forestry carbon offsets.

(5) Rules adopted by the board under this section shall be developed with the assistance of an advisory committee appointed by the board. The advisory committee shall consist of at least nine persons and shall contain:

- (a) Persons from businesses, governmental agencies and nongovernmental organizations with knowledge and experience in the accounting of greenhouse gas emissions, sequestration and storage;
- (b) At least one person from a nongovernmental forestry conservation organization;
- (c) At least one nonindustrial private forest landowner or a representative of an organization that represents nonindustrial private forest landowners;

(d) One representative of the State Department of Energy;

(e) One representative of the State Department of Fish and Wildlife, or a designee of the State Department of Fish and Wildlife;

(f) One representative of the Department of Environmental Quality, or a designee of the Department of Environmental Quality;

(g) At least one representative from a qualified organization, as defined in ORS 469.503; and

(h) At least one representative from the State Forestry Department who shall serve as the secretary to the advisory committee. [2001 c.752 §4]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.789 - Effect of state forestry carbon offset program.**

Nothing in ORS 526.005, 526.725, 526.780 to 526.789, 530.050 or 530.500 shall prohibit any person or governmental agency from marketing, selling or transferring forestry carbon offsets independently from the State Forester program established under ORS 526.725, 526.780 to 526.789, 530.050 or 530.500. Rules adopted by the State Board of Forestry pursuant to ORS 526.786 may not prohibit any person from marketing, selling or transferring forestry carbon offsets using principles and standards different than those adopted by the board. [2001 c.752 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.801 - Definitions for ORS 526.801 to 526.831 and 526.992.**

As used in ORS 526.801 to 526.831 and 526.992:

- (1) "Export" means that unprocessed timber is loaded on a vessel or other conveyance with a foreign destination or is present at a facility such as a port or dock with intent to load it on a vessel or other conveyance with a foreign destination.
- (2) "Person" means an individual, a partnership, a public or private corporation, an unincorporated association or any other legal entity. "Person" includes any subsidiary subcontractor, parent company or other affiliate. Business entities are considered affiliates when one controls or has the power to control the other or when both are controlled directly or indirectly by a third person.
- (3) "Private lands" means lands within the State of Oregon owned by a person. "Private lands" does not include federal lands or nonfederal public lands, or any lands the title to which is:
  - (a) Held in trust by the United States for the benefit of any Indian tribe or individual.
  - (b) Held by any Indian tribe or individual subject to a restriction by the United States against alienation.
- (4) "Public body" means an agency of the State of Oregon or of any other political subdivision.
- (5) "Public lands" means lands owned by the State of Oregon or by any other political subdivision.
- (6) "Unprocessed timber" means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use. "Unprocessed timber" does not include timber processed into any one of the following:
  - (a) Lumber or construction timbers, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on four sides, not intended for remanufacture.
  - (b) Lumber, construction timbers, or cants for remanufacture, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list clear grades, sawn on four sides, not to exceed 12 inches (nominal) in thickness.
  - (c) Lumber, construction timbers or cants for remanufacture, that do not meet the grades referred to in paragraph (b) of this subsection and are sawn on four sides, with wane less than one-fourth of any face, not exceeding eight and three-fourths inches in thickness.
  - (d) Chips, pulp or pulp products.
  - (e) Veneer or plywood.
  - (f) Poles, posts or piling cut or treated with preservatives for use as such.
  - (g) Shakes or shingles.
  - (h) Aspen or other pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp.
  - (i) Pulp logs or cull logs processed at domestic pulp mills, domestic chip plants or other domestic operations for the purpose of conversion of the logs into chips.
  - (j) Firewood cut in pieces 48 inches or less in length. [1991 c.942 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.806 - Prohibition against export of unprocessed timber; prohibition against certain public timber purchases.**

- (1) It is unlawful to export unprocessed timber originating from public lands in Oregon.
- (2) All unprocessed timber that originates from public lands is prohibited from export.
- (3) In addition to all other requirements of law, no person who is prohibited from purchasing timber directly from a public agency may purchase public timber from any other person. Acquisitions of Western Red Cedar that are domestically processed into finished products to be sold into domestic or international markets are exempt from the prohibitions contained in this subsection. [1991 c.942 §§3,5,6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.810**

[1961 c.700 §2; 1963 c.298 §7; renumbered 526.835]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.811 - Exemption from export prohibition.**

The prohibitions against export contained in ORS 526.801 to 526.831 and 526.992 shall not apply to specific quantities of grades and species of unprocessed timber originating from public lands which the United States Secretary of Agriculture or Secretary of the

Interior has determined by rule to be surplus to the needs of timber manufacturing facilities in the United States. [1991 c.942 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.816 - Certification by bidders for public timber.**

In addition to all other requirements of law, any person submitting a bid for the purchase of public timber must certify to the following:

- (1) The person will not export directly or indirectly unprocessed public timber;
- (2) The person will not sell, transfer, exchange or otherwise convey unprocessed public timber to any other person without obtaining a certification from the person of the person's intent to comply with ORS 526.801 to 526.831 and 526.992; and
- (3) Unless exempted by rule of a public agency, the person has not exported unprocessed timber from private lands in Oregon for a period of not less than 24 months prior to the date of submission of the bid. [1991 c.942 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.821 - Political subdivisions to establish rules.**

All political subdivisions engaged in selling public timber shall establish, by rule, the standards and procedures to implement the provisions of ORS 526.801 to 526.831 and 526.992. [1991 c.942 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.826 - Barring timber export violators from unprocessed public timber purchases.**

A public agency may debar any person who violates any provision of ORS 526.801 to 526.831 and 526.992, or any rule adopted pursuant thereto, from entering into any contract for the purchase of unprocessed timber from public lands for a period of not more than five years. Such person shall also be precluded from taking delivery of public timber purchased by another party for the period of debarment. [1991 c.942 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.831 - Contract cancellation for timber export violation.**

A public agency may cancel any contract entered into with a person found to have violated any provision of ORS 526.801 to 526.831 and 526.992, or any rule adopted pursuant thereto. [1991 c.942 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.900 - Review of state regulations and policies affecting implementation of conservation strategies.**

(1) The State Forestry Department and the State Department of Agriculture shall, in consultation with relevant state agencies and other public or private organizations, review state statutes, rules, policies and programs that affect landowner decisions to implement conservation strategies.

(2) The review conducted under subsection (1) of this section shall include:

- (a) Establishing a statewide strategy for the implementation and coordination of incentives, regulatory disincentives, expedited permit processes and related taxes.
- (b) The development of a stewardship agreement program for rural lands that establishes a baseline management standard for landowners and a voluntary higher standard that provides natural resource benefits and regulatory certainty for landowners. [2001 c.708 §17]

Note:

526.900 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.905 - Management plans or policies to reduce risk of loss of forest resources.**

(1) Pursuant to its authority to improve the efficient and effective use of state resources, the Oregon Department of Administrative Services shall coordinate with the State Department of Fish and Wildlife, the State Parks and Recreation Department, the State Forestry Department, the Department of State Lands and any other state agency that has oversight responsibilities for state forestlands to adopt forest management plans or policies that:

(a) Establish forest health programs and management strategies designed to reduce the risk of catastrophic loss of forest resources from disease and insect infestation.

(b) Establish goals and strategies for managing forest fuel accumulation in order to reduce the risk of catastrophic fires in areas historically subject to frequent, periodic fires.

(2) To the extent that a state agency with oversight responsibilities for state forestlands has, as of January 1, 2004, policies, approved forest management plans or other strategies designed to address forest health and forest fuels management, those policies, plans and strategies may be incorporated into the plans and policies developed by the Oregon Department of Administrative Services.

(3) The Oregon Department of Administrative Services may develop forest fuel reduction and forest health restoration projects that

may be implemented by state agencies. Such projects may include procedures for:

- (a) Identifying forests that are at high risk of loss due to fuel accumulation, disease or insect infestation.
- (b) Cooperating with local governments to identify locations where the urban-forest interface poses the greatest risk of contributing to damage or loss during a fire.
- (c) Establishing priority areas for the projects due to natural, economic or scenic values. [2003 c.424 §1]

Note:

526.905 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 526 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note:

Sections 14 to 17, chapter 611, Oregon Laws 2023, provide:

:BF8.(Prescribed Fire Liability Pilot Program)

Sec. 14.

(1) As used in this section:

(a) "Cultural burn" means the intentional application of fire to land by an Indian tribe or cultural fire practitioner to achieve cultural goals or objectives identified by a tribal ordinance, traditional tribal custom or law of an Indian tribe, such as subsistence, ceremonial activities, biodiversity or other benefits.

(b) "Cultural fire practitioner" means a person associated with an Indian tribe with experience in burning to meet cultural goals or objectives, including subsistence, ceremonial activities, biodiversity or other benefits.

(c) "Indian tribe" means a federally recognized Indian tribe in Oregon.

(2) The State Forestry Department shall establish a Prescribed Fire Liability Pilot Program and administer the program.

(3) Notwithstanding subsection (2) of this section, the Department of Consumer and Business Services shall administer reimbursements for claims under the program.

(4) The program must be administered to:

(a) Increase the pace and scale of the use of prescribed fire and cultural burning.

(b) Reduce barriers for conducting prescribed fires and cultural burning.

(c) Support coverage for losses from prescribed fires and cultural burning by nonpublic entities such as cultural fire practitioners, private landowners, nongovernmental entities, Certified Burn Managers as defined in ORS 526.005, companies, contractors and operators.

(d) Support nonpublic entities, such as cultural fire practitioners, private landowners, nongovernmental entities, Certified Burn Managers, companies, contractors and operators, that are alleged to have caused damages resulting from prescribed fires or cultural burning.

(5) Under the program, the Department of Consumer and Business Services may reimburse claims related to:

(a) A prescribed fire conducted or supervised by the State Forester, a forest protective association or a rangeland protection association, pursuant to ORS 477.315 to 477.325.

(b) A prescribed fire in a forest protection district, as described in ORS 477.205 to 477.281, that is conducted or supervised by a Certified Burn Manager pursuant to ORS 526.360.

(c) A cultural burn conducted or supervised by a cultural fire practitioner.

(6) The Department of Consumer and Business Services may only reimburse a claim for recoverable damages, as described in ORS 477.089 (2), or for actual costs, as described in ORS 477.068, subject to the provisions of ORS 477.120, if:

(a) The State Forester, a forest protective association, a rangeland protection association or a Certified Burn Manager reviewed and approved a burn plan before the prescribed fire or cultural burning;

(b) Any necessary permit was obtained before the prescribed fire or cultural burning was conducted;

(c) The prescribed fire or cultural burning complied with any requirements under a burn plan or permit;

(d) The claim was submitted to the Department of Consumer and Business Services not more than 60 days after an incident report was completed or as specified by rule by the State Forestry Department; and

(e) The State Forestry Department has certified that the claim satisfies the requirements of paragraphs (a) to (d) of this subsection.

(7) The limitations imposed by ORS 30.271 apply to claims under this section for losses arising from a prescribed fire or cultural burn.

(8) The State Forestry Department:

(a) Shall consult with other relevant state agencies, cultural fire practitioners, the State Forester, forest protective associations, rangeland protection associations and Certified Burn Managers to establish guidelines for the program.

(b) Shall adopt the guidelines by rule.

(c) Shall make the guidelines publicly available on a department website.

(d) Notwithstanding subsection (3) of this section, shall adopt rules to determine how claims under the program will be accepted and processed.

(e) Shall adopt by rule a definition of the term "prescribed fire" for purposes of implementing this section.

(f) Shall adopt rules establishing requirements for incident reports for prescribed fires and cultural burning.

(g) May adopt rules imposing requirements for eligibility for reimbursement of a claim under this section that are in addition to eligibility requirements described in subsection (6) of this section.

(9) A person who interacts with an Indian tribe or cultural fire practitioner pursuant to this section shall respect tribal sovereignty, customs and culture.

(10) Notwithstanding any other provision of law, the state's liability for all claims under this section and the guidelines developed by the State Forestry Department pursuant to subsection (8) of this section, shall be limited as described in this section and to the amount in the Prescribed Fire Claims Fund established by section 15 of this 2023 Act.

(11) The provisions of ORS 183.310 to 183.497 do not apply to rules adopted under this section.

(12) This section does not undermine or diminish the exercise of tribal sovereignty. [2023 c.611 §14]

Sec. 15.

(1) There is established in the State Treasury, separate and distinct from the General Fund, the Prescribed Fire Claims Fund. Interest earned by the fund shall be credited to the fund. All moneys in the fund are continuously appropriated to the Department of Consumer and Business Services for the program described in section 14 of this 2023 Act.

(2) The fund shall consist of all moneys credited to the fund, including moneys appropriated or transferred to the fund by the Legislative Assembly.

(3) If the department authorizes the Oregon Insurance Guaranty Association to administer the program, the department shall distribute moneys in the fund to the association as necessary for the program. [2023 c.611 §15]

Sec. 16.

(1) Sections 14 and 15 of this 2023 Act are repealed on January 2, 2028.

(2) Forty-five days before the date specified in subsection (1) of this section, the Department of Consumer and Business Services and the State Forestry Department shall determine the number of claims certified by the State Forestry Department pursuant to section 14 (6)(e) of this 2023 Act that have not been processed.

(3) Any moneys in the Prescribed Fire Claims Fund that are unexpended and unobligated on the date of the repeal of sections 14 and 15 of this 2023 Act by subsection (1) of this section shall revert to the General Fund.

(4) The Department of Consumer and Business Services shall determine the amount of unexpended and unobligated moneys described in subsection (3) of this section, based on the amount remaining in the fund and the number of claims described in subsection (2) of this section. [2023 c.611 §16]

Sec. 17.

(1) On or before April 1, 2028, in consultation with the Department of Consumer and Business Services, the State Forestry Department shall report to the Governor and to a committee or interim committee of the Legislative Assembly related to natural resources, in the manner prescribed in ORS 192.245, on the performance of the Prescribed Fire Liability Pilot Program described in section 14 of this 2023 Act.

(2) The report must include:

(a) The number of claims that were processed after the program was established and before the date of the report.

(b) The total costs of claims paid.

(c) A reference to an incident report for each claim processed or paid after the program was established and before the date of the report.

(d) Recommendations for revising the program and improving administration of the program if sections 14 and 15 of this 2023 Act are not repealed on January 2, 2028, pursuant to section 16 of this 2023 Act. [2023 c.611 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.990 - Criminal penalty for rule violation.**

Violation of any rule promulgated under ORS 526.041 (1) is, upon conviction, punishable as a misdemeanor. [1969 c.249 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.991 - Criminal penalty for large commercial event offense.**

An organizer commits a Class A misdemeanor if the organizer:

(1) Accepts money or other items of value in an exchange described under ORS 526.287 (2)(a) prior to the issuance of a large commercial event permit required under ORS 526.291; or

(2) Recklessly allows the violation of a term or condition of a large commercial event permit issued to the organizer by the State Forestry Department. [2015 c.713 §7]

Note:

See note under 526.287.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 526 - Forestry Administration Section 526.992 - Criminal and civil penalties for timber export violation.**

(1) A person who, with willful disregard for the prohibitions contained in ORS 526.801 to 526.831 against exporting public timber, exported or caused to be exported unprocessed timber originating from public lands in violation of this chapter is guilty of a Class C felony and may be assessed a civil penalty not to exceed \$500,000 for each violation or three times the gross value of the unprocessed timber involved in the violation, whichever amount is greater.

(2) If the agency concerned finds, on the record and after an opportunity for a hearing, that a person has violated any provision of

ORS 526.801 to 526.831 or any rule issued pursuant thereto relating to lands which the agency administers (notwithstanding that such violation may not have caused the export of unprocessed public timber in violation of this chapter), such agency may:

- (a) Assess against such person a civil penalty not more than \$75,000 for each violation if it is determined that the violation was casual or involuntary.
- (b) Assess against such person a civil penalty not more than \$500,000 or three times the gross value of the unprocessed timber involved in the violation, whichever amount is greater, if it is determined that the person committed such violation willfully. Any person who willfully commits such a violation is guilty of a Class C felony.
- (3) Any civil penalty imposed under this section shall become due and payable when the person incurring the penalty receives a notice in writing of the imposition of the penalty. The notice may be personally served on the person incurring the penalty or may be sent by registered or certified mail.
- (4) The person incurring the penalty shall have 20 days from the date of receiving the notice to make written application for a hearing.
- (5) Any person who makes application as provided for in subsection (4) of this section shall be entitled to a hearing. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.
- (6) Judicial review of an order made after a hearing under this section shall be as provided in ORS 183.480 to 183.497 for judicial review of contested cases.
- (7) When an order assessing a civil penalty under this section becomes final by operation of law or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record.
- (8) All moneys recovered pursuant to this section shall be paid into the State Forestry Department Account and may be used only to pay the expenses of administration, investigation and enforcement of ORS 526.801 to 526.831 by the State Forester or any law enforcement agency. [1991 c.942 §9; 1999 c.59 §165]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.010**

[Amended by 1971 c.316 §1; renumbered 527.610]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.240**

[Amended by 1971 c.316 §13; renumbered 527.700]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.260 - Injuring forest tree of another or extracting pitch without, or in violation of, a permit prohibited; permit to extract pitch.**

- (1) No person shall willfully and unlawfully:
  - (a) Bore or cut any forest tree belonging to another for the purpose of extracting pitch;
  - (b) Cut, injure or deface any such tree for the purpose of taking any part of it; or
  - (c) Injure or destroy any such tree.
- (2) The State Forester, with the consent of the owner of the land, shall issue permits for the extraction of pitch from forest trees. The terms of the permits shall clearly describe the area to which the extraction shall be confined and state the precautions necessary, in the judgment of the State Forester, to be taken by the permittee, so that the extraction will not result in an increased fire hazard to life and adjoining property.
- (3) No person shall:
  - (a) Bore or cut any forest tree for the purpose of extracting pitch without having first obtained a permit to do so; or
  - (b) Willfully or negligently fail to comply with the terms of the permit. [Amended by 1995 c.79 §299]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.280**

[1953 c.375 §24; 1957 c.654 §2; 1961 c.297 §8; 1965 c.253 §83; renumbered 477.440]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.282**

[1953 c.375 §25; 1961 c.297 §9; renumbered 477.445]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.288**

[1953 c.375 §28; 1961 c.297 §10; renumbered 477.450]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.290**

[1953 c.375 §29; renumbered 477.455]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.292**

[1953 c.375 §30; 1961 c.297 §11; renumbered 477.460]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.310 - Definitions for ORS 527.310 to 527.370.**

As used in and for the purposes of ORS 527.310 to 527.370:

- (1) "Control" means reduction of resource losses or pest occurrences to an acceptable level by direct and immediate application of effective prevention, suppression or eradication strategies, or any combination thereof.
- (2) "Eradication" means the implementation of strategies through host or pest destruction or removal, or by the use of pesticides, to contain or completely eliminate exotic pests in a specific area, or both.
- (3) "Exotic" means any pest that has been accidentally or deliberately introduced into an area where it does not naturally occur.
- (4) "Forestland" means any nonfederal land which has enough timber or forest growths, standing or down, to constitute, in the judgment of the State Board of Forestry, forest pests of a nature to be harmful, detrimental and injurious to the management objectives for the site.
- (5) "Integrated pest management" means a coordinated decision-making process that utilizes the most appropriate of all reasonably available means, tactics or strategies blended together to minimize the impact of forest pests in an environmentally and economically sound manner to meet site specific management objectives.
- (6) "Native" means any pest that is indigenous or naturally occurring in a particular area.
- (7) "Owner" means any person owning nonfederal forestlands or timber as shown on the latest records of the tax collector of the county in which the forestlands or timber is situated. Where timber is owned entirely separate and apart from the land whereon it grows or is situated, "owner" means any person owning such timber as shown on the latest records of the tax collector of the county in which the timber is situated.
- (8) "Pest" means any forest insect or disease which causes or may cause damage that prevents or interferes with management objectives in a specific area.
- (9) "Pesticide" has the meaning given that term in ORS 634.006.
- (10) "Prevention" means the implementation of strategies designed to minimize the impact of a pest before an outbreak occurs, including but not limited to, release or enhancement of natural enemies and silvicultural activities to increase tree vigor or otherwise reduce tree susceptibility to pest damage. "Prevention" requires the incorporation of integrated pest management into overall forest resource management in order to create ecological conditions unfavorable for the reproduction or survival of pest organisms.
- (11) "Strategies" may include, but are not limited to, physical and biological methods and application of pesticides.
- (12) "Suppression" means the implementation of intervention strategies designed to reduce native pest populations to acceptable levels necessary to meet forest resource management objectives in a specified area. [Amended by 1967 c.87 §1; 1991 c.686 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.315 - Process components.**

The integrated pest management process shall consist of:

- (1) Defining the management unit or area of concern.
- (2) Defining site specific management objectives that are compatible with the ecosystem of concern and that are achievable within the economic, logistical and regulatory constraints that apply.
- (3) Establishing or maintaining routine detection and monitoring systems of major pests and their damage through ground and aerial surveys.
- (4) Evaluating forest and pest conditions on specified site.
- (5) Establishing pest population thresholds or acceptable levels of damage, or both, but not taking action until those levels are exceeded or where historical documentation has verified a reoccurring problem.
- (6) Developing and evaluating potential strategies.
- (7) Considering the following in selecting a strategy:
  - (a) Effectiveness;
  - (b) Operational feasibility;
  - (c) Cost-effectiveness;
  - (d) Ecological soundness;
  - (e) Environmental impact; and
  - (f) Site specific resource management objectives.
- (8) Implementing the strategy selected.

- (9) Timing actions for maximum effectiveness by monitoring pest, host development and weather.
- (10) Monitoring and evaluating results of activities and strategies.
- (11) Keeping current, accurate records.
- (12) Structuring the program so that it can be adjusted to meet changes or varying situations. [1991 c.686 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.321 - Implementation of process by State Forester.**

The State Forester shall implement the integrated pest management process as provided in ORS 527.315 on department-managed lands and encourage the process on other nonfederal lands by setting examples on department lands and through training workshops, demonstration areas and on-site technical advice. [1991 c.686 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.335 - Investigations by State Forester concerning pests; access to privately owned lands.**

(1) The State Forester shall conduct surveys and evaluations on nonfederal forestlands to determine the presence, extent, trend and impact of native and exotic pests, as well as overall forest health monitoring. In so doing, the forester or representatives of the forester may go upon privately owned lands with permission of the respective owners thereof, and should any owner withhold such permission and the forester believes an emergency exists, the forester may petition that circuit court of this state having jurisdiction over the lands involved for a warrant authorizing the forester or representatives of the forester to go upon such lands. Upon petition being made the court shall forthwith summarily determine whether or not such emergency exists, and if determining such emergency exists, immediately issue a warrant authorizing the forester or representatives of the forester to go upon such lands for the purposes of this section.

(2) The State Forester may cooperate with the United States or agencies thereof, other agencies of the state, county or municipal governments, agencies of other states or other public or private organizations or individuals and may accept such funds, equipment, supplies or services from cooperators and others as it may deem appropriate for the purposes of subsections (1) and (4) of this section.

(3) The State Forester is authorized to enter into contracts for selected services or accept moneys from private and public sources for the purposes stated in subsections (1) and (4) of this section; provided, however, that such moneys shall be placed in the State Forestry Department Account and shall be continuously appropriated for such purposes.

(4) The State Forester shall also provide on-site technical advice regarding insect and disease management to nonfederal land owners who request such services. [1961 c.212 §1; 1991 c.686 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.341 - Forestland owners to implement strategies to carry out resource management objectives.**

Every owner of forestlands or timber shall implement prevention and suppression strategies to meet their own forest resource management objectives. [1991 c.686 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.346 - State Forester to assist owners unable to take action against pest.**

(1) Whenever the State Forester determines, using criteria approved by the State Board of Forestry, that owners are unable to take action against a pest that is threatening Oregon's economic, social and environmental well-being, the State Forester shall, using funds appropriated by the Legislative Assembly, declare a control district and implement the appropriate strategy.

(2) The State Forester shall, within 15 days after receiving state funds, notify in writing all owners of forestlands within the control district of the declared control project. The notice shall be served by return receipt mail addressed to the last-known address of the owner. In addition, there shall be published an article describing the nature of the control district, including a legal description of the area and vicinity map, at least once a week for two consecutive weeks in a newspaper having a general circulation in the area in which the control district is situated. Other methods of notification may be used in the future as new technology becomes available. [1991 c.686 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.360 - Costs of eradication; state to contribute; unpaid costs to be charge against timber; collection of charge.**

Upon completion of any work authorized and performed under the provisions of ORS 527.346, the State Forester shall prepare a certified statement of the expenses necessarily incurred in performing the work. The state shall assist in the payment of control costs from funds available for that purpose. The balance of the expenses, after deducting the sum of such amounts as may be contributed by the state, the federal government or any other agencies or persons to defray control costs, shall constitute a charge against the forestlands or timber involved and shall be collected in the same manner as forest patrol assessments under the provisions of ORS

chapter 477. [Amended by 1967 c.87 §4; 1991 c.686 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.370 - Disposition of receipts.**

All moneys collected under ORS 527.335 and 527.346, together with such moneys as have been and may be appropriated by the legislature for the purposes of ORS 527.310 to 527.370, and with such moneys as may be contributed by the federal government or any agencies or persons, shall be placed into the State Forestry Department Account. [Amended by 1953 c.15 §3; 1955 c.116 §2; 1957 c.83 §11; 1967 c.34 §5; 1991 c.686 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.610 - Short title.**

ORS 527.610 to 527.770, 527.990

(1) and 527.992 are known as the Oregon Forest Practices Act. [Formerly 527.010; 1991 c.634 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.620 - Definitions for ORS 527.610 to 527.770.**

As used in ORS 527.610 to 527.770, 527.990 and 527.992:

(1) "Aquatic resource" means:

(a) A species addressed in the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, and the resources on which the species relies; or

(b) If a habitat conservation plan consistent with the Private Forest Accord Report has been approved, a species addressed in the habitat conservation plan and the resources on which the species relies.

(2) "Board" means the State Board of Forestry.

(3) "Cumulative effects" means the impact on the environment which results from the incremental impact of the forest practice when added to other past, present and reasonably foreseeable future forest practices regardless of what governmental agency or person undertakes such other actions.

(4) "DBH" means the diameter at breast height which is measured as the width of a standing tree at four and one-half feet above the ground, on the uphill side.

(5) "Edge of the roadway" means:

(a) For interstate highways, the fence.

(b) For all other state highways, the outermost edge of pavement, or if unpaved, the edge of the shoulder.

(6) "Forest practice" means any operation conducted on or pertaining to forestland, including but not limited to:

(a) Reforestation of forestland;

(b) Road construction and maintenance;

(c) Harvesting of forest tree species;

(d) Application of chemicals;

(e) Disposal of slash; and

(f) Removal of woody biomass.

(7) "Forest tree species" means any tree species capable of producing logs, fiber or other wood materials suitable for the production of lumber, sheeting, pulp, firewood or other commercial forest products except trees grown to be Christmas trees as defined in ORS 571.505 on land used solely for the production of Christmas trees.

(8) "Forestland" means land that is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied.

(9) "Harvest type 1" means an operation that requires reforestation but does not require wildlife leave trees. A harvest type 1 is an operation that leaves a combined stocking level of free to grow seedlings, saplings, poles and larger trees that is less than the stocking level established by rule of the board that represents adequate utilization of the productivity of the site.

(10) "Harvest type 2" means an operation that requires wildlife leave trees but does not require reforestation. A harvest type 2 does not require reforestation because it has an adequate combined stocking of free to grow seedlings, saplings, poles and larger trees, but leaves:

(a) On Cubic Foot Site Class I, II or III, fewer than 50 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre;

(b) On Cubic Foot Site Class IV or V, fewer than 30 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre; or

(c) On Cubic Foot Site Class VI, fewer than 15 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre.

(11) "Harvest type 3" means an operation that requires reforestation and requires wildlife leave trees. This represents a level of stocking below which the size of operations is limited under ORS 527.740 and 527.750.

(12) "Landowner" means any individual, combination of individuals, partnership, corporation or association of whatever nature that holds an ownership interest in forestland, including the state and any political subdivision thereof.

(13) "Operation" means any commercial activity relating to the establishment, management or harvest of forest tree species except



as provided by the following:

(a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on land used solely for the production of Christmas trees.

(b) The establishment, management or harvest of hardwood timber, including but not limited to hybrid cottonwood, that is:

(A) Grown on land that has been prepared by intensive cultivation methods and that is cleared of competing vegetation for at least three years after tree planting;

(B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;

(C) Harvested on a rotation cycle that is 12 or fewer years after planting; and

(D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect control and disease control.

(c) The establishment, management or harvest of trees actively farmed or cultured for the production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.

(d) The establishment, management or harvest of ornamental, street or park trees within an urbanized area, as that term is defined in ORS 221.010.

(e) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership.

(f) The establishment or management of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands.

(g) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced.

(14) "Operator" means any person, including a landowner or timber owner, who conducts an operation.

(15)(a) "Significant violation" means:

(A) Violation of ORS 527.670 (6) by engaging in an operation without filing the requisite notification;

(B) Continued operation in contravention of an order issued by the State Forester under ORS 527.680 (2)(a), (3) or (5); or

(C) A violation resulting in major damage to a resource described in ORS 527.710 (2) for which restoration is expected to take more than 10 years.

(b) "Significant violation" does not include:

(A) Unintentional operation in an area outside an operating area of an operation for which sufficient notification was filed pursuant to ORS 527.670 (6);

(B) Continued operation in contravention of an order issued by the State Forester under ORS 527.680 (2)(a), (3) or (5), where an operator, timber owner or landowner demonstrates that it did not receive the order; or

(C) Failure to timely notify the State Forester of an intent to continue an operation into the next calendar year.

(16) "Single ownership" means ownership by an individual, partnership, corporation, limited liability company, trust, holding company or other business entity, including the state or any political subdivision thereof. Single ownership includes ownership held under different names or titles where the same individual or individuals, or their heirs or assigns, are shareholders (other than those of public corporations whose stock is traded on the open market), partners, business trustees or officers, or otherwise have an interest in or are associated with each property.

(17) "State Forester" means the State Forester or the duly authorized representative of the State Forester.

(18) "Suitable hardwood seedlings" means any hardwood seedling that will eventually yield logs or fiber, or both, sufficient in size and quality for the production of lumber, plywood, pulp or other forest products.

(19) "Timber owner" means any individual, combination of individuals, partnership, corporation or association of whatever nature, other than a landowner, that holds an ownership interest in any forest tree species on forestland.

(20) "Visually sensitive corridor" means forestland extending outward 150 feet, measured on the slope, from the outermost edge of the roadway of a scenic highway referred to in ORS 527.755, along both sides for the full length of the highway.

(21) "Wildlife leave trees" means trees or snags required to be retained as described in ORS 527.676 (1).

(22) "Written plan" means a document prepared by an operator, timber owner or landowner that describes how the operation is planned to be conducted. [1971 c.316 §3; 1987 c.919 §9; 1991 c.547 §1; 1991 c.634 §3; 1991 c.919 §1; 1995 s.s. c.3 §39; 1996 c.9 §2; 1999 c.59 §166; 2001 c.451 §1; 2003 c.740 §2; 2011 c.276 §6; 2022 c.33 §40]

Note:

The amendments to 527.620 by section 68, chapter 33, Oregon Laws 2022, become operative only if certain conditions are met. See sections 54 and 61 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711). 527.620, as amended by section 68, chapter 33, Oregon Laws 2022, is set forth for the user's convenience.

As used in ORS 527.610 to 527.770, 527.990 and 527.992:

(1) "Board" means the State Board of Forestry.

(2) "Cumulative effects" means the impact on the environment which results from the incremental impact of the forest practice when added to other past, present and reasonably foreseeable future forest practices regardless of what governmental agency or person undertakes such other actions.

(3) "DBH" means the diameter at breast height which is measured as the width of a standing tree at four and one-half feet above the ground, on the uphill side.

(4) "Edge of the roadway" means:

- (a) For interstate highways, the fence.
- (b) For all other state highways, the outermost edge of pavement, or if unpaved, the edge of the shoulder.
- (5) "Forest practice" means any operation conducted on or pertaining to forestland, including but not limited to:
  - (a) Reforestation of forestland;
  - (b) Road construction and maintenance;
  - (c) Harvesting of forest tree species;
  - (d) Application of chemicals;
  - (e) Disposal of slash; and
  - (f) Removal of woody biomass.
- (6) "Forest tree species" means any tree species capable of producing logs, fiber or other wood materials suitable for the production of lumber, sheeting, pulp, firewood or other commercial forest products except trees grown to be Christmas trees as defined in ORS 571.505 on land used solely for the production of Christmas trees.
- (7) "Forestland" means land that is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied.
- (8) "Harvest type 1" means an operation that requires reforestation but does not require wildlife leave trees. A harvest type 1 is an operation that leaves a combined stocking level of free to grow seedlings, saplings, poles and larger trees that is less than the stocking level established by rule of the board that represents adequate utilization of the productivity of the site.
- (9) "Harvest type 2" means an operation that requires wildlife leave trees but does not require reforestation. A harvest type 2 does not require reforestation because it has an adequate combined stocking of free to grow seedlings, saplings, poles and larger trees, but leaves:
  - (a) On Cubic Foot Site Class I, II or III, fewer than 50 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre;
  - (b) On Cubic Foot Site Class IV or V, fewer than 30 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre; or
  - (c) On Cubic Foot Site Class VI, fewer than 15 11-inch DBH trees or less than an equivalent basal area in larger trees, per acre.
- (10) "Harvest type 3" means an operation that requires reforestation and requires wildlife leave trees. This represents a level of stocking below which the size of operations is limited under ORS 527.740 and 527.750.
- (11) "Landowner" means any individual, combination of individuals, partnership, corporation or association of whatever nature that holds an ownership interest in forestland, including the state and any political subdivision thereof.
- (12) "Operation" means any commercial activity relating to the establishment, management or harvest of forest tree species except as provided by the following:
  - (a) The establishment, management or harvest of Christmas trees, as defined in ORS 571.505, on land used solely for the production of Christmas trees.
  - (b) The establishment, management or harvest of hardwood timber, including but not limited to hybrid cottonwood, that is:
    - (A) Grown on land that has been prepared by intensive cultivation methods and that is cleared of competing vegetation for at least three years after tree planting;
    - (B) Of a species marketable as fiber for inclusion in the furnish for manufacturing paper products;
    - (C) Harvested on a rotation cycle that is 12 or fewer years after planting; and
    - (D) Subject to intensive agricultural practices such as fertilization, cultivation, irrigation, insect control and disease control.
  - (c) The establishment, management or harvest of trees actively farmed or cultured for the production of agricultural tree crops, including nuts, fruits, seeds and nursery stock.
  - (d) The establishment, management or harvest of ornamental, street or park trees within an urbanized area, as that term is defined in ORS 221.010.
  - (e) The management or harvest of juniper species conducted in a unit of less than 120 contiguous acres within a single ownership.
  - (f) The establishment or management of trees intended to mitigate the effects of agricultural practices on the environment or fish and wildlife resources, such as trees that are established or managed for windbreaks, riparian filters or shade strips immediately adjacent to actively farmed lands.
  - (g) The development of an approved land use change after timber harvest activities have been completed and land use conversion activities have commenced.
- (13) "Operator" means any person, including a landowner or timber owner, who conducts an operation.
- (14) "Single ownership" means ownership by an individual, partnership, corporation, limited liability company, trust, holding company or other business entity, including the state or any political subdivision thereof. Single ownership includes ownership held under different names or titles where the same individual or individuals, or their heirs or assigns, are shareholders (other than those of public corporations whose stock is traded on the open market), partners, business trustees or officers, or otherwise have an interest in or are associated with each property.
- (15) "State Forester" means the State Forester or the duly authorized representative of the State Forester.
- (16) "Suitable hardwood seedlings" means any hardwood seedling that will eventually yield logs or fiber, or both, sufficient in size and quality for the production of lumber, plywood, pulp or other forest products.
- (17) "Timber owner" means any individual, combination of individuals, partnership, corporation or association of whatever nature,

other than a landowner, that holds an ownership interest in any forest tree species on forestland.

(18) "Visually sensitive corridor" means forestland extending outward 150 feet, measured on the slope, from the outermost edge of the roadway of a scenic highway referred to in ORS 527.755, along both sides for the full length of the highway.

(19) "Wildlife leave trees" means trees or snags required to be retained as described in ORS 527.676 (1).

(20) "Written plan" means a document prepared by an operator, timber owner or landowner that describes how the operation is planned to be conducted.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.630 - Policy; rules.**

(1) Forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources and by providing a habitat for wildlife and aquatic life. Therefore, it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that ensure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as provided in ORS 527.755 and to ensure the continuous benefits of those resources for future generations of Oregonians.

(2) It is recognized that operations on forestland are already subject to other laws and to regulations of other agencies which deal primarily with consequences of such operations rather than the manner in which operations are conducted. It is further recognized that it is essential to avoid uncertainty and confusion in enforcement and implementation of such laws and regulations and in planning and carrying out operations on forestlands.

(3) To encourage forest practices implementing the policy of ORS 527.610 to 527.770, 527.990 and 527.992, it is declared to be in the public interest to vest in the State Board of Forestry exclusive authority to develop and enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state agencies and local governments which are concerned with the forest environment.

(4) It is recognized that ensuring compliance with, and enforcing, ORS 527.610 to 527.770 and rules and orders adopted or issued thereunder is essential to protect Oregon's natural resources. It is further recognized that onsite inspections are necessary to further the policy of ORS 527.610 to 527.770, 527.990 and 527.992.

(5) It is recognized that enforcement of the policy of ORS 527.610 to 527.770, 527.990 and 527.992 is necessary to support the integrity of the policy and give the public confidence that standards for forest practices are being followed. It is further recognized that an effective enforcement program must include:

(a) Adequate training and education of enforcement officers, operators, timber owners and landowners.

(b) Clear technical guidance.

(c) Implementation expectations that are transparent and easily understood by operators, timber owners and landowners.

(6) It is declared to be the policy of the State of Oregon that the program for implementing enforcement under ORS 527.680, 527.683, 527.685, 527.690 and 527.700 be adequately funded, and that the board:

(a) Use inspections and enforcement as tools to deter future violations and to educate and train operators, timber owners and landowners.

(b) In exercising enforcement discretion, including discretion to impose penalties, prioritize addressing significant violations, other consequential violations and the actions of repeat violators.

(7) The board may adopt and enforce rules addressing scenic considerations only in accordance with ORS 527.755.

(8) The board shall adopt and enforce forest practice rules to reduce the risk of serious bodily injury or death from a rapidly moving landslide only in accordance with ORS 527.710 (10). As used in this subsection, "rapidly moving landslide" has the meaning given in ORS 195.250.

(9) The State of Oregon should provide a stable regulatory environment to encourage investment in private forestlands. [1971 c.316 §4; 1987 c.919 §10; 1991 c.634 §4; 1991 c. 919 §10; 1995 s.s. c.3 §39L; 1996 c.9 §14; 1999 c.1103 §11; 2003 c.740 §9; 2022 c.33 §41]

Note:

The amendments to 527.630 by section 69, chapter 33, Oregon Laws 2022, become operative only if certain conditions are met. See sections 54 and 61 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711). 527.630, as amended by section 69, chapter 33, Oregon Laws 2022, is set forth for the user's convenience.

(1) Forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources and by providing a habitat for wildlife and aquatic life.

Therefore, it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that ensure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water, fish and wildlife resources and scenic resources within visually sensitive corridors as provided in ORS 527.755 and to ensure the continuous benefits of those resources for future generations of Oregonians.

(2) It is recognized that operations on forestland are already subject to other laws and to regulations of other agencies which deal primarily with consequences of such operations rather than the manner in which operations are conducted. It is further recognized

that it is essential to avoid uncertainty and confusion in enforcement and implementation of such laws and regulations and in planning and carrying out operations on forestlands.

(3) To encourage forest practices implementing the policy of ORS 527.610 to 527.770, 527.990 and 527.992, it is declared to be in the public interest to vest in the State Board of Forestry exclusive authority to develop and enforce statewide and regional rules pursuant to ORS 527.710 and to coordinate with other state agencies and local governments which are concerned with the forest environment.

(4) The board may adopt and enforce rules addressing scenic considerations only in accordance with ORS 527.755.

(5) The board shall adopt and enforce forest practice rules to reduce the risk of serious bodily injury or death from a rapidly moving landslide only in accordance with ORS 527.710 (10). As used in this subsection, "rapidly moving landslide" has the meaning given in ORS 195.250.

(6) The State of Oregon should provide a stable regulatory environment to encourage investment in private forestlands.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.633 - Conversion of forestland to other uses.**

Nothing in the Oregon Forest Practices Act shall prevent the conversion of forestland to any other use. [Formerly 527.730]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.640 - Forest regions.**

The State Board of Forestry shall establish a number of forest regions, but not less than three, necessary to achieve the purposes described in ORS 527.630. [1971 c.316 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.650 - Forest practice committees; members; qualifications; appointment; terms.**

(1) The State Board of Forestry shall establish a forest practice committee for each forest region established pursuant to ORS 527.640. Each such committee shall consist of nine members, a majority of whom must reside in the region. Members of each committee shall be qualified by education or experience in natural resource management and not less than two-thirds of the members of each committee shall be private landowners, private timber owners or authorized representatives of such landowners or timber owners who regularly engage in operations.

(2) Members of forest practice committees shall be appointed by the board for three-year terms. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term. Each such committee shall select a chairperson from among its members. A staff member of the State Forestry Department shall be designated by the State Forester to serve as the secretary, without voting power, for each such committee. [1971 c.316 §7; 2005 c.22 §377]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.660 - Committees to review rules.**

Each forest practice committee shall review proposed forest practice rules in order to assist the State Board of Forestry in developing rules appropriate to the forest conditions within its region. Committee recommendations are advisory only and the committees need not be consulted prior to the adoption of any forest practice rule. [1971 c.316 §8; 1987 c.919 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.665 - Notice of reforestation requirements to be given in forestland transfers; effect of failure to notify; damages.**

(1) In any transaction for the conveyance of an ownership interest in forestland, the transferor must provide to the transferee, prior to the date of execution of the conveyance, written notice of any reforestation requirements imposed upon the land pursuant to the Oregon Forest Practices Act.

(2) The failure of the transferor to comply with subsection (1) of this section does not invalidate an instrument of conveyance executed in the transaction. However, for any such failure the transferee may bring against the transferor an appropriate action to recover the costs of complying with the reforestation requirements. The court may award reasonable attorney fees to the prevailing party in an action brought under the provisions of this section. [1983 c.759 §4; 1995 c.618 §79]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.670 - Commencement of operations; rules; written plan; effect of plan; notice of chemical application; fees.**

(1) The State Board of Forestry shall designate the types of operations for which notice shall be required under this section.

(2) The board shall identify by rule the types of operations that require a written plan.

(3) In addition to any other types of operations identified by the board, the board shall adopt rules to require a written plan for the following:

(a) An operation that occurs within 100 feet of a stream determined by the State Forester to be used by fish or for domestic use,

unless:

- (A) The board, by rule, provides that a written plan is not required because the operation will be conducted according to a general vegetation retention prescription described in administrative rule;
  - (B) The operation will not directly affect the riparian management area and the State Forester, acting under authority granted by a board rule, waives the written plan requirement; or
  - (C) The operation will be conducted pursuant to a stewardship agreement entered into under ORS 541.973.
- (b) An operation that occurs within 100 feet of a resource site that is inventoried under ORS 527.710 (3) as a significant wetland but is not classified by board rule as an estuary, unless:
- (A) The board, by rule, provides that a written plan is not required because the operation will be conducted according to a general vegetation retention prescription described in administrative rule;
  - (B) The operation will not directly affect the riparian management area and the State Forester, acting under authority granted by a board rule, waives the written plan requirement; or
  - (C) The operation will be conducted pursuant to a stewardship agreement entered into under ORS 541.973.
- (c) An operation that occurs within 300 feet of a resource site inventoried under ORS 527.710 (3), other than a site described in paragraph (b) of this subsection, unless the operation:
- (A) Will be conducted pursuant to a stewardship agreement entered into under ORS 541.973; and
  - (B) Is consistent with the purposes and policies of any relevant Safe Harbor Agreements or Candidate Conservation Agreements entered into between the State of Oregon and agencies of the United States Government, pursuant to the federal Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 et seq.) and federal regulations.
- (4) The distances set forth in subsection (3) of this section are solely for the purpose of defining an area within which a hearing may be requested under ORS 527.700 and not the area to be protected by the board's rules adopted pursuant to ORS 527.710 (3)(c).
- (5) For the purpose of determining the distances set forth in subsection (3) of this section "site" means the specific resource site and not any additional buffer area.
- (6) An operator, timber owner or landowner, before commencing an operation, shall notify the State Forester. The notification shall be on forms provided by the State Forester and shall include the name and address of the operator, timber owner and landowner, the legal description of the operating area, and any other information considered by the State Forester to be necessary for the administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon receipt of such notice, the State Forester shall provide a copy of the notice to whichever of the operator, timber owner or landowner did not submit the notification. The State Forester shall provide a copy of notices involving chemical applications to persons within 10 miles of the chemical application who hold downstream surface water rights pursuant to ORS chapter 537, if such a person has requested that notification in writing. The board shall adopt rules specifying the information to be contained in the notice. All information filed with the State Forester pertaining to chemical applications shall be public record.
- (7) An operator, timber owner or landowner that filed an original notification shall notify the State Forester of any subsequent change in the information contained in the notification.
- (8) Within six working days of receipt of a notice or a written plan filed under subsection (6) or (7) of this section, the State Forester shall make a copy of the notice or written plan available to any person who requested of the State Forester in writing that the person be provided with copies of notice and written plan and who has paid any applicable fee established by the State Forester for such service. The State Forester may establish a fee for providing copies of notices and written plans under this subsection not to exceed the actual and reasonable costs. In addition, the State Forester shall provide a copy of the notification to the Department of Revenue and the county assessor for the county in which the operation is located, at times and in a manner determined through written cooperative agreement by the parties involved.
- (9) Persons may submit written comments pertaining to the operation to the State Forester within 14 calendar days of the date the notice or written plan was filed with the State Forester under subsection (2), (6) or (7) of this section. Notwithstanding the provisions of this subsection, the State Forester may waive any waiting period for operations not requiring a written plan under subsection (3) of this section, except those operations involving aerial application of chemicals.
- (10) If an operator, timber owner or landowner is required to submit a written plan of operations to the State Forester under subsection (3) of this section:
- (a) The State Forester shall review a written plan and may provide comments to the person who submitted the written plan;
  - (b) The State Forester may not provide any comments concerning the written plan earlier than 14 calendar days following the date that the written plan was filed with the State Forester nor later than 21 calendar days following the date that the written plan was filed; and
  - (c) Provided that notice has been provided as required by subsection (6) of this section, the operation may commence on the date that the State Forester provides comments or, if no comments are provided within the time period established in paragraph (b) of this subsection, at any time after 21 calendar days following the date that the written plan was filed.
- (11)(a) Comments provided by the State Forester, or by the board under ORS 527.700 (6), to the person who submitted the written plan are for the sole purpose of providing advice to the operator, timber owner or landowner regarding whether the operation described in the written plan is likely to comply with ORS 527.610 to 527.770 and rules adopted thereunder. Comments provided by the State Forester or the board do not constitute an approval of the written plan or operation.
- (b) If the State Forester or the board does not comment on a written plan, the failure to comment does not mean that an operation

carried out in conformance with the written plan complies with ORS 527.610 to 527.770 or rules adopted thereunder nor does the failure to comment constitute a rejection of the written plan or operation.

(c) If the State Forester or board determines that an enforcement action may be appropriate concerning the compliance of a particular operation with ORS 527.610 to 527.770 or rules adopted under ORS 527.610 to 527.770, the State Forester or board shall consider, but are not bound by, comments that the State Forester provided under this section or comments that the board provided under ORS 527.700.

(12) If the operation is required under rules described in subsection (3) of this section to have a written plan and comments have been timely filed under subsection (9) of this section pertaining to the operation requiring a written plan, the State Forester shall:

(a) Provide a copy of the State Forester's review and comments, if any, to persons who submitted timely written comments under subsection (9) of this section pertaining to the operation; and

(b) Provide to the operator, timber owner and landowner a copy of all timely comments submitted under subsection (9) of this section. [1971 c.316 §9; 1987 c.919 §12; 1991 c.634 §5; 1991 c.919 §11; 1995 s.s. c.3 §39a; 1996 c.9 §3; 1997 c.413 §1; 2003 c.539 §39; 2003 c.740 §3; 2007 c.608 §5; 2011 c.54 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.672 - Aerial herbicide applications.**

When a forest operation involves applying herbicides by aircraft near an inhabited dwelling or school, the operator is responsible for leaving an unsprayed strip of at least 60 feet adjacent to the dwelling or school. The responsibility of the operator under this section is in addition to any responsibility of the aerial pesticide applicator under ORS chapter 634. [2015 c.833 §21]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.674 - Rules requiring approval of written plan prohibited.**

The State Board of Forestry may not adopt or enforce a rule under ORS 527.610 to 527.770 that requires that the board or the State Forester approve written plans as a required precedent to conducting a forest practice or operation. [2003 c.740 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.676 - Leaving snags and downed logs in harvest type 2 or 3 units; green trees to be left near certain streams.**

(1) In order to contribute to the overall maintenance of wildlife, nutrient cycling, moisture retention and other resource benefits of retained wood, when a harvest type 2 unit exceeding 25 acres or harvest type 3 unit exceeding 25 acres occurs the operator shall leave on average, per acre harvested, at least:

(a) Two snags or two green trees at least 30 feet in height and 11 inches DBH or larger, at least 50 percent of which are conifers; and  
(b) Two downed logs or downed trees, at least 50 percent of which are conifers, that each comprise at least 10 cubic feet gross volume and are no less than six feet long. One downed conifer or suitable hardwood log of at least 20 cubic feet gross volume and no less than six feet long may count as two logs.

(2) In meeting the requirements of this section, the operator has the sole discretion to determine the location and distribution of wildlife leave trees, including the ability to leave snags, trees and logs in one or more clusters rather than distributed throughout the unit and, if specifically permitted by the State Board of Forestry by rule, to meet the wildlife leave tree requirements by counting snags, trees or logs otherwise required to be left in riparian management areas or resource sites listed in ORS 527.710, subject to:

(a) Safety and fire hazard regulations;  
(b) Rules or other requirements relating to wildlife leave trees established by the State Board of Forestry or the State Forester; and  
(c) All other requirements pertaining to forest operations.

(3) In meeting the requirements of this section, the State Forester:

(a) Shall consult with the operator concerning the selection of wildlife leave trees when the State Forester believes that retaining certain trees or groups of trees would provide increased benefits to wildlife.

(b) May approve alternate plans submitted by the operator to meet the provisions of this section, including but not limited to waiving:

(A) The requirement that at least 50 percent of wildlife leave trees be conifers, upon a showing that a site is being intensively managed for hardwood production; and

(B) In whole or in part, the requirements of this section for one operation if an alternate plan provides for an equal or greater number of wildlife leave trees in another harvest type 2 or harvest type 3 operation, that the State Forester determines would achieve better overall benefits for wildlife.

(c) May require, for operations adjacent to a fish-bearing or domestic use stream, in addition to trees otherwise required to be left in riparian management areas, up to 25 percent of the green trees required to be retained under this section to be left in or adjacent to the riparian management area of the stream.

(d) May require by rule, for operations adjacent to a small, nonfish-bearing stream subject to rapidly moving landslides as defined in ORS 195.250, that available green trees and snags be left in or adjacent to the stream. The operator must leave available green trees and snags under this paragraph within an area that is 50 feet on each side of the stream and no more than 500 feet upstream from a riparian management area of a fish-bearing stream.

(4) When a harvest type 2 or harvest type 3 unit occurs adjacent to a prior harvest type 2 or harvest type 3 unit, resulting in a combined total contiguous acreage of harvest type 2 or harvest type 3 under single ownership exceeding 25 acres, the wildlife leave tree and downed log requirements of subsection (1) of this section apply to the combined total contiguous acreage. [1996 c.9 §9 (enacted in lieu of 527.675); 2001 c.340 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.678 - Wildlife food plots; rules.**

(1) As used in this section:

(a) "Forest tree species" has the meaning given that term in ORS 527.620.

(b) "Small forestland" means forestland as defined in ORS 527.620 that:

(A) Has an owner that owns or holds common ownership interest in at least 10 acres of Oregon forestland but less than 5,000 acres of Oregon forestland; and

(B) Constitutes all forestland within a single tax lot and all forestland within contiguous parcels owned or held in common ownership by the owner.

(c) "Wildlife food plot" means a small forestland area that, instead of being used for growing and harvesting a forest tree species, is planted in vegetation capable of substantially contributing to wildlife nutrition.

(2) The owner of a small forestland that is subject to reforestation requirements under ORS 527.610 to 527.770 may, notwithstanding any contrary provision of the reforestation requirements for the forestland, establish wildlife food plots within the boundaries of the small forestland. The combined size of the wildlife food plots described in this subsection may not exceed:

(a) 2.5 percent of the small forestland, if the small forestland is 500 acres or less in size;

(b) 2.0 percent of the small forestland, if the small forestland is more than 500 acres but not more than 1,000 acres in size; or

(c) 1.0 percent of the small forestland, if the small forestland is more than 1,000 acres in size.

(3)(a) The State Board of Forestry shall adopt rules for carrying out this section. The board shall consult with the State Department of Fish and Wildlife to identify vegetation capable of substantially contributing to wildlife nutrition.

(b) The establishment of a wildlife food plot as provided by board rules is a forest practice providing for the overall maintenance of forestland resources as described in ORS 527.710 and supersedes any contrary reforestation requirement under ORS 527.610 to 527.770 for the wildlife food plot.

(c) Notwithstanding ORS 527.670 (1), the establishment or relocation of a wildlife food plot, and the reforestation of a location that ceases to be a wildlife food plot, are forest operations requiring notice to the State Forester under ORS 527.670. [2015 c.64 §1]

Note:

527.678 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 527 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.680 - Violation by operator; citation; order to cease violation; order to repair damage; temporary order where violation continuing; service on operator.**

(1) Whenever the State Forester determines that an operator has committed a violation under ORS 527.990 (1), the State Forester may issue and serve a citation upon the operator or authorized representative. The State Forester shall cause a copy of the citation to be mailed or delivered to the timber owner and landowner. Whenever the State Forester determines that the landowner has failed to comply with the reforestation rules under ORS 527.710, the State Forester may issue and serve a citation upon the landowner or authorized representative. Each citation issued under this section shall specify the nature of the violation charged and any damage or unsatisfactory condition that has occurred as the result of such violation.

(2) Whenever a citation is served pursuant to subsection (1) of this section, the State Forester:

(a) Shall issue and serve upon the landowner or operator or authorized representative an order directing that the landowner or operator cease further violation. If the order is served upon an operator, the State Forester shall cause a copy of such order to be mailed or delivered to the timber owner and landowner; and

(b) May issue and serve an order upon the landowner or operator and shall cause a copy of such order to be mailed or delivered to the timber owner and landowner, directing the landowner or operator, where practical and economically feasible, to make reasonable efforts to repair the damage or correct the unsatisfactory condition specified in the citation within a period specified by the State Forester.

(3) In the event the order issued under subsection (2)(a) of this section has not been complied with, and the violation specified in such order is resulting in continuing damage, the State Forester by temporary order may direct the landowner or operator to cease any further activity in that portion of the operation that is resulting in such damage. Such temporary order shall be in effect until the date of the expiration of the period as prescribed in subsection (4) of this section or until the date that the violation ceases, whichever date occurs first.

(4) A temporary order issued under subsection (3) of this section shall be served upon the landowner or operator or authorized representative, and the State Forester shall cause a copy of such temporary order to be mailed or delivered to the operator, timber owner and landowner. If requested by the operator, timber owner or landowner, the State Board of Forestry, following the appeal procedures of ORS 527.700, must hold a hearing on the temporary order within five working days after the receipt by the board of

the request. A temporary order issued and served pursuant to subsection (3) of this section shall remain in effect not more than five working days after such hearing unless the order is sooner affirmed, modified or revoked by the board.

(5) If a landowner or operator fails to comply with a final order issued under subsection (2)(b) of this section within the time specified in the order, or if the landowner or operator fails to comply with a final order imposing civil penalties for violation of any provision of the Oregon Forest Practices Act, the State Forester may issue an order that prohibits the affected landowner or operator from conducting any new operations on any forestland in this state until the landowner or operator has complied with the order to correct an unsatisfactory condition, make repair or pay the civil penalty, as the case may be, to the satisfaction of the State Forester.

(6) The State Forester may require an operator, timber owner or landowner to provide financial assurance before conducting a new operation if the State Forester has, within the preceding three-year period, made a finding under ORS 527.685 (6) applicable to the operator, timber owner or landowner. [1971 c.316 §10; 1983 c.759 §1; 1997 c.306 §1; 2022 c.33 §45]

Note:

The amendments to 527.680 by section 70, chapter 33, Oregon Laws 2022, become operative only if certain conditions are met. See sections 54 and 61 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711). 527.680, as amended by section 70, chapter 33, Oregon Laws 2022, is set forth for the user's convenience.

(1) Whenever the State Forester determines that an operator has committed a violation under ORS 527.990 (1), the State Forester may issue and serve a citation upon the operator or authorized representative. The State Forester shall cause a copy of the citation to be mailed or delivered to the timber owner and landowner. Whenever the State Forester determines that the landowner has failed to comply with the reforestation rules under ORS 527.710, the State Forester may issue and serve a citation upon the landowner or authorized representative. Each citation issued under this section shall specify the nature of the violation charged and any damage or unsatisfactory condition that has occurred as the result of such violation.

(2) Whenever a citation is served pursuant to subsection (1) of this section, the State Forester:

(a) Shall issue and serve upon the landowner or operator or authorized representative an order directing that the landowner or operator cease further violation. If the order is served upon an operator, the State Forester shall cause a copy of such order to be mailed or delivered to the timber owner and landowner; and

(b) May issue and serve an order upon the landowner or operator and shall cause a copy of such order to be mailed or delivered to the timber owner and landowner, directing the landowner or operator, where practical and economically feasible, to make reasonable efforts to repair the damage or correct the unsatisfactory condition specified in the citation within a period specified by the State Forester.

(3) In the event the order issued under subsection (2)(a) of this section has not been complied with, and the violation specified in such order is resulting in continuing damage, the State Forester by temporary order may direct the landowner or operator to cease any further activity in that portion of the operation that is resulting in such damage. Such temporary order shall be in effect until the date of the expiration of the period as prescribed in subsection (4) of this section or until the date that the violation ceases, whichever date occurs first.

(4) A temporary order issued under subsection (3) of this section shall be served upon the landowner or operator or authorized representative, and the State Forester shall cause a copy of such temporary order to be mailed or delivered to the operator, timber owner and landowner. If requested by the operator, timber owner or landowner, the State Board of Forestry, following the appeal procedures of ORS 527.700, must hold a hearing on the temporary order within five working days after the receipt by the board of the request. A temporary order issued and served pursuant to subsection (3) of this section shall remain in effect not more than five working days after such hearing unless the order is sooner affirmed, modified or revoked by the board.

(5) If a landowner or operator fails to comply with a final order issued under subsection (2)(b) of this section within the time specified in the order, or if the landowner or operator fails to comply with a final order imposing civil penalties for violation of any provision of the Oregon Forest Practices Act, the State Forester may issue an order that prohibits the affected landowner or operator from conducting any new operations on any forestland in this state until the landowner or operator has complied with the order to correct an unsatisfactory condition, make repair or pay the civil penalty, as the case may be, to the satisfaction of the State Forester.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.683 - Notice of violation.**

(1) No civil penalty prescribed in ORS 527.992 shall be imposed until the person incurring the penalty has received notice in writing from the State Forester specifying the violation. Such notice is in addition to the notice required in ORS 183.745.

(2) The citation issued pursuant to ORS 527.680 (1) and the order issued pursuant to ORS 527.680 (2)(b) shall each constitute the notice required by subsection (1) of this section. [1987 c.919 §25; 1991 c.734 §48]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.685 - Civil penalty considerations; rules.**

(1) The State Board of Forestry shall by rule establish the amount of civil penalty that may be imposed for a particular violation. Except as provided in subsections (5) and (6) of this section, a civil penalty may not exceed \$10,000 per violation.

(2) In imposing a penalty authorized by this section, the State Forester may consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct



any violation.

- (b) Any prior violations of statutes, rules, orders and permits pertaining to the Oregon Forest Practices Act.
  - (c) The gravity and magnitude of the violation.
  - (d) Whether the violation was repeated or continuous.
  - (e) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act.
  - (f) The size and type of ownership of the operation.
  - (g) Any relevant rule of the board.
  - (h) The cooperativeness of the person incurring the penalty and the person's efforts, if any, to correct the violation.
- (3) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the board determines to be proper and consistent with the public benefit. Upon the request of the person incurring the penalty, the board shall consider evidence of the economic and financial condition of the person in determining whether a penalty shall be remitted or mitigated.
- (4) The board, by rule, may delegate to the State Forester, upon such conditions as deemed necessary, all or part of the authority of the board provided in subsection (3) of this section to assess, remit or mitigate civil penalties.
- (5) For a violation of ORS 527.745, or rules for reforestation adopted pursuant to ORS 527.745, the State Forester may impose a civil penalty in an amount equal to the estimated cost of reforesting lands pursuant to ORS 527.690.
- (6) If the State Forester makes a finding that an operator, timber owner or landowner has a history of significant violations that shows a pattern of willful disregard for the requirements of ORS 527.610 to 527.770 or rules or orders adopted or issued thereunder, the State Forester may impose a civil penalty in an amount not to exceed \$50,000 per significant violation. In imposing the penalty, the State Forester shall consider, in addition to the factors described in subsection (2) of this section:
- (a) The degree, if any, to which the operator, timber owner or landowner derived economic benefit from the significant violation.
  - (b) The proportion of total operations conducted by the operator, timber owner or landowner related to which significant violations have occurred compared to the total number of operations conducted by the operator, timber owner or landowner, while accounting for the organizational structure of the operator, timber owner or landowner. [1987 c.919 §26; 2007 c.214 §1; 2022 c.33 §46]

Note:

The amendments to 527.685 by section 71, chapter 33, Oregon Laws 2022, become operative only if certain conditions are met. See sections 54 and 61 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711). 527.685, as amended by section 71, chapter 33, Oregon Laws 2022, is set forth for the user's convenience.

- (1) The State Board of Forestry shall by rule establish the amount of civil penalty that may be imposed for a particular violation. Except as provided in subsection (5) of this section, a civil penalty may not exceed \$5,000 per violation.
- (2) In imposing a penalty authorized by this section, the State Forester may consider the following factors:
  - (a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.
  - (b) Any prior violations of statutes, rules, orders and permits pertaining to the Oregon Forest Practices Act.
  - (c) The gravity and magnitude of the violation.
  - (d) Whether the violation was repeated or continuous.
  - (e) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act.
  - (f) The size and type of ownership of the operation.
  - (g) Any relevant rule of the board.
  - (h) The cooperativeness of the person incurring the penalty and the person's efforts, if any, to correct the violation.
- (3) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the board determines to be proper and consistent with the public benefit. Upon the request of the person incurring the penalty, the board shall consider evidence of the economic and financial condition of the person in determining whether a penalty shall be remitted or mitigated.
- (4) The board, by rule, may delegate to the State Forester, upon such conditions as deemed necessary, all or part of the authority of the board provided in subsection (3) of this section to assess, remit or mitigate civil penalties.
- (5) For a violation of ORS 527.745, or rules for reforestation adopted pursuant to ORS 527.745, the State Forester may impose a civil penalty in an amount equal to the estimated cost of reforesting lands pursuant to ORS 527.690.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.687 - Civil penalty procedure.**

- (1) Subject to the notice provisions of ORS 527.683, any civil penalty under ORS 527.992 shall be imposed in the manner provided in ORS 183.745.
- (2) In no case shall a hearing requested under ORS 183.745 be held less than 45 days from the date of service of the notice of penalty to allow the party to prepare testimony. The hearing shall be held not more than 180 days following issuance of the notice unless all parties agree on an extension.
- (3) Hearings under this section shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.
- (4) Except as provided in subsection (5) of this section, all civil penalties recovered under ORS 527.610 to 527.770, 527.990 and 527.992 shall be paid to the General Fund.
- (5) Civil penalties recovered under ORS 527.685 (5) shall be deposited in the State Forestry Department Account under ORS

526.060 and used, consistently with ORS 527.690, by the State Forester to reforest the land that is the subject of a violation of ORS 527.745 or rules for reforestation adopted pursuant to ORS 527.745. Civil penalties described in this subsection that exceed the costs of reforestation shall be paid to the General Fund. [1987 c.919 §27; 1991 c.634 §6; 1991 c.734 §121; 1995 s.s. c.3 §39k; 1996 c.9 §13; 1999 c.849 §§107,108; 2003 c.75 §45; 2007 c.214 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.690 - Failure to comply with order to reforest or repair damage; estimate of cost of repair; notification; board authorization for repair; cost of repair as lien upon operator, timber owner or landowner.**

(1) In the event an order issued pursuant to ORS 527.680 (2)(b) directs the repair of damage or correction of an unsatisfactory condition, including compliance with reforestation requirements, and if the operator or landowner does not comply with the order within the period specified in such order and the order has not been appealed to the State Board of Forestry within 30 days, the State Forester based upon a determination by the forester of what action will best carry out the purposes of ORS 527.630 shall:

(a) Maintain an action in the Circuit Court for Marion County or the circuit court for the county in which the violation occurred for an order requiring the landowner or operator to comply with the terms of the forester's order or to restrain violations thereof; or  
(b) Estimate the cost to repair the damage or the unsatisfactory condition as directed by the order and shall notify the operator, timber owner and landowner in writing of the amount of the estimate. Upon agreement of the operator, timber owner or the landowner to pay the cost, the State Forester may proceed to repair the damage or the unsatisfactory condition. In the event approval of the expenditure is not obtained within 30 days after notification to the operator, timber owner and landowner under this section, the State Forester shall present to the board the alleged violation, the estimate of the expenditure to repair the damage or unsatisfactory condition and the justification for the expenditure.

(2) The board shall review the matter presented to it pursuant to subsection (1) of this section and shall determine whether to authorize the State Forester to proceed to repair the damage or correct the unsatisfactory condition and the amount authorized for expenditure. The board shall afford the operator, timber owner or landowner the opportunity to appear before the board for the purpose of presenting facts pertaining to the alleged violation and the proposed expenditure.

(3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory condition, the State Forester shall proceed, either with forces of the State Forester or by contract, to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a complete account of direct expenditures incurred, and upon completion of the work, shall prepare an itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner. In no event shall the expenditures exceed the amount authorized by subsection (2) of this section. An itemized statement of the direct expenditures incurred by the State Forester, certified by the State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding authorized by this section. If the State Forester's action to repair the damage or correct the unsatisfactory condition arose from an operation for which a bond, cash deposit or other security was required under ORS 527.760, the State Forester shall retain any applicable portion of a cash deposit and the surety on the bond or holder of the other security deposit shall pay the amount of the bond or other security deposit to the State Forester upon demand. If the amount specified in the demand is not paid within 30 days following the demand, the Attorney General, upon request by the State Forester, shall institute proceedings to recover the amount specified in the demand.

(4) The expenditures in cases covered by this section, including cases where the amount collected on a bond, deposit or other security was not sufficient to cover authorized expenditures, shall constitute a general lien upon the real and personal property of the operator, timber owner and landowner within the county in which the damage occurred. A written notice of the lien, containing a statement of the demand, the description of the property upon which the expenditures were made and the name of the parties against whom the lien attaches, shall be certified under oath by the State Forester and filed in the office of the county clerk of the county or counties in which the expenditures were made within six months after the date of delivery of the itemized statement referred to in subsection (3) of this section, and may be foreclosed in the manner provided in ORS chapter 88.

(5) All moneys recovered under this section shall be paid into the State Forestry Department Account. [1971 c.316 §11; 1981 c.757 §10; 1983 c.28 §1; 1991 c.919 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.700 - Appeals from orders of State Forester; hearing procedure; rules; stay of operation.**

(1) Any operator, timber owner or landowner affected by any finding or order of the State Forester issued under ORS 527.610 to 527.770 and 527.992 may request a hearing within 30 days after issuance of the order. The hearing shall be commenced within 14 days after receipt of the request for hearing and a final order shall be issued within 28 days of the request for the hearing unless all parties agree to an extension of the time limit.

(2) The State Board of Forestry may delegate to the administrative law judge the authority to issue final orders on matters under this section. Hearings provided under this section shall be conducted as contested case hearings under ORS 183.413 to 183.470. The board may establish such rules as it deems appropriate to carry out the provisions of this section. Appeals from final hearing orders under this section shall be provided in ORS 183.482, except that the comments of the board or the State Forester concerning a written plan are not reviewable orders under ORS 183.480.

(3) Any person adversely affected or aggrieved by an operation described in subsection (4) of this section may file a written request

to the board for a hearing if the person submitted written comments pertaining to the operation within the time limits established under ORS 527.670 (9).

(4) A request for hearing may be filed under subsection (3) of this section only if a written plan was required by rules adopted under ORS 527.670 (3).

(5) A request for hearing filed under subsection (3) of this section shall be filed within 14 calendar days of the date the State Forester completed review of the written plan and issued any comments. Copies of the complete request shall be served, within the 14-day period, on the operator, timber owner and landowner. The request shall include:

(a) A copy of the written plan on which the person is requesting a hearing;

(b) A copy of the comments pertaining to the operation that were filed by the person requesting the hearing;

(c) A statement that shows the person is adversely affected or aggrieved by the operation and has an interest which is addressed by the Oregon Forest Practices Act or rules adopted thereunder; and

(d) A statement of facts that establishes that the operation is of the type described in ORS 527.670 (3).

(6) If the board finds that the person making the request meets the requirement of subsection (5)(c) of this section, the board shall set the matter for hearing within 21 calendar days after receipt of the request for hearing. The operator, timber owner and landowner shall be allowable parties to the hearing. The person requesting the hearing may raise, in the hearing, only those issues that the person raised in written comments filed under ORS 527.670 (9) relating to conformity with the rules of the board. The board shall issue its own comments, which may affirm, modify or rescind comments of the State Forester, if any, on the written plan within 45 days after the request for hearing was filed, unless all parties agree to an extension of the time limit. The comments of the board or of the State Forester concerning a written plan are not reviewable orders under ORS 183.480.

(7) The board may award reasonable attorney fees and expenses to each of the prevailing parties against any other party who the board finds presented a position without probable cause to believe the position was well-founded, or made a request primarily for a purpose other than to secure appropriate action by the board.

(8)(a) Upon the written request of a person requesting a hearing under subsection (3) of this section, a stay of the operation subject to the hearing may be granted upon a showing that:

(A) Commencement or continuation of the operation will constitute a violation of the rules of the board;

(B) The person requesting the stay will suffer irreparable injury if the stay is not granted; and

(C) The requirements of subsections (3), (4) and (5) of this section are met.

(b) If the board grants the stay, it shall require the person requesting the stay to give an undertaking which may be in the amount of the damages potentially resulting from the stay, but in any event shall not be less than \$15,000. The board may impose other reasonable requirements pertaining to the grant of the stay. The board shall limit the effect of the stay to the specific geographic area or elements of the operation for which the person requesting the stay has demonstrated a violation of the rules and irreparable injury under paragraph (a) of this subsection.

(c) If the board determines in its comments that the written plan pertaining to the operation for which the stay was granted is likely to result in compliance with ORS 527.610 to 527.770 or the rules of the board, the board may award reasonable attorney fees and actual damages in favor of each of the prevailing parties, to the extent incurred by each, against the person requesting the stay.

(9) If the board rescinds or modifies the comments on the written plan as submitted by the State Forester pertaining to any operation, the board may award reasonable attorney fees and costs against the state in favor of each of the prevailing parties.

(10) As used in this section, "person" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character. [Formerly 527.240; 1983 c.28 §2; 1987 c.919 §13; 1999 c.849 §110; 2003 c.75 §94; 2003 c.740 §4; 2011 c.54 §2]

### **2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.704 - Program of inspections.**

(1) The State Forester, or a representative of the State Forester, shall conduct a program of inspections of forestland within the operating areas of operations for which notifications are filed pursuant to ORS 527.670 (6), at regular intervals, to assess compliance with ORS 527.610 to 527.770 and rules and orders adopted or issued thereunder.

(2) The inspection may occur:

(a) On or after the date on which notification is filed pursuant to ORS 527.670 (6), but not more than three years after the date on which the State Forester learns that the operation has been completed.

(b) Only at a reasonable time, absent consent or a warrant.

(3) The person conducting the inspection shall:

(a) Advise the operator, timber owner or landowner that the inspection is being made pursuant to the law and is limited in scope to the operation subject to the relevant notification.

(b) Ensure that the inspection is tailored to assessing compliance with ORS 527.610 to 527.770 and rules and orders adopted or issued thereunder.

(4) The State Forester may petition the circuit court of this state having jurisdiction over the forestland for a warrant authorizing the State Forester or a representative of the State Forester to inspect the forestland.

(5) The court may issue a warrant if:

(a) The State Forester or a representative of the State Forester has attempted inspection consistent with subsections (1) to (3) of this

section and access to all or part of the forestland was actually or constructively denied; or

(b) The State Forester has reasonable cause to believe that a violation of ORS 527.610 to 527.770 or a rule or order adopted or issued thereunder has occurred. [2022 c.33 §43]

Note:

527.704 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711).

Note:

527.704 and 527.706 were added to and made a part of 527.610 to 527.770 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.706 - Program of photogrammetric mapping; rules.**

(1) As used in this section, "photogrammetric mapping" has the meaning given that term in ORS 672.002.

(2) To aid in monitoring compliance with ORS 527.610 to 527.770 and rules adopted thereunder, the State Board of Forestry shall adopt rules that:

(a) Require persons that file notifications pursuant to ORS 527.670 (6) to inform the State Forester when the operations are complete, within a reasonable time after completion;

(b) Authorize the State Forester to use a program of photogrammetric mapping to determine whether operations for which notifications have been filed pursuant to ORS 527.670 (6) have been completed; or

(c) Otherwise establish a program for determining when operations for which notifications have been filed pursuant to ORS 527.670 (6) have been completed.

(3) Rules described in subsection (2)(b) or (c) of this section must limit the discretion of the person conducting the compliance monitoring. [2022 c.33 §44]

Note:

527.706 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711).

Note:

See second note under 527.704.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.710 - Duties and powers of board; rules; inventory for resource protection; consultation with other agencies required.**

(1) In carrying out the purposes of ORS 527.610 to 527.770, 527.990 (1) and 527.992, the State Board of Forestry shall adopt, in accordance with applicable provisions of ORS chapter 183, rules to be administered by the State Forester establishing standards for forest practices in each region or subregion.

(2) The rules shall ensure the continuous growing and harvesting of forest tree species. Consistent with ORS 527.630, the rules shall provide for the overall maintenance of the following resources:

(a) Air quality;

(b) Water resources, including but not limited to sources of domestic drinking water;

(c) Soil productivity; and

(d) Fish and wildlife.

(3)(a) In addition to its rulemaking responsibilities under subsection (2) of this section, the board shall collect and analyze the best available information and establish inventories of the following resource sites needing protection:

(A) Threatened and endangered fish and wildlife species identified on lists that are adopted, by rule, by the State Fish and Wildlife Commission or are federally listed under the Endangered Species Act of 1973 as amended;

(B) Sensitive bird nesting, roosting and watering sites;

(C) Biological sites that are ecologically and scientifically significant; and

(D) Significant wetlands.

(b) The board shall determine whether forest practices would conflict with resource sites in the inventories required by paragraph (a) of this subsection. If the board determines that one or more forest practices would conflict with resource sites in the inventory, the board shall consider the consequences of the conflicting uses and determine appropriate levels of protection.

(c) Based upon the analysis required by paragraph (b) of this subsection, and consistent with the policies of ORS 527.630, the board shall adopt rules appropriate to protect resource sites in the inventories required by paragraph (a) of this subsection.

(4) Before adopting rules under subsection (1) of this section, the board shall consult with other agencies of this state or any of its political subdivisions that have functions with respect to the purposes specified in ORS 527.630 or programs affected by forest operations. Agencies and programs subject to consultation under this subsection include, but are not limited to:

(a) Air and water pollution programs administered by the Department of Environmental Quality under ORS chapters 468A and 468B and ORS 477.013 and 477.515 to 477.532;

(b) Mining operation programs administered by the Department of Geology and Mineral Industries under ORS 516.010 to 516.130

and ORS chapter 517;

- (c) Game fish and wildlife, commercial fishing, licensing and wildlife and bird refuge tax incentive programs administered by the State Department of Fish and Wildlife under ORS 272.060 and ORS chapters 496, 498, 501, 506 and 509;
  - (d) Park land, Willamette River Greenway, scenic waterway and recreation trail programs administered by the State Parks and Recreation Department under ORS 358.480 to 358.545, 390.310 to 390.368, 390.805 to 390.925, 390.950 to 390.989 and 390.121;
  - (e) The programs administered by the Columbia River Gorge Commission under Public Law 99-663 and ORS 196.110 and 196.150;
  - (f) Removal and fill programs administered by the Department of State Lands under ORS 196.800 to 196.900;
  - (g) Federal Safe Drinking Water Act programs administered by the Oregon Health Authority under ORS 448.273 to 448.990;
  - (h) Conservation and conservation tax incentive programs administered by the State Parks and Recreation Department under ORS 273.563 to 273.591;
  - (i) Open space land tax incentive programs administered by cities and counties under ORS 308A.300 to 308A.330;
  - (j) Water resources programs administered by the Water Resources Department under ORS 536.220 to 536.540; and
  - (k) Pesticide control programs administered by the State Department of Agriculture under ORS chapter 634.
- (5) In carrying out the provisions of subsection (4) of this section, the board shall consider and accommodate the rules and programs of other agencies to the extent deemed by the board to be appropriate and consistent with the purposes of ORS 527.630.
- (6) The board shall adopt rules to meet the purposes of another agency's regulatory program where it is the intent of the board to administer the other agency's program on forestland and where the other agency concurs by rule. An operation performed in compliance with the board's rules shall be deemed to comply with the other agency's program.
- (7)(a) The board may enter into cooperative agreements or contracts necessary in carrying out the purposes specified in ORS 527.630.
- (b) The State Forestry Department shall enter into agreements with appropriate state agencies for joint monitoring of the effectiveness of forest practice rules in protecting forest resources and water quality.
- (8) If, based upon the study completed pursuant to section 15 (2)(f), chapter 919, Oregon Laws 1991, the board determines that additional rules are necessary to protect forest resources pursuant to ORS 527.630, the board shall adopt forest practice rules that reduce to the degree practicable the adverse impacts of cumulative effects of forest practices on air and water quality, soil productivity, fish and wildlife resources and watersheds. Such rules shall include a process for determining areas where adverse impacts from cumulative effects have occurred or are likely to occur, and may require that a written plan be submitted for harvests in such areas.
- (9)(a) The State Forester, in cooperation with the State Department of Fish and Wildlife, shall identify streams for which restoration of habitat would be environmentally beneficial. The State Forester shall select as a priority those streams where restoration efforts will provide the greatest benefits to fish and wildlife, and to streambank and streambed stability.
- (b) For those streams identified in paragraph (a) of this subsection, the State Forester shall encourage landowners to enter into cooperative agreements with appropriate state agencies for conduct of restoration activities.
- (c) The board, in consultation with appropriate state agencies, shall study and identify methods for restoring or enhancing fish and wildlife populations through restoration and rehabilitation of sites beneficial to fish and wildlife.
- (d) The board shall adopt rules to implement the findings of this subsection.
- (10) In addition to its responsibilities under subsections (1) to (3) of this section, the board shall adopt rules to reduce the risk of serious bodily injury or death caused by a rapidly moving landslide directly related to forest practices. The rules shall consider the exposure of the public to these safety risks and shall include appropriate practices designed to reduce the occurrence, timing or effects of rapidly moving landslides. As used in this subsection, "rapidly moving landslide" has the meaning given that term in ORS 195.250. [1971 c.316 §5; 1987 c.919 §14a; 1989 c.171 §69; 1989 c.904 §38; 1991 c.634 §7; 1991 c.919 §13; 1993 c.18 §126; 1995 c.79 §300; 1997 c.274 §54; 1997 c.413 §2; 1999 c.1103 §12; 2001 c.114 §52; 2001 c.540 §24; 2003 c.14 §342; 2003 c.539 §40; 2003 c.740 §7; 2009 c.217 §13; 2009 c.595 §983; 2011 c.83 §25; 2011 c.319 §21]

Note:

Section 6, chapter 33, Oregon Laws 2022, provides:

Sec. 6. Post-disturbance harvest rulemaking.

(1) Pursuant to the authority granted by ORS 527.710 and subject to the procedures set forth in ORS 527.714 for rules described in ORS 527.714 (1)(c), the State Board of Forestry shall initiate rulemaking concerning the post-disturbance harvest of trees that, but for the disturbance, would not be harvested under rules adopted, amended or repealed as part of the rule package described in section 2 of this 2022 Act [527.711].

(2) The rulemaking:

(a) Must be completed on or before November 30, 2025.

(b) Is not subject to the requirements of section 39 of this 2022 Act [527.734]. [2022 c.33 §6]

Note:

Section 7, chapter 33, Oregon Laws 2022, provides:

Sec. 7. Tethered logging rulemaking.

(1) Pursuant to the authority granted by ORS 527.710 and subject to the procedures set forth in ORS 527.714 for rules described in ORS 527.714 (1)(c), not more than three years after the effective date of this 2022 Act [March 17, 2022], the State Board of Forestry shall initiate rulemaking concerning tethered logging.

(2) The board shall prioritize the rulemaking.

(3) The rulemaking is not subject to the requirements of section 39 of this 2022 Act [527.734], but as part of the rulemaking, the board may solicit and consider reports that pertain to tethered logging from the Adaptive Management Program Committee and the Independent Research and Science Team described in sections 36 [527.732] and 38 [527.733] of this 2022 Act. [2022 c.33 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.711 - Private Forest Accord rule package.**

(1) The State Board of Forestry shall, as a single rule package following a single, consolidated rulemaking process:

(a) Adopt rules consistent with the requirements of the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, to the extent that requirements in the Private Forest Accord Report do not contravene statutory requirements.

(b) As needed to conform with the rules described in paragraph (a) of this subsection, and only as needed to conform with the rules described in paragraph (a) of this subsection, amend or repeal the rules in effect on March 17, 2022, that implement ORS 527.610 to 527.770.

(2) When adopting, amending or repealing rules as described in subsection (1) of this section, the board shall resolve any gaps or ambiguities in the requirements of the Private Forest Accord Report by:

(a) Referring to the intent and structure of the rules implementing ORS 527.610 to 527.770 that are in effect on March 17, 2022; and

(b) Achieving the outcomes described in the Private Forest Accord Report.

(3) The department shall:

(a) Publish the Private Forest Accord Report.

(b) Ensure that the Private Forest Accord Report remains publicly available on a department website. [2022 c.33 §2]

Note:

527.711 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (second note below).

Note:

Section 5, chapter 33, Oregon Laws 2022, provides:

Sec. 5. Timeline for applicability of Private Forest Accord rule package.

(1) As used in this section:

(a) "Common ownership" has the meaning given that term in section 16 of this 2022 Act [527.738].

(b) "Small forestland" means forestland that has an owner that owns or holds common ownership interest in less than 5,000 acres of forestland in this state.

(2) Rules adopted or amended as part of the rule package described in section 2 of this 2022 Act [527.711] apply only to an operation for which a notification is filed under ORS 527.670 (6):

(a) On or after January 1, 2024.

(b) Before January 1, 2024, if the operation is not completed on or before December 31, 2023.

(3) Notwithstanding subsection (2) of this section, rules adopted or amended as part of the rule package that relate to fish buffers apply to an operation, other than an operation on small forestland, for which a notification is filed on or after July 1, 2023.

(4) If the State Forester determines that a forest activity electronic reporting and notice system operated by the State Forestry Department is not updated with the information necessary to implement the requirements of the Private Forest Accord Report dated February 2, 2022, and published by the department on February 7, 2022, in time for operations to reasonably comply with the requirements by January 1, 2024, the deadlines described in subsection (2) of this section for application of rules that do not relate to fish buffers:

(a) May be extended by the State Forester for a period not to exceed one year; and

(b) After an extension described in paragraph (a) of this subsection, may be extended by the State Board of Forestry only if the board finds that the additional extension is necessary. [2022 c.33 §5]

Note:

Sections 54 to 64, chapter 33, Oregon Laws 2022, provide:

Sec. 54. Statement of legislative intent concerning habitat conservation plan and incidental take permit.

(1) The Legislative Assembly intends that the policies described in sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 9, 26 to 29, 40, 41 and 45 to 49 of this 2022 Act shall remain in effect only if:

(a) An incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, is issued on or before December 31, 2027;

(b) The State Board of Forestry has not made a finding that the habitat conservation plan imposes more than a de minimis difference in economic or resource impacts, at the level of landscapes, relative to rules adopted or amended as part of the rule package described in section 2 of this 2022 Act [527.711]; and

(c) The incidental take permit remains in effect.

(2) The legislative intent described in subsection (1) of this section is established by sections 55 to 64 of this 2022 Act. [2022 c.33 §54]

Sec. 55. Petition for finding related to habitat conservation plan.

(1) If an incidental take permit related to an approved habitat conservation plan responsive to the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, is issued on or before December 31, 2027, an author of the Private Forest Accord Report may, no later than 14 days after the date the incidental take permit is issued, petition the State Board of Forestry to make a finding as to whether the habitat conservation plan imposes more than a de minimis difference in economic or resource impacts, at the level of landscapes, relative to rules adopted or amended as part of the rule package described in section 2 of this 2022 Act [527.711].

(2) If the board receives a petition described in subsection (1) of this section, the board shall issue a finding no later than 45 days after the date the petition is received.

(3) If the board finds that the habitat conservation plan imposes more than a de minimis difference:

(a) On or before the 91st day after the date the board makes the finding, the board shall:

(A) Repeal new rules adopted as part of the rule package described in section 2 of this 2022 Act.

(B) Amend rules in effect on or before the effective date of this 2022 Act [March 17, 2022] as needed to conform with repeals described in subparagraph (A) of this paragraph.

(C) Amend any other rules as needed to conform with repeals described in subparagraph (A) of this paragraph.

(b) On or before the 120th day after the board makes the finding, the State Fish and Wildlife Commission shall amend rules as needed to conform the rules with actions taken by the board under paragraph (a) of this subsection. [2022 c.33 §55]

Sec. 56. Revocation or invalidation of incidental take permit.

If, pursuant to section 55 (1) and (2) of this 2022 Act, the State Board of Forestry does not make a finding or finds that the habitat conservation plan described in section 55 (1) of this 2022 Act does not impose more than a de minimis difference, as described in section 55 (1) of this 2022 Act, and the incidental take permit described in section 55 (1) of this 2022 Act is subsequently revoked or invalidated:

(1) On or before the 180th day after the date that any appeals process related to the revocation or invalidation has been exhausted or foregone, whichever occurs first, the board shall:

(a) Repeal new rules adopted as part of the rule package described in section 2 of this 2022 Act [527.711].

(b) Amend rules in effect on or before the effective date of this 2022 Act [March 17, 2022] as needed to conform with repeals described in paragraph (a) of this subsection.

(c) Amend any other rules as needed to conform with repeals described in paragraph (a) of this subsection.

(2) On or before the 210th day after the date that any appeals process related to the revocation or invalidation has been exhausted or foregone, whichever occurs first, the State Fish and Wildlife Commission shall amend rules as needed to conform the rules with actions taken by the board under subsection (1) of this section. [2022 c.33 §56]

Sec. 57. Issuance of incidental take permit on or before December 31, 2027.

If an incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, is not issued on or before December 31, 2027:

(1) On or before April 1, 2028, the State Board of Forestry shall:

(a) Repeal new rules adopted as part of the rule package described in section 2 of this 2022 Act [527.711].

(b) Amend rules in effect on or before the effective date of this 2022 Act [March 17, 2022] as needed to conform with repeals described in paragraph (a) of this subsection.

(c) Amend any other rules as needed to conform with repeals described in paragraph (a) of this subsection.

(2) On or before May 1, 2028, the State Fish and Wildlife Commission shall amend rules as needed to conform the rules with actions taken by the board under subsection (1) of this section. [2022 c.33 §57]

Sec. 58. Report on issuance of incidental take permit and finding related to habitat conservation plan.

On or before February 1, 2028, the State Board of Forestry shall report to a committee or interim committee of the Legislative Assembly related to forestry, in the manner described in ORS 192.245, on:

(1) Whether the incidental take permit described in section 11 of this 2022 Act was issued on or before December 31, 2027.

(2) Whether the board has received a petition to make a finding described in section 55 (1) and (2) of this 2022 Act. [2022 c.33 §58]

Sec. 59. Report on revocation or invalidation of incidental take permit.

If an incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, is issued on or before December 31, 2027, but is subsequently revoked or invalidated, after the date that any appeals process related to the revocation or invalidation has been exhausted or forgone, whichever occurs first, the State Board of Forestry shall:

(1) Promptly report the revocation or invalidation to a committee or interim committee of the Legislative Assembly related to forestry, in the manner described in ORS 192.245.

(2) Notify the Office of the Legislative Counsel of the revocation or invalidation as soon as practicable. [2022 c.33 §59]

Sec. 60. Conditional repeals.

Sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act are repealed. [2022 c.33 §60]

Sec. 61. Operation of conditional provisions upon finding related to habitat conservation plan.

(1) Except as otherwise provided in sections 62 and 63 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and

50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative only if the State Board of Forestry finds, pursuant to section 55 (1) and (2) of this 2022 Act, that the habitat conservation plan described in section 55 (1) of this 2022 Act imposes more than a de minimis difference, as described in section 55 (1) of this 2022 Act.

(2) If the board finds, pursuant to section 55 (1) and (2) of this 2022 Act, that the habitat conservation plan described in section 55 (1) of this 2022 Act imposes more than a de minimis difference, as described in section 55 (1) of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on the 150th day after the date the board makes the finding. [2022 c.33 §61]

Sec. 62. Operation of conditional provisions upon revocation or invalidation of incidental take permit.

(1) Except as otherwise provided in sections 61 and 63 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative only if:

(a) Pursuant to section 55 (1) and (2) of this 2022 Act, the State Board of Forestry does not make a finding or finds that the habitat conservation plan described in section 55 (1) of this 2022 Act does not impose more than a de minimis difference, as described in section 55 (1) of this 2022 Act; and

(b) The incidental take permit is subsequently revoked or invalidated.

(2) If the events described in subsection (1)(a) and (b) of this section occur, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on the 240th day after the date that any appeals process related to the revocation or invalidation has been exhausted or foregone, whichever occurs first. [2022 c.33 §62]

Sec. 63. Operation of conditional provisions upon failure to issue incidental take permit on or before December 31, 2027.

(1) Except as otherwise provided in sections 61 and 62 of this 2022 Act, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative only if an incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, is not issued on or before December 31, 2027.

(2) If an incidental take permit related to an approved habitat conservation plan consistent with the Private Forest Accord Report is not issued on or before December 31, 2027, the repeal of sections 1 to 8, 10 to 25, 30 to 39, 42 to 44 and 50 to 52 of this 2022 Act by section 60 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 65 to 76 of this 2022 Act become operative on June 1, 2028. [2022 c.33 §63]

Sec. 64. Repeal of conditionally operative provisions.

Sections 59 and 62 of this 2022 Act are repealed on January 2, 2077. [2022 c.33 §64]

Note:

527.711 and 527.712 were added to and made a part of 527.610 to 527.770 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.712 - Exemption for practices that comply with federal Endangered Species Act agreements.**

If a person is party to an agreement with the National Marine Fisheries Service or the United States Fish and Wildlife Service under the federal Endangered Species Act of 1973 (16 U.S.C. 1531 to 1544) and is engaging in a forest practice in compliance with the agreement, the forest practice is not subject to provisions of ORS 527.610 to 527.770 or rules adopted thereunder that relate to protection of a species addressed in the agreement. [2022 c.33 §14]

Note:

527.712 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711).

Note:

See fourth note under 527.711.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.714 - Types of rules; procedure; findings necessary; rule analysis.**

(1) The rulemaking authority of the State Board of Forestry under ORS 527.610 to 527.770 consists generally of the following three types of rules:

(a) Rules adopted to implement administration, procedures or enforcement of ORS 527.610 to 527.770 that support but do not directly regulate standards of forest practices.



- (b) Rules adopted to provide definitions or procedures for forest practices where the standards are set in statute.
- (c) Rules adopted to implement the provisions of ORS 527.710 (2), (3), (6), (8), (9) and (10) that grant broad discretion to the board and that set standards for forest practices not specifically addressed in statute.
- (2) When considering the adoption of a rule, and prior to the notice required pursuant to ORS 183.335, the board shall determine which type of rule described in subsection (1) of this section is being considered.
- (3) If the board determines that a proposed rule is of the type described in subsection (1)(a) or (b) of this section, or if the proposed rule is designed only to clarify the meaning of rules already adopted or to make minor adjustments to rules already adopted that are of the type described in subsection (1)(c) of this section, rulemaking may proceed in accordance with ORS 183.325 to 183.410 and is not subject to the provisions of this section.
- (4) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, and the proposed rule would change the standards for forest practices, the board shall describe in its rule the purpose of the rule and the level of protection that is desired. If the proposed rule would change the standards for forest practices that relate to the protection of aquatic resources, the level of protection that is desired must be consistent with:
  - (a) Requirements described in the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022; or
  - (b) If a habitat conservation plan consistent with the Private Forest Accord Report has been approved, the terms of the habitat conservation plan.
- (5) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, including a proposed amendment to an existing rule not qualifying under subsection (3) of this section, and the proposed rule would provide new or increased standards for forest practices, the board may adopt such a rule only after determining that the following facts exist and standards are met:
  - (a)(A) If forest practices continue to be conducted under existing regulations:
    - (i) There is monitoring or research evidence that documents that degradation of resources maintained under ORS 527.710 (2) or (3) is likely; or
    - (ii) In the case of rules proposed under ORS 527.710 (10), that there is a substantial risk of serious bodily injury or death; or
  - (B) The board has received reports produced by the Adaptive Management Program Committee and the Independent Research and Science Team described in ORS 527.732 and 527.733 that review the new or increased standards the proposed rule would provide;
  - (b) If the resource to be protected is a wildlife species, the scientific or biological status of a species or resource site to be protected by the proposed rule has been documented using best available information;
  - (c) The proposed rule reflects available scientific information and, as appropriate, the results of relevant monitoring and adequate field evaluation at representative locations in Oregon;
  - (d) The objectives of the proposed rule are clearly defined, and the restrictions placed on forest practices as a result of adoption of the proposed rule:
    - (A)(i) Are to prevent harm or provide benefits to the resource or resource site for which protection is sought; or
    - (ii) In the case of rules proposed under ORS 527.710 (10), are to reduce risk of serious bodily injury or death; and
  - (B) Are directly related to the objective of the proposed rule and materially advance its purpose; and
  - (e) The availability, effectiveness and feasibility of alternatives to the proposed rule, including nonregulatory alternatives, were considered, and the alternative chosen is the least burdensome to landowners and timber owners, in the aggregate, while still achieving the desired level of protection.
- (6) Nothing in subsection (5) of this section:
  - (a) Requires the board to call witnesses;
  - (b) Requires the board to allow cross-examination of witnesses;
  - (c) Restricts ex parte communications with the board or requires the board to place statements of such communications on the record;
  - (d) Requires verbatim transcripts of records of proceedings; or
  - (e) Requires depositions, discovery or subpoenas.
- (7) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, including a proposed amendment to an existing rule not qualifying under subsection (3) of this section, and that the proposed rule relates to aquatic resources, the board may adopt the rule only after considering reports from the Adaptive Management Program Committee and the Independent Research and Science Team.
- (8) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, and the proposed rule would require new or increased standards for forest practices, as part of or in addition to the economic and fiscal impact statement required by ORS 183.335 (2)(b)(E), the board shall, prior to the close of the public comment period, prepare and make available to the public a comprehensive analysis of the economic impact of the proposed rule. The analysis shall include, but is not limited to:
  - (a) An estimate of the potential change in timber harvest as a result of the rule;
  - (b) An estimate of the overall statewide economic impact, including a change in output, employment and income related to:
    - (A) The forest products industry;
    - (B) Other private sectors such as commercial fishing, recreational fishing and other outdoor recreation; and
    - (C) Government sectors such as public water system providers, waste treatment and built and natural infrastructure;

- (c) An estimate of the total economic impact on the forest products industry and common school and county forest trust land revenues, both regionally and statewide; and
- (d) An assessment of the economic impact of the proposed rule on various types of affected forestland parcels and on various geographic locations that is derived from consulting stakeholders.
- (9) The provisions of this section do not apply to temporary rules adopted by the board. [1996 c.9 §16 (enacted in lieu of 527.713); 1999 c.1103 §13; 2003 c.740 §10; 2022 c.33 §47]

Note:

The amendments to 527.714 by section 72, chapter 33, Oregon Laws 2022, become operative only if certain conditions are met. See sections 54 and 61 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711). 527.714, as amended by section 72, chapter 33, Oregon Laws 2022, is set forth for the user's convenience.

(1) The rulemaking authority of the State Board of Forestry under ORS 527.610 to 527.770 consists generally of the following three types of rules:

- (a) Rules adopted to implement administration, procedures or enforcement of ORS 527.610 to 527.770 that support but do not directly regulate standards of forest practices.
  - (b) Rules adopted to provide definitions or procedures for forest practices where the standards are set in statute.
  - (c) Rules adopted to implement the provisions of ORS 527.710 (2), (3), (6), (8), (9) and (10) that grant broad discretion to the board and that set standards for forest practices not specifically addressed in statute.
- (2) When considering the adoption of a rule, and prior to the notice required pursuant to ORS 183.335, the board shall determine which type of rule described in subsection (1) of this section is being considered.
- (3) If the board determines that a proposed rule is of the type described in subsection (1)(a) or (b) of this section, or if the proposed rule is designed only to clarify the meaning of rules already adopted or to make minor adjustments to rules already adopted that are of the type described in subsection (1)(c) of this section, rulemaking may proceed in accordance with ORS 183.325 to 183.410 and is not subject to the provisions of this section.
- (4) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, and the proposed rule would change the standards for forest practices, the board shall describe in its rule the purpose of the rule and the level of protection that is desired.
- (5) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, including a proposed amendment to an existing rule not qualifying under subsection (3) of this section, and the proposed rule would provide new or increased standards for forest practices, the board may adopt such a rule only after determining that the following facts exist and standards are met:
- (a) If forest practices continue to be conducted under existing regulations:
    - (A) There is monitoring or research evidence that documents that degradation of resources maintained under ORS 527.710 (2) or (3) is likely; or
    - (B) In the case of rules proposed under ORS 527.710 (10), that there is a substantial risk of serious bodily injury or death;
  - (b) If the resource to be protected is a wildlife species, the scientific or biological status of a species or resource site to be protected by the proposed rule has been documented using best available information;
  - (c) The proposed rule reflects available scientific information, the results of relevant monitoring and, as appropriate, adequate field evaluation at representative locations in Oregon;
  - (d) The objectives of the proposed rule are clearly defined, and the restrictions placed on forest practices as a result of adoption of the proposed rule:
    - (A)(i) Are to prevent harm or provide benefits to the resource or resource site for which protection is sought; or
    - (ii) In the case of rules proposed under ORS 527.710 (10), are to reduce risk of serious bodily injury or death; and
    - (B) Are directly related to the objective of the proposed rule and substantially advance its purpose;
  - (e) The availability, effectiveness and feasibility of alternatives to the proposed rule, including nonregulatory alternatives, were considered, and the alternative chosen is the least burdensome to landowners and timber owners, in the aggregate, while still achieving the desired level of protection; and
  - (f) The benefits to the resource, or in the case of rules proposed under ORS 527.710 (10), the benefits in reduction of risk of serious bodily injury or death, that would be achieved by adopting the rule are in proportion to the degree that existing practices of the landowners and timber owners, in the aggregate, are contributing to the overall resources concern that the proposed rule is intended to address.
- (6) Nothing in subsection (5) of this section:
- (a) Requires the board to call witnesses;
  - (b) Requires the board to allow cross-examination of witnesses;
  - (c) Restricts ex parte communications with the board or requires the board to place statements of such communications on the record;
  - (d) Requires verbatim transcripts of records of proceedings; or
  - (e) Requires depositions, discovery or subpoenas.
- (7) If the board determines that a proposed rule is of the type described in subsection (1)(c) of this section, and the proposed rule would require new or increased standards for forest practices, as part of or in addition to the economic and fiscal impact statement

required by ORS 183.335 (2)(b)(E), the board shall, prior to the close of the public comment period, prepare and make available to the public a comprehensive analysis of the economic impact of the proposed rule. The analysis shall include, but is not limited to:

- (a) An estimate of the potential change in timber harvest as a result of the rule;
  - (b) An estimate of the overall statewide economic impact, including a change in output, employment and income related to:
    - (A) The forest products industry;
    - (B) Other private sectors such as commercial fishing, recreational fishing and other outdoor recreation; and
    - (C) Government sectors such as public water system providers, waste treatment and built and natural infrastructure;
  - (c) An estimate of the total economic impact on the forest products industry and common school and county forest trust land revenues, both regionally and statewide; and
  - (d) An assessment of the economic impact of the proposed rule on various types of affected forestland parcels and on various geographic locations that is derived from consulting stakeholders.
- (8) The provisions of this section do not apply to temporary rules adopted by the board.

Note:

527.714 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 527 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.715 - Rules to establish standards and procedures.**

The State Board of Forestry shall establish, by rule, the standards and procedures to implement the provisions of ORS 197.180, 197.270, 197.825, 215.050, 477.440, 477.455, 477.460, 526.009, 526.016, 526.156, 527.620, 527.630, 527.660, 527.670, 527.683 to 527.724, 527.736 to 527.760 and 527.992. [1987 c.919 §28; 1991 c.919 §14; 2013 c.307 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.721 - Coordination with state and local agencies for review and comment on operations.**

By rule or by cooperative agreement entered into following an opportunity for public comment before the State Board of Forestry, the board shall provide for coordination with appropriate state and local agencies regarding procedures to be followed for review and comment on individual forest operations. [1987 c.919 §16 (enacted in lieu of 527.720)]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.722 - Restrictions on local government adoption of rules regulating forest operations; exceptions.**

- (1) Notwithstanding any provisions of ORS chapters 195, 196, 197, 197A, 215 and 227, and except as provided in subsections (2), (3) and (4) of this section, no unit of local government shall adopt any rules, regulations or ordinances or take any other actions that prohibit, limit, regulate, subject to approval or in any other way affect forest practices on forestlands located outside of an acknowledged urban growth boundary.
- (2) Nothing in subsection (1) of this section prohibits local governments from adopting and applying a comprehensive plan or land use regulation to forestland to allow, prohibit or regulate:
  - (a) Forest practices on lands located within an acknowledged urban growth boundary;
  - (b) Forest practices on lands located outside of an acknowledged urban growth boundary, and within the city limits as they exist on July 1, 1991, of a city with a population of 100,000 or more, for which an acknowledged exception to an agriculture or forestland goal has been taken;
  - (c) The establishment or alteration of structures other than temporary on-site structures which are auxiliary to and used during the term of a particular forest operation;
  - (d) The siting or alteration of dwellings;
  - (e) Physical alterations of the land, including but not limited to those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities, when such uses are not auxiliary to forest practices; or
  - (f) Partitions and subdivisions of the land.
- (3) Nothing in subsection (2) of this section shall prohibit a local government from enforcing the provisions of ORS 455.310 to 455.715 and the rules adopted thereunder.
- (4) Counties may prohibit, but in no other manner regulate, forest practices on forestlands:
  - (a) Located outside an acknowledged urban growth boundary; and
  - (b) For which an acknowledged exception to an agricultural or forest land goal has been taken.
- (5) To ensure that all forest operations in this state are regulated to achieve protection of soil, air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon Forest Practices Act applies to forest operations inside any urban growth boundary except in areas where a local government has adopted land use regulations for forest practices. For purposes of this subsection, "land use regulations for forest practices" means local government regulations that are adopted for the specific purpose of directing how forest operations and practices may be conducted. These local regulations shall:

- (a) Protect soil, air, water, fish and wildlife resources;
  - (b) Be acknowledged as in compliance with land use planning goals;
  - (c) Be developed through a public process;
  - (d) Be developed for the specific purpose of regulating forest practices; and
  - (e) Be developed in coordination with the State Forestry Department and with notice to the Department of Land Conservation and Development.
- (6) To coordinate with local governments in the protection of soil, air, water, fish and wildlife resources, the State Forester shall provide local governments with a copy of the notice or written plan for a forest operation within any urban growth boundary. Local governments may review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.
- (7) The existence or adoption by local governments of a comprehensive plan policy or land use regulation regulating forest practices consistent with subsections (1) to (5) of this section shall relieve the State Forester of responsibility to administer the Oregon Forest Practices Act within the affected area.
- (8) The Director of the Department of Land Conservation and Development shall provide the State Forester copies of notices submitted pursuant to ORS 197.615, whenever such notices concern the adoption, amendment or repeal of a comprehensive land use regulation allowing, prohibiting or regulating forest practices. [1979 c.400 §2; 1987 c.919 §17; 1991 c.919 §29; 2001 c.268 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.724 - Forest operations to comply with air and water pollution control rules and standards; effect of violation.**

Subject to ORS 527.765 and 527.770, any forest operations on forestlands within this state shall be conducted in full compliance with the rules and standards of the Environmental Quality Commission relating to air and water pollution control. In addition to all other remedies provided by law, any violation of those rules or standards shall be subject to all remedies and sanctions available under statute or rule to the Department of Environmental Quality or the Environmental Quality Commission. [1979 c.400 §3; 1991 c.919 §19]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.730**

[1971 c.316 §12; 1991 c.634 §8; renumbered 527.633 in 2023]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.731 - Adaptive management program; rules.**

- (1) It is the policy of the State of Oregon that regulation of forest practices for the protection of aquatic species shall, in addition to other statutory requirements, be subject to a process of adaptive management, whereby goals and objectives are validated, and modified if necessary, and forest practice rules are monitored for effectiveness relative to the goals and objectives.
- (2) The State Board of Forestry shall establish by rule an adaptive management program to accomplish the policy described in subsection (1) of this section, consistent with the adaptive management framework set forth in the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022.
- (3) The adaptive management program must:
  - (a) Ensure effective change as needed to meet resource objectives.
  - (b) Increase the predictability and stability of the process of changing regulation so landowners, regulators and interested members of the public can understand and anticipate change.
  - (c) Apply best available science to decision-making.
  - (d) Effectively meet resource objectives with less operationally expensive prescriptions when feasible.
- (4) The State Board of Forestry shall adopt rules prescribing in detail the roles and obligations of the Adaptive Management Program Committee and Independent Research and Science Team, consistent with ORS 527.732 and 527.733 and the provisions of the Private Forest Accord Report.
- (5) The board shall consider reports submitted by the committee and team. [2022 c.33 §34]

Note:

527.731 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711).

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.732 - Adaptive Management Program Committee; rules.**

- (1) The Adaptive Management Program Committee is established as an advisory committee to the State Board of Forestry.
- (2) The committee shall consist of 10 voting members and up to three nonvoting members.
- (3) The board shall select a voting member from among two candidates recommended by each of the following 10 entities:
  - (a) The Oregon Forest and Industries Council.

- (b) The Coalition of Oregon Land Trusts.
- (c) The Associated Oregon Loggers.
- (d) A conservation organization collectively selected by Beyond Toxics, Cascadia Wildlands, Klamath Siskiyou Wildlands Center, Oregon League of Conservation Voters, Oregon Stream Protection Coalition, Oregon Wild, Portland Audubon and Umpqua Watersheds, which were parties to the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022.
- (e) The Oregon Small Woodlands Association.
- (f) The Commission on Indian Services.
- (g) A recreational or commercial angling organization collectively selected by Northwest Guides and Anglers Association, Pacific Coast Federation of Fishermen's Associations, Trout Unlimited and Wild Salmon Center, which were parties to the Private Forest Accord Report.
- (h) The Association of Oregon Counties.
- (i) The State Department of Fish and Wildlife.
- (j) The Department of Environmental Quality.
- (4) If an entity described in subsection (3) of this section ceases to exist, the board shall determine a successor entity that represents the same interests.
- (5) The board shall:
  - (a) Select one representative of the State Forestry Department to serve as a nonvoting member.
  - (b) Invite one representative of the National Marine Fisheries Service and one representative of the United States Fish and Wildlife Service to serve on the committee as nonvoting members.
  - (6) The voting members and the nonvoting member described in subsection (5)(a) of this section shall serve for terms of four years and may serve an unlimited number of terms.
- (7) The committee shall:
  - (a) Guide the adaptive management process.
  - (b) Set the research agenda of the Independent Research and Science Team established in ORS 527.733 and recommend to the board the team's budget.
  - (c) Assess the scientific findings in a report prepared by the team and prepare a report that identifies alternative actions, including no action, to address resource issues identified in the team's report.
  - (d) Submit the committee's reports to the board.
  - (e) Assist the board in the ongoing process of identifying and modifying resource objectives.
  - (f) Review reports related to compliance monitoring and enforcement.
  - (g) Submit recommendations to the board concerning rule adjustment, guidance or training.
  - (h) Strive for full consensus in committee decision-making.
- (8) Notwithstanding subsection (7)(h) of this section, the committee shall make substantial decisions by a vote of at least seven voting members.
- (9) Committee members are not eligible for compensation or reimbursement for expenses. If an organization represented by a committee member requests a participation grant to compensate for the organizational resources the organization dedicated to supporting the committee member's service on the committee, subject to available funding, the board shall award the participation grant in an amount determined by the board.
- (10) The board shall adopt rules describing a process for awarding participation grants described in subsection (9) of this section.

[2022 c.33 §36]

Note:

527.732 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711).

Note:

Section 37, chapter 33, Oregon Laws 2022, provides:

Sec. 37.

- (1) The State Board of Forestry shall appoint the first voting members of the Adaptive Management Program Committee on or before November 30, 2022.
- (2) Notwithstanding section 36 (6) of this 2022 Act [527.732 (6)], of the voting members of the committee first appointed by the board:
  - (a) Two shall serve for terms ending one year after the date of appointment.
  - (b) Two shall serve for terms ending two years after the date of appointment.
  - (c) Three shall serve for terms ending three years after the date of appointment.
- (3) The board shall appoint the first voting members of the Independent Research and Science Team from a list of candidates provided by the committee. [2022 c.33 §37]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.733 - Independent Research and Science Team; rules.**

- (1) The Independent Research and Science Team is established as an advisory committee to the State Board of Forestry.
- (2) The team shall consist of an odd number of at least five voting members. The voting members must:
  - (a) Have demonstrated subject matter expertise in a relevant field and a graduate-level degree in a relevant natural resources-related field such as forestry, silviculture, ecology, hydrology, wildlife, fisheries or geology.
  - (b) Include, at all times:
    - (A) At least one voting member who represents a public institution.
    - (B) At least one voting member who represents the timber industry.
    - (C) At least one voting member who represents a nongovernmental organization that promotes conservation of freshwater aquatic habitat.
- (3) Team members shall serve for initial terms of four years and may serve an unlimited number of terms.
- (4) A team member may be removed by a two-thirds vote of the team or by a majority vote of the board.
- (5) If there is a vacancy on the team, or if the team determines that a new scientific or technical discipline must be represented on the team in order for the team to perform its research duties:
  - (a) The team shall submit a list of candidates to the board.
  - (b) The board may appoint one or more of the candidates as voting members of the team.
  - (c) If the board does not select one or more voting members from the list of candidates, the team shall submit a new list of candidates to the board until such time as the board appoints one or more candidates as voting members of the team.
- (6) The board shall adopt rules for administering subsection (5) of this section.
- (7) The team shall:
  - (a) Conduct or oversee research requested by the Adaptive Management Program Committee.
  - (b) Report to the board and the committee on the findings of the research, including findings concerning the magnitude of impacts on species of concern, the urgency of needed action and the degree of scientific confidence or uncertainty behind the findings.
- (8)(a) The team shall strive for full consensus in team decision-making.
- (b) Notwithstanding paragraph (a) of this subsection, the team shall make substantial decisions by a vote of at least two-thirds of the team members.
- (9) Team members are not eligible for compensation or reimbursement for expenses. If an organization represented by a team member requests a participation grant to compensate for the organizational resources the organization dedicated to supporting the team member's service on the team, subject to available funding, the board shall award the participation grant in an amount determined by the board.
- (10) The board shall adopt rules describing a process for awarding participation grants described in subsection (9) of this section.

[2022 c.33 §38]

Note:

527.733 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711).

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.734 - Considering reports on rules relating to aquatic resources.**

- (1) Subject to subsection (2) of this section, the State Board of Forestry may not adopt, amend or repeal a rule described in ORS 527.714 (1)(c) that relates to aquatic resources until the board has first received and considered reports that pertain to the rule from the Adaptive Management Program Committee and the Independent Research and Science Team described in ORS 527.732 and 527.733.
- (2) Notwithstanding ORS 527.714 (7), subsection (1) of this section does not apply:
  - (a) To adoption, amendment or repeal of a rule as part of a rulemaking proceeding commenced pursuant to ORS 527.765 (3)(e) in response to a petition for review of best management practices made by the Environmental Quality Commission;
  - (b) To adoption, amendment or repeal of a rule by the commission;
  - (c) If the legislation authorizing or requiring the adoption, amendment or repeal of the rule provides a specific exemption from this section; or
  - (d) If the adoption, amendment or repeal of the rule is necessary to comply with a court order.
- (3) The board may solicit and consider a report from the committee or the team prior to or as part of:
  - (a) A rulemaking proceeding described in subsection (2)(a) of this section, if soliciting and considering the report does not conflict with the requirements of ORS 527.765 (3)(e); or
  - (b) Any other rulemaking described in ORS 527.714 (1)(c), subject to the funding available to, and the capacity of, the committee and the team, taking into consideration the requirements of subsection (1) of this section. [2022 c.33 §39]

Note:

527.734 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711).

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.735**

[1987 c.919 §6a; renumbered 526.156 in 1991]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.736 - Forest practice standards for operations on public and private land; exceptions; rules.**

(1) The standards established in ORS 527.740 to 527.750 shall be administered by the State Forester as standards applying to all operations in the state, including those on forestland owned by the state or any political subdivision thereof. Pursuant to ORS 527.710 the State Board of Forestry shall adopt, repeal or amend forest practice rules as necessary to be consistent with and to implement the standards established in ORS 527.740 to 527.750. Except as provided in ORS 527.714, nothing in ORS 468B.100 to 468B.110, 477.562, 527.620, 527.670, 527.690, 527.710, 527.715, 527.722, 527.724 and 527.736 to 527.770 shall affect the powers and duties of the board to adopt, or the State Forester to administer, all other regulations pertaining to forest practices under applicable state law.

(2) Nothing in ORS 527.740 to 527.750 is intended to apply to cutting of trees that is for growth enhancement treatments, as defined by the State Forester, such as thinning or precommercial thinning.

(3) The State Board of Forestry may modify or waive the limitations and requirements of ORS 527.676, 527.740, 527.750 and 527.755 for the purposes of a bona fide research project conducted by:

- (a) A federal agency;
- (b) Agencies of the executive department, as defined in ORS 174.112;
- (c) An educational institution; or
- (d) A private landowner.

(4) The State Board of Forestry may agree as a term of a stewardship agreement entered into under ORS 541.973 to modify or waive the limitations and requirements of ORS 527.676, 527.740, 527.750 and 527.755.

(5) The State Board of Forestry may modify or waive the limitations and requirements of ORS 527.676, 527.740, 527.750 and 527.755 for the purpose of an operation for the planting, growing, managing or harvesting of hardwood timber, including but not limited to hybrid cottonwood, if:

- (a) The timber is grown on land that has been prepared by intensive cultivation methods and is cleared of competing vegetation for at least three years after planting;
- (b) The timber is harvested on a rotation cycle of more than 12 years and less than 20 years after planting; and
- (c) The timber is subject to intensive agricultural practices, including but not limited to fertilization, cultivation, irrigation, insect control and disease control. [1991 c.919 §3; 1993 c.657 §5; 1995 s.s. c.3 §39r; 1996 c.9 §20; 2008 c.11 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.738 - Riparian prescriptions; small forestland owner minimum option; rules.**

(1) As used in this section:

(a) "Common ownership" means direct ownership by one or more individuals or ownership by a corporation, partnership, association or other entity in which an individual owns a significant interest.

(b) "Small forestland owner minimum option" means any small forestland owner minimum option available for small forestland owners pursuant to rules adopted by the State Board of Forestry under ORS 527.711.

(2) The board may not establish riparian prescriptions that result in minimum riparian buffer widths or lengths that measure less than the minimum riparian buffer widths or lengths set forth in sections 5.3.1.3 and 5.3.1.4 of chapter 5 of the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022.

(3)(a) An operator, timber owner or landowner may not follow a small forestland owner minimum option for an operation unless the department determines that, as of the date the department receives a notification related to the operation under ORS 527.670:

(A) The landowner of the forestland where the operation will occur owns or holds common ownership interest in less than 5,000 acres of forestland in this state;

(B) No more than an average yearly volume of two million board feet of merchantable forest products has been harvested from the landowner's forestland in this state, when averaged over the three years prior to the date the department receives the notification; and

(C) The landowner has submitted an affirmation to the department that it does not expect to exceed an average yearly volume of two million board feet of merchantable forest products to be harvested from the landowner's forestland in this state during the 10 years following the date the department receives the notification.

(b) Notwithstanding paragraph (a)(B) and (C) of this subsection, the department may allow a landowner to follow a small forestland owner minimum option if the landowner establishes to the department's reasonable satisfaction that any exceedance of the harvest limits set forth in paragraph (a)(B) or (C) of this subsection was or will be necessary to raise funds to pay estate taxes or for a compelling and unexpected obligation.

(4) The department may require a landowner to submit, as part of the notification required under ORS 527.670, any additional information or statements necessary to determine whether a landowner meets the requirements of subsection (3) of this section.

(5) The board may adopt any rules necessary to implement this section. [2022 c.33 §16]

Note:

527.738 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711).

Note:

527.738 and 527.739 were added to and made a part of 527.610 to 527.770 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.739 - Application of restrictions related to small forestland owner minimum option; rules.**

In any tax year that a tax credit allowed for use of the standard practice in lieu of the small forestland owner minimum option is not available to small forestland owners, State Board of Forestry rules must provide that restrictions on using the small forestland owner minimum option related to the horizontal feet limitation applicable to fifth field watersheds are not in effect. [2022 c.33 §16a]

Note:

527.739 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711).

Note:

See second note under 527.738.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.740 - Harvest type 3 limitations; exceptions.**

(1) No harvest type 3 unit within a single ownership shall exceed 120 acres in size, except as provided in ORS 527.750.

(2) No harvest type 3 unit shall be allowed within 300 feet of the perimeter of a prior harvest type 3 unit within a single ownership if the combined acreage of the harvest type 3 areas subject to regulation under the Oregon Forest Practices Act would exceed 120 acres in size, unless the prior harvest type 3 unit has been reforested as required by all applicable regulations and:

(a) At least the minimum tree stocking required by rule is established per acre; and either

(b) The resultant stand of trees has attained an average height of at least four feet; or

(c) At least 48 months have elapsed since the stand was created and it is "free to grow" as defined by the State Board of Forestry.

(3) Any acreage attributable to riparian areas or to resource sites listed in ORS 527.710 (3) that is located within a harvest unit shall not be counted in calculating the size of a harvest type 3 unit.

(4) The provisions of this section shall not apply when the land is being converted to managed conifers or managed hardwoods from brush or hardwood stands that contain less than 80 square feet of basal area per acre of trees 11 inches DBH or greater or when the harvest type 3 results from disasters such as fire, insect infestation, disease, windstorm or other occurrence that the State Forester determines was beyond the landowner's control and has substantially impaired productivity or safety on the unit or jeopardizes nearby forestland. The prior approval of the State Forester shall be required for such conversion or harvest type 3 operations that exceed 120 acres in size.

(5) The provisions of this section do not apply to any operation where the operator demonstrates to the State Forester that:

(a) The trees are subject to a cutting right created by written contract prior to October 1, 1990, which provides that the trees must be paid for regardless of whether the trees are cut, or subject to a cutting right created by reservation in a deed prior to October 1, 1990; and

(b) If the provisions of this section were applied, the cutting right would expire before all the trees subject to the cutting right could reasonably be harvested. [1991 c.919 §4; 1995 s.s. c.3 §39b; 1996 c.9 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.745 - Reforestation of certain harvest types; adoption of standards; rules.**

(1) The State Board of Forestry shall adopt standards for the reforestation of harvest type 1 and harvest type 3. Unless the board makes the findings for alternate standards under subsection (2) of this section, the standards for the reforestation of harvest type 1 and harvest type 3 shall include the following:

(a) Reforestation, including site preparation, shall commence within 12 months after the completion of harvest and shall be completed by the end of the second planting season after the completion of harvest. By the end of the fifth growing season after planting or seeding, at least 200 healthy conifer or suitable hardwood seedlings or lesser number as permitted by the board by rule, shall be established per acre, well-distributed over the area, which are "free to grow" as defined by the board.

(b) Landowners may submit plans for alternate practices that do not conform to the standards established under paragraph (a) of this subsection or the alternate standards adopted under subsection (2) of this section, including but not limited to variances in the time in which reforestation is to be commenced or completed or plans to reforest sites by natural reforestation. Such alternate plans may be approved if the State Forester determines that the plan will achieve equivalent or better regeneration results for the particular conditions of the site, or the plan carries out an authorized research project conducted by a public agency or educational institution.

(2) The board, by rule, may establish alternate standards for the reforestation of harvest type 1 and harvest type 3, in lieu of the standards established in subsection (1) of this section, but in no case can the board require the establishment of more than 200 healthy conifer or suitable hardwood seedlings per acre. Such alternate standards may be adopted upon finding that the alternate



standards will better assure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes, consistent with sound management of soil, air, water, fish and wildlife resources based on one or more of the following findings:

- (a) Alternate standards are warranted based on scientific data concerning biologically effective regeneration;
  - (b) Different standards are warranted for particular geographic areas of the state due to variations in climate, elevation, geology or other physical factors; or
  - (c) Different standards are warranted for different tree species, including hardwoods, and for different growing site conditions.
- (3) Pursuant to ORS 527.710, the board may adopt definitions, procedures and further regulations to implement the standards established under subsection (1) of this section, without making the findings required in subsection (2) of this section, if those procedures or regulations are consistent with the standards established in subsection (1) of this section.
- (4) The board shall encourage planting of disease and insect resistant species in sites infested with root pathogens or where planting of susceptible species would significantly facilitate the spread of a disease or insect pest and there are immune or more tolerant commercial species available which are adapted to the site.
- (5) Notwithstanding subsections (1), (2) and (3) of this section, in order to remove potential disincentives to the conversion of underproducing stands, as defined by the board, or the salvage of stands that have been severely damaged by wildfire, insects, disease or other factors beyond the landowner's control, the State Forester may suspend the reforestation requirements for specific harvest type 1 or harvest type 3 units in order to take advantage of the Forest Resource Trust provisions, or other cost-share programs administered by the State Forester or where the State Forester is the primary technical adviser. Such suspension may occur only on an individual case basis, in writing, based on a determination by the State Forester that the cost of harvest preparation, harvest, severance and applicable income taxes, logging, site preparation, reforestation and any other measures necessary to establish a free to grow forest stand will likely exceed the gross revenues of the harvest. The board shall adopt rules implementing this subsection establishing the criteria for and duration of the suspension of the reforestation requirements.
- (6) Notwithstanding subsections (1), (2) and (3) of this section, at the request of the Department of Transportation, the State Forester shall consult with the department concerning reforestation requirements for harvest type 1 and harvest type 3 in areas that are within or adjacent to a state highway right of way. The State Forester shall waive reforestation requirements in areas deemed to be unsuitable for reforestation by the department in order to maintain motorist safety and to protect highways, bridges and utility lines. [1991 c.919 §6; 1993 c.562 §1; 1995 s.s. c.3 §39c; 1996 c.9 §5; 2012 c.56 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.750 - Exceeding harvest type 3 size limitation; conditions; rules.**

(1) Notwithstanding the requirements of ORS 527.740, a harvest type 3 unit within a single ownership that exceeds 120 acres but does not exceed 240 acres may be approved by the State Forester if all the requirements of this section and any additional requirements established by the State Board of Forestry are met. Proposed harvest type 3 units that are within 300 feet of the perimeter of a prior harvest type 3 unit, and that would result in a total combined harvest type 3 area under a single ownership exceeding 120 acres but not exceeding 240 acres, may be approved by the State Forester if the additional requirements are met for the combined area. No harvest type 3 unit within a single ownership shall exceed 240 contiguous acres. No harvest type 3 unit shall be allowed within 300 feet of the perimeter of a prior harvest type 3 unit within a single ownership if the combined acreage of the areas subject to regulation under the Oregon Forest Practices Act would exceed 240 acres, unless:

- (a) The prior harvest type 3 unit has been reforested by all applicable regulations;
  - (b) At least the minimum tree stocking required by rule is established per acre; and
  - (c)(A) The resultant stand of trees has attained an average height of at least four feet; or
  - (B) At least 48 months have elapsed since the stand was created and it is "free to grow" as defined by the board.
- (2) The requirements of this section are in addition to all other requirements of the Oregon Forest Practices Act and the rules adopted thereunder. The requirements of this section shall be applied in lieu of such other requirements only to the extent the requirements of this section are more stringent. Nothing in this section shall apply to operations conducted under ORS 527.740 (4) or (5).
- (3) The board shall require that a plan for an alternate practice be submitted prior to approval of a harvest type 3 operation under this section. The board may establish by rule any additional standards applying to operations under this section.
- (4) The State Forester shall approve the harvest type 3 operation if the proposed operation would provide better overall results in meeting the requirements and objectives of the Oregon Forest Practices Act.
- (5) The board shall specify by rule the information to be submitted for approval of harvest type 3 operations under this section, including evidence of past satisfactory compliance with the Oregon Forest Practices Act. [1991 c.919 §7; 1995 s.s. c.3 §39d; 1996 c.9 §6; 2003 c.740 §5; 2005 c.22 §378]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.755 - Scenic highways; visually sensitive corridors; operations restricted; exemptions.**

- (1) The following highways are hereby designated as scenic highways for purposes of the Oregon Forest Practices Act:
- (a) Interstate Highways 5, 84, 205, 405; and
  - (b) State Highways 6, 7, 20, 18/22, 26, 27, 30, 31, 34, 35, 36, 38, 42, 58, 62, 66, 82, 97, 101, 126, 138, 140, 199, 230, 234 and 395.

- (2) The purpose of designating scenic highways is to provide a limited mechanism that maintains roadside trees for the enjoyment of the motoring public while traveling through forestland, consistent with ORS 527.630, safety and other practical considerations.
- (3) The State Board of Forestry, in consultation with the Department of Transportation, shall establish procedures and regulations as necessary to implement the requirements of subsections (4), (5) and (6) of this section, consistent with subsection (2) of this section, including provisions for alternate plans. Alternate plans that modify or waive the requirements of subsection (4), (5) or (6) of this section may be approved when, in the judgment of the State Forester, circumstances exist such as:
- (a) Modification or waiver is necessary to maintain motorist safety, protect improvements such as dwellings and bridges, or protect forest health;
  - (b) Modification or waiver will provide additional scenic benefits to the motoring public, such as exposure of distant scenic vistas;
  - (c) Trees that are otherwise required to be retained will not be visible to motorists;
  - (d) The operation involves a change of land use that is inconsistent with maintaining a visually sensitive corridor; or
  - (e) The retention of timber in a visually sensitive corridor will result in severe economic hardship for the owner because all or nearly all of the owner's property is within the visually sensitive corridor.
- (4)(a) For harvest operations within a visually sensitive corridor, at least 50 healthy trees of at least 11 inches DBH, or that measure at least 40 square feet in basal area, shall be temporarily left on each acre.
- (b) Overstory trees initially required to be left under paragraph (a) of this subsection may be removed when the reproduction understory reaches an average height of at least 10 feet and has at least the minimum number of stems per acre of free to grow seedlings or saplings required by the board for reforestation, by rule.
- (c) Alternatively, when the adjacent stand, extending from 150 feet from the outermost edge of the roadway to 300 feet from the outermost edge of the roadway, has attained an average height of at least 10 feet and has at least the minimum number of stems per acre of free to grow seedlings or saplings required by the board for reforestation, by rule, or at least 40 square feet of basal area per acre, no trees are required to be left in the visually sensitive corridor, or trees initially required to be left under paragraph (a) of this subsection may be removed. When harvests within the visually sensitive corridor are carried out under this paragraph, the adjacent stand, extending from 150 feet from the outermost edge of the roadway to 300 feet from the outermost edge of the roadway, shall not be reduced below the minimum number of stems per acre of free to grow seedlings or saplings at least 10 feet tall required by the board for reforestation, by rule, or below 40 square feet of basal area per acre until the adjacent visually sensitive corridor has been reforested as required under subsection (6) of this section and the stand has attained an average height of at least 10 feet and has at least the minimum number of stems per acre.
- (5) Harvest areas within a visually sensitive corridor shall be cleared of major harvest debris within 30 days of the completion of the harvest, or within 60 days of the cessation of active harvesting activity on the site, regardless of whether the harvest operation is complete.
- (6) Notwithstanding the time limits established in ORS 527.745 (1)(a), when harvesting within a visually sensitive corridor results in a harvest type 1 or harvest type 3, reforestation shall be completed by the end of the first planting season after the completion of the harvest. All other provisions of ORS 527.745 shall also apply to harvest type 1 or harvest type 3 within visually sensitive corridors.
- (7) Landowners and operators shall not be liable for injury or damage caused by trees left within the visually sensitive corridor for purposes of fulfilling the requirements of this section, when carried out in compliance with the provisions of the Oregon Forest Practices Act.
- (8) The following are exempt from this section:
- (a) Harvest on single ownerships less than five acres in size;
  - (b) Harvest within an urban growth boundary, as defined in ORS 197.015; and
  - (c) Harvest within zones designated for rural residential development pursuant to an exception adopted to the statewide land use planning goals under ORS 197.732. [1991 c.919 §17; 1993 c.306 §1; 1995 s.s. c.3 §39e; 1996 c.9 §7; 1997 c.249 §179; 2007 c.383 §1; 2023 c.13 §102]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.760 - Reforestation exemptions for land use changes.**

- (1) The State Board of Forestry shall review its rules governing changes in land use and adopt or amend rules as necessary to assure that only bona fide, established and continuously maintained changes from forest uses are provided an exemption from reforestation requirements. The board shall set specific time periods for the completion of land use conversions. Among other factors, the board shall condition exemptions from reforestation requirements upon:
- (a) Demonstrating the intended change in land use is authorized under local land use and zoning ordinances, including obtaining and maintaining all necessary land use or construction permits and approvals for the intended change in land use;
  - (b) Demonstrating progress toward the change in land use within the time required for planting of trees, and substantial completion and continuous maintenance of the change in land use in a time certain;
  - (c) Allowing an exemption for only the smallest land area necessary to carry out the change in land use, and requiring that additional land area within the harvest unit remains subject to all applicable reforestation requirements; and
  - (d) Allowing an exemption only to the extent that the proposed land use is not compatible with the maintenance of forest cover.
- (2) The board may require that, prior to commencing an operation where a change in land use is proposed, a bond, cash deposit, irrevocable letter of credit or other security be filed with the State Forester in an amount determined by the State Forester sufficient

to cover the cost of site preparation and reforestation for the area subject to an exemption from reforestation due to a change in land use, and shall require that provisions be made for the administration and collection on such bond or security deposit in the event that the change in land use is not established or continuously maintained within a time certain.

(3) Nothing in this section is intended to exempt any change in land use from, nor affect the applicability and administration of, any planning, zoning or permitting requirements provided under state or local laws or regulations. [1991 c.919 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.765 - Best management practices to maintain water quality; rules.**

(1) The State Board of Forestry shall establish best management practices and other rules applying to forest practices as necessary to insure that to the maximum extent practicable nonpoint source discharges of pollutants resulting from forest operations on forestlands do not impair the achievement and maintenance of water quality standards established by the Environmental Quality Commission for the waters of the state. Such best management practices shall consist of forest practices rules adopted to prevent or reduce pollution of waters of the state. Factors to be considered by the board in establishing best management practices shall include, where applicable, but not be limited to:

- (a) Beneficial uses of waters potentially impacted;
- (b) The effects of past forest practices on beneficial uses of water;
- (c) Appropriate practices employed by other forest managers;
- (d) Technical, economic and institutional feasibility; and
- (e) Natural variations in geomorphology and hydrology.

(2) The board shall consult with the Environmental Quality Commission in adoption and review of best management practices and other rules to address nonpoint source discharges of pollutants resulting from forest operations on forestlands.

(3)(a) Notwithstanding ORS 183.310 (8), upon written petition for rulemaking under ORS 183.390 of any interested person or agency, the board shall review the best management practices adopted pursuant to this section. In addition to all other requirements of law, the petition must allege with reasonable specificity that nonpoint source discharges of pollutants resulting from forest operations being conducted in accordance with the best management practices are a significant contributor to violations of such standards.

(b) Except as provided in paragraph (c) of this subsection, if the board determines that forest operations being conducted in accordance with the best management practices are neither significantly responsible for particular water quality standards not being met nor are a significant contributor to violations of such standards, the board shall issue an order dismissing the petition.

(c) If the petition for review of best management practices is made by the Environmental Quality Commission, the board shall not terminate the review without the concurrence of the commission, unless the board commences rulemaking in accordance with paragraph (e) of this subsection.

(d) If a petition for review is dismissed, upon conclusion of the review, the board shall issue an order that includes findings regarding specific allegations in the petition and shall state the board's reasons for any conclusions to the contrary.

(e) If, pursuant to review, the board determines that best management practices should be reviewed, the board shall commence rulemaking proceedings for that purpose. Rules specifying the revised best management practices must be adopted not later than two years from the filing date of the petition for review unless the board, with concurrence of the Environmental Quality Commission, finds that special circumstances require additional time.

(f) Notwithstanding the time limitation established in paragraph (e) of this subsection, at the request of the Environmental Quality Commission, the board shall take action as quickly as practicable to prevent significant damage to beneficial uses identified by the commission while the board is revising its best management practices and rules as provided for in this section. [1991 c.919 §20; 2003 c.75 §95; 2003 c.749 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.770 - Good faith compliance with best management practices not violation of water quality standards; subsequent enforcement of standards.**

A forest operator conducting, or in good faith proposing to conduct, operations in accordance with best management practices currently in effect shall not be considered in violation of any water quality standards. When the State Board of Forestry adopts new best management practices and other rules applying to forest operations, such rules shall apply to all current or proposed forest operations upon their effective dates. However, nothing in this section prevents enforcement of water quality standards against a forest operator conducting operations after the time provided in ORS 527.765 (3)(e) for adoption of revised best management practices if the board either has not adopted revised management practices or has not made a finding that such revised best management practices are not required. [1991 c.919 §21; 2003 c.749 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.780 - Exemption from liability for trees or debris left on property.**

(1) A landowner is not liable in tort for any personal injury, death or property damage that arises out of the leaving of trees and other debris on the property of the landowner under the provisions of ORS 527.610 to 527.770, under any rules adopted pursuant to ORS 527.610 to 527.770, or under any other law or rule requiring trees and debris to be left upon property after logging or other activity

on the land.

(2) The limitation on liability provided by this section applies to any injury, death or damage arising out of wildfire, erosion, flooding, diversion of waters, damage to public improvements and any other injury, death or damage caused by trees or debris left by the landowner.

(3) The limitation on liability provided by this section does not apply if the injury, death or damage was caused by the intentional tort of the landowner or by the gross negligence of the landowner. As used in this subsection, "gross negligence" means negligence that is materially greater than the mere absence of reasonable care under the circumstances, and that is characterized by indifference to or reckless disregard of the rights of others.

(4) The limitation on liability provided by this section is in addition to any limitation on liability provided under ORS 105.672 to 105.696.

(5) The limitation on liability provided by this section does not apply to any liability established by the provisions of ORS chapter 477. [1999 c.543 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.785 - Exemption from liability for large woody debris left on property.**

(1) A landowner is not liable in tort for any personal injury, death or property damage that arises out of the leaving of large woody debris on the property of the landowner under the provisions of ORS 527.610 to 527.770, under any rules adopted pursuant to ORS 527.610 to 527.770, or under any other law or rule requiring trees and large woody debris to be left upon property after logging or other activity on the land.

(2) The limitation on liability provided by this section applies to any injury, death or damage arising out of wildfire, erosion, flooding, diversion of waters, damage to public improvements and any other injury, death or damage caused by the large woody debris left by the landowner.

(3) The limitation on liability provided by this section does not apply if the injury, death or damage was caused by the intentional tort of the landowner or by the gross negligence of the landowner. As used in this subsection, "gross negligence" means negligence that is materially greater than the mere absence of reasonable care under the circumstances, and that is characterized by indifference to or reckless disregard of the rights of others.

(4) The limitation on liability provided by this section is in addition to any limitation on liability provided under ORS 105.672 to 105.696.

(5) The limitation on liability provided by this section does not apply to any liability established by the provisions of ORS chapter 477. [1999 c.863 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.786 - Definitions.**

As used in ORS 527.786 to 527.793:

(1) "Department reporting system" means a forest activity electronic reporting and notice system operated by the State Forestry Department.

(2) "Nearby recipient" means a person registered under ORS 527.787:

(a) Whose parcel location information is reconciled under ORS 527.787 (2) with a tax lot that is in whole or in part less than one mile from the edge of a proposed or scheduled pesticide application by helicopter to forestland; or

(b) Whose water intake location noted under ORS 527.787 (4) is less than one mile from the edge of a proposed or scheduled pesticide application by helicopter to forestland.

(3) "Pesticide":

(a) Except as provided in this subsection, has the meaning given that term in ORS 634.006.

(b) Does not include fertilizer. As used in this paragraph, "fertilizer" means any substance, or any combination or mixture of substances, that is designed for use primarily as a source of plant food, for inducing increased plant growth or for producing any physical, microbial or chemical change in the soil.

(4) "Water use qualifying for a spray buffer" means the use of water:

(a) For watering not more than one-half acre of lawn or noncommercial garden;

(b) By one or more dwelling units for domestic animal consumption ancillary to residential or related use of a property;

(c) By one or more dwelling units for household purposes or human consumption;

(d) For livestock watering; or

(e) Supplied for community purposes through a municipal water system, a system operated by a federally recognized Indian tribe or a system operated by a private corporation. As used in this paragraph, "community purposes" includes, but is not limited to, uses described in paragraphs (a) to (d) of this subsection, commercial or industrial use, fire protection, watering of public parks and street cleaning. [2020 s.s.1 c.16 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.787 - Registering to receive notice of pesticide application.**

(1) A person may register with the State Forestry Department to receive notices of proposed or scheduled pesticide applications by

helicopter to forestland near the residence of the person. To obtain registration, the person must provide the department with:

- (a) A description of the parcel where the person resides;
- (b) Proof satisfactory to the department that the person resides at the parcel; and
- (c) Contact information for the person that, at a minimum, includes:
  - (A) A mailing address; and
  - (B) An electronic mail address or telephone number.

(2) Upon the receipt of information under subsection (1) of this section, the department shall reconcile the parcel location information with tax lot information and note the tax lot in a geospatial layer maintained within a department reporting system.

(3) A person appropriating surface water for a water use qualifying for a spray buffer may register with the department to receive notices of proposed or scheduled pesticide applications by helicopter to forestland near the water intake used by the person. To obtain registration, the person must provide the department with:

- (a) The global positioning system coordinates for the water intake;
- (b) If the water use qualifying for a spray buffer is subject to water right requirements, a permit, certificate, registration, limited license or order of determination for the water use;
- (c) If the water use qualifying for a spray buffer is exempt from water right requirements, a description of the spring box or other type of water intake and of the type of water use;
- (d) Unless established in documentation described in paragraph (b) of this subsection, an attestation that the person believes the person has a lawful entitlement to make the water use qualifying for a spray buffer;
- (e) An attestation that the person controls the works at the point of diversion for the water use qualifying for a spray buffer; and
- (f) Contact information for the person that, at a minimum, includes:
  - (A) A mailing address; and
  - (B) An electronic mail address or telephone number.

(4) Upon the receipt of information under subsection (3) of this section, the department shall note the location of the water intake in a geospatial layer maintained within a department reporting system. [2020 s.s.1 c.16 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.788 - Notice to State Forestry Department of proposed pesticide application.**

(1) To the extent of any conflict between this section and ORS 527.610 to 527.770, the provisions of this section prevail.

(2) Notwithstanding ORS 527.670, an operator, timber owner or landowner proposing to conduct a pesticide application by helicopter to forestland shall send the State Forestry Department notice of the proposed pesticide application that includes the following:

- (a) Identification of the pesticides likely to be used. The notice may not identify any pesticides that are not likely to be used.
- (b) Identification of the forestland units to receive pesticide application.
- (c) Identification of a 90-day period within which the pesticide application is to occur.
- (d) Contact information for the operator, timber owner or landowner providing the notice that, at a minimum, includes a mail address, electronic mail address and telephone number.
- (e) Any information required by State Board of Forestry rules.

(3) Except as provided in subsection (4) of this section, if the department reporting system indicates that the location of the proposed pesticide application has one or more nearby recipients, the beginning of the 90-day period identified in the notice under subsection (2)(c) of this section must be 30 or more days after the date the notice is provided to the department.

(4) If a pesticide application is not completed during the 90-day period identified in a notice, the operator, timber owner or landowner must send a new notice before commencing or completing the pesticide application. Notwithstanding ORS 527.670, if the new notice is sent in the same calendar year as the original notice, the 90-day period identified in the new notice must be seven or more days after the date the new notice is provided to the department. [2020 s.s.1 c.16 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.789 - Notice to nearby recipient of proposed pesticide application.**

(1) Upon receipt of a notice under ORS 527.788 (2), a State Forestry Department reporting system shall provide the operator, timber owner or landowner that provided the notice with a list of, and contact information for, any nearby recipients for the proposed pesticide application.

(2) Two weeks after receiving a notice under ORS 527.788 (2), and on the date of receipt of any new notice under ORS 527.788 (4), the department shall send notice of the proposed pesticide application to the electronic mail address or telephone number of each nearby recipient for the application. The notice sent by the department must include, but need not be limited to, the location and nature of the proposed pesticide application and the 90-day period within which the pesticide application may occur, and the mailing address, electronic mail address and telephone number supplied as contact information by the operator, timber owner or landowner that provided notice of the proposed pesticide application under ORS 527.788. [2020 s.s.1 c.16 §7]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.790 - Notice to State Forestry Department prior to pesticide application.**

(1) An operator, timber owner or landowner that sends notice under ORS 527.788 of a proposed pesticide application by helicopter to forestland shall notify the State Forestry Department prior to the pesticide application by helicopter being made. A notice under this section must:

- (a) Be made by electronic communication to a department reporting system;
  - (b) Be sent to the department no later than 7 p.m. on the day preceding the pesticide application;
  - (c) Specify the day following the notice as a day for pesticide application by helicopter;
  - (d) Identify the forestland units to receive pesticide application on the specified day; and
  - (e) Contain any additional information required by State Board of Forestry rules.
- (2) The sending of a notice under subsection (1) of this section does not limit the number of days on which a pesticide application by helicopter may be made. However, a separate notice is required for each day that a pesticide application by helicopter is to be made. The sending of a notice under subsection (1) of this section does not require that a pesticide application identified in the notice be conducted.
- (3) Upon receipt of a notice under this section, the department shall send the schedule information for the pesticide application and forestland unit identification to the electronic mail address or telephone number of each nearby recipient to which the department sent notice of the proposed pesticide application under ORS 527.789. [2020 s.s.1 c.16 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.791 - Verifying completion of pesticide application.**

- (1) If a forestland unit identified in a notice sent under ORS 527.790 receives an incomplete pesticide application on the date specified in the notice, the operator, timber owner or landowner shall send a notice of incompleteness to a State Forestry Department reporting system no later than 24 hours after the end of the date specified for the application in the notice. The notice of incompleteness shall consist of designating the forestland units to which an incomplete pesticide application by helicopter was made. Entry of a notice of incompleteness does not affect the requirement to send notice under ORS 527.790 before completing the pesticide application.
- (2) An operator, timber owner or landowner that sends a notice under ORS 527.790 shall send a completion verification to a department reporting system no later than 24 hours after the completion of the pesticide application. The completion verification shall consist of designating the forestland units to which the pesticide application by helicopter was made.
- (3) The department shall make an electronic listing of the forestland units that were identified in the notice under ORS 527.790 available to the operator, timber owner or landowner in a format that allows the operator, timber owner or landowner to electronically designate:
- (a) Forestland units from the list that have received an incomplete pesticide application, when sending a notice of incompleteness; and
  - (b) Forestland units from the list on which pesticide application is complete, when sending a completion verification. [2020 s.s.1 c.16 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.792 - Designation of forestland units.**

- (1) If the State Forestry Department receives a notice under ORS 527.790, at the beginning of the 90-day period identified in the notice, the department shall designate the forestland units identified in the notice as being in available status. Except as provided in subsection (2) of this section, the department shall terminate the available status of a forestland unit after 90 days.
- (2) Upon receiving a notice under ORS 527.790 specifying a date on which a pesticide application by helicopter is to be made, the department shall change the designation of any forestland unit identified in the notice to pending status.
- (3) Upon receiving a notice of incompleteness under ORS 527.791, the department shall change the designation of any forestland unit identified in the notice to incomplete status.
- (4) Upon receiving a completion verification under ORS 527.791, the department shall change the designation of any forestland unit identified in the completion verification to completed status.
- (5) The department shall change the designation of a forestland unit from pending status if, at 11:59 p.m. on the day following the pesticide application date specified for the forestland unit in a notice under ORS 527.790, the department has not received a notice of incompleteness or completion verification for the forestland unit. Subject to subsection (1) of this section, the department shall return a forestland unit described in this subsection from pending status to available status. [2020 s.s.1 c.16 §11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.793 - Failure to send notice; penalties.**

- (1) As used in this section, "spray season" means a period that:
- (a) Begins on January 1 and ends on June 30 in the same calendar year; or
  - (b) Begins on July 1 and ends on December 31 in the same calendar year.
- (2) If an operator, timber owner or landowner fails to timely send a notice under ORS 527.790 or timely send a notice of incompleteness or completion verification under ORS 527.791 for one or more forestland units, or any combination of such failures on the same day:
- (a) For the first day during a spray season on which one or more failures occur, the State Forestry Department shall issue the

landowner a warning.

(b) For the second day during a single spray season on which one or more failures occur, the department shall assess the landowner a civil penalty of \$1,000.

(c) For a third day or any subsequent day during a single spray season on which one or more failures occur, the department shall assess the landowner a civil penalty of \$5,000 per day. [2020 s.s.1 c.16 §10]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.794 - Department reporting system.**

(1) As used in this section, "department reporting system" has the meaning given that term in ORS 527.786.

(2) The State Forestry Department shall develop a system to allow nondepartment messages to nearby recipients described in ORS 527.789 (1), notices under ORS 527.790 and notices of incompleteness or completion verifications under ORS 527.791 to be sent electronically using mobile telephone equipment to access a department reporting system. The department shall make the access system compatible with, at a minimum, the two most commonly used types of mobile telephone operating systems. [2020 s.s.1 c.16 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.795 - Daily spray records; penalties.**

(1) As used in this section:

(a) "Daily spray records" means records required of a pesticide operator under ORS 634.146.

(b) "Geographic information system data" means the electronic location data recorded during a pesticide application by helicopter.

(c) "Health provider" means a person holding a license, certificate or permit issued under Oregon law to provide the diagnosis, treatment or care of disease or injury in the ordinary course of business or practice of a profession, when seeking to provide diagnosis, treatment or care of a patient in response to a suspected exposure of the patient to pesticide.

(d) "Pesticide operator" has the meaning given that term in ORS 634.006.

(2) The Pesticide Analytical and Response Center shall accept requests for a pesticide operator's daily spray records and geographic information system data concerning a pesticide application by helicopter to forestland from:

(a) A unit of state government, as defined in ORS 174.111;

(b) A law enforcement agency, as defined in ORS 181A.010; or

(c) A health provider.

(3)(a) The center shall forward a request received under subsection (2) of this section to the pesticide operator that is the subject of the request. A pesticide operator that receives a request from the center shall send the center the daily spray records and geographic information system data possessed or accessible to the pesticide operator concerning pesticide applications by helicopter to forestland identified in the request.

(b) The pesticide operator shall send the requested daily spray record information to the center no later than 24 hours after receiving the request. The pesticide operator shall send the requested geographic information system data to the center no later than five business days after receiving the request.

(c) Upon receiving requested information from a pesticide operator, the center shall forward the information received to the requesting unit of state government, law enforcement agency or health provider.

(4) Failure of a pesticide operator to timely send records or data as required under subsection (3) of this section is a violation subject to a fine of \$1,000 per request.

(5) Records and data sent or received under this section are not public records for purposes of ORS 192.311 to 192.478. [2020 s.s.1 c.16 §14]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.796 - Interference with pesticide application; penalties.**

(1) As used in this section:

(a) "Interfere":

(A) Means to use force, violence or action that impedes a pesticide application by helicopter to forestland.

(B) Does not mean:

(i) The memorializing of pesticide application activities through photography, videotaping, audiotaping or other creation of an electronic record by a person on public property or on private property where the person has a lawful right to be present; or

(ii) Other activities to the extent that the activities are protected under the First Amendment to the United States Constitution or Article I, section 8, of the Oregon Constitution.

(b) "Nearby recipient" has the meaning given that term in ORS 527.786.

(2) A person that intentionally interferes with a pesticide application by helicopter to forestland commits an unclassified violation punishable by a fine of:

(a) \$1,000, if during the five years before the date of the interference the person has not previously been found to have committed a violation under this section; or

(b) \$5,000, if not more than five years before the date of the interference the person was found to have committed a violation under

this section.

(3) For purposes of this section, there is a conclusive presumption that interference is intentional if performed by a nearby recipient who was sent information under ORS 527.790 (3) concerning the pesticide application. [2020 s.s.1 c.16 §15]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.797 - Limitations on pesticide applications.**

(1) As used in this section:

- (a) "Department reporting system," "pesticide" and "water use qualifying for a spray buffer" have the meanings given those terms in ORS 527.786.
  - (b) "Flowing water" means surface water is present at the time of a pesticide application.
  - (c) "Inhabited dwelling" means a structure or part of a structure used as a home, residence or sleeping place by a person maintaining a household or by two or more persons maintaining a common household, but does not include outbuildings, yard areas or other land associated with the structure.
  - (d) "School" means the campus of:
    - (A) A Head Start program;
    - (B) A public or private institution offering instruction for all or part of prekindergarten through grade 12;
    - (C) The Oregon School for the Deaf;
    - (D) A regional residential academy operated by the Oregon Youth Authority;
    - (E) An education service district or community college; or
    - (F) A public or private college or university.
  - (e) "Sixth-level hydrologic unit" means the cataloging unit level of the 12-digit hydrologic unit mapping system developed by the Federal Geographic Data Committee.
  - (f) "Type D stream" means a stream that has domestic use, but does not have fish use.
  - (g) "Type F stream" means a stream that has fish use or has both domestic use and fish use.
  - (h) "Type N stream" means a stream that does not have domestic use or fish use.
- (2) Notwithstanding ORS 527.672, a person may not directly apply pesticide by helicopter to forestland:
- (a) Less than 300 feet from an inhabited dwelling, unless the landowner is the requester of the application;
  - (b) Less than 300 feet from a school, unless the school board or other governing body for the school is the requester of the application; or
  - (c) Subject to subsection (4) of this section, less than 300 feet from a water intake for a water use qualifying for a spray buffer:
    - (A) Within the same sixth-level hydrologic unit as a water source for water use qualifying for a spray buffer that is registered under ORS 527.787; or
    - (B) Within the same sixth-level hydrologic unit as a water source for water use qualifying for a spray buffer that is identified by the State Forestry Department and for which the location has been recorded in the department reporting system.
- (3) On forestland that is subject to ORS 527.610 to 527.770, a person may not directly apply pesticide by helicopter near a stream:
- (a) That is identified by the department as a Type D stream or Type F stream, within the greatest of:
    - (A) 75 feet;
    - (B) The required vegetated buffer; or
    - (C) A riparian management area existing in State Board of Forestry rules on the July 7, 2020, within which vegetation retention and special management practices are required; or
  - (b) That is identified by the department as a Type N stream and has flowing water, within 50 feet.
- (4) The restrictions in subsection (2)(c) of this section are contingent upon the water intake location being recorded in the department reporting system. [2020 s.s.1 c.16 §16]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.798 - Reporting points of diversion.**

- (1) As used in this section, "department reporting system" and "water use qualifying for a spray buffer" have the meanings given those terms in ORS 527.786.
- (2) The State Forestry Department shall record in the department reporting system any points of diversion inventoried by the Water Resources Department that are:
  - (a) For a water use qualifying for a spray buffer; and
  - (b) Mapped with sufficient precision to allow the State Forestry Department to implement buffers under ORS 527.797 (2)(c).
- (3) The State Forestry Department shall periodically review Water Resources Department inventory information for points of diversion and update State Forestry Department reporting system information as necessary to comply with subsection (2) of this section. [2020 s.s.1 c.16 §20]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.799 - Implementing pesticide application provisions; rules.**

The State Forestry Department may adopt rules to implement the provisions of ORS 527.786 to 527.793, 527.794, 527.795,



527.796, 527.797 and 527.798. [2022 c.33 §51]

Note:

527.799 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711).

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.820 - Just compensation exemption.**

The Legislative Assembly intends that a person is not entitled to just compensation under ORS 195.305 to 195.336 for any restriction placed on the use of real property by a rule adopted or amended by the State Board of Forestry:

(1) As part of the rule package described in ORS 527.711.

(2) After the board has considered reports that pertain to the rule from the Adaptive Management Program Committee and the Independent Research and Science Team described in ORS 527.732 and 527.733. [2022 c.33 §8]

Note:

527.820 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711).

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.822 - Reports to Legislative Assembly.**

The State Board of Forestry shall report annually to a committee or interim committee of the Legislative Assembly related to forestry, in the manner described in ORS 192.245, on progress in implementing the requirements of the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022. [2022 c.33 §52]

Note:

527.822 is repealed only if certain conditions are met. See sections 54 and 60 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711).

Note:

Section 50, chapter 33, Oregon Laws 2022, provides:

Sec. 50. Effect of policies on Indian tribes.

(1) Nothing in sections 1 to 8, 10 to 25, 30 to 39, 42 to 44, 51 and 52 of this 2022 Act and the amendments to ORS 195.308, 496.252, 496.254, 527.620, 527.630, 527.680, 527.685, 527.714, 527.990, 527.992, 610.060 and 610.105 by sections 9, 26 to 29, 40, 41 and 45 to 49 of this 2022 Act:

(a) Affects the treaty or other rights of a federally recognized Indian tribe in Oregon.

(b) Applies to real property that is:

(A) Held in trust by the United States for the benefit of a federally recognized Indian tribe in Oregon or a member of a federally recognized Indian tribe in Oregon;

(B) Owned by a federally recognized Indian tribe in Oregon; or

(C) Owned by an entity that is wholly owned by:

(i) A federally recognized Indian tribe in Oregon; or

(ii) A tribally owned or operated corporation organized pursuant to the Indian Reorganization Act (25 U.S.C. 5101 to 5144).

(2) The State Board of Forestry shall develop a process for a federally recognized Indian tribe in Oregon to elect to join as an applicant for a habitat conservation plan described in section 11 of this 2022 Act, consistent with the terms and requirements applicable to private forestland under the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022. [2022 c.33 §50]

Note:

Section 10, chapter 33, Oregon Laws 2022, provides:

Sec. 10. Landslide modeling.

(1) The Legislative Assembly finds that:

(a) The requirements of the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, are premised on specific landslide modeling developed by a specific contractor.

(b) Implementation of the requirements is contingent on the ability to use the specific landslide modeling.

(c) Implementation of the requirements is time sensitive and requires rapid development of landslide modeling.

(d) Procurement of services pursuant to this section:

(A) Is unlikely to encourage favoritism in awarding public contracts or to substantially diminish competition for public contracts.

(B) Will substantially promote the public interest in a manner that could not otherwise be practically realized through a procurement subject to the requirements of the Public Contracting Code.

(2) The State Forestry Department shall:

(a) Procure services for development and application of the landslide modeling described in chapter 3 and appendix B of the Private Forest Accord Report.

(b) Ensure that the modeling is developed and incorporated into a forest activity electronic reporting and notice system operated by the department:

(A) In time to facilitate compliance with the deadlines described in section 5 (2) and (3) of this 2022 Act.

(B) Not later than May 1, 2023.

(3) The procurement required by this section is not subject to the requirements of the Public Contracting Code. [2022 c.33 §10]

Note:

Sections 11 and 12, chapter 33, Oregon Laws 2022, provide:

Sec. 11.

The State Board of Forestry shall submit to the National Marine Fisheries Service and the United States Fish and Wildlife Service:

(1) A proposed habitat conservation plan consistent with the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022.

(2) An application for an incidental take permit, supported by the habitat conservation plan, for the incidental taking of species addressed in the Private Forest Accord Report. [2022 c.33 §11]

Sec. 12.

(1) On or before December 31, 2022, the State Board of Forestry shall prepare and submit to the National Marine Fisheries Service and the United States Fish and Wildlife Service the habitat conservation plan described in section 11 of this 2022 Act.

(2) The board shall procure the services of a person to develop and draft the habitat conservation plan.

(3) Pursuant to ORS 279A.050 (6)(n) and notwithstanding ORS 279B.050, 279B.055, 279B.060, 279B.065 and 279B.070, the board may award a contract for the services without undertaking a process of competitive sealed bidding or competitive sealed proposals or soliciting competitive price quotes or competitive proposals.

(4) The board shall ensure that representatives of the authors of the Private Forest Accord Report dated February 2, 2022, and published by the State Forestry Department on February 7, 2022, are:

(a) Regularly and closely consulted concerning the development and drafting of the habitat conservation plan.

(b) Consulted if any question arises concerning the intent of the Private Forest Accord Report.

(5) The habitat conservation plan and application for an incidental take permit described in section 11 of this 2022 Act do not constitute rules for purposes of ORS 183.310 to 183.410 or 527.714. [2022 c.33 §12]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.840 - Program of assistance related to loss of tree canopy.**

(1) The State Forestry Department shall develop and implement a program to provide technical and financial assistance to public bodies as defined in ORS 174.109, tribal governments, watershed councils as defined in ORS 541.890 and community-based organizations for planning for, responding to and recovering from damage to habitats and urban tree canopies due to pests, diseases or other natural or human-created conditions that lead to loss of tree canopy, including but not limited to:

(a) Emerald ash borer infestation;

(b) Japanese beetle infestation;

(c) Sudden Oak Death;

(d) Pine bark beetle infestation;

(e) Climate change;

(f) Drought; or

(g) Wildfire.

(2) The program may include, but need not be limited to, assistance for:

(a) Vulnerability assessments;

(b) Tree inventories;

(c) Response and recovery plan development;

(d) Community engagement and community-led strategies; and

(e) Tree removal and replanting with species that are resistant to disease, pest and drought.

(3) The department shall coordinate with the State Department of Agriculture to support program activities related to any pests or diseases subject to quarantine under the laws of this state or of the United States. [2023 c.442 §29]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.990 - Criminal penalties.**

(1) Subject to ORS 153.022, violation of ORS 527.670, 527.672, 527.676, 527.740, 527.750, 527.755, 527.788 or 527.797, or any rule promulgated under ORS 527.706, 527.710 or 527.711, is a Class A misdemeanor. Each day of operation in violation of an order issued under ORS 527.680 (3) shall be deemed to be a separate offense.

(2) Violation of ORS 527.260 (1) is a Class A misdemeanor. Violation of ORS 527.260 (3) is a Class C misdemeanor. [Amended by 1953 c.262 §2; 1971 c.316 §14; 1987 c.919 §32; 1991 c.686 §10; 1995 s.s. c.3 §39h; 1996 c.9 §10; 1999 c.1051 §317; 2011 c.597 §223; 2015 c.833 §22; 2022 c.33 §48]

Note:

The amendments to 527.990 by section 73, chapter 33, Oregon Laws 2022, become operative only if certain conditions are met. See sections 54 and 61 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711). 527.990, as amended by section 73, chapter 33, Oregon Laws 2022, is set forth for the user's convenience.

(1) Subject to ORS 153.022, violation of ORS 527.670, 527.672, 527.676, 527.740, 527.750 or 527.755 or any rule promulgated under ORS 527.710 is a Class A misdemeanor. Each day of operation in violation of an order issued under ORS 527.680 (3) shall be deemed to be a separate offense.

(2) Violation of ORS 527.260 (1) is a Class A misdemeanor. Violation of ORS 527.260 (3) is a Class C misdemeanor.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 527 - Pest Control; Forest Practices Section 527.992 - Civil penalties.**

(1) In addition to any other penalty provided by law, any person who fails to comply with any of the following may incur a civil penalty in the amount adopted under ORS 527.685:

(a) The requirements of ORS 527.670, 527.672, 527.676, 527.740, 527.750, 527.755, 527.788 or 527.797.

(b) The terms or conditions of any order of the State Forester issued in accordance with ORS 527.680.

(c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS 527.706, 527.710 or 527.711.

(d) Any term or condition of a written waiver, or prior approval granted by the State Forester pursuant to the rules adopted under ORS 527.710.

(2) Imposition or payment of a civil penalty under this section shall not be a bar to actions alleging trespass under ORS 105.810, nor to actions under ORS 161.635 or 161.655 seeking to recover an amount based on the gain resulting from individual or corporate criminal violations. [1987 c.919 §24; 1995 s.s. c.3 §39i; 1996 c.9 §11; 2003 c.740 §6; 2015 c.833 §23; 2022 c.33 §49]

Note:

The amendments to 527.992 by section 74, chapter 33, Oregon Laws 2022, become operative only if certain conditions are met. See sections 54 and 61 to 64, chapter 33, Oregon Laws 2022 (third note following 527.711). 527.992, as amended by section 74, chapter 33, Oregon Laws 2022, is set forth for the user's convenience.

(1) In addition to any other penalty provided by law, any person who fails to comply with any of the following may incur a civil penalty in the amount adopted under ORS 527.685:

(a) The requirements of ORS 527.670, 527.672, 527.676, 527.740, 527.750 or 527.755.

(b) The terms or conditions of any order of the State Forester issued in accordance with ORS 527.680.

(c) Any rule or standard of the State Board of Forestry adopted or issued pursuant to ORS 527.710.

(d) Any term or condition of a written waiver, or prior approval granted by the State Forester pursuant to the rules adopted under ORS 527.710.

(2) Imposition or payment of a civil penalty under this section shall not be a bar to actions alleging trespass under ORS 105.810, nor to actions under ORS 161.635 or 161.655 seeking to recover an amount based on the gain resulting from individual or corporate criminal violations.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.010**

[Amended by 1955 c.578 §1; 1959 c.496 §1; renumbered 321.255]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.020**

[Amended by 1959 c.496 §2; renumbered 321.260]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.025**

[1959 c.496 §19; renumbered 321.265]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.030**

[Amended by 1959 c.496 §3; renumbered 321.270]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.040**

[Amended by 1959 c.496 §4; renumbered 321.275]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.050**

[Amended by 1959 c.496 §5; renumbered 321.280]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.060**

[Amended by 1959 c.496 §6; renumbered 321.285]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.070**

[Amended by 1959 c.496 §7; renumbered 321.290]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.080**

[Amended by 1955 c.578 §2; 1959 c.496 §8; 1961 c.627 §25; renumbered 321.295]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.090**

[Amended by 1955 c.578 §3; 1959 c.496 §9; 1961 c.627 §26; renumbered 321.300]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.095**

[1955 c.578 §6; renumbered 321.305]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.100**

[Amended by 1955 c.326 §10; 1959 c.496 §10; renumbered 321.310]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.110**

[Amended by 1953 c.326 §10; 1959 c.496 §11; 1961 c.654 §1; renumbered 321.315]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.115**

[1959 c.496 §13; renumbered 321.320]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.120**

[Amended by 1953 c.326 §10; 1955 c.578 §4; 1959 c.496 §14; renumbered 321.325]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.140**

[Amended by 1959 c.496 §15; renumbered 321.330]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.150**

[Amended by 1959 c.496 §16; renumbered 321.335]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.160**

[Amended by 1953 c.326 §10; 1959 c.496 §17; renumbered 321.340]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.170**

[Amended by 1953 c.326 §10; renumbered 321.345]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.180**

[Amended by 1953 c.326 §10; renumbered 321.350]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.190**

[Amended by 1953 c.326 §10; 1959 c.496 §18; 1961 c.533 §56; renumbered 321.355]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 528 - (Former Provisions) Section 528.990**

[Renumbered as part of 321.991]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.005 - Definitions for ORS 530.010 to 530.170 and 530.210 to 530.280.**

As used in ORS 530.010 to 530.170 and 530.210 to 530.280:

(1) "Bond-related costs" means:

- (a) The costs and expenses of issuing, administering and maintaining bonds, including but not limited to paying principal and interest, and premiums if any, on general obligation or revenue bonds, redeeming general obligation or revenue bonds, paying amounts due in connection with credit enhancements or any instruments authorized by ORS 286A.580 (6) and paying the administrative costs and expenses of the State Treasurer and the State Forestry Department, including costs of consultants or advisors retained by the treasurer or the department for the bonds;
- (b) The costs of funding any bond reserves;
- (c) Capitalized interest for bonds;
- (d) Rebates or penalties due to the United States in connection with the bonds; and
- (e) Any other costs or expenses that the State Treasurer or the State Forestry Department determines are necessary or desirable in connection with issuing, administering or maintaining the bonds.

(2) "Reforestation" means to increase tree stocking to a level that meets or exceeds the stocking standards relating to productivity specified by the State Board of Forestry by rule. [2009 c.831 §1]

Note:

530.005 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 530 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.010 - State Board of Forestry authorized to acquire lands; limitations; lands designated as state forests.**

- (1) The State Board of Forestry, referred to in this chapter as the board, in the name of the State of Oregon, may acquire, by purchase, donation, devise or exchange from any public, quasi-public or private owner, lands which by reason of their location, topographical, geological or physical characteristics are chiefly valuable for the production of forest crops, watershed protection and development, erosion control, grazing, recreation or forest administrative purposes.
- (2) The board shall not acquire any land without prior approval, duly made and entered, of the county court or board of county commissioners of the county in which the lands are situated.
- (3) Lands acquired under the provisions of this section shall be designated as state forests. [Amended by 1953 c.43 §2; 1967 c.396 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.020 - Title to acquired lands; encumbrances; Attorney General approval of title; cure of defects; recording.**

Title to all lands acquired by the State Board of Forestry under ORS 530.010 shall be free and clear of all encumbrances except easements of rights of way and reservations or exceptions of gas, oil, coal, mineral and timber rights, unless the board determines other encumbrances will not unduly limit the management of the lands consistent with ORS 530.010 to 530.170. All titles shall be approved by the Attorney General before conveyance is accepted. However, the Attorney General may approve title to lands proposed to be acquired from counties under the provisions of ORS 530.030 or proposed to be acquired by donation or devise when, in the opinion of the Attorney General, existing defects of title are of formal nature and may be cured by suit to quiet title. In case of acquisition of lands with defective title, the Attorney General may institute suit to quiet title to such lands, and all costs in connection therewith shall be a proper charge against the funds of the board. All deeds, abstracts, title insurance policies, and other evidences of title to lands acquired under ORS 530.010 to 530.040 shall be deposited with the Secretary of State. All deeds shall promptly be recorded in the county in which the lands are situated. [Amended by 1955 c.421 §1; 2009 c.831 §9]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.025 - Interests in acquired lands; management of lands; sales.**

For acquisitions made by the State Board of Forestry on or after July 28, 2009:

- (1) The board may hold and manage lands alone or in cooperation with other entities, including but not limited to community forest authorities under ORS 530.600 to 530.628.
- (2) The board may acquire lands or partial interest in lands, including but not limited to conservation easements.
- (3) Subject to any covenants under ORS 530.130 or 530.147, the board may sell lands or partial interest in lands, including but not limited to conservation easements, to other parties if the board determines that the other parties are better situated to manage the

lands for the long term. [2009 c.831 §2]

Note:

530.025 was added to and made a part of 530.010 to 530.170 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.030 - Conveyance of county lands to state; consideration; adjustment of delinquent fire patrol liens; contracts concerning removal of timber and disposition of proceeds from sale thereof.**

(1) The county court or board of county commissioners of any county may convey to the state for state forests any lands heretofore or hereafter acquired by such county through foreclosure of tax liens, or otherwise, that are within the classification of lands authorized to be acquired under ORS 530.010, if the State Board of Forestry deems such lands necessary or desirable for acquisition, in consideration of the payment to such county of the percentage of revenue derived from such lands as provided in ORS 530.110.

In connection with any such conveyance, the State Board of Forestry shall have authority to make equitable adjustments with any county of accrued delinquent fire patrol liens on lands heretofore or hereafter acquired by such county by foreclosure of tax liens.

(2) As to such lands acquired by the State Board of Forestry with title to the timber remaining in the county for a designated period of time, the State Forester may enter into contracts with the county to supervise the removal and sale of such timber, and under such contracts the gross proceeds of the sale thereof shall be disposed of as follows:

(a) Ten percent of such gross proceeds shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used exclusively for the purposes and under the limitations set out in ORS 530.110 (1)(a).

(b) A percentage of such gross proceeds shall be accepted by the State Forester, pursuant to written contract with the county authority, as compensation for the supervision and management of county-owned timber. The moneys so derived shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used exclusively for the supervision and management of state forests acquired pursuant to ORS 530.010. [Amended by 1953 c.65 §5; 1957 c.83 §13; 1965 c.423 §1; 2007 c.71 §171]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.040 - Exchange of forestland or timber; reservations; hearing; approval of title; status of lands received.**

(1) It is desirable that lands acquired under the provisions of ORS 530.010 shall be consolidated in areas wherever possible through exchanges of land. It is recognized that the management of state forests will be more economically feasible through such consolidation.

(2) In order to accomplish the objectives of subsection (1) of this section, the State Board of Forestry may exchange any land acquired under the provisions of ORS 530.010, or may exchange the timber on such land, for land of approximately equal aggregate value, situated in the same county, when such exchange is in furtherance of the purposes of ORS 530.010. However, the State Board of Forestry may exchange land or timber situated in one county or counties for land situated in another county or counties if such exchange is first approved by the county court or board of county commissioners of each county involved. Either party to any such exchange may make reservations of easements, rights of use and other interests and rights. Under the authority granted in this section, the State Board of Forestry may provide or receive, in addition to land to be exchanged, a monetary consideration where necessary to make the values comply with this subsection.

(3) Before making any such exchange, the State Board of Forestry shall hold a hearing thereon at the courthouse of the county in which such lands are situated and shall give notice of the time and place thereof by publication in two successive issues of a newspaper of general circulation published in such county. The notice shall contain a description of the lands to be given and to be received in the proposed exchange. However, no such exchange shall be made until the title to the lands to be received has been approved by the Attorney General.

(4) All lands received in exchange shall have the same status and be subject to the same provisions of law as the lands given in exchange therefor. [Amended by 1955 c.421 §2; 1959 c.103 §1; 1967 c.396 §2; 2007 c.71 §172]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.050 - Management of lands acquired; powers of forester; rules.**

Under the authority and direction of the State Board of Forestry except as otherwise provided for the sale of forest products, the State Forester shall manage the lands acquired pursuant to ORS 530.010 to 530.040 so as to secure the greatest permanent value of those lands to the state, and to that end may:

(1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with persons owning lands within the state in the protection of the lands and enter into all agreements necessary or convenient for the protection of the lands.

(2) Sell forest products from the lands, and execute mining leases and contracts as provided for in ORS 273.551.

(3) Enter into and administer contracts for the sale of timber from lands owned or managed by the State Board of Forestry and the State Forestry Department.

(4) Enter into and administer contracts for activities necessary or convenient for the sale of timber under subsection (3) of this section, either separately from or in conjunction with contracts for the sale of timber, including but not limited to activities such as

timber harvesting and sorting, transporting, gravel pit development or operation, and road construction, maintenance or improvement.

(5) Permit the use of the lands for other purposes, including but not limited to forage and browse for domestic livestock, fish and wildlife environment, landscape effect, protection against floods and erosion, recreation, and protection of water supplies when, in the opinion of the board, the use is not detrimental to the best interest of the state.

(6) Grant easements, permits and licenses over, through and across the lands. The State Forester may require and collect reasonable fees or charges relating to the location and establishment of easements, permits and licenses granted by the state over the lands. The fees and charges collected shall be used exclusively for the expenses of locating and establishing the easements, permits and licenses under this subsection and shall be placed in the State Forestry Department Account.

(7) Require and collect fees or charges for the use of state forest roads. The fees or charges collected shall be used exclusively for purposes of maintenance and improvements of the roads and shall be placed in the State Forestry Department Account.

(8) Reforest the lands and cooperate with the counties, and with persons owning timberlands within the state, in the reforestation, and make all agreements necessary or convenient for the reforestation.

(9) Require such undertakings as in the opinion of the board are necessary or convenient to secure performance of any contract entered into under the terms of this section or ORS 273.551.

(10) Sell rock, sand, gravel, pumice and other such materials from the lands. The sale may be negotiated without bidding, provided the appraised value of the materials does not exceed \$2,500.

(11) Enter into agreements, each for not more than 10 years duration, for the production of minor forest products.

(12) Establish a forestry carbon offset program to market, register, transfer or sell forestry carbon offsets. In establishing the program, the forester may:

(a) Execute any contracts or agreements necessary to create opportunities for the creation of forestry carbon offsets; and

(b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of forestry carbon offsets.

(13) Establish a forestry renewable woody biomass conversion program to market, register, transfer or sell forestry woody biomass conversion offtakes. In establishing the program, the forester may:

(a) Execute any contracts or agreements necessary to create opportunities for the creation of forestry woody biomass conversion offtakes; and

(b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of forestry woody biomass conversion offtakes.

(14) Do all things and make all rules, not inconsistent with law, necessary or convenient for the management, protection, utilization and conservation of the lands. [Amended by 1953 c.65 §5; 1955 c.421 §3; 1957 c.228 §1; 1959 c.141 §1; 1963 c.475 §1; 1965 c.128 §1; 1967 c.396 §3; 1983 c.759 §9; 2001 c.752 §8; 2005 c.103 §37; 2015 c.447 §1; 2023 c.442 §31]

Note:

Section 30, chapter 442, Oregon Laws 2023, provides:

Sec. 30. Low carbon fuels derived from woody biomass residues.

(1) The College of Forestry at Oregon State University, in collaboration with the Department of Environmental Quality and the State Forestry Department, shall conduct research to develop methodologies and data necessary to establish fuel pathways, consistent with the clean fuels program adopted under ORS 468A.265 to 468A.277, for low carbon fuels derived from woody biomass residues from forestry operations. In carrying out the research under this section, the College of Forestry shall:

(a) Coordinate with the Department of Environmental Quality to ensure that the methodologies and data are consistent with the methodologies and data used to determine lifecycle greenhouse gas emissions and carbon intensity under the clean fuels program.

(b) Research any methods to convert biomass feedstocks to low carbon fuels, with particular focus on wood slash piles that would otherwise be burned on lands managed by the State Forester or lands used by the College of Forestry to carry out research.

(2) No later than July 31, 2025, the College of Forestry shall submit its findings in a report, in the manner provided by ORS 192.245, to the interim committees of the Legislative Assembly related to natural resources. The report must include, but need not be limited to:

(a) Progress in establishing fuel pathways and carbon intensity values for low carbon fuels derived from woody biomass residues from forestry operations; and

(b) The impact converting woody biomass residues to low carbon fuels has on:

(A) Greenhouse gas and black carbon emissions;

(B) Snowpack in the Cascade Mountains;

(C) Water quality and drought; and

(D) Wildfire.

(3) The College of Forestry may collaborate with the Department of Environmental Quality or any other relevant state agency to prepare the report described in subsection (2) of this section. [2023 c.442 §30]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.053 - Holiday recreational use; armed forces personnel and veterans.**

If, under ORS 530.050, the State Forester permits the use of lands acquired pursuant to ORS 530.010 to 530.040 for recreation, the State Forester shall authorize the recreational use of the lands without charge to the following persons, upon showing of proper

identification and any documentation issued by the State Parks and Recreation Department that is issued to serve as proof of eligibility to use a state park, individual campsite or day use fee area without charge under ORS 390.124 (2)(c)(D):

(1) Disabled veterans; and

(2) Persons on leave from military active duty status on Memorial Day, Independence Day or Veterans Day. [2017 c.729 §2]

Note:

530.053 was added to and made a part of ORS chapter 530 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.055 - Leasing lands acquired.**

Except as limited in this section but subject to separate sale of forest products under ORS 530.059, lands acquired under ORS 530.010 to 530.040 may be leased by the State Forester to any person when approved by the State Board of Forestry and for purposes deemed by the board to be more in the public interest than the purposes for which the land was acquired. [1965 c.128 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.059 - Procedure for sales of forest products; surety deposit required of bidder.**

(1) Before offering any forest products for sale under authority of ORS 530.050 or 530.500, the State Forester shall cause the forest products to be appraised. Should the appraised value of the forest products be in excess of \$25,000, the State Forester shall not sell the same to a private person, firm or corporation, except after giving notice of the sale as required by this section, and affording an opportunity for competitive bidding either by public auction or through sealed bids, or a combination of both; provided, however, that such notice and opportunity for competitive bidding will not be required for sales in connection with:

(a) Experimental or research projects in the field of forestland management or forest product utilization.

(b) The removal, injury or destruction of forest products necessitated by any grant of easement or right of way, or necessitated by a permit or license to use a right of way, including trees which may endanger the use of such easement or way.

(c) The removal of forest products with an appraised value of less than \$100,000 that, as a result of an act of nature or other unforeseen circumstance:

(A) Pose a threat to the health of the forests, waterways or forest road infrastructures; or

(B) Will lose value as a result of potential theft.

(d) The removal of forest products with an appraised value of less than \$100,000 to facilitate the development, placement or maintenance of forest road infrastructures.

(2) The State Forester shall give the notice required by subsection (1) of this section by mail to all persons requesting such notice and in such other media of communication as the State Forester may deem advisable. The State Forester shall maintain a mailing list with the names and addresses of persons who have requested to receive State Forestry Department notices of timber sales. The notice shall describe the forest products to be sold and the land on which such products are situated, state the minimum price at which the same may be sold, and contain a brief statement of the terms of the sale. As a provision of each sale, the State Forester shall reserve the right to accept or reject any or all bids.

(3) Prior to or at the time the State Forester receives bids, each bidder shall furnish the State Forester with a certified check, cashier's check, money order, surety bond, cash deposit, assignment of surety, irrevocable letters of credit or other securities as determined acceptable by the State Forester in an amount designated by the State Forester. The amount designated by the State Forester may not exceed 10 percent of the minimum price of the forest products to be sold or \$500,000, whichever is less. The State Forester shall retain the amounts furnished by the successful bidder as a credit toward payment of the purchase price of the forest products sold. The State Forester shall return the amounts furnished by an unsuccessful bidder after determination of the successful bid. Any checks, bonds or orders furnished under this subsection shall be made payable to the State of Oregon.

(4) If the provisions of this section have been complied with, and no satisfactory bid has been received, or the bidder fails to complete the purchase, the State Forester may, at any time, during a period of six months after the advertised date of sale, sell the forest products in such manner as the forester deems appropriate, but the sale price shall not be less than the minimum terms offered in the notice of sale or the highest bid received, whichever is the larger amount. [1959 c.141 §4; 1963 c.475 §2; 1967 c.396 §4; 1975 c.185 §7; 1983 c.759 §10; 1987 c.324 §1; 1995 c.375 §3; 1997 c.285 §1; 2014 c.47 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.061 - Surety deposit required of successful purchaser.**

The State Forester may require the successful purchaser at a forest products sale to provide a surety bond, cash deposit, assignment of surety, irrevocable letters of credit or other securities as determined acceptable by the State Forester for the purpose of securing performance by the purchaser. The required amount of a bond, deposit, assignment, letter of credit or other security may not be more than \$500,000. Claims by any person against the bond, deposit, assignment, letter of credit or other security shall be made to the State Forester for determination. If the claim is disputed, the State Forester may request settlement of the claim through compromise or mediation or require that the claim be litigated. Unless there is a claim awaiting determination, the State Forester shall return any unexpended amount from the bond, deposit, assignment, letter of credit or other security no later than 180 days after the earlier of the completion of operations under the sales contract or the termination date in the sales contract. [2014 c.47 §2]



**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.065 - Modifying timber sale contracts.**

(1) During the period of a timber sale contract made under ORS 530.059, either party may propose to change or modify the terms of the contract if unforeseen circumstances develop. As used in this subsection, "unforeseen circumstances" means acts of nature or other unforeseen circumstances or conditions that:

(a) Affect the nature or scope of the work to be performed or volume to be harvested under the terms of the sale contract made by the State Forester; or

(b) Require additional work or harvest in an area adjacent to a timber sale made by the State Forester.

(2) The State Forester is hereby authorized to change or modify the terms or conditions of the contract in the event of unforeseen circumstances requiring such change or modification under subsection (1) of this section only when:

(a) Such change or modification is in the best interest of the State of Oregon; and

(b) The purchaser of the timber sale agrees that the proposed change or modification will maintain an equitable contractual relationship between the parties. [1965 c.128 §2; 1983 c.759 §11; 1997 c.285 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.075 - Validation of state acquisition of county land; purposes for which land may be used; disposition of revenue.**

(1) Notwithstanding ORS chapter 275 or any other law, deeds of conveyance or other instruments transferring county forests, public parks or recreational areas, from a county to the State of Oregon, either acting by and through or for the use and benefit of the State Board of Forestry, are validated and shall be conclusive evidence of the transfer of such lands from the county to the state.

(2) The State Board of Forestry shall use, manage and develop such lands for the purposes designated in ORS 275.320 if such lands are suitable for such purposes; otherwise, the lands shall be used for the purposes stated in ORS 530.010 and any revenue derived from the sale of forest products from such lands shall be disposed of in accordance with the provisions of ORS 530.110 (2). In other instances where the county received title to the land from a grantor with the provision that the land be used for particular purposes, this section shall not be construed to obviate such purposes. [1963 c.475 §3]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.110 - Distribution of revenues from lands acquired under ORS 530.010 to 530.040.**

(1) All revenues derived from lands acquired without cost to the state, or acquired from counties pursuant to ORS 530.030, shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used in accordance with the following distribution:

(a) Fifteen percent shall be credited to the State Forests Protection Subaccount of the State Forestry Department Account until the amount in such subaccount reaches \$475,000. Thereafter, the revenues shall be disposed of as stated in paragraphs (b) and (c) of this subsection, unless needed to maintain the \$475,000 level. All moneys in the State Forests Protection Subaccount are continuously appropriated to the State Forester who may use such money under the following priorities:

(A) First, in addition to or in lieu of other moneys available, to pay the cost of protection, as determined under ORS 477.270, for lands acquired under ORS 530.010 to 530.040.

(B) Second, to provide moneys needed for activities authorized by subsection (3) of this section.

(C) From remaining moneys, to pay costs incurred in the suppression of fire originating on or spreading from an operation area, as defined in ORS 477.001, on state-owned forestland acquired under ORS 530.010 to 530.040. The State Forester shall make payments with approval of the State Board of Forestry for such fire suppression costs, except that no payments shall be made for such costs or portion thereof when other parties are responsible under law or contracts for the payment of such costs.

(b) Seventy-five percent of all such revenues remaining after the percentage disposed of as stated in paragraph (a) of this subsection, shall be disposed of as provided in ORS 530.115.

(c) Twenty-five percent of all such revenues remaining after the percentage disposed of as stated in paragraph (a) of this subsection, shall be used for the purposes set out in subsection (3) of this section.

(2) Except as provided in ORS 530.147 and 530.280, all revenues from lands other than lands designated in subsection (1) of this section, acquired under ORS 530.010 to 530.040, shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used in accordance with the following distribution:

(a) Until each legal subdivision of the lands has been credited with an amount equal to the purchase price thereof, the revenues shall reimburse the State Forestry Department Account. If sufficient revenue to reimburse the State Forestry Department Account is not generated from the purchased parcels within five years from the date of acquisition, the State Forester, with the consent of the affected county, shall deduct all or portions of the unreimbursed purchase costs from the revenue distributed to that county in accordance with ORS 530.115 (1). After the State Forestry Department Account has been reimbursed for the purchase price of the lands, the revenue from the lands shall be distributed according to the formula specified in paragraphs (b), (c) and (d) of this subsection.

(b) The percentage required under subsection (1)(a) of this section shall be credited to the State Forests Protection Subaccount, and the revenues shall be disposed of as stated in paragraphs (c) and (d) of this subsection.

(c) Seventy-five percent of all such revenues remaining after paragraphs (a) and (b) of this subsection have been complied with, shall be disposed of as provided in ORS 530.115.

(d) Twenty-five percent of all such revenues remaining after the percentage disposed of as stated in paragraphs (a) and (b) of this subsection, shall be used for the purposes set out in subsection (3) of this section.

(3) Unless otherwise consented to in advance and in writing by the counties from which the state has acquired lands without cost to the state or pursuant to ORS 530.130, the moneys in the State Forestry Department Account derived from those percentages of revenues set out in subsections (1)(c) and (2)(d) of this section shall be used exclusively for the following purposes and in the following order:

(a) First, for the payment of bond related costs for bonds issued under ORS 530.140 prior to July 28, 2009.

(b) Second, to the Forest Acquisition County Reimbursement Fund to the extent necessary for paying tax revenue reimbursements to counties under ORS 530.175.

(c) Third, for such other purposes as are necessary in carrying out ORS 530.010 to 530.110. [Amended by 1953 c.65 §5; 1957 c.83 §14; 1965 c.317 §6; 1965 c.423 §2; 1969 c.428 §1; 1991 c.459 §423; 1991 c.876 §1; 1997 c.249 §180; 2007 c.911 §8; 2009 c.831 §§10,11]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.115 - Disposition of certain moneys described in ORS 530.110; disposition of forest product rehabilitation revenues.**

(1) Except as set forth in subsection (2) of this section, moneys described in ORS 530.110 (1)(b) and (2)(c) shall be credited to the county in which the lands are situated and shall be paid quarterly to the county by a warrant drawn as provided by law, pursuant to claim therefor, duly approved by the State Board of Forestry. Payment shall be made on or before the last day of each month following the end of the calendar quarters ending on March 31, June 30, September 30 and December 31. Money received under this subsection by the county shall be applied in the following order:

(a) The county general fund shall be reimbursed for all costs and expenses incurred by the county in the maintenance and supervision of such lands and in any suits by it to quiet its title to lands conveyed to the state; provided that the proceeds so applied shall not be less than 10 percent of the total proceeds received.

(b) Twenty-five percent of the remainder of the money shall be credited and paid into the county school fund created under ORS 328.005.

(c) The remainder of the money shall be by the county prorated and apportioned to the various taxing districts in which the lands are situated in the proportion that the rate of tax levy in each district as shown by the tax levy filed with the assessor for the last year in process of collection, bears to the total rate of tax levy of all such taxing bodies for such year.

(2) After payment of the principal and interest of each bond issue issued pursuant to ORS 530.210 to 530.280, 20 percent of the moneys derived from forest products created through expenditures of moneys available from such bond issue shall be credited to the General Fund until the state is reimbursed for its costs under the bond issue in that county. However, the governing body of the county in its discretion may authorize a higher percentage of that county's allocation for any year to be so credited to the General Fund. [1969 c.428 §3; 1969 c.595 §16; 1973 c.436 §2; 1977 c.840 §17]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.120 - Account of receipts from lands acquired; annual statement to county.**

The State Board of Forestry shall keep an accurate account, by legal subdivisions, of all receipts from lands acquired under the provisions of ORS 530.010 to 530.040 and shall credit to each legal subdivision the revenues derived therefrom. The board shall render annually to each county in which lands acquired under the provisions of ORS 530.010 to 530.040 are situated, a statement, by legal subdivisions, showing the revenues derived from each of such legal subdivisions.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.130 - Issuance of revenue bonds to acquire lands.**

(1) In compliance with the applicable provisions of ORS chapter 286A, the State Board of Forestry may request the State Treasurer to issue the revenue bonds described in ORS 530.140 to acquire any lands as provided in ORS 530.010 and to sell revenue bonds under ORS 530.140 in the manner the State Treasurer deems advisable. The net proceeds derived from the sale of the revenue bonds, after the payment of bond-related costs, shall be paid into the State Treasury and credited to the State Forestry Department Account to be used exclusively for the purpose of acquiring lands as provided by ORS 530.010 and 530.025. The State Forestry Department may establish one or more subaccounts, as it determines are desirable for administration of the net proceeds, in the State Forestry Department Account.

(2) Subject to any management plan adopted under ORS 526.905 for the lands, the board may make covenants related to the operation, use and sale of, or revenues derived from, lands acquired with proceeds of the revenue bonds that the board determines after consultation with the State Treasurer to be necessary or desirable for repayment of the bonds.

(3) Any lands proposed to be acquired under subsection (1) of this section shall be appraised by the State Board of Forestry and the appraisal shall be approved by the Department of State Lands prior to the acquisition of the lands. [Amended by 1957 c.83 §15; 1959 c.209 §1; 1975 c.614 §17; 1981 c.660 §43; 2007 c.783 §213; 2009 c.831 §13]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.140 - Forest development revenue bonds.**

(1) The State Board of Forestry may request the State Treasurer to sell revenue bonds of the State of Oregon, to be known as Oregon forest development revenue bonds, in an amount authorized under ORS 286A.035. The bonds shall not constitute a general obligation of the state, nor be a lien on any of the lands acquired by the state under ORS 530.010.

(2) The bonds shall bear interest at a rate to be determined by the State Treasurer. [Amended by 1957 c.83 §16; 2007 c.783 §213a]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.143 - Revenue bond refunding.**

Revenue bonds issued under ORS 530.140 may be refunded as provided under ORS chapter 286A. [2009 c.831 §5]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.147 - Forest Development Revenue Bond Fund.**

(1) The Forest Development Revenue Bond Fund is established separate and distinct from the General Fund. Interest earned by the Forest Development Revenue Bond Fund shall be credited to the fund. Moneys in the fund may be invested as provided in ORS 286A.025 and 293.701 to 293.857. All moneys in the fund are continuously appropriated to the State Board of Forestry for the purposes of paying bond-related costs when due on the revenue bonds issued under ORS 530.140 on or after July 28, 2009.

(2) The Forest Development Revenue Bond Fund may be credited with:

(a) Moneys deposited in the fund from the State Forestry Department Account, to the extent that the State Forestry Department allocates proceeds from the sale of revenue bonds issued on or after July 28, 2009, under ORS 530.140 to the payment of bond-related costs;

(b) Proceeds from the disposal of lands acquired with revenue bonds that were issued on or after July 28, 2009, under ORS 530.140;

(c) Proceeds from the disposal of forest products, as defined in ORS 532.010, minerals or other forest-related values derived from the lands acquired with revenue bonds that were issued on or after July 28, 2009, under ORS 530.140; and

(d) Gifts, grants or any other unrestricted moneys paid to the State Forestry Department or the State Board of Forestry or appropriated by the Legislative Assembly that may be used for the purpose set forth in this section.

(3) The board or the State Forester may make covenants related to, or pledge moneys deposited in, the fund that the board or forester, after consultation with the State Treasurer, determines to be necessary or desirable for the repayment of revenue bonds and the payment of bond-related costs. [2009 c.831 §4]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.170 - Disposition of revenues from lands acquired under former statute.**

Revenues from lands acquired by the state pursuant to section 5, chapter 478, Oregon Laws 1939, shall be disposed of as provided by law at the time of such acquisition. However, the county court or board of county commissioners of any county from which such lands were acquired may, by resolution duly made and entered, and delivery of a certified copy thereof to the State Board of Forestry, elect to have such revenues disposed of as provided in ORS 530.110 (1). [Amended by 1957 c.83 §19; 2007 c.71 §173]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.175 - Forest Acquisition County Reimbursement Fund.**

(1) The Forest Acquisition County Reimbursement Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Forest Acquisition County Reimbursement Fund shall be credited to the fund. Moneys in the Forest Acquisition County Reimbursement Fund are continuously appropriated to the State Forestry Department for use as provided in this section.

(2) The fund shall consist of moneys deposited in the fund pursuant to ORS 530.110 (3).

(3) If the department uses proceeds from bonds issued on or after July 28, 2009, under ORS 530.140 or 530.210 to 530.280, or from lottery bonds that were issued on or after July 28, 2009, to acquire land that immediately prior to acquisition by the department was subject to taxation by a county, the department shall make payments as provided in this section to reimburse the county for the loss of tax revenue from the acquired land. The amount paid to a county under this section shall be the amount by which the tax revenue to the county for the last year in which the acquired land was taxable exceeds the amounts distributed to the counties under ORS 530.110 (1)(b) or (2)(c) from revenue generated by that land. However, if in any year the amounts distributed under ORS 530.110 (1)(b) or (2)(c) from revenue generated by the acquired land equals or exceeds the tax revenue to the county for the last year in which the acquired land was taxable, payments under this section in regard to that land shall terminate and not resume. [2009 c.831 §8]

Note:

530.175 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 530 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State**

**Forests; Community ForestsSection 530.181 - State Forest Acquisition Fund.**

The State Forest Acquisition Fund is established in the State Treasury, separate and distinct from the General Fund. The State Forest Acquisition Fund shall consist of moneys deposited in the fund under section 13, chapter 906, Oregon Laws 2009, and section 16, chapter 624, Oregon Laws 2011, and may include fees, revenues or other income deposited into the fund by the Legislative Assembly. The moneys in the State Forest Acquisition Fund and the interest earnings on moneys in the fund are continuously appropriated to the State Board of Forestry for the purpose of acquiring parcels in the Gilchrist area of Klamath County for use as state forestland. [2009 c.906 §14; 2011 c.624 §17]

Note:

530.181 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 530 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.210 - Definitions for ORS 530.210 to 530.280.**

When used in ORS 530.210 to 530.280, unless the context clearly would be otherwise:

- (1) "Bonds" are the general obligation bonds of the State of Oregon issued pursuant to Article XI-E, Oregon Constitution.
- (2) "Forestland" is any land suitable for the production of forest crops. [Amended by 1955 c.115 §1]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.220 - Oregon Forest Rehabilitation Act.**

ORS 530.210 to 530.280 shall be known as the Oregon Forest Rehabilitation Act.

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.230 - Issuance of general obligation bonds.**

In order to provide funds for the purposes specified in Article XI-E of the Oregon Constitution, the State Board of Forestry may request the State Treasurer to issue bonds in accordance with the provisions of ORS chapter 286A. [Amended by 1981 c.660 §44; 2007 c.783 §214; 2009 c.831 §14]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.240 - Use of proceeds from general obligation bonds.**

The net proceeds, after payment of bond-related costs, arising from the sale of each issue of bonds under ORS 530.210 to 530.280 shall be paid into the State Treasury and credited to the State Forestry Department Account and shall be used exclusively for the rehabilitation, reforestation, management and development of state-owned forestlands and the acquisition of lands for said purposes. Moneys acquired under ORS 530.230 shall be in addition to and not in lieu of moneys regularly appropriated or otherwise made available to the State Board of Forestry for the administration, management and protection of state forestlands. The State Forestry Department may establish one or more subaccounts, as the department determines are desirable for administration of the net proceeds arising from the sale of each issue of bonds, in the State Forestry Department Account. [Amended by 1957 c.83 §20; 2009 c.831 §15]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.250 - State Forester to rehabilitate state forestlands; assistants, equipment and contracts; rules.**

- (1) The State Forester, under the direction of the State Board of Forestry, shall rehabilitate, reforest and develop state-owned forestlands so as to secure the highest permanent usefulness to the whole people of the state. In the management and control of such land, the State Forester may employ assistants and such other help as in the judgment of the State Forester may be necessary and may purchase machinery, equipment and supplies required to accomplish the purposes hereof. The State Forester may enter into any and all contracts, in the name of the board, deemed necessary for the rehabilitation, reforestation and development of said lands.
- (2) The board shall carry out the provisions of ORS 530.210 to 530.280 and may promulgate such rules and regulations and do any other act or thing necessary to meet fully the requirements of such sections.

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.255 - Hardwood species for reforestation.**

- (1) When making reforestation plans for state-owned or state-managed lands the State Forester, insofar as edaphic conditions permit, shall select suitable hardwood species as well as coniferous species.
- (2) Silvicultural practices shall have as their objective the maintenance or improvement of forest health and soil fertility and the production of a continuous supply of coniferous and hardwood timber consistent with sound management of fish, wildlife, recreational and watershed values. [1993 c.346 §2]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State**

**Forests; Community ForestsSection 530.280 - State Forestry General Obligation Bond Fund.**

(1) The State Forestry General Obligation Bond Fund is established separate and distinct from the General Fund. Interest earned by the State Forestry General Obligation Bond Fund shall be credited to the fund. Moneys in the fund may be invested as provided in ORS 286A.025 and 293.701 to 293.857. All moneys in the State Forestry General Obligation Bond Fund are continuously appropriated to the State Forestry Department for the purposes of paying bond-related costs when due on the general obligation bonds issued under Article XI-E of the Oregon Constitution. However, an agreement for exchange of interest rates may not be paid from moneys derived under paragraph (a) of this subsection or from General Fund moneys appropriated under paragraph (d) of this subsection to fulfill a pledge of the full faith and credit of the state set forth in Article XI-E of the Oregon Constitution. The State Forestry General Obligation Bond Fund shall consist of the following:

- (a) All moneys derived from taxes levied under ORS 291.445;
  - (b) All moneys derived from the sale, exchange or use of land acquired pursuant to ORS 530.240;
  - (c) Except as provided in ORS 530.115, all moneys received from the disposal of forest products created through expenditures of moneys available under ORS 530.210 to 530.280 for reforestation; and
  - (d) Any moneys that may be appropriated to the fund by the Legislative Assembly.
- (2) The moneys referred to in subsection (1)(b) and (c) of this section shall be set aside for State Forestry General Obligation Bond Fund purposes until there are no longer any bonds issued under ORS 530.210 to 530.280 outstanding. If no bonds issued under ORS 530.210 to 530.280 are outstanding, the moneys described in subsection (1)(b) and (c) of this section shall be disposed of using the distribution formula described in ORS 530.115 (1)(a) to (c). [Amended by 1955 c.115 §2; 1957 c.83 §21; 1967 c.335 §52; 1969 c.428 §4; 1991 c.220 §14; 1999 c.59 §168; 2009 c.831 §16]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.450 - Withdrawal from sale of Elliott State Forest.**

Any lands in the national forests on February 25, 1913, selected by, and patented to, the State of Oregon, for the purpose of establishing a state forest, hereby are withdrawn from sale except as provided in ORS 530.510. The state forest shall be known as the Elliott State Forest. [1957 c.240 §1]

Note:

The amendments to 530.450 by section 25, chapter 89, Oregon Laws 2022, become operative on January 1, 2024, only if certain conditions are met on or before December 31, 2023. See section 31, chapter 89, Oregon Laws 2022, as amended by section 1, chapter 225, Oregon Laws 2023 (third note following 530.520). 530.450, as amended by section 25, chapter 89, Oregon Laws 2022, is set forth for the user's convenience.

Any lands in the national forests on February 25, 1913, selected by, and patented to, the State of Oregon, for the purpose of establishing a state forest, hereby are withdrawn from sale except as provided in section 14, chapter 89, Oregon Laws 2022. The state forest formerly known as the Elliott State Forest shall be known as the Elliott State Research Forest and managed as described in sections 1 to 21, chapter 89, Oregon Laws 2022.

Note:

Section 24, chapter 89, Oregon Laws 2022, becomes operative on January 1, 2024, only if certain conditions are met on or before December 31, 2023. See section 31, chapter 89, Oregon Laws 2022, as amended by section 1, chapter 225, Oregon Laws 2023 (third note following 530.520). Section 24, chapter 89, Oregon Laws 2022, provides:

Sec. 24.

ORS 530.450 is added to and made a part of sections 1 to 21 of this 2022 Act.  
[2022 c.89 §24]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.460 - Lands suited for growing forest products to be designated Common School Forest Lands and withdrawn from sale.**

(1) The Department of State Lands and the State Board of Forestry shall designate and set aside those lands owned by the State of Oregon, under the jurisdiction of the Department of State Lands, which are primarily suited for the growing of timber and other forest products.

(2) The state-owned lands shall be designated and set aside pursuant to ORS 530.470 and 530.480, and when so designated and set aside, shall be known as the Common School Forest Lands and hereby are dedicated for the primary purposes stated in subsection (1) of this section and shall be withdrawn from sale except as provided in ORS 530.450 to 530.520. [1957 c.240 §2; 1967 c.396 §5]

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.470 - Determination of lands to be designated Common School Forest Lands.**

(1) Periodically as is necessary, the Department of State Lands and the State Board of Forestry shall proceed to designate and set aside Common School Forest Lands as rapidly as forestry data and information are obtained from field examinations of the lands eligible for dedication under ORS 530.450 to 530.520.

(2) Any lands so designated and set aside may, at any time, be returned to their original status by similar actions of said agencies, if

said lands are to be used for higher and better use for the general public, including the sale of said lands where lawful. [1957 c.240 §3; 1967 c.396 §6]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.480 - Legal descriptions of lands; resolutions of State Land Board and State Board of Forestry.**

As the Common School Forest Lands are determined as required by ORS 530.450 to 530.520, such lands shall be described by legal subdivision. The State Land Board and the State Board of Forestry, respectively in their regular meetings, shall by separate board resolutions designate and set aside such lands as a part of the Common School Forest Lands; lands in the Elliott State Forest, as determined by ORS 530.450, shall be similarly described and reserved. A copy of each board resolution certified by the Director of the Department of State Lands or the State Forester, respectively, together with the description of the lands involved, shall be filed with the Secretary of State, who shall keep such copies and descriptions in conjunction with the auditing records of the State Forestry Department Account. [1957 c.240 §4; 1969 c.594 §58]

Note:

The amendments to 530.480 by section 26, chapter 89, Oregon Laws 2022, become operative on January 1, 2024, only if certain conditions are met on or before December 31, 2023. See section 31, chapter 89, Oregon Laws 2022, as amended by section 1, chapter 225, Oregon Laws 2023 (third note following 530.520). 530.480, as amended by section 26, chapter 89, Oregon Laws 2022, is set forth for the user's convenience.

As the Common School Forest Lands are determined as required by ORS 530.460 to 530.520, such lands shall be described by legal subdivision. The State Land Board and the State Board of Forestry, respectively in their regular meetings, shall by separate board resolutions designate and set aside such lands as a part of the Common School Forest Lands. A copy of each board resolution certified by the Director of the Department of State Lands or the State Forester, respectively, together with the description of the lands involved, shall be filed with the Secretary of State, who shall keep such copies and descriptions in conjunction with the auditing records of the State Forestry Department Account.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.490 - Management, control and protection of Common School Forest Lands and Elliott State Forest; easements.**

(1) Notwithstanding the provisions of any other law, or authority granted thereunder, after the State Board of Forestry and State Land Board resolutions and legal descriptions are filed with the Secretary of State as required by ORS 530.480, the State Forester hereby shall be authorized, under the supervision of the State Board of Forestry and the regulations of that board, to manage, control and protect the Common School Forest Lands. Also, notwithstanding the provisions of any other law, or authority granted thereunder, the State Forester hereby is authorized, under the supervision of the State Board of Forestry and the regulations of that board, to manage, control and protect the Elliott State Forest Lands. In each instance the State Forester shall manage, control and protect such forests and forestlands so as to secure the greatest permanent value of the lands to the whole people of the State of Oregon, particularly for the dedicated purposes of the lands and the common schools to which the resources of the lands are devoted.

(2) Easements on, over and across the Common School Forest Lands and the Elliott State Forest Lands may be granted as follows:

(a) Permanent easements determined by the State Forester and State Board of Forestry as necessary to accomplish the dedicated purposes of such lands may be granted by the Department of State Lands.

(b) Easements other than permanent may be granted by the State Forester under joint rules of the State Board of Forestry and Department of State Lands.

(3) The authority granted the State Forester in this section shall not supersede the authority of the Department of State Lands to grant easements on or leases for the Common School Forest Lands and Elliott State Forest Lands for grazing purposes or for the exploration and development of minerals, oil or gas, and any consideration received by the Department of State Lands therefor shall be excepted from the provisions of ORS 530.520. However, the Department of State Lands shall cooperate with the forestry program of the State Forester in granting such easements and leases and make provisions therein for continuing the primary purposes for which such land has been dedicated. [1957 c.240 §5; 2007 c.71 §174]

Note:

The amendments to 530.490 by section 27, chapter 89, Oregon Laws 2022, become operative on January 1, 2024, only if certain conditions are met on or before December 31, 2023. See section 31, chapter 89, Oregon Laws 2022, as amended by section 1, chapter 225, Oregon Laws 2023 (third note following 530.520). 530.490, as amended by section 27, chapter 89, Oregon Laws 2022, is set forth for the user's convenience.

(1) Notwithstanding the provisions of any other law, or authority granted thereunder, after the State Board of Forestry and State Land Board resolutions and legal descriptions are filed with the Secretary of State as required by ORS 530.480, the State Forester hereby shall be authorized, under the supervision of the State Board of Forestry and the regulations of that board, to manage, control and protect the Common School Forest Lands. The State Forester shall manage, control and protect such forests and forestlands so as to secure the greatest permanent value of the lands to the whole people of the State of Oregon, particularly for the dedicated purposes of the lands and the common schools to which the resources of the lands are devoted.

- (2) Easements on, over and across the Common School Forest Lands may be granted as follows:
- (a) Permanent easements determined by the State Forester and State Board of Forestry as necessary to accomplish the dedicated purposes of such lands may be granted by the Department of State Lands.
  - (b) Easements other than permanent may be granted by the State Forester under joint rules of the State Board of Forestry and Department of State Lands.
  - (3) The authority granted the State Forester in this section shall not supersede the authority of the Department of State Lands to grant easements on or leases for the Common School Forest Lands for grazing purposes or for the exploration and development of minerals, oil or gas, and any consideration received by the Department of State Lands therefor shall be excepted from the provisions of ORS 530.520. However, the Department of State Lands shall cooperate with the forestry program of the State Forester in granting such easements and leases and make provisions therein for continuing the primary purposes for which such land has been dedicated.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.500 - Authority of State Forester in management, protection, utilization and conservation of lands and waters; rules.**

In order to accomplish the purposes of ORS 530.490, the State Forester may:

- (1) Protect the lands from fire, disease and insect pests, cooperate with the counties and with persons owning lands within the state in the protection of the lands and enter into all agreements necessary or convenient for the protection of the lands.
- (2) Enter into and administer contracts for the sale of timber from lands owned or managed by the State Board of Forestry and the State Forestry Department.
- (3) Enter into and administer contracts for activities necessary or convenient for the sale of timber under subsection (2) of this section, either separately from or in conjunction with contracts for the sale of timber, including but not limited to activities such as timber harvesting and sorting, transporting, gravel pit development or operation, and road construction, maintenance or improvement.
- (4) Permit the use of the lands for other purposes, including but not limited to fish and wildlife environment, landscape effect, protection against flood and erosion, recreation and production and protection of water supplies when the use is not detrimental to the purpose for which the lands are dedicated.
- (5) Contract with other governmental bodies for the protection of water supplies to facilitate the multiple use of publicly owned water supplies for recreational purposes as well as a source of water for domestic and industrial use.
- (6) Grant permits and licenses on, over and across the lands.
- (7) Reforest the lands and cooperate with persons owning timberlands within the state in the reforestation, and make all agreements necessary or convenient for the reforestation.
- (8) Establish a forestry carbon offset program to market, register, transfer or sell forestry carbon offsets. In establishing the program, the forester may:
  - (a) Execute any contracts or agreements necessary to create opportunities for the creation of forestry carbon offsets; and
  - (b) Negotiate prices that are at, or greater than, fair market value for the transfer or sale of forestry carbon offsets.
- (9) Do all things and make all rules and regulations, not inconsistent with law, necessary or convenient for the management, protection, utilization and conservation of the lands.
- (10) Require such undertakings as in the opinion of the State Forester are necessary or convenient to secure performance of any agreement authorized in ORS 530.450 to 530.520. [1957 c.240 §6; 1959 c.141 §2; 1967 c.396 §7; 1969 c.194 §1; 2001 c.752 §9; 2005 c.103 §38; 2015 c.447 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.510 - Exchanges of land.**

The State Forester may propose and initiate any exchange of land of the Elliott State Forest or Common School Forest Lands, or propose and initiate any exchange of timber on such lands, for land of approximately equal aggregate value, when any such exchange is in the furtherance of the purposes of ORS 530.450 to 530.520. However:

- (1) Any exchange of land of the Elliott State Forest must be for the consolidation of the forest;
- (2) The State Land Board and the State Board of Forestry shall, each separately, approve such exchanges by resolutions of the respective boards; and
- (3) The county court or board of county commissioners of the county, or counties, in which such land is situated, shall approve such exchange, and after such approval the exchanges shall be consummated by legal conveyance from the Department of State Lands.
- (4) Under the authority granted in this section, in addition to land to be exchanged, a monetary consideration may be provided or received where necessary to make the values comply with this section. No exchange shall be made until title to the lands to be received has been approved by the Attorney General. All lands received in exchange shall have the same status and be subject to the same provisions of law as the lands given in exchange therefor. [1957 c.240 §9; 1959 c.141 §5; 1967 c.396 §8; 1969 c.194 §2; 1969 c.594 §59]

Note:

The amendments to 530.510 by section 28, chapter 89, Oregon Laws 2022, become operative on January 1, 2024, only if certain conditions are met on or before December 31, 2023. See section 31, chapter 89, Oregon Laws 2022, as amended by section 1,

chapter 225, Oregon Laws 2023 (third note following 530.520). 530.510, as amended by section 28, chapter 89, Oregon Laws 2022, is set forth for the user's convenience.

(1) The State Forester may propose and initiate any exchange of Common School Forest Lands, or propose and initiate any exchange of timber on such lands, for land of approximately equal aggregate value, when any such exchange is in the furtherance of the purposes of ORS 530.460 to 530.520. However:

(a) The State Land Board and the State Board of Forestry shall, each separately, approve such exchanges by resolutions of the respective boards; and

(b) The county court or board of county commissioners of the county, or counties, in which such land is situated, shall approve such exchange, and after such approval the exchanges shall be consummated by legal conveyance from the Department of State Lands.

(2) Under the authority granted in this section, in addition to land to be exchanged, a monetary consideration may be provided or received where necessary to make the values comply with this section. No exchange shall be made until title to the lands to be received has been approved by the Attorney General. All lands received in exchange shall have the same status and be subject to the same provisions of law as the lands given in exchange therefor.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.520 - Use of receipts; manner of paying administrative expenses.**

(1) Excepting receipts from the easements and leases designated in ORS 530.490 (3), all receipts from the Elliott State Forest and the Common School Forest Lands shall be paid into the Common School Fund and are continuously appropriated to the Department of State Lands for the purposes for which other moneys in the Common School Fund may be used and to reimburse the Common School Forest Revolving Fund as provided in subsection (2) of this section.

(2)(a) The Common School Forest Revolving Fund, in an amount not exceeding \$300,000, is established as a fund, separate and distinct from the General Fund, in the State Treasury. Interest earned by the fund shall be credited to the fund. The revolving fund is continuously appropriated to the State Forester for the payment of administrative expenses incurred by the State Forester in the management, control and protection of the Elliott State Forest and the Common School Forest Lands and in processing the sale of forest products and the disposal of privileges under ORS 530.500. The revolving fund shall be reimbursed at least once each month by submission to the Department of State Lands of a claim for payment approved by the State Forester and payment of the claim to the revolving fund out of the Common School Fund, that payment representing a portion of receipts paid into the Common School Fund under subsection (1) of this section.

(b) As used in paragraph (a) of this subsection, "administrative expenses" means a classification of expenses incurred by the State Forester in performing functions referred to in paragraph (a) of this subsection as a whole, rather than expenses incurred in performing any specific function that is a part of the whole; and it means expenditures recognized as operating costs of a current or past period, including refund of overpayments in the sale of forest products, and capital expenditures for buildings, furniture, fixtures or equipment.

(3) After the end of each six-month period the State Forester shall submit to the Department of State Lands a statement of capital asset account balances as of the end of that period for buildings, furniture, fixtures and equipment held by the State Forester in performing functions referred to in subsection (2)(a) of this section and in which the Common School Fund has a vested interest, showing the amount of that interest. [1957 c.240 §7; 1967 c.421 §203; 1975 c.614 §19; 1977 c.167 §1; 1989 c.966 §59]

Note:

The amendments to 530.520 by section 29, chapter 89, Oregon Laws 2022, become operative on January 1, 2024, only if certain conditions are met on or before December 31, 2023. See section 31, chapter 89, Oregon Laws 2022, as amended by section 1, chapter 225, Oregon Laws 2023 (third note below). 530.520, as amended by section 29, chapter 89, Oregon Laws 2022, is set forth for the user's convenience.

(1) Excepting receipts from the easements and leases designated in ORS 530.490 (3), all receipts from the Common School Forest Lands shall be paid into the Common School Fund and are continuously appropriated to the Department of State Lands for the purposes for which other moneys in the Common School Fund may be used and to reimburse the Common School Forest Revolving Fund as provided in subsection (2) of this section.

(2)(a) The Common School Forest Revolving Fund, in an amount not exceeding \$300,000, is established as a fund, separate and distinct from the General Fund, in the State Treasury. Interest earned by the fund shall be credited to the fund. The revolving fund is continuously appropriated to the State Forester for the payment of administrative expenses incurred by the State Forester in the management, control and protection of the Common School Forest Lands and in processing the sale of forest products and the disposal of privileges under ORS 530.500. The revolving fund shall be reimbursed at least once each month by submission to the Department of State Lands of a claim for payment approved by the State Forester and payment of the claim to the revolving fund out of the Common School Fund, that payment representing a portion of receipts paid into the Common School Fund under subsection (1) of this section.

(b) As used in paragraph (a) of this subsection, "administrative expenses" means a classification of expenses incurred by the State Forester in performing functions referred to in paragraph (a) of this subsection as a whole, rather than expenses incurred in performing any specific function that is a part of the whole; and it means expenditures recognized as operating costs of a current or past period, including refund of overpayments in the sale of forest products, and capital expenditures for buildings, furniture, fixtures or equipment.



(3) After the end of each six-month period the State Forester shall submit to the Department of State Lands a statement of capital asset account balances as of the end of that period for buildings, furniture, fixtures and equipment held by the State Forester in performing functions referred to in subsection (2)(a) of this section and in which the Common School Fund has a vested interest, showing the amount of that interest.

Note:

Sections 1 to 21, chapter 89, Oregon Laws 2022, provide:

Sec. 1. Definitions.

As used in sections 1 to 21 of this 2022 Act, "forest management plan" means a forest management plan that:

(1) Furthers the mission and management policies described in section 2 of this 2022 Act.

(2) Includes a cover map, basic forest stand description data, treatment opportunities, management objectives and a schedule for implementing the forest management plan. [2022 c.89 §1]

Sec. 2. Management of Elliott State Research Forest.

(1) The Elliott State Research Forest shall consist of lands determined by a resolution of the State Land Board, as modified by any subsequent expansion or exchange of lands authorized by section 14 of this 2022 Act.

(2) The mission of establishing the Elliott State Research Forest is to create an enduring, publicly owned, world-class research forest that:

(a) Advances and supports forest health, climate resilience, carbon sequestration, biodiversity, recovery of imperiled species, water quality and quantity, recreational opportunities and local economies.

(b) Is managed to promote collaboration, partnerships, inclusive public processes and equity, consistent with:

(A) Sections 1 to 21 of this 2022 Act;

(B) The applicable habitat conservation plan approved pursuant to the Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 to 1544);

(C) A forest management plan approved by the State Land Board; and

(D) The applicable version of Oregon State University's Elliott State Research Forest Proposal described in section 4 of this 2022 Act.

(3) The management policies for the forest are to:

(a) Further the mission described in subsection (2) of this section.

(b) Support scientific inquiry by Oregon State University or the entity contracted to implement forest management operations as described in section 7 (1)(a) of this 2022 Act.

(c) Allow public access for recreational and educational purposes that is compatible with scientific and conservation purposes and the mission and management policies described in this section.

(d) Advance long-term, operational-scale research, in partnership with the university, on issues including forest management practices, ecosystem function, biodiversity, habitat conservation, water quality and quantity, carbon sequestration, rural livelihoods and the resilience of forests to the impacts of climate change.

(e) Support rural economies through active forest management, timber harvest, recreation and research.

(f) Promote opportunities at all education levels to interact with the forest and advance public understanding of the ecological, economic and social benefits of healthy forest ecosystems.

(g) Seek active partnerships with tribal governments to:

(A) Research and demonstrate traditional and contemporary tribal cultural practices and ecological knowledge related to forest management.

(B) Provide opportunities for tribal governments and tribal members to harvest traditional forest products and engage in traditional tribal cultural practices related to the forest.

(C) Consult on potential impacts on natural, cultural and traditional resources in the forest.

(h) Maintain a financially self-sufficient forest management entity capable of operating and overseeing the forest and necessary infrastructure.

(i) Prioritize collaborative partnerships that recognize both the local and statewide values the forest provides.

(j) Maintain a high level of public accountability and transparency in forest management decisions and operations.

(k) Advance equity and inclusion in all aspects of forest management and operations.

(4) The Elliott State Research Forest Authority shall administer the forest. [2022 c.89 §2]

Sec. 3.

Notwithstanding the operative date specified in section 31 (1)(a) of this 2022 Act [January 1, 2024], the State Land Board shall first determine the lands constituting the Elliott State Research Forest by resolution, as described in section 2 (1) of this 2022 Act, before the operative date specified in section 31 (1)(a) of this 2022 Act. [2022 c.89 §3]

Sec. 4. Oregon State University Elliott State Research Forest Proposal.

(1) The Legislative Assembly finds and declares that Oregon State University's Elliott State Research Forest Proposal was accepted by the State Land Board in December 2020 and amended in April 2021.

(2) The university:

(a) May, after receiving input and approval from the State Land Board and approval from the board of directors of the Elliott State Research Forest Authority, further amend the proposal described in subsection (1) of this section.

(b) Shall make the current version of the proposal publicly available on a university website. [2022 c.89 §4]

Sec. 5. Elliott State Research Forest Authority; board of directors.

(1) For the purpose of providing for the administration of the Elliott State Research Forest in a manner consistent with the mission and management policies described in section 2 of this 2022 Act, there is created the Elliott State Research Forest Authority, as a state agency independent from the Department of State Lands.

(2) The authority shall be governed by a board of directors consisting of seven or nine voting members and the Dean of the College of Forestry at Oregon State University, who shall be a nonvoting member.

(3) The State Land Board shall:

(a) Appoint the voting members for terms of four years and for not more than two consecutive terms.

(b) Fill any vacancy among the voting members by appointing a voting member to serve the remainder of the unexpired term.

(c) Consult with, and consider input from, the university and the existing board of directors when determining whom to appoint to the board of directors.

(d) Endeavor to appoint members who have a full complement of relevant experience or expertise in subjects related to the mission and management policies and operations of the forest and demonstrated interest in the success of the mission and management policies of the forest.

(4) Members of the board of directors are not entitled to compensation but may receive their actual and necessary travel and other expenses incurred in the performance of their official duties. [2022 c.89 §5]

Sec. 6.

(1) On or before September 1, 2023, the Director of the Department of State Lands, the Elliott State Research Forest Advisory Committee formed by the Department of State Lands and Oregon State University shall develop a list of candidates for appointment as the first voting members of the board of directors of the Elliott State Research Forest Authority.

(2) As soon as practicable after the operative date specified in section 31 (1)(a) of this 2022 Act [January 1, 2024], the State Land Board shall appoint the first voting members of the board of directors from the list of candidates described in subsection (1) of this section.

(3) Notwithstanding section 5 (3)(a) of this 2022 Act:

(a) Of the voting members first appointed by the State Land Board under subsection (2) of this section:

(A) Two shall serve for a term ending one year after the date of the appointment.

(B) Two shall serve for a term ending two years after the date of the appointment.

(C) Two shall serve for a term ending three years after the date of the appointment.

(b) A voting member serving a term described in this subsection may be appointed to serve two additional consecutive terms. [2022 c.89 §6]

Sec. 7. Powers and duties of board of directors.

(1) The board of directors of the Elliott State Research Forest Authority shall:

(a) Contract with Oregon State University for implementation of forest management operations consistent with the mission and management policies described in section 2 of this 2022 Act and a biennial operations plan, unless implementation of forest management operations is provided for as otherwise agreed to by the State Land Board, the board of directors and the university.

(b) Ensure that the mission and management policies for the Elliott State Research Forest described in section 2 of this 2022 Act are effectively implemented.

(c) Oversee the operational and fiscal integrity of the authority.

(d) Select an executive director of the authority, for which position the board of directors and the university shall work collaboratively to recruit and nominate candidates in a selection process led by the university.

(e) Oversee the activities of, and determine the delegation of responsibilities to, the executive director.

(f) Determine the scope of biennial operations plans.

(g) Provide input, guidance and direction to the executive director concerning implementation of operations and research programs, consistent with the mission and management policies for the forest described in section 2 of this 2022 Act.

(h) Promote transparency and public participation in decision-making by:

(A) Notwithstanding the timeframe for public notice required by ORS 192.640 (1), and subject to the provisions of ORS 192.660, providing public notice as described in ORS 192.640 (1) of the time, location and agendas for a regular meeting of the board of directors at least seven days before the meeting.

(B) Providing at least 24 hours' notice before a special meeting as described in ORS 192.640 (3).

(C) Ensuring that any written materials being considered by the board of directors at a regular meeting are available to the public at least seven days before the meeting.

(D) Providing opportunities for public comment on agenda items requiring action by the board of directors before the board of directors acts on the agenda items.

(E) Ensuring that copies of written public comments are distributed to members of the board of directors before the board of directors acts.

(F) Providing to the State Land Board and the public, 45 days before the board of directors approves or denies a biennial operations plan, written materials related to the biennial operations plan that contain operational details and guidance sufficient to ensure compliance with relevant management direction described in the applicable forest management plan and habitat conservation plan.

(i) After considering public comments described in paragraph (h) of this subsection, approve or deny:

(A) Annual budgets.

(B) Biennial operations reports.

(C) Biennial operations plans. A biennial operations plan must be consistent with an applicable forest management plan.

(D) Recreation plans. A recreation plan must be consistent with an applicable forest management plan and the mission and management policies described in section 2 of this 2022 Act.

(E) Education plans. An education plan must be consistent with an applicable forest management plan and the mission and management policies described in section 2 of this 2022 Act.

(F) A forest management plan applicable to lands in the forest, and any subsequent amendments to the forest management plan, after receiving input and approval from the State Land Board. The forest management plan or amendments must be consistent with the mission and management policies described in section 2 of this 2022 Act and the applicable version of the university's Elliott State Research Forest Proposal described in section 4 of this 2022 Act.

(G) Any sale of carbon credits or entry into easements or other encumbrances of lands in the forest.

(H) Any expansion or exchange of lands in the forest, after receiving input and approval from the State Land Board.

(I) Any amendments to a habitat conservation plan related to the forest, after receiving input and approval from the State Land Board. The amendments must be consistent with the mission and management policies described in section 2 of this 2022 Act.

(J) Any proposed amendments to the university's Elliott State Research Forest Proposal described in section 4 of this 2022 Act. The amendments must be consistent with the mission and management policies described in section 2 of this 2022 Act.

(K) Any other submission to federal or state agencies that relates to the forest.

(L) Any funding requests made to federal or state agencies or the Legislative Assembly, including any request for issuance of revenue bonds described in section 17 of this 2022 Act or certificates of participation financing described in section 23 of this 2022 Act, or any request related to state-funded debt service.

(j) Submit to the State Land Board biennial programmatic reviews of authority operations that address:

(A) Functions of the authority relating to the mission and management policies for the forest, including the fiscal integrity of the authority and the status of forest operations, research initiatives, tribal partnerships, ties with local and regional economies and ongoing implementation of conservation, recreation and education programs.

(B) Compliance with federal and state regulatory requirements and any policy directives from the executive branch.

(k) Conduct at least six business meetings per year for which public participation is facilitated consistent with paragraph (h) of this subsection.

(L) Promote transparency around decisions concerning the forest, including forums to provide input.

(m) Form advisory bodies or subcommittees as the board of directors deems necessary and appropriate.

(2) As part of a funding request described in subsection (1)(i)(L) of this section, the board of directors may request funding for state-funded debt service. Any moneys requested pursuant to this subsection and appropriated by the Legislative Assembly to pay debt service for state bonds must be held by the State Treasurer pursuant to an agreement entered into by the State Treasurer and the board of directors.

(3) The board of directors constitutes the governing body of the authority for purposes of the public meetings laws set forth in ORS 192.610 to 192.690 [series became 192.610 to 192.705]. [2022 c.89 §7]

Sec. 8.

(1) In the six calendar years following the operative date established in section 31 (1)(a) of this 2022 Act [January 1, 2024], the board of directors of the Elliott State Research Forest Authority shall submit written annual operations reports to the State Land Board.

(2) The State Land Board shall review the reports. [2022 c.89 §8]

Sec. 9. State Land Board oversight.

The State Land Board shall:

(1) Provide policy guidance to the board of directors of the Elliott State Research Forest Authority at the request of the board of directors or Oregon State University and as deemed necessary and appropriate by the State Land Board.

(2) Review, at scheduled meetings of the board, biennial programmatic reviews submitted by the board of directors.

(3) Provide input on, and approve or deny:

(a) A forest management plan related to the Elliott State Research Forest and any subsequent amendments to the forest management plan.

(b) Any amendments to the habitat conservation plan proposed by the board of directors, prior to submittal to federal or state regulatory agencies.

(c) Any proposed amendments to the university's Elliott State Research Forest Proposal described in section 4 of this 2022 Act.

(d) Any expansion of lands in the forest, or exchange of lands in the forest or timber on the lands, proposed by the board of directors, subject to the requirements of section 14 of this 2022 Act. [2022 c.89 §9]

Sec. 10. Duties of executive director of Elliott State Research Forest Authority.

The executive director of the Elliott State Research Forest Authority reports to the board of directors of the authority and shall:

(1) Serve for a term of four years, subject to removal at the discretion of the board of directors.

(2) Receive such salary as is fixed by the board of directors. In addition to the salary, subject to applicable laws regulating travel and

other expenses, the executive director shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties.

(3) Manage day-to-day operations of the Elliott State Research Forest consistent with the mission and management policies for the forest described in section 2 of this 2022 Act.

(4) Oversee implementation of approved biennial operations plans.

(5) Collaborate with Oregon State University or the entity contracted to implement forest management operations as described in section 7 (1)(a) of this 2022 Act to ensure that forest operations and research further the mission and management policies for the forest described in section 2 of this 2022 Act.

(6) Hire and supervise authority staff and contractors.

(7) Prepare and submit to the board of directors all documents and plans requiring approval by the board of directors, including the documents and plans described in section 7 (1)(i) of this 2022 Act.

(8) Oversee budget execution, regulatory compliance, contracts or agreements for services or the sale of resources and administration of facilities associated with the authority, if the oversight is delegated to the executive director by the board of directors.

(9) Manage relations with the executive and legislative branches and interested stakeholders and communities.

(10) Work with advisory committees or subcommittees formed by the board of directors.

(11) Ensure that decision-making related to the forest is open and transparent, consistent with state law.

(12) Restrict or prohibit public access to all or a part of the forest for reasonable purposes, subject to direction from the board of directors. [2022 c.89 §10]

Sec. 11. Powers of Elliott State Research Forest Authority.

(1) Through the board of directors of the Elliott State Research Forest Authority, the authority may:

(a) Enter into and administer contracts and agreements, and take other actions, as needed to perform functions related to carrying out the mission and management policies described in section 2 of this 2022 Act and the duties described in this section and section 7 of this 2022 Act.

(b) Oversee management of the Elliott State Research Forest that maintains, protects and improves the functioning condition of the forest and furthers the mission and management policies for the forest described in section 2 of this 2022 Act.

(c) Participate in available ecosystem services or forestry carbon programs and markets, or enter into easements, consistent with the management policies described in section 2 of this 2022 Act.

(d) Accept and expend proceeds derived from management of the forest, including proceeds derived from marketing, registering and transfer or sale of forest carbon, ecosystem services, forest products or easements, to:

(A) Support financial obligations of the authority.

(B) Conduct research or undertake other program activities located in the forest.

(C) Create financial reserves to ensure the long-term financial integrity and stability of the authority as a self-supporting entity.

(e) Hold and ensure compliance with permits, certifications and permissions from federal, state and local entities, including a habitat conservation plan and related incidental take permit.

(f) Work and partner with federal, state, tribal, local or private owners of lands surrounding the forest concerning land management, research and consolidation.

(g) Raise funds and advance cross-sector partnerships that further the mission and management policies for the forest described in section 2 of this 2022 Act and support programs related to the forest.

(2) Any contract or agreement entered into by the authority, any forest management activities conducted by the authority either directly or by contract and all other actions taken by the authority must be consistent with the applicable approved biennial operations plan.

(3) The public records laws set forth in ORS 192.311 to 192.478 apply to the authority and the board of directors of the authority. [2022 c.89 §11]

Sec. 12. Expenses of directors, officers and employees.

Directors, officers and employees of the Elliott State Research Forest Authority may receive their actual and necessary travel and other expenses incurred in the performance of their official duties. [2022 c.89 §12]

Sec. 13. Judicial review of actions of Elliott State Research Forest Authority.

(1) As used in this section, "materially" means of such a nature as to have influence or effect.

(2) The requirements of ORS 183.310 to 183.497 do not apply to actions of the Elliott State Research Forest Authority or the board of directors of the authority, including the adoption or approval of a document that describes or establishes how the Elliott State Research Forest is managed, such as:

(a) A forest management plan;

(b) A biennial operations report;

(c) A biennial operations plan;

(d) A habitat conservation plan;

(e) Oregon State University's Elliott State Research Forest Proposal described in section 4 of this 2022 Act;

(f) A recreation plan; or

(g) An education plan.

(3) Notwithstanding subsection (2) of this section, an action of the authority or the board of directors, except for the actions enumerated in subsection (2) of this section, that principally concerns a person's individual rights may be subject to judicial review as provided in ORS 183.484.

(4) Notwithstanding subsection (2) of this section, the following actions by the authority or the board of directors are subject to judicial review as described in ORS 183.484, 183.486, 183.490, 183.497 and 183.500:

(a) Approval of a forest management plan or amendments to a forest management plan that are materially inconsistent with:

(A) The mission and management policies described in section 2 of this 2022 Act;

(B) The applicable version of the university's Elliott State Research Forest Proposal described in section 4 of this 2022 Act; or

(C) Any applicable habitat conservation plan.

(b) Approval of a biennial operations plan, recreation plan or education plan that is materially inconsistent with the applicable forest management plan.

(c) Approval of amendments to a habitat conservation plan related to the forest that are materially inconsistent with the mission and management policies described in section 2 of this 2022 Act.

(d) Entry into a contract for undertaking forest operations, or any other action related to undertaking forest operations, that is materially inconsistent with the applicable biennial operations plan. [2022 c.89 §13]

Sec. 14. Expansion or exchange of lands.

(1) The board of directors of the Elliott State Research Forest Authority may propose to the State Land Board, and the State Land Board may approve, an expansion of lands in the Elliott State Research Forest, or an exchange of lands in the forest or timber on the lands, that furthers the mission and management policies described in section 2 of this 2022 Act.

(2) Lands in the forest may be exchanged:

(a) Only if the exchange consolidates the forest.

(b) Only for lands of approximately equal aggregate value or a combination of lands and monetary consideration of approximately equal aggregate value.

(3) Timber on lands in the forest may be exchanged only for lands of approximately equal aggregate value.

(4) The authority shall consummate by legal conveyance an expansion or exchange described in this section.

(5) Lands acquired by expansion or exchange shall be part of the forest.

(6) After an expansion or exchange, the State Land Board shall establish by resolution the lands constituting the forest. [2022 c.89 §14]

Sec. 15. Elliott State Research Forest Account.

(1) The Elliott State Research Forest Account is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the account shall be credited to the account.

(2) The account shall consist of all moneys deposited in the account or otherwise transferred to the account. Moneys in the account may be invested as provided in ORS 293.701 to 293.857. Moneys in the account are continuously appropriated to the Elliott State Research Forest Authority for carrying out sections 1 to 21 of this 2022 Act, under the supervision and direction of the State Land Board.

(3) Moneys generated from owning or operating the Elliott State Research Forest, including from any sale of forest products, carbon or ecosystem services or credits or easement, and any other revenues related to the forest, shall be deposited in the account.

(4) The authority may receive gifts, grants, bequests, endowments and donations of moneys, labor or materials from public and private sources for the purpose of contributing to the management and enhancement of the Elliott State Research Forest, including activities such as recreation, education, interpretation, research and monitoring, cultural resources management and habitat improvement.

(5) The authority may apply for, accept and utilize grants from any source, including federal, state or local governments or a private entity, to further the mission and management policies described in section 2 of this 2022 Act.

(6) The authority shall deposit moneys received under subsection (4) or (5) of this section in the account. The authority may expend moneys, materials or labor received under subsection (4) or (5) of this section only for purposes specified in the gift, grant, bequest, endowment or donation. If no purpose is specified, the authority may use the moneys, materials or labor for the management and enhancement of the forest, consistent with the mission and management policies described in section 2 of this 2022 Act.

(7) The authority shall keep a record of all moneys deposited in the account or otherwise transferred to the account. The record shall indicate the sources of moneys and the individual activity or program against which each withdrawal from the account is charged. [2022 c.89 §15]

Sec. 16. Revenue bonding.

(1) As used in this section, "bond-related cost" means:

(a) The costs and expenses of issuing, administering and maintaining bonds and the applicable bond program, including paying or redeeming bonds, paying amounts due in connection with credit enhancements or any instruments authorized by ORS 286A.120 and paying the administrative costs and expenses of the State Treasurer and the Oregon Department of Administrative Services, including costs of consultants or advisors retained by the State Treasurer or the department for the bonds or applicable program.

(b) The costs of funding any bond reserves.

(c) Capitalized interest, if any, for bonds.

(d) Rebates or penalties due to the United States in connection with bonds.

(e) Any other costs or expenses that the State Treasurer or the director of the department determines are necessary or desirable in connection with issuing bonds or maintaining the applicable bond program.

(2) In compliance with the applicable provisions of ORS chapter 286A, the board of directors of the Elliott State Research Forest Authority may request the State Treasurer to issue the revenue bonds described in section 17 of this 2022 Act for capital costs related to owning, operating or administering the Elliott State Research Forest and to sell revenue bonds under section 17 of this 2022 Act in the manner the State Treasurer deems advisable.

(3) The net proceeds derived from the sale of the revenue bonds, after the payment of principal and of the interest and premium, if any, on outstanding revenue bonds, and of any other bond-related costs, shall be paid into the State Treasury and credited to the Elliott State Research Forest Account to be used exclusively for purposes related to owning, operating or administering the forest.

(4) The board of directors may establish one or more subaccounts, as it determines are desirable for administration of the net proceeds, in the Elliott State Research Forest Account. [2022 c.89 §16]

Sec. 17. Elliott State Research Forest development revenue bonds.

(1) The board of directors of the Elliott State Research Forest Authority may request the State Treasurer to sell revenue bonds of the State of Oregon, to be known as Elliott State Research Forest development revenue bonds, in an amount authorized under ORS 286A.035.

(2) The bonds shall not constitute a general obligation of the state, nor be a lien on any lands in the Elliott State Research Forest.

(3) Revenue bonds issued under this section may be secured only by moneys in the Elliott State Research Forest Account established by section 15 of this 2022 Act.

(4) The bonds shall bear interest at a rate to be determined by the State Treasurer. [2022 c.89 §17]

Sec. 18. Refunding revenue bonds.

Revenue bonds issued under section 17 of this 2022 Act may be refunded as provided under ORS chapter 286A. [2022 c.89 §18]

Sec. 19. Revenue declaration or indenture authorizing issuance of bonds.

(1) Before revenue bonds are issued under section 17 of this 2022 Act, the board of directors of the Elliott State Research Forest Authority must prepare a revenue declaration or indenture authorizing issuance of the bonds. The revenue declaration or indenture must be signed by a designated representative of the board of directors and approved by the State Treasurer or a person designated by the State Treasurer.

(2) A revenue declaration or indenture prepared under this section may do any of the following:

(a) Pledge any part or all of the moneys described in section 17 of this 2022 Act for purposes of the bonds to be issued.

(b) Limit the purpose for which the proceeds of the sale may be applied by the authority.

(c) Make pledges concerning the proceeds of the sale or moneys described in section 17 of this 2022 Act as necessary to secure payment of bonds of the authority.

(d) Limit or establish terms upon which additional bonds or refunding bonds may be issued under section 17 of this 2022 Act.

(e) Provide for procedures, if any, by which the terms of contracts with bondholders may be amended or rescinded, for the percentage of the bondholders that must consent to amendment or rescission of the contract and for the manner of bondholder consent to any amendment or rescission of the contract.

(f) Establish a trustee and vest the trustee with property, rights, powers and duties in trust as the State Treasurer determines is appropriate.

(g) Provide for other matters affecting the issuance of bonds.

(h) Provide for a debt service reserve pursuant to ORS 286A.025 (6).

(i) Provide for certain covenants pursuant to ORS 286A.025 (4)(c) and 286A.102 (10). [2022 c.89 §19]

Sec. 20. Revenue bond reserve accounts.

(1) The Elliott State Research Forest Authority may establish one or more separate reserve accounts within, or separate and distinct from, the Elliott State Research Forest Account in connection with the issuance of revenue bonds issued under section 17 of this 2022 Act.

(2) Moneys held in any account established under this section may be subject to the provisions of any revenue declaration or indenture prepared under section 19 of this 2022 Act. [2022 c.89 §20]

Sec. 21. Requirements for revenue bonds; State Treasurer determinations.

(1) A revenue bond issued under section 17 of this 2022 Act:

(a) Must contain on its face a statement that the ad valorem taxing power of the State of Oregon is not pledged to the payment of the principal or the interest on the bond.

(b) Shall be issued as provided in ORS chapter 286A.

(c) Must mature on or before a date determined by calculation of the expected economic life of the improvements, assets and projects financed with the proceeds of the bond.

(2) The State Treasurer shall determine, after consultation with the Elliott State Research Forest Authority, all aspects relating to the sale of bonds under section 17 of this 2022 Act that are not otherwise specifically provided in this section and sections 17, 18, 19 and 20 of this 2022 Act. [2022 c.89 §21]

Note:

Sections 31 and 32, chapter 89, Oregon Laws 2022, provide:

Sec. 31.

(1)(a) Sections 1, 2, 4, 5, 7 to 21 and 24, chapter 89, Oregon Laws 2022, and the amendments to ORS 30.949, 283.085, 530.450, 530.480, 530.490, 530.510 and 530.520 by sections 23 and 25 to 30, chapter 89, Oregon Laws 2022, become operative on January 1, 2024.

(b) Sections 3 and 6, chapter 89, Oregon Laws 2022, become operative upon completion of all of the events described in subsection (2) of this section.

(2) Notwithstanding subsection (1) of this section, sections 1 to 21 and 24, chapter 89, Oregon Laws 2022, and the amendments to ORS 30.949, 283.085, 530.450, 530.480, 530.490, 530.510 and 530.520 by sections 23 and 25 to 30, chapter 89, Oregon Laws 2022, do not become operative unless, on or before December 31, 2023:

(a) The State Land Board ensures that financial obligations to the Common School Fund related to the Elliott State Forest are satisfied;

(b) The State Land Board votes to decouple the Elliott State Forest from the Common School Fund and authorizes actions necessary to transfer the forest to management described in sections 1 to 21, chapter 89, Oregon Laws 2022;

(c) The Department of State Lands submits a habitat conservation plan for the Elliott State Forest to the National Marine Fisheries Service and the United States Fish and Wildlife Service pursuant to the Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531 to 1544) and the United States Fish and Wildlife Service initiates preparation of a final environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321 et seq.);

(d) The Department of State Lands:

(A) Contracts for third-party expertise to provide input informing the department's review of a plan submitted by Oregon State University addressing the financial viability of forest operations and management that are consistent with the mission and management policies described in section 2, chapter 89, Oregon Laws 2022; and

(B) After considering the input described in subparagraph (A) of this paragraph, concludes that the plan demonstrates financial viability;

(e) The State Land Board approves a forest management plan, as described in section 1, chapter 89, Oregon Laws 2022, for the Elliott State Research Forest; and

(f) The Board of Trustees of Oregon State University authorizes the university to participate in management of the Elliott State Research Forest.

(3) The State Forester may take any action upon completion of all of the events described in subsection (2) of this section and before the operative date specified in subsection (1)(a) of this section that the State Land Board, the State Board of Forestry, the State Forestry Department or the State Forester deems necessary to prepare for the establishment of the Elliott State Research Forest as described in sections 1 to 21 and 24, chapter 89, Oregon Laws 2022, and the amendments to ORS 30.949, 283.085, 530.450, 530.480, 530.490, 530.510 and 530.520 by sections 23 and 25 to 30, chapter 89, Oregon Laws 2022. [2022 c.89 §31; 2023 c.225 §1] Sec. 32.

The State Land Board shall report by February 15, 2024, to an interim or regular committee of the Legislative Assembly related to forests, in the manner described in ORS 192.245, on whether all of the events described in section 31 (2), chapter 89, Oregon Laws 2022, occurred on or before December 31, 2023.

[2022 c.89 §32; 2023 c.225 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.600 - Definitions for ORS 530.600 to 530.628.**

As used in ORS 530.600 to 530.628, unless the context requires otherwise:

(1) "Authority" means a community forest authority created under ORS 530.606.

(2) "Board" means the board of directors of a community forest authority.

(3) "Community forestlands" means private lands that are zoned and permanently managed for commercial forestland use and any interests in those private lands, including related roads or other improvements financed by a community forest authority.

(4) "Municipality" means a city or county. [2005 c.500 §1]

Note:

530.600 to 530.628 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 530 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.602 - Findings.**

To provide the people of the State of Oregon with renewable commercial forest resources that promote community stability and sound conservation practices, the Legislative Assembly finds that it is necessary and desirable to authorize the creation of community forest authorities having the power to finance community forestlands and to authorize those authorities to issue revenue bonds and other obligations for that purpose. [2005 c.500 §2]

Note:

See note under 530.600.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State**

**Forests; Community ForestsSection 530.604 - Community forest authorities.**

The governing body of a municipality may create a community forest authority under ORS 530.606. An authority may issue obligations on behalf of the municipality creating the authority to finance community forestlands. An authority may not be created or maintained for a purpose other than to finance community forestlands as described in ORS 530.600 to 530.628. [2005 c.500 §3]  
Note:

See note under 530.600.

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.606 - Creation of authority; modification; dissolution.**

- (1) Upon the written request of three individuals or upon its own motion, the governing body of a municipality may create a community forest authority for the purpose of financing community forestlands.
- (2) The governing body of a municipality may create a community forest authority by ordinance or resolution adopted following a public hearing held according to the laws of the municipality. The ordinance or resolution shall set forth:
  - (a) The name of the authority.
  - (b) The number of directors of the authority.
  - (c) The term of office of the directors.
  - (d) Other provisions that the governing body determines are necessary and appropriate and not inconsistent with the provisions of ORS 530.600 to 530.628.
- (3) Upon adoption of an ordinance or resolution creating a community forest authority, the authority is deemed created.
- (4) A community forest authority created under this section has the power and authority necessary to perform its duties under ORS 530.600 to 530.628.
- (5) The governing body that creates a community forest authority under this section may, at its sole discretion:
  - (a) Alter or change the structure, organization, programs or activities of the authority, subject to any limitations imposed by law or contract; and
  - (b) Dissolve the authority at any time if the authority has no outstanding revenue bonds or other obligations or if the authority makes arrangements regarding outstanding revenue bonds or other obligations that are satisfactory to creditors. [2005 c.500 §4]

Note:

See note under 530.600.

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.608 - Board of directors of authority; officers; terms; rules.**

- (1) The governing body of a municipality that creates a community forest authority under ORS 530.606 shall appoint a board of directors containing not fewer than five nor more than 11 directors to manage and control the authority. At least one-third of the directors must represent conservation interests. At least one-third of the directors must represent business interests and one director must serve as a member of the governing body that created the authority. The balance of the directors must be members of the public. A director who is a member of the governing body that created the authority shall serve as a director only as long as that director is a current member of the governing body.
- (2) The term of office of directors of an authority may not exceed four years and the directors serve at the pleasure of the governing body of the municipality.
- (3) The directors of an authority serve without compensation but may be reimbursed for expenses incurred in the performance of their duties.
- (4) The board of directors of an authority shall adopt rules for conducting meetings and carrying out the duties of the board. Decisions of the board must be recorded in a minute book that is a public record. A majority of the directors of the board constitutes a quorum for the transaction of business and a majority of directors present and voting is sufficient for the passage of a motion or a resolution.
- (5) The board may employ and compensate employees, bond counsel, financial advisors, feasibility consultants, accountants, attorneys or other advisors that the board deems necessary and appropriate. [2005 c.500 §5]

Note:

See note under 530.600.

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.610 - Levy of taxes prohibited.**

A community forest authority created under ORS 530.606 does not have the power or authority to levy taxes. [2005 c.500 §6]

Note:

See note under 530.600.

**2023 Oregon Revised StatutesVolume : 14 - Drugs and Alcohol, Fire Protection, Natural ResourcesChapter 530 - State Forests; Community ForestsSection 530.612 - Powers of authority.**



Except as otherwise provided in ORS 530.610, a community forest authority shall have the power necessary to accomplish the purpose of financing community forestlands under ORS 530.600 to 530.628, including the power to:

- (1) Sue and be sued in its own name.
- (2) Enter into agreements relating to the operation of community forestlands upon terms and conditions the board deems appropriate.
- (3) Borrow money by issuing notes, revenue bonds or other revenue obligations for the purpose of carrying out its powers.
- (4) Mortgage, assign and pledge its assets, or a portion of its assets, whether then owned or thereafter acquired, to pledge and assign the revenues and receipts from the assets, to acquire, hold and dispose of mortgages or other similar documents relating to community forestlands and to arrange and provide for guarantees and other security agreements.
- (5) Lend money to a nonprofit corporation for the acquisition, furnishing or extension of and improvements to community forestlands.
- (6) Enter into contracts, leases and other undertakings in its own name.
- (7) Adopt and amend ordinances and resolutions. [2005 c.500 §7]

Note:

See note under 530.600.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.614 - Authorization to issue bonds or other obligations; method of issuance.**

- (1) To accomplish its purposes, a community forest authority created under ORS 530.606 may issue revenue bonds or other revenue obligations payable from the revenues derived from the repayment of loans to nonprofit corporations whose purpose is to own and operate community forestlands. The issuance of revenue bonds or other revenue obligations is governed by the provisions of this section and is not subject to the prior approval of the electors of the municipality that created the authority.
- (2) An authority may issue and sell revenue bonds or other revenue obligations payable as to principal and interest only out of the fund or funds established under this section or other assets of the authority that are pledged by the board of directors to secure the revenue bonds or other revenue obligations. The bond resolution:
  - (a) Must specify the public purposes for which the proceeds of the revenue bonds or other revenue obligations will be expended and declare the estimated cost of carrying out those purposes.
  - (b) Must contain covenants and provide for the issuance and sale of revenue bonds or other revenue obligations in a form, amount and manner that the directors determine. In declaring the estimated cost, the directors may include the moneys necessary for working capital, reserves, capitalized interest, the payment of financing and legal expenses, the repayment of advances and the start-up costs.
  - (c) May provide that community forestlands subsequently acquired by a nonprofit corporation shall be deemed betterments or additions to, or extensions of, the community forestlands, whether or not physically connected.
  - (d) Must provide for the establishment of one or more special funds under the control of the board or a trustee.
  - (e) Must obligate the authority to deposit and expend the proceeds of the revenue obligations only into and from the fund or funds established under this section and to set aside and pay into the fund or funds a fixed proportion or fixed amount of the revenues derived from the community forestlands or other corporate activities as the board finds in the best interest of the authority and the payment of its obligations.
- (3) A revenue bond or other revenue obligation issued against a fund or funds established under this section is a valid claim of the holder only as against the fund or funds, the proportion or amount of the revenues pledged to the fund or funds and the other assets pledged, assigned or encumbered by the authority to secure the revenue bond or other revenue obligation. Each revenue bond or other revenue obligation must state on its face that:
  - (a) The bond or obligation is payable from a special fund or funds and name the fund or funds and the resolution that established the fund or funds; or
  - (b) That the bond or obligation is payable from other assets and identify those other assets and the resolution pledging, assigning or encumbering them.
- (4) A pledge, assignment or encumbrance of revenues or other moneys or obligations or other assets made by an authority shall be valid and binding from the time that the pledge or assignment is made against a party with a subsequent claim of any kind in tort, contract, or otherwise against the authority, irrespective of whether the party has actual notice of the pledge, assignment or encumbrance. The pledge, assignment or encumbrance must be noted in the board's minute book or bond transcripts, which shall be constructive notice thereof to all parties, and neither the resolution nor other instrument by which a pledge, assignment or encumbrance is created need be otherwise recorded, nor shall the filing of a financing statement under the Uniform Commercial Code be required to perfect the pledge, assignment or encumbrance. Revenues or other moneys or assets pledged, assigned or encumbered and later received by an authority are subject to the lien of the pledge immediately without physical delivery or further act.
- (5) A revenue bond or other revenue obligation issued under the provisions of this section shall bear the date or dates, mature at the time or times, be in denominations and in a form, either coupon or registered or both, carry registration privileges, be made transferable, exchangeable and interchangeable, be payable in the medium, at the place or places, contain the covenants and be subject to the terms of redemption that the board may declare in the bond resolution.

(6) The revenue bonds or other revenue obligations issued by an authority may be sold by the board upon the terms and conditions and at the rate or rates of interest and for the price or prices that the authority deems most advantageous to the authority, with or without public bidding. The authority may make contracts for future sale from time to time of revenue bonds or other revenue obligations by which the contract purchasers are committed to the prices, terms and conditions stated in the contract, and the board may pay the consideration that the board deems proper for the commitments.

(7) The board by resolution may provide for the issuance of funding and refunding revenue bonds or other revenue obligations in order to take up and refund a series, or portion of a series, of outstanding revenue bonds or other revenue obligations at a time determined by the board. Refunding revenue bonds or other revenue obligations may be sold or exchanged at a price that the board determines is in the best interest of the authority.

(8) A revenue bond or other revenue obligation issued pursuant to this section is a legal security that may be used by any insured institution or trust company, as those terms are defined in ORS 706.008, for deposit with the State Treasurer or a county treasurer or city treasurer, as security for deposits in lieu of a surety bond under a law relating to deposits of public moneys and constitutes legal investments for public bodies, trustees and other fiduciaries, banks, savings and loan associations, and insurance companies. All revenue bonds and obligations and all coupons appertaining thereto shall be negotiable instruments within the meaning of and for all purposes of the law of this state. [2005 c.500 §8]

Note:

See note under 530.600.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.616 - Authorization to borrow moneys or to issue, sell and assume bond anticipation notes.**

A community forest authority created under ORS 530.606 may borrow from banks, investment banks or other lenders sums of money on terms that the board deems necessary or advisable. An authority may also issue, sell and assume bond anticipation notes or the equivalent that bear a date, mature at a time, be in denominations and in a form, be payable in a medium, at a place, and be subject to the terms of redemption that the board deems necessary or advisable. [2005 c.500 §9]

Note:

See note under 530.600.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.618 - Effect of bonds or other obligations on municipality.**

Revenue bonds and other revenue obligations of a community forest authority created under ORS 530.606 are not a general obligation of the municipality nor a charge upon the tax revenues of the municipality. [2005 c.500 §10]

Note:

See note under 530.600.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.620 - Loan repayment.**

The board of directors of a community forest authority created under ORS 530.606 shall establish loan repayment terms and other charges at least adequate to pay the principal of and interest on the obligations of the authority as the same become due, including payments to a special fund or funds, together with the financing and other costs of the authority. [2005 c.500 §11]

Note:

See note under 530.600.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.622 - Authorities may act jointly; limits on acquisition of forestlands.**

(1) The powers and responsibilities provided in ORS 530.600 to 530.628 may be exercised and discharged by two or more community forest authorities acting jointly to effectuate the purposes of ORS 530.600 to 530.628. In addition, one or more community forest authorities may authorize by resolution, ordinance or agreement the issuance of revenue bonds or other revenue obligations on behalf of the authorities or to otherwise exercise the powers of an authority within the boundaries of the authorities.

(2) A community forest authority may not finance the acquisition of community forestlands located outside the boundaries of the municipality that created the authority without the written consent of each municipality in which the community forest is located.

[2005 c.500 §12]

Note:

See note under 530.600.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.624 - Assets and income of authority exempt from taxation; exceptions.**

(1) A community forest authority created under ORS 530.606 is deemed a municipal corporation performing a public function. An

authority, all assets owned by the authority, the income earned by those assets and the interest earned by revenue bonds or other revenue obligations issued by an authority are exempt from taxation in the State of Oregon.

(2) Notwithstanding subsection (1) of this section:

(a) A municipality shall determine the extent to which community forestlands acquired or financed by an authority and located within the boundaries of the municipality are subject to property taxation.

(b) Real and personal property owned by the authority and leased to a third party is subject to property taxation if the property would be subject to taxation if owned by the lessee of the property.

(c) A district, as defined in ORS 198.010 or 198.180, may elect to continue imposing taxes on property within the district that is acquired or financed by an authority and is otherwise exempt from property taxation under this section without regard to the determination of a municipality under paragraph (a) of this subsection.

(3) Revenue bonds issued by an authority are deemed to be securities issued by a political subdivision of the State of Oregon. [2005 c.500 §13]

Note:

See note under 530.600.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.626 - Earnings in excess of amounts required for authority.**

The earnings of a community forest authority created under ORS 530.606 in excess of the amount required for the retirement of indebtedness or the accomplishment of the purposes of ORS 530.600 to 530.628 shall not inure to the benefit of a person or body other than the municipality creating the authority. An authority may transfer, from time to time, to the municipality creating the authority any excess moneys not needed to pay the authority's expenses or to pay the authority's bonds or other obligations, and the municipality may use such transferred funds for any lawful purpose of the municipality. Upon dissolution of an authority, any asset remaining after provision for payment of the obligations and expenses of the authority becomes an asset of the municipality. [2005 c.500 §14]

Note:

See note under 530.600.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.628 - Application of laws to authority and to issuance of bonds.**

(1) ORS 530.600 to 530.628 contain complete authority for the organization of a community forest authority and for the issuance and sale of revenue bonds, including refunding revenue bonds, and other revenue obligations.

(2) ORS chapters 198, 279A, 279B and 294 do not apply to the organization of an authority and the issuance and sale of revenue bonds pursuant to ORS 530.600 to 530.628.

(3) Nothing in ORS 530.600 to 530.628 restricts or limits a power that an authority has under a law of this state or the charter of the municipality creating the authority except as explicitly provided in ORS 530.600 to 530.628. [2005 c.500 §15; 2007 c.71 §175]

Note:

See note under 530.600.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 530 - State Forests; Community Forests Section 530.990 - Penalties for forest management violations.**

(1) Except for violations arising from activities under contract with the State Board of Forestry or the State Forestry Department, and subject to ORS 153.022, violation of any rule or order adopted pursuant to ORS 530.050 is a Class A violation.

(2) Multiple violations of any rule or order adopted pursuant to ORS 530.050 shall be considered a single violation. However, each day a violation continues shall be considered a separate violation.

(3) Violations and punishments set forth in this section are in addition to and not in lieu of the provisions of ORS 164.305 to 164.335. [1995 c.347 §§2,3; 1999 c.1051 §108]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.010 - Definitions for ORS 532.010 to 532.140.**

For purposes of ORS 532.010 to 532.140, unless the context or subject matter otherwise requires:

(1) "Booming equipment" includes boom sticks.

(2) "Brand" means an identifying mark upon forest products or booming equipment, as provided by rule and regulation of the State Forester; but any brands in use and registered with the Public Utility Commission on October 1, 1951, with the exception of those brands enclosed in the letter "C," the use of which is particularly reserved for catch brands, may be continued in use, subject to the other provisions of ORS 532.010 to 532.140.

(3) "Catch brand" means a mark of brand used by a person as an identifying mark upon forest products and booming equipment previously owned by another.

(4) "Forest products" means any form, including but not limited to logs, poles and piles, into which a fallen tree may be cut before it

undergoes manufacturing, but not including peeler cores.

(5) "Highway" means every street, alley, road, highway and thoroughfare in this state, used by the public or dedicated or appropriated to public use.

(6) "Motor vehicle" means any self-propelled or motor driven vehicle or any train or combination of vehicles used upon any highway in this state in transporting forest products.

(7) "Railroad" means any self-propelled vehicle or any train or combination of vehicles operating wholly on fixed rails or tracks.

(8) "Waters of this state" includes all bodies of fresh and salt water within the jurisdiction of the state capable of being used for the transportation of forest products, and all rivers and lakes and their tributaries, harbors, bays, sloughs and marshes. [Amended by 1961 c.253 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.020 - Branding forest products and booming equipment required; rules.**

(1) Except as provided in ORS 532.030, every person who puts into any of the waters of this state, ships on any motor vehicle or railroad any forest products, or uses any booming equipment as a part of an operation in securing, rafting or floating forest products, shall have a mark or brand previously selected by the person and registered in the manner provided in ORS 532.010 to 532.140 plainly impressed or cut in a conspicuous place on the forest products and booming equipment in a manner as required by the rules and regulations of the State Forester.

(2) The State Forester hereby is authorized to issue rules and regulations to accomplish the purposes of ORS 532.010 to 532.140. [Amended by 1961 c.253 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.030 - Branding optional east of crest of Cascade Mountains.**

In view of the different conditions obtaining in the logging industry of this state between the parts of the state lying respectively east and west of the crest of the Cascade Mountains, forest products may be put into the waters of this state or shipped on railroads or motor vehicles without having thereon a registered mark or brand as required in ORS 532.010 to 532.140, within that portion of the state lying east of the crest of the Cascade Mountains; and the penalties provided in ORS 532.990 for failure to mark or brand such forest products shall not apply. However, any person operating within the east side portion of the state may select a mark or brand and cause it to be registered in the office of the State Forester pursuant to the terms of ORS 532.010 to 532.140 and use it for the purpose of marking or branding forest products and booming equipment. In the event of the registration of such mark or brand and the use of it in marking or branding forest products or booming equipment, the provisions of ORS 532.010 to 532.140 shall apply to the forest products and booming equipment so marked or branded.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.040 - Ownership of forest products and booming equipment presumed from registered brands or catch brands thereupon.**

All forest products and booming equipment having impressed thereupon a registered brand as provided in ORS 532.010 to 532.140 are presumed to belong to the person appearing on the records in the office of the State Forester as the owner of the brand. However, all forest products having impressed thereupon also a registered catch brand are presumed to belong to the owner of the registered catch brand, unless there are impressed thereupon more than one registered catch brand, in which event they shall be presumed to belong to the owner whose registered catch brand was placed thereupon latest in point of time.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.050 - Application for registration of brand; registration; rejection.**

(1) Every person selecting a brand, before using it, shall make application for its registration in the office of the State Forester by depositing therein an impression stamped on a designated form, together with, in duplicate, a written statement duly signed and verified by the person or the agent of the person, containing a description of the brand and declaring that it is not, and at the time of its adoption by the person, was not in use to the knowledge of the person by any other person and that the person has selected it in good faith for branding forest products to be transported on motor vehicles or railroads, or floated or rafted in the waters of this state, or booming equipment to be used by the person as a part of the operations in securing, rafting or floating forest products.

(2) The State Forester, upon the receipt of the application and the fee provided in ORS 532.110, if the State Forester finds that the brand is not identical with any other brand registered in the office of the State Forester or does not so closely resemble one registered therein as to be confused therewith, shall file in the office of the State Forester the impression or drawing and one copy of the written statement and shall register the brand in a book to be provided by the State Forester and kept for the purpose and known as the Forest Products Brand Register, entering therein the name of the owner, character of the brand, date of registration and such other details as the State Forester may see fit to enter therein. The State Forester shall return to the applicant the other copy of the written statement as evidence that the brand has been duly registered in accordance with the provisions of ORS 532.010 to 532.140 and that the applicant is the registered owner. The State Forester, in the event of refusal to register a brand on account of confliction

with or resemblance to one already registered, shall immediately give notice of that fact to the applicant, who may select another brand and apply for its registration in the manner of an original application.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.060 - Application for registration of catch brand.**

Every person desiring to use a catch brand as an identifying mark upon forest products or booming equipment purchased or lawfully acquired by the person from another shall, before using it, make application for its registration in the office of the State Forester in the manner prescribed for the registration of brands, and the provisions contained in ORS 532.010 to 532.140 in reference to registration, certifications, assignments and cancellation and the fees to be paid to the State Forester shall apply equally to catch brands. However, the certificate of the State Forester shall designate the mark or brand as a catch brand, and the mark selected by the applicant as a catch brand shall be enclosed in the letter "C," which letter "C" shall identify the mark as, and shall be used only in connection with, a catch brand.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.070 - Certified copy of brand registration as evidence of registration and ownership.**

A copy of brand registration certified by the State Forester or the deputy of the State Forester as a true copy and in good standing shall be received in all the courts of this state as evidence of the due and proper registration of the mark or brand and of its ownership.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.080 - Mark or brand assignable; procedure.**

Every mark or brand registered under ORS 532.010 to 532.140 shall be assignable in law. The State Forester, upon payment of the fee mentioned in ORS 532.110 and presentation to the State Forester, in duplicate, of an assignment, duly executed and acknowledged by the owner, transferring the mark or brand to a person named therein, shall file one copy of the assignment in the office of the State Forester and make an entry in the Forest Products Brand Register of the fact of the assignment, the date, the name of the assignee and such other details as the State Forester may see fit to enter therein. The State Forester shall return to the assignee the other copy of the assignment, with a certificate attached thereto, signed by the State Forester or the employee of the State Forester, to the effect that the mark or brand has been duly registered in accordance with the provisions of ORS 532.010 to 532.140 and assigned to the assignee and that the assignee is the registered owner. The assignee, upon the due registration of the assignment as herein provided, shall become the owner of the mark or brand with the full right of exclusive use to the same extent as though the assignee had been the original owner.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.090 - Cancellation of registered brand or mark.**

The State Forester, upon the petition of the owner of a registered mark or brand, may cause the registration thereof to be canceled, and in the event of such cancellation, the mark or brand shall be open to registration by any person subsequently applying therefor.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.100 - Renewal and abandonment of marks or brands; reissue of abandoned or canceled brand.**

(1) The State Forester shall, each five-year period after October 1, 1951, notify the owners of all log marks or brands then of record in Oregon to renew them. Upon receipt of the fee provided for in ORS 532.110, the State Forester shall give a renewal certificate, which shall give the holder and owner the exclusive right to continue the use of the brand or mark within Oregon. If any owner of a brand or mark which is on record fails or refuses to pay the renewing fee within three months after notification, such brand shall become forfeited and be no longer carried on the records.

(2) On or after January 1, 1952, no person shall claim or own any log mark or brand which has not been renewed in accordance with the provisions of this section, and any failure to renew the log mark or brand as required by such provisions shall be deemed an abandonment of the same. Any other person shall be at liberty to adopt or use the abandoned mark or brand; but the other person shall not claim or use it until after it has been recorded in the other person's own name, in the manner provided in ORS 532.010 to 532.140. However, no abandoned or canceled brand may be reissued for a period of one year after such abandonment or cancellation, except to the previous owner or the assignee of the previous owner. In case of a dispute as to the right of any person to the use of such mark or brand, the State Forester shall determine which of the applicants is entitled to its use. [Amended by 1957 c.127 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.110 - Fees.**

The fees to be paid to the State Forester are as follows:

- (1) For filing an application to register a mark or brand and registering the same, including the certificate, \$20.
- (2) For filing an application for an assignment of a registered mark or brand and registering such assignment, including the certificate, \$20.
- (3) For every other certificate of registration, including a copy of the written statement or assignment, \$20.
- (4) For each copy of any drawing, the reasonable expense of preparing it.
- (5) For renewing brands or marks, \$20. [Amended by 1975 c.463 §1; 1989 c.767 §1]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.120 - Disposition of fees.**

All fees collected by the State Forester under ORS 532.010 to 532.140 shall be paid into the State Treasury, credited to the State Forestry Department Account and available for expenses associated with ORS 532.010 to 532.140. [Amended by 1957 c.459 §5; 1961 c.253 §3; 1967 c.34 §6; 1989 c.767 §2]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.130 - Prohibitions generally.**

- (1) No person, unless permitted to do so under ORS 532.030, shall:
  - (a) Put into any of the waters of this state or ship on any railroad or motor vehicle any forest products, or use any booming equipment as a part of the operation of the person in securing, rafting or floating forest products, without having plainly impressed or cut in a conspicuous place on each such stick or piece of forest products, and on any piece of booming equipment so used, a mark or brand previously registered as required by the terms of ORS 532.010 to 532.140.
  - (b) Have or take in tow or into custody or possession or under control of the person, without the authorization of the owner of a registered mark or brand thereon, any forest products or booming equipment having thereupon a mark or brand registered as required by the terms of ORS 532.010 to 532.140 or, with or without such authorization, any forest products or booming equipment required to be branded under the terms of ORS 532.010 to 532.140 with a registered mark or brand and having no registered mark or brand impressed thereupon or cut therein.
  - (c) Impress upon or cut in any forest products or booming equipment a mark or brand that is false, forged or counterfeit.
  - (d) Impress or cut a catch brand that has not been registered under the terms of ORS 532.010 to 532.140 upon or into any forest products or booming equipment upon which there is or should be a registered mark or brand as required by the terms of ORS 532.010 to 532.140 or a catch brand, whether registered or not, upon any forest products or booming equipment that has not been purchased or lawfully acquired by the person from the owner.
- (2) Subsection (1)(b) of this section shall not apply to:
  - (a) Railroads.
  - (b) Log patrol or salvage companies organized as corporations for the purpose of catching or reclaiming and holding or disposing of forest products for the benefit of the owners and authorized to do business under the laws of this state.
- (3) In the case of a motor vehicle carrying more than three logs, branding of not less than three logs shall be considered compliance with the provisions of subsection (1)(a) of this section. [Amended by 1957 c.668 §21; 1973 c.800 §1; 1975 c.729 §1; 1993 c.47 §2; 1993 c.469 §8]

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.140 - Prohibited acts relating to branding or marking if intended to injure or defraud.**

No person, with an intent to injure or defraud the owner, shall:

- (1) Falsely make, forge or counterfeit a mark or brand registered as provided in ORS 532.010 to 532.140 and use it in marking or branding forest products or booming equipment.
- (2) Cut out, destroy, alter, deface or obliterate any registered mark or brand impressed upon or cut into any forest products or booming equipment.
- (3) Sell, encumber or otherwise dispose of or deal in, or appropriate to the own use of the person, any forest products or booming equipment having impressed thereupon a mark or brand registered as required by the terms of ORS 532.010 to 532.140.
- (4) Buy or otherwise acquire or deal in any forest products or booming equipment having impressed thereupon a registered mark or brand.

**2023 Oregon Revised Statutes Volume : 14 - Drugs and Alcohol, Fire Protection, Natural Resources Chapter 532 - Branding of Forest Products and Booming Equipment Section 532.990 - Penalties.**

- (1) Violation of any of the provisions of ORS 532.130 is a Class B misdemeanor.
- (2) Violation of any of the provisions of ORS 532.140 is a Class C felony. [Subsection (3) enacted as 1957 c.668 §22; 1983 c.89 §16; 1987 c.320 §238; 1993 c.47 §3; 2011 c.597 §224]

**Title: volume-19**

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.010 - Definitions.**

As used in ORS chapters 756, 757, 758 and 759, except as otherwise specifically provided or unless the context requires otherwise:

- (1) "Commission" means the Public Utility Commission of Oregon.
- (2) "Commissioner" means a member of the Public Utility Commission of Oregon.
- (3) "Customer" includes the patrons, passengers, shippers, subscribers, users of the service and consumers of the product of a public utility or telecommunications utility.
- (4) "Environmental justice" means equal protection from environmental and health hazards and meaningful public participation in decisions that affect the environment in which people live, work, learn, practice spirituality and play.
- (5) "Environmental justice communities" includes communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including but not limited to seniors, youth and persons with disabilities.
- (6) "Municipality" means any city, municipal corporation or quasi-municipal corporation.
- (7) "Person" includes individuals, joint ventures, partnerships, corporations and associations or their officers, employees, agents, lessees, assignees, trustees or receivers.
- (8) "Public utility" has the meaning given that term in ORS 757.005.
- (9) "Rate" means any fare, charge, joint rate, schedule or groups of rates or other remuneration or compensation for service.
- (10) "Service" is used in its broadest and most inclusive sense and includes equipment and facilities related to providing the service or the product served.
- (11) "Telecommunications utility" has the meaning given that term in ORS 759.005. [Amended by 1971 c.655 §2; 1973 c.776 §14; 1977 c.337 §1; 1985 c.834 §6; 1987 c.447 §75; 1991 c.841 §1; 1995 c.733 §52; 2021 c.90 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.014 - Public Utility Commission; appointment; confirmation; term; removal.**

- (1) There is created the Public Utility Commission of Oregon. The commission shall be composed of three members appointed by the Governor, subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution. No more than two of such members shall be of the same political party.
- (2) Each commissioner shall hold office for the term of four years. A commissioner shall hold office until a successor has been appointed and qualified. The chairperson shall be designated by the Governor and shall serve as chairperson at the pleasure of the Governor.
- (3) Any vacancy occurring in the office of commissioner shall be filled by appointment by the Governor to hold office for the balance of the unexpired term.
- (4) The Governor may at any time remove a commissioner for any cause deemed by the Governor sufficient. Before such removal the Governor shall give the commissioner a copy of the charges, and shall fix a time when the commissioner can be heard, which shall not be less than 10 days thereafter. The hearing shall be open to the public. If the commissioner is removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the commissioner, and the findings thereon with a record of the proceedings. Such power of removal is absolute, and there is no right of review of the same in any court. [1985 c.834 §2; 1999 c.1102 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.016 - Quorum; seal; individual commissioner authorized to act for commission.**

- (1) A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power of the Public Utility Commission.
- (2) The commission shall have a seal with the words "Public Utility Commission of Oregon" and such other design as the commission may prescribe engraved thereon, by which the proceedings of the commission shall be authenticated and of which the courts shall take judicial notice.
- (3) Any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner designated by order of the commission. Except as provided in ORS 756.055, all investigations, inquiries and hearings so held shall be conducted as though by the full commission with such commissioner empowered to exercise all the powers of the commission with respect thereto. [1985 c.834 §§3,4,5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.022 - Oath of office.**

Before entering upon the duties of office, each commissioner shall take and subscribe to an oath or affirmation to support the Constitution of the United States and of this state, and to faithfully and honestly discharge the duties of office. The oath shall be filed with the Secretary of State. [1971 c.655 §3; 1985 c.834 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.026 - Prohibited interests of commissioner and family.**

(1) No member of the Public Utility Commission shall:

- (a) Hold any other office of profit;
- (b) Hold any office or position under any political committee or party;
- (c) Hold any pecuniary interest in any business entity conducting operations which if conducted in this state would be subject to the commission's regulatory jurisdiction; or
- (d) Hold any pecuniary interest in, have any contract of employment with, or have any substantial voluntary transactions with any business or activity subject to the commission's regulatory jurisdiction.

(2) The prohibitions of subsection (1)(c) and (d) of this section apply to the spouse and minor children of each commissioner.

(3) If the Governor determines that any commissioner has done any act prohibited by subsection (1) of this section, or that a commissioner's spouse or a minor child has done any act prohibited by subsection (2) of this section, the Governor shall remove the commissioner in the manner provided in ORS 756.014 (4).

(4) Subsection (3) of this section does not apply to a commissioner if the commissioner or the commissioner's spouse or a minor child acquires any pecuniary interest prohibited by subsection (1) or (2) of this section, advises the Governor of such acquisition, and causes divestiture of such interest within the time specified by the Governor.

(5) For purposes of subsection (1) of this section, a business or activity shall not be considered subject to the commission's regulatory jurisdiction solely because the business or activity is a private carrier as defined by ORS 825.005. [1971 c.655 §4; 1985 c.834 §8; 1987 c.123 §1; 1995 c.306 §41]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.028 - Employee statements regarding prohibited interests.**

Each employee of the Public Utility Commission shall file with the commission a statement regarding holdings of the employee and the holdings of the employee's spouse and minor children of any pecuniary interest in any business or activity subject to the commission's regulatory jurisdiction. Supplementary statements shall be filed as such pecuniary interests are acquired or divested. The statements shall be in such form as the commission prescribes. If the commission determines that an employee or spouse or minor child of the employee holds any such pecuniary interest that may interfere with the impartial discharge of the employee's duties, the commission shall order divestiture of the interest. [1971 c.655 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.032 - Employee dismissal for retention of prohibited interests or failure to file statements.**

(1) The Public Utility Commission shall dismiss an employee:

- (a) Who fails to file the statement required by ORS 756.028 before the 11th day after the date of employment.
- (b) Who fails to file the supplementary statement required by ORS 756.028 before the 11th day after the acquisition of a pecuniary interest.
- (c) Who fails to cause divestiture of a pecuniary interest within the time specified in an order issued pursuant to ORS 756.028.

(2) Dismissal of an employee under subsection (1) of this section is subject to the procedure and appeal provided in ORS 240.555, 240.560 and 240.570. An employee so dismissed is eligible for reemployment. [1971 c.655 §6; 1979 c.468 §34; 2003 c.14 §452; 2014 c.22 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.034 - Intent of prohibited interest provisions.**

Nothing in ORS 756.022 to 756.032 is intended to authorize any act otherwise prohibited by law. [1971 c.655 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.036 - Duties and functions.**

(1) The Public Utility Commission may:

- (a) Organize and reorganize the office of the Public Utility Commission in the manner that it considers necessary to properly discharge the responsibilities of the Public Utility Commission.
- (b) Contract for or procure on a fee or part-time basis, or both, such experts, technical or other professional services as it may require for the discharge of its duties.
- (c) Obtain such other services as it considers necessary or desirable.
- (d) Participate in organizations of regional and national utility commissions.
- (e) Appoint advisory committees. A member of an advisory committee so appointed shall receive no compensation for services as a member. Subject to any applicable law regulating travel and other expenses of state officers and employees, the member shall receive actual and necessary travel and other expenses incurred in the performance of official duties.

(2) Subject to any applicable law regulating travel and other expenses of state officers and employees, the commissioners and the officers and employees of the commission shall be reimbursed for such reasonable and necessary travel and other expenses incurred



in the performance of their official duties.

(3) The chairperson of the commission appointed under ORS 756.014 shall serve as the administrative head of the commission and has the power to:

(a) With the consent of one or more of the other members of the commission, appoint and employ all subordinate officers and employees, including, but not limited to, deputies, assistants, engineers, examiners, accountants, auditors, inspectors and clerical personnel, prescribe their duties and fix their compensation, subject to the State Personnel Relations Law.

(b) Prescribe internal policies and procedures for the government of the commission, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property in a manner consistent with applicable law. [1971 c.655 §8; 1985 c.834 §9; 1999 c.1102 §2; 2003 c.14 §453]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.037 - Commission authority to provide assistance, information, resources and advice to Legislative Assembly.**

The Public Utility Commission and commission staff may provide such assistance to the Legislative Assembly and its committees as required by the Legislative Assembly for the performance of its duties, and may furnish to the Legislative Assembly and its committees such information, resources and advice as the members of the Legislative Assembly consider necessary for the performance of legislative duties. [2001 c.558 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.040 - General powers.**

(1) In addition to the powers and duties now or hereafter transferred to or vested in the Public Utility Commission, the commission shall represent the customers of any public utility or telecommunications utility and the public generally in all controversies respecting rates, valuations, service and all matters of which the commission has jurisdiction. In respect thereof the commission shall make use of the jurisdiction and powers of the office to protect such customers, and the public generally, from unjust and unreasonable exactions and practices and to obtain for them adequate service at fair and reasonable rates. The commission shall balance the interests of the utility investor and the consumer in establishing fair and reasonable rates. Rates are fair and reasonable for the purposes of this subsection if the rates provide adequate revenue both for operating expenses of the public utility or telecommunications utility and for capital costs of the utility, with a return to the equity holder that is:

(a) Commensurate with the return on investments in other enterprises having corresponding risks; and

(b) Sufficient to ensure confidence in the financial integrity of the utility, allowing the utility to maintain its credit and attract capital.

(2) The commission is vested with power and jurisdiction to supervise and regulate every public utility and telecommunications utility in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction.

(3) The commission may participate in any proceeding before any public officer, commission or body of the United States or any state for the purpose of representing the public generally and the customers of the services of any public utility or telecommunications utility operating or providing service to or within this state.

(4) The commission may make joint investigations, hold joint hearings within or without this state and issue concurrent orders in conjunction or concurrence with any official, board, commission or agency of any state or of the United States. [Amended by 1961 c.467 §1; 1971 c.655 §9; 1973 c.776 §15; 1987 c.447 §76; 1995 c.733 §53; 2001 c.569 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.045 - Employing legal counsel.**

Upon request by the Public Utility Commission, the Attorney General shall furnish to the commission such attorneys as the commission finds necessary. [Formerly 756.150]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.047 - Authority of commission to require fingerprints.**

For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Public Utility Commission may require the fingerprints of a person who:

(1)(a) Is employed or applying for employment by the commission; or

(b) Provides services or seeks to provide services to the commission as a contractor or volunteer; and

(2) Is, or will be, working or providing services in a position:

(a) In which the person has access to chemicals or hazardous materials, to facilities in which chemicals and hazardous materials are present or to information regarding the transportation of chemical or hazardous materials;

(b) In which the person inspects gas or electrical lines or facilities;

(c) In which the person has access to critical infrastructure or security-sensitive facilities or information; or

(d) That has fiscal, payroll or purchasing responsibilities as one of the position's primary responsibilities. [2005 c.730 §69]

Note:

756.047 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 756 or any series

therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.050 - Office, office supplies and sessions of commission.**

(1) The Public Utility Commission shall keep office at the capital and shall be provided with suitable office quarters under ORS 276.004. Necessary office furniture, supplies, stationery, books, periodicals and maps shall be furnished, and all necessary expenses therefor shall be audited and paid as other state expenses are audited and paid.

(2) The commission may hold sessions and maintain offices at places other than the capital for the more convenient and efficient performance of the duties imposed upon the commission by law, and shall upon request be provided by the county court or board of county commissioners of any county in the state with suitable rooms for offices and hearings. [Amended by 1969 c.706 §64g; 1971 c.655 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.055 - Delegation of authority.**

(1) Except as provided in subsection (2) of this section, the Public Utility Commission may designate by order or rule any commissioner or any named employee or category of employees who shall have authority to exercise any of the duties and powers imposed upon the commission by law. The official act of any commissioner or employee so exercising any such duties or powers is considered to be an official act of the commission.

(2) The commission may not delegate to any commissioner, named employee or category of employees under subsection (1) of this section the authority to:

- (a) Sign an interim or final order after hearing;
- (b) Sign any order upon any investigation the commission causes to be initiated;
- (c) Sign an order that makes effective a rule;
- (d) Enter orders on reconsideration or following rehearing; or
- (e) Grant immunity from prosecution, forfeiture or penalty. [1971 c.655 §12; 1985 c.834 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.060 - Authority to adopt rules and regulations.**

The Public Utility Commission may adopt and amend reasonable and proper rules and regulations relative to all statutes administered by the commission and may adopt and publish reasonable and proper rules to govern proceedings and to regulate the mode and manner of all investigations and hearings of public utilities and telecommunications utilities and other parties before the commission. [Amended by 1971 c.655 §13; 1973 c.776 §16; 1987 c.447 §77; 1995 c.733 §54]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.062 - Substantial compliance with laws adequate for commission activities; construction of laws generally.**

(1) A substantial compliance with the requirements of the laws administered by the Public Utility Commission is sufficient to give effect to all the rules, orders, acts and regulations of the commission and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

(2) The provisions of such laws shall be liberally construed in a manner consistent with the directives of ORS 756.040 (1) to promote the public welfare, efficient facilities and substantial justice between customers and public and telecommunications utilities. [Formerly 757.025; 1973 c.776 §17; 1987 c.447 §78; 1995 c.733 §55; 2001 c.569 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.068 - Service of notice or other legal process.**

The service or delivery of any notice, order, form or other document or legal process required to be made by the Public Utility Commission may be made by mail. If by mail, service or delivery is made when the required material is deposited in the post office, in a sealed envelope with postage paid, addressed to the person on whom it is to be served or delivered, at the address as it last appears in the records of the commission. [1971 c.655 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.070 - Investigating management of utilities.**

The Public Utility Commission may inquire into the management of the business of all public utilities and telecommunications utilities and shall keep informed as to the manner and method in which they are conducted and has the right to obtain from any public utility or telecommunications utility all necessary information to enable the commission to perform duties. [Amended by 1971 c.655 §17; 1973 c.776 §19; 1987 c.447 §70; 1995 c.733 §56]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility**

**CommissionSection 756.075 - Right of entry for examination of equipment, records or employees; use of findings.**

(1) The Public Utility Commission or authorized representatives may enter upon any premises, or any equipment or facilities operated or occupied by any public utility or telecommunications utility for the purpose of making any inspection, examination or test reasonably required in the administration of ORS chapter 756, 757, 758 or 759 and to set up and use on such premises equipment or facilities any apparatus and appliances and occupy reasonable space therefor.

(2) The commission or authorized representatives shall, upon demand, have the right to inspect the books, accounts, papers, records and memoranda of any public utility or telecommunications utility and to examine under oath any officer, agent or employee of such public utility or telecommunications utility in relation to its business and affairs.

(3) Any person who on behalf of the commission makes demand of a public utility or telecommunications utility for an examination, inspection or test shall, upon request therefor, produce a certificate under the seal of the commission showing authority to make such examination, inspection or test.

(4) Nothing in this section authorizes the commission to use any information developed thereunder for any purpose inconsistent with any statute administered by the commission or to make a disclosure thereof for other than regulatory purposes. [Formerly 757.260; 1973 c.776 §20; 1987 c.447 §80; 1995 c.733 §57]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.090 - Maintaining and producing records; expenses of examining out-of-state records.**

(1) The Public Utility Commission may require by rule, or by order or subpoena to be served on any public utility or telecommunications utility the maintaining within this state or the production within this state at such time and place as the commission may designate, of any books, accounts, papers or records kept by such public utility or telecommunications utility in any office or place within or without this state, or verified copies in lieu thereof, if the commission so orders, in order that an examination thereof may be made by the commission or under direction of the commission.

(2) When a public utility or telecommunications utility keeps and maintains its books, accounts, papers or records outside the state, the commission may examine such documents and shall be reimbursed by the public utility or telecommunications utility for all expenses incurred in making such out-of-state examination. [Amended by 1971 c.655 §19; 1973 c.776 §21; 1987 c.447 §81; 1995 c.733 §58]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.105 - Duty to furnish information to commission.**

(1) Every public utility or telecommunications utility shall furnish to the Public Utility Commission all information required by the commission to carry into effect the provisions of ORS chapters 756, 757, 758 and 759 and shall make specific answers to all questions submitted by the commission.

(2) If a public utility or telecommunications utility is unable to furnish any information required under subsection (1) of this section for any reason beyond its control, it is a good and sufficient reason for such failure. The answer or information shall be verified under oath and returned to the commission at the commission's office within the period fixed by the commission. [Formerly 757.115; 1973 c.776 §22; 1987 c.447 §82; 1995 c.733 §59]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.115 - Failure to furnish requested information.**

No officer, agent or employee of any public utility, or telecommunications utility shall:

(1) Fail or refuse to fill out and return any forms required by the Public Utility Commission;

(2) Fail or refuse to answer any question therein propounded;

(3) Knowingly or willfully give a false answer to any such question or evade the answer to any such question where the fact inquired of is within the person's knowledge;

(4) Upon proper demand, fail or refuse to exhibit to the commission or any person authorized to examine the same, any book, paper, account, record or memorandum of such public utility or telecommunications utility which is in possession or under the control of the person;

(5) Fail to properly use and keep a system of accounting or any part thereof, as prescribed by the commission; or

(6) Refuse to do any act or thing in connection with such system of accounting when so directed by the commission or authorized representative. [Formerly 757.180; 1973 c.776 §23; 1987 c.447 §83; 1995 c.733 §60]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.125 - Interference with commission equipment.**

No person shall destroy, injure or interfere with any apparatus or appliance owned or operated by or in charge of the Public Utility Commission, or any apparatus or appliance sealed by the commission. [Formerly 757.340]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.150**

[Amended by 1971 c.655 §10; renumbered 756.045]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.160 - Enforcement of statutes and ordinances relating to utilities.**

(1) The Public Utility Commission shall inquire into any neglect or violation of any law of this state or any law or ordinance of any municipality thereof relating to public utilities and telecommunications utilities by any public utility or telecommunications utility doing business therein, its officers, agents or employees and shall enforce all laws of this state relating to public utilities and telecommunications utilities and may enforce all such laws and ordinances of a municipality. The commission shall report all violations of any such laws or ordinances to the Attorney General.

(2) The Attorney General, district attorney of each county, all state, county and city police officers and police officers commissioned by a university under ORS 352.121 or 353.125 shall assist the commission in the administration and enforcement of all laws administered by the commission, and they, as well as assistants and employees of the commission, shall inform against and diligently prosecute all persons whom they have reasonable cause to believe guilty of violation of any such laws or of the rules, regulations, orders, decisions or requirements of the commission made pursuant thereto.

(3) Upon the request of the commission, the Attorney General or the district attorney of the proper county shall aid in any investigation, hearing or trial, and shall institute and prosecute all necessary suits, actions or proceedings for the enforcement of those laws and ordinances referred to in subsection (1) of this section.

(4) Any forfeiture or penalty provided for in any law administered by the commission shall be recovered by an action brought thereon in the name of the State of Oregon in any court of appropriate jurisdiction. [Amended by 1971 c.655 §23; 1973 c.776 §24; 1987 c.447 §84; 1995 c.733 §61; 2011 c.506 §46; 2013 c.180 §51]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.180 - Enforcing utility laws.**

(1) Whenever it appears to the Public Utility Commission that any public utility or telecommunications utility or any other person subject to the jurisdiction of the commission is engaged or about to engage in any acts or practices which constitute a violation of any statute administered by the commission, or any rule, regulation, requirement, order, term or condition issued thereunder, the commission may apply to any circuit court of the state where such public utility or telecommunications utility or other person subject to the jurisdiction of the commission operates for the enforcement of such statute, rule, regulation, requirement, order, term or condition.

(2) Such court, without bond, has jurisdiction to enforce obedience thereto by injunction, or by other processes, mandatory or otherwise, restraining such public utility or telecommunications utility or any other person subject to the jurisdiction of the commission, or its officers, agents, employees and representatives from further violations of such statute, rule, regulation, requirement, order, term or condition, and enjoining upon them obedience thereto.

(3) The provisions of this section are in addition to and not in lieu of any other enforcement provisions contained in any statute administered by the commission. [Amended by 1971 c.655 §24; 1973 c.232 §5; 1973 c.776 §25; 1987 c.447 §85; 1995 c.733 §62]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.185 - Right to recover for wrongs and omissions; treble damages.**

(1) Any public utility which does, or causes or permits to be done, any matter, act or thing prohibited by ORS chapter 756, 757 or 758 or omits to do any act, matter or thing required to be done by such statutes, is liable to the person injured thereby in the amount of damages sustained in consequence of such violation. If the party seeking damages alleges and proves that the wrong or omission was the result of gross negligence or willful misconduct, the public utility is liable to the person injured thereby in treble the amount of damages sustained in consequence of the violation. Except as provided in subsection (2) of this section, the court may award reasonable attorney fees to the prevailing party in an action under this section.

(2) The court may not award attorney fees to a prevailing defendant under the provisions of subsection (1) of this section if the action under this section is maintained as a class action pursuant to ORCP 32.

(3) Any recovery under this section does not affect recovery by the state of the penalty, forfeiture or fine prescribed for such violation.

(4) This section does not apply with respect to the liability of any public utility for personal injury or property damage. [Formerly 757.335; 1973 c.776 §26; 1981 c.856 §1; 1981 c.897 §104a; 1987 c.447 §86; 1989 c.827 §1; 1995 c.696 §48; 1995 c.733 §63]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.200 - Effect of utility laws on common law and other statutory rights of action, duties and liabilities.**

(1) The remedies and enforcement procedures provided in ORS chapters 756, 757, 758 and 759 do not release or waive any right of action by the state or by any person for any right, penalty or forfeiture which may arise under any law of this state or under an ordinance of any municipality thereof.

(2) All penalties and forfeiture accruing under said statutes and ordinances are cumulative and a suit for and recovery of one, shall not be a bar to the recovery of any other penalty.

(3) The duties and liabilities of the public utilities or telecommunications utilities shall be the same as are prescribed by the common law, and the remedies against them the same, except where otherwise provided by the Constitution or statutes of this state, and the provisions of ORS chapters 756, 757, 758 and 759 are cumulative thereto. [Formerly 760.045; 1973 c.776 §27; 1987 c.447 §87; 1995 c.733 §64]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.305 - Public Utility Commission Account.**

(1) There hereby is established in the General Fund an account to be known as the Public Utility Commission Account. Except as limited by ORS 756.360, all moneys, without regard to their sources, credited to the Public Utility Commission Account hereby are appropriated continuously to the Public Utility Commission for the payment of any and all of the expenses of the Public Utility Commission.

(2) The Public Utility Commission shall keep a record of all moneys deposited in the Public Utility Commission Account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged. [1957 c.459 §1; 1971 c.655 §27; 1997 c.249 §220]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.310 - Annual fees payable by utilities and telecommunications providers.**

(1) Subject to the provisions of subsections (3) and (4) of this section, each public utility and telecommunications provider shall pay a fee to the Public Utility Commission in each calendar year. The amount of the fee shall equal the amount that the commission finds and determines to be necessary, together with the amount of all other fees paid or payable to the commission by such public utilities and telecommunications providers in the current calendar year, to defray the costs of performing the duties imposed by law upon the commission with respect to the public utilities and telecommunications providers.

(2) In each calendar year the percentage rate of the fee required to be paid by public utilities shall be determined by orders entered by the commission on or after March 1 of each year. Notice of the orders shall be given to each utility. The utility shall pay to the commission the fee or portion thereof so computed upon the date specified in the notice. The date of payment shall be at least 15 days after the date of mailing of the notice.

(3) The fee payable under subsection (1) of this section by each public utility may not be less than \$10, or more than forty-five hundredths of one percent of the utility's gross operating revenues derived within this state in the preceding calendar year. For the purpose of this subsection, the gross operating revenues of an electric company do not include revenues from sales of power for resale to the extent that the revenues from those sales exceed an amount equal to 25 percent of the total revenues received by the electric company from sales of electricity to end users in the preceding calendar year.

(4)(a) For a telecommunications provider, the fee payable under subsection (1) of this section shall be a percentage amount not to exceed thirty-five hundredths of one percent of the provider's gross retail intrastate revenue for each calendar year, but may not be less than \$100. The percentage amount shall be determined by order of the commission not less than 60 days prior to the calendar year upon which the fee is based. The fee shall be payable to the commission not later than April 1 of the year following that calendar year.

(b) A telecommunications provider shall collect the fee payable under subsection (1) of this section by charging an apportioned amount to each of the provider's retail customers. The amount of the charge shall be described on the retail customer's bill in a manner determined by the provider.

(c) In the event a telecommunications utility has an approved rate that includes the fee required under subsection (1) of this section and separately charges retail customers for the fee described in this section, at the time the utility begins collecting the charge the utility shall file with the commission a rate schedule reducing rates in an amount projected to equal the amount separately charged to customers.

(5) The commission may use any of its investigatory and enforcement powers provided under this chapter for the purpose of administering and enforcing the provisions of this section.

(6) As used in this section:

(a) "Electric company" means any entity that is a public utility under ORS 757.005 that is engaged in the business of distributing electricity to retail electric customers in Oregon.

(b) "Retail customer" does not include a purchaser of intrastate telecommunications services who is a telecommunications provider, telecommunications cooperative, interexchange carrier or radio common carrier.

(c) "Telecommunications provider" means any entity that is a telecommunications utility or a competitive telecommunications provider as defined in ORS 759.005. [Amended by 1953 c.10 §2; 1957 c.464 §1; 1959 c.355 §1; 1961 c.109 §1; 1963 c.89 §1; 1971 c.132 §1; 1973 c.170 §1; 1975 c.127 §1; 1985 c.293 §1; 1987 c.439 §1; 1987 c.447 §88; 1991 c.841 §2; 1995 c.733 §65; 1997 c.826 §8; 1999 c.339 §1; 2007 c.245 §1; 2015 c.289 §1; 2019 c.173 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.320 - Statements accompanying fees; audit and refunding by commission.**

Payment of each fee or portion thereof provided for in ORS 756.310 shall be accompanied by a statement verified by the public utility or telecommunications provider involved, showing the basis upon which the fee or portion thereof is computed. This

statement shall be in such form and detail as the Public Utility Commission shall prescribe and shall be subject to audit by the commission. The commission may refund any overpayment of any such fee in the same manner as other claims and expenses of the commission are payable as provided by law. [Amended by 1987 c.447 §89; 1995 c.733 §66; 1997 c.826 §9; 1999 c.339 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.325 - Distribution of information filed with commission; fees; rules.**

(1) The Public Utility Commission may by rule prescribe for the free distribution for public information or educational purposes or applicable charge for any blank forms, transcript, document, order, statistical data or publication prepared by and on file in the office of the commission. In no event shall the fee exceed the cost of preparing, reproducing and distributing such blank forms, transcript, document, order, statistical data or publication.

(2) In the ordinary course of distribution, no fee shall be charged or collected for copies of published documents furnished to public officers for use in their official capacity, or for annual reports of the commission. [1971 c.655 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.350 - Penalty for failure to pay fees; action to collect unpaid fees and penalties.**

Every person who fails to pay any fees provided for in ORS 756.310 or 756.320 after they are due and payable shall, in addition to such fees, pay a penalty of two percent of such fees for each and every month or fraction thereof that they remain unpaid. If, in the judgment of the Public Utility Commission, action is necessary to collect any unpaid fees or penalties, the commission shall bring such action or take such proceedings as may be necessary thereon in the name of the State of Oregon in any court of competent jurisdiction, and be entitled to recover all costs and disbursements incurred therein. [Amended by 1971 c.655 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.360 - Disposal and use of fees and penalties collected.**

All fees, penalties and other moneys collected by the Public Utility Commission under ORS 756.310, 756.320, 756.350, 758.015, 758.400 to 758.475 and ORS chapter 759 shall be paid by the commission into the State Treasury within 30 days after the collection thereof, and shall be placed by the State Treasurer to the credit of the Public Utility Commission Account and the fees, penalties and other moneys collected from:

(1) Public utilities shall be used only for the purpose of paying the expenses of the commission in performing the duties imposed by law upon the commission in respect to utilities, and for the purpose of paying the expenses of the Office of the Governor for its responsibilities in administering energy conservation and allocation programs.

(2) Telecommunications providers shall be used only for the purpose of paying the expenses of the commission in performing the duties imposed by law upon the commission in respect to telecommunications providers, and for the purpose of paying the expenses of the Office of the Governor for its responsibilities in administering energy conservation and allocation programs. [Amended by 1957 c.459 §7; 1967 c.164 §3; 1971 c.655 §30; 1973 c.776 §28; 1974 c.59 §1; 1987 c.447 §90; 1995 c.733 §67; 1999 c.339 §3; 2011 c.597 §298]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.380**

[Formerly 757.080; 1995 c.306 §42; renumbered 823.071 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.385**

[Formerly 757.085; 1995 c.733 §67a; renumbered 823.073 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.390**

[Formerly 757.090; 1983 c.78 §1; 1995 c.733 §67b; renumbered 823.075 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.450 - Declaratory rulings.**

On petition of any interested person, the Public Utility Commission may issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the commission. A declaratory ruling is binding between the commission and the petitioner on the state of facts alleged, unless it is modified, remanded or set aside by a court. However, the commission may review the ruling and modify or set it aside if requested by the petitioner or other party to the proceeding. Binding rulings issued under this section are subject to judicial review as orders in the manner provided by ORS 756.610. [1971 c.655 §36; 2005 c.638 §2; 2017 c.312 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility**

**CommissionSection 756.500 - Complaint; persons entitled to file; contents; amendments.**

- (1) Any person may file a complaint before the Public Utility Commission, or the commission may, on the commission's own initiative, file such complaint. The complaint shall be against any person whose business or activities are regulated by some one or more of the statutes, jurisdiction for the enforcement or regulation of which is conferred upon the commission. The person filing the complaint shall be known as the complainant and the person against whom the complaint is filed shall be known as the defendant.
- (2) It is not necessary that a complainant have a pecuniary interest in the matter in controversy or in the matter complained of, but the commission shall not grant any order of reparation to any person not a party to the proceedings in which such reparation order is made.
- (3) The complaint shall state all grounds of complaint on which the complainant seeks relief or the violation of any law claimed to have been committed by the defendant, and the prayer of the complaint shall pray for the relief to which the complainant claims the complainant is entitled.
- (4) The complaint may, at any time before the completion of taking of evidence, be amended by order of the commission. However, if a charge not contained in the original complaint or a prior amended complaint is sought to be made by any such amendment, the defendant shall be given a reasonable time to investigate the new charge and answer the amended complaint. The final hearing shall, if necessary, be continued until some date after the defendant has had a reasonable time to investigate and be prepared to meet the amended complaint.
- (5) Notwithstanding subsection (1) of this section, any public utility or telecommunications utility may make complaint as to any matter affecting its own rates or service with like effect as though made by any other person, by filing an application, petition or complaint with the commission. [Formerly 756.520; 1987 c.447 §91; 1995 c.733 §68]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.510**

[Amended by 1971 c.655 §40; renumbered 756.518]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.512 - Notice of complaint to defendant; responsive pleadings; setting cause for hearing.**

- (1) The Public Utility Commission shall serve a copy of the complaint upon the defendant, and shall give the defendant at least 10 days within which to respond to the complaint. Within the time so fixed, or such further time as the commission shall fix, the defendant shall file an answer to the complaint, taking issue on such parts of the complaint as the defendant desires and setting forth such additional matter as shall be pertinent to the matter in controversy. Such additional matter shall be deemed denied without the filing of any other pleading by the complainant. After the filing of the answer the commission shall set the matter for hearing, giving the defendant at least 10 days' written notice of the time and place of the hearing, unless the commission for good reason stated in the notice, fixes a shorter time. Amendment of any answer may be permitted by order of the commission.
- (2) If the defendant fails to file a responsive pleading or otherwise appear within the time prescribed in subsection (1) of this section, or if the responsive pleading filed raises no issue of law or fact, the commission may act on the complaint without a hearing. [Formerly 756.530]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.515 - Investigations and hearings on commission's own motion; hearings for aggrieved persons.**

- (1) Whenever the Public Utility Commission believes that any rate may be unreasonable or unjustly discriminatory, or that any service is unsafe or inadequate, or is not afforded, or that an investigation of any matter relating to any public utility or telecommunications utility or other person should be made, or relating to any person to determine if such person is subject to the commission's regulatory jurisdiction, the commission may on motion summarily investigate any such matter, with or without notice.
- (2) If after making such investigation the commission is satisfied that sufficient grounds exist to warrant a hearing being ordered upon any such matter, the commission shall furnish any public utility or telecommunications utility or other person interested a statement notifying it of the matters under investigation, which statement shall be accompanied by a notice fixing the time and place for hearing upon such matters in the manner provided in ORS 756.512 for notice of complaint.
- (3) Thereafter proceedings shall be had and conducted in reference to the matters investigated in like manner as though complaint had been filed with the commission relative thereto, and the same orders may be made in reference thereto as if such investigation had been made on complaint.
- (4) The commission may, after making an investigation on the commission's motion, but without notice or hearing, make such findings and orders as the commission deems justified or required by the results of such investigation. Except as provided in subsections (5) and (6) of this section such findings and orders have the same legal force and effect as any other finding or order of the commission.
- (5) In addition to any other remedy provided by law, any party aggrieved by an order entered pursuant to subsection (4) of this section may request the commission to hold a hearing to determine whether the order should continue in effect. Any such request for hearing shall be submitted to the commission not later than 15 days after the date of service of the order, and the commission shall hold the hearing not later than 60 days after receipt of such a request for hearing.

(6) If the commission receives a request for hearing pursuant to subsection (5) of this section, the order is suspended pending the outcome of the hearing unless the commission finds that the order is necessary for the public health or safety or to prevent the dissipation of assets of a business or activity subject to the commission's regulatory jurisdiction. [Formerly 757.515; 1973 c.776 §29; 1975 c.318 §1; 1983 c.703 §18; 1987 c.447 §92; 1995 c.733 §69]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.518 - Procedures applicable to all matters before commission; oral hearing; rules.**

(1) Except as otherwise provided the provisions of ORS 756.500 to 756.610 apply to and govern all hearings upon any matter or issue coming before the Public Utility Commission under any statute administered by the commission, whether instituted on the application, petition or complaint of others or initiated by the commission, together with the orders of the commission therein and the review thereof in the courts.

(2) Upon request of any party in a major proceeding before the commission, the commission shall afford the parties an opportunity for oral argument before a final order is issued. There must be a quorum of the commission present at the time the oral argument is made. The commission shall adopt rules that establish criteria for determining which proceedings give rise to a right to oral argument under this subsection. In addition, the commission may adopt rules governing participation in oral arguments, cross-examination of witnesses, draft or proposed orders or such other matters as the commission deems appropriate. [Formerly 756.510; 2001 c.558 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.520**

[Amended by 1971 c.655 §37; renumbered 756.500]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.521 - Public hearings; record required; furnishing transcripts.**

All hearings shall be open to the public and may be had before the Public Utility Commission, an examiner or any other person authorized to hold such hearing. A full record thereof shall be kept. However, it shall not be necessary to transcribe testimony unless requested. For purposes of rehearing or reconsideration under ORS 756.561, a transcription shall be made at the commission's expense, and copies of such transcription shall be supplied to the parties, at cost. A copy of the transcript shall be supplied to a party without cost upon the filing with the commission of a satisfactory affidavit of indigency. [1971 c.655 §41; 2005 c.638 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.525 - Parties to proceedings.**

(1) The Public Utility Commission may permit any person to become a party who might, on the institution of the proceeding, have been such a party, if application therefor is made before the final taking of evidence in the proceeding.

(2) At any time before the final taking of evidence in a proceeding, any person may apply to the commission for permission to appear and participate in the proceeding. The commission shall determine the interest of the applicant in the proceeding and shall grant the application, subject to appropriate conditions, if the commission determines that such appearance and participation will not unreasonably broaden the issues or burden the record, and otherwise may deny the application.

(3) This section does not apply to any person who might have been an original party in a proceeding before the commission if that person is required by statute to file a pleading or other response in the proceeding within a specified time. [1971 c.655 §42]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.528 - Segregation of issues.**

At any time before the conclusion of the taking of evidence in a proceeding, the Public Utility Commission may segregate the issues involved and order separate hearings thereon at such times and places as the commission may prescribe. [1971 c.655 §43; 2005 c.638 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.530**

[Amended by 1971 c.655 §38; renumbered 756.512]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.534 - Place of hearings; continuation.**

Except as provided in ORS 756.040 (4), the hearing may be held at any place designated by the Public Utility Commission within this state, or different parts of the hearing may be held at different places in this state, as shall be designated by the commission. The hearing may be continued from time to time and place to place as ordered and fixed by the commission. [Formerly 756.560]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility**



**CommissionSection 756.538 - Taking and use of depositions; rules.**

- (1) In any investigation, the Public Utility Commission may take the testimony of any person by deposition upon oral examination or written interrogatories for the purpose of discovery or for use in the investigation.
- (2) In any proceeding requiring a hearing, the commission or any party to the proceeding may take the testimony of any person by deposition upon oral examination or written interrogatories for the purpose of discovery or for use as evidence in the proceeding, or for both purposes.
- (3) Depositions may be taken within or without the State of Oregon by the commission, or any other person authorized to administer oaths, in accordance with procedures prescribed by the rules of the commission.
- (4) The commission shall promulgate rules concerning the manner of applying for and taking depositions and the use thereof. Such rules shall provide reasonable provisions against abuse of such procedure and for protection of the rights of all persons affected. [1971 c.655 §45]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.543 - Issuance of subpoenas; failure to comply.**

- (1) The Public Utility Commission shall issue subpoenas to any party to a proceeding before the commission upon request and proper showing of the general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties or their officers or employees, or employees of the commission, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2). If the commission certifies that the testimony of a witness was relevant and material, any person who paid fees and mileage to that witness shall be reimbursed by the commission and from moneys referred to in ORS 756.360, subject to the limitations provided in ORS 756.360.
- (2) If any person fails to comply with any subpoena so issued or any party or witness refuses to testify on any matters on which the person may be lawfully interrogated, the judge of the circuit court of any county, on the application of the commission, or of the party requesting the issuance of the subpoena, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. [1971 c.655 §46; 1983 c.540 §2; 1987 c.980 §23; 1997 c.249 §221]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.549 - Self-incrimination of witnesses in commission proceedings.**

- (1) No person shall be excused from testifying or from producing evidence in any proceeding held by the Public Utility Commission on the ground that the testimony or evidence required of the person may tend to incriminate the person or subject the person to prosecution, penalty or forfeiture if:
  - (a) The person has been directed by the commission to testify or produce evidence under oath;
  - (b) The person claims, at the time the person is directed by the commission to testify or produce evidence, that the testimony or evidence required of the person may tend to incriminate the person or subject the person to prosecution, penalty or forfeiture; and
  - (c) The commission specifically grants the person immunity from prosecution, penalty or forfeiture regarding those matters about which the person testifies or produces evidence as directed.
- (2) Except for prosecution and punishment for perjury, no person who testifies or produces evidence in accordance with subsection (1) of this section shall be prosecuted or subjected to any penalty or forfeiture concerning any matter about which the person so testified or produced evidence. [1971 c.655 §47]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.550**

[Amended by 1957 c.599 §1; 1971 c.655 §50; renumbered 756.558]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.552 - Self-incrimination of witnesses in court proceedings.**

No person shall be excused from testifying or from producing books and papers in any court proceeding based upon or growing out of any violation of the provisions of ORS chapter 756, 757, 758, 759 or 825 or ORS 824.020 to 824.042, 824.050 to 824.110, 824.200 to 824.256 or 824.300 to 824.310 on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to penalty or forfeiture; but no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter or thing concerning which the person may have testified or produced any documentary evidence. However, no person shall be exempted from prosecution or punishment for perjury while so testifying. The immunity conferred by this section shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath. [Formerly 757.590; 1989 c.827 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 756 - Public Utility CommissionSection 756.555 - Powers of commission at hearings.**

The Public Utility Commission may administer oaths, certify to official acts, issue notices in the name of the commission, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony, and take and receive testimony, conduct hearings and investigations, whether upon complaint or upon the commission's own motion. [Formerly 757.555]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.558 - Taking of evidence; findings; issuance of orders; providing copies of orders.**

- (1) At the conclusion of the taking of evidence, the Public Utility Commission shall declare the taking of evidence concluded. Thereafter no additional evidence shall be received except upon the order of the commission and a reasonable opportunity of the parties to examine any witnesses with reference to the additional evidence and otherwise rebut and meet such additional evidence.
- (2) After the completion of the taking of evidence, and within a reasonable time, the commission shall prepare and enter findings of fact and conclusions of law upon the evidence received in the matter and shall make and enter the order of the commission thereon. The findings of fact and conclusions of law may be embodied in the same instrument with the order or may be embodied in a separate instrument. The findings of fact, conclusions of law and order thereon shall be signed by the commission. The order shall state the date it becomes effective. A copy of the findings of fact and conclusions of law and a copy of the order shall, forthwith upon the entry of the same, be served upon each of the parties to the proceeding.
- (3) Upon application of any person, the commission shall furnish certified copies, under the seal of any order made by the commission. [Formerly 756.550]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.560**

[Amended by 1971 c.655 §44; renumbered 756.534]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.561 - Rehearing; reconsideration.**

- (1) After an order has been made by the Public Utility Commission in any proceeding, any party thereto may apply for rehearing or reconsideration thereof within 60 days from the date of service of such order. The commission may grant such a rehearing or reconsideration if sufficient reason therefor is made to appear.
- (2) No such application shall excuse any party against whom an order has been made by the commission from complying therewith, nor operate in any manner to stay or postpone the enforcement thereof without the special order of the commission.
- (3) If a rehearing is granted, the proceedings thereupon shall conform as nearly as possible to the proceedings in an original hearing, except as the commission otherwise may direct. If in the judgment of the commission, after such rehearing and the consideration of all facts, including those arising since the former hearing, the original order is in any respect unjust or unwarranted, the commission may reverse, change or modify the same accordingly. Any order made after such rehearing, reversing, changing or modifying the original determination is subject to the same provisions as an original order. [Formerly 756.570]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.565 - Prima facie effect of commission actions.**

All rates, tariffs, classifications, regulations, practices and service fixed, approved or prescribed by the Public Utility Commission and any order made or entered upon any matter within the jurisdiction of the commission shall be in force and shall be prima facie lawful and reasonable, until found otherwise in a proceeding brought for that purpose under ORS 756.610. [Formerly 760.575; 2005 c.638 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.568 - Rescission, suspension and amendment of orders.**

The Public Utility Commission may at any time, upon notice to the public utility or telecommunications utility and after opportunity to be heard as provided in ORS 756.500 to 756.610, rescind, suspend or amend any order made by the commission. Copies of the same shall be served and take effect as provided in ORS 756.558 for original orders. [Formerly 757.540; 1973 c.776 §30; 1987 c.447 §92a; 1995 c.733 §70]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.570**

[Amended by 1971 c.655 §51; renumbered 756.561]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.572 - Effect of orders on successors in interest.**

- (1) An order of the Public Utility Commission issued in accordance with the provisions of ORS chapters 756, 757, 758 and 759 is binding upon the successors in interest of each person affected thereby, until set aside, rescinded, suspended or modified as provided

by law.

(2) Any investigation, hearing or other proceeding involving the issuance of an order of the commission that has not been finally determined when a transfer of any interests of a person is effected may be continued and finally determined, notwithstanding any such transfer of interest. Any order issued in such investigation, hearing or other proceeding is binding upon the successors in interest. [1971 c.655 §54; 1973 c.776 §31; 1987 c.447 §93; 1995 c.733 §71]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.575 - Notice of acceptance of terms of orders.**

The Public Utility Commission may provide by rule that any public utility or telecommunications utility affected by any order shall within a time to be fixed by the commission, notify the commission whether the terms of the order are accepted and will be obeyed. [1971 c.655 §55; 1973 c.776 §32; 1987 c.447 §94; 1995 c.733 §72]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.610 - Judicial review.**

(1)(a) Except as provided in subsections (2) and (3) of this section, final orders of the Public Utility Commission are subject to judicial review as orders under the provisions of ORS 183.480 to 183.497.

(b) Binding rulings issued under ORS 756.450 are subject to review in the Court of Appeals in the manner provided in ORS 183.480 for the review of orders in contested cases.

(2) ORS 183.482 (3) does not apply to judicial review of an order of the Public Utility Commission. At any time after filing a petition for judicial review of a final order of the commission in a contested case, the petitioner may apply to the Court of Appeals for a stay of the order until the final disposition of the appeal. The court may grant a stay for cause shown. As a condition of granting a stay, the court may require a bond or other security, or impose such other conditions as the court deems appropriate. A stay may be granted only after notice to the commission and opportunity for hearing. Any bond required by the court must be executed in favor of the commission for the benefit of interested persons, and may be enforced by the commission or by any interested person.

(3) An order of the Public Utility Commission related to the petition for a certificate of public convenience and necessity under ORS 758.015, where the petitioner also seeks approval from the Energy Facility Siting Council for the proposed transmission line, is subject to judicial review as provided in ORS 758.017. [Amended by 1971 c.655 §62; 2003 c.576 §559; 2005 c.638 §6; 2013 c.335 §4; 2017 c.312 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 756 - Public Utility Commission Section 756.990 - Penalties.**

(1) Any public utility or telecommunications utility that fails to comply with an order or subpoena issued pursuant to ORS 756.090 shall forfeit, for each day it so fails, a sum of not less than \$50 nor more than \$500.

(2) Except where a penalty is otherwise provided by law, any public utility, telecommunications utility or other person subject to the jurisdiction of the Public Utility Commission shall forfeit a sum of not less than \$100 nor more than \$10,000 for each time that the person:

- (a) Violates any statute administered by the commission;
- (b) Does any act prohibited, or fails to perform any duty enjoined upon the person;
- (c) Fails to obey any lawful requirement or order made by the commission; or
- (d) Fails to obey any judgment made by any court upon the application of the commission.

(3) Violation of ORS 756.115 is a Class A violation.

(4) Violation of ORS 756.125 is a Class C misdemeanor.

(5) Violation of ORS 756.543 (1) is a Class A misdemeanor.

(6) In construing and enforcing this section, the act, omission or failure of any officer, agent or other person acting for or employed by any public utility, telecommunications utility or other person subject to the jurisdiction of the commission acting within the scope of the person's employment shall in every case be deemed to be the act, omission or failure of such public utility, telecommunications utility or other person subject to the jurisdiction of the commission. With respect to any violation of any statute administered by the commission, any penalty provision applying to such a violation by a public utility or telecommunications utility shall apply to such a violation by any other person.

(7) Except when provided by law that a penalty, forfeiture or other sum be paid to the aggrieved party, or as provided in ORS 757.994 (1), all penalties or forfeitures or other sums collected or paid under the provisions of any law administered by the commission shall be paid into the General Fund and credited to the Public Utility Commission Account. [1971 c.655 §63; 1973 c.232 §4; 1973 c.776 §33; 1977 c.105 §1; 1979 c.415 §1; 1987 c.447 §95; 1995 c.733 §73; 1999 c.1051 §223; 2003 c.202 §9; 2003 c.576 §560; 2011 c.597 §299]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.005 - Definition of public utility.**

(1)(a) As used in this chapter, except as provided in paragraph (b) of this subsection, "public utility" means:

(A) Any corporation, company, individual, association of individuals, or its lessees, trustees or receivers, that owns, operates, manages or controls all or a part of any plant or equipment in this state for the production, transmission, delivery or furnishing of heat, light, water or power, directly or indirectly to or for the public, whether or not such plant or equipment or part thereof is wholly within any town or city.

(B) Any corporation, company, individual or association of individuals, which is party to an oral or written agreement for the payment by a public utility, for service, managerial construction, engineering or financing fees, and having an affiliated interest with the public utility.

(b) As used in this chapter, "public utility" does not include:

(A) Any plant owned or operated by a municipality.

(B) Any railroad, as defined in ORS 824.020, or any industrial concern by reason of the fact that it furnishes, without profit to itself, heat, light, water or power to the inhabitants of any locality where there is no municipal or public utility plant to furnish the same.

(C) Any corporation, company, individual or association of individuals providing heat, light or power:

(i) From any energy resource to fewer than 20 customers, if it began providing service to a customer prior to July 14, 1985;

(ii) From any energy resource to fewer than 20 residential customers so long as the corporation, company, individual or association of individuals serves only residential customers;

(iii) From solar or wind resources to any number of customers; or

(iv) From biogas, waste heat or geothermal resources for nonelectric generation purposes to any number of customers.

(D) A qualifying facility on account of sales made under the provisions of ORS 758.505 to 758.555.

(E) Any person furnishing heat, but not delivering electricity or natural gas to its customers, except:

(i) As provided in ORS 757.007 and 757.009; or

(ii) With respect to heat furnished in municipalities which on January 1, 1989, had a municipally owned system that was furnishing steam or other thermal forms of heat to its customers.

(F) Notwithstanding subparagraph (E) of this paragraph, any corporation, company, partnership, individual or association of individuals furnishing heat to a single thermal end user from an electric generating facility, plant or equipment that is physically interconnected with the single thermal end user.

(G) Any corporation, company, partnership, individual or association of individuals that furnishes natural gas, electricity, ethanol, methanol, methane, biodiesel or other alternative fuel to any number of customers for use in motor vehicles and does not furnish any utility service described in paragraph (a) of this subsection.

(H) An electricity service supplier, as defined in ORS 757.600.

(2) Nothing in subsection (1)(b)(C) of this section shall prohibit third party financing of acquisition or development by a utility customer of energy resources to meet the heat, light or power requirements of that customer. [Amended by 1953 c.583 §2; 1967 c.241 §1; 1967 c.314 §1; 1971 c.655 §64a; 1973 c.726 §1; 1979 c.62 §1; 1981 c.360 §1; 1981 c.749 §21; 1983 c.118 §1; 1983 c.799 §7; 1985 c.550 §1; 1985 c.633 §7; 1985 c.779 §1; 1987 c.447 §96; 1987 c.900 §3; 1989 c.5 §2; 1989 c.999 §§1,2; 1991 c.294 §1; 1995 c.267 §1; 1999 c.330 §2; 1999 c.491 §1; 1999 c.865 §21; 2001 c.104 §292; 2003 c.82 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.006 - People's utility districts and electric cooperatives excluded from term "public utility."**

For purposes of ORS chapter 757, the term "public utility" does not include a people's utility district organized under ORS chapter 261 or an electric cooperative organized under ORS chapter 62. [2016 c.28 §18c]

Note:

757.006 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.007 - Contract and rate schedule filing for certain furnishers of heat exempt from regulation; procedure.**

(1) Every person exempt from regulation under ORS 757.005 (1)(b)(E) shall file with the Public Utility Commission, not later than 30 days prior to their effective date, all contracts and schedules establishing rates, terms and conditions for the provision of heating services.

(2) Prior to the effective date, the commission may suspend the effective date of such contracts or schedules for an additional period of not more than 120 days in order to determine the reasonableness of such contracts or schedules, taking into consideration the services being provided, the costs and risks of service, the availability and costs of alternative forms of service and other reasonable considerations, including the impact on existing customers of the utilities furnishing electricity and natural gas and on the public generally.

(3) If the contract or schedule is not suspended, or if the contract or schedule is determined reasonable by the commission after suspension, the contract or schedule shall not be subject to further commission review during its term or such other period as the commission may specify, except as provided in ORS 757.009.

(4) In any proceeding before the commission to determine the reasonableness of contracts or schedules proposed under this section,

the burden shall be upon the proponent of the contract or schedule to establish its reasonableness. [1989 c.999 §§4a,4c; 2003 c.82 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.009 - Procedure for reregulation of furnishers of heat.**

(1) Except as provided in subsection (2) of this section, the Public Utility Commission may, upon written complaint or upon the commission's own motion, regulate, under ORS 757.205 to 757.240, or any part thereof, any person otherwise exempt from regulation under ORS 757.005 (1)(b)(E) as follows:

(a) With respect to any or all customers, if the commission finds that the activities of such person have an adverse effect upon the customers of public utilities furnishing electricity or natural gas and the benefits of such regulation outweigh any adverse effect on the public generally; or

(b) With respect to any customer receiving service not exceeding 500 million British thermal units per year or any residential customer, if the commission finds that such person has engaged in unjust or unreasonable practices with respect to the services or rates available to the customer and the customer has no reasonable alternative to the services provided.

(2) The commission shall not regulate persons under subsection (1)(a) of this section with respect to contracts that became effective prior to the date of service of the complaint or with respect to heating systems already in place on the date of service of the complaint if the commission determines that continued expansion will increase the efficiency of those systems. [1989 c.999 §§4b,4d; 2003 c.82 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.015 - "Affiliated interest" defined for ORS 757.105 (1) and 757.495.**

As used in ORS 757.105 (1) and 757.495, "affiliated interest" with a public utility means:

(1) Every corporation and person owning or holding directly or indirectly five percent or more of the voting securities of such public utility.

(2) Every corporation and person in any chain of successive ownership of five percent or more of voting securities of such public utility.

(3) Every corporation five percent or more of whose voting securities are owned by any person or corporation owning five percent or more of the voting securities of such public utility or by any person or corporation in any chain of successive ownership of five percent or more of voting securities of such public utility.

(4) Every person who is an officer or director of such public utility or of any corporation in any chain of successive ownership of five percent or more of voting securities of such public utility.

(5) Every corporation that has two or more officers or two or more directors in common with such public utility.

(6) Every corporation and person, five percent or more of which is directly or indirectly owned by a public utility.

(7) Every corporation or person that the Public Utility Commission determines as a matter of fact after investigation and hearing actually is exercising any substantial influence over the policies and actions of such public utility, even though such influence is not based upon stockholding, stockholders, directors or officers to the extent specified in this section.

(8) Every person or corporation that the commission determines as a matter of fact, after investigation and hearing, actually is exercising such substantial influence over the policies and actions of such public utility in conjunction with one or more other corporations or persons with whom they are related by ownership or blood or by action in concert that together they are affiliated with such public utility within the meaning of this section even though no one of them alone is so affiliated. [Amended by 1971 c.655 §65; 1989 c.17 §1; 2015 c.27 §60]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.020 - Duty of utilities to furnish adequate and safe service at reasonable rates.**

Every public utility is required to furnish adequate and safe service, equipment and facilities, and the charges made by any public utility for any service rendered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited. [Amended by 1971 c.655 §66]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.025**

[Amended by 1971 c.655 §14; renumbered 756.062]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.035 - Adoption of safety rules and regulations; enforcement.**

(1) The Public Utility Commission has power, after a hearing had upon the motion of the commission or upon complaint, to require by general or special orders embodying reasonable rules or regulations, every person or municipality, their agents, lessees or acting trustees or receivers, appointed by court, engaged in the management, operation, ownership or control of telegraph, telephone, signal or power lines within this state, upon the public streets or highways, and also upon all other premises used, whether leased, owned

or controlled by them, to construct, maintain and operate every line, plant, system, equipment or apparatus in such manner as to protect and safeguard the health and safety of all employees, customers and the public, and to this end to adopt and prescribe the installation, use, maintenance and operation of appropriate safety or other devices, or appliances, to establish or adopt standards of construction or equipment, and to require the performance of any other act which seems to the commission necessary or proper for the protection of the health or safety of all employees, customers or the public.

(2) When acting pursuant to subsection (1) of this section, the Public Utility Commission shall adopt by rule as the standard of such construction, operation and maintenance the 1973 edition of the American National Standard, National Electrical Safety Code, C2.

(3) In lieu of subsection (2) of this section, or in addition thereto, the commission may adopt by rule any revision or edition of or amendment to the National Electrical Safety Code approved by the American National Standards Institute after July 14, 1977, and in effect on the date of adoption by the commission. [Amended by 1969 c.530 §1; 1971 c.655 §68; 1975 c.658 §1; 1977 c.346 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.039 - Regulation of hazardous substance distribution and storage operations; cooperation with federal agencies; disclosure of reports and information.**

(1) As used in this section, "hazardous substance or material" means:

(a) Fuel gas, whether in a gaseous, liquid or semisolid state;

(b) Petroleum or petroleum products; and

(c) Any other substance or material which may pose an unreasonable risk to life or property when transported by pipeline facilities.

(2) The Public Utility Commission has power, after a hearing had upon the commission's own motion or upon complaint, to require by general or special orders embodying reasonable rules, every person or municipality, their agents, lessees or acting trustees or receivers, appointed by court, engaged in the management, operation, ownership or control of facilities for the transmission or distribution of a hazardous substance or material by pipeline; or of facilities for the storage or treatment of a hazardous substance or material to be transmitted or distributed by pipeline or upon the public streets or highways; or of any other premises used, whether leased, owned or controlled by them, to construct, maintain and operate every pipeline, plant, system, equipment or apparatus used in the transmission, distribution, storage or treatment of a hazardous substance or material to be transmitted by pipeline or upon the public streets or highways in such manner as to protect and safeguard the health and safety of all employees, customers and the public, and to this end to adopt and prescribe the installation, use, maintenance and operation of appropriate safety or other devices, or appliances, to establish or adopt standards of construction or equipment, and to require the performance of any other act which seems to the commission necessary or proper for the protection of the health and safety of all employees, customers or the public.

(3) The commission is authorized to cooperate with, make certifications to and enter into agreements with the Secretary of Transportation of the United States of America and to assume responsibility for, and carry out on behalf of the Secretary of Transportation, safety jurisdiction relating to pipeline facilities and transportation of hazardous substances and materials in Oregon in any manner not otherwise subject to the jurisdiction of any other agency of this state.

(4) Notwithstanding any other provisions to the contrary, the commission shall make public such reports as are required to be made public under applicable federal law and regulations and provide such information as is required by the Secretary of Transportation.

(5) The jurisdiction of the commission over propane, butane or mixtures of these gases shall be limited to systems transporting such gases to 10 or more customers, or to systems any portion of which is located in a public place. [Formerly 757.095; 1983 c.540 §3; 2001 c.35 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.040**

[Amended by 1971 c.655 §101; renumbered 758.035]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.050 - Authority of commission to order extension of service to unserved areas.**

The Public Utility Commission has power to require any public utility, after a public hearing of all parties interested, to extend its line, plant or system into, and to render service to, a locality not already served when the existing public convenience and necessity requires such extension and service. However, no such extension of service shall be required until the public utility has been granted such reasonable franchises as may be necessary for the extension of service, and unless the conditions are such as to reasonably justify the necessary investment by the public utility in extending its line, plant or system into such locality and furnishing such service. [Amended by 1971 c.655 §67]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.053 - Alternative means for meeting energy conservation requirements.**

Notwithstanding the specific requirements imposed on an electric company by ORS 469.631 to 469.645 and 469.860 to 469.900, an electric company meets the requirements of ORS 469.631 to 469.645 and 469.860 to 469.900 if the electric company:

(1) Meets the public purpose expenditure standard established under ORS 757.612; and

(2) Plans for and pursues cost-effective energy efficiency and demand response resources as required under ORS 757.054. [2021

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.054 - Cost-effective energy efficiency resources and demand response resources; legislative findings; planning and pursuit by electric company required; consumer credit; rules.**

(1) As used in this section:

(a) "Electric company" has the meaning given that term in ORS 757.600.

(b) "Retail electricity consumer" means a retail electricity consumer, as defined in ORS 757.600, that is located in Oregon.

(2) The Legislative Assembly finds and declares that:

(a) Energy efficiency programs promote lower energy bills, protect the public health and safety, improve environmental benefits, stimulate sustainable economic development, create new employment opportunities and reduce reliance on imported fuels; and

(b) Demand response resources result in more efficient use of existing resources and reduce the need for procuring new power generating resources, which, in turn, reduces energy bills, protects the public health and safety and improves environmental benefits.

(3) For the purpose of ensuring prudent investments by an electric company in energy efficiency and demand response before the electric company acquires new generating resources, and in order to produce cost-effective energy savings, reduce customer demand for energy, reduce overall electrical system costs, increase the public health and safety and improve environmental benefits, each electric company serving customers in this state shall:

(a) Plan for and pursue all available energy efficiency resources that are cost effective, reliable and feasible; and

(b) As directed by the Public Utility Commission by rule or order, plan for and pursue the acquisition of available cost-effective demand response resources.

(4) All funds necessary to plan for and pursue cost-effective energy efficiency resources pursuant to subsection (3)(a) of this section must be collected in the rates of an electric company through charges paid by all retail electricity consumers, including those retail electricity consumers receiving electricity from electricity service suppliers subject to the limitations set forth in section 3, chapter 547, Oregon Laws 2021. The commission may require that a portion of all of the funds collected under this subsection be paid to a nongovernmental entity to make expenditures consistent with this section.

(5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at any site in the prior year shall receive a credit against the amount charged in rates pursuant to subsection (4) of this section for that site for qualifying expenditures for energy efficiency resources made by the retail electricity consumer. The amount of the credit may not exceed the lesser of:

(A) The amount charged to the retail electricity consumer in rates; or

(B) The total amount of qualifying energy efficiency expenditures described in subsection (3)(a) of this section made by the retail electricity consumer for that site, less administration costs incurred under this subsection.

(b) The State Department of Energy shall adopt by rule procedures and other provisions necessary for a retail electricity consumer to obtain a credit under this subsection. [2016 c.28 §19; 2021 c.547 §2]

Note:

757.054 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note:

Sections 3 and 4, chapter 547, Oregon Laws 2021, provide:

Sec. 3. Caps on amounts charged for larger consumers of retail electricity.

(1) As used in this section:

(a) "Single contiguous area" includes an area of land crossed by a public or railroad right of way, but does not include infrastructure facilities located within the public or railroad right of way for purposes of determining whether the single contiguous area of land constitutes a site.

(b) "Site" means:

(A) Buildings and related structures that are interconnected by facilities owned by a single retail electricity consumer and that are served through a single electric meter;

(B) A single contiguous area of land containing buildings or other structures within which each building or structure is no more than 1,000 feet from at least one other building or structure, if the buildings and structures and the land containing and connecting the buildings and structures are all owned by a single retail electricity consumer, either directly or through a wholly owned subsidiary, that is billed for electricity use at the buildings and structures; or

(C) For any single retail electricity consumer, each account of the retail electricity consumer that has exceeded 4,000 kilowatts at least twice within the most recent 13-month period and for which the retail electricity consumer maintains a load factor of 80 percent or greater, if the combined electricity usage across all of the accounts described in this subparagraph, in the aggregate, equals 100 average megawatts or more in a calendar year.

(2) For the period beginning on the effective date of this 2021 Act [September 25, 2021] and ending December 31, 2025, a retail electricity consumer that uses more than one average megawatt of electricity at any site in the prior year may not be charged an amount in rates pursuant to ORS 757.054 (4) that exceeds 1.7 percent of the total revenue received from the sale of electricity services to the site from any source.

(3) For the period beginning January 1, 2026, and ending December 31, 2035, the combined annual amount charged under ORS

757.054 and 757.612 to a retail electricity consumer that uses more than one average megawatt and less than 10 average megawatts of electricity at any site in the prior year may not exceed \$250,000.

(4)(a) For the period beginning January 1, 2026, and ending December 31, 2030, the combined annual amount charged under ORS 757.054 and 757.612 to a retail electricity consumer that uses more than 10 average megawatts of electricity at any site in the prior year may not exceed \$4 million.

(b) For the period beginning January 1, 2031, and ending December 31, 2035, the combined annual amount charged under ORS 757.054 and 757.612 to a retail electricity consumer that uses more than 10 average megawatts of electricity at any site in the prior year may not exceed \$4.5 million. [2021 c.547 §3]

Sec. 4.

Section 3 of this 2021 Act is repealed on January 2, 2036. [2021 c.547 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.056 - Information on energy conservation to be furnished by certain utilities; rules.**

(1) As used in this section, "energy conservation services" means services provided by public utilities to educate and inform customers and the public about energy conservation. Such services include but are not limited to providing answers to questions concerning energy saving devices and providing inspections and making suggestions concerning the construction and siting of buildings and residences.

(2) All public utilities as defined in ORS 757.005, that produce, transmit, deliver or furnish heat, light or power shall establish energy conservation services and shall provide energy conservation information to customers and to the public. The services shall be performed in accordance with such rules as the Public Utility Commission may prescribe. [1977 c.197 §2; 1977 c.887 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.061 - Regulation of water utilities; rules.**

(1) For the purposes of this section:

(a) "Rate regulation" means regulation under this chapter, except for regulation under ORS 757.105 to 757.110.

(b) "Service regulation" means regulation under this chapter, except for regulation under ORS 757.105 to 757.110, 757.140, 757.205 to 757.220, 757.225, 757.245, 757.259, 757.355, 757.400 to 757.463, 757.485, 757.490, 757.495 and 757.500.

(2) Except as provided in this section, water utilities are not subject to regulation under this chapter or required to pay the fee provided for in ORS 756.310.

(3) The following utilities are subject to rate regulation and must pay the fee provided for in ORS 756.310:

(a) A water utility that serves 500 or more customers.

(b) A water utility that serves fewer than 500 customers, if the water utility also provides wastewater services to the public inside the boundaries of a city.

(c) A water utility that serves fewer than 500 customers, if the Public Utility Commission grants a petition from the water utility requesting that the water utility be subject to rate regulation.

(d) A water utility that satisfies all of the following conditions:

(A) The water utility serves fewer than 500 customers;

(B) The water utility proposes to charge a rate for water service that exceeds the maximum rates established by the commission under subsection (5) of this section; and

(C) Twenty percent or more of the customers of the water utility file a petition with the commission requesting that the water utility be subject to rate regulation.

(4) The following utilities are subject to service regulation and must pay the fee provided for in ORS 756.310:

(a) A water utility that serves fewer than 500 customers and that is found by the commission, pursuant to an investigation under ORS 756.515, to have provided inadequate or discriminatory service at any time.

(b) A water utility that serves fewer than 500 customers and that at any time charges an average annual residential rate of \$24 per month or more.

(5)(a) The commission shall adopt rules establishing maximum rates for water utilities serving fewer than 500 customers for the purpose of determining whether a petition may be filed under subsection (3)(d)(C) of this section.

(b) To encourage metered water systems for water utilities serving fewer than 500 customers, the commission shall establish a higher maximum rate for water utilities with metered water systems than for water utilities with unmetered systems.

(6) Not less than 60 days before a water utility that serves fewer than 500 customers increases any rate to exceed any maximum rate prescribed under subsection (5) of this section, the water utility shall provide written notice to all of its customers advising the customers of their right to file a petition under subsection (3)(d)(C) of this section. The commission shall adopt rules prescribing the content of the written notice. [1989 c.403 §2; 1999 c.330 §1; 2003 c.82 §1; 2009 c.429 §1; 2011 c.76 §1; 2013 c.96 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.063 - Regulation of associations furnishing water upon petition.**

(1) Any association of individuals that furnishes water to members of the association is subject to regulation in the same manner as provided by this chapter for public utilities, and must pay the fee provided for in ORS 756.310, if 20 percent or more of the



members of the association file a petition with the Public Utility Commission requesting that the association be subject to such regulation.

(2) The provisions of this section apply to an association of individuals even if the association does not furnish water directly to or for the public. The provisions of this section do not apply to any cooperative formed under ORS chapter 62 or to any public body as defined by ORS 174.109. [2003 c.82 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.065**

[Renumbered 756.370]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.068 - Use of fees to make emergency repairs to water service plants.**

(1) In each biennium the Public Utility Commission may use not more than \$5,000 of the fees collected under ORS 756.310 to make emergency repairs to the plants of public utilities providing water service. The commission may expend moneys under the provisions of this section only if the commission determines that:

- (a) Customers of the utility are without service and are likely to remain without service for an unreasonable period of time;
- (b) The utility is unwilling or unable to make emergency repairs, or cannot be found after reasonable effort; and
- (c) Restoration of the service is necessary for the health and safety of the customers of the utility.

(2) The commission shall attempt to recover fees used under this section from the utility providing water service. The commission may also recover a penalty as provided in ORS 756.350 from the time the fees are expended. [2003 c.202 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.069 - Notice of delinquency on water bill.**

(1) If a customer of a water utility fails to pay a water bill for more than 120 days after the bill becomes due, the water utility shall mail notice of the delinquency to the persons who are listed as the owners of the property in the real property tax records for the county only if the utility asserts that the property owners are responsible for the bill. The notice must be mailed to the addresses of the owners as reflected in the real property tax records.

(2) The provisions of this section apply to water utilities operated by public utilities, municipalities, cooperatives and unincorporated associations. [2005 c.168 §2; 2007 c.211 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.070**

[Renumbered 756.375]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.072 - Agreements for financial assistance to organizations representing customer interests; rules.**

(1) A public utility providing electricity or natural gas may enter into a written agreement with an organization that represents broad customer interests in regulatory proceedings conducted by the Public Utility Commission relating to public utilities that provide electricity or natural gas. The agreement shall govern the manner in which financial assistance may be provided to the organization. The agreement may provide for financial assistance to other organizations found by the commission to be qualified under subsection

(2) of this section. More than one public utility or organization may join in a single agreement. Any agreement entered into under this section must be approved by the commission before any financial assistance is provided under the agreement.

(2)(a) Financial assistance under an agreement entered into under this section may be provided only to organizations that represent interests in regulatory proceedings before the commission relating to public utilities that provide electricity or natural gas that are:

- (A) The broad interests of customers;
- (B) The interests of low-income residential customers; or
- (C) The interests of residential customers that are members of environmental justice communities.

(b) The commission by rule shall establish such qualifications as the commission deems appropriate for determining which organizations are eligible for financial assistance under an agreement entered into under this section.

(c) The total aggregate financial assistance available to all organizations that represent the interests described in paragraph (a)(B) and (C) of this subsection from all public utilities providing electricity or natural gas may not exceed \$500,000 annually.

(d) The commission shall establish a process for evaluating and approving an agreement described in this section that includes the provision of financial assistance to organizations that represent the interests described in paragraph (a)(B) or (C) of this subsection. The commission must evaluate and approve an agreement described in this paragraph before financial assistance may be provided under the agreement. The agreement described in this paragraph shall govern the manner in which financial assistance may be provided to an organization found by the commission to be qualified under paragraph (a)(B) or (C) of this subsection. More than one public utility or organization may join in a single agreement described in this paragraph.

(3) In administering an agreement entered into under this section, the commission by rule or order may determine:

- (a) The amount of financial assistance that may be provided to any organization;
  - (b) The manner in which the financial assistance will be distributed;
  - (c) The manner in which the financial assistance will be recovered in the rates of the public utility under subsection (4) of this section; and
  - (d) Other matters necessary to administer the agreement.
- (4) The commission shall allow a public utility that provides financial assistance under this section to recover the amounts so provided in rates. The commission shall allow a public utility to defer inclusion of those amounts in rates as provided in ORS 757.259 if the public utility so elects. An agreement under this section may not provide for payment of any amounts to the commission. [2003 c.234 §2; 2021 c.90 §3]

Note:

Sections 4 and 5, chapter 90, Oregon Laws 2021, provide:

Sec. 4. Study on agreements for financial assistance approved under ORS 757.072.

The Public Utility Commission shall, no later than September 15, 2025, provide a report to the interim committees of the Legislative Assembly related to energy that discusses, for the period beginning on the effective date of this 2021 Act [January 1, 2022] and ending December 31, 2024, the implementation and impacts of the amendments to ORS 757.072 by section 3 of this 2021 Act. The report shall include, but need not be limited to:

- (1) A description of the process established under ORS 757.072 (2)(d) and any other rules, orders, processes or polices adopted or established by the commission as necessary to implement the amendments to ORS 757.072 by section 3 of this 2021 Act; and
- (2) A detailed description of the organizations described in ORS 757.072 (2)(a)(B) and (C) that received funding during the period subject to reporting that includes, for each organization, a description of:
  - (a) The proceedings for which the organization received financial assistance;
  - (b) The amount of financial assistance received by the organization for each proceeding;
  - (c) The issues raised by the organization in each proceeding for which the organization received financial assistance; and
  - (d) The outcome within each proceeding with regard to the issues described in paragraph (c) of this subsection. [2021 c.90 §4]

Sec. 5.

Section 4 of this 2021 Act is repealed on January 2, 2026. [2021 c.90 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.077 - Incorrect billings; collections; refunds.**

(1) If a public utility determines that a current or former customer of the public utility was previously billed an incorrect amount for a service provided by the public utility under rate schedules or tariffs in effect for the public utility on the date on which the service was provided, the public utility may:

- (a) If the public utility underbilled the customer, issue a bill to the customer for amounts the customer owes the public utility in accordance with subsection (2) of this section; or
- (b) If the public utility overbilled the customer, refund the customer for amounts the public utility owes the customer in accordance with subsection (3) of this section.

(2)(a) Except as provided in paragraph (b) of this subsection, when issuing a bill under subsection (1)(a) of this section, a public utility:

- (A) May only collect amounts incorrectly billed during the 12-month period ending on the date on which the public utility issued the last incorrect bill; and
- (B) May not collect amounts incorrectly billed more than two years before the date on which the public utility identified the incorrect bill.

(b) If an incorrect billing described in subsection (1) of this section is the result of fraud, tampering, diversion, theft, misinformation or other dishonest or unlawful conduct for which the customer is responsible, the public utility may collect full payment for any amount that the customer of the public utility owes the public utility.

(3) When making a refund under subsection (1)(b) of this section, a public utility:

- (a) May only refund amounts incorrectly received during the 12-month period ending on the date on which the public utility issued the last incorrect bill; and
- (b) May not refund amounts incorrectly received more than three years before the date on which the public utility identified the incorrect bill. [2013 c.170 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.080**

[1953 c.356 §1; 1961 c.354 §1; 1971 c.655 §30a; renumbered 756.380]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.085**

[1953 c.356 §2; 1961 c.354 §2; renumbered 756.385]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.090**

[1953 c.356 §3; 1961 c.354 §3; renumbered 756.390]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.095**

[1969 c.372 §2; 1971 c.655 §69; renumbered 757.039]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.105 - Filing of budget; rules; review by commission; pensions as operating expenses.**

(1) The Public Utility Commission has the right and power of regulation, restriction and control over the budgets of expenditures of public utilities, as to all items covering:

- (a) Proposed payment of salaries of executive officers;
- (b) Donations;
- (c) Political contributions and political advertising;
- (d) Expenditures for pensions or for a trust to provide pensions for employees and officers;
- (e) Other expenditures and major contracts for the sale or purchase of equipment; and
- (f) Any payment or contemplated payment to any person or corporation having an affiliated interest for service, advice, auditing, associating, sponsoring, engineering, managing, operating, financing, legal or other services.

(2) On or before a date prescribed by the commission by rule, each public utility shall prepare a budget showing the amount of money which, in its judgment, shall be needed during the ensuing year for covering all such activities and expenditures, and file it with the commission.

(3) When any such budget has been filed with the commission, the commission shall examine into and investigate the same and unless rejected within 60 days thereafter, the proposed budget is presumptively fair and reasonable and not contrary to public interest.

(4) Proposed expenditures for pensions or for a trust to provide pensions for the employees and officers of such utility whether for future service or past service or both, shall be recognized as an operating expense if the trust fund is irrevocably committed to the payment of pensions or benefits to employees and if such pensions are reasonable and nondiscriminatory. The commission may disallow as an operating expense any expenditure for pension purposes in excess of the amount necessary and proper to maintain an actuarially sound retirement plan for the employees of the utility in Oregon. [Amended by 1957 c.593 §1; 1971 c.655 §82; 2013 c.96 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.107 - Supplemental budgets and orders.**

Adjustment and additions to such budget expenditures may be made from time to time during the year by filing supplementary budgets with the Public Utility Commission. The provisions of ORS 757.105 (3) apply to adjustments and additions to budgets. [Amended by 1971 c.655 §83]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.110 - Effect of budget orders.**

(1) Any finding and order made and entered by the Public Utility Commission under ORS 757.105 or 757.107 shall have the effect of prohibiting any unapproved or rejected expenditure from being recognized as an operating expense or capital expenditure in any rate valuation proceeding or in any proceeding or hearing unless and until the propriety thereof has been established to the satisfaction of the commission. Any such finding and order shall remain in full force and effect, unless and until it is modified or set aside by the commission or is set aside, modified or remanded in a proceeding for judicial review of an order in the manner provided by ORS 756.610.

(2) Nothing in ORS 757.105 or 757.107 prevents the commission from at any time making and filing orders rejecting imprudent and unwise expenditures or payments. Such orders when so made shall be in full force and effect, and the public utility shall not have the right to make such expenditures or payments found to be imprudent or unwise until the order has been modified or set aside by the commission or is set aside, modified or remanded in a proceeding for judicial review of an order in the manner provided by ORS 756.610. [Amended by 1971 c.655 §84; 2005 c.638 §7; 2017 c.312 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.115**

[Amended by 1971 c.655 §20; renumbered 756.105]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.120 - Accounts required.**

(1) Every public utility shall keep and render to the Public Utility Commission, in the manner and form prescribed by the commission, uniform accounts of all business transacted. All forms of accounts which may be prescribed by the commission shall conform as nearly as practicable to similar forms prescribed by federal authority.

(2) Every public utility engaged directly or indirectly in any other business than that of a public utility shall, if required by the commission, keep and render separately to the commission, in like manner and form, the accounts of all such other business, in which case all the provisions of this chapter shall apply with like force and effect to the accounts and records of such other business. [Amended by 1971 c.655 §85]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.125 - Duty of utility to keep records and accounts; duty of commission to furnish blanks.**

(1) The Public Utility Commission shall prescribe the accounts and records required to be kept, and every public utility is required to keep and render its accounts and records accurately and faithfully in the manner prescribed by the commission and to comply with all directions of the commission relating to such accounts and records.

(2) No public utility shall keep any other accounts or records of its public utility business transacted than those prescribed or approved by the commission except such as may be required by the laws of the United States.

(3) The commission shall cause to be prepared suitable blanks for reports for carrying out the purposes of this chapter, and shall, when necessary, furnish such blanks for reports to each public utility. [Amended by 1971 c.655 §86]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.135 - Closing accounts and filing balance sheet; rules; auditing accounts.**

(1) Except as provided in subsection (2) of this section, the accounts required under ORS 757.120 and 757.125 shall be closed annually on December 31 and a balance sheet of that date promptly taken therefrom. On or before a date prescribed by the Public Utility Commission by rule, such balance sheet, together with such other information as the commission shall prescribe, verified by an officer of the public utility, shall be filed with the commission.

(2) If a public utility maintains its accounts and records on a fiscal year basis, the accounts required by ORS 757.120 and 757.125 shall be closed annually on the last day of the fiscal year and a balance sheet shall be promptly taken from those accounts. On or before the first day of the fourth month following the end of the public utility's fiscal year, the balance sheet together with such information as the commission shall prescribe must be verified by an officer of the public utility and filed with the commission. The commission may require that a public utility filing information at the time specified in this subsection also file with the commission on a calendar year basis such additional information as may be prescribed by the commission.

(3) The commission may examine and audit any account. Items shall be allocated to the accounts in the manner prescribed by the commission. [Amended by 1983 c.540 §4; 2001 c.733 §1; 2013 c.96 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.140 - Depreciation accounts; use of certain undepreciated investment in rates.**

(1) Every public utility shall carry a proper and adequate depreciation account. The Public Utility Commission shall ascertain and determine the proper and adequate rates of depreciation of the several classes of property of each public utility. The rates shall be such as will provide the amounts required over and above the expenses of maintenance, to keep such property in a state of efficiency corresponding to the progress of the industry. Each public utility shall conform its depreciation accounts to the rates so ascertained and determined by the commission. The commission may make changes in such rates of depreciation from time to time as the commission may find to be necessary.

(2) In the following cases the commission may allow in rates, directly or indirectly, amounts on the utility's books of account which the commission finds represent undepreciated investment in a utility plant, including that which has been retired from service:

(a) When the retirement is due to ordinary wear and tear, casualties, acts of God, acts of governmental authority; or

(b) When the commission finds that the retirement is in the public interest. [Amended by 1971 c.655 §87; 1989 c.956 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.155**

[Amended by 1971 c.655 §90; renumbered 757.480]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.160**

[Amended by 1971 c.655 §91; renumbered 757.485]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.165**

[Amended by 1971 c.655 §92; renumbered 757.490]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.170**

[Amended by 1971 c.655 §93; renumbered 757.495]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.175**

[Amended by 1971 c.655 §94; renumbered 757.500]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.180**

[Amended by 1971 c.655 §21; renumbered 756.115]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.205 - Filing schedules with commission; data filed with schedules.**

(1) Every public utility shall file with the Public Utility Commission, within a time to be fixed by the commission, schedules which shall be open to public inspection, showing all rates, tolls and charges which it has established and which are in force at the time for any service performed by it within the state, or for any service in connection therewith or performed by any public utility controlled or operated by it.

(2) Every public utility shall file with and as part of every such schedule all rules and regulations that in any manner affect the rates charged or to be charged for any service. Every public utility shall also file with the commission copies of interstate rate schedules and rules and regulations issued by it or to which it is a party.

(3) Where a schedule of joint rates or charges is or may be in force between two or more public utilities, such schedules shall in like manner be printed and filed with the commission. [Amended by 1971 c.655 §70]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.210 - Hearing to establish new schedules; alternative regulation plan.**

(1)(a) Whenever any public utility files with the Public Utility Commission any rate or schedule of rates stating or establishing a new rate or schedule of rates or increasing an existing rate or schedule of rates, the commission may, either upon written complaint or upon the commission's own initiative, after reasonable notice, conduct a hearing to determine whether the rate or schedule is fair, just and reasonable. The commission shall conduct the hearing upon written complaint filed by the utility, its customer or customers, or any other proper party within 60 days of the utility's filing; provided that no hearing need be held if the particular rate change is the result of an automatic adjustment clause. At the hearing the utility shall bear the burden of showing that the rate or schedule of rates proposed to be established or increased or changed is fair, just and reasonable. The commission may not authorize a rate or schedule of rates that is not fair, just and reasonable.

(b) As used in this subsection, "automatic adjustment clause" means a provision of a rate schedule that provides for rate increases or decreases or both, without prior hearing, reflecting increases or decreases or both in costs incurred, taxes paid to units of government or revenues earned by a utility and that is subject to review by the commission at least once every two years.

(2)(a) Subsection (1) of this section does not apply to rate changes under an approved alternative form of regulation plan, including a resource rate plan under ORS 757.212.

(b) Any alternative form of regulation plan shall include provisions to ensure that the plan operates in the interests of utility customers and the public generally and results in rates that are just and reasonable and may include provisions establishing a reasonable range for rate of return on investment. In approving a plan, the commission shall, at a minimum, consider whether the plan:

(A) Promotes increased efficiencies and cost control;

(B) Is consistent with least-cost resources acquisition policies;

(C) Yields rates that are consistent with those that would be obtained following application of ORS 757.269;

(D) Is consistent with maintenance of safe, adequate and reliable service; and

(E) Is beneficial to utility customers generally, for example, by minimizing utility rates.

(c) As used in this subsection, "alternative form of regulation plan" means a plan adopted by the commission upon petition by a public utility, after notice and an opportunity for a hearing, that sets rates and revenues and a method for changes in rates and revenues using alternatives to cost-of-service rate regulation.

(d) Prior to implementing a rate change under an alternative form of regulation plan, the utility shall present a report that demonstrates the calculation of any proposed rate change at a public meeting of the commission.

(3) Except as provided in ORS 757.212, the commission, at any time, may order a utility to appear and establish that any, or all, of its rates in a plan authorized under subsection (2) of this section are in conformity with the plan and are just and reasonable. Except as provided in ORS 757.212, such rates, and the alternative form of regulation plan under which the rates are set, also shall be subject to complaint under ORS 756.500.

(4) Periodically, but not less often than every two years after the implementation of a plan referred to in subsection (2) of this

section, the commission shall submit a report to the Legislative Assembly that shows the impact of the plan on rates paid by utility customers.

(5) The commission and staff may consult at any time with, and provide technical assistance to, utilities, their customers, and other interested parties on matters relevant to utility rates and charges. If a hearing is held with respect to a rate change, the commission's decisions shall be based on the record made at the hearing. [Amended by 1971 c.655 §70a; 1981 c.715 §1; 1985 c.550 §2; 1987 c.447 §97; 1987 c.613 §1; 1989 c.5 §§3,23; 1995 c.785 §1; 2001 c.913 §3; 2005 c.845 §5; 2011 c.137 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.212 - Resource rate plans; customers who may elect to be exempt; order approving plan; effect of approving plan; rules.**

(1) For purposes of this section:

(a) "Resource rate plan" means a plan by a public utility to construct a generating plant or to enter into a wholesale power purchase or sales agreement with a term that is longer than one year.

(b) "Site" means:

(A) Buildings or other related structures that are interconnected by facilities owned by a single public utility customer and that are served through a single electric meter; or

(B) A single contiguous area of land containing buildings or other structures that are separated by not more than 1,000 feet, such that:

(i) Each building or structure included in the site is not more than 1,000 feet from at least one other building or structure in the site;

(ii) Buildings and structures in the site, and land containing and connecting buildings and structures in the site, are owned by a public utility customer who is billed for electricity use at the buildings and structures; and

(iii) Land shall be considered to be contiguous even if there is an intervening public or railroad right of way, provided that rights-of-way land on which municipal infrastructure facilities exist, such as street lighting, sewerage transmission and roadway controls, shall not be considered contiguous.

(2) The Public Utility Commission may approve a resource rate plan as an alternative form of regulation plan under ORS 757.210. A public utility must make a separate tariff filing for each proposed resource rate plan. If the commission approves a resource rate plan by a public utility based on the construction of a generating plant, the order approving the plan must state how the commission will reflect the costs and revenues of the generating plant in the utility's rates during all or a portion of the expected useful life of the generating plant. If the commission approves a resource rate plan based on a wholesale power purchase or sales agreement with a term longer than one year, the order approving the plan must state how the commission will reflect the costs and revenues under the wholesale power purchase or sales agreement in the utility's rates during all or a portion of the term of the agreement.

(3) A customer receiving electricity from a public utility may elect to be exempt from the costs and benefits of a resource rate plan for any single site at which the customer has had a peak load in excess of nine megawatts in any hour during the 12-month period immediately preceding the date on which the public utility files a tariff under this section. A public utility filing a tariff under this section must give written notice of the provisions of this subsection to all of its customers that are eligible to make an election under this subsection. The notice must be given within three days after the tariff is filed. An election under this subsection must be made by a customer within 30 days after the tariff is filed.

(4) A public utility customer that elects to be exempt under subsection (3) of this section may also elect to be exempt from the costs and benefits of a resource rate plan for any single site at which the customer has had a peak load in excess of one megawatt in any hour during the 12-month period immediately preceding the date on which the public utility files a tariff under this section. An election under this subsection must be made as part of the election under subsection (3) of this section.

(5) The commission shall ensure that customers making an election under subsection (3) or (4) of this section are charged the market cost for all electricity that is required to replace the electricity that would otherwise have been provided under the resource rate plan, and that the election does not result in increased costs or risks to the public utility or to other customers of the public utility.

(6) The commission, by rule, may allow customers of a public utility other than those customers described in subsection (3) of this section to elect to be exempt from the costs and benefits of a resource rate plan.

(7) If the commission approves a resource rate plan, the order of the commission must also address:

(a) The extent to which the public utility will use power from the generating plant or from the power purchase or sales agreement to serve its retail customers in Oregon;

(b) The allocation of power available from the generating plant or power purchase or sales agreement among different classes of the public utility's customers;

(c) The ratemaking consequences of the generating plant or power purchase or sales agreement, including the consequences of variations in the amount of power that is actually available after the plan is in operation compared with the amount of power that was anticipated to be available at the time the plan was approved; and

(d) Any other issue the commission chooses to consider.

(8) If the commission approves a resource rate plan, the commission may not thereafter review the costs and rates specific to the resource rate plan or other obligations of the public utility under the plan, or consider any complaint under ORS 756.500 seeking review of the costs and rates specific to the resource rate plan or other obligations of the public utility under the plan, except for the purpose of determining whether the public utility is in compliance with the plan and has established rates in accordance with the

plan.

(9) A resource rate plan and a public utility's rates under a resource rate plan are not subject to ORS 757.355.

(10) The commission may not set aside or modify an order approving a resource rate plan unless the public utility operating under the plan approves the setting aside or modification. [2001 c.913 §2; 2005 c.638 §8]

Note:

757.212 was added to and made a part of 757.205 to 757.220 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.215 - Commission authorized to suspend new rates or order interim rates during hearings; revenues collected under unapproved rates to be refunded; order after hearing.**

(1) The Public Utility Commission may, pending such investigation and determination, order the suspension of the rate or schedule of rates for a period of up to nine months beyond the time when such rate or schedule would otherwise go into effect.

(2) This section does not prevent the commission and the utility from entering into a written stipulation at any time extending any period of suspension.

(3) After full hearing, whether completed before or after such rate or schedule has gone into effect, the commission may make such order in reference thereto as would be proper in a proceeding initiated after such rate or schedule has become effective.

(4) If the commission is required to or determines to conduct a hearing on a rate or schedule of rates filed pursuant to ORS 757.210, but does not order a suspension thereof, any increased revenue collected by the utility as a result of such rate or rate schedule becoming effective shall be received subject to being refunded. If the rate or rate schedule thereafter approved by the commission is for a lesser increase or for no increase, the utility shall refund the amount of revenues received that exceeds the amount approved as nearly as possible to the customers from whom such excess revenues were collected, by a credit against future bills or otherwise, in such manner as the commission orders.

(5) The commission may in a suspension order authorize an interim rate or rate schedule under which the utility's revenues will be increased by an amount deemed reasonable by the commission, not exceeding the amount requested by the utility. Any such interim increase for a public utility as defined in ORS 757.005 that produces, transmits, delivers or furnishes heat, light or power shall be effected by rates designed to increase the utility's revenues without materially changing the revenue relationships among customer classes or between the revenues derived from demand charges and from energy charges. An interim rate or rate schedule shall remain in effect until terminated by the commission. Upon completion of the hearing and decision, the commission shall order the utility to refund that portion of the increase in the interim rate or schedule that the commission finds is not justified. Any refund of an interim increase under this subsection shall be based upon an analysis of the utility's earnings for a period reasonably representative of the period during which the interim increase was in effect. Refunds shall be made as nearly as possible to the customers against whom the interim rates were charged, by credits against future bills or in such other manner as the commission orders.

(6) Refunds ordered by the commission under subsection (4) or (5) of this section shall include interest on the amount determined to be subject to refund from the date such interim rate or rate schedules took effect. [Amended by 1981 c.715 §2; 1991 c.964 §1; 2023 c.53 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.220 - Notice of schedule changes required; exception for alternative regulation.**

No change shall be made in any schedule, including schedules of joint rates, except upon 30 days' notice to the Public Utility Commission. All changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof 30 days prior to the time they are to take effect. However, the commission, for good cause shown, may allow changes without requiring the 30 days' notice by filing an order specifying the changes to be made and the time when they shall take effect. This section does not apply to rate changes authorized under an alternative form of regulation plan under ORS 757.210 (2). [Amended by 1995 c.785 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.225 - Utilities required to collect for their services in accordance with schedules.**

No public utility shall charge, demand, collect or receive a greater or less compensation for any service performed by it within the state, or for any service in connection therewith, than is specified in printed rate schedules as may at the time be in force, or demand, collect or receive any rate not specified in such schedule. The rates named therein are the lawful rates until they are changed as provided in ORS 757.210 to 757.220. [Amended by 1971 c.655 §71; 1985 c.550 §3; 1991 c.67 §204]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.227 - Rate mitigation for certain electric company rate increases.**

(1) As used in this section, "electric company" has the meaning given that term in ORS 757.600.

(2) The Public Utility Commission shall require that an electric company mitigate a rate increase payable by a class of customers described in subsection (5) of this section if:

- (a) The increase results from a transition to an electric company's generally applicable cost-based rate from the rates established under the contracts described in subsection (5) of this section; and
- (b) The increase in the cost of electricity to that class of customers by reason of the transition will exceed 50 percent during the first 12 calendar months after the transition occurs.
- (3) The commission shall require an electric company to mitigate a rate increase under this section by means of a schedule of rate credits for the class of customers described in subsection (5) of this section. The rate credits provided by an electric company under the schedule shall automatically decrease each year to the lowest credit necessary to avoid a rate increase that is greater than 50 percent in any subsequent year. Rate credits under this section may not be provided for more than seven years after the transition occurs.
- (4) For the purpose of determining the increase in the cost of electricity to a class of customers by reason of a transition described in subsection (2)(a) of this section, the commission shall:
  - (a) Include the total charges for electricity service, including all special charges and credits other than the rate credit provided under this section; and
  - (b) Exclude any local taxes or fees paid by the class of customers.
- (5) This section applies only to customers of an electric company that purchase electricity at metering points that before the transition described in subsection (2)(a) of this section were eligible for rates that were set under contracts entered into before 1960 and remained unchanged throughout the period of the contract.
- (6) The full cost of providing rate credits under this section shall be spread equally among all other customers of the electric company. [2005 c.594 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.230 - Control of commission over classification of services and forms of schedules; rules.**

- (1) The Public Utility Commission shall provide for a comprehensive classification of service for each public utility, and such classification may take into account the quantity used, the time when used, the purpose for which used, the existence of price competition or a service alternative, the services being provided, the conditions of service, differential energy burdens on low-income customers and other economic, social equity or environmental justice factors that affect affordability for certain classes of utility customers, and any other reasonable consideration. Based on such considerations the commission may authorize classifications or schedules of rates applicable to individual customers or groups of customers. The service classifications and schedule forms shall be designed consistently with the requirements of ORS 469.010. Each public utility is required to conform its schedules of rates to such classification. If the commission determines that a tariff filing under ORS 757.205 results in a rate classification primarily related to price competition or a service alternative, the commission, at a minimum, shall consider the following:
  - (a) Whether the rate generates revenues at least sufficient to cover relevant short and long run costs of the utility during the term of the rates;
  - (b) Whether the rate generates revenues sufficient to insure that just and reasonable rates are established for remaining customers of the utility;
  - (c) For electric and natural gas utilities:
    - (A) Whether it is appropriate to incorporate interruption of service in the utility's rate agreement with the customer; and
    - (B) Whether the rate agreement requires the utility to acquire new resources to serve the load; and
  - (d) For electric utilities, for service to load not previously served, the effect of the rate on the utility's average system cost through the residential exchange provision of the Pacific Northwest Electric Power Planning and Conservation Act of 1980, Public Law 96-501, as amended.
- (2) The commission may prescribe such changes in the form in which the schedules are issued by any public utility as may be found to be expedient. The commission shall adopt rules which allow any person who requests notice of tariff filings described under subsection (1) of this section to receive such notice. [Amended by 1971 c.655 §72; 1977 c.682 §1; 1987 c.900 §1; 2021 c.90 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.240 - Filing schedules in business office.**

- (1) A copy of so much of all schedules, including schedules of joint rates and charges, as the Public Utility Commission deems necessary for the use of the public shall be printed in plain type and kept on file in every business office of such public utility, open to the public, and in such form and place as to be readily accessible to the public for convenient inspection.
- (2) Copies of all new schedules shall be filed in every business office of such public utility 30 days prior to the time the schedules are to take effect, unless the commission prescribes a shorter time. [Amended by 1971 c.655 §73]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.245 - Establishment of joint rates.**

- (1) A public utility may establish reasonable through service and joint rates and classifications with other public utilities. Public utilities establishing joint rates shall establish just and reasonable regulations and practices in connection therewith and just, reasonable and equitable divisions thereof as between the public utilities participating therein, which shall not unduly prefer or



prejudice any of such participating public utilities, and every unjust and unreasonable rate, classification, regulation, practice and division is prohibited.

(2) The Public Utility Commission may, and shall, whenever deemed by the commission to be necessary or desirable in the public interest, after full hearing upon complaint, or upon the commission's own initiative without complaint, establish through service, classifications and joint rates, the divisions of such rates and the terms and conditions under which such through service shall be rendered. If any tariff or schedule canceling any through service or joint rate or classification without the consent of all the public utilities parties thereto or authorization by the commission is suspended by the commission for investigation, the burden of proof is upon the public utilities proposing such cancellation to show that it is consistent with the public interest.

(3) Whenever, after full hearing upon complaint or upon the commission's own initiative without complaint, the commission is of the opinion that the divisions of joint rates between the public utilities are or will be unjust, unreasonable, inequitable or unduly preferential or prejudicial as between the public utilities parties thereto, whether agreed upon by such public utilities or otherwise established, the commission shall, by order, prescribe the just, reasonable and equitable divisions thereof to be received by the several public utilities. In cases where the joint rate was established pursuant to the finding or order of the commission and the divisions thereto are found by the commission to have been unjust, unreasonable or inequitable, or unduly preferential or prejudicial, the commission may also by order determine what, for the period subsequent to the filing of the complaint or petition or the making of the order of investigation, would have been the just, reasonable and equitable division thereof to be received by the several public utilities and require adjustment to be made in accordance therewith.

(4) In so prescribing and determining the divisions of joint rates, the commission shall give due consideration, among other things, to:

- (a) The efficiency with which the public utilities concerned are operated;
- (b) The amount of revenue to pay their respective operating expenses, taxes and a fair return on their public utility property held for and used in service;
- (c) The importance to the public of the services of such public utilities;
- (d) Whether any particular participating public utility is an originating, intermediate or delivering utility; and
- (e) Any other fact or circumstance which ordinarily would entitle one public utility to a greater or less proportion of the joint rate than another. [Amended by 1971 c.655 §74]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.247 - Tariff schedules for energy resource measures; rules.**

(1) The Public Utility Commission may authorize a public utility, upon application of the utility, to file and place into effect a tariff schedule establishing rates or charges for the cost of energy resource measures provided to an individual property owner or customer pursuant to an agreement entered into between the individual property owner or customer and the public utility. Energy resource measures provided under this section may include:

- (a) The installation of renewable energy generation facilities on the property of property owners or the premises of customers;
- (b) The implementation of energy conservation measures, including measures that are not cost-effective;
- (c) The installation of equipment or devices or the implementation of measures that enable demand reduction, peak load reduction, improved integration of renewable energy generation or more effective utilization of energy resources;
- (d) Loans for the purposes described in paragraphs (a) to (c) of this subsection; and
- (e) Direct payments to third parties for the purposes described in paragraphs (a) to (c) of this subsection.

(2) Subject to the agreement entered into between the individual property owner or customer and the public utility, a tariff schedule placed into effect under this section may include provisions for:

- (a) The payment of the rates or charges over a period of time;
- (b) Except as provided in subsection (5) of this section, a reasonable rate of return on any investment made by the public utility;
- (c) The application of any payment obligation to successive owners of the property to which the energy resource measure is attached or to successive customers located at the premises to which the energy resource measure is attached; and
- (d) The application of the payment obligation to the current property owner or customer alone, secured by methods agreed to by the property owner or customer and the public utility.

(3) Application of a tariff schedule under this section is subject to approval by the commission.

(4) If a payment obligation applies to successive property owners or customers as described in subsection (2)(c) of this section, a public utility shall record a notice of the payment obligation in the records maintained by the county clerk under ORS 205.130. The commission may prescribe by rule other methods by which the public utility shall notify property owners or customers of such payment obligations.

(5) A public utility may use moneys obtained through a rate established under ORS 757.603 (3)(a) to provide a renewable energy generation facility to a property owner or customer under this section. A public utility may not charge interest to a property owner or customer for a renewable energy generation facility acquired with moneys obtained through a rate established under ORS 757.603 (3)(a).

(6) Agreements entered into and tariff schedules placed into effect under this section are not subject to ORS 470.500 to 470.710, 757.054 or 757.612. [1991 c.268 §2; 2007 c.885 §3; 2013 c.344 §1; 2021 c.508 §22; 2021 c.547 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.250 - Standards and appliances for measuring service; rules.**

- (1) The Public Utility Commission shall ascertain and prescribe for each kind of public utility suitable and convenient standard commercial units of service. These shall be lawful units for the purposes of this chapter.
- (2) The commission shall ascertain and fix adequate and serviceable standards for the measurement of quality, pressure, initial voltage or other conditions pertaining to the supply of the service rendered by any public utility and prescribe reasonable regulations for examination and testing of such service and for the measurement thereof. It shall establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for the measurements, and every public utility is required to carry into effect all orders issued by the commission relative thereto. [Amended by 1971 c.655 §75]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.255 - Testing of measuring appliances; rules; fees.**

- (1) The Public Utility Commission may provide for the examination and testing of any and all appliances used for the measuring of any service of a public utility, and may provide by rule that no such appliance shall be installed and used for the measuring of any service of any public utility until it has been examined and tested by the commission and found to be accurate.
- (2) The commission shall declare and establish a reasonable fee governing the cost of such examination and test, which shall be paid to the commission by the public utility.
- (3) The commission shall declare and establish reasonable fees for the testing of such appliances on the application of the customer, the fee to be paid by the customer at the time of the customer's request, but to be repaid to the customer by the commission and to be paid by the public utility if the appliance is found defective or incorrect to the disadvantage of the customer or used beyond such reasonable limit as may be prescribed by the commission.
- (4) All fees collected under the provisions of this section shall be paid by the commission into the State Treasury.
- (5) The commission may purchase such materials, apparatus and standard measuring instruments for the examination and tests as the commission deems necessary. [Amended by 1971 c.655 §76]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.259 - Amounts includable in rate schedule; deferral; limit in effect on rates by amortization; rules.**

- (1) In addition to powers otherwise vested in the Public Utility Commission, and subject to the limitations contained in this section, under amortization schedules set by the commission, a rate or rate schedule:
  - (a) May reflect:
    - (A) Amounts lawfully imposed retroactively by order of another governmental agency; or
    - (B) Amounts deferred under subsection (2) of this section.
  - (b) Shall reflect amounts deferred under subsection (3) of this section if the public utility so requests.
- (2) Upon application of a utility or ratepayer or upon the commission's own motion and after public notice, opportunity for comment and a hearing if any party requests a hearing, the commission by order may authorize deferral of the following amounts for later incorporation in rates:
  - (a) Amounts incurred by a utility resulting from changes in the wholesale price of natural gas or electricity approved by the Federal Energy Regulatory Commission;
  - (b) Balances resulting from the administration of Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act of 1980;
  - (c) Direct or indirect costs arising from any purchase made by a public utility from the Bonneville Power Administration pursuant to ORS 757.663, provided that such costs shall be recovered only from residential and small-farm retail electricity consumers;
  - (d) Amounts accruing under a plan for the protection of short-term earnings under ORS 757.262 (2); or
  - (e) Identifiable utility expenses or revenues, the recovery or refund of which the commission finds should be deferred in order to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers.
- (3) Upon request of the public utility, the commission by order shall allow deferral of amounts provided as financial assistance under an agreement entered into under ORS 757.072 for later incorporation in rates.
- (4) The commission may authorize deferrals under subsection (2) of this section beginning with the date of application, together with interest established by the commission. A deferral may be authorized for a period not to exceed 12 months beginning on or after the date of application. However, amounts deferred under subsection (2)(c) and (d) or (3) of this section are not subject to subsection (5), (6), (7), (8) or (10) of this section, but are subject to such limitations and requirements that the commission may prescribe and that are consistent with the provisions of this section.
- (5) Unless subject to an automatic adjustment clause under ORS 757.210 (1), amounts described in this section shall be allowed in rates only to the extent authorized by the commission in a proceeding under ORS 757.210 to change rates and upon review of the utility's earnings at the time of application to amortize the deferral. The commission may require that amortization of deferred amounts be subject to refund. The commission's final determination on the amount of deferrals allowable in the rates of the utility is subject to a finding by the commission that the amount was prudently incurred by the utility.

(6) Except as provided in subsections (7), (8) and (10) of this section, the overall average rate impact of the amortizations authorized under this section in any one year may not exceed three percent of the utility's gross revenues for the preceding calendar year.

(7) The commission may allow an overall average rate impact greater than that specified in subsection (6) of this section for natural gas commodity and pipeline transportation costs incurred by a natural gas utility if the commission finds that allowing a higher amortization rate is reasonable under the circumstances.

(8) The commission may authorize amortizations for an electric utility under this section with an overall average rate impact not to exceed six percent of the electric utility's gross revenues for the preceding calendar year. If the commission allows an overall average rate impact greater than that specified in subsection (6) of this section, the commission shall estimate the electric utility's cost of capital for the deferral period and may also consider estimated changes in the electric utility's costs and revenues during the deferral period for the purpose of reviewing the earnings of the electric utility under the provisions of subsection (5) of this section.

(9) The commission may impose requirements similar to those described in subsection (8) of this section for the amortization of other deferrals under this section, but may not impose such requirements for deferrals under subsection (2)(c) or (d) or (3) of this section.

(10) The commission may authorize amortization of a deferred amount for an electric utility under this section with an overall average rate impact greater than that allowed by subsections (6) and (8) of this section if:

(a) The deferral was directly related to extraordinary power supply expenses incurred during 2001;

(b) The amount to be deferred was greater than 40 percent of the revenue received by the electric utility in 2001 from Oregon customers; and

(c) The commission determines that the higher rate impact is reasonable under the circumstances.

(11) If the commission authorizes amortization of a deferred amount under subsection (10) of this section, an electric utility customer that uses more than one average megawatt of electricity at any site in the immediately preceding calendar year may prepay the customer's share of the deferred amount. The commission shall adopt rules governing the manner in which:

(a) The customer's share of the deferred amount is calculated; and

(b) The customer's rates are to be adjusted to reflect the prepayment of the deferred amount.

(12) The provisions of this section do not apply to a telecommunications utility. [1987 c.563 §2; 1989 c.18 §1; 1989 c.956 §1; 1993 c.175 §1; 1999 c.865 §31; 2001 c.733 §3; 2003 c.132 §1; 2003 c.234 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.260**

[Amended by 1971 c.655 §18; renumbered 756.075]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.262 - Rates to encourage acquisition of cost-effective conservation resources; rules.**

(1) The Public Utility Commission, by rule, may adopt policies designed to encourage the acquisition of cost-effective conservation resources and small-scale, renewable-fuel electric generating resources.

(2) In furtherance of the policies adopted pursuant to subsection (1) of this section, and in such manner as the commission considers proper, the commission may authorize periodic rate adjustments for the purpose of providing some protection to a utility from reduction of short-term earnings that may result from implementation of such policies. The adjustments may include, but are not limited to, adjustments based in whole or in part upon the extent to which actual sales deviate from a base level of sales the commission considers appropriate. [1993 c.175 §3; 1999 c.944 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.264 - Annual forecast of certain projected production tax credits required; inclusion in rates.**

Each public utility that makes sales of electricity shall forecast on an annual basis the projected state and federal production tax credits received by the public utility due to variable renewable electricity production, and the Public Utility Commission shall allow those forecasts to be included in rates through any variable power cost forecasting process established by the commission. [2016 c.28 §18b]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.266 - Rates may encourage tree planting programs as offset to carbon dioxide emissions.**

The Public Utility Commission of Oregon may allow a rate or rate schedule of a public utility to reflect amounts for small scale programs that enable the utility to gain experience with tree planting on underproducing forestland, as defined by the State Forestry Department, as an offset to carbon dioxide emissions. [1993 c.286 §1]

Note:

757.266 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.269 - Setting of rates based upon income taxes paid by utility; limitation on use of tax information;**

**rules.**

(1) When establishing schedules and rates under ORS 757.210 for an electricity or natural gas utility, the Public Utility Commission shall act to balance the interests of the customers of the utility and the utility's investors by setting fair, just and reasonable rates that include amounts for income taxes. Subject to subsections (2) and (3) of this section, amounts for income taxes included in rates are fair, just and reasonable if the rates include current and deferred income taxes and other related tax items that are based on estimated revenues derived from the regulated operations of the utility.

(2) During ratemaking proceedings conducted pursuant to ORS 757.210, the Public Utility Commission must ensure that the income taxes included in the electricity or natural gas utility's rates:

(a) Include all expected current and deferred tax balances and tax credits made in providing regulated utility service to the utility's customers in this state;

(b) Include only the current provision for deferred income taxes, accumulated deferred income taxes and other tax related items that are based on revenues, expenses and the rate base included in rates and on the same basis as included in rates;

(c) Reflect all known changes to tax and accounting laws or policy that would affect the calculated taxes;

(d) Are reduced by tax benefits generated by expenditures made in providing regulated utility service to the utility's customers in this state, regardless of whether the taxes are paid by the utility or an affiliated group;

(e) Contain all adjustments necessary in order to ensure compliance with the normalization requirements of federal tax law; and

(f) Reflect other considerations the commission deems relevant to protect the public interest.

(3) During a ratemaking proceeding conducted under ORS 757.210 for an electricity or natural gas utility that pays taxes as part of an affiliated group, the Public Utility Commission may adjust the utility's estimated income tax expense based upon:

(a) Whether the utility's affiliated group has a history of paying federal or state income taxes that are less than the federal or state income taxes the utility would pay to units of government if it were an Oregon-only regulated utility operation;

(b) Whether the corporate structure under which the utility is held affects the taxes paid by the affiliated group; or

(c) Any other considerations the commission deems relevant to protect the public interest.

(4)(a) Because tax information of unregulated nonutility business in an electricity or natural gas utility's affiliated group is commercially sensitive, and public disclosure of such information could provide a commercial advantage to other businesses, the Public Utility Commission may not use the tax information obtained under this section for any purpose other than those described in this section, in ORS 757.511 and as necessary for the implementation and administration of this section and ORS 757.511.

(b) The commission shall adopt rules to implement paragraph (a) of this subsection that:

(A) Identify all documents and tax information that an electricity or natural gas utility must file in its initial filing in a proceeding to change rates that include amounts for income taxes, recognizing that any party may object to providing such documents on the grounds that they are not relevant; and

(B) Determine the procedures under which intervenors in such proceedings may obtain and use documents and tax information to fully participate in the proceeding.

(5) As used in this section, "affiliated group" means a group of corporations of which the public utility is a member and that files a consolidated federal income tax return. [2011 c.137 §1]

Note:

757.269 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.270 - Definitions for ORS 757.270 to 757.290.**

As used in ORS 757.270 to 757.290, unless the context requires otherwise:

(1) "Attachment" means any wire or cable for the transmission of intelligence by telegraph, telephone or television (including cable television), light waves, or other phenomena, or for the transmission of electricity for light, heat or power, and any related device, apparatus, or auxiliary equipment, installed upon any pole or in any telegraph, telephone, electrical, cable television or communications right of way, duct, conduit, manhole or handhole or other similar facility or facilities owned or controlled, in whole or in part, by one or more public utility, telecommunications utility or consumer-owned utility.

(2) "Consumer-owned utility" means a people's utility district organized under ORS chapter 261, a municipal utility organized under ORS chapter 225 or an electric cooperative organized under ORS chapter 62.

(3) "Licensee" means any person, firm, corporation, partnership, company, association, joint stock association or cooperatively organized association that is authorized to construct attachments upon, along, under or across the public ways.

(4) "Public utility" has the meaning for that term provided in ORS 757.005, and does not include any entity cooperatively organized or owned by federal, state or local government, or a subdivision of state or local government.

(5) "Telecommunications utility" has the meaning for that term provided in ORS 759.005, and does not include any entity cooperatively organized or owned by federal, state or local government or a subdivision of state or local government. [1979 c.356 §2; 1989 c.5 §4; 1999 c.832 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.271 - Authorization from pole owner required for attachment.**

(1) Subject to applicable regulations of the Public Utility Commission, a person shall not establish an attachment to a pole or other facility of a public utility, telecommunications utility or consumer-owned utility unless the person has executed a contract with and has authorization from the utility allowing the attachment.

(2) A licensee shall report all pole attachments to the pole owner. A pole owner may impose on a licensee a penalty charge for failing to report an attachment. The pole owner also may charge the licensee for any expenses incurred as a result of an unauthorized attachment or any attachment that exceeds safety limits established by rule of the commission. [1999 c.832 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.272 - Pole owner may approve or reject attachment.**

(1) A licensee shall notify a public utility, telecommunications utility or consumer-owned utility of all attachments to the utility's poles according to the terms of any agreement between the licensee and the utility.

(2) Notwithstanding subsection (1) of this section, the public utility, telecommunications utility or consumer-owned utility may approve or reject the attachment. If the attachment is rejected, the licensee shall remove the attachment within three business days of the date the attachment is rejected. If the attachment is not removed within three business days of the date the attachment is rejected, the utility may remove the attachment and charge the licensee for all costs incurred by the utility in removing the attachment. [1999 c.832 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.273 - Attachments to public utility and telecommunications utility facilities regulated.**

The Public Utility Commission of Oregon shall have the authority to regulate in the public interest the rates, terms and conditions for attachments by licensees to poles or other facilities of public utilities and telecommunications utilities. All rates, terms and conditions made, demanded or received by any public utility or telecommunications utility for any attachment by a licensee shall be just, fair and reasonable. [1979 c.356 §3; 1989 c.5 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.276 - Attachments by licensees to consumer-owned utility facilities regulated.**

The Public Utility Commission of Oregon shall have the authority to regulate the rates, terms and conditions for attachments by licensees to poles or other facilities of consumer-owned utilities. All rates, terms and conditions made, demanded or received by any consumer-owned utility for any attachment by a licensee shall be just, fair and reasonable. [1979 c.356 §4; 1987 c.414 §164; 1999 c.832 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.279 - Fixing rates or charges by commission; cost of hearing.**

(1) Whenever the Public Utility Commission of Oregon finds, after hearing had upon complaint by a licensee, a public utility, a telecommunications utility or a consumer-owned utility that the rates, terms or conditions demanded, exacted, charged or collected in connection with attachments or availability of surplus space for such attachments are unjust or unreasonable, or that such rates or charges are insufficient to yield a reasonable compensation for the attachment and the costs of administering the same, the commission shall determine the just and reasonable rates, terms and conditions thereafter to be observed and in force and shall fix the same by order. In determining and fixing such rates, terms and conditions, the commission shall consider the interest of the customers of the licensee, as well as the interest of the customers of the public utility, telecommunications utility or consumer-owned utility that owns the facility upon which the attachment is made.

(2) When the order applies to a consumer-owned utility, the order shall also provide for payment by the parties of the cost of the hearing. The payment shall be made in a manner which the commission considers equitable. [1979 c.356 §5; 1983 c.251 §1; 1987 c.414 §165; 1989 c.5 §6; 1999 c.832 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.282 - Criteria for just and reasonable rate for attachments; rate reduction.**

(1) A just and reasonable rate shall ensure the public utility, telecommunications utility or consumer-owned utility the recovery from the licensee of not less than all the additional costs of providing and maintaining pole attachment space for the licensee nor more than the actual capital and operating expenses, including just compensation, of the public utility, telecommunications utility or consumer-owned utility attributable to that portion of the pole, duct or conduit used for the pole attachment, including a share of the required support and clearance space in proportion to the space used for pole attachment above minimum attachment grade level, as compared to all other uses made of the subject facilities, and uses that remain available to the owner or owners of the subject facilities.

(2) A licensee shall receive a rental deduction if the licensee is in compliance with rules adopted by the Public Utility Commission for certifying compliance with the laws regulating pole attachments. A licensee is eligible for the rental reduction unless the commission or the utility authorizing the attachment notifies the licensee in writing that the licensee has failed to comply with either the commission's rules or the terms of a contract between the licensee and the utility authorizing the attachment.

(3) For purposes of determining the rental rate for a pole attachment, the usable space on the pole shall include 20 inches of safety clearance space between communication circuits and electric circuits, provided the licensee is in compliance with rules and agreements as described in subsection (2) of this section. [1979 c.356 §6; 1989 c.5 §7; 1999 c.832 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.285 - Presumption of reasonableness of rates set by private agreement.**

Agreements regarding rates, terms and conditions of attachments shall be deemed to be just, fair and reasonable, unless the Public Utility Commission finds upon complaint by a public utility, telecommunications utility, consumer-owned utility or licensee party to such agreement and after hearing, that such rates, terms and conditions are adverse to the public interest and fail to comply with the provisions hereof. [1979 c.356 §7; 1987 c.414 §166; 1989 c.5 §8; 1999 c.832 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.287 - Application to electrical utility attachments.**

Nothing in ORS 757.270 to 757.290 shall be deemed to apply to any attachment by one or more electrical utilities on the facilities of one or more other electrical utilities. [1979 c.356 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.290 - Regulatory procedures.**

The procedures of the Public Utility Commission for petition, regulation and enforcement relative to attachments, including any rights of appeal from any decision thereof, shall be the same as those otherwise generally applicable to the commission. [1979 c.356 §9; 1987 c.414 §167]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.300 - Net metering facility allowed to connect to public utility; conditions for connecting and measuring energy; rules; application to out-of-state utilities.**

(1) As used in this section:

- (a) "Customer-generator" means a user of a net metering facility.
- (b) "Electric utility" means a public utility, a people's utility district operating under ORS chapter 261, a municipal utility operating under ORS chapter 225 or an electric cooperative organized under ORS chapter 62.
- (c) "Net metering" means measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator and fed back to the electric utility over the applicable billing period.
- (d) "Net metering facility" means a facility for the production of electrical energy that:
  - (A) Generates electricity using:
    - (i) Solar power;
    - (ii) Wind power;
    - (iii) Fuel cells;
    - (iv) Hydroelectric power;
    - (v) Landfill gas;
    - (vi) Digester gas;
    - (vii) Waste;
    - (viii) Dedicated energy crops available on a renewable basis;
    - (ix) Low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues;
    - (x) Geothermal energy; or
    - (xi) Renewable marine energy, including wave energy, wave-wind hybrid energy and tidal energy;
  - (B) Is located on the customer-generator's premises, the territorial sea as defined in ORS 196.405, or the outer continental shelf;
  - (C) If located on the territorial sea or the outer continental shelf, is directly interconnected to the customer-generator's premises;
  - (D) Can operate in parallel with an electric utility's existing transmission and distribution facilities; and
  - (E) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.
- (2) An electric utility that offers residential and commercial electric service:
  - (a) Shall allow net metering facilities to be interconnected using a standard meter that is capable of registering the flow of electricity in two directions.
  - (b) May at its own expense install one or more additional meters to monitor the flow of electricity in each direction.
  - (c) May not charge a customer-generator a fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers in the same rate class as the customer-generator. However, the Public Utility Commission, for a public utility, or the governing body, for a municipal electric utility, electric cooperative or people's utility district, may authorize an electric utility to assess a greater fee or charge, of any type, if the electric utility's direct costs of interconnection and administration of the net metering outweigh the distribution system, environmental and public policy benefits of allocating such costs among the electric utility's entire customer base. The commission may authorize a public utility to assess a

greater fee or charge under this paragraph only following notice and opportunity for public comment. The governing body of a municipal electric utility, electric cooperative or people's utility district may assess a greater fee or charge under this paragraph only following notice and opportunity for comment from the customers of the utility, cooperative or district.

(3)(a) For a customer-generator, an electric utility shall measure the net electricity produced or consumed during the billing period in accordance with normal metering practices.

(b) If an electric utility supplies a customer-generator more electricity than the customer-generator feeds back to the electric utility during a billing period, the electric utility shall charge the customer-generator for the net electricity that the electric utility supplied.

(c) Except as provided in paragraph (d) of this subsection, if a customer-generator feeds back to an electric utility more electricity than the electric utility supplies the customer-generator during a billing period, the electric utility may charge the minimum monthly charge described in subsection (2) of this section but must credit the customer-generator for the excess kilowatt-hours generated during the billing period. An electric utility may value the excess kilowatt-hours at the avoided cost of the utility, as determined by the commission or the appropriate governing body. An electric utility that values the excess kilowatt-hours at the avoided cost shall bear the cost of measuring the excess kilowatt-hours, issuing payments and billing for the excess hours. The electric utility also shall bear the cost of providing and installing additional metering to measure the reverse flow of electricity.

(d) For the billing cycle ending in March of each year, or on such other date as agreed to by the electric utility and the customer-generator, any remaining unused kilowatt-hour credit accumulated during the previous year shall be granted to the electric utility for distribution to customers enrolled in the electric utility's low-income assistance programs, credited to the customer-generator or dedicated for other use as determined by the commission, for a public utility, or the governing body, for a municipal electric utility, electric cooperative or people's utility district, following notice and opportunity for public comment.

(4)(a) A net metering facility shall meet all applicable safety and performance standards established in the state building code. The standards shall be consistent with the applicable standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers and Underwriters Laboratories or other similarly accredited laboratory.

(b) Following notice and opportunity for public comment, the commission, for a public utility, or the governing body, for a municipal electric utility, electric cooperative or people's utility district, may adopt additional control and testing requirements for customer-generators to protect public safety or system reliability.

(c) An electric utility may not require a customer-generator whose net metering facility meets the standards in paragraphs (a) and (b) of this subsection to comply with additional safety or performance standards, perform or pay for additional tests or purchase additional liability insurance. However, an electric utility shall not be liable directly or indirectly for permitting or continuing to allow an attachment of a net metering facility, or for the acts or omissions of the customer-generator that cause loss or injury, including death, to any third party.

(5) Nothing in this section is intended to prevent an electric utility from offering, or a customer-generator from accepting, products or services related to the customer-generator's net metering facility that are different from the net metering services described in this section.

(6) The commission, for a public utility, or the governing body, for a municipal electric utility, electric cooperative or people's utility district, may not limit the cumulative generating capacity of solar, wind, geothermal, renewable marine, fuel cell and microhydroelectric net metering systems to less than one-half of one percent of a utility's, cooperative's or district's historic single-hour peak load. After a cumulative limit of one-half of one percent has been reached, the obligation of a public utility, municipal electric utility, electric cooperative or people's utility district to offer net metering to a new customer-generator may be limited by the commission or governing body in order to balance the interests of retail customers. When limiting net metering obligations under this subsection, the commission or the governing body shall consider the environmental and other public policy benefits of net metering systems. The commission may limit net metering obligations under this subsection only following notice and opportunity for public comment. The governing body of a municipal electric utility, electric cooperative or people's utility district may limit net metering obligations under this subsection only following notice and opportunity for comment from the customers of the utility, cooperative or district.

(7) The commission or the governing body may adopt rules or ordinances to ensure that the obligations and costs associated with net metering apply to all power suppliers within the service territory of a public utility, municipal electric utility, electric cooperative or people's utility district.

(8) This section applies only to net metering facilities that have a generating capacity of 25 kilowatts or less, except that the commission by rule may provide for a higher limit for customers of a public utility.

(9) Notwithstanding subsections (2) to (8) of this section, an electric utility serving fewer than 25,000 customers in Oregon that has its headquarters located in another state and offers net metering services or a substantial equivalent offset against retail sales in that state shall be deemed to be in compliance with this section if the electric utility offers net metering services to its customers in Oregon in accordance with tariffs, schedules and other regulations promulgated by the appropriate authority in the state where the electric utility's headquarters are located. [1999 c.944 §2; 2005 c.145 §1; 2013 c.648 §5; 2014 c.33 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.306 - Contractor labor standards for covered projects; attestation or declaration; project labor agreement.**

(1) As used in this section:

- (a) "Apprentice" and "apprenticeable occupation" have the meanings given those terms in ORS 660.010.
- (b) "Apprenticeship training program" means the total system of apprenticeship that a particular local joint committee, as defined in ORS 660.010, operates, including the local joint committee's registered standards and all other terms and conditions for qualifying, recruiting, selecting, employing and training apprentices in an apprenticeable occupation.
- (c) "Community solar project" has the meaning given that term in ORS 757.386.
- (d) "Construction" includes on-site and off-site construction and fabrication and covers 30 days after project completion.
- (e) "Covered project" means:
- (A) Except as provided in subparagraph (B) of this paragraph, a renewable energy generation, sequestration or storage facility with a capacity rating of 10 megawatts or greater.
- (B) A community solar project with a capacity rating above three megawatts.
- (f) "Minority individual" and "woman" have the meanings given those terms in ORS 200.005.
- (g) "Repower" means replacement of enough of the original generation equipment or components to make an original energy generation facility equivalent to a new facility, such that at least 80 percent of the fair market value of the facility derives from new generation equipment or components installed as part of the replacement project.
- (h) "Veteran" has the meaning given that term in ORS 408.225.
- (2) A person who constructs or repowers a covered project sited in this state shall, within 30 days from the date the construction begins, provide a signed attestation or declaration stating to the best of their knowledge and belief, subject to penalty of perjury as described in ORS 162.065, that during all periods of construction all contractors and subcontractors working on the construction or repowering project will:
- (a)(A)(i) Except as provided in sub-subparagraph (ii) of this subparagraph, participate in an apprenticeship program registered with the State Apprenticeship and Training Council and with graduation rates equal to or higher than the national average for each respective trade in a manner consistent with the respective apprenticeship training programs, such that 15 percent of the total work hours on a given covered project is performed by apprentices in apprenticeable occupations; or
- (ii) If less than 15 percent of total work hours on a given covered project is performed by apprentices in apprenticeable occupations, demonstrate good faith with meeting the requirement described in sub-subparagraph (i) of this subparagraph by providing documented and verifiable information including:
- (I) Internet addresses of employment advertisements or job announcements;
- (II) Dates, times, Internet addresses and attendance lists of a prejob conference with apprenticeship, preapprenticeship and workforce providers in construction;
- (III) Contacts requesting apprentices with an apprenticeship program approved by the Bureau of Labor and Industries including the date, time, telephone contact, electronic mail contact and whether a response was provided within 48 hours of the request;
- (IV) Contacts requesting apprentices from a union hall including the date, time, telephone contact, electronic mail contact and whether a response was provided within 48 hours of the request; and
- (V) Documentation of job offers and number of job offers made to apprentices;
- (B) Establish and execute a plan for outreach, recruitment and retention of women, minority individuals, veterans and people with disabilities to perform work under the contract, with the aspirational target of having at least 15 percent of total work hours performed by individuals in one or more of those groups;
- (C) Have policies in place that are designed to limit or prevent workplace harassment and discrimination and that promote workplace diversity, equity and inclusion for communities who have been underrepresented in the clean energy sector, including women, veterans and Black, Indigenous and People of Color;
- (D) Maintain a license and good standing to perform the work and remain eligible to receive a contract or subcontract for public works under ORS 279C.860;
- (E) Materially demonstrate a history of material compliance in the previous seven years, or provide available history for new businesses, with the rules and other requirements of state agencies with oversight regarding workers' compensation, building codes and occupational safety and health;
- (F) Materially demonstrate a history of compliance, in the previous seven years, or provide available history for new businesses, with federal and state wage and hour laws; and
- (G) Provide quarterly reporting and recordkeeping to the project owner or electric utility and respond to records requests and verification; and
- (b) If the covered project has a capacity rating of 10 megawatts or greater:
- (A) Pay no less than the prevailing wage rate for an hour's work in the same trade or occupation in the locality where the labor is performed. Prevailing wage rate includes the calculation of wages and fringe benefits per trade and locality and will be treated as standards defined in ORS 279C.800 to 279C.870.
- (B) Offer health care and retirement benefits to the employees performing the labor on the project.
- (C) Provide quarterly reporting and recordkeeping to the project owner or electric utility and respond to records requests and verification.
- (3) The person shall provide the attestation or declaration and any good faith effort documentation described in subsection (2) of this section to the State Department of Energy within 30 days from the date construction begins and shall notify the purchaser of the project or of the energy from the project of this provision or of the provision of a project labor agreement under subsection (4) of



this section, the notice of which shall identify the signatories to the agreement. In addition to the requirements described in subsection (2) of this section, the attestation or declaration must include the following information:

- (a) The megawatt capacity and physical footprint in acres of the project;
  - (b) The geographic location of the project;
  - (c) The estimated workforce requirements of the project;
  - (d) A collated list of good faith effort documentation; and
  - (e) A description of any policies in place for ensuring the person meets the requirements in this section.
- (4)(a) In lieu of providing an attestation or declaration described in subsection (2) of this section, the person may provide a copy of a project labor agreement, if a project labor agreement is used on the covered project and shall be exempted from the requirements described in subsection (2) of this section.
- (b) As used in this subsection, "project labor agreement" means a prehire collective bargaining agreement as described in 29 U.S.C. 158(f) that establishes the terms and conditions of employment for a specific construction project or contract.
- (c) A project labor agreement may include additional provisions that:
- (A) Prohibit discrimination based on race, national origin, religion, gender, sexual orientation, political affiliation or membership in a labor organization in hiring and dispatching workers for the project.
  - (B) Permit qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to a collective bargaining agreement.
  - (C) Permit and promote qualified business enterprises owned by women, minorities, veterans and disadvantaged individuals without regard to whether the individuals are otherwise parties to a collective bargaining agreement.
  - (D) Guarantee against work stoppages, strikes, lockouts and similar disruptions of the project.
- (5)(a) The department shall retain an attestation or declaration filed with the department in a manner consistent with the department's record retention policies.
- (b) Notwithstanding any provisions of ORS 192.345 or 192.355, an attestation or declaration provided to the department pursuant to this subsection is subject to public records disclosure and the department shall provide a copy of the attestation or declaration upon request.
- (c) An attestation or declaration filed under this section is for reporting purposes only and the department may not use an attestation or declaration to investigate, regulate or enforce matters addressed in the attestation or declaration.
- (6)(a) Nothing in this section:
- (A) Applies to a contract or subcontract with a tribal government, agent or instrumentality of an Oregon Indian tribe for a covered project located in whole or in part on the tribe's reservation or on land held in trust by the United States for the benefit of the tribe, unless the tribal government elects to adopt the standards in this section for the contract or subcontract; or
  - (B) Affects the wage rates overseen by a tribal government, agent or instrumentality of an Oregon Indian tribe.
- (b) As used in this subsection, "Oregon Indian tribe" and "tribal government" have the meanings given those terms in ORS 294.805.
- (7) Nothing in this section:
- (a) Prohibits the inclusion of labor standards in addition to those required by subsection (2) of this section in contracts that are subject to this section; or
  - (b) Prohibits a person from using a project labor agreement to meet the minimum requirements of subsection (2) of this section.

[2021 c.508 §26; 2022 c.51 §1]  
Note:

757.306 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.308 - Requirements related to request for proposals that may result in procurement of covered project.**

- (1) A request for proposals submitted by an electric company, as defined in ORS 757.600, for resource procurement that is subject to competitive bidding requirements adopted by the Public Utility Commission by rule and that may result in the procurement of a covered project must:
- (a) Include a reference to and information regarding the requirements in ORS 757.306; and
  - (b) Require that a successful bidder within 30 days from the date construction begins, provide a copy of the attestation or declaration or executed project labor agreement as required under ORS 757.306.
- (2) The State Department of Energy shall, upon request from the commission, provide a copy of the attestation or declaration or project labor agreement to the commission. [2022 c.51 §2]

Note:

757.308 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.310 - Prohibition related to charges for service.**

- (1) A public utility may not charge a customer a rate or an amount for a service that is different from the rate or amount prescribed

in the schedules or tariffs for the public utility.

(2) A public utility may not charge a customer a rate or an amount for a service that is different from the rate or amount the public utility charges any other customer for a like and contemporaneous service under substantially similar circumstances.

(3) A difference in rates or amounts charged does not constitute a violation of subsection (2) of this section if the difference is based on:

(a) Service classification under ORS 757.230;

(b) Contracts for services under ORS 757.516; or

(c) An optional schedule or tariff for the provision of energy service that takes into account a customer's past energy usage and provides price incentives designed to encourage changes in the customer's energy usage that correspond to changes in the cost of providing energy. [Amended by 1971 c.655 §78; 1987 c.900 §2; 1993 c.485 §3; 2005 c.594 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.315 - When free service or reduced rates allowed.**

(1) ORS 757.310 does not prevent any public utility from giving free service, or reduced rates therefor, to:

(a) Its officers, directors, employees and members of their families;

(b) Former employees of such public utilities or members of their families where such former employees have become disabled in the service of such public utility or are unable from physical disqualification, including retirement, to continue in the service; or

(c) Members of families of deceased employees of such public utility.

(2) The Public Utility Commission may require any public utility to file with the commission a list, verified under oath, of all free or reduced rate privileges granted by a public utility under the provisions of this section.

(3) The Public Utility Commission may authorize a natural gas public utility, upon application of the utility, to include in rates for residential customers of the utility amounts for the purpose of generating funds to be used for bill payment assistance to low-income residential customers of the utility. [Amended by 1971 c.655 §79; 2001 c.856 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.320 - Reducing rates for persons furnishing part of necessary facilities.**

(1) No public utility shall demand, charge, collect or receive from any person less compensation for any service rendered or to be rendered by the public utility in consideration of the furnishing by such person of any part of the facilities incident thereto.

(2) This section does not prohibit any public utility from renting any customer's facilities incident to providing its services and for paying a reasonable rental therefor.

(3) This section does not require a public utility to furnish any part of such appliances which are situated in and upon the premises of any customer, except meters and appliances for measurements of any service, unless otherwise ordered by the Public Utility Commission. [Amended by 1971 c.655 §80]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.325 - Undue preferences and prejudices.**

(1) No public utility shall make or give undue or unreasonable preference or advantage to any particular person or locality, or shall subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect.

(2) Any public utility violating this section is guilty of unjust discrimination.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.330 - Soliciting or accepting special privileges from utilities.**

No person shall knowingly solicit, accept or receive any rebate, concession or discrimination in respect to any service whereby any such service shall, by any device, be rendered free or at a lesser rate than that named in the published schedules and tariffs in force, or whereby any service or advantage is received other than authorized in this chapter. [Amended by 1971 c.655 §81]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.335**

[Amended by 1971 c.655 §25; renumbered 756.185]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.340**

[Amended by 1971 c.655 §22; renumbered 756.125]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.355 - Costs of property not presently providing utility service excluded from rate base; exception.**

(1) Except as provided in subsection (2) of this section, a public utility may not, directly or indirectly, by any device, charge, demand, collect or receive from any customer rates that include the costs of construction, building, installation or real or personal

property not presently used for providing utility service to the customer.

(2) The Public Utility Commission may allow rates for a water utility that include the costs of a specific capital improvement if the water utility is required to use the additional revenues solely for the purpose of completing the capital improvement. [1979 c.3 §2; 2003 c.202 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.357 - Legislative findings; programs to accelerate transportation electrification; tariff schedules and rates; long-term stranded costs.**

(1) As used in this section:

(a) "Electric company" has the meaning given that term in ORS 757.600.

(b)(A) "Infrastructure measures" includes, but is not limited to, investments in, expenses related to or rebates for:

(i) Distribution system infrastructure that supports transportation electrification;

(ii) Communication and control technologies that support transportation electrification; and

(iii) Behind-the-meter infrastructure that supports transportation electrification and is owned by an electric company or by a customer.

(B) "Infrastructure measures" does not include investments in or expenses related to education and outreach activities related to transportation electrification, or other transportation electrification-related activities determined by the Public Utility Commission to be separate and distinct from the development of infrastructure.

(c) "Retail electricity consumer" has the meaning given that term in ORS 757.600.

(d) "Transportation electrification" means:

(A) The use of electricity from external sources to provide power to all or part of a vehicle;

(B) Programs related to developing the use of electricity for the purpose described in subparagraph (A) of this paragraph;

(C) Infrastructure measures related to developing the use of electricity for the purpose described in subparagraph (A) of this paragraph; and

(D) Programs related to supporting the adoption and service of vehicles powered as described in subparagraph (A) of this paragraph.

(e) "Vehicle" means a vehicle, vessel, train, boat or any other equipment that is mobile.

(2) The Legislative Assembly finds and declares that:

(a) Transportation electrification is necessary to reduce petroleum use, achieve optimum levels of energy efficiency and carbon reduction, meet federal and state air quality standards, meet this state's greenhouse gas emissions reduction goals described in ORS 468A.205 and improve the public health and safety;

(b) Widespread transportation electrification requires that electric companies increase access to the use of electricity as a transportation fuel;

(c) Widespread transportation electrification requires that electric companies increase access to the use of electricity as a transportation fuel in low and moderate income communities;

(d) Widespread transportation electrification should stimulate innovation and competition, provide consumers with increased options in the use of charging equipment and in procuring services from suppliers of electricity, attract private capital investments and create high quality jobs in this state;

(e) Transportation electrification and the purchase and use of electric vehicles should assist in managing the electrical grid, integrating generation from renewable energy resources and improving electric system efficiency and operational flexibility, including the ability of an electric company to integrate variable generating resources;

(f) Deploying transportation electrification and electric vehicles creates the opportunity for an electric company to propose, to the commission, that a net benefit for the customers of the electric company is attainable; and

(g) Charging electric vehicles in a manner that provides benefits to electrical grid management affords fuel cost savings for vehicle drivers.

(3)(a) The commission shall direct each electric company to file:

(A) Applications for programs to support transportation electrification; and

(B) A plan, for acceptance by the commission, that integrates the electric company's transportation electrification actions.

(b) The applications and plan must be filed in a form and manner prescribed by the commission.

(c) A program proposed by an electric company may include prudent investments in or customer rebates for electric vehicle charging and related infrastructure.

(4) The commission may allow an electric company to recover costs from retail electricity consumers for prudent infrastructure measures to support transportation electrification if the infrastructure measures are consistent with and meet the requirements of subsection (5) of this section.

(5) If undertaken by an electric company, an infrastructure measure to support transportation electrification is a utility service and a benefit to utility customers if the infrastructure measure can be reasonably anticipated to:

(a) Support reductions of transportation sector greenhouse gas emissions over time; and

(b) Benefit the electric company's customers in ways that may include, but need not be limited to:

(A) Distribution or transmission management benefits;

(B) Revenues to utilities from electric vehicle charging to offset utilities' fixed costs that may otherwise be charged to customers;

- (C) System efficiencies or other economic values inuring to the benefit of customers over the long term; or
- (D) Increased customer choice through greater transportation electrification infrastructure deployment to increase the availability of and access to public and private electric vehicle charging stations.
- (6) When considering a transportation electrification program and determining cost recovery for investments and other expenditures that are not infrastructure measures and that are related to a program proposed by an electric company under subsection (3) of this section, the commission shall consider whether the investments and other expenditures:
- (a) Are within the service territory of the electric company;
  - (b) Are prudent as determined by the commission;
  - (c) Are reasonably expected to be used and useful as determined by the commission;
  - (d) Are reasonably expected to enable the electric company to support the electric company's electrical system;
  - (e) Are reasonably expected to improve the electric company's electrical system efficiency and operational flexibility, including the ability of the electric company to integrate variable generating resources; and
  - (f) Are reasonably expected to stimulate innovation, competition and customer choice in electric vehicle charging and related infrastructure and services.
- (7) In undertaking infrastructure measures that involve the installation of one or more electric vehicle charging stations, an electric company must allow for customer choice in the selection of the type of electric vehicle charging station to be installed, subject to equipment eligibility as determined by the electric company. An electric company may prequalify multiple types of eligible electric vehicle charging stations based on criteria determined by the electric company.
- (8) Nothing in this section restricts or prohibits a corporation, company, partnership, individual or association of individuals exempt from regulation under ORS 757.005 (1)(b)(G) from furnishing electricity to any number of customers for use in motor vehicles.
- (9)(a) Tariff schedules and rates allowed pursuant to subsections (3) to (6) of this section:
- (A) May allow a return of and a return on an investment made by an electric company under subsections (3) to (6) of this section; and
  - (B) Shall be recovered from the retail electricity consumers of an electric company in a manner determined by the commission.
- (b) A return on investment allowed under this subsection may be earned for a period of time that does not exceed the depreciation schedule of the investment approved by the commission. When an electric company's investment is fully depreciated, the commission may authorize the electric company to donate the electric vehicle charging infrastructure to the owner of the property on which the infrastructure is located.
- (10) For purposes of ORS 757.355, electric vehicle charging infrastructure provides utility service to the customers of an electric company.
- (11) In authorizing programs described in subsection (3) of this section, the commission shall review data concerning current and future adoption of electric vehicles and utilization of electric vehicle charging infrastructure. If market barriers unrelated to the investment or expenditures made by an electric company prevent electric vehicles from adequately utilizing available electric vehicle charging infrastructure, the commission may not permit additional investments in or expenditures related to supporting transportation electrification without a reasonable showing that the investments or expenditures would not result in long-term stranded costs recoverable from the retail electricity consumers of electric companies. [2016 c.28 §20; 2021 c.23 §4; 2021 c.95 §4; 2021 c.630 §21]

Note:

Sections 1 to 3, chapter 95, Oregon Laws 2021, provide:

Sec. 1.

Section 2 of this 2021 Act is added to and made a part of ORS chapter 757. [2021 c.95 §1]

Sec. 2. Collection of funds to support transportation electrification.

(1) As used in this section:

- (a) "Distribution" has the meaning given that term in ORS 757.600.
- (b) "Electric company" has the meaning given that term in ORS 757.600.
- (c) "Retail electricity consumer" has the meaning given that term in ORS 757.600.
- (d) "Transportation electrification" has the meaning given that term in ORS 757.357.

(2) An electric company that makes sales of electricity to 25,000 or more retail electricity consumers in this state shall collect, through monthly meter charges, an amount from each retail electricity consumer served through the distribution system owned and operated by the electric company, regardless of whether the retail electricity consumer purchases the electricity from the electric company. The total amounts collected under this section must be set to one quarter of one percent of the total revenues collected by the electric company from all retail electricity consumers.

(3) Funds collected under subsection (2) of this section must be expended by the electric company to support and integrate transportation electrification and must be consistent with a budget approved by the Public Utility Commission for use of funds collected under this section. Expenditures made by an electric company pursuant to this subsection must be made on elements contained within the electric company's transportation electrification plan accepted by the commission pursuant to ORS 757.357.

(4) An electric company shall account separately for all revenues and expenditures related to funds described in this section and shall report the revenues and expenditures on a schedule and in the manner prescribed by the commission.

(5) Funds collected and expended pursuant to this section shall be a minimum investment in transportation electrification and may

not limit the amounts that may otherwise be collected by an electric company in rates to recover the costs of prudently incurred investments that support transportation electrification.

(6) An electric company shall make reasonable efforts to expend not less than one-half of the amount collected under subsection (2) of this section each year to support transportation electrification in underserved communities through approaches that may include but are not limited to programs, infrastructure, rebates or expenses that support:

(a) The use of electric vehicles by residents of rental or multifamily housing;

(b) The use of electric vehicles by communities of color, communities experiencing lower incomes, tribal communities, rural communities, frontier communities, coastal communities and other communities adversely harmed by environmental and health hazards;

(c) The use of electric vehicles by communities described in paragraph (b) of this subsection in areas with a low density of public charging stations; or

(d) The deployment of electric school and transit buses in a manner that benefits communities described in paragraph (a) or (b) of this subsection. [2021 c.95 §2]

Sec. 3.

Section 2 of this 2021 Act is repealed on January 2, 2031. [2021 c.95 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.359 - Infrastructure for vehicles powered by renewable natural gas or hydrogen.**

(1) As used in this section, "natural gas utility" means a natural gas utility regulated by the Public Utility Commission under this chapter.

(2) The commission may allow a natural gas utility to recover costs from all retail natural gas customers for prudent investments in or expenses related to infrastructure measures that support the adoption and service of alternative forms of transportation vehicles if the investments or expenses are consistent with and meet the requirements of subsection (3) of this section. An investment or expense by a natural gas utility may include an investment in or an expense related to infrastructure behind the customer meter.

(3) An investment in or expense related to infrastructure measures that support the adoption and service of alternative forms of transportation vehicles is a utility service and a benefit to retail natural gas customers if the investment or expense can be reasonably anticipated to:

(a) Support the adoption of alternative vehicles that are powered by renewable natural gas or hydrogen;

(b) Support reductions of transportation sector greenhouse gas emissions over time; and

(c) Benefit the natural gas utility system. Benefits may include, but need not be limited to:

(A) Distribution or transmission management benefits;

(B) System efficiencies or other economic values inuring to the benefit of retail natural gas customers over the long term; or

(C) Revenues to natural gas utilities from fueling alternative forms of transportation vehicles to offset utilities' fixed costs that may otherwise be charged to retail natural gas customers. [2021 c.630 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.360 - Definitions for ORS 757.360 to 757.380.**

As used in ORS 757.360 to 757.380:

(1) "Electric company" has the meaning given that term in ORS 757.600.

(2) "Nameplate capacity" means the maximum rated output of a generator or other electric power production equipment under specific conditions designated by the manufacturer.

(3) "Qualifying system" means:

(a) An alternative energy system used for emergency backup power by a state agency or facility that is at least 30 percent more efficient than existing agency or facility sources, including fuel cells; or

(b) A solar photovoltaic energy system that:

(A) Directly connects to an electric company's electrical system within this state or indirectly connects through the system of an electric company's retail electricity consumer or the electric system of a third party that is not an electric company's retail electricity consumer but whose system is located within this state;

(B) Has meters or other devices in place to monitor and measure the quantity of energy generated by the solar photovoltaic energy system; and

(C) Meets any other siting, design, interconnection, installation and electric output standards and codes required by the laws of this state.

(4) "Residential qualifying system" means a qualifying system with a nameplate capacity of 10 kilowatts or less.

(5) "Resource value" means the estimated value to an electric company of the electricity delivered from a solar photovoltaic energy system associated with:

(a) The avoided cost of energy, including avoided fuel price volatility, minus the costs of firming and shaping the electricity generated from the facility; and

(b) Avoided distribution and transmission cost.

(6) "Retail electricity consumer" means a retail electricity consumer, as defined in ORS 757.600, that is located in Oregon and is

served by an electric company.

(7) "Small commercial qualifying system" means a qualifying system with a nameplate capacity greater than 10 kilowatts and less than or equal to 100 kilowatts.

(8) "Solar photovoltaic energy system" means equipment and devices that have the primary purpose of collecting solar energy and generating electricity by photovoltaic effect. [2009 c.748 §1; 2010 c.78 §1]

Note:

757.360 to 757.385 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.365 - Pilot program for small solar energy systems; rules; limits to program; report to Legislative Assembly.**

(1) The Public Utility Commission shall establish a pilot program for each electric company to demonstrate the use and effectiveness of volumetric incentive rates and payments for electricity or for the nonenergy attributes of electricity, or both, from solar photovoltaic energy systems that are permanently installed in this state by retail electricity consumers and that first become operational after the program begins. The cumulative nameplate capacity of the qualifying systems enrolled in all of the pilot programs may not exceed 27.5 megawatts of alternating current. Qualifying systems enrolled in the pilot program may not have nameplate generating capacity greater than 500 kilowatts.

(2) The commission by rule shall adopt requirements for the pilot programs described in subsection (1) of this section. Each electric company shall file for commission approval tariff schedules for the pilot programs that conform to the requirements.

(3) The commission may establish incentive rates for the pilot programs to enable the development of the most efficient solar photovoltaic energy systems.

(4) A retail electricity consumer participating in a pilot program may receive payments based on electricity generated from solar photovoltaic energy system output for 15 years from the consumer's date of enrollment in the program, at rates or through a rate formula in a tariff schedule established at the time of enrollment, or at rates otherwise established at the time of enrollment. The consumer thereafter may receive payments based upon electricity generated from the qualifying system at a rate equal to the resource value.

(5) The commission may adjust the tariff schedule as needed for new pilot program participants for the purpose of meeting the goal established in subsection (1) of this section. Once a retail electricity consumer is enrolled in a program, the rates or rate formula for determining payments to the consumer may not be modified.

(6) The commission may adopt and adjust a percentage goal for capacity deployed by residential and small commercial qualifying systems based upon the costs of the energy generated, the feasibility of attaining the goal and other factors. For purposes of attaining the goal described in this subsection, the commission shall require 2.5 megawatts of alternating current from the cumulative nameplate capacity of qualifying systems to be generated by individual systems with a nameplate generating capacity between five and 100 kilowatts.

(7) The commission may establish total generator nameplate capacity limits for an electric company so that the rate impact of the pilot program for any customer class does not exceed 0.25 percent of the electric company's revenue requirement for the class in any year.

(8) Ownership of renewable energy certificates established under ORS 469A.130 that are associated with renewable energy generation under the pilot programs must be transferred to the electric company and may be used to comply with the renewable portfolio standard described in ORS 469A.052 or 469A.055.

(9) To the extent that rates paid under a pilot program exceed the resource value, qualifying systems participating in the pilot programs are not eligible for expenditures under ORS 757.612 (3)(b)(B) (2019 Edition) or tax credits under ORS 469B.100 to 469B.118 or 469B.130 to 469B.169.

(10) All prudently incurred costs associated with compliance with this section are recoverable in the rates of an electric company.

(11) The commission shall advise and assist the owners and operators of qualifying systems in identifying and using grants, incentive moneys, federal funding and other sources of noninvestment financial support for the construction and operation of qualifying systems.

(12) The pilot programs described in subsection (1) of this section close to new participants on the earlier of:

(a) March 31, 2016; or

(b) The date the cumulative nameplate capacity of solar photovoltaic energy systems that have been permanently installed by retail electricity consumers under the pilot programs equals 27.5 megawatts of alternating current.

(13) The commission shall submit a report to the Legislative Assembly by January 1 of each odd-numbered year. The report must evaluate the effectiveness of the pilot programs described in subsection (1) of this section compared to the effectiveness of expenditures under ORS 757.612 (3)(b)(B) (2019 Edition) or tax credits under ORS 469B.100 to 469B.118 or 469B.130 to 469B.169 for promoting the use of solar photovoltaic energy systems and reducing system costs. The report must also estimate the cost of the program to retail electricity consumers and the resource value of solar energy. [2009 c.748 §2; 2010 c.78 §2; 2013 c.244 §§1,3; 2021 c.547 §22]

Note:

See note under 757.360.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.375 - Credit toward compliance with renewable portfolio standard; limits.**

(1) Any electricity produced from a solar photovoltaic energy system that is physically located in this state may be used by an electric company to comply with the renewable portfolio standard established under ORS 469A.005 to 469A.210.

(2) For each kilowatt-hour of electricity produced from a qualifying system that first becomes operational before January 1, 2016, and has a nameplate capacity of between 500 kilowatts and five megawatts of alternating current, the Public Utility Commission shall credit the electric company with two kilowatt-hours of qualifying electricity toward the electric company's compliance with the renewable portfolio standard under ORS 469A.005 to 469A.210, up to a maximum of 20 megawatts of capacity. [2009 c.748 §4; 2016 c.28 §24]

Note:

See note under 757.360.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.380 - Applicability of ORS 757.360 to 757.380.**

ORS 757.360 to 757.380 apply only to qualifying systems that are solar photovoltaic energy systems. [2009 c.748 §5]

Note:

See note under 757.360.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.385 - Allowance of fair and reasonable rates.**

Nothing in ORS 276.910 and 757.360 to 757.380 affects the authority of the Public Utility Commission to set fair and reasonable rates as authorized under ORS 756.040 (1). [2009 c.748 §8]

Note:

See note under 757.360.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.386 - Program for procurement of electricity from community solar projects; rules.**

(1) For purposes of this section:

(a) "Community solar project" means one or more solar photovoltaic energy systems that provide owners and subscribers the opportunity to share the costs and benefits associated with the generation of electricity by the solar photovoltaic energy systems.

(b) "Electric company" has the meaning given that term in ORS 757.600.

(c) "Owner" means a customer of an electric company who has proportionate ownership of part of a community solar project, such as direct ownership of one or more solar panels or shared ownership of the infrastructure of the community solar project.

(d) "Project manager" means the entity identified as having responsibility for managing the operation of a community solar project and, if applicable, for maintaining contact with the electric company that procures electricity from the community solar project. A project manager may be:

(A) An electric company; or

(B) An independent third party.

(e) "Solar photovoltaic energy system" means equipment and devices that have the primary purpose of collecting solar energy and generating electricity by photovoltaic effect.

(f) "Subscriber" means a customer of an electric company who proportionately leases part of a community solar project for a minimum of 10 years.

(2)(a) The Public Utility Commission shall establish by rule a program for the procurement of electricity from community solar projects. As part of the program, the commission shall:

(A) Adopt rules prescribing what qualifies a community solar project to participate in the program;

(B) Certify qualified community solar projects for participation in the program;

(C) Prescribe the form and manner by which project managers may apply for certification under the program; and

(D) Require, by rule or order, electric companies to enter into a 20-year power purchase agreement with a certified community solar project.

(b) The commission shall adopt rules under paragraph (a)(A) of this subsection that, at a minimum:

(A) Incentivize consumers of electricity to be owners or subscribers;

(B) Minimize the shifting of costs from the program to ratepayers who do not own or subscribe to a community solar project;

(C) Where an electric company is the project manager, protect owners and subscribers from undue financial hardship; and

(D) Protect the public interest.

(c) The commission may suspend the program adopted under this subsection if the commission has good cause to suspend the program.

- (3) A community solar project:
  - (a) Must have at least one solar photovoltaic energy system with a minimum generating capacity of 25 kilowatts;
  - (b) Must be located in this state; and
  - (c) May be located anywhere in this state.
- (4) A project manager may offer ownership in or subscriptions to a community solar project only to consumers of electricity that are located:
  - (a) In this state; and
  - (b) In the service territory of an electric company.
- (5)(a) A project manager may offer proportional ownership in or proportional subscriptions to a community solar project in any amount that does not exceed a potential owner's or potential subscriber's average annual consumption of electricity.
- (b) Any value associated with the generation of electricity in excess of an offer to own or subscribe to a community solar project as limited by paragraph (a) of this subsection must be used by the electric company procuring electricity from the community solar project in support of low-income residential customers of the electric company.
- (6)(a) Except as provided in paragraph (b) of this subsection, an electric company shall credit an owner's or subscriber's electric bill for the amount of electricity generated by a community solar project for the owner or subscriber in a manner that reflects the resource value of solar energy. For purposes of this paragraph, the commission shall determine the resource value of solar energy.
- (b) The commission may adopt a rate for an electric company to use in crediting an owner's or subscriber's electric bill other than the rate described in paragraph (a) of this subsection if the commission has good cause to adopt the different rate.
- (7)(a) Except as otherwise provided in this section, owners and subscribers shall bear the costs and benefits of constructing and operating a community solar project.
- (b) Costs incurred by an electric company under the terms of a power purchase agreement entered into pursuant to subsection (2)(a)(D) of this section are recoverable in the rates of the electric company. Moneys collected pursuant to imposing those rates, under the terms of a power purchase agreement entered into pursuant to subsection (2)(a)(D) of this section, may be transferred to a project manager for the purpose of operating a community solar project.
- (c) All start-up costs prudently incurred during the development or modification of the program established under this section are recoverable in the rates of an electric company.
- (d) Owners and subscribers shall bear all ongoing costs incurred during the continued administration of the program established under this section.
- (8) Owners and subscribers own all renewable energy certificates established under ORS 469A.130 that are associated with the generation of electricity by a community solar project, in proportion to the owner's proportional ownership in or the subscriber's proportional subscription to the community solar project.
- (9) As part of the program established under this section, the commission shall:
  - (a) Determine a methodology by which 10 percent of the total generating capacity of the community solar projects operated under the program will be made available for use by low-income residential customers of electricity; and
  - (b) Periodically review and adjust the percentage described in paragraph (a) of this subsection.
- (10) A subscription described in this section shall be considered a lease for purposes of ORS 307.092 and 307.112. [2016 c.28 §22; 2022 c.79 §3]

Note:

757.386 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.390 - Legislative findings and declarations.**

- (1) The Legislative Assembly finds and declares that:
  - (a) Renewable natural gas provides benefits to natural gas utility customers and to the public; and
  - (b) The development of renewable natural gas resources should be encouraged to support a smooth transition to a low carbon energy economy in Oregon.
- (2) The Legislative Assembly therefore declares that:
  - (a) Natural gas utilities can reduce emissions from the direct use of natural gas by procuring renewable natural gas and investing in renewable natural gas infrastructure;
  - (b) Regulatory guidelines for the procurement of renewable natural gas and investments in renewable natural gas infrastructure should enable the procurements and investments while also protecting Oregon consumers; and
  - (c) Renewable natural gas should be included in the broader set of low carbon resources that may leverage the natural gas system to reduce greenhouse gas emissions. [2019 c.541 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.392 - Definitions.**

As used in ORS 757.390 to 757.398:

- (1) "Biogas" means a mixture of carbon dioxide and hydrocarbons, primarily methane gas, released from the biological



decomposition of organic materials.

(2) "Biomass" has the meaning given that term in ORS 315.141.

(3) "Large natural gas utility" means a natural gas utility with 200,000 or more customer accounts in Oregon.

(4) "Natural gas utility" means a public utility providing natural gas service to customers.

(5)(a) "Qualified investment" means any capital investment in renewable natural gas infrastructure incurred by a natural gas utility for the purpose of providing natural gas service under a renewable natural gas program described in ORS 757.396 or 757.398.

(b) "Qualified investment" does not mean an investment in a biogas production project by:

(A) A single livestock operation that produces more than 250 standard cubic feet of biogas per minute; or

(B) A single biogas source that produces more than 1,000 standard cubic feet of biogas per minute.

(6) "Renewable energy sources" means hydroelectric, geothermal, solar photovoltaic, wind, tidal, wave, biomass or biogas energy sources.

(7) "Renewable natural gas" means any of the following products processed to meet pipeline quality standards or transportation fuel grade requirements:

(a) Biogas that is upgraded to meet natural gas pipeline quality standards such that it may blend with, or substitute for, geologic natural gas;

(b) Hydrogen gas derived from renewable energy sources; or

(c) Methane gas derived from any combination of:

(A) Biogas;

(B) Hydrogen gas or carbon oxides derived from renewable energy sources; or

(C) Waste carbon dioxide.

(8) "Renewable natural gas infrastructure" means all equipment and facilities for the production, processing, pipeline interconnection and distribution of renewable natural gas to be furnished to Oregon customers.

(9) "Small natural gas utility" means a natural gas utility with fewer than 200,000 customer accounts in Oregon. [2019 c.541 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.394 - Renewable natural gas programs; rules; requirements.**

(1) The Public Utility Commission shall adopt by rule a large renewable natural gas program for large natural gas utilities pursuant to the provisions of ORS 757.396.

(2) The commission shall adopt by rule a small renewable natural gas program for small natural gas utilities pursuant to ORS 757.398.

(3) Rules adopted by the commission under this section shall include:

(a) Rules for reporting requirements under the large renewable natural gas program and the small renewable natural gas program; and

(b) Rules for establishing a process for natural gas utilities to fully recover prudently incurred costs associated with the large renewable natural gas program and the small renewable natural gas program.

(4) Rules adopted by the commission under this section may not prohibit an affiliated interest of a small natural gas utility or of a large natural gas utility from making a capital investment in a biogas production project if the affiliated interest, as defined in ORS 757.015, is not a public utility. [2019 c.541 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.396 - Participating large natural gas utilities; portfolio targets; ratemaking mechanisms; qualified investments.**

(1) A large natural gas utility that participates in the large renewable natural gas program adopted by rule by the Public Utility Commission under ORS 757.394 (1) may make qualified investments and procure renewable natural gas from third parties to meet the following portfolio targets for the percentage of gas purchased by the large natural gas utility for distribution to retail natural gas customers in Oregon that is renewable natural gas:

(a) In each of the calendar years 2020 through 2024, five percent may be renewable natural gas;

(b) In each of the calendar years 2025 through 2029, 10 percent may be renewable natural gas;

(c) In each of the calendar years 2030 through 2034, 15 percent may be renewable natural gas;

(d) In each of the calendar years 2035 through 2039, 20 percent may be renewable natural gas;

(e) In each of the calendar years 2040 through 2044, 25 percent may be renewable natural gas; and

(f) In each of the calendar years 2045 through 2050, 30 percent may be renewable natural gas.

(2) The commission shall adopt ratemaking mechanisms that ensure the recovery of all prudently incurred costs that contribute to the large natural gas utility's meeting the targets set forth in subsection (1) of this section. Pursuant to the ratemaking mechanisms adopted under this subsection:

(a) Qualified investments and operating costs associated with qualified investments that contribute to the large natural gas utility meeting the targets set forth in subsection (1) of this section may be recovered by means of an automatic adjustment clause, as defined in ORS 757.210.

(b) Costs of procurement of renewable natural gas from third parties that contribute to the large natural gas utility meeting the

targets set forth in subsection (1) of this section may be recovered by means of an automatic adjustment clause, as defined in ORS 757.210, or another recovery mechanism authorized by rule.

(3) When a large natural gas utility makes a qualified investment in the production of renewable natural gas, the costs associated with the qualified investment shall include the cost of capital established by the commission in the large natural gas utility's most recent general rate case.

(4) Before making a qualified investment in biogas production that is upstream of conditioning equipment, pipeline interconnection or gas cleaning, a large natural gas utility shall engage in a competitive bidding process.

(5) If the large natural gas utility's total incremental annual cost to meet the targets of the large renewable natural gas program exceeds five percent of the large natural gas utility's total revenue requirement for an individual year, the large natural gas utility may no longer be authorized to make additional qualified investments under the large renewable natural gas program for that year without approval from the commission.

(6) The total incremental annual cost to meet the targets of the large renewable natural gas program must account for:

(a) Any value received by a large natural gas utility upon any resale of renewable natural gas, including any environmental credits that the renewable natural gas producer chooses to include with the sale of the renewable natural gas to the large natural gas utility; and

(b) Any savings achieved through avoidance of conventional gas purchases or development, such as avoided pipeline costs or carbon costs. [2019 c.541 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.398 - Small natural gas utilities; filing to participate; rate cap; cost recovery; qualified investments.**

(1) Upon a filing by a small natural gas utility to participate in the small renewable natural gas program adopted by rule by the Public Utility Commission under ORS 757.394 (2), the commission shall establish a rate cap limiting the small natural gas utility's costs of procuring renewable natural gas from third parties and qualified investments in renewable natural gas infrastructure. The rate cap must be expressed as a percentage of the small natural gas utility's total revenue requirement as approved by the commission in the public utility's most recent general rate case. For the purposes of establishing a rate cap under this subsection, the commission shall account for:

(a) Any value received by the small natural gas utility upon any resale of renewable natural gas, including any environmental credits that the renewable natural gas producer chooses to include with the sale of renewable natural gas to the small natural gas utility; and

(b) Any savings achieved through avoidance of conventional gas purchases or development, such as avoided pipeline costs or carbon costs.

(2)(a) A filing by a small natural gas utility under subsection (1) of this section must include, but need not be limited to:

(A) A proposal to procure a total volume of renewable natural gas over a specific period; and

(B) Identification of the qualified investments that the small natural gas utility may make in renewable natural gas infrastructure.

(b) A small natural gas utility may from time to time revise the filing submitted to the commission under this section.

(3) Any prudently incurred costs incurred by a small natural gas utility pursuant to a filing submitted under this section may be recovered by means of an automatic adjustment clause, as defined in ORS 757.210.

(4) When a small natural gas utility makes a qualified investment in the production of renewable natural gas, the costs associated with that qualified investment shall include the cost of capital established by the commission in the small natural gas utility's most recent general rate case. [2019 c.541 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.400 - "Stocks" defined for ORS 757.400 to 757.463.**

As used in ORS 757.400 to 757.463, "stocks" means stocks, stock certificates or other evidence of interest or ownership.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.405 - Power to regulate issuance of utility securities.**

The power of public utilities to issue stocks and bonds, notes and other evidences of indebtedness and to create liens on their property situated within this state is a special privilege, the right of supervision, regulation, restriction and control of which is and shall continue to be vested in the state. Such power shall be exercised as provided by law and under such rules and regulations as the Public Utility Commission may prescribe.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.410 - When issuance of securities is void.**

All stocks and bonds, notes or other evidences of indebtedness, and any security of a public utility shall be void when issued:

(1) Without an order of the Public Utility Commission authorizing the same then in effect except as provided in ORS 757.412 or 757.415 (3).

(2) With the authorization of the commission, but not conforming in its provisions to the provisions, if any, which it is required by the order of authorization of the commission to contain; but no failure to comply with the terms or conditions of the order of

authorization of the commission and no informality or defect in the application or in the proceedings in connection therewith or with the issuance of such order shall render void any stock or bond, note or other evidence of indebtedness, or security issued pursuant to and in substantial conformity with an order of the commission, except as to a person taking the same otherwise than in good faith and for value and without actual notice. [Amended by 1997 c.261 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.412 - Exemption from securities regulation.**

Subject to such terms and conditions as the Public Utility Commission may prescribe, the commission, by rule or order, may exempt the following from any or all of the provisions of ORS 757.400 to 757.480, if the commission finds that application of the law is not required by the public interest:

- (1) Any stocks and bonds, notes or other evidences of indebtedness and any other security or guarantee or class of securities or guarantees for which commission authorization would otherwise be required prior to the issuance, incurrence or assumption thereof.
- (2) Any public utility or class of public utilities. [1997 c.261 §3]

Note:

757.412 was added to and made a part of ORS chapter 757 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.415 - Purposes for which securities and notes may be issued; order required.**

- (1) Except as otherwise permitted by subsection (4) of this section, a public utility may issue stocks and bonds, notes and other evidences of indebtedness, certificates of beneficial interests in a trust and securities for the following purposes and no others:
  - (a) The acquisition of property, or the construction, completion, extension or improvement of its facilities.
  - (b) The improvement or maintenance of its service.
  - (c) The discharge or lawful refunding of its obligations.
  - (d) The reimbursement of money actually expended from income or from any other money in the treasury of the public utility not secured by or obtained from the issue of stocks or bonds, notes or other evidences of indebtedness, or securities of such public utility, for any of the purposes listed in paragraphs (a) to (c) of this subsection except the maintenance of service and replacements, in cases where the applicant has kept its accounts and vouchers for such expenditures in such manner as to enable the Public Utility Commission of Oregon to ascertain the amount of money so expended and the purposes for which such expenditures were made.
  - (e) The compliance with terms and conditions of options granted to its employees to purchase its stock, if the commission first finds that such terms and conditions are reasonable and in the public interest.
  - (f) The finance or refinance of bondable rate recovery expenditures as described in ORS 757.461. Bonds, notes, certificates of beneficial interests in a trust and other evidences of indebtedness or ownership, issued for this purpose are rate recovery bonds for the purposes of ORS 757.463.
- (2) Before issuing such securities a public utility, in addition to the other requirements of law, shall secure from the commission upon application an order authorizing such issue, stating:
  - (a) The amount of the issue and the purposes to which the issue or the proceeds thereof are to be applied;
  - (b) In the opinion of the commission, the money, costs and expenses, property or labor to be procured, paid for or refinanced by such issue reasonably is required for the purposes specified in the order and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility, and will not impair its ability to perform that service; and
  - (c) Except as otherwise permitted in the order in the case of bonds, notes or other evidences of indebtedness, such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.
- (3) This section and ORS 757.410 apply to demand notes but do not apply to the issuance or renewal of a note or evidence of indebtedness maturing not more than one year after date of such issue or renewal.
- (4) Nothing in ORS 757.400 to 757.463 shall prevent issuance of stock to stockholders as a stock dividend if there has been secured from the commission an order:
  - (a) Finding that the stock dividend is compatible with the public interest;
  - (b) Authorizing such issue and a transfer of surplus to capital in an amount equal to the par or stated value of the stock so authorized; and
  - (c) Finding that a sum equal to the amount to be so transferred was expended for the purposes enumerated in subsection (1) of this section.
- (5) Rate recovery bonds authorized pursuant to subsection (1)(f) of this section may be issued directly by a public utility or through a finance subsidiary. For purposes of this subsection, "finance subsidiary" means any corporation, limited liability company, company, association, trust or other entity:
  - (a)(A) That is beneficially owned, directly or indirectly, by a public utility; or
  - (B) In the case of a trust, for which a public utility or subsidiary thereof is the grantor; or
  - (b) That is unaffiliated with a public utility and acquires bondable rate recovery assets directly or indirectly from a public utility in a transaction approved by the commission. [Amended by 1961 c.319 §1; 1995 c.539 §4; 2005 c.22 §504; 2023 c.529 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.417 - Limitation on application of ORS 757.415.**

ORS 757.415 does not apply to the issuance, renewal or assumption of liability on any evidence of indebtedness when such issuance, renewal or assumption is for the purpose of acquiring specific real or personal property, if the aggregate principal amount thereof, together with all other then outstanding evidences of indebtedness issued, renewed or assumed under this section, does not exceed whichever is the greater of the following amounts:

- (1) The amount of \$75,000.
- (2) The amount of one-half of one percent of the sum of:
  - (a) The total principal amount of all bonds or other securities representing secured indebtedness of the public utility issued or assumed and then outstanding; and
  - (b) The capital and surplus as then stated on the books of account of the public utility. [1971 c.655 §88]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.419 - Limitation on application of ORS 757.480.**

ORS 757.480 does not apply to any mortgage or other encumbrance upon any real or personal property given to secure payment of any evidence of indebtedness issued under ORS 757.415. [1971 c.655 §89]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.420 - Hearings and supplemental orders relating to issuance of securities; joint approval of issuance by interstate utility.**

(1) To enable the Public Utility Commission to determine whether the commission will issue an order under ORS 757.415, the commission may hold a hearing and may make such additional inquiry or investigation, examine such witnesses, books, papers, documents and contracts and require the filing of such data as the commission deems necessary. The application for such order shall be given priority and shall be disposed of by the commission within 30 days after the filing of such application, unless that period is extended with the consent of the public utility.

(2) The commission may, upon application of the public utility, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as the commission finds necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, extent to which, or the condition under which, any security theretofore authorized or its proceeds may be applied. Such supplemental orders are subject to the requirements of ORS 757.415. The period of time permitted under subsection (1) of this section for disposing of applications shall not apply to supplemental orders.

(3) If a commission or other agency is empowered by another state to regulate and control the amount and character of securities to be issued by any public utility within such other state, the commission of Oregon has power to agree with such commission or agency of such other state on the issue of stocks, bonds, notes, other evidences of indebtedness or securities by a public utility owning or operating a public utility both in such state and in this state, and has power to approve such issue jointly with such commission or agency and to issue a joint certificate of such approval. However, no such joint approval is required in order to express the consent to and approval of such issue by the State of Oregon if the issue is separately approved by the Oregon commission.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.425 - State not obligated following approval of issuance.**

No provision of ORS 757.405 to 757.450 or ORS 757.457, 757.459, 757.461 and 757.463, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the State of Oregon or any agency of state government, as defined in ORS 174.111, to pay or guarantee, in any manner whatsoever, any stock or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of ORS 757.405 to 757.450 or ORS 757.457, 757.459, 757.461 and 757.463. [Amended by 2023 c.529 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.430 - Conditional approval of issuance authorized.**

The Public Utility Commission may by order grant permission for the issue of stocks or bonds, notes or other evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of the permission such condition or conditions as the commission deems reasonable and necessary.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.435 - Disposal of proceeds from issuance of securities; rules.**

(1) No public utility shall, without the consent of the Public Utility Commission, apply the issue of any stock or bond, note or other evidence of indebtedness, or any part or proceeds thereof, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or issue or dispose of the same on any

terms less favorable than those specified in such order, or a modification thereof.

(2) The commission has power to require public utilities to account for the disposition of the proceeds of all sales of stocks and bonds, notes and other evidences of indebtedness, in such form and detail as the commission deems advisable, and to establish such rules and regulations as the commission deems reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in the order.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.440 - Approval required before utility may guarantee another's indebtedness.**

No public utility shall assume any obligation or liability as guarantor, indorser, surety or otherwise in respect to the securities of any other person, firm or corporation, when such securities are payable at periods of more than 12 months after the date thereof, without first having secured from the Public Utility Commission an order authorizing it so to do. Every assumption made other than in accordance with such an order is void.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.445 - Wrongful issues or use of proceeds by utility.**

A public utility may not, directly or indirectly, issue or cause to be issued any stock or bond, note or other evidence of indebtedness, in nonconformity with the order of the Public Utility Commission authorizing the same or contrary to the provisions of ORS 757.400 to 757.463, or of the Constitution of this state, or apply the proceeds from the sale thereof, or any part thereof, to any purpose other than the purposes specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount in the order authorized for such purpose. [Amended by 2023 c.529 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.450 - Wrongful acts relating to issuance of securities.**

A person may not:

- (1) Knowingly authorize, direct, aid in, issue or execute, or cause to be issued or executed, any stock or bond, note or other evidence of indebtedness, in nonconformity with the order of the Public Utility Commission authorizing the same, or contrary to the provisions of ORS 757.400 to 757.463 or of the Constitution of this state.
- (2) In any proceeding before the commission, knowingly make any false statement or representation or with knowledge of its falsity file or cause to be filed with the commission any false statement or representation which may tend in any way to influence the commission to make an order authorizing the issue of any stock or bond, note or other evidence of indebtedness, or which results in procuring from the commission the making of any such order.
- (3) With knowledge that any false statement or representation was made to the commission in any proceeding tending in any way to influence the commission to make such order, issue, execute or negotiate, or cause to be issued, executed or negotiated, any stock or bond, note or other evidence of indebtedness.
- (4) Directly or indirectly, knowingly apply, or cause or assist to be applied, the proceeds, or any part thereof, from the sale of any stock or bond, note or other evidence of indebtedness, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose.
- (5) With knowledge that any stock or bond, note or other evidence of indebtedness, has been issued or executed in violation of ORS 757.400 to 757.463, negotiate, or cause the same to be negotiated. [Amended by 2023 c.529 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.457 - Definitions for ORS 757.457, 757.459, 757.461 and 757.463.**

As used in this section and ORS 757.459, 757.461 and 757.463:

- (1) "Assignee" means a person, and any subsequent assignee, to which a public utility assigns, sells or transfers all or part of the public utility's interest in or right to rate recovery assets, except as security.
- (2) "Bond" includes bonds, notes, certificates of beneficial interests in a trust or other evidence of indebtedness.
- (3) "Bondholder" means a holder or owner of a rate recovery bond.
- (4) "Finance subsidiary" means an assignee at the time rate recovery bonds are issued:
  - (a)(A) That is beneficially owned, directly or indirectly, by a public utility; or
  - (B) In the case of a trust, for which a public utility or subsidiary of the public utility is the grantor; or
  - (b) That is unaffiliated with a public utility and acquires bondable rate recovery assets from a public utility in a transaction or under an agreement that is approved by the Public Utility Commission.
- (5) "Financing costs" includes the following costs related to rate recovery bonds, whether incurred and paid upon issuance or over the life of rate recovery bonds:
  - (a) The costs of issuing, serving, managing, repaying or refinancing rate recovery bonds, including any fees, expenses or charges incurred and the costs of any activities performed in connection with the rate recovery bonds, including:
    - (A) Information technology programming;
    - (B) Obtaining a financing order;

- (C) Serving, accounting or auditing;
  - (D) Services related to trustees;
  - (E) Legal services;
  - (F) Consulting;
  - (G) Services related to financial and structuring advisors;
  - (H) Administration;
  - (I) Placement and underwriting;
  - (J) Services related to independent directors and managers;
  - (K) Services related to rating agencies;
  - (L) Stock exchange listing and compliance;
  - (M) Securities registration and filing; and
  - (N) Services necessary to ensure a timely payment of rate recovery bonds or other amounts or charges payable in connection with rate recovery bonds;
- (b) Principal, interest and acquisition, defeasance and redemption premiums payable on rate recovery bonds;
  - (c) Payments required under an ancillary agreement and any amounts required to fund or replenish a reserve or account established under the terms of an indenture, ancillary agreement or financing document related to rate recovery bonds;
  - (d) Applicable federal, state and local taxes, franchise fees, license fees, gross receipts or other taxes or charges, whether paid, payable or accrued; and
  - (e) The Public Utility Commission's costs in performing the commission's duties related to rate recovery bonds that are recoverable by the commission under ORS 756.310.
- (6) "Financing order" means an order issued by the Public Utility Commission that authorizes one or more the following:
    - (a) The recovery of rate recovery expenditures and financing costs;
    - (b) The creation of rate recovery assets;
    - (c) The issuance of rate recovery bonds;
    - (d) The imposition, collection and periodic adjustment of rate recovery charges; or
    - (e) The sale, assignment or transfer of rate recovery assets to an assignee.
  - (7) "Financing party" includes:
    - (a) Bondholders, trustees, agents and secured parties related to rate recovery bonds;
    - (b) A person acting for the benefit of bondholders, trustees, agents or secured parties; and
    - (c) A party to rate recovery bond documents or an ancillary agreement.
  - (8) "Public utility customer" means:
    - (a) For an electric utility, a retail electricity consumer, as defined in ORS 757.600.
    - (b) For a natural gas utility, the end use consumer served by the natural gas utility, including those served by the natural gas utility under ORS 757.516, regardless of whether the end use consumer purchases natural gas from the natural gas utility.
  - (9) "Rate recovery asset" means a right to recover from customers rate recovery expenditures and associated costs and expenses approved in a financing order, including the right to:
    - (a) Impose, charge, bill, collect, receive, hold and apply rate recovery charges authorized under a financing order or obtain, to the extent authorized, periodic adjustments of rate recovery charges; and
    - (b) All claims, accounts, revenues, payments, collections, moneys or proceeds arising from the rights and interest specified in a financing order, regardless of whether the claims, accounts, revenues, payments, collections, moneys or proceeds arising from the rights and interest specified in the financing order are commingled with other claims, accounts, revenues, payments, collections, moneys or proceeds.
  - (10) "Rate recovery charge" means charges to public utility customers authorized by the Public Utility Commission to recover rate recovery expenditures and financing costs and to be used to pay, repay or refinance rate recovery bonds.
  - (11) "Rate recovery expenditures" means costs and expenses incurred or to be incurred through the date of issuance of a financing order by a public utility associated with:
    - (a) An event that is the subject of a federal or state declaration of a state of emergency, such as severe weather, catastrophic wildfire, pandemic or other event that causes or threatens to cause widespread loss of life, injury to person or property, human suffering or financial loss, except those costs and expenses that are or are associated with criminal or civil fines or penalties or judgments from a civil action based on negligence related to the event.
    - (b) An energy conservation program that provides loans and cash payments to public utility customers for the installation of energy conservation measures funded by the public utility including, but not limited to, the costs or expenditures for specific acquisition program development, promotion and labor costs and associated general supervision, rents, leases and overheads.
  - (12) "Secured party" means a financing party that has been granted a security interest in rate recovery assets. [2023 c.529 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.459 - State policy to encourage financing of certain costs and expenses by public utilities; pledge and agreement related to rate recovery assets, bonds and charges.**

- (1) It is the policy of the State of Oregon to encourage the financing of certain costs and expenses by public utilities at the lowest,

reasonable and prudent cost to public utility customers, including, but not limited to, rate recovery expenditures.

(2) To carry out the policy described in subsection (1) of this section, the State of Oregon and all public bodies, as defined in ORS 174.109:

(a) Acknowledge that owners of rate recovery assets, bondholders and financing parties require certainty with respect to the owners', bondholders' and financing parties' rights to enter into financing transactions that offer the lowest reasonable and prudent cost; and

(b) Pledge and agree with public utilities, assignees, bondholders and financing parties not to reduce, alter or impair, in a manner that is adverse to the public utilities, assignees, bondholders or financing parties:

(A) Rate recovery assets;

(B) Rate recovery bonds or the security for rate recovery bonds; or

(C) Rate recovery charges or the collection of rate recovery charges.

(3) The pledge and agreement described under subsection (2)(b) of this section includes the pledge and agreement not to reduce, alter or impair rate recovery assets, rate recovery bonds or the security for rate recovery bonds, or rate recovery charges or the collection of rate recovery charges by taking any of the following actions:

(a) Altering the provisions of this section or ORS 757.457, 757.461 or 757.463 to the extent that those provisions authorize the Public Utility Commission to issue financing orders that:

(A) Create rate recovery assets;

(B) Establish rate recovery charges that may not be avoided by public utility customers, as described under ORS 757.461 (4); or

(C) Provide rights and remedies to public utilities, assignees, bondholders and financing parties;

(b) Impairing the rights or remedies of public utilities, assignees, bondholders or financing parties that are created under this section and ORS 757.457, 757.461 and 757.463 or by a financing order, including reducing the amount of or impairing the collection of rate recovery charges until all principal, interest, premium and other amounts due on the rate recovery bonds and financing costs have been paid in full and except as provided under ORS 757.461; or

(c) Taking any action listed under ORS 757.461 (5)(b).

(4) A public utility or financing subsidiary that issues rate recovery bonds may include the pledge and provisions of this section in the bonds and related documentation. [2023 c.529 §3 (enacted in lieu of 757.455)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.461 - Financing of rate recovery expenditures through rate recovery bonds; application and hearing process; financing order; collection of rate recovery charges.**

(1)(a) A public utility may apply to the Public Utility Commission for a financing order designating all or part of rate recovery expenditures as bondable rate recovery expenditures, for the purpose of financing or refinancing the designated expenditures under ORS 757.415 (1)(f).

(b) After notice and an opportunity for a hearing, the commission may approve an application if the commission finds that:

(A) The rate recovery expenditures included in the application are reasonable and prudent;

(B) Financing or refinancing the rate recovery expenditures through the issuance of rate recovery bonds is likely to be more favorable to public utility customers for the recovery of rate recovery expenditures as compared to other methods; and

(C) Bonds, notes, certificates of beneficial interests in a trust and other evidences of indebtedness or ownership issued pursuant to the approval are reasonably likely to receive a determination of, at a minimum, investment grade by credit rating agencies.

(c) The commission shall issue an order within 180 days of an application approving or denying the application. If the commission approves the application, the commission shall issue a financing order.

(2)(a) A financing order issued under this section shall specify the highest amount of rate recovery expenditures that qualify as bondable rate recovery expenditures.

(b) In specifying the amount for rate recovery expenditures associated with an event described in ORS 757.457 (11)(a), net of appropriate adjustments as determined by the commission to be reasonable, the commission may include, but is not limited to including, the following rate recovery expenditures:

(A) Capital and operating costs incurred or to be incurred as a result of the event;

(B) Lost revenue associated with the event;

(C) Costs and expenses that may be recovered at a later time from third parties or insurers and returned to public utility customers through a separate rate proceeding consistent with cost causation and rate design principles and statutory or regulatory requirements; and

(D) Carrying costs or charges.

(3) A financing order issued under this section must include the following provisions:

(a) Confirmation of the existence of recoverable rate recovery expenditures and authorization to recover rate recovery expenditures and associated financing costs, including the maximum principal amount of bondable rate recovery expenditures and financing costs that may be recovered through securitization;

(b) Authorization for the creation of rate recovery assets and imposition of rate recovery charges that allow for the recovery of rate recovery expenditures, as determined by the commission, and associated financing costs;

(c) A requirement that the rate recovery charges authorized by the financing order are ongoing and may not be avoided by a public

utility customer, as described under subsection (4) of this section, until all principal, interest, premium and other amounts due on the rate recovery bonds and financing costs have been paid in full;

(d) A methodology for:

(A) Allocating rate recovery charges between the different classes of public utility customers, which may include not allocating rate recovery charges to one or more classes of public utility customers, that is consistent with cost causation and rate design principles and statutory or regulatory requirements; and

(B) Adjusting rate recovery charges as necessary to ensure timely payment on, and payment in full of, the rate recovery bonds and associated financing costs or in response to changes to applicable customers, service territories or collection rates;

(e) Authorization for the public utility to issue one or more series of rate recovery bonds with flexibility for the public utility to establish the terms and conditions of the rate recovery bonds, including repayment schedules, initial interest rates and initial financing costs;

(f) Authorization to assign rate recovery assets to a financing subsidiary and grant security interests in the rate recovery assets to secured parties without limiting the rights of subsequent assignees;

(g) Authorization for the bond documentation and ancillary documents related to the rate recovery bonds, including servicing arrangements for the rate recovery charges, without requiring the authorization to be on the final forms of the documents;

(h) Authorization for the public utility to earn a return, at the cost of capital authorized in the public utility's most recent general rate case prior to the date of the financing order, on any moneys advanced by the public utility to fund advances, reserves or capital accounts established under the terms of any indenture, ancillary agreement or financing documents related to the rate recovery bonds;

(i) A finding that the proposed issuance of rate recovery bonds and the imposition of rate recovery charges is expected to provide the lowest possible reasonable and prudent cost on a net present value basis to public utility customers for recovery of the rate recovery expenditures as compared to other methods of financing and recovery;

(j) A date, not earlier than one year from the date that the financing order becomes final, on which the authority to issue rate recovery bonds granted in the financing order expires;

(k) A requirement that the public utility notify the commission if the public utility recovers costs and expenses from a third party or insurer; and

(L) Any other conditions that the commission finds appropriate and that are consistent with this section.

(4) Rate recovery charges authorized by a financing order shall be collected through the rates or charges paid by, and may not be avoided by, the public utility customers located within the public utility's allocated service territory, as the territory existed on the date of the financing order or, if the financing order provides, as such service territory may be expanded, even if:

(a) The public utility customer receives electricity or natural gas, electricity or natural gas services or ancillary services from a successor or assignee of the public utility;

(b) The public utility customer elects to receive electricity or natural gas, electricity or natural gas services or ancillary services from another public utility, utility provider or service provider in the service territory; or

(c) After the date of issuance of the financing order, the public utility customer changes customer class.

(5)(a) Rate recovery assets, including rate recovery charges, and the rights of public utilities, assignees, bondholders and financing parties, established by a financing order issued under this section, are irrevocable and unchangeable, except as provided in the financing order, until all principal, interest, premium, interest and amounts due on the rate recovery bonds and financing costs are paid in full.

(b) Until all principal, interest, premium, interest and amounts due on the rate recovery bonds and financing costs are paid in full, the commission, except as provided in the financing order, the State of Oregon and a public body, as defined in ORS 174.109, may not:

(A) Revalue the rate recovery expenditures or financing costs for ratemaking purposes;

(B) Determine that the rates or revenues authorized under the financing order are unjust or unreasonable;

(C) Reduce, alter or impair the rate recovery assets, rate recovery charges or the collection of the rate recovery charges, or rate recovery bonds or the security for the rate recovery bonds;

(D) Rescind, suspend, amend or impair the financing order; or

(E) When setting other rates or charges for the public utility or taking other actions pursuant to the commission's authority, consider the rate recovery bonds as debt of the public utility, the rate recovery assets to be revenue for the public utility or the rate recovery expenditures to be costs of the public utility.

(6) The commission may not require a public utility to:

(a) Apply to the commission for a financing order designating all or part of rate recovery expenditures as bondable rate recovery expenditures; or

(b) Finance or refinance rate recovery expenditures that the commission has designated as bondable rate recovery expenditures.

(7) Jurisdiction for review of a financing order issued under this section shall be as provided for orders in contested cases pursuant to ORS 183.482, except that a petition for rehearing or reconsideration is not allowed. If a petition is not filed with the Court of Appeals within 60 days following the date of issuance of a financing order, the order becomes a final and irrevocable action of the commission and the State of Oregon and is not subject to administrative or judicial challenge. [2023 c.529 §4 (enacted in lieu of 757.455)]



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.463 - Security interest as collateral in rate recovery assets; requirements for attachment and perfection; transfers; enforcement rights and remedies.**

(1)(a) A public utility, finance subsidiary or assignee may grant a security interest in rate recovery assets as collateral for rate recovery bonds. A security interest in rate recovery assets is valid and enforceable against the debtor and third parties, subject only to the rights of any third parties holding security interests in the rate recovery assets attached and perfected in the manner described under this subsection.

(b) A security interest in rate recovery assets attaches if:

(A) The secured party, or a financing party that the secured party represents, has given value; and

(B) The debtor has signed a security agreement granting the secured party a security interest in the rate recovery assets.

(c) A valid and enforceable security interest in rate recovery assets is perfected if:

(A) The security interest has attached in the manner described in paragraph (b) of this subsection; and

(B) A financing statement has been filed in accordance with the requirements of ORS chapter 79 that identifies the debtor as "debtor," the secured party as "secured party" and the rate recovery assets granted as security as the "collateral," and contains a description in the financing statement that refers to the Public Utility Commission's financing order creating the rate recovery assets. The financing statement shall be deemed sufficient under ORS chapter 79 and all other relevant law for identifying the rate recovery assets granted as security.

(d) A perfected security interest in rate recovery assets is a continuously perfected security interest, whether or not the related revenues have accrued or the related rate recovery charges have been charged, billed or collected. Rate recovery assets constitute a presently existing, fully vested property right for the purposes of contracts securing the rate recovery bonds, whether or not the related revenues have accrued or the related rate recovery charges have been charged, billed or collected. Multiple security interests in the same rate recovery assets shall rank according to priority in time of perfection.

(e) Subject to the terms of the security agreement covering the rate recovery assets, the relative priority of a security interest created or perfected under this section is not adversely affected by:

(A) Any later modification of the financing order or rate recovery assets; or

(B) The commingling of proceeds of rate recovery assets with other moneys.

(2)(a) A transfer of rate recovery assets to an assignee is perfected against all third parties if a notice of the transfer, by means of a financial statement:

(A) Is filed in accordance with the requirements of ORS chapter 79;

(B) Specifies that the notice of transfer is filed to provide notice of the transfer of the rate recovery assets from the transferor to the assignee;

(C) Identifies the transferor as "debtor," the assignee as "secured party" and the rate recovery asset as "collateral"; and

(D) Contains a description that refers to the commission's financing order that created the rate recovery assets.

(b) A notice of transfer that is filed in accordance with the requirements under paragraph (a) of this subsection shall be deemed sufficient under ORS chapter 79 and all other relevant laws for identifying the rate recovery assets and for providing notice that the rate recovery assets have been transferred to the assignee.

(c) A transfer is perfected against third parties on the date a notice of transfer is filed.

(d) A transfer of rate recovery assets to a financing subsidiary that is perfected under this subsection is free and clear of all claims, security interests, liens and encumbrances of the transferring public utility, except for any prior security interest perfected under subsection (1) of this section.

(e) The priority of a transfer that is perfected under this subsection is not adversely affected by:

(A) Any later modification of the financing order or rate recovery assets; or

(B) The commingling of proceeds of rate recovery assets.

(3)(a) When proceeds of rate recovery assets are transferred to a segregated account for an assignee or secured party, any lien or security interest that may apply to those proceeds, other than a security interest perfected under subsection (1) of this section, is automatically terminated, without the need for further notice, act or evidence.

(b) Proceeds from rate recovery assets shall be held in trust for an assignee or secured party until the proceeds have been transferred to the assignee or secured party.

(c) Any adjustment in rate recovery charges does not affect the validity, perfection or priority of a security interest in or the transfer of rate recovery assets.

(4)(a) The rights and remedies of a secured party in enforcing a secured interest in rate recovery assets do not include and are without recourse to any public utility asset except for the rate recovery assets, even if the rate recovery assets are commingled with other assets.

(b) If a public utility or finance subsidiary defaults on a required payment with respect to rate recovery bonds, a secured party or secured party's representatives may apply to the commission for relief. Upon application by a secured party or secured party's representatives, the commission shall order, without limiting other remedies of the secured party or secured party's representatives, the sequestration and payment to the secured party or secured party's representatives of the proceeds of the rate recovery assets.

(c) The interest of an assignee or financing party in rate recovery assets is not subject to setoff, counterclaim, surcharge or defense by the public utility or any other person in connection with a bankruptcy, reorganization or insolvency proceeding. However, any

surplus in excess of amounts necessary to pay principal, interest, premium, if any, and other amounts due with respect to the rate recovery bonds and associated financing costs, including enforcement costs, with respect to the security agreement shall be remitted to the debtor or transferor.

(d) Notwithstanding any bankruptcy, reorganization or other insolvency proceeding with respect to a public utility, debtor or transferor with respect to rate recovery assets, the commission's financing order shall remain in full force and effect.

(5) A transfer of rate recovery assets by a public utility to a finance subsidiary or other assignee that the parties have expressly stated in the governing documentation to be a sale or other absolute transfer, in a transaction approved in a financing order, shall be treated as a true sale and not as a pledge or other financing of the rate recovery assets. According the holders of rate recovery bonds a preferred right to revenues of the public utility or the provision by the public utility of other credit enhancement with respect to rate recovery bonds does not impair or negate the characterization of a transfer as a true sale.

(6) Any successor to a public utility pursuant to any bankruptcy, reorganization or other insolvency proceeding shall perform and satisfy all obligations of the public utility under an approved contract governing rate recovery bonds in the same manner and to the same extent as was required of the public utility before the proceeding, including, without limitation, billing, collecting and paying to the holders of the rate recovery bonds or their representatives revenues arising with respect to the rate recovery assets pledged to secure the rate recovery bonds.

(7) The granting, perfection and enforcement of security interests in rate recovery assets to secure rate recovery bonds are subject to ORS chapter 79, except that when a provision in ORS chapter 79 comes in conflict with a provision in this section, the provision in this section shall control.

(8) Except for enforcement permitted under the laws of another state, the laws of this state shall govern the creation, validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the creation or transfer of a security interest in a rate recovery asset. [2023 c.529 §6 (enacted in lieu of 757.460)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.465 - Rate recovery bond not security for certain purposes.**

A rate recovery bond, as described under ORS 757.457, 757.459, 757.461 and 757.463, that is exempt under ORS 59.025 from ORS 59.049 and 59.055 is not a security for purposes of ORS 59.115, 59.135 or 59.137. [2023 c.529 §7]

Note:

757.465 and 757.467 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.467 - Validity of actions taken in good faith pursuant to financing order.**

If any provision of ORS 757.457, 757.459, 757.461 and 757.463 or the amendments to ORS 59.025, 757.415, 757.425, 757.445 and 757.450 by sections 8 to 12, chapter 529, Oregon Laws 2023, is determined to be invalid, or is invalidated, superseded, replaced, repealed or expired, such determination or occurrence does not affect the validity of any action allowed under ORS 757.457, 757.459, 757.461 and 757.463 or the amendments to ORS 59.025, 757.415, 757.425, 757.445 and 757.450 by sections 8 to 12, chapter 529, Oregon Laws 2023, and taken in good faith and pursuant to a financing order issued prior to such determination or occurrence. [2023 c.529 §14]

Note:

See note under 757.465.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.480 - Approval needed prior to disposal, mortgage or encumbrance of certain operative utility property or consolidation with another public utility; exceptions.**

(1) A public utility doing business in Oregon shall not, without first obtaining the Public Utility Commission's approval of such transaction:

(a) Except as provided in subsection (6) of this section, sell, lease, assign or otherwise dispose of the whole of the property of the public utility necessary or useful in the performance of the public utility's duties to the public or any part thereof of a value of \$1 million or more, or sell, lease, assign or otherwise dispose of any franchise, permit or right to maintain and operate the public utility or public utility property, or perform any service as a public utility;

(b) Mortgage or otherwise encumber the whole or any part of the property of the public utility necessary or useful in the performance of the public utility's duties to the public, including any franchise, permit or right to maintain and operate the public utility or public utility property, or perform any service as a public utility; or

(c) By any means whatsoever, directly or indirectly, merge or consolidate any of the public utility's lines, plant, system or other property whatsoever, or franchise or permit to maintain or operate any public utility property, or perform any service as a public utility, or any part thereof, with any other public utility.

(2) A public utility doing business in Oregon shall annually file with the commission a report that includes a summary of each transaction in excess of \$25,000 but less than \$1 million that the public utility made during the previous calendar year that involved the sale, lease, assignment or other disposition of the whole of the property of the public utility necessary or useful in the

performance of the public utility's duties to the public or any part thereof.

(3) Every sale, lease, assignment, mortgage, disposition, encumbrance, merger or consolidation subject to subsection (1) of this section made other than in accordance with the order of the commission authorizing the same is void.

(4) For purposes of complying with subsections (1)(a) and (2) of this section, a public utility shall include in the calculation of the value of the property to be sold, leased, assigned or otherwise disposed of only the portion of the value of the property that has been recognized as the basis of an operating expense or capital expenditure in an Oregon rate valuation or other hearing or proceeding.

(5) This section does not prohibit or invalidate the sale, lease or other disposition by any public utility of property that is not necessary or useful in the performance of the public utility's duties to the public.

(6) A water utility doing business in Oregon shall not, without first obtaining the Public Utility Commission's approval of a transaction, sell, lease, assign or otherwise dispose of the whole of the property of the water utility necessary or useful in the performance of the water utility's duties to the public or any part thereof of a value in excess of \$10,000, or sell, lease, assign or otherwise dispose of any franchise, permit or right to maintain and operate the water utility or water utility property, or perform any service as a water utility. [Formerly 757.155; 1999 c.530 §1; 2019 c.252 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.482 - Approval to sell or convey real property below market price for development of affordable housing.**

(1) As used in this section, "affordable housing" means affordable housing as defined in ORS 197A.445 or publicly supported housing as defined in ORS 456.250.

(2)(a) To facilitate the development of affordable housing in this state, the Public Utility Commission may allow a public utility to sell, or to convey at below market price or as a gift, the public utility's interest in real property for the purpose of the real property being used for the development of affordable housing.

(b) The instrument that conveys, or contracts to convey, the public utility's interest in the real property must include an affordable housing covenant as provided in ORS 456.270 to 456.295.

(3) A public utility may not recover costs from customers for selling, or conveying at below market price or as a gift, the public utility's interest in real property under this section. [2023 c.223 §29]

Note:

757.482 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.483 - Condemnation or acquisition of service territory or property of electric company by electric utility; stranded costs obligation.**

(1) For purposes of this section:

(a) "Electric company" has the meaning given that term in ORS 757.600.

(b) "Electric utility" has the meaning given that term in ORS 757.600.

(c) "Retail electricity consumer" has the meaning given that term in ORS 757.600.

(2) Upon the request of an electric company, the Public Utility Commission shall establish a stranded costs obligation payable by an electric utility to an electric company in association with a condemnation or transaction described in subsection (3) of this section.

(3)(a) An electric utility that condemns the service territory or property of an electric company, or acquires property pursuant to a transaction described in ORS 757.480, must pay the stranded costs obligation established by the commission under subsection (2) of this section.

(b) The purpose of the stranded costs obligation is to prevent shifting the costs associated with the loss of service territory or property of an electric company from the retail electricity consumers of the electric utility to the retail electricity consumers of the electric company.

(4) The commission may determine the stranded costs obligation in accordance with the Federal Energy Regulatory Commission's current methodology for determining stranded costs under the same or similar circumstances.

(5) This section does not interfere with or supersede the jurisdiction of the Federal Energy Regulatory Commission. [2016 c.28 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.485 - Purchase of property or stocks of one utility by another.**

(1) No public utility shall, directly or indirectly, purchase, acquire or become the owner of any of the stocks or bonds or property utilized for utility purposes and having a value in excess of \$10,000 of any other public utility unless authorized so to do by the Public Utility Commission.

(2) Every contract by any public utility for the purchase, acquisition, assignment or transfer to it of any of the stock of any other public utility by or through any person, partnership or corporation without the approval of the commission shall be void and of no effect, and no such transfer or assignment of such stock upon the books of the corporation pursuant to any such contract is effective for any purpose. [Formerly 757.160]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.490 - Approval needed for certain contracts.**

(1) When any public utility doing business in this state enters into a contract with another corporation with relation to the construction, operation, maintenance or use of the property of said public utility in Oregon, or the use of the property of the other contracting party, or any part thereof, or for service, advice, engineering, financing, rentals, leasing or for any construction or management charges in respect of any such property, or for the purchase of property, materials or supplies, the proposed contract shall be filed with the Public Utility Commission for the investigation and approval when the public utility owns a majority of or controls directly or indirectly the voting stock of the other contracting corporations.

(2) Any such proposed contract shall be filed with the commission within 90 days of execution of the contract. The contract shall be deemed to be executed on the date the parties sign a written contract or on the date the parties begin to transact business under the contract, whichever date is earlier. The commission shall promptly investigate and act upon the contract in accordance with ORS 757.495 (3) and (6).

(3) In making such investigation the commission and accountants, examiners and agents, appointed by the commission for the purpose, shall be given free access to all books, books of account, documents, data and records of the public utility as well as of the corporation with which it is proposing to contract, which the commission may deem material to the investigation. The failure or refusal of either of the parties to the proposed contract to comply with this subsection is prima facie evidence that such contract is unfair, unreasonable and contrary to public interest, and is sufficient to justify a determination and finding of the commission to that effect, which has the same force and effect as any other determination or order of the commission. [Formerly 757.165; 1989 c.956 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.495 - Contracts involving utilities and persons with affiliated interests.**

(1) When any public utility doing business in this state enters into any contract to make any payment, directly or indirectly, to any person or corporation having an affiliated interest, for service, advice, auditing, accounting, sponsoring, engineering, managing, operating, financing, legal or other services, or enter any charges therefor on its books, which shall be recognized as an operating expense or capital expenditure in any rate valuation or any other hearing or proceeding, the contract shall be filed with the Public Utility Commission within 90 days of execution of the contract. The contract shall be deemed to be executed on the date the parties sign a written contract or on the date the parties begin to transact business under the contract, whichever date is earlier.

(2) When any public utility doing business in this state enters into any contract, oral or written, with any person or corporation having an affiliated interest relating to the construction, operation, maintenance, leasing or use of the property of such public utility in Oregon, or the purchase of property, materials or supplies, which shall be recognized as the basis of an operating expense or capital expenditure in any rate valuation or any other hearing or proceeding, the contract shall be filed with the commission within 90 days of execution of the contract. The contract shall be deemed to be executed on the date the parties sign a written contract or on the date the parties begin to transact business under the contract, whichever date is earlier.

(3) When any such contract has been submitted to the commission, the commission promptly shall examine and investigate the contract. If, after such investigation, the commission determines that the contract is fair and reasonable and not contrary to the public interest, the commission shall enter findings and an order to this effect and serve a copy thereof upon the public utility, whereupon any expenses and capital expenditures incurred by the public utility under the contract may be recognized in any rate valuation or other hearing or proceeding. If, after such investigation, the commission determines that the contract is not fair and reasonable in all its terms and is contrary to the public interest, the commission shall enter findings and an order accordingly and serve a copy thereof upon the public utility, and, except as provided in subsection (4) of this section, it shall be unlawful to recognize the contract for the purposes specified in this section.

(4) When any such contract has been filed with the commission within 90 days of execution and the commission has not entered an order disapproving the contract under subsection (3) of this section, the commission may not base its refusal to recognize any expenses or capital expenditures incurred under the contract in any rate valuation or other hearing or proceeding solely on the basis that such contract has not been approved under subsection (3) of this section.

(5) No public utility shall issue notes or lend its funds or give credit on its books or otherwise to any person or corporation having an affiliated interest, either directly or indirectly, without the approval of the commission.

(6) The action of the commission with respect to all the matters described in this section when submitted to the commission shall be by findings and an order to be entered within 90 days after the matter has been submitted to the commission for consideration, and the findings and order of the commission with respect to any of such matters shall be and remain in full force and effect, unless and until set aside, modified or remanded in a proceeding for judicial review of an order in the manner provided by ORS 756.610.

[Formerly 757.170; 1989 c.956 §7; 2005 c.22 §505; 2005 c.638 §9; 2017 c.312 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.500 - Contracts between certain public utilities.**

When any public utility is primarily engaged in another enterprise and is only indirectly engaged in the production, transmission, delivery or furnishing of heat, light, water or power to or for the public by reason of a contract or agreement, express or implied,

between itself and another public utility which is directly engaged in such business, the jurisdiction of the Public Utility Commission over such public utility extends only to the right to modify, control, rescind, alter or amend any such existing contract or agreement where the interest of the customers of such public utility directly engaged in such business demands. No such contract or agreement is valid or enforceable until it has been approved by the commission as being in the public interest. [Formerly 757.175]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.506 - Findings and policy regarding exercise of influence over utility by person not engaged in utility business.**

(1) The Legislative Assembly finds and declares that:

(a) The protection of customers of public utilities which provide heat, light or power is a matter of fundamental statewide concern;

(b) Existing legislation requires the Public Utility Commission's approval of one public utility's acquisition of another public utility's stocks, bonds and certain property used for utility purposes, but does not require the commission's approval of such acquisitions by persons not engaged in the public utility business in Oregon; and

(c) An attempt by a person not engaged in the public utility business in Oregon to acquire the power to exercise any substantial influence over the policies and actions of an Oregon public utility which provides heat, light or power could result in harm to such utility's customers, including but not limited to the degradation of utility service, higher rates, weakened financial structure and diminution of utility assets.

(2) It is, therefore, the policy of the State of Oregon to regulate acquisitions by persons not engaged in the public utility business in Oregon of the power to exercise any substantial influence over the policies and actions of an Oregon public utility which provides heat, light or power in the manner set forth in this section and ORS 757.511 in order to prevent unnecessary and unwarranted harm to such utilities' customers. [1985 c.632 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.511 - Application for authority to exercise influence over utility; contents of application; issuance of order; dissemination of information about acquisition.**

(1) No person, directly or indirectly, shall acquire the power to exercise any substantial influence over the policies and actions of a public utility which provides heat, light or power without first securing from the Public Utility Commission, upon application, an order authorizing such acquisition if such person is, or by such acquisition would become, an affiliated interest with such public utility as defined in ORS 757.015 (1), (2) or (3).

(2) Notice must be given to the commission of an application under this section at least 60 days before the application is filed with the commission. The notice must indicate whether the transaction is a transaction described in ORS 757.814 (1). If the transaction is a transaction as described in ORS 757.814 (1), the commission shall give notice to cities and counties as required by ORS 757.814 (1).

(3) The application required by subsection (1) of this section shall set forth detailed information regarding:

(a) The applicant's identity and financial ability;

(b) The background of the key personnel associated with the applicant;

(c) The source and amounts of funds or other consideration to be used in the acquisition;

(d) The applicant's compliance with federal law in carrying out the acquisition;

(e) Whether the applicant or the key personnel associated with the applicant have violated any state or federal statutes regulating the activities of public utilities;

(f) All documents relating to the transaction giving rise to the application;

(g) The applicant's experience in operating public utilities providing heat, light or power;

(h) The applicant's plan for operating the public utility;

(i) How the acquisition will serve the public utility's customers in the public interest; and

(j) Such other information as the commission may require by rule.

(4)(a) The commission shall examine and investigate each application received pursuant to this section. The commission shall issue an order disposing of the application within 11 months of the date the application is filed, unless extended by agreement between the commission and applicant. If the commission determines that approval of the application will serve the public utility's customers and is in the public interest, the commission shall issue an order granting the application. The commission may condition an order authorizing the acquisition upon the applicant's satisfactory performance or adherence to specific requirements. The commission otherwise shall issue an order denying the application. The applicant shall bear the burden of showing that granting the application is in the public interest.

(b) In reviewing an application received pursuant to this section for an electricity or natural gas utility, the Public Utility Commission must consider the effect of the acquisition or merger on the amount of income taxes paid by the utility or its affiliated group and make any necessary adjustments to the rates of the utility, including the establishment of a balancing account to track income tax expense, to ensure that the acquisition or merger serves the utility's customers and is in the public interest.

(5) Nothing in this section shall prohibit dissemination by any party of information concerning the acquisition so long as such dissemination is not otherwise in conflict with state or federal law. [1985 c.632 §3; 2007 c.807 §2a; 2011 c.137 §4; 2023 c.53 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.515**

[Amended by 1971 c.655 §39; renumbered 756.515]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.516 - Contracts between natural gas utilities and customers for commodity and services; determination by commission of reasonableness of contract and utility activities.**

(1) Following a Public Utility Commission determination that such services are subject to competition, a natural gas utility may enter into a contract with any customer for the provision of natural gas commodity, rights to pipeline capacity and natural gas transportation services when such services are provided in advance of the point of interconnection between the facility of the natural gas utility and the facility of an interstate pipeline.

(2) Contracts for services described under subsection (1) of this section are not schedules of rates, tolls or charges within the meaning of ORS 757.205 and are not subject to the requirements of ORS 757.205, 757.230 and 757.310.

(3) A contract for services described under subsection (1) of this section may include services provided after the point of interconnection between a natural gas utility's facility and the interstate pipeline's facility. Services provided after the point of interconnection are subject to the requirements of ORS 757.205, 757.230 and 757.310 and shall be separately priced in accordance with the utility's filed tariffs.

(4) A natural gas utility entering contracts for services described under subsection (1) of this section shall make available to the commission any information necessary for review of such contracts for ratemaking purposes. Notwithstanding ORS 192.311 to 192.478, the commission shall not release the terms of any contract or portion of a contract for services described in subsection (1) of this section without the consent of the customer and the natural gas utility except for contracts entered into between a natural gas utility and an affiliated interest of that natural gas utility. Notwithstanding any other provision of this section, a contract for services described in subsection (1) of this section between a natural gas utility and another public utility may be released by the commission pursuant to a hearing held under ORS 757.210.

(5) Nothing in this section shall restrict the commission from subsequent investigation of the reasonableness of contracts entered into under subsection (1) of this section for ratemaking purposes. The commission's review of such contracts for ratemaking purposes shall not in any way affect the obligations or rights of the parties under the contracts.

(6) In accordance with ORS 756.515, the commission may investigate the activities of a natural gas utility related to contracts described under subsection (1) of this section. Notwithstanding any other provision of this section, if the commission finds that the activities of a natural gas utility have not generally been in the public interest, the commission, by order, may require the natural gas utility to file all future contracts described under subsection (1) of this section as provided under ORS 757.205 or 757.240. Any such finding by the commission shall not affect the obligations or rights of the parties under any existing contracts.

(7) Nothing in this section, nor any action taken by the commission pursuant to this section, shall be deemed state action for the purpose of exempting a natural gas utility from liability for anticompetitive conduct or other unlawful practices.

(8) As used in this section, "natural gas utility" means a public utility providing natural gas service to customers. [1993 c.485 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.518 - Elimination of coal-fired resources from allocations of electricity; depreciation; exception; useful life of coal-fired resources; rates.**

(1) As used in this section:

(a) "Allocation of electricity" means, for the purpose of setting electricity rates, the costs and benefits associated with the resources used to provide electricity to an electric company's retail electricity consumers that are located in this state.

(b)(A) "Coal-fired resource" means a facility that uses coal-fired generating units, or that uses units fired in whole or in part by coal as feedstock, to generate electricity.

(B) "Coal-fired resource" does not include a facility generating electricity that is included as part of a limited duration wholesale power purchase made by an electric company for immediate delivery to retail electricity consumers that are located in this state for which the source of the power is not known.

(c) "Electric company" has the meaning given that term in ORS 757.600.

(d) "Retail electricity consumer" has the meaning given that term in ORS 757.600.

(2) On or before January 1, 2030, an electric company shall eliminate coal-fired resources from its allocation of electricity.

(3)(a) The Public Utility Commission shall adjust any schedule of depreciation approved by the commission for an electric company's coal-fired resource if:

(A) The electric company holds a minority ownership share in only one coal-fired resource, with no more than four generating units; and

(B) The electric company serves at least 800,000 retail electricity consumers and only retail electricity consumers that are located in this state.

(b) The adjusted depreciation schedule described in paragraph (a) of this subsection must require the coal-fired resource described in paragraph (a)(A) of this subsection to be fully depreciated on or before December 31, 2030.

(4) Notwithstanding subsections (2) and (3) of this section, for the number of years requested by the electric company, not to exceed five years after the coal-fired resource is fully depreciated, the commission shall authorize an electric company described in subsection (3) of this section to include in the company's allocation of electricity the costs and benefits associated with the coal-fired resource described in subsection (3)(a)(A) of this section if:

(a) The electric company requests the commission to authorize the allocation of electricity; or

(b) The owners of the coal-fired resource agree to close the coal-fired resource on or before the date that is five years after the date the coal-fired resource is fully depreciated.

(5) For purposes of evaluating the prudence of an investment decision regarding a coal-fired resource made after March 8, 2016, or an investment related to the continued operation of a coal-fired resource made after March 8, 2016, the useful life of the coal-fired resource may not be considered to be any later than January 1, 2030, unless the commission determines otherwise.

(6) Notwithstanding ORS 757.355, this section does not prevent the full recovery of prudently incurred costs related to the decommissioning or remediation of a coal-fired resource or the closure of a coal-fired resource, at the time those costs are incurred. [2016 c.28 §1]

Note:

757.518 and 757.519 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.519 - Consideration of net gain or net loss upon sale of coal-fired resource for allocation to certain retail electricity consumers.**

The Public Utility Commission may consider the net gain or net loss upon the sale of any coal-fired resource, as defined in ORS 757.518, for allocation to the retail electricity consumers, as defined in ORS 757.600, of an electric company that makes sales of electricity to 25,000 or more retail electricity consumers in this state. [2016 c.28 §2]

Note:

See note under 757.518.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.522 - Definitions for ORS 757.522 to 757.536.**

As used in ORS 757.522 to 757.536:

(1) "Additional interest" means:

(a) The acquisition, by the holder of an interest in a generating facility located in Oregon, of a separate interest in that generating facility that is producing energy and is in service for tax purposes, commercially operable or in rates on July 1, 2010; and

(b) The renewal of an existing contract of five or more years that includes the acquisition of baseload electricity for an additional term of five or more years where the expected greenhouse gas emissions profile of the contract renewal is substantially similar to that of the previous contract.

(2) "Annual plant capacity factor" means the ratio of the electricity produced by a generating facility during one year, measured in kilowatt-hours, to the electricity the generating facility could have produced if it had been operated at its rated capacity throughout the same year, expressed in kilowatt-hours.

(3)(a) "Baseload electricity" means electricity produced by a generating facility that is designed and intended, at the time a site certificate is issued to the owner of the facility or a permit authorizing the construction and operation of the facility is issued to the owner of the facility by another state or country, to provide electricity on a continuous basis at an annual plant capacity factor of at least 60 percent.

(b) "Baseload electricity" does not include electricity from:

(A) A qualifying facility under the federal Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601 to 2645;

(B) A generating source that uses natural gas or petroleum distillates as a fuel source and that is primarily used to serve either peak demand or to integrate energy from a renewable energy source described in ORS 469A.025; or

(C) A generating facility that:

(i) Previously used coal as the facility's primary fuel source;

(ii) Is owned in whole or in part by an electric company; and

(iii) Currently uses natural gas or another resource as the facility's primary fuel source.

(4) "Construction" has the meaning given that term in ORS 469.300.

(5) "Consumer-owned utility" has the meaning given that term in ORS 757.600.

(6) "Electric company" has the meaning given that term in ORS 757.600.

(7) "Electricity service supplier" has the meaning given that term in ORS 757.600.

(8) "Generating facility" includes one or more jointly operated electricity generators that use the same fuel type, have the same in-service date and operate at the same location as described in ORS 469.300.

(9) "Governing board" means the legislative authority of a consumer-owned utility.

(10)(a) "Long-term financial commitment" means an investment in or upgrade of a generating facility that produces baseload electricity, or a contract with a term of more than five years, beginning on the date on which the contract is executed, that includes

acquisition of baseload electricity.

(b) "Long-term financial commitment" does not include:

(A) Routine or necessary maintenance;

(B) Installation of emission control equipment;

(C) Installation, replacement or modification of equipment that improves the heat rate of the facility or reduces a generating facility's pounds of greenhouse gases per megawatt-hour of electricity;

(D) Installation, replacement or modification of equipment where the primary purpose is to maintain reliable generation output capability and not to extend the life of the generating facility, and that does not increase the heat input or fuel usage as specified in existing generation air quality permits, but that may result in incidental increases in generation capacity;

(E) Repairs necessitated by sudden and unexpected equipment failure; or

(F) An acquisition of an additional interest.

(11) "Output-based methodology" means a greenhouse gas emissions standard that is expressed in pounds of greenhouse gases emitted per megawatt-hour, factoring in the useful thermal energy employed for purposes other than the generation of electricity.

(12) "Site certificate" has the meaning given that term in ORS 469.300.

(13) "Upgrade" means any modification made for the primary purpose of increasing the electric generation capacity of a baseload facility. [2009 c.751 §1; 2013 c.172 §1]

Note:

757.522 to 757.538 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.524 - Greenhouse gas emissions standard applicable to electric companies and electricity service suppliers.**

(1) The greenhouse gas emissions standard that applies to electric companies and electricity service suppliers is 1,100 pounds of greenhouse gases per megawatt-hour for a generating facility.

(2) The greenhouse gas emissions standard applies only to carbon dioxide emissions.

(3) For purposes of applying the emissions standard to cogeneration facilities, the Public Utility Commission shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for cogeneration facilities recognizes the total usable energy output of the process and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy. [2009 c.751 §2; 2013 c.172 §2]

Note:

See note under 757.522.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.526 - Petition by electric companies and electricity service suppliers to study greenhouse gas emissions standard; report to Legislative Assembly.**

No sooner than 90 days after the enactment of a federal law, state law, regulation or rule regulating the emission of greenhouse gases from generating facilities, an electric company, electricity service supplier or the customer of an electric company or electricity service supplier may petition the Public Utility Commission to study the greenhouse gas emissions standard established under ORS 757.524. If the commission undertakes the study, the commission shall determine whether the standard is still necessary to reduce greenhouse gases emitted by electric companies and electricity service suppliers and whether the standard should be repealed or maintained in whole or in part. In making the determination, the commission shall consider whether the enacted federal law, state law, regulation or rule is inconsistent with the standard or renders the standard redundant. The commission shall report the results of the study, and shall include recommendations for legislation, to the Legislative Assembly in the manner described in ORS 192.245 no later than 12 months after receiving the petition. [2013 c.172 §4]

Note:

See note under 757.522.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.528 - Greenhouse gas emissions standard applicable to consumer-owned utilities; modification; rules.**

(1) Unless modified by rule by the State Department of Energy as provided in this section, the greenhouse gas emissions standard that applies to consumer-owned utilities is 1,100 pounds of greenhouse gases per megawatt-hour for a generating facility.

(2) Unless modified pursuant to subsection (4) of this section, the greenhouse gas emissions standard includes only carbon dioxide emissions.

(3) For purposes of applying the emissions standard to cogeneration facilities, the department shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for cogeneration facilities recognizes the total usable energy output of the process and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy.

(4) The department shall review the greenhouse gas emissions standard established under this section no more than once every three



years. After public notice and hearing, and consultation with the Public Utility Commission, the department may:

- (a) Modify the emissions standard to include other greenhouse gases as defined in ORS 468A.210, with the other greenhouse gases expressed as their carbon dioxide equivalent; and
- (b) Modify the emissions standard based upon current information on the rate of greenhouse gas emissions from a commercially available combined-cycle natural gas generating facility that:
  - (A) Employs a combination of one or more gas turbines and one or more steam turbines and produces electricity in the steam turbines from waste heat produced by the gas turbines;
  - (B) Has a heat rate at high elevation within the boundaries of the Western Electricity Coordinating Council; and
  - (C) Has a heat rate at ambient temperatures when operating during the hottest day of the year.
- (5) In modifying the greenhouse gas emissions standard, the department shall:
  - (a) Use an output-based methodology to ensure that the calculation of greenhouse gas emissions through cogeneration recognizes the total usable energy output of the process and includes all greenhouse gases emitted by the generating facility in the production of both electrical and thermal energy; and
  - (b) Consider the effects of the emissions standard on system reliability and overall costs to electricity consumers.
- (6) If upon a review conducted pursuant to subsection (4) of this section, the department determines that a mandatory greenhouse gas emissions limit has been established pursuant to state or federal law, the department shall issue a report to the appropriate legislative committees of the Legislative Assembly stating which portions, if any, of the greenhouse gas emissions standard are no longer necessary as a matter of state law. [2009 c.751 §3]

Note:

See note under 757.522.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.531 - Emissions standard-based restrictions on long-term financial commitments by electric companies or electricity service suppliers; rules.**

- (1)(a) An electric company or electricity service supplier may not enter into a long-term financial commitment unless the baseload electricity acquired under the commitment is produced by a generating facility that complies with a greenhouse gas emissions standard established under ORS 757.524.
- (b) A generating facility complies with the greenhouse gas emissions standard established under ORS 757.524 if the rate of emissions of the facility does not exceed the emissions standard.
- (c) In determining whether a generating facility complies with the emissions standard, the total emissions associated with producing baseload electricity at the generating facility are included in determining the rate of emissions of greenhouse gases. The total emissions associated with producing electricity at the generating facility do not include emissions associated with transportation, fuel extraction or other life-cycle emissions associated with obtaining the fuel for the facility.
- (2) Notwithstanding subsection (1) of this section, the emissions standard does not apply to greenhouse gas emissions produced by a generating facility owned by an electric company or electricity service supplier or contracted through a long-term financial commitment if the emissions:
  - (a) Come from a facility powered exclusively by renewable energy sources described in ORS 469A.025;
  - (b) Come from a cogeneration facility in this state that is fueled by natural gas, synthetic gas, distillate fuels, waste gas or a combination of these fuels, and that is producing energy, in service for tax purposes, commercially operable, or in rates as of July 1, 2010, until the facility is subject to a new long-term financial commitment; or
  - (c) Come from a generating facility that has in place a plan, as determined by the Public Utility Commission, to be a low-carbon emissions resource, pursuant to sufficient technical documentation, within seven years of commencing plant operations.
- (3) Notwithstanding ORS 757.524 and subsection (1) of this section, the commission may exempt a long-term financial commitment by an electric company or an electricity service supplier from the greenhouse gas emissions standard if the commission finds that the commitment is a necessary and prudent response to:
  - (a) Unanticipated electricity system reliability needs; or
  - (b) Catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.
- (4) Notwithstanding subsection (1) of this section, an electric company may enter into a long-term financial commitment that does not meet the emissions standard established under ORS 757.524 if the electric company does not seek recovery of the costs in retail sales in this state.
- (5) The commission by rule shall establish:
  - (a) Standards for identifying contracts for electricity for which the emissions cannot readily be determined with any specificity; and
  - (b) Emissions to be attributed to such contracts for purposes of determining compliance with the emissions standard established under ORS 757.524. [2009 c.751 §4]

Note:

See note under 757.522.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.533 - Emissions standard-based restrictions on long-term financial commitments by consumer-owned**

**utilities; rules.**

- (1)(a) A governing board of a consumer-owned utility may not enter into a long-term financial commitment unless the baseload electricity acquired under the commitment is produced by a generating facility that complies with a greenhouse gas emissions standard established under ORS 757.528.
- (b) A generating facility complies with the greenhouse gas emissions standard established under ORS 757.528 if the rate of emissions of the facility does not exceed the emissions standard.
- (c) In determining whether a generating facility complies with the emissions standard, the total emissions associated with producing baseload electricity at the generating facility shall be included in determining the rate of emissions of greenhouse gases. The total emissions associated with producing electricity at the generating facility do not include emissions associated with transportation, fuel extraction or other life-cycle emissions associated with obtaining the fuel for the facility.
- (2) Notwithstanding subsection (1) of this section, the emissions standard does not apply to greenhouse gas emissions produced by a generating facility owned by a consumer-owned utility or contracted through a long-term financial commitment if the emissions:
- (a) Come from a facility powered exclusively by renewable energy sources described in ORS 469A.025;
- (b) Come from a cogeneration facility in this state that is fueled by natural gas, synthetic gas, distillate fuels, waste gas or a combination of these fuels, and that is producing energy, in service for tax purposes, commercially operable, or in rates as of July 1, 2010, until the facility is subject to a new long-term financial commitment; or
- (c) Come from a generating facility that has in place a plan to be a low-carbon emission resource, as determined by the State Department of Energy, pursuant to sufficient technical documentation, within seven years of commencing plant operations.
- (3) The governing board may provide an exemption for an individual generating facility from the emissions performance standard to address:
- (a) Unanticipated electricity system reliability needs;
- (b) Catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances; or
- (c) Long-term financial commitments between members of a joint operating entity recognized under federal law or the joint operating entity's predecessor organization, or with the joint operating entity for a baseload resource that the consumer-owned utility had an ownership interest in prior to July 1, 2010.
- (4) A governing board shall report to the consumer-owned utility's customers or members and to the State Department of Energy information on any case-by-case exemption from the emissions performance standard granted by the governing board.
- (5) For purposes of ORS 757.522 to 757.536, a long-term financial commitment for a consumer-owned utility does not include agreements to purchase electricity from the Bonneville Power Administration.
- (6) The department by rule shall establish:
- (a) Standards for identifying contracts for electricity for which the emissions cannot readily be determined with any specificity; and
- (b) Emissions to be attributed to such contracts for purposes of determining compliance with the emissions standard established under ORS 757.528. [2009 c.751 §5]

Note:

See note under 757.522.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.536 - Public Utility Commission review of plans and rates to ensure compliance with greenhouse gas emissions standard; rules.**

- (1)(a) The Public Utility Commission may not acknowledge in an integrated resource plan, or allow in customer rates, the costs of a long-term financial commitment by an electric company or by an electricity service supplier unless the baseload electricity proposed to be acquired under the commitment is produced by a generating facility that complies with the greenhouse gas emissions standard established under ORS 757.524.
- (b) The commission shall revoke the certification under ORS 757.649 of an electricity service supplier entering into a long-term financial commitment to serve customers in this state if baseload electricity acquired under the commitment is produced by a generating facility that does not comply with the greenhouse gas emissions performance standard established under ORS 757.524.
- (2) Pursuant to ORS 756.040, the commission shall adopt rules for the implementation of this section.
- (3) Within 90 days of application by an electric company or electricity service supplier, the commission shall determine whether the electric company's or electricity service supplier's proposal to enter into a long-term financial commitment complies with the greenhouse gas emissions standard established under ORS 757.524. The commission may not decide in a proceeding under this subsection issues involving the actual costs to construct and operate the selected resource, cost recovery or other issues reserved by the commission for decision in a general rate case or other proceeding for recovery of the resource or contract costs. [2009 c.751 §6]

Note:

See note under 757.522.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.538 - Rules.**

The Public Utility Commission and the State Department of Energy shall adopt rules as necessary to implement ORS 757.522 to

757.536. [2009 c.751 §8]

Note:

See note under 757.522.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.539 - Eligibility criteria; contents of application; project proposal processes; recovery of costs; rate cap; report to Legislative Assembly.**

(1) As used in this section, "emission" means any anthropogenic gas, such as carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

(2) The Public Utility Commission shall establish a voluntary emission reduction program for the purposes of incentivizing public utilities that furnish natural gas to invest in projects that reduce emissions and providing benefits to customers of public utilities that furnish natural gas.

(3) As part of the emission reduction program, the commission shall establish eligibility criteria for projects. The eligibility criteria must include:

(a) That the public utility requesting the project be a public utility that furnishes natural gas and that the project involve the provision of natural gas;

(b) That the project directly or indirectly reduce emissions;

(c) That the project benefit customers of the public utility as identified by the commission by rule or order;

(d) That the public utility, without the emission reduction program, would not invest in the project in the ordinary course of business;

(e) That the public utility, prior to filing an application under subsection (4) of this section, involve stakeholders as required by the commission by rule or order; and

(f) That the rate impact of the aggregate of all projects undertaken by a public utility under this section not exceed an amount established by the commission by rule or order.

(4) For each project that a public utility proposes under this section, the public utility must file with the commission an application. An application filed under this subsection must include:

(a) A description of the project;

(b) The projected amount of capital and operating costs necessary to complete and operate the project;

(c) The projected amount of reduced emissions created by the project;

(d) The potential of the project to reduce emissions not identified in paragraph (c) of this subsection;

(e) The projected date on which the project will become operational;

(f) A requested method, as described in subsection (8) of this section, for recovery of costs incurred and investments made and for the receipt of additional incentives;

(g) An explanation of why the public utility, without the emission reduction program, would not invest in the project in the ordinary course of business;

(h) Proof of stakeholder involvement;

(i) The projected rate impact of the project;

(j) The projected aggregate rate impact of all projects proposed by the public utility under this section and approved by the commission for the public utility under this section;

(k) An explanation of how the public utility will provide the commission with progress updates during the life of the project, including updates on costs and reduced emissions associated with the project; and

(L) Any other information required by the commission by rule or order.

(5)(a) The commission shall establish a two-tiered process for submitting a project proposal under the emission reduction program. For the purpose of establishing the tiers, the commission shall:

(A) Establish a threshold for overall project cost; and

(B) Establish a threshold for overall project cost per metric ton of reduced emissions.

(b) If a proposed project meets both the threshold described in paragraph (a)(A) of this subsection and the threshold described in paragraph (a)(B) of this subsection, the project is a tier one project subject to the requirements of subsection (6) of this section. If a proposed project does not meet the threshold described in paragraph (a)(A) of this subsection or the threshold described in paragraph (a)(B) of this subsection, the project is a tier two project subject to the requirements of subsection (7) of this section.

(6) For tier one projects, the commission shall:

(a) Provide interested parties with an opportunity to submit written comment in response to the proposed project;

(b) Hold a public hearing to address all submitted written comments; and

(c) Issue a final order on the proposed project within 90 days of receiving the application for the project, or at a later time as authorized by the public utility.

(7) For tier two projects, the commission shall:

(a) By rule or order, provide interested parties with an opportunity to submit testimony in response to the proposed project and be heard; and

(b) Issue a final order on the proposed project within 180 days of receiving the application for the project, or at a later time as

authorized by the public utility.

(8) If a final order issued under subsection (6)(c) or (7)(b) of this section authorizes a project, the order shall specify:

(a) The type of ratepayer from whom the public utility that submitted the project proposal may recover costs incurred and investments made and receive any allowed additional incentives. A public utility may recover costs incurred and investments made and receive any allowed additional incentives from a type of ratepayer under this paragraph only if the commission makes a finding that the type of ratepayer receives a benefit from the project. If the commission makes a finding that more than one type of ratepayer receives a benefit from the project, the commission shall allow recovery of costs incurred and investments made and receipt of any allowed additional incentives from each type of ratepayer in an amount that is proportionate to the proportion of the benefit received, as determined by the commission, by the type of ratepayer.

(b) The method by which the public utility that submitted the project proposal may recover costs incurred and investments made and receive any allowed additional incentives, and the amount that the public utility may recover and receive. Methods of recovery and receipt include:

(A) Payment per unit of reduced emissions;

(B) Preapproval for inclusion in the public utility's rates of costs prudently incurred and of investments prudently made;

(C) Return of investment and return on investment; and

(D) Any other method approved by the commission by rule or order.

(9) For purposes related to the emission reduction program established under this section, the commission may consider the amount of reduced emissions created by a project or the value of reduced emissions created by a project.

(10) The commission shall establish a rate cap for each public utility for which a project is authorized under this section. The rate cap must limit the cost of all of the public utility's projects authorized under this section to an amount that does not exceed a percentage of the public utility's revenue requirement as identified by the commission by rule or order.

(11) The commission shall biennially conduct a study on whether federal law or regulation or other state laws or rules provide adequate incentives for public utilities that furnish natural gas to invest in projects that reduce emissions in the ordinary course of business. The commission shall report the results of a study conducted under this subsection, and may make recommendations for legislation, to the Legislative Assembly in the manner described in ORS 192.245 not later than February 1 of each odd-numbered year. [2013 c.607 §2; 2015 c.24 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.540**

[Amended by 1971 c.655 §53; renumbered 756.568]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.542 - Definitions for ORS 757.542 to 757.562.**

As used in ORS 757.542 to 757.562 and 757.993:

(1) "Business day" means any 24-hour day other than a Saturday, Sunday or federal or state legal holiday.

(2) "Damage" means harm to or destruction of underground facilities including, but not limited to, the weakening of structural, lateral or subjacent support; the penetration, impairment or destruction of any coating, housing or other protective device; and the denting of, penetration into or severance of underground facilities.

(3) "Excavation" means any operation in which earth, rock or other material on or below the ground is moved or otherwise displaced by any means, except sidewalk, road and ditch maintenance less than 12 inches in depth that does not lower the road grade or original ditch flow line. "Excavation" does not include the tilling of soil for agricultural purposes conducted on private property that is not within the boundaries of a recorded right of way or easement for underground facilities.

(4) "Excavator" means any person who engages in excavation.

(5) "Operator" means any person, public utility, municipal corporation, political subdivision of the state or other person with control over underground facilities.

(6) "Underground facilities" means items partially or entirely below the surface of the ground for use in connection with the storage or conveyance of electrical energy, water, sewage, petroleum products, gas, gaseous vapors or hazardous liquids, or the transmission of electronic, telephonic, telegraphic or cable communications. Such items include, but are not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments and those parts of poles or anchors that are underground.

(7) "Unlocatable underground facilities" means underground facilities that cannot be marked with reasonable accuracy, including nonconductive sewers and nonmetallic underground facilities that have no trace wires. [1995 c.691 §1]

Note:

757.542 to 757.562 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.547 - Oregon Utility Notification Center; board; member qualifications; terms; meetings; rules.**

(1)(a) The Oregon Utility Notification Center is created as an independent not-for-profit public corporation. The corporation shall be governed by a board of directors consisting of one member appointed to represent each of the following:

- (A) Cities with a population of 25,000 or more;
- (B) Cities with a population under 25,000;
- (C) Counties;
- (D) Natural gas utilities regulated by the Public Utility Commission under ORS chapter 757;
- (E) Electric utilities regulated by the Public Utility Commission under ORS chapter 757;
- (F) Water districts, special districts, sanitary districts or water and sanitary authorities;
- (G) Telecommunications utilities serving fewer than 50,000 access lines and regulated by the Public Utility Commission under ORS chapter 759;
- (H) Telecommunications utilities serving 50,000 access lines or more and regulated by the Public Utility Commission under ORS chapter 759;
- (I) Telecommunications cooperatives;
- (J) Electric cooperatives;
- (K) People's utility districts;
- (L) Contractors;
- (M) Excavators;
- (N) Railroads;
- (O) Cable system operators; and
- (P) Municipal electric utilities.

(b) To facilitate appointment of members of the first board of directors, the Public Utility Commission shall, by order, select organizations that are most representative of each of the groups set forth in paragraph (a) of this subsection. Each organization so selected may nominate a member for the board and may, within the time allowed by the commission's order, submit the name of the nominee to the Governor, who shall consider the nominee before making any other appointment to the board.

(c) After appointment of the first board of directors, to facilitate appointment of new members to the board, the board shall, by rule, select organizations that are most representative of each of the groups set forth in paragraph (a) of this subsection. Each organization so selected may nominate a member for the board and may, within the time allowed by rule, submit the name of the nominee to the Governor, who shall consider the nominee before making any other appointment to the board.

(d) If the board of directors determines that a group not listed in paragraph (a) of this subsection should be represented on the board, the board may select an organization that is most representative of the group and may ask that organization to nominate a member. Upon receipt of the nomination, the board may request that the Governor appoint the nominee.

(e) The Governor shall also appoint to the board of directors one employee of the commission and one employee of the Department of Transportation.

(2) The term of office of a member is four years. A member is eligible for reappointment. Before the expiration of the term of a member, the board of directors shall solicit a nomination as provided in subsection (1) of this section and the Governor shall appoint a successor. If there is a vacancy for any cause, the board shall solicit a nomination as provided in subsection (1) of this section and the Governor shall make an appointment to become immediately effective for the unexpired term. A member may continue to serve until a successor is appointed. Nothing in this subsection or subsection (1) of this section shall restrict the authority of the Governor to appoint a person other than one of the persons nominated according to this subsection or subsection (1) of this section.

(3) The board of directors shall select one of its members as chairperson and another as vice chairperson, for such terms and with such duties and powers as the board considers necessary for the performance of the functions of those offices. A minimum of seven of the members of the board constitutes a quorum for the transaction of business.

(4) The board of directors shall meet at least once every three months at a time and place determined by the board. The board shall meet at such other times and places specified by the call of the chairperson or of a majority of the members of the board. [1995 c.691 §2; 1999 c.451 §2]

Note:

See note under 757.542.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.552 - Duties of center; fees for services; rules; exemption from certain financial administration laws.**

(1) It is the function of the board of directors to operate the Oregon Utility Notification Center, through which a person shall notify operators of underground facilities of proposed excavations and request that the underground facilities be marked.

(2) The board of directors shall:

(a) Utilize a competitive process to contract with any qualified person to provide the notification required under subsection (1) of this section.

(b) Subject to subsection (3) of this section, establish rates, on a per call basis, under which subscribers shall pay to fund all of the activities of the Oregon Utility Notification Center.

(c) Adopt rules according to ORS chapter 183 that regulate the notification and marking of underground facilities to prevent damage to underground facilities. The rules, insofar as is practicable, shall be consistent with the Oregon Utilities Coordinating Council Standards Manual of March 31, 1995.

(3) The Oregon Utility Notification Center shall have all of the powers of a state agency. Except as provided in subsection (2) of this

section, the provisions of ORS 279.835 to 279.855 and 283.085 to 283.092 and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to the Oregon Utility Notification Center.

(4) Notwithstanding subsection (2)(b) of this section, the board of directors shall not establish rates or other charges that require payments from any subscriber who receives fewer than 50 telephone calls in the calendar year or that result in annual payments of more than \$500 for any of the following subscribers:

(a) Cities with a population under 15,000;

(b) Telecommunications utilities serving fewer than 50,000 access lines and regulated by the Public Utility Commission under ORS chapter 759;

(c) Cable system operators serving fewer than 15,000 customers;

(d) Utilities, special districts, people's utility districts or authorities providing electricity, water or sanitary sewer service to fewer than 15,000 residential customers; and

(e) Telecommunications cooperatives. [1995 c.691 §3; 1999 c.451 §3; 2001 c.104 §293; 2003 c.794 §329; 2012 c.107 §69]

Note:

See note under 757.542.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.555**

[Amended by 1971 c.655 §49; renumbered 756.555]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.557 - Underground utility facility operators required to subscribe to center; liability for damage from excavation for nonsubscribers; exemption.**

(1) Every operator of underground facilities shall subscribe to the Oregon Utility Notification Center.

(2) Any person intending to excavate shall notify the Oregon Utility Notification Center at least two but not more than 10 business days before commencing an excavation. The board of directors shall, by rule, provide an exception to the requirement of advance notice for excavators in cases that involve an immediate danger to life or property, or a customer service outage. The board may adopt additional exceptions as the board, in its discretion, determines necessary.

(3) Nonsubscribing operators of underground facilities shall be responsible to all injured parties for all costs associated with damages to such facilities, loss of product or service or damages that occur as a result of excavation where the facilities damaged are under the control of the nonsubscribing operator and proper notice was given to the Oregon Utility Notification Center.

(4) The provisions of this section shall not apply to operators of underground facilities that are located entirely on private property and that provide services exclusively for the use of residents or owners of the property. [1995 c.691 §4; 2001 c.104 §294]

Note:

See note under 757.542.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.562 - Report to Legislative Assembly of center activities; contracts to carry out duties.**

(1) The board of directors shall file with the Legislative Assembly and the Governor, not later than April 15 of each year, a report covering the activities and operations of the Oregon Utility Notification Center for the preceding calendar year according to the provisions of ORS 192.230 to 192.250.

(2) In carrying out the duties, functions and powers imposed by law on the Oregon Utility Notification Center, the board of directors may contract with any state agency or private party for the performance of such duties, functions and powers as the board considers appropriate. [1995 c.691 §5]

Note:

See note under 757.542.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.590**

[Amended by 1971 c.655 §48; renumbered 756.552]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.600 - Definitions for ORS 757.600 to 757.687.**

As used in ORS 757.600 to 757.687, unless the context requires otherwise:

(1) "Aggregate" means combining retail electricity consumers into a buying group for the purchase of electricity and related services.

(2) "Ancillary services" means services necessary or incidental to the transmission and delivery of electricity from generating facilities to retail electricity consumers, including but not limited to scheduling, load shaping, reactive power, voltage control and energy balancing services.

- (3) "Commission" means the Public Utility Commission.
- (4) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an electric cooperative.
- (5) "Default supplier" means an electricity service supplier or electric company that has a legal obligation to provide electricity services to a consumer, as determined by the commission.
- (6) "Direct access" means the ability of a retail electricity consumer to purchase electricity and certain ancillary services, as determined by the commission for an electric company or the governing body of a consumer-owned utility, directly from an entity other than the distribution utility.
- (7) "Direct service industrial consumer" means an end user of electricity that obtains electricity directly from the transmission grid and not through a distribution utility.
- (8) "Distribution" means the delivery of electricity to retail electricity consumers through a distribution system consisting of local area power poles, transformers, conductors, meters, substations and other equipment.
- (9) "Distribution utility" means an electric utility that owns and operates a distribution system connecting the transmission grid to the retail electricity consumer.
- (10) "Economic utility investment" means all electric company investments, including plants and equipment and contractual or other legal obligations, properly dedicated to generation or conservation, that were prudent at the time the obligations were assumed but the full benefits of which are no longer available to consumers as a direct result of ORS 757.600 to 757.667, absent transition credits. "Economic utility investment" does not include costs or expenses disallowed by the commission in a prudence review or other proceeding, to the extent of such disallowance, and does not include fines or penalties authorized and imposed under state or federal law.
- (11) "Electric company" means an entity engaged in the business of distributing electricity to retail electricity consumers in this state, but does not include a consumer-owned utility.
- (12) "Electric cooperative" means an electric cooperative corporation organized under ORS chapter 62 or under the laws of another state if the service territory of the electric cooperative includes a portion of this state.
- (13) "Electric utility" means an electric company or consumer-owned utility that is engaged in the business of distributing electricity to retail electricity consumers in this state.
- (14) "Electricity" means electric energy, measured in kilowatt-hours, or electric capacity, measured in kilowatts, or both.
- (15) "Electricity services" means electricity distribution, transmission, generation or generation-related services.
- (16) "Electricity service supplier" means a person or entity that offers to sell electricity services available pursuant to direct access to more than one retail electricity consumer. "Electricity service supplier" does not include an electric utility selling electricity to retail electricity consumers in its own service territory.
- (17) "Governing body" means the board of directors or the commissioners of an electric cooperative or people's utility district, or the council or board of a city with respect to a municipal electric utility.
- (18) "Load" means the amount of electricity delivered to or required by a retail electricity consumer at a specific point of delivery.
- (19) "Low-income weatherization" means repairs, weatherization and installation of energy efficient appliances and fixtures for low-income residences for the purpose of enhancing energy efficiency.
- (20) "Municipal electric utility" means an electric distribution utility owned and operated by or on behalf of a city.
- (21) "New renewable energy resource" means a renewable energy resource project, or a new addition to an existing renewable energy resource project, or the electricity produced by the project, that is not in operation on July 23, 1999. "New renewable energy resource" does not include any portion of a renewable energy resource project under contract to the Bonneville Power Administration on or before July 23, 1999.
- (22) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.
- (23) "People's utility district" has the meaning given that term in ORS 261.010.
- (24) "Portfolio access" means the ability of a retail electricity consumer to choose from a set of product and pricing options for electricity determined by the governing board of a consumer-owned utility and may include product and pricing options offered by the utility or by an electricity service supplier.
- (25) "Power generation company" means a company engaged in the production and sale of electricity to wholesale customers, including but not limited to independent power producers, affiliated generation companies, municipal and state authorities, provided the company is not regulated by the commission.
- (26) "Qualifying expenditures" means those expenditures for energy conservation measures that have a simple payback period of not less than one year and not more than 10 years, and expenditures for the above-market costs of new renewable energy resources, provided that the State Department of Energy by rule may establish a limit on the maximum above-market cost for renewable energy that is allowed as a credit.
- (27) "Renewable energy resources" means:
  - (a) Electricity generation facilities fueled by wind, waste, solar or geothermal power or by low-emission nontoxic biomass based on solid organic fuels from wood, forest and field residues.
  - (b) Dedicated energy crops available on a renewable basis.
  - (c) Landfill gas and digester gas.
  - (d) Hydroelectric facilities located outside protected areas as defined by federal law in effect on July 23, 1999.
- (28) "Residential electricity consumer" means an electricity consumer who resides at a dwelling primarily used for residential

purposes. "Residential electricity consumer" does not include retail electricity consumers in a dwelling typically used for residency periods of less than 30 days, including hotels, motels, camps, lodges and clubs. As used in this subsection, "dwelling" includes but is not limited to single family dwellings, separately metered apartments, adult foster homes, manufactured dwellings, recreational vehicles and floating homes.

(29) "Retail electricity consumer" means the end user of electricity for specific purposes such as heating, lighting or operating equipment, and includes all end users of electricity served through the distribution system of an electric utility on or after July 23, 1999, whether or not each end user purchases the electricity from the electric utility.

(30) "Site" means a single contiguous area of land containing buildings or other structures that are separated by not more than 1,000 feet, or buildings and related structures that are interconnected by facilities owned by a single retail electricity consumer and that are served through a single electric meter.

(31) "Transition charge" means a charge or fee that recovers all or a portion of an uneconomic utility investment.

(32) "Transition credit" means a credit that returns to consumers all or a portion of the benefits from an economic utility investment.

(33) "Transmission facility" means the plant and equipment used to transmit electricity in interstate commerce.

(34) "Undue market power" means the unfair or improper exercise of influence to increase or decrease the availability or price of a service or product in a manner inconsistent with competitive markets.

(35) "Uneconomic utility investment" means all electric company investments, including plants and equipment and contractual or other legal obligations, properly dedicated to generation, conservation and workforce commitments, that were prudent at the time the obligations were assumed but the full costs of which are no longer recoverable as a direct result of ORS 757.600 to 757.667, absent transition charges. "Uneconomic utility investment" does not include costs or expenses disallowed by the commission in a prudence review or other proceeding, to the extent of such disallowance, and does not include fines or penalties as authorized by state or federal law. [1999 c.865 §1; 2001 c.134 §8; 2003 c.186 §75]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.601 - Implementation dates for direct access and portfolio of rate options; exemption for certain small electric companies.**

(1) All retail electricity consumers of an electric company, other than residential electricity consumers, shall be allowed direct access beginning on March 1, 2002. Retail electricity consumers shall not be allowed direct access before that date.

(2) Residential electricity consumers shall be allowed to purchase electricity from among a portfolio of rate options as described in ORS 757.603 not later than March 1, 2002.

(3) ORS 757.600 to 757.691 do not apply to an electric company providing electricity services to fewer than 25,000 consumers in this state unless the electric company offers direct access to any of its retail electricity consumers in this state or offers to sell electricity services available under direct access to more than one retail electricity consumer of another electric utility. [1999 c.865 §2; 2001 c.819 §1; 2003 c.14 §454]

Note:

757.601 was added to and made a part of ORS chapter 757 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.603 - Electric company required to provide cost-of-service rate option to all retail electricity consumers; waiver; portfolio of rate options for residential consumers.**

(1) Except as provided in this section, an electric company shall provide all retail electricity consumers that are connected to the electric company's distribution system with a regulated, cost-of-service rate option.

(2)(a) The Public Utility Commission by order may waive the requirement in subsection (1) of this section for any retail electricity consumer other than residential electricity consumers and small commercial electricity consumers.

(b) Prior to ordering a waiver under this subsection, the commission may conduct such studies as the commission deems necessary and shall provide notice and opportunity for public comment and hearings regarding the proposed waiver.

(c) The commission may order a waiver under this subsection if the commission finds, based on the evidentiary record developed through the conducted studies, public comment and hearings, that a market exists in which retail electricity consumers subject to the waiver are able to:

(A) Purchase supplies of electricity adequate to meet the needs of the retail electricity consumers;

(B) Obtain multiple offers for electricity supplies within a reasonable period of time;

(C) Obtain reliable supplies of electricity; and

(D) Purchase electricity at prices that are not unduly volatile and that are just and reasonable.

(3) Each electric company shall provide each retail electricity consumer that is connected to its distribution system and whose electricity demand at any point of delivery is less than 30 kilowatts a portfolio of rate options. The portfolio of rate options shall include at least the following options:

(a) A rate that reflects significant new renewable energy resources;

(b) A market-based rate; and

(c) If the commission finds, through public comment and hearing or through market research conducted by the electric company,



that demand is sufficient to justify the rate, a rate option for electricity associated with a specific renewable energy resource, including solar photovoltaic energy.

(4) The commission shall regulate the cost-of-service rate option under subsection (1) of this section and the portfolio of rate options under this section. The commission:

(a) Shall reasonably ensure that the costs, risks and benefits of serving each option are reflected in the rates for each option, and such rates may include a monthly flat rate or charge in addition to usage.

(b) May prohibit or otherwise limit the use of a cost-of-service rate by retail electricity consumers who have been served through direct access.

(c) May limit switching among the portfolio of rate options and the cost-of-service rate.

(5)(a) As used in this subsection, "government" means a city, county, irrigation district, ditch improvement district, water control district, or government of a federally recognized Indian tribe in Oregon.

(b) An electric company may file, as part of a portfolio of rate options required under this section and if agreed to in coordination with one or more governments to meet adopted renewable and nonemitting energy goals, a program of rates or charges that reflect the cost of an electric company program to serve retail electricity consumers within the boundaries of those governments with electricity:

(A) Derived from new or existing renewable energy resources or nonemitting energy resources, including supply and demand-side resources; or

(B) Paired with unbundled renewable energy certificates, as defined in ORS 469A.005, from new or existing renewable energy resources.

(c) The commission may approve a rate or charge under this subsection if:

(A) The government attests that the coordination required under paragraph (b) of this subsection occurred and the electric company includes the attestation in the filing for a program of rates or charges;

(B) The government enacts or adopts an ordinance, charter provision, resolution or other regulation requiring that retail electricity consumers within the boundaries of the government must, as determined during the coordination required by paragraph (b) of this subsection and conducted in accordance with this paragraph, be served with renewable energy resources or nonemitting energy resources, including at the option of the government, resources such as:

(i) Energy from community-based resources, including solar photovoltaic, storage, microgrids, irrigation district-owned projects, in-pipe hydroelectric, or micro-hydroelectric, that provide community cobenefits, such as:

(I) Community stability;

(II) Community reinvestment;

(III) Ownership by a nonprofit organization or renewable energy cooperative that represents an environmental justice community;

(IV) Ownership by the government;

(V) Disaster resiliency;

(VI) Water savings;

(VII) Species protection;

(VIII) Direct cost savings to customers; or

(IX) Local economic development and jobs; and

(ii) Renewable and nonemitting energy resources acquired through government specified procurement criteria which may include goals for local or diverse ownership;

(C) The ordinance, charter provision, resolution or other regulation specifies that:

(i) All eligible retail electricity consumers served within the boundaries of the government are placed on the rate schedule by the electric company, upon commission approval, but have an opportunity to decline to be served by the rate option; and

(ii) Retail electricity consumers within the boundaries of the government that are connected to the distribution system and whose electricity demand at any point of delivery is greater than 30 kilowatts may choose to be placed on the rate schedule, if the electric company determines that electricity demand at the consumer's point of delivery is greater than 30 kilowatts because of additional demand resulting from electrification of transportation or other services, including electric vehicle charging stations, after September 25, 2021;

(D) The ordinance, charter provision, resolution or other regulation includes protections, such as subsidies or bill payment assistance, for low-income retail electricity consumers affected by the rates or charges and provides that these protections are paid for solely by retail electricity consumers within the boundaries of the government;

(E) The electric company has included in the program provisions to minimize the shifting of costs from retail electricity consumers to other customers who do not participate;

(F) The ordinance, charter provision, resolution or other regulation sets forth the duration of the program; and

(G) The electric company utilizes commission-approved procurement processes, to the extent those processes apply, and the procurement criteria agreed to with the government in subparagraph (B)(ii) of this paragraph.

(d) After the electric company receives approval to serve retail electricity consumers within the boundaries of the government according to the program of rates or charges adopted pursuant to this subsection, the electric company must:

(A) Prior to commencing the program, receive acknowledgement from the government to proceed with the program as approved by the commission and, if the government declines to proceed, shall file to suspend the rates and charges under the program;

- (B) Include information on its monthly bills to participating retail electricity consumers identifying the program's cost;
- (C) Provide notice to participating retail electricity consumers of any change in rate for participation in the program; and
- (D) Provide an annual report to the commission and participating governments summarizing the program activities in the prior calendar year.
- (e) The commission shall allow the electric company, for purposes of the new or existing renewable energy resources or nonemitting energy resources that serve the program of rates or charges adopted pursuant to this subsection:
- (A) To own the facilities or use power purchase agreements.
- (B) To recover part or all of the costs associated with the resources that serve the program, including costs associated with resources described in subparagraph (A) of this paragraph, from all retail electricity consumers not served by an electricity service supplier, if:
- (i) The electric company can demonstrate that above-market or incremental costs of those resources have been paid for by program participants;
- (ii) An integrated resource plan conducted by the electric company shows an energy or capacity need and the company demonstrates that such resources are capable of meeting that need, in whole or in part;
- (iii) The electric company will use the resources to meet a renewable portfolio standard imposed by ORS 469A.052;
- (iv) The resources help the electric company comply with ORS 469A.410; or
- (v) All customers will otherwise benefit from inclusion of the costs in rates collected from all customers.
- (C) To collect moneys from participating retail electricity consumers in excess of the cost of service and defer revenues or costs associated with the program for the purposes of making future investments in resources or renewable energy certificates to serve program participants and for the purposes of protecting nonparticipating retail electricity consumers should the government end its participation in the program.
- (D) To recover the costs associated with the resources that serve the program, including costs associated with resources described in subparagraph (A) of this paragraph, from retail electricity consumers within the boundaries of the government other than those served by electricity service suppliers, if the government ends its participation in the program and the costs are not otherwise recoverable under subparagraph (B) of this paragraph.
- (6) Nothing in subsection (3) of this section prohibits an electric company from providing retail electricity consumers that are connected to its distribution system and whose electricity demand at any point of delivery is greater than 30 kilowatts a portfolio of rate options.
- (7) Notwithstanding the exemption to ORS 757.600 to 757.691 provided by ORS 757.601 (3), an electric company serving fewer than 25,000 customers in this state may propose a program for approval by the commission if the program meets the criteria specified in this section. [1999 c.865 §4; 2001 c.819 §2; 2015 c.556 §1; 2021 c.508 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.605**

[1961 c.691 §2; 1971 c.655 §97; renumbered 758.400]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.606**

[Formerly 758.040; renumbered 165.475]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.607 - Direct access conditions; cost recovery.**

The Public Utility Commission shall ensure that direct access programs offered by electric companies meet the following conditions:

- (1) The provision of direct access to some retail electricity consumers must not cause the unwarranted shifting of costs to other retail electricity consumers of the electric company. The commission may, in establishing any rates and charges under ORS 757.600 to 757.667, consider and mitigate the rate impact on consumers from the reduction or elimination of subsidies in existing rate structures.
- (2) The direct access, portfolio of rate options and cost-of-service rates may include transition charges or transition credits that reasonably balance the interests of retail electricity consumers and utility investors. The commission may determine that full or partial recovery of the costs of uneconomic utility investments, or full or partial pass-through of the benefits of economic utility investments to retail electricity consumers, is in the public interest.
- (3) The commission shall allow recovery, through a transition charge, of any otherwise unrecoverable costs arising from or related to an electric company's contractual or other legal obligations to the Bonneville Power Administration under ORS 757.663, or arising from or related to a failure of the Bonneville Power Administration to meet its contractual or other legal obligations to the electric company, from those classes of consumers for which electric power was purchased from the Bonneville Power Administration.
- (4) Notwithstanding ORS 757.355, the commission may allow a return on the unamortized balance of an uneconomic utility investment or an economic utility investment that is included in rates. [1999 c.865 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.609 - Date for announcing prices for electricity in subsequent calendar year; estimated prices.**

(1) The Public Utility Commission shall set a date on which all electric companies must announce prices that will be charged for electricity by the companies in the subsequent calendar year. Retail electricity consumers who are eligible for direct access must be allowed at least three business days after the date set by the commission to elect whether to use direct access or to purchase electricity from an electric company.

(2) All electricity service suppliers and electric companies must announce estimated prices that will be charged for electricity by the suppliers and companies in the subsequent calendar year or contract period at least five days before the date set by the commission under subsection (1) of this section. [2003 c.478 §2]

Note:

757.609 was added to and made a part of 757.600 to 757.687 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.610**

[1961 c.691 §18; renumbered 758.405]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.611**

[Formerly 758.050; renumbered 165.480]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.612 - Requirements for public purpose expenditures; rules.**

(1)(a) There is established an annual public purpose expenditure standard for electric companies and Oregon Community Power to fund:

(A) The above-market costs of new renewable energy resources and customer investments in distribution system-connected technologies that support reliability, resilience and the integration of renewable energy resources with the distribution systems of electric companies and Oregon Community Power;

(B) New low-income weatherization;

(C) New energy-related investments in schools; and

(D) Low-income housing.

(b) The public purpose expenditure standard shall be funded by the public purpose charge described in subsection (2) of this section.

(2)(a) Until January 1, 2036, an electric company or Oregon Community Power shall collect a nonbypassable public purpose charge equal to 1.5 percent of the revenues described in paragraph (b) of this subsection, apportioned as further set forth in subsection (3)(b) of this section. The electric company or Oregon Community Power shall collect the public purpose charge from all of the retail electricity consumers located within the electric company's or Oregon Community Power's service territory, including retail electricity consumers served by electricity service suppliers.

(b) The percentages described in paragraph (a) of this subsection and subsection (3)(b) of this section shall be calculated as percentages of the total revenues collected by the electric company, Oregon Community Power or the electricity service supplier from retail electricity consumers for electricity services, distribution services, ancillary services, metering and billing, transition charges and other types of costs included in electric rates on July 23, 1999.

(3)(a) The Public Utility Commission shall establish rules implementing the provisions of this section relating to electric companies and Oregon Community Power.

(b) The public purpose charge described in subsection (2)(a) of this section shall be the sum total of the following percentages of revenues described in subsection (2)(b) of this section, allocated for the following purposes:

(A) 0.3 percent of revenues for school districts that are located in the service territory of the electric company or Oregon Community Power, as further directed under paragraph (e) of this subsection.

(B) As further directed under paragraph (f) of this subsection, 0.51 percent of revenues for:

(i) The above-market costs of constructing and operating new renewable energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20 megawatts or less; or

(ii) Customer investments in distribution system-connected technologies that support reliability, resilience and the integration of renewable energy resources with the distribution system of the electric company or Oregon Community Power.

(C) 0.55 percent of revenues for new low-income weatherization, as further directed under paragraph (g) of this subsection.

(D) 0.14 percent of revenues for deposit in the Housing and Community Services Department Electricity Public Purpose Charge Fund established by ORS 456.587 (1) for the purpose of providing grants as described in ORS 458.625 (2).

(c) The costs of administering subsections (1) to (5) of this section for an electric company or Oregon Community Power shall be paid out of the funds collected through public purpose charges. The commission may require an electric company or Oregon Community Power to direct funds collected through public purpose charges to state agencies responsible for implementing

subsections (1) to (5) of this section in order to pay the costs of administering subsections (1) to (5) of this section.

(d) The commission shall direct the manner in which public purpose charges are collected and spent by an electric company or Oregon Community Power and may require an electric company or Oregon Community Power to expend funds through competitive bids or other means designed to encourage competition, except that funds dedicated for new low-income weatherization shall be directed to the Housing and Community Services Department for purposes related to new low-income weatherization, as further directed in paragraph (g) of this subsection. The commission may also require funds collected through public purpose charges to be paid to a nongovernmental entity for investment in public purposes described in subsection (1) of this section.

(e)(A) Funds allocated under subsection (3)(b)(A) of this section shall be distributed to individual school districts according to the weighted average daily membership (ADMw) of each school district for the prior fiscal year as calculated under ORS 327.013. The commission shall establish by rule a methodology for distributing a proportionate share of funds under this paragraph to school districts that are only partially located in the service territory of the electric company or Oregon Community Power.

(B) A school district that receives funds under this paragraph shall use the funds first to pay for energy audits for schools located within the school district or for a fleet audit for the school district. To the extent practicable, a school district shall coordinate with the State Department of Energy and incorporate federal funding in complying with this paragraph. Following completion of an audit, the school district may expend funds received under this paragraph to implement the audit.

(C) Once an energy audit has been conducted and completely implemented for each school within the school district, the school district may expend funds received under this paragraph for any of the following purposes:

(i) Conducting additional energy audits. A school district shall conduct an energy audit prior to expending funds on any other purpose authorized under this paragraph unless the school district has performed an energy audit within the three years immediately prior to receiving the funds.

(ii) Weatherizing school district facilities and upgrading the energy efficiency of school district facilities.

(iii) Energy conservation education programs.

(iv) Purchasing electricity from environmentally focused sources.

(v) Investing in renewable energy resources.

(D) Once a fleet audit has been conducted for the school district, the school district may expend funds received under this paragraph for any of the following purposes:

(i) Purchasing or leasing zero-emission vehicles, as defined in ORS 283.398, including buses.

(ii) Purchasing or installing electric vehicle charging stations to provide electricity to zero-emission vehicles.

(f) Of the funds allocated under subsection (3)(b)(B) of this section, 25 percent must be used for activities, resources and technologies that serve low and moderate income customers, including for technologies that do not have above-market costs.

(g)(A) Funds collected by an electric company or Oregon Community Power, allocated for new low-income weatherization under subsection (3)(b)(C) of this section and directed to the Housing and Community Services Department shall be spent within the service territory of the electric company or Oregon Community Power from which the funds are collected.

(B) As further determined by the Housing and Community Services Department, a portion of the funds described in this paragraph may be used for manufactured housing replacements as a means to deliver energy efficiency, pursuant to a program dedicated to manufactured housing replacement.

(C) For purposes of this paragraph and as further determined by the Housing and Community Services Department, purposes related to new low-income weatherization includes providing funding for participants in programs by low-income weatherization service providers to change energy sources from bulk fuels to electricity service.

(h) The commission may not establish a different public purpose charge than the public purpose charge described in subsection (2) of this section.

(4)(a) A retail electricity consumer that uses more than one average megawatt of electricity at any site in the prior year shall receive a credit against public purpose charges billed by an electric company or Oregon Community Power for that site. The amount of the credit shall be equal to the total amount of qualifying expenditures for the above-market costs of new renewable energy resources and investments in distribution system-connected technologies incurred by the retail electricity consumer, not to exceed 25.5 percent of the annual public purpose charges, less administration costs incurred under this paragraph and paragraphs (b) and (c) of this subsection. The credit may not exceed, on an annual basis, the lesser of:

(A) The amount of the retail electricity consumer's qualifying expenditures; or

(B) The portion of the public purpose charge billed to the retail electricity consumer that is dedicated to the above-market costs of new renewable energy resources and investments in distribution system-connected technologies.

(b) To obtain a credit under paragraph (a) of this subsection, a retail electricity consumer shall file with the State Department of Energy a description of the proposed new renewable energy resource or investment in distribution system-connected technology and a declaration that the retail electricity consumer plans to incur the qualifying expenditure. The State Department of Energy shall issue a notice of precertification within 30 days of receipt of the filing, if such filing is consistent with paragraph (a) of this subsection. The credit may be taken after a retail electricity consumer provides a letter from a certified public accountant to the State Department of Energy verifying that the precertified qualifying expenditure has been made.

(c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that are not used in one year may be carried forward for use in subsequent years.

(5) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit for the public purpose expenditures of

their energy suppliers. The State Department of Energy shall adopt rules to determine eligible expenditures and the method by which such credits are accounted for and used. The State Department of Energy also shall adopt methods to account for eligible public purpose expenditures made through consortia or collaborative projects.

(6) For purposes of this section, "retail electricity consumers" includes any direct service industrial consumer that purchases electricity without purchasing distribution services from the electric utility.

(7) For purposes of this section, funds collected by Oregon Community Power through public purpose charges are not considered moneys received from electric utility operations. [1999 c.865 §3; 2001 c.134 §9; 2001 c.819 §3; 2005 c.22 §506; 2007 c.217 §9; 2007 c.301 §27; 2007 c.807 §43a; 2007 c.837 §2a; 2009 c.813 §1; 2011 c.467 §10; 2011 c.566 §2; 2015 c.180 §50; 2017 c.200 §1; 2019 c.565 §7; 2021 c.536 §5; 2021 c.547 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.613 - Whole building assessment; investment in energy efficiency.**

(1) If an electric company invests moneys collected under ORS 757.054 on new cost-effective local energy conservation, or if the nongovernmental entity described in ORS 757.746 invests moneys paid to the nongovernmental entity under ORS 757.054 on new cost-effective local energy conservation, and if the investment involves updating the energy efficiency of a residential or nonresidential building, the electric company, Oregon Community Power or the nongovernmental entity may make those investments by conducting a whole building assessment of the energy efficiency of the building and, in consideration of the whole building assessment, by maximizing the overall energy efficiency of the building. For purposes of this subsection, a "whole building assessment" means a single assessment of savings opportunities, as identified by the Public Utility Commission by rule or order.

(2) An investment described in subsection (1) of this section must be limited to an investment in a single project, as authorized by the commission by rule or order. [2013 c.383 §1; 2021 c.547 §5]

Note:

757.613 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.615**

[1961 c.691 §3,11; part renumbered 757.652; 1971 c.655 §98; renumbered 758.410]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.616**

[Formerly 758.060; renumbered 165.485]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.617 - Report to Legislative Assembly on public purpose expenditures; independent nongovernmental entity to prepare report; report on low-income bill assistance.**

(1) The Public Utility Commission and the State Department of Energy jointly shall select an independent nongovernmental entity to prepare a biennial report to the Legislative Assembly describing program spending and results for public purpose requirements undertaken pursuant to ORS 757.612.

(2) The Housing and Community Services Department shall prepare a biennial report to the Legislative Assembly describing program spending and needs for low-income bill assistance. [1999 c.865 §3a; 2021 c.547 §24]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.620**

[1961 c.691 §4; renumbered 758.415]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.621**

[Formerly 758.070; renumbered 165.490]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.622 - Commission to establish terms and conditions for default electricity service to nonresidential consumers.**

The Public Utility Commission shall establish the terms and conditions for providing default electricity service for nonresidential electricity consumers in an emergency. The commission also shall establish reasonable terms and conditions for providing default service to a nonresidential electricity consumer in circumstances when the consumer is receiving electricity services through direct access and elects instead to receive such services through the default service. The terms and conditions for default service established by the commission shall provide for viable competition among electricity service suppliers. [1999 c.865 §4a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.625**

[1961 c.691 §5; renumbered 758.420]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.626**

[Formerly 758.080; renumbered 165.495]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.627 - Retail electricity consumers eligible for direct access may aggregate electricity loads.**

(1) An electric company shall permit retail electricity consumers that are eligible for direct access to voluntarily aggregate their electricity loads.

(2) A retail electricity consumer that is eligible for direct access may voluntarily aggregate its electricity load with the electricity load of any other retail electricity consumer that is eligible for direct access. [1999 c.865 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.629 - Reciprocal sales to nonresidential electricity consumers.**

An electric utility that sells electricity, either directly or through a related party, to a nonresidential electricity consumer of another electric utility in this state shall permit any other electricity service supplier to sell electricity to nonresidential electricity consumers of the electric utility. [1999 c.865 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.630**

[1961 c.691 §6; renumbered 758.425]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.631**

[Formerly 758.090; renumbered 165.840]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.632 - Electricity service supplier's access to electric company's distribution facilities.**

Every electricity service supplier is authorized to use the distribution facilities of an electric company on a nondiscriminatory basis after the retail electricity consumers of the electricity service supplier are afforded direct access pursuant to ORS 757.601. [1999 c.865 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.635**

[1961 c.691 §7; renumbered 758.430]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.636**

[Formerly 758.100; renumbered 165.845]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.637 - Comparable access to transmission and distribution facilities.**

To the extent permissible under federal law, the Public Utility Commission shall ensure that an electric company that offers direct access:

(1) Provides electricity service suppliers and retail electricity consumers access to its transmission facilities and distribution system comparable to that provided for its own use; and

(2) Provides electricity service suppliers and retail electricity consumers timely access to information about its transmission facilities and distribution system, metering and loads comparable to that provided to its own nondistribution divisions, affiliates and related parties. [1999 c.865 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.640**

[1961 c.691 §8; renumbered 758.435]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation**

**GenerallySection 757.641**

[Formerly 758.110; renumbered 165.850]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 757 - Utility Regulation  
GenerallySection 757.642 - Unbundling electricity assets; records.**

- (1) Not later than March 1, 2002, an electric company shall unbundle the costs of electricity services into power generation, transmission, distribution and retail services.
- (2) Every electric company shall maintain separate accounting records for each component of electricity service provided by the electric company to retail electricity consumers. Accounts shall be maintained according to regulations issued by the Federal Energy Regulatory Commission.
- (3) Unless required to provide a different accounting under federal requirements, each electric company shall, to a reasonable level of detail, separately identify and account for its costs of:
  - (a) Generation;
  - (b) Transmission services;
  - (c) Distribution services;
  - (d) Ancillary services;
  - (e) Consumer service charges levied on retail electricity consumers, including but not limited to metering and billing;
  - (f) Investment in public purposes; and
  - (g) State and local taxes paid by retail electricity consumers.
- (4) An electric company shall separately identify and account for the costs of any additional components as the Public Utility Commission may require. [1999 c.865 §5; 2001 c.819 §4]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 757 - Utility Regulation  
GenerallySection 757.645**

[1961 c.691 §9; renumbered 758.440]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 757 - Utility Regulation  
GenerallySection 757.646 - Policies to eliminate barriers to competitive retail market; code of conduct for electric companies; rules.**

- (1) The duties, functions and powers of the Public Utility Commission shall include developing policies to eliminate barriers to the development of a competitive retail market between electricity service suppliers and electric companies. The policies shall be designed to mitigate the vertical and horizontal market power of incumbent electric companies and prohibit preferential treatment, or the appearance of such treatment, by the incumbent electric companies toward generation or market affiliates. The commission may require an electric company acting as an electricity service supplier do so through an affiliate.
- (2) The commission shall establish by rule a code of conduct for electric companies and their affiliates to protect against market abuses and anticompetitive practices. The code shall, at a minimum:
  - (a) Require an electric company and any affiliate that shares the same name and logo to disclose to all consumers the relationship between the company and affiliate and to clarify that the affiliate is not the same as the electric company and that in order to receive service from the company a consumer does not have to purchase the services of the affiliate;
  - (b) Prohibit preferential access by an electric company affiliate to confidential consumer information;
  - (c) Minimize cross-subsidization between competitive operations and regulated operations, including the use of electric company personnel and other resources;
  - (d) Prohibit joint marketing activities and exclusive referral arrangements between an electric company and its affiliates;
  - (e) Provide the commission with all necessary access to books and records;
  - (f) Require electric companies to make regular compliance filings; and
  - (g) Require fair treatment of all competitors by a distribution utility.
- (3) An electric company shall provide the commission access to all books and records necessary for the commission to monitor the electric company and its affiliate relationships. The commission shall require an electric company biannually to file a report detailing compliance with this subsection.
- (4) Notwithstanding subsection (1) of this section, the commission shall ensure that policies developed to mitigate the vertical and horizontal market power of incumbent electric companies do not limit or delay electric companies from offering programs or services or making prudent investments in furtherance of the clean energy targets established by ORS 469A.410 or a program established under ORS 757.603 (5), or that otherwise aid in reducing statewide emissions of greenhouse gases consistent with state policies, including ORS 283.398 and 468A.205. [1999 c.865 §6; 2001 c.683 §18; 2021 c.508 §23]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 757 - Utility Regulation  
GenerallySection 757.649 - Certification of electricity service suppliers; safety standards for distribution systems; billing requirements; rules.**

- (1)(a) A person or other entity shall not act as an electricity service supplier unless the person or entity is certified by the Public Utility Commission. The commission, by rule, shall establish standards for certification of persons or other entities as electricity service suppliers in this state. The rules shall, at a minimum, address:
- (A) The ability of the person or entity to meet the person's or entity's obligation to provide electricity services pursuant to direct access; and
  - (B) The ability of the person or entity to comply with applicable consumer protection laws.
- (b) The commission may require an electricity service supplier to provide a bond or other security.
- (c) The commission may establish a fee, not to exceed \$500, for initial certification and annual recertification of electricity service suppliers.
- (d) The commission, at any time, may revoke an electricity service supplier's certification for failure to comply with applicable statutes and rules.
- (e) The commission may require an electricity service supplier to provide information necessary to ensure compliance with ORS 757.612. The commission shall ensure the privacy of all information and the protection of any proprietary information provided.
- (f) The commission shall require an electricity service supplier to publicly disclose a summary of the aggregated energy supply mix and associated emissions of the power sources that serve the direct access retail electricity consumers of the electricity service supplier, or such other aggregated information comparable to information provided by electric companies to retail electricity consumers as the commission may require.
- (2) Every electric utility shall maintain the integrity of its transmission facilities and distribution system and provide safe, reliable service to all retail electricity consumers. Nothing in ORS 757.600 to 757.667 or 757.669 to 757.687 shall reduce or diminish the statutory or contractual obligations of electric utilities to maintain the safety and reliability of their transmission facilities and distribution system and other infrastructure and equipment used to deliver electricity.
- (3) The commission for electric companies, or the governing body for other electric utilities, shall adopt rules, ordinances, policies and service quality standards designed to maintain a reliable, safe and efficient distribution system. The commission shall regulate electrical safety regarding generation, transmission, substation and distribution facilities for electric utilities and other electrical system owners and operators as provided under ORS 757.035.
- (4) Every bill to a direct access retail electricity consumer from an electricity service supplier shall contain at least:
- (a) The rate and amount due for each service or product that the retail electricity consumer is purchasing and other price information necessary to facilitate direct access, as determined by the commission;
  - (b) The rates and amounts of state and local taxes or fees, if any, imposed on the retail electricity consumer;
  - (c) The amount of any public purpose charge or credit;
  - (d) The amount of any transition charge or transition credit; and
  - (e) Power source and environmental impact information necessary to ensure that all consumers have useful, reliable and necessary information to exercise informed choice, as determined by the commission.
- (5)(a) A retail electricity consumer of an electric company shall receive, upon request, a separate bill from every individual electricity service supplier that provides products or services to the retail electricity consumer. If a retail electricity consumer of an electric company does not request separate bills, or a consolidated bill from an electricity service supplier as provided in paragraph (c) of this subsection, the electric company shall consolidate the bills for all electricity services into a single statement, and electricity service suppliers shall provide to the electric company the information necessary to prepare a consolidated statement.
- (b) The requirement for bill consolidation by an electric company shall continue through December 31, 2001, after which time the commission may waive the requirement if the waiver results in effective billing procedures for retail electricity consumers.
- (c) Upon the request of a retail electricity consumer of an electric company, an electricity service supplier shall consolidate the bills for all electricity services into a single statement, and electric utilities and other electricity service suppliers shall provide to the billing electricity service supplier any information necessary to prepare a consolidated statement.
- (d) For retail electricity consumers of an electric company, the commission shall adopt by rule provisions relating to the failure of a consumer to make full payment on a consolidated bill. The rules shall address collection of payments, service disconnection and reconnection, and the allocation of costs associated with collection, disconnection and reconnection. A distribution utility shall be solely responsible for actual disconnection and reconnection. [1999 c.865 §14; 2021 c.508 §25]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.650**

[1961 c.691 §10; renumbered 758.445]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.652**

[Formerly part of 757.615; 1965 c.242 §1; renumbered 758.450]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.654 - Commission authority to investigate allegations of undue market influence.**

Upon receiving a complaint, or on its own motion, the Public Utility Commission is authorized to investigate, as provided under



ORS 756.515, whether any electric company that is an electricity service supplier has exercised undue market power with respect to the sale or distribution of electricity services. The commission may take such action as authorized by law to mitigate an exercise of undue market power. [1999 c.865 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.655**

[1961 c.691 §13; renumbered 758.455]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.656 - Failure to comply with ORS 757.600 to 757.667; cause of action.**

Any claim that an electric company has failed to comply with ORS 757.600 to 757.667 shall be filed as a complaint with the Public Utility Commission pursuant to ORS 756.500. After reasonable notice to the electric company and exhausting all available remedies before the commission, any person injured by an electric company's failure to comply with any provision of ORS 757.600 to 757.667 may file an action in the circuit court for the county where the electric company has its principal business office in this state for an order requiring compliance with ORS 757.600 to 757.667. [1999 c.865 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.659 - Commission rules; contents.**

According to the applicable provisions of ORS 756.060 and ORS chapter 183, the Public Utility Commission shall adopt such rules as are necessary to implement ORS 757.600 to 757.667. Rules adopted by the commission shall address at least the following:

- (1) Requirements and methodologies for each electric company to provide unbundled rates and services pursuant to ORS 757.642.
- (2) Requirements for each electric company allowing aggregation of electricity loads pursuant to ORS 757.627, which may include aggregation of demand for other services available under direct access.
- (3) Requirements for consumer protection. Consumer protection rules adopted by the commission that relate to electricity service suppliers shall be applicable throughout this state and shall, at a minimum, contain provisions for the disclosure of price, power source and environmental impact in contract offers and marketing information.
- (4) Market valuation methodologies for determining the amount and recovery of the costs of uneconomic utility investment and the amount of and credit for economic utility investment.
- (5) Requirements for each electric company to offer a portfolio of rate options under ORS 757.603.
- (6) The method of determining a default supplier for those consumers who are not eligible to participate in a portfolio program under ORS 757.603 in a manner that provides for viable competition among electricity service suppliers and among power generation companies. The commission may condition the use of a default service option by requiring reasonable notice and commitment from a consumer who intends to use the default service option in nonemergency situations.
- (7) Requirements for market structure described in ORS 757.646.
- (8) Requirements for public purpose charges and credits under ORS 757.612.
- (9) Requirements for meters, metering services, billing and collection services, and customer response functions. [1999 c.865 §15; 2001 c.683 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.660 - Use of arbitration to resolve disputes relating to valuation of electric company investments; rules.**

- (1) In adopting market valuation methodologies under ORS 757.659 (4), the Public Utility Commission may provide for use of arbitration to resolve disputes relating to valuation of electric company investments.
- (2) The commission shall adopt rules for the following purposes:
  - (a) Establishing the process for selecting an arbitrator under this section.
  - (b) Establishing the type, scope and subject matter of arbitrations under this section, and the procedure for conducting those arbitrations.
  - (c) Establishing standards for the decision of an arbitrator under this section.
  - (d) Governing who may be a party to an arbitration under this section.
- (3)(a) An arbitrator selected under rules adopted pursuant to subsection (2) of this section must be experienced in valuing generating resources and may not have any material conflict of interest in the result of the arbitration.
- (b) Any party to the arbitration may challenge the selection of an arbitrator by direct petition to the commission. The commission's review of the selection shall be limited to allegations of bias and lack of qualifications. The commission shall hold a hearing within 10 days after the filing of a petition, and the commission shall issue a final decision within 10 days after the hearing. The commission may require selection of a different arbitrator.
- (4) The arbitrator shall control the time, manner and place of the arbitration, subject to any limitations established by commission rule.
- (5) An arbitrator acts on behalf of the commission in performing duties and powers under this section and under rules adopted by the commission pursuant to this section. Nothing in this section shall be construed to grant any rights or privileges to an arbitrator that

are otherwise afforded to persons employed by the state.

(6) The commission shall enforce an arbitration decision made pursuant to this section, unless any party to the arbitration files written exceptions with the commission for any of the following causes:

(a) The decision was procured by corruption, fraud or undue means;

(b) There was evident partiality or corruption on the part of the arbitrator;

(c) The arbitrator exceeded the arbitrator's powers, or so imperfectly executed the arbitrator's powers that the rights of the party were substantially prejudiced;

(d) There was an evident material miscalculation of figures or an evident material mistake in the description of any thing or property referred to in the decision; or

(e) The decision was based on an erroneous interpretation of a statute, rule or other law.

(7) If, after a hearing on the exceptions filed as provided in subsection (6) of this section, it appears to the commission that the decision should be set aside or modified, the commission may by order refer the decision back to the arbitrator with proper instructions for correction or rehearing.

(8) A commission order or decision under this section may not be appealed until after the commission issues a final order adopting the arbitration decision. [2001 c.134 §1a; 2005 c.22 §507; 2005 c.638 §10]

Note:

757.660 was added to and made a part of 757.600 to 757.687 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.661 - Commission authority to require filing.**

The Public Utility Commission may require an electric company to make any filings under this chapter that the commission determines necessary to implement ORS 757.600 to 757.667. [1999 c.865 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.663 - Commission authority to require electric company to enter into contracts with Bonneville Power Administration.**

In order to preserve the benefits of federal low-cost power for residential and small-farm consumers of electric utilities, the Public Utility Commission may require an electric company to enter into contracts with the Bonneville Power Administration for the purpose of securing such benefits. The contracts shall be subject to approval by the commission. In reviewing a contract, the commission, at a minimum, shall consider:

(1) The short-term expected cost of electric power from the Bonneville Power Administration compared to market-priced alternatives;

(2) The long-term benefit of retaining the rights to purchase electric power from the Bonneville Power Administration at cost, compared to market-priced alternatives; and

(3) Other factors deemed relevant by the commission. [1999 c.865 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.665 - Limitation on installing, servicing electric meters.**

Electric meter installation, testing and maintenance shall be performed only by a distribution utility. [1999 c.865 §15a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.667 - City authority over rights of way.**

Nothing in ORS 757.600 to 757.667 shall diminish, or authorize regulations that diminish, a city's authority to control the use of its rights of way and to collect license fees, privilege taxes, rent or other charges for the use of the city's rights of way. [1999 c.865 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.669 - Policy regarding consumer-owned electric utilities.**

The Legislative Assembly declares that it is the policy of the State of Oregon regarding consumer-owned utilities to:

(1) Preserve and enhance the ability of community-based, consumer-owned utilities to provide reliable electric power to their consumers;

(2) Recognize that communities served by consumer-owned utilities located in various parts of the State of Oregon may differ in their needs and desires concerning the provision of electricity and related products and services;

(3) Preserve and enhance the ability of consumer-owned utilities and their elected governing bodies to respond to their consumers' needs and desires;

(4) Retain local control over consumer-owned utilities that provide or distribute electricity to retail electricity consumers;

(5) Preserve, clarify and, as provided herein, enhance the rights and authorities of consumer-owned utilities and their governing

bodies; and

(6) Preserve the existing exclusive distribution rights of electric utilities as and to the extent such rights exist under current law. [1999 c.865 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.670**

[1961 c.691 §14; renumbered 758.460]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.672 - Application of ORS 757.603 to 757.667 to consumer-owned electric utility; reciprocal electricity sales.**

(1) Nothing in ORS 757.603 to 757.667 is intended to limit or restrict the rights and authority of a consumer-owned utility, or to subject a consumer-owned utility to the regulatory authority of the Public Utility Commission not otherwise provided by law. ORS 757.603 to 757.667 shall not apply to a consumer-owned utility.

(2) Notwithstanding subsection (1) of this section, a consumer-owned utility that sells electricity, either directly or through a related party, to a nonresidential electricity consumer of another electric utility in this state, shall permit any other electricity service supplier to sell electricity to the consumer-owned utility's nonresidential electricity consumers whose electricity use, measured in average megawatts per year, is equal to or greater than the use of the nonresidential electricity consumer of the other electric utility. Such consumer-owned utility shall be subject to ORS 757.649 (1) to (4) and rules adopted thereunder. [1999 c.865 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.675**

[1961 c.691 §12; 1971 c.655 §99; renumbered 758.465]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.676 - Consumer-owned utility authorized to offer direct, portfolio or other forms of access to electricity services.**

The governing body of a consumer-owned utility is authorized to determine whether and under what terms and conditions it will offer its retail electricity consumers direct access, portfolio access or other forms of access to electric service suppliers. In making such determination, the governing body of a consumer-owned utility shall consider such factors as it deems appropriate. A consumer-owned utility shall have sole authority to determine:

- (1) The quality and nature of electric service, including but not limited to different product and pricing options, which shall be made available to its retail electricity consumers.
- (2) The extent to which products and services will be unbundled and the rates, tariffs, terms and conditions on which they may be offered.
- (3) Whether one or more pilot programs for direct access, portfolio access or other forms of access to alternative suppliers will be offered.
- (4) Notwithstanding ORS 757.600 (10) and (35), what constitutes an economic or uneconomic utility investment, the value of such investments and, in the case of uneconomic utility investments, the manner and means of mitigating such investments.
- (5) Whether and on what basis a transition charge will be adopted, assessed and collected from a retail electricity consumer located within the utility's service territory, including but not limited to a nonbypassable distribution charge, the amount and period of recovery for the charges, the allocation of the charges among retail electricity consumers located within the utility's service territory and the method of collecting such charges including but not limited to whether to impose a nonbypassable distribution charge.
- (6) The manner of collecting stranded distribution charges, systems benefit charges, franchise fees, taxes and payments made in lieu of taxes from retail electricity consumers located within the utility's service territory for electric power transactions using transmission facilities, whether or not such transactions use distribution facilities. The governing body may assign charges on the basis of usage, demand or any combination or method it finds appropriate. Charges need not be assigned to specific facilities.
- (7) The collection from retail electricity consumers located within the utility's service territory through rates, fees or charges, including the imposition of a nonbypassable distribution charge, in amounts sufficient to recover 100 percent of stranded costs imposed by, or incurred pursuant to the purchase of cost-based electric power from, the Bonneville Power Administration. Such stranded cost charges may include the difference in cost associated with purchasing electric power from the Bonneville Power Administration and the cost of purchasing a like and similar amount of electric power at market prices.
- (8) The establishment of technical capability requirements, financial responsibility requirements and other protections for retail electricity consumers located within the utility's service territory and the consumer-owned utility in dealings with electric service suppliers.
- (9) Access to or use of the utility's transmission facilities or distribution system by retail electricity consumers or electric service suppliers.
- (10) The utility's qualification standards for energy service suppliers in addition to any certification standards established by the

Public Utility Commission, provided that the qualification standards are uniformly applied to electricity service providers in a nondiscriminatory manner. [1999 c.865 §24; 2003 c.186 §80]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.679 - Net billing agreements.**

(1) Nothing in ORS 757.669 to 757.687 is intended to impair the rights or obligations of any party to net billing agreements. Notwithstanding any other provision of ORS 757.600 to 757.667, 757.676 and 757.687, and in the event a participating utility is required to make payments pursuant to a net billing agreement, the governing body of a participating utility may levy a rate, fee or charge, including a nonbypassable distribution system access charge against retail electricity consumers located within the utility's service territory, to meet its obligations.

(2) As used in this section:

(a) "EWEB" means the City of Eugene, Oregon, acting by and through the Eugene Water and Electric Board.

(b) "Net billing agreements" means those certain agreements that provide for the payment, through net billing of costs of certain nuclear power projects, including the payment of bonds, notes or other evidences of indebtedness issued by EWEB and by the supply system, respectively, to pay such project costs entered into prior to July 23, 1999:

(A) Between the administrator of the Bonneville Power Administration and EWEB;

(B) Among a participating utility, the administrator of the Bonneville Power Administration and EWEB; or

(C) Among a participating utility, the administrator of the Bonneville Power Administration and the supply system.

(c) "Participating utility" means a consumer-owned utility established by, or organized and existing under, the Oregon Constitution and laws of the State of Oregon, and that is a party to a net billing agreement.

(d) "Supply system" means the Washington Public Power Supply System, a municipal corporation or joint power agency organized and existing under and pursuant to the laws of the State of Washington. [1999 c.865 §25]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.680**

[1961 c.691 §15; renumbered 758.470]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.683 - Consumer-owned utility's distribution rights and control over distribution system.**

Notwithstanding the provisions of ORS 757.600 to 757.667, a consumer-owned utility shall have exclusive distribution rights, to the extent such rights are provided by law, and exclusive responsibility for the performance and oversight of its distribution system including the acquisition, construction, financing, operation and maintenance of distribution facilities and metering, billing, collection and consumer response functions relating to the distribution of electricity to retail electricity consumers located within the utility's service territory. Nothing in this section shall diminish or enlarge the rights of any person under ORS 758.400 to 758.475. [1999 c.865 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.685**

[1961 c.691 §16; 1965 c.242 §2; 1971 c.655 §99a; renumbered 758.475]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.687 - Consumer-owned utility offering direct access; public purpose charge; bill assistance program.**

(1) Beginning on the date a consumer-owned utility provides direct access to any class of retail electric consumers, the consumer-owned utility shall collect from that consumer class a nonbypassable public purpose charge until January 1, 2026. Except as provided in subsection (8) of this section, the amount of the public purpose charge shall be sufficient to produce revenue of not less than three percent of the total revenue collected by the consumer-owned utility from its retail electricity consumers for electricity services, distribution, ancillary services, metering and billing, transition charges and any other costs included in rates as of July 23, 1999, except that the consumer-owned utility may exclude from the calculation of such costs any cost related to the public purposes described in subsection (5) of this section. If a consumer-owned utility has fewer than 17 consumers per mile of distribution line, the amount of the public purpose charge shall be sufficient to produce revenue not less than three percent of the total revenue from the sale of electricity services in the utility's service area to the consumer class that is provided direct access, or the utility's consumer class percentage share of state total electricity sales multiplied by three percent of total statewide retail electric revenue, whichever is less.

(2) Except as provided in subsection (9) of this section, the governing body of a consumer-owned utility shall determine the manner of collecting and expending funds for public purposes required by law to be assessed against and paid by the retail electric consumers of the utility. A determination by the governing body shall include:

(a) The manner for collecting public purpose charges;

(b) Public purpose programs upon which revenue from the charges may be expended; and

(c) The allocation of expenditures for each program.

(3) Beginning on the same date two years after July 23, 1999, a consumer-owned utility shall report annually to the State Department of Energy created under ORS 469.030 on the public purpose charges paid to the utility by its retail electric consumers and the public purposes on which the revenue was expended.

(4) A consumer-owned utility may comply with the public purpose requirements of this section by participating in collaborative efforts with other consumer-owned utilities located in this state.

(5) Funds assessed and paid by, and credits or other financial assistance issued or extended to, retail electric consumers for purposes of this section may, in the discretion of the governing body of the consumer-owned utility, be expended to fund programs for energy conservation, renewable resources or low-income energy services otherwise required by the laws of this state, adopted by the governing body pursuant to the National Energy Conservation Policy Act (Public Law 95-619, as amended November 10, 1981), or conducted by the utility pursuant to agreement with the Bonneville Power Administration under the Pacific Northwest Electric Power Planning and Conservation Act (Public Law 96-501). All such funds expended, credits issued and incremental costs incurred in connection with the performance of a consumer-owned utility's obligations under this section shall be credited toward the utility's public purpose funding obligation under this section.

(6) A consumer-owned utility also may credit toward its funding obligations under this section any incremental costs incurred by the utility for capital expenditures made to reduce its distribution system energy losses, existing biomass gas and waste to energy systems, existing hydroelectric generation projects using fish attraction water, for new energy conservation and renewable resource funding costs included in its wholesale power supplier's charges and for electric power generated by renewable or cogeneration resources pursuant to requirements of the Public Utilities Regulatory Policy Act of 1978 (Public Law 95-617), to the extent that such costs exceed the average cost of the utility's other electric power resources.

(7) A consumer-owned utility also may credit toward its public purpose funding obligations under this section any costs incurred in complying with ORS 469.649 to 469.659.

(8) Beginning on March 1, 2002, a consumer-owned utility whose territory abuts the greatest percentage of the site of an aluminum plant that averages more than 100 megawatts of electricity use per year shall collect from the aluminum company a public purpose charge equal to one percent of the total revenue from the sale of electricity services to the aluminum plant from any source.

(9)(a) A retail electricity consumer that uses more than one average megawatt of electricity at any site in the prior year shall receive a credit against public purpose charges billed by a consumer-owned utility for that site. The amount of the credit shall be equal to the total amount of qualifying expenditures for new energy conservation, not to exceed 68 percent of the annual public purpose charges, and the above-market costs of purchases of new renewable energy resources incurred by the retail electricity consumer, less administration costs incurred under this subsection. The credit shall not exceed, on an annual basis, the lesser of:

(A) The amount of the retail electricity consumer's qualifying expenditures; or

(B) The portion of the public purpose charge billed to the retail electricity consumer that is dedicated to new energy conservation, new market transformation or the above-market costs of new renewable resources.

(b) To obtain a credit under this subsection, a retail electricity consumer shall file with the department a description of the proposed conservation project, new market transformation or new renewable energy resource and a declaration that the retail electricity consumer plans to incur the qualifying expenditure. The department shall issue a notice of precertification within 30 days of receipt of the filing, if such filing is consistent with this subsection. Notice shall be issued to the retail electricity consumer and the appropriate consumer-owned utility. The credit may be taken after a retail electricity consumer provides a letter from a certified public accountant to the department verifying that the precertified qualifying expenditure has been made.

(c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that are not used in one year may be carried forward for use in subsequent years.

(d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at any site in the prior year may request that the department hire an independent auditor to assess the potential for conservation measures at the site. If the independent auditor determines there is no available conservation measure at the site that would have a simple payback of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment obligation for public purpose charges related to the site. If the auditor determines that there are potential conservation measures available at the site, the retail electricity consumer shall be entitled to a credit against public purpose charges related to the site equal to 54 percent of the public purpose charges less the estimated cost of available conservation measures.

(B) A retail electricity consumer shall be entitled each year to the credit described in this paragraph unless a subsequent audit determines that new conservation investment opportunities are available. The department may require that a new audit be performed on the site to determine whether new conservation measures are available, provided that the audits occur no more than once every two years.

(C) The retail electricity consumer shall pay the cost of the audits described in this subsection.

(10) A retail electricity consumer with a load greater than one average megawatt shall not be required to pay a public purpose charge in excess of three percent of the consumer's total cost of electricity services unless the charge is established in an agreement between the consumer and the consumer-owned utility.

(11) Beginning on March 1, 2002, a consumer-owned utility shall have in operation a bill assistance program for households that qualify for federal low-income energy assistance in the consumer-owned utility's service area. A consumer-owned utility shall report annually to the Housing and Community Services Department detailing the utility's program and program expenditures.

(12) A consumer-owned utility may require an electricity service supplier to provide information necessary to ensure compliance with this section. The consumer-owned utility shall ensure the privacy and protection of any proprietary information provided. [1999 c.865 §27; 2001 c.819 §5; 2007 c.301 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.691 - Applicability.**

Nothing in ORS 757.669 to 757.687 is intended to affect administration and enforcement of ORS 758.400 to 758.475 or to diminish or enlarge the rights of any person under ORS 758.400 to 758.475. [1999 c.865 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.695 - Mitigation of energy burdens; costs collection.**

(1) In addition to comprehensive classifications, tariff schedules, rates and bill credits, the Public Utility Commission may address the mitigation of energy burdens through bill reduction measures or programs that may include, but need not be limited to, demand response or weatherization.

(2) The costs of tariff schedules, rates, bill credits or program discounts allowed pursuant to subsection (1) of this section must be collected in the rates of an electric company through charges paid by all retail electricity consumers, such that retail electricity consumers that purchase electricity from electricity service suppliers pay the same amount to address the mitigation of energy burdens as retail electricity consumers that are not served by electricity service suppliers. [2021 c.90 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.698 - Low-income electric bill payment and crisis assistance.**

(1) An electric company, as defined in ORS 757.600, or Oregon Community Power shall collect funds for low-income electric bill payment and crisis assistance in an amount determined by the Public Utility Commission. The commission shall:

(a) Establish the amount to be collected and rates to be charged by each electric company from its customers, including customers receiving electricity from other sources, such that the forecasted collection by all electric companies in a calendar year is at least \$20 million.

(b) Adjust the rates if forecasted collections or actual collections are less than \$20 million in any calendar year but shall not otherwise adjust the rates once set.

(c) Ensure that no customer pays more than \$500 per month per customer site for low-income electric bill payment and crisis assistance.

(2) Funds collected by an electric company or Oregon Community Power under this section must be:

(a) Paid into the Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2);

(b) Used by the Housing and Community Services Department solely for purposes related to low-income electric bill payment and crisis assistance and for the Housing and Community Services Department's cost of administering this section; and

(c) Expended in the service area of the electric company or Oregon Community Power from which the funds are collected.

(3) The Housing and Community Services Department shall determine the manner in which funds collected under this section are allocated by the department to energy assistance program providers for the purpose of providing low-income electric bill payment and crisis assistance. However, the department shall:

(a) In consultation with electric companies, investigate and may implement alternative delivery models to effectively reduce service disconnections and related costs to customers and electric companies; and

(b) Direct priority assistance to low-income customers who are in danger of having their electricity service disconnected.

(4) The department shall maintain records and provide those records upon request to an electric company, Oregon Community Power and the Citizens' Utility Board established under ORS chapter 774 on a quarterly basis. Records maintained must include the numbers of low-income customers served, the average amounts paid and the type of assistance provided. Electric companies and Oregon Community Power shall, if requested, provide the department with aggregate data relating to low-income customers served on a quarterly basis to support program development.

(5) Interest on moneys deposited in the Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to provide bill payment and crisis assistance to customers whose primary source of heat is not electricity.

(6) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon Community Power to provide reduced rates or other bill payment or crisis assistance or low-income program assistance to a low-income household eligible for assistance under the federal Low Income Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999. [2021 c.536 §2 and 2021 c.547 §15 as amended by 2021 c.536 §2a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.710 - Emergency curtailment plan required; credits for weatherization or alternate energy devices.**

(1) Any person, as defined in ORS 758.400, engaged in the sale or resale of electricity or natural or synthetic gas in this state shall

present for approval by the Public Utility Commission a plan for curtailment of electrical or gas load in the event of any predictable circumstance that may jeopardize prolonged continuity of service. Utility plans shall be submitted in such form and within such time limits as the commission shall specify.

(2) Utility plans may provide for a credit against future curtailment for a customer who has already accomplished a reduction in demand for the utility's service by installing an alternative energy device or by weatherization or other installed conservation measures equivalent to the proposed level of curtailment. Where the level of curtailment exceeds the demand reduction produced, by the conservation measures or installed alternative energy device of the customer, the utility plan may provide for credit against the level of curtailment ordered to the extent of the demand reduction produced by the conservation measure or alternate energy device.

(3) The commission shall approve the feature of any plan concerning such credit against curtailment to the extent of the demand reduction produced and shall not penalize either the utility or the customer, in the event of a curtailment order, under ORS 757.720 for the amount of reduced demand. [1973 c.309 §2; 1975 c.606 §10; 1979 c.355 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.720 - Factors to be considered in approving plan; authority to establish plan; consultation with State Department of Energy.**

(1) Approval of utility plans for the curtailment of load shall be based on the following factors:

(a) The consistency of the plan with the public health, safety and welfare;

(b) The technical feasibility of implementation of the plan;

(c) The effectiveness with which the plan minimizes the impact of any curtailment; and

(d) Consistency with Oregon energy policies formulated under ORS 469.010 to 469.155, 469.300 to 469.563 and 757.710 and this section.

(2) In the event of an emergency threatening the health, safety and welfare of the general public, the Public Utility Commission may on the commission's own motion and without hearing establish a plan for the curtailment of load by any person referred to in ORS 757.710. If an emergency is not present, the commission shall prior to approval hold public hearings with respect to any proposed plan and give reasonable notice of such hearings.

(3) The commission shall consult with the Director of the State Department of Energy before approving a plan. [1973 c.309 §3; 1975 c.606 §11; 2005 c.22 §508]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.730 - Liability when curtailment occurs.**

A utility shall not be liable for damages to persons or property resulting from a curtailment of service in accordance with a plan approved by the Public Utility Commission. [1973 c.309 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.732 - Definitions for ORS 757.732 to 757.744.**

As used in ORS 757.732 to 757.744:

(1) "Agreement in principle" means the agreement signed November 13, 2008, by the states of Oregon and California, by the United States Department of the Interior and by PacifiCorp.

(2) "Allocated share" means the portion of PacifiCorp's costs assigned to this state under the interjurisdictional cost allocation methodology used by the Public Utility Commission for the purpose of establishing rates for PacifiCorp.

(3) "Customers" means the Oregon retail electricity customers of PacifiCorp.

(4) "Final agreement" means a successor agreement to the agreement in principle.

(5) "Klamath River dam" means the J.C. Boyle Dam located in Oregon, the Copco 1 Dam located in California, the Copco 2 Dam located in California or the Iron Gate Dam located in California. [2009 c.690 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.734 - Recovery of investment in Klamath River dams.**

(1) Not more than six months after the execution of a final agreement, the Public Utility Commission shall determine a depreciation schedule under ORS 757.140 for each Klamath River dam based on the assumption that the dam will be removed in 2020. The commission may change a depreciation schedule determined under this section at any time if removal of a dam will occur during a year other than 2020.

(2) The commission shall use the depreciation schedules prepared under this section to establish rates and tariffs for the recovery of Oregon's allocated share of undepreciated amounts prudently invested by PacifiCorp in a Klamath River dam. Amounts recoverable under this section include, but are not limited to:

(a) Return of investment and return on investment;

(b) Capital improvements required by the United States or any state for continued operation of the dam until dam removal;

(c) Amounts spent by PacifiCorp in seeking relicensing of the dam before July 14, 2009;

(d) Amounts spent by PacifiCorp for settlement of the issues of relicensing or removal of the dam; and

(e) Amounts spent by PacifiCorp for the decommissioning of the dam in anticipation of the dam's removal.

(3) If any amount specified under subsection (2) of this section has not been recovered by PacifiCorp before a dam is removed, the Public Utility Commission shall allow recovery of that amount by PacifiCorp in PacifiCorp's rates and tariffs. The commission shall allow the recovery without an amortization schedule if the impact of the recovery does not exceed one-half of one percent of PacifiCorp's annual revenue requirement. If the impact exceeds one-half of one percent of PacifiCorp's annual revenue requirement, the commission may establish an amortization schedule that limits the annual impact to one-half of one percent of PacifiCorp's annual revenue requirement. [2009 c.690 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.736 - Surcharges for funding costs of removing Klamath River dams; judicial review.**

(1) Not more than 30 days after the execution of a final agreement, PacifiCorp must file a copy of the final agreement with the Public Utility Commission along with full and complete copies of all analyses or studies that relate to the rate-related costs, benefits and risks for customers of removing or relicensing Klamath River dams and that were reviewed by PacifiCorp during the decision-making process that led to PacifiCorp's entering into the final agreement.

(2) PacifiCorp must include with the filing made under subsection (1) of this section tariffs for the collection of two nonbypassable surcharges from its customers for the purpose of paying the costs of removing Klamath River dams as described in subsection (1) of this section. Notwithstanding the commission's findings and conclusions under subsection (4) of this section, the commission shall require PacifiCorp to begin collecting the surcharges on the date that the filing is made under subsection (1) of this section, or on January 1, 2010, whichever is later, and PacifiCorp shall continue to collect the surcharges pending a final decision on the commission's order under subsection (4) of this section. The surcharges imposed under this section shall be:

(a) A surcharge for the costs of removing the J.C. Boyle Dam; and

(b) A surcharge for the costs of removing the Copco 1 Dam, the Copco 2 Dam and the Iron Gate Dam.

(3) The surcharges imposed under this section may not exceed the amounts necessary to fund Oregon's share of the customer contribution of \$200 million identified in the agreement in principle. In addition, the total amount collected in a calendar year under both surcharges may not exceed more than two percent of PacifiCorp's annual revenue requirement as determined in PacifiCorp's last case under ORS 757.210 decided by the commission before January 1, 2010.

(4) Not more than six months after a filing is made under subsection (1) of this section, the commission shall conduct a hearing under ORS 757.210 on the surcharges imposed under this section, and shall enter an order setting forth findings and conclusions as to whether the imposition of surcharges under the terms of the final agreement results in rates that are fair, just and reasonable.

(5) Notwithstanding ORS 183.482 (1), jurisdiction for judicial review of any appeal of an order entered under subsection (4) of this section is conferred on the Supreme Court, and a person seeking judicial review of the order must file a petition for review with the Supreme Court in the manner provided by ORS 183.482. ORS 183.482 (3) does not apply to an order entered under subsection (4) of this section. If a petition for review is filed, the surcharges imposed under the terms of the final agreement shall remain in effect pending a final decision on the petition, but shall be refunded if the rates resulting from the surcharges are finally determined not to be fair, just and reasonable. A petition filed under this subsection must indicate on its face that the petition is filed pursuant to this subsection.

(6) The commission may not use any commercially sensitive information provided to the commission in a filing made under subsection (1) of this section for any purpose other than determining whether the imposition of surcharges under the terms of the final agreement results in rates that are fair, just and reasonable. Notwithstanding ORS 192.311 to 192.478, the commission may not release commercially sensitive information provided to the commission under this section, and shall require any person participating in a proceeding relating to the surcharge to sign a protective order prepared by the commission before allowing the participant to obtain and use the information.

(7) The surcharges imposed under this section must be of a specified amount per kilowatt hour billed to retail customers, as determined by the commission. The amount of each surcharge shall be calculated based on a collection schedule that will fund, by December 31, 2019, Oregon's share of the customer contribution of \$200 million identified in the agreement in principle. To the extent practicable, the commission shall set the surcharges so that total annual collections of the surcharges remain approximately the same during the collection period, and, when setting the rate for the surcharges, the commission shall account for the actual and expected changes in energy usage over the collection period and account for the actual and expected changes in interest rates on the collected funds over the collection period. The commission may change the collection schedule if a Klamath River dam will be removed during a year other than 2020.

(8) Except as provided in ORS 757.738 (2), all amounts collected under the surcharges imposed under this section shall be paid into the appropriate trust account established under ORS 757.738.

(9) If the commission determines at any time that amounts have been collected under this section in excess of those needed, or in excess of those allowed, the commission must:

(a) Direct the trustee of the appropriate trust account under ORS 757.738 to refund these excess amounts to customers or to otherwise use these amounts for the benefit of customers; or

(b) Adjust future surcharge amounts as necessary to offset the excess amounts.

(10) If one or more Klamath River dams will not be removed, the commission shall direct PacifiCorp to terminate collection of all or part of the surcharges imposed under this section. In addition, the commission shall direct the trustee of the appropriate trust account



under ORS 757.738 to apply any excess balances in the accounts to Oregon's allocated share of prudently incurred costs to implement Federal Energy Regulatory Commission relicensing requirements. If any excess amounts remain in the trust accounts after that application, the Public Utility Commission shall order that the excess amounts be refunded to customers or otherwise be used for the benefit of customers in accordance with Public Utility Commission rules and policies.

(11) For the purposes of subsection (2) of this section, "the costs of removing Klamath River dams" includes costs of:

- (a) Physical removal of the dams;
- (b) Site remediation and restoration;
- (c) Avoiding downstream impacts of dam removal;
- (d) Downstream impacts of dam removal;
- (e) Permits that are required for the removal;
- (f) Removal and disposal of sediment, debris and other materials, if necessary; and
- (g) Compliance with environmental laws. [2009 c.690 §4; 2011 c.394 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.738 - Surcharge trust accounts related to removal of Klamath River dams.**

(1)(a) The Public Utility Commission shall establish a separate trust account for amounts generated by each of the two surcharges imposed under ORS 757.736. The commission shall establish the trust accounts as interest-bearing accounts:

- (A) With an agency of the United States identified in the final agreement;
- (B) In a qualified depository under ORS 295.001 to 295.108; or
- (C) With the State Treasurer, to be invested as provided in ORS 293.701 to 293.857.

(b) The commission may establish each of the two trust accounts with a different trustee among those listed in paragraph (a) of this subsection.

(c) The commission may authorize transfer of funds from one trust account to another as necessary to fund removal of the Klamath River dams.

(2) If an agreement is entered into under ORS 757.742 (2), the parties to the agreement may agree that a portion of the amounts collected under one surcharge may be deposited in the trust account established for amounts collected under the other surcharge.

(3) Upon request of an agency of the United States, or upon request of the designee of an agency of the United States, the commission shall require the trustee of the appropriate trust account established under this section to transfer to the agency or designee the amounts that are necessary to pay the costs of removing the Klamath River dams as described in ORS 757.736 (11).

(4) If any amounts remain in a trust account established under this section after the trustee makes all payments necessary for the costs of removing the Klamath River dams as described in ORS 757.736 (11), the commission shall direct the trustee of the account to refund those amounts to customers or to otherwise use the excess amounts for the benefit of customers. [2009 c.690 §5; 2011 c.394 §2; 2019 c.587 §50]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.740 - Recovery of other costs incurred as result of changes in operation to or removal of Klamath River dams.**

Pursuant to ORS 757.210, the Public Utility Commission shall allow PacifiCorp to include in its rates and tariffs this state's allocated share of any costs that are prudently incurred by PacifiCorp from changes in operation of Klamath River dams before removal of the dams, or that are prudently incurred for replacement power after the dams are removed, that are not otherwise recovered under ORS 757.734 and 757.736. [2009 c.690 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.742 - Public Utility Commission authorization to enter agreement with California related to cost apportionment and trust fund.**

(1) The State of Oregon may enter into an agreement with representatives of the State of California, either as part of a final agreement or by separate agreement, that establishes each state's share of the customer contribution of \$200 million identified in the agreement in principle.

(2) The Public Utility Commission may enter into an agreement with representatives of the State of California to establish and administer the trust accounts authorized under ORS 757.738 and to ensure that trust account moneys are disbursed for dam removal costs that are necessary and appropriate. [2009 c.690 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.744 - Disclaimers.**

(1) ORS 757.732 to 757.744 do not authorize the expenditure of any public moneys for removal of Klamath River dams.

(2) ORS 757.732 to 757.744 do not create a cause of action against the State of Oregon or against any of the officers, employees or agents of the state and may not be used as the basis for an assertion of liability on the part of the State of Oregon or of any officers, employees or agents of the state. [2009 c.690 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.746 - Requirements for nongovernmental entities receiving funds.**

(1) If the Public Utility Commission requires funds collected pursuant to ORS 757.054, through natural gas tariffs or through public purpose charges pursuant to ORS 757.612 to be paid to a nongovernmental entity, the entity shall:

- (a) Include on the entity's board of directors an ex officio member designated by the commission, who shall also serve on the entity's nominating committee for filling board vacancies.
- (b) Require the entity's officers and directors to provide an annual disclosure of economic interest to be filed with the commission on or prior to April 15 of each calendar year for public review in a form similar to the statement of economic interest required for public officials under ORS 244.060.
- (c) Require the entity's officers and directors to declare actual and potential conflicts of interest at regular meetings of the entity's governing body when such conflicts arise, and require an officer or director to abstain from participating in any discussion or voting on any item where that officer or director has an actual conflict of interest. For the purposes of this paragraph, "actual conflict of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.
- (d) Annually, arrange for an independent auditor to audit the entity's financial statements, and direct the auditor to file an audit opinion with the commission for public review.
- (e) With public utilities, jointly develop public utility-specific budgets, action plans and agreements that detail the entity's public utility-specific planned activities, resources and technologies pursuant to ORS 757.054 and 757.612 (3)(b)(B), including coordinated activities that require joint investment and deployment. Each action plan must reflect stakeholder feedback gathered through a public process managed by the entity and the relevant public utility as overseen by the commission.
- (f) File with the commission the entity's budget, action plan and quarterly and annual reports for public review. The entity's budget and action plan must include the budget and action plans jointly developed with public utilities under paragraph (e) of this subsection.
- (g) At least once every five years, contract for an independent management evaluation to review the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a report with the commission for public review.

(2) The commission may remove from the board of directors of a nongovernmental entity an officer or director who fails to provide an annual disclosure of economic interest, or who fails to declare an actual or potential conflict of interest, as described in this section, if the failure is connected to the allocation or expenditure of funds collected pursuant to ORS 757.054, through natural gas tariffs or through public purpose charges pursuant to ORS 757.612 and paid to the entity. [2021 c.547 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.747 - Environmental justice; commission to establish equity metrics.**

- (1) As used in this section, "environmental justice" means the equal treatment, protection from environmental and health hazards, and meaningful involvement of environmental justice communities in the development, implementation and enforcement of regulations and policies that affect the environment in which people live, work, learn, practice spirituality and play.
- (2) The Public Utility Commission shall establish, and update no less than once every four years, equity metrics for the purpose of assessing, addressing and creating accountability for environmental justice in the expenditure and investment of funds collected pursuant to ORS 757.054, through natural gas tariffs or through public purpose charges pursuant to ORS 757.612 and paid to a nongovernmental entity. The equity metrics and each update required by this section must reflect feedback gathered through a public process that is managed by the commission and that, at a minimum, includes representatives of environmental justice communities.
- (3) Each nongovernmental entity that is paid funds collected pursuant to ORS 757.054, through natural gas tariffs or through public purpose charges pursuant to ORS 757.612 shall, as part of the entity's filings required under ORS 757.746 (1)(f), report on the entity's progress in achieving the equity metrics established pursuant to this section. [2021 c.547 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.750 - Legislative findings.**

The Legislative Assembly finds that the termination of residential electric and natural gas utility service can lead to the serious impairment of human health and possibly to loss of life; therefore, the Legislative Assembly has enacted ORS 757.750 to 757.760. [1979 c.868 §2; 1983 c.326 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.755 - Termination of residential electric or natural gas service prohibited; rules of commission.**

- (1) The Public Utility Commission of Oregon shall establish rules to prohibit the termination of residential electric or natural gas service when such termination would significantly endanger the physical health of the residential consumer.
- (2) The commission shall provide by rule a method for determining when the termination of residential electric or natural gas service would significantly endanger the physical health of the residential consumer. [1979 c.868 §3; 1983 c.326 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.760 - Requirements for notice of termination of service; payment schedules; rules.**

The Public Utility Commission shall establish rules to require each electric and natural gas utility to:

- (1) Give written or personal notice of a proposed termination of residential service in a manner reasonably calculated to reach the residential consumer within a reasonable period of time before the proposed date of termination;
- (2) Accept reasonable partial payment on the outstanding account and to establish a reasonable payment schedule for any indebtedness, including a deposit, that the utility claims the residential consumer owes for service at any residential address in lieu of termination of or refusal to provide service, and to inform the residential consumer of the provisions of this subsection;
- (3) Inform those residential consumers who cannot afford to pay their bills or deposits of the names and telephone numbers of the appropriate unit within the Department of Human Services or other appropriate social service agencies that can help the consumer investigate what federal, state or private aid might be available to that consumer; and
- (4) Provide that a transfer of service from one premises to another within the utility's service area shall not be considered a discontinuation of service. [1979 c.868 §4; 1983 c.326 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.765 - Public utility provision of shielded outdoor lighting fixtures to customers.**

(1) As used in this section:

- (a) "Outdoor lighting fixture" means an automatically controlled searchlight, spotlight, floodlight or other device used for architectural lighting, lighting streets or parking lots, landscape lighting, billboards or other artificial illumination or advertising purposes.
- (b) "Public utility" has the meaning given that term in ORS 757.005.
- (c) "Shielded" means that a light fixture is designed to ensure that direct or indirect light rays emitted from the fixture are projected below a horizontal plane running through the lowest light-emitting point of the fixture.
- (2) A public utility supplying electricity that provides a customer with outdoor lighting fixtures shall make the option of using shielded outdoor lighting fixtures available to the customer. The utility shall notify a customer to whom the utility provides outdoor lighting fixtures that a shielded outdoor lighting fixture option is available through the utility. The utility shall file an application with the Public Utility Commission to establish rates and charges for providing the shielded outdoor lighting fixture option.
- (3) Subsection (2) of this section does not require a utility to reimburse a customer for the cost of a shielded outdoor lighting fixture installed before the date the utility sends a notice to the customer under this section, or to provide an option for a customer to acquire:
  - (a) Incandescent outdoor lighting fixtures of not more than 150 watts;
  - (b) Light sources of not more than 70 watts that are not incandescent lighting fixtures;
  - (c) Outdoor lighting fixtures on advertising signs on interstate or federal primary highways;
  - (d) Navigational lighting systems at airports or other lighting necessary for aircraft safety; or
  - (e) Outdoor lighting fixtures necessary for worker safety at farms, ranches, dairies or feedlots or at industrial, mining, oil or gas facilities. [2009 c.588 §1]

Note:

757.765 and 757.770 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.770 - Deadline for public utility filing of outdoor lighting fixture rate and charge application; required notification to customers.**

- (1) A public utility that is subject to ORS 757.765 shall file an initial rate and charge application as required by ORS 757.765 (2) on or before January 1, 2010.
- (2) A utility that is subject to ORS 757.765 shall give a customer notice of the shielded outdoor lighting fixture option on or before the later of the date the utility first begins providing outdoor lighting fixtures to the customer or 60 days after the rate or charge takes effect. [2009 c.588 §2]

Note:

See note under 757.765.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.800 - Definitions for ORS 757.800 and 757.805.**

As used in this section and ORS 757.805, unless the context requires otherwise:

- (1) "Authorized person" means:
  - (a) An employee of a utility which produces, transmits or delivers electricity.
  - (b) An employee of a utility which provides and whose work relates to communication services or state, county or municipal agencies which have authorized circuit construction on or near the poles or structures of a utility.
  - (c) An employee or agent of an industrial plant whose work relates to the electric system of the industrial plant.
  - (d) An employee of a cable television or communication services company or an employee of a contractor of a cable television or communication services company if specifically authorized by the owners of the poles to make cable television or communication

services attachments.

- (e) An employee or agent of state, county or municipal agencies which have or whose work relates to overhead electric lines or circuit construction or conductors on poles or structures of any type.
- (f) An employee of a transmission company as defined in ORS 758.015.
- (2) "High voltage" means voltage in excess of 600 volts measured between conductors or between a conductor and the ground.
- (3) "Overhead line" means all bare or insulated electric conductors installed above ground.
- (4) "Person" or "business entity" means those parties who contract to perform any function or activity upon any land, building, highway or other premises.
- (5) "Utility" means any electric or communication utility described by ORS 757.005, any plant owned or operated by a municipality, any person furnishing community antenna television service to the public and any cooperative corporation or people's utility district engaged in furnishing electric or communication service to customers.
- (6) "Proximity" means within 10 feet or such greater distance as may be prescribed by rule adopted pursuant to ORS chapter 654. [1989 c.672 §2; 2001 c.913 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.805 - Accident prevention required for work near high voltage lines; effect of failure to comply; applicability; other remedies unaffected.**

- (1) Any person or business entity responsible for performing any function, activity, work or operation in proximity to a high voltage overhead line shall guard effectively against accidents involving such high voltage overhead line, as required by rules adopted pursuant to ORS chapter 654.
- (2) If any violation of subsection (1) of this section or rules adopted pursuant to ORS chapter 654 results in, or is a contributing cause of, a physical or electrical accident involving any high voltage overhead line, the person or business entity violating subsection (1) of this section or rules adopted pursuant to ORS chapter 654 is liable to the utility operating the high voltage overhead lines for all damages to its facilities and all costs and expenses, including damages to any third persons, incurred by the utility as a result of the accident. However, any person or business entity that has given advance notice of the function, activity or work to the utility operating the high voltage overhead line, and has otherwise substantially complied with rules adopted pursuant to ORS chapter 654, shall only be liable for such damages in proportion to that person or business entity's comparative fault in causing or contributing to the accident.
- (3) This section and ORS 757.800 do not apply to:
  - (a) Construction, reconstruction, operation or maintenance by an authorized person of overhead electric or communication circuits or conductors and their supporting structures or electric generation, transmission or distribution systems or communication systems.
  - (b) Fire, police or other emergency service workers acting under authority of a state agency or other public body while engaged in emergency operations.
- (4) The provisions of this section and ORS 757.800 are not intended to displace any other remedies which may be available to the utility by statute or common law. [1989 c.672 §§3,4,5,6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.810**

[1985 c.550 §5; renumbered 759.015 in 1989]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.811 - Requirement to consider electricity from ocean renewable energy.**

The Legislative Assembly finds and declares that, consistent with the transmission planning requirements provided for by the Federal Energy Regulatory Commission, it shall be the policy position of the State of Oregon that any regional transmission planning processes conducted for the transmission planning regions that wholly or partly encompass any areas of this state shall adequately consider the transmission of electricity from ocean renewable energy generated within Oregon's territorial sea, as defined in ORS 196.405, or within adjacent federal waters. [2015 c.311 §1]

Note:

757.811 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.812 - Definitions for ORS 757.812 to 757.950.**

As used in ORS 757.812 to 757.950:

- (1) "Board" means the board of directors of Oregon Community Power.
- (2) "Incumbent utility" means an investor-owned utility that is the subject of a transaction described in ORS 757.814.
- (3) "Investor-owned utility" means a utility that sells electricity and that is operated by a corporation with shareholders.
- (4) "Rate" has the meaning given that term in ORS 756.010.

(5) "Service" has the meaning given that term in ORS 756.010.

(6) "Service territory" means the geographic area within which a utility provides electricity to customers. [2007 c.807 §1]

Note:

757.812 to 757.954 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.814 - Creation of acquisition review committee.**

(1)(a) Except as provided in subsection (9) of this section, the Public Utility Commission shall give notice to the cities and counties specified in paragraph (b) of this subsection whenever the commission receives notice of a proposed transaction under ORS 757.511

(2):

(A) Relating to an investor-owned utility for which approval of the Public Utility Commission is required under ORS chapter 757; and

(B) Involving the sale of 50 percent or more of the voting shares of the utility to a person that is not an affiliated interest with the utility as defined in ORS 757.015.

(b) Notice under subsection (1) of this section shall be given to a city or county if the investor-owned utility that is the subject of the proposed transaction has service territory within the boundaries of the city or county.

(2) Upon receiving notice under subsection (1) of this section, each city or county may appoint a member to an acquisition review committee formed to represent the affected cities and counties. An acquisition review committee must be formed not more than 60 days after notice is given by the commission under subsection (1) of this section. If an acquisition review committee is not formed within 60 days after notice is given by the commission under subsection (1) of this section, the commission shall proceed with any application made under ORS 757.511 for approval of the transaction.

(3) An acquisition review committee formed under this section shall consider a proposed transaction described in subsection (1) of this section for the purpose of determining whether:

(a) Acquisition of the investor-owned utility by Oregon Community Power would be in the best interests of the customers served by the investor-owned utility; and

(b) Acquisition of the utility can be accomplished in a manner that is consistent with the policy described in ORS 757.910.

(4) An acquisition review committee created under this section may decide to enter into negotiations for the acquisition of an investor-owned utility that is the subject of a proposed transaction described in subsection (1) of this section only by the affirmative vote of members of the committee representing counties in which reside not less than two-thirds of the customers with billing accounts that are served by the incumbent utility, and the affirmative vote of members of the committee representing cities in which reside not less than two-thirds of the customers with billing accounts that are served by the incumbent utility. If an acquisition review committee determines that negotiations should commence, the committee shall:

(a) Enter into negotiations with the incumbent utility or persons that have authority to negotiate the disposition of the incumbent utility or the electric utility assets of the incumbent utility; and

(b) If the negotiations result in an agreement between the committee and the incumbent utility or persons described in paragraph (a) of this subsection, the committee shall immediately give notice to the commission and file an application with the commission under ORS 757.511 for approval of the transaction.

(5) An acquisition review committee created under this section may decide to acquire an investor-owned utility under subsection (4) of this section only by the affirmative vote of members of the committee representing counties in which reside not less than two-thirds of the customers with billing accounts that are served by the incumbent utility, and the affirmative vote of members of the committee representing cities in which reside not less than two-thirds of the customers with billing accounts that are served by the incumbent utility. An acquisition review committee may vote to acquire an incumbent utility under this subsection only after public notice and consultation with groups representing customers of the incumbent utility.

(6) An acquisition review committee must complete negotiations and vote to enter into an agreement not more than 150 days after notice is given to cities and counties under subsection (1) of this section. If the incumbent utility agrees in writing, the committee may request that the time limitation imposed by this section be extended by 90 days.

(7) If the commission approves acquisition of the incumbent utility by Oregon Community Power, the commission shall inform the Governor and the Governor shall activate Oregon Community Power by convening an initial Oregon Community Power Board Nominating Committee under section 7, chapter 807, Oregon Laws 2007. As soon as the first board of directors of Oregon Community Power is appointed under ORS 757.834, the board shall implement the agreement and acquire the incumbent utility or the electric utility assets of the incumbent utility in the name of Oregon Community Power.

(8) An acquisition review committee shall give notice to the commission immediately if the committee proposes to dissolve or decides not to enter into negotiations under subsection (4) of this section or if negotiations do not result in an agreement.

(9) The commission may not give notice to cities and counties under subsection (1) of this section if a person providing notice of a proposed transaction under ORS 757.511 (2) also provides to the commission written consent forms signed by persons with authority to act on behalf of counties in which reside not less than two-thirds of the customers with billing accounts that are served by the incumbent utility and on behalf of cities in which reside not less than two-thirds of the customers with billing accounts that are served by the incumbent utility.

(10) An acquisition review committee may enter into an agreement for the acquisition of an incumbent utility or the electric utility assets of the incumbent utility only if the committee obtains approval for the acquisition from the appropriate state agencies in all states in which the incumbent utility serves retail electricity consumers.

(11) Notwithstanding any other provision of law, Oregon Community Power is responsible for and shall pay all costs relating to the acquisition of an incumbent utility, including but not limited to:

(a) The costs of acquiring the electric utility assets of the incumbent utility;

(b) The costs of acquiring any necessary generating capacity and transmission capacity dedicated to serving the customers in the service area that will be acquired, including but not limited to electricity generating assets and alternate energy generating assets under construction but not yet in service;

(c) Depreciation;

(d) Loss of revenue to the incumbent utility; and

(e) All electric utility assets necessary to reintegrate the system of the incumbent utility after detaching the portion of the utility acquired by Oregon Community Power. [2007 c.807 §2]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.815**

[1985 c.550 §6; 1987 c.447 §72; renumbered 759.020 in 1989]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.818 - Oregon Community Power created.**

(1) Oregon Community Power is created as a public corporation. Oregon Community Power shall exercise and carry out all powers, rights and privileges that are conferred upon Oregon Community Power under ORS 757.812 to 757.950.

(2) Oregon Community Power is created as a public corporation in order to carry out public services in sectors of the economy in which activities or services are also provided by private enterprise. Oregon Community Power is granted all needed operating flexibility under ORS 757.812 to 757.950 in order to ensure the success of Oregon Community Power while retaining principles of public accountability and oversight.

(3) The primary mission of Oregon Community Power is to provide reliable, low-cost electricity to electricity consumers in the service territory in which Oregon Community Power undertakes to provide electricity service. [2007 c.807 §3]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.820**

[1985 c.550 §6a; 1987 c.302 §1; renumbered 759.025 in 1989]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.822 - Laws applicable to Oregon Community Power.**

(1) Except as provided in subsection (2) of this section, the provisions of ORS chapters 35, other than ORS 35.550 to 35.575, 180, 190, 192 and 244 and ORS 30.260 to 30.460, 200.005 to 200.025, 200.045 to 200.090, 221.450, 236.605 to 236.640, 243.650 to 243.809, other than 243.696, 297.040, 307.090 and 307.112 apply to Oregon Community Power under the same terms as they apply to any other subdivision of state government.

(2) Except as otherwise provided by law, the provisions of ORS chapters 182, 183, 238, 238A, 240, 270, 273, 276, 279A, 279B, 279C, 283, 286A, 291, 292, 293, 294, 295 and 297 and ORS 35.550 to 35.575, 183.710 to 183.730, 183.745, 183.750, 184.305 to 184.345, 190.430, 190.480, 190.490, 192.105, 200.035, 243.105 to 243.585, 243.696, 243.853 to 243.855, 278.011 to 278.120, 278.315 to 278.415, 279.835 to 279.855, 282.010 to 282.150, 283.085 to 283.092, 287A.140, 287A.150, 287A.472 and 656.017 (2) do not apply to Oregon Community Power.

(3) Oregon Community Power is not a participating public employer in the Public Employees Retirement System.

(4) Any funds held by or under the control of Oregon Community Power are not public funds, as defined in ORS 295.001. [2007 c.807 §4; 2009 c.11 §96; 2009 c.538 §13; 2012 c.107 §70]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.824 - Regulatory authority of Public Utility Commission over Oregon Community Power.**

(1) Solely for purposes of determining the authority of the Public Utility Commission to regulate Oregon Community Power and the activities and operations of Oregon Community Power, Oregon Community Power shall be considered a consumer-owned utility, as

defined in ORS 757.270, and the commission shall regulate Oregon Community Power as a consumer-owned utility.

(2) In addition to having the authority granted the commission under subsection (1) of this section, the commission has the authority to:

- (a) Regulate electricity service suppliers that conduct business with or use the facilities of Oregon Community Power;
- (b) Determine a claim by an electricity service supplier that Oregon Community Power has acted in an anticompetitive manner; and
- (c) Take action against Oregon Community Power to enforce consumer protection rules adopted under ORS 757.659 (3) and applicable to direct access consumers.

(3) Oregon Community Power may not be required to obtain the approval of the Public Utility Commission to make an acquisition described in ORS 757.812 to 757.950.

(4) As used in this section, "direct access" and "electricity service supplier" have the meanings given those terms in ORS 757.915. [2007 c.807 §5]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.825**

[1985 c.550 §7; 1987 c.447 §73; 1987 c.613 §2; 1989 c.5 §§9,23; 1989 c.378 §1; 1989 c.543 §1; renumbered 759.030 in 1989]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.830 - Nominating committee.**

(1) There is established the Oregon Community Power Board Nominating Committee. The purpose of the nominating committee is to assist the Governor in appointing members to the board of directors of Oregon Community Power under ORS 757.834.

(2) The nominating committee shall consist of five members, as follows:

- (a) One member shall be a delegate from the Citizens' Utility Board and shall represent the interests of residential electricity consumers.
- (b) One member shall be a delegate from a qualified organization that represents the interests of primarily commercial electricity consumers.
- (c) One member shall be a delegate from a qualified organization that represents the interests of primarily industrial electricity consumers.
- (d) One member shall be a delegate from the League of Oregon Cities and shall represent the interests of municipalities and their residents.
- (e) One member shall be a delegate from the Association of Oregon Counties and shall represent the interests of counties and their residents.

(3) Of the members described in subsection (2)(d) and (e) of this section, one shall be from a local government that is within the service territory of Oregon Community Power and one shall be from a local government that is outside of the service territory of Oregon Community Power.

(4)(a) In order for the nominating committee to convene, the board of directors of Oregon Community Power shall prepare a proposed direction to convene as soon as is practicable following the earlier of the date that a vacancy occurs on the board or the date that it becomes known that a vacancy on the board will occur within six months.

(b) The proposed direction to convene shall state the qualified organizations that are to provide the delegates described in subsection (2)(b) and (c) of this section. The board shall send copies of the proposed direction to the Public Utility Commission and to each organization that served as a qualified organization at a prior convening of the nominating committee.

(c) Within 15 days after receipt of the proposed direction to convene, the commission shall review the proposed direction. The commission shall afford the opportunity for a hearing if requested by any party. If the proposed direction lists organizations that meet the qualifications of subsection (2)(b) and (c) of this section, the commission shall approve the direction. If the proposed direction does not list organizations that are qualified organizations under subsection (2)(b) and (c) of this section, the commission may modify the direction prior to approval. A determination by the commission may be appealed as a contested case under ORS chapter 183.

(5) The nominating committee shall convene as soon as is practicable after receiving an approved direction to convene under subsection (4) of this section, and shall forward the first slate of nominees to the Governor for consideration under ORS 757.834 no later than 90 days after the date an approved direction to convene is issued.

(6) The nominating committee shall nominate three individuals for each position on the board to be filled.

(7) A nominating committee that has been convened shall remain convened until each vacant position on the board is filled. The nominating committee shall forward a second slate of nominees to the Governor if requested by the Governor under ORS 757.834 (2).

(8) In forwarding nominees to the Governor, the nominating committee shall strive to select individuals who:

- (a) Meet the qualifications described in ORS 757.834 (6);
- (b) If appointed, would result in a board of directors that represents the geographic diversity of Oregon Community Power's service territory; and

(c) Have the ability and experience to fulfill the principal duties of the board under ORS 757.880.

(9) As used in this section, "qualified organization" means a nonprofit organization that represents a broad class of commercial or industrial customers and that has a substantial record of representing the class before state agencies or the Legislative Assembly in matters related to public utility rates, terms and conditions and energy policy issues affecting the class. [2007 c.807 §6]

Note:

See note under 757.812.

Note:

Section 7, chapter 807, Oregon Laws 2007, provides:

Sec. 7.

(1) Notwithstanding section 6 of this 2007 Act [757.830], the Governor shall convene the initial Oregon Community Power Board Nominating Committee for the first board of directors of Oregon Community Power on the date the Governor activates Oregon Community Power under section 2 of this 2007 Act [757.814].

(2) The nominating committee shall forward the first slate of nominees to the Governor for consideration under section 8 of this 2007 Act [757.834] within 30 days following the convening of the committee by the Governor.

(3) If necessary, the nominating committee shall forward a second slate of nominees to the Governor for consideration within 10 days after the Governor's request for a second slate of nominees under section 8 (2) of this 2007 Act.

(4) For purposes of section 6 (3) of this 2007 Act, the service territory of the incumbent utility is considered to be the service territory of Oregon Community Power. [2007 c.807 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.834 - Board of directors.**

(1) Oregon Community Power shall be governed by a board of seven directors appointed by the Governor using the procedure set forth in this section.

(2)(a) Prior to making any appointment to the board, the Governor shall consider the nominations of the Oregon Community Power Board Nominating Committee.

(b) If the Governor reviews an initial slate of nominees made by the nominating committee and determines not to appoint a nominee, the Governor shall request that the nominating committee forward a second slate of nominees. If the Governor determines not to appoint a nominee from the second slate of nominees, the Governor may appoint any individual the Governor determines meets the qualifications of subsection (6) of this section.

(3) Notwithstanding the requirement that the Governor consider the nominations of the nominating committee prior to making an appointment, the Governor shall appoint an individual to be a board member within 120 days following the vacancy of a position on the board.

(4) Each appointment shall be subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(5) The term of office for each board member shall be four years. A board member may be nominated and appointed to successive terms, but within 150 days prior to the expiration of the term of the member, the board shall issue a proposed direction to convene the nominating committee under ORS 757.830 for the purpose of nominating individuals to fill the board position.

(6) A member of the board shall have significant experience or expertise in one or more of the following areas:

(a) Business operations;

(b) Utility management;

(c) Legal or financial affairs;

(d) Regional energy issues; or

(e) Developing public policy.

(7) The Governor may remove any member of the board for cause, after notice and public hearing. [2007 c.807 §8]

Note:

See note under 757.812.

Note:

Section 9, chapter 807, Oregon Laws 2007, provides:

Sec. 9.

(1) Notwithstanding section 8 (5) of this 2007 Act [757.834 (5)], the term of office for the first board of directors of Oregon Community Power shall be as follows:

(a) Two members shall be appointed for a term that ends one year following the date the Governor convenes the board;

(b) Two members shall be appointed for a term that ends two years following the date the Governor convenes the board;

(c) Two members shall be appointed for a term that ends three years following the date the Governor convenes the board; and

(d) One member shall be appointed for a term that ends four years following the date the Governor convenes the board.

(2) Consistent with subsection (1) of this section, the Governor shall designate the duration of the term of office of each member of the first board of directors at the time the Governor convenes the board. [2007 c.807 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.835**



[1985 c.389 §3; 1987 c.447 §74; renumbered 759.230 in 1989]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.840**

[1987 c.1 §§1,2,3; 1989 c.5 §10; renumbered 759.235 in 1989]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.842 - Board meetings and procedures.**

- (1) The board of directors of Oregon Community Power shall meet at least once each month to conduct the business of the board.
- (2) A majority of board members shall constitute a quorum.
- (3) The board shall select one of its members as chairperson.
- (4) The board shall adopt bylaws establishing rules of procedure for board meetings and decisions.
- (5) A member of the board shall be compensated as provided in ORS 757.886 (12).
- (6) The board, not later than April 15 of each year, shall file a report with the Governor and the Legislative Assembly. The report shall explain the activities and operations of Oregon Community Power for the preceding calendar year, including a summary of the audit described in ORS 757.902. [2007 c.807 §10]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.850**

[1987 c.613 §4; 1989 c.5 §11; 1989 c.378 §2; 1989 c.543 §2; renumbered 759.195 in 1989]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.852 - Acquisition of incumbent utility; use of eminent domain.**

- (1) As soon as practicable after being appointed, the board of directors of Oregon Community Power shall implement the agreement entered into by an acquisition review committee under ORS 757.814 (4)(b).
- (2) Notwithstanding ORS 757.890 (1), Oregon Community Power may not use the power of eminent domain to accomplish all or a part of an acquisition described in subsection (1) of this section unless the incumbent utility or the persons that have the authority to negotiate the disposition of the incumbent utility or the electric utility assets of the incumbent utility consent to the use of eminent domain for acquisition purposes. [2007 c.807 §11]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.855 - Funding of preliminary activities and negotiations.**

- (1) Following a request by an acquisition review committee under ORS 757.862, the Public Utility Commission shall transfer from the Public Utility Commission Account to the Oregon Community Power Utility Acquisition Fund established under ORS 757.857 all amounts necessary to fund any preliminary activities needed to determine:
  - (a) The appropriateness or desirability of an acquisition described in ORS 757.812 to 757.950;
  - (b) The requirements and terms of the acquisition; and
  - (c) Any due diligence activities related to the acquisition and the negotiations for the acquisition.
- (2) Notwithstanding any other provision of law, the commission may increase the rates of an incumbent utility in order to recover the costs incurred in negotiating an acquisition by an acquisition review committee under ORS 757.814 (4).
- (3) Notwithstanding any other provision of law, the commission may assess a fee on an incumbent utility in order to fund the transfer described in subsection (1) of this section. [2007 c.807 §12]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.857 - Oregon Community Power Utility Acquisition Fund.**

- (1) The Oregon Community Power Utility Acquisition Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Community Power Utility Acquisition Fund shall be credited to the Oregon Community Power Utility Acquisition Fund.
- (2) Moneys in the Oregon Community Power Utility Acquisition Fund are continuously appropriated to the Public Utility Commission for the purpose of transferring moneys to an acquisition review committee as described in ORS 757.855. [2007 c.807 §13]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.860**

[1987 c.302 §3; 1989 c.5 §12; renumbered 759.225 in 1989]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.862 - Request to Public Utility Commission for transfer of funds.**

(1) An acquisition review committee created under ORS 757.814 may request that the Public Utility Commission transfer moneys appropriated under ORS 757.857 in order to fund any preliminary activities the committee undertakes to determine:

- (a) The appropriateness or desirability of an acquisition described in ORS 757.812 to 757.950;
- (b) The requirements and terms of the acquisition; and
- (c) Any due diligence activities related to the acquisition and the negotiations for the acquisition.

(2) An acquisition review committee shall submit a budget and plan of operations with a request under subsection (1) of this section. The commission may approve the transfer only after notice and public hearing on the request. [2007 c.807 §14]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.864 - Conduct of business after acquisition.**

If Oregon Community Power acquires an incumbent utility under ORS 757.812 to 757.950, all electric utility operations undertaken by Oregon Community Power after the acquisition shall be conducted under the name of Oregon Community Power. [2007 c.807 §15]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.868 - Oregon Community Power to be successor in interest to incumbent utility; rules.**

(1) If Oregon Community Power acquires an incumbent utility under ORS 757.812 to 757.950, unless otherwise required by the Oregon Constitution, Oregon Community Power shall constitute the successor in interest to the incumbent utility as of the date of the acquisition for all purposes, including but not limited to:

- (a) Allocation of territory and contracts allocating territory;
- (b) City franchise fee agreements; and
- (c) Contracts or obligations of any nature, to the extent the contracts or obligations apply to a successor in interest to the incumbent utility.

(2) Until the board of directors of Oregon Community Power establishes bylaws governing the procedures for conducting a ratemaking hearing and establishing rates under ORS 757.812 to 757.950 and under those procedures establishes one or more new rates or tariffs or establishes one or more changes in rates or tariffs, Oregon Community Power shall:

- (a) Adopt all existing rate schedules in effect for the incumbent utility on the date of acquisition;
- (b) Adopt the general rules and regulations of the incumbent utility's tariffs; and
- (c) Maintain Oregon Community Power books and records in accordance with generally accepted accounting principles and with the uniform system of accounts established by the Federal Energy Regulatory Commission.

(3) If Oregon Community Power acquires an incumbent utility under ORS 757.812 to 757.950, Oregon Community Power is subject to all privilege taxes imposed by municipalities that the incumbent utility was required to pay to municipalities immediately before the acquisition. [2007 c.807 §16]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.870**

[1987 c.388 §2; 1989 c.5 §13; 1989 c.574 §6; renumbered 759.040 in 1989]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.872 - Equity and assets of incumbent utility held in trust; disclaimer of state interest.**

(1) Any equity of the incumbent utility, any electric utility assets of the incumbent utility or any combination of equity and assets of the incumbent utility that Oregon Community Power acquires under ORS 757.812 to 757.950 shall be held in trust by Oregon Community Power, acting as a trustee, for the exclusive purpose of carrying out the powers, rights and privileges of Oregon Community Power under ORS 757.812 to 757.950 for the benefit of the retail electricity consumers of Oregon Community Power.

Notwithstanding any other provision of law, retail electricity consumers of Oregon Community Power may not pursue any judicial remedy in any court of this state for any action of Oregon Community Power, except as provided in ORS 757.812 to 757.950.

(2) The State of Oregon declares that it has no proprietary interest in Oregon Community Power or in any tangible or intangible property of any form owned or acquired by Oregon Community Power. The state disclaims any right to reclaim any contributions made to Oregon Community Power under ORS 757.812 to 757.950.

(3) Except as provided in ORS 757.812 to 757.950, Oregon Community Power may not receive any moneys from the State of Oregon other than:

(a) Electric utility operational revenues;

(b) Public purpose charge revenues under ORS 757.612;

(c) Nonrecourse bond proceeds or proceeds from any other nonrecourse borrowing; or

(d) Loans, grants, payments or other assistance that any local government as defined in ORS 174.116 would be eligible to receive.

[2007 c.807 §17]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.880 - Board duties.**

The principal duties of the board of directors of Oregon Community Power are to:

(1) Establish policy and develop consistent positions on core utility issues that promote and implement the primary mission of Oregon Community Power under ORS 757.818;

(2) Oversee the investments and operations of Oregon Community Power;

(3) Take all actions to ensure that revenues and income from electric utility operations are sufficient to satisfy all costs, including principal and interest payments on all outstanding bonds and other debt obligations issued by Oregon Community Power, and to maintain financial integrity in the operation of Oregon Community Power;

(4) Make decisions that are in the best interests of the consumers and communities within the service territory of Oregon Community Power and that are consistent with the primary mission of Oregon Community Power; and

(5) Consider the social, economic and environmental impacts of electricity generation, transmission and distribution in board decision-making. [2007 c.807 §18]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.883 - Payments in lieu of property taxes.**

(1) Oregon Community Power shall make payments in lieu of property taxes on all property that would otherwise be subject to assessment under ORS 308.505 to 308.674 if owned by a taxable owner. Oregon Community Power shall pay to each county in which property of Oregon Community Power is located an amount equal to the ad valorem property taxes that would have been charged by the county if Oregon Community Power property had been assessed to a taxable owner as of January 1 of the assessment year for which payment is being made.

(2) The Department of Revenue shall determine the assessed value of Oregon Community Power property as if the property were subject to assessment under ORS 308.505 to 308.674, and shall transmit the value information as provided in ORS 308.505 to 308.674 to the appropriate county assessor. Oregon Community Power shall comply with property reporting requirements under ORS 308.505 to 308.674 as if the property were subject to assessment under ORS 308.505 to 308.674.

(3) The amount of the in lieu payment to be made to each county under this section shall be determined and certified annually by the county assessor of the county. A notice of the determination and certification shall be mailed to Oregon Community Power not later than October 15. The notice shall contain a statement of the value of the property and a complete explanation of the method used in computing the amount of the in lieu payment due under this section. Not later than November 15, Oregon Community Power shall pay the amount due to each county under this section, less a discount equivalent to that which is provided in ORS 311.505. Payment shall be made to the county treasurer. The county treasurer shall distribute the payment to the taxing districts of the county in accordance with the schedule of percentages computed under ORS 311.390. [2007 c.807 §19]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.886 - Powers of Oregon Community Power.**

The board of directors of Oregon Community Power shall establish the policies of Oregon Community Power to be used in the exercise of the powers enumerated for Oregon Community Power or the board, and may thereafter modify those policies. The board may delegate the exercise of powers enumerated for Oregon Community Power to a president, chief executive officer or general manager of Oregon Community Power. Delegated powers shall be exercised by the delegatee in a manner that is consistent with the policies established by the board. The powers of Oregon Community Power, as exercisable by the board of directors or by a

president, chief executive officer or general manager under policies adopted by the board, are as follows:

- (1) To acquire and hold, including by lease-purchase agreement, real and other property necessary or incident to the business of Oregon Community Power, within or outside of, or partly within or partly outside of, the service territory of Oregon Community Power, and to sell or dispose of that property.
- (2) To execute contracts to purchase, sell or lease assets, power, services or property.
- (3) To execute contracts for the management or operation of any Oregon Community Power facilities.
- (4) To issue bonds, notes or otherwise borrow moneys, incur indebtedness or issue, sell or assume evidence of indebtedness to the extent allowed under the Oregon Constitution.
- (5) To sue and be sued.
- (6) To refund and retire any indebtedness that may exist against or be assumed by Oregon Community Power or that may exist against the revenues of Oregon Community Power.
- (7) To build, acquire, own, operate and maintain generation, transmission and distribution resources that are sufficient to maintain an adequate supply of electricity to the service territory.
- (8) To enter into agreements with local governments or other state agencies or subdivisions of state government.
- (9) To periodically develop least-cost plans at regular intervals. A least-cost plan may be developed only with public participation. A least-cost plan shall take into consideration economic and environmental risks of providing adequate and reliable energy for consumers, energy efficiency, renewable resources and cogeneration, in order to achieve adequate resources at the least overall cost.
- (10) To oversee all aspects of Oregon Community Power operations.
- (11) To hire and fire employees of Oregon Community Power.
- (12) To make contracts, to set wages, to set salaries and provide compensation for services rendered by employees and by board members, to provide for life insurance, hospitalization, disability, health and welfare and retirement plans for employees and to do all things necessary and convenient for full exercise of the powers granted in this subsection. The provision of life insurance, hospitalization, disability, health and welfare and retirement plans for employees is in addition to any other right or power of Oregon Community Power to participate in those plans and does not repeal or modify any statutes except those that may be in conflict with the provision of life insurance, hospitalization, disability, health and welfare and retirement plans.
- (13) To enter into contracts with the United States Government, with any other state, municipality or utility district or with any other person, for carrying out any provisions of ORS 757.812 to 757.950.
- (14) To fix, maintain and collect electric energy rates as prescribed in ORS 757.812 to 757.950 and to establish and collect charges for any other commodity or service furnished, developed or sold by Oregon Community Power.
- (15) To construct works across or along any street or public highway or over any lands that are the property of this state, or of any city or other subdivision of this state, subject to any franchise agreement, privilege tax or municipal regulation that would apply to the works, and to construct works across or along any stream of water or watercourse. Any works across or along any state highway shall be constructed only with the permission of the Department of Transportation. Any works across or along any county highway shall be constructed only with the permission of the county governing body. Any works across or along any city street shall be constructed only with the permission of the city governing body and upon compliance with applicable city regulations and payment of any fees called for under applicable franchise agreements, intergovernmental agreements under ORS chapter 190 or contracts providing for payment of these fees. Oregon Community Power shall restore any street or highway to its former state as near as may be practicable, and may not use the street or highway in a manner that impairs its usefulness unnecessarily.
- (16) To enter into franchise agreements with cities and pay fees under negotiated franchise agreements, intergovernmental agreements under ORS chapter 190 and contracts providing for the payment of such fees, and to pay privilege taxes imposed under ORS 221.450 or other applicable privilege taxes.
- (17) To exercise the power of eminent domain, as prescribed in ORS 757.852 or 757.890.
- (18) To adopt bylaws as prescribed in ORS 757.905.
- (19) To make payments in lieu of property taxes as prescribed in ORS 757.883.
- (20) To acquire property, execute contracts or otherwise conduct business with or within the territory of any state or local government that is outside Oregon, any Indian tribe wherever located or Canada or any province of Canada.
- (21) To execute any contract necessary to acquire, hedge or sell fuel or energy in any form, to manage electric utility operations, to construct, maintain or repair any energy generation or transmission facilities or equipment, to increase capacity for energy generation or transmission, to transfer any asset owned by Oregon Community Power or to acquire any asset for use in electric utility operations conducted by Oregon Community Power.
- (22) To establish any funds or accounts at depository banks or other financial institutions that are determined to be necessary, useful or convenient for the conduct of business by Oregon Community Power.
- (23) To take any other actions necessary or convenient for the proper exercise of the powers granted to Oregon Community Power by ORS 757.812 to 757.950. [2007 c.807 §20]

Note:

See note under 757.812.

(1) Oregon Community Power may exercise the power of eminent domain for the purpose of acquiring any property, within or outside the service territory of Oregon Community Power, necessary for carrying out the electric utility operations of Oregon Community Power. Oregon Community Power may use the power of eminent domain to acquire an incumbent utility pursuant to an agreement under ORS 757.814 only as provided by ORS 757.852.

(2) Notwithstanding subsection (1) of this section, eminent domain may not be used:

(a) To acquire service territory of another electric utility; or

(b) To acquire any property for a purpose that is unrelated to electric utility operations. [2007 c.807 §21]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.895 - Ratemaking.**

(1) The board of directors of Oregon Community Power shall establish rates for the provision of electricity within the service territory of Oregon Community Power using the procedure set forth under ORS 757.897.

(2) The board shall establish a rate structure under which rates that apply to a specific class of customers are designed to recover the costs of providing electricity and related services to that class of customers.

(3) The rates adopted by the board shall be sufficient to accomplish the following purposes:

(a) To properly maintain and operate all Oregon Community Power property and facilities;

(b) To recover the overall costs of the electric utility operations of Oregon Community Power;

(c) To reflect the income tax exempt status of Oregon Community Power so that the savings from tax exemption accrue to the benefit of the customers of Oregon Community Power;

(d) To pay all franchise fees, in lieu payments, privilege taxes and other charges and assessments that are properly imposed on Oregon Community Power or the property or facilities of Oregon Community Power;

(e) To pay principal and interest on all bonds, warrants or other obligations of any character in accordance with the terms and provisions of the obligations, including but not limited to bonds issued by Oregon Community Power for an acquisition described in ORS 757.812 to 757.950;

(f) To pay any other indebtedness or obligation for which Oregon Community Power may be obligated to pay;

(g) To pay any debt administration costs associated with bonds, warrants, obligations or other indebtedness described in paragraphs (e) and (f) of this subsection;

(h) To fund operating reserves in sufficient amounts to ensure the continued efficient operation of Oregon Community Power; and

(i) To establish and maintain any special funds that Oregon Community Power is obligated to create for the purpose of paying bond issues or other obligations. [2007 c.807 §22]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.897 - Notice of ratemaking; ratemaking hearings.**

(1) Whenever the board of directors of Oregon Community Power determines to seek a modification in any rate imposed by the board for electricity service, the board shall give notice of a ratemaking hearing, at least 30 days in advance, as follows:

(a) In newspapers of general circulation that are published in the service territory;

(b) As a separate insert accompanying billing statements sent to customers;

(c) To persons that have requested notice of ratemaking action by the board; and

(d) By publication on the Oregon Community Power website.

(2) The notice shall state:

(a) The date, time and location of the ratemaking hearing of the board;

(b) The new rates or modifications to existing rates being proposed by the board; and

(c) Any other information deemed relevant by the board.

(3) At the time that the board issues a notice of a ratemaking hearing, the board shall publish on the Oregon Community Power website or otherwise make available to the public the underlying utility information upon which the proposed rates are based. The board shall provide the specific information required by bylaws adopted under ORS 757.905 (1).

(4)(a) Pursuant to ORS 183.625, the board shall request, and the Office of Administrative Hearings shall assign, an administrative law judge to conduct the ratemaking hearing. The ratemaking hearing shall be conducted under ratemaking hearing procedures established by bylaws adopted under ORS 757.905 (2). The hearing shall be conducted in a manner that allows interested parties to present information and argument and to establish a record upon which the board may establish or modify rates pursuant to ORS 757.895.

(b) The administrative law judge shall ensure that the rates established at the ratemaking hearing are sufficient to accomplish all of the purposes described in ORS 757.895 (3).

(5) Notwithstanding ORS 757.822, a decision by the board to establish or modify rates may be appealed as a contested case under ORS chapter 183. [2007 c.807 §23]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.900 - Intervention by Citizens' Utility Board in proceedings.**

(1) Whenever the Citizens' Utility Board of Governors determines that an Oregon Community Power proceeding may affect the interests of utility consumers, the Citizens' Utility Board may intervene as of right as an interested party or otherwise participate in the proceeding.

(2) The Citizens' Utility Board shall have standing to obtain judicial or administrative review of any action of Oregon Community Power, and may intervene as of right as an interested party or otherwise participate in any proceeding that involves the review or enforcement of any action by Oregon Community Power, if the Citizens' Utility Board of Governors determines that the action may affect the interests of utility consumers. [2007 c.807 §24]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.902 - Annual audit of Oregon Community Power.**

The board of directors of Oregon Community Power shall cause an independent audit to be performed at least annually. The audit shall review and report on the financial affairs of Oregon Community Power and on any other aspects of Oregon Community Power as the board may direct. [2007 c.807 §25]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.905 - Adoption of bylaws.**

The board of directors of Oregon Community Power may adopt bylaws necessary to administer ORS 757.812 to 757.950, including but not limited to:

(1) Bylaws establishing the information the board must make available to the public prior to conducting a ratemaking hearing.

(2) Bylaws establishing procedures for conducting a ratemaking hearing that provide for substantially the same procedures as set forth in ORS 183.415, 183.425, 183.440 and 183.450.

(3) Bylaws to facilitate the implementation of the primary mission of Oregon Community Power under ORS 757.818. [2007 c.807 §26]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.910 - Policy.**

(1) The Legislative Assembly declares that it is the policy of the State of Oregon to:

(a) Ensure that the formation and operation of Oregon Community Power does not directly or indirectly diminish the amount of federal electric power available for purchase by consumer-owned utilities to serve their retail electricity consumers;

(b) Ensure that the formation and operation of Oregon Community Power does not, directly or indirectly, increase the lowest cost-based rates charged by the Bonneville Power Administration to consumer-owned utilities for the purchase of federal electric power above the level that would most likely have been charged absent the formation and operation of Oregon Community Power;

(c) Preserve the existing exclusive distribution rights of consumer-owned utilities;

(d) Ensure the preservation of contract rights currently existing between consumer-owned utilities and an incumbent utility;

(e) Preserve the authority of cities to impose franchise fees and privilege taxes and to execute contracts with Oregon Community Power; and

(f) Ensure that Oregon Community Power has access to benefits from the Bonneville Power Administration, as mandated by the federal Pacific Northwest Electric Power Planning and Conservation Act, that are equivalent to the benefits received by the incumbent utility at the time the utility is acquired by Oregon Community Power.

(2) As used in this section, "federal electric power" means electricity generated, distributed or sold by the Bonneville Power Administration. [2007 c.807 §27]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.915 - Definitions for ORS 757.915 to 757.930.**

As used in ORS 757.915 to 757.930:

- (1) "Ancillary services" has the meaning given that term in ORS 757.600.
  - (2) "Direct access" means the ability of a retail electricity consumer to purchase electricity and ancillary services, as determined by the board of directors of Oregon Community Power, directly from an entity other than Oregon Community Power.
  - (3) "Economic utility investment" means all investments, including plants and equipment and contractual or other legal obligations, made by Oregon Community Power and properly dedicated to generation or conservation, the full benefits of which are no longer available to consumers as a result of electing direct access, absent transition credits.
  - (4) "Electricity," "electricity services" and "electricity service supplier" have the meanings given those terms in ORS 757.600.
  - (5) "Nonresidential electricity consumer" means a retail electricity consumer that is not a residential electricity consumer.
  - (6) "Portfolio access" means the ability of a retail electricity consumer to choose from a set of product and pricing options for electricity determined by the board and may include product and pricing options offered by Oregon Community Power or by an electricity service supplier.
  - (7) "Retail electricity consumer" means the end user of electricity for specific purposes that is served through the distribution system of Oregon Community Power, whether or not the end user purchases the electricity from Oregon Community Power.
  - (8) "Transition charge" and "transition credit" have the meanings given those terms in ORS 757.600.
  - (9) "Uneconomic utility investment" means all investments, including plants and equipment and contractual or other legal obligations, made by Oregon Community Power and properly dedicated to generation, conservation and workforce commitments, the full costs of which are no longer recoverable as a result of direct access, absent transition charges. [2007 c.807 §28]
- Note:  
See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.918 - Oregon Community Power required to allow direct access.**

- (1) Oregon Community Power shall allow nonresidential electricity consumers direct access.
  - (2) Unless the board of directors of Oregon Community Power determines otherwise, Oregon Community Power shall provide all retail electricity consumers of Oregon Community Power with a regulated, cost-of-service rate option.
  - (3)(a) Oregon Community Power shall supply default electricity service to a nonresidential electricity consumer in an emergency.
  - (b) The board shall establish reasonable terms and conditions for providing default service to a nonresidential electricity consumer in circumstances in which the consumer is receiving electricity services through direct access and elects instead to receive electricity services through the default service.
  - (4)(a) Oregon Community Power shall permit retail electricity consumers that are eligible for direct access to voluntarily aggregate their electricity loads.
  - (b) A retail electricity consumer that is eligible for direct access may voluntarily aggregate its electricity load with the electricity load of any other retail electricity consumer that is eligible for direct access. [2007 c.807 §29]
- Note:  
See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.920 - Rights of electricity service suppliers.**

- (1) Every electricity service supplier is authorized to use the distribution facilities of Oregon Community Power on a nondiscriminatory basis.
  - (2) Oregon Community Power shall provide:
    - (a) Electricity service suppliers and retail electricity consumers access to the Oregon Community Power transmission facilities and distribution system that is comparable to that provided for Oregon Community Power's own use; and
    - (b) Electricity service suppliers and retail electricity consumers timely access to information about the Oregon Community Power transmission facilities and distribution system, metering and loads comparable to that provided to Oregon Community Power's own nondistribution divisions, affiliates and related parties.
  - (3) Oregon Community Power shall allow any electricity service supplier that has been certified by the Public Utility Commission to provide direct access to nonresidential electricity consumers. [2007 c.807 §30]
- Note:  
See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.922 - Transition credits and charges.**

- (1) Each retail electricity consumer of Oregon Community Power shall receive a transition credit or pay a transition charge as determined under this section.
- (2) The total of all transition credits or transition charges shall equal the net value of all economic utility investments and all uneconomic utility investments of Oregon Community Power.
- (3) The board of directors of Oregon Community Power shall adopt one of the following methods to establish the net value described under subsection (2) of this section and all procedures connected with the adopted method:

- (a) Auction;
- (b) Administrative valuation; or
- (c) Ongoing valuation.

(4) The transition credit or transition charge that applies to a retail electricity consumer under this section may change to reflect the duration of the service option chosen by the consumer, but may not be changed because of the electricity service supplier chosen by the consumer. [2007 c.807 §31]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.924 - Portfolio access to electricity service providers.**

The board of directors of Oregon Community Power shall determine whether and under what conditions Oregon Community Power will offer retail electricity consumers portfolio access to electricity service suppliers. The board shall have sole authority to determine:

- (1) The quality and nature of electricity services, including but not limited to different product and pricing options, that will be made available to its retail electricity consumers.
- (2) The extent to which products and services will be unbundled and the rates, tariffs, terms and conditions on which they may be offered.
- (3) Whether one or more pilot programs for direct access, portfolio access or other forms of access to alternative suppliers will be offered.
- (4) The degree to which provision of portfolio access necessitates modification of transition credits, transition charges and the net value described in ORS 757.922 (2) on which transition credits or transition charges are based.
- (5) The establishment of technical capability requirements, financial responsibility requirements and other protections for retail electricity consumers located within the Oregon Community Power service territory in dealings with electricity service suppliers.
- (6) Access to or use of the Oregon Community Power transmission facilities or distribution system by retail electricity consumers or electricity service suppliers.
- (7) Oregon Community Power's qualification standards for electricity service suppliers in addition to any certification standards established by the Public Utility Commission, provided that the qualification standards are uniformly applied to electricity service suppliers in a nondiscriminatory manner. [2007 c.807 §32]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.930 - Distribution rights; service territories.**

(1) Notwithstanding any other provision of law, a consumer-owned utility has exclusive distribution rights, to the extent the distribution rights are provided by law other than ORS 757.812 to 757.950, and exclusive responsibility for the performance and oversight of:

- (a) The utility's distribution system, including the acquisition, construction, financing, operation and maintenance of distribution facilities; and
- (b) Metering, billing, collection and consumer response functions related to the distribution of electricity to retail electricity consumers located within the utility's service territory.

(2) ORS 757.812 to 757.950 do not:

- (a) Diminish or enlarge the rights of any person under ORS 758.400 to 758.475; or
- (b) Affect the administration or enforcement of ORS 758.400 to 758.475. [2007 c.807 §33]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.935 - Definitions for ORS 757.935 to 757.945.**

As used in ORS 757.935 to 757.945:

- (1) "Credit enhancement agreement" means any agreement or contractual relationship between Oregon Community Power and any bank, trust company, insurance company, surety bonding company, pension fund or other financial institution providing additional credit on or security for a financing agreement or certificates of participation authorized by ORS 757.935 to 757.945.
- (2) "Financing agreement" means a bond, installment sale agreement, loan agreement, note, note agreement, short-term promissory note, commercial paper, line of credit or similar obligation or any other agreement to finance real or personal property, tangible or intangible, that is or will be owned and operated by Oregon Community Power, to otherwise borrow money, or to refinance previously executed financing agreements. [2007 c.807 §34]

Note:

See note under 757.812.



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.937 - Financing agreements authorized.**

(1) Oregon Community Power may enter into financing agreements in accordance with ORS 757.935 to 757.945 upon such terms as the board of directors of Oregon Community Power determines to be necessary or desirable. Amounts payable by Oregon Community Power under a financing agreement shall be limited to funds specifically pledged, budgeted for or otherwise made available by Oregon Community Power. If there are insufficient available funds to pay amounts due under a financing agreement, the lender may exercise any property rights that Oregon Community Power has granted to the lender in the financing agreement against the property that was purchased with the proceeds of the financing agreement, and may apply the amounts so received toward payments scheduled to be made by Oregon Community Power under the financing agreement.

(2) Oregon Community Power may enter into a financing agreement only following adoption by the board of directors of a resolution authorizing the execution of the financing agreement or a series of similar financing agreements.

(3) Any obligation of any kind incurred by Oregon Community Power shall state on its face that it is solely an obligation of Oregon Community Power. [2007 c.807 §35]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.940 - Delegation of powers relating to financing agreements.**

The board of directors of Oregon Community Power may delegate to any board member, or to the chief executive officer, president, general manager or chief financial officer of Oregon Community Power, the authority to determine maturity dates, principal amounts, redemption provisions, interest rates or methods for determining variable or adjustable interest rates, denominations, methods of sale, agreements for the exchange of interest rates as an issuer under ORS 287A.335 and other terms and conditions of a financing agreement that are not appropriately determined at the time of enactment or adoption of a resolution authorizing the execution of the financing agreement. The board may also delegate entering into a financing agreement or any other instrument authorized by law. This delegated authority shall be exercised subject to applicable requirements of law and any limitations and criteria as may be set forth in the resolution authorizing the execution of a financing agreement or in Oregon Community Power bylaws. [2007 c.807 §36; 2009 c.538 §14]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.942 - Powers of Oregon Community Power relating to financing agreements.**

Oregon Community Power may:

(1) Enter into agreements with third parties to hold financing agreement proceeds, payments and reserves as security for lenders, and to issue certificates of participation in the right to receive payments due from Oregon Community Power under a financing agreement. Amounts so held shall be invested at the direction of the board of directors of Oregon Community Power. Interest earned on any investments held as security for a financing agreement may, at the option of the board, be credited to the accounts held by the third party and applied in payment of sums due under a financing agreement.

(2) Enter into credit enhancement agreements for financing agreements or certificates of participation, provided that any credit enhancement agreements shall be payable solely from funds specifically pledged, budgeted for or otherwise made available by Oregon Community Power and amounts received from the exercise of property rights granted under the financing agreements.

(3) Use financing agreements to finance the costs of acquiring or refinancing real or personal property, either tangible or intangible, plus the costs of reserves and credit enhancements and the costs associated with obtaining the financing.

(4) Grant security interests in property to trustees or lenders.

(5) Make pledges for the benefit of trustees and lenders.

(6) Purchase fire and extended coverage or other casualty insurance for property that is acquired or refinanced with proceeds of a financing agreement, assign the proceeds thereof to a lender or trustee to the extent of their interest, and covenant to maintain any insurance while the financing agreement is unpaid, as long as available funds are sufficient to purchase the insurance. [2007 c.807 §37]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.945 - Consultation with State Treasurer.**

Oregon Community Power may consult with and obtain advice from the State Treasurer on proposed or executed financing agreements. The State Treasurer may recover from Oregon Community Power any costs incurred by the State Treasurer in providing consultation and advice. [2007 c.807 §38]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.950 - Authorization to issue and sell revenue bonds.**

(1) Oregon Community Power may issue and sell revenue bonds as provided in ORS chapter 287A. However, ORS 287A.150 does not apply to revenue bonds issued by Oregon Community Power. Revenue bonds issued by Oregon Community Power are not a general obligation of Oregon Community Power and may not be a charge upon any revenues or property of Oregon Community Power that is not specifically pledged thereto. Any obligation of any kind incurred by Oregon Community Power under this section is not, and may not be considered, an indebtedness of the State of Oregon.

(2) Revenue bonds or other financing agreements issued by Oregon Community Power under this section are bonds or obligations of a political subdivision of the State of Oregon for the purposes of all laws of this state. [2007 c.807 §39; 2009 c.538 §15]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.954 - City's authority to control, and collect charges for, use of rights of way.**

ORS 757.812 to 757.950 do not diminish, or authorize the adoption of rules that diminish, the authority of a city to control the use of the city's rights of way or to collect license fees, privilege taxes, rent or other charges for the use of the rights of way of the city. [2007 c.807 §42]

Note:

See note under 757.812.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.960 - Commission to convene workshops; wildfire protection and mitigation best practices.**

The Public Utility Commission shall periodically convene workshops for the purpose of helping public utilities that provide electricity, municipal electric utilities, people's utility districts organized under ORS chapter 261 that sell electricity, electric cooperatives organized under ORS chapter 62 and operators of electrical transmission and distribution systems to develop and share information for the identification, adoption and carrying out of best practices regarding wildfires, including, but not limited to, risk-based wildfire protection and risk-based wildfire mitigation procedures and standards. [2021 c.592 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.963 - Public utility required to develop wildfire protection plan; rules.**

(1) A public utility that provides electricity must have and operate in compliance with a risk-based wildfire protection plan that is filed with the Public Utility Commission and has been evaluated by the commission. The plan must be based on reasonable and prudent practices identified through workshops conducted by the commission pursuant to ORS 757.960 and on commission standards adopted by rule. The public utility must design the plan in a manner that seeks to protect public safety, reduce risk to utility customers and promote electrical system resilience to wildfire damage.

(2) A public utility that provides electricity shall regularly update a risk-based wildfire protection plan on a schedule determined by the commission. The plan must, at a minimum:

(a) Identify areas that are subject to a heightened risk of wildfire and are:

(A) Within the service territory of the public utility; and

(B) Outside the service territory of the public utility but within a reasonable distance, as determined by the commission, of the public utility's generation or transmission assets.

(b) Identify a means for mitigating wildfire risk that reflects a reasonable balancing of mitigation costs with the resulting reduction of wildfire risk.

(c) Identify preventive actions and programs that the public utility will carry out to minimize the risk of utility facilities causing a wildfire.

(d) After seeking information from regional, state and local entities, including municipalities, identify a protocol for the deenergizing of power lines and adjusting of power system operations to mitigate wildfires, promote the safety of the public and first responders and preserve health and communication infrastructure.

(e) Describe the procedures, standards and time frames that the public utility will use to inspect utility infrastructure in areas that the public utility identifies under paragraph (a) of this subsection.

(f) Describe the procedures, standards and time frames that the public utility will use to carry out vegetation management in areas that the public utility identifies under paragraph (a) of this subsection.

(g) Identify the development, implementation and administration costs for the plan.

(h) Identify the community outreach and public awareness efforts that the public utility will use before, during and after a wildfire season.

(3) To develop a plan described in subsection (2) of this section, a public utility may consult with and consider information from

regional, state and local entities, including municipalities.

(4) The commission, in consultation with the State Forestry Department and local emergency services agencies, shall evaluate a public utility's wildfire protection plan and plan updates through a public process.

(5) Not more than 180 days after receiving a wildfire protection plan or plan update from a public utility, the commission shall approve or approve with conditions the plan or update if the commission finds that the plan or update is based on reasonable and prudent practices identified through workshops pursuant to ORS 757.960 and designed to meet all applicable rules and standards adopted by the commission.

(6) The commission's approval of a wildfire protection plan does not establish a defense to any enforcement action for violation of a commission decision, order or rule or relieve a public utility from proactively managing wildfire risk, including by monitoring emerging practices and technologies.

(7) The commission shall adopt rules for the implementation of this section. The rules may include, but need not be limited to, procedures and standards regarding vegetation management, public power safety shutoffs and restorations, pole materials, circuitry and monitoring systems.

(8) All reasonable operating costs incurred by, and prudent investments made by, a public utility to develop, implement or operate a wildfire protection plan under this section are recoverable in the rates of the public utility from all customers through a filing under ORS 757.210 to 757.220. The commission shall establish an automatic adjustment clause, as defined in ORS 757.210, or another method to allow timely recovery of the costs. [2021 c.592 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.966 - Consumer-owned utility required to develop wildfire mitigation plan.**

(1) As used in this section, "consumer-owned utility" and "governing body" have the meanings given those terms in ORS 757.600.

(2) A consumer-owned utility must have and operate in compliance with a risk-based wildfire mitigation plan approved by the governing body of the utility. The plan must be designed to protect public safety, reduce risk to utility customers and promote electrical system resilience to wildfire damage.

(3) The consumer-owned utility shall regularly update the risk-based wildfire mitigation plan on a schedule the governing body deems consistent with prudent utility practices.

(4) A consumer-owned utility shall conduct a wildfire risk assessment of utility facilities. The utility shall review and revise the assessment on a schedule the governing body deems consistent with prudent utility practices.

(5) A consumer-owned utility shall submit a copy of the risk-based wildfire mitigation plan approved by the utility governing body to the Public Utility Commission to facilitate commission functions regarding statewide wildfire mitigation planning and wildfire preparedness. [2021 c.592 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.968 - Electric utility easement over private land.**

(1) As used in this section, "electric utility" has the meaning given that term in ORS 757.600.

(2) ORS 757.963 and 757.966 do not affect the terms or conditions of an easement held by an electric utility over private land as of July 19, 2021. [2021 c.592 §6a]

Note:

757.968 and 757.969 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.969 - Municipally owned utility exempt from requirements.**

ORS 757.963 and 757.995 do not apply to municipally owned utilities organized under ORS chapter 225. [2021 c.592 §6b]

Note:

See note under 757.968.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.990 - Penalties.**

(1) Any person or municipality, or their agents, lessees, trustees or receivers, who omits, fails or refuses to do any act required by ORS 757.035, or fails to comply with any orders, rules or regulations of the Public Utility Commission made in pursuance of ORS 757.035, shall forfeit and pay into the State Treasury a sum of not less than \$100, nor more than \$10,000 for each such offense.

(2) Any public utility, or an officer or agent of a public utility, violating ORS 757.310 commits a Class A violation.

(3) Violation of ORS 757.325 is a Class A violation if committed by an individual. Violation of ORS 757.325 is a specific fine violation if committed by a person other than an individual and is subject to a fine of not more than \$10,000.

(4) Violation of ORS 757.330 is a Class A violation.

(5) Violation of ORS 757.445 is a specific fine violation subject to a fine of not more than \$20,000 for each offense.

(6) Violation of ORS 757.450 is a Class C felony. [Amended by 1971 c.655 §95; 1979 c.990 §428; 1987 c.320 §245; 1999 c.1051]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.991 - Civil penalty for noncompliance with gas regulations.**

(1)(a) Any person or municipality, or any agent, lessee, trustee or receiver of the person or municipality, engaged in the management, operation, ownership or control of facilities for the transmission or distribution of gas by pipeline, or of facilities for the storage or treatment of gas to be transmitted or distributed by pipeline, that fails to comply with ORS 757.039, or fails to comply with any order, rule or regulation of the Public Utility Commission made pursuant to ORS 757.039, is subject to a civil penalty established by rule by the commission.

(b) The civil penalty amount for a violation or series of violations described in this section may not exceed the administrative civil penalty amount set forth in 49 C.F.R. 190.223 for a violation or series of violations of the applicable federal law described therein.

(2) Notwithstanding ORS 183.315 (6), 183.745 (7)(d) and 756.500 to 756.610, civil penalties under this section must be imposed by the commission as provided in ORS 183.745.

(3) Civil penalties collected under this section must be paid into the General Fund and credited to the Public Utility Commission Account as described in ORS 756.990 (7). [1969 c.372 §4; 1991 c.199 §1; 2015 c.231 §1; 2021 c.35 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.992**

[Formerly 758.990; renumbered 165.990]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.993 - Penalty for violation of utility excavation notification provisions.**

(1) Except as provided in subsection (2) of this section and in addition to all other penalties provided by law, every person who violates or who procures, aids or abets in the violation of any rule of the Oregon Utility Notification Center shall incur a penalty of not more than \$1,000 for the first violation and not more than \$5,000 for each subsequent violation.

(2) In addition to all other penalties provided by law, every person who intentionally violates or who intentionally procures, aids or abets in the violation of any rule of the Oregon Utility Notification Center shall incur a penalty of not more than \$5,000 for the first violation and not more than \$10,000 for each subsequent violation.

(3) Each violation of any rule of the Oregon Utility Notification Center shall be a separate offense. In the case of a continuing violation, each day that the violation continues shall constitute a separate violation.

(4) Penalties under this section shall not be imposed except by order following complaint as provided in ORS 756.500 to 756.610. A complaint must be filed within two years following the date of the violation.

(5) The Public Utility Commission may reduce any penalty provided in this section on such terms as the commission considers proper if:

(a) The defendant admits to the violation or violations alleged in the complaint and makes a timely request for reduction of the penalty; or

(b) The defendant submits to the commission a written request for reduction of the penalty within 15 days from the date of the penalty order.

(6) If the amount of the penalty is not paid to the commission, the Attorney General, at the request of the commission, shall bring an action in the name of the State of Oregon in the Circuit Court for Marion County to recover the penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the commission.

(7) Notwithstanding any other provision of law, the commission shall pay penalties recovered under this section to the Oregon Utility Notification Center.

(8) The commission shall not seek penalties under this section except in response to a complaint alleging a violation of a rule or rules adopted by the Oregon Utility Notification Center. The commission may investigate any such complaint, and the commission shall have sole discretion to seek penalties under this section. [1995 c.691 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation Generally Section 757.994 - Civil penalty for violation of statute, rule or order related to water utilities.**

(1) In addition to all other penalties provided by law, a person who violates any statute, rule or order of the Public Utility Commission related to water utilities is subject to a civil penalty of not more than \$500 for each violation. The commission may require that penalties imposed under this section be used for the benefit of the customers of water utilities affected by the violation.

(2) Notwithstanding ORS 183.745 (7)(d), 183.315 (6) and 756.500 to 756.610, civil penalties under this section must be imposed by the commission as provided in ORS 183.745. [2003 c.202 §3]

Note:

757.994 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 757 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 757 - Utility Regulation**

**GenerallySection 757.995 - Civil penalty for violation of wildfire protection provisions or rule.**

- (1) In addition to all other penalties provided by law, violation of ORS 757.963 or a rule adopted pursuant to ORS 757.963 is subject to a civil penalty not to exceed \$10,000.
- (2) Notwithstanding ORS 183.315 (6), 183.745 (7)(d) and 756.500 to 756.610, civil penalties under this section must be imposed by the Public Utility Commission as provided in ORS 183.745.
- (3) Civil penalties collected under this section must be paid into the General Fund and credited to the Public Utility Commission Account as described in ORS 756.990 (7). [2021 c.592 §3a]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 758 - Utility Rights of Way and Territory Allocation; CogenerationSection 758.010 - Authority to construct lines and facilities; requirements and conditions.**

- (1) Except within cities, any person has a right and privilege to construct, maintain and operate its water, gas, electric or communication service lines, fixtures and other facilities along the public roads in this state, as defined in ORS 368.001 or across rivers or over any lands belonging to state government, as defined in ORS 174.111, free of charge, and over lands of private individuals, as provided in ORS 772.210. Such lines, fixtures and facilities shall not be constructed so as to obstruct any public road or navigable stream.
- (2) A county governing body and the Department of Transportation have authority to designate the location upon roads under their respective jurisdiction, outside of cities, where lines, fixtures and facilities described in this section may be located, and subject to ORS 758.025 may order the location of any such line, fixture or facility to be changed when such governing body or department deems it expedient. Any line, fixture or facility erected or remaining in a different location upon such road than that designated in any order of the governing body or department is a public nuisance and may be abated accordingly.
- (3) The state officer, agency, board or commission having jurisdiction over any land belonging to state government, as defined in ORS 174.111, with respect to which the right and privilege granted under subsection (1) of this section is exercised may impose reasonable requirements for the location, construction, operation and maintenance of the lines, fixtures and facilities on such land. The person exercising such right and privilege over any land belonging to state government, as defined in ORS 174.111, shall pay the current market value for the existing forest products that are damaged or destroyed in exercising such right and privilege. Such right and privilege of any person is conditioned upon compliance with the requirements imposed by this subsection. [Amended by 1955 c.123 §1; 1971 c.655 §100; 1981 c.153 §76; 2001 c.664 §§3,6; 2009 c.444 §4; 2015 c.55 §1]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 758 - Utility Rights of Way and Territory Allocation; CogenerationSection 758.012 - Notice of intent to build transmission line to consumer-owned utilities and public utilities; exemptions.**

- (1) As used in this section:
  - (a) "Public utility" has the meaning given that term in ORS 757.005.
  - (b) "Transmission line" means a linear utility facility by which a utility provider transmits or transfers electricity from a point of origin or generation or between transfer stations.
- (2) A person who applies for a permit with the Energy Facility Siting Council or with a county to build a transmission line must notify each people's utility district organized under ORS chapter 261, municipal utility organized under ORS chapter 225, electric cooperative organized under ORS chapter 62 and public utility in whose service territory the transmission line will be constructed of the intent to receive approval for the construction of the transmission line unless the person is:
  - (a) A people's utility district organized under ORS chapter 261, a municipal utility organized under ORS chapter 225 or an electric cooperative organized under ORS chapter 62; or
  - (b) A public utility. [2013 c.235 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 758 - Utility Rights of Way and Territory Allocation; CogenerationSection 758.013 - Operator of electric power line to provide Public Utility Commission with safety information; availability of information to public utilities.**

- (1) Each person who is subject to the Public Utility Commission's authority under ORS 757.035 and who engages in the operation of an electric power line as described in ORS 757.035 must provide the commission with the following information before January 2 of each even-numbered year:
  - (a) The name and contact information of the person that is responsible for the operation and maintenance of the electric power line, and for ensuring that the electric power line is safe, on an ongoing basis; and
  - (b) The name and contact information of the person who is responsible for responding to conditions that present an imminent threat to the safety of employees, customers and the public.
- (2) In the event that the contact information described in subsection (1) of this section changes or that ownership of the electric power line changes, the person who engages in the operation of the electric power line must notify the commission of the change as soon as practicable, but no later than within 90 days.
- (3) If the person described in subsection (1) of this section is not the public utility, as defined in ORS 757.005, in whose service

territory the electric power line is located, the commission shall make the information provided to the commission under subsection (1) of this section available to the public utility in whose service territory the electric power line is located. [2013 c.235 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.015 - Certificate of public convenience and necessity.**

(1) When any person, as defined in ORS 758.400, providing electric utility service, as defined in ORS 758.400, or any transmission company, proposes to construct an overhead transmission line which will necessitate a condemnation of land or an interest therein, it shall petition the Public Utility Commission for a certificate of public convenience and necessity setting forth a detailed description and the purpose of the proposed transmission line, the estimated cost, the route to be followed, the availability of alternate routes, a description of other transmission lines connecting the same areas, and such other information in such form as the commission may reasonably require in determining the public convenience and necessity.

(2) The commission shall give notice and hold a public hearing on such petition. The commission, in addition to considering facts presented at such hearing, shall make the commission's own investigation to determine the necessity, safety, practicability and justification in the public interest for the proposed transmission line and shall enter an order accordingly. Except for petitions for a proposed transmission line for which the petitioner also seeks approval from the Energy Facility Siting Council for the same transmission line, the order shall be subject to review as in other cases. Orders on petitions for a proposed transmission line for which the petitioner also seeks approval from the Energy Facility Siting Council for the same transmission line are subject to judicial review in the same manner as an order in a contested case as set forth in ORS 758.017. In any proceeding for condemnation, a certified copy of such order shall be conclusive evidence that the transmission line for which the land is required is a public use and necessary for public convenience.

(3) This section shall not apply to construction of transmission lines in connection with a project for which a permit or license is otherwise obtained pursuant to state or federal law.

(4) As used in this section and ORS 758.020, "transmission company" means a person or entity that owns or operates high voltage transmission lines and is subject to the jurisdiction of the Federal Energy Regulatory Commission. "Transmission company" does not include a cooperative organized under ORS chapter 62. [1961 c.691 §19; 2001 c.913 §6; 2013 c.335 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.017 - Appeal of grant or denial of certificate of public convenience and necessity for transmission lines subject to Energy Facility Siting Council approval; review vested in Supreme Court.**

(1) Any party to a contested case hearing related to the application for a certificate of public convenience and necessity under ORS 758.015 for a proposed transmission line for which the petitioner also seeks approval from the Energy Facility Siting Council for the same transmission line may appeal the Public Utility Commission's grant or denial of the application. Issues on appeal shall be limited to those raised by the parties to the contested case hearing before the commission.

(2) Jurisdiction for judicial review of the commission's approval or rejection of an application for a certificate of public convenience and necessity under subsection (1) of this section is conferred upon the Supreme Court. Proceedings for review shall be instituted by filing a petition in the Supreme Court. The petition shall be filed within 60 days after the date of service of the commission's final order. Date of service shall be the date on which the commission delivered or mailed the final order in accordance with ORS 183.470.

(3) The filing of a petition for judicial review may not stay the order, except that a party to the contested case hearing may apply to the Supreme Court for a stay upon a showing that there is a colorable claim of error and that the petitioner will suffer irreparable injury.

(4) If the Supreme Court grants a stay pursuant to subsection (3) of this section, the court:

(a) Shall require the petitioner requesting the stay to give an undertaking in the amount of \$5,000.

(b) May grant the stay in whole or in part.

(c) May impose other reasonable conditions on the stay.

(5) The review by the Supreme Court shall be the same as the review by the Court of Appeals described in ORS 183.482. The Supreme Court shall give priority on its docket to a petition for review under this section and render a decision within six months of the filing of the petition for review.

(6) The following periods of delay shall be excluded from the six-month period within which the court must render a decision under subsection (5) of this section:

(a) Any period of delay resulting from a motion properly before the court; or

(b) Any reasonable period of delay resulting from a continuance granted by the court on the court's own motion or at the request of one of the parties, if the court granted the continuance on the basis of findings that the ends of justice served by granting the continuance outweigh the best interests of the public and the other parties in having a decision within six months.

(7) No period of delay resulting from a continuance granted by the Supreme Court under subsection (6)(b) of this section shall be excluded from the six-month period unless the court sets forth, in the record, either orally or in writing, the court's reasons for finding that the ends of justice served by granting the continuance outweigh the best interests of the public and the other parties in having a decision within six months. The factors the court shall consider in determining whether to grant a continuance under subsection (6)(b) of this section are:

- (a) Whether the failure to grant a continuance in the proceeding would be likely to make a continuation of the proceeding impossible or result in a miscarriage of justice; or
- (b) Whether the case is so unusual or so complex, because of the number of parties involved or the existence of novel questions of fact or law, that it is unreasonable to expect adequate consideration of the issues within the six-month period.
- (8) No continuance under subsection (6)(b) of this section shall be granted because of general congestion of the court calendar or lack of diligent preparation or attention to the case by any member of the court or any party. [2013 c.335 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.020 - Joint occupancy of poles.**

(1) The county court, board of county commissioners or the Department of Transportation, when designating the location where poles or other aboveground facilities described in ORS 758.010 may be placed on a road or highway which fronts on the ocean or on a river or other body of water and the water frontage of the highway is being developed or maintained for its scenic or recreational value, may require all lines to occupy the opposite side of the right of way, if such joint occupancy can be maintained without undue impairment of service or damage to public life and property.

(2) If the owners of such lines are unable to agree on the terms and conditions of joint occupancy, such department, court or board shall request the Public Utility Commission to determine the practicability of such joint occupancy and the effect thereof upon adequate and safe service by the prospective joint occupants, the location of the lines, and, if found to be practicable, to fix and prescribe the terms and conditions pursuant to which joint occupancy shall be accomplished. Before making or entering an order, such commission shall hold a hearing and make findings in accordance with ORS 756.500 to 756.610. The order of the commission is subject to judicial review in the manner provided by ORS 756.610. In fixing terms and conditions pursuant to which joint occupancy shall be accomplished, the Public Utility Commission shall require the installation by each occupant of standards, devices and equipment reasonably necessary to protect the equipment of the other occupants from damage and the public from injury arising from such joint occupancy.

(3) The right of any public utility, telecommunications utility or transmission company to construct, maintain and operate on a public highway poles or fixtures is contingent on compliance with reasonable requirements established by the Department of Transportation, county courts, boards of county commissioners or the Public Utility Commission under authority of this section and ORS 758.010. Such rights are likewise contingent and conditioned on all facilities, equipment and installations being constructed and maintained in strict conformance with modern and approved standards. [Amended by 1971 c.655 §102; 1987 c.447 §98; 2001 c.913 §7; 2005 c.638 §11; 2017 c.312 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.025 - Relocation of utilities in highway right of way; required consultation; recovery of costs.**

(1) As used in this section:

(a) "Highway" has the meaning given that term in ORS 801.305 (1) but does not include highways located on property owned by the Port of Portland that is subject to federal relocation regulations authorized under 49 U.S.C. 47107, as in effect on January 1, 2010.

(b) "Public body" has the meaning given that term in ORS 174.109.

(c) "Utility" means a public utility, as defined in ORS 757.005, or a telecommunications utility or competitive telecommunications provider, as those terms are defined in ORS 759.005.

(2) If a public body plans a project that would require utilities to relocate their utility facilities that are located in the highway right of way, the public body shall notify affected utilities of the project in writing as soon as is practicable.

(3) During the planning and design phase of a project, the public body shall coordinate with the affected utilities to discuss the project's scope and schedule. At a minimum, the discussion must include a description of the plans, goals and objectives of the proposed project and options to minimize or eliminate costs to the public body and the utilities. The public body is not required to avoid or minimize costs to the utilities in a way that materially affects the project's scope, costs or schedule. Failure of the affected utilities to respond or participate in the coordination or discussion does not affect the ability of the public body to proceed with design and construction of the project.

(4) A public body having jurisdiction over a highway may not prohibit a utility from seeking reimbursement from private parties or customers for costs under this section in any permit application, license application or other written agreement authorizing the utility to relocate the facilities.

(5)(a) Notwithstanding any other provision of ORS chapter 759, a telecommunications utility that is not subject to rate-of-return regulation, including a utility regulated under ORS 759.255 may, after participating in the process described in subsection (3) of this section, request authorization from the Public Utility Commission to recover from customers prudent costs incurred for the relocation of facilities required by a public body that are not otherwise paid or reimbursed from another source. Recoverable relocation costs are the nonfacility costs incurred in the relocation plus the undepreciated value of the facilities replaced, including the cost of placing such facilities underground if underground placement is required by the public body or other provision of law. The commission may authorize the recovery of relocation costs that the commission determines to be substantial and beyond the normal course of business.

(b) The commission shall:

- (A) Verify the relocation costs for which the utility requests recovery;
  - (B) Determine the allocation of costs between interstate and intrastate services, geographic areas, customers and services; and
  - (C) Prescribe the method of cost recovery.
- (c) In determining the level of cost recovery and the allocation of costs, the commission shall consider:
- (A) The overall impact on the utility; and
  - (B) Other relevant factors identified by the commission.
- (d) Relocation costs may be recovered for a reasonable period of time subject to approval by the commission and not to exceed the depreciable life of the facilities. [2009 c.444 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.030**

[Renumbered 271.440]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.035 - Commission's power to enforce joint use of facilities.**

(1) Every public utility, telecommunications utility, person, association or corporation having conduits, subways, street railway tracks, poles or other equipment on, over or under any street or highway shall for a reasonable compensation permit the use of the same by any public utility or telecommunications utility whenever public convenience or necessity requires such use and such use will not result in irreparable injury to the owner or other users of such equipment nor in any substantial detriment to the service to be rendered by such owners or other users.

(2) In case of failure to agree upon such use or the conditions or compensation for such use, any public utility, telecommunications utility, person, association or corporation interested may apply to the Public Utility Commission, and if after investigation the commission ascertains that public convenience or necessity requires such use and that it would not result in irreparable injury to the owner or other users of such equipment, the commission shall by order direct that such use be permitted and prescribe reasonable conditions and compensation for such joint use.

(3) The use so ordered shall be permitted and the prescribed conditions and compensation shall be the lawful conditions and compensation to be observed, followed and paid. The order of the commission is subject to judicial review in the manner provided by ORS 756.610. The order may be modified by the commission upon application of any interested party or upon the commission's own motion. All public utilities and telecommunications utilities shall afford all reasonable facilities and make all necessary regulations for the interchange of business, or traffic carried or their product between them, when ordered by the commission so to do. [Formerly 757.040; 1987 c.447 §99; 2005 c.638 §12; 2017 c.312 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.040**

[Renumbered 757.606]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.050**

[Renumbered 757.611]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.060**

[Amended by 1971 c.743 §426; renumbered 757.616]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.070**

[Renumbered 757.621]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.080**

[Renumbered 757.626]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.090**

[Renumbered 757.631]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.100**



[Renumbered 757.636]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.110**

[Renumbered 757.641]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.120 - Electric easement in provision of broadband services; exceptions; notice; remedies for property owners.**

(1) As used in this section and ORS 758.125 and 758.130:

(a) "Attachment" has the meaning given that term in ORS 757.270.

(b) "Broadband" has the meaning given that term in ORS 276A.406.

(c) "Commercial broadband service provider" means a provider of broadband service that is not affiliated with or a division of an electric cooperative.

(d) "Electric cooperative" has the meaning given that term in ORS 757.600.

(e) "Electric easement" means any recorded or unrecorded easement or license, including easements created by operation of law, held or used by an electric cooperative for the installation and maintenance of electric facilities, regardless of whether the easement is for the exclusive benefit of the electric cooperative or is also for use in connection with other utility services that may or may not be provided by the electric cooperative.

(f) "Electric facilities" means any line, wire, pipe, conduit, main, pump, pole, tower, fixture, manhole, handhole or other similar facility or facilities, and any other related or ancillary materials, which are owned or controlled, in whole or in part, by one or more electric cooperatives.

(g) "Property owner" means a person with a recorded fee simple interest in land upon which an electric easement is located.

(2)(a)(A) Except as provided in paragraph (b) of this subsection, an electric cooperative may use or allow for the use of an electric easement in the provision of broadband services.

(B) If use of an electric easement in the provision of broadband services as authorized under this paragraph would result in an expansion of the uses for which the easement is granted or acquired, the electric cooperative shall, no later than 60 days prior to the expansion of use, provide written notice to the property owner pursuant to subsection (3) of this section.

(C) A commercial broadband service provider may request for an electric cooperative to send notice to a property owner as required by this subsection. A commercial broadband service provider shall include in a request under this subparagraph the addresses of subject poles and the pole numbers if labeled on the pole, and the names and addresses of the property owners to whom the commercial broadband service provider requests notice to be sent. Absent unusual circumstances such as an outage or similar emergency, an electric cooperative shall send notice to a property owner as requested under this subparagraph no later than 10 days after receipt of the request from a commercial broadband service provider.

(b)(A) The provisions of this section do not authorize an electric cooperative to use or allow for the use in the provision of broadband services any electric easements that are granted on property owned, managed or operated by a city, including but not limited to public rights of way within the boundaries of the city.

(B) If an electric easement is an unrecorded easement, license or easement created by operation of law, the electric easement must be in current use by the electric cooperative for the installation and maintenance of electric facilities in order for the electric cooperative to exercise the authority granted under this section. For purposes of this section, the location and extent of an unrecorded easement, license or easement created by operation of law is limited to:

(i) The location of the electric easement as it was in use prior to commencement of use of the electric easement in the provision of broadband services; and

(ii) A width of no more than 10 feet on each side from the center line of the electric easement.

(3)(a) Written notice as required by subsection (2) of this section must be sent by certified mail to the last known address of the property owner, according to publicly available records of the county assessor. The notice must contain:

(A) The name and mailing address of the electric cooperative;

(B) The mailing address, telephone number and electronic mail address for a representative of the electric cooperative;

(C) A summary statement of the purpose and character of the expansion of the use of the electric easement; and

(D) An offer for an onsite meeting prior to commencement of any installation activities associated with the expanded use.

(b) If the notice is sent by an electric cooperative on behalf of a commercial broadband service provider, the notice must also contain:

(A) The name and mailing address of the commercial broadband service provider; and

(B) The mailing address, telephone number and electronic mail address for a representative of the commercial broadband service provider.

(4) If the activities necessary to expand use of the electric easement for provision of broadband services will require trenching or other underground work that is not included in the uses for which the easement is granted or acquired:

(a) The notice provided under subsection (3) of this section must also include:

(A) A summary statement describing the activities to be conducted during the trenching or other underground work; and

- (B) The approximate dates when the trenching or other underground work will start and end;
- (b) Any new conduit must be installed in a location that is adjacent to and as close to existing conduit as allowed under applicable code requirements or regulations;
- (c) To the extent allowed under any applicable code requirements or regulations, the property owner may choose which side of the existing conduit to install any new conduit; and
- (d) Any surface area disturbed during trenching or other underground work must be restored to its condition prior to the trenching or other underground work.
- (5) In installing and maintaining facilities necessary to provide broadband services, the provider of broadband services that is making use of an electric easement as authorized pursuant to this section must:
- (a) Make reasonable accommodations to prevent disruption to active agricultural and forest operations;
- (b) Employ best practices to prevent the introduction of noxious weeds onto the property upon which the electric easement is located;
- (c) Provide compensation to the property owner for property damage or crop loss caused by the installation or maintenance of the facilities; and
- (d) Upon the request of the property owner, provide at least seven days advance notice before the commencement of any installation or routine maintenance activities.
- (6) An expansion of use described in subsection (2) of this section is deemed vested in the electric cooperative and shall run with the land as of the date that the property owner receives notice from the electric cooperative.
- (7) Except as provided in ORS 758.125 (1), a property owner that receives notice under subsection (3) of this section may bring a cause of action, in the circuit court of the county where the electric easement is located, against the provider of broadband services for damages relating to a decrease in the value of the property owner's real property caused by the use of the easement in the provision of broadband services. A cause of action authorized by this subsection must be brought no later than 18 months after the date that the electric cooperative provided notice under subsection (3) of this section. The cause of action provided for in this subsection shall be the exclusive remedy in law or equity with respect to use of the electric easement for the provision of broadband services.
- (8)(a) In an action brought under subsection (7) of this section:
- (A) The court or jury shall ascertain and assess the decrease in value of property, if any, based on the difference between:
- (i) The fair market value of the entire parcel of real property upon which the electric easement is located immediately before the expanded use; and
- (ii) The fair market value of the entire parcel of real property immediately after the expanded use;
- (B) Evidence of revenues or profits derived from the expanded use or related attachment rates is not admissible in determining fair market value; and
- (C) Evidence of the increase in fair market value due to the availability of broadband services is admissible in determining fair market value.
- (b) Prior to the commencement of trial in an action brought under subsection (7) of this section, the defendant shall make at least one offer of compensation to the property owner. If the property owner obtains a judgment that exceeds the offer of compensation made by the defendant, the property owner shall be entitled to an additional award for trial costs, disbursements, reasonable attorney fees and expenses as defined in ORS 35.335 (2).
- (c) At any point not later than 10 days before the trial of the action, after making an initial offer of compensation pursuant to paragraph (b) of this subsection, the defendant may serve an offer of compromise on the plaintiff in the action, as provided in ORS 35.300. If the plaintiff accepts the offer of compromise, the plaintiff shall be entitled to an award for costs and disbursements, attorney fees and expenses incurred by the plaintiff before service of the offer on plaintiff. If the plaintiff rejects the offer of compromise and fails to obtain a judgment more favorable than the offer, the plaintiff may not recover prevailing party fees or costs and disbursements, attorney fees and expenses that were incurred on and after service of the offer.
- (9) The electric cooperative may include required reimbursement for expanded use compensation awards and litigation costs in any attachment license agreement with a provider of broadband services that is not the electric cooperative and that is directly benefited by the expanded use.
- (10) A class action may not be maintained against a provider of broadband services in any action for damages based on a claim of expanded use for broadband services. [2021 c.149 §1]

Note:

758.120 to 758.130 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 758 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.125 - Duties and rights not altered by ORS 758.120.**

- (1) ORS 758.120 does not alter the rights of an electric cooperative or commercial broadband service provider to acquire the rights to use real property for broadband services through any other means authorized by law.
- (2) ORS 758.120 does not authorize an expanded use that is expressly prohibited by the terms of a written electric easement.
- (3) Exercise of the authority granted in ORS 758.120 does not:

- (a) Change the legal relationship between the electric cooperative as the easement holder and the property owner;
  - (b) Create an easement right for any third party, including but not limited to a commercial broadband service provider or a broadband division or affiliate of the electric cooperative; or
  - (c) Expand the footprint of the existing easement.
- (4) An expanded use of an electric easement authorized under ORS 758.120 may not alter or interfere with any easement rights held by parties other than the electric cooperative that existed, within or outside the area of the electric easement, prior to the expanded use.
- (5)(a) Nothing in ORS 758.120 requires an electric cooperative that does not have a broadband division or affiliate to offer or authorize the access or use of an electric easement or to use attachments or electric service infrastructure owned or controlled by the electric cooperative for provision of broadband services in a manner that would, in the electric cooperative's reasonable discretion, materially interfere with the electric cooperative's construction, maintenance or use of any electric cooperative attachments or infrastructure for the provision of electric service.
- (b) Subject to subsection (2) of this section, if an electric cooperative has a broadband division or affiliate, the electric cooperative may withhold authorization for a commercial broadband service provider to access or use an electric easement or to use attachments or electric service infrastructure owned or controlled by the electric cooperative for provision of broadband services only if:
- (A) There is insufficient capacity for attachments necessary for the provision of broadband service; or
  - (B) Concerns of safety or reliability or generally applicable engineering purposes weigh against granting the authorization.
- (6) Nothing in this section or ORS 758.120 imposes any duty or liability on a property owner in addition to any liability provided for in an electric easement for unintentional damage by the property owner to facilities necessary for the provision of broadband that are installed in an electric easement pursuant to an expanded use authorized under ORS 758.120. An electric cooperative that exercises the authority granted under ORS 758.120 shall indemnify and hold harmless the property owner against damage to existing easement holders resulting from activities related to the installation or maintenance of facilities described in this subsection. [2021 c.149 §2]
- Note:  
See note under 758.120.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.130 - Requirements for electric cooperative in provision of broadband services; audit; compliance.**

- (1) An electric cooperative that exercises the authority granted under ORS 758.120 for the provision of broadband services:
- (a) For as long as the electric cooperative maintains an exclusive right to provide electric service to customers within its exclusive service territory, may provide broadband service only through a broadband affiliate or through a separate broadband division within the electric cooperative; and
  - (b) If the electric cooperative has a broadband affiliate or separate broadband division:
    - (A) Shall maintain or cause to be maintained an accounting system for the broadband affiliate or division that is separate from the accounting system for the electric cooperative's electric division;
    - (B) Shall cause, within two years after commencement of commercial operation by the electric cooperative's broadband affiliate or division and at least once every two years thereafter, a financial audit to be performed by an independent certified public accountant with respect to the broadband affiliate's or division's provision of retail broadband service, including an audit of the allocation of costs for property and services that are used in both the provision of broadband service and the electric cooperative's provision of electric service; and
    - (C) May not provide the broadband affiliate or division of the electric cooperative a right to install maintain, own, operate, or use attachments at rates, terms or conditions that are more favorable than the rates, terms or conditions provided to commercial broadband service providers.
- (2)(a) An electric cooperative may not use its exclusive right to provide electric service within its exclusive territory to cross-subsidize a broadband affiliate of the electric cooperative or a separate broadband division within the electric cooperative, or to cross-subsidize a broadband affiliate's or division's provision of broadband service through:
- (A) Below fair market pricing;
  - (B) Payment of capital or operating costs properly charged to the broadband affiliate or division under applicable accounting rules; or
  - (C) Use of any revenue from or subsidy for the provision of electric service to provide broadband service below market value, except in connection with the electric cooperative's provision of electricity.
- (b) An electric cooperative may:
- (A) Enter into transactions with the broadband affiliate or division of the electric cooperative on terms and conditions that are substantially similar to the terms and conditions that would be agreed to between two similarly situated parties in an arm's-length commercial transaction;
  - (B) Loan funds to the broadband affiliate or division of the electric cooperative if the interest rate on the loan is no less than the electric cooperative's lowest cost of capital;
  - (C) Provide for reduced-cost broadband service to low-income customers;

(D) Conduct and fund due diligence, operational analysis, entity set-up, and associated noncapital expenditures relating to and prior to the establishment of a broadband affiliate or division; or

(E) Offer broadband service through a broadband affiliate or division at below market pricing on a temporary basis for promotional purposes.

(3)(a) Upon request from a commercial broadband service provider, an electric cooperative subject to this section and any broadband affiliate or division of the electric cooperative shall cause an officer of the electric cooperative and the broadband affiliate or division, respectively, to certify that both the electric cooperative and the broadband affiliate or division are in compliance with this section.

(b) If a dispute arises between an electric cooperative or its broadband affiliate or division and a commercial broadband service provider regarding matters addressed in this subsection, the parties to the dispute have standing to file a claim or cause of action in any court of competent jurisdiction in the state. The following are discoverable and admissible as evidence in court regarding compliance by the electric cooperative and the broadband affiliate or division of the electric cooperative compliance with this section:

(A) Any certification requested and produced pursuant to this subsection; and

(B) Any audit required to be performed pursuant to subsection (1) of this section, except that the court shall provide appropriate restrictions upon the disclosure of any trade secret, as that term is defined in ORS 192.345 (2), that may be included in the audit.

[2021 c.149 §3]

Note:

See note under 758.120.

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.210 - Policy.**

The legislature finds that in many areas of this state landowners, utilities and public authorities desire to convert existing overhead electric and communication facilities to underground facilities by means of special assessment proceedings. The legislature declares that a public purpose will be served and that the public welfare will be promoted by providing a procedure to accomplish such conversion by special assessment proceedings and that it is in the public interest for such conversion to be accomplished as provided in ORS 758.210 to 758.270. [1969 c.385 §1]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.215 - Definitions for ORS 758.210 to 758.270.**

As used in ORS 758.210 to 758.270, unless the context requires otherwise:

(1) "Convert," "converting" or "conversion" means the removal of overhead electric or communication facilities and the replacement thereof with underground electric or communication facilities at the same or different locations.

(2) "Electric or communication facilities" means any works or improvements used or useful in providing electric or communication service, including but not limited to poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances, and all related facilities required for the acceptance of electric or communication services; however:

(a) "Electric facilities" does not include any facilities used or intended to be used for the transmission of electric energy at nominal voltages in excess of 35,000 volts.

(b) "Communication facilities" does not include facilities used or intended to be used for the transmission of intelligence by microwave or radio, apparatus cabinets or outdoor public telephones.

(c) "Electric or communication facilities" does not include any electric or communication facilities owned or used by or provided for a railroad or pipeline and located upon or above the right of way of the railroad or pipeline.

(3) "Landowner" or "owner" means the owner of the title to real property or the contract purchaser of real property of record as shown on the last available complete assessment roll in the office of the county assessor.

(4) "Overhead electric or communication facilities" means electric or communication facilities located above the surface of the ground.

(5) "Public authority" means a city or county.

(6) "Public lands and right of way" includes rights of way for streets, roads and highways and all land or interests in land owned by a public authority.

(7) "Underground assessment district" or "district" means an assessment district created as provided by ORS 758.210 to 758.270.

(8) "Underground electric or communication facilities" means electric or communication facilities located below the surface of the ground exclusive of those facilities such as substations, transformers, pull boxes, service terminals, pedestal terminals, splice closures, apparatus cabinets and similar facilities which normally are above the surface in areas where utility facilities are underground in accordance with standard underground practices.

(9) "Utility" means any electric or communication utility described by ORS 757.005 or any telecommunications utility described by ORS 759.005, any plant owned or operated by a municipality, any person furnishing community antenna television service to the public and any cooperative corporation or people's utility district engaged in furnishing electric or communication service to consumers. [1969 c.385 §2; 1971 c.360 §1; 1987 c.447 §100]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.220 - Authority for conversion to underground facilities; formation of assessment district.**

- (1) A public authority shall have the power to require the conversion of overhead electric or communication facilities to underground facilities; to provide and receive funds to pay for such conversion; and to assess the whole or any part of the cost thereof against the real property included in the underground assessment district specially benefited by such conversion.
- (2) An underground assessment district shall include an area having a frontage of not less than 400 feet upon a public street, road or highway along which overhead electric or communication facilities are located.
- (3) An underground assessment district:
  - (a) Created by a city, may include area along city streets, county roads and state highways or any part thereof located within the district.
  - (b) Created by a county, may include areas along county roads, state highways or any part thereof located within the district. [1969 c.385 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.225 - Petition, ordinance or resolution for conversion; contents; filing.**

- (1) A proceeding for conversion may be initiated:
  - (a) By a petition signed by not less than 60 percent of the landowners within the proposed assessment district who own not less than 60 percent of the land area within the district; or
  - (b) By an ordinance or resolution of a public authority declaring its intention to order a conversion.
- (2) A petition shall:
  - (a) Describe the proposed boundaries of the assessment district;
  - (b) Generally describe the proposed conversion; and
  - (c) Request that a proceeding for such conversion be taken pursuant to ORS 758.210 to 758.270.
- (3) The petition shall be filed with the city recorder, county clerk or other person designated by the public authority to receive the petition and to verify the signatures. If the petition is signed by the requisite number of qualified signers, the official so designated shall execute a certificate of sufficiency and present the petition and certificate to the governing body of the city or to the county court or board of county commissioners, as the case may be. [1969 c.385 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.230 - Assessment procedure; objections to conversion.**

- (1) Upon presentation of the petition and certificate of sufficiency, or upon adoption of an ordinance or resolution, the public authority shall proceed in the manner provided by ORS 223.389.
- (2) Unless the charter of a county provides otherwise, a county shall declare a proposed conversion abandoned if, after notice as provided by ORS 223.389, objections to the conversion are received by a county court or board of county commissioners signed by more than 50 percent of the landowners within the proposed assessment district who own more than 50 percent of land within the district. If a proposed conversion is abandoned because of objections, no new proceeding for the conversion shall be undertaken within a period of one year thereafter. [1969 c.385 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.235 - Applicability of local improvement laws; issuance of bonds.**

Unless otherwise provided by ORS 758.210 to 758.270, the provisions relating to the procedure for local improvements in cities, as set forth in ORS 223.205, 223.210 to 223.295, 223.387 to 223.399, 223.401, 223.405 to 223.485, 223.505 to 223.595, 223.610, 223.615 to 223.650 and 223.770, apply to proceedings for a conversion by a city or county under ORS 758.210 to 758.270. In a proceeding conducted by a county, where the statutes referred to in this section refer to officials of cities, the corresponding officials of the county shall perform the required functions, unless otherwise provided by order of the county court or board of county commissioners. Cities and counties may, as provided by ORS 223.205 and 223.210 to 223.295, issue improvement bonds in the total amount of the valid applications received to pay assessments in installments. [1969 c.385 §6; 1995 c.333 §20; 2017 c.17 §60]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.240 - Contract with utility for conversion.**

- (1) When a public authority in accordance with ORS 758.230 determines that a conversion shall be made, it may contract with the utilities supplying electric or communication service within the underground assessment district to perform the conversion. A contract shall provide:
  - (a) A description of the electric and communication facilities to be converted;
  - (b) That plans and specifications for such conversion shall be supplied or approved by the affected utility;
  - (c) The time and manner in which underground electric and communication facilities will be installed and overhead electric and communication facilities will be removed;

- (d) The estimated cost of converting overhead facilities located on public lands and right of way to underground facilities;
  - (e) The estimated cost of converting related utility service facilities located on privately owned lots and parcels;
  - (f) The time and manner of making payments and the source of funds for such payments; and
  - (g) That upon completion of the work of conversion, the utility performing the conversion shall have legal title to the electric or communication facilities, which shall thereafter constitute a part of a system of the utility and be used, operated, maintained and managed by it as part of its system.
- (2) Upon approval and execution of the conversion contracts by the utilities and public authority, the public authority shall direct the utilities owning overhead electric or communication facilities within the district to convert such facilities as required by the contract. [1969 c.385 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.245 - Payment of costs for conversion; removal of overhead facilities.**

Upon completion of the conversion of the overhead electric or communication facilities on public lands and right of way to underground, the affected utility shall file a verified statement of the costs of such conversion with the public authority. The public authority shall adopt an ordinance assessing the whole or any part of the cost of the conversion against the real property in the underground assessment district specifically benefited and shall promptly thereafter mail to each landowner a statement of the amount of such costs assessed to the property of the landowner. With the statement the public authority shall mail to each landowner a notice stating that:

- (1) Service from the underground facilities is available;
- (2) The landowner has 90 days after the date of the mailing of such notice to convert all overhead electric or communication facilities providing service to any structure or improvement located on the lot or parcel to underground service facilities; and
- (3) After the 90-day period following the date of the mailing of the notice, the public authority will order the utilities to disconnect and remove all overhead electric and communication facilities providing service to any structure or improvement within the area. [1969 c.385 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.250 - Conversion of facilities on private lands; procedure; payment of costs.**

- (1) Any conversion of electric or communication service facilities, including service connections, located on a privately owned lot or parcel shall be made at the expense of the landowner by the utility owning the facility. The conversion shall be made in accordance with applicable safety rules, codes, regulations, tariffs or ordinances. The utility shall not be required to convert service lines on property, other than public lands and right of way, until the landowner furnishes to the utility a permit or easement authorizing the utility and its employees, agents and contractors to enter upon real property of the landowner for the purpose of performing conversion work thereon.
- (2) Upon completion of the conversion of overhead electric or communication service facilities on privately owned lots and parcels within a district, the utility shall file with the public authority a verified statement of the costs of the conversion of such service facilities of each landowner in the district. Promptly thereafter the public authority shall mail to each landowner a copy of such verified statement. [1969 c.385 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.255 - Discontinuance of utility service for noncompliance with conversion provisions.**

If the owner of any structure or improvement served from the overhead electric or communication service facilities within an underground assessment district does not grant the utility a permit or easement referred to in ORS 758.250 or if such an owner fails to convert to underground service facilities within 90 days after the mailing to the owner of the notice provided by ORS 758.245, the public authority shall order the utility to complete the conversion and to disconnect and remove all overhead facilities, including service facilities, providing service to such structure or improvement. [1969 c.385 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.260 - Competitive bidding for utility conversion.**

To the extent that the contract between the utility and the public authority provides that all or any part of the conversion work shall be performed by the utility, any statute or charter provision requiring competitive bidding and the award of a contract to the lowest responsible bidder does not apply. [1969 c.385 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.265 - Overhead facilities in assessment district after conversion.**

Once converted, no overhead electric or communication facilities shall be installed, maintained or operated in any underground assessment district except as authorized by ORS 758.210 to 758.270. [1969 c.385 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.270 - Effect of ORS 758.210 to 758.270 on existing laws and rights.**

ORS 758.210 to 758.270 are supplemental and cumulative of existing rights, laws, charters, ordinances and franchises and shall not abrogate or modify any franchise granted to a utility by any local government or abrogate or modify in any way existing rights, laws, charters or ordinances of any local government. [1969 c.385 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.280 - Definitions for ORS 758.280 to 758.286.**

For the purposes of ORS 758.280 to 758.286:

- (1) "Electric facilities" means lines, conduits, ducts, poles, wires, pipes, conductors, cables, crossarms, receivers, transmitters, transformers, instruments, machines, appliances and all other devices and apparatuses used, operated, owned or controlled by an electric utility for the purposes of manufacturing, transforming, transmitting, distributing, selling or furnishing electricity.
- (2) "Electric utility" has the meaning given that term in ORS 758.505.
- (3) "Vegetation" means trees, shrubs, vines and all other plants. [2001 c.420 §1]

Note:

758.280 to 758.286 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 758 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.282 - Immunity of electric utility for pruning or removing vegetation in certain cases.**

(1) An electric utility is immune from any civil liability for pruning or removing vegetation that is growing on property on which electric facilities are located, or growing on property that is adjacent to property on which electric facilities are located, if the pruning or removal is consistent with policies of the Public Utility Commission relating to the pruning or removal of vegetation, or is consistent with a local ordinance or resolution applicable to the property that relates to the pruning or removal of vegetation, and:

- (a) The vegetation has come in contact with or caused damage to electric facilities; or
- (b) Pruning or removing the vegetation is necessary to protect life or property or to restore electric service.

(2) ORS 105.810 and 105.815 do not apply to any claim against an electric utility based on the pruning or removal of vegetation growing on property on which electric facilities are located, or growing on property that is adjacent to property on which electric facilities are located. [2001 c.420 §2]

Note:

See note under 758.280.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.284 - Immunity of electric utility for pruning or removing vegetation in other cases; notice to property owner.**

(1) An electric utility is immune from any civil liability for pruning or removing vegetation that is growing on property on which electric facilities are located, or growing on property that is adjacent to property on which electric facilities are located, if the pruning or removal is consistent with policies of the Public Utility Commission relating to the pruning or removal of vegetation, or is consistent with a local ordinance or resolution applicable to the property that relates to the pruning or removal of vegetation, and any of the following apply:

(a) The vegetation to be pruned or removed is hanging over electric facilities or growing in such close proximity to overhead electric facilities that the vegetation constitutes an electrical hazard under any electrical safety code adopted by the Public Utility Commission or constitutes a danger under state or federal health and safety codes to a person working on the facilities or with access to the facilities.

(b) The vegetation to be removed is diseased, dead or dying or is close enough to electric facilities that pruning or removal of the vegetation is necessary to avoid contact between the vegetation and electric facilities. A determination under this paragraph must be made by a qualified forester or arborist if a local ordinance or resolution requires that such determinations be made by a qualified forester or arborist.

(c) The vegetation is of such size, condition and proximity to electric facilities that the vegetation can reasonably be expected to cause damage to electric facilities in the future. A determination under this paragraph must be made by a qualified forester or arborist if a local ordinance or resolution requires that such determinations be made by a qualified forester or arborist.

(2) The limitation on liability provided by this section does not apply unless the electric utility has provided notice to owners of the property where the vegetation is located. Notice may be provided by posting a flyer in a conspicuous location on the property where the vegetation is located. The flyer must:

- (a) Indicate that the electric utility intends to prune or remove vegetation on the property;
- (b) Include a brief statement of the nature of the work to be performed and the reason the work is needed;
- (c) Include an estimate of the time period during which the work will occur; and

(d) Provide information on how the electric utility can be contacted.

(3) The limitation on liability provided by this section does not apply unless the pruning or removal complies with rules adopted by the Public Utility Commission relating to pruning or removal. In adopting rules, the commission shall give consideration to the American National Standard for Tree Care Operations adopted by the American National Standards Institute. [2001 c.420 §3]

Note:

See note under 758.280.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.286 - Immunity not applicable to liability for cost of abating fires.**

The immunities provided by ORS 758.280 to 758.284 do not affect any liability that an electric utility may have for the costs of abating fires under ORS 477.064 to 477.120. [2001 c.420 §4]

Note:

See note under 758.280.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.300 - Definitions for ORS 758.300 to 758.320.**

As used in ORS 758.300 to 758.320:

(1) "Commission" means the Public Utility Commission.

(2) "Community water supply system" means a water source and distribution system, whether publicly or privately owned, that serves more than three residences or other users to whom water is provided for public consumption, including but not limited to schools, farm labor camps, industrial establishments, recreational facilities, restaurants, motels, mobile home parks or group care homes.

(3) "Water utility" means any corporation, company, individual or association of individuals, or its lessees, trustees or receivers, that owns, operates, manages or controls all or a part of any plant or equipment in this state for the production, transmission, delivery or furnishing of water, directly or indirectly to or for the public, whether or not such plant or equipment or part thereof is wholly within any town or city. "Water utility" does not include a municipal corporation. [1999 c.695 §1]

Note:

758.300 to 758.320 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 758 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.302 - Application for exclusive service territory; hearing on application; notice.**

(1) A water utility may apply to the Public Utility Commission for an order designating an area as an exclusive service territory for the water utility. The commission may designate as an exclusive service territory any area that on the date of application is being served in an adequate manner by the applicant and is not being served by any other water provider.

(2) In addition to the area described in subsection (1) of this section, a private water utility may apply for inclusion in an exclusive service territory designated for the private water utility any area adjacent to the area described in subsection (1) of this section if:

(a) The applicant plans to extend service to the adjacent area in the six months immediately following the date of the application;

(b) The adjacent area is not being served by any other water provider; and

(c) The applicant demonstrates that it is more economical and feasible to provide services to the adjacent area by an extension of the applicant's existing facilities than by an extension of the facilities of another water provider or community water supply system.

(3) An application under this section must be made on forms provided by the commission, contain all information required by commission rule and include a copy of the notice of the filing to be given to all customers of record. The applicant shall, within 30 days after filing an application under this section, give notice of the filing in the manner provided by subsection (5) of this section.

(4) Within 30 days after the filing of an application under this section, the commission shall give notice of the filing to all other water providers in the areas adjacent to the area described in the application.

(5)(a) A notice given pursuant to this subsection shall be given:

(A) By mail or electronic mail to all customers of record of the water utility in the area described in the application;

(B) By press release to news media local to the area described in the application; and

(C) By publication in one or more newspapers of general circulation in the area described in the application at least once weekly for two successive weeks.

(b) The notice must describe the area of the proposed exclusive service territory and the general rate impact to existing customers.

(6) If the commission, on its own motion, chooses, or if any customer or customers of the water utility request a hearing on the application within 30 days of the date notice is given under subsection (3) of this section, the commission shall hold a hearing. The commission shall give notice of the time and place of the hearing in the manner provided by subsection (5) of this section. If the hearing is held by reason of a customer's request, the commission shall give notice of the hearing within 30 days after the request is received by the commission. The hearing shall be held at a place within or conveniently accessible to the area described in the application.



(7) The commission may make such investigations relating to an application under this section as the commission deems proper, including physical examination and evaluation of the facilities and systems of the applicant, estimates of their operating costs and revenues, and studies of such other information as the commission deems relevant.

(8) The commission shall enter an order granting or denying an application for an exclusive service territory under this section. The order must contain findings of fact supporting the order. The commission may grant an application subject to such conditions and limitations as the commission deems appropriate.

(9) ORS 756.500 to 756.610 govern the conduct of hearings under this section and any appeal of the commission's order.

(10) If the commission considers competing applications under subsection (2) of this section to extend exclusive service to the same area, there is a disputable presumption that applicants have an equal ability to extend, improve, enlarge, build, operate and maintain existing or proposed facilities. [1999 c.695 §2; 2003 c.202 §4; 2023 c.53 §3]

Note:

See note under 758.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.305 - Exclusive service territories.**

(1) Designated service territories of a water utility approved by the Public Utility Commission shall be exclusive. A water utility or community water supply system shall not provide water utility service within the designated exclusive service territory of another water utility without the express approval of the commission.

(2) A water utility shall serve only customers within its designated exclusive service territory and shall serve all applicants for service within its designated territory. The water utility may refuse service only as provided by commission rule.

(3) Upon petition by the water utility for an order, or by the commission on its own motion, a designated service territory may be expanded to include unserved areas. In reviewing a petition, the commission shall consider at least the current ability of the water utility to serve the expanded area, the demand for service in the expanded area, the impact on existing customers and the availability of alternative service. The commission may take other factors into consideration as prescribed by commission rule. Notice and hearing of the proposed expansion shall be given as provided in ORS 758.302.

(4) Upon petition by the water utility or a customer of the utility for an order, or by the commission on its own motion, a designated exclusive service territory may be decreased upon a showing that the water utility is not providing adequate service to its customers or does not have the capacity to serve the designated area. Notice of the proposed decrease of service territory shall be given as provided in ORS 758.302. [1999 c.695 §6]

Note:

See note under 758.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.310 - Assignment or transfer of rights in exclusive service territory; approval of commission.**

(1) The rights acquired by the designation of an exclusive service territory may be assigned or transferred only with the approval of the Public Utility Commission after a finding that the assignment or transfer is in the public interest. However, a hearing is not required if at least 75 percent of the affected customers agree to the proposed assignment or transfer.

(2) An order designating an exclusive service territory shall not be construed to confer any property right. However, upon the death of an applicant under an approved designation, the executor or administrator shall continue operating the water utility for the purpose of transferring such rights for a period not to exceed two years from the date of death.

(3) The territory served by a water utility under an order of the commission designating exclusive service territory shall not be altered solely as the result of a change in ownership or form of ownership. [1999 c.695 §5]

Note:

See note under 758.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.315 - Water utility service provided by persons not designated by commission; remedy.**

In the event a designated exclusive service territory is served by a person not authorized by the Public Utility Commission, the commission or the water utility designated by the commission to serve the area may file an action for injunctive relief in the circuit court for any county where some or all of the designated service territory is located. The action shall proceed as in an action not triable by right to a jury. Any party to the action may appeal to the Court of Appeals from the trial court's order. An injunction ordered under this section shall be in addition to any other remedy provided by law. [1999 c.695 §7]

Note:

See note under 758.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.320 - Application of ORS 758.300 to 758.320 to cities; effect on certain**

**voluntary associations; existing franchise; exception.**

(1) The provisions of ORS 758.300 to 758.320 shall not be construed to restrict the powers granted to cities to issue franchises or to restrict the powers of condemnation of a municipality.

(2) The provisions of ORS 758.300 to 758.320 shall not be construed to restrict the formation of homeowners associations pursuant to ORS chapter 94, cooperatives pursuant to ORS chapter 62 or districts pursuant to ORS chapter 198 within the designated exclusive service territory of a water utility. A homeowners association, cooperative or district may petition the Public Utility Commission for an order excluding the association, cooperative or district from the exclusive service territory of a water utility. Upon a showing by the association, cooperative or district that exclusion is not detrimental to the public interest, the commission may issue an order excluding the association, cooperative or district from the exclusive service territory of a water utility.

(3) The commission shall recognize the service territories of a water utility that has an existing franchise on October 23, 1999, with a municipality as exclusive service territories. Upon application as provided in ORS 758.302, any such water utility may request an order from the commission to designate exclusive service territories in addition to those identified in the franchise agreement if the water utility is providing adequate and exclusive service to areas outside the areas identified in the franchise agreement.

(4) A district, as defined in ORS 198.010, that provides water utility service shall be exempt from the requirements of ORS 758.302. However, upon request of the commission, the district shall provide to the commission a map of its service territory and shall in all other respects comply with the requirements of ORS 758.300 to 758.320. [1999 c.695 §8; 2003 c.202 §6]

Note:

See note under 758.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.400 - Definitions for ORS 758.015 and 758.400 to 758.475.**

As used in ORS 758.015 and 758.400 to 758.475 unless the context requires otherwise:

(1) "Allocated territory" means an area with boundaries established by a contract between persons furnishing a similar utility service and approved by the Public Utility Commission or established by an order of the commission approving an application for the allocation of territory.

(2) "Person" includes individuals, firms, partnerships, corporations, associations, cooperatives and municipalities, or their agent, lessee, trustee or referee.

(3) "Utility service" means service provided by any equipment, plant or facility for the distribution of electricity to users or the distribution of natural or manufactured gas to consumers through a connected and interrelated distribution system. "Utility service" does not include service provided through or by the use of any equipment, plant or facilities for the production or transmission of electricity or gas which pass through or over but are not used to provide service in or do not terminate in an area allocated to another person providing a similar utility service. [Formerly 757.605; 1979 c.62 §2; 1985 c.550 §8; 1987 c.447 §101; 1999 c.59 §232]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.405 - Purpose of ORS 758.400 to 758.475.**

The elimination and future prevention of duplication of utility facilities is a matter of statewide concern; and in order to promote the efficient and economic use and development and the safety of operation of utility services while providing adequate and reasonable service to all territories and customers affected thereby, it is necessary to regulate in the manner provided in ORS 758.400 to 758.475 all persons and entities providing utility services. [Formerly 757.610]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.410 - Contracts for allocation of territories and customers; transfer of facilities.**

(1) Any person providing a utility service may contract with any other person providing a similar utility service for the purpose of allocating territories and customers between the parties and designating which territories and customers are to be served by which of said contracting parties; and the territories and customers so allocated and designated may include all or any portion of the territories and customers which are being served by either or both of the parties at the time the contract is entered into, or which could be economically served by the then existing facilities of either party, or by reasonable and economic extensions thereto.

(2) Any such contracting parties may also contract in writing for the sale, exchange, transfer, or lease of equipment or facilities located within territory which is the subject of the allocation agreed upon pursuant to subsection (1) of this section. Any sale, exchange, transfer or lease of equipment, plant or facilities made pursuant to this subsection by any person which is a "public utility" as defined in ORS 757.005 is also subject to the approval of the Public Utility Commission to the extent required by ORS chapter 757.

(3) The commission may approve a contract entered into under this section that authorizes Coos County to construct a natural gas pipeline into allocated territory in Coos County and that contains terms for the allocation of industrial customers in Coos County between the county and the other party to the contract. The contract need not specify the territory in which industrial customers subject to the allocation are located. The commission may approve the provisions of a contract under this subsection that govern allocation of industrial customers only if the commission determines that the provisions promote the purposes specified in ORS

758.405. The commission shall actively supervise the implementation of any contract entered into pursuant to this subsection to ensure that the contract continues to promote the purposes specified in ORS 758.405. [Formerly 757.615; 2003 c.32 §1; 2023 c.53 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.415 - Enforceability of contract approved by commission; conditions for approval.**

Notwithstanding any other provisions of law, a contract entered into pursuant to ORS 758.410, when approved by the Public Utility Commission as provided in ORS 758.420 to 758.475, shall be valid and enforceable; provided, that the commission shall approve such a contract only if the commission finds, after a hearing as provided in ORS 758.420 to 758.475, that the contract will eliminate or avoid unnecessary duplicating facilities, and will promote the efficient and economic use and development and the safety of operation of the utility systems of the parties to the contract, while providing adequate and reasonable service to all territories and customers affected thereby. [Formerly 757.620]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.420 - Filing of contract; hearing on contract; notice.**

(1) A person who enters into a contract pursuant to ORS 758.410 shall promptly file the contract with the Public Utility Commission. A contract filed under this section must include a copy of the notice of the filing to be given to all customers of record, and the person shall, within 30 days after filing a contract under this section, give notice of the filing in the manner provided by subsection (3) of this section.

(2) If the commission chooses or if any customer or customers request a hearing on the matter within 30 days of the notice, the commission shall hold a hearing by telephone, video conference or other electronic means of communication or in person. The commission shall give notice of such hearing in the manner provided by subsection (3) of this section within 30 days of the customer's request. The notice shall set the date and place of hearing on the question as to whether or not such contract will be approved. The hearing shall be held at a place within or conveniently accessible to the territories affected by the contract.

(3)(a) A notice given under this section shall be given:

(A) By mail or electronic mail to all customers of record affected by the contract;

(B) By press release to news media local to the area affected by the contract; and

(C) By publication in one or more newspapers of general circulation in the area affected by the contract at least once weekly for two successive weeks.

(b) The notice must include a description of the area subject to the contract and the general rate impact to existing customers.

[Formerly 757.625; 1985 c.633 §3; 2023 c.53 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.425 - Order of commission on contract.**

(1) On the basis of the applicant's filing or, if there is a hearing, on the record made at the hearing held pursuant to ORS 758.420, the Public Utility Commission shall enter an order either approving or disapproving the contract as filed, together with any appropriate findings of the facts supporting such order.

(2) An order of the commission under this section is subject to judicial review in the manner provided by ORS 756.610.

(3) If the commission approves a contract and a petition for judicial review is not filed, the contract shall be deemed to be valid and enforceable for all purposes from the date on which the right to file a petition for judicial review expires. [Formerly 757.630; 1985 c.633 §4; 2005 c.638 §13; 2017 c.312 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.430 - Amendment of contract; approval of commission.**

Any contract that has been approved as provided in ORS 758.400 to 758.475 may be subsequently amended by the parties thereto, but any such amendatory agreement shall be filed with the Public Utility Commission and shall thereafter be approved or disapproved by the commission in the manner provided in ORS 758.420 and 758.425. However, no hearing is required if all affected customers approve the amendatory agreement. An amendatory agreement may be enforced in the manner provided in ORS 758.465. [Formerly 757.635; 1983 c.540 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.435 - Application for allocation of territory; hearing on application; notice.**

(1) Any person providing a utility service in a territory that is not served by another person providing a similar utility service may file an application with the Public Utility Commission for an order allocating such territory to the person providing the utility service. The application may include any adjacent area when it is more economical and feasible to serve the adjacent area by an extension of the applicant's existing facilities than by an extension of the facilities of another person. An application must include a

copy of the notice of the filing to be given to all customers of record, and the applicant shall, within 30 days after filing an application under this section, give notice of the filing in the manner provided by subsection (4) of this section.

(2) Within 30 days after the filing of an application under this section, the commission shall give notice of the filing to all providers of similar utility services in the areas adjacent to the area covered by the application.

(3) If the commission chooses, or if a customer requests a hearing on the matter within 30 days of the notice, the commission shall hold a hearing by telephone, video conference or other electronic means of communication or in person. The commission shall give notice of the hearing in the manner provided by subsection (4) of this section within 30 days of the request. The notice shall set the date and place of hearing. The hearing shall be held at a place within or conveniently accessible to the territory covered by the application.

(4)(a) A notice given pursuant to this subsection shall be given:

(A) By mail or electronic mail to all customers of record in the area covered by the application;

(B) By press release to news media local to the area covered by the application; and

(C) By publication in one or more newspapers of general circulation in the area covered by the application at least once weekly for two successive weeks.

(b) The notice must include a description of the area covered by the application and the general rate impact to existing customers.

(5) Territory within the limits of a city, as fixed on May 31, 1961, shall not be deemed to be served exclusively by any person, if such city is, on such date, served by more than one person having necessary municipal or franchise authority to serve within the entire city. [Formerly 757.640; 1985 c.633 §1; 2023 c.53 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.440 - Order of commission on application.**

(1) On the basis of the application, or, if there is a hearing, on the record made at the hearing held pursuant to ORS 758.435, the Public Utility Commission shall enter an order either approving or disapproving the application as filed, or as amended, together with findings of the facts supporting such order.

(2) The commission, before approving an application for the allocation of territory, shall find that the applicant is exclusively serving the territory covered by the application and in the case of an adjacent unserved area that it is more economical and feasible to serve by an extension of the applicant's existing facilities than by an extension of the facilities of another person. [Formerly 757.645; 1985 c.633 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.445 - Judicial review of order on application.**

An order of the Public Utility Commission under ORS 758.440 is subject to judicial review in the manner provided by ORS 756.610. If a petition for judicial review is not filed within the specified time, the order shall thereafter be valid and enforceable for the purposes herein specified from the date on which the right to file a petition for judicial review expires. [Formerly 757.650; 2005 c.638 §14; 2017 c.312 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.450 - Contract required for allocation of territory; prohibited activities; exceptions; third party financing.**

(1) Territory served by more than one person providing similar utility service may only become an allocated territory by a contract approved by the Public Utility Commission.

(2) Except as provided in subsection (4) of this section, no other person shall offer, construct or extend utility service in or into an allocated territory.

(3) Except as provided in subsection (4) of this section, during the pendency of an application for an allocation of exclusively served territory, no person other than applicant shall offer, construct or extend utility service in or into the territory applied for; nor shall any person, without the express consent of the commission, offer, construct or extend utility service in or into any unserved territory which is the subject of a filing pending before the commission under ORS 758.420 or 758.435.

(4) The provisions of ORS 758.400 to 758.475 do not apply to any corporation, company, individual or association of individuals providing heat, light or power:

(a) From any energy resource to fewer than 20 customers, if it began providing service to a customer prior to July 14, 1985;

(b) From any energy resource to fewer than 20 residential customers so long as the corporation, company, individual or association of individuals serves only residential customers;

(c) From solar or wind resources to any number of customers; or

(d) From biogas, waste heat or geothermal resources for nonelectric generation purposes to any number of customers.

(5) Nothing in subsection (4) of this section shall prohibit third party financing of acquisition or development by a utility customer of energy resources to meet the heat, light or power requirements of that customer. [Formerly 757.652; 1981 c.360 §2; 1985 c.779 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way**

**and Territory Allocation; CogenerationSection 758.455 - Investigation by commission respecting contracts or applications; hearing procedure.**

- (1) The Public Utility Commission may make such investigations respecting a contract or an application for the allocation of territory as the commission deems proper including the physical examinations and evaluations of the facilities and systems of the parties to the contract, estimates of their operating costs and revenues and studies of such other information as the commission deems pertinent.
- (2) Insofar as applicable and consistent herewith, the provisions of ORS 756.500 to 756.610 shall govern the conduct of hearings.
- (3) In considering competing applications to serve the same territory, there shall be a disputable presumption that applicants have an equal ability to extend, improve, enlarge, build, operate and maintain existing or proposed facilities. [Formerly 757.655]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 758 - Utility Rights of Way and Territory Allocation; CogenerationSection 758.460 - Assignment or transfer of rights acquired by allocation; approval of commission.**

- (1) The rights acquired by an allocation of territory may only be assigned or transferred with the approval of the Public Utility Commission after a finding that such assignment or transfer is not contrary to the public interest. However, no hearing is required if all affected customers agree to the proposed assignment or transfer.
- (2) No approved contract or order approving an allocation of territory shall be construed to confer any property right; providing, however, upon the death of an individual who is a party to an approved contract or the applicant under an approved order, the executor or administrator shall continue the operation thereunder for the purpose of transferring such rights for a period of not to exceed two years from the date of death.
- (3) In the event the property of a person serving an allocated territory is condemned, no value shall be claimed or awarded by reason of the contract or order making such allocation. [Formerly 757.670; 1983 c.540 §6]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 758 - Utility Rights of Way and Territory Allocation; CogenerationSection 758.465 - Enforcement procedure.**

In the event a contract approved by the Public Utility Commission is breached or in the event an allocated territory is served by a person not authorized by such contract, or order of the commission, the aggrieved person or the commission may file an action in the circuit court for any county in which is located some or all of the allocated territory allegedly involved in said breach or invasion, for an injunction against said alleged breach or invasion. The trial of such action shall proceed as in an action not triable by right to a jury. Any party may appeal to the Court of Appeals from the court's judgment, as in other equity cases. The remedy provided in this section shall be in addition to any other remedy provided by law. [Formerly 757.675; 1979 c.284 §198; 2003 c.576 §561]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 758 - Utility Rights of Way and Territory Allocation; CogenerationSection 758.470 - Application to cities, municipalities and cooperatives of ORS 758.400 to 758.475.**

- (1) ORS 758.015 and 758.400 to 758.475 shall not be construed or applied to restrict the powers granted to cities to issue franchises, or to restrict the exercise of the power of condemnation by a municipality; and when a municipality has condemned or otherwise acquired another person's equipment, plant or facilities for rendering utility service, it shall acquire all of the rights of the person whose property is condemned to serve the territory served by the acquired properties.
- (2) ORS 758.015 and 758.400 to 758.475 shall not be construed to restrict the right of a municipality to provide utility service for street lights, fire alarm systems, airports, buildings and other municipal installations regardless of their location.
- (3) ORS 758.015 and 758.400 to 758.475 shall not be construed to confer upon the Public Utility Commission any regulatory authority over rates, service or financing of cooperatives or municipalities. [Formerly 757.680]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 758 - Utility Rights of Way and Territory Allocation; CogenerationSection 758.475 - Fees.**

Except in cases under ORS 758.430 and 758.460 where no hearing is required, to cover the costs of administering ORS 758.015 and 758.400 to 758.475 the Public Utility Commission is required to receive fees before filing any contract, application, petition, complaint, protest, appearance, motion, answer or other pleading and for holding any hearing. All fees shall be collected in accordance with the following schedule:

- (1) Filing application for allocated territory under ORS 758.435 by a person having annual gross revenue derived from within the state for the calendar year 1960:
  - (a) In excess of \$5 million or more, a fee of two-tenths of one mill of such revenue but in no event shall such fee exceed, \$10,000.
  - (b) In excess of \$100,000 but less than \$5 million, \$100.
  - (c) Less than \$100,000, \$50.
- (2) Filing a contract or application under ORS 758.015 or 758.420, \$100.
- (3) Filing petition or complaint, \$25.

- (4) Filing protest, appearance, motion, answer or other pleading, \$10.
- (5) Filing an application for allocated territory under ORS 758.435 subsequent to an original allocation and payment of fee under subsection (1) of this section, \$100. [Formerly 757.685; 1983 c.540 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.480 - Assumption of obligations arising out of Trojan Nuclear Plant.**

(1) As used in this section:

- (a) "Agreement" means the agreement dated October 5, 1970, and titled "Agreement for Construction, Ownership and Operation of the Trojan Nuclear Plant," as amended.
- (b) "Allocated territory" has the meaning given that term in ORS 758.400.
- (c) "Person" means:
  - (A) A person as defined in ORS 174.100;
  - (B) A person as defined in ORS 758.400;
  - (C) A public body as defined in ORS 174.109; or
  - (D) Any combination of entities described in subparagraphs (A), (B) and (C) of this paragraph.
- (d) "Trojan obligations" means all of the obligations and liabilities of the Portland General Electric Company to pay amounts that are due or that may become due under the agreement or that are due or that may become due as a result of a requirement imposed by a federal, state or local governmental body, agency or instrumentality.
- (e) "Utility service" has the meaning given that term in ORS 758.400.

(2) Any person acquiring all or a portion of any allocated territory of the Portland General Electric Company, or acquiring the right to provide utility service within the allocated territory of the Portland General Electric Company, shall assume a share of Trojan obligations that is proportionate to the total amount of allocated territory or the percentage of retail customer load for which the person has acquired the right to provide utility service, whichever is greater.

(3) The assumption of Trojan obligations described in this section shall occur without regard to whether the acquisition described in subsection (2) of this section occurs through market transactions or condemnation proceedings or by any other means.

(4) Any person assuming a share of Trojan obligations shall pay all required or necessary amounts, when due, into any decommissioning or other fund established, required or approved by any federal, state or local governmental body, agency or instrumentality for the purpose of meeting Trojan obligations. A person making payments into a fund described in this subsection may use the person's share of the fund for the purpose of meeting the person's Trojan obligations, subject to any limitation imposed by a federal, state or local governmental body, agency or instrumentality.

(5) The obligations imposed by subsection (2) of this section do not apply to any person acquiring allocated territory or customers of the Portland General Electric Company when:

- (a) The acquisition occurs pursuant to the terms of a contract allocating territory that has been approved by the Public Utility Commission under ORS 758.400 to 758.475 and that is in effect on July 22, 2005; or
- (b) The acquisition comprises less than one percent of the total allocated territory of the Portland General Electric Company or less than one-tenth of one percent of the total retail customer load of the Portland General Electric Company at the time of acquisition, whichever is greater. [2005 c.630 §1]

Note:

758.480 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 758 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.505 - Definitions for ORS 758.505 to 758.555.**

As used in ORS 758.505 to 758.555:

- (1) "Avoided cost" means the incremental cost to an electric utility of electric energy or energy and capacity that the utility would generate itself or purchase from another source but for the purchase from a qualifying facility.
- (2) "Cogeneration facility" means a facility that:
  - (a) Produces, through the sequential use of energy, electric energy and useful thermal energy including but not limited to heat or steam, used for industrial, commercial, heating or cooling purposes; and
  - (b) Is more than 50 percent owned by a person who is not an electric utility, an electric holding company, an affiliated interest or any combination thereof.
- (3) "Commission" means the Public Utility Commission.
- (4) "Electric utility" means a nonregulated utility or a public utility.
- (5) "Index rate" means the lowest avoided cost approved by the commission for a generating utility for the purchase of energy or energy and capacity of similar characteristics including online date, duration of obligation and quality and degree of reliability.
- (6) "Nonregulated utility" means an entity providing retail electric utility service to Oregon consumers that is a people's utility district organized under ORS chapter 261, a municipal utility operating under ORS chapter 225 or an electric cooperative organized under ORS chapter 62.
- (7) "Public utility" means a utility regulated by the commission under ORS chapter 757, that provides electric power to consumers.

- (8) "Qualifying facility" means a cogeneration facility or a small power production facility.
- (9) "Small power production facility" means a facility that:
  - (a) Produces energy primarily by the use of biomass, waste, solar energy, wind power, water power, geothermal energy or any combination thereof;
  - (b) Is more than 50 percent owned by a person who is not an electric utility, an electric utility holding company, an affiliated interest or any combination thereof; and
  - (c) Has a power production capacity that, together with any other small power production facility located at the same site and owned by the same person, is not greater than 80 megawatts. [1983 c.799 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.515 - Legislative findings.**

The Legislative Assembly finds and declares that:

- (1) The State of Oregon has abundant renewable resources.
- (2) It is the goal of Oregon to:
  - (a) Promote the development of a diverse array of permanently sustainable energy resources using the public and private sectors to the highest degree possible; and
  - (b) Insure that rates for purchases by an electric utility from, and rates for sales to, a qualifying facility shall over the term of a contract be just and reasonable to the electric consumers of the electric utility, the qualifying facility and in the public interest.
- (3) It is, therefore, the policy of the State of Oregon to:
  - (a) Increase the marketability of electric energy produced by qualifying facilities located throughout the state for the benefit of Oregon's citizens; and
  - (b) Create a settled and uniform institutional climate for the qualifying facilities in Oregon. [1983 c.799 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.525 - Avoided cost schedules; filing; requirement to purchase energy from qualifying facilities.**

- (1) At least once every two years each electric utility shall prepare, publish and file with the Public Utility Commission a schedule of avoided costs equaling the utility's forecasted incremental cost of electric resources over at least the next 20 years. Prices contained in the schedules filed by public utilities shall be reviewed and approved by the commission.
- (2) An electric utility shall offer to purchase energy or energy and capacity whether delivered directly or indirectly from a qualifying facility. Except as provided in subsection (3) of this section, the price for such a purchase shall not be less than the utility's avoided costs. At the option of the qualifying facility, exercised before beginning delivery of the energy or energy and capacity, such prices may be based on:
  - (a) The avoided costs calculated at the time of delivery; or
  - (b) The projected avoided costs calculated at the time the legal obligation to purchase the energy or energy and capacity is incurred.
- (3) Nothing contained in ORS 543.610, 757.005 and 758.505 to 758.555 shall be construed to require an electric utility to pay full avoided-cost prices for a purchase from a qualifying facility on which construction began before November 8, 1978, but the price for a purchase from such a facility shall be sufficient to encourage production of energy or energy and capacity.
- (4) The rates of an electric utility for the sale of electricity shall not discriminate against qualifying facilities. [1983 c.799 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.535 - Criteria for qualifying facility; terms and conditions of energy sale.**

- (1) The Public Utility Commission shall establish minimum criteria that a cogeneration facility or small power production facility must meet to qualify as a qualifying facility under ORS 543.610, 757.005 and 758.505 to 758.555.
- (2) The terms and conditions for the purchase of energy or energy and capacity from a qualifying facility shall:
  - (a) Be established by rule by the commission if the purchase is by a public utility;
  - (b) Be adopted by an electric cooperative or people's utility district according to the applicable provision of ORS chapter 62 or 261; and
  - (c) Be established by a municipal utility according to the requirements of the municipality's charter and ordinance.
- (3) The rules or policies adopted under subsection (2) of this section also shall:
  - (a) Establish safety and operating requirements necessary to adequately protect all systems, facilities and equipment of the electric utility and qualifying facility;
  - (b) Be consistent with applicable standards required by the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617); and
  - (c) Be made available to the public at the commission's office. [1983 c.799 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.545 - Electric utility required to make good faith effort to transmit energy; remedy.**

(1) If an electric utility fails to make a good faith effort to comply with a request from a qualifying facility to transmit energy or energy and capacity produced by the qualifying facility to another electric utility or to the Bonneville Power Administration, the electric utility shall purchase the qualifying facility's energy or energy and capacity at a price which is the higher of:

- (a) The electric utility's avoided cost; or
- (b) The index rate.

(2) As used in this section, "good faith effort" shall be demonstrated by the electric utility's publication of a generally applicable, reasonable policy of the electric utility to allow a qualifying facility to use the electric utility's transmission facilities on a cost-related basis. [1983 c.799 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.552 - Ownership of renewable energy certificates for energy generated by qualifying facility.**

(1) For contracts executed pursuant to the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) and in effect prior to November 30, 2005, renewable energy certificates created pursuant to a system established by the State Department of Energy under ORS 469A.130, for generation during the term of such a contract, are owned by the owner of a qualifying facility, unless the owner has transferred a certificate in a contract between the owner and another person.

(2) Subsection (1) of this section applies to qualifying facilities that:

- (a) Are located in this state;
- (b) Are certified as qualifying small power production facilities or qualifying cogeneration facilities under the Federal Power Act (16 U.S.C. 796) as in effect on June 7, 2011; and
- (c) Produce electricity that is priced under ORS 758.525. [2011 c.248 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.555 - Effect of energy sales on qualifying facility.**

A qualifying facility shall not become a public utility within the meaning of ORS 757.005 on account of sales made under ORS 543.610, 757.005 and 758.505 to 758.555. [1983 c.799 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 758 - Utility Rights of Way and Territory Allocation; Cogeneration Section 758.990**

[Renumbered 757.992]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.005 - Definitions.**

As used in this chapter:

- (1) "Competitive telecommunications provider" means a telecommunications services provider that has been classified as a competitive telecommunications provider by the Public Utility Commission pursuant to ORS 759.020.
- (2) "Intrastate telecommunications service" means any telecommunications service in which the information transmitted originates and terminates within the boundaries of the State of Oregon.
- (3) "Local exchange telecommunications service" means telecommunications service provided within the boundaries of exchange maps filed with and approved by the commission.
- (4) "Private telecommunications network" means a system for the provision of telecommunications service or any portion of telecommunications service, including the construction, maintenance or operation of the system, by a person for the exclusive use of that person and not for resale, directly or indirectly.
- (5) "Radio common carrier" means any corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers and any town making available facilities to provide radio communications service, radio paging or cellular communications service for hire.
- (6) "Shared telecommunications service" means the provision of telecommunications and information management services and equipment to a user group located in discrete premises in building complexes, campuses or high-rise buildings, by a commercial shared services provider or by a users' association, through privately owned customer premises equipment and associated data processing and information management services and includes the provision of connections to local exchange telecommunications service.
- (7) "Telecommunications" means the transmission of information chosen by a person, between or among points specified by the person, without change in the form or content of the information sent or received.
- (8) "Telecommunications service" means telecommunications that are offered for a fee to the public, or to such class of users as to be effectively available to the public, without regard to the facilities used to provide the telecommunications. "Telecommunications service" does not include:
  - (a) Services provided by radio common carrier.
  - (b) One-way transmission of television signals.



(c) Private telecommunications networks.

(d) Communications of the customer that take place on the customer side of on-premises equipment.

(9)(a) "Telecommunications utility" means:

(A) Any corporation, company, individual or association of individuals, or its lessees, trustees or receivers, that owns, operates, manages or controls all or a part of any plant or equipment in this state for the provision of telecommunications service, directly or indirectly to or for the public, whether or not the plant or equipment, or any portion of the plant or equipment, is wholly within any town or city.

(B) Any corporation, company, individual or association of individuals that is party to an oral or written agreement for the payment by a telecommunications utility, for service, managerial construction, engineering or financing fees, and has an affiliated interest with the telecommunications utility.

(b) "Telecommunications utility" does not include:

(A) Any plant owned or operated by a municipality.

(B) Any corporation not providing intrastate telecommunications service to the public in this state, whether or not the corporation has an office in this state or has an affiliated interest with a telecommunications utility as defined in this chapter.

(C) Any person acting only as a competitive telecommunications provider.

(D) Any corporation, company, individual or association of individuals providing only telephone customer premises equipment to the public.

(10) "Toll" means switched telecommunications between exchanges carried on the public switched network. "Toll" does not include services that are an option to flat rate local or extended area service, even though the options may include charges on a per-unit basis. [1987 c.447 §1; 1989 c.5 §15; 1991 c.326 §2; 2005 c.232 §1; 2007 c.825 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.015 - Legislative findings on universal telecommunications service.**

The Legislative Assembly finds and declares that it is the goal of the State of Oregon to secure and maintain high-quality universal telecommunications service at just and reasonable rates for all classes of customers and to encourage innovation within the industry by a balanced program of regulation and competition. The Public Utility Commission shall administer the statutes with respect to telecommunications rates and services in accordance with this policy. [Formerly 757.810]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.016 - Legislative findings on broadband services.**

The Legislative Assembly finds and declares:

(1) That it is the goal of this state to promote access to broadband services for all Oregonians in order to improve the economy in Oregon, improve the quality of life in Oregon communities and reduce the economic gap between Oregon communities that have access to broadband digital applications and services and those that do not, for both present and future generations; and

(2) That the goal set forth in subsection (1) of this section may be achieved by:

(a) Expanding broadband and other telecommunications services;

(b) Creating incentives to establish and expand broadband and other telecommunications services;

(c) Undertaking telecommunications planning at the local, regional and state levels that includes participants from both the public and the private sectors;

(d) Removing barriers to the full deployment of broadband digital applications and services and providing incentives for the removal of those barriers; and

(e) Removing barriers to public-private partnerships in areas where the private sector cannot justify investments. [2003 c.775 §1]

Note:

759.016 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 759 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.020 - Certificate of authority; application; procedure; criteria; intrastate toll service level; rules.**

(1) A person, corporation, company or association of individuals or their lessees, trustees or receivers may not provide intrastate telecommunications service on a for-hire basis without a certificate of authority issued by the Public Utility Commission under this section.

(2) Applications for certificates of authority must be in a form prescribed by the commission and must describe the telecommunications services the applicant proposes to provide.

(3)(a) Except as provided in ORS 759.050, a certificate may not authorize any person to provide local exchange telecommunications service within the local exchange telecommunications service area of a telecommunications utility unless the utility consents, is unable to provide the service or fails to protest an application.

(b) Paragraph (a) of this subsection does not apply to any application for a certificate by a provider of shared telecommunications services.

(4) A hearing need not be held prior to issuance of a certificate of authority except upon the commission's own motion or unless the application is to authorize a person to provide local exchange telecommunications service in the local exchange telecommunications service area of a telecommunications utility and the utility protests. After hearing, the commission shall issue the certificate only upon a showing that the proposed service is required by the public interest.

(5) The commission may classify a successful applicant for a certificate as a telecommunications utility or as a competitive telecommunications services provider. If the commission finds that a successful applicant for a certificate has demonstrated that services it offers are subject to competition or that its customers or those proposed to become customers have reasonably available alternatives, the commission shall classify the applicant as a competitive telecommunications services provider. The commission shall conduct the initial classification and any subsequent review of the classification in accordance with procedures the commission may establish by rule, after hearings. The commission may attach reasonable conditions to the classification and may amend or revoke any order as provided in ORS 756.568. For purposes of this section, in determining whether telecommunications services are subject to competition or whether there are reasonably available alternatives, the commission shall consider:

(a) The extent to which services are available from alternative providers in the relevant market.

(b) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms and conditions.

(c) Existing economic or regulatory barriers to entry.

(d) Any other factors deemed relevant by the commission.

(6) Any provider of intrastate toll service must inform customers of the service level furnished by that provider, according to rules of the commission. The commission, by rule, shall determine the level of intrastate toll service that is standard. Any provider of intrastate toll service must identify the service level the provider plans to furnish in an annual report to the commission. The commission shall revoke the certification of any provider that does not consistently furnish the service level identified in the provider's annual report. [Formerly 757.815; 1991 c.326 §1; 1993 c.423 §1; 2022 c.60 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.025 - Certificates of authority for persons, companies and corporations providing services on January 1, 1986.**

(1) Notwithstanding ORS 759.020, the Public Utility Commission shall issue to any person, company or corporation providing intrastate telecommunications services that are subject to regulation by the commission on January 1, 1986, a certificate of authority to continue to provide those services on and after January 1, 1986.

(2) Notwithstanding any other provision of law, the commission shall issue to any cooperative corporation, or unincorporated association providing intrastate telecommunications service on January 1, 1986, a certificate of authority to continue to provide those services on and after January 1, 1986. Such actions shall not subject such cooperative corporations or association to the commission's general powers of regulation. [Formerly 757.820]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.027 - Shared telecommunications service provider; alternative access to local exchange telecommunications services.**

If the Public Utility Commission finds upon notice and investigation that customers of shared telecommunications services have no alternative access to local exchange telecommunications services, the commission may require the shared telecommunications service provider to make alternative facilities or conduit space available on reasonable terms and conditions and at reasonable prices. [2005 c.232 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.035 - Duty to furnish adequate and safe service at reasonable rates.**

Every telecommunications utility is required to furnish adequate and safe service, equipment and facilities, and the charges made by any public utility for any service rendered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited. [1987 c.447 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.036 - Commission authority.**

Except as otherwise provided by law, the Public Utility Commission shall have authority to determine the manner and extent of the regulation of telecommunications services within the State of Oregon. [2005 c.232 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.040 - Exemptions for certain unaffiliated utilities with fewer than 50,000 access lines.**

(1) Subject to subsection (6) of this section, ORS 759.180 to 759.190 do not apply to new or revised tariff schedules filed with the Public Utility Commission by telecommunications utilities or affiliated groups of telecommunications utilities serving fewer than 50,000 access lines in Oregon and not affiliated or under common control with any other kind of public utility providing service in

Oregon.

(2) Subject to subsection (6) of this section, ORS 759.375 to 759.393 do not apply to telecommunications utilities or affiliated groups of telecommunications utilities serving fewer than 50,000 access lines in Oregon and not affiliated or under common control with any other kind of public utility providing service in Oregon.

(3) Subject to subsection (6) of this section, ORS 759.300 to 759.360 do not apply to telecommunications utilities or affiliated groups of telecommunications utilities serving fewer than 50,000 access lines in Oregon and not affiliated or under common control with any other kind of public utility providing service in Oregon.

(4) Upon petition by any telecommunications utility serving fewer than 50,000 access lines in Oregon and affiliated or under common control with another public utility providing service in Oregon, and a finding that such action is consistent with the public interest, the commission by order may exempt such telecommunications utility from:

(a) ORS 759.180 to 759.190.

(b) ORS 759.375 to 759.393.

(c) ORS 759.300 to 759.360.

(5) Upon petition by any telecommunications utility serving fewer than 50,000 access lines in Oregon, and finding that such action is consistent with the public interest, the commission by order may exempt such telecommunications utility from ORS 759.175 and 759.205 to 759.215.

(6) Upon petition by the telecommunications utility or upon petition by 10 percent of the then current access line subscribers, or 500 subscribers, whichever is the lesser, of any telecommunications utility:

(a) Filed with the commission not less than 10 days prior to the proposed effective date of new or revised tariff schedules, the commission may impose all or part of the procedures of ORS 759.180 to 759.190 to any of the schedules of a telecommunications utility exempted from ORS 759.180 to 759.190 pursuant to this section.

(b) After notice and hearing and a finding that the action is required by the public interest, the commission may revoke any exemption granted pursuant to this section or impose reasonable conditions upon the continued exercise of the exemption.

(7) Any telecommunications utility for which an exemption from the application of ORS 759.180 to 759.190 is provided pursuant to this section shall notify its affected customers of any price increase for intrastate telecommunications services at least 45 days prior to the proposed effective date of the increase.

(8) Any telecommunications utility for which an exemption from the application of any statute is provided pursuant to this section shall file with the commission an annual report that includes copies of the income statement and balance sheet the telecommunications utility files with the Federal Communications Commission. Each telecommunications utility described in this subsection shall notify customers that the income statement and balance sheet are on file with the commission. [Formerly 757.870; 1999 c.451 §1; 2005 c.232 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.045 - Special rules for utilities exempted from regulation under ORS 759.040.**

The Public Utility Commission shall adopt specific rules to apply to telecommunications utilities which are exempted from certain regulation under ORS 759.040. An objective of these rules shall be to minimize the regulatory burden on these utilities to the extent this objective is feasible and consistent with the public interest. These rules shall not pertain to the statutes from which these utilities are exempted under ORS 759.040. [1991 c.658 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.050 - Competitive zone service regulation.**

(1) As used in this section:

(a) "Competitive zone" means a telecommunications service area within all or part of a local exchange, described both by service and territory, that has been designated a competitive zone by the Public Utility Commission under subsection (2) or (4) of this section.

(b) "Competitive zone service" means a local exchange telecommunications service that the commission has authorized to be provided within a competitive zone.

(c) "Essential function" means a functional component of a competitive zone service necessary to the provision of the service by a telecommunications provider for which there is no adequate alternative in terms of quality, quantity and price to the incumbent telecommunications utility.

(d) "Telecommunications utility" and "competitive provider" mean those entities that are classified as such by the commission under ORS 759.020. "Telecommunications provider" includes both telecommunications utilities and competitive providers.

(2)(a) Notwithstanding the provisions of ORS 759.020 (3), the commission may certify one or more persons, including another telecommunications utility, to provide local exchange telecommunications service within the local exchange telecommunications service area of a certificated telecommunications utility if the commission determines that the authorization would be in the public interest. For the purpose of determining whether the authorization would be in the public interest, the commission shall consider:

(A) The effect on rates for local exchange telecommunications service customers both within and outside the competitive zone.

(B) The effect on competition in the local exchange telecommunications service area.

(C) The effect on access by customers to high quality, innovative telecommunications service in the local exchange

telecommunications service area.

(D) Any other facts the commission considers relevant.

(b) Upon certification of a telecommunications provider under paragraph (a) of this subsection, the commission shall establish a competitive zone defined by the services to be provided by the telecommunications provider and the geographic area to be served by the telecommunications provider. Price and service competition within the meaning of ORS 759.052 may not be deemed to exist by virtue of the establishment of a competitive zone.

(c) At the time of certification of a telecommunications provider, or thereafter, the commission may impose reasonable conditions upon the authority of the telecommunications provider to provide competitive zone service within the competitive zone. Reasonable conditions include, but are not limited to, conditions:

(A) Designed to promote fair competition, such as interconnection; and

(B) Requiring contributions of the type required of a telecommunications utility on account of the provision of local exchange service, including those to the Residential Service Protection Fund or the Telecommunication Devices Access Program.

(3) Upon demand, a competitive provider of competitive zone services shall make available to the commission any information relating to competitive zone services that the commission requests. Information provided to the commission by a competitive provider under this subsection shall be confidential and may not be disclosed by the commission, except for regulatory purposes in the context of a proceeding before the commission.

(4) Upon application by a telecommunications utility and a showing of competition within its local exchange, whether or not from certificated providers, the commission may designate all or part of the local exchange a competitive zone.

(5)(a) Except with respect to telecommunications utilities that are exempt from the provisions of ORS 759.180 to 759.190, unless the commission determines that it is not in the public interest at the time a competitive zone is created, upon designation of a competitive zone, price changes, service variations and modifications of competitive zone services offered by a telecommunications utility in the zone are not subject to ORS 759.180 to 759.190 and, at the telecommunication utility's discretion, may be made effective upon filing with the commission.

(b) The price and terms of service offered by a telecommunications utility for a competitive zone service within a competitive zone may differ from that outside of the zone. However, the price for a competitive zone service within the zone may not be lower than the total service long run incremental cost, for nonessential functions, of providing the service within the zone and the charges for essential functions used in providing the service, but the commission may establish rates for residential local exchange telecommunications service at any level necessary to achieve the commission's universal service objectives. Within the zone, the price of a competitive zone service, or any essential function used in providing the competitive zone service, may not be higher than those prices in effect when the competitive zone was established, unless authorized by the commission.

(c) The commission may revoke the exemption of a telecommunications utility from ORS 759.180 to 759.190 if the commission finds that the utility has violated statutes, rules or conditions of the commission applicable to competitive zone services or that there has been a substantial change in the circumstances that prevailed at the time the competitive zone was first established.

(d) On the motion of a telecommunications provider or on its own motion, the commission may order a telecommunications utility to disaggregate and offer essential functions of the telecommunications utility's local exchange network.

(6) A decision of the commission, with respect to the terms and conditions under which competitive zone services may be offered within a competitive zone by a telecommunications utility, to authorize a competitor to provide service within the local exchange service area of a telecommunications utility or to otherwise designate a competitive zone shall be subject to judicial review, but may not be stayed other than by order of the commission, except upon a showing by clear and convincing evidence that failure to stay the decision will result in irreparable harm to the aggrieved party.

(7) The exclusive remedy of a telecommunications provider aggrieved by the prices, terms of service or practices of another provider with respect to competitive zone services within a competitive zone is to file a complaint with the commission under ORS 756.500. The commission, either upon complaint or its own motion, may permanently suspend a filing made by a provider with respect to a competitive zone service or take such other action as the commission deems appropriate, except an award for damages. A claim for damages arising from a commission decision in favor of the provider on a matter alleged in the complaint shall be brought as a separate action at law.

(8) Nothing in this section shall serve to shield any telecommunications provider of local exchange telecommunications service from state or federal antitrust laws. [1993 c.423 §3; 2005 c.232 §13; 2022 c.60 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.052 - Commission authority to exempt telecommunications services from regulation.**

(1)(a) Upon petition by any interested party and following notice and investigation, the Public Utility Commission may exempt in whole or in part from regulation those telecommunications services for which the commission finds that:

(A) Price or service competition exists;

(B) Telecommunications services can be demonstrated by the petitioner or the commission to be subject to competition; or

(C) The public interest no longer requires full regulation of the telecommunications services.

(b) The commission may attach reasonable conditions to an exemption made under paragraph (a) of this subsection and may amend or revoke any order as provided in ORS 756.568.

(2) Upon petition by a telecommunications utility, and after notice and hearing, the commission shall exempt a telecommunications

service from regulation if the commission finds that price and service competition exists.

(3) Prior to making the findings required by subsection (1) or (2) of this section, the commission shall consider:

(a) The extent to which services are available from alternative providers in the relevant market.

(b) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates and under comparable terms and conditions.

(c) Existing economic or regulatory barriers to entry.

(d) Any other factors deemed relevant by the commission.

(4) A service that is deregulated under subsection (2) of this section may be reregulated, after notice and hearing, if the commission determines an essential finding on which the deregulation was based no longer prevails, and reregulation is necessary to protect the public interest. [2005 c.232 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.054 - Price listing for product or service offered as part of local exchange telecommunications services.**

(1) If the Public Utility Commission determines that a product or service offered by a telecommunications utility as part of local exchange telecommunications services can be demonstrated by the utility to be subject to competition, or that a product or service is not an essential product or service, the commission may authorize the utility to file a price list with the commission.

(2) The price list shall contain the description, terms, conditions and prices of the service or product described in subsection (1) of this section. No other schedule for price listed services need be filed with the commission. The price list or any revision of the price list is not subject to the provisions of ORS 759.180 to 759.190 and shall become effective immediately upon filing with the commission unless a later date is specified.

(3) In determining whether a product or service is subject to competition, the commission shall consider:

(a) The extent to which services are available from alternative providers in the relevant market.

(b) The extent to which services of alternative providers are functionally equivalent or substitutable at comparable rates or under comparable terms and conditions.

(c) Existing economic or regulatory barriers to entry.

(d) Any other factors deemed relevant by the commission. [2005 c.232 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.056 - Price listing for product or service offered as part of interexchange telecommunications services.**

(1) If the Public Utility Commission determines that a product or service offered by a telecommunications utility as part of interexchange telecommunications services can be demonstrated by the utility to be subject to competition, the commission, under conditions that the commission determines are reasonable, may authorize the utility to file a price list with the commission.

(2) The price list shall contain the description, terms, conditions and prices of the service or product described in subsection (1) of this section. No other schedule for price listed services need be filed with the commission. The price list or any revision of the price list is not subject to the provisions of ORS 759.180 to 759.190 and shall become effective immediately on filing with the commission unless a later date is specified.

(3) In determining whether a product or service is subject to competition, the commission shall consider:

(a) The extent to which services are available from alternative providers in the relevant market.

(b) The extent to which services of alternative providers are functionally equivalent or substitutable at comparable rates or under comparable terms and conditions.

(c) Existing economic or regulatory barriers to entry.

(d) Any other factors deemed relevant by the commission. [2005 c.232 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.058 - Commission action on petition under ORS 759.052, 759.054 or 759.056.**

Within 60 days of a filing under ORS 759.052, 759.054 or 759.056, the Public Utility Commission shall either determine the appropriateness of the filing or determine that further investigation is necessary. If the commission determines that further investigation is necessary, the commission may suspend operation of the filing for a period not longer than five months from the end of the initial 60-day period. Upon a showing of good cause, any party may request extension of the suspension period for an additional three months. [2005 c.232 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.060 - Information submitted by local exchange telecommunications utilities; rules exempting disclosure.**

(1) The Public Utility Commission, by rule, shall specify information submitted to the commission by local exchange telecommunications utilities or cooperatives that is exempt from disclosure under ORS 192.311 to 192.478 as provided in this

section. In adopting rules, the commission shall consider, among other matters:

(a) Whether the information is of a type that could potentially be used to the competitive disadvantage of a local exchange telecommunications utility or cooperative.

(b) Whether the information concerns matters of a nature personal to an employee or stockholder of a local exchange telecommunications utility or an employee or member of a cooperative.

(c) Whether the information is otherwise publicly available.

(2) Information specified under subsection (1) of this section is exempt from disclosure unless the public interest requires disclosure in the particular instance.

(3) Nothing in subsection (1) of this section limits the exemptions granted to a local exchange telecommunications utility or cooperative under ORS 192.311 to 192.478. [1995 c.538 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.070 - Charge to access public body radio tower; market rate; exception.**

(1) As used in this section:

(a) "Market rate" means a price, lease rate or other form of compensation for goods or services provided by a public body, when participating in a proprietary transaction, that is comparable to the average price, lease rate or other form of compensation in the same market for the same goods or services provided by a private-sector provider.

(b) "Private business" does not include a nonprofit emergency services organization.

(c) "Public body" has the meaning given that term in ORS 174.109.

(d) "Radio tower" means a lattice tower that is generally 60 to 200 feet tall with three or four steel support legs, or a monopole that is generally 25 to 125 feet tall, to which multiple antennae may be attached to accommodate a variety of communication services, including radio communications service, radio paging and cellular communications service.

(2) A public body shall charge a private business a market rate for access to a radio tower if the private business uses the radio tower to deliver any of the following communication services for hire:

(a) Radio communications service;

(b) Radio paging; or

(c) Cellular communications service.

(3) Subsection (2) of this section does not prohibit a public body, when participating in a proprietary transaction, from charging or receiving compensation in the form of an exchange of goods or services or in any other nonmonetary form. [2013 c.440 §1]

Note:

759.070 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 759 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.075 - Authority to construct lines and facilities; condemnation power; procedure.**

(1) Any telecommunications utility may:

(a) Enter upon lands within this state for the purpose of examining, locating and surveying the line thereof and also other lands necessary and convenient for the purpose of construction of service facilities, doing no unnecessary damage thereby.

(b) Condemn such lands not exceeding 100 feet in width for its lines (including poles, towers, wires, supports and necessary equipment therefor) and in addition thereto, other lands necessary and convenient for the purpose of construction of service facilities.

(2) Notwithstanding subsection (1) of this section, any telecommunications utility may, when necessary or convenient for transmission lines (including poles, towers, wires, supports and necessary equipment therefor) designed for voltages in excess of 330,000 volts, condemn land not to exceed 300 feet in width. In addition, if the lands are covered by trees which are liable to fall and constitute a hazard to its wire or line, such telecommunications utility may condemn such trees for a width not exceeding 100 feet on either side of the condemned land, as may be necessary or convenient for such purpose.

(3) The proceedings for the condemnation of such lands shall be the same as that provided in ORS chapter 35, provided that any award shall include, but shall not be limited to, damages for destruction of forest growth, premature cutting of timber and diminution in value to remaining timber caused by increased harvesting costs. [1987 c.447 §69]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.080 - Use of property outside limits of municipal corporation; agreement; condemnation upon failure to agree.**

When it is necessary or convenient, in the location of any poles or lines mentioned in ORS 759.075, to appropriate any part of any public road, street, alley or public grounds not within the corporate limits of any municipal corporation, the county court or board of county commissioners of the county within which such road, street, alley or public grounds is located, may agree with the telecommunications utility upon the extent, terms and conditions upon which the same may be appropriated or used and occupied by such corporation. If such parties are unable to agree, the telecommunications utility may condemn so much thereof as is necessary and convenient in the location and construction of the poles or lines. The provisions of ORS chapter 35 are applicable to

condemnations under this section. [1987 c.447 §70]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.105**

[1989 c.484 §7; renumbered 759.219 in 2005]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.120 - Form and manner of accounts prescribed by commission.**

(1) Every telecommunications utility shall keep and render to the Public Utility Commission, in the manner and form prescribed by the commission, uniform accounts of all business transacted. All forms of accounts which may be prescribed by the commission shall conform as nearly as practicable to similar forms prescribed by federal authority.

(2) Every telecommunications utility engaged directly or indirectly in any other business than that of a telecommunications utility shall, if required by the commission, keep and render separately to the commission, in like manner and form, the accounts of all such other business, in which case all the provisions of this chapter shall apply with like force and effect to the accounts and records of such other business. [1987 c.447 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.125 - Records and accounts prescribed by commission; prohibition on other records or accounts; exception; blanks for reports.**

(1) The Public Utility Commission shall prescribe the accounts and records required to be kept and every telecommunications utility is required to keep and render its accounts and records accurately and faithfully in the manner prescribed by the commission and to comply with all directions of the commission relating to such accounts and records.

(2) No telecommunications utility shall keep any other accounts or records of its telecommunications utility business transacted than those prescribed or approved by the commission except such as may be required by the laws of the United States.

(3) The commission shall cause to be prepared suitable blanks for reports for carrying out the purposes of this chapter, and shall, when necessary, furnish such blanks for reports to each telecommunications utility. [1987 c.447 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.130 - Closing date of accounts; filing balance sheet; audit.**

(1) The accounts shall be closed annually on December 31 and a balance sheet of that date promptly taken therefrom. On or before April 1 following, such balance sheet, together with such other information as the Public Utility Commission shall prescribe, verified by an officer of the telecommunications utility, shall be filed with the commission.

(2) The commission may examine and audit any account. Items shall be allocated to the accounts in the manner prescribed by the commission. [1987 c.447 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.135 - Depreciation accounts; undepreciated investment allowed in rates; conditions.**

(1) Every telecommunications utility shall carry a proper and adequate depreciation account. The Public Utility Commission shall ascertain and determine the proper and adequate rates of depreciation of the several classes of property of each telecommunications utility. The rates shall be such as will provide the amounts required over and above the expenses of maintenance, to keep such property in a state of efficiency corresponding to the progress of the industry. Each telecommunications utility shall conform its depreciation accounts to the rates so ascertained and determined by the commission. The commission may make changes in such rates of depreciation from time to time as the commission may find to be necessary.

(2) In the following cases the commission may allow in rates, directly or indirectly, amounts on the utility's books of account which the commission finds represent undepreciated investment in a utility plant, including that which has been retired from service:

(a) When the retirement is due to ordinary wear and tear, casualties, acts of God, acts of governmental authority; or

(b) When the commission finds that the retirement is in the public interest. [1987 c.447 §11; 1989 c.956 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.175 - Filing rate schedules and data with commission.**

(1) Every telecommunications utility shall file with the Public Utility Commission, within a time to be fixed by the commission, schedules showing all rates, tolls and charges that the utility has established and that are in force at the time for any service performed by the utility within the state, or for any service in connection with or performed by any utility controlled or operated by the utility. Schedules filed with the commission shall be open to public inspection.

(2) Every telecommunications utility shall file, with and as part of every schedule filed under subsection (1) of this section, all rules and regulations that in any manner affect the rates charged or to be charged for any service.

(3) Where a schedule of joint rates or charges is or may be in force between two or more telecommunications utilities, the schedule shall in like manner be printed and filed with the commission. [1987 c.447 §12; 2005 c.232 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.180 - Hearing on reasonableness of rates; procedures; exceptions.**

(1)(a) Except as provided in ORS 759.195 and 759.410 and ORS 759.052, 759.054 or 759.056, whenever any telecommunications utility files with the Public Utility Commission any rate or schedule of rates stating or establishing a new rate or schedule of rates or increasing an existing rate or schedule of rates, the commission may, either upon written complaint or upon the commission's own initiative, after reasonable notice, conduct a hearing to determine the propriety and reasonableness of the rate or schedule. The commission shall conduct the hearing upon written complaint filed by the telecommunications utility, its customer or customers, or any other proper party within 60 days of the telecommunications utility's filing. A hearing need not be held if the particular rate change is the result of an automatic adjustment clause. At the hearing the telecommunications utility shall bear the burden of showing that the rate or schedule of rates proposed to be established or increased or changed is just and reasonable.

(b) As used in this subsection, "automatic adjustment clause" means a provision of a rate schedule, authorized pursuant to ORS 759.195 (6), that provides for rate increases, decreases or both, without prior hearing, reflecting increases, decreases or both in costs incurred by a telecommunications utility and that is subject to review by the commission at least once every two years.

(2) The commission and staff may consult at any time with, and provide technical assistance to, telecommunications utilities, their customers, and other interested parties on matters relevant to utility rates and charges. If a hearing is held with respect to a rate change, the decisions of the commission shall be based on the record made at the hearing. [1987 c.447 §13; 1989 c.5 §16; 2005 c.232 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.182 - Rate schedules for service promotions; rules.**

(1) A telecommunications utility may file rate schedules for service promotions that are offered by the utility for the purpose of:

- (a) Increasing the use of the utility's services by present or future customers;
- (b) Preventing a decrease in the use of the utility's services by present or future customers; or
- (c) Inducing any person to use the utility's services instead of a competing provider's services.

(2) The rates charged under a service promotion by a telecommunications utility must be adequate to ensure that:

- (a) The utility will recover an amount equal to the sum of the total service long run incremental cost of providing the nonessential functions of the service and the price that is charged to other telecommunications carriers for the essential functions; and
- (b) The utility will recover the amount under paragraph (a) of this subsection during the average time that customers use the service.

(3) Notwithstanding ORS 759.190, service promotion rate schedules become effective upon filing with the Public Utility Commission.

(4) The commission shall adopt rules governing service promotion rate schedules filed under this section. [2001 c.309 §2]

Note:

759.182 was added to and made a part of 759.180 to 759.190 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.185 - Suspension of rates pending hearing; time limitation; refund of revenue collected; interim rates.**

(1) The Public Utility Commission may, pending such investigation and determination, order the suspension of the rate or schedule of rates, provided the initial period of suspension shall not extend more than six months beyond the time when such rate or schedule would otherwise go into effect. If the commission finds that the investigation will not be completed at the expiration of the initial suspension, the commission may enter an order further suspending such rate or schedule for not more than three months beyond the last day of the initial suspension.

(2) This section does not prevent the commission and the telecommunications utility from entering into a written stipulation at any time extending any period of suspension.

(3) After full hearing, whether completed before or after such rate or schedule has gone into effect, the commission may make such order in reference thereto as would be proper in a proceeding initiated after such rate or schedule has become effective.

(4) If the commission is required to or determines to conduct a hearing on a rate or schedule of rates filed pursuant to ORS 759.180, but does not order a suspension thereof, any increased revenue collected by the telecommunications utility as a result of such rate or rate schedule becoming effective shall be received subject to being refunded. If the rate or rate schedule thereafter approved by the commission is for a lesser increase or for no increase, the telecommunications utility shall refund the amount of revenues received that exceeds the amount approved as nearly as possible to the customers from whom such excess revenues were collected, by a credit against future bills or otherwise, in such manner as the commission orders.

(5) The commission may, in a suspension order, authorize an interim rate or rate schedule under which the telecommunications utility's revenues will be increased by an amount deemed reasonable by the commission, not exceeding the amount requested by the telecommunications utility. An interim rate or rate schedule shall remain in effect until terminated by the commission. [1987 c.447 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications**



**Utility RegulationSection 759.190 - Notice of schedule change.**

No change shall be made in any schedule, including schedules of joint rates, except upon 30 days' notice to the Public Utility Commission. All changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof 30 days prior to the time they are to take effect. However, the commission, for good cause shown, may allow changes without requiring the 30 days' notice by filing an order specifying the changes to be made and the time when they shall take effect. [1987 c.447 §15]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 759 - Telecommunications Utility RegulationSection 759.195 - Price listing of services; conditions; maximum rates; essential services; justification by utility of rates for price-listed services; rules.**

(1) Except as provided in subsection (6) of this section, upon petition of a telecommunications utility that provides local exchange service directly, or is affiliated with a utility that provides local exchange service, and after notice and hearing, the Public Utility Commission may authorize the utility to set rates for toll and other telecommunications services by filing a price list containing the price and terms for the service. The price list or any revision of the price list is not subject to the provisions of ORS 759.180 to 759.190 and shall become effective as determined by the commission. The commission may prescribe conditions on an authorization to establish rates by price list, including conditions relating to the sharing of revenues received by the utility that are in excess of allowances provided for in the order of authorization.

(2) Telecommunications utilities that provide telecommunications services only between exchanges and are not affiliated with a utility that provides local exchange service may establish rates by price list without special authorization from the commission.

(3) Prior to granting a petition to set rates by price list under this section, the commission shall find that pricing flexibility:

(a) Is reasonably necessary to enable the utility to respond to current and future competitive conditions for any or all telecommunications services;

(b) Will maintain the appropriate balance between the need for price flexibility and the protection of consumers;

(c) Is likely to benefit the consumers of fixed rate services; and

(d) Is unlikely to cause any undue harm to any customer class.

(4) A rate set for a service by a utility may not be lower than the long run incremental cost of providing the service.

(5) Upon its own motion the commission may fix maximum rate levels and terms of service for price listed services and for toll services on noncompetitive routes. Upon request of any affected person, the commission shall fix maximum rate levels and terms of service for price listed services not subject to competition and for toll services on noncompetitive routes.

(6) By rule, the commission shall designate local exchange services that it deems essential, and rates for such services shall be prescribed under ORS 759.180 to 759.190. The commission also may authorize automatic adjustment clauses which reflect increases, decreases, or both, in particular costs incurred by the utility. For the purposes of this subsection, "essential services" need not be essential for all classes of customers.

(7) The commission may, at any time, order a telecommunications utility to appear and establish that any of its price listed rates are just and reasonable and in conformity with the requirements of this section and the authorization to price list issued by the commission. Price listed rates shall also be subject to complaint under ORS 756.500. [Formerly 757.850; 2005 c.232 §13a]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 759 - Telecommunications Utility RegulationSection 759.200 - Inclusion of amortizations in rates; deferral of certain expenses or revenues; limitation on amounts; prohibited uses.**

(1) In addition to powers otherwise vested in the Public Utility Commission, and subject to the limitations contained in subsection (5) of this section, under amortization schedules set by the commission, a rate or rate schedule may reflect the following:

(a) Amounts lawfully imposed retroactively by order of another governmental agency; or

(b) Amounts deferred under subsection (2) of this section.

(2) Upon application of a telecommunications utility or ratepayer or upon the commission's own motion and after public notice and opportunity for comment, the commission by order may authorize deferral, for later incorporation in rates, telecommunications utility expenses or revenues, the recovery or refund of which the commission finds should be deferred in order to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers. The authority under this subsection is limited to the following accounts:

(a) Increases or decreases in amounts incurred by a telecommunications utility resulting from changes in jurisdictional separations approved by the Federal Communications Commission;

(b) Increases or decreases in amounts incurred by a telecommunications utility resulting from changes in depreciation rates or amortization schedules approved by the commission;

(c) Increases or decreases in amounts incurred by a telecommunications utility resulting from changes in income, excise, franchise or ad valorem taxes by the federal, state or local governments;

(d) Increases or decreases in amounts incurred by a telecommunications utility resulting from restoration of telecommunications services interrupted by floods, fires, earthquakes, storms or other acts of nature;

(e) Increases or decreases in amounts incurred by a telecommunications utility for research, development, planning and advance advertising for products and services not yet in service;

- (f) Increases or decreases in amounts incurred by a telecommunications utility for telephone plant transfers and property sales approved by the commission;
  - (g) Increases or decreases in amounts incurred by a telecommunications utility from affiliated interest contracts and transactions approved by the commission;
  - (h) Increases or decreases in amounts incurred by a telecommunications utility from attorney's fees, court settlements and court awards;
  - (i) Increases or decreases in amounts incurred by a telecommunications utility resulting from changes in accounting methods approved by the commission; and
  - (j) Increases or decreases in amounts incurred by a telecommunications utility from customer service contracts, intercompany service contracts and joint and through service arrangements.
- (3) The commission may authorize deferrals under subsection (2) of this section beginning with the date of application, together with interest established by the commission. A deferral may be authorized for a period not to exceed 12 months beginning on or after the date of application.
- (4) Unless subject to an automatic adjustment clause under ORS 759.180, amounts described in this section shall be allowed in rates only to the extent authorized by the commission in a proceeding to change rates and upon review of the utility's earnings at the time of application to amortize the deferral.
- (5) In any one year, the overall average rate impact of the amortizations authorized under this section shall not exceed three percent of the telecommunications utility's gross revenues for the preceding calendar year.
- (6) The provisions of this section may be used as a means of deferring the effect of readily identifiable and readily measurable changes in particular costs or revenues of a telecommunications utility, but shall not be used to implement a claim for an increase or decrease in the overall revenue requirement of a telecommunications utility when the amount of the change or changes would not be known until the completion of a rate case. [1989 c.929 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.205 - Conformance of rates charged with schedule.**

No telecommunications utility shall charge, demand, collect or receive a greater or less compensation for any service performed by it within the state, or for any service in connection therewith, than is specified in printed rate schedules as may at the time be in force, or demand, collect or receive any rate not specified in such schedule. The rates named therein are the lawful rates until they are changed as provided in this chapter. [1987 c.447 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.210 - Classification of service and rates; considerations; rules.**

- (1) The Public Utility Commission shall provide for a comprehensive classification of service for each telecommunications utility. The classification may take into account the quantity used, the time when used, the purpose for which used, the existence of price competition or a service alternative, the services being provided, the conditions of service and any other reasonable consideration. Based on these considerations the commission may authorize classifications or schedules of rates applicable to individual customers or groups of customers. Each telecommunications utility is required to conform its schedules of rates to such classification. If the commission determines that a tariff filing under ORS 759.175 results in a rate classification primarily related to price competition or a service alternative, the commission, at a minimum, shall consider the following:
- (a) Whether the rate generates revenues at least sufficient to cover relevant short and long run costs of the utility during the term of the rates; and
  - (b) Whether the rate generates revenues sufficient to insure that just and reasonable rates are established for remaining customers of the telecommunications utility.
- (2) The commission may prescribe any changes in the form in which the schedules are issued by any telecommunications utility as the commission finds to be expedient. The commission shall adopt rules that allow any person who requests notice of tariff filings described under subsection (1) of this section to receive such notice. [1987 c.447 §17; 1989 c.5 §17; 2005 c.232 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.215 - Public access to schedules.**

- (1) A copy of so much of all schedules, including schedules of joint rates and charges, as the Public Utility Commission deems necessary for the use of the public, shall be made available to the public.
- (2) Except as provided in ORS 759.410 (8), copies of all new schedules shall be made readily accessible to the public as required by the commission 30 days prior to the time the schedules are to take effect, unless the commission prescribes a shorter time. [1987 c.447 §18; 2005 c.232 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.218 - Revenues and expenses of unregulated activities.**

- (1) A telecommunications utility may not use revenues earned from, or allocate expenses to, that portion of the utility's business that

is regulated under this chapter in order to subsidize activities that are not regulated by this chapter.

(2) The Public Utility Commission may not require revenues or expenses from an activity that is not regulated under this chapter to be attributed to the regulated activities of a telecommunications utility.

(3) The commission may approve a telecommunications utility rate proposal for basic local service rates that utilizes revenues from other regulated services to partially cover the costs of providing basic local service. [2005 c.232 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.219 - Certain taxes as operating expense; charge pro rata to users; condition.**

The privilege tax authorized by ORS 221.515, or other similar exactions imposed by any municipality in this state upon telecommunications utilities for use and occupancy of streets, alleys or highways, or all of them, shall be allowed as an operating expense of the affected telecommunications utilities operating in the municipality for rate-making purposes by the Public Utility Commission. The cost of such privilege tax or other similar exactions shall be charged pro rata to the users of such telecommunications utility within the municipality unless the Public Utility Commission determines on a statewide basis that such pro rata charges would be inequitable, in whole or in part, to city ratepayers or should otherwise be borne as a statewide operating expense by the telecommunications utility. [Formerly 759.105]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.220 - Joint rates and classifications; procedure; considerations.**

(1) A telecommunications utility may establish reasonable through service and joint rates and classifications with other telecommunications utilities. Telecommunications utilities establishing joint rates shall establish just and reasonable regulations and practices in connection therewith and just, reasonable and equitable divisions thereof, as between the public utilities participating therein which shall not unduly prefer or prejudice any of the participating telecommunications utilities and every unjust and unreasonable rate, classification, regulation, practice and division is prohibited.

(2) The Public Utility Commission may, and shall, whenever deemed by the commission to be necessary or desirable in the public interest, after full hearing upon complaint, or upon the commission's own initiative without complaint, establish through service, classifications and joint rates, the divisions of such rates and the terms and conditions under which such through service shall be rendered. If any tariff or schedule canceling any through service or joint rate or classification without the consent of all the telecommunications utilities party thereto, or authorization by the commission is suspended by the commission for investigation, the burden of proof is upon the telecommunications utility proposing such cancellation to show that it is consistent with the public interest.

(3) Whenever, after full hearing upon complaint or upon the commission's own initiative without complaint, the commission is of the opinion that the divisions of joint rates between the telecommunications utilities are or will be unjust, unreasonable, inequitable or unduly preferential or prejudicial as between the telecommunications utilities party thereto, whether agreed upon by such telecommunications utilities or otherwise established, the commission shall, by order, prescribe the just, reasonable and equitable divisions thereof to be received by the several telecommunications utilities. In cases where the joint rate was established pursuant to the finding or order of the commission and the divisions thereto are found by the commission to have been unjust, unreasonable or inequitable, or unduly preferential or prejudicial, the commission may also by order determine what, for the period subsequent to the filing of the complaint or petition or the making of the order of investigation, would have been the just, reasonable and equitable division thereof to be received by the several telecommunications utilities and require adjustment to be made in accordance therewith.

(4) In so prescribing and determining the divisions of joint rates, the commission shall give due consideration, among other things, to:

(a) The efficiency with which the telecommunications utilities concerned are operated;

(b) The amount of revenue to pay their respective operating expenses, taxes and a fair return on their telecommunications utility property held for and used in service;

(c) The importance to the public of the services of such telecommunications utilities;

(d) Whether any particular participating telecommunications utility is an originating, intermediate or delivering utility; and

(e) Any other fact or circumstance which ordinarily would entitle one telecommunications utility to a greater or less proportion of the joint rate than another. [1987 c.447 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.225 - Application of ORS 759.220 to unincorporated associations and cooperative corporations.**

Notwithstanding any other provision of law, ORS 759.220 applies to any unincorporated association or cooperative corporation providing intrastate telecommunications service. The application of ORS 759.220 to unincorporated associations and cooperative corporations:

(1) Does not allow the Public Utility Commission to establish terms, conditions, classifications or rates for services rendered to members of unincorporated associations or cooperative corporations;

(2) Does not make unincorporated associations or cooperative corporations subject to the commission's general powers of

regulation;

- (3) Allows the commission to regulate access charges imposed by unincorporated associations and cooperative corporations; and
- (4) Requires unincorporated associations and cooperative corporations to provide information to the commission that the commission deems necessary to establish new extended service areas. [Formerly 757.860; 2001 c.853 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.230 - Measured service rate for business customers; restriction.**

(1) Notwithstanding any other provision of this chapter, the Public Utility Commission shall not authorize a telecommunications utility to implement a rate schedule that includes optional measured service for business customers unless the rate for the service is sufficient to defray all costs that must be incurred to implement the service, including the costs of measuring and billing.

(2) As used in this section:

- (a) "Local exchange telephone service" means telephone service provided within the boundaries of exchange maps filed with and approved by the commission.
- (b) "Measured service" means local exchange telephone service, the rate for which is based upon the number of calls, length of calls, distance or time of day. [Formerly 757.835]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.235 - Mandatory measured service rate; prohibition.**

(1) The Public Utility Commission shall be prohibited from requiring any call aggregator, telephone customer or class of customers to pay for local exchange telephone service, or any portion thereof, on a mandatory measured service basis.

(2) As used in this section:

- (a) "Call aggregator" has the meaning given that term in ORS 759.680.
- (b) "Measured service" means charging for local exchange telephone service based upon number of calls, length of calls, distance, time of day, or any combination thereof.

(3) Nothing in this section is intended to prohibit the commission from requiring telephone customers to pay on a mandatory measured service basis for:

- (a) Land, marine, or air mobile service.
- (b) Local exchange telephone service resold at a profit.
- (4) The commission shall not change boundaries of local exchange service areas nor take any other actions if such changes or actions have the effect of circumventing subsections (1) and (2) of this section. [Formerly 757.840; 1997 c.317 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.240 - Measuring quality of service; standards; rules.**

(1) The Public Utility Commission shall ascertain and prescribe for each kind of telecommunications utility suitable and convenient standard commercial units of service. These shall be lawful units for the purposes of this chapter.

(2) The commission shall ascertain and fix adequate and serviceable standards for the measurement of quality, pressure, initial voltage or other conditions pertaining to the supply of the service rendered by any telecommunications utility and prescribe reasonable regulations for examination and testing of such service and for the measurement thereof. It shall establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for the measurements, and every telecommunications utility is required to carry into effect all orders issued by the commission relative thereto. [1987 c.447 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.245 - Examination and testing of measuring appliances; rules; fees.**

(1) The Public Utility Commission may provide for the examination and testing of any and all appliances used for the measuring of any service of a telecommunications utility and may provide by rule that no such appliance shall be installed and used for the measuring of any service of any telecommunications utility until it has been examined and tested by the commission and found to be accurate.

(2) The commission shall declare and establish a reasonable fee governing the cost of such examination and test, which shall be paid to the commission by the telecommunications utility.

(3) The commission shall declare and establish reasonable fees for the testing of such appliances on the application of the customer, the fee to be paid by the customer at the time of the customer's request, but to be repaid to the customer by the commission and to be paid by the telecommunications utility if the appliance is found defective or incorrect to the disadvantage of the customer or used beyond such reasonable limit as may be prescribed by the commission.

(4) All fees collected under the provisions of this section shall be paid by the commission into the State Treasury.

(5) The commission may purchase such materials, apparatus and standard measuring instruments for the examination and tests as the commission deems necessary. [1987 c.447 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.250 - Contracts for special services; procedure for filing and approval; subsequent review and**

## **investigation.**

- (1) A telecommunications utility may enter into a contract with any customer for the provision of a telecommunications service that the Public Utility Commission determines is a new service with limited availability, is designed to respond to a unique customer requirement or is subject to competition. Contracts shall be for a stated time period, not to exceed five years. If a contract includes competitive and noncompetitive service elements, the noncompetitive service elements shall be unbundled and priced separately from all other facilities and service elements in the contract. Such noncompetitive service elements shall be made available to all purchasers under the same or substantially the same circumstances at the same rate, terms and conditions.
- (2) The telecommunications utility shall file any contract with the commission no later than 90 days following its effective date. At the customer's request, the telecommunications utility shall file the contract at least 30 days in advance of the effective date. Notice of the filing of the contract shall be given by the commission to all persons who have filed with the commission a petition to receive such notice.
- (3) Contracts entered into under this section are not schedules of rates, tolls or charges within the meaning of ORS 759.175. A contract entered into under this section shall be enforceable by the contracting parties according to its terms, unless the contract has been rejected by the commission as provided in this section.
- (4) Notwithstanding ORS 759.175 to 759.185, the commission shall approve any contract for a telecommunications service entered into under this section if the commission finds the following:
  - (a) The telecommunications service is a new service with limited availability, is designed to respond to a unique customer requirement or is subject to competition. In making the determination of whether a service is subject to competition, the commission shall consider whether the customer might reasonably have chosen an alternative to the telecommunications utility's service.
  - (b) The contracted price for the telecommunications service is above the long run incremental costs of providing such service during the term of the contract. In making this calculation for a contract that includes both competitive and noncompetitive service elements, the commission shall consider separately whether the competitive service elements are priced above the long run incremental costs of providing such service elements.
  - (c) The contracted price for the telecommunications service includes all costs of providing such service, including the rate that would be charged by a telecommunications utility to any competitive telecommunications provider for any component essential to the competitive telecommunications provider's ability to offer the telecommunications service. The commission shall determine which components of the service shall be deemed essential and the method to include prices of those components in costs of such services.
- (5) The commission shall issue an order regarding any contract filed under subsection (2) of this section within 90 days of the filing. If the commission does not act within 90 days of the filing, the contract shall be deemed approved. If the commission disapproves the contract, it shall enter an order describing the ways in which the contract fails to meet the standards set forth in subsection (4) of this section and declaring the contract null and void. The telecommunications utility or customer may request that the commission hold a hearing to determine whether the order should continue in effect. Any such request for hearing shall be submitted to the commission not later than 15 days after the date of service of the order, and the commission shall hold the hearing not later than 60 days after receipt of such request for hearing.
- (6) Notwithstanding ORS 192.311 to 192.478, the commission shall not disclose the identity of a customer or any customer proprietary information contained in a contract filed under subsection (2) of this section without the consent of the customer and the telecommunications utility.
- (7) No contract filed under subsection (2) of this section may be automatically renewed. A contract renewal shall be treated as a new contract.
- (8) Nothing in this section shall be deemed state action for the purpose of exempting a telecommunications utility from liability for anticompetitive conduct or other unlawful practices.
- (9) Any contract executed prior to September 29, 1991, and approved by the commission is deemed lawful and shall be enforceable by the contracting parties according to its terms. A contract renewal shall be deemed a new contract.
- (10) Nothing in this section shall restrict the commission from subsequent scrutiny of the reasonableness of contracts filed under this section for ratemaking purposes.
- (11) In accordance with ORS 756.515, the commission may investigate contracts filed by a specific telecommunications utility under this section. Notwithstanding any other provision of this section, if the commission finds that contracts entered into by a telecommunications utility have not generally been in the public interest, the commission, by order, may prevent or restrict the telecommunications utility from future contracting pursuant to this section and may require the telecommunications utility to file contracts under ORS 759.175. [1991 c.527 §2]

## **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.255 - Setting prices without regard to return on utility investment; petition; findings; conditions; application of statutes to approved plan.**

- (1) In addition to powers vested in the Public Utility Commission under ORS 759.195, and subject to the limitations contained in subsections (2) to (4) of this section, upon petition of a telecommunications utility that provides local exchange service directly, or is affiliated with a utility that provides local exchange service, the commission, after notice and hearing, may approve a plan under

which the commission regulates prices charged by the utility, without regard to the return on investment of the utility. Prices approved under the plan are not subject to the provisions of ORS 759.180 to 759.190 and shall become effective as stated in the plan.

(2) Prior to granting a petition to approve a plan under subsection (1) of this section, the commission must find that the plan is in the public interest. In making its determination the commission shall consider, among other matters, whether the plan:

- (a) Ensures prices for telecommunications services that are just and reasonable;
- (b) Ensures high quality of existing telecommunications services and makes new services available;
- (c) Maintains the appropriate balance between the need for regulation and competition; and
- (d) Simplifies regulation.

(3) If the commission approves a plan under subsection (1) of this section, the commission shall establish objectives of the plan and conditions for review of the plan during the operation of the plan. The commission may not consider return on investment of the utility when the commission establishes objectives of the plan and conditions for review of the plan during the operation of the plan.

(4) A rate for any service in the plan authorized under subsection (1) of this section may not be lower than the total service long run incremental cost, for nonessential functions, of providing the service and the charges of essential functions used in providing the service. However, the commission may allow a telecommunications utility to establish rates for residential local exchange service at any level necessary to achieve the commission's universal service objectives.

(5) If the commission approves a plan under subsection (1) of this section, the commission may waive, in whole or in part, compliance by the telecommunications utility with ORS 759.120, 759.125, 759.130, 759.135, 759.180 to 759.205, 759.215, 759.220, 759.285 and 759.300 to 759.393. [1995 c.399 §2; 2005 c.232 §13b]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.257 - Extended area service: Portland to Scappoose.**

(1) Two-way, flat rate or measured extended area service shall be provided by each telecommunications utility providing service between the Portland EAS Region and the Scappoose Exchange, as described by EAS and exchange maps filed with and approved by the Public Utility Commission.

(2) The service provided for in subsection (1) of this section may be implemented during the currently pending Portland EAS Region Expansion, but in no event shall such implementation occur later than November 1, 1998.

(3) Nothing in subsection (1) of this section authorizes a telecommunications utility to discontinue two-way, flat rate or measured extended area service in any exchange area where that service was provided prior to October 4, 1997. [1997 c.796 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.259 - Extended area service: Portland to Molalla.**

(1) Two-way, flat rate or measured extended area service shall be provided by each telecommunications utility providing service between the Portland EAS Region and the Molalla Exchange, as described by EAS and exchange maps filed with and approved by the Public Utility Commission.

(2) The service provided for in subsection (1) of this section may be implemented during the currently pending Portland EAS Region Expansion, but in no event shall such implementation occur later than November 1, 1998, after approval by customers of the Molalla Exchange.

(3) Nothing in subsection (1) of this section authorizes a telecommunications utility to discontinue two-way, flat rate or measured extended area service in any exchange area where the service was provided prior to October 4, 1997. [1997 c.505 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.260 - Unjust discrimination in rates.**

(1) Except as provided in ORS 759.265, no telecommunications utility or any agent or officer thereof shall, directly or indirectly, by any device, charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered by it than:

- (a) That prescribed in the public schedules or tariffs then in force or established; or
- (b) It charges, demands, collects or receives from any other person for a like and contemporaneous service under substantially similar circumstances. A difference in rates or charges based upon a difference in classification pursuant to ORS 759.210 shall not constitute a violation of this paragraph.

(2) Any telecommunications utility violating this section is guilty of unjust discrimination. [1987 c.447 §46; 1989 c.5 §22; 1993 c.18 §165]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.265 - Practices not constituting unjust discrimination.**

(1) ORS 759.260 does not prevent any telecommunications utility from giving free service, or reduced rates therefor, to:

- (a) Its officers, directors, employees and members of their families;
- (b) Former employees of such telecommunications utilities or members of their families where such former employees have become

disabled in the service of such telecommunications utility or are unable from physical disqualification, including retirement, to continue in the service; or

(c) Members of families of deceased employees of such telecommunications utility.

(2) The Public Utility Commission may require any telecommunications utility to file with the commission a list, verified under oath, of all free or reduced rate privileges granted by a telecommunications utility under the provisions of this section. [1987 c.447 §47]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.267 - Service promotion activities.**

A telecommunications utility may promote the use of its services by offering a waiver of part or all of a recurring or a nonrecurring charge, a redemption coupon or a premium with the purchase of a service. ORS 759.260 and 759.265 do not apply to promotions under this section, but the customer group to which the promotion is available must be based on reasonable distinctions among customers. [1993 c.204 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.270 - Reducing rates for persons furnishing part of facilities; rental of customer facilities; furnishing meters and appliances.**

(1) No telecommunications utility shall demand, charge, collect or receive from any person less compensation for any service rendered or to be rendered by the telecommunications utility in consideration of the furnishing by such person of any part of the facilities incident thereto.

(2) This section does not prohibit any telecommunications utility from renting any customer's facilities incident to providing its services and for paying a reasonable rental therefor.

(3) This section does not require a telecommunications utility to furnish any part of such appliances which are situated in and upon the premises of any customer, except meters and appliances for measurements of any service, unless otherwise ordered by the Public Utility Commission. [1987 c.447 §48]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.275 - Undue preferences and prejudices.**

(1) No telecommunications utility shall make or give undue or unreasonable preference or advantage to any particular person or locality, or shall subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect.

(2) Any telecommunications utility violating this section is guilty of unjust discrimination. [1987 c.447 §49]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.280 - Soliciting or accepting rebates or special advantage.**

No person shall knowingly solicit, accept or receive any rebate, concession or discrimination in respect to any service whereby any such service shall, by any device, be rendered free or at a lesser rate than that named in the published schedules and tariffs in force, or whereby any service or advantage is received other than authorized in this chapter. [1987 c.447 §50]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.285 - Charging rates based on cost of property not presently providing service.**

No telecommunications utility shall, directly or indirectly, by any device, charge, demand, collect or receive from any customer, rates which are derived from a rate base which includes within it any construction, building, installation or real or personal property not presently used for providing utility service to the customer. [1987 c.447 §51]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.300 - "Stocks" defined.**

As used in ORS 759.300 to 759.360, "stocks" means stocks, stock certificates or other evidence of interest or ownership. [1987 c.447 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.305 - Power to regulate issuance of telecommunications stocks; rules.**

The power of telecommunications utilities to issue stocks and bonds, notes and other evidences of indebtedness and to create liens on their property situated within this state is a special privilege, the right of supervision, regulation, restriction and control of which is and shall continue to be vested in the state. Such power shall be exercised as provided by law and under such rules and regulations as the Public Utility Commission may prescribe. [1987 c.447 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.310 - When issuance of securities void.**

All stocks and bonds, notes or other evidences of indebtedness and any security of a telecommunications utility shall be void when issued:

- (1) Without an order of the Public Utility Commission authorizing the same then in effect except as provided in ORS 759.315 (3) or (5).
- (2) With the authorization of the commission, but not conforming in its provisions to the provisions, if any, which it is required by the order of authorization of the commission to contain; but no failure to comply with the terms or conditions of the order of authorization of the commission and no informality or defect in the application or in the proceedings in connection therewith or with the issuance of such order shall render void any stock or bond, note or other evidence of indebtedness, or security issued pursuant to and in substantial conformity with an order of the commission, except as to a person taking the same otherwise than in good faith and for value and without actual notice. [1987 c.447 §30; 1993 c.204 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.315 - Purposes for which securities may be issued; order required; exceptions; rules.**

- (1) A telecommunications utility may issue stocks and bonds, notes and other evidences of indebtedness, and securities for the following purposes and no others, except as otherwise permitted by subsection (4) of this section:
  - (a) The acquisition of property, or the construction, completion, extension or improvement of its facilities.
  - (b) The improvement or maintenance of its service.
  - (c) The discharge or lawful refunding of its obligations.
  - (d) The reimbursement of money actually expended from income or from any other money in the treasury of the telecommunications utility not secured by or obtained from the issue of stocks or bonds, notes or other evidences of indebtedness, or securities of such telecommunications utility, for any of the purposes listed in paragraphs (a) to (c) of this subsection except the maintenance of service and replacements, in cases where the applicant has kept its accounts and vouchers for such expenditures in such manner as to enable the Public Utility Commission to ascertain the amount of money so expended and the purposes for which such expenditures were made.
  - (e) The compliance with terms and conditions of options granted to its employees to purchase its stock, if the commission first finds that such terms and conditions are reasonable and in the public interest.
- (2) Before issuing such securities, a telecommunications utility, in addition to the other requirements of law, shall secure from the commission upon application an order authorizing such issue, stating:
  - (a) The amount of the issue and the purposes to which the issue or the proceeds thereof are to be applied;
  - (b) In the opinion of the commission, the money, property or labor to be procured or paid for by such issue reasonably is required for the purposes specified in the order and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a telecommunications utility, and will not impair its ability to perform that service; and
  - (c) Except as otherwise permitted in the order in the case of bonds, notes or other evidences of indebtedness, such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.
- (3) This section and ORS 759.310 apply to demand notes but do not apply to the issuance or renewal of a note or evidence of indebtedness maturing not more than one year after date of such issue or renewal.
- (4) Nothing in ORS 759.300 to 759.360 shall prevent issuance of stock to stockholders as a stock dividend if there has been secured from the commission an order:
  - (a) Finding that the stock dividend is compatible with the public interest;
  - (b) Authorizing such issue and a transfer of surplus to capital in any amount equal to the par or stated value of the stock so authorized; and
  - (c) Finding that a sum equal to the amount to be so transferred was expended for the purposes enumerated in subsection (1) of this section.
- (5) A telecommunications utility that derives one-half or more of its gross revenue from sources outside this state does not require commission authorization to issue stocks and bonds, notes or other evidences of indebtedness and any security unless the commission finds that the authorization requirements of ORS 759.310 and subsection (2) of this section are necessary to:
  - (a) Prevent the telecommunications utility from issuing securities for purposes not permitted under subsection (1) of this section; or
  - (b) Prevent impairment of the telecommunications utility's ability to provide telecommunications utility services to its customers in this state. The commission shall adopt rules that set forth independently determined financial indicators upon which the commission must base any finding of impaired ability to provide utility telecommunications services. [1987 c.447 §31; 1993 c.204 §2; 2001 c.236 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.320 - Application of ORS 759.315.**

ORS 759.315 does not apply to the issuance, renewal or assumption of liability on any evidence of indebtedness when such issuance, renewal or assumption is for the purpose of acquiring specific real or personal property, if the aggregate principal amount thereof, together with all other then outstanding evidences of indebtedness issued, renewed or assumed under this section, does not exceed whichever is the greater of the following amounts:



- (1) The amount of \$75,000.
- (2) The amount of one-half of one percent of the sum of:
  - (a) The total principal amount of all bonds or other securities representing secured indebtedness of the telecommunications utility issued or assumed and then outstanding; and
  - (b) The capital and surplus as then stated on the books of account of the telecommunications utility. [1987 c.447 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.325 - Application of ORS 759.375.**

ORS 759.375 does not apply to any mortgage or other encumbrance upon any real or personal property given to secure payment of any evidence of indebtedness issued under ORS 759.315. [1987 c.447 §33]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.330 - Hearings and supplemental orders for securities issuance; joint approval for issuance by utility operating in another state.**

(1) To enable the Public Utility Commission to determine whether the commission will issue an order under ORS 759.315, the commission may hold a hearing and may make such additional inquiry or investigation, examine such witnesses, books, papers, documents and contracts and require the filing of such data as the commission deems necessary. The application for such order shall be given priority and shall be disposed of by the commission within 30 days after the filing of such application, unless that period is extended with the consent of the telecommunications utility.

(2) The commission may, upon application of the telecommunications utility, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as the commission finds necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, extent to which, or the condition under which, any security theretofore authorized or its proceeds may be applied. Such supplemental orders are subject to the requirements of ORS 759.315. The period of time permitted under subsection (1) of this section for disposing of applications shall not apply to supplemental orders.

(3) If a commission or other agency is empowered by another state to regulate and control the amount and character of securities to be issued by any telecommunications utility within such other state, the commission of Oregon has power to agree with such commission or agency of such other state on the issue of stocks, bonds, notes, other evidences of indebtedness or securities by a telecommunications utility owning or operating a telecommunications utility both in such state and in this state, and has power to approve such issue jointly with such commission or agency and to issue a joint certificate of such approval. However, no such joint approval is required in order to express the consent to and approval of such issue by the State of Oregon if the issue is separately approved by the Oregon commission. [1987 c.447 §34]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.335 - Obligation of state as consequence of approval of issuance.**

No provision of ORS 759.300 to 759.360, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the State of Oregon to pay or guarantee, in any manner whatsoever, any stock or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of ORS 759.300 to 759.360. [1987 c.447 §35]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.340 - Conditional approval of issuance.**

The Public Utility Commission may by order grant permission for the issue of stocks or bonds, notes or other evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of the permission such condition or conditions as the commission deems reasonable and necessary. [1987 c.447 §36]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.345 - Use of proceeds from issuance; accounting; rules.**

(1) No telecommunications utility shall, without the consent of the Public Utility Commission, apply the issue of any stock or bond, note or other evidence of indebtedness, or any part or proceeds thereof, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or issue or dispose of the same on any terms less favorable than those specified in such order, or a modification thereof.

(2) The commission has power to require telecommunications utilities to account for the disposition of the proceeds of all sales of stocks and bonds, notes and other evidences of indebtedness, in such form and detail as the commission deems advisable, and to establish such rules and regulations as the commission deems reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in the order. [1987 c.447 §37]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.350 - Limitation on authority of utility to guarantee debt of another.**

No telecommunications utility shall assume any obligation or liability as guarantor, indorser, surety or otherwise in respect to the securities of any other person, firm or corporation, when such securities are payable at periods of more than 12 months after the date thereof, without first having secured from the Public Utility Commission an order authorizing it to do so. Every assumption made other than in accordance with such an order is void. [1987 c.447 §38]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.355 - Issuance or use of proceeds contrary to commission order.**

No telecommunications utility shall directly or indirectly, issue or cause to be issued any stock or bond, note or other evidence of indebtedness in nonconformity with the order of the Public Utility Commission authorizing the same or contrary to the provisions of ORS 759.300 to 759.360, or of the Constitution of this state, or apply the proceeds from the sale thereof, or any part thereof, to any purpose other than the purposes specified in the commission's order, or to any purpose specified in the commission's order, in excess of the amount in the order authorized for such purpose. [1987 c.447 §39]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.360 - Prohibited acts regarding issuance of securities.**

No person shall:

- (1) Knowingly authorize, direct, aid in, issue or execute, or cause to be issued or executed, any stock or bond, note or other evidence of indebtedness, in nonconformity with the order of the Public Utility Commission authorizing the same, or contrary to the provisions of ORS 759.300 to 759.360 or of the Constitution of this state.
- (2) In any proceeding before the commission, knowingly make any false statement or representation or with knowledge of its falsity file or cause to be filed with the commission any false statement or representation which may tend in any way to influence the commission to make an order authorizing the issue of any stock or bond, note or other evidence of indebtedness, or which results in procuring from the commission the making of any such order.
- (3) With knowledge that any false statement or representation was made to the commission in any proceeding tending in any way to influence the commission to make such order, issue, execute or negotiate, or cause to be issued, executed or negotiated, any stock or bond, note or other evidence of indebtedness.
- (4) Directly or indirectly, knowingly apply, or cause or assist to be applied, the proceeds, or any part thereof, from the sale of any stock or bond, note or other evidence of indebtedness, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose.
- (5) With knowledge that any stock or bond, note or other evidence of indebtedness, has been issued or executed in violation of ORS 759.300 to 759.360, negotiate, or cause the same to be negotiated. [1987 c.447 §40]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.375 - Approval prior to sale, mortgage or disposal of operative utility property.**

- (1) A telecommunications utility doing business in Oregon shall not, without first obtaining the Public Utility Commission's approval of such transaction:
  - (a) Sell, lease, assign or otherwise dispose of the whole of the property of such telecommunications utility necessary or useful in the performance of its duties to the public or any part thereof of a value in excess of \$100,000, or sell, lease, assign or otherwise dispose of any franchise, permit or right to maintain and operate such telecommunications utility or telecommunications utility property, or perform any service as a telecommunications utility;
  - (b) Mortgage or otherwise encumber the whole or any part of the property of such telecommunications utility necessary or useful in the performance of its duties to the public, including any franchise, permit or right to maintain and operate such telecommunications utility or telecommunications utility property, or perform any service as a telecommunications utility; or
  - (c) By any means whatsoever, directly or indirectly, merge or consolidate any of its lines, plant, system or other property whatsoever, or franchise or permit to maintain or operate any telecommunications utility property, or perform any service as a telecommunications utility, or any part thereof, with any other public utility or telecommunications utility.
- (2) A telecommunications utility that sells, leases, assigns or otherwise disposes of the whole of the property of such telecommunications utility necessary or useful in the performance of its duties to the public or any part thereof of a value in excess of \$25,000, but less than \$100,000, shall notify the commission of the sale within 60 days following the date of the sale.
- (3) Every sale, lease, assignment, mortgage, disposition, encumbrance, merger or consolidation subject to subsection (1) of this section made other than in accordance with the order of the commission authorizing the same is void.
- (4) This section does not prohibit or invalidate the sale, lease or other disposition by any telecommunications utility of property which is not necessary or useful in the performance of its duties to the public. [1987 c.447 §41; 1999 c.530 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.380 - Purchase of stock or property of another utility.**

- (1) No telecommunications utility shall, directly or indirectly, purchase, acquire or become the owner of any of the stocks or bonds or property utilized for utility purposes and having a value in excess of \$10,000 of any other public utility or telecommunications

utility unless authorized to do so by the Public Utility Commission.

(2) Every contract by any telecommunications utility for the purchase, acquisition, assignment or transfer to it of any of the stock of any other telecommunications utility by or through any person, partnership or corporation without the approval of the commission shall be void and of no effect, and no such transfer or assignment of such stock upon the books of the corporation pursuant to any such contract is effective for any purpose. [1987 c.447 §42]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.385 - Contracts regarding use of utility property; filing with commission; investigation.**

(1) When any telecommunications utility doing business in this state, except a telecommunications carrier that has elected to be subject to ORS 759.405 and 759.410, enters into a contract with another corporation with relation to the construction, operation, maintenance or use of the property of the telecommunications utility in Oregon, or the use of the property of the other contracting party, or any part of the property, or for service, advice, engineering, financing, rentals, leasing or for any construction or management charges with respect to any of the property, or for the purchase of property, materials or supplies, the proposed contract shall be filed with the Public Utility Commission for investigation and approval when the telecommunications utility owns a majority of or controls directly or indirectly the voting stock of the other contracting corporations.

(2) Any proposed contract described in subsection (1) of this section shall be filed with the commission within 90 days of execution of the contract. The contract shall be deemed to be executed on the date the parties sign a written contract or on the date the parties begin to transact business under the contract, whichever date is earlier. The commission shall promptly investigate and act upon the contract in accordance with ORS 759.390 (4) and (7).

(3) In making an investigation of the contract, the commission and accountants, examiners and agents, appointed by the commission for the purpose, shall be given free access to all books, books of account, documents, data and records of the telecommunications utility, as well as of the corporation with which it is proposing to contract, that the commission may deem material to the investigation. The failure or refusal of either of the parties to the proposed contract to comply with this subsection is prima facie evidence that the contract is unfair, unreasonable and contrary to public interest, and is sufficient to justify a determination and finding of the commission to that effect. A determination and finding by the commission under this subsection has the same force and effect as any other determination or order of the commission.

(4) This section applies only to transactions in which the telecommunications utility's Oregon intrastate expenditure to the affiliate is more than \$100,000. [1987 c.447 §43; 1989 c.956 §4; 1991 c.899 §1; 1999 c.809 §1; 2005 c.232 §21; 2009 c.11 §97]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.390 - Contracts with affiliated interests; procedure; use in rate proceedings.**

(1) As used in this section, "affiliated interest" with a telecommunications utility means:

(a) Every person owning or holding directly or indirectly five percent or more of the voting securities of the telecommunications utility.

(b) Every person in any chain of successive ownership of five percent or more of the voting securities of the telecommunications utility.

(c) Every corporation five percent or more of whose voting securities are owned by any person owning five percent or more of the voting securities of the telecommunications utility or by any person in any chain of successive ownership of five percent or more of the voting securities of the telecommunications utility.

(d) Every individual who is an officer or director of the telecommunications utility or of any person in any chain of successive ownership of five percent or more of the voting securities of the telecommunications utility.

(e) Every corporation that has two or more officers or two or more directors in common with the telecommunications utility.

(f) Every entity, five percent or more of which is directly or indirectly owned by a telecommunications utility.

(g) Every person that the Public Utility Commission determines as a matter of fact, after investigation and hearing, actually is exercising any substantial influence over the policies and actions of the telecommunications utility, even though the influence is not based upon stockholdings, stockholders, directors or officers to the extent specified in this section.

(h) Every person that the commission determines as a matter of fact, after investigation and hearing, actually is exercising such substantial influence over the policies and actions of the telecommunications utility in conjunction with one or more other persons with whom they are related by ownership or blood or by action in concert that together they are affiliated with the telecommunications utility within the meaning of this section even though no one of them alone is so affiliated.

(2) When any telecommunications utility doing business in this state, except a telecommunications carrier that has elected to be subject to ORS 759.405 and 759.410, enters into any contract to make any payment, directly or indirectly, to any person having an affiliated interest, for service, advice, auditing, accounting, sponsoring, engineering, managing, operating, financing, legal or other services, or enters any charge on the books of the utility, and the contract is to be recognized as an operating expense or capital expenditure in any rate valuation or any other hearing or proceeding, the contract shall be filed with the commission within 90 days of execution of the contract. The contract shall be deemed to be executed on the date the parties sign a written contract or on the date the parties begin to transact business under the contract, whichever date is earlier.

(3) When any telecommunications utility doing business in this state enters into any contract, oral or written, with any person having an affiliated interest relating to the construction, operation, maintenance, leasing or use of the property of the telecommunications

utility in Oregon, or the purchase of property, materials or supplies that is to be recognized as the basis of an operating expense or capital expenditure in any rate valuation or any other hearing or proceeding, the contract shall be filed with the commission within 90 days of execution of the contract. The contract shall be deemed to be executed on the date the parties sign a written contract or on the date the parties begin to transact business under the contract, whichever date is earlier.

(4) The commission promptly shall examine and investigate any contract submitted to the commission under subsection (2) or (3) of this section. If, after the investigation, the commission determines that it is fair and reasonable and not contrary to the public interest, the commission shall enter findings and order approving the contract and serve a copy of the findings and order upon the telecommunications utility. Following the commission's determination of fairness and reasonableness, any expenses and capital expenditures incurred by the telecommunications utility under the contract may be recognized in any rate valuation or other hearing or proceeding. If, after the investigation, the commission determines that the contract is not fair and reasonable in all its terms and is contrary to the public interest, the commission shall enter findings and order disapproving the contract and serve a copy of the findings and order upon the telecommunications utility. Except as provided in subsection (5) of this section, it is unlawful to recognize a disapproved contract for the purposes specified in this section.

(5) When any contract described in subsection (2) or (3) of this section has been filed with the commission within 90 days of execution and the commission has not entered an order disapproving the contract under subsection (4) of this section, the commission may not base its refusal to recognize any expenses or capital expenditures incurred under the contract in any rate valuation or other hearing or proceeding solely on the basis that the contract has not been approved under subsection (4) of this section.

(6) A telecommunications utility may not issue notes or loan its funds or give credit on its books or otherwise to any person having an affiliated interest, either directly or indirectly, without the approval of the commission.

(7) The action of the commission with respect to all the matters described in this section shall be by findings and order to be entered within 90 days after the matter has been submitted to the commission for consideration. An order of the commission under this section is subject to judicial review in the manner provided by ORS 756.610.

(8) This section applies only to transactions in which the telecommunications utility's Oregon intrastate expenditure to the affiliate is more than \$100,000. [1987 c.447 §44; 1989 c.956 §5; 1991 c.899 §2; 1999 c.809 §2; 2005 c.232 §22; 2005 c.638 §16a; 2017 c.312 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.393 - Applicability of ORS 759.385 and 759.390.**

(1) Except as provided in subsection (2) of this section, the filing of proposed contracts under ORS 759.385 and 759.390 shall constitute a telecommunications utility's sole reporting obligation under ORS 759.385 and 759.390 and the Public Utility Commission may not require a telecommunications utility to submit annual or other cumulative reports regarding such contracts, including contracts with affiliates of the utility.

(2) On April 1 of each year, every telecommunications utility shall file with the commission a list of affiliate contracts executed in the preceding year. The list shall consist of the names of the parties to the contracts, the dollar amounts of the contracts and the dates of execution of the contracts. [1999 c.809 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.400 - Definitions for ORS 759.400 to 759.455.**

As used in ORS 759.400 to 759.455:

(1) "Basic telephone service" means local exchange telecommunications service defined as basic by rule of the Public Utility Commission.

(2) "Commercial mobile radio service" has the meaning given that term in 47 C.F.R. 20.3.

(3) "Interconnected voice over internet protocol service" has the meaning given the term "interconnected VoIP service" in 47 C.F.R. 9.3.

(4) "Retail telecommunications service" means a telecommunications service provided for a fee to customers. "Retail telecommunications service" does not include a service provided by one telecommunications carrier to another telecommunications carrier, unless the carrier receiving the service is the end user of the service.

(5) "Telecommunications carrier" means any provider of retail telecommunications services, except a call aggregator as defined in ORS 759.680. [1999 c.1093 §23; 2020 s.s.1 c.17 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.405 - Election of regulation under ORS 759.405 and 759.410; conditions; Telecommunications Infrastructure Account; remedy for failure of utility to comply with conditions.**

(1) A telecommunications carrier may elect to be subject to this section and ORS 759.410. The telecommunications carrier shall notify, in writing, the Public Utility Commission of its election. Such election shall be effective 30 days after the written notification is received by the Public Utility Commission. A telecommunications carrier that elects to be subject to this section and ORS 759.410 shall be subject to the infrastructure investment and price regulation requirements of this section and ORS 759.410 and shall not be subject to any other regulation based on earnings, rates or rate of return.

(2) A telecommunications carrier that elects to be subject to this section and ORS 759.410 shall establish in its accounts a Telecommunications Infrastructure Account. The telecommunications carrier shall commit to its Telecommunications Infrastructure Account over a four-year period amounts totaling 20 percent of the telecommunications carrier's gross regulated intrastate revenue for the calendar year immediately prior to the year the telecommunications carrier elects to be subject to this section and ORS 759.410. Of the total committed amount, 30 percent shall be credited to and made available for the purposes of the electing carrier's account on the date the telecommunications carrier's election becomes effective. An electing telecommunications carrier shall credit an equal amount on the same date in the next following year. The electing carrier shall credit to its Telecommunications Infrastructure Account an amount equal to 20 percent of the total committed amount on the same date in each of the next following two years.

(3)(a) A telecommunications carrier that elects to be subject to this section and ORS 759.410 shall expend the moneys in the telecommunications carrier's Telecommunications Infrastructure Account on a plan or plans approved by the Oregon Business Development Commission under ORS 759.430. Subject to paragraphs (c) and (d) of this subsection, the total amount of capital and other expenses associated with completing the projects shall equal the total amount of moneys available in the account.

(b) Moneys in the account shall be used primarily to ensure that rural and urban Oregonians have improved access to telecommunications technology and services. Expenditures from the account shall be used for investment in telecommunications infrastructure and deployment of new and advanced telecommunications services.

(c)(A) Within 120 days following the effective date of a telecommunications carrier's election to be regulated under this section and ORS 759.410, but not later than January 1 of the year following the effective date of a telecommunications carrier's election, and on the same date in each of the next following three years, a telecommunications carrier serving less than one million access lines in Oregon shall transfer 40 percent of the moneys most recently credited to its Telecommunications Infrastructure Account to the Connecting Oregon Communities Fund established under ORS 759.445.

(B) Within 120 days following the effective date of a telecommunications carrier's election to be regulated under this section and ORS 759.410, but not later than January 1 of the year following the effective date of a telecommunications carrier's election, and on the same date in the next following year, a telecommunications carrier serving one million or more access lines in Oregon shall transfer 70 percent of the moneys most recently credited to its Telecommunications Infrastructure Account to the Connecting Oregon Communities Fund established under ORS 759.445.

(d) Notwithstanding ORS 285A.075 (2), if the Oregon Business Development Commission determines, following notice and a public hearing, that the telecommunications carrier is not complying with plans or plan modifications approved under ORS 759.430, following notice to the telecommunications carrier and reasonable opportunity to cure any noncompliance, the Oregon Business Development Commission may require the telecommunications carrier to transfer any or all moneys remaining in the carrier's Telecommunications Infrastructure Account, and any future amounts credited to the account, to the Connecting Oregon Communities Fund established under ORS 759.445.

(4) Nothing in this section affects the authority of a city or municipality to manage the public rights of way or to require fair and reasonable compensation from a telecommunications carrier, on a competitively neutral and nondiscriminatory basis, under ORS 221.420, 221.450, 221.510 and 221.515. [1999 c.1093 §24; 2001 c.104 §295]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.410 - Intent of ORS 759.410; establishing maximum and minimum price for telecommunications services; packaging services; notice of price change, new service; enforcement.**

(1) It is the intent of the Legislative Assembly that:

(a) The State of Oregon cease regulation of telecommunications carriers on a rate of return basis;

(b) Telecommunications carriers subject to rate of return regulation have the ability to opt out of rate of return regulation;

(c) A telecommunications carrier that opts out of rate of return regulation under this section and ORS 759.405 shall be subject to price cap regulation and the carrier under price cap regulation shall continue to meet service quality requirements; and

(d) Telecommunications carriers that opt out of rate of return regulation under this section and ORS 759.405 shall make payments to the state to support the use of advanced telecommunications services and to support deployment of advanced telecommunications services.

(2) A telecommunications carrier that elects to be subject to this section and ORS 759.405 shall be subject to price regulation as provided in this section and shall not be subject to any other retail rate regulation, including but not limited to any form of earnings-based, rate-based or rate of return regulation.

(3) The price a telecommunications utility that elects to be subject to this section and ORS 759.405 may charge for basic telephone service shall be established by the Public Utility Commission under ORS 759.425. Subject to ORS 759.415, the regular tariff rate of intrastate switched access and retail telecommunications services regulated by the commission, other than basic telephone service, in effect on the date the carrier elects to be subject to this section and ORS 759.405 shall be the maximum price the telecommunications carrier may charge for that service.

(4) A telecommunications carrier that elects to be subject to this section and ORS 759.405 may adjust the price for intrastate switched access or a regulated retail telecommunications service between the maximum price established under this section and a price floor equal to the sum of the total service long run incremental cost of providing the service for the nonessential functions of the service and the price that is charged to other telecommunications carriers for the essential functions. Basic telephone service

shall not be subject to a price floor.

(5) The price for a new regulated retail telecommunications service introduced by a telecommunications carrier within four years after the date the carrier elects to be subject to this section and ORS 759.405 shall be subject to a price floor test by the commission to ensure that the service is not priced below the sum of the total service long run incremental cost of providing the service for the nonessential functions of the service and the price that is charged to other telecommunications carriers for the essential functions. Beginning on the date four years after September 1, 1999, the price of a new telecommunications service shall be subject to a price floor test by the commission to ensure that the service is not priced below the total service long run incremental cost of providing the service, without regard to whether the service is considered essential or nonessential.

(6) A telecommunications carrier that elects to be subject to this section and ORS 759.405 may package and offer any of its retail telecommunications services with any other service at any price, provided the following conditions apply:

(a) Any regulated telecommunications service may be purchased separately at or below the maximum price.

(b) The price of the package is not less than the sum of the price floors of each regulated retail telecommunications service included in the package.

(c) The price of a package that is comprised entirely of regulated retail telecommunications services does not exceed the sum of the maximum prices for each of the services.

(d) The price of a package comprised of regulated and unregulated retail telecommunications services does not exceed the sum of the maximum prices established under this section for regulated services and the retail price charged by the carrier for the individual unregulated services in the package. A telecommunications carrier subject to regulation under this section shall provide notice to the commission within 30 days of a change in the price of an unregulated telecommunications service contained in the package.

(7) Nothing in this section or ORS 759.405 is intended to limit the ability of a telecommunications carrier to seek deregulation of telecommunications services under ORS 759.052.

(8)(a) Notice of a price change authorized under subsection (4) of this section, of the introduction of a new regulated telecommunications service or of the packaging of services, must be given to the commission within 30 days following the effective date of the price change, new service or packaged service. Notice of a new regulated telecommunications service shall indicate the retail price charged by the carrier for the service.

(b) The commission may investigate any price change authorized under subsection (4) of this section, the price of a new regulated telecommunications service or the price of a package of services to determine that the price complies with the provisions of this section and any other applicable law. If the commission determines that the price of the service or package of services does not comply with the provisions of this section or other applicable law, the commission may order the telecommunications carrier to take such action as the commission determines necessary to bring the price into compliance with this section or other applicable law.

(9) Nothing in this section affects the authority of a city or municipality to manage the public rights of way or to require fair and reasonable compensation from a telecommunications carrier, on a competitively neutral and nondiscriminatory basis, under ORS 221.420, 221.450, 221.510 and 221.515.

(10) Notwithstanding any other provision of this section, the commission shall establish prices for extended area service in a manner that allows a telecommunications carrier that elects to be subject to this section and ORS 759.405 to recover all costs and lost net revenues attributable to implementing new extended area service routes. The provisions of this subsection apply to telecommunications service provided on a flat or measured basis between exchanges defined by exchange maps filed with and approved by the commission. [1999 c.1093 §25; 2001 c.966 §1; 2005 c.232 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.415 - Order in rate proceeding filed prior to January 1, 1999, to establish maximum rate for affected telecommunications services; dismissal of rate proceeding filed after January 1, 1999.**

(1) In a rate proceeding brought by a telecommunications carrier that elects to be subject to ORS 759.405 and 759.410, or by the Public Utility Commission against an electing telecommunications carrier, prior to January 1, 1999, that is on appeal on September 1, 1999, a final rate for a telecommunications service implemented as a result of the final judgment and order or negotiated settlement shall become the maximum rate for purposes of ORS 759.410.

(2) A rate proceeding brought by or against an electing telecommunications carrier, after January 1, 1999, that is pending on the effective date of the carrier's election to be subject to ORS 759.405 and 759.410, shall be dismissed by the commission or by the court if on appeal, provided the carrier elects to be subject to regulation under ORS 759.405 and 759.410 within the later of:

(a) Ninety days from the commencement of the proceeding; or

(b) Ninety days from September 1, 1999.

(3) Notwithstanding subsection (2) of this section, the parties to a rate proceeding brought by or against an electing telecommunications carrier, after January 1, 1999, that is pending on the effective date of the carrier's election to be subject to ORS 759.405 and 759.410, may agree to continue the proceeding. [1999 c.1093 §27]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.420 - Application of ORS 759.400 to 759.455 to wholesale transactions regulated under federal law.**

Nothing in ORS 759.400 to 759.455 is intended to affect, alter or in any way modify wholesale transactions regulated by the federal

Telecommunications Act of 1996 (Public Law 104-104) as in effect on September 1, 1999, and regulations adopted thereunder.  
[1999 c.1093 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.425 - Universal service fund; transfer of moneys to Broadband Fund; commission to establish price for basic telephone service; universal service surcharge; application to cellular services; rules.**

(1)(a) The Public Utility Commission shall establish and implement a competitively neutral and nondiscriminatory universal service fund. The commission shall:

(A) Use the universal service fund to ensure basic telephone service is available at a reasonable and affordable rate; and

(B) Transfer from the universal service fund to the Oregon Business Development Department for deposit in the Broadband Fund established under ORS 285A.167, an amount per year that is equal to the lesser of:

(i) \$5 million; or

(ii) The remainder of moneys deposited in the universal service fund that are unobligated after making the designation required in paragraph (b) of this subsection.

(b) The commission shall designate the amount of moneys deposited annually in the universal service fund to be used to ensure basic telephone service. The amount designated under this paragraph may not exceed \$28 million per year.

(c) The commission may:

(A) Adopt rules to conform the universal service fund to section 254 of the federal Telecommunications Act of 1996 (P.L. 104-104), and to related regulations adopted by the Federal Communications Commission, to the extent that the Public Utility Commission determines conforming the rules is appropriate; and

(B) In addition to using the universal service fund to ensure basic telephone service, use the universal service fund to encourage broadband service availability and to provide support to telecommunications carriers that provide both basic telephone service and broadband service.

(2)(a) The commission shall establish the price a telecommunications utility may charge its customers for basic telephone service. The commission shall periodically review and evaluate the status of telecommunications services in the state and designate the services included in basic telephone service. The commission shall periodically review and adjust as necessary the price a telecommunications utility may charge for basic telephone service.

(b) The provisions of this subsection do not apply to the basic telephone service provided by a telecommunications utility described in ORS 759.040.

(3)(a) The commission shall establish a benchmark for basic telephone service as necessary for the administration and distribution of the universal service fund. The universal service fund shall provide explicit support to an eligible telecommunications carrier that is equal to the difference between the cost of providing basic telephone service and the benchmark, less any explicit compensation received by the telecommunications carrier from federal sources specifically used to recover local loop costs and less any explicit support received by the telecommunications carrier from a federal universal service program.

(b) The commission shall periodically review the benchmark established under paragraph (a) of this subsection and adjust the benchmark as necessary to reflect:

(A) Changes in competition in the telecommunications industry;

(B) Changes in federal universal service support; and

(C) Other relevant factors as determined by the commission.

(c) Except for a telecommunications utility described in ORS 759.040, the commission shall seek to limit the difference between the price a telecommunications utility may charge for basic telephone service and the benchmark.

(4)(a) There is imposed a universal service surcharge on the sale in this state of all:

(A) Retail telecommunications services;

(B) Retail commercial mobile radio services; and

(C) Retail interconnected voice over internet protocol services.

(b) A retail commercial mobile radio service provider shall identify the intrastate revenues subject to the universal service surcharge based on the inverse of the percentage of interstate revenues utilized for purposes of federal universal service contributions or based on any other method approved by the Public Utility Commission. A retail commercial mobile radio service provider may rely upon the sourcing rules set forth in the Mobile Telecommunications Sourcing Act (P.L. 106-252) to identify revenues attributable to Oregon.

(c) A retail interconnected voice over internet protocol service provider may identify, in accordance with federal guidelines, the intrastate revenues subject to the universal service surcharge based on any one of the following:

(A) The inverse of the interstate safe harbor percentage established by the Federal Communications Commission for interconnected voice over internet protocol service for federal universal service contribution purposes, as the interstate safe harbor percentage may be revised from time to time;

(B) A traffic study specific to the interconnected voice over internet protocol service provider that allocates revenues between federal and state jurisdictions; or

(C) Another methodology for accurately apportioning interconnected voice over internet protocol service revenues between federal and state jurisdictions.

(d) For any service provider subject to the universal service surcharge that provides, to multiple locations, shared simultaneous voice channel capacity configured to provide local dial in different states, the revenue subject to the surcharge shall be only the portion of the shared capacity in this state as identified:

(A) By information itemizing, on the billing statements provided to customers, the charges subject to the surcharge, as may be identified by individual end-user location, the total number of end users and the number of end users at each end-user location; or  
(B) If information described in subparagraph (A) of this paragraph does not exist, by the service provider's billing system books and records.

(e) Unless otherwise provided by the Public Utility Commission by rule, the universal service surcharge must be a uniform percentage of the sale of services subject to the surcharge in an amount sufficient to support the purposes of the universal service fund established under subsection (1) of this section, provided that the percentage does not exceed six percent of the sale of services subject to the surcharge.

(f) The universal service surcharge may be listed by a telecommunications carrier as a separate line item in billing statements provided to customers, as prescribed by the commission by rule or order. The commission may not prescribe whether, or the manner by which, a commercial mobile radio services provider or an interconnected voice over internet protocol services provider may list the surcharge in billing statements provided to customers.

(g) A service provider required to collect the universal service surcharge shall:

(A) Transmit amounts collected pursuant to this section to the commission in accordance with a schedule adopted by the commission; and

(B) Provide the commission with information requested by the commission as necessary for the commission to implement this section.

(5) The commission shall deposit moneys transmitted to the commission pursuant to subsection (4) of this section in the universal service fund established under subsection (1) of this section.

(6) The universal service fund established under subsection (1) of this section is separate and distinct from the General Fund. The universal service fund shall consist of all universal service surcharge moneys collected by service providers required to collect the surcharge and transmitted to the commission for deposit in the universal service fund. The universal service fund may be used only for the purposes described in this section and for payment of expenses incurred by the commission or a third party appointed by the commission to administer this section. All moneys in the universal service fund are continuously appropriated to the commission to carry out the provisions of this section. Interest on moneys deposited in the universal service fund shall accrue to the universal service fund.

(7) A pay telephone provider may apply to the commission, on a form developed by the commission, for a refund of the universal service surcharge imposed on the pay telephone provider under subsection (4) of this section for the provision of pay telephone service.

(8) Nothing in this section is intended to grant the commission the authority to impose any requirement or condition, or to exercise any regulatory authority, with respect to commercial mobile radio services or interconnected voice over internet protocol services other than as expressly provided for in this section. [1999 c.1093 §28; 2001 c.966 §3; 2003 c.14 §§455,456; 2007 c.353 §1; 2009 c.885 §16; 2011 c.189 §1; 2017 c.32 §1; 2020 s.s.1 c.17 §2]

Note:

The amendments to 759.425 by section 3, chapter 17, Oregon Laws 2020 (first special session), become operative January 2, 2030. See section 10, chapter 17, Oregon Laws 2020 (first special session). The text that is operative on and after January 2, 2030, is set forth for the user's convenience.

(1)(a) The Public Utility Commission shall establish and implement a competitively neutral and nondiscriminatory universal service fund. The commission shall use the universal service fund to ensure basic telephone service is available at a reasonable and affordable rate.

(b) The commission shall designate the amount of moneys deposited annually in the universal service fund to be used to ensure basic telephone service. The amount designated under this paragraph may not exceed \$28 million per year.

(c) The commission may:

(A) Adopt rules to conform the universal service fund to section 254 of the federal Telecommunications Act of 1996 (P.L. 104-104), and to related regulations adopted by the Federal Communications Commission, to the extent that the Public Utility Commission determines conforming the rules is appropriate; and

(B) In addition to using the universal service fund to ensure basic telephone service, use the universal service fund to encourage broadband service availability and to provide support to telecommunications carriers that provide both basic telephone service and broadband service.

(2)(a) The commission shall establish the price a telecommunications utility may charge its customers for basic telephone service. The commission shall periodically review and evaluate the status of telecommunications services in the state and designate the services included in basic telephone service. The commission shall periodically review and adjust as necessary the price a telecommunications utility may charge for basic telephone service.

(b) The provisions of this subsection do not apply to the basic telephone service provided by a telecommunications utility described in ORS 759.040.

(3)(a) The commission shall establish a benchmark for basic telephone service as necessary for the administration and distribution of



the universal service fund. The universal service fund shall provide explicit support to an eligible telecommunications carrier that is equal to the difference between the cost of providing basic telephone service and the benchmark, less any explicit compensation received by the telecommunications carrier from federal sources specifically used to recover local loop costs and less any explicit support received by the telecommunications carrier from a federal universal service program.

(b) The commission shall periodically review the benchmark established under paragraph (a) of this subsection and adjust the benchmark as necessary to reflect:

- (A) Changes in competition in the telecommunications industry;
- (B) Changes in federal universal service support; and
- (C) Other relevant factors as determined by the commission.

(c) Except for a telecommunications utility described in ORS 759.040, the commission shall seek to limit the difference between the price a telecommunications utility may charge for basic telephone service and the benchmark.

(4)(a) There is imposed a universal service surcharge on the sale in this state of all:

- (A) Retail telecommunications services;
- (B) Retail commercial mobile radio services; and
- (C) Retail interconnected voice over internet protocol services.

(b) A retail commercial mobile radio service provider shall identify the intrastate revenues subject to the universal service surcharge based on the inverse of the percentage of interstate revenues utilized for purposes of federal universal service contributions or based on any other method approved by the Public Utility Commission. A retail commercial mobile radio service provider may rely upon the sourcing rules set forth in the Mobile Telecommunications Sourcing Act (P.L. 106-252) to identify revenues attributable to Oregon.

(c) A retail interconnected voice over internet protocol service provider may identify, in accordance with federal guidelines, the intrastate revenues subject to the universal service surcharge based on any one of the following:

- (A) The inverse of the interstate safe harbor percentage established by the Federal Communications Commission for interconnected voice over internet protocol service for federal universal service contribution purposes, as the interstate safe harbor percentage may be revised from time to time;
- (B) A traffic study specific to the interconnected voice over internet protocol service provider that allocates revenues between federal and state jurisdictions; or
- (C) Another methodology for accurately apportioning interconnected voice over internet protocol service revenues between federal and state jurisdictions.

(d) For any service provider subject to the universal service surcharge that provides, to multiple locations, shared simultaneous voice channel capacity configured to provide local dial in different states, the revenue subject to the surcharge shall be only the portion of the shared capacity in this state as identified:

- (A) By information itemizing, on the billing statements provided to customers, the charges subject to the surcharge, as may be identified by individual end-user location, the total number of end users and the number of end users at each end-user location; or
- (B) If information described in subparagraph (A) of this paragraph does not exist, by the service provider's billing system books and records.

(e) Unless otherwise provided by the Public Utility Commission by rule, the universal service surcharge must be a uniform percentage of the sale of services subject to the surcharge in an amount sufficient to support the purposes of the universal service fund established under subsection (1) of this section, provided that the percentage does not exceed six percent of the sale of services subject to the surcharge.

(f) The universal service surcharge may be listed by a telecommunications carrier as a separate line item in billing statements provided to customers, as prescribed by the commission by rule or order. The commission may not prescribe whether, or the manner by which, a commercial mobile radio services provider or an interconnected voice over internet protocol services provider may list the surcharge in billing statements provided to customers.

(g) A service provider required to collect the universal service surcharge shall:

- (A) Transmit amounts collected pursuant to this section to the commission in accordance with a schedule adopted by the commission; and
- (B) Provide the commission with information requested by the commission as necessary for the commission to implement this section.

(5) The commission shall deposit moneys transmitted to the commission pursuant to subsection (4) of this section in the universal service fund established under subsection (1) of this section.

(6) The universal service fund established under subsection (1) of this section is separate and distinct from the General Fund. The universal service fund shall consist of all universal service surcharge moneys collected by service providers required to collect the surcharge and transmitted to the commission for deposit in the universal service fund. The universal service fund may be used only for the purposes described in this section and for payment of expenses incurred by the commission or a third party appointed by the commission to administer this section. All moneys in the universal service fund are continuously appropriated to the commission to carry out the provisions of this section. Interest on moneys deposited in the universal service fund shall accrue to the universal service fund.

(7) A pay telephone provider may apply to the commission, on a form developed by the commission, for a refund of the universal

service surcharge imposed on the pay telephone provider under subsection (4) of this section for the provision of pay telephone service.

(8) Nothing in this section is intended to grant the commission the authority to impose any requirement or condition, or to exercise any regulatory authority, with respect to commercial mobile radio services or interconnected voice over internet protocol services other than as expressly provided for in this section.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.430 - Approval of projects funded by carrier's Telecommunications Infrastructure Account; Connecting Oregon Communities Advisory Board; rules.**

(1)(a) Notwithstanding ORS 285A.075 (2), the Oregon Business Development Commission shall approve plans and plan modifications for projects funded by a telecommunications carrier's Telecommunications Infrastructure Account established under ORS 759.405. Projects funded from a telecommunications carrier's Telecommunications Infrastructure Account shall be completed by the carrier and shall be substantially for the benefit of the carrier's customers. Plans approved by the commission must be consistent with the purpose of the fund as described in ORS 759.405. The commission shall give priority to projects that provide increased bandwidth between communities, route diversity and access to advanced telecommunications services in an expedited manner. The commission shall seek to ensure that an approved project is the most technically appropriate means of addressing the circumstances presented in a project plan. The commission shall review recommendations and analysis from the Connecting Oregon Communities Advisory Board established in subsection (2) of this section prior to approving a plan. Project plans may be submitted by local communities including but not limited to local governments, community institutions, citizen groups, public and private educational institutions and business groups.

(b) Under the policies and guidance of the commission, the Oregon Business Development Department shall adopt rules for the submission of project plans by telecommunications carriers and other persons, including criteria for approval of such plans. The rules shall include criteria to determine if the telecommunications carrier reasonably should be expected to make the investment based on an economic analysis of the project. Projects that are determined to meet the criteria but are not economically self-supporting or would not be undertaken in the time frame proposed shall be given priority over similar projects that would be economically self-supporting or likely would be completed in the time frame proposed. The rules shall provide for review of the economic benefits of the proposed plan to the affected community and the potential for the proposed plan to leverage other funding sources including but not limited to federal, state and private sources.

(c) The commission also shall approve expenditures from the Public Access Account of the Connecting Oregon Communities Fund established in ORS 759.445 (4).

(2) There is established within the Oregon Business Development Department the Connecting Oregon Communities Advisory Board consisting of five members appointed by the commission. The commission shall seek advice from the Governor prior to making an appointment to the advisory board.

(3) There shall be one member of the advisory board from each of the following areas:

- (a) Eastern Oregon, including Hood River County;
- (b) Central Oregon;
- (c) Southern Oregon;
- (d) Coastal Oregon; and
- (e) The Willamette Valley.

(4) Employees of the Public Utility Commission, employees of state or local government who are responsible for purchasing telecommunications services or equipment and employees of a telecommunications carrier may not be appointed to the advisory board.

(5) The advisory board shall select one of its members as chairperson and another of its members as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of those offices as the board determines.

(6) The purpose of the advisory board is to review and make recommendations to the Oregon Business Development Commission for approval of and modifications to projects funded by a telecommunications carrier's Telecommunications Infrastructure Account under this section and ORS 759.405. The advisory board shall seek advice and comment on plans submitted by a telecommunications carrier from affected local communities including but not limited to local governments, citizens and businesses. The advisory board also shall seek advice and comment from state and federal agencies when appropriate to ensure that investments will maximize statewide public benefits and are consistent with the needs and desires of the local communities. The advisory board shall consider the needs of and impact on education, health care, economic development and the delivery of state and local governmental services when evaluating a plan.

(7) The advisory board also shall review proposals submitted to the commission under ORS 759.445 (5) and make recommendations to the commission regarding approval, modification or denial of the proposals.

(8) The advisory board shall make an annual report to the Joint Legislative Committee on Information Management and Technology on the plans and activities funded under ORS 759.405 and 759.445 (5).

(9)(a) Reasonable expenses incurred by the members of the advisory board in the performance of their duties, costs of the Oregon Business Development Department directly related to providing staff to the advisory board and costs to the department for providing technical assistance to local communities shall be paid out of the Telecommunications Infrastructure Accounts created under ORS

759.405.

(b) Following the transfer of funds required under ORS 759.405 (2) and (3), a telecommunications carrier that elects to be subject to regulation under ORS 759.405 and 759.410 shall transfer from the remaining funds in its Telecommunications Infrastructure Account the following amounts to the Oregon Business Development Department to be used for the payment of expenses described in paragraph (a) of this subsection:

- (A) \$575,000 in 2000;
- (B) \$325,000 in 2001;
- (C) \$325,000 in 2002; and
- (D) \$325,000 in 2003.

(c) If more than one telecommunications carrier elects to be subject to regulation under ORS 759.405 and 759.410, the funding requirements described in paragraph (b) of this subsection shall be distributed pro rata among the electing carriers. [1999 c.1093 §31]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.435 - Assessment of telecommunications infrastructure and community needs; contents; report.**

(1) The Oregon Business Development Department, in collaboration with affected telecommunications carriers, the Connecting Oregon Communities Advisory Board, representatives of local communities and other members of the public interested in improved telecommunications services, shall conduct an assessment of telecommunications infrastructure and community telecommunications needs in local communities and across the various regions of this state. The assessment shall include:

- (a) The type of telecommunications services and technology, including infrastructure, already deployed within communities and regions;
- (b) The type of telecommunications technology and services desired by communities within regions;
- (c) The competitiveness of the local telecommunications market, including a list of all telecommunications carriers and Internet service providers;
- (d) The economic significance of desired telecommunications investments;
- (e) Community and regional priority lists for telecommunications infrastructure and service investments;
- (f) The ability of qualified public and nonprofit users within the community or region to aggregate demand for telecommunications services and the benefits of such aggregation;
- (g) The estimated costs and implementation schedule of desired or proposed telecommunications investments;
- (h) An analysis of state, federal, nonprofit and private sources of funding for the proposed improvements;
- (i) The ability of the investment to be self-supporting; and
- (j) The ability of a community or region to make the investments necessary to connect to the Oregon Enterprise Network, and the local and statewide benefits of such investments.

(2)(a) To the maximum extent practicable, the assessment shall recognize and include existing state, regional and local plans and information. The department may use its own staff or may contract with third parties to conduct the assessment.

(b) A copy of the assessment shall be submitted to the Oregon Business Development Commission and to the Joint Legislative Committee on Information Management and Technology. The commission shall consider the information contained in the report when adopting or amending the rules required under ORS 759.430 (1).

(3) The commission shall not approve plans under ORS 759.430 (1) until the commission has received the assessment required under this section. The department shall report to the Joint Legislative Committee on Information Management and Technology on implementation of ORS 759.430 to 759.445 prior to the approval of project plans under ORS 759.430 (1). [1999 c.1093 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.440 - Additional funding for evaluating project plans.**

The Oregon Business Development Department may request approval from the Emergency Board for the transfer of additional funds from a telecommunications carrier's Telecommunications Infrastructure Account created under ORS 759.405 for the purpose of providing technical assistance to the department and the Oregon Business Development Commission in evaluating project plans submitted under ORS 759.430. If the request is approved, the commission by order may direct the transfer of funds from a telecommunications carrier's Telecommunications Infrastructure Account to the Oregon Business Development Department. The department may not request and the Emergency Board shall not approve a request or requests in excess of \$100,000 per year. [1999 c.1093 §32a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.445 - Connecting Oregon Communities Fund; School Technology Account; Public Access Account.**

(1) There is established in the State Treasury, separate and distinct from the General Fund, the Connecting Oregon Communities Fund. Moneys in the fund shall consist of amounts deposited in the fund under ORS 759.405 and any other moneys deposited by a telecommunications carrier that elects to be subject to ORS 759.405 and 759.410, including amounts deposited pursuant to a

performance assurance plan implemented by a telecommunications carrier in connection with an application under 47 U.S.C. 271, as in effect on January 1, 2002. Interest earned on moneys in the fund shall accrue to the fund. Moneys in the fund may be invested as provided in ORS 293.701 to 293.857. Moneys in the fund shall be used to provide access to advanced telecommunications technology in elementary schools and high schools, colleges and universities, community colleges, public television corporations, rural health care providers, public libraries and other eligible persons.

(2) Two dedicated accounts shall be established within the Connecting Oregon Communities Fund for purposes of supporting education and public access to advanced telecommunications services. The first \$25 million of the moneys deposited in the Connecting Oregon Communities Fund in both 2000 and 2001 shall be appropriated to the School Technology Account established under subsection (3) of this section. Except as provided in subsection (8) of this section, any additional moneys available in the fund shall be appropriated to the Public Access Account established under subsection (4) of this section.

(3) There is established the School Technology Account within the Connecting Oregon Communities Fund. The purpose of the School Technology Account is to improve access to advanced telecommunications services for students attending public school in kindergarten through grade 12. Moneys in the account shall be expended as provided in section 34, chapter 1093, Oregon Laws 1999.

(4)(a) There is established the Public Access Account within the Connecting Oregon Communities Fund. The purpose of the Public Access Account is to improve access to advanced telecommunications services for community colleges, universities, public libraries and rural health care providers.

(b) If funding has not been provided from other sources, the first \$3 million available in the Public Access Account shall be transferred to the Higher Education Coordinating Commission for the purpose of funding the Oregon Wide Area Network project to provide and expand Internet access for public universities listed in ORS 352.002.

(c) Following the transfer of funds described in paragraph (b) of this subsection, the next \$1 million available in the Public Access Account shall be transferred to the Higher Education Coordinating Commission for Oregon State University for the purpose of providing virtual access to persons with disabilities.

(d) Following the transfer of funds as described in paragraphs (b) and (c) of this subsection, the next \$2 million available in the Public Access Account shall be transferred to the Higher Education Coordinating Commission for distribution to community colleges for the purpose of developing connectivity and distance education programs.

(e) Following the transfer of funds described in paragraphs (b) to (d) of this subsection, the next \$4 million available in the Public Access Account shall be transferred to the Higher Education Coordinating Commission for video transport and network management services for public universities.

(f) Following the transfer of funds described in paragraphs (b) to (e) of this subsection, the next \$5.5 million available in the Public Access Account shall be transferred to the Oregon Public Broadcasting Corporation for the purpose of digitizing the state television network, using the Oregon Enterprise Network when possible.

(g) Following the transfer of funds described in paragraphs (b) to (f) of this subsection, the next \$500,000 available in the Public Access Account shall be transferred to the Southern Oregon Public Television Corporation for the purpose of digitizing the state television network, using the Oregon Enterprise Network when possible.

(h) Following the transfer of funds described in paragraphs (b) to (g) of this subsection, a public university listed in ORS 352.002 or the Oregon Health and Science University may apply for one-time matching funds up to \$1 million from the Public Access Account to endow a telecommunications chair for the purpose of increasing research and development of advanced telecommunications services applications. Only one chair may be endowed under this paragraph.

(5)(a) The Oregon Business Development Commission shall approve expenditure of any remaining moneys in the Public Access Account consistent with this section and ORS 759.430.

(b) Community colleges, public universities listed in ORS 352.002, public libraries, public television corporations and rural health care providers may apply to the Oregon Business Development Commission for funding from the Public Access Account under this subsection.

(c) Funds received from the account shall be used for the purchase of advanced telecommunications services, equipment or recurring costs of telecommunications connectivity. Priority shall be given to collaborative projects that improve access to advanced telecommunications services.

(d) Funds available in the Public Access Account under this subsection are continuously appropriated to the Oregon Business Development Department for the purposes described in this subsection.

(6) Public libraries and rural health care providers must apply for federal universal service support in order to be eligible for a grant from the Public Access Account.

(7) The video transport and network management services purchased with funds made available under this section shall be purchased through the Oregon Department of Administrative Services.

(8) Any moneys deposited in the Connecting Oregon Communities Fund under subsection (1) of this section pursuant to a performance assurance plan implemented by a telecommunications carrier in connection with an application under 47 U.S.C. 271, as in effect on January 1, 2002, shall be placed in the School Technology Account to be expended as provided in section 34, chapter 1093, Oregon Laws 1999. [1999 c.1093 §33; 2001 c.966 §7; 2009 c.762 §89; 2011 c.637 §290; 2015 c.366 §98; 2015 c.767 §209]

**Utility RegulationSection 759.450 - Minimum service quality standards; rules; customer impact indices; factors; wholesale services; improvement plan; penalties; exceptions.**

- (1) It is the intent of the Legislative Assembly that every telecommunications carrier and those telecommunications utilities and competitive telecommunications providers that provide wholesale services meet minimum service quality standards on a nondiscriminatory basis.
- (2) The Public Utility Commission shall determine minimum service quality standards that relate to the provision of retail telecommunications services to ensure safe and adequate service. Except as provided in subsections (8) and (9) of this section, minimum service quality standards adopted under this section shall apply to all telecommunications carriers. The commission by rule shall review and revise the minimum service quality standards as necessary to ensure safe and adequate retail telecommunications services.
- (3) The minimum service quality standards for providing retail telecommunications services adopted by the commission shall relate directly to specific customer impact indices including but not limited to held orders, trouble reports, repair intervals and carrier inquiry response times. In adopting minimum service quality standards, the commission shall, for each standard adopted, consider the following:
- (a) General industry practice and achievement;
  - (b) National data for similar standards;
  - (c) Normal operating conditions;
  - (d) The historic purpose for which the telecommunications network was constructed;
  - (e) Technological improvements and trends; and
  - (f) Other factors as determined by the commission.
- (4) Consistent with the federal Telecommunications Act of 1996 (Public Law 104-104), as amended and in effect on September 1, 1999, the commission may establish minimum service quality standards related to providing wholesale, interconnection, transport and termination services provided by a telecommunications carrier and those telecommunications utilities and competitive telecommunications providers that provide wholesale telecommunications services.
- (5) The commission shall require a telecommunications carrier, telecommunications utility or competitive telecommunications provider that is not meeting the minimum service quality standards to submit a plan for improving performance to meet the standards. The commission shall review and approve or disapprove the plan. If the carrier, utility or provider does not meet the goals of its improvement plan within six months or if the plan is disapproved by the commission, penalties may be assessed against the carrier, utility or provider on the basis of the carrier's, utility's or provider's service quality measured against the minimum service quality standards and, if assessed, shall be assessed according to the provisions of ORS 759.990.
- (6) Prior to commencing an action under this section and ORS 759.990, the commission shall allow a telecommunications carrier, telecommunications utility or competitive telecommunications provider an opportunity to demonstrate that a violation of a minimum service quality standard is the result of the failure of a person providing telecommunications interconnection service to meet the person's interconnection obligations.
- (7) Total annual penalties imposed on a telecommunications utility under this section shall not exceed two percent of the utility's gross intrastate revenue from the sale of telecommunications services for the calendar year preceding the year in which the penalties are assessed. Total annual penalties imposed on a competitive telecommunications provider under this section shall not exceed two percent of the provider's gross revenue from the sale of telecommunications services in this state for the calendar year preceding the year in which the penalties are imposed.
- (8) The provisions of this section do not apply to:
- (a) Radio communications service, radio paging service, commercial mobile radio service, personal communications service or cellular communications service; or
  - (b) A cooperative corporation organized under ORS chapter 62 that provides telecommunications services.
- (9) Telecommunications utilities and groups of affiliated telecommunications utilities that serve fewer than 50,000 access lines in Oregon are exempt from any minimum service quality standard adopted under this section that would require the utility or group to measure carrier inquiry response time. [1999 c.1093 §29; 2001 c.95 §1]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 759 - Telecommunications Utility RegulationSection 759.455 - Prohibited acts; commission action on allegation of violation; penalties; judicial review.**

- (1) Unless exempt from compliance under section 251(f) of the federal Telecommunications Act of 1996 (47 U.S.C. 251(f)), a telecommunications utility shall not:
- (a) Discriminate against another provider of retail telecommunications services by unreasonably refusing or delaying access to the telecommunications utility's local exchange services.
  - (b) Discriminate against another provider of retail telecommunications services by providing access to required facilities on terms or conditions less favorable than those the telecommunications utility provides to itself and its affiliates. A telecommunications facility, feature or function is a required facility if:
    - (A) Access to a proprietary facility, feature or function is necessary; and
    - (B) Failure to provide access to the facility, feature or function would impair a telecommunications carrier seeking access from

providing the services the carrier is seeking to provide.

- (c) Unreasonably degrade or impair the speed, quality or efficiency of access or any other service, product or facility provided to another provider of telecommunications services.
  - (d) Fail to disclose in a timely and uniform manner, upon reasonable request and pursuant to a protective agreement concerning proprietary information, all information reasonably necessary for the design of network interface equipment, services or software that will meet the specifications of the telecommunications utility's local exchange network.
  - (e) Unreasonably refuse or delay interconnections or provide inferior interconnections to another provider of telecommunications services.
  - (f) Use basic exchange services rates, directly or indirectly, to subsidize or offset the cost of other products or services offered by the telecommunications utility.
  - (g) Discriminate in favor of itself or an affiliate in the provision and pricing of, or extension of credit for, any telephone service.
  - (h) Fail to provide a service, product or facility in accordance with applicable contracts, and tariffs and rules of the Public Utility Commission.
  - (i) Impose unreasonable or discriminatory restrictions on network elements or the resale of its services, except that:
    - (A) The telecommunications utility may require that residential service not be resold as a different class of service; and
    - (B) The commission may prohibit the resale of services the commission has approved for provision to a not-for-profit entity at rates below those offered to the general public.
  - (j) Provide telephone service to a person acting as a telecommunications provider if the commission has ordered the telecommunications utility to discontinue telephone service to the person.
- (2) A complaint alleging a violation of subsection (1) of this section shall be heard by the Public Utility Commission or, at the commission's discretion, by an Administrative Law Judge designated by the commission. A hearing under this subsection shall be conducted in an expedited manner consistent with the following:
- (a) The complaint shall be served upon the telecommunications carrier and filed with the commission.
  - (b) An answer or other responsive pleading to the complaint shall be filed with the commission not more than 10 days after receipt of the complaint. Copies of the answer or responsive pleading shall be served upon the complainant and upon the commission.
  - (c) A prehearing conference shall be held not later than 15 days after the complaint is filed. Hearing on the complaint shall commence not later than 30 days after the complaint is filed. Within 45 days after the complaint is filed, the commission shall either prepare a final decision or approve as final the decision of the Administrative Law Judge. The final decision shall be issued as an order of the commission in the manner provided under ORS 756.558.
  - (3) If the commission or Administrative Law Judge finds that a violation of this section has occurred, the commission shall, within five business days, order the telecommunications utility to remedy the violation within a specified period of time. The commission may prescribe specific action to be taken by the utility, including but not limited to submitting a plan for preventing future violations. If the violation continues beyond the time period specified in the commission's order, the commission on its own motion or upon the motion of an interested party may seek penalties as provided in ORS 759.990 or otherwise may seek enforcement under ORS 756.160 or 756.180, or both.
  - (4) Total annual penalties imposed on a telecommunications utility under this section and ORS 759.450 shall not exceed two percent of the utility's gross intrastate revenue from the sale of telecommunications services for the year preceding the year in which the violation occurred.
  - (5) An order of the commission under this section is subject to judicial review in the manner provided by ORS 756.610.
  - (6) The Court of Appeals shall give proceedings brought before the court under this section priority over all other matters before the court. [1999 c.1093 §38; 2005 c.638 §17; 2017 c.312 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.500 - Definitions for ORS 759.500 to 759.570.**

As used in ORS 759.500 to 759.570, unless the context requires otherwise:

- (1) "Allocated territory" means a geographic area for which the Public Utility Commission has allocated to no more than one person the authority to provide local exchange telecommunications service, the boundaries of which are set forth on an exchange map filed with and approved by the commission.
- (2) "Person" includes:
  - (a) An individual, firm, partnership, corporation, association, cooperative or municipality; or
  - (b) The agent, lessee, trustee or referee of an individual or entity listed in paragraph (a) of this subsection.
- (3) "Local exchange telecommunications service" has the meaning given that term in ORS 759.005, except that "local exchange telecommunications service" does not include service provided through or by the use of any equipment, plant or facilities:
  - (a) For the provision of telecommunications services that pass through or over but are not used to provide service in or do not terminate in an area allocated to another person providing a similar telecommunications service;
  - (b) For the provision of local exchange telecommunications service, as defined in ORS 759.005, commonly known as "private lines" or "farmer lines"; or
  - (c) For the provision of shared telecommunications service. [1987 c.447 §53; 2005 c.232 §24; 2007 c.825 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.506 - Purpose of allocated territory laws; carrier of last resort obligations; exemptions from obligations; reinstatement of obligations.**

(1) The purpose of establishing allocated territories under ORS 759.500 to 759.570 is to ensure that telecommunications utilities, cooperative corporations and municipalities certified by the Public Utility Commission to provide local exchange telecommunications service:

- (a) Provide adequate and safe service to the customers of this state; and
- (b) Serve all customers in an adequate and nondiscriminatory manner.

(2) The obligations described in this section may be referenced as carrier of last resort obligations.

(3) The commission, upon petition from a telecommunications utility, cooperative corporation or municipality, may exempt the telecommunications utility, cooperative corporation or municipality from the obligations described in this section if the commission finds, for a property with four or more single-family dwellings, that the owner or developer of the property, or a person acting on behalf of the owner or developer:

- (a) Permits an alternative service provider to install its facilities or equipment used to provide local telecommunications service based on a condition of exclusion of the telecommunications utility, cooperative corporation or municipality during the construction phase of the real property;
- (b) Accepts or agrees to accept incentives or rewards from an alternative service provider that are contingent upon the provision of any or all local telecommunications services by one or more alternative service providers to the exclusion of the telecommunications utility, cooperative corporation or municipality; or
- (c) Collects from the occupants or residents of the property mandatory charges for the provision of any local telecommunications service provided to the occupants or residents by an alternative service provider in any manner, including, but not limited to, collection through rent, fees or dues.

(4) If the commission, upon petition from any interested person located within the property for which the commission has waived the carrier of last resort obligations under subsection (3) of this section, finds that the existing public convenience and necessity requires reinstatement of the carrier of last resort obligations, then the commission has the power to assign the obligations to a telecommunications utility, cooperative corporation or municipality after a public hearing. The commission shall determine how the costs of serving the customers are allocated so that the telecommunications utility, cooperative corporation or municipality will be allowed an opportunity to recover reasonable and prudent costs that exceed the costs that would have been incurred to initially construct or acquire facilities to serve customers of the territory. The determination of cost allocation by the commission must also divide the costs allowed equitably among all customers of the territory to which service is being reinstated. [2005 c.232 §26; 2009 c.124 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.535 - Application to serve unserved territory; hearing; notice.**

(1) A telecommunications utility, cooperative corporation or municipality that desires to provide local exchange telecommunications service in a territory that is not served by another person providing a similar local exchange telecommunications service may apply to the Public Utility Commission for an order allocating the territory to the applicant. The application shall include an exchange map that shows the unserved territory that the applicant is requesting to serve.

(2) The commission shall within 30 days after the filing of the application give notice of the filing. If the commission chooses, or if a customer requests a hearing on the matter within 30 days of the notice, the commission shall hold a hearing by telephone or in person. The commission shall give notice of the hearing within 30 days of the request. The notice shall set the date and place of hearing. The hearing shall be held at a place within or conveniently accessible to the territory covered by the application. Notice of the filing shall be by publication in a newspaper or newspapers of general circulation in the territory covered by the application and shall be published at least once weekly for two successive weeks. Written notice of the filing shall be given to providers of similar local exchange telecommunications service in adjacent territory. [1987 c.447 §60; 2005 c.232 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.560 - Assignment or transfer of allocated territory; rules.**

(1) The rights acquired by an allocation of territory may only be assigned or transferred with the approval of the Public Utility Commission after a finding that the assignment or transfer is not contrary to the public interest.

(2) The commission may approve a transfer of territory previously allocated only upon receipt of an application for allocation that is jointly filed by the transferor and the transferee. The application shall include exchange maps that show how the applicants want the commission to allocate the territory. The commission shall enter an order either approving or disapproving the application as filed, or as amended, together with findings of fact supporting the order.

(3)(a) An order approving an allocation of territory may not be construed to confer any property right.

(b) Notwithstanding paragraph (a) of this subsection, upon the death of an individual to whom territory was allocated or who was an applicant under an approved order, the executor or administrator of the estate of the individual shall continue the operation of local exchange telecommunications service for the purpose of transferring territorial allocation rights. The executor or administrator shall

continue the operation for a period not to exceed two years from the date of death.

(4) In the event the property of a person serving an allocated territory is condemned, no value shall be claimed or awarded by reason of the contract or order making the allocation.

(5) The commission may by rule establish requirements for notice to affected persons of the assignment or transfer of allocated territory. [1987 c.447 §65; 2005 c.232 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.565 - Injunction against unauthorized provision of service.**

In the event an allocated territory is served by a person that is not authorized by the Public Utility Commission to provide local exchange telecommunications service in the territory, an aggrieved person or the commission may file an action in the circuit court for any county in which is located some or all of the allocated territory allegedly involved in the unauthorized provision of service, for an injunction against the alleged unauthorized provision of service. The trial of the action shall proceed as in an action not triable by right to a jury. Any party may appeal to the Court of Appeals from the circuit court's judgment, as in other equity cases. The remedy provided in this section shall be in addition to any other remedy provided by law. [1987 c.447 §66; 2003 c.576 §562; 2005 c.232 §30]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.570 - Application of law to local government.**

(1) ORS 759.500 to 759.570 may not be construed or applied to restrict the powers granted to cities to issue franchises or to restrict the exercise of the power of condemnation by a municipality. If a municipality condemns or otherwise acquires equipment, plant or facilities from another person for rendering local exchange telecommunications service, the municipality acquires all of the rights of the person whose property is condemned to serve the territory served by the acquired properties.

(2) ORS 759.500 to 759.570 may not be construed to restrict the right of a municipality to provide local exchange telecommunications service for street lights, fire alarm systems, airports, buildings and other municipal installations regardless of their location.

(3) ORS 759.500 to 759.570 may not be construed to confer upon the Public Utility Commission any regulatory authority over rates, service or financing of cooperatives or municipalities. [1987 c.447 §67; 2005 c.232 §31]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.580 - Power of commission to require service to unserved territory.**

The Public Utility Commission has power to require any telecommunications utility, after a public hearing of all parties interested, to extend its line, plant or system into, and to render service to, a locality not already served when the existing public convenience and necessity requires such extension and service. However, no such extension of service shall be required until the telecommunications utility has been granted such reasonable franchises as may be necessary for the extension of service and unless the conditions are such as to reasonably justify the necessary investment by the telecommunications utility in extending its line, plant or system into such locality and furnishing such service. [1987 c.447 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.585 - Definitions for ORS 759.585 to 759.595.**

As used in ORS 759.585 to 759.595, "unserved person" means a person:

- (1) Who does not have local exchange telecommunications service;
- (2) Who is applying for residential service or business service with five or fewer lines; and
- (3) Who, for the initiation of such service, would be required to pay line extension charges. [1989 c.574 §2; 1991 c.307 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.590 - Application for service by unserved person; rules.**

(1) An unserved person may file an application with the Public Utility Commission for an order directing another telecommunications utility to provide local exchange service to the unserved person.

(2) The commission shall adopt rules which prescribe the form of an application filed under subsection (1) of this section and which provide for reasonable notice and opportunity for hearing to all telecommunications utilities affected by an application. [1989 c.574 §3; 1991 c.307 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.595 - Criteria for granting application for service; effect on other territorial allocation.**

(1) The Public Utility Commission shall grant an application filed under ORS 759.590 if the commission finds that:

- (a) The telecommunications utility in whose territory the unserved person is located has declined to serve without line extension charges;
- (b) Another telecommunications utility has agreed to provide local exchange telecommunications service to the unserved person



with no line extension charge or with line extension charges lower than those offered by the telecommunications utility in whose territory the unserved person is located; and

(c) Approval of the application is not contrary to the public interest.

(2) Any order of the commission issued under subsection (1) of this section shall not have the effect of changing any territory allocated under ORS 758.400 to 758.475 that is being provided with local exchange telecommunications service. [1989 c.574 §4; 1991 c.307 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.650 - Definitions for ORS 759.650 to 759.675.**

As used in ORS 759.650 to 759.675, unless the context requires otherwise:

(1) "Attachment" means any wire or cable for the transmission of intelligence by telegraph, telephone or television (including cable television), light waves or other phenomena, or for the transmission of electricity for light, heat or power, and any related device, apparatus or auxiliary equipment, installed upon any pole or in any telegraph, telephone, electrical, cable television or communications right of way, duct, conduit, manhole or handhole or other similar facility or facilities owned or controlled, in whole or in part, by one or more public utility, telecommunications utility or people's utility district.

(2) "Licensee" means any person, firm, corporation, partnership, company, association, joint stock association or cooperatively organized association which is authorized to construct attachments upon, along, under or across the public ways.

(3) "People's utility district" means any concern providing electricity organized pursuant to ORS 261.010 and includes any entity cooperatively organized or owned by federal, state or local government or a subdivision of state or local government.

(4) "Public utility" has the meaning for that term provided in ORS 757.005, and does not include any entity cooperatively organized or owned by federal, state or local government or a subdivision of state or local government.

(5) "Telecommunications utility" means any telecommunications utility as defined in ORS 759.005 and does not include any entity cooperatively organized or owned by federal, state or local government, or a subdivision of state or local government. [1987 c.447 §22; 1989 c.5 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.655 - Authority of commission to regulate attachments.**

The Public Utility Commission of Oregon shall have the authority to regulate in the public interest the rates, terms and conditions for attachments by licensees to poles or other facilities of telecommunications utilities. All rates, terms and conditions made, demanded or received by any telecommunications utility for any attachment by a licensee shall be just, fair and reasonable. [1987 c.447 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.660 - Fixing charges or rates; criteria; costs of hearing.**

(1) Whenever the Public Utility Commission of Oregon finds, after hearing had upon complaint by a licensee or people's utility district or a telecommunications utility that the rates, terms or conditions demanded, exacted, charged or collected in connection with attachments or availability of surplus space for such attachments are unjust or unreasonable, or that such rates or charges are insufficient to yield a reasonable compensation for the attachment and the costs of administering the same, the commission shall determine the just and reasonable rates, terms and conditions thereafter to be observed and in force and shall fix the same by order. In determining and fixing such rates, terms and conditions, the commission shall consider the interest of the customers of the licensee, as well as the interest of the customers of the telecommunications utility or people's utility district which owns the facility upon which the attachment is made.

(2) When the order applies to a people's utility district, the order also shall provide for payment by the parties of the cost of the hearing. The payment shall be made in a manner which the commission considers equitable. [1987 c.414 §166d; 1987 c.447 §24; 1989 c.5 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.665 - Considerations in determining just and reasonable rate.**

A just and reasonable rate shall assure the telecommunications utility or people's utility district the recovery from the licensee of not less than all the additional costs of providing and maintaining pole attachment space for the licensee nor more than the actual capital and operating expenses, including just compensation, of the telecommunications utility or people's utility district attributable to that portion of the pole, duct or conduit used for the pole attachment, including a share of the required support and clearance space in proportion to the space used for pole attachment above minimum attachment grade level, as compared to all other uses made of the subject facilities and uses which remain available to the owner or owners of the subject facilities. [1987 c.447 §25]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.670 - Presumption of reasonableness of rates set by agreement.**

Agreements regarding rates, terms and conditions of attachments shall be deemed to be just, fair and reasonable unless the Public

Utility Commission finds upon complaint by a telecommunications utility, people's utility district or licensee party to such agreement and after hearing, that such rates, terms and conditions are adverse to the public interest and fail to comply with the provisions hereof. [1987 c.447 §26; 1989 c.5 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.675 - Regulatory procedure.**

The procedures of the Public Utility Commission for petition, regulation and enforcement relative to attachments, including any rights of appeal from any decision thereof, shall be the same as those applicable to the commission. [1987 c.447 §27; 1989 c.5 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.680 - Operator service provider duties to service users; rules.**

(1) As used in this section:

- (a) "Call aggregator" means a person who furnishes a telephone for use by the public, including but not limited to hotels, hospitals, colleges, airports, public pay station owners and pay station agents.
- (b) "Contract" means an agreement between an operator service provider and a call aggregator to automatically connect users of telephones to the operator service provider when certain operator-assisted long distance calls are made.
- (c) "Operator service" includes but is not limited to billing or completion of third-number, person-to-person, collect or credit card calls.
- (d) "Operator service provider" means a person who furnishes operator service under contract with a call aggregator.

(2) Each operator service provider shall:

- (a) Notify all callers at the beginning of the call of the provider's name.
  - (b) Disclose rate and service information to the caller when requested.
  - (c) Maintain a current list of emergency numbers for each service territory it serves.
  - (d) Transfer an emergency call to the appropriate emergency number when requested.
  - (e) Transfer a call to, or instruct the caller how to reach, the originating local exchange company's operator service upon request of the caller, free of charge.
  - (f) Not transfer a call to another operator service provider without the caller's notification and consent.
  - (g) Not bill or collect for calls not completed to the caller's destination. Where technical limitations of the network prevent the identification of incomplete calls, each operator service provider shall issue credits for such calls upon the request of the caller.
- (3) Each call aggregator who has a contract with an operator service provider shall post in the immediate vicinity of each telephone available to the public the name of the operator service provider, a toll-free customer service number, a statement that rate quotes are available upon request and instructions on how the caller may access other operator service providers.
- (4) Neither the operator service provider nor the call aggregator shall block or prevent a telephone user's access to the user's operator service provider of choice. In order to prevent fraudulent use of its services, an operator service provider or a call aggregator may block access if the provider obtains a waiver for such purpose from the Public Utility Commission.
- (5) The provisions of this section shall be carried out in such manner as the commission, by rule, may prescribe. [Formerly 759.690]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.685 - Surcharge assessed on retail telecommunications subscribers; rules.**

(1)(a) In order to fund the program described in ORS 759.693 to 759.698, the Public Utility Commission shall develop and implement a system for assessing a surcharge in an amount not to exceed 35 cents per month against each paying retail subscriber who has telecommunications service, or who has interconnected voice over internet protocol service, with access to a telecommunications relay service. The commission shall apply the surcharge on a telecommunications circuit designated for a particular subscriber. One subscriber line must be counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity of customer premises equipment connected to each circuit. For providers of central office based services, the surcharge must be applied to each line that has unrestricted connection to the telecommunications relay service or, for lines that have restricted access to the telecommunications relay service, on the basis of software design. For cellular, wireless or other radio common carriers, the surcharge must be applied on a per instrument basis and only to subscribers whose place of primary use, as defined and determined under 4 U.S.C. 116 to 126, is within this state.

(b) For purposes of this subsection, the commission shall adopt by rule the definition for "interconnected voice over internet protocol service." The rule defining "interconnected voice over internet protocol service" must be consistent with the definition for "interconnected VoIP service" in 47 C.F.R. 9.3.

(2) The surcharge imposed by subsection (1) of this section does not apply to:

- (a) Services upon which the state is prohibited from imposing the surcharge by the Constitution or laws of the United States or the Constitution or laws of the State of Oregon.
- (b) Interconnection between telecommunications utilities, telecommunications cooperatives, competitive telecommunications services providers certified under ORS 759.020, radio common carriers and interexchange carriers.

(3) The commission annually shall review the surcharge and the balance in the Residential Service Protection Fund established under ORS 759.687 and may make adjustments to the amount of the surcharge to ensure that the fund has adequate resources,

provided that the fund balance does not exceed six months of projected expenses.

(4) Moneys collected pursuant to the surcharge may not be considered in any proceeding to establish rates for telecommunication service.

(5) The commission shall direct telecommunications public utilities to identify separately in bills to customers for service the surcharge imposed under this section.

(6) Notwithstanding ORS 314.835 and 314.840, the Department of Revenue may disclose information received under ORS 403.200 to 403.230 to the commission to carry out the provisions of ORS 759.693 to 759.698.

(7) The commission may disclose information obtained pursuant to ORS 759.693 to 759.698 to the department to administer the tax imposed under ORS 403.200 to 403.230. [1987 c.290 §7; 1991 c.622 §2; 1991 c.872 §8; 1993 c.231 §1; 1995 c.79 §387; 1995 c.451 §1; 2001 c.408 §2; 2011 c.78 §1; 2017 c.237 §1; 2017 c.434 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.687 - Residential Service Protection Fund.**

The Residential Service Protection Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by moneys in the fund shall be credited to the fund. All moneys in the fund are appropriated to the Public Utility Commission to carry out the provisions of chapter 290, Oregon Laws 1987. [1987 c.290 §8; 1989 c.966 §74; 1991 c.622 §3; 1991 c.872 §1; 1993 c.231 §2]

Note:

Sections 2 to 6 and 16, chapter 290, Oregon Laws 1987, provide:

Sec. 2.

The Legislative Assembly declares that it is the policy of this state to assure that adequate, affordable residential telecommunication service is available to all citizens of this state. [1987 c.290 §2]

Sec. 3.

In carrying out the provisions of section 2 of this 1987 Act, the Public Utility Commission may require telecommunications public utilities to assure that time payment plans for deposits and installation charges or such other options as may be appropriate for a particular telecommunications public utility are made available. [1987 c.290 §3]

Sec. 4.

In carrying out the provisions of section 2 of this 1987 Act the Public Utility Commission may:

(1) Notwithstanding ORS 757.310, approve a different rate for local exchange residential telecommunication service for low income customers than the rate charged to other residential customers. However, any such rate is subject to all other provisions of this chapter [ORS chapter 759].

(2) Establish plans, or require telecommunications public utilities to establish plans, to educate customers regarding the options available for obtaining telecommunication services. [1987 c.290 §4]

Sec. 5.

(1) In carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, the Public Utility Commission shall establish rules to prohibit the termination of local exchange residential service when such termination would significantly endanger the physical health of the residential customer.

(2) The commission shall provide by rule a method for determining when the termination of local exchange residential service would significantly endanger the physical health of the residential customer.

(3)(a) The commission shall require that each telecommunications public utility:

(A) Accept medical statements by licensed physicians, naturopathic physicians and licensed nurse practitioners as sufficient evidence of significant endangerment of health; and

(B) Establish procedures for submitting and receiving such medical statements.

(b) A medical statement submitted under this subsection shall be valid for such period as the commission, by rule, may prescribe.

(4) Rules adopted by the commission pursuant to this section shall not apply to telecommunication service other than local exchange residential service.

(5) A customer submitting a medical certificate as provided in this section is not excused from paying for telecommunication service. Customers are required to enter into a time payment agreement with the utility if an overdue balance exists. Local exchange service is subject to termination if a customer refuses to enter into or fails to abide by terms of a payment agreement.

(6) Nothing in this section prevents the termination of local exchange residential service if the telecommunications public utility providing the service does not have the technical ability to terminate toll telecommunication service without also terminating local exchange telecommunication service. [1987 c.290 §5; 2017 c.356 §104]

Sec. 6.

(1) In carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, and to support broadband internet access service, the Public Utility Commission shall establish a plan to provide assistance to low income customers through differential rates or otherwise. The plan of assistance may be in addition to the available funding offered by the Federal Communications Commission. The plan established by the Public Utility Commission shall prescribe the amount of assistance to be provided and the time and manner of payment.

(2) For the purpose of establishing a plan to provide assistance to low income customers under this section, the commission shall

require all public utilities, cooperative corporations and unincorporated associations providing local exchange telecommunication service to participate in the plan, except as provided in subsection (3) of this section.

(3) In lieu of participation in the commission's plan to assist low income customers, a public utility, cooperative corporation or unincorporated association providing local exchange telecommunication service may apply to the commission to establish an alternative plan for the purposes of carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, and supporting broadband internet access service for its own customers. The commission shall adopt standards for determining the adequacy of alternative plans.

(4) The commission may contract with any governmental agency to assist the commission in the administration of any assistance plan adopted pursuant to this section.

(5) As used in sections 2 to 6, chapter 290, Oregon Laws 1987, "low income customer" has the meaning given that term by the commission by rule. [1987 c.290 §6; 1991 c.622 §1; 2007 c.29 §1; 2009 c.599 §25; 2011 c.77 §1; 2013 c.29 §1; 2019 c.91 §1; 2021 c.66 §1]

Sec. 16.

(1) Sections 1, 2, 3, 4 and 15, chapter 290, Oregon Laws 1987, are repealed on January 1, 2030.

(2) Section 5, chapter 290, Oregon Laws 1987, as amended by section 104, chapter 356, Oregon Laws 2017, is repealed on January 1, 2030.

(3) Section 6, chapter 290, Oregon Laws 1987, as amended by section 1, chapter 622, Oregon Laws 1991, section 1, chapter 29, Oregon Laws 2007, section 25, chapter 599, Oregon Laws 2009, section 1, chapter 77, Oregon Laws 2011, section 1, chapter 29, Oregon Laws 2013, section 1, chapter 91, Oregon Laws 2019, and section 1 of this 2021 Act, is repealed on January 1, 2030.

(4) Section 2, chapter 204, Oregon Laws 2005, as amended by section 359, chapter 70, Oregon Laws 2007, is repealed on January 1, 2030. [1987 c.290 §16; 1991 c.622 §4; 1997 c.481 §1; 2001 c.408 §1; 2009 c.544 §1; 2017 c.434 §4; 2021 c.66 §2]

Note:

Sections 1 and 2, chapter 204, Oregon Laws 2005, provide:

Sec. 1.

Section 2 of this 2005 Act is added to and made a part of sections 2 to 6, chapter 290, Oregon Laws 1987. [2005 c.204 §1]

Sec. 2.

(1) In carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, the Public Utility Commission shall adopt rules to prohibit the termination of local exchange residential service if the termination would significantly endanger a customer, or a person in the household of the customer, who is:

(a) At risk of domestic violence, as defined in ORS 135.230;

(b) At risk of unwanted sexual contact, as defined in ORS 163.305;

(c) A person with a disability, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS 124.005 (1)(a), (d) or (e);

(d) An elderly person, as defined in ORS 124.005, who is at risk of abuse, as defined in ORS 124.005 (1)(a), (d) or (e); or

(e) A victim of stalking, as described in ORS 163.732.

(2) A customer may establish that termination of local exchange residential service would significantly endanger the customer, or a person in the household of the customer, by providing a telecommunications public utility with an affidavit signed by the customer stating that termination would place the customer, or a person in the household of the customer, at significant risk of domestic violence, as defined in ORS 135.230, or of unwanted sexual contact, as defined in ORS 163.305. The customer must attach to the affidavit a copy of an order issued under ORS 30.866, 107.700 to 107.735, 124.005 to 124.040 or 163.738 that restrains another person from contact with the customer, or a person in the household of the customer, or a copy of any other court order that restrains another person from contact with the customer, or a person in the household of the customer, by reason of a risk described in subsection (1) of this section or by reason of stalking.

(3) The commission shall require that each telecommunications public utility establish procedures for submitting and receiving affidavits under subsection (2) of this section.

(4) This section does not apply to termination of any telecommunication service other than local exchange residential service.

(5) A customer submitting an affidavit as provided by subsection (2) of this section is not excused from paying for telecommunication service. Customers are required to enter into a reasonable payment agreement with the telecommunications public utility if an overdue balance exists. Local exchange residential service may be terminated if a customer refuses to enter into or fails to abide by the terms of a reasonable payment agreement.

(6) Nothing in this section prevents the termination of local exchange residential service if the telecommunications public utility providing the service does not have the technical ability to terminate toll telecommunication service without also terminating local exchange residential service. [2005 c.204 §2; 2007 c.70 §359]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.688 - Oregon Telephone Assistance Program Advisory Committee; duties; members; rules.**

(1) As used in this section, "the plan of assistance" means the plan of assistance established by the Public Utility Commission under section 6, chapter 290, Oregon Laws 1987.

(2) The Oregon Telephone Assistance Program Advisory Committee is established as an advisory committee to the commission for the purposes described in subsection (4) of this section.

- (3) The committee consists of the following nine members appointed by the Governor:
  - (a) A person who represents the Public Utility Commission who is knowledgeable about telecommunications;
  - (b) A person who represents the Citizens' Utility Board;
  - (c) A person who represents the Oregon Health Authority;
  - (d) A person who represents telecommunications carriers, including cellular phone carriers;
  - (e) A person who represents coordinated care organizations, as defined in ORS 414.025;
  - (f) A person who represents individuals who are homeless;
  - (g) A person who represents individuals who are deaf, deaf-blind or hard of hearing;
  - (h) A person who is a low income customer who receives assistance under section 6, chapter 290, Oregon Laws 1987; and
  - (i) A resident of this state with a background in marketing and outreach.
- (4) The committee shall:
  - (a) Establish goals for participation by low income customers in the plan of assistance;
  - (b) Advise the commission on the eligibility process for participating in the plan of assistance;
  - (c) Advise the commission on the regulation of the plan of assistance, including:
    - (A) Advice on streamlining eligibility processes;
    - (B) Advice on improving handset activations;
    - (C) Advice on use of Social Security numbers and other identifying documents; and
    - (D) Advice on use of a comprehensive human services outreach approach to encourage participation in the plan of assistance;
  - (d) Review the participation rates in programs offered by other states that are similar to the plan of assistance, particularly programs that have a higher participation rate than the plan of assistance;
  - (e) Develop a strategic plan to increase the participation rate in the plan of assistance;
  - (f) Annually review the participation rate in the plan of assistance and any annual increase in the participation rate in the plan of assistance; and
  - (g) Make recommendations as to the use of available funds for the following activities:
    - (A) Marketing and outreach;
    - (B) Developing partnerships with low income constituency groups; and
    - (C) Coordinating with state agencies that serve the low income customers eligible to participate in the plan of assistance.
- (5) A majority of the members of the committee constitutes a quorum for the transaction of business.
- (6) Official action by the committee requires the approval of a majority of the members of the committee.
- (7) The committee shall elect one of its members to serve as chairperson.
- (8) The term of office of each member of the committee is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 of the following year. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.
- (9) The committee shall meet at times and places specified by the call of the chairperson or of a majority of the members of the committee.
- (10) The committee shall adopt rules necessary for the operation of the committee.
- (11) Members of the committee are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses shall be paid out of funds appropriated to the commission for purposes of the committee.
- (12) The commission shall provide staff support and perform other services for the committee as is necessary for the effective operation of the committee. [2017 c.434 §1]

Note:

759.688 and 759.689 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 759 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.689 - Use of surcharge for marketing and outreach to increase participation rate in plan of assistance.**

- (1) From moneys collected as a surcharge under ORS 759.685, the Public Utility Commission shall expend moneys on marketing and outreach activities as is necessary to increase the participation rate in the plan of assistance established by the commission under section 6, chapter 290, Oregon Laws 1987.
- (2) The Oregon Telephone Assistance Program Advisory Committee established under ORS 759.688 will annually review use of moneys collected as a surcharge under ORS 759.685 and make recommendations to the commission on the amount of moneys to expend on marketing and outreach activities.
- (3) Notwithstanding subsections (1) and (2) of this section, moneys expended on marketing and outreach activities under this section may not exceed 15 percent of moneys collected as a surcharge under ORS 759.685.
- (4) A coordinated care organization, as defined in ORS 414.025, may not directly receive moneys expended under this section. [2017 c.434 §2]

Note:

See note under 759.688.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.690**

[1989 c.623 §2; renumbered 759.680 in 2017]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.693 - Definitions.**

As used in ORS 759.693 to 759.698, unless the context requires otherwise:

- (1) "Adaptive equipment" means equipment that permits a person with a disability, other than a person who is hard of hearing or speech impaired, to communicate effectively on the telephone.
- (2) "Applicant" means a person who applies for an assistive telecommunication device, adaptive equipment or a signal device.
- (3) "Assistive telecommunication device" means a device that utilizes a keyboard, acoustic coupler, display screen, Braille display, speakerphone or amplifier to enable people who are deaf, deaf-blind, hard of hearing or speech impaired to communicate effectively on the telephone.
- (4) "Audiologist" means a person who has a master's or doctoral degree in audiology and a Certificate of Clinical Competence in audiology from the American Speech-Language-Hearing Association.
- (5) "Communication facilitator" means a person who provides professional, in-person assistive services that are necessary to help a person communicate effectively via a telecommunication device, with or without the use of an assistive telecommunication device or a telecommunications relay service, if the person receiving the services is:
  - (a) Deaf-blind;
  - (b) Deaf and has a physical disability that limits the person's expressive communication; or
  - (c) Hard of hearing and has a physical disability that limits the person's expressive communication.
- (6) "Deaf" means a profound hearing loss, as determined by an audiologist, licensed physician, physician assistant, nurse practitioner, hearing aid specialist or vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.
- (7) "Deaf-blind" means a hearing loss and a visual impairment that require use of an assistive telecommunication device to communicate effectively on the telephone. For purposes of this subsection:
  - (a) A hearing loss must be determined by an audiologist, licensed physician, physician assistant, nurse practitioner, hearing aid specialist or vocational rehabilitation counselor of the Department of Human Services.
  - (b) A visual impairment must be determined by a licensed physician, physician assistant, nurse practitioner, vocational rehabilitation counselor of the Department of Human Services or rehabilitation instructor for persons who are blind.
- (8) "Disability" means a physical condition, as determined by a licensed physician, physician assistant, nurse practitioner or vocational rehabilitation counselor of the Department of Human Services, other than hearing or speech impairment that requires use of adaptive equipment to utilize the telephone.
- (9) "Hard of hearing" means a hearing loss, as determined by an audiologist, licensed physician, physician assistant, nurse practitioner, hearing aid specialist or vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.
- (10) "Hearing aid specialist" means a person licensed to deal in hearing aids under ORS chapter 694.
- (11) "Nurse practitioner" has the meaning given that term in ORS 678.010.
- (12) "Physician" means an applicant's primary care physician or a medical specialist who is able to determine an applicant's disability and to whom the applicant was referred by the primary care physician.
- (13) "Physician assistant" has the meaning given that term in ORS 677.495.
- (14) "Recipient" means a person who receives adaptive equipment, an assistive telecommunication device or a signal device.
- (15) "Rehabilitation instructor for persons who are blind" means an employee of the Commission for the Blind who:
  - (a) Meets the minimum qualifications set by the commission to assess adult clients referred for services;
  - (b) Develops individualized training programs; and
  - (c) Instructs and counsels clients of the commission on adapting to sight loss.
- (16) "Signal device" means a mechanical device that alerts a person who is deaf, deaf-blind or hard of hearing of an incoming telephone call.
- (17) "Speech impaired" means a speech disability, as determined by a licensed physician, physician assistant, nurse practitioner, speech-language pathologist or vocational rehabilitation counselor of the Department of Human Services, that requires use of an assistive telecommunication device to communicate effectively on the telephone.
- (18) "Speech-language pathologist" means a person who has a master's degree or equivalency in speech-language pathology and a Certificate of Clinical Competence issued by the American Speech-Language-Hearing Association.
- (19) "Telecommunications relay center" means a facility authorized by the Public Utility Commission to provide telecommunications relay service.
- (20) "Telecommunications relay service" means a telephone transmission service that provides the ability for an individual who is

deaf, deaf-blind, hard of hearing or speech impaired to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio. "Telecommunications relay service" includes, but is not limited to:

- (a) Services that enable two-way communication between an individual using a text telephone or other nonvoice terminal device and an individual not using such a device;
- (b) Speech-to-speech services; and
- (c) Non-English relay services. [1987 c.290 §9; 1991 c.872 §2; 1995 c.280 §32; 1995 c.451 §2; 1999 c.384 §1; 2007 c.28 §1; 2007 c.70 §353; 2011 c.78 §2; 2011 c.264 §1; 2014 c.45 §83; 2019 c.113 §1; 2023 c.159 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.694 - Legislative recognition of need.**

It is recognized that a large number of people in this state, through no fault of their own, are unable to utilize telecommunication equipment due to the inability to hear or speak well enough or due to other disabilities. It is also recognized that present technology and services are available, but at significant cost, that would allow these people to utilize telecommunication equipment in their daily activities. There is, therefore, a need to make available the technology and services in the form of assistive telecommunication devices, a telecommunications relay service and communication facilitators for people who are deaf, deaf-blind, hard of hearing or speech impaired or adaptive equipment for people with disabilities at no additional cost beyond normal telephone service. The provision of assistive telecommunication devices, a telecommunications relay service, communication facilitators or adaptive equipment would allow those formerly unable to use telecommunication systems to more fully participate in the activities and programs offered by government and other community agencies, as well as in their family and social activities. The assistive telecommunication devices or adaptive equipment would be provided on a loan basis to each recipient, to be returned if the recipient moves out of the state. [1987 c.290 §10; 1991 c.872 §3; 1999 c.384 §2; 2007 c.70 §354; 2011 c.264 §2; 2019 c.113 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.695 - Program for assistive telecommunication devices and communication facilitator services; program for adaptive equipment.**

- (1) With the advice of the Telecommunication Devices Access Program Advisory Committee, the Public Utility Commission shall establish and administer a statewide program to:
  - (a) Purchase and distribute assistive telecommunication devices to persons who are deaf, deaf-blind, hard of hearing or speech impaired and establish a telecommunications relay service; and
  - (b) Provide communication facilitator services to persons who are deaf-blind when the services are necessary.
- (2) With the advice of the Telecommunication Devices Access Program Advisory Committee, the Public Utility Commission shall establish and administer a statewide program to purchase and distribute adaptive equipment to make telephone service generally available to persons with physical disabilities. [1987 c.290 §11; 1991 c.872 §4; 1999 c.384 §3; 2007 c.70 §355; 2011 c.78 §3; 2011 c.264 §3; 2019 c.113 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.696 - Telecommunication Devices Access Program Advisory Committee; duties; members.**

- (1) A Telecommunication Devices Access Program Advisory Committee is established to advise the Public Utility Commission on the general development, implementation and administration of the Telecommunication Devices Access Program.
- (2) The Telecommunication Devices Access Program Advisory Committee shall include:
  - (a) Five consumers as follows:
    - (A) Three who are deaf or hard of hearing;
    - (B) One who is speech impaired or who has a disability; and
    - (C) One who is visually impaired or deaf-blind;
  - (b) One professional in the field of speech impairment, visual impairment, hearing impairment or deafness or disability; and
  - (c) One representative from those telephone companies interested in providing telecommunication devices access relay services. [1987 c.290 §12; 1991 c.872 §5; 2007 c.70 §356; 2017 c.443 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.697 - Program coordinator; program administration.**

- (1) The Public Utility Commission shall employ a coordinator for the Telecommunication Devices Access Program, who shall be primarily responsible for:
  - (a) The distribution and maintenance of assistive telecommunication devices and adaptive equipment;
  - (b) The provision of telecommunications relay services and monitoring of those service providers;
  - (c) The provision of communication facilitator services; and
  - (d) Community outreach to locate potential beneficiaries of the Telecommunication Devices Access Program.

(2) The commission may contract with any governmental agency, or other entity the commission considers to be qualified, to assist the commission in the provision of communication facilitator services or the administration of ORS 759.693 to 759.698. [1987 c.290 §13; 1991 c.872 §6; 1999 c.384 §4; 2019 c.113 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.698 - Eligibility.**

(1)(a) In order to be eligible to receive assistive telecommunication devices, adaptive equipment or communication facilitator services, individuals must be certified as deaf, deaf-blind, hard of hearing or speech impaired by a licensed physician, physician assistant, nurse practitioner, audiologist, hearing aid specialist, speech-language pathologist, rehabilitation instructor for persons who are blind or vocational rehabilitation counselor of the Department of Human Services. Certification implies that the individual cannot use the telephone for expressive or receptive communication.

(b) No more than one assistive telecommunication device or adaptive equipment device may be provided to a household. However, two assistive telecommunication devices or adaptive equipment devices may be provided to a household if more than one eligible person permanently resides in the household. Households without any assistive telecommunication devices or adaptive equipment shall be given priority over households with one assistive telecommunication device or adaptive equipment device when such devices are distributed.

(c) ORS 759.693 to 759.698 do not require a telecommunications utility to provide an assistive telecommunication device to any person in violation of ORS 646.730.

(2)(a) In order to be eligible to receive adaptive equipment, individuals must be certified to have the required disability by a person or agency designated by the Public Utility Commission to make such certifications. Certification implies that the individual is unable to use the telephone.

(b) ORS 759.693 to 759.698 do not require a telecommunications utility to provide adaptive equipment to any person in violation of ORS 646.730. [1987 c.290 §14; 1989 c.115 §1; 1991 c.872 §7; 1995 c.280 §33; 1999 c.384 §5; 2007 c.28 §2; 2007 c.70 §357; 2011 c.264 §4; 2014 c.45 §84; 2019 c.113 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.700 - Definitions for ORS 759.700 to 759.720.**

As used in ORS 759.700 to 759.720:

(1) "Information provider" means any person, company or corporation that operates an information delivery service on a pay-per-call basis.

(2) "Information delivery service" means any telephone-recorded messages, interactive programs or other information services that are provided for a charge to a caller through an exclusive telephone number prefix or service access code. Where a preexisting written contract exists between the customer and the information provider, this definition does not apply. [1991 c.672 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.705 - Program message preamble; information to be included.**

(1) An information provider that does business in this state shall include a preamble in its program messages.

(2) The preamble must:

(a) Describe the service that the program provides.

(b) Advise the caller of the price per call, including:

(A) Any per minute charge;

(B) Any flat rate charge;

(C) Any minimum charge;

(D) The maximum charge possible for the service as determined from multiplying maximum duration in minutes by the cost per minute, unless the call has a possible indefinite duration, in which case the charge for one hour of use shall be stated;

(E) Whether calls that may last more than 20 minutes are interactive or have a possible indefinite duration; and

(F) The maximum possible charges for any pay-per-call numbers to which the caller may be referred by the information provider.

(c) Advise that the billing will begin shortly after the end of the preamble. A reasonable length of time shall be allotted after the preamble to give consumers an opportunity to disconnect before the program message starts.

(3) All preambles must be clearly articulated in the language used in advertisements for the telephone number and the language used within the body of the program. The language in the preamble shall be spoken in a normal cadence and at a volume equal to that of the program message.

(4) When an information provider's program message consists only of a polling application that permits the caller to register an opinion or to vote on a matter by completing a call, or results in a flat charge of \$2 or less, this section does not apply. [1991 c.672 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.710 - Pay-per-call information; disclosure.**



(1) An information provider that advertises pay-per-call services that are broadcast by radio or television, contained in home videos or that appear on movie screens must include an announcement that accurately represents the price of the service being advertised. The announcement must be clearly articulated in the language used in the body of the program or any other language spoken in the advertisement. These price disclosures shall be spoken in a normal cadence and at a volume equal to that used to announce the telephone number in the advertisement. The advertisement must state the price of the service each time the telephone number of the information provider appears in the advertisement.

(2) An information provider that advertises pay-per-call services that are broadcast by television, contained in home videos or that appear on movie screens must include, in clearly visible letters and numbers set against a contrasting background, the cost of calling the advertised number. Visual disclosure of the cost of the call must be displayed adjacent to the advertised telephone number each time the number appears in the advertisement. The lettering of the visual disclosure of the cost of the call must be the same size and typeface as that of the advertised telephone number.

(3) Except as provided in subsection (5) of this section, an information provider that advertises pay-per-call services that appear in printed material must include, in clearly visible letters and numbers set against a contrasting background, the cost of calling the advertised telephone number. The printed disclosure of the cost of the call must be displayed adjacent to the advertised number each time the number appears in the advertisement. The lettering of the visual disclosure of the cost of the call must be the same size and typeface as that of the advertised telephone number.

(4) Except as provided in subsection (5) of this section, an information provider that advertises pay-per-call services must include the price or cost, including:

(a) Any per minute charge;

(b) Any flat rate charge;

(c) Any minimum charge;

(d) The maximum charge possible for the service as determined by multiplying maximum duration in minutes by the cost per minute, unless the call has a possible indefinite duration, in which case the charge for one hour of use shall be stated;

(e) An indication whether calls are interactive or have a possible indefinite duration; and

(f) The maximum possible charges for all pay-per-call numbers to which the caller will be referred by the telephone number being advertised.

(5) An information provider that advertises pay-per-call services in telephone directory classified advertising must include a conspicuous disclosure in the advertisement that the call is a pay-per-call service. [1991 c.672 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.715 - Information service blocking; suspension or termination of telephone service for nonpayment of information service charges; rules.**

(1) Local exchange carriers shall make information delivery service blocking available to all customers as soon as such a system becomes technically available to local exchange carriers. Local exchange carriers shall notify customers of such a blocking service when available.

(2) A customer's local or long distance service shall not be suspended or terminated for nonpayment of information delivery service charges. The Public Utility Commission through orders and rules shall require telephone utilities providing billing services for information providers to adequately inform consumers of their rights concerning information providers. [1991 c.672 §§5,6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.720 - Action against information provider for failure to comply with law; remedies; customer liability for charges.**

(1) Any customer, telecommunications utility or local exchange carrier who suffers damages from a violation of ORS 646.608, 646.639 and 759.700 to 759.720 by an information provider has a cause of action against such information provider. The court may award the greater of three times the actual damages or \$500, or order an injunction or restitution. Except as provided in subsection (2) of this section, the court may award reasonable attorney fees to the prevailing party in an action under this section.

(2) The court may not award attorney fees to a prevailing defendant under the provisions of subsection (1) of this section if the action under this section is maintained as a class action pursuant to ORCP 32.

(3) When an information provider has failed to comply with any provision of ORS 646.608, 646.639 and 759.700 to 759.720, any obligation by a customer that may have arisen from the dialing of a pay-per-call telephone number is void and unenforceable.

(4) Any obligation that may have arisen from the dialing of a pay-per-call telephone number is void and unenforceable if made by:

(a) An unemancipated child under 18 years of age; or

(b) A person whose physician or naturopathic physician substantiates that:

(A) The person has a mental or emotional disorder generally recognized in the medical or psychological community that makes the person incapable of rational judgments and comprehending the consequences of the person's action; and

(B) The disorder was diagnosed before the obligation was incurred.

(5) Upon written notification to the information provider or the billing agent for the information provider that a bill for information delivery services is void and unenforceable under subsection (2) or (4) of this section, no further billing or collection activities shall be undertaken in regard to that obligation.

(6) The telecommunications utility or local exchange carrier may require the customer to take pay-per-call telephone blocking service after the initial obligation has been voided. [1991 c.672 §4; 1993 c.513 §1; 1995 c.696 §49; 2017 c.356 §102]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.730 - Unauthorized changes in telecommunications carriers ("slamming"); rules.**

(1) The Public Utility Commission may by rule assume primary responsibility for resolving consumer complaints relating to changes in a consumer's telecommunications carrier, as defined in ORS 759.400, in violation of federal laws, federal regulations or Federal Communications Commission orders.

(2) If the Public Utility Commission assumes primary responsibility for resolving consumer complaints relating to changes in a consumer's telecommunications carrier under this section, the commission shall by rule:

(a) Establish a complaint process for consumers who have had changes in telecommunications carriers;

(b) Establish a process for investigating complaints under this section; and

(c) Establish appropriate remedies for consumers who have had changes in telecommunications carriers in violation of federal laws, federal regulations or Federal Communications Commission orders.

(3) Rules adopted by the Public Utility Commission under this section must be consistent with federal laws, federal regulations and Federal Communications Commission orders relating to resolution of consumer complaints arising out of changes in telecommunications carriers, and may not impose more stringent conditions or penalties for changes in telecommunications carriers than the conditions and penalties imposed by federal laws, federal regulations or Federal Communications Commission orders for changes in telecommunications carriers.

(4) The Public Utility Commission may not adopt rules under this section that are applicable to radio common carriers.

(5) Nothing in this section affects the ability of the Attorney General to seek remedies under ORS 336.184 and 646.605 to 646.652 to the extent that an unauthorized change in telecommunications carriers constitutes an unlawful practice under ORS 336.184 and 646.605 to 646.652. [2003 c.642 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.900 - Liability of utility; effect on other remedies; liability for personal injury or property damage.**

(1) Any telecommunications utility which does, or causes or permits to be done, any matter, act or thing prohibited by this chapter or ORS chapter 756, 757 or 758 or omits to do any act, matter or thing required to be done by such statutes, is liable to the person injured thereby in the amount of damages sustained in consequence of such violation. Except as provided in subsection (2) of this section, the court may award reasonable attorney fees to the prevailing party in an action under this section.

(2) The court may not award attorney fees to a prevailing defendant under the provisions of subsection (1) of this section if the action under this section is maintained as a class action pursuant to ORCP 32.

(3) Any recovery under this section does not affect recovery by the state of the penalty, forfeiture or fine prescribed for such violation.

(4) This section does not apply with respect to the liability of any telecommunications utility for personal injury or property damage. [1989 c.827 §4; 1995 c.696 §51]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 759 - Telecommunications Utility Regulation Section 759.990 - Penalties.**

(1) Any telecommunications utility violating ORS 759.260 commits a Class A violation. Violation of ORS 759.260 by an officer or agent of a telecommunications utility is a Class D violation.

(2) Violation of ORS 759.275 is a specific fine violation punishable by a fine of not more than \$10,000.

(3) Violation of ORS 759.280 is a Class A violation.

(4) Violation of ORS 759.355 is a specific fine violation punishable by a fine of not more than \$20,000.

(5) Violation of ORS 759.360 is a Class C felony.

(6) A telecommunications carrier, as defined in ORS 759.400, shall forfeit a sum of not less than \$100 nor more than \$50,000 for each time that the carrier:

(a) Violates any statute administered by the Public Utility Commission;

(b) Commits any prohibited act, or fails to perform any duty enjoined upon the carrier by the commission;

(c) Fails to obey any lawful requirement or order made by the commission; or

(d) Fails to obey any judgment made by any court upon the application of the commission.

(7) In construing and enforcing subsection (6) of this section, the act, omission or failure of any officer, agent or other person acting on behalf of or employed by a telecommunications carrier and acting within the scope of the person's employment shall in every case be deemed to be the act, omission or failure of such telecommunications carrier.

(8) Except when provided by law that a penalty, forfeiture or other sum be paid to the aggrieved party, all penalties, forfeitures or other sums collected or paid under subsection (6) of this section shall be paid into the General Fund and credited to the Public Utility Commission Account. [1987 c.447 §52; 1999 c.1051 §225; 1999 c.1093 §39; 2003 c.576 §563; 2011 c.597 §94]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 760 - (Former Provisions) Section 760.005**

[Amended by 1971 c.655 §104; 1983 c.131 §1; 1983 c.272 §1; 1985 c.541 §4; renumbered 824.020 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 760 - (Former Provisions) Section 760.010**

[Amended by 1971 c.655 §105; 1975 c.318 §3; 1983 c.272 §2; 1993 c.140 §1; renumbered 824.022 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 760 - (Former Provisions) Section 760.045**

[Amended by 1971 c.655 §26; renumbered 756.200]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 760 - (Former Provisions) Section 760.050**

[Amended by 1971 c.655 §106; 1973 c.615 §2; renumbered 763.035]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 760 - (Former Provisions) Section 760.060**

[Renumbered 824.024 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 760 - (Former Provisions) Section 760.070**

[1973 c.169 §2; renumbered 824.026 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 760 - (Former Provisions) Section 760.075**

[1973 c.169 §3; 1993 c.251 §1; renumbered 824.028 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 760 - (Former Provisions) Section 760.305**

[Amended by 1971 c.655 §126; 1977 c.512 §1; renumbered 824.030 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 760 - (Former Provisions) Section 760.575**

[Amended by 1971 c.655 §52; renumbered 756.565]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 760 - (Former Provisions) Section 760.610**

[1985 c.541 §1; 1987 c.871 §1; renumbered 824.040 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 760 - (Former Provisions) Section 760.620**

[1985 c.541 §2; 1987 c.871 §2; renumbered 824.016 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 760 - (Former Provisions) Section 760.630**

[1985 c.510 §2; renumbered 824.042 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.120**

[Amended by 1971 c.655 §133; 1973 c.171 §3; 1975 c.318 §2; 1983 c.703 §19; renumbered 824.050 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.180**

[1971 c.655 §135; renumbered 824.052 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former**

**Provisions)Section 761.190**

[1973 c.171 §2; 1979 c.82 §4; 1981 c.355 §1; 1987 c.158 §155; renumbered 824.054 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.200**

[1973 c.232 §§2,3; 1983 c.540 §8; renumbered 824.056 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.205**

[1979 c.851 §1; renumbered 824.058 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.315**

[1977 c.535 §6; renumbered 824.060 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.320**

[Renumbered 824.062 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.325**

[1971 c.586 §§1,2; 1973 c.833 §47; renumbered 824.064 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.331**

[1991 c.281 §2; renumbered 824.066 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.365**

[1979 c.82 §2; renumbered 824.068 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.370**

[1975 c.132 §2; 1977 c.685 §1; 1985 c.565 §119; renumbered 824.080 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.380**

[1975 c.132 §3; 1977 c.685 §2; renumbered 824.082 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.395**

[1977 c.685 §6; 1979 c.244 §1; renumbered 824.084 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.400**

[1975 c.132 §5; 1977 c.685 §3; 1995 c.737 §12; renumbered 824.086 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.405**

[1977 c.685 §5; 1993 c.187 §29; renumbered 824.088 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.415**

[1981 c.680 §6; 1983 c.703 §20; 1989 c.6 §15; renumbered 824.090 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 761 - (Former Provisions)Section 761.421**

[1983 c.703 §5; renumbered 824.092 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.600**

[1979 c.791 §2; renumbered 824.100 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.605**

[1979 c.791 §3; renumbered 824.102 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.620**

[1979 c.791 §5; 1981 c.138 §1; 1995 c.733 §42a; renumbered 824.104 (1) in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.625**

[1979 c.791 §8; renumbered 824.104 (2) in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.630**

[1979 c.791 §6; renumbered 824.106 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.635**

[1979 c.791 §7; renumbered 824.108 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.640**

[1979 c.791 §9; renumbered 824.110 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.900**

[1979 c.279 §2; 1995 c.733 §39; renumbered 824.112 (1) to (4) in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.905**

[1979 c.82 §3; 1995 c.733 §40; renumbered 824.112 (5) to (8) in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.990**

[Amended by 1965 c.253 §150; 1971 c.655 §139; subsection (4) enacted as 1971 c.586 §3; 1975 c.132 §6; 1977 c.685 §7; 1989 c.405 §4; 1995 c.733 §40a; renumbered 824.114 (1) to (5) in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.992**

[1979 c.791 §10; 1987 c.433 §1; 1995 c.733 §40b; renumbered 824.114 (6) in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 761 - (Former Provisions) Section 761.994**

[1981 c.680 §7; renumbered 824.114 (7),(8) in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.010**

[Amended by 1971 c.655 §141; 1973 c.717 §1; 1975 c.537 §1; 1985 c.166 §1; 1985 c.203 §1; 1993 c.688 §1; 1995 c.240 §1; renumbered 824.200 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.013**

[1973 c.615 §7; renumbered 824.202 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.020**

[Amended by 1963 c.118 §1; 1971 c.655 §142; 1973 c.717 §2; 1985 c.166 §2; renumbered 824.204 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.030**

[Amended by 1963 c.118 §2; 1971 c.655 §143; 1973 c.717 §3; 1979 c.122 §1; renumbered 824.206 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.035**

[Formerly 760.050; 1983 c.750 §1; renumbered 824.208 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.040**

[Amended by 1971 c.655 §144; 1973 c.717 §4; renumbered 824.210 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.050**

[Amended by 1963 c.118 §3; 1971 c.655 §145; 1973 c.717 §5; renumbered 763.250]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.055**

[1973 c.717 §14; renumbered 824.212 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.060**

[Amended by 1971 c.655 §146; 1973 c.717 §6; renumbered 763.260]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.070**

[Amended by 1963 c.118 §4; renumbered 763.320]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.080**

[Amended by 1963 c.118 §5; 1971 c.655 §147; 1973 c.717 §7; 1993 c.688 §3; renumbered 824.214 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.090**

[Amended by 1963 c.118 §6; 1971 c.655 §148; 1985 c.166 §3; renumbered 824.216 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.100**

[Amended by 1953 c.190 §2; 1963 c.118 §7; renumbered 824.218 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.110**

[1973 c.615 §8; 1985 c.166 §4; renumbered 824.220 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.120**

[1973 c.615 §9; 1979 c.415 §2; renumbered 824.222 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.130**

[1973 c.615 §10; 1993 c.688 §2; renumbered 824.224 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.170**

[Amended by 1961 c.88 §1; 1971 c.655 §149; 1973 c.717 §8; 1975 c.537 §2; 1985 c.166 §5; renumbered 824.226 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.180**

[Amended by 1963 c.118 §8; 1971 c.655 §149a; renumbered 824.228 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.190**

[Amended by 1963 c.118 §9; 1971 c.655 §149b; renumbered 824.230 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.200**

[Amended by 1971 c.655 §150; 1973 c.717 §17; 1975 c.318 §4; 1975 c.537 §3; renumbered 824.232 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.210**

[1971 c.655 §151; renumbered 824.234 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.220**

[1985 c.203 §§3,4; 1995 c.240 §2; 1995 c.733 §101; renumbered 824.236 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.250**

[Formerly 763.050; 1975 c.537 §4; 1985 c.166 §10; renumbered 824.238 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.260**

[Formerly 763.060; renumbered 824.240 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.271**

[1985 c.166 §7 (enacted in lieu of 763.270); 1995 c.240 §3; renumbered 824.242 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.273**

[1985 c.166 §8 (enacted in lieu of 763.270); renumbered 824.244 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.275**

[1985 c.166 §9 (enacted in lieu of 763.270); renumbered 824.246 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.280**

[1973 c.717 §11; 1975 c.537 §6; renumbered 824.248 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.290**

[1973 c.717 §12; 1975 c.537 §7; 1977 c.336 §1; 1983 c.23 §1; 1985 c.166 §11; 1993 c.250 §1; renumbered 824.250 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former Provisions) Section 763.300**

[1973 c.717 §13; renumbered 824.252 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 763 - (Former**

**Provisions)Section 763.310**

[1973 c.717 §16; 1977 c.512 §2; 1985 c.166 §12; renumbered 824.254 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 763 - (Former Provisions)Section 763.320**

[Formerly 763.070; renumbered 824.256 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 763 - (Former Provisions)Section 763.330**

[1973 c.717 §15; 1975 c.318 §5; 1975 c.537 §8; 1983 c.338 §970; 1985 c.166 §13; 1991 c.841 §3; 1995 c.733 §95; renumbered 824.018 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 763 - (Former Provisions)Section 763.900**

[1979 c.279 §4; 1995 c.733 §41; renumbered 824.258 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 764 - (Former Provisions)Section 764.110**

[Amended by 1963 c.172 §1; 1981 c.133 §1; renumbered 824.300 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 764 - (Former Provisions)Section 764.130**

[Amended by 1971 c.655 §152; renumbered 824.302 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 764 - (Former Provisions)Section 764.140**

[Renumbered 824.304 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 764 - (Former Provisions)Section 764.150**

[Amended by 1991 c.67 §205; renumbered 824.306 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 764 - (Former Provisions)Section 764.170**

[1977 c.535 §2; renumbered 824.308 (1) in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 764 - (Former Provisions)Section 764.180**

[1977 c.535 §3; renumbered 824.308 (2) in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 764 - (Former Provisions)Section 764.190**

[1977 c.535 §4; renumbered 824.310 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 764 - (Former Provisions)Section 764.900**

[1979 c.279 §6; 1995 c.733 §42; renumbered 824.312 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 764 - (Former Provisions)Section 764.990**

[Amended by 1971 c.655 §153; 1995 c.733 §96; renumbered 824.314 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 767 - (Former Provisions)Section 767.005**

[Amended by 1955 c.681 §1; 1959 c.420 §1; 1971 c.655 §155; 1975 c.692 §3; 1977 c.253 §2; 1979 c.349 §1; 1981 c.117 §1; 1981 c.280 §3; 1981 c.554 §1; 1983 c.357 §1; 1983 c.703 §21; 1985 c.28 §1; 1985 c.49 §1; 1989 c.992 §4b; 1995 c.306 §4; 1995 c.522 §7; renumbered 825.005 in 1995]



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.020**

[Amended by 1969 c.699 §1; 1971 c.655 §159; 1977 c.253 §3; 1981 c.554 §2; 1983 c.357 §2; 1995 c.306 §5; renumbered 825.007 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.022**

[1977 c.660 §2; 1981 c.227 §1; renumbered 825.015 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.025**

[Amended by 1959 c.497 §1; 1961 c.175 §1; 1965 c.458 §2; 1967 c.486 §1; 1969 c.46 §1; 1971 c.181 §1; 1971 c.655 §160; 1975 c.692 §5; 1977 c.253 §4; 1979 c.260 §1; 1979 c.349 §2a; 1981 c.223 §1; 1981 c.276 §1; 1981 c.338 §2; 1981 c.403 §2; 1981 c.554 §3; 1981 c.800 §2a; 1983 c.338 §971; 1985 c.31 §1; 1985 c.49 §2; 1985 c.196 §3; 1985 c.223 §1; 1985 c.565 §119a; 1987 c.111 §1; 1989 c.224 §136; 1989 c.992 §5; 1991 c.93 §12; 1993 c.303 §1; 1995 c.278 §59; 1995 c.306 §6; renumbered 825.017 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.026**

[1989 c.992 §29; renumbered 825.018 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.027**

[1989 c.992 §4; 1995 c.306 §7; renumbered 825.020 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.028**

[1989 c.992 §2; renumbered 825.022 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.030**

[Amended by 1957 c.667 §1; 1959 c.497 §2; 1965 c.613 §1; 1971 c.655 §161; 1973 c.396 §1; 1975 c.451 §189a; 1977 c.253 §5; 1977 c.684 §2; 1983 c.338 §972; 1983 c.679 §19; 1985 c.16 §471; 1985 c.668 §21; 1993 c.368 §1; 1995 c.522 §4; renumbered 825.024 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.032**

[1981 c.680 §2; renumbered 825.026 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.034**

[1989 c.763 §10; renumbered 825.256 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.038**

[1989 c.292 §2; 1995 c.306 §8; renumbered 825.028 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.040**

[Amended by 1981 c.117 §2; 1995 c.306 §9; renumbered 825.010 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.045**

[Amended by 1971 c.655 §164; 1977 c.253 §6; renumbered 825.030 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.062**

[1971 c.655 §180; 1977 c.253 §7; 1991 c.331 §134; renumbered 825.354 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.065**

[Amended by 1971 c.655 §166; 1977 c.253 §8; renumbered 825.356 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.105**

[Amended by 1959 c.206 §1; 1969 c.99 §1; 1969 c.699 §4; 1975 c.692 §7; 1977 c.253 §9; 1995 c.306 §10; renumbered 825.100 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.120**

[Amended by 1981 c.117 §3; 1991 c.331 §135; renumbered 825.145 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.125**

[Amended by 1961 c.111 §1; 1969 c.91 §3; 1969 c.699 §6; 1971 c.655 §167; renumbered 825.125 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.130**

[Amended by 1961 c.50 §1; 1969 c.699 §7; 1983 c.357 §3; subsection (4) enacted as 1983 c.357 §18; 1985 c.33 §1; 1995 c.306 §11; renumbered 825.135 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.135**

[Amended by 1957 c.263 §1; 1959 c.412 §1; 1961 c.117 §1; 1969 c.699 §8; 1971 c.655 §168; 1975 c.692 §9; 1977 c.253 §10; 1983 c.357 §4; 1995 c.306 §12; renumbered 825.110 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.145**

[Amended by 1957 c.263 §2; 1961 c.169 §1; 1961 c.403 §1; 1969 c.575 §1; 1969 c.699 §8a; 1971 c.520 §1; 1971 c.655 §169; 1975 c.692 §10; 1977 c.253 §11; 1979 c.349 §4; 1979 c.781 §1; 1981 c.90 §1; 1981 c.244 §1; 1981 c.554 §4; 1985 c.38 §1; 1985 c.419 §1; 1989 c.469 §1; 1993 c.810 §1; 1995 c.306 §13; renumbered 825.127 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.150**

[Amended by 1989 c.992 §6; renumbered 825.108 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.155**

[Amended by 1963 c.177 §1; 1969 c.699 §9; 1971 c.655 §170; 1975 c.692 §11; 1989 c.29 §1; 1995 c.306 §14; renumbered 825.104 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.157**

[1989 c.992 §4a; renumbered 825.106 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.167**

[1981 c.79 §2; 1983 c.357 §7; 1985 c.136 §1; 1995 c.306 §15; renumbered 825.115 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.170**

[Amended by 1961 c.112 §1; 1961 c.403 §4; 1969 c.699 §11; 1971 c.520 §6; 1971 c.655 §171a; 1977 c.401 §1; 1977 c.469 §1; 1981 c.79 §3; 1985 c.38 §2; 1995 c.306 §16; renumbered 825.117 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.180**

[Amended by 1955 c.79 §1; 1957 c.561 §2; 1969 c.699 §12; 1971 c.655 §172; 1973 c.507 §3; 1977 c.253 §13; 1995 c.306 §17; renumbered 825.230 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.186**

[1973 c.426 §2 (enacted in lieu of 767.185); 1977 c.253 §14; 1981 c.633 §82; 1987 c.94 §108; 1989 c.171 §84; renumbered 825.129 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.190**

[Amended by 1957 c.263 §3; 1959 c.86 §1; 1961 c.120 §1; 1963 c.210 §1; 1967 c.30 §1; 1969 c.146 §1; 1969 c.699 §14; 1971 c.655 §174; 1973 c.534 §1; 1975 c.692 §12; 1977 c.253 §15; 1981 c.554 §7; 1983 c.357 §8; 1985 c.18 §1; 1989 c.779 §6; 1989 c.992 §7; 1993 c.620 §2; 1995 c.306 §18; renumbered 825.137 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.195**

[Amended by 1953 c.582 §1; 1959 c.412 §4; 1969 c.98 §1; 1969 c.699 §15; 1971 c.655 §175; 1975 c.692 §13; 1977 c.253 §16; 1981 c.676 §3; 1985 c.135 §2; renumbered 825.160 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.200**

[Amended by 1969 c.699 §16; 1973 c.507 §4; 1981 c.676 §4; 1985 c.135 §3; 1995 c.306 §19; renumbered 825.162 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.205**

[Amended by 1963 c.119 §1; 1969 c.699 §17; 1971 c.655 §176; 1981 c.676 §5; 1983 c.285 §1; 1985 c.135 §1; 1995 c.145 §3; renumbered 825.164 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.210**

[Amended by 1969 c.699 §18; 1971 c.655 §177; 1977 c.253 §17; 1979 c.444 §1; 1991 c.331 §136; renumbered 825.166 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.215**

[Amended by 1957 c.368 §1; 1995 c.306 §20; renumbered 825.168 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.305**

[Amended by 1961 c.44 §1; 1969 c.699 §19; 1971 c.655 §179; 1975 c.692 §14; 1977 c.253 §18; 1979 c.349 §6; 1989 c.260 §3; 1991 c.67 §206; 1995 c.306 §21; renumbered 825.180 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.325**

[Amended by 1953 c.337 §3; 1961 c.553 §1; 1963 c.380 §1; 1963 c.466 §1; 1967 c.486 §2; 1969 c.699 §21; 1971 c.655 §218; renumbered 767.815]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.330**

[Amended by 1963 c.380 §2; renumbered 767.820]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.335**

[Amended by 1953 c.337 §3; 1955 c.653 §1; 1957 c.561 §4; 1959 c.180 §1; 1961 c.378 §1; 1963 c.380 §3; 1965 c.250 §1; 1971 c.655 §219; renumbered 767.825]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.340**

[Amended by 1971 c.655 §220; renumbered 767.830]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.345**

[Renumbered 767.835]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.355**

[Amended by 1953 c.336 §2; 1957 c.564 §1; 1963 c.234 §1; 1967 c.29 §1; 1969 c.146 §2; 1971 c.655 §221; renumbered 767.840]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.357**

[1969 c.146 §7; renumbered 767.845]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.360**

[Amended by 1957 c.564 §2; 1963 c.234 §2; 1969 c.146 §3; 1971 c.655 §222; renumbered 767.850]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.365**

[Amended by 1957 c.564 §4; 1971 c.655 §223; renumbered 767.855]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.370**

[Amended by 1957 c.564 §4; renumbered 767.860]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.375**

[1957 c.564 §5; 1963 c.23 §1; 1969 c.146 §4; renumbered 767.865]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.380**

[1961 c.190 §2; 1967 c.29 §2; 1969 c.146 §5; 1969 c.699 §22; 1971 c.655 §224; renumbered 767.870]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.390**

[1967 c.178 §2; amended by 1971 c.655 §225; renumbered 767.875]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.405**

[Amended by 1971 c.655 §181; 1975 c.692 §15; 1977 c.253 §19; 1981 c.117 §5; 1983 c.127 §1; 1995 c.306 §22; renumbered 825.202 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.407**

[1971 c.655 §182; 1983 c.357 §9; renumbered 825.220 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.409**

[1981 c.554 §19; 1995 c.306 §23; renumbered 825.222 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.410**

[Amended by 1961 c.548 §1; 1971 c.655 §183; 1973 c.507 §5; 1975 c.692 §16; 1977 c.253 §20; 1981 c.117 §6; 1983 c.357 §10; 1985 c.22 §1; 1995 c.306 §24; renumbered 825.224 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.415**

[Amended by 1957 c.675 §1; 1969 c.699 §23; 1971 c.655 §184; 1973 c.507 §6; 1977 c.253 §21; 1981 c.280 §4; 1983 c.357 §11;

1995 c.306 §25; renumbered 825.234 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.416**

[1983 c.357 §13; renumbered 825.236 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.417**

[1977 c.253 §25; 1983 c.540 §9; 1995 c.306 §26; renumbered 825.240 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.430**

[Renumbered 825.206 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.440**

[Amended by 1971 c.655 §187; 1977 c.253 §26; 1981 c.117 §7; 1983 c.357 §15; renumbered 825.208 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.445**

[Amended by 1971 c.655 §188; 1977 c.253 §27; 1995 c.306 §28; renumbered 825.232 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.450**

[Renumbered 825.210 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.452**

[1991 c.819 §2; 1995 c.574 §1; renumbered 825.250 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.455**

[Amended by 1963 c.184 §1; 1969 c.699 §24; 1977 c.253 §28; 1981 c.554 §9; 1985 c.132 §1; 1995 c.306 §29; renumbered 825.252 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.456**

[1983 c.461 §2; renumbered 825.254 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.457**

[1981 c.680 §3; 1983 c.703 §22; 1985 c.670 §36; 1989 c.6 §16; 1995 c.737 §13; renumbered 825.258 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.458**

[1985 c.670 §35; renumbered 825.260 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.460**

[Amended by 1969 c.699 §25; 1971 c.655 §189; 1975 c.692 §17; 1995 c.306 §30; renumbered 825.204 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.470**

[Amended by 1957 c.263 §4; 1971 c.655 §190; 1975 c.692 §18; 1977 c.253 §29; 1979 c.349 §8; 1981 c.554 §10; 1987 c.158 §156; 1991 c.375 §1; 1991 c.407 §12; 1995 c.306 §31; renumbered 825.950 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.475**

[Amended by 1953 c.338 §4; 1971 c.655 §191; renumbered 825.300 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.495**

[Renumbered 825.302 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.500**

[1977 c.552 §2; 1995 c.306 §32; renumbered 825.304 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.505**

[1983 c.357 §17; renumbered 825.226 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.600**

[Amended by 1953 c.337 §3; 1969 c.146 §8; renumbered 767.905]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.605**

[Amended by 1961 c.440 §2; 1969 c.575 §3; 1971 c.655 §191a; 1973 c.507 §8; 1975 c.692 §19; 1977 c.253 §30; 1995 c.306 §36; renumbered 825.320 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.625**

[Amended by 1971 c.655 §192; 1975 c.692 §20; 1977 c.253 §31; 1981 c.117 §8; renumbered 825.324 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.630**

[Amended by 1971 c.655 §193; 1989 c.966 §69; 1995 c.733 §97a; renumbered 825.326 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.635**

[Amended by 1965 c.258 §3; 1975 c.692 §21; 1977 c.253 §32; 1981 c.249 §3; 1995 c.241 §1; renumbered 825.328 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.640**

[Renumbered 825.330 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.644**

[1983 c.703 §7; renumbered 825.322 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.660**

[1981 c.227 §7; renumbered 825.350 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.665**

[1989 c.1096 §2; renumbered 825.352 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.751**

[1989 c.779 §2; renumbered 825.400 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.752**

[1989 c.779 §§3,4; renumbered 825.402 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.753**

[1989 c.779 §5; renumbered 825.404 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.775**

[1971 c.655 §210; 1985 c.185 §1; 1991 c.407 §17; 1995 c.39 §1; renumbered 825.450 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.780**

[1971 c.655 §211; 1981 c.554 §11; renumbered 825.454 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.786**

[1975 c.692 §28 (enacted in lieu of 767.785 and 767.790); 1991 c.407 §13; 1993 c.620 §1; renumbered 825.139 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.795**

[1971 c.655 §214; 1975 c.692 §33; renumbered 825.507 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.797**

[1975 c.692 §2; 1981 c.554 §12; renumbered 825.141 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.805**

[1971 c.655 §216; 1979 c.322 §12; 1981 c.554 §13; 1983 c.35 §1; 1985 c.185 §2; 1989 c.19 §1; 1991 c.407 §18; renumbered 825.470 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.810**

[1971 c.655 §217; 1989 c.42 §1; renumbered 825.472 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.815**

[Formerly 767.325; 1975 c.692 §29; 1977 c.253 §33; 1983 c.338 §973; 1985 c.196 §1; 1989 c.992 §8; 1991 c.880 §1; renumbered 825.474 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.820**

[Formerly 767.330; 1977 c.864 §1; 1981 c.698 §3; 1983 c.727 §§3,7; 1985 c.196 §§2,2a,2b; 1985 c.209 §14; 1987 c.899 §§5,12; 1989 c.992 §9; 1991 c.67 §207; 1991 c.497 §10; 1991 c.880 §8; 1995 c.447 §1; renumbered 825.476 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.825**

[Formerly 767.335; 1975 c.692 §30; 1977 c.253 §34; 1977 c.684 §4; 1977 c.775 §1; 1977 c.864 §2; 1979 c.349 §9; 1981 c.698 §4; 1983 c.338 §974; 1983 c.400 §1; 1983 c.679 §20; 1983 c.727 §§4a,9; 1985 c.16 §475; 1985 c.199 §1; 1985 c.209 §§11,15; 1987 c.203 §1; 1987 c.899 §§6,13; 1989 c.992 §10; 1991 c.497 §11; 1991 c.880 §9; 1995 c.447 §2; 1995 c.464 §1; 1995 c.522 §6; renumbered 825.480 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.830**

[Formerly 767.340; renumbered 825.484 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.832**

[1989 c.992 §3; renumbered 825.486 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.835**

[Formerly 767.345; renumbered 825.488 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.840**

[Formerly 767.355; 1975 c.692 §31; 1981 c.554 §14; 1985 c.111 §1; 1989 c.170 §1; renumbered 825.490 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.845**

[Formerly 767.357; 1977 c.253 §35; 1981 c.554 §15; 1989 c.170 §3; renumbered 825.492 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.850**

[Formerly 767.360; 1977 c.253 §36; 1981 c.554 §16; 1985 c.111 §2; renumbered 825.494 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.855**

[Formerly 767.365; 1977 c.253 §37; 1979 c.627 §1; 1981 c.554 §17; 1985 c.111 §3; 1989 c.170 §2; renumbered 825.496 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.860**

[Formerly 767.370; 1991 c.407 §14; renumbered 825.498 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.862**

[1989 c.992 §17; 1993 c.656 §1; renumbered 825.500 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.863**

[1991 c.256 §2; renumbered 825.502 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.865**

[Formerly 767.375; 1983 c.696 §29; 1991 c.407 §15; renumbered 825.504 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.870**

[Formerly 767.380; 1975 c.692 §32; 1989 c.966 §70; 1989 c.992 §18; renumbered 825.506 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.875**

[Formerly 767.390; 1991 c.407 §16; renumbered 825.508 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.880**

[1971 c.655 §226; 1977 c.253 §38; renumbered 825.509 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.882**

[1991 c.259 §2; renumbered 825.550 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.884**

[1993 c.620 §4; 1995 c.275 §1; renumbered 825.555 in 1995]



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.895**

[1971 c.655 §229; 1985 c.16 §472; 1995 c.306 §37; renumbered 825.212 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.905**

[Formerly 767.600; 1995 c.306 §38; renumbered 825.515 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.990**

[Amended by 1971 c.655 §194; 1977 c.253 §39; 1989 c.289 §1; 1991 c.537 §1; 1993 c.400 §7; renumbered 825.990(1),(2) in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.993**

[1981 c.680 §4; renumbered 825.990(3),(4) in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.995**

[1989 c.442 §2; renumbered 825.955 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 767 - (Former Provisions) Section 767.996**

[1993 c.400 §6; renumbered 825.960 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 768 - (Former Provisions) Section 768.001**

[1989 c.43 §1; 1989 c.723 §20; 1991 c.284 §6; 1991 c.407 §1; renumbered 826.001 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 768 - (Former Provisions) Section 768.003**

[1989 c.43 §2; 1991 c.459 §438a; renumbered 826.005 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 768 - (Former Provisions) Section 768.005**

[1989 c.43 §3; 1991 c.459 §438b; renumbered 826.007 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 768 - (Former Provisions) Section 768.007**

[1989 c.43 §4; 1989 c.109 §5; 1991 c.459 §438c; 1991 c.477 §2; 1991 c.407 §35; 1995 c.39 §2; renumbered 826.009 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 768 - (Former Provisions) Section 768.009**

[1989 c.43 §5; 1989 c.109 §6; 1991 c.459 §438d; 1991 c.407 §36; renumbered 826.011 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 768 - (Former Provisions) Section 768.011**

[1989 c.43 §8; 1989 c.723 §22; 1991 c.284 §10; 1991 c.407 §9; 1993 c.696 §18; 1993 c.751 §1; renumbered 826.013 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 768 - (Former Provisions) Section 768.013**

[1989 c.43 §9; 1989 c.723 §23; 1991 c.284 §11; 1991 c.407 §10; 1993 c.751 §2; renumbered 826.015 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 768 - (Former Provisions) Section 768.015**

[1989 c.43 §7; 1989 c.723 §21; 1991 c.407 §8; renumbered 826.017 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 768 - (Former**

**Provisions)Section 768.017**

[1989 c.43 §6; 1995 c.39 §3; renumbered 826.021 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 768 - (Former Provisions)Section 768.021**

[1989 c.43 §12; 1991 c.407 §11; renumbered 826.023 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 768 - (Former Provisions)Section 768.023**

[1989 c.43 §10; renumbered 826.025 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 768 - (Former Provisions)Section 768.025**

[1989 c.43 §13; 1989 c.103 §2; 1991 c.459 §438e; renumbered 826.027 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 768 - (Former Provisions)Section 768.027**

[1989 c.43 §14; 1989 c.109 §7; renumbered 826.029 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 768 - (Former Provisions)Section 768.029**

[1991 c.407 §3; renumbered 826.031 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 768 - (Former Provisions)Section 768.031**

[1991 c.407 §4; 1993 c.751 §107; 1995 c.733 §79a; renumbered 826.033 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 768 - (Former Provisions)Section 768.033**

[1991 c.407 §5; renumbered 826.035 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 768 - (Former Provisions)Section 768.035**

[1991 c.407 §6; 1995 c.39 §4; renumbered 826.037 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 768 - (Former Provisions)Section 768.037**

[1993 c.253 §2; renumbered 826.039 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 768 - (Former Provisions)Section 768.039**

[1991 c.407 §7; renumbered 826.041 in 1995]

768.410, 768.420, 768.430, 768.440, 768.450 and 768.460 repealed by 1953 c.185 §2.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 769 - (Former Provisions)**

Note:

769.010, 769.020, 769.030, 769.040, 769.050, 769.060, 769.070, 769.080 (amended by 1957 c.459 §12), 769.090 and 769.990 repealed by 1961 c.321 §1.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 771 - (Former Provisions)Section 771.010**

[Amended by 1961 c.726 §426; renumbered 823.101 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 771 - (Former Provisions)Section 771.020**

[Amended by 1983 c.198 §7; renumbered 823.103 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 771 - (Former Provisions) Section 771.040**

[Renumbered 823.105 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 771 - (Former Provisions) Section 771.050**

[Renumbered 823.107 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 771 - (Former Provisions) Section 771.990**

[Renumbered 823.991 (7) in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.010 - Right of entry for survey of proposed right of way; notice required.**

(1) A corporation organized for the construction of a railway, sewer or canal or of any ditch or flume for the conducting of water for irrigation or domestic purposes, or for the purpose of selling water to the public for general purposes for public use, or for conducting potable or waste water by means of pipe laid upon or under the surface of the ground; or desiring to use electrical power in the operation of any railway, shall have a right to enter upon any land, between the termini thereof or elsewhere, for the purpose of examining, locating or surveying the lines of such electric or other railway, sewer, canal, ditch, flume or pipeline, for the purpose of surveying or measuring any lands or rights appurtenant thereto needed for such purposes, doing no unnecessary damage thereby.

(2) Prior to entering upon private land under this section, a person who intends to enter upon the land shall first provide written notice by first class mail to the record owner of the private property of such intent to enter. [Amended by 1971 c.655 §232; 1999 c.629 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.015 - Condemnation of lands for rights of way and necessary facilities.**

Any corporation mentioned in ORS 772.010 may condemn so much land as may be necessary for the lines of such railway, sewer, canal, ditch, flume or pipeline, not exceeding 100 feet in width, besides a sufficient quantity of land for toolhouses, workshops, materials for construction, timber excepted, and a right through such adjacent land to enable such corporation to construct and repair its lines, poles, towers, wires, underground wires, supports and necessary equipment, railway, sewer, canal, ditch, flume or other pipeline, and to make proper drains. [Amended by 1971 c.655 §233; 1999 c.629 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.020 - Condemnation of additional land for railway purposes.**

(1) Any railway corporation mentioned in ORS 772.010 may condemn a sufficient quantity of land in addition to that specified in ORS 772.015, for necessary sidetracks, spur tracks and laterals reasonably necessary for manufacturing establishments, also for depot and water stations, cuttings and embankments, and for the proper construction, security and convenient operation of its road.

(2) Any such railway corporation may cross, intersect, join and unite its railway with any other railway at any point in its route, and upon the grounds of such other railway corporation, and make the necessary turnouts, sidings, switches and other conveniences in furtherance of the object of its connection and may condemn to make such crossings. The railway which is or may be intersected by new railways, may unite with the owners of such new railways in forming the intersection and connection, and grant the facilities mentioned in this subsection.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.025 - Approval of railroad crossing, intersection or connection.**

(1) Whenever any railroad corporation, authorized by ORS 772.020 to condemn the right to cross or connect with any other right of way or constructed line of railroad, is unable to agree with the owner of the line which it desires to cross, it may apply to the Department of Transportation in the manner provided by ORS 824.228 to 824.232.

(2) Upon such application and upon notice and hearing as provided in ORS chapter 183 for contested cases, the department shall determine the right to crossing, intersection or connection, the mode and manner thereof and the compensation to be paid therefor.

(3) No agreement for the crossing of one railroad by another shall be valid without the approval of the department. [Amended by 1971 c.655 §234; 1995 c.733 §97; 1997 c.275 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.030 - Condemnation of right of way through canyon or pass for joint use by railroads.**

(1) Any railroad company whose right of way passes through any canyon, pass or defile shall not prevent any other railroad company from the use and occupancy of said canyon, pass or defile for the purpose of its railroad in common with the railroad first located.

(2) Any railroad company authorized by law to condemn property for right of way or any other corporate purpose, may commence an action for condemnation of a right of way through any canyon, pass or defile for the purpose of its railroad, where right of way has already been located, condemned or occupied by some other railroad company through such canyon, pass or defile for the purpose of its railroad.

(3) Thereupon like proceedings shall be had as are provided by the laws of this state for the condemnation of land for right of way and other railroad purposes. At the time of rendering judgment for damages, the court or judge thereof shall enter a judgment authorizing the railroad to occupy and use the right of way, roadbed and track, if necessary, in common with the railroad company already occupying or owning the same, and defining the terms and conditions upon which the same shall be so occupied and used in common. [Amended by 2003 c.576 §564]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.035 - Acquisition of water rights by corporations for canal, irrigation, domestic or stock purposes.**

Any corporation organized in whole or in part for the construction of a canal for navigating or manufacturing purposes or of any ditch or flume for the purpose of conveying water for irrigating, domestic or stock purposes may condemn such waterways, water rights or privileges, or otherwise acquire established water rights or privileges, or those initiated by performing any acts required, provided or permitted by law, as may be necessary or convenient for the purpose of supplying, operating, constructing or maintaining the same.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.040 - Condemnation rights of pipe corporations.**

Except in cities, any corporation organized for conducting water by means of pipe laid upon or under the surface of the ground may, so far as may be necessary for the laying and keeping in repair its water pipes, condemn the use of so much land as may be necessary, and may make whatever cuts and excavations as soon as practicable after condemnation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.045 - Right to cut timber and build aqueducts.**

Any railway corporation mentioned in ORS 772.010 may cut down any standing timber in danger of falling upon its line or railway, making compensation therefor as provided in ORS 772.055 for lands taken for the use of the corporation. [Amended by 1971 c.655 §235]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.050 - Condemnation of riparian rights and for reservoirs.**

Any corporation mentioned in ORS 772.010 may also condemn:

(1) The rights of riparian proprietors in any lake or stream, to enable such corporation to develop, manufacture or furnish electrical energy for the operation of any railway in this state.

(2) Lands for the sites of reservoirs for storing water for future use, and for rights of way for feeders carrying water to reservoirs, and for ditches, canals, flumes or pipelines carrying the same away. [Amended by 1971 c.655 §236]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.055 - Condemnation procedure.**

No condemnation of private property shall be made under ORS 772.010 to 772.020 or 772.030 to 772.050 until compensation is made to the owner thereof, irrespective of any increased value thereof by reason of the proposed improvement by such corporation, in the manner provided in ORS chapter 35.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.060 - Condemnation rights for change of grade or location of railway, canal or pipes.**

Any corporation may change the grade or location of its railway, canal or pipes for the purpose of avoiding annoyances to public travel or dangerous or deficient curves or grades, or unsafe or unsubstantial grounds or foundation, or for other like reasonable causes. For the accomplishment of such change it has the same right to enter upon, examine, survey and appropriate the necessary lands and materials as in the original location and construction of such railway, canal or water pipes. [Amended by 1971 c.655 §237]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.065 - Appropriation of county road or property in lieu thereof by agreement with county court.**

(1) Whenever it is necessary for any corporation mentioned in ORS 772.010 to appropriate all or part of any county road or highway for right of way, the corporation may appropriate so much of the road as may be necessary, and in lieu thereof may condemn or otherwise acquire property contiguous to or as near adjacent to the road as possible in an amount equal to the property to be appropriated.

- (2) Upon construction by the corporation of a county road or highway on the property so acquired in a manner conformable in the material character of the construction of said highways appropriated and upon the same grade or such other grade as may be agreed upon by the corporation and the county court or board of county commissioners of the county in which the road is located, and upon the acceptance by the county court or board of such newly constructed road, and on the conveyance of same to the county, the corporation shall then become the owner and entitled to the possession of so much of the county road or highway so appropriated.
- (3) ORS 772.065 and 772.070 do not apply to roads or streets within any platted or incorporated city or town, or any addition thereto.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.070 - Procedure on dispute between county and corporation.**

- (1) If the county court or board of county commissioners and corporation cannot agree upon the matters of appropriation under ORS 772.065, the dispute shall be referred to the Public Utility Commission.
- (2) The commission, after notice and hearing, shall by order determine the terms and conditions upon which the corporation may appropriate the county road or highway. [Amended by 1971 c.655 §238]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.105 - Authority to appropriate.**

- (1) When it is necessary or convenient in the location of any railway to appropriate any part of any public road, street, alley or public grounds not within the corporate limits of a municipal corporation, the county court of the county wherein such road, street, alley or public grounds is located, may agree with the corporation constructing the road, upon the extent, terms and conditions upon which the same may be appropriated or used, and occupied by such corporation. If the parties are unable to agree, the corporation may appropriate so much thereof as is necessary and convenient in the location and construction of the road.
- (2) Whenever a private corporation is authorized to appropriate any public highway or grounds as mentioned in subsection (1) of this section, within the limits of any town, whether incorporated or not, such corporation shall locate their road upon such particular road, street, alley or public grounds, within such town as the local authorities designate. If the local authorities fail to make such designation within a reasonable time when requested, the corporation may make such appropriation without reference thereto. [Amended by 1971 c.655 §239]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.205 - Definitions for ORS 772.210 and 772.215.**

As used in ORS 772.210 and 772.215, unless the context requires otherwise:

- (1) "Electrical cooperative association" means a cooperative association which is subject to a tax on gross revenue derived from the use or operation of transmission and distribution lines pursuant to ORS 308.805 to 308.820.
- (2) "Public utility" has the meaning given that term in ORS 757.005.
- (3) "Service facilities" include any line, wire, pipe, conduit, main, pump, pole, tower, fixture, structure, shop, office or building for any use or purpose reasonably necessary and incident to the conduct of the business of a public utility.
- (4) "Transmission company" has the meaning given that term in ORS 758.015. [Amended by 1971 c.655 §240; 1977 c.225 §1; 2001 c.913 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.210 - Right of entry and condemnation of lands for construction of service facilities.**

- (1) Any public utility, electrical cooperative association or transmission company may:
- (a) Enter upon lands within this state in the manner provided by ORS 35.220 for the purpose of examining, locating and surveying the line thereof and also other lands necessary and convenient for the purpose of construction of service facilities, doing no unnecessary damage thereby.
- (b) Condemn such lands not exceeding 100 feet in width for its lines (including poles, towers, wires, supports and necessary equipment therefor) and in addition thereto, other lands necessary and convenient for the purpose of construction of service facilities. If the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, any public utility or transmission company organized for the purpose of building, maintaining and operating a line of poles and wires for the transmission of electricity for lighting or power purposes may condemn such trees for a width not exceeding 300 feet, as may be necessary or convenient for such purpose.
- (2) Notwithstanding subsection (1) of this section, any public utility, electrical cooperative association or transmission company may, when necessary or convenient for transmission lines (including poles, towers, wires, supports and necessary equipment therefor) designed for voltages in excess of 330,000 volts, condemn land not to exceed 300 feet in width. In addition, if the lands are covered by trees that are liable to fall and constitute a hazard to its wire or line, such public utility or transmission company may condemn such trees for a width not exceeding 100 feet on either side of the condemned land, as may be necessary or convenient for such purpose.
- (3) Notwithstanding subsection (1) of this section, a water or gas public utility may condemn such lands, not exceeding 50 feet in

width, as may be necessary or convenient for purposes of constructing, laying, maintaining and operating its lines, including necessary equipment therefor.

(4) The proceedings for the condemnation of such lands shall be the same as that provided in ORS chapter 35, provided that any award shall include, but shall not be limited to, damages for destruction of forest growth, premature cutting of timber and diminution in value to remaining timber caused by increased harvesting costs. [Amended by 1963 c.138 §1; 1971 c.655 §241; 1977 c.225 §2; 2001 c.913 §9; 2003 c.477 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.215 - Appropriation of public lands.**

When it is necessary or convenient, in the location of any poles or lines mentioned in ORS 772.210, to appropriate any part of any public road, street, alley or public grounds not within the corporate limits of any municipal corporation, the county court or board of county commissioners of the county within which such road, street, alley or public grounds is located, may agree with the public utility or electrical cooperative association upon the extent, terms and conditions upon which the same may be appropriated or used and occupied by such corporation. If such parties are unable to agree, the public utility or electrical cooperative association may condemn so much thereof as is necessary and convenient in the location and construction of the poles or lines. The provisions of ORS chapter 35 are applicable to condemnations under this section. [Amended by 1971 c.655 §242; 1971 c.741 §24; 1977 c.225 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.305 - Condemnation of right of way for drainage or irrigation.**

(1) The United States, the state, or any person, firm, cooperative, association or corporation, shall have the right of way across and upon public, private and corporate lands or other rights of way, for the construction, maintenance, repair and use of all necessary reservoirs, dams, water gates, canals, ditches, flumes, tunnels, pipelines or other means of securing, storing and conveying water for irrigation or for drainage, or any other beneficial purpose, upon payment of just compensation therefor.

(2) But such right of way shall in all cases be so constructed, obtained, located and exercised in a manner consistent with proper and economical and engineering construction, so as not to unnecessarily impair practical use of any other right of way, highway or public or private road, nor to unnecessarily injure any public or private property.

(3) Such right of way may be acquired in the manner provided by law for the taking of private property for public use. If a water right permit is required under the applicable provisions of ORS chapter 537 in order to use, store or convey water within the right of way, a person, firm, cooperative, association or corporation may not acquire a right of way under this subsection before obtaining a water right permit or obtaining a final order of the Water Resources Department approving an application for a water right permit.

(4) In determining just compensation under subsection (1) of this section for a right of way across forestlands, consideration shall be given, but not limited to, the effect of the right of way on:

(a) Access to the whole of the affected parcel;

(b) Ease and method of timber harvesting or other commercial uses of the affected parcel; and

(c) Any agricultural or silvicultural activities on the affected parcel, including but not limited to application of chemicals, cultivation or harvesting activities and movement of equipment associated with any of the above activities. [Amended by 1989 c.509 §1; 1995 c.365 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.310 - Right to enlarge existing irrigation system.**

(1) When the United States, the state, or any person, firm or corporation desires to convey water for irrigation, drainage or for any other beneficial purpose, and there is a canal or ditch already constructed that can be enlarged to convey the required quantity of water, then the United States, the state, or any such person, firm or corporation, or the owner or owners of the land through which a new canal or ditch would have to be constructed to convey the quantity of water necessary, may enlarge the canal or ditch already constructed, by compensating the owner of the canal or ditch to be enlarged for the damages, if any, caused by the enlargement.

(2) The enlargement may be made at any time between October 1 and March 1, but not any other times, unless upon agreement in writing with the owner or owners of the canal or ditch.

(3) If a water right permit is required under the applicable provisions of ORS chapter 537 in order to use, store or convey water within the enlargement, a person, firm, cooperative, association or corporation may not acquire an enlargement under this section before obtaining a water right permit or obtaining a final order of the Water Resources Department approving an application for a water right permit. [Amended by 1989 c.509 §2; 1995 c.365 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.405 - Condemnation by corporations for reduction of ores.**

(1) Every corporation organized for the construction and operation of mills, smelters and other works for the reduction of ores authorized to do business within the state may condemn lands and property for the discharge and natural distribution of smoke, fumes and dust from such works in the manner provided by ORS chapter 35.

(2) The use of lands by such corporation for the purpose of the discharge and natural distribution of smoke, fumes and dust from any

such mill, smelter or other works for the reduction of ores, under the conditions prescribed in this section hereby is declared to be a public use.

(3) The right of eminent domain shall not be exercised by such corporation:

(a) Beyond a radius of four miles from such mill, smelter or other works for the reduction of ores.

(b) On any land situated within a radius of five miles of the corporate limits of any city in the state.

(c) Until after such corporation has acquired the right to use 50 percent of the area of the lands within a radius of four miles from the mill, smelter or other works for the reduction of ores.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.410 - Right of entry and condemnation by mining, quarrying and lumber corporations.**

Any corporation organized for the purpose of opening or operating any gold, silver, or copper vein or lode, or any coal or other mine, or any marble, stone or other quarry, or for cutting or transporting timber, lumber, or cordwood, or for the manufacture of lumber:

(1) May construct and operate railroads, skid roads, tramways, chutes, pipelines and flumes between such points as may be indicated in their articles of incorporation.

(2) May enter upon any land between such points in the manner provided by ORS 35.220 for the purpose of examining, locating and surveying the line of such railroads, skid roads, tramways, chutes, pipelines and flumes, doing no unnecessary damage thereby.

(3) May condemn so much of said land as may be necessary for the purposes of this section, not exceeding 60 feet in width by a condemnation action as prescribed by ORS chapter 35. [Amended by 1953 c.559 §3; 2003 c.477 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.415 - Public benefit and use of facilities constructed under ORS 772.410.**

(1) Railroads, skid roads, tramways, chutes, pipelines or flumes constructed under ORS 772.410 shall be deemed to be for public benefit.

(2) Such railroad shall afford to all persons equal facilities for the transportation of freight upon payment or tender of reasonable compensation therefor, but shall not be required to carry passengers.

(3) Such skidway, tramway, chute, pipeline or flume shall afford to all persons equal facilities in the use thereof for the purpose to which they are adapted, upon tender or payment of the reasonable compensation for such use. [Amended by 1953 c.559 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.420 - Condemnation for transportation of minerals; conditions of reversion.**

(1) Any person requiring land for a right of way for the transportation of the products of mines located in this state may acquire such land for such purposes in the manner and subject to the rights, privileges and liabilities under ORS 376.505 to 376.540.

(2) Lands acquired under this section shall not revert to the original owner, the heirs and assigns of the original owner, until their use as contemplated in this section has ceased for a period of five years.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.505 - Definitions for ORS 772.505 to 772.520.**

As used in ORS 772.505 to 772.520, unless the context otherwise requires:

(1) "Pipeline" includes pipes, lines, natural gas mains or lines and their appurtenances, including but not limited to pumps and pumping stations, used in transporting or distributing fluids, including petroleum and petroleum products or natural gases.

(2) "Pipeline company" includes any corporation, partnership or limited partnership, transporting, selling or distributing fluids, including petroleum products, or natural gases and those organized for constructing, laying, maintaining or operating pipelines, which are engaged, or which propose to engage in, the transportation of such fluids or natural gases. [Amended by 1971 c.655 §242a; 1989 c.821 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.510 - Right of entry and condemnation by pipeline companies.**

(1) Any pipeline company that is a common carrier and that is regulated as to its rates or practices by the United States or any agency thereof, may enter in the manner provided by ORS 35.220 upon lands within this state outside the boundaries of incorporated cities.

(2) This right may be exercised for the purpose of examining, surveying and locating a route for any pipeline, but it shall not be done so as to create unnecessary damage.

(3) These pipeline companies may appropriate and condemn such lands, or easements thereon or thereover, in such width as is reasonably necessary to accomplish their pipeline company purposes, by proceedings for condemnation as prescribed by ORS chapter 35. [Amended by 1971 c.655 §243; 1989 c.821 §2; 2003 c.477 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.515 - Regulation concerning location of facilities.**

- (1) Whenever such pipelines are laid along a public road, they shall be placed as closely as practicable to the extreme outside edge of the right of way of such road.
- (2) With the exception of pumping, compressor, regulator or meter station buildings, no pipes or pipelines shall pass under any building in this state. Such pipes or pipelines shall not pass through or under any cemetery except by the consent of the owner thereof.
- (3) When cultivated lands are appropriated under ORS 772.510, such pipes and pipelines shall be well buried under ground, in conformance with federal pipeline safety regulations in effect at the time of construction, and such surface shall be properly and promptly restored by such pipeline company unless otherwise consented to by the owner of such land.
- (4) When unimproved lands of another are appropriated under ORS 772.510 and such lands thereafter become cultivated or improved, such pipes or pipelines shall be buried by the pipeline company as provided in subsection (3) of this section, within a reasonable time after notice by the owner of such lands, or the agent of the owner, to the pipeline company or its agent. [Amended by 1989 c.821 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.520 - Resolution showing route and termini of pipeline.**

- (1) Prior to the filing of any condemnation action under ORS 772.510, the pipeline company shall adopt a resolution showing the approximate route and termini of the proposed pipeline, or the extension or branch of any existing pipeline.
- (2) A copy of this resolution, certified by the pipeline company, shall be filed in the office of the Secretary of State, in the office of each county clerk of those counties where such pipeline, extension or branch of an existing pipeline is proposed to be constructed, and also in the office of the Public Utility Commission. [Amended by 1989 c.821 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.610 - Definitions for ORS 772.610 to 772.625.**

As used in ORS 772.610 to 772.625, unless the context otherwise requires:

- (1) "Natural gas company" means every corporation, company, association, joint stock association, partnership or person authorized to do business in this state and engaged in the transportation, distribution or underground storage of natural gas.
- (2) "Pipeline" has the meaning given that term in ORS 772.505 (1).
- (3) "Underground reservoir" means any subsurface sand, strata, formation, aquifer, cavern or void whether natural or artificially created, suitable for the injection and storage of natural gas therein and the withdrawal of natural gas therefrom, but excluding a "pool."
- (4) "Underground storage" means the process of injecting and storing natural gas within and withdrawing natural gas from an underground reservoir. [1977 c.296 §8; 1989 c.821 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.615 - Condemnation for underground reservoirs; applicability of ORS chapter 35.**

Any natural gas company may condemn for its use for the underground reservoir, as well as other property or interests in property which may be necessary to adequately maintain and utilize the underground reservoir for the underground storage of natural gas, including easements and rights of way for access to and egress from the underground storage reservoir. The provisions of ORS chapter 35 and ORS 520.340 and 520.350 are applicable to any condemnation action brought under this section. [1977 c.296 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.620 - Placement of pipeline facilities.**

- (1) Whenever a pipeline or appurtenance used in conjunction with the underground storage of natural gas in an underground reservoir is laid along a public road, it shall be placed as closely as practicable to the extreme outside edge of the right of way of the road.
- (2) Such pipeline or appurtenance shall not be located under or pass through or under any cemetery, church, college, schoolhouse, residence, business or storehouse, or through or under any building in this state, except by the consent of the owner thereof.
- (3) When cultivated lands are appropriated under ORS 772.615, such pipelines shall be well buried underground, at least 20 inches under the surface, which shall be properly and promptly restored by the natural gas company unless otherwise consented to by the owner of the land.
- (4) When unimproved lands are appropriated under ORS 772.615 and thereafter become cultivated or improved, such pipelines shall be buried by the natural gas company as provided in subsection (3) of this section, within a reasonable time after notice by the owner of such lands, or the agent of the owner, to the natural gas company or its agent. [1977 c.296 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 772 - Rights of Way for Public Uses Section 772.625 - Resolution showing proposed route and termini of pipeline.**

- (1) Prior to the filing of any condemnation action under ORS 772.615, the natural gas company shall adopt a resolution showing the approximate route and termini of any proposed pipeline, or the extension or branch of any existing pipeline, to be used in



conjunction with the underground storage of natural gas, and showing the location and formation of any underground reservoir to be used for the underground storage of natural gas.

(2) A copy of this resolution shall be filed in the office of the Secretary of State, and also in the office of the county clerk of each county or counties where such pipeline, extension or branch of an existing pipeline, or underground reservoir is proposed to be constructed or utilized for the underground storage of natural gas, and also published in a newspaper of general circulation in each county. [1977 c.296 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.010 - Definitions.**

As used in this chapter, except as otherwise specifically provided or unless the context requires otherwise:

- (1) "Board" means the Citizens' Utility Board of Governors.
- (2) "Consumer" or "utility consumer" means any natural person 18 years of age or older who is a resident of the State of Oregon.
- (3) "District" means an electoral district for members of the Citizens' Utility Board of Governors.
- (4) "Member" means a member of the Citizens' Utility Board.
- (5) "Utility" means any utility regulated by the Public Utility Commission pursuant to ORS chapters 757 and 759, which furnishes electric, telephone, gas or heating service. However, "utility" does not include any municipality, cooperative, or people's utility district. [1985 c.1 §2; 1987 c.447 §102]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.020 - Policy.**

The people of the State of Oregon hereby find that utility consumers need an effective advocate to assure that public policies affecting the quality and price of utility services reflect their needs and interests, that utility consumers have the right to form an organization which will represent their interests before legislative, administrative and judicial bodies, and that utility consumers need a convenient manner of contributing to the funding of such an organization so that it can advocate forcefully and vigorously on their behalf concerning all matters of public policy affecting their health, welfare and economic well-being. [1985 c.1 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.030 - Citizens' Utility Board; powers.**

- (1) The Citizens' Utility Board is hereby created as an independent nonprofit public corporation and is authorized to carry out the provisions of this chapter.
- (2) The Citizens' Utility Board has perpetual succession and it may sue and be sued, and may in its own name purchase and dispose of any interest in real and personal property, and shall have such other powers as are granted to corporations by ORS 65.077. No part of its net earnings shall inure to the benefit of any individual or member of the Citizens' Utility Board.
- (3) The Citizens' Utility Board shall have all rights and powers necessary to represent and protect the interests of utility consumers, including but not limited to the following powers:
  - (a) To conduct, fund or contract for research, studies, plans, investigations, demonstration projects and surveys.
  - (b) To represent the interests of utility consumers before legislative, administrative and judicial bodies.
  - (c) To accept grants, contributions and appropriations from any source, and to contract for services.
  - (d) To adopt and modify bylaws governing the activities of the Citizens' Utility Board. [1985 c.1 §3; 1989 c.1010 §179]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.040 - Membership on board.**

- (1) All consumers are eligible for membership in the Citizens' Utility Board. A consumer shall become a member of the Citizens' Utility Board upon contribution of at least \$5 but not more than \$100 per year to the Citizens' Utility Board. Each member shall be entitled to cast one vote for the election of the Citizens' Utility Board of Governors. The board shall establish a method whereby economically disadvantaged individuals may become members of the Citizens' Utility Board without full payment of the yearly contribution.
- (2) Each year the Citizens' Utility Board shall cause to be prepared, by a certified public accountant authorized to do business in this state, an audit of its financial affairs. The audit is a public record subject to inspection in the manner provided in ORS 192.311 to 192.478. [1985 c.1 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.060 - Board of Governors; duties; executive committee.**

The Citizens' Utility Board of Governors shall manage the affairs of the Citizens' Utility Board. The board may delegate to an executive committee composed of not fewer than five members of the board the authority as would be allowed by ORS 65.354. [1985 c.1 §4; 1989 c.1010 §180]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.070 - Election of board; term; qualifications; statement of financial interest; disqualification of candidate;**

**recall; vacancies.**

- (1) The Citizens' Utility Board of Governors shall be composed of three persons elected from each congressional district of this state by a majority of the votes cast by members residing in that district. The election shall be conducted by mail ballot in such manner as the Citizens' Utility Board of Governors may prescribe.
- (2) The term of office of a member of the Citizens' Utility Board of Governors is four years. A person may not serve more than two consecutive terms on the Citizens' Utility Board of Governors.
- (3) Each candidate and each member of the Citizens' Utility Board of Governors must be a member of the Citizens' Utility Board and must be a resident of the district from which the candidate seeks to be or is elected.
- (4) At least 45 days before an election, each candidate shall file with the Citizens' Utility Board of Governors a statement of financial interests, which shall contain the information in such form as the Citizens' Utility Board of Governors shall determine. Each candidate shall maintain a complete record of contributions received and expenditures made with regard to an election campaign. Each candidate shall make the records available for public inspection at such reasonable times as the Citizens' Utility Board of Governors considers appropriate.
- (5) A member who is employed by a utility is not eligible for appointment or election to the Citizens' Utility Board of Governors, and a member of the Citizens' Utility Board of Governors who obtains employment by a utility may not maintain a position on the Citizens' Utility Board of Governors. While on the board, a director elected under this section may not hold elective public office, be a candidate for any elective public office or be a state public official. A person who owns or controls, either singly or in combination with any immediate family member, utility stocks or bonds of a total value in excess of \$3,000 is not eligible to serve as an elected member of the Citizens' Utility Board of Governors.
- (6) The Citizens' Utility Board of Governors may disqualify any candidate or member of the Citizens' Utility Board of Governors for any violation of this chapter or of the bylaws of the Citizens' Utility Board.
- (7) Upon petition signed by 20 percent of the members in a district for the recall of a member of the Citizens' Utility Board of Governors elected from the district, the Citizens' Utility Board of Governors shall mail ballots to each member in the district, submitting the question whether the member of the Citizens' Utility Board of Governors shall be recalled. If a majority of the members voting at the election vote in favor of the recall, then the member of the Citizens' Utility Board of Governors shall be recalled. Elections and recall proceedings shall be conducted in a manner as the Citizens' Utility Board of Governors may prescribe. Ballots for all election and recall proceedings shall be counted at a regular meeting of the Citizens' Utility Board of Governors.
- (8) The remaining members of the Citizens' Utility Board of Governors shall have the power to fill vacancies on the Citizens' Utility Board of Governors. [1985 c.1 §6; 1997 c.249 §222; 2013 c.1 §94]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.110 - Meetings.**

All meetings of the Citizens' Utility Board of Governors shall be open to the public, except under the same circumstances in which a public agency would be allowed to hold executive meetings under ORS 192.660. [1985 c.1 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.120 - Inclusion of information in utility billings; frequency; notice; duty of utility to forward board mail.**

- (1) Upon request by the Citizens' Utility Board pursuant to this section, each utility shall include in billings to a utility consumer materials prepared and furnished by the Citizens' Utility Board, not exceeding in folded size the dimensions of the envelope customarily used by such utility to send billings to its customers.
- (2) The Citizens' Utility Board shall not intentionally make any false material statement in any material submitted to a utility for inclusion with a billing. If the utility believes that the Citizens' Utility Board has intentionally made false material statements in an enclosure, it may file a complaint with the Public Utility Commission of Oregon within five days of receipt. The Public Utility Commission of Oregon must review the complaint within 10 days, and if the commission determines that the Citizens' Utility Board has intentionally made false material statements, the commission shall give the Citizens' Utility Board of Governors written notification that specifies any false material statements made and the reasons why the commission determines the statements to be false.
- (3) No utility shall be required to enclose Citizens' Utility Board material with a billing more than six times in any calendar year.
- (4) The Citizens' Utility Board shall notify a utility of its intention to include under the provisions of this chapter any material in any specified periodic billing or billings not fewer than 30 calendar days prior to the mailing of the periodic billings and shall supply the utility with the material not fewer than 20 calendar days prior to the mailing of the periodic billings.
- (5) All material submitted by the Citizens' Utility Board for inclusion in a utility billing must include the return address of the Citizens' Utility Board. A utility is not required to deliver or forward to the Citizens' Utility Board material intended for the Citizens' Utility Board mistakenly sent to the utility. However, a utility shall retain such materials for a period of 60 days from the date of receipt. The utility shall notify the Citizens' Utility Board that such materials have been received and make these materials available to the Citizens' Utility Board on demand. [1985 c.1 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.130 - Mailing costs; reimbursement.**

(1) The Citizens' Utility Board shall not be required to pay any postage charges for materials submitted by the Citizens' Utility Board for inclusion in a utility billing if such materials weigh four-tenths of one ounce avoirdupois or less. If the materials submitted weigh over four-tenths of one ounce avoirdupois, then the Citizens' Utility Board shall reimburse the utility for a portion of the postage costs which is equal to that portion of the Citizens' Utility Board material over four-tenths of one ounce avoirdupois in proportion to the total weight of the billing. In addition to postage costs, the Citizens' Utility Board shall reimburse such other reasonable costs, as determined by the Public Utility Commission of Oregon, incurred by a utility in complying with ORS 774.120.

(2) Reimbursement of a utility by the Citizens' Utility Board shall be made within 60 days of the date the utility submits to the Citizens' Utility Board an itemized statement of the costs incurred by the utility. In no event shall such reimbursement exceed the fair market value for the services provided by the utility. [1985 c.1 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.140 - Interference with mailings or contributions.**

(1) No utility, nor any of its employees, officers, members of the board of directors, agents, contractors or assignees, shall in any manner interfere with, delay, alter or otherwise discourage the distribution of any material or statement authorized by the provisions of this chapter for inclusion in periodic utility billings, nor in any manner interfere with, hamper, hinder or otherwise infringe upon a utility consumer's right to contribute to Citizens' Utility Board, nor in any manner hamper, hinder, harass, penalize or retaliate against any utility consumer because of the consumer's contribution to, or participation in, any activities of the Citizens' Utility Board.

(2) No utility may change its mailing, accounting, or billing procedures if such change will hamper, hinder, or otherwise interfere with the ability of the Citizens' Utility Board to distribute materials or statements authorized by this chapter. [1985 c.1 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.160 - Disposition of complaints.**

Citizens' Utility Board may submit to the appropriate agency any complaint it receives regarding a utility company. Public agencies shall periodically inform Citizens' Utility Board of any action taken on complaints received pursuant to this section. [1985 c.1 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.180 - Intervention in agency proceedings affecting utility consumers; standing to obtain judicial or administrative review.**

Notwithstanding any other provision of law:

(1) Whenever the board determines that any agency proceeding may affect the interests of utility consumers, Citizens' Utility Board may intervene as of right as an interested party or otherwise participate in the proceeding.

(2) Citizens' Utility Board shall have standing to obtain judicial or administrative review of any agency action, and may intervene as of right as a party or otherwise participate in any proceeding which involves the review or enforcement of any action by an agency, if the board determines that the action may affect the interests of utility consumers. [1985 c.1 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.190 - Applicability of certain laws to board; protection from liability.**

(1) ORS 279.835 to 279.855 and 283.085 to 283.092 and ORS chapters 278, 279A, 279B, 279C, 282, 283, 291, 292, 293, 295 and 297 do not apply to Citizens' Utility Board or to the administration and enforcement of this chapter. An employee of Citizens' Utility Board is not considered an "employee" as the term is defined in the public employees retirement laws. Citizens' Utility Board and its employees are exempt from the provisions of the State Personnel Relations Law.

(2) ORS chapter 183 does not apply to determinations and actions by the board.

(3) The board, and any of the officers, employees, agents or members of Citizens' Utility Board shall be provided the same protections from liability as the board, officers, employees, agents, or members of any nonprofit corporation of the State of Oregon. [1985 c.1 §15; 2003 c.794 §330; 2012 c.107 §71]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.210 - Remedies; attorney fees.**

(1) Any utility, and any of its employees, officers, members of the board of directors, agents, contractors or assignees which does, or causes or permits to be done, any matter, act or other thing prohibited by this chapter, or omits to do any act, matter or other thing required to be done by this chapter, is liable for any injury to Citizens' Utility Board and to any other person in the amount of damages sustained in consequence of such violation. The court may award reasonable attorney fees to the prevailing party in an action under this section.

(2) Citizens' Utility Board may obtain equitable relief, without bond, to enjoin any violation of this chapter.

(3) Any recovery or enforcement obtained under this section shall be in addition to any other recovery or enforcement under this section or under any statute or common law. Any recovery under this section shall be in addition to recovery by the state of the penalty or fine prescribed for such violation by this chapter. The rights and remedies provided by this chapter shall be in addition to

all other rights and remedies available under law. [1985 c.1 §16; 1995 c.618 §136]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.250 - Severability.**

If any section, portion, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional the remaining sections, portions, clauses and phrases shall not be affected but shall remain in full force or effect, and to this end the provisions of this chapter are severable. [1985 c.1 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 774 - Citizens' Utility Board Section 774.990 - Penalty.**

Willful violation of ORS 774.120 (1) or (5) or 774.140 is a Class A misdemeanor. [1985 c.1 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.015 - Definitions.**

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the Oregon Board of Maritime Pilots.
- (2) "Licensee" means an individual licensed under ORS 776.115.
- (3) "Organization of pilots" means any legal entity or association to which licensees belong as members, or with which licensees are associated, that is formed for cooperative performance of functions including, but not limited to, the dispatching of licensees and trainees, collection of pilotage fees, ownership and operation of pilot boats, distribution of earnings of licensees and trainees, and education and training so as to facilitate the rendition of pilotage services by individual licensees and trainees.
- (4) "Pilotage," "piloting" or "to pilot" means the actions of a licensee or trainee in assisting the master of a vessel under ORS 776.405 while the vessel is on, approaching or departing a pilotage ground, and the associated communication with the vessel.
- (5) "Trainee" means a person the board has licensed under ORS 776.300 and who has met the requirements of ORS 776.540. [1957 c.448 §1; 1981 c.88 §2; 1983 c.330 §1; 1993 c.741 §110; 1993 c.796 §1; 2001 c.403 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.025 - Description of bar and river pilotage grounds.**

Except as may be established by the Oregon Board of Maritime Pilots under ORS 776.115 (3), bar and river pilotage grounds shall be as follows:

- (1) The Columbia River bar pilotage ground extends from a line across the Columbia River along 123° 44" 00' west longitude, then downstream to the open ocean at the entrance to the Columbia River, and includes the navigable waters encompassed by the following boundaries: Beginning at the ocean shore at a point that is 46° 19" 06' north latitude, 124° 04" 06' west longitude; then proceeding due west a distance of five miles to a point that is 46° 19" 06' north latitude, 124° 11" 42' west longitude; then proceeding on an arc in a southerly and southeasterly direction that is two miles west of and parallel to the Three Nautical Mile Line, as determined by the National Oceanic and Atmospheric Administration's Office of Coast Survey, to a southernmost point that is 46° 09" 06' north latitude, 124° 05" 36' west longitude; then due east to shore.
- (2) The Columbia and Willamette River pilotage ground extends from the head of navigation on the Columbia and Willamette Rivers and their tributaries; then downstream to the line across the Columbia River 123° 55" 00' west longitude.
- (3) The Coos Bay bar pilotage ground extends from the head of navigation on Coos Bay and its tributaries; then downstream to the open ocean at the entrance to Coos Bay and includes the navigable ocean area encompassed by the following boundaries: Beginning at the ocean shore; then west along the line of latitude 43° 24" 00' north to the intersection with the line of longitude 124° 22" 00' west; then southwest on a line to the point that is 43° 22" 00' north latitude, 124° 24" 00' west longitude; then southeast on a line to the point that is 43° 20" 00' north latitude, 124° 22" 00' west longitude.
- (4) The Yaquina Bay bar pilotage ground extends from the head of navigation on Yaquina Bay and its tributaries; then downstream to the open ocean at the entrance to Yaquina Bay and includes the navigable ocean area encompassed by the following boundaries: Beginning at the ocean shore; then west along the line of latitude 44° 39" 00' north to the intersection with the line of longitude 124° 08" 00' west; then south along the line of longitude 124° 08" 00' west to the intersection with the line of latitude 44° 35" 00' north; then east along the line of latitude 44° 35" 00' north to the ocean shore. [1957 c.448 §2; 1993 c.741 §112b; 1993 c.796 §1a; 2011 c.157 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.028 - Columbia River bar precautionary zone.**

The Columbia River bar precautionary zone is established. The Columbia River bar precautionary zone extends seaward of the Columbia River bar pilotage ground, lying between the western boundary of the Columbia River bar pilotage ground, and the line drawn as follows: Beginning on shore at a point that is 46° 26" 00' north latitude, 124° 03" 24' west longitude; then proceeding due west to a point that is 46° 26" 00' north latitude, 124° 20" 48' west longitude; then proceeding southwesterly and then southeasterly along the United States 12 nautical mile territorial sea boundary line to a point on that boundary that is 46° 04" 18' north latitude,

124° 14' 06" west longitude; then due east to shore. [2011 c.157 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.035 - Findings.**

The Legislative Assembly finds that:

(1) In order to implement the policies described and inherent in ORS 196.420, 273.553, 465.205, 466.010 and 468B.015 and ORS chapter 274, it is necessary to establish precautionary measures.

(2) Only individuals who have experience and can demonstrate knowledge of currents, tides, soundings, bearings and distances of the shoals, rocks, bars, points of landings, lights and fog signals should direct a large vessel on certain waters of this state. [1991 c.234 §2; 1997 c.16 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.045 - Deck officer requirements.**

(1) All vessels required by ORS 776.405 (1) to engage a licensee under this chapter shall, at all times while underway upon any of the pilotage grounds established under ORS 776.025 or 776.115, have at least two licensed deck officers on the navigation bridge of the vessel, one of whom meets the requirements of ORS 776.405 (1).

(2) The only duties of the licensed deck officer required under ORS 776.405 (1) shall be to monitor and direct safe navigation of the vessel during transit on the waters of this state. [1991 c.234 §4; 1993 c.796 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.105 - Oregon Board of Maritime Pilots; term; qualifications; appointment; quorum.**

(1) The Oregon Board of Maritime Pilots is established within the Public Utility Commission of Oregon, and shall consist of nine members appointed by the Governor for terms of four years. The appointments of members of the board are subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(2) Three members of the board shall be public members, one of whom shall act as chairperson of the board. The public members of the board may not:

(a) During the preceding five years or during their terms of office, have any interest in the ownership, operation or management of any tugs, cargo or passenger vessels or in the carriage of freight or passengers by vessel;

(b) During the preceding five years or during their terms of office, have any interest in any association or organization represented under subsection (4) of this section or principally comprised of persons engaged in commercial pursuits in the maritime industry as described in paragraph (a) of this subsection in any capacity; or

(c) Hold or have held a maritime pilot license issued by any state or federal authority.

(3) Three members shall be licensees under this chapter. One member shall be a Columbia River bar licensee, one member shall be a Columbia River licensee and one member shall be a Coos Bay or Yaquina Bay licensee. A licensee member shall:

(a) Have been licensed for more than three years under this chapter;

(b) Be actively engaged in piloting; and

(c) Be a resident of this state.

(4) Except as provided in subsection (5) of this section, three members of the board shall, for at least three years immediately preceding their appointment, have been and during their terms of office be engaged in the activities of a person, as defined in ORS 174.100, that operates or represents commercial oceangoing vessels.

(5) The Governor may appoint a past or present employee or commissioner of a port to serve on the board in lieu of one of the operators or representatives of a commercial oceangoing vessel under subsection (4) of this section.

(6)(a) The majority of members shall constitute a quorum for the transaction of all business if at least one member of each group, as described in subsections (2), (3) and (4) of this section, is present.

(b) Notwithstanding paragraph (a) of this subsection, when the board fixes pilotage fees under ORS 776.115 (5) a quorum shall consist of seven members.

(c) Notwithstanding paragraph (a) of this subsection, for purposes of ORS 192.610 to 192.705 a quorum shall consist of five members.

(7) The commission may appoint a member of the commission, or a designee, as a nonvoting, ex officio member of the board.

(8)(a) The commission is responsible for the administrative oversight of the board. The responsibilities of the commission include, but are not limited to:

(A) Budgeting;

(B) Financial management;

(C) Record keeping;

(D) Staffing;

(E) Purchasing and contracting;

(F) Collecting fees; and

(G) Compliance with rulemaking procedures set forth in ORS chapter 183.

(b) In consultation with the board, the commission shall:

- (A) Fix the qualifications of and appoint an executive director and an administrative officer for the board; and
- (B) Subject to the State Personnel Relations Law, fix the compensation of the executive director and the administrative officer. [1957 c.448 §3; 1963 c.580 §93; 1967 c.401 §8; 1969 c.314 §102; 1971 c.753 §41; 1981 c.88 §3; 1987 c.414 §89; 1987 c.775 §4; 1993 c.741 §111; 1993 c.796 §3; 2005 c.508 §1; 2007 c.768 §63; 2013 c.539 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.115 - Powers and duties of board; rules; fees.**

The Oregon Board of Maritime Pilots shall:

- (1) Fix the manner of calling and fixing the places of meetings and hold at least one meeting each calendar year.
- (2) Provide for efficient and competent pilotage service on all pilotage grounds, and regulate and limit the number of licensees and trainees under this chapter, such number of licensees and trainees to be regulated and limited to the number found by the board to be required to render efficient and competent pilotage service. The primary consideration of the board is public safety. If a proposed rule would result in the significant limitation of competition among licensees or pilot organizations that exist in this state on January 1, 1991, the board shall first make a determination that the proposed rule is essential to protect the safety of the public.
- (3) Establish and fix the boundaries of pilotage grounds not described in ORS 776.025.
- (4) In accordance with the applicable provisions of ORS chapter 183, establish by rule a licensing system for persons licensed to pilot, for persons licensed as trainees and for pilot organizations who train persons to pilot, including but not limited to provisions prescribing:
  - (a) The form and content of and the times and procedures for submitting an application for license issuance and renewal. The pendency of an investigation shall not affect the renewal process.
  - (b) The term of license of a pilot and the annual license fee, subject to the maximum annual license fee established pursuant to ORS 776.357.
  - (c) The requirements for and the manner of testing competency of license applicants.
  - (d) Those actions or circumstances that constitute failure to achieve or maintain competency or that otherwise constitute a danger to public health and safety and for which the board may refuse to issue or renew a license, may suspend or revoke a license or may reprimand a licensee.
  - (e) Classes of licenses that specify the size of vessels the licensee is authorized to be trained to pilot or to pilot on those river pilotage grounds for which the trainee or pilot is licensed.
- (5)(a) Fix, at reasonable and just rates, pilotage fees, extra fees for vessels in distress, fees for extraordinary pilotage services, fees for a licensee or trainee being carried to sea unwillingly and reimbursement for the return to station or for the detention of a licensee or trainee, except that pilotage fees shall not be less inbound or outbound on vessels, propelled in whole or in part by their own power, than the following:
  - (A) Between Astoria and Portland or Vancouver, \$2.50 per foot draft and 2 cents per net ton;
  - (B) Between Astoria or Knappton and the sea, \$3 per foot draft and 2 cents per net ton;
  - (C) Between Yaquina Bay and the sea, \$3 per foot draft and 2 cents per ton; and
  - (D) Between Coos Bay and the sea, \$2.50 per foot draft and 2 cents per ton.
- (b) In fixing fees pursuant to paragraph (a) of this subsection, the board shall give due regard to the following factors:
  - (A) The length and net tonnage of the vessels to be piloted.
  - (B) The difficulty and inconvenience of the particular service and the skill required to render it.
  - (C) The supply of and demand for pilotage services.
  - (D) The public interest in maintaining efficient, economical and reliable pilotage service.
  - (E) Other factors relevant to the determination of reasonable and just rates.
- (6) Conduct or authorize the holding of hearings. In so doing the board or the administrative law judge may issue subpoenas pursuant to ORS 776.123, conduct investigations pursuant to ORS 776.126, administer oaths, take depositions and fix the fees and mileage of witnesses.
- (7) Adopt any rule or make any order, as set forth in ORS chapter 183, for the effective administration and enforcement of this chapter.
- (8) Establish rates pursuant to subsection (5) of this section, for a period of not less than two years, that continue in effect until a subsequent hearing process. Rates may include automatic adjustment provisions to reflect changing economic conditions. [1957 c.448 §4; 1981 c.88 §5; 1983 c.313 §5; 1987 c.158 §157; 1987 c.775 §3; 1991 c.234 §8; 1993 c.741 §112; 1993 c.796 §4; 2003 c.75 §110; 2003 c.619 §1; 2007 c.621 §1; 2009 c.280 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.118 - Additional authority of board.**

In addition to its authority under ORS 776.115, the Oregon Board of Maritime Pilots may:

- (1) Establish pilotage requirements for all single boiler or single engine and single screw tank vessels carrying oil in pilotage grounds;
- (2) Review and, if appropriate, reduce deadweight tonnage specifications for pilotage service for vessels carrying oil;
- (3) Establish regional speed limits, based on escort vehicle limitations, for all tank vessels in inland navigable waters and critical

approaches to inland navigable waters; and

(4) Establish a program for a near-miss reporting system. [1991 c.651 §21; 1993 c.796 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.123 - Subpoenas.**

(1) The Oregon Board of Maritime Pilots may issue subpoenas to compel the attendance of witnesses and the production of records, documents, books, papers, memoranda or other information necessary to conduct an investigation under ORS 776.115, 776.375 or 776.405.

(2) If a person fails to comply with a subpoena issued under this section, a judge of the circuit court, on the application of the board, shall compel obedience by instituting proceedings for contempt in the same manner that the court would institute proceedings for contempt when a person fails to comply with a subpoena in a civil action. [2009 c.280 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.126 - Inspection of premises, ship or facility.**

(1) When conducting an investigation under ORS 776.115, 776.375 or 776.405, the Oregon Board of Maritime Pilots or its authorized representative may enter and investigate a premises, ship or facility.

(2) When conducting an investigation under subsection (1) of this section, the board or its authorized representative may:

(a) Examine the records, documents, books, papers, memoranda or other information kept at the premises, ship or facility.

(b) Examine under oath an officer, agent or employee of the premises, ship or facility.

(3) If the board or its authorized representative is inspecting a premises, ship or facility that is not open to the public, the board or the representative shall present credentials to the owner or occupant of the premises, ship or facility and obtain the consent of the owner or occupant before conducting the inspection. If the owner or occupant denies entry to the premises, ship or facility, the board or the representative must obtain a warrant to conduct the inspection.

(4) The board or its authorized representative may use information obtained during an investigation only to fulfill the board's duties under ORS 776.115, 776.375 or 776.405. [2009 c.280 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.129 - Administrative law judge for rate hearings; recommendations from other agencies; assessing costs and expenses of hearing.**

(1) When the Oregon Board of Maritime Pilots establishes rates described in ORS 776.115 (5), the board shall contract with and compensate the Public Utility Commission of Oregon for the use of administrative law judges assigned by the commission to conduct the rate proceeding. Notwithstanding ORS 183.413 to 183.470, an administrative law judge shall conduct the proceeding in compliance with procedures adopted by the board by rule. The administrative law judge and the board may receive and consider recommendations made by the Oregon Business Development Department and the Port of Portland.

(2) The board may defray the costs and expenses of the hearing by assessing, in its final order, all or a portion of the costs and expenses of the hearing to a party to the hearing. [1987 c.775 §2; 1989 c.171 §85; 1989 c.293 §1; 1993 c.741 §112a; 1993 c.796 §6; 1999 c.849 §§178,179; 2003 c.75 §63; 2003 c.619 §2; 2007 c.288 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.135**

[Subsection (1) enacted as part of 1957 c.448 §5; subsection (2) enacted as 1957 c.448 §24; 1971 c.734 §184; 1983 c.313 §1; repealed by 1993 c.796 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.300 - Trainee license; qualifications; assignment for training; rules.**

(1) No person shall be licensed as a trainee under this chapter unless the person meets the experience and educational requirements established by the Oregon Board of Maritime Pilots by rule including provisions pursuant to a program to carry out ORS 243.305 and 776.115 (2).

(2) The board shall assign trainees to organizations of pilots licensed under ORS 776.311. Trainees shall be trained to become licensees by one or more organizations of pilots. The board may adopt by rule training requirements. [1981 c.88 §7; 1993 c.796 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.311 - Organizations licensed to train pilots.**

(1) No organization of pilots shall be licensed to train persons to be pilots under this chapter unless the organization:

(a) Has members who are licensed to pilot under ORS 776.325; and

(b) Meets other requirements established by the Oregon Board of Maritime Pilots.

(2) The board shall license at least one pilot organization on each pilotage ground.

(3) Organizations of pilots shall train only persons who are licensed as trainees and have been assigned for training by the board

under ORS 776.300. [1993 c.796 §8b]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.325 - Qualifications of licensees.**

(1) No person shall be licensed to pilot under this chapter unless the person:

(a) Was licensed as a trainee or licensee prior to submitting an application to be licensed to pilot and has met the training requirements established by the Oregon Board of Maritime Pilots; and

(b) Possesses the requisite skill and the experience as a navigator and pilot, as demonstrated by satisfactory performance on such written examinations as the board may prescribe, together with practical knowledge of the currents, tides, soundings, bearings and distances of the several shoals, rocks, bars, points of landings, lights and fog signals of or pertaining to the navigation of the pilotage ground for which application is made for a license to pilot.

(2) An applicant for a license over any river pilotage ground must have at least six months' continuous experience, as determined by the board, as a trainee on vessels subject to ORS 776.405 piloting oceangoing vessels over the pilotage ground for which application is made, prior to making application for a license, and must have had the necessary experience in handling oceangoing vessels through the bridges, under varying conditions with and without towboats.

(3) An applicant for a license on bar pilotage grounds shall satisfy the board that the applicant has means available for boarding and leaving vessels which the applicant may be called upon to pilot. [1957 c.448 §15; 1973 c.827 §82; 1981 c.88 §8; 1983 c.313 §2; 1985 c.32 §2; 1993 c.796 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.355 - License fees; rules.**

(1) Except as provided in subsection (2) of this section, each licensee under this chapter shall pay an annual license fee to the Oregon Board of Maritime Pilots not to exceed the amount established under ORS 776.115. Subject to prior approval of the Oregon Department of Administrative Services, the amount of the fee shall be adjusted by the Oregon Board of Maritime Pilots to finance costs as defined by the legislatively approved budget, as it may be modified by the Emergency Board.

(2) The Oregon Board of Maritime Pilots by rule may establish reduced license fees for those individuals who engage in pilotage activities on less than a full-time basis. However, in no event shall the fee be less than \$50. [1957 c.448 §22; 1963 c.105 §2; 1973 c.832 §68; 1977 c.40 §2; 1979 c.11 §2; 1981 c.88 §9; 1983 c.313 §4; 1985 c.271 §2; 1989 c.293 §2; 1991 c.466 §1; 1991 c.703 §41; 1993 c.796 §9; 2023 c.602 §31]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.357 - Maximum maritime pilot license fee.**

(1) The maximum annual license fee for a maritime pilot is \$2,500 for the biennium beginning July 1, 2007.

(2) The Oregon Board of Maritime Pilots shall adjust the amount of the maximum annual license fee for a maritime pilot for each subsequent biennium by a proportional amount equal to the percentage change in the 24-month period prior to the beginning of the biennium in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor. [2007 c.621 §2; 2019 c.57 §34]

Note:

776.357 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 776 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.365 - Pilot Account; uses.**

The Pilot Account is established in the State Treasury, separate and distinct from the General Fund. All moneys received by the Oregon Board of Maritime Pilots under this chapter shall be deposited in the account. All moneys in the account are continuously appropriated to the board and the board may use the moneys only to carry out the duties, functions and powers of the board, for the administration and enforcement of this chapter and for expenses incurred by the Public Utility Commission in its oversight of the board. [1957 c.448 §23; 1983 c.740 §256; 2007 c.768 §68; 2013 c.539 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.375 - Disciplinary proceedings; administrative procedures; judicial review.**

(1) Where the Oregon Board of Maritime Pilots proposes to refuse to issue or renew a license to pilot, or proposes to revoke or suspend a license or proposes to issue a written reprimand, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Adoption of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be as provided in ORS chapter 183. Contested case hearings shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605. [1971 c.734 §186; 1981 c.88 §14; 1993 c.796 §10; 1999 c.849 §§181,182; 2003 c.75 §64]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and**



**PilotageSection 776.405 - License required; exemptions.**

(1)(a) Except as set forth in paragraph (c) of this subsection, a person may not pilot any vessel upon any of the pilotage grounds established under ORS 776.025 or 776.115 without being a licensee under this chapter or a trainee under the onboard supervision of a licensee under this chapter.

(b) Except as set forth in paragraph (c) of this subsection, a person may not pilot any vessel in the Columbia River bar precautionary zone, either to enter or depart the Columbia River bar pilotage ground, except pursuant to instructions from a licensee under this chapter for the Columbia River bar pilotage ground, provided however that the master of a vessel transiting the Columbia River bar precautionary zone remains at all times in full command of the vessel and is responsible to take all reasonable steps to safely navigate the Columbia River bar precautionary zone.

(c) Paragraphs (a) and (b) of this subsection do not apply to:

(A) The master of a vessel under fishery, recreational or coastwise endorsement provided under 46 U.S.C. chapter 121;

(B) A vessel registered with the State Marine Board or a similar licensing agency of another state;

(C) The master of a foreign registered fishing or recreational vessel, exempted by the Oregon Board of Maritime Pilots, of not more than 100 feet in length or 250 gross tons international; or

(D) United States flag towing vessels under 200 gross tons domestic and their towed barges of 10,000 gross tons domestic or less, excluding tank vessels as defined by ORS 468B.300, that are engaged in the foreign trade between British Columbia and the Coos Bay bar pilotage ground established by ORS 776.025 (3), provided that the towing vessel is under the navigational control of a person holding the federal mariner license required for the towing vessel when operating under a coastwise endorsement.

(2) A licensee under this chapter is at all times the servant of the vessel being piloted and its owners and operators. [1957 c.448 §25(1); 1973 c.650 §1; 1983 c.330 §3; 1985 c.34 §3; 1991 c.234 §3; 1993 c.796 §11; 2001 c.104 §296; 2011 c.157 §4; 2017 c.292 §1]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 776 - Maritime Pilots and PilotageSection 776.415 - Compensation of licensees determined by law.**

No licensee shall demand or receive any greater, lesser or different compensation for piloting a vessel upon any of the pilotage grounds than is allowed by law. [1957 c.448 §25(2); 1993 c.796 §12]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 776 - Maritime Pilots and PilotageSection 776.425 - Authority of licensees generally; compensation.**

Within the scope of the license, a licensee may pilot any vessel and demand and receive therefor the compensation allowed by law. [1957 c.448 §20(1); 1973 c.650 §2; 1985 c.32 §3; 1993 c.796 §13]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 776 - Maritime Pilots and PilotageSection 776.435 - Refusing services of licensee; liability for pilotage fee.**

The master or person in charge of any vessel may refuse to accept the services of any particular licensee and shall call for another licensee, in which case the vessel and the owners, operators and agents of the vessel are liable only for the services of the licensee employed. [1957 c.448 §20(2); 1983 c.330 §2; 1991 c.234 §5; 1993 c.796 §14]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 776 - Maritime Pilots and PilotageSection 776.445 - Liability of certain persons for licensee's compensation.**

In addition to the lien of the licensee upon the vessel for any sum due for piloting, the master, owner and consignee or agent are jointly and severally liable to the licensee therefor. [1957 c.448 §21; 1993 c.796 §15]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 776 - Maritime Pilots and PilotageSection 776.455 - Exhibition of license on boarding vessel.**

On boarding a vessel and if required by the master thereof, a licensee shall exhibit the license before the licensee is authorized to perform a piloting assignment. [1957 c.448 §19; 1993 c.796 §16]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 776 - Maritime Pilots and PilotageSection 776.510 - Declaration of legislative intent relating to liability of licensees, trainees and organizations.**

(1) The stimulation and preservation of maritime commerce on the bar and river pilotage grounds of this state are declared to be affected with the public interest and the limitation and regulation of liability of licensees, trainees and organizations of pilots are necessary to such stimulation and preservation of maritime commerce and are deemed to be in the public interest.

(2) To accomplish the stimulation and preservation of maritime commerce it is necessary to establish an optional rate system whereby vessels and persons engaging the services of a licensee have the option of:

(a) Agreeing not to assert any personal liability against any licensee, trainee and organization of pilots to which the licensee or trainee belongs, and to defend, indemnify and save harmless the licensee, trainee and organization of pilots against all claims and demands arising from acts or omissions of the licensee, trainee or organization of pilots which relate, directly or indirectly, to

pilotage of the vessel; or

(b) Directing licensees in writing and in sufficient time for insurance to be procured by them, on a "trip" basis, insuring such licensees, trainees and organizations of pilots to which they belong against all claims or demands arising from or relating to, directly or indirectly, pilotage of the vessel, the premium or cost of such insurance to be included in the charges for pilotage services and paid on demand by the vessel.

(3) The Legislative Assembly hereby declares that to effect the ends and purposes listed in this section, and to maintain pilotage fees at reasonable levels on the bar and river pilotage grounds of this state, ORS 776.520, 776.530 and 776.540 are adopted. [1959 c.404 §2; 1983 c.330 §4; 1993 c.796 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.520 - Tariffs limiting liability of licensees, trainees or organizations.**

Licensees and trainees are authorized to limit their liability and the liability of any organization of pilots to which they belong by tariffs approved by the Oregon Board of Maritime Pilots containing substantially the terms and provisions of the following form:

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The provisions of ORS 776.510 and 776.540 hereby are incorporated into and made a part of this tariff. By reason of the option granted by ORS 776.510, the rates and charges named in this tariff do not include the cost of marine insurance insuring the licensee, trainee and any organization of pilots to which the licensee or trainee belongs, the vessel, its owners, agents or operators from the consequences of negligence or errors in judgment of the licensees, trainees or organizations of pilots.

However, upon reasonable notice to the licensees in writing from the vessel, its master, owners, agents or operators, the licensees parties hereto will procure such insurance on a "trip" basis in an amount equal to the value of the vessel and its cargo, or such other amount as may be agreed upon between the licensees and the vessel, its master, owners, agents or operators, insuring the licensees and the organizations of pilots to which they belong against all claims or demands arising from or based upon, directly or indirectly, pilotage of the vessel. The premium for such insurance shall be assessed in addition to the rates and charges specified herein.

The election of the vessel, its master, owners, agents or operators not to request licensees parties hereto to procure such insurance and thereby to elect to have the licensees parties hereto perform services on the rates and charges specified herein shall constitute a binding and irrevocable agreement on the part of the vessel, its master, owners, agents or operators to the terms and conditions of the following:

It is understood and agreed, and is the essence of the contract under which services of the licensee are tendered to and accepted by the vessel, its master, operators and owners, that:

(1) The services rendered hereunder are rendered by a licensee;

(2) The services of any individual licensee have been voluntarily accepted and are voluntarily rendered pursuant to the election authorized by ORS 776.510;

(3) Such services are advisory in nature only, the master of the vessel remaining at all times in full command of the vessel and empowered to relieve the licensee of duties;

(4) The services of the licensee and, if applicable, trainee are accepted on the express understanding that when the licensee and trainee go aboard the vessel the licensee and trainee become the servants of the vessel and its owners and operators. Except as to such personal liability and rights over as may arise by reason of the willful misconduct or gross negligence of the licensee or trainee, the master, owners and operators of the vessel expressly covenant and agree:

(a) Not to assert directly or indirectly, any personal liability against the licensee, trainee, any organization of pilots to which the licensee or trainee belongs, and any members of such organization;

(b) Not to respond in damage (including any rights over) arising out of or connected with, directly or indirectly, any damage, loss or expense sustained by the vessel, its master, owners, operators and crew, and any third parties (including cargo), even though resulting from acts or omissions of any organization of pilots to which the licensee or trainee belongs, from acts or omissions of its members, or any acts or omissions of the licensee or trainee; and

(c) To defend, indemnify and hold harmless the licensee, trainee, any organization of pilots to which the licensee or trainee belongs, and any members of such organization, from any claims whatsoever for damages, loss or expense arising out of, or connected with any acts or omissions of the licensee, trainee or organization of pilots which relate, directly or indirectly, to pilotage of the vessel;

(5) The master, owners and operators of the vessel shall not be liable to indemnify and hold harmless the licensee, trainee and any organization of pilots to an extent greater than the amount to which the liability of the vessel, its owners and operators, is limited by reason of contract, bill of lading or statute, including but not limited to, the Limitation of Liability Act (46 U.S.C. 181-189), the Harter Act (46 U.S.C. 190-195), the Carriage of Goods by Sea Act (46 U.S.C. 1300-1315), and the Federal Water Pollution Control Act (33 U.S.C. 1321); and

(6) The fees charged for the services rendered by the licensee and trainee have been computed and are assessed in accordance with and based upon the above stipulations.

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[1959 c.404 §3; 1973 c.650 §3; 1983 c.330 §5; 1993 c.796 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.530 - Licensees, trainees and organizations not liable for certain acts or omissions.**

An organization of pilots shall not be liable for any claims arising from acts or omissions of a licensee, trainee or organization of pilots which relate, directly or indirectly, to pilotage of a vessel. A licensee or trainee shall not be liable either directly or as a member or associate of an organization of pilots for any claims arising from acts or omissions of any other licensee, trainee or any organization of pilots which relate, directly or indirectly, to pilotage of a vessel. This section does not apply to acts or omissions relating to the ownership and operation of pilot boats or the transportation of licensees and trainees to and from the vessel being piloted. [1983 c.330 §8; 1993 c.796 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.540 - Security required of licensees and trainees; conditions of bond; limitation of liability.**

(1) Each licensee and trainee shall procure and furnish to the Oregon Board of Maritime Pilots a security in the sum of \$250 as a surety bond or an irrevocable letter of credit, in a form approved by the board and underwritten by a surety company authorized to engage in business in the State of Oregon or issued by an insured institution, as defined in ORS 706.008, or as a cash deposit in a form approved by the board. The cash deposit, letter of credit or bond shall be conditioned so as to pay the sum to any person, firm, corporation or other legal entity who or which shall suffer any loss or damage by reason of any negligent act or omission of the licensee or trainee which relates, directly or indirectly, to pilotage of the vessel. No licensee or trainee shall be liable for any such act or omission beyond the amount of the security. However, this limitation of liability shall not apply:

(a) To willful misconduct on the part of the licensee or trainee;

(b) To the extent to which insurance is procured pursuant to the option granted by ORS 776.510 and 776.520; or

(c) To acts or omissions relating to the ownership and operation of pilot boats or the transportation of licensees and trainees to and from the vessel being piloted.

(2) When any suit or action is brought in any court against a licensee or trainee for any such act or omission in respect of which liability is limited as provided by this section and other claims are made or anticipated in respect of the same act or omission, upon payment by the licensee or trainee of the amount of the security into the court in which such suit or action is brought, the court shall distribute that amount ratably among the several claimants and shall dismiss the proceedings as to the licensee or trainee. [1983 c.330 §7; 1985 c.29 §1; 1991 c.331 §138; 1993 c.796 §20; 1997 c.631 §553]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.600 - Restrictions on licensee's or trainee's financial interest in boat or equipment assisting vessel piloted by licensee or trainee.**

(1)(a) Except as provided in paragraph (b) of this subsection, a licensee or trainee may not pilot a vessel on the Coos Bay bar pilotage ground or the Yaquina Bay bar pilotage ground if the licensee or trainee, or an immediate family member of the licensee or trainee, has any financial interest in a boat or equipment assisting the vessel in entering or exiting the bay.

(b) The Oregon Board of Maritime Pilots shall adopt rules allowing a licensee or trainee who is prohibited from piloting a vessel under paragraph (a) of this subsection to pilot the vessel in an emergency, and fixing rates for pilotage under this paragraph.

(2) This section does not prohibit a licensee or trainee from piloting a vessel if the licensee or trainee, or an immediate family member of the licensee or trainee, owns stock in a corporation registered on a national securities exchange that owns boats or equipment assisting ships on the Coos Bay bar pilotage ground or the Yaquina Bay bar pilotage ground. [2012 c.55 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.800 - Collection of fee; remittance.**

(1) Except as provided in subsection (2) of this section, each licensee under this chapter shall collect a board operations fee from each vessel using the services of a licensee. The purpose of the fee is to allow the Oregon Board of Maritime Pilots to carry out its duties, functions and powers under this chapter. The fee may not exceed the amount described in ORS 776.810.

(2) The fee described in subsection (1) of this section shall be collected in the following manner:

(a) For vessels entering or leaving the Columbia River, licensees for the Columbia River bar pilotage ground shall collect the fee from inbound vessels and licensees for the Columbia and Willamette River pilotage ground shall collect the fee from outbound vessels.

(b) For vessels entering or leaving Coos Bay or Yaquina Bay, licensees for the Coos Bay or Yaquina Bay pilotage ground shall collect the fee from inbound and outbound vessels.

(3) The board shall prescribe the procedures for collecting and remitting the fee imposed under this section.

(4) Each quarter the board shall review the amount of the fee. If the board determines that the fee should be adjusted, then the board may adjust the fee subject to prior approval of the Oregon Department of Administrative Services. [2013 c.539 §3; 2023 c.602 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.810 - Maximum amount of fee; adjustment of fee.**

(1) Subject to subsection (2) of this section, the maximum board operations fee for a vessel is \$100.

(2) The Oregon Board of Maritime Pilots shall adjust the amount of the maximum board operations fee for a vessel each biennium beginning July 1, 2015, by a proportional amount equal to the percentage change in the 24-month period prior to the beginning of

the biennium in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor. [2013 c.539 §4; 2019 c.57 §35]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.880 - Civil penalties.**

(1) In addition to any other penalty provided by law, any licensee or trainee who commits any act for which the Oregon Board of Maritime Pilots could revoke, suspend or refuse to issue or renew a license is subject to a civil penalty in an amount determined by the board of not more than \$250 for each offense.

(2) Any person who violates the provisions of ORS 776.405 (1)(a) is subject to a civil penalty in an amount as determined by the board of not less than \$5,000 and not more than \$50,000.

(3) Any person who violates the provisions of ORS 776.405 (1)(b) is subject to a civil penalty in an amount as determined by the board of not more than \$5,000 for each offense.

(4) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(5) All amounts recovered under this section are subject to ORS 776.365. [1981 c.88 §11; 1991 c.234 §6; 1991 c.734 §102; 1993 c.796 §21; 2011 c.157 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 776 - Maritime Pilots and Pilotage Section 776.991 - Criminal penalties.**

Violation of any of the provisions of this chapter is a Class B misdemeanor. Notwithstanding ORS 137.286 and 161.635, the minimum fine for a violation of ORS 776.405 (1)(a) is \$5,000 and the maximum fine is \$50,000. [1957 c.448 §26; 1991 c.234 §7; 2011 c.597 §300]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.003**

[1987 c.607 §3; renumbered 285.800 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.005 - Definitions for ORS 777.005 to 777.725 and 777.915 to 777.953.**

As used in ORS 777.005 to 777.725 and 777.915 to 777.953, unless the context requires otherwise:

(1) "Board" means the board of commissioners of a port.

(2) "County" means the county in which the port, or the greater portion of the area of the port, is located.

(3) "County board" means the county court or the board of county commissioners of the county.

(4) "County clerk" means the county clerk of the county.

(5) "Port" means a port formed pursuant to ORS 777.010 and 777.050.

(6) "Owner" or "landowner" means the record owner of real property or the vendee of a recorded contract of purchase of real property, if any, to the exclusion of the vendor. [Amended by 1971 c.728 §1; 1983 c.83 §109; 2003 c.802 §148]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.010 - Areas that may be included in port.**

(1) Ports may be formed in the manner provided in this section and ORS 777.050.

(2) A proposed port may include all the territory in one county. However, where a petition is filed for formation of a port, the territorial limits of which do not include the county as a whole, the limits proposed by the petition shall not extend beyond the natural watershed of any drainage basin whose waters flow into another bay, estuary or river navigable from the sea situate within the county. [Amended by 1959 c.602 §1; 1963 c.209 §1; 1967 c.342 §1; 1971 c.727 §182; 1971 c.728 §2; 2003 c.802 §149]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.050 - Operation and effect of proclamation; general corporate powers and capacity.**

From the date of the formation order, the port specified in the order shall:

(1) Have perpetual succession.

(2) Have, and may exercise and carry out, the corporate powers and objects declared by ORS 777.005 to 777.725 and 777.915 to 777.953.

(3) Make all contracts, hold, receive and dispose of real and personal property, and do all other acts and things which may be requisite, necessary or convenient in carrying out the objects of the corporation or exercising the powers conferred upon it.

(4) Sue and be sued, plead and be impleaded in all actions, suits or proceedings brought by or against it. [Amended by 1971 c.727 §184; 1971 c.728 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.065 - Development of port facilities at certain ports as state economic goal; state agencies to assist**

**ports.**

The Legislative Assembly recognizes that assistance and encouragement of enhanced world trade opportunities are an important function of the state, and that development of new and expanded overseas markets for commodities exported from the ports of this state has great potential for diversifying and improving the economic base of the state. Therefore, development and improvement of port facilities suitable for use in world maritime trade at the Ports of Umatilla, Morrow, Arlington, The Dalles, Hood River and Cascade Locks and the development of deepwater port facilities at Astoria, Coos Bay, Newport, Portland and St. Helens is declared to be a state economic goal of high priority. All agencies of the State of Oregon are directed to assist in promptly achieving the creation of such facilities by processing applications for necessary permits in an expeditious manner and by assisting the ports involved with available financial assistance or services when necessary. [1981 c.879 §6; 1993 c.106 §1]

Note:

777.065 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 777 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.080 - Application of special district election laws to ports.**

(1) ORS chapter 255 governs the following:

(a) The nomination and election of district commissioners.

(b) The conduct of district elections.

(2) The electors of the district may exercise the powers of the initiative and referendum regarding a district measure, in accordance with ORS 255.135 to 255.205. [1983 c.350 §325]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.090 - Agreements between ports; allocation of expenses and revenues.**

A port may enter into agreements with other ports to exercise jointly all powers granted to any of the agreeing ports. The agreement may authorize joint acquisition of real property or other interests in land and may provide for the allocation among the agreeing ports of expenses incurred or revenues received in the performance of the agreement. [1981 c.879 §10]

Note:

777.090 to 777.100 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 777 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.095 - Agreement between Port of Astoria and State Land Board concerning deepwater port facility at Tongue Point; division of revenue; board's share credited to Common School Fund.**

Any agreement between the Port of Astoria, individually or in conjunction with another port, pursuant to ORS 777.090, and the State Land Board shall specify a division between the parties of all net revenues accruing from the management of the deepwater port facility at Tongue Point. The State Land Board's share of the net revenues shall be transferred to the Department of State Lands and credited to the Common School Fund. [1981 c.879 §9]

Note:

See note under 777.090.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.100 - Annual report to legislative committees concerning agreements made under ORS 777.090.**

Annually, the directors of any agreeing ports and the Director of the Department of State Lands shall report to appropriate legislative committees the nature of all agreements made under ORS 777.090 and accomplishments thereunder. [1981 c.879 §11; 2007 c.354 §26]

Note:

See note under 777.090.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.105 - Bay, river and harbor improvement.**

A port may improve bays, rivers and harbors within its limits and between its limits and the sea for the width and length and to the depth the port considers necessary or convenient for the use of shipping and as the means at its disposal will allow. It may construct the canals, basins and waterways necessary or convenient for the use of shipping or the extension of the commerce of the port.

[Amended by 1971 c.728 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.108 - Agreements between two or more ports.**

Two or more ports may enter agreements, to exercise jointly all powers granted to each of the agreeing ports individually. In the

exercise of such powers ports may acquire jointly all lands, rights in real property, leases or easements necessary for their purposes. However, ports so acting jointly shall not acquire real property or rights in any other port without the consent of such port. [1961 c.367 §2; 1971 c.728 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.110 - Contracts with federal government.**

A port may:

- (1) Contract with the federal government to do all or part of the work of making or maintaining, or both, a depth of water in the bays, harbors or rivers as determined by the federal government; and
- (2) Receive therefor compensation as agreed between the federal government and the port. [Amended by 1971 c.728 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.112 - Contracts or intergovernmental agreements between ports and others.**

- (1) A port may enter into intergovernmental agreements under ORS chapter 190 for any purpose permitted under that chapter.
- (2) Any port may enter into a contract with any person or into an intergovernmental agreement under ORS chapter 190 for the use and control of water for promoting erosion control, pollution control or otherwise protecting, maintaining and enhancing waters within the boundaries of the port district.
- (3) Expenses incurred or revenues received in the performance of a contract or agreement entered into under subsections (1) and (2) of this section shall be allocated among the parties as the contract or agreement shall provide. [1961 c.367 §3; 1971 c.691 §1; 1971 c.728 §139; 2003 c.802 §150; 2017 c.84 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.113 - Port assistance to public bodies within port boundaries.**

Consistent with the purposes, functions and powers granted to it by law, a port may provide research or technical assistance for the planning, promotion or implementation of commercial, industrial or economic development projects upon request by any public body as defined in ORS 174.109 within the boundaries of the port. [1977 c.209 §2; 2003 c.802 §151]

Note:

777.113 was added to and made a part of ORS chapter 777 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.116 - Port may acquire real and personal property; appraisal by state certified appraiser required; purchase contract limited.**

- (1) A port may acquire, by condemnation or other lawful method, hold, use, enjoy and convey, lease or otherwise dispose of real and personal property, or any interest therein, necessary or convenient in carrying out its powers. Condemnation proceedings shall be conducted as provided by ORS chapter 35.
- (2)(a) A port may not purchase real property unless the port first obtains an appraisal of the fair market value of the property from a state certified appraiser who is disinterested in the transaction and independent of the port.
- (b) If the appraisal obtained under paragraph (a) of this subsection concludes that the value of the property exceeds \$2,000,000, then the port must obtain an additional appraisal of the fair market value of the property before purchasing the property. The appraiser who conducts the additional appraisal must be a state certified appraiser but need not be disinterested in the transaction or independent of the port.
- (c) Nothing in this subsection requires the port to purchase the real property at the appraised value.
- (d) The appraisals obtained under this section may not be admitted as evidence in any condemnation proceeding.
- (3) A port may purchase real or personal property upon a contractual basis when the period of time allowed for payment under the contract does not exceed 20 years.
- (4) As used in this section, "state certified appraiser" has the meaning given that term in ORS 674.010. [1971 c.728 §17 (enacted in lieu of 777.115, 777.185 and 777.187); 1973 c.127 §2; 1975 c.43 §1; 1979 c.17 §1; 1991 c.5 §45; 1993 c.201 §1; 2017 c.86 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.120 - Port's authority over harbors, wharf lines and navigation.**

- (1) To the full extent the State of Oregon might exercise control or grant to ports the right to exercise control, a port has full control of all bays, rivers and harbors within its limits, and between its limits and the sea. As convenient, requisite or necessary or in the best interests of the maritime shipping and commercial interests of the port, a port may, within its limits:
  - (a) Make, change or abolish wharf lines in bays, rivers and harbors.
  - (b) By ordinance make, modify or abolish regulations for the use of navigation, or for the placing of obstructions in or the removal of obstructions from bays, rivers and harbors.
- (2) A port shall have the authority to engage in the control and prevention of river and stream bank erosion, and the prevention of

damage from floodwater and sediment, and to make, establish, change, modify or abolish such rules and regulations to preserve natural resources and prevent estuary and stream pollution within the boundaries of the district. [Amended by 1971 c.268 §20; 1971 c.691 §2; 1971 c.728 §140]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.125 - Ports may maintain tug and pilotage service; charges; port's liability limited; salvage claims.**

- (1) A port may establish, maintain and operate a tugboat and pilotage service in the port and between the port and the sea. To provide such service, it may purchase, lease, control and operate tugboats and pilot boats and collect charges from vessels employing such tugs for towage or pilotage services.
- (2) The charges for towage and pilotage shall be fixed by the board and filed in the records of the port. A port is entitled to a lien upon a vessel for any sums due the port for piloting or towing such vessel. The master and owner of such vessel shall, in addition, be jointly and severally liable to the port for the sums due.
- (3) If a vessel or cargo, while being towed by a vessel owned or operated by a port or while under the charge of a pilot employee thereof, suffers injury or loss by reason of the fault of the tug, or the negligence or incompetency of the pilot, the port shall not be liable for any loss or injury thereof in excess of \$5,000.
- (4) A port may claim and collect salvage for services rendered to vessels in distress in the same manner as a natural person. [Amended by 1971 c.728 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.132 - Authority of ports to distribute water; construct and maintain marina and recreation facilities.**

- (1) A port may distribute water for domestic purposes, industrial purposes, irrigation purposes or for the purposes of recharging ground water basins or reservoirs within or without the port.
- (2) A port may construct, improve, maintain and operate public marina or other recreation facilities. Such facilities may include campgrounds or parks which the port may operate and maintain or lease to public or private organizations or persons for operation and maintenance. [1969 c.497 §3; 1971 c.728 §29; 1973 c.127 §1; 1974 c.39 §1; 1987 c.103 §1]

Note:

777.132 was added to and made a part of ORS chapter 777 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.133 - Coordination with other ports.**

- (1) The Legislative Assembly finds and declares that:
  - (a) Oregon public ports were created to preserve public ownership of public resources, giving local governments the ability and statutory authority to support economic development for the benefit of the public;
  - (b) Oregon public ports are vital links in the transportation and economic infrastructure of this state and perform critical services that support and facilitate movement of cargo and passengers within this state and in commerce worldwide;
  - (c) Oregon public ports that carry out or seek to carry out operations that involve moving cargo or passengers are a vital part of the economy and trade infrastructure of this state; and
  - (d) Enabling Oregon public ports to coordinate, reach agreements on and implement actions with members of the Northwest Marine Terminal Association and other public ports within and outside this state with respect to matters within each public port's authority is an important public purpose.
- (2) The Legislative Assembly declares that the policy of this state and the intent of this section is, notwithstanding the applicability of the antitrust laws of this state or the United States, to displace competition under the state action doctrine to the extent specified in subsection (3) of this section.
- (3) A public cargo or passenger port located in this state and any other public port, including a member of the Northwest Marine Terminal Association, may coordinate, reach agreements on and implement any action that is within the public port's authority, including actions to specify:
  - (a) Rates and charges that each public port will assess;
  - (b) Rules, practices and procedures that each public port will implement with respect to cargo and passenger service operations;
  - (c) Planning, development, management, marketing, operations and uses of public port facilities; and
  - (d) Other matters that relate to cargo and passenger service operations at public ports. [2023 c.164 §2]

Note:

777.133 was added to and made a part of ORS chapter 777 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.135 - Board of port commissioners; qualifications; appointment; term; first meeting; election; vacancies.**

- (1) The power and authority given a port is vested in and shall be exercised by a board of five commissioners, each of whom shall be an elector registered in the port.
- (2) Within 10 days after the formation of the port, the Governor shall appoint the first board of five commissioners, each of whom shall be an elector registered in the port.
- (3) The commissioners shall meet at a place within the port, designated by the Governor, on the fifth day after their appointment and shall organize as a board, first making and subscribing to an oath of office. The term of office of each commissioner shall be determined by lot at the first meeting of the board. The terms of two of the commissioners expire June 30 next following the first regular district election, and the terms of the remaining three commissioners expire June 30 next following the second next regular district election.
- (4) At the first regular district election following the appointment of the first board, two commissioners shall be elected. At the second regular district election following the appointment of the first board, three commissioners shall be elected.
- (5) Except as provided in subsection (3) of this section, the term of commissioner is four years.
- (6) The term of a commissioner shall expire when the commissioner is absent from four or more consecutive regular meetings of the board of port commissioners and the board declares the position vacant. The vacancy shall be filled as provided by ORS 198.320. [Amended by 1967 c.185 §1; 1971 c.647 §136; 1971 c.727 §§185,200; 1971 c.728 §30; 1973 c.796 §74; 1983 c.83 §110; 1983 c.350 §318; 1995 c.705 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.137 - Designation of position numbers for commissioners.**

- (1) Each office of commissioner of the board of a port shall be designated by number as Position No. 1, Position No. 2, and so forth.
- (2) The secretary of a port shall assign a position number to each office on the board. The number so assigned shall be certified by the secretary to the commissioner in office holding that position. The secretary shall file a copy of the certification with the elections officer for the district. [1969 c.297 §2; 1971 c.728 §31; 1983 c.350 §319]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.140 - Board meetings; board officers; rules; public records.**

- (1) A board shall meet at a place within the port as it may from time to time determine. A board shall hold at least one regular meeting in each month on a day to be fixed by it, and may hold special meetings as provided by its rules.
- (2) A board shall choose from its number a president, vice president, treasurer and secretary, who shall hold their offices until the next election of officers and who shall have the powers and perform the duties usual in such cases. Annual reports shall be made by the president, vice president, treasurer and secretary and filed with the board.
- (3) All proceedings of a board shall be entered in the records of the board. All books, maps, plans, documents, vouchers, reports and other papers and records pertaining to the business of the port shall be public records. [Amended by 1971 c.728 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.150 - Port employees; compensation.**

A port may employ engineers, superintendents, mechanics, clerks or other persons as it may find requisite, necessary or convenient and fix their rates of compensation. [Amended by 1967 c.412 §1; 1971 c.403 §16; 1971 c.728 §36]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.155 - Division of ports into subdistricts.**

Upon a petition of the electors filed with the board within 10 days after the date of a boundary or name change order a board shall subdivide the port. Such a petition shall be signed by electors registered in the district equal in number to at least 25 percent of the electors who voted at the last port election. The board by resolution shall divide the port into five subdistricts approximately equal in population. Not later than the 10th day after the resolution is adopted, the secretary of the board shall file a certified copy of the resolution with the county clerk of each county in which the district is located. [Amended by 1963 c.268 §19; 1967 c.498 §3; 1971 c.727 §186; 1971 c.728 §37; 1983 c.83 §111; 1983 c.350 §320]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.160 - Representation by subdistricts; terms of commissioners after subdistricting.**

- (1) At the first regular district election after the effective date of the division of a port into subdistricts under ORS 777.155 or 777.326, one commissioner shall be elected from each subdistrict. Thereafter election of commissioners shall be by subdistrict and by the electors in each such subdistrict.
- (2) The terms of office of the incumbent commissioners of a port that is subdivided as provided by ORS 777.155 or 777.326 terminate on June 30 following the first regular district election after the effective date of the division of the port into subdistricts.
- (3) The two commissioners who receive the greatest number of votes cast at the election under subsection (1) of this section shall hold office for the term of four years beginning July 1 following the election. The three commissioners who receive the lesser number of votes cast at the election shall hold office for the term of two years beginning July 1 following the election. [Amended by



1963 c.268 §20; 1967 c.498 §4; 1971 c.727 §187; 1971 c.728 §38; 1973 c.796 §75; 1983 c.350 §321]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.165 - Vacancies.**

Notwithstanding ORS 198.320, the Governor may fill vacancies on the board of any port by appointment when the vacancies exist as a result of the failure to nominate and elect board members as provided in ORS 777.080, 777.135 and 777.160. The appointees shall be electors registered in the port. If the port is divided into subdistricts under ORS 777.155 or 777.326, the appointees shall be electors registered in the subdistrict represented by the vacant position. The terms of the appointees shall be determined by lot at a meeting of the board held within five days after the appointment. However, the term of an appointee shall expire on June 30 next following the succeeding regular district election at which a successor is elected. The terms of the appointees shall be arranged with the terms of the other members so that the terms of not more than three commissioners expire on June 30 next following any regular district election. [Amended by 1969 c.669 §18; 1971 c.728 §39; 1981 c.173 §53; 1983 c.83 §112; 1983 c.350 §322]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.180 - Powers of ports created by special laws.**

All ports created prior to April 17, 1920, under any special law of the Legislative Assembly of this state shall, in addition to the powers they possessed on that date, have all the powers possessed by ports under the general laws of this state, except the power to borrow money and issue bonds under ORS 777.410 and 777.415. [Amended by 1971 c.728 §41]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.190 - Ordinances for policing or regulating of port property.**

A port may by ordinance in accordance with ORS 198.510 to 198.600 make, modify or abolish regulations to provide for the policing, control, regulation and management of property owned, operated, maintained or controlled by the port. A port, for the purpose of enforcing such ordinances, may appoint peace officers who shall have the same authority, for the purpose of the enforcement of the ordinances, as other peace officers. [1955 c.699 §§2,3,4; 1959 c.255 §1; 1971 c.268 §21; 1971 c.728 §42]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.195 - Port may engage in certain water commerce-related activities.**

A port may, for hire:

- (1) Acquire, charter, own, lease, rent, dispose of, maintain and operate towboats, barges and other watercraft for the transportation of all kinds of merchandise, freight and commercial or recreational passengers, and engage generally in maritime trade and commerce, within or without the boundaries of this state.
- (2) Own, acquire, construct, operate and maintain railroad terminal grounds and yards; and construct, operate and maintain such line or lines of railroad, with necessary sidetrack, turnouts, switches and connection and arrangements with other common carriers, as may facilitate water commerce between common carriers and points within the port; and carry and transport freight and passengers and move passenger trains over the lines.
- (3) Acquire, own, lease, rent, operate, maintain and dispose of unit trains and related facilities for the transportation of bulk commodities to facilities within the port from locations within or without the port. [1971 c.728 §22 (enacted in lieu of 777.130); 1979 c.109 §1; 1981 c.879 §2; 2001 c.883 §39f]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.210 - Port may engage in certain port management activities.**

A port may:

- (1) Establish, operate and maintain water transportation lines in any of the navigable waters of this state and waters tributary thereto, any portion of which may touch the boundaries of the port.
- (2) Engage generally in the business of buying and selling coal, fuel oil and all kinds of fuel for watercraft of all kinds.
- (3) Acquire, construct, maintain and operate sea walls, jetties, piers, wharves, docks, boat landings, warehouses, storehouses, elevators, grain bins, terminal icing plants, facilities for processing agricultural, fish or meat products, bunkers, oil tanks, ferries, canals, locks, tidal basins, bridges, subways, tramways, cableways, conveyors, power plants, power transmission lines, administration buildings and fishing terminals, and modern appliances and buildings for the economical handling, packing, storing and transportation of freight and handling of passenger traffic with full power to lease and sell the same, together with the lands upon which they are situated, whether held by the port in its governmental capacity or not.
- (4) For the public convenience and the convenience of its shipping and commercial interests, may improve all or any portion of the waterfront of its harbors, rivers and waterways.
- (5) Enlarge its tidal area, and construct, excavate and dredge canals and channels connecting its waterways with one another or with other waterways and the sea.
- (6) Acquire, construct, maintain and operate airports anywhere within the port.
- (7) Acquire, construct, maintain, operate, support, promote and invest in facilities and related activities for the propagation of fish in

accordance with the commercial fishing laws.

(8) Acquire, construct, maintain and operate facilities for constructing, repairing or maintaining any type of watercraft. [1971 c.728 §23 (enacted in lieu of 777.130); 1979 c.407 §3; 2017 c.165 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.220 - Port may collect certain fees from port users.**

A port may collect from vessels using any port facility, wharfage, dockage and drydockage; and collect from owners or consignees of goods passing over the docks and warehouses, wharfage and storage charges for goods so handled. [1971 c.728 §24 (enacted in lieu of 777.130)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.230 - Port may generate electric power; sale of power limited to utilities and federal agency; use of natural gas as fuel for generating facilities.**

(1) A port may:

(a) Design, erect, complete, operate and maintain all necessary hydroelectric, steam-generating, electric, oil, gasoline or other power-producing plants or systems, for the purpose of generating electrical current for lighting and power purposes.

(b) Acquire rights of way for the placing of transmission lines over which to carry the electrical energy required between the points of origin or production and the locations where such power may be carried for distribution, and sell, lease and dispose of same.

(2) This section does not authorize a port to enter into the business of supplying electric energy or services, or other power service, to municipalities or to the public, or for any purpose other than the construction or operation of docks, terminals, elevators or other shipping facilities, or in any of the work ports are authorized by law to engage in.

(3) Notwithstanding subsections (1) and (2) of this section, a port may construct, acquire, own or operate, by itself or with other public or private entities, electrical generating plants, electric distribution facilities and related fuel supply and steam generation and distribution facilities. However, the electric output of such plants or systems shall not be sold or delivered, directly or indirectly, to any person or other entity located within this state other than:

(a) An electric utility as defined in ORS 758.505; or

(b) The Bonneville Power Administration.

(4) The related fuel supply facilities of a port shall be constructed and operated for the sole purpose of furnishing fuel to the generating plants or systems owned by the port by itself or with other public or private entities.

(5) Except as provided in subsection (6) of this section, natural gas used to fuel the generation of electricity or energy by any port as described in subsection (3) of this section shall be purchased from or transported by an entity, if any, that is a public utility as defined in ORS 757.005 and approved by the Public Utility Commission under ORS 758.400 to 758.475 to distribute natural gas in the service territory in which the port is located.

(6) The rate charged a port by the public utility shall be the rate found to be reasonable by the Public Utility Commission under ORS 757.230. When reviewing the rate, the Public Utility Commission shall also determine the cost of alternatives to natural gas service from the public utility. For the purposes of this subsection, the cost of alternatives to natural gas service from the public utility is the cost incurred by a person other than a port without consideration of governmental entitlements that are available to a port but not to private persons. If the rate acceptable to the public utility and found to be reasonable by the Public Utility Commission is greater than such cost of alternatives, the port may pursue other alternatives for natural gas service. [1971 c.728 §25 (enacted in lieu of 777.130); 1985 c.773 §4; 1991 c.253 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.240 - Port may advertise and promote facilities, commerce and activities.**

A port may advertise and promote facilities and commerce of the port, activities of the port and activities of others using port facilities, through public and trade media, exhibits, fairs, trade fairs and trade tours, either alone or in cooperation with others or through associations or organizations having similar interests. [1971 c.728 §26 (enacted in lieu of 777.130); 2017 c.85 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.250 - Port powers with respect to development and use of its lands; industrial or research and development parks; sports, recreation, convention, trade show facilities.**

(1) A port may construct buildings or other improvements and acquire personal properties including but not limited to machinery and equipment considered necessary whether or not now in existence or under construction, suitable for use by any industry for the manufacturing, refining, processing or assembling of any agricultural, mining or other products or by any commercial enterprise in storing, warehousing, distributing or selling or servicing any products of agriculture, mining or industry or by any profit or nonprofit enterprise for research and development. The port has full power to lease and sell the buildings, improvements and personal property, together with the lands upon which they are situated, whether held by the port in its governmental capacity or not.

(2) In addition, a port may:

(a) Acquire and develop land, or develop land already owned, as the site for an industrial or research and development park,

including as a part of such development provisions for water, sewage, drainage, roads, transportation, power, communication or other similar facilities which are incidental to the development of the site;

(b) Develop the site pursuant to a comprehensive plan in a manner compatible with other uses in the area in which the industrial or research and development park is located and adopt regulations necessary to implement the plan;

(c) Lease, sublease or sell tracts of land within an industrial or research and development park as building sites to any industry or commercial enterprise or profit or nonprofit enterprise described by this subsection; and

(d) Charge and collect fees for services made available within the industrial or research and development park.

(3) A port may acquire, construct, maintain or operate sports, recreation, convention and trade show facilities.

(4) For revenue bonding purposes under ORS 777.560 to 777.590, projects undertaken under this section shall be classified as either:

(a) Sales, if the port is to sell outright or by conditional sale its interest in the property, or, if by contract the port's title to the property is retained for a limited term only;

(b) Leases, if the port is only to rent, lease, sublease or charge a user fee for the property with the intention of retaining title to, or possession of, the property for its future benefit and use; or

(c) Loans, if the port is to lend the proceeds of such revenue bonds and has no ownership interest in the property. [1971 c.728 §27 (enacted in lieu of 777.130); 1979 c.109 §2; 1979 c.407 §1a; 1983 c.459 §15; 1987 c.103 §2; 1997 c.171 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.258 - General powers of port in promotion of certain interests.**

A port may, in general, do such other acts and things, not mentioned by ORS 777.195 to 777.258, as tend to promote the maritime shipping, aviation and commercial interests of the port. [1971 c.728 §28 (enacted in lieu of 777.130)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.262 - Port dredging activities; legislative findings and purpose.**

(1) The Legislative Assembly finds:

(a) That recent changes in federal law authorize the United States Army Corps of Engineers to require ports and other local communities to provide a portion of the costs of dredging harbors and channels near those communities;

(b) That port districts and communities in this state cannot afford to pay the costs necessary to continue the dredging activities that are essential to keep the major harbors and waterways navigable for larger vessels in maritime trade; and

(c) That the State of Oregon must therefore pay for the dredging activities when ports cannot, or this state must tolerate the loss of maritime trade and commerce that will inevitably result from the halt of dredging activities.

(2) Therefore, it is the purpose of this section and one purpose of ORS 777.267 to provide a method of financing all or part of the nonfederal portion of the costs of dredging activities that constitute new federally authorized navigation improvements in the ports of this state when those ports are unable to finance the activities. [1989 c.1020 §1; 2013 c.621 §3]

Note:

777.262 and 777.267 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 777 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.267 - Marine Navigation Improvement Fund.**

(1) The Marine Navigation Improvement Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Marine Navigation Improvement Fund shall be credited to the fund. The moneys in the fund and interest earnings on the moneys in the fund are continuously appropriated to the Oregon Business Development Department for the Oregon Infrastructure Finance Authority for the purposes of:

(a) Paying a portion of the construction costs of dredging activities that constitute new federally authorized navigation improvement projects and are carried out in the harbors and channels on the Oregon coast and along the Columbia River when federal law or regulation requires a portion of the costs to be paid by nonfederal interests;

(b) Paying the study and construction costs of other new navigation improvement projects that directly support, or provide access to, a federally authorized navigation improvement project;

(c) Paying the study and construction costs of maintenance projects related to existing federally authorized navigation improvement projects; and

(d) Paying for portions of the cost of maintenance dredging projects undertaken with equipment owned by the State of Oregon at publicly owned ports and marinas.

(2) The Marine Navigation Improvement Fund established by this section consists of:

(a) Moneys appropriated or otherwise deposited into the fund by the Legislative Assembly;

(b) Repayment of loans made with moneys in the fund; and

(c) Bond proceeds deposited in the fund.

(3) Moneys in the fund shall be used primarily to make loans to ports for eligible projects. The authority may award a grant or provide other assistance from moneys in the fund to a port for an eligible project only if a loan is not feasible due to the financial

hardship of the port or other special circumstances, as set forth in rules adopted by the department.

(4) Eligibility for assistance from the Marine Navigation Improvement Fund shall be limited to and funded, subject to the availability of funds, in the following order of priority:

(a) Maintenance projects related to existing federally authorized navigation improvement projects.

(b) Other new navigation improvement projects that directly support, or provide access to, a federally authorized navigation improvement project or a federally authorized navigation channel.

(c) New federally authorized navigation improvement projects.

(d) Payment of portions of the cost of maintenance dredging projects undertaken with equipment owned by the State of Oregon at publicly owned ports and marinas.

(5) The authority shall limit financial assistance for construction costs under subsection (1)(a) of this section to those projects that have completed all federally required studies.

(6) The authority shall limit financial assistance for construction costs under subsection (1)(b) of this section to projects sponsored by a port, as defined in ORS 777.005 or 778.005, that meet criteria developed by the authority.

(7) The authority shall limit financial assistance for study costs under subsection (1)(b) of this section to projects that meet criteria developed by the authority.

(8) The authority shall limit financial assistance for study and construction costs under subsection (1)(c) of this section to projects that meet criteria developed by the authority. [1989 c.1020 §2; 1991 c.461 §87; subsection (3) enacted as 1991 c.461 §88; 2001 c.570 §1; 2003 c.741 §13; 2009 c.830 §143; 2013 c.621 §4; 2017 c.750 §87]

Note:

See note under 777.262.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.271 - Authority of rural ports to operate telecommunications facilities; exceptions.**

(1) A rural port may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate and maintain any telecommunications facilities within or without the port's limits for the port's own use.

(2) This section does not authorize a rural port to provide telecommunications services to end users.

(3) A rural port may not exercise powers of eminent domain to acquire telecommunications infrastructure or facilities or contractual rights to telecommunications infrastructure or facilities held by any other person or entity.

(4) As used in this section, "rural port" means a port that has a population of less than 750,000 within its territorial boundaries. [2015 c.164 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.273 - Authority of ports to operate pipelines; exceptions.**

(1) A port may own, acquire, construct, operate, improve and maintain pipelines and related facilities for the transportation of products and materials that promote the maritime shipping, aviation and commercial interests of the port.

(2) A port may enter into connection and other agreements with entities owning or operating pipelines and related facilities as may assist the port with regard to its authority described in this section.

(3) A port may acquire by purchase, gift or the exercise of the power of eminent domain rights of way for the placement of pipelines and related facilities.

(4) This section does not grant any additional authority to a port to own, purchase or sell the products and materials carried within the pipelines, but only grants authority over pipelines and related facilities used for transportation purposes.

(5) Except as otherwise specifically authorized by law, this section does not authorize a port to exercise authority over natural gas pipelines and related facilities, the transportation of natural gas or the acquisition of natural gas pipeline rights of way. [1991 c.367 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.277 - Definitions for ORS 777.277 to 777.287.**

As used in ORS 777.277 to 777.287:

(1) "Channel Deepening Account" means the account in the Marine Navigation Improvement Fund created by ORS 777.282.

(2) "Channel Deepening Debt Service Account" means the account in the Marine Navigation Improvement Fund created by ORS 777.282.

(3) "Channel deepening project" means a project to deepen the deep draft Columbia River navigation channel from an authorized depth of 40 feet.

(4) "Grant agreement" means the grant agreement described in ORS 777.284.

(5) "Oregon nonfederal share" means that portion of the cost of the channel deepening project that is allocable to the Oregon sponsors and that is not paid by the federal government, the State of Washington or the Washington sponsors.

(6) "Oregon sponsors" means the Port of St. Helens, the Port of Portland or any agency acting on behalf of the government of the State of Oregon as a financial contributor to the channel deepening project.

(7) "Primary sponsor" means the Port of Portland as representative of the Oregon sponsors.

(8) "Project cooperation agreement" means a written agreement between the United States Government and a nonfederal sponsor that requires the United States Government to construct, and the nonfederal sponsor to share in the cost of, a project authorized under the Water Resources Development Act or a similar Act of the United States Congress.

(9) "Washington sponsors" means the Port of Vancouver, the Port of Kalama, the Port of Woodland, the Port of Longview or any agency acting on behalf of the government of the State of Washington as a financial contributor to the channel deepening project. [1997 c.644 §1; 1997 c.612 §16; 2002 s.s.3 c.6 §20; 2003 c.741 §14; 2009 c.830 §144]

Note:

777.277 to 777.287 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 777 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.282 - Channel Deepening Account; Channel Deepening Debt Service Account; payments to primary sponsor.**

(1) The Channel Deepening Account is hereby created in the Marine Navigation Improvement Fund.

(2) Any earnings and interest earned on amounts in the Channel Deepening Account shall be credited to the Channel Deepening Account. The moneys in the Channel Deepening Account are continuously appropriated to the Oregon Business Development Department for the Oregon Infrastructure Finance Authority and shall be transferred by the authority to the primary sponsor pursuant to and upon the terms and conditions set forth in the grant agreement entered into under ORS 777.284 to pay the Oregon nonfederal share.

(3) The Channel Deepening Debt Service Account is hereby created in the Marine Navigation Improvement Fund.

(4) Any earnings and interest earned on amounts in the Channel Deepening Debt Service Account must be credited to the Channel Deepening Debt Service Account. The moneys in the Channel Deepening Debt Service Account are continuously appropriated to the Oregon Business Development Department for the Oregon Infrastructure Finance Authority for payment of bond-related costs for lottery bonds issued under ORS 285B.551 (5) and section 12, chapter 741, Oregon Laws 2003, and for lottery bonds issued for channel deepening under ORS 285B.551 (3) and section 6, chapter 942, Oregon Laws 2001.

(5) The restrictions on the use of moneys in the Marine Navigation Improvement Fund set forth in ORS 777.267 do not apply to moneys in the Channel Deepening Account or the Channel Deepening Debt Service Account. [1997 c.644 §3; 2001 c.942 §9; 2003 c.741 §15; 2009 c.830 §145]

Note:

See note under 777.277.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.284 - Grant agreement with primary sponsor; request for issuance of lottery bonds.**

(1) The Director of the Oregon Business Development Department shall enter into, or modify, a grant agreement with the primary sponsor committing the Oregon Business Development Department to request that the State Treasurer issue lottery bonds as provided in ORS 285B.551 (3) and section 6, chapter 942, Oregon Laws 2001, to obtain lottery bond proceeds for deposit in the Channel Deepening Account for payment of the Oregon nonfederal share.

(2) The total amount paid to the primary sponsor pursuant to the grant agreement may not exceed the lesser of the amount of the Oregon nonfederal share or the total amount deposited in the Channel Deepening Account. The grant agreement:

(a) Shall specify a method for determining the total amount of the Oregon nonfederal share; and

(b) May not contain provisions or be construed or enforced in any manner that would cause the grant agreement to constitute a debt or liability of the state that violates section 7, Article XI of the Oregon Constitution. [1997 c.644 §4; 2001 c.942 §10; 2002 s.s.1 c.8 §3; 2003 c.741 §16; 2009 c.830 §146]

Note:

See note under 777.277.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.287 - Agreements with federal agencies.**

The Oregon sponsors are each hereby authorized to enter into agreements with agencies of the United States for the channel deepening project and, notwithstanding any other provision of law, may each agree to be bound by any requirement imposed by an Act of the United States Congress as a condition of federal participation in the channel deepening project. [1997 c.644 §5]

Note:

See note under 777.277.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.326 - Special procedure for annexations increasing by one-half or more the area or assessed value of taxable property within the port.**

(1) This section applies when an annexation would increase the area of a port by one-half or more, or would increase the assessed value of taxable property within a port by one-half or more. An annexation proposal subject to this section, if approved by the county board, shall be submitted to the electors at an election which shall be held at the same time as a primary election or general election.

(2) When the county board orders an election on the annexation proposal, the board shall adopt an order dividing or redividing the area of the port, including the territory annexed, into five subdistricts. The boundaries of the subdistricts shall be determined in accordance with ORS 777.155 and shall be described in the order calling the election on the proposed annexation.

(3) At the first regular district election following the effective date of the annexation, one commissioner from each of the five subdistricts established under subsection (2) of this section shall be elected. The terms of the incumbent commissioners shall terminate and the terms of the commissioners elected under this subsection shall commence as provided in ORS 777.160.

(4) If the annexation is approved, the order proclaiming the annexation shall also describe the boundaries of the subdistricts established as provided by subsection (2) of this section. [1967 c.498 §2; 1971 c.647 §140; 1971 c.727 §§188,201; 1971 c.728 §49; 1983 c.350 §323; 1987 c.267 §79; 1995 c.712 §111; 1997 c.541 §386]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.347 - Consent of Department of State Lands for state lands.**

The Department of State Lands is authorized to consent to annexation with respect to any land owned by the State of Oregon, under the jurisdiction of the department, which is located in the territory proposed to be annexed. [1963 c.268 §12; 1971 c.727 §189]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.353 - Annexation of enclave.**

When territory not part of another port or wholly belonging to the state or federal government is surrounded by the boundaries of a port, the board of the surrounding port may, by resolution, annex the territory to the port with or without the consent of any resident or owner of property within the territory and without submitting the proposed annexation to the electors for approval. [1963 c.268 §13; 1971 c.728 §52]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.365 - Name change of port; notice.**

A board may, within 60 days following an order of annexation, change the name of the port by order made at any regular meeting. Notice of the proposed change, including the new name, shall be given by publication in a newspaper of general circulation in the port once a week for three successive weeks prior to the meeting. [1963 c.268 §16; 1971 c.727 §190; 1971 c.728 §54]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.405 - Deposit and disbursement of moneys; financial records.**

(1) Money of a port shall be deposited in one or more banks designated by the board. Funds shall be withdrawn only when previously ordered by the board, upon a check signed and countersigned by such persons as may be authorized by resolution of the board.

(2) A receipt or voucher showing clearly the nature and items covered by each check drawn shall be kept on file. [Amended by 1971 c.728 §33; 1989 c.428 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.410 - Ports may borrow money and issue bonds.**

(1)(a) For the purpose of carrying into effect any of the powers granted by ORS 777.105 to 777.258, a port may, when authorized so to do by the electors, borrow money and sell and dispose of bonds, which shall constitute a general obligation of the port and be secured by the port's full faith and credit. The bonds shall be secured by the taxing power of the port as provided in ORS 777.430

(2). In addition, the port may provide that the bonds shall be payable from and secured by a lien and pledge of all or any part of the revenues derived by the port from the facilities constructed from the proceeds of the bonds. Bonds outstanding at any one time shall never exceed in the aggregate two and one-half percent of the real market value of all taxable property within the port, computed in accordance with ORS 308.207.

(b) A port may provide for the creation of special trust funds and may authorize the appointment of a trustee to administer such funds. A port may obligate itself to set aside and pay into a special trust fund any revenues pledged to the payment of bonds. A port, from available funds, may establish and fund debt service, operation and maintenance reserves.

(c) Proceeds from the sale of bonds may be used by a port to pay the costs incurred in issuing the bonds, to pay the costs of preliminary work incident to issuing and selling the bonds, including but not limited to planning, engineering, inspection, accounting, fiscal, legal, trustee and other similar expenses, to pay interest on the bonds for such time as the port may determine, but not exceeding six months beyond completion of the facilities financed with the bonds, and to establish reserves for debt service on the bonds.

(2) Without elector approval the board may, whenever it determines that an emergency exists, issue bonds, within the limitation

provided by subsection (1) of this section, in an aggregate amount not exceeding \$100,000 in any period of 12 months. Bonds shall not be issued under this subsection to provide funds for the acquisition of land. Bonds issued under this subsection shall be issued and sold in accordance with subsection (3) of this section but shall mature in such length of time, not exceeding five years, as the board determines.

(3) All bonds issued under this section shall be issued as prescribed in ORS chapter 287A. [Amended by 1957 c.375 §1; 1963 c.9 §37; 1965 c.223 §1; 1971 c.728 §71; 1973 c.127 §3; 1977 c.698 §1; 1981 c.94 §52; 1981 c.289 §1; 1985 c.773 §2; 1991 c.459 §439; 2007 c.783 §223]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.415 - Resolution and election prerequisite to issuance of bonds.**

When it is proposed to borrow money or to sell and dispose of bonds as authorized by ORS 777.410 (1), a board shall first pass a resolution authorizing the borrowing of money and the issuance and sale of bonds. The resolution shall state the amount of money to be raised, the maximum rate of interest that the bonds will bear and the nature and terms of the bonds. The resolution also shall state the general purpose for which the moneys to be raised are to be used. The question of issuance of the bonds shall then be referred by the board to the electors of the port at a special election to be called for that purpose. The money raised shall be expended for no other purpose than that expressed in the resolution and the purpose shall be stated in the ballot title used in the election. A contract involving the expenditure of funds to be raised under ORS 777.410 (1) shall not be entered into by the board until the borrowing of the funds is approved by a majority of those voting on the question at the special election provided for by this section. [Amended by 1957 c.375 §2; 1971 c.647 §142; 1971 c.728 §72]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.430 - Taxing powers of ports.**

(1) In carrying out the purposes of ORS 777.005 to 777.725 and 777.915 to 777.953, a port may assess, levy and collect taxes upon all taxable real and personal property situated within the port, in an amount each year not to exceed one-fourth of one percent (0.0025) of the real market value of the property, computed in accordance with ORS 308.207.

(2) Each year a port may also assess, levy and collect a tax upon all such property in an amount sufficient to pay the yearly interest on general obligation bonds or other evidences of indebtedness theretofore issued by the port and then outstanding, together with any portion of the principal of general obligation bonds maturing within that year. The tax shall be applied only in payment of interest and principal of such bonds or indebtedness. However, the board may apply any other funds it may have toward such payments.

(3)(a) A port may assess, levy and collect a tax upon all taxable real and personal property situated within the port for the purpose of providing revenue to a city or county in which the port is located for law enforcement services provided by the city or county within the boundaries of the port.

(b) A tax described in this subsection may be levied only as prescribed under ORS 280.040 to 280.145.

(c) The transfer of moneys raised pursuant to this subsection to a city or county for funding law enforcement services of the city or county within the port is a public purpose for which a port levying a tax under this subsection has been organized. [Amended by 1963 c.9 §38; 1971 c.728 §73; 1991 c.459 §440; 2001 c.500 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.435 - Levy, assessment and collection of taxes.**

(1) Taxes authorized by ORS 777.430 shall be levied in each year and returned to the county officer whose duty it is to extend the tax roll by the time required by law for city taxes to be levied and extended. The county officer whose duty it is to extend the county levy shall extend the levy of a port in the same manner as city taxes are extended.

(2) All taxes levied by a port become payable at the same time and shall be collected by the same officers as regular county taxes. The county officers collecting the taxes shall pay them to the treasurer of the port as provided by law. [Amended by 1971 c.728 §74]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.437 - Filing boundary change with county assessor and Department of Revenue.**

For purposes of ad valorem taxation, a boundary change must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225. [2001 c.138 §52]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.440 - Levy of special tax by county court upon default of port officers.**

If a port fails or refuses to levy the special tax provided by ORS 777.430 (2), within the time provided, in an amount sufficient to pay the interest accruing during the 12 months following October 1 next ensuing on bonds theretofore issued by the port and then outstanding, together with any portion of the principal of such bonds maturing within the 12 months, the county board of the county in which the port is located, shall levy at its July term immediately following such failure or refusal by the port, a tax on all the taxable real and personal property situated within the port, at a rate sufficient to pay such interest and principal. [Amended by 1971

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.445 - Procedure subsequent to levy under ORS 777.440.**

- (1) Taxes levied under ORS 777.440 by the county board shall be assessed and collected as if the levy had been made by the port itself.
- (2) However, taxes thus levied by the county board shall not be paid to the treasurer of the port by the county officers collecting the tax, but shall be paid to the county treasurer to the credit of the port issuing the bonds to be used for the purpose provided by subsection (3) of this section.
- (3) The county treasurer shall pay from the fund the interest on or maturing principal of any bond described by ORS 777.440 as it becomes due, and at such places as are designated in the bonds or interest coupons thereof, or upon the presentation at the county treasurer's office of the bonds or coupons, which must show the amount due and the number and series of the bond.
- (4) All bonds or coupons thereof thus paid shall be immediately reported by the county treasurer to the port board.
- (5) On October 1 of the next calendar year following the year of the levy by the county board, the county treasurer shall ascertain the exact amount of interest and principal payable and still remaining unpaid. The county treasurer shall retain from the fund an amount sufficient to pay such principal and interest and pay to the treasurer of the port any balance of the fund remaining after making such deduction. [Amended by 1971 c.728 §76]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.447 - Promissory notes authorized for port development purposes; limitations; form; payment.**

In addition to other powers granted a port, a port may, at any time, upon proper resolution adopted by the board, issue promissory notes to assist it in carrying out the powers granted the port under this chapter. The promissory notes shall not exceed a term of 10 years, shall be considered bonds for purposes of ORS chapter 287A and shall be issued as prescribed in ORS chapter 287A. A port may not have more than \$10 million in promissory notes outstanding at any one time and may not pledge or use tax-derived revenues to retire the notes. The notes shall be signed by the president and the treasurer of the port and shall state what assets and revenues of the port shall be security for the notes and that the notes do not constitute a full faith and credit pledge of the port. No officer or employee of the port shall hold promissory notes under this section. Expenditure of note proceeds and payment on notes issued under this section shall first be properly budgeted in accordance with the Local Budget Law. [1979 c.119 §2; 1981 c.94 §53; 1993 c.97 §28; 1999 c.177 §1; 2007 c.783 §224; 2019 c.627 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.455 - Authority to issue refunding bonds for specified purposes; amounts.**

A port may, in accordance with ORS 777.455 to 777.505, issue refunding bonds for the purpose of refunding and retiring all or any part of its outstanding bonds when the holders are willing to surrender such bonds. When judgment is taken against a port based on bonds and interest coupons issued by the port, refunding bonds may be issued to provide funds with which to pay such judgment. Such bonds may be issued, pursuant to an ordinance or resolution adopted by the board, without elector approval. Such bonds may be issued in the full amount of the outstanding bonds and any judgment on bonds and interest coupons less any sinking funds applicable thereto. The full faith and credit of the issuing port shall be pledged to the payment of the principal of and interest on each of such bonds. Debt limitations imposed by law do not apply to refunding bonds. [Amended by 1971 c.728 §77]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.460 - Refunding bonds; terms and conditions; bond call.**

- (1) The refunding bonds shall bear interest at a rate determined by the board, payable semiannually, and shall be in such denominations and mature at such times as determined by the board, but the bonds must all mature not later than 30 years after their date of issue.
- (2) The board may provide that the bonds are subject to call and redemption prior to maturity, in numerical order, in inverse numerical order or in the entire amount of the issue outstanding. The bonds may be called only on interest-paying dates.
- (3) Before calling bonds containing optional provisions, the port shall publish a notice of call in one issue of a newspaper specializing in financial matters published in New York, New York, at least 30 days before such interest-paying date.
- (4) Callable refunding bonds, at the option of the board, may be called and retired or may be refunded again in accordance with the terms of the bonds and the provisions of ORS 777.455 to 777.505.
- (5) Both the principal of the bonds and the interest thereon, when due, shall be paid in lawful money of the United States at the office of the treasurer of the issuing port, or at the fiscal agency of the State of Oregon in the City and State of New York, at the option of the board. [Amended by 1971 c.728 §78; 1981 c.94 §54]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.465 - Disposition of refunding bonds.**

The refunding bonds may be exchanged par value for par value for the bonds they are issued to refund and may be issued and



delivered to a judgment creditor in the amount of the judgment, or the bonds may be advertised for sale and sold for not less than the par value thereof.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.470 - Levy of tax to meet principal and interest; amount required; disposition of proceeds of tax.**

Upon issuance of any refunding bonds the port board shall levy a tax sufficient to pay the principal and interest of such bonds at maturity. If the bonds are serial bonds the tax shall provide an amount of money sufficient to pay the next maturing installment of principal and the interest on the entire issue. If the bonds are issued as term bonds the tax shall be sufficient to raise an amount of money, which, if the same amount were raised each year thereafter for the life of the bonds, would produce a sum equal to the principal amount of the bonds so issued. The proceeds of taxes levied under this section shall be set aside when collected into a special fund and used for no other purpose than the payment of the bonds so issued. [Amended by 1971 c.728 §81]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.475 - Remedies of holders of refunding bonds on default.**

If there is a default in payment of principal or interest of bonds issued pursuant to ORS 777.455, the holders thereof shall be reinvested with and have all the remedies they would have had if they were holding obligations refunded by the issuance of such bonds. [Amended by 1971 c.728 §82]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.480 - Construction of ORS 777.455 to 777.505.**

The authority contained in ORS 777.455 to 777.505 is supplemental and in addition to all other powers granted to port districts to issue bonds. [Amended by 1971 c.728 §83]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.485 - Compromise and refunding agreements; contents; subsequent procedure; effect.**

(1) A board may enter into agreement with the holders of its outstanding indebtedness providing for compromise of the indebtedness and the refunding thereof by the issuance of bonds under ORS 777.455. An agreement may provide for the amount of refunding bonds to be issued, the interest rate the bonds are to bear, the dates of maturity of the bonds and the amount of money to be raised by taxes each year to pay the principal of and interest on the bonds. When an agreement is entered into, a port shall have complete authority to issue bonds in accordance therewith.

(2) The board may provide in the ordinance authorizing such refunding bonds:

(a) For setting aside a sinking or other fund into a special trust fund for payment of the bonds.

(b) For the pledging of taxes and other revenues directly to the payment of the principal of or interest on the bonds or to the sinking fund.

(c) For limitations on subsequent borrowings by the port either in the nature of permanent debt or temporary financing.

(d) For limitations on the amounts of appropriations in subsequent budgets for operating expenses.

(3) A port has all necessary authority to carry out the terms and conditions so included in any such ordinance. The validity of the refunding bonds, however, shall not be dependent upon nor affected by the validity or regularity of the ordinance provisions enumerated in subsection (2) of this section. [Amended by 1971 c.728 §84]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.500 - Advertisement of bonds; bids; rejection of bids; readvertisement; time of sale limited.**

(1) Refunding bonds shall be advertised for sale at least once each week for not less than two successive weeks in a newspaper of general circulation published within the port or, if there is no such newspaper, then in a newspaper published in the county in which the port is located.

(2) All bids for such bonds shall be in writing and be sealed and, unless the sale is made to the sinking fund of the particular port or to the State of Oregon, shall be accompanied by a certified check or a cashier's check upon a bank doing business in this state for an amount of not less than two percent of the par value of the bonds for which the bid is submitted. Bids shall be opened publicly at the time and place specified in the advertisement. The bonds shall be sold for cash.

(3) If the bids for the purchase of the bonds are not satisfactory, the board may reject any and all of the bids and may readvertise for bids in the manner provided by this section.

(4) The date of sale shall not precede by more than four months the first succeeding date upon which the bonds to be refunded thereby will mature or may be called, redeemed or otherwise retired. [Amended by 1971 c.728 §79; 1981 c.94 §55]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.505 - Delivery of bonds to purchaser; deposit of sale proceeds; redemption and retirement of refunded bonds.**

(1) Refunding bonds, upon payment therefor in cash, may be delivered to the purchaser thereof at any time after sale date, but not

later than the date as of which the refunded bonds have been called for payment. The bonds shall be delivered at the place in the State of Oregon designated by the board in the notice of sale of the bonds.

(2) Proceeds of sale of the bonds equal to the total par value of the bonds refunded shall be deposited at the fiscal agency mentioned in ORS 777.460 in conformity with the laws relating to deposits of funds with the fiscal agency or, at the option of the issuing port, pursuant to ORS 295.001 to 295.108, in a special trust account to be used solely for the payment of the principal of the outstanding refunding bonds and for no other purpose.

(3) The outstanding refunded bonds shall be redeemed and retired as soon as possible after the date of sale of the refunding bonds issued in lieu thereof, but in no case shall such refunding bonds be invalidated by reason of the failure of the port to redeem or retire the refunded bonds. [Amended by 1967 c.451 §29; 1971 c.728 §80]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.510 - Port warrants; execution; contents.**

A port board may issue warrants drawn upon any officer designated the custodian of money belonging to or credited to the port. Warrants shall be signed by the treasurer and countersigned by the president of the port or in the absence or inability of the president to act, by the vice president. Warrants shall show upon their face the nature and extent of the obligation satisfied. They may be used in payment of any obligation of the port, including expenses of operation, payment of the principal amount of port bonds at their maturity and in payment of interest or interest coupons of the bonds at the time the interest becomes due and payable. [Amended by 1971 c.728 §34]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.515 - Payment of warrants; interest on warrants.**

(1) The treasurer of a port, or the treasurer of the county who is the legal custodian of funds belonging to or credited to a port, shall pay the warrants of the port when presented, if the treasurer has money in custody for the purpose of paying the obligation for which the warrant was given. The treasurer shall write on the face of the warrant the date of redemption and the treasurer's signature.

(2) If there are no funds in the custody of the port treasurer to pay the warrant when presented, the port treasurer shall indorse thereon "Not Paid for Want of Funds" and the date of presentment over the signature of the port treasurer. The warrant shall draw interest at the legal rate from the date of such indorsement. Thereafter, the county treasurer, upon presentment of the warrant, shall pay upon the warrant any funds which may come into the county treasurer's custody for the purpose of paying the obligation for which the warrant was issued and shall, over the signature of the county treasurer, indorse the amount of the payment upon the warrant with the date of the payment.

(3) However, a warrant drawn in payment of the principal or face amount of a port bond shall in no event draw interest in excess of the rate of interest expressed upon the face of the port bond, and the rate of such interest shall appear upon the face of the warrant. Interest on a warrant shall cease from the date of notice by publication in some newspaper printed or circulated in the county. Notice shall be given by the port treasurer authorized to redeem the warrant, stating that there are funds to redeem outstanding warrants. The treasurer shall give notice when the treasurer has \$10,000 belonging to the fund. [Amended by 1971 c.728 §35]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.520 - Special tax levy, rate, use of proceeds; bond sinking fund.**

(1) A port may assess, levy and collect each year in addition to other taxes which it is by law authorized to levy, a special tax upon all taxable real and personal property situated within the port.

(2) Such annual levy shall not exceed one-tenth of one percent. The proceeds thereof shall be used only in the purchase on the open market of bonds of the port, at such prices, as the board determines.

(3) All funds collected from such levy shall be placed in a separate fund, designated the bond sinking fund, and shall be used exclusively for the purposes provided by this section as long as the principal of any bond of the port remains outstanding or unpaid. After the principal of all bonds of the port has been paid, the balance remaining in such fund may be transferred to any other fund as the board may direct. [Amended by 1971 c.728 §85]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.530 - Special assessments for local improvement; assessment ordinance; assessment districts.**

(1) When a port constructs or acquires a local improvement which the port is authorized to construct or acquire, the board of that port may levy special assessments against property within the port in proportion to the benefits such property will receive on account of the construction or acquisition of the local improvement. However, before proceeding to construct or acquire a local improvement for which special assessments will be levied, the board shall adopt an ordinance that:

(a) Describes the local improvement to be constructed or acquired and the part of the work to be undertaken immediately;

(b) Contains a preliminary estimate of the probable cost of the local improvement;

(c) Determines the manner of financing the local improvement. The board may provide that the cost of the construction or acquisition shall be paid in part by assessments against the property directly benefited and in part out of general funds, ad valorem tax levies, the proceeds of the sale of bonds, service charges or any combination of such sources. The determination of the board as

to the proportion of cost allocation shall be based on its sound discretion;

(d) Describes one or more assessment districts containing the properties against which the cost of the local improvement will be assessed;

(e) Provides for the method of assessment, the recording of assessment liens on properties that are directly benefited and for the making of supplemental assessments and rebates;

(f) Contains provision for a notice to be mailed to each affected property owner announcing the intention of the board to construct or acquire a local improvement, to create one or more assessment districts and to assess benefited property for a part or all of the cost; and

(g) Provides for a hearing not sooner than 20 days after the mailing of the notices described in paragraph (f) of this subsection at which affected property owners may appear to support or object to the proposed local improvement and assessment. The board shall consider such objections and may adopt, correct, modify or abandon the proposed local improvement or assessments.

(2) Special assessments in the port shall, so far as practicable, be apportioned within the port in accordance with the special and peculiar benefit each lot or parcel of land receives from the construction or acquisition of a local improvement.

(3) Special assessment districts authorized by this section may be established for, and limited to, financing the costs of planning and engineering required for the construction or acquisition of a local improvement.

(4) As used in this section, "local improvement" has the meaning given that term by ORS 223.001. [1989 c.644 §2; 1991 c.902 §117]

Note:

777.530 and 777.535 were added to and made a part of ORS chapter 777 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.535 - Installment payment of special assessment; limitation.**

The provisions of ORS 223.205 to 223.316 (Bancroft Bonding Act) and ORS 223.770 relating to the assessment of property benefited by public improvements and to the issuance of bonds and other obligations for the cost of such improvements, shall apply insofar as practicable and applicable in relation to the assessment by ports of the cost or any portion of the cost of improvements against the property benefited in accordance with ORS 777.530 and to the issuance of bonds and other obligations by the port. However, notwithstanding ORS 223.295, the limitation specified in ORS 777.410 (1)(a) on the amount of general obligation bonds outstanding at any one time applies to bonds and other obligations issued under this section. [1989 c.644 §3; 1991 c.902 §116; 1995 c.333 §21; 1997 c.249 §223]

Note:

See note under 777.530.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.560 - Ports may issue and sell revenue bonds; use of proceeds.**

(1) For the purpose of carrying into effect any of the powers granted to ports, a port may issue and sell revenue bonds in accordance with ORS 777.560 to 777.590 without the necessity of obtaining the prior approval of the electors of the port. Proceeds from the sale of revenue bonds may be used by the port in its governmental capacity or loaned to private parties. The proceeds may be used to cover the costs incurred in issuing the bonds, and preliminary work incident to carrying out such purposes and powers, including but not limited to planning, engineering, inspection, accounting, fiscal, legal and trustee expenses, the cost of issuance of bonds, engraving, printing, advertising and other similar expenses, and to pay interest on the outstanding bonds issued for any project during the period of actual construction and for six months after the completion thereof. Revenue bonds shall not be a general obligation of the port nor a charge upon the tax revenues of the port, nor a charge upon any other revenues or property of the port not specifically pledged thereto.

(2) In addition to the powers granted by subsection (1) of this section, a port may authorize and issue revenue bonds under ORS 287A.150. [1955 c.423 §2; 1959 c.337 §1; 1971 c.728 §86; 1993 c.97 §29; 2007 c.783 §225]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.565 - Resolution or ordinance authorizing revenue bonds and creating special trust fund.**

(1) Revenue bonds issued under ORS 777.560 (1) shall be authorized by resolution or ordinance of the board. The resolution or ordinance shall provide for the creation of a special trust fund, authorize the appointment of a trustee to administer the fund, and obligate the port to set aside and pay into the special trust fund all, or a portion, of its nontax-derived revenues not otherwise pledged or committed for other purposes for any activity authorized by ORS 777.105 to 777.258, other than an activity under ORS 777.250 (4)(a) or (c). For a facility or facilities designated under ORS 777.250 (4)(a) or (c), no revenues other than those derived from the particular facility or facilities to be financed by the sale of the particular issue of revenue bonds then being authorized shall be pledged. The board may, in addition, pledge for the payment of the principal and interest of any issue of such bonds any property of the port not pledged for other purposes. However, with respect to revenue bonds issued to finance a facility or facilities designated under ORS 777.250 (4)(a) or (c), the board, in addition, may only pledge or mortgage such facilities including buildings, improvements or properties, and any land acquired in connection with such facilities, for the benefit of the holders of revenue bonds

issued therefor. Notice that action upon the bond resolution or ordinance will be taken at the designated meeting of the board shall be given for a period of not less than two consecutive weeks, prior to the meeting, by publication once each week in a newspaper of general circulation, published within the port or, if there be no such newspaper, in a newspaper of general circulation, published within the county.

(2) A special trust fund created by a resolution or ordinance adopted under subsection (1) of this section shall be used solely for payment of principal and interest due upon the revenue bonds issued and sold pursuant to ORS 777.560 (1), and to the payment of the costs and expenses enumerated in ORS 777.560.

(3) The resolution or ordinance may provide that if the money in the special trust fund is insufficient to pay the revenue bonds the bonds shall be payable out of any part or all of other nontax-derived revenues of the port. However, for a facility or facilities designated under ORS 777.250 (4)(a) or (c), no revenues other than those derived from the particular facility or facilities to be financed by the sale of the particular issue of revenue bonds then being authorized shall be pledged. When all bonds issued and sold pursuant to ORS 777.560 (1) and expenses thereof have been paid so that no charge remains upon the special fund, the board may, by resolution or ordinance, transfer any balance remaining in the fund to its general fund, discharge the trustee and dissolve the special fund. The trustee authorized to administer the fund may, subject to approval of the board, invest and reinvest moneys in the special fund in securities in which the State of Oregon may by law invest.

(4) ORS 777.560 to 777.590 and the provisions of the resolution or ordinance authorizing a revenue bond issue constitute a contract with the holders of the bonds, and shall be enforceable by any owner or holder of the bonds. [1955 c.423 §3; 1959 c.337 §2; 1965 c.223 §3; 1967 c.621 §1; 1971 c.728 §87; 1979 c.407 §2; 1997 c.171 §23; 2007 c.783 §226]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.570 - Form of bonds.**

Revenue bonds issued under ORS 777.560 (1):

(1) Shall be negotiable instruments.

(2) Shall be issued under ORS chapter 287A, but the requirements of ORS 287A.150 do not apply.

(3) Shall contain a recital that principal and interest on the revenue bonds are payable solely out of revenues and property of the port pledged to the payment thereof by the ordinance of the board authorizing the issue of which the bonds are a part.

(4) May contain covenants of the port to protect and safeguard the security and rights of holders of such bonds and such other terms and conditions, in conformity with ORS 777.560 to 777.590, which the board determines are necessary or desirable to protect the port or increase the marketability of the bonds. [1955 c.423 §4; 1959 c.337 §3; 1965 c.223 §4; 1971 c.728 §141; 1971 c.778 §1; 1981 c.879 §3; 1997 c.171 §24; 2007 c.783 §227]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.575 - Sale of bonds.**

(1) The board may from time to time sell revenue bonds authorized pursuant to ORS 777.565, as provided by this section.

(2) Except as provided by subsections (3) and (4) of this section, the bonds shall be advertised for sale at least once each week for not less than two successive weeks in a newspaper of general circulation published within the port or, if there is no such newspaper, then in a newspaper published in the county. Bids shall be in writing and be sealed and, unless the bidder is the State of Oregon, accompanied by a certified check or a cashier's check upon a bank doing business in this state in an amount not less than two percent of the par value of the bonds. Bids shall be opened publicly at the time and place specified in the advertisement. If the bids are not satisfactory, the board may reject any and all bids and may readvertise for bids in the manner provided by this subsection.

(3) The board may sell any of the bonds to the federal government or any agency thereof at private sale without advertisement or calling for bids.

(4) Revenue bonds including revenue bonds to refund such bonds of a port may be sold to any person either at a public or private sale without advertisement or calling for bids as the board may in its sole discretion determine. [1955 c.423 §5; 1959 c.337 §4; 1965 c.223 §5; 1967 c.416 §1; 1971 c.728 §89; 1981 c.94 §56]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.585 - Refunding revenue bonds.**

(1) A port may, without the necessity of authorization from the electors of the port, issue and sell its refunding revenue bonds for the purpose of redeeming revenue bonds which are outstanding or paying interest due thereon:

(a) At maturity pursuant to redemption provisions in the outstanding revenue bonds; or

(b) At any time before maturity if the holders of the outstanding revenue bonds consent or if the outstanding revenue bonds authorize redemption before maturity.

(2) ORS 777.560 to 777.590 apply to bonds authorized to be issued and sold under this section. [1955 c.423 §7; 1959 c.337 §6; 1965 c.223 §7; 1971 c.728 §90]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.590 - Authority to issue and sell revenue bonds; leasing property and pledging revenues.**

(1) ORS 777.560 to 777.590 are complete authority for the issuance and sale of revenue bonds and refunding revenue bonds. Any restrictions, limitations, conditions or procedure provided by other statutes relating to issuance and sale of bonds or other obligations do not apply to the issuance and sale of revenue bonds and refunding revenue bonds under ORS 777.560 to 777.590.

(2) The lease of any property of the port and the pledging of revenues therefrom to the payment of the costs and expenses enumerated by ORS 777.560, and to the payment of principal and interest on bonds issued and sold under ORS 777.560 to 777.590, shall be considered to further the public interest within the meaning of ORS 271.310. [1955 c.423 §8; 1959 c.337 §7; 1965 c.223 §8; 1971 c.728 §91; 2005 c.443 §27]

Note:

Sections 1 and 2, chapter 423, Oregon Laws 2023, provide:

Sec. 1. Cancellation of certain taxes and interest.

(1) Outstanding ad valorem property taxes, and interest on the taxes, assessed on real property, the ownership of which was transferred, from the federal government to a port district formed under ORS chapter 777, by the assessor of the county in which the real property is located, are hereby canceled.

(2) Ad valorem property taxes, and interest on the taxes, assessed on real property owned by a port without a working waterfront formed under ORS chapter 777, that have been outstanding since a date prior to January 1, 2012, are hereby canceled, provided the tax collector of the county in which the property is located has exhausted all remedies provided by law for collection of the taxes and interest. [2023 c.423 §1]

Sec. 2.

Section 1 of this 2023 Act is repealed on January 2, 2025. [2023 c.423 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.605 - Special elections.**

When a board desires to hold an election for the purpose of submitting to the electors of the port any measure that may lawfully be submitted to the electors, at any meeting called in accordance with its rules or the statutes governing the board, the board may adopt a resolution calling a special election. In the resolution the board may describe in general terms the measures which are to be submitted at the election. [Amended by 1971 c.728 §92; 1973 c.796 §76; 1975 c.647 §52; 1983 c.350 §326]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.630**

[1987 c.607 §10; renumbered 285.825 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.635**

[1987 c.607 §11; 1989 c.908 §64; renumbered 285.827 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.640**

[1987 c.607 §12; renumbered 285.830 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.645**

[1987 c.607 §13; renumbered 285.833 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.650**

[1987 c.607 §14; renumbered 285.835 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.655**

[1987 c.607 §15; renumbered 285.837 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.660**

[1987 c.607 §16; renumbered 285.840 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.665**

[1987 c.607 §21; renumbered 285.843 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.705 - Definitions for ORS 777.705 to 777.725.**

As used in ORS 777.705 to 777.725, "bonus" or "bonuses" includes payment of funds for:

- (1) Chartering vessels;
- (2) Guaranteeing to vessels, transportation lines, companies or persons, cargo and tonnage, and guaranteeing to vessels, transportation lines, companies or persons against loss on account of delay in the Columbia River or Willamette River or at the Columbia River bar;
- (3) Absorption of charges for lightering, dredging, towage and pilotage of any vessels; or
- (4) Fixing of pilotage and stevedoring charges, seamen's wages, fuel costs, supplies and other charges and expenses incident to maritime commerce, at such a rate as may place a port on a competitive basis in such matter with other ports. [Amended by 1971 c.728 §97]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.710 - Payment of bonus explained.**

The payment of a bonus authorized by ORS 777.715 and 777.720 includes the payment of sums necessary to make good the guarantee described by ORS 777.705. [Amended by 1971 c.728 §98]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.715 - Ports may pay bonuses in aid of water transportation and may charter vessels.**

- (1) By the payment of bonuses to a person engaged or preparing to engage in the operation of water transportation lines, a port may:
  - (a) Aid in establishing water transportation lines between the port and any other domestic or foreign port or ports; and
  - (b) Aid in establishing water transportation lines on the interior rivers of this state, on the rivers between Washington and Oregon, or on the rivers of Washington and Idaho reached by navigation from Oregon's rivers.
- (2) A port may charter vessels. [Amended by 1971 c.728 §99]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.720 - Discretion of board in making payment; contracts.**

A board may expend the money raised as authorized by ORS 777.725 in the form of a bonus or bonuses payable to the persons described by ORS 777.715. The money shall be expended in the manner and at such times as the board determines will result in the greatest benefit and advantage to the port and will best aid the establishment and continued operation of the water transportation lines. The board may contract as may be necessary to carry into effect the purposes of ORS 777.725. [Amended by 1971 c.728 §100]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.725 - Borrowing money to pay bonus; bond issues, amount, terms, interest, signature, approval by electors, name of bonds, sale.**

- (1) For the purpose of ORS 777.705 to 777.725 and 777.915 to 777.953, a port may borrow money and sell and dispose of bonds. The bonds shall not, singly or in the aggregate, with previous debts and liabilities incurred and outstanding for such purposes, exceed one-fourth of one percent (0.0025) of the real market value of all taxable property within the port. The bonds shall be issued from time to time as the board may determine, and shall be of such denominations, run for such period of years and for such rate of interest as the board determines.
- (2) Bonds shall not be issued unless authorized by the majority of the electors voting upon the question at an election called for that purpose.
- (3) Every issue of bonds shall be in serial form so as to mature in numerical order in equal installments annually on and after five years from date. The bonds shall not bear interest exceeding in any event a net effective rate of seven percent per annum. The bonds shall be signed on behalf of the port by its president and countersigned by its secretary. The bonds shall be so conditioned that the port shall agree, in consideration of the premises, to pay at a place therein named to the bearer or registered holder thereof the sum named therein at the maturity thereof in lawful money of the United States, with interest thereon in like lawful money at the rate per annum named therein, payable semiannually in accordance with the tenor and terms of interest coupons thereto attached.
- (4) The bonds shall be known as water transportation bonds of the Port of (insert name of port), County of (insert name of county), State of Oregon, as the case may be.
- (5) The bonds shall be sold for cash to the highest responsible bidder, upon sealed bids, after advertising; but the board may reject any and all bids tendered and proceed to readvertise when bids are not satisfactory. [Amended by 1967 c.293 §35; 1971 c.728 §101; 1991 c.459 §441]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.727**

[1985 c.775 §1; renumbered 285.850 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.729**

[1985 c.775 §2; renumbered 285.853 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.732**

[1985 c.775 §§3,6; 1987 c.607 §18; renumbered 285.857 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.736**

[1985 c.775 §5; renumbered 285.860 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.738**

[1985 c.775 §7; renumbered 285.863 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.755 - Legislative findings and policy.**

The Legislative Assembly hereby finds that:

- (1) The geographical location of this state, its maritime resources, its skilled labor force and the availability of land for industrial and commercial development provide an opportunity for the citizens of this state to expand participation in and increase the benefits from international trade and commerce.
- (2) The development and operation of international trade and commerce is in the public interest because that trade and commerce promotes the commerce of this state, creates and retains jobs and diversifies the economy of this state.
- (3) Export trading corporations, encouraged by federal law, provide a means to develop and facilitate international trade and commerce and the export and import of goods and services through this state by furnishing services necessary to international trade and by the purchase, sale and financing of goods and services.
- (4) Export trading corporations can facilitate the expansion of total exports and imports and are an important mechanism for experimentation in the development of innovative international trade programs beneficial to local, state, regional and national economic needs.
- (5) Export trading corporations can provide a means for meeting this state's need for well-developed export and import trade intermediaries and can achieve economies of scale and acquire expertise enabling them to export and import goods and services or provide export and import trade services at a reasonable cost to producers. [1983 c.200 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.760 - Definitions for ORS 777.755 to 777.800.**

As used in ORS 777.755 to 777.800, unless the context requires otherwise:

- (1) "Board" means the board of directors of an export trading corporation.
- (2) "Commissioner" means a member of the board of commissioners of a port.
- (3) "Commissioners of the port" means the board of commissioners of the port which formed the export trading corporation.
- (4) "Export trading corporation" means a municipal corporation formed by a port under ORS 294.125, 294.316, 646.740 and 777.755 to 777.800.
- (5) "Export trading project" means a transaction or arrangement for the purchase, sale, exchange or delivery of goods or services in international trade or commerce.
- (6) "Port" means a municipal corporation formed under ORS 777.005 to 777.725, 777.915 to 777.953 and 777.990 or ORS chapter 778.
- (7) "Services" includes, but is not limited to, architectural, automatic data processing, business, communications, consulting, engineering, financial, insurance, legal, management, product research and design, repair, training and transportation services. [1983 c.200 §2; 2007 c.804 §81]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.763 - Export trading corporation; formation by port; hearing; dissolution of corporation.**

- (1) Any port may form an export trading corporation. Proceedings to form an export trading corporation shall be initiated by a resolution adopted by the commissioners of the port proposing the formation of an export trading corporation and fixing a time and place for a public hearing on the resolution. The hearing shall be held not less than 30 days after adoption of the resolution.
- (2) Notice of the public hearing shall be published in one or more newspapers of general circulation within the port not less than 15 days prior to the date fixed for the public hearing.
- (3) Any person may appear at the public hearing and present oral or written statements for or against the proposal to form an export

trading corporation.

(4) After the public hearing, if the commissioners of the port determine the formation of an export trading corporation would promote the purposes of ORS 294.125, 294.316, 646.740 and 777.755 to 777.800, the board may by ordinance form an export trading corporation.

(5) An ordinance forming an export trading corporation shall include:

(a) The name of the export trading corporation.

(b) The names of the initial board of directors.

(c) The office address and the name and address of the initial registered agent.

(6) Unless a later date is specified, the ordinance shall take effect and the export trading corporation formed on the 30th day after enactment of the ordinance. The ordinance shall be subject to the powers of initiative and referendum vested in the electors of the port.

(7) A certified copy of the ordinance shall be filed with the Secretary of State.

(8) The port by ordinance may dissolve the export trading corporation. The ordinance shall include a plan for the dissolution and liquidation of the assets of the export trading corporation. Any surplus assets remaining after payment of the indebtedness of the export trading corporation shall be transferred to the port. [1983 c.200 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.765 - Powers of export trading corporation.**

An export trading corporation shall constitute a municipal corporation of this state and a public body, corporate and politic, exercising public power. No part of the net earnings of an export trading corporation shall accrue to the benefit of a private person.

An export trading corporation may:

(1) Develop, manage and operate export trading projects.

(2) Conduct market research, advertising and marketing, within and outside the boundaries of this state.

(3) Purchase or otherwise acquire, finance, hold, maintain, sell, lease or otherwise dispose of goods or services of every type or nature, within or outside the boundaries of this state.

(4) Acquire or provide communication, insurance, legal assistance, transportation, including trade documentation and freight forwarding, foreign exchange, letters of credit and other necessary or desirable services.

(5) Purchase or otherwise acquire, construct, operate, maintain, lease, rent and dispose of warehouses, elevators, terminals, buildings and other necessary or desirable facilities, within or outside the boundaries of this state.

(6) Enter into contracts, joint ventures, brokerage or other agreements with any person for the purchase, sale or distribution of goods or services, within or outside the boundaries of this state.

(7) Levy and collect rentals, commissions, fees, storage and other charges for use of facilities or services rendered.

(8) Apply for and accept financial, technical or other assistance from any person, including the federal, state, county or city government, or other municipal corporations.

(9) Enter into contracts with any governmental entity or municipal corporation.

(10) Do such other acts or things as may be necessary or convenient for the exercise of the powers granted by ORS 294.125, 294.316, 646.740 and 777.755 to 777.800. [1983 c.200 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.767 - Authorized agreements.**

(1) An export trading corporation may enter into agreements which provide for the establishment of prices or rates, or which require a party to the agreement to sell, lease or purchase a commodity or service solely to or from the export trading corporation or to the persons designated in the agreement, when such agreements are entered into pursuant to export trade activities specified in a certificate issued to the corporation under 15 U.S.C. 4001 to 4021. This subsection is not intended to confer any immunity from federal antitrust laws beyond the immunity conferred by a certificate issued under 15 U.S.C. 4001 to 4021.

(2) When entering into agreements containing the provisions described in subsection (1) of this section, the export trading corporation shall be deemed to be performing a governmental function essential for the benefit of the people of this state and the development and diversification of the economy of this state.

(3) An export trading corporation and a port may enter into agreements for the port to provide accounting, clerical, technical, sales, promotional and other administrative services. The port shall be reimbursed not less than the actual cost for providing such services. [1983 c.200 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.770 - Additional fiscal powers of export trading corporation.**

For the purpose of carrying into effect all or any of its powers, an export trading corporation may:

(1) Borrow money, evidence such borrowing with its promissory notes or other obligations of indebtedness, and pledge in whole or in part any of its assets or revenues not subject to prior liens or pledges.

(2) Issue and sell revenue bonds in the manner and upon the terms and conditions authorized by ORS 777.560 to 777.590.

(3) Purchase, negotiate and sell letters of credit, bills of lading, dock receipts, dock warrants, drafts and other documents of title as



defined in ORS 71.2010 (2)(p). [1983 c.200 §11; 2009 c.181 §108]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.773 - Status of obligations of export trading corporation; prohibited investments.**

- (1) An obligation of an export trading corporation, whether arising from the sale of revenue bonds or otherwise, shall not in any manner be a general obligation of the port, nor a charge upon any revenues or property of the port.
- (2) An export trading corporation shall not acquire stock or other equity interest in any private corporation organized for profit. [1983 c.200 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.775 - Status of export trading corporation; application of certain laws.**

- (1) An export trading corporation is not a contracting agency for the purposes of ORS 279A.055, 279A.065, 279A.070, 279A.075, 279A.100, 279A.105, 279A.120, 279C.005, 279C.100 to 279C.125, 279C.300 to 279C.470 and 279C.570 and ORS chapter 279B, except ORS 279B.025, 279B.235, 279B.240, 279B.270, 279B.275 and 279B.280.
- (2) An export trading corporation is not a public employer for the purposes of ORS chapters 238 and 238A. [1983 c.200 §16; 2003 c.733 §81; 2003 c.794 §331]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.780 - Board of directors; election; term; compensation; board officers.**

- (1) The board of directors of the export trading corporation shall consist of three members. Only commissioners of the port shall be eligible to serve as members of the board of directors. The board of directors shall be elected by majority vote of the commissioners of the port.
- (2) The initial board of directors shall consist of one director elected for a one-year term, one director elected for a two-year term and one director elected for a three-year term. Following election of the initial board, the term of office of a director is three years. A director shall serve until a successor is elected and qualified.
- (3) Before the expiration of the term of a director, the commissioners of the port shall elect a successor. A director is eligible for reelection. In case of a vacancy for any cause, the commissioners of the port shall elect a person to serve for the unexpired term.
- (4) The board shall choose from among its members by majority vote a president, vice president and secretary-treasurer to serve for such terms as the board may determine.
- (5) Directors shall not be entitled to compensation for their services but shall be entitled to reimbursements for actual and necessary expenses incurred or paid in the performance of their duties as members of the board. [1983 c.200 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.783 - Board meetings; rules; quorum.**

- (1) The board may hold regular meetings at the time and place fixed by the rules of the board. A majority of the members of the board constitutes a quorum for the transaction of business.
- (2) Special meetings may be held when called by the president of the board or by a majority of the members of the board in the manner prescribed by the rules of the board. [1983 c.200 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.785 - Meetings of board to be open to public; executive sessions.**

- (1) Except as provided in subsection (2) of this section, all meetings of the board shall be open to the public and all persons shall be permitted to attend any meeting.
- (2) In addition to matters which may be considered in executive session under ORS 192.660, the board may also meet in executive session to:
  - (a) Consider preliminary negotiations for an export trading project involving financial or commercial information which the board in good faith determines should be kept confidential.
  - (b) Review the operation, modification, enlargement or abandonment of an export trading project involving financial or commercial information which the board in good faith determines should be kept confidential.
- (3) In its discretion the board may allow representatives of the news media to attend executive sessions held under subsection (2)(a) and (b) of this section on such terms and conditions as the board may prescribe. [1983 c.200 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.787 - Chief executive officer of export trading corporation; appointment; removal.**

- (1) The board may appoint a chief executive officer who shall be responsible for the administration of the business affairs of an export trading corporation. The chief executive officer shall perform such duties as the board may prescribe.
- (2) The chief executive officer shall hold office for an indefinite term and may be removed from office only by the affirmative vote of a majority of the board. Removal of a chief executive officer may be reconsidered by the board but is otherwise final and not

subject to appeal. [1983 c.200 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.790 - Employees of export trading corporation.**

(1) An export trading corporation may employ such persons within or outside the boundaries of this state as necessary or convenient to accomplish its purposes. In addition, an export trading corporation may appoint such agents, brokers or representatives, within or outside the boundaries of this state, as necessary or convenient to accomplish its purposes.

(2) The chief executive officer of an export trading corporation may employ, appoint, discipline or remove all employees, agents, brokers and representatives of an export trading corporation, and fix the compensation to be paid to such persons. [1983 c.200 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.793 - Disclosure of commercial or financial information prohibited; exception.**

(1) Except as provided in subsection (2) of this section, no officer, agent or employee of an export trading corporation shall disclose commercial or financial information concerning an export trading project.

(2) Commercial or financial information may be disclosed:

(a) In a judicial proceeding when disclosure is ordered by a court of competent jurisdiction;

(b) With the consent of the persons whose interests are affected by disclosure;

(c) By an officer, agent or employee of an export trading corporation acting within the scope of employment, as prescribed by rules of the board; or

(d) When the board finds the information would not reasonably be considered confidential, the export trading corporation has not obliged itself in good faith not to disclose the information and disclosure is in the public interest. [1983 c.200 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.795 - Right to inspect records of export trading corporation; certain records exempt from disclosure.**

(1) Except as provided in subsection (2) of this section, the written records of an export trading corporation shall be public records available for inspection under ORS 192.311 to 192.478.

(2) In addition to the exemptions set forth in ORS 192.338, 192.345 and 192.355, the following public records of an export trading corporation are exempt from disclosure:

(a) Information consisting of financial, commercial, sales, production, cost or similar business records of a private concern or enterprise which is not otherwise required to be disclosed by state or federal law.

(b) Trade secrets, as defined in ORS 192.345 (2). [1983 c.200 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.800 - Annual report.**

An export trading corporation shall report annually to the port on the operations of the export trading corporation. A copy of the report shall be filed by the export trading corporation with the Secretary of State. [1983 c.200 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.805**

[1969 c.599 §39; 1973 c.249 §78; 1975 c.371 §1; 1985 c.565 §120; 1989 c.908 §65; renumbered 285.805 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.810**

[1969 c.599 §40; 1973 c.249 §79; 1975 c.371 §3; 1985 c.565 §121; renumbered 285.807 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.817**

[1987 c.607 §17; 1991 c.651 §22; renumbered 285.810 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.830**

[1969 c.599 §45; 1973 c.249 §80; renumbered 285.813 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.835**

[1969 c.599 §46; 1973 c.249 §81; 1975 c.371 §4; renumbered 285.815 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports**

**GenerallySection 777.840**

[1969 c.599 §47; renumbered 285.817 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.845**

[1969 c.599 §48; 1973 c.249 §82; renumbered 285.820 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.850**

[1977 c.838 §3; 1985 c.565 §122; 1985 c.773 §3; 1989 c.908 §66; 1991 c.483 §1; renumbered 285.870 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.852**

[1977 c.838 §4; 1989 c.908 §67; renumbered 285.873 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.854**

[1977 c.838 §5; 1989 c.908 §68; renumbered 285.875 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.856**

[1977 c.838 §6; renumbered 285.880 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.858**

[1977 c.838 §7; 1979 c.182 §11; 1979 c.800 §1; 1989 c.645 §1; 1989 c.908 §69; renumbered 285.883 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.860**

[1977 c.838 §8; 1979 c.800 §2; 1985 c.773 §1; 1989 c.645 §2; 1989 c.908 §70; 1991 c.483 §2; renumbered 285.885 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.862**

[1977 c.838 §9; 1989 c.908 §71; renumbered 285.887 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.864**

[1977 c.838 §10; 1989 c.908 §72; renumbered 285.890 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.866**

[1977 c.838 §11; 1989 c.908 §73; renumbered 285.893 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.868**

[1977 c.838 §12; 1989 c.908 §74; renumbered 285.895 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.870**

[1977 c.838 §14; 1989 c.908 §75; renumbered 285.897 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.872**

[1977 c.838 §15; 1989 c.908 §76; renumbered 285.900 in 1991]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports  
GenerallySection 777.874**

[1977 c.838 §21; 1989 c.908 §77; renumbered 285.903 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.876**

[1977 c.838 §27; 1989 c.908 §78; renumbered 285.905 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.878**

[1977 c.838 §16; renumbered 285.907 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.880**

[1977 c.838 §17; 1979 c.800 §3; 1989 c.908 §79; renumbered 285.910 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.882**

[1977 c.838 §18; 1989 c.645 §3; 1989 c.908 §80; renumbered 285.913 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.884**

[1977 c.838 §§20,24; 1979 c.416 §6; 1985 c.773 §5; 1989 c.908 §81; renumbered 285.915 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.886**

[1977 c.838 §22; 1981 c.653 §6; 1989 c.908 §82; renumbered 285.917 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.888**

[1977 c.838 §23; renumbered 285.920 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.890**

[1977 c.838 §1; renumbered 777.910]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.892**

[1981 c.532 §2; 1989 c.908 §83; renumbered 285.923 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.894**

[1981 c.532 §3; 1989 c.908 §84; renumbered 285.925 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.896**

[1981 c.532 §4; renumbered 285.927 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.898**

[1981 c.532 §5; renumbered 285.930 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.900**

[1981 c.532 §6; renumbered 285.933 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.902**

[1981 c.532 §7; renumbered 285.935 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.904**

[1981 c.532 §8; renumbered 285.940 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.910**

[Formerly 777.890; renumbered 285.943 in 1991]

OREGON INTERNATIONAL PORT OF COOS BAY

Note:

Sections 13 and 14, chapter 746, Oregon Laws 2007, provide:

Sec. 13.

(1) In addition to amounts authorized under ORS 286.505 to 286.545 (2005 Edition) or pursuant to ORS 286A.035, the State Treasurer, at the request of the Director of the Oregon Business Development Department, may issue lottery bonds pursuant to ORS 286A.560 to 286A.585:

(a) In an amount of up to \$5 million for payment of the expenses of the Coos Bay Channel Project; and

(b) In an additional amount to be estimated by the State Treasurer for payment of bond-related costs of the Oregon Department of Administrative Services, the Oregon Business Development Department and the State Treasurer.

(2) The director shall request that the State Treasurer issue the amount of bonds described in subsection (1)(a) of this section, at the request of the primary sponsor, to transfer in the biennium beginning July 1, 2007, up to \$5 million in net proceeds of lottery bonds to the Coos Bay Channel Fund established in section 15, chapter 746, Oregon Laws 2007, for distribution to the primary sponsor after the director finds that the primary sponsor has taken action pursuant to the grant agreement required in section 14, chapter 746, Oregon Laws 2007, that triggers the distribution of bond proceeds described in this subsection. [2007 c.746 §13; 2009 c.900 §1; 2013 c.754 §1; 2015 c.815 §3; 2019 c.671 §42; 2021 c.682 §54]

Sec. 14.

(1) The Director of the Oregon Business Development Department shall enter into one or more grant agreements with the primary sponsor that require the Oregon Business Development Department to disburse, over the course of the project, an aggregate principal amount of \$5 million for payment of the expenses of the Coos Bay Channel Project, from the Coos Bay Channel Fund established pursuant to section 15, chapter 746, Oregon Laws 2007, to the primary sponsor. The department shall make disbursements from the fund as soon as bond proceeds are deposited in the fund.

(2) The one or more grant agreements must establish appropriate triggers for the distribution of bond proceeds described in section 13 (2), chapter 746, Oregon Laws 2007, based on appropriate measures of progress in completion of the project that are satisfactory to the director and consistent with prudent financial practices that reflect sound stewardship of public resources.

(3) The State of Oregon and its agencies and departments are not liable to the lenders, vendors or contractors of the Oregon sponsors for any action or omission under sections 11 to 15, chapter 746, Oregon Laws 2007.

(4) By receipt of any part of net proceeds of lottery bonds described in section 13, chapter 746, Oregon Laws 2007, the primary sponsor agrees to indemnify the state and its agencies and departments to the fullest extent permitted by law for liability the state or its agencies and departments might incur in connection with any borrowing by the primary sponsor for the project.

(5) The director and the primary sponsor shall modify the existing grant agreement as may be necessary to incorporate the amendments to this section and section 13, chapter 746, Oregon Laws 2007, by sections 1 and 2, chapter 754, Oregon Laws 2013. [2007 c.746 §14; 2009 c.900 §2; 2013 c.754 §2; 2015 c.815 §4; 2016 c.66 §14; 2019 c.671 §43; 2021 c.682 §55]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.915 - Definitions for ORS 777.915 to 777.953.**

As used in ORS 777.915 to 777.953, unless the context requires otherwise:

(1) "Board" means the board of commissioners of the Oregon International Port of Coos Bay.

(2) "Coos Bay rail link" means a railroad right-of-way, including spur lines, appurtenances, facilities and related property within the railroad right-of-way, that connects the station of Danebo in Lane County with the station of Coquille in Coos County.

(3) "Port" means the Oregon International Port of Coos Bay. [1987 c.565 §2; 2011 c.437 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.917 - Oregon International Port of Coos Bay; applicability of statutes.**

(1) The Port of Coos Bay is hereby renamed the Oregon International Port of Coos Bay.

(2) Notwithstanding ORS 777.135 to 777.165, 777.410 and 777.415, ORS 777.915 to 777.953 apply to the Oregon International Port of Coos Bay. [1987 c.565 §§2a,3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports  
Generally Section 777.920 - Board of port commissioners; powers.**

(1) The power and authority given to the Oregon International Port of Coos Bay is vested in and shall be exercised by a board of five

commissioners. The board may exercise such powers, at regular or special meetings, as is usual and customary with similar bodies.

(2) The port may own, operate, repair and maintain the Coos Bay rail link. [1987 c.565 §4; 2011 c.437 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.923 - Qualifications of port commissioners.**

(1) The board shall be composed of electors registered in the port.

(2) A person is eligible for appointment as a commissioner of the port who at the time of the appointment is a citizen of the United States and of the State of Oregon, and who has for one year immediately preceding appointment resided within the port. [1987 c.565 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.925 - Appointment of port commissioners; term; vacancies.**

(1) Upon the expiration of the term of a commissioner, a successor shall be appointed by the Governor, subject to confirmation as provided by ORS 171.562 and 171.565. Except as provided in ORS 777.927 and 777.930, appointees, when confirmed, shall hold office for a term of four years and until their respective successors have been appointed, confirmed and qualified.

(2) If a vacancy occurs by death, resignation or disqualification of a commissioner, the vacancy shall be filled by appointment by the Governor for the unexpired term subject to confirmation as provided by subsection (1) of this section. [1987 c.565 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.927 - Removal of port commissioner for malfeasance; statement of charges; notice; court hearing.**

If the Governor is at any time satisfied that a commissioner has been guilty of malfeasance in office, the Governor may file with the Secretary of State a written statement of the acts of the commissioner constituting the malfeasance. Thereupon the Secretary of State shall transmit a copy of the statement to the commissioner named and another copy to the clerk of the Circuit Court for Marion County. After the expiration of 10 days following the delivery of the statement to the commissioner a hearing shall be held before the court, of which hearing the commissioner is entitled to at least five days' notice. If upon the hearing the court determines that the commissioner has been guilty of malfeasance in office, written findings to that effect shall be made and filed by the court.

Thereupon the commissioner shall be considered removed from office. The vacancy so created shall be filled as provided in ORS 777.925. [1987 c.565 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.930 - Removal of port commissioner for lack of attendance; authorized leave of absence.**

(1) If a commissioner appointed under ORS 777.925 fails, without being excused by the remaining members of the board, to attend for a period of 60 days any of the regular or special meetings of the board regularly and duly called and held, that commissioner may be removed from office by the Governor.

(2) The board may grant a leave of absence not exceeding three months to a commissioner unable to attend meetings of the board by reason of illness or continued absence from the Oregon International Port of Coos Bay. [1987 c.565 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.933 - Board meetings; rules; executive committee.**

(1) The board shall hold at least one regular meeting in each month on a day to be fixed by it, and may hold special meetings as provided by the rules of the board. At all regular and special meetings a majority of the commissioners then members of the board constitutes a quorum.

(2) The board may create an executive committee of which every commissioner shall be a member and of which a number less than a majority, as the board may determine, may constitute a quorum for the transaction of business. The committee may hold its meetings under such rules as the board may prescribe. However, the executive committee has no power except as a committee and only as expressly conferred upon it by the rules of the board. In no event shall the committee exercise the general powers of the board. The board has no power to appoint or delegate any part of its power or authority to any committee except the executive committee. [1987 c.565 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.935 - Board officers.**

(1) The Governor shall designate one member of the board as president of the board, who shall hold that office until removed from it by the Governor. The president of the board shall have the powers and perform the duties usual to the office of president.

(2) The president of the board shall designate from the other members of the board a vice president, treasurer and secretary of the board, who shall hold those offices until removed from them by the president. Each officer shall have the powers and perform the duties usual to the respective offices. [1987 c.565 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports**

**GenerallySection 777.937 - Board to report to Legislative Assembly.**

The board shall report to the Legislative Assembly of this state, biennially, everything done or performed by the board under this chapter. [1987 c.565 §11]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports**

**GenerallySection 777.940 - Power to issue general obligation bonds; limitation; dedication of revenues; use of proceeds.**

(1) For the purpose of carrying into effect any of the powers granted to the port, the port has the power to borrow money and to sell and dispose of bonds which shall constitute a general obligation of the port and be secured by the port's full faith and credit. Such bonds outstanding at one time shall never exceed in the aggregate one and three-fourths percent of the real market value of all taxable property within the limits of the port, computed in accordance with ORS 308.207. The bonds shall be secured by the taxing power of the port as provided in ORS 777.430 (2). In addition, the port may provide that the bonds shall be payable from and secured by a lien and pledge of all or any part of the revenues derived by the port from the facilities constructed from the proceeds of the bonds.

(2) The port may provide for the creation of special trust funds and may authorize the appointment of a trustee to administer the same and may obligate itself to set aside and pay into a special trust fund any revenues pledged to the payment of the bonds. The port may establish and provide from available funds for the funding of debt service, operation and maintenance reserves.

(3) Proceeds from the sale of the bonds may also be used to pay the costs incurred in issuing the bonds, preliminary work incident to carrying out such powers, including but not limited to planning, engineering, inspection, accounting, fiscal, legal and trustee expenses and other similar expenses, and to pay interest on the bonds for such period as the port may determine, but not to exceed six months beyond completion of the facilities financed with the bonds, and to establish reserves for debt service on the bonds.

[1987 c.565 §12; 1991 c.459 §442]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports**

**GenerallySection 777.943 - Issuance of bonds.**

Bonds authorized by ORS 777.940 shall be issued as prescribed in ORS chapter 287A. [1987 c.565 §13; 1997 c.171 §25; 2007 c.783 §228]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports**

**GenerallySection 777.945 - Certain uses of bond proceeds prohibited in absence of elector approval.**

Bonds shall not be issued by the port to provide funds for the establishment or operation of surface ship and air lines or for the payment of bonuses to either such line or lines without the approval of the electors of the port expressed at an election called and held within the port at which such question is submitted. [1987 c.565 §14]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports**

**GenerallySection 777.947 - Limitation on annual issuance and aggregate amount of bonds in absence of elector approval.**

(1) The total amount of general obligation bonds issued in any calendar year by the port without the approval of the electors of the port shall not exceed \$500,000.

(2) The aggregate outstanding principal amount of general obligation bonds issued by the port without the approval of the electors of the port shall not at any time exceed \$1.5 million.

(3) Nothing in this section applies to refunding bonds. [1987 c.565 §15]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports**

**GenerallySection 777.950 - Certain uses of proceeds of bonds issued without elector approval prohibited.**

Notwithstanding any other provision of law, proceeds from the sale of bonds issued by the port without the approval of the electors of the port under ORS 777.947, except for refunding bonds, shall be used only for construction, maintenance and repair of facilities and works necessary for industrial development within the port, construction, maintenance and repair of docks, piers, wharves, dredge and spoil sites and navigation aids and as matching moneys for state and federal grants for the purposes described in this section. [1987 c.565 §16]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 777 - Ports**

**GenerallySection 777.953 - Annexation; authority; procedure; effect.**

(1) The board, on its own motion, may initiate a proposal for annexation to the Oregon International Port of Coos Bay of territory that is not within the boundaries of another port organized under this chapter. Annexed territory may be either wholly or partially within or outside the same county in which the Oregon International Port of Coos Bay is located. However, if the territory proposed to be annexed is outside Coos County, the territory must be situated entirely within the watershed of the Coos River and its tributaries. The proposal for annexation shall be made in a resolution adopted by the board.

(2) After adoption of a resolution proposing annexation of the territory described in subsection (1) of this section to the port, the board shall fix a day for a public hearing before the board at which time the electors of the port and of the affected territory may

appear and be heard on the question of annexation.

(3) The board shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of the hearing in a newspaper of general circulation in the county and shall cause notices of the hearing to be posted in four public places in the port for the same period.

(4) After the public hearing, the board shall file the resolution proposing annexation with the governing body of the county in which the territory proposed to be annexed is situated. The county governing body shall order an election to be held in the territory. The county governing body shall also order the board to hold an election within the boundaries of the port on the same day, both elections to be held for the purpose of submitting the proposed annexation to the electors. The board shall certify the results of the election to the county governing body. The order of annexation shall be entered by the county governing body when a majority of all the votes cast in the territory and the port are in favor of the annexation.

(5) After the date of entry of an order by the county governing body annexing territory to the port, the territory annexed shall become subject to the outstanding indebtedness, bonded or otherwise, of the port in like manner as the territory within the port.

(6) Except as necessary to implement the provisions of subsection (7) of this section, ORS 198.705 to 198.955 and 777.326 do not apply to an annexation proceeding conducted under this section.

(7)(a) Notwithstanding subsection (1) of this section, the board may annex territory within the area constituting the Coos Bay rail link or land planned and zoned for industrial uses that is contiguous to the Coos Bay rail link. In lieu of the procedures described in subsections (2) to (5) of this section, annexation of territory within the area of the Coos Bay rail link or land planned and zoned for industrial uses that is contiguous to the Coos Bay rail link shall proceed only at the request of the landowner, in accordance with the annexation procedures set forth in ORS 198.857.

(b) Notwithstanding ORS 198.720 (2), the Oregon International Port of Coos Bay may annex territory described in paragraph (a) of this subsection that is within the boundaries of another port. Annexation under this subsection does not withdraw the territory from the other port. [1987 c.565 §16a; 2007 c.804 §82; 2011 c.437 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 777 - Ports Generally Section 777.990 - Penalties.**

(1) Failure by a port treasurer, or county treasurer charged with the duties provided by ORS 777.515, to comply with the requirements of that section for a period of 10 days is a Class A violation.

(2) Subject to ORS 153.022, any person violating a regulation adopted by a port board under ORS 777.120 or 777.190 commits a Class A misdemeanor. [Amended by 1971 c.728 §102; 1999 c.1051 §226; 2011 c.597 §95]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.005 - Definitions.**

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the board of commissioners of the Port of Portland.

(2) "Port" means The Port of Portland.

(3) "Elector" means an elector residing in the port.

(4) "Portland metropolitan area" means the Oregon portion of a metropolitan statistical area as designated by the United States Office of Management and Budget with an Oregon population of more than 750,000. [Amended by 1971 c.728 §103; 1973 c.178 §1; 2009 c.11 §98]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.008 - Port of Portland granted powers of ports formed under ORS chapter 777; exceptions; additional powers.**

(1) ORS 777.005 to 777.050, 777.110, 777.120, 777.132 to 777.165, 777.210, 777.220 and 777.405 to 777.435 do not apply to the Port of Portland.

(2) Subject to subsection (1) of this section, the Port of Portland has all powers possessed by ports formed under ORS 285A.666 to 285A.732, 777.005 to 777.725, 777.915 to 777.953 and 777.990.

(3) ORS 777.530 and 777.535 apply to the Port of Portland and the Port of Portland has all powers granted to other ports under ORS 777.530 and 777.535.

(4) The Port of Portland shall do such things, perform such duties and exercise such powers as it may be authorized or empowered to do, perform or exercise by any Act of the legislature passed for that purpose, though not directly in amendment of this chapter. The powers granted by this chapter are in addition to other powers granted by law to the port.

(5) In addition to such other duties, functions and powers as may be imposed upon the Port of Portland, the port may make recommendations to the Oregon Board of Maritime Pilots. [1971 c.728 §116; 1987 c.775 §7; subsection (3) enacted as 1989 c.644 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.010 - District known as Port of Portland; boundaries; capacity to sue.**



The Portland metropolitan area is a separate district, to be known as the Port of Portland, and as such shall have perpetual succession, and by that name shall exercise and carry out all the powers and objects conferred on it by law. The port may sue and be sued, plead and be impleaded in all actions, suits or proceedings brought by or against it; provided, however, that the bonded or other indebtedness of the port that was chargeable to or a lien upon the property within the limits of the port:

- (1) Prior to June 30, 1963, shall not be chargeable to or a lien upon all of that property which lies east of the east boundary line of range two east of the Willamette Meridian in Multnomah County; or
- (2) Prior to June 30, 1973, shall not be chargeable to or a lien upon all that property lying within the boundaries of Clackamas and Washington Counties. [Amended by 1963 c.124 §1; 1973 c.178 §2; 2003 c.802 §152]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.015 - Purposes and general powers of port.**

The object, purpose and occupation of the Port of Portland shall be to promote the maritime, shipping, aviation, commercial and industrial interests of the port as by law specifically authorized. Subject to ORS 778.016, the port may acquire, hold, use, dispose of and convey real and personal property, make any and all contracts the making of which is not by this chapter expressly prohibited. It may do any other acts and things which are requisite, necessary or convenient in accomplishing the purpose described or in carrying out the powers granted to it by law. The port may supply surface and air craft with fuel and other supplies at reasonable cost as may be for the best interests of the port. [Amended by 1959 c.362 §1; 1971 c.728 §104; 2013 c.689 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.016 - Best value standards for Port of Portland contracts and space leases.**

In awarding contracts and leasing spaces, the Port of Portland may establish best value standards and criteria, taking into account factors that include:

- (1) Experience, technical capability and past performance.
- (2) The qualifications, compensation and retention policies of bidding contractors and lessees with respect to the staff and subcontractors operating at the port.
- (3) Potential local and regional benefit within the port, the surrounding community, the region and the state. [2013 c.689 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.020 - Acquisition of City of Portland property by port; assumption of bonds; election.**

- (1) The Port of Portland may purchase or otherwise acquire all or any of the docks, wharves, elevators, terminals, dry docks and other properties of the City of Portland that are under the charge and control of the dock commission of the city.
- (2) If the port purchases or otherwise acquires property as provided by subsection (1) of this section, the port may in payment therefor assume the payment of all or any part of the bonds, debentures and other obligations of the City of Portland issued, sold or incurred for the purpose of acquiring funds to construct, purchase or otherwise acquire the docks, wharves, elevators, terminals, dry docks or other properties. The aggregate amount of bonds, debentures and obligations so assumed shall not exceed a sum determined by the board to be the fair value of the property so acquired by the port. The limitation provided by ORS 778.030 shall not apply to bonds, debentures or other obligations assumed under this section.
- (3) The authority granted by this section shall not be exercised without the prior approval of the electors residing within the port expressed at an election called and held within the port at which such question is submitted. [Amended by 1971 c.728 §105]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.025 - Power to engage in certain commercial activities.**

For the use of the Port of Portland or for public convenience and the convenience of air transport, shipping, commercial and industrial development of the port and the waterfront of its harbors, rivers and waterways, the port may:

- (1) Acquire by purchase, condemnation or other lawful method lands necessary for its use or to be improved for public convenience and the convenience of the air transport, shipping, commercial and industrial development of the port as well as all or any part of the waterfront of its harbors, rivers and waterways.
- (2) Acquire by purchase, condemnation or other lawful method lands necessary or convenient for the purpose of depositing or dumping thereon earth, sand, gravel, rock or other material dredged or excavated, in the exercise of any of its powers, from any of the rivers or other waterways or lands within the boundaries or under the control of the port.
- (3) Enlarge its tidal area, fill and reclaim lands, and make such disposition by use, conveyance, development or lease of lands so filled or reclaimed as it considers advisable.
- (4) Construct, excavate and dredge canals and channels connecting its waterways with one another, with other waterways and with the sea.
- (5) Purchase or otherwise acquire, construct, operate, maintain, lease, rent and dispose of airports, and their approaches, wharves, piers, docks, slips, warehouses, elevators, dry docks, terminals, buildings, and all other facilities and aids incident to the development, protection and operation of the port and of the air transport, shipping, commercial and industrial interests of the port, within the port, and collect wharfage, storage and other charges for the use of such facilities.

(6) Own, acquire, construct, purchase, lease, operate and maintain within the port lines of railroad, with sidetracks, turnouts, switches and connections with other lines of railroad, and streets, roads, water mains, sewers, pipelines, and also gas and electric conduits and lines which a utility is unwilling or unable to furnish, within or to or from the boundaries of the port; and carry and transport freight and passengers thereon and thereover for hire, and perform lighterage for hire.

(7) Acquire, own, lease, rent, operate, maintain and dispose of towboats, barges and other vessels for the transportation of cargo or passengers in maritime commerce on the Columbia and Snake Rivers and their tributaries, within or without the boundaries of this state.

(8) Acquire, own, lease, rent, operate, maintain and dispose of unit trains and related facilities for the transportation of bulk commodities to facilities within the port from locations within or without the port. [Amended by 1959 c.362 §2; 1967 c.548 §1; 1971 c.728 §106; 1973 c.178 §6; 1981 c.879 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.030 - Power to issue general obligation bonds; limitation; dedication of revenues; use of proceeds.**

(1) For the purpose of carrying into effect any of the powers granted to the Port of Portland, the port has the power to borrow money and to sell and dispose of bonds which shall constitute a general obligation of the port and be secured by the port's full faith and credit. Such bonds outstanding at one time shall never exceed in the aggregate one and three-fourths percent of the real market value of all taxable property within the limits of the port, computed in accordance with ORS 308.207. In computing the total of bonds at any time outstanding, bonds issued for the purpose of providing funds to meet obligations assumed pursuant to ORS 778.020, shall not be included. The bonds shall be secured by the taxing power of the port as provided in ORS 778.065 (1). In addition, the port may provide that the bonds shall be payable from and secured by a lien and pledge of all or any part of the revenues derived by the port from the facilities constructed from the proceeds of the bonds.

(2) The port may provide for the creation of special trust funds and may authorize the appointment of a trustee to administer the same and may obligate itself to set aside and pay into a special trust fund any revenues pledged to the payment of the bonds. The port may establish and provide from available funds for the funding of debt service, operation and maintenance reserves.

(3) Proceeds from the sale of the bonds may also be used to pay the costs incurred in issuing the bonds, preliminary work incident to carrying out such powers, including but not limited to planning, engineering, inspection, accounting, fiscal, legal and trustee expenses and other similar expenses, and to pay interest on the bonds for such period as the port may determine, but not to exceed six months beyond completion of the facilities financed with the bonds, and to establish reserves for debt service on the bonds.

[Amended by 1963 c.9 §39; 1971 c.702 §1; 1971 c.728 §107a; 1977 c.33 §1; 1991 c.459 §443]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.036 - Issuance of bonds.**

Bonds authorized by ORS 778.030 shall be issued as prescribed in ORS chapter 287A. [1977 c.33 §3 (enacted in lieu of 778.035); 1981 c.94 §57; 1997 c.171 §26; 2007 c.783 §229]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.040 - General obligation bond issues to be approved by electors.**

(1) General obligation bonds shall not be issued by the Port of Portland to provide funds for the establishment or operation of surface ship and air lines or for the payment of bonuses to either such line or lines without the approval of the electors of the port expressed at an election called and held within the port at which such question is submitted.

(2) Whenever the port issues general obligation bonds for purposes other than refunding general obligation bonds previously issued and for purposes other than providing funds to meet the obligations of the City of Portland assumed pursuant to ORS 778.020 in an aggregate amount equal to five percent of the present real market value of all the taxable property within the territorial limits of the port, no additional general obligation bonds shall be issued for purposes other than refunding general obligation bonds theretofore issued without the approval of the electors of the port expressed at an election within the port at which such question is submitted.

[Amended by 1971 c.399 §1; 1997 c.461 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.045 - Amount of general obligation bonds issued in one year limited.**

The total amount of general obligation bonds issued by the Port of Portland in any calendar year, except for refunding bonds or bonds issued to provide funds to meet obligations assumed pursuant to ORS 778.020, shall not exceed \$3 million unless a greater amount is approved by the electors of the port at an election at which such question is submitted. [Amended by 1971 c.728 §110; 1973 c.178 §7; 1997 c.461 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.060 - Expenditure of bond sale funds for operating expenses limited.**

The board shall not expend, within any one calendar year, from the funds derived from the sale of bonds, in excess of \$500,000 to meet the operating expenses of the Port of Portland. As used in this section "operating expenses" means the maintenance of plant,

structures and equipment and such dredging as may be required to preserve or restore at or to its artificial depth a channel previously excavated by the port. [Amended by 1971 c.728 §113]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.065 - Port taxing power; annual limitation.**

The Port of Portland may each year assess, levy and collect taxes upon all taxable real and personal property situated within its boundaries as required:

- (1) To pay principal and interest on bonds issued under ORS 778.030;
- (2) To pay bonds, debentures and other obligations of the City of Portland assumed under ORS 778.020; and
- (3) To pay all other expenses that may be incurred in the exercise of the powers granted to the port. [Amended by 1963 c.9 §40; 1971 c.701 §1; 1971 c.728 §143]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.068 - Filing boundary change with county assessor and Department of Revenue.**

For purposes of ad valorem taxation, a boundary change must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225. [2001 c.138 §54]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.070 - Tax levy.**

- (1) Taxes authorized by ORS 778.065 shall be levied in each year and returned to the county officers whose duty it is to extend the tax roll by the time required by law for city taxes to be levied and extended. The county officer whose duty it is to extend the county levy shall extend the levy of the Port of Portland in the same manner city taxes are extended.
- (2) All taxes levied by the port are payable at the same time and shall be collected by the same officers as regular county taxes. The county officers collecting the taxes shall pay them to the treasurer of the port as provided by law. [Amended by 1971 c.728 §115]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.073 - Recreational facilities; development; operation; maintenance.**

- (1) The Port of Portland may construct, operate, equip and maintain public parks, marinas and other recreational facilities on land owned by the port when such facilities may be developed in conjunction with the exercise by the port of any of its other powers.
- (2) The port may convey the land and recreational facilities developed under this section to a political subdivision or municipal corporation of this state in exchange for an agreement to operate and maintain the facilities solely for public recreational use.
- (3) The port may enter into an agreement with a political subdivision or municipal corporation of this state for the operation and maintenance of recreational facilities. [1971 c.400 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.085 - Control over port waters and wharf lines; adoption and enforcement of navigational rules; authority to establish penalties; limitation.**

- (1) To the full extent the State of Oregon might exercise control, or grant to the Port of Portland the right to exercise control, the port has full control of the rivers, harbors and waterways within its boundaries and between its boundaries and the sea.
- (2) The port may make, change or abolish wharf lines of, in and for the rivers, harbors and waterways within its boundaries.
- (3) As it considers convenient, requisite or necessary, or in the best interests of the maritime shipping or commercial interests of the port, the board may by ordinance make, modify or abolish regulations:
  - (a) For the use or navigation of the rivers, harbors and waterways mentioned in subsection (1) of this section; or
  - (b) For the placing of obstructions therein, or the removal of obstructions therefrom.
- (4) The port may enforce the regulations by penalties or seek other appropriate remedies as the port considers necessary. Penalties are recoverable in the name of the port in any court of this state.
- (5) This section does not authorize the port to cause the removal of bridges or other obstructions existing under a grant by this state. This section does not authorize the port to exclude cities other than the City of Portland from free access to the channel of either the Willamette or Columbia Rivers or the Oregon and the Columbia Sloughs, or the free use of the rivers or sloughs for navigation. [Amended by 1963 c.145 §2; 1971 c.728 §117; 2011 c.597 §301]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.090 - Rights of riparian owners and owners of moorage facilities.**

Where it is necessary to widen the general channel or improve the navigation of the rivers or sloughs by requiring the removal or destruction of moorage facilities for houseboats, boathouses or pleasure craft in the rivers or sloughs, or by establishing or reestablishing wharf lines that have the effect of destroying or impairing the riparian rights of the adjoining owners, the adjoining owners or others owning the moorage facilities shall be reasonably compensated for the removal or destruction of the moorage facilities and for the destruction or impairment of the riparian rights; and shall not be required to remove or destroy the moorage

facilities in absence of reasonable compensation therefor. The Port of Portland may acquire moorage facilities, riparian rights or the real property of adjoining owners by exercise of the power of eminent domain as provided in ORS 778.095. [Amended by 1953 c.713 §2; 1971 c.728 §118; 1973 c.203 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.095 - Eminent domain power.**

The Port of Portland may acquire, by condemnation or otherwise, private property necessary or convenient in carrying out any power granted the port. The right to acquire property by condemnation shall be exercised as provided by ORS chapter 35. [Amended by 1971 c.728 §119]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.100 - Reclamation of lands within port limits; assessments; lien; hearing; appeal.**

(1) When the Port of Portland contemplates the filling or reclamation of any low, swamp or submersible land within its territory held in private ownership, it may provide by ordinance for assessment by the board of the damages and benefits to be sustained by and to accrue to the land by reason of the filling or reclamation. In making the assessment the question of channel frontage as well as filling shall be considered in assessing benefits. The ordinance may provide for payment of damages to the owner of the land and may provide for creation of a lien upon the land in favor of the port for the amount of benefits and for payment of the amount of the lien, either in cash or in installments, with interest thereon over a term of years.

(2) The ordinance shall provide for a hearing before the board to be held, upon due notice to all owners of and persons interested in the lands to be affected by the assessment, before the assessment is made.

(3) Any owner or person interested in any land affected, who is aggrieved by an assessment made under this section may appeal to the Circuit Court of Multnomah County for judicial review of the assessment. [Amended by 1969 c.594 §62; 1971 c.728 §120]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.105 - Port required to contract for work and materials; dry docks; bids.**

(1) Except in cases of emergency and except for ordinary current repair work necessary from day to day, all material purchased for and all work done in, on or for any dry dock, dredge, boat, scow or other appliance to be built, owned or operated by the Port of Portland, when the purchase is made or the work is done by construction, alteration or general overhauling, shall be purchased or done by or under contract. Such contracts shall be let to the lowest competent and responsible bidder, after due advertisement for bids, in the manner usual and customary in the letting of contracts by public bidding, and under regulations prescribed by the port.

(2) Notwithstanding subsection (1) of this section or any other provision of law, the port may let a contract for the construction of a dry dock to the lowest competent and responsible bidder who submits a bid to construct the dry dock within the port, if:

(a) The bid of such bidder does not exceed by more than 10 percent the lowest bid for construction of the dry dock elsewhere; and

(b) In the opinion of the board, the public good will in any way be served thereby. [Amended by 1961 c.11 §1; 1971 c.728 §121; 1977 c.361 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.110 - Personnel; membership in retirement systems.**

(1) The Port of Portland may employ engineers, superintendents, mechanics, clerks and other persons as necessary or convenient in carrying on its work and fix their rates of compensation.

(2) No employee of the port shall become a member of the Public Employees Retirement System if membership of the employee in the system would result in coverage of the employee by, and contributions on the employee's behalf by the port to, both a private pension system and the Public Employees Retirement System. [Amended by 1971 c.495 §1; 1971 c.728 §144]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.115 - Improvement contracts with federal government.**

The Port of Portland may contract with the United States Government to do all or part of the work of making, maintaining, or both, a depth of water in the rivers, harbors and waterways within its boundaries and between its boundaries and the sea as determined by the federal government. The port may receive therefor compensation as agreed between the federal government and the port.

[Amended by 1963 c.145 §3; 1971 c.728 §123]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.120 - Operation of chapter upon rights of other entities within port limits.**

Nothing in this chapter is intended to grant the Port of Portland authority to interfere with or detract from the general rights and powers of a city or a school or road district that is located in whole or in part within the boundaries of the port. However, the port has full power to carry out and fulfill the purpose of its creation, and to exercise its power of assessing, levying and collecting taxes.

[Amended by 1971 c.728 §124]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.125 - Port assistance to other governmental units within port boundaries.**

Consistent with the purposes, functions and powers granted to it by law, the Port of Portland may provide research or technical assistance for the planning, promotion or implementation of commercial, industrial or economic development projects upon request by any city, county or municipal corporation within the port. [1977 c.45 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.145 - Issuance of revenue bonds; election; use of proceeds; status of bonds.**

(1) For the purpose of carrying into effect all or any of the powers granted to ports, the Port of Portland may from time to time issue and sell revenue bonds without the necessity of the electors of the port authorizing the same. Proceeds from the sale of such bonds may be used also to cover the costs incurred in issuing such bonds, and preliminary work incident to carrying out such purposes and powers, including but not limited to planning, engineering, inspection, accounting, fiscal, legal and trustee expenses, the cost of issuance of bonds, engraving, printing, advertising and other similar expenses, and to pay interest on the outstanding bonds issued for any project during the period of actual construction and for such period thereafter as the port may determine, and to establish, maintain or increase any reserves for debt service on the bonds and for working capital. Such revenue bonds shall not in any manner or to any extent be a general obligation of the port nor a charge upon any other revenues or property of the port not specifically pledged thereto.

(2) In addition to the power granted by subsection (1) of this section, a port may authorize and issue revenue bonds under ORS 287A.150. [1971 c.546 §2; 2007 c.783 §230]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.150 - Ordinance authorizing revenue bonds; content; special trust funds; trustees; enforcement.**

(1) Revenue bonds issued under ORS 778.145 (1) shall be authorized at a meeting by ordinance of the board. The ordinance may provide for the creation of special trust funds and may authorize the appointment of a trustee to administer the same, and may obligate the Port of Portland to set aside and pay into a special trust fund for the purpose of securing revenue bonds, all or any portion of its revenues, regardless of the source from which derived, then existing or which thereafter come into existence, not otherwise pledged or committed for other purposes. The board may, in addition thereto, pledge or mortgage for the payment of the principal of and interest on and premium, if any, of any issue of such bonds any property of the port not pledged for other purposes. Notice that action upon the bond ordinance will be taken at the designated meeting of the board, shall be given for a period of not less than two consecutive weeks, prior to such meeting, by publication thereof once each week in a newspaper of general circulation, published within the corporate boundaries of the port or, if there be no such newspaper, by posting such notice for a period of not less than two weeks in three public places in the port.

(2) The money in any special trust fund created by an ordinance authorizing an issue of revenue bonds shall be used solely for the purposes provided therefor by the ordinance.

(3) The ordinance may obligate the port, and the port shall have power to fix, levy and collect such rates, rentals, fees and other charges for the use and services of all or any of its facilities, which revenues may be pledged to the payment of the principal of and interest on and premium, if any, of the revenue bonds or any of them and if so pledged shall be sufficient to produce revenues, along with other lawfully available funds, adequate to pay the costs of the operation, maintenance and repair of any or all port properties; to pay or provide for the payment of the principal of and interest on, and premium, if any, of such revenue bonds or any of them, including any reserves for such payment; and to produce such additional amount of revenues therefrom as the port may covenant with the holders of such revenue bonds.

(4) The ordinance may provide that in the event the money in a special trust fund is insufficient to pay the revenue bonds to be paid out of the fund, such revenue bonds shall be payable out of any part or all of other nonpledged revenues of the port. Whenever all bonds and expenses thereof have been paid so that no charge remains upon such special fund, the board may, by ordinance, transfer any balance remaining in such fund to its general fund, discharge the trustee, if any, and dissolve the special fund. Any trustee authorized to administer the fund, may, subject to approval of the board, invest and reinvest moneys in the special fund in any security or securities in which the State of Oregon may by law invest.

(5) If the board fails to set aside and pay revenues into a special trust fund as required by the ordinance authorizing the issuance and sale of the bonds secured by the fund, a holder of any of such bonds may bring suit against the port to compel compliance with the provisions of the ordinance in the circuit court of the county in which the port has its principal office. [1971 c.546 §3; 2007 c.783 §230a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.155 - Form and content of bonds.**

The revenue bonds issued and sold under ORS 778.145 (1):

(1) Shall be deemed to be for all purposes negotiable instruments, subject only to the provisions of the bonds for registration, and need not comply with requirements of the Uniform Commercial Code.

(2) May be issued in one or more series, bear such date or dates, mature at such times and in such amounts, be in such denomination

or denominations, be payable at a designated place or places within or without the State of Oregon or at the fiscal agency of the State of Oregon, be equally and ratably secured without priority or be entitled or subject to such priorities on all or any portion of the revenues of the Port of Portland, and, notwithstanding any other provision of law to the contrary, bear such rate or rates of interest either fixed or variable under a formula fixed at the time of issuance, and contain such other terms, conditions and covenants as the board may authorize.

(3) Shall contain a recital that principal of and interest on and premium, if any, on the revenue bonds are payable solely out of revenues and property of the port pledged to the payment thereof by the ordinance of the board authorizing the issue of which the bonds are a part.

(4) May contain covenants of the port to protect and safeguard the security and rights of holders of any such bonds and such other terms and conditions, in conformity with ORS 778.145 to 778.175, which the board in its discretion determines are necessary or desirable to protect the port or increase the marketability of the bonds. ORS 778.145 to 778.175 and any such ordinance which constitutes a contract with the holders of the bonds, and the provisions thereof shall be enforceable by any holder or any number of holders of the bonds, as the board may determine.

(5) Shall be issued under ORS chapter 287A. However, the requirements of ORS 287A.150 do not apply to revenue bonds issued under this section. [1971 c.546 §4; 1981 c.879 §5; 1997 c.171 §27; 2007 c.783 §231]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.160 - Borrowing in anticipation of bond sale; bond anticipation notes; content; sale.**

(1) The Port of Portland shall have the power, at any time and from time to time after the issuance of bonds under ORS 778.145 to 778.175 have been authorized, to borrow money for the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and within the authorized maximum amount of such bond issue.

(2) Bond anticipation notes shall be issued for all moneys so borrowed under the provisions of this section. Such notes may be issued for a period not exceeding one year and may be renewed from time to time for periods of not exceeding one year, but each such note, including renewals, shall mature and be paid not later than the fifth anniversary of the date the original note was issued. Such notes shall be authorized by ordinance of the board and shall be in such denomination or denominations, shall bear interest at such rate or rates approved by the board, shall be in such form and shall be executed in such manner, all as the board shall prescribe. Such notes may be sold at public or private sale in the manner and at such price or prices as the board shall determine, provided that if such notes be renewal notes, they may be exchanged for notes then outstanding on such terms as the board shall determine. [1971 c.546 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.165 - Sale of revenue bonds.**

The board may from time to time sell revenue bonds authorized to be issued and sold pursuant to ORS 778.145 to 778.175, at public or private sale, in the manner and at such price or prices as it shall determine. [1971 c.546 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.170 - Bonds as obligations of political subdivision.**

Revenue bonds including refunding revenue bonds issued under ORS 778.145 to 778.175 shall be considered to be bonds or obligations of a political subdivision of the State of Oregon for the purposes of all laws of the state. [1971 c.546 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.175 - Effect of ORS 778.145 to 778.175.**

ORS 778.145 to 778.175 is additional, alternative and supplemental authority for the Port of Portland and shall not abrogate any power, right or authority otherwise granted by law to the port. [1971 c.546 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.205 - Board of commissioners; general powers.**

The power and authority given to the Port of Portland is vested in and shall be exercised by a board of nine commissioners. The board may exercise such powers, at regular or special meetings, as is usual and customary with similar bodies. [Amended by 1971 c.728 §125]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.210 - Qualifications of members.**

(1) The board shall be composed of residents of the State of Oregon. The Governor shall make appointments to the board so as to assure that not fewer than two board members are residents of each county constituting the port district.

(2) A person is eligible for appointment as a commissioner of the Port of Portland who at the time of the appointment is a citizen of the United States and of the State of Oregon, and who has for one year immediately preceding appointment resided within the State of Oregon. [Amended by 1961 c.469 §1; 1971 c.403 §17; 1971 c.728 §126; 1973 c.178 §3; 1987 c.179 §1; 1997 c.461 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.215 - Appointment; confirmation; vacancies.**

(1) Upon the expiration of the term of a commissioner, a successor shall be appointed by the Governor, subject to confirmation as provided by ORS 171.562 and 171.565. Except as provided in ORS 778.220 and 778.235, appointees, when confirmed, shall hold office for a term of four years and until their respective successors have been appointed, confirmed and qualified.

(2) If a vacancy occurs by death, resignation or disqualification of a commissioner, the vacancy shall be filled by appointment by the Governor for the unexpired term subject to confirmation as provided by subsection (1) of this section. [Amended by 1969 c.695 §15; 1971 c.728 §127]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.220 - Removal.**

If the Governor is at any time satisfied that a commissioner has been guilty of malfeasance in office, the Governor may file with the Secretary of State a written statement of the acts of the commissioner constituting the malfeasance. Thereupon the Secretary of State shall transmit a copy of the statement to the commissioner named and another copy to the clerk of the Circuit Court for Multnomah County. After the expiration of 10 days following the delivery of the statement to the commissioner a hearing shall be held before the court, of which hearing the commissioner is entitled to at least five days' notice. If upon the hearing the court determines that the commissioner has been guilty of malfeasance in office, written findings to that effect shall be made and filed by the court. Thereupon the commissioner shall be considered removed from office. The vacancy so created shall be filled as provided in ORS 778.215. [Amended by 1971 c.728 §128]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.225 - Meetings; rules; quorum; executive committee.**

(1) The board shall hold at least one regular meeting in each month on a day to be fixed by it, and may hold special meetings as provided by the rules of the board. At all regular and special meetings a majority of the commissioners then members of the board constitutes a quorum.

(2) The board may create an executive committee of which every commissioner shall be a member and of which a number less than a majority, as the board may determine, may constitute a quorum for the transaction of business. The committee may hold its meetings under such rules as the board may prescribe. However, the executive committee has no power except as a committee and only as expressly conferred upon it by the rules of the board. In no event shall the committee exercise the general powers of the board. The board has no power to appoint or delegate any part of its power or authority to any committee except the executive committee. [Amended by 1971 c.728 §129]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.230 - Board officers.**

(1) The Governor shall designate one member of the board as president of the board, who shall hold that office until removed from it by the Governor. The president of the board shall have the powers and perform the duties usual to the office of president.

(2) The president of the board shall designate from the other members of the board a vice president, treasurer and secretary of the board, who shall hold those offices until removed from them by the president. Each officer shall have the powers and perform the duties usual to the respective offices. [Amended by 1969 c.345 §19; 1971 c.728 §130; 1987 c.51 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.235 - Causes of vacancies; leaves of absence.**

(1) If a commissioner appointed pursuant to ORS 778.215 refuses to serve, ceases to have the qualifications required by ORS 778.210 (1) or fails to attend for the period of 60 successive days any of the regular or special meetings of the board regularly and duly called and held, the commissioner's place on the board is vacant.

(2) The board may grant a leave of absence not exceeding three months to a commissioner unable to attend meetings of the board by reason of illness or continued absence from the City of Portland. [Amended by 1961 c.469 §2; 1971 c.728 §131]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.255 - Enactment of port ordinances; effective date; passage; effect of referendum.**

(1) The board may legislate with respect to the internal affairs of the Port of Portland by the adoption of ordinances. Every ordinance enacted by the board shall be preceded by an enacting clause substantially as follows: "Be It Enacted by The Port of Portland."

(2) Except as otherwise provided by this section, in order to be effective, all ordinances require the affirmative vote of a majority of the commissioners of the port at a meeting of the board duly and regularly held.

(3) Ordinances making appropriations, the annual tax levy and emergency ordinances take effect immediately upon passage. All other ordinances are subject to the referendum and shall become effective 30 days after enacted, unless a later date is fixed therein, in which event they shall take effect at a later date, subject to the referendum. Except for ordinances making appropriations and the annual tax levy, when an ordinance is enacted, a notice containing a concise summary of the ordinance and the location within the

port where a copy of the complete ordinance may be obtained without charge shall, within five days after passage of the ordinance, be published at least once in a newspaper of general circulation within the port.

(4) Ordinances making appropriations and the annual tax levy and emergency ordinances shall be passed by an aye and nay vote. Emergency ordinances shall contain the statement that an emergency exists and specify with distinctness the facts and reasons constituting the emergency. The unanimous vote of all the commissioners present, and of not less than seven commissioners, is required to pass an emergency ordinance.

(5) In case a referendum petition is filed against an ordinance or part thereof, the operation of the ordinance or part thereof shall be suspended pending the outcome of the referendum election. [Amended by 1971 c.170 §1; 1971 c.728 §134]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.260 - Ordinances for regulating use of port properties; port peace officers; jurisdiction.**

(1) The board of the Port of Portland in accordance with ORS 198.510 to 198.600 may by ordinance adopt, amend or repeal regulations as convenient or necessary to provide for policing or regulating the use of properties owned, operated, maintained or controlled by the port and of facilities located at or in conjunction with these properties.

(2) The port may appoint peace officers who have all the powers and authority given by statute to peace officers of this state.

(3) This section does not limit the authority of a state, county or municipal peace officer to enforce state laws and city and county ordinances at properties owned, operated, maintained or controlled by the port and at facilities located at or in conjunction with these properties. [1955 c.425 §§1,2,3; 1971 c.268 §22; 1971 c.728 §135; 1979 c.102 §1; 2009 c.299 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.270 - Initiative and referendum procedures.**

(1) Except as provided in this section, the electors of the Port of Portland may exercise the powers of the initiative and referendum, with reference to ordinances of the board, in accordance with ORS 255.135 to 255.205.

(2) A referendum petition shall be filed not more than 30 days after the date the ordinance is adopted. [1973 c.178 §5; 1983 c.350 §327]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 778 - Port of Portland Section 778.990 - Penalties.**

Any person who violates an ordinance adopted by the board of the Port of Portland under ORS 778.085 or 778.260 commits a Class A misdemeanor. [1971 c.728 §136; 2011 c.597 §302]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 780 - Improvement and Use of Navigable Streams Section 780.010 - Stream improvement authorized; channel obstruction prohibited.**

Any person, association, or corporation may enter upon the channel or bed of any and all rivers and watercourses, navigable or susceptible of being made navigable, and perform work and labor thereon, and make such improvement of the same by clearing out or deepening the channel, constructing wing dams, blasting and removing rocks or ledges, removing sand bars, gravel bars, snags and all other obstructions to navigation, so as to render the rivers or any of them navigable at all seasons of the year or to improve the navigation. No work authorized by ORS 780.010 and 780.020 to be done shall be so done or conducted as to obstruct in any manner, either temporarily or otherwise, any channel or river now navigable, but the closing of one or more channels in any river in order to deepen or cause more water to flow in the main channel shall not be construed as constituting an obstruction to the navigation of any river or watercourse.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 780 - Improvement and Use of Navigable Streams Section 780.020 - Entry on riparian lands authorized; liability.**

All persons, associations and corporations engaging in improvement of the navigation of any river or watercourse, as authorized in ORS 780.010, may enter upon the lands adjacent to any river or watercourse for the purpose of cutting timber, taking rock, gravel, dirt and other materials necessary for the prosecution of the work of such improvement, and pass over adjacent lands with means of transportation proper for conducting the work contemplated by ORS 780.010, doing as little damage as possible, subject only to the payment of such damages as may be assessed according to law.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 780 - Improvement and Use of Navigable Streams Section 780.030 - Channels improved are highways free to navigation.**

All channels of rivers and watercourses made navigable or the navigation of which is improved, as contemplated by ORS 780.010, shall be public highways, and shall be free to all crafts navigating them. [Amended by 2005 c.22 §510]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 780 - Improvement and Use of Navigable Streams Section 780.040 - When landowner may construct wharf.**

(1) The owner of any land lying upon any navigable stream or other like water, and within the corporate limits of any incorporated



town or within the boundaries of any port, may construct a wharf upon the same, and extend the wharf into the stream or other like water beyond low-water mark so far as may be necessary for the use and accommodation of any ships, boats or vessels engaged exclusively in the receipt and discharge of goods or merchandise or in the performance of governmental functions upon the stream or other like water.

(2) As used in this section, "wharf" does not include new lands created upon submersible or submerged lands by artificial fill or deposit. [Amended by 1963 c.125 §1; 1973 c.328 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 780 - Improvement and Use of Navigable Streams Section 780.050 - Municipality or port may regulate construction of certain structures beyond low-water mark.**

The corporate authorities of the town wherein a wharf, dock, pier, moorage or similar structure is proposed to be constructed, or the commission of any port wherein the structure is proposed to be constructed if the proposed location of the structure is not within any town, may regulate the construction of the structure. Upon application of the person entitled to and desiring to construct the wharf, dock, pier, moorage or similar structure, the corporate authorities or port commission, as the case may be, may by ordinance or other like mode prescribe the mode and extent to which the structure may be constructed beyond the line of low-water mark so that the structure shall not be constructed any farther into the stream or other water beyond the low-water line than may be necessary and convenient for the use of the structure and so that it will not unnecessarily interfere with the navigation of the stream or other like water. [Amended by 1963 c.125 §2; 1973 c.328 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 780 - Improvement and Use of Navigable Streams Section 780.060 - Construction not to interfere with oyster production.**

Nothing in this chapter authorizes the construction of a wharf, dock, pier, moorage or similar structure at any place where its construction and operation will substantially impair or interfere with the cultivation and taking of oysters subject to the provisions of ORS 622.210 to 622.300 and 622.320. [1969 c.675 §20; 1973 c.328 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 781 - (Former Provisions)**

Note:

781.010, 781.020, 781.030, 781.040, 781.050, 781.060, 781.070, 781.080 and 781.090 repealed by 1953 c.425 §2.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 782 - (Former Provisions)**

Note:

782.010, 782.020, 782.030, 782.040, 782.050, 782.060, 782.070, 782.080, 782.090, 782.100, 782.110, 782.120, 782.130, 782.140, 782.150, 782.160, 782.170, 782.180, 782.190 and 782.990 repealed by 1953 c.113 §2.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.010 - Claims for which liens accorded.**

Every boat or vessel used in navigating the water of this state or constructed in this state is liable and subject to a lien:

- (1) For wages due to persons employed, for work done or services rendered on board such boat or vessel.
- (2) For all debts due to persons by virtue of a contract, expressed or implied, with the owners of a boat or vessel, or with the agents, contractors or subcontractors of such owner, or with any person having them employed to construct, repair or launch such boat or vessel, on account of:
  - (a) Labor done or materials furnished by mechanics, tradesmen or others in the building, repairing, fitting and furnishing or equipping of such boat or vessel;
  - (b) Stores and supplies furnished for the use thereof;
  - (c) Premiums for insurance placed on or with respect to such boat or vessel; or
  - (d) Launchways constructed for the launching of such boat or vessel.
- (3) For all sums for wharfage, anchorage or towage of such boat or vessel within this state.
- (4) For all demands or damages accruing from the nonperformance or malperformance of any contract of affreightment, or of any contract touching the transportation of persons or property, entered into by the master, owner, agent or consignee of the boat or vessel on which such contract is to be performed, and for damages or injuries done to persons or property, by such boat or vessel, and for damages or injuries by such boat or vessel resulting in the death of any person. [Amended by 1981 c.548 §1; 2005 c.22 §511]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.020 - Lien priority.**

- (1) The classes of claims specified in ORS 783.010 shall have priority according to the order in which they are enumerated.
- (2) The liens under ORS 783.010 shall have precedence over all other liens and claims against such boat or vessel, except the

following liens, claims and security interests, whether or not the following liens, claims or security interests have arisen or been perfected before or after liens under ORS 783.010:

(a) Liens and claims arising under those portions of the Ship Mortgage Act, 1920, that appear in sections 921 to 954 and 971 to 975 of title 46 of the United States Code.

(b) Security interests perfected under ORS chapter 79.

(c) Security interests on certificates of title perfected under ORS chapter 830. [Amended by 1981 c.548 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.030 - Right to proceed against boat or vessel directly.**

Any person having a demand as mentioned in ORS 783.010, instead of proceeding for recovery thereof against the master, owner, agent or consignee of the boat or vessel, may at the person's option commence an action against such boat or vessel by name.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.040 - Complaint; jurisdiction and venue.**

Any person wishing to commence an action against a boat or vessel shall file the complaint against such boat or vessel by name with the clerk of the circuit court of the county in which the boat or vessel may lie or be. The complaint shall set forth the plaintiff's demand in all its particulars, and on whose account the same accrued, and shall be verified by the plaintiff or some credible person for the plaintiff.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.050 - Issuance of warrant for seizure of boat or vessel.**

Whenever the complaint is filed, the clerk shall issue a warrant thereon, commanding the sheriff to seize the boat or vessel mentioned in the complaint, with the tackle, apparel and furniture of the boat or vessel and retain the same until discharged from such custody by due course of law.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.060 - Procedure after return of warrant.**

Upon the return of any warrant issued as prescribed in ORS 783.050, proceeding shall be had in the circuit court against the boat or vessel seized, in the same manner as if the action had been commenced against the person on whose account the demand accrued.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.070 - Persons authorized to appear for boat or vessel; answer.**

The master, owner, agent or consignee of the boat or vessel may appear on behalf of the boat or vessel and answer the complaint.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.080 - Judgment by default; proceedings on issue of fact.**

If in any action commenced under ORS 783.030 and 783.040 the master, owner, agent or consignee does not appear and answer the complaint, the plaintiff may proceed to take judgment in the same manner and under the same restrictions as in a civil action against a natural person. If an issue of fact is joined, the same proceeding shall be had as in other actions.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.090 - Discharge of boat or vessel on giving of undertaking.**

If the master, owner, agent or consignee, before final judgment in any action commenced in pursuance of ORS 783.030 and 783.040, enters into an undertaking in favor of the plaintiff, with sufficient security, to be approved by the judge or clerk of the court in which the action is pending, conditioned to satisfy the amount which is adjudged due and owing to the plaintiff on determination of the action, together with all costs accruing, such boat or vessel, with its tackle, apparel and furniture, shall be discharged from further detention by the sheriff.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.100 - Return of deposit; disposition of balance.**

If judgment is for the defendant, any deposit in lieu of an undertaking shall be returned to the person making the same; or if a balance remains after satisfying any judgment in favor of the plaintiff and costs of suit, the balance shall be so returned.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.110 - Order for sale on judgment.**

If judgment is rendered against any boat or vessel in favor of the plaintiff, the court shall make an order directed to the sheriff, commanding the sheriff to sell the boat or vessel, together with its tackle, apparel and furniture, to satisfy the judgment and costs which may have accrued in the cause, which order shall be executed and returned in the same manner as other executions.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.120 - Judgment on undertaking; issuance of execution.**

If an undertaking with surety was given according to ORS 783.090 and judgment rendered in favor of the plaintiff, a judgment shall also be rendered upon the undertaking, and execution issued for the amount of judgment and costs in favor of the plaintiff, against the principal and security in such undertaking.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.130 - Bill of sale of boat or vessel; effect of previous liens.**

When any boat or vessel is sold in pursuance of ORS 783.110 to 783.160, the officer making the sale shall execute to the purchaser a bill of sale therefor, and such boat or vessel shall, in the hands of the purchaser and the purchaser's assigns, be free and discharged from all previous liens and claims under this title.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.140 - Rights of other lien claimants.**

Any other person having or claiming a lien against any boat or vessel in pursuance of ORS 783.010 may, at any time after the sale upon execution and before payment over of any surplus in the hands of the sheriff, commence an action against such boat by name, as if the same had not been sold, and serve notice thereof upon the former master, owner, agent or consignee. While such action is pending, the sheriff shall not pay over any surplus that may be in the sheriff's hands to such master, owner, agent or consignee.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.150 - Distribution of proceeds of sale.**

In the distribution of the proceeds of sale, claims of a prior class shall be paid entire before any payment shall be made upon claims of a subsequent class. When the money to be applied to any class is insufficient to pay all the claims of that class, it shall be apportioned ratably among the claims of that class.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.160 - Sale of appurtenances for fractional share of boat or vessel.**

If it appears to the court in which the action is pending, or the judge thereof, that the liens against the boat or vessel can be satisfied by a sale of the tackle, apparel and furniture, or a part thereof, or a fractional share in such boat or vessel, the court or judge may modify the order of sale accordingly. If in pursuance of such order a sale is made of a fractional share in such boat or vessel, the purchaser shall hold such share jointly with the other owners.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.170 - Limitation of actions.**

All actions against a boat or vessel under ORS 783.010 to 783.160 shall be commenced within one year after the cause of action has accrued.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.310 - Destruction or injury of property by watercraft; liability of tortfeasor and employer; lien on vessel.**

If any person in control of any watercraft conducts or navigates the watercraft intentionally or negligently so as to destroy or injure the property of another, the person and the person's employer each shall be liable in damages for the property so injured or destroyed, and the damages shall be a lien on the watercraft. [Amended by 2005 c.22 §512]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.320 - Injuries to persons or property ashore; liability in damages; venue.**

The owner or owners of any boat or vessel which, when navigating the waters of this state or when within the waters of this state, has, through the negligence or misconduct of the owner, agent, master, pilot or employees thereon, caused injury to persons or property upon shore or upon wharves, warehouses, bridges or other structures affixed or contiguous to such shore, wharves, warehouses, bridges or other structures, shall be liable for all damages resulting to such person or to the owners of such property by reason thereof. The persons so injured may recover the same in an action at law in the circuit court of any county within which the boat or vessel may be found.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.330 - Attachment against vessel; motion and undertaking.**

The person so injured may at the time of filing the complaint, or at any time subsequent thereto, cause an attachment to issue against the vessel. The clerk of the circuit court shall issue a writ of attachment directing the sheriff of the county to levy upon, seize and take the vessel; but such attachment shall only issue upon the filing by the plaintiff of a written motion for such attachment, together with an undertaking in a sum equal in amount to the sum demanded in the complaint. The undertaking shall be executed by one or more sureties, and shall be so conditioned that the signers thereof shall be liable in the sum named therein to the owners of the vessel if the attachment is wrongful or without sufficient cause. The sureties shall in the aggregate justify in double the amount of the undertaking.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.340 - Redelivery of attached vessel.**

The sheriff shall redeliver the vessel attached to the owner or master thereof upon the owner or master delivering to the sheriff an undertaking, with one or more sufficient sureties approved by the judge of the court, or in case of the judge's absence by the sheriff, which undertaking shall be so conditioned that the obligors therein shall pay to the plaintiff the judgment rendered in the cause. The sureties thereon shall in the aggregate justify in double the amount of the undertaking.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.350 - Nonresident owners; service; judgment; designation.**

If the owner of the vessel is nonresident of and not within Oregon, service of the summons and complaint shall be made upon the master or person in charge of the vessel, with the same force and effect as though made by publication. In such event the owner shall be required to appear and answer to the complaint within the same time as though the owner were served personally. In such event no personal judgment against the owner shall be rendered in the action, but only an order of sale of the property attached, or, in event of such property being released upon undertaking, then judgment shall be rendered against the obligors thereon. In the event of the vessel belonging to nonresidents, defects in the names of parties defendant shall not in any respect affect the validity of the proceedings or of any judgment rendered therein.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.360 - Priority of attachment.**

The attachment provided for in ORS 783.330 shall have priority over any mortgage upon the vessel and over any liens thereon not of a maritime nature.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.400 - Shipbreaking; shipwrecks; ship repair; definitions.**

(1) As used in this section:

(a) "Dry dock" means a graving dock or a floating dry dock.

(b) "Floating dry dock" means a vessel or structure that can be flooded to allow a ship to be floated in and drained to allow the ship to come to rest on a dry platform.

(c) "Fouling communities" means the matrix consisting of:

(A) Native or nonnative species attached to the hull of a ship including, but not limited to, barnacles, bivalves, bryozoans, tunicates and seaweeds; and

(B) Native or nonnative mobile species such as crustaceans, sea stars and worms that may be unattached to the hull, but that inhabit a fouling community or inhabit protected recesses and crevices in the hull, such as sea chests.

(d) "Fouling organisms" means native or nonnative species that attach to the hull of a ship including, but not limited to, sessile

bottom-dwelling invertebrates, algae and microorganisms such as bacteria and diatoms.

(e) "Graving dock" means a paved excavation in the ground that can be flooded to allow a ship to be floated in and drained to allow that ship to come to rest on a dry platform.

(f) "Hazardous materials" includes, but is not limited to, asbestos, polychlorinated biphenyls, oil, fuel, bilge and ballast water, paint and lead.

(g) "Ocean shore" has the meaning given that term in ORS 390.605.

(h) "Ship" means a vessel that weighs in excess of 200 gross tons and operates upon navigable waterways.

(i) "Shipbreaking" means the process of dismantling a ship for scrap or disposal.

(j) "Shipwreck" means a ship that has been stranded or destroyed by being driven ashore or onto the rocks or the shoal.

(k) "Waters of this state" has the meaning given that term in ORS 196.800.

(2) In the State of Oregon, a person:

(a) May perform shipbreaking activities only in a dry dock.

(b) May not perform shipbreaking activities in a manner that allows hazardous materials, fouling communities or fouling organisms that are in or on the ship to enter the waters of this state or the ocean shore.

(3) Notwithstanding subsection (2) of this section, a person may in the waters of this state:

(a) Dismantle for removal a ship that has been shipwrecked if the Department of State Lands determines, in consultation with others as the department finds appropriate including, but not limited to, other state agencies, the United States Coast Guard and the shipowner, that it is physically impracticable to move the shipwreck to a dry dock.

(b) Partially dismantle a ship as may be required in the process of ship repair.

(4) Subsection (2) of this section does not apply to the shipbreaking of a flat-bottomed barge that is not self-propelled and that operates in the waters of this state.

(5) This section does not relieve a person from compliance with other state or local laws that apply to shipbreaking, shipwrecks or ship repair including, but not limited to, laws relating to hazardous materials, fouling communities or fouling organisms. [2007 c.150 §1; 2007 c.816 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.510 - Enticement of seamen to desert or leave ship.**

No person shall entice, persuade or by any means attempt to persuade, any seaman to desert from, or without permission of the officer then in command thereof to leave or depart therefrom, either temporarily or otherwise, any ship or steamer or other vessel while such ship, steamer or other vessel is within the waters under the jurisdiction of this state or within the waters of the concurrent jurisdiction of this state and Washington.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.520 - Harboring and secretion of seamen.**

No person shall knowingly and with manifest intention to deprive the owner or master of any ship or vessel of the services of any seaman, harbor or secrete, or by any means aid in harboring or secreting with the intention aforesaid, any seaman mentioned in ORS 783.510.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.530 - Receipt of compensation from seaman for furnishing employment.**

No person shall demand or receive, either directly or indirectly, from any seaman or apprentice, or from any person seeking employment as a seaman or apprentice, or from any person on behalf of the seaman or apprentice, any remuneration whatever for providing the seaman or apprentice with employment on board any seagoing vessel.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.550 - Unauthorized boarding of nonpassenger vessel.**

No person not acting in an official capacity shall board or attempt to board any ship or other vessel on the Willamette or Columbia River, not engaged in the carrying of passengers for hire, without the consent first obtained of the captain, master or other officer in command thereof at the time.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.560 - Arrest of officers and seamen for debt prohibited.**

No officer or seaman of a seagoing vessel or ship shall be arrested or imprisoned for debt. No officer shall execute a process of

arrest for debt upon such officer or seaman.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.570 - Enforcement officer in Portland and Astoria.**

The mayor and common council of the cities of Portland and Astoria, severally shall appoint or designate a person or officer to see that ORS 783.510 to 783.560 are not violated and that the provisions thereof are enforced. Such person or officer shall have all the authority and powers of a peace officer, and may make arrests for violation of ORS 783.510 to 783.560. The person or officer shall perform such other duties as to the enforcement of those sections as may be enjoined upon the person or officer by the respective common council and shall receive such compensation for services as the common council may by ordinance provide.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.580 - Tugboat operator refusing to tow; discrimination in charges.**

Any tugboat towing for hire in any of the waters of this state is a common carrier for the business of towing vessels. No master or owner of any such tug shall refuse to tow any vessel of the class usually towed by such a tug, or shall discriminate either in the charges for towing or in time; but they shall tow all such vessels in the order in which they may be announced ready; provided, that towing in or out of a bar harbor may take precedence over towing inside of such harbor.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.590 - Lowering of smokestacks of vessels navigating upper Willamette.**

Any person or corporation operating any steamboat or other watercraft upon the Willamette River above the City of Portland, shall so construct the smokestacks upon such steamboat or other watercraft with hinges so arranged that the smokestacks thereon can be lowered to a level with the pilot house upon such steamboat or other watercraft when necessary to pass under any bridge at any time constructed across the Willamette River.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.600**

[Amended by 2001 c.722 §8; renumbered 783.620 in 2001]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.610 - Offenses relating to buoys and beacons.**

No person shall moor any vessel of any kind or any name, or any boat, skiff, barge, scow, raft, or part of a raft, to any buoy or beacon placed in the navigable waters of this state, or in any bay, river or arm of the sea bordering upon this state, by the authority of the United States Coast Guard or shall in any manner hang on with any vessel, boat, barge, scow, raft, or part of a raft, to any such buoy or beacon, or shall willfully remove, damage or destroy any such buoy or beacon, or shall cut down, remove, damage or destroy any beacon or beacons erected on land in this state by authority of the United States Coast Guard. [Amended by 1965 c.539 §5; 2011 c.597 §303]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.620 - Discharge of ballast in navigable waters.**

Except as provided in ORS 783.635, a person may not discharge the ballast of any vessel into the navigable portions or channels of any of the bays, harbors or rivers of this state, or within the jurisdiction of this state, so as to injuriously affect such portions or channels of such bays, harbors or rivers, or to obstruct navigation thereof. [Formerly 783.600]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.625 - Definitions for ORS 783.625 to 783.640.**

As used in ORS 783.625 to 783.640, unless the context requires otherwise:

- (1) "Ballast water" means any water used to manipulate the trim and stability of a vessel.
- (2) "Cargo vessel" means a ship in commerce that is equipped with ballast tanks, other than a tank vessel or a vessel used solely for commercial fish harvesting, of 300 gross tons or more.
- (3) "Coastal exchange" means exchanging the ballast water taken onboard at a North American coastal port at a distance of at least 50 nautical miles from land and at a depth of at least 200 meters.
- (4) "Department" means the Department of Environmental Quality.

- (5) "Empty ballast tank" means a ballast tank of a vessel that has been discharged of ballast water from a voyage and, as a result, is expected to have only unpumpable residual ballast water and sediment remaining in the ballast tank.
- (6) "Oil" means oil, gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse and any other petroleum related product.
- (7) "Open sea exchange" means a replacement of ballast water that occurs in an area no less than 200 nautical miles from any shore.
- (8) "Passenger vessel" means a ship of 300 gross tons or more carrying passengers for compensation.
- (9) "Sediment" means any matter that settles out of ballast water.
- (10) "Ship" means any boat, ship, vessel, barge or other floating craft of any kind.
- (11) "Tank vessel" means a ship that is constructed or adapted to carry oil in bulk as cargo or cargo residue other than:
  - (a) A vessel carrying oil in drums, barrels or other packages;
  - (b) A vessel carrying oil as fuel or stores for that vessel; or
  - (c) An oil spill response barge or vessel.
- (12) "Trip" means travel to an appointed destination and return travel to the point of origin within the waters of this state.
- (13) "Vessel" means a tank vessel, cargo vessel or passenger vessel.
- (14) "Voyage" means any transit by a vessel destined for any Oregon port.
- (15) "Waters of this state" means natural waterways including all tidal and nontidal bays, intermittent streams, constantly flowing streams, lakes, wetlands and other bodies of water in this state, navigable and nonnavigable, including that portion of the Pacific Ocean that is in the boundaries of Oregon. [2001 c.722 §1; 2003 c.692 §1; 2005 c.62 §2; 2007 c.816 §2; 2011 c.321 §3; 2015 c.704 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.630 - Application; exclusions.**

- (1) ORS 783.625 to 783.640 apply to all vessels carrying ballast water from a voyage into the waters of this state, except a vessel that:
  - (a) Discharges ballast water only at the location where the ballast water originated, if the ballast water is not mixed with ballast water from areas other than open sea waters;
  - (b) Does not discharge ballast water in waters of this state;
  - (c) Traverses only the internal waters of this state;
  - (d) Traverses only the territorial sea of the United States and does not enter or depart an Oregon port or navigate the waters of this state;
  - (e) Discharges ballast water that originated solely from waters located between the parallel 40 degrees north latitude and the parallel 50 degrees north latitude on the west coast of North America; or
  - (f) Discharges ballast water that has been treated to remove organisms in a manner pursuant to rules adopted by the Environmental Quality Commission under ORS 783.635.
- (2) ORS 783.625 to 783.640 do not authorize the discharge of oil or noxious liquid substances in a manner prohibited by state, federal or international laws or regulations. Ballast water containing oil or noxious liquid substances shall be discharged in accordance with the requirements applicable to those substances.
- (3) Nothing in this section:
  - (a) Requires an open sea or coastal exchange if the owner or operator in charge of a vessel determines that performing an open sea or coastal exchange would threaten the safety or stability of the vessel or the safety of the vessel's crew or passengers because of any extraordinary condition, including but not limited to adverse weather, vessel design limitations or equipment failure.
  - (b) Exempts the owner or operator in charge of a vessel from the reporting requirements under ORS 783.640, whether or not ballast water is carried or discharged in the waters of this state. [2001 c.722 §2; 2003 c.692 §2; 2005 c.62 §5; 2015 c.704 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.635 - Discharge of ballast water prohibited; exemption; rules; aquatic invasive species.**

- (1) Except as authorized by this section, the discharge of ballast water in the waters of this state is prohibited.
- (2) An owner or operator of a vessel may discharge ballast water in the waters of this state:
  - (a) If the owner or operator has conducted a complete open sea or coastal exchange of ballast water prior to entering the waters of this state. The open sea or coastal exchange must be performed using either of the following methods:
    - (A) Flow-through exchange. A flow-through exchange occurs when an amount of ocean water equal to or exceeding three times the capacity of the vessel's ballast tank is pumped into an opening in the ballast tank while the existing ballast water is discharged through another opening.
    - (B) An empty and refill exchange. An empty and refill exchange occurs when a ballast tank is pumped empty to the point that the pump loses suction and then is refilled with ocean water.
  - (b) Without performing an open sea exchange or a coastal exchange of ballast water if:
    - (A)(i) The owner or operator reasonably believes that an exchange would threaten the safety of the vessel; or
    - (ii) The exchange is not feasible due to vessel design limitations or equipment failure; and

- (B) The vessel discharges only the amount of ballast water that is operationally necessary.
- (c) If the ballast water is discharged in a manner consistent with standards and procedures adopted by the Environmental Quality Commission under subsection (4) of this section.
- (3) An owner or operator who discharges ballast water in the waters of this state under subsection (2)(b) of this section is subject to the reporting requirements under ORS 783.640.
- (4)(a) The Environmental Quality Commission may adopt by rule standards and procedures that the commission considers necessary to carry out the provisions of ORS 783.625 to 783.640. The standards and procedures must minimize the risk of introducing aquatic invasive species into the waters of this state and must be based on the availability of treatment technology. Rules adopted under this subsection include, but are not limited to:
  - (A) Standards for the discharge of ballast water into the waters of this state and appropriate timelines for the implementation of the standards. In adopting the standards, the commission shall consider the extent to which treatment technology is feasible, practicable and commercially available, or expected to be available, by the proposed implementation timelines.
  - (B) Emergency response procedures for managing high-risk ballast water. The rules must define high-risk ballast water in light of the source of the water and other applicable factors. The procedures must establish notification and consultation requirements, as well as feasible alternative ballast water management strategies.
  - (C) Procedures for implementing alternative ballast water management strategies for the exemptions specified in subsection (2)(b) of this section.
  - (D) Procedures for implementing alternative ballast water management strategies for vessels with empty ballast tanks that enter the waters of this state.
- (b) To the extent practicable, the commission shall adopt rules under this subsection consistent with relevant rules adopted by the States of California and Washington. [2001 c.722 §3; 2005 c.62 §3; 2009 c.148 §1; 2015 c.704 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.636 - Fees; rules.**

- (1) The Department of Environmental Quality shall collect a fee of \$88 for each trip by vessels regulated under ORS 783.625 to 783.640.
- (2) All fees collected by the department under this section shall be paid into the Ballast Water Fund established under ORS 783.638.
- (3) The Environmental Quality Commission may adopt by rule procedures for the payment of the fees specified in this section. [2011 c.321 §2; 2015 c.288 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.637 - Late charges; waiver.**

- (1) The Department of Environmental Quality shall assess a late charge of \$25 against the owner or operator of a vessel if the department has not received the fee specified in ORS 783.636 by the due date specified by the department.
- (2) The department shall assess an additional late charge of \$25 if the owner or operator of a vessel has not paid the fee specified in ORS 783.636 within 45 days after the due date specified by the department.
- (3) The department may waive the late charges specified in this section upon a showing of good cause by the owner or operator of a vessel.
- (4) All late charges collected by the department under this section shall be paid into the Ballast Water Fund established under ORS 783.638. [2011 c.321 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.638 - Ballast Water Fund; sources; uses.**

- (1) The Ballast Water Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Ballast Water Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Department of Environmental Quality to:
  - (a) Monitor vessels regulated under ORS 783.625 to 783.640;
  - (b) Screen ballast water management information reported to the department under ORS 783.640;
  - (c) Inspect vessels and collect samples of ballast water pursuant to ORS 783.640;
  - (d) Conduct ballast water management policy development and coordination;
  - (e) Coordinate with other state agencies, agencies of other states and federal agencies on issues related to ballast water management;
  - (f) Respond to emergencies regarding aquatic invasive species that may have resulted from the discharge of ballast water; and
  - (g) Provide outreach and consultation expertise to maritime industry stakeholders regarding:
    - (A) Best practices related to ballast water management.
    - (B) Standards and procedures adopted by rule by the Environmental Quality Commission under ORS 783.635.
- (2) The fund established by subsection (1) of this section shall consist of:
  - (a) Fees collected pursuant to ORS 783.636.
  - (b) Late charges collected pursuant to ORS 783.637. [2011 c.321 §5]



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.640 - Reporting of ballast water management.**

(1) Owners or operators of vessels regulated under ORS 783.625 to 783.640 must report ballast water management information to the Department of Environmental Quality:

(a) For voyages greater than 24 hours in length, at least 24 hours prior to entering the waters of this state; or

(b) For voyages less than 24 hours in length, prior to departing the port or place of departure.

(2) The department may work with maritime associations and any national ballast information clearinghouse to establish the manner and form of the reporting required under this section.

(3) The department may verify compliance with ORS 783.625 to 783.640 by:

(a) Relying on tests conducted by the United States Coast Guard or on other tests determined to be appropriate by the department.

(b) Boarding and inspecting vessels regulated under ORS 783.625 to 783.640 and collecting samples of ballast water as part of the inspection. [2001 c.722 §4; 2005 c.62 §4; 2009 c.144 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.990 - Penalties.**

(1) Violation of ORS 783.510, 783.520 or 783.610 is a Class B misdemeanor.

(2) Violation of ORS 783.530, 783.550 or 783.580 is a Class C misdemeanor.

(3) Violation of ORS 783.560 by any officer is a Class D violation.

(4) Violation of ORS 783.590 and injury or damage of any bridge across the Willamette River for want of the appliances described in ORS 783.590 is a Class A violation.

(5) Violation of ORS 783.620 is a Class A misdemeanor. [Amended by 1953 c.113 §2; 1997 c.249 §224; 1999 c.1051 §227; 2011 c.597 §304]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 783 - Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water Section 783.992 - Civil penalties.**

As specified in ORS 468.140, the Director of the Department of Environmental Quality may impose a civil penalty on the owner or operator of a vessel for failure to comply with the requirements of ORS 783.625 to 783.640. [2001 c.722 §7; 2005 c.62 §6; 2009 c.267 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.010 - Short title.**

(1) ORS chapters 801 to 826 may be cited as the Oregon Vehicle Code.

(2) ORS 809.600 to 809.640 may be cited as the Habitual Traffic Offenders Act.

(3) ORS 813.095, 813.100, 813.131, 813.132, 813.140, 813.150, 813.310, 813.320 and 813.410 to 813.440 may be cited as the Motorist Implied Consent Law. [1983 c.338 §1; 1985 c.16 §2; 1995 c.733 §10; 1997 c.25 §4; 2003 c.814 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.015 - Effect of naming offenses.**

The names given offenses in the vehicle code do not establish or limit the elements of the offense described but are merely for the convenience of the readers of the vehicle code and of the persons administering and enforcing the vehicle code. [1983 c.338 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.020 - Statements of policy and purpose; applicability of vehicle code.**

This section contains statements of purpose or intent that are applicable to portions of the vehicle code as described in the following:

(1) The provisions of the vehicle code and other statutory provisions described in this subsection are an exercise of the police powers of this state, and the purpose, object and intent of the sections is to provide a comprehensive system for the regulation of all motor and other vehicles in this state. This subsection is applicable to the following:

(a) Those provisions of the vehicle code relating to the administration of the Department of Transportation.

(b) Those provisions of the vehicle code relating to the registration and titling of vehicles.

(c) Those provisions of the vehicle code relating to the regulation of the businesses of vehicle dealers, dismantlers, vehicle transporters, driver training schools and instructors and the towing and recovery of vehicles.

(d) Those provisions relating to the transfer and alteration of vehicles.

(2) It is the policy of this state to promote and encourage the fullest possible use of its highway system by authorizing the making and execution of motor vehicle reciprocal or proportional registration agreements, arrangements and declarations with other states, provinces, territories and countries with respect to vehicles registered in this and such other states, provinces, territories and countries, thus contributing to the economic and social development and growth of this state.

(3) The provisions described in this subsection shall be applicable and uniform throughout this state and in all political subdivisions

and municipalities therein and on the ocean shore which has been or may hereafter be declared a state recreation area. This subsection applies to provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles.

(4) The provisions of the vehicle code applicable to drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, city, district or any other political subdivision of this state, subject to such specific exceptions as are set forth in the vehicle code.

(5) Except as provided otherwise by federal law, the provisions of the vehicle code shall be applicable and uniform on federal lands within this state.

(6) Except as provided otherwise by federal law, traffic rules and regulations which are promulgated by a federal authority having jurisdiction over federal lands within this state and which vary from the provisions of the vehicle code shall be the law of the local authority within whose boundaries the federal land is located, and enforceable as such, if:

(a) Local authorities are authorized to vary in the same manner under the provisions of the vehicle code; and

(b) Prior approval for the variance has been obtained by the federal authority from the governing body of the local authority within whose boundaries the federal land is located.

(7) The vehicle code shall govern the construction of and punishment for any vehicle code offense committed after June 27, 1975, the construction and application of any defense to a prosecution for such an offense and any administrative proceedings authorized or affected by the vehicle code.

(8) When all or part of a vehicle code statute is amended or repealed, the statute or part thereof so amended or repealed remains in force for the purpose of authorizing the accusation, prosecution, conviction and punishment of a person who violated the statute or part thereof before the effective date of the amending or repealing Act.

(9) The provisions of the vehicle code described in this subsection relating to the operation of vehicles refer exclusively to operation of vehicles upon highways and the ocean shore which has been or may hereafter be declared to be a state recreation area, except where the vehicle code specifically provides otherwise. This subsection applies to the provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles.

(10) All reciprocity and proportional registration agreements, arrangements and declarations relating to vehicles, in force and effect on August 22, 1969, shall continue in force and effect until specifically amended or revoked as provided by law or by such arrangements or agreements.

(11) It is hereby declared to be the policy of this state:

(a) To provide maximum safety for all persons who travel or otherwise use the public highways of this state;

(b) To deny the privilege of operating motor vehicles on the public highways to persons who by their conduct and record have demonstrated their indifference for the safety and welfare of others and their disrespect for the laws of the state, the orders of its courts and the statutorily required acts of its administrative agencies; and

(c) To discourage repetition of criminal acts by individuals against the peace and dignity of the state and its political subdivisions and to impose increased and added deprivation of the privilege to operate motor vehicles upon habitual offenders who have been convicted repeatedly of violations of traffic laws.

(12) If any of the provisions under ORS 818.200 relating to variance permits are found to contravene section 127 of title 23, United States Code, it shall not serve to render inoperative any remaining of such provisions that may be held not to conflict with that federal law. [1983 c.338 §4; 1985 c.16 §4; 2003 c.655 §84b; 2005 c.654 §36]

## **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.026 - General exemptions; exceptions.**

(1) Persons, motor vehicles and equipment employed or used by a public or telecommunications utility, electric cooperative or by the United States, this state or any political subdivision of this state are exempt from the provisions of the vehicle code specified in subsection (3) of this section while on a highway and working or being used to service, construct, maintain or repair the facilities of a utility.

(2) Persons, motor vehicles and equipment employed or being used in the construction or reconstruction of a street or highway are exempt from the provisions of the vehicle code specified in subsection (3) of this section if:

(a) They are within the immediate construction project as described in the governmental agency contract, if there is a contract; and

(b) The work is being done in an area that is signed in accordance with the manual adopted under ORS 810.200.

(3) Persons, motor vehicles and equipment described in subsections (1) and (2) of this section are exempt from provisions of the vehicle code relating to rules of the road as described in ORS chapter 811, except that this subsection does not apply to:

(a) Reckless driving, as defined in ORS 811.140.

(b) Driving while under the influence of intoxicants, as defined in ORS 813.010.

(c) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.

(d) Criminal driving while suspended or revoked, as defined in ORS 811.182.

(e) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

(f) The provisions of ORS 811.145, 811.155, 811.170 and 811.175.

(4) Motor vehicles and equipment being used in the area and in the manner described in subsection (2) of this section are also

exempt from the provisions of the vehicle code relating to vehicle size and weight to the extent set out in the governmental agency contract.

(5) Devices moved exclusively on stationary rail tracks are exempt from the vehicle code.

(6) Devices that are powered exclusively by human power are not subject to those provisions of the vehicle code that relate to vehicles. Notwithstanding this subsection, bicycles are generally subject to the vehicle code as provided under ORS 814.400.

(7) The exemptions in subsection (3) of this section do not apply to the persons and vehicles when traveling to or from the facilities or construction project. [1989 c.400 §2 (enacted in lieu of 801.025); 1999 c.1051 §82; 2018 c.22 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.030 - Exemptions from amendments to vehicle code.**

This section describes exemptions from specific changes to the vehicle code. The exemptions allow some practice or right to continue after the change is made. The exemptions are as follows:

(1) Nothing contained in ORS 810.150 shall require the redesign, modification or replacement of street drains installed prior to September 13, 1975.

(2) Sections 2 to 169, chapter 451, Oregon Laws 1975, shall not apply to or govern the construction of or punishment for any vehicle code offense committed before June 27, 1975, or the construction and application of any defense to a prosecution for such an offense and do not impair or render ineffectual any court or administrative proceedings or procedural matters which occurred before June 27, 1975. [1983 c.338 §6; 1985 c.171 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.038 - Local government regulation of cell phones in motor vehicles.**

A city, county or other local government may not enact or enforce any charter provision, ordinance, resolution or other provision regulating the use of cellular telephones in motor vehicles. [2001 c.133 §1]

Note:

801.038 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.040 - Authority to adopt special provisions.**

This section describes circumstances where special provisions are made concerning the authority of cities, counties or other political subdivisions in relation to some portion of the vehicle code. This section is not the only section of the vehicle code that applies to such authority and shall not be interpreted to affect the vehicle code except as specifically provided in this section. The following limits are partial or complete as described:

(1) No county, municipal or other local body with authority to adopt and administer local police regulations under the Constitution and laws of this state shall enact or enforce any rule or regulation in conflict with the provisions of the vehicle code described in this subsection except as specifically authorized in the vehicle code. This subsection applies to the provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles.

(2) Except as provided in ORS 822.230 and this subsection, no city, county or other political subdivisions shall regulate or require or issue any registration, licenses, permits or surety bonds or charge any fee for the regulatory or surety registration of any person required to obtain a certificate from the Department of Transportation under ORS 822.205. This subsection does not:

(a) Limit any authority of a city or county to license and collect a general and nondiscriminatory license fee levied upon all businesses or to levy a tax based upon business conducted by any person within the city or county.

(b) Limit the authority of any city or county to impose any requirements or conditions as part of any contract to perform towing or recovering services for the city or county.

(c) Limit the authority of any city or county to impose requirements and conditions that govern the towing of a vehicle by a towing business under ORS 98.812 so long as those requirements and conditions are consistent with the provisions of ORS 822.230.

(3) No city, county or other political subdivision of this state, nor any state agency, may adopt a regulation or ordinance that imposes a special fee for the use of public lands or waters by snowmobiles or Class I all-terrain vehicles, or for the use of any access thereto that is owned by or under the jurisdiction of either the United States, this state or any such city, county or other political subdivision. The registration fees provided by ORS 821.320 are in lieu of any personal property or excise tax imposed on snowmobiles by this state or any political subdivision. No city, county or other municipality, and no state agency shall impose any other registration or license fee on any snowmobile in this state. This subsection does not prohibit any city, county or other political subdivision, or any state agency from regulating the operation of snowmobiles or Class I all-terrain vehicles on public lands, waters and other properties under its jurisdiction and on streets or highways within its boundaries by adopting regulations or ordinances of its governing body if such regulations are not inconsistent with ORS 821.150 to 821.292.

(4) The provisions of ORS 819.110 to 819.215 relating to towing of vehicles that are abandoned establish minimum requirements subject to the following:

(a) Notwithstanding paragraph (b) of this subsection, a county or incorporated city may supersede such provisions by ordinance or

charter provision.

(b) Any road authority described under ORS 810.010 may adopt rules or procedures that do not conflict with such provisions to provide for additional protection for the owner or person with an interest in a vehicle subject to such provisions or that more quickly accomplish the procedures established under such provisions.

(5) Any incorporated city may by ordinance require that the driver of a vehicle involved in an accident file with a designated city department a copy of any report required to be filed under ORS 811.725. All such reports shall be for the confidential use of the city department but subject to the same requirements for release of such reports as provided for the release of such reports by the department under ORS 802.220 and 802.240.

(6) Except as otherwise specifically provided in this section, in accordance with the provisions of ORS 801.041, the governing body of a county may establish by ordinance registration fees for vehicles registered at a residence or business address within the county.

(7) Except as otherwise specifically provided in this section, in accordance with the provisions of ORS 801.042, the governing body of a district may establish by ordinance registration fees for vehicles registered at a residence or business address within the district. [1983 c.338 §8; 1985 c.16 §7; 1985 c.171 §2; 1985 c.459 §2a; 1987 c.765 §3; 1989 c.864 §3; 1989 c.991 §22; 1995 c.758 §5; 1995 c.774 §6; 1999 c.977 §13; 2009 c.371 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.041 - Terms and conditions for imposition of registration fee by county; rules.**

The following apply to the authority granted to counties by ORS 801.040 to establish registration fees for vehicles:

(1) An ordinance establishing registration fees under this section must be enacted by the county imposing the registration fee and filed with the Department of Transportation. Notwithstanding ORS 203.055 or any provision of a county charter, the governing body of a county with a population of 350,000 or more may enact an ordinance establishing registration fees. The governing body of a county with a population of less than 350,000 may enact an ordinance establishing registration fees after submitting the ordinance to the electors of the county for their approval. The governing body of the county imposing the registration fee shall enter into an intergovernmental agreement under ORS 190.010 with the department by which the department shall collect the registration fees, pay them over to the county and, if necessary, allow the credit or credits described in ORS 803.445 (5). The intergovernmental agreement must state the date on which the department shall begin collecting registration fees for the county.

(2) The authority granted by this section allows the establishment of registration fees in addition to those described in ORS 803.420 and 803.422. There is no authority under this section to affect registration periods, qualifications, cards, plates, requirements or any other provision relating to vehicle registration under the vehicle code.

(3) Except as otherwise provided for in this subsection, when registration fees are imposed under this section, they must be imposed on all vehicle classes. Registration fees as provided under this section may not be imposed on the following:

(a) Snowmobiles and Class I all-terrain vehicles.

(b) Fixed load vehicles.

(c) Vehicles registered under ORS 805.100 to disabled veterans.

(d) Vehicles registered as antique vehicles under ORS 805.010.

(e) Vehicles registered as vehicles of special interest under ORS 805.020.

(f) Government-owned or operated vehicles registered under ORS 805.040 or 805.045.

(g) School buses or school activity vehicles registered under ORS 805.050.

(h) Law enforcement undercover vehicles registered under ORS 805.060.

(i) Vehicles registered on a proportional basis for interstate operation.

(j) Vehicles with a registration weight of 26,001 pounds or more described in ORS 803.420 (14)(a) or (b).

(k) Vehicles registered as farm vehicles under the provisions of ORS 805.300.

(L) Travel trailers, campers and motor homes.

(m) Vehicles registered to an employment address as provided in ORS 802.250 when the eligible public employee or household member's residence address is not within the county of the employment address. The department may adopt rules it considers necessary for the administration of this paragraph.

(n) Vehicles registered under ORS 805.110 to former prisoners of war.

(4) Any registration fee imposed by a county must be a fixed amount not to exceed, with respect to any vehicle class, the sum of the registration fee established under ORS 803.420 (6)(a) and the fee applicable to the registered vehicle under ORS 803.422. For vehicles on which a flat fee is imposed under ORS 803.420, the fee must be a whole dollar amount.

(5) Moneys from registration fees established under this section must be paid to the county establishing the registration fees as provided in ORS 802.110.

(6) Except as provided in ORS 801.044, or unless a different distribution is agreed upon by the county and the cities within the jurisdiction of the county, the county ordinance shall provide for payment of at least 40 percent of the moneys from registration fees established under this section to cities within the county.

(7) The moneys for the cities and the county shall be used for any purpose for which moneys from registration fees may be used, including the payment of debt service and costs related to bonds or other obligations issued for such purposes.

(8) Two or more counties may act jointly to impose a registration fee under this section. The ordinance of each county acting jointly

with another under this subsection must provide for the distribution of moneys collected through a joint registration fee. [1989 c.864 §4; 1993 c.751 §3; 2003 c.655 §85; 2009 c.865 §§40,40a; 2011 c.145 §§2,3; 2015 c.404 §1; 2017 c.62 §2; 2017 c.750 §39b; 2018 c.24 §1; 2018 c.93 §24; 2019 c.392 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.042 - Terms and conditions for imposition of registration fee by district; rules.**

The following apply to the authority granted to a district by ORS 801.040 to establish registration fees for vehicles:

(1) Before the governing body of a district can impose a registration fee under this section, it must submit the proposal to the electors of the district for their approval and, if the proposal is approved, enter into an intergovernmental agreement under ORS 190.010 with the governing bodies of all counties, other districts and cities with populations of over 300,000 that overlap the district. The intergovernmental agreement must state the registration fees and, if necessary, how the revenue from the fees shall be apportioned among counties and the districts. Before the governing body of a county can enter into such an intergovernmental agreement, the county shall consult with the cities in its jurisdiction.

(2) If a district raises revenues from a registration fee for purposes related to highways, roads, streets and roadside rest areas, the governing body of that district shall establish a Regional Arterial Fund and shall deposit in the Regional Arterial Fund all such registration fees.

(3) Interest received on moneys credited to the Regional Arterial Fund shall accrue to and become a part of the Regional Arterial Fund.

(4) The Regional Arterial Fund must be administered by the governing body of the district referred to in subsection (2) of this section and such governing body by ordinance may disburse moneys in the Regional Arterial Fund. Moneys within the Regional Arterial Fund may be disbursed only for a program of projects recommended by a joint policy advisory committee on transportation consisting of local officials and state agency representatives designated by the district referred to in subsection (2) of this section. The projects for which the joint policy advisory committee on transportation can recommend funding must concern arterials, collectors or other improvements designated by the joint policy advisory committee on transportation.

(5) Ordinances establishing registration fees under this section must be filed with the Department of Transportation. The governing body of the district imposing the registration fee shall enter into an intergovernmental agreement under ORS 190.010 with the department by which the department shall collect the registration fees, pay them over to the district and, if necessary, allow the credit or credits described in ORS 803.445 (5). The intergovernmental agreement must state the date on which the department shall begin collecting registration fees for the district.

(6) The authority granted by this section allows the establishment of registration fees in addition to those described in ORS 803.420 and 803.422. There is no authority under this section to affect registration periods, qualifications, cards, plates, requirements or any other provision relating to vehicle registration under the vehicle code.

(7) Except as otherwise provided for in this subsection, when registration fees are imposed under this section, the fees must be imposed on all vehicle classes. Registration fees as provided under this section may not be imposed on the following:

(a) Snowmobiles and Class I all-terrain vehicles.

(b) Fixed load vehicles.

(c) Vehicles registered under ORS 805.100 to disabled veterans.

(d) Vehicles registered as antique vehicles under ORS 805.010.

(e) Vehicles registered as vehicles of special interest under ORS 805.020.

(f) Government-owned or operated vehicles registered under ORS 805.040 or 805.045.

(g) School buses or school activity vehicles registered under ORS 805.050.

(h) Law enforcement undercover vehicles registered under ORS 805.060.

(i) Vehicles registered on a proportional basis for interstate operation.

(j) Vehicles with a registration weight of 26,001 pounds or more described in ORS 803.420 (14)(a) or (b).

(k) Vehicles registered as farm vehicles under the provisions of ORS 805.300.

(L) Travel trailers, campers and motor homes.

(m) Vehicles registered to an employment address as provided in ORS 802.250 when the eligible public employee or household member's residence address is not within the county of the employment address. The department may adopt rules it considers necessary for the administration of this paragraph.

(n) Vehicles registered under ORS 805.110 to former prisoners of war.

(8) Any registration fee imposed by the governing body of a district must be a fixed amount not to exceed, with respect to any vehicle class, the registration fee established under ORS 803.420 (6)(a) and the fee applicable to the registered vehicle under ORS 803.422. For vehicles on which a flat fee is imposed under ORS 803.420, the fee must be a whole dollar amount. [1989 c.864 §5; 1993 c.751 §4; 2003 c.655 §86; 2015 c.404 §2; 2017 c.62 §3; 2017 c.750 §39c; 2018 c.93 §25]

Note:

See note under 801.041.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions**

**and Definitions for Oregon Vehicle CodeSection 801.043 - Moneys required by department for initial implementation of registration fees.**

Moneys required by the Department of Transportation to establish a system for the initial implementation of the collection and distribution of additional registration fees authorized by chapter 864, Oregon Laws 1989, shall be taken from the moneys that would otherwise be distributed to the counties and cities under ORS 366.739. [1989 c.864 §9]

Note:

See note under 801.041.

Note:

Legislative Counsel has substituted "chapter 864, Oregon Laws 1989," for the words "this Act" in section 9, chapter 864, Oregon Laws 1989, compiled as 801.043. Specific ORS references have not been substituted, pursuant to 173.160. The sections for which substitution otherwise would be made may be determined by referring to the 1989 Comparative Section Table located in Volume 22 of ORS.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.044 - County registration fees; Willamette River bridges.**

(1) A county ordinance that imposes a vehicle registration fee under ORS 801.041 is not required to provide for payment of at least 40 percent of moneys from the registration fee to cities within the county if the county:

(a) Has a population of 650,000 or more; and

(b) Uses the moneys from the registration fee to pay for performing capital maintenance on, planning, designing, replacing, acquiring necessary property for, engineering, constructing or repairing a bridge that crosses the Willamette River in the City of Portland, or the approaches to the bridge, including the payment of debt service and costs related to bonds or other obligations issued for such purposes.

(2) This section applies to county vehicle registration fees that are imposed for the purpose of performing capital maintenance on, planning, designing, replacing, acquiring necessary property for, engineering, constructing or repairing a bridge that crosses the Willamette River in the City of Portland, or the approaches to the bridge, including the payment of debt service and costs related to bonds or other obligations issued for such purposes. [2019 c.392 §3]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.045 - Permissive use of private roadway.**

Nothing in the provisions of the vehicle code described in this section shall prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right from prohibiting such use, or from requiring different or additional conditions than those specified or from otherwise regulating such use as may seem best to such owner. This section applies to the provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles. [1983 c.338 §9]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.050 - Privilege of motorist to use highways.**

Subject to compliance with the motor vehicle law of this state, owners and operators of motor vehicles are granted the privilege of using the highways of this state. [1983 c.338 §10; 1985 c.16 §8]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.055 - Weight standards; Department of Transportation responsibility for weight determination; rules.**

(1) References in the vehicle code to weights and measures refer to United States Standards thereof.

(2) For purposes of the vehicle code, the weights of vehicles, combinations of vehicles, parts of vehicles, wheels or axles shall be determined by the use of methods, procedures and devices established by the Department of Transportation by rule. The rules established in accordance with this subsection may include any or all of the following:

(a) Methods and procedures to determine weights when weighing devices or facilities are not convenient.

(b) Standards and certification procedures for weighing devices.

(c) Any other rules the department determines necessary or convenient for purposes of this subsection. [1983 c.338 §11; 1985 c.172 §1]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.100 - Definitions generally.**

Except where the context requires otherwise, the definitions given in the vehicle code govern its construction. [1983 c.338 §12]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.110 - "Alley."**

"Alley" means a street or highway primarily intended to provide access to the rear or side of lots or buildings in urban areas and not intended for through vehicular traffic. [1983 c.338 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.115 - "Ambulance."**

"Ambulance" means any privately or publicly owned motor vehicle that is regularly provided or offered to be provided for the emergency transportation of persons who are ill or injured or who have disabilities. [1983 c.338 §15; 2007 c.70 §320]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.120 - "Ambulatory disability."**

"Ambulatory disability" means a disability because of which a person:

- (1) Has a physical and permanent disability to such a degree that the person is unable to move from place to place without the aid of a wheelchair;
- (2) Is not able to cross curbs because of paralysis or loss of function of the person's legs;
- (3) Is missing one or both legs; or
- (4) Has a permanently impaired or unsteady gait that makes it impossible or impractical to walk as a means of transportation. [1983 c.338 §16; 2007 c.70 §321]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.125 - "Antique vehicle."**

"Antique vehicle" means a vehicle that is older than one-half the number of years between the current year and 1900 and that is maintained as a collector's item. [1983 c.338 §17; 2003 c.122 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.127 - "Arterial."**

"Arterial" or "arterial highway" means a highway that is used primarily by through traffic. [1997 c.404 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.130 - "Assembled vehicle."**

"Assembled vehicle" means a vehicle:

- (1) With a body that does not resemble any particular year model or make of vehicle;
- (2) That is not a vehicle rebuilt by a manufacturer;
- (3) That is not a vehicle built in a factory where the year model and make are assigned at the factory; and
- (4) That is not an antique vehicle, a vehicle of special interest, a reconstructed vehicle or a replica. [1983 c.338 §18; 1985 c.402 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.133 - "Autocycle."**

"Autocycle" means a motorcycle that:

- (1) Is manufactured to travel on three wheels;
- (2) Has nonstraddle seating; and
- (3) Is equipped with a manufacturer-installed three-point safety belt or safety harness. [2017 c.296 §2; 2021 c.630 §125]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.135 - "Axle."**

"Axle" means any structure or structures, whether in one or more segments, of any vehicle, supported by wheels and on which the wheels rotate, so spaced longitudinally that the centers thereof are included between two vertical parallel transverse planes 40 inches apart. [1983 c.338 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.140 - "Balance trailer."**

"Balance trailer" means every trailer, other than a self-supporting trailer, pole trailer or semitrailer, designed so that its weight and that of its load is substantially balanced upon its axle or axles and so that it couples to the towing vehicle with a device other than a fifth wheel hitch. The definition in this section is based upon design features and, except as otherwise provided in this section, does not prohibit a balance trailer from fitting into another classification of trailer based on use. [1983 c.338 §20; 1985 c.16 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.150 - "Bicycle."**

"Bicycle" means a vehicle that:

- (1) Is designed to be operated on the ground on wheels;
  - (2) Has a seat or saddle for use of the rider;
  - (3) Is designed to travel with not more than three wheels in contact with the ground;
  - (4) Is propelled exclusively by human power; and
  - (5) Has every wheel more than 14 inches in diameter or two tandem wheels either of which is more than 14 inches in diameter.
- [1983 c.338 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.155 - "Bicycle lane."**

"Bicycle lane" means that part of the highway, adjacent to the roadway, designated by official signs or markings for use by persons riding bicycles except as otherwise specifically provided by law. A bicycle lane exists in an intersection if the bicycle lane is marked on opposite sides of the intersection in the same direction of travel. [1983 c.338 §23; 2019 c.120 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.160 - "Bicycle path."**

"Bicycle path" means a public way, not part of a highway, that is designated by official signs or markings for use by persons riding bicycles except as otherwise specifically provided by law. [1983 c.338 §24]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.163 - "Biometric data."**

"Biometric data" means measurements of the physical characteristics of an individual's face that can be used to authenticate the identity of an individual. [2005 c.775 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.165 - "Bus trailer."**

"Bus trailer" means any trailer designed or used for carrying human beings. [1983 c.338 §25]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.170 - "Business district."**

"Business district" means the territory contiguous to a highway when 50 percent or more of the frontage thereon for a distance of 600 feet or more on one side, or 300 feet or more on both sides, is occupied by buildings used for business. [1983 c.338 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.175 - "Canceled"; "cancellation."**

- (1) "Canceled," with reference to vehicle registration or title, means that the registration or title is declared void and terminated and new registration or title may be obtained only as permitted by law.
- (2) "Cancellation" with reference to driving privileges or identification cards means the annulment or termination by formal action of the Department of Transportation of a person's driving privileges or identification card, or of a person's right to apply for privileges or identification card, because of some error or defect in a document or because the person is not eligible for the privileges or card. [1983 c.338 §27; 1985 c.16 §10; 1993 c.393 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.180 - "Camper."**

"Camper" means a structure that:

- (1) Has a floor;
- (2) Is designed to be mounted upon a motor vehicle;
- (3) Is not permanently attached to a motor vehicle upon which it is mounted;
- (4) Is designed to provide facilities for human habitation or for camping;
- (5) Is six feet or more in overall length;
- (6) Is five and one-half feet or more in height from floor to ceiling at any point; and
- (7) Has no more than one axle designed to support a portion of the weight of the camper. [1983 c.338 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.183 - "Certificate of sale."**

"Certificate of sale" means a document that contains the name and address of the purchaser and seller of a motor vehicle or component part, the date of sale, the consideration paid and a description of the vehicle or part and other essential elements of a sale of a motor vehicle or major component part. [2005 c.654 §2]



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.185 - "Certificate of title."**

"Certificate of title" means a paper document issued by any jurisdiction specifically as evidence of vehicle ownership. A certificate of title is not necessarily the only evidence of vehicle ownership issued by a jurisdiction. [1983 c.338 §29; 1985 c.16 §11; 1987 c.217 §1; 1989 c.991 §23; 1991 c.873 §22; 1993 c.233 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.187 - "Circulatory roadway."**

"Circulatory roadway" means the portion of a highway within a roundabout that is used by vehicles to travel counterclockwise around a central island. A circulatory roadway does not have a crosswalk. [2001 c.464 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.190 - "Class I all-terrain vehicle."**

"Class I all-terrain vehicle" means a motorized, off-highway recreational vehicle that:

- (1) Is 50 inches or less in width;
- (2) Has a dry weight of 1,200 pounds or less;
- (3) Travels on three or more tires designed for off-road use only;
- (4) Uses handlebars for steering;
- (5) Has a seat designed to be straddled for the operator; and
- (6) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain. [1985 c.459 §2; 1995 c.775 §9; 1997 c.228 §1; 2011 c.360 §1; 2023 c.372 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.193 - "Class II all-terrain vehicle."**

"Class II all-terrain vehicle" means any motor vehicle that:

- (1) Weighs more than or is wider than a Class I all-terrain vehicle;
- (2) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain;
- (3) Is actually being operated off a highway or is being operated on a highway for agricultural purposes under ORS 821.191; and
- (4) Is not a Class IV all-terrain vehicle. [1987 c.587 §2; 2005 c.227 §1; 2007 c.207 §1; 2011 c.360 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.194 - "Class III all-terrain vehicle" and "Class IV all-terrain vehicle."**

(1) "Class III all-terrain vehicle" means a motorcycle that travels on two tires and that is actually being operated off highway.

(2) "Class IV all-terrain vehicle" means any motorized vehicle that:

- (a) Travels on four or more tires designed for off-road use only;
- (b) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain;
- (c) Has nonstraddle seating;
- (d) Has a steering wheel for steering control;
- (e) Has a dry weight of 3,500 pounds or less;
- (f) Is 75 inches wide or less at its widest point; and
- (g) Was originally manufactured for off-road use only. [1989 c.991 §2; 2011 c.360 §3; subsection (2) of 2011 Edition enacted as 2011 c.360 §5; 2019 c.491 §4; 2023 c.372 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.195**

[1983 c.338 §31; renumbered 801.198 in 1997]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.196**

[1989 c.723 §2; 1991 c.284 §4; renumbered 801.199 in 1997]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.197 - "Collector."**

"Collector" or "collector highway" means a highway that serves primarily to funnel traffic from one local highway to another or between arterials and local highways. [1997 c.404 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.198 - "Combination of vehicles."**

"Combination of vehicles" means two or more vehicles coupled together. [Formerly 801.195]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.199 - "Combined weight."**

"Combined weight" means the total empty weight of all vehicles in a combination plus the total weight of the load carried on that combination of vehicles. [Formerly 801.196]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.200 - "Commercial bus."**

"Commercial bus" means every motor vehicle designed or used for carrying passengers and their personal baggage and express for compensation, except:

(1) Taxicabs that:

- (a) Are passenger vehicles with a passenger seating capacity that does not exceed five;
- (b) Carry passengers for hire where destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of any combination of an initial fee, distance traveled or waiting time;
- (c) Are operated under a current license or permit issued by a city, county or other unit of local government where a permit or license is required for the operation of a taxicab; and
- (d) Transport persons or property, or both, between points in Oregon.

(2) Vehicles commonly known and used as private passenger vehicles and not operated for compensation except in the transportation of students to or from school. [1983 c.338 §32; 1985 c.16 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.205 - "Commercial bus trailer."**

"Commercial bus trailer" means a bus trailer:

- (1) That is designed or used for carrying passengers and their personal baggage for compensation.
- (2) Other than a vehicle commonly known and used as a private passenger vehicle not operated for compensation except in the transportation of students to or from school. [1983 c.338 §33; 1985 c.16 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.207 - "Commercial driver license" and "commercial driving privileges."**

(1) "Commercial driver license" means a driver license issued by this state or any other jurisdiction that authorizes its holder to drive a commercial motor vehicle if the holder also has any necessary endorsements to the license.

(2) "Commercial driving privileges" means the driving privileges granted by a commercial driver license or a commercial learner driver permit issued by this state or any other jurisdiction, either of which authorizes the individual to operate a class of commercial motor vehicle as permitted by the commercial driver license or commercial learner driver permit, subject to any endorsements or restrictions. [1989 c.636 §3; 2003 c.14 §457; subsection (2) of 2013 Edition enacted as 2013 c.237 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.208 - "Commercial motor vehicle."**

(1) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles and one or more vehicles that:

(a) Has a gross combination weight rating or gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of one or more towed units, with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater;

(b) Has a gross vehicle weight rating or gross vehicle weight of 26,001 pounds or more;

(c) Is designed to transport 16 or more persons, including the driver; or

(d) Is of any size and is used in the transportation of hazardous materials.

(2) Notwithstanding subsection (1) of this section, the term "commercial motor vehicle" does not include the following:

(a) An emergency fire vehicle being operated by firefighters as defined in ORS 652.050;

(b) Emergency vehicles being operated by qualified emergency service volunteers as defined in ORS 401.358;

(c) A motor home used to transport or house, for nonbusiness purposes, the operator or the operator's family members or personal possessions; or

(d) A recreational vehicle that is operated solely for personal use. [1989 c.636 §2; 1991 c.185 §1; 1991 c.676 §1; 1999 c.359 §1; 2007 c.387 §1; 2009 c.395 §3; 2009 c.718 §27; 2011 c.470 §1; 2013 c.237 §48]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions**

**and Definitions for Oregon Vehicle CodeSection 801.210 - "Commercial vehicle."**

"Commercial vehicle" means a vehicle that:

- (1) Is used for the transportation of persons for compensation or profit; or
- (2) Is designed or used primarily for the transportation of property. [1983 c.338 §34]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.215 - "Commission."**

"Commission" means the Oregon Transportation Commission. [1983 c.338 §35]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.217 - "Converter dolly."**

"Converter dolly" means an auxiliary axle assembly equipped with a fifth wheel hitch and used to convert a semitrailer to a full trailer. [1991 c.284 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.220 - "Crosswalk."**

"Crosswalk" means any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway that conform in design to the standards established for crosswalks under ORS 810.200. Whenever marked crosswalks have been indicated, such crosswalks and no other shall be deemed lawful across such roadway at that intersection. Where no marked crosswalk exists, a crosswalk is that portion of the roadway described in the following:

- (1) Where sidewalks, shoulders or a combination thereof exists, a crosswalk is the portion of a roadway at an intersection, not more than 20 feet in width as measured from the prolongation of the lateral line of the roadway toward the prolongation of the adjacent property line, that is included within:
  - (a) The connections of the lateral lines of the sidewalks, shoulders or a combination thereof on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traveled roadway; or
  - (b) The prolongation of the lateral lines of a sidewalk, shoulder or both, to the sidewalk or shoulder on the opposite side of the street, if the prolongation would meet such sidewalk or shoulder.
- (2) If there is neither sidewalk nor shoulder, a crosswalk is the portion of the roadway at an intersection, measuring not less than six feet in width, that would be included within the prolongation of the lateral lines of the sidewalk, shoulder or both on the opposite side of the street or highway if there were a sidewalk. [1983 c.338 §36]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.225 - "Department."**

"Department" means the Department of Transportation. [1983 c.338 §37]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.230 - "Director."**

"Director" means Director of Transportation. [1983 c.338 §38]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.235**

[1983 c.338 §39; 1985 c.139 §3; 1987 c.296 §1; 1989 c.243 §1; 2007 c.70 §322; renumbered 801.387 in 2007]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.236 - "Dismantler."**

- (1) "Dismantler" means a person who is engaged in the business of:
  - (a) Buying, selling, dealing in or processing, except for processing into scrap metal, motor vehicles for the purpose of destroying, salvaging, dismantling, disassembling, reducing to major component parts, crushing, compacting, recycling or substantially altering in form; or
  - (b) Buying, selling, dealing in or processing motor vehicle major component parts that are stocked in the inventory of the business, if the buying, selling, dealing in or processing of major component parts is not part of a business selling new vehicles or repairing vehicles.
- (2) "Dismantler" does not include a scrap metal business as defined in ORS 165.116. [2005 c.654 §3; 2021 c.412 §7]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.237 - "District" defined for certain purposes.**

As used in this section and ORS 267.001, 268.503, 801.040, 801.042, 802.110, 803.420, 803.445 and 803.585, "district" means a

mass transit or transportation district of over 400,000 persons established under ORS chapter 267 and a metropolitan service district of over 400,000 persons established under ORS chapter 268. [1989 c.864 §2a; 2009 c.865 §40d]

Note:

801.237 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.245 - "Driver license."**

"Driver license" or "license" may have any or all of the meanings provided for the terms under this section as required or appropriate under the section referring to the term. The term "driver license" may be used interchangeably with "license" and either term may be used in any or all of the following ways:

- (1) It may refer to a document issued by this state or any other jurisdiction as evidence of a grant of driving privileges.
- (2) It may refer to general driving privileges granted by this state or another jurisdiction. [1983 c.338 §54; 1985 c.182 §1; 1985 c.608 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.250 - "Driver permit."**

"Driver permit" means a grant of driving privileges by this state or another jurisdiction that is more limited than those available under a license or that is only available under special or limited circumstances. The term may also refer to a document issued as evidence of a grant of driving privileges under a driver permit. Driver permits issued by this state include the following:

- (1) Applicant temporary driver permit described under ORS 807.310.
- (2) Court issued temporary driver permit described under ORS 807.320.
- (3) Disability golf cart driver permit described under ORS 807.210.
- (4) Emergency driver permit described under ORS 807.220.
- (5) Instruction driver permit described under ORS 807.280.
- (6) Hardship driver permit described under ORS 807.240.
- (7) Special student driver permit described under ORS 807.230.
- (8) Special temporary instruction driver permit described under ORS 807.290.
- (9) Court bail driver permit described under ORS 807.330.
- (10) Temporary driver permit described under ORS 813.110.
- (11) Commercial learner driver permit described under ORS 807.285. [1983 c.338 §41; 1985 c.16 §14; 1985 c.608 §1; 1987 c.801 §1; 2013 c.237 §34; 2018 c.76 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.255 - "Driving privilege."**

"Driving privilege" means the grant of authority by a jurisdiction to a person that allows that person to drive a vehicle on highways within that jurisdiction. Driving privileges grant authority to a person not to a vehicle. The driving privilege includes any such grant of authority whether or not documents are issued as evidence of the authority. In this state, driving privileges may be granted under:

- (1) A license as defined under ORS 801.207 and 801.245.
- (2) Driver permits as described in ORS 801.250.
- (3) The driving privileges established under ORS 807.020.
- (4) Any endorsement of a license or driver permit or limitations on a license or driver permit that allows a person to operate a motor vehicle. [1983 c.338 §42; 1989 c.636 §8; 2003 c.14 §458]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.258 - "Electric assisted bicycle."**

"Electric assisted bicycle" means a vehicle that:

- (1) Is designed to be operated on the ground on wheels;
- (2) Has a seat or saddle for use of the rider;
- (3) Is designed to travel with not more than three wheels in contact with the ground;
- (4) Has both fully operative pedals for human propulsion and an electric motor; and
- (5) Is equipped with an electric motor that:
  - (a) Has a power output of not more than 1,000 watts; and
  - (b) Is incapable of propelling the vehicle at a speed of greater than 20 miles per hour on level ground. [1997 c.400 §2; 1999 c.59 §233]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.259 - "Electric personal assistive mobility device."**

"Electric personal assistive mobility device" means a device that:

- (1) Is self-balancing on two nontandem wheels;
- (2) Is designed to transport one person in a standing position;
- (3) Has an electric propulsion system; and
- (4) Has a maximum speed of 15 miles per hour. [2003 c.341 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.260 - "Emergency vehicle."**

"Emergency vehicle" means a vehicle that is equipped with lights and sirens as required under ORS 820.350 and 820.370 and that is any of the following:

- (1) Operated by public police, fire or airport security agencies.
- (2) Designated as an emergency vehicle by a federal agency.
- (3) Designated as an emergency vehicle by the Director of Transportation. [1983 c.338 §43; 1993 c.751 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.261 - "Endorsement."**

"Endorsement," when used in relation to driving privileges, means a grant of driving privileges, or the evidence thereof, to a person who holds a license, or in some instances a driver permit, allowing the person to exercise driving privileges that are not granted by the license or driver permit. The types of endorsements granted by this state and the driving privileges granted under each type of endorsement are established by ORS 807.035. [2003 c.14 §461]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.263 - "Engine brake."**

- (1) "Engine brake" means a device that converts a power-producing diesel engine into a power-absorbing air compressor, resulting in a net energy loss.
- (2) "Unmuffled engine brake" means an engine brake that is not equipped with a muffler in good working order. [1993 c.314 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.265 - "Farm tractor."**

"Farm tractor" means a motor vehicle designed and used primarily in agricultural operations for drawing or operating other farm machines, equipment and implements of husbandry. [1983 c.338 §44]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.270 - "Farm trailer."**

"Farm trailer" means a vehicle that:

- (1) Is without motive power;
- (2) Is a vehicle other than an implement of husbandry;
- (3) Is designed to carry property; and
- (4) Is drawn by a farm tractor. [1983 c.338 §45]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.272 - "Field sobriety test."**

"Field sobriety test" means a physical or mental test, approved by the Department of State Police by rule after consultation with the Department of Public Safety Standards and Training, that enables a police officer or trier of fact to screen for or detect probable impairment from an intoxicant or a combination of intoxicants. [1989 c.576 §17; 1997 c.853 §60; 1999 c.619 §4; 2017 c.21 §74; 2021 c.253 §1; 2023 c.498 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.275 - "Fifth wheel hitch."**

"Fifth wheel hitch" means a coupling device for vehicles that is commonly known as a kingpin and fifth wheel assembly. [1983 c.338 §46]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.280 - "Financial responsibility requirements."**

"Financial responsibility requirements" means the ability to respond in damages for liability, on account of accidents arising out of the ownership, operation, maintenance or use of a motor vehicle in a manner provided under ORS 806.060. [1983 c.338 §74; 1985 c.16 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.285 - "Fixed load vehicle."**

"Fixed load vehicle" means all of the following apply to the vehicle:

- (1) It is a vehicle with or without motive power that is designed and used primarily:
  - (a) To support and move a permanent load in the form of equipment or appliances constructed as part of or permanently attached to the body of the vehicle;
  - (b) For transportation of equipment or appliances that are ordinarily kept on or in the vehicle in order that the vehicle may be used for its primary purpose; and
  - (c) Except for the transportation of permanent load, appliances and equipment described in paragraphs (a) and (b) of this subsection, for purposes other than for the transportation of persons or property over public highways or streets.
- (2) It is a vehicle other than the following:
  - (a) A travel trailer.
  - (b) A tow vehicle, including a tow vehicle with cranes, hoists or dollies.
  - (c) A truck-mounted transit mixer or volumetric mixer.
  - (d) A self-propelled mobile crane.
  - (e) A bucket truck.
- (3) It is a vehicle that may include, but is not limited to, the following vehicles:
  - (a) Air compressors, air drills, asphalt plants, asphalt spreaders, bituminous plants, bituminous mixers, bituminous spreaders and bucket loaders;
  - (b) Concrete batch plants, concrete mixers other than transit mixers or volumetric mixers, cement spreaders, carryalls, crawler cranes, crushers and crushing plants, diggers and ditchers, power units and plants;
  - (c) Earthmoving scrapers, electric generating equipment, electric load-bank and wiring equipment, front-end loaders, leveling graders, lighting plants and portable wiring, motor graders, payloaders, power hoists, road graders, scoopmobiles, skip hoists, stackers and hoists;
  - (d) Athey wheels, backhoes, bituminous and concrete pavement finishers, drag lines, fork lift trucks, log loaders, portable bins, portable parts and storage bins, portable shops, portable storage tanks, power shovels, road rollers, sheepsfoot rollers and paving mixers, towermobiles, welders, yarders;
  - (e) Bituminous and concrete finishing machines, elevator equipment, scarifiers and rooters, traction engines, vibro screens and rotary screens, wheeled and crawler tractors other than truck tractors; and
  - (f) Apron feeders, grain grinders, grain rollers, sand classifiers and drags, sawmills and special construction equipment, scrap metal balers, scrubber screens and plate feeders. [1983 c.338 §47; 1985 c.71 §1; 1995 c.79 §367; 2003 c.655 §87; 2017 c.539 §1; 2019 c.491 §51]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.288 - "Funeral escort vehicle"; "funeral lead vehicle"; "funeral procession."**

- (1) "Funeral escort vehicle" means any two-wheel or three-wheel vehicle that is accompanying a funeral procession and is properly equipped under ORS 811.800.
- (2) "Funeral lead vehicle" means any vehicle that is properly equipped under ORS 811.800 and is used to lead and facilitate the movement of a funeral procession.
- (3) "Funeral procession" means two or more vehicles, including any funeral lead vehicle or funeral escort vehicle, accompanying the body or cremated or reduced remains of a deceased person. [1991 c.482 §§2,3,4; 2021 c.296 §31]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.290 - "Future responsibility filing."**

"Future responsibility filing" means the requirement described under ORS 806.240 to file and maintain proof of compliance with financial responsibility requirements with the Department of Transportation. [1983 c.338 §48]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.295 - "Golf cart."**

"Golf cart" means a motor vehicle that:

- (1) Has not less than three wheels in contact with the ground;
- (2) Has an unloaded weight less than 1,300 pounds;
- (3) Is designed to be and is operated at not more than 15 miles per hour; and
- (4) Is designed to carry golf equipment and not more than two persons, including the driver. [1983 c.338 §49]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.297 - "Gross combination weight rating."**

"Gross combination weight rating" means the greater of:

- (1) The value specified by the manufacturer of the power unit of a vehicle, if:
  - (a) The value is displayed on the Federal Motor Vehicle Safety Standards certification label; and
  - (b) The vehicle is towing another unit; or
- (2) The sum of the gross vehicle weight ratings or gross vehicle weights of the power unit and the towed unit, or any combination thereof, that produces the highest value. [1989 c.636 §4; 2017 c.190 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.298 - "Gross vehicle weight rating."**

"Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. [1989 c.636 §5; 1991 c.185 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.300 - "Group of axles."**

"Group of axles" means an assemblage of two or more consecutive axles considered together in determining their combined load effect on a bridge or pavement structure. [1983 c.338 §50; 1985 c.172 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.303 - "Hazardous materials."**

"Hazardous materials" has the meaning given that term in 49 C.F.R. 383.5, as in effect on January 1, 2013. [1989 c.636 §6; 2005 c.649 §31; 2013 c.237 §47]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.305 - "Highway."**

- (1) "Highway" means every public way, road, street, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this state, open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.
- (2) For the purpose of enforcing traffic offenses contained in the Oregon Vehicle Code, except for ORS 810.230, "highway" includes premises open to the public that are owned by a homeowners association and whose boundaries are contained within a service district established on or before July 1, 2002, under ORS 451.410 to 451.610. [1983 c.338 §51; 2007 c.561 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.308 - "Identity source documents."**

"Identity source documents" means documents required for the issuance, renewal or replacement of a driver license, a driver permit or an identification card by the Department of Transportation. [2008 c.1 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.310 - "Implement of husbandry."**

"Implement of husbandry" means a vehicle or device used exclusively in agricultural operations. Truck trailers with a loaded weight of more than 8,000 pounds, motor vehicles, bus trailers, manufactured dwellings, prefabricated structures and recreational vehicles greater than eight and one-half feet in width and travel trailers are not implements of husbandry unless limited by design to agricultural uses. [1983 c.338 §52; 1985 c.16 §15; 1987 c.119 §1; 1989 c.723 §3; 1993 c.696 §6; 2003 c.655 §88]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.317 - "Inhalant."**

"Inhalant" means any glue, paint, cement or other substance that is capable of causing intoxication and that contains one or more of the following chemical compounds:

- (1) Acetone;
- (2) Amyl acetate;
- (3) Benzol or benzene;
- (4) Butane;
- (5) Butyl acetate;
- (6) Butyl alcohol;
- (7) Carbon tetrachloride;
- (8) Chloroform;
- (9) Cyclohexanone;
- (10) Difluoroethane;
- (11) Ethanol or ethyl alcohol;
- (12) Ethyl acetate;

- (13) Hexane;
- (14) Isopropanol or isopropyl alcohol;
- (15) Isopropyl acetate;
- (16) Methyl cellosolve acetate;
- (17) Methyl ethyl ketone;
- (18) Methyl isobutyl ketone;
- (19) Nitrous oxide;
- (20) Toluol or toluene;
- (21) Trichloroethylene;
- (22) Tricresyl phosphate;
- (23) Xylol or xylene; or
- (24) Any other solvent, material, substance, chemical or combination thereof having the property of releasing toxic vapors or fumes. [1999 c.619 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.320 - "Intersection."**

"Intersection" means the area of a roadway created when two or more roadways join together at any angle, as described in one of the following:

- (1) If the roadways have curbs, the intersection is the area embraced within the prolongation or connection of the lateral curb lines.
- (2) If the roadways do not have curbs, the intersection is the area embraced within the prolongation or connection of the lateral boundary lines of the roadways.
- (3) The junction of an alley with a roadway does not constitute an intersection.
- (4) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersection highway is a separate intersection. In the event the intersection highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways is a separate intersection. [1983 c.338 §53]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.321 - "Intoxicant."**

"Intoxicant" means:

- (1) Intoxicating liquor;
- (2) A controlled substance;
- (3) An inhalant;
- (4) Cannabis;
- (5) Psilocybin; or
- (6) Any drug, as defined in ORS 475.005, that, when used either alone or in combination with intoxicating liquor, an inhalant, psilocybin, cannabis or a controlled substance, adversely affects a person's mental or physical faculties to a noticeable or perceptible degree. [2023 c.498 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.323 - "Issue"; "issuance."**

"Issue" or "issuance," when used in relation to title, means either the creation of a record of title for a vehicle or physical delivery of a certificate of title to a person, or both. [1993 c.233 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.325 - "Limited visibility condition."**

"Limited visibility condition" means:

- (1) Any time from sunset to sunrise; and
- (2) Any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles are not clearly discernible on a straight, level, unlighted highway at a distance of 1,000 feet ahead. [1983 c.338 §55; 1987 c.158 §159]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.330 - "Loaded weight."**

"Loaded weight" means the weight transmitted to the road, through an axle or set of axles, when the vehicle is fully loaded. [1983 c.338 §56; 1989 c.723 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.331 - "Low-speed vehicle."**

"Low-speed vehicle" means a four wheeled motor vehicle with a top speed of more than 20 miles per hour but not more than 25



miles per hour. [2001 c.293 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.333 - "Manufactured structure."**

"Manufactured structure" has the meaning given that term in ORS 446.561. [1993 c.696 §3; 2003 c.655 §89]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.335 - "Manufacturer."**

"Manufacturer" means any person engaged in the manufacture of new vehicles as a regular business. [1983 c.338 §57]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.341 - "Medium-speed electric vehicle."**

"Medium-speed electric vehicle" means an electric motor vehicle with four wheels that is equipped with a roll cage or a crushproof body design, can attain a maximum speed of 35 miles per hour on a paved, level surface, is fully enclosed and has at least one door for entry. [2009 c.865 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.345 - "Moped."**

"Moped" means a vehicle, including any bicycle equipped with a power source, other than an electric assisted bicycle as defined in ORS 801.258 or a motor assisted scooter as defined in ORS 801.348, that complies with all of the following:

- (1) It is designed to be operated on the ground upon wheels.
- (2) It has a seat or saddle for use of the rider.
- (3) It is designed to travel with not more than three wheels in contact with the ground.
- (4) It is equipped with an independent power source that:
  - (a) Is capable of propelling the vehicle, unassisted, at a speed of not more than 30 miles per hour on a level road surface; and
  - (b) If the power source is a combustion engine, has a piston or rotor displacement of 35.01 to 50 cubic centimeters regardless of the number of chambers in the power source.
- (5) It is equipped with a power drive system that functions directly or automatically only and does not require clutching or shifting by the operator after the system is engaged. [1983 c.338 §59; 1985 c.16 §19; 1997 c.400 §5; 2001 c.749 §25]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.348 - "Motor assisted scooter."**

"Motor assisted scooter" means a vehicle that:

- (1) Is designed to be operated on the ground with not more than four wheels;
- (2) Has a foot support or seat for the operator's use;
- (3) Can be propelled by motor or human propulsion; and
- (4) Is equipped with a power source that is incapable of propelling the vehicle at a speed of greater than 24 miles per hour on level ground and:
  - (a) If the power source is a combustion engine, has a piston or rotor displacement of 35 cubic centimeters or less regardless of the number of chambers in the power source; or
  - (b) If the power source is electric, has a power output of not more than 1,000 watts. [2001 c.749 §2; 2018 c.3 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.350 - "Motor home."**

"Motor home" means a motor vehicle that:

- (1) Is reconstructed, permanently altered or originally designed to provide facilities for human habitation; or
- (2) Has a structure permanently attached to it that would be a camper if the structure was not permanently attached to the motor vehicle. [1983 c.338 §60]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.355 - "Motor truck."**

"Motor truck" means a motor vehicle that is primarily designed or used for carrying loads other than passengers. [1983 c.338 §61]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.360 - "Motor vehicle."**

"Motor vehicle" means a vehicle that is self-propelled or designed for self-propulsion. [1983 c.338 §62]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions**

**and Definitions for Oregon Vehicle CodeSection 801.365 - "Motorcycle."**

"Motorcycle" means any self-propelled vehicle other than a moped or farm tractor that:

- (1) Has a seat or saddle for use of the rider;
- (2) Is designed to be operated on the ground upon wheels; and
- (3) Is designed to travel with not more than three wheels in contact with the ground. [1983 c.338 §63]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.366 - "Motorcycle helmet."**

"Motorcycle helmet" means a protective covering for the head consisting of a hard outer shell, padding adjacent to and inside the outer shell and a chin-strap type retention system with a sticker indicating that the motorcycle helmet meets standards established by the United States Department of Transportation. [1995 c.492 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.368 - "Narrow residential roadway."**

"Narrow residential roadway" means a two-way roadway that is:

- (1) Located in a residence district; and
- (2) Not more than 18 feet wide at any point between two intersections or between an intersection and the end of the roadway. [2007 c.367 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.370 - "Operation."**

"Operation" means any operation, towing, pushing, movement or otherwise propelling. [1983 c.338 §66]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.375 - "Owner."**

"Owner" when referring to the owner of a vehicle means:

- (1) The person in whose name title to a vehicle is issued, and who is entitled to possession and use of the vehicle.
- (2) If the title and right to possession and use for a vehicle are in different persons:
  - (a) The person, other than a security interest holder, who is entitled to the possession and use of the vehicle under a security agreement.
  - (b) The lessor or lessee of a vehicle, as designated by the lessor on the application for title, if the lessee is entitled to possession and use of the vehicle under a lease agreement. [1983 c.338 §67; 1991 c.551 §1; 1993 c.233 §7]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.377 - "Ownership record."**

"Ownership record" means:

- (1) A primary ownership record; or
- (2) A transitional ownership record. [1989 c.927 §2; 1993 c.233 §8]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.380 - "Park" or "parking."**

"Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers. [1983 c.338 §68]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.385 - "Pedestrian."**

"Pedestrian" means any person afoot or confined in a wheelchair. [1983 c.338 §69]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.387 - "Person with a disability."**

"Person with a disability" means:

- (1) A person who has severely limited mobility because of paralysis or the loss of use of some or all of the person's legs or arms;
- (2) A person who is affected by loss of vision or substantial loss of visual acuity or visual field beyond correction; or
- (3) A person who has any other disability that prevents the person from walking without the use of an assistive device or that causes the person to be unable to walk more than 200 feet, including but not necessarily limited to:
  - (a) Chronic heart condition;
  - (b) Emphysema;
  - (c) Arthritis;

- (d) Rheumatism; or
- (e) Ulcerative colitis or related chronic bowel disorder. [Formerly 801.235]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.390 - "Pole trailer."**

"Pole trailer" means a trailer attached or secured to the towing vehicle and ordinarily used for transporting long or irregular loads capable generally of sustaining themselves as beams between the towing vehicle and the trailer. The definition in this section is based on design features and, except as otherwise provided in this section, does not prohibit a pole trailer from fitting into another category of trailer based on use. [1983 c.338 §70]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.395 - "Police officer."**

"Police officer" includes a member of the Oregon State Police, a sheriff, a deputy sheriff, a city police officer, an authorized tribal police officer as defined in ORS 181A.940, a police officer commissioned by a university under ORS 352.121 or 353.125, a Port of Portland peace officer, a reserve officer as defined in ORS 133.005 or a law enforcement officer employed by a service district established under ORS 451.410 to 451.610 for the purpose of law enforcement services. [1983 c.338 §71; 2007 c.558 §1; 2009 c.299 §4; 2011 c.506 §47; 2011 c.641 §3; 2011 c.644 §§32,55; 2013 c.180 §§52,53; 2015 c.174 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.397 - "Prefabricated structure."**

"Prefabricated structure" has the meaning given that term in ORS 455.010. [1993 c.696 §4; 2003 c.655 §90]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.400 - "Premises open to the public."**

"Premises open to the public" includes any premises open to the general public for the use of motor vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises. [1983 c.338 §72]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.402 - "Primary ownership record."**

"Primary ownership record" means:

- (1) The manufacturer's certificate of origin or equivalent record as determined by the Department of Transportation by rule;
- (2) The current title issued for the vehicle by the State of Oregon or another jurisdiction; or
- (3) Any other record determined by the department by rule to be a primary ownership record. [1989 c.927 §3; 1993 c.233 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.403**

[2001 c.522 §2; renumbered 801.406 in 2007]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.404 - "Racing activity vehicle."**

"Racing activity vehicle" means a motor vehicle that:

- (1) Is primarily used for racing on a race track and that has:
  - (a) A bodiless tubular steel chassis that forms the main structural component of the vehicle;
  - (b) High side rails;
  - (c) Integral front and rear rollover tubes;
  - (d) A suspension with both front and rear double unequal length wishbones and inboard, pushrod operated dampers; and
  - (e) A product identification number instead of a vehicle identification number; and
- (2) Is not a replica or an assembled vehicle. [2007 c.693 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.405**

[1983 c.338 §75; 1985 c.402 §4; renumbered 801.408 in 2007]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.406 - "Rail fixed guideway public transportation system."**

"Rail fixed guideway public transportation system" means any light, heavy or rapid rail system, monorail, inclined plane, funicular, trolley, streetcar or automated guideway used primarily for carrying passengers. [Formerly 801.403; 2017 c.46 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.407**

[1993 c.696 §5; renumbered 801.409 in 2007]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.408 - "Reconstructed vehicle."**

"Reconstructed vehicle" means either:

(1) A vehicle that:

- (a) Has a body that resembles and primarily is a particular year model or make of vehicle;
- (b) Is not a vehicle rebuilt by a manufacturer;
- (c) Is not a vehicle built in a factory where the year model and make are assigned at the factory; and
- (d) Is not a replica; or

(2) A motor truck that has been rebuilt using a component kit if the manufacturer of the kit assigns a vehicle identification number and provides a manufacturer's certificate of origin for the kit. [Formerly 801.405]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.409 - "Recreational vehicle."**

"Recreational vehicle" has the meaning given that term in ORS 174.101. [Formerly 801.407; 2019 c.422 §40]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.410 - "Registration" or "register."**

"Registration" or "register" means, when used in reference to vehicles, the recording of a vehicle as authorized for use within a jurisdiction and includes any documentation or devices issued as evidence of that authorization. This state registers vehicles as provided under ORS 803.350. [1983 c.338 §76]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.415 - "Registration plate."**

"Registration plate" means a plate issued by a jurisdiction as evidence of vehicle registration. This state issues registration plates under ORS 803.520. [1983 c.338 §78; 1985 c.16 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.420 - "Registration weight."**

"Registration weight" means the combined weight or the loaded weight required to be declared and established as the maximum combined weight or loaded weight at which certain vehicles will be operated on the highway. Vehicles for which registration weights must be declared and established and the procedures for establishing registration weights are described under ORS 803.430. [1983 c.338 §77; 1985 c.16 §21; 1989 c.723 §5; 1991 c.284 §7; 2007 c.50 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.425 - "Replica."**

"Replica," when used to refer to vehicles, means a vehicle with a body built to resemble and be a reproduction of another vehicle of a given year and given manufacturer. [1985 c.402 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.430 - "Residence district."**

"Residence district" means territory not comprising a business district that is contiguous to a highway that:

- (1) Has access to property occupied primarily by multifamily dwellings; or
- (2) Has an average of 150 feet or less between accesses or approaches to:
  - (a) Dwellings, churches, public parks within cities or other residential service facilities; or
  - (b) Dwellings and buildings used for business. [1983 c.338 §79; 1997 c.404 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.435 - "Revoked."**

"Revoked" with reference to driving privileges, vehicle registration or vehicle title means the termination thereof with new driving privileges or vehicle registration or vehicle title obtainable only as permitted by law. [1983 c.338 §80]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.440 - "Right of way."**

"Right of way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or

pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other. [1983 c.338 §81]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.445 - "Road authority."**

"Road authority" means the body authorized to exercise authority over a road, highway, street or alley under ORS 810.010. [1983 c.338 §82]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.447 - "Road machinery."**

"Road machinery" means machinery used to maintain a highway or alley and includes, but is not limited to, a backhoe, chip spreader, excavator, forklift, front-end loader, mower, road grader, snowblower and utility tractor. [2009 c.91 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.450 - "Roadway."**

"Roadway" means the portion of a highway that is improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder. In the event a highway includes two or more separate roadways the term "roadway" shall refer to any such roadway separately, but not to all such roadways collectively. [1983 c.338 §83]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.451 - "Roundabout."**

"Roundabout" means an intersection characterized by a circulatory roadway, channelized approaches and yield control of entering traffic. A roundabout encompasses the area bounded by the outermost curb line or, if there is no curb, the edge of the pavement, and includes crosswalks on any entering or exiting roadway. [2001 c.464 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.454 - "Salvage title certificate."**

"Salvage title certificate" means a document issued by this state under the provisions of ORS 803.140 as evidence of vehicle ownership. Unless the context clearly requires otherwise, a salvage title certificate is not a "certificate of title" for purposes of the Oregon Vehicle Code or the rules of the Department of Transportation. [1991 c.873 §24]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.455 - "School activity vehicle."**

"School activity vehicle" means a vehicle, other than a school bus, that is used to transport students to or from authorized school activities and that is not described by any of the following:

- (1) A vehicle subject to ORS 825.100 or a vehicle under regulation of the United States Department of Transportation.
- (2) A vehicle, commonly known as a private passenger car or private passenger van, that is used by the owner of the vehicle or a relative of the owner of the vehicle for personal transportation of students to or from school activities and is not used for compensation except for the sharing of expenses in a ridesharing arrangement or reimbursement of mileage.
- (3) A vehicle that is exempted from regulation as a school activity vehicle under ORS 820.150.
- (4) A transit bus, as defined in ORS 811.167. [1985 c.420 §3; 1995 c.733 §80; 2015 c.138 §16; 2018 c.62 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.460 - "School bus."**

"School bus" means a motor vehicle that is described by any of the following:

- (1) A vehicle that is marked with or displays the words "school bus."
- (2) A vehicle that is used to transport students to or from school and may be used to transport students to or from authorized school activities or functions and that is not a vehicle described by any of the following:
  - (a) A vehicle subject to regulation under ORS chapter 825.
  - (b) A vehicle regulated by a city under ORS 221.420.
  - (c) A vehicle, commonly known as a private passenger car or private passenger van, that is used by the owner of the vehicle or a relative of the owner of the vehicle for personal transportation of students to or from school or school activities and is not used for compensation except for the sharing of expenses in a ridesharing arrangement or reimbursement of mileage.
  - (d) A vehicle that is exempted from regulation as a school bus under ORS 820.150. [1983 c.338 §84; 1985 c.16 §23; 1985 c.420 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.462 - "School zone."**

- (1) "School zone" means both of the following:

(a) A specific segment of highway that is adjacent to school grounds and that is marked by signs described in subsection (2) of this section.

(b) A crosswalk that is not adjacent to school grounds and that is marked by signs described in subsection (2) of this section.

(2) Signs marking a school zone may include any words, symbols or combination of words and symbols that gives notice of the presence of the school zone.

(3) As used in this section, "school" means a public or private educational institution for one or more levels kindergarten through grade 12 or a publicly funded early childhood education program located in a building currently or previously owned by a school district as defined in ORS 330.005. [2003 c.397 §2; 2013 c.212 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.465 - "Security interest."**

"Security interest" means an interest in a vehicle reserved or created by agreement and which secures payment or performance of an obligation as more particularly defined by ORS 71.2010 (2)(ii). [1983 c.338 §85; 1985 c.16 §24; 2009 c.181 §109]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.470 - "Self-supporting trailer."**

"Self-supporting trailer" means a trailer, other than a pole trailer, designed so that no part of the weight of the trailer or the weight of any load on the trailer rests upon the towing vehicle. The definition in this section is based on design and, except as otherwise provided in this section, does not prohibit a self-supporting trailer from fitting into another category of trailer based on use. [1983 c.338 §86]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.475 - "Semitrailer."**

"Semitrailer" means a trailer designed so that part of the weight of the trailer and part of the weight of any load on the trailer rests upon or is carried by another vehicle and coupled to another vehicle by a fifth wheel hitch. The definition in this section is based on design and, except as otherwise provided in this section, does not prohibit a semitrailer from fitting into another category of trailer based on use. [1983 c.338 §87]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.480 - "Shoulder."**

"Shoulder" means the portion of a highway, whether paved or unpaved, contiguous to the roadway that is primarily for use by pedestrians, for the accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses. [1983 c.338 §88]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.485 - "Sidewalk."**

"Sidewalk" means the area determined as follows:

(1) On the side of a highway which has a shoulder, a sidewalk is that portion of the highway between the outside lateral line of the shoulder and the adjacent property line capable of being used by a pedestrian.

(2) On the side of a highway which has no shoulder, a sidewalk is that portion of the highway between the lateral line of the roadway and the adjacent property line capable of being used by a pedestrian. [1983 c.338 §89]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.490 - "Snowmobile."**

"Snowmobile" means a self-propelled vehicle that:

(1) Is capable of traveling over snow or ice;

(2) Uses as its means of propulsion an endless belt tread or cleats or any combination of tread and cleats or similar means of contact with the surface upon which it is operated;

(3) Is steered wholly or in part by skis or sled-type runners; and

(4) Is not registered in this state as a vehicle other than a snowmobile. [1983 c.338 §90]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.495 - "Special mobile equipment."**

"Special mobile equipment" means a vehicle that is not designed primarily to transport persons or property, that is operated on a highway only incidentally and that is used primarily on a farm, for timber production and harvest, for construction work or for lawn and grounds care. [2012 c.12 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions**

**and Definitions for Oregon Vehicle CodeSection 801.500 - "Special use trailer."**

(1) "Special use trailer" means a trailer described under any of the following:

- (a) A trailer that is eight and one-half feet or less in width and of any length and that is used for commercial or business purposes.
- (b) A trailer that is used temporarily on a construction site for office purposes only.
- (c) A mobile modular unit.

(2) "Special use trailer" does not include any travel trailer. [1985 c.16 §26; 1993 c.696 §7; 2003 c.655 §90a]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.505 - "Stand" or "standing."**

"Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers. [1983 c.338 §91]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.507 - "Stinger-steered."**

"Stinger-steered" in relation to a combination of vehicles means that the coupling device on the power unit is located back of the tread of the tires of the last axle. [2001 c.574 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.510 - "Stop."**

"Stop" means the following:

- (1) When required, it means the complete cessation from movement.
- (2) When prohibited, it means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic control device. [1983 c.338 §92]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.513 - "Street rod."**

"Street rod" means a motor vehicle that:

- (1) Was manufactured prior to 1949 or was manufactured to resemble a motor vehicle manufactured prior to 1949;
- (2) May be equipped with a drive train, suspension system or brake system that is different from the drive train, suspension system or brake system originally installed on the vehicle;
- (3) May have alterations to the dimensions of the original body of the vehicle; and
- (4) Is not a motorcycle or an assembled vehicle. [1997 c.402 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.515 - "Suspend."**

"Suspend," with reference to identification cards, driving privileges or vehicle registration, means the temporary withdrawal of the identification card, driving privileges or registration. [1983 c.338 §93; 1993 c.393 §1a]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.520 - "Tandem axles."**

"Tandem axles" means any two or more consecutive axles that have centers more than 40 inches but not more than 96 inches apart and:

- (1) Are individually attached to or articulated from, or both, a common attachment to the vehicle; or
- (2) Have a connecting mechanism designed to equalize the load between axles. [1983 c.338 §94; 1985 c.172 §3]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.522 - "Tank vehicle."**

"Tank vehicle" means a commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank or tanks having an individual rate capacity of more than 119 gallons and an aggregate rate capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. "Tank vehicle" does not include a commercial motor vehicle transporting an empty storage container tank that has a rated capacity of 1,000 gallons or more and that is temporarily attached to a flatbed trailer. [1989 c.636 §7; 2013 c.237 §49; 2017 c.190 §10]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 801 - General Provisions and Definitions for Oregon Vehicle CodeSection 801.524 - "Throughway."**

"Throughway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the road authority having jurisdiction over the highway, street or roadway. [Formerly 801.535]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.525 - "Tire."**

"Tire" means the band of material used on the circumference of a wheel, on the outer face of a track or on a runner of a sled, which forms the tread that comes in contact with the surface of the road. If no band is used it means the tread or runner of a sled. [1983 c.338 §96]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.526 - "Title."**

"Title" means an ownership interest in a vehicle that is evidenced by a record of the Department of Transportation or of some other jurisdiction. The record may be in the form of a certificate of title or it may be in another form, including but not necessarily limited to electronic or machine-readable form. Oregon issues titles under ORS 803.045. Titles for snowmobiles are issued as provided under ORS 821.060. Salvage titles are issued as provided in ORS 803.140. [1993 c.233 §2; 1995 c.774 §7; 1999 c.977 §15; 2003 c.655 §91]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.527 - "Totaled vehicle"; "totaled."**

"Totaled vehicle" or "totaled" means:

- (1) A vehicle that is declared a total loss by an insurer that is obligated to cover the loss or that the insurer takes possession of or title to.
- (2) A vehicle that is stolen, if it is not recovered within 30 days of the date that it is stolen and if the loss is not covered by an insurer.
- (3) A vehicle that has sustained damage that is not covered by an insurer and that is such that the estimated cost to repair the vehicle is equal to at least 80 percent of the retail market value of the vehicle prior to the damage. For purposes of this subsection, "retail market value" shall be as reflected in publications relied upon by financial institutions doing business in this state. [1991 c.820 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.529 - "Tow dolly."**

"Tow dolly" means an auxiliary axle assembly equipped with a tow bar and used to tow a motor vehicle behind another motor vehicle. [1991 c.284 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.530 - "Tow vehicle."**

"Tow vehicle" means a motor vehicle that is:

- (1) Altered or designed for, equipped for and used in the business of towing vehicles; and
- (2) Used to tow vehicles by means of a crane, hoist, tow bar, tow line or dolly or otherwise used to render assistance to other vehicles. [1983 c.338 §97; 1985 c.71 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.535**

[1983 c.338 §98; renumbered 801.524 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.540 - "Traffic control device."**

"Traffic control device" means:

- (1) Any sign, signal, marking or device placed, operated or erected by authority under ORS 810.210 for the purpose of guiding, directing, warning or regulating traffic.
- (2) Any device that remotely controls by electrical, electronic, sound or light signal the operation of any device identified in subsection (1) of this section and installed or operated under authority of ORS 810.210.
- (3) Any stop sign that complies with specifications adopted under ORS 810.200 that is held or erected by a member of a highway maintenance or construction crew working in the highway. [1983 c.338 §99; 1993 c.203 §1; 1993 c.522 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.545 - "Traffic crime."**

"Traffic crime" means any traffic offense that is punishable by a jail sentence. [1983 c.338 §100]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.550**

[1983 c.338 §102; 1999 c.1051 §83; renumbered 801.557 in 1999]



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.555 - "Traffic offense."**

"Traffic offense" means any of the following offenses:

- (1) Any violation of a traffic ordinance of a city, municipal or quasi-municipal corporation, except ordinances governing parking of vehicles.
- (2) Any provision of law for which a criminal or traffic violation penalty is provided in the vehicle code. [1983 c.338 §101; 1985 c.16 §27; 1999 c.1051 §84; 2015 c.138 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.557 - "Traffic violation."**

"Traffic violation" means a traffic offense that is designated as a traffic violation in the statute defining the offense, or any other offense defined in the Oregon Vehicle Code that is punishable by a fine but that is not punishable by a term of imprisonment. Penalties for traffic violations are as provided for violations generally in ORS chapter 153. [Formerly 801.550; 2011 c.597 §95a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.560 - "Trailer."**

"Trailer" means every vehicle without motive power designed to be drawn by another vehicle. Trailer includes, but is not limited to, the following types of trailers:

- (1) Balance trailers.
- (2) Bus trailers.
- (3) Commercial bus trailers.
- (4) Farm trailers.
- (5) Pole trailers.
- (6) Semitrailers.
- (7) Travel trailers.
- (8) Truck trailers.
- (9) Self-supporting trailers.
- (10) Special use trailers. [1983 c.338 §103; 1985 c.16 §28; 2003 c.655 §92]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.562 - "Transitional ownership record."**

"Transitional ownership record" means a record containing all of the following:

- (1) The date of sale or if no sale is involved, the date the contract or security interest being perfected was signed.
- (2) The name of each owner of the vehicle.
- (3) The name and address of each security interest holder.
- (4) If there are multiple security interest holders, the priorities of interest if the security interest holders do not jointly hold a single security interest.
- (5) The vehicle identification number.
- (6) The name of the security interest holder or person who submits the transitional ownership record for the security interest holder. [1989 c.927 §4; 1993 c.233 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.565 - "Travel trailer."**

"Travel trailer" means:

- (1) A recreational vehicle without motive power that is eight and one-half feet or less in width and is not being used for commercial or business purposes; and
- (2) A prefabricated structure that is eight and one-half feet or less in width and that is not being used for commercial or business purposes. [1983 c.338 §104; 1993 c.696 §8; 2003 c.655 §93]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.575 - "Truck tractor."**

"Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as drawn. [1983 c.338 §106]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.580 - "Truck trailer."**

"Truck trailer" means any trailer designed and used primarily for carrying loads other than passengers whether designed as a balance trailer, pole trailer, semitrailer or self-supporting trailer. [1983 c.338 §107]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.585 - "Unloaded weight."**

"Unloaded weight" means the weight of a vehicle when the vehicle is fully equipped exclusive of load. [1983 c.338 §108; 1985 c.172 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.590 - "Vehicle."**

"Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means. "Vehicle" does not include a manufactured structure. [1983 c.338 §109; 2003 c.655 §94]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.592 - "Vehicle appraiser."**

"Vehicle appraiser" means an individual who has been issued a vehicle appraiser certificate under ORS 819.480 and who, for consideration, issues opinions as to the value of vehicles. [2007 c.630 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.595 - "Vehicle code."**

"Vehicle code" means the Oregon Vehicle Code. [1983 c.338 §110]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.600 - "Vehicle identification number."**

"Vehicle identification number" means a distinguishing number assigned and affixed to a vehicle or vehicle component, such as an engine or transmission or other severable portion of a vehicle, by the manufacturer or under ORS 819.400 for the purpose of providing identification for the vehicle or vehicle component. [1983 c.338 §111]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.605 - "Vehicle of special interest."**

"Vehicle of special interest" means any American or foreign made vehicle that is maintained as a collector's item and that:

- (1) Is a street rod under ORS 801.513;
- (2) Is a high-mobility multipurpose wheeled vehicle and originally manufactured for military use; or
- (3) Complies with all of the following:
  - (a) The vehicle must be:
    - (A) At least 25 years old as dated from any current year; or
    - (B) Sanctioned as a vehicle of special interest by an established organization that provides for recognition of vehicles of special interest.
  - (b) If the vehicle is a reconstructed vehicle, the Department of Transportation must determine that the vehicle has been reconstructed with substantially original parts and that the vehicle otherwise complies with this section. [1983 c.338 §112; 1985 c.16 §29; 1997 c.402 §3; 2003 c.122 §2; 2017 c.196 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.608 - "Vulnerable user of a public way."**

"Vulnerable user of a public way" means a pedestrian, a highway worker, a person riding an animal or a person operating, or riding on, any of the following on a public way, crosswalk or shoulder of the highway:

- (1) A farm tractor or implement of husbandry;
- (2) A skateboard;
- (3) Roller skates;
- (4) In-line skates;
- (5) A scooter;
- (6) A bicycle;
- (7) A moped; or
- (8) A motorcycle. [2007 c.784 §2; 2009 c.301 §1; 2019 c.349 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 801 - General Provisions and Definitions for Oregon Vehicle Code Section 801.610 - "Worker transport bus."**

"Worker transport bus" means a vehicle that is described under ORS 820.010 that has a seating capacity of 12 or more passengers. [1983 c.338 §113]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.010 - Duties of Department of Transportation regarding motor vehicles and drivers.**

(1) The Department of Transportation shall perform all of the duties, functions and powers with respect to the following:

- (a) The administration of the laws relating to the motor vehicle fuel license tax, aircraft fuel license tax and use fuel license tax including ORS chapter 319.
- (b) The administration of the laws relating to motor vehicle registration and titling and the issuance of certificates to vehicle dealers and dismantlers including but not limited to the administration of the vehicle code.
- (c) The administration of the laws relating to driving privileges granted under licenses and permits and under the vehicle code.
- (d) The administration of the laws relating to operation of vehicles on highways and of vehicle size, weight and use limits under the vehicle code.
- (e) The administration of ORS 820.130 and 820.140.
- (f) The administration of the provisions relating to proof of compliance with financial responsibility requirements and future responsibility filings.

(2) The Director of Transportation shall act as a reciprocity officer for the purposes of ORS 802.500 and 802.520.

(3) The director shall have the authority to execute or make such arrangements, agreements or declarations to carry out the provisions of ORS 802.500 and 802.520. The director shall receive no additional compensation for service performed under this subsection but shall be allowed actual and necessary expenses incurred in the performance of the duties to be paid from the account of the department. [1983 c.338 §114; 1985 c.16 §30; 1985 c.668 §1; 1991 c.407 §20; 1993 c.741 §71; 1995 c.733 §82; 2001 c.104 §297; 2005 c.654 §37; 2019 c.312 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.012 - Rules for acceptance of information submitted other than on paper; effect of submission.**

(1) Notwithstanding other provisions of the Oregon Vehicle Code relating to certifications, signatures, forms or similar requirements, the Department of Transportation may adopt rules for acceptance and verification by telephone or electronic means of information customarily provided on paper forms. Rules shall address:

- (a) The use of credit card, debit card personal identification numbers or other identification numbers as a means of identification;
- (b) The acceptance of information and statements given orally, over the telephone or mechanically by electronic data entry; and
- (c) The use of mechanically produced equivalents or other unique identifiers in lieu of handwritten signatures as a means of obtaining certification of information and statements that are required to be submitted and certified.

(2) Whenever a person submits information to the department in compliance with a requirement of statute or rule, the submission shall constitute a certification as to the truth and accuracy of the information. This subsection applies whether the information is submitted in the form of a document or in some other form and whether or not the person signs what is submitted. [1993 c.751 §§8,8a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.020 - Administrative facilities for enforcement of motor vehicle laws.**

The Department of Transportation:

- (1) Shall purchase the necessary stationery, record books, registration plates and postage, provide for the printing and all other necessary and incidental expenses, employ the necessary clerical assistance, and lease such real estate and buildings as the department deems necessary to carry out fully the objects and purposes of the motor vehicle laws which it is required to administer.
- (2) Is authorized and directed to pay any claims therefor in the manner provided by law out of the money received under the provisions of the vehicle code.
- (3) May share space in any leased building with any other state officer, department, board or commission, for the conduct of the business of the state.
- (4) Subject to approval under this subsection, may acquire by purchase, agreement or donation, real property or any right or interest therein for office buildings and necessary appurtenant facilities. Before the department may exercise any authority under this subsection the department must have the approval of:
  - (a) The committee of ways and means established under ORS 171.555 if the Legislative Assembly is in session.
  - (b) The Emergency Board created under ORS 291.324 if the Legislative Assembly is not in session. [1983 c.338 §115]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.031 - Designation of dealers and others as agents of department.**

(1) Nothing in ORS 802.600 prohibits the Department of Transportation from adopting rules to:

- (a) Authorize persons to act as agents for the department for the purpose of issuing winter recreation parking permits.
- (b) Designate vehicle dealers holding a valid certificate issued under ORS 822.020 to act as agents of the department for purposes of accepting documents and fees necessary to title and register any vehicle the vehicle dealer sells, or to perform other duties the department may authorize. Other duties may include, but need not be limited to:
  - (A) Issuing permits under ORS 803.600 and 803.625; and

(B) Performing vehicle identification number inspections.

(2) A vehicle dealer designated under this section shall:

(a) Transmit title and registration documents with all required fees to the department within the time specified in ORS 822.042 and in accordance with any other applicable statutes or applicable rules adopted by the department.

(b) Maintain records as determined by the department to show compliance with this section and any rules adopted by the department. [1997 c.583 §10(2); 2017 c.172 §2; 2023 c.400 §38]

Note:

802.031 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.033**

[2001 c.141 §1; 2005 c.375 §1; renumbered 822.043 in 2005]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.040 - Specification of certain ways of reporting.**

(1) The Department of Transportation shall specify the minimum contents of a report about, and the means for reporting, accidents that are required to be reported under ORS 810.460, 811.725, 811.730 and 811.735. The department shall consult with the state police and city and county law enforcement officials before approving means for accident reports required under ORS 810.460. Any means of reporting specified under this subsection shall require sufficiently detailed information to disclose, with reference to a traffic accident, the cause, conditions then existing and the persons and vehicles involved. Upon request, if the department adopts forms as one means of reporting accidents, the department shall make the forms available through police departments, sheriffs' offices and other suitable agencies or individuals.

(2) The department shall assure that any means specified under subsection (1) of this section for use in accident reports required under ORS 811.725, 811.730 and 811.735 include a way of making owners aware of the definition of a totaled vehicle and of the owner's duty under ORS 819.012.

(3) The department shall prescribe and provide suitable forms for the administration and enforcement of the financial responsibility requirements under the vehicle code or shall prescribe any other means of accomplishing the same end that the department finds convenient. [1983 c.338 §117; 1985 c.16 §32; 1991 c.820 §12; 1993 c.751 §10; 2005 c.195 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.050 - Publications; fees.**

(1) The Department of Transportation may compile, publish and distribute a vehicle code book containing statutes administered by the department concerning vehicles and drivers, along with other related laws. The department may establish and collect a reasonable fee for books issued to groups or persons who are not employees of the department. Any fee established under this section shall not exceed the costs of the compilation, publication and distribution of the books.

(2) The department shall publish statistical information based on the analysis and tabulation of accident reports under ORS 802.220. Publication under this subsection shall be annual or at more frequent intervals.

(3) The department shall make rules it adopts concerning aiming of headlights, auxiliary lights and passing lights available to the public in an appropriate publication. [1983 c.338 §118; 1985 c.171 §4; 1993 c.741 §72; 2001 c.239 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.060 - Acceptance of grants and other moneys for traffic safety programs; contracts.**

The Department of Transportation may:

(1) Apply for, accept and receive such grants, contributions or other moneys as may be available to this state or any of its agencies for research and other programs concerning the safe operation of motor vehicles upon the highways, including research or educational programs for the improvement of drivers, the reduction of traffic accidents and the reduction of violations of traffic laws and ordinances.

(2) Enter into such contracts or agreements, employ such personnel, and do all things necessary to receive available moneys and carry on any research or program mentioned in subsection (1) of this section, provided that the authority herein granted and the contracts, agreements and other acts authorized to be entered into or performed, shall be subject to and not in conflict with the provisions of any other applicable state statutes. [1983 c.338 §876; 1993 c.741 §73]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.070 - Department to assist schools in promoting highway safety.**

The Department of Transportation shall assist accredited schools and educational institutions of this state in the promotion of highway safety and shall carry on with other activities under the laws providing for the registration of motor vehicles and motor vehicle operators and chauffeurs, other projects having for their purpose the prevention of motor vehicle accidents. [1983 c.338

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.075 - Rules for accident prevention course.**

The Department of Transportation shall adopt rules for approval of a motor vehicle accident prevention course that will qualify a person for the reduction in premium provided by ORS 742.490 to 742.494. The rules may include requirements for the contents of a course and qualifications of an organization offering a course. [1989 c.379 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.080**

[1983 c.338 §878; 1987 c.55 §1; renumbered 366.157 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.087 - Rules for assisting offenders in obtaining driver license or identification card.**

The Department of Transportation and the Department of Corrections jointly shall adopt rules and enter into interagency agreements necessary to assist offenders in obtaining a driver license or identification card prior to an offender's release from a Department of Corrections institution. [2009 c.138 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.090**

[1983 c.338 §870; 1985 c.16 §439; 1989 c.979 §1; 1993 c.713 §4; 1993 c.751 §11; renumbered 247.017 in 1993]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.091 - Removal of debris following motor vehicle accident.**

(1) The Department of Transportation shall pay reasonable costs for the removal of any vehicle, cargo or debris resulting from a motor vehicle accident if:

- (a) The motor vehicle accident resulted in the death of a person 18 years of age or younger;
- (b) The accident occurred on a state highway;
- (c) The surviving family members would otherwise be responsible for the cost of the cleanup; and
- (d) There is no insurance available.

(2) Subsection (1) of this section does not apply if:

- (a) It is established by a preponderance of the evidence that the deceased was engaged in conduct that would constitute a crime; or
- (b) The vehicle of the deceased was not insured under a motor vehicle liability insurance policy that complied with financial responsibility requirements under ORS 806.060. [2009 c.620 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.100 - Accounts related to driver and vehicle services; uses.**

The following accounts are established separate and distinct from the General Fund for the financial administration of those functions of the Department of Transportation dealing with driver and motor vehicle services in accordance with ORS 802.110:

(1) The Department of Transportation Driver and Motor Vehicle Suspense Account. The account established under this subsection is a suspense account in the State Treasury that is used to deposit moneys received by the department related to driver and motor vehicle services and to make approved payments and disbursements of funds before the department pays administrative expenses related to the provision of driver and motor vehicle services. The department shall transfer the money that is not to be used to make approved payments and disbursements from the account established under this subsection and that remains in the account at the close of business on the last day of each month to the Department of Transportation Driver and Motor Vehicle Services Administrative Account on or before the 15th day of the following month.

(2) The Department of Transportation Driver and Motor Vehicle Services Administrative Account. The account established under this subsection shall be used for the payment of administrative expenses payable before money from the account is transferred to the State Highway Fund. The department shall transfer the money that is not to be used to make payments from the account established under this subsection and that remains in the account at the close of business on the last day of each month to the State Highway Fund on or before the 15th day of the following month.

(3) The Passenger Rail Transportation Account. The account established under this subsection is a separate account in the State Treasury that shall be used to deposit moneys received from the sale of customized registration plates under ORS 805.240. Moneys in the account shall be used for passenger rail programs. Moneys shall be deposited in the account after payment of administrative expenses as provided under ORS 802.110.

(4) The Revolving Account for Emergency Cash Advances. The account established under this subsection is a separate account that shall be maintained for the payment of emergency cash advances and taking up of dishonored remittances. [1983 c.338 §132; 1985 c.16 §39; 1989 c.966 §71; 1993 c.18 §166; 1993 c.741 §74; 2001 c.104 §298; 2007 c.667 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.110 - Procedures for financial administration; receipt and disposition of moneys; refunds; payments; limitations.**

Any procedures the Department of Transportation establishes for financial administration of those functions of the department dealing with driver and motor vehicle services and for the disposition and payment of moneys it receives from the provision of driver and motor vehicle services shall comply with all of the following:

- (1) The department shall deposit all moneys it receives related to driver and motor vehicle services in the Department of Transportation Driver and Motor Vehicle Suspense Account for approved expenses and disbursements before payment of general administrative expenses of the department related to the provision of driver and motor vehicle services. Notwithstanding this subsection, the department may return a bank check or money order when received in incorrect or incomplete form or when not accompanied by the proper application.
- (2) The department shall pay the following approved expenses and disbursements from the Department of Transportation Driver and Motor Vehicle Suspense Account before payment of the general administrative expenses of the department related to driver and motor vehicle services:
  - (a) Refunds authorized by any statute administered by the department when such refunds are approved by the department.
  - (b) Amounts transferred to the State Treasurer under ORS 319.410 (2) for the purpose of carrying out the state aviation laws, amounts transferred to the Boating Safety, Law Enforcement and Facility Account and to the Marine Navigation Improvement Fund by ORS 319.415, amounts transferred to the State Aviation Account by ORS 319.417 and amounts transferred to the Department of Transportation Operating Fund by ORS 184.643.
  - (c) After deduction of expenses of collection, transfer and administration, the department shall pay moneys collected from the Student Driver Training Fund eligibility fee under ORS 807.040, 807.150 and 807.370 to the State Treasurer for deposit in the Student Driver Training Fund. The moneys deposited in the Student Driver Training Fund under this paragraph are continuously appropriated to the department for the following purposes:
    - (A) To the extent of not more than 10 percent of the amount transferred into the Student Driver Training Fund in any biennium, to pay the expenses of administering ORS 336.795, 336.800, 336.805, 336.810 (2) and 336.815.
    - (B) The remaining moneys, for reimbursing school districts and commercial driver training schools as provided under ORS 336.805.
  - (d) After deduction of expenses of collection, transfer and administration, the department shall pay moneys collected for the Motorcycle Safety Subaccount under ORS 807.170 to the State Treasurer for deposit in the Motorcycle Safety Subaccount of the Transportation Safety Account. Moneys paid to the State Treasurer under this paragraph shall be used for the purpose of ORS 802.320.
  - (e) After deduction of expenses for the administration of the issuance of customized registration plates under ORS 805.240, the department shall place moneys received from the sale of customized registration plates in the Passenger Rail Transportation Account. The moneys placed in the account are continuously appropriated to the department and shall be used for the payment of expenses incurred in administering passenger rail programs.
  - (f) After deduction of expenses of collection, transfer and administration, the department shall pay moneys from any registration fees established by the governing bodies of counties or a district, as defined in ORS 801.237, under ORS 801.041 or 801.042 to the appropriate counties or districts. The department shall make the payments on at least a monthly basis unless another basis is established by the intergovernmental agreements required by ORS 801.041 and 801.042 between the department and the governing bodies of a county or a district.
  - (g) After deducting the expenses of the department in collecting and transferring the moneys, the department shall make disbursements and payments of moneys collected for or dedicated to any other purpose or fund except the State Highway Fund, including but not limited to, payments to the Department of Transportation Operating Fund established by ORS 184.642 (1) and (2).
- (3) The department shall refund from the Department of Transportation Driver and Motor Vehicle Suspense Account any excess or erroneous payment to a person who made the payment or to the person's legal representative when the department determines that money has been received by it in excess of the amount legally due and payable or that it has received money in which it has no legal interest. Refunds payable under this subsection are continuously appropriated for such purposes in the manner for payment of refunds under this section. If the department determines that a refund is due, the department may refund the amount of excess or erroneous payment without a claim being filed. Except as provided in ORS 319.290, 319.375, 319.820 and 319.831, any claim for a refund from the department must be filed within 12 months after the date payment is received by the department.
- (4) After payment of those expenses and disbursements approved for payment before general administrative expenses related to the provision of driver and motor vehicle services, the department shall pay from the Department of Transportation Driver and Motor Vehicle Services Administrative Account its general administrative expenses incurred in the administration of any law related to driver and motor vehicle services that the department is charged with administering and any other expenses the department is permitted by law to pay from moneys held by the department before transfer of the moneys to the State Highway Fund. The following limitations apply to payments of administrative expenses under this subsection:
  - (a) The department shall make payment of the expenses of administering the issuance of winter recreation parking permits under ORS 811.595 from those moneys received from issuing the permits.
  - (b) The department shall pay its expenses for administering the registration and titling of snowmobiles under ORS 821.060 and 821.100 from the fees collected from administering those sections. The department shall also pay its expenses for the administration

of the snowmobile driver permit program under ORS 821.160 from the moneys otherwise described in this paragraph.

(c) The department shall pay its expenses for determining the amount of money to be withheld under ORS 802.120 from the fees collected for administering the registration and titling of snowmobiles. The amount used to pay expenses under this paragraph shall be such sum as necessary but may not exceed \$10,000 during each biennium.

(d) The department shall retain not more than \$15,000 in any biennium for the expenses of collecting and transferring moneys to the Student Driver Training Fund under this section and for the administration of ORS 336.810 (3).

(5) Except as otherwise provided in this subsection, the department shall transfer to the State Highway Fund the moneys not used for payment of the general administrative expenses or for approved expenses and disbursements before payment of general administrative expenses. The following apply to this subsection:

(a) If the Director of Transportation certifies the amount of principal or interest of highway bonds due on any particular date, the department may make available for the payment of such interest or principal any sums that may be necessary to the extent of moneys on hand available for the State Highway Fund regardless of the dates otherwise specified under this section.

(b) Notwithstanding paragraph (a) of this subsection, the department may not make available for purposes described in paragraph (a) of this subsection any moneys described in ORS 367.605 when there are not sufficient amounts of such moneys in the State Highway Fund for purposes of bonds issued under ORS 367.615.

(6) Notwithstanding any other provision of this section, the following moneys shall be transferred to the State Highway Fund at the times described:

(a) Moneys received under ORS 802.120 and not used for the payment of administrative expenses of the department shall be transferred before July 31 of each year.

(b) Moneys received from the registration of snowmobiles that are not to be used for payment of administrative expenses of the department shall be transferred within 30 days after the end of the quarter.

(c) Moneys received from the issuance of winter recreation parking permits that are not used for payment of administrative expenses of the department shall be transferred within 30 days after the end of the quarter.

(7) The following moneys transferred to the State Highway Fund under this section may be used only for the purposes described as follows:

(a) Moneys collected from the issuance of winter recreation parking permits, and the interest on such moneys, shall be used to enforce the requirement for winter recreation parking permits and to remove snow from winter recreation parking locations designated under ORS 810.170. Any remaining moneys shall, upon approval by the Winter Recreation Advisory Committee:

(A) Be used to maintain parking locations developed with moneys obtained under ORS 810.170 and snowmobile facilities that are parking lots developed with moneys as provided under this section;

(B) Be used to develop additional winter recreation parking locations under ORS 810.170; or

(C) Be carried over to be used in subsequent years for the purposes and in the manner described in this paragraph.

(b) Moneys received from the registration of snowmobiles or under ORS 802.120 may be used for development and maintenance of multiuse trails within urban growth boundaries or for the development and maintenance of snowmobile facilities, including the acquisition of land therefor by any means other than the exercise of eminent domain. Moneys received under ORS 802.120 may also be used for the enforcement of ORS 811.590, 821.100 to 821.120, 821.140, 821.150, 821.190, 821.210 and 821.240 to 821.290.

(8) The department shall maintain the Revolving Account for Emergency Cash Advances separate from other moneys described in this section. From the account, the department may pay for the taking up of dishonored remittances returned by banks or the State Treasurer and for emergency cash advances to be subsequently reimbursed. The account shall be used only as a revolving fund. The department shall at all times be accountable for the amount of the account, either in cash or unreimbursed items and advances. The moneys in the account are continuously appropriated for the purposes of this subsection. The amount of moneys in the account under this subsection may not exceed \$40,000 from moneys received by the department in the performance of its driver and motor vehicle services functions and moneys otherwise appropriated for purposes of this subsection. The account under this subsection shall be kept on deposit with the State Treasurer. The State Treasurer is authorized to honor and pay all properly signed and indorsed checks or warrants drawn against the account. [1983 c.338 §133; 1985 c.16 §40; 1985 c.152 §5; 1985 c.280 §1; 1985 c.459 §22; 1985 c.551 §14; 1987 c.158 §161; 1987 c.261 §1; 1987 c.791 §4; 1989 c.101 §3; 1989 c.168 §1; 1989 c.491 §70; 1989 c.864 §6; 1991 c.67 §§208,209; 1991 c.453 §§4,5; 1991 c.709 §4; 1993 c.741 §75; 1995 c.79 §368; 1995 c.774 §8; 1999 c.328 §15; 1999 c.935 §31; 1999 c.977 §14; 1999 c.1010 §3; 2001 c.668 §7; 2001 c.820 §6; 2001 c.827 §8; 2003 c.655 §95; 2007 c.667 §2; 2009 c.394 §6; 2009 c.885 §48; 2011 c.597 §144; 2013 c.1 §95; 2017 c.750 §88]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.112 - Surcharge for certain transactions; rules.**

The Department of Transportation may impose a surcharge on any fee the department is authorized to collect if the fee is imposed for a transaction that can be accomplished by a customer of the department in more than one way and the customer chooses the more expensive way. A surcharge imposed under this section may be added to the amount tendered by the customer to offset fees charged to the department for acceptance and use of a credit card. A surcharge may not be imposed under this section until the department adopts rules specifying transactions for which the surcharge will be imposed. [1993 c.751 §9; 2019 c.312 §35]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative**

**ProvisionsSection 802.120 - Snowmobile fuel tax moneys; amount; disposition.**

- (1) Motor vehicle fuel used and purchased for providing the motive power for snowmobiles shall be considered a nonhighway use of fuel.
- (2) The Director of Transportation shall withhold, from taxes collected under ORS chapter 319 during June of each year, amounts the director determines to have been paid as tax under ORS chapter 319 on fuel used in snowmobiles during the preceding 12-month period ending June 30 and that were not refunded.
- (3) Moneys withheld by the director under this section are subject to disposition as provided in ORS 802.110.
- (4) The director shall establish a reasonable manner to determine the amount of money to be withheld under this section from the tax on motor vehicle fuels under ORS chapter 319. [1983 c.338 §129; 1987 c.88 §1; 2001 c.827 §9; 2005 c.612 §6]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 802 - Administrative ProvisionsSection 802.125 - Transfer of all-terrain vehicle fuel taxes or special use fuel license fees.**

- (1) The Department of Transportation shall transfer to the State Parks and Recreation Department amounts described in subsection (2) of this section that are paid to the Department of Transportation and determined by the department to be paid with respect to fuel used by Class I, Class II, Class III and Class IV all-terrain vehicles in off-highway operation.
- (2) The amounts referred to in subsection (1) of this section are:
  - (a) Amounts paid as motor vehicle fuel tax under ORS 319.020 and 319.530 that are not refunded; and
  - (b) Special use fuel license fees paid under ORS 319.535.
- (3) The Department of Transportation shall determine the amount of moneys to be transferred under this section at quarterly intervals. [1999 c.977 §17; 2011 c.360 §12; 2014 c.13 §12]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 802 - Administrative ProvisionsSection 802.155 - Safety Education Fund; uses.**

- (1) There is created the Safety Education Fund, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund.
- (2) Moneys deposited in the Safety Education Fund from the Criminal Fine Account are continuously appropriated to the office of the administrator of the Transportation Safety section of the Department of Transportation to be used for safety education programs:
  - (a) That provide injury prevention education on traffic safety issues for each age group in the kindergarten through college ages;
  - (b) That have been recipients of funds under 23 U.S.C. 402 for at least three years;
  - (c) That are found by the Transportation Safety section to be effective, as measured by the three-year reporting cycle funded under 23 U.S.C. 402; and
  - (d) That operate statewide. [1991 c.709 §7; 1995 c.440 §42; 2001 c.668 §10; 2001 c.829 §9; 2003 c.14 §462; 2005 c.70 §3; 2005 c.700 §9; 2011 c.597 §145]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 802 - Administrative ProvisionsSection 802.160 - Use of revocation and suspension reinstatement fees.**

The fees collected under ORS 807.370 for the reinstatement of suspended and revoked driving privileges shall be applied by the Department of Transportation to the cost of preparing and serving notices of suspension or revocation and to the cost of administering the driver improvement program authorized under ORS 809.480. [1983 c.338 §130]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 802 - Administrative ProvisionsSection 802.170 - Uncollectible tender of payment; procedures.**

If any person pays the Department of Transportation any fee or tax with a bank check and the check is returned to the department as uncollectible, or if a person pays the department with a credit or debit card and for any reason the department does not get payment from the issuer of the card, the department may charge the person the fee for dishonored checks or other orders for the payment of money under ORS 30.701 (5). If the person does not pay the fee charged under this section, the department may do all of the following:

- (1) Suspend or cancel, or refuse to issue or renew, any vehicle registration, vehicle title or vehicle permit in payment of which the check or other order for the payment of money was presented.
- (2) Cancel, or refuse to issue or renew, any driver license or driver permit in payment of which the check or other order for the payment of money was presented.
- (3) Authorize any department employee or police officer to seize and recover any evidence of the registration, title, license or permit suspended or canceled.
- (4) If evidence of the suspended or canceled registration, title, license or permit is not recovered, refuse to conduct any further transactions with the person until the fee charged under this section is paid. [1983 c.338 §134; 1985 c.669 §10; 1991 c.702 §21; 1993 c.751 §12; 1997 c.583 §6; 1999 c.59 §234; 2018 c.76 §21]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 802 - Administrative**



**ProvisionsSection 802.175 - Definitions for ORS 802.175 to 802.191.**

As used in ORS 802.175 to 802.191:

- (1) "Motor vehicle record" means any record that pertains to a grant of driving privileges, an identification card issued by the Department of Transportation, a vehicle title or a vehicle registration.
- (2) "Person" means an individual, an organization or an entity, but does not include the State of Oregon or any agency thereof.
- (3) "Personal information" means the following information that identifies an individual:
  - (a) Driver license, driver permit or identification card number;
  - (b) Name;
  - (c) Address (excluding five-digit zip code); and
  - (d) Telephone number. [1997 c.678 §2; 1999 c.267 §1; 2003 c.655 §96]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 802 - Administrative ProvisionsSection 802.177 - Prohibition on release of personal information from motor vehicle records.**

- (1) Except as otherwise provided in ORS 802.179, neither the Department of Transportation nor any officer, employee or contractor of the department may knowingly disclose or otherwise make available to any person personal information about an individual that is obtained by the department in connection with a motor vehicle record.
- (2) Except as provided in ORS 802.275, the department may not disclose an individual's emergency contact information that is obtained by the department in connection with a motor vehicle record. [1997 c.678 §3; 2021 c.465 §3]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 802 - Administrative ProvisionsSection 802.179 - Exemptions from prohibition on release of personal information from motor vehicle records; rules.**

- (1) The Department of Transportation, upon request or as required by law, shall disclose personal information from a motor vehicle record to a government agency for use in carrying out its governmental functions.
- (2) The department shall disclose personal information from a motor vehicle record for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of nonowner records from the original owner records of motor vehicle manufacturers to carry out the purposes of any of the following federal Acts:
  - (a) The Automobile Information Disclosure Act.
  - (b) The Motor Vehicle Information and Cost Saving Act.
  - (c) The National Traffic and Motor Vehicle Safety Act of 1966.
  - (d) The Anti-Car Theft Act of 1992.
  - (e) The Clean Air Act.
- (3)(a) If the department determines that a business is a legitimate business, the department shall disclose personal information to the business for use in the normal course of business in:
  - (A) Verifying the accuracy of personal information submitted to the business; or
  - (B) Correcting personal information submitted to the business, but only in order to:
    - (i) Prevent fraud;
    - (ii) Pursue legal remedies against the individual who submitted the personal information; or
    - (iii) Recover a debt from, or satisfy a security interest against, the individual.
- (b) The department shall adopt rules specifying the kind of information that the department will accept as evidence that a business is a legitimate business.
- (4) The department shall disclose personal information to:
  - (a) An attorney, a financial institution as defined in ORS chapter 706 or a collection agency registered under ORS 697.031 for use in connection with a civil, criminal, administrative or arbitration proceeding in any court, government agency or self-regulatory body. Permissible uses of personal information under this paragraph include, but are not limited to, service of process, investigation in anticipation of litigation and the execution and enforcement of judgments and orders.
  - (b) A process server acting as an agent for an individual for use in serving documents in connection with an existing civil, criminal, administrative or arbitration proceeding, or a judgment, in any court, government agency or self-regulatory body. Nothing in this paragraph limits the activities of a process server when acting as an agent for an attorney, collection agency or like person or for a government agency.
- (5) The department shall disclose personal information other than names to a researcher for use in researching health and educational questions and providing statistical reports, as long as the personal information is not published, redisclosed or used to contact individuals. The department may disclose information under this subsection only for research sponsored by an educational institution or a health research institution.
- (6) The department shall disclose personal information to an insurer, an insurance support organization or a self-insured entity in connection with claims investigation activities, antifraud activities, underwriting or rating.
- (7) The department shall disclose personal information regarding ownership or other financial interests in a vehicle to a person who

is required by the state or federal Constitution, a statute or an ordinance to give notice to another person concerning the vehicle. Personal information disclosed under this subsection may be used only for giving the required notice. Persons authorized to receive personal information under this subsection include, but are not limited to:

- (a) Tow companies;
  - (b) Persons who have or are entitled to have liens on the vehicle; and
  - (c) Persons taking an action that could affect ownership rights to the vehicle.
- (8) The department shall disclose personal information to any private security professional certified under ORS 181A.870, to be used for the purpose of determining ownership of vehicles parked in a place over which the private security professional, acting within the scope of the professional's employment, exercises control.
- (9) The department shall disclose personal information to the employer of an individual who holds commercial driving privileges, or the insurer of the employer, to obtain or verify information about the individual.
- (10) The department shall disclose personal information to the operator of a private toll facility for use in collecting tolls.
- (11) The department may not disclose personal information for bulk distributors of surveys, marketing materials or solicitations except as provided in this subsection. The department shall implement methods and procedures to ensure:
- (a) That individuals are offered an opportunity to request that personal information about themselves be disclosed to bulk distributors; and
  - (b) That the personal information provided by the department will be used, rented or sold solely for bulk distribution of surveys, marketing materials and solicitations.
- (12) The department shall disclose personal information to a person who requests the information if the requester provides the department with written permission from the individual whose personal information is requested. The written permission from the individual must be notarized.
- (13) The department shall disclose personal information to a person who is in the business of disseminating such information under the following conditions:
- (a) In addition to any other requirements under the contract executed pursuant to paragraph (b) of this subsection, the person requesting the information must file a performance bond with the department in the amount of \$25,000. The bond must be executed in favor of the State of Oregon and its form is subject to approval by the Attorney General.
  - (b) The disseminator shall enter into a contract with the department. A contract under this paragraph shall contain at least the following provisions:
    - (A) That the disseminator will not reproduce or distribute the personal information in bulk but only in response to an individual record inquiry.
    - (B) That the disseminator will provide the personal information only to a person or government agency authorized to receive the information under this section and only if the person or government agency has been authorized by the department to receive the information.
    - (C) That the disseminator will have a method of ensuring that the disseminator can delay for a period of up to two days the giving of personal information to a requester who is not a subscriber.
- (14) The department shall disclose personal information to representatives of the news media for the gathering or dissemination of information related to the operation of a motor vehicle or to public safety.
- (15) The department shall disclose personal information as provided in ORS 802.220 (5).
- (16) The department shall adopt rules providing for the release of personal information from motor vehicle records to a person who has a financial interest in the vehicle. Rules adopted under this subsection may include, but need not be limited to, rules establishing procedures for the department to verify the financial interest of the person making the request for personal information.
- (17) The department shall adopt rules providing for the release of personal information from motor vehicle records to a person who is injured by the unsafe operation of a vehicle or who owns property that is damaged because of the unsafe operation of a vehicle.
- (18) The department shall disclose personal information to a private investigator licensed by any licensing authority within the State of Oregon, to be used for any purpose permitted under this section. A licensed private investigator requesting information must prove to the department that the person has a corporate surety bond, an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or such other security as the Department of Public Safety Standards and Training may prescribe by rule in the minimum amount of \$5,000 or errors and omissions insurance in the minimum amount of \$5,000.
- (19) The department shall disclose personal information to a procurement organization as defined in ORS 97.953 for the purpose of facilitating the making of anatomical gifts under the provisions of ORS 97.955. [1997 c.678 §4; 1999 c.24 §1; 1999 c.312 §2; 2001 c.231 §1; 2003 c.576 §565; 2005 c.291 §1; 2005 c.447 §15; 2005 c.505 §6; 2005 c.613 §27; 2007 c.681 §29; 2013 c.237 §35; 2015 c.138 §§20,21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.181 - Redislosure by authorized recipients of personal information from motor vehicle records.**

- (1) Except as otherwise provided in subsections (2) to (5) of this section, a person or government agency that is authorized under ORS 802.179 to receive personal information from motor vehicle records may resell or redisclose the information only:
- (a) To a person or government agency authorized to receive the information under ORS 802.179 and only if the person or government agency is authorized by the Department of Transportation to receive the resold or rediscovered information; and

- (b) For purposes authorized under ORS 802.179.
- (2) A researcher who receives personal information under ORS 802.179 (5) may not resell or redisclose the information except as provided in ORS 802.179 (5).
- (3) A person who receives personal information under ORS 802.179 (11) may not resell or redisclose the information except as provided in ORS 802.179 (11).
- (4) A representative of the news media who receives personal information under ORS 802.179 (14) may not resell or redisclose the information except as provided in ORS 802.179 (14).
- (5) No one who receives personal information from the department under ORS 802.179 may sell or redisclose the information to a person who is in the business of disseminating the information.
- (6) A person who resells or rediscloses personal information as authorized by this section, other than a representative of the news media, must keep records for a period of five years that identify each person who receives the information and the permitted purpose for which the person received the information. Records kept in accordance with this subsection must be made available to the department on request.
- (7) A procurement organization that receives personal information as authorized by ORS 802.179 (19) may not resell or redisclose the information.
- (8) The State of Oregon is immune from liability for any claim resulting from the resale or redisclosure of personal information under this section. [1997 c.678 §5; 1999 c.24 §2; 2005 c.291 §2; 2005 c.505 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.183 - Fees for and rules regarding release of personal information from motor vehicle records.**

- (1) The Department of Transportation may establish fees reasonably calculated to reimburse it for its actual cost in making personal information available to a person or government agency authorized under ORS 802.179 to obtain the information. Fees established under this subsection are subject to the provisions of ORS 192.324 (4) to (6).
- (2) The department may adopt rules specifying conditions that must be met by a person or government agency requesting personal information under ORS 802.179. Such conditions may include but need not be limited to:
- (a) Providing reasonable assurance of the identity of the requester;
  - (b) Providing reasonable assurance of the uses to which the personal information will be put, if applicable;
  - (c) Showing that the individual whose personal information is to be disclosed has given permission for the disclosure, if permission is required; and
  - (d) Submitting a written request for the personal information in a form prescribed by the department. [1997 c.678 §6; 2007 c.467 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.185 - Notice to individual of certain requests for information; waiver.**

The Department of Transportation may establish a procedure under which the department, upon receiving a request for disclosure of personal information that does not come from a person or government agency authorized under ORS 802.179 to receive the information or does not fall within one of the uses permitted under ORS 802.179, may mail a copy of the request to the individual about whom the information was requested. The copy of the request shall be accompanied by a statement that the personal information requested will not be disclosed unless the individual waives any right to privacy created by ORS 802.175 to 802.187. [1997 c.678 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.187 - Relationship to other privacy statutes; access to information about self.**

- (1) Nothing in ORS 802.175 to 802.187 authorizes disclosure by the Department of Transportation of personal information that is barred from disclosure by the provisions of ORS 192.355 (2) or 192.368.
- (2) Nothing in ORS 802.175 to 802.187 prohibits an individual from having access to personal information about the individual that is contained in motor vehicle records. [1997 c.678 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.189 - Criminal penalty for violation of ORS 802.175 to 802.187.**

Knowingly obtaining or using personal information from a motor vehicle record in violation of ORS 802.175 to 802.187 is a Class A misdemeanor. [1997 c.678 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.191 - Civil action for violation of ORS 802.175 to 802.187.**

- (1) A person aggrieved by an intentional violation of ORS 802.175 to 802.187 may bring an action at law against a person who has knowingly obtained or used personal information about the aggrieved person in violation of ORS 802.175 to 802.187. The action shall be for actual damages or \$2,500, whichever is greater, plus attorney fees and court costs reasonably incurred in the action.
- (2) A person aggrieved by a violation of ORS 802.175 to 802.187, a district attorney or the Attorney General may obtain appropriate

relief to enforce ORS 802.175 to 802.187, together with attorney fees and costs reasonably incurred in an action for relief.

(3) Any person whose use or obtaining of personal information in violation of ORS 802.175 to 802.187 subjects the State of Oregon to any liability or claim shall indemnify and hold harmless this state from all such liability and any claims, including attorney fees and court costs, incurred in any proceeding arising under ORS 802.175 to 802.187. [1997 c.678 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.195 - Social Security numbers; disclosure; fees; penalty.**

(1) As used in this section:

(a) "Motor vehicle record" means any record that pertains to a grant of driving privileges, an identification card issued by the Department of Transportation, a vehicle title or a vehicle registration.

(b) "Person" has the meaning given that term in ORS 802.175.

(2) Neither the Department of Transportation nor any officer, employee or contractor of the department may knowingly disclose or otherwise make available to any person:

(a) An individual's Social Security number that is obtained by the department in connection with a motor vehicle record; or

(b) Whether a person provided a Social Security number to the department when applying for a driver license, driver permit or identification card.

(3) Notwithstanding subsection (2) of this section, the department may, upon the request of another government agency, or shall, as required by law, disclose an individual's Social Security number or lack thereof from a motor vehicle record to the other agency for use in carrying out the other agency's governmental functions.

(4) An Oregon government agency that receives an individual's Social Security number under subsection (3) of this section may not redisclose the Social Security number except as required by law. An Oregon government agency that rediscloses a Social Security number as authorized by this subsection shall keep for five years records that identify each other government agency that receives the Social Security number. Records kept in accordance with this subsection must be made available to the department upon request.

(5) The department may establish fees reasonably calculated to reimburse the department for the actual cost of making an individual's Social Security number available to a government agency as required in subsection (3) of this section.

(6) Nothing in this section prohibits an individual from having access to that individual's own Social Security number that is contained in motor vehicle records.

(7) Knowingly obtaining or using a Social Security number from a motor vehicle record in violation of this section is a Class A misdemeanor.

(8) A person aggrieved by violation of this section may bring a civil action against a person who has knowingly obtained or used the aggrieved person's Social Security number in violation of this section. The action shall be for actual damages or \$2,500, whichever is greater, plus attorney fees and court costs reasonably incurred in the action.

(9) A person aggrieved by a violation of this section, a district attorney or the Attorney General may obtain appropriate relief to enforce this section, together with attorney fees and costs reasonably incurred in an action.

(10) Any person whose use or acquisition of a Social Security number in violation of this section subjects the State of Oregon to any liability or claim shall indemnify and hold harmless this state from all such liabilities and claims, including attorney fees and court costs, incurred in any action brought under this section. [2003 c.610 §3; 2019 c.701 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.200 - Required records; rules.**

In addition to any other records the Department of Transportation may establish, the department is subject to the following provisions concerning records:

(1) The department shall maintain records concerning the titling of vehicles in this state. The records under this subsection shall include the following:

(a) For vehicles issued a title by this state, the records shall identify the vehicle and contain the following:

(A) The name of the vehicle owner and any security interest holders in order of priority, except that a security interest holder need not be identified if the debtor who granted the interest is in the business of selling vehicles and the vehicles constitute inventory held for sale;

(B) The name of any lessor of the vehicle;

(C) The vehicle description; and

(D) Whether a certificate of title was issued for the vehicle.

(b) If the vehicle is an antique vehicle that is reconstructed, the records shall indicate that the vehicle is reconstructed.

(c) If the vehicle is a replica, the records shall indicate that the vehicle is a replica.

(d) Any other information concerning the titling of vehicles that the department considers convenient or appropriate.

(e) All odometer disclosures and readings for a vehicle that are reported to the department under provisions of the vehicle code. The department shall keep the most recent version of records required under this paragraph in electronic form.

(f) If the vehicle has been reported to the department as a totaled vehicle under the provisions of ORS 819.012 or 819.014, the records shall indicate that the vehicle is a totaled vehicle unless the reason for the report was theft and the vehicle has been recovered.

(2) If a vehicle that has been registered or titled in another jurisdiction is registered or titled in this state, the department shall retain a record of any odometer readings shown on the title or registration documents submitted to the department at the time of registration or title.

(3) Except as otherwise provided in ORS 826.003, the department shall maintain records concerning the registration of vehicles required to be registered by the department. The records concerning the registration of vehicles may be stored along with records concerning the titling of vehicles. The records under this subsection shall include the following:

(a) For vehicles registered by the department, the records shall identify the vehicle and contain the following:

(A) The registration plate number assigned by the department to the vehicle;

(B) The name of the vehicle owner;

(C) The vehicle description and vehicle identification number; and

(D) An indication that the vehicle is a totaled vehicle if it has been reported to the department as a totaled vehicle under the provisions of ORS 819.012 or 819.014, unless the reason for the report was theft and the vehicle has been recovered.

(b) Any other information concerning the registration of vehicles that the department considers convenient or appropriate.

(4) The department shall maintain separate records for the regulation of vehicle dealers. The records required under this subsection shall include the following information about persons issued dealer certificates:

(a) The person's application for a vehicle dealer certificate.

(b) An alphabetical index of the name of each person applying for a vehicle dealer certificate.

(c) A numerical index according to the distinctive number assigned to each vehicle dealer.

(5) The department shall maintain a file on vehicles for which the title record is canceled under ORS 819.030. The records required under this subsection shall disclose the last registered owner of each vehicle, any security interest holder or holders and lessors of each vehicle as shown by the canceled title record for each vehicle and the make and year model for each vehicle.

(6) The department shall maintain a record of each agreement or declaration under ORS 802.500 and 802.520.

(7) The department shall maintain separate and comprehensive records of all transactions affecting the Revolving Account for Emergency Cash Advances described under ORS 802.100.

(8) The department shall maintain suitable records of driver licenses, driver permits and identification cards. The records required under this subsection shall include all of the following:

(a) An index by name and number.

(b) Supporting documentation of all driver licenses, driver permits or identification cards issued.

(c) Every application for a driver license, driver permit or identification card.

(d) All driver licenses or driver permits that have been suspended, revoked or canceled.

(e)(A) For each driver license, driver permit or identification card, the Social Security number of the person to whom the driver license, driver permit or identification card is issued or the written statement that the person has not been assigned a Social Security number.

(B) As used in this paragraph, a "driver license," "driver permit" or "identification card" means a driver license, driver permit or identification card that is not a:

(i) Real ID;

(ii) Commercial driver license; or

(iii) Commercial learner driver permit.

(f) For each commercial driver license and commercial learner driver permit, the Social Security number of the person to whom the license or permit is issued, or any other number or identifying information that the Secretary of the United States Department of Transportation determines appropriate to identify the person.

(g) For each Real ID, the Social Security number of the person to whom the Real ID is issued, or proof that the person is not eligible for a Social Security number.

(h) Emergency contact information provided under ORS 802.275.

(9) The Department of Transportation shall maintain a two-part driving record consisting of an employment driving record and a nonemployment driving record for each person as required under this subsection. All of the following apply to the records required under this subsection:

(a) The department shall maintain driving records on each person the department determines requires an Oregon driving record to comply with federal regulations or provisions of the vehicle code. The department shall establish rules for maintaining driving records under this subsection.

(b) In addition to other information required by this paragraph, the employment driving record shall include all reports of drug test results that are made to the department under ORS 825.410 or 825.415. Notwithstanding any other provision of law, release of the portion of the employment driving record that shows drug test results reported under ORS 825.410 or 825.415 is permitted only in accordance with ORS 802.202. The employment driving record shall also include all motor vehicle accidents that the person is required to report under ORS 811.720, all suspensions of driving privileges required to be placed on the record under ORS 809.280, all suspensions of the person's commercial driving privileges that result from operation or use of a commercial motor vehicle and all convictions, as determined by the department by rule, of the person for violation of motor vehicle laws except convictions for offenses requiring mandatory revocation or suspension of driving privileges under ORS 809.409, 809.411, 809.510 to 809.545 and 813.400, but shall include only such accidents, suspensions and convictions that occur while the person is driving a motor vehicle:

- (A) In the course of the person's employment when the person is employed by another for the principal purpose of driving a motor vehicle;
  - (B) Carrying persons or property for compensation;
  - (C) In the course of the person's employment in the collection, transportation or delivery of mail if the vehicle is government owned or marked for the collection, transportation or delivery of mail in accordance with government rules;
  - (D) That is an authorized emergency vehicle;
  - (E) That is a commercial motor vehicle; or
  - (F) In the course of the person's employment with a federal, state or local government in a public works project involving repair or maintenance of water, sewer or road systems.
- (c) The nonemployment driving record shall include the person's:
- (A) Motor vehicle accidents that the person is required to report under ORS 811.720, other than the motor vehicle accidents that are included on the person's employment driving record;
  - (B) Suspensions, cancellations and revocations of licenses, permits and driving privileges;
  - (C) Judgments and convictions, as determined by the department by rule, for violation of the motor vehicle laws including, for each violation of ORS 811.100 or 811.111, the speed at which the person was convicted of traveling and the posted speed, the speed limit or the speed that constitutes prima facie evidence of violation of the basic speed rule, as appropriate; and
  - (D) Diversion agreements entered into under ORS 813.220 within the preceding 15 years.
- (d) The department may record other entries to indicate correspondence, interviews, participation in driver improvement programs or other matters concerning the status of the driving privileges of the person.
- (e) When a person is issued a driver license or driver permit by this state, the department may request a copy of driving records that exist for the person in any other jurisdiction. The department shall adopt rules specifying when the department may request driving records from other jurisdictions and may apply entries from out-of-state records for use in Oregon.
- (f) When a suspension of a driver permit, driver license or other driving privilege is placed on the driving record under ORS 809.280 for failure to appear in court on a traffic crime, the department shall note on the record that the suspension was for failure to appear in court and shall also note the offense charged against the person on which the person failed to appear.
- (g) The Department of Transportation, in consultation with the Department of State Police, shall devise and implement a method of noting suspensions and revocations of driving privileges on the record in such a way that police agencies can determine directly from the record what class of offense, as provided by law, is committed by a person who drives in violation of the suspension or revocation. If the Department of Transportation and the Department of State Police devise a mutually agreeable alternative method of informing police agencies of the nature of a suspension or revocation and the consequences of its violation, the implementation of that method shall satisfy the duty of the Department of Transportation under this paragraph.
- (10) The department shall maintain accident reports filed with the department under ORS 810.460 and 811.725 to 811.735.
- (11) The department shall maintain records of bank checks or money orders returned under ORS 802.110.
- (12) The department shall maintain records of trip permits issued by the department under ORS 803.600, as provided under this subsection. The records required by this subsection shall include the following:
- (a) A description of the vehicle sufficient to identify the vehicle.
  - (b) The person to whom the permit was issued.
  - (c) When the permit was issued.
  - (d) The type of permit issued.
  - (e) For registration weight trip permits, the maximum allowable registration weight permitted for operation under the permit.
  - (f) Any other information the department determines appropriate or convenient. [1983 c.338 §124; 1985 c.16 §34; 1985 c.175 §1; 1985 c.251 §11a; 1985 c.313 §1; 1985 c.402 §5b; 1985 c.668 §2; 1987 c.5 §1; 1987 c.137 §5; 1987 c.730 §9; 1987 c.887 §6; 1989 c.636 §10; 1989 c.723 §6; 1991 c.284 §12; 1991 c.407 §21; 1991 c.820 §11; 1993 c.174 §10; 1993 c.233 §12; 1993 c.751 §14; 1995 c.733 §82a; 1999 c.230 §1; 1999 c.1051 §86; 1999 c.1099 §3; 2003 c.330 §2; 2003 c.402 §10; 2003 c.655 §97; 2003 c.819 §13; 2005 c.405 §§2,3; 2008 c.1 §8; 2009 c.515 §2; 2013 c.163 §4; 2013 c.237 §36; 2013 c.659 §2; 2019 c.312 §19; 2019 c.701 §16; 2021 c.465 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.202 - Conditions for disclosure of drug test results.**

The Department of Transportation shall disclose information about a drug test result that is made to the department under ORS 825.410 or 825.415 only if the person who requests the information provides the department with written permission from the person who is the subject of the report. [1999 c.1099 §9; 2013 c.163 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.210 - Records of notification of approaching expiration of registration or license not required.**

The Department of Transportation is not required to maintain records on any of the following:

- (1) The preparation and notification required on approaching expiration of registration under ORS 803.450.
- (2) The preparation and notification required on approaching expiration of driver license or driver permit under ORS 807.140. [1983 c.338 §125; 1985 c.16 §35; 2015 c.404 §4; 2019 c.312 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.220 - Availability of records; fees authorized.**

(1) Except as otherwise provided in this subsection and ORS 802.177, the records the Department of Transportation maintains under ORS 802.200 on vehicles are public records. The records of vehicles registered under ORS 805.060 are not public records and are exempt from public inspection as provided under ORS 181A.220 and are for the confidential use of criminal justice agencies described under ORS 181A.010. The department may charge the fee established under ORS 802.230 for furnishing information under this section concerning a vehicle or its owner.

(2) The department may charge the fee established under ORS 802.230 for furnishing to the public information from the records the department maintains under ORS 802.200 concerning driver licenses or driver permits.

(3) The records the department keeps under ORS 802.200 on judgments or convictions under ORS 810.375 shall be open to the inspection of any person during reasonable business hours. Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175.

(4) The department shall upon request furnish any person certified abstracts of the employment driving record and the nonemployment driving record of any person whose driving records are maintained under ORS 802.200. If an abstract of the employment driving record is not specifically requested, the department shall only furnish an abstract of the nonemployment driving record. Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175. The department shall collect the fee established for abstracts of driving records under ORS 802.230. A certified abstract issued under this section shall not contain any of the following, unless the abstract is being requested under ORS 746.265 (3):

(a) Any accident or conviction for violation of motor vehicles laws that occurred more than three years immediately preceding a request for abstract.

(b) Any suspension ordered under ORS 809.220 after the department has received notice to reinstate a person's suspended driving privileges under ORS 809.220.

(c) Any diversion agreement under ORS 813.220 entered into more than three years immediately preceding a request for the abstract.

(5) Except as otherwise provided in this subsection, accident reports filed with the department under ORS 811.725, 811.730 or 811.735 shall be without prejudice to the individual filing the report and shall be for the confidential use of state administrative and enforcement agencies. The department may use the confidential accident reports to provide the following information to the persons described:

(a) Upon request, the department shall disclose the following information to any party involved in the accident or to their personal representative or any member of the family of a party involved in the accident:

(A) The identity of the owner, driver, occupants and the registration number of a vehicle involved in the accident;

(B) The names of any companies insuring the owner or driver of a vehicle involved in the accident; and

(C) The names of any witnesses to the accident.

(b) The department shall furnish a certificate showing that a specified accident report has or has not been made to the department upon demand of any person who has or claims to have made such a report or upon demand of a court.

(6) The department shall tabulate and may analyze all accident reports to develop statistical information based thereon as to the number and circumstances of traffic accidents. The department shall publish information compiled under this section in the manner provided under ORS 802.050.

(7) Except as otherwise provided in this subsection, the records the department is required under ORS 802.200 to maintain on trip permits issued under ORS 803.600 are public records. The department may charge a fee established under ORS 802.230 for furnishing information from the records on trip permits. Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175.

(8) The records the department maintains under ORS 802.200 concerning odometer readings for vehicles are public records. The department may separately furnish information concerning odometer readings shown by its records. The department may charge the fee established under ORS 802.230 for information separately provided under this subsection. Nothing in this subsection authorizes the release of personal information as defined in ORS 802.175. [1983 c.338 §126; 1985 c.16 §36; 1985 c.175 §2; 1985 c.251 §12; 1985 c.313 §2; 1987 c.5 §2; 1989 c.853 §2; 1991 c.568 §1; 1993 c.751 §16; 1997 c.678 §11; 2001 c.327 §2; 2011 c.355 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.230 - Fees for records.**

(1) The fee for furnishing information concerning vehicle registration records under ORS 802.220 is a reasonable fee established by the Department of Transportation.

(2) The fee for furnishing information concerning driver licenses or driver permits under ORS 802.220 is a reasonable fee established by the department.

(3) The fee for an abstract of driving record under ORS 802.220 is a reasonable fee established by the department.

(4) The fee for furnishing information concerning trip permit records under ORS 802.220 is a reasonable fee established by the department.

(5) The fee for separate records on vehicle odometer readings under ORS 802.220 is a reasonable fee established by the department.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.240 - Driver and vehicle records as evidence.**

(1) In all actions, suits or criminal proceedings when the title to, or right of possession of, any vehicle is involved, the record of title, as it appears in the files and records of the Department of Transportation, is prima facie evidence of ownership or right to possession of the vehicle. As used in this section, the record of title does not include records of salvage titles unless the record itself is the salvage title. Proof of the ownership or right to possession of a vehicle shall be made by means of any of the following methods:

(a) The original certificate of title as provided under ORS 803.010.

(b) A copy, certified by the department, of the title record of the vehicle as the record appears in the files and records of the department.

(2) Extrinsic evidence of authenticity is not required as a condition precedent to the admission of a copy of a document relating to the privilege of any person to drive a motor vehicle authorized by law to be filed and actually filed in the records of the department if the copy bears a seal purporting to be that of the department and is certified as a true copy by original or facsimile signature of a person purporting to be an officer or employee of the department. This subsection applies to copies of a data compilation in any form. Copies of documents certified in accordance with this subsection constitute prima facie evidence of the existence of the facts stated therein.

(3) A certified copy of a person's driving record, as maintained by the department:

(a) May be admitted as evidence in any hearing or proceeding under ORS 813.200 to 813.270.

(b) Is prima facie evidence that the person named therein was duly convicted of each offense shown by the record.

(c) Is prima facie evidence that the person named therein is participating in or has participated in a driving under the influence of intoxicants diversion program or in any similar alcohol or drug rehabilitation program in this state or in any other jurisdiction if the record shows that the person has participated in such a program.

(4) Records and actions described in this subsection shall not be referred to in any way or admitted into evidence or be any evidence of the negligence or due care of any party at the trial of any action at law to recover damages. This subsection applies to all of the following:

(a) The report required following an accident.

(b) Any action taken by the department to revoke or suspend a driver license or driver permit or taken by the department under the financial responsibility requirements of the vehicle code or the findings, if any, of the department upon which such action of the department is based.

(c) Any deposit of security required under the financial responsibility requirements of the vehicle code.

(5) Except as provided in this subsection, the accident reports filed with the department under ORS 811.725, 811.730 or 811.735 shall be without prejudice to the individual filing the report and no such report shall be used as evidence in any trial, civil or criminal, arising out of an accident. The following uses are allowable under this subsection:

(a) The certificate issued by the department under ORS 802.220 to show whether or not an accident report has been made to the department shall be used solely to prove a compliance or failure to comply with the requirements that the accident report be made to the department.

(b) An accident report submitted under ORS 811.725 or 811.735 may be used in an administrative hearing or an appeal from such hearing to support any suspension of driving privileges for:

(A) Failure to make reports required under ORS 811.725 or 811.735.

(B) Failure to comply with financial responsibility requirements or failure to comply with future responsibility filings.

(6) A photocopy, facsimile copy, digital or electronic copy of an application for perfection of a security interest by notation on a title under ORS 803.097 that is certified by the department is proof of the date of perfection of the security interest unless the date is invalid as provided under ORS 803.097.

(7) A report filed by a physician or health care provider under ORS 807.710 is confidential and may not be admitted as evidence in any civil or criminal action. A report described in this subsection may be used in an administrative hearing or an appeal from an administrative hearing in which an issue is the qualification of a person to operate a motor vehicle. [1983 c.338 §128; 1985 c.16 §38; 1985 c.175 §4; 1987 c.441 §1; 1987 c.750 §3; 1989 c.148 §7; 1991 c.67 §210; 1991 c.702 §26; 1991 c.873 §22a; 1993 c.233 §13; 1999 c.1051 §279; 2001 c.675 §6; 2003 c.462 §2; 2003 c.655 §98]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.250 - Records containing residence address of eligible public employee or household member.**

(1) An eligible public employee may request that any driver or vehicle record kept by the Department of Transportation that contains or is required to contain the eligible employee's residence address contain instead the address of the public agency employing the eligible employee. A request under this section shall:

(a) Be in a form specified by the department that provides for verification of the eligible employee's employment.

(b) Contain verification by the employing public agency of the eligible employee's employment with the public agency.

(2) Upon receipt of a request and verification under subsection (1) of this section, the department shall remove the eligible employee's residence address from its records, if necessary, and substitute therefor the address of the public agency employing the



eligible employee. The department shall indicate on the records that the address shown is an employment address. While the request is in effect, the eligible employee may enter the address of the public agency employing the eligible employee on any driver or vehicle form issued by the department that requires an address.

(3) A public agency that verifies an eligible employee's employment under subsection (1) of this section shall notify the department within 30 days if the eligible employee ceases to be employed by the public agency. The eligible employee shall notify the department of a change of address as provided in ORS 803.220 or 807.560.

(4) If an eligible employee is killed in the line of duty, a person who is a household member of the eligible employee may request that any driver or vehicle record kept by the department that contains or is required to contain the household member's residence address continue to contain the address of the public agency that employed the eligible employee for up to four years after the date of the death of the eligible employee. On or before the date on which the four-year period ends, the household member shall notify the department of a change of address as provided in ORS 803.220 or 807.560. A request under this subsection shall be in a form specified by the department.

(5) As used in this section, "eligible employee" means:

(a) A member of the State Board of Parole and Post-Prison Supervision.

(b) The Director of the Department of Corrections and an employee of an institution defined in ORS 421.005 as Department of Corrections institutions, whose duties, as assigned by the superintendent, include the custody of persons committed to the custody of or transferred to the institution.

(c) A parole and probation officer employed by the Department of Corrections and an employee of the Department of Corrections Release Center whose duties, as assigned by the Chief of the Release Center, include the custody of persons committed to the custody of or transferred to the Release Center.

(d) A police officer appointed under ORS 276.021 or 276.023.

(e) An employee of the State Department of Agriculture who is classified as a brand inspector by the Director of Agriculture.

(f) An investigator of the Criminal Justice Division of the Department of Justice.

(g) A corrections officer as defined in ORS 181A.355.

(h) A federal officer. As used in this paragraph, "federal officer" means a special agent or law enforcement officer employed by:

(A) The Federal Bureau of Investigation;

(B) The United States Secret Service;

(C) The United States Citizenship and Immigration Services;

(D) The United States Marshals Service;

(E) The Drug Enforcement Administration;

(F) The United States Postal Service;

(G) The United States Customs and Border Protection;

(H) The United States General Services Administration;

(I) The United States Department of Agriculture;

(J) The Bureau of Alcohol, Tobacco, Firearms and Explosives;

(K) The Internal Revenue Service;

(L) The United States Department of the Interior; or

(M) Any federal agency if the person is empowered to effect an arrest with or without warrant for violations of the United States Code and is authorized to carry firearms in the performance of duty.

(i) An employee of the Department of Human Services or the Oregon Health Authority whose duties include personal contact with clients or patients of the department or the authority.

(j) Any judge of a court of this state.

(k) An employee of the Oregon Youth Authority or of a county juvenile department whose duties include personal contact with persons committed to the legal or physical custody of the authority or of the county juvenile department.

(L) A district attorney, as defined in ORS 131.005, or deputy district attorney.

(m) An employee who provides educational services to persons who are clients or patients of the Department of Human Services or the Oregon Health Authority, who are under the jurisdiction of the Psychiatric Security Review Board or who are under the custody or supervision of the Department of Corrections, the State Board of Parole and Post-Prison Supervision, a community corrections agency, the Oregon Youth Authority or a juvenile department. As used in this paragraph, "employee who provides educational services" means a person who provides instruction, or services related to the instruction, of a subject usually taught in an elementary school, a secondary school or a community college or who provides special education and related services in other than a school setting and who works for:

(A) An education service district or a community college district; or

(B) A state officer, board, commission, bureau, department or division in the executive branch of state government that provides educational services.

(n) An employee of the Oregon Liquor and Cannabis Commission who is:

(A) A regulatory specialist; or

(B) A regulatory manager.

(o) A police officer as defined in ORS 801.395.

(p) An employee whose duties include personal contact with criminal offenders and who is employed by a law enforcement unit, as defined in ORS 181A.355.

(q) A civil code enforcement officer, as defined in ORS 192.345.

(r) An assistant attorney general whose duties include the representation of the Department of Human Services in child welfare matters.

(s) An employee of the Department of Justice who staffs the hate crimes hotline described in ORS 147.380. [1985 c.563 §§2,3; 1989 c.695 §1; 1991 c.67 §211; 1991 c.523 §1; 1991 c.789 §1; 1993 c.741 §76; 1993 c.751 §17; 1997 c.872 §11; 2003 c.399 §1; 2005 c.22 §513; 2005 c.292 §1a; 2007 c.71 §244; 2007 c.169 §1; 2009 c.595 §1138; 2011 c.297 §1; 2012 c.54 §31; 2013 c.56 §1; 2015 c.313 §4; 2015 c.614 §167; 2019 c.61 §4; 2021 c.351 §294; 2021 c.477 §1; 2023 c.549 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.251**

[1991 c.523 §3; 2005 c.292 §4; renumbered 802.255 in 2005]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.253 - Records containing residence address of corrections officer or household member.**

(1) As used in this section:

(a) "Correctional facility" means an institution used for the confinement of persons convicted of a criminal offense or held by court order.

(b) "Corrections officer" means a person employed in a correctional facility, wherever it may be located, who primarily performs the duty of custody, control or supervision of individuals convicted of a criminal offense.

(2) A corrections officer, who is a resident of Oregon but is employed in a correctional facility located in a state other than Oregon, may request that any driver or vehicle record kept by the Department of Transportation that contains or is required to contain the corrections officer's residence address contain instead the address of the correctional facility employing the corrections officer. A request under this subsection must:

(a) Be in a form specified by the department that includes designation of the Oregon county of residence.

(b) Contain verification of employment as determined adequate by the department to establish eligibility for this service.

(3) Upon receipt of a request and verification under this section, the department shall remove the corrections officer's residence address from its records, if necessary, and substitute the address of the correctional facility employing the corrections officer. The department shall indicate on the records that the address shown is an employment address. While the request is in effect, the corrections officer may enter the address of the correctional facility employing the corrections officer on any driver or vehicle form issued by the department that requires an address.

(4) If the corrections officer ceases to be employed in the correctional facility, the corrections officer shall notify the department of a change of address as provided in ORS 803.220 or 807.560.

(5) If a corrections officer is killed in the line of duty, a person who is a household member of the corrections officer may request that any driver or vehicle record kept by the department that contains or is required to contain the household member's residence address continue to contain the address of the public agency that employed the corrections officer for up to four years after the date of the death of the corrections officer. On or before the date on which the four-year period ends, the household member shall notify the department of a change of address as provided in ORS 803.220 or 807.560. A request under this subsection shall be in a form specified by the department. [2005 c.292 §3; 2011 c.297 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.255 - Exchange of information for implementation of ORS 802.250 and 802.253.**

The Department of Transportation on behalf of the State of Oregon may enter into contracts with other states and with the federal government for the exchange of employment information necessary to implement and administer ORS 802.250 and 802.253. [Formerly 802.251]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.260 - Driver license and identification card records; contents; copies to counties; fees.**

(1) In addition to any other information required or permitted by law, the records of driver licenses maintained by the Department of Transportation and the records of identification cards issued under ORS 807.400 maintained by the department shall include the name, address, date of birth and county of residence of each holder of an unexpired driver license and each holder of an unexpired identification card.

(2) At the request of the clerk of court, as defined in ORS 10.010, for an Oregon county, or at the request of the State Court Administrator, the department shall furnish a copy of the records maintained for a county under subsection (1) of this section. The department shall establish a fee reasonably calculated to reimburse the department for the actual costs of providing the records and shall collect the fee from the requester of the records. [1987 c.681 §2; 1993 c.751 §18; 2003 c.803 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative**

**ProvisionsSection 802.270 - Records of insurance information.**

(1) The Department of Transportation shall maintain computerized records of insurance information. The department's computer system shall contain information submitted by insurers under ORS 742.580 and 806.195 and shall be accessible to law enforcement agencies in the state for the purpose of determining whether a particular person or vehicle is in compliance with the financial responsibility requirements of this state.

(2) Information provided to the department by insurers under ORS 742.580 and 806.195 may not be made available to anyone other than law enforcement officials, employees of the department acting in an official capacity, other governmental agencies if necessary for them to carry out their duties, powers or functions or individuals when the information is needed to determine insurance coverage of the individual requester or another individual.

(3) A computer system designed for the purposes specified in this section shall, to the extent possible, enable insurers to transfer information directly to the computer in a way that is most convenient for the insurers and the department.

(4) Records of insurance coverage maintained by the department under this section are for the purpose of helping law enforcement officials determine whether there are reasonable grounds to believe that a person is operating a vehicle in violation of ORS 806.010. In any other dispute about motor vehicle insurance coverage, if there is a conflict between the records of the department and the records of the insurer, the records of the insurer shall be presumed to be accurate. [1993 c.746 §8; 2001 c.104 §299]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 802 - Administrative ProvisionsSection 802.275 - Emergency contact information; rules.**

(1) As used in this section, "emergency situation" means a situation in which the following occurs:

(a) An individual is killed, seriously injured or rendered unconscious and is unable to independently communicate with police officers; and

(b) The individual's emergency contact information is not otherwise available.

(2) The Department of Transportation shall create an emergency contact information form and make the form available to individuals.

(3) On the form provided by the department, an individual may provide, for inclusion in the records the department maintains under ORS 802.200 (8), the individual's emergency contact information of no more than two persons who are 18 years of age or older.

(4) If the individual is an unmarried minor who is not emancipated, the emergency contact information provided under this section:

(a) Must include one person who is the parent or legal guardian of the individual; and

(b) A parent or guardian may complete or update the individual's emergency contact information on behalf of the individual.

(5) An individual who submits an emergency contact information form shall complete a statement that states that:

(a) The individual is providing the information voluntarily;

(b) The accuracy of the information supplied on the form is the sole responsibility of the individual; and

(c) The individual authorizes the disclosure to, and use of, the emergency contact information by police officers, during or after an emergency situation, for purposes of contacting those listed about the location and general condition of the individual.

(6) The department shall adopt rules for the administration and implementation of this section, including:

(a) The process for submitting and updating emergency contact information;

(b) The contents of the emergency contact information form; and

(c) Any other rule the department determines is necessary to administer and implement this section. [2021 c.465 §2]

Note:

Sections 5 and 6, chapter 465, Oregon Laws 2021, provide:

Sec. 5.

(1) The Department of Transportation shall conduct an outreach program to educate individuals about the opportunity to include emergency contact information in an individual's motor vehicle record under section 2 of this 2021 Act [802.275]. The outreach program must:

(a) Develop and deploy a communication strategy for dissemination of information that uses a variety of media sources, state agencies, associations and organizations.

(b) Provide communications, including educational materials, in English and in languages other than English that are most commonly spoken by the residents of this state.

(2) To carry out the provisions of this section, the department may enter into a contract with a business or an organization. [2021 c.465 §5]

Sec. 6.

Section 5 of this 2021 Act is repealed on January 2, 2025. [2021 c.465 §6]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 802 - Administrative ProvisionsSection 802.300 - Transportation Safety Committee; members, compensation, expenses; staff.**

(1) The Transportation Safety Committee is created within the Department of Transportation to advise the department and the Oregon Transportation Commission concerning the functions described under ORS 802.310 and to perform any other functions related to transportation safety that the commission delegates. The committee established under this section shall consist of five

members appointed by the Governor on the recommendation of the commission. The term of office of each member is four years. Before the expiration of the term of a member, the Governor shall appoint a successor. A member is eligible for reappointment. In case of a vacancy for any cause, the Governor shall appoint a person to fill the office for the unexpired term.

(2) The Governor shall appoint one member of the committee established under this section as the chair and another member as vice chair.

(3) A member of the committee established under this section is entitled to compensation and expenses as provided under ORS 292.495.

(4) The Director of Transportation may appoint assistants, consultants, clerical staff and other employees needed to carry out the purposes of the committee but shall, as much as possible, consolidate the staff and coordinate the activities of the committee with other staff and activities of the department. [1983 c.338 §119; 1991 c.453 §6; 1993 c.741 §77]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.310 - Transportation safety programs; administrator.**

(1) The administrator for transportation safety shall serve as the Governor's representative for highway safety in conformity with the Federal Highway Safety Act of 1966. The Director of Transportation and the Oregon Transportation Commission shall be responsible to the Governor for the administration of the state transportation safety programs. All reports and recommendations relating to program evaluations, assignment of responsibilities and approval of plans and activities shall be provided to the Governor by the commission.

(2) The Department of Transportation, in consultation with the Transportation Safety Committee, shall do the following:

(a) Organize, plan and conduct a statewide transportation safety program.

(b) Coordinate general activities and programs of the several departments, divisions or agencies of the state engaged in promoting transportation safety.

(c) Provide transportation safety information and develop other measures of public information.

(d) Cooperate fully with all national, local, public and private agencies and organizations interested in the promotion of transportation safety.

(e) Serve as a clearinghouse for all transportation safety materials and information used throughout the state.

(f) Cooperate in promoting research, special studies and analysis of problems concerning transportation safety.

(g) Make studies and suitable recommendations to the legislature concerning safety regulations and laws.

(3) The department shall review plans and applications for participation by counties and cities in the federal government highway safety programs conducted under the Federal Highway Safety Act of 1966 and any amendments thereto. The committee shall make recommendations to the department regarding the approval of plans and applications under ORS 802.315. [1983 c.338 §873; 1991 c.453 §7; 1993 c.741 §78; 2005 c.70 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.315 - Department authority to apply for and receive federal highway safety program grants and other funds; local government program participation.**

(1) The Department of Transportation, with the advice of the Transportation Safety Committee, may apply for, accept, receive and disburse grants available from the federal government or any of its agencies to carry out approved state highway safety programs conducted under the Federal Highway Safety Act of 1966 and the amendments thereto.

(2) The department may accept funds from other sources and enter into such contracts or agreements and do all things necessary to receive such funds for the purposes of carrying out in this section and ORS 802.300, 802.329, 802.331 and 802.340. However, funds shall not be accepted that are subject to a restriction or condition that is in conflict with any law of this state.

(3) The department, considering the recommendations of the Transportation Safety Committee, shall approve plans or applications for participation by counties and cities in the federal government highway safety programs conducted under the Federal Highway Safety Act of 1966 and any amendments thereto. The approval of plans and applications shall be done in accordance with the uniform standards of the federal government regarding such programs. Subject to any conditions of the grant, the department shall disburse any funds received from the federal government or any of its agencies for county and city highway safety programs. [Formerly 802.410]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.320 - Motorcycle safety program; contents; fees; contracts.**

(1) In addition to any duties under ORS 802.310, the Department of Transportation, in consultation with the Transportation Safety Committee, shall establish a motorcycle safety program that complies with this section to the extent moneys are available for such program from the Motorcycle Safety Subaccount under ORS 802.340. The program established may include the following:

(a) Motorcycle safety promotion and public education.

(b) The development of training sites for courses approved by the department to teach safe and proper operation of motorcycles and mopeds.

(c) Classroom instruction and actual driving instruction necessary to teach safe and proper operation of motorcycles and mopeds.

(d) The development of a mobile training unit.

- (e) The acquisition of films and equipment that may be loaned to the public for the encouragement of motorcycle and moped safety.
  - (f) Advice and assistance, including monetary assistance, for motorcycle safety programs operated by government or nongovernment organizations.
  - (g) Other education or safety programs the department determines will help promote the safe operation of motorcycles and mopeds, promote safe and lawful driving habits, assist in accident prevention and reduce the need for intensive highway policing.
- (2) Subject to the State Personnel Relations Law under ORS chapter 240, the department shall employ such employees as the department determines necessary to carry out the purposes of this section to:
- (a) Advise and assist motorcycle safety programs in this state.
  - (b) Act as a liaison between government agencies and advisory committees and interested motorcyclist groups.
  - (3) The department may provide for the performance of training and other functions of the program established under this section by contracting with any private or public organizations or entities the department determines appropriate to achieve the purposes of this section. The organizations the department may contract with under this subsection include, but are not limited to, nonprofit private organizations, private organizations that are operated for profit, public or private schools, community colleges or public agencies or political subdivision.
  - (4) The department may charge a fee for services provided under the program established under this section. Any fee charged by the department under this subsection must be established by rule and may not be in an amount that will discourage persons from participating in safety programs offered by the department under this section. [1985 c.16 §442; 1989 c.427 §3; 1991 c.453 §8; 2015 c.138 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.325 - Bicycle safety program; contents; fees.**

- (1) The Department of Transportation, in consultation with the Transportation Safety Committee, shall establish a bicycle safety program that complies with this section to the extent moneys are available for such program. The program established may include the following:
- (a) Bicycle safety promotion and public education.
  - (b) Advice and assistance for bicycle safety programs operated by government or nongovernment organizations.
  - (c) Classroom instruction and actual riding instruction necessary to teach safe and proper operation of bicycles.
  - (d) Bicycle education and information that assist police agencies in the enforcement of bicycle laws.
  - (e) Other education or safety programs the department determines will help promote the safe operation of bicycles, promote safe and lawful riding habits and assist in accident prevention.
- (2) The department shall act as a liaison between government agencies and advisory committees and interested bicyclist groups.
- (3) The department may accept donations and solicit grants to enable the department to carry out the functions of this section.
- (4) The department may charge a fee for services provided under the program established under this section. Any fee charged by the department under this subsection must be established by rule and may not be in an amount that will discourage persons from participating in safety programs offered by the department under this section. [1987 c.683 §2; 1991 c.453 §9; 2015 c.138 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.329 - City and county highway safety program participation authorized.**

Any city or county may participate in the highway safety program and do all things necessary to secure the benefits available under ORS 802.310 and 802.315 and under the Federal Highway Safety Act of 1966 and any amendments thereto. [Formerly 802.420]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.331 - Highway Safety Trust Account.**

The Highway Safety Trust Account is established separate and distinct from the General Fund. All moneys received by the Department of Transportation under ORS 802.315 shall be paid into the State Treasury and credited to the account established under this section. All moneys in the account established under this section are continuously appropriated for and shall be used by the department in carrying out the purposes for which the funds were received. [Formerly 802.400; 2003 c.81 §12; 2005 c.22 §514]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.340 - Transportation Safety Account; uses; Motorcycle Safety Subaccount.**

- (1) The Transportation Safety Account is established in the General Fund of the State Treasury. Except as provided in subsection (2) of this section, all money credited to the account established under this section is appropriated continuously for and shall be used by the Department of Transportation to carry out the following purposes:
- (a) Payment of the per diem, travel and other expenses of the Transportation Safety Committee.
  - (b) Payment of the expenses of the department in performance of its duties related to transportation safety.
  - (c) Functions or programs established under ORS 802.315.
- (2) There is established in the account created under subsection (1) of this section a subaccount to be known as the Motorcycle Safety Subaccount. The subaccount shall consist of moneys credited to the subaccount under ORS 807.370 and as otherwise

provided by law. The subaccount shall be accounted for separately. Moneys in the subaccount are continuously appropriated to the department for and shall be used to carry out the purposes provided under ORS 802.320. [1983 c.338 §139; 1985 c.16 §41; 1991 c.453 §10; 1993 c.741 §79]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.345**

[1999 c.328 §4; renumbered 336.802 in 2013]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.348 - Membership of advisory committees must reflect state racial, ethnic and ability composition.**

(1) The Department of Transportation shall ensure that the membership of advisory committees to the department reflects the racial and ethnic and ability composition of this state as determined by the most recent American Community Survey from the United States Census Bureau.

(2) Subsection (1) of this section applies to all advisory committees to the department, including but not limited to:

- (a) The Continuous Improvement Advisory Committee established in ORS 184.665.
- (b) The Freight Advisory Committee established in ORS 366.212.
- (c) The Road User Fee Task Force established in ORS 184.843.
- (d) Any stakeholder forum established under ORS 366.215.
- (e) The advisory committee on vehicle dealer regulation established in ORS 802.370.
- (f) The advisory committee on bicycle traffic established in ORS 366.112.
- (g) The Transportation Safety Committee established in ORS 802.300.
- (h) The Jurisdictional Transfer Advisory Committee established in section 1, chapter 323, Oregon Laws 2023. [2021 c.15 §1; 2023 c.323 §4]

Note:

The amendments to 802.348 by section 5, chapter 323, Oregon Laws 2023, become operative January 1, 2029. See section 6, chapter 323, Oregon Laws 2023. The text that is operative on and after January 1, 2029, is set forth for the user's convenience.

(1) The Department of Transportation shall ensure that the membership of advisory committees to the department reflects the racial and ethnic and ability composition of this state as determined by the most recent American Community Survey from the United States Census Bureau.

(2) Subsection (1) of this section applies to all advisory committees to the department, including but not limited to:

- (a) The Continuous Improvement Advisory Committee established in ORS 184.665.
- (b) The Freight Advisory Committee established in ORS 366.212.
- (c) The Road User Fee Task Force established in ORS 184.843.
- (d) Any stakeholder forum established under ORS 366.215.
- (e) The advisory committee on vehicle dealer regulation established in ORS 802.370.
- (f) The advisory committee on bicycle traffic established in ORS 366.112.
- (g) The Transportation Safety Committee established in ORS 802.300.

Note:

802.348 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.350 - Winter Recreation Advisory Committee; members; meetings; rules.**

(1) The Winter Recreation Advisory Committee is created to perform the functions described for the committee under ORS 810.170.

(2) The committee created under this section shall consist of seven members appointed by the Oregon Transportation Commission as follows:

- (a) Two persons representing ski area operators;
- (b) One member representing the Oregon Nordic Club;
- (c) One person representing the Pacific Northwest Ski Association;
- (d) One member representing the Oregon State Snowmobile Association; and
- (e) Two members from the general public interested in winter recreation in this state.

(3) Members of the committee established under this section shall not receive compensation for their service on the committee.

(4) The members shall be appointed to serve for terms of four years. Vacancies on the committee shall be filled by appointment by the commission for the unexpired term.

(5) The committee shall meet regularly four times a year at times and places fixed by the chair of the committee. The committee may meet at other times specified by the chair or a majority of the members of the committee.

(6) The Department of Transportation shall provide assistance and space for meetings as requested by the chair of the committee.

(7) The committee shall adopt rules to govern its proceedings and shall select a chair and any other officers it considers necessary.

(8) Members of the advisory committee shall be entitled to actual and necessary expenses as provided by ORS 292.495 (2). [1983

c.338 §122; 1989 c.498 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.370 - Advisory committee on vehicle dealer regulation; members; compensation.**

- (1) The Director of Transportation shall establish an advisory committee to advise the Department of Transportation on the administration of laws regulating vehicle dealers under the vehicle code.
- (2) The department shall consult with the committee established under this section before the department adopts any rules under ORS 822.035 or before taking any disciplinary action against a dealer under ORS 822.050 to revoke, suspend, place the dealer on probation or levy a civil penalty against the dealer.
- (3) The director shall appoint members of the committee established under this section and the members shall serve at the pleasure of the director. The director shall appoint members to the committee that represent vehicle dealers and members that represent the interests of the general public in the ownership, purchase and use of vehicles.
- (4) The members of the committee established under this section shall serve without compensation or expenses for services performed. [1983 c.338 §121; 1985 c.16 §33; 1991 c.541 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.400**

[1983 c.338 §140; 1991 c.453 §11; renumbered 802.331 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.410**

[1983 c.338 §874; 1991 c.453 §12; renumbered 802.315 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.420**

[1983 c.338 §875; renumbered 802.329 in 1991]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.500 - Authority for reciprocal registration agreements; permitted provisions; requirements; limitations.**

The Director of Transportation may enter into agreements with the duly authorized representatives of any jurisdiction that issues registration to establish reciprocal privileges or registration exemptions for vehicles as described in this section. All of the following apply to an agreement established under the authority granted by this section:

- (1) An agreement may establish any of the following benefits, privileges and exemptions with respect to the operation of commercial or noncommercial vehicles in this state:
  - (a) For purposes of ORS 803.305 exemptions from registration and payment, wholly or partially, of any vehicle or registration fees.
  - (b) Privileges relating to vehicles used by persons with disabilities.
  - (c) Privileges relating to vehicle parking.
  - (d) Privileges relating to vehicle dealers.
  - (e) Privileges, exemptions or benefits relating to farm vehicles or implements of husbandry.
  - (f) Privileges relating to persons commercially transporting vehicles.
  - (g) Any similar privileges, benefits or exemptions relating to the operation of vehicles.
  - (h) Privileges, benefits or exemptions relating to the registration of fleets of vehicles.
- (2) An agreement shall only grant the privileges, benefits and exemptions to a vehicle or the owner of a vehicle if the vehicle is any of the following:
  - (a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.
  - (b) A commercial vehicle registered in a jurisdiction where the commercial enterprise in which the vehicle is used has a place of business. To qualify under this paragraph the vehicle must be assigned to the place of business and the place of business must be the place from which or in which the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled.
  - (c) A commercial vehicle registered in a jurisdiction where the vehicle has been registered because of an agreement between two jurisdictions or a declaration issued by any jurisdiction.
- (3) An agreement shall retain the right of the Department of Transportation to make the final determination as to the proper place of registration of a vehicle when there is a dispute or doubt concerning the proper place of registration. An agreement shall retain the right of the department to confer with the departments of other jurisdictions affected when making a determination under this subsection.
- (4) An agreement shall not provide for any benefit, exemption or privilege with respect to fuel taxes, use fuel taxes, weight mile taxes or any other fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except registration

taxes, fees and requirements.

(5) An agreement must provide that any vehicle registered in this state will receive a similar kind or degree of exemptions, benefits and privileges when operated in another jurisdiction that is party to the agreement as vehicles registered in the other jurisdiction receive when operated in this state.

(6) An agreement, in the judgment of the director, shall be in the best interest of this state and its citizens, shall be fair and equitable to this state and its citizens and shall be determined on the basis and recognition of benefits that accrue to the economy of this state from the uninterrupted flow of commerce.

(7) An agreement may authorize a vehicle that would otherwise be required to be registered in one jurisdiction to be registered in another jurisdiction without losing any benefit, exemption or privilege under the agreement if the vehicle is operated from a base located in the other jurisdiction.

(8) An agreement may allow the lessee or lessor of a vehicle, subject to the terms and conditions of the lease to receive benefits, exemptions and privileges under the agreement.

(9) An agreement may authorize the department to suspend or cancel any exceptions, benefits or privileges granted to any person under the agreement if the person violates any of the terms or conditions of the agreement or violates any law or rule of this state relating to vehicles.

(10) All agreements shall be in writing and filed with the department within 10 days after execution or the effective date of the agreement, whichever is later.

(11) An agreement may be a limited type agreement with any state bordering this state as described in this subsection. An agreement described under this subsection is subject to all of the following:

(a) The benefits, exemptions and privileges under the agreement shall only be extended to vehicles or a class of vehicles as specified in the agreement.

(b) The agreement shall be applicable only within an area in each state that is situated along the boundary between the states and that is substantially equal in size.

(c) The usage permitted of the vehicles in the two areas shall be as substantially equal as may be practicable.

(d) The areas and usage subject to the agreement shall be described in the agreement.

(e) Proportional registration shall not be required under the agreement.

(f) The agreement shall comply with other mandatory provisions of this section and may contain any other provisions described under this section.

(g) A vehicle operating under the agreement may be required to obtain a permit under ORS 803.610.

(12) An agreement may require the display or submission of evidence of registration for any vehicle operating under the agreement. [1983 c.338 §142; 1985 c.16 §43; 1985 c.668 §3; 1993 c.174 §2; 2007 c.70 §323]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.520 - Authority to grant registration privileges or exemptions to vehicles registered in other jurisdictions; declaration; limitations.**

The Director of Transportation may examine the laws and requirements of any jurisdiction that issues out-of-state registration and may grant a privilege or a registration exemption described in this section to vehicles or owners of vehicles registered in that jurisdiction. All of the following apply to the authority granted by this section:

(1) The director may only grant privileges or registration exemptions under this section to vehicles that are registered in jurisdictions that do not have an agreement with this state for privileges or registration exemptions under ORS 802.500 or 826.005 or an agreement for proportional registration with this state under ORS 826.007.

(2) All grants of privileges and registration exemptions under this section shall be by declaration, shall be in writing and shall be filed with the Department of Transportation within 10 days after execution or effective date, whichever is later.

(3) A declaration may grant benefits, privileges and exemptions with respect to the operation of commercial or noncommercial vehicles in this state of the same type that may be established by agreement under ORS 802.500 or 826.005.

(4) A declaration shall only grant the privileges, benefits and exemptions to a vehicle or the owner of a vehicle if the vehicle is any of the following:

(a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.

(b) A commercial vehicle registered in a jurisdiction where the commercial enterprise in which the vehicle is used has a place of business. To qualify under this paragraph the vehicle must be assigned to the place of business and the place of business must be the place from which or in which the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled.

(c) A commercial vehicle registered in a jurisdiction where the vehicle has been registered because of an agreement between two jurisdictions or a declaration issued by any jurisdiction.

(5) The department shall make any final determination in any case of doubt or dispute as to the proper place of registration of a vehicle, but may confer with departments of other jurisdictions affected.

(6) A declaration shall not provide for any benefit, exemption or privilege with respect to fuel taxes, use fuel taxes, weight mile taxes or other fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except registration taxes, fees and requirements.



(7) A declaration shall only grant benefits, exemptions or privileges that are, in the judgment of the director, in the best interest of this state and its citizens, fair and equitable to this state and its citizens and determined on the basis and with recognition of benefits that accrue to the economy of this state from the uninterrupted flow of commerce.

(8) A declaration may authorize a vehicle that would otherwise be required to be registered in one jurisdiction to be registered in another jurisdiction without losing any benefit, exemption or privilege under the declaration if the vehicle is operated from a base located in the other jurisdiction.

(9) A declaration may allow the lessee or lessor of a vehicle, subject to the terms and conditions of the lease, to receive benefits, exemptions and privileges under the declaration.

(10) A declaration may authorize the department to suspend or cancel any exemptions, benefits or privileges granted to any person under the declaration if the person violates any of the terms or conditions of the declaration or violates any law or rule of this state relating to vehicles. [1983 c.338 §143; 1985 c.668 §4; 1989 c.43 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.530 - Authority of department for reciprocal agreements concerning traffic offenses; permitted provisions; fees; limitations; rules; report.**

The Department of Transportation is authorized to enter into bilateral or multilateral reciprocal agreements with other jurisdictions to provide mutual assistance in the disposition of traffic offenses committed by residents of one jurisdiction while in another jurisdiction. Agreements authorized by this section are subject to the following:

(1) An agreement may provide for the sharing of information between and among jurisdictions concerning driving records, vehicle registration records and records concerning the granting, denial, revocation or suspension of driving privileges.

(2) An agreement may provide that a jurisdiction will suspend the driving privileges of a resident of the jurisdiction if the resident does not comply with the requirements and responsibilities created by citation for or conviction of a traffic offense in another jurisdiction.

(3) An agreement may provide that a jurisdiction will refuse to issue or renew a driver license or permit or to issue a duplicate or replacement license or permit for a resident of the jurisdiction if the resident does not comply with the requirements and responsibilities created by citation for or conviction of a traffic offense in another jurisdiction.

(4) An agreement may be limited to certain traffic offenses.

(5) An agreement may provide for the establishment of fees for and collection of fees from persons cited for traffic offenses or convicted of traffic offenses who are subject to the terms of the agreement. Any agency of this state that participates in a program established by an agreement authorized by this section is granted authority to establish fees for and collect fees from persons subject to an agreement. Fees established for purposes of this subsection must be established by rule. No fee established for purposes of this subsection may exceed an amount necessary to recover the actual cost incurred by participation in the program established by the agreement.

(6) An agreement may provide that residents of one jurisdiction who are issued citations for traffic offenses in another jurisdiction will be released on recognizance without requirement of security deposit or bail. Nothing in this subsection authorizes an agreement that prohibits a court from releasing on security release, as defined in ORS 135.230, a person charged with a traffic crime.

(7) An agreement may provide that one jurisdiction will act as agent for another jurisdiction in the disposition of traffic offenses committed in the other jurisdiction. No provision described under this subsection may be established that requires the participation of courts of this state unless the Oregon Supreme Court establishes rules under ORS 1.002 to provide procedures for court participation.

(8) No agreement may be established under this section to provide for assistance in dealing with:

(a) Offenses other than traffic offenses.

(b) Parking offenses.

(c) Bicycle offenses.

(d) Pedestrian offenses.

(9) Any agreement established under this section must provide that this state may withdraw from the agreement upon notice of not more than 90 days.

(10) An agreement may include any other provision that the department determines will assist in the disposition of traffic offenses committed by residents of one jurisdiction while in another jurisdiction or will increase the convenience for residents of this state in complying with requirements and responsibilities created by citation for or conviction of a traffic offense in another jurisdiction.

(11) The department may adopt rules necessary to implement any agreement established under this section.

(12) The department must submit a report on any agreement proposed under this section to the presiding officers of each house of the Oregon Legislative Assembly at least 30 days before the agreement may take effect. An agreement described under this section cannot take effect in this state unless the department complies with this subsection. [1985 c.396 §2; 1993 c.102 §1; 1999 c.1051 §85]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.540 - Driver License Compact.**

The Driver License Compact is enacted into law and entered into on behalf of this state with all other states legally joining therein in

a form substantially as follows:

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ARTICLE I  
FINDINGS AND DECLARATION  
OF POLICY

(a) The party states find that:

- (1) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles.
- (2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.
- (3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

- (1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.
- (2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II  
DEFINITIONS

As used in this compact:

- (a) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.
- (b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.
- (c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III  
REPORTS OF CONVICTION

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

ARTICLE IV  
EFFECT OF CONVICTION

- (a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:
  - (1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;
  - (2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug or a controlled substance, or under the influence of any other drug or substance to a degree which renders the driver incapable of safely driving a motor vehicle;
  - (3) Any felony in the commission of which a motor vehicle is used;
  - (4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.
- (b) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.
- (c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (a) of this Article, such party state shall construe the denominations and descriptions appearing in subdivision (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature and the laws of such party state shall contain such provisions as may be necessary to insure that full force and effect is given to this Article.

ARTICLE V  
APPLICATIONS FOR NEW LICENSES

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

- (1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such

suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.

#### ARTICLE VI

##### APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

#### ARTICLE VII

##### COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

#### ARTICLE VIII

##### ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

#### ARTICLE IX

##### CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[1983 c.338 §168]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.550 - Administrative provisions relating to license compact.**

The following relate to the Driver License Compact under ORS 802.540:

(1) The Director of Transportation or the director's deputy shall act as the compact administrator. The compact administrator shall not be entitled to any additional compensation on account of service as compact administrator, but shall be entitled to expenses incurred in connection with such service, payable the same as expenses in connection with services as the normal duties of the person.

(2) When reference in the compact is made to the executive head in this state, the reference applies to the Governor of this state.

(3) When reference in the compact is made to the licensing authority in this state, the reference applies to the Department of Transportation.

(4) In accordance with subdivision (c) of Article IV of the compact, the following offenses or violations provided by Oregon law hereby are designated as offenses or violations of a substantially similar nature as the respective denominations and descriptions of conduct appearing in subdivision (a) of Article IV of the compact:

(a) ORS 809.409 (1) and (2) - Article IV (a) (1).

(b) ORS 813.400 - Article IV (a) (2).

(c) ORS 809.409 (4) - Article IV (a) (3).

(d) ORS 809.409 (3) - Article IV (a) (4).

(5) Offenses or violations other than those referred to in subsection (4) of this section reported to the department pursuant to Article III of the compact shall be given effect within the purpose of Article IV (b) of the compact as the other laws of this state provide.

[1983 c.338 §169; 2003 c.402 §11; 2018 c.76 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.560 - Multistate Highway Transportation Agreement.**

The Multistate Highway Transportation Agreement is hereby enacted into law and entered into on behalf of this state with all other jurisdictions legally joining therein in a form substantially as follows:

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**ARTICLE I**

**FINDINGS AND PURPOSES**

**SECTION 1.**

Findings.

The participating jurisdictions find that:

- (a) The expanding regional economy depends on expanding transportation capacity;
- (b) Highway transportation is the major mode for movement of people and goods in the western states;
- (c) Uniform application in the west of more adequate vehicle size and weight standards will result in a reduction of pollution, congestion, fuel consumption and related transportation costs, which are necessary to permit increased productivity;
- (d) A number of western states, already having adopted substantially the 1964 Bureau of Public Roads recommended vehicle size and weight standards, still find current federal limits more restrictive; and
- (e) The participating jurisdictions are most capable of developing vehicle size and weight standards most appropriate for the regional economy and transportation requirements, consistent with and in recognition of principles of highway safety.

**SECTION 2.**

Purposes.

The purposes of this agreement are to:

- (a) Adhere to the principle that each participating jurisdiction should have the freedom to develop vehicle size and weight standards that it determines to be most appropriate to its economy and highway system.
- (b) Establish a system authorizing the operation of vehicles traveling between two (2) or more participating jurisdictions at more adequate size and weight standards.
- (c) Promote uniformity among participating jurisdictions in vehicle size and weight standards on the basis of the objectives set forth in this agreement.
- (d) Secure uniformity insofar as possible, of administrative procedures in the enforcement of recommended vehicle size and weight standards.
- (e) Provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in section 1 of this article.
- (f) Facilitate communication among legislators, state transportation administrators and commercial industry representatives in addressing the emerging highway transportation issues in participating jurisdictions.

**ARTICLE II**

**DEFINITIONS**

**SECTION 1.** As used in this agreement:

- (a) "Cooperating committee" means a body composed of the designated representatives from the participating jurisdictions.
- (b) "Designated representative" means a legislator authorized to represent the jurisdiction appointed by the President of the Senate and the Speaker of the House of Representatives in consultation.
- (c) "Jurisdiction" means a state of the United States or the District of Columbia.
- (d) "Vehicle" means any vehicle as defined by statute to be subject to size and weight standards which operates in two or more participating jurisdictions.

**ARTICLE III**

**GENERAL PROVISIONS**

**SECTION 1.**

Qualifications for Membership.

Participation in this agreement is open to jurisdictions which subscribe to the findings, purposes and objectives of this agreement and will seek legislation necessary to accomplish these objectives.

**SECTION 2.**

Cooperation.

The participating jurisdictions, working through their designated representatives, shall cooperate and assist each other in achieving the desired goals of this agreement pursuant to appropriate statutory authority.

**SECTION 3.**

Effect of Headings.

Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or section hereof.

**SECTION 4.**

Vehicle Laws and Regulations.

This agreement shall not authorize the operation of a vehicle in any participating jurisdiction contrary to the laws or regulations

thereof.

#### SECTION 5.

##### Interpretation.

The final decision regarding interpretation of questions at issue relating to this agreement shall be reached by unanimous joint action of the participating jurisdictions, acting through the designated representatives. Results of all such actions shall be placed in writing.

#### SECTION 6.

##### Amendment.

This agreement may be amended by unanimous joint action of the participating jurisdictions, acting through the officials thereof authorized to enter into this agreement, subject to the requirements of section 4, Article III. Any amendment shall be placed in writing and become a part hereof.

#### SECTION 7.

##### Restrictions, Conditions or Limitations.

Any jurisdiction entering this agreement shall provide each other participating jurisdiction with a list of any restriction, condition or limitation on the general terms of this agreement, if any.

#### SECTION 8.

##### Additional Jurisdictions.

Additional jurisdictions may become members of this agreement by signing and accepting the terms of the agreement.

### ARTICLE IV

#### COOPERATING COMMITTEE

SECTION 1. Each participating jurisdiction shall have two designated representatives. Pursuant to section 2, Article III, the designated representatives of the participating jurisdictions shall constitute a committee which shall have the power to:

- (a) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in relation to vehicle size and weight related matters.
- (b) Recommend and encourage the undertaking of research and testing in any aspect of vehicle size and weight or related matter when, in their collective judgment, appropriate or sufficient research or testing has not been undertaken.
- (c) Recommend changes in law or policy with emphasis on compatibility of laws and uniformity of administrative rules or regulations which would promote effective governmental action or coordination in the field of vehicle size and weight related matters.
- (d) Recommend improvements in highway operations, in vehicular safety and in state administration of highway transportation laws.
- (e) Perform functions necessary to facilitate the purposes of this agreement.

SECTION 2. Each designated representative of a participating jurisdiction shall be entitled to one (1) vote. No action of the committee shall be approved unless a majority of the total number of votes cast by the designated representatives of the participating jurisdictions are in favor thereof.

SECTION 3. The committee shall meet at least once annually and shall elect, from among its members, a chairman, a vice-chairman and a secretary.

SECTION 4. The committee shall submit annually to the legislature of each participating jurisdiction a report setting forth the work of the committee during the preceding year and including recommendations developed by the committee. The committee may submit such additional reports as it deems appropriate or desirable.

### ARTICLE V

#### OBJECTIVES OF THE PARTICIPATING JURISDICTIONS

##### SECTION 1.

##### Objectives.

The participating jurisdictions hereby declare that:

(a) It is the objective of the participating jurisdictions to obtain more efficient and more economical transportation by motor vehicles between and among the participating jurisdictions by encouraging the adoption of standards that will, as minimums, allow the operation on all State highways, except those determined through engineering evaluation to be inadequate, with a single-axle weight of 20,000 pounds, a tandem-axle weight of 34,000 pounds, and a gross vehicle or combination weight of that resulting from application of the formula:

$$W = 500 \left( \frac{LN}{N} - 1 \right) + 12N + 36$$

where W = maximum weight in pounds carried on any group of two or more axles computed to nearest 500 pounds.

L = distance in feet between the extremes of any group of two or more consecutive axles.

N = number of axles in group under consideration.

(b) It is the further objective of the participating jurisdictions that the operation in interstate commerce of a vehicle or combination of vehicles that exceeds statutory maximum weights or statutory maximum lengths be authorized under special permit authority by each participating jurisdiction.

(c) It is the further objective of the participating jurisdictions to facilitate and expedite the operation of any vehicle or combination of vehicles between and among the participating jurisdictions under the provisions of subsection (a) or (b) of this section, and to that end the participating jurisdictions hereby agree, through their designated representatives, to meet and cooperate in the consideration of vehicle size and weight related matters including, but not limited to, the development of: uniform enforcement procedures; additional vehicle size and weight standards; operational standards; agreements or compacts to facilitate regional application and administration of vehicle size and weight standards; uniform permit procedures; uniform application forms; rules and regulations for the operation of vehicles, including equipment requirements, driver qualifications, and operating practices; and such other matters as may be pertinent.

(d) It is the further objective of the participating jurisdictions to authorize the cooperating committee to recommend that the participating jurisdictions jointly secure congressional approval of this agreement and, specifically, of the vehicle size and weight standards set forth in subsection (a) of this section.

(e) It is the further objective of the participating jurisdictions to:

(1) Establish transportation laws and regulations to meet regional economic needs and to promote an efficient, safe and consistent transportation network;

(2) Develop standards that facilitate the most efficient and environmentally sound operation of vehicles on highways consistent with and in recognition of principles of highway safety; and

(3) Establish programs to increase productivity and reduce congestion, fuel consumption and related transportation costs and enhance air quality through the uniform application of state vehicle regulations and laws.

(f) It is the further objective of the participating jurisdictions that in carrying out subsection (e) of this section, the participating jurisdictions shall give priority to ensuring the long term financial stability of the highway infrastructure, considering the net benefits across all modes and all segments of industry and society and not focusing on incremental changes where there is no long term guiding policy.

#### ARTICLE VI

##### ENTRY INTO FORCE AND WITHDRAWAL

SECTION 1. This agreement shall enter into force when enacted into law by any two (2) or more jurisdictions. Thereafter, this agreement shall become effective as to any other jurisdiction upon its enactment thereof, except as otherwise provided in section 8, Article III.

SECTION 2. Any participating jurisdiction may withdraw from this agreement by canceling the same but no such withdrawal shall take effect until thirty (30) days after the designated representative of the withdrawing jurisdiction has given notice in writing of the withdrawal to all other participating jurisdictions.

#### ARTICLE VII

##### CONSTRUCTION AND SEVERABILITY

SECTION 1. This agreement shall be liberally construed so as to effectuate the purposes thereof.

SECTION 2. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any participating jurisdiction or the applicability thereto to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement shall not be affected thereby. If this agreement shall be held contrary to the constitution of any jurisdiction participating herein, the agreement shall remain in full force and effect as to the jurisdictions affected as to all severable matters.

#### ARTICLE VIII

##### FILING OF DOCUMENTS

SECTION 1. A copy of this agreement, its amendments, and rules or regulations promulgated thereunder and interpretations thereof shall be filed in the highway department in each participating jurisdiction and shall be made available for review by interested parties.

#### ARTICLE IX

##### EXISTING STATUTES NOT REPEALED

SECTION 1. All existing statutes prescribing weight and size standards and all existing statutes relating to special permits shall continue to be of force and effect until amended or repealed by law.

#### ARTICLE X

##### STATE GOVERNMENT DEPARTMENTS

##### AUTHORIZED TO COOPERATE

##### WITH COOPERATING COMMITTEE

SECTION 1. Within appropriations available therefor, the departments, agencies and officers of the government of this state shall cooperate with and assist the cooperating committee within the scope contemplated by Article IV, section 1(a) and (b) of the agreement. The departments, agencies and officers of the government of this state are authorized generally to cooperate with said cooperating committee.

2001 c.610 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.565 - Participation by department and payment of fees.**

The Director of Transportation shall:

(1) Appoint an employee of the Department of Transportation to participate in meetings held by the cooperating committee created pursuant to the Multistate Highway Transportation Agreement under ORS 802.560.

(2) Pay any membership fee required by the Multistate Highway Transportation Agreement from funds appropriated to the department. [2011 c.629 §5]

Note:

802.565 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.570 - Compensation and reimbursement for legislative representative under Multistate Highway Transportation Agreement.**

A legislator who is a designated representative under ORS 802.560 is entitled to compensation and expense reimbursement under ORS 171.072, payable from funds appropriated to the Legislative Assembly. [1987 c.879 §21; 2001 c.610 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 802 - Administrative Provisions Section 802.600 - Agreements to transact department business; fees; rules.**

(1) The Department of Transportation may enter into an agreement with any qualified provider to transact on behalf of the department the following functions of the department:

(a) Any vehicle-related transaction for which the department is responsible.

(b) Processing of fees or taxes for a vehicle-related transaction for which the department is responsible.

(c) Written and skills testing for driver licenses and permits, including commercial driver licenses.

(2) An agreement described in subsection (1) of this section may be in any form and may contain any provisions that the department determines to be in the best interests of the public and convenient for the department, including but not necessarily limited to provisions that allow the department to:

(a) Ensure product quality control.

(b) Audit activities of the qualified provider entering into the agreement to ensure compliance with the agreement.

(c) Impose sanctions on a qualified provider for violation of the agreement.

(3) A qualified provider authorized to transact business for the department under this section, including but not limited to a qualified provider who transacts business under contract with an integrator, may charge a fee for the services provided. Fees authorized under this subsection are in addition to any charges or fees that the department is authorized by statute to collect for the transaction.

(4)(a) The department may adopt such rules as are necessary to carry out the provisions of this section, including but not limited to rules that:

(A) Specify criteria for eligibility of a qualified provider to enter into an agreement with the department under this section.

(B) Specify the manner in which fees authorized by this section will be collected and establish any notification the qualified provider is required to give the public about the fees.

(C) Require a bond in an amount determined by the department from a qualified provider acting under an agreement described in this section.

(D) Prohibit disclosure of personal information from driver or vehicle records except in accordance with applicable laws.

(b) The department may not adopt rules establishing the amount of a fee to be charged by a qualified provider acting under this section.

(c) Rules adopted under this subsection shall be developed in consultation with persons who might enter into agreements with the department under this section, including but not limited to integrators and vehicle dealers.

(5) As used in this section:

(a) "Integrator" means a person who enters into a contract with the Department of Transportation:

(A) To provide information and supplies to a qualified provider who transacts business for the department under an agreement described in this section; and

(B) To collect moneys due from qualified providers who transact the business and remit the moneys to the department.

(b) "Qualified provider" means:

(A) Community college operated under ORS chapter 341;

(B) Education service district; or

(C) Person who is not an employee of the department, including but not limited to an integrator. [1997 c.583 §2; 1999 c.59 §235; 2005 c.375 §2; 2015 c.708 §4; 2017 c.157 §1; 2023 c.400 §34]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and**

**RegistrationSection 803.010 - Proof of ownership.**

A certificate of title is prima facie evidence of the ownership of a vehicle or of an interest therein. In all actions, suits or criminal proceedings, when the title to or right of possession of any vehicle is involved, proof of the ownership or right to possession shall be made by means of:

- (1) The original certificate of title issued by the Department of Transportation;
- (2) A salvage title certificate issued by the department; or
- (3) The department records as provided under ORS 802.240. [1983 c.338 §174; 1991 c.873 §29]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 803 - Vehicle Title and RegistrationSection 803.012 - Rules for title forms and fees.**

- (1) The Department of Transportation may adopt rules authorizing different forms of title and specifying the uses of the different forms. The rules may include, but need not be limited to, rules authorizing and describing uses of electronic titles and certificates of title.
- (2) Rules adopted under this section may require or allow different forms of title for different purposes or for different persons.
- (3) Rules adopted under this section may include fee structures that vary for different forms of title but in no case may the department charge more than the fees established for similar title transactions under ORS 803.090. [1993 c.233 §6]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 803 - Vehicle Title and RegistrationSection 803.015 - Certificate contents.**

The Department of Transportation shall design a certificate of title for vehicles for situations in which the department determines that certificates will be issued. A certificate of title issued by the department shall conform to all of the following:

- (1) The certificate shall be numbered in a manner prescribed by the department.
- (2) The certificate shall contain a description of the vehicle.
- (3) The certificate shall contain evidence of identification of the vehicle the department deems proper.
- (4) The certificate shall contain the name of the owner of the vehicle.
- (5) The certificate shall identify any security interest holders in the order of their priority. This subsection does not apply to the security interests where the debtor who granted the security interest is in the business of selling vehicles and the vehicle constitutes inventory held for sale or lease.
- (6) The certificate shall identify any lessor of the vehicle.
- (7) The certificate shall be authenticated by a seal of the State of Oregon printed on the certificate.
- (8) The certificate shall have space to fill in information required by the department upon the transfer of a vehicle under ORS 803.094 and space for the odometer disclosure required on transfer of an interest under ORS 803.102.
- (9) If the vehicle is an assembled vehicle, the certificate shall:
  - (a) Show the make of the vehicle as "assembled."
  - (b) Show the year the building of the vehicle is completed as the year model of the vehicle.
- (10) The certificate shall show the mileage of the vehicle as reported to the department at the time the most recent title transfer was reported to the department, or the mileage reported to the department at the time the vehicle was initially titled in Oregon, whichever occurred last. The information required by this subsection shall be shown as reported to the department on odometer disclosure reports required by law to be submitted to the department.
- (11) The certificate shall contain any brand or notation specified by the department by rule.
- (12) The certificate shall contain any other information required by the department.
- (13) The certificate shall be produced by a secure process that meets or exceeds the requirements of federal law. [1983 c.338 §175; 1985 c.16 §58; 1985 c.251 §14; 1985 c.253 §1; 1985 c.402 §6; 1987 c.127 §1; 1989 c.148 §8; 1991 c.820 §9; 1991 c.873 §7; 1993 c.233 §14; 2001 c.293 §1; 2001 c.445 §183; 2003 c.330 §1]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 803 - Vehicle Title and RegistrationSection 803.016 - Titles in form other than certificate.**

If title to a vehicle is not to be issued in the form of a certificate, the record of title kept by the Department of Transportation shall include all information required by ORS 803.015. Nothing in this section requires that title issued in a form other than a certificate:

- (1) Be numbered as required by ORS 803.015 (1);
- (2) Be authenticated as required by ORS 803.015 (7);
- (3) Have the space required by ORS 803.015 (8); or
- (4) Be produced by a secure process as required by ORS 803.015 (13). [1993 c.233 §16; 2001 c.293 §2; 2003 c.330 §3]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 803 - Vehicle Title and RegistrationSection 803.025 - Violating title requirements; penalty.**

- (1) A person commits the offense of violating vehicle title requirements if the person owns or operates any vehicle in this state for which this state has not issued title.



- (2) Exemptions from this section are established by ORS 803.030. The exemptions are subject to ORS 803.040.
- (3) The offense described in this section, violating vehicle title requirements, is a Class D traffic violation. [1983 c.338 §176; 1985 c.16 §59; 1985 c.333 §4; 1993 c.233 §17; 1995 c.383 §35]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.030 - Exemptions from title requirement.**

This section establishes exemptions from the requirements under ORS 803.025 to obtain title issued by this state. The exemptions are subject to ORS 803.040. The exemptions are in addition to any exemptions under ORS 801.026. Vehicles exempted by this section from the requirements to be titled by this state are not prohibited from being titled by this state if titling is permitted under ORS 803.035. The exemptions are partial or complete as provided in the following:

- (1) Title from this state is not required for a vehicle unless the vehicle is operated on a highway in this state.
- (2) Title from this state is not required unless a vehicle is operated under a registration number of this state.
- (3) Snowmobiles and Class I, Class III and Class IV all-terrain vehicles are not subject to the requirements under ORS 803.025. The requirements and procedures for titling snowmobiles are as provided under ORS 821.060 and 821.070.
- (4) Road rollers, farm tractors and traction engines are exempt from the requirements for title.
- (5) Trolleys are exempt from the requirements for title.
- (6) Bicycles are exempt from the requirements for title.
- (7) United States Government owned and operated motor vehicles and trailers are exempt from the requirements for title.
- (8) Implements of husbandry, well drilling machinery, emergency fire apparatus providing public fire protection and wheelchairs are exempt from the requirements for title.
- (9) Except as provided in subsection (23) of this section, fixed load vehicles are exempt from the requirements for title while operated within the immediate construction project, as described in the governmental agency contract, in the construction or reconstruction of state or county roads, highways or city streets.
- (10) Motor vehicles designed to operate at a loaded weight over 8,000 pounds, trailers and equipment are exempt from requirements for title while:
  - (a) Owned, leased, contracted or requisitioned by the State Forester, State Board of Forestry, their contractors under ORS chapter 477, or the federal government; and
  - (b) Being used for the purposes of forest protection and fire suppression under ORS chapter 477 or a similar federal statute, including movement of the vehicles to and from the work area.
- (11) Farm trailers are exempt from requirements for title when the operation or movement of the vehicle upon the highways is incidental to its use in an agricultural operation.
- (12) Golf carts operated under an ordinance adopted under ORS 810.070 are exempt from requirements for title.
- (13) Golf carts or similar vehicles are exempt from requirements for title when:
  - (a) They have not less than three wheels in contact with the ground;
  - (b) They have an unloaded weight of less than 1,300 pounds;
  - (c) They are designed to be and are operated at not more than 15 miles per hour; and
  - (d) They are operated by persons with disabilities.
- (14) The nonresident owners of vehicles currently registered and titled in any other country, state or territory may operate such vehicles over the highways of this state without complying with the titling requirements under ORS 803.025. All of the following apply to this subsection:
  - (a) This subsection only provides an exemption so long as the owner satisfactorily shows that the owner is not a resident of this state or has been a resident of this state for less than 30 days. For the purpose of this paragraph, a person is a resident of this state if the person meets the residency requirements described in ORS 803.200.
  - (b) The exemption under this subsection applies to vehicles granted exemptions under ORS 802.500, 802.520 or 826.005, unless otherwise provided under paragraph (c) of this subsection.
  - (c) Except as otherwise provided in this paragraph, a vehicle operated over the highways of this state for compensation or profit must comply with the titling requirements under ORS 803.025 in the same manner as required of nontitled vehicles. The following vehicles are not subject to this paragraph:
    - (A) Vehicles operated under reciprocal registration exemptions established under ORS 802.500 or 826.005.
    - (B) Vehicles operated under an exemption established under ORS 802.520.
    - (C) Vehicles that are proportionally registered under an agreement established under ORS 826.007, and according to the procedures established under ORS 826.009 or 826.011.
    - (D) Any vehicle if duly registered and titled under the laws of the state or country of which the owner is a bona fide resident to the extent that in the foreign country, state, territory or federal district where the owner resides like exemptions and privileges are granted vehicles duly registered and titled under the laws of this state and owned by residents of this state.
  - (d) If no exemptions from titling requirements are in effect under ORS 802.500, 802.520, 826.005 or 826.007 with respect to another jurisdiction, any vehicle properly registered and titled in such other jurisdiction and for which evidence of compliance is supplied shall receive, when operated in this state, the same exemptions, benefits and privileges granted by such other jurisdictions to vehicles properly registered and titled in this state. Reciprocity extended under this paragraph shall apply to commercial vehicles

only when engaged exclusively in interstate commerce.

(e) Any vehicle operated under dealer registration plates issued by another state, country, province, territory or the District of Columbia is subject to this subsection.

(15) Vehicle dealers issued certificates under ORS 822.020 may use and operate untitled vehicles as provided under ORS 822.040.

(16) Towing businesses issued certificates under ORS 822.205 may tow untitled vehicles as provided under ORS 822.210.

(17) Vehicle transporters issued certificates under ORS 822.310 may transport untitled vehicles as provided in ORS 822.310.

(18) Untitled vehicles may be operated under trip permits described under ORS 803.600 or under permits described under ORS 803.610 to 803.625.

(19) Vehicles that are registered by the United States Department of State and that are owned or operated by foreign nationals with diplomatic immunity are exempt from the requirements for title.

(20)(a) Vehicles that are registered under the proportional registration provisions of ORS chapter 826 and are titled in a jurisdiction other than Oregon are exempt from the requirements for title.

(b) A trailer that is registered under the proportional registration provisions of ORS chapter 826 and titled in a jurisdiction other than Oregon shall remain exempt from the requirements for title in Oregon if the trailer is registered when the other jurisdiction removes its exception to proportional registration requirements for the trailer.

(21) Converter dollies and tow dollies are exempt from the requirements for title.

(22) Electric personal assistive mobility devices are exempt from the requirements for title.

(23) Road machinery that is operated at the direction of a road authority is exempt from the requirements for title. The exemption under this subsection also applies when the operation of road machinery upon a highway or an alley is incidental to its use in a highway maintenance operation.

(24) Special mobile equipment is exempt from the requirements for title. [1983 c.338 §177; 1985 c.16 §60; 1985 c.333 §5; 1985 c.401 §1; 1985 c.459 §3; 1985 c.668 §6; 1987 c.25 §1; 1989 c.43 §17; 1989 c.991 §24; 1991 c.284 §13; 1991 c.459 §438f; 1991 c.477 §1; 1993 c.233 §18; 1995 c.774 §10; 1999 c.361 §1; 1999 c.977 §18; 2001 c.827 §1; 2003 c.341 §3; 2003 c.655 §99; 2007 c.70 §324; 2007 c.845 §1; 2009 c.91 §3; 2011 c.360 §13; 2012 c.12 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.035 - Optional titling; rules.**

(1) The Department of Transportation, by rule, may provide for optional titling of vehicles that are not subject to the vehicle titling requirements under ORS 803.025 or that are exempt from vehicle titling requirements by ORS 803.030. The rules adopted for purposes of this subsection may provide for the titling of categories of vehicles, types of vehicles or otherwise. Upon request of an owner, the department may issue title for a vehicle that meets the requirements of rules adopted under this section.

(2) A vehicle that is issued title under this section is subject to the same provisions, conditions, fees and other requirements for titling as are other vehicles under the vehicle code and is subject to ORS 803.040. [1985 c.333 §2; 1993 c.233 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.036 - Optional titling; park model recreational vehicles; rules.**

(1) As used in this section:

(a) "Mobile home park" has the meaning given that term in ORS 446.003.

(b) "Park model recreational vehicle" means a recreational vehicle, as defined in ORS 174.101, that:

(A) Is designed for use as temporary living quarters;

(B) Is built on a single chassis mounted on wheels;

(C) Has a gross trailer area that does not exceed 400 square feet;

(D) Is more than eight and one-half feet wide;

(E) Complies with any manufacturing standards that the Director of Transportation recognizes as being in widespread use and applicable to park model recreational vehicles; and

(F) Meets any other requirements imposed by the director by rule.

(2) The Department of Transportation, by rule, may provide for optional titling under ORS 803.035 for:

(a) Park model recreational vehicles; and

(b) Vehicles that no longer meet the definition of park model recreational vehicle, but that:

(A) As originally manufactured, met the definition of park model recreational vehicle; and

(B) Were first used as living quarters on or before January 1, 2021.

(3) The department may not issue a registration for a park model recreational vehicle or former park model recreational vehicle.

(4) The department may require an applicant for optional titling to:

(a) Provide a manufacturer certificate or other information the department deems adequate for ensuring that the vehicle was constructed in compliance with manufacturing standards described in subsection (1)(b)(E) of this section; and

(b) Attest that the vehicle:

(A) Is not permanently affixed to land for use as a permanent dwelling; or

(B) Is located within a mobile home park.

(5) Titles issued under subsection (2)(b) of this section are for the purpose of facilitating the documentation of ownership and sales

of park model recreational vehicles. In issuing a title, the department does not make any claims about the suitability, fitness, safety, quality or lawfulness of the vehicle's use as living quarters or for transportation and does not assume liability for the vehicle's use for any purpose. [2019 c.585 §2; 2019 c.585 §2a; 2021 c.157 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.040 - Effect of title.**

(1) If this state has issued title for a vehicle, the vehicle shall remain titled by this state and subject to all of the provisions of the vehicle code relating to vehicles titled by this state until one of the following occurs:

- (a) The vehicle becomes legally titled under the laws of another jurisdiction.
- (b) The owner of the vehicle establishes that the vehicle is no longer subject to the vehicle titling requirements under the vehicle code by a method recognized or established by the Department of Transportation.

(c) A salvage title is issued for the vehicle.

(2) Subsection (1) of this section applies to a vehicle issued title by this state even if one of the following applies to the vehicle:

(a) At some time after issuance of the title by this state, the vehicle becomes eligible for an exemption from titling requirements under ORS 803.030 or for any other reason.

(b) The issuance of the title was permissive under ORS 803.035.

(c) The vehicle is not required to comply with vehicle titling provisions of the vehicle code for any reason. [1985 c.333 §3; 1991 c.873 §30; 1993 c.233 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.045 - Issuance of title; rules.**

(1) The Department of Transportation shall issue title for a vehicle if the applicant and the vehicle meet the following qualifications:

(a) The applicant must satisfy the department that the applicant is the owner of the vehicle and is otherwise entitled to have title issued in the applicant's name.

(b) Except as otherwise provided in ORS 803.050 (2), the applicant must submit a completed and signed application for title described in ORS 803.050.

(c) The applicant must pay the fee for issuance of a certificate of title under ORS 803.090 or the fee for issuance of title in another form, as established by the department by rule in accordance with ORS 803.012.

(d) If the vehicle is a reconstructed vehicle or an assembled vehicle, the applicant must provide the following information in addition to any other information required under this section:

(A) The certificate of title last issued for the frame of the vehicle, a salvage title certificate issued for the vehicle or other evidence of ownership satisfactory to the department.

(B) Bills of sale for major components used to build the vehicle.

(e) If the vehicle is covered by an Oregon title or salvage title certificate, the applicant shall surrender the Oregon title or salvage title certificate, submit an application as provided under ORS 803.065 or submit other evidence of ownership satisfactory to the department.

(f) Unless the department adopts rules to the contrary, if the vehicle is from another jurisdiction, the applicant shall surrender to the department with the application the certificate of title issued by the other jurisdiction, if such jurisdiction requires certificates of title. If such jurisdiction does not require certificates of title, then the applicant shall surrender the registration cards.

(g) If required by the department, the applicant must submit proof of ownership as described under ORS 803.205.

(h) Other than a racing activity vehicle as defined in ORS 801.404, if the department has reason to believe a vehicle was not certified by the original manufacturer as conforming to federal vehicle standards, the department may require the applicant to provide proof satisfactory to the department that the vehicle conforms to federal vehicle standards.

(i) Unless the vehicle is exempted from odometer disclosure requirements, the applicant shall submit an appropriate odometer disclosure form. The department shall determine what constitutes an appropriate form in any particular situation. The department may make exceptions by rule to the requirement for submission of an odometer disclosure form.

(2) The department may not issue title for a vehicle:

(a) Required by ORS 803.210 to be inspected unless the vehicle has been inspected as described in ORS 803.212 and the inspection fee paid under ORS 803.215.

(b) If the current vehicle title, certificate, ownership document or the vehicle record available through electronic record inquiry:

(A) Has a junk status;

(B) Is a junk title, junk certificate or similar ownership document issued by another jurisdiction; or

(C) Has a junk or similar brand or notation.

(c) As prescribed in ORS 803.591.

(3) The department may adopt any rules it considers necessary for the administration of subsection (2)(a) and (b) of this section.

[1983 c.338 §178; 1985 c.16 §61; 1985 c.402 §7; 1985 c.410 §1; 1987 c.146 §5; 1989 c.148 §9; 1991 c.873 §8; 1993 c.233 §21; 2001 c.675 §7; 2003 c.24 §1; 2003 c.655 §100; 2007 c.693 §4; 2019 c.312 §18; 2019 c.645 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and**

**RegistrationSection 803.050 - Application; contents.**

(1) An application for title required under ORS 803.045 shall be in a form specified by the Department of Transportation and shall contain all the following:

- (a) A full description of the vehicle, including, but not necessarily limited to, the vehicle identification number.
- (b) The name of the owner of the vehicle or other person whose name is to be shown on the title.
- (c) The identity of any security interests in order of priority.
- (d) The identity of the interest of any lessor.
- (e) A disclosure of whether the vehicle is a replica or is specially constructed, reconstructed or assembled. If the title and registration records of the department already indicate that a vehicle is a replica or is specially constructed, reconstructed or assembled, disclosure under this subsection is not required unless the vehicle has been changed since title for the vehicle was last transferred.
- (f) If the title application shows a leasehold interest, the lessor shall designate whether the lessor or the lessee is to be shown on the title as the owner of the vehicle.
- (g) Any other information required by the department.

(2) Notwithstanding subsection (1) of this section, the department may accept an application that does not contain everything required by this section if the department is satisfied as to the ownership of the vehicle. [1983 c.338 §180; 1985 c.16 §62; 1985 c.251 §15; 1985 c.300 §1; 1985 c.402 §8a; 1987 c.750 §3a; 1989 c.148 §10; 1991 c.551 §2; 1991 c.873 §9; 1993 c.233 §22]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 803 - Vehicle Title and RegistrationSection 803.053 - Expedited titling; vehicle dealers; rules; fee.**

(1) At the request of a vehicle dealer, the Department of Transportation shall provide expedited titling services if the vehicle dealer pays the fee imposed under this section. A request under this section must be made in the manner required by the department. The department shall adopt rules establishing criteria and procedures for providing expedited titling services under this section.

(2) The fee for providing an expedited title under this section is \$100. [2014 c.14 §2]

Note:

803.053 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 803 - Vehicle Title and RegistrationSection 803.055 - Delivery of evidence of title; rules.**

(1) When a certificate of title is issued by this state, the Department of Transportation shall deliver the certificate as follows unless otherwise provided by law:

- (a) To the security interest holder with the highest priority.
- (b) If there are no security interest holders, to the lessor.
- (c) If there are no security interest holders or lessors, to the owner of the vehicle.

(2) When a salvage title certificate is issued by this state, the department shall deliver the certificate to the owner of the vehicle.

(3) The department may determine by rule whether, when, how and to whom titles issued in a form other than a certificate shall be delivered. [1983 c.338 §181; 1985 c.16 §63; 1991 c.873 §31; 1993 c.233 §23]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 803 - Vehicle Title and RegistrationSection 803.060 - Renewal.**

A title does not require a renewal and is valid until one of the following occurs:

- (1) The vehicle is destroyed or dismantled.
- (2) Any interest reflected on the title changes. [1983 c.338 §182; 1985 c.316 §1; 1993 c.233 §24; 2019 c.17 §5]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 803 - Vehicle Title and RegistrationSection 803.065 - Duplicate or replacement certificate; fee; application; rules.**

(1) The Department of Transportation may issue a duplicate or replacement certificate of title when all of the following occur:

- (a) The department is satisfied as to the loss, mutilation or destruction of a certificate of title or salvage title certificate.
- (b) The fee for issuance of a duplicate or replacement certificate of title or for a salvage title certificate established under ORS 803.090 is paid.

(2) The department may accept an application for a duplicate or replacement title certificate at the time of any transfer of a vehicle under ORS 803.092. The following apply to this subsection:

- (a) The department shall only accept the application if, at the time of transfer, the title certificate is lost, mutilated or destroyed.
- (b) When the department accepts an application, the department may accept proof of transfer other than the certificate of title or may accept a certificate of title that has not been completed along with other proof of transfer for purposes of transferring a vehicle under ORS 803.092. The department may accept any proof of transfer under this paragraph that establishes to the satisfaction of the department that the vehicle has been transferred including, but not limited to, statements of release of interest, bills of sale, assignments of interest or other similar proof.

(c) If an application is made under this subsection, the fee for duplicate or replacement title certificate under ORS 803.090 shall be paid in addition to the transfer fee under ORS 803.090.

(d) The department may include the form for application under this subsection as part of the form for transfer of a vehicle or may make the forms separate, as the department finds convenient.

(e) The department is not required by this subsection to issue a duplicate or replacement title before transfer, but may withhold issuance of title until new title is issued upon completion of transfer.

(f) The department may adopt rules to establish procedures and requirements for effecting a transfer under ORS 803.092 when application is made under this subsection at the same time. [1983 c.338 §183; 1985 c.174 §1; 1985 c.300 §2; 1989 c.148 §11; 1991 c.873 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.070 - False statement in application or assignment; penalty.**

(1) A person commits the offense of false statement on title or transfer of vehicle if the person knowingly makes any false statement of a material fact in an application for title to a vehicle, in an application for salvage title for a vehicle or in any assignment of title to a vehicle.

(2) The offense described in this section, false statement on title or transfer of vehicle, is a Class A misdemeanor. [1983 c.338 §184; 1985 c.393 §1; 1991 c.873 §32; 1993 c.233 §25; 1993 c.751 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.075 - False swearing prohibited; penalty.**

(1) A person commits the offense of false swearing relating to titling of vehicles if the person knowingly makes any false affidavit or knowingly swears or affirms falsely to any matter or thing relating to the titling of vehicles under the vehicle code. For purposes of this section, "titling of vehicles" includes, but is not necessarily limited to, matters and things related to salvage titles for vehicles issued by the Department of Transportation.

(2) Penalties relating to submitting a false odometer reading relating to the titling of a vehicle shall be as provided under ORS 815.430.

(3) The offense described in this section, false swearing relating to titling of vehicles, is a Class A misdemeanor. [1983 c.338 §185; 1985 c.251 §16; 1985 c.393 §2; 1991 c.873 §33; 1993 c.233 §26; 1993 c.751 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.080 - Unlawfully publishing certificate of title forms prohibited; penalty.**

(1) A person commits the offense of unlawfully publishing certificate of title forms if the person produces in any way, or causes to be produced, without the authority of the Department of Transportation, facsimiles of the blank forms upon which the department issues certificates of title or salvage title certificates.

(2) The offense described in this section, unlawfully publishing certificate of title forms, is a Class C felony. [1983 c.338 §186; 1991 c.873 §34]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.085 - Selling untitled vehicle prohibited; penalty.**

(1) A person commits the offense of selling an untitled vehicle if the person sells a vehicle without complying with the requirements under ORS 803.025 and 803.045 to obtain a title for the vehicle or the requirements of ORS 819.016 to obtain a salvage title for the vehicle, as appropriate.

(2) The offense described in this section, selling an untitled vehicle, is a Class A misdemeanor. [1983 c.338 §187; 1985 c.393 §3; 1991 c.873 §35; 1993 c.233 §27]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.090 - Fees for certificate of title.**

(1) Except as provided in subsection (2) of this section, the fee to issue a certificate of title under ORS 803.045 or 803.140, to transfer title under ORS 803.092, to issue a duplicate or replacement certificate of title under ORS 803.065 or to issue a new title due to name or address change under ORS 803.220 is as follows:

(a) For a salvage title, \$27.

(b) For a vehicle title for trailers eligible for permanent registration under ORS 803.415 (1) and motor vehicles with a gross vehicle weight rating over 26,000 pounds, excluding motor homes, \$90.

(c) For a vehicle title for vehicles other than those vehicles described in paragraph (b) of this subsection, \$77.

(2) If an application for a duplicate or replacement certificate of title is filed at the same time as an application for a transfer of title for the same vehicle, the applicant is required to pay only the transfer of title fee.

(3) The fee for late presentation of certificate of title under ORS 803.105 is \$25 from the 31st day after the transfer through the 60th day after the transfer and \$50 thereafter.

(4) The fees for title transactions involving a form of title other than a certificate shall be the amounts established by the Department of Transportation by rule under ORS 803.012. [1983 c.338 §188; 1985 c.16 §64; 1985 c.174 §2; 1985 c.300 §3; 1985 c.315 §1; 1987 c.790 §1; 1989 c.148 §12; 1991 c.873 §11; 1993 c.233 §28; 2001 c.669 §7; 2001 c.675 §8; 2003 c.161 §1; 2003 c.618 §1; 2003 c.655 §101; 2009 c.865 §42; 2017 c.750 §39a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.091 - Title fees based on miles per gallon.**

(1) As used in this section, "miles per gallon" or "MPG" means the distance traveled in a vehicle powered by one gallon of fuel.

(2) The Department of Transportation shall determine the combined MPG ratings for each motor vehicle pursuant to a method determined by the department.

(3) In addition to the title fees prescribed under ORS 803.090 (1)(c), there shall be paid an additional amount as follows:

(a) For vehicles that have a rating of 0-19 MPG or nonmotorized vehicles, \$24.

(b) For vehicles that have a rating of 20-39 MPG, \$29.

(c) For vehicles that have a rating of 40 MPG or greater, \$39.

(d) For electric vehicles, \$115. [2017 c.750 §37; 2017 c.750 §38]

Note:

803.091 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.092 - Application for title upon transfer of interest; when and by whom required; exceptions.**

(1) Except as otherwise provided in this section, upon the transfer of any interest in a vehicle covered by an Oregon title the transferee shall submit an application for title to the Department of Transportation. Such application shall be submitted to the department within 30 days of the date of transfer of interest.

(2) Notwithstanding subsection (1) of this section, application is not required under this section when:

(a) The change involves only a change in the security interest where the security interest holder or lessor is a financial institution, a financial holding company or a bank holding company, as those terms are defined in ORS 706.008, a licensee under ORS chapter 725, or any subsidiary or affiliate of any of the foregoing and the transfer of the interest of the security interest holder or lessor:

(A) Results from the merger, conversion, reorganization, consolidation or acquisition of the security interest holder or lessor;

(B) Is to an entity that is a member of the same affiliated group as the security holder or lessor; or

(C) Is made in connection with a transfer in bulk.

(b) The vehicle is transferred to a vehicle dealer and the vehicle will become part of the dealer's inventory for resale. Upon the transfer of a vehicle to a dealer, however, the dealer shall immediately notify the department of such transfer. This exemption from the requirement to apply for title does not apply if the department determines that application for title is necessary in order to comply with odometer disclosure requirements. If the department determines that application for title is not required, it may require filing of documents under ORS 803.126.

(c) The vehicle is to be titled in another jurisdiction.

(d) The vehicle has been totaled, wrecked, dismantled, disassembled, substantially altered or destroyed, in which case the provisions of ORS 819.010, 819.012, 819.014 or 822.135 relating to notice and surrender of title documents shall be complied with.

(e) The transfer involves the creation or termination of a leasehold interest in a vehicle that is proportionally registered under ORS 826.009 or 826.011, if the department is furnished with satisfactory proof of the lease.

(3) Except as provided in subsection (2) of this section, the transferee shall:

(a) Submit an application that meets requirements for title under ORS 803.045 and 803.050 and any applicable rules of the department.

(b) Submit the title transfer fees as required under ORS 803.090.

(c) Comply with the provisions of ORS 803.065 and any applicable rules of the department under that statute and submit the duplicate or replacement title fee as provided under ORS 803.090, if the transfer includes an application for duplicate or replacement title and transfer of title.

(d) Submit an odometer disclosure containing information required by the department for the kind of transaction involved.

(e) Submit any late presentation of certificate of title fee as provided under ORS 803.090 if such fee is required under ORS 803.105.

(4) For purposes of this section:

(a) "Affiliated group" has the meaning given to the term in section 1504(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. 1504(a)).

(b) A "transfer in bulk" is:

(A) The sale or assignment of, the grant of a security interest in, or any other transfer of either a group of loans secured by vehicles, leases of vehicles or both or a participation or other interest in the group of loans;

(B) The creation of asset-backed securities or other securing of assets involving the loans or leases; or

(C) Any similar transaction involving the loans or leases. [1989 c.148 §3; 1989 c.452 §7; 1991 c.67 §212; 1991 c.820 §14; 1991 c.873 §12; 1993 c.233 §29; 1993 c.427 §1; 1997 c.631 §554; 2001 c.377 §53; 2001 c.675 §9; 2003 c.655 §102]

Note:

The amendments to 803.092 by section 3, chapter 428, Oregon Laws 2023, become operative January 1, 2027. See section 7, chapter 428, Oregon Laws 2023. The text that is operative on and after January 1, 2027, is set forth for the user's convenience.

(1) Except as otherwise provided in this section, upon the transfer of any interest in a vehicle covered by an Oregon title the transferee shall submit an application for title to the Department of Transportation. Such application shall be submitted to the department within 30 days of the date of transfer of interest.

(2) Notwithstanding subsection (1) of this section, application is not required under this section when:

(a) The change involves only a change in the security interest where the security interest holder or lessor is a financial institution, a financial holding company or a bank holding company, as those terms are defined in ORS 706.008, a licensee under ORS chapter 725, or any subsidiary or affiliate of any of the foregoing and the transfer of the interest of the security interest holder or lessor:

(A) Results from the merger, conversion, reorganization, consolidation or acquisition of the security interest holder or lessor;

(B) Is to an entity that is a member of the same affiliated group as the security holder or lessor; or

(C) Is made in connection with a transfer in bulk.

(b) The vehicle is transferred to a vehicle dealer and the vehicle will become part of the dealer's inventory for resale. Upon the transfer of a vehicle to a dealer, however, the dealer shall immediately notify the department of such transfer. This exemption from the requirement to apply for title does not apply if the department determines that application for title is necessary in order to comply with odometer disclosure requirements. If the department determines that application for title is not required, it may require filing of documents under ORS 803.126.

(c) The vehicle is to be titled in another jurisdiction.

(d) The vehicle has been totaled, wrecked, dismantled, disassembled, substantially altered or destroyed, in which case the provisions of ORS 819.010, 819.012, 819.014 or 822.135 relating to notice and surrender of title documents shall be complied with.

(e) The transfer involves the creation or termination of a leasehold interest in a vehicle that is proportionally registered under ORS 826.009 or 826.011, if the department is furnished with satisfactory proof of the lease.

(3) Except as provided in subsection (2) of this section, the transferee shall:

(a) Submit an application that meets requirements for title under ORS 803.045 and 803.050 and any applicable rules of the department.

(b) Submit the title transfer fees as required under ORS 803.090.

(c) Comply with the provisions of ORS 803.065 and any applicable rules of the department under that statute and submit the duplicate or replacement title fee as provided under ORS 803.090, if the transfer includes an application for duplicate or replacement title and transfer of title.

(d) Submit an odometer disclosure containing information required by the department for the kind of transaction involved.

(e) Submit any late presentation of certificate of title fee as provided under ORS 803.090 if such fee is required under ORS 803.105.

(4)(a) If requested on the application for title, the department shall provide the primary security interest holder with an electronic title. If no request is made on the application, the department may issue a certificate of title.

(b) When the primary security interest holder receives an electronic title, within 30 days of the release of the security interest the primary security interest holder shall electronically submit the release of interest to the department in the manner provided by the department by rule.

(c) A duly certified copy of the department's electronic record of the title reflecting the lien is admissible in any civil, criminal or administrative proceeding in this state as evidence of the existence of a lien.

(d) The department shall adopt rules related to electronic application and the electronic release of liens and notice to lienholders.

(5) For purposes of this section:

(a) "Affiliated group" has the meaning given to the term in section 1504(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. 1504(a)).

(b) A "transfer in bulk" is:

(A) The sale or assignment of, the grant of a security interest in, or any other transfer of either a group of loans secured by vehicles, leases of vehicles or both or a participation or other interest in the group of loans;

(B) The creation of asset-backed securities or other securing of assets involving the loans or leases; or

(C) Any similar transaction involving the loans or leases.

Note:

Sections 5 and 6, chapter 428, Oregon Laws 2023, provide:

Sec. 5.

No later than September 15 of each calendar year, the Department of Transportation shall submit to the Joint Committee on Transportation, in the manner prescribed by ORS 192.245, an annual report about the progress made with respect to adopting rules to carry out the amendments to ORS 803.092 and 803.206 by sections 1 and 3 of this 2023 Act. [2023 c.428 §5]

Sec. 6.

Section 5 of this 2023 Act is repealed January 2, 2027.

[2023 c.428 §6]

**RegistrationSection 803.094 - Release or assignment of title interest; rules; when and by whom required; exceptions.**

(1) Except as otherwise provided in this section, upon the transfer of any interest shown on an Oregon title any person whose interest is released, terminated, assigned or transferred, shall release or assign that interest in a manner specified by the Department of Transportation by rule. Rules adopted for purposes of this subsection shall be designed, as much as possible, to protect the interests of all parties to the transfer. If required under ORS 803.102, the person shall also complete an odometer disclosure statement.

(2) Notwithstanding subsection (1) of this section:

(a) In the case of a transfer by operation of law of any interest shown on an Oregon title, the personal representative, receiver, trustee, sheriff or other representative or successor in interest of the person whose interest is transferred shall release or assign interest and if required by the department by rule, as provided under ORS 803.102, complete an odometer disclosure statement and shall provide the certificate, if any, and disclosure statement if required to the transferee. The representative or successor shall also provide the transferee with information satisfactory to the department concerning all facts entitling such representative or successor to transfer title. If there is no person to assign interest, the person to whom interest is awarded or otherwise transferred shall be responsible for the requirements of this paragraph.

(b) In the case of a transfer at death of the interest of the owner, lessor or security interest holder if the estate is not being probated and title is not being transferred under the provisions of ORS 114.547, interest may be assigned through the use of an affidavit. The affidavit shall be on a form prescribed by the department and signed by all of the known heirs of the person whose interest is being transferred stating the name of the person to whom the ownership interest has been passed. If any heir has not arrived at the age of majority or is otherwise incapacitated, the parent or guardian of the heir shall sign the affidavit. In the case of a transfer under this paragraph, one of the heirs or any other person designated by the department by rule shall complete any odometer disclosure statement required under ORS 803.102.

(c) In the case of a transfer at death of the interest of the owner, lessor or security interest holder where transfer occurs under the provisions of ORS 114.547, the affiant as defined in ORS 114.505 is the person required to assign interest. The department may designate by rule the affiant or any other person to complete any odometer disclosure statement required under ORS 803.102.

(d) Upon the termination of a lease, in lieu of the lessee releasing interest, the lessor may provide information satisfactory to the department that the lease has been terminated. The lessor shall provide an odometer disclosure statement if required under ORS 803.102. If the lessor does not take possession of the vehicle upon termination of the lease, the information in the odometer disclosure given by the lessor may be taken from an odometer disclosure given by the lessee to the lessor under ORS 803.102 unless the lessor has reason to believe that the disclosure by the lessee does not reflect the actual mileage of the vehicle.

(e) A security interest holder or lessor, without the consent of the owner, may assign interest of the holder or lessor in a vehicle to a person other than the owner without affecting the interest of the owner or the validity or priority of the interest. A person not given notice of such assignment is protected in dealing with the security interest holder or lessor as the holder of the interest until the assignee files in accordance with ORS chapter 79. This paragraph does not exempt such assignments from title transfer requirements.

(3) Nothing in this section requires the release or assignment of title upon the creation or termination of a leasehold interest for a vehicle that is proportionally registered under ORS 826.009 or 826.011 if the department is furnished with satisfactory proof of the lease for such vehicle.

(4) The department by rule may allow odometer disclosure statements to be on a form other than the certificate of title.

(5) Persons subject to the provisions of this section shall provide to the transferee a title certificate, if one has been issued and is in their possession, the release or assignment of interest, and any required odometer disclosure statement. If an odometer disclosure statement is required, the transferee shall provide a signed disclosure to the transferor in a form determined by the department by rule. [1989 c.148 §2; 1991 c.67 §213; 1991 c.873 §13; 1993 c.233 §30; 2001 c.675 §10; 2003 c.655 §103; 2019 c.165 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.097 - Perfection of security interest in vehicle; rules.**

(1) Except as provided in subsection (5) of this section, the exclusive means for perfecting a security interest in a vehicle is by application for notation of the security interest on the title in accordance with this section. The application may accompany the application for a title or may be made separately at any time prior to issuance of title and must be accompanied by evidence of ownership as defined by the Department of Transportation by rule unless the department is in possession of evidence of ownership when it receives the application. If title to the vehicle has been issued in a form other than a certificate, and the title reflects a security interest, the application for perfection shall include authorization from the previous security interest holder for the new security interest to be recorded on the title. Authorization under this subsection is not required if:

(a) A release of interest is submitted by the prior security interest holder or the department is otherwise satisfied that the prior holder no longer holds an interest or is otherwise not entitled to title to the vehicle;

(b) The security interest is being added to the title in conjunction with the cancellation of previous title or other action the department takes to correct ownership information reflected on a title; or

(c) Title is being transferred by operation of law.

(2) When the department processes an application for a security interest the department shall mark on the application or otherwise



indicate on the record the date the application was first received by the department. The department shall determine by rule what constitutes receipt of an application for purposes of this subsection.

(3) If the department has the evidence required by subsection (1) of this section and if the application contains the name of each owner of the vehicle, the name and address of the secured party and the vehicle identification number of the collateral, the security interest is perfected as of the date marked on the application or indicated in the record by the department. If the application does not contain the information required by this subsection, or if the department does not have the required evidence, the department shall indicate on the application or on the record that the date placed on the application or the record pursuant to subsection (2) of this section is not the date of perfection of the security interest.

(4) The security interest remains effective until released or terminated by the secured party.

(5) A security interest in a vehicle may not be perfected as described under this section but is subject to the perfection provisions under ORS chapter 79 if:

(a) The debtor who granted the security interest is in the business of selling vehicles and the vehicle constitutes inventory held for sale or lease; or

(b) The vehicle is exempt from titling requirements under ORS 803.030. [1987 c.750 §2; 1989 c.148 §13; 1993 c.233 §31; 2001 c.445 §184; 2001 c.675 §11a; 2003 c.655 §104; 2012 c.12 §23]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.098 - Certain transactions that do not create security interest.**

Notwithstanding any other provision of law, in the case of motor vehicles or trailers, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer. [1993 c.646 §25]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.100 - Application of Uniform Commercial Code.**

(1) Except as provided in subsection (2) of this section, the rights and remedies of all persons in vehicles subject to security interests established under ORS 803.097 are determined by the provisions of the Uniform Commercial Code.

(2)(a) If perfection of a security interest in a vehicle occurs on or before 30 days after attachment of the security interest, the secured party takes priority over the rights of a transferee in bulk or a lien creditor that arise between the time the secured party's interest attaches and the time of perfection of the security interest.

(b) This subsection applies to any security interest in a vehicle that is not a purchase money security interest. [1983 c.338 §190; 1985 c.16 §66; 1989 c.148 §14; 1999 c.818 §3; 2001 c.675 §12; 2003 c.655 §105; 2005 c.261 §1]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.102 - Odometer disclosure statement upon transfer of interest; when required; rules.**

(1) As used in this section:

(a) "Transferee" means any person to whom ownership of a motor vehicle is transferred by purchase, gift or any other means other than by creation of a security interest and any person who, as an agent, signs an odometer disclosure statement for the transferee.

(b) "Transferor" means any person who transfers ownership of a motor vehicle by sale, gift or any means other than by creation of a security interest and any person who, as an agent, signs an odometer disclosure statement for the transferor.

(2) Except as otherwise provided in this section, upon transfer of any interest in a motor vehicle, an odometer disclosure statement shall be made by the transferor to the transferee. The disclosure shall be in a form that complies with the provisions of ORS 803.120 and shall contain the information required under ORS 803.122.

(3) If a transfer requiring a disclosure statement involves a leased vehicle, the lessor shall notify the lessee that the lessee is required to provide odometer disclosure. The lessee shall furnish the lessor with a form that complies with the requirements of ORS 803.120 and shall provide the information required by ORS 803.122 except that for purposes of the required information, the lessee shall be considered the transferor, the lessor shall be considered the transferee and the date shall be the date of the disclosure statement.

(4) Where an interest in a vehicle is transferred by operation of law, the Department of Transportation shall determine by rule whether an odometer disclosure statement is required and if so, who is required to provide it.

(5) The department, by rule, may exempt vehicles from the odometer disclosure requirements of this section in accordance with federal laws, rules or regulations pertaining to odometer disclosure requirements. [1989 c.148 §4; 1991 c.67 §214; 1991 c.873 §1; 2013 c.659 §1; 2021 c.630 §30; 2023 c.400 §24]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.103 - Vehicle identification number check.**

(1) With every vehicle title transfer, the Department of Transportation shall check the vehicle identification number or numbers on the vehicle title or other primary ownership records against those listed as stolen by the Law Enforcement Data System. If the check indicates the vehicle is stolen, the department:

(a) Shall immediately notify the Oregon State Police or, if the department determines it would be appropriate to do so, notify another

law enforcement agency; and

(b) Shall not issue title within 30 days of giving the notice required by paragraph (a) of this subsection unless the department is notified before the end of the 30 days that the vehicle is not stolen. After the passage of the 30-day period, the department may issue the title.

(2) The department may issue title to a vehicle that is listed as stolen without giving the notice required by of subsection (1)(a) of this section if the department is satisfied that the applicant for title is the person from whom the vehicle was stolen or is the insurer of that person.

(3) The department may check with the National Crime Information Center and the Law Enforcement Data System for information about vehicles in situations other than those specified in ORS 803.212 and subsections (1) and (2) of this section if the department determines that it is appropriate to do so. [1991 c.576 §§3,4; 1993 c.233 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.105 - Failure to deliver documents on transfer; late fee; penalty.**

(1) Except as provided in ORS 803.092, a person commits the offense of failure to deliver vehicle documents on transfer of a vehicle for which the Department of Transportation has issued a certificate of title if the person does not comply with any of the following:

(a) Upon transfer of title or any interest in a vehicle, the transferee shall present the certificate of title to the department within 30 days after the transfer. This paragraph does not apply to a vehicle dealer. If the transfer arises from the sale of a vehicle, a transferee who presents the certificate more than 30 days after the transfer shall pay the fee for late presentation of certificate of title established in ORS 803.090. However, the fee for late presentation does not apply if the transferee proves to the satisfaction of the department that:

(A) The transferee made a good faith effort to obtain title; or

(B) Failure to comply was for a reason beyond the control of the transferee.

(b) Upon transfer of title or any interest in a vehicle to a vehicle dealer, the vehicle dealer shall immediately notify the department that the vehicle has been transferred to the dealer.

(c) Upon creation of a leasehold interest in a vehicle, the lessor or holder shall present the certificate of title to the department within 30 days of the transfer. This paragraph does not apply to the creation of leasehold interests in vehicles that are proportionally registered under ORS 826.009 or 826.011.

(d) Upon termination of a leasehold interest, the lessor shall cause the certificate of title to be delivered to the department within 30 days of the termination. This paragraph does not apply to the termination of leasehold interests in commercial vehicles that are proportionally registered under ORS 826.009 or 826.011.

(e) Upon creation of a leasehold interest in vehicles that are proportionally registered under ORS 826.009 or 826.011, the lessee shall furnish the department with satisfactory proof of the lease.

(f) Upon the creation of a security interest in a vehicle where the owner or lessor is in possession of a certificate of title, the owner or lessor, if there is a lease, shall deliver the certificate to the person in whom the security interest was created. This paragraph does not apply upon the creation of a security interest where the debtor who granted the security interest is in the business of selling vehicles and the vehicle constitutes inventory held for sale.

(g) Upon the creation of a security interest in a vehicle where a prior security interest holder is in possession of the certificate of title, the owner or lessor, if there is a lease, shall either provide for the delivery of the certificate of title to the person in whom the security was created or arrange for direct delivery by the prior security interest holder to the department. This paragraph does not apply upon the creation of a security interest where the debtor who granted the security interest is in the business of selling vehicles and the vehicle constitutes inventory held for sale.

(h) Notwithstanding paragraph (a) of this subsection, upon creation of a security interest in a vehicle, a person in whom a security interest was created and who receives a certificate of title showing the interest from the person granting the security interest shall present the certificate of title to the department within 30 days after receiving the certificate of title.

(i) Within 15 calendar days of satisfaction of a security interest in a vehicle, the security interest holder affected:

(A) If in possession of the certificate of title, shall deliver the certificate of title and the release contained thereon to the security interest holder next named, if any, otherwise to the lessor or, if none, to the owner.

(B) If not in possession of the certificate of title, shall deliver a release to the person entitled thereto.

(j) Upon receipt of a release of a security interest in a vehicle by a person who is not in possession of the certificate of title, the person shall promptly deliver the release to the holder of the certificate of title. This paragraph does not apply to release of a security interest in vehicles where the debtor who granted the security interest is in the business of selling vehicles and the vehicle constitutes inventory held for sale.

(k) Notwithstanding paragraph (a) of this subsection, upon satisfaction of a security interest in a vehicle, the holder of the certificate of title and the release shall present both to the department within 30 days after the date of the release. This paragraph does not apply upon release of a security interest in vehicles where the debtor who granted the security interest is in the business of selling vehicles and the vehicle constitutes inventory held for sale.

(2) The offense described in this section, failure to deliver vehicle documents on transfer of interest in a vehicle, is a Class D traffic violation. [1983 c.338 §191; 1985 c.16 §67; 1985 c.315 §2; 1985 c.485 §4; 1987 c.750 §5; 1989 c.43 §19; 1989 c.148 §15; 1989

c.452 §5; 1991 c.284 §14; 1993 c.18 §167; 1993 c.233 §33]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.106 - Failure to deliver information on transfer of Oregon-titled vehicle for which there is no title certificate; penalty.**

(1) A person commits the offense of failure to deliver information on transfer of a vehicle for which the Department of Transportation has issued title in a form other than a certificate if the person does not comply with rules adopted by the department concerning the information to be delivered.

(2) Nothing in this section authorizes the department to adopt rules requiring compliance with this section by persons who would be exempt from compliance with ORS 803.105 even if they had been issued certificates of title by the department.

(3) The offense described in this section, failure to deliver information on transfer of a vehicle, is a Class D traffic violation. [1993 c.233 §35]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.108 - Effect of tax lien on transfer of vehicle.**

If the ownership of a motor vehicle subject to the lien provided for by ORS 319.700 is transferred, whether by operation of law or otherwise, the Department of Transportation shall not issue, to the transferee or person otherwise entitled thereto, a registration card or title with respect to such motor vehicle until the department has determined that the lien has been removed. Implements of husbandry are not subject to this section by virtue of exemption under ORS 319.520 from the lien provided for by ORS 319.700. [Formerly 803.115]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.112 - Notice of transfer of interest in vehicle; rules; exemptions.**

(1) Except as otherwise provided in this section, the transferor of an interest in a vehicle covered by an Oregon title shall notify the Department of Transportation of the transfer within 10 days of the date of transfer. The notice shall be in a form determined by the department by rule.

(2) For purposes of giving notice under this section, if the transfer occurs by operation of law, the personal representative, receiver, trustee, sheriff or other representative or successor in interest of the person whose interest is transferred shall be considered the transferor.

(3) The requirements of this section do not apply upon creation, termination or change in a security interest or a leasehold interest or upon award of ownership of a motor vehicle made by court order.

(4) A vehicle dealer is exempt from the notice requirement of this section if the dealer:

(a) Transfers the vehicle to another dealer; or

(b) Submits an application for title to the vehicle on behalf of the buyer of the vehicle.

(5) Notification provided under this section is for informational purposes only and does not constitute an assignment or release of any interest in the vehicle. [1995 c.516 §2; 2003 c.121 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.113 - Department action upon receipt of notice under ORS 803.112; rules.**

(1) Except as otherwise provided by rule of the Department of Transportation under subsection (3) of this section, upon receipt of a notification of transfer described in ORS 803.112, the department shall make a notation on its records indicating that it has received notification that an interest in the vehicle has been transferred. The notation shall be made whether or not the form submitted to the department contains all the information required by the department under ORS 803.112, so long as there is sufficient information to identify the vehicle. Thereafter, until a new title is issued, when the department is asked to provide the name of the owner of a vehicle as shown on its records, the department shall provide the name of the transferor and indicate that department records show a notification of transfer but do not show a title transfer. The department shall also provide the name of the transferee if it is shown on the form submitted by the transferor under ORS 803.112.

(2) Whenever the Oregon Vehicle Code or other statute requires notice to the owner of a motor vehicle, the person required to provide notice shall provide the notice to the current owner as shown on the records of the department and to any transferee shown as a result of notification to the department under ORS 803.112.

(3) The department may adopt rules for the implementation of ORS 803.112 and this section. Rules shall be designed to allow the department to implement ORS 803.112 and this section in a way that is efficient and convenient for the public and the department. Rules under this section may include, but need not be limited to, rules authorizing the department to remove information recorded under this section, specifying circumstances under which information submitted need not be recorded and specifying circumstances under which the department provides a receipt of notification that an interest in a vehicle has been transferred. [1995 c.516 §3; 2003 c.121 §2; 2009 c.579 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.114 - Knowingly submitting false notice of transfer; penalty.**

(1) A person commits the offense of knowingly submitting false notice of transfer if the person submits a notice of transfer of an interest in a vehicle as described in ORS 803.112 to the Department of Transportation and the person knows that the interest in the vehicle has not been transferred.

(2) The offense described in this section, knowingly submitting false notice of transfer, is a Class C misdemeanor. [1995 c.516 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.115**

[1983 c.338 §192; 1989 c.992 §30; 1993 c.233 §36; renumbered 803.108 in 1997]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.116 - Knowingly submitting false information about transfer of interest in vehicle; penalty.**

(1) A person commits the offense of knowingly submitting false information about transfer of a vehicle if the person submits a notice of transfer of an interest in a vehicle as described in ORS 803.112 to the Department of Transportation and the person knows that some or all of the information contained in the notice is false.

(2) The offense described in this section, knowingly submitting false information about transfer of a vehicle, is a Class C misdemeanor. [1995 c.516 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.117 - Effect of notice of transfer on civil and criminal liability.**

A transferor who has delivered possession of a vehicle to a transferee may not, by reason of any of the provisions of the Oregon Vehicle Code, be subject to civil liability or criminal liability for the parking, abandoning or operation of the vehicle by another person when the transferor has:

(1) Notified the Department of Transportation of the transfer; and

(2) Assigned the title to the transferee. [1995 c.516 §6; 1997 c.249 §275; 2003 c.121 §3; 2009 c.579 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.120 - Odometer disclosure; contents of form.**

(1) When an odometer disclosure is required by statute or by the Department of Transportation, the disclosure or reading shall be provided in a form required by the department by rule. The department may require different forms for different situations and may require different information to be disclosed for different purposes.

(2) Any form authorized by the department for use as an odometer disclosure upon transfer of an interest in a vehicle shall refer to the federal law requiring disclosure of odometer information and shall state that failure to complete the disclosure form, or providing false information on the form, may result in a fine or imprisonment.

(3) Any form authorized by the department for use as an odometer disclosure upon transfer of an interest in a vehicle shall provide a way for the transferor to indicate, to the best of the transferor's knowledge, which of the following is true:

(a) That the odometer reading reflects the actual mileage of the vehicle;

(b) That the odometer reading reflects an amount of mileage in excess of the designed mechanical odometer limit; or

(c) That the odometer reading does not reflect actual mileage and should not be relied on.

(4) An odometer disclosure required upon transfer of an interest in a vehicle shall be made on the vehicle title unless the department provides otherwise by rule. [1991 c.873 §3; 2013 c.659 §3; 2023 c.400 §24a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.122 - Information required; rules.**

(1) When an odometer disclosure is required at time of transfer of a vehicle, the transferee and the transferor shall both sign the odometer disclosure form and the transferor shall provide as much of the following as is required by the Department of Transportation by rule:

(a) The odometer reading at the time of transfer, excluding tenths of miles.

(b) The date of transfer.

(c) The transferor's name, which shall be printed, and current address.

(d) The transferee's name, which shall be printed, and current address.

(e) The identity of the vehicle, including its make, model, year and body type and the vehicle identification number.

(f) Any other information that the department determines by rule would further the purposes of the odometer disclosure requirements.

(2) In addition to providing the information required by subsection (1) of this section, the transferor shall indicate, in a manner determined by the department, which of the statements described in ORS 803.120 (3) is accurate. [1991 c.873 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.124 - Rules for issuance of forms; agreements for provision of forms; fee.**

(1) The Department of Transportation may adopt rules providing for issuance of any forms it considers necessary or convenient for assigning or conveying interests in vehicles and any forms it considers necessary or convenient for providing required odometer disclosures. The authority granted by this section includes, but is not necessarily limited to, authority to enter into agreements authorizing others to provide the forms authorized by this section to the public.

(2) The department may establish fees for providing forms authorized by this section. Fees shall be designed to recover the cost of producing and providing the forms. An agreement entered into by the department for the purpose of providing forms authorized by this section to the public may provide for a fee to be charged by the person providing the forms. [1991 c.873 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.126 - Odometer disclosure without title application; fee.**

(1) The Department of Transportation by rule may allow the filing of documents related to odometer disclosure without an accompanying application for issuance or transfer of title. The department may determine situations in which such documents may be filed and what documents are acceptable.

(2) A person filing an odometer disclosure statement under this section shall pay a fee of \$4. [1991 c.873 §6a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.130 - Purpose of record.**

The purpose of a transitional ownership record is to enable security interests to be perfected in a timely manner when the primary ownership record is not available. [1989 c.927 §7; 1993 c.233 §41]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.132 - Circumstances under which transitional ownership record acceptable as ownership record.**

A transitional ownership record is acceptable as an ownership record only if the primary ownership record is not in the possession of the selling dealer, new security interest holder or the agent of either at the time the transitional ownership record is submitted to the Department of Transportation. [1989 c.927 §8; 1993 c.233 §42; 1995 c.309 §1; 1999 c.818 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.134 - Fee.**

A person submitting a transitional ownership record to the Department of Transportation shall pay a fee of \$13 to the department. The fee shall be paid at the time of submission of the record unless the department by rule establishes alternative payment methods. [1989 c.927 §6; 1993 c.233 §43]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.136 - Mandatory rejection, return or invalidation of record by department.**

The Department of Transportation shall reject, return or subsequently invalidate a transitional ownership record if:

(1) More than 30 days have elapsed between the date of sale or if no sale is involved, the date the contract or security interest being perfected was signed and the date the transitional ownership record is received by the department;

(2) The transitional ownership record does not contain all of the information specified in ORS 801.562;

(3) It is determined that persons named on the transitional ownership record as having a security interest did not have a security interest on the date the transitional ownership record was received;

(4) It is determined the person who submitted the transitional ownership record made false statements in completing the transitional ownership record;

(5) The department does not receive the primary ownership record within 90 days from the date of sale or if no sale is involved, from the date the security agreement or contract was signed;

(6) The security interest holder or person submitting the transitional ownership record elects to retain it, requests it be returned or requests that the transitional ownership record be withdrawn; or

(7) The information on or in the transitional ownership record has been changed or altered in a manner that is not acceptable to the department. [1989 c.927 §9; 1993 c.233 §44; 1995 c.309 §2; 1999 c.818 §2; 2005 c.261 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.138 - Discretionary rejection, return or invalidation of record by department.**

The Department of Transportation may reject, return or subsequently invalidate a transitional ownership record if:

(1) It is determined that title is to be issued to someone other than the person shown on the transitional ownership record;

(2) Interests reflected on the primary ownership record or in information submitted in conjunction with that record conflict with the interests as reflected on the transitional ownership record; or

(3) The person submitting the transitional ownership record has failed to submit the fee required by ORS 803.134 or to comply with an alternative payment method established by the department under ORS 803.134. [1989 c.927 §10; 1993 c.233 §45]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.140 - Application; certificate; rules.**

(1) When a person is required by the provisions of ORS 819.016 to apply for a salvage title for a vehicle, the application shall be in a form acceptable to the Department of Transportation and shall contain any information required by the department by rule. Rules adopted by the department may include, but need not be limited to, provisions for accepting an application under this section that does not contain all the information otherwise required, if the department is satisfied as to ownership of the vehicle.

(2) The department may design a salvage title certificate for vehicles and by rule may prescribe the contents of the certificate. A salvage title certificate shall be produced by a secure process that meets or exceeds the requirements of federal law.

(3) The department may issue a salvage title certificate to a person who submits an application that meets the requirements imposed by the department under this section and submits the fee required under ORS 803.090.

(4) The department may adopt any rules it considers necessary for the administration of the salvage title process. The rules may include, but need not be limited to, rules specifying:

(a) Permissible uses of a salvage title certificate.

(b) Requirements for replacement or surrender of a salvage title certificate or for issuance of a new certificate.

(c) Records that will be kept by the department.

(d) Forms of salvage title other than certificates. [1991 c.873 §28; 1993 c.233 §37]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.200 - Residency; criteria; exception; camper on vehicle.**

This section establishes when the exemptions under ORS 803.030 and 803.305 from titling and registration of vehicles owned by nonresidents are applicable. The applicability of the described exemptions for nonresident owners of vehicles is subject to all of the following:

(1) A person is a resident of this state for purposes of titling and registering vehicles if the person engages in any gainful employment in this state or takes any action to indicate the acquiring of residence in this state during the period of sojourn in this state by doing any of the following:

(a) Remaining in this state for a consecutive period of six months or more regardless of the domicile of the person.

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

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

(d) Maintaining a main office, branch office or warehouse facilities in this state and operating motor vehicles in this state.

(e) Operating motor vehicles in intrastate transportation for compensation or profit for other than seasonal agricultural work.

(2) Notwithstanding subsection (1) of this section, private passenger motor vehicle owners who are bona fide residents of states adjoining this state shall be permitted to operate their vehicles in this state for so long as such motor vehicles remain currently registered and titled in an adjoining state.

(3) A camper on a motor vehicle described in this section shall be subject to registration or titling under the vehicle code at the same time that such motor vehicle becomes subject to registration and titling under this section.

(4) Notwithstanding subsection (1) of this section, a person who is gainfully employed in this state shall not be considered a resident of the state if the person has taken no other steps to become a resident. This subsection applies, but is not limited, to a student at an educational institution who is paying nonresident tuition rates. [1983 c.338 §198; 1993 c.751 §87]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.203 - Proof of payment of taxes.**

(1) A person that purchases a taxable motor vehicle from a seller that is not subject to the privilege tax imposed under ORS 320.405 may not register or title the taxable motor vehicle in Oregon unless the person provides proof that:

(a) The person paid the use tax imposed under ORS 320.410;

(b) The person is not required to pay the use tax for the reasons provided in ORS 320.410 (4); or

(c) The taxable motor vehicle was purchased and titled by a car rental company as defined in ORS 803.219 using an electronic integrator.

(2) The person shall provide the proof described in subsection (1) of this section to the Department of Transportation in the manner established by the department by rule. [2017 c.750 §109; 2019 c.491 §12]

Note:

803.203 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.205 - Proof of ownership or security interest on transfer or application for title or registration; affidavit.**

(1) The Department of Transportation may require proof under this section if the department determines the proof is necessary to

resolve questions concerning vehicle ownership or undisclosed security interests in the transfer of any vehicle under ORS 803.092, in an application for issuance of title under ORS 803.045 or in an application for registration of a vehicle under ORS 803.350.

(2) Under this section, the department may require any proof sufficient to satisfy the department concerning the questions about the ownership of the vehicle or security interests in the vehicle. The proof required by the department may include, but is not limited to, completion of an affidavit that:

(a) Is in a form required by the department by rule;

(b) Contains any information the department requires by rule as necessary to establish ownership of the vehicle or to determine any security interests in the vehicle; and

(c) Is verified by the person making the affidavit.

(3) The department is not liable to any person for issuing title or registering a vehicle based on proof provided under this section.

(4) Nothing in this section affects any power of the department to refuse to issue or to revoke title or registration. [1983 c.338 §199; 1989 c.148 §16; 1993 c.233 §38; 2001 c.675 §13; 2003 c.655 §106]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.206 - Electronically transmitted documents for title, registration or odometer disclosure; rules.**

(1) As used in this section, "electronic signature" has the meaning given that term in ORS 84.004.

(2) The Department of Transportation may receive electronically transmitted documents necessary to:

(a) Issue or transfer a certificate of title for a vehicle;

(b) Register a vehicle or transfer registration of a vehicle;

(c) Issue a registration plate; or

(d) Comply with odometer disclosure requirements.

(3) Except as required in ORS 803.094 and 803.205 for affidavits, an acknowledgement before a notary public is not required when a document or signature is transmitted electronically under this section. When an affidavit is required under ORS 803.094 or 803.205, the department may accept a scanned copy of the person's signature and a scanned copy of the notary public's acknowledgment of the signature, which accurately reproduces the original signatures and contents of the document.

(4) The department may adopt rules relating to the electronic transmission of documents and the use of electronic signatures on documents described in subsection (2) of this section. [2015 c.708 §2]

Note:

The amendments to 803.206 by section 1, chapter 428, Oregon Laws 2023, become operative January 1, 2027. See section 7, chapter 428, Oregon Laws 2023. The text that is operative on and after January 1, 2027, is set forth for the user's convenience.

(1) As used in this section, "electronic signature" has the meaning given that term in ORS 84.004.

(2) Subject to rules adopted by the Department of Transportation under this section, entities may submit documents electronically to the department necessary to:

(a) Issue or transfer title for a vehicle in paper or electronic form;

(b) Register a vehicle or transfer registration of a vehicle;

(c) Issue a registration plate;

(d) Comply with odometer disclosure requirements; or

(e) Apply for notation of the security interest on the title.

(3) Except as required in ORS 803.094 and 803.205 for affidavits, an acknowledgement before a notary public is not required when a document or signature is transmitted electronically under this section. When an affidavit is required under ORS 803.094 or 803.205, the department may accept a scanned copy of the person's signature and a scanned copy of the notary public's acknowledgment of the signature, which accurately reproduces the original signatures and contents of the document.

(4) The department shall adopt rules relating to the electronic transmission of documents and the use of electronic signatures on documents described in subsection (2) of this section.

(5) The department shall adopt rules permitting a vehicle dealer or a financial institution, as defined in ORS 706.008, to electronically transmit documents necessary to take the actions described in subsection (2) of this section and may adopt rules to allow additional persons to do so. The department may limit applicability to specific types of titles, including to Oregon titles.

Note:

803.206 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

Note:

See second note under 803.092.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.207 - Expedited titling and registration; fee.**

(1) The Department of Transportation by rule may establish procedures for providing expedited services related to the titling and registration of vehicles when such services are needed because of problems related to odometer disclosure requirements. This authority is in addition to the department's authority to provide expedited services for other reasons on an individual case basis.

(2) The department may charge a fee of not more than \$10 for providing expedited services authorized by this section. [1991 c.873

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.210 - Conditions precedent to issuance of title for certain vehicles.**

- (1) The Department of Transportation shall not issue title for a vehicle described in subsection (2) of this section unless:
- (a) An inspection of the vehicle identification number or numbers of the vehicle is performed in accordance with ORS 803.212; and
  - (b) The fee established under ORS 803.215 is paid to the department for the inspection.
- (2) Except as provided in subsection (3) of this section, the requirements of this section apply to all of the following:
- (a) A vehicle from another jurisdiction.
  - (b) Any assembled or reconstructed vehicle.
  - (c) Any vehicle if the certificate of title has been or is required to be submitted to the department, or a person is required to report to the department, under ORS 819.010, 819.012, 819.014 or 819.030.
  - (d) Any vehicle if the department has received notice that the vehicle has been or will be wrecked, dismantled, disassembled or substantially altered under ORS 819.010 or 822.135.
  - (e) Replicas.
  - (f) Other than a racing activity vehicle as defined in ORS 801.404, any vehicle the department has reason to believe was not certified by the original manufacturer as conforming to federal vehicle standards.
- (3) The requirements of this section do not apply to the following vehicles if the person shown as the owner on an out-of-state title for the vehicle applies for an Oregon title in that person's name:
- (a) A rental truck, rental truck tractor or rental trailer that is registered in Oregon under an interstate agreement that provides that a portion of the owner's fleet is to be registered in each state in which the fleet operates.
  - (b) A trailer or semitrailer that has permanent registration.
- (4) The requirement to inspect a vehicle identification number or numbers of the vehicle under subsection (1) of this section does not apply to park model recreation vehicles, as defined in ORS 803.036. [1983 c.338 §200; 1985 c.16 §71; 1985 c.402 §9; 1985 c.410 §2; 1987 c.146 §2; 1991 c.820 §15; 1993 c.174 §8; 1993 c.233 §39; 2003 c.655 §107; 2007 c.693 §5; 2021 c.630 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.212 - Inspection of vehicle identification numbers; product identification numbers; rules.**

- (1) The Department of Transportation, or persons or agencies authorized to do so by the department, shall conduct a physical inspection of the vehicle identification number or numbers of each vehicle located in this state and required by ORS 803.210 to be inspected. The department may designate certified dealers and law enforcement agencies, by rule, to perform the inspection and may enter into agreements with the Oregon State Police or other law enforcement agencies of this state to perform inspections for compensation. The inspection shall determine whether the vehicle identification number or numbers match those on the records of the department, on the title or primary ownership record or contained in other information received by the department.
- (2) If a vehicle that is required by ORS 803.210 to be inspected is located in another jurisdiction, the department may designate a person or agency in such jurisdiction to perform the physical inspection and may waive the inspection fee.
- (3) Except as provided in subsection (4) of this section, the department shall check the vehicle identification number or numbers of all vehicles required by ORS 803.210 to be inspected against those listed as stolen at the National Crime Information Center. If the check indicates the vehicle is stolen, the department:
- (a) Shall immediately notify the Oregon State Police or, if the department determines it would be appropriate to do so, notify another law enforcement agency; and
  - (b) Shall not issue title within 30 days of giving the notice required by paragraph (a) of this subsection unless the department is notified before the end of the 30 days that the vehicle is not stolen. After the passage of the 30-day period, the department may issue the title.
- (4) The department may refer a vehicle to the Oregon State Police or other appropriate law enforcement agency for a vehicle identification number or product identification number inspection if:
- (a) Inspection of the vehicle under this section reveals that the vehicle identification number or product identification number on the vehicle is different from the number provided to the department or appears to have been tampered with, altered or defaced; or
  - (b) The vehicle is a reconstructed or assembled vehicle or has been reported destroyed or totaled under ORS 819.012, 819.014 or 819.030 or is any other salvaged vehicle from another jurisdiction. This subsection does not apply to a vehicle that has been reported totaled to the department because of theft and has subsequently been recovered.
- (5) If the department refers a vehicle to a law enforcement agency under subsection (4) of this section, the law enforcement agency shall inspect the vehicle. If the law enforcement agency determines that there is reason to believe that the identification number of the vehicle has been tampered with, altered or forged or that the vehicle is stolen, the law enforcement agency may seize the vehicle and may hold the vehicle until completing an investigation to establish the origin and ownership of the vehicle. The department shall reimburse the Department of State Police, and may reimburse any other law enforcement agency, for any inspections conducted under this subsection in an amount agreed upon by the department and the Department of State Police or other law enforcement agency. [1987 c.146 §4; 1991 c.576 §1; 1991 c.820 §16; 1993 c.233 §40a; 1993 c.751 §23; 2007 c.693 §6; 2023 c.400 §23]



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.215 - Fee for inspection.**

A fee of \$9 shall be charged for an inspection of a vehicle required by ORS 803.210. [1983 c.338 §201; 1985 c.736 §1; 1987 c.146 §6; 1987 c.790 §2; 2003 c.618 §47; 2023 c.232 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.217 - Transfer of title and registration for vehicles abandoned by tenant; rules.**

The Department of Transportation shall adopt rules to provide for the transference of a certificate of title and registration for titled vehicles and recreational vehicles that are abandoned by a tenant as defined in ORS 90.100. [1997 c.577 §43; 2003 c.655 §108]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.219 - Limitation on car rental fees.**

(1) As used in this section:

(a) "Car rental company" means a person whose primary business is renting motor vehicles to consumers under rental agreements for periods of 90 days or less.

(b) "Motor vehicle" has the meaning given that term in ORS 801.360.

(2) A car rental company may not impose in a rental agreement a surcharge for the purpose of covering the costs of titling and registering a rental motor vehicle that is greater than the amount reasonably calculated to cover the costs incurred by the car rental company to title and register the rental motor vehicle. [2009 c.865 §29]

Note:

803.219 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 803 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.220 - Notification to department of name or address change; rules; requirements; procedure; exception; penalty.**

(1) A person commits the offense of unlawful failure to notify the Department of Transportation of a name or address change if the person:

(a) Has any interest in a vehicle registered or titled by this state that is shown on the title;

(b) Changes names, by marriage or otherwise, from that shown on the title or changes the person's address from that shown on the registration; and

(c) Does not comply with the requirements under this section.

(2) To comply with the requirements of this section, a person must do all the following:

(a) The person must notify the department of the change. Notice of a change of name or address must be given to the department within 30 days of the change, in a manner authorized by the department by rule.

(b) If the person changes names, by marriage or otherwise, from that shown on the title and a certificate of title is being held by a security interest holder, the person must notify the security interest holder within 30 days after the change who, in turn, must notify the department in a timely manner.

(c) Any time the name is changed from that on the title, any certificate of title that has been issued must be submitted to the department with the notice and the appropriate fee under ORS 803.090.

(3) A person may obtain a new certificate of title reflecting a change of name or address by making application therefor and paying the appropriate fee under ORS 803.090.

(4) If title has been issued in a form other than a certificate, a person requesting a change in name shall provide authorization from the primary security interest holder, if any, to have the title changed. If the authorization is not received, the department shall continue to reflect the previous name on the title. Nothing in this subsection precludes the department from including the new name in records maintained in conjunction with title whether or not authorization is received.

(5) Upon receipt of notice of a change and any authorization required under this section, the department shall note the change in its records. Upon receipt of the notice and the fee required under ORS 803.090, the department shall issue a new certificate of title indicating the change.

(6) This section does not apply to a change of name or address of a security interest holder or lessor that is a financial institution, a financial holding company or a bank holding company, as those terms are defined in ORS 706.008, a licensee under ORS chapter 725, or any subsidiary or affiliate of any of the foregoing.

(7) The offense described in this section, unlawful failure to notify the department of a name or address change, is a Class D traffic violation. [1983 c.338 §202; 1985 c.16 §72; 1985 c.485 §1; 1989 c.452 §6; 1993 c.233 §46a; 1993 c.751 §88; 1995 c.383 §36; 1997 c.631 §555; 2001 c.377 §54; 2003 c.129 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.225 - Failure to designate replica, reconstructed, assembled or specially constructed vehicle in title**

**or registration application; penalty.**

(1) A person commits the offense of failure to designate a replica or a reconstructed, assembled or specially constructed vehicle if the person makes application for the titling or registration of a vehicle that is a replica or a reconstructed, assembled or specially constructed vehicle and that fact is not indicated in the application.

(2) The offense described in this section, failure to designate a replica, reconstructed, assembled or specially constructed vehicle in application for title or registration, is a Class B misdemeanor. [1983 c.338 §203; 1985 c.393 §4; 1985 c.402 §10; 1993 c.233 §47]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.230 - Forging, altering or unlawfully producing or using title or registration; penalty.**

(1) A person commits the offense of forging, altering or unlawfully producing or using vehicle titles or registration if the person does any of the following:

(a) Alters or forges or causes to be altered or forged any certificate of title, certificate of registration or assignment thereof issued by the Department of Transportation.

(b) Holds or uses certificate of title, certificate of registration or assignment thereof issued by the department knowing the certificate or assignment has been altered or forged.

(c) Unless authorized by the department, prints or produces or causes to be printed or produced any certificate of title, certificate of registration or any assignment thereof required by the department.

(d) Holds or uses any certificate of title, certificate of registration or assignment thereof required by the department knowing that it has been printed or produced without authority from the department.

(2) The offense described in this section, forging, altering or unlawfully producing or using vehicle titles or registration, is a Class C felony. [1983 c.338 §204; 1985 c.16 §73; 1991 c.407 §22; 1995 c.733 §83]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.300 - Failure to register; penalty.**

(1) A person commits the offense of failure to register a vehicle if the person owns a vehicle in this state and the person does not register the vehicle in this state.

(2) In addition to other persons subject to this section, this section applies to out-of-state corporations owning, operating or maintaining a place of business in this state with regard to vehicles that are used by the corporation doing business in this state.

(3) Exemptions from this section are established under ORS 803.305.

(4) The offense described in this section, failure to register a vehicle, is a Class D traffic violation. [1983 c.338 §205; 1985 c.16 §74; 1985 c.401 §4; 1995 c.383 §37]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.305 - Exemptions from general registration requirements.**

This section establishes exemptions from the requirements under ORS 803.300. The exemptions under this section are in addition to any exemptions under ORS 801.026. Vehicles exempted by this section from the requirements to be registered by this state are not prohibited from being registered by this state if registration is permitted under ORS 803.310. The following are exempt, either partially or completely as described, from the registration requirements under ORS 803.300:

(1) Road rollers, farm tractors, trolleys and traction engines are exempt from registration.

(2) Bicycles are exempt from registration.

(3) A vehicle is exempt from registration if it has registration issued for the vehicle by the Armed Forces of the United States where the registration is issued in a foreign country to a vehicle owned by a member of the Armed Forces. The exemption granted by this subsection applies only for a period of 45 days from the time the vehicle is returned to the United States.

(4) A vehicle is exempt from registration if it is not operated on the highways of this state.

(5) A trailer is exempt from registration if it is equipped with pneumatic tires made of elastic material and is not operated in this state with a loaded weight of more than 1,800 pounds. A trailer for hire, travel trailer or camper is not exempt by this subsection.

(6) Vehicles owned and operated by the United States Government are exempt from registration.

(7) Snowmobiles are subject to the requirements for registration provided under ORS 821.080 to 821.110.

(8) Implements of husbandry, well drilling machinery, emergency fire apparatus providing public fire protection and wheelchairs are exempt from registration.

(9) Road graders, farm tractors and farm trailers on highways are exempt from registration when the operation of the vehicle upon the highway is incidental to its use in an agricultural operation.

(10) Except as provided in subsection (26) of this section, fixed load vehicles are exempt from registration while the vehicles are operated:

(a) In the construction or reconstruction of state or county roads, highways or city streets; and

(b) Within the immediate construction projects, as described in the governmental agency contract under which the work is being performed.

(11) Motor vehicles designed to operate at a loaded weight over 8,000 pounds, trailers and equipment are exempt from registration

while being used for the purposes of forest protection and fire suppression under ORS chapter 477 or a similar federal statute. The exemption under this subsection applies to the vehicles or equipment described while being moved to or from the work area. The exemption under this subsection only applies to vehicles or equipment owned, leased, contracted for or requisitioned by the State Forester or State Board of Forestry, a contractor of the State Forester or State Board of Forestry under ORS chapter 477 or the United States Government.

(12) Vehicles being used for the purposes of forest protection and fire suppression are exempt if the vehicles are necessary in order to comply with ORS 477.615 or 477.650 or a similar federal statute. The exemption under this subsection also applies to the vehicles described being moved to or from the work area.

(13) Golf cart exemptions from registration are as provided in ORS 820.210.

(14) Vehicles currently registered and titled in any other country, state or territory are not required to be registered by this state. All of the following apply to this subsection:

(a) This subsection only provides an exemption as long as the owner of the vehicle satisfactorily shows that the owner is not a resident of this state or has been a resident of this state for less than 30 days. For the purpose of this paragraph, a person is a resident of this state if the person meets the residency requirements described in ORS 803.200.

(b) The exemption under this subsection applies to vehicles granted exemptions under ORS 802.500, 802.520 or 826.005 unless otherwise provided for under paragraph (c) of this subsection.

(c) Except as otherwise provided in this paragraph, a vehicle operated over the highways of this state for compensation or profit must comply with the registration requirements under ORS 803.300 in the same manner as vehicles owned by persons in this state. The following vehicles are not subject to this paragraph:

(A) Vehicles operated under reciprocal registration exemptions established under ORS 802.500 or 826.005.

(B) Vehicles operated under an exemption established under ORS 802.520.

(C) Vehicles that are proportionally registered under an agreement established under ORS 826.007 and according to the procedures established under ORS 826.009 and 826.011.

(D) Any vehicle if duly registered and titled under the laws of the state or country of which the owner is a bona fide resident to the extent that in the foreign country, state, territory or federal district where the owner resides like exemptions and privileges are granted vehicles duly registered and titled under the laws of this state and owned by residents of this state.

(d) If no exemption from registration requirements is in effect under ORS 802.500, 802.520, 826.005 or 826.007 with respect to another jurisdiction, any vehicle properly registered and titled in such other jurisdiction and for which evidence of compliance is supplied shall receive, when operated in this state, the same exemptions, benefits and privileges granted by such other jurisdictions to vehicles properly registered and titled in this state. Reciprocity extended under this paragraph shall apply to commercial vehicles only when engaged exclusively in interstate commerce.

(e) Any vehicle operated under dealer registration plates issued by another state, country, province, territory or the District of Columbia is subject to this subsection.

(15) Vehicles operated or used by vehicle dealers may be operated or used without registration as provided under ORS 822.040.

(16) Vehicles towed by towing businesses may be towed without registration as provided under ORS 822.210.

(17) Vehicles without registration may be transported by vehicle transporters as provided under ORS 822.310.

(18) Vehicles that are not registered may be operated under trip permits described under ORS 803.600 or under permits described under ORS 803.610 to 803.625.

(19) If trailers that are part of a fleet of trailers for hire are properly registered in this state under an agreement entered into pursuant to ORS 802.500, all trailers that are identified as being a part of the same fleet and that are currently registered in any state, territory, province, country or the District of Columbia shall be permitted to operate in this state in both interstate and intrastate commerce without being registered by this state.

(20) Vehicles that are registered by the United States Department of State and that are owned or operated by foreign nationals with diplomatic immunity are exempt from registration.

(21) Tow dollies and converter dollies are exempt from registration.

(22) Class I, Class III and Class IV all-terrain vehicles are exempt from registration.

(23) Motor assisted scooters are exempt from registration.

(24) Electric personal assistive mobility devices are exempt from registration.

(25) A racing activity vehicle that is being operated for the purposes of a test drive within a 30-mile radius of the location where the vehicle is manufactured is exempt from registration.

(26) Road machinery that is operated at the direction of a road authority is exempt from registration. The exemption under this subsection also applies when the operation of road machinery upon a highway or an alley is incidental to its use in a highway maintenance operation. [1983 c.338 §206; 1985 c.16 §75; 1985 c.333 §7; 1985 c.401 §5; 1985 c.459 §4; 1985 c.668 §7; 1987 c.25 §2; 1989 c.43 §20; 1989 c.991 §25; 1991 c.284 §15; 1991 c.459 §438g; 1993 c.174 §3; 1993 c.303 §2; 1995 c.774 §11; 1999 c.977 §19; 2001 c.749 §20; 2001 c.827 §2; 2003 c.71 §1; 2003 c.341 §4; 2003 c.655 §109; 2007 c.70 §325; 2007 c.693 §3e; 2007 c.845 §2; 2009 c.91 §4; 2011 c.360 §14]

(1) The Department of Transportation, by rule, may provide for optional registration of vehicles that are exempt from vehicle registration requirements by ORS 803.305. The rules adopted for purposes of this subsection may provide for the registration of categories of vehicles, types of vehicles or otherwise. Upon request of an owner, the department may issue registration for a vehicle that meets the requirements of rules adopted under this section.

(2) A vehicle that is registered under this section is subject to the same provisions, conditions, fees and other requirements for registration as are other vehicles under the vehicle code. [1985 c.333 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.315 - Failure to pay registration fee; penalty.**

(1) A person commits the offense of failure to pay the appropriate registration fee if the person operates any vehicle or transports any camper that is registered in this state unless the proper fee, as established under ORS 803.420, has been paid for registration of the vehicle.

(2) The offense described in this section, failure to pay appropriate registration fee, is a Class D traffic violation. [1983 c.338 §207; 1985 c.16 §76; 1995 c.383 §38; 2003 c.655 §110]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.320 - Permitting unlawful operation of unregistered vehicle; penalty.**

(1) A person commits the offense of permitting unlawful operation of an unregistered vehicle if the person authorizes or knowingly permits a motor vehicle that is owned by the person or under the person's control and that is not registered as required under the vehicle code or ORS chapter 826 to be driven by any person.

(2) The offense described in this section, permitting unlawful operation of unregistered vehicle, is a Class D traffic violation. [1983 c.338 §208; 1991 c.407 §23; 1995 c.383 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.325 - Purchase and use of out-of-state registered vehicle; requirements; penalty.**

(1) A person commits the offense of purchase and use of an out-of-state registered vehicle by a resident if the person is a resident of this state and the person purchases a vehicle registered outside of this state without doing all of the following:

(a) Upon purchase, the person shall remove the registration plates and shall cause the vehicle to be registered as provided under the vehicle code or under ORS chapter 826, as appropriate, for vehicles owned by residents of this state.

(b) The person shall not use, within this state, the vehicle except when the person has paid fees and has complied with the vehicle code or with ORS chapter 826, as appropriate.

(2) The offense described in this section, purchase and use of out-of-state registered vehicle by resident, is a Class D traffic violation. [1983 c.338 §209; 1985 c.16 §77; 1991 c.407 §24; 1995 c.383 §39]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.350 - Qualifications for registration; fee; rules.**

This section establishes the requirements for qualification for registration. The Department of Transportation may not issue registration to a vehicle if the requirements under this section are not met. The department, in the absence of just cause for refusing to register a vehicle upon application, shall assign a distinctive number or other distinctive means of identification and shall issue registration for a vehicle if all of the following requirements are met:

(1) The applicant applies for and is granted title in the applicant's name at the same time the person makes application for registration, or presents satisfactory evidence that title covering the vehicle has been previously issued to the applicant.

(2) The applicant completes an application described under ORS 803.370. If the vehicle is a reconstructed or assembled vehicle or a replica, the person must indicate that fact in the application or be subject to ORS 803.225.

(3) The applicant pays the department the registration fee established under ORS 803.420 and 803.422 and any applicable fees for issuance of registration plates.

(4) For motor vehicles, proof of compliance with pollution control equipment requirements is provided to the department. Proof required to comply with this subsection is described under ORS 815.310. This subsection does not apply if the vehicle is exempt from the requirements for proof of compliance under ORS 815.300.

(5) The applicant is domiciled in this state, as described in ORS 803.355, if required by ORS 803.360 to be domiciled in the state in order to register a vehicle. If the department has reason to believe that the applicant is not domiciled in this state and is required to be in order to register a vehicle, the department may require the person to submit proof of domicile. The department shall determine by rule what constitutes proof of domicile.

(6) The applicant owns a vehicle that qualifies under ORS 803.360 (2) for registration in this state, if the owner is not domiciled in this state and is not required by ORS 803.200, or any other provision of law, to register the vehicle in this state.

(7) The applicant surrenders all evidence of any former registration or title as required by ORS 803.380.

(8)(a) Beginning with 2009 model year new motor vehicles, the applicant provides proof of compliance with low emission motor vehicle standards adopted pursuant to ORS 468A.360. The department shall determine by rule what constitutes proof of compliance

with low emission motor vehicle standards.

(b) The department shall determine by rule which new motor vehicles are exempt from the requirements of this subsection. Any rules adopted pursuant to this paragraph shall be consistent with the Environmental Quality Commission standards adopted pursuant to ORS 468A.360.

(c) For purposes of this subsection, "new motor vehicle" means a motor vehicle with 7,500 miles or less on the odometer when the vehicle is initially registered under ORS 803.420 (6)(a), 805.100, 805.110 or 805.120.

(9) If required to do so by the department, the applicant provides the department with satisfactory proof that the vehicle was designed to be operated on highways and meets equipment requirements imposed by statute or rule for the lawful operation of a vehicle on highways. The department may adopt rules specifying the kinds of vehicles that are subject to this subsection and what constitutes satisfactory proof under this subsection. [1983 c.338 §210; 1985 c.16 §78; 1985 c.305 §9; 1985 c.402 §11; 1987 c.146 §7; 1989 c.22 §1; 1993 c.233 §48; 2001 c.293 §3; 2007 c.366 §1; 2017 c.62 §4; 2017 c.750 §39d; 2018 c.114 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.355 - "Domicile" described.**

For purposes of ORS 803.350 to 803.370 and 807.045, a person is domiciled in this state if the person's place of abode is in the state and the person intends to remain in the state or, if absent, to return to it. [1985 c.305 §7; 1989 c.636 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.360 - Domicile requirements for registration; exceptions.**

(1) A person may not register or renew the registration of a vehicle in this state unless the person is domiciled in this state, as described in ORS 803.355. This section does not apply to persons required by ORS 803.200 or any other provision of law, to register vehicles in this state.

(2) Notwithstanding subsection (1) of this section, a person who is not domiciled in this state may register or renew the registration of a vehicle that:

- (a) Is usually left within the state when the registered owner is absent from the state;
- (b) Is used primarily for personal transportation within the state;
- (c) Is a private passenger vehicle or a vehicle with a loaded weight of no more than 10,000 pounds; and
- (d) Is not a motor home or a camper. [1985 c.305 §8; 2005 c.770 §3; 2019 c.312 §31]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.370 - Contents of application; rules.**

This section establishes requirements for an application for vehicle registration in this state. If an applicant fails to comply with requirements under this section, the Department of Transportation may refuse to register or reregister a vehicle until the applicant complies with the requirements. An application shall contain all of the following:

(1) The true name and, except as provided for corrections officers in ORS 802.253, eligible employees in ORS 802.250 or Address Confidentiality Program participants in ORS 192.846, the actual residence or business address of the owner. The department may provide by rule for acceptance of something other than an actual residence or business address if the department determines that the applicant does not have an actual address.

(2) A description of the vehicle, including the name of the make and the vehicle identification number.

(3) An odometer disclosure in a form determined by the department by rule pursuant to ORS 803.120, if a disclosure is otherwise required.

(4) Any other information required by the department.

(5) If the application is for registration or reregistration of a vehicle that is subject to the federal heavy vehicle use tax, proof that the federal use tax has been paid. The department shall adopt rules to determine proof that will be acceptable for purposes of this subsection.

(6) A statement:

(a) That the applicant is domiciled in this state as described in ORS 803.355 if the applicant is required by ORS 803.360 to be domiciled in this state in order to register a vehicle in the state; and

(b) That so long as the vehicle remains registered to the applicant in this state, the applicant will remain domiciled in this state if required to do so in order to register the vehicle.

(7) A statement:

(a) That the vehicle qualifies under ORS 803.360 (2) for registration in this state, if the owner is not domiciled in this state and is not required by ORS 803.200, or any other provision of law, to register the vehicle in this state; and

(b) That so long as the vehicle remains registered to the applicant under the provisions of ORS 803.360 (2), the owner and the vehicle will meet the qualifications of this subsection.

(8) A statement upon initial registration that the applicant is in compliance with financial responsibility requirements for the vehicle and will remain in compliance until the vehicle is transferred. Exemptions from this subsection are established in ORS 806.020.

(9) If the application is for registration or renewal of registration of a motor vehicle by a motor carrier, the information on drug and alcohol testing programs required by ORS 825.410.

(10) An option to include information on the registration card that the registered owner, or a person who may operate the vehicle, is deaf or hard of hearing. [1983 c.338 §211; 1985 c.16 §79; 1985 c.251 §18; 1985 c.305 §10; 1985 c.563 §4; 1989 c.695 §3; 1991 c.67 §215; 1991 c.523 §4; 1991 c.873 §15; 1993 c.751 §89; 1999 c.1099 §4; 2005 c.292 §5; 2007 c.542 §18; 2021 c.14 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.375 - False application prohibited; penalty.**

(1) A person commits the offense of false application for vehicle registration if the person does any of the following:

(a) Knowingly makes any false statement or representation with respect to any facts required to be set forth in any application for registration.

(b) Uses a name other than the person's true name in any application for registration.

(2) The penalty for submitting a false odometer reading in an application for registration is as provided in ORS 815.430.

(3) The offense described in this section, false application for vehicle registration, is a Class A misdemeanor. [1983 c.338 §212; 1985 c.16 §80; 1985 c.251 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.380 - Failure to surrender out-of-state registration; penalty.**

(1) A person commits the offense of failure to surrender out-of-state registration, if the person registers a vehicle in this state that has been registered in another jurisdiction and the person does not surrender to the Department of Transportation all number plates, seals, certificates of registration or other evidences of the former registration in possession or control of the applicant.

(2) The offense described in this section, failure to surrender out-of-state registration, is a Class D traffic violation. [1983 c.338 §213; 1985 c.16 §81; 1991 c.407 §25; 1995 c.733 §84]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.385 - False swearing relating to registration; penalty.**

(1) A person commits the offense of false swearing relating to registration of vehicles if the person knowingly makes any false affidavit or knowingly swears or affirms falsely to any matter or thing relating to the registering of vehicles under the vehicle code or under ORS chapter 826.

(2) The penalty for submitting a false odometer reading in an application for registration is as provided under ORS 815.430.

(3) The offense described in this section, false swearing relating to registration of vehicles, is a Class A misdemeanor. [1983 c.338 §214; 1985 c.251 §20; 1985 c.393 §5; 1991 c.407 §26; 1993 c.751 §90]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.400 - Duration of registration periods.**

This section establishes and distinguishes registration periods. Each registration period determines the period of validity for vehicle registration. Registration under the following registration periods is valid during the described registration period:

(1)(a) Annual registration is valid for a one-year period. Except as provided in this subsection, the period starts on the first day of a calendar month and runs through the last day of the same calendar month one year later. Once a vehicle is registered under annual registration, the registration period of the vehicle begins and ends with that same calendar month each time the vehicle is reregistered or registration for the vehicle is renewed.

(b) Annual registration issued under ORS 803.415 (11) starts on the day a vehicle is registered and runs through the same day one year later. Once a vehicle is registered annually under ORS 803.415 (11), the registration period of the vehicle begins and ends with that same day each time the vehicle is reregistered or registration for the vehicle is renewed. Vehicles initially registered on February 29 will expire on the last day of February at the end of the registration period.

(2) Biennial registration is valid for a two-year period. The period starts on the day a vehicle is registered and runs through the same day two years later. Once a vehicle is registered under biennial registration, the registration period of the vehicle begins and ends with that same day each time the vehicle is reregistered or registration for the vehicle is renewed. Vehicles initially registered on February 29 will expire on the last day of February two years later.

(3) Calendar-year registration starts on January 1 of a year and runs through December 31 of the same year.

(4) Ownership registration starts on the day the vehicle is registered and is valid until the ownership of the vehicle changes.

(5) Permanent registration starts on the day the vehicle is registered and is valid for the life of the vehicle.

(6) Quarterly registration starts on the first day of any calendar quarter and runs through the last day of the last calendar quarter in the registration period. The number of calendar quarters in a quarterly registration is elected by the vehicle owner at the time of registration. A person may not establish quarterly registration periods for more than four quarters. If a vehicle is registered for a quarterly registration period of less than four calendar quarters, the Department of Transportation shall collect, when issuing or renewing registration of the vehicle, the additional fee for quarterly registration established under ORS 803.420.

(7) Four-year registration starts on the day a vehicle is registered and runs through the same day four years later. [1983 c.338 §222; 1989 c.76 §1; 1993 c.174 §4; 2001 c.124 §2; 2005 c.280 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and**

**RegistrationSection 803.405 - Effect of initial registration month.**

(1) The month in which any vehicle is initially registered under annual registration is the month established as the beginning and ending of registration periods for the vehicle unless the Department of Transportation adjusts the registration month of the vehicle upon initial registration under ORS 803.410.

(2) The day on which any vehicle is initially registered under biennial registration or when required under ORS 820.520 is the day established as the beginning and ending of registration periods for the vehicle unless the department adjusts the registration period of the vehicle upon initial registration under ORS 803.410. [1983 c.338 §223; 1989 c.76 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 803 - Vehicle Title and RegistrationSection 803.410 - Department authorized to adjust periods and fees; rules.**

The Department of Transportation is empowered to administer ORS 803.400 and 803.405, relating to the registration periods of vehicles and to adopt and enforce rules, including rules for the adjustment or proration of fees and registration periods, necessary to accomplish the enforcement of those sections. The authority granted the department under this section is subject to the following:

(1) The department may initially register a vehicle that is subject to biennial registration for less than a 24-month period or for more than a 24-month period, not exceeding a maximum of a 30-month period, and prorate the fee on a monthly basis, when in its opinion such fractional registration tends to fulfill the purpose of the biennial registration system.

(2) The department may initially adjust the registration periods of trailers for hire registered as part of a fleet.

(3) The authority granted under this section includes authority to adjust the initial registration period of travel trailers and special use trailers that are required to be registered after being removed from assessment under the ad valorem tax laws by ORS 820.520.

(4) The department, by rule, may adjust registration fees or registration periods for a vehicle, as is administratively convenient for the department, if:

(a) The vehicle is changed from one type of registration to another type; or

(b) Any other change relating to the registration of the vehicle is made where it would be administratively convenient for the department to make such adjustments. [1983 c.338 §224; 1985 c.16 §83; 1985 c.253 §3; 1987 c.750 §6; 1989 c.43 §21; 1993 c.174 §5]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 803 - Vehicle Title and RegistrationSection 803.415 - Registration periods for vehicles.**

This section establishes registration periods for vehicles. The registration periods are periods described under ORS 803.400. Except as provided in the following, the registration period for any vehicle registered in this state by the Department of Transportation is a biennial registration period:

(1) The following vehicles have permanent registration:

(a) Antique vehicles registered under ORS 805.010.

(b) Vehicles of special interest registered under ORS 805.020.

(c) Trailers that will be operated on the highways at a loaded weight of more than 8,000 pounds and are not travel trailers, fixed load vehicles or special use trailers.

(2) Government-owned vehicles registered under ORS 805.040 have ownership registration.

(3) The following vehicles may be registered under annual or quarterly registration unless the vehicles are registered under proportional registration under ORS 826.009 or proportional fleet registration under ORS 826.011:

(a) Vehicles required to establish a registration weight under ORS 803.430.

(b) Commercial buses.

(c) Vehicles registered as farm vehicles under ORS 805.300.

(4) Snowmobiles are registered as provided in ORS 821.080.

(5) Vehicles operated by dealers who hold certificates under ORS 822.020 are as provided under ORS 822.040.

(6) Trailers for hire that will be operated at a loaded weight of 8,000 pounds or less may be registered as follows:

(a) Annual registration; or

(b) If registered under an agreement pursuant to ORS 802.500, for a period of time determined as specified in the agreement or as determined by the department.

(7) Except as otherwise provided in subsection (10) of this section, the registration period for electric vehicles and hybrid vehicles that use electricity and another source of motive power is a biennial registration period except that the registration period for the following electric or hybrid vehicles is an annual registration period:

(a) Commercial buses.

(b) Electric or hybrid vehicles registered as farm vehicles under ORS 805.300.

(c) Vehicles required to establish registration weight under ORS 803.430.

(8) Vehicles registered under ORS 805.100 have an ownership registration period.

(9) School vehicles registered under ORS 805.050 have ownership registration except that the registration shall continue to be valid if ownership of the vehicle is transferred to a person who continues to use the vehicle for purposes authorized by ORS 805.050.

(10) The following vehicles have a four-year registration period:

- (a) New vehicles registered under ORS 803.420 (6)(a) for which new registration plates will be issued; and
- (b) New trailers registered under ORS 803.420 (6)(b), for which new registration plates will be issued.
- (11) A rental or leasing company, as defined in ORS 221.275, may elect an annual, a biennial or a four-year registration period for the initial registration of a new vehicle registered under ORS 803.420 (6)(a) for which new registration plates will be issued if the company owns the vehicle that is being registered. The subsequent renewal or reregistration periods for the vehicle are biennial.
- (12) Vehicles registered under ORS 805.110 have ownership registration except that the registration shall continue to be valid if ownership of the vehicle is transferred to a spouse who is authorized to retain the former prisoner of war registration plates under ORS 805.110. [1983 c.338 §225; 1985 c.16 §84; 1985 c.177 §1; 1985 c.189 §1; 1985 c.547 §12; 1987 c.158 §162; 1987 c.217 §2; 1989 c.43 §22; 1989 c.723 §7; 1989 c.991 §26; 1991 c.284 §16; 1991 c.407 §27; 1993 c.174 §6; 1995 c.774 §12; 1999 c.977 §20; 2001 c.124 §1; 2001 c.293 §9; 2003 c.655 §111; 2005 c.280 §2; 2017 c.62 §5; 2017 c.750 §39e; 2023 c.232 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.417 - Registration period for Oregon National Guard member or military reservist.**

- (1) Notwithstanding ORS 803.400 and 803.415, the registration of a vehicle registered in the name of a person who is a member of the Oregon National Guard or a military reservist ordered on active duty and deployed to a location outside the United States that expires while the person is on active duty shall remain valid for 90 days following the termination of active duty.
- (2) The court shall dismiss the charge of failure to renew vehicle registration under ORS 803.455 if, when charged, a member of the Oregon National Guard or a military reservist had a valid registration for the vehicle pursuant to subsection (1) of this section. [2005 c.257 §3]

Note:

803.417 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.420 - Registration fees.**

- (1) The vehicle registration fees imposed under this section shall be based on the classifications determined by the Department of Transportation by rule. The department may classify a vehicle to ensure that registration fees for the vehicle are the same as for other vehicles the department determines to be comparable.
- (2) Except as otherwise provided in this section, or unless the vehicle is registered quarterly, the fees described in this section are for an entire registration period for the vehicle as described under ORS 803.415. For a vehicle registered for a quarterly registration period under ORS 803.415, the department shall apportion any fee under this section to reflect the number of quarters registered.
- (3) Vehicle registration fees are due when a vehicle is registered and when the registered owner renews the registration.
- (4) In addition to the registration fees listed in this section, a county or a district may impose an additional registration fee as provided under ORS 801.041 and 801.042.
- (5) A rental or leasing company, as defined in ORS 221.275, that elects to initially register a vehicle for an annual or biennial registration period shall pay a fee of \$2 in addition to the vehicle registration fee provided under this section.
- (6) The registration fees for each year of the registration period for vehicles subject to biennial registration are as follows:
  - (a) Passenger vehicles not otherwise provided for in this section or ORS 821.320, \$43.
  - (b) Utility trailers or light trailers, as those terms are defined by rule by the department, \$63.
  - (c) Mopeds and motorcycles, \$44.
  - (d) Low-speed vehicles, \$63.
  - (e) Medium-speed electric vehicles, \$63.
- (7) The registration fees for vehicles that are subject to biennial registration and that are listed in this subsection are as follows:
  - (a) State-owned vehicles registered under ORS 805.045 and undercover vehicles registered under ORS 805.060, \$10 upon registration or renewal.
  - (b) Fixed load vehicles:
    - (A) If a declaration of weight described under ORS 803.435 is submitted establishing the weight of the vehicle at 3,000 pounds or less, \$61.
    - (B) If no declaration of weight is submitted or if the weight of the vehicles is in excess of 3,000 pounds, \$82.
  - (c) Travel trailers, special use trailers, campers and motor homes, based on length as determined under ORS 803.425:
    - (A) Trailers or campers that are 6 to 10 feet in length, \$81.
    - (B) Trailers or campers over 10 feet in length, \$81 plus \$7 a foot for each foot of length over the first 10 feet.
    - (C) Motor homes that are 6 to 14 feet in length, \$86.
    - (D) Motor homes over 14 feet in length, \$126 plus \$8 a foot for each foot of length over the first 10 feet.
- (8) The registration fee for trailers for hire that are equipped with pneumatic tires made of an elastic material and that are not travel trailers or trailers registered under permanent registration is \$30.
- (9) The registration fees for vehicles subject to ownership registration are as follows:
  - (a) Government-owned vehicles registered under ORS 805.040, \$5.
  - (b) Vehicles registered with special registration for disabled veterans under ORS 805.100 or for former prisoners of war under ORS



805.110, \$15.

(c) School vehicles registered under ORS 805.050, \$5.

(10) The registration fees for vehicles subject to permanent registration are as follows:

(a) Antique vehicles registered under ORS 805.010, \$100.

(b) Vehicles of special interest registered under ORS 805.020, \$100.

(c) Racing activity vehicles registered under ORS 805.035, \$100.

(d) Trailers, \$10.

(e) State-owned vehicles registered under ORS 805.045 and undercover vehicles registered under ORS 805.060, \$10.

(11) The registration fee for trailers registered as part of a fleet under an agreement reached pursuant to ORS 802.500 is the same fee as the fee for vehicles of the same type registered under other provisions of the Oregon Vehicle Code.

(12) The registration fee for vehicles with proportional registration under ORS 826.009, or proportional fleet registration under ORS 826.011, is the same fee as the fee for vehicles of the same type under this section except that the fees shall be fixed on an apportioned basis as provided under the agreement established under ORS 826.007.

(13) In addition to any other registration fees charged for registration of vehicles in fleets under ORS 805.120, the department may charge the following fees:

(a) Service charge for each vehicle entered into a fleet, \$3.

(b) Service charge for each vehicle in the fleet at the time of renewal, \$2.

(14)(a) The registration fee for motor vehicles required to establish a registration weight under ORS 803.430 or 826.013, tow vehicles used to transport property for hire other than as described in ORS 822.210 and commercial buses is as provided in the following chart, based upon the weight submitted in the declaration of weight prepared under ORS 803.435 or 826.015:

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Weight in Pounds Fee

8,000 or less \$ 74

8,001 to 10,000 464

10,001 to 12,000 528

12,001 to 14,000 591

14,001 to 16,000 655

16,001 to 18,000 718

18,001 to 20,000 801

20,001 to 22,000 864

22,001 to 24,000 949

24,001 to 26,000 1,031

26,001 to 28,000 375

28,001 to 30,000 391

30,001 to 32,000 422

32,001 to 34,000 438

34,001 to 36,000 468

36,001 to 38,000 485

38,001 to 40,000 515

40,001 to 42,000 532

42,001 to 44,000 562

44,001 to 46,000 578

46,001 to 48,000 593

48,001 to 50,000 625

50,001 to 52,000 656

52,001 to 54,000 672

54,001 to 56,000 686

56,001 to 58,000 717

58,001 to 60,000 750

60,001 to 62,000 780

62,001 to 64,000 811

64,001 to 66,000 827

66,001 to 68,000 857

68,001 to 70,000 874

70,001 to 72,000 904

72,001 to 74,000 921

74,001 to 76,000 951

76,001 to 78,000 967

78,001 to 80,000 998

80,001 to 82,000	1,014
82,001 to 84,000	1,045
84,001 to 86,000	1,061
86,001 to 88,000	1,092
88,001 to 90,000	1,108
90,001 to 92,000	1,139
92,001 to 94,000	1,155
94,001 to 96,000	1,185
96,001 to 98,000	1,202
98,001 to 100,000	1,218
100,001 to 102,000	1,249
102,001 to 104,000	1,265
104,001 to 105,500	1,295

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(b)(A) The registration fee for motor vehicles with a registration weight of more than 8,000 pounds that are described in ORS 825.015, that are operated by a charitable organization as defined in ORS 825.017 (13), is as provided in the following chart:

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Weight in Pounds	Fee
8,001 to 10,000	\$ 71
10,001 to 12,000	85
12,001 to 14,000	92
14,001 to 16,000	107
16,001 to 18,000	114
18,001 to 20,000	128
20,001 to 22,000	135
22,001 to 24,000	149
24,001 to 26,000	156
26,001 to 28,000	170
28,001 to 30,000	178
30,001 to 32,000	192
32,001 to 34,000	199
34,001 to 36,000	213
36,001 to 38,000	220
38,001 to 40,000	234
40,001 to 42,000	241
42,001 to 44,000	256
44,001 to 46,000	263
46,001 to 48,000	270
48,001 to 50,000	284
50,001 to 52,000	298
52,001 to 54,000	305
54,001 to 56,000	312
56,001 to 58,000	327
58,001 to 60,000	341
60,001 to 62,000	355
62,001 to 64,000	369
64,001 to 66,000	376
66,001 to 68,000	391
68,001 to 70,000	398
70,001 to 72,000	412
72,001 to 74,000	419
74,001 to 76,000	433
76,001 to 78,000	440
78,001 to 80,000	454
80,001 to 82,000	462
82,001 to 84,000	476
84,001 to 86,000	483
86,001 to 88,000	497
88,001 to 90,000	504

90,001 to 92,000 518  
92,001 to 94,000 525  
94,001 to 96,000 540  
96,001 to 98,000 547  
98,001 to 100,000 554  
100,001 to 102,000 568  
102,001 to 104,000 575  
104,001 to 105,500 589

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(B) The registration fee for motor vehicles that are certified under ORS 822.205, unless the motor vehicles are registered under paragraph (a) of this subsection, or that are used exclusively to transport manufactured structures, is as provided in the following chart:

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Weight in Pounds Fee

8,000 or less \$ 63  
8,001 to 10,000 145  
10,001 to 12,000 173  
12,001 to 14,000 187  
14,001 to 16,000 217  
16,001 to 18,000 231  
18,001 to 20,000 260  
20,001 to 22,000 274  
22,001 to 24,000 304  
24,001 to 26,000 318  
26,001 to 28,000 346  
28,001 to 30,000 362  
30,001 to 32,000 391  
32,001 to 34,000 405  
34,001 to 36,000 435  
36,001 to 38,000 449  
38,001 to 40,000 477  
40,001 to 42,000 491  
42,001 to 44,000 521  
44,001 to 46,000 535  
46,001 to 48,000 550  
48,001 to 50,000 578  
50,001 to 52,000 608  
52,001 to 54,000 622  
54,001 to 56,000 636  
56,001 to 58,000 665  
58,001 to 60,000 694  
60,001 to 62,000 723  
62,001 to 64,000 753  
64,001 to 66,000 767  
66,001 to 68,000 795  
68,001 to 70,000 809  
70,001 to 72,000 839  
72,001 to 74,000 853  
74,001 to 76,000 882  
76,001 to 78,000 896  
78,001 to 80,000 926  
80,001 to 82,000 940  
82,001 to 84,000 968  
84,001 to 86,000 983  
86,001 to 88,000 1,012  
88,001 to 90,000 1,027  
90,001 to 92,000 1,055  
92,001 to 94,000 1,071  
94,001 to 96,000 1,099

96,001 to 98,000 1,113  
98,001 to 100,000 1,127  
100,001 to 102,000 1,157  
102,001 to 104,000 1,172  
104,001 to 105,500 1,200

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(C) The owner of a vehicle described in subparagraph (A) or (B) of this paragraph must certify at the time of initial registration, in a manner determined by the department by rule, that the motor vehicle will be used exclusively to transport manufactured structures or exclusively as described in ORS 822.210, unless the motor vehicle is registered under paragraph (a) of this subsection, or as described in ORS 825.015 or 825.017 (13). Registration of a vehicle described in subparagraph (A) or (B) of this paragraph is invalid if the vehicle is operated in any manner other than that described in the certification under this subparagraph.

(c) Subject to paragraph (d) of this subsection, the registration fee for motor vehicles registered as farm vehicles under ORS 805.300 is as provided in the following chart, based upon the registration weight given in the declaration of weight submitted under ORS 803.435:

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Weight in Pounds Fee

8,000 or less \$ 50  
8,001 to 10,000 65  
10,001 to 12,000 75  
12,001 to 14,000 97  
14,001 to 16,000 108  
16,001 to 18,000 129  
18,001 to 20,000 141  
20,001 to 22,000 162  
22,001 to 24,000 172  
24,001 to 26,000 195  
26,001 to 28,000 204  
28,001 to 30,000 226  
30,001 to 32,000 237  
32,001 to 34,000 258  
34,001 to 36,000 270  
36,001 to 38,000 291  
38,001 to 40,000 302  
40,001 to 42,000 324  
42,001 to 44,000 334  
44,001 to 46,000 356  
46,001 to 48,000 366  
48,001 to 50,000 388  
50,001 to 52,000 399  
52,001 to 54,000 409  
54,001 to 56,000 432  
56,001 to 58,000 453  
58,001 to 60,000 463  
60,001 to 62,000 474  
62,001 to 64,000 496  
64,001 to 66,000 517  
66,001 to 68,000 528  
68,001 to 70,000 540  
70,001 to 72,000 561  
72,001 to 74,000 571  
74,001 to 76,000 594  
76,001 to 78,000 604  
78,001 to 80,000 625  
80,001 to 82,000 636  
82,001 to 84,000 657  
84,001 to 86,000 669  
86,001 to 88,000 690  
88,001 to 90,000 700  
90,001 to 92,000 723

92,001 to 94,000 733  
94,001 to 96,000 754  
96,001 to 98,000 765  
98,001 to 100,000 787  
100,001 to 102,000 798  
102,001 to 104,000 819  
104,001 to 105,500 831

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(d) For any vehicle that is registered under a quarterly registration period, the registration fee is a minimum of \$15 for each quarter registered plus an additional fee of \$2.

(15) The registration and renewal fees for vehicles specified in this subsection that are required to establish a registration weight under ORS 803.430 or 826.013 are as follows:

(a) State-owned vehicles registered under ORS 805.045, \$10.

(b) Undercover vehicles registered under ORS 805.060, \$10. [1983 c.338 §226; 1985 c.16 §85; 1985 c.177 §2; 1985 c.189 §2; 1985 c.245 §2; 1985 c.253 §4; 1985 c.401 §6; 1985 c.547 §13; 1987 c.6 §2; 1987 c.25 §3; 1987 c.440 §3; 1987 c.750 §7; 1989 c.43 §23; 1989 c.723 §§8,8a; 1989 c.864 §7; 1989 c.865 §§7,7a,7b,7c,7d,7e,7f; 1989 c.992 §§11,11a,11b,11c; 1991 c.284 §17; 1991 c.497 §13; 1991 c.880 §10; 1993 c.174 §7; 1993 c.662 §3; 1993 c.751 §23a; 1995 c.447 §3; 2001 c.124 §3; 2001 c.293 §6; 2003 c.589 §7; 2003 c.618 §2; 2003 c.655 §112; 2005 c.280 §3; 2007 c.664 §1; 2007 c.693 §3d; 2009 c.865 §§43,43a; 2011 c.287 §3; 2015 c.283 §4; 2017 c.750 §§34,35; 2018 c.114 §§3,4; 2019 c.491 §§16,17; 2023 c.232 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.422 - Registration fees based on miles per gallon.**

(1) As used in this section, "miles per gallon" or "MPG" means the distance traveled in a vehicle powered by one gallon of fuel.

(2) The Department of Transportation shall determine the combined MPG ratings for each motor vehicle pursuant to a method determined by the department.

(3) Except as provided in ORS 319.890 (3), in addition to the registration fees prescribed under ORS 803.420 (6)(a), there shall be paid for each year of the registration period, an additional amount as follows:

(a) For vehicles that have a rating of 0-19 MPG, \$20.

(b) For vehicles that have a rating of 20-39 MPG, \$25.

(c) For vehicles that have a rating of 40 MPG or greater, \$35.

(d) For electric vehicles, \$115. [2017 c.750 §32; 2017 c.750 §33]

Note:

803.422 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.425 - Vehicle length for fee determination.**

The following are the measurement points of the described vehicles for the purposes of determining registration fees under ORS 803.420:

(1) Special use trailers and travel trailers are measured from the foremost point of the trailer hitch to the rear extremity of the trailer body not including the spare tire, but including all ordinary equipment or appliances appropriate to the type of body such as stakes, curtains, hooks, skids, tailboard, chains, sides and roof.

(2) Campers are measured by overall length from the extreme front to the extreme rear.

(3) Motor homes are measured by overall length from front to rear extremities.

(4) Tent trailers are measured by overall length when folded for travel. [1983 c.338 §229; 1985 c.16 §86]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.430 - Certain vehicles required to establish registration weight for fee determination.**

(1) Registration weight is established for the following purposes:

(a) The registration weight is the weight used in the declaration of weight under ORS 803.435 to determine the registration fees under ORS 803.420 for vehicles required to establish registration weight under this section.

(b) A vehicle that is required to establish registration weight by this section is in violation of ORS 803.315 if the vehicle is operated on a highway of this state at a weight in excess of the registration weight except when carrying a load:

(A) Under the provisions of ORS 376.305 to 376.390;

(B) Of over 105,500 pounds combined weight or loaded weight under a variance permit issued under ORS 818.200;

(C) Under a registration weight trip permit issued under ORS 803.600; or

(D) Consisting of towed motor vehicles required to be registered under the vehicle code.

(2) Registration weight is established at the time of registration and whenever the vehicle has been altered or reconstructed by furnishing a declaration of weight described under ORS 803.435 that contains a declaration of the maximum combined weight or

loaded weight at which the vehicle will be operated on the highways of this state except when carrying loads described under subsection (1)(b) of this section. The maximum registration weight for any vehicle required to establish a registration weight under this section is 105,500 pounds. Vehicles operating at weights above 105,500 pounds will operate under a variance permit issued under ORS 818.200.

(3) Except as provided in subsection (4) of this section, the following vehicles are required to establish a registration weight under this section:

(a) Any motor truck that will be operated on the highways at a combined weight or loaded weight of more than 10,000 pounds not including the weight of any camper or trailing vehicle described in subsection (5) of this section, or any trailing manufactured structure.

(b) Any truck tractor that will be operated on the highways at a combined weight of more than 8,000 pounds not including the weight of any camper or trailing vehicle described in subsection (5) of this section, or any trailing manufactured structure.

(c) An armored car, tow vehicle, hearse or ambulance.

(d) Any other motor vehicle that will be operated on the highways at a combined weight or loaded weight of more than 10,000 pounds not including the weight of any camper or trailing vehicle as described in subsection (5) of this section, or any trailing manufactured structure.

(e) A self-propelled mobile crane.

(f) Any motor vehicle registered as a farm vehicle under ORS 805.300.

(4) A vehicle that is being registered under a specific provision of the vehicle code where fees are not based on weight or where registration weight is specifically not required is not required to establish registration weight under this section.

(5) The weight of a camper or the following trailing vehicles may not be included in the registration weight:

(a) Trailers with a loaded weight of 8,000 pounds or less.

(b) Special use trailers, travel trailers and fixed load vehicles.

(c) Towed motor vehicles.

(6) The weight of a trailing manufactured structure may not be included in the registration weight. [1983 c.338 §230; 1985 c.16 §87; 1985 c.71 §3; 1985 c.172 §6; 1989 c.723 §9; 1991 c.284 §18; 1993 c.751 §24; 2003 c.655 §113; 2005 c.654 §17; 2005 c.770 §2; 2007 c.50 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.435 - Declaration of weight for fee determination; contents.**

A declaration of weight required for purposes of complying with ORS 803.440 and for purposes of determining vehicle registration fees under ORS 803.420 shall contain the following:

(1) For vehicles required to establish a registration weight under ORS 803.430, the declaration shall contain the registration weight.

(2) For buses, the declaration shall contain the unloaded weight of the vehicle plus the unloaded weight of any bus trailer to be used in combination with the vehicle. The declaration shall also indicate the number of persons, including the driver, to be carried in the vehicle, plus the number of persons to be carried on any bus trailer to be used in combination with the vehicle.

(3) For fixed load vehicles, the declaration shall contain the weight of the vehicle including the cab, chassis, frame and all appurtenances necessary for making the vehicle self-propelled including front bumpers, fenders, windshield, tire carrier and spare wheel, and including the fixed or permanent load of the vehicle but excluding the spare tire.

(4) For tow vehicles that are used to transport property for hire other than as described in ORS 822.210, the declaration shall contain the combined weight at which the vehicle will be used to transport property for hire.

(5) For all vehicles not otherwise provided for by this section and for which a declaration is prepared or required, the declaration shall contain the registration weight of the vehicle. [1983 c.338 §231; 1985 c.16 §88; 1985 c.189 §3; 1989 c.723 §10; 1989 c.992 §12c; 1993 c.18 §168; 1993 c.751 §25; 2011 c.287 §4; 2017 c.45 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.440 - Failure to submit declaration of weight; penalty.**

(1) A person commits the offense of failure to submit a declaration of weight if the person does not submit a declaration of weight for a vehicle described in this subsection when the person applies for registration of the vehicle or has the vehicle registered in the person's name and the vehicle has been altered or reconstructed. This section applies to the following vehicles:

(a) Any vehicle required to establish registration weight under ORS 803.430.

(b) Any commercial bus.

(c) Any vehicle registered as a farm vehicle under ORS 805.300.

(d) Any vehicle registered under the proportional registration provisions of ORS 826.009 or 826.011.

(2) The offense described in this section, failure to submit a declaration of weight, is a Class D traffic violation. [1983 c.338 §232; 1989 c.43 §24; 1989 c.723 §11; 1993 c.751 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.445 - Authority of counties and districts to impose registration fees; rules; maximum amount.**

(1) The governing body of a county may impose registration fees for vehicles as provided in ORS 801.041.

- (2) The governing body of a district may impose registration fees for vehicles as provided in ORS 801.042.
- (3) The Department of Transportation shall provide by rule for the administration of laws authorizing county and district registration fees and for the collection of those fees.
- (4) Any registration fee imposed under this section shall be imposed in a manner consistent with ORS 803.420.
- (5) A county or district may not impose a vehicle registration fee that would by itself, or in combination with any other vehicle registration fee imposed under this section, exceed the sum of the fee imposed under ORS 803.420 (6)(a) and the fee applicable to the registered vehicle under ORS 803.422. The owner of any vehicle subject to multiple fees under this section shall be allowed a credit or credits with respect to one or more of such fees so that the total of such fees does not exceed the sum of the fee imposed under ORS 803.420 (6)(a) and the fee applicable to the registered vehicle under ORS 803.422. [1989 c.864 §2; 2017 c.750 §39f; 2018 c.93 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.450 - Notice of pending expiration; exceptions; effect of failure to receive; records.**

- (1) The Department of Transportation shall notify the registered owner of a vehicle registered by this state of the approaching expiration of the vehicle's registration. The notice required by this subsection shall comply with all of the following:
  - (a) The notice shall be mailed to the owner of the vehicle at the postal address shown in department records. Upon request of the registered owner the department may provide notice by electronic mail or other means.
  - (b) The notice shall be provided a reasonable time before expiration date of the registration.
- (2) The department shall not be required to notify the registered owner of an approaching expiration if the department has reason to believe:
  - (a) The vehicle has been sold, wrecked or stolen;
  - (b) The registered owner is ineligible to renew the registration;
  - (c) There is a dispute with regard to the title of the vehicle; or
  - (d) The registered owner failed to notify the department of a change of address as required by ORS 803.220.
- (3) Failure to receive notice of expiration from the department is not a defense to a charge of driving with an expired vehicle registration. However, the court may dismiss the charge if the owner registers the vehicle before the scheduled court appearance.
- (4) Department records concerning notice under this section are subject to ORS 802.210. [1983 c.338 §233; 1985 c.253 §5; 1989 c.43 §25; 1993 c.751 §91; 1995 c.733 §85; 2015 c.404 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.455 - Failure to renew; fee; penalty.**

- (1) A person commits the offense of failure to renew vehicle registration if the registration period for a vehicle registered in the person's name expires and the person does not pay the fee required for renewal of registration.
- (2) This section does not apply if the vehicle is no longer required or qualified to be registered in this state when the registration period expires.
- (3) The fee required to be paid for renewal of registration under this section is the same fee that is required for registration of the vehicle under ORS 803.420.
- (4) The offense described in this section, failure to renew vehicle registration, is a Class D traffic violation. [1983 c.338 §234; 1985 c.16 §89; 1985 c.305 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.460 - Proof of compliance with financial responsibility requirements; rules.**

The Department of Transportation shall not renew the registration of a motor vehicle unless one of the following occurs:

- (1) The owner of the vehicle provides proof of compliance with financial responsibility requirements for the vehicle and certifies that the owner will remain in compliance with the requirements for the term of the registration or until the vehicle is sold. This subsection does not apply if a renewal of registration is accompanied by an application for transfer of title arising from the sale of the vehicle. Exemptions from this subsection are established in ORS 806.020. The form of proof of compliance required for this subsection shall be as required under ORS 806.180.
- (2) The department receives satisfactory proof of compliance with financial responsibility requirements by some means other than the means described in subsection (1) of this section. The department may determine by rule what constitutes satisfactory proof of compliance with financial responsibility requirements for purposes of this subsection. [1983 c.338 §235; 1985 c.714 §7; 1993 c.751 §92; 2019 c.312 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.465 - Proof of compliance with pollution control equipment requirements.**

The Department of Transportation shall not issue renewal of registration unless the department receives proof of compliance with pollution control equipment requirements under ORS 815.310. This section is not applicable to vehicles exempt from the requirements of this section by ORS 815.300 or to vehicles registered under the provisions of ORS 805.045 or 805.060. [1983 c.338

§236; 1985 c.16 §90; 1987 c.440 §4; 1989 c.22 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.473 - Effect of unpaid registration fees on issuance of duplicate or replacement certificate of title.**

On and after September 29, 1991, the Department of Transportation shall not refuse to renew registration, transfer the certificate of title or issue a duplicate or replacement certificate of title for a camper or travel trailer solely on the grounds that prior to September 29, 1991, the owner of the camper or travel trailer owed unpaid registration fees to the department. [1991 c.459 §438m]

Note:

803.473 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 803 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.478 - Donation to Oregon Department of Veterans' Affairs Veterans Suicide Prevention and Outreach Program.**

(1) A person that applies for the renewal of vehicle registration online may make a contribution of \$1 or more to the Oregon Department of Veterans' Affairs Veterans Suicide Prevention and Outreach Program at the time the online application for renewal of vehicle registration is made.

(2) The vehicle registration renewal website and online application form must state that the owner has the option of making a contribution to the Oregon Department of Veterans' Affairs Veterans Suicide Prevention and Outreach Program.

(3) Moneys contributed to the Oregon Department of Veterans' Affairs Veterans Suicide Prevention and Outreach Program in accordance with this section shall be deposited in the Oregon Department of Veterans' Affairs Veterans Suicide Prevention and Outreach Program Fund. [2013 c.779 §6]

Note:

803.478 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 803 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.500 - Registration card; contents.**

The Department of Transportation shall furnish for each vehicle and camper registered by the department, a registration card that shows all of the following information:

(1) The name of the registered owner.

(2) The make.

(3) The year model.

(4) The vehicle identification number as denoted by the title issued for the vehicle or camper.

(5) The mileage of the vehicle as reported to the department at the time the most recent title transfer was reported to the department, or the mileage reported to the department at the time the vehicle was initially titled in Oregon, whichever occurred last.

(6) The word "totaled" if the vehicle has been reported to the department as a totaled vehicle under the provisions of ORS 819.012 or 819.014, unless the reason for the report was theft and the vehicle has been recovered.

(7) Upon request of the registered owner, the fact that the registered owner, or a person who may operate the vehicle, is deaf or hard of hearing.

(8) Any other information required by the department.

(9) Notwithstanding subsection (8) of this section, after receiving the registration card from the department, the registered owner may black out or otherwise obscure the residence address, business address, mailing address or vehicle address shown on the registration card. No other information on the registration card may be blacked out or otherwise obscured. [1983 c.338 §254; 1985 c.251 §25; 1985 c.253 §6; 1985 c.668 §11; 1989 c.43 §26; 1991 c.820 §10; 1991 c.873 §16a; 1993 c.233 §49; 1993 c.751 §93; 2017 c.471 §1; 2021 c.14 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.505 - Failure to carry registration card; penalty.**

(1) The owner of a vehicle that is registered in this state commits the offense of failure to carry a registration card if the owner does not place and keep the card in or on the vehicle in a manner that makes it readily available for police inspection upon request.

(2) The following apply to the offense described in this section:

(a) The owner of a commercial vehicle is not in violation of this section if a photocopy of the card is used.

(b) In the case of a camper, the owner shall keep the registration card in the transporting vehicle.

(c) In the case of a snowmobile the registration card or certificate shall be in a place that is readily accessible whether or not the snowmobile is in operation.

(3) The offense described in this section, failure to carry a registration card, is a Class D traffic violation. [1983 c.338 §255; 1987 c.217 §3; 1989 c.991 §27; 1993 c.751 §94; 1995 c.383 §40; 1995 c.774 §13; 1999 c.977 §21]



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.510 - Duplicate or replacement; fee.**

The Department of Transportation may issue a duplicate or replacement registration card when:

- (1) The department receives an application indicating the loss, mutilation or destruction of a registration card; and
- (2) The fee for issuance of a duplicate or replacement card established under ORS 803.575 is paid to the department. [1983 c.338 §256; 1985 c.174 §4; 1985 c.253 §7a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.520 - Issuance; fees.**

The Department of Transportation shall issue and deliver to the owner registration plates according to the following:

- (1) Registration plates shall be issued upon filing of application for registration and payment of the appropriate registration and registration plate fees unless the department has just cause for refusing to register a vehicle or unless otherwise provided in this section.
- (2) If an application for title or registration is for a vehicle that is subject to the provisions of ORS 803.210, the department may issue a permit described under ORS 803.615 while the department is determining all facts relative to the applicant's right to receive title and may issue registration plates along with the title.
- (3) Before issuance of registration plates, the department must receive the manufacturing and reflectorizing fee for the registration plates. If the registration plate is a special plate authorized under ORS 805.200, the fees for the registration plate issuance are as described in ORS 805.250.
- (4) Except as otherwise authorized by ORS 805.200, registration plates issued shall be as described in ORS 803.535.
- (5) The department shall issue the number of plates appropriate under ORS 803.525 and any stickers provided under ORS 803.555. [1983 c.338 §257; 1985 c.16 §99; 1987 c.146 §8; 1987 c.572 §6; 1993 c.233 §50; 1993 c.741 §119]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.525 - Number of plates issued.**

The Department of Transportation shall issue two registration plates for every vehicle that is registered by the department except as otherwise provided in this section or ORS 803.530. Upon renewal or when otherwise provided under ORS 803.555, the department may issue stickers in lieu of or in addition to registration plates. The following shall be issued plates as described:

- (1) Only one registration plate shall be issued for a moped, motorcycle, trailer, antique vehicle or vehicle of special interest registered by the department.
- (2) Only one plate shall be issued for a camper that is registered. Stickers may be issued in lieu of a plate. [1983 c.338 §258; 1985 c.668 §12; 1989 c.43 §27; 1991 c.407 §28; 1993 c.741 §119a; 2001 c.25 §1; 2003 c.655 §114; 2021 c.630 §127]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.530 - Period of validity; transfer; replacement.**

- (1) Registration plates assigned to a vehicle by the Department of Transportation shall remain with the vehicle to which the plates are assigned and are valid only during the registration period for which the plates are issued except as provided in this section.
- (2) The department may allow registration plates to be transferred to another vehicle if:
  - (a) The department receives an application;
  - (b) The applicant pays the plate transfer fee under ORS 803.575; and
  - (c) The applicant complies with the registration qualifications described in ORS 803.350.
- (3) The department shall transfer registration plates under this section if the applicant and the vehicle qualify for the plates and the plates are:
  - (a) Legible and capable of being used for identification purposes; and
  - (b) Any of the following:
    - (A) From a current issue of registration plates;
    - (B) Customized registration plates described under ORS 805.240;
    - (C) Oregon Trail commemorative registration plates issued under section 113, chapter 741, Oregon Laws 1993;
    - (D) Special registration plates issued under ORS 805.255, 805.260, 805.263, 805.266, 805.278 or 805.283;
    - (E) Group registration plates issued under ORS 805.205;
    - (F) Veterans' recognition registration plates issued under ORS 805.105;
    - (G) Pacific Wonderland registration plates issued under ORS 805.287;
    - (H) Registration plates issued through the special registration program under ORS 805.222; or
    - (I) Registration plates that are no longer currently issued that the department determines may still be transferred.
- (4) Notwithstanding ORS 803.400, when registration plates are transferred from one vehicle to another vehicle owned by the same person, the registration period represented by the plates also transfers with the plates. When registration plates are transferred from one vehicle to another vehicle not owned by the same person, the remaining registration period represented by the transferred plates ceases for both the vehicle receiving the transferred plates and the vehicle from which the plates were removed.

(5) The owner of a registered vehicle to which a plate is assigned may replace a registration plate. The following apply to this subsection:

- (a) To replace a plate under this subsection, the owner must apply to the department for replacement of the plate in a form prescribed by the department and pay the replacement plate fee established under ORS 803.575.
- (b) The department, in lieu of replacement, may issue duplicate plates for the same fee as charged for replacements.
- (c) The plates issued under this subsection are valid only for the period of the plates replaced.
- (d) The replaced plates may not be considered customized plates when they are replaced, if:
  - (A) The original plates were from plates currently issued;
  - (B) The original plates were not customized plates; and
  - (C) The replacement plates are a duplicate of the original plates.
- (e) When a vehicle is assigned a pair of plates and the owner wishes to replace a single plate, the department may replace a single plate rather than replace both plates.

(6) A county may replace a registration plate that is from a specially designed government series with a registration plate that is from a regular series. The following apply to this subsection:

- (a) To replace a plate under this subsection, the county must apply to the department for replacement of the plate in a form prescribed by the department and pay the replacement plate fee established under ORS 803.575.
- (b) The plates issued under this subsection are valid only for the period of the plates replaced.
- (7) If the department retired the vehicle's registration under ORS 819.030 because the vehicle is totaled or substantially altered, a person may apply under subsection (2) of this section to transfer the registration plates to another vehicle.
- (8) Subject to subsections (2) and (4) of this section, after the department authorizes the use of special interest plates under ORS 805.210, a person may apply to transfer the plates to either:

- (a) A vehicle that was previously determined by the department to qualify as a vehicle of special interest; or
- (b) A vehicle approved by the department as a vehicle of special interest at the time of application.
- (9) If a person described in subsection (8) of this section provides the department with only one special interest registration plate for transfer and the department's vehicle records show the special interest registration plate belongs to a vehicle record with no owner matching an applicant, the applicant shall provide proof, as determined by the department by rule, that the plate is no longer used on the vehicle it is currently showing being registered to in the department's vehicle records. [1983 c.338 §259; 1985 c.16 §100; 1985 c.174 §5; 1985 c.243 §3; 1985 c.570 §3; 1987 c.158 §163; 1993 c.741 §120; 2001 c.827 §3; 2003 c.409 §8; 2005 c.71 §1; 2015 c.540 §3; 2015 c.806 §17; 2018 c.114 §10; 2019 c.17 §3; 2021 c.630 §126; 2023 c.400 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.533 - Period of validity for Oregon National Guard member or military reservist.**

(1) Notwithstanding ORS 803.530, a registration plate assigned to a vehicle registered to a member of the Oregon National Guard or a military reservist ordered on active duty and deployed to a location outside the United States that expires while the person is on active duty shall remain valid for 90 days following the termination of active duty.

(2) The court shall dismiss the charge of improper display of validating stickers under ORS 803.560 if, when charged, the person charged was the registered owner of the vehicle and a member of the Oregon National Guard or a military reservist, and the registration plate was valid pursuant to subsection (1) of this section. [2005 c.257 §4]

Note:

803.533 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.535 - Size, form, material, color, design, contents.**

Subject to ORS 805.105 and 805.205 and the following, the Department of Transportation shall select registration plates it issues:

(1) Registration plates shall be in the size, form and arrangement and made of materials determined by the department subject to the following:

- (a) Except as otherwise provided in paragraph (f) of this subsection, the design of the registration plates shall be that chosen by the commission from entries in the contest held pursuant to chapter 572, Oregon Laws 1987.
- (b) If registration plates are issued, means shall be provided for identifying the vehicle from the front and rear by means of characters or numerals.
- (c) All plates shall be made with a reflective material, so as to be a fully reflectorized safety plate. The reflectorized material shall be of such a nature as to provide effective dependable brightness in the promotion of traffic safety during the service period of the plate issued.
- (d) Except as otherwise authorized under ORS 805.200, all plates shall contain the distinctive number or characters assigned to the vehicle and the word "Oregon."
- (e) When a pair of registration plates is issued, each plate shall bear the same identification as the other plate of the pair.
- (f) The department may choose plates for vehicles that are not required to display plates from the series produced as provided in chapter 572, Oregon Laws 1987. Nothing in this paragraph prohibits the department from issuing plates from the series produced as

provided in chapter 572, Oregon Laws 1987, for vehicles that are not required to display such plates.

(2) The department may provide for designation of the registration period for which the registration is issued on the plate by means of stickers described under ORS 803.555 or any other method the department determines appropriate.

(3) The department may provide plates that may be used on a vehicle for successive registration periods when validated by one or more stickers described under ORS 803.555. [1983 c.338 §260; 1985 c.16 §101; 1993 c.741 §121; 2007 c.564 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.538 - Color of sky in graphic plates.**

Registration plates chosen by the commission pursuant to section 1, chapter 572, Oregon Laws 1987, shall have the colors chosen by the commission except that the sky shall be blue. [1989 c.742 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.540 - Failure to display plates; exceptions; penalty.**

(1) A person commits the offense of failure to display registration plates if the person operates, on the highways of this state, any vehicle or camper that has been assigned registration plates by this state and the registration plates assigned to the vehicle or camper are displayed in a manner that violates any of the following:

(a) The plate must be displayed on the rear of the vehicle, if only one plate is required.

(b) Plates must be displayed on the front and rear of the vehicle if two plates are required.

(c) The plates must be in plain view and so as to be read easily by the public.

(d) The plate must not be any plate that does not entitle the holder thereof to operate the vehicle upon the highways.

(2) A person is not in violation of this section if the person is operating a vehicle or camper under and in accordance with the requirements for any of the following:

(a) A temporary application permit issued under ORS 803.615.

(b) An agent temporary registration permit issued under ORS 803.625.

(c) Provisions established under ORS 826.007, 826.009 or 826.011 for the display of registration plates or other evidence of registration on vehicles that are proportionally registered under ORS 826.009 or 826.011.

(3) The offense described in this section, failure to display registration plates, is a Class D traffic violation. [1983 c.338 §261; 1985 c.668 §13; 1989 c.43 §28; 1995 c.383 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.545 - Failure to display out-of-state plates; penalty.**

(1) A person commits the offense of failure to display plates on an out-of-state vehicle if the person operates a vehicle that is registered in any jurisdiction other than this state and the person does not display the registration plates assigned to and furnished for the vehicle by the registering jurisdiction:

(a) For the current registration period in that jurisdiction; and

(b) Substantially as provided under ORS 803.540 for vehicles that are registered by this state.

(2) This section does not allow the display of out-of-state registration plates on a vehicle when the vehicle is required to be registered in this state by ORS 803.325.

(3) The offense described in this section, failure to display plates on an out-of-state vehicle, is a Class C traffic violation. [1983 c.338 §262; 1985 c.16 §102; 1985 c.401 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.550 - Illegal alteration or display of plates; exception; penalty.**

(1) A person commits the offense of illegal alteration or illegal display of a registration plate if the person knowingly does any of the following:

(a) Illegally alters a registration plate in a manner described in subsection (2) of this section.

(b) Causes a registration plate to be illegally displayed as described in subsection (3) of this section.

(c) Operates any vehicle that is displaying a registration plate that is illegally altered in a manner described in subsection (2) of this section or that is illegally displayed as described in subsection (3) of this section.

(d) Owns and causes or permits a vehicle to display a registration plate that is illegally altered in a manner described in subsection (2) of this section or that is illegally displayed as described in subsection (3) of this section.

(2) A registration plate is illegally altered for purposes of this section if the plate has been altered, modified, covered or obscured in any manner including, but not limited to, the following:

(a) Any change of the color, configuration, numbers, letters or material of the plate.

(b) Any material or covering, other than a frame or plate holder, placed on, over or in front of the plate that alters the appearance of the plate.

(c) Any frame or plate holder that obscures the numbers, letters or registration stickers, so as to render them unreadable.

(3) A registration plate is illegally displayed for purposes of this section if the plate:

- (a) Is displayed on a vehicle other than the vehicle for which the plate was issued; or
- (b) Displays registration stickers that contain an expiration date that is different from the expiration date shown upon the vehicle registration records of the Department of Transportation.
- (4) Subsection (2) of this section does not apply to the following:
  - (a) Any placement of registration stickers described under ORS 803.555.
  - (b) Any public official who displays or performs any alteration of a registration plate in the course of official duties.
  - (c) Any special interest registration plate approved under ORS 805.210.
- (5) Subsection (3)(a) of this section does not apply to a vehicle dealer authorized to use and operate vehicles displaying the dealer's plates under ORS 822.040.
- (6) A person does not commit the offense of illegal alteration or illegal display of a registration plate if, at the time the conduct described in subsection (3)(b) of this section occurs, the person has proof of registration of the vehicle but has not yet received new registration stickers from the department. The proof of vehicle registration is valid 30 days from the date of issuance. The department shall adopt rules regarding what constitutes proof of vehicle registration under this subsection.
- (7) The court shall dismiss any charge under this section if, prior to the court appearance date listed on the citation, the person charged delivers to the clerk of the court named on the citation proof of registration of the vehicle at the time of the violation.
- (8) The offense described in this section, illegal alteration or illegal display of a registration plate, is a Class B traffic violation. [1985 c.243 §2; 2007 c.192 §1; 2015 c.154 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.552 - Car rental company; issuance of plates; fees; rules.**

- (1) As used in this section:
  - (a) "Car rental company" has the meaning given that term in ORS 803.219.
  - (b) "Integrator" has the meaning given that term in ORS 802.600.
- (2) If the Department of Transportation receives an application for vehicle registration from a car rental company that was submitted to an integrator and the application does not include the primary ownership record for the motor vehicle, the department may issue registration plates for the vehicle if the conditions described in subsection (3) of this section are met.
- (3) Before the department may issue registration plates under subsection (2) of this section, a car rental company must:
  - (a) Possess a valid Oregon vehicle dealer certificate issued under ORS 822.020;
  - (b) Certify that the car rental company has not received the primary ownership record for the vehicle as of the date the application is submitted; and
  - (c) Meet any other requirements adopted by the department by rule.
- (4) In addition to any fee for registration or issuance of registration plates, the department may charge a fee for providing the services authorized by this section. The department shall establish the amount of the fee by rule.
- (5) The department shall adopt rules to carry out the provisions of this section. [2019 c.348 §2; 2023 c.400 §39]

Note:

803.552 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.555 - Replacement.**

The owner of a registered vehicle to which registration stickers are assigned may replace a registration sticker that is lost, destroyed or mutilated in a manner that renders illegible any identification of the sticker. To replace a registration sticker under this section, the owner must apply to the Department of Transportation for a replacement of the damaged or lost sticker in a form prescribed by the department and pay the replacement sticker fee established under ORS 803.575. The application must state the facts of the damage, destruction or loss of the stickers. The stickers issued under this section are valid only for the period of the stickers replaced. Provision for replacement of registration plates is made under ORS 803.530. [1983 c.338 §267; 1985 c.16 §107; 1985 c.174 §6; 1989 c.76 §3; 1993 c.741 §122]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.560 - Improper display; exception; penalty.**

- (1) A person commits the offense of improper display of validating stickers if the person owns or drives a vehicle on which the display of registration stickers provides proof of valid registration and:
  - (a) The stickers are not displayed in a manner required by the Department of Transportation; or
  - (b) The stickers are displayed on the vehicle after the registration period shown on the stickers.
- (2) A person does not commit the offense of improper display of validating stickers if, at the time the conduct described in subsection (1) of this section occurs, the person has proof of registration of the vehicle but has not yet received new registration stickers from the department. The proof of vehicle registration is valid 30 days from the date of issuance. The department shall adopt rules regarding what constitutes proof of vehicle registration under this subsection.
- (3) The court shall dismiss any charge under this section if, prior to the court appearance date listed on the citation, the person

charged delivers to the clerk of the court named on the citation proof of registration of the vehicle at the time of the violation.  
(4) The offense described in this section, improper display of validating stickers, is a Class D traffic violation. [1983 c.338 §268; 1993 c.751 §27; 2015 c.154 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.565 - Removal of stickers upon sale of vehicle by dealer or towing business.**

(1) Except as provided in subsections (2) and (3) of this section, when a person who has a vehicle dealer certificate issued under ORS 822.020 or a towing business certificate issued under ORS 822.205 sells a motor vehicle that has valid Oregon registration plates, the person shall remove the registration stickers from the registration plates of the vehicle if the vehicle:

- (a) Has a gross vehicle weight rating of 10,000 pounds or less;
- (b) Is designed to carry passengers; and
- (c) Is not a motorcycle, moped or snowmobile.

(2) A person who has a vehicle dealer certificate issued under ORS 822.020 need not remove registration stickers under subsection (1) of this section if:

- (a) The person submits title and registration documents to the Department of Transportation on behalf of the buyer of the vehicle; or
- (b) The person sells the vehicle to another person who has a vehicle dealer certificate issued under ORS 822.020.

(3) A person who has a towing business certificate issued under ORS 822.205 need not remove registration stickers under subsection (1) of this section if the person sells the vehicle to a person who has a vehicle dealer certificate issued under ORS 822.020 or to a person who has a dismantler certificate issued under ORS 822.110. [2003 c.600 §2; 2005 c.61 §1; 2005 c.654 §40; 2019 c.312 §32]

Note:

803.565 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.570 - Plate manufacturing fee.**

Except as otherwise specifically provided by law, the Department of Transportation shall collect the fee described by this section each time the department issues a registration plate upon the registration of a vehicle or at other times when a registration plate is issued by the department. The following all apply to the fee established by this section:

- (1) The fee shall be in addition to any other fee collected upon issuance of a registration plate.
- (2) The fee for each registration plate issued and for each pair of plates issued shall be determined by the department and shall be established by the department by rule. The department shall establish fees for a single plate and for a pair of plates under this section by:
  - (a) Determining the cost of manufacturing a single plate or a pair of plates and rounding the cost to the next higher dollar; and
  - (b) Adding \$10 for a single plate and \$20 for a pair of plates. [1983 c.338 §269; 1985 c.16 §108; 2003 c.618 §48; 2009 c.865 §44; 2023 c.232 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.575 - Fees for cards, plates and stickers; issuance; replacement; transfer.**

- (1) The fee for issuance of a duplicate or replacement registration card under ORS 803.510 is \$5.
- (2) The fee for issuance of a replacement or duplicate registration plate under ORS 803.530 is the fee established under ORS 803.570, together with a fee of \$12.
- (3) The fee for transfer of registration plate under ORS 803.530 is \$30.
- (4) The fee for issuance of replacement registration stickers under ORS 803.555 is \$10.
- (5) The fee for issuance of both replacement or duplicate registration plates and replacement registration stickers, when issued at the same time, is the fee established under ORS 803.570, together with a fee of \$12.
- (6) A fee paid under subsection (2), (4) or (5) of this section includes the cost of any duplicate or replacement registration card issued. [1983 c.338 §271; 1985 c.16 §110; 1985 c.174 §8; 1985 c.736 §2; 1987 c.750 §8; 1993 c.751 §95; 1999 c.1009 §1; 2001 c.668 §2; 2019 c.17 §4; 2023 c.232 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.577 - Fee for identification device for proportionally registered vehicle.**

Except as otherwise specifically provided by law, the Department of Transportation shall collect the fee described by this section each time the department issues an identification device for the proportional registration of a vehicle. The following apply to the fee established by this section:

- (1) The fee shall be in addition to any other fee collected upon issuance of a registration plate.
- (2) The fee for each device issued shall be determined by the department and shall be established by the department by rule.
- (3) The department shall establish the fees under this section based on cost. [1991 c.284 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.585 - Registration fees in lieu of certain other taxes and licenses; exemptions.**

(1) Except as otherwise provided in this section or ORS 801.041 or 801.042, the registration fees under the vehicle code are in lieu of all other taxes and licenses, except municipal license fees under regulatory ordinances, imposed on vehicles, the owners of such vehicles or the use of or any privilege related to such vehicles. Fixed load vehicles are not exempt from ad valorem taxation by this section.

(2) Travel trailers subject to registration and titling under the vehicle code are not subject to ad valorem taxation, but may be reclassified as manufactured structures and made subject to taxation as provided in ORS 308.880.

(3) This section does not apply to the privilege tax imposed under ORS 320.405 or the use tax imposed under ORS 320.410. [1983 c.338 §221; 1989 c.864 §8; 1991 c.459 §438h; 2003 c.655 §115; 2017 c.750 §117]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.591 - Requirements for vehicles with diesel engines; exceptions; rules.**

(1) As used in this section and ORS 803.593:

(a) "Diesel engine" has the meaning given that term in ORS 468A.795.

(b) "Heavy-duty truck" has the meaning given that term in ORS 468A.795.

(c) "Medium-duty truck" has the meaning given that term in ORS 468A.795.

(d) "Public body" has the meaning given that term in ORS 174.109.

(2) On and after January 1, 2025, the Department of Transportation may not issue a certificate of title for the following motor vehicles if the address of the owner of the motor vehicle is located within Multnomah, Clackamas or Washington County:

(a) A medium-duty truck powered by a model year 2009 or older diesel engine.

(b) A heavy-duty truck powered by a model year 2006 or older diesel engine.

(3) The department may not issue registration or renewal of registration on and after the following dates for the following motor vehicles if the address of the owner of the motor vehicle is located within Multnomah, Clackamas or Washington County:

(a) January 1, 2023, for a medium-duty truck or a heavy-duty truck if the motor vehicle is powered by a model year 1996 or older diesel engine.

(b) January 1, 2029, for:

(A) A medium-duty truck powered by a model year 2009 or older diesel engine.

(B) A heavy-duty truck powered by a model year 2009 or older diesel engine owned by a public body.

(C) A heavy-duty truck powered by a model year 2006 or older diesel engine owned by a person other than a public body.

(4) Notwithstanding subsections (2) and (3) of this section, the department may issue a certificate of title, issue registration or issue renewal of registration for a motor vehicle described in subsection (2) or (3) of this section after a date described in subsection (2) or (3) of this section if:

(a) The diesel engine that powers the motor vehicle has been retrofitted with approved retrofit technology pursuant to rules adopted by the Environmental Quality Commission under ORS 468A.810; and

(b) Proof of certification of the retrofit has been issued under ORS 468A.810.

(5) The following motor vehicles are exempt from the requirements of this section:

(a) Motor vehicles registered as farm vehicles under the provisions of ORS 805.300.

(b) Farm tractors.

(c) Implements of husbandry.

(d) Motor vehicles used exclusively as training vehicles.

(e) Publicly and privately owned emergency vehicles.

(f) Ambulances.

(g) Campers.

(h) Motor homes.

(i) Recreational vehicles.

(j) Heavy-duty trucks operated for 5,000 miles or fewer on highways of this state during one calendar year.

(k) Carriers with a fleet size of five or fewer heavy-duty trucks.

(l) Antique vehicles.

(m) Motor trucks, as defined in ORS 801.355, used primarily to transport logs.

(6)(a) In order for registration to continue to be valid for a motor vehicle that is owned by a public body and subject to subsection (3) of this section, the public body shall, in a manner determined by the department by rule, submit proof to the department that the motor vehicle complies with subsection (3) of this section. Proof of compliance must be on a form supplied by the department and must include such information as the department may require. Proof of compliance for a motor vehicle owned by a public body is valid until the ownership of the vehicle changes.

(b) The department shall provide notice to a public body of the requirement under this subsection to submit proof of compliance with subsection (3) of this section. The notice shall be issued to the public body no later than one year prior to the date that the proof of compliance must be submitted to the department.

(7) The department may adopt rules as necessary to administer this section. [2019 c.645 §4]

Note:

803.591 and 803.593 were added to and made a part of the Oregon Vehicle Code by legislative action but were not added to ORS chapter 803 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.593 - Annual report.**

(1) No later than September 15 of each year, the Department of Transportation shall submit a report in the manner provided by ORS 192.245 to the interim committees of the Legislative Assembly related to transportation and the environment on the registration of medium-duty trucks and heavy-duty trucks in this state. The purposes of the report shall be to identify and address trends in the registration of medium-duty trucks and heavy-duty trucks in this state over time and to identify any effects that the requirements of ORS 803.591 may have on the trends in registration.

(2) The report shall include information on:

(a) The number of medium-duty trucks and heavy-duty trucks registered in each county in this state; and

(b) The number of medium-duty trucks and heavy-duty trucks registered in this state that are motor vehicles described in ORS 803.591 (5). [2019 c.645 §5]

Note:

See note under 803.591.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.600 - Trip permits; authority granted; types; records; rules; when not required.**

A trip permit grants authority to temporarily operate a vehicle on the highways of this state under circumstances where the operation would not otherwise be legal because the vehicle is not registered by this state or because provisions relating to the vehicle's registration do not allow the operation. The Department of Transportation shall provide for the issuance of trip permits in a manner consistent with this section. All of the following apply to permits issued under this section:

(1) The department shall issue the following types of trip permits to authorize the described type of operation and, except as provided in subsection (2) of this section, may not issue trip permits for any other purpose:

(a) A heavy motor vehicle trip permit may be issued for the following vehicles that are not registered in this state:

(A) Motor vehicles with a combined weight or loaded weight of more than 10,000 pounds;

(B) Truck tractors that are more than 8,000 pounds; or

(C) Fixed load motor vehicles.

(b) A permit described in paragraph (a) of this subsection is valid for 10 consecutive days.

(c) A heavy trailer trip permit may be issued for a trailer that will be operated on the highways at a loaded weight of more than 8,000 pounds or that is a fixed load vehicle, and that is not registered to allow operation of the vehicle in this state. A permit described in this paragraph is valid for 10 consecutive days. This paragraph does not apply to travel trailers.

(d) A light vehicle trip permit may be issued for a vehicle with a combined weight or loaded weight of less than 10,001 pounds that is not a fixed load vehicle and that is not registered to allow operation of the vehicle in this state. Permits described in this paragraph may be issued for a period of 21 consecutive days. The department may not issue more than two permits under this paragraph in a 12-month period for any one vehicle unless all registered owners of the vehicle are replaced by new owners. If there is a complete change in ownership of the vehicle, as shown by the registration records for the vehicle, a new owner may receive permits for the vehicle under this paragraph as if no permits had been issued for the vehicle. This paragraph does not apply to campers, travel trailers or motor homes, which are eligible for recreational vehicle trip permits under paragraph (e) of this subsection.

(e) A recreational vehicle trip permit may be issued for a period of up to 10 consecutive days for a camper, travel trailer or motor home that is not registered for operation in this state. A person buying a recreational vehicle trip permit must show proof satisfactory to the department that the person is the owner of the camper, travel trailer or motor home for which the permit will be granted. A person may not receive recreational vehicle trip permits authorizing more than 10 days of operation in any 12-month period. The department may determine by rule the method for ensuring a person has not exceeded the maximum number of days of operation allowed by the permit.

(f) A registration weight trip permit may be issued for a vehicle that is registered in this state, to allow the vehicle to be operated with a greater combined weight or loaded weight than is permitted by the registration weight established for the vehicle or at a greater combined weight or loaded weight than is otherwise permitted under the registration for the vehicle if the vehicle is not required to establish a registration weight. A permit issued under this paragraph does not authorize movements or operations for which a variance permit is required under ORS 818.200. A permit issued under this paragraph shall show the maximum registration weight allowed for operation under the permit. A permit issued under this paragraph is valid for 10 consecutive days.

(g) A registered vehicle trip permit may be issued for a vehicle that is registered in this state to allow the vehicle to operate under conditions or in ways not permitted by the terms of the vehicle registration. The department shall determine by rule the kinds of operation for which permits may be issued under this paragraph. A permit issued under this paragraph is valid for 10 consecutive days.

(2) The department shall allow a person issued a vehicle dealer certificate under ORS 822.020 or a towing business certificate under

ORS 822.205 to issue a 10-day trip permit to a person who buys a motor vehicle from the person with the certificate if the registration stickers are removed in accordance with ORS 803.565. The following apply to trip permits issued under this subsection:

- (a) A permit issued under this subsection allows operation of the motor vehicle in this state for the purpose of registering the vehicle.
- (b) A permit issued under this subsection is valid for a period of 10 consecutive days.
- (c) A person with a vehicle dealer certificate or a towing business certificate may not issue more than two permits under this subsection for the same motor vehicle.

(3) The following requirements for records are established concerning permits issued under this section:

- (a) Any carrier regulated by the department shall maintain records of heavy motor vehicle and heavy trailer trip permits and registration weight trip permits issued to the carrier as required by the department by rule.
- (b) Requirements for the department to maintain records concerning trip permits are established under ORS 802.200.
- (4) An owner or operator of a vehicle may obtain a trip permit. The fees for issuance of trip permits are as provided under ORS 803.645.
- (5) The department shall make the trip permits available to all field offices and agents maintained by the department and may make arrangements for the issuance of the permits by designated individuals, firms or associations for the convenience of the motoring public. This subsection does not require the department to make trip permits described in subsection (2) of this section available to anyone other than persons with vehicle dealer certificates or towing business certificates.
- (6) The department may also sell heavy motor vehicle, heavy trailer and registration weight trip permits in advance of issuance to contractors, transportation companies and other users for issuance to their own vehicles or vehicles under their control.
- (7) The department shall adopt rules for the issuance, sale and control of trip permits.
- (8) Trip permits are not required for the operation of unregistered vehicles where such operation is permitted as follows:
  - (a) By vehicle dealers as permitted under ORS 822.040.
  - (b) By vehicle transporters as permitted under ORS 822.310.
  - (c) By towing businesses as permitted under ORS 822.210.
- (9) Trip permits are not required for the operation of unregistered vehicles where such operation is permitted under ORS 803.305.
- (10) Unregistered vehicles that are operated without a trip permit are subject to the prohibitions and penalties for operation of unregistered vehicles under ORS 803.300 or 803.315, as appropriate.
- (11) A trip permit may be issued to a school vehicle registered under ORS 805.050 for use of the vehicle for purposes not permitted under ORS 805.050. [1983 c.338 §272; 1985 c.16 §111; 1985 c.313 §4; 1985 c.547 §16; 1989 c.723 §13; 1991 c.284 §19; 1991 c.360 §4; 1991 c.407 §29; 1993 c.174 §9; 1995 c.733 §86; 1997 c.421 §1; 2001 c.412 §1; 2003 c.600 §3; 2003 c.655 §117; 2007 c.50 §3; 2019 c.312 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.601 - Disposition of fees collected for certain permits.**

Fees collected by the Department of Transportation for recreational vehicle trip permits described in ORS 803.600 shall be transferred to the State Parks and Recreation Department Fund established by ORS 390.134 and are continuously appropriated to the State Parks and Recreation Department for the purposes specified in ORS 390.134. [1997 c.421 §3; 2003 c.14 §463]

Note:

803.601 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 803 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.602 - Proof of insurance coverage for certain trip permits.**

An applicant for a light vehicle trip permit, a recreational vehicle trip permit for a motor vehicle or a trip permit issued under ORS 803.600 (2) must submit, at the time of application, proof indicating that the vehicle that will be operated under the permit is covered by an insurance policy that meets the requirements of ORS 806.080 and will continue to be covered by the policy for as long as the permit is valid. The proof must include the name of the insurer and the policy number. The Department of Transportation or, if the permit is issued under ORS 803.600 (2), the person with the vehicle dealer certificate or towing business certificate shall refuse to issue a permit to a person who does not present the proof required by this section. [1991 c.360 §2; 1993 c.751 §28; 2001 c.412 §2; 2003 c.600 §5; 2019 c.312 §30]

Note:

803.602 was added to and made a part of ORS chapter 803 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.605 - Erroneous issuance of trip permit; refund of fee.**

When the Department of Transportation determines that it has erroneously issued a trip permit to a person who did not require the permit, the department may refund to the person any fee the person paid for the permit. [1985 c.313 §6]

Note:

803.605 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 803 or any series



therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.610 - Reciprocity permits.**

A reciprocity permit is a vehicle permit that may be issued to identify vehicles operating under a reciprocal agreement established under ORS 802.500. When required by an agreement, the Department of Transportation shall provide for the issuance of reciprocity permits as authorized by the agreement. All of the following apply to the issuance of permits under this section:

- (1) The issuance of permits shall comply with the agreement authorizing their issuance.
- (2) Permits may be used to identify vehicles entitled to operate within the areas described in an agreement. [1983 c.338 §273; 1985 c.668 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.615 - Temporary permit for registration applicant.**

The Department of Transportation may issue a temporary permit in a form determined by the department to an applicant for registration to permit the applicant to operate the vehicle while the department is determining all facts relative to the right of the applicant to receive title, regular registration plates and regular registration. [1983 c.338 §276; 1985 c.16 §112; 1985 c.401 §10; 1987 c.146 §9; 1993 c.233 §52]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.625 - Temporary registration permits issued by dealers; rules.**

- (1) The holder of a current, valid vehicle dealer certificate issued under ORS 822.020 may issue temporary permits for the operation of vehicles or the transporting of a camper pending the receipt of permanent registration from the department.
- (2) Forms for temporary permits issued under this section shall be furnished and, subject to ORS 803.640, prescribed by the department.
- (3) The department shall specify, by rule, the procedures to be followed by persons issuing and using temporary permits issued under this section. Persons violating rules established by the department under this subsection are subject to penalty under ORS 803.630 and 803.635. [1983 c.338 §278; 1985 c.284 §3; 1997 c.583 §8; 2001 c.827 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.630 - Agent violation of temporary registration permit procedures; penalty.**

- (1) A person commits the offense of agent violation of temporary registration permit procedures if the person is authorized to issue temporary registration permits under ORS 803.625 and the person violates any rules adopted by the Department of Transportation concerning the procedures for issuing the permits.
- (2) The offense described in this section, agent violation of temporary registration permit procedures, is a Class B traffic violation. [1983 c.338 §279]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.635 - Improper use of temporary registration permit; penalty.**

- (1) A person commits the offense of improper use of temporary registration permit if the person is issued a temporary registration permit under ORS 803.625 and the person does any of the following:
  - (a) Violates any rule adopted by the Department of Transportation under ORS 803.625 concerning the use of the permit.
  - (b) Fails to keep the permit on and upon the vehicle during the period until the receipt of the permanent registration plates.
  - (c) Fails to remove the permit from the vehicle upon receipt of permanent registration plates.
- (2) The offense described in this section, improper use of temporary registration permit, is a Class D traffic violation. [1983 c.338 §280; 1995 c.383 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.640 - Prohibition on showing name or address on permit.**

- (1) Vehicle permits issued under ORS 803.600 to 803.615 that are required to be displayed so as to be visible from the outside of a vehicle shall not show the name or address of the registered owner of the vehicle or of the person who has applied for registration or titling of the vehicle.
- (2) The Department of Transportation may require that permits described in this section contain the driver license number of the registered owner or of the person who has applied for registration or titling of the vehicle displaying the permit and the name of the state that issued the driver license.
- (3) If the department determines that the information authorized by subsection (2) of this section is not sufficient to identify the registered owner or person who has applied for registration or titling of a vehicle issued a permit described in this section, the department may require that the person operating the vehicle have in the person's possession any information the department determines is necessary for identification. Such information, if required, shall be on a form prescribed by rule by the department and

may not be required to be displayed so as to be visible from outside the vehicle. [1985 c.284 §2; 1993 c.751 §97]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.645 - Fees for trip permits.**

Fees for trip permits issued under ORS 803.600 are as follows:

- (1) For a heavy motor vehicle trip permit, \$43.
- (2) For a heavy trailer trip permit, \$10.
- (3) For a light vehicle trip permit, \$35.
- (4) For a recreational vehicle trip permit, \$35.
- (5) For a registration weight trip permit, \$5.
- (6) For a registered vehicle trip permit, \$7.50.
- (7) For a 10-day trip permit issued under ORS 803.600 (2) by a person with a vehicle dealer certificate or a towing business certificate, \$15. [1983 c.338 §281; 1985 c.16 §113; 1985 c.313 §5; 1985 c.400 §4; 1989 c.43 §30; 1989 c.109 §3; 1989 c.723 §14; 1991 c.284 §20; 1991 c.360 §3; 1997 c.421 §2; 2001 c.412 §3; 2003 c.600 §4; 2003 c.655 §118; 2009 c.865 §44a; 2017 c.750 §§48,49]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.650 - Placement of permits in vehicles; rules.**

- (1) A permit issued under ORS 803.600, 803.615 or 803.625 shall be placed on the left side of the rear window of the vehicle unless:
  - (a) The vehicle has no rear window; or
  - (b) The design of the vehicle or of any equipment lawfully added to the vehicle is such that a permit placed as required by this section could not easily be seen from outside the vehicle.
- (2) The Department of Transportation shall adopt rules for the placement of permits that cannot be placed on the left side of the rear window of a vehicle. [1987 c.166 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.655 - Improper display of permit; penalty.**

- (1) A person commits the offense of improper display of a permit if the person is issued a permit under ORS 803.600, 803.615 or 803.625, and the person does not display the permit on the vehicle in the manner required by ORS 803.650 or as required by the Department of Transportation by rule.
- (2) The offense described in this section, improper display of a permit, is a Class D traffic violation. [1987 c.166 §4; 1995 c.383 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.660 - Color and size of permits.**

The color and size of the print on permits issued under ORS 803.600, 803.615 and 803.625 shall be such that the permits can easily be read. [1987 c.166 §3; 1999 c.359 §5; 2003 c.655 §119]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 803 - Vehicle Title and Registration Section 803.665 - Towing commercial fishing boat without permit.**

Notwithstanding ORS 803.600, a person may tow the person's own commercial fishing boat without a trip permit and regardless of the weight permitted under the registration of the trailer if the combined weight of the towing vehicle, the trailer and the boat is 15,000 pounds or less. [1989 c.992 §12b]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.010 - Antique vehicles.**

- (1) A vehicle that is an antique vehicle may be registered for a permanent registration period as described under ORS 803.400 by doing the following:
  - (a) Making application for permanent registration of the vehicle in the manner provided for application for registration of vehicles.
  - (b) Paying the fee for permanent registration of antique vehicles under ORS 803.420.
- (2) Once a vehicle is permanently registered as an antique vehicle under this section, the vehicle is subject to the limitations on use of the vehicle under ORS 805.030. [1983 c.338 §238; 2003 c.122 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.020 - Special interest vehicles.**

- (1) A vehicle that is a vehicle of special interest may be registered for a permanent registration period as described under ORS 803.400 by doing the following:
  - (a) Making application for permanent registration of the vehicle in the manner provided for application for registration of vehicles.

- (b) Paying the fee for permanent registration of vehicles of special interest established under ORS 803.420.
- (2) Once a vehicle is permanently registered as a vehicle of special interest under this section, the vehicle is subject to the limitations on use of the vehicle under ORS 805.030. [1983 c.338 §239; 2003 c.122 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.030 - Violation of registration limits on antique or special interest vehicle; penalty.**

- (1) A person commits the offense of violation of registration limits on antique vehicle or vehicle of special interest if a vehicle is permanently registered under ORS 805.010 or 805.020 and the person uses the vehicle:
- (a) Other than for exhibitions, parades, club activities and similar uses; or
- (b) Primarily for the transportation of persons or property.
- (2) The offense described in this section, violation of registration limits on antique vehicle or vehicle of special interest, is a Class D traffic violation. [1983 c.338 §240]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.035 - Racing activity vehicles.**

- (1) A vehicle that is a racing activity vehicle may be registered only under this section.
- (2) A racing activity vehicle shall be registered for a permanent registration period as described under ORS 803.400. To register a racing activity vehicle the owner shall:
- (a) Apply for permanent registration of the vehicle in the same manner provided for application for registration of vehicles; and
- (b) Pay the fee for permanent registration of racing activity vehicles established under ORS 803.420.
- (3) A racing activity vehicle may be issued special interest registration plates.
- (4) Once a vehicle is permanently registered as a racing activity vehicle under this section, the vehicle is subject to the limitations on use of the vehicle under ORS 805.037. [2007 c.693 §3a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.037 - Violation of registration limits on racing activity vehicles; penalty.**

- (1) A person commits the offense of violation of registration limits on a racing activity vehicle if a vehicle is permanently registered under ORS 805.035 and the person uses the vehicle other than for:
- (a) Exhibitions, parades or club activities;
- (b) Driving the vehicle from the person's home to a race track that is within a 90-mile radius of the person's home; or
- (c) Test driving the vehicle for maintenance or repair purposes within a 30-mile radius of where the vehicle is maintained or repaired.
- (2) The offense described in this section, violation of registration limits on a racing activity vehicle, is a Class B traffic violation. [2007 c.693 §3b]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.040 - Registration of government-owned vehicles.**

Except as otherwise provided by this section, ORS 805.045 and 805.060, vehicles that are owned and operated by this state, cities, counties or other political subdivisions of this state or by the government of a federally recognized Indian tribe in this state are subject to the same requirements and provisions for registration as are other vehicles. For purposes of this section, a vehicle that is operated under a lease or lease-purchase agreement by any of the governments specified in this section is a government-owned vehicle. The following requirements and provisions apply to government-owned vehicles:

- (1) The registration period for vehicles subject to this section shall be an ownership registration period as described under ORS 803.400 except that the registration shall continue to be valid if ownership of the vehicle is transferred to another government agency.
- (2) The fee for registration of the vehicles shall be the fee for registration of government-owned vehicles established under ORS 803.420, and no other registration fee shall be required.
- (3) Any vehicle registered under this section and not exempted under ORS 815.300 must meet the requirements for certification of compliance with pollution control under ORS 815.310.
- (4) Vehicles described in this section that are school buses or activity vehicles may be registered as provided in ORS 805.050 in lieu of registration under this section, if the vehicles qualify for registration under ORS 805.050.
- (5) For purposes of this section, vehicles owned by the government of a federally recognized Indian tribe in this state are government-owned vehicles. [1983 c.338 §243; 1985 c.16 §91; 1985 c.148 §1; 1985 c.547 §14; 1987 c.440 §5; 1993 c.741 §123]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.045 - Registration for certain state-owned vehicles.**

- (1) If approval is granted under ORS 283.390, the Department of Transportation may issue:
- (a) Registration plates or other evidence of registration from any regular series rather than from any specially designed government

- series for a vehicle owned or operated by any state department or institution; or
- (b) Wine country registration plates for a vehicle operated by a member of the Oregon Wine Board in discharging the board's duties if requested to do so by the board.
- (2) The registration period for a vehicle described under this section shall be the same as the regular registration period for the type of vehicle registered.
- (3)(a) The fee for registration or renewal of a regular series registration plate for a vehicle under subsection (1)(a) of this section is the fee established under ORS 803.420 for registration or renewal of a state-owned vehicle registered under this section.
- (b) The fee for registration or renewal of a wine country registration plate for a vehicle under subsection (1)(b) of this section is the fee established under ORS 803.420 for that type of vehicle, and not for renewal of a state-owned vehicle registered under this section. Additionally, the applicant shall pay the surcharge described under ORS 805.266.
- (4) Any vehicle registered under this section and not exempted under ORS 815.300 must meet the requirements for certification of compliance with pollution control under ORS 815.310. [1987 c.440 §2; 1993 c.741 §124; 2016 c.124 §2; 2018 c.93 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.047 - Regular registration for county-owned vehicles.**

- (1) Upon request of any county, the Department of Transportation may issue registration plates or other evidence of registration from any regular series rather than from any specially designed government series for a vehicle owned or operated by the county. The registration period for a vehicle described under this section shall be the same as the regular registration period for the type of vehicle registered. The fee for registration or renewal of registration of a vehicle under this section shall be the fee established under ORS 803.420 (6)(a).
- (2) Any vehicle registered under this section and not exempted under ORS 815.300 must meet the requirements for certification of compliance with pollution control under ORS 815.310. [2015 c.540 §2; 2017 c.750 §39g]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.050 - School buses and school activity vehicles; exceptions.**

- (1) The Department of Transportation shall provide for registration of vehicles that qualify under this section in a manner that is consistent with this section. A vehicle qualifies for registration under this section if the vehicle meets the following qualifications and is not a vehicle that is described under subsection (2) of this section:
- (a) The vehicle must be a motor vehicle.
- (b) Except as provided under ORS 803.600, the vehicle must be used exclusively in transporting students to or from any school or authorized school activity or function, including extracurricular activities, and to or from points designated by a school.
- (c) The vehicle must meet the requirements for school buses under ORS 820.100 to 820.120, or activity vehicles under ORS 820.110 and 820.120.
- (d) The vehicle may be owned, operated or leased by the state, a city or county or any other political subdivision or otherwise provided to such government body for purposes described in this subsection or may be privately or otherwise owned and leased by or provided to a school for purposes described in this subsection.
- (2) The following vehicles may not be registered under this section:
- (a) A vehicle subject to regulation under ORS chapter 825.
- (b) A vehicle regulated by a city under ORS 221.420.
- (3) Except as otherwise provided by this section, vehicles registered under this section are subject to the same requirements and provisions for registration as are other vehicles. The following requirements and provisions are different from those otherwise provided for registration:
- (a) The registration period for vehicles subject to this section shall be an ownership registration period as described under ORS 803.400, except that the registration continues valid if the ownership of the vehicle is transferred to another who continues to use the vehicle for purposes allowed under the registration.
- (b) The fee for registration of the vehicles shall be the fee for registration of school vehicles established under ORS 803.420, and no other registration fee shall be required.
- (c) Any vehicle registered under this section and not exempted under ORS 815.300 shall meet the requirements for certification of compliance with pollution control under ORS 815.310.
- (4) The department shall suspend or revoke registration under this section if the department determines that:
- (a) A vehicle registered under this section is being used for purposes other than those required for qualification for registration under this section, and a trip permit as provided under ORS 803.600 has not been obtained.
- (b) The vehicle does not comply with requirements under ORS 820.100 to 820.120. [1985 c.547 §11; 1987 c.158 §164; 1993 c.741 §125]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.060 - Law enforcement undercover vehicles.**

- (1) The Department of Transportation may issue registration plates or other evidence of registration from any regular series rather than from any specially designed government series for a vehicle operated by a federal, state, county, city or Indian tribal law

enforcement, parole or probation agency in discharging its undercover criminal investigation duties if requested to do so by the agency. The registration period for a vehicle described under this section shall be the same as the regular registration period for the type of vehicle registered. The fee for registration or renewal of registration of a vehicle under this section shall be the fee established for registration or renewal of police undercover vehicles under ORS 803.420.

(2) Any vehicle registered under this section and not exempt from the requirements to comply with certificates of compliance for pollution control equipment by ORS 815.300, must be certified as complying with the requirements for pollution control equipment under ORS 815.310. [1983 c.338 §244; 1985 c.148 §2; 1987 c.6 §1; 1993 c.741 §126; 2001 c.827 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.080 - Campers.**

Except where specific provisions are made for campers, campers are subject to the same provisions of the vehicle code relating to registration, titling, transfer, sale and dealer regulation as any other vehicle. [1983 c.338 §250]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.090 - Nonfarm tractors.**

(1) Except where specific provisions are made for tractors described in this section, such tractors are subject to the same provisions of the vehicle code relating to registration, titling, transfer, sale and dealer regulation as a motor truck.

(2) This section applies to vehicles that would be farm tractors if used primarily in agricultural operations and that are not within:

(a) The exemptions from registration for farm tractors under ORS 803.305; or

(b) The classification of fixed load vehicle. [1983 c.338 §251; 1985 c.16 §96]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.092 - Low-speed vehicles and medium-speed electric vehicles; rules.**

(1) The Department of Transportation shall adopt, by rule, minimum safety standards for low-speed vehicles and medium-speed electric vehicles.

(2) The department may not issue registration to a low-speed vehicle or medium-speed electric vehicle if the department has reason to believe the vehicle does not meet the safety standards adopted pursuant to this section. [2009 c.865 §14; 2010 c.30 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.100 - Disabled veterans.**

(1) In the absence of just cause for refusal, the Department of Transportation shall provide for registration of any vehicle required to be registered by this state in a manner consistent with this section for persons who qualify as disabled veterans under this section. The special registration provisions under this section are subject to all of the following:

(a) The fee is the one-time registration fee established by ORS 803.420 for vehicles registered under this section.

(b) The department may issue registrations for vehicles in a household under this section in a number equal to the number of persons in the household who qualify as disabled veterans under subsection (2) of this section.

(c) The department shall not register any commercial vehicle under this section.

(2) A person is a disabled veteran who qualifies for registration of a vehicle under this section if the person:

(a) Is a disabled veteran whose disability results from causes connected with service in the Armed Forces of the United States; and

(b) Has been a member of and discharged or released under honorable conditions from the Armed Forces of the United States, and whose service was for not less than 90 consecutive days or who was discharged or released on account of a service-connected injury or illness prior to the completion of the minimum period of service.

(3) A person qualifies as a disabled veteran under subsection (2) of this section if the person presents a letter from the United States Department of Veterans Affairs or any branch of the Armed Forces of the United States certifying that the person is a disabled veteran.

(4) Registration issued under this section is valid as provided in ORS 803.415. The registration period for vehicles registered under this section exempts the registration from any requirement to be renewed or to make payment of renewal fees. However, if any owner would be required to comply with ORS 815.310 upon issuance or renewal of regular registration for the vehicle, the owner must comply with ORS 815.310 in the same manner as for other vehicles or the department may suspend the registration of the vehicle until the owner submits proof of compliance.

(5) The department may suspend or revoke any registration issued under this section if the department determines that the vehicle is owned by a person not qualified for registration under this section or the vehicle is a kind not qualified for registration under this section. [1983 c.338 §247; 1985 c.16 §92; 1993 c.741 §127; 1997 c.517 §1; 1999 c.778 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.103 - Congressional Medal of Honor recipients; rules.**

(1) The Department of Transportation shall provide for issuance of registration plates for a motor vehicle registered under ORS 803.420 (6)(a), in a manner consistent with this section, to motor vehicle owners who qualify for the plates as Congressional Medal

of Honor recipients under subsection (2) this section.

(2) A person who is a Congressional Medal of Honor recipient qualifies for registration plates under this section if the person provides the department with a certificate from the United States Department of Veterans Affairs attesting to the person's status as a Congressional Medal of Honor recipient.

(3) Registration plates issued under this section shall be considered customized registration plates for purposes of the fee required in ORS 805.250. The department may waive the fee required in ORS 805.250.

(4) The department may not issue registration plates for a motor vehicle under this section if another motor vehicle owned by the applicant has been issued registration plates under this section.

(5) The registration plates issued under this section shall:

(a) Be issued with a unique background design determined by the department;

(b) Be issued with a specific configuration as determined by the department;

(c) Contain the words "Medal of Honor";

(d) Contain the image of the Congressional Medal of Honor; and

(e) Meet the requirements for registration plates under ORS 803.535.

(6) If there is a transfer of interest in the motor vehicle to which the registration plate under this section is assigned, or if the motor vehicle is totaled and not reconstructed, the motor vehicle owner shall remove the registration plate. The Congressional Medal of Honor recipient may retain the registration plate, but the registration plate may not be placed on any other motor vehicle unless the registration plate is transferred as set forth in subsection (7) of this section.

(7) If the motor vehicle owner qualifies for the registration plates under subsection (2) of this section, the department may transfer registration plates issued under this section to another motor vehicle registered under ORS 803.420 (6)(a), as set forth in ORS 803.530.

(8) The department shall cancel any registration plates issued under this section if the department determines that the motor vehicle is owned by a person who does not qualify for the registration plates under subsection (2) of this section or that the motor vehicle is not registered under ORS 803.420 (6)(a).

(9) The department may adopt rules necessary to carry out the provisions of this section. [2007 c.311 §2; 2010 c.61 §4; 2017 c.750 §39h; 2023 c.400 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.105 - Veterans' recognition plates; Gold Star Family plates; rules; surcharge; disposition of moneys.**

(1) The Department of Transportation shall establish a veterans' recognition registration plate program to issue registration plates called "veterans' recognition registration plates" upon request to an owner of any motor vehicle registered under ORS 803.420 (6)(a) if the owner of the motor vehicle qualifies for the plates. Rules adopted under this section shall include, but need not be limited to, rules that:

(a) Describe general qualifications to be met by any veterans' group in order to be eligible for a veterans' recognition registration plate issued under this section.

(b) Specify circumstances under which the department may cease to issue veterans' recognition registration plates.

(c) Specify what constitutes proof of veteran status for issuance of a veterans' recognition registration plate, if such proof is required by a veterans' group or by the Director of Veterans' Affairs.

(d) Specify what constitutes proof that a person is a surviving family member of a person who was killed in action during an armed conflict while serving in the Armed Forces of the United States. The department may only issue a veterans' recognition registration plate displaying a gold star decal and the words "Gold Star Family" to a person who is a parent, sibling, spouse or dependent of a person who was killed in action during an armed conflict while serving in the Armed Forces of the United States.

(2)(a) In addition to any other fee authorized by law, upon issuance of a veterans' recognition registration plate under this section and upon renewal of registration for a vehicle that has plates issued under this section, the department shall collect a surcharge of \$2.50 per plate for each year of the registration period for the vehicle as described under ORS 803.415.

(b) Except as otherwise provided in paragraph (c) of this subsection, net proceeds of the surcharge collected by the department for the veterans' recognition registration plate shall be deposited in the trust fund established under ORS 406.050 for paying the expenses of operating the Oregon Veterans' Homes identified in ORS 408.362.

(c) If the department issues a veterans' recognition registration plate that names, describes or represents a veterans' group, that veterans' group may designate an account into which the net proceeds of the surcharge collected by the department under this section are to be deposited. The department shall keep accurate records of the number of plates issued under this paragraph for each veterans' group and, after payment of administrative expenses of the department, shall deposit moneys collected under this subsection into the specified account.

(d) The department shall waive the surcharge required under paragraph (a) of this subsection and transfer the amount otherwise paid by the person to the trust fund established under ORS 406.050 if:

(A) A request to waive the surcharge is submitted by a Gold Star Family member; and

(B) Funds are appropriated by the Legislative Assembly or otherwise made available to the department for the purpose of paying the surcharge.

(e) Deposits under this subsection shall be made quarterly.

(3)(a) In consultation with the Department of Transportation, the Director of Veterans' Affairs shall design the veterans' recognition registration plate.

(b) If the department issues a veterans' recognition registration plate to recognize a veterans' group, the department shall, in consultation with the requesting veterans' group, add words or a military-related decal to the veterans' recognition registration plate that names, describes or represents the veterans' group.

(c) The department shall add a gold star decal and the words "Gold Star Family" to a veterans' recognition registration plate background to recognize surviving family members of persons killed in action during an armed conflict while serving in the Armed Forces of the United States.

(d) Except as otherwise required by the design, veterans' recognition registration plates must comply with the requirements of ORS 803.535.

(4) The department shall determine how many sets of veterans' recognition registration plates will be manufactured. If the department does not sell or issue renewal for 500 sets of veterans' recognition registration plates in any one year, the department shall cease production of veterans' recognition registration plates. For the purposes of this section, veterans' recognition registration plates that name, describe or represent a veterans' group are included in the total number of veterans' recognition registration plates issued.

(5) For the purposes of this section, "sibling" includes siblings of the whole or half blood and siblings by adoption, marriage or domestic partnership. [2007 c.564 §2; 2015 c.183 §1; 2017 c.750 §39i; 2019 c.224 §9; 2023 c.330 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.106 - Funding for veterans' recognition plate costs.**

(1) The Director of Veterans' Affairs shall pay to the Department of Transportation all of the department's anticipated costs of issuance of the veterans' recognition registration plate from grants, donations and gifts accepted by the Department of Veterans' Affairs under ORS 406.050 that may be expended for the purpose of issuance of a veterans' recognition registration plate.

(2) If a veterans' group requests issuance of a veterans' recognition registration plate under ORS 805.105, the group shall pay to the department all of the department's anticipated costs of issuing a veterans' recognition registration plate that names, describes or represents the group. The department may not begin creating or issuing the plates until the anticipated costs are paid. For purposes of this section, costs of issuing a veterans' recognition registration plate that names, describes or represents a veterans' group include, but are not limited to, computer programming costs and vendor set-up fees. [2007 c.564 §3; 2009 c.602 §6]

Note:

805.106 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.107 - Disposition of certain plates issued to veterans.**

The surviving spouse of a veteran who was issued registration plates under ORS 805.105 may, upon the death of the veteran, continue to use the plates on a motor vehicle or may keep the plates as a memento. [Formerly 805.208]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.110 - Former prisoners of war.**

(1) In the absence of just cause for refusal, the Department of Transportation shall provide for registration of any motor vehicle required to be registered by this state in a manner consistent with this section for persons who qualify as former prisoners of war under this section. The special registration provisions under this section are subject to all of the following:

(a) The fee is the one-time registration fee established under ORS 803.420 for vehicles registered under this section.

(b) The department may not register a motor vehicle under this section if another vehicle owned by the applicant or a member of the applicant's household has been registered under this section.

(c) The department may not register any commercial vehicle under this section or any motor vehicle with a loaded weight in excess of 10,000 pounds.

(2) A person is a former prisoner of war who qualifies for registration of a vehicle under this section if the person, while serving in the active military, naval or air service of the United States or any of its Allies, was forcibly detained or interned in line of duty:

(a) By an enemy government or its agents, or a hostile force, during a period of war; or

(b) By a foreign government or its agents, or a hostile force during a period other than a period of war in which such person was held under circumstances which the department finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

(3) The surviving spouse of a former prisoner of war who was issued registration under this section may, upon the death of the former prisoner of war, continue to use the registration plates on a motor vehicle or may keep the plates as a memento.

(4) The department may suspend or revoke any registration issued under this section if the department determines that the vehicle is owned by a person not qualified for registration under this section or the vehicle is a kind not qualified for registration under this section. [1985 c.16 §94; 1987 c.750 §10; 1989 c.742 §1; 1993 c.741 §128; 2001 c.152 §3; 2005 c.770 §5; 2017 c.62 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.115 - Active members of Oregon National Guard.**

- (1) In the absence of just cause for refusal, the Department of Transportation shall provide for registration in a manner consistent with this section for persons who qualify under this section as active members of the Oregon National Guard. The special registration provisions under this section are subject to the following:
- (a) The fee to register or renew registration under this section shall be the regular registration fee for the vehicle.
  - (b) Any motor vehicle registered under ORS 803.420 (6)(a) or (7)(c)(C) or (D) may be registered under this section.
  - (2) A person is eligible for registration under this section if the person is issued a certificate by the Oregon Military Department certifying that the person is an active member of the Oregon National Guard.
  - (3) The department may suspend, revoke or refuse to renew any registration issued under this section if the department determines that the vehicle is owned by a person not qualified for registration under this section or that the vehicle is not eligible for registration under this section.
  - (4) The Oregon Military Department shall notify the Department of Transportation within 30 days if a person issued a certificate described in subsection (2) of this section ceases to be an active member of the Oregon National Guard. [1991 c.383 §2; 1993 c.741 §129; 2001 c.293 §11; 2017 c.750 §39j]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.120 - Effect of fleet registration; requirements; rules.**

- (1) The owner of a fleet of vehicles may register the vehicles under this section as a fleet in lieu of registering the vehicles individually.
- (2) Except as otherwise provided under this section, vehicles registered in a fleet under this section are subject to the same taxes, fees, qualifications, provisions, conditions, prohibitions and penalties applicable to similar vehicles otherwise registered under the vehicle code.
- (3) The following apply to fleets registered under this section:
- (a) The registered owner of the fleet must maintain the number of vehicles registered in the fleet that the Department of Transportation determines by rule to be required for participation in the fleet registration program.
  - (b) Fleet registration or renewal of fleet registration under this section may be annual or biennial registration as determined by the department by rule.
  - (c) The registration of individual vehicles in a fleet registered under this section does not expire as long as the fleet registration is valid.
  - (d) The department shall assign identification to the fleet and, upon payment of appropriate fees, shall issue to the registered owner of the fleet permanent fleet tags, stickers, plates or other identification the department determines appropriate for the vehicles that the owner and the department have agreed to place in the fleet. The department may establish the use of any appropriate form of identification under this paragraph as the department determines convenient for its own operation.
  - (e) The tags, stickers, plates or other appropriate identification issued under this section shall be displayed on any vehicle to which it has been assigned by the department.
  - (f) Registration cards issued by the department for vehicles registered under this section are only required to individually describe the vehicles in the fleet to the extent the department determines necessary and to identify the fleet in which the vehicles are registered.
  - (g) Application for registration under this section shall be in the manner determined by the department by rule.
  - (h) The fleet owner shall maintain records and provide information to the department as required by the department by rule and shall allow the department to audit the records of the owner and conduct inspections at any reasonable time to determine compliance with requirements for fleet registration.
  - (i) Vehicles shall be added to the fleet and transferred from the fleet according to procedures established by the department by rule.
  - (j) The vehicles in the fleet shall be marked in compliance with any requirement for vehicle markings the department determines necessary for identification of fleet vehicles.
  - (k) The department may adjust fee payments and registration periods for individual vehicles added to a fleet registered under this section as the department determines necessary for administration of the fleet registration.
  - (L) The fees for a fleet registered under this section are the same as the fees required if the vehicles in the fleet are individually registered under the vehicle code.
  - (m) The department may charge a service charge for each vehicle entered into a fleet and a fleet vehicle renewal charge for each vehicle in the fleet at the time of renewal. Fees described in this paragraph are established under ORS 803.420.
  - (n) The department may schedule the time for payment of fleet registration fees in any manner convenient to the department or the fleet owner.
  - (o) The fleet owner shall comply with any rules the department establishes for the registration of vehicles in fleets under this section.
  - (p) The department shall cancel any registration under this section if the department determines that the owner of the vehicles registered is not complying with any requirements for fleet registration established under this section or by the department.
  - (q) A fleet owner may certify compliance with pollution control requirements under ORS 815.310 in the manner provided under



ORS 815.310 for vehicles registered under this section.

(r) The department shall establish procedures for the reporting of odometer disclosures for the vehicles in the fleet on a regular basis and for vehicles that are withdrawn from the fleet, if odometer disclosures are otherwise required. The reports shall provide any information the department determines by rule to be necessary. The department may establish any reporting time the department considers convenient, but shall attempt to establish periods with a frequency roughly equivalent to those for renewal of vehicle registration. The department shall retain the odometer information submitted under this section but need not print it on certificates of title or registration cards.

(4) A fleet owner may request that the registration of all vehicles in the fleet expire in the same month. Notwithstanding ORS 803.405 or any other provision of this section, if such a request is made the department shall:

(a) Adjust the registration expiration date of all vehicles in the fleet.

(b) When a vehicle that is already registered in this state is added to the fleet, adjust the registration expiration date of the vehicle to correspond to that of other vehicles in the fleet.

(c) When a vehicle that has never before been registered in this state is added to the fleet, assign a registration expiration date to the vehicle that corresponds to that of other vehicles in the fleet.

(5) When the department adjusts or assigns registration expiration dates in accordance with subsection (4) of this section, the department shall prorate all registration fees to reflect the adjustment or assignment.

(6) The department shall adopt rules necessary for the administration of this section. The rules may include any rules that increase the convenience of administration or the convenience of the registration process under this section. [1983 c.338 §249; 1985 c.16 §95; 1985 c.245 §1; 1985 c.251 §23; 1985 c.668 §8; 1991 c.459 §438i; 1991 c.873 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.200 - Plates and other devices with special designs; rules.**

(1) The Department of Transportation by rule:

(a) Shall design plates, stickers, plate and sticker combinations or other devices or indicia that distinguish government-owned vehicles registered under the provisions of ORS 805.040 from other vehicles.

(b) May design plates, stickers, plate and sticker combinations or other devices or indicia for distinguishing vehicles registered under specific provisions of the Oregon Vehicle Code other than ORS 805.040, 805.105 or 805.205. Plates designed under this paragraph shall comply with the requirements of ORS 803.535. The fees for plates or indicia described in this paragraph are provided under ORS 805.250.

(2) Unless otherwise provided by statute or by rule of the department, indicia of registration that distinguish one kind of registration from another may not be transferred unless the new owner of the vehicle qualifies for that specific kind of registration.

(3) The department may adopt rules concerning the disposition of plates, stickers, devices or other indicia of registration upon transfer of ownership of the vehicle or when the owner or the vehicle is no longer eligible for the particular indicia. The department may cancel or revoke registration for failure to comply with rules adopted under this section. [1983 c.338 §263; 1985 c.16 §103; 1985 c.547 §15; 1985 c.668 §14; 1987 c.25 §4; 1989 c.43 §31; 1991 c.284 §21; 1991 c.383 §3; 1991 c.481 §3; 1993 c.741 §117; 2007 c.564 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.205 - Special plates for certain groups; rules; surcharge; disposition of moneys.**

(1) Except as provided in subsection (7) of this section, the Department of Transportation shall provide for issuance of registration plates described in this section for nonprofit groups meeting the qualifications for tax exempt status under section 501(c)(3) of the Internal Revenue Code and for institutions of higher education. Plates issued under this section may be issued to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a). Plates issued under this section may not contain expressions of political opinion or religious belief. Rules adopted under this section shall include, but need not be limited to, rules that:

(a) Specify circumstances under which the department may cease to issue plates for any particular group.

(b) Require each group for which plates are issued to file an annual statement on a form designed by the department showing that the group is a nonprofit group or is an institution of higher education and that the group or institution otherwise meets the qualifications imposed for eligibility for plates issued under this section. The statement shall include names and addresses of current directors or officers of the group or institution or of other persons authorized to speak for the group or institution on matters affecting plates issued under this section.

(2)(a) Except as otherwise provided in paragraphs (b) and (c) of this subsection, in addition to any other fee authorized by law, upon issuance of a plate under this section and upon renewal of registration for a vehicle that has plates issued under this section, the department shall collect a surcharge for each year of the registration period. The surcharge shall be determined by the department by rule and may not be less than \$2.50 per plate or more than \$16 per plate. In setting the amount of the surcharge, the department shall consult with the nonprofit group for which the plates are issued.

(b) In addition to any other fee authorized by law, upon issuance of a plate under this section that recognizes an institution of higher education in this state, and upon renewal of registration for a vehicle that has such plates, the department shall collect a surcharge of \$8 per plate for each year of the registration period.

(c) In addition to any other fee authorized by law, upon issuance of a Share the Road registration plate the department shall collect a

surcharge of \$5 per year of registration.

(3) Plates issued under this section shall be from the current regular issue of plates except that:

- (a) If the group requesting the plates is an institution of higher education, the plates shall, upon request, contain words that indicate the plates are issued to recognize the institution or shall contain the institution's logo or an image of the institution's mascot; or
- (b) If the group requesting the plates is a group that recognizes fallen public safety officers, the plates shall, upon request, contain a decal that indicates the plates are issued to recognize fallen public safety officers.

(4) Except as otherwise required by the design chosen, the plates shall comply with the requirements of ORS 803.535. The department shall determine how many sets of plates shall be manufactured for each group approved under this section. If the department does not sell or issue renewal for 500 sets of plates for a particular group in any one year, the department shall cease production of those plates.

(5) Except as otherwise provided in subsection (6) of this section, each group that is found by the department to be eligible for plates issued under this section may designate an account into which the net proceeds of the surcharge collected by the department under subsection (2) of this section are to be deposited. The department shall keep accurate records of the number of plates issued for each group that qualifies. After payment of administrative expenses of the department, moneys collected under this section for each group shall be deposited by the department into an account specified by that group. If any group does not specify an account for the moneys collected from the sale of plates issued under this section, the department shall deposit moneys collected for those plates into the Passenger Rail Transportation Account established under ORS 802.100 to be used as other moneys in the account are used. Deposits under this subsection shall be made at least quarterly.

(6)(a) Each institution of higher education that requests a plate under this section shall designate an account in the general fund of the institution, and the proceeds in the account shall be used for the purpose of academic enrichment at the institution.

(b) Net proceeds of the surcharge collected by the department for Share the Road registration plates shall be deposited into two accounts designated by The Street Trust Community Fund and Cycle Oregon. The department shall evenly distribute the net proceeds to each account. Deposits under this paragraph shall be made at least quarterly. At any time that the department determines that the accounts designated by The Street Trust Community Fund and Cycle Oregon cease to exist, the department may deposit the proceeds into the Passenger Rail Transportation Account established under ORS 802.100.

(c) Net proceeds of the surcharge collected by the department for Keep Kids Safe registration plates shall be deposited into an account designated by the Children's Trust Fund of Oregon Foundation to fund strategies and approaches shown to prevent or reduce child abuse. Deposits made under this paragraph shall be made at least quarterly. At any time that the department determines that the account designated by the Children's Trust Fund of Oregon Foundation ceases to exist, the department shall deposit the proceeds into the Keep Kids Safe Registration Plate Account established in ORS 805.207. At the beginning of each biennium, the Department of Early Learning and Care shall evenly distribute the moneys in the Keep Kids Safe Registration Plate Account to the counties in this state, until each county receives \$1,000. After each county has received \$1,000, the Department of Early Learning and Care shall distribute any remaining moneys to each county in an amount equal to the percentage of Keep Kids Safe registration plates sold in that county. Each county shall use the moneys received under this paragraph solely for the purpose of funding strategies and approaches shown to prevent or reduce child abuse.

(7) The Department of Transportation may not accept applications to create new group registration plates on or after August 12, 2015. [1993 c.741 §116; 1997 c.672 §1; 2001 c.102 §6; 2001 c.124 §4; 2003 c.409 §3; 2007 c.520 §1; 2007 c.564 §7; 2007 c.667 §3; 2009 c.621 §3; 2011 c.698 §1; 2012 c.37 §§68,68a; 2015 c.806 §15; 2017 c.750 §39k; 2018 c.93 §4; 2021 c.631 §61]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.207 - Keep Kids Safe Registration Plate Account.**

The Keep Kids Safe Registration Plate Account is established within the Department of Early Learning and Care Fund. All moneys received by the Department of Early Learning and Care from the sale of Keep Kids Safe registration plates shall be deposited into the account and are continuously appropriated to the department to be distributed to counties as provided in ORS 805.205. [2012 c.37 §68b; 2013 c.624 §23; 2021 c.631 §62]

Note:

805.207 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.208**

[2001 c.152 §2; 2007 c.564 §9; renumbered 805.107 in 2007]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.210 - Special interest vehicle plates.**

(1) The owner of a vehicle of special interest may apply to the Department of Transportation for permission to use special interest registration plates. To receive permission to use special interest registration plates the person must:

- (a) Maintain the vehicle of special interest as a collectors' item and use the vehicle only for exhibitions, parades, club activities and similar uses but not use the vehicle primarily for the transportation of persons or property;

- (b) Supply the special interest registration plates which the person desires to use; and
- (c) Include the plates with the application for permission to use them.
- (2) The department shall determine which special interest plates are available for issuance under this section.
- (3) The department, prior to approval of an application under this section, shall determine that the special interest registration plates meet the following requirements:
  - (a) The plates shall be issued by the State of Oregon for use on vehicles in this state.
  - (b) The numbers and characters on the plate shall be distinctive.
  - (c) The plates shall be legible, durable and otherwise of a size, shape, color and design that will serve the purposes of safety and identification.
  - (d) If the plates are from a series of plates in current use, the plates shall be from the same year or period of issue in which the vehicle was manufactured.
  - (4) If the special interest registration plate offered for approval was issued in a year in which single registration plates only were required, the department shall grant permission for use of that registration plate alone if it is otherwise acceptable.
  - (5) If the special interest registration plates offered for approval are from a series of plates in current use, as described in subsection (3)(d) of this section, the department may affix a distinctive sticker to each plate at the time of approval. Stickers shall be of a size, color and design determined by the department and shall be displayed on plates in the manner determined by the department.
  - (6) The department may approve plates issued by the state that have been restored to their original color and design provided that if the plate was reflectorized when originally issued, it must be fully reflectorized when restored. [1983 c.338 §264; 1985 c.570 §1; 1991 c.896 §1; 1993 c.741 §130; 2003 c.122 §5; 2023 c.400 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.220 - Elected official plates; qualifications; fee; rules.**

- (1) Upon application by an elected official who qualifies under this section, the Department of Transportation shall issue registration plates described under this section to the official for use on the motor vehicle of the person. Registration plates issued under this section may be displayed on the vehicle of the person in lieu of regular registration plates issued under the vehicle code.
- (2) The following apply to registration plates issued under this section:
  - (a) The plates shall be considered customized plates for purposes of the fee in ORS 805.250.
  - (b) The plates shall be assigned to a specific vehicle.
  - (c) The plates shall be issued in addition to regular registration plates issued for a vehicle at the option of the applicant.
  - (d) The plates shall not be transferable from vehicle to vehicle except as provided by the department by rule.
  - (e) The plates shall be valid for the term of office of the qualifying official. If the person is elected to a subsequent term of office, the department may provide for validation of the plate for the subsequent term by means of a sticker or by any other means the department determines convenient.
  - (f) The person to whom the plates are issued may retain the plates after the person's term of office, but the plates shall not be valid if displayed on any vehicle while the person is not holding the office for which the plates were issued.
- (3) Only the following elected officials qualify for issuance of registration plates under this section:
  - (a) The Secretary of State.
  - (b) The State Treasurer.
  - (c) Members of the Oregon Legislative Assembly.
  - (d) Members of the Oregon Congressional Delegation.
- (4) Nothing in this section applies to or affects the authority of the department to issue distinctive registration plates on vehicles owned by this state that are provided for use of the Governor.
- (5) The department shall adopt rules necessary to carry out the purposes of this section. [1985 c.16 §105; 1993 c.741 §131]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.222 - Special registration program; rules.**

- (1) The Department of Transportation shall establish a special registration program and provide for issuance of special registration plates for nonprofit groups meeting the qualifications for tax exempt status under section 501(c)(3) of the Internal Revenue Code, for institutions of higher education and for public bodies, as defined in ORS 174.109.
- (2) Plates issued under this section may be issued to owners of motor vehicles registered under the provisions of ORS 803.420
- (6)(a). In addition, the department may adopt rules for issuance of special registration plates issued pursuant to this section for vehicles not registered under ORS 803.420 (6)(a).
- (3) Plates issued under this section may not contain expressions of political opinion or religious belief.
- (4) Rules adopted under this section shall include, but need not be limited to, rules that:
  - (a) Describe general qualifications to be met by any nonprofit group, institution of higher education or public body in order to be eligible for plates issued under this section.
  - (b) Specify circumstances under which the department may cease to issue plates under this section.
  - (c) Require each nonprofit group, institution of higher education or public body for which plates are issued to file an annual statement on a form designed by the department showing that the group is a nonprofit group, institution of higher education or

public body and that the nonprofit group, institution of higher education or public body otherwise meets the qualifications imposed for eligibility for plates issued under this section. The statement shall include names and addresses of current directors or officers of the nonprofit group, institution of higher education or public body or of other persons authorized to speak for the nonprofit group, institution of higher education or public body on matters affecting plates issued under this section.

(d) Specify the manner in which a nonprofit group, institution of higher education or public body may apply for a special registration plate.

(5) In addition to any other fee authorized by law, for each set of special registration plates issued pursuant to this section, the department shall collect a surcharge of \$40 payable when the plates are issued and upon each subsequent renewal of registration of a vehicle bearing the plates. The department shall distribute the moneys from the surcharge as provided in subsection (8) of this section.

(6) The department, in consultation with the nonprofit group, institution of higher education or public body requesting the special registration plate, shall develop a unique design for each plate issued under this section. Any design must comply with requirements described under ORS 803.535.

(7) The department shall determine how many sets of plates shall be manufactured for each plate approved under this section. If the department does not issue 2,000 sets of plates for a particular nonprofit group, institution of higher education or public body in any one year, the department shall cease production of those plates.

(8) Each nonprofit group, institution of higher education or public body that is found by the department to be eligible for plates issued under this section may designate an account into which the net proceeds of the surcharge collected by the department under subsection (5) of this section are to be deposited. The department shall keep accurate records of the number of plates issued for each nonprofit group, institution of higher education or public body that qualifies. After payment of administrative expenses of the department, moneys collected under this section for a nonprofit group, institution of higher education or public body shall be deposited by the department into an account specified by that nonprofit group, institution of higher education or public body. If any nonprofit group, institution of higher education or public body does not specify an account for the moneys collected from the sale of plates issued under this section, the department shall deposit moneys collected for those plates into the Passenger Rail Transportation Account established under ORS 802.100 to be used as other moneys in the account are used. Deposits under this subsection shall be made at least quarterly. [2015 c.806 §12; 2017 c.750 §39L]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.225 - Special registration plate; qualifications; application; fee; rules.**

(1) A nonprofit group, institution of higher education or public body, as defined in ORS 174.109, that requests issuance of a special registration plate under ORS 805.222 shall:

(a) Submit an application, in the manner prescribed by the Department of Transportation by rule.

(b) Pay to the department the anticipated costs of adding the plate to the special registration plate program, as determined by the department. The department shall refund any amount of the payment that is not needed to pay the costs of adding the plate to the program.

(c) Collect and hold prepaid vouchers for new special registration plates, until it has received at least 3,000 vouchers along with required fees. Once a participating nonprofit group, institution of higher education or public body has received at least 3,000 vouchers, it shall submit the vouchers, along with the required fees, to the department.

(2) The department shall begin designing, producing and issuing the plates after the nonprofit group, institution of higher education or public body submits the following:

(a) The application;

(b) Payment for the anticipated costs of adding the plate as determined under subsection (1) of this section; and

(c) Three thousand prepaid vouchers along with required fees.

(3) For purposes of this section, costs of adding a new special registration plate include, but are not limited to, computer programming costs and vendor set-up fees.

(4) The department shall adopt rules for the administration and implementation of the special registration plate program. [2015 c.806 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.230 - Amateur radio operator plates; fee.**

(1) A motor vehicle owner who is a resident of this state and who holds a valid, unrevoked and unexpired official amateur radio station license issued by the Federal Communications Commission may obtain from the Department of Transportation special registration plates designed by the department for use on the vehicle in lieu of the regularly issued registration plates for the vehicle. To obtain special registration plates described under this section, a person must submit to the department the fee established under ORS 805.250 for issuance of the special registration plates.

(2) Upon the revocation or expiration of the radio license, the person must return the plates issued under this section to the department and receive in lieu thereof regular registration plates. [1983 c.338 §265; 1985 c.16 §106; 1993 c.741 §132]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration**

**ProvisionsSection 805.240 - Customized plates; fee.**

The Department of Transportation is authorized to issue customized registration plates upon the request of vehicle owners. Such registration plates shall meet the requirements for registration plates described in ORS 803.535. The fee for issuance of the customized plates is as provided under ORS 805.250. [1983 c.338 §266; 1993 c.741 §133]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 805 - Special Registration ProvisionsSection 805.250 - Fees for special plates.**

This section establishes fees for issuance of registration plates authorized under ORS 805.200. If a fee for plates authorized in ORS 805.200 is not established in this section, the fee is the same fee as established under ORS 803.570. Where a fee is established under this section, the fee is in addition to the fee established under ORS 803.570 unless otherwise provided in the following:

- (1) Amateur radio operator registration plates issued under ORS 805.230, \$5.
- (2) Customized registration plates issued under ORS 805.240:
  - (a) For original issuance or renewal, \$50 annual fee.
  - (b) For issuance of a duplicate or replacement plate, \$12.
- (3) Special interest registration plates approved under ORS 805.210 are approved without cost except as provided in this subsection, including without payment of the fee established under ORS 803.570. If identifying stickers are required, \$1 per sticker or pair of stickers.
- (4) Dealer plates issued under ORS 822.040 are as follows:
  - (a) For the original dealer plate, no fee except the fee established under ORS 803.570.
  - (b) For replacement dealer plates, \$10 for each plate except that persons dealing exclusively in motorcycles, mopeds, snowmobiles or any combination of those vehicles shall pay only \$3 for each replacement plate.
  - (c) For additional plates, or for renewal of registration, \$42, except that persons dealing exclusively in motorcycles, mopeds or snowmobiles or any combination of those vehicles shall pay only \$9 for each additional plate, or for renewal of registration.
- (5) Special vehicle transporter plates or devices issued under ORS 822.310, \$5 for each plate or device. [1983 c.338 §270; 1985 c.16 §109; 1985 c.174 §7; 1985 c.400 §3; 1985 c.570 §2; 1985 c.668 §15; 1987 c.25 §5; 1987 c.261 §2; 1989 c.43 §32; 1991 c.481 §4; 1993 c.741 §134; 1999 c.977 §§22,22a; 1999 c.1009 §2; 2007 c.667 §4; 2009 c.865 §45; 2023 c.232 §7; 2023 c.400 §40]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 805 - Special Registration ProvisionsSection 805.255 - Salmon registration plate; rules; fees.**

- (1) The Department of Transportation shall establish a salmon registration plate program to issue special registration plates called "salmon registration plates" upon request to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a) to observe the importance of salmonid to Oregon. In addition, the department may adopt rules for issuance of salmon registration plates for vehicles not registered under the provisions of ORS 803.420 (6)(a).
- (2) In addition to any other fee authorized by law, for each salmon registration plate issued under subsection (1) of this section, the department shall collect a surcharge of \$7.50 for each year of the registration period, payable when the plate is issued and upon each subsequent renewal of registration of a vehicle bearing the plate. The department shall distribute the surcharge as provided in ORS 805.256. [1997 c.672 §6; 2001 c.124 §5; 2003 c.14 §464; 2003 c.409 §5; 2017 c.750 §39m]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 805 - Special Registration ProvisionsSection 805.256 - Disposition of moneys from salmon registration plate surcharge.**

- (1) After deduction of the cost of administration of the salmon registration plate program, moneys from the surcharge imposed by ORS 805.255 shall be transferred and appropriated as follows:
  - (a) Half of the moneys shall be transferred to the Watershed Conservation Grant Fund and used only for funding projects under ORS 541.956 to:
    - (A) Protect or restore native salmon habitat; or
    - (B) Restore natural watershed or ecosystem functions by removing artificial obstructions to native salmon migration.
  - (b) Half of the moneys shall be transferred to the State Parks and Recreation Department Fund established under ORS 390.134 and continuously appropriated for the purposes described in ORS 390.134 (4).
- (2) As used in this section, "the cost of administration of the salmon registration plate program" is the sum of all Department of Transportation expenses for the issuance or transfer of salmon registration plates under ORS 805.255 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the costs of collecting the salmon registration plate surcharge and transferring salmon registration plates. [1997 c.672 §7; 2003 c.14 §465; 2009 c.21 §37; 2011 c.643 §19; 2015 c.742 §1]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 805 - Special Registration ProvisionsSection 805.260 - Cultural registration plates; rules; fees.**

- (1) The Department of Transportation shall establish a cultural registration plate program to issue special registration plates called "cultural registration plates" upon request to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a) to

observe the importance of culture to Oregon. In addition, the department may adopt rules for issuance of cultural registration plates for vehicles not registered under the provisions of ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each cultural registration plate issued under subsection (1) of this section, the department shall collect a surcharge of \$25 payable when the plate is issued and upon each subsequent renewal of registration of a vehicle bearing the plate. The department shall distribute the surcharge as provided in ORS 805.261.

(3) The department, in consultation with the Trust for Cultural Development Board, shall design the cultural registration plates. The plates shall meet the requirements for registration plates described in ORS 803.535. [2001 c.954 §21; 2003 c.409 §7; 2017 c.750 §39n; 2020 c.1 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.261 - Disposition of moneys from cultural registration plate surcharge.**

(1) After deduction of the cost of administration of the cultural registration plate program, moneys from the surcharge imposed by ORS 805.260 shall be transferred to the Trust for Cultural Development Account established under ORS 359.405.

(2) As used in this section, "the cost of administration of the cultural registration plate program" is the sum of all Department of Transportation expenses for the issuance or transfer of cultural registration plates under ORS 805.260 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the costs of collecting the cultural registration plate surcharge and transferring cultural registration plates. [2001 c.954 §22; 2005 c.755 §56]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.263 - Crater Lake National Park registration plate; rules; fees.**

(1) The Department of Transportation shall establish a Crater Lake National Park registration plate program to issue special registration plates called "Crater Lake National Park registration plates" upon request to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a) to commemorate the 100th anniversary of Crater Lake National Park. The department may adopt rules for issuance of Crater Lake National Park registration plates for vehicles that are not registered under the provisions of ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each Crater Lake National Park registration plate issued under subsection (1) of this section, the department shall collect a surcharge of \$15 payable when the plate is issued. The department shall distribute the surcharge as provided in ORS 805.264. [2001 c.824 §1; 2003 c.409 §6; 2017 c.87 §1; 2017 c.750 §39o]

Note:

805.263 and 805.264 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.264 - Disposition of moneys from Crater Lake National Park registration plate surcharge.**

(1) After deduction of the cost of administration of the Crater Lake National Park registration plate program, the Department of Transportation shall transfer moneys from the surcharge imposed by ORS 805.263 to the Oregon Community Foundation for use on Crater Lake National Park projects.

(2) As used in this section, "the cost of administration of the Crater Lake National Park registration plate program" is the sum of all Department of Transportation expenses for the issuance or transfer of Crater Lake National Park registration plates under ORS 805.263 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of business in the department. These expenses include, but are not limited to, the costs of collecting the Crater Lake National Park registration plate surcharge and transferring Crater Lake National Park registration plates. [2001 c.824 §2; 2007 c.341 §1]

Note:

See note under 805.263.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.266 - Wine country registration plate; fee.**

(1) The Department of Transportation shall establish a wine country registration plate program to issue special registration plates called "wine country registration plates" upon request to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each set of wine country registration plates issued under subsection (1) of this section, the department shall collect a surcharge of \$30 payable when the plates are issued and upon each subsequent renewal of registration of a vehicle bearing the plates. The department shall transfer the moneys from the surcharge as provided in ORS 805.272. [2011 c.709 §2; 2015 c.138 §24; 2017 c.750 §39p]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.268 - Wine country registration plate design.**

(1) The Department of Transportation, in consultation with the Oregon Tourism Commission and Travel Salem, shall design the wine country registration plates issued under ORS 805.266.

(2) Except as otherwise required by subsection (1) of this section, wine country registration plates shall comply with the requirements of ORS 803.535. [2011 c.709 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.272 - Disposition of moneys from wine country registration plate surcharge.**

(1) After the deduction of the cost of administration of the wine country registration plate program, the Department of Transportation shall deposit the net proceeds of the surcharge collected by the department under ORS 805.266 into the account of the Oregon Tourism Commission established under ORS 284.131. The department shall make deposits under this subsection at least quarterly.

(2) Moneys deposited under subsection (1) of this section are continuously appropriated to the Oregon Tourism Commission for the purposes set forth in ORS 284.131.

(3) As used in this section, "the cost of administration of the wine country registration plate program" means the sum of all department expenses for the issuance or transfer of wine country registration plates under ORS 805.266 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the costs of collecting the wine country registration plate surcharge and transferring wine country registration plates. [2011 c.709 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.274 - Distribution of moneys; rules.**

(1) After payment of the cost of production of the wine country registration plates including administrative expenses relating to marketing the wine country registration plates issued under ORS 805.266, the Oregon Tourism Commission shall distribute the moneys received from the Department of Transportation pursuant to ORS 805.272 as follows:

(a) One half of the moneys shall be distributed as matching grants. The commission shall develop a matching grant program and shall award grants to tourism promotion agencies for tourism promotion of wine and culinary tourism. The commission shall establish the maximum grant amount in the applicant guidelines prepared for the matching grant program in each biennium. No more than 50 percent of the total cost of a project may be paid for with moneys from the program. An applicant must show a minimum one-to-one match from private or public sources other than Oregon Business Development Department or commission programs. The applicant must also show a cash match of at least 50 percent of the amount requested under the matching grant program.

(b) One half of the moneys shall be distributed to tourism promotion agencies for the purpose of wine and culinary tourism promotion. The commission shall distribute the moneys in proportion to the amount of acreage in each region used for wine grape production. The commission shall designate a tourism promotion agency for each region. The regions shall include the mid-Willamette Valley region and each other major wine producing region of the state as determined by the commission. The commission shall require, by rule, tourism promotion agencies to collaborate with the Oregon Wine Board and relevant regional wine industry associations designated by the commission whenever the tourism promotion agencies develop expenditure plans for moneys distributed by the commission under this section.

(2) The commission annually shall submit a report on the moneys distributed under this section to the Legislative Assembly in the manner provided in ORS 192.245 on or before October 1.

(3) The commission shall adopt rules to carry out this section.

(4) As used in this section:

(a) "Mid-Willamette Valley region" means Marion, Polk and Yamhill Counties.

(b) "Tourism promotion" has the meaning given that term in ORS 320.300.

(c) "Tourism promotion agency" has the meaning given that term in ORS 320.300. [2011 c.709 §6; 2016 c.124 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.278 - Portland Trail Blazers registration plate; rules; fee.**

(1) The Department of Transportation shall establish a Portland Trail Blazers registration plate program to issue special registration plates to support charitable initiatives through the Trail Blazers Foundation established by the Portland Trail Blazers. The special registration plates shall be issued upon request to owners of motor vehicles registered under ORS 803.420 (6)(a). In addition, the department may adopt rules for issuance of Portland Trail Blazers registration plates for vehicles not registered under ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each set of Portland Trail Blazers registration plates issued under subsection (1) of this section, the department shall collect a surcharge of \$40 payable when the plates are issued and upon each subsequent renewal of registration of a vehicle bearing the plates. The department shall distribute the moneys from the surcharge as provided in ORS 805.279.

(3) Notwithstanding ORS 803.530, Portland Trail Blazers registration plates may be transferred from vehicle to vehicle if the department stops issuing the plates, as long as the plates are legible and capable of being used for identification purposes.

(4) The Portland Trail Blazers registration plate must include the name or logo of the Portland Trail Blazers basketball team. The department shall design the plate in consultation with the Portland Trail Blazers. The final design of the plate is subject to approval by the Portland Trail Blazers. The department may enter into agreements necessary for the use of the logo, name, marks or slogans associated with the Portland Trail Blazers or the National Basketball Association.

(5) Except as otherwise required by the design approved by the department, Portland Trail Blazers registration plates must comply with the requirements of ORS 803.535. [2015 c.806 §2; 2017 c.750 §39q; 2018 c.114 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.279 - Disposition of moneys from Portland Trail Blazers registration plate surcharge.**

(1) Moneys from the surcharge imposed by ORS 805.278 must be transferred to the Trail Blazers Foundation established by the Portland Trail Blazers after deduction of the cost of administration of the Portland Trail Blazers registration plate program, including but not limited to the costs of collecting the Portland Trail Blazers registration plate surcharge and transferring Portland Trail Blazers registration plates that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of business of the Department of Transportation. Any royalties due to the National Basketball Association are the responsibility of the Portland Trail Blazers.

(2) The Trail Blazers Foundation shall use the surcharge proceeds received under this section to issue grants for youth-related programs and initiatives.

(3) Each year, the Trail Blazers Foundation shall report to a committee or interim committee of the Legislative Assembly related to transportation. The report must provide information about the grants awarded with the funds from the surcharge. [2015 c.806 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.283 - Breast cancer awareness registration plate; rules; fee.**

(1) The Department of Transportation shall establish a breast cancer awareness registration plate program to issue special registration plates called "breast cancer awareness registration plates" upon request to owners of motor vehicles registered under ORS 803.420 (6)(a). In addition, the department may adopt rules for issuance of breast cancer awareness registration plates for vehicles not registered under ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each set of breast cancer awareness registration plates issued under subsection (1) of this section, the department shall collect a surcharge of \$40 payable when the plates are issued and upon each subsequent renewal of registration of a vehicle bearing the plates. The department shall distribute the surcharge as provided in ORS 805.285.

(3) Notwithstanding ORS 803.530, breast cancer awareness registration plates may be transferred from vehicle to vehicle if the department stops issuing the plates, as long as the plates are legible and capable of being used for identification purposes. [2015 c.806 §6; 2017 c.750 §39r; 2018 c.114 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.285 - Disposition of moneys from breast cancer awareness registration plate surcharge.**

(1) Moneys from the surcharge imposed by ORS 805.283 must be transferred to the Oregon Health Authority Fund established by ORS 413.101 after deduction of the cost of administration of the breast cancer awareness registration plate program, including but not limited to the costs of collecting the breast cancer awareness registration plate surcharge and transferring breast cancer awareness registration plates that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of business of the Department of Transportation.

(2) Moneys deposited under subsection (1) of this section are continuously appropriated to the Oregon Health Authority for activities under ORS 414.534 related to early detection of breast and cervical cancers as part of the Oregon Breast and Cervical Cancer Program. [2015 c.806 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.287 - Pacific Wonderland registration plate; rules; fee.**

(1) The Department of Transportation shall establish a Pacific Wonderland registration plate program to issue special registration plates called "Pacific Wonderland registration plates" upon request to owners of motor vehicles registered under the provisions of ORS 803.420 (6)(a). In addition, the department may adopt rules for issuance of Pacific Wonderland registration plates for vehicles not registered under the provisions of ORS 803.420 (6)(a).

(2) In addition to any other fee authorized by law, for each set of Pacific Wonderland registration plates issued under subsection (1) of this section, the department shall collect a surcharge of \$100 payable when the plates are issued. The department shall transfer the moneys from the surcharge as provided in ORS 805.289.

(3) Notwithstanding ORS 803.530, Pacific Wonderland registration plates may be transferred from vehicle to vehicle if the department stops issuing the plates, as long as the plates are legible and capable of being used for identification purposes. [2009 c.823 §2; 2011 c.709 §8; 2015 c.390 §1; 2015 c.806 §18; 2017 c.750 §39s; 2018 c.93 §36; 2018 c.114 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.289 - Disposition of moneys from Pacific Wonderland registration plate surcharge.**



- (1) After deduction of the cost of administration of the Pacific Wonderland registration plate program, the Department of Transportation shall transfer 50 percent of the moneys from the surcharge imposed by ORS 805.287 to the Oregon State Capitol Foundation for the general purposes of the foundation under ORS 173.500 and 50 percent to the Oregon Historical Society.
- (2) As used in this section, the cost of administration of the Pacific Wonderland registration plate program is the sum of all department expenses for the issuance or transfer of Pacific Wonderland registration plates under ORS 805.287 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the costs of collecting the Pacific Wonderland registration plate surcharge and transferring Pacific Wonderland registration plates. [2009 c.823 §3; 2010 c.30 §7; 2015 c.390 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.300 - Farm vehicle registration; general requirements; fees.**

Any farmer who is the owner of a motor vehicle may apply to the Department of Transportation for and, upon payment of appropriate fees, may receive farm vehicle registration described in this section to operate the vehicle. Farm vehicle registration is subject to the following as described:

- (1) Application is as provided under ORS 805.320.
- (2) Qualification is as provided under ORS 805.310.
- (3) The fees are as provided under ORS 803.420.
- (4) The registration period is as provided under ORS 803.415.
- (5) Once registered under a farm vehicle registration, a vehicle may be used only for purposes described under ORS 805.390. Violation of limits imposed on use is punishable as provided under ORS 805.350.
- (6) Vehicles are exempt from or subject to regulation under ORS chapter 825 as provided in ORS 825.024.
- (7) Transfer is subject to ORS 805.340.
- (8) The registration may be canceled as provided under ORS 805.380. [1983 c.338 §766; 1985 c.16 §366; 1989 c.723 §15; 1993 c.741 §135; 1993 c.751 §109]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.310 - Qualifications for registration.**

To qualify for issuance of registration described under ORS 805.300 a person must be engaged, either as owner or renter, in operating one or more farms, orchards or ranches actually producing agricultural products or raising livestock in sufficient quantities to reasonably require the use of the motor vehicle or vehicles for which the farm vehicle license is sought. Cooperative corporations or associations organized under the provisions of ORS chapter 62 or corporations or subsidiaries of corporations do not qualify for the issuance of licenses described under ORS 805.300 if owned by more than 100 shareholders. As used in this section, "shareholder" has the meaning given that term in ORS 60.001. [1983 c.338 §769; 1985 c.16 §368; 1987 c.94 §109; 2003 c.80 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.320 - Application for registration.**

Application for registration described under ORS 805.300 shall be made in a form prescribed by the Department of Transportation and certified to by the applicant and shall include all of the following:

- (1) The name and residence or business address of the applicant, except as provided for Address Confidentiality Program participants in ORS 192.846.
- (2) The number of acres as shown on the latest county real property tax statements of one or more of the farms, orchards or ranches upon which the motor vehicle sought to be registered is to be used.
- (3) The type and amount of agricultural commodities, agricultural products or livestock produced annually on one or more of the farms, orchards or ranches upon which the motor vehicle sought to be registered is to be used.
- (4) The number of trucks used on the one or more farms, orchards or ranches upon which the motor vehicle sought to be registered is to be used and the combined weight of the motor vehicle sought to be registered.
- (5) A statement that any motor vehicle registered under ORS 805.300:
  - (a) Will be used for one or more of the purposes specified under ORS 805.390.
  - (b) Will not be used, at any time while registered under ORS 805.300, for any other purpose or for the transportation of any other commodities or products for hire except as provided under ORS 825.024.
  - (c) Is needed in the operation of the one or more farms, orchards or ranches upon which the motor vehicle sought to be registered is to be used.
- (6) Any other information required by the department.
- (7) Additional information required by law or by the department in making an application for regular registration for the motor vehicle.
- (8) The application shall contain a declaration that it is made under penalties for false certification. Violation of this subsection is subject to penalties under ORS 805.370. [1983 c.338 §770; 1985 c.16 §369; 1989 c.723 §16; 1991 c.284 §22; 1993 c.368 §2; 1993 c.751 §98; 1995 c.522 §2; 2007 c.542 §19; 2008 c.10 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.322 - Annual proof of qualification for farm vehicle registration.**

The owner of a vehicle or combination that has four or more axles and that is registered as a farm vehicle under ORS 805.300 or has a farm device issued pursuant to ORS 805.400 shall annually show to the satisfaction of the Department of Transportation that the owner meets the qualifications of ORS 805.320. [1993 c.368 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.340 - Effect of sale of vehicle.**

Upon sale of a vehicle registered under ORS 805.300, prior to operation of the vehicle on a highway, the new owner must reregister the vehicle unless the new owner is qualified under ORS 805.310 to register the vehicle under ORS 805.300. [1983 c.338 §774; 1985 c.16 §371; 1993 c.741 §136]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.350 - Violation of farm registration limits; penalty.**

- (1) A person commits the offense of violation of farm registration limits if the person uses or owns and permits to be used a vehicle registered under ORS 805.300 for purposes other than purposes described under ORS 805.390.
- (2) The offense described in this section, violation of farm registration limits, is a Class A misdemeanor. [1983 c.338 §775; 1985 c.16 §372]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.360 - Failure to register farm vehicle properly; penalty.**

- (1) A person commits the offense of failure to register a farm vehicle properly if the person is the new owner of a vehicle with registration under ORS 805.300, and the person operates the vehicle before properly registering it.
- (2) Nothing in this section prohibits a person from registering the vehicle under ORS 805.300 if qualifications for registration under that section are met.
- (3) The offense described in this section, failure to register a farm vehicle properly, is a Class A misdemeanor. [1983 c.338 §776; 1985 c.16 §373; 1993 c.741 §137]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.370 - False certification; penalty.**

- (1) A person commits the offense of false certification on farm registration if the person knowingly certifies falsely to any information on any application for issuance of registration under ORS 805.320.
- (2) The offense described in this section, false certification on farm registration, is a Class A misdemeanor. [1983 c.338 §777; 1985 c.16 §374; 1993 c.751 §110]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.380 - Department investigation; cancellation.**

The Department of Transportation shall have the authority to investigate and verify information provided in conjunction with application for registration under ORS 805.300. The department may cancel the registration of any vehicle that has registration issued under ORS 805.300 if the owner or a lessee or an employee of either is convicted of violation of ORS 805.350 to 805.370, if the department determines that such person has violated ORS 805.350 to 805.370 whether or not the person is convicted for the violation or if the department determines that either the vehicle or the owner no longer qualifies for farm vehicle registration. If registration is canceled under this section, the vehicle shall not again be eligible for registration under ORS 805.300 for a period of one year after the cancellation. [1985 c.16 §377; 1993 c.741 §138]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.390 - Permitted uses of farm-registered vehicles.**

This section establishes the uses allowed for vehicles registered under ORS 805.300, and for vehicles authorized by ORS 805.400 to be registered under ORS 826.009 or 826.011. Vehicles with farm vehicle registration or farm vehicle proportional registration may only be used for purposes described in this section. Uses permitted on a farm under this section are also permitted on one or more farms, orchards or ranches of the qualifying farmer. Violation of the limits established under this section is subject to penalty under ORS 805.350. The following describes the uses permitted vehicles registered under ORS 805.300 and for vehicles authorized by ORS 805.400 to be registered under ORS 826.009 or 826.011:

- (1) The vehicles may be used in transporting the farmer's own agricultural commodities, agricultural products or livestock that were originally grown or raised by the farmer on the farmer's own farm. This subsection includes products and by-products of commodities or livestock that were packed, processed or manufactured by or for the farm operation so long as the farmer retains ownership of the products but does not include products that have been transformed into a finished state. For purposes of this subsection, products have not been transformed into a finished state if the products:

- (a) Will be used in agricultural production;
  - (b) Will be used in the production of another product;
  - (c) Are not changed in visible character; or
  - (d) Are of a type or kind ordinarily requiring further processing prior to sale to the ultimate consumer.
- (2) The vehicles may be used in any transportation that is incidental to the regular operation of the farmer's farm.
- (3) The vehicles may be used to transport supplies, equipment or materials to the farmer's farm that are consumed or used on the farm.
- (4) The vehicles may be used in transporting forest products to the farmer's own farm or transporting for any purpose forest products originating on the farmer's farm. The only forest products included under this subsection are forest materials originating on a farm or as an incident to the regular operation of a farm.
- (5) The vehicles may be used in the transportation of products, supplies, equipment or materials for another farmer who qualifies under ORS 805.310 on an exchange of labor basis if such products, supplies, equipment or materials are to be used or consumed on such farm or are directly related to the operation of the farm.
- (6) The vehicles may be operated for the personal use of the farmer, any member of the farmer's immediate family or any person in the farmer's employ.
- (7) The vehicles shall not be used to transport any of the following:
- (a) Piling.
  - (b) Poles over 30 inches in circumference at the large end.
  - (c) Except as otherwise provided in this paragraph, logs over eight feet six inches in length. A vehicle may be used to transport logs over eight feet six inches but not over 16 feet 6 inches in length if the vehicle has a loaded weight of 16,000 pounds or less.
- (8) The vehicles may be partially operated under a permit issued by the Department of Transportation under ORS 825.102, as described in ORS 825.024. When operated under a permit issued under ORS 825.102, the vehicles are subject to ORS chapter 825.
- (9) The vehicles may be partially operated for hire as permitted in ORS 825.024 (1)(c) and (d).
- (10) The vehicles may be rented or borrowed by a farmer to haul the farmer's own products if the farmer would qualify for farm vehicle registration for vehicles of the type and size rented or borrowed.
- (11) The vehicles may be used in transporting straw, whether or not the straw was grown on the farmer's own farm, if the transporting farmer is the one who bales the straw. [1983 c.338 §767; 1985 c.16 §367; 1985 c.668 §20; 1989 c.43 §33; 1993 c.368 §5; 1995 c.248 §1; 1995 c.522 §5; 1999 c.59 §237]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.400 - Proportional registration for farm vehicles; rules.**

- (1) Any person who qualifies under ORS 805.310 for farm vehicle registration under ORS 805.300 may choose to register farm qualified vehicles under the proportional registration provisions of ORS 826.009 or 826.011 in lieu of registering the vehicles under the farm vehicle registration provisions of ORS 805.300. Except as otherwise provided in this section, farm vehicles registered under ORS 826.009 or 826.011 are subject to the same requirements, conditions and privileges as other vehicles registered under those sections. Farm vehicle proportional registration is subject to the following:
- (a) In addition to any application for registration required by ORS 826.009 or 826.011, the applicant must submit an application to the Department of Transportation certified by the applicant and containing the information specified in ORS 805.320 for farm vehicle registration.
  - (b) The department shall issue appropriate identification devices for proportionally registered farm vehicles. The design for such devices shall be determined by the department by rule and the fees for such devices are as provided in ORS 803.577.
  - (c) An identification device for proportionally registered farm vehicles is subject to cancellation as provided in ORS 805.410.
- (2) The following provisions apply to a vehicle that has been issued farm vehicle proportional registration:
- (a) The vehicle may be used only for purposes described in ORS 805.390. Violation of this paragraph is punishable as provided in ORS 805.350 for violation of farm registration limits.
  - (b) The vehicle is exempt from or subject to regulation under ORS chapter 825 to the same extent and in the same manner as provided in ORS 825.024 for vehicles registered under ORS 805.300. [1985 c.668 §18; 1989 c.43 §34; 1991 c.284 §23; 1991 c.407 §37; 1993 c.751 §111]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 805 - Special Registration Provisions Section 805.410 - Department investigation of farm vehicle proportional registration application; cancellation.**

- (1) The Department of Transportation shall have the authority to investigate and verify information provided in conjunction with application for proportional registration of a farm vehicle under ORS 805.400. The department may cancel an identification device for a proportionally registered farm vehicle if the department determines that the owner or lessee of the vehicle, or an employee of either, has:
- (a) Operated the vehicle in violation of farm registration limits; or
  - (b) Falsely certified an application required by ORS 805.400 for registration or renewal of registration of a proportionally registered farm vehicle.
- (2) If a farm vehicle proportional registration identification device is canceled under this section, the vehicle is not eligible for

registration under ORS 805.300 for a period of one year after the cancellation. [1985 c.668 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.010 - Driving uninsured prohibited; penalty.**

- (1) A person commits the offense of driving uninsured if the person operates a motor vehicle in this state on any highway or premises open to the public in this state without either:
  - (a) The person being insured while driving the vehicle under a motor vehicle liability insurance policy that meets the requirements described under ORS 806.080; or
  - (b) The person or the owner of the vehicle providing the Department of Transportation with other satisfactory proof of compliance with the financial responsibility requirements of this state.
- (2) Exemptions from this section are established under ORS 806.020.
- (3) In addition to other penalties under this section the following apply:
  - (a) A person who is involved in a motor vehicle accident at any time the person is in violation of this section is subject to suspension of the person's driving privileges under ORS 809.417.
  - (b) A person who is convicted of violating this section is subject to ORS 806.230, if the person does not make future responsibility filings as required by that section.
  - (c) A person convicted for violation of this section must file with the department, and thereafter maintain for a period of three years, proof of financial responsibility that complies with ORS 806.060. Failure to comply with this subsection is subject to ORS 809.415.
- (5) The offense described in this section, driving uninsured, is a Class B traffic violation. [1983 c.338 §837; 1985 c.16 §422; 1985 c.714 §1; 1991 c.350 §1; 1991 c.702 §4; 2003 c.402 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.011 - Proof of insurance; rules.**

- (1) Proof of insurance issued as provided in ORS 742.447, or other current proof of compliance with financial or future responsibility requirements approved by rule by the Department of Transportation, shall be carried in each motor vehicle that is operating in this state and that is not exempt from compliance with financial or future responsibility requirements.
- (2) The use of an electronic device to display proof of insurance does not constitute consent for a police officer to access other contents of the electronic device.
- (3) Failure of the driver of a motor vehicle to show proof of insurance or other current proof of compliance when asked to do so by a police officer is reasonable grounds for the officer to believe that the person is operating the vehicle in violation of ORS 806.010.
- (4) The registered owner of the motor vehicle may black out or otherwise obscure the residence address, business address, mailing address or vehicle address shown on the proof of insurance, or other current proof of compliance with financial or future responsibility requirements approved by rule by the department. No other information may be blacked out or otherwise obscured. [1993 c.746 §2; 2013 c.108 §2; 2017 c.471 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.012 - Failure to carry proof of compliance with financial responsibility requirements; rules; penalty.**

- (1) A person commits the offense of failure to carry proof of compliance with financial responsibility requirements if the person operates a motor vehicle in this state and does not have in the vehicle current proof of compliance with financial responsibility requirements.
- (2) The Department of Transportation shall determine by rule what constitutes proof of compliance with financial responsibility requirements.
- (3) This section does not apply:
  - (a) To persons operating motor vehicles that are exempt from financial responsibility requirements by ORS 806.020; or
  - (b) If a police officer verifies proof of compliance with financial responsibility requirements through the Law Enforcement Data System.
- (4) The court shall dismiss any charge under this section if, prior to the court appearance date listed on the citation, the person charged delivers to the clerk of the court named on the citation proof of compliance with financial responsibility requirements at the time of the violation.
- (5) The offense described in this section, failure to carry proof of compliance with financial responsibility requirements, is a Class B traffic violation. [1993 c.751 §101; 2005 c.361 §1; 2013 c.108 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.014**

[1993 c.814 §§5,7; renumbered 809.715 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.016**

[1993 c.814 §6; renumbered 809.716 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.020 - Exemptions from financial responsibility requirements.**

This section provides exemptions from the necessity for compliance with or proof of compliance with financial responsibility requirements in accident reports under ORS 811.725, when applying for vehicle registration under ORS 803.370 or 803.460 and for operating a vehicle under ORS 806.010. The owner or operator of a vehicle is exempt, as provided by this section, from financial responsibility requirements if the vehicle involved in the accident, sought to be registered or operated is any of the following:

- (1) An antique vehicle issued permanent registration under ORS 805.010.
- (2) A farm trailer.
- (3) A farm tractor.
- (4) An implement of husbandry.
- (5) A vehicle of special interest that is maintained as a collector's item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.
- (6) A snowmobile or a Class I, Class III or Class IV all-terrain vehicle, unless the vehicle is operating on an all-terrain vehicle highway access route that is designated by the Oregon Transportation Commission as open to all-terrain vehicles.
- (7) Any motor vehicle not operated on any highway or premises open to the public in this state.
- (8) A motor assisted scooter.
- (9) An electric personal assistive mobility device. [1983 c.338 §838; 1985 c.16 §423; 1987 c.217 §4; 1989 c.991 §32; 1993 c.751 §99; 2001 c.749 §22; 2003 c.341 §5; 2009 c.257 §1; 2011 c.360 §15; 2015 c.138 §29; 2017 c.453 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.040 - Judgments for which financial responsibility requirements established.**

Financial responsibility requirements are designed to provide for minimum payment of judgments of the type described in this section. For the purposes of ORS 806.130, 806.140, 809.130 and 809.470, judgments of the type described in this section must:

- (1) Have become final by expiration, without appeal, of the time within which an appeal might have been perfected or by final affirmation on appeal;
- (2) Be rendered by a court of competent jurisdiction of any state or of the United States;
- (3) Be upon a cause of action for damages of the type described under subsection (4) of this section or upon a cause of action on an agreement of settlement for such damages; and
- (4) Be for one or more of the following kinds of damage arising out of a motor vehicle accident on public or private property:
  - (a) Damages, including damages for care and loss of services, because of bodily injury to or death of any person.
  - (b) Damages because of injury to or destruction of property, including the loss of use thereof. [1983 c.338 §840; 1985 c.16 §424; 1987 c.258 §1; 1995 c.41 §4; 2003 c.175 §4; 2009 c.257 §10; 2021 c.630 §86]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.050 - Falsification of financial responsibility; penalty.**

- (1) A person commits the offense of falsification of financial responsibility if the person does any of the following:
  - (a) Forges or, without authority, signs any evidence of proof of compliance with financial responsibility requirements.
  - (b) Files or offers for filing any evidence of proof of compliance with financial responsibility requirements knowing or having reason to believe that the proof of compliance is forged or signed without authority.
  - (c) Knowingly certifies falsely to the existence of motor vehicle liability insurance meeting the requirements under ORS 806.080 or some other means of satisfying the financial responsibility requirements or making a financial responsibility filing.
- (2) A denial of coverage, signed by an officer or agent of an insurer, returned to the Department of Transportation after inquiry from the department as to the existence of liability insurance under ORS 806.150 or 811.725 is prima facie evidence of false certification.
- (3) Any person convicted of knowingly certifying falsely to the existence of motor vehicle liability insurance or to the existence of some other means of satisfying the financial responsibility requirements shall be imprisoned for no less than three consecutive days. In no case shall the execution of the punishment imposed by this section be suspended by the court, nor shall any person subject to such punishment be sentenced to probation by the court.
- (4) A person who is convicted for violation of this section is subject to ORS 806.230 if the person does not make future responsibility filings as required by that section.
- (5) The offense described in this section, falsification of financial responsibility, is a Class B misdemeanor except that violation of subsection (1)(c) of this section is a Class A misdemeanor. [1983 c.338 §841; 1985 c.16 §425; 1985 c.393 §62; 1993 c.14 §27; 2019 c.312 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.055 - Giving false information about liability insurance to police officer; penalty.**

- (1) A person commits the offense of giving false information about liability insurance to a police officer if the person knowingly

gives false information about the person's motor vehicle liability insurance coverage to any police officer who is enforcing motor vehicle laws.

(2) The offense described in this section, giving false information about liability insurance to a police officer, is a Class B misdemeanor. [1991 c.330 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.060 - Methods of compliance.**

A person who is required to comply with the financial responsibility requirements of this state must be able to respond in damages, in amounts required under this section, for liability on account of accidents arising out of the ownership, operation, maintenance or use of motor vehicles and must establish that ability by one of the methods required by this section. All of the following apply to the financial responsibility requirements of this state:

- (1) To meet the financial responsibility requirements, a person must be able to respond in damages in amounts not less than those established under the payment schedule under ORS 806.070.
- (2) A person may only comply with the financial responsibility requirements of this state by establishing the required ability to respond in damages in one of the following ways:
  - (a) Obtaining a motor vehicle liability policy meeting the requirements under ORS 806.080 that will provide at least minimum limits necessary to pay amounts established under the payment schedule under ORS 806.070.
  - (b) Becoming self-insured as provided under ORS 806.130. [1983 c.338 §842; 1985 c.16 §426; 1995 c.41 §5; 2003 c.175 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.070 - Minimum payment schedule.**

- (1) This section establishes a schedule of payments for the following purposes:
  - (a) An insurance policy described under ORS 806.080 must provide for payment of at least amounts necessary to cover the minimum required payments under this section to qualify for use for financial responsibility under ORS 806.060.
  - (b) A person who is self-insured under ORS 806.130 must agree to pay according to the payment schedule established by this section.
  - (c) The payment schedule is the minimum required payment of a judgment for purposes of ORS 809.130 and 809.415.
- (2) The schedule of payments is as follows:
  - (a) \$25,000 because of bodily injury to or death of one person in any one accident;
  - (b) Subject to that limit for one person, \$50,000 because of bodily injury to or death of two or more persons in any one accident; and
  - (c) \$20,000 because of injury to or destruction of the property of others in any one accident. [1983 c.338 §843; 1985 c.16 §427; 1995 c.41 §6; 2003 c.175 §6; 2003 c.402 §13; 2009 c.66 §2; 2021 c.630 §87]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.075 - Insurance requirements for person convicted of driving under influence of intoxicants.**

Notwithstanding any other provision of this chapter, a person convicted of driving under the influence of intoxicants under ORS 813.010 is subject to the following requirements for the method of complying with and the amounts needed to meet financial responsibility requirements and for the duration of future responsibility filings:

- (1) The person must have a certificate or certificates of insurance that meet the requirements of ORS 806.270 except that the certificate or certificates must show that the person is covered by insurance that provides at least:
  - (a) \$50,000 because of bodily injury to or death of one person in any one accident;
  - (b) Subject to that limit for one person, \$100,000 because of bodily injury to or death of two or more persons in any one accident; and
  - (c) \$10,000 because of injury to or destruction of the property of others in any one accident.
- (2) The person must maintain future responsibility filings showing insurance coverage in the amounts specified in subsection (1) of this section for a period of three years from the date that the first filing is required. [1987 c.774 §95; 1991 c.768 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.080 - Insurance.**

- (1) A motor vehicle liability insurance policy used to comply with financial responsibility requirements under ORS 806.060 must meet all of the following requirements:
  - (a) It must be a policy or part of a policy designating, by explicit description or by appropriate reference, all motor vehicles for which coverage is provided by the policy.
  - (b) It must insure the named insured and all other persons insured under the terms of the policy against loss from the liabilities imposed by law for damages arising out of the ownership, operation, use or maintenance of those motor vehicles by persons insured under the policy. The policy must include in its coverage all persons who, with the consent of the named insured, use the motor vehicles insured under the policy, except for any person specifically excluded from coverage under ORS 742.450.
  - (c) It must provide the minimum limits of coverage required under ORS 806.070.

(2) The requirements for the insurance may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements. [1983 c.338 §844; 1991 c.768 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.130 - Self-insurance.**

(1) To qualify as a self-insurer for purposes of financial responsibility requirements under ORS 806.060, a person must do all of the following:

(a) Apply to the Department of Transportation and be issued by the department a certificate of self-insurance under ORS 806.140.

(b) Either:

(A) Establish to the satisfaction of the department that the person possesses and will continue to possess the ability to pay and discharge judgments described under ORS 806.040 that might be obtained against the applicant; or

(B) Be qualified under the laws of the State of Oregon or under an ordinance of a city of this state to act as a self-insurer and be acting as a self-insurer.

(c) Agree to provide the same coverage and to pay the same amounts with respect to an accident occurring while the certificate is in force that an insurer would be obligated to provide and to pay under a motor vehicle liability insurance policy, including providing the coverage required under ORS 806.080 (1)(b) and uninsured motorist coverage and liability coverage to at least the limits specified in ORS 806.070.

(d) Have more than 25 motor vehicles including commercial buses registered in the person's name.

(2)(a) If an accident occurs while a certificate of self-insurance issued under ORS 806.140 is in force, the liability protection provided and the amounts paid under subsection (1)(c) of this section are secondary to any motor vehicle liability insurance or uninsured motorist coverage available to a customer of the self-insurer, an operator of the self-insured vehicle or an occupant of the self-insured vehicle unless otherwise agreed to by the self-insurer. A self-insurer is required to provide the minimum payments established under ORS 742.502 and 806.070 only when the motor vehicle liability insurance policy of a customer of the self-insurer or an operator of the self-insured vehicle does not provide the minimum required payments established in ORS 742.502 and 806.070.

(b) A self-insurer may recover from a customer of the self-insurer or an operator of the self-insured vehicle the amounts paid under subsection (1)(c) of this section.

(3) Nothing in this section requires a self-insurer to provide liability coverage when a person is operating the vehicle without permission of the self-insurer. [1983 c.338 §849; 1985 c.16 §430; 2007 c.287 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.140 - Certificate; issuance; cancellation.**

(1) The Department of Transportation shall issue a certificate of self-insurance for purposes of financial responsibility requirements under ORS 806.060 and future responsibility filings under ORS 806.240 to any person who qualifies under ORS 806.130.

(2) The department may cancel a certificate of self-insurance issued under this section upon reasonable grounds. Failure to pay any judgment described under ORS 806.040 within 30 days after it has become final constitutes reasonable grounds for cancellation under this subsection. The department shall give not less than five days' notice and a hearing pursuant to such notice before the department may cancel under this subsection. [1983 c.338 §850]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.150 - Department verification program; rules.**

The Department of Transportation shall establish by rule a program to verify compliance with the financial responsibility requirements of operating a motor vehicle in this state. The program established under this section shall comply with all of the following:

(1) The department may select vehicles registered in this state for verification when the department considers the selection necessary or appropriate. The department may emphasize verification of vehicles registered to individuals who:

(a) Have been convicted of violating ORS 806.010;

(b) Have provided proof of compliance with financial responsibility requirements that has been previously found to be not correct; or

(c) The department has reasonable grounds to believe are not in compliance with financial responsibility requirements.

(2) When a vehicle is selected for verification under this section, the department shall provide a notice of verification to the registered owner of the vehicle. The notice of verification must:

(a) Inform the owner that the vehicle has been selected for verification; and

(b) Require the owner to provide proof of compliance with financial responsibility requirements within the time specified by the department by rule.

(3) After the department receives proof of compliance from a registered owner as required under subsection (2) of this section, the department shall forward the proof of compliance to the listed insurer, or use other means, to determine whether the proof of compliance is correct. An insurer shall notify the department if the proof of compliance is not correct within the time specified by the department by rule.

(4) Civil liability does not accrue to the insurer or any of its employees for reports made to the department under this section when the reports are made in good faith based on the most recent information available to the insurer. [1983 c.338 §851; 1985 c.16 §431; 1985 c.714 §2; 1987 c.158 §165; 1993 c.751 §29; 2005 c.142 §1; 2019 c.312 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.170 - Department check on financial certification on accident reports.**

The Department of Transportation shall investigate all certifications of compliance with financial responsibility requirements made on reports of accidents under ORS 811.725 and 811.730. The department shall contact the insurers listed on the certifications to determine whether each certification is accurate. If the certification is not correct, an insurer shall notify the department no later than 60 days after receiving a request from the department for verification of the accuracy of the certification. [1983 c.338 §853; 2009 c.257 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.180 - Information to be provided when certification of compliance required.**

A person who is required under ORS 803.460 or 811.725 to provide proof of compliance with financial responsibility requirements shall certify proof of compliance in a manner prescribed by the Department of Transportation by rule and shall provide any information that the department requires. [1983 c.338 §854; 1985 c.714 §4; 1987 c.158 §166; 1993 c.751 §30; 2003 c.364 §172; 2019 c.312 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.190 - Insurance carrier report of person involved in accident who is in violation of ORS 806.010; civil liability.**

(1) Every insurance carrier that issues property and casualty insurance policies, as defined in ORS chapter 731, in this state shall report to the Department of Transportation any person the carrier has reason to believe is involved in an accident while the person is operating a vehicle in violation of ORS 806.010. The carrier shall make the report required by this section whether or not the accident:

- (a) Is a reportable accident under ORS 811.720; or
  - (b) Occurred on a highway or on any other premises open to the public.
- (2) An insurance carrier shall file the report no later than 60 days after the carrier first has reason to believe that a person was involved in an accident while the person was operating a vehicle in violation of ORS 806.010.
- (3) No civil liability shall accrue to an insurance carrier or any of its employees for reports made to the department under this section when the reports are made in good faith. [Formerly 486.097 and then 743.774; 2001 c.827 §6; 2003 c.364 §173; 2009 c.257 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.195 - Information submitted by insurers; rules; use.**

- (1) The Department of Transportation shall specify by rule:
- (a) Any information that insurers shall submit to the department in addition to that specifically required by ORS 742.580.
  - (b) The form in which the information required by ORS 742.580 and by rules adopted under this section shall be submitted.
- (2) Information submitted to the department in accordance with ORS 742.580 and with rules adopted under this section shall be:
- (a) Entered into a computer system maintained by the department; and
  - (b) Made available to police officers in the most timely and efficient way possible. [1993 c.746 §6; 2001 c.104 §301]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.200 - Failure to file after accident; penalty.**

- (1) A person commits the offense of failure to make a future responsibility filing after an accident if:
- (a) The person is the owner or driver of a motor vehicle involved in an accident;
  - (b) At the time of the accident the vehicle was operated in violation of ORS 806.010;
  - (c) The person does not make a future responsibility filing within 30 days after the accident; and
  - (d) The person is not exempt under ORS 806.210 from making a future responsibility filing.
- (2) The employer of a driver is subject to the requirements and penalties under this section if the driver is an employee exempted from this section under ORS 806.210.
- (3) In addition to any other penalties under this section, violation of this section subjects the violator to suspension of driving privileges as provided under ORS 809.415.
- (4) The offense described in this section, failure to make a future responsibility filing after an accident, is a Class B traffic violation. [1983 c.338 §855; 1985 c.393 §63; 2003 c.402 §14; 2009 c.257 §5; 2021 c.630 §88]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.210 - Exemption from requirement to file after accident.**



As appropriate, the driver or the owner, or both, are exempt from the requirement under ORS 806.200 to make a future responsibility filing if the person claiming exemption furnishes to the Department of Transportation proof of any of the following:

- (1) At the time of the accident the driver was operating a vehicle owned by or leased to and operated under the direction of the United States of America, this state or any municipality or subdivision thereof.
- (2) At the time of the accident the vehicle was lawfully parked.
- (3) Such liability as may arise from the driver's operation of the vehicle involved in the accident was covered by some form of liability insurance which complies with the financial responsibility requirements.
- (4) The owner of the vehicle involved in the accident was a self-insurer under ORS 806.130.
- (5) The vehicle involved in the accident was being operated under a permit issued by the department under ORS chapter 825.
- (6) At the time of the accident the owner's vehicle was being operated without the owner's permission, expressed or implied, or was parked by a person who had been operating such vehicle without the owner's permission unless the vehicle at the time of its taking had been left unattended in a condition prohibited by a regulation or ordinance designed to prevent the operation of vehicles by unauthorized persons. This subsection only exempts owners of vehicles who qualify.
- (7) At the time of the accident, the driver was operating a vehicle owned, operated or leased by the driver's employer with the permission of that employer. This subsection only exempts drivers of vehicles. Owners remain subject as provided under ORS 806.200. [1983 c.338 §856; 1995 c.733 §87; 2003 c.175 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.220 - Failure to file after failing verification; penalty.**

- (1) A person commits the offense of failure to make future responsibility filing after failing verification if the person does not:
- (a) Provide satisfactory proof of compliance with financial responsibility requirements within the time specified by the Department of Transportation by rule under ORS 806.150; and
  - (b) Within 60 days after the date the department sent the notice of verification under ORS 806.150, make a future responsibility filing.
- (2) The offense described in this section, failure to make future responsibility filing after failing verification, is a Class B traffic violation. [1983 c.338 §857; 1985 c.393 §64; 1985 c.714 §5; 2019 c.312 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.230 - Failure of previous violator to file.**

- (1) A person commits the offense of failure of a previous violator to make a future responsibility filing if the person is convicted of a violation of ORS 806.010 or 806.050 and the person does not make a future responsibility filing within 30 days after the conviction.
- (2) In addition to any other penalties under this section, a violator of this section is subject to suspension of driving privileges under ORS 809.415.
- (3) The offense described in this section, failure of a previous violator to make future responsibility filing, is a Class A traffic violation. [1983 c.338 §858; 1985 c.393 §65; 2003 c.402 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.240 - Proof of compliance with future responsibility filing requirement; filing for another; failure of proof to meet requirements.**

Future responsibility filings required by ORS 806.200, 806.220 or 806.230 or by any other law of this state are subject to all of the following:

- (1) Except as provided in subsection (3) of this section, the person required to make the filing must file with the Department of Transportation, or have filed with the department for the benefit of the person, proof of compliance that meets the requirements of this section and must maintain the proof of compliance as required under ORS 806.245. The filing is made on the date it is received by the department if it is received during regular business hours.
- (2) The proof of compliance filed under subsection (1) of this section must be:
  - (a) A certificate or certificates of insurance that meet the requirements under ORS 806.270; or
  - (b) A valid certificate of self-insurance issued by the department under ORS 806.130.
- (3) The owner of a motor vehicle may make a future responsibility filing under this section on behalf of the owner's employee or a member of the owner's immediate family or household in lieu of the filing being made by the person. Filing under this subsection permits the person on whose behalf the filing is made to operate only a motor vehicle covered by the proof of compliance given in the filing. The department shall endorse restrictions, as appropriate, on any license or driver permit the person holds as the department determines necessary to limit the person's ability to operate vehicles consistent with this subsection.
- (4) Whenever proof of compliance filed under this section no longer meets the requirements of this section, the department shall require the furnishing of other proof of compliance for the future responsibility filing. If other proof of compliance is not furnished, the department shall suspend the driving privileges of the person as provided under ORS 809.415. [1983 c.338 §859; 1987 c.258 §2; 1995 c.41 §7; 2003 c.14 §466; 2003 c.175 §8; 2003 c.402 §16; 2009 c.257 §6; 2019 c.312 §5; 2021 c.630 §89]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial**

**Responsibility LawSection 806.245 - Termination of future responsibility filing requirement; reasons.**

A termination of the requirement to maintain a future responsibility filing does not remove a person's responsibility to comply with financial responsibility requirements. The Department of Transportation shall terminate requirements for a future responsibility filing when any of the following occurs:

- (1) The person on whose behalf the filing was made dies.
- (2) More than three years have passed from the date the filing was required.
- (3) A person on whose behalf the filing was made requests termination and either:
  - (a) The person was required to file because of an error committed by the department; or
  - (b) The person was required to file because of an error committed by an insurance company in notifying the department regarding the correctness of proof of compliance with financial responsibility requirements provided under ORS 806.150.
- (4) A person who was required to file under ORS 806.150 requests termination and the department determines either:
  - (a) That the person was in fact in compliance with financial responsibility requirements as of the date specified by the department by rule under ORS 806.150; or
  - (b) That the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150.
- (5) A person who was required to file because of failure to prove under ORS 806.210 that the person was in compliance with financial responsibility requirements requests termination and the department determines either:
  - (a) That the person was in fact in compliance with financial responsibility requirements at the time of the accident; or
  - (b) That the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements at the time of the accident.
- (6) A person's hardship permit expires and the filing was required only for issuance of the hardship permit under ORS 807.240. [1987 c.258 §4; 2009 c.257 §7; 2019 c.312 §6]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 806 - Financial Responsibility LawSection 806.270 - Certificate of insurance; requirements; presumption of completeness.**

- (1) A certificate of insurance that is used to comply with future responsibility filing requirements under ORS 806.240 is subject to all of the following:
  - (a) Except as provided by ORS 806.280, the certificate must be issued by an insurance carrier doing business in this state.
  - (b) The certificate must show that the person required to make the future responsibility filing is covered by insurance that provides minimum coverage necessary for payment of the schedule of payments under ORS 806.070.
  - (c) The certificate must show that the person required to make the future responsibility filing is either:
    - (A) Insured by a policy meeting the requirements under ORS 806.080 that also covers all other persons who, with the consent of the insured, use the vehicles owned by the person making the filing; or
    - (B) Insured against loss arising from liabilities imposed by law for damages arising out of the ownership, operation, use or maintenance of motor vehicles not owned by the person required to make the filing.
  - (d) The certificate must:
    - (A) Include the effective date of the certification;
    - (B) Contain the policy number; and
    - (C) Describe all vehicles covered by the policy unless the policy is issued with respect to all vehicles operated by the insured.
  - (e) The certificate must provide that the insurers will give the Department of Transportation notice of any cancellation of the policy within 10 days after the effective date of the cancellation or termination. The notice requirement under this paragraph does not apply where the insurance is terminated under ORS 806.290.
- (2) The certificate or certificates must cover all vehicles that are registered in the name of or operated by the person, except vehicles that are in storage and for which the current registration plates and cards have been surrendered to the department.
- (3) Unless the department has reason to believe otherwise, the department may presume that the certificate covers all vehicles described in subsection (2) of this section.
- (4) The requirements under this section may be fulfilled by the policies of one or more insurance carriers. [1983 c.338 §862; 1985 c.16 §433; 1993 c.751 §31; 1999 c.59 §239; 2003 c.174 §1; 2009 c.257 §8]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 806 - Financial Responsibility LawSection 806.280 - When certificate of insurer not authorized to do business in this state may be used.**

The Department of Transportation may not accept a certificate of insurance for purposes of future responsibility filings from an insurer that is not authorized to do business in Oregon unless the insurer is an eligible surplus lines insurer as defined in ORS 735.405 or a risk retention group as defined in ORS 735.305. [1983 c.338 §863; 2003 c.175 §9; 2009 c.257 §9]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 806 - Financial Responsibility LawSection 806.290 - Automatic termination of insurance under future responsibility filing upon subsequent filing.**

An insurance policy for which a certificate of insurance is filed to comply with future responsibility requirements is terminated with respect to any operator or vehicle designated in the certificate if the operator or vehicle is also covered by an insurance policy subsequently procured and certified to the Department of Transportation. The date of termination under this section is the date the subsequent certificate is filed with the department. [1983 c.338 §864]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 806 - Financial Responsibility Law Section 806.300 - Failure to surrender license and registration on cancellation of future responsibility filing; penalty.**

(1) A person commits the offense of failure to surrender license and registration on cancellation of future responsibility filing if the person does not immediately return the person's license or driver permit and registration to the Department of Transportation when any of the following occur:

- (a) A policy of insurance required under ORS 806.240 is canceled or terminated.
- (b) The person neglects to furnish other proof of compliance for a future responsibility filing upon request of the department.
- (2) If any person fails to return to the department the license, driver permit or registration, the department may request any peace officer to secure possession thereof and return it to the department.
- (3) The offense described in this section, failure to surrender license and registration on cancellation of future responsibility filing, is a Class C misdemeanor. [1983 c.338 §865; 1985 c.16 §434; 1985 c.393 §66; 2003 c.175 §10; 2019 c.312 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.010 - Operating vehicle without driving privileges or in violation of license restrictions; penalty.**

(1) A person commits the offense of operating a vehicle without driving privileges if the person operates a motor vehicle upon a highway or premises open to the public in this state and the person does not have an appropriate grant of driving privileges from this state in the form of a license, driver permit, endorsement or statutory grant of driving privileges allowing the person to engage in the particular type of operation.

(2) A person to whom a license or driver permit is issued commits the offense of violating license restrictions if the person operates a motor vehicle in any manner that violates restrictions that are placed upon the person's driving privileges by the Department of Transportation under ORS 807.120 or 807.122, by a court under ORS 809.270, or by the vehicle code.

(3) Nothing in this section is applicable to a person who is driving while suspended or revoked in violation of ORS 811.175 or 811.182. Persons who violate ORS 811.175 or 811.182 are subject to the provisions and penalties provided therein and are not subject to the penalties and provisions of this section.

(4) Except as provided in subsection (5) of this section, the offense described in subsection (1) of this section, operating a vehicle without driving privileges, is a Class B traffic violation.

(5) The offense described in subsection (1) of this section, operating a vehicle without driving privileges, that results from a person operating a motorcycle without a motorcycle endorsement, is a Class A traffic violation.

(6)(a) The court shall suspend a fine imposed under subsection (5) of this section on the condition that the person, within 120 days of the date of sentencing:

(A) Complete a motorcycle education course established by the department under ORS 802.320; and

(B) Obtain a motorcycle endorsement issued under ORS 807.170.

(b) The court shall set a hearing date for 120 days from the date of sentencing. At the hearing the court shall:

(A) If the person has successfully completed the requirements described in paragraph (a)(A) and (B) of this subsection, enter a sentence of discharge; or

(B) If the person has not successfully completed the requirements described in paragraph (a)(A) and (B) of this subsection:

(i) Grant the person an extension based on good cause shown; or

(ii) Impose the fine under subsection (5) of this section.

(7) The offense described in subsection (2) of this section, operating in violation of license restrictions, is a Class B traffic violation. [1985 c.608 §5 (enacted in lieu of 1983 c. 338 §299); 1987 c.730 §10; 1999 c.328 §6; 2003 c.14 §467; 2009 c.482 §1; 2020 s.s.1 c.10 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.018 - Persons considered to hold commercial driving privileges.**

A person holds commercial driving privileges for the purposes of the Oregon Vehicle Code if:

(1) The person has an unexpired commercial learner driver permit; or

(2) The person's most recently issued driver license is or was a commercial driver license issued by the Department of Transportation or the licensing agency of another jurisdiction, without regard to whether:

(a) The person's commercial driver license has expired; or

(b) The person's commercial driving privileges are suspended, canceled or revoked. [2013 c.237 §3; 2017 c.190 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges**

**and Identification Cards Section 807.020 - Exemptions from requirement to have Oregon license or permit.**

A person who is granted a driving privilege by this section may exercise the driving privilege described without violation of the requirements under ORS 807.010. A grant of driving privileges to operate a motor vehicle under this section is subject to suspension and revocation the same as other driving privileges granted under the vehicle code. This section is in addition to any exemptions from the vehicle code under ORS 801.026. The following persons are granted the described driving privileges:

- (1) A person who is not a resident of this state or who has been a resident of this state for less than 30 days may operate a motor vehicle without an Oregon license or driver permit if the person holds a current out-of-state license issued to the person. For the purpose of this subsection, a person is a resident of this state if the person meets the residency requirements described in ORS 807.062. To qualify under this subsection, the person must have the out-of-state license or driver permit in the person's possession. A person is not granted driving privileges under this subsection:
  - (a) If the person is under the minimum age required to be eligible for driving privileges under ORS 807.060;
  - (b) During a period of suspension or revocation by this state or any other jurisdiction of driving privileges or of the right to apply for a license or driver permit issued by this state or any other jurisdiction; or
  - (c) That exceed the driving privileges granted to the person by the out-of-state license or driver permit.
- (2) A person who is a member of the Armed Forces of the United States or a member of the commissioned corps of the National Oceanic and Atmospheric Administration may operate a motor vehicle without an Oregon license or driver permit if the person is operating a motor vehicle in the course of the person's duties in the Armed Forces or the National Oceanic and Atmospheric Administration.
- (3) A person without a license or driver permit may operate a road roller or road machinery that is not required to be registered under the laws of this state.
- (4) A person without a license or driver permit may temporarily operate, draw, move or propel a farm tractor or implement of husbandry.
- (5) A person without a license or driver permit may operate a motor vehicle to demonstrate driving ability during the course of an examination administered under ORS 807.070 for the purpose of qualifying for a license or driver permit. This subsection only applies when an authorized examiner is in a seat beside the driver of the motor vehicle.
- (6) Driving privileges for snowmobiles are exclusively as provided in ORS 821.150.
- (7) Driving privileges for Class I all-terrain vehicles are exclusively as provided in ORS 821.170, unless a person is operating a Class I all-terrain vehicle on an all-terrain vehicle highway access route that is designated by the Oregon Transportation Commission as open to all-terrain vehicles.
- (8) Driving privileges for Class III all-terrain vehicles are exclusively as provided in ORS 821.172, unless a person is operating a Class III all-terrain vehicle on an all-terrain vehicle highway access route that is designated by the commission as open to all-terrain vehicles.
- (9) Driving privileges for Class IV all-terrain vehicles are exclusively as provided in ORS 821.176, unless a person is operating a Class IV all-terrain vehicle on an all-terrain vehicle highway access route that is designated by the commission as open to all-terrain vehicles.
- (10) A person without a license or driver permit may operate a golf cart in accordance with an ordinance adopted under ORS 810.070.
- (11) The spouse of a member of the Armed Forces of the United States on active duty or the spouse of a member of the commissioned corps of the National Oceanic and Atmospheric Administration who is accompanying the member on assignment in this state may operate a motor vehicle if the spouse has a current out-of-state license or driver permit issued to the spouse by another state in the spouse's possession.
- (12) A person who is a member of the Armed Forces of the United States on active duty or a member of the commissioned corps of the National Oceanic and Atmospheric Administration may operate a motor vehicle if the person has a current out-of-state license or driver permit in the person's possession that is issued to the person by the person's state of domicile or by the Armed Forces of the United States in a foreign country. Driving privileges described under this subsection that are granted by the Armed Forces apply only for a period of 45 days from the time the person returns to the United States.
- (13) A person who does not hold a motorcycle endorsement may operate a motorcycle if the person is:
  - (a) Within an enclosed cab;
  - (b) Operating a vehicle designed to travel with three wheels in contact with the ground at speeds of less than 15 miles per hour; or
  - (c) Operating an autocycle.
- (14) A person may operate a bicycle that is not an electric assisted bicycle without any grant of driving privileges.
- (15) A person may operate an electric assisted bicycle without a driver license or driver permit if the person is 16 years of age or older.
- (16) A person may operate a motor assisted scooter without a driver license or driver permit if the person is 16 years of age or older.
- (17) A person who is not a resident of this state or who has been a resident of this state for less than 30 days may operate a motor vehicle without an Oregon license or driver permit if the person is at least 15 years of age and has in the person's possession a current out-of-state equivalent of a Class C instruction driver permit issued to the person. For the purpose of this subsection, a person is a resident of this state if the person meets the residency requirements described in ORS 807.062. A person operating a motor vehicle under authority of this subsection has the same privileges and is subject to the same restrictions as a person operating

under the authority of a Class C instruction driver permit issued as provided in ORS 807.280.

(18) A person may operate an electric personal assistive mobility device without any grant of driving privileges if the person is 16 years of age or older. [1983 c.338 §300; 1985 c.16; 123; 1985 c.608 §13; 1987 c.217 §5; 1993 c.83 §1; 1995 c.774 §14; 1997 c.400 §6; 2001 c.749 §21; 2003 c.14 §468; 2003 c.341 §6; 2007 c.845 §3; 2009 c.395 §6; 2011 c.360 §16; 2017 c.296 §4; 2017 c.453 §9; 2018 c.76 §36]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.021 - Proof of Social Security number; rules.**

(1) Before issuing, renewing or replacing a driver license, driver permit or identification card, the Department of Transportation shall require a person to provide the Social Security number assigned to the person by the United States Social Security Administration or a written statement that the person has not been assigned a Social Security number.

(2) The department may issue, renew or replace a driver license, driver permit or identification card for an applicant who has submitted a Social Security number only after the department verifies the Social Security number with the United States Social Security Administration. In order to verify the person's Social Security number, the department may require the person to provide proof, as defined by rule, of the person's Social Security number.

(3) This section does not apply if the department previously verified the Social Security number as required by subsection (2) of this section.

(4) As used in this section, a "driver license," "driver permit" or "identification card" means a driver license, driver permit or identification card that is not a:

(a) Real ID;

(b) Commercial driver license; or

(c) Commercial learner driver permit. [2008 c.1 §2; 2011 c.282 §1; 2017 c.568 §11; 2019 c.701 §§1,2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.022 - Verification of identity source documents.**

(1) Before issuing, renewing or replacing a driver license, driver permit or identification card, the Department of Transportation may verify with the issuing agency the validity and completeness of each identity source document presented by the applicant.

(2) The department may require a person who holds a driver license, driver permit or identification card issued by this state who previously presented an identity source document that was not retained by the department as a digital image to present an identity source document for the purpose of capturing and retaining a digital copy of the identity source document. This subsection applies only to a person who elects to hold a Real ID. [2008 c.1 §7; 2017 c.568 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.024 - Collection of biometric data; establishment of person's identity; rules; immunity.**

(1) A person who applies for issuance, renewal or replacement of a driver license, driver permit or identification card shall submit to collection of biometric data by the Department of Transportation for the purpose of establishing the person's identity. Submitting to collection of biometric data under this section does not excuse a person from responsibility for complying with requirements for proof of identity, date of birth or address pursuant to ORS 807.040.

(2) Notwithstanding subsection (1) of this section and ORS 807.040 (1)(c), the department, by rule, may provide for issuance, renewal or replacement of a valid driver license or driver permit without the collection of biometric data.

(3) For purposes of this section, a person's identity is established if:

(a) The department finds that the biometric data collected as required under subsection (1) of this section match the biometric data that are already in the department's records for that person; or

(b) The department finds that the biometric data collected as required under subsection (1) of this section do not match biometric data in the department's records for any other person and the department does not otherwise have reason to believe that the person is not who the person claims to be.

(4) If a person's identity is established as described in subsection (3) of this section, the department shall mail the driver license, driver permit or identification card to the address provided by the person when the person applied for the issuance, renewal or replacement of the license, permit or identification card.

(5) If a person's identity is not established as described in subsection (3) of this section, the department shall:

(a) Inform the person who submitted to collection of biometric data that the person's identity was not established; and

(b) Provide the person with the opportunity to establish the person's identity by an alternative method approved by the department by rule.

(6) If a person's identity was not established as described in subsection (3) of this section and the department has reason to believe that the crime of identity theft, as described in ORS 165.800, was committed by the person currently submitting to collection of biometric data or by a person who previously submitted to collection of biometric data under the identity of the person currently submitting to collection of biometric data, the department shall notify a law enforcement agency that has jurisdiction over the crime.

(7) The department by rule shall establish procedures for providing expedited processing of driver licenses, driver permits or identification cards.

(8) The department and employees of the department are immune from liability for any damages resulting from the issuance, renewal or replacement of a driver license, driver permit or identification card under another person's identity if the employee who processed the biometric data for a license, permit or identification card established the applicant's identity as described in subsection (3) of this section. [2005 c.775 §3; 2008 c.1 §14; 2017 c.568 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.026 - Management of biometric data.**

(1) The Department of Transportation shall retain biometric data collected by the department in the course of issuing, renewing or replacing driver licenses, driver permits and identification cards.

(2) The biometric data may not be made available to anyone other than employees of the department acting in an official capacity. [2005 c.775 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.030**

[1985 c.608 §8; 1987 c.744 §1; repealed by 1989 c.636 §54]

LICENSES, ENDORSEMENTS

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.031 - Classes of license.**

The following licenses grant the driving privileges described:

(1) A Class A commercial driver license authorizes a person to operate any vehicle or combination of vehicles except that the person may not operate any vehicle for which an endorsement is required unless the person obtains the endorsement.

(2) A Class B commercial driver license authorizes a person to operate any single vehicle and to tow a vehicle that has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that does not exceed 10,000 pounds. The person may not operate any vehicle for which an endorsement is required unless the person obtains the endorsement.

(3) A Class C commercial driver license authorizes a person to operate:

(a) Any vehicle that is designed to transport 16 or more persons, including the driver, if the gross vehicle weight rating or gross vehicle weight, whichever is greater, of the vehicle is less than 26,001 pounds and the person has the proper endorsement to operate a vehicle described in this paragraph; and

(b) Any vehicle that is used in the transportation of hazardous materials if the gross vehicle weight rating or gross vehicle weight, whichever is greater, of the vehicle is less than 26,001 pounds and the person has the proper endorsement.

(4) A commercial driver license authorizes a person to operate any vehicle that may be operated by the holder of a Class C license.

(5) A Class C driver license authorizes a person to operate any vehicle for which a commercial driver license is not required except that the person may not operate any vehicle for which an endorsement is required unless the person obtains the endorsement.

(6) A restricted Class C license authorizes a person to operate a vehicle under one of the permits described in ORS 807.200 as constituting a restricted Class C license. The person may not operate any vehicle for which an endorsement is required or be granted any endorsements for the license. [1989 c.636 §12; 2003 c.14 §469; 2005 c.649 §3; 2009 c.395 §7; 2011 c.470 §6; 2015 c.716 §4; 2017 c.190 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.035 - Kinds of endorsements.**

This section describes the type of driving privileges granted by various endorsements issued by this state. Except as provided in ORS 807.285, the following endorsements grant the driving privileges described:

(1) A motorcycle endorsement authorizes a person to operate any motorcycle.

(2) A hazardous materials endorsement authorizes a person to operate a vehicle transporting hazardous materials.

(3) A tank vehicle endorsement authorizes a person to operate tank vehicles.

(4)(a) Except as provided in paragraph (b) of this subsection, a passenger endorsement authorizes a person to operate a vehicle:

(A) Described in ORS 801.208 (1)(a) or (b) that is designed to transport passengers in commerce; or

(B) Described in ORS 801.208 (1)(c).

(b) A passenger endorsement does not authorize a person to operate a school bus.

(5) A school bus endorsement authorizes a person to operate a school bus if the person also holds a valid passenger endorsement.

(6) A double and triple trailer endorsement authorizes a person to operate a commercial motor vehicle with double and triple trailer combinations.

(7) A combined endorsement authorizes a person to operate a tank vehicle, transport hazardous materials and transport hazardous materials in a tank vehicle.

(8) A Class A farm endorsement authorizes a person to:

(a) Operate or tow any vehicle that can be operated by the holder of a Class A commercial driver license if the vehicle is:

(A) Controlled or operated by a farmer;

- (B) Used to transport agricultural products, farm machinery or farm supplies to or from a farm;
- (C) Not used in the operation of a common or contract motor carrier; and
- (D) Used within 150 miles of the farmer's farm.
- (b) Operate any vehicle described in paragraph (a) of this subsection that is transporting hazardous materials if the vehicle is placarded in accordance with law.
- (c) Operate any vehicle described in paragraph (a) of this subsection that is a tank vehicle or a double trailer combination without holding a tank vehicle endorsement or a double and triple trailer endorsement.
- (9) A Class B farm endorsement authorizes a person to:
  - (a) Operate or tow any vehicle that can be operated or towed by the holder of a Class B commercial driver license if the vehicle is:
    - (A) Controlled or operated by a farmer;
    - (B) Used to transport agricultural products, farm machinery or farm supplies to or from a farm;
    - (C) Not used in the operation of a common or contract motor carrier; and
    - (D) Used within 150 miles of the farmer's farm.
  - (b) Operate any vehicle described in paragraph (a) of this subsection that is transporting hazardous materials if the vehicle is placarded in accordance with law.
  - (c) Operate any vehicle described in paragraph (a) of this subsection that is a tank vehicle without holding a tank vehicle endorsement. [1989 c.636 §13; 1991 c.185 §3; 1993 c.288 §1; 2003 c.14 §470; 2005 c.649 §1; 2007 c.122 §8; 2013 c.237 §37; 2017 c.190 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.036 - Exceptions to endorsement requirement for tow vehicle operator.**

Notwithstanding any other provision of law, the operator of a tow vehicle is not required to have an endorsement for towing a disabled vehicle that can be operated only by a person with an endorsement if the towing operation is the first move of the disabled vehicle and is performed as an emergency service or if the move is a subsequent move of an empty vehicle that requires a passenger endorsement or a school bus endorsement for operation. [1989 c.636 §13a; 1991 c.185 §4; 2003 c.14 §471; 2005 c.649 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.038 - School bus endorsement exception.**

Notwithstanding any other provision of law, a school bus manufacturer, school bus dealer or school bus mechanic is not required to have a school bus endorsement while operating a school bus that is not transporting students. [2007 c.122 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.040 - Requirements for issuance; rules; fees.**

- (1) The Department of Transportation shall issue a driver license to any person who complies with all of the following requirements:
  - (a) The person must complete an application for a license under ORS 807.050.
  - (b)(A) As required by ORS 807.021, a person applying for a driver license or driver permit must provide the Social Security number assigned to the person by the United States Social Security Administration or a written statement that the person has not been assigned a Social Security number.
  - (B) As used in this paragraph, a "driver license" or "driver permit" means a driver license or driver permit that is not a:
    - (i) Real ID;
    - (ii) Commercial driver license; or
    - (iii) Commercial learner driver permit.
  - (c) The person must submit to collection of biometric data by the department that establish the identity of the person as described in ORS 807.024.
  - (d) The person must not be ineligible for the license under ORS 807.060 and must be eligible for the license under ORS 807.062.
  - (e) The person must successfully pass all examination requirements under ORS 807.070 for the class of license sought.
  - (f) The person must pay the appropriate license fee under ORS 807.370 for the class of license sought.
  - (g) The person must pay the Student Driver Training Fund eligibility fee.
  - (h) If the application is for a commercial driver license, the person must be the holder of a Class C license or any higher class of license.
    - (i) If the application is for a commercial driver license, the department must have received and recorded, in a form approved by the department, the report of a medical examination that establishes that the person meets the medical requirements to operate a commercial motor vehicle. The department, by rule, shall establish medical requirements for purposes of this paragraph. The medical requirements established under this paragraph may include any requirements the department determines are necessary for the safe operation of vehicles permitted to be operated under the class of license for which the requirements are established.
    - (j) If the application is for a Real ID commercial driver license or a commercial driver license that is not a Real ID, the person must:
      - (A) Have at least one year's driving experience, including relevant experience obtained in the military;
      - (B) Not be subject to a lifetime suspension of commercial driving privileges under ORS 809.520;
      - (C) Not be otherwise ineligible to hold a commercial driver license;

- (D) Hold a commercial learner driver permit if the person must complete a skills demonstration under ORS 807.070 (3);
- (E) Submit valid documentation, as defined by the department by rule, that the person is a citizen or lawful permanent resident of the United States or is a citizen of a country with a Compact of Free Association with the United States; and
- (F) Provide the Social Security number assigned to the person by the United States Social Security Administration for verification by the department with the administration.
- (k) The person must present acceptable documents to prove identity, date of birth and address. The department shall determine by rule which documents are acceptable to prove identity, date of birth and address.
- (L) If the application is for a Real ID, the person must comply with the requirements under the vehicle code for issuance of Real IDs.
- (2) Except as provided in subsection (3) of this section, acceptable documents to prove identity, date of birth or address under subsection (1)(k) of this section when a person is applying for a driver license, driver permit or identification card that is not a Real ID, a commercial driver license, or a commercial learner driver permit, include but are not limited to the following:
  - (a) An unexpired valid passport from the person's country of citizenship;
  - (b) An unexpired valid consular identification document issued by the consulate of the person's country of citizenship, if the department determines that the procedure used in issuing the consular identification document is sufficient to prove the person's identity;
  - (c) A driver license, driver permit or identification card issued by this state that expired not more than 13 years from the date of the current application; or
  - (d) A driver license, driver permit or identification card issued by another state that:
    - (A) Is unexpired; or
    - (B) Expired not more than one year from the date of the current application.
- (3) The department may refuse to accept any document described in subsection (2) of this section that is presented as proof of identity, date of birth or address, if the department has reason to believe that:
  - (a) The document is fraudulent, has been altered or does not belong to the person presenting the document; or
  - (b) The procedures used by the agency that issued the document are no longer sufficient for proving a person's identity or date of birth.
- (4) Subsection (1)(j)(E) of this section does not apply to a limited term commercial driver license or a limited term commercial learner driver permit issued under ORS 807.730.
- (5) The department shall work with other agencies and organizations to attempt to improve the issuance system for driver licenses. [1983 c.338 §301; 1985 c.16 §124; 1985 c.182 §2; 1985 c.608 §14a; 1989 c.636 §16; 1991 c.709 §1; 1993 c.751 §34; 2001 c.668 §8; 2005 c.22 §515; 2005 c.649 §15; 2005 c.775 §6; 2008 c.1 §§9,10; 2011 c.282 §2; 2012 c.43 §30; 2013 c.237 §38; 2017 c.190 §5; 2017 c.306 §4; 2017 c.568 §14; 2019 c.701 §§3,4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.045 - Issuance of commercial license to person who holds out-of-state commercial license.**

- (1) In order to be authorized to drive a commercial motor vehicle in this state, a person who holds a commercial driver license issued by a jurisdiction other than Oregon must, within 30 days of becoming domiciled in Oregon:
  - (a) Apply to the Department of Transportation for an Oregon commercial driver license;
  - (b) Certify to the department that the person's current commercial driver license is not subject to any disqualification, suspension, revocation or cancellation and that the person does not have a commercial driver license from more than one jurisdiction; and
  - (c) Surrender any commercial driver license issued to the person by another jurisdiction.
- (2) The department shall issue a commercial driver license to a person who complies with subsection (1) of this section if the department determines that the person is all of the following:
  - (a) Eligible for a commercial driver license. In order to determine eligibility under this paragraph, the department may require from the person any additional information that the department determines necessary and may require the person to pass any examinations, tests or demonstrations that the department determines necessary.
  - (b) Not subject to a lifetime suspension of commercial driving privileges under ORS 809.520.
  - (c) Not otherwise ineligible for a commercial driver license.
- (3) For purposes of this section, a person is domiciled in this state if the person meets the criteria described in ORS 803.355. [1989 c.636 §14; 2005 c.649 §16; 2013 c.237 §39]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.050 - Application; proof of address; rules.**

An application for a driver license shall be in a form approved by the Department of Transportation. An application must contain all the following:

- (1) The applicant's full legal name, sex, date of birth, residence address, except as otherwise provided for corrections officers in ORS 802.253, eligible employees in ORS 802.250 or Address Confidentiality Program participants in ORS 192.846, and post-office address other than general delivery. The department may provide by rule for acceptance of something other than an actual residence



or post-office address if the department determines that the applicant does not have an actual address. The department shall require proof to verify the address in addition to anything else the department may require of the applicant. The department shall adopt rules to identify what constitutes proof of address for purposes of this subsection. Proof of address may include, but is not limited to, providing a utility bill, a tax return, a record from a financial institution, a proof of insurance card or a health benefits card, a selective service card, a mortgage document or a lease agreement. The applicant may provide the proof of address by submitting proof in the form of an original document or a copy of a document, use an electronic device to display proof of address, or provide proof through the use of a third party address verification system.

(2) The class of driver license sought.

(3) The Social Security number of the applicant or other number or identifying information determined appropriate by the Secretary of the United States Department of Transportation, if the application is for a commercial driver license or a commercial learner driver permit or if the Oregon Department of Transportation by rule requires the Social Security number on the application.

(4) Whether or not the applicant wants to make an anatomical gift, as defined in ORS 97.953.

(5) Any other information the department deems necessary to assist the department in determining whether the applicant is qualified or eligible to be licensed.

(6) The signature of the applicant. [1983 c.338 §302; 1985 c.16 §125; 1985 c.563 §5; 1985 c.597 §7; 1985 c.608 §15; 1989 c.636 §17; 1991 c.67 §216; 1991 c.523 §5; 1993 c.751 §35; 2005 c.292 §6; 2007 c.542 §7; 2008 c.1 §11; 2011 c.86 §1; 2013 c.237 §40; 2015 c.716 §§6,7; 2017 c.306 §2; 2017 c.568 §15]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.060 - Eligibility.**

The Department of Transportation may not grant driving privileges to a person under a license if the person is not eligible under this section. The following are not eligible for a license:

(1) A person under 16 years of age.

(2)(a) A person under 18 years of age who is not an emancipated minor, unless the application of the person is signed by the person's mother, father or legal guardian. A person who signs an application under this paragraph may have the driving privileges canceled as provided under ORS 809.320.

(b) A person under 18 years of age who does not meet the requirements of ORS 807.065.

(3) Notwithstanding subsection (2) of this section, a person under 18 years of age is not eligible for a commercial driver license.

(4) A person the department determines has a problem condition involving intoxicants as described under ORS 813.040.

(5) A person the department reasonably believes has a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle upon the highways.

(6) A person the department reasonably believes is unable to understand highway signs that warn, regulate or direct traffic.

(7) A person who is required to make future responsibility filings but has not made filings as required.

(8) A person who cannot be issued a license under the Driver License Compact under ORS 802.540.

(9) A person who is not subject to the Driver License Compact under ORS 802.540 but whose driving privileges are currently under suspension or revocation in any other state upon grounds which, if committed in this state, would be grounds for the suspension or revocation of the driving privileges of the person.

(10) A person who has been declared a habitual offender under ORS 809.640. A person declared not eligible to be licensed under this subsection may become eligible by having eligibility restored under ORS 809.640.

(11) A person whose driving privileges are canceled in this state under ORS 809.310 until the person is eligible under ORS 809.310.

(12) A person while the person's driving privileges are revoked in this state.

(13) A person during a period when the person's driving privileges are suspended in this state.

(14) A person who holds a current out-of-state license or driver permit or a valid Oregon license or driver permit. A person who is not eligible under this subsection may become eligible by surrendering the license, driver permit or out-of-state license or driver permit to the department before issuance of the license. Nothing in this subsection authorizes a person to continue to operate a motor vehicle on the basis of an out-of-state license or permit if the person is required by ORS 807.062 to obtain an Oregon license or permit.

(15) A person who has not complied with the requirements and responsibilities created by citation for or conviction of a traffic offense in another jurisdiction if an agreement under ORS 802.530 authorizes the department to withhold issuance of a license.

(16) A person who has not complied with the requirement of ORS 813.022 (1). [1983 c.338 §303; 1985 c.16 §126; 1985 c.396 §7; 1985 c.597 §8; 1985 c.608 §16; 1985 c.669 §8; 1987 c.137 §2; 1989 c.224 §137; 1989 c.636 §18; 1989 c.715 §5; 1991 c.702 §22; 1991 c.802 §1; 1993 c.751 §36; 1999 c.328 §5; 1999 c.619 §5; 2001 c.176 §3; 2005 c.140 §1; 2005 c.143 §1; 2012 c.9 §§4,5; 2013 c.233 §§2,3; 2017 c.21 §75; 2021 c.253 §2; 2023 c.498 §8]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.062 - Domicile or residency requirement for driver license.**

(1) Unless otherwise specifically provided by law, in order to be eligible for a driver license or permit issued by this state a person must be domiciled in or resident of this state.

(2) Unless otherwise specifically provided by law, a person who is a resident of this state may not operate a motor vehicle in this

state unless the person receives a driver license or permit from the Department of Transportation.

(3) For purposes of this section, "domicile" has the meaning given in ORS 803.355.

(4) For purposes of this section, a person is a resident of this state if the person engages in any gainful employment in this state or takes any action to indicate the acquiring of residence in this state. Action to acquire residence includes, but is not limited to, doing any of the following:

(a) Remaining in this state for a consecutive period of six months or more regardless of the domicile of the person.

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

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

(5) Notwithstanding subsection (4) of this section, a person who is gainfully employed in this state shall not be considered a resident of the state if the person has taken no other steps to become a resident. This section applies, but is not limited to, a student at an educational institution maintained by public funds who is paying nonresident tuition rates. [1993 c.751 §33]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.065 - Additional eligibility requirements for persons under 18 years of age; provisional driver license.**

(1) The Department of Transportation may not issue a driver license to a person who is under 18 years of age unless the person:

(a) Complies with the requirements of ORS 807.040 and 807.066;

(b) Has had, for at least six months prior to application for the license, an instruction driver permit issued under ORS 807.280 or the equivalent of an instruction driver permit issued by another state of the United States or by the District of Columbia;

(c) Certifies to the department that the person has had at least 50 hours of driving experience during which the person was supervised by a person at least 21 years of age who has had a valid driver license for at least three years; and

(d) Completes a traffic safety education course that meets standards developed by the department under ORS 336.802. In lieu of completion of a traffic safety education course, a person may certify to the department that the person has had at least 50 hours of driving experience during which the person was supervised by a person at least 21 years of age who has had a valid driver license for at least three years, in addition to the 50 hours required by paragraph (c) of this subsection.

(2) A person under 18 years of age need not comply with the requirements of subsection (1)(b), (c) and (d) of this section if the person has been issued a driver license by another state and surrenders that license in order to get an Oregon license.

(3) If the person takes but does not pass a test that consists of an actual demonstration of driving ability under ORS 807.070, the department may not allow the person to perform the demonstration again until the person has had an instruction permit issued pursuant to ORS 807.280 for a period of not less than one month.

(4) A driver license issued pursuant to this section shall be a provisional driver license.

(5) The department shall prominently identify each driver license issued pursuant to this section as a provisional driver license. [1989 c.715 §2; 1993 c.751 §37; 1999 c.328 §1; 1999 c.789 §5; 2001 c.176 §4; 2003 c.92 §1; 2021 c.12 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.066 - School requirements for persons under 18 years of age.**

(1) Subject to subsection (2) of this section, the Department of Transportation may not issue driving privileges to a person who is under 18 years of age unless:

(a) The person has graduated from high school and provides the department with proof of graduation satisfactory to the department;

(b) The person has received a certificate for passing an approved high school equivalency test, such as the General Educational Development (GED) test, from a community college and provides the department with proof of the certificate satisfactory to the department; or

(c) The person's parent or legal guardian certifies that the person is:

(A) Enrolled in a school of this state, or any other state or any other country;

(B) Enrolled in a community college and making satisfactory progress toward a certificate for passing an approved high school equivalency test, such as the General Educational Development (GED) test, a high school diploma or a modified diploma;

(C) Being taught by a private teacher, legal guardian or parent in compliance with ORS 339.035;

(D) Exempted from school attendance requirements due to circumstances beyond the control of the person; or

(E) Exempt under ORS 339.030 (2) from the requirement to attend school.

(2) The department may not issue driving privileges to a person who is under 18 years of age and whose driving privileges are suspended for withdrawing from school unless the person:

(a) Has graduated from high school and provides the department with proof of graduation satisfactory to the department;

(b) Has received a certificate for passing an approved high school equivalency test, such as the General Educational Development (GED) test, from a community college and provides the department with proof of the certificate satisfactory to the department;

(c) Provides the department with a form provided by the department and signed by the principal, or the designee of the principal, of the school attended by the person that declares that the person is enrolled in a school of this state, or any other state or any other country;

(d) Provides the department with a form provided by the department and signed by the authorized representative of the community

- college attended by the person that declares that the person is making satisfactory progress toward a certificate for passing an approved high school equivalency test such as the General Educational Development (GED) test;
- (e) Provides the department with a form provided by the department and signed by the authorized representative of the community college attended by the person that declares that the person is making satisfactory progress toward a high school diploma or a modified diploma;
- (f) Provides the department with a form provided by the department and signed by the authorized representative of the education service district or school district having jurisdiction over the area of the person's residence that declares that the person is being taught by a private teacher, legal guardian or parent in compliance with ORS 339.035;
- (g) Provides the department with documentation satisfactory to the department that indicates that the person is exempted from school attendance requirements due to circumstances beyond the control of the person; or
- (h) Provides the department with documentation satisfactory to the department that the person is exempt under ORS 339.030 (2) from the requirement to attend school. [1999 c.789 §2; 2015 c.716 §2; 2017 c.66 §30; 2017 c.701 §24; 2017 c.726 §15; 2021 c.97 §87]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.070 - Examinations.**

The Department of Transportation shall administer an examination to establish qualification for each class of license and endorsement. The examination for each class of license or endorsement must include all of the following as described:

- (1) A test of the applicant's eyesight. This subsection does not apply to an applicant with a limited vision condition as defined in ORS 807.355.
- (2) A test of the applicant's knowledge and understanding of the traffic laws of this state, safe driving practices and factors that cause accidents. This subsection does not apply to an applicant who holds a valid driver license from another jurisdiction or whose driver license from another jurisdiction is expired less than one year. The following all apply to the test under this subsection:
- (a) The test may not cover any subject that is not presented in the publications of the department intended for the instruction of applicants for licenses and driver permits.
- (b) The test for each class of license and endorsement must include, but is not limited to, a test of knowledge and understanding of traffic laws that relate specifically to the type of driving privileges granted under the specific class of license or endorsement sought.
- (c) The test must include, but is not limited to, the following subjects:
- (A) Rights of pedestrians who are blind.
- (B) The meaning of official traffic signs and signals.
- (C) Proper operating procedure in emergency situations.
- (D) Vehicle safety equipment and its use.
- (E) Practices necessary for safe operation of a vehicle around pedestrians and bicyclists.
- (F) Practices necessary for safe operation of a vehicle around motorcyclists.
- (d) The test must include at least two questions pertaining to the practices necessary for safe operation of a vehicle around motorcyclists.
- (e) The test may include a question regarding fuel efficient driving techniques.
- (f) The department may waive the test under circumstances described in ORS 807.072.
- (3) A test that is an actual demonstration of the applicant's ability to operate a motor vehicle without endangering the safety of persons or property. The following apply to this subsection:
- (a) The actual demonstration for each class of license shall be performed in a vehicle that may be operated under the class of license sought, but that may not be operated under lower classes of license.
- (b) An actual demonstration for a passenger endorsement shall be performed in a vehicle that may be operated under the endorsement.
- (c) An actual demonstration for a school bus endorsement shall be performed in a school bus.
- (d) An actual demonstration required for a commercial driver license may be performed by a person only if the person has held for at least 14 days a commercial learner driver permit that was issued by the department or by another jurisdiction that authorizes operation of the vehicle used for testing.
- (e) The department may waive the demonstration under circumstances described in ORS 807.072.
- (4) Any other examination or test, including demonstrations, that the department determines may be necessary to assist the department in establishing whether the applicant is eligible for a license under ORS 807.060 or whether the applicant is fit to operate a motor vehicle safely on the highways of this state. In any examination or test under this subsection, the department shall only conduct an investigation for facts relating directly to the ability of the applicant to operate a motor vehicle safely or other facts that are specifically required to show the fitness of the applicant for license. [1983 c.338 §304; 1985 c.608 §17; 1989 c.636 §19; 1993 c.309 §1; 1997 c.83 §2; 1999 c.1051 §87; 2001 c.410 §1; 2003 c.14 §472; 2003 c.277 §§6,10; 2005 c.649 §§5,6; 2007 c.70 §§326,327; 2007 c.588 §3; 2007 c.677 §§1,2; 2009 c.810 §1; 2013 c.237 §41; 2017 c.190 §4; 2021 c.12 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.072 - Waiver of certain examinations, tests and demonstrations; rules.**

- (1) The Department of Transportation, by rule, may waive any examination, test or demonstration required under ORS 807.070 (2) or (3) if the department receives satisfactory proof that the person required to take the examination, test or demonstration has passed an examination, test or demonstration approved by the department that:
- (a) Is given in conjunction with a traffic safety education course certified by the department under ORS 336.802;
  - (b) Is given in conjunction with a motorcycle rider education course established under ORS 802.320;
  - (c) Is given in conjunction with a course conducted by a commercial driver training school certified by the department under ORS 822.515; or
  - (d) Is given in conjunction with an application for a special limited vision condition learner's permit under ORS 807.359.
- (2) The department, by rule, may waive the actual demonstration required under ORS 807.070 (3) for a person who is applying for a commercial driver license or a Class C license if the person holds a valid out-of-state license or applies for an Oregon license within one year of the expiration of a valid out-of-state license. A demonstration may be waived under this subsection only if the person has applied for the same driving privileges as those granted under the person's out-of-state license or for privileges granted by a lower class of license.
- (3) The department may waive the actual demonstration required under ORS 807.070 for a person who is applying for a commercial driver license, an endorsement related to a commercial driver license or the removal of a restriction from a commercial driver license:
- (a) If the person has been certified, as defined by rule, under ORS 807.080 or a similar statute of another jurisdiction as competent to safely exercise the driving privileges granted by a Class A commercial driver license, a Class B commercial driver license or a Class C commercial driver license; or
  - (b) Under circumstances, established by the department by rule, that establish the person's ability to drive without an actual demonstration.
- (4) The department may issue a Class A farm endorsement without requiring additional tests to a person who has a Class C driver license if a farm employer or a self-employed farmer certifies to the department that the person is experienced in driving a vehicle that may be driven only by persons who have a Class A commercial driver license and the person's two-part driving record does not show either a traffic accident within two years of the date of application for the endorsement or a conviction for one of the following traffic crimes within five years of the date of application for the endorsement:
- (a) Reckless driving, as defined in ORS 811.140.
  - (b) Driving while under the influence of intoxicants, as defined in ORS 813.010.
  - (c) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.
  - (d) Criminal driving while suspended or revoked, as defined in ORS 811.182.
  - (e) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.
- (5) The department may issue a Class B farm endorsement without requiring additional tests to a person who has a Class C driver license if a farm employer or a self-employed farmer certifies to the department that the person is experienced in driving a vehicle that may be driven only by persons who have a Class B commercial driver license and the person's two-part driving record does not show either a conviction for a traffic crime specified in subsection (4) of this section within five years of the date of application for the endorsement or a traffic accident within two years of the date of application for the endorsement.
- (6) The department by rule may establish other circumstances under which a farm endorsement may be issued without an actual demonstration. The authority granted by this subsection includes, but is not limited to, authority to adopt rules specifying circumstances under which the endorsement may be granted to a person despite the appearance of traffic accidents on the person's record.
- (7) The department by rule may waive the test required under ORS 807.070 (2) for a person who applies for a motorcycle endorsement if the person:
- (a) Holds a valid out-of-state driver license that authorizes the person to operate a motorcycle;
  - (b) Applies for a motorcycle endorsement within one year after the expiration date of a valid out-of-state driver license that authorizes the person to operate a motorcycle; or
  - (c) Completes a motorcycle rider education course outside of this state that is approved by the department by rule:
    - (A) While temporarily residing outside of this state; and
    - (B) The person is domiciled in this state as described in ORS 803.355 or is a resident as described in ORS 807.062.
- (8) The department by rule may waive the actual demonstration required under ORS 807.070 (3) for a person who is applying for a restricted motorcycle endorsement that only authorizes the person to operate a motorcycle with more than two wheels. [2001 c.410 §3; 2003 c.14 §473; 2003 c.277 §§7,11; 2005 c.649 §§7,8; 2007 c.588 §4; 2015 c.716 §5; 2017 c.190 §12; 2017 c.306 §1; 2018 c.22 §6; 2021 c.12 §6; 2021 c.630 §33]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.080 - Driver competency testing certificates; rules; fees.**

- (1) The Department of Transportation may adopt rules and enter into contracts necessary for the regulation and certification of persons and organizations authorized to certify an individual's competency to safely operate a motor vehicle, including a commercial motor vehicle, on behalf of the department.
- (2) Rules adopted under this section may include, but are not limited to, the following:

- (a) Establishing methods and procedures for the testing of competency to operate different types of motor vehicles.
  - (b) Establishing the manner and mechanism by which test results shall be sent to the department.
  - (c) Establishing reasonable fees as part of any program for regulation created by the department under this section.
  - (d) Establishing grounds for suspension, cancellation or revocation of a person's or organization's authorization to certify competency to operate motor vehicles.
  - (e) Establishing requirements for records retention.
  - (f) Establishing requirements for inspections of premises, investigations and monitoring, including covert monitoring, to ensure that testing is conducted in strict accord with rules adopted under this section.
  - (g) Establishing bond and insurance requirements.
- (3) In adopting rules under this section, the department shall take into consideration the regulations and laws of the federal government. [1985 c.608 §36; 1989 c.636 §20; 2005 c.649 §9; 2023 c.400 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.085 - Entry-level commercial motor vehicle driver training; requirements; penalties; rules.**

- (1) The Department of Transportation shall establish requirements for entry-level commercial motor vehicle driver training. Entry-level commercial motor vehicle drivers include, but are not limited to:
- (a) Individuals obtaining a Class A or Class B commercial driver license for the first time;
  - (b) Individuals upgrading an existing Class B commercial driver license to a Class A commercial driver license; and
  - (c) Individuals obtaining a school bus, a passenger or a hazardous materials endorsement for the first time.
- (2) The department may cancel or suspend an individual's commercial driving privileges if the person has not completed the training required by rules adopted under this section. A person is entitled to administrative review under ORS 809.440 when the department does not issue a commercial driver license or cancels or suspends commercial driving privileges under this section.
- (3) The department shall adopt rules to carry out the provisions of this section. [2021 c.630 §103]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.090 - Establishing eligibility notwithstanding mental or physical condition or impairment.**

- (1) If the Department of Transportation determines that a person may be ineligible for a license because the person has a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle, the person may establish eligibility for a license:
- (a) By personally demonstrating to the satisfaction of the department that, notwithstanding the mental or physical condition or impairment, the person is qualified to safely operate a motor vehicle; or
  - (b) If the department reasonably believes that, notwithstanding the demonstration under paragraph (a) of this subsection, the person's mental or physical condition or impairment affects the person's ability to safely operate a motor vehicle, by receiving a determination of eligibility from the medical determination officer of the department under this section.
- (2) The medical determination officer shall determine that a person is eligible for a license under this section if an applicant establishes to the satisfaction of the officer that the person's mental or physical condition or impairment does not affect the person's ability to safely operate a motor vehicle. The medical determination officer shall use the following to determine the person's eligibility under this subsection:
- (a) A report from the person's physician, nurse practitioner or physician assistant of the person's condition or impairment.
  - (b) If the person's condition or impairment apparently involves only visual deficiencies, the department may require a person to submit a report from a licensed optometrist or a licensed physician who specializes in diagnosis and treatment of diseases of the eye.
  - (c) The medical determination officer may require an examination and a written report of findings and recommendations from a qualified physician, nurse practitioner or physician assistant identified by the officer in addition to other reports submitted.
- (3) If a person establishes eligibility for a license under this section by receiving a determination of eligibility, the department may require the person to reestablish eligibility at reasonable intervals. The frequency of reestablishing eligibility under this subsection shall be established by the medical determination officer after reviewing any recommendations from the physician, nurse practitioner or physician assistant of the person required to reestablish eligibility.
- (4) The department may employ any qualified physician, nurse practitioner or physician assistant who holds an unrestricted license in the State of Oregon to perform the duties assigned to the medical determination officer by this section.
- (5) As used in this section, "physician" means a person who holds a degree of Doctor of Medicine or Doctor of Osteopathic Medicine and is licensed under ORS 677.100 to 677.228 and a person who holds a degree of Doctor of Naturopathic Medicine and is licensed under ORS chapter 685. [1983 c.338 §305; 1989 c.224 §138; 1993 c.309 §2; 1999 c.770 §1; 2005 c.140 §2; 2007 c.195 §1; 2007 c.434 §2; 2017 c.409 §40]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.100 - Proof of medical qualification; rules.**

- (1) The Department of Transportation may not issue or renew commercial driving privileges and may cancel commercial driving

privileges for a person if the department has not received and recorded, in the form approved by the department, proof of the person's medical qualification to operate a commercial motor vehicle by the date specified by the department.

(2) A person is entitled to administrative review under ORS 809.440 when the department does not issue or renew commercial driving privileges under this section or cancels commercial driving privileges under this section.

(3) The department shall adopt rules to carry out the provisions of this section. [1985 c.608 §8a; 1989 c.636 §21; 2011 c.470 §2; 2013 c.237 §42; 2015 c.138 §§43,44; 2017 c.190 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.110 - Contents of license; rules.**

(1) A driver license issued by the Department of Transportation shall contain all of the following:

(a) The distinguishing number assigned to the person issued the driver license by the department.

(b) For the purpose of identification, a brief description of the person to whom the driver license is issued.

(c) The full legal name of the person to whom the driver license is issued, except that the department may limit the number of characters displayed on the driver license.

(d) The date of birth and sex of the person to whom the driver license is issued.

(e) Except as provided for corrections officers in ORS 802.253, eligible employees in ORS 802.250 or Address Confidentiality Program participants in ORS 192.846, the residence address of the person to whom the driver license is issued.

(f) Upon request of the person to whom the driver license is issued, the fact that the person is an anatomical donor.

(g) Upon request of the person to whom the driver license is issued and presentation of proof, as determined by the department, the fact that the person is a veteran, as defined in ORS 408.225.

(h) Upon order of the juvenile court, the fact that the person to whom the driver license is issued is an emancipated minor.

(i) Except as otherwise provided in subsection (2) of this section, a photograph described in this paragraph. A photograph required under this paragraph shall:

(A) Be a full-faced, color photograph of the person to whom the driver license is issued;

(B) Be of a size approved by the department; and

(C) Be taken at the time of application for issuance of the driver license whether the application is for an original driver license, replacement of a driver license under ORS 807.160 or renewal of a driver license under ORS 807.150, except that the department, by rule, may allow the applicant to use a photograph already on file with the department.

(j) The class of driver license issued and any endorsements granted.

(k) The signature of the person to whom the driver license is issued.

(L) If the driver license is not a Real ID, a design differentiating it from a Real ID.

(m) Upon request of the person to whom the driver license is issued, the fact that the person is deaf or hard of hearing.

(2) The department may issue a valid driver license, other than a commercial driver license, without a photograph to an applicant:

(a) Who objects on religious grounds;

(b) Who objects because of the applicant's facial disfigurement; or

(c) Who is stationed outside of this state while serving in the active military service in the Armed Forces of the United States or the National Guard, and the department does not have an acceptable photograph of the applicant, as determined by the department by rule. This paragraph applies to an applicant who is renewing or replacing a driver license.

(3) A limited term driver license or a limited term commercial driver license issued under ORS 807.730 shall indicate:

(a) That it is a limited term driver license; and

(b) The date on which the limited term driver license expires.

(4) The department shall use security procedures, processes and materials in the preparation, manufacture and issuance of any driver license that prohibit as nearly as possible anyone's ability to alter, counterfeit, duplicate or modify the driver license without ready detection. The security features used in the production of the driver licenses shall provide for:

(a) The authentication of a genuine document in a reasonable time; and

(b) The production of the driver license only by equipment that requires verification of the identity of the operator of the equipment before a driver license may be produced. [1983 c.338 §306; 1985 c.16 §127; 1985 c.563 §6; 1985 c.608 §18; 1989 c.636 §22; 1991 c.67 §217; 1991 c.523 §6; 1993 c.751 §39; 2003 c.14 §474; 2005 c.292 §7; 2005 c.775 §7; 2007 c.542 §§5,6; 2008 c.1 §§12,13; 2010 c.61 §1; 2015 c.455 §1; 2017 c.190 §11; 2017 c.306 §8; 2017 c.568 §16a; 2021 c.14 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.115 - Digital images of photographs and signatures.**

(1) The Department of Transportation shall retain a digital image of each photograph and signature shown on a driver license under the provisions of ORS 807.110 or an identification card under ORS 807.400.

(2) The digital images of photographs may not be made available to anyone other than law enforcement officials and employees of the department acting in an official capacity. [1989 c.902 §2; 2017 c.568 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.120 - Restrictions generally.**

- (1) The Department of Transportation may place restrictions on any driving privileges granted a person if the department determines that there is good cause to restrict the driving privileges of the person in order to ensure the safe operation of a motor vehicle by the person.
- (2) Restrictions placed on a driver license or driver permit by the department under this section shall be suitable to the driving ability of the person whose driving privileges are restricted. The restrictions may include:
  - (a) Restrictions on the type of motor vehicle the person may operate;
  - (b) Requirements for special mechanical control devices on motor vehicles operated by the person; or
  - (c) Any other restrictions the department determines appropriate to ensure the safe operation of a motor vehicle by the person.
- (3) The department shall place a restriction on the commercial driver license of a person who performs the skill demonstration required under ORS 807.070 for issuance of a commercial driver license in a vehicle that:
  - (a) Is not equipped with air brakes. A restriction imposed under this paragraph prohibits the person from operating commercial motor vehicles equipped with service brakes that operate fully or partially by air pressure.
  - (b) Is equipped with air over hydraulic brakes. Air over hydraulic brakes includes any braking system operating partially by air pressure and partially by hydraulic pressure. A restriction imposed under this paragraph prohibits the person from operating commercial motor vehicles equipped with service brakes that operate solely by air pressure.
  - (c) Is equipped with an automatic transmission. A restriction imposed under this paragraph prohibits the person from operating commercial motor vehicles equipped with manual transmissions.
  - (d) Uses any connection other than a fifth wheel hitch between the power unit and a vehicle towed in combination with the power unit. A restriction under this paragraph prohibits the person from operating a commercial motor vehicle in combination with any other vehicle using a fifth wheel hitch between the power unit and first towed unit.
- (4) The department shall place a restriction on the commercial driver license and the commercial learner driver permit of a person who does not pass an air brakes knowledge test administered under ORS 807.070. The restriction shall prohibit the person from operating a commercial motor vehicle with service brakes that operate fully or partially by air pressure.
- (5) The department may impose restrictions under this section by setting forth the restrictions on the regular license form or by issuing a special form for licenses with restrictions.
- (6) The department shall place restrictions on driving privileges under this section when ordered by a court under ORS 809.270. Any restriction imposed under this subsection shall be made a part of the person's driving record and shall remain in effect until the court notifies the department in writing that the restrictions are removed.
- (7) The department may impose restrictions under this section on driving privileges that are restored after having been suspended or revoked. The restrictions imposed under this subsection may include any restrictions that have been recommended by a convicting magistrate.
- (8) The use of the term "restrictions" in this section includes any restrictions, conditions or requirements.
- (9) Violation of any restrictions placed on driving privileges under this section is punishable as provided under ORS 807.010. [1983 c.338 §307; 1985 c.16 §128; 1989 c.636 §23; 2013 c.237 §43; 2020 s.s.1 c.10 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.122 - Restrictions on operation with provisional driver license.**

- (1) The Department of Transportation shall place the following restrictions on a provisional driver license issued under ORS 807.065:
  - (a) Except as provided in subsections (2) to (4) of this section, for the first six months after issuance of the license, the holder of the license may not operate a motor vehicle that is carrying a passenger under 20 years of age who is not a member of the holder's immediate family. For the second six months, the holder of the license may not operate a motor vehicle that is carrying more than three passengers who are under 20 years of age and who are not members of the holder's immediate family.
  - (b) For the first year after issuance of the license, the holder of the license may not operate a motor vehicle between the hours of 12 midnight and 5 a.m. except when:
    - (A) The holder is driving between the holder's home and place of employment;
    - (B) The holder is driving between the holder's home and a school event for which no other transportation is available;
    - (C) The holder is driving for employment purposes; or
    - (D) The holder is accompanied by a licensed driver who is at least 25 years of age.
- (2) Subsection (1)(a) of this section does not apply to the holder of a provisional driver license who:
  - (a) Is employed by a farmer, rancher or orchardist;
  - (b) Is operating, solely for employment purposes, a motor vehicle that is owned by the employer and for which financial responsibility requirements of ORS 806.060 have been met;
  - (c) Is transporting passengers who are employed by the same employer as the driver and who are being transported solely for employment purposes;
  - (d) Is not transporting more passengers than the number of available seat belts; and
  - (e) Has in the vehicle a written statement signed by the employer certifying that the driver is employed by the employer and that there is no other option for transporting the employees.
- (3) Subsection (1)(a) of this section does not apply to the holder of a provisional driver license who is 16 or 17 years of age and who

is operating a motor vehicle with:

- (a) An instructor in the vehicle as part of a certified traffic safety education course; or
  - (b) A person in the vehicle who has valid driving privileges and who is the parent or stepparent of the holder of the license.
- (4) Subsection (1) of this section does not apply to the holder of a provisional driver license who is 18 years of age or older. [1999 c.328 §3; 2001 c.410 §6; 2001 c.608 §1; 2003 c.14 §475; 2003 c.767 §1; 2013 c.68 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.130 - Expiration.**

- (1) A license that is not a limited term driver license and is issued as an original license and not as a license that is renewed expires on the anniversary of the licensee's birthday in the eighth calendar year after the year of issuance.
- (2) A license that is renewed under ORS 807.150 expires eight years from the specified expiration date of the immediately preceding license.
- (3) Notwithstanding subsections (1) and (2) of this section, a limited term commercial driver license or a limited term Real ID that is issued to a person who is not a citizen or lawful permanent resident of the United States or a citizen of a country with a Compact of Free Association with the United States expires on the date the licensee is no longer authorized to stay in the United States, as indicated by the documentation the person presented to the Department of Transportation to provide proof of lawful status in the United States as required by ORS 807.455 and 807.730, but no longer than eight years from the date of issuance or, if there is no definite end to the authorized stay, after a period of one year.
- (4) A license that has expired does not grant driving privileges and is not valid evidence of driving privileges. [1983 c.338 §308; 1985 c.16 §129; 1999 c.91 §1; 2008 c.1 §15; 2013 c.238 §1; 2017 c.568 §20; 2019 c.312 §33; 2019 c.701 §§17,18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.135 - Expiration of license held by Oregon National Guard member or military reservist.**

- (1) Notwithstanding ORS 807.130, a license held by a member of the Oregon National Guard or a military reservist ordered on active duty and deployed to a location outside the United States that expires while the holder is on active duty shall remain valid and grant driving privileges for 90 days following the termination of active duty.
- (2) The court shall dismiss the charge of operating a vehicle without driving privileges under ORS 807.010 if, when charged, a member of the Oregon National Guard or a military reservist held a valid license pursuant to subsection (1) of this section. [2005 c.257 §2; 2009 c.482 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.137 - Expiration of license held by person volunteering outside of United States.**

- (1) Notwithstanding ORS 807.130, a driver license held by a person described in subsection (2) of this section that expires while the holder is volunteering outside of the United States shall remain valid and grant driving privileges for 90 days after the date the person returns to the United States.
- (2) Subsection (1) of this section applies to persons who are performing services in a location outside of the United States on a volunteer basis for a nonprofit religious, charitable or relief organization, whether or not such persons receive meals or lodging or reimbursements or vouchers for meals, lodging or expenses.
- (3) The court shall dismiss the charge of operating a vehicle without driving privileges under ORS 807.010 if, when charged, a person described in subsection (2) of this section held a valid driver license pursuant to subsection (1) of this section. [2015 c.215 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.140 - Notice prior to expiration; exceptions; effect of failure to notify; records.**

- (1) Before the expiration of any license or a license with an endorsement under the vehicle code, the Department of Transportation shall notify the person to whom the license was issued of the approaching expiration. Within a reasonable time prior to the expiration date, the department shall notify the person to whom the license was issued in the manner determined by the department by rule.
- (2) The department is not required to notify the person of an approaching expiration if the person's license has been suspended, canceled or revoked or if the person has failed to notify the department of a change of address as required under ORS 807.560.
- (3) Notwithstanding subsection (1) of this section, the department is not required to notify the person of an approaching expiration if the person received a limited term driver license, limited term commercial driver license, limited term driver permit, limited term commercial learner driver permit or limited term identification card under ORS 807.730 for a period of less than one year.
- (4) Failure to receive a notice of expiration from the department is not a defense to a charge of driving with an expired license. However, the court may dismiss the charge if the person renews the license before the scheduled court appearance.
- (5) The department's responsibility to maintain records concerning notice under this section is as provided under ORS 802.210. [1983 c.338 §309; 1985 c.16 §130; 1985 c.597 §9; 1993 c.751 §41; 2003 c.14 §476; 2009 c.258 §2; 2017 c.306 §9; 2019 c.312 §20]



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.150 - Renewal; proof of address; rules.**

- (1) When a license expires or is about to expire, the Department of Transportation shall renew the license under this section if the holder of the license qualifies for renewal of the license under this section and:
- (a) Applies for renewal within two years of the expiration of a similar license under ORS 807.130; or
  - (b) Applies for issuance of a license within six months after the applicant is discharged from the Armed Forces of the United States and was licensed by this state at the time of the applicant's entry into the Armed Forces.
- (2) To qualify for renewal of a license under this section, a person must meet all of the requirements under ORS 807.040 for the class of license sought to be renewed, except that the department may waive the examination under ORS 807.070 of a person applying for renewal of a license unless the department has reason to believe that the applicant is not qualified to hold the license or unless the applicant for renewal has not previously been examined.
- (3) To receive a renewal under this section, the license renewal fee and the Student Driver Training Fund eligibility fee under ORS 807.370 must be paid.
- (4) If a person who applies for a renewal under this section is not qualified to renew the class of license sought to be renewed, the department may issue the person any lower class of license for which the person qualifies in lieu of renewing the person's license for the class of license held by the person.
- (5) A license that is renewed under this section may be used on or after the date of issuance. If the department issues a license renewal to a person under this section before the expiration of the license being renewed, the older license is invalid. A license that becomes invalid under this subsection shall be destroyed by the person to whom it was issued.
- (6) If the address of the applicant has changed since the last time a license was issued to or renewed for the applicant, the department shall require proof to verify the address of an applicant for renewal of a license in addition to anything else the department may require of the applicant. The department shall adopt rules to identify what constitutes proof of address for purposes of this subsection. Verification of proof of address may include, but is not limited to, providing a utility bill, a tax return, a record from a financial institution, a proof of insurance card or a health benefits card, a selective service card, a mortgage document or a lease agreement. The applicant may provide the proof of address by submitting proof in the form of an original document or a copy of a document, use an electronic device to display proof of address, or provide proof through the use of a third party address verification system. [1983 c.338 §310; 1985 c.16 §131; 1985 c.597 §10; 1985 c.608 §19; 1991 c.709 §2; 1993 c.751 §42; 2001 c.668 §9; 2015 c.716 §8; 2021 c.12 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.160 - Replacement license or permit; rules; fees.**

- (1) The Department of Transportation shall establish by rule the reasons for issuing a replacement driver license or driver permit to a person who submits an application for the replacement. The reasons for replacement shall include, but are not limited to, situations when the person:
- (a) Furnishes proof satisfactory to the department of the loss, destruction or mutilation of the person's driver license or driver permit.
  - (b) Changes residence address from the address noted on the person's driver license or driver permit or the department's records.
  - (c) Is a corrections officer or an eligible employee who has requested, in accordance with ORS 802.250 or 802.253, that department records show the address of the person's employer.
  - (d) Changes names from the name noted on the person's driver license or driver permit.
  - (e) Is applying or is required to add or remove a restriction on the driver license or driver permit.
  - (f) Is applying or is required to add or remove an endorsement other than a motorcycle endorsement on the driver license or driver permit.
  - (g) Furnishes proof satisfactory to the department or the department determines that the department made an error when issuing a driver license or driver permit.
  - (h) Furnishes proof satisfactory to the department that, for a reason identified by the department by rule, the person needs a replacement driver license or driver permit that bears a different distinguishing number from the license or permit being replaced.
  - (i) Furnishes proof satisfactory to the department that the person is a veteran, as defined in ORS 408.225, and the person requests a replacement driver license that includes the fact that the person is a veteran.
- (2) A replacement driver license or driver permit issued under this section:
- (a) Shall bear the same distinguishing number as the driver license or driver permit replaced unless the person applying for the replacement furnishes proof as described in subsection (1)(h) of this section.
  - (b) Does not alter or extend the driving privileges granted to the person under the old license or permit unless the replacement license or permit was issued for the purpose of changing a restriction or endorsement or for correcting an error involving driving privileges.
- (3) Except for driver permits for which the department does not charge an issuance fee, the department shall charge the fee under ORS 807.370 for a replacement license or driver permit issued under this section. The replacement fee is in addition to any endorsement or test fee that may apply. The department may waive the replacement fee as provided under ORS 807.390.

- (4) The driver license or driver permit replaced under this section is invalid and shall be surrendered to the department.
- (5) The department may not issue a replacement driver license or driver permit under this section if:
  - (a) The person making application is not qualified to hold a license or permit at the time of application.
  - (b) The driving privileges of the person making application are suspended or revoked and have not been partially or completely reinstated.
- (6) The department need not issue a replacement driver license or driver permit to a person who has not complied with the requirements and responsibilities created by citation for or conviction of a traffic offense in another jurisdiction if an agreement under ORS 802.530 authorizes the department to withhold issuance of a replacement license or permit. [1983 c.338 §313; 1985 c.16 §133; 1985 c.174 §9; 1985 c.258 §4; 1985 c.396 §8; 1985 c.563 §7; 1985 c.597 §12a; 1985 c.669 §9; 1989 c.535 §1; 1991 c.67 §218; 1991 c.523 §7; 1991 c.702 §23; 1993 c.393 §2; 1993 c.751 §43; 2005 c.59 §1; 2005 c.241 §1a; 2005 c.292 §8a; 2010 c.61 §2; 2019 c.312 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.164 - Commercial driving privileges; federal waiver; rules.**

- (1) The Department of Transportation, in accordance with a concurrent federal waiver, may modify or waive the requirements found in ORS 807.040, 807.060, 807.070, 807.100, 807.120, 807.173 or 807.285 when issuing, renewing or replacing a commercial driver license or commercial learner driver permit.
- (2) Notwithstanding ORS 807.130, 807.135, 807.137 and 807.140, the Department of Transportation, in accordance with a concurrent federal waiver, may provide that an expired commercial driver license or commercial learner driver permit remains valid and grants driving privileges for an amount of time as determined by the department in rule.
- (3) The department shall adopt rules necessary to carry out the provisions of this section. [2022 c.55 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.166 - Commercial driving privileges; federal Drug and Alcohol Clearinghouse; rules.**

- (1) The Department of Transportation shall adopt rules necessary to administer the federal Drug and Alcohol Clearinghouse.
- (2) The department may not issue or renew commercial driving privileges and may cancel or suspend commercial driving privileges if a person has not complied with the rules established under this section.
- (3) A person is entitled to an administrative review under ORS 809.440 when the department does not issue or renew commercial driving privileges under this section or cancels or suspends commercial driving privileges under this section. [2023 c.400 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.170 - Requirements for issuance; fees; cancellation.**

- (1) The Department of Transportation shall provide for the granting of driver license endorsements in a manner consistent with this section.
- (2) The department shall grant an endorsement to any person who complies with all of the following requirements:
  - (a) The person must hold a valid license other than a restricted Class C license issued under the vehicle code.
  - (b) The person must successfully complete any tests and demonstrations referred to in ORS 807.070 that the department determines necessary to determine whether the applicant is qualified for the type of endorsement sought. The actual demonstration required under ORS 807.070, if any, must be performed in a vehicle that may be operated under the endorsement sought but that may not be operated without the endorsement. Tests shall include, but are not limited to, those tests necessary to determine whether the applicant:
    - (A) Has satisfactory knowledge of laws relating to operation under the type of endorsement sought, defensive driving skills, the common causes of accidents involving vehicles operated under the type of endorsement sought; and
    - (B) Can operate under the endorsement in a manner that will not jeopardize the safety of persons or property.
  - (c) The appropriate fee under ORS 807.370 for the endorsement, including the fee for the Motorcycle Safety Subaccount, must be paid.
  - (d) If the person is applying for a motorcycle endorsement, the person must comply with ORS 807.175.
- (3) An endorsement granted under this section is subject to the following:
  - (a) It is part of the license upon which it is endorsed and is subject to any provisions applicable to the endorsed license under the statutes of this state.
  - (b) It is valid only if the license endorsed is valid.
  - (c) The appropriate fee under ORS 807.370 must be paid upon renewal of the endorsement in addition to any fee for renewal of the license endorsed.
  - (d) Except as provided under ORS 807.350 or as specifically provided under ORS 809.419, an endorsement cannot be canceled, suspended or revoked separately from the license endorsed. When an endorsed license is canceled, suspended or revoked, all endorsements on the license are subject to the same cancellation, suspension or revocation as the license.
- (4) Before the department may renew any license with a motorcycle endorsement, the applicant shall pay the department the Motorcycle Safety Subaccount fee established under ORS 807.370 in addition to any fee for renewal of the license. [1983 c.338 §312; 1985 c.16 §132; 1985 c.608 §20; 1989 c.427 §4; 1989 c.636 §24; 1997 c.292 §2; 2003 c.14 §477; 2003 c.402 §17; 2009 c.810

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.173 - Additional requirements for hazardous materials endorsement; rules.**

- (1) Notwithstanding ORS 807.170, the Department of Transportation may not issue or renew a commercial driver license with a hazardous materials endorsement and may cancel a commercial driver license with a hazardous materials endorsement if a person:
- (a) Does not complete and pass a security threat assessment from the federal Transportation Security Administration, including receipt by the department of a notice from the federal Transportation Security Administration showing that the person does not pose a security threat. The department shall establish by rule the process and frequency for obtaining a security threat assessment.
  - (b) Is assessed as a security threat by the federal Transportation Security Administration. The assessment must be received by the department in the form of a notice from the federal Transportation Security Administration.
- (2) A person is entitled to administrative review under ORS 809.440 when the department does not issue or renew a commercial driver license with a hazardous materials endorsement under this section or cancels a commercial driver license with a hazardous materials endorsement under this section.
- (3) To the extent possible, rules promulgated by the department under this section should be uniform with any applicable federal regulations related to the holding of a commercial driver license with a hazardous materials endorsement. [2005 c.649 §33; 2009 c.395 §8; 2019 c.701 §19; 2021 c.630 §104]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.175 - Motorcycle education course.**

- (1) The Department of Transportation may not issue a motorcycle endorsement to a person unless the person shows to the satisfaction of the department that the person has successfully completed a motorcycle rider education course established by the department under ORS 802.320. This requirement is in addition to any other requirement for the endorsement.
- (2) Subsection (1) of this section does not apply to a person applying for issuance of a motorcycle endorsement under ORS 807.170 who:
- (a) Currently holds a motorcycle endorsement issued by another state; or
  - (b) Is applying for a restricted motorcycle endorsement that only authorizes the person to operate a motorcycle with more than two wheels.
- (3) Subsection (1) of this section does not apply to a person applying for issuance of a motorcycle endorsement under ORS 807.170 who:
- (a) Is temporarily residing outside of this state;
  - (b) Is domiciled in this state as described in ORS 803.355 or is a resident as described in ORS 807.062; and
  - (c) Completes a motorcycle rider education course outside of this state that is approved by the department by rule. [1989 c.427 §2; 1991 c.453 §13; 1993 c.288 §2; 1997 c.292 §3; 2003 c.14 §478; 2009 c.810 §3; 2011 c.326 §1; 2021 c.630 §42]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.200 - Types of permit.**

- (1) The following permits may be issued as restricted Class C licenses:
- (a) Disability golf cart driver permits described under ORS 807.210.
  - (b) Emergency driver permits described under ORS 807.220.
  - (c) Special student driver permits described under ORS 807.230.
- (2) Hardship driver permits described under ORS 807.240 may be issued as Class C licenses. Restrictions on the license are as provided under ORS 807.240.
- (3) Instruction driver permits described under ORS 807.280 may be issued for a Class C license.
- (4) Motorcycle instruction driver permits described under ORS 807.280 may be issued only to persons having a commercial driver license or a Class C license.
- (5) Commercial learner driver permits described under ORS 807.285 may be issued for Class A, Class B or Class C commercial driving privileges. [1985 c.608 §8b; 1987 c.801 §2; 1989 c.636 §25; 2003 c.160 §1; 2013 c.237 §44; 2018 c.76 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.210 - Disability golf cart permit; fees.**

The Department of Transportation shall provide for issuance of disability golf cart driver permits in a manner consistent with this section. A disability golf cart driver permit grants the driving privileges provided in this section or under the permit. Except as otherwise provided in this section, a disability golf cart driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a Class C license. The following apply to a disability golf cart driver permit:

- (1) The department shall issue a disability golf cart driver permit only to persons with ambulatory disabilities.
- (2) The department shall issue a disability golf cart driver permit to an applicant who would not qualify for a license because of the person's disability if the department determines that the person's disability does not prevent the person from reasonable and

ordinary control of vehicles operated under the permit when operated as allowed under the permit.

(3) In addition to any other restrictions placed on the permit by the department, the permit only grants driving privileges for the operation of golf carts or substantially similar vehicles on roads or streets in an area with a speed designation not greater than 25 miles per hour.

(4) The department may require an applicant for the permit to demonstrate that the applicant is qualified to safely exercise the driving privileges granted under a disability golf cart driver permit notwithstanding the disability of the person.

(5) The fees for issuance or renewal of a disability golf cart driver permit are the disability golf cart driver permit issuance or renewal fees established under ORS 807.370. This subsection only affects the fees payable for issuance and renewal and is not an exemption from payment of other fees payable at the time of issuance and renewal of a license.

(6) A person with a disability golf cart driver permit who commits the offense of violation of license restrictions under ORS 807.010 by driving on a road or street in an area with a speed designation greater than 25 miles per hour commits a Class D traffic violation. [1983 c.338 §321; 1985 c.16 §139; 1985 c.608 §25; 1989 c.636 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.220 - Emergency driver permit; fees.**

(1) The Department of Transportation shall provide for the issuance of emergency driver permits in a manner consistent with this section.

(2) Except as otherwise provided in this section an emergency driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a Class C driver license.

(3) The following apply to an emergency driver permit:

(a) The department may issue an emergency driver permit to a person 14 years of age or older.

(b) The department shall place restrictions on the permit that designate the routes over which the permit is valid. The department shall designate routes it determines necessary from the facts creating the emergency.

(c) The permit shall only be issued if the department is satisfied that an emergency exists that requires operation of a motor vehicle by the applicant.

(d) The department may establish a form for the permit that differs from the form required for a license.

(e) The only fee required for issuance of the permit is the emergency driver permit fee under ORS 807.370.

(f) The department may establish a period for the expiration of the permit that coincides with the end of the emergency that is the basis for the permit.

(g) The department shall cancel the permit if the department determines that the holder of the permit has operated a motor vehicle over any highway or for any purpose other than one approved under the permit.

(h) If an emergency driver permit is canceled, the person issued the permit is ineligible to be issued another emergency driver permit for a period of one year.

(i) In addition to any other application requirements for the emergency driver permit, the applicant must obtain the approval of the sheriff of the county in which the applicant resides.

(4) The department may issue an emergency driver permit, if the person qualifies for the permit, to a person whose driving privileges are suspended under ORS 809.280 because the department has received an order suspending driving privileges under ORS 809.260. In addition to other emergencies, a situation that leaves the applicant with no alternative means to travel to and from school is an emergency for purposes of a permit issued under this subsection. [1983 c.338 §322; 1985 c.16 §140; 1985 c.174 §10; 1985 c.608 §26; 1987 c.262 §1; 1989 c.636 §27; 2001 c.410 §4; 2003 c.14 §479; 2005 c.59 §5; 2011 c.355 §2; 2023 c.400 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.230 - Special student driver permit; fees.**

The Department of Transportation shall provide for issuance of special student driver permits in a manner consistent with this section. A special student driver permit grants the driving privileges provided in this section or under the permit. Except as otherwise provided in this section, a special student driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a Class C driver license. The following apply to a special student driver permit:

(1) The department may issue a special student driver permit to a person 14 years of age or older.

(2) The department shall place restrictions on the permit to limit operation of a vehicle under the permit to operation necessary as a means of transportation to or from the school, college or other educational institution attended by the person to whom the driver permit is issued.

(3) The permit shall only be issued if the applicant has no other available means of transportation by which to continue the applicant's education.

(4) The permit shall only be issued if the department is satisfied that the applicant has had sufficient experience in the operation of motor vehicles to operate a motor vehicle without endangering the safety of the public.

(5) The department may establish a form for the permit that differs from the form required for a license that is issued.

(6) The only fee required for issuance of the permit is the special student driver permit fee under ORS 807.370.

(7) The department shall cancel the permit if the department determines that the holder of the permit has operated a motor vehicle over any highway or for any purpose other than as approved under the permit.

(8) If a special student driver permit is canceled, the person issued the permit is ineligible to be issued any license or driver permit until the person is old enough to be eligible for a license.

(9) In addition to any other application requirements for the special student driver permit, the applicant must:

(a) Certify that the applicant has no other available means of transportation that would enable the applicant to continue the applicant's education;

(b) Specify the road or highway over which the applicant desires to operate motor vehicles;

(c) Obtain the approval of the sheriff of the county in which the applicant resides and of the principal of the school the applicant attends; and

(d) Provide any other information required by the department. [1983 c.338 §323; 1985 c.174 §11; 1985 c.597 §17a; 1985 c.608 §27; 1989 c.636 §28; 2003 c.14 §480; 2005 c.59 §6; 2023 c.400 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.240 - Hardship permit; fees; rules.**

The Department of Transportation shall provide for issuance of hardship driver permits in a manner consistent with this section. A hardship driver permit grants the driving privileges provided in this section or under the permit. Except as otherwise provided in this section, a hardship driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a license. The following apply to a hardship driver permit:

(1) The department may only issue a permit to a person whose driving privileges under the vehicle code have been suspended, or revoked under ORS 809.600 as a habitual offender.

(2) Except as provided in this section and ORS 813.520, the department may reinstate the privilege to operate a motor vehicle of any person whose license to operate a motor vehicle has been suspended, or revoked under ORS 809.600 as a habitual offender, by issuing the person a hardship permit.

(3) To qualify for a hardship permit, a person must do all of the following:

(a) The person must submit to the department an application for the permit that demonstrates the person's need for the permit.

(b) The person must present satisfactory evidence, as determined by the department by rule:

(A) That the person must operate a motor vehicle as a requisite of the person's occupation or employment;

(B) That the person must operate a motor vehicle to seek employment or to get to or from a place of employment;

(C) That the person must operate a motor vehicle to get to or from an alcohol or drug treatment or rehabilitation program;

(D) That the person or a member of the person's immediate family requires medical treatment on a regular basis and that the person must operate a motor vehicle in order that the treatment may be obtained;

(E) That the person must operate a motor vehicle to get to or from a gambling addiction treatment program; or

(F) That the person must operate a motor vehicle to provide necessary services to the person or to a member of the person's family.

The department shall determine by rule what constitutes necessary services for purposes of this subparagraph. The rule shall include as necessary services, but need not be limited to, grocery shopping, driving the person or the person's children to school, driving to medical appointments and caring for elderly family members.

(c) If the person is applying for a permit because the person or a member of the person's immediate family requires medical treatment on a regular basis, the person must present, in addition to any evidence required by the department under paragraph (b) of this subsection, a statement signed by a licensed physician or licensed nurse practitioner that indicates that the person or a member of the person's immediate family requires medical treatment on a regular basis.

(d) The person must show that the person is not incompetent to drive nor a habitual incompetent, reckless or criminally negligent driver as established by the person's driving record in this or any other jurisdiction.

(e) The person must make a future responsibility filing.

(f) The person must submit any other information the department may require for purposes of determining whether the person qualifies under this section and ORS 813.520.

(4) If the department finds that the person meets the requirements of this section and any applicable requirements under ORS 813.520, the department may issue the person a hardship permit, valid for the duration of the suspension or revocation or for a shorter period of time established by the department unless sooner suspended or revoked under this section. If the department issues the permit for a period shorter than the suspension or revocation period, renewal of the permit shall be on such terms and conditions as the department may require. The permit:

(a) Shall limit the holder to operation of a motor vehicle only during specified times.

(b) May bear other reasonable limitations relating to the hardship permit or the operation of a motor vehicle that the department deems proper or necessary. The limitations may include any limitation, condition or requirement. Violation of a limitation is punishable as provided by ORS 811.175 or 811.182.

(5) The department, upon receiving satisfactory evidence of any violation of the limitations of a permit issued under this section, may suspend or revoke the hardship permit.

(6) The fee charged for application or issuance of a hardship driver permit is the hardship driver permit application fee under ORS 807.370. The department may not refund the fee if the application is denied or if the driver permit is suspended or revoked. The fee upon renewal of the driver permit is the same fee as that charged for renewal of a license. The application fee charged under this subsection is in addition to any fee charged for reinstatement of driving privileges under ORS 807.370.

(7) The department may issue a permit granting the same driving privileges as those suspended or revoked or may issue a permit granting fewer driving privileges, as the department determines necessary to assure safe operation of motor vehicles by the permit holder.

(8) The department may not issue a hardship permit to a person:

(a) Whose driver license or driver permit is suspended pursuant to ORS 25.750 to 25.783;

(b) Whose driving privileges are suspended pursuant to ORS 809.280 (2);

(c) That authorizes the person to operate a commercial motor vehicle;

(d) Whose suspension of driving privileges is based on a second or subsequent conviction of driving while under the influence of intoxicants in violation of ORS 813.010 or the statutory counterpart to ORS 813.010 in another jurisdiction and the suspension period is determined by ORS 809.428 (2)(b) or (c);

(e) Whose driving privileges are suspended for a conviction of assault in the second, third or fourth degree if the person, within 10 years preceding application for the permit, has been convicted of:

(A) Any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle;

(B) Reckless driving, as defined in ORS 811.140;

(C) Driving while under the influence of intoxicants, as defined in ORS 813.010;

(D) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705;

(E) Criminal driving while suspended or revoked, as defined in ORS 811.182;

(F) Fleeing or attempting to elude a police officer, as defined in ORS 811.540;

(G) Aggravated vehicular homicide, as defined in ORS 163.149; or

(H) Aggravated driving while suspended or revoked, as defined in ORS 163.196; or

(f) Whose driving privileges are suspended for a conviction of assault in the second, third or fourth degree:

(A) For a period of four years from the date the department suspends driving privileges if the person's driving privileges are suspended for conviction of assault in the second degree and the person was not incarcerated for that conviction.

(B) For a period of four years from the date the person is released from incarceration for the conviction if the person's driving privileges are suspended for conviction of assault in the second degree and the person was incarcerated for that conviction.

(C) For a period of two years from the date the department suspends driving privileges if the person's driving privileges are suspended for conviction of assault in the third degree and the person was not incarcerated for that conviction.

(D) For a period of two years from the date the person is released from incarceration for the conviction if the person's driving privileges are suspended for conviction of assault in the third degree and the person was incarcerated for that conviction.

(E) For a period of six months from the date the department suspends driving privileges if the person's driving privileges are suspended for conviction of assault in the fourth degree and the person is not incarcerated for that conviction.

(F) For a period of six months from the date the person is released from incarceration for the conviction if the person's driving privileges are suspended for conviction of assault in the fourth degree and the person was incarcerated for that conviction.

(9) A conviction arising out of the same episode as the current suspension is not considered a conviction for purposes of subsection (8)(e) of this section.

(10) A person's driving privileges under a hardship permit are subject to suspension or revocation if the person does not maintain a good driving record, as defined by the administrative rules of the department, during the term of the permit. [1983 c.338 §327; 1985 c.16 §144; 1985 c.608 §29; 1987 c.730 §11; 1987 c.801 §3; 1989 c.636 §33; 1991 c.860 §4; 1993 c.627 §2; 1993 c.751 §45; 1999 c.796 §4; 2001 c.294 §1; 2003 c.23 §1; 2003 c.160 §2; 2005 c.471 §11; 2017 c.319 §1; 2018 c.76 §§2,2a; 2019 c.215 §1; 2019 c.358 §43]

## **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.280 - Instruction driver permit; fees.**

The Department of Transportation shall provide for the issuance of instruction driver permits in a manner consistent with this section. A person who is issued an instruction driver permit may exercise the same driving privileges as those under the class of license or endorsement for which the permit is issued except as provided in this section or under the permit. Except as otherwise provided in this section, an instruction driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a license or endorsement granting the same driving privileges. The following apply to an instruction driver permit:

(1) An instruction driver permit is subject to the same classifications and endorsements as a license. The department may issue an instruction driver permit to grant the same driving privileges as a Class C driver license or as a motorcycle endorsement, but the instruction driver permit will also be subject to the provisions of this section.

(2) The department may issue an instruction driver permit to a person who is qualified to obtain the same driving privileges under the corresponding class of license or type of endorsement except for the person's age or lack of experience in the operation of motor vehicles subject to the following:

(a) An applicant must be 15 years of age or older to receive the same driving privileges as are granted under a Class C license.

(b) An applicant must be 16 years of age or older and have a commercial driver license or a Class C license to receive the same driving privileges as are granted under a motorcycle endorsement.

(c) An applicant must be 18 years of age or older to receive the same driving privileges as are granted under any class of license not otherwise provided for under this subsection.

- (3) The fees required for issuance or renewal of an instruction driver permit are the instruction driver permit fees under ORS 807.370.
- (4) A Class C instruction driver permit shall be valid for 24 months from the date of issuance. All other instruction driver permits issued under this section shall be valid for one year from the date of issuance.
- (5) When an instruction driver permit expires or is about to expire, the department shall renew the instruction driver permit if the holder of the instruction driver permit qualifies for renewal of the instruction driver permit under this section and applies for renewal:
- (a) Within one year of the expiration of an instruction driver permit issued under this section; or
- (b) Within six months after the applicant is discharged from the Armed Forces of the United States if the applicant held an instruction driver permit issued by this state at the time of the applicant's entry into the Armed Forces.
- (6) To qualify for renewal of an instruction driver permit, a person must meet all of the requirements for the type of instruction driver permit sought to be renewed, except that the department may waive the examination unless the department has reason to believe that the applicant is not qualified for the instruction driver permit.
- (7) An instruction driver permit that is renewed under this section may be used on or after the date of issuance. If the department issues an instruction driver permit renewal to a person under this section before the expiration of the instruction driver permit being renewed, the older permit is invalid. An instruction driver permit that becomes invalid under this subsection shall be surrendered to the department.
- (8) The holder of the instruction driver permit may not operate a motor vehicle unless the holder has the instruction driver permit in the holder's immediate possession and is accompanied by a person with a class of license granting the same driving privileges or a license with an endorsement granting the same driving privileges who is not less than 21 years of age. The accompanying person must be occupying a seat beside the holder of the instruction driver permit unless the instruction driver permit is for motorcycle driving privileges. For an instruction driver permit granting motorcycle driving privileges, the holder of the instruction driver permit must be in the company and under the supervision and visual observation of the accompanying person and the accompanying person must be operating a separate motorcycle.
- (9) The holder of an instruction driver permit granting motorcycle driving privileges is subject to the following in addition to any other requirements under this section:
- (a) The holder may operate a motorcycle only during daylight hours.
- (b) The holder may not carry any passengers on the motorcycle.
- (c) The holder of the instruction driver permit must wear an approved helmet while operating a motorcycle.
- (10)(a) The department may issue an instruction driver permit to a person with a limited vision condition if a rehabilitation training specialist certifies to the department that the person has successfully completed a rehabilitation training program.
- (b) As used in this subsection, "limited vision condition," "rehabilitation training specialist" and "rehabilitation training program" have the meanings given those terms in ORS 807.355.
- (11) In addition to any other requirements under this section, the holder of an instruction driver permit issued under subsection (10) of this section may operate a motor vehicle only when using a bioptic telescopic lens. [1983 c.338 §316; 1985 c.16 §135; 1985 c.608 §23; 1989 c.397 §1; 1989 c.636 §29; 1991 c.67 §219; 2001 c.410 §5; 2003 c.14 §482; 2003 c.277 §§8,12; 2005 c.59 §§7,8; 2005 c.649 §§35,36; 2007 c.121 §§1,2; 2007 c.588 §5; 2013 c.237 §45]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.285 - Commercial learner driver permit; fees.**

- (1) The Department of Transportation shall issue commercial learner driver permits in the manner provided by this section. Except as provided in this section, a person who is issued a commercial learner driver permit may exercise the same driving privileges as those under the class of commercial driver license or endorsement for which the permit is issued. Except as provided in this section, a commercial learner driver permit is subject to the provisions, conditions, prohibitions and penalties applicable to a license or endorsement granting the same driving privileges.
- (2) The department may issue commercial learner driver permits under this section that grant the driving privileges of a Class A commercial, Class B commercial or Class C commercial driver license, subject to the requirements and restrictions described in this section.
- (3) An applicant for a commercial learner driver permit must be 18 years of age or older and must have a valid driver license issued by the department.
- (4) In addition to meeting the requirement of providing proof of lawful status under ORS 807.040, an applicant for a commercial learner driver permit must submit valid documentation, as defined by the department by rule, that the person is a citizen or lawful permanent resident of the United States or a citizen of a country with a Compact of Free Association with the United States. The requirements of this subsection do not apply to an applicant for a limited term commercial learner driver permit issued under ORS 807.730.
- (5) A commercial learner driver permit is valid for a period of one year from the date of issuance and is not renewable.
- (6) Except as provided in subsection (7) of this section, the holder of the commercial learner driver permit may not operate a commercial motor vehicle unless the holder has the permit in the holder's immediate possession and is accompanied by a person who:

- (a) Is at least 21 years of age;
  - (b) Holds a class of commercial driver license and endorsements that grant the driving privileges required to operate the vehicle;
  - (c) Has no restrictions on the person's driving privileges that would make operation of the vehicle unlawful under ORS 807.010 (2);
  - (d) Has the permit holder under observation and direct supervision; and
  - (e) Is occupying a seat beside the holder of the permit or, in the case of a commercial passenger vehicle, directly behind or in the first row behind the driver.
- (7) When taking an examination as described in ORS 807.070 (3) with an examiner employed by the department, the holder of a commercial learner driver permit is not required to be accompanied by a commercial driver license holder as otherwise required under subsection (6) of this section.
- (8) The holder of a commercial learner driver permit may not operate:
- (a) Any vehicle transporting hazardous materials.
  - (b) A tank vehicle, unless the tank is empty.
  - (c) A commercial passenger vehicle while transporting passengers, unless the passengers are federal or state auditors or inspectors, test examiners or other trainees and there is a commercial driver license holder accompanying the permit holder as required by subsection (6) of this section.
  - (d) A school bus while transporting passengers, unless the other passengers are federal or state auditors or inspectors, test examiners or other trainees and there is a commercial driver license holder accompanying the permit holder as required by subsection (6) of this section.
  - (e) A commercial motor vehicle combination consisting of more than one towed vehicle.
- (9) A commercial learner driver permit must contain all of the applicable information described in ORS 807.110 (1) and a prominent statement that the permit is a "commercial learner permit" or "CLP."
- (10) An applicant for a commercial learner driver permit must pay the commercial learner driver permit fee established under ORS 807.370. [2013 c.237 §32; 2017 c.306 §§5,5a; 2019 c.701 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.290 - Special temporary instruction driver permit; fees.**

- (1) The Department of Transportation shall provide for the issuance of special temporary instruction driver permits in a manner consistent with this section. Except as provided in this section, a special temporary instruction driver permit is subject to the same fees, provisions, conditions, prohibitions and penalties applicable to an instruction driver permit under ORS 807.280.
- (2) The department may issue a special temporary instruction driver permit, without charge, to a person who has filed an application for and paid the fee for a special student driver permit or an emergency driver permit but was unable to qualify for the permit because of lack of experience in the operation of motor vehicles. A permit issued under this section shall be valid for only 60 days. [1983 c.338 §317]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.310 - Applicant temporary permit; rules.**

- (1) The Department of Transportation shall provide for the issuance of applicant temporary driver permits in a manner consistent with this section.
- (2) The department may issue an applicant temporary driver permit to an applicant for a Class C driver license or for a noncommercial driver permit while the department is determining all facts relative to application for the Class C driver license or noncommercial driver permit. The department shall set forth on the applicant temporary driver permit the driving privileges granted under the permit.
- (3) The holder of an applicant temporary driver permit must have the temporary driver permit on the holder's person while operating a motor vehicle. The holder of an applicant temporary driver permit must operate within the driving privileges granted under the temporary driver permit.
- (4) An applicant temporary driver permit is valid for a period of 30 days from the date issued. The department may extend the term of the permit for sufficient cause. An extension of the term of the permit may not exceed an additional 30 days.
- (5) An applicant temporary driver permit automatically becomes invalid if the applicant's license or permit is issued or refused for good cause.
- (6) The department may not charge a fee for issuance of an applicant temporary driver permit under this section.
- (7) The department may, by rule, establish when an applicant may be issued a temporary driver permit for commercial driving privileges. [1983 c.338 §315; 1985 c.16 §134; 1985 c.597 §13; 1985 c.608 §22; 2008 c.1 §27; 2011 c.9 §98; 2011 c.282 §3; 2017 c.190 §14; 2019 c.701 §21; 2023 c.400 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.320 - Court issued temporary driver permit.**

- (1) Courts shall provide for issuance of court issued temporary driver permits in a manner consistent with this section. A court issued temporary driver permit grants only those driving privileges specifically granted under the permit.
- (2) If a court takes immediate possession of a license or driver permit under ORS 809.275 upon suspension or revocation of the



driving privileges under the license or driver permit, the court shall issue a court issued temporary driver permit to the person convicted if the court determines issuance of the permit is necessary to give full effect to the requirement that the court take the license or driver permit under ORS 809.275.

(3) A court issued temporary driver permit:

(a) Shall be issued in a form specified by the Department of Transportation.

(b) Is valid until midnight of the day of conviction of the person issued the permit. [1983 c.338 §324; 1993 c.751 §47]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.330 - Court bail driver permit.**

(1) Courts shall provide for the issuance of court bail driver permits in a manner and to grant driving privileges consistent with this section.

(2) The court bail driver permit shall act as a receipt for a license that is accepted as security by a court under ORS 810.300 and 810.310.

(3) The permit confers on the person to whom it is issued the same driving privileges as the license which was accepted as security.

(4) The Department of Transportation shall prepare a form for the permit and all permits issued pursuant to this section shall conform to the form so prepared.

(5) Upon issuance of a permit, a court shall promptly notify the department of the fact.

(6) The driving privileges granted under the permit are valid only until the time fixed for appearance or the expiration of 30 days from the date the permit is issued, whichever first occurs.

(7) No fee shall be charged for issuance of the permit. [1983 c.338 §325; 1999 c.1051 §280a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.340 - Proof of eligibility; effect of failure to reestablish; waiver of fee.**

(1) The Department of Transportation may require any person to whom a driver license, driver permit or endorsement is issued to appear before the department and provide proof that the person was eligible or reestablish the person's eligibility by taking an examination under ORS 807.070 or following the procedures in ORS 807.090, as appropriate. The department may act under this section if the department has reason to believe that the person:

(a) Was not qualified to hold a driver license, driver permit or endorsement at the time of issuance;

(b) Is no longer qualified to hold a driver license, driver permit or endorsement; or

(c) Is no longer able to safely operate a motor vehicle.

(2) If a person does not appear before the department within a reasonable time after receiving notice from the department under this section or is unable to reestablish eligibility to the satisfaction of the department under this section, the department may:

(a) Take action to suspend the person's driving privileges under ORS 809.419; or

(b) Take action to cancel the person's driving privileges under ORS 809.310.

(3) A person who is required to take one or more tests described in ORS 807.070 to prove eligibility or to reestablish eligibility under this section is not required to pay the fee established under ORS 807.370 for the test. [1983 c.338 §314; 1985 c.608 §21; 2003 c.14 §483; 2003 c.402 §18; 2003 c.618 §51; 2017 c.190 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.350 - Cancellation of privileges; issuance of more limited license or permit.**

(1) The Department of Transportation, at any time, may cancel the driving privileges or part of the driving privileges granted any person under any class of license or under any endorsement or any driver permit if the department determines that the person no longer meets the qualifications or requirements for the license, endorsement or permit.

(2)(a) The department may immediately cancel the driving privileges granted any person under any class of license or under any endorsement or any driver permit if the person is unable to reestablish eligibility under ORS 807.340 and the department determines that:

(A) The person is no longer able to safely operate a motor vehicle; and

(B) The person may endanger people or property if the person's driving privileges are not immediately canceled.

(b) A cancellation under this subsection is subject to a post-imposition hearing under ORS 809.440.

(3) Upon cancellation under this section, a person whose driving privileges are canceled shall surrender to the department any license or driver permit issued for the driving privileges. Failure to comply with this subsection is subject to penalty as provided under ORS 809.500.

(4) If the department cancels driving privileges under this section, the department may provide for the issuance of a license, driver permit or license with endorsement or limitations granting driving privileges for which the person does qualify or meet the requirements. The department may provide for the waiver of all or part of the fees relating to the issuance of a license or driver permit when the department issues a driver permit or license under this subsection, as the department determines equitable.

(5) A person whose driving privileges are canceled under this section may regain the canceled driving privileges only by reapplying for the privileges and establishing eligibility and qualification for the driving privileges as provided by law. [1985 c.608 §33; 2003 c.14 §484; 2011 c.355 §31]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.355 - Definitions.**

As used in this section and ORS 807.359, 807.363 and 807.368:

- (1) "Licensed vision specialist" means an ophthalmologist or an optometrist.
- (2) "Limited vision condition" means visual acuity in the better eye with best lens correction that is no better than 20/80 and no worse than 20/200.
- (3) "Rehabilitation training program" means a program designed to train a person with a limited vision condition to use a bioptic telescopic lens while operating a motor vehicle.
- (4) "Rehabilitation training specialist" means a person certified by the Department of Transportation to provide a rehabilitation training program.
- (5) "Special limited vision condition learner's permit" means a permit issued by the department to a person with a limited vision condition that allows the person to enroll in a rehabilitation training program. [2003 c.277 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.359 - Special limited vision condition learner's permit.**

- (1) A person with a limited vision condition may apply for a special limited vision condition learner's permit if the person:
  - (a) Is examined by a licensed vision specialist who determines that the person:
    - (A) Has no ocular diagnosis or prognosis that may result in deterioration of the person's corrected vision below a 20/200 level of visual acuity;
    - (B) Has a visual field of at least 120 degrees horizontally and 80 degrees vertically; and
    - (C) Would be aided by using a bioptic telescopic lens when operating a motor vehicle;
  - (b) Is fitted by the licensed vision specialist with a bioptic telescopic lens mounted on the carrier lens;
  - (c) Submits to the Department of Transportation a report from the licensed vision specialist certifying that the person meets the requirements of this subsection;
  - (d) Submits proof to the department that the person is enrolled in a rehabilitation training program; and
  - (e) Takes the test described under ORS 807.070 (2).
- (2) The department shall issue a special limited vision condition learner's permit to a person who meets the requirements of subsection (1) of this section upon application and payment of the fee under ORS 807.370.
- (3) If the department issues a special limited vision condition learner's permit to a person under subsection (2) of this section, the department shall send the permit to the rehabilitation training program in which the person is enrolled. [2003 c.277 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.363 - Issuance of driver license to person with limited vision condition.**

- (1) The Department of Transportation shall issue a driver license to a person with a limited vision condition if the person:
  - (a) Complies with the requirements of ORS 807.040; and
  - (b) Provides a certificate issued by a rehabilitation training specialist certifying that the person has successfully completed a rehabilitation training program.
- (2) A license issued to a person with a limited vision condition who meets the requirements of subsection (1) of this section is restricted to authorize operation of a motor vehicle only:
  - (a) During daylight hours; and
  - (b) When the person is using a bioptic telescopic lens.
- (3) A person issued a license under this section shall be examined every two years by a licensed vision specialist who certifies to the department that the person meets the vision requirements under ORS 807.359.
- (4) A person must use a bioptic telescopic lens whenever the person is required to take a test that is an actual demonstration of the person's ability to operate a motor vehicle without endangering the safety of persons or property. [2003 c.277 §4; 2007 c.588 §2; 2013 c.473 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.368 - Form of permit; rehabilitation training specialists; rules.**

- (1) The Department of Transportation shall adopt rules that establish:
  - (a) The form of the special limited vision condition learner's permit issued under ORS 807.359.
  - (b) Certification of rehabilitation training specialists, including:
    - (A) Qualifications or requirements for obtaining certification as a rehabilitation training specialist.
    - (B) The issuance of rehabilitation training specialist certificates.
    - (C) The regulation of persons issued rehabilitation training specialist certificates and the rehabilitation training programs offered by those persons.
    - (D) Reasonable fees for issuance of a rehabilitation training specialist certificate.
    - (E) The forms of certificates to be issued.

(2) The department shall adopt by rule requirements for a person certified by the department as a rehabilitation training specialist to certify the competency of a person with a limited vision condition to safely exercise driving privileges granted under ORS 807.363. [2003 c.277 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.369 - Driving at night.**

(1) Notwithstanding ORS 807.363, a person with a limited vision condition may operate a vehicle at night if the person:

- (a) Is issued a driver license under ORS 807.363;
- (b) Provides a certificate issued by a rehabilitation training specialist certifying that the person has successfully completed a rehabilitation training program and is able to safely operate a motor vehicle at night; and
- (c) Is examined every two years by a licensed vision specialist who certifies that the person is able to safely operate a motor vehicle at night.

(2) As used in this section, "limited vision condition," "rehabilitation training specialist" and "rehabilitation training program" have the meanings given those terms in ORS 807.355. [2007 c.588 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.370 - License, endorsement and permit fees.**

(1) Fees for issuance of or application for a driving privilege are as follows:

- (a) Class C driver license or restricted Class C driver license, \$58.
- (b) Class C limited term driver license or restricted Class C limited term driver license, \$23.
- (c) Commercial driver license, whether or not the driver license contains endorsements, \$160.
- (d) Limited term commercial driver license, whether or not the driver license contains endorsements, \$45.
- (e) Instruction driver permit, \$30.
- (f) Commercial learner driver permit, \$40.
- (g) Limited term commercial learner driver permit, \$23.
- (h) Special student driver permit, \$23.
- (i) Emergency driver permit, \$23.
- (j) Special limited vision condition learner's permit, \$13.
- (k) Disability golf cart driver permit, \$44.
- (L) Hardship driver permit application, \$75.

(2) In addition to paying a fee under this section for issuance of a commercial driver license of any class, when the Department of Transportation accepts skills test results from a driver competency tester certified under ORS 807.080, the person shall pay a fee of \$40.

(3) Fees for a motorcycle endorsement are as follows:

- (a) In addition to any fee for the endorsed driver license, for an original motorcycle endorsement added at the time of an original issuance of a driving privilege or with a renewal or replacement of an existing driving privilege, \$60.
- (b) For an original motorcycle endorsement added without an original issuance of a driving privilege or without a renewal or replacement of an existing driving privilege, \$60.
- (c) A Motorcycle Safety Subaccount fee:
  - (A) Upon original issuance of a motorcycle endorsement, \$38.
  - (B) Upon renewal of a driver license with a motorcycle endorsement, \$28.

(4) Fees for a farm endorsement are as follows:

- (a) In addition to any fee for the endorsed driver license, for an original farm endorsement added at the time of an original issuance of a driving privilege or with a renewal or replacement of an existing driving privilege, \$26.
- (b) For an original farm endorsement added without an original issuance of a driving privilege or without a renewal or replacement of an existing driving privilege, \$29.

(5) Fees for renewal of a driving privilege are as follows:

- (a) Class C driver license, \$48.
- (b) Class C limited term driver license, \$8.
- (c) Commercial driver license, \$98.
- (d) Limited term commercial driver license, \$14.
- (e) Instruction driver permit, \$26.
- (f) Disability golf cart driver permit, \$32.
- (6) Fee to replace a driver license or driver permit, \$30.

(7) Fees to take tests required for driving privileges or to remove restrictions are as follows:

- (a) The knowledge test for a Class C driver license or Class C limited term driver license, \$7.
- (b) The knowledge test for a motorcycle endorsement, \$7.
- (c) The knowledge test for any commercial driver license or commercial learner driver permit, to remove a commercial driving privilege restriction or to add a commercial driving privilege endorsement, \$10.

- (d) The skills test for a Class C driver license or Class C limited term driver license, \$45.
- (e) The skills test for any commercial driver license, to remove a restriction or to add any commercial driver license endorsement, \$145.
- (8) Student Driver Training Fund eligibility fee, \$6.
- (9) Limited term Student Driver Training Fund eligibility fee, \$2.
- (10) Fee for reinstatement of revoked driving privileges under ORS 809.390 or reinstatement of suspended driving privileges under ORS 809.380, \$85.
- (11) The department may adopt rules to provide for the assessment or retention of the skills test fee when a test is scheduled but the applicant fails to appear at the scheduled time. [1983 c.338 §344; 1985 c.16 §161; 1985 c.279 §2; 1985 c.736 §4a; 1985 c.608 §31; 1987 c.790 §3; 1987 c.801 §6; 1989 c.161 §2; 1989 c.427 §5; 1989 c.636 §30; 1989 c.902 §3a; 1991 c.709 §3; 1991 c.835 §6; 1993 c.288 §3; 1997 c.292 §1; 1999 c.91 §2; 1999 c.770 §5; 1999 c.795 §§1,2; 2001 c.294 §4; 2001 c.668 §3; 2003 c.14 §485; 2003 c.277 §§9,13; 2003 c.618 §49; 2005 c.59 §§2,3; 2005 c.649 §§10,11; 2007 c.121 §§3,4; 2007 c.122 §§9,10; 2007 c.588 §6; 2008 c.1 §§17,19; 2009 c.810 §§4,5; 2013 c.237 §33; 2017 c.306 §7; 2018 c.76 §8a; 2018 c.114 §1; 2023 c.232 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.390 - Waiver of certain fees; rules.**

- (1) The Department of Transportation, by rule, may provide for a waiver of the fee under ORS 807.160 for issuance of a replacement license or driver permit.
- (2) Rules adopted by the department under this section may provide for waiver of the described fee only when all of the following apply:
  - (a) A person requests a change in information contained on a license or driver permit or the department determines such change is necessary.
  - (b) The change in information requested under this subsection is generally accomplished under procedures that do not require the issuance of a new license or driver permit.
  - (c) The department decides to issue a new license or driver permit:
    - (A) For purposes of convenience; or
    - (B) Under circumstances in which the department does not generally issue a new license or driver permit. [1985 c.258 §2; 1999 c.91 §7; 2005 c.59 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.400 - Issuance; application; proof of address; contents; renewal; fee; validity; replacement; cancellation; rules.**

- (1) The Department of Transportation shall issue an identification card to any person who:
  - (a) Is domiciled in or is a resident of this state, as described in ORS 807.062;
  - (b) When applying for an identification card that is not a Real ID, provides the Social Security number assigned to the person by the United States Social Security Administration or a written statement that the person has not been assigned a Social Security number, as required under ORS 807.021;
  - (c) Does not have a current, valid driver license;
  - (d) Furnishes evidence of the person's full legal name and date of birth; and
  - (e) Submits to collection of biometric data by the department that establish the identity of the person as provided in ORS 807.024.
- (2) The department shall work with other agencies and organizations to attempt to improve the issuance system for identification cards.
- (3) Every original application for an identification card must be signed by the applicant. The department shall require proof to verify the address of an applicant for issuance of an identification card in addition to other documents the department may require of the applicant. If the address of an applicant has changed since the last time an identification card was issued to or renewed for the applicant, the department shall require proof to verify the address of the applicant for renewal of an identification card, in addition to anything else the department may require. The department shall adopt rules to identify what constitutes proof of address for purposes of this subsection. Proof of address may include, but is not limited to, providing a utility bill, a tax return, a record from a financial institution, a proof of insurance card or a health benefits card, a selective service card, a mortgage document or a lease agreement. The applicant may provide the proof of address by submitting proof in the form of an original document or a copy of a document, use an electronic device to display proof of address, or provide proof through the use of a third party address verification system.
- (4) Every identification card shall be issued upon the standard driver license form described under ORS 807.110 and shall bear a statement to the effect that the identification card is not a driver license or any other grant of driving privileges to operate a motor vehicle and is to be used for identification purposes only. The department shall use the same security procedures, processes, materials and features for an identification card as are required for a driver license under ORS 807.110. The identification card is not required to contain the residence address of persons listed in ORS 807.110 (1)(e).
- (5) If the identification card is a limited term identification card issued under ORS 807.730, the limited term identification card shall indicate:

- (a) That it is a limited term identification card; and
- (b) The date on which the limited term identification card expires.
- (6) Upon order of the juvenile court, the department shall include on the card the fact that the person issued the identification card is an emancipated minor.
- (7) Upon request of the person to whom the identification card is issued and presentation of proof, as determined by the department by rule, that the person is a veteran, as defined in ORS 408.225, the department shall include on the card the fact that the person is a veteran.
- (8) Each original identification card shall expire on a date consistent with the expiration dates of licenses as set forth in ORS 807.130.
- (9) Identification cards shall be renewed under the terms for renewal of licenses as set forth in ORS 807.150.
- (10) The fee for an original identification card or a renewal thereof shall be the fee established under ORS 807.410.
- (11) An identification card becomes invalid if the holder of the card changes the holder's residence address from that shown on the identification card and does not provide the department with notice of the change as required under ORS 807.420.
- (12) If a person to whom an identification card was issued and who changes the person's residence address submits an application for a replacement identification card, the department may issue a replacement identification card containing the new address upon receipt of the old identification card and payment of the fee established under ORS 807.410. Except as otherwise provided in subsection (14) of this section, the replacement identification card shall bear the same distinguishing number as the card being replaced.
- (13) An identification card becomes invalid if the holder of the card changes the holder's name from that shown on the card, including a change of name by marriage, without providing the department with notice of the change as required under ORS 807.420. Upon receiving such notice and the old identification card, the department shall issue a replacement identification card upon payment of the fee established under ORS 807.410.
- (14) In the event that, for a reason identified by the department by rule, a person needs a replacement identification card that bears a distinguishing number different from the number on the card being replaced, the person to whom the card was issued may obtain a replacement card from the department upon furnishing proof satisfactory to the department of the need for such replacement and payment of the fee established under ORS 807.410.
- (15) If a person furnishes proof that the person is a veteran, as defined in ORS 408.225, and the person's identification card does not include the fact that the person is a veteran, the department shall issue a replacement identification card that includes the fact that the person is a veteran.
- (16) The department may establish by rule reasons for issuing replacement identification cards that are in addition to the reasons identified in subsections (12) to (15) of this section. The fee for a replacement identification card is provided under ORS 807.410.
- (17) Upon cancellation of an identification card, the card is terminated and must be surrendered to the department. An identification card may be canceled for any of the reasons that driving privileges or a driver license may be canceled under ORS 809.310. The department may reissue an identification card canceled under this subsection when the applicant has satisfied all requirements for the identification card.
- (18) Notwithstanding any other provision of this section, the department may issue an identification card to a person under this subsection without charge when the person surrenders the person's driver license or driver permit to the department for reasons described in this subsection. If the department issues an identification card under this subsection, the identification card shall expire at the same time as the surrendered driver license or driver permit would have expired. An identification card issued under this subsection is subject to the same requirements and fees for renewal or upon expiration as any other identification card issued under this section. The department may issue identification cards under this subsection for any of the following reasons:
  - (a) The person voluntarily surrenders the person's driver license or driver permit to the department based upon the person's recognition that the person is no longer competent to drive.
  - (b) The person's driving privileges are suspended under ORS 809.419 (1). This paragraph only applies if the person voluntarily surrenders the person's driver license or driver permit to the department as provided under ORS 809.500.
- (19) If a person is applying for an identification card that is a Real ID, the person must comply with the requirements under the vehicle code for issuance of Real IDs. [1983 c.338 §866; 1985 c.16 §437; 1985 c.174 §13; 1985 c.301 §2; 1989 c.535 §2; 1993 c.393 §2a; 1993 c.741 §82; 1993 c.751 §48; 2001 c.452 §1; 2003 c.402 §19; 2005 c.59 §10; 2005 c.241 §2a; 2005 c.775 §8; 2007 c.542 §§8,9; 2008 c.1 §§21,22; 2010 c.61 §3; 2011 c.282 §4; 2015 c.716 §1; 2017 c.568 §18; 2019 c.312 §§26,27; 2019 c.701 §§5,6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.405 - Applicant temporary identification card; rules.**

- (1) The Department of Transportation shall provide for the issuance of applicant temporary identification cards in a manner consistent with this section.
- (2) The department may issue an applicant temporary identification card to an applicant while the department is determining all facts relative to the application for an identification card.
- (3) An applicant temporary identification card is valid for a period of 30 days from the date issued. The department may extend the term of the applicant temporary identification card for sufficient cause. An extension of the term of the applicant temporary

identification card may not exceed an additional 30 days.

(4) An applicant temporary identification card automatically becomes invalid if the applicant's identification card is issued or refused for good cause.

(5) The department may not charge a fee for issuance of an applicant temporary identification card under this section. [2005 c.775 §10; 2008 c.1 §28; 2011 c.9 §99; 2011 c.282 §5; 2019 c.701 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.410 - Fees; rules.**

(1) The following fees apply to identification cards unless otherwise provided by ORS 807.400 or otherwise provided by law:

(a) For issuance of an original identification card, \$47.

(b) For renewal of an identification card, \$43.

(c) For replacement of an identification card, \$40.

(d) For reinstatement of an identification card after suspension, \$85.

(e) For issuance of an original limited term identification card, \$20.

(f) For renewal of a limited term identification card, \$18.

(g) For replacement of a limited term identification card, \$40.

(2) The Department of Transportation may not charge a fee for issuing, renewing or replacing a parking identification card.

(3) The department may not charge a fee for issuing or renewing an identification card, or providing two replacement identification cards before the expiration of the current identification card, for an individual who is experiencing homelessness. The individual shall present a form that indicates the individual qualifies for the fee waiver, as determined by a nonprofit organization or state agency that provides services to individuals experiencing homelessness. Before a nonprofit organization or state agency issues documentation under this subsection, the organization or state agency must first meet the standards established by the department by rule. The department, by rule, shall prescribe the form.

(4) As used in this section, "state agency" means an agency of the executive department, as defined in ORS 174.112. [1983 c.338 §867; 1985 c.16 §438; 1985 c.174 §14; 1985 c.301 §3; 1985 c.736 §7; 1987 c.790 §4; 1989 c.902 §4; 1993 c.393 §2b; 1999 c.91 §3; 2001 c.668 §4; 2003 c.601 §3; 2008 c.1 §§23,25; 2009 c.865 §§46,47; 2019 c.15 §1; 2021 c.249 §1; 2023 c.232 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.420 - Failure to notify department on change of name or address; rules; penalty.**

(1) A person to whom an identification card is issued under ORS 807.400 commits the offense of failure to notify the Department of Transportation on change of identification card holder name or address if the person does not notify the department in a manner authorized by the department by rule upon any change of the person's:

(a) Residence address from that noted on the person's identification card as issued; or

(b) Name from that noted on the person's identification card as issued, including a change of name by marriage.

(2) Notice required under this section:

(a) Must be given within 30 days of the change.

(b) Must be given in person for a change of name.

(3) The department shall note on its records any change reported to the department under this section.

(4) The offense described in this section, failure to notify department on change of identification card holder name or address, is a Class D traffic violation. [1983 c.338 §868; 1993 c.751 §49; 2003 c.129 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.430 - Misuse of identification card; penalty.**

(1) A person commits the offense of misuse of an identification card if the person performs any act in relation to an identification card issued under ORS 807.400 that is prohibited in relation to a license under ORS 807.530, 807.580 to 807.600 or 809.500 or fails to perform any act in relation to an identification card issued under ORS 807.400 that is required in relation to a license under ORS 807.530, 807.580 to 807.600 or 809.500.

(2) The offense described by this section, misuse of identification card, is a Class A misdemeanor. [1983 c.338 §869; 1985 c.393 §67; 1987 c.262 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.450 - Definition.**

"Real ID" means a driver license, driver permit or identification card that complies with the Real ID Act of 2005, P.L. 109-13, that is issued by this state and marked with a distinguishing feature. [2017 c.568 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.455 - Issuance, replacement and renewal; requirements.**

(1) The Department of Transportation shall issue a Real ID to any person who:

- (a) Meets the requirements for a driver license, driver permit or identification card as described in the vehicle code;
  - (b) Submits proof, as required by rule by the department, establishing the person's:
    - (A) Identity;
    - (B) Date of birth;
    - (C) Social Security number, or proof that the person is not eligible for a Social Security number; and
    - (D) Lawful status in the United States;
  - (c) Pays the fee described in ORS 807.460; and
  - (d) Surrenders any Real ID previously issued to the person by this state or another jurisdiction.
- (2) If there is any change to the applicant's name, date of birth or Social Security number after the department issues a Real ID to the applicant, the department may not replace or renew the Real ID unless the applicant appears in person and submits proof of the change, as required by rule by the department. [2017 c.568 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.460 - Fees.**

- (1) In addition to any fee imposed under ORS 807.370 or 807.410, the Department of Transportation shall impose a fee for each Real ID issued, renewed or replaced, for the purpose of covering the additional costs to the department related to the issuance of Real IDs.
- (2) An applicant who applies for a Real ID driver license as an original driver license shall pay the driver license issuance fee under ORS 807.370, plus the fee described in subsection (1) of this section.
- (3) An applicant who applies to replace a current driver license with a Real ID driver license shall pay the driver license replacement fee under ORS 807.370, plus the fee described in subsection (1) of this section.
- (4) An applicant who applies to renew a driver license with a Real ID driver license shall pay the driver license renewal fee under ORS 807.370, plus the fee described in subsection (1) of this section.
- (5) In addition to the fees in subsection (2), (3) or (4) of this section, an applicant who applies for a class of driver license that is different from the driver license the applicant currently holds, or who applies to add or remove an endorsement, as part of Real ID issuance, shall pay the fees associated with the new class of license or the endorsement for which the applicant is applying. [2017 c.568 §5; 2018 c.60 §1; 2018 c.114 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.465 - Document retention.**

For the purpose of issuing Real IDs only, the Department of Transportation shall:

- (1) Capture digital images of identity source documents and retain the images in a transferable format.
- (2) Retain digital images of identity source documents for a minimum of 10 years. [2017 c.568 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.470 - Disclosure of identity source documents.**

- (1) Except as provided in subsection (2) of this section, an officer, employee or contractor of the Department of Transportation may not knowingly disclose, or otherwise make available to any person copies of, identity source documents submitted to the department in connection with an application for a driver license, driver permit or identification card.
- (2) An officer, employee or contractor of the department may make information or copies described in subsection (1) of this section available to the agency that issued the identity source document for the purpose of verifying the identity source document. [2017 c.568 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.475 - Fingerprint requirements.**

- (1) The Department of Transportation may require all employees, volunteers or contractors with access to systems that enable them to affect the information that appears on driver licenses, driver permits or identification cards to be fingerprinted.
- (2) Fingerprints acquired under this section may be used for the purpose of requesting state or nationwide criminal records checks under ORS 181A.195. [2017 c.568 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.480 - Verification of lawful status in the United States; rules.**

- (1) The Department of Transportation shall verify an applicant's Social Security number before issuing an original or renewal Real ID.
- (2) The department shall verify the applicant's lawful status in the United States before issuing an original Real ID.
- (3) The department shall verify the lawful status in the United States of an applicant who is not a citizen of the United States when the applicant is applying to renew a Real ID.
- (4) Notwithstanding the requirements of subsections (2) and (3) of this section, the department may verify the lawful status in the

United States of any applicant applying for renewal or replacement of a Real ID, as determined by the department by rule.

(5) The department shall determine, by rule, expiration dates for a Real ID issued to a person who is not a citizen or permanent legal resident of the United States. To the extent possible, rules adopted by the department under this section must be uniform with any applicable federal regulations related to Real ID. [2017 c.568 §9; 2019 c.312 §34]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.485 - Public information program.**

The Department of Transportation shall develop a public information program to educate driver license, driver permit and identification card applicants and the general public about:

(1) The differences between Real IDs and driver licenses, driver permits or identification cards that are not Real IDs, including but not limited to information about cost, document storage and function.

(2) Alternatives to obtaining a Real ID to access federal facilities and board federally regulated commercial aircraft. [2017 c.568 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.500 - Unlawful production of certain documents; affirmative defense; penalty.**

(1) A person commits the offense of unlawful production of identification cards, licenses, permits, forms or camera cards if the person, without the authority of the Department of Transportation, advertises for the production of, produces in any way or causes to be produced any facsimiles of the identification cards, licenses, permits, forms or camera cards upon which the department issues identification cards, licenses or driver permits under the vehicle code.

(2) The offense described in this section, unlawful production of identification cards, licenses, permits, forms or camera cards, is a Class C felony.

(3) It is an affirmative defense to violating subsection (1) of this section that the person charged with the offense was under 21 years of age at the time of committing the offense and the person produced an identification card, license or permit solely for the purpose of enabling the person to purchase alcohol, tobacco products as defined in ORS 431A.175 or inhalant delivery systems as defined in ORS 431A.175. [1983 c.338 §330; 1985 c.597 §19; 1993 c.393 §3; 2003 c.633 §1; 2015 c.158 §27; 2017 c.701 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.510 - Transfer of documents for purposes of misrepresentation; penalty.**

(1) A person commits the offense of transfer of documents for the purposes of misrepresentation if the person:

(a) Manufactures, produces, sells, offers for sale or transfers to another person any document purporting to be a certified copy of a record of a live birth, certificate of baptism, driver license or any other document designated by the Department of Transportation by rule as acceptable for establishing age or identity; and

(b) Knows or has reason to know that the document may be used to represent a person as another person in obtaining documents issued by a government agency to grant driving privileges or for identification purposes.

(2) The offense described in this section, transfer of documents for purposes of misrepresentation, is a Class A misdemeanor. [1983 c.338 §331; 1985 c.597 §20; 1993 c.393 §4; 2013 c.366 §84]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.520 - False swearing to receive license; penalty.**

(1) A person commits the offense of false swearing to receive a driver license if the person makes any false affidavit or knowingly swears or affirms falsely to any matter required to be sworn to or affirmed in the process of applying for, receiving and holding a license or driver permit under the vehicle code.

(2) The offense described in this section, false swearing to receive a driver license, is a Class A misdemeanor. [1983 c.338 §332]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.530 - False application for license; penalty.**

(1) A person commits the offense of providing a false application for a license if the person in applying for a license or driver permit or for renewal or replacement thereof under the vehicle code knowingly:

(a) Uses or gives a false or fictitious name or identity;

(b) Gives or uses a false or fictitious address;

(c) Gives or uses a false age;

(d) Makes a false statement;

(e) Conceals a material fact;

(f) Uses or attempts to use false identification documents;

(g) Allows another person to take any test related to issuance of a license or permit on behalf of the applicant; or

(h) Otherwise commits fraud in the application.

(2) The offense described in this section, providing a false application for a license, is a Class A misdemeanor. [1983 c.338 §333;



1985 c.16 §153; 1993 c.393 §5; 1999 c.770 §3; 2005 c.59 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.540 - Failure to surrender prior license; penalty.**

(1) A person commits the offense of failing to surrender a prior license if the person accepts a license or driver permit issued by the Department of Transportation to that person without first surrendering all out-of-state licenses or driver permits issued to that person.

(2) The offense described in this section, failure to surrender a prior license, is a Class D traffic violation. [1983 c.338 §334; 1985 c.16 §154; 1985 c.597 §21; 1995 c.383 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.550 - Holding multiple licenses; penalty.**

(1) A person commits the offense of holding multiple licenses if the person applies for and accepts a license or driver permit, other than an instruction driver permit, when the person holds an existing license or driver permit.

(2) The offense described in this section, holding multiple licenses, is a Class B traffic violation. [1983 c.338 §335; 1985 c.608 §30]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.560 - Failure to notify department upon change of address or name; rules; penalty.**

(1) A person to whom a license or driver permit is issued commits the offense of failure to notify upon change of driver address or name if the person does not notify the Department of Transportation in a manner authorized by the department by rule upon any change of the person's:

(a) Residence address from that noted on the person's license or driver permit as issued or on the department's records;

(b) Name from that noted on the person's license or driver permit as issued, including a change of name by marriage; or

(c) Place of employment, if the person is a corrections officer, as provided in ORS 802.253, or an eligible employee, as defined in ORS 802.250, whose place of employment address is noted on department records in accordance with ORS 802.250 or 802.253.

(2) Notice required under this section:

(a) Must be given within 30 days of change of driver address or name.

(b) Must be given in person for a change of name.

(3) The department shall note on its records any change reported to the department under this section.

(4) Failure to notify upon change of driver address or name is a Class D traffic violation. [1983 c.338 §337; 1985 c.563 §8; 1989 c.695 §2; 1991 c.523 §8; 2003 c.129 §3; 2005 c.292 §9; 2019 c.312 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.570 - Failure to carry or present license; penalty.**

(1) A person commits the offense of failure to carry a license or to present a license to a police officer if the person either:

(a) Drives any motor vehicle upon a highway in this state without a license, driver permit or out-of-state license in the person's possession; or

(b) Does not present and deliver such license or permit to a police officer when requested by the police officer under any of the following circumstances:

(A) Upon being lawfully stopped or detained when driving a vehicle.

(B) When the vehicle that the person was driving is involved in an accident.

(2) This section does not apply to any person expressly exempted under ORS 807.020 from the requirement to have a driver license or driver permit.

(3) Except as provided in ORS 813.110, it is a defense to any charge under this section that the person so charged produce a license, driver permit or out-of-state license that had been issued to the person and was valid at the time of violation of this section.

(4) A police officer may detain a person arrested or cited for the offense described in this section only for such time as reasonably necessary to investigate and verify the person's identity.

(5) The offense described in this section, failure to carry a license or to present a license to a police officer, is a Class C misdemeanor. [1983 c.338 §339; 1985 c.16 §158; 1987 c.217 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.580 - Using invalid license; penalty.**

(1) A person commits the offense of using an invalid license if the person knowingly displays or permits to be displayed or possesses any license or driver permit that the person knows is fictitious, canceled, revoked, suspended or fraudulently altered.

(2) The offense described in this section, using an invalid license, is a Class A misdemeanor. [1983 c.338 §340]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.590 - Permitting misuse of license; penalty.**

(1) A person commits the offense of permitting misuse of a license if the person has been issued a license or driver permit and the person knowingly lends the license or driver permit to another or knowingly permits another person to use the license or driver permit.

(2) The offense described in this section, permitting misuse of a license, is a Class A misdemeanor. [1983 c.338 §341]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.600 - Using another's license; penalty.**

(1) A person commits the offense of using another's license if the person knowingly displays or represents as the person's license or driver permit a license or driver permit that has not been issued to the person.

(2) The offense described in this section, using another's license, is a Class A misdemeanor. [1983 c.338 §342; 1985 c.16 §159]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.610 - Employing or providing vehicle to unqualified driver; penalty.**

(1) A person commits the offense of employing or providing a vehicle to an unqualified driver if the person does any of the following:

(a) Employs another person for the purpose of engaging in a particular type of operation of a vehicle for which the person does not have an appropriate grant of driving privileges from this state in the form of a license, driver permit, endorsement or statutory grant of driving privileges allowing the person to engage in the particular type of operation.

(b) Rents, leases or otherwise furnishes a motor vehicle owned or controlled by the person to any other person without first seeing the other person's license, driver permit or license with endorsement allowing the person, under the vehicle code, to operate the particular type of vehicle being furnished.

(2) The offense described in this section, employing or providing a vehicle to an unqualified driver, is a Class D traffic violation. [1985 c.608 §7; 1995 c.383 §10; 2003 c.14 §486]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.620 - Giving false information to police officer; penalty.**

(1) A person commits the offense of giving false information to a police officer if the person knowingly uses or gives a false or fictitious name, address or date of birth to any police officer who is enforcing motor vehicle laws.

(2) The offense described in this section, giving false information to a police officer, is a Class A misdemeanor. [1983 c.338 §343; 1985 c.16 §160; 1985 c.597 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.700 - Notification to department as to released persons with mental retardation or mental illness who are licensed operators.**

(1) It shall be the duty of the superintendent of the hospital for persons with mental retardation or mental illness to notify the Department of Transportation as to released licensed operators who, in the opinion of the superintendent, should not drive because of their mental condition.

(2) Upon receipt of information submitted under this section, the department is subject to the provisions relating to this section under ORS 809.419. [1985 c.16 §436; 2003 c.402 §20; 2007 c.70 §328]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.710 - Reports of persons with cognitive or functional impairment; rules; forms.**

(1) For the purposes of this section:

(a) "Physician" means a person who holds a degree of Doctor of Medicine or Doctor of Osteopathic Medicine and is licensed under ORS 677.100 to 677.228 and a person who holds a degree of Doctor of Naturopathic Medicine and is licensed under ORS chapter 685.

(b) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by the laws of this state to administer health care.

(2) In consultation with medical experts and experts on cognitive or functional impairments, the Department of Transportation shall adopt rules requiring reporting and:

(a) Designating physicians and health care providers required to report to the department a person whose cognitive or functional impairment affects that person's ability to safely operate a motor vehicle.

(b) Designating the cognitive or functional impairments that are likely to affect a person's ability to safely operate a motor vehicle.

(3) Determinations regarding a person's ability to safely operate a motor vehicle may not be based solely on the diagnosis of a medical condition or cognitive or functional impairment, but must be based on the actual effect of that condition or impairment on the person's ability to safely operate a motor vehicle.

(4) Reports required by the department under this section shall be upon forms prescribed or provided by the department. Each report shall include the person's name, address, date of birth, sex and a description of how the person's current medical status affects the

person's ability to safely operate a motor vehicle. The department shall consider this information in determining the person's eligibility for a driver license or driver permit.

(5) A designated physician or health care provider may at any time report to the department a person whose cognitive or functional impairment affects that person's ability to safely operate a motor vehicle, without regard to whether that report is required by rules of the department adopted under subsection (2) of this section. If the report is made in good faith, the physician or health care provider is immune from civil liability that might otherwise result from making the report. A designated physician or health care provider is immune from civil liability for failure to make a report under this section, without regard to whether that report is required by rules of the department adopted under subsection (2) of this section.

(6) Except as provided in ORS 802.240, reports made under this section are confidential and shall be used by the department only to determine the qualifications of persons to operate motor vehicles upon the highways. [1983 c.338 §872; 1999 c.770 §2; 2001 c.736 §1; 2003 c.462 §1; 2007 c.195 §2; 2007 c.434 §3; 2013 c.65 §1; 2017 c.409 §41]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.720 - Filing of death records with department.**

On or before the 15th day of each month, the Director of the Oregon Health Authority shall forward to the Department of Transportation a copy of the death record of any persons within the jurisdiction of the Director of the Oregon Health Authority who died from a motor vehicle accident during the preceding calendar month. [1983 c.338 §871; 1985 c.16 §440; 2009 c.595 §1139; 2013 c.366 §85]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.725 - Issuance of fictitious driver licenses and identification cards; rules; fees.**

(1) If requested to do so by a law enforcement agency, the Department of Transportation may issue or renew a fictitious driver license or identification card for a law enforcement official for use in discharging the undercover criminal investigative duties of the law enforcement agency.

(2) The fees for issuance and renewal of a fictitious driver license or fictitious identification card issued under this section shall be the fees established for issuance and renewal of a driver license under ORS 807.370 or the fees established for issuance and renewal of an identification card under ORS 807.410.

(3) The department may determine by rule:

(a) What is considered a law enforcement agency for the purposes of this section; and

(b) The criteria for making a request under this section.

(4) The department may maintain a driving record under ORS 802.200 for a fictitious driver license or fictitious identification card issued under this section.

(5) All information submitted to and maintained by the department regarding the true identity of a law enforcement official under this section is confidential. The department may only disclose information regarding the true identity of a law enforcement official to a law enforcement agency upon request. [2009 c.258 §4; 2018 c.114 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.730 - Issuance of limited term driver licenses, permits and identification cards; rules.**

(1) The Department of Transportation may issue or replace a Real ID limited term driver license, Real ID limited term commercial driver license, Real ID limited term driver permit, limited term commercial learner driver permit, limited term commercial driver license that is not a Real ID or Real ID limited term identification card only for a person who provides proof, as determined by the department by rule, that the person has lawful status in the United States on a temporary basis.

(2) A Real ID limited term driver license, Real ID limited term commercial driver license, limited term commercial driver license that is not a Real ID or Real ID limited term identification card is valid:

(a) During the applicant's authorized stay in the United States, but no longer than eight years from the date of issuance; or

(b) If there is no definite end to the authorized stay, for a period of one year.

(3) A Real ID limited term driver permit or a limited term commercial learner driver permit is valid:

(a) During the applicant's authorized stay in the United States, but no longer than the period of time for which a driver permit of the same type is issued by the department.

(b) If there is no definite end to the authorized stay, for a period of one year but no longer than the period of time for which a driver permit of the same type is issued by the department.

(4) A Real ID limited term driver license, Real ID limited term commercial driver license, limited term commercial driver license that is not a Real ID, Real ID limited term driver permit or Real ID limited term identification card may be renewed only upon presentation of valid documentation, as determined by the department by rule, that the status by which the applicant qualified for the Real ID limited term driver license, Real ID limited term commercial driver license, limited term commercial driver license that is not a Real ID, Real ID limited term driver permit or Real ID limited term identification card has been extended or is still in effect.

(5) A Real ID limited term driver license or Real ID limited term driver permit grants the same driving privileges as a driver license or driver permit.

(6) A Real ID limited term identification card shall bear a statement to the effect that the Real ID limited term identification card is

not a license or any other grant of driving privileges to operate a motor vehicle and is to be used for identification purposes only.

(7) A limited term commercial driver license, a Real ID limited term commercial driver license or limited term commercial learner driver permit grants the same privileges as a commercial driver license or commercial learner driver permit.

(8) The department may issue a Real ID limited term commercial driver license, limited term commercial driver license that is not a Real ID or limited term commercial learner driver permit if the applicant is otherwise eligible for commercial driving privileges. The department may adopt rules describing eligibility requirements for Real ID limited term commercial driver licenses, limited term commercial driver licenses that are not Real ID and limited term commercial learner driver permits.

(9) A Real ID limited term driver license, Real ID limited term commercial driver license, limited term commercial driver license that is not a Real ID, Real ID limited term driver permit, limited term commercial learner driver permit or Real ID limited term identification card shall clearly indicate on the face of the card and in the machine readable zone that it is a Real ID limited term driver license, Real ID limited term commercial driver license, limited term commercial driver license that is not a Real ID, Real ID limited term driver permit, limited term commercial learner driver permit or Real ID limited term identification card and indicate the date on which it expires. [2008 c.1 §4; 2009 c.258 §1; 2017 c.306 §6; 2017 c.568 §19; 2019 c.701 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.745 - Findings regarding personal information contained in driver licenses, driver permits and identification cards.**

The Legislative Assembly finds that:

- (1) Oregon recognizes the importance of protecting the confidentiality and privacy of an individual's personal information contained in driver licenses, driver permits and identification cards.
- (2) Machine-readable features found on driver licenses, driver permits and identification cards are intended to facilitate verification of age or identity, not to facilitate collection of personal information about individuals nor to facilitate the creation of private databases of transactional information associated with those individuals.
- (3) Easy access to the information found on driver licenses, driver permits and identification cards facilitates the crime of identity theft, which is a major concern in Oregon. [2009 c.546 §1]

Note:

807.745 and 807.750 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 807 - Driving Privileges and Identification Cards Section 807.750 - Restrictions on swiping driver licenses or identification cards.**

(1) As used in this section:

- (a) "Driver license" means a license or permit issued by this state or any other jurisdiction as evidence of a grant of driving privileges.
  - (b) "Financial institution" has the meaning given that term in ORS 706.008.
  - (c) "Identification card" means the card issued under ORS 807.400 or a comparable provision in another state.
  - (d) "Personal information" means an individual's name, address, date of birth, photograph, fingerprint, biometric data, driver license number, identification card number or any other unique personal identifier or number.
  - (e) "Private entity" means any nongovernmental entity, such as a corporation, partnership, company or nonprofit organization, any other legal entity or any natural person.
  - (f) "Swipe" means the act of passing a driver license or identification card through a device that is capable of deciphering, in an electronically readable format, the information electronically encoded in a magnetic strip or bar code on the driver license or identification card.
- (2) Except as provided in subsection (6) of this section, a private entity may not swipe an individual's driver license or identification card, except for the following purposes:
- (a) To verify the authenticity of a driver license or identification card or to verify the identity of the individual if the individual pays for a good or service with a method other than cash, returns an item or requests a refund.
  - (b) To verify the individual's age when providing an age-restricted good or service to any person about whom there is any reasonable doubt of the person's having reached 21 years of age.
  - (c) To prevent fraud or other criminal activity if an individual returns an item or requests a refund and the private entity uses a fraud prevention service company or system.
  - (d) To transmit information to a check services company for the purpose of approving negotiable instruments, electronic funds transfers or similar methods of payment.
  - (e) To collect information about the individual for the purpose of processing an application for a deposit account or loan for the individual, if the private entity is a financial institution.
  - (f) To enable a pharmacist, pharmacy technician or intern, as those terms are defined in ORS 689.005, to submit information to the electronic system described in ORS 475.230 for the purpose of transferring a drug containing pseudoephedrine or ephedrine or a salt, isomer or salt of an isomer of pseudoephedrine or ephedrine without a prescription from a practitioner to a person who is 18 years of age or older.

(3) A private entity that swipes an individual's driver license or identification card under subsection (2)(a) or (b) of this section may not store, sell or share personal information collected from swiping the driver license or identification card.

(4) A private entity that swipes an individual's driver license or identification card under subsection (2)(c) or (d) of this section may store or share the following information collected from swiping an individual's driver license or identification card for the purpose of preventing fraud or other criminal activity against the private entity:

(a) Name;

(b) Address;

(c) Date of birth; and

(d) Driver license number or identification card number.

(5)(a) A person other than an entity regulated by the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., who receives personal information from a private entity under subsection (4) of this section may use the personal information received only to prevent fraud or other criminal activity against the private entity that provided the personal information.

(b) A person who is regulated by the federal Fair Credit Reporting Act and who receives personal information from a private entity under subsection (4) of this section may use or provide the personal information received only to effect, administer or enforce a transaction or prevent fraud or other criminal activity, if the person provides or receives personal information under contract from the private entity.

(6)(a) Subject to the provisions of this subsection, a private entity that is a commercial radio service provider that provides service nationally and that is subject to the Telephone Records and Privacy Protection Act of 2006 (18 U.S.C. 1039) may swipe an individual's driver license or identification card if the entity obtains permission from the individual to swipe the individual's driver license or identification card.

(b) The private entity may swipe the individual's driver license or identification card only for the purpose of establishing or maintaining a contract between the private entity and the individual. Information collected by swiping an individual's driver license or identification card for the establishment or maintenance of a contract shall be limited to the following information from the individual:

(A) Name;

(B) Address;

(C) Date of birth; and

(D) Driver license number or identification card number.

(c) If the individual does not want the private entity to swipe the individual's driver license or identification card, the private entity may manually collect the following information from the individual:

(A) Name;

(B) Address;

(C) Date of birth; and

(D) Driver license number or identification card number.

(d) The private entity may not withhold the provision of goods or services solely as a result of the individual requesting the collection of the following information from the individual through manual means:

(A) Name;

(B) Address;

(C) Date of birth; and

(D) Driver license number or identification card number.

(7) A governmental entity may swipe an individual's driver license or identification card only if:

(a) The individual knowingly makes the driver license or identification card available to the governmental entity;

(b) The governmental entity lawfully confiscates the driver license or identification card;

(c) The governmental entity is providing emergency assistance to the individual who is unconscious or otherwise unable to make the driver license or identification card available; or

(d) A court rule requires swiping of the driver license or identification card to facilitate accurate linking of court records pertaining to the individual.

(8) In addition to any other remedy provided by law, an individual may bring an action to recover actual damages or \$1,000, whichever is greater, and to obtain equitable relief, if equitable relief is available, against an entity that swipes, stores, shares, sells or otherwise uses the individual's personal information in violation of this section. A court shall award a prevailing plaintiff reasonable costs and attorney fees. If a court finds that a violation of this section was willful or knowing, the court may increase the amount of the award to no more than three times the amount otherwise available.

(9) Any waiver of a provision of this section is contrary to public policy and is void and unenforceable. [2009 c.546 §2; 2021 c.126 §1; 2022 c.45 §2]

Note:

See note under 807.745.

**status.**

A driver license, driver permit or identification card that is not a Real ID may not be used as evidence of the holder's citizenship or immigration status for any purpose. [2019 c.701 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.060**

[1983 c.338 §287; 1985 c.16 §118; 1993 c.751 §104; renumbered 809.135 in 2005]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.090 - Cancellation of registration or title for failure to qualify; notice; rules.**

(1) The Department of Transportation may cancel the registration or title or both of a vehicle if the department determines that:

(a) A holder is not entitled to the registration or title or both; or

(b) All fees applicable to a vehicle, payable to the department under any provision of law have not been paid.

(2) Before cancellation under this section, the department must give opportunity for a hearing upon 10 days' notice. The department shall serve notice in a manner determined by the department by rule. [1983 c.338 §288; 1991 c.249 §73; 1993 c.233 §53; 1999 c.1009 §3; 2019 c.312 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.095 - Cancellation of registration for false certification of compliance with financial responsibility requirements.**

(1) The Department of Transportation may cancel the registration of, or right to apply for registration for, any vehicle owned by a person if the person falsely certifies compliance with financial responsibility requirements, submits to the department unsatisfactory proof of such compliance or otherwise fails to comply with financial responsibility requirements.

(2) Cancellation under this section shall continue until the person complies with any applicable financial responsibility filing requirements. [1993 c.751 §103]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.100 - Hearing on proposed cancellation or refusal; judicial review.**

(1) When the Department of Transportation proposes to cancel or refuse to issue or renew title or registration, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Judicial review of orders under this section shall be in accordance with ORS chapter 183. [1983 c.338 §282; 1985 c.16 §114; 1985 c.401 §11; 1993 c.233 §54]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.110 - Failure to surrender canceled registration or title; penalty.**

(1) A person commits the offense of failure to surrender canceled registration or title if the person holds any evidence of registration or any evidence of title issued by the Department of Transportation that the department has canceled and the person does not surrender the evidence of registration or title to the department.

(2) The offense described in this section, failure to surrender canceled registration or title, is a Class A misdemeanor. [1983 c.338 §290; 1993 c.233 §55]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.120 - Court-ordered suspension of registration or driving privileges for weight violation.**

(1) In addition to any other punishment imposed under ORS 818.040, a convicting court has authority to order the suspension of the driving privileges of the operator of the vehicle used to violate ORS 818.040 or the registration of the vehicle if the vehicle is required to be registered by the Department of Transportation. The authority of a court to order the suspension of driving privileges or registration under this section is subject to the following:

(a) Subject to paragraph (b) of this subsection, the court may only order suspension for a period of up to 90 days.

(b) For a second or subsequent violation of ORS 818.040, within one year after the first conviction, the court shall order the suspension for not less than 30 days nor more than 90 days.

(2) Upon ordering a suspension under this section, a court shall secure the license, driver permit or registration plates ordered suspended and shall immediately forward them to the department with the order of suspension as provided under ORS 809.275.

(3) Upon receipt of an order under this section, the department shall proceed as provided under ORS 809.280. [1983 c.338 §390;

1985 c.16 §207; 1991 c.407 §31; 2011 c.355 §3; 2021 c.630 §90]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.130 - Suspension or revocation of driving privileges for unsettled judgment.**

(1) If a court notifies the Department of Transportation under this section that a judgment remains unsettled as described by ORS 809.470, the department must initiate action to determine whether to suspend or revoke driving privileges under ORS 809.415. A court shall immediately give the department notice of an unsettled judgment under this section if:

- (a) A judgment of the type described under ORS 806.040 is rendered against a person by a court of this state;
- (b) The person fails within 60 days to settle the judgment in the manner required under ORS 809.470; and
- (c) The judgment creditor or the judgment creditor's attorney makes a written request for forwarding to the department a certificate stating the judgment has not been settled as described in ORS 809.470.

(2) A court that has given the department notice of an unsettled judgment under this section shall immediately forward to the department a certificate stating that the judgment is appropriately settled and describing the judgment and parties sufficiently for identification if:

- (a) The judgment is settled in the manner required under ORS 809.470; and
- (b) The judgment debtor or the judgment debtor's attorney makes a written request for forwarding to the department a certificate stating the judgment has been settled as described in ORS 809.470.

(3) The notice made to the department under this section shall be given by the clerk of the court or, if the court has no clerk, by the judge. [1983 c.338 §391; 1985 c.16 §208; 2003 c.402 §21; 2021 c.630 §91]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.135 - Refusal to issue, revocation or suspension of identification card, registration or title for failure to use same name.**

The Department of Transportation may refuse to issue, may revoke or may suspend any identification card, title or registration issued by the department or for which application is made to the department if the department determines that the person issued or applying for the identification card, title or registration has used one name in one application and another name in any other application. [Formerly 809.060; 2018 c.76 §25]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.140 - Administrative review of suspension, revocation or cancellation of identification card, registration or driving privileges.**

(1) Unless otherwise specifically provided by law, a person whose identification card, vehicle registration or driving privileges are suspended, revoked or canceled by the Department of Transportation is entitled to administrative review of the action rather than to a formal hearing by the department if the suspension, revocation or cancellation is based upon:

- (a) A conviction;
- (b) Notification from a court that the court has ordered suspension, revocation or cancellation; or
- (c) Notice from a court to the department to suspend, cancel or revoke.

(2) Actions by the department based on grounds other than those specified in subsection (1) of this section may be subject to administrative review rather than a formal hearing if specifically provided by law. [1991 c.702 §2; 1993 c.627 §1; 2011 c.355 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.220 - Failure to appear; suspension or other procedures.**

This section establishes procedures that are applicable if a person fails to appear on a citation for a traffic offense or fails to appear on a citation for a violation of ORS 471.430 or 475C.317. All of the following apply to this section:

(1) If a defendant fails to make any appearance required by the court or by law in a proceeding charging the defendant with a traffic offense or with a violation of ORS 471.430 or 475C.317, the court:

(a) Shall issue notice to the Department of Transportation to suspend for failure to appear if the defendant is charged with a traffic crime or with a violation of ORS 471.430 or 475C.317. If a court issues notice under this paragraph, the department shall suspend the driving privileges of the person as provided under ORS 809.280.

(b) Shall issue notice to the department to implement procedures under ORS 809.416 if the defendant is charged with a traffic violation. If a court issues notice under this paragraph, the department shall implement procedures under ORS 809.416.

(2) In any notice to the department under this section, a court shall certify that the defendant failed to appear in the proceedings in the manner required by the court or by law.

(3) At any time within 10 years from the date the traffic offense or violation of ORS 471.430 or 475C.317 occurred, a court shall give a second notice to the department to reinstate the person's suspended driving privileges resulting from the original notice if any

of the following occur:

- (a) The fine for the offense is paid or the defendant has begun making payments.
- (b) The court finds the defendant not guilty or orders a dismissal of the case.
- (c) The court determines that the person's suspended driving privileges should be reinstated for good cause.
- (4) The court may reissue a notice of suspension if the person ceases making payments before the fine is paid in full. The reissuance does not extend the original period of suspension.
- (5) Notifications by a court to the department under this section shall be in a form prescribed by the department.
- (6) A court may not notify the department under this section for failure to appear on any parking, pedestrian or bicyclist offense. [1983 c.338 §393; 1985 c.16 §209; 1985 c.669 §15; 1989 c.161 §1; 1991 c.702 §6; 1995 c.142 §3; 1999 c.1051 §281; 2001 c.817 §1; 2001 c.823 §27; 2007 c.127 §3; 2011 c.355 §5; 2011 c.597 §113; 2013 c.432 §2; 2017 c.20 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.230 - Court suspension or revocation of nonresident driving privileges.**

A court may suspend or revoke the driving privileges to operate a motor vehicle in this state of any nonresident for any cause for which the driving privileges of a resident of this state may be suspended or revoked. [1983 c.338 §394]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.235 - Permanent revocation of driving privileges upon conviction of certain crimes; restoration of privileges.**

- (1)(a) Notwithstanding ORS 809.409 (2), the court shall order that a person's driving privileges be permanently revoked if the person is convicted of any degree of murder and the court finds that the person intentionally used a motor vehicle as a dangerous weapon resulting in the death of the victim, or if the person is convicted of aggravated vehicular homicide, manslaughter in the first or second degree resulting from the operation of a motor vehicle, criminally negligent homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from the operation of a motor vehicle.
- (b) The court shall order that a person's driving privileges be permanently revoked if the person is convicted of felony driving while under the influence of intoxicants in violation of ORS 813.010 or if the person is convicted for a third or subsequent time of any of the following offenses in any combination:
  - (A) Driving while under the influence of intoxicants in violation of:
    - (i) ORS 813.010; or
    - (ii) The statutory counterpart to ORS 813.010 in another jurisdiction.
  - (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving of a vehicle due to the use of an intoxicant or a combination of intoxicants.
  - (C) A driving offense in another jurisdiction that involved operating a vehicle while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.
- (c) For the purposes of paragraph (b) of this subsection, a conviction for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older does not constitute a prior conviction.
- (2)(a) A person whose driving privileges are revoked as described in subsection (1) of this section may file a petition in the circuit court of the county in which the person's driving privileges were revoked for an order restoring the person's driving privileges. A petition may be filed under this subsection no sooner than 10 years after the person is:
  - (A) Released on parole or post-prison supervision for the crime for which the person's driving privileges were revoked and any other crimes arising out of the same criminal episode;
  - (B) Sentenced to probation for the crime for which the person's driving privileges were revoked, unless the probation is revoked, in which case the petition may be filed no sooner than 10 years after the date probation is revoked; or
  - (C) Sentenced for the crime for which the person's driving privileges were revoked, if no other provision of this paragraph applies.
- (b) Notwithstanding paragraph (a) of this subsection, if during the revocation period for the crime for which the person was convicted the person is convicted of a criminal offense involving a motor vehicle, the person may file a petition to restore driving privileges as described in paragraph (a) of this subsection no sooner than 10 years from the date of the most recent conviction involving a motor vehicle.
- (c) The district attorney of the county in which the person's driving privileges were revoked shall be named and served as the respondent in the petition.
- (3) The court shall hold a hearing on a petition filed in accordance with subsection (2) of this section. In determining whether to grant the petition, the court shall consider:
  - (a) The nature of the offense for which driving privileges were revoked.
  - (b) The degree of violence involved in the offense.
  - (c) Other criminal and relevant noncriminal behavior of the petitioner both before and after the conviction that resulted in the revocation.
  - (d) The recommendation of the person's parole officer, which shall be based in part on a psychological evaluation ordered by the



court to determine whether the person is presently a threat to the safety of the public.

(e) Any other relevant factors.

(4) The court shall order a petitioner's driving privileges restored if, after a hearing described in subsection (3) of this section, the court finds by clear and convincing evidence that the petitioner:

(a) Is rehabilitated;

(b) Does not pose a threat to the safety of the public; and

(c) If the sentence for the crime for which the petitioner's driving privileges were revoked required the petitioner to complete an alcohol or drug treatment program, has completed an alcohol or drug treatment program in a facility approved by the Director of the Oregon Health Authority or a similar program in another jurisdiction.

(5) Upon receiving a court order to restore a person's driving privileges, the department may reinstate driving privileges in accordance with ORS 809.390, except that the department may not reinstate driving privileges of any person whose privileges are revoked under this section until the person complies with future responsibility filings.

(6) The provisions of this section do not apply to convictions of driving while under the influence of intoxicants if the offense was committed while the person was riding a bicycle.

(7) For the purposes of this section, "bicycle" does not include an electric assisted bicycle. [1993 c.761 §2; 1995 c.661 §2; 2001 c.786 §1; 2003 c.346 §2; 2003 c.402 §22; 2005 c.436 §1; 2007 c.879 §4; 2009 c.320 §1; 2011 c.355 §12; 2011 c.554 §1; 2017 c.21 §78; 2021 c.253 §3; 2023 c.498 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.240 - Court-ordered suspension or revocation; taking possession of license or permit; temporary permit.**

(1) If a person is convicted of an offense that will result in mandatory suspension or revocation under ORS 809.409, 809.411, 809.510 to 809.545 or 813.400 or any other law requiring suspension or revocation of driving privileges upon conviction of an offense, the trial judge shall:

(a) Order the revocation or suspension at the time of conviction for the required period; and

(b) Comply with the requirements under ORS 809.275 to take possession of the license or driver permit of the person.

(2) When necessary to give full effect to this section, a court shall issue a temporary driver permit under ORS 807.320. [1983 c.338 §395; 1985 c.16 §210; 1991 c.185 §5; 2003 c.402 §23; 2011 c.355 §29; 2013 c.237 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.250**

[1983 c.338 §396; 1985 c.669 §14; 1987 c.730 §14; 1993 c.751 §55; renumbered 809.275 in 2005]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.260 - Court-ordered suspension of driving privileges of juvenile.**

(1) Whenever a person who is 17 years of age or younger, but not younger than 13 years of age, at the time of committing any offense described in subsection (2) of this section, is determined by a juvenile court to have committed one of the offenses described in subsection (2) of this section, the court may order suspension of the person's driving privileges upon:

(a) The person's second or subsequent adjudication for an offense described in subsection (2) of this section;

(b) The person's first adjudication if the person has previously entered into a formal accountability agreement under ORS 419C.230 for an offense described in subsection (2) of this section; or

(c) The person's first adjudication if the offense involved the operation of a motor vehicle.

(2) Subsection (1) of this section applies to any offense involving the delivery, manufacture or possession of controlled substances, or any offense described in ORS 475C.341, 475C.345 or 475C.349.

(3) Whenever a person who is 20 years of age or younger, but not younger than 13 years of age, at the time of committing any offense described in subsection (4) of this section, is convicted or determined by a juvenile court to have committed one of the offenses described in subsection (4) of this section, the court may order suspension of the person's driving privileges upon:

(a) The person's second or subsequent conviction or adjudication for an offense described in subsection (4) of this section;

(b) The person's first conviction or adjudication if the person has previously entered into a formal accountability agreement under ORS 419C.230 for an offense described in subsection (4) of this section; or

(c) The person's first conviction or adjudication if the offense involved the operation of a motor vehicle.

(4) Subsection (3) of this section applies to any offense involving the possession, use or abuse of alcohol, cannabis or psilocybin.

(5) If a court has issued an order suspending driving privileges under this section, the court, upon petition of the person, may review the order and may withdraw the order at any time the court deems appropriate except as provided in the following:

(a) A court may not withdraw an order for a period of 90 days following the issuance of the order if it is the first such order issued with respect to the person.

(b) A court may not withdraw an order for a period of one year following the issuance of the order if it is the second or subsequent

such order issued with respect to the person.

(c) Notwithstanding paragraph (a) of this subsection, a court may not withdraw an order for a period of six months if the order is based on a determination or conviction involving controlled substances.

(6) Upon receipt of an order under this section, the department shall take action as directed under ORS 809.280. [1985 c.16 §206; 1991 c.835 §3; 1993 c.625 §6; 1999 c.1051 §88; 2007 c.359 §1; 2009 c.228 §2; 2011 c.355 §7; 2017 c.20 §9; 2017 c.21 §77; 2018 c.76 §26; 2021 c.253 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.267 - Additional fee upon notice of suspension or restriction.**

A court shall add a \$15 fee to the judgment in any case in which the court gives notice to the Department of Transportation of the suspension or restriction of a defendant's driving privileges. The fee shall be added to the judgment without further notice to the defendant or further order of the court. This section applies to suspensions or restrictions ordered by a court for failure of a person to comply with a court order or with any conditions imposed by the court, for failure to pay a fine or for failure to appear as required by ORS 153.061. [1995 c.142 §2; 1999 c.1051 §140; 2001 c.823 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.270 - Driver improvement course; enforcement by suspension or restriction of privileges.**

(1) A court may require that a defendant convicted of a traffic offense successfully complete, within a time fixed by the judge, a defensive driving or other appropriate driver improvement course conducted by the Department of Transportation or any other rehabilitative program and may use the suspension or restriction of the person's driving privileges or right to apply for driving privileges to enforce the requirement by ordering:

(a) The suspension until the defendant successfully completes the program; or

(b) The suspension or restriction if the defendant fails to successfully complete the program.

(2) The authority granted under this section is in addition to any fine or imprisonment authorized by law, including probation and suspension of imposition or execution of any sentence upon conditions ordered by the court.

(3) If a court places restrictions on driving privileges under this section:

(a) The judge shall immediately advise the department of the restrictions in writing.

(b) Upon removal of such restrictions, the court shall notify the department in writing that the restriction is ended.

(c) The restriction shall remain in effect until ended by the court.

(d) The department shall take action as provided under ORS 807.120 on restrictions imposed under this section.

(e) The restrictions may include any restriction, condition or requirement.

(f) Violation of the restriction is punishable as provided under ORS 807.010.

(4) If suspension is ordered under this section:

(a) The court shall so notify the department and the department shall impose the suspension of the driving privileges as provided under ORS 809.280.

(b) The court shall notify the department of reinstatement after any suspension ordered under this section.

(c) The department shall take action on the suspension or reinstatement as provided under ORS 809.280.

(d) The judge shall comply with the requirements under ORS 809.275 to take possession of the license or permit of the person.

[1983 c.338 §388; 1985 c.16 §204; 1993 c.18 §169]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.275 - Court to take possession of license or permit; effective date of suspension or revocation.**

(1) A court shall take immediate possession of any license or driver permit held by a defendant that is issued by any jurisdiction if the court orders a suspension or revocation under ORS 165.805, 471.430, 809.120, 809.235, 809.240, 809.260, 809.270, 811.109 or 811.135.

(2) Upon taking possession of a license or permit under this section, a court shall immediately forward to the Department of Transportation the license or permit and a copy of the suspension or revocation order or other information satisfactory to the department and to the State Court Administrator.

(3) A suspension or revocation of driving privileges becomes effective on the date a court takes possession of a license or permit under this section or orders the suspension or revocation.

(4) The department is not required to provide further notice of a suspension or revocation ordered by the court.

(5) Nothing in this section requires a court to take additional action, after the conclusion of the sentencing hearing, to secure the driver license or driver permit. [Formerly 809.250; 2011 c.355 §9; 2018 c.76 §27]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section**

**809.280 - Department procedures following court order of suspension or revocation; length of suspension or revocation.**

- (1) Upon receipt of a court order under ORS 809.270, the Department of Transportation shall suspend the person's driving privileges. The suspension shall remain in effect until the department is notified by the court that the suspension is ended, except that, if the department is ordered to automatically reinstate the driving privileges upon the successful completion of a program, the department shall do so and shall notify the judge that the person has complied with the order of the judge.
- (2) Upon receipt of a court order under ORS 809.120, the department shall suspend the person's driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for a period not to exceed 90 days.
- (3) Upon receipt of a court notice under ORS 809.130 of an unsettled judgment, the department shall suspend the person's driving privileges and, subject to any other requirements of law, reinstate the driving privileges upon appropriate notification from the court under ORS 809.130, except that the department shall only impose the suspension after the department has determined that:
  - (a) The judgment was rendered against the person;
  - (b) The judgment has remained unsettled as described in ORS 809.470 for 60 days; and
  - (c) The judgment continues to be unsettled as described in ORS 809.470.
- (4) Upon receipt of a court notice under ORS 419C.472 or 809.220, the department shall suspend the person's driving privileges for an indefinite period. The department shall reinstate driving privileges that have been suspended under this subsection upon notification by the court or upon the elapse of 10 years from the date the traffic offense or violation of ORS 471.430 occurred, whichever comes first. The department may not suspend any driving privileges under this subsection for a person's failure to appear on a parking, pedestrian or bicyclist offense.
- (5) Upon receipt of a court notice under ORS 810.310, the department shall suspend the person's driving privileges for an indefinite period. The department shall reinstate driving privileges that have been suspended under this subsection upon notification by the court or upon the lapse of 10 years from the date of suspension, whichever comes first.
- (6) Upon receipt of a court order under ORS 809.260, the department shall suspend the person's driving privileges as follows:
  - (a) Upon receipt of the first order suspending driving privileges, the department shall suspend the person's driving privileges for one year, or until the person reaches 17 years of age, whichever is longer.
  - (b) Upon receipt of a second or subsequent order suspending driving privileges, the department shall suspend the person's driving privileges for one year or until the person reaches 18 years of age, whichever is longer.
- (7) If the department receives notice from a court that it has withdrawn an order issued under ORS 809.260, the department shall immediately reinstate any driving privileges that have been suspended under subsection (6) of this section because of the issuance of the order.
- (8) Upon receipt of a court order under ORS 165.805 or 471.430, the department shall suspend the person's driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for a period not to exceed one year.
- (9) Upon receipt of a court order under ORS 809.235, the department shall permanently revoke the person's driving privileges. The revocation shall remain in effect until the department is notified by a court that the person's driving privileges have been ordered restored.
- (10) When a court orders suspension of driving privileges under ORS 811.109 (4), the department shall suspend the person's driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for a period not to exceed 30 days.
- (11) When a court orders suspension of driving privileges under ORS 811.109 (5), the department shall suspend the person's driving privileges. The suspension shall be for the period ordered by the court. The court may only order suspension for not less than 30 days and not more than 90 days.
- (12) Upon receipt of a court order under ORS 811.135, the department shall suspend the person's driving privileges for one year. [1983 c.338 §362; 1985 c.16 §177; 1985 c.597 §23; 1985 c.669 §12; 1987 c.730 §15; 1991 c.835 §4; 1991 c.860 §3; 1993 c.751 §57; 1993 c.761 §3; 1999 c.359 §3; 1999 c.770 §4; 2001 c.817 §8; 2005 c.491 §2; 2007 c.127 §4; 2007 c.784 §4; 2011 c.355 §1; 2013 c.432 §5; 2018 c.76 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.290**

[1985 c.669 §6; 1991 c.702 §7; 1993 c.751 §58; 2003 c.402 §24; renumbered 809.416 in 2005]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.310 - Cancellation or suspension of driving privileges; grounds; surrender of license or permit; duration; reissuance of privileges; rules.**

- (1) The Department of Transportation may cancel any driving privileges upon determining that the person is not entitled to the driving privileges under the vehicle code. The department may reissue driving privileges canceled under this subsection when the applicant has satisfied all requirements for the driving privileges sought.
- (2) The department may cancel any driver license or permit that contains any error or defect or that is found to have been issued on

the basis of false information given to the department. Cancellation under this subsection is in addition to any suspension of driving privileges authorized for the same conduct.

(3) The department may suspend any driving privileges or right to apply for privileges or any identification card or right to apply for a card upon determining that the person issued or applying for the driving privileges or identification card has committed any of the following acts:

(a) Failed to give the required or correct information in the application for the driving privileges or for an identification card, in violation of ORS 807.430 or 807.530.

(b) Committed false swearing in making application for the driving privileges in violation of ORS 807.520.

(c) Used an invalid license or identification card in violation of ORS 807.430 or 807.580.

(d) Permitted misuse of license, permit or identification card in violation of ORS 807.430 or 807.590.

(e) Used the license, permit or identification card of another in violation of ORS 807.430 or 807.600.

(f) Produced identification cards, licenses, permits, forms or camera cards in violation of ORS 807.500.

(4) The department may determine by rule circumstances in which the department may cancel the commercial driving privileges, or the right to apply for commercial driving privileges, of an individual if the individual's commercial driving privileges are suspended, canceled or revoked for any reason in another jurisdiction.

(5) Upon suspension or cancellation of driving privileges under this section, a person whose privileges are suspended or canceled shall surrender to the department any license or driver permit issued for the driving privileges. Failure to comply with this subsection is subject to penalty as provided under ORS 809.500.

(6) To obtain driving privileges after the period of suspension or cancellation under this section, a person must reapply for driving privileges in the manner established by law. [1983 c.338 §345; 1985 c.393 §8; 1987 c.272 §1; 1993 c.393 §6; 2018 c.76 §29; 2021 c.630 §105]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.312 - Reissuance of privileges after suspension for submitting false information.**

(1) A person whose driving privileges or right to apply for driving privileges or whose identification card or right to apply for an identification card has been suspended for one of the reasons specified in subsection (2) of this section may request that the person's driving privileges or right to apply for driving privileges or identification card or right to apply for an identification card be reinstated after the Department of Transportation determines the criteria are met under subsection (4) of this section.

(2) This section applies to suspensions imposed under:

(a) ORS 809.310 (3)(a);

(b) ORS 809.310 (3)(b); and

(c) ORS 809.415 (5) for committing an act that constitutes an offense described in ORS 809.310 (3)(a) or (b).

(3) To make a request under subsection (1) of this section, the person must provide sufficient proof for the department to make the determinations required in subsection (4) of this section. The department shall provide an administrative review to determine if the person's driving privileges or right to apply for driving privileges or identification card or right to apply for an identification card should be reinstated and may reinstate the person's suspended driving privileges or right to apply for driving privileges or identification card or right to apply for an identification card only as provided in subsection (4) of this section.

(4) The granting of an administrative review under this section does not stay the suspension. However, the department shall reinstate the person's driving privileges or right to apply for driving privileges or identification card or right to apply for an identification card if under objective criteria adopted by the department by rule, the department determines the suspension resulted from:

(a) An act described in ORS 809.310 (3)(a) or (b) committed by the person when the person was under 21 years of age; and

(b) The person committed the act solely for the purpose of:

(A) Attempting to purchase, purchasing, consuming or acquiring alcoholic beverages as described in ORS 471.430; or

(B) Unlawfully entering or attempting to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors, as described in ORS 471.430.

(5) The administrative review required under this section shall be conducted in the manner provided in ORS 809.440 (2).

(6) To reinstate driving privileges or the right to apply for driving privileges after the department determines that the person meets the objective criteria under subsection (4) of this section, the person shall pay the fee for reinstatement of driving privileges as described in ORS 807.370 (10).

(7) To reinstate an identification card or the right to apply for an identification card after the department determines that the person meets the objective criteria under subsection (4) of this section, the person shall pay the fee for reinstatement of an identification card as described in ORS 807.410.

(8) The department's authority to reinstate a suspension of a person's driving privileges or right to apply for driving privileges under this section does not impinge on a court's authority to impose a suspension under ORS 165.805 or 471.430. [2012 c.14 §2; 2013 c.237 §46; 2018 c.114 §6; 2019 c.15 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section**

**809.320 - Cancellation on written request of parent or legal guardian.**

(1) If an applicant for driving privileges must have a parent or legal guardian sign the application before the person qualifies under ORS 807.060, that parent or legal guardian who has signed the application may thereafter file with the Department of Transportation a written request that the driving privileges of the person so granted be canceled.

(2) The department shall cancel the driving privileges of a person upon written request under this section if the person is under 18 years of age. [1983 c.338 §346; 1985 c.16 §162; 2005 c.143 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.360 - General provisions relating to suspension or revocation of driving privileges.**

(1) For purposes of determining whether grounds exist for revoking or suspending driving privileges, an unvacated forfeiture of bail in another state equals a conviction.

(2) A suspension or revocation of driving privileges ordered by a court shall run concurrently with any mandatory suspension or revocation ordered by the Department of Transportation and arising out of the same conviction.

(3) Judicial review of orders denying, suspending or revoking a license, except where such suspension or revocation is mandatory, shall be as provided in ORS chapter 183.

(4) Whenever the department or a court has reason under any laws of this state to suspend or revoke the driving privileges of any person who does not hold current driving privileges to operate motor vehicles or whose driving privileges are due to expire during a suspension period, the department or court shall suspend or revoke the right of such person to apply for driving privileges to operate motor vehicles in this state. A suspension or revocation of a right to apply for driving privileges under this subsection shall be for the period provided by law. [1983 c.338 §348; 1987 c.272 §2; 1989 c.636 §34; 1999 c.1051 §282; 2003 c.14 §487; 2007 c.122 §6; 2013 c.237 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.370**

[1983 c.338 §349; 1985 c.16 §163; 1991 c.317 §1; 2003 c.402 §25; renumbered 809.412 in 2005]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.380 - Period of suspension; effect; reinstatement; fee.**

All of the following apply to a person whose driving privileges have been suspended:

(1) The period of suspension shall last as long as provided for that particular suspension by law.

(2) During the period of suspension, the person is not entitled to exercise any driving privileges in this state except as provided under this subsection. Unless otherwise specifically provided by law, a person whose driving privileges are suspended may obtain, if the person qualifies, a hardship driver permit under ORS 807.240, and exercise driving privileges under the driver permit.

(3) Upon expiration of the suspension, the Department of Transportation shall reissue, upon request of the person, the suspended driving privileges and any license or driver permit that evidences the driving privileges. The reissuance shall be without requalification by the person except that the department may require the person to furnish evidence satisfactory to the department that the person is qualified to continue to exercise driving privileges in this state before the department reissues the driving privileges.

(4) The department may not issue any driving privileges in contradiction to this section.

(5) If the person fails to surrender to the department any license or driver permit issued as evidence of driving privileges that are suspended, the person is subject to the penalties under ORS 809.500.

(6) No reinstatement of suspended driving privileges will be made by the department until the fee for reinstatement of suspended driving privileges established under ORS 807.370 is paid to or waived by the department. The department may waive the reinstatement fee for any of the following reasons:

(a) The suspension occurred under ORS 809.419 for failure to take an examination upon request of the department under ORS 807.340.

(b) The suspension occurred under ORS 809.419 for failure to obtain required medical clearance upon request of the department under ORS 807.070 or 807.090.

(c) The suspension occurred under ORS 809.419 for incompetence to drive a motor vehicle or having a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle.

(d) The suspension occurred under ORS 809.419 upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive.

(e) The suspension occurred under ORS 809.419 upon notification by a court under ORS 810.375 that a person charged with a traffic offense has been found guilty except for insanity.

(f) The department committed an error in issuing the suspension.

- (g) The suspension was the result of an error committed by an insurance company in issuing or failing to issue a certification of insurance or in canceling a certification of insurance filed with the department under ORS 806.270.
- (h) The department issued the suspension without error because the person failed to respond as required under ORS 806.150 or to furnish proof of exemption under ORS 806.210 from the filing requirement of ORS 806.200, but the department later determines that the person in fact was in compliance with financial responsibility requirements as of the date specified by the department by rule under ORS 806.150 or at the time of an accident described in ORS 806.200.
- (i) The department issued the suspension without error because the person was not in compliance with financial responsibility requirements as of the date specified by the department by rule under ORS 806.150 or at the time of an accident described in ORS 806.200, but the department later determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150 or at the time of the accident.
- (j) The suspension was the result of an error committed by an insurance company in notifying the department regarding the correctness of proof of compliance with financial responsibility requirements provided under ORS 806.150.
- (k) The suspension occurred because the person failed to make future responsibility filings but the department later determines that the reason for the failure was that the person was a military reservist or a member of a national guard unit that was ordered to active military duty to a location outside of the United States. The effective date of the military orders must be prior to the effective date of a suspension issued by the department for failure to make a future responsibility filing.
- (L) The department issued the suspension without error because the department received a notice to suspend from a court under ORS 809.220, but the department later determines that the person in fact was in compliance with the requirements of the court prior to the effective date of the suspension. [1983 c.338 §350; 1985 c.16 §164; 1985 c.173 §1; 1985 c.393 §9; 1985 c.669 §17a; 1985 c.714 §8; 1987 c.137 §3; 1987 c.258 §8; 1987 c.272 §3; 1987 c.801 §7; 1989 c.224 §139; 1991 c.474 §1; 2003 c.402 §26; 2005 c.104 §1; 2005 c.140 §3; 2009 c.105 §1; 2017 c.66 §31; 2017 c.701 §25; 2018 c.76 §30; 2019 c.312 §10; 2020 s.s.1 c.10 §§3,4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.390 - Period of revocation; effect; reinstatement; fee.**

All of the following apply to a person whose driving privileges have been revoked:

- (1) The period of revocation shall last as long as required for the revocation by law.
- (2) During the period of revocation, the person is not entitled to exercise any driving privileges in this state or to apply for or receive any driving privileges in this state except when a person who has been determined to be a habitual offender is permitted to obtain driving privileges under ORS 807.240.
- (3) Upon expiration of the revocation period, the person must reapply for driving privileges in the manner established by law and must reestablish the person's eligibility for issuance of driving privileges.
- (4) The Department of Transportation may issue new driving privileges to a person before the expiration of the revocation period if the person is otherwise entitled to be issued driving privileges and when, with reference to a conviction upon which the revocation was based, the Governor has pardoned the person of the crime.
- (5) The department shall not issue any driving privileges in contradiction to this section.
- (6) If the person fails to surrender to the department any license or driver permit issued as evidence of driving privileges that are revoked, the person is subject to the penalty under ORS 809.500.
- (7) No reinstatement of revoked driving privileges will be made by the department until the fee for reinstatement of revoked driving privileges established under ORS 807.370 is paid to or waived by the department. The department may waive the reinstatement fee if the department committed an error in issuing the revocation. [1983 c.338 §351; 1985 c.16 §165; 1985 c.393 §10; 1985 c.669 §1; 1987 c.801 §8; 2018 c.76 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.400 - Suspension or revocation for out-of-state conviction.**

- (1)(a) Except as otherwise provided in paragraph (b) of this subsection, the Department of Transportation may suspend or revoke the driving privileges of any resident of this state upon receiving notice of the conviction of such person in another jurisdiction of an offense therein that, if committed in this state, would be grounds for the suspension or revocation of the driving privileges of the person. A suspension or revocation under this subsection shall be initiated within 30 days of receipt of notice of the conviction. Violation of a suspension or revocation imposed under this subsection shall have the same legal effects and consequences as it would if the offense committed in the other jurisdiction had been committed in this jurisdiction.
- (b) The department may not suspend or revoke driving privileges under this subsection unless notice of conviction is received within 180 days of the date of the conviction.
- (2) The department may suspend or revoke the driving privileges of any resident of this state upon receiving notice from another state, territory, federal possession or district or province of Canada that the person's driving privileges in that jurisdiction have been suspended or revoked. Violation of the suspension or revocation shall have the same legal effects and consequences as it would if the suspension or revocation had been imposed initially in this state upon the same grounds. The suspension or revocation under this

subsection shall continue until the person suspended or revoked furnishes evidence of any of the following:

- (a) Compliance with the law of the other jurisdiction or the restoration of driving privileges in that jurisdiction.
- (b) That the revocation or suspension in the other jurisdiction was not under circumstances that would require the department to suspend or revoke the driving privileges of the person under the laws of this state.
- (3) A person is entitled to administrative review of a suspension under this section. [1983 c.338 §352; 1987 c.272 §4; 1987 c.730 §16; 1989 c.171 §90; 1989 c.398 §1; 1989 c.636 §35; 1991 c.595 §1; 1991 c.702 §11; 2005 c.649 §24]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.406 - Cancellation and disqualification from holding driver license with Class A or Class B farm endorsement.**

(1) The Department of Transportation shall cancel a driver license with a Class A or Class B farm endorsement or deny a person the right to apply for a Class A or Class B farm endorsement if the person's commercial driving privileges are suspended under ORS 809.520.

(2) If the department cancels a driver license with a Class A or Class B farm endorsement under this section, the person whose license is canceled is entitled to an administrative review under ORS 809.440. [2009 c.395 §2; 2013 c.237 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.407**

[2001 c.492 §2; 2003 c.402 §27; 2011 c.470 §3; renumbered 809.535 in 2013]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.409 - Revocation for conviction of crime.**

(1)(a) Upon receipt of a record of conviction of an offense described in this section, the Department of Transportation shall revoke the driving privileges of the person convicted.

(b) A person is entitled to administrative review under ORS 809.440 of a revocation under this section.

(c) Except as otherwise provided in subsections (2) and (3) of this section, the revocation shall be for a period of one year from the date of revocation, except that the department may not reinstate driving privileges of any person whose privileges are revoked under this section until the person complies with future responsibility filings.

(2) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of aggravated vehicular homicide or aggravated driving while suspended or revoked or any degree of murder, manslaughter or criminally negligent homicide resulting from the operation of a motor vehicle or assault in the first degree resulting from the operation of a motor vehicle, except that the provisions of this subsection do not apply to a person whose driving privileges are ordered revoked under ORS 809.235. A person whose driving privileges are revoked under this subsection may apply for reinstatement of driving privileges:

(a) If the sentence for the crime for which the person's driving privileges were revoked, or any other crimes arising from the same criminal episode, includes incarceration, no sooner than 10 years from the date the person is released from incarceration for all crimes arising out of the same criminal episode; or

(b) If the sentence for the crime for which the person's driving privileges were revoked and any other crimes arising from the same criminal episode does not include incarceration, no sooner than 10 years from the date the department revoked the privileges under this subsection.

(3)(a) Except as provided in paragraphs (b) and (c) of this subsection, the department shall take action under subsection (1) of this section upon receipt of a record of conviction of failure to perform the duties of a driver to injured persons under ORS 811.705.

(b) The department shall revoke driving privileges under this subsection for a period of three years if the court indicates on the record of conviction that a person sustained serious physical injury, as defined in ORS 161.015, as a result of the accident. The person may apply for reinstatement of privileges three years after the date the person was released from incarceration, if the sentence includes incarceration. If the sentence does not include incarceration, the person may apply for reinstatement three years from the date the revocation was imposed under this subsection.

(c) The department shall revoke driving privileges under this subsection for a period of five years if the court indicates on the record of conviction that a person was killed as a result of the accident. The person may apply for reinstatement of privileges five years after the date the person was released from incarceration, if the sentence includes incarceration. If the sentence does not include incarceration, the person may apply for reinstatement five years from the date the revocation was imposed under this subsection.

(4) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of any felony with a material element involving the operation of a motor vehicle.

(5) As used in this section, "incarceration" means confinement in a Department of Corrections institution, as defined in ORS 421.005. [2003 c.402 §2; 2007 c.867 §10; 2009 c.320 §2; 2009 c.783 §10; 2011 c.355 §14; 2013 c.124 §1; 2018 c.76 §31; 2023 c.176 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.411 - Suspension for conviction of crime.**

(1)(a) Upon receipt of a record of conviction for an offense described in this section, the Department of Transportation shall suspend the driving privileges of the person convicted.

(b) A person is entitled to administrative review under ORS 809.440 of a suspension under this section.

(c) Except as otherwise provided in subsections (7), (8) and (9) of this section, the suspension shall be for the period of time described in Schedule I of ORS 809.428. The department may not reinstate driving privileges of any person whose privileges are suspended under subsection (2), (3), (4), (5), (6) or (9) of this section until the person complies with future responsibility filings. There is no requirement of compliance with future responsibility filings if the person was suspended under subsection (7) or (8) of this section.

(2) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of any degree of recklessly endangering another person, menacing or criminal mischief resulting from the operation of a motor vehicle.

(3) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of reckless driving under ORS 811.140.

(4) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of failure to perform duties of a driver when property is damaged under ORS 811.700.

(5) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of fleeing or attempting to elude a police officer under ORS 811.540.

(6) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of reckless endangerment of highway workers under ORS 811.231 (1).

(7) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of criminal trespass under ORS 164.245 that involves the operation of a motor vehicle. A suspension under this subsection shall continue for a period of six months from the date of suspension.

(8) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of an offense described in ORS 809.310. A suspension under this subsection shall continue for a period of one year from the date of the suspension.

(9)(a) The department shall take action under subsection (1) of this section upon receipt of a record of conviction of assault in the second, third or fourth degree resulting from the operation of a motor vehicle.

(b) A person who is convicted of assault in the second degree and whose driving privileges are suspended under this subsection may apply for reinstatement of driving privileges eight years from the date the person is released from incarceration for the conviction, if the sentence includes incarceration. If the sentence for the conviction does not include incarceration, the person may apply for reinstatement of driving privileges eight years from the date the department suspended the privileges under this subsection.

(c) A person who is convicted of assault in the third degree and whose driving privileges are suspended under this subsection may apply for reinstatement of driving privileges five years from the date the person is released from incarceration for the conviction, if the sentence includes incarceration. If the sentence for the conviction does not include incarceration, the person may apply for reinstatement of driving privileges five years from the date the department suspended the privileges under this subsection.

(d) A person who is convicted of assault in the fourth degree and whose driving privileges are suspended under this subsection may apply for reinstatement of driving privileges one year from the date the person is released from incarceration for the conviction, if the sentence includes incarceration. If the sentence for the conviction does not include incarceration, the person may apply for reinstatement of driving privileges one year from the date the department suspended the privileges under this subsection.

(10) As used in this section, "incarceration" means confinement in a Department of Corrections institution, as defined in ORS 421.005. [2003 c.402 §3; 2005 c.403 §1; 2011 c.355 §15; 2018 c.76 §32; 2023 c.176 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.412 - Authority of juvenile court for suspension or revocation.**

If a juvenile court finds a youth to be within the jurisdiction of the juvenile court under ORS 419C.005 for committing an offense that is a ground for suspension or revocation upon conviction under ORS 809.409, 809.411, 809.510 to 809.545 or 813.400 or any other law requiring suspension or revocation of driving privileges upon conviction of an offense, the juvenile court shall order the suspension or revocation of driving privileges that is required upon conviction of the offense. [Formerly 809.370; 2008 c.49 §3; 2011 c.355 §30; 2013 c.237 §19]

Note:

809.412 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 809 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.415 - Suspensions for conduct involving judgments, financial responsibility, dishonesty; rules.**



(1)(a) The Department of Transportation shall suspend the driving privileges of a person who has a judgment of the type described under ORS 806.040 rendered against the person if the person does not settle the judgment in the manner described under ORS 809.470 within 60 days after its entry.

(b) A suspension under this subsection shall continue until the person does one of the following:

(A) Settles the judgment in the manner described in ORS 809.470.

(B) Has an insurer that has been found by the department to be obligated to pay the judgment, provided that there has been no final adjudication by a court that the insurer has no such obligation.

(C) Gives evidence to the department that a period of seven years has elapsed since the entry of the judgment.

(D) Receives from the court that rendered the judgment an order permitting the payment of the judgment in installments.

(c) A person is entitled to administrative review under ORS 809.440 of a suspension under this subsection.

(2)(a) The department shall suspend the driving privileges of a person who falsely certifies the existence of a motor vehicle liability insurance policy or the existence of some other means of satisfying financial responsibility requirements or of a person who, after certifying the existence of a motor vehicle liability insurance policy or other means of satisfying the requirements, allows the policy to lapse or be canceled or otherwise fails to remain in compliance with financial responsibility requirements.

(b) Notwithstanding paragraph (a) of this subsection, the department may suspend under this subsection only if proof of compliance with financial responsibility requirements as of the date specified by the department by rule under ORS 806.150 is not submitted within the time specified by the department by rule under this section.

(c) A suspension under this subsection shall continue until the person complies with future responsibility filings.

(3)(a) The department shall suspend the driving privileges of a person who fails to comply with future responsibility filings whenever required under the vehicle code or fails to provide new proof of compliance for future responsibility filings when requested by the department.

(b) A suspension under this subsection shall continue until the person complies with future responsibility filings.

(c) A person whose initial obligation to make future responsibility filings is not based upon a conviction or other action by a court is entitled to a hearing under ORS 809.440 prior to a suspension under this subsection. A person whose obligation to make future responsibility filings is based upon a conviction or other action by a court is entitled to administrative review under ORS 809.440 of a suspension under this subsection. A person whose suspension under this subsection is based on lapses in filing after the initial filing has been made is entitled to administrative review under ORS 809.440.

(4)(a) The department shall suspend driving privileges when provided under ORS 809.416. The suspension shall continue until the earlier of the following:

(A) The person establishes to the satisfaction of the department that the person has performed all acts necessary under ORS 809.416 to make the person not subject to suspension.

(B) Ten years from the date the traffic offense or violation of ORS 471.430 occurred if the suspension is imposed for a reason described in ORS 809.416.

(b) A person is entitled to administrative review under ORS 809.440 of a suspension under this subsection.

(5) Upon determination by the department that a person has committed an act that constitutes an offense described in ORS 809.310, the department may suspend any driving privileges or any identification card of the person determined to have committed the act. A suspension under this subsection shall continue for a period of one year.

(6) Upon determination by the department that a person has submitted false information to the department for the purpose of establishing or maintaining qualification to operate a commercial motor vehicle or hold commercial driving privileges, the department shall suspend the commercial driving privileges or the person's right to apply for commercial driving privileges for a period of one year. [2003 c.402 §5; 2007 c.127 §1; 2011 c.470 §5; 2013 c.432 §§4,11; 2013 c.237 §20; 2018 c.76 §33; 2019 c.312 §11; 2020 s.s.1 c.10 §§5,6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.416 - When person subject to suspension under ORS 809.415; duration.**

A person is subject to suspension under ORS 809.415 (4) if the Department of Transportation receives notice from a court to commence suspension under ORS 809.220. A person who is subject under this section remains subject until the person presents the department with notice issued by the court showing that the person is no longer subject to this section or until 10 years have elapsed from the date the traffic offense or violation of ORS 471.430 occurred, whichever is earlier. This section does not subject a person to ORS 809.415 (4) for any pedestrian offense, bicycling offense or parking offense. Upon receipt of notice from a court to commence suspension under ORS 809.220, the department shall notify the person, in a manner determined by the department by rule, that the suspension will commence 60 days from the date the department sent the notification unless the person presents the department with notice issued by the court showing that the person is no longer subject to this section. [Formerly 809.290; 2007 c.127 §2; 2013 c.432 §§3,9; 2018 c.76 §34; 2019 c.312 §23; 2020 s.s.1 c.10 §§7,8]

Note:

809.416 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 809 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.417 - Suspension for conduct regarding accidents.**

(1)(a) The Department of Transportation shall suspend the driving privileges of a person who fails to file an accident report required under ORS 811.725 or 811.730.

(b) A suspension under this subsection shall continue until the person files the required report or for five years from the date of suspension, whichever is sooner.

(2) The department shall suspend the driving privileges of any person for a period of time required by this subsection if the person is involved in a motor vehicle accident at any time when the department determines the person has been operating a vehicle in violation of ORS 806.010. A suspension under this subsection shall be for a period of one year except that the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filing requirements.

(3)(a) The department may suspend the driving privileges of a person who, while operating a motor vehicle, causes or contributes to an accident resulting in death to any other person if the department has reason to believe that the person's incompetence, recklessness, criminal negligence or unlawful operation of the vehicle caused or contributed to the accident.

(b) A suspension under this subsection shall continue for a period determined by the department and shall be subject to any conditions the department determines to be necessary.

(c) The department may impose an immediate suspension of driving privileges of any person described in paragraph (a) of this subsection without hearing and without receiving a record of the conviction of the person of a crime if the department has reason to believe that the person may endanger people or property if the person's driving privileges are not immediately suspended. A suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440. [2003 c.402 §6; 2003 c.402 §6b]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.419 - Suspensions for physical or mental condition or impairment.**

(1)(a) The Department of Transportation shall suspend the driving privileges of a person if the department requests the person to submit to examination under ORS 807.340 and the person fails to appear within a reasonable length of time after being notified to do so or fails to satisfactorily complete the required examination. A suspension under this subsection shall continue until the examination required by the department is successfully completed or until the person voluntarily surrenders the person's driving privileges to the department based upon the person's recognition that the person is no longer competent to drive.

(b) Upon suspension under this subsection, the department may issue an identification card to the person for identification purposes as described under ORS 807.400.

(2) The department shall suspend the driving privileges of a person if the department requests the person to obtain medical clearance under ORS 807.070 or 807.090 and the person fails to do so. The suspension under this subsection shall continue until the required medical clearance is received by the department or until the person voluntarily surrenders the person's driving privileges to the department based upon the person's recognition that the person is no longer competent to drive.

(3)(a) The department may suspend the driving privileges of a person who is incompetent to drive a motor vehicle because of a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle upon the highways.

(b) A suspension under this subsection shall be subject to any conditions the department determines to be necessary and shall continue for a period determined by the department or until the person voluntarily surrenders the person's driving privileges to the department based upon the person's recognition that the person is no longer competent to drive.

(c) The department may impose an immediate suspension of driving privileges of any person described in paragraph (a) of this subsection without hearing and without receiving a record of the conviction of the person of a crime if the department has reason to believe that the person may endanger people or property if the person's driving privileges are not immediately suspended. A suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440. A person who is denied eligibility under ORS 807.090 is entitled to a hearing under ORS 809.440.

(4)(a) Whenever the department has reason to believe an individual with a motorcycle endorsement under ORS 807.170 is incompetent to operate a motorcycle, the department may revoke the endorsement.

(b) Upon revocation under this subsection, the endorsed license shall be surrendered to the department.

(c) Upon surrender of the endorsed license, the department may issue a license without endorsement for the unexpired period of the license.

(5) Upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive, the department shall immediately suspend the driving privileges of the released person. A suspension under this subsection is subject to administrative review under ORS 809.440 and shall continue until such time as the person produces a judicial judgment of competency or a certificate from the superintendent of the hospital that the person is competent, or establishes eligibility under ORS 807.090.

(6) Upon notification by a court under ORS 810.375 that a person charged with a traffic offense has been found guilty except for insanity and committed to the jurisdiction of the Psychiatric Security Review Board under ORS 161.315 to 161.351, the department shall immediately suspend the driving privileges of the person. A suspension under this subsection is subject to administrative review under ORS 809.440 and shall continue until such time as the person establishes eligibility under ORS 807.090. [2003 c.402

§7; 2003 c.576 §566b; 2005 c.140 §4; 2007 c.195 §3; 2011 c.126 §1; 2011 c.708 §29; 2017 c.442 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.420**

[1983 c.338 §354; 1987 c.547 §1; 1989 c.401 §1; 2001 c.294 §7; 2003 c.402 §28; renumbered 809.428 in 2003]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.421 - Suspensions for miscellaneous driving-related actions.**

(1)(a) The Department of Transportation may suspend the driving privileges of a person who:

(A) Is habitually incompetent, reckless or criminally negligent in the operation of a motor vehicle; or

(B) Commits a serious violation of the motor vehicle laws of this state.

(b) A suspension under this subsection shall continue for a period determined by the department and shall be subject to any conditions the department determines to be necessary.

(c) The department may impose an immediate suspension of driving privileges of any person described in paragraph (a) of this subsection without hearing and without receiving a record of the conviction of the person of a crime if the department has reason to believe that the person may endanger people or property if the person's driving privileges are not immediately suspended. A suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440.

(2) Agreements entered under ORS 802.530 may establish grounds and procedures for the suspension of driving privileges.

(3) The department immediately may suspend the driving privileges of any person without hearing and without receiving a record of the conviction of the person of a crime if the department receives satisfactory evidence that the person has violated restrictions placed on the person's driving privileges under ORS 807.120. A suspension under this subsection shall be subject to a post-imposition hearing under ORS 809.440. A suspension under this subsection shall continue for a period determined by the department, but in no event for longer than one year, and shall be subject to any conditions the department determines to be necessary. [2003 c.402 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.428 - Schedule of suspension or revocation periods for certain offenses.**

This section establishes schedules of suspension or revocation periods. The schedules are applicable upon conviction for the offense when made applicable under ORS 809.411 and 813.400. The schedules are as follows:

(1) Schedule I. The suspension or revocation periods under Schedule I are as provided in this subsection. The period of suspension or revocation under this schedule shall be:

(a) Ninety days for a first offense or for any offense not described in paragraph (b) or (c) of this subsection.

(b) One year for a second offense, where the commission of the second offense and a conviction for a separate offense occur within a five-year period. This paragraph applies to any combination of offenses for which the length of suspension is determined under this subsection.

(c) Three years for a third or subsequent offense where the commission of the third or subsequent offense and two or more convictions for separate offenses occur within a five-year period. This paragraph applies to any combination of offenses for which the length of suspension is determined under this subsection.

(2) Schedule II. The suspension or revocation periods under Schedule II are as provided in this subsection. The period of suspension or revocation under this schedule shall be:

(a) One year for a first offense or for any offense not described in paragraph (b) or (c) of this subsection.

(b) Three years for a second offense, where the commission of the second offense and a conviction for a separate offense occur within a five-year period.

(c) Three years for a third or subsequent offense, where the commission of the third or subsequent offense and a conviction for a separate offense occur within a five-year period. [Formerly 809.420]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.430 - Notice of suspension, cancellation or revocation; contents; service; rules.**

(1) When the Department of Transportation, as authorized or required, suspends, revokes or cancels driving privileges, commercial driving privileges or the right to apply for driving privileges or commercial driving privileges, the department shall give notice under this section of such action to the person whose driving privileges, commercial driving privileges or right to apply is affected.

(2) Notice under this section shall state the nature and reason for the action and, in the case of a suspension, whether it was ordered by a court.

(3) The department shall serve the notice in a manner determined by the department by rule. [1983 c.338 §355; 1989 c.636 §36;

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.440 - Hearing and administrative review procedures; defenses; rules.**

- (1) When other procedures described under this section are not applicable to a suspension or revocation under ORS 809.409 to 809.421, the procedures described in this subsection shall be applicable. All of the following apply to this subsection:
- (a) The hearing shall be given before the department imposes the suspension or revocation of driving privileges.
  - (b) Before the hearing, the department shall notify the person in the manner described in ORS 809.430.
  - (c) The hearing shall be in the county where the person resides unless the person and the department agree otherwise.
  - (d) The hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.
- (2) The following apply when administrative review is provided under any statute or rule of the department:
- (a) An administrative review shall consist of an informal administrative process to assure prompt and careful review by the department of the documents upon which an action is based.
  - (b) It shall be a defense to the department's action if a petitioner can establish that:
    - (A) A conviction on which the department's action is based was for an offense that did not involve a motor vehicle and the department's action is permitted only if the offense involves a motor vehicle.
    - (B) An out-of-state conviction on which the department's action is based was for an offense that is not comparable to an offense under Oregon law.
    - (C) The records relied on by the department identify the wrong person.
  - (c) A person requesting administrative review has the burden of showing by a preponderance of the evidence that the person is not subject to the action.
  - (d) Actions subject to administrative review shall be exempt from the provisions of ORS chapter 183 applicable to contested cases, and from the provisions of subsection (5) of this section applicable to post-imposition hearings. A suspension, revocation or cancellation may not be stayed during the administrative review process or by the filing of a petition for judicial review. A court having jurisdiction may order the suspension, revocation or cancellation stayed pending judicial review.
  - (e) Judicial review of a department order affirming a suspension or revocation after an administrative review shall be available as for review of orders other than contested cases, and the department may not be subject to default for failure to appear in such proceedings. The department shall certify its record to the court within 20 days after service upon the department of the petition for judicial review.
  - (f) If the suspension or revocation is upheld on review by a court, the suspension or revocation shall be ordered for the length of time appropriate under the appropriate statute except that the time shall be reduced by any time prior to the determination by the court that the suspension or revocation was in effect and was not stayed.
  - (g) The department shall adopt any rules governing administrative review that are considered necessary or convenient by the department.
- (3) At a hearing for failure to make a future responsibility filing or false certification of financial responsibility requirements under ORS 809.415, it is a defense to the department's action if the petitioner can establish that:
- (a) An error was committed by the department;
  - (b) The person in fact was in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150;
  - (c) An error was committed by an insurance company in notifying the department regarding the correctness of proof of compliance with financial responsibility requirements provided under ORS 806.150;
  - (d) The person was not in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150, and the department also determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date the department sent the notice of verification and that the person currently is in compliance with financial responsibility requirements; or
  - (e) At the time of the accident the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements, and the person is currently in compliance with financial responsibility requirements.
- (4) When permitted under this section or under any other statute, a hearing may be expedited under procedures adopted by the department by rule. The procedures may include a limited time in which the person may request a hearing, requirements for telephone hearings, expedited procedures for issuing orders and expedited notice procedures.
- (5) When permitted under ORS 809.417, 809.419, 809.421 or 809.510 to 809.545, a hearing may be a post-imposition hearing under this subsection. A post-imposition hearing is a hearing that occurs after the department imposes the suspension or revocation of driving privileges. All of the following apply to this subsection:
- (a) The department must provide notice in the manner described in ORS 809.430 before the suspension or revocation may take effect.
  - (b) Except as provided in this subsection, the hearing shall be conducted as a contested case in accordance with ORS chapter 183.
  - (c) Unless there is an agreement between the person and the department that the hearing be conducted elsewhere, the hearing shall

be held either in the county where the person resides or at any place within 100 miles, as established by the department by rule.

(6) The department has complied with a requirement for a hearing or administrative review if the department has provided an opportunity for hearing or review and the person with the right to the hearing or review has not requested it. Any request for hearing or review must be made in writing.

(7) For any hearing described under this section, and for administrative review described under this section, no further notice need be given by the department if the suspension or revocation is based upon a conviction and the court gives notice, in a form established by the department, of the rights to a hearing or review and of the suspension or revocation. [1985 c.669 §4 (enacted in lieu of 1983 c.338 §§356,357); 1987 c.437 §1; 1989 c.636 §37; 1991 c.702 §3; 1997 c.249 §225; 1999 c.770 §6; 1999 c.849 §§190,191; 2003 c.75 §66; 2003 c.402 §§29,30; 2011 c.355 §16; 2013 c.237 §22; 2021 c.630 §83]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.450 - Hearing for rescission of suspension for financial and future responsibility violations; grounds.**

(1) If a person whose driving privileges have been suspended for one of the reasons specified in subsection (2) of this section requests that the suspension be rescinded and specifies the reason for the request, the Department of Transportation may provide a hearing to determine the validity of the suspension. The department may rescind a suspension only as provided in subsection (3) of this section.

(2) This section applies to suspensions under:

(a) ORS 809.415 for failure to make a future responsibility filing;

(b) ORS 809.415 for false certification of financial responsibility requirements; and

(c) ORS 809.417 for involvement in a motor vehicle accident when the department has determined that the person has been operating a vehicle in violation of ORS 806.010.

(3) The granting of a hearing under this section shall not stay the suspension. However, the department shall rescind the suspension if the department determines:

(a) That an error was committed by the department;

(b) That the person in fact was in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150;

(c) That an error was committed by an insurance company in notifying the department regarding the correctness of proof of compliance with financial responsibility requirements provided under ORS 806.150;

(d) That the person was not in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150 and the department also determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date the department sent the notice of verification and that the person currently is in compliance with financial responsibility requirements; or

(e) That at the time of the accident the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements and the person is currently in compliance with financial responsibility requirements.

(4) The hearing shall be held in the manner provided in ORS 809.440. [1985 c.714 §11; 1987 c.258 §10; 2003 c.402 §31; 2019 c.312 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.460 - Rescission of suspension or revocation upon appeal of underlying conviction.**

(1) Except as provided in subsection (4) of this section, if a suspension or revocation of driving privileges is based upon a conviction, the court that entered the judgment of conviction may direct the Department of Transportation to rescind the suspension or revocation if:

(a) The person has appealed the conviction; and

(b) The person requests in writing that the court direct the department to rescind the suspension or revocation pending the outcome of the appeal.

(2) If directed by a court pursuant to subsection (1) of this section to do so, the department shall immediately rescind a suspension or revocation of driving privileges.

(3) The court shall notify the department immediately if the conviction is affirmed on appeal, the appeal is dismissed or the appeal is not perfected within the statutory period. Upon receipt of notice under this subsection, the department shall reimpose any suspension or revocation that has been rescinded under this section.

(4) If a person's commercial driving privileges are suspended under ORS 809.510 to 809.545, the department may not rescind suspension of the person's commercial driving privileges because the person has taken an appeal, unless the conviction is reversed on appeal. [1983 c.338 §359; 1985 c.16 §174; 1989 c.636 §38; 1993 c.751 §61; 1997 c.347 §1; 2003 c.402 §32; 2005 c.649 §17; 2013 c.237 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section**

**809.470 - When judgment considered settled for purposes of suspension requirements.**

(1) This section establishes when a judgment described under ORS 806.040 is settled for purposes of ORS 809.130, 809.280 and 809.415. A judgment shall be deemed settled for the purposes described if any of the following occur:

(a) Payments in the amounts established by the payment schedule under ORS 806.070 have been credited upon any judgment or judgments rendered in excess of those amounts.

(b) Judgments rendered for less than the amounts established under ORS 806.070 have been satisfied.

(c) The judgment creditor and the judgment debtor have mutually agreed upon a compromise settlement of the judgment.

(d) The judgment against the judgment debtor has been discharged in bankruptcy.

(2) Payments made in settlement of any claims because of bodily injury, death or property damage arising from the accident shall be credited in reduction of the amounts provided for in subsection (1) of this section. [1983 c.338 §360; 1985 c.16 §175; 2003 c.175 §11; 2003 c.402 §33]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.480 - Driver improvement programs; rules; purpose; suspension; fee.**

(1) The Department of Transportation may establish, by administrative rule, programs for the improvement of the driving behavior of persons who drive in this state. The programs shall have as their goal the reduction of traffic convictions and especially accidents. The programs may include, but need not be limited to, letters, interviews and classroom instruction.

(2) The department may establish programs for persons who are under 18 years of age that are different from programs for adults. Differences may include, but need not be limited to, differences in criteria for entry into a program and differences in content.

(3) The department, under a program authorized by this section, may suspend driving privileges based on any of the following:

(a) A person's record of convictions or accidents.

(b) A person's failure or refusal to complete or comply with a requirement of a program established by the department under this section.

(4) The department may charge a reasonable fee to participants in a driver improvement program to cover costs of administration.

(5) Any suspension that the department stays under a driver improvement program in this section shall continue for the full term of the suspension if a person fails to complete the program. For purposes of reinstating driving privileges, the stay of a suspension under this section may not be used to determine the length of time a person's driving privileges have been suspended if the person does not successfully complete the program.

(6) A person is entitled to administrative review of a suspension imposed under this section if based on a conviction. [1983 c.338 §368; 1985 c.16 §190; 1991 c.702 §12; 2001 c.176 §2; 2003 c.402 §34]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.490 - Suspension or revocation of driving privileges of nonresident driver; reports to home state.**

(1) If the defendant named in any certified copy of a judgment reported to the Department of Transportation is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registrations of the state of which the defendant is a resident.

(2) The department, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offenses under the motor vehicle laws of this state, may forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.

(3) The department may suspend or revoke the driving privileges to operate a motor vehicle in this state of any nonresident for any cause for which the driving privileges to operate a motor vehicle of a resident of this state may be suspended or revoked.

(4) If the driving privileges of a nonresident are revoked or suspended, the department shall transmit a copy of the record of such action to the official in charge of the issuance of licenses in the state, territory, federal possession or district or province of Canada in which the nonresident resides, if the law of the other jurisdiction provides for action in relation thereto similar to that provided under ORS 809.400 for residents of this state whose driving privileges are suspended or revoked in another jurisdiction. [1983 c.338 §361; 1985 c.16 §176; 1985 c.173 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.500 - Failure to return suspended, revoked or canceled license; penalty.**

(1) A person commits the offense of failure to return a suspended, revoked or canceled license if the person has driving privileges suspended and the person fails to immediately return to the Department of Transportation any license or driver permit issued by the department.

(2) If any person fails to return a license or driver permit on suspension, revocation or cancellation of the person's driving privileges, the department may request any peace officer to secure possession thereof and return it to the department.

(3) The offense described in this section, failure to return a suspended, revoked or canceled license, is a Class C misdemeanor. [1983

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.510 - Conviction of crime; refusal or failure of blood alcohol test; suspension in another jurisdiction.**

- (1) Except as otherwise provided by ORS 809.510 to 809.545, the Department of Transportation shall suspend the commercial driving privileges of a person for a period of one year when the department receives:
- (a) A record of conviction under ORS 811.700 or 811.705 of failure to perform the duties of a driver.
  - (b) A record of conviction of a crime punishable as a felony involving the operation of a motor vehicle.
  - (c) A record of conviction for driving a commercial motor vehicle while, as a result of prior violations committed while operating a commercial motor vehicle, the commercial driving privileges of the driver were suspended.
  - (d) A record of conviction of assault in the first degree, or any degree of criminally negligent homicide, manslaughter or murder, if the conviction results from the operation of a commercial motor vehicle.
  - (e) A record of conviction of aggravated vehicular homicide or aggravated driving while suspended or revoked.
  - (f) A record of conviction for driving while under the influence of intoxicants under ORS 813.010.
  - (g) A record of diversion under ORS 813.230.
- (2) The department shall suspend the commercial driving privileges of a person for a period of three years if the department receives a record of a conviction under subsection (1) of this section and the person was driving a commercial motor vehicle containing a hazardous material at the time of the offense.
- (3) The department shall suspend the commercial driving privileges of a person for a period of one year if the department receives a report from a police officer pursuant to ORS 813.120 that the person was driving a commercial motor vehicle and submitted to a breath or blood test and the level of alcohol in the person's blood was 0.04 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood. The department shall suspend the commercial driving privileges of the person for a period of three years if the person was driving a commercial motor vehicle containing a hazardous material at the time of the offense.
- (4) The department shall suspend the commercial driving privileges of a person for a period of one year if the department receives a report from a police officer pursuant to ORS 813.120 that the person was driving a motor vehicle and submitted to a breath or blood test and the level of alcohol in the person's blood was 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood.
- (5) The department shall suspend the commercial driving privileges of a person for a period of three years if the department receives a report from a police officer pursuant to ORS 813.120 that the person was driving a motor vehicle and refused to submit to a test under ORS 813.100. The department shall suspend the commercial driving privileges of the person for a period of five years if the person was driving a commercial motor vehicle containing a hazardous material at the time of the offense.
- (6) The department shall suspend the commercial driving privileges of a person if the department receives a notice of a conviction in another jurisdiction of an offense that, if committed in this state, would be grounds for the suspension of the person's commercial driving privileges. The period of suspension under this subsection shall be the same as would be imposed on the person if the conviction were for an offense committed in this state. For the purposes of this subsection, "conviction" means an unvacated adjudication of guilt, a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or in an authorized administrative tribunal, entry into a diversion program, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost or the violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated.
- (7) The department shall suspend the commercial driving privileges of a person in this state if the department receives a notice from another jurisdiction that the person has had commercial driving privileges suspended or revoked in another jurisdiction for reasons that would be grounds for suspension of the person's commercial driving privileges in this state. The period of suspension under this subsection is the same as would be imposed on the person if the violation were committed in this state.
- (8) If the department receives a record, report or notice under this section for a person who does not hold commercial driving privileges in this state, the department shall suspend the person's right to apply for commercial driving privileges as provided in ORS 809.540 (1).
- (9) A suspension imposed under this section is consecutive to any other suspension imposed under ORS 809.525, 809.530 or 809.535 if the suspensions do not arise out of the same incident. [2013 c.237 §4; 2021 c.630 §106]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.515 - Failure to appear, pay fine or obey court order in another jurisdiction; disqualification by Federal Motor Carrier Safety Administration.**

- (1)(a) The Department of Transportation shall suspend the commercial driving privileges of a person if the department receives a notice from another jurisdiction that the person failed to appear in a prosecution on a citation for a traffic offense or for a violation in the other jurisdiction that, if committed in this state, would be grounds for suspension under ORS 809.220, and the person held commercial driving privileges or was operating a commercial motor vehicle at the time of the offense. The period of a suspension

under this subsection is the shorter of:

(A) Ten years; or

(B) Until the department receives notice from the other jurisdiction that the person appeared.

(b) The department shall suspend a person's commercial driving privileges under this subsection without regard to whether the other jurisdiction suspends any driving privileges of the person by reason of the person's failure to appear.

(c) This subsection does not apply to failure to appear in a proceeding relating to a parking, pedestrian, vehicle defect or bicycling offense.

(2) The department shall suspend the commercial driving privileges of a person if the department receives a notice from the Federal Motor Carrier Safety Administration that the person has been disqualified from operating a commercial motor vehicle and that the disqualification is due to a determination that the driving of that person constitutes an imminent hazard. The department shall immediately suspend commercial driving privileges under this subsection without hearing, but the person may request a post-imposition hearing under ORS 809.440 (5), without regard to any hearings conducted by the Federal Motor Carrier Safety Administration. The period of a suspension under this section is the period of suspension prescribed by the Federal Motor Carrier Safety Administration, or one year, whichever is shorter. [2013 c.237 §5; 2020 s.s.1 c.10 §9; 2021 c.630 §84]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.520 - Lifetime suspension of commercial driving privileges; rules.**

(1) Notwithstanding ORS 809.510 (1) to (5) and (7), the Department of Transportation shall permanently suspend a person's commercial driving privileges for the lifetime of the person if the department receives a record of conviction for a crime punishable as a felony in which a motor vehicle was used and that involved the manufacturing, distributing or dispensing of a controlled substance, as defined in ORS 475.005. The department may not reinstate commercial driving privileges of a person whose commercial driving privileges are suspended under this subsection.

(2) Notwithstanding ORS 809.510 (1) to (5) and (7), the department shall permanently suspend a person's commercial driving privileges for the lifetime of the person if the department receives a record of conviction for a crime in which a commercial motor vehicle was used and that involved an act or practice of severe forms of trafficking in persons as defined by the department by rule. The department may not reinstate commercial driving privileges of a person whose commercial driving privileges are suspended under this subsection.

(3)(a) Notwithstanding ORS 809.510 (1) to (5) and (7), the department shall suspend a person's commercial driving privileges for the lifetime of the person if the department receives a second or subsequent record, report or notice described in ORS 809.510 (1) to (5) and (7) that does not arise out of the same incident and that would be grounds for suspension of the person's commercial driving privileges under ORS 809.510 (1) to (5) and (7).

(b) The department may adopt rules providing for the reinstatement of commercial driving privileges suspended under this subsection. The department may not reinstate commercial driving privilege suspensions under this subsection earlier than 10 years after the date that the person's commercial driving privileges are suspended under paragraph (a) of this subsection.

(c) The department shall permanently suspend a person's commercial driving privileges for the lifetime of the person if the department receives a record, report or notice described in paragraph (a) of this subsection that relates to conduct that occurred after the person's commercial driving privileges were reinstated under paragraph (b) of this subsection. The department may not reinstate the commercial driving privileges of a person whose commercial driving privileges are suspended under this paragraph.

(4) A suspension imposed under this section is consecutive to any other suspension imposed under ORS 809.510, 809.525, 809.530 or 809.535, if the suspensions do not arise out of the same incident. [2013 c.237 §6; 2021 c.630 §§107,108; 2023 c.400 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.525 - Serious traffic offenses; rules.**

(1) Except as provided in this section, the Department of Transportation shall suspend the commercial driving privileges of a person for a period of 60 days if:

(a) The department receives a record of a conviction of a serious traffic offense;

(b) The offense was committed within three years of the commission of another serious traffic offense for which the department received a record of a conviction; and

(c) The offenses did not arise out of the same incident.

(2) The department shall suspend the commercial driving privileges of a person for a period of 120 days if:

(a) The department receives a record of a conviction of a serious traffic offense;

(b) The offense was committed within three years of the commission of two or more other serious traffic offenses for which the department received records of conviction; and

(c) The offenses did not arise out of the same incident.

(3) The department by rule shall designate traffic offenses that constitute serious traffic offenses for the purposes of this section. To the extent practicable, rules adopted by the department under this section shall be uniform with any applicable federal regulations related to offenses that constitute serious traffic offenses.



(4) A report of a conviction in another jurisdiction has the same effect as if the serious traffic offense conviction had occurred in this state.

(5) A suspension imposed under this section is consecutive to any other suspension imposed under this section or ORS 809.510, 809.530 or 809.535 if the suspensions do not arise out of the same incident. [2013 c.237 §7; 2017 c.190 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.530 - Violation of out-of-service order.**

(1) Except as provided in this section, the Department of Transportation shall suspend the commercial driving privileges of a person for a period of 180 days if the department receives a report that the person violated an out-of-service order issued under ORS 813.050 or has violated any other out-of-service order or notice. A report under this section may include, but need not be limited to, a record of conviction or a record of a determination by a state or federal agency with jurisdiction to make a determination that the person has violated an out-of-service order or notice.

(2) The department shall suspend the commercial driving privileges of a person for a period of one year if the department receives a report as described in subsection (1) of this section and:

(a) The person committed the violation while transporting hazardous materials; or

(b) The person committed the violation while operating a motor vehicle designed to transport 16 or more persons, including the driver.

(3) The department shall suspend the commercial driving privileges of a person for a period of three years if:

(a) The department receives a report as described in subsection (1) of this section; and

(b) The violation was committed within 10 years of the commission of one or more other violations of out-of-service orders for which the department received reports as described in subsection (1) of this section.

(4) The department shall suspend the commercial driving privileges of a person for a period of five years if the department receives a report that meets the requirements of subsection (3) of this section and:

(a) The violation that is the subject of the report occurred while the person was transporting hazardous materials; or

(b) The person committed the violation while operating a motor vehicle designed to transport 16 or more persons, including the driver.

(5) A suspension imposed under this section is consecutive to any other suspension imposed under this section or ORS 809.510, 809.525 or 809.535 if the suspensions do not arise out of the same incident. [2013 c.237 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.535 - Suspension of commercial driver license for specified rail crossing violations.**

(1) The driver of a commercial motor vehicle is subject to suspension of the driver's commercial driving privileges upon conviction of any of the following offenses:

(a) Failure to stop for a railroad signal in violation of ORS 811.455.

(b) Failure to follow rail crossing procedures for high-risk vehicles in violation of ORS 811.460.

(c) Obstructing a rail crossing in violation of ORS 811.475.

(d) Failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train or other on-track equipment in violation of ORS 811.462.

(2) Upon receipt of a record of conviction for an offense described in subsection (1) of this section, the Department of Transportation shall suspend the convicted person's commercial driving privileges for the following periods of time:

(a) Sixty days if:

(A) The conviction is the person's first conviction of an offense described in subsection (1) of this section; or

(B) The date the person committed an offense described in subsection (1) of this section is not within three years of the date the person committed another offense, as described in subsection (1) of this section and for which there was a conviction.

(b) One hundred and twenty days if:

(A) The conviction is the person's second conviction of an offense described in subsection (1) of this section;

(B) The date the person committed the second offense is within three years of the date the person committed another offense, as described in subsection (1) of this section and for which there was a conviction; and

(C) The convictions arose out of separate incidents.

(c) One year if:

(A) The conviction is the person's third or subsequent conviction for an offense described in subsection (1) of this section;

(B) The date the person committed the latest offense is within three years of the dates the person committed two or more other offenses, as described in subsection (1) of this section and for which there were convictions; and

(C) The convictions arose out of separate incidents.

(3) A person is entitled to administrative review under ORS 809.440 of a suspension under this section.

(4) A report of a conviction in another jurisdiction of an offense described in subsection (1) of this section has the same effect as if the conviction had occurred in this state.

(5) A suspension imposed under this section is consecutive to any other suspension imposed under this section or ORS 809.510, 809.525 or 809.530 if the suspensions do not arise out of the same incident. [Formerly 809.407; 2013 c.237 §18; 2017 c.176 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.540 - Right to apply.**

(1) If the Department of Transportation receives a record, report or notice described in ORS 809.510 to 809.545, and the person who is the subject of the record, report or notice was driving a commercial motor vehicle at the time of the incident giving rise to the record, report or notice but did not hold commercial driving privileges at the time of the incident, the department shall suspend the person's right to apply for commercial driving privileges for the period specified in ORS 809.510 to 809.545.

(2) If the department receives a record, report or notice described in ORS 809.510 to 809.545, and the commercial driving privileges of the person who is the subject of the record, report or notice are due to expire during the suspension period, the department shall suspend the person's right to apply for commercial driving privileges for the suspension period specified in ORS 809.510 to 809.545. [2013 c.237 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.545 - Administrative review.**

(1) Except as provided in subsections (2) and (3) of this section, a person is entitled to administrative review under ORS 809.440 for a suspension of commercial driving privileges under ORS 809.510 to 809.545, or a suspension of the right to apply for commercial driving privileges under ORS 809.540.

(2) A person is entitled to a hearing under ORS 813.410 for a suspension of commercial driving privileges under ORS 809.510 (3), (4) or (5), or a suspension of the right to apply for commercial driving privileges under ORS 809.540 based on ORS 809.510 (3), (4) or (5).

(3) A person is entitled to a hearing under ORS 813.410 for a suspension of commercial driving privileges under ORS 809.520 (3) when the suspension is based on conduct described in ORS 809.510 (3), (4) or (5), or a suspension of the right to apply for commercial driving privileges under ORS 809.540 when the suspension is based on conduct described in ORS 809.510 (3), (4) or (5). [2013 c.237 §11; 2021 c.630 §§110,111]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.550 - Application of ORS 809.510 to 809.545.**

The provisions of ORS 809.510 to 809.545 apply:

(1) When an individual's conduct involves driving a commercial motor vehicle, without regard to whether an individual held commercial driving privileges on the date the conduct occurred.

(2) When an individual's conduct involves driving a motor vehicle, if the individual held commercial driving privileges in any jurisdiction on the date the conduct occurred. [2021 c.630 §115]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.600 - Kinds of offenses and number of convictions.**

This section establishes the kinds of offenses and the number of convictions necessary to revoke the driving privileges of a person as a habitual offender under ORS 809.640. The kinds of offenses and the number of convictions necessary to revoke driving privileges as a habitual offender are as follows:

(1) A person's driving privileges shall be revoked as a habitual offender if the person, within a five-year period, has been convicted of three or more of any one or more of the following offenses as evidenced by the records maintained by the Department of Transportation or by the records of a similar agency of another state:

(a) Any degree of murder, manslaughter, criminally negligent homicide, assault, recklessly endangering another person, menacing or criminal mischief resulting from the operation of a motor vehicle.

(b) Driving while under the influence of intoxicants under ORS 813.010.

(c) Criminally driving a motor vehicle while suspended or revoked, under ORS 811.182.

(d) Reckless driving under ORS 811.140.

(e) Failure to perform the duties of a driver under ORS 811.700 or 811.705.

(f) Fleeing or attempting to elude a police officer under ORS 811.540.

(g) Aggravated vehicular homicide under ORS 163.149 or aggravated driving while suspended or revoked under ORS 163.196.

(2) A person's driving privileges shall be revoked as a habitual offender if the person, within a five-year period, has been convicted of 20 or more of any one or more of the following offenses as evidenced by the records maintained by the department or by a similar agency of another state:

- (a) Any offenses enumerated in subsection (1) of this section.
- (b) Any offense specified in the rules of the department adopted under ORS 809.605.
- (3) A person's driving privileges shall not be revoked under subsection (2) of this section until the person's 21st conviction within a five-year period when the 20th conviction occurs after a lapse of two years or more from the last preceding conviction.
- (4) The offenses described under this section include any of the following:
  - (a) Any violation of a traffic ordinance of a city, municipal or quasi-municipal corporation that substantially conforms to offenses described under this section.
  - (b) Any violation of offenses under any federal law or any law of another state, including subdivisions thereof, that substantially conform to offenses described in this section.
- (5) A revocation under this section shall continue for a period of five years from the date of revocation. [1983 c.338 §365; 1985 c.16 §179; 1987 c.730 §17; 1987 c.887 §7; 1989 c.592 §6; 1991 c.601 §5; 1991 c.728 §4; 1995 c.209 §3; 1999 c.1051 §283; 2001 c.494 §1; 2007 c.867 §11; 2009 c.783 §12; 2018 c.76 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.605 - Determination of which offenses count; rules.**

The Department of Transportation shall adopt rules specifying which traffic offenses count for the purpose of determining that a person is a habitual offender under ORS 809.600 (2) because the person has been convicted of 20 or more traffic offenses. [2001 c.494 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.610 - Restriction of driving privileges; notice; meeting.**

- (1) When the Department of Transportation receives an abstract of the conviction under ORS 810.375, and the conviction is the second one of those described by ORS 809.600 (1) for the person or the 19th of those described by ORS 809.600 (2) for the person, the department may restrict the person's driving privileges and shall send the person notice of the restrictions by first class mail.
- (2) A person notified under subsection (1) of this section of restrictions placed on the person's driving privileges may request a meeting with a representative of the department to determine whether the restrictions may be lifted. [1985 c.16 §181; 1989 c.15 §1; 1999 c.1051 §284; 2001 c.104 §303; 2001 c.494 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.640 - Procedures on habitual offender determination.**

When the Department of Transportation determines from the driving record of a person as maintained by the department that a person's driving privileges are required to be revoked as a habitual offender under ORS 809.600, the department shall revoke the driving privileges of the person. A person is entitled to administrative review of a revocation under this section. [1983 c.338 §367; 1985 c.16 §187; 1991 c.702 §12a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.698 - Definition of "vehicle immobilization device."**

As used in ORS 809.700 and 809.702, a "vehicle immobilization device" means a device that may be clamped and locked onto a part of a motor vehicle for the purpose of immobilizing the vehicle. [1997 c.540 §2; 1999 c.467 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.700 - Court-ordered impoundment or immobilization upon conviction; grounds; duration; vehicles subject; return; security interest holder rights.**

A court may order a motor vehicle impounded or immobilized upon conviction for the traffic offenses described in this section. The authority to impound or immobilize a vehicle under this section is subject to all of the following:

- (1) The court may order a vehicle impounded or immobilized under this section when a person is convicted:
  - (a) For driving a motor vehicle while the person's license is suspended or revoked in violation of ORS 811.175 or 811.182; or
  - (b) On a second or subsequent charge of driving while under the influence of intoxicants in violation of ORS 813.010.
- (2) A vehicle may be impounded or immobilized under this section for not more than one year from judgment.
- (3) The following vehicles may be impounded under this section:
  - (a) Any motor vehicle of which the convicted person is the owner.
  - (b) Any motor vehicle which the convicted person is operating at the time of arrest.
- (4) A vehicle may be immobilized under this section if the vehicle is registered in this state and is a vehicle that may be impounded

under subsection (3) of this section.

(5)(a) If a vehicle is ordered to be immobilized under this section and if the convicted person resides in the jurisdiction of the law enforcement agency that arrested the person for the offense described in subsection (1) of this section, the arresting law enforcement agency shall install a vehicle immobilization device on the vehicle. If the convicted person does not reside in the jurisdiction of the law enforcement agency that arrested the person, the sheriff of the county in which the person resides shall install the device.

(b) A vehicle ordered immobilized under this section shall be immobilized at the residence of the owner of the vehicle or at the location where the owner regularly parks the vehicle.

(c) A vehicle ordered immobilized under this section may be immobilized only in a location at which the vehicle may be legally stored for the period of the immobilization order. If no location is available at which the vehicle may be legally stored, the vehicle may be impounded for the period of the immobilization order.

(d) A vehicle owner who fails to allow installation of a vehicle immobilization device ordered under this section shall be subject to contempt of court proceedings under ORS 33.015 to 33.155.

(6)(a) If a vehicle is impounded under this section, the person convicted shall be liable for the expenses incurred in the towing and storage of the vehicle under this section, whether or not the vehicle is returned to the person convicted.

(b) If a vehicle is immobilized under this section, the person convicted shall be liable for the expenses incurred in installation and removal of the vehicle immobilization device and for rental of the device during the period the device is installed on the vehicle, whether or not the vehicle is released to the person convicted.

(7) A vehicle shall be released or returned to the person convicted or the owner only upon payment of the expenses incurred in the immobilization or towing and storage of the vehicle under this section.

(8) If a vehicle is not reclaimed within 30 days after the time set for the return of the vehicle in an impounding order or release of the vehicle in an immobilization order, the vehicle may be disposed of in accordance with procedures under ORS 819.110 to 819.215.

(9) The court may order that a motor vehicle of which the convicted person is not the owner be impounded or immobilized under this section only if the court is satisfied by a preponderance of the evidence that the owner knew or had good reason to know that the convicted person:

(a) Did not have a valid license and knowingly consented to the operation of the vehicle by the convicted person; or

(b) Was operating the vehicle while under the influence of intoxicants.

(10) The authority to impound or immobilize a vehicle under this section is subject to the rights of a security interest holder under a security agreement executed before an arrest for violation of an offense for which the vehicle may be impounded or immobilized under this section. A vehicle shall be released for the purpose of satisfying a security interest if:

(a) A request in writing is made to the court; and

(b) The security interest holder pays the expenses in towing and storage or in immobilization of the vehicle.

(11) A security interest holder's obligation to pay and right to recover towing and storage or immobilization expenses under subsection (10) of this section are limited to the recovery of those towing and storage or immobilization expenses incurred during the initial 20-day period when the vehicle was in public storage or immobilized, unless the authority taking the vehicle into custody or immobilizing the vehicle under this section has transmitted by certified mail a written notice to the holder concerning the accrual of storage or immobilization expenses. If the vehicle is in private storage, the lien claimant shall transmit the written notice. [1983 c.338 §385; 1985 c.16 §200; 1987 c.730 §18; 1993 c.385 §3; 1997 c.540 §3; 1999 c.467 §2; 2009 c.371 §2; 2021 c.630 §92]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.702 - Tampering with vehicle immobilization device; penalty.**

(1) A person commits the offense of tampering with a vehicle immobilization device if the person does anything to a vehicle immobilization device that was ordered installed under ORS 809.700 that circumvents the operation of the device.

(2) The offense described in this section, tampering with a vehicle immobilization device, is a Class A traffic violation. [1997 c.540 §5; 1999 c.467 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.710 - Authority to refuse to release vehicle to intoxicated person.**

Notwithstanding any other provision of law, a police officer, a police agency or any person acting as an agent for either has authority to refuse to release or authorize release of any motor vehicle from custody to any person who is visibly under the influence of intoxicants. [Formerly 484.225]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.716 - Hearing on impoundment.**

(1) A person entitled to lawful possession of a vehicle impounded under ORS 809.720 may request a hearing to contest the validity of the impoundment. A request must be made within five calendar days after the date that notice of the impoundment is mailed, as evidenced by the postmark, not including Saturdays, Sundays or holidays. The request shall be made to a person designated by the

impounding police agency to receive such requests.

(2) When a timely request for a hearing is made, a hearing shall be held before a hearings officer designated by the impounding police agency. The hearing shall be set for four calendar days after the request is received, excluding Saturdays, Sundays and holidays, but may be postponed at the request of the person asking for the hearing.

(3) The impounding police agency shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being operated in violation of ORS 806.010, 807.010, 811.175, 811.182 or 813.010. The police officer who ordered the vehicle impounded may submit an affidavit to the hearings officer in lieu of making a personal appearance at the hearing.

(4) If the hearings officer finds that the impoundment of the vehicle was proper, the hearings officer shall enter an order supporting the removal and shall find that the owner or person entitled to possession of the vehicle is liable for usual and customary towing and storage costs. The hearings officer may also find the owner or person entitled to possession of the vehicle liable for costs of the hearing.

(5) If the hearings officer finds that impoundment of the vehicle was improper, the hearings officer shall order the vehicle released to the person entitled to possession and shall enter a finding that the owner or person entitled to possession of the vehicle is not liable for any towing or storage costs resulting from the impoundment. If there is a lien on the vehicle for towing and storage charges, the hearings officer shall order it paid by the impounding police agency.

(6) A police agency may contract with another agency or entity to conduct hearings under this section. [Formerly 806.016; 1997 c.514 §4; 1999 c.1051 §284a; 2001 c.748 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.720 - Impoundment for specified offenses; grounds; notice; release.**

(1) A police officer who has probable cause to believe that a person, at or just prior to the time the police officer stops the person, has committed an offense described in this subsection may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release or the vehicle is ordered released by a hearings officer. This subsection applies to the following offenses:

(a) Driving while suspended or revoked in violation of ORS 811.175 or 811.182.

(b) Driving while under the influence of intoxicants in violation of ORS 813.010.

(c) Operating without driving privileges or in violation of license restrictions in violation of ORS 807.010.

(d) Driving uninsured in violation of ORS 806.010.

(2) Notice that the vehicle has been impounded shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle.

(3) A vehicle impounded under subsection (1) of this section shall be released to a person entitled to lawful possession upon compliance with the following:

(a) Submission of proof that a person with valid driving privileges will be operating the vehicle;

(b) Submission of proof of compliance with financial responsibility requirements for the vehicle; and

(c) Payment to the police agency of an administrative fee determined by the agency to be sufficient to recover its actual administrative costs for the impoundment.

(4) Notwithstanding subsection (3) of this section, a person who holds a security interest in the impounded vehicle may obtain release of the vehicle by paying the administrative fee.

(5) When a person entitled to possession of the impounded vehicle has complied with the requirements of subsection (3) or (4) of this section, the impounding police agency shall authorize the person storing the vehicle to release it upon payment of any towing and storage costs.

(6) Notwithstanding subsection (3) of this section, the holder of a towing business certificate issued under ORS 822.205 may foreclose a lien created by ORS 87.152 for the towing and storage charges incurred in the impoundment of the vehicle, without payment of the administrative fee under subsection (3)(c) of this section.

(7) Nothing in this section or ORS 809.716 limits either the authority of a city or county to adopt ordinances dealing with impounding of uninsured vehicles or the contents of such ordinances except that cities and counties shall comply with the notice requirements of subsection (2) of this section and ORS 809.725.

(8) A police agency may not collect its fee under subsection (3)(c) of this section from a holder of a towing business certificate issued under ORS 822.205 unless the holder has first collected payment of any towing and storage charges associated with the impoundment. [1997 c.514 §2; 2001 c.748 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.725 - Notice following impoundment under city or county ordinance.**

(1) When a motor vehicle is impounded under authority of a city or county ordinance, the city or county shall give notice of the impoundment to the owners of the motor vehicle and to any lessors or security interest holders as shown on the records of the Department of Transportation. The notice shall be given within 48 hours of impoundment.

(2) The notice required by subsection (1) of this section shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle. [1997 c.514 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.730 - Seizure of motor vehicle for civil forfeiture; driving while under the influence of intoxicants.**

(1) A motor vehicle may be seized and forfeited if the person operating the vehicle is arrested or issued a citation for driving while under the influence of intoxicants in violation of ORS 813.010 and the person, within three years prior to the arrest or issuance of the citation, has been convicted of:

(a) Driving while under the influence of intoxicants in violation of:

(A) ORS 813.010; or

(B) The statutory counterpart to ORS 813.010 in another jurisdiction;

(b) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving of a vehicle due to the use of an intoxicant or a combination of intoxicants;

(c) A driving offense in another jurisdiction that involved operating a vehicle while having a blood alcohol content above that jurisdiction's permissible blood alcohol content;

(d) Murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in this state or in another jurisdiction; or

(e) Aggravated vehicular homicide under ORS 163.149 or aggravated driving while suspended or revoked under ORS 163.196.

(2) For the purposes of subsection (1) of this section, a conviction for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older does not constitute a prior conviction.

(3) All seizure and forfeiture proceedings under this section shall be conducted in accordance with ORS chapter 131A. [1999 c.1100 §2; 2001 c.104 §304; 2001 c.780 §§18,18a; 2007 c.867 §12; 2007 c.879 §5; 2009 c.78 §61; 2009 c.783 §13; 2017 c.21 §79; 2021 c.253 §5; 2023 c.498 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.735 - Preemption of local forfeiture ordinances.**

(1) The seizure and forfeiture provisions of ORS 809.730 do not preempt a city or county ordinance enacted and in effect on June 22, 1999, relating to forfeiture of a motor vehicle operated by a person described in ORS 809.730.

(2) The seizure and forfeiture provisions of ORS 809.730 do not preempt a city with a population exceeding 400,000 or a county with a population exceeding 500,000 from enacting, on or before January 1, 2000, an ordinance relating to seizure and forfeiture of a motor vehicle operated by a person described in ORS 809.730.

(3) Notwithstanding subsections (1) and (2) of this section, seizure and forfeiture procedures in a city or county ordinance relating to seizure and forfeiture of a motor vehicle operated by a person described in ORS 809.730 shall be in accordance with ORS chapter 131A. [1999 c.1100 §3; 2009 c.78 §62]

Note:

809.735 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.740 - Seizure of motor vehicle for forfeiture; driving while suspended or revoked.**

(1) A motor vehicle may be seized for forfeiture if the person operating the motor vehicle is arrested or issued a citation for criminal driving while suspended or revoked under ORS 811.182 or aggravated driving while suspended or revoked under ORS 163.196, and the person, within three years prior to the arrest or issuance of the citation, has been convicted of:

(a) Criminal driving while suspended or revoked under ORS 811.182; or

(b) Aggravated driving while suspended or revoked under ORS 163.196.

(2) All seizure and forfeiture proceedings under this section shall be conducted in accordance with ORS chapter 131A. [2013 c.374 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 809 - Refusal, Suspension, Cancellation and Revocation of Registration, Title, Driving Privileges and Identification Card; Vehicle Impoundment Section 809.745 - Adoption of policies and procedures prior to forfeiture.**

A law enforcement agency, as defined in ORS 136.595, may not seize a vehicle for forfeiture under ORS 131.602 (137) or (138) or 809.740, unless the agency has adopted policies and procedures for seizure, including policies relating to when a police officer may seize a motor vehicle for forfeiture under ORS 131.602 (137) or (138) or 809.740. [2013 c.374 §3; 2017 c.21 §125]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.010 - Jurisdiction over highways; exception.**

This section designates the bodies responsible for exercising jurisdiction over certain highways when the vehicle code requires the exercise of jurisdiction by the road authority. This section does not control where a specific section of the vehicle code specifically provides for exercising jurisdiction in a manner different than provided by this section. Except as otherwise specifically provided under the code, the responsibilities designated under this section do not include responsibility for maintenance. Responsibility for maintenance is as otherwise provided by law. The following are the road authorities for the described roads:

- (1) The Department of Transportation is the road authority for all state highways in this state including interstate highways.
- (2) The county governing body is the road authority for all county roads outside the boundaries of an incorporated city.
- (3) The governing body of an incorporated city is the road authority for all highways, roads, streets and alleys, other than state highways, within the boundaries of the incorporated city.
- (4) Any other municipal body, local board or local body is the road authority for highways, other than state highways, within its boundaries if the body or board has authority to adopt and administer local police regulations over the highway under the Constitution and laws of this state.
- (5) Any federal authority granted jurisdiction over federal lands within this state under federal law or rule is the road authority for highways on those lands as provided by the federal law or rule. [1983 c.338 §145; 1985 c.16 §45]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.012 - Jurisdiction over access to facilities and services from certain roads; rules.**

Notwithstanding any other provision of the Oregon Vehicle Code, the Oregon Transportation Commission, by rule, may establish procedures for, and certify to the Federal Highway Administration compliance with, 23 C.F.R. part 658 for roads under the authority of cities and counties. [1991 c.283 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.020 - Regulating use of throughway.**

- (1) Each road authority may prohibit or restrict the use of a throughway in its jurisdiction by any of the following:
  - (a) Parades.
  - (b) Bicycles or other nonmotorized traffic.
  - (c) Motorcycles or mopeds.
- (2) Regulation under this section becomes effective when appropriate signs giving notice of the regulation are erected upon a throughway and the approaches to the throughway.
- (3) Penalties for violation of restrictions or prohibitions imposed under this section are provided under ORS 811.445.
- (4) The Oregon Transportation Commission shall act as road authority under this section in lieu of the Department of Transportation. [1983 c.338 §146]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.022 - Authorizing use of vehicles in parades.**

A road authority, on its own highways, may allow a person to use a vehicle that is otherwise prohibited from operating on the highways of this state if:

- (1) The person is operating the vehicle in a parade;
- (2) The vehicle is operated with the approval of and under the conditions imposed by the road authority; and
- (3) The vehicle complies with vehicle weight and size limits established by federal or state statute or rule. [2023 c.545 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.030 - Imposition of restrictions on highway use; grounds; procedure; penalties.**

- (1) A road authority may impose restrictions described under this section on its own highways as the road authority determines necessary to do any of the following:
  - (a) Protect any highway or section of highway from being unduly damaged.
  - (b) Protect the interest and safety of the general public.
- (2) Restrictions that may be imposed under this section include any of the following:
  - (a) Prohibition of the operation of any or all vehicles or any class or kind of vehicle.
  - (b) Imposing limits on any weight or dimension of any vehicle or combination of vehicles.
  - (c) Imposing any other restrictions that the road authority determines necessary to achieve the purposes of this section. This paragraph does not grant authority to impose speed restrictions.
- (3) Any restrictions or limitations imposed under this section must be imposed by proper order. The restrictions or limitations are effective when appropriate signs giving notice of the restrictions or limitations are erected. A sign giving notice of a restriction or

limitation in an order shall be maintained in a conspicuous manner and shall be placed at each end of the highway or section of highway affected by the order and at such other places as is necessary to inform the public.

(4) Penalties are provided under ORS 818.130 for violation of restrictions imposed under this section. [1983 c.338 §147; 1985 c.16 §46]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.040 - Designation of truck routes; limitations; penalties.**

Each road authority may designate any of its highways or any section of any of its highways as a truck route and may prohibit the operation of trucks, machinery or any other large or heavy vehicles upon any other of its highways that serves the same route or area served by the truck route designated. The authority granted under this section is subject to all of the following:

(1) The governing body of an incorporated city shall not designate a truck route or prohibit the operation of any vehicle on a:

(a) State highway that is within the boundaries of the city without the written consent of the Department of Transportation.

(b) County road that is within the boundaries of the city without the written consent of the governing body of the county.

(2) Any designation or prohibition made under authority of this section must be imposed by appropriate order, resolution or ordinance.

(3) A road authority exercising authority under this section shall erect and maintain signs in a conspicuous manner and place at each end of the highway or section of highway where a designation or prohibition is imposed to give notice of the prohibitions or designations imposed. The road authority shall erect and maintain signs giving notice of any prohibitions or designations imposed under this section at such other places as may be necessary to inform the public.

(4) A prohibition or designation imposed under this section is effective when signs giving notice thereof are posted as required by this section.

(5) Penalties are provided under ORS 811.450 for violation of requirements imposed under this section. [1983 c.338 §148]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.050 - Increase or decrease in size or weight limits on highways if federal mandate allows or requires; rules.**

(1) The Department of Transportation may authorize the movement on highways under its jurisdiction of vehicles or combinations of vehicles of a size or weight in excess of the limits under ORS 818.020, 818.090 or 818.110 if federal law permits various states to establish size and weight limits in excess of those under ORS 818.020, 818.090 or 818.110. The department shall exercise the authority granted under this subsection subject to all of the following:

(a) The department shall only establish weight and size limits under this subsection within the limits necessary to qualify for federal aid highway funds.

(b) The department shall exercise the authority either by adoption of a rule or resolution under ORS 810.060 or by issuance of variance permits under ORS 818.200. When the department exercises the authority under this paragraph, the weight limits or size limits established under this subsection shall apply.

(2) The department may by rule prohibit the movement on highways under its jurisdiction of vehicles or combinations of vehicles of a size or weight otherwise authorized by statute if the prohibition is necessary in order to qualify for federal aid highway funds.

(3) Road authorities other than the department may increase or decrease size and weight limits on their own highways if the department exercises the authority granted under this section. The exercise of authority under this subsection is subject to all of the following:

(a) A road authority may not exercise the authority to establish a size or weight limit that exceeds the maximum authorized by the department or to prohibit vehicles or combinations of vehicles that are not prohibited by the department under subsection (2) of this section.

(b) The road authority shall exercise the authority either by adoption of a rule, resolution or ordinance under ORS 810.060 or by issuance of variance permits under ORS 818.200.

(4) Penalties are provided under ORS 818.060 and 818.340 for violation of limits established under this section. [1983 c.338 §149; 1985 c.16 §47; 1993 c.510 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.060 - Increase in weight or size if highway found capable of supporting increase; rules.**

A road authority shall adopt a rule, resolution or ordinance to allow vehicles or combinations of vehicles with a loaded weight in excess of the weight limitations established by Table III under ORS 818.010 or a length or width in excess of that authorized under ORS 818.080 and 818.090 to be operated over any highway of the road authority if the road authority determines that the highway is capable of carrying greater weight, length or width. The authority granted under this section is subject to all of the following:

(1) The authority may only be exercised by rule, resolution or ordinance.

(2) The authority does not allow any road authority to authorize any vehicle to be operated over any highway if the vehicle has a height in excess of that allowed under ORS 818.080 and 818.090.

(3) The provisions of any rule, resolution or ordinance adopted under this section may be amended, rescinded or repealed at any



time.

(4) The provisions of any rule, resolution or ordinance adopted under this section are subject to the maximum size, weight and width limits established under ORS 810.050.

(5) A rule, resolution or ordinance adopted under this section shall fix the maximum loaded weight, length, width and types and classes of vehicles or combinations of vehicles that may be operated on the highway or highways or sections of highways described in the rule, resolution or ordinance.

(6) A duplicate original of a rule or resolution adopted by the Department of Transportation under this section and an amendment to or repeal of a rule or resolution by the department shall be filed with the Secretary of State. This subsection does not require an ordinance adopted by a city or county under this section to be filed with the Secretary of State.

(7) After the effective date of a rule, resolution or ordinance adopted under this section, a variance permit under ORS 818.200 is not required for the operation upon the described highway of a vehicle or combination of vehicles that is not in excess of the maximum loaded weight, length or width fixed by the rule, resolution or ordinance for vehicles or combinations of vehicles of that type or class.

(8) Penalties are provided under ORS 818.060 for violation of limits established under this section. [1983 c.338 §150; 1985 c.16 §48]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.070 - Use of golf carts on highways; rules.**

A road authority, on any of its own highways that are located adjacent to a golf course, may permit the operation of golf carts between the golf course and the place where golf carts are parked or stored or located within or bounded by a real estate development. All of the following apply to the authority granted under this section:

(1) Exercise of the authority granted under this section must be by means of an ordinance.

(2) The authority granted under this section may only be exercised where the combined operation of golf carts and regular vehicle traffic can be accomplished safely.

(3) A road authority shall prescribe rules and shall regulate the combined operation of golf carts and vehicles when permitted under this section. The rules may establish speed limits and other operating standards but shall not require that golf carts conform with the vehicle equipment laws under the vehicle code.

(4) A designation of combined operation under this section or rules instituted under this section are effective when appropriate signs giving notice thereof are posted along the affected highway and are not effective before such posting.

(5) If a designation is made under this section to permit combined operation, the golf carts operated in accordance with the designation and rules adopted by the road authority qualifies for the exemptions under ORS 820.210.

(6) This section only applies to real estate developments that have single or multiple family residences whose owners or occupants are eligible for membership in or the use of one or more golf courses within the development by virtue of ownership or occupancy of a residential dwelling unit in the development.

(7) This section neither grants authority to nor limits the authority of the Department of Transportation. [1983 c.338 §151; 2003 c.757 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.080 - Pedestrian traffic.**

(1) Road authorities may regulate the movement of pedestrians upon highways within their jurisdictions by doing any of the following:

(a) Establishing marked crosswalks and designating them by appropriate marking.

(b) Closing a marked or unmarked crosswalk and prohibiting pedestrians from crossing a roadway where a crosswalk has been closed by placing and maintaining signs giving notice of closure.

(c) Prohibiting pedestrians from crossing a highway at any place other than within a marked or unmarked crosswalk.

(2) This section neither grants authority to nor limits the authority of the Department of Transportation. [1983 c.338 §152]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.090 - Bicycle racing.**

Bicycle racing is permitted on any highway in this state upon the approval of, and under conditions imposed by, the road authority for the highway on which the race is held. [1983 c.338 §153]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.100 - Restriction of animal traffic to bridle paths.**

Each incorporated community within this state has power, by law or ordinance duly enacted, to regulate the use of its streets by horses and other animals to the extent that bridle paths may be designated upon certain streets and the animals may be prohibited on other streets. [1983 c.338 §154]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities;**

**Courts; Police; Other Enforcement Officials****Section 810.110 - Designation of through highways and stop intersections.**

(1) Each road authority may do any of the following on its own highways:

- (a) Designate a main traveled or through highway by placing traffic control devices at the entrances to the highway from intersecting highways to notify drivers to stop or yield the right of way before entering or crossing the designated highway.
- (b) Designate intersections or other roadway junctions at which vehicle traffic on one or more of the highways should yield or stop before entering the intersection or junction.

(2) The Oregon Transportation Commission shall act as road authority under this section in lieu of the Department of Transportation. [1983 c.338 §155]

**2023 Oregon Revised Statutes****Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation****Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials****Section 810.120 - Designation of no passing zones.**

(1) Each road authority may do the following on its own highways:

- (a) Determine where overtaking or passing or driving to the left of the center of the roadway would be especially hazardous; and
- (b) Establish zones on the roadway where overtaking or passing or driving to the left of the center of the roadway are prohibited because such would be especially hazardous.

(2) To establish a zone under this section, a road authority must do all of the following:

(a) Determine that a need for a zone exists in accordance with standards and procedures adopted by the Department of Transportation.

(b) Mark the zone by appropriate signs or by a yellow unbroken line on the pavement of the right-hand side of and adjacent to the center line or a lane line of the roadway to indicate the beginning and end of the zone.

(3) Penalties are provided under ORS 811.420 for passing in a no passing zone designated under this section. [1983 c.338 §156]

**2023 Oregon Revised Statutes****Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation****Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials****Section 810.130 - One-way highways; safety zones; turns.**

The Oregon Transportation Commission shall act as road authority under this section in lieu of the Department of Transportation. Each road authority may do any of the following on its own highways, subject to any limitations described:

(1) Designate a highway or section or specific lane on a highway where vehicle traffic must proceed in one direction at all times or at times indicated by traffic control devices. A designation under this subsection shall become effective when appropriate signs are posted. The authority granted by this subsection is subject to the following limitations:

(a) A local authority shall not designate any highway within its boundaries as a one-way highway if the highway is under the jurisdiction of the commission unless the local authority first obtains the written consent of the commission.

(b) A city shall not designate any highway within its boundaries as a one-way highway if the highway is under the jurisdiction of a county unless the city first obtains the written consent of the county.

(2) Designate places on highways as safety zones and regulate and control traffic with respect to the safety zones. A designation under this subsection shall become effective when appropriate signs are posted.

(3) Where traffic conditions warrant, prohibit right or left turns at intersections or prohibit U-turns by all vehicles or by certain types of vehicles.

(4) Require and direct that a different course than that specified under ORS 811.340, 811.345 and 811.355 be traveled by vehicles at or proceeding through intersections. A requirement under this subsection is effective when appropriate traffic control devices are placed within or adjacent to the intersections.

(5) Designate locations on highways where vehicles operated by districts described under ORS chapter 267 for the purpose of providing public transportation or substantially similar vehicles used for the same purpose may proceed in directions prohibited to other traffic. Locations may be designated under this subsection only if an engineering study indicates that the movement may be made safely in the designated area. Designations under this subsection shall be effective when indicated by appropriate official traffic control devices. [1983 c.338 §157; 1985 c.16 §49]

**2023 Oregon Revised Statutes****Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation****Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials****Section 810.140 - Designation of exclusive use lanes.**

(1) Any road authority may designate lanes on its own highways that are to be used exclusively by buses or high occupancy-use passenger vehicles for the purpose of conserving energy and facilitating public transportation.

(2) Any restriction or limitation imposed under this section must be imposed by proper order. The restriction or limitation is effective when appropriate signs giving notice of the restriction or limitation are erected. A sign giving notice of a restriction or limitation shall be maintained in a conspicuous manner and shall be placed at each end of the highway or section of highway affected by the restriction or limitation and at such other places as necessary to inform the public.

(3) Penalties are provided under ORS 811.265 for failure to obey signs giving notice of any limitations or restrictions imposed under this section. [1983 c.338 §158; 1985 c.16 §50]

**2023 Oregon Revised Statutes****Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation****Chapter 810 - Road Authorities;**

**Courts; Police; Other Enforcement Officials****Section 810.150 - Drain construction; compliance with bicycle safety requirements; guidelines.**

(1) Street drains, sewer drains, storm drains and other similar openings in a roadbed over which traffic must pass that are in any portion of a public way, highway, road, street, footpath or bicycle trail that is available for use by bicycle traffic shall be designed and installed, including any modification of existing drains, with grates or covers so that bicycle traffic may pass over the drains safely and without obstruction or interference.

(2) The Department of Transportation shall adopt construction guidelines for the design of public ways in accordance with this section. Limitations on the applicability of the guidelines are established under ORS 801.030. [1983 c.338 §159]

**2023 Oregon Revised Statutes****Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation****Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials****Section 810.160 - Controlling parking on highways; limitations.**

Except as otherwise provided in this section, each road authority has exclusive authority to regulate, control or prohibit the stopping, standing and parking of vehicles upon its own highways. The Oregon Transportation Commission shall act as road authority under this section in lieu of the Department of Transportation. The authority granted in this section is subject to all of the following:

(1) The commission has exclusive authority to regulate, control or prohibit the stopping, standing and parking on all state highways:

(a) Within the corporate limits of a city except where the highway is routed over a city street under ORS 373.010.

(b) Within the corporate limits of any city if access to or from the section of highway and real property abutting thereon was restricted, controlled or prohibited by the commission before the section of highway was included within the corporate limits of the city.

(2) Road authorities other than the commission may permit angle parking on any highway where parking is subject to their jurisdiction under this section. For cities, this subsection includes authority to permit angle parking on any city street selected and designated as the route of a state highway under ORS 373.010 and, subject to the authority of the commission under this section, any state highway within the corporate limits of the city. This subsection does not allow any road authority to permit angle parking on a state highway if the commission determines that the highway is not of sufficient width to permit angle parking without interfering with the free movement of traffic.

(3) All regulations, restrictions or prohibitions imposed by the commission under this section shall be by resolution or order entered in the commission's official records.

(4) Regulations, restrictions or prohibitions imposed by the commission under this section shall become effective and have the force of law when signs or markings giving notice thereof have been placed. To comply with this subsection, the commission shall place and maintain appropriate signs or markings at such places as may be necessary to inform the public and to give notice of all regulations, restrictions or prohibitions the commission establishes under this section.

(5) Penalties are provided under ORS 811.575 for violation of restrictions placed on state highways under this section. [1983 c.338 §160]

**2023 Oregon Revised Statutes****Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation****Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials****Section 810.170 - Winter recreation parking locations; plowing; priorities; enforcement.**

(1) The Oregon Transportation Commission shall designate winter recreation parking locations throughout this state where parking is prohibited under ORS 811.590 except for vehicles exempted under that section and vehicles with winter recreation parking permits issued under ORS 811.595. The commission may identify access roads to winter recreation facilities, roadside plow-outs and other areas as winter recreation parking locations under this section. The commission shall designate winter recreation parking locations under this section after consultation with the Winter Recreation Advisory Committee established under ORS 802.350 and with land management agencies managing adjacent land.

(2) The commission shall establish priorities for plowing the winter recreation parking locations established under this section. The commission shall establish priorities under this section after consultation with the Winter Recreation Advisory Committee established under ORS 802.350. The Department of Transportation shall provide for the removal of snow accumulating on winter recreation parking locations established under this section according to the priorities established by the commission under this section. Snow removal provided for under this subsection may be performed by any of the following:

(a) By the department itself.

(b) By persons with whom the department contracts. If the department contracts with persons for the removal of snow under this paragraph payments under the contracts shall be made from funds designated for that purpose under ORS 802.110.

(3) The commission may enter into agreements with county or municipal law enforcement agencies or individual police officers for the enforcement of ORS 811.590. The commission shall only enter into agreements under this subsection after consultation with the Winter Recreation Advisory Committee established under ORS 802.350. [1983 c.338 §161]

**2023 Oregon Revised Statutes****Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation****Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials****Section 810.180 - Designation of maximum speeds; rules.**

(1) As used in this section:

- (a) "Designated speed" means the speed that is designated by a road authority as the maximum permissible speed for a highway and that may be different from the statutory speed for the highway.
- (b) "Statutory speed" means the speed that is established as a speed limit under ORS 811.111, or is established as the speed the exceeding of which is prima facie evidence of violation of the basic speed rule under ORS 811.105.
- (2)(a) A designated speed established under this section is a speed limit if the highway for which the speed is designated is subject to a statutory speed limit under ORS 811.111 that is in addition to the speed limit established under ORS 811.111 (1)(b).
- (b) A speed greater than a designated speed established under this section is prima facie evidence of violation of the basic speed rule if the designated speed is established for a highway on which there is no speed limit other than the limit established under ORS 811.111 (1)(b).
- (3) The Department of Transportation may establish by rule designated speeds on any specified section of interstate highway if the department determines that speed limits established under ORS 811.111 (1) are greater or less than is reasonable or safe under the conditions that exist with respect to that section of the interstate highway. Designated speeds established under this subsection are subject to all of the following:
- (a) The department may not establish a designated speed under this subsection of more than:
- (A) Sixty-five miles per hour for vehicles described in ORS 811.111 (1)(b); and
- (B) Seventy miles per hour for all other vehicles.
- (b) If the department establishes designated speeds under this subsection that are greater than 65 miles per hour, the designated speed for vehicles described in ORS 811.111 (1)(b) must be at least five miles per hour lower than the designated speed for all other vehicles on the specified section of interstate highway.
- (c) The department may establish a designated speed under this subsection only if an engineering and traffic investigation indicates that the statutory speed for the interstate highway is greater or less than is reasonable or safe under conditions the department finds to exist.
- (d) A designated speed established under this subsection is effective when appropriate signs giving notice of the designated speed are posted on the section of interstate highway where the designated speed is imposed.
- (4)(a) The department may establish, pursuant to a process established by rule, a designated speed on a state highway outside of a city. The authority granted under this subsection includes, but is not limited to, the authority to establish different designated speeds for different kinds or classes of vehicles as the department determines reasonable and safe. A designated speed established under this subsection for any kind or class of vehicles may not exceed the speed limit for the highway for that kind or class of vehicles as established in ORS 811.111 or, if there is no speed limit for the highway other than the limit established in ORS 811.111 (1)(b), may not exceed 55 miles per hour.
- (b) The department may establish a designated speed under this subsection only if an engineering and traffic investigation indicates that the statutory speed for the highway is greater or less than is reasonable or safe under conditions the department finds to exist.
- (c) A designated speed established under this subsection is effective when appropriate signs giving notice of the designated speed are posted on the portion of highway where the designated speed is imposed.
- (5) After a written request is received from a road authority for a highway other than a highway described in subsection (3) or (4) of this section, the department, pursuant to a process established by rule, may establish a designated speed for the highway. The authority granted under this subsection includes, but is not limited to, the authority to establish different designated speeds for different kinds or classes of vehicles as the department determines reasonable and safe. The authority granted under this subsection is subject to all of the following:
- (a) The written request from the road authority must state a recommended designated speed.
- (b) The department may establish a designated speed under this subsection only if an engineering and traffic investigation indicates that the statutory speed for the highway is greater or less than is reasonable or safe under conditions the department finds to exist.
- (c) The department may not make a final decision to establish a designated speed under this subsection without providing the affected road authorities with notice and opportunity for a hearing.
- (d) A road authority may file a written objection to a designated speed that is proposed by the department under this subsection and that affects the road authority.
- (e) A designated speed established under this subsection is effective when appropriate signs giving notice of the designated speed are posted on the portion of the highway where the designated speed is imposed. The expense of erecting any sign under this subsection shall be borne by the road authority having jurisdiction over the portion of the highway where the designated speed is imposed.
- (f) The department, pursuant to a process established by rule, may delegate its authority under this subsection with respect to highways that are low volume or unpaved to a city or county with jurisdiction over the highway. The department shall delegate authority under this paragraph only if it determines that the city or county will exercise the authority according to criteria adopted by the department.
- (g) The department, pursuant to a process established by rule, may delegate its authority under this subsection to Clackamas County, Marion County, Multnomah County or a city with jurisdiction over the highway. The department shall delegate authority under this paragraph only if it determines that Clackamas County, Marion County, Multnomah County or the city will exercise the authority according to criteria adopted by the department. When Clackamas County, Marion County, Multnomah County or a city establishes a designated speed under this paragraph, the county or city shall provide written notice to the department. The designated speed

established under this paragraph is effective 30 days after the department receives the notice.

(6) The department may override the speed limit established for ocean shores under ORS 811.111 (1)(c) and establish a designated speed of less than 25 miles per hour on any specified section of ocean shore if the department determines that the speed limit established under ORS 811.111 (1)(c) is greater than is reasonable or safe under the conditions that exist with respect to that part of the ocean shore. The authority granted under this subsection is subject to all of the following:

(a) The department may make the determination required under this subsection only on the basis of an investigation.

(b) A designated speed established under this subsection is effective when posted upon appropriate fixed or variable signs on the portion of ocean shore where the designated speed is imposed.

(7) A road authority may adopt a designated speed to regulate the speed of vehicles in parks under the jurisdiction of the road authority. A road authority regulating the speed of vehicles under this subsection shall post and maintain signs at all park entrances to give notice of any designated speed.

(8) A road authority may establish by ordinance or order a temporary designated speed for highways in its jurisdiction that is lower than the statutory speed. A temporary designated speed may be established under this subsection if, in the judgment of the road authority, the temporary designated speed is necessary to protect any portion of the highway from being unduly damaged, or to protect the safety of the public and workers when temporary conditions such as construction or maintenance activities constitute a danger. The following apply to the authority granted under this subsection:

(a) Statutory speeds may be overridden by a temporary designated speed only:

(A) For a specific period of time for all vehicles; or

(B) For a specified period of time for a specific kind or class of vehicle that is causing identified damage to highways.

(b) This subsection may not be used to establish a permanent designated speed.

(c) The authority granted by this subsection may be exercised only if the ordinance or order that imposes the temporary designated speed:

(A) Specifies the hazard, damage or other condition requiring the temporary designated speed; and

(B) Is effective only for a specified time that corresponds to the hazard, damage or other condition specified.

(d) A temporary designated speed imposed under this subsection must be imposed by a proper written ordinance or order. A sign giving notice of the temporary designated speed must be posted at each end of the portion of highway where the temporary designated speed is imposed and at such other places on the highway as may be necessary to inform the public. The temporary designated speed shall be effective when signs giving notice of the temporary designated speed are posted.

(9) A road authority may establish an emergency speed on any highway under the jurisdiction of the road authority that is different from the existing speed on the highway. The authority granted under this subsection is subject to all of the following:

(a) A speed established under this subsection is effective when appropriate signs giving notice thereof are posted upon the highway or portion of highway where the emergency speed is imposed. All signs posted under this subsection must comply with ORS 810.200.

(b) The expense of posting any sign under this subsection shall be borne by the road authority having jurisdiction over the highway or portion of highway where the emergency speed is imposed.

(c) A speed established under this subsection may be effective for not more than 120 days.

(10) A road authority may establish by ordinance a designated speed for a highway under the jurisdiction of the road authority that is five miles per hour lower than the statutory speed. The following apply to the authority granted under this subsection:

(a) The highway is located in a residence district.

(b) The statutory speed may be overridden by a designated speed only if:

(A) The road authority determines that the highway has an average volume of fewer than 2,000 motor vehicles per day, more than 85 percent of which are traveling less than 30 miles per hour; and

(B) There is a traffic control device on the highway that indicates the presence of pedestrians or bicyclists.

(c) The road authority shall post a sign giving notice of the designated speed at each end of the portion of highway where the designated speed is imposed and at such other places on the highway as may be necessary to inform the public. The designated speed shall be effective when signs giving notice of the designated speed are posted.

(11) A city may establish by ordinance a designated speed for a highway under the jurisdiction of the city that is up to 10 miles per hour lower than the statutory speed, so long as the designated speed is not less than 20 miles per hour. The following apply to the authority granted under this subsection:

(a) The highway is located in a residence district.

(b) The highway is not an arterial highway.

(c) The designated speed is effective when appropriate signs giving notice of the designated speed are posted on the highway where the designated speed is imposed.

(12) Notwithstanding ORS 801.430, as used in subsection (11) of this section, "residence district" includes territory not comprising a business district that is contiguous to a highway and has access to dwellings provided by alleys. [1983 c.338 §162; 1985 c.16 §51; 1987 c.887 §8; 1989 c.592 §3; 1991 c.728 §3; 1993 c.742 §118; 1995 c.79 §371; 1997 c.249 §227; 1999 c.59 §240; 2003 c.819 §2; 2005 c.77 §1; 2005 c.507 §1; 2011 c.384 §1; 2017 c.291 §1; 2019 c.515 §1; 2021 c.630 §81; 2023 c.33 §2; 2023 c.337 §1]

**Courts; Police; Other Enforcement OfficialsSection 810.200 - Uniform standards for traffic control devices; uniform system of marking and signing highways.**

(1) The Oregon Transportation Commission may exercise the following authority with respect to the marking, signing and use of traffic control devices in this state:

- (a) The commission shall adopt a manual and specifications of uniform standards for traffic control devices consistent with the provisions of the vehicle code for use upon highways in this state.
- (b) The commission is authorized to provide a uniform system of marking and signing highways within the boundaries of this state.
- (c) The commission is authorized to determine the character or type of traffic control devices to be used in this state.

(2) The authority granted under this section is subject to all of the following:

- (a) The system of marking and signing established under this section shall correlate with and, as far as possible, conform to the system adopted in other states. The commission may include in the system signs and signals that show internationally recognized and approved symbols.
- (b) So far as practicable, all traffic control devices in this state shall be uniform as to type and location.
- (c) All traffic control devices placed or operated in this state shall conform to specifications approved by the commission.
- (d) Stop signs and yield signs shall be illuminated at night or so placed as to be illuminated by the headlights of approaching vehicles or by street lights. [1983 c.338 §164; 1985 c.16 §53; 1993 c.522 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 810 - Road Authorities; Courts; Police; Other Enforcement OfficialsSection 810.210 - Placement and control of traffic control devices.**

(1) The Oregon Transportation Commission is vested with exclusive jurisdiction over the installation at railroad-highway grade crossings of signs, signals, gates, protective devices or any other device to warn or protect the public at a railroad-highway crossing. The commission is granted exclusive authority under this subsection to determine the character or type of device to be used.

(2) Each road authority shall place, maintain and control traffic control devices used upon its own highway as the road authority considers necessary for the safe and expeditious control of traffic, necessary to carry out the provisions of the vehicle code or local traffic ordinances or necessary to regulate, warn or guide traffic. The commission shall act as road authority under this section in lieu of the Department of Transportation. The authority granted under this subsection is subject to all of the following:

- (a) All traffic control devices erected and used under this subsection shall conform to the state manual and specifications established under ORS 810.200.
- (b) The commission has general supervision with respect to the placing, construction and operation of traffic control devices under this subsection for the purpose of obtaining, so far as practicable, uniformity as to type and location of traffic control devices throughout the state.
- (c) Only the commission has authority over a state highway whether or not the state highway is within the jurisdiction of another road authority. No traffic control device shall be erected, maintained or operated upon any state highway under this subsection by any authority other than the commission, except with the written approval of the commission.
- (d) When the governing body of a city makes a determination that placement or construction of a traffic control device on a highway within the city selected as a state highway under ORS 373.010 is necessary to carry out the provisions of the vehicle code or to regulate, warn or guide traffic, the city governing body shall submit written findings and recommendations to the Director of Transportation in support of placing or constructing the traffic control device on the state highway. If the director approves the findings and recommendations, the director shall notify the city governing body in writing and proceed to place or construct the traffic control device in accordance with the findings and recommendations. If the director does not notify the governing body of disapproval within 90 days after receipt of the findings and recommendations, the findings and recommendations shall be considered approved and the director shall proceed to place or construct the traffic control device in accordance with the findings and recommendations.
- (e) The commission is authorized to classify, designate and mark both interstate and intrastate highways within the boundaries of this state. [1983 c.338 §165; 1985 c.16 §54; 1993 c.522 §3; 1993 c.741 §84; 1995 c.733 §88]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 810 - Road Authorities; Courts; Police; Other Enforcement OfficialsSection 810.212 - Requirements for certain speed limit signs.**

Any sign that is posted on a highway in this state that expresses a speed limit in kilometers per hour shall also show the speed limit in miles per hour. The limit in miles per hour shall be printed above the limit in kilometers per hour and shall be of equal size lettering. [1993 c.284 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 810 - Road Authorities; Courts; Police; Other Enforcement OfficialsSection 810.214 - Signs prohibiting unmuffled engine brakes.**

- (1) The Oregon Transportation Commission shall adopt uniform standards for posting signs prohibiting the use of unmuffled engine brakes as described in ORS 811.492.
- (2) The commission is authorized to provide a uniform system of posting signs within the boundaries of the state. Any sign posted shall inform the driver that the use of unmuffled engine braking is prohibited and shall give the dollar amount of the maximum fine

provided for violation of ORS 811.492.

(3) All signs placed shall conform to specifications approved by the commission. The commission may use signs that show internationally recognized and approved symbols. [1993 c.314 §11; 1999 c.1051 §228]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.220 - Exemption from traffic control device specifications.**

Official traffic control devices placed or constructed by road authorities before June 27, 1975, are not required to conform to specifications and location criteria approved by the Oregon Transportation Commission. Any new or amended specifications approved by the commission under ORS 810.200 after June 27, 1975, for the placement or construction of traffic control devices do not apply to such devices in place on June 27, 1975. However within a reasonable period after June 27, 1975, traffic control devices shall be altered or relocated to comply with the manual and specifications under ORS 810.200. [1983 c.338 §166]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.230 - Unlawful sign display; exceptions; penalty.**

(1) A person commits the offense of unlawful sign display if the person does any of the following:

(a) Without authority under ORS 810.200 or 810.210, places, maintains or displays upon or in view of any highway any sign, signal, marking or device that:

(A) Purports to be or is an imitation or resembles an official traffic control device or railroad sign or signal;

(B) Attempts to direct the movement of animal, pedestrian, vehicle or any other traffic; or

(C) Hides from view or interferes with the effectiveness of a traffic control device or railroad sign or signal.

(b) Places or maintains upon any highway any traffic sign or signal bearing thereon any commercial advertising device.

(2) This section does not prohibit the placing and maintaining of signs, markers or signals bearing thereon the name of an organization authorized to place the same by the appropriate public authority.

(3) Every prohibited sign, signal, marking or device is hereby declared to be a public nuisance and the authority with jurisdiction over the highway, without notice, may remove it or cause it to be moved.

(4) The offense described in this section, unlawful sign display, is a Class B traffic violation. [1983 c.338 §708; 1985 c.16 §342; 1995 c.383 §41]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.240 - Unlawful interference with traffic control device or railroad sign; penalty.**

(1) A person commits the offense of unlawful interference with a traffic control device or railroad sign if the person, without lawful authority and with criminal negligence, attempts to or does alter, deface, injure, knock down or remove any traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon or any other part thereof.

(2) The offense described in this section, unlawful interference with traffic control device or railroad sign, is a Class A traffic violation. [1983 c.338 §709; 1995 c.383 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.243 - Operation of flashing light indicating children in school zone.**

(1) Except as provided in subsection (2) of this section, a flashing light used as a traffic control device to indicate that children may be arriving at or leaving school and operated to provide notice under ORS 811.111 or 811.235 may be operated only at times when children are scheduled to arrive at or leave the school.

(2) A flashing light may be used to provide notice under ORS 811.111 or 811.235 of the presence of a school zone and may be operated between 7 a.m. and 5 p.m. on a day when school is in session if:

(a) The school has a parking lot located across the street from the school; and

(b) That street has a speed limit, or designated speed posted by authority granted under ORS 810.180, of 45 miles per hour or greater. [Formerly 811.106; 2015 c.139 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.245 - Signs giving notice of consequences of traffic offenses committed in school zones.**

A road authority may post signs designed to give motorists notice of the provisions of ORS 811.235. The road authority may also develop procedures that enable individuals or entities to petition and pay for the erection of signs described in this section. [1997 c.682 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.247 - Signs giving notice of multilane roundabouts.**

A road authority shall place signs prior to each multilane roundabout located on a highway under its jurisdiction that warns drivers

of the hazard of driving next to a commercial motor vehicle. [2011 c.85 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.250 - Use of traffic control device placement or legibility as evidence.**

- (1) A person shall not be convicted of violating a provision of the vehicle code for which an official traffic control device is required if the device is not in proper position and legible to a reasonably observant person at the time and place of the alleged violation.
- (2) Whenever a particular section of the vehicle code does not state that traffic control devices are required, the section is effective even though no devices are erected or in place.
- (3) When a traffic control device is placed in position approximately conforming to the requirements of the traffic regulations or other laws of this state, the device is presumed to have been placed by an official act or at the direction of lawful authority unless the contrary is established by competent evidence.
- (4) A traffic control device placed under the vehicle code or other laws or regulations of this state and purporting to conform to the lawful requirements pertaining to that device is presumed to comply with the requirements of the vehicle code unless the contrary is established by competent evidence. [1983 c.338 §167]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.260 - Standards for installation, operation and use of traffic control signal operating devices; rules.**

- (1) The Department of Transportation shall adopt standards for the installation, operation and use of traffic control signal operating devices authorized under ORS 815.445. In adopting standards, the department shall consider the impact of traffic control signal operating devices on:
  - (a) Safety.
  - (b) The efficiency of emergency response operations.
  - (c) The requirements for traffic signal maintenance.
  - (d) The efficiency of public transit operations.
  - (e) Traffic flow.
- (2) The Department of Transportation shall adopt rules establishing priorities and preemptive use among users of traffic control signal operating devices. The rules shall take into account:
  - (a) Local standards for response times to emergencies by emergency service providers; and
  - (b) The weight, operating speed and braking distance required for vehicles operated by all authorized users. [1997 c.507 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.300 - Security for appearance on traffic crime.**

- (1) A court, including a magistrate or clerk or deputy clerk authorized by the magistrate, shall release a person brought before it if the person gives an adequate undertaking to appear in answer to the offense at the time and place fixed by the court. A court, as it deems appropriate, is authorized to accept and may require any of the following as security for the appearance of an arrested person before the court on a traffic crime:
  - (a) An automobile membership card as described under ORS 810.330 and subject to limitations under that section.
  - (b) A guaranteed arrest bond certificate as described under ORS 810.320 and subject to limitations under that section.
  - (c) A license as described under ORS 810.310 and subject to limitations under that section.
  - (d) Such sum as may be required by the court.
- (2) A magistrate or clerk or deputy clerk authorized by the magistrate has authority to accept security for the appearance of a person arrested for a traffic crime and brought before the magistrate or clerk or deputy clerk, as provided in this section. The following apply to security that is accepted by a court under this section or that is forwarded to a court by a police office under ORS 810.448 or 810.450:
  - (a) The security shall be returned to the person when the person delivers any security amount required by the court. The court may require that any moneys deposited as security be applied against the security amount set by the court.
  - (b) If the magistrate does not have jurisdiction of the crime, the magistrate shall promptly forward the security accepted and all documents in connection with the case to the most conveniently located court having jurisdiction of the crime and in which the venue may properly be laid. [1983 c.338 §376; 1999 c.1051 §285]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.310 - Use of license as security deposit.**

The current valid license of a person that is issued by this state is acceptable, when authorized under ORS 810.300, as a security deposit for a person on a traffic crime. The use of a license as security under this section is subject to all of the following:

- (1) Upon acceptance of the license as security, the magistrate or clerk or deputy clerk authorized by the magistrate shall issue the person a court bail driver permit under ORS 807.330.



(2) If the person appears at the time fixed, the person's license shall be returned to the person unless taken up by the court under ORS 809.275.

(3) If the person fails to appear at the time fixed, the court shall forward the license to the Department of Transportation along with a notification that the person failed to appear and a notification to suspend the driving privileges of the person. The department shall take action on the license and notice as provided under ORS 809.280. [1983 c.338 §377; 1985 c.16 §196; 1993 c.627 §4; 1999 c.1051 §286]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.320 - Use of guaranteed arrest bond certificate as security deposit.**

The unexpired guaranteed arrest bond certificate, as defined in ORS 742.372, of a member of an automobile club or automobile association is acceptable, when authorized under ORS 810.300, 810.448 or 810.450, as a security deposit for that member for any traffic crime, other than a felony, if the security deposit required does not exceed \$1,000. The use of an unexpired guaranteed arrest bond certificate as a security deposit under this section is subject to all of the following:

(1) To qualify for use as a security deposit, a guaranteed arrest bond certificate must have a surety company that has become a surety on the certificate as provided under ORS 742.372 to 742.376.

(2) If the individual does not make the appearance, the surety for the certificate is subject on the undertaking of the surety under ORS 742.374 to any forfeiture or enforcement provision of any statute, charter or ordinance that otherwise applies to security deposits on their undertaking. [1983 c.338 §378; 1985 c.16 §197; 1989 c.634 §4; 1999 c.1051 §287]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.330 - Use of automobile membership card as security deposit.**

The unexpired membership card of any member of an automobile association is acceptable as a security deposit for that member as provided under this section. The use of an unexpired membership card as security deposit is subject to the following:

(1) The membership card may only be used as a security deposit:

(a) For the violation of any motor vehicle law of this state or traffic crime of any city in this state if the security amount in any individual case does not exceed \$1,000; and

(b) When authorized under ORS 810.300, 810.448 or 810.450.

(2) To qualify for use as a security deposit, the membership card must be the card of an automobile association incorporated under the laws of this state that has deposited with and maintains with the State Treasurer the sum of \$2,000 in cash or in bonds approved by the State Treasurer.

(3) If a person deposits that person's membership card as a security deposit and the person fails or neglects to appear in court at the time and place required, the magistrate or other officer before whom the case is brought, upon declaring a forfeiture of the security amount, shall at once notify the association of the forfeiture, and the amount thereof, by mail.

(4) The association, within five days after the receipt of notice, under subsection (2) of this section, shall remit the amount of the security amount so forfeited to the magistrate or other officer. If the association fails or refuses to remit the security amount within that period, the magistrate or other officer having the matter in charge or the district attorney shall notify the State Treasurer, who shall:

(a) Pay the security amount to the officer or magistrate lawfully entitled to receive it;

(b) Deduct that amount from the amount of deposit with the State Treasurer by the association under this section; and

(c) Immediately notify the association and require it to deposit a like sum with the State Treasurer.

(5) If the association fails or neglects for a period of 10 days to comply with the notice of the treasurer under subsection (3) of this section, the membership cards of such association shall not thereafter be accepted as a security deposit while the default continues.

(6) Upon the payment of the security amount under this section by the association, the membership card so deposited shall be immediately returned to the association by the officer who accepted it as a security deposit. [1983 c.338 §379; 1989 c.634 §5; 1999 c.1051 §288]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.340 - Proceedings; jurisdiction of financial responsibility requirements and suspension.**

(1) All proceedings concerning traffic offenses shall conform to the provisions of the vehicle code and those provisions of ORS chapter 153 relating to traffic offenses.

(2) All circuit courts, municipal courts and justices of the peace have concurrent jurisdiction, within their respective city or county, of all violations of the provisions of the vehicle code relating to financial responsibility requirements or the suspension of driving privileges or registration. [1983 c.338 §380; 1985 c.16 §198; 1985 c.173 §5; 1985 c.725 §15; 1999 c.788 §60; 1999 c.1051 §141]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.350 - Procedures for overloading and certain other violations.**

(1) For offenses described in this section, a court or judicial officer:

- (a) Shall make the owner or lessee of the vehicle a codefendant if appearance has not been made by the driver within 15 days of the date the driver was cited to appear in court.
- (b) May dismiss the charges against the driver if the court finds:
  - (A) That the owner or lessee of the vehicle caused or permitted the driver to operate the vehicle or combination of vehicles in violation of the offenses described in this section; and
  - (B) That the owner or lessee is guilty of violating any such provision.
- (2) This section applies to the following offenses:
  - (a) Operation without payment of appropriate registration fees under ORS 803.315.
  - (b) Violation of maximum weight limits under ORS 818.020.
  - (c) Violation of administratively imposed weight or size limits under ORS 818.060.
  - (d) Violation of maximum size limits under ORS 818.090.
  - (e) Exceeding maximum number of vehicles under ORS 818.110.
  - (f) Violation of posted limits on use of road under ORS 818.130.
  - (g) Violation of towing safety requirements under ORS 818.160.
  - (h) Operating a sifting or leaking load under ORS 818.300.
  - (i) Dragging objects on a highway under ORS 818.320.
  - (j) Unlawful use of devices without wheels under ORS 815.155.
  - (k) Unlawful use of metal objects on tires under ORS 815.160.
  - (L) Operation without pneumatic tires under ORS 815.170.
  - (m) Operation in violation of a vehicle variance permit under ORS 818.340.
  - (n) Failure to carry and display a permit under ORS 818.350.
  - (o) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400. [1983 c.338 §381]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.365 - Failure to appear on certain parking offenses.**

If a vehicle owner cited under ORS 810.425 to appear in a circuit or justice court upon an alleged parking offense fails to appear on or before the date and time stated on the citation, the court and the Department of Transportation may take such actions as are otherwise authorized by law under the Oregon Vehicle Code in the case of a failure to appear, except that in no case may a warrant of arrest be issued nor a criminal prosecution for failure to appear be commenced unless the citing or prosecuting authority, more than 10 days prior thereto, has sent a letter to the registered owner at the address shown upon the records of the department advising the owner of the charge pending and informing the owner that the owner may be subject to arrest if the owner does not appear in the court within 10 days to answer the charge. The letter must be sent by certified mail, restricted delivery, return receipt requested. A warrant of arrest may not be issued nor a criminal prosecution for failure to appear be commenced if such a letter has not been sent or if the owner appears in court to answer the charge within 10 days after receiving the letter. [1987 c.687 §3; 1995 c.658 §115; 1999 c.59 §241; 1999 c.1051 §289; 2003 c.14 §489]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.370 - Court to forward traffic conviction records to department; exceptions.**

- (1) Within the time required by this section of the conviction, every court with jurisdiction over the offenses described in this section shall forward to the Department of Transportation a record of the conviction of any person in such court for a violation of any of the following that regulate the operation of motor vehicles on highways or streets:
  - (a) Offenses committed under the vehicle code or any other statute of this state.
  - (b) Offenses committed under any municipal ordinance.
- (2) To comply with this section, a court must forward the record of conviction containing the date of any offense, any arrest and conviction. The record must be forwarded to the department within 24 hours of the time the defendant was sentenced by the court.
- (3) A court is not required by this section to forward to the department a record of conviction for violation of any offense under any of the following sections: ORS 810.090, 811.555, 811.570, 811.580, 814.020 to 814.080, 814.120, 814.230, 814.410 to 814.480, 815.155, 815.160, 815.170, 818.020, 818.040, 818.060, 818.090, 818.110, 818.130, 818.160, 818.300, 818.320, 818.340, 818.350, 818.400, 820.400 or 822.220. [1983 c.338 §384; 1985 c.16 §199; 1987 c.138 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.375 - Duties of judges or court clerks.**

- (1) The judge or clerk of every court of this state having jurisdiction of any traffic offense, including all local and municipal judicial officers in this state:
  - (a) Shall keep a full record of every case in which a person is charged with any such offense.
  - (b) Shall send the Department of Transportation an abstract of conviction for any person who is convicted.
  - (c) Shall send the department a copy of any final judgment of conviction of any person that results in mandatory suspension or revocation of driving privileges or commercial driving privileges under ORS 809.409, 809.411, 809.510 to 809.545 or 813.400.

(d) Shall send the department a copy of any final judgment finding a person charged with a traffic offense guilty except for insanity and committed to the jurisdiction of the Psychiatric Security Review Board under ORS 161.315 to 161.351.

(2) The department shall keep such records in its office, and they shall be open to the inspection of any person during reasonable business hours.

(3) To comply with this section, a judge or clerk must comply with the following:

(a) Any information required by this section to be sent to the department must be sent within the time provided under ORS 810.370 and must include information required by ORS 810.370.

(b) Information may not be sent to the department under this section concerning convictions excluded from ORS 810.370. [Formerly 153.625; 2001 c.492 §8; 2003 c.402 §35; 2005 c.649 §18; 2011 c.708 §30; 2013 c.237 §24; 2017 c.442 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.400 - Uniform or badge required.**

Any police officer attempting to enforce the traffic laws of this state shall be in uniform or shall conspicuously display an official identification card showing the officer's lawful authority. [1983 c.338 §399]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.410 - Arrest and citation.**

(1) A police officer may arrest or issue a citation to a person for a traffic crime at any place within or outside the jurisdictional authority of the governmental unit by which the police officer is authorized to act as provided by ORS 133.235 and 133.310.

(2) A police officer may issue a citation to a person for a traffic violation at any place within or outside the jurisdictional authority of the governmental unit by which the police officer is authorized to act:

(a) When the traffic violation is committed in the police officer's presence; or

(b) When the police officer has probable cause to believe an offense has occurred based on a description of the vehicle or other information received from a police officer who observed the traffic violation.

(3) A police officer:

(a) May not arrest a person for a traffic violation.

(b) May stop and detain a person for a traffic violation for the purposes of investigation reasonably related to the traffic violation, identification and issuance of citation.

(c) May make an inquiry into circumstances arising during the course of a detention and investigation under paragraph (b) of this subsection that give rise to a reasonable suspicion of criminal activity.

(d) May make an inquiry to ensure the safety of the officer, the person stopped or other persons present, including an inquiry regarding the presence of weapons.

(e) May request consent to search in relation to the circumstances referred to in paragraph (c) of this subsection or to search for items of evidence otherwise subject to search or seizure under ORS 133.535, only if the officer first informs the person that the person has the right to refuse the request. If consent is obtained, the officer shall ensure that there is a written, video or audio record that the person gave informed and voluntary consent to search. This subsection does not apply to implied consent searches described in ORS 813.100, 813.131 or 813.135.

(f) May use the degree of force reasonably necessary to make the stop and ensure the safety of the police officer, the person stopped or other persons present.

(g) May make an arrest of a person as authorized by ORS 133.310 (2) if the person is stopped and detained pursuant to the authority of this section.

(4) When a police officer at the scene of a traffic accident has reasonable grounds, based upon the police officer's personal investigation, to believe that a person involved in the accident has committed a traffic offense in connection with the accident, the police officer may issue to the person a citation for that offense. The authority under this subsection is in addition to any other authority to issue a citation for a traffic offense. [1983 c.338 §400; 1985 c.16 §212; 1991 c.720 §1; 1995 c.308 §1; 1997 c.682 §1; 1997 c.866 §§4,5; 1999 c.1051 §89; 2011 c.506 §48; 2011 c.644 §33; 2022 c.78 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.412 - Limitation on issuing citations for traffic offenses related to vehicle lighting.**

(1) Notwithstanding ORS 810.410, a police officer may not initiate a traffic violation stop for unlawful use or failure to use lights under ORS 811.520 or operation without required lighting equipment under ORS 816.330 if the offense is based on the following circumstances:

(a) A headlight that is not in compliance with ORS 816.050 or 816.320, and the vehicle has a headlight that is in compliance;

(b) A taillight that is not in compliance with ORS 816.080 or 816.320, and the vehicle has a taillight that is in compliance;

(c) A brake light that is not in compliance with ORS 816.100 or 816.320, and the vehicle has a brake light that is in compliance;

(d) A taillight that does not emit red light as required by ORS 816.080 (2); or

(e) A registration plate light that is not in compliance with ORS 816.090 or 816.320.

(2) A police officer may issue a citation for unlawful use or failure to use lights under ORS 811.520 or operation without required

lighting equipment under ORS 816.330 based on circumstances described in subsection (1) of this section only if the police officer has already stopped and detained the driver operating the motor vehicle for a separate traffic violation or other offense. [2022 c.78 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.415 - Removal of vehicles, cargo or debris from roadway after collision.**

A law enforcement officer who comes to the scene of a collision described in ORS 811.700 may remove or direct the driver of a vehicle involved in the collision to remove from the roadway any vehicle, cargo or debris resulting from the collision. A person acting under the authority granted by this section is not liable for damage to a vehicle, cargo or debris caused by reasonable efforts at removal. [2003 c.410 §2; 2018 c.22 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.420 - Use of speed measuring device; citation; training.**

(1) When the speed of a vehicle has been checked by a speed measuring device, the driver of the vehicle may be stopped, detained and issued a citation by a police officer if the officer is in uniform and has either:

(a) Observed the recording of the speed of the vehicle by the device; or  
(b) Probable cause to detain based upon a description of the vehicle or other information received from the officer who has observed the speed of the vehicle recorded.

(2) A police officer may not issue a citation based on a speed measuring device unless the officer has taken and passed a training course, approved by the law enforcement agency that employs the officer, in the use of the speed measuring device. [1983 c.338 §401; 2001 c.444 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.425 - Procedure in certain parking cases.**

(1) In all prosecutions of the owner of a vehicle for violation of ORS 811.555 (1)(b), 811.570 (1)(b), 811.575 (1)(b) and 811.585 (1)(b), of any parking regulations prescribed under ORS 276.002 or of an applicable ordinance, it shall be sufficient for a police officer to charge the defendant by an unsworn written notice if the notice clearly states:

(a) The date, place and nature of the charge.  
(b) The time and place for defendant's appearance in court.  
(c) The name of the issuing officer.  
(d) The license number of the vehicle.

(2) The notice provided for in subsection (1) of this section shall either be delivered to the defendant or placed in a conspicuous place upon the vehicle involved in the violation. A duplicate original of the notice shall serve as the complaint in the case when it is filed with the court. In all other respects the procedure otherwise provided by law in such cases shall be followed. Notwithstanding ORS 153.042, the issuing officer need not have observed the act of parking, but need only have observed that the vehicle appeared to be parked in violation of ORS 811.555 (1)(b), 811.570 (1)(b), 811.575 (1)(b) and 811.585 (1)(b), of any parking regulations prescribed under ORS 276.002 or of an applicable ordinance.

(3) A circuit court and a justice court have concurrent jurisdiction over parking offenses committed within the county.

(4) This section does not apply to prosecutions under city ordinances but ORS 221.333 shall apply to such prosecutions. [1987 c.687 §2; 1995 c.658 §116; 1999 c.1051 §89a; 2007 c.175 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.430 - Movement of illegally parked vehicles.**

A police officer who finds a vehicle parked or standing upon a highway in violation of ORS 811.555 or 811.570 may move the vehicle, cause it to be moved or require the driver or person in charge of the vehicle to move it. The authority to move vehicles under this section is in addition to any authority under ORS 819.110 and 819.120. [1983 c.338 §402; 1995 c.758 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.434 - Photo red light; operation; evaluation.**

(1) Any city may, at its own cost, operate cameras designed to photograph drivers who:

(a) Violate ORS 811.265 by failing to obey a traffic control device; or  
(b) Violate the speed limit established in ORS 811.111 by 11 miles per hour or greater or violate the designated speed posted under ORS 810.180 by 11 miles per hour or greater.

(2) Cameras operated under this section may be mounted on street lights or put in other suitable places.

(3) A city that chooses to operate a camera shall:

(a) Provide a public information campaign to inform local drivers about the use of cameras before citations are actually issued; and  
(b) Once each biennium, conduct a process and outcome evaluation for the purposes of subsection (4) of this section that includes:

- (A) The effect of the use of cameras on traffic safety;
  - (B) The degree of public acceptance of the use of cameras; and
  - (C) The process of administration of the use of cameras.
- (4) By March 1 of each odd-numbered year, each city that operates a camera under this section shall present to the Legislative Assembly the process and outcome evaluation conducted by the city under subsection (3) of this section. [1999 c.851 §1; 1999 c.1051 §327; 2001 c.474 §1; subsection (5) of 2001 Edition enacted as 2001 c.474 §3; 2003 c.14 §491; 2003 c.339 §1; 2005 c.686 §1; 2007 c.640 §1; 2011 c.545 §65; 2017 c.288 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.435 - Use of photographs.**

- (1) Except as provided in subsection (2) of this section, photographs taken under ORS 810.434 may be submitted into evidence in a criminal trial, grand jury proceeding or other criminal proceeding for the purpose of proving or disproving a felony or a Class A misdemeanor.
- (2) Photographs taken under ORS 810.434 may not be used in any criminal proceeding relating to the prosecution of a violation as described in ORS 153.008, other than for the purpose of proving or disproving a violation of:
- (a) ORS 811.265;
  - (b) ORS 811.111 by 11 miles per hour or greater; or
  - (c) A designated speed posted under ORS 810.180 by 11 miles per hour or greater. [2001 c.474 §4; 2003 c.14 §492; 2003 c.339 §2; 2013 c.428 §1; 2017 c.288 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.436 - Citations based on photo red light; response to citation.**

- (1) Notwithstanding any other provision of law, if a city chooses to operate a camera that complies with this section and ORS 810.434, a citation for violation of ORS 811.265 may be issued on the basis of photographs from a camera taken without the presence of a police officer if the following conditions are met:
- (a) Signs are posted, so far as is practicable, on all major routes entering the jurisdiction indicating that compliance with traffic control devices is enforced through cameras.
  - (b) For each traffic control device at which a camera is installed, signs indicating that a camera may be in operation at the device are posted before the device at a location near the device.
  - (c) If the traffic control device is a traffic light, the yellow light shows for at least the length of time recommended by the standard set by the Institute of Transportation Engineers.
  - (d) The citation is mailed to the registered owner of the vehicle, or to the driver if identifiable, within 10 business days of the alleged violation.
  - (e) The registered owner is given 30 days from the date the citation is mailed to respond to the citation.
  - (f) A police officer or a duly authorized traffic enforcement agent who has reviewed the photograph signs the citation. The citation may be prepared on a digital medium, and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.
- (2) Notwithstanding subsection (1) of this section, if the city issues a citation under ORS 810.437 for exceeding the speed limit under ORS 811.111 or designated speed posted under ORS 810.180 by 11 to 20 miles per hour, the city may not issue a citation under this section for violation of ORS 811.265 arising out of the same criminal episode, as defined in ORS 131.505.
- (3) If the person named as the registered owner of a vehicle in the current records of the Department of Transportation fails to respond to a citation issued under subsection (1) of this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.
- (4) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation was issued and delivered as provided in this section.
- (5) A person issued a citation under subsection (1) of this section may respond to the citation by submitting a certificate of innocence or a certificate of nonliability under subsection (7) of this section or any other response allowed by law.
- (6) A citation for violation of ORS 811.265 issued on the basis of photographs from a camera installed as provided in this section and ORS 810.434 may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver if the driver is identifiable from the photograph.
- (7)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of innocence swearing or affirming that the owner was not the driver of the vehicle and by providing a photocopy of the owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.
- (b) If a business or public agency responds to a citation issued under subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of nonliability stating that at the time of the alleged violation the vehicle was in the

custody and control of an employee or was in the custody and control of a renter or lessee under the terms of a motor vehicle rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public agency. The citation may then be reissued and delivered by mail or otherwise to the employee, renter or lessee identified in the certificate of nonliability.

(8) The penalties for and all consequences of a violation of ORS 811.265 initiated by the use of a camera installed as provided in this section and ORS 810.434 are the same as for a violation initiated by any other means.

(9) A registered owner or an employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the owner or the employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect.

(10)(a) As used in this section, "duly authorized traffic enforcement agent" means an individual who:

(A) Is employed, appointed and duly sworn in by the governing body of the incorporated city in which the agent performs the agent's duties; and

(B) Has completed all necessary technical, administrative and other training to review photographs and issue citations under this section.

(b) Duly authorized traffic enforcement agents are not police officers. [1999 c.851 §2; 2001 c.104 §305; 2001 c.474 §2; 2001 c.535 §30a; 2003 c.14 §493; 2003 c.339 §3; 2005 c.686 §2; 2007 c.640 §2; 2017 c.288 §5; 2022 c.64 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.437 - Citations for speeding based on photo red light; response to citation.**

(1) Notwithstanding any other provision of law, if a city chooses to operate cameras that comply with this section and ORS 810.434, a citation for speeding may be issued on the basis of photographs from a camera and other technology, including but not limited to sensors, that measure the speed of a vehicle without the presence of a police officer if the following conditions are met:

(a) Signs are posted, so far as is practicable, on all major routes entering the jurisdiction indicating that compliance with traffic laws is enforced through cameras and other technology.

(b) For each traffic control device at which a camera is installed, signs indicating that a camera system may be in operation at the traffic control device are posted before the device at a location near the device.

(c) The citation is mailed to the registered owner of the vehicle, or to the driver if identifiable, within 10 business days of the alleged violation.

(d) The registered owner is given 30 days from the date the citation is delivered to respond to the citation.

(e) A police officer or a duly authorized traffic enforcement agent who has reviewed the photograph and other data signs the citation. The citation may be prepared on a digital medium, and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

(f) The person exceeded the speed limit or designated speed by 11 miles per hour or greater.

(2) If the person named as the registered owner of a vehicle in the current records of the Department of Transportation fails to respond to a citation issued under subsection (1) of this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.

(3) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation was issued and delivered as provided in this section.

(4) A person issued a citation under subsection (1) of this section may respond to the citation by submitting a certificate of innocence or a certificate of nonliability under subsection (6) of this section or any other response allowed by law.

(5) A citation issued under this section on the basis of photographs from a camera installed as provided in this section and ORS 810.434 may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver if the driver is identifiable from the photograph.

(6)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection (1) of this section by submitting, within 30 days from delivery of the citation, a certificate of innocence swearing or affirming that the owner was not the driver of the vehicle and by providing a photocopy of the owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.

(b) If a business or public agency responds to a citation issued under subsection (1) of this section by submitting, within 30 days from delivery of the citation, a certificate of nonliability stating that at the time of the alleged violation the vehicle was in the custody and control of an employee or was in the custody and control of a renter or lessee under the terms of a motor vehicle rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public agency. The citation may then be reissued and delivered by mail or otherwise to the employee, renter or lessee identified in the certificate of nonliability.

(7) The penalties for and all consequences of a speeding violation initiated by the use of a camera installed as provided in this section and ORS 810.434 are the same as for a violation initiated by any other means.

(8) A registered owner or an employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the owner or the employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect.

(9)(a) As used in this section, "duly authorized traffic enforcement agent" means an individual who:

(A) Is employed, appointed and duly sworn in by the governing body of the incorporated city in which the agent performs the agent's duties; and

(B) Has completed all necessary technical, administrative and other training to review photographs and other data and issue citations under this section.

(b) Duly authorized traffic enforcement agents are not police officers. [2017 c.288 §2; 2022 c.64 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.438 - Photo radar.**

(1) A city at its own cost may operate photo radar.

(2) A photo radar system operated under this section:

(a) May be used on streets in residential areas or school zones.

(b) May be used in other areas if the governing body of the city makes a finding that speeding has had a negative impact on traffic safety in those areas.

(c) May not be used on controlled access highways.

(d) May not be used unless a sign is posted announcing "Traffic Laws Photo Enforced." The sign posted under this paragraph must:

(A) Be on the street on which the photo radar unit is being used;

(B) Be between 100 and 400 yards before the location of the photo radar unit;

(C) Be at least two feet above ground level; and

(D) If posted in a school zone not otherwise marked by a flashing light used as a traffic control device, indicate that school is in session.

(3) A city that operates a photo radar system under this section shall, once each biennium, conduct a process and outcome evaluation for the purposes of subsection (4) of this section that includes:

(a) The effect of the use of the photo radar system on traffic safety;

(b) The degree of public acceptance of the use of the photo radar system; and

(c) The process of administration of the use of the photo radar system.

(4) By March 1 of each odd-numbered year, each city that operates a photo radar system under this section shall present to the Legislative Assembly the process and outcome evaluation conducted by the city under subsection (3) of this section. [1995 c.579 §1; 1997 c.280 §1; 1999 c.1071 §1; 2005 c.686 §3; 2007 c.634 §1; 2010 c.30 §9; 2011 c.545 §66; 2015 c.138 §25; 2023 c.33 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.439 - Citations based on photo radar; response to citation.**

(1) Notwithstanding any other provision of law, in the jurisdictions using photo radar:

(a) A citation for speeding may be issued on the basis of photo radar if the following conditions are met:

(A) The photo radar equipment is operated by a uniformed police officer.

(B) The photo radar equipment is operated out of a marked police vehicle.

(C) An indication of the actual speed of the vehicle is displayed within 150 feet of the location of the photo radar unit.

(D) Signs indicating that speeds are enforced by photo radar are posted, so far as is practicable, on all major routes entering the jurisdiction.

(E) The citation is mailed to the registered owner of the vehicle within six business days of the alleged violation.

(F) The registered owner is given 30 days from the date the citation is mailed to respond to the citation.

(G) The jurisdiction operating photo radar complies with the requirements described in ORS 810.438.

(b) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation is issued and delivered as provided in this section.

(c) A person issued a citation under this subsection may respond to the citation by submitting a certificate of innocence or a certificate of nonliability under subsection (3) of this section or may make any other response allowed by law.

(2) A citation issued on the basis of photo radar may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver. The citation may be prepared on a digital medium, and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

(3)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection (1) of this section by submitting a certificate of innocence within 30 days from the mailing of the citation swearing or affirming that the owner was not the driver of the vehicle and by providing a photocopy of the owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.

(b) If a business or public agency responds to a citation issued under subsection (1) of this section by submitting a certificate of nonliability within 30 days from the mailing of the citation stating that at the time of the alleged speeding violation the vehicle was in the custody and control of an employee or was in the custody and control of a renter or lessee under the terms of a rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public agency. The citation may then be issued and delivered by mail or otherwise to the employee, renter or lessee identified in the certificate of nonliability.

(4) If the person named as the registered owner of a vehicle in the current records of the Department of Transportation fails to respond to a citation issued under subsection (1) of this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.

(5) The penalties for and all consequences of a speeding violation initiated by the use of photo radar are the same as for a speeding violation initiated by any other means.

(6) A registered owner, employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the owner, employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. [1995 c.579 §2; 1997 c.280 §2; 1999 c.1051 §142; 1999 c.1071 §2; 2005 c.22 §516; 2005 c.686 §4; 2007 c.634 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.440**

[1983 c.338 §403; 1985 c.16 §213; 1999 c.1051 §290; renumbered 810.448 in 2013]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.441 - Photo radar; highway work zones.**

(1) The Department of Transportation may operate photo radar within a highway work zone that is located on a state highway. The photo radar unit may be operated only:

(a) In the area within a highway work zone when highway workers, as defined in ORS 811.230, are present. The photo radar unit may not be operated in a location more than 100 yards from where highway workers are present and, in the case of a divided state highway, the photo radar unit must be located on the same roadway where highway workers are present.

(b) When the configuration of the roadway is temporarily changed, including but not limited to temporary changes made to the number of usable lanes, lane width, shoulder width or curvature of the roadway. The photo radar unit may not be operated in a location more than 100 yards from where the configuration of the roadway is temporarily changed and, in the case of a divided state highway, the photo radar unit must be located on the same roadway where the highway configuration is temporarily changed.

(2) The department, at its own cost, may ask a jurisdiction authorized to operate photo radar under ORS 810.438 (1) or the Oregon State Police to operate a photo radar unit in a highway work zone on a state highway.

(3) A photo radar unit operated under this section may not be used unless a sign is posted announcing that photo radar is in use. The sign posted under this subsection must be all of the following:

(a) Located on the state highway on which the photo radar unit is being used.

(b) Between 100 and 400 yards before the location of the photo radar unit.

(4) The department shall, once each biennium, conduct a process and outcome evaluation for the purposes of subsection (5) of this section that includes:

(a) The effect of the use of photo radar on traffic safety;

(b) The degree of public acceptance of the use of photo radar; and

(c) The process of administration of the use of photo radar.

(5) The department shall report to the Legislative Assembly by March 1 of each odd-numbered year.

(6) As used in this section, "highway work zone" has the meaning given that term in ORS 811.230. [2007 c.634 §4; 2013 c.373 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.442 - Citations based on photo radar in highway work zones; response to citation.**

(1) Notwithstanding any other provision of law, when a jurisdiction or the Oregon State Police uses photo radar in a highway work zone:

(a) A citation for speeding may be issued on the basis of photo radar if the following conditions are met:

(A) The photo radar unit is operated by a uniformed police officer.

(B) The photo radar unit is operated out of a marked police vehicle.

(C) An indication of the actual speed of the vehicle is displayed within 150 feet of the location of the photo radar unit.

(D) The citation is mailed to the registered owner of the vehicle within six business days of the alleged violation.

(E) The registered owner is given 30 days from the date the citation is mailed to respond to the citation.

(F)(i) One or more highway workers, as defined in ORS 811.230, are present and the photo radar unit is operated within 100 yards from where highway workers are present and located on the same roadway where highway workers are present; or

(ii) The configuration of the roadway is temporarily changed within the highway work zone, including but not limited to temporary



changes made to the number of usable lanes, lane width, shoulder width or curvature of the roadway, and the photo radar unit is operated within 100 yards from where the configuration of the roadway is temporarily changed and located on the same roadway where the highway configuration is temporarily changed.

(G) The jurisdiction operating photo radar complies with the requirements described in ORS 810.441.

(b) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation is issued and delivered as provided in this section.

(c) A person issued a citation under this subsection may respond to the citation by submitting a certificate of innocence or a certificate of nonliability under subsection (3) of this section or may make any other response allowed by law.

(2) A citation issued on the basis of photo radar may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver. The citation may be prepared on a digital medium and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.

(3)(a) A registered owner of a vehicle may respond by mail to a citation issued under subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of innocence swearing or affirming that the owner was not the driver of the vehicle and by providing a photocopy of the owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.

(b) If a business or public agency responds to a citation issued under subsection (1) of this section by submitting, within 30 days from the mailing of the citation, a certificate of nonliability stating that at the time of the alleged speeding violation the vehicle was in the custody and control of an employee, or was in the custody and control of a renter or lessee under the terms of a rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public agency. The citation may then be issued and delivered by mail or otherwise to the employee, renter or lessee identified in the certificate of nonliability.

(4) If the person named as the registered owner of a vehicle in the current records of the Department of Transportation fails to respond to a citation issued under subsection (1) of this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.

(5) The penalties for and all consequences of a speeding violation initiated by the use of photo radar are the same as for a speeding violation initiated by any other means.

(6) A registered owner, employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the registered owner, employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect.

(7) As used in this section, "highway work zone" has the meaning given that term in ORS 811.230. [2007 c.634 §5; 2013 c.373 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.443 - Photo radar; urban high crash corridors in City of Portland.**

(1) As used in this section, "urban high crash corridor" means a segment of highway that has an incidence rate of reported traffic crashes resulting in fatalities or serious injuries that is at least 25 percent higher than the rate for highways with the same speed limit or designated speed within the jurisdiction on average between January 1, 2006, and January 1, 2016, and for which the governing body of the city makes a finding that speeding has had a negative impact on traffic safety.

(2) Notwithstanding ORS 810.438, the City of Portland may, at its own cost, operate a fixed photo radar system on urban high crash corridors.

(3) A fixed photo radar unit operated under this section:

(a) May not be used on controlled access highways.

(b) May not be used unless a sign is posted announcing "Traffic Laws Photo Enforced." The sign posted under this paragraph must:

(A) Be on the street on which the fixed photo radar unit is being operated;

(B) Be between 100 and 400 yards before the location of the fixed photo radar unit;

(C) Be at least two feet above ground level;

(D) Provide drivers with information about the driver's current rate of speed; and

(E) Conform with specifications for traffic control devices approved by the Oregon Transportation Commission under ORS 810.200.

(c) Must remain in the same location for at least 180 days.

(4) The City of Portland shall, once each biennium, conduct an outcome evaluation for the purposes of subsection (5) of this section that includes:

(a) The effect of the operation of the fixed photo radar system on traffic safety;

(b) The degree of public acceptance of the operation of the fixed photo radar system; and

(c) The process of administering the use of the fixed photo radar system.

(5) By March 1 of each odd-numbered year, the City of Portland shall present to the Legislative Assembly the outcome evaluation conducted by the city under subsection (4) of this section in the manner provided in ORS 192.245. [2015 c.721 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.444 - Citations based on photo radar in urban high crash corridors; response to citation.**

- (1) Notwithstanding any other provision of law, in the jurisdiction operating a fixed photo radar system under ORS 810.443:
- (a) A citation for speeding may be issued on the basis of fixed photo radar if:
- (A) A sign that provides drivers with information about the driver's current rate of speed is posted between 100 and 400 yards before the location of each fixed photo radar unit; and
- (B) A police officer or a duly authorized traffic enforcement agent who has reviewed the photographic evidence of the conduct signs the citation.
- (b) A rebuttable presumption exists that the registered owner of the vehicle was the driver of the vehicle when the citation is issued and delivered as provided in subsection (2) of this section.
- (c) An individual issued a citation under this subsection may respond to the citation by submitting a certificate of innocence under subsection (3)(a) of this section or may make any other response allowed by law.
- (d) A business or public agency issued a citation under this subsection may respond to the citation by submitting an affidavit of nonliability under subsection (3)(b) of this section or may make any other response allowed by law.
- (2) A citation issued on the basis of fixed photo radar may be delivered by mail or otherwise to the registered owner of the vehicle or to the driver. The citation may be prepared on a digital medium, and the signature may be electronic in accordance with the provisions of ORS 84.001 to 84.061.
- (3)(a) An individual named as the registered owner of a vehicle in current records of the Department of Transportation may respond by mail to a citation issued under subsection (1) of this section by submitting a certificate of innocence within 30 days from the mailing of the citation swearing or affirming that the registered owner was not the driver of the vehicle and by providing a photocopy of the registered owner's driver license. A jurisdiction that receives a certificate of innocence under this paragraph shall dismiss the citation without requiring a court appearance by the registered owner or any other information from the registered owner other than the swearing or affirmation and the photocopy. The citation may be reissued only once, only to the registered owner and only if the jurisdiction verifies that the registered owner appears to have been the driver at the time of the violation. A registered owner may not submit a certificate of innocence in response to a reissued citation.
- (b) If a business or public agency named as the registered owner of a vehicle in current records of the Department of Transportation responds to a citation issued under subsection (1) of this section by submitting an affidavit of nonliability within 30 days from the mailing of the citation stating that at the time of the alleged speeding violation the vehicle was in the custody and control of an employee, or was in the custody and control of a renter or lessee under the terms of a rental agreement or lease, and if the business or public agency provides the driver license number, name and address of the employee, renter or lessee, the citation shall be dismissed with respect to the business or public agency. The citation may then be issued and delivered by mail or otherwise to the employee, renter or lessee identified in the affidavit of nonliability.
- (4) If the registered owner, employee, renter or lessee fails to respond to a citation issued under this section, a default judgment under ORS 153.102 may be entered for failure to appear after notice has been given that the judgment will be entered.
- (5) The penalties for and all consequences of a speeding violation initiated by the use of fixed photo radar are the same as for a speeding violation initiated by any other means.
- (6) A registered owner, employee, renter or lessee against whom a judgment for failure to appear is entered may move the court to relieve the registered owner, employee, renter or lessee from the judgment as provided in ORS 153.105 if the failure to appear was due to mistake, inadvertence, surprise or excusable neglect.
- (7)(a) As used in this section, "duly authorized traffic enforcement agent" means an individual who:
- (A) Is employed, appointed and duly sworn in by the governing body of the incorporated city in which the agent performs the agent's duties; and
- (B) Has completed all necessary technical, administrative and other training to review photographs and issue citations under this section.
- (b) Duly authorized traffic enforcement agents are not police officers. [2015 c.721 §2; 2022 c.64 §3]

Note:

See note under 810.443.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.445 - Use of citation amounts in City of Portland.**

Notwithstanding ORS 153.675, all of the amounts paid to the City of Portland under ORS 153.640 from citations issued under ORS 810.444 may be used only for the costs of operating and maintaining fixed photo radar units in urban high crash corridors, as defined in ORS 810.443, and for improving traffic safety for all modes of transportation. [2015 c.721 §3]

Note:

See note under 810.443.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.448 - Security for appearance of person arrested for traffic crime.**

A police officer may take security for the appearance of a person arrested for a traffic crime if it appears to the officer that the arrested person might fail to appear in response to a citation. Authority granted by this section is in addition to any authority to accept security under ORS 810.450. The authority of an officer to take security under this section is subject to all of the following:

- (1) Except as otherwise provided in this section, an officer may only take security if there is no accessible magistrate or clerk or deputy clerk authorized by the magistrate.
- (2) Except as otherwise provided in this section, an officer may only accept as security the following, if the following would be acceptable under ORS 810.300, for a security deposit for the offense for which the arrest was made:
  - (a) An unexpired automobile membership card described under ORS 810.330; or
  - (b) An unexpired guaranteed arrest bond certificate described under ORS 810.320.
- (3) An officer may take security for offenses described in this subsection whether or not there is an accessible magistrate or clerk or deputy clerk authorized by the magistrate. This subsection applies to the following offenses for which a jail sentence may be imposed:
  - (a) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.
  - (b) Violation of posted weight limits under ORS 818.040.
- (4) An officer who takes security under this section shall give a receipt for the security accepted and shall issue the person a citation to appear before a court having jurisdiction of the offense.
- (5) An officer shall promptly cause any security accepted under this section to be delivered to the court for disposition as provided under ORS 810.300. [Formerly 810.440]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.450 - Security for appearance of person issued citation.**

A police officer who issues a citation for violation of an offense described in this section may accept security for the appearance of the person cited. Authority granted by this section is in addition to any authority to accept security under ORS 810.448. The authority of an officer to take security under this section is subject to all of the following:

- (1) The officer may only accept security under this section for offenses described under ORS 810.530, other than the following:
  - (a) Violation of manufactured structure trip permit requirements under ORS 820.570.
  - (b) Violation of a provision of ORS chapter 825.
  - (c) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.
  - (d) Violation of posted weight limits under ORS 818.040.
- (2) An officer shall give a receipt for the security accepted along with the citation to appear before a court having jurisdiction of the offense.
- (3) The officer shall promptly cause the security to be delivered to the court for disposition as provided under ORS 810.300. [1983 c.338 §404; 1985 c.16 §214]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.460 - Officer's accident report; use.**

- (1) A police officer shall submit a report to the Department of Transportation whenever the officer does any of the following:
  - (a) Investigates a vehicle accident which ORS 811.725 or 822.600 requires to be reported.
  - (b) Prepares a report of an accident investigated at the time and place of the accident or by field interviews with the participants or witnesses.
- (2) A police officer shall submit a report required by this section to the department within 10 days of the investigation or preparation of the report.
- (3) Police reports submitted to the department under this section are subject to release or use as provided under ORS 802.240. [1983 c.338 §406; 1985 c.16 §216; 1993 c.224 §4; 1993 c.751 §63; 1997 c.678 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.480 - Inspections involving vehicle dealers and dismantlers.**

- (1) A police officer, during normal business hours, may inspect the records, including electronic records, a vehicle dealer is required to keep under ORS 822.045 and vehicles included in the inventory or located on the premises of a dealer issued a certificate under ORS 822.020. The inspections shall be limited in scope to that necessary to determine compliance with the regulation of dealers under the vehicle code and with vehicle title and registration provisions under the vehicle code and for the purposes of identifying stolen vehicles.
- (2) A police officer, at any time, may inspect the books, records and inventory of and premises used by any business issued a certificate under ORS 822.110 for the purpose of determining whether the provisions relating to the regulation of dismantlers, rules adopted by the Department of Transportation relating to the regulation of dismantlers and laws relating to licensing, titling and wrecking of vehicles are being complied with. Every business issued a certificate under ORS 822.110 shall be inspected not less than two times each year. [1983 c.338 §408; 2005 c.654 §38; 2023 c.428 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities;**

**Courts; Police; Other Enforcement OfficialsSection 810.490 - Weighing and measuring vehicles; citation; reduction of load.**

(1) Any police officer may stop, measure and weigh any vehicle or combination of vehicles by means of either portable or stationary measures and scales, and having reason to believe that any vehicle or combination of vehicles, including any load thereon, is unlawful, or having reason to believe that the combined weight or loaded weight of the vehicle exceeds the registration weight for the vehicle, may require that such vehicle or combination of vehicles be driven to the nearest public or certified scales, in the event such scales are within five miles. When it is necessary for the vehicle or combination of vehicles to reverse direction in order to proceed to the scales, the police officer shall assist the driver of the vehicle or combination of vehicles so that the turning movement can be made in safety.

(2) If the police officer finds that the vehicle or combination of vehicles, including any load thereon, is of any dimension or has any weight not authorized by ORS 818.010, 818.020, 818.040, 818.060, 818.080, 818.090, 818.110 and 818.130 or not authorized by the terms of any permit issued under ORS 818.200, the police officer shall require the driver to move the vehicle or combination of vehicles to a suitable place and remain standing while a Uniform Traffic Citation and Complaint is being issued and until such portion of the load is removed as may be necessary to reduce any dimension and any weight to the limits authorized by the statute or permit. All material or goods removed from the load shall be removed and cared for by the driver, chauffeur or owner of the vehicle or combination of vehicles at the risk of the driver, chauffeur or owner of the vehicle.

(3) The police officer may, within the discretion of the officer, permit the driver to proceed without removing the excess dimensions, or weights if the amount of excess weight does not exceed the following:

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Individual wheel 500 pounds  
Axle 1,000 pounds  
Tandem axles 2,000 pounds  
Group of axles 3,000 pounds  
Vehicle or combination  
of vehicles 4,000 pounds

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(4) Discretionary action by the police officer under this section does not relieve the driver or chauffeur and owner of the vehicle or combination of vehicles of any criminal or other liability or responsibility.

(5) Failure to comply with a police officer's directions under this section is subject to penalty under ORS 818.400. [1983 c.338 §409; 1985 c.16 §217; 1989 c.723 §17; 1991 c.284 §24; 1999 c.352 §3; 2007 c.50 §4]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 810 - Road Authorities; Courts; Police; Other Enforcement OfficialsSection 810.500 - Stopping and testing vehicles for equipment violations.**

(1) A police officer may require the driver of a vehicle or combination of vehicles to stop the vehicle or combination and submit to tests by the officer as may be appropriate to determine if the vehicle or combination:

(a) Is being driven or moved on any street or highway without having equipment required by the vehicle code or without the equipment in proper condition and adjustment as required by the vehicle code; or

(b) Is in such unsafe condition as to endanger any person.

(2) A police officer must have reasonable cause to require that a vehicle or combination be stopped and submitted to tests under this section. [1983 c.338 §410]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 810 - Road Authorities; Courts; Police; Other Enforcement OfficialsSection 810.510 - State police inspection for mechanical condition and equipment.**

(1) A state police officer may require a person driving a vehicle or combination of vehicles on a street or highway to stop and submit the vehicle or combination to an inspection of the mechanical condition and equipment thereof at any location where members of the Oregon State Police are conducting tests and inspections of vehicles and when signs are displayed requiring such stop.

(2) If a vehicle inspected under this section is found to be in violation of any provision of the vehicle code, the police officer may issue a vehicle repair warning described under ORS 810.520 to the driver. The officer may, in lieu of the issuance of the vehicle repair warning or in combination therewith, issue a citation or written warning for the violation. [1983 c.338 §411; 1985 c.16 §218]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 810 - Road Authorities; Courts; Police; Other Enforcement OfficialsSection 810.520 - Vehicle repair warning.**

(1) A vehicle repair warning issued under ORS 810.510 shall:

(a) Be in writing;

(b) Require that the vehicle be placed in a safe condition and its equipment in proper repair and adjustment;

(c) Specify the particulars with reference to condition, equipment, repair or adjustments required; and

(d) Require that approval of the repair or adjustment be obtained within 15 days.

(2) Approval required by this section may be obtained by presenting satisfactory proof to any office of the Oregon State Police that

the defect has been corrected.

(3) If an owner or driver is issued a vehicle repair warning described in this section, the vehicle described in the warning:

(a) Shall be brought into compliance with the warning and within 15 days the owner or driver must secure approval of the compliance; or

(b) Shall not be operated upon the highways of this state.

(4) This section is not intended to preclude the issuance of citations for equipment violations if repair or adjustment required by a vehicle repair warning is not perfected within 15 days.

(5) In lieu of compliance with this section the vehicle shall not be operated on the highways of this state. [1983 c.338 §412; 1985 c.16 §219]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.530 - Authority of weighmasters and motor carrier enforcement officers.**

(1) A weighmaster or motor carrier enforcement officer in whose presence an offense described in this subsection is committed may arrest or issue a citation for the offense in the same manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer. This subsection applies to the following offenses:

(a) Violation of maximum weight limits under ORS 818.020.

(b) Violation of posted weight limits under ORS 818.040.

(c) Violation of administratively imposed weight or size limits under ORS 818.060.

(d) Violation of maximum size limits under ORS 818.090.

(e) Exceeding maximum number of vehicles in combination under ORS 818.110.

(f) Violation of posted limits on use of road under ORS 818.130.

(g) Violation of towing safety requirements under ORS 818.160.

(h) Operating with sifting or leaking load under ORS 818.300.

(i) Dragging objects on highway under ORS 818.320.

(j) Unlawful use of devices without wheels under ORS 815.155.

(k) Unlawful use of metal objects on tires under ORS 815.160.

(L) Operation without pneumatic tires under ORS 815.170.

(m) Operation in violation of vehicle variance permit under ORS 818.340.

(n) Failure to carry and display permit under ORS 818.350.

(o) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.

(p) Violation of any provision of ORS chapter 825.

(q) Operation without proper fenders or mudguards under ORS 815.185.

(r) Operating a vehicle without driving privileges in violation of ORS 807.010 if the person is operating a commercial motor vehicle and the person does not have commercial driving privileges.

(s) Violation driving while suspended or revoked in violation of ORS 811.175 if the person is operating a commercial motor vehicle while the person's commercial driving privileges are suspended or revoked.

(t) Failure to use vehicle traction tires or chains in violation of ORS 815.140 if the person is operating a motor vehicle subject to ORS chapter 825 or 826.

(u) Failure to carry vehicle traction tires or chains in violation of ORS 815.142 if the person is operating a motor vehicle subject to ORS chapter 825 or 826.

(v) Illegally altering or displaying registration plate in violation of ORS 803.550.

(2) A weighmaster or motor carrier enforcement officer in whose presence an offense described in this subsection is committed by a person operating a commercial motor vehicle may issue a citation for the offense. A weighmaster or motor carrier enforcement officer who finds evidence that an offense described in this subsection has been committed by a person operating a commercial motor vehicle or by a motor carrier for which the person is acting as an agent may issue a citation for the offense. A weighmaster or motor carrier enforcement officer issuing a citation under this subsection has the authority granted a police officer issuing a citation under ORS 810.410. A citation issued under this subsection to the operator of a commercial motor vehicle shall be considered to have been issued to the motor carrier that owns the commercial motor vehicle if the operator is not the owner. This subsection applies to the following offenses, all of which are Class A traffic violations under ORS 825.990 (1):

(a) Repeatedly violating or avoiding any order or rule of the Department of Transportation.

(b) Repeatedly refusing or repeatedly failing, after being requested to do so, to furnish service authorized by certificate.

(c) Refusing or failing to file the annual report as required by ORS 825.320.

(d) Refusing or failing to maintain records required by the department or to produce such records for examination as required by the department.

(e) Failing to appear for a hearing after notice that the carrier's certificate or permit is under investigation.

(f) Filing with the department an application that is false with regard to the ownership, possession or control of the equipment being used or the operation being conducted.

(g) Delinquency in reporting or paying any fee, tax or penalty due to the department under ORS chapter 825 or 826.

(h) Refusing or failing to file a deposit or bond as required under ORS 825.506.

(i) Failing to comply with the applicable requirements for attendance at a motor carrier education program as required by ORS 825.402.

(3) A weighmaster or motor carrier enforcement officer who finds evidence that a person operating a commercial motor vehicle has committed the offense of failure to pay the appropriate registration fee under ORS 803.315 may issue a citation for the offense in the same manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer.

(4) The authority of a weighmaster or motor carrier enforcement officer to issue citations or arrest under this section is subject to ORS chapter 153.

(5)(a) A person is a weighmaster for purposes of this section if the person is a county weighmaster or a police officer.

(b) A person is a motor carrier enforcement officer under this section if the person is duly authorized as a motor carrier enforcement officer by the Department of Transportation.

(6) A weighmaster or motor carrier enforcement officer may accept security in the same manner as a police officer under ORS 810.440 and 810.450 and may take as security for the offenses, in addition to other security permitted under this section, the sum fixed as the presumptive fine for the offense.

(7) A weighmaster or motor carrier enforcement officer may arrest a person for the offense of failure to appear in a violation proceeding under ORS 153.992 if the violation is based upon a citation for any offense described in subsection (1) or (3) of this section except those described in subsection (1)(p) of this section.

(8) A weighmaster or motor carrier enforcement officer may exercise the same authority as a police officer under ORS 810.490 to enforce vehicle requirements and detain vehicles. A person who fails to comply with the authority of a weighmaster or motor carrier enforcement officer under this subsection is subject to penalty under ORS 818.400. [1983 c.338 §414; 1985 c.16 §220; 1991 c.263 §1; 1993 c.741 §99; 1999 c.1051 §291; 2001 c.335 §7; 2001 c.520 §2; 2003 c.655 §119a; 2009 c.482 §4; 2011 c.597 §146; 2013 c.237 §25; 2017 c.45 §1; 2021 c.630 §96]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.540 - Enforcement of snowmobile and all-terrain vehicles violations by persons other than police officers.**

Game wardens and all other state law enforcement officers within their respective jurisdictions shall enforce the provisions relating to snowmobiles and all-terrain vehicles under ORS 821.190, 821.210, 821.220 and 821.240 to 821.290. The authority granted by this section to enforce laws relating to snowmobiles and all-terrain vehicles is in addition to any authority of police officers to enforce such laws. [1983 c.338 §415; 1987 c.217 §7; 1987 c.587 §23; 1989 c.991 §5a; 2007 c.71 §245]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.550 - Authority of railroad officers to move illegally parked vehicles.**

When a regularly employed officer of a railroad commissioned to act as a police officer by the Governor under ORS 131.880 finds a vehicle parked or standing upon any railroad track or within seven and one-half feet of the nearest rail in violation of ORS 811.555, the person may move the vehicle, cause it to be moved or require the driver or person in charge of the vehicle to move it to a position more than seven and one-half feet from the nearest rail. [1983 c.338 §416]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 810 - Road Authorities; Courts; Police; Other Enforcement Officials Section 810.560 - Certification and training of commercial vehicle inspectors.**

Before an enforcement official may conduct inspections of commercial vehicles, drivers or cargoes for purposes of enforcing rules adopted under ORS 825.252 and 825.258, the official shall be trained and certified as a commercial vehicle inspector by the Department of Transportation. [1995 c.574 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.005 - Duty to exercise due care.**

None of the provisions of the vehicle code relieve a pedestrian from the duty to exercise due care or relieve a driver from the duty to exercise due care concerning pedestrians. [1983 c.338 §543]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.015 - Failure to obey traffic patrol member; penalty.**

(1) The driver of a vehicle commits the offense of failure to obey a traffic patrol member if:

(a) A traffic patrol member makes a cautionary sign or signal to indicate that students have entered or are about to enter the crosswalk under the traffic patrol member's direction; and

(b) The driver does not stop and remain stopped for students who are in or entering the crosswalk from either direction on the street on which the driver is operating.

(2) Traffic patrol members described in this section are those provided under ORS 339.650 to 339.665.

(3) The offense described in this section, failure to obey a traffic patrol member, is a Class A traffic violation. [1983 c.338 §545;

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.017 - Failure to yield to traffic patrol member; penalty.**

(1) The driver of a vehicle commits the offense of failure to yield to a traffic patrol member if the driver fails to stop and yield the right of way to a traffic patrol member who:

- (a) Has entered a crosswalk for the purpose of directing students who have entered or are about to enter the crosswalk; and
- (b) Is carrying a flag or wearing something that identifies the person as a traffic patrol member.

(2) For purposes of this section, "traffic patrol" has the meaning given that term in ORS 339.650.

(3) The offense described in this section, failure to yield to a traffic patrol member, is a Class A traffic violation. [2003 c.557 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.020 - Passing stopped vehicle at crosswalk; penalty.**

(1) The driver of a vehicle commits the offense of passing a stopped vehicle at a crosswalk if the driver:

- (a) Approaches from the rear another vehicle that is stopped at a marked or an unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway; and
- (b) Overtakes and passes the stopped vehicle.

(2) The offense described in this section, passing a stopped vehicle at a crosswalk, is a Class B traffic violation. [1983 c.338 §546]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.025 - Failure to yield to pedestrian on sidewalk; penalty.**

(1) The driver of a vehicle commits the offense of failure to yield to a pedestrian on a sidewalk if the driver does not yield the right of way to any pedestrian on a sidewalk.

(2) The offense described in this section, failure to yield to a pedestrian on a sidewalk, is a Class B traffic violation. [1983 c.338 §547; 1995 c.383 §42]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.028 - Failure to stop and remain stopped for pedestrian; penalty.**

(1) The driver of a vehicle commits the offense of failure to stop and remain stopped for a pedestrian if the driver does not stop and remain stopped for a pedestrian when the pedestrian is:

- (a) Proceeding in accordance with a traffic control device as provided under ORS 814.010 or crossing the roadway in a crosswalk; and

(b) In any of the following locations:

- (A) In the lane in which the driver's vehicle is traveling;
- (B) In a lane adjacent to the lane in which the driver's vehicle is traveling;
- (C) In the lane into which the driver's vehicle is turning;
- (D) In a lane adjacent to the lane into which the driver's vehicle is turning, if the driver is making a turn at an intersection that does not have a traffic control device under which a pedestrian may proceed as provided under ORS 814.010; or
- (E) Less than six feet from the lane into which the driver's vehicle is turning, if the driver is making a turn at an intersection that has a traffic control device under which a pedestrian may proceed as provided under ORS 814.010.

(2) For the purpose of this section, a bicycle lane or the part of a roadway where a vehicle stops, stands or parks that is adjacent to a lane of travel is considered to be part of that adjacent lane of travel.

(3) This section does not require a driver to stop and remain stopped for a pedestrian under any of the following circumstances:

- (a) Upon a roadway with a safety island, if the driver is proceeding along the half of the roadway on the far side of the safety island from the pedestrian; or

(b) Where a pedestrian tunnel or overhead crossing has been provided at or near a crosswalk.

(4) For the purposes of this section, a pedestrian is crossing the roadway in a crosswalk when any part or extension of the pedestrian, including but not limited to any part of the pedestrian's body, wheelchair, cane, crutch or bicycle, moves onto the roadway in a crosswalk with the intent to proceed.

(5) The offense described in this section, failure to stop and remain stopped for a pedestrian, is a Class B traffic violation. [2005 c.746 §2; 2011 c.507 §1]

Note:

811.028 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.030 - Driving through safety zone; penalty.**

(1) The driver of a vehicle commits the offense of driving through a safety zone if the driver at any time drives through or within

any area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(2) The offense described in this section, driving through a safety zone, is a Class B traffic violation. [1983 c.338 §548; 1995 c.383 §43]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.035 - Failure to stop and remain stopped for pedestrian who has limited vision or is blind; penalty.**

(1) The driver of a vehicle commits the offense of failure to stop and remain stopped for a pedestrian who has limited vision or a pedestrian who is blind if the driver violates any of the following:

(a) A driver approaching a pedestrian who has limited vision or a pedestrian who is blind or deaf-blind, who is carrying a white cane or accompanied by a dog guide, and who is crossing or about to cross a roadway, shall stop and remain stopped until the pedestrian has crossed the roadway.

(b) Where the movement of vehicular traffic is regulated by traffic control devices, a driver approaching a pedestrian who has limited vision or a pedestrian who is blind or deaf-blind shall stop and remain stopped until the pedestrian has vacated the roadway if the pedestrian has entered the roadway and is carrying a white cane or is accompanied by a dog guide. This paragraph applies notwithstanding any other provisions of the vehicle code relating to traffic control devices.

(2) This section is subject to the provisions and definitions relating to the rights of pedestrians who have limited vision or pedestrians who are blind or deaf-blind under ORS 814.110.

(3) For the purposes of this section, a pedestrian is crossing the roadway when any part or extension of the pedestrian, including but not limited to any part of the pedestrian's body, wheelchair, cane, crutch, bicycle or leashed animal, moves onto the roadway with the intent to proceed.

(4) The offense described in this section, failure to stop and remain stopped for a pedestrian who has limited vision or a pedestrian who is blind, is a Class B traffic violation. [1983 c.338 §549; 1985 c.16 §280; 2003 c.278 §3; 2007 c.70 §329; 2011 c.507 §2; 2017 c.175 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.050 - Failure to yield to rider on bicycle lane; penalty.**

(1) A person commits the offense of failure of a motor vehicle operator to yield to a rider on a bicycle lane if the person is operating a motor vehicle and the person does not yield the right of way to a person operating a bicycle, electric assisted bicycle, electric personal assistive mobility device, moped, motor assisted scooter or motorized wheelchair upon a bicycle lane.

(2) This section does not require a person operating a moped to yield the right of way to a bicycle or a motor assisted scooter if the moped is operated on a bicycle lane in the manner permitted under ORS 811.440.

(3) The offense described in this section, failure of a motor vehicle operator to yield to a rider on a bicycle lane, is a Class B traffic violation. [1983 c.338 §698; 1985 c.16 §336; 1991 c.417 §4; 1997 c.400 §8; 2001 c.749 §23; 2003 c.341 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.055 - Failure to yield to bicyclist on sidewalk; penalty.**

(1) The driver of a motor vehicle commits the offense of failure to yield the right of way to a bicyclist on a sidewalk if the driver does not yield the right of way to any bicyclist on a sidewalk.

(2) The driver of a motor vehicle is not in violation of this section when a bicyclist is operating in violation of ORS 814.410. Nothing in this subsection relieves the driver of a motor vehicle from the duty to exercise due care.

(3) The offense described in this section, failure to yield the right of way to a bicyclist on a sidewalk, is a Class B traffic violation. [1983 c.338 §702; 1985 c.16 §340; 1995 c.383 §44]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.059 - Milkman Mike Act.**

ORS 811.060 shall be known and may be cited as the Milkman Mike Act. [2017 c.388 §3]

Note:

811.059 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.060 - Vehicular assault; penalty.**

(1) For the purposes of this section, "recklessly" has the meaning given that term in ORS 161.085.

(2) A person commits the offense of vehicular assault if:

(a) The person recklessly operates a vehicle upon a highway in a manner that results in contact between the person's vehicle and:

(A) A bicycle operated by a person;

(B) A person operating a bicycle;



- (C) A motorcycle operated by a person;
- (D) A person operating a motorcycle;
- (E) A passenger on a motorcycle; or
- (F) A pedestrian; and

(b) The contact causes physical injury to the person operating a bicycle, the person operating a motorcycle, the passenger on a motorcycle or the pedestrian.

(3) The offense described in this section, vehicular assault, is a Class A misdemeanor. [2001 c.635 §5; 2017 c.388 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.065 - Unsafe passing of person operating bicycle; penalty.**

(1) A driver of a motor vehicle commits the offense of unsafe passing of a person operating a bicycle if the driver violates any of the following requirements:

(a) The driver of a motor vehicle may only pass a person operating a bicycle by driving to the left of the bicycle at a safe distance and returning to the lane of travel once the motor vehicle is safely clear of the overtaken bicycle. For the purposes of this paragraph, a "safe distance" means a distance that is sufficient to prevent contact with the person operating the bicycle if the person were to fall into the driver's lane of traffic. This paragraph does not apply to a driver operating a motor vehicle:

(A) In a lane that is separate from and adjacent to a designated bicycle lane;

(B) At a speed not greater than 35 miles per hour; or

(C) When the driver is passing a person operating a bicycle on the person's right side and the person operating the bicycle is turning left.

(b) The driver of a motor vehicle may drive to the left of the center of a roadway to pass a person operating a bicycle proceeding in the same direction only if the roadway to the left of the center is unobstructed for a sufficient distance to permit the driver to pass the person operating the bicycle safely and avoid interference with oncoming traffic. This paragraph does not authorize driving on the left side of the center of a roadway when prohibited under ORS 811.295, 811.300 or 811.310 to 811.325.

(c) The driver of a motor vehicle that passes a person operating a bicycle shall return to an authorized lane of traffic as soon as practicable.

(2) Passing a person operating a bicycle in a no passing zone in violation of ORS 811.420 constitutes prima facie evidence of commission of the offense described in this section, unsafe passing of a person operating a bicycle, if the passing results in injury to or the death of the person operating the bicycle.

(3) The offense described in this section, unsafe passing of a person operating a bicycle, is a Class B traffic violation. [2007 c.794 §2]

Note:

811.065 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.100 - Violation of basic speed rule; penalty.**

(1) A person commits the offense of violating the basic speed rule if the person drives a vehicle upon a highway at a speed greater than is reasonable and prudent, having due regard to all of the following:

(a) The traffic.

(b) The surface and width of the highway.

(c) The hazard at intersections.

(d) Weather.

(e) Visibility.

(f) Any other conditions then existing.

(2) The following apply to the offense described in this section:

(a) The offense is as applicable on an alley as on any other highway.

(b) Speeds that are prima facie evidence of violation of this section are established by ORS 811.105.

(c) This section and ORS 811.105 establish limitation on speeds that are in addition to speed limits established in ORS 811.111.

(3) Except as provided in subsection (4) of this section, violation of the basic speed rule by exceeding a designated speed posted under ORS 810.180 is punishable as provided in ORS 811.109.

(4) The offense described in this section, violating the basic speed rule, is a Class B traffic violation if the person drives a vehicle upon a highway at a speed that is not reasonable and prudent under the circumstances described in subsection (1) of this section even though the speed is lower than the appropriate speed specified in ORS 811.105 as prima facie evidence of violation of the basic speed rule. [1983 c.338 §563; 1987 c.887 §9; 1989 c.592 §4; 1991 c.728 §5; 1999 c.1051 §229; 2003 c.819 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.105 - Speeds that are evidence of basic rule violation.**

(1) Any speed in excess of a designated speed posted by authority granted under ORS 810.180 is prima facie evidence of violation

of the basic speed rule under ORS 811.100.

(2) If no designated speed is posted by authority granted under ORS 810.180, any speed in excess of one of the following speeds is prima facie evidence of violation of the basic speed rule:

- (a) Fifteen miles per hour when driving on an alley or a narrow residential roadway.
- (b) Twenty miles per hour in a business district.
- (c) Twenty-five miles per hour in any public park.
- (d) Twenty-five miles per hour on a highway in a residence district if:
  - (A) The residence district is not located within a city; and
  - (B) The highway is not an arterial highway.
- (e) Fifty-five miles per hour in locations not otherwise described in this section. [1983 c.338 §564; 1985 c.16 §286; 1987 c.887 §10; 1989 c.592 §5; 1995 c.558 §3; 1997 c.404 §5; 1997 c.438 §3; 2003 c.397 §6; 2003 c.819 §6; 2007 c.367 §3; 2019 c.515 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.106**

[1995 c.558 §2; 1997 c.682 §4; 2003 c.397 §7; 2003 c.819 §§7,7a,7b; renumbered 810.243 in 2011]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.108 - Relationship between speed limits and basic rule.**

- (1) The speed limits established by ORS 811.111 do not authorize speeds higher than those required for compliance with the basic speed rule.
- (2) The basic speed rule does not authorize speeds higher than those established as speed limits by ORS 811.111. [1987 c.887 §5; 2003 c.819 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.109 - Penalties for speed violations.**

- (1) Violation of a specific speed limit imposed under law or of a posted speed limit is punishable as follows:
  - (a) One to 10 miles per hour in excess of the speed limit is a Class D traffic violation.
  - (b) 11 to 20 miles per hour in excess of the speed limit is a Class C traffic violation.
  - (c) 21 to 30 miles per hour in excess of the speed limit is a Class B traffic violation.
  - (d) Over 30 miles per hour in excess of the speed limit is a Class A traffic violation.
- (2) Notwithstanding subsection (1) of this section, if the speed limit is 65 miles per hour or greater and:
  - (a) The person is exceeding the speed limit by 10 miles per hour or less, the offense is a Class C traffic violation.
  - (b) The person is exceeding the speed limit by more than 10 miles per hour but not more than 20 miles per hour, the offense is a Class B traffic violation.
  - (c) The person is exceeding the speed limit by more than 20 miles per hour, the offense is a Class A traffic violation.
- (3) Violation of the basic speed rule by exceeding a designated speed posted under ORS 810.180 is punishable as follows:
  - (a) One to 10 miles per hour in excess of the designated speed is a Class D traffic violation.
  - (b) 11 to 20 miles per hour in excess of the designated speed is a Class C traffic violation.
  - (c) 21 to 30 miles per hour in excess of the designated speed is a Class B traffic violation.
  - (d) Over 30 miles per hour in excess of the designated speed is a Class A traffic violation.
- (4) In addition to a fine imposed under subsection (1), (2) or (3) of this section, a court may order a suspension of driving privileges for up to 30 days if a person exceeds a speed limit or designated speed by more than 30 miles per hour and the person has received at least one prior conviction under ORS 811.100 or 811.111 within 12 months of the date of the current offense.
- (5) Notwithstanding subsections (1) to (3) of this section, if a person drives 100 miles per hour or greater when the person commits a violation described in this section, the person commits a specific fine traffic violation. The presumptive fine for a violation under this subsection is \$1,150, and upon conviction the court shall order a suspension of driving privileges for not less than 30 days nor more than 90 days.
- (6) When a court orders a suspension under subsection (4) or (5) of this section, the court shall prepare and send to the Department of Transportation an order of suspension of driving privileges of the person. Upon receipt of an order under this subsection, the department shall take action as directed under ORS 809.280. [1995 c.383 §14; 2003 c.819 §17; 2005 c.491 §1; 2011 c.597 §§96,319]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.111 - Violating a speed limit; penalty.**

- (1) A person commits the offense of violating a speed limit if the person:
  - (a) Drives a vehicle on an interstate highway, except for the portions of interstate highway described in subsection (2) of this section, at a speed greater than 65 miles per hour or, if a different speed is posted under ORS 810.180, at a speed greater than the posted speed.

- (b) Notwithstanding paragraph (a) of this subsection, drives any of the following vehicles at a speed greater than 55 miles per hour on any highway, except for the portions of highway described in subsections (2) to (12) of this section, or, if a different speed is posted under ORS 810.180, at a speed greater than the posted speed:
- (A) A motor truck with a gross vehicle weight rating of more than 10,000 pounds or a truck tractor with a gross vehicle weight rating of more than 8,000 pounds.
  - (B) A school bus.
  - (C) A school activity vehicle.
  - (D) A worker transport bus.
  - (E) A bus operated for transporting children to and from church or an activity or function authorized by a church.
  - (F) Any vehicle used in the transportation of persons for hire by a nonprofit entity.
- (c) Drives a vehicle or conveyance on any part of the ocean shore in this state at a speed greater than any of the following:
- (A) Any designated speed for ocean shores that is established and posted under ORS 810.180.
  - (B) If no designated speed is posted under ORS 810.180, 25 miles per hour.
- (d) Except as otherwise provided in this section, drives a vehicle upon a highway at a speed greater than a speed posted by authority granted under ORS 810.180 or, if no designated speed is posted, the following:
- (A) Fifteen miles per hour when driving on an alley or a narrow residential roadway.
  - (B) Twenty miles per hour in a business district.
  - (C) Twenty-five miles per hour in a public park.
  - (D) Twenty-five miles per hour on a highway in a residence district if the highway is not an arterial highway.
  - (E) Sixty-five miles per hour on an interstate highway.
  - (F) Fifty-five miles per hour in locations not otherwise described in this paragraph.
- (e) Drives a vehicle in a school zone at a speed greater than 20 miles per hour if the school zone is:
- (A) A segment of highway described in ORS 801.462 (1)(a) and:
    - (i) The school zone has a flashing light used as a traffic control device and operated as provided under ORS 810.243; or
    - (ii) If the school zone does not have a flashing light used as a traffic control device, the person drives in the school zone between 7 a.m. and 5 p.m. on a day when school is in session.
  - (B) A crosswalk described in ORS 801.462 (1)(b) and:
    - (i) A flashing light is used as a traffic control device and operated as provided under ORS 810.243; or
    - (ii) Children are present, as described in ORS 811.124.
- (2) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of Interstate 84 beginning at the eastern city limit of The Dalles and ending at the Idaho state line at a speed greater than:
- (a) Sixty-five miles per hour for vehicles described in subsection (1)(b) of this section; or
  - (b) Seventy miles per hour for all other vehicles.
- (3) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of U.S. Highway 95 beginning at the Idaho state line and ending at the Nevada state line at a speed greater than:
- (a) Sixty-five miles per hour for vehicles described in subsection (1)(b) of this section; or
  - (b) Seventy miles per hour for all other vehicles.
- (4) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of U.S. Highway 20 beginning in Bend and ending in Ontario at a speed greater than:
- (a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or
  - (b) Sixty-five miles per hour for all other vehicles.
- (5) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of U.S. Highway 197 beginning in The Dalles and ending at its intersection with U.S. Highway 97 and the portion of U.S. Highway 97 beginning at its intersection with U.S. Highway 197 and ending at the California state line at a speed greater than:
- (a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or
  - (b) Sixty-five miles per hour for all other vehicles.
- (6) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of State Highway 31 beginning in Valley Falls and ending in La Pine at a speed greater than:
- (a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or
  - (b) Sixty-five miles per hour for all other vehicles.
- (7) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of State Highway 78 beginning in Burns Junction and ending in Burns at a speed greater than:
- (a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or
  - (b) Sixty-five miles per hour for all other vehicles.
- (8) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of U.S. Highway 395 beginning in Burns and ending in John Day at a speed greater than:
- (a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or
  - (b) Sixty-five miles per hour for all other vehicles.
- (9) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of U.S. Highway 395

beginning in Riley and ending at the California state line at a speed greater than:

- (a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or
- (b) Sixty-five miles per hour for all other vehicles.

(10) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of Oregon Route 205 beginning in Burns and ending in Frenchglen at a speed greater than:

- (a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or
- (b) Sixty-five miles per hour for all other vehicles.

(11) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of U.S. Highway 26 beginning in John Day and ending in Vale at a speed greater than:

- (a) Sixty miles per hour for vehicles described in subsection (1)(b) of this section; or
- (b) Sixty-five miles per hour for all other vehicles.

(12) A person commits the offense of violating a speed limit if the person drives a vehicle on the portion of Interstate 82 beginning at the Washington state line and ending at its intersection with Interstate 84 at a speed greater than:

- (a) Sixty-five miles per hour for vehicles described in subsection (1)(b) of this section; or
- (b) Seventy miles per hour for all other vehicles.

(13) The speed limits described in subsections (3) to (5) of this section do not apply to portions of highways inside of a city in this state.

(14) The offense described in this section, violating a speed limit, is punishable as provided in ORS 811.109. [2003 c.819 §4; 2003 c.819 §4a; 2005 c.573 §1; 2005 c.770 §6; 2007 c.367 §4; 2015 c. 139 §2; 2015 c.283 §5; 2015 c.746 §1; 2016 c.1 §1; 2019 c.515 §2; 2023 c.9 §53]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.124 - Meaning of "children are present" in ORS 811.111.**

For purposes of ORS 811.111, children are present at any time and on any day when:

(1) Children are:

- (a) Occupying or walking within a crosswalk described in ORS 801.462 (1)(b); or
- (b) Waiting on the curb or shoulder of the highway at a crosswalk described in ORS 801.462 (1)(b); or

(2) A traffic patrol member provided under ORS 339.650 to 339.665 is present to assist children at a crosswalk described in ORS 801.462 (1)(b). [1997 c.438 §2; 2003 c.397 §5; 2003 c.819 §§9,9a,9b]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.125 - Speed racing on highway; penalty.**

(1) A person commits the offense of speed racing on a highway if, on a highway in this state, the person drives a vehicle or participates in any manner in any of the following in which a vehicle is involved:

- (a) A speed competition or contest.
- (b) An acceleration contest.
- (c) A test of physical endurance.
- (d) An exhibition of speed or acceleration.
- (e) The making of a speed record.
- (f) A race. For purposes of this paragraph, racing is the use of one or more vehicles in an attempt to outgain, outdistance or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles or to test the physical stamina or endurance of drivers over long distance driving routes.
- (g) A drag race. For purposes of this paragraph, drag racing is the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point for the purpose of comparing the relative speeds or power of acceleration of the vehicle or vehicles within a certain distance or time limit.

(2) The offense described in this section, speed racing on a highway, is a Class A traffic violation and is applicable on any premises open to the public. [1983 c.338 §568; 1985 c.16 §287]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.127 - Organizing a speed racing event; penalty.**

(1) Except as provided in subsection (2) of this section, a person commits the offense of organizing a speed racing event if the person, to facilitate or aid another individual who is participating in an activity described in ORS 811.125 or 811.140 (1)(b):

- (a) Obstructs or places a barricade on a highway; or
- (b) Assists in placing an obstruction or barricade upon a highway.

(2) A person who organizes a speed racing event is not in violation of this section if the person has a permit from the road authority for the highway on which the event takes place.

(3) The offense described in this section, organizing a speed racing event, is:

- (a) Except as provided in paragraph (b) of this subsection, a Class A misdemeanor.

(b) For a person's second or subsequent conviction within a five-year period preceding the date of the person's current conviction, a Class C felony. [2003 c.550 §2; 2023 c.158 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.130 - Impeding traffic; penalty.**

(1) A person commits the offense of impeding traffic if the person drives a motor vehicle or a combination of motor vehicles in a manner that impedes or blocks the normal and reasonable movement of traffic.

(2) A person is not in violation of the offense described under this section if the person is proceeding in a manner needed for safe operation.

(3) Proceeding in a manner needed for safe operation includes but is not necessarily limited to:

(a) Momentarily stopping to allow oncoming traffic to pass before making a right-hand or left-hand turn.

(b) Momentarily stopping in preparation of, or moving at an extremely slow pace while, negotiating an exit from the road.

(4) A person is not in violation of the offense described under this section if the person is proceeding as part of a funeral procession under the direction of a funeral escort vehicle or a funeral lead vehicle.

(5) The offense described in this section, impeding traffic, is a Class D traffic violation. [1983 c.338 §569; 1985 c.16 §288; 1989 c.433 §1; 1991 c.482 §18; 1995 c.383 §45]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.135 - Careless driving; penalty.**

(1) A person commits the offense of careless driving if the person drives any vehicle upon a highway or other premises described in this section in a manner that endangers or would be likely to endanger any person or property.

(2) The offense described in this section, careless driving, applies on any premises open to the public and is a Class B traffic violation unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class A traffic violation.

(3) In addition to any other penalty imposed for an offense committed under this section, if the court determines that the commission of the offense described in this section contributed to the serious physical injury or death of a vulnerable user of a public way, the court shall:

(a) Impose a sentence that requires the person to:

(A) Complete a traffic safety course; and

(B) Perform between 100 and 200 hours of community service, notwithstanding ORS 137.129. The community service must include activities related to driver improvement and providing public education on traffic safety;

(b) Order, but suspend on the condition that the person complete the requirements of paragraph (a) of this subsection:

(A) A fine of up to \$12,500, notwithstanding ORS 153.018; and

(B) A suspension of driving privileges for one year as provided in ORS 809.280; and

(c) Set a hearing date up to one year from the date of sentencing.

(4) At the hearing described in subsection (3)(c) of this section, the court shall:

(a) If the person has successfully completed the requirements described in subsection (3)(a) of this section, dismiss the penalties ordered under subsection (3)(b) of this section; or

(b) If the person has not successfully completed the requirements described in subsection (3)(a) of this section:

(A) Grant the person an extension based on good cause shown; or

(B) Order the penalties under subsection (3)(b) of this section.

(5) When a court orders a suspension under subsection (4) of this section, the court shall prepare and send to the Department of Transportation an order of suspension of driving privileges of the person. Upon receipt of an order under this subsection, the department shall take action as directed under ORS 809.280.

(6) The police officer issuing the citation for an offense under this section shall note on the citation if the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user of a public way. [1983 c.338 §570; 1995 c.383 §20; 2007 c.784 §3; 2011 c.355 §11; 2011 c.423 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.140 - Reckless driving; penalty.**

(1) A person commits the offense of reckless driving if the person:

(a) Recklessly drives a vehicle upon a highway or premises open to the public in a manner that endangers the safety of persons or property; or

(b) Operates a vehicle on a highway or premises open to the public and, in the presence of two or more persons assembled for the purpose of spectating the conduct, intentionally:

(A) Breaks the traction of the vehicle's rear tires; or

(B) Spins the vehicle's rear tires continuously by pressing the accelerator and increasing the engine speed in a manner that leaves marks on the surface upon which the vehicle is being driven.

(2) As used in this section, "intentionally" and "recklessly" have the meanings given those terms in ORS 161.085.

(3) The offense described in this section, reckless driving, is a Class A misdemeanor. [1983 c.338 §571; 2023 c.158 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.145 - Failure to yield to emergency vehicle or ambulance; penalty.**

(1) A person commits the offense of failure to yield to an emergency vehicle or ambulance if an ambulance or emergency vehicle that is using a visual or audible signal in a manner described under ORS 820.300 and 820.320 approaches the vehicle the person is operating and the person does not do all of the following:

(a) Yield the right of way to the ambulance or emergency vehicle.

(b) Immediately drive to a position as near as possible and parallel to the right-hand edge or curb of the roadway clear of any intersection.

(c) Stop and remain in such position until the emergency vehicle or ambulance has passed.

(2) A person is not in violation of this section if the person is acting as otherwise directed by a police officer.

(3) This section does not relieve the driver of an emergency vehicle or ambulance from the duty to drive with due regard for the safety of all persons using the highway, nor does this section protect the driver of any such vehicle from the consequence of an arbitrary exercise of the right of way granted under this section.

(4) The offense described in this section, failure to yield to an emergency vehicle or ambulance, is a Class B traffic violation. [1983 c.338 §582; 1985 c.16 §289; 1995 c.383 §46]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.147 - Failure to maintain safe distance from motor vehicle; penalty.**

(1) A person operating a motor vehicle commits the offense of failure to maintain a safe distance from a motor vehicle if the person approaches a motor vehicle that is stopped and is displaying required warning lights or hazard lights, or a person is indicating distress by using emergency flares or posting emergency signs, and the person operating the motor vehicle:

(a) On a highway having two or more lanes for traffic in a single direction, fails to:

(A) Make a lane change to a lane not adjacent to that of the stopped motor vehicle; or

(B) Reduce the speed of the motor vehicle to a speed that is at least five miles per hour under the speed limit established in ORS 811.111 or a designated speed posted under ORS 810.180.

(b) On a two directional, two-lane highway, fails to reduce the speed of the motor vehicle to a speed that is at least five miles per hour under the speed limit established in ORS 811.111 or a designated speed posted under ORS 810.180.

(2) A person is not in violation of the offense described in this section if the stopped motor vehicle is in a designated parking area.

(3) The offense described in this section, failure to maintain a safe distance from a motor vehicle, is a Class B traffic violation.

[2003 c.42 §2; 2009 c.198 §1; 2010 c.30 §17; 2017 c.305 §1]

Note:

811.147 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.150 - Interference with emergency vehicle or ambulance; exemptions; penalty.**

(1) A person commits the offense of interference with an emergency vehicle or ambulance if the person does any of the following:

(a) Drives a vehicle following at a distance closer than 500 feet any emergency vehicle or ambulance that is traveling in response to a fire alarm or emergency.

(b) Drives or parks a vehicle in a manner that interferes with the emergency vehicle or ambulance responding to a fire alarm or emergency.

(c) Drives over an unprotected hose of a fire department laid down on any highway, private road or driveway to be used at any fire, alarm of fire or emergency.

(2) The following exemptions apply to this section:

(a) Nothing in this section prohibits a driver of an emergency vehicle or ambulance from following within 500 feet of an emergency vehicle or ambulance traveling in response to a fire alarm or emergency or from driving into or parking a vehicle in the area or vicinity where such vehicles have stopped in response to an alarm or emergency.

(b) Nothing in this section prevents any person from driving over an unprotected hose of a fire department if the person first obtains the permission of a fire department official or police officer at the scene of the fire, alarm of fire or emergency.

(3) The offense described in this section, interference with an emergency vehicle or ambulance, is a Class B traffic violation. [1983 c.338 §584; 1985 c.16 §291; 1985 c.190 §1; 1995 c.383 §47]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.155 - Failure to stop for bus safety lights; exemptions; penalty.**

(1) A driver commits the offense of failure to stop for bus safety lights if the driver meets or overtakes from either direction any vehicle that is stopped on a roadway and that is operating red bus safety lights described under ORS 816.260 and the driver does

not:

- (a) Stop before reaching the vehicle; and
  - (b) Remain standing until the bus safety lights are no longer operating.
- (2) The following apply to the offense described in this section:
- (a) The offense described in this section does not apply if the vehicle operating the bus safety lights is not permitted under ORS 816.350 and 816.360 to operate red bus safety lights.
  - (b) A driver need not comply with this section if the vehicle operating red bus safety lights is stopped on a different roadway.
  - (3) The offense described in this section, failure to stop for bus safety lights, is a Class A traffic violation. [1983 c.338 §583; 1985 c.16 §290]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.157 - Report by driver of violation of ORS 811.155; contents.**

- (1) The driver of a school bus, worker transport bus or a bus issued a permit under ORS 818.260 may report a violation of ORS 811.155 to the local law enforcement agency having jurisdiction over the area where the violation is alleged to have occurred.
- (2) A report under subsection (1) of this section shall be made within 72 hours of the alleged violation and shall contain:
  - (a) The date and time of day of the alleged violation;
  - (b) The name of the street on which the bus was traveling at the time of the alleged violation and either the approximate address or the name of the closest intersecting street;
  - (c) The direction in which the bus was traveling and the direction in which the vehicle alleged to have committed the violation was traveling;
  - (d) The weather conditions, including visibility, at the time of the alleged violation; and
  - (e) The following information about the vehicle alleged to have committed the violation:
    - (A) Number and state of issuance of the registration plate; and
    - (B) Whether the vehicle is a sedan, station wagon, van, truck, bus, motorcycle or other type of vehicle.
- (3) In addition to the information required by subsection (2) of this section, the report may contain any other identifying information, including but not limited to color of the vehicle, that the reporting bus driver has about the vehicle or the driver of the vehicle alleged to have committed the violation. [1987 c.654 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.159 - Law enforcement agency response to report of violation of ORS 811.155.**

Upon receipt of a report containing the information required by ORS 811.157 (2), the law enforcement agency shall determine the name and address of the registered owner of the vehicle and shall send the registered owner a letter informing the owner that the vehicle was observed violating ORS 811.155. The letter shall include, at a minimum, information from the report filed under ORS 811.157 specifying the time and place of the alleged violation. [1987 c.654 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.160 - Interference with rail fixed guideway public transportation system operation; penalty.**

- (1) A person commits the offense of interference with rail fixed guideway public transportation system operation if the person does any of the following:
  - (a) Drives any vehicle in front of a rail fixed guideway public transportation system vehicle upon a track and the person fails to remove the person's vehicle from the track as soon as practicable after signal from the operator of the rail fixed guideway public transportation system vehicle.
  - (b) Drives a vehicle upon or across rail fixed guideway public transportation system tracks within an intersection in front of a rail fixed guideway public transportation system vehicle when the rail fixed guideway public transportation system vehicle has started to cross the intersection.
  - (c) Overtakes or passes upon the left any rail fixed guideway public transportation system vehicle proceeding in the same direction whether actually in motion or temporarily at rest. This paragraph does not apply on one-way streets or on streets where the tracks are so located as to prevent compliance.
- (2) This section applies to any rail fixed guideway public transportation system vehicle that is any device traveling exclusively upon rails when upon or crossing a highway but does not apply to cars or trains propelled or moved by steam engine or by diesel engine.
- (3) The offense described in this section, interference with rail fixed guideway public transportation system operation, is a Class B traffic violation. [1983 c.338 §585; 1995 c.383 §48; 2001 c.522 §3; 2017 c.46 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.165 - Failure to stop for passenger loading of public transit vehicle; penalty.**

- (1) A person commits the offense of failure to stop for passenger loading of a public transit vehicle if the person is the driver of a vehicle overtaking a public transit vehicle described in this section that is stopped or about to stop for the purpose of receiving or discharging any passenger and the person does not:

- (a) Stop the overtaking vehicle to the rear of the nearest running board or door of the public transit vehicle; and
- (b) Keep the vehicle stationary until all passengers have boarded or alighted therefrom and reached a place of safety.
- (2) This section applies to the following public transit vehicles:
  - (a) Commercial buses; and
  - (b) Rail fixed guideway public transportation system vehicles.
- (3) A person is not in violation of this section if the person passes a public transit vehicle:
  - (a) Upon the left of any public transit vehicle described in this section on a one-way street; or
  - (b) At a speed not greater than is reasonable and proper and with due caution for the safety of pedestrians when:
    - (A) The public transit vehicle has stopped at the curb; or
    - (B) Any area or space has been officially set apart within the roadway for the exclusive use of pedestrians and the area or space is so protected or marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.
- (4) The offense described in this section, failure to stop for passenger loading of public transit vehicle, is a Class B traffic violation. [1983 c.338 §586; 1985 c.16 §292; 1995 c.383 §49; 2001 c.522 §4; 2017 c.46 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.167 - Failure to yield right of way to transit bus; rules; penalty.**

- (1) A person commits the offense of failure to yield the right of way to a transit bus entering traffic if the person does not yield the right of way to a transit bus when:
  - (a) A yield sign as described in subsection (2) of this section is displayed on the back of the transit bus;
  - (b) The person is operating a vehicle that is overtaking the transit bus from the rear of the transit bus; and
  - (c) The transit bus, after stopping to receive or discharge passengers, is signaling an intention to enter the traffic lane occupied by the person.
- (2) The yield sign referred to in subsection (1)(a) of this section shall warn a person operating a motor vehicle approaching the rear of a transit bus that the person must yield when the transit bus is entering traffic. The yield sign shall be illuminated by a flashing light when the bus is signaling an intention to enter a traffic lane after stopping to receive or discharge passengers. The Oregon Transportation Commission shall adopt by rule the message on the yield sign, specifications for the size, shape, color, lettering and illumination of the sign and specifications for the placement of the sign on a transit bus.
- (3) This section does not relieve a driver of a transit bus from the duty to drive with due regard for the safety of all persons using the roadway.
- (4) As used in this section, "transit bus" means a commercial bus operated by a city or a county, a mass transit district established under ORS 267.010 to 267.394 or a transportation district established under ORS 267.510 to 267.650.
- (5) The offense described in this section, failure to yield the right of way to a transit bus entering traffic, is a Class D traffic violation. [1997 c.509 §2; 2013 c.202 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.168 - Unlawful fender height modifications; penalty.**

- (1) A person commits the offense of unlawful fender height modifications if the person operates a motor vehicle on a highway and the motor vehicle has been modified by any means so as to cause the height of the front fender to be four or more inches greater than the height of the rear fender, as measured vertically from the ground through the centerline of the wheel to the bottom of the fender.
- (2) The offense described in this section does not apply when a motor vehicle is carrying a load that causes the height of the front fender to be four or more inches greater than the height of the rear fender.
- (3) The offense described in this section, unlawful fender height modifications, is a Class C traffic violation unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class A traffic violation. [2023 c.213 §2]

Note:

811.168 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.170 - Violation of open container law; penalty.**

- (1) A person commits the offense of violation of the open container law in a motor vehicle if the person does any of the following:
  - (a) Drinks any alcoholic liquor in a motor vehicle when the vehicle is upon a highway.
  - (b) Possesses on one's person, while in a motor vehicle upon a highway, any bottle, can or other receptacle containing any alcoholic liquor, which has been opened, or a seal broken, or the contents of which have been partially removed.
  - (c) Keeps in a motor vehicle when the vehicle is upon any highway, any bottle, can or other receptacle containing any alcoholic liquor, which has been opened, or a seal broken, or the contents of which have been partially removed. The following apply to this paragraph:
    - (A) This paragraph applies only to the registered owner of any motor vehicle or, if the registered owner is not then present in the vehicle, to the driver of the vehicle.



- (B) This paragraph does not apply if the bottle, can or other receptacle is kept in the trunk of the vehicle, or kept in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk.
- (C) For purposes of this paragraph, a utility compartment or glove compartment is considered within the area occupied by the driver and passengers.
- (D) This paragraph does not apply to the living quarters of a camper or motor home.
- (2) The offense described in this section does not apply to passengers in a motor vehicle operated by a common carrier and used primarily to carry passengers for hire.
- (3) The offense described in this section, violation of the open container law in a motor vehicle, is a Class B traffic violation. [1983 c.338 §597; 1985 c.16 §303; 2001 c.827 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.172 - Improperly disposing of human waste; penalty.**

- (1) A person commits the offense of improperly disposing of human waste if the person is operating or riding in a motor vehicle and the person throws, puts or otherwise leaves a container of urine or other human waste on or beside the highway.
- (2) The offense described in this section, improperly disposing of human waste, is a Class A misdemeanor. [1999 c.670 §2; 2011 c.597 §305]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.175 - Violation driving while suspended or revoked; penalties.**

- (1) A person commits the offense of violation driving while suspended or revoked if the person does any of the following:
- (a) Drives a motor vehicle upon a highway during a period when the person's driving privileges or right to apply for driving privileges have been suspended or revoked in this state by a court or by the Department of Transportation.
- (b) Drives a motor vehicle outside the limitations of a hardship driver permit issued under ORS 807.240.
- (c) Drives a commercial motor vehicle upon a highway during a period when the person's driving privileges or commercial driving privileges have been suspended or revoked in this state or any other jurisdiction.
- (2) Affirmative defenses to the offense described in this section are established under ORS 811.180.
- (3) The offense described in this section is applicable upon any premises open to the public.
- (4) The offense described in this section, violation driving while suspended or revoked, is a Class A traffic violation except as otherwise provided in ORS 811.182. [1983 c.338 §598; 1985 c.16 §304; 1987 c.730 §1; 1987 c.801 §9; 1989 c.171 §91; 1989 c.636 §45; 1997 c.249 §228; 1999 c.1051 §90; 2009 c.395 §10; 2018 c.76 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.180 - Affirmative defenses.**

The following establishes affirmative defenses in prosecutions for driving while suspended or revoked in violation of ORS 811.175 or 811.182 and describes when the affirmative defenses are not available:

- (1) In addition to other defenses provided by law, including but not limited to ORS 161.200, it is an affirmative defense to the offenses described in ORS 811.175 and 811.182 that:
- (a) An injury or immediate threat of injury to a human being or animal, and the urgency of the circumstances made it necessary for the defendant to drive a motor vehicle at the time and place in question; or
- (b) The defendant had not received notice of the defendant's suspension or revocation or been informed of the suspension or revocation by a trial judge who ordered a suspension or revocation of the defendant's driving privileges or right to apply.
- (2) The affirmative defenses described in subsection (1)(b) of this section are not available to a defendant under the circumstances described in this subsection. Any of the evidence specified in this subsection may be offered in the prosecution's case in chief. This subsection applies if any of the following circumstances exist:
- (a) The defendant refused to accept a notification provided by the department, including refusing to sign a receipt for the certified mail containing the notice of suspension or revocation.
- (b) The notice of suspension or revocation could not be delivered to the defendant because the defendant failed to comply with the requirements under ORS 807.560 to notify the Department of Transportation of a change of address or residence.
- (c) At a previous court appearance, the defendant had been informed by a trial judge that the judge was ordering a suspension or revocation of the defendant's driving privileges or right to apply.
- (d) The defendant had actual knowledge of the suspension or revocation by any means prior to the time the defendant was stopped on the current charge.
- (e) The defendant was provided with notice of intent to suspend under ORS 813.100. [1983 c.338 §599; 1985 c.16 §305; 1985 c.672 §18; 1985 c.744 §1; 1987 c.138 §2; 1987 c.158 §168; 1987 c.730 §20; 1987 c.801 §10; 1997 c.249 §229; 2019 c.312 §25]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.182 - Criminal driving while suspended or revoked; penalties.**

- (1) A person commits the offense of criminal driving while suspended or revoked if the person violates ORS 811.175 and the

suspension or revocation is one described in this section, or if the hardship permit violated is based upon a suspension or revocation described in subsection (3) or (4) of this section.

(2) Affirmative defenses to the offense described in this section are established under ORS 811.180.

(3) The offense described in this section, criminal driving while suspended or revoked, is a Class B felony if the suspension or revocation resulted from any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle, if the suspension or revocation resulted from aggravated vehicular homicide or aggravated driving while suspended or revoked or if the revocation resulted from a conviction for felony driving while under the influence of intoxicants.

(4) The offense described in this section, criminal driving while suspended or revoked, is a Class A misdemeanor if the suspension or revocation is any of the following:

(a) A suspension under ORS 809.411 (2) resulting from commission by the driver of any degree of recklessly endangering another person, menacing or criminal mischief, resulting from the operation of a motor vehicle.

(b) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content of:

(A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

(B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

(C) Any amount if the person was under 21 years of age.

(c) A suspension of commercial driving privileges under ORS 809.510 resulting from failure to perform the duties of a driver under ORS 811.700.

(d) A suspension of commercial driving privileges under ORS 809.510 (7) where the person's commercial driving privileges have been suspended or revoked by the other jurisdiction for failure of or refusal to take a chemical test to determine the alcoholic content of the person's blood under a statute that is substantially similar to ORS 813.100.

(e) A suspension of commercial driving privileges under ORS 809.520.

(f) A revocation resulting from habitual offender status under ORS 809.640.

(g) A suspension resulting from any crime punishable as a felony with proof of a material element involving the operation of a motor vehicle, other than a crime described in subsection (3) of this section.

(h) A suspension for failure to perform the duties of a driver under ORS 811.705.

(i) A suspension for reckless driving under ORS 811.140.

(j) A suspension for fleeing or attempting to elude a police officer under ORS 811.540.

(k) A suspension or revocation resulting from misdemeanor driving while under the influence of intoxicants under ORS 813.010.

(L) A suspension for use of a motor vehicle in the commission of a crime punishable as a felony.

(5) In addition to any other sentence that may be imposed, if a person is convicted of the offense described in this section and the underlying suspension resulted from driving while under the influence of intoxicants, the court shall impose a minimum fine of at least \$1,000 if it is the person's first conviction for criminal driving while suspended or revoked and a minimum fine of at least \$2,000 if it is the person's second or subsequent conviction.

(6)(a) The Oregon Criminal Justice Commission shall classify a violation of this section that is a felony as crime category 4 of the rules of the commission.

(b) Notwithstanding paragraph (a) of this subsection, the commission shall classify a violation of this section that is a felony as crime category 6 of the rules of the commission, if the suspension or revocation resulted from:

(A) Any degree of murder, manslaughter or criminally negligent homicide or an assault that causes serious physical injury, resulting from the operation of a motor vehicle; or

(B) Aggravated vehicular homicide or aggravated driving while suspended or revoked. [1987 c.730 §§3,3a; 1989 c.636 §46; 1991 c.185 §10; 1991 c.860 §9; 1993 c.305 §2; 1995 c.568 §2; 1997 c.249 §230; 1999 c.1049 §7; 2001 c.436 §1; 2001 c.786 §2; 2003 c.346 §3; 2003 c.402 §37; 2005 c.649 §19; 2007 c.867 §13; 2009 c.783 §14; 2011 c.597 §97; 2013 c.237 §26; 2013 c.649 §3; 2018 c.76 §13; 2021 c.630 §113]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.190 - Operation with obstructing passenger; penalty.**

(1) A person commits the offense of driver operation with obstructing passenger if the person is operating a vehicle when another person is in the operator's lap or in the operator's embrace.

(2) The offense described in this section, driver operation with obstructing passenger, is a Class D traffic violation. [1983 c.338 §601; 1995 c.383 §50]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.193 - Smoking, aerosolizing or vaporizing in motor vehicle when child is present; penalty.**

(1)(a) A person commits the offense of smoking, aerosolizing or vaporizing in a motor vehicle if the person smokes or uses an inhalant delivery system in a motor vehicle while a person under 18 years of age is in the motor vehicle.

(b) As used in this subsection:

(A) "Smokes" means to inhale, exhale, burn or carry a lighted cigarette, cigar, pipe, weed, plant, regulated narcotic or other combustible substance; and

(B) "Uses an inhalant delivery system" means to use an inhalant delivery system, as defined in ORS 431A.175, in a manner that creates an aerosol or vapor.

(2) Notwithstanding ORS 810.410, a police officer may enforce this section only if the police officer has already stopped and detained the driver operating the motor vehicle for a separate traffic violation or other offense.

(3) Smoking, aerosolizing or vaporizing in a motor vehicle is a:

(a) Class D traffic violation for a first offense.

(b) Class C traffic violation for a second or subsequent offense. [2013 c.361 §2; 2015 c.158 §12]

Note:

811.193 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.195 - Having passenger in trailer; penalty.**

(1) A person commits the offense of having a passenger in a trailer if the person operates a vehicle on a highway while towing any type of trailer that contains a passenger.

(2) This section does not apply if the person is operating any of the following vehicles:

(a) A commercial bus trailer.

(b) An independently steered trailer.

(c) A trailer towed with a fifth wheel hitch if the trailer is equipped with all of the following:

(A) Safety glazing materials that meet the standards established under ORS 815.040 wherever there are windows or doors with windows on the vehicle.

(B) An auditory or visual signaling device that a passenger inside the vehicle can use to gain the attention of the motor vehicle driver towing the vehicle.

(C) At least one unobstructed exit capable of being opened from both the interior and exterior of the vehicle.

(3) The offense described in this section, passenger in trailer, is a Class D traffic violation. [1983 c.338 §602; 1985 c.16 §307; 1995 c.383 §51; 2003 c.158 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.200 - Carrying dog on external part of vehicle; penalty.**

(1) A person commits the offense of carrying a dog on the external part of a vehicle if the person carries a dog upon the hood, fender, running board or other external part of any automobile or truck that is upon a highway unless the dog is protected by framework, carrier or other device sufficient to keep it from falling from the vehicle.

(2) The offense described in this section, carrying dog on external part of vehicle, is a Class D traffic violation. [1983 c.338 §603; 1995 c.383 §52]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.205 - Carrying minor on external part of vehicle; penalty.**

(1) A person commits the offense of carrying a minor on an external part of a motor vehicle if the person carries any person under 18 years of age upon the hood, fender, running board or other external part of any motor vehicle that is upon a highway.

(2) For purposes of this section, the open bed of a motor vehicle is an external part of a motor vehicle.

(3) A person does not commit the offense described in this section if the person:

(a) Is carrying a minor in the open bed of a motor vehicle and the minor is secured with a safety belt or safety harness that complies with rules adopted under ORS 815.055;

(b) Is operating the motor vehicle in an organized parade; or

(c) Is carrying a minor who is seated on the floor of the open bed of a motor vehicle in which all available passenger seats are occupied by minors, the tailgate is securely closed and the minor is being transported:

(A) In the course and scope of employment, provided that the minor is transported in compliance with law and rules regulating the transport of workers; or

(B)(i) Between a hunting camp and a hunting site or between hunting sites during hunting season; and

(ii) The minor has a hunting license.

(4) The offense described in this section, carrying a minor on an external part of a motor vehicle, is a Class B traffic violation. [1983 c.338 §604; 1995 c.383 §53; 2003 c.107 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.207 - Legislative findings regarding restraint of children in motor vehicles.**

The Legislative Assembly finds that:

(1) Oregon drivers look to the law in deciding how to restrain and protect children in motor vehicles.

(2) The proper restraint of children in motor vehicles will reduce the number of children killed in motor vehicle accidents and reduce

the severity of injuries to children who survive motor vehicle accidents. [2007 c.601 §1]

Note:

811.207 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.210 - Failure to properly use safety belts; penalty.**

(1)(a) Except as provided in ORS 811.215, a person commits the offense of failure to properly use safety belts if the person:

(A) Operates a motor vehicle on the highways of this state and is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

(B) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while operating on public lands a Class I, Class II or Class IV all-terrain vehicle that is not registered under ORS 803.420, is not properly secured with a safety belt or safety harness.

(C) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while operating on public lands a Class II all-terrain vehicle registered under ORS 803.420, is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

(D) Operates a motor vehicle on the highways of this state with a passenger who is under 16 years of age and the passenger is not properly secured with a child safety system, safety belt or safety harness as required by subsection (2) of this section.

(E) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while riding on public lands in or on a Class I, Class II or Class IV all-terrain vehicle that is not registered under ORS 803.420, is not properly secured with a safety belt or safety harness.

(F) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while riding on public lands in or on a Class II all-terrain vehicle registered under ORS 803.420, is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

(G) Is a passenger in a privately owned commercial vehicle, as defined in ORS 801.210, that is designed and used for the transportation of 15 or fewer persons, including the driver, and the person is 16 years of age or older and is responsible for another passenger who is not properly secured with a child safety system as required under subsection (2)(a), (b) or (c) of this section.

(H) Is a passenger in a motor vehicle being operated on the highways of this state who is 16 years of age or older and who is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

(b) As used in this subsection, "public lands" includes privately owned land that is open to the general public for the use of all-terrain vehicles as the result of funding from the All-Terrain Vehicle Account under ORS 390.560.

(2) To comply with this section:

(a) A person who is under two years of age must be properly secured with a child safety system in a rear-facing position.

(b) A person who weighs 40 pounds or less must be properly secured with a child safety system that meets the minimum standards and specifications established by the Department of Transportation under ORS 815.055 for child safety systems designed for children weighing 40 pounds or less.

(c) Except as provided in subsection (3) of this section, a person who weighs more than 40 pounds and who is four feet nine inches or shorter must be properly secured with a child safety system that elevates the person so that a safety belt or safety harness properly fits the person. As used in this paragraph, "properly fits" means the lap belt of the safety belt or safety harness is positioned low across the thighs and the shoulder belt is positioned over the collarbone and away from the neck. The child safety system shall meet the minimum standards and specifications established by the department under ORS 815.055 for child safety systems designed for children who are four feet nine inches or shorter.

(d) A person who is taller than four feet nine inches must be properly secured with a safety belt or safety harness that meets requirements under ORS 815.055.

(e) Notwithstanding paragraphs (b) and (c) of this subsection, a person who is eight years of age or older need not be secured with a child safety system but must be properly secured with a safety belt or safety harness that meets requirements under ORS 815.055.

(3) The requirements of subsection (2)(c) of this section do not apply:

(a) If the rear seat of a vehicle is not equipped with shoulder belts, provided the person is secured by a lap belt; or

(b) If the child is properly secured with a child safety system that meets the minimum standards and specifications established by the department under ORS 815.055 for child safety systems designed for children weighing more than 40 pounds.

(4) The offense described in this section, failure to properly use safety belts, is a Class D traffic violation. [1985 c.16 §309; 1985 c.619 §1; 1991 c.2 §1; 1993 c.153 §1; 1993 c.751 §112; 2001 c.679 §1; 2003 c.159 §1; 2005 c.244 §2; 2007 c.601 §2; 2009 c.498 §1; 2010 c.30 §10; 2011 c.300 §1; 2011 c.360 §17; 2017 c.177 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.215 - Exemptions from safety belt requirements.**

ORS 811.210 does not apply to:

(1) Privately owned commercial vehicles that are being used for the transportation of persons for compensation or profit. The exemption in this subsection does not apply to any of the following:

- (a) Motor carriers, as defined in ORS 825.005, when operating in interstate commerce.
- (b) Vehicles designed and used for the transportation of 15 or fewer persons, including the driver, except that the operator of a vehicle described in this paragraph is not required to:
  - (A) Be properly secured with a safety belt or safety harness as required by ORS 811.210 if the operator is a taxicab operator; or
  - (B) Ensure that a passenger is properly secured with a child safety system as described in ORS 811.210 (2)(a), (b) or (c).
- (2) Any vehicle not required to be equipped with safety belts or safety harnesses at the time the vehicle was manufactured, unless safety belts or safety harnesses have been installed in the vehicle.
- (3) Any vehicle exempted by ORS 815.080 from requirements to be equipped upon sale with safety belts or safety harnesses.
- (4) Any person for whom a certificate is issued by the Department of Transportation under ORS 811.220.
- (5) Any person who is a passenger in a vehicle if all seating positions in the vehicle are occupied by other persons.
- (6) Any person who is being transported while in the custody of a police officer or any law enforcement agency.
- (7) Any person who is driving a vehicle while on a newspaper or mail route for the purpose of and while actually engaged in delivering newspapers or mail in the regular course of work.
- (8) Any person who is riding in an ambulance for the purpose of administering medical aid to another person in the ambulance, if being secured by a safety belt or safety harness would substantially inhibit the administration of medical aid.
- (9) Any person who is reading utility meters in the regular course of work.
- (10) Any person who is employed to operate a vehicle owned by a mass transit district while the vehicle is being used for the transportation of passengers in the public transportation system of the district.
- (11) Any person who is collecting solid waste or recyclable materials in the regular course of work.
- (12) Any person who is employed to operate a vehicle owned by a tribal government public transportation system while the vehicle is being used for the transportation of passengers in the public transportation system of the tribal government. [1985 c.619 §3; 1987 c.138 §3; 1991 c.2 §2; 1997 c.509 §3; 1999 c.1057 §4; 2003 c.589 §5; 2005 c.244 §1; 2005 c.770 §8; 2007 c.200 §1; 2007 c.601 §3; 2018 c.93 §37; 2019 c.398 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.220 - Certificates of exemption from safety belt requirement.**

The Director of Transportation shall issue a certificate of exemption required under ORS 811.215 for any person on whose behalf a statement signed by a physician, nurse practitioner or physician assistant is presented to the Department of Transportation. For a physician's, nurse practitioner's or physician assistant's statement to qualify under this section, the physician, nurse practitioner or physician assistant giving the statement must set forth reasons in the statement why use of a child safety system, safety belt or safety harness by the person would be impractical or harmful to the person by reason of physical condition, medical problem or body size. [1985 c.16 §310; 1985 c.619 §4; 1991 c.2 §3; 1995 c.79 §372; 2001 c.104 §306; 2015 c.109 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.225 - Failure to maintain safety belts in working order; penalty.**

- (1) The registered owner of a motor vehicle commits the offense of failure of an owner to maintain safety belts in working order if:
  - (a) The vehicle is equipped with safety belts or safety harnesses that meet the standards established under ORS 815.055; and
  - (b) The owner fails to maintain the safety belts or safety harnesses in a condition that will enable occupants of all seating positions equipped with safety belts or safety harnesses to use the belts or harnesses.
- (2) The offense described in this section, failure of an owner to maintain safety belts in working order, is a Class C traffic violation. [1991 c.2 §5; 1995 c.383 §118; 2003 c.158 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.230 - Definitions; fine; notice.**

- (1) As used in ORS 811.230, 811.231, 811.232 and 811.233:
  - (a) "Flagger" means a person who controls the movement of vehicular traffic through construction projects using sign, hand or flag signals.
  - (b) "Highway work zone" means an area identified by advance warning where road construction, repair or maintenance work is being done by highway workers on or adjacent to a highway, regardless of whether or not highway workers are actually present. As used in this paragraph, "road construction, repair or maintenance work" includes, but is not limited to, the setting up and dismantling of advance warning systems.
  - (c) "Highway worker" means an employee of a government agency, private contractor or utility company working in a highway work zone.
- (2)(a) The presumptive fine for a person convicted of an offense that is listed in subsection (3)(a) or (b) of this section and that is committed in a highway work zone is the presumptive fine for the offense established under ORS 153.020.
- (b) The minimum fine for a person convicted of a misdemeanor offense that is listed in subsection (3)(c) to (g) of this section and that is committed in a highway work zone is 20 percent of the maximum fine established for the offense.
- (c) The minimum fine for a person convicted of a felony offense that is listed in subsection (3)(c) to (g) of this section and that is committed in a highway work zone is two percent of the maximum fine established for the offense.

(3) This section applies to the following offenses if committed in a highway work zone:

- (a) Class A or Class B traffic violations.
- (b) Class C or Class D traffic violations related to exceeding a legal speed.
- (c) Reckless driving, as defined in ORS 811.140.
- (d) Driving while under the influence of intoxicants, as defined in ORS 813.010.
- (e) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.
- (f) Criminal driving while suspended or revoked, as defined in ORS 811.182.
- (g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

(4) When a highway work zone is created, the agency, contractor or company responsible for the work may post signs designed to give motorists notice of the provisions of this section. [1995 c.253 §2; 1997 c.843 §3; 1999 c.1051 §292; 2011 c.597 §114; 2018 c.22 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.231 - Reckless endangerment of highway workers; penalties.**

(1) A person commits the offense of reckless endangerment of highway workers if the person drives a motor vehicle in a highway work zone in such a manner as to endanger persons or property or if the person removes, evades or intentionally strikes a traffic control device in a highway work zone.

(2) Reckless endangerment of highway workers is a Class A misdemeanor. In addition to any other penalty, a person convicted of reckless endangerment of highway workers is subject to suspension of driving privileges as provided in ORS 809.411 (6). [1995 c.253 §3; 1997 c.83 §4; 2001 c.176 §7; 2003 c.402 §38]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.232 - Refusing to obey flagger; penalty.**

(1) A person commits the offense of refusing to obey a flagger if the person intentionally and unreasonably disobeys a lawful order by a flagger relating to driving a motor vehicle in a highway work zone.

(2) Refusing to obey a flagger is a Class A traffic violation. [1995 c.253 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.233 - Failure to yield right of way to highway worker; penalty.**

(1) A person commits the offense of failure to yield the right of way to a highway worker who is a pedestrian if the person is operating a motor vehicle in a highway work zone and does not yield the right of way to a highway worker who is a pedestrian.

(2) The provisions of ORS 814.040 and 814.070 regarding pedestrians do not apply to pedestrians described in subsection (1) of this section.

(3) The offense described in this section, failure to yield the right of way to a highway worker who is a pedestrian, is a Class B traffic violation. [1997 c.843 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.235 - Fine for traffic offenses in school zones.**

(1)(a) If signs authorized by ORS 810.245 are posted, the presumptive fine for a person charged with an offense that is listed in subsection (2)(a) or (b) of this section and that is committed in a school zone shall be the amount established under ORS 153.020 for the offense.

(b) If signs authorized by ORS 810.245 are posted, the minimum fine for a person convicted of a misdemeanor offense that is listed in subsection (2)(c) to (g) of this section and that is committed in a school zone is 20 percent of the maximum fine established for the offense.

(c) If signs authorized by ORS 810.245 are posted, the minimum fine for a person convicted of a felony offense that is listed in subsection (2)(c) to (g) of this section and that is committed in a school zone is two percent of the maximum fine established for the offense.

(2) This section applies to the following offenses if committed in a school zone:

- (a) Class A or Class B traffic violations.
- (b) Class C or Class D traffic violations related to exceeding a legal speed.
- (c) Reckless driving, as defined in ORS 811.140.
- (d) Driving while under the influence of intoxicants, as defined in ORS 813.010.
- (e) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.
- (f) Criminal driving while suspended or revoked, as defined in ORS 811.182.
- (g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

(3) For purposes of this section, a traffic offense occurs in a school zone if the offense occurs while the motor vehicle is in a school zone, notice of the school zone is indicated plainly by traffic control devices conforming to the requirements established under ORS 810.200 and posted under authority granted by ORS 810.210 and:

- (a) Children are present as described in ORS 811.124; or
- (b) A flashing light is used as a traffic control device and operated as provided under ORS 810.243. [1997 c.682 §3; 1999 c.1051 §293; 2003 c.397 §9; 2011 c.597 §115; 2015 c.139 §3; 2018 c.22 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.250 - Law applicable to vehicles registered out of state.**

Any out-of-state registered vehicle is subject to all laws, rules and regulations governing the operation of such vehicles on the highways of this state. [1983 c.338 §606; 1985 c.401 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.255 - Permitting unlawful operation of vehicle; penalty.**

(1) A person who is an owner, lessor or lessee of a motor vehicle or who employs or otherwise directs the driver of a motor vehicle, commits the offense of permitting the unlawful operation of a vehicle if the person knowingly permits or requires the operation of the vehicle in violation of any of the following:

- (a) The rules of the road.
- (b) The laws governing equipment of motor vehicles.
- (c) The laws governing weight of motor vehicles.
- (d) The laws governing operator driving privileges.
- (e) The laws governing registration or titling of vehicles.

(2) The offense described in this section, permitting unlawful operation of a vehicle, is a Class B traffic violation. [1983 c.338 §607]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.260 - Appropriate driver responses to traffic control devices.**

Except as provided in ORS 811.265 (2), a driver is in violation of ORS 811.265 if the driver makes a response to traffic control devices that is not permitted under the following:

- (1) Green signal. A driver facing a green light may proceed straight through or turn right or left unless a sign at that place prohibits either turn. A driver shall yield the right of way to other vehicles within the intersection at the time the green light is shown.
- (2) Green arrow. A driver facing a green arrow signal light, shown alone or in combination with another signal, may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other signals shown at the same time.
- (3) Green bicycle signal. A bicyclist facing a green bicycle signal may proceed straight through or turn right or left unless a sign at that place prohibits either turn. The bicyclist shall yield the right of way to other vehicles within the intersection at the time the green bicycle signal is shown.
- (4) Steady circular yellow signal. A driver facing a steady circular yellow signal light is thereby warned that the related right of way is being terminated and that a red or flashing red light will be shown immediately. A driver facing the light shall stop at a clearly marked stop line, but if none, shall stop before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. If a driver cannot stop in safety, the driver may drive cautiously through the intersection.
- (5) Steady yellow arrow signal. A driver facing a steady yellow arrow signal, alone or in combination with other signal indications, is thereby warned that the related right of way is being terminated. Unless entering the intersection to make a movement permitted by another signal, a driver facing a steady yellow arrow signal shall stop at a clearly marked stop line, but if none, shall stop before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. If a driver cannot stop in safety, the driver may drive cautiously through the intersection.
- (6) Steady yellow bicycle signal. A bicyclist facing a steady yellow bicycle signal is thereby warned that the related right of way is being terminated and that a red bicycle signal will be shown immediately. A bicyclist facing a steady yellow bicycle signal shall stop at a clearly marked stop line, but if none, shall stop before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. If a bicyclist cannot stop in safety, the bicyclist may proceed cautiously through the intersection.
- (7) Steady circular red signal. A driver facing a steady circular red signal light alone shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. The driver shall remain stopped until a green light is shown except when the driver is permitted to proceed under ORS 811.360.
- (8) Steady red arrow signal. A driver facing a steady red arrow signal, alone or in combination with other signal indications, may not enter the intersection to make the movement indicated by the red arrow signal. Unless entering the intersection to make some other movement which is permitted by another signal, a driver facing a steady red arrow signal shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. The vehicle shall remain stopped until a green light is shown except when the driver is permitted to proceed under ORS 811.360.
- (9) Steady red bicycle signal. A bicyclist facing a steady red bicycle signal shall stop at a clearly marked stop line, but if none,

before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then before entering the intersection. The bicyclist shall remain stopped until a green bicycle signal is shown except when the bicyclist is permitted to proceed under ORS 811.360.

(10) Traffic control devices at places other than intersections. If a traffic control device that is a signal is erected and maintained at a place other than an intersection, the provisions of this section relating to signals shall be applicable. A required stop shall be made at a sign or marking on the roadway indicating where the stop shall be made, but in the absence of such sign or marking the stop shall be made at the signal.

(11) Flashing red signal. When a driver approaches a flashing red light used in a traffic control device or with a traffic sign, the driver shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection, or if there is no marked crosswalk, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. The right to proceed shall be subject to the rules applicable after making a stop at a stop sign. This subsection does not apply to:

(a) A person operating a bicycle; or

(b) Drivers at railroad grade crossings. Conduct of a driver approaching a railroad grade crossing is governed by ORS 811.455.

(12) Flashing circular yellow signal. When a driver facing a flashing circular yellow signal approaches an intersection, the driver may cautiously enter the intersection to proceed straight through, turn right or turn left except as such movement is modified by lane use signs, turn prohibition signs, lane markings, roadway design, separate turn signal indications or other traffic control devices. This subsection does not apply at railroad grade crossings. Conduct of a driver approaching a railroad grade crossing is governed by ORS 811.455.

(13) Flashing yellow arrow signal. A driver facing a flashing yellow arrow signal, alone or in combination with other signal indications, may cautiously enter the intersection only to make the movement indicated by the flashing yellow arrow signal or the movement permitted by other signals shown at the same time. A driver shall yield the right of way to other vehicles within the intersection at the time the flashing yellow arrow signal is shown. In addition, a driver turning left shall yield the right of way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when the turning vehicle is moving across or within the intersection.

(14) Lane direction control signals. When lane direction control signals are placed over the individual lanes of a highway, a person may drive a vehicle in any lane over which a green signal light is shown, but may not enter or travel in any lane over which a red signal light is shown.

(15) Stop signs. A driver approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the marked crosswalk on the near side of the intersection or, if there is no marked crosswalk, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching so close as to constitute an immediate hazard during the time when the driver is moving across or within the intersection. This subsection does not apply to a person operating a bicycle.

(16) Yield signs. A driver approaching a yield sign shall slow the driver's vehicle to a speed reasonable for the existing conditions and if necessary for safety, shall stop at a line as required for stop signs under this section, and shall yield the right of way to any vehicles in the intersection or approaching so closely as to constitute an immediate hazard.

(17) Flashing yellow beacon. When a flashing yellow beacon is used to supplement another traffic control device, a driver shall pay extra attention to the message provided by the beacon and follow the requirements of the other traffic control device, which might not be otherwise applicable at all times. [1983 c.338 §609; 1989 c.539 §1; 1997 c.507 §6; 2003 c.278 §6; 2011 c.168 §1; 2015 c.147 §2; 2019 c.683 §4; 2021 c.630 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.265 - Driver failure to obey traffic control device; penalty.**

(1) A person commits the offense of driver failure to obey a traffic control device if the person drives a vehicle and the person does any of the following:

(a) Fails to obey the directions of any traffic control device.

(b) Fails to obey any specific traffic control device described in ORS 811.260 in the manner required by that section.

(2) A person is not subject to this section if the person is doing any of the following:

(a) Following the directions of a police officer.

(b) Driving an emergency vehicle or ambulance in accordance with the privileges granted those vehicles under ORS 820.300.

(c) Properly proceeding on a red light as authorized under ORS 811.360.

(d) Driving in a funeral procession led by a funeral lead vehicle or under the direction of the driver of a funeral escort vehicle.

(e) Properly entering an intersection or executing a turn at a stop sign as authorized under ORS 814.414.

(f) Properly entering an intersection or executing a turn at a flashing red signal as authorized under ORS 814.416.

(3) The offense described in this section, driver failure to obey a traffic control device, is a Class B traffic violation. [1983 c.338 §608; 1991 c.482 §13; 2015 c.147 §3; 2019 c.683 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.270 - Failure to obey one-way designation; penalty.**



- (1) A person commits the offense of failure to obey a one-way designation if the person is operating a vehicle and the person proceeds upon a roadway designated for one-way traffic in a direction other than that indicated by a traffic control device.
- (2) The offense described in this section, failure to obey a one-way designation, is a Class B traffic violation. [1983 c.338 §610]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.275 - Failure to yield right of way at uncontrolled intersection; penalty.**

- (1) A person commits the offense of failure to yield the right of way at an uncontrolled intersection if the person is operating a motor vehicle that is approaching an uncontrolled highway intersection and the person does not look out for and give right of way to any driver on the right simultaneously approaching a given point, regardless of which driver first reaches and enters the intersection.
- (2) This section is subject to the described provisions of the following sections:
  - (a) The provisions of ORS 811.260, relating to stop signs and yield signs.
  - (b) The provisions of ORS 811.285, relating to the requirements to yield the right of way upon entering a freeway or other arterial highway.
  - (c) The provisions of ORS 811.277, relating to the right of way at an uncontrolled T intersection.
- (3) A person entering an intersection at an unlawful speed shall forfeit any right of way the person would otherwise have under subsection (1) of this section.
- (4) The offense described in this section, failure to yield right of way at an uncontrolled intersection, is a Class B traffic violation. [1983 c.338 §611; 1985 c.16 §311; 1987 c.138 §4; 2003 c.183 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.277 - Failure to yield right of way at uncontrolled T intersection; penalty.**

- (1) A person commits the offense of failure to yield the right of way at an uncontrolled T intersection if the person is operating a motor vehicle on a highway that ends at an uncontrolled T intersection and the person does not yield the right of way to any driver who is on the highway at the top of the T intersection.
- (2) As used in this section and ORS 811.275:
  - (a) "T intersection" means an intersection at which one highway is perpendicular to another and at which one of the highways ends.
  - (b) "Top of the T intersection" means the highway that does not end at the junction of two highways.
- (3) The offense described in this section, failure to yield the right of way at an uncontrolled T intersection, is a Class B traffic violation. [2003 c.183 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.280 - Failure of driver entering roadway to yield right of way; penalty.**

- (1) A person commits the offense of failure of a driver entering a roadway to yield the right of way if the person:
  - (a) Is operating a vehicle that is about to enter or cross a roadway from any private road, driveway, alley or place other than another roadway; and
  - (b) Does not yield the right of way to any vehicle approaching on the roadway to be entered or crossed so closely as to constitute an immediate hazard.
- (2) This section does not apply where the movement of traffic is otherwise directed by a traffic control device or a driver of a funeral escort vehicle.
- (3) The offense described in this section, failure of driver entering roadway to yield right of way, is a Class B traffic violation. [1983 c.338 §612; 1991 c.482 §14; 1995 c.383 §54]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.285 - Failure of merging driver to yield right of way; penalty.**

- (1) A person commits the offense of failure of a merging driver to yield the right of way if the person is operating a vehicle that is entering a freeway or other arterial highway where an acceleration or merging lane is provided for the operator's use and the operator does not look out for and give right of way to vehicles on the freeway or other arterial highway.
- (2) The offense described in this section, failure of a merging driver to yield the right of way, is a Class B traffic violation. [1983 c.338 §613; 1995 c.383 §55]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.290 - Obstructing cross traffic; penalty.**

- (1) A person commits the offense of obstructing cross traffic if the person is operating a vehicle and the person enters an intersection or a marked crosswalk when there is not sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians.
- (2) The offense described in this section applies whether or not a traffic control device indicates to proceed.
- (3) The offense described in this section, obstructing cross traffic, is a Class D traffic violation. [1983 c.338 §614; 1995 c.383 §56]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for**

**DriversSection 811.292 - Failure to yield right of way within roundabout; exception; penalty.**

(1) A person commits the offense of failure to yield right of way within a roundabout if the person operates a motor vehicle upon a multilane circulatory roadway and:

- (a) Overtakes or passes a commercial motor vehicle;
- (b) Drives alongside a commercial motor vehicle; or
- (c) Does not yield the right of way to a second vehicle lawfully exiting the roundabout from a position ahead and to the left of the person's vehicle.

(2) This section does not apply if a traffic control device indicates that the operator of a motor vehicle should take other action.

(3) The offense described in this section, failure to yield right of way within a roundabout, is a Class C traffic violation. [2001 c.464 §5; 2011 c.85 §1]

Note:

811.292 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.295 - Failure to drive on right; exceptions; penalty.**

(1) A person commits the offense of failure to drive on the right if the person is operating a vehicle on a roadway of sufficient width and the person does not drive on the right half of the roadway.

(2) A person is not required to drive on the right side of the roadway by this section under any of the following circumstances:

- (a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing this movement in ORS 811.410 to 811.425 or 811.808.
- (b) When preparing to turn left in an intersection, alley or private road or driveway.
- (c) When an obstruction or condition exists making it necessary to drive to the left of the center of the roadway, provided that a driver doing so shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway within a distance as to constitute an immediate hazard.
- (d) Upon a roadway divided into three marked lanes for traffic under the rules applicable on the roadway under ORS 811.380.
- (e) Upon a roadway restricted to one-way traffic.

(3) The offense described in this section, failure to drive on the right, is a Class B traffic violation. [1983 c.338 §615; 1991 c.482

§15]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.300 - Failure to drive on right of approaching vehicle; exceptions; penalty.**

(1) A person commits the offense of failure to drive on the right of an approaching vehicle if the person is operating a vehicle upon a roadway having width for not more than one lane of traffic in each direction and the person does not:

- (a) Pass to the right of any other vehicle proceeding on the roadway in the opposite direction; and
- (b) Give to the other at least one-half of the main traveled portion of the roadway as nearly as possible.

(2) This section does not apply to a person operating a vehicle as otherwise directed by a traffic control device.

(3) The offense described in this section, failure to drive on the right of an approaching vehicle, is a Class B traffic violation. [1983 c.338 §616]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.305 - Driving on left on curve or grade or at intersection or rail crossing; exceptions; penalty.**

(1) A person commits the offense of driving on the left on a curve or grade or at an intersection or rail crossing if the person is operating a vehicle upon any two-way roadway where traffic is permitted to move in both directions simultaneously and the person drives on the left side of the center of the roadway:

- (a) Upon any part of a grade or upon a curve in the roadway where the driver's view is obstructed for such a distance as to create a hazard in the event another vehicle might approach from the opposite direction;
- (b) When approaching an intersection or railroad grade crossing where the driver's view is obstructed for such a distance as to create a hazard in the event another vehicle might approach from the opposite direction; or
- (c) At any intersection or railroad grade crossing.

(2) This section does not prohibit a person from driving on the left side of the center of a roadway under the following circumstances:

- (a) When the right half of the roadway is obstructed or closed to traffic while under construction or repair; or
- (b) When a driver makes a lawful left turn.

(3) The offense described in this section, driving on the left on a curve or grade or at an intersection or rail crossing, is a Class B traffic violation. [1983 c.338 §617]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for**

**DriversSection 811.310 - Crossing center line on two-way, four-lane road; exceptions; penalty.**

- (1) A person commits the offense of crossing the center line on a two-way, four-lane road if the person is operating a vehicle on a two-way roadway that has four or more lanes for moving traffic and the person drives to the left of the center line of the roadway.
- (2) A person is not prohibited from driving to the left of the center line of a roadway by this section under the following circumstances:
- (a) When authorized by a traffic control device designating certain lanes to the left side of the center of the roadway for use by traffic.
- (b) When an obstruction or condition exists making it necessary to drive to the left of the center of the roadway, provided that a driver doing so shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway within a distance as to constitute an immediate hazard.
- (c) When making a left turn at an intersection, alley or private road or driveway.
- (3) The offense described in this section, crossing the center line on a two-way, four-lane road, is a Class B traffic violation. [1983 c.338 §618]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.315 - Failure of slow driver to drive on right; exceptions; penalty.**

- (1) A person commits the offense of failure of a slow driver to drive on the right if the person is operating a vehicle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing and the person fails to drive:
- (a) In the right-hand lane available for traffic; or
- (b) As close as practicable to the right-hand curb or edge of the roadway.
- (2) This section does not apply under any of the following circumstances:
- (a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing passing in ORS 811.410 to 811.425.
- (b) When preparing to turn left at an intersection, alley or private road or driveway.
- (3) The offense described in this section, failure of slow driver to drive on the right, is a Class B traffic violation. [1983 c.338 §619; 1995 c.383 §57]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.320 - Failure to drive to right on divided highway; exceptions; penalty.**

- (1) A person commits the offense of failure to drive to the right on a divided highway if the person is operating a vehicle upon a highway divided into two or more roadways by means of an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic and the person does not drive only upon the right-hand roadway.
- (2) This section does not apply if a person is operating a vehicle in accordance with traffic control devices or the directions of a police officer that differ from the requirements of this section.
- (3) The offense described in this section, failure to drive to the right on a divided highway, is a Class B traffic violation. [1983 c.338 §620]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.325 - Failure to keep camper, trailer or truck in right lane; exceptions; penalty.**

- (1) A person commits the offense of failure to keep a camper, trailer or truck in the right lane if the person is operating any of the vehicles described in this subsection and the person does not drive in the right lane of all roadways having two or more lanes for traffic proceeding in a single direction. This subsection applies to all of the following vehicles:
- (a) Any camper.
- (b) Any vehicle with a trailer.
- (c) Any vehicle with a registration weight of 10,000 pounds or more.
- (2) This section does not require the described vehicles to be driven in the right lane under any of the following circumstances:
- (a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing this movement in ORS 811.410 to 811.425 when such movement can be made without interfering with the passage of other vehicles.
- (b) When preparing to turn left.
- (c) When reasonably necessary in response to emergency conditions.
- (d) To avoid actual or potential traffic moving onto the right lane from an acceleration or merging lane.
- (e) When necessary to follow traffic control devices that direct use of a lane other than the right lane.
- (3) The offense described in this section, failure to keep camper, trailer or truck in the right lane, is a Class B traffic violation. [1983 c.338 §621; 1989 c.723 §18; 1995 c.383 §58; 2005 c.770 §7]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.330 - Driving wrong way around traffic island; penalty.**

- (1) A person commits the offense of driving the wrong way around a traffic island if the person is operating a vehicle and the person

drives the vehicle around a rotary traffic island in any direction except to the right of the island.

(2) The offense described in this section, driving the wrong way around a traffic island, is a Class B traffic violation. [1983 c.338 §622]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.335 - Unlawful or unsignaled turn; penalty.**

(1) A person commits the offense of making an unlawful or unsignaled turn if the person is operating a vehicle upon a highway and the person turns the vehicle right or left when:

(a) The movement cannot be made with reasonable safety; or

(b) The person fails to give an appropriate signal continuously during not less than the last 100 feet traveled by the vehicle before turning.

(2) Appropriate signals for use while turning are as designated under ORS 811.395 and 811.400.

(3) The offense described in this section, making an unlawful or unsignaled turn, is a Class D traffic violation. [1983 c.338 §623; 1995 c.383 §59]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.340 - Improperly executed left turn; penalty.**

(1) A person commits the offense of making an improperly executed left turn if the person operates a vehicle and is intending to turn the vehicle to the left and the person does not:

(a) Approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the turning vehicle;

(b) Make the left turn to the left of the center of the intersection whenever practicable; and

(c) Except as otherwise allowed by ORS 811.346, leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

(2) The offense described in this section, improperly executing a left turn, is a Class B traffic violation. [1983 c.338 §624; 1985 c.16 §312; 1995 c.383 §60; 1997 c.468 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.345 - Failure to use special left turn lane; penalty.**

(1) A person commits the offense of failure to use a special left turn lane if the person is operating a vehicle where a special lane for making left turns by drivers proceeding in opposite directions has been indicated by traffic control devices and the person turns the vehicle left from any other lane.

(2) The offense described in this section, failure to use special left turn lane, is a Class B traffic violation. [1983 c.338 §625; 1995 c.383 §61]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.346 - Misuse of special left turn lane; penalty.**

(1) A person commits the offense of misuse of a special left turn lane if the person uses a special left turn lane for anything other than making a left turn either into or from the special left turn lane.

(2) A person who turns into a special left turn lane from an alley, driveway or other entrance to the highway that has the special left turn lane is in violation of this section if the person does anything other than stop in the lane and merge into traffic in the lane immediately to the right of the person's vehicle.

(3) As used in ORS 811.345 and this section, a "special left turn lane" is a median lane that is marked for left turns by drivers proceeding in opposite directions.

(4) The offense described in this section, misuse of a special left turn lane, is a Class B traffic violation. [1997 c.468 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.350 - Dangerous left turn; penalty.**

(1) A person commits the offense of making a dangerous left turn if the person:

(a) Is operating a vehicle;

(b) Intends to turn the vehicle to the left within an intersection or into an alley, private road, driveway or place from a highway; and

(c) Does not yield the right of way to a vehicle approaching from the opposite direction that is within the intersection or so close as to constitute an immediate hazard.

(2) The offense described in this section, dangerous left turn, is a Class B traffic violation. [1983 c.338 §626; 1985 c.16 §313]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.355 - Improperly executed right turn; penalty.**

(1) A person commits the offense of making an improperly executed right turn if the person is operating a vehicle, is intending to

turn the vehicle to the right and does not proceed as close as practicable to the right-hand curb or edge of the roadway:

(a) In making the approach for a right turn; and

(b) In making the right turn.

(2) The offense described in this section, improperly executed right turn, is a Class B traffic violation. [1983 c.338 §627; 1995 c.383 §62]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.360 - Vehicle turns permitted at stop light; proceeding against traffic control device; improperly proceeding at stop light; penalty.**

(1) The driver of a vehicle, subject to this section, who is intending to turn at an intersection where there is a traffic control device showing a steady circular red signal, a steady red bicycle signal or a steady red arrow signal may do any of the following without violating ORS 811.260 and 811.265:

(a) Make a right turn into a two-way street.

(b) Make a right or left turn into a one-way street in the direction of traffic upon the one-way street.

(2) In addition to the provisions of subsection (1) of this section, a bicyclist or motorcyclist does not violate ORS 811.260 and 811.265 if:

(a) The bicyclist or motorcyclist approaches an intersection where there is a traffic control device showing a steady circular red signal, a steady red bicycle signal or a steady red arrow signal;

(b) The traffic control device is controlled by a vehicle detection device;

(c) The bicyclist or motorcyclist comes to a complete stop and waits for the traffic control device to complete one full cycle; and

(d) After the vehicle detection device fails to detect the presence of the bicycle or motorcycle and change the traffic control device to a green signal, the bicyclist or motorcyclist proceeds with caution through the intersection.

(3) A person commits the offense of improperly proceeding at a stop light if the person does any of the following while proceeding as described in this section:

(a) Fails to stop at the light as required.

(b) Fails to exercise caution to avoid an accident.

(c) Disobeys the directions of another traffic control device, other than the device described in subsections (1) and (2) of this section, or a police officer that prohibits the driver, motorcyclist or bicyclist from proceeding.

(d) Fails to yield the right of way to traffic lawfully within the intersection or approaching so close to the intersection as to constitute an immediate hazard.

(4) A driver, motorcyclist or bicyclist who is proceeding as described in this section is also subject to the requirements under ORS 811.028 to stop for a pedestrian before proceeding.

(5) The offense described in this section, improperly proceeding at a stop light, is a Class B traffic violation. [1983 c.338 §628; 1997 c.507 §7; 2003 c.278 §7; 2005 c.746 §3; 2011 c.168 §2; 2015 c.147 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.365 - Illegal U-turn; penalty.**

(1) A person commits the offense of making an illegal U-turn if the person is operating a vehicle and the person turns the vehicle so as to proceed in the opposite direction in any of the following places:

(a) Within an intersection where traffic is controlled by an electrical signal. This paragraph does not apply where posted otherwise.

(b) Upon a highway within the limits of an incorporated city between intersections.

(c) At any place upon a highway where the vehicle cannot be seen by another driver approaching from either direction within a distance of:

(A) 500 feet within the incorporated limits of a city; or

(B) 1,000 feet outside a city.

(2) The offense described in this section, illegal U-turn, is a Class C traffic violation unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class B traffic violation. [1983 c.338 §629; 1995 c.383 §63]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.370 - Failure to drive within lane; exception; penalty.**

(1) Except as provided in subsection (2) of this section, a person commits the offense of failure to drive within a lane if the person is operating a vehicle upon a roadway that is divided into two or more clearly marked lanes for traffic and the driver does not:

(a) Operate the vehicle as nearly as practicable entirely within a single lane; and

(b) Refrain from moving from that lane until the driver has first made certain that the movement can be made with safety.

(2) A person who operates a commercial motor vehicle within a multilane roundabout that is divided into two or more clearly marked lanes for traffic may operate the commercial motor vehicle in more than one lane when it is not practicable to remain entirely within one lane.

(3) The offense described in this section, failure to drive within a lane, is a Class B traffic violation. [1983 c.338 §630; 2011 c.85 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.375 - Unlawful or unsignaled change of lane; penalty.**

(1) A person commits the offense of unlawful or unsignaled change of lanes if the person is operating a vehicle upon a highway and the person changes lanes by moving to the right or left upon the highway when:

- (a) The movement cannot be made with reasonable safety; or
  - (b) The driver fails to give an appropriate signal continuously during not less than the last 100 feet traveled by the vehicle before changing lanes.
- (2) Appropriate signals for use while changing lanes are as designated under ORS 811.395 and 811.400.
- (3) The offense described in this section, unlawful or unsignaled change of lane, is a Class D traffic violation. [1983 c.338 §631; 1995 c.383 §64]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.380 - Improper use of center lane on three-lane road; penalty.**

(1) A person commits the offense of improper use of the center lane on a three-lane road if the person is operating a vehicle upon a roadway divided into three clearly marked lanes for traffic with two-way movement of traffic permitted on the roadway and the person operates the vehicle in the center lane under any circumstances other than as permitted under the following:

- (a) The driver may drive in the center lane when the center lane is allocated exclusively to traffic moving in the same direction that the driver is proceeding by a traffic control device directing the lane allocation.
  - (b) The driver may drive in the center lane when the driver is overtaking and passing a vehicle proceeding in the same direction and the center lane is clear of traffic within a safe distance.
  - (c) The driver may drive in the center lane when making a left turn.
- (2) The offense described in this section, improper use of center lane on three-lane road, is a Class B traffic violation. [1983 c.338 §632]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.385 - Depriving motorcycle or moped of full lane; penalty.**

- (1) A person commits the offense of depriving a motorcycle or moped of a full lane if the person operates a motor vehicle upon a roadway laned for traffic in a manner that prevents a moped operator or motorcyclist from full use of a lane.
- (2) This section does not apply to operators of motorcycles or mopeds whose use of lanes is controlled by ORS 814.240 and 814.250.
- (3) The offense described in this section, depriving a motorcycle or moped of a full lane, is a Class B traffic violation. [1983 c.338 §685]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.390 - Unlawful use of lights to signal for passing; penalty.**

- (1) A person commits the offense of unlawful use of lights to signal for passing if the person is operating a vehicle and the person flashes any lights as a courtesy or "do pass" signal to other drivers approaching from the rear.
- (2) The offense described in this section, unlawful use of lights to signal for passing, is a Class D traffic violation. [1983 c.338 §633; 1995 c.383 §65]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.395 - Appropriate signals for stopping, turning, changing lanes and decelerating.**

This section establishes appropriate signals, for purposes of the vehicle code, for use when signals are required while stopping, turning, changing lanes or suddenly decelerating a vehicle. This section does not authorize the use of only hand and arm signals when the use of signal lights is required under ORS 811.405. Vehicle lighting equipment described in this section is vehicle lighting equipment for which standards are established under ORS 816.100 and 816.120. Appropriate signals are as follows:

- (1) To indicate a left turn either of the following:
  - (a) Hand and arm extended horizontally from the left side of the vehicle.
  - (b) Activation of front and rear turn signal lights on the left side of the vehicle.
- (2) To indicate a right turn either of the following:
  - (a) Hand and arm extended upward from the left side of the vehicle. A person who is operating a bicycle is not in violation of this paragraph if the person signals a right turn by extending the person's right hand and arm horizontally.
  - (b) Activation of front and rear turn signal lights on the right side of the vehicle.
- (3) To indicate a stop or a decrease in speed either of the following:
  - (a) Hand and arm extended downward from the left side of the vehicle; or
  - (b) Activation of brake lights on the vehicle.
- (4) Change of lane by activation of both front and rear turn signal lights on the side of the vehicle toward which the change of lane is made. [1983 c.338 §635; 1985 c.16 §314]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.400 - Failure to use appropriate signal for turn, lane change, stop or exit from roundabout; penalty.**

(1) A person commits the offense of failure to use an appropriate signal for a turn, lane change or stop or for an exit from a roundabout if the person does not make the appropriate signal under ORS 811.395 by use of signal lamps or hand signals and the person is operating a vehicle that is:

- (a) Turning, changing lanes, stopping or suddenly decelerating; or
- (b) Exiting from any position within a roundabout.

(2) This section does not authorize the use of only hand signals to signal a turn, change of lane, stop or deceleration when the use of signal lights is required under ORS 811.405.

(3) The offense described in this section, failure to use appropriate signal for a turn, lane change or stop or for an exit from a roundabout, is a Class B traffic violation. [1983 c.338 §634; 1995 c.383 §66; 2001 c.464 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.405 - Failure to signal with lights; exceptions; penalty.**

(1) A person commits the offense of failure to signal with lights when required if a person is operating a vehicle and does not use the vehicle lighting equipment described under ORS 811.395 to signal when turning, changing lanes, stopping or suddenly decelerating under any of the following circumstances:

- (a) During limited visibility conditions.
- (b) At any time the person is operating a vehicle or combination of vehicles in which the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of the vehicle is greater than 24 inches.
- (c) At any time the person is operating a vehicle or combination of vehicles in which the distance from the center of the top of the steering post to the rear limit of the body or load is greater than 14 feet.

(2) This section does not require the driver of a moped or bicycle that is not equipped with lighting equipment to use lighting equipment when required by this section. A driver of such moped or bicycle shall signal by means of appropriate hand and arm signals described under ORS 811.395 without violation of this section.

(3) The offense described in this section, failure to signal with lights when required, is a Class D traffic violation. [1983 c.338 §636; 1985 c.16 §315; 1995 c.383 §67]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.410 - Unsafe passing on left; penalty.**

(1) A person commits the offense of unsafe passing on the left if the person violates any of the following requirements concerning the overtaking and passing of vehicles:

- (a) The driver of a vehicle that is overtaking any other vehicle proceeding in the same direction shall pass to the left of the other vehicle at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
- (b) Except when overtaking and passing on the right is permitted under ORS 811.415, the driver of an overtaken vehicle shall give way to the right in favor of an overtaking vehicle and shall not increase the speed of the overtaken vehicle until completely passed by the overtaking vehicle.
- (c) The driver of a vehicle shall not drive to the left side of the center of the roadway in overtaking and passing a vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completed without interfering with the operation of a vehicle approaching from the opposite direction or a vehicle overtaken.
- (d) An overtaking vehicle shall return to an authorized lane of traffic as soon as practicable.

(2) This section does not authorize driving on the left side of the center of the road when prohibited under the following:

- (a) Limitations on driving on the left of the center of a roadway under ORS 811.305.
- (b) Passing in a no passing zone under ORS 811.420.
- (c) ORS 811.295, 811.300 and 811.310 to 811.325 that require driving on the right.

(3) The offense described in this section, unsafe passing on the left, is a Class B traffic violation. [1983 c.338 §637; 1987 c.158 §168a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.415 - Unsafe passing on right; penalty.**

(1) A person commits the offense of unsafe passing on the right if the person:

- (a) Drives a vehicle to overtake and pass upon the right of another vehicle at any time not permitted under this section.
- (b) Drives a vehicle to overtake and pass upon the right of another vehicle at any time by driving off the paved portion of the highway.

(2) For purposes of this section, a person may drive a vehicle to overtake and pass upon the right of another vehicle under any of the following circumstances:

- (a) Overtaking and passing upon the right is permitted if:

- (A) The overtaken vehicle is making or the driver has signaled an intention to make a left turn;
  - (B) The paved portion of the highway is of sufficient width to allow two or more lanes of vehicles to proceed lawfully in the same direction as the overtaking vehicle; and
  - (C) The roadway ahead of the overtaking vehicle is unobstructed for a sufficient distance to permit passage by the overtaking vehicle to be made in safety.
- (b) Overtaking and passing upon the right is permitted if the overtaken vehicle is proceeding along a roadway in the left lane of two or more clearly marked lanes allocated exclusively to vehicular traffic moving in the same direction as the overtaking driver.
- (c) Overtaking and passing upon the right is permitted if the overtaking vehicle is a bicycle that may safely make the passage under the existing conditions.
- (3) The offense described in this section, unsafe passing on the right, is a Class B traffic violation. [1983 c.338 §638; 1987 c.158 §169; 2005 c.316 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.420 - Passing in no passing zone; exceptions; penalty.**

- (1) A person commits the offense of passing in a no passing zone if the person drives a vehicle on the left side of a roadway in a no passing zone that has been established and designated to prohibit such movements by appropriate signs or markings posted on the roadway.
- (2) The authority to establish and post no passing zones for purposes of this section is established under ORS 810.120.
- (3) The provisions of this section do not apply under any of the following circumstances:
- (a) When a driver turns left into or from an alley, intersection, private road or driveway.
  - (b) When an obstruction or condition exists making it necessary to drive to the left of the center of the roadway provided that a driver doing so shall:
    - (A) Yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway within a distance that would constitute an immediate hazard; and
    - (B) Drive at a speed that is at least five miles per hour under the speed limit established in ORS 811.111 or a designated speed posted under ORS 810.180.
- (4) As used in this section, "obstruction" includes a person who is riding a bicycle or operating another type of vehicle and who is traveling at a speed of less than one-half of the speed limit established in ORS 811.111 or a designated speed posted under ORS 810.180.
- (5) The offense described in this section, passing in a no passing zone, is a Class B traffic violation. [1983 c.338 §639; 1985 c.16 §316; 2023 c.194 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.425 - Failure of slower driver to yield to overtaking vehicle; penalty.**

- (1) A person commits the offense of failure of a slower driver to yield to overtaking vehicle if the person is driving a vehicle and the person fails to move the person's vehicle off the main traveled portion of the highway into an area sufficient for safe turnout when:
- (a) The driver of the overtaken vehicle is proceeding at a speed less than a speed established in ORS 811.105 as prima facie evidence of violation of the basic speed rule;
  - (b) The driver of the overtaking vehicle is proceeding at a speed in conformity with ORS 811.105;
  - (c) The highway is a two directional, two-lane highway; and
  - (d) There is no clear lane for passing available to the driver of the overtaking vehicle.
- (2) This section does not apply to the driver of a vehicle in a funeral procession.
- (3) The offense described in this section, failure of a slower driver to yield to overtaking vehicle, is a Class B traffic violation. [1983 c.338 §640; 1991 c.482 §16; 1995 c.383 §68; 2001 c.104 §307; 2003 c.819 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.430 - Driving on highway divider; exceptions; penalty.**

- (1) A person commits the offense of driving on a highway divider if the person drives a vehicle over, across or within a dividing space, barrier or section that is an intervening space, physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic and that divides a highway into two or more roadways.
- (2) For purposes of this section, a "dividing space" includes pavement markings of solid double yellow lines with yellow cross-hatching between the double yellow lines.
- (3) This section does not apply when the movement of a vehicle that is otherwise prohibited by this section is made:
- (a) At an authorized crossover or intersection; or
  - (b) At the specific direction of a road authority.
- (4) The offense described in this section, driving on a highway divider, is a Class B traffic violation. [1983 c.338 §642; 2011 c.330 §25]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for**



**DriversSection 811.435 - Operation of motor vehicle on bicycle trail; exemptions; penalty.**

- (1) A person commits the offense of operation of a motor vehicle on a bicycle trail if the person operates a motor vehicle upon a bicycle lane or a bicycle path.
- (2) Exemptions to this section are provided under ORS 811.440.
- (3) This section is not applicable to mopeds. ORS 811.440 and 814.210 control the operation and use of mopeds on bicycle lanes and paths.
- (4) The offense described in this section, operation of a motor vehicle on a bicycle trail, is a Class B traffic violation. [1983 c.338 §643]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.440 - When motor vehicles may operate on bicycle lane.**

This section provides exemptions from the prohibitions under ORS 811.435 and 814.210 against operating motor vehicles on bicycle lanes and paths. The following vehicles are not subject to ORS 811.435 and 814.210 under the circumstances described:

- (1) A person may operate a moped on a bicycle lane that is immediately adjacent to the roadway only while the moped is being exclusively powered by human power.
- (2) A person may operate a motor vehicle upon a bicycle lane when:
  - (a) Making a turn;
  - (b) Entering or leaving an alley, private road or driveway; or
  - (c) Required in the course of official duty.
- (3) An implement of husbandry may momentarily cross into a bicycle lane to permit other vehicles to overtake and pass the implement of husbandry.
- (4) A person may operate a motorized wheelchair on a bicycle lane or path.
- (5) A person may operate a motor assisted scooter on a bicycle lane or path.
- (6) A person may operate an electric personal assistive mobility device on a bicycle lane or path. [1983 c.338 §645; 1991 c.417 §1; 2001 c.749 §24; 2003 c.341 §8]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.445 - Use of throughway when prohibited; penalty.**

- (1) A person commits the offense of use of a throughway when prohibited if any use restrictions or prohibitions are posted by appropriate signs giving notice thereof and the person violates any restriction or prohibition so posted.
- (2) The authority to impose restrictions and prohibitions for purposes of this section is granted under ORS 810.020.
- (3) The offense described in this section, use of throughway when prohibited, is a Class D traffic violation. [1983 c.338 §646; 1995 c.383 §69]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.450 - Violation of posted truck routes; defense; penalty.**

- (1) A person commits the offense of violation of posted truck routes if appropriate signs designating truck routes are posted and the person does not operate a vehicle in compliance with the posted requirements.
- (2) Authority to establish and change truck routes for purposes of this section is established in ORS 810.040.
- (3) It is a defense to a charge of violation of this section if the person so charged can establish that the person could not reach the person's destination without traveling upon the street, road or highway prohibited under the posted requirements.
- (4) The offense described in this section, violation of posted truck routes, is a Class B traffic violation. [1983 c.338 §647; 1985 c.393 §39; 1995 c.383 §70]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.455 - Failure to stop for railroad signal; penalty.**

- (1) A person commits the offense of failure to stop for a railroad signal if the person fails to comply with any of the following requirements:
  - (a) A person who is driving a vehicle must stop the vehicle at a clearly marked stop line on the near side of a railroad crossing or, if there is no clearly marked stop line, not less than 15 feet nor more than 50 feet from the nearest rail of the crossing under any of the following circumstances:
    - (A) When a clearly visible electric or mechanical signal is given by a device that warns of the immediate approach of a railroad train or other on-track equipment.
    - (B) Upon the lowering of a crossing gate.
    - (C) When a signal given by a flagger or police officer indicates the approach or passage of a railroad train or other on-track equipment.
    - (D) When an approaching train or other on-track equipment is clearly visible and because of its nearness to the crossing is an immediate hazard.

- (E) When an audible signal is given by an approaching railroad train or other on-track equipment because its speed or nearness to the crossing is an immediate hazard.
- (b) A driver who has stopped for the passing of a train or other on-track equipment at a railroad grade crossing in accordance with the provisions of this section may not proceed across the railroad tracks until the driver can do so safely.
- (c) A person may not drive any vehicle through, around or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.
- (2) The offense described in this section, failure to stop for a railroad signal, is a Class B traffic violation. [1983 c.338 §648; 1985 c.16 §317; 1995 c.383 §71; 1997 c.249 §232; 2001 c.492 §3; 2017 c.176 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.460 - Failure to follow rail crossing procedures for high-risk vehicles; application; penalty.**

- (1) A person commits the offense of failure to follow rail crossing procedures for high-risk vehicles if the person takes any vehicle described in this section across any railroad or rail fixed guideway public transportation system tracks at grade without doing all of the following:
- (a) Stopping the vehicle at a clearly marked stop line or, if there is not a clearly marked stop line, not less than 15 feet nor more than 50 feet from the nearest rail of the railroad or rail fixed guideway public transportation system.
- (b) While so stopped, listening and looking in both directions along the tracks for approaching trains, other on-track equipment or rail fixed guideway public transportation system vehicles and for signals indicating approaching trains, other on-track equipment or rail fixed guideway public transportation system vehicles.
- (c) Proceeding across the tracks after stopping only when such movement can be performed safely in the gear of the motor vehicle that does not require manually changing gears while proceeding.
- (d) Proceeding across the tracks without manually changing gears.
- (2) This section applies to the following vehicles when moved across railroad or rail fixed guideway public transportation system tracks:
- (a) A school bus.
- (b) A school activity vehicle with a loaded weight of 10,000 pounds or more.
- (c) A worker transport bus.
- (d) Any bus operated for transporting children to and from church or an activity or function authorized by a church.
- (e) Any vehicle used in the transportation of persons for hire by a nonprofit entity.
- (f) A commercial bus.
- (g) A motor vehicle carrying as a cargo or part of a cargo any explosive substance, inflammable liquids, corrosives or similar substances or any cargo that the Department of Transportation determines to be hazardous. For purposes of this paragraph, the department may only determine a substance to be hazardous by rule. Any rules adopted by the department to determine hazardous substances must be consistent with substances classified as hazardous by the United States Secretary of Transportation.
- (h) A tank vehicle, whether loaded or empty, used for the transportation of any hazardous material.
- (3) Exemptions to this section are provided under ORS 811.465.
- (4) The offense described in this section, failure to follow rail crossing procedures for high-risk vehicles, is a Class B traffic violation. [1983 c.338 §649; 1985 c.16 §318; 1985 c.420 §9; 1989 c.992 §20; 1995 c.383 §72; 1995 c.733 §49; 2001 c.104 §308; 2001 c.492 §4; 2001 c.522 §5; 2015 c.283 §6; 2017 c.46 §6; 2017 c.176 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.462 - Failure of operator of commercial motor vehicle to slow down and check tracks; penalty.**

- (1) A person commits the offense of failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train or other on-track equipment if the person:
- (a) Is operating a commercial motor vehicle that is not required by ORS 811.460 to stop before reaching a rail crossing;
- (b) Is approaching a rail crossing at grade; and
- (c) Fails to slow down and check that the tracks are clear of an approaching train or other on-track equipment before proceeding across the railroad tracks.
- (2) The offense described in this section, failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train or other on-track equipment, is a Class B traffic violation. [2001 c.492 §7; 2017 c.176 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.465 - Exemptions from high-risk vehicle rail crossing procedures.**

This section establishes exemptions from the special crossing procedures established for high-risk vehicles under ORS 811.460. The exemptions are partial or complete as described in the following:

- (1) The vehicles are not required to comply with the procedures at a crossing of a street or highway and rail fixed guideway public transportation system tracks if:
- (a) The rail fixed guideway public transportation system vehicles operate within and parallel to the right of way of a street or highway; and

- (b) All vehicle movements are controlled by traffic control devices.
- (2) The vehicles are not required to comply with the procedures when crossing any railway tracks upon which operation has been abandoned and for which the Department of Transportation has plainly marked that no stop need be made.
- (3) The vehicles are not required to comply with the procedures when crossing industry track crossings across which train operations are required by law to be conducted under flag protection.
- (4) The vehicles are not required to comply with the procedures when crossing industry track crossings within business districts.
- (5) Vehicles are not required to comply with the procedures when crossing any crossing where an officer directs traffic to proceed or where an operating traffic control signal indicates that other traffic may proceed.
- (6) Vehicles are not required to comply with the procedures when crossing any crossing protected by crossing gates. The exemption under this subsection does not apply to:
  - (a) School buses or school activity vehicles that are required to stop at crossings with crossing gates under ORS 811.460;
  - (b) Tank vehicles, whether loaded or empty, used to transport hazardous materials;
  - (c) Vehicles transporting any hazardous material requiring the vehicle to be placarded; or
  - (d) High-risk vehicles described in ORS 811.460 that are not otherwise described in this subsection, when operating in interstate commerce.
- (7) Except when a train, other on-track equipment or rail fixed guideway public transportation system vehicle is approaching, the driver of a commercial bus is not required to stop at crossings where the Department of Transportation has determined and plainly marked that no stop need be made. [1983 c.338 §650; 1985 c.420 §10; 2001 c.522 §6; 2003 c.589 §6; 2009 c.551 §2; 2017 c.46 §7; 2017 c.176 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.470 - Improper movement of heavy equipment across rail crossing; application; penalty.**

- (1) A person commits the offense of improper movement of heavy equipment across a rail crossing if the person operates or moves any equipment described in this section upon or across any tracks at a railroad or rail fixed guideway public transportation system grade crossing without complying with any of the following:
  - (a) Before moving across the tracks, the person must give notice of an intended crossing to a responsible officer of the railroad or rail fixed guideway public transportation system in time for protection to be given.
  - (b) Where the railroad or rail fixed guideway public transportation system has provided a flagger, the person operating or moving such equipment shall obey the direction of the flagger.
  - (c) The person operating or moving such equipment must do all of the following:
    - (A) The person must stop before making the crossing at a clearly marked line or, if there is no clearly marked line, not less than 15 feet nor more than 50 feet from the nearest rail.
    - (B) While so stopped, the person must look and listen in both directions along the tracks for approaching trains or other on-track equipment.
    - (C) The person may not proceed across the tracks unless the crossing can be made safely.
- (2) This section applies to the operation of movement across railroad or rail fixed guideway public transportation system tracks of any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of 10 miles per hour or less or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway.
- (3) The offense described in this section, improper movement of heavy equipment across a rail crossing, is a Class B traffic violation. [1983 c.338 §651; 1985 c.16 §319; 1995 c.383 §73; 1997 c.249 §233; 2001 c.522 §7; 2017 c.46 §8; 2017 c.176 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.475 - Obstructing rail crossing; penalty.**

- (1) A person commits the offense of obstructing a rail crossing if the person is operating a vehicle and the person does either of the following:
  - (a) Drives onto any railroad or rail fixed guideway public transportation system grade crossing when there is not sufficient space on the other side of the railroad or rail fixed guideway public transportation system grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, railroad trains, other on-track equipment or rail fixed guideway public transportation system vehicles; or
  - (b) While driving a commercial motor vehicle, fails to negotiate the rail crossing because of insufficient undercarriage clearance.
- (2) The offense described in this section is applicable whether or not a traffic control device indicates to proceed.
- (3) The offense described in this section, obstructing rail crossings, is a Class B traffic violation. [1983 c.338 §652; 1995 c.383 §74; 2001 c.492 §5; 2001 c.522 §8; 2017 c.46 §9; 2017 c.176 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.480 - Illegal backing; penalty.**

- (1) A person commits the offense of illegal backing if the person backs a vehicle the person is driving when it is not safe to do so or when it causes interference with other traffic upon a highway.

(2) The offense described in this section, illegal backing, is a Class D traffic violation. [1983 c.338 §653; 1995 c.383 §75]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.482 - Use of marijuana in motor vehicle; penalty.**

(1) As used in this section:

(a) "Consumes" includes the inhalation of smoke from a marijuana item by a driver or passenger of a motor vehicle.

(b) "Marijuana item" has the meaning given that term in ORS 475C.009.

(2) A person commits the offense of use of marijuana in a motor vehicle if the person consumes in any manner a marijuana item while in a motor vehicle when the motor vehicle is upon a highway.

(3) This section does not apply to passengers in a motor vehicle that is operated by a common carrier and used primarily to carry passengers for hire.

(4) Use of marijuana in a motor vehicle is a Class B traffic violation. [2016 c.24 §49]

Note:

811.482 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.483 - Safety corridors; penalty.**

(1) The Department of Transportation shall post signs in safety corridors chosen by the department indicating that fines for traffic offenses committed in those safety corridors will be doubled.

(2)(a) The presumptive fine for a person charged with an offense that is listed in subsection (3)(a) or (b) of this section and that is committed in a safety corridor chosen by the department under subsection (1) of this section shall be the amount established under ORS 153.020.

(b) The minimum fine for a person convicted of a misdemeanor offense that is listed in subsection (3)(c) to (g) of this section and that is committed in a safety corridor is 20 percent of the maximum fine established for the offense.

(c) The minimum fine for a person convicted of a felony offense that is listed in subsection (3)(c) to (g) of this section and that is committed in a safety corridor is two percent of the maximum fine established for the offense.

(3) This section applies to the following offenses if committed in the designated safety corridors:

(a) Class A or Class B traffic violations.

(b) Class C or Class D traffic violations related to exceeding a legal speed.

(c) Reckless driving, as defined in ORS 811.140.

(d) Driving while under the influence of intoxicants, as defined in ORS 813.010.

(e) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.

(f) Criminal driving while suspended or revoked, as defined in ORS 811.182.

(g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540. [1999 c.1071 §5; 1999 c.1071 §5a; 2001 c.421 §1; 2003 c.100 §3; 2007 c.124 §1; 2011 c.597 §116; 2018 c.22 §11]

Note:

Sections 1, 2 and 6, chapter 501, Oregon Laws 2019, provide:

Sec. 1.

Section 2 of this 2019 Act is added to and made a part of the Oregon Vehicle Code. [2019 c.501 §1]

Sec. 2.

(1)(a) The Department of Transportation shall establish a safety corridor pilot program in this state to evaluate the processes for and effectiveness of allowing counties to designate as safety corridors roads over which the counties have road authority.

(b) The County Safety Corridor Advisory Group established in subsection (3)(a) of this section shall select up to five counties in the state to participate in the pilot program established in paragraph (a) of this subsection.

(c) The county commission for each county selected under paragraph (b) of this subsection may designate one segment of highway that is between 2 and 10 miles long as a safety corridor.

(d) A safety corridor designated under paragraph (c) of this subsection must satisfy the criteria established by the advisory group under subsection (3)(c)(A) of this section.

(e) The department shall adopt rules necessary to carry out the provisions of this section.

(2)(a) Each county selected under subsection (1)(b) of this section shall post signs in the safety corridor designated by the county indicating that fines for traffic offenses committed in the safety corridor will be doubled.

(b) The presumptive fine for a person charged with an offense that is listed in paragraph (e)(A) or (B) of this subsection and that is committed in a safety corridor designated by a county under this section shall be the amount established under ORS 153.020.

(c) The minimum fine for a person convicted of a misdemeanor offense that is listed in paragraph (e)(C) to (G) of this subsection and that is committed in a safety corridor designated by a county under this section is 20 percent of the maximum fine established for the offense.

(d) The minimum fine for a person convicted of a felony offense that is listed in paragraph (e)(C) to (G) of this subsection and that is committed in a safety corridor designated by a county under this section is two percent of the maximum fine established for the

offense.

(e) This subsection applies to the following offenses if committed in the designated safety corridors:

(A) Class A or Class B traffic violations.

(B) Class C or Class D traffic violations related to exceeding a legal speed.

(C) Reckless driving, as defined in ORS 811.140.

(D) Driving while under the influence of intoxicants, as defined in ORS 813.010.

(E) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705.

(F) Criminal driving while suspended or revoked, as defined in ORS 811.182.

(G) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

(3)(a) The County Safety Corridor Advisory Group is established.

(b) The Director of Transportation shall appoint the following members to serve on the advisory group:

(A) Two members who are representatives of the Department of Transportation;

(B) Two members who are representatives of counties;

(C) One member who is a firefighter or emergency medical services provider; and

(D) One member who is a representative of a law enforcement agency.

(c) The advisory group shall:

(A) Establish objective criteria for designating a segment of highway as a safety corridor under subsection (1)(c) of this section;

(B) Establish requirements for the counties selected under subsection (1)(b) of this section, including for regular community engagement, heightened enforcement, engineering improvements, infrastructure investments and public outreach; and

(C) Establish content requirements for reports mandated under subsection (4)(a) of this section.

(4)(a) Each county selected under subsection (1)(b) of this section shall, in consultation with the department, prepare two reports on its findings, including any recommendations for legislation, and shall submit the reports to an appropriate committee or interim committee of the Legislative Assembly related to transportation.

(b) The first report must be submitted no later than September 15, 2022. The second report must be submitted no later than September 15, 2024.

(c) Each report must satisfy the content requirements established by the advisory group under subsection (3)(c)(C) of this section.

[2019 c.501 §2]

Sec. 6.

Section 2 of this 2019 Act is repealed on January 2, 2026. [2019 c.501 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.485 - Following too closely; penalty.**

(1) A person commits the offense of following too closely if the person does any of the following:

(a) Drives a motor vehicle so as to follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon, and condition of, the highway.

(b) Drives a truck, commercial bus or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district or upon a freeway within the corporate limits of a city and follows another truck, commercial bus or motor vehicle drawing another vehicle without, when conditions permit, leaving sufficient space so that an overtaking vehicle may enter and occupy the space without danger. This paragraph does not prevent a truck, commercial bus or motor vehicle drawing another vehicle from overtaking and passing a vehicle or combination of vehicles.

(c) Drives a motor vehicle when traveling upon a roadway outside of a business or residence district or upon a freeway within the corporate limits of a city in a caravan or motorcade whether or not towing another vehicle without operating the vehicle so as to leave sufficient space between vehicles to enable a vehicle to enter and occupy the space without danger.

(2) This section does not apply in the case of a funeral procession. Except for the funeral lead vehicle, vehicles participating in a funeral procession shall follow the preceding vehicle as closely as is reasonable and safe.

(3)(a) This section does not apply to a person operating a vehicle that is part of a connected automated braking system.

(b) As used in this subsection, "connected automated braking system" means a system that uses vehicle-to-vehicle communication to electronically coordinate the braking of a lead vehicle with the braking of one or more following vehicles.

(4) The offense described in this section, following too closely, is a Class B traffic violation. [1983 c.338 §654; 1991 c.482 §20; 2007 c.794 §5; 2018 c.93 §40]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.490 - Improper opening or leaving open of vehicle door; penalty.**

(1) A person commits the offense of improper opening or leaving open a vehicle door if the person does any of the following:

(a) Opens any door of a vehicle unless and until it is reasonably safe to do so and it can be done without interference with the movement of traffic, or with pedestrians and bicycles on sidewalks or shoulders.

(b) Leaves a door open on the side of a vehicle available to traffic, or to pedestrians or bicycles on sidewalks or shoulders for a period of time longer than necessary to load or unload passengers.

(2) The offense described in this section, improper opening or leaving open a vehicle door, is a Class D traffic violation. [1983 c.338

§655; 1985 c.16 §320]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.492 - Engine braking; penalty; exception.**

- (1) A person commits the offense of engine braking if the person is operating a motor vehicle on a highway and uses an unmuffled engine brake.
- (2) The offense described in this section, engine braking, is a Class A traffic violation.
- (3) A person is not in violation of this section if the person uses an unmuffled engine brake in an emergency situation to avoid imminent danger to a person or to property. [1993 c.314 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.495 - Unlawful coasting on downgrade; exception; penalty.**

- (1) A person commits the offense of unlawful coasting on a downgrade if the person is the driver of a vehicle on a downgrade and the person coasts with the gears or transmission of the motor vehicle in neutral or with the clutch disengaged.
- (2) This section does not apply to the driver of a motorized bicycle.
- (3) The offense described in this section, unlawful coasting on a downgrade, is a Class D traffic violation. [1983 c.338 §656; 1985 c.16 §321; 1995 c.383 §76]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.500 - Unlawful stop or deceleration; penalty.**

- (1) A person commits the offense of unlawful stop or deceleration if the person is operating a vehicle and the person stops or suddenly decreases the speed of the vehicle without first giving an appropriate signal to the driver immediately to the rear when there is opportunity to give the signal.
- (2) Appropriate signals for the purpose of this section are as designated under ORS 811.395 and 811.400.
- (3) The offense described in this section, unlawful stop or deceleration, is a Class B traffic violation. [1983 c.338 §657; 1995 c.383 §77]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.505 - Failure to stop when emerging from alley, driveway or building; penalty.**

- (1) A person commits the offense of failure to stop when emerging from an alley, driveway or building if the person is operating a vehicle that is emerging from an alley, building, private road or driveway in a business or residence district and the person does not stop the vehicle as follows:
  - (a) If there is a sidewalk or sidewalk area, the person must stop the vehicle before driving onto the sidewalk or sidewalk area.
  - (b) If there is no sidewalk or sidewalk area, the person must stop at the point nearest the roadway to be entered where the driver has a view of approaching traffic.
- (2) The offense described in this section, failure to stop when emerging from an alley, driveway or building, is a Class B traffic violation. [1983 c.338 §658; 1985 c.16 §322; 1995 c.383 §78]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.507 - Operating motor vehicle while using mobile electronic device; exceptions; penalty.**

- (1) As used in this section:
  - (a)(A) "Driving" means operating a motor vehicle on a highway or premises open to the public, and while temporarily stationary because of traffic, a traffic control device or other momentary delays.
  - (B) "Driving" does not include when the motor vehicle has stopped in a location where it can safely remain stationary and:
    - (i) Is pulled over on the side of, or is pulled off, a roadway;
    - (ii) Is in a designated parking space; or
    - (iii) Is required to park in the roadway to conduct construction or utility maintenance work.
  - (b) "Hands-free accessory" means an attachment or built-in feature for or an addition to a mobile electronic device that gives a person the ability to keep both hands on the steering wheel at all times while using the device or requires only the minimal use of a finger, via a swipe or tap, to activate or deactivate a function of the device.
  - (c) "Livestock" has the meaning given that term in ORS 609.125.
  - (d)(A) "Mobile electronic device" means an electronic device that is not permanently installed in a motor vehicle.
  - (B) "Mobile electronic device" includes but is not limited to a device capable of text messaging, voice communication, entertainment, navigation, accessing the Internet or producing electronic mail.
  - (e) "Using a mobile electronic device" includes but is not limited to using a mobile electronic device for text messaging, voice communication, entertainment, navigation, accessing the Internet or producing electronic mail.
- (2) A person commits the offense of driving a motor vehicle while using a mobile electronic device if the person, while driving a motor vehicle on a highway or premises open to the public:

- (a) Holds a mobile electronic device in the person's hand; or
- (b) Uses a mobile electronic device for any purpose.
- (3) This section does not apply to a person:
  - (a) Who is employed as a commercial motor vehicle driver, or as a school bus driver, and is using a mobile electronic device within the scope of the person's employment if the use is permitted under regulations promulgated pursuant to 49 U.S.C. 31136;
  - (b) Who is employed as a driver of a vehicle having a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds and is using a mobile electronic device within the scope of the person's employment and as required under regulations promulgated pursuant to 49 U.S.C. 31137;
  - (c) Who is operating a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the business, citizens' or family radio service bands in accordance with rules of the Federal Communications Commission while transporting forest products, or while operating a vehicle to assist in logging operations, within the scope of the person's employment;
  - (d) Who is using a two-way radio device while operating a school bus or school activity vehicle within the scope of the person's employment;
  - (e) Who is using a two-way radio device or operating a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the business, citizens' or family radio service bands in accordance with rules of the Federal Communications Commission while operating a vehicle owned or contracted by a utility for the purpose of installing, repairing, maintaining, operating or upgrading utility service, including but not limited to natural gas, electricity, water or telecommunications, within the scope of the person's employment;
  - (f) Who is using a two-way radio device while operating a vehicle wider than the lane of travel, a vehicle transporting livestock or a vehicle requiring a slow-moving vehicle emblem under ORS 815.110, and the use of the device facilitates the safe operation of the vehicle; or
  - (g) Who is using a two-way radio device while operating a pilot or safety vehicle used to assist the safe movement of a vehicle described in paragraph (f) of this subsection, and the use of the device facilitates the safe movement of the vehicle described in paragraph (f) of this subsection.
- (4) It is an affirmative defense to a prosecution of a person under this section that the person:
  - (a) Used the mobile electronic device to communicate if the person was summoning or providing medical or other emergency help if no other person in the vehicle was capable of summoning help;
  - (b) Was 18 years of age or older and was using a hands-free accessory;
  - (c) Was driving an ambulance or emergency vehicle while acting within the scope of the person's employment;
  - (d) Was a police officer, firefighter or emergency medical services provider and was acting within the scope of the person's employment;
  - (e) Was 18 years of age or older, held a valid amateur radio operator license issued or any other license issued by the Federal Communications Commission and was operating an amateur radio;
  - (f) Was operating a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the business, citizens' or family radio service bands in accordance with rules of the Federal Communications Commission to summon medical or other emergency help; or
  - (g) Was using a medical device.
- (5) The offense described in this section, driving a motor vehicle while using a mobile electronic device, is:
  - (a) Except as provided in paragraph (b) of this subsection, for a person's first conviction, a Class B traffic violation.
  - (b) For a person's first conviction, if commission of the offense contributes to an accident described in ORS 811.720, a Class A traffic violation.
  - (c) For a person's second conviction within a 10-year period following the date of the person's first conviction, a Class A traffic violation.
  - (d) For a person's third or subsequent conviction within a 10-year period preceding the date of the person's current conviction, a Class B misdemeanor.
  - (6) In addition to any other sentence that may be imposed, the court shall impose a minimum fine of \$2,000 on a person convicted of a Class B misdemeanor under subsection (5)(d) of this section.
  - (7) For purposes of this section, sentences for two or more convictions that are imposed in the same sentencing proceeding are considered to be one sentence.
  - (8)(a) For a person's first conviction of driving a motor vehicle while using a mobile electronic device, the court may suspend the fine to be imposed under subsection (5)(a) of this section on the condition that the person, within 120 days of sentencing:
    - (A) Complete at the person's own expense a distracted driving avoidance course approved by the Department of Transportation under ORS 811.508; and
    - (B) Provide proof of completion to the court.
  - (b) The court may schedule a hearing to determine whether the person successfully completed the distracted driving avoidance course.
  - (c) If the person has successfully completed the requirements described in paragraph (a) of this subsection, the court shall enter a sentence of discharge. Notwithstanding ORS 153.021, a sentence of discharge imposed under this paragraph may not include a fine.

(d) If the person has not successfully completed the requirements described in paragraph (a) of this subsection, the court shall:

(A) Grant the person an extension based on good cause shown; or

(B) Impose the fine under subsection (5)(a) of this section.

(9) The department shall place signs on state highways to notify drivers that it is unlawful to drive a motor vehicle on the highways of this state while using a mobile electronic device and violators are subject to criminal penalties. [2007 c.870 §2; 2009 c.834 §1; 2011 c.530 §1; 2013 c.757 §1; 2017 c.629 §§1,2; 2018 c.32 §1]

Note:

Section 5, chapter 629, Oregon Laws 2017, provides:

Sec. 5.

The amendments to ORS 811.507 by section 1, chapter 629, Oregon Laws 2017, apply to:

(1) Offenses committed on or after October 1, 2017; and

(2) For purposes of determining prior convictions within a 10-year period under ORS 811.507 (5)(c) or (d), prior convictions occurring on or after July 1, 2018. [2017 c.629 §5; 2018 c.32 §3]

Note:

Section 4, chapter 32, Oregon Laws 2018, provides:

Sec. 4.

(1) A person convicted of an offense under ORS 811.507 (5)(c) or (d), the classification of which was enhanced due to the court taking into account one or more prior convictions occurring before July 1, 2018, may request in writing that the court redetermine the classification of the offense.

(2) Upon receipt of a request under this section, if the court determines that the classification of the offense was based upon the court taking into account one or more prior convictions occurring before July 1, 2018, the court shall vacate the judgment of conviction and enter a new judgment of conviction for a Class B or Class A traffic violation in accordance with ORS 811.507 (5)(a) or (b). [2018 c.32 §4]

Note:

811.507 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.508 - Distracted driving avoidance course; rules.**

(1) The Department of Transportation by rule shall establish standards for a distracted driving avoidance course provided to persons who violate ORS 811.507. The standards must describe the contents and quality of a curriculum for the course, specify requirements for obtaining a certificate or other evidence of having completed the course and otherwise determine the level and depth of knowledge a person must have obtained from the course.

(2) The department shall maintain a list of providers approved to lead the course described in this section and shall update the list monthly. The department shall prescribe procedures for providing the provider list to courts. [2017 c.629 §4]

Note:

811.508 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.510 - Dangerous operation around livestock; penalty.**

(1) A person commits the offense of dangerous operation around livestock if the person is operating a vehicle upon a highway and the person fails to do any of the following:

(a) A driver shall use caution when approaching or passing a person riding, leading or herding livestock on the highway.

(b) If a person riding or leading livestock upon a highway gives a distress signal to an approaching driver by raising a hand, the driver must promptly stop the driver's vehicle, unless movement forward is necessary to avoid an accident, and, if requested, shall turn off the engine until the livestock is under control.

(c) A driver shall yield the right of way to livestock being driven on a highway.

(2) This section is only applicable if the livestock is an animal of the species of horses, mules, donkeys, cattle, swine, sheep or goats.

(3) The offense described in this section, dangerous operation around livestock, is a Class B traffic violation. [1983 c.338 §666]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.512 - Unlawfully operating low-speed vehicle on highway; penalty.**

(1) A person commits the offense of unlawfully operating a low-speed vehicle on a highway if the person operates a low-speed vehicle on a highway that has a speed limit or posted speed of more than 35 miles per hour.

(2) Notwithstanding subsection (1) of this section, a city or county may adopt an ordinance allowing operation of low-speed vehicles on city streets or county roads that have speed limits or posted speeds of more than 35 miles per hour.

(3) Notwithstanding subsection (1) of this section, a person does not commit the offense of unlawfully operating a low-speed vehicle on a highway if the person operates a farm tractor on a state highway that has a speed limit or posted speed of more than 35 miles



per hour.

(4) The offense described in this section, unlawfully operating a low-speed vehicle on a highway, is a Class B traffic violation. [2001 c.293 §8; 2019 c.59 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.513 - Unlawfully operating medium-speed electric vehicle on highway; penalty.**

(1) A person commits the offense of unlawfully operating a medium-speed electric vehicle on a highway if the person operates a medium-speed electric vehicle on a highway with a posted speed limit that is greater than 45 miles per hour.

(2) Notwithstanding subsection (1) of this section, a city or county may adopt an ordinance allowing operation of medium-speed electric vehicles on city streets or county roads that have speed limits or posted speeds of more than 45 miles per hour.

(3) The offense described in this section, unlawfully operating a medium-speed electric vehicle on a highway, is a Class B traffic violation. [2009 c.865 §13]

Note:

811.513 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.514 - Unlawfully operating racing activity vehicle on highway; penalty.**

(1) A person commits the offense of unlawfully operating a racing activity vehicle on a highway if the person operates a racing activity vehicle on a highway that has a speed limit or posted speed that is greater than 55 miles per hour.

(2) The offense described in this section, unlawfully operating a racing activity vehicle on a highway, is a Class B traffic violation. [2007 c.693 §3c]

Note:

811.514 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.515 - When lights must be displayed; kind of light; number; direction; use on certain vehicles.**

This section establishes requirements for ORS 811.520. Except where an exemption under ORS 811.525 specifically provides otherwise, a vehicle that does not comply with this section is in violation of ORS 811.520. Where specific types of lighting equipment are mentioned in this section, those types are types described in ORS 816.040 to 816.290. The requirements under this section are as follows:

(1) Subject to any other provision of this section, any lighting equipment a vehicle is required to be equipped with under ORS 816.040 to 816.290 must be displayed when the vehicle is upon a highway within this state at any time limited visibility conditions exist. The provisions of this subsection apply during the times stated when the required visibility is measured on a straight, level unlighted highway.

(2) Parking lights and lights other than clearance, identification and marker lights that are mounted on the front of a vehicle and are designed to be displayed primarily when the vehicle is parked shall not be lighted when a vehicle is driven upon a highway at times when limited visibility conditions exist except when:

(a) The lights are being used as turn signals; or

(b) The headlights are also lighted at the same time.

(3) Any vehicle parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during times when limited visibility conditions exist must display parking lights.

(4) All vehicles not specifically required by ORS 816.320 to be equipped with lighting equipment shall at times when limited visibility conditions exist display exempt-vehicle safety lighting equipment. This section includes, but is not limited to, animal drawn vehicles and vehicles exempted from required lighting equipment under ORS 816.340.

(5) Tow vehicle warning lights on tow vehicles shall be activated when the tow vehicles are engaged in connecting with other vehicles and drawing such vehicles onto highways or while servicing disabled vehicles.

(6) When limited visibility conditions exist a person shall use a distribution of light or composite beam that is directed sufficiently high and that is of such intensity so as to reveal persons and vehicles on the highway at a safe distance in advance of the vehicle. A person violates this subsection if the person does not comply with the following:

(a) Whenever the driver of a vehicle approaches an oncoming vehicle within 500 feet, the driver must use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The use of the low beams of the vehicle headlight system is in compliance with this paragraph at all times regardless of road contour and loading of the vehicle.

(b) Except when in the act of overtaking or passing, a driver of a vehicle following another vehicle within 350 feet to the rear must use the low beams of the vehicle headlight system.

(7) When a vehicle is upon a highway a person shall light not more than a total of four lights at any one time that are mounted on the front of a vehicle and that each projects a beam of intensity greater than 300 candlepower.

(8)(a) A light, other than a headlight, that projects a beam of light of an intensity greater than 300 candlepower shall not be operated

on a vehicle:

(A) Unless the beam is so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle; or

(B) Except as provided in paragraph (b) of this subsection, when use of the low beams of the vehicle headlight system is required under subsection (6) of this section.

(b) Notwithstanding paragraph (a)(B) of this subsection, a light, other than a headlight, may be lighted on a motorcycle provided that the intensity of the light does not exceed the intensity of the low beams of the headlight system. A motorcycle may not be operated with more than two lights, other than headlights, under this paragraph.

(9) A spotlight shall not be lighted upon approaching another vehicle unless the spotlight is so aimed and used so that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle upon which it is mounted, more than 100 feet ahead of the vehicle.

(10) Auxiliary lights mounted higher than 54 inches shall not be lighted when the vehicle is used on a highway.

(11) A back-up light shall not be lighted when the vehicle is in forward motion.

(12) Bus safety lights shall only be operated in accordance with the following:

(a) The lights may be operated when the vehicle is stopping or has stopped for the purpose of loading or unloading students who are going to or from any school or authorized school activity or function.

(b) The lights may be operated when the vehicle is stopping or has stopped for the purpose of loading or unloading workers from worker transport buses.

(c) The lights may be operated when the vehicle is stopping or has stopped for the purpose of loading or unloading children being transported to or from religious services or an activity or function authorized by a religious organization.

(d) The lights may be operated when the vehicle is stopping or has stopped in a place that obstructs other drivers' ability to see the bus safety lights on another vehicle.

(e) Notwithstanding any other paragraph of this subsection, the lights shall not be operated if the vehicle is stopping or has stopped at an intersection where traffic is controlled by electrical traffic control signals, other than flashing signals, or by a police officer.

(f) Notwithstanding any other paragraph of this subsection, the lights shall not be operated if the vehicle is stopping or has stopped at a loading or unloading area where the vehicle is completely off the roadway.

(13)(a) Hazard lights shall be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing.

(b) Hazard lights shall be used by the first and last vehicles in a funeral procession.

(14) Mail delivery lights may be used only while in active service transporting United States mail for the purpose of warning other vehicle operators of the vehicle's presence and to exercise caution in approaching, overtaking or passing. A vehicle with mail delivery lights is in compliance with this subsection if the lights are flashed continuously while the vehicle is in motion in active service transporting mail or if the lights are actuated by application of the service brake while the vehicle is parked.

(15) A pilot vehicle warning light may be activated only when the vehicle equipped with the light is an escort accompanying a motor vehicle carrying or towing a load of a size or description not permitted under ORS 818.020, 818.060, 818.090 or 818.160.

(16) Fire company warning lights authorized under a permit granted under ORS 818.250 may be used by the persons authorized under the permit while being driven to a fire station or fire location in response to a fire alarm. Fire company warning lights authorized under ORS 811.800 may be used by funeral escort vehicle or funeral lead vehicle drivers while driving in a funeral procession. The lights shall be covered or otherwise concealed when not being displayed as provided in this subsection.

(17) Any lighted headlights upon a parked vehicle shall be dimmed.

(18) Commercial vehicle warning lights may be used only:

(a) To warn operators of other vehicles of the presence of a traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing the commercial vehicle; and

(b) When the commercial vehicle is being used for commercial purposes and the vehicle is:

(A) Stopped, parked or left standing at a commercial or work site; or

(B) In a highway work zone as defined in ORS 811.230. [1983 c.338 §660; 1985 c.71 §7; 1989 c.402 §1; 1991 c.482 §19; 2003 c.118 §2; 2003 c.245 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.520 - Unlawful use or failure to use lights; penalty.**

(1) A person commits the offense of unlawful use or failure to use lights if the person does any of the following:

(a) Drives or moves on any highway any vehicle at a time when vehicle lighting is required to be operated or is prohibited from being operated under ORS 811.515 and operates or fails to operate lighting equipment as required under ORS 811.515.

(b) Owns a vehicle or combination of vehicles and causes or knowingly permits the vehicle or combination of vehicles to be driven or moved on any highway at a time when ORS 811.515 requires or prohibits the operation of vehicle lighting equipment without compliance with the requirements under ORS 811.515.

(c) Drives any vehicle in a funeral procession without using the low beam headlights.

(2) The application of this section is subject to the exemptions from this section established under ORS 811.525.

(3) The offense described in this section, unlawful use of or failure to use lights, is a Class B traffic violation, except that violation

of ORS 811.515 (3), (4), (13) or (17) or subsection (1)(c) of this section is a Class D traffic violation. [1983 c.338 §659; 1985 c.16 §323; 1991 c.482 §21; 1995 c.383 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.525 - Exemptions from requirements for use of lights.**

This section establishes exemptions from ORS 811.515 and 811.520. The exemptions under this section are in addition to any exemptions under ORS 801.026. The exemptions established under this section are partial or complete as described in the following:

- (1) ORS 811.515 and 811.520 shall not be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of those sections.
- (2) Except for the provisions relating to exempt-vehicle safety lighting equipment, ORS 811.515 and 811.520 do not apply to any of the following:
  - (a) Road machinery.
  - (b) Road rollers.
  - (c) Farm tractors.
  - (d) Antique vehicles that are maintained as a collector's item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.
- (3) Whenever motor and other vehicles are operated in combination during the time that lights are required, any lighting equipment, except the taillight, which by reason of its location on a vehicle of the combination would be obscured by another vehicle of the combination, need not be lighted. This subsection shall not affect the requirement that lighted clearance lights be displayed on the front of the foremost vehicle required to have clearance lights nor the requirement that all lights on the rear of the rearmost vehicle of the combination be lighted.
- (4) Lighting equipment on bicycles shall be lighted as required under ORS 815.280.
- (5) Parked or stopped vehicles are not required to display parking lights if the road authority for the highway provides by ordinance or resolution that no lights need be displayed upon a vehicle parked on the highway in accordance with legal parking regulations where there is sufficient light to render clearly discernible any person or object within a distance of 500 feet from the highway.
- (6) Nothing under ORS 811.515 and 811.520 limits the ability to use the following lights with any other lights during the day or at night:
  - (a) Public vehicle warning lights.
  - (b) Pilot vehicle warning lights.
  - (c) Tow vehicle warning lights.
  - (d) Police lights.
  - (e) Warning lights on vehicles at the scene of an actual or potential release of hazardous materials, as described in ORS 816.280.
  - (f) Warning lights on vehicles being used by medical examiners to reach the scene of an accident or of a death investigation, as described in ORS 816.280.
  - (g) Commercial vehicle warning lights.
- (7) Requirements for use of motorcycle and moped headlights are under ORS 814.320.
- (8) Requirements for lighting equipment for an electric personal assistive mobility device are under ORS 815.284. [1983 c.338 §661; 1985 c.16 §324; 1985 c.71 §8; 1999 c.497 §2; 2003 c.245 §2; 2003 c.341 §9; 2015 c.138 §30]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.526 - Safety campaign for use of headlights.**

The Department of Transportation shall conduct a safety campaign to educate people about the advantages of using headlights in fog or rain or when driving on a single lane highway. The campaign shall include, but need not be limited to, encouraging people to drive with headlights on under the specified conditions. [1997 c.464 §1]

Note:

811.526 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.530 - Failure to post warnings for disabled vehicle; application; penalty.**

- (1) A person commits the offense of failure to post warnings for a disabled vehicle if the person is the driver, or other person in charge of a vehicle subject to this section, and the person does not cause the placement of such roadside vehicle warning devices as the Department of Transportation may require under ORS 815.035 when the vehicle is disabled during limited visibility conditions and cannot immediately be removed from the main traveled portion of a highway outside of a business district or residence district.
- (2) This section applies only to the following vehicles:
  - (a) School buses.
  - (b) School activity vehicles.
  - (c) Worker transport buses.
  - (d) Vehicles used in transportation of persons for hire by a nonprofit entity.

- (e) A bus being operated for transporting children to and from religious services or an activity or function authorized by the religious organization.
- (f) Commercial buses.
- (g) Motor trucks with a registration weight in excess of 8,000 pounds.
- (h) Trailers with a registration weight in excess of 8,000 pounds.
- (3) Requirements to be equipped with roadside vehicle warning devices are contained in ORS 815.285.
- (4) The offense described in this section, failure to post warnings for a disabled vehicle, is a Class B traffic violation. [1983 c.338 §662; 1985 c.16 §325; 1985 c.420 §11; 1989 c.992 §21; 2015 c.283 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.535 - Failing to obey police officer; penalty.**

- (1) A person commits the offense of failing to obey a police officer if the person refuses or fails to comply with any lawful order, signal or direction of a police officer who:
  - (a) Is displaying the police officer's star or badge; and
  - (b) Has lawful authority to direct, control or regulate traffic.
- (2) The offense described in this section, failing to obey a police officer, is a Class B traffic violation. [1983 c.338 §663; 1995 c.383 §79]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.540 - Fleeing or attempting to elude police officer; penalty.**

- (1) A person commits the crime of fleeing or attempting to elude a police officer if:
  - (a) The person is operating a motor vehicle; and
  - (b) A police officer who is in uniform and prominently displaying the police officer's badge of office or operating a vehicle appropriately marked showing it to be an official police vehicle gives a visual or audible signal to bring the vehicle to a stop, including any signal by hand, voice, emergency light or siren, and either:
    - (A) The person, while still in the vehicle, knowingly flees or attempts to elude a pursuing police officer; or
    - (B) The person gets out of the vehicle and knowingly flees or attempts to elude the police officer.
- (2) It is an affirmative defense to a prosecution of a person under this section that, after a police officer operating a vehicle not marked as an official police vehicle signaled the person to bring the person's vehicle to a stop, the person proceeded lawfully to an area the person reasonably believed was necessary to reach before stopping.
- (3) The offense described in this section, fleeing or attempting to elude a police officer, is applicable upon any premises open to the public and:
  - (a) Is a Class C felony if committed as described in subsection (1)(b)(A) of this section; or
  - (b) Is a Class A misdemeanor if committed as described in subsection (1)(b)(B) of this section. [1983 c.338 §664; 1991 c.655 §1; 1997 c.532 §1; 1997 c.860 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.550 - Places where stopping, standing and parking prohibited.**

This section establishes places where stopping, standing and parking a vehicle are prohibited for purposes of the penalties under ORS 811.555. Except as provided under an exemption in ORS 811.560, a person is in violation of ORS 811.555 if a person parks, stops or leaves standing a vehicle in any of the following places:

- (1) Upon a roadway outside a business district or residence district, whether attended or unattended, when it is practicable to stop, park or leave the vehicle standing off the roadway. Exemptions under ORS 811.560 (1), (7), (9), (11) and (12) are applicable to this subsection.
- (2) On a shoulder, whether attended or unattended, unless a clear and unobstructed width of the roadway opposite the standing vehicle is left for the passage of other vehicles and the standing vehicle is visible from a distance of 200 feet in each direction upon the roadway or the person, at least 200 feet in each direction upon the roadway, warns approaching motorists of the standing vehicle by use of flaggers, flags, signs or other signals. Exemptions under ORS 811.560 (9), (11) and (12) are applicable to this subsection.
- (3) On the roadway side of a vehicle stopped or parked at the edge or curb of a highway. Exemptions under ORS 811.560 (7), (11) and (12) are applicable to this subsection.
- (4) On a sidewalk. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.
- (5) Within an intersection. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.
- (6) On a crosswalk. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.
- (7) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs and markings. For purposes of this subsection the safety zone must be an area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.
- (8) Alongside or opposite a street excavation or obstruction when stopping, standing or parking would obstruct traffic. Exemptions

under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(9) Upon a bridge or other elevated structure upon a highway. Exemptions under ORS 811.560 (4) to (8), (11) and (12) are applicable to this subsection.

(10) Within a highway tunnel. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(11) On any railroad or rail fixed guideway public transportation system tracks or within seven and one-half feet of the nearest rail at a time when the parking of vehicles would conflict with operations or repair of the tracks. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(12) On a throughway. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(13) In the area between roadways of a divided highway, including crossovers. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(14) At any place where traffic control devices prohibit stopping. Exemptions under ORS 811.560 (4) to (7), (11) and (12) are applicable to this subsection.

(15) In front of a public or private driveway. Exemptions under ORS 811.560 (2), (4) to (7), (11) and (12) are applicable to this subsection.

(16) Within 10 feet of a fire hydrant. Exemptions under ORS 811.560 (2), (4) to (7), (11) and (12) are applicable to this subsection.

(17) Within 20 feet of a crosswalk at an intersection. Exemptions under ORS 811.560 (2), (4) to (7), (11) and (12) are applicable to this subsection.

(18) Within 50 feet upon the approach to an official flashing signal, stop sign, yield sign or traffic control device located at the side of the roadway if the standing or parking of a vehicle will obstruct the view of any traffic control device located at the side of the roadway. Exemptions under ORS 811.560 (2), (4) to (7), (11) and (12) are applicable to this subsection.

(19) Within 15 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station, within 75 feet of the entrance. Exemptions under ORS 811.560 (2), (4) to (7), (11) and (12) are applicable to this subsection.

(20) At any place where traffic control devices prohibit standing. Exemptions under ORS 811.560 (2), (4) to (7), (11) and (12) are applicable to this subsection.

(21) Within 50 feet of the nearest rail of a railroad or rail fixed guideway public transportation system crossing. Exemptions under ORS 811.560 (3) to (7), (11) and (12) are applicable to this subsection.

(22) At any place where traffic control devices prohibit parking. Exemptions under ORS 811.560 (3) to (7), (11) and (12) are applicable to this subsection.

(23) On a bicycle lane. Exemptions under ORS 811.560 are applicable to this subsection.

(24) On a bicycle path. Exemptions under ORS 811.560 are applicable to this subsection. [1983 c.338 §669; 1985 c.21 §1; 1985 c.334 §1; 1989 c.433 §2; 1997 c.249 §234; 2001 c.522 §9; 2017 c.46 §10; 2019 c.232 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.555 - Illegal stopping, standing or parking; affirmative defense; penalty.**

(1) A person commits the offense of illegal stopping, standing or parking if:

(a) The person stops, parks or leaves standing a vehicle in a place where such stopping, parking or standing is prohibited under ORS 811.550; or

(b) The person is the owner of an unattended vehicle parked in a place where such parking is prohibited under ORS 811.550.

(2) Exemptions from this section are established under ORS 811.560.

(3) A police officer, under authority granted by ORS 810.430, may move or require to be moved a vehicle that is stopped, parked or left standing in violation of this section.

(4) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.

(5) The offense described by this section, illegal stopping, standing or parking, is a Class D traffic violation. [1983 c.338 §668; 1987 c.687 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.560 - Exemptions from prohibitions on stopping, standing or parking.**

This section provides exemptions from ORS 811.550 and 811.555. The following exemptions are applicable as provided under ORS 811.560:

(1) When applicable, this subsection exempts school buses or worker transport buses stopped on a roadway to load or unload workers or children, providing that the flashing school bus safety lights on the bus are operating.

(2) When applicable, this subsection exempts vehicles stopped, standing or parked momentarily to pick up or discharge a passenger.

(3) When applicable, this subsection exempts vehicles stopped, standing or parked momentarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(4) When applicable, this subsection exempts vehicles owned or operated by the state, a county or city when stopping, standing or parking is necessary to perform maintenance or repair work on the roadway.

(5) When applicable, this subsection exempts vehicles from the prohibitions and penalties when the driver's disregard of the prohibitions is necessary to avoid conflict with other traffic.

(6) When applicable, this subsection exempts vehicles acting in compliance with law or at the direction of a police officer or a traffic control device.

(7) When applicable, this subsection exempts the driver of a vehicle that is disabled in such manner and to such extent that the driver cannot avoid stopping or temporarily leaving the disabled vehicle in a prohibited position.

(8) When applicable, this subsection exempts vehicles owned or operated by the State Department of Fish and Wildlife when stopping, standing or parking is necessary to enable employees to release fish.

(9) When applicable, this subsection exempts vehicles momentarily stopped to allow oncoming traffic to pass before making a right-hand or left-hand turn or momentarily stopped in preparation for or while negotiating an exit from the road.

(10) When applicable, this subsection exempts commercial vehicles that are stopped, standing or parked when stopping, standing or parking is necessary to engage in any activity associated with the collection of solid waste, recyclable material or yard debris, as those terms are defined in ORS 459.005.

(11) When applicable, this subsection exempts vehicles owned or operated by a natural gas utility when stopping, standing or parking to investigate or repair a natural gas leak if:

(a) Immediate investigation is necessary; and

(b) The natural gas utility vehicle displays a sign denoting emergency responder status to investigate or respond to an emergency.

(12)(a) When applicable, this subsection exempts vehicles owned or operated by an electric utility when stopping, standing or parking is necessary to respond to an emergency if the vehicle is identified as an electric utility vehicle and:

(A) There is also an emergency vehicle at the location; or

(B) The electric utility is investigating a downed or arcing utility line.

(b) As used in this subsection, "electric utility" means an electric company or consumer-owned utility that is engaged in the business of distributing electricity to retail electricity consumers in this state. [1983 c.338 §670; 1985 c.334 §2; 1989 c.433 §3; 2013 c.250 §1; 2019 c.232 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.562 - Parking in parking space with out-of-service meter.**

(1) When a parking meter operated by any public body as defined in ORS 174.109 is out of service, a person may park a vehicle in any parking space regulated by the out-of-service meter:

(a) If the space is one in which the vehicle would otherwise be allowed to park;

(b) For the maximum amount of time that would otherwise be allowed for the space; and

(c) Without payment of the parking fee that would otherwise be charged for the space for that amount of time.

(2) Subsection (1) of this section does not apply if a notice prohibiting parking in the space is clearly posted at the space and where payment of the fee would be required if the meter were in service.

(3) A person may not be cited for a vehicle that is lawfully parked in a space when parking in the space becomes prohibited. [2023 c.28 §1]

Note:

811.562 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.565 - Dangerous movement of stopped, standing or parked vehicle; penalty.**

(1) A person commits the offense of dangerous movement of a stopped, standing or parked vehicle if the person moves a vehicle so stopped, standing or parked when the movement cannot be made with reasonable safety.

(2) The offense described in this section, dangerous movement of a stopped, standing or parked vehicle, is a Class B traffic violation. [1983 c.338 §675; 1995 c.383 §80]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.570 - Improperly positioning parallel parked vehicle; exception; affirmative defense; penalty.**

(1) A person commits the offense of improperly positioning a parallel parked vehicle if:

(a) The person stops or parks a vehicle on a highway where parallel parking is permitted and the vehicle is not parked in accordance with the following:

(A) Upon a two-way highway, the vehicle shall be positioned so that the right-hand wheels are parallel to and within 12 inches of the right curb or, if none, as close as possible to the right edge of the right shoulder.

(B) On a one-way highway where parallel parking is permitted on either side, a vehicle parked or stopped on the right side shall be positioned in accordance with the requirements of subparagraph (A) of this paragraph and a vehicle parked or stopped on the left side shall be positioned so that the left-hand wheels are parallel to and within 12 inches of the left curb or, if none, as close as possible to the left edge of the left shoulder.

(C) Where marked parking spaces are provided, a vehicle shall be positioned so that it faces in the direction in which vehicles in the adjacent lane of the roadway are required to travel and so that the wheels are within the parking space markings which are parallel to the curb or, if none, to the edge of the shoulder; or

- (b) The person is the owner of an unattended vehicle parked on a highway in violation of paragraph (a) of this subsection.
- (2) The provisions of this section do not apply to the driver of a vehicle that is disabled in such manner and to such extent that the driver cannot avoid stopping or temporarily leaving the disabled vehicle in a position prohibited by this section.
- (3) A police officer, under authority granted by ORS 810.430, may move or require to be moved a vehicle that is parked in violation of this section.
- (4) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.
- (5) The offense described in this section, improperly positioning a parallel parked vehicle, is a Class D traffic violation. [1983 c.338 §671; 1987 c.687 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.575 - Violation of posted parking restrictions on state highways; affirmative defense; penalty.**

- (1) A person commits the offense of violation of posted parking restrictions on state highways if appropriate signs or markings are posted giving notice of any regulations, restrictions or prohibitions on the parking, stopping or standing of vehicles on a state highway and:
  - (a) The person parks, stops or stands a vehicle on a state highway in violation of any such regulations, restrictions or prohibitions; or
  - (b) The person is the owner of an unattended vehicle parked on a state highway in violation of any such regulations, restrictions or prohibitions.
- (2) Authority to impose restrictions, regulations and prohibitions on parking, stopping or standing of vehicles on state highways is established under ORS 810.160.
- (3) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.
- (4) The offense described in this section, violation of posted parking restrictions on state highways, is a Class D traffic violation. [1983 c.338 §672; 1987 c.687 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.580 - Parking vehicle on state highway for vending purposes; penalty.**

- (1) A driver commits the offense of unlawful parking for vending purposes if the person parks or leaves standing a vehicle on a right of way of a state highway for the purpose of advertising, selling or offering merchandise for sale except pursuant to written agreement with the Department of Transportation.
- (2) The offense described in this section, unlawful parking for vending purposes is a Class D traffic violation. [1983 c.338 §674]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.585 - Failure to secure motor vehicle; affirmative defense; penalty.**

- (1) A person commits the offense of failure to secure a motor vehicle if the person is driving or is in charge of a motor vehicle and:
  - (a) The person permits the vehicle to stand unattended on a highway without first doing all of the following:
    - (A) Stopping the engine.
    - (B) Turning the front wheels to the curb or side of the highway when standing upon any grade.
    - (C) Locking the ignition.
    - (D) Removing the key from the ignition.
    - (E) Effectively setting the brake on the vehicle; or
  - (b) The person is the owner of an unattended motor vehicle parked on a highway in violation of paragraph (a) of this subsection.
- (2) It is an affirmative defense to a prosecution of the owner of a vehicle under subsection (1)(b) of this section that the use of the vehicle was not authorized by the owner, either expressly or by implication.
- (3) The offense described in this section, failure to secure a motor vehicle, is a Class D traffic violation. [1983 c.338 §676; 1985 c.16 §326; 1987 c.687 §7; 1995 c.383 §81]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.587 - Unlawful parking in space reserved for alternative fuel vehicle refueling; penalty.**

- (1) As used in this section, "alternative fuel vehicle" has the meaning given that term in ORS 469B.100, except that "alternative fuel vehicle" includes vehicles registered in any jurisdiction.
- (2) A person commits the offense of unlawful parking in a space reserved for alternative fuel vehicle refueling if:
  - (a) The person parks a vehicle in any parking space that is on premises open to the public;
  - (b) The parking space is marked or signed as reserved for alternative fuel vehicle refueling; and
  - (c) The vehicle in the parking space is not engaged in the refueling process.
- (3) The offense of unlawful parking in a space reserved for alternative fuel vehicle refueling is a Class D traffic violation. [2015 c.208 §1]

Note:

811.587 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note:

The definition of "alternative fuel vehicle" in 469B.100 was deleted by amendment by section 28, chapter 701, Oregon Laws 2015. The text of 811.587 was not amended by enactment of the Legislative Assembly to reflect the deletion. Editorial adjustment of 811.587 for the deletion of the definition has not been made.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.590 - Unlawful parking in winter recreation parking area; exemptions; penalty.**

(1) A person commits the offense of unlawful parking in a winter recreation parking area if the person parks a vehicle in a location designated as a winter recreation parking area under ORS 810.170 at any time from November 1 of any year to April 30 of the next year and the vehicle is not displaying a winter recreation parking permit issued under ORS 811.595.

(2) Unless the police officer issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle. If the parking of the vehicle is witnessed by the police officer, the operator of the vehicle is in violation of this section.

(3) In addition to those vehicles displaying a winter recreation parking permit, the following vehicles are not subject to the prohibition or penalty under this section:

(a) A vehicle owned and operated by the United States, another state or a political subdivision thereof.

(b) A vehicle owned and operated by this state or by any city, district or political subdivision thereof.

(c) A vehicle owned by a resident of another state if the vehicle displays a winter area parking permit issued in accordance with the laws of the state in which the owner of the vehicle resides and that is similar to the winter recreation parking permit issued under ORS 811.595. The exemption under this paragraph is only granted to the extent that a similar exemption or privilege is granted under the laws of the other state for vehicles displaying a winter recreation parking permit issued under ORS 811.595.

(4) The offense described in this section, unlawful parking in a winter recreation parking area, is a specific fine traffic violation. The presumptive fine for unlawful parking in a winter recreation parking area is \$30. [1983 c.338 §678; 1999 c.1010 §1; 2007 c.810 §6; 2011 c.597 §98]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.595 - Winter recreation parking permit; rules; fees.**

A winter recreation parking permit is a vehicle permit that is issued as evidence of a grant of authority to park a vehicle in a winter recreation parking location established under ORS 810.170 without violation of ORS 811.590. The Department of Transportation shall establish a program for the issuance of winter recreation parking permits under this section. The program established by the department shall comply with all of the following:

(1) The department shall adopt rules necessary for the issuance and administration of winter recreation parking permits. The rules shall be adopted under ORS chapter 183.

(2) The department shall include all of the following in the rules adopted under this section:

(a) The type of permit.

(b) The manner in which the permit is to be issued.

(c) The manner of displaying the permit on a vehicle.

(d) Procedures for issuance of permits by persons appointed by the department.

(3) Vehicle permits issued under this section shall be transferable from vehicle to vehicle.

(4) The fees for issuance of winter recreation parking permits are as provided under ORS 811.600. [1983 c.338 §679; 1985 c.16 §327]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.600 - Fees for winter recreation parking permits.**

The Oregon Transportation Commission shall set the fees for issuance of a winter recreation parking permit issued under ORS 811.595 by rule. The commission shall consider recommendations of the Winter Recreation Advisory Committee in setting the fees under this section. The fees established for issuance of winter recreation parking permits shall be designed to cover the costs of enforcing the requirement for winter recreation parking permits and of removing snow from winter recreation parking locations designated under ORS 810.170, but may not exceed the following:

(1) For winter recreation parking permits valid for a period of one day, \$5.

(2) For winter recreation parking permits valid for a period of three consecutive days, \$10.

(3) For winter recreation parking permits valid for a period of one year beginning each November, \$30. [1983 c.338 §684(1); 1985 c.16 §329(1); 1985 c.139 §5(1); 1993 c.245 §1; 1997 c.583 §7; 1999 c.1010 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.602 - Disabled person parking permit; content; rules.**



- (1) A disabled person parking permit is a means of identifying vehicles being used to exercise the parking privileges described in ORS 811.635. The following are disabled person parking permits:
- (a) A special decal described in ORS 811.605 issued by the Department of Transportation to be affixed to a golf cart or substantially similar vehicle;
  - (b) An individual placard described in ORS 811.605;
  - (c) A program placard issued by the department under ORS 811.607;
  - (d) A family placard issued by the department under ORS 811.609;
  - (e) A foreign visitor placard issued by the department under ORS 811.611;
  - (f) A "Wheelchair User" placard or decal issued by the department under ORS 811.613; and
  - (g) An "Oregon Wounded Warrior" placard or decal issued by the department under ORS 811.616.
- (2) The department shall issue a disabled person parking permit in the form of a decal or individual placard to any person who submits an application that complies with ORS 811.604. Nothing in this section prohibits the department from issuing a decal or individual placard to a person who has disabled veteran registration plates issued under ORS 805.100 and who qualifies for the decal or placard.
- (3) Except as otherwise provided in this subsection, the department may not issue more than one individual placard to an applicant. The department may issue a replacement placard upon receipt of proof satisfactory to the department that the original placard has been lost, mutilated or destroyed. The department may issue a temporary duplicate permit to a person who needs a duplicate permit for travel purposes. A temporary duplicate permit shall be valid for up to 120 days. The department shall adopt rules governing application for and issuance of temporary duplicate permits. Nothing in this subsection prohibits issuance of an individual placard to a person who has been issued a decal.
- (4) Permits for use on vehicles that are regularly used as part of a program for the transportation of persons with disabilities are issued as provided in ORS 811.607.
- (5) Except as provided in subsection (6) of this section, the department shall determine the form, size and content of any decal or placard issued under this section and shall adopt rules governing their issuance, display and use as necessary to carry out this section.
- (6)(a) Except as provided in paragraph (b) of this subsection, the department may not require a decal or placard issued under this section to an individual or a family to contain any identifying information about the person to whom the decal or placard is issued, including any of the following:
- (A) Name;
  - (B) Address;
  - (C) Telephone number;
  - (D) Social Security number;
  - (E) Driver license number;
  - (F) Golf cart driver permit number;
  - (G) Identification card number;
  - (H) Passport or visa number; or
  - (I) Photograph.
- (b) The department may require a decal or placard issued under this section to an individual or a family to contain not more than four digits of the driver license or identification card number of the person to whom the decal or placard is issued. [1987 c.187 §7; 1989 c.243 §2; 1991 c.741 §1; 1993 c.751 §66; 1995 c.462 §1; 2001 c.827 §11; 2005 c.406 §1; 2007 c.70 §330; 2007 c.468 §5; 2018 c.69 §3; 2019 c.413 §§1,2; 2021 c.630 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.603 - Parking identification card without photograph; issuance; rules.**

- (1) The Department of Transportation shall issue a parking identification card without a photograph to an applicant for a disabled person parking permit if the applicant does not have a driver license, a driver permit or an identification card issued by the department under ORS 807.400 and if the applicant submits a statement from a physician that it would be impractical or harmful to the applicant, because of medical or physical condition, to appear at an office of the department and be photographed for an identification card.
- (2) The department shall determine by rule the terms, conditions and requirements of a parking identification card issued under this section except that the department may not require either that an applicant appear personally in order to receive or renew a card or that the card contain a photograph. [1991 c.741 §2b; 2001 c.827 §12; 2008 c.1 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.604 - Application for disabled person parking permit.**

Application for issuance or renewal of a disabled person parking permit in the form of an individual placard or decal issued under ORS 811.602 shall include:

- (1) A certificate, signed and dated within six months preceding the date of application, by a licensed physician, a licensed nurse practitioner or a licensed physician assistant to the Department of Transportation that the applicant is a person with a disability or a

certificate, signed and dated within six months preceding the date of application, by a licensed optometrist that the applicant is a person with a disability because of loss of vision or substantial loss of visual acuity or visual field beyond correction;

(2) The state-issued licensing number of the licensed physician, certified nurse practitioner, licensed physician assistant or licensed optometrist who signed the certificate described in subsection (1) of this section; and

(3) The number of a driver license, driver permit, identification card or parking identification card issued to the applicant by the department. [1987 c.187 §8; 1989 c.243 §6; 1991 c.741 §2; 1995 c.462 §2; 1999 c.582 §16; 2001 c.827 §13; 2007 c.70 §331; 2008 c.1 §30; 2009 c.238 §1; 2019 c.358 §44; 2021 c.630 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.605 - Contents of individual placard or decal.**

(1) An applicant for an individual placard or decal issued by the Department of Transportation under ORS 811.602 must have a driver license, a driver permit, an identification card or a parking identification card issued by the department.

(2) An individual placard or decal shall contain an expiration date that is visible from outside the vehicle when the placard or decal is displayed on or in the vehicle.

(3) A placard or decal issued under this section shall be valid for a period of eight years from the date of issue. A placard or decal may be renewed in a manner determined by the department by rule. [1989 c.243 §4; 2005 c.406 §2; 2008 c.1 §31; 2021 c.630 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.606 - Parking permit for person with temporary disability.**

The Department of Transportation may issue a placard showing an expiration date not to exceed six months after the date of issuance for use by persons with temporary disabilities upon submission by the applicant of a certificate described in ORS 811.604 except that it certifies that the applicant has a temporary disability for less than four years. An applicant for a temporary disabled person parking permit need not have a driver license, a driver permit, an identification card or a parking identification card. [1987 c.187 §9; 1987 c.296 §4; 1989 c.243 §7; 1991 c.741 §3; 1993 c.741 §85; 2001 c.827 §14; 2005 c.406 §3; 2007 c.70 §332; 2008 c.1 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.607 - Program placards; rules.**

The Department of Transportation shall issue disabled person parking permits in the form of program placards for use on vehicles that are regularly used as part of a program for the transportation of persons with disabilities or by an adult foster home. All the following apply to placards issued under this section:

(1) The department shall determine the form, size and content of the placards except that the department shall require that a placard contain the name of the program holding the placard and the department shall require that the expiration date of a placard be visible when the placard is displayed in the vehicle.

(2) Placards issued under this section shall be valid for a period of eight years from the date of issue. Upon expiration, placards may be renewed in a manner determined by the department by rule. The department shall authorize renewal by mail of placards issued under this section.

(3) The department shall determine by rule how programs for the transportation of persons with disabilities may qualify vehicles for placards issued under this section. [1989 c.243 §5; 1991 c.741 §4; 1999 c.91 §4; 2001 c.827 §15; 2007 c.21 §5; 2007 c.70 §333]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.609 - Family placards.**

The Department of Transportation shall issue disabled person parking permits in the form of family placards for use on vehicles that are regularly used by a family that includes more than one person with a disability. All the following apply to placards issued under this section:

(1) The department shall determine the form, size and content of the placards except that the department shall require that the expiration date of a placard be visible when the placard is displayed in the vehicle.

(2) Placards issued under this section shall be valid for a period of eight years from the date of issue. Upon expiration, placards may be renewed in a manner determined by the department by rule.

(3) The department shall not issue or renew a placard under this section unless a licensed physician certifies that the family includes at least two persons with disabilities. [1991 c.741 §4b; 1999 c.91 §5; 2001 c.827 §16; 2005 c.406 §4; 2007 c.70 §334]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.611 - Foreign visitor placard.**

(1) The Department of Transportation may issue a disabled person parking permit in the form of a placard to a person who is visiting from a foreign country if the person presents to the department either a valid driver license or other grant of driving privileges from the foreign country or a passport or visa showing that the person is a visitor to the United States and presents one of the following:

(a) A valid disabled person parking permit issued by the country that issued the visitor's passport or visa;

- (b) A certificate from an official of the agency that issues disabled person parking permits in the country that issued the visitor's passport or visa certifying that the person holds a valid disabled person parking permit; or
  - (c) A certificate from a licensed physician, a licensed nurse practitioner or a licensed physician assistant addressed to the Department of Transportation certifying that the applicant is a person with a disability, or a certificate from a licensed optometrist certifying that the applicant is a person with a disability because of loss of vision or substantial loss of visual acuity or visual field beyond correction.
- (2) A disabled person parking permit issued under this section is valid for 30 days. [1997 c.680 §2; 1999 c.582 §17; 2001 c.827 §17; 2007 c.70 §335; 2019 c.358 §45]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.612 - Maintenance of privileges after relocation.**

To maintain disabled person parking privileges after relocation, a person who relocates to Oregon and who holds a disabled person parking permit from another state shall obtain an Oregon disabled person parking permit pursuant to ORS 811.602. [2001 c.367 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.613 - Wheelchair User placard; rules.**

- (1) The Department of Transportation shall issue a "Wheelchair User" disabled person parking permit in the form of a "Wheelchair User" placard or decal for use by a person who uses a wheelchair or similar low-powered motorized or mechanically propelled vehicle designed specifically for use by a person with a physical disability.
- (2) The department shall determine the form, size and content of the placards or decals, except that the department shall require that the placards or decals:
  - (a) Include the words "Wheelchair User."
  - (b) Have an expiration date that is visible from outside the vehicle when the placard or decal is displayed on or in the vehicle.
  - (3) The department shall by rule determine how a person may qualify for a "Wheelchair User" placard or decal under this section.
  - (4) An applicant for a "Wheelchair User" placard or decal issued by the department under this section must have a driver license, a driver permit or an identification card issued by the department.
  - (5) A placard or decal issued under this section shall be valid for a period of eight years from the date of issue. A placard or decal may be renewed in a manner determined by the department by rule. [2007 c.468 §4; 2021 c.630 §6]

Note:

811.613 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.615 - Unlawful parking in space reserved for persons with disabilities; exceptions; penalty.**

- (1) A person commits the offense of unlawful parking in a space reserved for persons with disabilities if:
  - (a) The person parks a vehicle in any parking space that is on private or public property and that is marked or signed to provide parking for persons with disabilities and the vehicle does not conspicuously display a disabled person parking permit described in ORS 811.602 or 811.606 or a disabled parking permit issued by another jurisdiction;
  - (b) The person parks a vehicle in the aisle required by ORS 447.233 regardless of whether or not the vehicle displays a disabled person parking permit; or
  - (c) The person parks a vehicle in a parking space that is on private or public property and that is marked or signed "Wheelchair User Only" as described in ORS 447.233 and the vehicle does not conspicuously display a "Wheelchair User" placard or decal issued under ORS 811.613.
- (2) This section does not apply to any of the following:
  - (a) Momentarily parking a vehicle in a parking space marked or signed for persons with disabilities for the purposes of allowing a person with a disability to enter or leave the vehicle.
  - (b) Any parking space that is marked or signed to provide parking for persons with disabilities and that is subject to different provisions or requirements under city or county ordinance if the different provisions or requirements are clearly posted.
  - (3) Unless the police officer or other authorized person issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle and the citation issued for the violation may be placed upon the vehicle. If the parking of the vehicle is witnessed by the police officer or other person authorized to issue a citation for the offense, the operator of the vehicle is in violation of this section.
  - (4) The penalties provided by this section shall be imposed regardless of the text or symbol displayed on the marking or sign reserving the space or aisle for persons with disabilities. The penalties are in addition to the following:
    - (a) A vehicle parked on private property in violation of this section is subject to removal, possession, lien and sale under ORS 98.812.
    - (b) A vehicle parked in violation of this section may be removed and sold as provided under ORS 811.620.
  - (5)(a) Except as provided in paragraph (b) of this subsection, unlawful parking in a space reserved for persons with disabilities is a Class C traffic violation.

(b) A second or subsequent conviction for unlawful parking in a space reserved for persons with disabilities is a Class A traffic violation. [1983 c.338 §680; 1985 c.16 §328; 1987 c.187 §2; 1989 c.243 §8; 1991 c.741 §11; 1993 c.195 §1; 1995 c.79 §373; 1997 c.680 §4; 2001 c.367 §1; 2007 c.70 §336; 2007 c.468 §6; 2011 c.597 §99; 2019 c.547 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.616 - Oregon Wounded Warrior placard; rules.**

- (1) The Department of Transportation shall issue an "Oregon Wounded Warrior" disabled person parking permit in the form of an "Oregon Wounded Warrior" placard or decal for use by a wounded warrior.
- (2) A person is a wounded warrior who qualifies for an "Oregon Wounded Warrior" parking permit if the person:
  - (a) Submits written proof to the Department of Transportation of having a United States Department of Veterans Affairs total disability rating of at least 50 percent as a result of an injury or illness that the veteran incurred, or that was aggravated, during active military service; and
  - (b) Received a discharge or release under other than dishonorable conditions.
- (3) The Department of Transportation shall determine the form, size and content of the placards or decals, except that the department shall require that the placards or decals:
  - (a) Include the words "Oregon Wounded Warrior."
  - (b) Have an expiration date that is visible from outside the vehicle when the placard or decal is displayed on or in the vehicle.
- (4) The Department of Transportation shall by rule determine how a person may apply for an "Oregon Wounded Warrior" placard or decal under this section.
- (5) An applicant for an "Oregon Wounded Warrior" placard or decal issued by the Department of Transportation under this section must have a driver license, a driver permit or an identification card issued by the department.
- (6) A placard or decal issued under this section shall be valid for a period of eight years from the date of issue. A placard or decal may be renewed in a manner determined by the department by rule. [2018 c.69 §2; 2021 c.630 §7]

Note:

811.616 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.617 - Blocking parking space reserved for persons with disabilities; penalty.**

- (1) A person commits the offense of blocking a parking space reserved for persons with disabilities if the person:
  - (a) Stops or parks a vehicle in such a way as to block access to a parking space that is on private or public property and that is marked or signed to provide parking for persons with disabilities; or
  - (b) Places an object or allows an object to be placed in such a manner that it blocks access to a parking space that is on private or public property and that is marked or signed to provide parking for persons with disabilities.
- (2)(a) Unless the police officer or other authorized person issuing the citation witnesses the stopping or parking of a vehicle in violation of subsection (1)(a) of this section, there is a rebuttable presumption that the vehicle was stopped or parked by the registered owner of the vehicle and a citation issued for the violation may be placed upon the vehicle. If the stopping or parking of the vehicle is witnessed by the police officer or other person authorized to issue a citation for the offense, or if the operator is in the vehicle, the operator of the vehicle is in violation of this section.
- (b) Unless the police officer or other authorized person issuing the citation witnesses the blocking of a parking space in violation of subsection (1)(b) of this section, there is a rebuttable presumption that the owner or manager of the parking lot placed or allowed placement of the object blocking access to the parking space and a citation may be issued to the owner or manager of the parking lot. If a police officer or other person issuing the citation sees a person placing an object in violation of subsection (1)(b) of this section, the officer or other person may issue the citation to the person seen.
- (3) For purposes of this section, a parking space includes any adjacent access aisle as described in ORS 447.233.
- (4) The offense described in this section, blocking a parking space reserved for persons with disabilities, is a Class D traffic violation. [1997 c.498 §2; 2001 c.367 §2; 2007 c.70 §337; 2011 c.597 §99a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.620 - Removal of vehicle illegally parked in space reserved for persons with disabilities.**

If a vehicle is illegally parked in violation of ORS 811.615, the vehicle may be removed and, if notice required under subsection (3) of this section is given, is subject to costs for the removal and storage of the vehicle as provided under the following:

- (1) The owner of private property may have the vehicle removed from the property in the manner provided for removal of vehicles under ORS 98.812.
- (2) Subject to subsection (3) of this section, any state agency or political subdivision of this state may provide for the removal and storage of the vehicle and the vehicle shall be subject to the following:
  - (a) The state agency or political subdivision may require payment of reasonable costs for removal and storage of the vehicle before the vehicle is released.
  - (b) If the vehicle is not claimed and any fees required under this subsection are not paid within 30 days of the removal, a lien

described under ORS 98.812 attaches to the vehicle and its contents for the reasonable costs for removal and storage of the vehicle and contents.

(3) If a vehicle is removed under subsection (2) of this section, the tower removing the vehicle shall:

- (a) Notify the local law enforcement agency of the location of the vehicle within one hour after the vehicle is placed in storage; and
- (b) Unless the vehicle is claimed, give notice, within 10 days after the vehicle is placed in storage, to the vehicle owner or any other person with an interest in the vehicle, as indicated by the title records. If notice under this paragraph is given by mail, it must be mailed within the 10-day period, but need not be received within that period. [1983 c.338 §433; 1985 c.16 §227; 1993 c.233 §56; 2007 c.538 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.625 - Unlawful use of disabled person parking permit; penalty.**

(1) A person commits the offense of unlawful use of a disabled person parking permit if the person:

- (a) Is not a person with a disability and is not transporting the holder of a disabled person parking permit to or from the parking location; and
- (b) Uses a disabled person parking permit described under ORS 811.602 or 811.606 to exercise any privileges granted under ORS 811.635.

(2) Except as provided in subsection (3) of this section, unlawful use of a disabled person parking permit is a Class C traffic violation.

(3) A second or subsequent conviction for unlawful use of a disabled person parking permit is a Class A traffic violation. [1983 c.338 §681; 1987 c.187 §3; 1989 c.243 §9; 1991 c.741 §12; 1995 c.79 §374; 2001 c.367 §3; 2007 c.70 §338; 2011 c.597 §100]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.627 - Use of invalid disabled person parking permit; penalty.**

(1) A person commits the offense of use of an invalid disabled person parking permit if the person uses a permit that is not a valid permit from another jurisdiction, and that:

- (a) Has been previously reported as lost or stolen;
- (b) Has been altered;
- (c) Was issued to a person who is deceased at the time of the citation;
- (d) Has not been issued under ORS 811.602;
- (e) Is a photocopy or other reproduction of a permit, regardless of the permit status; or
- (f) Is mutilated or illegible.

(2) Unless the police officer or other authorized person issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle and the citation issued for the violation may be placed upon the vehicle. If the parking of the vehicle is witnessed by the police officer or other person authorized to issue a citation for the offense, the operator of the vehicle is in violation of this section.

(3) The offense described in this section, use of an invalid disabled person parking permit, is a Class A traffic violation.

(4) If the court finds that a person committed the offense described in this section, the court shall collect the permit and return it to the Department of Transportation for destruction unless the person claims the permit was lost or destroyed, or the police officer or other person authorized to issue a citation for the offense collected the permit.

(5) If the court finds that a person committed the offense described in this section by using a permit that was mutilated or illegible, the court may assess any fine it deems appropriate up to the maximum amount allowable for the offense. If the mutilated or illegible permit has been replaced by the department, the court may dismiss the citation. [2001 c.367 §7; 2011 c.597 §100a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.628 - Invalidation of disabled person parking permit.**

The Department of Transportation shall invalidate a disabled parking permit issued under ORS 811.602 if any of the following occurs:

- (1) The department receives information that the person issued an individual or "Wheelchair User" placard or permit has since obtained a driver license or driver permit issued by another jurisdiction or has since obtained an identification card in another jurisdiction that is similar to the person's identification card issued by this state.
- (2) The department receives notice that the person issued a disabled parking permit is deceased.
- (3) The department determines that the disabled parking permit was issued under fraudulent circumstances.
- (4) The department determines that the person, program or family for which the permit was issued no longer qualifies for the permit. [2021 c.630 §3]

Note:

811.628 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for**

**DriversSection 811.630 - Misuse of program placard; penalty.**

(1) A person commits the offense of misuse of a program placard if the person:

(a) Is the driver of a vehicle that is being used as part of a program for the transportation of persons with disabilities; and  
(b) Uses a program placard described under ORS 811.607 for any purpose other than exercising privileges granted under ORS 811.637.

(2) Except as provided in subsection (3) of this section, misuse of a program placard is a Class C traffic violation.

(3) A second or subsequent conviction for misuse of a program placard is a Class A traffic violation. [1983 c.338 §682; 1987 c.187 §4; 1989 c.243 §10; 2001 c.367 §4; 2007 c.70 §339; 2011 c.597 §101]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.632 - Appointment of volunteers to issue citations.**

(1) A law enforcement agency authorized to enforce parking laws may appoint volunteers to issue citations for violations of ORS 811.615, 811.617, 811.625 and 811.630, or of ordinances dealing with parking privileges for persons with disabilities. Volunteers appointed under this subsection must be at least 21 years of age. The law enforcement agency appointing the volunteers may establish any other qualifications the agency deems desirable.

(2) Any agency appointing volunteers under this section shall provide training to the volunteers before authorizing them to issue citations.

(3) A citation issued by a volunteer appointed under this section shall have the same force and effect as a citation issued by a police officer for the same offense. [1991 c.741 §10; 1997 c.498 §3; 2007 c.70 §340]

Note:

811.632 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.635 - Privileges granted by disabled person parking permit other than program placard.**

All of the following apply to the parking privileges granted to persons with disabilities under a disabled person parking permit other than a program placard described in ORS 811.607:

(1) The privileges granted under a permit may be exercised notwithstanding ORS 811.575, any authority granted under ORS 810.160 or parking restrictions imposed by any city or county and without violation thereof.

(2) Subject to the limitations under subsection (4) of this section, a "Wheelchair User" placard or decal and an "Oregon Wounded Warrior" placard or decal allows its holder, or another person while transporting its holder to or from the parking location, to exercise the following privileges:

(a) Park a motor vehicle in any public parking zone restricted as to the length of time permitted therein without incurring penalties imposed for overtime parking in such zones.

(b) Park a motor vehicle in any public parking zone with metered parking without being required to pay any parking meter fee.

(3) A city or county may allow any person who holds a disabled person parking permit to exercise the rights described in subsection (2) of this section.

(4) The privileges granted under subsection (2) of this section do not include any of the following:

(a) Parking in zones where stopping, parking or standing of all motor vehicles is prohibited.

(b) Parking in the late evening or overnight where such parking is prohibited.

(c) Parking in zones reserved for special types of motor vehicles or activities.

(d) Parking in zones where parking is permitted only for 30 minutes or less.

(e) Parking in a parking space marked or signed for "Wheelchair User Only," unless displaying a "Wheelchair User" placard or decal issued under ORS 811.613.

(5) In addition to other privileges granted under a permit, the person issued a permit, or another person while transporting the person issued the permit to or from the parking location, may use the permit to park:

(a) In a parking space that is marked or signed to provide parking for persons with disabilities without violation of ORS 811.615; or

(b) In a parking space that is marked or signed by a road authority as reserved for residents. [1983 c.338 §683; 1985 c.139 §4; 1987 c.187 §5; 1989 c.243 §11; 2007 c.70 §341; 2007 c.468 §7; 2018 c.69 §4; 2019 c.332 §1]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.637 - Privileges granted by program placards.**

(1) Notwithstanding ORS 811.635, a program placard described under ORS 811.607 confers only the following privileges:

(a) It authorizes the driver of a vehicle that is being used as part of the program to which the placard was issued to park the vehicle for three hours or less in any public parking zone restricted as to the length of time permitted therein without incurring penalties for overtime parking in such zones;

(b) It authorizes the driver of a vehicle that is being used as part of the program to which the placard was issued to park the vehicle for three hours or less in any public parking zone with metered parking without being required to pay any parking meter fee; and

(c) It authorizes the driver of a vehicle that is being used as part of the program to which the placard was issued to park the vehicle for three hours or less in any parking space that is marked or signed to provide parking for persons with disabilities without violation of ORS 811.615, so long as the vehicle conspicuously displays the permit.

(2) The privileges granted under subsection (1) of this section do not include any of the following:

(a) Parking in zones where stopping, parking or standing of all motor vehicles is prohibited.

(b) Parking in the late evening or overnight where such parking is prohibited.

(c) Parking in zones reserved for special types of motor vehicles or activities.

(d) Parking in zones where parking is permitted only for 30 minutes or less. [1989 c.243 §13; 1999 c.779 §1; 2007 c.70 §342]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.700 - Failure to perform duties of driver when property is damaged; penalty.**

(1) A driver of a vehicle who knows or has reason to believe that the driver's vehicle was involved in a collision commits the offense of failure to perform the duties of a driver when property is damaged if the driver's vehicle is involved in a collision that results in damage to property and the driver does not perform duties required under any of the following:

(a) Immediately stop the driver's vehicle at the scene of the collision or as close to the scene of the collision as possible and reasonably investigate what the driver's vehicle struck. Every stop required under this paragraph should be made without obstructing traffic more than is necessary.

(b) If the driver's vehicle has been involved in a collision that results only in damage to a vehicle that is driven or attended by any other person, the driver shall perform all of the following duties:

(A) Remain at the scene of the collision until the driver has fulfilled all of the requirements under this paragraph.

(B) Give to the other driver or passenger:

(i) The driver's name and address, the name and address of the owner of the driver's vehicle and the name and address of any other occupants of the driver's vehicle; and

(ii) If the driver's vehicle is a motor vehicle, the registration number of the motor vehicle, the name of the insurance carrier covering the motor vehicle, the insurance policy number of the insurance policy insuring the motor vehicle and the phone number of the insurance carrier.

(C) Upon request and if available, exhibit and give to the occupant of or person attending any vehicle damaged the number of any document issued as evidence of driving privileges granted to the driver.

(c) If the driver's vehicle has been involved in a collision resulting in damage to any vehicle that is unattended, the driver shall perform all the following duties:

(A) Locate the operator or owner of the unattended vehicle and notify the operator or owner of:

(i) The driver's name and address and the name and address of the owner of the vehicle that struck the unattended vehicle; and

(ii) If the driver's vehicle is a motor vehicle, the registration number of the motor vehicle, the name of the insurance carrier covering the motor vehicle, the insurance policy number of the insurance policy insuring the motor vehicle and the phone number of the insurance carrier; or

(B) Leave in a conspicuous place in the unattended vehicle a written notice giving:

(i) The driver's name and address and the name and address of the owner of the vehicle that struck the unattended vehicle and a statement of the circumstances of the collision; and

(ii) If the driver's vehicle is a motor vehicle, the registration number of the motor vehicle, the name of the insurance carrier covering the motor vehicle, the insurance policy number of the insurance policy insuring the motor vehicle and the phone number of the insurance carrier.

(d) If the driver's vehicle has been involved in a collision resulting only in damage to fixtures or property legally upon or adjacent to a highway, the driver shall perform all of the following duties:

(A) Take reasonable steps to notify the owner or person in charge of the property of the collision and of the driver's name and address, the vehicle owner's name and address and, if the driver's vehicle is a motor vehicle, the registration number of the motor vehicle, the name of the insurance carrier covering the motor vehicle, the insurance policy number of the insurance policy insuring the motor vehicle and the phone number of the insurance carrier.

(B) Upon request and if available, exhibit any document issued as evidence of driving privileges granted to the driver.

(e) If the driver discovers only after leaving the scene of the collision that the driver's vehicle may have been involved in a collision that resulted in damage to another vehicle, fixture or property, the driver shall as soon as reasonably possible make a good faith effort to comply with the requirements of this subsection.

(2) As used in this section, "reason to believe" means that the driver is aware of a circumstance that would cause a reasonable person to be aware of a substantial and unjustifiable risk that the driver's vehicle has been in a collision. The risk must be of such nature or degree that failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(3) The offense described in this section, failure to perform the duties of a driver when property is damaged, is a Class A misdemeanor and is applicable on any premises open to the public. [1983 c.338 §572; 2017 c.75 §1; 2018 c.22 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for**

**DriversSection 811.705 - Failure to perform duties of driver to injured persons; penalty.**

(1) A driver of a vehicle who knows or has reason to believe that the driver's vehicle was involved in a collision commits the offense of failure to perform the duties of a driver to injured persons if the driver's vehicle has been in a collision that results in injury or death to a person and the driver does not perform all of the following duties:

- (a) Immediately stop the driver's vehicle at the scene of the collision or as close to the scene of the collision as possible and reasonably investigate what the driver's vehicle struck. Every stop required under this paragraph should be made without obstructing traffic more than is necessary.
- (b) Remain at the scene of the collision until the driver has fulfilled all of the requirements under this subsection.
- (c) Give to the other driver or a surviving passenger or any person not a passenger who is injured as a result of the collision:
  - (A) The driver's name and address, the name and address of the owner of the driver's vehicle and the name and address of any other occupants of the driver's vehicle; and
  - (B) If the driver's vehicle is a motor vehicle, the registration number of the motor vehicle, the name of the insurance carrier covering the motor vehicle, the insurance policy number of the insurance policy insuring the motor vehicle and the phone number of the insurance carrier.
- (d) Upon request and if available, exhibit and give to the persons injured and to the occupant of or person attending any vehicle damaged the number of any document issued as official evidence of driving privileges granted to the driver.
- (e) Render to any person injured in the collision reasonable assistance, including the conveying, or the making of arrangements for the conveying, of an injured person to a physician, surgeon or hospital for medical or surgical treatment, if it is apparent that such treatment is necessary or if such conveying is requested by any injured person.
- (f) Remain at the scene of a collision until a police officer has arrived and has received the required information, if all persons required to be given information under paragraph (c) of this subsection are killed in the collision or are unconscious or otherwise incapable of receiving the information. The requirement of this paragraph to remain at the scene of a collision until a police officer arrives does not apply to a driver who needs immediate medical care, who needs to leave the scene in order to secure medical care for another person injured in the collision or who needs to leave the scene in order to report the collision to the authorities, as long as the driver who leaves takes reasonable steps to return to the scene or to contact the nearest police officer.
- (g) If the driver discovers only after leaving the scene of the collision that the driver's vehicle may have been involved in a collision that resulted in injury or death to any person, shall as soon as reasonably possible make a good faith effort to comply with the requirements of this subsection. The driver shall immediately contact 9-1-1 and provide to the dispatcher any requested information described in paragraph (c) of this subsection and the location and approximate time of the collision.

(2) As used in this section, "reason to believe" means that the driver is aware of a circumstance that would cause a reasonable person to be aware of a substantial and unjustifiable risk that the driver's vehicle has been in a collision. The risk must be of such nature or degree that failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(3)(a) Except as otherwise provided in paragraph (b) of this subsection, the offense described in this section, failure to perform the duties of a driver to injured persons, is a Class C felony and is applicable on any premises open to the public.

(b) Failure to perform the duties of a driver to injured persons is a Class B felony if a person suffers serious physical injury as defined in ORS 161.015 or dies as a result of the collision. [1983 c.338 §573; 1993 c.621 §1; 2001 c.919 §1; 2017 c.75 §2; 2018 c.22 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.706 - Money damages resulting from violation of ORS 811.700 or 811.705.**

When a person is convicted of violating ORS 811.700 or 811.705, the court, in addition to any other sentence it may impose, may order the person to pay an amount of money equal to the amount of any damages caused by the person as a result of the incident that created the duties in ORS 811.700 or 811.705. [1995 c.782 §2]

Note:

811.706 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.707 - Crime classification for violation of ORS 811.705.**

The Oregon Criminal Justice Commission shall classify the crime of failure to perform the duties of a driver to injured persons as crime category 8 of the sentencing guidelines grid of the commission if a person suffers serious physical injury as defined in ORS 161.015 or dies as a result of the collision that forms the basis of the conviction. [2001 c.919 §2; 2018 c.22 §3]

Note:

811.707 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 811 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 811 - Rules of the Road for DriversSection 811.710 - Failure to perform duties of driver when animal is injured; penalty.**



(1) A driver of a vehicle who knows or has reason to believe that the driver's vehicle was involved in a collision commits the offense of failure to perform the duties of a driver when an animal is injured if the driver's vehicle injures or kills a domestic animal and the driver does not perform all of the following duties:

- (a) Immediately stop the driver's vehicle at the scene of the collision or as close to the scene of the collision as possible and reasonably investigate what the driver's vehicle struck. Every stop required under this paragraph should be made without obstructing traffic more than is necessary.
- (b) Make a reasonable effort to determine the nature of the animal's injuries.
- (c) Give reasonable attention to the animal.
- (d) Immediately report the injury to the animal's owner.
- (e) If unable to contact the owner of the animal, notify a police officer.
- (f) If the driver discovers only after leaving the scene of the collision that the driver's vehicle may have been involved in a collision that injured or killed a domestic animal, the driver shall as soon as reasonably possible make a good faith effort to comply with the requirements of this section.

- (2) The requirements under this section for a driver to stop and attend an injured animal depend on the traffic hazards then existing.
- (3) As used in this section, "reason to believe" means that the driver is aware of a circumstance that would cause a reasonable person to be aware of a substantial and unjustifiable risk that the driver's vehicle has been in a collision. The risk must be of such nature or degree that failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.
- (4) The offense described in this section, failure to perform the duties of a driver when an animal is injured, is a Class B traffic violation. [1983 c.338 §574; 2018 c.22 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.715 - Failure to perform duties of witness to accident; penalty.**

- (1) A person commits the offense of failure to perform the duties of a witness to an accident if the person:
  - (a) Witnesses an accident that results in injury or death to any person or causes damage to a vehicle that is driven or attended by any person; and
  - (b) Does not furnish to the driver or occupant of such vehicles or injured person, the true name and address of the witness.
- (2) The offense described in this section, failure to perform the duties of a witness to an accident, is a Class B traffic violation. [1983 c.338 §575]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.717 - Failure to remove motor vehicle from roadway; penalty.**

- (1) The driver of a motor vehicle commits the offense of failure to remove a motor vehicle from the roadway if, after an accident:
  - (a) A person has not suffered any apparent personal injury as a result of the accident;
  - (b) The motor vehicle is operable and does not require towing;
  - (c) It is safe to drive the motor vehicle to a location off of the roadway as close to the accident scene as possible; and
  - (d) The driver does not move the motor vehicle to a location off of the roadway as close to the accident scene as possible.
- (2) The offense described in this section, failure to remove a motor vehicle from the roadway, is a Class C traffic violation. [2007 c.664 §4; 2008 c.10 §3]

Note:

811.717 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.720 - When accident must be reported to Department of Transportation.**

- (1) Except as provided in subsection (4) of this section, any accident occurring on a highway or upon premises open to the public resulting in injury or death to any person is subject to the reporting requirements under the following sections:
  - (a) The reporting requirements for drivers under ORS 811.725.
  - (b) The reporting requirements for occupants of vehicles in accidents under ORS 811.735.
  - (c) The reporting requirements for owners of vehicles under ORS 811.730.
- (2) Except as provided in subsection (4) of this section, an accident occurring on a highway or upon premises open to the public resulting in damage to the property of any person in excess of \$2,500 is subject to the following reporting requirements:
  - (a) The driver of a vehicle that has more than \$2,500 damage must report the accident in the manner specified under ORS 811.725.
  - (b) The owner of a vehicle that has more than \$2,500 damage must report the accident in the manner specified in ORS 811.730 and under the circumstances specified in ORS 811.730.
  - (c) If the property damage is to property other than a vehicle involved in the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.725 and each owner of a vehicle involved in the accident must report the accident in the manner specified in ORS 811.730 and under the circumstances specified in ORS 811.730.
  - (d) If a vehicle involved in the accident is damaged to the extent that the vehicle must be towed from the scene of the accident, each

driver involved in the accident must report the accident in the manner specified under ORS 811.725 and each owner of a vehicle involved in the accident must report the accident in the manner specified in ORS 811.730 and under the circumstances specified in ORS 811.730.

(3) The dollar amount specified in subsection (2) of this section may be increased every five years by the Department of Transportation based upon any increase in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 12-month period. The amount determined under this subsection shall be rounded to the nearest \$100.

(4) The following are exempt from the reporting requirements of this section:

(a) Operators of snowmobiles, Class I all-terrain vehicles or Class III all-terrain vehicles.

(b) A law enforcement official acting in the course of official duty if the accident involved a law enforcement official performing a lawful intervention technique or a law enforcement official and a person acting during the commission of a criminal offense. As used in this paragraph:

(A) "Law enforcement official" means a person who is responsible for enforcing the criminal laws of this state or a political subdivision of this state and who is employed or volunteers:

(i) As a peace officer commissioned by a city, university that has established a police department under ORS 352.121 or 353.125, port, school district, mass transit district, county or county service district authorized to provide law enforcement services under ORS 451.010;

(ii) With the Department of State Police or the Criminal Justice Division of the Department of Justice;

(iii) As an investigator of a district attorney's office, if the investigator is certified as a peace officer in this state; or

(iv) As an authorized tribal police officer as defined in ORS 181A.940.

(B) "Lawful intervention technique" means a method by which one motor vehicle causes, or attempts to cause, another motor vehicle to stop. [1983 c.338 §576; 1987 c.258 §11; 1993 c.614 §1; 1997 c.279 §1; 2001 c.827 §7; 2003 c.531 §1; 2005 c.405 §1; 2011 c.506 §49; 2011 c.644 §§34,56; 2013 c.180 §§54,55; 2015 c.174 §24; 2017 c.189 §1; 2019 c.57 §36]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.725 - Driver failure to report accident to Department of Transportation; penalty.**

(1) The driver of a vehicle commits the offense of driver failure to report an accident if the driver does any of the following:

(a) Is driving any vehicle that is involved in an accident required to be reported under ORS 811.720 and does not, within 72 hours of the accident, complete a report of the accident in a form approved by the Department of Transportation and submit the report to the department.

(b) Is driving a vehicle that is involved in an accident and does not submit to the department any report required by the department that is other than or in addition to the reports required by this section. The department may request a supplemental report if in the opinion of the department the original report is insufficient.

(c) Is driving any vehicle that is involved in an accident required to be reported under ORS 811.720 and does not, within 72 hours of the accident, provide proof of compliance with financial responsibility requirements to the department, in a form furnished by the department, that at the time of the accident the person was in compliance with the financial responsibility requirements.

(2) The proof of compliance with financial responsibility required under this section is subject to the prohibitions and penalties for false certification under ORS 806.050.

(3) The reports described under this section are subject to the provisions of ORS 802.220 and 802.240 relating to the use of such reports after submission. Exemptions from requirements to provide proof of compliance with financial responsibility are established under ORS 806.020.

(4) A driver may be required to file additional accident reports with a city as provided under ORS 801.040.

(5) The offense described in this section, driver failure to report an accident, is a Class B traffic violation. [1983 c.338 §577; 1985 c.393 §36; 1993 c.751 §67; 2005 c.195 §1; 2019 c.312 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.730 - Owner failure to report accident to Department of Transportation; penalty.**

(1) The owner of a vehicle commits the offense of owner failure to report an accident if the owner does any of the following:

(a) If the person owns a vehicle that is involved in an accident that is required to be reported under ORS 811.720 and all of the following apply:

(A) The accident occurred while the vehicle was driven by someone other than the owner of the vehicle.

(B) The driver of the vehicle does not make an accident report as required under ORS 811.725.

(C) The owner of the vehicle fails to report the accident to the Department of Transportation in a form specified by the department as soon as the owner learns of the accident.

(b) If the person is the owner of a vehicle involved in an accident and the person does not make any additional reports the department may require.

(2) The offense described in this section, owner failure to report an accident, is a Class B traffic violation. [1983 c.338 §578; 1985 c.393 §37; 1993 c.751 §68]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.735 - Failure of vehicle occupant to make accident report to Department of Transportation; penalty.**

(1) A person commits the offense of failure of a vehicle occupant to make an accident report if:

- (a) The person is an occupant, other than the driver, of a vehicle at a time when the vehicle is involved in an accident required to be reported under ORS 811.720;
- (b) The driver of the vehicle is physically incapable of making an accident report required under ORS 811.725; and
- (c) The occupant does not make the accident report or cause the accident report to be made.

(2) This section does not require an occupant of a vehicle who is not a driver to provide proof of compliance with financial responsibility requirements.

(3) The offense described in this section, failure of a vehicle occupant to make an accident report, is a Class B traffic violation.

[1983 c.338 §579; 2019 c.312 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.740 - False accident report; penalty.**

(1) A person commits the offense of giving a false accident report if the person gives information in any report required under ORS 811.725 or 811.730, knowing or having reason to believe that such information is false.

(2) The offense described in this section, giving a false accident report, is a Class B misdemeanor. [1983 c.338 §581; 1985 c.393 §38]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.745 - When accident must be reported to police officer or law enforcement agency.**

(1) Except as provided in subsection (4) of this section, any accident occurring on a highway or upon premises open to the public resulting in injury or death to any person is subject to the reporting requirements under the following sections:

(a) The reporting requirements for drivers under ORS 811.748.

(b) The reporting requirements for occupants of vehicles in accidents under ORS 811.750.

(2) Except as provided in subsection (4) of this section, an accident occurring on a highway or upon premises open to the public resulting in damage to the property of any person in excess of \$2,500 is subject to the following reporting requirements:

(a) The driver of a vehicle that has more than \$2,500 damage must report the accident in the manner specified under ORS 811.748.

(b) If the property damage is to property other than a vehicle involved in the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.748.

(c) If a vehicle involved in the accident is damaged to the extent that the vehicle must be towed from the scene of the accident, each driver involved in the accident must report the accident in the manner specified under ORS 811.748.

(3) The dollar amount specified in subsection (2) of this section may be increased every five years by the Department of Transportation based upon any increase in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 12-month period. The amount determined under this subsection shall be rounded to the nearest \$100.

(4) The following are exempt from the reporting requirements of this section:

(a) Operators of snowmobiles and Class I, Class III and Class IV all-terrain vehicles.

(b) A law enforcement official acting in the course of official duty if the accident involved a law enforcement official performing a lawful intervention technique or involved a law enforcement official and a person acting during the commission of a criminal offense. As used in this paragraph:

(A) "Law enforcement official" means a person who is responsible for enforcing the criminal laws of this state or a political subdivision of this state and who is employed or volunteers:

(i) As a peace officer commissioned by a city, port, university that has established a police department under ORS 352.121 or 353.125, school district, mass transit district, county or service district authorized to provide law enforcement services under ORS 451.010;

(ii) With the Department of State Police or the Criminal Justice Division of the Department of Justice; or

(iii) As an investigator of a district attorney's office, if the investigator is certified as a peace officer in this state.

(B) "Lawful intervention technique" means a method by which one motor vehicle causes, or attempts to cause, another motor vehicle to stop.

(5) The reporting requirements under this section are in addition to, and not in lieu of, the reporting requirements under ORS 811.720. [2009 c.490 §2; 2011 c.360 §18; 2011 c.506 §50; 2013 c.180 §56; 2017 c.189 §2; 2019 c.57 §37]

Note:

811.745 to 811.750 were added to and made a part of the Oregon Vehicle Code by legislative action but were not added to ORS chapter 811 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.747 - Definitions for ORS 811.748 and 811.750.**

As used in ORS 811.748 and 811.750:

(1) "Emergency communications system" has the meaning given that term in ORS 403.105.

(2) "Law enforcement agency" means any agency that employs members of the Oregon State Police, a sheriff, a deputy sheriff, a city police officer, a police officer commissioned by a university under ORS 352.121 or 353.125 or a law enforcement officer employed by a service district established under ORS 451.410 to 451.610 for the purpose of law enforcement services. [2009 c.490 §3; 2011 c.506 §51; 2013 c.180 §57; 2015 c.247 §38]

Note:

See note under 811.745.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.748 - Driver failure to report accident to police officer or law enforcement agency; penalty.**

(1) The driver of a vehicle commits the offense of driver failure to report an accident if the driver is driving any vehicle that is involved in an accident required to be reported under ORS 811.745 and the driver, if physically capable, does not give notice of the accident immediately to a police officer or a law enforcement agency by the quickest means available.

(2) Notwithstanding subsection (1) of this section, a driver does not commit the offense of driver failure to report an accident if:

(a) The accident required to be reported under ORS 811.745 results in a serious injury or death; and

(b) The driver gives notice of the accident immediately to the emergency communications system by the quickest means available.

(3) The offense described in this section, driver failure to report an accident, is a Class A traffic violation. [2009 c.490 §4; 2015 c.247 §39]

Note:

See note under 811.745.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.750 - Failure of vehicle occupant to make accident report to police officer or law enforcement agency; penalty.**

(1) A person commits the offense of failure of a vehicle occupant to make an accident report if:

(a) The person is an occupant, other than the driver, of a vehicle at a time when the vehicle is involved in an accident required to be reported to a police officer or a law enforcement agency under ORS 811.745;

(b) The driver of the vehicle is physically incapable of giving notice to a police officer or a law enforcement agency as required under ORS 811.748; and

(c) The occupant does not give notice of the accident immediately to a police officer or a law enforcement agency by the quickest means available.

(2) Notwithstanding subsection (1) of this section, a person does not commit the offense of failure of a vehicle occupant to make an accident report if:

(a) The accident required to be reported under ORS 811.745 results in a serious injury or death; and

(b) The person gives notice of the accident immediately to the emergency communications system by the quickest means available.

(3) The offense described in this section, failure of a vehicle occupant to make an accident report, is a Class A traffic violation.

[2009 c.490 §5; 2015 c.247 §40]

Note:

See note under 811.745.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.800 - Operation of funeral vehicles with improper lights; penalty.**

(1) A person commits the offense of operation of a funeral escort vehicle or a funeral lead vehicle with improper lights if the person:

(a) Fails to equip the funeral escort vehicle or funeral lead vehicle with at least one "fire company warning light" as provided for under ORS 816.350 and described under ORS 816.285; or

(b) Uses the "fire company warning light" at any time except during a funeral procession.

(2) No ordinance or other regulation shall prohibit the use of warning lights on a funeral escort vehicle or funeral lead vehicle while driving in a funeral procession.

(3) The offense described in this section, operation of a funeral escort vehicle or funeral lead vehicle with improper lights, is a Class D traffic violation. [1991 c.482 §6; 1993 c.18 §170; 1995 c.383 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.802 - Failure to yield right of way to funeral procession; penalty.**

(1) A person commits the offense of failure to yield the right of way to a funeral procession if the funeral procession is accompanied by a funeral escort vehicle or a funeral lead vehicle and the person does not do the following:

(a) Yield the right of way to the funeral procession.

(b) Stop before entering any intersection and remain stopped until the funeral procession has passed.

- (c) Obey any directions given by a driver of a funeral escort vehicle.
- (2) Except as otherwise provided in subsection (3) of this section and except for emergency vehicles and police vehicles or at the direction of a police officer, this section applies to pedestrians, bicyclists, motor vehicle drivers and anyone else in the path of a funeral procession.
- (3) This section applies only to persons who knew or in the exercise of reasonable care should have known of the presence of a funeral procession.
- (4) The offense described in this section, failure to yield the right of way to a funeral procession, is a Class D traffic violation. [1991 c.482 §7; 1995 c.383 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.804 - Intersection rules for funeral processions.**

- (1) While exercising due caution regarding the safety of others, notwithstanding any traffic control device, right of way provisions or other provisions of the Oregon Vehicle Code, if the funeral escort vehicle or funeral lead vehicle lawfully enters an intersection, the following procession may enter the intersection without stopping.
- (2) Notwithstanding subsection (1) of this section, the vehicles in the funeral procession shall yield the right of way:
  - (a) To an emergency vehicle giving an audible or visible signal; or
  - (b) If directed by a police officer to do so. [1991 c.482 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.806 - Exceeding maximum speed for funeral procession; penalty.**

- (1) Notwithstanding any other provision of law, a person commits the offense of exceeding the maximum speed for a funeral procession if:
  - (a) The person is driving in a funeral procession on a highway with a speed limit of less than 50 miles per hour and the person drives at a speed that exceeds five miles per hour less than the speed limit; or
  - (b) The person is driving in a funeral procession on a highway with a speed limit greater than 50 miles per hour and the person drives at a speed that exceeds 45 miles per hour.
- (2) The offense described in this section, exceeding the maximum speed for a funeral procession, is a Class D traffic violation. [1991 c.482 §12; 1995 c.383 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.808 - Exemption from speed limits for funeral escort vehicle.**

Notwithstanding ORS 811.111 or 811.295, while overtaking the funeral procession in order to direct traffic at the next intersection, the funeral escort vehicle may exceed the posted speed limit by 10 miles per hour and may cross the center line of a roadway that is divided into two or more lanes. [1991 c.482 §9; 2003 c.14 §494; 2003 c.819 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.810 - Disrupting funeral procession; penalty.**

- (1) A person commits the offense of disrupting a funeral procession if:
  - (a) The person is driving a vehicle that is not a member of the funeral procession and the person drives between the vehicles in a funeral procession; or
  - (b) The person is driving a vehicle that is not a member of the funeral procession and the person joins the funeral procession in order to be exempt from any rule of the road.
- (2) This section does not apply to any emergency vehicle or police vehicle while that vehicle is performing emergency or police duties.
- (3) The offense described in this section, disrupting a funeral procession, is a Class D traffic violation. [1991 c.482 §10; 1995 c.383 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 811 - Rules of the Road for Drivers Section 811.812 - Free passage for funeral procession vehicles.**

Any person or vehicle participating in a funeral procession shall be allowed to pass free through all tollgates, tunnels, toll bridges and ferries. [1991 c.482 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.010 - Driving under the influence of intoxicants; penalty.**

- (1) A person commits the offense of driving while under the influence of intoxicants if the person drives a vehicle while the person:
  - (a) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;
  - (b) Is under the influence of an intoxicant or a combination of intoxicants; or

- (c) Within two hours after driving a vehicle, and without consuming alcohol in the intervening time period, has 0.08 percent or more by weight of alcohol in the blood of the person, as shown by chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150.
- (2) A person may not be convicted of driving while under the influence of intoxicants on the basis of being under the influence of a controlled substance or an inhalant unless the fact that the person was under the influence of a controlled substance or an inhalant is pleaded in the accusatory instrument and is either proved at trial or is admitted by the person through a guilty plea.
- (3) A person convicted of the offense described in this section is subject to ORS 813.020 in addition to this section.
- (4) Except as provided in subsection (5) of this section, the offense described in this section, driving while under the influence of intoxicants, is a Class A misdemeanor and is applicable upon any premises open to the public.
- (5)(a) Driving while under the influence of intoxicants is a Class C felony if the current offense was committed in a motor vehicle and the person has, at least three times in the 10 years prior to the date of the current offense, been convicted of, or been found to be within the jurisdiction of the juvenile court for an act that if committed by an adult would be, any of the following offenses in any combination:
- (A) Driving while under the influence of intoxicants in violation of this section.
  - (B) The statutory counterpart to this section in another jurisdiction.
  - (C) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving or operation of a vehicle, an aircraft or a boat due to the use of an intoxicant or a combination of intoxicants.
  - (D) A driving offense in another jurisdiction that involved operating a vehicle, an aircraft or a boat while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.
- (b) For the purposes of paragraph (a) of this subsection, a conviction or adjudication for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older does not constitute a prior conviction or adjudication.
- (6) In addition to any other sentence that may be imposed, the court shall impose one or more of the following fines on a person convicted of driving while under the influence of intoxicants as follows:
- (a) If the current offense was committed while riding a bicycle, a minimum of \$500.
  - (b) For a person's first conviction if the current offense was committed while operating a vehicle other than a bicycle, a minimum of \$1,000.
  - (c) For a person's second conviction if the current offense was committed while operating a vehicle other than a bicycle, a minimum of \$1,500.
  - (d) For a person's third or subsequent conviction if the current offense was committed while operating a vehicle other than a bicycle, a minimum of \$2,000 if the person is not sentenced to a term of imprisonment.
- (e)(A) For a person who drives a vehicle, other than a bicycle, while the person has 0.15 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150, a minimum of \$2,000.
- (B) For a person who, within two hours after driving a vehicle, other than a bicycle, and without consuming alcohol in the intervening time period, has 0.15 percent or more by weight of alcohol in the blood of the person, as shown by chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150, a minimum of \$2,000.
- (C) For a person who rides a bicycle while the person has 0.15 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the person made under ORS 813.140 or 813.150, a minimum of \$1,000.
- (D) For a person who, within two hours after riding a bicycle, and without consuming alcohol in the intervening time period, has 0.15 percent or more by weight of alcohol in the blood of the person, as shown by chemical analysis of the breath or blood of the person made under ORS 813.140 or 813.150, a minimum of \$1,000.
- (7) Notwithstanding ORS 161.635, \$10,000 is the maximum fine that a court may impose on a person convicted of driving while under the influence of intoxicants if:
- (a) The current offense was committed in a motor vehicle; and
  - (b) There was a passenger in the motor vehicle who was under 18 years of age and was at least three years younger than the person driving the motor vehicle.
- (8) When the court enters a judgment of conviction for driving while under the influence of intoxicants, the court shall indicate in the judgment document whether the person was riding a bicycle.
- (9) As used in this section, "bicycle" does not include electric assisted bicycles. [1983 c.338 §587; 1985 c.16 §293; 1987 c.138 §5; 1991 c.835 §7; 1999 c.619 §3; 1999 c.1049 §1; 2003 c.14 §495; 2003 c.445 §1; 2007 c.879 §3; 2009 c.525 §1; 2009 c.613 §1; 2017 c.21 §80; 2021 c.253 §6; 2021 c.480 §1; 2023 c.498 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.011 - Felony driving under the influence of intoxicants; penalty.**

- (1) Driving under the influence of intoxicants under ORS 813.010 shall be a Class C felony if at least two times in the 10 years prior to the date of the current offense the defendant has been convicted of any of the following offenses in any combination:
- (a) Driving under the influence of intoxicants in violation of ORS 813.010, or its statutory counterpart in another jurisdiction.
  - (b) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving or operation of a

vehicle, an aircraft or a boat due to the use of an intoxicant, as defined in ORS 801.321, or a combination of intoxicants.

(c) An offense in another jurisdiction that involved driving or operating a vehicle, an aircraft or a boat while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.

(2) Once a person has been sentenced for a Class C felony under this section, the 10-year time limitation is eliminated and any subsequent episode of driving under the influence of intoxicants shall be a Class C felony regardless of the amount of time which intervenes.

(3) Upon conviction for a Class C felony under this section, the person shall be sentenced to a mandatory minimum term of incarceration of 90 days, without reduction for any reason. [2011 c.1 §3; 2011 c.598 §2; 2021 c.480 §2; 2023 c.498 §6]

Note:

813.011 was enacted into law but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by law. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.012 - Crime classification for purposes of rules of Oregon Criminal Justice Commission.**

(1) The Oregon Criminal Justice Commission shall classify felony driving while under the influence of intoxicants that is committed under the circumstances described in ORS 813.010 (5) as crime category 6 of the rules of the Oregon Criminal Justice Commission.

(2) In determining criminal history for a person convicted of a felony that has operation of a motor vehicle as an element, or of a felony that involved death, injury or property damage caused by the use of a motor vehicle, the commission shall:

(a) Consider two prior convictions of misdemeanor driving while under the influence of intoxicants to be equivalent to one conviction of felony driving while under the influence of intoxicants; and

(b) Consider felony driving while under the influence of intoxicants to be a person felony and consider misdemeanor driving while under the influence of intoxicants to be a person Class A misdemeanor. [1999 c.1049 §3; 2011 c.598 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.015 - Affirmative defense; qualifications; written notice.**

(1) As used in this section, "drug" has the meaning given that term in ORS 475.005.

(2) In a prosecution under ORS 813.010 for driving while under the influence of intoxicants other than a prosecution involving intoxicating liquor, a controlled substance, an inhalant, cannabis or psilocibin, it is an affirmative defense that:

(a)(A) The defendant obtained a drug pursuant to a prescription issued by a licensed health care professional authorized to prescribe drugs and that the defendant consumed the drug in the prescribed or recommended dosage and followed all directions and warnings relating to the consumption of the drug, including directions, if any, from the manufacturer of the drug, the pharmacist who provided the drug to the defendant and the licensed health care professional who prescribed or recommended the drug to the defendant; or

(B) The defendant obtained a drug that is available without a prescription and that the defendant consumed the drug in the recommended dosage and followed all directions and warnings relating to the consumption of the drug; and

(b) The defendant experienced a reaction to the drug that the defendant could not reasonably have anticipated and that caused the defendant's mental or physical faculties to be adversely affected to a noticeable and perceptible degree while driving a vehicle.

(3) A defendant may not introduce evidence of the affirmative defense described in subsection (2) of this section unless the defendant gives notice in writing of intent to do so. The notice must be filed with the court and served on the prosecuting attorney at least 45 days before the first trial date set for the case unless the parties agree otherwise or the court authorizes a later date for good cause shown, but under no circumstances less than 21 days before trial. The notice must specify the drug the defendant consumed and contact information for any medical provider who advised the defendant regarding that drug.

(4) The affirmative defense described in subsection (2) of this section may be asserted only with respect to a drug that is specified in the notice given under subsection (3) of this section, and may not be asserted when intoxicating liquor, a controlled substance, an inhalant, cannabis or psilocibin, or any combination of intoxicating liquor, a controlled substance, an inhalant, cannabis or psilocibin, is pleaded in the accusatory instrument. [2023 c.498 §5]

Note:

813.015 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 813 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.017 - Arraignment; booking.**

When a person is arraigned on a charge of driving while under the influence of intoxicants in violation of ORS 813.010, a court shall ensure that the defendant submits to booking, if the person has not already been booked on that charge. [2015 c.145 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.020 - Fee to be paid on conviction; screening and treatment; mandatory imprisonment or community service; attendance at victim impact treatment session; session fee; exemptions.**

When a person is convicted of driving while under the influence of intoxicants in violation of ORS 813.010, a court shall comply

with the following in addition to any fine or other penalty imposed upon the person under ORS 813.010:

(1) The court shall require the person to:

(a) Pay to the court the fee described under ORS 813.030 in addition to any fine imposed under ORS 813.010;

(b) Complete a screening interview and a treatment program as provided in ORS 813.021; and

(c) Submit to booking, if the person has not already been booked.

(2) The court must impose and not suspend execution of a sentence requiring the person either to serve at least 48 hours' imprisonment, which shall be served consecutively unless justice requires otherwise, or to perform community service for times specified by the court under ORS 137.129. For purposes of this subsection:

(a) A court may provide for the imprisonment to be served in jail, minimum security facilities or inpatient rehabilitation or treatment centers.

(b) Whenever the judge provides for the mandatory imprisonment to be served other than consecutively, the judgment must specifically so provide and the judge must state the reasons in writing.

(3) In a county that has a victim impact program a court may require the defendant to attend a victim impact treatment session. The court may not require a defendant to attend a victim impact treatment session if the defendant committed the current offense while riding a bicycle that is not an electric assisted bicycle. If the court requires attendance under this section, the court may require the defendant to pay a reasonable fee to the victim impact program to offset the cost of the defendant's participation. The fee shall be established for each county by the victim impact panel coordinator and steering committee of that county and shall be not less than \$5 or more than \$50. [1983 c.338 §588; 1985 c.16 §294 and former 487.549; 1989 c.576 §5; 1991 c.557 §3; 1993 c.13 §4; 1993 c.468 §1; 1999 c.126 §1; 2003 c.14 §496; 2015 c.145 §4; 2023 c.498 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.021 - Requirements for screening interview and treatment program.**

(1) When a court, in accordance with ORS 813.020, requires a person to complete a screening interview and a treatment program, the court shall require the person to do all of the following:

(a) Complete a screening interview for the purpose of determining appropriate placement of the person in a program for treatment for alcoholism, drug dependency or dependency on inhalants.

(b) Pay directly to the agency or organization conducting the screening interview a fee of \$150.

(c) Complete the treatment program to which the person is referred.

(d) Pay for the treatment program to which the person is referred.

(2) The screening interview required by this section shall be conducted by an agency or organization designated by the court. The designated agency or organization must meet the standards set by the Director of the Oregon Health Authority to conduct the screening interviews. Wherever possible a court shall designate agencies or organizations to perform the screening interview that are separate from those that may be designated to carry out a treatment program.

(3) An agency or organization doing a screening interview under this section may not refer a person to a treatment program that has not been approved by the Director of the Oregon Health Authority.

(4) The agency or organization conducting a screening interview under this section shall monitor the progress of the person referred to the agency or organization. The agency or organization shall make a report to the referring court stating the person's successful completion or failure to complete all or any part of the screening interview or of the treatment program to which the person was referred by the agency or organization performing the screening interview. The report shall be in a form determined by agreement between the court and the agency or organization providing the screening interview. [1999 c.126 §3; 1999 c.619 §8a; 2005 c.303 §1; 2009 c.595 §1140; 2015 c.318 §47]

Note:

813.021 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 813 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.022 - Proof of treatment.**

(1) A person who has been convicted of driving while under the influence of intoxicants under ORS 813.010 shall provide proof to the Department of Transportation that the person completed a treatment program to which the person was referred under ORS 813.021.

(2) The department may not reinstate a person's driving privileges unless:

(a) The person has provided proof of completing a treatment program as required under subsection (1) of this section;

(b) The person has an order from the circuit court of the county in which the person was convicted that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program; or

(c) Fifteen years have elapsed since the date of the person's conviction for driving while under the influence of intoxicants.

(3)(a) If the person is unable to provide proof of completing a treatment program as required under subsection (1) of this section, the person may file a motion with the circuit court of the county in which the person was convicted to show proof that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program. The person shall provide a copy of the motion and any supporting documentation to the district attorney of the county. The district attorney may file, within 45



days from the date the person files the motion with the court, an objection to the motion.

(b) If the district attorney does not file an objection to the motion, the court shall, without hearing, enter an order that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program or, on its own motion, conduct a hearing as described in subsection (4) of this section.

(c) Upon timely receipt of an objection from the district attorney, the court shall conduct a hearing.

(4) At a hearing under subsection (3) of this section, the court shall determine whether, considering the totality of the circumstances, the person has taken sufficient steps such that in the court's view the person has satisfied the requirement under ORS 813.021 to complete a treatment program.

(5) If the court determines that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program, the court shall enter an order that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program.

(6) When the court enters an order under this section, the court shall provide a copy of the order to the district attorney.

(7) A court may not enter an order that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program if the person has not started a treatment program. [2012 c.9 §2; 2013 c.233 §1]

Note:

813.022 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 813 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.023 - Alternative payment methods for screening interview or treatment program.**

A person required to pay for a screening interview or treatment program under ORS 813.021, 813.200, 813.210 or 813.240 who is eligible for the state medical assistance program or is enrolled in a health benefit plan, as defined in ORS 743B.005, may utilize the state medical assistance program or health benefit plan as a third party payer for the costs of medically necessary chemical dependency services that are covered under the state medical assistance program or health benefit plan. The person remains responsible for the costs of the screening interview or treatment program, regardless of the amount of coverage or the failure of the third party payer to reimburse all of the costs. [2011 c.468 §1; 2013 c.375 §2; 2015 c.318 §48]

Note:

813.023 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.025 - Designation of agency to perform screening interview and treatment program; qualifications; rules.**

A court may designate a single agency or organization to perform the screening interviews and treatment programs described in ORS 813.021 and 813.260 (1) when the Director of the Oregon Health Authority certifies that:

(1) An agency or organization may accept such designations due to the lack of alternative agencies or organizations in the service area; or

(2) An agency or organization has applied to and been authorized by the Oregon Health Authority to operate a demonstration project that combines screening interviews and treatment programs. The authority shall by rule set forth the conditions under which a demonstration project may be authorized. [1991 c.557 §2; 1999 c.126 §4; 2009 c.595 §1141; 2015 c.318 §49]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.030 - Amount of fee; distribution.**

(1) The fee required by ORS 471.432 and 813.020 (1) shall be in the amount of \$255, except that the court may waive all or part of the fee in cases involving indigent defendants. The court may make provision for payment of the fee on an installment basis. A circuit court shall deposit the fee in the Criminal Fine Account. If the fee is collected in a municipal or justice court, the fee shall be forwarded by the court to the Department of Revenue for deposit in the Criminal Fine Account.

(2) The court may not order the fee under ORS 471.432 to be paid in any case where the person who is required to undergo assessment and treatment is under 18 years of age. [1985 c.16 §296; 1987 c.905 §29; 1989 c.576 §§6a,7a; 1989 c.635 §§1,3; 1991 c.557 §4; 1993 c.13 §5; 1999 c.646 §3; 2009 c.595 §1142; 2011 c.597 §§147,324; 2011 c.671 §3; 2012 c.81 §§2,3; 2021 c.597 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.040 - Standards for determination of problem condition involving intoxicants.**

This section establishes, for purposes of ORS 471.432 and 807.060, when a person has a problem condition involving intoxicants. For purposes of ORS 471.432 and 807.060, a person has a problem condition involving intoxicants if it is determined that the person has a problem condition in which the person's health or that of others is substantially impaired or endangered or the person's social or economic function is substantially disrupted because of the person's:

(1) Habitual or periodic use of:

- (a) Alcoholic beverages;
  - (b) Cannabis, unless the person holds a registry identification card as defined in ORS 475C.777; or
  - (c) Psilocybin; or
- (2) Use of or loss of the ability to control the use of controlled substances, inhalants or other substances with abuse potential, including a condition that may have developed:
- (a) A physical dependence in which the body requires a continuing supply of a controlled substance, an inhalant or a drug to avoid characteristic withdrawal symptoms; or
  - (b) A psychological dependence characterized by an overwhelming mental desire for continued use of a controlled substance, an inhalant or a drug. [1983 c.338 §589; 1999 c.126 §5; 1999 c.619 §9; 1999 c.646 §4; 2017 c.21 §81; 2018 c.76 §14; 2021 c.253 §7; 2023 c.498 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.050 - Out-of-service orders for operators of commercial motor vehicles; grounds; duration; rules; penalty.**

- (1) A police officer or a person authorized by the Department of Transportation to perform vehicle safety inspections shall issue an out-of-service order to the operator of a commercial motor vehicle if any of the following applies:
- (a) The person has reasonable grounds to believe that the operator has consumed alcohol or other intoxicating beverage within four hours prior to the time the operator began operating the vehicle or at any time while operating the vehicle. As used in this paragraph, "reasonable grounds" includes, but is not limited to, smelling alcohol on the breath or person of the operator.
  - (b) A chemical test of the operator's breath discloses any amount of alcohol in the blood of the operator.
  - (c) The operator possesses an intoxicating beverage while operating the vehicle. This subsection does not apply to possession of an intoxicating beverage that is manifested and transported as part of a shipment.
- (2) An out-of-service order issued under this section shall become effective upon its issuance and shall remain in effect for 24 hours.
- (3) The Department of Transportation shall adopt rules requiring that any driver issued an out-of-service order under this section be required to report the order to the department and to the driver's employer. Rules adopted under this section may include, but need not be limited to, rules specifying the times within which reports must be made and the contents of the reports.
- (4) Violation of an out-of-service order issued under this section is a Class A misdemeanor. [1991 c.185 §14; 1993 c.400 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.055 - Civil penalty for violation of out-of-service order or notice; rules.**

- (1) The Department of Transportation shall impose a civil penalty on the operator of a commercial motor vehicle if:
- (a) The operator has violated an out-of-service order issued under ORS 813.050 or any other out-of-service order or notice issued by the department or an authorized representative of the department; or
  - (b) The department receives notification that a person has violated any out-of-service order or notice issued by a state or federal agency.
- (2) For the purposes of this section, "notification" may include, but is not limited to, a record of conviction or a record of a determination by a state or federal agency with jurisdiction to determine that the operator has violated an out-of-service order or notice.
- (3) The department may adopt rules establishing a schedule of civil penalties that may be imposed under this section. The civil penalties imposed may not be reduced.
- (4) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745. [2009 c.395 §14; 2021 c.630 §116]
- Note:

813.055 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 813 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.095 - Offense of refusal to take a test for intoxicants; penalty.**

- (1) A person commits the offense of refusal to take a test for intoxicants if the person refuses to:
- (a) Take a breath test when requested to do so in accordance with the provisions of ORS 813.100; or
  - (b) Take a urine test when requested to do so in accordance with the provisions of ORS 813.131 and 813.132.
- (2) The offense described in this section, refusal to take a test for intoxicants, is a specific fine traffic violation. The presumptive fine for refusal to take a test for intoxicants is \$650. The fine described in this section is in addition to any other consequence prescribed by law for refusal to take a test for intoxicants. [2003 c.814 §2; 2009 c.614 §1; 2011 c.597 §102]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.100 - Implied consent to breath or blood test; confiscation of license upon refusal or failure of test.**

- (1) Any person who operates a motor vehicle upon premises open to the public or the highways of this state shall be deemed to have

given consent, subject to the implied consent law, to a chemical test of the person's breath, or of the person's blood if the person is receiving medical care in a health care facility immediately after a motor vehicle accident, for the purpose of determining the alcoholic content of the person's blood if the person is arrested for driving a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance. A test shall be administered upon the request of a police officer having reasonable grounds to believe the person arrested to have been driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance. Before the test is administered the person requested to take the test shall be informed of consequences and rights as described under ORS 813.130.

(2) If a person refuses to submit to a test under this section or if a breath test under this section discloses that the person, at the time of the test, had a level of alcohol in the person's blood that constitutes being under the influence of intoxicating liquor under ORS 813.300 and the person has been informed of rights and consequences as provided under ORS 813.130, the person's driving privileges are subject to suspension under ORS 813.410 and the police officer shall do all of the following:

(a) Immediately take custody of any driver license or permit issued by this state to the person to grant driving privileges.

(b) Provide the person with a written notice of intent to suspend, on forms prepared and provided by the Department of Transportation. The written notice shall inform the person of consequences and rights as described under ORS 813.130.

(c) If the person qualifies under ORS 813.110, issue to the person, on behalf of the department, a temporary driving permit described under ORS 813.110.

(d) Within a period of time required by the department by rule, report action taken under this section to the department and prepare and cause to be delivered to the department a report as described in ORS 813.120, along with the confiscated license or permit and a copy of the notice of intent to suspend.

(3) If a blood test under this section discloses that the person, at the time of the test, had a level of alcohol in the person's blood that constitutes being under the influence of intoxicating liquor under ORS 813.300, the person's driving privileges are subject to suspension under ORS 813.410 and the police officer shall report to the department within 45 days of the date of arrest that the person failed the blood test.

(4) Nothing in this section precludes a police officer from obtaining a chemical test of the person's breath or blood through any lawful means for use as evidence in a criminal or civil proceeding including, but not limited to, obtaining a search warrant. [1983 c.338 §591; 1985 c.16 §298; 1985 c.672 §19; 1993 c.305 §1; 1995 c.568 §1; 2013 c.642 §1; 2019 c.475 §1]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.110 - Temporary permit upon confiscation of license.**

(1) Except as otherwise provided by this section, police officers, on behalf of the Department of Transportation, shall issue temporary driving permits described under this section to persons when required under ORS 813.100.

(2) The department shall provide police departments and agencies with permits for issuance as required by this section. The department shall establish the form and content of permits described in this section as the department determines appropriate, but in a manner consistent with this section.

(3) A permit described in this section is subject to all the following:

(a) Except as provided in paragraph (b) of this subsection, the permit is valid until the 30th day after the date of arrest.

(b) During the 12-hour period following issuance of the permit, the person is subject to ORS 807.570, and the permit is not a defense to a charge under ORS 807.570.

(c) The permit shall be issued without payment of any fee.

(d) The permit grants the same driving privileges as those granted by the person's license taken into possession under ORS 813.100.

(4) A police officer shall not issue a permit under this section if:

(a) Driving privileges of the person were suspended, revoked or canceled at the time the person was arrested;

(b) The person whose license was taken into custody was operating on an invalid license;

(c) The person was not entitled to driving privileges at the time of the arrest for any other reason; or

(d) The person holds a license or permit granting driving privileges that was issued by another state or jurisdiction and that is not taken into custody under ORS 813.100. [1985 c.16 §142; 1985 c.672 §17]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.120 - Police report to department.**

(1) A report required by ORS 813.100 shall disclose substantially all of the following information:

(a) Whether the person, at the time the person was requested to submit to a test, was under arrest for driving a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance.

(b) Whether the police officer had reasonable grounds to believe, at the time the request was made, that the person arrested had been driving under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance.

(c) Whether the person refused to submit to a test or if the person submitted to a breath or blood test whether the level of alcohol in the person's blood, as shown by the test, was sufficient to constitute being under the influence of intoxicating liquor under ORS 813.300.

(d) Whether the person was driving a commercial motor vehicle and refused to submit to a test or if the person submitted to a breath or blood test whether the level of alcohol in the person's blood, as shown by the test, was 0.04 percent or more by weight.

- (e) Whether the person was informed of consequences and rights as described under ORS 813.130.
  - (f) Whether the person was given written notice of intent to suspend required by ORS 813.100 (2)(b).
  - (g) If the arrested person took a test, a statement that the person conducting the test was appropriately qualified.
  - (h) If the arrested person took a test, a statement that any methods, procedures and equipment used in the test comply with any requirements under ORS 813.160.
- (2) A report required by ORS 813.100 may be made in one or more forms specified by the Department of Transportation. [1983 c.338 §405; 1985 c.16 §215; 1985 c.672 §20; 1989 c.636 §42; 1993 c.305 §3; 1993 c.751 §70; 1995 c.568 §3; 2019 c.475 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.130 - Rights of and consequences for person asked to take test.**

- (1) For the purposes of ORS 813.100 and 813.410, the information about rights and consequences shall be substantially in the form prepared by the Department of Transportation. The department may establish any form it determines appropriate and convenient.
- (2) Except as provided in subsection (3) of this section, the information about rights and consequences shall be substantially as follows:
  - (a) Driving under the influence of intoxicants is a crime in Oregon, and the person is subject to criminal penalties if a test under ORS 813.100 shows that the person is under the influence of intoxicants. If the person fails a test, evidence of the failure may also be offered against the person.
  - (b) The person will fail a test under ORS 813.100 for purposes of criminal penalties if the test discloses a blood alcohol content of 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood. The person will fail a test for purposes of the Motorist Implied Consent Law if the test discloses a blood alcohol content of:
    - (A) 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood if the person was not driving a commercial motor vehicle;
    - (B) 0.04 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood if the person was driving a commercial motor vehicle; or
    - (C) Any amount if the person was under 21 years of age.
  - (c) If the person fails a test under ORS 813.100, the person's driving privileges will be suspended. The outcome of a criminal charge for driving under the influence of intoxicants will not affect the suspension.
  - (d) If the person fails a breath test under ORS 813.100 and has an Oregon driver license or permit, the license or permit will be taken immediately and, unless the person does not currently have full valid driving privileges, a temporary driving permit will be issued to the person.
  - (e) After taking a test under ORS 813.100, the person will have a reasonable opportunity, upon request, for an additional chemical test for blood alcohol content to be performed at the person's own expense by a qualified individual of the person's choosing.
  - (f) The person has a right to a hearing to challenge the validity of the suspension before the suspension becomes effective. The person must make a written request to the department for such a hearing. If the person wins at the hearing, the person's driving privileges will not be suspended. If the person loses at the hearing, the suspension will remain in effect during any court review of the hearing.
  - (g) If the person is issued a temporary driving permit under ORS 813.100, the information provided to the person shall include the number of hours before the driving permit will be effective and the number of days the permit will be effective.
  - (h) The information provided to the person shall include the number of days within which a person must request a hearing under ORS 813.410.
  - (i) The information provided to the person shall include the number of days within which a hearing under ORS 813.410 will be held.
  - (j) The person may possibly qualify for a hardship permit in 30 days if the person fails a test, depending on the person's driving record.
  - (k) If the person is driving a commercial motor vehicle, and takes a breath or blood test under ORS 813.100 after being informed of the rights and consequences under paragraphs (a) to (j) of this subsection, the following additional information shall be provided:
    - (A) If the level of alcohol in the person's blood is 0.04 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood, the person's commercial driving privileges or right to apply for commercial driving privileges will be suspended and no hardship permit authorizing the person to drive a commercial motor vehicle will be issued.
    - (B) The suspension of the person's commercial driving privileges or right to apply for commercial driving privileges will be for the person's lifetime if the person takes a breath or blood test and the level of alcohol in the person's blood is 0.04 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood and:
      - (i) The person previously has been convicted of failure to perform the duties of a driver while holding commercial driving privileges or while driving a commercial motor vehicle;
      - (ii) The person previously has been convicted of a crime punishable as a felony and the person was driving a motor vehicle while holding commercial driving privileges at the time the offense was committed;
      - (iii) The person previously has been convicted of a crime punishable as a felony and the person was driving a commercial motor vehicle;
      - (iv) The person previously has been convicted of driving a commercial motor vehicle while the person's commercial driving privileges or right to apply for commercial driving privileges was suspended or revoked for offenses committed while operating a

commercial motor vehicle;

(v) The person previously has been convicted of any degree of murder, manslaughter or criminally negligent homicide resulting from the operation of a commercial motor vehicle or assault in the first degree resulting from the operation of a commercial motor vehicle;

(vi) The person previously has been convicted of aggravated vehicular homicide while holding commercial driving privileges or while driving a commercial motor vehicle;

(vii) The person previously has been convicted of aggravated driving while suspended or revoked while holding commercial driving privileges or while driving a commercial motor vehicle;

(viii) The person previously has been convicted of driving while under the influence of intoxicants while holding commercial driving privileges or while driving a commercial motor vehicle;

(ix) The person's commercial driving privileges previously have been suspended under ORS 809.510 for a diversion agreement entered into under ORS 813.230 with respect to conduct that occurred while the person held commercial driving privileges;

(x) The person's commercial driving privileges previously have been suspended or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100 for conduct that occurred while the person held commercial driving privileges or was operating a commercial motor vehicle; or

(xi) The person's right to apply for commercial driving privileges previously has been suspended or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100 resulting from the operation of a commercial motor vehicle or resulting from the operation of a motor vehicle while holding commercial driving privileges.

(3) A person who refuses to submit to a chemical test after being informed of the rights and consequences in subsection (2) of this section shall be provided additional information, substantially as follows:

(a) If the person refuses to provide consent to a breath or blood test, and is thereafter requested to provide only physical cooperation to submit to a breath or blood test, and the person refuses to physically submit to a test, evidence of that refusal may be offered against the person.

(b) If the person refuses to submit to a test under ORS 813.100, the person's driving privileges will be suspended. The outcome of a criminal charge for driving under the influence of intoxicants will not affect the suspension. The suspension will be substantially longer if a person refuses a test.

(c) If the person refuses to submit to a breath test under ORS 813.100 and has an Oregon driver license or permit, the license or permit will be taken immediately and, unless the person does not currently have full valid driving privileges, a temporary driving permit will be issued to the person.

(d) If the person refuses to submit to a test under ORS 813.100, the person is not eligible for a hardship permit for at least 90 days, and possibly for three years, depending on the following factors set forth in ORS 813.430:

(A) Whether the person is presently participating in a driving while under the influence of intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in this or another jurisdiction; or

(B) Whether within the five years preceding the date of arrest any of the following occurred:

(i) A suspension of the person's driving privileges under ORS 813.410 or 482.540 (1981 Replacement Part) became effective;

(ii) The person was convicted of driving while under the influence of intoxicants in violation of ORS 813.010 or the statutory counterpart to ORS 813.010 in another jurisdiction, as described in ORS 813.430;

(iii) The person was convicted of driving while under the influence of intoxicants in violation of a municipal ordinance in this state or another jurisdiction, as described in ORS 813.430; or

(iv) The person commenced participating in a driving while under the influence of intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in this or another jurisdiction, as described in ORS 813.430.

(e) If the person refuses to submit to a breath test under ORS 813.100, or refuses to provide a urine sample under ORS 813.131 and 813.132, the person is subject to a fine of at least \$500 and not more than \$1,000.

(f) The person has a right to a hearing to challenge the validity of the suspension before the suspension becomes effective. The person must make a written request to the department for such a hearing. If the person wins at the hearing, the person's driving privileges will not be suspended. If the person loses at the hearing, the suspension will remain in effect during any court review of the hearing.

(g) If the person is issued a temporary driving permit under ORS 813.100, the number of hours before the driving permit will be effective and the number of days the permit will be effective.

(h) The number of days within which a person must request a hearing under ORS 813.410.

(i) The number of days within which a hearing under ORS 813.410 will be held.

(j) The person may possibly qualify for a hardship permit in 30 days if the person fails a test, depending on the person's driving record.

(k) If the person is driving a commercial motor vehicle, further information as follows:

(A) If the person refuses to submit to a test under ORS 813.100, the person's commercial driving privileges or right to apply for commercial driving privileges will be suspended and no hardship permit authorizing the person to drive a commercial motor vehicle will be issued. The suspension will be substantially longer if the person refuses the test.

(B) The suspension of the person's commercial driving privileges or right to apply for commercial driving privileges will be for the person's lifetime if the person refuses to submit to a test under ORS 813.100 and:

- (i) The person previously has been convicted of failure to perform the duties of a driver while holding commercial driving privileges or while driving a commercial motor vehicle;
  - (ii) The person previously has been convicted of a crime punishable as a felony and the person was driving a motor vehicle while holding commercial driving privileges at the time the offense was committed;
  - (iii) The person previously has been convicted of a crime punishable as a felony and the person was driving a commercial motor vehicle;
  - (iv) The person previously has been convicted of driving a commercial motor vehicle while the person's commercial driving privileges or right to apply for commercial driving privileges was suspended or revoked for offenses committed while operating a commercial motor vehicle;
  - (v) The person previously has been convicted of any degree of murder, manslaughter or criminally negligent homicide resulting from the operation of a commercial motor vehicle or assault in the first degree resulting from the operation of a commercial motor vehicle;
  - (vi) The person previously has been convicted of aggravated vehicular homicide while holding commercial driving privileges or while driving a commercial motor vehicle;
  - (vii) The person previously has been convicted of aggravated driving while suspended or revoked while holding commercial driving privileges or while driving a commercial motor vehicle;
  - (viii) The person previously has been convicted of driving while under the influence of intoxicants while holding commercial driving privileges or while driving a commercial motor vehicle;
  - (ix) The person's commercial driving privileges previously have been suspended under ORS 809.510 for a diversion agreement entered into under ORS 813.230 with respect to conduct that occurred while the person held commercial driving privileges;
  - (x) The person's commercial driving privileges previously have been suspended or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100 for conduct that occurred while the person held commercial driving privileges or was operating a commercial motor vehicle; or
  - (xi) The person's right to apply for commercial driving privileges previously has been suspended or revoked for refusal to submit to, or failure of, a breath or blood test under ORS 813.100 resulting from the operation of a commercial motor vehicle or resulting from the operation of a motor vehicle while holding commercial driving privileges.
- (4) Nothing in this section prohibits the department from providing additional information concerning rights and consequences that the department considers convenient or appropriate. [1985 c.672 §22; 1987 c.673 §3; 1987 c.801 §11; 1989 c.171 §92; 1989 c.636 §43; 1991 c.185 §15; 1991 c.860 §10; 1993 c.305 §4; 1995 c.568 §4; 2003 c.814 §3; 2005 c.649 §28; 2009 c.607 §2; 2009 c.614 §2; 2013 c.237 §27; 2019 c.475 §2; 2021 c.630 §117]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.131 - Implied consent to urine test; privacy; laboratories for analysis.**

- (1) A person may be asked to provide a urine sample under ORS 813.140 or subsection (2) of this section.
- (2) Any person who operates a motor vehicle upon premises open to the public or the highways of this state shall be deemed to have given consent, subject to the Motorist Implied Consent Law, to a chemical test of the person's urine for the purpose of determining the presence of an intoxicant other than intoxicating liquor in the person's body if the person is arrested for driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance and either:
  - (a) The person takes the breath test described in ORS 813.100 and the test discloses a blood alcohol content of less than 0.08 percent; or
  - (b) The person is involved in an accident resulting in injury or property damage. A urine test may be requested under this paragraph regardless of whether a breath test has been requested and regardless of the results of a breath test, if one is taken.
- (3) A police officer may not request a urine test unless the officer is certified by the Department of Public Safety Standards and Training as having completed at least eight hours of training in recognition of drug impaired driving and the officer has a reasonable suspicion that the person arrested has been driving while under the influence of an intoxicant other than intoxicating liquor or a combination of intoxicants.
- (4) A person asked to give a urine sample shall be given privacy and may not be observed by a police officer when producing the sample.
- (5)(a) At the trial of any civil or criminal action, suit or proceeding arising out of the acts committed by a person driving a motor vehicle while under the influence of intoxicants, a valid chemical analysis of a person's urine is admissible as evidence and may be used with other evidence, if any, to determine whether the person was driving while under the influence of intoxicants.
- (b) A chemical analysis of a person's urine is valid if analysis is performed in an accredited or licensed toxicology laboratory. [1995 c.676 §1; 1999 c.619 §10; 1999 c.752 §1; 2009 c.325 §1; 2015 c.11 §1; 2017 c.21 §82; 2019 c.475 §3; 2021 c.253 §8; 2023 c.498 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.132 - Consequences of refusing to take urine test; exception.**

- (1) Except as otherwise provided in this section, a refusal to submit to a urine test requested under ORS 813.131 shall be treated for all purposes as a refusal to submit to a breath test. A suspension imposed for refusal to submit to a urine test under ORS 813.131 (2)

shall be consecutive to any other suspension imposed under the Motorist Implied Consent Law. If a person is subject to consecutive suspensions, the length of time that must elapse before the Department of Transportation may reinstate driving privileges or issue a hardship permit under ORS 813.520 shall be doubled.

(2) If a person refuses to submit to a urine test under ORS 813.131 (2), in addition to information described in ORS 813.130, the person asked to take the test shall be informed that if the person refuses to submit to the test, the person's driving privileges will be suspended for the same time period and with the same consequences as if the person had refused to submit to the breath test and that a suspension for refusal to submit to the urine test will be consecutive to any other suspension under the Motorist Implied Consent Law.

(3) Notwithstanding subsection (1) of this section, no suspension of driving privileges shall be imposed for refusal to submit to a urine test if the person provides documentation from a physician licensed by this state showing that the person has a medical condition that makes it impossible for the person to provide a sample. [1995 c.676 §2; 1997 c.25 §3; 2019 c.475 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.135 - Implied consent to field sobriety tests.**

Any person who operates a vehicle upon premises open to the public or the highways of the state shall be deemed to have given consent to submit to field sobriety tests upon the request of a police officer for the purpose of determining if the person is under the influence of intoxicants if the police officer reasonably suspects that the person has committed the offense of driving while under the influence of intoxicants in violation of ORS 813.010 or a municipal ordinance. If the person refuses to consent to field sobriety tests, the person shall be asked to provide only physical cooperation to submit to nontestimonial field sobriety tests, and the person shall be informed of the consequences of failing to physically submit to those tests under ORS 813.136. [1989 c.576 §15; 2019 c.475 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.136 - Consequence of refusal or failure to submit to field sobriety tests.**

If a person refuses or fails to physically submit to field sobriety tests as required by ORS 813.135 after the person has been informed of the consequences of refusing to submit, evidence of the person's refusal or failure to physically submit is admissible in any criminal or civil action or proceeding arising out of allegations that the person was driving while under the influence of intoxicants. [1989 c.576 §14; 2019 c.475 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.140 - Chemical test with consent; unconscious person.**

Nothing in ORS 813.100, 813.131 or 813.132 is intended to preclude the administration of a chemical test described in this section. A police officer may obtain a chemical test of the breath or blood to determine the amount of alcohol in any person's blood or a test of the person's blood or urine, or both, to determine the presence of cannabis, psilocybin, a controlled substance or an inhalant in the person as provided in the following:

(1) If, when requested by a police officer, the person expressly consents to such a test.

(2) Notwithstanding subsection (1) of this section, from a person without the person's consent if:

(a) The police officer has probable cause to believe that the person was driving while under the influence of intoxicants and that evidence of the offense will be found in the person's blood or urine; and

(b) The person is unconscious or otherwise in a condition rendering the person incapable of expressly consenting to the test or tests requested. [1983 c.338 §593; 1985 c.16 §299; 1999 c.619 §11; 2013 c.642 §2; 2017 c.21 §83; 2019 c.475 §7; 2021 c.253 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.150 - Chemical test at request of arrested person.**

In addition to a chemical test of the breath, blood or urine administered under ORS 813.100 or 813.140, upon the request of a police officer, a person shall be permitted upon request, at the person's own expense, reasonable opportunity to have any licensed physician and surgeon, licensed professional nurse or qualified technician, chemist or other qualified person of the person's own choosing administer a chemical test or tests of the person's breath or blood for the purpose of determining the alcoholic content of the person's blood or a chemical test or tests of the person's blood or urine, or both, for the purpose of determining the presence of cannabis, psilocybin, a controlled substance or an inhalant in the person. The failure or inability to obtain such a test or tests by a person shall not preclude the admission of evidence relating to a test or tests taken upon the request of a police officer. [1983 c.338 §594; 1985 c.16 §300; 1999 c.619 §12; 2017 c.21 §84; 2021 c.253 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.160 - Methods of conducting chemical analyses; duties of Department of State Police; reports; costs.**

(1) A chemical analysis is valid under ORS 813.300 if:

(a) It is an analysis of a person's blood for alcohol content and is performed in:

(A) A laboratory certified or accredited under 42 C.F.R. part 493 and approved for toxicology testing;

- (B) A laboratory licensed under ORS 438.110 and approved for toxicology testing; or
- (C) A forensic laboratory established by the Department of State Police under ORS 181A.150 that is accredited by a national forensic accrediting organization.
- (b) It is an analysis of a person's breath and is performed by an individual possessing a valid permit to perform chemical analyses issued by the Department of State Police and is performed according to methods approved by the Department of State Police. For purposes of this paragraph, the Department of State Police shall do all of the following:
- (A) Approve methods of performing chemical analyses of a person's breath.
- (B) Prepare manuals and conduct courses throughout the state for the training of police officers in chemical analyses of a person's breath, which courses shall include, but are not limited to, approved methods of chemical analyses, use of approved equipment and interpretation of test results together with a written examination on these subjects.
- (C) Test and certify the accuracy of equipment to be used by police officers for chemical analyses of a person's breath before regular use of the equipment and periodically thereafter at intervals of not more than 90 days. Tests and certification required by this subparagraph must be conducted by trained technicians. Certification under this subparagraph does not require a signed document.
- (D) Ascertain the qualifications and competence of individuals to conduct chemical analyses in accordance with one or more methods approved by the department.
- (E) Issue permits to individuals according to their qualifications. Permits may be issued to police officers only upon satisfactory completion of the prescribed training course and written examination. A permit must state the methods and equipment that the police officer is qualified to use. Permits are subject to termination or revocation at the discretion of the Department of State Police.
- (2) In conducting a chemical test of the blood, only a duly licensed physician or a person acting under the direction or control of a duly licensed physician may withdraw blood or pierce human tissue. A licensed physician, or a qualified person acting under the direction or control of a duly licensed physician, is not civilly liable for withdrawing any bodily substance, in a medically acceptable manner, at the request of a peace officer.
- (3) An individual who performs a chemical analysis of breath or blood under ORS 813.100 or 813.140 shall prepare and sign a written report of the findings of the test that must include the identification of the police officer upon whose request the test was administered.
- (4) Any individual having custody of the report mentioned in subsection (3) of this section shall, upon request of the person tested, furnish that person or that person's attorney, a copy of the report.
- (5) The expense of conducting a chemical test as provided by ORS 813.100 or 813.140 must be paid by the governmental unit on whose equipment the test is conducted or by the governmental unit upon whose request the test was administered if no governmental unit's equipment is used to conduct the test. [1983 c.338 §173; 1985 c.16 §57; 1985 c.337 §2; 1995 c.351 §1; 2003 c.19 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.170 - Plea agreement prohibited.**

- (1) Notwithstanding ORS 135.405 to 135.445, a person charged with the offense of driving under the influence of intoxicants shall not be allowed to plead "guilty" or "no contest" to any other offense in exchange for a dismissal of the offense charged. No district attorney or city attorney shall make any motion and no judge shall enter any order in derogation of this section. This section does not prohibit diversion as provided under ORS 813.200.
- (2) Notwithstanding ORS 135.881 to 135.901, a person charged with the offense of driving under the influence of intoxicants shall not be allowed to enter into any program of supervised performance or diversion except as provided under ORS 813.200. [1983 c.338 §382; 1999 c.1051 §294]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.200 - Notice of availability of diversion; petition; form; contents.**

- (1) The court shall inform at arraignment a defendant charged with the offense of driving while under the influence of intoxicants as defined in ORS 813.010 or a city ordinance conforming thereto that a diversion agreement may be available if the defendant meets the criteria set out in ORS 813.215 and files with the court a petition for a driving while under the influence of intoxicants diversion agreement.
- (2) The petition forms for a driving while under the influence of intoxicants diversion agreement shall be available to a defendant at the court.
- (3) The form of the petition for a driving while under the influence of intoxicants diversion agreement and the information and blanks contained therein shall be determined by the Supreme Court under ORS 1.525. The petition forms made available to a defendant by any city or state court shall conform to the requirements adopted by the Supreme Court.
- (4) In addition to any other information required by the Supreme Court to be contained in a petition for a driving while under the influence of intoxicants diversion agreement, the petition shall include:
- (a) A plea of guilty or no contest to the charge of driving while under the influence of intoxicants signed by the defendant;
- (b) An agreement by the defendant to complete at an agency or organization designated by the city or state court a screening interview to determine the possible existence and degree of an alcohol or drug abuse problem;
- (c) An agreement by the defendant to complete, at defendant's own expense based on defendant's ability to pay, the program of treatment:



- (A) Indicated as necessary by the screening interview; or
  - (B) If ordered by the court under ORS 813.640 after the court receives at least two negative reports;
  - (d) Except as provided in subsection (5) of this section, an agreement by the defendant to not use intoxicants during the diversion period and to comply fully with the laws of this state designed to discourage the use of intoxicants;
  - (e) A notice to the defendant that the diversion agreement will be considered to be violated if the court receives notice that the defendant at any time during the diversion period committed the offense of driving while under the influence of intoxicants or committed a violation of ORS 811.170;
  - (f) An agreement by the defendant to keep the court advised of the defendant's current mailing address at all times during the diversion period;
  - (g) A waiver by the defendant of any former jeopardy rights under the federal and state Constitutions and ORS 131.505 to 131.525 in any subsequent action upon the charge or any other offenses based upon the same criminal episode;
  - (h) A sworn statement, as defined in ORS 162.055, by the defendant certifying that the defendant meets the criteria set out in ORS 813.215 to be eligible to enter into the driving while under the influence of intoxicants diversion agreement;
  - (i) An agreement by the defendant to pay court-appointed attorney fees as determined by the court; and
  - (j) An agreement by the defendant to pay restitution if ordered by the court under ORS 137.108.
- (5) A person may use intoxicants during the diversion period if:
- (a) The person consumes sacramental wine given or provided as part of a religious rite or service;
  - (b) The person has a valid prescription for a substance and the person takes the substance as directed; or
  - (c) The person is using a nonprescription drug, as defined in ORS 689.005, in accordance with the directions for use that are printed on the label for that nonprescription drug. [1983 c.338 §369; 1985 c.16 §191; 1987 c.441 §4; 2003 c.816 §1; 2011 c.468 §3; 2013 c.78 §4; 2015 c.318 §50; 2017 c.655 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.210 - Petition; filing fee; screening interview fee; service on prosecutor; objection.**

- (1) After an accusatory instrument has been filed charging the defendant with the offense of driving while under the influence of intoxicants, a defendant may file with the court a petition for a driving while under the influence of intoxicants diversion agreement described in ORS 813.200. The petition:
- (a) Must be filed within 30 days after the date of the defendant's first appearance on the summons, unless a later filing date is allowed by the court upon a showing of good cause. For purposes of this paragraph, the filing of a demurrer, a motion to suppress or a motion for an omnibus hearing does not constitute good cause.
  - (b) Notwithstanding paragraph (a) of this subsection, may not be filed after entry of a guilty plea or a no contest plea or after commencement of any trial on the charge whether or not a new trial or retrial is ordered for any reason.
  - (c) Notwithstanding paragraph (a) of this subsection, may be filed up to 14 days after the date the prosecuting attorney sends the laboratory test results of the defendant's urine or blood sample analysis to the defendant's attorney or, if the defendant is unrepresented, the defendant, if:
    - (A) The accusatory instrument alleges that the defendant was driving under the influence of intoxicants and alleges that at the time the conduct occurred the defendant was under the influence of a controlled substance or an inhalant;
    - (B) The defendant has not received notice of what the defendant's blood alcohol content was at the time the conduct occurred or if at the time the conduct occurred the defendant had less than 0.08 percent by weight of alcohol in the blood; and
    - (C) A police officer obtained a urine or blood sample from the defendant.
- (2) The defendant shall pay to the court, at the time of filing a petition for a driving while under the influence of intoxicants diversion agreement, a filing fee established under ORS 813.240. The court may make provision for payment of the filing fee by the defendant on an installment basis. The court may waive all or part of the filing fee in cases involving indigent defendants. The filing fee paid to the court under this subsection shall be retained by the court if the petition is allowed. The filing fee shall be distributed as provided by ORS 813.240.
- (3) The defendant shall pay to the agency or organization providing the screening interview, at the time the petition is allowed, the fee required by ORS 813.240 (3).
- (4)(a) Unless otherwise provided under paragraph (b) of this subsection, the defendant shall pay to the court any court-appointed attorney fees agreed to under ORS 813.200 (4)(i). Payments shall be made prior to the end of the diversion period on a schedule determined by the court.
- (b) The court may waive all or part of the court-appointed attorney fees agreed to under ORS 813.200 (4)(i).
- (5) The defendant shall begin paying to the court any restitution ordered under ORS 137.108. Payments shall be made during the diversion period on a schedule determined by the court.
- (6) The defendant shall cause a copy of the petition for a driving while under the influence of intoxicants diversion agreement to be served upon the district attorney or city attorney. The district attorney or city attorney may file with the court, within 15 days after the date of service, a written objection to the petition and a request for a hearing. [1983 c.338 §370; 1985 c.16 §192; 1987 c.441 §5; 1987 c.534 §1; 1993 c.13 §6; 2003 c.816 §2; 2011 c.595 §170; 2013 c.78 §5; 2015 c.318 §51; 2017 c.491 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the**

**Influence of IntoxicantsSection 813.215 - Eligibility for diversion.**

(1) A defendant is eligible for diversion if the defendant meets all of the following conditions:

(a) On the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement, the defendant had no charge, other than the charge for the present offense, pending for:

(A) An offense of driving while under the influence of intoxicants in violation of:

(i) ORS 813.010; or

(ii) The statutory counterpart to ORS 813.010 in another jurisdiction;

(B) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving of a vehicle due to the use of an intoxicant or a combination of intoxicants; or

(C) A driving offense in another jurisdiction that involved operating a vehicle while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.

(b) The defendant has not been convicted of an offense described in paragraph (a) of this subsection within the period beginning 15 years before the date of the commission of the present offense and ending on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement.

(c) The defendant has not been convicted of a felony offense described in ORS 813.010 (5)(a).

(d) The defendant was not participating in a driving while under the influence of intoxicants diversion program or in any similar alcohol or drug rehabilitation program in this state or in another jurisdiction on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement.

(e) The defendant did not participate in a diversion or rehabilitation program described in paragraph (d) of this subsection within the period beginning 15 years before the date of the commission of the present offense and ending on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement.

(f) The defendant had no charge of an offense of aggravated vehicular homicide or of murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle pending in this state or in another jurisdiction on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement.

(g) The defendant has not been convicted of an offense described in paragraph (f) of this subsection within the period beginning 15 years before the date of the commission of the present offense and ending on the date the defendant filed the petition for a driving while under the influence of intoxicants diversion agreement.

(h) The defendant did not hold commercial driving privileges on the date of the commission of the offense.

(i) The defendant was not operating a commercial motor vehicle at the time of the offense.

(j) The present driving while under the influence of intoxicants offense did not involve an accident resulting in:

(A) Death of any person; or

(B) Physical injury as defined in ORS 161.015 to any person other than the defendant.

(2) For the purposes of subsection (1)(a) of this section, a conviction for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older does not constitute a prior conviction.

(3) Notwithstanding subsection (1)(d) or (e) of this section, a defendant is eligible for diversion if the defendant participated in a diversion program or any similar alcohol or drug rehabilitation program:

(a) As a result of the charge for the present offense or a charge for violation of ORS 471.430.

(b) As a ward, youth or adjudicated youth, as those terms are defined in ORS 419A.004, pursuant to an order of the juvenile court under ORS chapter 419B or 419C, or referral of the juvenile department under ORS chapter 419C, and such order or referral was made when the defendant was under 18 years of age.

(c) As the parent or guardian of a ward, youth or adjudicated youth, as those terms are defined in ORS 419A.004, pursuant to an order of the juvenile court under ORS chapter 419B or 419C.

(4) A defendant is eligible for a second or subsequent diversion if the defendant meets all of the conditions of subsection (1) of this section and the defendant has not been convicted of any other criminal offense involving a motor vehicle within the period beginning 15 years before the date of the commission of the present offense and ending on the date the defendant filed the petition for the second or subsequent driving while under the influence of intoxicants diversion agreement. [1987 c.441 §3; 1997 c.749 §5; 1999 c.445 §1; 1999 c.1051 §295; 2005 c.649 §29; 2007 c.122 §11; 2007 c.867 §14; 2007 c.879 §10; 2009 c.515 §1; 2013 c.134 §1; 2013 c.237 §28; 2016 c.24 §62; 2017 c.21 §85; 2021 c.253 §11; 2023 c.498 §13]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 813 - Driving Under the Influence of IntoxicantsSection 813.220 - Matters to be considered by court in determining to allow diversion agreement; reasons for denial.**

After the time for requesting a hearing under ORS 813.210 has expired with no request for a hearing, or after a hearing requested under ORS 813.210, the court shall determine whether to allow or deny a petition for a driving while under the influence of intoxicants diversion agreement. In making a determination under this section, the court:

(1) Shall consider whether the diversion will be of benefit to the defendant and the community.

(2) May take into consideration whether there was an early recognition by the defendant during the proceeding that a course of

diagnosis and treatment of problem drinking, alcoholism or drug dependency would be beneficial.

(3) May take into consideration whether there is a probability that the defendant will cooperate with the diagnostic assessment and treatment agencies.

(4) May take into consideration whether the defendant will observe the restrictions contained in the diversion agreement.

(5) May take into consideration whether the offense was committed in a motor vehicle and whether there was a passenger in the motor vehicle who was under 18 years of age and at least three years younger than the defendant.

(6) Shall deny the petition for a driving while under the influence of intoxicants diversion agreement if the defendant failed to appear at an arraignment on the present offense without good cause.

(7) Shall deny the petition for a driving while under the influence of intoxicants diversion agreement if, after the date the defendant filed the petition, the defendant was charged with or convicted of:

(a) An offense of driving while under the influence of intoxicants in violation of:

(A) ORS 813.010; or

(B) The statutory counterpart to ORS 813.010 in another jurisdiction;

(b) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving of a vehicle due to the use of intoxicating liquor, cannabis, psilocybin, a controlled substance, an inhalant or any combination thereof; or

(c) A driving offense in another jurisdiction that involved operating a vehicle while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.

(8) Shall deny the petition for a driving while under the influence of intoxicants diversion agreement if the defendant participated in a driving while under the influence of intoxicants diversion program or in any similar alcohol or drug rehabilitation program, other than a program entered into as a result of the charge for the present offense, in this state or in another jurisdiction after the date the defendant filed the petition.

(9) Shall deny the petition for a driving while under the influence of intoxicants diversion agreement if the defendant was charged with or convicted of an offense of aggravated vehicular homicide or of murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in this state or in another jurisdiction after the date the defendant filed the petition.

(10) Shall deny the petition for a driving while under the influence of intoxicants diversion agreement if the defendant has been convicted of a felony offense described in ORS 813.010 (5)(a).

(11) For the purposes of subsection (7) of this section, may not consider a conviction for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older as a prior conviction.

(12) May not deny the petition for a driving while under the influence of intoxicants diversion agreement solely on the basis that the defendant is a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States or the National Guard and has been called or demonstrates that the defendant will be called to active duty, and the military service will impair the defendant's ability to complete the diversion program. [1983 c.338 §371; 1987 c.441 §6; 1997 c.749 §6; 1999 c.1051 §296; 2003 c.445 §2; 2007 c.867 §15; 2007 c.879 §7; 2011 c.197 §1; 2017 c.21 §86; 2021 c.253 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.222 - Right of victim to be present at hearing.**

(1) If a driving while under the influence of intoxicants offense involves damage to property of a person other than the defendant, the victim of the property damage has a right to be present and to be heard at any hearing on a petition for a diversion agreement.

(2) The district attorney or city attorney shall notify the victim that the defendant may be eligible for diversion and that if there is a hearing on a petition for diversion, the victim has a right to be present and to be heard at the hearing. [1999 c.445 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.225 - Petition for extension of diversion period; conditions.**

(1) A defendant may apply by motion to the court in which a driving while under the influence of intoxicants diversion agreement described in ORS 813.230 was entered for an order extending the diversion period:

(a) Within 30 days prior to the end of the diversion period; or

(b) If the defendant is serving on active duty as a member of the Armed Forces of the United States, or is a member of the reserve components of the Armed Forces of the United States or the National Guard, at any time prior to the end of the diversion period.

(2) Petition forms for an application for an extension under this section shall be available to a defendant at the court.

(3) The form of the petition for an extension under this section shall be determined by the Supreme Court under ORS 1.525. The petition forms made available to a defendant by any city or state court shall conform to the requirements of the Supreme Court.

(4) The court may grant a petition for an extension filed under this section if the court finds that the defendant made a good faith effort to complete the conditions of the diversion agreement and that the defendant can complete the conditions of the diversion agreement within the requested extended diversion period.

(5) An extension granted under this section may be for no more than 180 days from the ending date of the original diversion period or for another time period the court allows under subsection (7) of this section.

(6) Except as provided in subsection (7) of this section, a court may grant a defendant only one extension of a diversion period under

this section.

(7) The court may extend the diversion period as necessary to allow the defendant sufficient time to complete the conditions of the diversion agreement if the defendant:

(a) Is a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States or the National Guard;

(b) Is on active duty or has received orders that the defendant will be called to active duty; and

(c) Demonstrates that the military service will impair the defendant's ability to complete the conditions of the diversion agreement and no comparable treatment program described in ORS 813.233 is available.

(8) If the court grants the petition for an extension under this section, the following apply:

(a) If the defendant fully complies with the conditions of the diversion agreement within the extended diversion period, the court may dismiss the charge with prejudice under ORS 813.250.

(b) If the court finds that the defendant failed to comply with the diversion agreement within the extended diversion period, the court shall enter the guilty plea or no contest plea filed as part of the petition for a diversion agreement, shall enter a judgment of conviction and shall sentence the defendant.

(9) If the court denies the petition for an extension under this section, the court shall enter the guilty plea or no contest plea filed as part of the petition for a diversion agreement, shall enter a judgment of conviction and shall sentence the defendant. [1997 c.749 §7; 2003 c.816 §3; 2011 c.197 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.230 - Diversion agreement; record; duration; effect of denial.**

(1) When the court allows a petition for a driving while under the influence of intoxicants diversion agreement filed as provided in ORS 813.210, the judge taking that action shall:

(a) Accept the guilty plea or no contest plea filed as part of the petition for a diversion agreement but withhold entry of a judgment of conviction; and

(b) Sign the petition and indicate thereon the date of allowance of the diversion period, the length of the diversion period and the date upon which the driving while under the influence offense occurred.

(2) The petition when signed and dated becomes the diversion agreement between the defendant and the court. The court shall make the agreement a part of the record of the case. The court shall notify the Department of Transportation of the diversion agreement in a form agreed to by the department and the State Court Administrator within 48 hours after allowing the petition. The department shall make the fact of the diversion agreement a part of the defendant's operating record.

(3) A driving while under the influence of intoxicants diversion agreement shall be for a period of one year after the date the court allows the petition. During the diversion period the court shall stay the driving while under the influence of intoxicants offense proceeding pending completion of the diversion agreement or its termination.

(4) When the court denies a petition for a driving while under the influence of intoxicants diversion agreement, it shall continue the offense proceeding against the defendant. The guilty plea or no contest plea filed as part of the petition for the diversion agreement may not be used in the offense proceeding under this subsection. [1983 c.338 §372; 1985 c.16 §193; 1985 c.710 §7; 1993 c.751 §71; 2003 c.816 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.233 - Exemption from completing treatment program in this state.**

In lieu of completing a treatment program in this state as a part of completing the conditions of a driving while under the influence of intoxicants diversion agreement in this state, the court may allow a defendant who is a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States or the National Guard and who is serving on active duty to participate in a comparable treatment program conducted by or authorized by a government entity in another jurisdiction. [2011 c.197 §5]

Note:

813.233 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 813 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.235 - Attendance at victim impact treatment session as condition of diversion; exemptions; fee.**

In a county that has a victim impact program a court may require as a condition of a driving while under the influence of intoxicants diversion agreement that the defendant attend a victim impact treatment session. The court may not require a defendant to attend a victim impact treatment session if the defendant committed the current offense while riding a bicycle that is not an electric assisted bicycle. If the court requires attendance under this section, the court may require the defendant, as part of the diversion agreement, to pay a reasonable fee to the victim impact program to offset the cost of the defendant's participation. The fee shall be established for each county by the victim impact panel coordinator and steering committee of that county and shall be not less than \$5 or more than \$50. [1987 c.830 §2; 1993 c.468 §2; 2023 c.498 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.240 - Amount and distribution of filing fee; screening interview fee.**

(1) The filing fee paid by a defendant at the time of filing a petition for a driving while under the influence of intoxicants diversion agreement as provided in ORS 813.210 is \$490. A fee collected under this subsection in the circuit court shall be deposited by the clerk of the court in the Criminal Fine Account. If the fee is collected in a municipal or justice court, \$290 of the fee shall be forwarded by the court to the Department of Revenue for deposit in the Criminal Fine Account, and the remainder of the fee shall be paid to the city or county treasurer.

(2) If less than the full filing fee is collected under subsection (1) of this section in a municipal or justice court, the money received shall be allocated first to the Department of Revenue for deposit in the Criminal Fine Account.

(3) In addition to the filing fee under subsection (1) of this section, the court shall order the defendant to pay \$150 directly to the agency or organization providing the screening interview. [1983 c.338 §373; 1985 c.16 §194; 1985 c.277 §3; 1987 c.905 §30; 1989 c.576 §§8a,9a; 1989 c.635 §§2,4; 1991 c.557 §6; 1993 c.13 §7; 1999 c.1051 §297; 2003 c.737 §§71,72; 2005 c.303 §§2,3; 2005 c.702 §§85,86,87; 2009 c.595 §1143; 2011 c.595 §§167,186; 2011 c.671 §4; 2012 c.81 §§4,5; 2015 c.318 §52]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.245 - Booking.**

When a court grants a petition for a driving while under the influence of intoxicants diversion agreement, a court shall ensure that the defendant submits to booking, if the defendant has not already been booked on the charge of driving while under the influence of intoxicants in violation of ORS 813.010. [2015 c.145 §3]

Note:

813.245 was added to and made a part of ORS chapter 813 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.250 - Motion to dismiss charge on completion of diversion; admissibility of statements.**

(1) At any time after the conclusion of the period of a driving while under the influence of intoxicants diversion agreement described in ORS 813.230, a defendant who has fully complied with and performed the conditions of the diversion agreement may apply by motion to the court wherein the diversion agreement was entered for an order dismissing the charge with prejudice.

(2) The defendant shall cause to be served on the district attorney or city attorney a copy of the motion for entry of an order dismissing with prejudice the charge of driving while under the influence of intoxicants. The motion shall be served on the district attorney or city attorney at the time it is filed with the court. The district attorney or city attorney may contest the motion.

(3) If the defendant does not appear as provided by subsection (1) of this section within six months after the conclusion of the diversion period, and if the court finds that the defendant fully complied with and performed the conditions of the diversion agreement, and if it gives notice of that finding to the district attorney or city attorney the court may on its own motion enter an order dismissing the charge of driving while under the influence of intoxicants with prejudice.

(4) No statement made by the defendant about the offense with which the defendant is charged shall be offered or received in evidence in any criminal or civil action or proceeding arising out of the same conduct which is the basis of the charge of driving while under the influence of intoxicants, if the statement was made during the course of the screening interview or treatment program and to a person employed by the program. [1983 c.338 §374; 1985 c.16 §195; 1987 c.441 §7; 2015 c.318 §53]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.252 - Motion to dismiss charge when minimal fine amount remains.**

(1) At any time before entry of a judgment of conviction and within 180 days after the conclusion of the period of a driving while under the influence of intoxicants diversion agreement described in ORS 813.230 or an extension described in ORS 813.225, a defendant who has complied with and performed all of the conditions of the diversion agreement, except that the defendant owes \$500 or less of the fees required under ORS 813.200, 813.210, 813.235 and 813.240, may apply by motion to the court wherein the diversion agreement was entered for a judgment dismissing with prejudice the charge of driving while under the influence of intoxicants.

(2) The defendant shall cause to be served on the district attorney or city attorney a copy of the motion for a judgment dismissing with prejudice the charge of driving while under the influence of intoxicants. The copy of the motion shall be served on the district attorney or city attorney at the time the motion is filed with the court. The district attorney or city attorney may contest the motion.

(3) At the hearing on the motion described in subsection (1) of this section, the court shall dismiss with prejudice the charge of driving while under the influence of intoxicants, if the defendant pays the balance of the fees owed by 5 p.m. on the day the hearing is held. The defendant may also pay the balance of the fees owed before the day the hearing is held.

(4) Before the court dismisses with prejudice a charge of driving while under the influence of intoxicants under this section, the court shall enter a judgment containing a money award, as defined in ORS 18.005, for any remaining amount of restitution owed by the defendant. [2013 c.78 §3]

Note:

813.252 was added to and made a part of ORS chapter 813 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.255 - Termination of diversion.**

(1) At any time before the court dismisses with prejudice the charge of driving while under the influence of intoxicants, the court on its own motion or on the motion of the district attorney or city attorney may issue an order requiring the defendant to appear and show cause why the court should not terminate the diversion agreement. The order to show cause must:

- (a) State the reasons for the proposed termination;
- (b) Specify the amount of any fees owed and, if the amount owed is \$500 or less, inform the defendant that the court may dismiss with prejudice the charge of driving while under the influence of intoxicants if the person has complied with and performed all of the conditions of the diversion agreement and pays the remaining amount before or on the date of the hearing; and
- (c) Set an appearance date.

(2) The order to show cause shall be served on the defendant and on the defendant's attorney, if any. Service may be made by first class mail, postage paid, addressed to the defendant at the mailing address shown on the diversion petition and agreement or at any other address that the defendant provides in writing to the court.

(3) Except as provided in subsections (4), (5) and (6) of this section, the court shall terminate the diversion agreement and enter the guilty plea or no contest plea that was filed as part of the petition for the diversion agreement if the defendant fails to appear at the hearing on the order to show cause or if, at the hearing on the order to show cause, the court finds by a preponderance of the evidence that:

- (a) The defendant no longer qualifies for the diversion agreement under the conditions described in ORS 813.215; or
  - (b) The defendant failed to fulfill all of the terms of the diversion agreement.
- (4) If a defendant is a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States or the National Guard and is on active duty, the court shall:
- (a) Allow the defendant to appear at the hearing by telephone or other communication device approved by the court, if the defendant's military service permits such an appearance; or
  - (b) Stay the termination proceeding if the defendant's military service prohibits the defendant's appearance by telephone or other communication device and prohibits the defendant from aiding and assisting the attorney who would appear on the defendant's behalf.

(5) If the defendant appears at the hearing on the order to show cause, the court shall dismiss with prejudice the charge of driving while under the influence of intoxicants if:

- (a) The defendant has complied with and performed all of the conditions of the diversion agreement except that the defendant owes \$500 or less of the fees required under ORS 813.200, 813.210, 813.235 and 813.240; and
- (b) The defendant pays the balance of the fees owed by 5 p.m. on the day the hearing is held. The defendant may also pay the balance of the fees owed before the day the hearing is held.

(6) A court may not terminate a diversion agreement under this section for failure to pay restitution under ORS 137.108 if the defendant has otherwise complied with and performed all of the conditions of the diversion agreement.

(7) Before the court dismisses with prejudice the charge of driving while under the influence of intoxicants under this section, the court shall enter a judgment containing a money award, as defined in ORS 18.005, for any remaining amount of restitution owed by the defendant.

(8) If the court terminates the diversion agreement and enters the guilty plea or no contest plea, the court may take into account at time of sentencing any partial fulfillment by the defendant of the terms of the diversion agreement. [1987 c.441 §9; 2003 c.816 §5; 2011 c.197 §3; 2013 c.78 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.260 - Designation of agencies to perform screening interviews; duties of agency.**

(1) Courts having jurisdiction over driving while under the influence of intoxicants offenses shall designate agencies or organizations to perform the screening interview and treatment required under driving while under the influence of intoxicants diversion agreements described in ORS 813.200. The designated agencies or organizations must meet minimum standards established pursuant to ORS 430.357 to perform the screening interview and treatment of problem drinking, alcoholism and drug dependency and must be certified by the Director of the Oregon Health Authority. Wherever possible a court shall designate agencies or organizations to perform the screening interview that are separate from those that may be designated to carry out a program of treatment.

(2) Monitoring of a defendant's progress under a diversion agreement shall be the responsibility of the agency or organization performing the screening interview. The agency or organization shall make a report to the court stating the defendant's successful completion or failure to complete all or any part of the treatment program specified by the screening interview. The form of the report shall be determined by agreement between the court and the agency or organization performing the screening interview. The court shall make the report of the agency or organization performing the screening interview that is required by this subsection a part of the record of the case. [1983 c.338 §375; 1991 c.557 §7; 2009 c.595 §1144; 2011 c.673 §43; 2015 c.318 §54]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.270 - Intoxicated Driver Program Fund; creation; uses.**

The Intoxicated Driver Program Fund is created to consist of moneys placed in the fund under ORS 813.030 and 813.240 or as otherwise provided by law and of gifts and grants made to the fund for carrying out the purposes of the fund. The moneys in the fund may be used only for the following purposes:

- (1) To pay for providing treatment for individuals who enter diversion agreements under ORS 813.200 and who are found to be indigent. Payment for treatment under this subsection may include treatment for problem drinking, alcoholism or drug dependency. Payment shall be made as provided by the Director of the Oregon Health Authority by rule to agencies or organizations providing treatment.
- (2) To pay for evaluation as provided by law of programs used for diversion agreements.
- (3) To pay the cost of administration of the fund by the Oregon Health Authority.
- (4) To pay for materials, resources and training supplied by the authority to those persons, organizations or agencies performing the screening interviews or providing education or treatment to persons under diversion agreements.
- (5) To pay for providing treatment programs required under ORS 813.020 and treatment or information programs required under ORS 471.432 for individuals who are found to be indigent.
- (6) To pay for special services required to enable a person with a disability, or a person whose proficiency in the use of English is limited because of the person's national origin, to participate in treatment programs that are used for diversion agreements under ORS 813.200 or are required under ORS 813.020. This subsection applies:
  - (a) Whether or not the person is indigent; and
  - (b) Only to special services required solely because of the person's disability or limited proficiency in the use of English. [1983 c.338 §141; 1985 c.16 §42; 1989 c.576 §10; 1991 c.557 §8; 1993 c.757 §1; 1999 c.126 §6; 1999 c.646 §5a; 2007 c.70 §343; 2009 c.595 §1145; 2015 c.318 §55]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.300 - Use of blood alcohol percentage as evidence; percentage required for being under the influence.**

- (1) At the trial of any civil or criminal action, suit or proceeding arising out of the acts committed by a person driving a motor vehicle while under the influence of intoxicants, if the amount of alcohol in the person's blood at the time alleged is less than 0.08 percent by weight of alcohol as shown by chemical analysis of the person's breath or blood, it is indirect evidence that may be used with other evidence, if any, to determine whether or not the person was then under the influence of intoxicants.
- (2) Not less than 0.08 percent by weight of alcohol in a person's blood constitutes being under the influence of intoxicating liquor.
- (3) Notwithstanding subsection (2) of this section, for purposes of the Motorist Implied Consent Law as defined in ORS 801.010, for a person who is under 21 years of age, any amount of alcohol in the blood constitutes being under the influence of intoxicating liquor.
- (4) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood or based upon grams of alcohol per 210 liters of breath.
- (5) ORS 813.010 (1)(c) may not be construed to limit the admissibility of any evidence of the amount of alcohol in a person's blood as shown by chemical analysis of the person's breath or blood, in any civil or criminal action, suit or proceeding arising out of the acts committed by the person driving a vehicle while under the influence of intoxicants. [1983 c.338 §590; 1985 c.16 §297; 1989 c.715 §7; 1991 c.860 §8; 2011 c.260 §1; 2021 c.480 §3; 2023 c.498 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.310 - Refusal to take chemical test admissible as evidence.**

If a person refuses to physically submit to a chemical test under ORS 813.100 or 813.131, evidence of the person's refusal is admissible in any civil or criminal action, suit or proceeding arising out of acts alleged to have been committed while the person was driving a motor vehicle on premises open to the public or the highways while under the influence of intoxicants. [1983 c.338 §595; 1985 c.16 §301; 2019 c.475 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.320 - Effect of implied consent law on evidence.**

- (1) The provisions of the implied consent law, except ORS 813.300, shall not be construed by any court to limit the introduction of otherwise competent, relevant evidence in any civil action, suit or proceedings or in any criminal action other than a violation of ORS 813.010 or a similar municipal ordinance in proceedings under ORS 813.410.
- (2) The provisions of the implied consent law shall not be construed by any court to limit the introduction of otherwise competent, relevant evidence of the amount of alcohol in the blood of a defendant in a prosecution for driving while under the influence of intoxicants. [1983 c.338 §596; 1985 c.16 §302; 1999 c.437 §1; 2019 c.475 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the**

**Influence of Intoxicants Section 813.322 - Department of State Police rules regarding breath tests as evidence; validity of officer's permit.**

(1) A court shall, at the request of a party to the case, admit into evidence, without certification, a copy of administrative rules of the Department of State Police addressing methods of conducting chemical tests of a person's breath in a proceeding arising from the arrest of a person for driving while under the influence of intoxicants.

(2) If a police officer testifies in a proceeding arising from the arrest of a person for driving while under the influence of intoxicants that the officer has a valid permit to perform analysis of a person's breath, the defendant has the burden of moving forward with evidence to show that the officer does not have a valid permit. [1999 c.446 §2]

Note:

813.322 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 813 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.324 - Use of testimony from implied consent hearing as evidence in prosecution.**

(1) If the prosecuting attorney or the attorney for the defendant in a prosecution for driving while under the influence of intoxicants obtains a tape or a transcript of a hearing held for the defendant under ORS 813.410, the attorney must provide a copy of the tape or transcript to the attorney for the other party at least seven days prior to the first date set for trial. If the attorney fails to supply the material in the time required, testimony from the hearing may not be admitted in evidence in the trial for any purpose, unless the attorney shows good cause for the failure to make the material available.

(2) The cost of a copy of a tape or transcript furnished under subsection (1) of this section shall be borne by the party who receives the copy.

(3) Nothing in this section requires a tape to be transcribed by the attorney who is required to provide a tape or transcript under subsection (1) of this section. [1999 c.831 §3]

Note:

813.324 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.326 - Felony driving while under the influence of intoxicants; prior convictions.**

(1) In a prosecution for felony driving while under the influence of intoxicants under ORS 813.010, the state shall plead the prior convictions and shall prove the prior convictions unless the defendant stipulates to that fact prior to trial. If the defendant so stipulates and the trial is by jury:

(a) The court shall accept the stipulation regardless of whether or not the state agrees to it;

(b) The defendant's stipulation to the prior convictions constitutes a judicial admission to that element of the accusatory instrument. The stipulation shall be made a part of the record of the case, but shall not be offered or received in the presence of the jury;

(c) For the purpose of establishing the prior convictions solely as an element of the crime under ORS 813.010, neither the court nor the state shall reveal to the jury the prior convictions, but the prior convictions are established in the record by the defendant's stipulation; and

(d) The court shall not submit the accusatory instrument or evidence of the prior convictions to the jury.

(2) In a proceeding under ORS 813.010, the state may offer, and the court may receive and submit to the jury, evidence of the prior convictions for impeachment of the defendant or another purpose, other than establishing the prior convictions as an element of the offense, when the evidence of the prior convictions is otherwise admissible for that purpose. When evidence of the prior convictions has been admitted by the court, the state may comment upon, and the court may give instructions about, the evidence of the prior convictions only to the extent that the comments or instructions relate to the purpose for which the evidence was admitted.

(3) When the defendant stipulates to the prior convictions required as an element of felony driving while under the influence of intoxicants under ORS 813.010, if the jury finds the defendant guilty upon instruction regarding the balance of the elements of the crime, the court shall enter a judgment of guilty of felony driving while under the influence of intoxicants.

(4) As used in this section, "conviction" includes a juvenile adjudication. [1999 c.1049 §5; 2009 c.525 §2]

Note:

813.326 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.328 - Notice of intent to challenge validity of prior convictions.**

(1) A defendant who challenges the validity of prior convictions alleged by the state as an element of felony driving while under the influence of intoxicants must give notice of the intent to challenge the validity of the prior convictions at least seven days prior to the first date set for trial on the felony charge. The validity of the prior convictions shall be determined prior to trial by the court.

(2) As used in this section, "conviction" includes a juvenile adjudication. [1999 c.1049 §4; 2009 c.525 §3]



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.400 - Suspension or revocation upon conviction; duration; review; exemptions.**

(1) Except as provided in subsections (2) and (3) of this section, upon receipt of a record of conviction for misdemeanor driving while under the influence of intoxicants, the Department of Transportation shall suspend the driving privileges of the person convicted. The suspension shall be for a period described under Schedule II of ORS 809.428, except the department shall not reinstate any driving privileges to the person until the person complies with future responsibility filings. A person is entitled to administrative review under ORS 809.440 of a suspension imposed under this subsection.

(2) A person convicted of felony driving while under the influence of intoxicants, or a person convicted of misdemeanor driving while under the influence of intoxicants for a third or subsequent time, is subject to revocation of driving privileges as provided in ORS 809.235.

(3) The provisions of this section do not apply to convictions of driving while under the influence of intoxicants if the offense was committed while the person was riding a bicycle.

(4) For the purposes of this section, "bicycle" does not include an electric assisted bicycle. [1983 c.338 §353(8); 1985 c.16 §166(8); 1985 c.393 §10a(8); 1985 c.669 §2a(8); 1991 c.702 §13; 2001 c.786 §3; 2003 c.346 §1; 2003 c.402 §40; 2005 c.436 §2; 2023 c.498 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.410 - Suspension upon receipt of police report on implied consent test; hearing; validity of suspension; appeal; rules.**

(1) If the Department of Transportation receives from a police officer a report that is in substantial compliance with ORS 813.120, the department shall suspend the driving privileges of the person in this state on the 30th day after the date of arrest or, if the report indicates that the person failed a blood test, on the 60th day after receipt of the report, unless, at a hearing described under this section, the department determines that the suspension would not be valid as described in this section. A suspension of driving privileges imposed under this subsection shall be for a period of time established under ORS 813.420.

(2) If the department receives from a police officer a report under ORS 813.120 and the person holds commercial driving privileges and the person was driving a motor vehicle or commercial motor vehicle and refused to submit to a test under ORS 813.100 or the person was driving a commercial motor vehicle and submitted to a breath or blood test and the person's blood, as shown by the test, had 0.04 percent or more by weight of alcohol, the department shall suspend the person's commercial driving privileges on the 30th day after the date of arrest or, if the report indicates that the person failed a blood test, on the 60th day after receipt of the report, unless, at a hearing described under this section, the department determines that the suspension would not be valid as described in this section. A commercial driving privileges suspension imposed under this subsection shall be for a period of time established under ORS 809.510 or 809.520.

(3) If the department receives from a police officer a report under ORS 813.120 and the person holds commercial driving privileges and the person was driving a motor vehicle that is not a commercial motor vehicle and submitted to a breath or blood test and the person's blood, as shown by the test, had 0.08 percent or more by weight of alcohol, the department shall suspend the person's commercial driving privileges on the 30th day after the date of arrest or, if the report indicates that the person failed a blood test, on the 60th day after receipt of the report, unless, at a hearing described under this section, the department determines that the suspension would not be valid as described in this section. A commercial driving privileges suspension imposed under this subsection shall be for a period of time established under ORS 809.510 or 809.520.

(4) If within 10 days from the date of arrest, or, if the person fails a blood test, within 10 days from the date the department sends notice of suspension, the department receives a request for a hearing from a person whose driving privileges or commercial driving privileges the department proposes to suspend under this section, the department shall provide a hearing in accordance with this section. The person shall request a hearing in the form and manner prescribed by the department by rule. Except as otherwise provided under this section, a hearing held by the department under this section is subject to the provisions for contested cases, other than appeal provisions, under ORS chapter 183. The applicable appeal provisions are as provided under ORS 813.450 and section 24, chapter 672, Oregon Laws 1985. Notwithstanding ORS 809.430, the department is not required to give any notice of intent to suspend or suspension in addition to that provided under ORS 813.100.

(5) Except as provided in subsection (6) of this section, a hearing required by this section is subject to all of the following:

(a) The hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(b) The administrative law judge shall conduct the hearing by telephone or other two-way electronic communication device.

(c) The department may authorize the administrative law judge to issue a final order in any case.

(d) A person who requests a hearing under this section and who fails, without just cause, to appear personally or through an attorney waives the right to a hearing. If a person waives a right to a hearing under this paragraph, the department is not required to make any showing at hearing.

(e) Except as provided in ORS 813.440 or upon remand under ORS 813.450, the department shall hold the hearing and issue a final order within 30 days of the date of the arrest or, if the person fails a blood test, within 60 days from the date the department received the report of the failure.

- (f) In connection with the hearing, the department or its authorized representative may administer oaths and shall issue subpoenas for the appearance of witnesses by telephone or other two-way electronic communication device at the hearing requested by the person or the department and the production of relevant documents.
- (g) The hearing shall be recorded by whatever means may be determined by the department and shall include testimony and exhibits, if any. The record of the proceedings may not be transcribed unless requested by a party to the proceeding.
- (6) Subject to subsection (7) of this section:
- (a) A person or a police officer may request that a hearing required by this section be conducted in person.
- (b) The department, by rule, shall establish the manner and time limitation requirements by which a person or a police officer may request that a hearing be conducted in person.
- (c) Unless there is an agreement between the person and the department that the hearing be conducted elsewhere, a hearing requested under this subsection shall be held either in the county where the alleged offense occurred or at any place within 100 miles of the place where the offense is alleged to have occurred, as established by the department by rule.
- (d) In connection with the hearing, the department or its authorized representative may administer oaths and shall issue subpoenas for the attendance of witnesses at the hearing requested under this subsection by the person and the production of relevant documents.
- (7) The chief administrative law judge may require that a hearing required by this section be conducted by telephone or other two-way electronic communication device when the judge determines that a hearing conducted in person would pose a significant risk to health or safety, including risks associated with travel to the hearing location.
- (8) This subsection shall be narrowly construed so as to effect the legislative purpose of limiting the scope of hearings under this section. The scope of a hearing under this section shall be limited to whether the suspension is valid as described in this subsection. A suspension under this section is valid if all of the following requirements have been met:
- (a) The person, at the time the person was requested to submit to a test under ORS 813.100, was under arrest for driving while under the influence of intoxicants in violation of ORS 813.010 or a municipal ordinance.
- (b) The police had reasonable grounds to believe, at the time the request was made, that the person arrested had been driving under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance.
- (c) The person refused a test under ORS 813.100, or took a breath or blood test and the test disclosed that the level of alcohol in the person's blood at the time of the test was:
- (A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;
- (B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or
- (C) Any amount if the person was under 21 years of age.
- (d) If the report under ORS 813.120 indicates that the person was driving a commercial motor vehicle, the vehicle was in fact a commercial motor vehicle as defined in ORS 801.208.
- (e) The person had been informed under ORS 813.100 of rights and consequences as described under ORS 813.130.
- (f) The person was given written notice required under ORS 813.100.
- (g) If the person arrested submitted to a test under ORS 813.100, the person administering the test was qualified to administer the test under ORS 813.160.
- (h) If the person arrested submitted to a test under ORS 813.100, the methods, procedures and equipment used in the test complied with requirements under ORS 813.160.
- (9) A suspension imposed under this section shall remain in effect pending any appeal or remand of a final order issued under this section and there shall be no stay of the suspension pending appeal or remand.
- (10) Unless a person fails, without just cause, to appear personally or through an attorney at a hearing requested under this section, a person shall have the right to appeal any final order by the department after a hearing under this section by filing a petition. The following apply to this subsection:
- (a) The person shall file the petition in the circuit court for the county where the person resides or, if the person does not reside in Oregon, in the circuit court of the county in which the arrest took place within 30 days after issuance of the final order of the department.
- (b) The court upon receipt of the petition shall set the matter for hearing upon 10 days' notice to the department and the petitioner unless hearing is waived by both the department and the petitioner. [1983 c.338 §358; 1985 c.16 §167; 1985 c.672 §13; 1987 c.158 §170; 1989 c.636 §44; 1991 c.860 §11; 1993 c.305 §6; 1993 c.600 §1; 1995 c.568 §6; 1999 c.831 §2; 1999 c.849 §§193,194; 2003 c.75 §67; 2005 c.649 §27; 2007 c.288 §18; 2010 c.37 §1; 2013 c.237 §29; 2019 c.312 §22; 2021 c.302 §1; 2021 c.630 §118]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.412 - Role of police officer in implied consent hearing.**

Notwithstanding ORS 9.160 and 9.320, in any hearing under ORS 813.410 in which a city attorney or district attorney does not appear, a police officer actively involved in the investigation of the offense may present evidence, examine and cross-examine witnesses and make arguments relating to:

- (1) The application of statutes and rules to the facts in the case;
- (2) The literal meaning of the statutes or rules at issue in the case;
- (3) The admissibility of evidence; and

(4) Proper procedures to be used in the hearing. [1999 c.831 §4; 2010 c.37 §2]

Note:

813.412 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.420 - Duration of suspension for refusal or failure of test.**

When the Department of Transportation imposes a suspension under ORS 813.410, the suspension shall be for a period of time determined according to the following:

- (1) If the suspension is for refusal of a test under ORS 813.100 and the person is not subject to an increase in the suspension time for reasons described in ORS 813.430, the suspension shall be for a period of one year.
- (2) If the suspension is for refusal of a test under ORS 813.100 and the person is subject to an increase in the suspension time for reasons described in ORS 813.430, the suspension shall be for a period of three years.
- (3) If the suspension is because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and the person is not subject to an increase in the suspension time for reasons described in ORS 813.430, the suspension shall be for a period of 90 days.
- (4) If the suspension is because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and the person is subject to an increase in the suspension time for reasons described in ORS 813.430, the suspension shall be for a period of one year. [1985 c.16 §171; 1993 c.305 §7; 1995 c.568 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.430 - Grounds for increase in duration of suspension.**

This section establishes circumstances under which ORS 813.420 requires an increase in the time for suspension of driving privileges and under which ORS 813.520 requires an increase in the time before the Department of Transportation may issue a hardship permit. A person is subject to an increase in suspension time under this section if any of the following apply:

- (1) The person is presently participating in a driving while under the influence of intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in this or another jurisdiction.
- (2) Within the five years preceding the date of arrest any of the following occurred:
  - (a) A suspension of the person's driving privileges under ORS 813.410 or 482.540 (1981 Replacement Part) became effective.
  - (b) The person was convicted of:
    - (A) Driving while under the influence of intoxicants in violation of:
      - (i) ORS 813.010;
      - (ii) The statutory counterpart to ORS 813.010 in another jurisdiction; or
      - (iii) A municipal ordinance in this state or another jurisdiction;
    - (B) A driving under the influence of intoxicants offense in another jurisdiction that involved the impaired driving of a vehicle due to the use of an intoxicant or a combination of intoxicants; or
    - (C) A driving offense in another jurisdiction that involved operating a vehicle while having a blood alcohol content above that jurisdiction's permissible blood alcohol content.
  - (c) The person commenced participating in a driving while under the influence of intoxicants diversion program in this state or in any similar alcohol or drug rehabilitation program in this or another jurisdiction.
- (3) For the purposes of subsection (2)(b) of this section, a conviction for a driving offense in another jurisdiction based solely on a person under 21 years of age having a blood alcohol content that is lower than the permissible blood alcohol content in that jurisdiction for a person 21 years of age or older does not constitute a prior conviction. [1985 c.16 §173; 1985 c.672 §15; 1987 c.801 §12; 2007 c.879 §8; 2017 c.21 §87; 2021 c.253 §13; 2023 c.498 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.440 - Grounds for hearing on validity of suspension; rules.**

- (1) Notwithstanding ORS 813.410, the Department of Transportation may provide a hearing to determine the validity of a suspension under ORS 813.410 only if the time requirements under ORS 813.410 could not be met because of any of the following:
  - (a) The person's physical incapacity, verified by a physician to the satisfaction of the department to be of a nature that would prevent the person from making the appropriate request or attending the hearing.
  - (b) A death in the immediate family of the person, verified to the satisfaction of the department.
  - (c) An error of the department.
  - (d) The inability of a subpoenaed police officer to appear due to the officer's illness, vacation or official duty conflicts. The department shall set forth by rule the conditions that constitute "official duty conflicts." A hearing may not be rescheduled more than once for reasons described in this paragraph.
  - (e) A request for a change of administrative law judge under ORS 183.645.
  - (f) The inability of the person's attorney to appear due to the attorney's illness, vacation or scheduling conflict arising from other

court or administrative hearing appearances. A hearing must be rescheduled no later than 45 days after the date of the original hearing and may not be rescheduled more than once for reasons described in this paragraph.

(g) Other just cause as defined by the department by administrative rule.

(2) A hearing held under this section is subject to the same provisions as a hearing held under ORS 813.410, except that the department is not required to hold the hearing and make the determination within the time required by ORS 813.410.

(3) The granting of a hearing under this section shall not delay the imposition of a suspension under ORS 813.410 within the time required under ORS 813.410. However, if a person establishes that the person was deprived by either department error or a subpoenaed police officer's illness, vacation or official duty conflicts of an opportunity to appear at a hearing, the department shall rescind the suspension and shall promptly schedule a subsequent hearing to determine the validity of the suspension under ORS 813.410. In other cases under this section, when the department is unable to hold the hearing within the time required by ORS 813.410, the department shall rescind any suspension imposed under ORS 813.410 only if the department determines, at a hearing held under this section, that the suspension was not valid as described under ORS 813.410.

(4) The following apply to this section:

(a) The department shall issue a final order within 10 days after the hearing described in this section.

(b) If the department has rescinded a suspension under subsection (3) of this section and if the department, at the hearing described in this section, determines that the suspension is valid as described under ORS 813.410, the department shall reinstate the suspension effective five days after the final order is issued.

(c) Notwithstanding ORS 809.430, no additional notice or order of suspension need be given. [1985 c.16 §169; 1985 c.672 §14; 1987 c.272 §5; 1993 c.600 §2; 1999 c.831 §1; 2001 c.294 §§9,10; 2003 c.75 §68; 2009 c.520 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.450 - Appeal from suspension for refusal or failure of breath test.**

(1) The petition to the circuit court appealing an order of the Department of Transportation after a hearing under ORS 813.410 shall state the nature of the petitioner's interest and the ground or grounds upon which the petitioner contends the order should be reversed or remanded.

(2) The court shall conduct the review without a jury. Review shall be limited to the record of the department's hearing.

(3) Any party to the proceedings before the circuit court may appeal from the judgment of the court to the Court of Appeals.

(4) Upon review in the circuit court and Court of Appeals, the court may affirm, reverse or remand the order as follows:

(a) If the court finds that the department has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, it shall:

(A) Set aside or modify the order; or

(B) Remand the case to the department for further action under a correct interpretation of the provision of law.

(b) The court shall remand the order to the department if it finds the department's exercise of discretion to be any of the following:

(A) Outside the range of discretion delegated to the agency by law.

(B) Inconsistent with a department rule, an officially stated department position, or a prior department practice, if the inconsistency is not explained by the department.

(C) Otherwise in violation of a constitutional or statutory provision.

(c) The court shall set aside or remand the order if it finds that the order is not supported by substantial evidence in the record.

(5) Upon review, the court shall affirm the department's order unless the court finds a ground for setting aside, modifying or remanding to the department under a specified provision of this section.

(6) In any review under this section, the court shall also review de novo determinations made by an agency that are subject to ORS 183.650 (4). [1985 c.672 §23; 1999 c.849 §§196,197; 2003 c.75 §69]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.460 - Department procedures upon verification of suspension of driving privileges of wrong person.**

If the Department of Transportation verifies to its satisfaction that it has suspended the driving privileges of the wrong person under ORS 813.410 because a person arrested for driving under the influence of intoxicants gave false identification at the time of the arrest, all the following apply:

(1) The department shall immediately rescind the suspension order under the false name and shall issue a suspension order for the period set forth in ORS 813.420 to the person arrested.

(2) The department shall issue the order in the manner set forth in ORS 809.430.

(3) No further notice of suspension need be given.

(4) The time limitations in ORS 813.410 (1), (2), (3), (4) and (5)(e) do not apply to a suspension order issued under this section.

[1985 c.672 §25; 1989 c.636 §47; 2021 c.630 §119]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.470 - Department notation on record of person acquitted after suspension.**

The Department of Transportation shall make a notation on the driving record of a person indicating that the person was acquitted of

a charge of driving under the influence of intoxicants if:

- (1) The person's driving privileges were suspended because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300;
- (2) An accusatory instrument was filed charging the person with driving under the influence of intoxicants in violation of ORS 813.010 arising out of the same incident that led to the suspension of the person's driving privileges;
- (3) The person was acquitted of the charge; and
- (4) The person presents the department with a certified copy of the judgment of acquittal from the court clearly showing the location of the court, the date of the arrest and the findings of the court. [1987 c.303 §2; 1993 c.305 §8; 1995 c.568 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.520 - Limitations on authority to issue hardship permit or reinstate driving privileges.**

The Department of Transportation may not reinstate any driving privileges or issue any hardship permit under ORS 807.240 as provided under any of the following:

- (1) For a period of 90 days after the beginning of the suspension if the suspension is for refusal of a test under ORS 813.100 and the person is not subject to an increase in the time before a permit may be issued for reasons described in ORS 813.430.
- (2) For a period of 30 days after the beginning of the suspension if the suspension is because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and the person is not subject to an increase in the time before a hardship permit may be issued for reasons described in ORS 813.430.
- (3) For a period of one year after the beginning of the suspension if the suspension is because a breath or blood test under ORS 813.100 disclosed that the person had a level of alcohol in the person's blood that constituted being under the influence of intoxicating liquor under ORS 813.300 and the person is subject to an increase in the time before a hardship permit may be issued for reasons described under ORS 813.430.
- (4) For a period of three years after the beginning of the suspension if the suspension is for refusal of a test under ORS 813.100 and the person is subject to an increase in the time before a hardship permit may be issued for reasons described in ORS 813.430.
- (5) To any person who has a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle.
- (6) If the suspension is based upon a conviction for a violation of ORS 813.010 or is imposed under ORS 813.410 based upon ORS 813.100 to a person who has available public or private transportation sufficient to fulfill the person's transportation needs while the person is suspended.
- (7) For a period of 30 days following imposition of suspension, if the person, within the previous year, has been convicted of a traffic crime and the suspension is based upon a conviction for violation of ORS 813.010 or is imposed under ORS 813.410 based upon ORS 813.100. [1985 c.16 §148; 1985 c.672 §16; 1987 c.673 §1a; 1987 c.801 §15; 1989 c.224 §141; 1989 c.401 §3; 1993 c.305 §9; 1995 c.568 §9; 1999 c.1051 §91; 2005 c.140 §5; 2009 c.607 §1; 2018 c.76 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.599 - Definitions.**

As used in ORS chapter 813:

- (1) "Ignition interlock device technician" means an individual employed by a service center to install, service, maintain, calibrate or remove ignition interlock devices.
- (2) "Manufacturer's representative" means a business entity:
  - (a) That is registered with or authorized by the Secretary of State to transact business in this state;
  - (b) That is designated by an ignition interlock device manufacturer to sell, rent or lease a specific ignition interlock device model in Oregon; and
  - (c) That provides statewide ignition interlock device service through the operation of a network of service centers.
- (3) "Negative report" includes a report of tampering with an ignition interlock device, unauthorized removal of an ignition interlock device, lockout or a test violation recorded by an ignition interlock device.
- (4) "Service center" means a private entity that installs, services, maintains, calibrates and removes ignition interlock devices in this state.
- (5) "Test violation" means:
  - (a) For a person who is required to use an ignition interlock device as a condition of a driving while under the influence of intoxicants diversion agreement:
    - (A) An attempt to start a vehicle while the person has a blood alcohol content higher than 0.02 percent by weight unless a subsequent test performed within 10 minutes registers a blood alcohol content of 0.02 percent by weight or lower and a digital image confirms that the same person provided both samples; or
    - (B) Failure to pass a random retest due to a blood alcohol content higher than 0.02 percent by weight unless a subsequent test performed within 10 minutes registers a blood alcohol content of 0.02 percent by weight or lower and a digital image confirms that the same person provided both samples;
  - (b) For a person who is required to use an ignition interlock device and is not subject to a driving while under the influence of

intoxicants diversion agreement:

- (A) An attempt to start a vehicle while the person has a blood alcohol level higher than 0.02 percent by weight unless a subsequent test performed within 10 minutes registers a blood alcohol content of 0.02 percent by weight or lower and a digital image confirms that the same person provided both samples; or
- (B) Failure to pass a random retest due to a blood alcohol content higher than 0.02 percent by weight unless a subsequent test performed within 10 minutes registers a blood alcohol content of 0.02 percent by weight or lower and a digital image confirms that the same person provided both samples; or
- (c) For any person required to use an ignition interlock device, a failure to take a random retest. [2017 c.655 §2; 2019 c.200 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.600 - Ignition interlock program; rules.**

- (1) The Department of State Police, in consultation with the Transportation Safety Committee, shall establish a program for the use of ignition interlock devices by persons convicted of driving while under the influence of intoxicants and granted hardship permits under ORS 807.240 and by persons who have entered into a driving while under the influence of intoxicants diversion agreement.
- (2) The department shall adopt rules that specify requirements for ignition interlock devices that may be used and shall publish a list of devices that meet the requirements. The list may include devices that:
  - (a) Do not impede the safe operation of the vehicle;
  - (b) Have the fewest opportunities to be bypassed;
  - (c) Correlate well with established measures of alcohol impairment;
  - (d) Work accurately and reliably in an unsupervised environment;
  - (e) Require a deep lung breath sample or other accurate measure of blood alcohol content equivalence;
  - (f) Resist tampering and give evidence if tampering is attempted;
  - (g) Are difficult to circumvent, and require premeditation to do so;
  - (h) Minimize inconvenience to a sober user;
  - (i) Operate reliably over the range of automobile environments or automobile manufacturing standards;
  - (j) Are manufactured by a party who is adequately insured for product liability;
  - (k) Have a label affixed in a prominent location warning that any person tampering with, circumventing or otherwise misusing the device is subject to civil penalty; and
- (L) If there is a test violation, record the locational coordinate information of the vehicle, including latitude and longitude as established by a global positioning system.
- (3) The department shall adopt rules for the annual testing of ignition interlock devices. The rules shall establish standards for the devices and for the performance of the devices. [1987 c.746 §1; 1991 c.453 §14; 1993 c.382 §2; 2011 c.671 §1; 2017 c.655 §§7,19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.602 - Circumstances under which ignition interlock device required; exemptions; rules.**

- (1) Subject to subsections (2) and (6) of this section, when a person is convicted of driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance, the Department of Transportation, in addition to any other requirement, shall require that the person have installed and be using an approved ignition interlock device in any vehicle operated by the person:
  - (a) Before the person is eligible for a hardship permit. The requirement is a condition of the hardship permit for the duration of the hardship permit.
  - (b) For a first conviction, for one year after the ending date of the suspension or revocation caused by the conviction. Violation of the condition imposed under this paragraph is a Class A traffic violation.
  - (c) For a second or subsequent conviction, for two years after the ending date of the suspension or revocation caused by the conviction. Violation of the condition imposed under this paragraph is a Class A traffic violation.
- (2) When a person is convicted of a crime or multiple crimes as described in this subsection, the department, in addition to any other requirement, shall require that the person have installed and be using an approved ignition interlock device in any vehicle operated by the person for five years after the ending date of the longest running suspension or revocation caused by any of the convictions. Violation of the condition imposed under this subsection is a Class A traffic violation. A person is subject to this subsection when the person is convicted of:
  - (a) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance and any of the following crimes as part of the same criminal episode:
    - (A) Any degree of murder.
    - (B) Manslaughter in the first or second degree.
    - (C) Criminally negligent homicide.
    - (D) Assault in the first degree.
  - (b) Aggravated vehicular homicide.
- (c) Driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance and the person's driving privileges are revoked under ORS 809.235 (1)(b) and later ordered restored under ORS 809.235 (4).
- (3)(a) Except as provided in paragraph (c) of this subsection, as a condition of a driving while under the influence of intoxicants

diversion agreement:

(A) The court shall require that an approved ignition interlock device be installed and used in any vehicle operated by the person during the period of the agreement when the person has driving privileges if:

(i) A chemical test of the person's breath or blood disclosed a blood alcohol content of 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood;

(ii) The person refused to submit to a chemical test of the person's breath or blood; or

(iii) A chemical test of the person's breath, blood or urine disclosed a blood alcohol content of more than 0.00 but less than 0.08 percent by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood and disclosed the presence of an intoxicant other than intoxicating liquor.

(B) The court may require that an approved ignition interlock device be installed and used in any vehicle operated by the person during the period of the agreement when the person has driving privileges if the person submitted to a chemical test of the person's breath, blood or urine and the test disclosed a blood alcohol content below 0.08 percent by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood.

(b) In addition to any action taken under ORS 813.255, violation of the condition imposed under this subsection is a Class A traffic violation.

(c) A court may exempt a person from the condition in a diversion agreement to have installed and be using an ignition interlock device if the court determines that the person meets the requirements for a medical exemption in accordance with rules adopted by the department under this section. A person granted a medical exemption under this paragraph shall carry proof of the medical exemption with the person while operating any vehicle.

(4) The department shall adopt rules permitting medical exemptions from the requirements of installation and use of an ignition interlock device under this section.

(5) When a person is required to install an ignition interlock device under subsection (2) of this section, the manufacturer's representative providing the device shall provide notice of any installation or removal of the device or any tampering with the device to:

(a) The supervising court or to the court's designee, including but not limited to an agency or organization certified by the Oregon Health Authority under ORS 813.025;

(b) The district attorney or the city prosecutor; and

(c) The Oregon State Police.

(6) The provisions of this section do not apply to convictions of driving while under the influence of intoxicants if the offense was committed while the person was riding a bicycle.

(7) As used in this section, "bicycle" does not include electric assisted bicycles. [1987 c.746 §2; 1989 c.576 §1; 1991 c.453 §15; 1993 c.382 §3; 1993 c.627 §6; 1999 c.770 §7; 2001 c.786 §4; 2003 c.26 §1; 2007 c.655 §1; 2009 c.599 §26; 2011 c.671 §2; 2012 c.66 §1; 2013 c.315 §1; 2015 c.251 §1; 2015 c.577 §11; 2017 c.21 §89; 2017 c.655 §11; 2019 c.200 §4; 2019 c.475 §10a; 2021 c.253 §14; 2023 c.498 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.603 - Waiver of costs of ignition interlock device; rules.**

(1) Except as provided in subsection (2) of this section, if an ignition interlock device is ordered or required under ORS 813.602, the person so ordered or required shall pay to the manufacturer's representative the reasonable costs of leasing, installing and maintaining the device. A payment schedule may be established for the person by the Department of State Police, in consultation with the Transportation Safety Committee.

(2) The department may waive, in whole or in part, or defer the person's responsibility to pay all or part of the costs under subsection (1) of this section if the person meets the criteria for indigence established for waiving or deferring such costs under subsection (3) of this section. If the person's responsibility for costs is waived, then notwithstanding ORS 813.270, the costs described in subsection (1) of this section must be paid from the Intoxicated Driver Program Fund.

(3) The department, by rule, shall establish criteria and procedures for qualification to waive or defer costs described under subsection (1) of this section for indigence. The criteria must be consistent with the standards for indigence adopted by the federal government for purposes of the Supplemental Nutrition Assistance Program. [2015 c.577 §7; 2017 c.655 §§12,20; 2019 c.200 §§8,9]

Note:

813.603 was added to and made a part of ORS chapter 813 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.604 - Notice of court order; notation on hardship permit; rules.**

(1) When a court orders installation of an ignition interlock device pursuant to ORS 813.602, the court shall send a copy of the order to the Department of Transportation. The department shall note the requirement on the driving record of the person required to install the device.

(2) The department may not issue a hardship permit under ORS 807.240 to any person who is ordered to install an ignition interlock

device on the person's vehicle until the person furnishes the department satisfactory proof that the device has been installed on any vehicle owned or operated by the person. The department shall determine by rule what constitutes satisfactory proof under this subsection.

(3) When the department issues a hardship permit to a person who is required to have an ignition interlock device, the department shall note on the permit that the device is required. The notation constitutes a limitation on the permit and a person who violates the limitation is punishable as provided in ORS 811.182 for criminal driving while suspended or revoked. [1987 c.746 §3; 1989 c.398 §2; 1997 c.249 §235]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.606 - Exception for employee otherwise required to have device.**

Notwithstanding ORS 813.604, if a person is required, in the course and scope of the person's employment, to operate a motor vehicle owned by the person's employer, the person may operate that vehicle without installation of an ignition interlock device if:

(1) The employer has been notified:

(a) That the employee is operating with a hardship permit restricted as provided in ORS 813.604;

(b) That the employee is operating on a fully reinstated license within the first year following suspension or revocation for the employee's first conviction of driving while under the influence of intoxicants;

(c) That the employee is operating on a fully reinstated license within the second year following suspension or revocation for the employee's second or subsequent conviction of driving while under the influence of intoxicants; or

(d) That the employee has driving privileges and is otherwise required to install an ignition interlock device as a condition of a driving while under the influence of intoxicants diversion agreement; and

(2) The employee has proof of the notification and, if applicable, a fully reinstated license in the possession of the employee while operating the employer's vehicle in the course of employment. [1987 c.746 §4; 1999 c.770 §8; 2001 c.786 §5; 2011 c.355 §17; 2013 c.315 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.608 - Knowingly furnishing motor vehicle without ignition interlock device; penalty.**

(1) A person commits the offense of knowingly furnishing a motor vehicle without an ignition interlock device to someone who is not authorized to drive such a vehicle if the person rents, leases, lends or otherwise furnishes a motor vehicle to someone the person knows to have been ordered or required under ORS 813.602, to install an ignition interlock device, and the motor vehicle is not equipped with such a device that is in working order.

(2) The offense described in this section, knowingly furnishing a motor vehicle without an ignition interlock device to someone who is not authorized to drive such a vehicle, is a Class A traffic violation. [1987 c.746 §5; 1989 c.576 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.610 - Soliciting another to blow into ignition interlock device; penalty.**

(1) A person commits the offense of unlawfully soliciting another to blow into an ignition interlock device or start a motor vehicle equipped with an ignition interlock device if the person has such a device as a result of an order or requirement under ORS 813.602 and the person requests or solicits another to blow into the device or start the motor vehicle so as to circumvent the device.

(2) The offense described in this section, unlawfully soliciting another to blow into an ignition interlock device or start a motor vehicle equipped with an ignition interlock device, is a Class A traffic violation. [1987 c.746 §6; 1989 c.576 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.612 - Unlawfully blowing into ignition interlock device; penalty.**

(1) A person commits the offense of unlawfully blowing into an ignition interlock device or starting a motor vehicle equipped with an ignition interlock device if, for the purpose of providing an operable motor vehicle for someone required under ORS 813.602 to have such a device, the person blows into an ignition interlock device or starts an automobile equipped with the device.

(2) This section does not apply to a person who is required to have an ignition interlock device and who blows into or starts the person's own vehicle that is so equipped.

(3) The offense described in this section, unlawfully blowing into an ignition interlock device or starting a motor vehicle equipped with an ignition interlock device, is a Class A traffic violation. [1987 c.746 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.614 - Tampering with ignition interlock device; penalty.**

(1) A person commits the offense of tampering with an ignition interlock device if the person does anything to a device that was ordered installed pursuant to ORS 813.602 that circumvents the operation of the device.

(2) The offense described in this section, tampering with an ignition interlock device, is a Class A traffic violation. [1987 c.746 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.616 - Use of certain moneys to pay for ignition interlock program.**



Notwithstanding ORS 813.270, moneys in the Intoxicated Driver Program Fund may be used to pay for administration and evaluation of the ignition interlock program established by ORS 813.600 to 813.616 and for the costs of participation in the program for indigents. [1987 c.746 §8; 1993 c.382 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.620 - Suspension of driving privileges for failing to provide proof of device installation or for tampering with device.**

- (1) At the end of the suspension or revocation resulting from a conviction for driving while under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance, the Department of Transportation shall suspend the driving privileges or right to apply for driving privileges of a person who has not submitted proof to the department that an ignition interlock device has been installed in any vehicle operated by the person or who tampers with an ignition interlock device after it has been installed.
- (2) Subject to ORS 813.635, if the department imposes a suspension under subsection (1) of this section for failing to submit proof of installation, the suspension continues until the department receives proof that the ignition interlock device has been installed. If the department does not receive proof that the ignition interlock device has been installed, the suspension shall continue for:
  - (a) One year after the ending date of the suspension resulting from the first conviction;
  - (b) Except as provided in paragraph (c) of this subsection, two years after the ending date of the suspension resulting from a second or subsequent conviction; or
  - (c) Five years after the ending date of the longest running suspension or revocation resulting from a conviction described in ORS 813.602 (2).
- (3) Subject to ORS 813.635, if the department imposes a suspension under subsection (1) of this section for tampering with an ignition interlock device, the suspension continues until:
  - (a) One year after the ending date of the suspension resulting from the first conviction;
  - (b) Except as provided in paragraph (c) of this subsection, two years after the ending date of the suspension resulting from a second or subsequent conviction; or
  - (c) Five years after the ending date of the longest running suspension or revocation resulting from a conviction described in ORS 813.602 (2).
- (4) A person whose driving privileges or right to apply for privileges is suspended under subsection (1) of this section is entitled to administrative review, as described in ORS 809.440. [2015 c.577 §8; 2015 c.577 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.630 - Notice of ignition interlock device installation and negative reports.**

- (1) This section applies only to a person who has had an ignition interlock device installed as a condition of a driving while under the influence of intoxicants diversion agreement under ORS 813.602 (3).
- (2) After an ignition interlock device is installed, the manufacturer's representative that installed the device shall notify:
  - (a) The court that required the device to be installed or the court's designee, including but not limited to an agency or organization certified by the Oregon Health Authority under ORS 813.025; and
  - (b) The district attorney or city prosecutor.
- (3) Notice of the installation must be given within seven business days of installing the ignition interlock device.
- (4) Each time a manufacturer's representative has access to an ignition interlock device that the manufacturer's representative installed, the manufacturer's representative shall download all reports recorded on the device. If the manufacturer's representative downloads a negative report, the manufacturer's representative shall submit the negative report, in a form prescribed by rule by the department, to:
  - (a) The court that required the device to be installed or the court's designee, including but not limited to an agency or organization certified by the Oregon Health Authority under ORS 813.025;
  - (b) The district attorney or city prosecutor; and
  - (c) The Department of State Police.
- (5) The manufacturer's representative shall submit a negative report as provided in subsection (4) of this section within seven business days of downloading the report. [2015 c.577 §2; 2017 c.655 §8; 2019 c.200 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.635 - Consequence for negative reports generated from ignition interlock device; rules.**

- (1) Notwithstanding ORS 813.602 (1)(b) or (c), (2) or (3), the requirement to have an ignition interlock device installed in a vehicle continues until the person submits to the Department of Transportation a certificate from the ignition interlock device manufacturer's representative stating that the device did not record a negative report for the last 90 consecutive days of the required installation period. The department shall remove the ignition interlock device requirement from the person's driving record as soon as practicable after the department receives the certificate.
- (2) Except as provided in subsection (3) of this section, if there is a negative report during the last 90 consecutive days, the person shall continue to use an ignition interlock device beyond the period required under ORS 813.602 (1)(b) or (c), (2) or (3) until the person submits a certificate, in a form prescribed by rule by the department, to the department from the ignition interlock device

manufacturer's representative stating that the device has not recorded a negative report for 90 consecutive days, beginning on the date of the most recent negative report.

(3) If there is a negative report during the last 90 consecutive days that the person believes is in error, the person may request that the Department of State Police review the negative report. The department shall adopt rules prescribing the form and manner for submitting a request under this subsection. If after review the department determines that the negative report was the result of an error, the department shall correct the report and submit a corrected report to the person or shall direct the manufacturer's representative to correct the report and the manufacturer's representative shall submit the corrected report to the person.

(4) This section does not apply to a defendant who is granted an order to vacate the requirement to install an ignition interlock device under ORS 813.645. [2015 c.577 §3; 2017 c.655 §13; 2019 c.200 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.640 - Additional treatment following negative reports.**

In addition to any other requirement to participate in an alcohol or drug treatment program required by law, if a court receives at least two negative reports, a court may order that the defendant complete, at the defendant's own expense based on the defendant's ability to pay, an alcohol or drug treatment program. [2017 c.655 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.645 - Motion to vacate requirement to install and use ignition interlock device.**

(1) A defendant may apply by motion to the court in which a driving while under the influence of intoxicants diversion agreement described in ORS 813.230 was entered for an order vacating the requirement to install and use an ignition interlock device if the defendant:

(a) Has complied with the condition of the diversion agreement described in ORS 813.602 (3) for at least six consecutive months and provides a certificate to the court from the ignition interlock device manufacturer's representative stating that the device has not recorded a negative report; and

(b) The defendant has entered into and is in compliance with any treatment program that the person is required to participate in as a condition of diversion.

(2) The defendant shall cause to be served on the district attorney or city prosecutor a copy of the motion for an order vacating the requirement to install and use an ignition interlock device under ORS 813.602 (3). The copy of the motion shall be served on the district attorney or city prosecutor at the time the motion is filed with the court. The district attorney or city prosecutor may contest the motion.

(3) A motion under this section must include the following information:

(a) An affidavit or declaration that states that the defendant has complied with the condition of the diversion agreement described in ORS 813.602 (3) for at least six consecutive months with no negative results;

(b) A copy of the certificate described in subsection (1)(a) of this section from the ignition interlock device manufacturer's representative stating that the device has not recorded a negative report; and

(c) If the defendant is required to participate in a treatment program as a condition of diversion, a letter signed by a treatment counselor from the treatment program in which the defendant is enrolled stating that the defendant has entered into and is in compliance with the treatment program.

(4) The court may hold a hearing on a petition filed in accordance with subsection (1) of this section. The court shall hold a hearing if the district attorney or city prosecutor:

(a) Contests the motion;

(b) Requests a hearing; and

(c) Files a written objection with the court within 10 days after the date of service.

(5) In determining whether to grant the petition, the court shall consider:

(a) The nature of the underlying crime for which driving privileges were suspended.

(b) The blood alcohol content of the defendant at the time of the arrest.

(c) Any other relevant factors.

(6) The court may vacate a defendant's requirement to install and use an ignition interlock device under ORS 813.602 (3) if, after a hearing described in subsection (4) of this section, the court finds by a preponderance of the evidence that the petitioner:

(a) Has complied with the condition of the diversion agreement described in ORS 813.602 (3) for at least six consecutive months with no negative reports; and

(b) Has entered into and is in compliance with any treatment program required as a condition of diversion.

(7) When a court vacates a defendant's requirement to install and use an ignition interlock device under ORS 813.602 (3), the court shall notify the Department of Transportation. [2015 c.577 §4; 2017 c.655 §14; 2019 c.200 §7; 2023 c.135 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.660 - Service center and manufacturer's representative certification; fees; rules.**

(1) A service center or manufacturer's representative may not operate a service center in Oregon unless both the service center and the manufacturer's representative obtain a certificate from the Department of State Police.

- (2) A service center and a manufacturer's representative may apply to the department for a certificate under this section. The application shall be in such form as may be specified by the department.
- (3) The department may issue a certificate to a manufacturer's representative if the applicant:
- (a) Meets all of the requirements established by this section and the rules adopted by the department;
  - (b) Agrees to provide testimony relating to any aspect of the installation, service, monitoring, maintenance, calibration, use, removal or performance of the ignition interlock device at any criminal proceeding or administrative hearing;
  - (c) Provides service centers statewide, as defined by the department by rule;
  - (d) Provides 24-hour telephone assistance to customers; and
  - (e) Pays all required fees.
- (4) The department may issue a certificate to a service center if the applicant:
- (a) Meets all of the requirements established by this section and the rules adopted by the department;
  - (b) Utilizes ignition interlock device technicians who meet the minimum standards for qualification as a technician established by the department by rule and who undergo a criminal background check under ORS 813.665; and
  - (c) Pays all required fees.
- (5) The department may adopt rules establishing additional requirements for issuance and renewal of certificates under this section.
- (6) The department may refuse to issue or renew or may suspend or revoke any certificate issued under this section in any case where the department finds that the applicant or certificate holder has violated or failed to comply with any rules adopted under this section.
- (7) A service center or manufacturer's representative shall pay fees to the department in accordance with a fee schedule established by the department by rule.
- (8) The fees charged under this section shall be in an amount adequate to pay all administrative costs incurred by the department in administering ORS 813.660 to 813.680.
- (9) Certificates issued under this section are subject to the following:
- (a) A certificate shall expire one year from the date of issuance unless renewed according to the rules of the department.
  - (b) The department may not issue or renew a certificate to a service center or manufacturer's representative unless the service center or manufacturer's representative has paid all required fees under this section.
  - (c) A fee for a certificate may not be refunded in the event any certificate is refused, suspended or revoked.
- (10) The department may adopt rules for the implementation and administration of ORS 813.660 to 813.680. [2017 c.655 §3; 2017 c.655 §15; 2019 c.200 §§1,2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.665 - Criminal background check for technicians; rules.**

- (1) A criminal background check is required to determine the eligibility of a person seeking employment as an ignition interlock device technician in this state. A service center shall conduct a fingerprint-based criminal background check before hiring or contracting with an individual as an ignition interlock device technician. The service center shall request that the Department of State Police conduct the fingerprint-based criminal background check by reviewing state and federal databases including, but not limited to, the:
- (a) Oregon computerized criminal history system;
  - (b) Law Enforcement Data System;
  - (c) Databases maintained by the Federal Bureau of Investigation; and
  - (d) National Crime Information Center.
- (2) The purpose of a criminal background check is to preserve safety and prevent criminal acts by determining whether an individual is eligible to be employed as an ignition interlock device technician. A person is ineligible if the person has been convicted of:
- (a) Except as provided in paragraph (b) of this subsection, a misdemeanor in any jurisdiction within two years of the date of the criminal background check;
  - (b) Misdemeanor driving while under the influence of intoxicants in violation of ORS 813.010 or the statutory counterpart in another jurisdiction within five years of the date of the criminal background check; or
  - (c) A felony in any jurisdiction within 10 years of the date of the criminal background check.
- (3) The department shall communicate whether the individual passed or failed the criminal background check conducted under this section to the service center requesting the check.
- (4) The department shall prescribe by rule the process for obtaining a criminal background check by the department or, if the department is unable to conduct the check, by the service center requesting the criminal background check.
- (5) If the criminal background check conducted by the department or a service center reveals that the individual who is the subject of the criminal background check has been convicted of any of the crimes described in subsection (2) of this section, the service center may not employ the individual as an ignition interlock device technician. [2017 c.655 §4; 2017 c.655 §16; 2019 c.200 §§5,6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.670 - Complaint process.**

The Department of State Police shall adopt a procedure for a person to file a complaint with the department concerning the failure of

a service center or manufacturer's representative to comply with a requirement of ORS 813.660 to 813.680. The department shall:

- (1) Provide a response to the complainant no later than 14 days after the date the complaint is filed;
- (2) Complete an investigation of the complaint no later than 90 days after the date the complaint is filed; and
- (3) Provide a written report of the results of the investigation to the service center or manufacturer's representative and to the complainant. [2017 c.655 §5; 2017 c.655 §17; 2019 c.200 §§11,12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 813 - Driving Under the Influence of Intoxicants Section 813.680 - Ignition Interlock Device Management Fund.**

- (1) The Ignition Interlock Device Management Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Ignition Interlock Device Management Fund shall be credited to the fund.
- (2) Moneys in the Ignition Interlock Device Management Fund consist of:
  - (a) Fees collected under ORS 813.660 for issuance or renewal of certificates under ORS 813.660;
  - (b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;
  - (c) Interest and other earnings on moneys in the fund; and
  - (d) Other amounts deposited in the fund from any source.
- (3) Moneys in the fund are continuously appropriated to:
  - (a) The Department of Transportation for the purpose of fulfilling the department's duties, functions and powers related to specifying requirements for ignition interlock devices as required under ORS 813.600; and
  - (b) The Department of State Police for the purpose of carrying out the regulatory functions of the department relating to service centers and manufacturer's representatives, as described in ORS 813.599 and 813.660 to 813.680. [2017 c.655 §6; 2017 c.655 §18; 2019 c.200 §§13,14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.010 - Appropriate responses to traffic control devices.**

This section establishes appropriate pedestrian responses to specific traffic control devices for purposes of ORS 814.020. Authority to place traffic control devices is established under ORS 810.210. Except when acting under the direction of a police officer, a pedestrian is in violation of ORS 814.020 if the pedestrian makes a response to a traffic control device that is not permitted under the following:

- (1) A pedestrian facing a traffic control device with a green light may proceed across the roadway within any marked or unmarked crosswalk unless prohibited from doing so by other traffic control devices.
- (2) A pedestrian facing a traffic control device with a green arrow signal light may proceed across the roadway within any marked or unmarked crosswalk unless prohibited from doing so by other traffic control devices.
- (3) A pedestrian facing a traffic control device with a steady yellow light shall not enter the roadway unless otherwise directed by a pedestrian control signal.
- (4) A pedestrian facing a traffic control device with a steady red light shall not enter the roadway unless otherwise directed by a pedestrian control signal.
- (5) If a traffic control device is erected and maintained at a place other than an intersection, the provisions of this section are applicable.
- (6) When a pedestrian control signal showing the words "Walk" and "Wait" or "Don't Walk" or any other pedestrian symbol approved by the Oregon Transportation Commission under ORS 810.200 and 810.210 for the purpose of controlling pedestrian crossing is in place, the signal indicates and applies as follows:
  - (a) If a pedestrian is facing a "Walk" signal or other symbol approved under ORS 810.200 and 810.210 indicating that the pedestrian may proceed, the pedestrian may proceed across the roadway in the direction of the signal.
  - (b) A pedestrian shall not start to cross the roadway in the direction of a signal showing a "Wait" or "Don't Walk" or any other symbol approved under ORS 810.200 and 810.210 indicating that the pedestrian may not proceed. A pedestrian who has started crossing a roadway on a signal showing "Walk" or any other approved symbol to proceed shall proceed with dispatch to a sidewalk or safety island while a signal is showing "Wait" or "Don't Walk" or any other approved symbol indicating not to proceed. [1983 c.338 §553; 1985 c.16 §282]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.020 - Failure to obey traffic control device; penalty.**

- (1) A pedestrian commits the offense of pedestrian failure to obey traffic control devices if the pedestrian does any of the following:
  - (a) Fails to obey any traffic control device specifically applicable to the pedestrian.
  - (b) Fails to obey any specific traffic control device described in ORS 814.010 in the manner required by that section.
- (2) A pedestrian is not subject to the requirements of this section if the pedestrian complies with directions of a police officer.
- (3) The offense described in this section, pedestrian failure to obey traffic control devices, is a Class D traffic violation. [1983 c.338 §552; 1995 c.383 §82]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.030 - Failure to obey bridge or railroad signal; penalty.**

(1) A pedestrian commits the offense of pedestrian failure to obey bridge or railroad signal if the pedestrian does any of the following:

- (a) Enters or remains upon a bridge or approach to a bridge beyond the bridge signal, gate or barricade after a bridge operation signal has been given.
- (b) Passes through, around, over or under any crossing gate or barrier at a bridge or railroad grade crossing while the gate or barrier is closed or being opened or closed.

(2) The offense described in this section, pedestrian failure to obey bridge or railroad signal, is a Class D traffic violation. [1983 c.338 §554; 1995 c.383 §83]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.040 - Failure to yield to vehicle; penalty.**

(1) A pedestrian commits the offense of pedestrian failure to yield to a vehicle if the pedestrian does any of the following:

- (a) Suddenly leaves a curb or other place of safety and moves into the path of a vehicle that is so close as to constitute an immediate hazard.
- (b) Fails to yield the right of way to a vehicle upon a roadway when the pedestrian is crossing the roadway at any point other than within a marked crosswalk or an unmarked crosswalk at an intersection.
- (c) Except as otherwise provided under the vehicle code, fails to yield the right of way to all vehicles upon the roadway.

(2) The offense described in this section, pedestrian failure to yield to a vehicle, is a Class D traffic violation. [1983 c.338 §555; 1995 c.383 §84]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.050 - Failure to yield to ambulance or emergency vehicle; penalty.**

(1) A pedestrian commits the offense of pedestrian failure to yield to an ambulance or emergency vehicle if the pedestrian does not yield the right of way to:

- (a) An ambulance used in an emergency situation; or
- (b) An emergency vehicle or an ambulance upon the approach of the vehicle using a visual signal or audible signal or both according to requirements under ORS 820.300 or 820.320.

(2) This section does not relieve the driver of an ambulance or emergency vehicle from the duty to:

- (a) Drive with due regard for the safety of all persons using the highway; and
- (b) Exercise due care to avoid colliding with any pedestrian.

(3) The offense described in this section, pedestrian failure to yield to an ambulance or emergency vehicle, is a Class D traffic violation. [1983 c.338 §556; 1995 c.209 §4; 1995 c.383 §85]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.060 - Failure to use pedestrian tunnel or overhead crossing; penalty.**

(1) A pedestrian commits the offense of failure to use pedestrian tunnel or overhead crossing if the pedestrian crosses a roadway other than by means of a pedestrian tunnel or overhead pedestrian crossing when a tunnel or overhead crossing serves the place where the pedestrian is crossing the roadway.

(2) The offense described in this section, failure to use pedestrian tunnel or overhead crossing, is a Class D traffic violation. [1983 c.338 §557]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.070 - Improper position upon or improperly proceeding along highway; exceptions; penalty.**

(1) A pedestrian commits the offense of pedestrian with improper position upon or improperly proceeding along a highway if the pedestrian does any of the following:

- (a) Takes a position upon or proceeds along and upon the roadway where there is an adjacent usable sidewalk or shoulder.
- (b) Does not take a position upon or proceed along and upon the shoulder, as far as practicable from the roadway edge, on a highway that has an adjacent shoulder area on one or both sides.
- (c) Except in the case of the divided highway, does not take a position upon or proceed along and upon the left shoulder and as far as practicable from the roadway edge on a two-way highway that has no sidewalk and that does have an adjacent shoulder area. This paragraph does not apply to:

- (A) A hitchhiker who takes a position upon or proceeds along and upon the right shoulder so long as the hitchhiker does so facing the vehicles using the adjacent lane of the roadway; or
- (B) A member of a group that has adopted that section of highway under the provisions of ORS 366.158 who is obeying the rules of the Department of Transportation for picking up litter or removing noxious weeds on either side of the roadway.
- (d) Does not take a position upon or proceed along and upon the right highway shoulder, as far as practicable from the roadway edge, on a divided highway that has no sidewalk and does have a shoulder area. This paragraph does not apply to a member of a group that has adopted that section of highway under the provisions of ORS 366.158 who is obeying the rules of the Department of Transportation for picking up litter or removing noxious weeds on either side of the roadway.
- (e) Fails to take a position upon or proceed along and upon a highway that has neither sidewalk nor shoulder available, as near as practicable to an outside edge of the roadway, and, if the roadway is a two-way roadway, only on the left side of it.
- (2) This section is subject to the provisions of ORS 814.100.
- (3) A pedestrian does not commit the offense of pedestrian with improper position upon or improperly proceeding along a highway if the pedestrian:
  - (a) Does not impede traffic or create a traffic hazard;
  - (b) Posts advance warning signs in compliance with standards adopted by the Oregon Transportation Commission under ORS 810.200;
  - (c) Wears high-visibility safety apparel in compliance with standards adopted by the Oregon Transportation Commission under ORS 810.200; and
  - (d) Has a permit or belongs to a group that has a permit issued under ORS 814.072.
- (4) A pedestrian does not commit the offense of pedestrian with improper position upon or improperly proceeding along a highway when the pedestrian is on a narrow residential roadway if:
  - (a) The pedestrian does not create a traffic hazard; and
  - (b) Signs are posted giving notice that pedestrians may be present upon or along the narrow residential roadway. Signs posted under this paragraph shall be posted at each end of the portion of the narrow residential roadway where pedestrians may be present.
- (5) The offense described in this section, pedestrian with improper position upon or improperly proceeding along a highway, is a Class D traffic violation. [1983 c.338 §558; 1991 c.486 §4; 1995 c.383 §86; 2008 c.47 §§1,2; 2009 c.547 §§2,3; 2011 c.507 §3; 2013 c.474 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.072 - Issuance of permit to be upon or to proceed along highway.**

- (1) A road authority may issue a permit that authorizes a pedestrian or a group to be positioned upon or to proceed along a highway if the pedestrian or group shows to the satisfaction of the road authority:
  - (a) Proof of liability insurance in an amount of not less than \$1 million; and
  - (b) That the pedestrian or group will meet the public safety requirements adopted by the Department of Transportation by rule.
- (2) Upon issuance of a permit, the permit holder shall provide a copy of the permit to any applicable local jurisdiction. [2008 c.47 §5]

Note:

814.072 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 814 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.080 - Unlawful hitchhiking; penalty.**

- (1) A person commits the offense of unlawful hitchhiking if the person is on a roadway for the purpose of soliciting a ride.
- (2) The offense described in this section, unlawful hitchhiking, is a Class D traffic violation. [1983 c.338 §559; 1995 c.383 §87]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.100 - Rights of driver and passengers of disabled vehicle on freeway.**

On a freeway on which pedestrian traffic is prohibited, the driver and passengers of a disabled vehicle stopped on the freeway may walk to the nearest exit, in either direction, on that side of the freeway upon which the vehicle is disabled, from which telephone or motor vehicle repair services are available. [1983 c.338 §561]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.110 - Rights for persons who are blind, who are deaf-blind or who have limited vision.**

- (1) The following definitions apply to this section and to ORS 811.035 and 814.120:

(a) "Blind" means visual acuity that does not exceed 20/200 in the better eye with corrective lenses, or having a visual field of 20 degrees or less.

(b) "Dog guide" means a dog that is wearing a dog guide harness and is trained to lead or guide a person who is blind.

(c) "Limited vision" means visual acuity that does not exceed 20/70 and is no worse than 20/200 in the better eye with corrective lenses.

(d) "White cane" means a cane or walking stick that is white in color or white with a red tip.

(2) This section and ORS 811.035 and 814.120 grant and enforce the following rights for pedestrians who are blind or deaf-blind:

(a) A person who has limited vision and a person who is blind or deaf-blind may carry and use a white cane on the highways and other public places of this state for the purposes of identification and mobility.

(b) A person who has limited vision and a person who is deaf-blind may use a white cane marked by a six-inch-wide chartreuse-colored strip at the tip end.

(3) A pedestrian who has limited vision and a pedestrian who is blind or deaf-blind and who is not carrying a white cane or not accompanied by a dog guide has all the rights and privileges granted by law to all pedestrians. [1985 c.16 §284; 2007 c.70 §344; 2017 c.175 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.120 - Unlawful use of white cane; penalty.**

(1) A person commits the offense of unlawful use of a white cane if the person uses or carries a white cane on the highways or any other public place of this state and the person is not a person who has limited vision or is not a person who is blind or a person who is deaf-blind.

(2) This section is subject to the provisions and definitions relating to the rights of pedestrians who have limited vision or pedestrians who are blind or deaf-blind under ORS 814.110.

(3) The offense described in this section, unlawful use of a white cane, is a Class D traffic violation. [1983 c.338 §562; 1985 c.16 §285; 1995 c.383 §89; 2007 c.70 §345; 2017 c.175 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.130 - Passenger obstruction of driver; penalty.**

(1) A person commits the offense of passenger obstruction of a driver if the person is a passenger in a vehicle and the person rides in a position that interferes with all of the operator's views to the rear, through one or more mirrors and otherwise, or that interferes with the operator's view to the front or sides or the operator's control of the driving mechanism.

(2) The offense described in this section, passenger obstruction of driver, is a Class C traffic violation. [1983 c.338 §605]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.140 - Application of vehicle laws to animal on roadway.**

Every person riding an animal upon a roadway and every person driving or leading any animal is subject to the provisions of the vehicle code concerning vehicle equipment and operation of vehicles except those provisions which by their very nature can have no application. [1983 c.338 §665]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.150 - Failure to perform duties of person in charge of livestock on highway; penalty.**

(1) A person commits the offense of failure to perform the duties of a person in charge of livestock on a highway if the person fails to do any of the following:

(a) When riding or leading a horse or other livestock on the highway, a person must keep a lookout for vehicles and use caution to keep the animal under control.

(b) A person in charge of driving a herd of livestock on or across a highway shall position a person at the front of the herd to warn drivers that the herd is approaching.

(c) A person in charge of livestock being driven on a highway shall use reasonable care and diligence to open the roadway for vehicular traffic.

(d) If a horse or other livestock becomes frightened on a highway, the person riding or leading the livestock shall give a distress signal to an approaching driver by raising the person's hand.

(2) This section is only applicable if the livestock is an animal of the species of horses, mules, donkeys, cattle, swine, sheep or goats.

(3) The offense described in this section, failure to perform duties of a person in charge of livestock on a highway, is a Class B traffic violation. [1983 c.338 §667]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians;**

**Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four WheelsSection 814.200 - Unlawful operation of motorcycle or moped; penalty.**

- (1) A person operating a moped or motorcycle commits the offense of unlawful moped or motorcycle operation if the person:
  - (a) Fails to sit astride, or to stand astride, the moped or motorcycle seat while facing forward; or
  - (b) Carries a package, bundle or other article that prevents the person from keeping both hands on the handlebars.
- (2) The offense described in this section, unlawful moped or motorcycle operation, is a Class B traffic violation. [1983 c.338 §686; 1987 c.138 §6; 2015 c.502 §1]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four WheelsSection 814.210 - Operation of moped on sidewalk or bicycle trail; penalty.**

- (1) A person commits the offense of operation of a moped on a sidewalk or bicycle trail if the person operates a moped upon a sidewalk, a bicycle path or a bicycle lane.
- (2) Exemptions to this section are provided under ORS 811.440.
- (3) The offense described in this section, operation of a moped on a sidewalk or bicycle trail, is a Class D traffic violation. [1983 c.338 §644]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four WheelsSection 814.220 - Motorcyclist clinging to another vehicle; penalty.**

- (1) A person commits the offense of motorcyclist clinging to another vehicle if the person is riding upon a motorcycle that is not disabled and being towed and the person attaches a part of the person's self or the motorcycle to any other vehicle on a roadway.
- (2) The offense described in this section, motorcyclist clinging to another vehicle, is a Class B traffic violation. [1983 c.338 §687; 1985 c.16 §330; 1995 c.383 §90]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four WheelsSection 814.230 - Moped operator or rider clinging to other vehicle; penalty.**

- (1) A person commits the offense of moped operator or rider clinging to another vehicle if the person is riding upon or operating a moped and the person clings to another vehicle upon a roadway or attaches the moped to any other vehicle upon a roadway.
- (2) The offense described in this section, moped operator or rider clinging to another vehicle, is a Class D traffic violation. [1983 c.338 §688]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four WheelsSection 814.240 - Motorcycle or moped unlawful passing; penalty.**

- (1) A motorcycle operator or moped operator commits the offense of motorcycle or moped unlawful passing in a lane with a vehicle if the operator does any of the following:
  - (a) Overtakes and passes in the same lane occupied by the vehicle the operator is overtaking, unless the vehicle being passed is a motorcycle or a moped.
  - (b) Operates a moped or motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.
- (2) This section does not apply to a police officer in the performance of official duties.
- (3) The offense described in this section, motorcycle or moped unlawful passing in a lane with a vehicle, is a Class B traffic violation. [1983 c.338 §689]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four WheelsSection 814.250 - Moped or motorcycle operating more than two abreast; penalty.**

- (1) A person commits the offense of operating a moped or motorcycle more than two abreast if the person is operating a moped or motorcycle on a roadway laned for traffic and the person is riding abreast of more than one other motorcycle or moped in the same lane for traffic.
- (2) For purposes of this section, a motorcycle does not include an autocycle.
- (3) The offense described in this section, moped or motorcycle operating more than two abreast, is a Class B traffic violation. [1983 c.338 §690; 2017 c.296 §3]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four WheelsSection 814.260 - Failure of moped operator to wear motorcycle helmet; penalty.**



- (1) A person commits the offense of failure of a moped rider to wear a motorcycle helmet if the person:
  - (a) Operates or rides on a moped; and
  - (b) Is not wearing a motorcycle helmet.
- (2) Exemptions from this section are established under ORS 814.290.
- (3) This section does not permit passengers on mopeds in violation of ORS 814.330 or 814.340.
- (4) The offense described in this section, failure of a moped rider to wear a motorcycle helmet, is a Class D traffic violation. [1983 c.338 §691; 1985 c.16 §331; 1987 c.910 §4; 1995 c.492 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.269 - Failure of motorcycle operator to wear motorcycle helmet; penalty.**

- (1) A person commits the offense of failure of a motorcycle operator to wear a motorcycle helmet if the person operates a motorcycle and is not wearing a motorcycle helmet.
- (2) Exemptions from this section are established in ORS 814.290.
- (3) The offense described in this section, failure of a motorcycle operator to wear a motorcycle helmet, is a Class D traffic violation. [1987 c.910 §2; 1995 c.492 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.275 - Failure of motorcycle passenger to wear motorcycle helmet; penalty.**

- (1) A person commits the offense of failure of a motorcycle passenger to wear a motorcycle helmet if the person rides as a passenger on a motorcycle and is not wearing a motorcycle helmet.
- (2) Exemptions from this section are established in ORS 814.290.
- (3) The offense described in this section, failure of a motorcycle passenger to wear a motorcycle helmet, is a Class D traffic violation. [1987 c.910 §3; 1989 c.283 §1; 1995 c.492 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.280 - Endangering motorcycle passenger; penalty.**

- (1) A person commits the offense of endangering a motorcycle passenger if the person is operating a motorcycle and the person carries another person on the motorcycle who is not wearing a motorcycle helmet.
- (2) Exemptions from this section are established under ORS 814.290.
- (3) The offense described in this section, endangering a motorcycle passenger, is a Class D traffic violation. [1983 c.338 §692; 1987 c.910 §5; 1995 c.492 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.290 - Exemptions from motorcycle helmet requirements.**

This section establishes exemptions from the requirements and penalties relating to the use of motorcycle helmets under ORS 814.260 to 814.280. A person is not in violation of ORS 814.260, 814.269, 814.275 or 814.280 if the person is any of the following:

- (1) Within an enclosed cab.
- (2) Operating or riding a vehicle designed to travel with three wheels in contact with the ground at speeds of less than 15 miles per hour. [1983 c.338 §693; 1987 c.910 §6; 1995 c.492 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.310 - Illegal alteration of moped; penalty.**

- (1) A person commits the offense of illegal alteration of a moped if the person alters or modifies in any manner a vehicle registered in this state so that:
  - (a) The displacement of the engine is increased beyond that allowable for a moped under ORS 801.345; or
  - (b) The vehicle is capable of moving, unassisted, at a speed of more than 30 miles per hour on a level road surface.
- (2) The offense described in this section, illegal alteration of a moped, is a Class C traffic violation. [1983 c.338 §285; 1985 c.16 §117; 1985 c.401 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.320 - Failure to display lighted headlights; exceptions; penalty.**

- (1) A person commits the offense of failure to display lighted headlights on a moped or motorcycle at all times, if the person

operates a moped or motorcycle and does not display lights and illuminated devices specified under ORS 816.320 and 816.330 at all times the motorcycle or moped is upon a highway.

(2) A person may use modulating headlights described under ORS 816.050 during daylight without violating this section, but a person who uses such modulating headlights during limited visibility conditions is in violation of this section.

(3) This section does not apply when specific exceptions with respect to parked vehicles are made under ORS 811.525.

(4) A court may dismiss, without penalty, any charge for violation of this section if the court determines that:

(a) The violation was caused by a malfunction of equipment; and

(b) The equipment that malfunctioned and caused the violation has been repaired or replaced.

(5) The offense described in this section, failure to display lighted headlights on a moped or motorcycle at all times, is a Class B traffic violation. [1983 c.338 §695; 1985 c.16 §332]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.325 - Carrying passenger on motorcycle; penalty.**

(1) A person commits the offense of unlawfully carrying a passenger on a motorcycle if the person does any of the following:

(a) Carries on a motorcycle a person who is not seated on a permanent and regular seat, if the motorcycle is designed to carry more than one person, or upon another seat attached to the motorcycle at the rear or side of the operator's seat.

(b) Carries a person in a position that interferes with the operation or control of the motorcycle or the operator's view.

(c) Carries a person, other than in a sidecar or enclosed cab, on a motorcycle with no footrests for that person.

(2) The offense described in this section, unlawfully carrying a passenger on a motorcycle, is a Class B traffic violation. [1987 c.138 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.330 - Carrying passenger on moped; penalty.**

(1) A person commits the offense of unlawfully carrying a passenger on a moped if the person operates a moped on any highway of this state with a passenger on the moped.

(2) The offense described in this section, unlawfully carrying a passenger on a moped, is a Class D traffic violation. [Formerly 487.743]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.340 - Riding as passenger on moped; penalty.**

(1) A person commits the offense of unlawfully riding as a passenger on a moped if the person rides any moped as a passenger on a highway of this state.

(2) The offense described in this section, unlawfully riding as a passenger on a moped, is a Class D traffic violation. [Formerly 487.746]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.400 - Application of vehicle laws to bicycles.**

(1) Every person riding a bicycle upon a public way is subject to the provisions applicable to and has the same rights and duties as the driver of any other vehicle concerning operating on highways, vehicle equipment and abandoned vehicles, except:

(a) Those provisions which by their very nature can have no application.

(b) When otherwise specifically provided under the vehicle code.

(2) Subject to the provisions of subsection (1) of this section:

(a) A bicycle is a vehicle for purposes of the vehicle code; and

(b) When the term "vehicle" is used the term shall be deemed to be applicable to bicycles.

(3) The provisions of the vehicle code relating to the operation of bicycles do not relieve a bicyclist or motorist from the duty to exercise due care. [1983 c.338 §697; 1985 c.16 §335]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.405 - Status of electric assisted bicycle.**

An electric assisted bicycle shall be considered a bicycle, rather than a motor vehicle, for purposes of the Oregon Vehicle Code, except when otherwise specifically provided by statute. [1997 c.400 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.410 - Unsafe operation**

**of bicycle on sidewalk; penalty.**

- (1) A person commits the offense of unsafe operation of a bicycle on a sidewalk if the person does any of the following:
- (a) Operates the bicycle so as to suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard.
  - (b) Operates a bicycle upon a sidewalk and does not give an audible warning before overtaking and passing a pedestrian and does not yield the right of way to all pedestrians on the sidewalk.
  - (c) Operates a bicycle on a sidewalk in a careless manner that endangers or would be likely to endanger any person or property.
  - (d) Operates the bicycle at a speed greater than an ordinary walk when approaching or entering a crosswalk, approaching or crossing a driveway or crossing a curb cut or pedestrian ramp and a motor vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp. This paragraph does not require reduced speeds for bicycles at places on sidewalks or other pedestrian ways other than places where the path for pedestrians or bicycle traffic approaches or crosses that for motor vehicle traffic.
  - (e) Operates an electric assisted bicycle on a sidewalk.
- (2) Except as otherwise specifically provided by law, a bicyclist on a sidewalk or in a crosswalk has the same rights and duties as a pedestrian on a sidewalk or in a crosswalk.
- (3) The offense described in this section, unsafe operation of a bicycle on a sidewalk, is a Class D traffic violation. [1983 c.338 §699; 1985 c.16 §337; 1997 c.400 §7; 2005 c.316 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.414 - Improper entry into intersection controlled by stop sign; penalty.**

- (1) A person operating a bicycle who is approaching an intersection where traffic is controlled by a stop sign may, without violating ORS 811.265, do any of the following without stopping if the person slows the bicycle to a safe speed:
- (a) Proceed through the intersection.
  - (b) Make a right or left turn into a two-way street.
  - (c) Make a right or left turn into a one-way street in the direction of traffic upon the one-way street.
- (2) A person commits the offense of improper entry into an intersection where traffic is controlled by a stop sign if the person does any of the following while proceeding as described in subsection (1) of this section:
- (a) Fails to yield the right of way to traffic lawfully within the intersection or approaching so close as to constitute an immediate hazard;
  - (b) Disobeys the directions of a police officer or flagger, as defined in ORS 811.230;
  - (c) Fails to exercise care to avoid an accident; or
  - (d) Fails to yield the right of way to a pedestrian in an intersection or crosswalk under ORS 811.028.
- (3) The offense described in this section, improper entry into an intersection where traffic is controlled by a stop sign, is a Class D traffic violation. [2019 c.683 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.416 - Improper entry into intersection controlled by flashing red signal; penalty.**

- (1) A person operating a bicycle who is approaching an intersection where traffic is controlled by a flashing red signal may, without violating ORS 811.265, do any of the following without stopping if the person slows the bicycle to a safe speed:
- (a) Proceed through the intersection.
  - (b) Make a right or left turn into a two-way street.
  - (c) Make a right or left turn into a one-way street in the direction of traffic upon the one-way street.
- (2) A person commits the offense of improper entry into an intersection where traffic is controlled by a flashing red signal if the person does any of the following while proceeding as described in subsection (1) of this section:
- (a) Fails to yield the right of way to traffic lawfully within the intersection or approaching so close as to constitute an immediate hazard;
  - (b) Disobeys the directions of a police officer;
  - (c) Fails to exercise care to avoid an accident; or
  - (d) Fails to yield the right of way to a pedestrian in an intersection or crosswalk under ORS 811.028.
- (3) The offense described in this section, improper entry into an intersection where traffic is controlled by a flashing red signal, is a Class D traffic violation. [2019 c.683 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.420 - Failure to use bicycle lane or path; exceptions; penalty.**

- (1) Except as provided in subsections (2) and (3) of this section, a person commits the offense of failure to use a bicycle lane or path if the person operates a bicycle on any portion of a roadway that is not a bicycle lane or bicycle path when a bicycle lane or bicycle

path is adjacent to or near the roadway.

(2) A person is not required to comply with this section unless the state or local authority with jurisdiction over the roadway finds, after public hearing, that the bicycle lane or bicycle path is suitable for safe bicycle use at reasonable rates of speed.

(3) A person is not in violation of the offense under this section if the person is able to safely move out of the bicycle lane or path for the purpose of:

(a) Overtaking and passing another bicycle, a vehicle or a pedestrian that is in the bicycle lane or path and passage cannot safely be made in the lane or path.

(b) Preparing to execute a left turn at an intersection or into a private road or driveway.

(c) Avoiding debris or other hazardous conditions.

(d) Preparing to execute a right turn where a right turn is authorized.

(e) Continuing straight at an intersection where the bicycle lane or path is to the right of a lane from which a motor vehicle must turn right.

(4) The offense described in this section, failure to use a bicycle lane or path, is a Class D traffic violation. [1983 c.338 §700; 1985 c.16 §338; 2005 c.316 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.430 - Improper use of lanes; exceptions; penalty.**

(1) A person commits the offense of improper use of lanes by a bicycle if the person is operating a bicycle on a roadway at less than the normal speed of traffic using the roadway at that time and place under the existing conditions and the person does not ride as close as practicable to the right curb or edge of the roadway.

(2) A person is not in violation of the offense under this section if the person is not operating a bicycle as close as practicable to the right curb or edge of the roadway under any of the following circumstances:

(a) When overtaking and passing another bicycle or vehicle that is proceeding in the same direction.

(b) When preparing to execute a left turn.

(c) When reasonably necessary to avoid hazardous conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards or other conditions that make continued operation along the right curb or edge unsafe or to avoid unsafe operation in a lane on the roadway that is too narrow for a bicycle and vehicle to travel safely side by side. Nothing in this paragraph excuses the operator of a bicycle from the requirements under ORS 811.425 or from the penalties for failure to comply with those requirements.

(d) When operating within a city as near as practicable to the left curb or edge of a roadway that is designated to allow traffic to move in only one direction along the roadway. A bicycle that is operated under this paragraph is subject to the same requirements and exceptions when operating along the left curb or edge as are applicable when a bicycle is operating along the right curb or edge of the roadway.

(e) When operating a bicycle alongside not more than one other bicycle as long as the bicycles are both being operated within a single lane and in a manner that does not impede the normal and reasonable movement of traffic.

(f) When operating on a bicycle lane or bicycle path.

(3) The offense described in this section, improper use of lanes by a bicycle, is a Class D traffic violation. [1983 c.338 §701; 1985 c.16 §339]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.440 - Failure to signal turn; exceptions; penalty.**

(1) A person commits the offense of failure to signal for a bicycle turn if the person does any of the following:

(a) Stops a bicycle the person is operating without giving the appropriate hand and arm signal continuously for at least 100 feet before executing the stop.

(b) Executes a turn on a bicycle the person is operating without giving the appropriate hand and arm signal for the turn for at least 100 feet before executing the turn.

(c) Executes a turn on a bicycle the person is operating after having been stopped without giving, while stopped, the appropriate hand and arm signal for the turn.

(2) A person is not in violation of the offense under this section if the person is operating a bicycle and does not give the appropriate signal continuously for a stop or turn because circumstances require that both hands be used to safely control or operate the bicycle.

(3) The appropriate hand and arm signals for indicating turns and stops under this section are those provided for other vehicles under ORS 811.395 and 811.400.

(4) The offense described under this section, failure to signal for a bicycle turn, is a Class D traffic violation. [1983 c.338 §703; 1985 c.16 §341]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.450 - Unlawful load on**

**bicycle; penalty.**

(1) A person commits the offense of having an unlawful load on a bicycle if the person is operating a bicycle and the person carries a package, bundle or article which prevents the person from keeping at least one hand upon the handlebar and having full control at all times.

(2) The offense described in this section, unlawful load on a bicycle, is a Class D traffic violation. [1983 c.338 §704]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.460 - Unlawful passengers on bicycle; penalty.**

(1) A person commits the offense of unlawful passengers on a bicycle if the person operates a bicycle and carries more persons on the bicycle than the number for which it is designed or safely equipped.

(2) The offense described in this section, unlawful passengers on a bicycle, is a Class D traffic violation. [1983 c.338 §705]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.470 - Failure to use bicycle seat; penalty.**

(1) A person commits the offense of failure to use a bicycle seat if the person is operating a bicycle and the person rides other than upon or astride a permanent and regular seat attached to the bicycle.

(2) The offense described in this section, failure to use a bicycle seat, is a Class D traffic violation. [1983 c.338 §706; 2003 c.341 §13; 2015 c.138 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.480 - Nonmotorized vehicle clinging to another vehicle; penalty.**

(1) A person commits the offense of nonmotorized vehicle clinging to another vehicle if the person is riding upon or operating a bicycle, coaster, roller skates, sled or toy vehicle and the person clings to another vehicle upon a roadway or attaches that which the person is riding or operating to any other vehicle upon a roadway.

(2) The offense described in this section, nonmotorized vehicle clinging to another vehicle, is a Class D traffic violation. [1983 c.338 §707]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.484 - Meaning of "bicycle" and "operating or riding on a highway."**

(1) For purposes of ORS 814.485, 814.486, 815.052 and 815.281, "bicycle" has the meaning given in ORS 801.150 except that:

(a) It also includes vehicles that meet the criteria specified in ORS 801.150 (1) to (4) but that have wheels that are 14 inches or less in diameter.

(b) It does not include tricycles designed to be ridden by children.

(2) For purposes of the offenses defined in ORS 814.485, 814.486 and 815.281 (2), a person shall not be considered to be operating or riding on a bicycle on a highway or on premises open to the public if the person is operating or riding on a three-wheeled nonmotorized vehicle on a beach while it is closed to motor vehicle traffic. [1993 c.408 §§3a,3b; 2015 c.138 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.485 - Failure to wear protective headgear; penalty.**

(1) A person commits the offense of failure of a bicycle operator or rider to wear protective headgear if the person is under 16 years of age, operates or rides on a bicycle on a highway or on premises open to the public and is not wearing protective headgear of a type approved under ORS 815.052.

(2) Exemptions from this section are as provided in ORS 814.487.

(3) The offense described in this section, failure of a bicycle operator or rider to wear protective headgear, is a specific fine traffic violation. The presumptive fine for failure of a bicycle operator or rider to wear protective headgear is \$25. [1993 c.408 §2; 1995 c.581 §1; 2011 c.597 §103]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.486 - Endangering bicycle operator or passenger; penalty.**

(1) A person commits the offense of endangering a bicycle operator or passenger if:

(a) The person is operating a bicycle on a highway or on premises open to the public and the person carries another person on the bicycle who is under 16 years of age and is not wearing protective headgear of a type approved under ORS 815.052; or

(b) The person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age and the child operates or rides on a bicycle on a highway or on premises open to the public without wearing protective headgear of a type approved under ORS 815.052.

(2) Exemptions from this section are as provided in ORS 814.487.

(3) The offense described in this section, endangering a bicycle operator or passenger, is a specific fine traffic violation. The presumptive fine for endangering a bicycle operator or passenger is \$25. [1993 c.408 §3; 1995 c.581 §2; 2011 c.597 §104]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.487 - Exemptions from protective headgear requirements.**

A person is exempt from the requirements under ORS 814.485 and 814.486 to wear protective headgear, if wearing the headgear would violate a religious belief or practice of the person. [1995 c.581 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.488 - Citations; exemption from requirement to pay fine.**

(1) If a child in violation of ORS 814.485 is 11 years of age or younger, any citation issued shall be issued to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of ORS 814.486, rather than to the child for violation of ORS 814.485.

(2) If a child in violation of ORS 814.485 is at least 12 years of age and is under 16 years of age, a citation may be issued to the child for violation of ORS 814.485 or to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of ORS 814.486, but not to both.

(3) The first time a person is convicted of an offense described in ORS 814.485 or 814.486, the person shall not be required to pay a fine if the person proves to the satisfaction of the court that the person has protective headgear of a type approved under ORS 815.052. [1993 c.408 §§3c,7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.489 - Use of evidence of lack of protective headgear on bicyclist.**

Evidence of violation of ORS 814.485 or 814.486 and evidence of lack of protective headgear shall not be admissible, applicable or effective to reduce the amount of damages or to constitute a defense to an action for damages brought by or on behalf of an injured bicyclist or bicycle passenger or the survivors of a deceased bicyclist or passenger if the bicyclist or passenger was injured or killed as a result in whole or in part of the fault of another. [1993 c.408 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.500 - Rights and duties of person riding motorized wheelchair on bicycle lane or path.**

Every person riding a motorized wheelchair on a bicycle lane or path is subject to the provisions applicable to and has the same rights and duties as the driver of a bicycle when operating on a bicycle lane or path, except:

(1) When those provisions which by their very nature can have no application.

(2) When otherwise specifically provided under the vehicle code. [1991 c.417 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.510 - Application of vehicle laws to motor assisted scooters.**

An operator of a motor assisted scooter upon a public way is subject to the provisions applicable to, and has the same rights and duties as the operator of, any other vehicle operating on highways except:

(1) Those provisions that by their very nature can have no application.

(2) When otherwise specifically provided under the vehicle code. [2001 c.749 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.512 - Unlawful operation of motor assisted scooter; penalty.**

(1) A person operating a motor assisted scooter commits the offense of unlawful operation of a motor assisted scooter if:

(a) The person is under 16 years of age; or

(b) The person operates a motor assisted scooter at a rate of speed exceeding 15 miles per hour.

(2) The offense described in this section, unlawful operation of a motor assisted scooter, is a Class D traffic violation. [2001 c.749 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.514 - Failure of operator of motor assisted scooter to use bicycle lane or path; exception; penalty.**

(1) Except as provided in subsection (2) of this section, a person commits the offense of failure of a motor assisted scooter operator to use a bicycle lane or bicycle path if the person operates a motor assisted scooter on any portion of a roadway that is not a bicycle lane or bicycle path when a bicycle lane or bicycle path is adjacent to or near the roadway.

(2) A person is not subject to this section if the operation of a motor assisted scooter on a bicycle lane or bicycle path is prohibited by local ordinance.

(3) The offense described in this section, failure of a motor assisted scooter operator to use a bicycle lane or bicycle path, is a Class D traffic violation. [2001 c.749 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.516 - Prohibition on operation of motor assisted scooters in state parks.**

The State Parks and Recreation Department may restrict or prohibit the operation of a motor assisted scooter on a bicycle lane or bicycle path in a state park except that the department may not restrict or prohibit the operation of a motor assisted scooter on a bicycle lane or bicycle path in a state park if the operator of the motor assisted scooter is disabled. [2001 c.749 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.518 - Improper operation of motor assisted scooter on highway; exceptions; penalty.**

(1) A person commits the offense of improper operation of a motor assisted scooter on a highway if the person is operating a motor assisted scooter on a highway with a designated speed limit greater than 25 miles per hour.

(2) This section does not apply if:

(a) The person is operating a motor assisted scooter on a highway with a designated speed limit greater than 25 miles per hour and the person is operating the motor assisted scooter on a bicycle lane; or

(b) The person is operating a motor assisted scooter while crossing a highway with a designated speed limit greater than 25 miles per hour.

(3) The offense described in this section, improper operation of a motor assisted scooter on a highway, is a Class D traffic violation. [2001 c.749 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.520 - Improper operation of motor assisted scooter in lane; exceptions; penalty.**

(1) A person commits the offense of improper operation of a motor assisted scooter in a lane if the person is operating a motor assisted scooter on a roadway at less than the normal speed of traffic using the roadway at that time and place under the existing conditions and the person does not ride as close as practicable to the right curb or edge of the roadway.

(2) A person is not in violation of this section if the person is not operating a motor assisted scooter as close as practicable to the right curb or edge of the roadway under any of the following circumstances:

(a) When overtaking and passing another motor assisted scooter or vehicle that is proceeding in the same direction.

(b) When preparing to execute a left turn.

(c) When reasonably necessary to avoid hazardous conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards or other conditions that make continued operation along the right curb or edge unsafe or to avoid unsafe operation in a lane on the roadway that is too narrow for a motor assisted scooter and vehicle to travel safely side by side. Nothing in this paragraph excuses the operator of a motor assisted scooter from the requirements under ORS 811.425 or from the penalties for failure to comply with those requirements.

(d) When operating within a city as near as practicable to the left curb or edge of a roadway that is designated to allow traffic to move in only one direction along the roadway. A motor assisted scooter that is operated under this paragraph is subject to the same requirements and exceptions when operating along the left curb or edge as are applicable when a motor assisted scooter is operating along the right curb or edge of the roadway.

(e) When operating a motor assisted scooter alongside not more than one other motor assisted scooter as long as the motor assisted scooters are both being operated within a single lane and in a manner that does not impede the normal and reasonable movement of traffic.

(f) When operating on a bicycle lane or bicycle path.

(3) The offense described in this section, improper operation of a motor assisted scooter in a lane, is a Class D traffic violation. [2001 c.749 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians;**

**Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four WheelsSection 814.522 - Failure to signal; exception; penalty.**

- (1) A person commits the offense of failure to signal for a motor assisted scooter maneuver if the person is operating a motor assisted scooter and:
- (a) Stops the motor assisted scooter without giving the appropriate hand and arm signal continuously for at least 100 feet before executing the stop.
  - (b) Executes a turn or lane change on the motor assisted scooter without giving the appropriate hand and arm signal for the turn at least 100 feet before executing the turn.
  - (c) Executes a turn on the motor assisted scooter after having been stopped without giving, while stopped, the appropriate hand and arm signal for the turn.
- (2) A person is not in violation of this section if the person is operating a motor assisted scooter and does not give the appropriate hand and arm signal continuously for a stop, turn or lane change because circumstances require that both hands be used to safely control or operate the motor assisted scooter.
- (3) The appropriate hand and arm signals for indicating stops, turns and lane changes under this section are those provided for other vehicles under ORS 811.395 and 811.400.
- (4) The offense described in this section, failure to signal for a motor assisted scooter maneuver, is a Class D traffic violation. [2001 c.749 §10]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four WheelsSection 814.524 - Unsafe operation of motor assisted scooter on sidewalk; penalty.**

- (1) A person commits the offense of unsafe operation of a motor assisted scooter on a sidewalk if the person operates a motor assisted scooter on a sidewalk, except to enter or leave adjacent property, or the person operates a motor assisted scooter on a sidewalk to enter or leave adjacent property and the person:
- (a) Operates the motor assisted scooter so as to suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard.
  - (b) Does not give an audible warning before overtaking and passing a pedestrian or does not yield the right of way to all pedestrians on the sidewalk.
  - (c) Operates the motor assisted scooter in a careless manner that endangers or would be likely to endanger any person or property.
  - (d) Operates the motor assisted scooter at a speed greater than an ordinary walk when approaching a crosswalk, approaching or entering a driveway or crossing a curb cut or pedestrian ramp and a motor vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp.
- (2) The offense described in this section, unsafe operation of a motor assisted scooter on a sidewalk, is a Class D traffic violation. [2001 c.749 §11]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four WheelsSection 814.526 - Unsafe operation of motor assisted scooter on bicycle path or lane; penalty.**

- (1) A person commits the offense of unsafe operation of a motor assisted scooter on a bicycle path or bicycle lane if the person operates a motor assisted scooter on a bicycle path or bicycle lane and does not give an audible warning before overtaking and passing a pedestrian or does not yield the right of way to all pedestrians on the bicycle path or bicycle lane.
- (2) The offense described in this section, unsafe operation of a motor assisted scooter on a bicycle path or bicycle lane, is a Class D traffic violation. [2001 c.749 §12]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four WheelsSection 814.528 - Operation of motor assisted scooter in crosswalk; exception; penalty.**

- (1) A person commits the offense of operation of a motor assisted scooter in a crosswalk if the person fails to walk the motor assisted scooter in a crosswalk.
- (2) This section does not apply to a person with a disability operating a motor assisted scooter in a crosswalk.
- (3) The offense described in this section, operation of a motor assisted scooter in a crosswalk, is a Class D traffic violation. [2001 c.749 §13; 2007 c.70 §346]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four WheelsSection 814.530 - Carrying passenger on motor assisted scooter; penalty.**

- (1) A person commits the offense of carrying a passenger on a motor assisted scooter if the person operates a motor assisted scooter and carries another person on the motor assisted scooter.



(2) The offense described in this section, carrying a passenger on a motor assisted scooter, is a Class D traffic violation. [2001 c.749 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.532 - Operating motor assisted scooter with unlawful load; penalty.**

(1) A person commits the offense of operating a motor assisted scooter with an unlawful load if the person is operating a motor assisted scooter and the person carries a package, bundle or article that prevents the person from having full control of the vehicle at all times.

(2) The offense described in this section, operating a motor assisted scooter with an unlawful load, is a Class D traffic violation. [2001 c.749 §15; 2018 c.3 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.534 - Failure of motor assisted scooter operator to wear protective headgear; exception; penalty.**

(1) A person commits the offense of failure of a motor assisted scooter operator to wear protective headgear if the person operates a motor assisted scooter on a highway or on premises open to the public and is not wearing protective headgear of a type approved under ORS 815.052.

(2) A person is exempt from the protective headgear requirement of subsection (1) of this section if wearing the headgear would violate a religious belief or practice of the person.

(3) The first time a person is convicted of an offense under this section, the person may not be required to pay a fine if the person proves to the satisfaction of the court that the person has protective headgear of a type approved under ORS 815.052.

(4) The offense described in this section, failure of a motor assisted scooter operator to wear protective headgear, is a specific fine traffic violation. The presumptive fine for failure of a motor assisted scooter operator to wear protective headgear is \$25. [2001 c.749 §16; 2011 c.597 §105]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.536 - Endangering motor assisted scooter operator; penalty.**

(1) A person commits the offense of endangering a motor assisted scooter operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age and authorizes or knowingly permits the child to operate a motor assisted scooter in violation of ORS 814.512 (1)(a).

(2) The offense described in this section, endangering a motor assisted scooter operator, is a specific fine traffic violation. The presumptive fine for endangering a motor assisted scooter operator is \$25. [2001 c.749 §17; 2011 c.597 §106]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.550 - Application of vehicle laws to electric personal assistive mobility device.**

(1) An electric personal assistive mobility device is not a motor vehicle for purposes of the Oregon Vehicle Code, except when specifically provided by statute.

(2) A person operating an electric personal assistive mobility device on a bicycle lane, bicycle path or any part of a highway is subject to any provisions applicable to and has the same rights and duties as the driver of a bicycle when operating on a bicycle lane, bicycle path or any part of a highway, except when otherwise specifically provided by statute.

(3) A person operating an electric personal assistive mobility device on a sidewalk is subject to any provisions applicable to and has the same rights and duties as a pedestrian on a sidewalk, except when otherwise specifically provided by statute.

(4) Subject to the provisions of subsections (1) to (3) of this section, for purposes of the vehicle code:

(a) An electric personal assistive mobility device is a vehicle; and

(b) When the term "vehicle" is used the term shall be deemed to be applicable to electric personal assistive mobility devices, except those provisions that by their very nature can have no application to the devices.

(5) The provisions of the vehicle code relating to the operation of an electric personal assistive mobility device do not relieve an operator or motorist from the duty to exercise due care. [2003 c.341 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.552 - Unsafe operation of electric personal assistive mobility device; penalty.**

(1) A person commits the offense of unsafe operation of an electric personal assistive mobility device if:

(a) The person is operating an electric personal assistive mobility device on a highway that has a designated or posted speed limit greater than 35 miles per hour or that has no designated or posted speed limit, and the person is not in a bicycle lane or crossing the

highway;

(b) The person is operating an electric personal assistive mobility device on a bicycle lane, bicycle path or any part of a highway at a speed greater than 15 miles per hour;

(c) The person is operating an electric personal assistive mobility device on a sidewalk in a careless manner that endangers or would be likely to endanger any person or property;

(d) The person is operating an electric personal assistive mobility device on a bicycle lane, bicycle path, sidewalk or other premises open to the public and the person carries another person on the electric personal assistive mobility device;

(e) The person is operating an electric personal assistive mobility device at a speed greater than an ordinary walk when approaching a crosswalk, approaching or entering a driveway or crossing a curb cut or pedestrian ramp and a motor vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp; or

(f) The person is operating an electric personal assistive mobility device on a sidewalk and does not give an audible warning before overtaking and passing a pedestrian and does not yield the right of way to all pedestrians on the sidewalk.

(2) The offense described in this section, unsafe operation of an electric personal assistive mobility device, is a Class D traffic violation. [2003 c.341 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.554 - Local government and state agency regulation of operation of electric personal assistive mobility devices.**

Local governments and state agencies having jurisdiction over public highways, sidewalks, alleys, bridges, trails, recreational roads and other ways of public passage may regulate by ordinance or rule and by traffic control device the time, place and manner of operation of electric personal assistive mobility devices, including prohibiting their use entirely. [2003 c.341 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 814 - Pedestrians; Passengers; Livestock; Motorized Wheelchairs; Vehicles With Fewer Than Four Wheels Section 814.600 - Failure of skateboarder, scooter rider or in-line skater to wear protective headgear; penalty.**

(1) A person commits the offense of failure of a skateboarder, scooter rider or in-line skater to wear protective headgear if the person is under 16 years of age, rides on a skateboard or scooter or uses in-line skates on a highway or on premises open to the public and is not wearing protective headgear of a type approved under ORS 815.052.

(2) The offense described in this section, failure of a skateboarder, scooter rider or in-line skater to wear protective headgear, is a specific fine traffic violation punishable by a maximum fine of \$25. The presumptive fine for failure of a skateboarder, scooter rider or in-line skater to wear protective headgear is \$25. [2003 c.106 §1; 2011 c.597 §107]

Note:

814.600 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.005 - Consistent parts and equipment authorized.**

Nothing in the vehicle code shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of the vehicle code. [1983 c.338 §434]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.010 - Compliance with standards for equipment; federal standards to supersede state.**

(1) Testing requirements for equipment standards adopted under the vehicle code shall be met by the manufacturer submitting a report from a laboratory approved by the Department of Transportation showing compliance with the current federal regulations or the standards of the Society of Automotive Engineers, the American National Standards Institute or the National Institute of Standards and Technology. This subsection supersedes any provision to the contrary in the vehicle code.

(2) A federal vehicle safety standard that conflicts with an equipment provision of the vehicle code applicable to the same aspect of performance shall supersede that specific provision of the vehicle code with respect to vehicles in compliance with the federal vehicle safety standard that was in effect at the time of sale. [1983 c.338 §435; 1985 c.16 §228; 1989 c.402 §2; 1991 c.67 §221; 2003 c.14 §497; 2003 c.158 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.015 - Department inspection of vehicles for compliance.**

The Department of Transportation may at any time inspect any vehicle to determine its compliance with the equipment provisions and other provisions of the vehicle code. [1983 c.338 §436]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.020 - Operation of unsafe vehicle; penalty.**

- (1) A person commits the offense of operation of an unsafe vehicle if the person does any of the following:
  - (a) Drives or moves on any highway any vehicle which is in such unsafe condition as to endanger any person.
  - (b) Owns a vehicle and causes or knowingly permits the vehicle to be driven or moved on any highway when the vehicle is in such unsafe condition as to endanger any person.
- (2) The offense described in this section, operation of an unsafe vehicle, is a Class B traffic violation. [1983 c.338 §437]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.025 - Causing unreasonable noise with vehicle; penalty.**

- (1) A person commits the offense of causing unreasonable noise with a vehicle if the person operates upon any highway any motor vehicle so as to cause any greater noise or sound than is reasonably necessary for the proper operation of the vehicle.
- (2) The offense described in this section, causing unreasonable noise with a vehicle, is a Class D traffic violation. [1983 c.338 §438; 1987 c.158 §171; 1995 c.383 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.030 - State vehicle equipment standards.**

- (1) The Department of Transportation shall adopt and enforce minimum standards for vehicle performance or vehicle equipment performance consistent with this section.
- (2) Standards adopted by the department under this section shall be consistent with any vehicle standards established under federal regulations or under standards of the Society of Automotive Engineers, the American National Standards Institute or the National Institute of Standards and Technology.
- (3) As federal regulations concerning vehicle equipment are subsequently amended or repealed the department may consider subsequent federal vehicle safety standards and adopt standards with respect to any vehicle or item of vehicle equipment applicable to the same aspect of performance of such vehicle or item of equipment if the department determines that the subsequent federal standards are practicable, provide an objective standard and meet the need for vehicle safety.
- (4) Standards adopted by the department under this section supersede any equipment provision of the vehicle code applicable to the same aspect of performance that conflicts with a specific provision of a standard adopted by the department under this section with respect to compliance with safety standards in effect at the time of sale.
- (5) The department shall continue to adopt equipment standards as required under other sections of the vehicle code if there is no standard under this section.
- (6) Proof of certification of equipment under this section may be in the form of a symbol or designation prescribed in federal standards or if there is no federal symbol or designation, by a symbol or designation acceptable to the department.
- (7) Compliance with any requirements for equipment under this section is subject to ORS 815.010.
- (8) Prohibitions and penalties relating to the standards established under this section are provided under ORS 815.075 and 815.100. [1983 c.338 §439; 1985 c.188 §1; 2003 c.158 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.035 - Rules for standards for roadside warning devices.**

The Department of Transportation shall adopt rules to establish standards for roadside vehicle warning devices for purposes of ORS 811.530 and 815.285. The rules shall include requirements for the placement and use of such warning devices to provide warning of disabled vehicles. [1985 c.16 §230]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.040 - Standards for window and windshield material.**

- (1) The Department of Transportation shall establish standards for safety glazing material used in vehicle windows and windshields including standards for any glazing material so constructed, treated or combined with other materials as to reduce substantially, in comparison to ordinary sheet or plate glass, the likelihood of injury to persons by broken or cracked glass or by objects from external sources.
- (2) The standards established under this section shall conform, insofar as practical, to safety standards and specifications for safety glazing material issued by the federal government.
- (3) Prohibitions and penalties relating to the standards established under this section are provided under ORS 815.090 and 815.210.
- (4) The standards established under this section may not restrict the installation and use of window tinting material that meets the requirements of ORS 815.221. [1983 c.338 §440; 1989 c.402 §3; 1995 c.263 §5; 2003 c.14 §498; 2003 c.158 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.045 - Rules for use of traction tires, retractable studded tires and chains; signs.**

- (1) The Oregon Transportation Commission shall adopt rules necessary to carry out ORS 815.140 and 815.142. The rules adopted by the commission:
  - (a) Shall establish the various types of conditions under which vehicle traction tires or chains must be used or carried.

(b) Shall define types of vehicle traction tires or chains that may be used or carried under various road conditions. The commission rules under this paragraph shall comply with the following:

(A) Traction tire shall be defined to include any tire that meets traction standards established by the Department of Transportation.

(B) Retractable studded tires or tires with studs that are permitted under ORS 815.165 shall be allowed as traction tires under the rules.

(C) The department may require that traction tires without studs bear identifying marks, defined by the department, that indicate that the tire was manufactured specifically for adverse weather conditions.

(D) Chains shall be defined to include link chains, cable chains or any other device that attaches to the wheel, vehicle or outside of the tire and that augments the traction of a vehicle.

(E) Retractable studded tires shall be defined to include tires with embedded studs that project beyond the tread surface only when a vehicle operator extends the studs to augment the traction of the vehicle.

(c) Shall establish signs to be posted under conditions that require vehicle traction tires or chains to be used or carried.

(d) May establish types or classes of vehicles that are exempt from requirements to use or carry vehicle traction tires or chains under certain conditions if the commission determines that the operation of the class or type of vehicle would be safe under those conditions.

(2) A road authority shall:

(a) Determine when conditions on a segment of highway require a person to use or carry vehicle traction tires or chains as defined by the commission;

(b) Determine which segments of a highway shall be posted as described under this section to require a person to use or carry vehicle traction tires or chains; and

(c) Provide for the placement and removal of signs requiring a person to use or carry vehicle traction tires or chains. [1983 c.338 §441; 1985 c.16 §231; 1993 c.741 §86; 1997 c.493 §1; 2007 c.406 §1; 2021 c.630 §97]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.052 - Rules establishing standards for protective headgear.**

The Department of Transportation shall adopt and enforce rules establishing minimum standards and specifications for safe protective headgear to be worn by people operating bicycles, by passengers on bicycles and by people riding on skateboards or scooters or using in-line skates. The rules shall conform, insofar as practicable, to national safety standards and specifications for such headgear. [1993 c.408 §6; 2003 c.106 §2; 2005 c.141 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.055 - Rules establishing standards for safety belts, harnesses and child safety systems.**

(1) The Department of Transportation shall adopt and enforce rules establishing minimum standards and specifications for the construction and installation of safety belts, safety harnesses or child safety systems and anchors or other devices to which safety belts, safety harnesses or child safety systems may be attached and secured. The rules adopted under this subsection are subject to the following:

(a) The rules that establish minimum standards and specifications for child safety systems required and regulated under this section and ORS 811.210 and 815.080 shall conform to the standards for child safety systems established by the federal government. Child safety systems are required to meet those standards in effect at the date of manufacture.

(b) All rules adopted under this subsection shall conform to the regulations and standards established by the federal government relating to safety belt assemblies that are applicable to motor vehicles at the date of manufacture.

(2) The department may purchase in the market and test or submit to testing laboratories any safety belt, safety harness, child safety system or anchor or other device. The department shall enforce the penalties under ORS 815.080 if it determines that the belt, harness, child safety system or anchor or other device does not conform to the minimum standards established under this section.

(3) Prohibitions and penalties relating to sale and use of equipment subject to this section are provided under ORS 811.210 and 815.080. [1983 c.338 §443; 1985 c.16 §233; 1989 c.402 §4; 1993 c.751 §74; 2001 c.679 §2; 2003 c.158 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.060 - Rules establishing standards for slow-moving vehicle emblems.**

The Department of Transportation shall adopt rules for slow-moving vehicle emblems for purposes of ORS 815.110 and 815.115. The rules adopted under this section shall:

(1) Require a slow-moving vehicle emblem that is reflectorized or fluorescent and that is of a standard type.

(2) Establish design and mounting requirements that the emblem must meet.

(3) Conform to the nationally accepted standards for slow-moving vehicle emblems. [1983 c.338 §444]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.065 - Rules establishing standards for hydraulic brake fluid.**

The Department of Transportation shall adopt and enforce rules for the purpose of regulation of hydraulic brake fluid under ORS

815.085. The rules shall establish standards and specifications and labeling requirements for hydraulic brake fluid and other liquid mediums through which force is transmitted to the brakes in the hydraulic brake system of a vehicle. The rules, in so far as practicable, shall conform to safety standards and specifications for brake fluids issued by the federal government and to the current standards and specifications of the Society of Automotive Engineers applicable to such fluid. The department shall publish rules adopted under this section. Penalties and prohibitions relating to the rules are as provided under ORS 815.085. [1983 c.338 §446; 1989 c.402 §5; 2003 c.158 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.070 - Road warning signals for tow vehicles or wreckers.**

The Oregon Transportation Commission shall prescribe warning signs or signals for placement on roadways by tow vehicles or wreckers under ORS 822.220. [1983 c.338 §449; 1985 c.16 §236; 1987 c.119 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.075 - Selling vehicles or equipment that violates rules; exemptions; penalty.**

(1) A person commits the offense of selling vehicles or equipment that violates state equipment administrative rules if the person sells or offers for sale any vehicle or sells or offers for sale for use upon a vehicle or uses on any vehicle any equipment if the vehicle or equipment:

(a) Does not conform to standards established by the Department of Transportation by rule under ORS 815.030; and

(b) Does not bear thereon proof of certification that it complies with the applicable standards.

(2) Proof of certification required under this section may be made in any manner provided under ORS 815.030.

(3) This section is subject to the following exemptions in addition to any exemptions under ORS 801.026:

(a) Vehicles of special interest that are registered under ORS 805.020 are deemed to comply with this section if:

(A) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and are maintained in safe operating order; or

(B) The vehicles are street rods that conform to ORS 815.107.

(b) Road machinery, road rollers, implements of husbandry, farm trailers and farm tractors are not subject to this section.

(c) Antique vehicles are not subject to this section if the vehicles are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(d) Racing activity vehicles are not subject to this section.

(4) The offense described under this section, selling vehicles or equipment that violates state equipment administrative rules, is a Class D traffic violation. [1983 c.338 §450; 1985 c.16 §237; 1989 c.402 §6; 1995 c.79 §375; 1995 c.383 §23; 1997 c.402 §6; 2007 c.693 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.077 - Providing airbag or automobile supplemental restraint system component that does not comply with federal standards for make, model and year of motor vehicle; violation is unlawful practice.**

(1) As used in this section:

(a) "Airbag" means an inflatable restraint device for occupants of motor vehicles that is part of an automobile supplemental restraint system.

(b) "Automobile supplemental restraint system" means a passive inflatable crash protection system that a vehicle manufacturer designs to protect automobile occupants in conjunction with a seat belt assembly, as defined in 49 C.F.R. 571.209, and that has one or more airbags and all components required to ensure that each airbag:

(A) Operates as designed in a crash; and

(B) Meets federal motor vehicle safety standards for the specific make, model and year of manufacture of the vehicle in which the airbag is installed.

(c) "Counterfeit automobile supplemental restraint system component" means a replacement component, including an airbag, that without the authorization of a manufacturer, or a person that supplies parts to the manufacturer, displays a trademark that is identical or substantially similar to the manufacturer's or supplier's genuine trademark.

(d)(A) "Nonfunctional airbag" means a replacement airbag that:

(i) Was previously deployed or damaged;

(ii) Has a fault that a motor vehicle's diagnostic systems detect once the airbag is installed;

(iii) May not be sold or leased under 49 U.S.C. 30120(j); or

(iv) Includes a counterfeit automobile supplemental restraint system component or other part or object that is installed for the purpose of misleading a motor vehicle owner or operator into believing that a functional airbag is installed.

(B) "Nonfunctional airbag" does not include an unrepaired deployed airbag or an airbag that is installed in a motor vehicle:

(i) That has been declared a total loss or is otherwise a totaled vehicle, as defined in ORS 801.527; or

(ii) For which the owner was issued a salvage title certificate or a similar title from another state.

(2)(a) A person may not knowingly or intentionally:

(A) Manufacture, import, distribute, offer for sale, sell or lease or otherwise transfer, or install or reinstall into a motor vehicle, a

counterfeit automobile supplemental restraint system component, a nonfunctional airbag or an object that replaces an automobile supplemental restraint system component and does not comply with Standard No. 208, 49 C.F.R 571.208, for the make, model and year of the motor vehicle; or

(B) Install or reinstall as part of an automobile supplemental restraint system any object, component, part or device that causes a motor vehicle's diagnostic system to fail to warn the motor vehicle operator that an airbag is not installed, or that a counterfeit automobile supplemental restraint system component or nonfunctional airbag is installed in the motor vehicle.

(b) For the purposes of paragraph (a) of this subsection, an installation of a counterfeit automobile supplemental restraint system component, a nonfunctional airbag or an object that replaces an automobile supplemental restraint system component and does not comply with Standard No. 208, 49 C.F.R 571.208, for the make, model and year of the motor vehicle does not occur until the installation work is complete and the earlier of these two conditions occurs:

(A) The motor vehicle is returned to the operator; or

(B) Title to the motor vehicle is transferred.

(3) A person that violates subsection (2) of this section engages in an unlawful practice under ORS 646.608. [2023 c.278 §1]

Note:

815.077 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.080 - Providing safety belt, harness or child safety system that does not comply with standards; exemptions; penalty.**

(1) A person commits the offense of providing a safety belt, harness equipment or a child safety system that does not comply with standards if the person does any of the following:

(a) Sells or offers for sale a new motor vehicle that is not equipped with safety belts, safety harnesses or child safety systems that comply with and are installed in compliance with the rules adopted by the Department of Transportation under ORS 815.055. This paragraph applies only to motor vehicles that are primarily designed for transportation of individuals and that have seating for one or more passengers side-by-side with the operator. This paragraph requires only that the vehicle be equipped with one seat belt or harness for the operator and one for at least one of the passengers seated beside the operator.

(b) Sells or offers for sale any safety belt, safety harness, child safety system, anchor or other device for attaching or securing safety belts, safety harnesses or child safety system if the belt, harness, child safety system, anchor or device does not comply with the rules adopted by the department under ORS 815.055. This paragraph applies only to belts, harnesses, child safety systems, anchors or devices for use or installation on a vehicle that is primarily designed for transportation of individuals.

(c) Sells or offers for sale any safety belt, safety harness, child safety system, anchor or other device for attaching or securing safety belts, safety harnesses or child safety systems if the belt, harness, child safety system, anchor or device is not marked as required under federal safety standards and if the mark is not legible when the belt, harness, child safety system, anchor or other device is used or installed on a vehicle. This paragraph applies only to belts, harnesses, child safety systems, anchors or devices for use or installation on a vehicle that is primarily designed for transportation of individuals.

(d) Installs any safety belt, safety harness, child safety system, anchor or other device for attaching or securing safety belts, safety harnesses or child safety systems on a vehicle that is primarily designed for the transportation of individuals except in compliance with rules adopted by the department under ORS 815.055.

(2) This section does not apply to school buses or school activity vehicles that are subject to equipment standards adopted by the State Board of Education or the governing board of a public university listed in ORS 352.002.

(3) The offense described in this section, providing a safety belt, harness equipment or a child safety system that does not comply with standards, is a Class C traffic violation. [1983 c.338 §452; 1985 c.16 §238; 1985 c.420 §5; 1987 c.119 §3; 1993 c.751 §113; 1995 c.383 §24; 1999 c.39 §10; 2003 c.158 §11; 2015 c.767 §210]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.085 - Servicing with or selling unapproved brake fluid; penalty.**

(1) A person commits the offense of servicing with or selling unapproved brake fluid if the person does any of the following:

(a) Distributes, has for sale, offers for sale or sells any hydraulic brake fluid or any other liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle if the fluid or liquid does not comply with the standards, specifications and labeling established by rule by the Department of Transportation under ORS 815.065.

(b) Services any vehicle with any hydraulic brake fluid or any other liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle if the fluid or liquid does not comply with the standards, specifications and labeling established by rule by the department under ORS 815.065.

(2) The offense described in this section, servicing with or selling unapproved brake fluid, is a Class A misdemeanor. [1983 c.338 §454]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.090 - Replacement of vehicle windows with unapproved material; penalty.**

(1) A person commits the offense of replacement of vehicle windows with unapproved material if the person makes or procures the replacement of windows or windshields in a motor vehicle and the replacement is made with a material that does not meet the standards established by the Department of Transportation under ORS 815.040.

(2) This section does not apply to vehicles that are exempt under ORS 815.210 from the prohibitions against operating a vehicle without approved materials in the vehicle windows.

(3) The offense described in this section, replacement of vehicle windows with unapproved material, is a Class A misdemeanor. [1983 c.338 §455; 2003 c.158 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.095 - Unlawful sales, installations or representations concerning pollution control systems; penalty.**

(1) A person commits the offense of making unlawful sales of, installations of or representations concerning vehicle pollution control systems if the person does any of the following:

(a) Sells, displays, advertises or represents as a certified system any motor vehicle pollution control system that is not certified under ORS 468A.365.

(b) Sells, displays, advertises or represents as an approved retrofit technology any retrofit technology that is not approved under ORS 468A.810.

(c) Installs or sells for installation upon a motor vehicle any motor vehicle pollution control system for which a certificate of approval has not been issued under ORS 468A.365.

(2) The offense described in this section, making unlawful sales, installations or representations concerning vehicle pollution control systems, is a Class A misdemeanor but each day of violation does not constitute a separate offense. [1983 c.338 §456; 1985 c.16 §239; 2019 c.645 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.097 - Providing vehicle with mercury light switch.**

A person commits the offense of providing a vehicle with a mercury light switch if the person sells or offers for sale in this state a vehicle manufactured after January 1, 2006, that contains a mercury light switch mounted on the hood or trunk. [2001 c.924 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.100 - Operation of vehicle that violates equipment rules; penalty.**

(1) A person commits the offense of operation of a vehicle that violates state equipment administrative rules if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a vehicle if the vehicle or any equipment on the vehicle:

(a) Does not conform to standards established by the Department of Transportation by rule under ORS 815.030; and

(b) Does not bear thereon proof of certification that it complies with the applicable standards.

(2) Proof of certification required under this section may be made in any manner provided under ORS 815.030.

(3) This section is subject to the exemptions from this section established under ORS 815.105.

(4) Vehicle equipment standards established by rule under ORS 815.030 supersede any other equipment standards under the vehicle code when so provided by ORS 815.030.

(5) The offense described under this section, operation of vehicle that violates state equipment administrative rules, is a Class C traffic violation. [1983 c.338 §466; 1985 c.16 §244; 1985 c.393 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.105 - Exemptions from equipment requirements.**

This section establishes exemptions from ORS 815.030 and 815.100. Exemptions under this section are in addition to any exemptions under ORS 801.026. Exemptions under this section are partial or complete as described in the following:

(1) Vehicles of special interest that are registered under ORS 805.020 are deemed to comply with ORS 815.030 and 815.100 if:

(a) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and are maintained in safe operating condition; or

(b) The vehicles are street rods that conform to ORS 815.107.

(2) Road machinery, road rollers, implements of husbandry, farm trailers and farm tractors are exempt from ORS 815.030 and 815.100.

(3) Antique vehicles are exempt from ORS 815.030 and 815.100 if the vehicles are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(4) Motorized wheelchairs are exempt from ORS 815.030 and 815.100 when used as permitted under ORS 811.440.

(5) Racing activity vehicles are exempt from ORS 815.030 and 815.100. [1983 c.338 §467; 1985 c.16 §245; 1989 c.402 §7; 1991 c.417 §5; 1997 c.402 §7; 2007 c.693 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.107 - Exemption from equipment requirements for street rods.**

A vehicle of special interest that is a street rod is exempt from vehicle equipment requirements under ORS 815.075, 815.105, 815.120, 815.135, 815.175, 815.190, 815.210, 815.215, 815.230, 815.250, 815.255 and 816.340 if all of the following apply:

- (1) The vehicle is equipped with original manufacturer's equipment and accessories, or their equivalent, except that:
  - (a) The drive train, suspension system or brake system on the original vehicle may be replaced with a drive train, suspension system or brake system that:
    - (A) Conforms to the requirements of ORS 815.125, if applicable;
    - (B) Conforms to applicable standards established by the Department of Transportation by rule under ORS 815.030; and
    - (C) Bears any required proof of certification that the equipment complies with the applicable standards;
  - (b) The dimensions of the original body of the vehicle may be altered if the altered body conforms to the standards established by the department by rule under ORS 815.030;
  - (c) The hood, bumpers and fenders of the vehicle may be removed from the vehicle; and
  - (d) The exhaust system may be modified to discharge exhaust along the side of the vehicle if the exhaust is discharged away from the vehicle and from a location to the rear of the rear edge of the front door of the vehicle.
- (2) The vehicle is maintained in safe operating condition. [1997 c.402 §5; 1999 c.59 §243]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.109 - Exemption from equipment requirements for racing activity vehicles.**

A racing activity vehicle is exempt from vehicle equipment requirements under ORS 815.040, 815.075, 815.250, 815.295 and 815.310 if all of the following apply:

- (1) The vehicle is equipped with original manufacturer's equipment and accessories or their equivalent; and
- (2) The vehicle is maintained in safe operating condition. [2007 c.693 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.110 - Requirements for and use of slow-moving vehicle emblem.**

This section establishes requirements for ORS 815.115. The requirements under this section are in addition to any other requirements for lighting equipment provided by law. Except as specifically provided by an exemption under ORS 815.120, a person violates ORS 815.115 if the person does not comply with any of the following requirements:

- (1) The following types of vehicles must display slow-moving vehicle emblems described under ORS 815.060:
  - (a) Vehicles or combinations of vehicles designed for customary use at speeds of less than 25 miles per hour.
  - (b) Golf carts or similar vehicles when operated by a person with a disability.
  - (c) Class I, Class II and Class IV all-terrain vehicles operated on a highway under ORS 821.191 (1).
- (2) Slow-moving vehicle emblems must meet the requirements for such emblems established by the Department of Transportation by rule under ORS 815.060.
- (3) Slow-moving vehicle emblems shall be displayed on the rear of the power unit. When a combination of vehicles is being operated in a manner that obscures the emblem mounted on the power unit, an additional emblem shall be displayed on the rear of the rearmost vehicle in the combination. [1983 c.338 §469; 2001 c.529 §5; 2007 c.70 §347; 2007 c.207 §3; 2011 c.360 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.115 - Violation of emblem requirements; penalty.**

- (1) A person commits the offense of violation of slow-moving vehicle emblem requirements if the person:
  - (a) Drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a vehicle or combination of vehicles if the vehicle or combination of vehicles:
    - (A) Is required by ORS 815.110 to be equipped with a slow-moving vehicle emblem and the vehicle is not equipped with an emblem in the manner required by ORS 815.060.
    - (B) Is displaying a slow-moving vehicle emblem when not required under ORS 815.110 or in a manner not in conformity with ORS 815.060; or
    - (b) Displays a slow-moving vehicle emblem on a highway when not required under ORS 815.110.
- (2) This section is subject to exemptions from this section established under ORS 815.120.
- (3) The offense described in this section, violation of slow-moving vehicle emblem requirements, is a Class C traffic violation. [1983 c.338 §468; 1985 c.393 §17; 2013 c.478 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.120 - Exemptions from emblem requirements.**

This section establishes exemptions from the requirements of ORS 815.110 and 815.115. The exemptions under this section are in addition to any exemptions under ORS 801.026. The exemptions under this section are partial or complete as described in the following:

- (1) Vehicles of special interest that are registered under ORS 805.020 are deemed to comply with the requirements if:
  - (a) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and are maintained in



safe operating condition; or

(b) The vehicles are street rods that conform to ORS 815.107.

(2) Antique vehicles are not subject to the standards if the vehicles are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(3) Road machinery, road rollers and farm tractors are not subject to the requirements except as provided in this subsection. Such vehicles or combinations thereof are subject to the requirements if the vehicles are designed for use at speeds less than 25 miles per hour, except when such vehicles are engaged in actual construction or maintenance work and guarded by a flagger or by clear visible warning signs. [1983 c.338 §470; 1985 c.16 §246; 1985 c.69 §8; 1997 c.402 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.125 - Requirements and standards.**

This section establishes requirements for ORS 815.130. Except as specifically provided by an exemption under ORS 815.135, a vehicle or combination of vehicles is in violation of ORS 815.130, if the vehicle or combination of vehicles is not equipped with brakes as required under the following or if the brakes do not meet the standards described under the following:

(1) Motorcycles and mopeds shall be provided with at least one brake that may be operated by hand or foot.

(2) Motor vehicles other than mopeds or motorcycles shall be equipped with brakes that include two separate means of applying the brakes. Each of the separate means of applying the brakes shall be effective to apply the brakes to at least two wheels and, if the separate means of applying the brakes are connected in any way, shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

(3) A combination of vehicles that includes a motor vehicle and any other vehicle shall be equipped with a brake system on one or more of the vehicles.

(4) Brakes on any vehicle must be adequate to control movement of and to stop and to hold the vehicle or combination of vehicles.

(5) Brakes on any vehicle must be maintained in good working order.

(6) Every motor vehicle and combination of motor vehicles except mopeds or motorcycles shall at all times be equipped with a parking brake system. A parking brake system required by this subsection must meet all the following requirements:

(a) The system must be adequate to hold the vehicle or combination of motor vehicles on any grade where operated under any condition of loading on a surface free from ice or snow.

(b) The system shall at all times be capable of being applied by either the driver's muscular effort, by spring action or by other energy. This paragraph is violated if the method for applying the system is not sufficient to make the system hold a vehicle as required by this subsection.

(c) If the system is applied by an energy source, the source must be isolated from other uses and used exclusively for the operation of the system.

(d) The method for keeping the brakes applied must be other than by fluid pressure, air pressure or electric energy.

(e) The system shall be designed so that the brakes cannot be released unless they may be immediately reapplied.

(7) Brakes on vehicles of the following described weight must be able to stop the vehicle moving at the described speed within the described distance without leaving a 12-foot-wide lane:

(a) Vehicles with a registration weight of less than 8,000 pounds must be able to brake from a speed of 20 miles per hour to a stop within 25 feet.

(b) Vehicles with a registration weight of 8,000 pounds or more and combinations of vehicles must be able to brake from a speed from 20 miles per hour to a stop within 35 feet. [1983 c.338 §472; 1985 c.16 §247]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.130 - Improper brakes; penalty.**

(1) A person commits the offense of having improper brakes if the person does any of the following:

(a) Drives or moves on any highway a vehicle that is not equipped with brakes that meet requirements under ORS 815.125.

(b) Owns a vehicle and causes or knowingly permits the vehicle to be driven or moved on any highway when the vehicle is not equipped with brakes that meet the requirements under ORS 815.125.

(2) This section is subject to the exemptions from this section established under ORS 815.135.

(3) The offense described in this section, improper brakes, is a Class C traffic violation. [1983 c.338 §471; 1995 c.383 §25]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.135 - Exemptions from brake requirements.**

This section establishes exemptions from ORS 815.130. This section establishes exemptions from ORS 815.130. The exemptions under this section are in addition to any exemptions under ORS 801.026. The exemptions under this section are partial or complete as described in the following:

(1) The following vehicles shall be deemed in compliance with the brake requirements if the vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and maintained in safe operating condition:

(a) Except as provided in subsection (2) of this section, vehicles of special interest that are registered under ORS 805.020.

(b) Antique vehicles that are registered under ORS 805.010.

(2) Vehicles of special interest that are registered under ORS 805.020 and that are street rods, as defined in ORS 801.513, shall be deemed in compliance with the brake requirements if the street rods conform to ORS 815.107.

(3) The following vehicles are exempt from the brake requirements:

(a) Road machinery.

(b) Road rollers.

(c) Farm tractors.

(d) Electric personal assistive mobility devices.

(e) A trailer transporting a dory, unless the trailer is operated in interstate commerce, has a gross combination weight rating of more than 11,999 pounds or has a gross combination weight of more than 11,999 pounds. [1983 c.338 §473; 1985 c.69 §2; 1997 c.402 §9; 2003 c.341 §15; 2015 c.138 §31; 2017 c.78 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.140 - Failure to use vehicle traction tires or chains; penalty.**

(1) A person commits the offense of failure to use vehicle traction tires or chains if the person drives or moves or owns and causes or knowingly permits to be driven or moved any motor vehicle or trailer on any highway if the highway is posted showing conditions that require vehicle traction tires or chains and the vehicle is not equipped with vehicle traction tires or chains that are required for the posted conditions.

(2) Traction tires or chains that are referred to in this section are those established by rule under the authority granted under ORS 815.045.

(3) This section does not apply to vehicles exempted from this section under ORS 815.145.

(4) This section only applies to sections of highway on which a road authority requires the use of traction tires or chains and on which signs requiring the use of traction tires or chains have been posted as provided in ORS 815.045.

(5) A court may not find a person to be in violation of the offense described under this section if the court determines that the conditions of the highway at the time the person was cited did not require posting under rules adopted under ORS 815.045. The defense under this subsection may be affirmatively asserted by any person cited for violation of the offense described in this section.

(6) Except as provided in subsection (7) of this section, the offense described in this section, failure to use vehicle traction tires or chains, is a Class C traffic violation.

(7) Failure to use vehicle traction tires or chains is a specific fine traffic violation if the person was operating a motor vehicle registered under ORS chapter 826 at the time of the offense. The presumptive fine for failure to use vehicle traction tires or chains is \$880. [1983 c.338 §474; 1995 c.383 §119; 1997 c.493 §2; 2021 c.630 §43; 2022 c.25 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.142 - Failure to carry vehicle traction tires or chains; penalty.**

(1) A person commits the offense of failure to carry vehicle traction tires or chains if the person drives or moves or owns and causes or knowingly permits to be driven or moved any motor vehicle or trailer on any highway if the highway is posted showing conditions that require the person to carry vehicle traction tires or chains within the vehicle and the vehicle does not contain vehicle traction tires or chains.

(2) Traction tires or chains that are referred to in this section are those established by rule under the authority granted under ORS 815.045.

(3) This section does not apply to vehicles exempted from this section under ORS 815.145.

(4) This section applies only to sections of highway on which a road authority requires a person to carry traction tires or chains within the vehicle and on which signs requiring the carrying of traction tires or chains have been posted as provided in ORS 815.045.

(5) A court may not find a person to be in violation of the offense described under this section if the court determines that the conditions of the highway at the time the person was cited did not require posting under rules adopted under ORS 815.045. The defense under this subsection may be affirmatively asserted by any person cited for violation of the offense described in this section.

(6) The offense described in this section, failure to carry vehicle traction tires or chains, is a Class C traffic violation. [2021 c.630 §95]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.145 - Exemptions from traction tire or chains requirement.**

(1) This section establishes exemptions from ORS 815.140 and 815.142.

(2) The following are completely or partially exempt as described:

(a) Police vehicles under any conditions.

(b) Fire vehicles when responding to a fire.

(c) An ambulance when responding to an emergency.

(3) A passenger vehicle or truck is not required to use chains if the vehicle or truck:

(a) Has an unloaded weight of 6,500 pounds or less;

(b) Is equipped and operated to provide power to both front and rear wheels;

- (c) Is carrying chains as defined in ORS 815.045;
  - (d) Is equipped with tires, on all wheels, that are vehicle traction tires as defined in ORS 815.045;
  - (e) Is not towing another vehicle other than as may be necessary to remove disabled vehicles from the roadway; and
  - (f) Is not being operated in a manner or under conditions where the vehicle loses traction while stopping, cornering or moving.
- [1983 c.338 §475; 1997 c.493 §3; 2021 c.630 §98]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.155 - Unlawful use of device without wheels; exemptions; civil liability; penalty.**

- (1) A person commits the offense of unlawful use of devices without wheels if the person does any of the following:
- (a) Drives or moves on a highway any sled or other device that does not move exclusively on revolving wheels or rotating tracks in contact with the surface of the highway and that has a loaded weight in excess of 500 pounds.
  - (b) Owns a sled or other device that does not move exclusively on revolving wheels or rotating tracks in contact with the surface of the highway and that has a loaded weight in excess of 500 pounds and causes or permits the sled or device to be driven or moved on a highway. Operation of any sled or device in violation of this section is prima facie evidence that the owner of the sled or device caused or permitted the sled or device to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section.
- (2) The application of this section is subject to the following exemptions:
- (a) This section does not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.
  - (b) This section does not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.
  - (c) Operations authorized under the terms of a variance permit issued under ORS 818.200 are subject to the terms of the permit. It is a defense to any charge of violation of this section if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation issued prior to and valid at the time of the offense.
  - (d) This section does not apply to any vehicle, combination of vehicles, article, machine or other equipment while being used by the federal government, the State of Oregon, or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.
  - (e) This section does not apply to vehicles while being used on the roads of a road authority by mass transit districts for the purposes authorized under ORS 267.010 to 267.394, provided the operation is approved by the road authority for that road.
- (3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.
- (4) The offense described in this section, unlawful use of devices without wheels, is a Class C traffic violation. [1983 c.338 §477; 1985 c.16 §249; 1985 c.393 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.160 - Unlawful use of metal objects on tires; civil liability; penalty.**

- (1) A person commits the offense of unlawful use of metal objects on tires if the person does any of the following:
- (a) Drives or moves on a highway any vehicle equipped with any tire having on its periphery any block, stud, cleat, bead, chain or other protuberance of metal or other inflexible material that projects beyond the tread or traction surface of the tire.
  - (b) Owns a vehicle and causes or permits the vehicle to be driven or moved on a highway when the vehicle is equipped with any tire having on its periphery any block, stud, cleat, bead, chain or other protuberance of metal or other inflexible material that projects beyond the tread or traction surface of the tire. Operation of any vehicle in violation of this section is prima facie evidence that the owner of the vehicle caused or permitted the vehicle to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.
- (2) The application of this section is subject to the exemptions from this section established under ORS 815.165.
- (3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.
- (4) The offense described in this section, unlawful use of metal objects on tires, is a Class C traffic violation. [1983 c.338 §478; 1985 c.393 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.165 - Exemptions from prohibition on tires with metal objects.**

This section establishes exemptions from ORS 815.160. The exemptions under this section are in addition to any under ORS 801.026. Exemptions are partial or complete as described in the following:

- (1) Any vehicle on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.
- (2) Any vehicle on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.
- (3) Operations approved under a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a

defense to any charge of violation of ORS 815.160 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation issued prior to and valid at the time of the offense.

(4) Vehicles actually engaged at the time in construction or repair of highways in this state.

(5) Traction engines moved upon dirt or unimproved roads.

(6) Vehicles equipped with chains as defined in ORS 815.045.

(7) Between November 1 of any year and April 1 of the following year, vehicles equipped with any tire having on its periphery studs of metal or other material projecting beyond the tread surface of the tire not less than four-hundredths (0.04) inch nor more than six-hundredths (0.06) inch and made of such material that the studs will wear, through use, at the same rate as the tread surface of the tire. When the preservation of the highway surface or the safety of the traveling public so indicates, the Department of Transportation shall have the authority to shorten or lengthen the period for the permissible use of such tires in any area of the state specifically designated by the department.

(8) School buses with a loaded weight of 10,000 pounds or more.

(9) Emergency vehicles and ambulances used in an emergency situation.

(10) Motor vehicles used for regularly scheduled medical transport services.

(11) The owner or lessee of any land adjoining any highway may move across or along the highway any tractor or implement of husbandry for the purpose of planting, cultivating, caring for or harvesting any crop, on condition that the owner or lessee shall be liable to the State of Oregon for the benefit of the State Highway Fund with respect to state highways, or to the proper county for the benefit of the county road fund with respect to county highways, for any damage or injury done to the highway by the movement.

(12) Vehicles equipped with retractable studded tires as defined in ORS 815.045. [1983 c.338 §479; 1985 c.420 §7; 1997 c.493 §4; 2003 c.757 §1; 2007 c.406 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.167 - Prohibition on selling studs other than lightweight studs; exemption.**

(1) Except as provided in subsection (4) of this section, a tire dealer may not sell a tire equipped with studs that are not lightweight studs.

(2) A tire dealer may not sell a stud other than a lightweight stud for installation in a tire.

(3) As used in this section:

(a) "Lightweight stud" means a stud that is recommended by the manufacturer of the tire for the type and size of the tire and that:

(A) Weighs no more than 1.5 grams if the stud is size 14 or less;

(B) Weighs no more than 2.3 grams if the stud size is 15 or 16; or

(C) Weighs no more than 3.0 grams if the stud size is 17 or larger.

(b) "Tire dealer" means a person engaged in a business, trade, occupation, activity or enterprise that sells, transfers, exchanges or barter tires or tire related products for consideration.

(4) A tire dealer may sell a tire equipped with studs that are not lightweight studs if the studs are retractable. [1995 c.701 §2; 1997 c.493 §5; 2007 c.406 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.170 - Operation without pneumatic tires; civil liability; penalty.**

(1) A person commits the offense of operation without pneumatic tires if the person does any of the following:

(a) Drives, operates or moves on a highway any vehicle or combination of vehicles that is not equipped with pneumatic tires made of elastic material.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven, operated or moved on a highway when not equipped with pneumatic tires made of elastic material. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.

(2) The application of this section is subject to the exemptions from this section established under ORS 815.175.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, operation without pneumatic tires, is a Class C traffic violation. [1983 c.338 §480; 1985 c.393 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.175 - Exemptions from pneumatic tire requirement.**

This section establishes exemptions from ORS 815.170. The exemptions under this section are in addition to any exemptions under ORS 801.026. Exemptions are partial or complete as described in the following:

(1) Vehicles are not subject on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.

(2) Vehicles are not subject on any road, thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such

agency or both.

(3) Operation authorized under the terms of a variance permit issued under ORS 818.200 is subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 815.170 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense.

(4) ORS 815.170 does not apply to any implement of husbandry that is equipped with any tires made of elastic material other than pneumatic tires or with tires made with any nonelastic material that are not prohibited under ORS 815.160 and that has a loaded weight of not more than 7,000 pounds and a loaded weight as measured at any axle of not more than 3,500 pounds.

(5) Vehicles of special interest that are registered under ORS 805.020 are deemed in compliance if:

(a) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and are maintained in safe operating condition; or

(b) The vehicles are street rods that conform to ORS 815.107.

(6) ORS 815.170 does not apply to road machinery, road rollers or farm tractors.

(7) ORS 815.170 does not apply to antique vehicles if the vehicles are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property. [1983 c.338 §481; 1985 c.16 §250; 1997 c.402 §10]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.180 - Standards.**

This section designates fender and mudguard standards for ORS 815.185. Except as specifically provided by an exemption under ORS 815.190, a vehicle is in violation of ORS 815.185 if the vehicle is not equipped with fenders or mudguards as required under ORS 815.185 or if the fenders or mudguards do not meet the standards of this section or are not of the type required by this section. The standards for fenders and mudguards are as follows:

(1) There are three different types of fenders and mudguards. Any vehicle required to have fenders and mudguards may be equipped with any fender, cover, flap or splash apron to comply with the requirements of ORS 815.185 for fenders and mudguards as long as the fenders and mudguards meet all of the following standards:

(a) The width of any fender or mudguard required under this section must be of sufficient size so that the fender or mudguard extends at least to each side of the width of the tire or combined width of the multiple tires when measured against the cross section of the tread of the wheel or the combined cross sections of the treads of the multiple wheels.

(b) Any fender or mudguard required under this section must be of sufficient size and must be so constructed as to be capable at all times of arresting and deflecting any dirt, mud, water or other substance that may be picked up and carried by the wheels.

(2) The following types of fenders or mudguards must cover the wheels of the vehicle in the manner described in paragraphs (a), (b) and (c) of this subsection:

(a) Type I fenders or mudguards must extend in full width from a point on the wheels that is above and forward of the center of the tires over to a point at the rear of the wheels that is not more than 10 inches, or, if attached to the rear of a dump box that elevates for unloading, not more than 13 inches, above the surface of the highway when the vehicle is empty.

(b) Type II fenders or mudguards must extend downward in full width from a point behind the wheels that is not lower than halfway between the center of the wheels and the top of the tires to a point at the rear of the wheels that is not more than 10 inches above the surface of the highway when the vehicle is empty.

(c) Type III fenders or mudguards must extend in full width from a point on the wheels that is above and forward of the center of the tire over a point at the rear of the wheel that is not more than 27 inches above the surface of the highway. [1983 c.338 §483; 1985 c.16 §252; 1993 c.314 §2; 2001 c.335 §9; 2003 c.158 §13]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.182 - Kinds of fenders or mudguards required for specified vehicles; placement.**

(1) The following types of vehicles must be equipped with the proper type of fenders or mudguards as described in ORS 815.180 (2):

(a) Type I fenders or mudguards shall be within five feet of the tire tread of the tires on the last axle of:

(A) Every motor truck equipped with a body that has a registration weight of 8,000 pounds or more.

(B) Every trailer except one otherwise described in this subsection.

(C) Every commercial bus.

(b) Type II fenders or mudguards shall be within four feet of the tire tread of the tires on the last axle of:

(A) Every motor truck with a registration weight of 8,000 pounds or more that is not equipped with a body.

(B) A pole trailer.

(C) A jeep used in the movement of nondivisible heavy haul loads.

(D) A booster.

(E) A lowboy.

(F) A container chassis. For purposes of this subparagraph, a container chassis is a frame with wheels, attached to a tractor, that is used to transport containers to and from ports, rail hubs and customer locations.

(c) Type III fenders or mudguards shall be on each axle of every motor vehicle not otherwise described in this section.

(2) For purposes of this section, a truck tractor and a semitrailer coupled together shall be considered one vehicle. [1993 c.314 §3; 1997 c.722 §7; 2001 c.335 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.185 - Operation without proper fenders or mudguards; penalty.**

(1) A person commits the offense of operation without proper fenders or mudguards if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a vehicle without fenders or mudguards as required by ORS 815.182, or if the fenders or mudguards fail to meet the standards for fenders and mudguards established under ORS 815.180.

(2) Exemptions to this section are established under ORS 815.190.

(3) If a person who is cited for violation of the offense under this section submits evidence satisfactory to the court that the fenders or mudguards on the vehicle subject to the citation have been added, repaired or replaced to comply with the requirements of ORS 815.180 and 815.182, the court shall dismiss the charge for violation of the offense without penalty to the person.

(4) The offense described in this section, operation without proper fenders or mudguards, is a Class C traffic violation. [1983 c.338 §482; 1985 c.16 §251; 1993 c.314 §4; 1995 c.383 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.190 - Exemptions from mudguard and fender requirements.**

This section establishes exemptions from ORS 815.182 and 815.185. The exemptions under this section are in addition to any exemptions under ORS 801.026. The exemptions established under this section are partial or complete as described in the following:

(1) Vehicles of special interest that are registered under ORS 805.020 are deemed in compliance with the requirements and standards if:

(a) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and maintained in safe operating condition; or

(b) The vehicles are street rods that conform to ORS 815.107.

(2) Road machinery, road rollers and farm tractors are exempt from the standards and requirements.

(3) Antique vehicles are exempt from the standards and requirements if the vehicles are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(4) A motor truck is exempt from the requirements to be equipped with fenders or mudguards if the vehicle has just a chassis that is not equipped for hauling a load.

(5) Fenders or mudguards are not required on any modified American-made pre-1935 vehicle, or any identifiable vintage or replica thereof that is titled as a later assembled vehicle or replica and is used for show and pleasure use when such vehicle is used and driven only during fair weather on well-maintained, hard-surfaced roads. [1983 c.338 §484; 1985 c.402 §12; 1993 c.314 §5; 1997 c.402 §11; 1999 c.170 §1; 2003 c.655 §120; 2015 c.138 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.195 - Requirements and standards.**

This section establishes requirements for ORS 815.200. Except as specifically provided by an exemption under ORS 815.205, a vehicle is in violation of ORS 815.200 if the vehicle is required to comply with one of the following standards for visible emissions and the vehicle produces visible emissions that exceed those allowable under the described standard, as follows:

(1) A vehicle exceeds Visible Emission Standard I if the vehicle produces any visible emissions that include any gases or particulates, other than uncombined water, which separately or in combination are visible upon release to the outdoor atmosphere.

(2) A vehicle exceeds Visible Emission Standard II if the vehicle is operated at an elevation described under this subsection and the vehicle produces a visible emission in excess of that allowed under this subsection. Visible emissions limited under this subsection include any gases or particulates, other than uncombined water, which separately or in combination are visible upon release to the outdoor atmosphere. The limitations on visible emission under this subsection are limits on the percent of transmitted light that is obscured by the visible emission. A vehicle violates the standards under this subsection if the vehicle does any of the following:

(a) While operated at an elevation of 3,000 feet or less, releases emissions that obscure more than 10 percent of transmitted light. A vehicle is not in violation of this paragraph if the vehicle releases emissions that obscure 40 percent or less of transmitted light for not longer than seven consecutive seconds.

(b) While operated at an elevation of over 3,000 feet, releases emissions that obscure more than 20 percent of transmitted light. A vehicle is not in violation of this paragraph if the vehicle releases emissions that obscure 60 percent or less of transmitted light for not longer than seven consecutive seconds. [1983 c.338 §486; 1985 c.16 §253]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.200 - Violation of visible emission limits; penalty.**

(1) A person commits the offense of violation of visible emission limits if the person operates, drives and causes or permits to be driven on any highway:

- (a) A motor vehicle, other than one described in paragraph (b) of this subsection, that has visible emissions exceeding visible emissions allowed under Visible Emission Standard I under ORS 815.195.
- (b) A motor vehicle powered by compression ignition, two cycle or diesel cycle engines or a vehicle excluded by order of the Environmental Quality Commission under ORS 468A.075 and the vehicle has visible emissions exceeding visible emissions allowed under Visible Emission Standard II under ORS 815.195.
- (2) The exemptions from this section are established under ORS 815.205.
- (3) The offense described in this section, violation of visible emission limits, is a Class D traffic violation. [1983 c.338 §485; 1985 c.393 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.205 - Exemptions from visible emission limits.**

This section establishes exemptions from ORS 815.195 and 815.200. The exemptions under this section are in addition to any exemptions under ORS 801.026. Exemptions under this section are partial or complete as described in the following:

- (1) Motor vehicles registered as farm vehicles under ORS 805.300 are not subject to the limits on visible emissions.
- (2) Vehicles of special interest and antique vehicles are not subject to the limits on visible emissions if the vehicles are maintained as a collectors' item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.
- (3) The visible emission limits apply only in counties having a population over 50,000 according to the 1970 federal decennial census that are located west of the summit of the Cascade Mountains. The summit of the Cascade Mountains is determined for purposes of this subsection by the line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon. [1983 c.338 §487]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.210 - Operation of vehicle without approved material in windows; exemptions; penalty.**

- (1) A person commits the offense of operation of a vehicle without approved materials in windows if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a motor vehicle with a windshield or windows that do not conform to the standards established by the Department of Transportation under ORS 815.040.
- (2) This section does not apply to the following vehicles:
  - (a) Any motor vehicle manufactured on or before January 1, 1954, and registered in this state. The exemption under this paragraph does not apply to windshields or windows that have been replaced after January 1, 1954.
  - (b) Vehicles of special interest that are registered under ORS 805.020 and that are:
    - (A) Equipped with original manufacturer's equipment and accessories, or their equivalent, that are maintained in safe operating condition; or
    - (B) Street rods that conform to ORS 815.107.
    - (c) Road machinery, road rollers or farm tractors.
    - (d) Antique vehicles that are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.
- (3) The vehicle exemptions under this section are also exemptions from the prohibitions under ORS 815.090 against replacing vehicle window or windshield with any unapproved material as provided in that section.
- (4) The offense described in this section, operation of a vehicle without approved materials in windows, is a Class C traffic violation. [1983 c.338 §488; 1985 c.16 §254; 1985 c.393 §22; 1997 c.402 §12; 2003 c.158 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.215 - Failure to have windshield wipers; exemptions; penalty.**

- (1) A person commits the offense of failure to have windshield wipers if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a motor vehicle that has a windshield and that is not equipped with windshield wipers that meet the requirements under this section.
- (2) Windshield wipers meet the requirements of this section if the windshield wipers are designed for cleaning rain or other moisture from the windshield and so constructed as to be controlled or operated by the driver of the vehicle.
- (3) This section does not apply to the following vehicles:
  - (a) Vehicles of special interest that are registered under ORS 805.020 and that are:
    - (A) Equipped with original manufacturer's equipment and accessories, or their equivalent, and that are maintained in safe operating condition; or
    - (B) The vehicles are street rods that conform to ORS 815.107.
    - (b) Road machinery, road rollers or farm tractors.
    - (c) Antique vehicles that are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.
    - (d) Motorcycles.

(4) The offense described in this section, failure to have windshield wipers, is a Class C traffic violation. [1983 c.338 §489; 1997 c.402 §13; 2003 c.158 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.220 - Obstruction of vehicle windows; penalty.**

- (1) A person commits the offense of obstruction of vehicle windows if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway any vehicle with windows obstructed in a manner prohibited under this section.
- (2) The windows of a vehicle are obstructed in a manner prohibited by this section if any material that prevents or impairs the ability to see into or out of the vehicle is upon any vehicle window described in this subsection. This subsection applies to any sign, poster, one-way glass, adhesive film, glaze application or other material if the material prevents or impairs the ability to see into or out of the vehicle. This subsection only applies to the following windows of the vehicle:
- (a) The front windshield.
  - (b) The side-wings.
  - (c) The side windows on either side forward of or adjacent to the operator's seat.
- (3) Nothing in this section prohibits safety glazing materials of a type that conforms to standards established under ORS 815.040.
- (4) Nothing in this section prohibits placement of permits in accordance with the provisions of ORS 803.650 or with rules adopted by the Department of Transportation under ORS 803.650.
- (5) Nothing in this section prohibits the application of tinting material to the windows of a motor vehicle in compliance with ORS 815.221.
- (6) The offense described in this section, obstruction of vehicle windows, is a Class D traffic violation. [1983 c.338 §490; 1985 c.16 §255; 1987 c.166 §5; 1995 c.263 §4; 1995 c.383 §91; 2003 c.158 §5; 2013 c.199 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.221 - Tinting; authorized and prohibited materials; certificate.**

- (1) Notwithstanding any other provision of law, a person may apply tinting material to the windows of a motor vehicle in compliance with this section.
- (2) Tinting material may be applied to the side and rear windows of a motor vehicle if:
- (a) The tinting material has a light transmittance of 50 percent or more;
  - (b) The tinting material has a light reflectance of 13 percent or less; and
  - (c) The total light transmittance through the window with the tinting material applied is 35 percent or more.
- (3) Tinting material that has a lower light transmittance or produces a lower total light transmittance than permitted in subsection (2)(a) and (c) of this section may be applied to the top six inches of a windshield. Tinting material may not be applied to any other portion of the windshield.
- (4) Tinting material that has a lower light transmittance or produces a lower total light transmittance than permitted in subsection (2)(a) and (c) of this section may be applied to all windows of a multipurpose passenger vehicle that are behind the driver. This subsection applies only to vehicles that are equipped with rearview mirrors on each side of the vehicle. The windows as tinted shall meet the requirements for AS-3 glazing material established by federal regulation. For purposes of this subsection, a "multipurpose passenger vehicle" is a motor vehicle with motive power that is designed to carry 10 or fewer persons and is constructed either on a truck chassis or with special features for occasional off-road operation.
- (5) Tinting material that has a lower light transmittance or produces a lower total light transmittance than permitted in subsection (2)(a) and (c) of this section may be applied to the side and rear windows of a vehicle registered in the name of a person, or the person's legal guardian, if the person has any of the following documents signed by a validly licensed physician or optometrist stating that the person or another person in the person's household has a physical condition requiring window tinting that produces a lower light transmittance than allowed by this section:
- (a) An affidavit.
  - (b) A prescription.
  - (c) A letter on the practitioner's letterhead.
- (6) The document required by subsection (5) of this section shall be kept in the vehicle and shall be shown to a police officer who inquires about the tint.
- (7) There are no light transmittance requirements for glazing materials applied to AS-3 type windows.
- (8) The following types of tinting material are not permitted:
- (a) Mirror finish products.
  - (b) Red, gold, yellow, amber or black material.
  - (c) Tinting material that is in liquid preapplication form and is brushed or sprayed on.
- (9) Each person who installs window tinting material in compliance with this section shall give the person who requested the installation a certificate stating:
- (a) The name and address of the person who installed the tint;
  - (b) The light transmittance of the tinting material;



- (c) The light reflectance of the tinting material; and
- (d) That the total light transmittance through each window with the tinting material applied is not less than 35 percent.
- (10) The certificate issued under subsection (9) of this section shall be kept in the motor vehicle and shall be shown to a police officer who inquires about the tint.
- (11) Prohibitions and penalties related to the standards established under this section are provided under ORS 815.222. [1995 c.263 §2; 2003 c.158 §8; 2015 c.579 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.222 - Illegal window tinting; dismissal; penalty.**

- (1) A person commits the offense of illegal window tinting if the person applies window tinting material that does not comply with ORS 815.221 or applies window tinting material to a window of a motor vehicle that is not authorized by ORS 815.221 to be equipped with window tinting material.
- (2) A person commits the offense of operating a vehicle with illegal window tinting if the person operates a vehicle registered or required to be registered in Oregon that is equipped with window tinting material that is not in compliance with or authorized by ORS 815.221.
- (3) Each offense described in this section is a Class B traffic violation.
- (4) A court may dismiss a citation issued for violation of subsection (2) of this section, or reduce the fine that the court would otherwise have imposed for the offense, if the defendant establishes to the satisfaction of the court that after the citation for the offense was issued the windows of the vehicle were modified to comply with the requirements of ORS 815.221. In determining whether the windows of the vehicle were modified to comply with the requirements of ORS 815.221, the court may consider:
  - (a) A receipt from a business for removing nonconforming window tinting or installation of conforming window tinting;
  - (b) A written statement by a law enforcement officer indicating that the window tinting was modified to comply with the requirements of ORS 815.221; and
  - (c) Any other evidence produced by the defendant to show modification or removal of the nonconforming window tinting.
- (5) A court may dismiss a citation issued for violation of subsection (2) of this section, or reduce the fine that the court would otherwise have imposed for the offense, if the defendant establishes to the satisfaction of the court that at the time the citation for the offense was issued the person or another person in the person's household had a physical condition requiring window tinting that produces a lower light transmittance than allowed by ORS 815.221. In determining whether the person or another person in the person's household had a physical condition that requires window tinting that produces a lower light transmittance, the court may consider any of the following documents signed by a validly licensed physician or optometrist stating that the person has a physical condition requiring window tinting that produces a lower light transmittance than allowed by ORS 815.221:
  - (a) An affidavit.
  - (b) A prescription.
  - (c) A letter on the practitioner's letterhead. [1995 c.263 §3; 2013 c.216 §1; 2015 c.579 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.225 - Violation of use limits on sound equipment; exemptions; penalty.**

- (1) A person commits the offense of violation of use limits on sound equipment if the person does any of the following:
  - (a) Uses upon a vehicle, any bell, siren, compression or exhaust whistle.
  - (b) Uses a horn otherwise than as a reasonable warning or makes any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device.
- (2) Authorized emergency vehicles and ambulances are not subject to this section but are subject to ORS 820.370 and 820.380.
- (3) The offense described in this section, violation of use limits on sound equipment, is a Class C traffic violation. [1983 c.338 §491]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.230 - Violation of sound equipment requirements; exemptions; penalty.**

- (1) A person commits the offense of violation of vehicle sound equipment requirements if the person drives or moves on any highway or owns and causes or knowingly permits to be driven on any highway any vehicle that violates any of the following equipment provisions:
  - (a) A motor vehicle must be equipped with a horn in good working order, capable of emitting sounds audible under normal conditions from a distance of not less than 200 feet.
  - (b) No vehicle shall be equipped with any bell, siren, compression or exhaust whistle.
- (2) This section is subject to the exemptions under this subsection in addition to any exemptions under ORS 801.026. The exemptions under this subsection are partial or complete as described in the following:
  - (a) Authorized emergency vehicles are subject to sound equipment requirements and limitations as provided in ORS 820.370 and 820.380.
  - (b) Vehicles of special interest that are registered under ORS 805.020 are not subject to this section if the vehicles are:
    - (A) Equipped with original manufacturer's equipment and accessories, or their equivalent, and are maintained in safe operating

condition; or

(B) Street rods that conform to ORS 815.107.

(c) Bicycles are subject to requirements and limitations on sound equipment as provided under ORS 815.280.

(d) Antique vehicles are not subject to the requirements if the vehicles are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(e) The requirements do not apply to road machinery, road rollers and farm tractors.

(f) Electric personal assistive mobility devices are subject to requirements and limitations on sound equipment as provided under ORS 815.284.

(3) The offense described in this section, violation of vehicle sound equipment requirements, is a Class C traffic violation. [1983 c.338 §492; 1985 c.16 §256; 1997 c.402 §14; 2003 c.341 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.232 - Unreasonable sound amplification from a vehicle; penalty.**

(1) A person commits the offense of causing unreasonable sound amplification from a vehicle if the person operates, or permits the operation of, any sound amplification system which is plainly audible outside of a vehicle from 50 or more feet when the vehicle is on a public highway or on premises open to the public, unless that system is being operated to request assistance or warn of a hazardous situation.

(2) Subsection (1) of this section does not apply to:

(a) Vehicles being operated outside of an urban growth boundary;

(b) Emergency vehicles as defined in ORS 801.260;

(c) Vehicles operated by utilities defined under ORS 757.005, 758.505 or 759.005, or telecommunications carriers as defined in ORS 133.721;

(d) Sound systems of vehicles used for advertising, or in parades, political or other special events, except that the use of sound systems on those vehicles may be prohibited by a local authority by ordinance or resolution;

(e) Audio alarm systems installed in vehicles; or

(f) Federal Communications Commission licensed two-way radio communications systems.

(3) As used in subsection (1) of this section, "plainly audible" means any sound for which the information content of that sound is unambiguously communicated to the listener including, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal or comprehensible musical rhythms or vocal sounds.

(4) The offense described in this section, causing unreasonable sound amplification from a vehicle, is a Class D traffic violation. [1991 c.601 §3; 1995 c.383 §27; 1999 c.1093 §19]

Note:

815.232 and 815.233 were added to and made a part of the Oregon Vehicle Code by legislative action but were not added to ORS chapter 815 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.233 - Enhancement of penalty for violation of ORS 815.232.**

A person otherwise convicted of a violation under ORS 815.232 (4) commits a misdemeanor if:

(1) The person has been convicted of three or more violations of ORS 815.232 (1) within 12 months immediately preceding the commission of the offense; and

(2) The prior convictions are admitted by the defendant or alleged in the accusatory pleading. [1991 c.601 §4; 1999 c.1051 §92]

Note:

See note under 815.232.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.235 - Operation without rearview mirror; exemptions; penalty.**

(1) A person commits the offense of operation without a rearview mirror if the person does any of the following:

(a) Drives or moves on any highway any motor vehicle that is not equipped with a rearview mirror or device that meets the requirements under this section.

(b) Owns a motor vehicle and causes or knowingly permits the vehicle to be driven or moved on any highway when the vehicle is not equipped with a rearview mirror or device that meets the requirements under this section.

(2) A rearview mirror or device only meets the requirements of this section if it enables the driver of the vehicle to have such a clear and unobstructed view of the rear at all times and under all conditions of load as will enable the driver to see any other vehicle approaching from not less than 200 feet in the rear on an unobstructed road.

(3) This section does not apply to the following vehicles:

(a) Vehicles of special interest that are registered under ORS 805.020 and that were not equipped with rearview mirrors when originally manufactured.

(b) Road machinery, road rollers or farm tractors.

(c) Antique vehicles that are registered under ORS 805.010 and that were not equipped with rearview mirrors when originally

manufactured.

(4) The offense described in this section, operation without a rearview mirror, is a Class C traffic violation. [1983 c.338 §493; 1985 c.69 §3; 2015 c.138 §33]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.237 - Forward crossview mirror; failure to inspect; exemptions; penalty.**

(1) As used in this section, "forward crossview mirror" means a mirror or device that enables the driver of a motor truck to have a clear and unobstructed view of persons or objects directly in front of the motor truck.

(2) A person commits the offense of failure to inspect if the person operates a motor truck with a combined weight of more than 10,000 pounds used in commercial delivery and the person:

(a) Operates the motor truck without a forward crossview mirror; or

(b) Fails to visually inspect the intended path of the vehicle to verify that the path is free of persons or objects before the person reenters the motor truck.

(3) This section does not apply to:

(a) Commercial buses;

(b) Tow vehicles;

(c) Vehicles owned or operated by the United States or by any governmental jurisdiction within the United States except when owned or operated as a carrier of property for hire;

(d) Vehicles owned or operated by a mass transit district created under ORS chapter 267; or

(e) Vehicles used for solid waste or recycling collection.

(4) The offense described in this section, failure to inspect, is a Class C traffic violation. [2007 c.794 §3]

Note:

815.237 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 815 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.240 - Unlawful use of image display device; exemptions; penalty.**

(1) As used in this section, "image display device" means equipment capable of displaying to the driver of a motor vehicle:

(a) A broadcast television image; or

(b) A visual image from a digital video disc or video cassette player.

(2) Except as provided in subsection (3) of this section, a person commits the offense of unlawful use of an image display device if the person drives or moves on any highway, or owns and causes or knowingly permits to be driven or moved on any highway, any motor vehicle equipped with any image display device that is displaying a broadcast television image or a visual image from a digital video disc or video cassette player that is visible to the driver while operating the motor vehicle.

(3) Subsection (2) of this section does not apply to:

(a) Emergency vehicles; or

(b) Use of image display devices that are displaying images for navigational purposes.

(4) The offense described in this section, unlawful use of an image display device, is a Class B traffic violation. [1983 c.338 §494; 1985 c.69 §4; 2005 c.572 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.245 - Violation of minimum clearance requirements for passenger vehicles; penalty.**

(1) A person commits the offense of violation of minimum clearance requirements for passenger vehicles if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway any passenger motor vehicle that does not have the clearance from the surface of the roadway required by this section.

(2) A vehicle does not have the clearance from the surface of the roadway required by this section if any portion of the vehicle, other than the wheels, has less clearance from the surface of a level roadway than the clearance between the roadway and the lowest portion of any rim of any wheel in contact with the roadway.

(3) The offense described in this section, violation of minimum clearance requirements for passenger vehicles, is a Class B traffic violation. [1983 c.338 §495]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.250 - Operation without proper exhaust system; exemptions; penalty.**

(1) A person commits the offense of operation without proper exhaust system if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a motor vehicle that is not equipped with an exhaust system that meets the requirements under this section.

(2) An exhaust system only meets the requirements of this section if all of the following apply:

(a) The exhaust system must be in good working order.

(b) The exhaust system must be in constant operation.

(c) The exhaust system must meet noise emission standards determined by the Department of Environmental Quality to be substantially equivalent to the following standards based upon a stationary test conducted at a distance of 25 feet in accordance with procedures established by the Department of Environmental Quality:

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Maximum level, Model, Vehicle type	dBA	Year
I. Motor vehicles		
required to establish a registration weight under ORS 803.430 and commercial buses	94	before 1976
	91	1976 and after
II. Motorcycles and mopeds		
	94	before 1976
	91	1976
	89	after 1976
III. Motor vehicles not described under I or II		
	92	before 1976
	88	1976 and after

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(3) This section does not apply to the following vehicles:

(a) Vehicles of special interest that are registered under ORS 805.020 and that are:

(A) Equipped with original manufacturer's equipment and accessories, or their equivalent, and that are maintained in safe operating condition; or

(B) Street rods that conform to ORS 815.107.

(b) Road machinery, road rollers or farm tractors.

(c) Antique vehicles that are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(4) The court in its discretion may dismiss a citation issued for violation of the offense described in this section if evidence is presented that the exhaust system complies with or has been repaired or modified to comply with the requirements under this section.

(5) The offense described in this section, operation without proper exhaust system, is a Class C traffic violation. [1983 c.338 §496; 1985 c.16 §257; 1985 c.393 §23; 1997 c.402 §15; 2015 c.138 §34]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.255 - Operation of vehicle for hire without speedometer; exemptions; penalty.**

(1) A person commits the offense of operation of a vehicle for hire without a speedometer if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway a motor vehicle used for carrying passengers for hire that is not equipped with a speedometer or other registering device capable of registering accurately the speed at which the vehicle is operated.

(2) This section is subject to the following exemptions in addition to any exemptions under ORS 801.026.

(a) A motor vehicle equipped with a governor or other regulating device to control its speed within the limits specified by law is not required to be equipped as this section specifies.

(b) Vehicles of special interest that are registered under ORS 805.020 are deemed in compliance with the requirements of this section if:

(A) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and maintained in safe operating condition; or

(B) The vehicles are street rods that conform to ORS 815.107.

(c) Antique vehicles are exempt from the requirements of this section if the vehicles are maintained as collector's items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(3) The offense described in this section, operation of a vehicle for hire without a speedometer, is a Class C traffic violation. [1983 c.338 §497; 1985 c.393 §24; 1997 c.402 §16; 2015 c.138 §35]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.260 - Operation of recreational vehicle with unsealed disposal system; exemption; penalty.**

(1) A person commits the offense of operation of a recreational vehicle with unsealed disposal system if:

(a) The person has the use, possession or control of any vehicle or structure constructed for movement on highways;

(b) The vehicle or structure is equipped with a plumbing, sink or toilet fixture; and

(c) The disposal system for the vehicle or structure is unsealed or uncapped while the vehicle or structure is in any way or place of whatever nature open to the use of the public.

(2) For purposes of this section, a way or place open to the use of the public includes, but is not limited to, highways, roads, streets, alleys, lanes, trails, beaches, parks and recreational use areas owned or operated by the state, a county or local municipality for use by the general public.

(3) This section does not apply to disposal systems being discharged into or connected with a sewage disposal system approved by the Oregon Health Authority.

(4) The offense described in this section, operation of a recreational vehicle with unsealed disposal system, is a Class C traffic violation. [1983 c.338 §498; 1985 c.16 §258; 1985 c.393 §25; 2009 c.595 §1147]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.270 - Operating vehicle that is loaded or equipped to obstruct driver; penalty.**

(1) A person commits the offense of operating a vehicle that is loaded or equipped to obstruct the driver if the person is operating a vehicle that is loaded or equipped or where baggage or an encumbrance does any of the following:

(a) Substantially obstructs the driver's views to the rear, through one or more mirrors and otherwise.

(b) Obstructs the driver's view to the front or sides.

(c) Interferes with control of the driving mechanism.

(d) Prevents the free, unhampered operation of the vehicle by the driver.

(2) The offense described in this section, vehicle loaded or equipped to obstruct driver, is a Class C traffic violation. [1983 c.338 §500; 1985 c.16 §259]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.275 - Failure to mark end of load with light or flag when required; penalty.**

(1) A person commits the offense of failure to mark the end of a load with a light or flag when required if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway any vehicle with a load that extends to the rear four feet or more beyond the bed or body of the vehicle and the person fails to:

(a) Place end load lights described under ORS 816.290 at the extreme rear end of the load, in addition to any other rear light required upon every vehicle, at times when limited visibility conditions exist; or

(b) At any other time, display at the extreme rear end of the load a red flag or cloth not less than 12 inches square.

(2) The offense described in this section, failure to mark end of load with light or flag when required, is a Class C traffic violation. [1983 c.338 §501]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.280 - Violation of bicycle equipment requirements; penalty.**

(1) A person commits the offense of violation of bicycle equipment requirements if the person does any of the following:

(a) Operates on any highway a bicycle in violation of the requirements of this section.

(b) Is the parent or guardian of a minor child or ward and authorizes or knowingly permits the child or ward to operate a bicycle on any highway in violation of the requirements of this section.

(2) A bicycle is operated in violation of the requirements of this section if any of the following requirements are violated:

(a) A bicycle must be equipped with a brake that enables the operator of the bicycle to stop the bicycle within 15 feet from a speed of 10 miles per hour on dry, level, clean pavement.

(b) A person shall not install or use any siren or whistle upon a bicycle. This paragraph does not apply to bicycles used by police officers.

(c) At the times described in the following, a bicycle or its rider must be equipped with lighting equipment that meets the described requirements:

(A) The lighting equipment must be used during limited visibility conditions.

(B) The lighting equipment must show a white light visible from a distance of at least 500 feet to the front of the bicycle.

(C) The lighting equipment must have a red reflector or lighting device or material of such size or characteristic and so mounted as

to be visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

(3) Nothing contained in this section shall be construed to prohibit the use of additional parts and accessories on any bicycle consistent with this section.

(4) The offense described in this section, violation of bicycle equipment requirements, is a Class D traffic violation. [1983 c.338 §502; 1985 c.16 §260; 1985 c.69 §5; 2003 c.158 §15; 2003 c.341 §17; 2007 c.821 §1; 2015 c.138 §27]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.281 - Selling noncomplying bicycle headgear; renting or leasing bicycle without having approved headgear available; penalties.**

(1) A person commits the offense of selling noncomplying bicycle equipment if the person sells or offers for sale any bicycle headgear that does not meet the standards established by the Department of Transportation under ORS 815.052.

(2) A person commits the offense of unlawfully renting or leasing a bicycle to another if the person:

(a) Is in the business of renting or leasing bicycles; and

(b) Does not have bicycle headgear approved under ORS 815.052 available for rental for use by persons under 16 years of age.

(3) The offenses described in this section are Class D traffic violations. [1993 c.408 §5; 2003 c.158 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.282 - Operating motorized wheelchair on bicycle lane without proper lighting equipment.**

(1) A person commits the offense of operating a motorized wheelchair on a bicycle lane or path without proper lighting equipment if the person operates a motorized wheelchair on a bicycle lane or path and the person is not equipped with lighting equipment required of bicyclists under ORS 815.280.

(2) This section applies at the times described in ORS 815.280 for application of the lighting requirements of that section to bicyclists.

(3) The offense described in this section, operating a motorized wheelchair on a bicycle lane or path without proper lighting equipment, is a Class D traffic violation. [1991 c.417 §3b]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.283 - Violation of motor assisted scooter equipment requirements; penalty.**

(1) A person commits the offense of violation of motor assisted scooter equipment requirements if the person:

(a) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age and authorizes or knowingly permits the child to operate a motor assisted scooter on any highway in violation of the requirements of this section; or

(b) Operates a motor assisted scooter on any highway during times of limited visibility conditions and the motor assisted scooter is not equipped with, or the person does not use, lighting equipment that meets the following requirements:

(A) If the motor assisted scooter is equipped with lighting equipment:

(i) The lighting equipment must include a white light visible from a distance of at least 300 feet to the front and sides of the motor assisted scooter;

(ii) The lighting equipment must have a red reflector or lighting device, or material of such size or characteristic, mounted to be visible from all distances up to 500 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle; and

(iii) The lighting equipment must have a white or yellow reflector or lighting device, or material of such size or characteristic, mounted to be visible from all distances up to 200 feet to the front of the motor assisted scooter.

(B) If the motor assisted scooter is not equipped with lighting equipment, the operator of the motor assisted scooter must wear:

(i) A white light mounted to be visible from all distances up to 300 feet to the front and sides of the motor assisted scooter;

(ii) A red reflector or lighting device, or material of such size or characteristic, mounted to be visible from all distances up to 500 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle; and

(iii) A white or yellow reflector or lighting device, or material of such size or characteristic, mounted to be visible from all distances up to 200 feet to the front of the motor assisted scooter.

(2) Nothing in this section prohibits the use of additional parts and accessories on any motor assisted scooter not inconsistent with this section.

(3) The offense described in this section, violation of motor assisted scooter equipment requirements, is a Class D traffic violation. [2001 c.749 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.284 - Violation of electric personal assistive mobility device equipment requirements; penalty.**

(1) A person commits the offense of violation of electric personal assistive mobility device equipment requirements if the person:

(a) Operates an electric personal assistive mobility device during times of limited visibility conditions and the electric personal

assistive mobility device or the operator is not equipped with and using the following:

- (A) A white light visible from a distance of at least 500 feet to the front and sides of the electric personal assistive mobility device; and
  - (B) A red reflector, lighting device or material of such size or characteristic as to be visible from all distances up to 600 feet to the rear when the electric personal assistive mobility device is directly in front of lawful lower beams of headlights on a motor vehicle; or
  - (b) Installs or uses any siren or whistle upon an electric personal assistive mobility device.
- (2) Nothing in this section prohibits the use of additional parts and accessories not inconsistent with this section.
- (3) The offense described in this section, violation of electric personal assistive mobility device equipment requirements, is a Class D traffic violation. [2003 c.341 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.285 - Failure to carry roadside vehicle warning devices; exemptions; penalty.**

- (1) A person commits the offense of failure to carry roadside vehicle warning devices if:
- (a) The person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway any vehicle subject to the requirements to use roadside vehicle warning devices under ORS 811.530; and
  - (b) The vehicle does not carry such roadside vehicle warning devices as the Department of Transportation may require under ORS 815.035.
- (2) This section does not apply to any of the following:
- (a) Vehicles that are not subject to the requirements to use roadside vehicle warning devices under ORS 811.530.
  - (b) At any time between sunrise and sunset.
  - (c) To any vehicles operated within a business district or residence district.
- (3) The offense described in this section, failure to carry roadside vehicle warning devices, is a Class C traffic violation. [1983 c.338 §503; 1985 c.16 §261; 1985 c.393 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.290 - Exemptions from equipment requirements.**

- (1) In addition to any other specific exemptions provided for implements of husbandry, implements of husbandry are exempt from any requirements under the following:
- (a) ORS 815.075 and 815.100, relating to state requirements for vehicle equipment.
  - (b) ORS 811.515, 811.520, 816.040 to 816.290, 816.320, 816.330, 816.350 and 816.360, relating to requirements for and use of lighting equipment.
  - (c) ORS 815.125 and 815.130, relating to brake requirements.
  - (d) ORS 815.180 and 815.185, relating to fender and mudguard requirements and use.
  - (e) ORS 815.210, relating to material in windshields.
  - (f) ORS 815.215, relating to requirements for windshield wipers.
  - (g) ORS 815.230, relating to vehicle sound equipment.
  - (h) ORS 815.235, relating to rearview mirrors.
  - (i) ORS 815.240, relating to image display devices in vehicles. Limitations on the use of image display devices in implements of husbandry are provided in ORS 820.400.
  - (j) ORS 815.250, relating to vehicle exhaust and exhaust equipment.
- (2) This section does not exempt implements of husbandry from the requirements for equipment and operation under ORS 820.400. [1983 c.338 §778; 1985 c.16 §375; 1985 c.69 §6; 2005 c.572 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.295 - Failure to have required pollution control equipment; exemptions; penalty.**

- (1) A person commits the offense of failure to be equipped with required pollution control equipment if the person operates a motor vehicle upon a highway or leaves a motor vehicle standing upon a highway and the vehicle is not equipped with a motor vehicle pollution control system, as defined under ORS 468A.350, that is in compliance with motor vehicle pollutant, noise control and emission standards adopted by the Environmental Quality Commission under ORS 468A.360.
- (2) A person shall not be found in violation of this section if proof of compliance has been issued for the vehicle in compliance with ORS 815.310. Whenever proof of compliance is revoked, suspended or restricted because a certified system, as defined in ORS 468A.350, or factory-installed system, as defined in ORS 468A.350, has been found to be unsafe in actual use or is otherwise mechanically defective, the defect must be corrected or the system must be brought into compliance with the rules of the commission within 30 days after such finding.
- (3) Exemptions to this section are established under ORS 815.300. In addition to such exemptions, the following exemptions to this section are established:
- (a) If the Environmental Quality Commission adopts a rule under ORS 468A.360 requiring certified or factory-installed systems on motor vehicles registered in designated counties, such vehicles are not required to be in compliance with such rules until after the

date of registration, reregistration or renewal of the vehicle immediately subsequent to the effective date of the rule.

(b) Implements of husbandry, road machinery, road rollers and farm tractors are exempt from this section.

(c) Antique vehicles maintained as collectors' items and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property, are exempt from this section.

(4) The offense described in this section, failure to be equipped with required pollution control equipment, is a Class C traffic violation. [1983 c.338 §504; 1985 c.16 §262; 1985 c.393 §27; 1989 c.22 §3; 1995 c.383 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.300 - Exemptions from requirement to be equipped with pollution control system.**

This section establishes exemptions from the requirements under ORS 815.295 to be equipped with a certified pollution control system. Exemptions established by this section are in addition to any exemptions established by ORS 801.026. The exemptions established in this section are also applicable to requirements for certification of pollution control equipment before registration under ORS 803.350 and 803.465. All of the following vehicles are exempt from the requirements under ORS 815.295:

(1) Any vehicle that is not a motor vehicle.

(2) Any vehicle unless the vehicle is registered within:

(a) The boundaries of the metropolitan service district formed under ORS chapter 268 for the metropolitan area, as defined in ORS 268.020, which includes the City of Portland, Oregon.

(b) Boundaries designated by the Environmental Quality Commission under ORS 468A.390.

(3) Any new motor vehicle or new motor vehicle engine when the registration results from the initial retail sale thereof.

(4) Any motor vehicle:

(a) Not registered in areas designated under subsection (2)(a) of this section, including any expansion of such boundary under subsection (2)(b) of this section, with a model year that predates by more than 20 years the year in which registration or renewal of registration is required; or

(b) Registered in areas designated under subsection (2)(a) of this section, including any expansion of such boundary under subsection (2)(b) of this section, with a model year of 1974 or earlier.

(5) Motor vehicles that are registered as farm vehicles under ORS 805.300 or apportioned farm vehicles under ORS 805.300.

(6) Special interest vehicles that are maintained as collectors' items and used for exhibitions, parades, club activities and similar uses but not used primarily for the transportation of persons or property.

(7) Fixed load vehicles.

(8) Vehicles that are proportionally registered under ORS 826.009 and 826.011 in accordance with agreements established under ORS 826.007.

(9) Electric motor vehicles. This subsection does not exempt hybrid motor vehicles that use electricity and another source of motive power.

(10) First response rescue units operated by political subdivisions of this state that are not used to transport persons who are ill or injured or who have disabilities.

(11) A vehicle that is currently registered in Oregon at the time application for new registration is received by the Department of Transportation if the new registration is a result of a change in the registration or plate type and the application is received at least four months prior to the expiration of the existing registration.

(12) Golf carts.

(13) Any Class I, Class II, Class III or Class IV all-terrain vehicle.

(14) An original equipment manufacturer vehicle that is engineered, designed, produced and warranted to use natural gas as its only fuel source.

(15) Racing activity vehicles. [1983 c.338 §505; 1985 c.16 §263; 1985 c.222 §5; 1987 c.349 §7; 1989 c.43 §35; 1991 c.15 §6; 1991 c.383 §4; 1993 c.791 §5; 1997 c.418 §1; 2001 c.293 §10; 2007 c.70 §348; 2007 c.693 §7; 2011 c.360 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.305 - Disconnection or alteration of pollution control equipment; penalty.**

(1) A person commits the offense of unlawful disconnection or alteration of pollution control equipment if the person does any of the following:

(a) Disconnects or permits to be disconnected a factory installed motor vehicle air pollution control device or a factory-installed system, as defined in ORS 468A.350, or knowingly and willfully permits such device or factory-installed system to become or remain inoperative.

(b) Modifies or alters a certified system or factory-installed system, as defined in ORS 468A.350, in a manner that decreases its efficiency or effectiveness in the control of air pollution.

(c) Modifies or alters an installed, approved retrofit technology for which proof of certification has been issued under ORS 468A.810 in a manner that decreases its efficiency or effectiveness in the control of air pollution.

(2) The following exemptions to this section are established:

(a) This section does not apply when factory-installed motor vehicle air pollution control equipment, systems or devices are disconnected for the purpose of conversion to gaseous fuels including, but not limited to, liquefied petroleum gases and natural



gases in liquefied or gaseous form.

(b) This section is not intended to prohibit the use of replacement, conversion, turbocharger or other alternative components in a certified or factory-installed system if the components do not significantly affect the efficiency or effectiveness of the system in controlling air pollution.

(3) The offense described in this section, unlawful disconnection or alteration of pollution control equipment, is a Class A misdemeanor, but each day of violation does not constitute a separate offense. [1983 c.338 §506; 2019 c.645 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.310 - Proof of compliance with requirements.**

When proof of compliance with pollution control equipment requirements is required under ORS 803.350, 803.465 and 815.295 the following apply:

(1) The proof may be provided by any means that the Department of Transportation and the Environmental Quality Commission determine by joint rulemaking or by interagency agreement to be satisfactory.

(2) Except as otherwise provided in this section, when a certificate of compliance is used as proof, the certificate must comply with all the following:

(a) It must be signed by a person licensed and qualified under ORS 468A.380.

(b) It must be dated not more than 180 days prior to the motor vehicle registration or renewal of registration.

(c) It must be on a form supplied by the Department of Environmental Quality and must include such information as the department may require.

(3) In order for registration to continue to be valid for a motor vehicle that is registered as a government-owned vehicle under ORS 805.040, a police undercover vehicle under ORS 805.060 or a state-owned vehicle with regular registration plates under ORS 805.045, the vehicle must be certified as frequently as a privately owned vehicle of the same registration type is required to be certified. For purposes of this subsection, the registration type of a privately owned vehicle is determined by the registration period for the vehicle under ORS 803.415. For local government vehicles, the proof of certification may be provided through self-testing facilities provided by local governmental agencies. Local governmental agencies providing self-testing facilities may not be charged a fee in connection with provision of the required proof. However, a reasonable fee covering department expenses in administering such self-testing programs may be charged. [1983 c.338 §215; 1985 c.16 §82; 1987 c.440 §6; 1989 c.22 §4; 1995 c.183 §1; 2003 c.61 §1; 2005 c.51 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.315 - Use of improper certificate for pollution control system; penalty.**

(1) A person commits the offense of use of improper certificate for pollution control system if the person makes, issues or knowingly uses any imitation or counterfeit of a certificate of compliance described under ORS 468A.810 or 815.310.

(2) The offense described in this section, use of improper certificate for pollution control system, is a Class B traffic violation, but each day of violation does not constitute a separate offense. [1983 c.338 §216; 1995 c.383 §92; 2019 c.645 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.320 - Unlawful certification of compliance with pollution control requirements; penalty.**

(1) A person commits the offense of unlawful certification of compliance with pollution control requirements if the person does any of the following:

(a) Falsely certifies that a motor vehicle is equipped with a functioning certified system, as defined in ORS 468A.350, or that the motor vehicle complies with the rules and standards adopted by the Environmental Quality Commission under ORS 468A.360.

(b) Falsifies any information on the certificate of compliance described under ORS 815.310.

(c) Falsely certifies that a diesel engine has been retrofitted with approved retrofit technology under ORS 468A.810.

(d) Falsifies any information on the certificate of compliance described under ORS 468A.810.

(e) With a purpose to defraud or with intent, causes registration of a motor vehicle that would not otherwise be eligible for registration because of its failure to comply with:

(A) Rules and standards adopted by the Environmental Quality Commission under ORS 468A.360; or

(B) ORS 803.591.

(2) The offense described in this section, unlawful certification of compliance with pollution control requirements, is a Class A misdemeanor, but each day of violation does not constitute a separate offense. [1983 c.338 §217; 2019 c.645 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.325 - Unlawfully requiring repair for certification of compliance with pollution control requirements; penalty.**

(1) A person commits the offense of unlawfully requiring repair for certification with pollution control requirements if the person requires as a condition of the issuance of a certification of compliance described under ORS 815.310 or proof of certification described under ORS 468A.810 any repairs or services unnecessary for compliance with ORS 803.591 or with rules or standards

adopted under ORS 468A.350, 468A.355, 468A.365 and 468A.385.

(2) The offense described in this section, unlawfully requiring repair for certification of compliance with pollution control requirements, is a Class A misdemeanor, but each day of violation does not constitute a separate offense. [1983 c.338 §218; 2019 c.645 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.405 - Department review of odometer disclosure statements.**

(1) The Department of Transportation may establish a program of reviewing department records and odometer disclosure statements to determine vehicles that may have incorrect odometer disclosures or on which the odometer may have been altered. The program may include any procedures the department determines appropriate including, but not limited to, the comparison of odometer disclosures for individual vehicles with statistical information on statistically average mileage for vehicles within a certain period of time.

(2) If the department determines under this section that it is likely that a vehicle or vehicles have incorrect odometer disclosures or have odometers that have been illegally altered, the department may do any of the following:

(a) Report the findings of the department to the owners or purchasers of the vehicles.

(b) Report the findings of the department to enforcement officials charged with enforcing laws relating to odometers, including, but not limited to, police officials, district attorneys or the Attorney General's office. [1985 c.251 §9; 1991 c.873 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.410 - Illegal odometer tampering; prohibition; exceptions; civil action; penalty.**

(1) A person commits the offense of illegal odometer tampering if the person does any of the following:

(a) Advertises for sale, sells, uses or installs on any part of a motor vehicle or on any odometer in a motor vehicle any device which causes the odometer to register any mileage other than the true mileage driven. For the purposes of this paragraph the true mileage driven is that mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance.

(b) With the intent to defraud, operates a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or nonfunctional.

(c) Replaces, disconnects, turns back or resets the odometer of any motor vehicle with the intent to reduce the number of miles indicated on the odometer gauge.

(2) This section does not apply to a person who is servicing, repairing or replacing an odometer in compliance with ORS 815.415.

(3) The owner or subsequent purchaser of a vehicle may bring an action in an appropriate court of this state against any person who violates this section and may recover from the person an amount of \$1,500 or treble the actual damage caused by the violation. Only a single recovery is permitted under this subsection for any single violation of this section. The court may award reasonable attorney fees to the prevailing party in an action under this subsection.

(4) The offense described in this section, illegal odometer tampering, is a Class C felony. [Formerly 646.860; 1995 c.618 §137]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.415 - Unlawful repair of odometer; rules; civil action; penalty.**

(1) A person commits the offense of unlawful repair of an odometer if the person services, repairs or replaces the odometer on any vehicle and the person does not comply with all of the following:

(a) Whenever possible, the person shall perform the work on the odometer without changing the mileage reading from that shown on the odometer before the work is performed.

(b) If it is not possible to perform the work without changing the mileage reading, the person must do all of the following:

(A) Adjust the odometer reading to zero.

(B) Place a notice on the left door frame of the vehicle specifying the mileage reading prior to the work and the date the work was performed. A notice required under this subparagraph must be in writing and must be in a form established by the Department of Transportation by rule.

(C) Make an odometer disclosure in a form required by the department by rule and submit the disclosure to the department within 10 days of completing the work.

(2) The owner or any subsequent purchaser of a vehicle may bring an action in an appropriate court of this state against any person who violates this section and may recover from the person an amount of \$500 or twice the actual damages caused by the violation, whichever is greater. Only a single recovery is permitted under this subsection for any single violation of this section. The court may award reasonable attorney fees to the prevailing party in an action under this section.

(3) A person is not subject to the requirements for work performed on vehicles that are exempt from odometer disclosure requirements under ORS 803.102.

(4) The offense described in this section, unlawful repair of an odometer, is a Class C misdemeanor. [1985 c.251 §4; 1991 c.873 §19; 1995 c.618 §138]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.420 - Unlawfully removing odometer repair notice; penalty.**

(1) A person commits the offense of unlawfully removing an odometer repair notice if the person removes any notice showing service, repair or replacement of an odometer with the mileage reading and the date of the work that has been placed on a vehicle in compliance with ORS 815.415.

(2) The offense described in this section, unlawfully removing an odometer repair notice, is a Class C misdemeanor. [1985 c.251 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.425 - Failure to submit odometer disclosure; penalty.**

(1) A person commits the offense of failure to submit an odometer disclosure if the person is required by ORS 803.102, 803.370, 805.120 or 815.415 to submit an odometer disclosure and the person fails to submit the required odometer disclosure.

(2) The offense described in this section, failure to submit an odometer disclosure, is a Class C misdemeanor. [1985 c.251 §6; 1989 c.148 §18; 1991 c.67 §223; 1991 c.873 §20; 1993 c.751 §108]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.430 - Submitting false odometer disclosure; penalty.**

(1) A person commits the offense of submitting a false odometer disclosure if the person knowingly makes any false statement or provides any false information on an odometer disclosure form.

(2) The offense described in this section, submitting a false odometer disclosure, is a Class C felony. [1985 c.251 §7; 1991 c.873 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.440 - Unauthorized possession, use or distribution of traffic control signal operating device; exemption; penalty.**

(1) A person commits the offense of unauthorized possession, use or distribution of a traffic control signal operating device if the person owns, uses, sells or otherwise distributes a device that is designed to control a traffic control light as a person using the device approaches the light.

(2) This section does not apply to persons operating traffic control signal operating devices as authorized by ORS 815.445.

(3) For purposes of ORS 133.555, a traffic control signal operating device is contraband if it is used by a person who is not authorized as provided in ORS 815.445 to use the device.

(4) The offense described in this section, unauthorized possession, use or distribution of a traffic control signal operating device, is a Class C misdemeanor. [1993 c.314 §14; 1993 c.522 §5; 1997 c.507 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.445 - Authority to use traffic control signal operating devices; costs.**

(1) The owner of a traffic control signal may authorize use of a traffic control signal operating device by the following persons for the following purposes:

(a) An authorized operator in an emergency vehicle, in order to improve the safety and efficiency of emergency response operations.

(b) An authorized operator in a bus, in order to interrupt the cycle of the traffic control signal in such a way as to keep the green light showing for longer than it otherwise would. As used in this paragraph, "bus" has the meaning given that term in ORS 184.675.

(c) An authorized operator in a traffic signal maintenance vehicle, in order to facilitate traffic signal maintenance activities.

(2) The owner of a traffic control signal who authorizes additional uses of a traffic control signal operating device, as authorized by this section, shall allocate the incremental costs, if any, of such additional uses to the additional users.

(3) A traffic control signal operating device used by an authorized person in an emergency vehicle shall preempt and override a device operated by any other person.

(4) A traffic control signal operating device used as authorized under this section must operate in such a way that the device does not continue to control the signal once the vehicle containing the device has arrived at the intersection, regardless of whether the vehicle remains at the intersection. [1997 c.507 §3]

Note:

The definition of "bus" in 184.675 was deleted by amendment by section 14, chapter 15, Oregon Laws 2020 (first special session).

The text of 815.445 was not amended by enactment of the Legislative Assembly to reflect the deletion. Editorial adjustment of 815.445 for the deletion of the definition has not been made.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 815 - Vehicle Equipment Generally Section 815.555 - Tampering with a vehicle metering system; penalty.**

(1) A person commits the offense of tampering with a vehicle metering system if the person:

(a) With the intent to defraud, operates a motor vehicle that is subject to the per-mile road usage charge imposed under ORS 319.885 on a highway knowing that the vehicle metering system is disconnected or nonfunctional.

(b) Replaces, disconnects or resets the vehicle metering system of a motor vehicle that is subject to the per-mile road usage charge imposed under ORS 319.885 with the intent of reducing the metered use recorded by the vehicle metering system.

- (2) This section does not apply to a person who is servicing, repairing or replacing a vehicle metering system.
- (3) As used in this section, "vehicle metering system" means a system used to record the metered use by a motor vehicle for the purpose of complying with the reporting requirements under ORS 319.920.
- (4) Tampering with a vehicle metering system is a Class A traffic violation. [2013 c.781 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.010 - Authority to adopt and enforce standards for lighting equipment; testing for compliance with standards.**

- (1) The Department of Transportation shall adopt and enforce minimum standards for vehicle lighting equipment under ORS 816.040 to 816.290 including installation, adjustment and aiming and adjustment when in use on motor vehicles.
- (2) As federal regulations concerning vehicle lighting equipment are subsequently amended or repealed, the department may consider subsequent federal vehicle lighting equipment standards and adopt standards with respect to any vehicle lighting equipment applicable to the same aspect of performance of the vehicle lighting equipment if the department determines that the subsequent federal standards are practicable, provide an objective standard and meet the need for vehicle safety.
- (3) When the department has reason to believe that any lighting equipment, as it is being sold commercially, does not comply with established standards, the department may have the device tested by a recognized testing laboratory to determine if the lighting equipment complies with the standards adopted under this section.
- (4) Standards adopted under this section must be consistent with vehicle standards established under federal regulations or by the Society of Automotive Engineers.
- (5) Standards adopted by the department under this section supersede any equipment provision of the vehicle code applicable to the same aspect of performance that conflicts with a specific provision of a standard adopted by the department under this section with respect to compliance with safety standards in effect at the time of sale.
- (6) The department shall continue to adopt equipment standards as required under other sections of the vehicle code if there are no standards under this section.
- (7) The department may at any time purchase in the open market and submit to the testing laboratory one or more sets of any lighting equipment, and if the lighting equipment, upon testing, fails to meet the standards adopted for lighting equipment under this section, the department shall enforce the penalties set forth in ORS 816.030 to 816.300.
- (8) Prohibitions and penalties relating to the standards adopted under this section are set forth in ORS 816.030 to 816.300. [1983 c.338 §447; 2003 c.158 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.020 - Motor carriers under jurisdiction of Department of Transportation.**

With respect to motor carriers operated under the jurisdiction of the Department of Transportation, the department may adopt standard specifications at variance with the requirements and standards for vehicle lighting equipment under ORS 811.515 to 811.525 or 816.040 to 816.370 whenever standard specifications adopted by the Federal Motor Carrier Safety Administration are different from those established by those sections. The standard specifications so adopted by the department shall conform to standard specifications adopted by the Federal Motor Carrier Safety Administration for vehicles operating in interstate commerce. [1983 c.338 §448; 1985 c.16 §235; 1995 c.733 §89; 2003 c.158 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.030 - Selling noncomplying lighting equipment; penalty.**

- (1) A person commits the offense of selling noncomplying lighting equipment if the person sells or offers for sale for use upon or as part of the equipment of any vehicle any vehicle lighting equipment that does not comply with standards adopted by the Department of Transportation under ORS 816.010.
- (2) The offense described in this section, selling noncomplying lighting equipment, is a Class D traffic violation. [1983 c.338 §453; 1995 c.383 §29; 2003 c.158 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.040 - Lighting equipment standards; effect of rules.**

ORS 816.040 to 816.290 establish requirements for ORS 816.300. Except where an exemption under ORS 816.310 specifically provides otherwise, any vehicle lighting that does not comply with ORS 816.040 to 816.290 violates ORS 816.300 and is subject to the penalty provided for in ORS 816.040 to 816.290. Each of the following is a requirement for lighting equipment described in ORS 816.040 to 816.290:

- (1) Whenever ORS 816.040 to 816.290 specify either the distance from which lighting equipment shall render objects visible or the distance within which lighting equipment shall be visible, that distance of visibility, unless a different time or condition is expressly stated, shall be as determined:
  - (a) Under normal atmospheric conditions;
  - (b) At any time from sunset to sunrise or any other time when, due to insufficient light, persons and vehicles are not clearly

discernible at a distance of 1,000 feet; and

(c) On a straight, level unlighted highway.

(2) Whenever ORS 816.040 to 816.290 specify the mounted height of lighting equipment, the height shall be determined from the center of the lighting equipment to the level ground upon which the vehicle stands.

(3) Any standard provided for a piece of lighting equipment under ORS 816.040 to 816.290 is subject to being superseded by a rule adopted by the Department of Transportation as provided under ORS 815.030. [1983 c.338 §458 (1); 1985 c.16 §240 (1); 1985 c.69 §1 (1); 1985 c.71 §4 (1); 1985 c.393 §13 (1); 1985 c.420 §6 (1); 1995 c.733 §90]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.050 - Headlights; rules.**

Each of the following is a requirement for headlights as described:

(1) On vehicles required to be equipped with two or more headlights under ORS 816.320 and 816.330 the headlights shall be equally distributed on each side of the front of the vehicle. This subsection does not apply to motorcycles and mopeds.

(2) Headlights shall show a continuously burning light except that:

(a) When permitted under ORS 814.320, headlights for motorcycles or mopeds may have an upper beam that can be modulated between a high and lower brightness at a rate of 200 to 280 pulses per minute.

(b) A federally approved headlight flashing system may be used as emergency vehicle lights on police, fire, emergency or ambulance vehicles.

(3) Headlights shall show a white light described in Standard Number 108 of the Federal Motor Vehicle Safety Standards.

(4) Headlights shall show the light forward.

(5) The Department of Transportation shall adopt and enforce rules establishing minimum standards and specifications for headlights. The rules shall conform, insofar as practicable, to safety standards and specifications for vehicle lighting issued by the federal government or to standards and recommendations established by the Society of Automotive Engineers.

(6) When multiple beam headlights are used or when headlights are used in combination with auxiliary lights or passing lights, the lights shall be arranged on the vehicle so that the selection between distributions of light projected to different elevations may be selected by the driver at will or so that the selection can be made automatically.

(7) Headlights shall be aimed in accordance with rules adopted by the department. If headlights provide only a single distribution of light and are not supplemented by auxiliary lights, the single beam headlights shall be so aimed that when the vehicle is not loaded, none of the high intensity portion of the light shall, at a distance of 25 feet ahead of the vehicle, project higher than five inches below the level of the center of the lamp from which it comes, or higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead of the vehicle.

(8) The intensity of the light of single beam headlights shall be sufficient to reveal persons and vehicles upon a street or highway at a distance of at least 200 feet ahead of the vehicle to which they are attached.

(9) Headlights that are required under ORS 816.320 and 816.330 must be mounted, adjusted and aimed in accordance with standards adopted by the department under ORS 816.010.

(10) Headlights that are required under ORS 816.320 and 816.330 and any part for such headlight that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010.

(11) Single beam headlights that are not supplemented by auxiliary lights shall be permitted on a motor vehicle in lieu of multiple beam headlights only if the single distribution of lights complies with any requirements for single beam headlights under this section. [1983 c.338 §458 (2); 1985 c.16 §240 (2); 1985 c.69 §1 (2); 1985 c.71 §4 (2); 1985 c.393 §13 (2); 1985 c.420 §6 (2); 1989 c.402 §8; 1991 c.769 §1; 2003 c.158 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.060 - Auxiliary lights.**

(1) As used in this section, "auxiliary lights" means low beam auxiliary lights.

(2) When auxiliary lights are used in combination with headlights, the combination of lights shall be arranged on the vehicle so that the selection between distributions of light projected to different elevations may be selected by the driver at will or so that the selection can be made automatically.

(3) Auxiliary lights shall be wired in accordance with rules adopted by the Department of Transportation.

(4) Auxiliary lights shall be mounted, adjusted and aimed in accordance with rules adopted by the department.

(5) Auxiliary lights mounted on a vehicle for highway use shall be mounted at a height of 54 inches or less above the level surface upon which the vehicle stands. Auxiliary lights mounted higher than 54 inches are subject to any limitation on use under ORS 811.515 and 811.520.

(6) Auxiliary lights and any part for such light that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010.

(7) Auxiliary lights shall show a white light forward. [1983 c.338 §458 (3); 1985 c.16 §240 (3); 1985 c.69 §1 (3); 1985 c.71 §4 (3); 1985 c.393 §13 (3); 1985 c.420 §6 (3); 2003 c.158 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment:**

**LightsSection 816.070 - Passing lights.**

- (1) As used in this section, "passing lights" means high beam auxiliary lights.
- (2) When passing lights are used in combination with headlights, the combination of lights shall be arranged on the vehicle so that the selection between distributions of light projected to different elevations may be selected by the driver at will or so that the selection can be made automatically.
- (3) Passing lights shall be wired in accordance with rules adopted by the Department of Transportation.
- (4) Passing lights shall be aimed in accordance with rules adopted by the department.
- (5) Passing lights shall show a white light forward. [1983 c.338 §458 (4); 1985 c.16 §240 (4); 1985 c.69 §1 (4); 1985 c.71 §4 (4); 1985 c.393 §13 (4); 1985 c.420 §6 (4); 2003 c.158 §22]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 816 - Vehicle Equipment: LightsSection 816.080 - Taillights.**

- (1) Taillights shall be mounted on the rear of a vehicle.
- (2) Except as otherwise provided in this section, when lighted, taillights shall emit a red light.
- (3) When lighted, taillights shall emit a light plainly visible from a distance of 500 feet to the rear.
- (4) Taillights may be constructed so as to include registration plate lights.
- (5) Taillights shall be wired so as to be lighted whenever the headlights or auxiliary lights are lighted.
- (6) Taillights that are required under ORS 816.320 and 816.330 must be mounted, adjusted and aimed in accordance with the standards adopted by the Department of Transportation.
- (7) Taillights that are required under ORS 816.320 and 816.330 and any part for such light that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010.
- (8) On a motor vehicle that was manufactured before 1959, the taillight or the taillight assembly, if the taillight is combined with another light, may contain a blue or purple insert of not more than one inch in diameter. [1983 c.338 §458 (5); 1985 c.16 §240 (5); 1985 c.69 §1 (5); 1985 c.71 §4 (5); 1985 c.393 §13 (5); 1985 c.420 §6 (5); 1997 c.492 §1; 2003 c.158 §23]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 816 - Vehicle Equipment: LightsSection 816.090 - Registration plate lights.**

Each of the following is a requirement for registration plate lights as described:

- (1) A registration plate light shall be so constructed and placed as to illuminate the rear registration plate of the vehicle.
- (2) A registration plate light may either be constructed as a separate light or as part of a taillight.
- (3) A registration plate light shall show a white light.
- (4) A registration plate light shall render the rear registration plate clearly legible from a distance of 50 feet to the rear.
- (5) A registration plate light shall be wired so as to be lighted whenever the headlights or auxiliary lights are lighted. [1983 c.338 §458 (6); 1985 c.16 §240 (6); 1985 c.69 §1 (6); 1985 c.71 §4 (6); 1985 c.393 §13 (6); 1985 c.420 §6 (6)]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 816 - Vehicle Equipment: LightsSection 816.100 - Brake lights.**

Each of the following is a requirement for brake lights as described:

- (1) Brake lights shall be placed on the rear of the vehicle. Where more than one brake light is required under ORS 816.320 and 816.330 at least one brake light shall be placed on each side of the rear.
- (2) Brake lights shall be constructed and located on a vehicle so as to give a signal of intention to stop.
- (3) Brake lights shall emit a red light. If the motor vehicle was manufactured before 1959 and the brake light is combined with the taillight in a taillight assembly, the assembly may contain an insert as described under ORS 816.080.
- (4) Except as provided in subsection (11) of this section, brake lights shall emit a steady burning light.
- (5) Brake lights shall emit a light that is plainly visible and capable of being seen and distinguished from a distance of 500 feet to the rear of the vehicle in normal daylight.
- (6) Brake lights required under ORS 816.320 and 816.330 shall be mounted, so far as practicable, in such a manner as to reduce the hazard of being obscured by mud or dust thrown by the wheels.
- (7) Brake lights shall not project a glaring or dazzling light.
- (8) Brake lights may be incorporated with a taillight.
- (9) Brake lights shall be activated upon application of the service brake.
- (10) Brake lights required under ORS 816.320 and 816.330 or any parts for brake lights must comply with standards adopted by the Department of Transportation under ORS 816.010.
- (11) Brake lights for motorcycles may flash intermittently, provided that the brake lights do not override the rear turn signal function. [1983 c.338 §458 (7); 1985 c.16 §240 (7); 1985 c.69 §1 (7); 1985 c.71 §4 (7); 1985 c.393 §13 (7); 1985 c.420 §6 (7); 1997 c.492 §2; 2003 c.158 §24]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 816 - Vehicle Equipment:**

**LightsSection 816.110 - Back-up lights.**

Back-up lights may be constructed either separately or in combination with another light. [1983 c.338 §458 (8); 1985 c.16 §240 (8); 1985 c.69 §1 (8); 1985 c.71 §4 (8); 1985 c.393 §13 (8); 1985 c.420 §6 (8)]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 816 - Vehicle Equipment: LightsSection 816.120 - Turn signals.**

Each of the following is a requirement for turn signals as described:

- (1) Turn signals shall be so constructed and located on a vehicle as to give a signal of intention to turn right or left.
- (2) The following types of turn signals shall show light in the direction indicated:
  - (a) Front turn signal lights shall show light to the front of the vehicle.
  - (b) Rear turn signal lights shall show light to the rear of the vehicle.
- (3) The following types of turn signals shall have the color of light indicated:
  - (a) Front turn signal lights may be white or amber.
  - (b) Rear turn signal lights may be red, amber or yellow. If the rear turn signal is red, the motor vehicle was manufactured before 1959 and the turn signal is combined with the taillight in a taillight assembly, the assembly may contain an insert as described under ORS 816.080.
- (4) Turn signals shall be understandable in normal sunlight and at a distance of 500 feet at night.
- (5) Turn signals that are required under ORS 816.320 and 816.330 must be mounted, adjusted and aimed in accordance with the standards adopted by the Department of Transportation.
- (6) Turn signals that are required under ORS 816.320 and 816.330 and any part for such turn signals that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010. [1983 c.338 §458 (9); 1985 c.16 §240 (9); 1985 c.69 §1 (9); 1985 c.71 §4 (9); 1985 c.393 §13 (9); 1985 c.420 §6 (9); 1997 c.492 §3; 2003 c.158 §25]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 816 - Vehicle Equipment: LightsSection 816.130 - Parking lights.**

Each of the following is a requirement for parking lights as indicated:

- (1) Parking lights shall be on the roadway side of the vehicle when a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto.
- (2) Parking lights shall exhibit a white or amber light visible to the front of the vehicle and a red light visible to the rear of the vehicle.
- (3) Parking lights shall be visible from a distance of 500 feet to the front of the vehicle and from a distance of 500 feet to the rear of the vehicle. [1983 c.338 §458 (10); 1985 c.16 §240 (10); 1985 c.69 §1 (10); 1985 c.71 §4 (10); 1985 c.393 §13 (10); 1985 c.420 §6 (10)]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 816 - Vehicle Equipment: LightsSection 816.140 - Cowl or fender lights.**

Cowl or fender lights shall emit an amber or white light without glare. [1983 c.338 §458 (11); 1985 c.16 §240 (11); 1985 c.69 §1 (11); 1985 c.71 §4 (11); 1985 c.393 §13 (11); 1985 c.420 §6 (11)]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 816 - Vehicle Equipment: LightsSection 816.150 - High beam indicator.**

Each of the following is a requirement for a high beam indicator:

- (1) A high beam indicator shall be constructed so as to be lighted when, and only when, the uppermost distribution of light from the headlights is in use.
- (2) A high beam indicator shall be so designed and located that when lighted it will be readily visible to the driver of the vehicle so equipped.
- (3) A high beam indicator shall be without glare to the driver of the vehicle so equipped. [1983 c.338 §458 (12); 1985 c.16 §240 (12); 1985 c.69 §1 (12); 1985 c.71 §4 (12); 1985 c.393 §13 (12); 1985 c.420 §6 (12)]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 816 - Vehicle Equipment: LightsSection 816.160 - Rear mounted lighting system.**

Each of the following is a requirement for a rear mounted lighting system:

- (1) A rear mounted lighting system shall have a green light, a yellow light and a red light.
- (2) A rear mounted lighting system shall be constructed so that:
  - (a) The green light will be actuated when the accelerator is depressed;
  - (b) The yellow light will be actuated when the vehicle is moving forward or standing and idling, but not under power from its engine; and

- (c) The red light will be actuated when the motor vehicle is being braked through the use of its braking system.
- (3) The red and green lights of a rear mounted lighting system may be illuminated simultaneously. Otherwise, only one light of the system shall be illuminated at any one time and either the green or yellow lights shall be illuminated when the red lights are not illuminated.
- (4) The lights of a rear mounted lighting system shall be capable of being seen and distinguished from a distance of 500 feet to the rear of the vehicle during normal daylight.
- (5) Rear mounted lighting systems shall not project a glaring or dazzling light. [1983 c.338 §458 (13); 1985 c.16 §240 (13); 1985 c.69 §1 (13); 1985 c.71 §4 (13); 1985 c.393 §13 (13); 1985 c.420 §6 (13)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.170 - Spotlights.**

Each of the following is a requirement for spotlights as indicated:

- (1) Spotlights must be mounted, adjusted and aimed in accordance with standards adopted by the Department of Transportation.
- (2) Spotlights and any part for such spotlights that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010. [1983 c.338 §458 (14); 1985 c.16 §240 (14); 1985 c.69 §1 (14); 1985 c.71 §4 (14); 1985 c.393 §13 (14); 1985 c.420 §6 (14); 2003 c.158 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.180 - Reflectors.**

Each of the following is a requirement for reflectors as indicated:

- (1) The following are the colors for the indicated type of reflector:
  - (a) Rear reflectors and rearward side reflectors shall be red.
  - (b) Forward side reflectors and intermediate side reflectors shall be amber.
- (2) The following types of reflectors shall be placed as indicated:
  - (a) Rear reflectors shall be mounted on the rear of the vehicle. If more than one rear reflector is required under ORS 816.320 and 816.330, there shall be at least one rear reflector on either side of the rear of the vehicle. On pole trailers, rear reflectors may be mounted on each side of the bolster or load.
  - (b) Forward side reflectors shall be mounted on the side of the vehicle near the front of the vehicle.
  - (c) Intermediate side reflectors shall be mounted on the side of the vehicle at or near the midpoint between the forward side reflectors and the rearward side reflectors.
  - (d) Rearward side reflectors shall be mounted on the side of the vehicle near the rear of the vehicle.
- (3) Reflectors shall be mounted on a vehicle at a height not less than 15 inches and not more than 60 inches above the ground on which the vehicle stands.
- (4) Reflectors shall be of such size or characteristics and so mounted and maintained as to be readily visible at night within 500 feet to 50 feet from the vehicle when directly in front of lawful upper beams of headlights.
- (5) Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides and those mounted on the rear shall reflect the required color to the rear.
- (6) Reflectors required under ORS 816.320 and 816.330 shall be mounted, so far as practicable, in such manner as to reduce the hazard of being obscured by mud or dust thrown by the wheels.
- (7) Reflectors that are required under ORS 816.320 and 816.330 must be mounted, adjusted and aimed in accordance with standards adopted by the Department of Transportation.
- (8) Reflectors that are required under ORS 816.320 and 816.330 and any part for such reflectors that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010.
- (9) Rear reflectors may be constructed either as a separate reflector or as part of and incorporated with the taillights. [1983 c.338 §458 (15); 1985 c.16 §240 (15); 1985 c.69 §1 (15); 1985 c.71 §4 (15); 1985 c.393 §13 (15); 1985 c.420 §6 (15); 2003 c.158 §27]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.190 - Marker lights.**

Each of the following is a requirement for marker lights as indicated:

- (1) The following types of marker lights shall be placed as indicated:
  - (a) Forward side marker lights shall be mounted on the side of the vehicle at or near the front.
  - (b) Intermediate side marker lights shall be mounted on the side of the vehicle at or near the midpoint between the forward side marker lights and the rearward side marker lights.
  - (c) Rearward side marker lights shall be mounted on the side of the vehicle at or near the rear.
- (2) The following are the colors for the indicated type of marker lights:
  - (a) Rearward side marker lights shall be red.
  - (b) Forward side marker lights and intermediate side marker lights shall be amber.
- (3) Side marker lights may be mounted in combination with clearance lights if illumination is given as required with reference to both.



- (4) Marker lights that are required under ORS 816.320 and 816.330 shall be mounted, so far as practicable, in such manner as to reduce the hazard of being obscured by mud or dust thrown by the wheels.
- (5) Marker lights shall be capable of being seen and distinguished at a distance of 500 feet directly from that part of the vehicle on which the lights are placed. [1983 c.338 §458 (16); 1985 c.16 §240 (16); 1985 c.69 §1 (16); 1985 c.71 §4 (16); 1985 c.393 §13 (16); 1985 c.420 §6 (16)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.200 - Clearance lights.**

Each of the following is a requirement for clearance lights as indicated:

- (1) The following types of clearance lights shall be placed as indicated:
- (a) Front clearance lights shall be placed on the front of the vehicle. When more than one front clearance light is required under ORS 816.320 and 816.330, at least one front clearance light shall be on each side of the front of the vehicle.
- (b) Rear clearance lights shall be placed on the rear of the vehicle. When more than one rear clearance light is required under ORS 816.320 and 816.330, at least one rear clearance light shall be on each side of the rear of the vehicle.
- (2) The following are the colors for indicated type of clearance lights:
- (a) Front clearance lights shall be amber.
- (b) Rear clearance lights shall be red.
- (3) Clearance lights shall be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and shall be mounted as near the top of the vehicle as practicable.
- (4) Clearance lights may be mounted in combination with side marker lights if illumination is given as required with reference to both.
- (5) Clearance lights that are required under ORS 816.320 and 816.330 shall be mounted, so far as practicable, in such manner as to reduce the hazard of being obscured by mud or dust thrown by the wheels.
- (6) Clearance lights shall be capable of being seen and distinguished at a distance of 500 feet directly from that part of the vehicle on which the lights are placed. [1983 c.338 §458 (17); 1985 c.16 §240 (17); 1985 c.69 §1 (17); 1985 c.71 §4 (17); 1985 c.393 §13 (17); 1985 c.420 §6 (17)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.210 - Identification lights.**

Each of the following is a requirement for identification lights:

- (1) An identification light is a group of three lights mounted at the same height with the centers of the lights in the group of lights spaced not less than 6 inches nor more than 12 inches apart.
- (2) The following types of identification lights shall be placed as indicated:
- (a) Front identification lights shall be placed on the front of the vehicle.
- (b) Rear identification lights shall be placed on the rear of the vehicle.
- (3) Identification lights shall be mounted as close as practicable to the top of the vehicle.
- (4) Identification lights shall be mounted as close as practicable to the vertical centerline of the vehicle on that part of the vehicle where the identification lights are mounted.
- (5) Front identification lights shall be an amber color. Rear identification lights shall be a red color.
- (6) Identification lights that are required ORS 816.320 and 816.330 shall be mounted, so far as practicable, in such manner as to reduce the hazard of being obscured by mud or dust thrown by the wheels.
- (7) Identification lights shall be capable of being seen and distinguished at a distance of 500 feet directly from that part of the vehicle on which the lights are placed. [1983 c.338 §458 (18); 1985 c.16 §240 (18); 1985 c.69 §1 (18); 1985 c.71 §4 (18); 1985 c.393 §13 (18); 1985 c.420 §6 (18)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.220 - Exempt-vehicle safety lighting equipment.**

Each of the following is a requirement for exempt-vehicle safety lighting equipment:

- (1) Exempt-vehicle safety lighting equipment shall consist of at least two lighted lights or lanterns.
- (2) The following are the colors for the indicated type of exempt-vehicle safety lighting equipment indicated:
- (a) The exempt-vehicle safety lighting equipment that exhibits a light to the front of the vehicle shall exhibit a white light in that direction.
- (b) The exempt-vehicle safety lighting equipment that exhibits a light to the rear of the vehicle shall exhibit a red light in that direction.
- (3) At least one piece of exempt-vehicle safety lighting equipment shall exhibit a light visible to the front of the vehicle and at least one shall exhibit a light visible to the rear of the vehicle.
- (4) Exempt-vehicle safety lighting equipment shall be visible from a distance of 500 feet from the direction that the light is required to be visible. [1983 c.338 §458 (19); 1985 c.16 §240 (19); 1985 c.69 §1 (19); 1985 c.71 §4 (19); 1985 c.393 §13 (19); 1985 c.420 §6 (19)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.230 - Fog lights.**

Each of the following is a requirement for fog lights as described:

- (1) Fog lights shall be mounted, aimed and adjusted in accordance with standards adopted by the Department of Transportation.
- (2) Fog lights and any part of such fog lights that tends to change the original design or performance must be of a type that complies with standards adopted by the department under ORS 816.010.
- (3) Forward mounted fog lights shall show a white, amber or yellow light.
- (4) Rear mounted fog lights shall show a red light. [1983 c.338 §458 (20); 1985 c.16 §240 (20); 1985 c.69 §1 (20); 1985 c.71 §4 (20); 1985 c.393 §13 (20); 1985 c.420 §6 (20); 2003 c.158 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.240 - Hazard lights.**

Each of the following is a requirement for hazard lights as described:

- (1) At least two hazard lights shall be mounted on the front of the vehicle and at least two hazard lights shall be mounted on the rear of the vehicle.
- (2) Hazard lights mounted on the front of the vehicle shall be mounted at the same level as other hazard lights on the front of the vehicle. Hazard lights mounted on the rear of the vehicle shall be mounted at the same level as other hazard lights on the rear of the vehicle.
- (3) Hazard lights shall be as widely spaced laterally on the front and rear of the vehicle as practicable.
- (4) Hazard lights on a vehicle shall flash simultaneously with each other.
- (5) Hazard lights on the front of a vehicle may be white or amber lights. Hazard lights on the rear of a vehicle may be amber or red lights.
- (6) Hazard lights shall be visible from a distance of not less than 500 feet under normal atmospheric conditions at night. [1983 c.338 §458 (21); 1985 c.16 §240 (21); 1985 c.69 §1 (21); 1985 c.71 §4 (21); 1985 c.393 §13 (21); 1985 c.420 §6 (21)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.250 - Police lights.**

Each of the following is a requirement for police lights as described:

- (1) Police lights may be blue, red, yellow, amber or white.
- (2) Police lights may be revolving or stationary-type flashing lights.
- (3) Police lights shall be visible from a distance of not less than 1,000 feet under normal atmospheric conditions at night.
- (4) Police lights may include one or more lights. [1983 c.338 §458 (22); 1985 c.16 §240 (22); 1985 c.69 §1 (22); 1985 c.71 §4 (22); 1985 c.393 §13 (22); 1985 c.420 §6 (22); 1989 c.402 §9; 1997 c.492 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.260 - Bus safety lights.**

Each of the following is a requirement for bus safety lights:

- (1) Bus safety lights shall include at least two of each color of light on the front of the vehicle and at least two of each color of light on the rear of the vehicle.
- (2) Bus safety lights shall include red and amber lights.
- (3) Each bus safety light shall alternately flash with the bus safety lights of the same color that are placed on the same end of the vehicle displaying the lights. [1983 c.338 §458 (23); 1985 c.16 §240 (23); 1985 c.69 §1 (23); 1985 c.71 §4 (23); 1985 c.393 §13 (23); 1985 c.420 §6 (23)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.270 - Mail delivery lights.**

(1) Each of the following is a requirement for mail delivery lights other than strobe lights:

- (a) Mail delivery lights shall include two lights.
- (b) Mail delivery lights shall be simultaneously flashing lights.
- (c) Mail delivery lights may be constructed so that the lights flash continuously or are actuated by application of the service brake.
- (d) Mail delivery lights shall have at least 12 square inches of effective illuminated surface.
- (e) Mail delivery lights shall be of double face or two-way type.
- (f) Mail delivery lights shall project an amber color to the front and a red color to the rear.
- (g) Mail delivery lights shall be visible from a distance of not less than 100 feet to the front and rear in normal sunlight.
- (h) Mail delivery lights shall be mounted on the highest part of the top of the vehicle in such a position that the illumination from the lights is visible both to the front and rear for the required distance and shall be spaced laterally as far apart as body construction will permit.
- (i) Between mail delivery lights there shall be mounted a 22-inch by 7-inch sign with the wording "U.S. Mail" in four-inch letters in

black on a white background.

(j) Mail delivery lights and the required sign shall be installed so that the sign can be easily lowered and the lights turned off when the vehicle is not actually engaged in United States Mail service.

(k) Mail delivery lights, the required sign, wiring, switches and mounting devices shall all be of a type that meets standards adopted by the Department of Transportation.

(2) Magnetically attached strobe lights may be used as mail delivery lights without meeting any of the requirements of subsection (1) of this section except the visibility requirements of subsection (1)(g) and (h) of this section. Strobe lights used as mail delivery lights shall be amber. [1983 c.338 §458 (24); 1985 c.16 §240 (24); 1985 c.69 §1 (24); 1985 c.71 §4 (24); 1985 c.393 §13 (24); 1985 c.420 §6 (24); 1991 c.601 §1; 2003 c.158 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.280 - Warning lights.**

This section establishes standards for different types of warning lights. Each of the following is a requirement for warning lights as described:

(1) The following are the colors for the indicated type of warning light:

(a) Public vehicle warning lights, pilot vehicle warning lights and commercial vehicle warning lights shall be amber.

(b) Tow vehicle warning lights may be amber or red.

(c) Weighmaster and motor carrier enforcement officer warning lights shall be red.

(d) Warning lights on vehicles engaged in the removal, containment or cleanup of a hazardous materials release, and on vehicles at the scene of a potential release of hazardous materials, may be red or amber.

(e) Warning lights on vehicles being used by medical examiners to reach the scene of an accident or of a death investigation may be red.

(2) Warning lights shall provide an intermittent light that may be either of a revolving or flashing type or any other type that provides an intermittent light.

(3) All warning lights shall be visible from a distance of not less than 500 feet under normal atmospheric conditions at night. [1983 c.338 §458 (25); 1985 c.16 §240 (25); 1985 c.69 §1 (25); 1985 c.71 §4 (25); 1985 c.393 §13 (25); 1985 c.420 §6 (25); 1989 c.402 §10; 1991 c.769 §3; 1993 c.741 §104; 1999 c.497 §1; 2003 c.245 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.285 - Fire department warning lights.**

Each of the following is authorized for fire department warning lights:

(1) Fire department vehicle warning lights may be red or a combination of red and white.

(2) Fire department vehicles may use an approved headlight flashing system as authorized by ORS 816.050.

(3) Fire department vehicles may have a forward facing flashing white light for the purpose of operating a traffic signal preemption device.

(4) Fire department vehicles may show a flashing or revolving green light when operating as the command post in emergency incidents.

(5) Fire department emergency response vehicle lights may be any color allowed for police lights under ORS 816.250. [1991 c.769 §5; 1997 c.492 §6]

Note:

816.285 was added to and made a part of ORS chapter 816 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.290 - End load lights.**

Each of the following is a requirement for end load lights:

(1) The lights shall be red in color.

(2) The lights shall be either a lighted light or lantern.

(3) The lights shall be placed at the extreme rear end of a load.

(4) The lights shall be plainly visible from a distance of at least 500 feet to the sides and rear of the vehicle. [1983 c.338 §458 (26); 1985 c.16 §240 (26); 1985 c.69 §1 (26); 1985 c.71 §4 (26); 1985 c.393 §13 (26); 1985 c.420 §6 (26)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.300 - Operation with nonstandard lighting equipment; penalty.**

(1) A person commits the offense of operation with nonstandard lighting equipment if the person does any of the following:

(a) Drives or moves on any highway any vehicle equipped with lighting equipment described under ORS 816.040 to 816.290 that does not meet the standards required for the equipment under ORS 816.040 to 816.290.

(b) Owns a vehicle or combination of vehicles and causes or knowingly permits the vehicle or combination of vehicles to be driven

or moved on any highway when the vehicle or combination is equipped with lighting equipment described under ORS 816.040 to 816.290 that does not meet the standards required for the equipment under ORS 816.040 to 816.290.

(2) The application of this section is subject to the exemptions from this section established under ORS 816.310.

(3) The offense described in this section, operation with nonstandard lighting equipment, is a Class C traffic violation. [1983 c.338 §457; 1985 c.393 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.310 - Exemptions from lighting equipment requirements.**

This section establishes exemptions from ORS 816.040 to 816.300. The exemptions under this section are in addition to any exemptions under ORS 801.026. The exemptions established under this section are partial or complete as described in the following:

(1) ORS 816.040 to 816.300 shall not be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of those sections.

(2) Lighting equipment used on vehicles of special interest that are registered under ORS 805.020 shall be deemed in compliance with ORS 816.040 to 816.300 if the equipment is original manufacturer's equipment and accessories, or their equivalent and if the equipment is maintained in safe operating condition.

(3) ORS 816.040 to 816.300 do not apply to equipment on any of the following:

(a) Road machinery.

(b) Road rollers.

(c) Farm tractors.

(d) Antique vehicles that are maintained as a collector's item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(e) Motorized wheelchairs when used as permitted under ORS 811.440.

(4) On any combination of vehicles, only the lighting equipment on the rearmost vehicle in the combination of vehicles need be visible from distances specified under ORS 816.040 to 816.290 for lighting equipment on the rear of vehicles.

(5) Lighting equipment on bicycles shall meet the requirements established for such equipment under ORS 815.280.

(6) Vehicle lighting equipment requirements for ambulances and emergency vehicles are established in ORS 820.350.

(7) Lighting equipment on electric personal assistive mobility devices shall meet the requirements established in ORS 815.284. [1983 c.338 §459; 1985 c.16 §241; 1991 c.417 §6; 2003 c.341 §18; 2015 c.138 §36]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.320 - Lighting equipment required for motor vehicles.**

This section establishes requirements for ORS 816.330. Where specific types of lighting equipment are mentioned by this section, those types are types described under ORS 816.040 to 816.290. Except where an exemption under ORS 816.340 specifically provides otherwise, a vehicle that does not comply with this section is in violation of ORS 816.330:

(1) A motor vehicle shall be equipped with all of the following in addition to any other requirements under this section:

(a) Headlights. Motor vehicles other than motorcycles or mopeds shall be equipped with at least two. Motorcycles or mopeds shall be equipped with at least one.

(b) Taillights. Motor vehicles other than motorcycles shall be equipped with two taillights. Motorcycles are only required to be equipped with one taillight.

(c) Registration plate light.

(d) Brake lights. Motor vehicles other than motorcycles and mopeds shall be equipped with at least two brake lights. Motorcycles and mopeds are only required to be equipped with one brake light.

(e) Turn signal lights.

(f) Rear reflectors.

(2) All trailers shall be equipped with all of the following in addition to any other requirements under this section:

(a) Taillights. Trailers are required to be equipped with two taillights.

(b) Registration plate lights.

(c) Two brake lights.

(d) Turn signal lights.

(e) Two rear reflectors.

(3) The motor vehicles described in this subsection shall be equipped with forward and rearward side reflectors on each side of the vehicle and forward and rearward side marker lights on each side of the vehicle in addition to any requirements under subsection (1) of this section. This subsection applies to the following vehicles:

(a) School buses.

(b) Worker transport buses.

(c) Vehicles used in transportation of persons for hire by a nonprofit entity.

(d) A bus being operated for transporting children to and from religious services or an activity or function authorized by the religious organization.

(e) Commercial buses.

- (f) Motor trucks with a registration weight in excess of 8,000 pounds.
- (4) In addition to any other requirements under this section, any motor truck with a registration weight in excess of 8,000 pounds, commercial bus or trailer that is 80 inches or more in overall width and less than 30 feet in overall length shall be equipped with the following:
  - (a) Two front and two rear clearance lights.
  - (b) Front and rear identification lights.
- (5) In addition to any other requirements under this section, any motor truck with a registration weight of more than 8,000 pounds, commercial bus or trailer that is more than 30 feet in overall length, regardless of its width shall be equipped with the following:
  - (a) Two front and two rear clearance lights.
  - (b) Front and rear identification lights.
  - (c) Intermediate side marker lights and intermediate side reflectors on each side of the vehicle.
  - (6) Every motor vehicle that has multiple-beam lighting equipment shall be equipped with a high beam indicator.
  - (7) Tow vehicles shall be equipped with tow vehicle warning lights. [1983 c.338 §461; 1985 c.71 §5; 1989 c.402 §11; 1989 c.992 §22; 2015 c.283 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.330 - Operation without required lighting equipment; penalty.**

- (1) A person commits the offense of operation without required lighting equipment if the person does any of the following:
  - (a) Drives or moves on any highway any vehicle that is not equipped with lighting equipment that is required for the vehicle under ORS 816.320.
  - (b) Owns a vehicle or combination of vehicles and causes or knowingly permits the vehicle or combination of vehicles to be driven or moved on any highway when the vehicle or combination is not equipped with lighting equipment that is required for the vehicle under ORS 816.320.
- (2) The application of this section is subject to the exemptions from this section established under ORS 816.340.
- (3) The offense described in this section, operation without required lighting equipment, is a Class C traffic violation. [1983 c.338 §460; 1985 c.393 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.340 - Exemptions from required equipment.**

This section establishes exemptions from ORS 816.320 and 816.330. The exemptions established under this section are in addition to any exemptions under ORS 801.026. The exemptions under this section are partial or complete as described in the following:

- (1) ORS 816.320 and 816.330 shall not be construed to prohibit the use of additional parts and accessories on any vehicle consistent with the provisions of those sections.
- (2) Vehicles of special interest that are registered under ORS 805.020 shall be deemed in compliance with ORS 816.320 and 816.330 if:
  - (a) The vehicles are equipped with original manufacturer's equipment and accessories, or their equivalent, and if the equipment is maintained in safe operating condition; or
  - (b) The vehicles are street rods that conform to ORS 815.107.
- (3) ORS 816.320 and 816.330 do not apply to any of the following vehicles:
  - (a) Road machinery.
  - (b) Road rollers.
  - (c) Farm tractors, implements of husbandry and farm trailers.
  - (d) Antique vehicles that are maintained as a collector's item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.
- (4) Motorcycles manufactured before 1973 are not required to be equipped with turn signals if the motorcycle is not driven during limited visibility conditions under ORS 811.405 and 811.515.
- (5) Truck tractors are not required to be equipped with rear reflectors.
- (6) Pole trailers are not required to be equipped with side reflectors, side marker lights, clearance lights or identification lights.
- (7) Motor vehicles registered in this state on or before January 1, 1940, are not required to be equipped with a high-beam indicator.
- (8) Bicycles shall be equipped with lighting equipment as required under ORS 815.280.
- (9) Requirements for warning lights on ambulances are provided under ORS 820.350 and 820.360.
- (10) Electric personal assistive mobility devices shall be equipped with lighting equipment as required under ORS 815.284. [1983 c.338 §462; 1985 c.16 §242; 1989 c.402 §12; 1997 c.402 §17; 2003 c.158 §30; 2003 c.341 §19; 2015 c.138 §37]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.350 - Prohibitions on number and kind of lights for certain vehicles.**

This section establishes requirements for ORS 816.360. When specific types of lighting equipment are mentioned by this section, those types are types described under ORS 816.040 to 816.290. Except as allowed under this section or where an exemption under ORS 816.370 specifically provides otherwise, a vehicle that does not comply with this section is in violation of ORS 816.360:

- (1)(a) A motorcycle may not be equipped with more than three headlights.
- (b) A moped may not be equipped with more than two headlights.
- (2) Except when blue or purple inserts are allowed under ORS 816.080, 816.100 or 816.120, no vehicle may have any lighting equipment mounted on the rear that displays or reflects any color other than red except for the following lighting equipment:
  - (a) Turn signal lights.
  - (b) Rear mounted lighting systems.
  - (c) Registration plate lights.
  - (d) Back-up lights.
- (3) Except as otherwise allowed under this section, only the following types of vehicles may be equipped with public vehicle warning lights:
  - (a) A vehicle operated by the state, or any county, city, district or other political subdivision of the state, and used for the construction, improvement, repair, maintenance, operation or patrol of any public highway.
  - (b) Vehicles operated by a public utility or telecommunications utility involved in maintenance, repair or construction of their facilities along public rights of way.
  - (4) Vehicles operated by a police officer and used for law enforcement may be equipped with any type of police lights, but only these vehicles may be equipped with blue lights.
  - (5) Except as otherwise allowed under this section, only a vehicle operated by a weighmaster or motor carrier enforcement officer proceeding under the authority of ORS 810.530 may be equipped with weighmaster warning lights.
  - (6) Except as otherwise allowed under this section, only tow vehicles may be equipped with tow vehicle warning lights.
  - (7) Except as otherwise allowed under this section, only a motor vehicle escort accompanying a motor vehicle carrying or towing a load of a size or description not permitted under ORS 815.160, 815.170, 818.020, 818.060, 818.090, 818.110, 818.160 and 818.300 may be equipped with a pilot vehicle warning light.
  - (8) Except as otherwise allowed under this section, only the following vehicles may be equipped with bus safety lights:
    - (a) School buses.
    - (b) Worker transport buses.
    - (c) Vehicles issued a permit under ORS 818.260.
  - (9) No vehicle except a vehicle used in active service transporting United States Mail may be equipped with mail delivery lights.
  - (10) Except as otherwise allowed under this section, fire company warning lights may only be used on the following vehicles:
    - (a) An emergency vehicle.
    - (b) A vehicle authorized under a permit issued under ORS 818.250.
    - (c) Funeral lead vehicles and funeral escort vehicles used to escort funeral processions.
  - (11) Except as otherwise allowed under this section, no vehicle or equipment may display or carry any lighting equipment or device with a red light visible from directly in front of the vehicle or equipment.
  - (12) Except as otherwise allowed under this section, all flashing lights are prohibited on all motor vehicles on any street or highway except for turn signals, hazard lights and headlight flashing systems described in ORS 816.050.
  - (13) No motor vehicle other than an emergency vehicle may be equipped with more than one spotlight.
  - (14) No motor vehicle may be equipped with more than two cowl or fender lights.
  - (15) A vehicle at the scene of an actual or potential release of hazardous materials may be equipped with warning lights as described in ORS 816.280 (1)(d).
  - (16) A vehicle being used by medical examiners to reach the scene of an accident or of a death investigation may be equipped with warning lights as described in ORS 816.280 (1)(e).
  - (17) A vehicle may be equipped with covers on any of the following lights if the covers are removed when the lights are required to be in operation:
    - (a) Headlights under ORS 816.050.
    - (b) Taillights under ORS 816.080.
    - (c) Brake lights under ORS 816.100.
    - (d) Turn signals under ORS 816.120.
    - (e) Reflectors under ORS 816.180.
  - (18) A commercial vehicle, as defined in ORS 801.210 (2), may be equipped with commercial vehicle warning lights. [1983 c.338 §464; 1985 c.16 §243; 1985 c.71 §6; 1987 c.447 §140; 1989 c.402 §13; 1991 c.482 §17; 1991 c.769 §2; 1993 c.741 §105; 1997 c.492 §4; 1999 c.497 §3; 2003 c.118 §1; 2003 c.158 §31; 2003 c.245 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.360 - Use of prohibited lighting equipment; penalty.**

- (1) A person commits the offense of use of prohibited lighting equipment if the person does any of the following:
  - (a) Drives or moves on any highway any vehicle that is equipped with lighting equipment that the vehicle is not allowed under ORS 816.350.
  - (b) Owns a vehicle or combination of vehicles and causes or knowingly permits the vehicle or combination of vehicles to be driven or moved on any highway when the vehicle or combination is equipped with lights that the vehicle or combination is not allowed

under ORS 816.350.

(2) The application of this section is subject to the exemptions from this section established under ORS 816.370.

(3) The offense described in this section, use of prohibited lighting equipment, is a Class C traffic violation. [1983 c.338 §463; 1985 c.393 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 816 - Vehicle Equipment: Lights Section 816.370 - Exemptions from lighting equipment prohibitions.**

This section establishes exemptions from ORS 816.350 and 816.360. The exemptions established under this section are in addition to any exemptions under ORS 801.026. The exemptions under this section are partial or complete as described in the following:

(1) ORS 816.350 and 816.360 shall not be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of those sections.

(2) Lighting equipment used on vehicles of special interest that are registered under ORS 805.020 shall be deemed in compliance with ORS 816.350 and 816.360 if the equipment is original manufacturer's equipment and accessories, or their equivalent and if the equipment is maintained in safe operating condition.

(3) ORS 816.350 and 816.360 do not apply to equipment on any of the following:

(a) Road machinery.

(b) Road rollers.

(c) Farm tractors.

(d) Antique vehicles that are maintained as a collector's item and used for exhibitions, parades, club activities and similar uses, but not used primarily for the transportation of persons or property.

(4) Ambulances and emergency vehicles are subject to the provisions under ORS 820.350 and 820.360. [1983 c.338 §465; 2015 c.138 §38]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.010 - Maximum allowable weight.**

This section establishes maximum weight limitations for purposes of ORS 818.020. Except as provided in subsections (4) and (5) of this section or where an exemption under ORS 818.030 specifically provides otherwise, a loaded weight that exceeds the maximum allowable weight as determined by any of the following tables exceeds the maximum weight limitations for purposes of ORS 818.020:

(1) A vehicle exceeds the maximum allowable weight if the loaded weight of an axle or tandem axle is in excess of that determined by the formula in the following table:

---

Table I

The manufacturer's side wall tire rating (but not to exceed 600 pounds)  $\times$  the sum of the tire widths, in inches, of the wheels of the axle or tandem axles = maximum allowable weight.

---

For purposes of the table in this subsection tire width is determined by measuring the cross section of the tread of a wheel, the outer face of a track or the runner of a sled except for the following:

(a) For solid tires made of elastic material, tire width is determined by measuring the cross section between the flanges of the circumference of a wheel at the base of the tire as customarily measured and rated by the manufacturers of motor vehicles and tires.

(b) For pneumatic tires made of elastic material, tire width is the diameter of the cross section of the tire as customarily measured and rated by the manufacturers of motor vehicles and tires.

(2) A vehicle or combination of vehicles exceeds the maximum allowable weight if the loaded weight measured at any of the places designated on the following table exceeds the maximum allowable weight established on the table for measurement at that place:

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Table II

Place for measurement	Maximum allowable weight in pounds
Any individual wheel	10,000
Any axle	20,000
Any tandem axles	34,000

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(3) A vehicle, group of axles or combination of vehicles exceeds the maximum allowable weight if the loaded weight is in excess of maximum allowable weight as determined by the method in the following table that produces the lower allowable maximum weight:

---

Table III

(Maximum allowable weight determined by whichever of the following methods produces lower weight:)

Method A

The sum of permissible axle, tandem axles or group of axles weights as determined under Table I or II of this section is the maximum allowable weight.

OR

Method B

Distance

in feet

between

first and Maximum allowable weight in pounds

last axle for number of axles in group of axles:

in group

of axles: 2 3 4 5 6 7 or

Axles Axles Axles Axles Axles More

Axles

4 34,000

5 34,000

6 34,000

7 34,000

8 and

less 34,000 34,000

More

than 8 38,000 42,000

9 39,000 42,500

10 40,000 43,500

11 40,000 44,000

12 40,000 45,000 50,000

13 40,000 45,500 50,500

14 40,000 46,500 51,500

15 40,000 47,000 52,000

16 40,000 48,000 52,500 58,000

17 40,000 48,500 53,500 58,500

18 40,000 49,500 54,000 59,000

19 40,000 50,000 54,500 60,000

20 40,000 51,000 55,500 60,500 66,000

21 40,000 51,500 56,000 61,000 66,500

22 40,000 52,500 56,500 61,500 67,000

23 40,000 53,000 57,500 62,500 68,000

24 40,000 54,000 58,000 63,000 68,500 74,000

25 40,000 54,500 58,500 63,500 69,000 74,500

26 40,000 55,500 59,500 64,000 69,500 75,000

27 40,000 56,000 60,000 65,000 70,000 75,500

28 40,000 57,000 60,500 65,500 71,000 76,500

29 40,000 57,500 61,500 66,000 71,500 77,000

30 40,000 58,500 62,000 66,500 72,000 77,500

31 40,000 59,000 62,500 67,500 72,500 78,000

32 40,000 60,000 63,500 68,000 73,000 78,500

33 40,000 60,000 64,000 68,500 74,000 79,000

34 40,000 60,000 64,500 69,000 74,500 80,000

35 40,000 60,000 65,500 70,000 75,000 80,000

36 40,000 60,000 66,000 70,500 75,500 80,000

37 40,000 60,000 66,500 71,000 76,000 80,000

38 40,000 60,000 67,500 71,500 77,000 80,000

39 40,000 60,000 68,000 72,500 77,500 80,000

40 40,000 60,000 68,500 73,000 78,000 80,000

41 40,000 60,000 69,500 73,500 78,500 80,000

42 40,000 60,000 70,000 74,000 79,000 80,000

43 40,000 60,000 70,500 75,000 80,000 80,000

44 40,000 60,000 71,500 75,500 80,000 80,000

45 40,000 60,000 72,000 76,000 80,000 80,000



46	40,000	60,000	72,500	76,500	80,000	80,000
47	40,000	60,000	73,500	77,500	80,000	80,000
48	40,000	60,000	74,000	78,000	80,000	80,000
49	40,000	60,000	74,500	78,500	80,000	80,000
50	40,000	60,000	75,500	79,000	80,000	80,000
51	40,000	60,000	76,000	80,000	80,000	80,000
52	40,000	60,000	76,500	80,000	80,000	80,000
53	40,000	60,000	77,500	80,000	80,000	80,000
54	40,000	60,000	78,000	80,000	80,000	80,000
55	40,000	60,000	78,500	80,000	80,000	80,000
56	40,000	60,000	79,500	80,000	80,000	80,000
57	or					
	over 40,000	60,000	80,000	80,000	80,000	80,000

For the purpose of the table in this subsection, the distance between axles shall be measured to the nearest foot. When a fractional measurement is exactly one-half foot the next larger whole number shall be used.

(4) Notwithstanding any other provision of this section, a vehicle with farm vehicle registration issued under ORS 805.300 or with out-of-state farm vehicle registration exceeds the maximum allowable weight if the loaded weight of the vehicle or combination of vehicles exceeds the amount shown in the following table:

Distance in feet between the extremes of any group of Maximum allowable weight in pounds 2 or more for number of axles in group of axles: consecutive axles: 2 3 4 5 or Axles Axles Axles More Axles				
4	37,800			
5	37,800			
6	37,800			
7	37,800			
8	37,800	42,000		
9	37,800	42,400		
10	37,800	43,500		
11	44,000			
12	45,000	50,000		
13	56,470	56,470	56,470	
14	57,940	57,940	57,940	
15	59,400	59,400	59,400	
16	60,610	60,610	60,610	
17	61,820	61,820	61,820	
18	63,140	63,140	63,140	
19	64,530	64,530	64,530	
20	65,450	65,450	65,450	
21	66,000	66,000	66,330	
22	66,000	66,000	67,250	
23	66,000	66,000	67,880	
24	66,000	66,000	68,510	
25	66,000	66,000	69,150	
26	66,000	66,000	69,770	
27	66,000	66,000	70,400	
28	66,000	66,000	70,950	
29	66,000	66,000	71,500	
30	72,050			

31 72,600  
32 73,150  
33 73,700  
34 74,250  
35 74,800  
36 75,350  
37 75,900  
38 76,450  
39 77,000  
40 77,550  
41 78,100  
42 78,650  
43 and  
over 80,000

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Weights authorized under this subsection are authorized only if the vehicle is transporting field-loaded agricultural products in Malheur County. Weights authorized under this subsection are not authorized for vehicles traveling on Interstate 84 or U.S. Highway 95. A vehicle otherwise described in this subsection that is operating at a weight not listed in this subsection must comply with subsection (1) of this section.

(5) Notwithstanding any other provision of this section, the maximum wheel load for the front axle of the power unit on a vehicle used for curbside solid waste or recycling collection that has tires that are at least 12-1/2 inches wide shall be the load limit established by the tire manufacturer, as molded on at least one sidewall of the tire, up to a maximum of 10,000 pounds, as long as the tire is approved by the Department of Transportation pursuant to ORS 818.012. [1983 c.338 §508; 1985 c.16 §264; 1985 c.172 §6a; 1987 c.66 §1; 1995 c.489 §1; 1999 c.725 §1; 2001 c.335 §1; 2001 c.665 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.012 - Wheel load on certain vehicles; rules.**

The Department of Transportation may adopt rules approving tires for the use described in ORS 818.010 (5). In adopting the rules, the department shall consider the potential damage to highways caused by use of the tires and may reject a tire that otherwise meets the criteria of ORS 818.010 (5) if the department finds that the use of the tire would cause excessive damage to highways. [2001 c.665 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.020**

Violating maximum weight limits; civil liability; penalties.

(1) A person commits the offense of violating maximum weight limits if the person does any of the following:

(a) Drives or moves on a highway any vehicle or combination of vehicles that exceed the weight limits established under ORS 818.010.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination of vehicles exceeds the weight limits established under ORS 818.010. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.

(2) The application of this section is subject to the exemptions from this section established under ORS 818.030.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, violating maximum weight limits, is:

(a) A Class A traffic violation if, at the time of the offense, an enforcement officer determines the vehicle was eligible for a variance permit under ORS 818.200; and

(b) In circumstances not described in paragraph (a) of this subsection, punishable by penalties established in Schedule I of the schedules of penalties under ORS 818.430. [1983 c.338 §507; 2007 c.380 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.030 - Exemptions from weight limitations.**

This section establishes exemptions from the maximum weight limitations under ORS 818.010 and 818.020. The exemptions under this section are in addition to any exemptions under ORS 801.026. Operation in accordance with one of the exemptions described is not subject to the penalties in ORS 818.020. Exemptions are partial or complete as described in the following:

(1) The maximum weight limitations do not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547 and 551 or a corporation formed under ORS chapter 554.

- (2) The maximum weight limitations do not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency, or both.
- (3) The maximum weight limitations do not apply to any vehicle, combination of vehicles, article, machine or other equipment while being used by the federal government, the State of Oregon or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.
- (4) The maximum weight limitations do not apply to vehicles while being used on the roads of a road authority by mass transit districts for the purposes authorized under ORS 267.010 to 267.394, provided the weight of the vehicles is approved by the road authority for the roads.
- (5) Subject to the maximum weight limitations under Tables I and III of ORS 818.010, any vehicle with a single rear axle specially equipped with a self-compactor and used exclusively for garbage or refuse operations may have a loaded weight upon a single axle of not more than 22,000 pounds when laden with garbage or refuse. When unladen or when operating on any highway that is part of the federal interstate highway system such vehicles shall comply with the weight limitations under Table II of ORS 818.010.
- (6) Weight limitations are not applicable in any place and to the extent the weight limitations are modified by a road authority under ORS 810.060. The exemption under this subsection is subject to the limitations imposed by the road authority exercising the powers granted under ORS 810.060.
- (7) Operations authorized to exceed weight limitations by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.020 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense.
- (8)(a) Notwithstanding Table III of ORS 818.010, two consecutive sets of tandem axles may have a loaded weight of 34,000 pounds each when operating on interstate highways with a permit and on other highways without a permit, providing the distance between the first and last axles of the two sets of tandem axles is at least 30 feet but less than 36 feet.
- (b) Notwithstanding Table III of ORS 818.010, two consecutive sets of tandem axles may have a loaded weight of 34,000 pounds each when operating on any highway if the overall distance between the first and the last axles of the sets of tandem axles is 36 feet or more.
- (9) Notwithstanding Table III of ORS 818.010, a group of four axles consisting of a set of tandem axles and two axles spaced nine feet or more apart may have a loaded weight of more than 65,500 pounds and up to 70,000 pounds when operating on interstate highways with a permit and on other highways without a permit, providing the distance between the first and last axles of the group is 35 feet or more.
- (10) The maximum weight limitations do not apply to a vehicle equipped with a fully functional idle reduction system designed to reduce fuel use and emissions from engine idling. The vehicle may exceed the weight limitations established under ORS 818.010 by not more than 550 pounds.
- (11) The maximum weight limitations do not apply to a vehicle that uses natural gas as its fuel source or a vehicle powered primarily by means of an electric battery. The vehicle may exceed the weight limitations established under ORS 818.010 by not more than 2,000 pounds. [1983 c.338 §509; 1985 c.172 §7; 1989 c.723 §19; 1995 c.489 §2; 2007 c.92 §1; 2017 c.156 §1; 2019 c.331 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.040 - Violation of posted weight limits; civil liability; penalty.**

- (1) A person commits the offense of violation of posted weight limits if the person does any of the following:
- (a) Drives or moves on a highway any vehicle or combination of vehicles that exceed any weight limits imposed on the highway or portion of highway and indicated by appropriate signs giving notice of the limits.
- (b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination exceeds any weight limits imposed on the highway or portion of highway and indicated by appropriate signs giving notice of the limits. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (5) of this section as a result of the operation.
- (2) The authority to establish and change weight limits for purposes of the prohibitions and penalties under this section is under ORS 810.030.
- (3) The application of this section is subject to the exemptions from this section established under ORS 818.050.
- (4) Violation of the offense described in this section is subject to civil liability under ORS 818.410.
- (5) The offense described in this section, violation of posted weight limits, is punishable as provided under Schedule III of the penalties under ORS 818.430. The penalties under this subsection are in addition to any suspension of driving privileges under ORS 809.120 or any suspension of vehicle registration under ORS 809.120. [1983 c.338 §510]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.050 - Exemptions from posted weight limits.**

This section establishes exemptions from the posted weight limits under ORS 818.040. The exemptions under this section are in

addition to any exemptions under ORS 801.026. Operation in accordance with one of the exemptions described is not subject to ORS 818.040. Exemptions are partial or complete as described in the following:

- (1) Posted weight limits do not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.
- (2) Posted weight limits do not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.
- (3) Posted weight limits do not apply to any vehicle, combination of vehicles, article, machine or other equipment while being used by the federal government, the State of Oregon or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.
- (4) Posted weight limits do not apply to vehicles while being used on the roads of a road authority by mass transit districts for the purposes authorized under ORS 267.010 to 267.394, provided the weight of the vehicles is approved by the road authority for that road.
- (5) Operations authorized to exceed weight limits by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.040 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense. [1983 c.338 §511]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.060 - Violation of administratively imposed weight or size limits; civil liability; penalties.**

- (1) A person commits the offense of violation of administratively imposed weight or size limits if the person does any of the following:
  - (a) Drives or moves on a highway any vehicle or combination of vehicles that exceeds weight or size limits imposed under ORS 810.050 or 810.060.
  - (b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination of vehicles exceeds weight or size limits imposed under ORS 810.050 or 810.060. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.
- (2) The application of this section is subject to the exemptions from this section established under ORS 818.070.
- (3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.
- (4) The offense described in this section, violation of administratively imposed weight or size limits, is subject to penalty as follows:
  - (a) Violation of any size limit is subject to penalty under the schedule of penalties in ORS 818.420.
  - (b) Violation of any weight limit is subject to penalty under Schedule I of the penalties in ORS 818.430. [1983 c.338 §512; 1987 c.158 §172]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.070 - Exemptions from administratively imposed weight or size limitations.**

This section establishes exemptions from ORS 818.060. The exemptions under this section are in addition to any exemptions under ORS 801.026. Exempt, partially or completely as described, are the following:

- (1) Any vehicle on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547 and 551 or a corporation formed under ORS chapter 554.
- (2) A vehicle on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency, or both.
- (3) Any vehicle, combination of vehicles, article, machine or other equipment while being used by the federal government, the State of Oregon or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.
- (4) Vehicles while being used on the roads of a road authority by a mass transit district for the purposes authorized under ORS 267.010 to 267.394, provided the weight or size is approved by the road authority for its roads.
- (5) Operations authorized to exceed weight or size limitations by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.060 if the person so charged produces a variance permit issued under ORS 818.200 that authorized the operation and that was issued prior to and valid at the time of the offense. [1983 c.338 §513]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.080 - Maximum size limits.**

This section establishes maximum size limits for purposes of ORS 818.090. Except where an exemption under ORS 818.100 specifically provides otherwise, any vehicle or load thereon that exceeds a maximum allowable size as determined by any of the following tables exceeds the maximum size limits for purposes of ORS 818.090:

(1) A vehicle or combination of vehicles, as appropriate, exceeds the maximum allowable size if a dimension of the vehicle, combination of vehicles or load thereon is beyond an applicable maximum size allowable on the following table:

TABLE I

Dimension Limit applicable to: Maximum limited: allowable

size, in feet, for dimension limited:	
(1) Total outside width.....	Any vehicle..... 8½
(2) Height, including load.....	Any vehicle..... 14
(3) Length.....	Any vehicle operating singly..... 40
Vehicle in combination of vehicles.....	40
Combination of vehicles, including load.....	60
Combination of vehicles that includes a stinger-steered pole trailer.....	65
(4) Length of load on vehicle.....	Any vehicle operating singly or as a unit in a combination of vehicles..... 40

The maximum limit on height under the table in this subsection does not relieve the owner or driver of any vehicle or combination of vehicles from the exercise of due care in determining that sufficient vertical clearance is provided upon the highways and streets where the vehicle or combination of vehicles is being operated.

(2) A vehicle or combination of vehicles, as appropriate, exceeds the maximum allowable size if a portion of the vehicle, combination of vehicles or load thereon is subject to a limitation under the following table and that portion extends farther than the maximum limit of allowable extension beyond a designated point as determined by the following table:

TABLE II

Designated point: Limit applicable to: Maximum limit of allowable extension beyond designated point:

(1) Line of left fenders of vehicle.....	Load on any passenger vehicle..... No allowable extension
--	---

beyond  
designated  
point.  
(2) Line of right  
fenders of  
vehicle..... Load on any  
passenger  
vehicle..... 6 inches  
(3) Front of  
vehicle..... Load on  
any vehicle  
or combination  
of vehicles..... 4 feet  
(4) Last axle of  
vehicle  
operating  
singly..... Any portion of  
vehicle or any  
load thereon..... Three-  
fourths the  
length  
of the  
wheelbase  
of the  
vehicle.  
(5) Last axle of  
combination  
of vehicles..... Any portion of  
combination of  
vehicles or any  
load thereon..... One-third  
of the  
length  
of the  
wheelbase  
of the  
combination  
of vehicles.

[1983 c.338 §515; 1985 c.16

§265; 1995 c.488 §2; 2001 c.574 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.090 - Violation of maximum size limits; civil liability;**

penalties.

(1) A person commits the offense of violation of maximum size limits if the person does any of the following:

(a) Drives or moves on a highway any vehicle or combination of vehicles that exceeds the size limits established under ORS 818.080.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination of vehicles exceeds the size limits established under ORS 818.080. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.

(2) The application of this section is subject to the exemptions from this section established under ORS 818.100.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, violation of maximum size limits, is punishable according to the schedule of penalties established in ORS 818.420. [1983 c.338 §514]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.100 - Exemptions from size limitations.**

This section establishes exemptions from the maximum size limitations under ORS 818.080 and 818.090. The exemptions under this section are in addition to any exemptions under ORS 801.026. Operation in accordance with one of the exemptions described is not subject to ORS 818.090. Exemptions are partial or complete as described in the following:

- (1) The maximum size limits do not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.
- (2) The maximum size limits do not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.
- (3) The maximum size limits do not apply to any vehicle, combination of vehicles, article, machine or other equipment while being used by the federal government, the State of Oregon or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.
- (4) The maximum size limits do not apply to vehicles while being used on the roads of a road authority by mass transit districts for the purposes authorized under ORS 267.010 to 267.394, provided the size of the vehicles is approved by the road authority for the roads.
- (5) Size limits are not applicable in any place and to the extent size limits are modified by a road authority under ORS 810.060. The exemption under this subsection is subject to the limitations imposed by the road authority exercising the powers granted under ORS 810.060.
- (6) Operations authorized to exceed size limits by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.090 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense.
- (7) Pneumatic tires made of elastic material, flexible mud flaps, flexible fenders, safety accessories such as clearance lights, rub rails and binder chains, and appurtenances such as door handles, door hinges and turning signal brackets may exceed the maximum allowable width described in Table I of ORS 818.080 by a distance not greater than two inches on each side of the vehicle.
- (8) Rearview mirrors may exceed the maximum allowable width described in Table I of ORS 818.080.
- (9) Notwithstanding the maximum allowable length of vehicles and loads on vehicles under Table I of ORS 818.080, public utilities, telecommunications utilities, people's utilities districts, municipalities and electric cooperatives, or common or contract carriers when acting as an agent for or on direct orders of a public utility, telecommunications utility, people's utility district, municipality or electric cooperative, for the purpose of transporting and hauling poles, piling or structures used or to be used in connection with their operations, may use and operate upon any highway of this state any combination of vehicles having an overall length, including load, that does not exceed 80 feet, except that the overall length may exceed 80 feet if an emergency exists. For purposes of this subsection, an unplanned disruption in the services provided by a public utility, telecommunications utility, people's utility district, municipality or electric cooperative occurring outside the normal business hours of the road authority or authorized private contractor from which the public utility, telecommunications utility, people's utility district, municipality or electric cooperative would acquire a variance permit is an emergency.
- (10) The load on a semitrailer may exceed the maximum length established under ORS 818.080 providing the load does not:
  - (a) Extend beyond the rear of the semitrailer by more than five feet;
  - (b) Extend forward of the rear of the cab of the towing vehicle; or
  - (c) Exceed an overall length permitted by a rule, resolution or ordinance adopted under ORS 810.060.
- (11) The load upon a truck tractor and pole trailer may exceed the maximum length established under ORS 818.080 if the overall length does not exceed that authorized by a rule, resolution or ordinance adopted under ORS 810.060.
- (12) None of the size limits described under ORS 818.080 except the maximum limit of allowable extension beyond the last axle of a combination of vehicles under Table II apply to implements of husbandry hauled, towed or moved upon any highway not a part of the Federal Interstate Highway System if the movement is incidental to a farming operation and the owner of the implement of husbandry is engaged in farming or if the owner is hired by or under contract to a farmer to perform agricultural activities.
- (13) The rear overhang of a combination of vehicles described in this subsection may extend more than one-third but not more than one-half the length of the wheelbase of the combination of vehicles. This subsection is applicable to any combination of vehicles consisting of a motor vehicle towing any of the following:
  - (a) A travel trailer.
  - (b) Any trailer designed to carry a single nonmotorized aircraft.
- (14) The rear overhang of a combination consisting of a motor vehicle towing a manufactured structure may exceed one-third, but may not exceed one-half, the length of the wheelbase of the combined vehicle and structure.
- (15) A recreational vehicle may exceed the maximum width established under ORS 818.080 if the excess width is attributable to an appurtenance that does not extend beyond the body of the vehicle by more than four inches, or if a passenger-side awning, by more than six inches. As used in this subsection, "appurtenance" means an appendage that is installed by a factory or a vehicle dealer and is intended as an integral part of the recreational vehicle. "Appurtenance" does not include an item temporarily affixed or attached to the exterior of a vehicle for the purpose of transporting the item from one location to another. "Appurtenance" does not include an item that obstructs the driver's rearward vision.
- (16)(a) A recreational vehicle may exceed the maximum length established under ORS 818.080 if the vehicle is not more than 45

feet long.

(b) A combination that includes a recreational vehicle that is not more than 45 feet long, when operating on Group 1 or Group 2 highways as designated by the Department of Transportation, may exceed the maximum length for vehicles in a combination established under ORS 818.080 if the combination is not more than 65 feet long.

(17) A motor vehicle transporter may exceed the maximum lengths established in ORS 818.080 for a single vehicle, a vehicle in a combination of vehicles and a load if the length of the single vehicle, vehicle in a combination or load does not exceed 45 feet.

(18) A motor vehicle transporter towing another vehicle, when operating on a Group 1 or Group 2 highway as designated by the department, may exceed the maximum length established in ORS 818.080 for a combination of vehicles if the overall length does not exceed 65 feet.

(19) A school bus or school activity vehicle may exceed the maximum length established under ORS 818.080 if the vehicle is not more than 45 feet long. [1983 c.338 §516; 1985 c.16 §266; 1985 c.172 §8; 1987 c.447 §141; 1989 c.662 §1; 1991 c.754 §1; 1993 c.416 §2; 1993 c.662 §1; 1993 c.696 §9; 1995 c.79 §376; 1995 c.140 §1; 1995 c.488 §3; 1997 c.405 §1; 1999 c.496 §1; 2001 c.172 §4; 2001 c.335 §2a; 2003 c.655 §121; 2009 c.31 §1; 2013 c.483 §1; 2017 c.265 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.105 - Request for unrestricted access to specified highway for overlength combination; mandated responses to request.**

(1) Any person who transports property, or causes property to be transported, by motor vehicle may request that a road authority, other than a city, authorize unrestricted access by truck tractor and semitrailer combinations in lengths in excess of that authorized under ORS 818.080 on a specific highway within the jurisdiction of the road authority.

(2) Within 60 days following receipt of a request, the road authority shall do one of the following:

(a) Grant the request and adopt a rule, resolution or ordinance as provided in ORS 810.060.

(b) Complete an evaluation of the request to determine whether the highway can safely accommodate the proposed operation. The evaluation shall consist of a test run as described in subsection (3) of this section and an examination of information about the highway as described in subsection (4) of this section.

(c) Produce a previous evaluation and determination that applies to the proposed operation.

(3) The following apply to a test run undertaken as part of an evaluation under subsection (2)(b) of this section:

(a) The party requesting the change in access shall provide a truck tractor and semitrailer combination for the test run. The combination must be equal to or greater in length than the truck tractor and semitrailer combinations for which access is requested.

(b) The road authority shall issue a single trip variance permit for the test run.

(c) During the test run, road authority staff shall precede and follow the test run combination to observe vehicle operability and to gather data to be used by the road authority to determine:

(A) Whether the test run combination maintained its lane of travel; and

(B) Whether the test run combination maintained appropriate speed, or there was adequate sight distance for trailing vehicles to pass the combination, or there was enough room for the combination to pull off the roadway to allow trailing vehicles to pass.

(4) In conducting an evaluation under subsection (2)(b) of this section, the road authority shall examine the following information about the highway:

(a) Average daily traffic flow;

(b) Accident rate;

(c) Pavement and shoulder conditions; and

(d) Any information the road authority has regarding proposed improvements or any peculiarities associated with the highway.

(5) All information gathered under subsections (3) and (4) of this section shall be analyzed by the road authority to determine whether the highway can safely accommodate the requested truck tractor and semitrailer length.

(6) The road authority shall give written notification to the person requesting access to the highway of the results of any evaluation done under subsection (2)(b) or (9) of this section.

(7) When an evaluation under subsection (2)(b) of this section results in a determination that the highway can safely accommodate the requested truck tractor and semitrailer length only if conditions are imposed on the operation, the road authority may require that any truck tractor and semitrailer combination of that length operate under a variance permit issued under ORS 818.200 that states the conditions of operation.

(8) When an evaluation under subsection (2)(b) of this section results in a determination that the highway cannot safely accommodate the requested truck tractor and semitrailer length, the requesting person may ask for further evaluation.

(9) When a person requests further evaluation under subsection (8) of this section, the road authority shall conduct a detailed investigation of the proposed operation that may include:

(a) A more detailed analysis of average daily traffic flow, including traffic peak hours and volumes;

(b) Analysis of roadway and shoulder width;

(c) Review of test run data, including any photographs or videotape;

(d) Truck volume compared to total traffic volume;

(e) Overlength truck volume compared to total traffic volume;

(f) Stopping sight distance for legal speed;

(g) Cost of spot improvements and facility improvements;



- (h) Accident history for the highway or similar highways; and
- (i) Potential risk of collisions between two trucks or a truck and an automobile.
- (10) When an evaluation under subsection (9) of this section results in a determination that the highway can safely accommodate the requested truck tractor and semitrailer length only if conditions are imposed on the operation, the road authority may require that any truck tractor and semitrailer combination of that length operate under a variance permit issued under ORS 818.200 that states the conditions of operation.
- (11) When an evaluation under subsection (9) of this section results in a determination that the highway cannot safely accommodate the requested truck tractor and semitrailer length, no further evaluation may be conducted unless improvements are made to the highway and a subsequent request is made. [2003 c.185 §2]

Note:

818.105 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 818 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.110 - Exceeding maximum number of vehicles in combination; civil liability; penalty.**

- (1) A person commits the offense of exceeding the maximum number of vehicles in combination if the person does any of the following:
  - (a) Drives or moves on a highway any combination of vehicles that consists of more than two vehicles.
  - (b) Owns any vehicle and causes or permits the vehicle to be driven or moved on a highway when the vehicle is in a combination of vehicles that consists of more than two vehicles. Operation of any combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicles in the combination caused or permitted the combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.
- (2) The application of this section is subject to the exemptions from this section established under ORS 818.120.
- (3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.
- (4) The offense described in this section, exceeding maximum number of vehicles in combination, is a Class D traffic violation. [1983 c.338 §517; 1985 c.393 §28; 1995 c.383 §93]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.120 - Exemptions from limits on number of vehicles in combinations.**

This section establishes exemptions from ORS 818.110. The exemptions under this section are in addition to any exemptions under ORS 801.026. Operation in accordance with one of the exemptions described is not subject to ORS 818.110. Exemptions are partial or complete as described in the following:

- (1) The limit on the number of vehicles that may be operated in combination does not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.
- (2) The limit on the number of vehicles that may be operated in combination does not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.
- (3) The limit on the number of vehicles that may be operated in combination does not apply to any vehicles, combination of vehicles, articles, machines or other equipment while being used by the federal government, the State of Oregon or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.
- (4) The limit on the number of vehicles that may be operated in combination does not apply to any vehicles while being used on the roads of a road authority by mass transit districts for purposes authorized under ORS 267.010 to 267.394, provided the use of the vehicles is approved by the road authority for its roads.
- (5) Operations authorized to exceed the limit on the number of vehicles that may be operated in combination by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.110 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the combination of vehicles issued prior to and valid at the time of the offense.
- (6) In drive-away operations, three vehicles may be coupled together by a double saddle-mount method or by a single saddle-mount and tow bar method or four vehicles by a triple saddle-mount method.
- (7) A combination of three implements of husbandry or two implements of husbandry hauled or towed by another vehicle may be operated on a highway without violation of the limits under ORS 818.110.
- (8) A truck tractor and semitrailer drawing one trailer or a truck tractor and semitrailer drawing one additional semitrailer mounted on a dolly equipped with a fifth wheel hitch may be operated on a highway without violation of the limits under ORS 818.110.
- (9) A truck tractor and semitrailer drawing a balance trailer with a length not in excess of 15 feet and a loaded weight not in excess of 8,000 pounds or drawing a dolly may be operated on a highway without violation of the limits under ORS 818.110. [1983 c.338 §518; 1985 c.16 §267; 1993 c.277 §1; 2007 c.456 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section**

### **818.130 - Violation of posted limits on use; civil liability; penalty.**

(1) A person commits the offense of violation of posted limits on use of a road if the person does any of the following:

- (a) Drives or moves on a highway any vehicle or combination of vehicles that exceeds any use limits, other than weight limits, imposed on the highway or portion of highway and indicated by appropriate signs giving notice of the limits.
  - (b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination exceeds any use limits, other than weight limits, imposed on the highway or portion of highway and indicated by appropriate signs giving notice of the limits. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (5) of this section as a result of the operation.
- (2) The authority to establish and change use limits for purposes of the prohibitions and penalties under this section is under ORS 810.030.
- (3) The application of this section is subject to the exemptions from this section established under ORS 818.140.
- (4) Violation of the offense described in this section is subject to civil liability under ORS 818.410.
- (5) The offense described in this section, violation of posted limits of use of a road, is a Class D traffic violation. [1983 c.338 §519; 1985 c.16 §268; 1985 c.393 §29; 1995 c.383 §94]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.140 - Exemptions from posted use limits.**

This section establishes exemptions from ORS 818.130. The exemptions under this section are in addition to any under ORS 801.026. Operation in accordance with one of the exemptions described is not subject to ORS 818.130. Exemptions are partial or complete as described in the following:

- (1) Posted use limits do not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.
- (2) Posted use limits do not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.
- (3) Posted use limits do not apply to any vehicle, combination of vehicles, article, machine or other equipment while being used by the federal government, the State of Oregon or any county or incorporated city in the construction, maintenance or repair of public highways and at the immediate location or site of such construction, maintenance or repair.
- (4) Posted use limits do not apply to vehicles while being used on the roads of a road authority by mass transit districts for the purposes authorized under ORS 267.010 to 267.394, provided the use of the vehicles is approved by the road authority for that road.
- (5) Operations authorized by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.130 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense. [1983 c.338 §520]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.150 - Safety requirements for towing.**

This section establishes safety requirements for towing for purposes of ORS 818.160. Except where an exemption under ORS 818.170 specifically provides otherwise, the safety requirements for towing are violated for purposes of ORS 818.160 if any of the following are violated:

- (1) If one vehicle is towing another, the tow bar, coupling device and other connections must be of sufficient strength to hold the weight of the towed vehicle upon any grade of highway where operated.
- (2) If one vehicle is towing another, the connections of the tow bar, coupling device and other connections must be properly mounted without excessive slack but with sufficient play to allow for universal action of the connections and provided with a suitable locking means to prevent accidental separation of the towed and towing vehicles.
- (3) If any vehicle is towing another vehicle and the connection between the vehicle is a chain, rope, cable or any flexible material, a red flag or cloth not less than 12 inches square must be displayed upon the connection.
- (4) Any vehicle being towed must not whip or swerve from side to side dangerously or unreasonably or fail to follow substantially in the path of the towing vehicle.
- (5) Any towed vehicle in a combination of vehicles must be equipped with one or more safety chains or cables that meet all of the following requirements:
  - (a) The chains or cables must be so connected to the towed and towing vehicle and to the tow bar as to prevent the tow bar from dropping to the ground in the event the tow bar or coupling device fails.
  - (b) The chains or cables must have a tensile strength equivalent to the loaded weight of the towed vehicle and a means of attachment to the towed and towing vehicle of sufficient strength to control the towed vehicle in event the tow bar or coupling device fails.
  - (c) The chains or cables must be attached with no more slack than is necessary to permit proper turning.

(6) Any coupling device on any towing vehicle used as a connection for the tow bar on any towed vehicle having a loaded weight in excess of 5,000 pounds shall be firmly attached to the frame or to a solid connection to the frame and not only to the bumper of the towing vehicle.

(7) Vehicle connecting devices for any vehicle with a loaded weight of not more than 10,000 pounds must be constructed or equipped as required under minimum standards adopted by the Department of Transportation for purposes of this subsection. Standards adopted for purposes of this subsection shall conform to the current standards of the Society of Automotive Engineers or other widely accepted standards that are applicable. [1983 c.338 §522; 1985 c.16 §269; 1985 c.20 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.160 - Violating towing safety requirements; civil liability; penalty.**

(1) A person commits the offense of violating towing safety requirements if the person does any of the following:

(a) Drives or moves on a highway any vehicle or combination of vehicles that are in violation of the safety requirements for towing vehicles established under ORS 818.150.

(b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination of vehicles is in violation of the safety requirements for towing vehicles established under ORS 818.150. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.

(2) The application of this section is subject to the exemptions from this section established under ORS 818.170.

(3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(4) The offense described in this section, violation of towing safety requirements, is a Class B traffic violation. [1983 c.338 §521; 1985 c.393 §30]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.170 - Exemptions from towing safety requirements.**

This section establishes exemptions from the towing safety requirements under ORS 818.150 and 818.160. Exemptions under this section are in addition to any under ORS 801.026. Operation in accordance with one of the exemptions described is not subject to ORS 818.160. Exemptions are partial or complete as described in the following:

(1) The requirements for mounting and slack of towing connections under ORS 818.150 (2) do not apply where the towed vehicle is temporarily disabled.

(2) The requirements for safety chains or cables under ORS 818.150 (5) do not apply to the following:

(a) A temporarily disabled vehicle that is being towed by another vehicle.

(b) A dolly without a tow bar.

(c) A semitrailer coupled to a towing vehicle with a fifth wheel hitch or any ball and socket type assembly that is positioned above and forward of the rear axle of the towing vehicle. To qualify for the exemption under this subsection, the assembly must be designed so that the upper and lower halves of the assembly may not be separated without being manually released.

(d) A booster axle bolted or pinned to another vehicle that redistributes weight from one or more axles and pivots from side to side at the connection point or has wheels that steer during turning.

(3) Operations exempt from the towing safety requirements by a variance permit issued under ORS 818.200 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.160 if the person so charged produces a variance permit issued under ORS 818.200 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense.

(4) The towing safety requirements do not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.

(5) The towing safety requirements do not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both. [1983 c.338 §523; 1999 c.361 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.200 - Authority to issue variance permits; effect of permit; violation of permit.**

(1) A road authority, or a private contractor authorized by a road authority to do so, may issue a variance permit if it determines the public interests will be served. A variance permit issued under this section may allow any vehicle, combination of vehicles, load article, property, machine or thing to move over any highway or street under the jurisdiction of the road authority without violation of any of the following:

(a) Maximum weight limits under ORS 818.020.

(b) Posted weight limits under ORS 818.040.

(c) Administratively imposed weight or size limits under ORS 818.060.

(d) Maximum size limits under ORS 818.090.

(e) Maximum number of vehicles in combination under ORS 818.110.

- (f) Posted limits on use of road under ORS 818.130.
  - (g) Towing safety requirements under ORS 818.160.
  - (h) Use of devices without wheels under ORS 815.155.
  - (i) Use of metal objects on tires under ORS 815.160.
  - (j) Operation without pneumatic tires under ORS 815.170.
  - (k) Misuse of a special left turn lane under ORS 811.346.
  - (L) Improper use of the center lane on three-lane road under ORS 811.380.
  - (m) Operation of a motor vehicle on a bicycle trail under ORS 811.435.
  - (n) Failure to drive within a lane under ORS 811.370.
- (2) The fee for issuance of a variance permit under this section is the fee established under ORS 818.270. No fee shall be charged for issuance of a permit to the federal government, agencies of the State of Oregon, cities or counties.
- (3) A permit issued under this section is subject to all of the provisions under ORS 818.220 and to any limits under ORS 818.210.
- (4) Prohibitions and penalties relating to the use of the permit are provided under ORS 818.340 and 818.350.
- (5) Violation of the conditions of the permit is subject to civil penalties as provided under ORS 818.410. [1983 c.338 §535; 1995 c.123 §1; 2010 c.30 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.205 - Continuous operation variance permit; standards; relationship to permit issued under ORS 818.200; fee.**

- (1) The Department of Transportation, in consultation with other road authorities, shall develop and implement a system of issuing continuous operation variance permits. The system shall allow a person to obtain one permit that is valid for every road authority in whose jurisdiction the person will travel.
- (2) The department, in consultation with other road authorities, shall develop standards for terms and conditions of continuous operation variance permits. The standards shall be applicable throughout the state and shall honor size and weight restrictions established by any road authority for highways and structures under its jurisdiction.
- (3) If requested to do so by another road authority, the department shall contract with that road authority to allow the authority to distribute permits described in this section. The department may contract with private contractors to distribute permits described in this section.
- (4) Notwithstanding any other provision of law, a road authority other than the department may not issue a continuous operation variance permit for its roads unless the road authority participates in the system developed under subsection (1) of this section.
- (5) For purposes of provisions of Oregon Revised Statutes referring to permits issued under ORS 818.200, a permit issued under this section shall be considered a permit issued under ORS 818.200, unless to so consider the permit contradicts a specific provision of this section.
- (6) The fee for a permit issued under this section that is valid for travel in more than one road authority jurisdiction shall be an amount determined by the department by rule, not to exceed \$8, plus an additional amount to be determined by the department by rule, not to exceed \$8, for each jurisdiction in which travel is authorized by the permit. [1999 c.772 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.210 - Limits on authority to issue variance permit.**

Except as provided under ORS 818.220, a road authority shall not issue a variance permit under ORS 818.200 for any vehicle or load that can readily or reasonably be dismantled or disassembled. The limit under this section does not apply to the following:

- (1) Combinations of vehicles consisting of not more than a motor truck with a registration weight of more than 8,000 pounds and two self-supporting trailers or a truck tractor and semitrailer drawing two self-supporting trailers or semitrailers mounted on dollies equipped with fifth wheels having an overall length not in excess of 105 feet. The self-supporting trailers or semitrailers must be reasonably uniform in length.
- (2) Vehicles or combinations of vehicles having a length in excess of that permitted under ORS 818.060 or 818.090.
- (3) Any self-loading log truck. In the granting of permits to vehicles described in this subsection, a granting authority shall observe and be governed by the following maximum loaded weights:
  - (a) The loaded weight of any individual wheel, axle or tandem axles of any vehicle or combination of vehicles shall not exceed the maximum loaded wheel, axle and tandem axle weights set forth in Tables I and II of ORS 818.010.
  - (b) The loaded weight of any group of axles of any vehicle or combination of vehicles, when the distance between the first and last axles of any group of axles is 18 feet or less, and the loaded weight of any vehicle when the distance between the first and last axles of all of the axles of the vehicle is 18 feet or less, shall not exceed that set forth in the following table of weights, or the sum of the permissible axle or tandem axle weights, whichever is less:

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Distance in feet between Maximum loaded weight,  
 the first and last axles in pounds, of any  
 of any group of axles of group of axles of any  
 any vehicle or combination vehicle or combination  
 of vehicles, or between the of vehicles, or

first and last axles of all of any vehicle:

the axles of any vehicle:

- 6 34,000
- 7 34,000
- 8 34,000
- 9 39,000
- 10 40,000
- 11 40,000
- 12 40,000
- 13 40,000
- 14 43,200
- 15 44,000
- 16 44,800
- 17 45,600
- 18 50,000

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(c) The loaded weight of any vehicle or combination of vehicles, where the distance between the first and last axles of the vehicle or combination of vehicles is more than 18 feet, shall not exceed that set forth in the following table of weights, or the sum of the permissible axle, tandem axle or group of axles weights, whichever is less:

---

Distance Maximum loaded weight,

in feet in pounds, of any  
between vehicle or combination

the first of vehicles:

and last

axles of

all the

axles of a

vehicle or

combination

of vehicles:

Wheel Max 5 Axles 6 Axles 7 Axles 8 or

Base Weight More

Axles

- 19 50,000
- 20 50,000
- 21 50,000
- 22 50,000
- 23 50,400
- 24 51,200
- 25 55,250
- 26 56,100
- 27 56,950
- 28 57,800
- 29 58,650
- 30 59,500
- 31 60,350
- 32 61,200
- 33 62,050
- 34 62,900
- 35 63,750
- 36 64,600
- 37 65,450
- 38 66,300
- 39 68,000
- 40 70,000 73,000
- 41 72,000 73,500
- 42 73,280 74,500
- 43 73,280 75,000

44 73,280 75,500  
 45 73,280 76,000  
 46 73,280 77,000  
 47 73,280 77,500 81,000 81,000 81,000  
 48 73,280 78,000 82,000 82,000 82,000  
 49 73,280 78,500 83,000 83,000 83,000  
 50 73,280 79,500 84,000 84,000 84,000  
 51 73,280 80,000 84,500 85,000 85,000  
 52 73,600 80,500 85,000 86,000 86,000  
 53 74,400 81,000 86,000 87,000 87,000  
 54 75,200 81,500 86,500 88,000 91,000  
 55 76,000 82,500 87,000 89,000 92,000  
 56 - 83,000 87,500 90,000 93,000  
 57 - 83,500 88,000 91,000 94,000  
 58 - 84,000 89,000 92,000 95,000  
 59 - 85,000 89,500 93,000 96,000  
 60 - 85,500 90,000 94,000 97,000  
 61 - 86,000 90,500 95,000 98,000  
 62 - 87,000 91,000 96,000 99,000  
 63 - 87,500 92,000 97,000 100,000  
 64 - 88,000 92,500 97,500 101,000  
 65 - 88,500 93,000 98,000 102,000  
 66 - 89,000 93,500 98,500 103,000  
 67 - 90,000 94,000 99,000 104,000  
 68 - 90,000 95,000 99,500 105,000  
 69 - 90,000 95,500 100,000 105,500  
 70 - 90,000 96,000 101,000 105,500  
 71 - 90,000 96,500 101,500 105,500  
 72 - 90,000 96,500 102,000 105,500  
 73 - 90,000 96,500 102,500 105,500  
 74 - 90,000 96,500 103,000 105,500  
 75 - 90,000 96,500 104,000 105,500  
 76 - 90,000 96,500 104,500 105,500  
 77 - 90,000 96,500 105,000 105,500  
 78 - 90,000 96,500 105,500 105,500

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(4) Any vehicle, combination of vehicles, load, article, property, machine or thing that:

(a) Is used in the construction, maintenance or repair of public highways; and

(b) Is either not being used by the federal government, State of Oregon or any county or incorporated city or not being used at the immediate location or site.

(5) Combinations of vehicles having a combined loaded weight in excess of that authorized under Table III of ORS 818.010.

(6) A vehicle engaged in the transportation of secondary wood products, which may be issued a permit for an overlength load. As used in this subsection, "secondary wood products" means laminated wood products and wooden I-beams. A vehicle engaged in the transportation of secondary wood products may also transport a divisible load of secondary wood products that otherwise exceeds allowable load length limits if:

(a) The load contains a permitted, nondivisible secondary wood product that exceeds the length allowed in ORS 818.080 or 818.100;

(b) The divisible load does not exceed the length allowed for the nondivisible wood product in the permit; and

(c) Not more than 49 percent of each divisible load item, by length or weight, authorized by this subsection overhangs the vehicle transporting the load.

(7) A vehicle engaged in the transportation of lumber, veneer or plywood, which may be issued a permit for an overwidth load if the width of the divisible load does not exceed nine feet.

(8) A vehicle transporting an overheight marine container to or from a marine port facility.

(9) A vehicle or combination of vehicles engaged in hauling grass seed straw, grass hay or cereal grain straw, which may be issued a permit to allow the load to be up to 14 feet 6 inches high. A permit issued under this subsection shall be valid for one year and shall specify the routes over which the overheight load may be hauled.

(10) A vehicle or combination of vehicles that has a variance permit and that can carry items related to the already permitted load without increasing the size of the vehicle needed to carry the item requiring the variance permit.

(11) A vehicle engaged in hauling poplar logs or the processing residual from the logs, which may be issued an annual overwidth permit for a vehicle and load with a combined width of not more than 12 feet. The annual permit shall allow movement of the

vehicle only on Patterson Ferry Road and Frontage Road in Morrow County and only for a distance of 5,000 feet or less.

(12) A vehicle or combination of vehicles engaged in hauling bagged grass seed or mint leaves in sacks, which may be issued a permit to allow the load to be up to nine feet six inches wide. A permit issued under this subsection shall be valid for one year and shall specify the routes over which the overwidth load may be hauled.

(13) A combination of a truck tractor and two property-carrying units that exceeds the maximum length established under ORS 818.080 if:

(a) The combined length of the two property-carrying units does not exceed 82 feet 8 inches;

(b) The combination is used only to transport sugar beets; and

(c) The combination is operated on U.S. Highway 20, U.S. Highway 26, U.S. Highway 30 or State Highway 201 in the vicinity of or between the cities of Vale, Ontario and Nyssa. [1983 c.338 §536; 1985 c.16 §275; 1989 c.431 §1; 1991 c.261 §1; 1991 c.880 §5; 1993 c.416 §1; 1995 c.488 §1; 1997 c.360 §1; 1997 c.466 §1; 1999 c.59 §244; 1999 c.352 §1; 2001 c.335 §3; 2015 c.77 §1; 2019 c.490 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.220 - Requirements, conditions and procedures for issuance of variance permit; duration; cancellation; rules.**

This section establishes requirements, conditions and procedures for issuance of variance permits under ORS 818.200 as follows:

(1) In issuing a permit, the road authority may:

(a) Grant a permit that is valid for a single trip, a number of trips or continuous operation.

(b) Establish seasonal or other time limitations on a permit.

(c) Establish any additional terms, limits or conditions on a permit that are necessary or desirable for the protection of the highways and streets and the public interest.

(d) Require the applicant to furnish public liability and property damage insurance in an amount fixed by the granting authority.

(e) Require the applicant to furnish indemnity insurance or an indemnity bond, in an amount fixed by the granting authority, to:

(A) Indemnify the road authority for any damage to the highways or streets that may be caused under the permit; and

(B) Indemnify the members, officers, employees and agents of the road authority from any claim that might arise out of the granting of the permit and the use of the highways under the permit.

(f) Require a demonstration by the applicant to establish that operation under a permit would:

(A) Stay on the right side of the center line of the traveled way at all times; and

(B) Allow sufficient room in the opposing traffic lane for the safe movement of other vehicles.

(2) A permit shall be in writing and shall specify:

(a) All highways or streets over which the permit is valid.

(b) Any vehicle, combination of vehicles, load, article, property, machine or thing allowed under the permit.

(c) Maximum dimensions and maximum weights allowed under the permit.

(3) A road authority may not issue a permit under this section:

(a) That is valid for longer than one year.

(b) Until any insurance or bond required under this section is filed with and accepted by the granting authority.

(c) Until the granting authority has investigated any representations made in the application for the permit.

(d) If the sole purpose of the permit is to specify highways on which a vehicle or combination of vehicles may not travel.

(4) An application for a permit issued under this section shall be in writing and shall specify:

(a) The vehicle, combination of vehicles, load, article, property, machine or thing for which the permit is requested;

(b) The particular highways and streets for which the permit is sought; and

(c) Whether the permit is sought for a single trip, number of trips or continuous operation.

(5) This section does not authorize:

(a) Except as specified in a permit, any vehicle, combination of vehicles, load, article, property, machine or thing for which the permit is issued to be operated or moved contrary to any provisions of the vehicle code.

(b) Any movement or operation of a vehicle, combination of vehicles, load, article, property, machine or thing until a permit is issued.

(6) The road authority may appoint any of its officers, employees or agents to be present at and during the movement. The presence of any person so appointed and any interference or suggestion made by that person shall not be considered supervision of the movement and shall not relieve the permit holder, or the permit holder's insurers or sureties, from liability for any damage done by the movement. If, in the opinion of the person appointed to be present at and during the movement, any of the terms and conditions of the permit are not being complied with, that person may order the movement to be stopped.

(7) Any permit may be canceled at any time by the road authority upon proof satisfactory to it that:

(a) The permit holder has violated any of the terms of the permit;

(b) The permit was obtained through misrepresentation in the application therefor; or

(c) The public interest requires cancellation.

(8) A road authority may establish a program for issuance of permits that is not subject to any requirements, conditions or procedures described under this section. A program established under this subsection shall be established by rule or resolution, as appropriate. A program established under this subsection may include any of the following:

- (a) Provisions and requirements that differ from those otherwise required under this section.
- (b) Authority that is not subject to the limitations under ORS 818.210.
- (c) Any provisions or requirements the road authority determines may simplify or expedite the process of issuing permits.
- (d) Exclusions from the prohibitions and penalties under ORS 818.350 if the person or vehicle complies with the conditions of the permit and the program.
- (e) Applicability of the penalties provided under ORS 818.340, 818.350 and 818.410 for violation of the program.
- (9) Notwithstanding any other provision of this section, if a road authority other than the state issues a variance permit for a divisible load with a combined weight of more than 80,000 pounds, the variance permit shall be a one-year permit that is valid for continuous operation.
- (10) The Department of Transportation may adopt rules to establish uniform requirements and consistent mitigation strategies that a road authority must apply as conditions for operation of a truck tractor and semitrailer combination under an overlength variance permit issued under ORS 818.200. [1983 c.338 §537; 1985 c.16 §276; 1989 c.432 §1; 2003 c.185 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.225 - Road use assessment fee for single-trip nondivisible load permittee; rules.**

- (1) As used in this section, "equivalent single-axle load" means the relationship between actual or requested weight and an 18,000 pound single-axle load as determined by the American Association of State Highway and Transportation Officials Road Tests reported at the Proceedings Conference of 1962.
- (2)(a) In addition to any fee for a single-trip nondivisible load permit, a person who is issued the permit or who operates a vehicle in a manner that requires the permit is liable for payment of a road use assessment fee of ten and nine-tenths cents per equivalent single-axle load mile traveled.
- (b) If the road use assessment fee is not collected at the time of issuance of the permit, the department shall bill the permittee for the amount due. The account shall be considered delinquent if not paid within 60 days of billing.
- (c) The miles of travel authorized by a single-trip nondivisible load permit shall be exempt from taxation under ORS chapter 825.
- (3) The department may adopt rules:
  - (a) To standardize the determination of equivalent single-axle load computation based on average highway conditions; and
  - (b) To establish procedures for payment, collection and enforcement of the fees and assessments established by this chapter. [1989 c.992 §15; 1991 c.497 §12; 1995 c.447 §4; 1995 c.733 §91; 2003 c.618 §3; 2009 c.865 §51; 2017 c.750 §§51,52; 2018 c.93 §§26,27]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.230 - Sifting or leaking load permit; duration; fee.**

A sifting or leaking load permit is a vehicle permit that is issued as evidence of a grant of authority to operate a vehicle loaded or constructed in a manner that, without the permit, would violate ORS 818.300. Each road authority shall grant permits for its own highways. Permits issued under this section shall comply with all of the following:

- (1) Permits shall be in writing.
- (2) Permits shall be issued only for the following:
  - (a) Vehicles transporting food processing plant by-products to be used for livestock feed or fertilizer from which there is fluid leakage.
  - (b) Vehicles transporting agricultural products from which there is fluid leakage, while the vehicles are en route from the place of harvest to a place where the products will be processed, stored or sold.
- (3) Permits shall be issued for a maximum period of one year.
- (4) Permits are revocable if the issuing road authority finds that the amount or character of the fluid leakage is such that it constitutes a danger to other vehicles.
- (5) The fee for issuance of a sifting or leaking load permit is as provided under ORS 818.270.
- (6) No fee shall be charged for issuance of a permit to the federal government, agencies of the State of Oregon, counties or cities. [1983 c.338 §538; 1985 c.179 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.235 - Permit for wide load of hay bales.**

Notwithstanding ORS 818.210, a granting authority may issue a permit under ORS 818.200 for any vehicle or combination of vehicles engaged in the transportation of hay bales with a manufactured width of more than three feet, if the total width of load does not exceed 10 feet and the load is not wider than the part of the vehicle that carries the load. Vehicle width may be temporarily extended in order to qualify for a permit under this section. [1985 c.534 §5]

Note:

818.235 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 818 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section**



**818.240 - Dragging permit; fee.**

A dragging permit is a vehicle permit that is issued as evidence of a grant of authority to drag something upon or over the surface of the highway without violation of ORS 818.320. Except as otherwise provided in this section, each road authority shall grant permits for its own highways. Permits issued under this section shall comply with all of the following:

- (1) Permits shall be in writing.
- (2) The Department of Transportation has the authority for issuance of permits on city streets over which a state highway is routed pursuant to ORS 373.010.
- (3) The fee for issuance of a dragging permit is as provided under ORS 818.270.
- (4) No fee shall be charged for issuance of a permit to the federal government, agencies of the State of Oregon, counties or cities. [1983 c.338 §539]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.250 - Permit for fire company warning lights.**

The governing body of a rural fire protection district or of a municipal fire department may issue written authorization for the use of fire company warning lights on vehicles that are used while driving to a fire station or fire location in response to a fire alarm.

Written authorization issued under this section shall comply with all of the following:

- (1) Written authorization may be issued only to authorize use of the warning lights on any vehicle, whether publicly or privately owned, if used by:
  - (a) A fire chief, assistant fire chief or volunteer firefighter selected by the board of directors of a rural fire protection district organized under ORS chapter 478; or
  - (b) Any person authorized to serve as fire chief, assistant fire chief or volunteer firefighter by the governing body of any municipal fire department.
- (2) Any lights authorized under this section must be and remain the property of the rural fire protection district or municipality involved. [1983 c.338 §540; 1985 c.16 §277]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.260 - Permit for use of bus safety lights on certain buses; rules; fee.**

- (1) Upon receipt of a qualifying application and payment of any fee required, the Department of Transportation shall issue a permit that will allow the use of bus safety lights described in ORS 816.260 on any bus that is operated by a religious organization while the bus is being used to transport children to and from religious services or an activity or function authorized by the religious organization.
- (2) The department shall adopt rules necessary to carry out this section. The department:
  - (a) May establish standards for application for a permit under this section.
  - (b) May require a fee for issuance of a permit under this section as provided under ORS 818.270.
  - (c) May provide for the revocation of a permit if the lights are used in circumstances not described in this section.
  - (d) Shall adopt rules for operation of lights under a permit issued under this section. The standards adopted under this paragraph shall require the lights to be operated in a manner similarly to the manner for operation of the same lights on school buses.
  - (e) Shall require, before issuance of a permit under this section, that the vehicle be equipped with both alternately flashing amber bus safety lights and alternately flashing red bus safety lights. [1983 c.338 §541]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.270 - Fees for permits.**

- (1) The fee for issuance of a variance permit under ORS 818.200 may be any amount determined by a road authority, not to exceed \$8. If the variance permit is issued by a private contractor, the contractor may charge an additional fee not to exceed \$5.
- (2) The fee for issuance of a sifting or leaking load permit under ORS 818.230 is \$8.
- (3) The fee for issuance of a dragging permit under ORS 818.240 is \$8.
- (4) The fee for issuance of a permit under ORS 818.260 for the use of bus safety lights is a fee established by rule by the Department of Transportation. Any fee established for purposes of this subsection may not exceed the actual costs of issuing the permit. [1983 c.338 §542; 1985 c.16 §278; 1985 c.736 §5; 1989 c.992 §13; 1995 c.123 §2; 1997 c.232 §1; 2017 c.750 §§54,55; 2018 c.93 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.300 - Operating with sifting or leaking load; civil liability; penalty.**

- (1) A person commits the offense of operating with a sifting or leaking load if the person does any of the following:
  - (a) Drives or moves on a highway any vehicle or combination of vehicles that is so constructed or loaded so as to allow its contents to drop, sift, leak or otherwise escape therefrom.
  - (b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway when the vehicle or combination of vehicles is so constructed or loaded so as to allow its contents to drop, sift, leak or otherwise escape therefrom.

- (2) The application of this section is subject to the exemptions from this section established under ORS 818.310.
- (3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.
- (4) The offense described in this section, operating with a sifting or leaking load, is a Class B traffic violation. [1983 c.338 §524; 1985 c.393 §31]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.310 - Exemptions from prohibition on sifting and leaking load.**

This section establishes exemptions from ORS 818.300. The exemptions under this section are in addition to any exemptions under ORS 801.026. Exemptions are partial or complete as described in the following:

- (1) ORS 818.300 does not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.
- (2) ORS 818.300 does not apply on any road or thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both.
- (3) Operations authorized under the terms of a permit issued under ORS 818.230 are subject to the terms of the permit. It is a defense to any charge of violation of ORS 818.300 if the person so charged produces a permit issued under ORS 818.230 authorizing the operation of the vehicle or combination of vehicles issued prior to and valid at the time of the offense. [1983 c.338 §525; 1985 c.16 §270; 1987 c.158 §173]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.320 - Dragging objects on highway; civil liability; penalty.**

- (1) A person commits the offense of dragging objects on a highway if the person does any of the following:
  - (a) Drives or moves on a highway any vehicle or combination of vehicles that is dragging upon or over the surface of the highway any logs, poles, piling or other thing.
  - (b) Owns a vehicle or combination of vehicles and causes or permits the vehicle or combination of vehicles to be driven or moved on a highway while dragging upon or over the surface of the highway any logs, poles, piling or other thing. Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of the vehicle or combination caused or permitted the vehicle or combination to be so operated and the owner shall be liable for any penalties imposed under subsection (4) of this section as a result of the operation.
- (2) The application of this section is subject to the exemptions from this section established under ORS 818.330.
- (3) Violation of the offense described in this section is subject to civil liability under ORS 818.410.
- (4) The offense described in this section, dragging objects on a highway, is a Class D traffic violation. [1983 c.338 §526; 1985 c.393 §32; 1995 c.383 §95]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.330 - Exemptions from prohibition on dragging objects on highway.**

This section establishes exemptions from ORS 818.320. The exemptions in this section are in addition to any under ORS 801.026. Exemptions are partial or complete as described in the following:

- (1) Operations authorized under terms of a permit issued under ORS 818.240 are subject to the terms of the permit. It shall be a defense to any charge of violation of ORS 818.320 if the person so charged produces a permit issued under ORS 818.240 authorizing the operation issued prior to and valid at the time of the offense.
- (2) ORS 818.320 does not apply on any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547, 551 or a corporation formed under ORS chapter 554.
- (3) ORS 818.320 does not apply on any road, thoroughfare or property in private ownership or any road or thoroughfare, other than a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency or both. [1983 c.338 §527; 1987 c.158 §174]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.340 - Operating in violation of variance permit; exception; civil liability; penalties.**

- (1) A person commits the offense of operating in violation of a variance permit if the person has been issued a variance permit under ORS 818.200 that authorized the movement of anything and the person does any of the following:
  - (a) Drives, moves or operates anything in violation of the terms of the permit.
  - (b) Owns anything and causes or permits it to be driven, moved or operated in violation of the permit. Operation in violation of this section is prima facie evidence that the owner caused or permitted the operation and the owner shall be liable for any penalties imposed under subsection (5) of this section as a result of the operation.
- (2) A person is in violation of the terms of a permit for purposes of this section if the person misrepresents any size or weight required to be specified when applying for the permit.
- (3) It shall be a defense to any charge of violation of this section if the person so charged produces a variance permit issued under

ORS 818.200 that authorized the operation and that was issued prior to and valid at the time of operation.

(4) A person does not commit the offense described in this section if the person is driving, moving or operating anything under a variance permit issued under ORS 818.200 and:

- (a) The permit authorizes the person to exceed the maximum weight limitations;
  - (b) The person is operating a vehicle with a fully functional idle reduction system designed to reduce fuel use and emissions from engine idling; and
  - (c) The total weight of the vehicle is not more than 550 pounds greater than the weight authorized by the variance permit.
- (5) Violation of the offense described in this section is subject to civil liability under ORS 818.410.
- (6) The offense described in this section, operating in violation of a variance permit, is punishable according to the following:
- (a) Violation of any provision of the permit, other than the violations described in paragraph (b), (c) or (d) of this subsection, is a Class D violation.
  - (b) Violation of any weight provision by a vehicle that is authorized by permit to exceed axle or tandem axle weights specified in ORS 818.010 (1) or (2) is subject to penalty under Schedule II of the penalties in ORS 818.430.
  - (c) Violation of any weight provision by a vehicle listed in ORS 818.210 is subject to penalty under Schedule I of the penalties in ORS 818.430.
  - (d) Violation related to the required number of pilot vehicles or routing in accordance with the terms, limits or conditions established on a permit under ORS 818.220 (1)(c) is a Class A traffic violation. [1983 c.338 §528; 1985 c.16 §272; 1995 c.339 §1; 1997 c.360 §2; 1999 c.352 §2; 2007 c.92 §2; 2007 c.664 §2; 2008 c.10 §1; 2019 c.491 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.350 - Failure to carry and display variance permit; penalty.**

(1) The driver of any vehicle or combination of vehicles for which a variance permit or a permit identification card has been issued under ORS 818.200 commits the offense of failure to carry and display a variance permit if the driver does not:

- (a) Have the variance permit or permit identification card in the driver's immediate possession at all times when driving the vehicle or combination of vehicles upon a public highway, road or street; and
- (b) Display the variance permit or permit identification card upon demand of any police officer, motor carrier enforcement officer, county weighmaster, judicial officer or the director of permits of the Department of Transportation.

(2) Producing a variance permit issued prior to and valid at the time of an offense under this section is not a defense for a charge under this section.

(3) The offense described under this section, failure to carry and display a variance permit, is a Class D traffic violation. [1983 c.338 §529; 1985 c.16 §271; 1985 c.393 §33; 1993 c.741 §100; 1995 c.383 §96]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.400 - Failure to comply with commercial vehicle enforcement requirements; penalty.**

(1) A person commits the offense of failure to comply with commercial vehicle enforcement requirements if the person is driving a vehicle or combination of vehicles and the person does not comply with any of the following or if the person is the owner of a vehicle or combination of vehicles and the person causes or permits the vehicle or combination not to comply with any of the following:

- (a) A vehicle or combination of vehicles must stop and submit to any enforcement of commercial vehicle weight, size, load, conformation or equipment regulation when directed to do so by an "OPEN" sign displayed at a permanently established truck scale.
- (b) A vehicle or combination of vehicles must stop and submit to any enforcement of commercial vehicle weight, size, load, conformation or equipment regulation when directed to do so by any sign or signal displayed or given by a police officer, motor carrier enforcement officer or weighmaster acting in accordance with authority granted under ORS 810.490.
- (c) A vehicle or combination of vehicles must move into the right lane for purposes of a weight or size check when instructed to do so by a sign indicating the presence of a weigh-in-motion scale.
- (d) The directions of any police officer, motor carrier enforcement officer or weighmaster that are given in accordance with authority granted under ORS 810.490 or 810.530 must be complied with.

(2) The requirement of subsection (1)(a) of this section does not apply to:

- (a) An empty combination of a log truck and pole trailer if the pole trailer is bunked on the log truck and there is no other load; or
- (b) A vehicle or combination of vehicles if:
  - (A) The normal route of the vehicle or combination of vehicles requires turning off the highway after passing the "OPEN" sign but before reaching the scale; and
  - (B) The vehicle or combination of vehicles is en route to a terminal or other legitimate business.

(3) Operation of any vehicle or combination of vehicles in violation of this section is prima facie evidence that the owner of such vehicle or combination caused or permitted it to be so operated and the owner shall be liable for any penalties imposed under this section.

(4) The offense described in this section, failure to comply with commercial vehicle enforcement requirements, is a Class B misdemeanor. The penalty provided under this subsection is in addition to any penalty provided for violation of any prohibition relating to vehicle weight, size, load, conformation or equipment. [1983 c.338 §533; 1985 c.393 §35; 1987 c.897 §2; 1993 c.741

§101; 1995 c.27 §1; 1995 c.101 §1; 1997 c.722 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.410 - Civil liability for certain violations.**

The owner and driver of anything using a state, county or city highway, street or bridge in violation of the sections described in this section are jointly and severally liable to the state, county or city for all damage done as a result of the violation. Liability to the state, county or city depends upon whether it is a state, county or city highway, street or bridge. This section applies to a violation of any of the following:

- (1) Maximum weight limits under ORS 818.020.
- (2) Posted weight limits under ORS 818.040.
- (3) Maximum size limits under ORS 818.090.
- (4) Maximum number of vehicles in combination under ORS 818.110.
- (5) Posted limits on use of roads under ORS 818.130.
- (6) Towing safety requirements under ORS 818.160.
- (7) Sifting or leaking load prohibition under ORS 818.300.
- (8) Dragging object prohibition under ORS 818.320.
- (9) Devices without wheels under ORS 815.155.
- (10) Use of prohibited metal objects on tires under ORS 815.160.
- (11) Operation without pneumatic tires under ORS 815.170.
- (12) Operation in violation of variance permit under ORS 818.340.
- (13) Temporarily reduced speeds established by a road authority under ORS 810.180.
- (14) Exclusive use lanes established under ORS 810.140. [1983 c.338 §530; 1985 c.16 §273; 2003 c.819 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.420 - Penalties for certain violations.**

(1) This subsection establishes a schedule of penalties for certain offenses in ORS 818.060 and 818.090. Commission of any of the described offenses relating to height or width limits is punishable according to the following schedule:

- (a) Except as otherwise provided in this section, upon a first conviction, an offense is punishable as a Class D traffic violation.
- (b) Upon a second conviction within one year after the first conviction, an offense is punishable as a Class C traffic violation.
- (c) Upon a third or subsequent conviction within one year after the first conviction, an offense is punishable as a Class B traffic violation.

(2) Any offense that is described in ORS 818.060 or 818.090 and that is not punishable under subsection (1) of this section, is punishable as a Class D traffic violation. [1983 c.338 §531; 1985 c.393 §34; 1987 c.897 §3; 1995 c.383 §121; 2007 c.664 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.430 - Penalties for violation of weight requirements.**

This section establishes schedules of presumptive fines for violations of maximum weight requirements under the vehicle code. The particular schedule applicable is the schedule designated in the section establishing the offense. Upon conviction, a person is punishable by a fine and other penalty established in the schedule. Fines are based upon the excess weight by which any loaded weight exceeds the applicable loaded weight authorized in the provision, permit, order or resolution the person violates. The schedules are as follows:

- (1) The presumptive fines under Schedule I are as provided in this subsection. If the excess weight is:
  - (a) One thousand pounds or less, the presumptive fine is \$100.
  - (b) More than 1,000 pounds, but not in excess of 2,000 pounds, the presumptive fine is \$150.
  - (c) More than 2,000 pounds, but not in excess of 3,000 pounds, the presumptive fine is \$200.
  - (d) More than 3,000 pounds, but not in excess of 5,000 pounds, the presumptive fine is \$300.
  - (e) More than 5,000 pounds, but not in excess of 7,500 pounds, the presumptive fine is an amount equal to 15 cents per pound for each pound of the excess weight.
  - (f) More than 7,500 pounds, but not in excess of 10,000 pounds, the presumptive fine is an amount equal to 16 cents per pound for each pound of the excess weight.
  - (g) More than 10,000 pounds, but not in excess of 12,500 pounds, the presumptive fine is an amount equal to 20 cents for each pound of the excess weight.
  - (h) More than 12,500 pounds over the allowable weight, the presumptive fine is an amount equal to 24 cents per pound for each pound of excess weight.
- (2) The presumptive fines under Schedule II are as provided in this subsection. If the excess weight is:
  - (a) One hundred pounds, but not in excess of 5,000 pounds, the presumptive fine is an amount equal to \$200 plus 10 cents per pound of the excess weight.
  - (b) More than 5,000 pounds, but not in excess of 10,000 pounds, the presumptive fine is an amount equal to \$350 plus 15 cents per pound of the excess weight.

- (c) More than 10,000 pounds, the presumptive fine is an amount equal to \$600 plus 30 cents per pound of the excess weight.
- (3) Notwithstanding ORS 153.021, the fine imposed under subsection (2) of this section shall be not more than \$100 if a person charged with an offense punishable under Schedule II produces in court a second valid variance permit issued under ORS 818.200 authorizing a loaded weight equal to or greater than the actual loaded weight of the vehicle, combination of vehicles, axle, tandem axles or group of axles upon which the citation was based.
- (4) The penalties under Schedule III are as provided in this subsection and are in addition to any suspension of operator's license under ORS 809.120 or any suspension of vehicle registration under ORS 809.120. If the excess weight is:
- (a) One hundred pounds, but not in excess of 5,000 pounds, the presumptive fine is \$200 plus 15 cents per pound for each pound of the excess weight.
- (b) More than 5,000 pounds but not in excess of 10,000 pounds, the presumptive fine is \$350 plus 20 cents per pound for each pound of excess weight.
- (c) More than 10,000 pounds, the presumptive fine is \$500, plus 30 cents per pound for each pound of excess weight. [1983 c.338 §532; 1985 c.16 §274; 1987 c.897 §4; 1993 c.531 §8; 1995 c.79 §377; 1995 c.339 §2; 1999 c.668 §1; 2011 c.597 §108; 2012 c.89 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.440 - Penalty for procuring, aiding or abetting violation of this chapter.**

Any person who knowingly and willfully procures, aids or abets in the violation of a provision of this chapter is subject to the penalty provided for a person who violates the provision. [1987 c.897 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 818 - Vehicle Limits Section 818.450 - Civil penalty for violations of chapter.**

In addition to any penalty provided in a specific statute in this chapter, any person who violates a provision of this chapter is subject to civil penalty as provided in ORS 825.950. [1997 c.722 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.010 - Failure to comply with requirements for destruction of vehicle; exception; penalty.**

- (1) A person commits the offense of failure to comply with requirements for destruction of a vehicle if the person wrecks, dismantles or disassembles the form of any vehicle that is or is required to be registered or titled under the vehicle code or under ORS chapter 826 and the person does not comply with all of the following:
- (a) The person must give notice to the Department of Transportation, in a form specified by the department, of the person's intention to dismantle, disassemble or wreck the form of the vehicle at least seven days prior to commencement thereof.
- (b) If the vehicle is visible from a public right of way, the person must complete the wrecking, dismantling or disassembling of the form of the vehicle within 30 days from the commencement thereof.
- (c) If the vehicle is registered by this state, the person must deliver or mail to the department the registration card, certificate of title, if one has been issued, and registration plates of the vehicle within 30 days after the person wrecks, dismantles or disassembles the form of the vehicle.
- (d) If no certificate of title has been issued for the vehicle, the person must notify the department in a manner determined by the department by rule within 30 days after the person wrecks, dismantles or disassembles the form of the vehicle.
- (e) If required to do so under ORS 819.016, the person shall apply for a salvage title for the vehicle.
- (2) This section does not apply to persons who are acting within the scope of a dismantler certificate issued under ORS 822.110.
- (3) The offense described in this section, failure to comply with requirements for destruction of vehicle, is a Class A misdemeanor. [1983 c.338 §193; 1985 c.16 §68; 1985 c.401 §2; 1991 c.407 §33; 1991 c.873 §36; 1993 c.233 §57; 1993 c.751 §75; 2005 c.654 §27; 2007 c.683 §1; 2021 c.630 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.012 - Failure to follow procedures for a totaled vehicle; penalty.**

- (1) A person other than an insurer commits the offense of failure to follow procedures for a totaled vehicle if the person:
- (a) Is the registered owner of a vehicle that is a totaled vehicle as defined in ORS 801.527 (1) and does not surrender the certificate of title for the vehicle either to the Department of Transportation or to the insurer within 30 days of the declaration or other relevant act by the insurer.
- (b) Is the registered owner of a vehicle that is a totaled vehicle as defined in ORS 801.527 (2) and does not notify the department of the status of the vehicle within 30 days of the day that the vehicle became a totaled vehicle.
- (c) Is the registered owner of a vehicle that is a totaled vehicle as defined in ORS 801.527 (3) and does not surrender the certificate of title for the vehicle to the department within 30 days of the date the vehicle became a totaled vehicle.
- (d) Receives or purchases a totaled vehicle and does not surrender the certificate of title for the vehicle to the department within 30

days of purchase or receipt of the vehicle.

(2) A person is not required to surrender the certificate of title if the person is unable to obtain the certificate for the vehicle. If the person is unable to obtain the certificate, the person shall notify the department that the vehicle is a totaled vehicle and shall notify the department of the reason that the person is unable to surrender the certificate.

(3) A person is not required to surrender the certificate of title if:

(a) The person transferred their interest in the totaled vehicle to a tower pursuant to ORS 822.235; or

(b) The person is a tower that received interest in the totaled vehicle pursuant to ORS 822.235 and the tower subsequently transfers interest in the totaled vehicle to a dismantler within 30 days of the date the tower received interest in the totaled vehicle.

(4) If the vehicle is one for which title was issued in a form other than a certificate, the person shall notify the department that the vehicle is a totaled vehicle and shall follow procedures adopted by the department by rule.

(5) The offense described in this section, failure to follow procedures for a totaled vehicle, is a Class A misdemeanor. [1991 c.820 §4; 1993 c.233 §58; 2017 c.523 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.014 - Insurer failure to follow procedures for totaled vehicle; penalty.**

(1) An insurer commits the offense of insurer failure to follow procedures for a totaled vehicle if the insurer declares that the vehicle is a totaled vehicle and does not:

(a) Obtain the certificate of title from the owner of the vehicle as a condition of settlement of the claim and surrender it to the Department of Transportation within 30 days of its receipt; or

(b) If the insurer does not obtain the certificate from the registered owner, notify the department that the vehicle is a totaled vehicle within 30 days of declaring it to be so, or taking title to or possession of it, and notify the registered owner of the vehicle that the registered owner must surrender the certificate to the department and must notify any subsequent purchaser that the vehicle is a totaled vehicle.

(2) If the vehicle is one for which title was issued in a form other than a certificate, the insurer shall notify the department that the vehicle is a totaled vehicle and shall follow procedures adopted by the department by rule.

(3) The offense described in this section, insurer failure to follow procedures for a totaled vehicle, is a violation of the Insurance Code, as provided in ORS 746.308. [1991 c.820 §4a; 1993 c.233 §59]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.016 - When salvage title required; rules.**

(1) Except as provided in subsection (2) of this section, when the provisions of ORS 819.010, 819.012 or 819.014 require a person to surrender to the Department of Transportation a certificate of title for a vehicle, or when a person acquires a vehicle under the provisions of ORS 819.215, the person shall apply to the department for a salvage title for the vehicle. The application shall comply with the requirements of ORS 803.140.

(2) When the person is not required to surrender a certificate of title because title for the vehicle was issued in some other form, the person shall follow procedures adopted by the department by rule.

(3) Subsections (1) and (2) of this section do not apply if the person:

(a) Does not intend to rebuild or repair the vehicle, to transfer the vehicle or to use the frame or unibody of the vehicle for repairing or constructing another vehicle; or

(b) Rebuilds or repairs the vehicle and applies to title the vehicle with the designation of assembled, reconstructed or replica. [1991 c.820 §23; 1991 c.873 §26; 1993 c.233 §60; 2009 c.371 §3; 2021 c.630 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.018 - Failure to notify subsequent purchaser of condition of vehicle; rules; penalty.**

(1) A person commits the offense of failure to notify a subsequent purchaser of the condition of a vehicle if the person sells a totaled vehicle and does not provide the purchaser with a salvage title certificate or, if no certificate is required as evidence of salvage title, does not comply with rules adopted by the Department of Transportation for notification of salvage title without a certificate.

(2) The offense described in this section, failure to notify a subsequent purchaser of the condition of a vehicle, is a Class A misdemeanor when committed by someone other than an insurer. [1991 c.820 §§5,22; 1993 c.233 §61]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.030 - Department procedure on receipt of title or notice.**

The Department of Transportation shall comply with the following procedures upon receiving a certificate of title or other notice in accordance with the provisions of ORS 819.010, 819.012 or 819.014:

(1) If the department is satisfied that the vehicle is wrecked, dismantled or disassembled, the department shall cancel and retire the registration and title of the vehicle. Except for issuance of a salvage title, the department may not register or title the vehicle again unless:

(a) The department is satisfied that the original title certificate, if any, was surrendered in error or that notice was submitted in error and the record canceled in error; or

(b) The vehicle is registered or titled as an assembled vehicle, a reconstructed vehicle or a replica.

(2) If the department is satisfied that the vehicle is wrecked, dismantled or disassembled, the department may issue a proof of compliance form if no salvage title is issued for the vehicle.

(3) If the department is satisfied that the vehicle is totaled or substantially altered, the department may:

(a) Issue a salvage title, retire the vehicle's registration and cancel the title; or

(b) Issue a branded title.

(4) If a vehicle is recovered after a theft and the theft is the reason that the vehicle was considered a totaled vehicle or the department issues a branded title for a totaled or substantially altered vehicle, a person may apply with the department to keep the same registration plates and the remaining registration period represented by the plates with that vehicle. The department may allow the owner to keep the registration plates if the plates are legible and capable of being used for identification purposes.

(5) A person may apply with the department to transfer plates from a vehicle for which the department previously received a totaled or substantially altered notification. A plate transfer request must be in accordance with the provisions of ORS 803.530.

(6) The owner of a vehicle whose title and registration have been canceled and retired due to the department being notified it is totaled, wrecked, dismantled, disassembled or substantially altered is entitled to an administrative review to determine whether the notification was correct. [1983 c.338 §196; 1985 c.176 §2; 1985 c.401 §3; 1987 c.119 §6; 1991 c.820 §8; 1991 c.873 §38; 1993 c.233 §62; 2019 c.17 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.040 - Illegal salvage procedures; penalty.**

(1) A person commits the offense of illegal salvage procedures if the person engages in crushing, compacting or shredding of vehicles and the person violates any requirements under the following:

(a) The person may accept vehicles as salvage material from other persons who hold a dismantler certificate issued under ORS 822.110.

(b) Except as otherwise provided in this subsection, the person may not accept vehicles from another person who does not hold a dismantler certificate issued under ORS 822.110, unless the other person:

(A) Complies with the requirements of ORS 819.010, or is in possession of a salvage title certificate; and

(B) Displays a salvage title certificate, a compliance form issued under ORS 819.030, or a certificate of sale to the person engaged in salvage.

(c) The person engaged in salvage may accept a copy of the Department of Transportation form issued under ORS 819.030 as proof of compliance under ORS 819.010 or may accept a certificate of sale or a salvage title certificate, as applicable, and surrender such copy or certificate to the department.

(d) The person may accept vehicles as salvage material from tow businesses disposing of vehicles as authorized under ORS 819.215 or 819.280 if the tow business gives the person a copy of notification made to the department under ORS 819.215 or 819.280.

(2) If a salvage title has been issued in a form other than a certificate, the person engaged in salvage may accept documents or information in a manner or form determined by the department by rule.

(3) The offense described in this section, illegal salvage procedures, is a Class A misdemeanor. [1983 c.338 §197; 1985 c.16 §70; 1991 c.873 §39; 1993 c.233 §63; 1993 c.326 §3; 2005 c.654 §28; 2005 c.738 §3; 2009 c.371 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.100 - Abandoning a vehicle; penalty.**

(1) A person commits the offense of abandoning a vehicle if the person abandons a vehicle upon a highway or upon any public or private property.

(2) The owner of the vehicle as shown by the records of the Department of Transportation shall be considered responsible for the abandonment of a vehicle in the manner prohibited by this section and shall be liable for the cost of towing and disposition of the abandoned vehicle.

(3) A vehicle abandoned in violation of this section is subject to the provisions for towing and sale of abandoned vehicles under ORS 819.110 to 819.215.

(4) The offense described in this section, abandoning a vehicle, is a Class B traffic violation. [1983 c.338 §677; 1995 c.758 §7; 2009 c.371 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.110 - Custody,**

**towing and sale or disposal of abandoned vehicle; general provisions.**

- (1) After providing notice required under ORS 819.170 and, if requested, a hearing under ORS 819.190, an authority described under ORS 819.140 may take a vehicle into custody and tow the vehicle if:
  - (a) The authority has reason to believe the vehicle is disabled or abandoned; and
  - (b) The vehicle has been parked or left standing upon any public way for a period in excess of 24 hours without authorization by statute or local ordinance.
- (2) The power to take vehicles into custody under this section is in addition to any power to take vehicles into custody under ORS 819.120.
- (3) Subject to ORS 819.150, vehicles and the contents of vehicles taken into custody under this section are subject to a lien as provided under ORS 819.160.
- (4) The person that tows a vehicle under this section shall have the vehicle appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.480.
- (5) Vehicles taken into custody under this section are subject to sale or disposal under ORS 819.210 or 819.215 if the vehicles are not reclaimed as provided under ORS 819.150 or returned to the owner or person entitled to possession under ORS 819.190. [1983 c.338 §417; 1995 c.758 §8; 2009 c.371 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.120 - Immediate custody and towing of vehicle constituting hazard or obstruction; rules.**

- (1) An authority described under ORS 819.140 may immediately take custody of and tow a vehicle that is disabled, abandoned, parked or left standing unattended on a road or highway right of way and that is in such a location as to constitute a hazard or obstruction to motor vehicle traffic using the road or highway.
- (2) As used in this section, a "hazard or obstruction" includes, but is not necessarily limited to:
  - (a) Any vehicle that is parked so that any part of the vehicle extends within the paved portion of the travel lane.
  - (b) Any vehicle that is parked so that any part of the vehicle extends within the highway shoulder or bicycle lane:
    - (A) Of any freeway within the city limits of any city in this state at any time if the vehicle has a gross vehicle weight of 26,000 pounds or less;
    - (B) Of any freeway within the city limits of any city in this state during the hours of 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. if the vehicle has a gross vehicle weight of more than 26,000 pounds;
    - (C) Of any freeway within 1,000 feet of the area where a freeway exit or entrance ramp meets the freeway; or
    - (D) Of any highway during or into the period between sunset and sunrise if the vehicle presents a clear danger.
- (3) As used in this section, "hazard or obstruction" does not include parking in a designated parking area along any highway or, except as described in subsection (2) of this section, parking temporarily on the shoulder of the highway as indicated by a short passage of time and by the operation of the hazard lights of the vehicle, the raised hood of the vehicle, or advance warning with emergency flares or emergency signs.
- (4) An authority taking custody of a vehicle under this section must give the notice described under ORS 819.180 and, if requested, a hearing described under ORS 819.190.
- (5) The power to take vehicles into custody under this section is in addition to any power to take vehicles into custody under ORS 819.110.
- (6) Subject to ORS 819.150, vehicles and the contents of vehicles taken into custody under this section are subject to a lien as provided under ORS 819.160.
- (7) The person that tows a vehicle under this section shall have the vehicle appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.480.
- (8) Vehicles taken into custody under this section are subject to sale or disposal under ORS 819.210 or 819.215 if the vehicles are not reclaimed under ORS 819.150 or returned to the owner or person entitled thereto under ORS 819.190.
- (9) The Oregon Transportation Commission, by rule, shall establish additional criteria for determining when vehicles on state highways, interstate highways and state property are subject to being taken into immediate custody under this section. [1983 c.338 §418; 1985 c.77 §1; 1991 c.464 §1; 1995 c.758 §9; 2007 c.509 §1; 2009 c.371 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.140 - Agencies having authority to take vehicle into custody; powers of agency taking custody.**

- (1) This section establishes which agency has the authority to take vehicles into custody under ORS 819.110 and 819.120. The agency with authority to take a vehicle into custody is responsible for notice and hearings under ORS 819.110 to 819.215. Authority to take a vehicle into custody depends on the location of the vehicle as described under the following:
  - (a) If a vehicle is upon the right of way of a state highway, on an interstate highway that is part of the National System of Interstate and Defense Highways established under section 103(e), title 23, United States Code or on state property, the Department of State Police or the Department of Transportation may take the vehicle into custody and exercise the powers relating to authority over the



vehicle described in this section. Action taken by the Department of State Police or the Department of Transportation under this subsection is not subject to ORS chapter 183.

(b) If the vehicle is upon the right of way of a county road or any other highway or property within the boundaries of a county, the sheriff of the county or a county agency with appropriate authority may take the vehicle into custody and exercise the powers relating to authority over the vehicle described in this section.

(c) If the vehicle is on a city street or alley, on an interstate highway or other highway within the boundaries of the city or on any other property within the boundaries of a city, the city police or a city agency with appropriate authority may take the vehicle into custody and exercise the powers relating to authority over the vehicle described in this section.

(2) Except as otherwise provided by this section, an agency taking custody of a vehicle under ORS 819.110 or 819.120 may:

(a) Use its own personnel, equipment and facilities for the towing and preservation of such vehicles; or

(b) Hire or otherwise engage other personnel, equipment and facilities for that purpose. [1983 c.338 §420; 1985 c.16 §222; 1995 c.758 §10; 2003 c.819 §1; 2009 c.371 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.150 - Rights and liabilities of owner.**

The owner, a person entitled to possession or any person with an interest recorded on the title of a vehicle taken into custody under ORS 819.110 or 819.120:

(1) Is liable for all costs and expenses incurred in the towing, preservation and custody of the vehicle and its contents except that:

(a) The owner, a person entitled to the vehicle or any person with an interest recorded on the title is not liable for nor shall be required to pay storage charges for a period in excess of 20 days unless the person has received a written notice under ORS 819.160. In no case shall a person be required to pay storage charges for a storage period in excess of 60 days.

(b) A security interest holder is not liable under this subsection unless the security interest holder reclaims the vehicle.

(2) May reclaim the vehicle at any time after it is taken into custody and before the vehicle is sold or disposed of under ORS 819.210 or 819.215 upon presentation to the authority holding the vehicle of satisfactory proof of ownership or right to possession and upon payment of costs and expenses for which the person is liable under this section.

(3) If the vehicle is taken into custody under ORS 819.110 or 819.120, has a right to request and have a hearing under ORS 819.190 or under procedures established under ORS 801.040, as appropriate.

(4) If the vehicle is sold or disposed of under ORS 819.210 or 819.215, has no further right, title or claim to or interest in the vehicle or the contents of the vehicle.

(5) If the vehicle is sold or disposed of under ORS 819.210, has a right to claim the balance of the proceeds from the sale or disposition as provided under ORS 87.206.

(6) Has no right to a hearing if the vehicle is disposed of under ORS 819.215. [1983 c.338 §421; 1985 c.316 §2; 1993 c.233 §64; 1993 c.385 §§5,5a; 1995 c.79 §378; 1995 c.758 §11; 2005 c.738 §4; 2009 c.371 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.160 - Lien for towing.**

(1) Except as otherwise provided by this section, a person shall have a lien on the vehicle and its contents if the person, at the request of an authority described under ORS 819.140, tows any of the following vehicles:

(a) An abandoned vehicle appraised at a value of more than \$500 by a person who holds a certificate issued under ORS 819.480.

(b) A vehicle taken into custody under ORS 819.110 or 819.120, unless it is an abandoned vehicle appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.480.

(c) A vehicle left parked or standing in violation of ORS 811.555 or 811.570.

(2) A lien established under this section shall be on the vehicle and its contents for the just and reasonable charges for the towing service performed and any storage provided. However, the storage charge is limited subject to ORS 98.812 (3). A lien described under this section does not attach:

(a) To the contents of any vehicle taken from public property until 15 days after taking the vehicle into custody.

(b) To the contents of any vehicle that is taken into custody for violation of ORS 811.555 or 811.570.

(3) A person that tows any vehicle at the request of an authority under ORS 819.110 or 819.120 shall transmit by first class mail with a certificate of mailing, no later than the third business day after the vehicle and its contents are placed in storage, written notice, approved by the authority, containing information on the procedures necessary to obtain a hearing under ORS 819.190. The notice shall be provided to the owner, a person entitled to possession or any person with an interest recorded on the title to the vehicle. This subsection does not apply to a person that tows an abandoned vehicle that is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.480. [1983 c.338 §422; 1985 c.16 §223; 1993 c.326 §5; 1993 c.385 §6; 1995 c.79 §379; 1995 c.758 §12; 2007 c.538 §15; 2009 c.11 §99; 2009 c.371 §10; 2019 c.547 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.170 - Notice**

**prior to taking vehicle into custody and towing; methods; contents.**

If an authority proposes to take custody of a vehicle under ORS 819.110, the authority shall provide notice and shall provide an explanation of procedures available for obtaining a hearing under ORS 819.190. Except as otherwise provided under ORS 801.040, notice required under this section shall comply with all of the following:

- (1) Notice shall be given by affixing a notice to the vehicle with the required information. The notice shall be affixed to the vehicle at least 24 hours before taking the vehicle into custody. The 24-hour period under this subsection includes holidays, Saturdays and Sundays.
- (2) Notice shall state all of the following:
  - (a) That the vehicle will be subject to being taken into custody and towed by the appropriate authority if the vehicle is not removed before the time set by the appropriate authority.
  - (b) The statute, ordinance or rule violated by the vehicle and under which the vehicle will be towed.
  - (c) The place where the vehicle will be held in custody or the telephone number and address of the appropriate authority that will provide the information.
  - (d) That the vehicle, if taken into custody and towed by the appropriate authority, will be subject to towing and storage charges and that a lien will attach to the vehicle and its contents.
  - (e) That the vehicle will be sold to satisfy the costs of towing and storage if the charges are not paid.
  - (f) That the owner, possessor or person having an interest in the vehicle is entitled to a hearing, before the vehicle is impounded, to contest the proposed custody and towing if a hearing is timely requested.
  - (g) That the owner, possessor or person having an interest in the vehicle may also challenge the reasonableness of any towing and storage charges at the hearing.
  - (h) The time within which a hearing must be requested and the method for requesting a hearing. [1983 c.338 §423; 1985 c.316 §3; 1993 c.385 §§7,7a; 1995 c.758 §13; 2009 c.371 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.180 - Notice after taking into custody and towing; method; contents.**

- (1) If an authority takes custody of a vehicle under ORS 819.120, the authority shall provide, by certified mail within 48 hours of the towing, written notice with an explanation of procedures available for obtaining a hearing under ORS 819.190 to the owners of the vehicle and any lessors or security interest holders as shown in the records of the Department of Transportation. The notice shall state that the vehicle has been taken into custody and shall give the location of the vehicle and describe procedures for the release of the vehicle and for obtaining a hearing under ORS 819.190. The 48-hour period under this subsection does not include holidays, Saturdays or Sundays.
- (2) Any notice given under this section after a vehicle is taken into custody and towed shall state all of the following:
  - (a) That the vehicle has been taken into custody and towed, the identity of the appropriate authority that took the vehicle into custody and towed the vehicle and the statute, ordinance or rule under which the vehicle has been taken into custody and towed.
  - (b) The location of the vehicle or the telephone number and address of the appropriate authority that will provide the information.
  - (c) That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of the notice and the daily storage charges.
  - (d) That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by a date specified by the appropriate authority.
  - (e) That the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and towing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.
  - (f) The time within which a hearing must be requested and the method for requesting a hearing.
  - (g) That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority. [1983 c.338 §424; 1985 c.316 §4; 1993 c.385 §8; 1995 c.758 §14; 2009 c.371 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.185 - Procedure for vehicles that have no identification markings.**

If there is no vehicle identification number on a vehicle and there are no registration plates and no other markings through which the Department of Transportation could identify the owner of the vehicle, then an authority otherwise required to provide notice under ORS 819.170 or 819.180 is not required to provide such notice and the vehicle may be towed and disposed of as though notice and an opportunity for a hearing had been given. [1995 c.758 §22; 2009 c.371 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.190 - Hearing**

**to contest validity of custody and towing.**

A person provided notice under ORS 819.170 or 819.180 or any other person who reasonably appears to have an interest in the vehicle may request a hearing under this section to contest the validity of the towing and custody under ORS 819.120 or proposed towing and custody of a vehicle under ORS 819.110 by submitting a request for hearing with the appropriate authority not more than five days from the mailing date of the notice. The five-day period in this section does not include holidays, Saturdays or Sundays. Except as otherwise provided under ORS 801.040, a hearing under this section shall comply with all of the following:

- (1) If the authority proposing to tow a vehicle under ORS 819.110 receives a request for hearing before the vehicle is taken into custody and towed, the vehicle may not be towed unless the vehicle constitutes a hazard.
- (2) A request for hearing shall be in writing and shall state grounds upon which the person requesting the hearing believes that the custody and towing of the vehicle is not justified.
- (3) Upon receipt of a request for a hearing under this section, the appropriate authority shall set a time for the hearing within 72 hours of the receipt of the request and shall provide notice of the hearing to the person requesting the hearing and to the owners of the vehicle and any lessors or security interest holders shown in the records of the Department of Transportation, if not the same as the person requesting the hearing. The 72-hour period in this subsection does not include holidays, Saturdays or Sundays.
- (4) If the appropriate authority finds, after hearing and by substantial evidence on the record, that the custody and towing of a vehicle was:
  - (a) Invalid, the appropriate authority shall order the immediate release of the vehicle to the owner or person with right of possession. If the vehicle is released under this paragraph, the person to whom the vehicle is released is not liable for any towing or storage charges. If the person has already paid the towing and storage charges on the vehicle, the authority responsible for taking the vehicle into custody and towing the vehicle shall reimburse the person for the charges. New storage costs on the vehicle will not start to accrue, however, until more than 24 hours after the time the vehicle is officially released to the person under this paragraph.
  - (b) Valid, the appropriate authority shall order the vehicle to be held in custody until the costs of the hearing and all towing and storage costs are paid by the party claiming the vehicle. If the vehicle has not yet been towed, the appropriate authority shall order that the vehicle be towed.
- (5) A person who fails to appear at a hearing under this section is not entitled to another hearing unless the person provides reasons satisfactory to the appropriate authority for the person's failure to appear.
- (6) An appropriate authority is only required to provide one hearing under this section for each time the appropriate authority takes a vehicle into custody and tows the vehicle or proposes to do so.
- (7) A hearing under this section may be used to determine the reasonableness of the charge for towing and storage of the vehicle. Towing and storage charges set by law, ordinance or rule or that comply with law, ordinance or rule are reasonable for purposes of this subsection.
- (8) An authority shall provide a written statement of the results of a hearing held under this section to the person requesting the hearing.
- (9) Hearings held under this section may be informal in nature, but the presentation of evidence in a hearing shall be consistent with the presentation of evidence required for contested cases under ORS 183.450.
- (10) The hearings officer at a hearing under this section may be an officer, official or employee of the appropriate authority but shall not have participated in any determination or investigation related to taking into custody and towing the vehicle that is the subject of the hearing.
- (11) The determination of a hearings officer at a hearing under this section is final and is not subject to appeal. [1983 c.338 §425; 1985 c.16 §224; 1985 c.316 §5; 2009 c.371 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.200 - Exemption from notice and hearing requirements for vehicle held in criminal investigation.**

A vehicle that is being held as part of any criminal investigation is not subject to any requirements under ORS 819.170 to 819.190 unless the criminal investigation relates to the theft of the vehicle. [1983 c.338 §426; 1993 c.385 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.210 - Sale or disposal of vehicle not reclaimed.**

- (1) If a vehicle taken into custody under ORS 819.110 or 819.120 is not reclaimed within 30 days after it is taken into custody, the person that towed the vehicle shall either:
  - (a) Sell the vehicle and its contents at public auction in the manner provided in ORS 87.192 and 87.196; or
  - (b) Dispose of the vehicle in a manner provided by local ordinance.
- (2) The contents of any vehicle sold under this section are subject to the same conditions of sale as the vehicle in which they are found. [1983 c.338 §427; 1995 c.758 §15; 2009 c.371 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.215 - Disposal**

**of vehicle appraised at \$500 or less; notice; rules.**

(1) If an abandoned vehicle is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.480, the person that towed the vehicle shall:

- (a) Notify the registered owner and secured parties as provided in subsection (3) of this section;
  - (b) Photograph the vehicle;
  - (c) Notify the Department of Transportation that the vehicle will be disposed of; and
  - (d) Unless the vehicle is claimed by a person entitled to possession of it within 15 days of the date of notice under subsection (3) of this section, dispose of the vehicle and its contents to a person who holds a valid dismantler certificate issued under ORS 822.110.
- (2) The authority that requests towing of an abandoned vehicle shall provide to the person that tows the vehicle, at the time of the tow or as soon as possible thereafter, a written statement that contains the name and address of the registered owner of the vehicle, as shown by records of the department, and the names and addresses of any persons claiming interests in the vehicle, as shown by records of the department.
- (3) Within 48 hours after the written statement is provided under subsection (2) of this section to a person that tows a vehicle, the person must give written notice to the persons whose names are furnished in the statement. The 48-hour period does not include Saturdays, Sundays or holidays. The notice shall state that a person that is entitled to possession of the vehicle has 15 days from the date the notice was mailed to claim the vehicle and that if the vehicle is not claimed, it will be disposed of as provided in this section.
- (4) If the authority that requests towing of an abandoned vehicle does not provide to the person that tows the vehicle the written statement within 48 hours after the vehicle is towed, the person may dispose of the vehicle as provided in ORS 819.210.
- (5) Disposal of a vehicle to a dismantler as provided in this section extinguishes all prior ownership and possessory rights.
- (6) The department shall adopt rules specifying the form in which notification to the department required by subsection (1) of this section shall be submitted and what information shall be conveyed to the department. The person that tows the vehicle may submit to the dismantler a copy of any notification submitted to the department under this section instead of submitting to the dismantler ownership or other title documents for the vehicle. [1993 c.326 §2; 1995 c.758 §16; 2005 c.654 §29; 2009 c.371 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.230**

[1983 c.338 §810; 2007 c.630 §4; renumbered 819.480 in 2007]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.280 - Disposal of vehicle at request of person in lawful possession; rules.**

- (1) A person may make a request to an authority described in ORS 819.140 (1)(b) or (c) to dispose of a vehicle that is on the private property of the person and that is appraised at a value of \$500 or less, as determined by a holder of a certificate issued under ORS 819.480, if the person is in lawful possession of the vehicle. For the purposes of this subsection, a person need not have the certificate of title to be in lawful possession of the vehicle.
- (2) If the authority requested to dispose of a vehicle under subsection (1) of this section chooses to dispose of the vehicle, the authority shall do all of the following:
- (a) Photograph the vehicle.
  - (b) Verify that the person is in lawful possession of the vehicle.
  - (c) Provide notification to the person requesting the disposal and the Department of Transportation of all of the following:
    - (A) The name and address of the person requesting the disposal;
    - (B) The vehicle identification number;
    - (C) The appraised value of the vehicle;
    - (D) The appraiser's certificate number and signature; and
    - (E) The name and address of the authority disposing of the vehicle.
  - (d) Dispose of the vehicle and its contents to a person who holds a valid dismantler certificate issued under ORS 822.110.
- (3) The authority disposing of the vehicle may charge the person requesting the disposal a fee to dispose of the vehicle.
- (4) Disposal of a vehicle to a dismantler as provided in this section extinguishes all prior ownership and possessory rights.
- (5) The department shall adopt rules specifying the form in which notification required by subsection (2) of this section shall be submitted and what additional information shall be conveyed to the department.
- (6) In lieu of submitting ownership or other title documents for the vehicle, the authority disposing of the vehicle may submit to the dismantler a copy of the notification provided to the department under subsection (2) of this section. [2005 c.738 §2; 2005 c.738 §2a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.300 - Possession of a stolen vehicle; penalty.**

(1) A person commits the offense of possession of a stolen vehicle if the person possesses any vehicle which the person knows or has reason to believe has been stolen.

(2) The offense described in this section, possession of a stolen vehicle, is a Class C felony. [1983 c.338 §297]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.310 - Trafficking in stolen vehicles; penalty.**

(1) A person commits the offense of trafficking in stolen vehicles if the person receives or transfers possession of a vehicle which the person knows or has reason to believe has been stolen with intent to obtain, transfer or sell title to the vehicle.

(2) The offense described in this section, trafficking in stolen vehicles, is a Class C felony. [1983 c.338 §298; 1985 c.16 §121]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.400 - Assignment of numbers.**

The Department of Transportation shall provide vehicle identification numbers for vehicles required to be registered in this state and components of such vehicles as the department determines necessary if the vehicles or components do not have vehicle identification numbers. The authority granted by this section is subject to the following:

(1) A vehicle identification number provided under this section shall be assigned by the department and permanently attached to the vehicle or component as prescribed by the department.

(2) A vehicle identification number provided under this section shall be furnished by the department.

(3) The vehicle identification number shall be affixed on an appropriate place on the vehicle or component by the department or, at the discretion of the department, by a police agency that has custody of the vehicle or component.

(4) The department shall not assign a vehicle identification number to a vehicle or component from which the identification number assigned to the vehicle or component has been removed, defaced, covered, altered or destroyed unless the vehicle or component has been:

(a) Held and inspected by a police agency under ORS 819.440; or

(b) Inspected by a specially qualified inspector or police officer for the purpose of locating the identification number and if the number is found it shall be checked with the list of stolen vehicles maintained by the National Crime Information Center. [1983 c.338 §293; 1985 c.253 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.410 - Failure to obtain vehicle identification number for unnumbered vehicle; exception; penalty.**

(1) A person commits the offense of failure to obtain a vehicle identification number for an unnumbered vehicle if the person is the owner of a vehicle that has never carried a vehicle identification number and the person does not obtain a vehicle identification number for the vehicle in the manner provided under ORS 819.400.

(2) This section does not apply to vehicles that are exempt from registration under ORS 803.305 or from titling under ORS 803.030.

(3) The offense described in this section, failure to obtain a vehicle identification number for an unnumbered vehicle, is a Class D traffic violation. [1983 c.338 §294; 1985 c.253 §10; 1995 c.383 §97]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.420 - Failure to obtain vehicle identification number for vehicle with altered or removed number; penalty.**

(1) A person commits the offense of failure to obtain a vehicle identification number for a vehicle with an altered or removed number if the person has a vehicle or vehicle component returned under ORS 819.440 and the person does not obtain a vehicle identification number for the vehicle or component in the manner provided under ORS 819.400.

(2) The offense described in this section, failure to obtain a vehicle identification number for a vehicle with an altered or removed number, is a Class C misdemeanor. [1983 c.338 §295; 1985 c.393 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.430 - Trafficking in vehicles with destroyed or altered identification numbers; penalty.**

(1) A person commits the offense of trafficking in vehicles with destroyed or altered identification numbers if the person knowingly buys, sells, receives, disposes of, conceals or has in the person's possession any vehicle or component from which the vehicle identification number has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle or component.

(2) The offense described in this section, trafficking in vehicles with destroyed or altered identification numbers, is a Class A misdemeanor. [1983 c.338 §296]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.440 - Police seizure of vehicle without identification number; inspection; disposition of vehicle; disposition of moneys from sale.**

When a police officer discovers a vehicle or component, including a transmission, engine or other severable portion of a vehicle which possesses or did possess an identification number, from which the vehicle identification number assigned to the vehicle or component has been removed, defaced, covered, altered or destroyed the police officer may seize and hold it for identification and disposal as provided under the following:

- (1) The police agency having custody of the property shall have a specially qualified inspector or police officer inspect the property for the purpose of locating the identification number.
- (2) If the identification number is found it shall be checked with the list of stolen vehicles maintained by the National Crime Information Center.
- (3) If the identification number is not found the police agency shall apply to the Department of Transportation for renumbering under ORS 819.400.
- (4) When the property is not listed as stolen and the identification number is established, the property shall be returned to the person from whom it was seized if:
  - (a) The person can establish that the person is the owner of the property;
  - (b) The person executes a good and valid surety bond in an amount at least equal to the market value of the property and conditioned upon return of the property to the owner, if one can be established; or
  - (c) The person has a certificate as a vehicle dealer issued under ORS 822.020 or a dismantler certificate issued under ORS 822.110.
- (5) If the person to whom the property was returned does not establish the person's ownership of the property, the police agency shall make reasonable efforts to determine the names and addresses of the owner and all persons of record having an interest in the property. If the police agency is able to determine the names and addresses of the owner and such other interested persons it shall immediately notify the owner by registered or certified mail of the disposition of the property.
- (6) If the identification number of property seized is not established or if the property is reported as stolen the police agency having custody of the property shall do all of the following:
  - (a) After making reasonable efforts to ascertain the names and addresses of the owner and all persons of record having an interest in the property, notify the person from whom the property was seized, and the owner and such other persons if they can be ascertained, of their right to respond within 60 days from the issuance of the notice through court action for the return of the seized property.
  - (b) Advertise, as required by this subsection, the taking of the property, the description thereof and a statement of the rights of an owner or other persons of record having an interest in the property to respond through court action for the return of the seized property.
  - (c) Place the advertisement in a daily newspaper published in the city or county where the property was taken, or if a daily newspaper is not published in such city or county, in a newspaper having weekly circulation in the city or county, once a week for two consecutive weeks and by handbills posted in three public places near the place of seizure.
- (7) If court action is not initiated within 60 days from the issuance of notice the property shall be sold at public auction by the sheriff or other local police agency having custody of the property.
- (8) Property seized and held by or at the direction of the Department of State Police shall be delivered to the sheriff of the county in which the vehicle was located at the time it was taken into custody for sale under this subsection.
- (9) The sheriff or other local police agency, after deducting the expense of keeping the property and the cost of sale, shall do the following:
  - (a) Pay all the security interests, according to their priorities which are established by intervention or otherwise at such hearing or in other proceeding brought for that purpose.
  - (b) Pay the balance of the proceeds into the general fund of the unit of government employing the officers of the selling police agency. [1983 c.338 §413; 1993 c.751 §77; 1995 c.79 §380; 2005 c.654 §31]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.480 - Vehicle appraiser certificate; rules.**

- (1) A person who is issued a vehicle appraiser certificate by the Department of Transportation under this section is qualified to appraise any vehicle, including vehicles for sale under ORS 819.210 and 819.215.
- (2) The department shall establish rules to provide for issuance of vehicle appraiser certificates under this section. Rules adopted by the department under this section shall provide for all of the following:
  - (a) A method of ascertaining the qualifications and competence of individuals to conduct vehicle appraisals in accordance with the rules of the department and generally accepted methods of appraisal.
  - (b) A system for issuance of vehicle appraiser certificates to persons who qualify under the rules of the department.
  - (c) Procedures and grounds for revocation or suspension of vehicle appraiser certificates issued under this section if the department determines the person holding the certificate has violated the rules adopted by the department.
  - (d) A procedure for renewal of vehicle appraiser certificates issued under this section.

- (3) The department may establish rules to adopt educational requirements for issuance or renewal of vehicle appraiser certificates.
- (4) Vehicle appraiser certificates issued under this section are subject to the following:
  - (a) A certificate shall expire three years from the date of issuance unless renewed according to the rules of the department.
  - (b) The department shall not issue a vehicle appraiser certificate to a person until the person has paid the fee for issuance of a vehicle appraiser certificate under ORS 822.700.
  - (c) The department shall not renew a vehicle appraiser certificate issued under this section until the holder has paid the fee for renewal of a vehicle appraiser certificate under ORS 822.700. [Formerly 819.230; 2009 c.371 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 819 - Destroyed, Totaled, Abandoned, Low-Value and Stolen Vehicles; Vehicle Identification Numbers; Vehicle Appraisers Section 819.482 - Acting as vehicle appraiser without certificate; penalty.**

- (1) A person commits the offense of acting as a vehicle appraiser without a certificate if the person does not hold a vehicle appraiser certificate issued under ORS 819.480 and the person, for consideration, issues an opinion as to the value of a vehicle.
- (2) This section does not apply to:
  - (a) A person who holds a vehicle dealer certificate issued under ORS 822.020 and who appraises vehicles in the operation of the vehicle dealer's business;
  - (b) A person from another jurisdiction who holds a vehicle appraiser certificate requiring qualifications substantially similar to qualifications required for the certification of a vehicle appraiser in this state;
  - (c) An insurance adjuster authorized to do business under ORS 744.515 or 744.521; or
  - (d) A person licensed or certified to appraise real estate under ORS 674.310 and who appraises the value of manufactured structures.
- (3) The offense described in this section, acting as a vehicle appraiser without a certificate, is a Class A violation. [2007 c.630 §2; 2019 c.151 §42; 2023 c.400 §41]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.010 - Vehicles subject to safety regulation; Department of Consumer and Business Services jurisdiction; rules.**

- (1) A motor vehicle is subject to safety regulation under ORS 820.030 to 820.070, if the vehicle is furnished by an employer and is used to transport one or more workers to and from their places of employment. All of the following apply to this subsection:
  - (a) The employer must be an individual who employs or uses two or more workers.
  - (b) The workers employed or transported may be any individuals who are employed for any period in any work for which the workers are compensated, whether full- or part-time.
  - (c) The place of employment to and from which the vehicle is used to transport workers must be a location where one or more workers are actually performing the labor incident to their employment.
  - (d) Vehicles may include passenger automobiles operated by or on behalf of employers.
- (2) If vehicles described in this section are worker transport buses, the vehicles may be subject to additional regulation for the use of bus safety lights under ORS 811.520 and 816.300 in addition to safety measures under ORS 811.155.
- (3) The Department of Consumer and Business Services has concurrent jurisdiction with the Department of Transportation in the adoption, under ORS 820.030, of rules relating to vehicles described in this section and in the enforcement of those rules under ORS 820.040 and 820.050 as applied to vehicles described in this section.
- (4) Vehicles described in this section are in addition to any vehicles subjected to regulation under ORS 820.020. [1983 c.338 §738; 1985 c.16 §355; 2015 c.138 §40]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.020 - Vehicles other than worker transport vehicles that are subject to safety regulation.**

Vehicles used in transportation of persons for hire by a nonprofit entity are subject to safety regulation under ORS 820.030 to 820.070 in addition to worker transport vehicles subjected to such regulation under ORS 820.010. [1983 c.338 §739; 1989 c.992 §23; 2015 c.283 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.030 - Safety code; rules; standards; tentative draft; hearings; notice; amendment.**

The Department of Transportation shall make and enforce reasonable rules relating to vehicles described under ORS 820.010 and 820.020. Authority for enforcement of the rules is established under ORS 820.040 to 820.070. The rules shall be embodied in a safety code and the safety code is subject to all of the following:

- (1) The safety code shall establish minimum standards for all of the following aspects of the safety and operation of vehicles described under ORS 820.010 and 820.020:
  - (a) For the construction and mechanical equipment of a motor vehicle, including its coupling devices, lighting devices and reflectors, motor exhaust system, rear-vision mirrors, service and parking brakes, steering mechanism, tires, warning and signaling devices and windshield wipers.

- (b) For the operation of a motor vehicle, including driving rules, loading and carrying freight and passengers, maximum daily hours of service by drivers, minimum age and skill of drivers, physical condition of drivers, refueling, road warning devices and the transportation of gasoline and explosives.
- (c) For the safety of passengers in a motor vehicle, including emergency exits, fire extinguishers, first aid kits, means of ingress and egress, side walls, and a tailgate or other means of retaining freight and passengers within the motor vehicle.
- (2) Before formulating a draft of the safety code, the department shall invite the participation of interested state agencies and representative business, farm, labor and safety organizations. These groups may make suggestions relating to the minimum standards to be embodied in the safety code. The department shall consider the suggestions and prepare a tentative draft of the safety code.
- (3) The following apply to hearings on a tentative draft under this section:
- (a) Upon the fixing of dates and places for hearings to consider the tentative draft, the department:
- (A) Shall cause notices of the hearings to be published in one or more daily newspapers of general circulation published and circulated in the City of Portland and in such other newspapers of general circulation in this state as will give wide notices of the hearings; and
- (B) Shall cause copies of the tentative draft to be widely distributed among representative business, farm, labor and safety organizations and among interested individuals.
- (b) Any individuals or groups may participate in the hearings, and submit their comments and suggestions relating to the minimum standards embodied in the tentative draft.
- (4) Notice of the adoption and issuance of the safety code shall be given in the same manner as notices of the hearings.
- (5) The department shall cause copies of the safety code and amendments thereto to be widely distributed among interested state agencies, among representative business, farm, labor and safety organizations and among interested individuals.
- (6) The department may amend the safety code at any time upon its own motion or upon complaint by any individual or group, in the same manner as the safety code was prepared, adopted and distributed under this section.
- (7) No defect or inaccuracy in a notice or in the publication thereof shall invalidate the safety code or any amendment thereto adopted and issued by the department. [1983 c.338 §740; 1985 c.16 §356]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.040 - Inspection of vehicles.**

- (1) The Department of Transportation, in enforcing the safety code established under ORS 820.030, may inspect any vehicle that is described under ORS 820.010 or 820.020.
- (2) Upon request, the Superintendent of State Police shall assist the department in these inspections. [1983 c.338 §741]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.050 - Orders regarding noncomplying vehicles or drivers.**

- (1) Whenever the Department of Transportation finds that a vehicle described under ORS 820.010 or 820.020 violates any provision of the safety code adopted under ORS 820.030 or an amendment thereto, the department shall make, enter and serve upon the owner of the vehicle any order necessary to protect the safety of persons transported in the vehicle.
- (2) The department may direct in an order, as a condition to the continued use of the motor vehicle for authorized purposes, that such additions, repairs, improvements or changes be made and such safety devices and safeguards be furnished and used as are reasonably required to satisfy the requirements of the safety code, in the manner and within the time specified in the order.
- (3) The department may also issue to the owner of the vehicle an order to require that any driver of the motor vehicle satisfy the minimum standards for a driver under the safety code established under ORS 820.030.
- (4) Any person aggrieved by an order of the department under this section may appeal under the provisions of ORS 183.480.
- (5) Violation of an order issued under this section is subject to penalty as provided under ORS 820.060. [1983 c.338 §742]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.060 - Safety requirement; owner violation of worker transport vehicle safety code; penalty.**

- (1) The following vehicles shall be maintained in a safe condition and operated in a safe manner at all times:
- (a) Vehicles described in ORS 820.010. This paragraph applies whether or not the vehicle is used upon a public highway.
- (b) Vehicles described in ORS 820.020.
- (2) A person commits the offense of owner violation of the worker transport vehicle safety code if the person is the owner of a vehicle described under ORS 820.010 or 820.020 and the person does any of the following:
- (a) Violates or willfully fails to comply with an order issued under ORS 820.050.
- (b) Violates any provision of the safety code established under ORS 820.030, or any amendment thereto.
- (3) The offense described in this section, owner violation of worker transport vehicle safety code, is a Class B traffic violation. [1983 c.338 §743; 1985 c.393 §50]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.070 - Driver violation of worker transport vehicle safety code; penalty.**



- (1) A person commits the offense of driver violation of worker transport vehicle safety code if the person, at any time, operates a vehicle described under ORS 820.010 or 820.020 in a manner that violates any provision of the safety code established under ORS 820.030 or any amendment thereto.
- (2) The offense described in this section, driver violation of worker transport vehicle safety code, is a Class B traffic violation. [1983 c.338 §744; 1985 c.393 §51]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.100 - Adoption of safety standards for construction and equipment of school vehicles.**

- (1) The State Board of Education shall adopt and enforce such reasonable standards relating to school bus and school activity vehicle construction and school bus and school activity vehicle equipment as the board deems necessary for safe and economical operation, except that the board may not authorize the use of school buses manufactured before April 1, 1977.
- (2) The governing board of a public university listed in ORS 352.002 may adopt and enforce separate standards of the type described under this section for school buses and school activity vehicles that are under the governing board's jurisdiction, except that the governing board may not authorize the use of school buses manufactured before April 1, 1977.
- (3) The State Board of Education shall adopt and enforce standards for school bus stop arms authorized by ORS 820.105.
- (4) Standards adopted under this section:
  - (a) Must be consistent with requirements established by statute or by rule adopted under statutory authority that relate to the same subject.
  - (b) Shall be consistent with minimum uniform national standards, if such standards exist.
  - (c) May include different requirements for different classes or types of school buses or school activity vehicles.
  - (d) May include any exemptions determined appropriate under ORS 820.150. [1983 c.338 §747; 1985 c.16 §358; 1985 c.420 §12; 1987 c.654 §6; 1989 c.491 §71; 2007 c.632 §1; 2013 c.768 §150; 2015 c.767 §211]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.105 - School bus stop arms.**

Notwithstanding any other provision of law, school buses may be equipped with an octagonal shaped mechanical stop arm that indicates when the bus is stopped to load or unload passengers on a roadway. The stop arms authorized by this section shall be equipped with two alternately flashing red bus safety lights showing both to the front and rear of the bus. [1987 c.654 §5]

Note:

820.105 was added to and made a part of ORS chapter 820 but was not added to any smaller series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.110 - Rules and standards for driver qualification and training and accident reports.**

- (1) The State Board of Education shall adopt and enforce rules to establish requirements of operation, qualifications or special training of drivers and special accident reports for school buses and school activity vehicles.
- (2) The governing board of a public university listed in ORS 352.002 may adopt and enforce separate standards of the type described under this section for school buses and school activity vehicles that are under its jurisdiction.
- (3) The rules and standards adopted under this section:
  - (a) Are subject to ORS 820.190 and 820.200 and to any other statute or regulation relating to the operation of vehicles, qualifications of drivers and accident reports.
  - (b) Must be consistent with requirements established by statute or by rule adopted under statutory authority that relate to the same subject.
  - (c) May include different requirements for different classes or types of school buses or school activity vehicles.
  - (d) May include any exemptions determined appropriate under ORS 820.150.
- (4) If the Department of Transportation suspends, cancels or revokes any driving privileges of a person who holds a school bus endorsement, the Department of Transportation shall notify the Department of Education of the suspension, cancellation or revocation. [1983 c.338 §748; 1985 c.16 §359; 1985 c.420 §13; 1989 c.491 §72; 2007 c.120 §1; 2013 c.768 §151; 2015 c.767 §212; 2023 c.400 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.120 - Rules and standards for school vehicle inspection.**

- (1) The State Board of Education shall adopt and enforce rules to provide for the inspection of school buses and school activity vehicles to assure that the vehicles are in compliance with requirements under standards and rules established under ORS 820.100 and 820.110, as applicable, and that the vehicles are safe for operation. The rules may include intervals of inspections.
- (2) The governing board of a public university listed in ORS 352.002 may adopt and enforce separate standards of the type described under this section for school buses and school activity vehicles that are under its jurisdiction.
- (3) The rules and standards adopted under this section:

- (a) Are subject to any other statute or regulation relating to the safety of vehicles for operation and the inspection of vehicles.
- (b) May include different requirements for different classes or types of school buses or school activity vehicles.
- (c) May include any exemptions determined appropriate under ORS 820.150. [1983 c.338 §749; 1985 c.420 §14; 1989 c.491 §73; 2013 c.768 §152; 2015 c.767 §213]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.130 - School bus registration.**

The Department of Transportation shall issue registration for a school bus when notified that the vehicle conforms to applicable standards and rules under ORS 820.100 to 820.120 and that the vehicle is safe for operation on the highways. Notification required by this section shall be from:

- (1) The State Board of Education or its authorized representative regarding vehicles under its regulatory authority.
- (2) The governing board of a public university listed in ORS 352.002 or the authorized representative of the governing board regarding vehicles under the governing board's jurisdiction. [1983 c.338 §752; 1985 c.420 §17; 1999 c.39 §11; 2013 c.768 §153; 2015 c.767 §214]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.140 - Revocation of registration.**

The Department of Transportation may revoke the registration of any school bus if the department determines that the vehicle:

- (1) Is not maintained and operated in accordance with standards and rules applicable to the vehicle under ORS 820.100 to 820.120; or
- (2) Is not safe for operation over or is not safely operated over the public highways. [1983 c.338 §753; 1985 c.16 §360; 1985 c.420 §18; 2013 c.768 §153a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.150 - Rules and standards for exemption of certain vehicles from Oregon Vehicle Code.**

- (1) The State Board of Education, by rule, may establish classes or types of vehicles that are not considered school buses or school activity vehicles for purposes of the Oregon Vehicle Code or classes of school buses or school activity vehicles that are not subject to regulation under the Oregon Vehicle Code either partially or completely.
- (2) The governing board of a public university listed in ORS 352.002 may adopt separate standards of the type described under this section for vehicles that are under its jurisdiction.
- (3) Rules and standards adopted under this section are subject to the following:
  - (a) Any exemption, either partial or total, established under this section may be based upon passenger capacity, on limited use or on any other basis the State Board of Education or the governing board considers appropriate.
  - (b) An exemption, either partial or total, may not be established under this section for any vehicle that is marked with or displays the words "school bus."
  - (c) Any vehicle determined not to be a school bus under this section is not a school bus within the definition established under ORS 801.460. Partial exemptions established for vehicles under this section may include removal of the vehicle from any provisions relating to school buses under the vehicle code.
  - (d) Any vehicle determined not to be a school activity vehicle under this section is not a school activity vehicle within the definition established under ORS 801.455. Partial exemptions established for vehicles under this section may include removal of the vehicle from any provisions relating to school activity vehicles under the vehicle code.
  - (e) In considering any rules and standards under this section, the boards shall consider the need to ensure student safety. [1985 c.420 §16; 1989 c.491 §74; 1995 c.79 §381; 1999 c.39 §12; 2013 c.768 §154; 2015 c.767 §215]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.160 - Illegal display of school bus markings; penalty.**

- (1) A person commits the offense of illegal display of school bus markings if the person displays the words "School Bus" on any vehicle unless the vehicle:
  - (a) Is used in transporting school children to or from school or an authorized school activity or function; and
  - (b) Complies with the applicable requirements under standards and rules established under ORS 820.100 to 820.120.
- (2) The offense described in this section, illegal display of school bus markings, is a Class B traffic violation. [1983 c.338 §750; 1985 c.393 §52; 1995 c.383 §98; 2013 c.768 §154a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.170 - Improper school bus markings; penalty.**

- (1) A person commits the offense of improper school bus markings if the person displays the words "School Bus" on a vehicle without such words being marked in the front and in the rear in letters eight inches high or higher and of proportionate width.
- (2) The offense described in this section, improper school bus markings, is a Class D traffic violation. [1983 c.338 §751; 1985 c.393

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.180 - Unsafe school vehicle operation; penalty.**

(1) A person commits the offense of unsafe school vehicle operation if:

(a) The person operates or owns and causes or permits to be operated a school bus or school activity vehicle in a manner that is in violation of any standards and rules applicable to the vehicle that are adopted under ORS 820.100 to 820.120;

(b) The person owns or leases and causes or permits to be operated for school purposes a school bus or school activity vehicle containing more passengers than the vehicle is designed to transport; or

(c) The person operates or owns and causes or permits to be operated a school bus manufactured before April 1, 1977.

(2) A person is not in violation of subsection (1)(b) of this section if a bus or vehicle contains more passengers than it is designed to transport due to unforeseen or unusual circumstances.

(3) The offense described in this section, unsafe school vehicle operation, is a Class B traffic violation. [1985 c.420 §4; 1991 c.392 §1; 1995 c.383 §100; 2007 c.632 §2; 2013 c.768 §154b]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.190 - Minor operating school vehicle; penalty.**

(1) A person commits the offense of being a minor operating a school vehicle if the person is under 18 years of age and the person drives any of the following while it is in use for the transportation of pupils to or from school or an authorized school activity or function:

(a) A school bus.

(b) A school activity vehicle.

(c) A vehicle owned by a public or governmental agency.

(d) A privately owned vehicle that is operated for compensation that is a vehicle other than a vehicle commonly known and used as a private passenger vehicle and not operated for compensation except in the transportation of students to or from school.

(2) The offense described in this section, minor operating a school vehicle, is a Class B traffic violation. [1983 c.338 §754; 1985 c.420 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.200 - Minor operating public passenger vehicle; penalty.**

(1) A person commits the offense of being a minor operating a public passenger vehicle if the person is under 21 years of age and the person drives a motor vehicle while it is in use as a public passenger-carrying vehicle.

(2) The offense described in this section, minor operating a public passenger vehicle, is a Class B traffic violation. [1983 c.338 §755]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.210 - Registration exemptions for golf carts and similar vehicles.**

(1) Golf carts operated in accordance with an ordinance adopted under ORS 810.070 are exempt from registration requirements under the vehicle code.

(2) Golf carts or substantially similar vehicles that are operated by persons with disabilities at not more than 15 miles an hour are exempt from registration requirements under the vehicle code.

(3) Notwithstanding any provision of the vehicle code relating to vehicle equipment and condition, upon designation of a portion of a highway becoming effective under an ordinance adopted under ORS 810.070, it shall be lawful to drive golf carts on highways or portions thereof so designated in accordance with the rules and regulations prescribed by the local authority. [1983 c.338 §780; 2007 c.70 §349]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.220 - Operation of low-speed vehicle in prohibited area; penalty.**

(1) A person commits the offense of operation of a low-speed vehicle in a prohibited area if the person is a person with a disability and the person operates a golf cart or substantially similar motor vehicle on any highway with a speed designation greater than 25 miles per hour.

(2) The offense described in this section, operation of low-speed vehicle in prohibited area, is a Class D traffic violation. [1983 c.338 §781; 2007 c.70 §350]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.300 - Exemptions from traffic laws.**

(1) Subject to conditions, limitations, prohibitions and penalties established for emergency vehicle and ambulance drivers under ORS 820.320, the driver of an emergency vehicle or ambulance may do any of the following:

- (a) Park or stand in disregard of a statute, regulation or ordinance prohibiting that parking or standing.
- (b) Proceed past a red signal or stop sign.
- (c) Exceed the designated speed limits.
- (d) Disregard regulations governing direction of movement or turning in specified directions.
- (e) Proceed past the flashing bus safety lights without violating ORS 811.155 if the driver first stops the vehicle and then proceeds only when the driver:
  - (A) Determines that no passengers of the bus remain on the roadway; and
  - (B) Proceeds with caution.
- (2) The provisions of this section:
  - (a) Do not relieve the driver of an emergency vehicle or ambulance from the duty to drive with due regard for the safety of all other persons.
  - (b) Are not a defense to the driver of an emergency vehicle or ambulance in an action brought for criminal negligence or reckless conduct.
  - (c) Except as specifically provided in this section, do not relieve the driver of an emergency vehicle or ambulance from the duty to comply with ORS 811.155. [1983 c.338 §757; 1985 c.16 §362; 1995 c.209 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.320 - Illegal operation of emergency vehicle or ambulance; penalty.**

- (1) A person commits the offense of illegal operation of an emergency vehicle or ambulance if the person is the driver of an emergency vehicle or ambulance and the person violates any of the following:
  - (a) The driver of an emergency vehicle or ambulance may only exercise privileges granted under ORS 820.300 when responding to an emergency call or when responding to, but not upon returning from, an emergency. The driver of an emergency vehicle may exercise privileges granted under ORS 820.300 when in pursuit of an actual or suspected violator of the law.
  - (b) The driver of an emergency vehicle or ambulance must use a visual signal with appropriate warning lights when the driver is exercising privileges granted under ORS 820.300.
  - (c) In addition to any required visual signal, the driver of an emergency vehicle or ambulance must make use of an audible signal meeting the requirements under ORS 820.370 when the driver is proceeding past a stop light or stop sign under privileges granted by ORS 820.300 (1)(b).
  - (d) A driver of an emergency vehicle or ambulance who is exercising privileges granted under ORS 820.300 by parking or standing an emergency vehicle in disregard of a regulation or ordinance prohibiting that parking, stopping or standing, shall not use the audible signal.
  - (e) In exercising the privileges under ORS 820.300 (1)(e) relating to buses and bus safety lights, the driver of an emergency vehicle or ambulance must first stop the vehicle and then must:
    - (A) Determine that no passengers of the bus remain on the roadway; and
    - (B) Proceed with caution.
  - (f) In proceeding past any stop light or stop sign under the privileges granted by ORS 820.300, the driver of an emergency vehicle or ambulance must slow down as may be necessary for safe operation.
  - (g) The driver of an emergency vehicle or ambulance must not exceed any designated speed limit to an extent which endangers persons or property.
- (2) The driver of an emergency vehicle that is operated as an emergency police vehicle is not required to use either visual signal or the audible signal as described in this section in order to exercise the privileges granted in ORS 820.300 when it reasonably appears to the driver that the use of either or both would prevent or hamper the apprehension or detection of a violator of a statute, ordinance or regulation.
- (3) The offense described in this section, illegal operation of an emergency vehicle or ambulance, is a Class B traffic violation. [1983 c.338 §759; 1985 c.16 §364; 1995 c.209 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.330 - Failure to make, maintain and make available ambulance records; exemption; penalty.**

- (1) A person commits the offense of failure to make, maintain and make available ambulance records if the person violates any of the following:
  - (a) When an ambulance is used in an emergency situation the driver of the ambulance, within 24 hours after such use, shall cause to be made and must sign a record that complies with ORS 820.340.
  - (b) The owner of any ambulance shall cause any record required by this section to be preserved for not less than seven years.
  - (c) Upon demand of any district attorney, the custodian of any record required under this section shall make the record available to that district attorney for the purpose of investigating any alleged violation of ORS 820.320 by a driver of an ambulance.
  - (d) Upon demand of an authorized representative of the Oregon Health Authority, the custodian of any record required under this section shall make the record available to the authorized representative who wishes to inspect the record for purposes of ascertaining identities of emergency medical services providers as defined in ORS 682.025.
- (2) This section does not apply to any person or ambulance exempted by ORS 682.035 or 682.079 from regulation by the authority.

(3) Authority of political subdivisions to regulate records of ambulances is limited under ORS 682.031.

(4) The offense described in this section, failure to make, maintain and make available ambulance records, is a Class B traffic violation. [1983 c.338 §760; 1985 c.393 §54; 1995 c.209 §6; 2009 c.595 §1148; 2011 c.703 §48]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.340 - Contents of ambulance records.**

Records required under ORS 820.330 must contain all of the following:

(1) The time of day and the date when ambulance service was requested.

(2) The name of the ambulance driver and the name of the emergency medical services providers, as defined in ORS 682.025, who provided the service, one of whom may be the driver.

(3) The name and address of any individual to be transported.

(4) Any reason to believe the life of the individual is jeopardized by delay of the ambulance.

(5) The location from which the individual is to be transported.

(6) The name and address of any person who requested the ambulance service.

(7) The time of day when service for the individual is begun and ended. [1983 c.338 §761; 2011 c.703 §49]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.350 - Ambulance warning lights.**

(1) Subject to any other law or rule pursuant thereto relating to lighting of a vehicle, the Department of Transportation may prescribe required warning lights for ambulances. The requirements established under this section may include, but are not limited to, numbers required, placement, visibility, rate of flash if applicable and inside indicators.

(2) Enforcement of the requirements established under this section is provided under ORS 820.360. [1983 c.338 §762; 1985 c.79 §1; 1989 c.782 §38]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.360 - Illegal ambulance lighting equipment; exemption; penalty.**

(1) A person commits the offense of illegal ambulance lighting equipment if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway an ambulance that does not contain and is not at all times equipped with warning lights in proper condition and adjustment as required under ORS 820.350.

(2) This section does not apply to any person or ambulance exempted by ORS 682.035 or 682.079 from regulation by the Oregon Health Authority.

(3) Authority of political subdivisions to regulate warning lights on ambulances is limited under ORS 682.031.

(4) The offense described under this section, illegal ambulance lighting equipment, is a Class C traffic violation. [1983 c.338 §763; 1995 c.383 §30; 2009 c.595 §1149]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.370 - Ambulance or emergency vehicle sirens.**

(1) Subject to any other law or rule pursuant thereto relating to the noise of a vehicle, the Department of Transportation may prescribe required sirens or other audible signals for ambulances and emergency vehicles. The requirements established under this section may include, but are not limited to, numbers required, placement, audibility and inside indicators.

(2) Enforcement of the requirements established under this section is provided under ORS 820.380. [1983 c.338 §764; 1985 c.16 §365; 1985 c.79 §2; 1989 c.782 §39]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.380 - Illegal ambulance or emergency vehicle sirens; exemption; penalty.**

(1) A person commits the offense of illegal ambulance or emergency vehicle sirens if the person drives or moves on any highway or owns and causes or knowingly permits to be driven or moved on any highway an ambulance or emergency vehicle that does not contain and is not at all times equipped with sirens or other audible signals in proper conditions and adjustment as required under ORS 820.370.

(2) This section does not apply to any ambulance or person operating or owning an ambulance if the ambulance or person is exempted by ORS 682.035 or 682.079 from regulation by the Oregon Health Authority.

(3) Authority of political subdivisions to regulate sirens and other audible signals is limited under ORS 682.031.

(4) The offense described under this section, illegal ambulance or emergency vehicle sirens, is a Class C traffic violation. [1983 c.338 §765; 1995 c.209 §2; 1995 c.383 §31; 2009 c.595 §1150]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.400 - Unlawful operation of implement of husbandry; penalty.**

(1) A person commits the offense of unlawful operation of an implement of husbandry if the person operates an implement of

husbandry in violation of any of the following:

- (a) Such vehicle must be driven as closely as is practicable to the right-hand edge of the roadbed, including the shoulders, if any.
  - (b) Such vehicle, if the movement of the vehicle occurs during the hours of darkness, must be equipped and operating two headlights, clearance lights and reflectors marking the overall width as far as practical and visible from the front, rear and sides and a taillight.
  - (c) An image display device may not be operated in an implement of husbandry at any time while the implement of husbandry is being operated on a highway. As used in this paragraph, "image display device" has the meaning given that term in ORS 815.240.
  - (d) Such vehicle must display, when driven, a slow-moving vehicle emblem described in ORS 815.060.
- (2) The offense described in this section, unlawful operation of an implement of husbandry, is a Class D traffic violation. [1983 c.338 §779; 1985 c.69 §7; 1985 c.393 §55; 1995 c.383 §101; 2005 c.572 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.520 - Travel or special use trailer assessed as manufactured structure; effect of ceasing to be used as permanent home.**

When a travel trailer or special use trailer ceases to be assessed under the ad valorem tax laws of this state as a manufactured structure under ORS 308.880, the trailer must be registered and licensed as a travel trailer or special use trailer. [1983 c.338 §783; 1985 c.16 §379; 1993 c.18 §171; 1993 c.696 §11; 2003 c.655 §122]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 820 - Special Provisions for Certain Vehicles Section 820.570 - Violating trip permit requirements for manufactured structures; penalty.**

- (1) A person commits the offense of violating trip permit requirements for manufactured structures if the person does any of the following:
- (a) Moves a manufactured structure on a highway of this state without a trip permit for the movement. This paragraph does not apply to movements of manufactured structures by vehicle transporters as permitted under ORS 822.310.
  - (b) Fails to prominently display a trip permit on the rear of a manufactured structure being moved when a trip permit is required for the move.
  - (c) Moves a manufactured structure when a trip permit is required without completing the permit prior to the movement.
- (2) The offense described under this section, violating trip permit requirements for manufactured structures, is a Class B traffic violation. [1983 c.338 §788; 1985 c.16 §385; 1985 c.416 §9; 2003 c.655 §123]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.010 - Exemptions from equipment requirements for off-road vehicles.**

- (1) Any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain is exempt from the sections governing vehicle equipment described in this section if the vehicle:
- (a) Is operated in an area described under ORS 821.020; and
  - (b) Complies with the equipment requirements under ORS 821.040.
- (2) The exemption under this section is an exemption from the prohibitions under all of the following paragraphs:
- (a) Nonstandard lighting equipment under ORS 816.300.
  - (b) Required lighting equipment under ORS 816.330.
  - (c) Prohibited lighting equipment under ORS 816.360.
  - (d) Violation of state equipment administrative rules under ORS 815.100.
  - (e) Slow-moving vehicle emblem requirements under ORS 815.115.
  - (f) Mudguard and fender requirements under ORS 815.185.
  - (g) Visible emission limits under ORS 815.200.
  - (h) Requirements for window materials under ORS 815.040.
  - (i) Obstruction of windows under ORS 815.220.
  - (j) Limits on sound equipment under ORS 815.225.
  - (k) Sound equipment requirements under ORS 815.230.
  - (L) Rearview mirror requirements under ORS 815.235.
  - (m) Limits on image display device use under ORS 815.240.
  - (n) Exhaust system requirements under ORS 815.250.
  - (o) Speedometer requirements under ORS 815.255.
  - (p) Disposal system requirements under ORS 815.260.
  - (q) Helmet requirements under ORS 814.260 to 814.280, except that a person is required to meet the helmet requirements described in ORS 821.202 and 821.203. [1983 c.338 §710; 1999 c.565 §3; 2005 c.572 §4; 2017 c.453 §2a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.020 - Applicability of off-road vehicle exemption from general equipment requirements.**

- (1) Except as provided in subsection (2) of this section, the exemption from equipment requirements for off-road vehicles under ORS 821.010 applies to each of the following:
- (a) Lands that are open to the public.
  - (b) Roads, other than two-lane gravel roads, that are open to the public.
  - (c) Paved parking lots adjacent to or on designated off-road vehicle areas, trails and routes that are open to the public.
  - (d) Local two-lane gravel roads that are open to the public and that are designated by the road authority with jurisdiction over the road as open to off-road vehicles that are described in ORS 821.010.
  - (e) All-terrain vehicle highway access routes that are designated by the Oregon Transportation Commission as open to all-terrain vehicles.
- (2) The exemption from equipment requirements does not apply to areas posted as closed to off-road vehicles. [1983 c.338 §711; 1999 c.565 §4; 2017 c.453 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.030 - Equipment standards for off-road vehicles.**

For purposes of the equipment requirements for off-road vehicles under ORS 821.040, the following agencies may establish the described equipment requirements for vehicles:

- (1) The Director of Transportation may adopt rules to do the following:
- (a) Establish the type of brakes an off-road vehicle must be equipped with to be in compliance with ORS 821.040.
  - (b) Establish the type of flag that must be used under ORS 821.040 on an off-road vehicle when it is operated on sand.
  - (c) Require other safety equipment that must be used by off-road vehicles in order to comply with ORS 821.040.
- (2) The Environmental Quality Commission may adopt standards for noise emissions of mufflers that are required for off-road vehicles for compliance with ORS 821.040. [1983 c.338 §445; 1985 c.16 §234]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.040 - Operation of off-road vehicle without required equipment; penalty.**

- (1) A person commits the offense of operation of an off-road vehicle without required equipment if the person is operating a vehicle described in ORS 821.010 in an area described in ORS 821.020 and the vehicle is not equipped in compliance with all of the following:
- (a) The vehicle must be equipped with a muffler that meets the standards for noise emissions established under ORS 821.030.
  - (b) The vehicle must be equipped with brakes that meet the requirements established under ORS 821.030.
  - (c) When the vehicle is operated on a highway and the vehicle is equipped with a windshield, the top edge of which is at least six inches above the steering wheel, the vehicle must be equipped with a windshield wiper.
  - (d) When the vehicle is operated off the highway and the vehicle is equipped with a windshield, the windshield must be unobstructed.
  - (e) When the vehicle is operated on sand, the vehicle must be equipped with a flag that meets the requirements established under ORS 821.030.
  - (f) The vehicle must be equipped with any safety equipment required under ORS 821.030.
  - (g) At any time from one-half hour after sunset to one-half hour after sunrise, the vehicle must be equipped with and display headlights and taillights.
- (2) Motorcycles and mopeds are not required by this section to be equipped with windshield wipers.
- (3) The offense described in this section, operation of off-road vehicle without required equipment, is a Class C traffic violation. [1983 c.338 §712; 1985 c.393 §40; 2001 c.669 §9; 2023 c.372 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.050 - Limits on authority of local governments; disposition of fees for snowmobiles.**

- (1) Limits on the authority of cities, counties or other political subdivisions of this state or any state agency are as imposed under ORS 801.040.
- (2) Fees collected by the Department of Transportation in the regulation of snowmobiles shall be used as provided in ORS 802.110 and 802.120. [1983 c.338 §713; 1985 c.459 §4a; 1989 c.991 §28; 1999 c.977 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.055 - Operation of all-terrain vehicles on certain highways.**

Notwithstanding ORS 821.020, or any law requiring that vehicles be equipped in specified ways in order to operate on highways, a person may operate Class I, Class II, Class III and Class IV all-terrain vehicles on any highway in this state that is open to the public if:

- (1) The highway is not maintained for passenger car traffic.
- (2) The person is on or crossing a portion of highway right of way as permitted under ORS 821.200.

(3) The person is on an all-terrain vehicle highway access route that is designated by the Oregon Transportation Commission as open to all-terrain vehicles. [1995 c.775 §8; 2011 c.360 §21; 2017 c.453 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.060 - Issuance; application; rules; fees.**

(1) The Department of Transportation shall provide for the issuance of titles for snowmobiles required to be titled under ORS 821.070. The following provisions relating to titling shall be the same for snowmobiles as for other vehicles:

- (a) Fee for issuance.
- (b) Provisions relating to transfer, including security interests and other types of transfer, fees for transfer, time limits for transfer and responsibility for making transfer and submitting documents.
- (c) Information required to be placed on a title, except where the department determines such information would be inappropriate.
- (d) Party to whom title is issued upon original issuance or transfer.
- (e) Validity times and requirements.
- (f) Provisions contained in ORS 819.010 to 819.040.
- (g) Any provisions relating to title that are applicable to other vehicles under the vehicle code and that the department determines, by rule, to be necessary to assure that the titling of snowmobiles is administered in the same manner and has the same effect as the titling of other vehicles.
- (h) Provisions relating to salvage titles.

(2) Application for issuance of title for a snowmobile shall be made in the manner and in a form prescribed by the department. The department may require any information in the application the department determines is reasonably necessary to determine ownership or right to title for a snowmobile. The department may provide for application for title separately from or with application for snowmobile registration or in any way the department determines appropriate.

(3) Dealers issued certificates under ORS 822.020 who sell snowmobiles shall accept application and fees for title of a snowmobile from each purchaser of a new or used snowmobile in a manner required by the department. [1985 c.16 §344; 1985 c.459 §5; 1987 c.261 §3; 1989 c.991 §6; 1991 c.873 §43; 1993 c.233 §69; 1993 c.751 §79; 1995 c.774 §15; 1997 c.249 §236; 1999 c.977 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.070 - Failure to title; exemptions; penalty.**

(1) A person commits the offense of failure to title a snowmobile if the person is the owner of a snowmobile that is in this state or is operating a snowmobile at any place in this state and the snowmobile has not been issued a title as provided under ORS 821.060.

(2) The requirement to title a snowmobile under this section does not apply if the snowmobile is any of the following:

- (a) Owned and operated by the United States, another state or political subdivision thereof.
- (b) Owned and operated by this state or by any city, district or political subdivision thereof.
- (c) Exempted from registration requirements by ORS 821.090.
- (d) A new snowmobile that is in the possession of a dealer for purposes of sale or display.

(3) The offense described in this section, failure to title a snowmobile, is a Class D traffic violation. [1985 c.16 §346; 1985 c.459 §6; 1989 c.991 §7; 1995 c.383 §105; 1995 c.774 §16; 1999 c.977 §27]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.080 - Issuance; qualifications; duration; certificate; rules.**

(1) The Department of Transportation shall issue snowmobile registration to a qualified owner. To qualify for issuance of registration under this section:

- (a) The owner must complete the application in the manner and in a form the department prescribes.
- (b) The application shall state the name and address of each owner of the snowmobile to be registered.
- (c) The application shall contain proof of title.
- (d) The fee established under ORS 821.320 for registration of a snowmobile must be paid.

(2) Dealers issued certificates under ORS 822.020 who sell snowmobiles shall accept application and fees for registration from each purchaser of a new or used snowmobile that is required to be registered in this state. The department shall adopt rules for the implementation of this subsection.

(3) The department shall not issue any registration for a snowmobile unless the snowmobile has been issued a title in compliance with ORS 821.060 and 821.070.

(4) Snowmobile registration and renewal of registration are valid for a period of two years after which time the registration expires.

(5) Upon qualification for registration, the department shall do the following:

- (a) Register the snowmobile.
- (b) Assign a registration number to the snowmobile. The registration number assigned at the time of original registration shall remain with that vehicle until the vehicle is destroyed, abandoned or permanently removed from this state, or until changed or terminated by the department.
- (c) Issue and deliver to the registered owner a certificate of registration in a form to be determined by the department.
- (d) At the time of original registration and at the time of each subsequent renewal thereof, issue to the registrant a date tag or tags



indicating the validity of the current registration and the expiration date thereof.

(6) A snowmobile registration is not valid unless a validating tag and current registration certificate have been issued.

(7) The department shall provide procedures necessary for renewal of snowmobile registration consistent with this section and ORS 821.110 and 821.320.

(8) The department may adopt rules specifying additional requirements and procedures for registration of snowmobiles.

Requirements and procedures adopted under this subsection shall be designed to assure that except as otherwise provided in this chapter, the registration of snowmobiles is administered in the same manner and has the same effect as the registration of vehicles under ORS chapter 803. [1983 c.338 §716; 1985 c.16 §348; 1985 c.459 §9; 1987 c.217 §9; 1987 c.261 §12; 1989 c.991 §8; 1993 c.751 §80; 1995 c.774 §17; 1999 c.977 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.090 - Exemptions from snowmobile registration requirements.**

This section establishes exemptions from the requirements to register snowmobiles under ORS 821.100. The following are exempt from the registration requirements, either partially or completely as described:

(1) A snowmobile owned and operated by the United States, another state or a political subdivision thereof.

(2) A snowmobile owned and operated by this state or by any city, district or political subdivision thereof.

(3) A snowmobile owned by a resident of another state if registered in accordance with the laws of the state in which its owner resides. The exemption granted under this subsection:

(a) Is only granted to the extent that a similar exemption or privilege is granted under the laws of the other state for snowmobiles registered in this state.

(b) Is only granted for a period of up to 60 consecutive days. Any snowmobile that does not qualify for the exemption under this subsection because of this paragraph is subject to registration.

(4) A snowmobile operated under an out-of-state permit issued under ORS 821.130.

(5) A snowmobile operated under dealer plates as described in ORS 822.040.

(6) A snowmobile used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations. [1983 c.338 §715; 1985 c.16 §347; 1985 c.459 §8; 1987 c.254 §4; 1987 c.261 §4; 1987 c.387 §2; 1989 c.991 §9; 1995 c.774 §18; 1999 c.977 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.100 - Operation of unregistered snowmobile; penalty.**

(1) A person commits the offense of operation of an unregistered snowmobile if the person operates a snowmobile that is not registered under ORS 821.080.

(2) Exemptions from this section are established under ORS 821.090.

(3) The offense described in this section, operation of an unregistered snowmobile, is a Class D traffic violation. [1983 c.338 §714; 1985 c.459 §7; 1989 c.991 §10; 1995 c.383 §106; 1995 c.774 §19; 1999 c.977 §30]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.110 - Failure to renew snowmobile registration; penalty.**

(1) A person commits the offense of failure to renew snowmobile registration if the person is the owner of a snowmobile in this state and the person does not renew registration for the snowmobile in the manner the Department of Transportation prescribes when the registration expires as provided under ORS 821.080 and pay the required fee for renewal of registration established under ORS 821.320.

(2) The offense described in this section, failure to renew snowmobile registration, is a Class D traffic violation. [1983 c.338 §717; 1985 c.459 §10; 1989 c.991 §29; 1995 c.383 §107; 1995 c.774 §20; 1999 c.977 §31]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.120 - Failure to properly display snowmobile registration numbers; penalty.**

(1) A person commits the offense of failure to properly display snowmobile registration numbers if the person is the owner or operator of a snowmobile and the registration numbers issued by the Department of Transportation for the vehicle are not displayed on the vehicle or are displayed in a manner that violates any of the following:

(a) The registration numbers must be permanently affixed.

(b) The registration numbers must be displayed in a clearly visible manner.

(c) The registration number must be displayed upon the snowmobile in a manner prescribed by the department.

(d) The numbers displayed shall be in the form of painted numbers or decals and shall be of contrasting color with the surface on which they are applied.

(e) The registration numbers shall be maintained in a legible condition.

(f) Any validating date tag or tags issued by the department under ORS 821.080 shall be affixed in the manner prescribed by the department.

(2) The offense described in this section, failure to properly display snowmobile registration numbers, is a Class D traffic violation. [1983 c.338 §719; 1985 c.16 §349; 1985 c.459 §12; 1989 c.991 §11; 1995 c.383 §108; 1995 c.774 §21; 1999 c.977 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.130 - Out-of-state snowmobile permit; qualifications; duration; application; fees.**

(1) An out-of-state snowmobile permit is a vehicle permit that is issued as evidence of a grant of authority to operate in this state a snowmobile that is:

- (a) Owned by a resident of another state;
- (b) Not registered in this state or in the other state; and
- (c) Exempt from registration under ORS 821.090.

(2) The Department of Transportation shall establish a program for the issuance of out-of-state snowmobile permits under this section. The program established by the department shall comply with all of the following:

- (a) A permit may only be issued for snowmobiles owned by the resident of another state where registration is not required by law.
- (b) A permit is valid for not more than 60 days.
- (c) Application for a permit shall state the name and address of each owner.
- (d) The fees for issuance of the permit are as provided under ORS 821.320. [1983 c.338 §720; 1985 c.459 §24; 1989 c.991 §30; 1993 c.751 §82; 1995 c.774 §22; 1999 c.977 §33]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.140 - Failure to carry out-of-state snowmobile permit; penalty.**

(1) A person commits the offense of failure to carry an out-of-state snowmobile permit if an out-of-state permit is issued for the vehicle under ORS 821.130 and the permit is not carried on the snowmobile at all times during operation of the snowmobile in this state.

(2) The offense described in this section, failure to carry an out-of-state snowmobile permit, is a Class D traffic violation. [1983 c.338 §721; 1985 c.459 §25; 1989 c.991 §31; 1995 c.383 §109; 1999 c.977 §34]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.142 - Failure to carry out-of-state all-terrain vehicle permit; penalty.**

(1) A person commits the offense of failure to carry an out-of-state all-terrain vehicle permit if an out-of-state permit is issued for the vehicle under ORS 390.590 and the permit is not carried on the all-terrain vehicle at all times during operation of the all-terrain vehicle in this state.

(2) The offense described in this section, failure to carry an out-of-state all-terrain vehicle permit, is a Class D traffic violation. [1999 c.977 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.150 - Operation of snowmobile without driving privileges; civil liability; penalty.**

(1) A person commits the offense of operation of a snowmobile without driving privileges if the person operates a snowmobile without one of the following having been issued to the person and on the person at the time the person is operating the snowmobile:

- (a) A driver license.
- (b) A snowmobile operator permit issued under ORS 821.160.

(2) This section does not apply to a person who is operating a snowmobile while taking a course from an instructor to obtain a snowmobile operator's permit under ORS 821.160.

(3) In addition to other penalties provided by this section, the operator or owner of a snowmobile may be liable as provided under ORS 821.310.

(4) The offense described in this section, operation of snowmobile without driving privileges, is a Class D traffic violation. [1983 c.338 §722; 1985 c.16 §350; 1985 c.393 §41; 1995 c.383 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.160 - Snowmobile operator permit; issuance; rules for safety education course.**

(1) A snowmobile operator permit authorizes a person who does not have a driver license to operate a snowmobile without violation of ORS 821.150.

(2) The Department of Transportation shall issue or provide for issuance of a snowmobile operator permit to any person who has taken a snowmobile safety education course established under this section and has been found qualified to operate a snowmobile.

(3) The department shall adopt rules to provide for snowmobile safety education courses and the issuance of snowmobile operator permits consistent with this section. The rules adopted by the department shall be consistent with the following:

- (a) The course must be one given by an instructor designated by the department as qualified to conduct such a course and issue such a permit.
- (b) The rules shall provide for the designation of instructors and issuance of permits.
- (c) The department may provide by rule for instructors to be provided and permits issued through public or private local and state organizations meeting qualifications established by the department. Organizations designated by the department may include organizations such as the Oregon State Snowmobile Association.
- (4) Persons who are operating a snowmobile while taking a course from an instructor are exempt from ORS 821.150 as provided in that section. [1983 c.338 §723; 1985 c.16 §351]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.165 - Land funded for all-terrain vehicle use from All-Terrain Vehicle Account.**

As used in ORS 821.170, 821.172, 821.176, 821.192, 821.291, 821.292 and 821.293, "public lands" includes privately owned land that is open to the general public for the use of all-terrain vehicles as the result of funding from the All-Terrain Vehicle Account under ORS 390.560. [2007 c.887 §7; 2011 c.360 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.170 - Operation of Class I all-terrain vehicle without driving privileges; exemptions; penalty.**

- (1) A person 16 years of age or older commits the offense of operation of a Class I all-terrain vehicle without driving privileges if the person operates a Class I all-terrain vehicle on public lands and the person does not hold a valid Class I all-terrain vehicle operator permit issued under ORS 390.570.
- (2) A child under 16 years of age commits the offense of operation of a Class I all-terrain vehicle without driving privileges if the child operates a Class I all-terrain vehicle on public lands and the child does not meet all the following conditions:
  - (a) The child must be accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 and is able to provide immediate assistance and direction to the child.
  - (b) The child must hold a valid Class I all-terrain vehicle operator permit issued under ORS 390.570.
  - (c) The child must meet rider fit guidelines established by the State Parks and Recreation Department under ORS 390.585.
- (3) This section does not apply if the all-terrain vehicle is:
  - (a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and
  - (b) Being used on land owned or leased by the owner of the vehicle.
- (4) The offense described in this section, operation of Class I all-terrain vehicle without driving privileges, is a Class C traffic violation. [1985 c.459 §17; 1987 c.158 §175; 1995 c.383 §110; 1999 c.977 §24; 2007 c.887 §1; 2011 c.360 §22a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.172 - Operation of Class III all-terrain vehicle without driving privileges; exemptions; penalty.**

- (1) A person 16 years of age or older commits the offense of operation of a Class III all-terrain vehicle without driving privileges if the person operates a Class III all-terrain vehicle on public lands and the person does not hold a valid Class III all-terrain vehicle operator permit issued under ORS 390.575.
- (2) A child under 16 years of age commits the offense of operation of a Class III all-terrain vehicle without driving privileges if the child operates a Class III all-terrain vehicle on public lands and the child does not meet all the following conditions:
  - (a) The child must be accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 and is able to provide immediate assistance and direction to the child.
  - (b) The child must hold a valid Class III all-terrain vehicle operator permit issued under ORS 390.575.
- (3) A child under seven years of age may not operate a Class III all-terrain vehicle on public lands.
- (4) This section does not apply if the all-terrain vehicle is:
  - (a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and
  - (b) Being used on land owned or leased by the owner of the vehicle.
- (5) The offense described in this section, operation of a Class III all-terrain vehicle without driving privileges, is a Class C traffic violation. [1995 c.774 §2; 1999 c.977 §25; 2007 c.887 §2; 2011 c.360 §22b]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.174 - Prohibition on operating Class I, Class III or Class IV all-terrain vehicle while driving privileges suspended.**

Notwithstanding any other provision of law, a person may not operate a Class I, Class III or Class IV all-terrain vehicle while the

person's driving privileges are suspended or revoked. A person who violates this section is in violation of ORS 811.175 or 811.182, as appropriate. [1995 c.775 §7; 2011 c.360 §23]

Note:

821.174 was added to and made a part of ORS chapter 821 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.175**

[1987 c.587 §6; 1989 c.661 §3; 1989 c.991 §11a; 1995 c.774 §4; renumbered 821.195 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.176 - Operation of Class IV all-terrain vehicle without driving privileges; exemptions; penalty.**

(1) A person commits the offense of operation of a Class IV all-terrain vehicle without driving privileges if the person operates a Class IV all-terrain vehicle on public lands and the person does not hold a valid driver license issued under ORS 807.040.

(2) This section does not apply to a child under the age of 16 if:

(a) The child's age complies with the manufacturer's minimum age recommendation as evidenced by the manufacturer's warning label affixed to the vehicle;

(b) The child is accompanied by a person who is at least 18 years of age, who holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 and who is able to provide immediate assistance and direction to the child; and

(c) The child holds a Class IV all-terrain vehicle operator permit issued under ORS 390.577.

(3) This section does not apply if:

(a) The vehicle is used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; or

(b) The vehicle is being used on land owned or leased by the owner of the vehicle.

(4) The offense described in this section, operation of a Class IV all-terrain vehicle without driving privileges, is a Class C traffic violation. [2011 c.360 §6]

Note:

821.176 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 821 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.185**

[1987 c.587 §§4,5; 1989 c.661 §1; 1993 c.751 §105; 1995 c.774 §5; renumbered 821.145 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.190 - Unlawful operation of snowmobile or all-terrain vehicle on highway or railroad; civil liability; penalty.**

(1) A person commits the offense of unlawful operation of an off-road vehicle on a highway or railroad if the person operates a vehicle described in subsection (2) of this section in any of the following described areas:

(a) On or across the paved portion, the shoulder, inside bank or slope of any highway, on or across the median of any divided highway or on or across any portion of a highway right of way under construction.

(b) On or across a railroad right of way.

(2) This section applies to:

(a) Snowmobiles.

(b) Class I all-terrain vehicles.

(c) Class II all-terrain vehicles that are not properly equipped for operation on a highway.

(d) Class III all-terrain vehicles.

(e) Class IV all-terrain vehicles.

(3) Exemptions from this section are established under ORS 821.055 and 821.200.

(4) In addition to penalties provided by this section, the operator or owner of a snowmobile or Class I, Class II, Class III or Class IV all-terrain vehicle may be liable as provided under ORS 821.310.

(5) The offense described in this section, unlawful operation of an off-road vehicle on a highway or railroad, is a Class B traffic violation. [1985 c.72 §2; 1985 c.459 §28 (enacted in lieu of 1983 c.338 §§724,725,726); 1989 c.991 §12; 1995 c.383 §111; 1999 c.372 §1; 2011 c.360 §24; 2017 c.453 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.191 - Operation of Class I, Class II or Class IV all-terrain vehicle on highway; unlawful operation of Class I, Class II or Class IV all-terrain vehicle used for agricultural purposes; penalty.**

- (1) Notwithstanding any other provision of law, a person may operate a Class I, Class II or Class IV all-terrain vehicle that is not otherwise properly equipped for operation on a highway on the highways of this state if:
- (a) The person is using the all-terrain vehicle for transportation between ranching or farming headquarters, agricultural fields or pastures;
  - (b) The person holds a valid driver license;
  - (c) The person complies with posted speed limits, but in no event exceeds a speed of 20 miles per hour;
  - (d) The person operates the all-terrain vehicle as closely as is practicable to the right-hand edge of the highway, including shoulders, if any;
  - (e) The all-terrain vehicle is equipped with a lighted headlight and taillight; and
  - (f) The all-terrain vehicle displays a slow-moving vehicle emblem described under ORS 815.060.
- (2) A person commits the offense of unlawful operation of a Class I, Class II or Class IV all-terrain vehicle used for agricultural purposes if the person operates a Class I, Class II or Class IV all-terrain vehicle on a highway in violation of subsection (1) of this section.
- (3) The offense described in subsection (2) of this section, unlawful operation of a Class I, Class II or Class IV all-terrain vehicle used for agricultural purposes, is a Class D traffic violation. [2001 c.529 §§2,3; 2007 c.207 §2; 2011 c.360 §25]

Note:

821.191 was added to and made a part of ORS chapter 821 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.192 - Operating all-terrain vehicle in violation of posted restrictions.**

- (1) A person commits the offense of operating an all-terrain vehicle in violation of posted restrictions if the person operates an all-terrain vehicle on public lands at a time when the lands are closed to all-terrain vehicles or operation of the vehicles is otherwise restricted, and notice of the restrictions has been posted by an agency with jurisdiction to impose the restrictions.
- (2) The offense described in this section, operating an all-terrain vehicle in violation of posted restrictions, is a Class B traffic violation. [1999 c.565 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.195 - Operation of all-terrain vehicle without permit and decal; exemptions; penalty.**

- (1) A person commits the offense of operating an all-terrain vehicle without a permit and a decal if the person operates an all-terrain vehicle without a permit and a decal in an area or on a trail designated by the appropriate authority as open to all-terrain vehicles only if they have permits and decals.
- (2) This section does not apply to:
- (a) An all-terrain vehicle owned and operated by a resident of another state if the other state grants a similar exemption for all-terrain vehicles owned and operated by residents of Oregon and if the vehicle has not been operated in this state for more than 60 consecutive days; or
  - (b) An all-terrain vehicle owned and operated by the United States, this state or any other state or any political subdivision of the United States or of a state.
- (3) The offense described in this section, operating an all-terrain vehicle without a permit and a decal, is a Class C traffic violation. [Formerly 821.175; 1999 c.977 §35]

Note:

821.195 was added to and made a part of ORS chapter 821 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.200 - Exemptions from general prohibition on operating on highway or railroad.**

This section establishes exemptions from the limitations placed on the use of snowmobiles and all-terrain vehicles under ORS 821.190. The prohibitions and penalties under ORS 821.190 do not apply when a snowmobile or all-terrain vehicle that qualifies for the exemption from equipment requirements under ORS 821.010 is being operated as described under any of the following:

- (1) A person may lawfully cross a highway or railroad right of way while operating a snowmobile or all-terrain vehicle if the person complies with all of the following:
- (a) The crossing must be made at an angle of approximately 90 degrees to the direction of the highway or railroad right of way.
  - (b) The crossing must be made at a place where no obstruction prevents a quick and safe crossing.
  - (c) The vehicle must be brought to a complete stop before entering the highway or railroad right of way.
  - (d) The operator of the vehicle must yield the right of way to vehicles using the highway or equipment using the railroad tracks.
  - (e) The crossing of a railroad right of way must be made at an established public railroad crossing.
  - (f) The crossing of a highway must be made at a highway intersection or at a place that is more than 100 feet from any highway

intersection.

- (g) If the operator of a snowmobile is under 12 years of age, a person who is 18 years of age or older must accompany the operator either as a passenger or as the operator of another snowmobile that is in proximity to the younger operator.
- (2) A snowmobile or all-terrain vehicle may be lawfully operated upon a highway under any of the following circumstances:
  - (a) Where the highway is completely covered with snow or ice and has been closed to motor vehicle traffic during winter months.
  - (b) For purposes of loading or unloading when such operation is performed with safety and without causing a hazard to vehicular traffic approaching from either direction on the highway.
  - (c) Where the highway is posted to permit snowmobiles or all-terrain vehicles.
  - (d) In an emergency during the period of time when and at locations where snow upon the highway renders travel by automobile impractical.
  - (e) When traveling along a designated snowmobile or all-terrain vehicle trail.
- (3) It shall be lawful to operate a snowmobile or all-terrain vehicle upon a railroad right of way under any of the following circumstances:
  - (a) Where the right of way is posted to permit the operation.
  - (b) In an emergency.
  - (c) When the snowmobile or all-terrain vehicle is operated by an officer or employee or authorized contractor or agent of a railroad. [1983 c.338 §727; 1985 c.72 §3; 1985 c.459 §29; 1989 c.991 §13; 1999 c.372 §2; 1999 c.565 §5; 2007 c.887 §3; 2017 c.453 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.202 - Failure of all-terrain vehicle rider to wear motorcycle helmet; penalty.**

- (1) A person commits the offense of failure of an all-terrain vehicle operator or passenger to wear a motorcycle helmet if:
  - (a) The person is under 18 years of age, operates or rides on a Class I, Class II, Class III or Class IV all-terrain vehicle on premises open to the public or on a highway and is not wearing a motorcycle helmet with a fastened chin strap; or
  - (b) The person is 18 years of age or older, operates or rides on a Class I or Class III all-terrain vehicle on an all-terrain vehicle highway access route that is designated by the Oregon Transportation Commission as open to all-terrain vehicles and is not wearing a motorcycle helmet with a fastened chin strap.
- (2) The requirement to wear a motorcycle helmet with a fastened chin strap does not apply if the all-terrain vehicle is:
  - (a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations.
  - (b) Being used on land owned or leased by the owner of the vehicle.
  - (c) A Class II all-terrain vehicle registered under ORS 803.420 and has a roof or roll bar.
- (3) The offense described in this section, failure of an all-terrain vehicle operator or passenger to wear a motorcycle helmet, is a Class D traffic violation. [1995 c.775 §§2,10; 2007 c.887 §3a; 2009 c.452 §1; 2011 c.360 §26; 2017 c.453 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.203 - Endangering all-terrain vehicle operator or passenger; penalty.**

- (1) A person commits the offense of endangering an all-terrain vehicle operator or passenger if:
  - (a) The person is operating a Class I, Class II, Class III or Class IV all-terrain vehicle on premises open to the public or on a highway and the person carries another person on the Class I, Class II, Class III or Class IV all-terrain vehicle who is under 18 years of age and is not wearing a motorcycle helmet with a fastened chin strap; or
  - (b) The person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 18 years of age and the child operates or rides on a Class I, Class II, Class III or Class IV all-terrain vehicle on premises open to the public or on a highway without wearing a motorcycle helmet with a fastened chin strap.
- (2) The requirement to wear a motorcycle helmet with a fastened chin strap does not apply if the all-terrain vehicle is:
  - (a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations.
  - (b) Being used on land owned or leased by the owner of the vehicle.
  - (c) A Class II all-terrain vehicle registered under ORS 803.420 and has a roof or roll bar.
- (3) The offense described in this section, endangering an all-terrain vehicle operator or passenger, is a Class D traffic violation. [1995 c.775 §§3,11; 2007 c.887 §3b; 2009 c.452 §2; 2011 c.360 §27; 2017 c.453 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.204 - Issuance of citation for violation of ORS 821.202 or 821.203.**

- (1) If a child who is in violation of ORS 821.202 is 11 years of age or younger, any citation issued shall be issued to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of ORS 821.203, rather than to the child for violation of ORS 821.202.
- (2) If a child who is in violation of ORS 821.202 is at least 12 years of age and is under 18 years of age, a citation may be issued to the child for violation of ORS 821.202 or to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of ORS 821.203, but not to both. [1995 c.775 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.210 - Operating improperly equipped snowmobile; civil liability; penalty.**

(1) A person commits the offense of operating an improperly equipped snowmobile if the person operates any snowmobile without all of the following equipment:

- (a) A lighted headlight and taillight.
- (b) An adequate braking device that may be operated either by hand or foot.
- (c) An adequate and operating muffling device that shall effectively blend the exhaust and motor noise in such a manner so as to preclude excessive or unusual noise and, on snowmobiles manufactured after January 4, 1973, that shall effectively maintain such noise at a level of 82 decibels or below on the "A" scale at 100 feet.

(2) The Department of State Police shall establish procedures for testing of noise levels consistent with this section.

(3) Snowmobiles used in organized racing events in an area designated for that purpose may use a bypass or cutout device without violation of the requirements for muffling devices and for noise levels under this section.

(4) In addition to other penalties provided by this section, the owner or operator of a snowmobile may be liable as provided under ORS 821.310.

(5) The offense described in this section, improperly equipped snowmobile, is a Class D traffic violation. [1983 c.338 §728; 1985 c.393 §44; 1995 c.383 §112]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.220 - Operating improperly equipped all-terrain vehicle; civil liability; penalty.**

(1) A person commits the offense of operating an improperly equipped all-terrain vehicle if the person operates any all-terrain vehicle without the following equipment:

- (a) An adequate braking device that may be operated either by hand or foot.
- (b) An adequate and operating muffling device that shall be maintained in good working order and in constant operation and shall effectively blend the exhaust and motor noise in such a manner so as to comply with all applicable noise emission standards established by the Department of Environmental Quality.

(2) The Department of Environmental Quality shall establish procedures for testing of noise levels consistent with this section.

(3) All-terrain vehicles used in organized racing events in an area designated for that purpose shall comply with the motor sports vehicles and facilities regulations of the Department of Environmental Quality.

(4) In addition to other penalties provided by this section, the owner or operator of an all-terrain vehicle may be liable as provided under ORS 821.310.

(5) The offense described in this section, operating an improperly equipped all-terrain vehicle, is a Class C traffic violation. [1985 c.459 §30; 1987 c.587 §12; 1989 c.991 §14; 1995 c.383 §33; 1999 c.59 §245]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.230 - Operating all-terrain vehicle without proper lighting equipment; penalty.**

(1) A person commits the offense of operating an all-terrain vehicle without proper lighting equipment if the person operates an all-terrain vehicle during times when limited visibility conditions exist and the vehicle is not equipped with a taillight and a lighted headlight.

(2) Nothing in this section requires an all-terrain vehicle to be equipped with a headlight or taillight if the vehicle is not operated during times when limited visibility conditions exist.

(3) The offense described in subsection (1) of this section, operating an all-terrain vehicle without proper lighting equipment, is a Class C traffic violation. [1985 c.459 §30a; 1987 c.587 §13; 1989 c.991 §15; 1995 c.383 §34]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.240 - Operating snowmobile or all-terrain vehicle while carrying firearm or bow; exemptions; penalty.**

(1) A person commits the offense of operating a snowmobile or an all-terrain vehicle while carrying a firearm or bow if the person operates any snowmobile or all-terrain vehicle with a firearm in the possession of the person, unless the firearm is unloaded, or with a bow, unless all arrows are in a quiver.

(2) Subsection (1) of this section does not apply to:

- (a) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun;
- (b) A law enforcement officer; or

(c) An honorably retired law enforcement officer, unless the person who is a retired law enforcement officer has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

(3) As used in this section, "unloaded" means:

- (a) If the firearm is a revolver, that there is no live cartridge in the chamber that is aligned with the hammer of the revolver;

- (b) If the firearm is a muzzle-loading firearm, that the firearm is not capped or primed; or
- (c) If the firearm is other than a revolver or a muzzle-loading firearm, that there is no live cartridge in the chamber.
- (4) The offense described in this section, operating a snowmobile or an all-terrain vehicle while carrying a firearm or bow, is a Class B traffic violation. [1983 c.338 §729; 1985 c.393 §45; 1985 c.459 §31a; 1987 c.587 §14; 1989 c.991 §15a; 1991 c.589 §1; 2011 c.662 §6; 2015 c.709 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.250 - Permitting dangerous operation of snowmobile or all-terrain vehicle; civil liability; penalty.**

(1) A person commits the offense of permitting dangerous operation of a snowmobile or an all-terrain vehicle if the person is the owner or other person having charge or control of a snowmobile or an all-terrain vehicle and the person knowingly authorizes or permits any person to operate the vehicle across a highway who is:

- (a) Incapable by reason of age, physical or mental disability; or
- (b) Under the influence of an intoxicant.

(2) In addition to other penalties provided by this section, operators or owners may be liable as provided under ORS 821.310.

(3) The offense described in this section, permitting dangerous operation of a snowmobile or an all-terrain vehicle, is a Class A traffic violation. [1983 c.338 §730; 1985 c.393 §46; 1985 c.459 §32; 1987 c.587 §15; 1989 c.991 §16; 1999 c.619 §14; 2017 c.21 §90; 2021 c.253 §15; 2023 c.498 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.260 - Hunting or harassing animals from snowmobile or all-terrain vehicle; civil liability; penalty.**

(1) A person commits the offense of hunting or harassing animals from a snowmobile or an all-terrain vehicle if the person does any of the following:

(a) Operates a snowmobile or an all-terrain vehicle in a manner so as to run down, harass, chase or annoy any game animals or birds or domestic animals.

(b) Hunts from a snowmobile or an all-terrain vehicle.

(2) This section does not apply to:

(a) Officers of the State Fish and Wildlife Commission.

(b) Persons under contract to the commission in the performance of their official duties.

(c) Individuals who have secured a permit from the commission for purposes of research and study.

(3) In addition to other penalties provided by this section, operators or owners of a snowmobile or an all-terrain vehicle may be liable as provided under ORS 821.310.

(4) The offense described in this section, hunting or harassing animals from a snowmobile or an all-terrain vehicle, is a Class C misdemeanor. [1983 c.338 §731; 1985 c.16 §353; 1985 c.393 §47; 1985 c.459 §33; 1987 c.587 §16; 1989 c.991 §16a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.280 - Committing unlawful damage with snowmobile or Class I, Class II or Class IV all-terrain vehicle; civil liability; penalty.**

(1) A person commits the offense of committing unlawful damage with a snowmobile or Class I, Class II or Class IV all-terrain vehicle if the person operates any snowmobile or Class I, Class II or Class IV all-terrain vehicle in any area or in such a manner so as to expose the underlying soil or vegetation or to injure, damage or destroy trees or growing crops.

(2) In addition to other penalties provided by this section, the owner or operator of a snowmobile or Class I, Class II or Class IV all-terrain vehicle may be liable as provided under ORS 821.310.

(3) The offense described in this section, committing unlawful damage with a snowmobile or Class I, Class II or Class IV all-terrain vehicle, is a Class B traffic violation. [1983 c.338 §733; 1985 c.459 §35; 1987 c.587 §17; 2011 c.360 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.285 - Committing unlawful damage with Class III all-terrain vehicle; civil liability; penalty.**

(1) A person commits the offense of committing unlawful damage with a Class III all-terrain vehicle if the person operates any Class III all-terrain vehicle in any area or in such a manner so as to injure, damage or destroy trees or growing crops.

(2) In addition to other penalties provided by this section, the owner or operator of a Class III all-terrain vehicle may be liable as provided under ORS 821.310.

(3) The offense described in this section, committing unlawful damage with a Class III all-terrain vehicle, is a Class B traffic violation. [1989 c.991 §17a]

Note:

821.285 was added to and made a part of ORS chapter 821 by legislative action but was not added to any smaller series therein. See



Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.290 - Dangerous operation of snowmobile or all-terrain vehicle; civil liability; penalty.**

- (1) A person commits the offense of dangerous operation of a snowmobile or an all-terrain vehicle if the person does any of the following:
- (a) Operates a snowmobile or an all-terrain vehicle at a rate of speed greater than reasonable and proper under the existing conditions.
  - (b) Operates a snowmobile or an all-terrain vehicle in a negligent manner so as to endanger the person or property of another or to cause injury or damage to either.
- (2) In addition to other penalties provided by this section, the owner or operator of a snowmobile or an all-terrain vehicle may be liable as provided under ORS 821.310.
- (3) The offense described in this section, dangerous operation of a snowmobile or an all-terrain vehicle, is a Class B traffic violation. [1983 c.338 §734; 1985 c.459 §36; 1987 c.587 §18; 1989 c.991 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.291 - Endangering Class I all-terrain vehicle operator; exemptions; penalty.**

- (1) A person commits the offense of endangering a Class I all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age, the child operates a Class I all-terrain vehicle on public lands and the child:
- (a) Does not possess a Class I all-terrain vehicle operator permit issued under ORS 390.570;
  - (b) Is not accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 and is able to provide immediate assistance and direction to the child; or
  - (c) Is not in compliance with the rider fit guidelines established by the Parks and Recreation Department under ORS 390.585.
- (2) This section does not apply if the all-terrain vehicle is:
- (a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and
  - (b) Being used on land owned or leased by the owner of the vehicle.
- (3) The offense described in this section, endangering a Class I all-terrain vehicle operator, is a Class C traffic violation. [2007 c.887 §6; 2011 c.360 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.292 - Endangering Class III all-terrain vehicle operator; exemptions; penalty.**

- (1) A person commits the offense of endangering a Class III all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child at least seven years of age but under 16 years of age, the child operates a Class III all-terrain vehicle on public lands and the child:
- (a) Does not possess a Class III all-terrain vehicle operator permit issued under ORS 390.575; or
  - (b) Is not accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 and is able to provide immediate assistance and direction to the child.
- (2) This section does not apply if the all-terrain vehicle is:
- (a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and
  - (b) Being used on land owned or leased by the owner of the vehicle.
- (3) The offense described in this section, endangering a Class III all-terrain vehicle operator, is a Class C traffic violation. [1995 c.774 §2a; 1999 c.977 §36; 2007 c.887 §4; 2011 c.360 §30]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.293 - Endangering Class IV all-terrain vehicle operator; exemptions; penalty.**

- (1) A person commits the offense of endangering a Class IV all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age, the child operates a Class IV all-terrain vehicle on public lands and the child:
- (a) Does not possess a Class IV all-terrain vehicle operator permit issued under ORS 390.577;
  - (b) Is not accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 and is able to provide immediate assistance and direction to the child;
  - (c) Is not in compliance with the manufacturer's minimum age recommendation as evidenced by the manufacturer's warning label affixed to the vehicle; or
  - (d) Is not in compliance with the rider fit guidelines established by the State Parks and Recreation Department under ORS 390.585.

(2) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(3) The offense described in this section, endangering a Class IV all-terrain vehicle operator, is a Class C traffic violation. [2011 c.360 §33]

Note:

821.293 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 821 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.295 - Operating Class II, Class III or Class IV all-terrain vehicle in prohibited snow area; exemptions; penalty.**

(1) A person commits the offense of operating a Class II, Class III or Class IV all-terrain vehicle in a prohibited snow area if the person operates a Class II, Class III or Class IV all-terrain vehicle on a groomed trail or a designated snowmobile or cross country ski trail or area during a designated snow use period.

(2) This section does not apply to emergency vehicles or to trail grooming equipment.

(3) The offense described in this section, operating a Class II, Class III or Class IV all-terrain vehicle in a prohibited snow area, is a Class D traffic violation. [1987 c.587 §7; 1989 c.991 §18a; 1995 c.383 §113; 2011 c.360 §31]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.310 - Treble damages for damage to property.**

The operator or the owner of a snowmobile or all-terrain vehicle used with the permission of the owner shall be liable for three times the amount of any damage to trees, shrubs, growing crops or other property injured as the result of travel by such snowmobile or all-terrain vehicle over the property involved. The liability under this section is in addition to any penalties provided in ORS 821.150, 821.190, 821.210 or 821.250 to 821.290. [1983 c.338 §736; 1985 c.393 §49; 1985 c.459 §38; 1987 c.587 §20; 1989 c.991 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.320 - Snowmobile registration and permit fees.**

The following fees are established relating to snowmobiles:

(1) Registration under ORS 821.080, \$10.

(2) Renewal of registration under ORS 821.080, \$10.

(3) Issuance of out-of-state permit under ORS 821.130, \$7. [1983 c.338 §737; 1985 c.16 §354; 1985 c.459 §13; 1987 c.261 §5; 1989 c.991 §21; 1995 c.774 §23; 1999 c.977 §37]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.330 - Designation of all-terrain vehicle highway access routes.**

(1) The Oregon Transportation Commission shall designate all-terrain vehicle highway access routes on state highways throughout this state for the purpose of authorizing incidental use of all-terrain vehicles within the state highway right of way.

(2) The commission shall designate all-terrain vehicle highway access routes under this section after consultation with the All-Terrain Vehicle Highway Access Routes Advisory Committee established under ORS 821.335.

(3) A grant of authority under this section to operate an all-terrain vehicle on an all-terrain vehicle highway access route is effective when signs are posted giving notice that the commission has designated a portion of the state highway right of way as an all-terrain vehicle highway access route. [2017 c.453 §6]

Note:

821.330 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 821 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 821 - Off-Road Vehicles; Snowmobiles; All-Terrain Vehicles Section 821.335 - All-Terrain Vehicle Highway Access Routes Advisory Committee.**

(1) The All-Terrain Vehicle Highway Access Routes Advisory Committee is established.

(2) The committee consists of seven members.

(3)(a) The State Parks and Recreation Director shall appoint:

(A) Two representatives of all-terrain vehicle users.

(B) One representative of a city or county.

(C) One representative of a law enforcement agency.

(D) One representative who is a member of the public.

- (E) One representative of the State Parks and Recreation Department as a nonvoting member.
- (b) The Director of Transportation shall appoint one representative of the Department of Transportation as a nonvoting member.
- (4) The committee shall:
  - (a) Accept and evaluate proposed all-terrain vehicle highway access routes on portions of state highway rights of way;
  - (b) Conduct field reviews of proposed all-terrain vehicle highway access routes and consult with the following:
    - (A) A county commissioner;
    - (B) A sheriff's office;
    - (C) Any road authority with jurisdiction of the proposed all-terrain vehicle highway access route;
    - (D) A member of a local all-terrain vehicle user organization;
    - (E) A land management agency in the area that provides all-terrain vehicle riding opportunities; and
    - (F) If the proposed all-terrain vehicle highway access route is located within the boundaries of a city, a representative of the city;
  - (c) Conduct at least one public meeting to explain the proposed all-terrain vehicle highway access route and receive comments; and
  - (d) Submit a report to the Department of Transportation and the Oregon Transportation Commission and may include recommendations related to all-terrain vehicle highway access routes on portions of state highway rights of way.
- (5) The committee must take into consideration the following when developing its recommendations:
  - (a) The need to create connections between areas open to all-terrain vehicle use.
  - (b) Minimizing adverse effects on adjacent landowners.
  - (c) Road conditions, including but not limited to road width, shoulders, highway speed, population densities and sight distance.
  - (d) The desire of the local community to allow all-terrain vehicle highway access routes to cross portions of state highway rights of way for purposes of highway or trail connectivity, access to recreational areas and promoting tourism.
  - (e) Consistency with local all-terrain vehicle use on city streets and county roads adjacent to the portions of state highway rights of way.
  - (f) Safety.
  - (g) Any other factors the committee considers important.
- (6) A majority of the voting members of the committee constitutes a quorum for the transaction of business.
- (7) Official action by the committee requires the approval of a majority of the voting members of the committee.
- (8) The committee shall elect one of its members to serve as chairperson.
- (9) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.
- (10) The committee shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the committee.
- (11) The committee may adopt rules necessary for the operation of the committee.
- (12) The State Parks and Recreation Department shall provide staff support to the committee.
- (13) Members of the committee are not entitled to compensation, but may be reimbursed for necessary travel expenses incurred by them in the performance of their official duties.
- (14) The State Parks and Recreation Department is directed to assist the committee in the performance of the committee's duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the committee consider necessary to perform their duties. [2017 c.453 §7]

Note:

821.335 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 821 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.005 - Acting as vehicle dealer without certificate; penalty.**

- (1) A person commits the offense of acting as a vehicle dealer without a certificate if the person is not the holder of a valid, current vehicle dealer certificate issued under ORS 822.020 and the person:
  - (a) Buys, sells, brokers, trades or exchanges vehicles either outright or by means of any conditional sale, bailment, lease, security interest, consignment or otherwise;
  - (b) Displays a new or used vehicle, trailer or semitrailer for sale; or
  - (c) Acts as any type of agent for the owner of a vehicle to sell the vehicle or acts as any type of agent for a person interested in buying a vehicle to buy a vehicle.
- (2) This section does not apply to persons or vehicles exempted from this section under ORS 822.015.
- (3) The offense described in this section, acting as a vehicle dealer without a certificate, is a Class A misdemeanor. [1983 c.338 §790; 1985 c.16 §389; 1985 c.598 §1; 1997 c.469 §1; 2003 c.655 §124]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.007 - Injunction against person acting as vehicle dealer in violation of vehicle code or rule; court-imposed monetary penalties.**

- (1) In addition to any other remedies provided by law, the Department of Transportation may petition the circuit court to enjoin a person from acting as a vehicle dealer in violation of the Oregon Vehicle Code or any rule adopted by the department.

(2) A single act in violation of the provisions of the Oregon Vehicle Code or of any rules adopted by the department relating to vehicle dealers shall be sufficient ground for the court to issue the injunction.

(3) In addition to issuing an injunction, the court may assess a penalty not to exceed \$15,000 if the department proves by a preponderance of the evidence that a person is acting as a vehicle dealer without possessing a vehicle dealer certificate. The court shall also award reasonable costs and disbursements, attorney and enforcement fees. [1991 c.541 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.009 - Civil penalties for violations of statutes or rules.**

(1) The Department of Transportation may levy and collect a civil penalty, in an amount not to exceed \$1,000 for each violation, against any person who has a vehicle dealer certificate if it finds that the dealer has violated any provisions of the Oregon Vehicle Code or of any rules adopted by the department relating to the regulation of vehicle dealers designated to act as agents of the department, the sale of vehicles, vehicle titling or vehicle registration.

(2) The department may levy and collect a civil penalty, in an amount not to exceed \$5,000 for each vehicle improperly sold, brokered, exchanged or offered or displayed for sale, against any person if it finds that the person is in violation of:

(a) ORS 822.005 (1); or

(b) Any rules adopted by the department relating to the sale of vehicles and the person is not subject to subsection (1) of this section. [1991 c.541 §3; 1993 c.180 §1; 1997 c.469 §2; 2001 c.543 §1; 2017 c.172 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.015 - Exemptions from vehicle dealer certification requirement; rules.**

(1) In addition to any exemptions from the vehicle code under ORS 801.026, ORS 822.005 does not apply to the following vehicles or persons:

(a) Road rollers, farm tractors, farm trailers, trolleys, implements of husbandry, emergency vehicles, well-drilling machinery and boat or utility trailers with a gross weight of 1,800 pounds or less.

(b) The owner of a vehicle as shown by the vehicle title issued by any jurisdiction if the person owned the vehicle primarily for personal, family or household purposes. If the person has sold, traded, displayed or offered for sale, trade or exchange more than five vehicles in one calendar year, the person shall have the burden of proving that the person owned the vehicles primarily for personal, family or household purposes or for other purposes that the Department of Transportation, by rule, defines as constituting an exemption under this section.

(c) A receiver, trustee, personal representative or public officer while performing any official duties.

(d) The lessor or security interest holder of a vehicle as shown by the vehicle title issued by any jurisdiction.

(e) Except as otherwise provided in this paragraph, a manufacturer who sells vehicles the manufacturer has manufactured in Oregon. Nothing in this paragraph prevents any manufacturer from obtaining a vehicle dealer certificate under ORS 822.020. This paragraph does not exempt a manufacturer who sells or trades campers or travel trailers.

(f) An insurance adjuster authorized to do business under ORS 744.515 or 744.521 who is disposing of vehicles for salvage.

(g) Except as otherwise provided in this paragraph, a person who sells or trades or offers to sell or trade a vehicle that has been used in the operation of the person's business. This paragraph does not exempt a person who is in the business of selling, trading, displaying, rebuilding, renting or leasing vehicles from any requirement to obtain a certificate for dealing in those vehicles.

(h) A person who receives no money, goods or services, either directly or indirectly, for displaying a vehicle or acting as an agent in the buying or selling of a vehicle.

(i) A person who collects, purchases, acquires, trades or disposes of vehicles and vehicle parts for the person's own use in order to preserve, restore and maintain vehicles for the person's own use or for hobby or historical purposes.

(j) A manufactured structure dealer subject to the licensing requirement of ORS 446.671 or a person exempt from licensing under ORS 446.676 when selling a vehicle, trailer or semitrailer accepted in trade as part of a manufactured structure transaction. A manufactured structure dealership or exempt person may not directly sell more than three vehicles per calendar year under authority of this paragraph, but by consignment with a dealer certified under ORS 822.020 may sell an unlimited number of vehicles acquired as described in this paragraph.

(k) A lien claimant who sells vehicles in order to foreclose possessory liens.

(L) A lien claimant who, in a 12-month period, sells 12 or fewer vehicles that the lien claimant acquired through possessory liens if the vehicles are sold at the business location of the lien claimant.

(m) Electric personal assistive mobility devices.

(n) A tower that received title for a vehicle under ORS 822.235.

(2) Notwithstanding ORS 822.005, the following may participate with other dealers in a display of vehicles, including but not limited to an auto show, if the display is an event that lasts for 10 days or less and is an event for which the public is charged admission:

(a) A person who is licensed as a vehicle dealer in another jurisdiction; or

(b) Any employee of a person who is licensed as a vehicle dealer in another jurisdiction.

(3) Notwithstanding ORS 822.005, a person who is licensed as a vehicle dealer in another jurisdiction or an employee of a person who is certified or licensed as a vehicle dealer may participate in a vehicle auction if the vehicle auction is:

- (a) Conducted by a vehicle dealer who holds a vehicle dealer certificate issued under ORS 822.020; and
- (b) Open only to certified or licensed vehicle dealers or their employees.
- (4) The department shall adopt rules to carry out the provisions of this section, including but not limited to specifying which dealers may take vehicles on consignment from other jurisdictions. [1983 c.338 §791; 1985 c.16 §390; 1985 c.316 §8; 1985 c.598 §2; 1987 c.217 §10; 1987 c.261 §6; 1991 c.541 §8; 1995 c.57 §1; 1997 c.469 §3; 2001 c.172 §5; 2001 c.543 §2; 2003 c.341 §21; 2003 c.459 §1; 2003 c.655 §125; 2009 c.551 §3; 2015 c.111 §1; 2017 c.523 §7; 2019 c.151 §43; 2023 c.400 §42]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.020 - Issuance and renewal of certificate; fees; rules.**

- (1) Except as provided in ORS 822.022 and 822.035 (9), the Department of Transportation shall issue a vehicle dealer certificate to any person if the person meets all of the following requirements:
  - (a) The person must complete the application for a dealer certificate described under ORS 822.025.
  - (b) The person must deliver to the department a bond or letter of credit that meets the requirements under ORS 822.030.
  - (c) The person must deliver to the department a certificate of insurance that meets the requirements established by ORS 822.033.
  - (d) The person must pay the fee required under ORS 822.700 for issuance of a vehicle dealer certificate.
  - (e) The person must certify completion of the precertification education and test requirements of ORS 822.027 (1)(a) if the person is a dealer subject to the education and test requirements.
- (2) A vehicle dealer certificate issued or renewed under this section expires three years after the date of issuance or renewal.
- (3) A vehicle dealer certificate may be renewed if the applicant for renewal does all of the following:
  - (a) Pays the required fee for renewal under ORS 822.700.
  - (b) Delivers to the department a bond that meets the requirements under ORS 822.030.
  - (c) Delivers to the department a certificate of insurance that meets the requirements under ORS 822.033.
  - (d) Provides the names of all partners or corporate officers.
  - (e) Certifies completion of the continuing education requirements of ORS 822.027 (1)(b) if the person is a dealer subject to the education requirements.
- (f) If the dealer offers new recreational vehicles for sale under the certificate, certifies that the dealer maintains a recreational vehicle service facility as listed in the dealer certificate application described in ORS 822.025.
- (4) If a civil penalty assessed under ORS 822.009 remains unpaid after the date of issuance of the final order, the department may refuse to issue or renew a vehicle dealer certificate under this section, until the civil penalty is paid in full or until six years have passed since the date of issuance of the final order, whichever occurs first.
- (5) The department may adopt rules for the issuance and renewal of vehicle dealer certificates under this section. [1983 c.338 §792; 1985 c.16 §391; 1989 c.434 §1; 1991 c.331 §144; 1999 c.277 §3; 2001 c.555 §1; 2013 c.531 §2; 2017 c.530 §5; 2023 c.400 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.022 - Restrictions on issuing certificates.**

The Department of Transportation may not issue a vehicle dealer certificate authorizing a person to deal exclusively in motorcycles, mopeds, Class I all-terrain vehicles or snowmobiles or any combination of those vehicles. [2017 c.530 §3]

Note:

822.022 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 822 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.025 - Application contents.**

An application for a vehicle dealer certificate issued by the Department of Transportation under ORS 822.020 shall be in a form prescribed by the department and shall contain all of the following:

- (1) The names and residence addresses of the persons applying, as follows:
  - (a) If the applicant is a firm or partnership, the name of the firm or partnership with the names and residence addresses of all members thereof.
  - (b) If the applicant is a corporation, the name of the corporation with the names of the principal officers and their residence addresses and the name of the state under whose laws the corporation is organized.
- (2) The name under which the business will be conducted.
- (3) The street address, including city and county in Oregon, where the business will be conducted.
- (4) Whether or not used vehicles are handled.
- (5) A certificate from the applicant showing that the applicant will act as a vehicle dealer and will conduct business at the location given on the application.
- (6) A certificate signed by a person authorized by the local governing body to do so, stating that the location of the business as given in the application for a certificate complies with any land use ordinances or business regulatory ordinances of the city or county. The provisions of this subsection do not apply to renewal of a vehicle dealer certificate under ORS 822.020 unless the location of the business is being changed at the time of renewal.

- (7) Any information required by the department to efficiently administer the registration of vehicles and regulation of dealers or other relevant information required by the department.
- (8) If the applicant is a dealer subject to the education and test requirements under ORS 822.027 (1)(a), a certificate from the provider of each precertification education program listing the courses that the applicant has completed and the tests that the applicant has passed in the precertification education program.
- (9) If the applicant will offer new recreational vehicles for sale, a certificate from the applicant stating that the applicant will maintain a recreational vehicle service facility at the street address provided by the applicant pursuant to subsection (3) of this section. [1983 c.338 §793; 1985 c.598 §3; 1993 c.751 §84; 1997 c.469 §4; 1999 c.277 §4; 1999 c.593 §1; 2001 c.172 §6; 2003 c.655 §126; 2013 c.531 §3; 2023 c.400 §43]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.027 - Education requirements for vehicle dealers.**

- (1) Except as provided in subsections (2) and (3) of this section, the following education requirements apply to an applicant for a vehicle dealer certificate under ORS 822.020:
- (a) An applicant for a vehicle dealer certificate under ORS 822.020 must complete a minimum of eight hours of courses in any approved precertification education program described in subsection (4) of this section and pass the tests required under paragraph (c) of this subsection within one year prior to submitting an application for the certificate;
- (b) An applicant for a renewal certificate under ORS 822.020 must, for each year of a certification period, complete a minimum of four hours of courses in any approved continuing education program described in subsection (4) of this section and pass the tests required under paragraph (c) of this subsection prior to submitting an application for the renewal certificate. An applicant may not repeat a course in an approved continuing education program for which the applicant previously obtained credit within the same certification period; and
- (c) For each course hour required under paragraphs (a) and (b) of this subsection, the provider shall administer a test and the applicant must pass each test with a score of at least 70 percent in order to receive credit for the course hour. Each test must contain at least 10 questions.
- (2) The precertification education requirements in subsection (1)(a) of this section do not apply to an applicant for a vehicle dealer certificate under ORS 822.020 if, at the time of application, the applicant holds another certificate issued under ORS 822.020.
- (3) The continuing education requirements of subsection (1)(b) of this section do not apply to an applicant for renewal of a vehicle dealer certificate under ORS 822.020 if the applicant is:
- (a) A dealer having a franchise in this state for nationally advertised and recognized motor vehicles;
- (b) A dealer having a franchise in this state for new recreational vehicles;
- (c) A motor vehicle rental company having a national franchise under the ownership of a corporation that operates throughout the United States; or
- (d) A national auction company that holds a vehicle dealer certificate and a dismantler certificate whose primary activity in this state is the sale or disposition of totaled vehicles.
- (4) Precertification and continuing education programs and the tests required in subsection (1) of this section may be developed by any motor vehicle industry organization including, but not limited to, the Oregon Independent Auto Dealers Association. Each education program shall be submitted to the advisory committee established under ORS 802.370 for approval every two years. The committee shall vote to approve or deny approval of each program. A program that is approved must cover state and federal law in at least the following areas:
- (a) Motor vehicle advertising;
- (b) Odometer laws and regulations;
- (c) Vehicle licensing and registration;
- (d) Unlawful dealer activities;
- (e) Environmental rules and regulations;
- (f) Oregon and industry standard motor vehicle forms;
- (g) Truthful lending practices;
- (h) Motor vehicle financing;
- (i) Service and warranty contracts; and
- (j) Land use regulations governing motor vehicle dealers.
- (5) Precertification and continuing education programs required in subsection (1) of this section may be provided by accredited educational institutions, private vocational schools, correspondence schools or trade associations if the education programs have been approved by the advisory committee established under ORS 802.370 as required in subsection (4) of this section.
- (6) The approval of an education program under subsection (4) of this section expires two years from the date of the approval. [1999 c.277 §2; 2001 c.727 §1; 2003 c.179 §1; 2003 c.655 §127; 2005 c.654 §§32,33; 2007 c.370 §1; 2013 c.531 §1; 2023 c.400 §44]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.030 - Bond or letter of credit requirements; rights of action.**

- (1) A bond or letter of credit required to qualify for a vehicle dealer certificate under ORS 822.020 must comply with all of the

following:

(a) The bond shall have a corporate surety licensed to do business within this state. A letter of credit shall be an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008. The surety or institution shall notify the Department of Transportation if the bond or letter of credit is canceled for any reason. The surety or institution shall continue to be liable under the bond or letter of credit until the department receives the notice required by this paragraph, or until the cancellation date specified in the notice, whichever is later.

(b) The bond or letter of credit shall be executed to the State of Oregon.

(c) Except as otherwise provided in this paragraph, the bond or letter of credit shall be in the following sum:

(A) If the person holds a certificate to be a dealer exclusively in motorcycles, mopeds, Class I all-terrain vehicles or snowmobiles or any combination of those vehicles, the bond or letter of credit shall be for \$10,000.

(B) Except as provided in subparagraph (A) of this paragraph, if the applicant is seeking a certificate to be a vehicle dealer, the bond or letter of credit shall be for \$50,000 for each year the certificate is valid.

(d) The bond or letter of credit described in this subsection shall be approved as to form by the Attorney General.

(e) The bond or letter of credit must be conditioned that the person issued the certificate shall conduct business as a vehicle dealer without fraud or fraudulent representation and without violating any provisions of the vehicle code relating to vehicle registration, vehicle permits, the transfer or alteration of vehicles or the regulation of vehicle dealers.

(f) The bond or letter of credit must be filed and held in the office of the department.

(g) The vehicle dealer shall purchase a bond or letter of credit under this subsection annually on or before each anniversary of the issuance of the vehicle dealer's certificate.

(2) Any person shall have a right of action against a vehicle dealer, against the surety on the vehicle dealer's bond and against the letter of credit in the person's own name if the person suffers any loss or damage by reason of the vehicle dealer's fraud, fraudulent representations or violations of provisions of the vehicle code relating to:

(a) Vehicle registration;

(b) Vehicle permits;

(c) The transfer or alteration of vehicles; or

(d) The regulation of vehicle dealers.

(3) Notwithstanding subsection (2) of this section, the maximum amount available under a bond or letter of credit described in subsection (1)(c)(B) of this section for the payment of claims to persons other than retail customers of the dealer is \$10,000.

(4) Notwithstanding subsection (2) of this section, a person other than a retail customer of the vehicle dealer may not make a claim under subsection (2) of this section against the surety on the vehicle dealer's bond, or against the vehicle dealer's letter of credit, if the vehicle dealer holds a vehicle dealer certificate to deal exclusively in motorcycles, mopeds, Class I all-terrain vehicles or snowmobiles or any combination of those vehicles.

(5) If the certificate of a vehicle dealer is not renewed or is voluntarily or involuntarily canceled, the sureties on the bond and the issuer of the letter of credit are relieved from liability that accrues after the department cancels the certificate. [1983 c.338 §794; 1985 c.16 §392; 1985 c.598 §6; 1987 c.261 §7; 1989 c.434 §2; 1991 c.331 §145; 1997 c.631 §556; 1999 c.593 §§2,5; 2001 c.141 §§2,3,4,5; 2017 c.530 §1; 2023 c.400 §45]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.033 - Requirements for certificate of insurance; exemptions.**

A certificate of insurance required to qualify for a vehicle dealer certificate under ORS 822.020 or to qualify for renewal of a certificate under ORS 822.020 must comply with all of the following:

(1) The certificate shall:

(a) Be issued by an insurance carrier licensed to do business within this state;

(b) Show that the dealer is insured by a policy that provides the minimum limits of coverage required under ORS 806.070;

(c) Show that the dealer is insured by a policy that provides for payment of judgments of the type described in ORS 806.040;

(d) Show that the dealer is insured by a policy covering all vehicles manufactured, owned, operated, used or maintained by or under the control of the dealer;

(e) Show that the dealer is insured by a policy that also covers all other persons who, with the consent of the dealer, use or operate vehicles manufactured, owned or maintained by or under the control of the dealer;

(f) Be dated as of the date of the motor vehicle policy for which it is given;

(g) Contain the policy number; and

(h) Provide that the insurer shall give the Department of Transportation written notice of any cancellation of the policy and that the insurer shall continue to be liable under the policy until the department receives the notice required by this paragraph or until the cancellation date specified in the notice, whichever is later.

(2) The certificate of insurance must be filed and held in the office of the department.

(3) A dealer is exempt from the requirement to file the certificate of insurance described in this section if the dealer certifies, in such form as may be required by the department, that the dealer will be dealing exclusively in one or more of the following:

(a) Antique vehicles issued permanent registration under ORS 805.010;

(b) Farm trailers;

- (c) Farm tractors;
- (d) Implements of husbandry; or
- (e) Snowmobiles, Class I or Class III all-terrain vehicles. [1989 c.434 §3a; 1993 c.180 §2; 2003 c.655 §128; 2015 c.138 §39; 2023 c.400 §46]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.035 - Investigation of application; dealer number; rules; records inspection; dealer plates and identification card; effect of revocation or suspension in another jurisdiction.**

The Department of Transportation:

- (1) Upon receipt of an application for a vehicle dealer certificate, shall examine the application and may make an individual investigation relative to statements contained in the application.
- (2) Upon being satisfied that an applicant is entitled to a vehicle dealer certificate and that the proper fees have been paid for the certificate, shall assign the vehicle dealer a distinctive dealer number that allows the dealer to conduct business under the certificate and shall forward to the dealer a vehicle dealer certificate stating thereon the dealer's number.
- (3) Has authority to determine whether or not an applicant for a vehicle dealer certificate is a vehicle dealer.
- (4) Has authority to make suitable rules for the issuance of vehicle dealer certificates to expire consistently with ORS 822.020.
- (5) May make inspections of any vehicle dealer records required under ORS 822.045 and of any vehicles included in a vehicle dealer's inventory or located on the vehicle dealer's premises. Inspections authorized by this subsection may be conducted by the department at reasonable intervals and may not exceed a scope of inspection necessary for the department to determine the following:
  - (a) A vehicle dealer's compliance with statutes regulating vehicle dealers under the vehicle code;
  - (b) A vehicle dealer's compliance with those provisions of the vehicle code regulating the titling and registration of vehicles;
  - (c) A vehicle dealer's compliance with rules adopted by the department relating to the regulation of vehicle dealers and the registration and titling of vehicles; and
  - (d) The identification of stolen vehicles.
- (6) May make inspections during the normal business hours of the department, from Monday through Friday.
- (7) Shall provide a vehicle dealer with plates or devices authorized under ORS 805.200 to allow the exercise of the privileges granted under ORS 822.040.
- (8) May provide a vehicle dealer with identification cards in the names of the owners of the business or in the names of authorized employees of the business.
- (9) May not issue a vehicle dealer certificate under ORS 822.020 to an applicant who has been issued a similar certificate from another jurisdiction that has been revoked or is currently suspended unless the applicant possesses a current, valid vehicle dealer certificate issued under ORS 822.020.
- (10) May not use the revocation or suspension by another jurisdiction of a vehicle dealer certificate or similar certificate as a basis for refusing to allow a vehicle dealer holding a current, valid vehicle dealer certificate issued under ORS 822.020 to obtain a vehicle dealer certificate under ORS 822.020 or a supplemental certificate under ORS 822.040.
- (11) May adopt any reasonable rules necessary for the administration of the laws relating to the regulation of vehicle dealers, the issuance of vehicle dealer certificates, the issuance of vehicle dealer identification cards, regulation of vehicle dealers designated as agents under ORS 802.031 and the issuance of vehicle dealer plates. The rules adopted under this subsection must be consistent with the statutory provisions of the vehicle code. The rules may include, but are not limited to, grounds and procedures for the revocation, denial, probation or suspension of vehicle dealer certificates or of a vehicle dealer's designation to act as an agent of the department. [1983 c.338 §796; 1985 c.16 §394; 1987 c.261 §7a; 1993 c.741 §140; 2001 c.555 §2; 2017 c.172 §3; 2023 c.400 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.040 - Privileges granted by certificate; taxes; supplemental or corrected certificate; rules.**

- (1) The holder of a current, valid vehicle dealer certificate issued under ORS 822.020 may exercise the following privileges under the certificate:
  - (a) Subject to ORS 822.045, a dealer is authorized, without violating ORS 803.025 or 803.300, to use and operate over and along the highways of this state vehicles displaying the dealer's plates whether registered or not or whether or not a title is issued for the vehicle if the vehicle:
    - (A) Is owned or controlled by the dealer;
    - (B) Is used by the dealer, members of the dealer's firm, any salesperson thereof or any person authorized by the dealer;
    - (C) Indicates it is offered for sale; and
    - (D) When offered for sale, is available for display during the vehicle dealer's normal business hours.
  - (b) A dealer is entitled to receive dealer plates or devices and replacement or additional dealer plates or devices. As many additional dealer plates as may be desired may be obtained upon the filing of a formal application for additional plates with the Department of Transportation. The plates issued to dealers shall require the payment of fees as provided under ORS 805.250.
  - (c) The person is not subject to the prohibitions and penalties under ORS 822.005 as long as the holder's vehicle dealer business is conducted in a location approved under the certificate.



(d) The dealer shall be considered the owner of vehicles manufactured or dealt in by the dealer, before delivery and sale of the vehicles, and of all vehicles in the dealer's possession and operated or driven by the dealer or the dealer's employees.  
(e) Notwithstanding ORS 825.474, in lieu of paying the weight-mile tax imposed under ORS 825.474, the dealer may pay the fuel taxes imposed under ORS 319.020 and 319.530, when the vehicle:

(A) Displays the dealer's plates;

(B) Is actually owned or controlled by the dealer and in actual use by the dealer, members of the dealer's firm, any salesperson of the dealer or any person authorized by the dealer;

(C) Is operated on the highway for the purpose of test driving the vehicle; and

(D) Is unloaded.

(2) The holder of a vehicle dealer certificate may open additional places of business under the same business name by obtaining a supplemental certificate from the department under this subsection. The following all apply to a supplemental certificate issued under this subsection:

(a) The department may not issue a supplemental certificate under this subsection if the additional place of business opened will be operated under a different business name than that indicated on the current certificate. Any business that a vehicle dealer operates under a separate business name must be operated under a separate certificate and the dealer must apply for and pay the fees for a regular dealer certificate for the business.

(b) A supplemental certificate issued under this subsection is subject to the fee for supplemental certificate under ORS 822.700.

(3) The holder of a vehicle dealer certificate may move a place of business or change a business name by obtaining a corrected certificate from the department. For purposes of this subsection, "place of business" includes a recreational vehicle service facility as defined in ORS 822.082. The following apply to a corrected certificate issued under this subsection:

(a) The department shall prescribe the form for application for a corrected certificate.

(b) A person applying for a corrected certificate shall pay the fee for the corrected certificate established in ORS 822.700.

(4) The department may establish by rule the requirements a holder of a vehicle dealer certificate must meet to display a vehicle at a location other than the dealer's place of business for the purpose of advertising without first obtaining a supplemental certificate from the department. In addition to any requirements established by the department by rule, all of the following apply:

(a) The dealer must have a signed agreement with the owner of the property or the person using the property where the vehicle is to be displayed stating that the vehicle is for an advertising promotion only and that the processing of any documents or other activities required to purchase a vehicle must be done at the dealer's place of business.

(b) The vehicle on display must be clearly marked with the dealer's name and contact information and a notice that the vehicle is displayed only for the purpose of advertising and may be purchased only at the dealer's place of business.

(c) Displaying the vehicle must not violate any zoning laws or ordinances.

(d) The dealer or the dealer's employees may not remain with the vehicle except for the purpose of moving the vehicle in or out of the display area. [1983 c.338 §795; 1985 c.16 §393; 1985 c.174 §12; 1985 c.400 §5; 1985 c.598 §7a; 1989 c.434 §4; 1993 c.233 §70; 1993 c.741 §141; 1997 c.469 §5; 1999 c.277 §5; 1999 c.593 §3; 2001 c.172 §7; 2003 c.655 §129; 2005 c.132 §§1,2; 2005 c.133 §§1,2; 2013 c.531 §4; 2015 c.543 §1; 2023 c.400 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.042 - Procedures for transfer of interest in vehicle by vehicle dealer.**

(1) A vehicle dealer transferring any interest in a vehicle or camper shall:

(a) Within 25 calendar days of the transfer furnish the certificate of title or other primary ownership document for the vehicle and any release thereon to the security interest holder next named, if any, otherwise to the lessor or, if none, to the purchaser;

(b) Within 30 calendar days of the transfer submit to the Department of Transportation, in a manner that complies with any applicable statutes and rules, an application for title on behalf of the person to whom the title is to be furnished or whose name is to appear on the title record;

(c) Comply with rules adopted by the department if title has not been or will not be issued in the form of a certificate; or

(d) Within 25 business days of the transfer provide a notice of delay to the security interest holder next named, if any, the lessor, if any, and the purchaser. The notice shall contain:

(A) The reason for the delay;

(B) The anticipated extent of the delay; and

(C) A statement of the rights and remedies available to the purchaser if the delay becomes unreasonably extended.

(2) A vehicle dealer shall maintain records as determined by the department by rule to show whether the dealer has complied with subsection (1) of this section.

(3) A vehicle dealer that fails to comply with the provisions of subsection (1) of this section is subject to revocation, cancellation or suspension of the dealer's certificate pursuant to ORS 822.050. [1989 c.452 §2; 1991 c.873 §44; 1993 c.233 §71; 1997 c.469 §6; 2001 c.104 §309; 2003 c.655 §130]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.043 - Dealer preparation and submission of documents; privilege tax.**

(1) As used in this section:

- (a) "Integrator" has the meaning given that term in ORS 802.600.
- (b) "Vehicle dealer" means a person issued a vehicle dealer certificate under ORS 822.020.
- (2) A vehicle dealer that the Department of Transportation has designated to act as an agent of the department under ORS 802.031 may elect to prepare, submit, or prepare and submit documents necessary to:
  - (a) Issue or transfer a certificate of title for a vehicle;
  - (b) Register a vehicle or transfer registration of a vehicle;
  - (c) Issue a registration plate;
  - (d) Verify and clear a title;
  - (e) Perfect, release or satisfy a lien or other security interest;
  - (f) Comply with federal security requirements; or
  - (g) Render any other services for the purpose of complying with state and federal laws related to the sale of a vehicle.
- (3) A vehicle dealer who prepares any documents described in subsection (2) of this section:
  - (a) May charge a purchaser of a vehicle a document processing fee for the preparation of those documents.
  - (b) May not charge a purchaser of a vehicle a document processing fee for the submission of any document or the issuance of a registration plate.
  - (c) May charge a purchaser of a vehicle a document processing fee for performing any of the services described in subsection (2) of this section in connection with preparing the documents described in subsection (2) of this section.
- (4) A purchaser of a vehicle may negotiate the amount of the document processing fee with a vehicle dealer, but in no case shall the document processing fee charged by a vehicle dealer under this section exceed:
  - (a) \$250, if the vehicle dealer uses an integrator; or
  - (b) \$200, if the vehicle dealer does not use an integrator.
- (5) If a vehicle dealer charges a document processing fee under subsection (4)(a) of this section, of the amount collected \$35 shall be paid to the integrator.
- (6) Unless otherwise provided by rule, if a vehicle dealer uses an integrator and charges a document processing fee greater than that charged for not using an integrator, the dealer must inform the purchaser of the vehicle of the option of using an integrator to prepare the documents. The purchaser may then elect whether or not to have the vehicle dealer use an integrator to prepare the documents.
- (7) If the purchaser of a vehicle pays a document processing fee, the vehicle dealer shall prepare and submit all documents to complete the transaction as permitted by law.
- (8)(a) A vehicle dealer who collects the privilege tax imposed under ORS 320.405 from the purchaser of a taxable motor vehicle may collect the privilege tax at the same time and in the same manner as the vehicle dealer collects document processing fees under this section. The amount of the privilege tax shall be in addition to and not in lieu of document processing fees collected under this section.
- (b) A vehicle dealer may exclude the amount of the privilege tax from the capitalized cost and offering price of a taxable motor vehicle as those terms are defined by the Department of Justice by rule. [Formerly 802.033; 2015 c.708 §3; 2017 c.172 §1; 2017 c.750 §90a; 2023 c.232 §9]

Note:

822.043 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.045 - Vehicle dealer offenses; penalties.**

- (1) A vehicle dealer improperly conducts a vehicle dealer business and is subject to the penalties under this section if the vehicle dealer commits any of the following offenses:
  - (a) A vehicle dealer commits the offense of failure to obtain a supplemental vehicle dealer certificate if the vehicle dealer opens any additional place of business using the same business name as a place of business approved under a vehicle dealer certificate without first obtaining a supplemental dealer certificate under ORS 822.040.
  - (b) A vehicle dealer commits the offense of failure to obtain a corrected vehicle dealer certificate if the dealer moves a place of business or changes the business name without first obtaining a corrected dealer certificate under ORS 822.040.
  - (c) A vehicle dealer commits the offense of failure to maintain proper vehicle dealer records if the dealer does not keep records or books, whether maintained in paper or electronic form, with all of the following information concerning any used or secondhand vehicles or campers the dealer deals with:
    - (A) A record of the purchase, sale or exchange or of the dealer's receipt for purpose of sale.
    - (B) A description of the vehicle or camper.
    - (C) The name and address of the seller, the purchaser and the alleged owner or other person from whom the vehicle or camper was purchased or received or to whom it was sold or delivered.
    - (D) For motor vehicles, the vehicle identification number and any other numbers or identification marks as may be thereon and a statement that a number has been obliterated, defaced or changed, if such is a fact.
    - (E) For trailers and campers, the vehicle identification number and any other numbers or identification marks as may be thereon.

- (F) A duly assigned certificate of title or other primary ownership record or a bill of sale from the registered owner of the vehicle or camper from the time of delivery to the dealer until the dealer disposes of the vehicle or camper. If title is issued for the vehicle in a form other than a certificate, or if the primary ownership record is in a form other than a document, a dealer shall keep records in accordance with rules adopted by the Department of Transportation for the purpose of complying with this subparagraph.
- (d) A vehicle dealer commits the offense of failure to allow administrative inspection if the dealer refuses to allow the department to conduct an inspection under ORS 822.035 at any time during normal business hours.
- (e) A vehicle dealer commits the offense of failure to allow police inspection if the dealer refuses to allow any police officer to conduct an inspection under ORS 810.480 at any time during normal business hours.
- (f) A vehicle dealer commits the offense of illegal use of dealer vehicle for hire if the dealer allows any vehicle operated under vehicle dealer registration to be loaned or rented with or without driver for hire or direct compensation.
- (g) A vehicle dealer commits the offense of improper use of dealer plates or devices if the dealer or employee of the dealer causes or permits the display or use of any special vehicle dealer registration plate or device on any vehicle not owned or controlled by the dealer.
- (h) A person commits the offense of improper display of dealer plates if the person operates over and along the highways of this state any unregistered vehicle owned or controlled by the dealer and any dealer plates issued are not displayed in the manner provided in ORS 803.540 for the display of registration plates.
- (i) A vehicle dealer commits the offense of failure to exhibit the dealer certificate if the dealer fails to permanently exhibit the certificate at the place of business of the person at all times while the certificate is in force.
- (j) Except as provided in subsection (2) of this section, a vehicle dealer commits the offense of failure to provide clear title if:
- (A) Within 15 days of transfer of any interest in a vehicle or camper to the dealer by a consumer, the dealer fails to satisfy:
- (i) The interest of any person from whom the dealer purchased or obtained the vehicle or camper;
- (ii) The interest of any person from whom the person described in sub-subparagraph (i) of this subparagraph leased the vehicle or camper; and
- (iii) All security interests in the vehicle or camper entered into prior to the time of transfer.
- (B) Within 15 days of receiving clear title to a vehicle or camper from another dealer, the purchasing dealer fails to satisfy the interest of the dealer from which the purchasing dealer received the certificate of title or other primary ownership document. For purposes of this subparagraph, a purchasing dealer receives a certificate of title or other primary ownership document from a dealer on the date:
- (i) The purchasing dealer or the Department of Transportation takes physical possession of the certificate or document; or
- (ii) A written notice is mailed by certified or registered mail, return receipt requested, to the purchasing dealer from the dealer, stating that the certificate or document is available to be picked up at a place and time prearranged by both parties. The written notice must be mailed to a business address of the purchasing dealer that is on file with the department. Service by mail under this sub-subparagraph is effective on the date of mailing.
- (k) Except as provided in subsection (3) of this section, a vehicle dealer commits the offense of failure to furnish certificate of title or application for title if, within 90 calendar days of transfer of any interest in a vehicle or camper by the dealer, the dealer has failed to:
- (A) Furnish the certificate of title or other primary ownership record for the vehicle or camper and any release thereon or, if title has been issued or is to be issued in a form other than a certificate, any information or documents required by rule of the department, to the security interest holder next named, if any, otherwise to the lessor or, if none, to the purchaser; or
- (B) Submit to the department in a manner that complies with any applicable statutes and rules, an application for title on behalf of the person to whom the title is to be furnished or whose name is to be shown on the title record.
- (L) A vehicle dealer commits the offense of failure to maintain bond or letter of credit coverage if the dealer permits a bond or letter of credit to lapse during the period that the bond or letter of credit is required under ORS 822.020 or if the dealer fails to purchase a bond or letter of credit required by ORS 822.030.
- (m) A person commits the offense of acting as a vehicle dealer while under revocation, cancellation or suspension if the person conducts business as a vehicle dealer in this state and the person's vehicle dealer certificate is revoked, canceled or suspended, regardless of whether the person is licensed as a vehicle dealer in another jurisdiction. This paragraph does not apply if the person has other current, valid dealer certificates issued in this state.
- (n) A vehicle dealer commits the offense of improper display of a vehicle for advertising purposes if the dealer displays a vehicle at a location other than the dealer's place of business for the purpose of advertising and the dealer does not comply with the provisions of ORS 822.040 (4).
- (2) A dealer is not considered to have committed the offense described in subsection (1)(j)(A) of this section if the dealer fails to satisfy an interest in a vehicle or camper that arises from an inventory financing security interest for which the dealer is the debtor.
- (3) A dealer is not considered to have committed the offense described in subsection (1)(k) of this section if the dealer demonstrates that:
- (a) The dealer has made a good faith effort to comply; and
- (b) The dealer's inability to provide title is due to circumstances beyond the dealer's control.
- (4) The offenses described in this section are subject to the following penalties:
- (a) The offense described in this section, failure to obtain a supplemental vehicle dealer certificate, is a Class A misdemeanor.

- (b) The offense described in this section, failure to obtain a corrected vehicle dealer certificate, is a Class A misdemeanor.
- (c) The offense described in this section, failure to maintain proper vehicle dealer records, is a Class A misdemeanor.
- (d) The offense described in this section, failure to allow administrative inspection, is a Class A misdemeanor.
- (e) The offense described in this section, failure to allow police inspection, is a Class A misdemeanor.
- (f) The offense described in this section, illegal use of dealer vehicle for hire, is a Class B traffic violation.
- (g) The offense described in this section, improper use of dealer plates or devices, is a Class D traffic violation.
- (h) The offense described in this section, improper display of dealer plates, is a Class B traffic violation.
- (i) The offense described in this section, failure to exhibit the dealer certificate, is a Class A misdemeanor.
- (j) The offense described in this section, failure to provide clear title, is a Class A misdemeanor.
- (k) The offense described in this section, failure to furnish certificate of title or application for title, is a Class A misdemeanor.
- (L) The offense described in this section, failure to maintain bond or letter of credit coverage, is a Class A misdemeanor.
- (m) The offense described in this section, acting as a vehicle dealer while under revocation, cancellation or suspension, is a Class A misdemeanor.
- (n) The offense described in this section, improper display of a vehicle for advertising purposes, is a Class A misdemeanor. [1983 c.338 §797; 1985 c.16 §395; 1985 c.598 §8; 1987 c.261 §8; 1989 c.452 §3; 1991 c.873 §45; 1993 c.233 §72; 1993 c.741 §142; 1995 c.383 §114; 1997 c.469 §7; 1999 c.593 §4; 2001 c.682 §1; 2003 c.332 §1; 2003 c.655 §131; 2005 c.133 §§3,4; 2014 c.21 §1; 2023 c.400 §47; 2023 c.428 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.046 - Vehicle dealer's duty to inform potential buyer if vehicle used for manufacture of controlled substances.**

- (1) As used in this section, "controlled substance" means a drug or its immediate precursor classified in Schedule I or II under the federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035.
- (2) A vehicle dealer shall inform a potential buyer if the dealer has received written notice that the vehicle to be sold to the buyer was used in the unlawful manufacture of controlled substances prior to sale to the buyer. Disclosure shall be in writing and shall be made to the buyer and to any lender financing the purchase of the vehicle prior to completion of the sale. Unless the vehicle is found fit for use under ORS 453.885, the dealer shall also post a notice on the vehicle stating that the vehicle was used in the unlawful manufacture of controlled substances. [1995 c.788 §1; 2003 c.655 §132]

Note:

822.046 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.047 - Brokerage services.**

- (1) As used in this section:
  - (a) "Brokerage services" means the arrangements or negotiations conducted by a motor vehicle broker for the purpose of obtaining a motor vehicle for a buyer or lessee from a seller or lessor through a method that does not include:
    - (A) Accepting the motor vehicle on consignment;
    - (B) If the motor vehicle broker has a franchise as defined in ORS 650.120, exchanging new motor vehicles with another motor vehicle dealer who has a franchise that is with the same franchisor as the motor vehicle broker; or
    - (C) Receiving a referral fee from another motor vehicle dealer for referring a buyer or lessee when the motor vehicle broker did not participate in the arrangement or negotiation for the sale or lease of the motor vehicle.
  - (b) "Motor vehicle broker" means a person who holds a valid, current vehicle dealer certificate issued under ORS 822.020 and who receives a fee for acting on behalf of a buyer or lessee to arrange or negotiate the purchase or sale of a motor vehicle between a buyer and a seller, or the lease of a motor vehicle between a lessee and a lessor.
- (2) At the time of entering into an agreement to provide brokerage services, a motor vehicle broker shall provide the buyer or lessee with a written disclosure that includes:
  - (a) A description of the specific brokerage services to be provided by the motor vehicle broker;
  - (b) A description of the fees the motor vehicle broker will charge for the brokerage services and a description of any deposits that are required to be paid before the motor vehicle is delivered to the buyer or lessee;
  - (c) A description of how the motor vehicle broker will charge and collect the fees and deposits described in paragraph (b) of this subsection; and
  - (d) A statement of whether or not the motor vehicle broker is responsible for warranty service work on the motor vehicle.
- (3) In addition to the written disclosure required under subsection (2) of this section, a motor vehicle broker shall provide a statement to the buyer or lessee if the motor vehicle broker adds a fee for brokerage services to the purchase price or capitalized cost of the motor vehicle and the fee was negotiated with the seller or lessor on behalf of the buyer or lessee. The statement required under this subsection must:
  - (a) Inform the buyer or lessee that fees for brokerage services have been added to the purchase price or capitalized cost;
  - (b) State that the fees for brokerage services will be paid to the motor vehicle broker by the seller or lessor; and

- (c) Be clear and conspicuous in not less than 14-point bold type.
- (4) A motor vehicle broker may not:
  - (a) Calculate any fee charged to the buyer or lessee as a percentage of the savings achieved by the motor vehicle broker for the buyer or lessee on the purchase or lease of the motor vehicle;
  - (b) Collect from both the buyer and seller or both the lessee and lessor a fee for brokerage services that are for the same transaction;
  - (c) Represent that the motor vehicle broker is providing a free service to the buyer or lessee, unless the motor vehicle broker has not received and will not receive any compensation from the transaction; or
  - (d) If the fee for the brokerage services will be paid out of the proceeds of the purchase or lease, make any representation that could cause a buyer or lessee to believe that the motor vehicle broker will be compensated by the seller or lessor for the transaction.
- (5) When representing a buyer or lessee, a motor vehicle broker shall act only as an agent for the buyer or lessee.
- (6) If a motor vehicle broker maintains a dealer inventory, the motor vehicle broker:
  - (a) Shall inform the buyer or lessee whether or not the broker is acting as a broker or dealer for the transaction; and
  - (b) May not do any of the following if the motor vehicle broker entered into an agreement to act as a broker on behalf of the buyer or lessee and later negotiated to sell or lease a motor vehicle from the broker's dealer inventory to the buyer or lessee:
    - (A) Act as an agent for or represent the buyer or lessee;
    - (B) Charge the buyer or lessee a fee for brokerage services;
    - (C) Purchase or lease a motor vehicle on behalf of a buyer or lessee and then sell or lease that vehicle to the buyer or lessee as a motor vehicle dealer; or
    - (D) Sell a motor vehicle to a buyer or lease a motor vehicle to a lessee, unless the motor vehicle broker provides the buyer or lessee with a clear and conspicuous written disclosure that is signed by the buyer or lessee and that states the following:
      - (i) The motor vehicle broker is no longer acting as the agent for the buyer or lessee for the purposes of the sale or lease; and
      - (ii) The motor vehicle broker is acting as a motor vehicle dealer with whom the buyer or lessee is free to negotiate the purchase price or lease terms of the motor vehicle. [1993 c.464 §2; 2005 c.190 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.048 - Remedy for failure to submit title.**

If a vehicle dealer fails to comply with ORS 822.042 (1)(b) or (d) or 822.045 (1)(k), the retail customer of the subject vehicle may bring an individual action against the vehicle dealer in the appropriate court. The court may award reasonable attorney fees to a prevailing plaintiff who brings an action under this section if the court finds all of the following:

- (1) A written demand was made on the defendant not less than 30 days before commencement of the action requesting compliance or other remedy.
- (2) The defendant failed to comply or provide the remedy, including paying the plaintiff reasonable attorney fees and costs incurred by the plaintiff, within 30 days of the date of the written demand. [2019 c.543 §2]

Note:

822.048 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 822 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.050 - Revocation, cancellation or suspension of certificate.**

- (1) The Department of Transportation may revoke, suspend or place on probation a vehicle dealer if the department determines at any time for due cause that the dealer has done any of the following:
  - (a) Violated any grounds for revocation, suspension or probation adopted by the department by rule under ORS 822.035.
  - (b) Failed to comply with the requirements of the vehicle code with reference to notices or reports of the transfer of vehicles or campers.
  - (c) Caused or suffered or is permitting the unlawful use of any certificate or registration plates.
  - (d) Violated or caused or permitted to be violated ORS 815.410, 815.415, 815.425 or 815.430.
  - (e) Falsely certified under ORS 822.033 that the dealer is exempt from the requirement under ORS 822.020 to file a certificate of insurance.
  - (f) Continued to fail to provide clear title or repeatedly failed to provide clear title in violation of ORS 822.045.
  - (g) Knowingly certified false information required by the department on an application for a vehicle dealer certificate, supplemental certificate or corrected certificate.
  - (h) Failed to pay a civil penalty assessed under ORS 822.009 and the amount of penalty was not paid within 10 days after the order becomes final.
  - (i) Displayed dealer plates on vehicles unless the vehicle was offered for sale.
- (2) The department shall cancel a vehicle dealer certificate 45 days after receipt of legal notice that the bond described under ORS 822.030 is canceled, unless the department receives proof from the vehicle dealer that the dealer has obtained another bond. Between the day that the department receives notice that the bond is canceled and the day the vehicle dealer presents proof of another bond, the vehicle dealer may not act as a vehicle dealer.
- (3) The department shall cancel a vehicle dealer certificate 45 days after receipt of notice that the certificate of insurance required

under ORS 822.033 is canceled, unless the department receives proof from the vehicle dealer that the dealer has obtained another certificate of insurance. Between the day that the department receives notice that the certificate of insurance is canceled and the day the vehicle dealer presents proof of another certificate of insurance, the vehicle dealer may not act as a vehicle dealer.

(4) The department shall cancel a vehicle dealer certificate immediately upon receipt of notice that zoning approval for the business has been revoked.

(5) Upon revocation, cancellation or suspension of a vehicle dealer certificate under this section, the department shall recall and demand the return of the certificate and any vehicle dealer plates issued. [1983 c.338 §798; 1985 c.16 §396; 1985 c.251 §26; 1987 c.158 §176; 1989 c.434 §5; 1989 c.452 §4; 1993 c.741 §143; 1995 c.79 §382; 1997 c.469 §8; 2003 c.471 §1; 2003 c.655 §133; 2023 c.400 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.055 - Failure to return revoked, canceled or suspended certificate; penalty.**

(1) A person commits the offense of failure to return a revoked, canceled or suspended vehicle dealer certificate if the Department of Transportation recalls and demands the person to return any certificate or registration plates under ORS 822.050 and the person has those items requested and does not return them to the department without further demand.

(2) The offense described in this section, failure to return revoked, canceled or suspended vehicle dealer certificate, is a Class A misdemeanor. [1983 c.338 §799; 1985 c.393 §56; 1987 c.158 §177]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.060 - Illegal consignment practices; exception; penalty; rules.**

(1) Except as provided in subsection (2) of this section, a person who holds a vehicle dealer certificate issued under ORS 822.020 commits the offense of illegal consignment practices if the person does any of the following:

(a) Takes a vehicle on consignment from a person who does not hold a vehicle dealer certificate issued under ORS 822.020, or who is not licensed as a vehicle dealer in another jurisdiction, and who does not have proof that the consignor is the registered owner, a security interest holder or lessor of the vehicle.

(b) Takes a vehicle on consignment from a security interest holder without the security interest holder first completing a repossession action prior to consigning the vehicle and providing the dealer with proper documentary proof of the repossession action.

(c) Takes a vehicle on consignment and does not have the terms of the consignment agreement in writing and provide a copy of the agreement to the consignor. The agreement shall include a provision stating that if the terms of the agreement are not met, the consignor may file a complaint in writing with the Department of Transportation, Salem, Oregon.

(d) Sells a vehicle that the dealer has on consignment and does not pay the consignor within 10 days of the sale.

(e) Sells a vehicle that the dealer has on consignment and does not either provide the purchaser with a certificate of title to the vehicle or with other primary ownership records in the form of documents or apply to the department in the purchaser's name for title to the vehicle within 30 days of the sale in a manner provided by the department by rule.

(f) Does not allow the department or any duly authorized representative to inspect and audit any records of any separate accounts into which the dealer deposits any funds received or handled by the dealer or in the course of business as a dealer from consignment sale of vehicles at such times as the department may direct.

(g) Takes any part of any money paid to the dealer in connection with any consignment transaction as part or all of the dealer's commission or fee until the transaction has been completed or terminated.

(h) Does not make arrangement for the disposition of money from a consignment transaction with the seller at the time of establishing a consignment agreement.

(i) Sells a vehicle that the dealer has taken on consignment without first giving the purchaser the following disclosure in writing:

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**DISCLOSURE REGARDING  
CONSIGNMENT SALE**

\_\_\_\_\_ (Name of Dealer) is selling the following described vehicle: \_\_\_\_\_ (Year) \_\_\_\_\_ (Make) \_\_\_\_\_ (Model)  
\_\_\_\_\_ (Vehicle Identification Number) on consignment.

There is a security interest in this vehicle.

There is not a security interest in this vehicle.

**YOU SHOULD TAKE ACTION TO ENSURE THAT ANY SECURITY INTERESTS ARE RELEASED AND THAT THE TITLE TO THE VEHICLE IS TRANSFERRED TO YOU. OTHERWISE, YOU MAY TAKE TITLE SUBJECT TO ANY UNSATISFIED SECURITY INTERESTS.**

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(2) The offense described in this section does not apply if the person takes a vehicle on consignment from an entity other than a retail customer and the person holds a vehicle dealer certificate issued under ORS 822.020 and operates a:

(a) Wholesale vehicle auction company; or

(b) National auction company whose primary activity in this state is the sale or disposition of totaled vehicles.

(3) The offense described in this section, illegal consignment practices, is a Class A misdemeanor.

(4) The department shall adopt rules to carry out the provisions of this section, including but not limited to rules to specify which persons may take and sell vehicles on consignment and to regulate the taking and selling of vehicles on consignment from other jurisdictions. [1985 c.16 §398; 1991 c.873 §46; 1993 c.180 §3; 1993 c.233 §73; 1997 c.834 §2; 2007 c.371 §1; 2009 c.551 §4; 2019 c.346 §1; 2023 c.400 §48]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.065 - Violation of consigned vehicle transfer; penalty.**

(1) A person commits the offense of violation of a consigned vehicle transfer if the person consigns a vehicle to a vehicle dealer issued a certificate under ORS 822.020 and the person fails or refuses to deliver the certificate of title or other primary ownership document for the vehicle to the dealer or purchaser upon sale of the vehicle under consignment or, if there is no certificate of title or primary ownership record in the form of a document, fails to comply with rules of the Department of Transportation on consignment.

(2) The offense described in this section, violation of a consigned vehicle transfer, is a Class A misdemeanor. [1985 c.16 §399; 1991 c.873 §47; 1993 c.233 §74]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.070 - Conducting illegal vehicle rebuilding business; penalty.**

(1) A person commits the offense of conducting an illegal vehicle rebuilding business if the person is not the holder of a valid current dealer certificate issued under ORS 822.020 and the person does any of the following as part of a business:

(a) Buys, sells or deals in assembled, reconstructed or substantially altered motor vehicles.

(b) Engages in making assembled, reconstructed or substantially altered vehicles from motor vehicle components.

(2) This section does not apply to the following persons or vehicles:

(a) An insurance adjuster authorized to do business under ORS 744.515 or 744.521 who is disposing of vehicles for salvage.

(b) Vehicles or persons exempt from the vehicle dealer certificate requirements by ORS 822.015 (1)(a) or (i).

(c) Motor vehicles that are not of a type required to be registered under the vehicle code.

(d) The holder of a dismantler certificate issued under ORS 822.110.

(3) The offense described in this section, conducting an illegal vehicle rebuilding business, is a Class A misdemeanor. [1985 c.16 §400; 1997 c.469 §9; 2003 c.655 §134; 2005 c.654 §18; 2009 c.551 §5; 2015 c.111 §2; 2019 c.151 §44]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.080 - Procedures for civil penalties imposed under ORS 822.009; disposition of moneys.**

(1) Civil penalties under ORS 822.009 shall be imposed in the manner provided in ORS 183.745.

(2) An application for a hearing on a civil penalty imposed under ORS 822.009:

(a) Must be in writing;

(b) Must be postmarked or received by the Department of Transportation within 20 days from the date of service of the notice provided for in ORS 183.745;

(c) Must state the name and address of the person requesting a hearing; and

(d) Must state the action being contested.

(3) Hearings on civil penalties imposed under ORS 822.009 shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(4) The department may, at its option, assign any unpaid civil penalty to the Department of Revenue for collection. The Department of Revenue shall deduct reasonable expenses from any amounts collected.

(5) All civil penalties received under ORS 822.009 shall be paid into the State Treasury each month and credited to the Department of Transportation Operating Fund established by ORS 184.642 (1) and (2). [1991 c.541 §§5,11; 1993 c.741 §87; 1999 c.849 §§199,200; 2001 c.820 §§7,8; 2003 c.75 §70; 2003 c.655 §§135,136]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.082 - "Recreational vehicle service facility" defined; display of location.**

(1) As used in this section, "recreational vehicle service facility" means a permanent facility listed on the vehicle dealer's certificate and having the primary purpose of servicing and repairing recreational vehicles.

(2) A business that sells a new recreational vehicle must prominently display at the sale site the name under which the business is being conducted and the location of the recreational vehicle service facility that is listed in the dealer certificate application described in ORS 822.025. [2001 c.172 §1]

Note:

822.082 to 822.084 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.083 - "Show" defined; conditions for participation in show.**

(1) As used in this section, "show" means a site where recreational vehicles are temporarily displayed and offered for sale. "Show" does not include a site that is used to display recreational vehicles for more than 10 days or that is a place of business listed on a supplemental certificate issued under ORS 822.040.

(2) A recreational vehicle dealer may not participate in a show conducted at a site that is more than 50 miles from the dealer's place of business listed in the dealer certificate application described in ORS 822.025 unless the show includes a display by at least two recreational vehicle dealers and the dealer obtains a show license from the Department of Transportation as described in ORS 822.084. [2001 c.172 §2]

Note:

See note under 822.082.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.084 - Show license; fee; rules.**

(1) A person who organizes a show, as defined in ORS 822.083, shall apply to the Department of Transportation at least 30 days prior to the commencement of the show for a show license for each recreational vehicle dealer participating in the show. The application must include for each dealer participating in the show the name under which the business is being conducted and the street address, city and county of the dealer's place of business, both as listed in the dealer certificate application described in ORS 822.025.

(2) A person who receives a show license from the department shall pay the fee for a show license established under ORS 822.700.

(3) The department may adopt all rules necessary and proper for the administration and enforcement of ORS 822.082 to 822.084. [2001 c.172 §3; 2013 c.372 §1]

Note:

See note under 822.082.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.086 - New recreational vehicle sales; warranty statement.**

(1) As used in this section:

(a) "Living area components" means flooring, roofing, building envelope, plumbing systems, electrical systems and heating and air conditioning systems.

(b) "Recreational vehicle" has the meaning given that term in ORS 174.101.

(2) The seller of a new recreational vehicle shall provide the buyer with written information listing each living area component item or system mentioned in subsection (1)(a) of this section, stating whether the component item or system is covered by a warranty and, if so, the extent and length of the warranty. [2019 c.585 §5; 2019 c.585 §5a]

Note:

822.086 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 822 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.090 - Unlawful subleasing of motor vehicle; penalty.**

(1) A person commits the offense of unlawful subleasing of a motor vehicle if:

(a) The person transfers or assigns, purports to transfer or assign or knowingly assists in the transfer or assignment or purported transfer or assignment of any right or interest in the motor vehicle or under the lease contract or security agreement to a person who is not a party to the lease contract or security agreement;

(b) The motor vehicle is subject to a lease contract or security agreement that prohibits the transfer or assignment of any right or interest in the motor vehicle or any right under the lease contract or security agreement;

(c) The person is not a party to the lease contract or security agreement;

(d) The person does not obtain, prior to the transfer or assignment, written consent from the lessor or secured party as appropriate; and

(e) The person receives compensation or other consideration for the transfer or assignment.

(2) The offense described in this section, unlawful subleasing of a motor vehicle, is a Class A misdemeanor. [1993 c.464 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.093 - Sale of vehicles involving possessory liens; records; rules; penalty.**

(1) Notwithstanding ORS 822.015 (1)(k) or (L), a lien claimant who sells or offers for sale vehicles being sold to foreclose possessory liens, or sells or offers for sale vehicles acquired through possessory liens, shall keep records sufficient to establish that all vehicles being sold or offered for sale were acquired by the lien claimant as the result of a possessory lien. Records kept in accordance with this subsection must be made available to the Department of Transportation on request.

(2) The department may adopt such rules as are necessary to carry out the provisions of this section, including but not limited to rules that:



- (a) Specify the form in which the records must be kept, how the records must be maintained and the period for which they must be retained.
- (b) Specify how the records will be provided to the department if requested.
- (c) Specify how lien claimants will notify the department when vehicles are sold to foreclose possessory liens and when vehicles acquired through possessory liens are sold.
- (3) Rules adopted under this section shall be developed in consultation with representatives of those lien claimants who may be affected by this section, including but not limited to towing business operators.
- (4) The department may impose a civil penalty, in an amount not to exceed \$1,000 for each violation, against any person who violates this section or any rules adopted by the department under this section. Civil penalties shall be imposed as provided in ORS 183.745. [2003 c.459 §3; 2009 c.551 §6; 2015 c.111 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.094 - Transfer by lien claimant.**

A sale, consignment or other transfer by a lien claimant does not constitute a sale for purposes of ORS 822.015 (1)(L) if the sale, consignment or other transfer is to the holder of a current, valid dismantler certificate issued under ORS 822.110 or to the holder of a current, valid vehicle dealer certificate issued under ORS 822.020. [2003 c.459 §4; 2005 c.654 §34; 2009 c.551 §7; 2015 c.111 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.100 - Conducting a motor vehicle dismantling business without a certificate; penalties.**

- (1) A person commits the offense of conducting a motor vehicle dismantling business without a certificate if the person performs any actions of a dismantler and is not the holder of a valid, current dismantler certificate issued under ORS 822.110.
- (2) The offense described in this section does not apply to persons or vehicles exempted from this section under ORS 822.105.
- (3) The offense described in this section, conducting a motor vehicle dismantling business without a certificate, is a Class A misdemeanor.
- (4) In addition to the penalty described in subsection (3) of this section, the Department of Transportation may impose a civil penalty of not more than \$5,000 on a person who conducts a motor vehicle dismantling business without a certificate. A civil penalty under this subsection shall be imposed in the manner provided in ORS 183.745. [1983 c.338 §800; 2005 c.654 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.105 - Exemption from certificate requirement.**

In addition to exemptions from the vehicle code under ORS 801.026, ORS 822.100 does not apply to the following:

- (1) An insurance adjuster authorized to do business under ORS 744.515 or 744.521 who is disposing of vehicles for salvage.
- (2) Road rollers, farm tractors, trolleys or traction engines.
- (3) Implements of husbandry, well-drilling machinery and wheelchairs.
- (4) Golf carts. [1983 c.338 §801; 1985 c.598 §9; 1999 c.180 §1; 2003 c.655 §137; 2007 c.70 §351; 2019 c.151 §45]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.110 - Dismantler certificate; refusal to issue; duplicate certificate.**

- (1) Except as provided in subsection (2) of this section, the Department of Transportation shall issue a dismantler certificate to any person if the person meets all of the following requirements:
  - (a) The person establishes that the area in which the business is located and the place of business to be approved under the dismantler certificate for use in the motor vehicle dismantling business are zoned for industrial use or subject to another zoning classification that permits the type of business conducted by the dismantler.
  - (b) The person pays the fee required under ORS 822.700 for issuance of a dismantler certificate.
  - (c) The person completes the application for a dismantler certificate described under ORS 822.115.
  - (d) The person delivers to the department any approvals by local governments required under ORS 822.140.
  - (e) The person delivers to the department a bond or letter of credit that meets the requirements of ORS 822.120.
- (2) The department may refuse to issue a dismantler certificate to a person if:
  - (a) The person has previously had a dismantler certificate or identification card revoked, canceled or suspended under ORS 822.145; or
  - (b) The department determines that the application contains false or misleading information.
- (3) The department may issue a duplicate dismantler certificate to a person who has lost or destroyed an original dismantler certificate if the person:
  - (a) Has complied with the requirements of this section for issuance of a certificate; and
  - (b) Is within the renewal period of the original dismantler certificate. [1983 c.338 §802; 1985 c.16 §401; 1991 c.331 §139; 1993 c.741 §88; 2005 c.654 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.115 - Application contents.**

An application for a dismantler certificate issued by the Department of Transportation under ORS 822.110 or for renewal of a certificate under ORS 822.125 shall be in a form prescribed by the department and shall contain all of the following:

- (1) A full statement of the name of the person applying for the certificate with the person's residence and business addresses.
- (2) If the applicant is a firm or partnership, the name of the firm or partnership, with the names and places of residence of all its members.
- (3) If the applicant is a corporation, the names of the principal officers and their residences and the name of the state under whose laws the corporation is organized.
- (4) A description of the dimensions and the location of the place or places at which the business is to be carried on and conducted.
- (5) The applicant's National Motor Vehicle Title Information System identification number.
- (6) A fire response plan that is approved by the department. If the plan is disapproved, the applicant may revise the plan to comply with requirements of the department and resubmit the plan.
- (7) A description of any applicable permits that are required by the Department of Environmental Quality.
- (8) Any other relevant information required by the Department of Transportation. [1983 c.338 §803; 1985 c.16 §402; 1987 c.261 §9; 1993 c.751 §85; 2005 c.654 §9; 2011 c.433 §1; 2019 c.630 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.120 - Bond or letter of credit requirements; action against certificate holder and surety.**

(1) A bond or letter of credit required to qualify for a dismantler certificate under ORS 822.110 or renewal of a certificate under ORS 822.125 must be:

- (a) With a corporate surety licensed to transact business within this state, or as to a letter of credit, an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008;
- (b) Executed to the State of Oregon;
- (c) In the sum of \$100,000;
- (d) Approved as to form by the Attorney General;
- (e) Conditioned that the person issued the dismantler certificate will conduct business without violation of this section, ORS 803.140, 819.010, 819.012, 819.016, 819.040, 822.140 or 822.150; and
- (f) Conditioned that the bond or letter of credit is subject to an action under this section.

(2) Any person shall have a right of action against the holder of a dismantler certificate and the surety on the holder's bond or the dismantler's letter of credit issuer if the person suffers any loss or damage by reason of the certificate holder's violation of this section, ORS 803.140, 819.010, 819.012, 819.016, 819.040, 822.140 or 822.150. [1983 c.338 §804; 1985 c.16 §403; 1985 c.176 §3; 1991 c.331 §140; 1991 c.820 §17; 1991 c.873 §48; 1997 c.631 §557; 2005 c.654 §10; 2019 c.630 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.125 - Privileges granted by certificate; supplemental certificate; duration; renewal; identification cards; rules.**

(1) The holder of a current, valid dismantler certificate issued under ORS 822.110 is not subject to the prohibitions and penalties under ORS 822.100 as long as the holder's motor vehicle dismantling business is conducted in the location approved under the certificate.

(2) The holder of a dismantler certificate may expand the dimensions or move a place of business approved under the dismantler certificate or open an additional place of business under the certificate upon issuance of a supplemental dismantler certificate by the Department of Transportation. The following apply to supplemental certificates issued under this subsection:

- (a) The department shall grant a supplemental certificate upon request of an applicant under this subsection if the applicant obtains local government permission for the supplemental certificate under ORS 822.140.
- (b) Upon application for renewal of the supplemental certificate, the department may waive the requirement that an applicant for renewal under this subsection obtain local government approval under ORS 822.140 of the suitability of the applicant to establish, maintain or operate a motor vehicle dismantling business.
- (c) A fee shall be charged for a supplemental dismantler certificate under ORS 822.700.
- (3) A dismantler certificate is valid for a one-year period and may be renewed as provided by the department. The department shall only renew the certificate of any certificate holder who does all of the following:
  - (a) Pays the required fee for renewal under ORS 822.700.
  - (b) Completes the application described in ORS 822.115.
  - (c) Obtains local government approval under ORS 822.140. The department may waive the requirement that an applicant for renewal obtain local government approval under ORS 822.140 of the suitability of the applicant to establish, maintain or operate a motor vehicle dismantling business.
  - (d) Maintains a current bond that meets the requirements under ORS 822.120.

(4) The department may provide the holder of a dismantler certificate with identification cards in the names of the owners of the business or in the names of authorized employees of the business.

(5) The department may adopt suitable rules for the issuance and renewal of dismantler certificates and identification cards. [1983 c.338 §805; 1985 c.16 §404; 1987 c.261 §9a; 2005 c.654 §11; 2019 c.630 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.130 - Inspection of books, records, inventory and premises.**

(1) The Department of Transportation may inspect the books, records and inventory of any business issued a certificate under ORS 822.110 for the purpose of determining compliance with any of the following:

- (a) Those laws regulating the issuance of certificates to dismantlers.
- (b) Requirements for records under ORS 822.135 and 822.137.
- (c) ORS 802.200, 803.140, 819.010, 819.016, 819.030, 819.040 or 822.120.
- (d) Rules adopted by the department concerning businesses issued certificates under ORS 822.110.

(2) Except as provided in subsection (4) of this section, each year the department shall inspect the premises used by any business issued a certificate under ORS 822.110 for the purpose of determining whether the items listed in subsection (3) of this section are on the premises and determining compliance with any of the following:

- (a) Those laws regulating the issuance of certificates to dismantlers.
- (b) Requirements for records under ORS 822.135 and 822.137.
- (c) ORS 802.200, 803.140, 819.010, 819.016, 819.030, 819.040 or 822.120.
- (d) Rules adopted by the department concerning businesses issued certificates under ORS 822.110.

(3) If the Department of Transportation determines that any of the following items are on the premises used by a business issued a certificate under ORS 822.110, the Department of Transportation shall submit a report to the Department of Environmental Quality and include information about the following:

- (a) The presence of piled waste tires, as defined in ORS 459.705, in an amount greater than 100 waste tires;
- (b) If there is a metal shredder;
- (c) If there are any open or unlabeled containers of automotive fluids; and
- (d) If there is an underground injection control.

(4) The Department of Transportation may inspect a premises under subsection (2) of this section every two years if the three most recent, consecutive inspections show that the business is in compliance with subsection (2)(a) to (d) of this section.

(5) Provisions for enforcing this section are established under ORS 822.135 and 822.145. [1985 c.16 §406; 1991 c.873 §49; 2005 c.654 §12; 2019 c.630 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.133 - Requirements of dismantler operating motor vehicle dismantling business.**

(1) As used in this section:

- (a) "Crushed motor vehicle" means a motor vehicle, the frame or unibody of which is compacted or flattened so that it no longer resembles any particular year, model or make of motor vehicle and is less than half of the motor vehicle's original volume as measured in cubic feet.
- (b) "Destroy" means to dismantle, disassemble, damage or substantially alter a motor vehicle:
  - (A) With the intent of rendering the vehicle permanently inoperable;
  - (B) To the extent that the cost of repairing the vehicle exceeds the actual cash value of the vehicle prior to the damage; or
  - (C) To the extent that the sum of the cost of repairing the vehicle and the salvage value of the vehicle in its damaged condition exceeds the actual cash value of the vehicle in its repaired condition.
- (c) "Mobile motor vehicle crusher" means a machine that compacts or flattens a motor vehicle into a crushed motor vehicle and is designed to be transported on a highway.
- (d) "Wrecked vehicle" means a motor vehicle:
  - (A) That is destroyed, or is acquired with the intent to destroy, and that will never be operated as a motor vehicle; or
  - (B) That has sustained damage to an extent that the vehicle may not lawfully be operated on the highways of this state.

(2) In the operation of a motor vehicle dismantling business, a dismantler:

- (a) Must physically separate or visually label a wrecked vehicle in a manner that readily identifies the ownership status of the wrecked vehicle if the dismantler takes possession of the wrecked vehicle without immediately obtaining an ownership record or salvage title certificate. A dismantler need not separate or visually identify a wrecked vehicle pursuant to this subsection if the vehicle is subject to an exemption under ORS 803.030 or is obtained from a jurisdiction that does not issue certificates of title.
- (b) May not remove parts from or destroy a motor vehicle prior to obtaining an ownership record or salvage title certificate for the vehicle.
- (c) Must demolish the registration plates of a wrecked vehicle at the time the ownership record is received.
- (d) Must notify the Department of Transportation of any changes in the information provided to the department in the application for a dismantler certificate within 30 days of the change.
- (e) Must furnish a written report to the department, in a form established by the department by rule, after a wrecked vehicle is dismantled or destroyed.
- (f) Must, every year, have the premises inspected by local fire inspectors and furnish a written report to the department, in a form established by the department by rule, on the findings of the inspection.
- (g) Must be in compliance with any agreement with, order of or program or process authorized by the Department of Environmental

Quality that governs the conduct of the dismantler.

(3)(a) A dismantler using a mobile motor vehicle crusher shall:

(A) Hold a current, valid dismantler certificate issued under ORS 822.110.

(B) Conspicuously display on the mobile motor vehicle crusher the name of the dismantler's business as listed on the dismantler's application submitted pursuant to ORS 822.110 and the dismantler certificate number issued by the Department of Transportation.

(C) Comply with all of the applicable statutes and rules regulating dismantlers at each location where the dismantler uses the mobile motor vehicle crusher. If the dismantler is using a mobile motor vehicle crusher at a location approved under a dismantler certificate, the dismantler who holds the dismantler certificate for the location shall be responsible for complying with all statutes and rules regarding dismantlers.

(b) If a dismantler is using a mobile motor vehicle crusher at a temporary location for 15 consecutive business days or less, the dismantler is exempt from obtaining a supplemental dismantler certificate under ORS 822.125 for the temporary location. [2005 c.654 §6; 2011 c.433 §2; 2019 c.630 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.135 - Improperly conducting motor vehicle dismantling business; penalty.**

(1) A person commits the offense of improperly conducting a motor vehicle dismantling business if the person holds a dismantler certificate issued under ORS 822.110 and the person does any of the following:

(a) Fails to permanently exhibit a dismantler certificate at a place of business of the person at all times while the certificate is in force.

(b) Expands the dimensions of or moves any of the person's places of business or opens any additional places of business without obtaining a supplemental dismantler certificate by the procedure under ORS 822.125.

(c) Fails to maintain records at the person's established place of business that record and describe the following:

(A) Every motor vehicle purchased, transferred, wrecked, dismantled, disassembled or substantially altered by the person;

(B) The name and address of the person to and from whom the vehicle was transferred;

(C) The vehicle identification number and other identification marks or numbers on the vehicle; and

(D) A statement indicating any such numbers or marks that have been obliterated, defaced or changed.

(d) Except as otherwise provided, fails to surrender to the Department of Transportation, within 30 days after the date the person acquires the title, a certificate of title or other primary ownership document or ownership record for a motor vehicle. If the vehicle is delivered to the person under the provisions of ORS 819.215 or 819.280, a copy of the notification to the department under ORS 819.215 or 819.280 is sufficient to comply with the provisions of this paragraph.

(e) Refuses, at any time, to allow a police officer or an employee of the department to inspect the books, records, inventory or premises of the person's motor vehicle dismantling business.

(f) Fails to maintain, for the purposes of the person's motor vehicle dismantling business, a building or an enclosure or other barrier at least six feet in height that is constructed, established or formed in compliance with rules adopted by the department.

(g) Fails to keep the premises on the outside of the establishment clear and clean at all times.

(h) Conducts any wrecking, dismantling or altering of vehicles outside the building, enclosure or barrier on the premises of the business.

(i) Stores or displays any motor vehicles or major component parts or conducts the motor vehicle dismantling business outside of the building, enclosure or barrier of the place of business.

(j) Fails to immediately file with the department, upon transfer of a wrecked or dismantled motor vehicle, the form furnished by the department to report the date of transfer, a description of the vehicle, the name and address of the purchaser and other information respecting the vehicle required by the department.

(k) Except as otherwise provided in this paragraph, fails to keep the business hidden or adequately screened by the terrain or other natural objects or by plantings, fences or other appropriate means so as not to be visible from the main traveled way of the highway in accordance with the rules of the Director of Transportation. This paragraph does not apply to a business that is:

(A) Located in an area zoned for industrial use under authority of the laws of this state; or

(B) A business established before June 30, 1967.

(L) Expands or moves any place of business approved under a dismantler certificate or opens any additional locations for the business without obtaining a supplemental certificate under ORS 822.125 or obtaining an additional dismantler certificate.

(m) Fails to allow the department to conduct inspections as provided under ORS 822.130.

(n) Fails to deploy or remove any air bag containing sodium azide from a vehicle before the vehicle is wrecked or dismantled.

(o) Fails to ensure that an air bag containing sodium azide that has been removed from a vehicle is deployed within seven days of removal unless the air bag is properly stored by a motor vehicle dealer, automobile repair facility or dismantler certified under ORS 822.110.

(2) The offense described in this section, improperly conducting a motor vehicle dismantling business, is a:

(a) Class A misdemeanor if the person violates subsection (1)(a) to (m) of this section.

(b) Class D violation if the person violates subsection (1)(n) or (o) of this section.

(c) Class C misdemeanor, notwithstanding paragraph (b) of this subsection, if the person violates subsection (1)(n) or (o) of this section and the person has two or more previous convictions for violating subsection (1)(n) or (o) of this section. [1983 c.338 §806;

1985 c.16 §407; 1985 c.400 §6; 1991 c.820 §18; 1991 c.873 §50; 1993 c.233 §75; 1993 c.326 §8; 1993 c.741 §89; 2005 c.514 §1; 2005 c.654 §13a; 2005 c.738 §5; 2007 c.683 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.137 - Dismantler conduct resulting in civil penalty; rules.**

- (1) As used in this section, "major component part" includes significant parts of a motor vehicle such as engines, short blocks, frames, transmissions, transfer cases, cabs, doors, differentials, front or rear clips, quarter panels, truck beds or boxes, hoods, bumpers, fenders, catalytic converters and airbags. The Department of Transportation may by rule designate other motor vehicle parts not specified in this subsection as major component parts. "Major component part" does not include cores or parts of cores that require remanufacturing or that are limited in value to that of scrap metal.
- (2) In addition to any other penalty provided by law, the department may impose on a dismantler, in the manner provided by ORS 183.745, a civil penalty not to exceed \$1,000 per violation if the dismantler:
- (a) Acquires a motor vehicle or major component part without obtaining a certificate of sale and, if applicable, a certificate of title.
  - (b) Acquires a catalytic converter or a component of a catalytic converter, that has been removed from a vehicle and is offered for sale as an independent item, separate and distinct from a vehicle acquisition, whether individually or as part of a bundle, bale or in other bulk form.
  - (c) Possesses, sells or otherwise disposes of a motor vehicle or any part of a motor vehicle knowing that the vehicle or part has been stolen.
  - (d) Sells, buys, receives, conceals, possesses or disposes of a motor vehicle or any part of a motor vehicle having a missing, defaced, intentionally altered or covered vehicle identification number, unless directed to do so by a law enforcement official.
  - (e) Commits forgery in the second degree, as defined in ORS 165.007, or misstates a material fact relating to a certificate of title, registration or other document related to a motor vehicle that has been reassembled from parts of other motor vehicles.
  - (f) Fraudulently obtains, creates or modifies a dismantler certificate.
  - (g) Fails to maintain records at the certified place of business for three years from the date of acquisition of a motor vehicle that describe and identify the vehicle, including:
    - (A) The certificate of title number;
    - (B) The state where the vehicle was last registered, if applicable;
    - (C) The number of the last registration plate issued and the state of issuance, if applicable;
    - (D) The year, make and model of the vehicle;
    - (E) The vehicle identification number;
    - (F) The date acquired;
    - (G) The vehicle, stock or yard number assigned to the vehicle by the dismantler; and
    - (H) Any other information required by the department.
  - (h) Fails to maintain records at the certified place of business for three years from the date of acquisition of a major component part that describe and identify the part, including:
    - (A) The physical characteristics of the part;
    - (B) The stock or yard number assigned to the part by the dismantler;
    - (C) The vehicle identification number of the motor vehicle from which the part came;
    - (D) Transaction documents regarding the sale or disposal of a catalytic converter, including documents that show the transaction date, dollar amount, stock or yard number assigned to the catalytic converter and the signatures of buyer and seller; and
    - (E) Any other information required by the department.
  - (i) Commits a dishonest act or omission during the sale of a motor vehicle or major component part that, as determined by the department, causes a loss to the purchaser.
  - (j) Is convicted of a crime involving false statements or dishonesty that directly relates to the business of the dismantler or suffers any civil judgment imposed for conduct involving fraud, misrepresentation or conversion.
  - (k) Fails to comply with any provision of ORS 822.133. [2005 c.654 §5; 2007 c.683 §4; 2021 c.412 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.140 - Local government approval requirements.**

- (1) To meet the requirement for local government approval of a dismantler certificate under ORS 822.110 or a supplemental certificate under ORS 822.125, an applicant must comply with any regulations established by a city or county under this section and must obtain the approval of the governing body of the:
- (a) City, if the business is or will be carried on within an incorporated city of less than 100,000 population.
  - (b) County, if the business is or will be carried on outside of any incorporated city.
- (2) A city or county governing body shall grant approval of a dismantler certificate or renewal when requested under this section if the governing body:
- (a) Approves the applicant as being suitable to establish, maintain or operate a motor vehicle dismantling business;
  - (b) Determines that the location or proposed location meets the requirements for location under ORS 822.110;
  - (c) Determines that the location does not violate any prohibition under ORS 822.135; and

(d) Approves the location and determines that the location complies with any regulations adopted by a city or county under this section.

(3) The governing body of a city or county may regulate the expansion of premises or the establishment of premises at a new location under a dismantler certificate. An applicant must comply with the regulations before the Department of Transportation may issue a supplemental dismantler certificate. In adopting regulations under this subsection, a governing body:

(a) Shall consider the extent of development of surrounding property as a residential area;

(b) Shall consider the proximity of churches, schools, hospitals, public buildings or other places of public gathering;

(c) Shall consider the sufficiency in number of other motor vehicle dismantling businesses in the vicinity;

(d) Shall consider the health, safety and general welfare of the public;

(e) May establish zones in which motor vehicle dismantling businesses are permissible and other zones where they are prohibited; and

(f) May prescribe limitations on the dimensions of the premises on which motor vehicle dismantling businesses are conducted.

(4) Regulations of a city governing body that are adopted under this section apply to motor vehicle dismantling businesses located outside of and within six miles of the boundaries of the city unless the county governing body in which the area is located has adopted regulations under this section that are applicable in the area.

(5) Before granting approval for a supplemental dismantler certificate, the governing body of a city or county shall notify all property owners that are or that will be adjacent to the motor vehicle dismantling business once the business moves, expands or opens an additional place of business. [1983 c.338 §807; 1985 c.16 §408; 2005 c.654 §14; 2019 c.630 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.145 - Imposition of sanctions; rules.**

(1) In addition to any other penalty provided by law, the Department of Transportation may impose sanctions on any person holding a dismantler certificate issued under ORS 822.110 or identification card or supplemental dismantler certificate issued under ORS 822.125 including, but not limited to, probation or suspension, revocation or cancellation of the dismantler certificate or identification card if the department determines at any time for due cause that any of the following has occurred:

(a) The person holding the certificate has failed to comply with any requirements for registration of vehicles under the vehicle code.

(b) The person holding the certificate has violated ORS 803.140, 819.012, 819.016, 819.040, 822.120, 822.125, 822.133, 822.135, 822.137 or 822.150.

(c) The person holding the certificate has caused or suffered or is permitting the unlawful use of the dismantler certificate.

(d) The person holding the certificate has violated any regulation adopted under ORS 822.135.

(e) The person holding the certificate has failed to allow the department to conduct inspections as provided under ORS 822.130.

(f) The person holding an identification card has unlawfully used or permitted unlawful use of the card.

(g) The person holding the certificate is convicted of an offense under ORS 468.922, 468.926, 468.929, 468.931, 468.936, 468.939, 468.943 or 468.946.

(2) The department shall cancel or suspend any dismantler certificate immediately:

(a) Upon receipt of legal notice that the bond described under ORS 822.120 is canceled; or

(b) For failure to pay any penalty imposed under ORS 822.135 or 822.137.

(3) Upon revocation, cancellation or suspension of a dismantler certificate or identification card under this section, the department shall recall and demand the return of the certificate or identification card.

(4) If the department has reason to believe that a person has engaged in or is engaging in any activity prohibited under ORS 822.100, the department may issue an order directed at the person to cease the activity.

(5) The department shall adopt rules establishing sanctions authorized by subsection (1) of this section. [1983 c.338 §808; 1985 c.16 §409; 1985 c.176 §4; 1987 c.261 §9b; 1991 c.820 §19; 1991 c.873 §51; 2005 c.654 §15; 2007 c.683 §2; 2011 c.433 §3; 2019 c.630 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.150 - Failure to return revoked, canceled or suspended certificate or identification card; penalty.**

(1) A person commits the offense of failure to return a revoked, canceled or suspended dismantler certificate or identification card if the Department of Transportation recalls and demands the person to return a certificate or card under ORS 822.145 and the person does not return the certificate or card to the department.

(2) The offense described in this section, failure to return a revoked, canceled or suspended dismantler certificate or identification card, is a Class A misdemeanor. [1983 c.338 §809; 1987 c.261 §9c; 2005 c.654 §35]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.200 - Operating illegal towing business; exceptions; penalties.**

(1) A person commits the offense of operating an illegal towing business if the person does not hold a certificate issued under ORS 822.205 and the person does any of the following:

(a) Engages in the towing or recovering of vehicles by any means for any direct or indirect compensation when the vehicle being

towed or recovered is owned by a person other than the person performing the towing or recovery activity.

(b) Engages in towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement vehicles.

(c) Purports in any way to be engaged in the business of performing activities described in this subsection.

(2) This section does not apply to any of the following:

(a) Persons operating under and within the scope of a vehicle transporter certificate issued under ORS 822.310.

(b) A person who provides assistance to another motorist, whether or not compensation is received, if the assistance is not provided as part of the business operation of the person providing the assistance.

(c) A person engaging in any activity relating to a vehicle in which that person holds a security interest.

(d) An employee of a person issued a towing business certificate under ORS 822.205 while that employee is performing official duties as an employee.

(e) A person who holds a valid dismantler certificate under ORS 822.110 who tows a vehicle described under ORS 819.280.

(3) The offense described in this section, operating an illegal towing business, is a Class A misdemeanor. [1983 c.338 §811; 1985 c.16 §410; 2005 c.738 §§6,6a]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.205 - Certificate; qualifications; fee.**

The Department of Transportation shall issue a towing business certificate to any person if the person meets all of the following requirements to the satisfaction of the department:

(1) The person must complete an application in a form and in the manner established by the department by rule.

(2) The person must maintain insurance in amounts and providing coverage of the type required for motor carriers under ORS chapter 825 and deliver a certificate of insurance to the department.

(3) The certificate of insurance required under subsection (2) of this section must:

(a) Be issued by an insurance company licensed to do business in this state;

(b) Show that the person is insured by a policy that provides the minimum amount and limits of coverage required under ORS chapter 825;

(c) Contain the policy number; and

(d) Require the insurance company to give the department written notice of cancellation of the policy and to continue to be liable under the policy until the department receives the written notice or until the cancellation date specified in the written notice, whichever is later.

(4) The person must maintain insurance providing \$50,000 coverage for cargo transported by the person and deliver a certificate of insurance to the department. An applicant is not required to comply with this subsection if the applicant tows or recovers only vehicles that are owned by the applicant.

(5) The person must maintain vehicles used by the person for the purposes of towing or recovering services so that they meet minimum safety standards established by the department by rule. The department may accept the certification of the person as evidence of compliance with this subsection or may require other evidence, as the department determines appropriate.

(6) The certificate of insurance required under subsection (4) of this section must:

(a) Be issued by an insurance company licensed to do business in this state;

(b) Show that the person is insured by a policy that provides the minimum amount and limits of coverage required under ORS chapter 825;

(c) Contain the policy number; and

(d) Require the insurance company to give the department written notice of cancellation of the policy and to continue to be liable under the policy until the department receives the written notice or until the cancellation date specified in the written notice, whichever is later.

(7) The person must pay the fee required under ORS 822.700 for issuance of a towing business certificate. [1983 c.338 §813; 1985 c.16 §412; 1985 c.400 §7; 1993 c.751 §86; 2007 c.538 §16]

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.210 - Privileges granted by certificate; duration; renewal; regulation of holder.**

(1) The holder of a current, valid towing business certificate issued under ORS 822.205 may exercise the following privileges under the certificate:

(a) The person and any employee of the person who is performing official duties are not subject to the prohibitions and penalties under ORS 822.200.

(b) The person is entitled to receive special indicia of towing business registration. The following apply to indicia described in this paragraph:

(A) The holder of the certificate or a person in the performance of the person's official duties as an employee of the certificate holder may use the indicia:

(i) For towing and recovering vehicles; and

(ii) For towing unregistered vehicles over the highways of this state without first obtaining registration for the vehicles or trip

permits required under ORS 803.600.

(B) The indicia shall be of the design provided under ORS 805.200 and are subject to payment of fees for issuance as provided under ORS 805.250.

(2) A towing business certificate expires one year from the date of issuance unless renewed. A certificate holder may renew the certificate by payment of the fee for renewal of a towing business certificate under ORS 822.700. A person whose certificate expires must qualify for a certificate in the same manner as a person who has not previously held a certificate.

(3) The holder of a towing business certificate is subject to regulation by political subdivisions as provided in ORS 801.040 and 822.230, and to regulation under ORS chapter 825. [1983 c.338 §812; 1985 c.16 §411; 1987 c.765 §4; 1993 c.741 §144; 1995 c.733 §78]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.213 - Transporting property for hire.**

(1) In addition to the privileges described under ORS 822.210, the holder of a current, valid towing business certificate issued under ORS 822.205 may use a tow vehicle to transport property for hire other than as described in ORS 822.210 if:

(a) The tow vehicle is used primarily for the purposes described in ORS 822.210 in a manner specified by the department by rule;

(b) The tow vehicle has a combined weight of 26,001 pounds or more;

(c) The holder of the towing business certificate has submitted a declaration of weight under ORS 803.435 and has registered the tow vehicle under ORS 803.420 (14)(a); and

(d) The holder of the towing business certificate operates in accordance with the provisions of ORS chapter 825.

(2) A tow vehicle that is used to transport property for hire other than as described in ORS 822.210 is subject to the weight-mile tax imposed under ORS 825.474. [2011 c.287 §2; 2017 c.750 §39t]

Note:

822.213 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 822 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.215 - Grounds for denial, suspension, revocation or refusal of certificate; disciplinary action.**

(1) The Department of Transportation may deny or refuse to issue any towing business certificate under ORS 822.205 or may suspend, revoke or refuse to renew any towing business certificate issued upon proof that the applicant for or holder of the certificate has done any of the following:

(a) Used fraud or deception in securing the certificate.

(b) Received in any manner or by any device any rebate or other additional fee for towing or recovery from a person who performs repairs on a vehicle who does not also own the vehicle. This paragraph does not prohibit the payment of the towing fee by a person who performs repairs on a vehicle if the fee is included in the charges by that person for repairs on the vehicle.

(c) Used vehicles for the purposes of towing or recovering services that did not meet the minimum safety standards established by the department.

(d) Failed to display special towing business registration plates, stickers or indicia or identification devices for proportionally registered tow vehicles authorized under ORS 805.200 on each vehicle used to tow or recover vehicles.

(e) Failed to maintain the amounts and types of insurance required to qualify for issuance of a towing business certificate under ORS 822.205.

(f) Failed to obtain any permits or authority required under any provision of ORS chapter 825 or rules adopted thereunder.

(g) Violated any provision of ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under ORS 822.265.

(2) After receiving an order from the State Board of Towing under ORS 822.280, the department shall impose the disciplinary action requested by the board. [1983 c.338 §814; 1991 c.284 §30; 1993 c.741 §145; 2007 c.538 §17; 2017 c.480 §19; 2021 c.578 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.217 - Proportional registration for tow vehicles; rules.**

(1) Any person who qualifies under ORS 822.205 for a towing business certificate may choose to register qualified vehicles under the proportional registration provisions of ORS 826.009 or 826.011. Except as otherwise provided in this section, tow vehicles registered under ORS 826.009 or 826.011 are subject to the same requirements, conditions and privileges as other vehicles registered under those sections. Tow vehicle proportional registration is subject to the following:

(a) In addition to any application for registration required by ORS 826.009 or 826.011, the applicant must certify in a manner determined by the Department of Transportation by rule that the applicant meets the qualifications specified in ORS 822.205.

(b) The applicant must hold a towing business certificate issued under ORS 822.205.

(c) In addition to any application for renewal of registration required by ORS 826.009 or 826.011, in order to renew proportional registration for a tow vehicle, the applicant shall certify to the department that the applicant meets the qualifications specified in ORS 822.205.

(d) The department shall issue appropriate identification devices for proportionally registered tow vehicles. The design for such



devices shall be as determined by the department by rule and the fees for such devices are as provided in ORS 803.577.

(e) An identification device for proportionally registered tow vehicles is subject to cancellation as provided in ORS 822.218.

(2) A vehicle that has been issued tow vehicle proportional registration may be used only for the purposes described in ORS 822.210. Violation of this subsection is punishable as provided in ORS 822.200 for operating an illegal towing business. [1991 c.284 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.218 - Cancellation of identification device for proportionally registered tow vehicle.**

(1) The Department of Transportation shall have the authority to investigate and verify information provided in conjunction with application for proportional registration of a tow vehicle under ORS 822.217. The department may cancel an identification device for a proportionally registered tow vehicle if the department determines that the owner or lessee of the vehicle, or an employee of either, has:

(a) Operated the vehicle in violation of tow vehicle registration limits;

(b) Falsely certified an application required by ORS 822.217 for registration or renewal of registration of a proportionally registered tow vehicle; or

(c) Falsely completed an application under ORS 822.205 for a towing business certificate.

(2) If a tow vehicle proportional registration identification device is canceled under this section, the vehicle is not eligible for registration under ORS 822.205 for a period of one year after the cancellation. [1991 c.284 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.220 - Authorization to obstruct traffic; failure to take precautions; penalty.**

(1) The operator of a wrecker or tow vehicle may stop the wrecker or tow vehicle where it obstructs traffic when the operator:

(a) Is engaged in the salvaging of another vehicle; and

(b) Takes the precautionary measures required by this section.

(2) A person commits the offense of failure to take precautions when obstructing traffic with a tow vehicle or wrecker if the person is operating a wrecker or tow vehicle engaged in the salvaging of another vehicle and the operator does not do all of the following:

(a) Determine that the salvaging operation requires stopping the wrecker or tow vehicle in the roadway.

(b) Place warning signs or signals as prescribed under ORS 815.070 at a suitable distance in each direction upon the roadway.

(c) Activate tow vehicle warning lights described in ORS 816.280.

(3) The offense described in this section, failure to take precautions when obstructing traffic with a tow vehicle or wrecker, is a Class D traffic violation. [1983 c.338 §815; 1985 c.71 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.225 - Failure to remove injurious substance; penalty.**

(1) A person commits the offense of tow vehicle operator failure to remove injurious substance if the person is operating a tow vehicle that is removing a wrecked or damaged vehicle from a highway and the person fails to remove any glass or other injurious substance dropped upon the highway from such vehicle.

(2) The offense described in this section, tow vehicle operator failure to remove injurious substance, is a Class D traffic violation. [1983 c.338 §816; 1985 c.71 §10; 1995 c.383 §115]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.230 - City or county regulation of towing businesses.**

(1) Notwithstanding ORS 822.200 to 822.225, and except as provided in subsection (2) of this section, a city or county may, by charter or ordinance, regulate towing businesses if the city or county charter or ordinance provisions pertain only to towing authorized by ORS 98.812 and the provisions:

(a) Regulate an aspect of a towing business that is not regulated by ORS 822.200 to 822.225; or

(b) Regulate an aspect of the towing business that is regulated by ORS 822.200 to 822.225 and the provisions of the charter or ordinance are more stringent than those of the statutes.

(2) This section does not authorize imposition of any license fee or tax on a towing business by a city or county.

(3) The governing body of a city or county may adopt ordinances that include, but are not limited to, the following requirements:

(a) That towing businesses accept methods of payment other than and in addition to cash.

(b) That towing businesses post fees in a conspicuous place at the location of the towed vehicles.

(c) That any posted signs that warn of the possibility of towing or that give information about recovery of a towed vehicle be prominently displayed and show the fees charged to recover a towed vehicle.

(d) That towing businesses offer transportation at a reasonable cost from within the immediate vicinity of the place from which the vehicle was towed to the towed vehicle.

(e) That towing businesses establish locations for towed vehicles in such a way that no vehicle will be towed a greater distance than is necessary and reasonable.

(f) That towed vehicles be stored in a public location that has at least one attendant on duty at all times. [1987 c.765 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.235 - Recovery after theft.**

- (1) If a tower recovers a vehicle after a theft, the vehicle is totaled and the vehicle has no applicable insurance coverage, the person who is the owner of the vehicle may transfer the person's interest in the vehicle to the tower in payment or partial payment of the tower's fees for recovery and storage of the vehicle.
- (2) A tower that accepts a transfer of interest in a vehicle from a person under this section may not assess fees against the person for storage of the totaled vehicle that occurs on and after the date of the transfer of interest.
- (3) Notwithstanding the provisions for liens under ORS 98.812 and 98.830, if a person transfers their interest in a vehicle under this section to a tower within 14 days of the date the person receives notice under ORS 98.857, the tower may not bring an action against the person for, or otherwise take any affirmative steps to collect or permit an agency or assignee to collect, any amount as compensation for towing, caring for or storing the totaled vehicle.
- (4) A tower that receives title under this section is responsible for any fees imposed by the Department of Transportation for transferring title. [2017 c.523 §5; 2019 c.13 §70]

Note:

822.235 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 822 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.250 - State Board of Towing; membership; terms of office; compensation and expenses.**

- (1) The State Board of Towing is established within the Department of Transportation.
- (2) The State Board of Towing consists of nine members appointed by the Governor as follows:
  - (a) One tower who holds a towing business certificate issued under ORS 822.205 and who represents a city in Oregon with a population of 100,000 or more;
  - (b) One tower who holds a towing business certificate issued under ORS 822.205 and who represents a city in Oregon with a population of less than 100,000;
  - (c) One tower who holds a towing business certificate issued under ORS 822.205 and who has specialized knowledge in towing equipment and vehicles with a gross vehicle weight rating of more than 44,000 pounds;
  - (d) One tower who holds a towing business certificate issued under ORS 822.205 and who has specialized knowledge in towing vehicles with a gross vehicle weight rating of 26,000 pounds or less;
  - (e) One member who represents the insurance industry;
  - (f) One member from a tow program within the Department of State Police;
  - (g) One member who is a chief of police or a county sheriff;
  - (h) One member who is a member of the public; and
  - (i) One member who is a consumer advocate.
- (3) All members of the board must be residents of Oregon.
- (4) The term of office of each member of the board is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.
- (5) A member of the board is entitled to compensation and expenses as provided in ORS 292.495. [2021 c.578 §1; 2023 c.348 §1]

Note:

822.250 to 822.290 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 822 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note:

Section 2, chapter 578, Oregon Laws 2021, provides:

Sec. 2. Initial terms of office.

Notwithstanding the term of office specified by section 1 of this 2021 Act [822.250], of the members first appointed to the State Board of Towing:

- (1) Two shall serve for a term ending July 1, 2022.
- (2) Two shall serve for a term ending July 1, 2023.
- (3) Two shall serve for a term ending July 1, 2024.
- (4) Three shall serve for a term ending July 1, 2025. [2021 c.578 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.255 - Chair and vice chair; quorum; meetings.**

- (1) The State Board of Towing shall select one of its members as chairperson and another as vice chairperson, for terms and with duties and powers necessary for the performance of the functions of the offices as the board determines.

(2) Except as provided in subsection (3) of this section, a majority of the members of the board constitutes a quorum for the transaction of business.

(3) When the board is deliberating or voting on a matter before it, four members of the board constitute a quorum.

(4) No more than two members who are towers may vote on any matter. The chairperson shall assign a rotation of voting members who are towers. If an assigned member who is a tower has an actual or potential conflict of interest in a matter before the board, the chairperson shall designate a different member who is a tower and who does not have an actual or potential conflict of interest in the matter before the board to deliberate and vote on that matter.

(5) The board shall meet at least once a quarter at a time and place determined by the board. The board shall also meet at such other times and places as are specified by the call of the chairperson, vice chairperson or administrative officer. [2021 c.578 §3]

Note:

See note under 822.250.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.260 - Administrative officer for board; subordinate officers and employees.**

(1) The State Board of Towing shall appoint an administrative officer to serve at the pleasure of the Governor. The determination of qualifications of the administrative officer and appointment of the administrative officer shall be made by the board after consulting with the Governor.

(2) The administrative officer may not be a member of the board.

(3) The designation of the administrative officer must be by written order, filed with the Secretary of State.

(4) The administrative officer is in the unclassified service under ORS chapter 240, and the board shall fix the salary of the administrative officer in accordance with the applicable provisions of ORS chapter 240.

(5) Subject to any applicable provisions of ORS chapter 240, the administrative officer shall appoint all subordinate officers and employees of the board, prescribe their duties and fix their compensation. [2021 c.578 §4]

Note:

See note under 822.250.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.265 - Rulemaking authority; board seal.**

(1) In accordance with applicable provisions of ORS chapter 183, the State Board of Towing may adopt rules:

(a) Necessary for the administration of the laws that the board is charged with administering.

(b) To implement ORS 98.853 to 98.862.

(2) The board may adopt a seal. [2021 c.578 §5]

Note:

See note under 822.250.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.270 - State Board of Towing Account.**

(1) The State Board of Towing Account is established in the State Treasury, separate and distinct from the General Fund.

(2) The account consists of the following:

(a) Moneys collected from fees imposed under ORS 822.285.

(b) Moneys appropriated to the account by the Legislative Assembly.

(c) Moneys from any other source.

(3) Moneys in the account are continuously appropriated to the Department of Transportation to carry out the provisions of ORS 822.250 to 822.290 and 822.995. [2021 c.578 §6]

Note:

See note under 822.250.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.275 - Administration of oaths; obtaining and taking evidence at board proceedings; failure to obey board subpoena.**

The State Board of Towing, acting through its chairperson or vice chairperson, may administer oaths, take depositions and issue subpoenas to compel the attendance of witnesses and the production of documents or other written information necessary to carry out the provisions of ORS 822.250 to 822.290 and 822.995. If any person fails to comply with a subpoena issued under this section or refuses to testify on matters on which the person lawfully may be interrogated, the procedure set out in ORS 183.440 shall be followed to compel obedience. [2021 c.578 §7]

Note:

See note under 822.250.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle**

**Related BusinessesSection 822.280 - Denial, suspension, revocation or refusal of towing business certificate; contested case hearing.**

(1) As used in this section:

- (a) "Person" includes individuals, public bodies as defined in ORS 174.109, corporations, firms, associations, partnerships, limited liability companies, joint stock companies or any other business entity created under law.
  - (b) "Relative" means an individual related within the third degree as determined by the common law, a spouse, an individual related to a spouse within the third degree as determined by the common law or an individual in an adoptive relationship within the third degree as determined by the common law.
- (2) In addition to any other penalty provided under ORS 822.215 and subject to ORS chapter 183, the State Board of Towing may order the Department of Transportation to deny, suspend, revoke or refuse to renew a towing business certificate issued under ORS 822.205, if the person holding or applying for the certificate:
- (a) Fails to comply with any rule adopted by the board;
  - (b) Violates any provision of, or rules or ordinances adopted under, ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235 or 822.605;
  - (c) Fails to comply with an order of the board, including but not limited to the failure to pay a civil penalty as ordered by the board;
  - (d) Has performed work as a tower without the appropriate certification or letter of appointment to participate on the rotational list of towing businesses established under ORS 181A.350, or has employed individuals to perform work as towers without appropriate certification or letter of appointment;
  - (e) Has advertised or otherwise held themselves out as being a certified towing business without holding the appropriate certification;
  - (f) As a, or as a relative of a, partner, officer, member or employee of a towing business, advertises or holds themselves out as a towing business that is certified if the towing business does not possess the appropriate certification;
  - (g) Has engaged in towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement vehicles;
  - (h) Fails to meet any condition or requirement to obtain a certificate or letter of appointment;
  - (i) Acts or has acted in a manner creating a serious danger to the public health or safety; or
  - (j) Has been subject to a revocation, cancellation or suspension order or to other disciplinary action related to towing or the towing industry by any other public body, as defined in ORS 174.109, or has failed to pay a civil penalty imposed by the public body.
- (3) A violation described in subsection (2) of this section for which the board orders that the department deny, suspend, revoke or refuse to renew a certificate to perform work or conduct business may be treated as a failure to be in conformance with ORS 822.250 to 822.290 and 822.995.
- (4) A person subject to discipline under this section is entitled to a contested case hearing in accordance with ORS chapter 183.
- (5) The board is the agency responsible for providing notice and contested case hearing rights under ORS chapter 183 to a person subject to discipline under this section. [2021 c.578 §8]

Note:

See note under 822.250.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 822 - Regulation of Vehicle Related BusinessesSection 822.285 - Additional powers of board; fees; rules.**

- (1) In carrying out its investigative and enforcement duties, functions and powers, and notwithstanding any other provision of law, the State Board of Towing may procure services and award a contract for the personal services of a subject matter expert, on a case-by-case basis, in any manner deemed practical or convenient. The price of such contracts, including any amendments, may not exceed \$25,000.
- (2) If the board has reason to believe that any person has been engaged or is engaging in any violation of ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235, 822.250 to 822.290, 822.605 or 822.995 or any rule adopted under those statutes, or any order issued by the board, the board may, without bond, bring suit in the name and on behalf of the State of Oregon in the circuit court of any county of this state to enjoin the acts or practices and to enforce compliance with ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235, 822.250 to 822.290, 822.605 or 822.995 or any rule adopted under those statutes, or any order issued by the board. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted.
- (3) The board, by rule, may impose a fee on any person holding or applying for a towing business certificate. The amount of the fee shall be established to recover expenses incurred by the board in carrying out ORS 822.250 to 822.290 and 822.995. Any fees collected under this subsection shall be deposited into the State Board of Towing Account established under ORS 822.270. [2021 c.578 §9]

Note:

See note under 822.250.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 822 - Regulation of Vehicle Related BusinessesSection 822.290 - Denial of participation on Department of State Police tow rotation; contested case**

## hearing.

(1) As used in this section:

- (a) "Person" includes individuals, public bodies as defined in ORS 174.109, corporations, firms, associations, partnerships, limited liability companies, joint stock companies or any other business entity created under law.
  - (b) "Relative" means an individual related within the third degree as determined by the common law, a spouse, an individual related to a spouse within the third degree as determined by the common law or an individual in an adoptive relationship within the third degree as determined by the common law.
- (2) Subject to ORS chapter 183, the State Board of Towing may order the Department of State Police to deny, suspend, condition or revoke a letter of appointment to participate on the rotational list of towing businesses established under ORS 181A.350, if the person holding or applying for the letter of appointment:
- (a) Fails to comply with any rule adopted by the board;
  - (b) Violates any provision of, or rules or ordinances adopted under, ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235 or 822.605;
  - (c) Fails to comply with an order of the board, including but not limited to the failure to pay a civil penalty as ordered by the board;
  - (d) Has performed work as a tower without the appropriate certification or letter of appointment or has employed individuals to perform work as towers without appropriate certification or letter of appointment;
  - (e) Has advertised or otherwise held themselves out as being a certified tower without holding the appropriate certification;
  - (f) As a, or as a relative of a, partner, officer, member or employee of a towing business, advertises or holds themselves out as a towing business that is certified if the towing business does not possess the appropriate certification;
  - (g) Has engaged in towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement vehicles;
  - (h) Fails to meet any condition or requirement to obtain a certificate or letter of appointment;
  - (i) Acts or has acted in a manner creating a serious danger to the public health or safety; or
  - (j) Has been subject to a revocation, cancellation or suspension order or to other disciplinary action related to towing or the towing industry by any other public body, as defined in ORS 174.109, or has failed to pay a civil penalty imposed by the public body.
- (3) A violation described in subsection (2) of this section for which the board orders the department to deny, suspend, condition or revoke a letter of appointment to participate on the rotational list of towing business established under ORS 181A.350 may be treated as a failure to be in conformance with ORS 822.250 to 822.290 and 822.995.
- (4) A person subject to discipline under this section is entitled to a contested case hearing in accordance with ORS chapter 183.
- (5) The board is the agency responsible for providing notice and contested case hearing rights under ORS chapter 183 to a person subject to discipline under this section. [2021 c.578 §10]

Note:

See note under 822.250.

## **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.300 - Acting as vehicle transporter without certificate; exemptions; penalty.**

- (1) A person commits the offense of acting as a vehicle transporter without a certificate if the person is not the holder of a vehicle transporter certificate issued under ORS 822.310 and the person drives or tows over the highways of this state:
- (a) A vehicle that is:
    - (A) Required to be registered under the vehicle code;
    - (B) Driven or towed on its own wheels;
    - (C) Driven or towed from outside this state or from a manufacturer or vehicle dealer within this state; and
    - (D) Driven or towed to a prospective purchaser, manufacturer or dealer or the agent thereof either in this state or in any other state, territory or foreign country; or
  - (b) A manufactured structure.
- (2) The offense described in this section does not apply to persons or vehicles exempted from this section under ORS 822.305.
- (3) The offense described in this section, acting as a vehicle transporter without a certificate, is a Class D traffic violation. [1983 c.338 §817; 1985 c.16 §413; 1995 c.383 §116; 2003 c.655 §138]

## **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.305 - Exemptions from vehicle transporter certification requirement.**

In addition to any exemptions from the vehicle code under ORS 801.026, ORS 822.300 does not apply to the following:

- (1) Vehicles lawfully operated with plates furnished to vehicle dealers under ORS 822.040.
- (2) Vehicles lawfully operated with registration plates issued by this state.
- (3) Vehicles being towed by other vehicles lawfully operated with plates issued for towing businesses under ORS 822.210. [1983 c.338 §818; 1985 c.16 §414]

## **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.310 - Privileges granted by certificate; duration; renewal; fee; rules; suspension or**

**revocation; regulation of holder.**

(1) The holder of a current, valid vehicle transporter certificate issued under this section may exercise the following privileges under this certificate:

(a) The person is not subject to the prohibitions and penalties under ORS 822.300 while transporting vehicles as provided under this section.

(b) The person is entitled to apply for and receive no more than 10 special vehicle transporter plates or devices and may transport vehicles as provided under this section in this state while displaying the plate or device. Only one plate or device shall be displayed on a vehicle. The plates or devices shall require a fee for issuance as provided in ORS 805.250. A plate or device issued under this paragraph may be used on any vehicle transported by the person.

(c) The person may drive or tow on its own wheels over the highways of this state any unregistered vehicle or manufactured structure from outside this state or from manufacturers or dealers within this state to a prospective purchaser, manufacturer or dealer in this or any other state, territory or foreign country. This paragraph only permits the person to transport manufactured structures from the place of manufacture to the place of business of a manufactured structure dealer holding a license under ORS 446.691 or 446.696 or a temporary manufactured structure dealer license under ORS 446.701 or to a place outside of Oregon. Any other movement of a manufactured structure by the person must be under a trip permit issued by a county as agent for the Department of Consumer and Business Services.

(2) The Department of Transportation shall provide for the issuance and renewal of vehicle transporter certificates under this section to persons regularly engaged in businesses that require the certificates.

(3) Vehicle transporter certificates issued under this section are subject to all of the following:

(a) A certificate described in this section is valid for a three-year period and shall be renewed as provided by the department.

(b) The department may not issue a certificate to a person until the fee for issuance of the certificate under ORS 822.700 is paid.

(4) The department may adopt necessary rules for the administration of the laws relating to the regulation of vehicle transporters, the issuance and renewal of vehicle transporter certificates, the issuance of vehicle transporter identification cards and the issuance of vehicle transporter plates. The rules adopted under this subsection must be consistent with any rules regarding vehicle transporters that are adopted under ORS chapter 825. The rules may include, but are not limited to, grounds and procedures for the revocation, denial or suspension of vehicle transporter certificates and for placing vehicle transporters on probationary status.

(5) A person issued a certificate under this section is subject to regulation under ORS chapter 825. [1983 c.338 §819; 1985 c.16 §415; 1985 c.598 §10; 1987 c.261 §9d; 1993 c.741 §146; 1995 c.733 §79; 1999 c.359 §6; 2003 c.655 §139; 2023 c.400 §30]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.315 - Improper use of vehicle transporter plate; penalty.**

(1) A person commits the offense of improperly using a vehicle transporter plate if the person is the holder of a vehicle transporter certificate and the person does any of the following:

(a) Exercises privileges granted under ORS 822.310 for vehicles with special vehicle transporter plates issued under ORS 822.310 without conspicuously displaying the plates on the rear of each vehicle.

(b) Uses a special vehicle transporter plate to transport a manufactured structure to a situs not permitted under the privileges granted under ORS 822.310.

(c) Allows any person other than the transporter or transporter's employee to use the special vehicle transporter plates issued to the transporter under ORS 822.310.

(d) Uses the plate outside of the State of Oregon.

(2) The offense described in this section, improper use of vehicle transporter plates, is a Class D traffic violation. [1983 c.338 §820; 1995 c.383 §117; 2023 c.400 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.325 - Failure to return revoked or suspended certificate; penalty.**

(1) A person commits the offense of failure to return a revoked or suspended vehicle transporter certificate if the Department of Transportation demands and requires the return of any certificate, cards or plates under ORS 822.310 and the person has those items demanded and does not return them to the department.

(2) The offense described in this section, failure to return a revoked or suspended vehicle transporter certificate, is a Class A misdemeanor. [1983 c.338 §822; 1985 c.393 §57; 1987 c.261 §9f; 1999 c.359 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.500 - Operating commercial driver training school without certificate; rules; penalty.**

(1) A person commits the offense of operating a commercial driver training school without a certificate if the person is not the holder of a valid, current driver training school certificate issued under ORS 822.515 and the person operates a business or nonprofit enterprise that engages, for a consideration, in educating and training persons, either practically or theoretically, or both, in the driving of motor vehicles.

(2) The offense described in this section does not apply to:

- (a) A business or nonprofit enterprise engaged in educating and training persons for a profession;
  - (b) An accredited secondary school, college or university; or
  - (c) A person that provides limited education or training for a specialized purpose, as determined by the Department of Transportation by rule.
- (3) The offense described in this section, operating a commercial driver training school without a certificate, is a Class A misdemeanor. [1983 c.338 §826; 1985 c.393 §58; 2005 c.155 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.515 - Certificates; issuance; suspension or revocation; duration; fee; rules.**

- (1) A person who holds a valid, current commercial driver training school certificate issued under this section is not subject to the prohibitions or penalties under ORS 822.500.
- (2) The Department of Transportation shall adopt rules to provide for the issuance of commercial driver training school certificates under this section and driver training instructor certificates.
- (3) The rules adopted under this section related to commercial driver training schools may prescribe, but need not be limited to:
- (a) The form and manner of the application;
  - (b) The minimum qualifications for the commercial driver training school certificate;
  - (c) Grounds and procedures for the denial of a certificate;
  - (d) Requirements for the location of the place of business and location of facilities;
  - (e) Requirements for records retention;
  - (f) Vehicle equipment standards;
  - (g) Courses and standards of instruction;
  - (h) Fee schedules;
  - (i) Requirements for character of school operators and instructors; and
  - (j) Any other matters the department considers necessary for the protection of the public.
- (4) The rules related to driver training instructors may prescribe, but need not be limited to:
- (a) The form and manner of the application;
  - (b) The minimum qualifications for the driver training instructor certificate;
  - (c) Grounds and procedures for the denial of a certificate; and
  - (d) Any other matters the department considers necessary for the protection of the public.
- (5) The department may suspend, revoke or cancel a certificate issued under this section if the department finds that the person has failed to comply with a rule adopted by the department pursuant to this section.
- (6) A person subject to discipline under this section is entitled to a contested case hearing in accordance with ORS chapter 183.
- (7) Commercial driver training school certificates issued under this section expire two years from the date of issuance.
- (8) Driver training instructor certificates issued under this section expire on the date the certificate of the commercial driver training school that employs the instructor expires.
- (9) Commercial driver training school certificates and driver training instructor certificates issued under this section are subject to the following:
- (a) The department may not issue a certificate to a person until the fee for issuance of the certificate under ORS 822.700 is paid.
  - (b) The department may not renew a certificate until the fee for renewal of the certificate under ORS 822.700 has been paid.
  - (c) A fee for a certificate may not be refunded in the event any certificate is refused, suspended, canceled or revoked. [1983 c.338 §829; 1985 c.16 §418; 1985 c.598 §11; 2023 c.400 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.600 - Failure of garage to report accident or bullet contact; penalty.**

- (1) A person commits the offense of failure of a garage to report an accident or bullet contact if the person is in charge of any garage or repair shop to which is brought any motor vehicle that shows evidence of having been involved in a serious accident or struck by any bullet and the person does not report to the nearest police station or sheriff's office within 24 hours after such motor vehicle is received giving the registration number and the name and address of the owner or operator of such vehicle.
- (2) An additional report need not be made under this section when the owner of the vehicle is also the owner of the garage or repair shop and the person has made a report under ORS 811.725 or 811.730 that includes the information required by this section.
- (3) The offense described in this section, failure of garage to report accident or bullet contact, is a Class A traffic violation. [1983 c.338 §834]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.605 - False swearing relating to regulation of vehicle related businesses; penalty.**

- (1) A person commits the offense of false swearing relating to regulation of vehicle related businesses if the person knowingly makes any false affidavit or knowingly swears or affirms falsely to any matter or thing relating to the regulation of vehicle dealers, vehicle dismantlers, towing businesses, vehicle transporters, snowmobile dealers, Class I all-terrain vehicle dealers, commercial driver training schools or driver training instructors under the vehicle code.

(2) The offense described in this section, false swearing relating to regulation of vehicle related businesses, is a Class C felony. [1983 c.338 §836; 1987 c.217 §12; 2005 c.654 §39]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.700 - Certification fees.**

- (1) Fee for issuance or renewal of dismantler certificates covering a single place of business, or a supplemental certificate for each additional place of business to be covered by that certificate and operated under the same name, \$500.
- (2) Fee for each duplicate dismantler certificate issued under ORS 822.110, \$40.
- (3) Fee for original issuance or renewal of vehicle dealer certificate under ORS 822.020 of a vehicle dealer certificate:
  - (a) \$1,100, for a certificate covering a single place of business; and
  - (b) \$350, for each additional place of business to be covered by the certificate and operated under the same name.
- (4) Fee for each corrected vehicle dealer certificate issued under ORS 822.040, \$30.
- (5) If a vehicle dealer or dismantler fails to pay a fee required under this section on or before the date the fee is due, there shall be added as a late payment charge a fee of \$150.
- (6) Fee for show license issued under ORS 822.084, \$50.
- (7) Fee for issuance of towing business certificate under ORS 822.205 or renewal under ORS 822.210, \$17 for each vehicle used for towing or recovery purposes.
- (8) Fee for issuance or renewal of vehicle transporter certificate under ORS 822.310, \$450.
- (9) Fee for issuance or renewal of driver training instructor certificate under ORS 822.515, \$200.
- (10) Fee for issuance or renewal of commercial driver training school certificate under ORS 822.515, \$400.
- (11) Fee for issuance or renewal of vehicle appraiser certificate under ORS 819.480, \$100. [1983 c.338 §835; 1985 c.16 §421; 1985 c.459 §16; 1985 c.736 §6; 1987 c.261 §10; 1997 c.469 §10; 1999 c.593 §6; 2001 c.668 §5; 2003 c.655 §140; 2005 c.654 §16; 2007 c.630 §5; 2013 c.372 §2; 2018 c.114 §2; 2019 c.630 §2; 2023 c.400 §27]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.705 - Fee for issuance or renewal of vehicle dealer certificate.**

Each person holding or applying for a current vehicle dealer certificate shall pay a fee of \$75 to the Department of Transportation upon application for issuance or renewal of a certificate. Moneys from the fee are continuously appropriated to the department for the purpose of carrying out the provisions of ORS 822.007, 822.009 and 822.080. The fee imposed under this section is in addition to fees under ORS 822.700 for issuance and renewal of a vehicle dealer certificate. [1991 c.541 §7; 1999 c.593 §7; 2003 c.655 §141; 2013 c.372 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.990 - Civil penalties for violations of ORS 822.500.**

- (1) The Department of Transportation may levy and collect a civil penalty in the amount of \$1,000 for each violation against any person who violates ORS 822.500.
- (2) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745. [2001 c.727 §3; 2023 c.400 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.992 - Civil penalties for violations related to dismantlers.**

- (1) The Department of Transportation may levy a civil penalty on, and collect the civil penalty from, any person holding a dismantler certificate issued under ORS 822.110 or identification card or supplemental dismantler certificate issued under ORS 822.125 in an amount not to exceed \$1,000 for each violation if the person holding the certificate has violated ORS 803.140, 819.012, 819.016, 819.040, 822.120, 822.125, 822.130, 822.135 or 822.150.
- (2) The department shall impose civil penalties under this section in the manner provided in ORS 183.745. [2011 c.433 §5]

Note:

822.992 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 822 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 822 - Regulation of Vehicle Related Businesses Section 822.995 - Civil penalties for violations related to towing; factors; rules.**

- (1) In addition to any other penalty provided by law, any person who violates any provision of ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235 or 822.605 or any rule adopted by the State Board of Towing is subject to payment of a civil penalty to the board.
- (2) The board may adopt rules establishing a schedule of civil penalties that may be imposed under this section. Civil penalties imposed under this section may not exceed \$25,000 for each violation.
- (3) Civil penalties under this section shall be imposed as provided in ORS 183.745.
- (4) In imposing a penalty pursuant to the schedule adopted under subsection (2) of this section, the board shall consider the



following factors:

- (a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.
- (b) Any prior violations by the person incurring the penalty of statutes, rules or orders pertaining to facilities.
- (c) The economic and financial conditions of the person incurring the penalty.
- (d) The immediacy and extent to which a violation threatens the public health or safety. [2021 c.578 §11]

Note:

822.995 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 822 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.005 - Definitions for ORS chapters 823 to 826.**

As used in ORS chapters 823, 824, 825 and 826:

- (1) "Customer" includes the patrons, passengers, shippers and users of the service of a motor carrier.
- (2) "Rate" means any fare, charge, joint rate, schedule or groups of rates or other remuneration or compensation for service.
- (3) "Service" is used in its broadest and most inclusive sense and includes equipment and facilities related to providing the service or the product served. [1995 c.733 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.007 - Employee statements of pecuniary interests in motor carriers; rules.**

(1) Each employee of the Department of Transportation who performs functions concerning economic regulation of motor carriers shall file with the department a statement regarding holdings of the employee and the holdings of the employee's spouse and minor children of any pecuniary interest in any business or activity subject to the department's economic regulation of motor carriers. Supplementary statements shall be filed as such pecuniary interests are acquired or divested. The statements shall be in such form as the department prescribes. If the department determines that an employee or spouse or minor child of the employee holds any such pecuniary interest that may interfere with the impartial discharge of the employee's duties, the department shall order divestiture of the interest.

(2) The department shall determine by rule what constitutes a function concerning economic regulation of motor carriers for purposes of this section.

(3) Nothing in subsections (1) and (2) of this section is intended to authorize any act otherwise prohibited by law. [1995 c.733 §§12,14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.009 - General powers of department regarding motor carriers and railroads.**

(1) In addition to the powers and duties now or hereafter transferred to or vested in the Department of Transportation, the department shall represent the customers of any motor carrier or railroad, and the public generally, in all controversies respecting rates, valuations, service and all matters of which the department has jurisdiction regarding motor carriers and railroads. In respect thereof, the department shall make use of its jurisdiction and powers to protect such customers, and the public generally, from unjust and unreasonable exactions and practices and to obtain for them adequate service at fair and reasonable rates.

(2) The department is vested with power and jurisdiction to supervise and regulate every motor carrier and railroad in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction.

(3) The department may participate in any proceeding before any public officer, commission or body of the United States or any state or other jurisdiction for the purpose of representing the public generally and the customers of the services of any motor carrier or railroad operating or providing service to or within this state.

(4) The department may make joint investigations, hold joint hearings within or without this state and issue concurrent orders in conjunction or concurrence with any official, board, commission or agency of any state or of the United States. [1995 c.733 §15; 1997 c.275 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.010**

[1983 c.338 §756; 1985 c.16 §361; 1989 c.782 §1; 1993 c.371 §1; renumbered 682.015 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.011 - Authority to adopt rules.**

The Department of Transportation may adopt and amend reasonable and proper rules and regulations relative to all statutes regarding motor carriers and railroads administered by the department and may adopt and publish reasonable and proper rules to govern proceedings and to regulate the mode and manner of all investigations of motor carriers and railroads subject to regulation by the department. [1995 c.733 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.012 - Suspension of laws during emergency.**

(1) If the Director of Transportation determines that an emergency, as defined in ORS 401.025, has occurred or is imminent, the director may suspend operation of one or more of the following statutes involving motor carriers for the purpose of expediting the movement of persons or property:

- (a) ORS 818.400, compliance with commercial vehicle enforcement requirements related to commercial vehicle weight, size, load, conformation or equipment.
- (b) ORS 825.100, certificate or permit requirement for commercial transportation of persons or property.
- (c) ORS 825.104, registration requirement for for-hire or private carrier engaged in interstate operations.
- (d) ORS 825.160, requirement for person operating as motor carrier to have policy of public liability and property damage insurance.
- (e) ORS 825.162, requirement for person operating as for-hire carrier of freight or express to have cargo insurance.
- (f) ORS 825.250, requirement to stop and submit to an inspection of the driver, the cargo or the vehicle or combination of vehicles.
- (g) ORS 825.252, safety regulations for for-hire and private carriers.
- (h) ORS 825.258, rules for transportation of hazardous waste, hazardous material and PCB.
- (i) ORS 825.450, weight identifiers issued by Department of Transportation.
- (j) ORS 825.470, temporary pass for single trip or short-time operation of vehicle.
- (k) ORS 825.474, assessment of tax for use of highways.
- (L) ORS 826.031, registration of certain vehicles not already registered with state.

(2) A suspension under this section may occur prior to a declaration of a state of emergency under ORS 401.165, but may not exceed 72 hours unless a state of emergency is declared under ORS 401.165. If a state of emergency is declared under ORS 401.165, the suspension shall last until the state of emergency is terminated as provided under ORS 401.204.

(3) The director may designate by rule a line of succession of deputy directors or other employees of the department who may suspend operations of statutes under this section in the event the director is not available. Any suspension by a person designated by the director under this subsection has the same force and effect as if issued by the director, except that, if the director can be reached, the suspension must be affirmed by the director when the director is reached. If the director does not set aside a suspension within 24 hours of being reached, the suspension shall be considered affirmed by the director. [2005 c.172 §2; 2007 c.465 §7; 2019 c.491 §49]

Note:

823.012 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 823 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.013 - Validity of rules, orders, acts and regulations of department; construction of laws.**

(1) A substantial compliance with the requirements of the laws administered by the Department of Transportation regarding motor carriers and railroads is sufficient to give effect to all the rules, orders, acts and regulations of the department and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

(2) The provisions of such laws shall be liberally construed with a view to the public welfare, efficient facilities and substantial justice between customers and motor carriers or railroads. [1995 c.733 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.015 - Service of notice or other legal process.**

The service or delivery of any notice, order, form or other document or legal process required to be made by the Department of Transportation in connection with any statute governing motor carriers or railroads may be made by mail. If by mail, service or delivery is made when the required material is deposited in the post office, in a sealed envelope with postage paid, addressed to the person on whom it is to be served or delivered, at the address as it last appears in the records of the department. [1995 c.733 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.020**

[Formerly 485.500; 1989 c.782 §2; 1991 c.67 §224; 1991 c.909 §1; 1993 c.371 §2; renumbered 682.025 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.021 - Investigating management of carriers.**

The Department of Transportation may inquire into the management of the business of all motor carriers and railroads, and shall keep informed as to the manner and method in which the business is conducted. The department has the right to obtain from any motor carrier or railroad all necessary information to enable the department to perform its duties related to motor carriers and railroads. [1995 c.733 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.023 - Right of entry onto premises of any carrier or of business tendering hazardous materials for shipment.**

(1) The Department of Transportation or authorized representatives may enter upon any premises, or any equipment, rolling stock or facilities operated or occupied by any motor carrier or railroad for the purpose of making any inspection, examination or test reasonably required in the administration of ORS chapters 823, 824, 825 and 826, and to set up and use on such premises, equipment, rolling stock or facilities any apparatus or appliance and occupy reasonable space therefor.

(2) The department or authorized representatives shall, upon demand, have the right to inspect the books, accounts, papers, records and memoranda of any motor carrier or railroad and to examine under oath any officer, agent or employee of such motor carrier or railroad in relation to its business and affairs.

(3) Any person who on behalf of the department makes demand of a motor carrier or railroad for an examination, inspection or test shall, upon request therefor, produce a certificate under the seal of the department showing authority to make such examination, inspection or test.

(4) The department or authorized representatives shall, upon demand, have the right to enter any premises of a business that the department has reasonable cause to believe tendered for shipment, by motor or rail, any hazardous material and to make any examination, inspection or test reasonably required to determine compliance with the health and safety regulations administered or enforced by the department. Any person, who on behalf of the department demands to make an examination, inspection or test, shall produce upon request a certificate under the seal of the department showing authority to make the examination, inspection or test.

(5) Nothing in this section authorizes the department to use any information developed thereunder for any purpose inconsistent with any statute governing motor carriers or railroads and administered by the department or to make a disclosure thereof for other than regulatory purposes. [1995 c.733 §20; 1995 c.737 §11; 1997 c.249 §237]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.025 - Maintaining and producing records; expenses incurred in out-of-state examinations; rules.**

(1) The Department of Transportation may require by rule, or by order or subpoena to be served on any motor carrier or railroad, the maintaining within this state or the production within this state at such time and place as the department may designate, of any books, accounts, papers or records kept by such motor carrier or railroad in any office or place within or without this state, or verified copies in lieu thereof, if the department so orders, in order that an examination thereof may be made by the department or under direction of the department.

(2) When a motor carrier or railroad keeps and maintains its books, accounts, papers or records outside the state, the department may examine such documents and shall be reimbursed by the motor carrier or railroad for all expenses incurred in making such out-of-state examination. [1995 c.733 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.027 - Duty to furnish information to department.**

(1) Every motor carrier and railroad shall furnish to the Department of Transportation all information required by the department to carry into effect the provisions of ORS chapters 823, 824, 825 and 826 and shall make specific answers to all questions submitted by the department.

(2) If a motor carrier or railroad is unable to furnish any information required under subsection (1) of this section for any reason beyond its control, it is a good and sufficient reason for such failure. The answer or information shall be verified under oath and returned to the department at the department's office within the period fixed by the department. [1995 c.733 §22; 1997 c.249 §238]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.029 - Failure to furnish requested information.**

No officer, agent or employee of any motor carrier or railroad shall:

(1) Fail or refuse to provide any information or document required by the Department of Transportation;

(2) Fail or refuse to answer any question therein propounded;

(3) Knowingly or willfully give a false answer to any such question or evade the answer to any such question where the fact inquired of is within the person's knowledge;

(4) Upon proper demand, fail or refuse to exhibit to the department or any person authorized to examine the same, any book, paper, account, record or memorandum of the motor carrier or railroad that is in possession or under the control of the person;

(5) Fail to properly use and keep a system of accounting or any part thereof, as prescribed by the department; or

(6) Refuse to do any act or thing in connection with such system of accounting when so directed by the department or authorized representative. [1995 c.733 §23]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.030**

[Formerly 485.505; 1989 c.782 §3; renumbered 682.035 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.031 - Investigating complaints against carriers.**

(1) The Department of Transportation may investigate any complaint filed against a person whose business or activities are regulated by one or more of the statutes regarding motor carriers or railroads, jurisdiction for the enforcement or regulation of which is conferred upon the department.

(2) Any hearing held as a result of a complaint or investigation under subsection (1) of this section shall be a contested case hearing, in the manner provided in ORS 183.413 to 183.497. [1995 c.733 §§35,36]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.033 - Investigations and orders on department's own motion; request for hearing by aggrieved party.**

(1) Whenever the Department of Transportation believes that any rate subject to regulation by the department may be unreasonable or unjustly discriminatory, or that any service subject to regulation by the department is unsafe or inadequate, or is not afforded, or that an investigation of any matter relating to any motor carrier, railroad or other person should be made, or relating to any person to determine if such person is subject to the department's regulatory jurisdiction, the department may on its own motion summarily investigate any such matter, with or without notice.

(2) The department may, after making an investigation on the department's motion, provide notice to the motor carrier, railroad or other person of the department's proposed action or may, without notice or hearing, make such findings and orders as the department deems justified or required by the results of such investigation.

(3) Any party aggrieved by a notice of proposed action or by an order entered pursuant to subsection (2) of this section may request the department to hold a hearing pursuant to ORS 183.413 to 183.497.

(4) An order issued under this section prior to a hearing shall be stayed pending the outcome of the hearing unless the department finds that the order is necessary to protect the public health, safety or environment. [1995 c.733 §37; 1997 c.275 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.035 - Representation by non-attorney.**

(1) Notwithstanding ORS 9.320 and 823.031 (2), an individual who is not an attorney may represent that individual or other persons who consent to such representation at any proceeding before the Department of Transportation involving the regulation of transportation matters pursuant to ORS chapter 825.

(2) Notwithstanding ORS 9.320 and 823.031 (2), an individual who is not an attorney may represent that individual or labor organizations, railroads, motor carriers or government agencies who consent to such representation in any proceeding before the department involving the regulation of transportation matters pursuant to ORS 824.020 to 824.042, 824.050 to 824.110 and 824.200 to 824.256.

(3) Notwithstanding ORS 9.320 and 823.031 (2), an individual who is not an attorney may represent that individual or other persons who consent to such representation in any proceeding before the department involving the regulation of transportation matters pursuant to ORS chapter 826.

(4) Any compromises, agreements, admissions, stipulations, statements of fact or other such action taken by the representative at any such proceeding is binding on those represented to the same extent as if done by an attorney. A person so represented may not thereafter claim that any such proceeding was legally defective because the person was not represented by an attorney.

(5) As used in this section, "attorney" has the meaning for that term provided in ORS 9.005. [1995 c.733 §36a; 2013 c.482 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.037 - Declaratory rulings.**

On petition of any interested person, the Department of Transportation may issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute regarding motor carriers or railroads that is enforceable by the department. A declaratory ruling is binding between the department and the petitioner on the state of facts alleged, unless it is modified, vacated or set aside by the Court of Appeals. However, the department may review the ruling and modify, vacate or set it aside if requested by the petitioner or other party to the proceeding. Binding rulings provided by this section are subject to review in the Court of Appeals in the manner provided in ORS 183.480 for the review of orders in contested cases. [1995 c.733 §34]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.051 - Interference with department equipment.**

No person shall destroy, injure or interfere with any apparatus or appliance owned or operated by or in charge of the Department of Transportation, or any apparatus or appliance sealed by the department. [1995 c.733 §24]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.060**

[Formerly 485.515; 1989 c.782 §4; 1991 c.67 §225; 1993 c.371 §3; renumbered 682.045 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.061 - Applicability of hazardous material safety regulations; rules.**

The federal hazardous material safety regulations adopted, implemented or enforced by the Department of Transportation shall be applicable to any person who transports, or causes to be transported, by motor or rail, a hazardous material. The department shall define hazardous material by rule. The definition shall be consistent with federal definitions of the term. [1995 c.737 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.063 - Notice and opportunity to correct hazardous material violations.**

(1) The Department of Transportation may not impose penalties specified in ORS chapters 823, 824, 825 and 826, against a person who causes hazardous materials to be transported unless the person has received prior written notice of the violation and five days to correct the violation.

(2) No prior written notice or five-day correction period shall be required under subsection (1) of this section for:

(a) Subsequent violations of a like nature occurring within five years of the violation for which the person received notice.

(b) Any violation that causes substantial harm to human health or the environment. [1995 c.737 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.070**

[Formerly 485.520; 1989 c.782 §5; 1991 c.67 §226; 1993 c.371 §4; renumbered 682.047 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.071 - Definitions for ORS 823.073 and 823.075.**

As used in ORS 823.073 and 823.075, the following terms have the following meanings:

(1) "Agency" means any place provided by a for-hire carrier for the accommodation of the public in the receipt, delivery, billing or routing of freight, or in the loading or discharge of passengers, at which an agent is provided to serve the public.

(2) "Agent" means the person in charge of the transaction of business with the public at any station or agency.

(3) "Common carrier" means any railroad as defined in ORS 824.020, and any for-hire carrier by motor vehicle as defined in ORS 825.005 if the carrier transports persons. [Formerly 756.380]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.073 - Common carrier not to abandon agencies or withdraw agent without approval of department.**

No common carrier shall abandon any of its agencies, or withdraw the agent therefrom, without the prior written authority of the Department of Transportation. If the primary business of the agent or agency is not that of a common carrier, the loss of the use of such agent or agency without the fault of the carrier shall not be considered a violation of this section, provided that the carrier shall give to the department notice of such loss immediately upon being informed thereof and secure another agent or agency within a reasonable period of time. [Formerly 756.385]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.075 - Petitioning department for authority to abandon agency or withdraw agent.**

(1) Any common carrier may petition the Department of Transportation for authority to abandon any agency or to withdraw the agent from an agency.

(2) Upon receipt of a petition to abandon or withdraw under this section, the department shall give written notice of the petition to all known current customers of such agency. If the petition requests authority to abandon or withdraw any agency or agent involved in transportation services using motor buses, the department shall provide notice of the petition for authority and of rights to protest by publication in addition to any written notice required by this subsection. When notice by publication is required under this subsection, such notice must be published in a newspaper of general circulation in the county where the affected agency is located.

(3) If any customer files with the department a written protest to the abandonment of the agency or the withdrawal of the agent therefrom within 30 days from the date written notice is given, the department shall schedule a hearing to be held within 30 days from the filing of such protest. If notice by publication is required under subsection (2) of this section then protest may be filed, as provided under this subsection, within 30 days after the written notice or published notice, whichever is later.

(4) If a hearing is provided under this section, the hearing shall be held at some convenient place in the county in which such agency is located.

(5) Where a common carrier seeks to move the location of its agent or agency from one point within a city to another point within such city the department may approve such move without a hearing. [Formerly 756.390]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.080**

[Formerly 485.525; 1989 c.782 §6; renumbered 682.075 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.081 - Enforcement of laws relating to carriers.**

(1) The Department of Transportation shall inquire into any neglect or violation of any law of this state, or any law or ordinance of any municipality thereof, relating to motor carriers or railroads by any motor carrier or railroad doing business therein, its officers, agents or employees and shall enforce all laws of this state relating to motor carriers and railroads and may enforce all such laws and ordinances of a municipality. The department shall report all violations of any such laws or ordinances to the Attorney General.

(2) The Attorney General, district attorney of each county, all state, county and city police officers and police officers commissioned by a university under ORS 352.121 or 353.125 shall assist the department in the administration and enforcement of all laws related to motor carriers and railroads administered by the department, and they, as well as assistants and employees of the department, shall inform against and diligently prosecute all persons whom they have reasonable cause to believe guilty of the violation of any such laws or of the rules, regulations, orders, decisions or requirements of the department made pursuant thereto.

(3) Upon the request of the department, the Attorney General or the district attorney of the proper county shall aid in any investigation, hearing or trial, and shall institute and prosecute all necessary suits, actions or proceedings for the enforcement of those laws and ordinances referred to in subsection (1) of this section.

(4) Any forfeiture or penalty provided for in any law regarding motor carriers or railroads administered by the department shall be recovered by an action brought thereon in the name of the State of Oregon in any court of appropriate jurisdiction or as provided in ORS 183.745. [1995 c.733 §25; 2011 c.506 §52; 2013 c.180 §58]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.083 - Enjoining violation of carrier laws.**

(1) Whenever it appears to the Department of Transportation that any motor carrier, railroad or any other person subject to the jurisdiction of the department is engaged or about to engage in any acts or practices that constitute a violation of any statute regarding motor carriers or railroads administered by the department, or any rule, regulation, requirement, order, term or condition issued thereunder, the department may apply to any circuit court of the state where such motor carrier, railroad or any other person subject to the jurisdiction of the department operates for the enforcement of such statute, rule, regulation, requirement, order, term or condition.

(2) Such court, without bond, has jurisdiction to enforce obedience thereto by injunction, or by other processes, mandatory or otherwise, restraining such motor carrier, railroad or any other person subject to the jurisdiction of the department, or its officers, agents, employees and representatives from further violations of such statute, rule, regulation, requirement, order, term or condition, and enjoining upon them obedience thereto.

(3) The provisions of this section are in addition to and not in lieu of any other enforcement provisions contained in any statute administered by the department. [1995 c.733 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.085 - Liability for damages to injured person.**

(1) Any motor carrier or railroad that does, or causes or permits to be done, any matter, act or thing prohibited by ORS chapters 823, 824, 825 and 826, or omits to do any act, matter or thing required to be done by ORS chapters 823, 824, 825 and 826, is liable to the person injured thereby in the amount of damages sustained in consequence of such violation. If the party seeking damages alleges and proves that the wrong or omission was the result of gross negligence or willful misconduct, the motor carrier or railroad is liable to the person injured thereby in treble the amount of damages sustained in consequence of the violation. The court may award reasonable attorney fees to the prevailing party in an action under this section.

(2) Any recovery under this section does not affect recovery by the state of the penalty, forfeiture or fine prescribed for such violation.

(3) This section does not apply with respect to the liability of any motor carrier or railroad for personal injury or property damage. [1995 c.733 §§27,99; 1997 c.249 §239]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.087 - Effect of carrier laws on common law and other statutory rights of action, duties and liabilities.**

(1) The remedies and enforcement procedures provided in ORS chapters 823, 824, 825 and 826 do not release or waive any right of action by the state or by any person for any right, penalty or forfeiture that may arise under any law of this state or under an ordinance of any municipality thereof.

(2) All penalties and forfeitures accruing under said statutes and ordinances are cumulative and a suit for and recovery of one, shall not be a bar to the recovery of any other penalty.

(3) The duties and liabilities of the motor carriers or railroads shall be the same as are prescribed by the common law, and the remedies against them the same, except where otherwise provided by the Constitution or statutes of this state, and the provisions of ORS chapters 823, 824, 825 and 826 are cumulative thereto. [1995 c.733 §28; 1997 c.249 §240]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation**

**GenerallySection 823.090**

[Formerly 485.530; 1989 c.782 §7; 1993 c.371 §5; renumbered 682.085 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.100**

[Formerly 485.535; 1989 c.782 §8; 1991 c.331 §141; 1993 c.371 §6; renumbered 682.105 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.101 - Duty of carrier to issue bill of lading on intrastate shipments; liability of carrier to holder for  
damage to shipment.**

(1) Any for-hire carrier, railroad or transportation company receiving property for transportation wholly within this state, from one point in this state to another point in this state, shall issue in accordance with the applicable provisions of ORS chapter 77 a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage or injury to such property caused by it, or by any common carrier to which such property may be delivered, or over whose line or lines such property may pass, when transported on a through bill of lading. No contract, receipt, rule, regulation or other limitation of any character whatsoever shall exempt such for-hire carrier, railroad or transportation company from such liability.

(2) Any for-hire carrier, railroad or transportation company so receiving property for transportation wholly within this state shall be liable to the lawful holder of such receipt or bill of lading, or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage or injury to such property caused by it, or by any common carrier to which such property may be delivered, or over whose line such property may pass when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery, or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule or regulation, or in any tariff filed with the Department of Transportation; and any such limitation, irrespective of the manner or form in which it is sought to be made, is unlawful and void.

(3) The provisions of subsection (2) of this section respecting liability for full actual loss, damage or injury, shall not apply:

(a) To baggage carried on passenger trains or boats, or trains or boats carrying passengers.

(b) To property, except ordinary livestock, concerning which the carrier is expressly authorized or required by order of the Department of Transportation to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property. "Ordinary livestock" includes all cattle, swine, sheep, goats, horses and mules, except such as are chiefly used for breeding, racing, show purposes or other special uses.

(4) The Department of Transportation may make the order referred to in subsection (3)(b) of this section in cases where rates dependent upon and varying with declared or agreed values would, in the opinion of the department, be just and reasonable under the circumstances and conditions surrounding the transportation. Any tariff schedule filed with the department pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared and agreed upon. [Formerly 771.010; 1997 c.249 §241]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.103 - Limitations on carrier's power to set time for filing of claim or starting action.**

A for-hire carrier, railroad or transportation company referred to in ORS 823.101 may not provide by rule, contract, regulation or otherwise a period for filing claims described in ORS 823.101 shorter than the following:

(1) Nine months after delivery of property or after reasonable time for delivery has elapsed for filing of claims in writing, except that if the carrier is a for-hire carrier of household goods, three months.

(2) Two years for the institution of suits. The period for institution of suits shall be computed from the day when notice is given by the carrier to the claimant that the carrier has disallowed all or any part of the claim specified in the notice. [Formerly 771.020; 1997 c.249 §242; 2003 c.754 §12]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.105 - Prohibitions.**

No common carrier subject to ORS 823.101 to 823.107, its director or officer, receiver, trustee, lessee, agent or person acting for or employed by it, shall, alone or with any other person, willfully do or cause to be done, or willingly suffer or permit to be done, any act, matter or thing prohibited or declared to be unlawful in ORS 823.101 to 823.107, or aid or abet therein, or willfully omit or fail to do any act, matter or thing required to be done by ORS 823.101 to 823.107 or cause or willingly suffer or permit any act, matter or thing so directed or required by ORS 823.101 to 823.107 to be done, or not to be so done, or aid or abet any such omission or failure. [Formerly 771.040]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.107 - Existing remedies not affected.**

Nothing in ORS 823.101 to 823.107 shall deprive any holder of a receipt or bill of lading of any remedy or right of action which the holder has under existing law. [Formerly 771.050]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.110**

[Formerly 485.540; renumbered 682.107 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.120**

[Formerly 485.545; 1989 c.782 §9; 1991 c.331 §142; 1995 c.41 §8; renumbered 682.109 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.130**

[Formerly 485.550; 1989 c.782 §10; renumbered 682.135 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.140**

[Formerly 485.555; 1989 c.782 §11; 1991 c.909 §2; renumbered 682.145 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.145**

[1989 c.782 §14; 1991 c.703 §42; 1991 c.909 §3; renumbered 682.155 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.150**

[Formerly 485.560; 1987 c.90 §1; 1989 c.782 §12; 1991 c.909 §4; 1993 c.371 §7; renumbered 682.157 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.160**

[Formerly 485.565; 1989 c.782 §15; 1991 c.67 §227; 1993 c.371 §8; renumbered 682.175 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.165**

[1989 c.782 §15a; 1991 c.734 §103; 1993 c.371 §9; renumbered 682.185 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.170**

[Formerly 485.570; 1989 c.782 §16; renumbered 682.195 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.180**

[Formerly 485.573; 1989 c.722 §3; renumbered 682.205 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.190**

[Formerly 485.575; 1989 c.782 §18; renumbered 682.215 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.200**

[Formerly 485.577; 1987 c.660 §26; 1989 c.782 §19; 1993 c.371 §10; renumbered 682.225 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.204**

[1989 c.782 §27; renumbered 682.235 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation Generally Section 823.205**

[1989 c.782 §28; 1991 c.909 §5; renumbered 682.245 in 1995]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 823 - Carrier Regulation**



**GenerallySection 823.210**

[Formerly 485.580; 1989 c.782 §20; 1991 c.909 §6; 1993 c.371 §11; renumbered 682.255 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.215**

[Formerly 677.675; 1991 c.67 §228; 1991 c.909 §7; renumbered 682.265 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.220**

[Formerly 485.585; 1989 c.722 §2; 1989 c.782 §21; renumbered 682.275 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.230**

[Formerly 485.590; 1989 c.782 §22; renumbered 682.285 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.240**

[Formerly 485.595; 1989 c.782 §23; renumbered 682.295 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.250**

[1987 c.845 §1; 1989 c.782 §24; renumbered 682.305 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.300**

[1989 c.722 §8; renumbered 682.315 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.305**

[1989 c.722 §5; renumbered 682.325 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.310**

[1989 c.722 §7; renumbered 682.335 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.315**

[1989 c.722 §6; renumbered 682.345 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.320**

[1991 c.958 §1; renumbered 682.355 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.990**

[Formerly 485.992; 1989 c.782 §25; 1993 c.371 §12; renumbered 682.991 in 1995]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 823 - Carrier Regulation  
GenerallySection 823.991 - Penalties.**

(1) Any motor carrier or railroad that fails to comply with an order or subpoena issued pursuant to ORS 823.025 shall pay a civil penalty, for each day it so fails, of not less than \$50 nor more than \$500.

(2) Except where a penalty is otherwise provided by law, any motor carrier or railroad shall pay a civil penalty of not less than \$100 nor more than \$10,000 for each time that the motor carrier or railroad:

- (a) Violates any statute regarding motor carriers or railroads, as appropriate, administered by the Department of Transportation;
- (b) Does any act prohibited, or fails to perform any duty enjoined upon the motor carrier or railroad;
- (c) Fails to obey any lawful requirement or order made by the department; or
- (d) Fails to obey any judgment made by any court upon the application of the department.

- (3) Violation of ORS 823.029 is punishable after issuance of a final order by the department, by a civil penalty of not less than \$1,000 for each offense. A penalty of not less than \$500 nor more than \$1,000 shall be recovered from the motor carrier or railroad for each such offense when such officer, agent or employee acted in obedience to the direction, instruction or request of the motor carrier or railroad, or any general officer thereof.
- (4) Violation of ORS 823.029 is a Class A violation.
- (5) Violation of ORS 823.051 is a Class C misdemeanor. Any motor carrier or railroad that knowingly permits the violation of ORS 823.051 shall forfeit, upon conviction, not more than \$1,000 for each offense.
- (6) In construing and enforcing this section, the act, omission or failure of any officer, agent or other person acting for or employed by any motor carrier or railroad shall in every case be deemed to be the act, omission or failure of such motor carrier or railroad. With respect to any violation of any statute administered by the department regarding motor carriers or railroads, any penalty provision applying to such a violation by a motor carrier or railroad shall apply to such a violation by any other person.
- (7) Except as provided in ORS 824.019 and 825.326, and except when provided by law that a penalty, forfeiture or other sum be paid to the aggrieved party, all penalties or forfeitures collected from persons subject to the regulatory authority of the department under ORS chapters 823, 824, 825 and 826 shall be paid into the General Fund and credited to the Motor Carrier Account if collected from a motor carrier and to the Railroad Fund created under ORS 824.014 (1) if collected from a railroad.
- (8) Violation of ORS 823.105 is punishable, after issuance of a final order by the department, by a civil penalty of not more than \$5,000 for each offense.
- (9) Violation of ORS 823.105 is a specific fine violation punishable by a fine of not more than \$5,000 for each offense.
- (10) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745. [Subsections (1) to (6) of 1995 Edition enacted as 1995 c.733 §38; subsection (7) of 1995 Edition formerly 771.990; 1997 c.249 §243; 1997 c.275 §11; 1999 c.1051 §230; 2001 c.909 §5; 2003 c.576 §567; 2003 c.754 §11; 2011 c.597 §306]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.010 - Annual fees payable by railroads; audit.**

- (1) Subject to the provisions of subsections (3) and (4) of this section, each railroad shall pay to the Department of Transportation in each year, such fee as the department finds and determines to be necessary, with the amount of all other fees paid or payable to the department by such railroads in the current calendar year, to defray the costs of performing the duties imposed by law upon the department in respect to such railroads and to pay such amounts as may be necessary to obtain matching funds to implement the program referred to in ORS 824.058.
- (2) In each calendar year the percentage rate of the fee required to be paid shall be determined by orders entered by the department on or after March 1 of each year, and notice thereof shall be given to each railroad. Such railroad shall pay to the department the fee or portion thereof so computed upon the date specified in such notice, which date shall be at least 15 days after the date of mailing such notice.
- (3) Fifty percent of the cost of carrying out the duties, functions and powers imposed upon the department by ORS 824.200 to 824.256 shall be paid from the Grade Crossing Protection Account.
- (4) The department shall determine the gross operating revenues derived within this state in the preceding calendar year by Class I railroads as a whole and by other railroads individually subject to the following limitations:
- (a) The total of the fees payable by Class I railroads shall not exceed thirty-five hundredths of one percent of the combined gross operating revenues of Class I railroads derived within this state. The fee paid by each Class I railroad shall bear the same proportion to the total fees paid by Class I railroads as such railroad's share of railroad-highway crossings, track miles and gross operating revenues derived within the state, weighted equally, bears to the total amount of Class I railroad-highway crossings within the state, track miles within the state and gross operating revenues derived within the state.
- (b) The fees payable by other railroads shall not exceed thirty-five hundredths of one percent of any such railroad's gross operating revenues.
- (5) Payment of each fee or portion thereof provided for in subsections (1) to (4) of this section shall be accompanied by a statement verified by the railroad involved showing its gross operating revenues upon which such fee or portion thereof is computed. This statement shall be in such form and detail as the Department of Transportation shall prescribe and shall be subject to audit by the department. The department may refund any overpayment of any such fee in the same manner as other claims and expenses of the department are payable as provided by law. [1995 c.733 §§29,30]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.012 - Failure to pay fees; penalty.**

Every person who fails to pay any fees provided for in ORS 824.010 after they are due and payable shall, in addition to such fees, pay a penalty of two percent of such fees for each and every month or fraction thereof that they remain unpaid. If, in the judgment of the Department of Transportation, action is necessary to collect any unpaid fees or penalties, the department shall bring such action or take such proceedings as may be necessary thereon in the name of the State of Oregon in any court of competent jurisdiction, and be entitled to recover all costs and disbursements incurred therein. [1995 c.733 §31]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section**

**824.014 - Railroad Fund; sources; use.**

(1) The Railroad Fund is established separate and distinct from the General Fund. Interest earned, if any, shall inure to the benefit of the Railroad Fund.

(2) All fees, penalties and other moneys collected by the Department of Transportation under ORS 824.010 and 824.012 shall be paid by the department into the State Treasury within 30 days after the collection thereof, and shall be placed by the State Treasurer to the credit of the Railroad Fund created by subsection (1) of this section. The fees, penalties and other moneys collected from railroads shall be used only for the purpose of paying the expenses of the department in performing the duties imposed by law upon the department in respect to railroads. [1995 c.733 §§31a,32; 2011 c.597 §307]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.016 - State Rail Rehabilitation Fund; use; report.**

(1) The State Rail Rehabilitation Fund is established as an account in the General Fund of the State Treasury. All moneys in the account are appropriated continuously to the Department of Transportation for expenditures for any or all of the following:

- (a) Acquisition of a railroad line.
- (b) Rehabilitation or improvement of rail properties.
- (c) Planning for rail services.
- (d) Any other methods of reducing the costs of lost rail service in this state.
- (e) Rail projects, including:
  - (A) Capacity improvements, such as:
    - (i) New or lengthened sidings;
    - (ii) Industrial spur rehabilitation; and
    - (iii) Industrial spur construction;
  - (B) Capital investments that improve safety; and
  - (C) Capital investments that reduce greenhouse gases.
- (f) Providing state matching funds to leverage federal discretionary grant funding for rail projects.

(2) The program developed by the Department of Transportation under this section to provide funds shall include:

- (a) Development of a methodology for prioritizing funding that takes into consideration an applicant's ability to use funding sources to leverage federal discretionary grant funding for rail projects.
- (b) A requirement that rail projects selected are projects that are consistent with the goals of the Oregon State Rail Plan.
- (3) The Department of Transportation shall provide funds under this section only with the approval of the Oregon Transportation Commission.
- (4) The department may use moneys in the fund to pay the department's administrative costs associated with the fund and with carrying out the provisions of this section.
- (5) Not later than December 31 of each even-numbered year, the department shall report, in the manner provided in ORS 192.245, to the Joint Committee on Transportation regarding the expenditures of moneys in the fund and the status of rail projects that have received moneys from the fund. [Formerly 760.620; 2005 c.612 §7; 2023 c.65 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.018 - Grade Crossing Protection Account; use; limits.**

(1) There is established in the State Highway Fund an account to be known as the Grade Crossing Protection Account. There shall be credited to the account each fiscal year, from funds received by the State Highway Fund from the registration of vehicles and licensing of drivers under the Oregon Vehicle Code, the sum of \$300,000 plus an amount equal to 50 percent of the cost of carrying out the duties, functions and powers imposed upon the Department of Transportation by ORS 824.200 to 824.256. State-shared highway fund revenues for cities and counties, as well as Department of Transportation expenditures for the elimination of hazardous railroad-highway crossings, shall be computed and allocated prior to any appropriation or transfer to the account. The amount of \$300,000 credited to the account is continuously appropriated and shall be expended for railroad-highway crossing safety as authorized by ORS 824.242 to 824.248 and subsection (2) of this section. The amount credited to the account for paying the cost of carrying out the duties, functions and powers of the department by ORS 824.200 to 824.256 is transferred and appropriated to the Department of Transportation and shall be used as provided in ORS 824.010 (3). No more than \$100,000 in the aggregate shall be allocated from the account in any one fiscal year for costs of construction, reconstruction, alteration or relocation of separated crossings; provided however the unapportioned amount in the Grade Crossing Protection Account at the end of each fiscal year may be allocated for costs of reconstruction, alteration or relocation of separated crossings.

(2) Moneys credited to the account may also be allocated for such highway purposes as the Department of Transportation deems appropriate in order to enhance safety at railroad-highway crossings. The Department of Transportation may allocate no more than \$100,000 annually to railroads to defray the costs of maintenance of protective devices at railroad-highway crossings.

(3) As used in this section, "highway," "maintenance costs," "protective device" and "railroad" have the meaning given those terms in ORS 824.200. [Formerly 763.330; 1997 c.249 §245]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section**

#### **824.019 - Grade Crossing Safety Improvement Fund.**

(1) The Grade Crossing Safety Improvement Fund is established separate and distinct from the General Fund. Interest earned by the Grade Crossing Safety Improvement Fund shall be credited to the fund.

(2) Notwithstanding ORS 823.991, all civil penalties collected under ORS 824.222 and 824.223 shall be paid by the Department of Transportation into the State Treasury within 30 days after the collection thereof and shall be placed by the State Treasurer to the credit of the Grade Crossing Safety Improvement Fund. Moneys in the fund are continuously appropriated to the Department of Transportation for the purpose of grade crossing safety improvement projects. [2001 c.909 §4]

Note:

824.019 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

#### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.020 - Definitions for ORS 824.020 to 824.042.**

As used in ORS 824.020 to 824.042, unless the context requires otherwise:

(1) "Class I railroad" has the meaning given that term in rules adopted by the Department of Transportation. The definition of "Class I railroad" in rules adopted by the Department of Transportation shall be consistent, insofar as practicable, with the definition of the term under federal law and regulations.

(2) "Railroad" means all corporations, municipal corporations, counties, companies, individuals, associations of individuals and their lessees, trustees or receivers, that:

(a) Own, operate by steam, electric or other motive power, manage or control all or part of any railroad or interurban railroad as a common or for hire carrier in this state, or cars or other equipment used thereon, or bridges, terminals or sidetracks used in connection therewith, whether owned or operated under a contract, agreement, lease or otherwise.

(b) Are engaged in the ownership, management or control of terminals in this state, which corporations, municipal corporations, counties, companies, individuals and associations hereby are declared to be common and for hire carriers, or the transportation of property within this state by express. [Formerly 760.005]

#### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.022 - Applicability of ORS 824.020 to 824.042, 824.050 to 824.110 and 824.200 to 824.256.**

(1) ORS 824.020 to 824.042, 824.050 to 824.110 and 824.200 to 824.256 apply to:

(a) The transportation of passengers and property.

(b) The receiving, delivering, switching, storing, elevation and transfer in transit, ventilation, refrigeration and handling of such property, and all charges connected therewith.

(c) All railroad, terminal, car, tank line, freight and freight line companies.

(d) All associations of persons, whether incorporated or otherwise, that do business as common or for hire carriers upon or over any line of railroad within this state.

(e) Any common or for hire carrier engaged in the transportation of passengers or property wholly by rail or partly by rail and partly by water.

(2) ORS 824.020 to 824.042 do not apply to logging or other private railroads not doing business as common carriers.

(3) ORS 824.020 to 824.042 and 824.050 to 824.110 do not apply to corporations, companies, individuals, associations of individuals and their lessees, trustees or receivers that:

(a) Are primarily involved in a business enterprise other than rail transportation;

(b) Conduct rail operations 50 percent or more of which are for the purpose of providing transportation to the primary business enterprise;

(c) Operate on less than 10 miles of track; and

(d) Provide for hire rail transportation service to no more than five persons. [Formerly 760.010; 2021 c.630 §25]

#### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.024 - Procedure for construction of side lines and extensions.**

If any railway company owning or operating a railway within this state desires to construct any branch line or side line, or to build an extension of the main line, its board of directors shall adopt a resolution defining the branch, side line or extension, and designating the termini thereof, and shall cause a copy of such resolution, certified by its secretary, to be filed in the office of the Secretary of State, and in the office of each county clerk in or through whose county such branch or side line or extension is to be constructed. Thereupon such corporation has the right to build and construct such branch, side line or extension, and to exercise the right of eminent domain as provided by law, and the termini so designated in such resolution shall be a sufficient designation thereof for the purpose of exercising such right of eminent domain. [Formerly 760.060]

#### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.026 - Railway inspectors required; powers and duties.**

- (1) The Department of Transportation shall employ at least three full-time railroad inspectors to assist the department as the department may prescribe in:
- (a) Inquiring into any neglect or violation of and enforcing any law of this state or any law or ordinance of any municipality thereof relating to railroad safety;
  - (b) Inquiring into any neglect or violation of and enforcing any rule, regulation, requirement, order, term or condition issued by the department relating to railroad safety; and
  - (c) Conducting any investigative, surveillance and enforcement activities that the department is authorized to conduct under federal law in connection with any federal law, rule, regulation, order or standard relating to railroad safety.
- (2) A railroad inspector may inspect any train and the contents thereof that the railroad inspector reasonably believes is being operated in violation of any law, ordinance, rule, regulation, requirement, order, standard, term or condition referred to in subsection (1) of this section. [Formerly 760.070; 2021 c.630 §26]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.030 - Annual report to department; penalty.**

- (1) Every railroad shall annually, on or before May 1, unless additional time is granted, file with the Department of Transportation a report verified by a duly authorized officer, in such form and containing such information as the department shall prescribe, covering the year ending December 31 next preceding.
- (2) Any railroad failing to make such report shall forfeit to the state, for each day's default, a sum not to exceed \$100, to be recovered in a civil action in the name of the State of Oregon. [Formerly 760.305]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.040 - Government acquisition of lines; permitted actions.**

- (1) The State of Oregon, a city, county, county service district, mass transit district organized under ORS 267.010 to 267.394, a transportation district organized under ORS 267.510 to 267.650 or a port may acquire, own, reconstruct, rehabilitate, operate or maintain a railroad line for the benefit and use of its inhabitants and for profit.
- (2) In the exercise of the power granted under subsection (1) of this section, this state, a city, county, county service district, mass transit district, transportation district or port may:
- (a) Acquire, by purchase or otherwise, own, reconstruct, rehabilitate or operate a railroad as described in subsection (1) of this section within and outside its boundaries and the boundaries of this state and running from the city, county, district or port to other points within and outside its boundaries and the boundaries of this state.
  - (b) Acquire rights of way, easements or real property within and outside its boundaries and the boundaries of this state when necessary or convenient for the acquisition and operation of the railroad line.
  - (c) Enter into contracts with any person for the reconstruction, rehabilitation, operation or maintenance of the railroad line by such person for the city, county, district or port.
- (3) Nothing in this section shall be construed as expanding or diminishing the power of eminent domain conferred upon public bodies, designated in subsection (1) of this section, by ORS 368.116 or any other provision of law. [Formerly 760.610]

Note:

824.040 was added to and made a part of ORS chapters 823, 824, 825 and 826 by legislative action but was not added to ORS chapter 824 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.042 - Department to participate in contested abandonment proceedings.**

The Department of Transportation shall participate before the appropriate federal agency in all contested railroad line abandonment proceedings involving the proposed abandonment of any railroad line in this state. Prior to such participation, the department shall consult with public entities and users of railroad service affected by the proposed abandonment. [Formerly 760.630]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.045 - Department establishment of state safety oversight program for rail fixed guideway public transportation system; fee; rules.**

- (1) Subject to ORS 479.950, the Department of Transportation, by rule, shall establish a state safety oversight program that applies to all rail fixed guideway public transportation systems in Oregon that are not subject to regulation by the Federal Railroad Administration.
- (2) For purposes of 49 U.S.C. 5329(e), the department is designated as the state safety oversight agency to monitor compliance with the program for rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration. The state safety oversight agency and rules:
- (a) Shall implement the state safety oversight program in compliance with the requirements of 49 U.S.C. 5329.
  - (b) Shall review, approve, oversee and enforce the implementation, by the owner and operator of a rail fixed guideway public transportation system, of the public transportation agency safety plan adopted pursuant to 49 U.S.C. 5329(d).

- (c) Shall inspect, investigate and enforce the safety of rail fixed guideway public transportation systems.
  - (d) Shall audit rail fixed guideway public transportation systems for compliance with the public transportation agency safety plan.
  - (e) May investigate any hazard or risk that threatens the safety of a rail fixed guideway public transportation system.
  - (f) May investigate any event involving a rail fixed guideway public transportation system.
  - (g) May investigate any allegation of noncompliance with a transit agency safety plan.
- (3) The department shall implement the state safety oversight program for rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration and that are not subject to 49 U.S.C. 5329.
- (4) Unless prohibited by federal law, the department shall set an annual fee for owners and operators of rail fixed guideway public transportation systems to defray the costs of the state safety oversight program and the costs associated with department responsibilities under ORS 267.230 (2). The department shall establish by rule the manner and timing of the collection of the fee.
- (5) Fees collected by the department that are in excess of the combined actual cost of the state safety oversight program and the costs associated with department responsibilities under ORS 267.230 (2) shall be refunded to owners and operators of rail fixed guideway public transportation systems within one year following the end of the fiscal year in which the department collected the excess fees. In lieu of a refund, an owner or operator of a rail fixed guideway public transportation system may choose to have the excess fees credited against the subsequent year's fee payment. [1995 c.29 §3; 1997 c.275 §43; 2001 c.522 §11; 2015 c.489 §1; 2017 c.46 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.050 - Inspection of, recommendations on and orders concerning railroad equipment and facilities.**

- (1) Except as provided in subsection (2) of this section, the Department of Transportation shall examine and inspect the physical condition of all railroad facilities in the state, including roadbeds, stations and equipment. Whenever it appears from such inspection that the safety of the public or the employees of such railroad may be threatened, notice of the condition or practice under investigation shall be given to the railroad and any person responsible for the maintenance or use of the railroad facility. If such condition or practice is not corrected to the department's satisfaction, the department shall set the matter for hearing. Following such hearing the department shall order the railroad or person responsible for the maintenance or use of the railroad facility to make any repairs, alterations, or changes necessary to correct or eliminate any condition or practice found to threaten the safety of the public or the employees of the railroad. If in the opinion of the Department of Transportation a condition or practice is so hazardous as to place the employees of the railroad in immediate danger the department may issue, after hearing, upon 48 hours' written notice given the railroad, an order prohibiting the use of the facility until such time as necessary repair, alterations or changes are made.
- (2) This section does not apply to a penalty imposed under ORS 824.090 or 824.992 (7) and (8). [Formerly 761.120; 1997 c.275 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.052 - Track clearances.**

The Department of Transportation, upon own motion or upon application of any person, and with or without hearing:

- (1) May enter an order prescribing standard track clearances for railroads.
- (2) Upon finding good cause, may enter an order granting authority for a railroad to operate at particular points with clearances different from those prescribed as standard track clearances. [Formerly 761.180]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.054 - Cooperation with federal agencies on matters of safety; disclosure of reports if required by federal law.**

- (1) The Department of Transportation may cooperate with, make certifications to, and enter agreements with the Secretary of Transportation of the United States, or any other federal agency with jurisdiction over railroads, under the Federal Railroad Safety Act of 1970, as amended through the effective date of that Act.
- (2) The Department of Transportation may assume responsibility for and carry out on behalf of the Secretary of Transportation of the United States, or any other federal agency with jurisdiction over railroads, regulatory jurisdiction over the safety practices applicable to railroad facilities and operations in Oregon not otherwise subject to the jurisdiction of any other agency of this state.
- (3) Notwithstanding any other provisions of law to the contrary, the Department of Transportation shall make public such reports as are required to be made public under the Federal Railroad Safety Act of 1970, as amended through the effective date of that Act and shall provide such information as is required thereunder to the Secretary of Transportation of the United States. [Formerly 761.190]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.056 - Walkway standards; rules; variances.**

- (1) The Department of Transportation, upon the department's motion or upon application of any person, shall adopt rules that prescribe standards for walkways alongside railroad tracks where necessary for the safety of railroad employees.
- (2) The department may for good cause shown permit variances from the standards so prescribed. [Formerly 761.200; 1997 c.275 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section**

#### **824.058 - Track improvement and rehabilitation program.**

The Department of Transportation may:

- (1) Identify segments of railroad track in this state that:
  - (a) Are abandoned, threatened with abandonment or have physical characteristics that reduce freight service; and
  - (b) Have the potential for providing renewed, continued or improved rail service that would benefit the state or community beyond the cost involved.
- (2) Develop and implement programs to encourage improvement of service over segments of railroad track identified under subsection (1) of this section.
- (3) With the prior approval of the Oregon Transportation Commission, enter into agreements with the United States Government, a political subdivision in this state or any person to:
  - (a) Continue existing rail service on a segment of railroad track identified under subsection (1) of this section;
  - (b) Acquire a segment of railroad track identified under subsection (1) of this section to maintain existing or provide for future rail service;
  - (c) Rehabilitate or improve, to the extent necessary to permit more adequate and efficient rail service, railroad property on a segment of railroad track identified under subsection (1) of this section; or
  - (d) Provide funding for less expensive alternatives to rail service over a segment of railroad track identified under subsection (1) of this section.
- (4) Do any act required of this state under rules adopted by the United States Secretary of Transportation under section 1654, title 49, United States Code, for allocation and distribution of funds to any state under section 1654, title 49, United States Code, for preserving or improving rail freight service in this state. [Formerly 761.205]

Note:

824.058 was added to and made a part of ORS chapters 823, 824, 825 and 826 by legislative action but was not added to ORS chapter 824 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

#### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.060 - First aid kits and fire extinguishers required on locomotives; temporary exemptions.**

- (1) Every locomotive of every railroad operating in this state shall be equipped with a first aid kit.
- (2) All locomotives shall be equipped with fire extinguishers meeting the following requirements:
  - (a) Each locomotive shall have at least one portable fire extinguisher.
  - (b) Fire extinguishers may be of a foam, dry chemical or carbon dioxide type.
  - (c) The fire extinguishers in each locomotive shall provide a minimum capacity of one and one-quarter gallons or five pounds. More than one fire extinguisher may be used to comply with the minimum capacity requirement under this paragraph.
  - (d) Fire extinguishers shall be placed in readily accessible locations.
  - (e) Fire extinguishers shall be maintained in working order.
- (3) A railroad may apply for a temporary exemption from the provisions of subsection (2) of this section. The Department of Transportation will consider the application of the railroad for a temporary exemption when accompanied by a full statement of the conditions existing and the reasons for the exemption. Any exemption so granted will be limited to a stated period of time. [Formerly 761.315; 2021 c.630 §27]

#### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.062 - Equipment required on track motor cars.**

- (1) Every person operating or controlling any railroad which is a common carrier shall equip each of its track motor cars operating during the period 30 minutes before sunset and 30 minutes after sunrise with:
  - (a) An electric headlight of sufficient candle power to enable the operator of the car to plainly discern any track obstruction, landmark, warning sign or grade crossing at a distance not less than 300 feet.
  - (b) A red rear electric light with sufficient candle power to be plainly visible at a distance not less than 300 feet.
  - (c) A windshield equipped with a device, which must be kept in good working order, with which the operator can clean rain, snow and other moisture from the windshield.
  - (d) A canopy or top adequate to protect the occupants of the car from sun, rain, snow or other inclement weather.
- (2) As used in this section, "track motor car" means all power-propelled speeders and motor cars which can be lifted on and off the track by hand. [Formerly 761.320]

#### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.064 - Self-propelled vehicles used in yards or terminals.**

- (1) No railroad shall permit or require an employee to use a self-propelled vehicle in its yards or terminals for inspecting trains, equipment or facilities or transporting employees or materials for the repair of trains, equipment or facilities, unless the vehicle is designed, constructed and operated in accordance with the safety orders and regulations adopted under ORS 654.001 to 654.170 and 654.202 to 654.216.

(2) As used in subsection (1) of this section, "railroad" means a railroad as defined by ORS 824.020 and 824.022. [Formerly 761.325]

Note:

824.064 was added to and made a part of ORS chapters 823, 824, 825 and 826 by legislative action but was not added to ORS chapter 824 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.066 - Helper unit operation restrictions.**

(1) Except for operation in its yards or terminals, no railroad shall permit or require a helper unit that is not attached to a train to be operated with a crew of fewer than two people.

(2) As used in this section, "helper unit" means a locomotive power unit placed near the middle of or at the rear of a train to help the train traverse steep grades.

(3) A violation of this section is a Class A violation. [Formerly 761.331; 1999 c.1051 §231]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.068 - Water quality standards for locomotives.**

(1) The Department of Transportation shall prescribe standards for water quality on railroad locomotives in this state.

(2) The department may for good cause shown permit variances from the standards so prescribed. [Formerly 761.365; 2021 c.630 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.080 - "Hazardous materials" defined.**

As used in ORS 824.082 to 824.090 "hazardous materials" means those substances designated by the Department of Transportation pursuant to ORS 824.086 (1). [Formerly 761.370]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.082 - Notice of movement of hazardous materials; confidentiality of notice information.**

(1) Before transporting hazardous materials into this state or from a railroad terminal located within this state, a railroad shall, as soon as reasonably possible after it has notice of such train movement, provide such notification thereof as the Department of Transportation determines pursuant to ORS 824.086. If the information necessary for the notification is not available before beginning the train movement, or if hazardous materials are added to the train while en route, notification shall be given as soon as the information is available. For the purposes of this subsection, "train movement" does not include a switching or transfer movement.

(2) Except to the extent that the Department of Transportation determines is necessary to provide for the safe transportation of the hazardous materials, the department, an employee of the department and any person receiving information pursuant to this section shall not divulge or make known the information contained in the notification at any time before or during the transportation of the hazardous materials for which the notification is provided. [Formerly 761.380]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.084 - Visual external inspections required on cars standing in rail yards or stations more than two hours.**

Each railcar containing hazardous materials for which an "Explosives A," "Flammable Gas" or "Poison Gas" placard is required by federal regulation, and which remains in a rail yard or station for more than two hours shall be visually inspected externally by the transporting railroad within two hours of the car's arrival and within two hours prior to the car's departure. [Formerly 761.395]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.086 - Designation of hazardous materials and notice requirements; rules.**

After consultation with the State Fire Marshal the Department of Transportation shall determine:

(1) What material and quantity thereof the transportation of which is hazardous to public health, safety or welfare and shall designate by rule such materials and quantities as hazardous materials. In defining hazardous materials the department shall adopt definitions in conformity with the federal rules and regulations. Rules adopted under this subsection shall be applicable to any person who transports, or causes to be transported, any hazardous material.

(2) What notification required by ORS 824.082 (1) is necessary to provide for the safe transportation of hazardous materials, including but not limited to the time, content and manner of notification. [Formerly 761.400]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.088 - Notifying Oregon Department of Emergency Management of reportable incident, derailments and fires; radio gear.**

(1) Each railroad that gives notice to the United States Department of Transportation of an incident that occurs during the course of



transporting hazardous materials as defined by federal regulations shall also give notice of the incident to the Director of the Oregon Department of Emergency Management.

(2) As soon as reasonably practicable, each railroad shall notify the director by telephone or similar means of communication of any derailment or fire involving or affecting hazardous material.

(3) To facilitate expedited and accurate notice to the director under this section, each train transporting hazardous materials in this state shall be equipped with at least two radio transmitter-receivers in good working order. In addition, trains over 2,000 feet in length that are transporting hazardous materials shall be equipped with a radio handset in good working order capable of communicating with the radio transmitter-receivers. If the equipment required under this section does not function while the train is en route, the train may proceed to the next point of crew change where the equipment shall be replaced or repaired. [Formerly 761.405; 2007 c.740 §40; 2021 c.539 §77; 2021 c.630 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.090 - Department of Transportation to set standards for safe transportation of hazardous wastes; rules; civil penalty.**

(1) The Department of Transportation shall adopt rules setting standards for the safe transportation of hazardous wastes, as defined in ORS 466.005, by all transporters.

(2) The authority granted under this section:

(a) Is in addition to any other authority granted the department.

(b) Does not supersede the authority of the Energy Facility Siting Council to regulate the transportation of radioactive materials under ORS 469.550, 469.563, 469.603 to 469.619 and 469.992.

(3) In addition to any other penalty for violation of a rule adopted under this section, the department, in the manner provided in ORS 183.745, may impose a civil penalty of not more than \$10,000 for violation of a rule adopted under this section. Each day of noncompliance with a rule is a separate violation.

(4) As used in this section, "transporter" has the meaning given that term in ORS 466.005. [Formerly 761.415; 1997 c.275 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.092 - Disclosure of hazardous waste reports and information to Environmental Protection Agency.**

Records, reports and information obtained or used by the Department of Transportation in administering the hazardous waste program under ORS 824.090 shall be available to the United States Environmental Protection Agency upon request. If the records, reports or information has been submitted to the department under a claim of confidentiality, the state shall make that claim of confidentiality to the Environmental Protection Agency for the requested records, reports or information. The federal agency shall treat the records, reports or information that is subject to the confidentiality claim as confidential in accordance with applicable federal law. [Formerly 761.421]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.100 - Definitions for ORS 824.102 to 824.110.**

As used in ORS 824.102 to 824.110:

(1) "Caboose" means any car or coach used on a train to carry a train crew.

(2) "Marker" means any lamp providing illumination by electrical power which is designed to be displayed on a railroad car or coach for safety purposes.

(3) "Terminal" means a system of tracks, the boundaries of which are set by a railroad for the purpose of coupling or uncoupling cars. [Formerly 761.600]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.102 - Application of requirements.**

The provisions of ORS 824.102 to 824.110 shall apply to all cabooses except those used in terminal service or in road service for a distance not to exceed three miles, and shall not apply to logging railways. [Formerly 761.605; 1999 c.59 §246]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.104**

[Subsection (1) formerly 761.620; subsection (2) formerly 761.625; repealed by 2021 c.630 §129]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.106 - Use of noncomplying caboose prohibited; equipment failure; repair.**

A caboose shall not be placed in service unless it is in compliance with all of the provisions of ORS 824.102 to 824.110 relating to required equipment and standards of maintenance. In the event a failure of required equipment or standards of maintenance occurs after a caboose has departed from a terminal and a member of the train crew has boarded the caboose, the railroad operating the caboose shall not be deemed to be in violation of ORS 824.102 to 824.110 if such failure of equipment or standard of maintenance is corrected at the first point at which maintenance supplies are available or, in the case of repairs, the first point at which repair

facilities are available and repairs can reasonably be made or the defective equipment replaced. [Formerly 761.630; 1999 c.59 §247]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.108 - Register for reporting failures of equipment or maintenance standards; rules for use.**

A register for the reporting of failures of required equipment or standards of maintenance shall be maintained on all cabooses. The register shall contain sufficient space to record the dates and particulars of each failure. The Department of Transportation shall provide rules for the use of this register, including a requirement that the record of reported failures be maintained not less than 80 days from the date of the most recent failure. [Formerly 761.635]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.110 - Administrative authority of department; rules.**

The Department of Transportation shall regulate and enforce all sections of ORS 824.102 to 824.110 and shall promulgate all rules necessary for the enforcement of ORS 824.102 to 824.110. [Formerly 761.640; 1999 c.59 §248]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.112**

[Subsections (1) to (4) formerly 761.900; subsections (5) to (8) formerly 761.905; 1997 c.249 §246; 1997 c.275 §15a; renumbered 824.990 in 1997]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.114**

[Subsections (1) to (5) formerly 761.990; subsection (6) formerly 761.992; subsections (7) and (8) formerly 761.994; 1997 c.249 §248; renumbered 824.992 in 1997]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.200 - Definitions for 824.200 to 824.256.**

As used in ORS 824.200 to 824.256, unless the context requires otherwise:

- (1) "High speed rail system" means a fixed guideway passenger transportation system capable of transporting passengers at speeds exceeding 79 miles per hour and connecting two or more urban areas, including but not limited to any such system that utilizes or incorporates, in whole or in part, existing rail transportation facilities and any necessary upgrades of or modifications to existing rail transportation facilities.
- (2) "Highway" includes all roads, streets, alleys, avenues, boulevards, parkways and other places in this state actually open and in use, or to be opened and used for travel by the public.
- (3) "Installation costs," when used in the context of protective devices, includes costs of acquiring, assembling and rendering operational the device and its attendant controls, circuitry and fail-safe mechanisms.
- (4) "Maintenance costs," when used in the context of protective devices, includes preventive maintenance, repair and replacement of the device and its attendant controls, circuitry and fail-safe mechanisms.
- (5) "Protective device" means a sign, signal, gate or other device to warn or protect the public, installed at or in advance of a railroad-highway crossing.
- (6) Except in proceedings under ORS 824.236, "public authority in interest" means the state, county, municipal or other governmental body with jurisdiction over the highway crossing the railroad track. In proceedings under ORS 824.236, "public authority in interest" means the county, municipal or other governmental body that has primary zoning authority over the lands served by the crossing.
- (7) "Railroad" has the meaning given that term in ORS 824.020, and includes logging and other private railroads.
- (8) "Railroad company" includes every corporation, company, association, joint stock association, partnership or person, and their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating, controlling or managing any railroad.
- (9) "Unauthorized railroad-highway crossing" means a crossing at grade that is actually open and in use, or to be opened and used for travel by the public, and that has not been authorized under ORS 824.204. [Formerly 763.010; 2005 c.22 §517]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.202 - Policy; authority vested in state and department.**

It is the policy of this state to achieve uniform and coordinated regulation of railroad-highway crossings and to eliminate crossings at grade wherever possible. To these ends, authority to control and regulate the construction, alteration, and protection of railroad-highway crossings is vested exclusively in the state, and in the Department of Transportation as provided in ORS 824.200 to 824.256. [Formerly 763.013]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.204 - Authority to construct grade crossings; protective devices.**

- (1) Except for the repair of lawfully existing roads and highways or the replacement of tracks, no highway shall be constructed across the track of any railroad company at grade, nor shall the track of any railroad company be constructed across a highway at grade, without having first secured the permission of the Department of Transportation.
- (2) Whenever any railroad company desires to cross any established and existing highway at grade or any public authority desires to lay out and extend any highway over and across any established and existing railroad at grade, it shall file with the department its application setting forth the objections and difficulties of making such crossing either above or below the grade of the existing highway or railroad.
- (3) Upon receipt of the above application the department, after hearing, unless a hearing is not required under ORS 824.214, shall:
  - (a) Determine whether the public safety, public convenience and general welfare require a grade separation; and
  - (b) In the event a grade separation is not required, determine whether the application should be refused or granted, and upon what terms and conditions.
- (4) If the grade crossing is approved, the department shall determine and prescribe the manner of its construction, maintenance and use, the kind and location of protective devices to be installed, the allocation of costs and the place of the crossing. [Formerly 763.020]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.206 - Elimination, relocation or alteration of grade crossing; installation or alteration of protective devices.**

- (1) The Department of Transportation may, upon its own motion or upon application by a railroad or the public authority in interest, subsequent to a hearing, unless a hearing is not required under ORS 824.214, and upon finding that such action is required by the public safety, necessity, convenience and general welfare:
  - (a) Eliminate a grade crossing by relocation of the highway;
  - (b) Alter or abolish any grade crossing or change the location thereof, or require a separation of grades at any such crossing;
  - (c) Alter or change any existing crossing at separated grades; and
  - (d) Require installation or alteration of protective devices.
- (2) The department shall prescribe the time and manner of such alteration, change, installation or alteration, and the terms and conditions thereof. [Formerly 763.030; 1997 c.249 §250; 1997 c.275 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.208 - Authority to fix speeds and regulate sounding of train warning devices at crossings.**

- (1) The power to fix and regulate the speed of railway trains and to regulate the sounding of railway train warning devices at public railroad-highway crossings is vested exclusively in the state.
- (2) Upon petition of any public authority in interest or of any railroad or upon the Department of Transportation's own motion, the Department of Transportation shall, after due investigation and hearing, unless a hearing is not required under ORS 824.214 enter an order fixing and regulating the speed of railway trains or regulating the sounding of railway train warning devices.
- (3) The speed limits fixed by the department shall be maximum speed limits and shall be commensurate with the hazards presented and the practical operation of the trains. [Formerly 763.035]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.210 - Construction and alteration of crossings above or below grade.**

No highway shall be constructed across the track of any railroad company above or below grade, nor shall the track of any railroad company be constructed across a highway above or below grade, without having first secured the permission of the Department of Transportation. If permission is granted, the department shall, after a hearing, unless hearing is not required under ORS 824.214, prescribe the terms and conditions upon which such crossing shall be made and shall allocate the cost of construction and maintenance. [Formerly 763.040]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.212 - Specifications for construction and maintenance of crossings; application of specifications; priorities; compliance.**

- (1) The Department of Transportation shall adopt regulations prescribing specifications for the construction and maintenance of railroad-highway crossings, both at grade level and at separated grades. The specifications shall be developed in consultation with representatives of cities and counties and shall conform to nationally recognized and commonly used standards to ensure that the crossings are constructed and maintained in a manner that conforms to the public safety, necessity, convenience and general welfare, including but not limited to the projected transportation needs.
- (2) Specifications for separate crossings adopted under subsection (1) of this section do not apply to crossings in existence on the effective date of the regulation prescribing the specifications. However, within a reasonable period after the effective date, crossings shall be altered or reconstructed to comply with the regulations in effect at the time of the alteration or reconstruction.
- (3) Priorities for such alterations or reconstruction shall be established by the Department of Transportation, based upon the expressed need of the public authority in interest, and upon such other factors as danger or inconvenience to motorists, age of the structure, frequency of reported accidents and degree of noncompliance with regulations.

(4) If the public authority in interest or the railroad company fails to so alter or reconstruct a crossing, the department, after following the procedures specified in ORS chapter 183 for contested cases, may order the alteration or reconstruction and proceed in accordance with ORS 824.216. [Formerly 763.055; 1997 c.249 §251; 1997 c.275 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.214 - Procedure to obtain permission for crossings; rules.**

(1) Proceedings to carry out ORS 824.204, 824.206, 824.210 to 824.218, 824.224, 824.226 to 824.230, 824.238, 824.240 and 824.256, including the right to review any order of the Department of Transportation, shall be those specified in ORS chapter 183 for contested cases. If the final order of the department, in a proceeding initiated under ORS 824.206 or 824.226 by a city or county, is appealed and the city or county prevails, it shall be entitled to costs and reasonable attorney fees.

(2) The department may adopt rules to govern the procedure, and to regulate the mode and manner of all investigations under ORS 824.204, 824.206, 824.210 to 824.218, 824.224, 824.226 to 824.230, 824.238, 824.240 and 824.256.

(3) The authority granted the department by ORS 824.200 to 824.256 is in addition to and not in lieu of the authority of any city, county or other political subdivision of the state to use other remedies and procedures to provide public highways for the traveling public. [Formerly 763.080; 1997 c.249 §252; 1997 c.275 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.216 - Procedure to compel compliance with orders.**

(1) The railroad company, public authority or person to whom an order of the Department of Transportation is directed under ORS 824.200 to 824.256 shall comply with such order within such reasonable time as may be prescribed by the department. In case of failure to comply, the department shall thereupon take proceedings to compel obedience to such order.

(2) The circuit court has power in case of all such orders by the department to compel obedience therewith by mandamus, brought in the name of the state, subject, however, to appeal to the Court of Appeals in the same manner and with like effect as provided in cases of appeal from the order of the circuit court. [Formerly 763.090; 1997 c.275 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.218 - Work and materials furnished by railroad company; supervision of work.**

All work and the material for work done under ORS 824.200, 824.204, 824.206, 824.210 to 824.218, 824.226 to 824.230, 824.238, 824.240 and 824.256 within the limits of railroad rights of way shall, if the railroad company so desires, be furnished and done by the railroad company. However, the Department of Transportation shall have supervision of the work and may decide the kind of material to be used. [Formerly 763.100; 1997 c.249 §253]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.220 - Protective devices; rules.**

The Department of Transportation shall adopt rules prescribing specifications for the design and location of protective devices. [Formerly 763.110; 1997 c.249 §254]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.222 - Authority over duration that grade crossing may be blocked; penalty.**

(1) The power to fix and regulate the length of time a public railroad-highway grade crossing may be blocked by railroad equipment is vested exclusively in the state.

(2)(a) Upon petition of the public authority in interest, or of any railroad or upon the Department of Transportation's own motion, the department shall, after due investigation and hearing, unless hearing is not required under ORS 824.214, enter an order fixing and regulating the length of time a public railroad-highway grade crossing may be blocked by railroad equipment.

(b) Upon petition of a person, the department shall investigate and may hold a hearing and, following a hearing, may enter an order fixing and regulating the length of time a public railroad-highway grade crossing may be blocked by railroad equipment.

(3) The time limits fixed by the department shall be maximum time limits and shall be commensurate with reasonable requirements of train and vehicular traffic operations.

(4) Violation of a time limit fixed by the department under this section is punishable by a civil penalty of not less than \$100 nor more than \$3,000 for each offense. [Formerly 763.120; 2001 c.909 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.223 - Authority to regulate distance from grade crossing at which railroad may stop or park equipment; penalty.**

(1) The power to regulate the distance from a public railroad-highway grade crossing at which a railroad may stop or park equipment is vested exclusively in the state.

(2)(a) Upon petition of the public authority in interest, or of any railroad or upon the Department of Transportation's own motion, the department shall, after due investigation and hearing, unless hearing is not required under ORS 824.214, enter an order establishing a safe distance from a public railroad-highway grade crossing at which a railroad may stop or park equipment.

- (b) Upon petition of a person, the department shall investigate and may hold a hearing and, following a hearing, may enter an order establishing a safe distance from a public railroad-highway grade crossing at which a railroad may stop or park equipment.
- (3) In determining what constitutes a safe distance under subsection (2) of this section, the department shall consider issues including, but not limited to, hazards associated with public railroad-highway grade crossings that do not have active protective devices.
- (4) Violation of an order issued under subsection (2) of this section is punishable by a civil penalty of not less than \$100 nor more than \$3,000 for each offense. [2001 c.909 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.224 - When stop signs are to be installed by railroad; exemption; grade crossing alteration, relocation or closure.**

- (1) At every farm or private grade crossing of a railroad where no automatic grade crossing protective device is installed, the railroad shall cause to be installed and maintained, as a means of protecting the crossing, one or more stop signs.
- (2) The Department of Transportation shall, after hearing, unless hearing is not required under ORS 824.214, prescribe the number, type and location of the stop signs and may exempt a farm or private grade crossing if the department finds that the installation of such sign or signs at the crossing would create a hazard or dangerous condition that would not otherwise exist.
- (3) After notice to any affected landowner and opportunity for a hearing, unless a hearing is not required under ORS 824.214, the Department of Transportation may alter, relocate or close any farm or private grade crossing on any line designated as a high speed rail system.
- (4) If the department decides to alter, relocate or close a farm or private grade crossing in such a manner as to constitute a taking of private property, the department shall exercise its power of eminent domain to acquire such property as is necessary to carry out the decision. A department order under this subsection shall constitute a resolution of necessity for exercise of the department's power of eminent domain.
- (5) If the department exercises its power of eminent domain under subsection (4) of this section, the department shall use any combination of state or federal funds allocated for high speed rail systems to pay any settlement with or judgment in favor of an owner of a farm or private grade crossing. The department shall have discretion to determine whether to reach a settlement with an owner of a farm or private grade crossing.
- (6) The costs of implementing a department order issued under subsection (3) of this section shall be apportioned to any combination of state or federal funds specifically allocated for high speed rail systems as the department determines appropriate in order to eliminate farm or private grade crossings or to enhance safety at such crossings. [Formerly 763.130; 1997 c.249 §255; 1997 c.275 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.226 - Dangerous grade crossings; notice; hearing; order to install protective devices; apportioning of cost.**

- (1) The Department of Transportation on its own motion may, or upon application by the common council or mayor of any city, or any county judge or county commissioner or county roadmaster, or by five or more residents and taxpayers in any city, county or road district to the effect that a public highway and a railroad cross one another in such city, county or road district at the same level, and that such grade crossing is unsafe and dangerous to travelers over such highway or railroad, shall, give notice to the railroad company, of the filing of such application, and furnish a copy of the same to the railroad company, and order a hearing thereon in the manner provided for contested case hearings under ORS chapter 183.
- (2) If upon such hearing it appears to the satisfaction of the department that the crossing complained of is unsafe and dangerous to human life, the department may order the crossing closed or order and direct the railroad or public authority to install and maintain proper protective devices, and establish a date by which such devices are to be installed and placed into operation. The department shall apportion the installation and maintenance costs thereof in accordance with ORS 824.242 to 824.246, and, notwithstanding the provisions of ORS chapter 183, shall suspend the effective date of the order until the public authority in interest has consented to the apportionment and has agreed to comply therewith. [Formerly 763.170; 1997 c.275 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.228 - Procedure for determining mode of track crossing of intersecting railroads.**

- (1) Whenever it becomes necessary for the track of one railroad to cross the track of another railroad, the Department of Transportation shall ascertain and define either on the application of a railroad or on its own motion and after notice to the affected railroads, in the manner provided for contested cases in ORS chapter 183, the mode of such crossing that occasions the least probable injury upon the safety, welfare and interests of the public and the rights of the company owning the road that is intended to be crossed.
- (2) The department shall also determine the compensation to be paid by the railroad so seeking to cross the other, if the railroads are unable to agree thereon, and the points and manner of such connection.
- (3) If it appears to the department that it is reasonable and practicable to avoid a grade crossing, the department shall by order prevent the same, and shall prescribe the manner of such crossing.
- (4) If any railroad seeks to cross at grade with its tracks the tracks of another railroad, the railroad seeking to cross at grade shall be compelled to pay all damages caused by such crossing, and to interlock or protect such crossing by safety devices to be designated

by the department, and to pay all costs of appliances, together with the expenses of putting them in and maintaining them. This requirement does not apply to crossings of sidetracks. [Formerly 763.180; 1997 c.275 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.230 - Installation of protective devices where railroads intersect at grade.**

(1) In any case where the tracks of two or more railroads cross each other at a common grade in this state, the railroads, when ordered by the Department of Transportation, shall protect such crossings by interlocking or other safety devices, under regulations to be designated by the department, to prevent trains colliding at such crossings. An order may be issued under this section only after notice to the affected railroads and a proceeding under ORS chapter 183 initiated by the department on its own motion or upon application by one of the railroads.

(2) The department in making such order shall designate the manner of such interlocking protection, and shall apportion the cost of installing and maintaining the same between the several railroads, if such railroads are unable to agree upon the same between themselves. [Formerly 763.190; 1997 c.275 §24]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.232 - Forfeiture for noncompliance.**

Any company, corporation, person or receiver operating any railroad who neglects to comply with any order made by the Department of Transportation pursuant to ORS 824.228 or 824.230 shall forfeit and pay to the state a penalty of \$500 per week for each week of such neglect. [Formerly 763.200]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.234 - Use of findings of department regarding hazards at crossings.**

The determinations of the Department of Transportation under ORS 824.200 to 824.256 as to hazards at crossings shall not be admissible in any civil action for damages. [Formerly 763.210]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.236 - Protective devices at unauthorized railroad-highway crossing; apportionment to railroad; reimbursement; closure.**

(1) Except as provided in subsection (2) of this section, the Department of Transportation may, under ORS 823.033, order a railroad to install and maintain protective devices at an unauthorized railroad-highway crossing and order the public authority in interest to install and maintain stop signs at and other protective devices in advance of an unauthorized railroad-highway crossing.

(2) The department may not order the railroad to install at an unauthorized railroad-highway crossing devices which are activated immediately in advance of, and during, each train movement over the crossing unless the department determines that the railroad intentionally created the unauthorized crossing after June 2, 1995.

(3) Except as provided in subsection (4) of this section, in any proceeding under subsections (1) and (2) of this section, or unless the parties agree otherwise, installation and maintenance costs of protective devices shall be apportioned to the railroad.

(4) The railroad may seek reimbursement or indemnity from third parties.

(5) Under ORS 823.033, the department may open an investigation to consider closure of an unauthorized railroad-highway crossing. If the department decides to open an investigation, it shall post notice of the investigation at the crossing at least 30 days prior to opening the investigation. If the department is unable to complete an investigation within two years from the date it was opened, the department shall order the crossing closed within one year from the expiration of the two-year period allowed for investigation unless closure of the unauthorized railroad-highway crossing would remove the only access to any land. [Formerly 763.220; 2003 c.145 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.238 - Division of costs between railroad and public authority.**

The following costs shall be divided between the railroad and the public authority in interest in such proportion as the Department of Transportation finds just and equitable under the circumstances in each case:

(1) That portion of the cost of any alteration or change resulting in the elimination of a grade crossing under ORS 824.206 (1) by reason of relocation of the highway which is directly chargeable to the grade elimination.

(2) The costs of construction, change, alteration, abolition and relocation of any grade crossing involved in a proceeding arising under ORS 824.204, 824.206 or 824.226.

(3) The costs of maintenance of crossings above or below grade under ORS 824.206 and 824.210.

(4) Any cost otherwise apportionable under the terms of ORS 824.242 to 824.246 or 824.248 (1) to the extent that funds are not available from the Grade Crossing Protection Account. [Formerly 763.250]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.240 - Payment when public highway involved.**

(1) As to all crossings above or below grade constructed on state highways, the proportion of expense to be borne by public

authority in interest shall be paid from the state highway funds.

(2) Any public authority in interest acting through its governing body may, at its option, by agreement with the Department of Transportation, bear a share of the expense of constructing any railroad crossing above or below grade on a state highway.

(3) If federal funds allocated specifically for removal of hazards at hazardous railroad-highway crossings are available for any part of the work to be performed, the Department of Transportation shall cause such funds to be used for such purposes. [Formerly 763.260]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.242 - Apportionment of costs for installation of protective devices.**

In any grade crossing proceeding arising under ORS 824.204, 824.206 or 824.226, unless the parties agree otherwise, installation costs of protective devices shall be apportioned as follows:

(1) At an existing crossing, a crossing relocated pursuant to ORS 824.206 or 824.226, or a crossing previously closed by order of the Department of Transportation and reopened in a proceeding under ORS 824.204:

(a) For devices to be installed at or in advance of the crossing and which are activated immediately in advance of, and during, each train movement over the crossing:

(A) Seventy-five percent to the Grade Crossing Protection Account;

(B) Five percent to the public authority in interest; and

(C) Twenty percent to the railroad company.

(b) For devices which are primarily designed for the purpose of illuminating the crossing or its approaches during hours of darkness:

(A) Not less than 90 percent to the Grade Crossing Protection Account;

(B) Not more than five percent to the public authority in interest; and

(C) Not more than five percent to the railroad company for such devices to be installed at the crossing.

(c) For all other protective devices:

(A) Seventy-five percent to the Grade Crossing Protection Account; and

(B) Twenty-five percent to the public authority in interest for such devices to be installed by it at or in advance of the crossing; or

(C) Twenty-five percent to the railroad company for such devices to be installed by it at the crossing.

(2) Except as provided in subsection (4) of this section, at a new crossing requested by a public authority, 100 percent of the installation costs shall be paid by the public authority in interest.

(3) Except as provided in subsection (4) of this section, at a new crossing requested by a railroad company, 100 percent of the installation costs shall be paid by the railroad company.

(4) If the Department of Transportation converts an unauthorized railroad-highway crossing to a crossing authorized under ORS 824.204, the department shall apportion installation costs of protective devices as provided in subsection (1) of this section, or, if federal funds are available, installation costs may be apportioned as provided in ORS 824.250. [Formerly 763.271]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.244 - Apportionment of costs for maintenance of protective devices.**

Unless the parties agree otherwise, maintenance cost of protective devices at grade crossings installed pursuant to ORS 824.204, 824.206 or 824.226 shall be apportioned as follows:

(1) One hundred percent to the railroad company for devices at the crossing actually installed and maintained by the railroad.

(2) One hundred percent to the public authority in interest for devices at or in advance of the crossing actually installed and maintained by the authority, except as provided under subsection (3) of this section.

(3) Fifty percent to the railroad company, and 50 percent to the public authority in interest, for devices at the crossing installed and maintained by the public authority which are primarily designed for the purpose of illuminating the crossing during hours of darkness and which are not activated immediately in advance of, or during, each train movement. [Formerly 763.273]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.246 - Apportionment of costs of crossing closure.**

If in any grade crossing proceeding arising under ORS 824.204, 824.206 or 824.226, the Department of Transportation requires the closure of any existing crossing within the jurisdiction of the public authority in interest, the department may apportion to the railroad company, for such crossing closed, an amount not to exceed five percent of the cost of installation of protective devices at any new or other existing crossing within the jurisdiction of the public authority in interest. Any additional costs paid by the railroad company shall reduce the share otherwise apportionable to the public authority in interest. [Formerly 763.275]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.248 - Apportionments for crossings above or below grade.**

In any proceeding involving a crossing above or below grade arising under ORS 824.206 or 824.210, unless the parties agree otherwise, the cost of construction, reconstruction, or alteration of such crossings shall be apportioned as follows:

(1) At existing crossings above or below grade: 10 percent of the cost of reconstruction or alteration to the public authority in

interest and all remaining costs of reconstruction or alteration to the Grade Crossing Protection Account and the railroad in interest as is just and equitable under the circumstances in each case.

(2) At a new crossing requested by a public authority: All construction costs to the public authority in interest.

(3) At a new crossing requested by a railroad company: All construction costs to the railroad company. [Formerly 763.280]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.250 - Apportionment when federal funds available.**

In the event any protective device is to be installed or altered at an existing or relocated crossing or any reconstruction or alteration is made at an existing separation structure, with the aid of any federal funds administered by the Federal Highway Administration of the United States Department of Transportation, the Oregon Department of Transportation shall, unless the parties agree otherwise:

(1) Apportion the amount of such federal funds to payment of installation, reconstruction, or alteration costs; and

(2) Apportion the remaining costs of installation, reconstruction, alteration, and maintenance as provided by ORS 824.238 and 824.242 to 824.248; however, in a case where the federal fund assistance equals or exceeds 75 percent of the cost of installing, altering and reconstructing protective devices at an existing or relocated crossing, the remaining costs, except for maintenance costs, may be allocated entirely to the Grade Crossing Protection Account. [Formerly 763.290]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.252 - Procedure when disagreement as to apportionment exists.**

(1) In any proceeding under ORS 824.206 or 824.226, where the application to the Department of Transportation states that the parties are not in agreement as to apportionment of costs, but the applicant is willing to advance the amount of money reasonably necessary to enable the respondent to complete the work which must be done by it or the amount reasonably necessary is available and can be advanced from the Grade Crossing Protection Account, the department shall set the application for hearing as soon as the calendar of the department permits on the questions of:

(a) The necessity for the project;

(b) The approval of the location and the engineering plans, including provisions for handling traffic during construction and the work to be performed by each party; and

(c) The sum to be advanced by the applicant or the account for the work to be done by the respondent.

(2) The Department of Transportation shall render as promptly as possible an interim order, effective within 20 days on such questions, reserving for later hearing and decision the question of the apportionment of costs. The interim order shall also direct the respondent to proceed upon receipt of the sum to be advanced by the applicant or the account without delay to perform the work to be done by respondent, integrating the work with that of the applicant or its contractor in such manner that neither will unreasonably obstruct or delay the work of the other, to the end that the people of the state may have the use of the project at the earliest possible date.

(3) In the final order apportioning costs, the sum advanced by the applicant or the account shall be credited against its share of the costs. In the final order there shall also be credited against applicant's share of the costs any increase in the costs found by the Department of Transportation to be directly attributable to respondent's willful failure or refusal, after the effective date of the interim order, to proceed with its own work or to integrate the work with that of applicant or its contractor. [Formerly 763.300]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.254 - Reimbursement procedure for railroad and public authority.**

(1) Upon issuance of an order apportioning costs to the Grade Crossing Protection Account, the railroad company or the public authority in interest may submit to the Department of Transportation progress claims, not to exceed 80 percent of the apportionment, for reimbursement for the cost of labor, and other services provided to date of billing, and for the costs of materials stockpiled at the project site or specifically purchased and delivered for use on the project. Upon completion of the construction, reconstruction or alteration of a crossing, or of the installation or alteration of grade crossing warning or safety devices at a crossing, the railroad company or the public authority in interest shall present to the department for approval its claim for reimbursement for the costs thereof in the amount apportioned to the Grade Crossing Protection Account less progress payments previously made. When a claim is approved, the department shall, as funds become available, order the claim paid from the account.

(2) The department may make such audit as the department considers necessary before or after each such disbursement for the purpose of determining that the money is expended for the purposes and under the conditions authorized by ORS 824.242 to 824.248. By presentation of its claim, the railroad company and the public authority consent to make pertinent records showing costs of labor and materials available to the department.

(3) Notwithstanding subsection (1) of this section, upon issuance of an order apportioning costs to the Grade Crossing Protection Account, and upon agreement with the Department of Transportation, the railroad company or public authority in interest shall submit an estimate of the costs of the project. The railroad company or public authority in interest may submit statements for lump-sum reimbursement from the account during and at the completion of the construction, reconstruction or alteration of a crossing, or of the installation or alteration of a grade crossing warning or safety device at a crossing. [Formerly 763.310; 1997 c.249 §256; 1999 c.596 §1]



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.256 - Expense contributed by public held in trust by railroad company.**

Any portion of the cost or expense that is contributed or borne by any public authority under ORS 824.200, 824.204, 824.206, 824.210 to 824.218 and 824.226 shall forever be considered as held in trust by the railroad company receiving the same or the benefits thereof, and no part thereof shall be considered a part of the value of the property of the railroad company upon which it is entitled to receive a return. [Formerly 763.320]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.300 - Required crews on trains; exception.**

No person or officer of court operating any railroad or railway in this state engaged as a common carrier in the transportation of freight or passengers shall operate over its road, or any part thereof, in excess of 15 continuous miles, or suffer or permit to be run over the same, outside of yard switching limits, any passenger, mail or express train propelled by any form of motive power and consisting of four or more cars with less than a full passenger crew consisting of one engineer, one apprentice engineer, one conductor, one brakeman and one flagger. None of said crew shall be required or permitted to perform the duties of train baggage handler or express messenger while on such road. This section shall not apply to operations in which lesser crew requirements are established by agreement between the common carrier and the organizations representing railroad employees. [Formerly 764.110; 1997 c.249 §258]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.302 - Qualification of flagger.**

The flagger in the crews required under ORS 824.300 shall have had at least six months' experience in train service. [Formerly 764.130; 1997 c.249 §259]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.304 - Guarding frogs, switches and guardrails.**

- (1) Every person owning or operating a railroad in this state, shall so adjust, fill, block and securely guard the frogs, switches and guardrails of their roads as to protect and prevent the feet of employees and other persons from being caught therein.
- (2) Any person owning or operating a railroad in this state shall be liable for any damage caused from a failure to comply with this section. [Formerly 764.140]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.306 - Shelter of car repairers.**

- (1) No person owning, controlling or operating any line of railroad in this state shall build, construct, reconstruct or repair railroad car equipment or motive power in the state without first erecting and maintaining at every division terminal, or other point where five employees or more are regularly employed on such work, a shed over a sufficient portion of the tracks used for such work, so as to provide that all employees regularly employed in such work are sheltered and protected from rain and other inclement weather.
- (2) This section does not apply at points where fewer than five employees are regularly employed in such work, nor at points where it is necessary to make light repairs only on equipment or motive power, nor to equipment loaded with time or perishable freight, nor to equipment when trains are being held for the movement of equipment. As used in this subsection, "light repairs" does not include repairs usually made in roundhouse, shop or shed upon well-equipped railroads. [Formerly 764.150]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.308 - Railroads to provide first aid training for employees.**

- (1) Every railroad operating in this state shall provide to any employee who is an engineer, conductor or yard foreman a first aid training course that conforms to standards at least equivalent to the American Red Cross eight-hour first aid training course and cardiopulmonary resuscitation course.
- (2) Railroads shall bear all costs incurred for the first aid training course described in subsection (1) of this section and shall pay wages to employees who are attending the course. [Subsection (1) formerly 764.170; subsection (2) formerly 764.180]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.310 - Immunity from liability of persons providing first aid treatment.**

No person may recover in an action against a railroad or employee who has received the first aid training described in ORS 824.308 (1) for any damages directly or indirectly resulting from first aid treatment rendered by such employee unless the complaining party establishes that the treatment violates the standards of reasonable care under the circumstances including the existence of emergency conditions in which the treatment was rendered. [Formerly 764.190]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.400 - Passenger rail plan.**

(1) The Department of Transportation shall develop and implement a passenger rail plan for the purposes of increasing ridership on passenger trains and increasing ticket revenue. The passenger rail plan must include, but is not limited to, the following:

- (a) A marketing strategy.
  - (b) Strategies for boosting ridership.
  - (c) Strategies for boosting tourism through the use of passenger rail.
- (2) The department may coordinate with other state agencies to develop the plan. [2015 c.225 §3]

Note:

824.400 to 824.430 were enacted into law by the Legislative Assembly but were not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.410 - Quarterly report to Legislative Assembly.**

The Department of Transportation shall submit a quarterly report on the performance of passenger rail to the interim committees of the Legislative Assembly related to transportation in the manner provided under ORS 192.245. The report must include a summary of the number of passengers utilizing passenger rail and on-time performance for the previous quarter. [2015 c.225 §5]

Note:

See note under 824.400.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.420 - Cascades Rail Corridor.**

(1) The Department of Transportation may enter into agreements with the Washington State Department of Transportation and the British Columbia Ministry of Transportation and Infrastructure to:

- (a) Develop a plan to document the shared vision, goals and objectives for passenger rail service within the Cascades Rail Corridor.
- (b) Develop a plan to achieve performance goals, manage fleet assets, share costs, prioritize investments and resolve interagency disputes.
- (c) Propose funding options to the respective legislative bodies to support the operation of passenger trains within the corridor.
- (d) Develop a stakeholder outreach program.
- (e) Oversee operations and marketing of daily passenger rail service in the corridor.

(2) The Department of Transportation may enter into agreements with the Washington State Department of Transportation to coordinate state rail plans. [2013 c.112 §1]

Note:

See note under 824.400.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.430 - Annual report to Legislative Assembly.**

Before January 1 of each odd-numbered year, the Department of Transportation shall report to the Legislative Assembly in the manner provided in ORS 192.245 about the following:

- (1) The status of agreements with the Washington State Department of Transportation and the British Columbia Ministry of Transportation and Infrastructure regarding the Cascades Rail Corridor.
- (2) The performance of passenger rail service within the corridor.
- (3) The financial status of the corridor and financial needs for passenger rail service within the corridor. [2013 c.112 §2]

Note:

See note under 824.400.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.990 - Civil penalties.**

(1) In addition to all other penalties provided by law:

- (a) Every person who violates or who procures, aids or abets in the violation of ORS 824.060 (1), 824.084, 824.088, 824.304 (1) or 824.306 (1) or any order, rule or decision of the Department of Transportation shall incur a civil penalty of not more than \$1,000 for every such violation.
- (b) Every person who violates or who procures, aids or abets in the violation of any order, rule or decision of the department promulgated pursuant to ORS 824.052 (1), 824.056 (1), 824.068, 824.082 (1) or 824.208 shall incur a civil penalty of not more than \$1,000 for every such violation.
- (2) Each such violation shall be a separate offense and in case of a continuing violation every day's continuance is a separate violation. Every act of commission or omission that procures, aids or abets in the violation is a violation under subsection (1) of this section and subject to the penalty provided in subsection (1) of this section.
- (3) Civil penalties imposed under subsection (1) of this section shall be imposed in the manner provided in ORS 183.745.
- (4) The department may reduce any penalty provided for in subsection (1) of this section on such terms as the department considers

proper if:

- (a) The defendant admits the violations alleged in the notice and makes timely request for reduction of the penalty; or
- (b) The defendant submits to the department a written request for reduction of the penalty within 15 days from the date the penalty order is served. [Formerly 824.112; 2021 c.630 §128]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 824 - Railroads Section 824.992 - Criminal penalties.**

- (1) Violation of ORS 824.062 is a Class D violation.
- (2) Violation of ORS 824.064 is a Class A misdemeanor.
- (3) Violation of ORS 824.082 (1), 824.084 or 824.088 by a railroad is a Class A violation.
- (4) Violation of ORS 824.082 (2) is a Class A violation.
- (5) As used in subsection (3) of this section, "railroad" means a railroad as defined by ORS 824.020 and 824.022.
- (6) Subject to ORS 153.022, violation of ORS 824.060 (2), 824.106 or 824.108 or any rule promulgated pursuant thereto is a Class A violation.
- (7) A person is subject to the penalties under subsection (8) of this section if the person knowingly:
  - (a) Transports by railroad any hazardous waste listed under ORS 466.005 or rules adopted thereunder to a facility that does not have appropriate authority to receive the waste under ORS 466.005 to 466.385 and 466.992.
  - (b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder without appropriate authority under ORS 466.005 to 466.385 and 466.992.
  - (c) Materially violates any terms of permit or authority issued to the person under ORS 466.005 to 466.385 and 466.992 in the transporting or disposing of hazardous waste.
  - (d) Makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with requirements under ORS 824.050 to 824.110 for the safe transportation of hazardous wastes.
  - (e) Violates any rules adopted by the Department of Transportation concerning the transportation of hazardous wastes.
- (8) Subject to ORS 153.022, violation of subsection (7) of this section is a Class B misdemeanor. Each day's violation is a separate offense.
- (9) Violation of ORS 824.300 or 824.302 is a Class D violation.
- (10) Violation of ORS 824.304 is a Class A violation.
- (11) Violation of ORS 824.306 by any railroad company or officer or agent thereof, or any other person is a Class D violation. Each day's violation is a separate offense. [Formerly 824.114; 1999 c.1051 §232; 2011 c.597 §109; 2021 c.630 §29]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.005 - Definitions.**

As used in this chapter:

- (1) "Carrier" or "motor carrier" means for-hire carrier or private carrier.
- (2) "Cartage carrier" means any person who undertakes to transport any class of property by motor vehicle for compensation when the transportation is performed wholly within an incorporated city or a commercial zone adjacent to an incorporated city.
- (3) "Certificate" means an authority issued to a for-hire carrier under ORS 825.110.
- (4) "Combined weight" means the weight of the motor vehicle plus the weight of the maximum load which the applicant has declared such vehicle will carry. Any declared combined weight is subject to audit and approval by the Department of Transportation.
- (5) "Department" means the Department of Transportation.
- (6) "Extreme miles" or "extreme mileage" means the total miles operated by a vehicle over the public highways, except the extra miles necessarily operated in traversing detours or temporary routes on account of road blockades in the state.
- (7) "For-hire carrier" means:
  - (a) Any person who transports persons or property for hire or who publicly purports to be willing to transport persons or property for hire by motor vehicle; or
  - (b) Any person who leases, rents or otherwise provides a motor vehicle to the public and who in connection therewith in the regular course of business provides, procures or arranges for, directly, indirectly or by course of dealing, a driver or operator therefor.
- (8) "Household goods" means the personal effects or other property used or to be used in a dwelling but does not include property transported from a store or factory or property exclusively for office use.
- (9) "Motor vehicle" means any self-propelled vehicle and any such vehicle in combination with any trailing units, used or physically capable of being used upon any public highway in this state in the transportation of persons or property, except vehicles operating wholly on fixed rails or tracks and electric trolley buses. "Motor vehicle" includes overdimension vehicles or vehicles permitted excessive weights pursuant to a special authorization issued by a city, county or the Department of Transportation.
- (10) "Permit" means an authority issued to a carrier under ORS 825.102, 825.106, 825.108 or 825.127.
- (11) "Private carrier" means any person who operates a motor vehicle over the public highways of this state for the purpose of transporting persons or property when the transportation is incidental to a primary business enterprise, other than transportation, in

which such person is engaged.

(12) "Privilege taxes" means the weight-mile tax and fees prescribed in this chapter.

(13) "Property" includes, but is not limited to, permanent loads such as equipment, appliances, devices, or ballast that are attached to, carried on, or made a part of the vehicle and that are designed to serve some functional purpose.

(14) "Public highway" means every street, alley, road, highway and thoroughfare in this state used by the public or dedicated or appropriated to public use.

(15) "Transit-type motor vehicle" means any passenger-carrying vehicle that does not have a separate space for transporting baggage or express.

(16) "Transporter" has the meaning given that term in ORS 466.005. [Formerly 767.005; 1997 c.275 §34; 2003 c.754 §1; 2007 c.465 §8; 2009 c.433 §1; 2015 c.138 §41; 2017 c.45 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.007 - Policy.**

(1) The business of operating as a motor carrier of persons or property for hire upon the highways of this state is declared to be a business affected with the public interest. It is hereby declared to be the state transportation policy to do the following:

(a) Promote safe, adequate, economical and efficient service and to promote the conservation of energy.

(b) Promote sound, economic conditions in transportation.

(c) Encourage the establishment and maintenance of reasonable rates for transportation services, without unjust discriminations, undue preferences or advantages or unfair or destructive competitive practices.

(d) Provide specific state action immunity against all antitrust claims and prosecution in those instances when carriers lawfully develop, publish and charge rates relating to the transportation of household goods and joint line rates relating to the transportation of other property and provide services specifically prescribed and subject to regulation by the Department of Transportation and in those instances when carriers lawfully engage in prior consultation for purposes described in this paragraph.

(2) The volume of motor carrier traffic presents dangers and hazards on public highways and makes it imperative that:

(a) Stringent rules be employed, to the end that the highways may be rendered safe for the use of the general public;

(b) The wear of such highways be controlled;

(c) A minimum of inconvenience to other users of the highways be effected;

(d) A minimum hindrance and stoppage to other users of the highways compatible with needs of the public for adequate transportation service, be effected;

(e) The highways be safeguarded from improper or unnecessary usage;

(f) Operation by irresponsible persons or any other operation threatening the safety of the public or detrimental to the general welfare be prevented;

(g) Congestion of traffic on the highways be minimized;

(h) The various transportation agencies of the state be adjusted and correlated so that public highways may serve the best interest of the general public; and

(i) A method of assessing privilege taxes be provided to enable the further construction of highways and to provide for the operation, preservation and maintenance of highways already built.

(3) The Legislative Assembly hereby declares that to effect the ends and purposes listed in this section, this chapter is adopted. [Formerly 767.020; 2015 c.283 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.010 - Compliance with chapter required.**

No for-hire carrier or private carrier shall operate any motor vehicle for the transportation of persons or property, or both, on any public highway in this state except in accordance with the provisions of this chapter. [Formerly 767.040; 1997 c.275 §35]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.015 - Nonapplicability of chapter to certain vehicles used in nonprofit transportation of passengers.**

(1) Except as provided in ORS 825.030, this chapter does not apply to motor vehicles with a seating capacity of less than 16 persons while used in nonprofit operation for commuting to job, job training or educational facilities.

(2) For the purposes of this section, "nonprofit operation" means a voluntary commuter ridesharing arrangement that may charge a fee to defray expenses but remains nonprofit in its operation without reference to any entity that may sponsor it. In establishing the fee, the following items may be included as expenses:

(a) The cost of acquiring the vehicle;

(b) Insurance;

(c) Maintenance of the vehicle;

(d) Fuel; and

(e) Other reasonable expenses attributable to use of the vehicle for ridesharing purposes. [Formerly 767.022; 2007 c.31 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor**

## **CarriersSection 825.017 - Nonapplicability of chapter to certain persons and vehicles.**

Except as provided in this section and ORS 825.026 and 825.030, this chapter does not apply to the persons or vehicles described in this section. The exemption under this section applies to the following persons and vehicles:

- (1) Vehicles being used by, or under contract with, any school board, district or person responsible for the administration of elementary or secondary school activities, and engaged exclusively in transporting students or combinations of students and other persons to or from school, to or from authorized school activities or other activities sponsored by the governing board of a public university listed in ORS 352.002, or for purposes provided under ORS 332.427. This exemption shall not be affected by the charging of a fee to cover the costs of the transportation.
- (2) Vehicles being used in a taxicab operation if the vehicle:
  - (a) Is a passenger vehicle with a passenger seating capacity that does not exceed five;
  - (b) Carries passengers for hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of any combination of an initial fee, distance traveled or waiting time; and
  - (c) Is transporting persons or property, or both, between points in Oregon.
- (3) Vehicles being used for the transportation of property by private carrier by means of a single vehicle or combination of vehicles with a combined weight that does not exceed 8,000 pounds.
- (4) Vehicles being used in operating implements of husbandry.
- (5) Vehicles being used as a hearse or ambulance.
- (6) Vehicles being used over any private road or thoroughfare.
- (7) Vehicles being used on any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products as defined in ORS 321.005, or the product of forest products converted to a form other than logs at or near the harvesting site, or when used for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with:
  - (a) An agency of the United States;
  - (b) The State Board of Forestry;
  - (c) The State Forester; or
  - (d) A licensee of an agency named in this subsection.
- (8) Vehicles being used on any county road for the removal of forest products as defined in ORS 321.005, or the products of forest products converted to a form other than logs at or near the harvesting site, if:
  - (a) The use is pursuant to a written agreement entered into with the State Board of Forestry, the State Forester or an agency of the United States, authorizing the owner of the motor vehicle to use the road and requiring the owner to pay for or to perform the construction or maintenance of the county road, including any operator of a motor vehicle retained to transport logs, poles and piling for the owners who are exempt under this section;
  - (b) The board, officer or agency that entered into the agreement or granted the permit, by contract with the county court or board of county commissioners, has assumed the responsibility for the construction or maintenance of the county road; and
  - (c) Copies of the agreements or permits required by this subsection are filed with the Director of Transportation.
- (9) Vehicles being used in transporting persons with disabilities, with or without their supervisors or assistants, to or from rehabilitation facilities or child care services if the motor vehicle is a passenger motor vehicle with a seating capacity of not more than 12 passengers. The exemption provided by this subsection applies only when the motor vehicle is operated by or under contract with any person responsible for the administration of rehabilitation facilities as defined in ORS 344.710 to 344.730 or child care services provided by a facility licensed under ORS 329A.250 to 329A.450.
- (10) Vehicles owned or operated by the United States or by any governmental jurisdiction within the United States except as provided in ORS 825.022. This chapter does apply to vehicles when owned or operated:
  - (a) As a carrier of property for hire;
  - (b) By a transportation district organized under ORS 267.510 to 267.650;
  - (c) By a county service district authorized to provide public transportation under ORS 451.010; or
  - (d) By an intergovernmental body formed by two or more public bodies, as defined in ORS 174.109, to provide public transportation.
- (11) Vehicles owned or operated by a mass transit district organized under ORS 267.010 to 267.394.
- (12) Vehicles owned or operated by, or under contract with, a person responsible for the construction or reconstruction of a highway under contract with the Department of Transportation or with an agency of the United States when operated within the immediate construction project as described in the governmental agency contract during the construction period.
- (13) Vehicles owned or operated by, or under contract with, a charitable organization when exclusively engaged in performing transportation, either one way or round trip, necessary to the operation of the charitable organization. As used in this subsection, "charitable organization" means an organization that has no capital stock and no provision for making dividends or profits, but derives its funds principally from public and private charity and holds them in trust for the promotion of the welfare of others and not for profit. Any organization claiming an exemption under this subsection shall file an affidavit with the department stating that it is organized and operated in accordance with the requirements of this subsection.
- (14) Passenger vehicles with a passenger seating capacity that does not exceed five when used in the transportation of new telephone books.

(15) A vehicle that is used in a limousine service operation in which the destination and route traveled may be controlled by the passenger and the fare is calculated on the basis of any combination of initial fee, distance traveled and waiting time if the vehicle:

- (a) Is a passenger vehicle with a passenger seating capacity that does not exceed eight;
- (b) Carries passengers for hire between points in Oregon; and
- (c) Operates on an irregular route basis.

(16) Fire trucks and rescue vehicles that are designated as emergency vehicles by the Department of Transportation under ORS 801.260, while involved in emergency and related operations.

(17) A person who provides services related to the packing or loading of household goods if the person does not:

- (a) Provide or operate a motor vehicle for the movement of the household goods; and
- (b) Act as an agent for any person who does provide or operate a motor vehicle for the movement of the household goods. [Formerly 767.025; 1997 c.275 §40; 1997 c.699 §1; 2003 c.589 §1; 2003 c.754 §6; 2005 c.228 §1; 2007 c.31 §3; 2007 c.70 §352; 2009 c.433 §2; 2015 c.283 §1; 2015 c.716 §16; 2015 c.767 §216; 2022 c.27 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.018 - Report from owners or operators of vehicles exempted by ORS 825.017; rules.**

Owners or operators of vehicles exempt from the provisions of ORS chapter 825 by ORS 825.017 shall file an annual report with the Department of Transportation showing the miles of travel by registered weight class of vehicle for each exempt vehicle. The department shall determine by rule the form and manner of the report. [Formerly 767.026]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.020 - Applicability of chapter to certain vehicles and combinations over 26,000 pounds.**

Except as otherwise provided in this section and ORS 825.030, this chapter does not apply to the persons or vehicles described in this section. The provisions of ORS 825.100, 825.137, 825.139, 825.141, 825.160, 825.164, 825.166, 825.168, 825.210 (1) and (3), 825.212, 825.450, 825.454, 825.470, 825.472, 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494, 825.496, 825.498, 825.504, 825.506, 825.507, 825.508 and 825.515 apply to any of the following vehicles or combinations of vehicles with a combined weight of more than 26,000 pounds:

- (1) Vehicles being used exclusively in the transportation of United States mail on a trip basis.
- (2) Vehicles being used in the transportation of persons for hire, in vehicles with a seating capacity of more than five persons, within a city and within three air miles of the city. When the three air mile radius extends into the corporate limits of another city, the two cities shall be considered as one city for the purposes of this subsection. The following apply to this subsection:
  - (a) Service may also be provided to or from any area surrounding the area described under this subsection so long as the service does not compete with a carrier granted authority by the Department of Transportation under this chapter to operate in that surrounding area.
  - (b) Any vehicle exempt from the provisions of this chapter under this subsection is subject to regulation by the city or cities in which it is operated.
- (3) Vehicles being used for the purpose of transporting persons or property in connection with the patrolling of forests for the prevention or fighting of forest fires.
- (4) Vehicles being used in towing or otherwise transporting vehicles at the direction of a police officer or in servicing, towing or transporting wrecked or disabled vehicles, or in towing or transporting a replacement vehicle for such wrecked or disabled vehicle if the vehicle:
  - (a) Is not otherwise used in transporting goods and merchandise for compensation; and
  - (b) In the case of towing, is specially constructed for that use or has a combined weight not exceeding 8,000 pounds.
- (5) Vehicles being used by a for-hire carrier to transport within this state free or at reduced rates:
  - (a) The carrier's officers, agents or employees, or dependent members of the families of those individuals, or the personal effects or household goods of those individuals.
  - (b) Ministers of religions, inmates of hospitals and individuals exclusively engaged in charitable and eleemosynary work.
  - (c) Indigent, destitute and homeless individuals and the necessary agents employed in the transportation.
  - (d) Witnesses attending legal investigations in which the carrier is interested.
  - (e) Persons injured in wrecks and physicians and nurses attending those persons.
  - (f) Persons providing relief in cases of general epidemic, pestilence or other emergency.
  - (g) Persons traveling under commuter, party or excursion passenger tickets, if available to all persons applying under like circumstances or conditions.
  - (h) Persons traveling under an exchange of passes between for-hire carriers.
- (6) Vehicles being used to transport plants, artificial and natural flowers and accompanying florist accessories in movements originating at retail shops.
- (7) Any vehicle used by a person licensed under ORS 508.235 while the person is transporting the person's own, unsold catch of fish from the point of landing to the first point where fish from the catch will be sold, placed in storage or processed in any way.
- (8) Vehicles owned or operated by truck leasing companies operated empty over the public highways for the purpose of relocation of equipment. This exemption does not apply to motor vehicles operated empty as a result of or for the purpose of transporting

passengers or property. [Formerly 767.027; 2007 c.31 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.022 - Nonapplicability of certain provisions to vehicles and combinations.**

The provisions of ORS 825.160, 825.450, 825.454, 825.470, 825.472, 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494, 825.496 and 825.515 do not apply to any of the following:

- (1) A vehicle or combination of vehicles with a combined weight of 26,000 pounds or less.
- (2) A vehicle being used in the transportation of persons for hire if the operation:
  - (a) Is performed by a nonprofit entity;
  - (b) Is performed by use of vehicles operating in compliance with ORS 820.020 to 820.070; and
  - (c) Is approved by the Department of Transportation as complying with paragraphs (a) and (b) of this subsection.
- (3) A vehicle owned or operated by a transportation district organized under ORS 267.510 to 267.650.
- (4) A vehicle owned or operated by a county service district authorized to provide public transportation under ORS 451.010.
- (5) A vehicle owned or operated by an intergovernmental body formed by two or more public bodies, as defined in ORS 174.109, to provide public transportation. [Formerly 767.028; 2007 c.465 §11; 2015 c.283 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.024 - Applicability to farm vehicles.**

(1) Except as provided in ORS 825.026 and 825.030 or as otherwise provided in this section, this chapter and ORS 815.237 do not apply to a motor vehicle or combination owned or leased by a farmer who meets the qualifications under ORS 805.310 if the vehicle or combination:

- (a) Is used for transportation described under ORS 805.390.
  - (b) Is used for transporting sand, gravel, rock, dirt, debris, cinders or asphaltic concrete mix to a project of a district or corporation organized under ORS chapter 545, 547 or 554 when the project is being constructed on land owned or leased by the farmer and the materials are directly related to the construction of the project.
  - (c) Has three or fewer permanent axles and is used in part to provide transportation services for hire when such services relate to the farm of another and are services that the vehicle owner could perform in the operation of the owner's farm under farm vehicle registration issued under ORS 805.300 or with the farm device issued under ORS 805.400. For purposes of this paragraph, a single drop axle is not a permanent axle.
  - (d) Is a combination of a pickup truck and a trailer and is used in part to provide transportation services for hire when such services relate to the farm of another and are services that the vehicle owner could perform in the operation of the owner's farm under farm vehicle registration issued under ORS 805.300 or with the farm device issued under ORS 805.400.
- (2) Vehicles or combinations that either are registered under ORS 805.300 or have a farm device issued under ORS 805.400 are subject to the provisions of ORS 825.210, 825.250 and 825.252 if the vehicles or combinations:
- (a) Are operating in interstate commerce; or
  - (b) Have a combined weight of more than 80,000 pounds.
- (3) Any farmer with a vehicle registered under ORS 805.300, or with a farm device issued under ORS 805.400, may obtain a permit under ORS 825.102 that will authorize partial use of the vehicle to provide transportation services for hire.
- (4) Any person issued a permit as described in subsection (3) of this section must comply with record keeping requirements and reporting requirements that the Department of Transportation determines necessary for the department to administer this section. The department may deny the exemptions from provisions of this chapter provided to persons issued permits as described in subsection (3) of this section if a person fails to comply with record keeping requirements. [Formerly 767.030; 1997 c.249 §262; 1997 c.673 §1; 2003 c.589 §2; 2007 c.31 §5; 2007 c.794 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.026 - Applicability of chapter to certain otherwise exempt vehicles when transporting hazardous wastes.**

This chapter does not apply to the vehicles described in ORS 825.017 and 825.024 except as provided in ORS 825.030 and except that the vehicles are subject to ORS 825.258 and 825.990 (3) and (4) and the rules adopted by the Department of Transportation relating to the safety of the vehicles while engaged in the transportation of hazardous wastes on public highways. [Formerly 767.032; 2007 c.31 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.028 - Transportation services for charitable organizations.**

- (1) For-hire carriers may provide transportation of household goods for charitable organizations or civic nonprofit organizations and festivals at no charge or at reduced rates or in exchange for promotional services by the charitable organization or civic nonprofit organization or festival.
- (2) As used in this section:
  - (a) "Charitable organization" has the meaning given that term in ORS 825.017 (13).

(b) "Civic nonprofit organization" or "festival" means an organization or festival classified under the Internal Revenue Code as having a 501(c)(3) or 501(c)(4) tax exempt status. [Formerly 767.038; 2003 c.589 §8; 2015 c.283 §14]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.030 - Application of chapter to interstate and foreign commerce.**

This chapter applies to interstate and foreign commerce, except insofar as it may be in conflict with the provisions of the Constitution and the laws of the United States. Nothing in this chapter exempts a person from federal motor carrier safety regulations when operating in interstate or foreign commerce. [Formerly 767.045; 2007 c.31 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.032 - Nonapplicability of economic regulation to specified vehicles.**

Except as otherwise provided in this section, this chapter does not apply to the persons or vehicles described in this section. The provisions of ORS 825.250, 825.252, 825.254, 825.256, 825.258, 825.260, 825.950, 825.955, 825.960 and 825.990 apply to the following persons and vehicles:

- (1) A vehicle owned or operated by a person prior to the time the vehicle is placed in commercial operation.
- (2) A person transporting the person's own commercial fishing boat if the combined weight of the vehicle, trailer and boat is 15,000 pounds or less.
- (3) A vehicle being used for the purposes of forest protection and fire suppression if the vehicle is necessary in order to comply with ORS 477.615 or 477.650 or a similar federal statute, including but not limited to a vehicle being moved to or from the forest protection district operation area. [2003 c.589 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.100 - Certificate or permit required for commercial transportation of persons or property on public highways.**

No person shall operate any motor vehicle, whether loaded or empty, on any highway in this state as a carrier in the transportation of persons or property without possessing, in addition to any license required by any other law, a valid certificate or permit from the Department of Transportation authorizing the proposed operation. Each operation of a motor vehicle in violation of this section is a separate violation, whether the prohibited operations occur within the same day or different days or relate to the same motor vehicle or different motor vehicles. [Formerly 767.105]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.102 - Issuance of permits to intrastate for-hire carriers; rules.**

- (1) Except as provided in subsection (6) of this section and ORS 825.135, the Department of Transportation shall issue a permit to a person to provide transportation service as a for-hire carrier over any highway in this state in intrastate commerce if the person applies for the permit and the department is satisfied that the person is able to comply with the provisions of this chapter and the rules of the department.
- (2) In deciding whether to approve an application for a permit under this section, the department shall consider any evidence demonstrating that the applicant is unable to comply with this chapter and the rules of the department and shall deny the application if the applicant does not meet the financial responsibility and safety requirements established by this chapter and by rules of the department.
- (3) If an application for a permit under this section is denied, the department shall notify the applicant of the reasons for denial. The applicant is entitled to a hearing if written request for a hearing is made within 15 days of the notification of denial.
- (4) A permit granted under this section is not transferable. The department shall determine by rule what constitutes transfer of a permit.
- (5) A permit issued under this section may be suspended or revoked as provided in this chapter. Grounds for suspension or revocation include, but are not limited to, failure to maintain compliance with safety requirements, failure to maintain compliance with financial responsibility requirements and failure to report or pay fees, taxes or penalties due the department.
- (6) The department may not issue a permit under this section for transportation of household goods. For-hire carriers of household goods are subject to the certificate provisions of ORS 825.110. [1995 c.306 §2; 2015 c.283 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.104 - Federal registration and financial responsibility requirements for interstate carriers.**

An interstate for-hire carrier or private carrier required to obtain a United States Department of Transportation registration number engaged or to engage in interstate operations may not perform transportation services on the public highways of this state without having first complied with federal registration and financial responsibility requirements. [Formerly 767.155; 2001 c.335 §4; 2007 c.465 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.105 - Confirmation of federal registration and financial responsibility for interstate motor carriers;**



**rules.**

- (1) The Department of Transportation may enter into an agreement with the authorized representatives of any jurisdiction outside this state for the purposes of confirming federal registration and accepting proof of financial responsibility for interstate motor carriers.
- (2) A motor carrier registered in a jurisdiction that is a party to an agreement entered into under this section is considered registered for interstate operations in Oregon for the purpose of ORS 825.104.
- (3) The department may adopt any rules the department deems necessary to effectuate and administer the provisions of an agreement entered into under this section.
- (4) An agreement may not provide for any benefit, exemption or privilege with respect to any fees or taxes levied or assessed against the use of highways or use or ownership of vehicles. [2007 c.465 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.106 - Issuance of permits to carriers described in ORS 825.020.**

Upon receipt of the information in writing required by the application form for permits in that class and in compliance with the law, rules and regulations of the Department of Transportation, permits shall be issued to motor carriers described in ORS 825.020, conditioned that the proposed operation will not be attended with substantial damage to the highway or danger to the users thereof, to adjacent property or facilities or to the public. The applicant is entitled to a hearing by the department if the application has been declined by the department. [Formerly 767.157]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.108 - Issuance of permits to private carriers; exception.**

- (1) Upon receipt of the information in writing required by the application form for permits in that class and in compliance with the law and the rules and regulations of the Department of Transportation, permits shall be issued to private carriers, conditioned that the proposed operation will not be attended with substantial damage to the highway or danger to the users thereof, to adjacent property or facilities or to the public. The applicant is entitled to a hearing by the department if the application has been declined by the department.
- (2) A person acting as a private carrier need not obtain a permit from the department for operating any vehicle or combination of vehicles with a combined weight of 26,000 pounds or less. [Formerly 767.150]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.110 - Issuance, extension or transfer of certificate to carriers of household goods; hearings; findings; rules.**

- (1) When a person files with the Department of Transportation an application for a certificate to operate as a for-hire carrier of household goods, for the extension of an existing certificate or for the transfer of a certificate, the department may issue, extend or transfer the certificate if the department determines the applicant meets the requirements of subsection (2) of this section.
- (2) If the application for issuance, extension or transfer of a certificate under this section is the subject of a hearing, the department shall issue the certificate if the applicant has complied with this chapter and the rules of the department, and if the department finds from the record and the evidence submitted at the hearing that:
  - (a) The applicant is fit, willing and able to perform the transportation service proposed;
  - (b) The applicant has certified that the vehicles listed on the application comply with all Oregon laws and rules covering vehicle safety and operations and will be so maintained;
  - (c) The service proposed will not be attended with substantial damage to the highways or danger to other highway users or to the public;
  - (d) The rates or contracts proposed by the applicant, if an intrastate operator, are approved by the department; and
  - (e) The applicant can and will furnish and file the insurance, bond or substitute security or qualify as self-insurer as provided in this chapter.
- (3) If the department does not find that all the conditions provided in subsection (2) of this section are satisfied, the department may deny the application or may defer issuance of the certificate pending compliance by the applicant with those conditions provided in subsection (2) of this section.
- (4) If an application for a certificate under this section is denied, the department shall notify the applicant of the reasons for denial. The applicant is entitled to a hearing if written request for a hearing is made within 15 days after the notification of denial.
- (5) If the applicant fails to appear at the time and place fixed for the hearing, the application may be denied.
- (6)(a) Pending determination of application for transfer of a certificate, the department may grant approval of the temporary operation of the certificate by the prospective transferee or, if the transferor's service to the public may be substantially impaired, may authorize temporary management of the transferor's motor carrier operations by the prospective transferee.
  - (b) Service performed under temporary authority granted under this section is subject to all provisions of this chapter and the rules of the department.
- (7) The department may require an applicant for a certificate to operate as a for-hire carrier of household goods issued under this

section to complete a criminal background check. The department shall adopt rules describing the standards used by the department to determine if an applicant is unfit based on the results of the applicant's criminal history. [Formerly 767.135; 2009 c.433 §3; 2015 c.283 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.115 - Temporary authority to provide transportation services; duration.**

(1) The Department of Transportation may grant temporary authority for a for-hire carrier to provide transportation of household goods where it is in the public interest. Such temporary authority may be authorized only if the department receives a request for service from a user of the proposed transportation service, and if the department concludes, after investigation, that the request represents a true need or is in the public interest.

(2) The department shall cancel immediately any temporary authority granted under this section if the department determines that the temporary authority issued does not comply with requirements for grant of authority under ORS 825.110.

(3) The department may not grant temporary authority under this section for an initial period of more than six months.

(4) The department may renew temporary authority granted under this section one time for a period of not more than six months.

(5) A person who is granted temporary authority under this section may apply for permanent authority to provide the transportation service after the expiration of the temporary authority by making application in the manner provided for application for permanent authority under this chapter.

(6) A grant of temporary authority under this section does not establish any right to a grant of permanent authority under this chapter. [Formerly 767.167; 2009 c.433 §6; 2015 c.283 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.117 - Certificate for emergency transportation services.**

(1) If any condition or emergency arises requiring relief in cases of general epidemic, pestilence or other calamitous visitation in the state or any community therein, wherein the public or community interest or the transportation of any persons or household goods requires, in the opinion of the Department of Transportation, the issuance of a certificate for emergency transportation services, the department may issue a certificate for emergency transportation services, the term of which shall be limited to a reasonable time to be determined by the department under the circumstances.

(2) The department may issue a certificate for emergency transportation services donated for the benefit of a charitable organization, if the services are transportation of persons or household goods and the services are not of a type ordinarily required in the operation of the organization. Notwithstanding any other provision of this chapter, a certificate issued pursuant to this subsection shall be issued without charge to the applicant. As used in this subsection "charitable organization" means any person organized and existing for religious or medical purposes or any political subdivision of this state.

(3) The emergency authority issued under this section does not convey any right to permanent authority and is not evidence of a need for permanent authority. [Formerly 767.170; 2009 c.433 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.125 - Applications for authority; rules.**

The Department of Transportation shall prescribe forms of applications for certificates or permits for the use of applicants and shall make regulations for the filing thereof. [Formerly 767.125]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.127 - Permit for local cartage of household goods.**

The Department of Transportation may grant issuance of a permit to a for-hire carrier engaged in performing local cartage of household goods within areas designated by the department pursuant to ORS 825.240. [Formerly 767.145; 2009 c.433 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.129 - Legal status of certificates.**

(1) Notwithstanding any provision of law, no certificate issued under this chapter, or any prior law, shall be assigned or otherwise transferred except as provided in ORS 825.110.

(2) No such certificate shall be construed to be a franchise or irrevocable or exclusive or to possess value for ratemaking purposes. However, upon the death of an individual holding a certificate:

(a) If the estate of such individual is admitted to probate, the executor or personal representative may continue the operation thereunder, for the purpose of transferring the certificate, for a period not to exceed two years from the date of death; or

(b) If the estate of such individual is not probated, all the heirs of the deceased holder of the certificate may file with the Department of Transportation an application for the transfer of the certificate together with an affidavit signed by the heirs stating the name of the person to whom the certificate is to be transferred. If any heir has not reached the age of majority or is otherwise legally incapacitated, the heir's parent or guardian shall sign for the heir. The affidavit shall be on a form prescribed and furnished by the department. Subject to the provisions of ORS 825.135, the department shall transfer the certificate to the person named as transferee

in the affidavit.

(3) In determining the scope of authority to be transferred under subsection (2) of this section, the department shall consider, as evidence of past use under the certificate, only the services furnished during the two-year period immediately preceding the death of the certificate holder.

(4) If an application under subsection (2) of this section for the transfer of the certificate is not filed within 18 months of the date of death, and if such certificate is not transferred within two years of the date of death, the certificate shall be deemed automatically revoked. [Formerly 767.186; 1997 c.275 §36]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.135 - Denial of certificate, permit, transfer or extension of authority; hearing; restriction.**

(1) As used in this section, "applicant" includes, but is not limited to, any person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the carrier's authority.

(2) Notwithstanding any other provision of law, the Department of Transportation may not grant to an applicant a certificate, permit, transfer of any operating authority, extension of any operating authority or variance permit under ORS chapter 818 if the department has reasonable grounds to believe, based on information contained in department files and records, or based on evidence presented during a hearing with respect to an application filed under ORS 825.102, that any of the following apply:

(a) The applicant is not capable of conducting the transportation service contemplated, in compliance with the law and rules of the department.

(b) The applicant is or has been a repeated and intentional violator of the provisions of this chapter, of ORS chapter 818 or of the rules of the department. This paragraph does not apply to violations for which an applicant has been penalized under subsection (3) of this section.

(c) The information contained in the application pertaining to ownership, possession or control of the equipment or operation to be conducted is false.

(3) A person whose application has been denied under subsection (2) of this section is not eligible to renew the application or to operate or participate directly or indirectly in the proposed operation for a period of time ordered by the department. The period of time ordered by the department under this subsection shall in no event be less than a period of six months from the date application has been denied and shall continue until the applicant has complied with any other penalties ordered by the department under this or other provisions of this chapter. An applicant may renew an application without prejudice by past violations after the penalty period under this subsection.

(4) Upon request, any person whose application has been denied under subsection (2) of this section shall be granted a hearing. This subsection does not require a separate or additional hearing for applicants if the issues are addressed as part of any hearing on the application. After the hearing, the department shall grant or deny the application in conformity with the findings.

(5) Subsection (2) of this section shall be strictly construed for purposes described in this subsection and shall control over any other purposes or policy considerations under the laws relating to motor carriers. The department shall exercise the authority granted under subsection (2) of this section to assure that persons described in subsection (2)(b) of this section:

(a) Achieve an awareness of and respect for the provisions of this chapter, ORS chapter 818 and rules of the department.

(b) Do not legitimize activities that violate this chapter, ORS chapter 818 or the rules of the department by applying for and receiving any operating authority to continue previously unlawful activities.

(6) If the department determines that a carrier issued authority under this chapter is not providing requested transportation services that are within the authority of the carrier, the department shall limit the authority of the carrier to service that the carrier is actually providing unless the carrier provides full transportation services permitted under the carrier's authority. [Formerly 767.130; 1997 c.722 §4; 2009 c.433 §9; 2015 c.283 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.137 - Cancellation, revocation or suspension of authority, generally.**

(1) Certificates and permits when issued shall be valid until suspended or revoked when the carrier is found by the Department of Transportation to be in violation of this chapter or ORS chapter 818. A variance permit issued under ORS chapter 818 shall be valid for the length of time for which it is issued unless prior to that time the permit is suspended or revoked by the Department of Transportation for violation of this chapter or ORS chapter 818.

(2) Certificates or permits, or variance permits issued pursuant to ORS chapter 818, may be suspended or canceled by the department based upon the department's own motion after notice and hearing, when the certificate or permit holder:

(a) Or agents or employees of the holder have repeatedly violated this chapter or other highway or motor laws of this state. In applying this paragraph the department may consider violations by agents or employees of the holder that occurred prior to the time they became agents or employees of the holder, but only if the agent or employee has a substantial interest or control, directly or indirectly, in or over the operation of the holder.

(b) Has repeatedly violated or avoided any order or rule of the department.

(c) Is a transporter of household goods and has repeatedly made unlawful rebates or repeatedly underestimated transportation charges to clients.

(d) Has repeatedly refused or has repeatedly failed, after being requested to do so, to furnish service authorized by certificate. The

department in such cases may also, in the discretion of the department, restrict the certificate to conform with operations conducted.

(e) Has not, except for reasons beyond the control of the holder, transported household goods authorized by the certificate for a period exceeding 180 consecutive days immediately preceding the filing of the complaint in the proceeding. The department in these cases may also, in the discretion of the department, restrict the certificate to conform with operations performed that were required by the public convenience and necessity.

(f) Has not, except for reasons beyond the control of the holder, transported property authorized by the permit for a period exceeding one year immediately preceding the filing of the complaint in the proceeding.

(g) Has refused, or has failed, within the time provided, to file the annual report required by ORS 825.320 or has failed or refused to maintain records required by the department or to produce such records for examination within the time set by the department.

(h) Has failed to appear for hearing after notice that the certificate or permit is under investigation.

(i) Has filed with the department an application which is false with regard to the ownership, possession or control of the equipment being used or the operation being conducted.

(3) The department shall not suspend or revoke a certificate or permit of a vehicle or person described in ORS 825.020 unless the person or vehicle is in violation of this section and ORS 825.139, 825.141, 825.160, 825.164, 825.166, 825.168, 825.210 (1) and (3), 825.212, 825.450, 825.454, 825.470, 825.472, 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494, 825.496, 825.498, 825.504, 825.506, 825.507, 825.508 or 825.515. [Formerly 767.190; 1997 c.275 §37; 1997 c.722 §5; 1999 c.59 §249; 2015 c.283 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.139 - Suspension or cancellation of authority for tax delinquency or failure to file bond; notice; hearings.**

(1) A certificate or permit is subject to suspension or cancellation, if the holder thereof:

(a) Is delinquent in reporting or paying any fees, taxes or penalties due the Department of Transportation, whether imposed under this chapter or under ORS chapter 826; or

(b) Has refused or failed, within the time provided, to file a deposit or bond requested under ORS 825.506.

(2) A written 10-day notice of suspension shall be given to the certificate or permit holder and unless a hearing is requested within such time, the certificate or permit shall be deemed suspended without further notice or hearing until the report, payment, bond or deposit is filed with the department.

(3) Upon a written 10-day notice by the department, a certificate or permit may be suspended or canceled for any of the reasons set forth in subsection (1) of this section. If the certificate or permit is suspended, the filing of the report, payment, bond or deposit will not reinstate the authority until the suspension period has expired, except on order of the department. [Formerly 767.786; 1997 c.275 §38; 2001 c.567 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.141 - Reinstatement fee after suspension of authority.**

In addition to any other requirements of this chapter, a carrier whose operating authority has been suspended shall pay a reinstatement fee of \$25 to the Department of Transportation before the operating authority may be reinstated, plus \$5 for each vehicle issued a weight identifier under ORS 825.450, and shall demonstrate operational activity at the time of reinstatement. [Formerly 767.797; 2001 c.567 §3; 2019 c.491 §50]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.160 - Liability insurance of carriers.**

(1) A person may not operate as a motor carrier on public highways of this state until the person has in effect a policy of public liability and property damage insurance.

(2) Insurance required under this section shall be provided at minimum limits the Department of Transportation by rule may prescribe, and upon such terms, conditions and provisions as the department may determine to be necessary for the reasonable indemnification of the patrons of the applicant and of the public against damage and injury for which the applicant may be liable by reason of the operation of any motor vehicle. However, the insurance policy required of a carrier or persons engaged solely in interstate commerce need not provide for the protection of their patrons.

(3) In fixing the amount of the insurance policy the Department of Transportation shall give due consideration to the character and amount of traffic, the number of persons involved and the degree of danger which the proposed operation involves. [Formerly 767.195; 2007 c.465 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.162 - Cargo insurance.**

(1) A certificate or permit may not be issued to any person to operate intrastate as a for-hire carrier of freight or express until the person has in effect cargo insurance in such penal sum as the Department of Transportation may deem necessary to protect adequately the interests of the public. This policy shall bind the assurer for loss of, or damage to, property carried in, upon or

attached to the motor vehicles or other equipment operated by, for or under the control of the assured, or while in the care or custody of the assured.

(2) The department may waive the requirement of cargo insurance for any carrier whose service is limited to commodities not subject to material damage or loss through ordinary transportation hazards. [Formerly 767.200; 2011 c.73 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.164 - Rules for compliance with ORS 825.160 and 825.162; notice prior to cancellation of insurance; suspension of authority when insurance inoperative.**

(1) The Department of Transportation by rule shall establish a system for determining how motor carriers demonstrate compliance with the insurance requirements of ORS 825.160 and 825.162. The system may require certification of compliance by the carrier or the filing of a policy with the department and may require different acts of compliance based on class of carrier or experience. The system shall also specify what acts constitute failure to comply for purposes of revocation or suspension of the carrier's authority.

(2) An insurance policy furnished under ORS 825.160 or 825.162 may not be canceled or otherwise terminated at any time prior to its expiration until the entity that executed the policy has filed with the department a notice of cancellation as provided in the policy. The cancellation is effective not less than 30 days from the date of receipt, and no agreement between the parties thereto shall operate to avoid this restriction upon cancellation.

(3) If any insurance policy required under ORS 825.160 or 825.162 becomes inoperative, the authority under the certificate or permit involved shall cease and be suspended insofar as it pertains to any affected vehicles until an insurance policy meeting the requirements of ORS 825.160 and 825.162 becomes effective and is accepted by the department. [Formerly 767.205; 2011 c.73 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.166 - Deposit of securities or letter of credit.**

(1) In lieu of the insurance policy or surety bond, the holder of any certificate or permit may file with the Department of Transportation an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, or money, bank or savings and loan savings certificates, or bonds, negotiable by delivery, of the State of Oregon, school districts therein, or of any county therein, or obligations of the United States, or obligations for which the faith of the United States is pledged for the payment of both the principal and interest, equal in amount to the amount of the insurance policy or bond required by the department.

(2) So long as the deposit remains unencumbered the depositor is entitled to collect the interest upon such securities.

(3) The department shall hold the securities or letter of credit upon such terms as the department shall designate and approve pursuant to the provisions of this chapter, and shall deliver such securities or letter of credit to the State Treasurer, who shall receive and hold them subject to the lawful orders of the department. The State Treasurer and the surety or letter of credit issuer of the treasurer shall be liable upon the official bond or letter of credit for their safekeeping. The depositors shall reimburse the State Treasurer for any expenses incurred by the treasurer in the mailing, insuring, shipping or delivering of any such securities or letter of credit, or of the interest coupons attached thereto as they mature.

(4) Such substituted security or letter of credit shall be subject to the liabilities imposed by the terms of the policy of insurance or surety bond or letter of credit then currently used by the department.

(5) If the securities or letter of credit provided for in this section are furnished in lieu of an insurance policy or bond, they shall not be subject to withdrawal or assignment by the holder of the certificate or permit, either voluntarily or by operation of law, until the expiration of one year after the holder of the certificate or permit, in connection with which they are furnished has:

(a) Substituted therefor a policy of insurance as provided in ORS 825.160 and 825.162;

(b) The certificate or permit canceled; or

(c) Surrendered such certificate or permit to the department for cancellation and has ceased operation thereunder.

(6) If any such securities become impaired in value, the department shall require additional protection by insurance, bond, letter of credit or substitute security to the extent that the value of the securities may have become impaired. [Formerly 767.210; 1997 c.631 §559; 2011 c.73 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.168 - Self-insurance.**

(1) Any for-hire carrier, engaged in interstate or interstate and intrastate operations within the State of Oregon, which is or becomes qualified as a self-insurer with the United States Department of Transportation in accordance with laws of the United States applicable to self-insurance by motor carriers, is exempt, so long as such qualification remains effective, from the provisions of ORS 825.160 to 825.166.

(2) The Department of Transportation may require proof of the existence and continuation of exempt status to be made by affidavit of the carrier in a form and at the times as the department may prescribe. [Formerly 767.215; 2007 c.465 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.170 - Prohibited indemnification provisions in motor carrier transportation contracts; exceptions.**

(1) Except as provided under subsections (2) and (3) of this section, any provision in a motor carrier transportation contract that

requires either party or either party's surety or insurer to indemnify or hold harmless the other party against liability for death, personal injury or property damage caused in whole or in part by the negligence or intentional acts or omissions of the other party is void.

(2) This section does not affect any provision in a motor carrier transportation contract that requires either party or either party's surety or insurer to indemnify another person against liability for death, personal injury or property damage that arises out of the fault of the indemnitor, or the fault of the indemnitor's agents, representatives or subcontractors.

(3) This section does not apply to any Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America or any other agreement providing for the interchange, use or possession of intermodal chassis, intermodal containers or other intermodal equipment.

(4) As used in this section, "motor carrier transportation contract" means any written agreement for:

- (a) The transportation of personal property for compensation or hire;
- (b) Entry upon real property for the purpose of packing, loading, unloading or transporting personal property for compensation or hire; or
- (c) A service incidental to an activity described in paragraph (a) or (b) of this subsection including, but not limited to, storage of personal property for compensation or hire. [2011 c.159 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.180 - Application fee; transfer fee; refunds.**

(1) In addition to the other fees prescribed in this chapter:

- (a) A person applying for a certificate under ORS 825.110 shall pay an application fee of \$300.
- (b) A person applying for a permit under ORS 825.127 shall pay a fee of \$50.
- (c) A person applying for a permit under ORS 825.102 shall pay an application fee of \$300.
- (d) A person applying for a change in a permit shall pay a fee of \$50.
- (e) A person applying for transfer of a certificate shall pay a fee of \$300.
- (f) A person making an application under any provision of this chapter not specified in this subsection shall pay a fee of \$150 if the matter is set for a hearing.

(2) The Department of Transportation may refund the fees collected under this section if the applicant parties or their duly authorized representatives make written request for a refund, if:

- (a) Request for withdrawal of the application was received by the department no later than five days before the hearing date, or if no hearing is required, such request must have been received prior to issuance of authority; and
- (b) The department finds that:
  - (A) The applicant is not eligible to file the application;
  - (B) Certificate authority is not needed for the service intended;
  - (C) The applicant's death or serious illness precludes conducting the operations for which application was made; or
  - (D) The transferor withdraws consent for the transfer of the certificate. [Formerly 767.305; 1997 c.275 §39; 2003 c.754 §7; 2009 c.433 §10; 2015 c.283 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.200 - Rules and orders regarding uniform cargo liability and joint line rates.**

(1) With respect to intrastate transportation by motor carriers, the Department of Transportation may adopt and enforce rules, and issue and enforce orders, related to:

- (a) Uniform cargo liability, uniform bills of lading or receipts and uniform cargo credit; and
- (b) Joint line rates, and routes, classifications and mileage guides for the purpose of providing antitrust immunity.

(2) Rules and orders adopted and issued under subsection (1) of this section are mandatory only in respect to transportation described in ORS 825.202. [1995 c.306 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.202 - Department's authority over for-hire carriers of household goods.**

The Department of Transportation shall supervise and regulate the transportation of household goods by for-hire carriers and with respect to the transportation service shall:

- (1) After hearing, regulate and prescribe just, fair and reasonable rates, classifications and practices.
- (2)(a) Prescribe the kind and form of accounts, manifests, receipts and records to be used and kept pertaining to operation, prescribe the method and manner of keeping the accounts, manifests, receipts and records and require their preservation for such time as the department may determine proper; and
- (b) Have access to the accounts, manifests, receipts and records with right of audit and inspection at all reasonable times.
- (3) Require the filing of such periodical or other reports or data of such carriers as the department deems necessary.
- (4) Require reasonably adequate service and facilities. [Formerly 767.405; 2015 c.283 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor**

**CarriersSection 825.204 - Regulation of shipping receipts, changes of vehicles and routes, records and mileage for carriers of household goods; rules.**

The Department of Transportation may:

- (1) Require every person operating as a for-hire carrier of household goods to issue a receipt in triplicate for freight received for shipment, which shall contain the name of the truck operator, date and place received, name of consignor, name of consignee, destination, description of shipment, weight, rate and charges, and signature of the carrier or agent; one of said receipts to be delivered to the consignor, one to consignee and one to be retained by carrier in its files.
- (2) Prescribe rules governing amendments of certificates or permits covering additions to and withdrawals of vehicles and the extension or contraction of routes, and the filing of applications therefor.
- (3) Prescribe forms of accounts and records to be kept, reports to be made and blanks to be used by for-hire carriers in transportation operations, and matters incidental thereto. [Formerly 767.460]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 825 - Motor CarriersSection 825.206 - Duties of interstate carriers.**

A person engaged exclusively in the conduct of interstate transportation shall:

- (1) Observe and comply with the laws of this state regulating traffic on its highways, or the operation of motor vehicles thereon, or limiting the size, weight or speed of motor vehicles; and
- (2) Observe and comply with the laws of this state and with the orders, rules and regulations of the Department of Transportation, county courts, boards of county commissioners and municipal authorities to protect the highways from substantial damage and to promote safety to other users thereof, to adjacent property and facilities and to the public. [Formerly 767.430; 1997 c.249 §263]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 825 - Motor CarriersSection 825.210 - Regulation of motor vehicles.**

The Department of Transportation may:

- (1) Require the weighing of motor vehicles loaded and empty at reasonably frequent intervals;
- (2) Inspect and require proper equipment and markings of motor vehicles and insure the making of necessary repairs, to promote efficient and safe operation; and
- (3) Prescribe the character of appliances to be used on motor vehicles to establish correct mileage traveled by such vehicles and require the installation and proper repair and inspection of such appliances. [Formerly 767.450]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 825 - Motor CarriersSection 825.212 - Regulation of mileage records; distinguishing marks.**

The Department of Transportation may:

- (1) Prescribe such methods and means as the department determines to be necessary for checking, verifying and ascertaining the number of miles traveled by each motor vehicle operated by for-hire carrier and private carrier and insure that the mileage charged for is computed on basis of extreme mileage traveled.
- (2) Prescribe distinguishing marks, such as signs, colors, lights, tags and plates as may be convenient or necessary for distinguishing classes of carriers or for protective or regulatory purposes; but not inconsistent with the Oregon Vehicle Code. [Formerly 767.895]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 825 - Motor CarriersSection 825.220 - Temporary rate procedures.**

Notwithstanding ORS 825.202 (1), after petition by any interested person, or upon the department's own motion, the Department of Transportation may permit the establishment or modification of rates, classifications and practices to become temporarily effective without a hearing if the department finds that such action is in the public interest. The department shall hold the hearing required by ORS 825.202 (1) as soon thereafter as is practicable. Any such rates, classifications and practices determined after hearing shall be effective as though originally determined pursuant to ORS 825.202. [Formerly 767.407]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 825 - Motor CarriersSection 825.222 - Publication of notice of proposed rate establishment or modification.**

When directed by the Department of Transportation, any for-hire carrier of household goods, or agent on behalf of the carrier, that proposes the establishment or modification of a rate, classification or practice shall publish notice of the proposal in a newspaper of general circulation in the area in which the proposal shall be effective. Publication shall be within the time provided by the department. [Formerly 767.409; 2015 c.283 §21]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 825 - Motor CarriersSection 825.224 - Rate regulation of carriers of household goods.**

- (1) The rates, classifications, rules and practices used by for-hire carriers in the transportation of household goods shall be prescribed by the Department of Transportation and:

- (a) Be plainly stated in tariffs available to the public at each carrier's office, and at the office of the department; and
- (b) Be just, reasonable and fair and may not be unduly discriminatory, prejudicial or preferential.
- (2) A for-hire carrier of household goods may not:
  - (a) Charge, collect or receive a different remuneration for the transportation of household goods, or for any related service, than the rates that have been legally prescribed and filed with the department.
  - (b) Refund or remit in any manner or by any device any portion of the rates required to be collected by its tariffs or written contracts on file with the department.
- (3)(a) Any action against for-hire carriers of household goods for recovery of overcharges, or by the carriers for the collection of undercharges, shall be commenced within two years from the time the cause of action accrued.
- (b) As used in this subsection:
  - (A) "Overcharges" means charges assessed for transportation service that are more than the rates applicable under the tariff lawfully in effect or in written contracts on file with the department.
  - (B) "Undercharges" means charges assessed for transportation service that are less than the rates applicable under the tariff lawfully in effect or in written contracts on file with the department.
- (4) The department shall check the records of for-hire carriers of household goods for the purpose of discovering all discriminations and rebates. The department:
  - (a) Upon the department's own motion, may, and upon the complaint of any aggrieved person, shall, pursuant to written notice served upon any carrier subject to this subsection, investigate the carrier's service and the carrier's rates, classifications, rules and practices; and
  - (b) To the extent that the rates, classifications, rules or practices are found by the department to be unreasonable, unlawful, unfair or unduly discriminatory, preferential or prejudicial, shall, by orders based upon the evidence, require the carrier to comply with just, fair, lawful and reasonable rates, classifications, rules and practices established by the department. Such carrier shall immediately comply with such orders.
- (5) The department may suspend a tariff of for-hire carriers of household goods that the department believes will impair the ability of the carriers to serve the public or that appears to be unjust, unfair, unreasonable, prejudicial, discriminatory or otherwise unlawful. [Formerly 767.410; 2015 c.27 §61; 2015 c.283 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.226 - Rating bureaus; rules.**

- (1) The Department of Transportation shall adopt rules providing for guidelines and requirements for the formation of bureaus that carriers regulated under this chapter may join to develop and maintain reasonable rates for transportation services. The rules shall include procedures to assure that rates established through the rate bureaus are without unjust discriminations, undue preferences or advantages or practices that are unfair or that the department determines will adversely affect competition.
- (2) The department may establish any rule for the regulation of rate bureaus under this section that the department determines to be in the public interest.
- (3) Carriers regulated under this chapter may become members of rate bureaus that meet the requirements established by the department under this section and may use the services of the rate bureaus in the development of rates and rating practices, classifications, divisions and rules that relate to rates in a manner allowed by the department. [Formerly 767.505]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.230 - Carrier to operate only in class for which authority issued; effect of violation.**

- (1) The Department of Transportation shall, in issuing certificates or permits, classify the applicants as to their proper class under the law and no carrier shall operate in a different class without certificate or permit from the department.
- (2) An authorized for-hire carrier may act as a private carrier without separate or additional authority.
- (3) If, after notice and hearing, the department finds that any carrier is operating in a class other than that for which the certificate or permit is issued, the department shall revoke or suspend the certificate or permit, or order the carrier to cease and desist the illegal or irregular practices found. [Formerly 767.180; 1997 c.249 §264; 2001 c.567 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.232 - General authority to prescribe and enforce rules and classifications.**

- (1) The Department of Transportation shall, by general order or otherwise, prescribe and enforce rules in conformity with this chapter to better accomplish the enforcement of its provisions, which shall cover and include for-hire carriers and private carriers and their operations.
- (2) The department may make such subdivisions of the carriers, as classified in this chapter, as in the opinion of the department may work to the efficient administration of this chapter and shall do all things necessary to carry out and enforce its provisions.
- (3) All rules made by the department pursuant to this chapter and filed in the office of the department have the force and effect of law.
- (4) This section does not restrict the powers of the county courts or boards of county commissioners under existing laws and amendments thereof.



(5) Without restricting the general powers conferred upon the department to prescribe and enforce rules, the department is vested with special authority with respect to the matters listed in ORS 825.204, 825.210 and 825.212. [Formerly 767.445; 1997 c.249 §265]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.234 - Classes of carriers of household goods; filing of tariff.**

(1) For-hire carriers of household goods shall be classified, and the classification shall be shown on the carrier's certificate when issued or reissued by the Department of Transportation, as follows:

(a) Irregular route transportation of household goods.

(b) Local cartage of household goods.

(2) Irregular route carriers of household goods shall file tariffs and classifications governing rates.

(3) Cartage carriers of household goods shall file tariffs and classifications governing rates. The department shall, after hearing, determine what territorial limits will be included within the commercial area adjacent to the limits of any incorporated city.

[Formerly 767.415; 2015 c.283 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.240 - Inapplicability of certain regulatory statutes to local cartage activities; application for authority; rules.**

(1) The provisions of ORS 825.202, 825.220, 825.224 and 825.234, except for ORS 825.202 (2), (3) and (4), do not apply to for-hire carriers of household goods who are engaged in local cartage of property within areas designated in rules adopted by the Department of Transportation. The department shall designate a local cartage area as exempt from economic regulation if the department finds from the record and evidence in a rulemaking proceeding that:

(a) The gross revenue derived from local cartage of household goods in the designated cartage area by carriers does not exceed \$100,000 a year;

(b) The population of the affected city or cartage area is less than 10,000;

(c) The incorporated city or designated cartage area is not an essential part of a metropolitan, industrial or homogeneous economic area;

(d) The incorporated city or cartage area is not contiguous to another city or within the area encompassed by the commercial zone of another city;

(e) Service to the public would not be adversely affected;

(f) The carrier's ability to render service would not be adversely affected; and

(g) It is not otherwise adverse to the public interest to exclude such area from regulation.

(2) If the department finds in a future rulemaking proceeding that adequate service is not being provided or that the public interest demands that the exemption be removed, the department shall remove the exemption and require the affected cartage carriers to comply with the provisions of this chapter.

(3) Within 90 days after the effective date of the order removing the exemption, carriers who operated within the local cartage area for at least six consecutive months immediately preceding the effective date of the order may file with the department an application for operating authority. The application shall be accompanied by evidence of qualified operations in the local cartage area. If the department finds that the applicant has engaged in qualified operations in the area, the department shall issue an appropriate certificate authorizing the carrier to provide service within the area. Applicants may continue to provide service pending the department's decision on the application. [Formerly 767.417]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.247 - Imposition of fee on certain household goods carriers; penalty for nonpayment; rules.**

(1) The Department of Transportation may impose an annual fee in an amount determined under subsection (2) of this section on each for-hire carrier of household goods to defray the costs to the department of regulating persons offering or providing intrastate transportation of household goods without a certificate. The department shall establish the due date of the fee by rule and shall give notice to each for-hire carrier of household goods at least 15 days prior to the due date.

(2) The fee imposed under this section on each carrier may not exceed 0.1 percent of the carrier's gross operating revenue derived from transportation of household goods within this state in the prior calendar year, except that the fee may not be less than \$100. A for-hire carrier of household goods in its first year of operation shall pay a fee of \$100.

(3) The fee imposed under this section is in addition to any other fee prescribed in this chapter for for-hire carriers of household goods.

(4) A for-hire carrier of household goods shall submit with the fee required by this section a statement verified by the carrier showing the gross operating revenues of the carrier derived from transportation of household goods within this state in the prior calendar year. The department shall prescribe the form for the statement and the information that must be included and may audit the forms at any time. The department may refund any overpayment of the fee in the same manner as the department refunds other moneys collected from motor carriers.

(5) A for-hire carrier of household goods that fails to pay the fee required by this section by the due date shall be subject to suspension under ORS 825.139. [2003 c.754 §5; 2009 c.433 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.248 - Annual commercial motor vehicle safety plan.**

(1) The Department of Transportation shall develop an annual commercial motor vehicle safety plan. The goal of the plan is to reduce accidents involving commercial motor vehicles and to reduce injuries and fatalities resulting from accidents involving commercial motor vehicles. The priority for each year's plan shall be determined on the basis of accurate and timely data. The department shall use performance measures to determine the success of an annual plan and to develop the subsequent plan.

(2) In conducting inspections described in ORS 810.560, a person who is trained and certified as a commercial vehicle inspector under ORS 810.560 shall adhere to the provisions of the commercial motor vehicle safety plan developed under subsection (1) of this section. [2003 c.589 §4a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.250 - Stop for inspection.**

(1) An authorized representative of the Department of Transportation may require a person driving a vehicle or combination of vehicles subject to regulation by the department on a street or highway to stop and submit to an inspection of the driver, the cargo or the vehicle or combination of vehicles at any location where representatives of the department are conducting tests and inspections when signs are displayed requiring such stop.

(2) As used in this section, "authorized representative" means a city, county or state employee who has been trained and certified by the department as a commercial vehicle inspector and who is employed either by the department or by an agency that has an agreement with the department to provide inspections of commercial vehicles, drivers, general cargo or hazardous materials. [Formerly 767.452]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.252 - Safety regulations relating to drivers or operators; uniformity with federal regulations; rules.**

(1) The Department of Transportation shall, after public notice and hearing, adopt rules that require for-hire and private carriers to:

(a) Protect and safeguard the health and safety of all employees, passengers and the public by prescribing the limit of hours that drivers or operators of motor vehicles may remain on duty at any time and the required number of hours released from duty.

(b) Establish minimum qualifications for persons who drive motor vehicles, as, for, or on behalf of the carrier.

(c) Meet and maintain minimum requirements established by the department for safety of operations and equipment of motor vehicles subject to their operations and control.

(2) Venue for prosecution for the violation of rules adopted under this section lies:

(a) In the county in which the defendant resides if the defendant is a resident of this state.

(b) In the county where the violation was committed if the defendant is not a resident of this state.

(3) The department may revoke the certificate or permit of any person for repeated violation of the laws or rules governing hours of service.

(4) The rules promulgated under subsection (1) of this section should provide for uniformity between state and federal motor carrier safety and hours of service rules insofar as practicable. [Formerly 767.455]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.254 - Limitation on movement of vehicles to particular days of week; rules.**

Except as provided in this section, the Department of Transportation shall not adopt rules limiting the movement of vehicles that are subject to regulation under this chapter to any particular days of the week. The department may adopt rules described under this section if:

(1) The rules are recommended by the Superintendent of State Police; and

(2) The department determines that the rules are required to protect the interest and safety of the general public. [Formerly 767.456]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.256 - Rules for transportation of infectious waste.**

The Department of Transportation may establish rules governing the conditions for transportation of infectious waste that is not an incidental part of other solid waste. The rules may require persons transporting infectious waste for consideration to register separately with the Department of Transportation as an infectious waste transporter and may specify the terms of that registration, including a fee for such registration. The Department of Transportation may require that persons transporting infectious waste for consideration document the county and state of origin of the waste. As used in this section, "infectious waste" has the meaning given in ORS 459.386. [Formerly 767.034]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.258 - Rules for transportation of hazardous waste, hazardous material and PCB; civil penalty.**

(1) The Department of Transportation shall adopt rules that conform to any applicable federal rules setting standards for the safe transportation of hazardous waste, hazardous material and PCB. The rules shall be applicable to any person who transports, or

causes to be transported, any hazardous material.

(2) The authority granted under this section:

(a) Is in addition to any other authority granted the department.

(b) Does not supersede the authority of the Energy Facility Siting Council to regulate the transportation of radioactive materials under ORS 469.550, 469.563, 469.603 to 469.619 and 469.992.

(3) In addition to any other penalty for violation of a rule adopted under this section, the department, after hearing, may impose a civil penalty of not more than \$10,000 for violation of a rule adopted under this section. Each day of noncompliance with a rule is a separate violation. [Formerly 767.457]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.260 - Impoundment of vehicles unlawfully transporting hazardous wastes or substances.**

(1) In addition to any other enforcement measure allowed, if a person violates the provisions of ORS 466.080 or 825.258 or rules adopted by the Department of Transportation under ORS 466.080 or 825.258, the department may impound the person's vehicle transporting, about to transport or that has transported hazardous waste, PCB or hazardous substance within the state. The department may charge a reasonable fee for the costs of impoundment and storage, if any, before releasing any vehicle to its owner.

(2) As used in this section and ORS 825.258:

(a) "Hazardous substance" includes any substance defined by the department as hazardous.

(b) "Hazardous waste" has the meaning given that term in ORS 466.005.

(c) "PCB" has the meaning given that term in ORS 466.505 when the PCB is a waste product of an industrial, commercial or other activity. [Formerly 767.458]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.300 - Utilization of state police in enforcing chapter.**

The Department of Transportation shall call upon the state police for all police service or police assistance necessary for the proper and efficient policing of carriers operating under this chapter. The department and the state police shall cooperate in the enforcement of this chapter to the end that there may be no duplication of service or expense. [Formerly 767.475]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.302 - Service of process on nonresident carrier by serving the department.**

(1) The Department of Transportation is the true and lawful attorney upon whom all process, summons or notices in any action, suit or proceeding against each motor carrier residing or having its principal place of business outside this state may be served, when such action, suit or proceeding is caused by or relates to the operation of motor vehicles of or by such carrier within the state.

(2) The service of process, summons or notice upon such carrier may be made by leaving a copy thereof, together with a copy of the complaint or order, in the office of the department. The department shall forthwith notify such carrier of such service by letter directed to it at its residence or place of business as shown by the records of the department. [Formerly 767.495]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.304 - Vehicle owner to be made party to certificate or permit enforcement proceedings; dismissal of charges against driver.**

(1) In any prosecution for any violation of ORS 825.100 or 825.104 of any driver who is employed by the owner or lessee of the vehicle involved in the violation to operate the vehicle, the court shall make the owner or lessee of the vehicle a codefendant if appearance has not been made by the driver within 15 days of the date the driver was cited to appear in court.

(2) If it is found that the owner or lessee caused or permitted the driver to operate the vehicle in violation of ORS 825.100 or 825.104, and if the owner or lessee is found guilty of violating any of those provisions, the court may dismiss the charges against the driver. [Formerly 767.500]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.320 - Carrier's annual report to department.**

On or before April 1 of each year, unless additional time is granted, every certificated motor carrier shall file with the Department of Transportation a report, verified under oath by its chief officer, agent or owner, in such form and containing such information as the department shall prescribe, covering the year ending December 31 next preceding. [Formerly 767.605]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.322 - Disclosure of hazardous waste transportation reports and information to Environmental Protection Agency.**

Records, reports and information obtained or used by the Department of Transportation in administering the hazardous waste program under ORS 825.258 shall be available to the United States Environmental Protection Agency upon request. If the records, reports or information has been submitted to the department under a claim of confidentiality, the state shall make that claim of

confidentiality to the Environmental Protection Agency for the requested records, reports or information. The federal agency shall treat the records, reports or information that is subject to the confidentiality claim as confidential in accordance with applicable federal law. [Formerly 767.644]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.325 - Intrastate for-hire carrier of household goods required to obtain and retain criminal background check; rules.**

An authorized intrastate for-hire carrier of household goods shall obtain and retain for a period of at least three years a criminal background check of each employee whose duties may require contact with the public or entry into a private residence or storage facility for the purpose of providing or facilitating the transportation of household goods. The department shall adopt rules for conducting the criminal background check required and may prohibit an employee's activities based on the result of the criminal background check. [2009 c.433 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.326 - Motor Carrier Account; Consumer Protection Household Moves Account.**

(1) Except as provided in subsection (2) of this section, all fees, taxes, charges and other sums collected by the Department of Transportation under this chapter shall be paid into the State Treasury and shall be placed to the credit of an account, separate and distinct from the General Fund, to be known as the Motor Carrier Account. Interest earned by the account shall be credited to the account.

(2) Notwithstanding ORS 823.991, all fees collected under ORS 825.247 and all penalties collected under ORS 825.950 for offering to transport or transporting household goods without a certificate shall be paid into the State Treasury and shall be placed to the credit of an account, separate and distinct from the General Fund, to be known as the Consumer Protection Household Moves Account. Interest earned by the account shall be credited to the account. Moneys in the account are continuously appropriated to the department for purposes specified in subsection (5) of this section.

(3) The department may purchase the necessary supplies and equipment and provide for all necessary and incidental expenses incurred by the department in administering and enforcing this chapter.

(4) All claims, duly approved by the department, that have been incurred in pursuance of law, shall be paid by warrants drawn in the manner provided by law, payable out of the Motor Carrier Account or the Consumer Protection Household Moves Account.

(5) Moneys in the Consumer Protection Household Moves Account shall be used by the department exclusively for administration and enforcement of provisions of this chapter relating to persons that offer to provide or provide transportation of household goods without a certificate. [Formerly 767.630; 2003 c.754 §8; 2009 c.433 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.328 - Monthly transfer of Motor Carrier Account surplus to State Highway Fund.**

On the last day of each month the Department of Transportation shall identify the balance of all money in excess of sufficient working capital to accommodate the department's operating needs remaining in the Motor Carrier Account as of the close of business on the 25th day of such month, after deducting sums disbursed by warrants drawn on the Motor Carrier Account under ORS 825.326. The department shall thereupon transfer the balance to the State Highway Fund. [Formerly 767.635; 2003 c.754 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.330 - Restrictions on use of funds.**

No part of the funds produced by this chapter shall be used by the Department of Transportation directly or indirectly:

(1) For the purpose of investigating the rules, charges, practice or service of any carrier by rail.

(2) In the administration or enforcement of any law or authority over any carrier by rail.

(3) To investigate motor carriers beyond the appropriation made in this chapter. [Formerly 767.640; 1997 c.249 §266]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.350 - Voluntary commuter ridesharing arrangement not to be taxed or licensed by local government.**

(1) A county, city or other municipal corporation may not impose a tax on, or require a license for, a voluntary commuter ridesharing arrangement using a motor vehicle with a seating capacity for not more than 15 persons.

(2) For the purposes of this section, "voluntary commuter ridesharing arrangement" has the meaning given that term in ORS 656.025. [Formerly 767.660; 2015 c.27 §62]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.352 - Advertising requirements for carriers of household goods.**

A carrier that transports household goods shall include the carrier's certificate number in all newsprint classified advertising, newsprint display advertising, Internet advertising and telephone directory advertising prepared by or at the direction or request of the carrier. [Formerly 767.665; 2009 c.433 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.354 - Appointment of agents to issue passes, collect fees and taxes.**

The Department of Transportation may appoint agents to issue temporary passes provided in ORS 825.470 and to collect any fees and taxes required by this chapter. The department shall prescribe the duties and compensation of such agents and may require them to give bonds or irrevocable letters of credit issued by an insured institution, as defined in ORS 706.008, in such amount as the department determines appropriate, conditioned upon the faithful performance of their duties. [Formerly 767.062; 1997 c.631 §560; 2001 c.567 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.356 - Courts to forward copies of record on conviction for violation of chapter.**

The courts having jurisdiction of this chapter shall, upon a conviction of anyone for violation of this chapter, immediately forward a copy of the record of such conviction to the office of the Department of Transportation. [Formerly 767.065]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.400 - Rules for establishment of motor carrier education program; contents of program; fees.**

(1) The Department of Transportation shall establish a program for the education of motor carriers that covers, at a minimum, safety, weight mile tax and registration and size and weight regulations administered by the department.

(2) The department may appoint agents to carry out the program established under this section.

(3) The department shall prescribe fees sufficient to defray the costs of the program. Agents appointed by the department may assess the fees.

(4) The department shall adopt rules to carry out the provisions of this section. [Formerly 767.751; 1997 c.249 §267; 2021 c.630 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.402 - Participation in program.**

(1) Except as provided in subsection (4) of this section, all motor carriers that are domiciled in Oregon and that receive a certificate or permit from the Department of Transportation for the first time on or after July 1, 1990, shall participate in the program established under ORS 825.400.

(2) A motor carrier required by subsection (1) of this section to participate in the program must do so within 90 days of the date on which it receives a certificate or permit from the department.

(3) In addition to motor carriers required to participate in the program established under ORS 825.400, the department may require participation by any motor carrier that:

(a) Has underpaid its tax obligation for the use of the highways by 15 percent or more;

(b) Exceeds by more than 15 percent, in a one-year period, the industry average for out-of-service violations for vehicle inspection or for accidents per mile; or

(c) Receives, in a one-year period, two or more citations for being 10,000 pounds or more overweight.

(4) Subsection (1) of this section does not apply to a carrier receiving a certificate or permit for the first time on or after July 1, 1990, if the carrier is a successor in interest to a carrier that held a certificate or permit prior to that date.

(5) Rules adopted by the department under ORS 825.400 shall require each motor carrier participating in the program to have at least one person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the certificate or permit issued to the motor carrier participate in the program. No rule shall require the participation of a motor carrier more than one time except for motor carriers required to participate under subsection (3) of this section.

(6) Rules adopted by the department under ORS 825.400 shall require each motor carrier participating in the program to attend at least eight hours of classroom instruction. The instruction may be provided in person or by an interactive, instructor-led webinar.

[Formerly 767.752; 2001 c.567 §10; 2021 c.630 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.410 - Drug and alcohol testing program.**

(1) Every motor carrier must:

(a) Have an in-house drug and alcohol testing program that meets the federal requirements of 49 C.F.R. part 382; or

(b) Be a member of a consortium, as defined in 49 C.F.R. 382.107, that provides testing that meets the federal requirements.

(2) At the time of registration or renewal of registration of a commercial vehicle or a commercial motor vehicle under any provision of ORS chapter 803 or 826, a motor carrier must certify to the Department of Transportation that the carrier is in compliance with subsection (1) of this section and, if the carrier belongs to a consortium, must provide the department with the names of persons who operate the consortium. [1999 c.1099 §2; 2021 c.630 §120]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.415 - Drug and alcohol testing; school transportation provider.**

- (1) As used in this section, "school transportation provider" means a school district or a school district contractor that uses school buses or school activity vehicles for:
- (a) The transportation of students or school personnel to or from school or school-related activities; or
  - (b) Public transportation purposes as provided in ORS 332.427.
- (2) Every school transportation provider shall:
- (a) Have an in-house drug and alcohol testing program that meets the federal requirements of 49 C.F.R. part 382; or
  - (b) Be a member of a consortium, as defined in 49 C.F.R. 382.107, that provides testing that meets the federal requirements.
- (3) Each calendar year, a school transportation provider shall certify to the Department of Education that the provider is in compliance with subsection (2) of this section and, if the provider belongs to a consortium, shall provide the department with the names of persons who operate the consortium.
- (4) When a medical review officer of a school transportation provider's testing program or of the consortium the provider belongs to determines that a positive test result is valid, the officer shall report the finding to the department. [2013 c.163 §2; 2021 c.630 §121]
- Note:  
825.415 was added to and made a part of the Oregon Vehicle Code by legislative action but was not added to ORS chapter 825 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.450 - Weight identifier; period of validity; rules.**

- (1) Upon application by a carrier, the Department of Transportation may issue a weight identifier for each vehicle the carrier enrolls with the department, which must state the combined weight of the vehicle or combination of vehicles. The department shall record each weight identifier electronically. This subsection does not apply to vehicles issued a temporary pass under ORS 825.470.
- (2) A person may not load any motor vehicle in excess of the combined weight stated on the weight identifier issued for that motor vehicle under subsection (1) of this section.
- (3) Weight identifiers issued under this section are valid from the first day of any calendar quarter to the last day of the fourth consecutive calendar quarter. Each carrier may select the calendar quarter in which the period will begin except that, if necessary for administrative convenience, the department may require a carrier to adopt a starting date chosen by the department.
- (4) All vehicles operating under the carrier's authority shall have the same four-quarter period of weight identifier validity. The department may allow a carrier to operate with expired weight identifiers for up to one extra quarter if the renewal application has been submitted. The extension of time allowed by this subsection shall be granted only if the department determines that the extension is necessary for the administrative convenience of the department.
- (5) The department may adopt rules necessary to administer the provisions of this section. [Formerly 767.775; 2001 c.567 §1; 2003 c.618 §50; 2007 c.465 §1; 2017 c.750 §§57,58; 2018 c.93 §28a; 2019 c.491 §38]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.452 - Initial registration period.**

In order to facilitate the registration issuance and registration renewal processes, when a carrier initially registers under ORS 826.009 or 826.037, the Department of Transportation may assign a registration period ranging from three to 12 months. [1995 c.39 §6; 2001 c.567 §6; 2019 c.491 §41]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.454 - Identification devices; applications.**

- (1) The Department of Transportation, in the discretion of the department, may require the use of identification devices, such as cab cards, stamps or carrier identification numbers, to identify and be carried with or placed upon each motor vehicle authorized to be operated in Oregon subject to the provisions of this chapter. The form of any identification device and the method for its use shall be determined by the department.
- (2) Notwithstanding any other provision in this chapter, the department may require applications for identification devices to be made annually. [Formerly 767.780; 2001 c.567 §7; 2003 c.753 §1; 2019 c.491 §42]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.470 - Temporary pass; fees; rules.**

- (1) For single trip or short-time operation not exceeding 10 days of a vehicle subject to the provisions of this chapter, the Department of Transportation may issue a temporary pass identifying the motor vehicle. For this pass a fee of \$9 for each motor vehicle shall be paid.
- (2) The department may adopt rules necessary to administer the provisions of this section. [Formerly 767.805; 2001 c.567 §8; 2007 c.465 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.472 - Determination of filing of reports or payments.**

(1) Any report or payment transmitted through the United States mail that is required to be filed with the Department of Transportation by ORS 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494 and 825.496 shall be considered filed:

(a) On the date shown by the post-office cancellation mark on the envelope or wrapper containing such report or payment.

(b) On the date such report or payment was mailed if the post-office cancellation mark on the envelope or wrapper containing the report or payment is omitted or is not legible or if the report or payment is not received by the department and if the sender establishes to the satisfaction of the department that the report or payment was deposited in the United States mail on or before the date due for filing.

(2) If the date for filing any report or payment required to be filed with the department by ORS 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494 and 825.496 falls on a Saturday, Sunday or legal holiday, a filing shall be considered timely if made on the next business day.

(3) Notwithstanding the provisions of subsection (1)(a) of this section, a report or payment that is required to be filed with the department by ORS 825.474, 825.476, 825.480, 825.484, 825.488, 825.490, 825.492, 825.494 and 825.496 and that is filed by a person whose certificate or permit is suspended under ORS 825.139 (1)(a) for delinquent reporting or paying shall be considered filed on the date it is received by the department. [Formerly 767.810; 1997 c.275 §41]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.474 - Motor carrier tax for use of highways.**

(1) In addition to other fees and taxes imposed by law upon carriers, there shall be assessed against and collected from every carrier a tax for the use of the highways, to apply to the cost of administration of this chapter and for the maintenance, operation, construction and reconstruction of public highways.

(2) The tax rate which shall apply to each motor vehicle shall be based upon the declared combined weight of the motor vehicle and in accordance with the weight group tax rates as shown in the tables set forth in ORS 825.476.

(3) For the purpose of computing the tax due:

(a) Table "A" applies to motor vehicles subject to the tax imposed by this section that are not issued an annual variance permit under ORS 818.200 (1)(a) to (c) to operate with a combined weight of more than 80,000 pounds.

(b) Table "B" applies to motor vehicles subject to the tax imposed by this section that are issued or required to obtain an annual variance permit under ORS 818.200 (1)(a) to (c) to operate with a combined weight of more than 80,000 pounds.

(c) The declared combined weight shall be the combined weight, as defined in ORS 825.005, declared in the application for authority under ORS 825.100, subject to audit and approval by the Department of Transportation.

(d) In addition to any tax due under this chapter, motor vehicles that exceed the maximum vehicle weight limits for annual variance permits under ORS 818.200 (1)(a) to (c) are subject to the road use assessment fee imposed under ORS 818.225 for the entire motor vehicle weight, minus the road use assessment fee for the maximum vehicle weight allowed under the annual variance permit.

(4) The tax for each motor vehicle when table "A" or "B" is used shall be computed by multiplying the extreme mileage of travel in Oregon by the appropriate weight group tax rate as it appears in the table. [Formerly 767.815]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.475 - Exemption from motor carrier tax and fuel tax.**

Notwithstanding ORS 319.020, 319.530 and 825.474, a person operating a motor vehicle with a combined weight of 26,000 pounds or more is not required to pay the weight-mile tax imposed under ORS 825.474 or fuel taxes imposed under ORS 319.020 and 319.530, if:

(1) The person is not operating as a for-hire carrier; and

(2) The person is operating the motor vehicle for the purpose of emissions research and development and the United States Environmental Protection Agency has provided a testing exemption from complying with federal emission requirements. [2015 c.716 §15]

Note:

825.475 is repealed January 1, 2026. See sections 40 and 41, chapter 579, Oregon Laws 2019.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.476 - Carrier tax tables.**

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MILEAGE TAX RATE TABLE "A"

Declared Combined Fee Rates

Weight Groups Per Mile

26,001 to 28,000 76.4

28,001 to 30,000 80.9

30,001 to 32,000 84.6

32,001 to 34,000 88.4

34,001 to 36,000 91.8

36,001 to 38,000	96.6
38,001 to 40,000	100.2
40,001 to 42,000	103.8
42,001 to 44,000	107.7
44,001 to 46,000	111.3
46,001 to 48,000	114.9
48,001 to 50,000	118.7
50,001 to 52,000	123.1
52,001 to 54,000	127.7
54,001 to 56,000	132.5
56,001 to 58,000	138.0
58,001 to 60,000	144.3
60,001 to 62,000	151.7
62,001 to 64,000	160.1
64,001 to 66,000	169.3
66,001 to 68,000	181.3
68,001 to 70,000	194.1
70,001 to 72,000	206.9
72,001 to 74,000	218.7
74,001 to 76,000	230.0
76,001 to 78,000	241.1
78,001 to 80,000	251.2

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**AXLE-WEIGHT MILEAGE**

**TAX RATE TABLE "B"**

Declared Combined Number of Axles

Weight Groups 5 6 7 8 9 or

(Pounds) (Mills) more

80,001 to 82,000	259.4	237.3	221.8	210.7	198.7
82,001 to 84,000	267.8	241.1	225.4	213.4	201.4
84,001 to 86,000	275.8	246.6	229.1	216.1	204.2
86,001 to 88,000	285.2	252.0	232.7	219.9	206.9
88,001 to 90,000	296.2	258.4	236.5	223.5	210.7
90,001 to 92,000	309.0	265.9	239.9	227.1	214.4
92,001 to 94,000	323.0	273.1	243.8	230.8	217.2
94,001 to 96,000	337.7	281.5	248.3	234.6	220.7
96,001 to 98,000	353.3	291.7	253.9	238.4	224.5
98,001 to 100,000	302.5	259.4	242.8	228.1	
100,001 to 102,000	264.9	248.3	231.9		
102,001 to 104,000	270.5	253.9	236.5		
104,001 to 105,500	277.7	259.4	241.1		

[Formerly 767.820; 1999 c.1075]

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§36; 2003 c.618 §4; 2009 c.865 §52; 2017 c.750 §§63,64]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.480 - Substitute taxes for certain vehicles.**

(1)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles in the transportation of logs, poles, peeler cores or piling may pay annual fees for such operation computed at the rate of \$11.60 for each 100 pounds of declared combined weight.

(b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.

(2) The annual fees provided in subsections (1), (4) and (5) of this section may be paid on a monthly basis. Any carrier electing to pay fees under this method may not change an election during the same calendar year in which the election is made, but may be relieved from the payment due for any month during which a motor vehicle is not operated. A carrier electing to pay fees under this method shall report and pay these fees on or before the 10th of each month for the preceding month's operations. A monthly report shall be made on all vehicles on the annual fee basis including any vehicle not operated for the month.

(3)(a) In lieu of the fees provided in ORS 825.470 to 825.474, motor vehicles described in ORS 825.024 with a combined weight of less than 46,000 pounds that are being operated under a permit issued under ORS 825.102 may pay annual fees for such operation



computed at the rate of \$9.60 for each 100 pounds of declared combined weight.

(b) The annual fees provided in this subsection shall be paid in advance but may be paid on a monthly basis on or before the first day of the month. A carrier may be relieved from the fees due for any month during which the motor vehicle is not operated for hire if a statement to that effect is filed with the Department of Transportation on or before the fifth day of the first month for which relief is sought.

(4)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in the operation of motor vehicles equipped with dump bodies and used in the transportation of sand, gravel, rock, dirt, debris, cinders, asphaltic concrete mix, metallic ores and concentrates or raw nonmetallic products, whether crushed or otherwise, moving from mines, pits or quarries may pay annual fees for such operation computed at the rate of \$11.50 for each 100 pounds of declared combined weight.

(b) Any carrier electing to pay fees under this method may, as to vehicles otherwise exempt for taxation, elect to be taxed on the mileage basis for movements of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, servicing or moving from one exempt highway operation to another.

(5)(a) In lieu of other fees provided in ORS 825.474, carriers engaged in operating motor vehicles in the transportation of wood chips, sawdust, barkdust, hog fuel or shavings may pay annual fees for such operation computed at the rate of \$47 for each 100 pounds of declared combined weight.

(b) Any carrier electing to pay under this method may, as to vehicles otherwise exempt from taxation, elect to be taxed on the mileage basis for movement of such empty vehicles over public highways whenever operations are for the purpose of repair, maintenance, service or moving from one exempt highway operation to another. [Formerly 767.825; 2003 c.618 §5; 2009 c.865 §53; 2017 c.750 §§66,67; 2018 c.93 §§29,29a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.482 - Review of flat fee rates.**

The Department of Transportation and the Oregon Transportation Commission shall review flat fee rates established under ORS 825.480 in each even-numbered year and shall recommend to the next following odd-numbered year regular session of the Legislative Assembly any adjustments to the flat fee rates that the department and the commission deem appropriate. [1989 c.992 §28; 2011 c.545 §67]

Note:

825.482 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 825 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.484 - Effect of carrier tax law on other taxes; offset of fees or taxes erroneously paid.**

(1) The fees or taxes listed in ORS 825.474, 825.476 and 825.480 shall be in addition to, and not in lieu of, other fees and taxes of the state, county or municipality which may be imposed, levied, assessed or collected against the business or property of such carrier. This section does not authorize the imposition of license fees by municipalities upon intercity carriers, or deprive any city within which a passenger motor vehicle, having a seating capacity of not more than seven passengers, is principally operated for hire, from imposing and collecting license fees upon and from such motor vehicle, or the owner or operator thereof, as to such portion of its operations as are wholly within the corporate limits of such city.

(2) ORS 319.510 to 319.880 do not apply to vehicles or fuels used therein when the vehicles are subject to, and report and pay:

(a) The tax for the use of Oregon highways based upon the combined weight of the vehicle and in accordance with the weight group rates prescribed in ORS 825.474, 825.476 and 825.480; or

(b) The road use assessment fee required under ORS 818.225.

(3) When an audit of the operations of a carrier shows that the use fuel taxes reported and paid under ORS chapter 319 should have been reported and paid under this chapter, or that fees or taxes reported and paid under this chapter should have been reported and paid under ORS chapter 319, the fees or taxes erroneously reported and paid under one chapter need not be refunded but may be considered an offset of fees or taxes due under the other chapter. [Formerly 767.830; 2015 c.77 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.486 - Credit for fuel tax.**

Any tax paid under ORS 319.010 to 319.430 or 319.510 to 319.880 on motor vehicle fuel or fuel as defined in ORS 319.520, either directly by the collection of the tax by the vendor from the consumer or indirectly by adding the amount of the tax to the price of the fuel paid by the customer, is a credit against the amount of tax otherwise due and payable to the state under ORS 818.225, 825.474, 825.476 and 825.480. A credit under this section shall be allowed when the person claiming the credit submits to the Department of Transportation:

(1) A report under ORS 825.480, 825.490 or 825.492; and

(2) Satisfactory evidence along with the report showing the amount of tax paid by the person under ORS 319.010 to 319.430 or 319.510 to 319.880 during the period reported. [Formerly 767.832; 2015 c.77 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor**

**CarriersSection 825.488 - Fees required of interstate carriers.**

A person engaged exclusively in the conduct of interstate transportation shall currently pay to the Department of Transportation the road tax mileage fees prescribed by ORS 825.474, 825.476, 825.480, 825.484, 825.490, 825.494 and 825.496. [Formerly 767.835]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 825 - Motor CarriersSection 825.490 - Due date of taxes and fees; audits; late charges, penalties and interest; refunds; reassessment for fraud or evasion.**

(1) On or before the last day of each month, except for the time of payment provided in ORS 825.480 and 825.492, all persons shall report and pay to the Department of Transportation the amount of taxes and fees due from them for the preceding calendar month. However, taxes and fees incurred after the 15th day of any month may be reported and paid to the department on or before the last day of the second calendar month following the month in which the taxes or fees were incurred. If no taxes or fees are due in any reporting period, the report shall so state. If payment is not made on or before the date it is due, there shall be added as a late payment charge a sum equal to 10 percent of the unpaid amount of the tax.

(2) The department may permit a person to report and pay motor carrier taxes and fees on a periodic basis other than the calendar-month basis prescribed in subsection (1) of this section, provided that the number of reporting periods in any 12-month period is not less than 12. If no taxes or fees are due in any reporting period, the report shall so state. If payment is not made on or before the date it is due, there shall be added as a late payment charge a sum equal to 10 percent of the unpaid amount of the tax.

(3) Whenever practicable, and in no event later than three years after any report of taxes or fees is filed, the department shall audit the report. If the department is not satisfied with the report filed or the amount received, including fees for temporary passes required under ORS 825.470, the department may calculate the remaining amount due based on any information available to the department. The department shall add a late payment charge equal to 10 percent of the remaining amount due.

(4) The department may require a person who fails to pay any tax or fee due to pay interest. Interest shall be computed at the rate of one percent per month, or fraction thereof, beginning on the last day of the month following the close of the month for which the remaining amount due was incurred, until paid.

(5) If the remaining amount due exceeds by at least five percent but not more than 15 percent the amount of taxes or fees reported or paid, a penalty of five percent of the remaining amount due shall be added thereto in addition to the 10 percent late payment charge provided in subsection (3) of this section.

(6) If the remaining amount due exceeds by more than 15 percent the amount of taxes or fees reported or paid, a penalty of 20 percent of the remaining amount due shall be added thereto in addition to the 10 percent late payment charge provided in subsection (3) of this section.

(7) The department shall give to the person concerned written notice of any amounts due.

(8) Except as provided in ORS 825.484 (3), the department shall refund to any person the amount of any overpayment caused by any incorrect report.

(9) Whenever the department has made an assessment pursuant to this section that has become final the department may not reopen or reassess such taxes, interest or penalties unless the department is satisfied that the taxpayer fraudulently or with intent to evade taxation destroyed, concealed or withheld any books, accounts, papers, records or memoranda required to be maintained by the taxpayer pursuant to this chapter or the rules of the department. [Formerly 767.840; 2007 c.71 §246; 2021 c.630 §100]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 825 - Motor CarriersSection 825.492 - Annual and quarterly reports authorized.**

(1) Whenever in the judgment of the Department of Transportation the estimated annual tax payable by a carrier will be less than \$100, and the vehicles operated by the carrier are of less than 30,000 pounds combined weight, the department may authorize the carrier to file reports annually in lieu of monthly reports required by ORS 825.490 and 825.515. Annual reports and accompanying remittances shall be filed on or before the due date of February 28 for the preceding calendar year.

(2) At the request of a motor carrier, the department may authorize the carrier to file quarterly reports in lieu of monthly reports required by ORS 825.490 and 825.515. Quarterly reports and accompanying remittances due shall be filed on or before the due date as follows: First calendar quarter, May 31; second quarter, August 31; third quarter, November 30; fourth quarter, February 28.

(3) Such authorizations may be withdrawn at any time upon the mailing of notice to the carrier at the last address of record of the carrier with the department. Any provisions of ORS 825.490 and 825.515 otherwise applicable to reports and remittances shall be applicable to reports and remittances under this section. [Formerly 767.845; 2001 c.567 §11]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 825 - Motor CarriersSection 825.494 - Assessment by department upon failure to report tax or fee due.**

(1) If any person neglects or refuses to make a fee or tax report as required by this chapter, the Department of Transportation shall make a proposed assessment, based upon any information available to the department, for the period for which such person failed to make a report, of the amount of taxes and fees, including fees for temporary passes required under ORS 825.470, due for the period for which such proposed assessment is made.

(2) Each assessment shall bear interest at the rate of one percent per month, or fraction thereof, from the last day of the month

following the close of the month for which the assessment is imposed until paid.

(3) There shall be added to every such assessment a penalty of 25 percent of the amount thereof.

(4) The department shall give to such person written notice of such assessment.

(5) Whenever the department has made an assessment pursuant to this section that has become final the department may not reopen or reassess such taxes, fees, interest or penalties unless the department is satisfied that the taxpayer fraudulently or with intent to evade taxation destroyed, concealed or withheld any books, accounts, papers, records or memoranda required to be maintained by a person subject to this chapter or the rules of the department. [Formerly 767.850; 2007 c.71 §247]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.496 - Reassessment waiver or reduction upon request; charge for failure to appear at hearing.**

(1) Any person against whom an assessment is made under ORS 825.490 or 825.494, may petition the Department of Transportation for a reassessment within 30 days after service upon the person of notice. If a petition is not filed within the 30-day period, the assessment becomes final. If a petition for reassessment is filed within the 30-day period the department shall reconsider the assessment and, if the person has requested in the petition, shall grant such person a hearing and give the person 10 days' notice of the time and place of the hearing. The department has power to continue the hearing from time to time as may be necessary. The decision of the department upon a petition for reassessment shall become final 30 days after service of notice upon the person concerned.

(2) The department may waive or reduce the interest and penalties provided in ORS 825.490 or 825.494 (2) or (3) on those terms as the department considers proper if request for waiver or reduction is made within 30 days after service of notice of assessment upon the person concerned, or as part of the pleas made in the department's reconsideration of the assessment.

(3) Every assessment made by the department under ORS 825.490 to 825.496 becomes due and payable at the time it becomes final and if not paid to the department when due and payable there shall be added to the assessment a penalty of 10 percent of the amount of the tax.

(4) If any person who has requested a hearing pursuant to this section fails to appear at the scheduled hearing and failed to withdraw the petition for reassessment at least five days before the date of the hearing, the department may require such person to pay a charge of \$150 in addition to any other fees, taxes and charges which may be imposed under this chapter. [Formerly 767.855; 2021 c.630 §101]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.498 - Collection of fees, taxes and other moneys.**

All fees, taxes and charges imposed by this chapter and ORS chapter 826, all claims and penalties payable by any person under this chapter and ORS chapter 826 and all moneys collected under this chapter and ORS chapter 826, are the property of the state. The Department of Transportation shall collect and receive all fees, taxes, penalties and moneys due or to become due to the state under this chapter and ORS chapter 826 and, to that end, shall bring such actions or take such proceedings, including attachment and garnishment proceedings, in the name of the State of Oregon, as may be necessary. [Formerly 767.860]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.500 - Calculation of interest and penalties for delinquent road use assessment fees and single-use nondivisible load permits; audit.**

(1) Interest and penalties for delinquent payments of road use assessment fees payable pursuant to the provisions of ORS 818.225 and of single-trip nondivisible load permits shall be calculated in the same manner that interest and penalties are calculated under ORS 825.490 and 825.494.

(2) An audit conducted by the Department of Transportation pursuant to its authority under this chapter may include an examination of records of the carrier pertaining to the road use assessment fee imposed under ORS 818.225. If the audit shows that movement by a carrier exceeds the mileage authorized by a single-trip nondivisible load permit, the department shall determine the amount of the road use assessment fee that is due. The department shall collect the amount due and may impose any penalties or additional assessments authorized by this chapter for delinquent payment of taxes. [Formerly 767.862; 1997 c.275 §28]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.502 - Payment of taxes and fees by credit card; rules.**

For payment of any weight-mile taxes and fees, the Department of Transportation may:

(1) Accept payment of taxes and fees by credit card. Any payment made by credit card shall be for the full amount of the tax or fee, except that a surcharge may be added to the amount tendered by the customer to offset fees charged to the department for acceptance and use of the credit card.

(2) Adopt reasonable rules as necessary or proper for the administration of this section. [Formerly 767.863]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.504 - Warrant procedure for collecting tax, fee, penalty or assessment.**

(1) If any tax, or fee in lieu of tax, reported due, or any final assessment made by the Department of Transportation under ORS 825.490, 825.494 and 825.496, including any penalties or charges therein imposed, or any final penalty imposed under ORS 825.950, 825.955 or 825.960, is not paid in full, the department may issue a warrant for the amount of the tax, fee or assessment, with the added penalties or charges, interest and the cost of executing the warrant. A copy of the warrant shall be mailed or delivered to the taxpayer by the department at the taxpayer's last-known address.

(2) At any time after issuing a warrant under this section, the department may record the warrant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff for the county in which the warrant is recorded to levy upon and sell the real and personal property of the taxpayer found within that county, and to levy upon any currency of the taxpayer found within that county, for the application of the proceeds or currency against the amount reflected in the warrant and the sheriff's cost of executing the warrant. The sheriff shall proceed on the warrant in the same manner prescribed by law for executions issued against property pursuant to a judgment, and is entitled to the same fees as provided for executions issued against property pursuant to a judgment. The fees of the sheriff shall be added to and collected as a part of the warrant liability.

(3) In the discretion of the department a warrant under this section may be directed to any agent authorized by the department to collect amounts under this section, and in the execution of the warrant the agent has all of the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(4) Until a warrant issued under this section is satisfied in full, the department has the same remedies to enforce the claim for the tax, fee or assessment as if the state had recovered judgment against the taxpayer for the amount of the tax, fee or assessment.

(5) The procedures authorized by this section may also be used for collection of any fees and penalties imposed on persons registering vehicles under ORS chapter 826. [Formerly 767.865; 1997 c.275 §29; 2003 c.576 §222; 2011 c.661 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.506 - Deposit or bond to secure payment of fees, taxes, charges and penalties.**

(1) If the Department of Transportation finds it necessary in order to insure the collection of any fees, taxes, charges or penalties imposed upon a carrier pursuant to this chapter or ORS 818.225, the department may at the time and as a condition of granting a certificate or permit, or continuing the same, or as a condition of issuing a motor vehicle registration device, require a carrier to deposit and keep on deposit with the department a sum in an amount determined proper by the department, taking into account the nature and scope of the carrier's operations. Moneys deposited under this section shall be deposited with the State Treasurer in an account separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. The deposit required may be increased or reduced by the department at any time. In determining the necessity for an applicant or carrier to maintain a deposit the department shall consider the applicant or carrier's financial capability and responsibility and the department's prior experience, if any, in collecting fees, taxes, charges or penalties from the applicant, carrier or any person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the carrier's authority.

(2) To secure payment of sums payable by the carrier the department may accept in lieu of such deposit:

(a) A bond in the form prescribed by the department; or

(b) Bonds, negotiable by delivery, of the State of Oregon, school districts therein, or obligations of the United States, or obligations for which the faith of the United States is pledged for the payment of both principal and interest, equal in amount to the amount of the requested deposit.

(3) So long as the deposit remains unencumbered the depositor is entitled to collect the interest upon the securities described in subsection (2)(b) of this section. The department shall hold the securities upon such terms as the department shall designate and approve pursuant to the provisions of this chapter, and shall deliver such securities to the State Treasurer, who shall receive and hold them subject to the lawful orders of the department. The State Treasurer and the surety of the treasurer shall be liable upon the official bond of the treasurer for their safekeeping. The depositors shall reimburse the State Treasurer for any expenses incurred by the treasurer in the mailing, insuring, shipping or delivering of any such securities, or of the interest coupons attached thereto as they mature.

(4) If a carrier ceases to be a carrier under this chapter, within a reasonable time of the receipt by the department of all payments due, the department shall refund or have returned to the carrier all deposits and securities remaining to the carrier's credit and shall release the surety on any bond given under this section.

(5) Any applicant or carrier required under this section to make a deposit to secure the payment of fees, taxes, charges or penalties may by proper petition demand a hearing on the necessity of such deposit or the reasonableness of the amount required. A hearing shall be granted and held within 10 days after the demand therefor. The decision of the department shall become final 10 days after service of the order upon the applicant or carrier concerned. [Formerly 767.870]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.507 - Limitations on cancellation of bond; suspension of authority.**

(1) No bond filed pursuant to ORS 825.506 may be canceled or otherwise terminated at any time prior to its expiration until the surety company which executed the same, has filed with the Department of Transportation a notice of cancellation as provided in such bond. Such cancellation shall be effective not less than 30 days from the date of receipt, and no agreement between the parties

thereto shall operate to avoid this restriction upon cancellation.

(2) If any bond filed pursuant to ORS 825.506 becomes inoperative, the authority under the certificate or permit involved shall cease and be suspended insofar as it pertains to any affected vehicles until the requirements of ORS 825.506 have been met by the carrier. [Formerly 767.795]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.508 - Use of collection agency to obtain moneys due.**

(1) In carrying out the duties under ORS 825.498, the Department of Transportation may engage the services of a collection agency to collect any of the fees, taxes, penalties and moneys due to the state under this chapter and ORS chapter 826. The department may engage the services by entering into agreements to pay reasonable charges on a contingent fee or other basis.

(2) The department may assign to the collection agency, for collection purposes only, any of the fees, taxes, penalties and moneys due the state under this chapter and ORS chapter 826.

(3) The collection agency may bring such actions or take such proceedings, including attachment and garnishment proceedings, as may be necessary. [Formerly 767.875]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.509 - Writing off uncollected moneys due.**

(1) Any fee, tax, penalty or money due the state assigned to a collection agency pursuant to ORS 825.508 that remains uncollected for two years after the date of the assignment meets the criteria for uncollectibility formulated pursuant to ORS 293.240.

(2) ORS 293.245 applies to any fee, tax, penalty or money due the state and described in subsection (1) of this section. [Formerly 767.880; 2011 c.223 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.515 - Daily records and monthly reports by carriers.**

(1) Every for-hire carrier and private carrier shall keep daily records, upon forms prescribed by the Department of Transportation, of all vehicles used during the current month.

(2) On or before the last day of the month following, except as otherwise permitted under ORS 825.492, they shall certify to the department, upon forms prescribed therefor, the true and correct summaries of their daily records which shall show the extreme miles traveled in this state during the preceding month, the amount of fuel tax paid to the state during the preceding month, and such other information as the department may require.

(3) The daily records shall be kept on file in the office of the carrier and thereafter preserved until written permission for their destruction is given by the department. [Formerly 767.905]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.517 - Certain records not public.**

(1) The following are not public records unless the public interest requires disclosure in the particular instance:

(a) Reports from motor carriers required to be filed with the Department of Transportation in connection with the imposition or collection of any tax.

(b) Information collected by the department from a motor carrier for the purpose of conducting a tax audit.

(2) A motor carrier to whom the information pertains, or a person who has written permission from the carrier, may inspect information described in subsection (1) of this section.

(3) The department, upon request or as required by law, shall disclose information from the records described in subsection (1) of this section to a government agency for use in carrying out its governmental functions. [1997 c.501 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.550 - Multijurisdictional agreement for collection of weight-mile taxes; rules.**

(1) The Department of Transportation may enter into an agreement with the authorized representatives of any jurisdiction that imposes weight-mile taxes, in order to form a multijurisdictional agreement for the singular collection of the total weight-mile taxes claimed due by any of the jurisdictions that are party to the agreement. An agreement established under authority granted by this section:

(a) May allow motor carriers to pay the total weight-mile taxes that are claimed due to any jurisdiction that is a party to the agreement.

(b) May provide for collection of all weight-mile taxes claimed due by any party to the agreement, on vehicles that are engaged in interjurisdictional commerce or combined interjurisdictional and intrajurisdictional commerce.

(c) May include provisions necessary to facilitate the determination and distribution of weight-mile tax moneys among the various jurisdictions.

(d) May provide that the department may deny any person further benefits under the agreement until all taxes have been paid, if the department determines that the person should have paid additional taxes.

- (e) May provide for arrangements with agencies of this state and other jurisdictions for joint audits of owners of vehicles availing themselves of this agreement and for the exchange of audit information on those owners.
- (f) May authorize the department to suspend or cancel any benefits under the agreement, if the person violates any of the terms or conditions of the agreement or violates any law or rule of this state relating to vehicles.
- (2) The department may adopt any rules the department deems necessary to effectuate and administer the provisions of an agreement entered into under this section. Nothing in an agreement shall affect the right of the department to adopt rules as described in this section.
- (3) An agreement shall be in writing and shall be filed with the department within 10 days after execution or the effective date of the agreement, whichever is later.
- (4) Nothing in an agreement shall affect the right of the department to act under this section.
- (5) An agreement shall not provide for any benefit, exemption or privilege with respect to any other fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except weight-mile taxes, fees and requirements. [Formerly 767.882]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.555 - International fuel tax agreement; rules; fees.**

- (1) The Department of Transportation may enter into an international fuel tax agreement with jurisdictions outside of this state to provide for cooperation and assistance among member jurisdictions in the administration and collection of taxes imposed on motor carriers for the consumption of all fuels used in vehicles operated interstate.
- (2) An agreement under this section may:
  - (a) Provide for determining a base state for motor carriers for purposes of the agreement.
  - (b) Impose record keeping requirements.
  - (c) Specify audit procedures.
  - (d) Provide for exchange of information among jurisdictions.
  - (e) Provide criteria for determining which carriers are eligible to receive the benefits of the agreement.
  - (f) Define qualified motor vehicles.
  - (g) Specify conditions under which bonds are required.
  - (h) Specify reporting requirements and periods, including but not limited to specifying penalty and interest rates for late reporting.
  - (i) Determine methods for collecting and forwarding of motor fuel taxes, penalties and interest to another jurisdiction.
  - (j) Provide that the Department of Transportation may deny any person further benefits under the agreement until all motor fuel taxes have been paid, if the department determines that additional motor fuel taxes are owed by the person.
  - (k) Authorize the department to suspend or cancel benefits under the agreement for any person who violates any term or condition of the agreement or any law or rule of this state relating to motor carriers or vehicles.
  - (L) Contain such other provisions as will facilitate the agreement.
- (3) An agreement may not provide for any benefit, exemption or privilege with respect to any fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except for motor fuel taxes and requirements related to motor fuel taxes.
- (4) The department may adopt any rules the department deems necessary to effectuate and administer the provisions of an agreement entered into under this section. Nothing in the agreement shall affect the right of the department to adopt rules as provided in ORS chapter 823 and this chapter.
- (5) An agreement shall be in writing and shall be filed with the department within 10 days after execution or on the effective date of the agreement, whichever is later.
- (6) The department shall adopt rules establishing an annual fee to be paid by each motor carrier receiving benefits from an agreement entered into under this section. In establishing fees, the department shall consider the size of the motor carrier's fleet. Fees established under this subsection shall be designed to recover the full direct and indirect costs to the department that result from participation in the agreement, but the department may not establish a fee under this subsection that exceeds \$650. [Formerly 767.884; 1997 c.275 §30; 2001 c.698 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.600 - Purpose of ORS 825.601 to 825.615.**

The purpose of ORS 825.601 to 825.615 is to reduce greenhouse gas and other emissions from the use of commercial vehicles, as defined in ORS 825.601. [2011 c.349 §2]

Note:

825.600 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 825 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.601 - Definitions.**

As used in ORS 825.601 to 825.615:

- (1) "Auxiliary power unit" means any device that is installed on a commercial vehicle that provides electrical, mechanical or thermal energy to the vehicle cab, a sleeper berth, a bus passenger compartment or any other vehicle cab, as an alternative to idling the

primary engine.

- (2) "Cargo temperature control unit" means any device used for controlling the temperature of a cargo transport area.
- (3) "Commercial vehicle" means a commercial vehicle with a gross vehicle weight rating that is greater than 10,000 pounds.
- (4) "Idle reduction technology" means any device or system of devices that is installed on a commercial vehicle and that is designed to provide heat, air conditioning or electricity that would otherwise require the operation of the primary engine.
- (5) "Idling" means operation of the primary engine of a commercial vehicle while the vehicle is stationary.
- (6) "Primary engine" means an internal combustion engine attached to a commercial vehicle that provides the power to propel the vehicle into motion and maintain motion. [2011 c.349 §3]

Note:

825.601 to 825.615 were added to and made a part of the Oregon Vehicle Code by legislative action but were not added to ORS chapter 825 or any series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.605 - Unlawfully idling the primary engine of a commercial vehicle; penalty.**

- (1) A person commits the offense of unlawfully idling the primary engine of a commercial vehicle if the person is operating a commercial vehicle and the person:
  - (a) Stops the commercial vehicle; and
  - (b) Allows the engine of the commercial vehicle to idle for more than five minutes in any continuous 60-minute period.
- (2) For purposes of this section, a person is not idling a primary engine if the person:
  - (a) Operates an auxiliary power unit, generator set or other idle reduction technology as a means to heat, air condition or provide electrical power.
  - (b) Operates a cargo temperature control unit to maintain the cargo.
- (3) A citation issued under this section may be issued to the person operating the commercial vehicle, the motor carrier as defined in ORS 825.005, or both.
- (4) The offense described in this section, unlawfully idling the primary engine of a commercial vehicle, applies on any premises open to the public.
- (5) The offense described in this section, unlawfully idling the primary engine of a commercial vehicle, is a Class C traffic violation. [2011 c.349 §4]

Note:

See note under 825.601.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.610 - Exemptions from requirements in ORS 825.605.**

ORS 825.605 does not apply to a commercial vehicle if it is necessary to idle the primary engine of the commercial vehicle:

- (1) Due to traffic, a traffic control device or mechanical difficulties over which the operator has no control or at the direction of a law enforcement official or road authority.
- (2) Due to the need to operate defrosters, heaters or air conditioners or installing equipment necessary to comply with manufacturers' operating requirements, specifications and warranties or with federal, state or local safety regulations.
- (3) Because the commercial vehicle is a police, fire, ambulance, public safety, military, utility service or road authority vehicle, or any other vehicle being used to respond to an emergency or for other public safety purposes, or being actively used for training for emergencies or public safety.
- (4) For maintenance, service, repair or diagnostic purposes or for particulate matter trap regeneration.
- (5) For a state or federal inspection to verify that all equipment is in good working order.
- (6) To power work-related mechanical, safety, electrical or construction equipment installed on the vehicle that is not used for propulsion.
- (7) Because the commercial vehicle is an armored vehicle and a person must remain inside the vehicle to guard the contents or while the vehicle is being loaded or unloaded.
- (8) To maintain the comfort of commercial bus passengers while passengers are on board.
- (9) In a commercial vehicle with a gross vehicle weight rating of more than 26,000 pounds, for purposes of air conditioning or heating during a rest or sleep period and the outside temperature is less than 50 degrees or greater than 75 degrees Fahrenheit at any time during the rest or sleep period. This subsection applies to a commercial vehicle with a sleeper berth compartment that is parked in any place that a commercial vehicle is legally permitted to park, including, but not limited to, a fleet trucking terminal, commercial vehicle stop or designated rest area. This exemption does not apply if the commercial vehicle is equipped with an auxiliary power unit or other suitable idle reduction technology, if the commercial vehicle is parked at a location equipped with suitable stationary idle reduction technology that is available for use, or during a rest or sleep period when the commercial vehicle is parked on or adjacent to a public or private educational institution offering education in all or part of kindergarten through grade 12, unless the outside temperature is greater than 75 degrees Fahrenheit and the auxiliary power unit provides heating only, in which case the person may idle the primary engine to provide air conditioning.
- (10) In a commercial vehicle with a gross vehicle weight rating of more than 26,000 pounds, for purposes of air conditioning or

heating while waiting to load or unload the commercial vehicle or while actually loading or unloading the commercial vehicle, and the outside temperature is less than 50 degrees or greater than 75 degrees Fahrenheit at the time. This exemption does not apply if the commercial vehicle is equipped with an auxiliary power unit or other suitable idle reduction technology, or if the commercial vehicle is parked at a location equipped with suitable stationary idle reduction technology that is available for use, unless the outside temperature is greater than 75 degrees Fahrenheit and the auxiliary power unit provides heating only, in which case the person may idle the primary engine to provide air conditioning.

(11) For a maximum of 30 minutes while waiting to load or unload the commercial vehicle or while actually loading or unloading the commercial vehicle during a single loading or unloading event. [2011 c.349 §5]

Note:

See note under 825.601.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.615 - Preemption of local regulation of idling; exception.**

(1) The authority to regulate the idling of primary engines in commercial vehicles is vested solely in the Legislative Assembly. A city, county or other local government may not enact any charter provision, ordinance, resolution or other provision regulating the idling of primary engines in commercial vehicles.

(2) Notwithstanding subsection (1) of this section, a city, county or other local government may enforce any charter provision, ordinance, resolution or other provision regulating the idling of primary engines in commercial vehicles in effect on January 1, 2011. [2011 c.349 §6]

Note:

See note under 825.601.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.950 - Civil penalty for violation of this chapter, ORS chapter 818 or 826, or rule or order of department.**

(1)(a) Except as otherwise provided in paragraph (b) of this subsection, in addition to all other penalties provided by law, every person who violates or who procures, aids or abets in the violation of any provision of this chapter, ORS chapter 818 or 826 or any order, rule or decision of the Department of Transportation shall incur a civil penalty of not more than \$100 for every such violation.

(b) In addition to all other penalties provided by law, every person who violates or who procures, aids or abets in the violation of ORS 825.100 by offering to transport or transporting household goods without a certificate shall incur a civil penalty of not more than \$1,000 for every such violation.

(2) Each violation described in this section is a separate offense and in case of a continuing violation every day's continuance is a separate violation. Every act of commission or omission that procures, aids or abets in the violation is a violation under this section and subject to the civil penalty provided in this section.

(3) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745.

(4) The Department of Transportation may reduce any civil penalty provided for in this section on such terms as the department considers proper if:

(a) The defendant admits the violations alleged in the notice and makes timely request for reduction of the penalty; or

(b) The defendant submits to the department a written request for reduction of the penalty within 15 days from the date the penalty order is served.

(5) If the amount of such penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action may not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter.

(6) Any motor carrier of household goods found knowingly to have assessed charges for transportation service less than published in its tariffs or written contracts on file with the department may be directed to collect the undercharges from the persons liable for the undercharges and to remit the undercharges to the department in addition to any monetary penalties imposed against the carrier for charging less than the tariff or contract prescribes.

(7) Any motor carrier of household goods found to have assessed charges for transportation service more than the rates that have been legally filed with and prescribed by the department shall refund the overcharges to the persons from whom collected. If the carrier is unable to do so, the carrier may be required to remit such overcharges to the department in addition to any monetary penalties imposed against the carrier for charging more than the applicable tariff or contract prescribes. [Formerly 767.470; 1997 c.275 §31; 1997 c.722 §1; 2003 c.754 §10; 2009 c.433 §14; 2015 c.283 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.955 - Civil penalty for violation of provisions relating to driver equipment compliance form or drug and alcohol testing program; rules.**

(1) In addition to any other penalties provided by law, the Department of Transportation may impose a civil penalty of not more than \$1,000 for:

(a) Submittal of a false certification to the department on a driver equipment compliance check form;



- (b) Failure by a motor carrier to return to the department as required by rule a driver equipment compliance check form; or
- (c) Failure of a motor carrier to establish or participate in a drug and alcohol testing program as required by ORS 825.410.
- (2) Each violation specified in subsection (1) of this section is a separate offense, and in the case of a continuing violation, each day's continuance is a separate violation. Every act of commission or omission which procures, aids or abets in the violation is a violation under this section and subject to the penalty provided in this section.
- (3) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745.
- (4) The department may reduce any civil penalty provided for in this section on such terms as the department considers proper if:
  - (a) The defendant admits the violations alleged in the notice and makes timely request for reduction of the penalty; or
  - (b) The defendant submits to the department a written request for reduction of the penalty within 15 days from the date the penalty order is served.
- (5) If the amount of the penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter.
- (6) The department shall adopt rules describing the driver equipment compliance check form referred to in subsection (1) of this section. [Formerly 767.995; 1997 c.275 §32; 1999 c.1099 §5; 2009 c.395 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.960 - Department action against employer when department receives notification of violation of out-of-service order; civil penalty; rules.**

- (1) When the Department of Transportation receives notification that a person has violated an out-of-service order or notice, the department shall impose a civil penalty on the employer of an operator of a commercial motor vehicle if the department finds that the employer knowingly allowed, permitted, authorized or required the operator to violate the order or notice.
- (2) For purposes of this section, "notification" includes, but is not necessarily limited to, a record of conviction and a record of a determination by a state or federal agency with jurisdiction to make such determinations that the person has violated an out-of-service order or notice.
- (3) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.
- (4) If the amount of the penalty is not paid to the department, the Attorney General, at the request of the department, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the department. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter.
- (5) The department may adopt by rule a schedule establishing the amount of the civil penalty that may be imposed under this section. [Formerly 767.996; 1997 c.275 §33; 2007 c.122 §5; 2009 c.395 §12; 2021 c.630 §122]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 825 - Motor Carriers Section 825.990 - Criminal penalties.**

- (1) Except as otherwise provided in subsection (2) of this section, every person who violates or procures, aids or abets violation of this chapter and any person who refuses or fails to obey any order, decision or rule, made under or pursuant to this chapter commits a Class A traffic violation.
- (2) Knowingly violating an out-of-service notice issued under authority of the Department of Transportation is a Class A misdemeanor.
- (3) A person is subject to the penalties under subsection (4) of this section if the person knowingly:
  - (a) Transports any hazardous waste listed under ORS 466.005 or rules adopted thereunder to a facility that does not have appropriate authority to receive the waste under ORS 466.005 to 466.385 and 466.992.
  - (b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder without appropriate authority under ORS 466.005 to 466.385 and 466.992.
  - (c) Materially violates terms of any permit or authority issued to the person under this chapter or ORS 466.005 to 466.385 and 466.992 in the transporting or disposing of hazardous waste.
  - (d) Makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with requirements under this chapter for the safe transportation of hazardous wastes.
  - (e) Fails to include material information required under rules of the Department of Transportation in any application for any permit or authority to transport hazardous waste under this chapter.
  - (f) Violates any rules adopted by the Department of Transportation concerning the transportation of hazardous wastes.
- (4) Subject to ORS 153.022, violation of subsection (3) of this section is a Class B misdemeanor. [Subsections (1) and (2) formerly 767.990; subsections (3) and (4) formerly 767.993; 1999 c.1051 §233; 2011 c.597 §308]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.001 - Definitions.**

As used in this chapter:

- (1) "Combined weight" means the total empty weight of all vehicles in a combination plus the total weight of the load carried on that combination of vehicles.
- (2) "Commercial vehicle" means a vehicle that:
  - (a) Is used for the transportation of persons for compensation or profit; or
  - (b) Is designed or used primarily for the transportation of property.
- (3) "Department" means the Department of Transportation. [Formerly 768.001]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.003 - Rules.**

The Department of Transportation may adopt rules regarding registration records for vehicles registered under this chapter. [1995 c.733 §82b]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.005 - Authority for reciprocal registration agreements; permitted provisions; requirements; limitations.**

- (1) The Department of Transportation may enter into agreements with the duly authorized representatives of any jurisdiction that issues registration to establish reciprocal privileges or registration exemptions for vehicles as described in this section. An agreement entered into by the department under the authority granted by this section may establish exemptions from proportional registration fees.
- (2) An agreement shall only grant the privileges, benefits and exemptions to a vehicle or the registrant of a vehicle if the vehicle is any of the following:
  - (a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.
  - (b) A commercial vehicle registered in a jurisdiction where the commercial enterprise in which the vehicle is used has a place of business. To qualify under this paragraph, the vehicle must be assigned to the place of business and the place of business must be the place from which or in which the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled.
  - (c) A commercial vehicle registered in a jurisdiction where the vehicle has been registered because of an agreement between two jurisdictions or a declaration issued by any jurisdiction.
- (3) An agreement shall retain the right of the department to make the final determination as to the proper place of registration of a vehicle when there is a dispute or doubt concerning the proper place of registration. An agreement shall retain the right of the department to confer with the departments of other jurisdictions affected when making a determination under this subsection.
- (4) An agreement shall not provide for any benefit, exemption or privilege with respect to fuel taxes, use fuel taxes, weight mile taxes or any other fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except registration taxes, fees and requirements.
- (5) An agreement must provide that any vehicle registered in this state will receive a similar kind or degree of exemptions, benefits and privileges when operated in another jurisdiction that is party to the agreement as vehicles registered in the other jurisdiction receive when operated in this state.
- (6) An agreement, in the judgment of the department, shall be in the best interest of this state and its citizens, shall be fair and equitable to this state and its citizens and shall be determined on the basis and recognition of benefits that accrue to the economy of this state from the uninterrupted flow of commerce.
- (7) An agreement may authorize a vehicle that would otherwise be required to be registered in one jurisdiction to be registered in another jurisdiction without losing any benefit, exemption or privilege under the agreement if the vehicle is operated from a base located in the other jurisdiction.
- (8) An agreement may allow the lessee or lessor of a vehicle, subject to the terms and conditions of the lease, to receive benefits, exemptions and privileges under the agreement.
- (9) An agreement may authorize the department to suspend or cancel any exceptions, benefits or privileges granted to any person under the agreement if the person violates any of the terms or conditions of the agreement or violates any law or rule of this state relating to vehicles.
- (10) All agreements shall be in writing and filed with the department within 10 days after execution or the effective date of the agreement, whichever is later.
- (11) An agreement may be a limited type agreement with any state bordering this state as described in this subsection. An agreement described under this subsection is subject to all of the following:
  - (a) The benefits, exemptions and privileges under the agreement shall only be extended to vehicles or a class of vehicles as specified in the agreement.
  - (b) The agreement shall be applicable only within an area in each state that is situated along the boundary between the states and that is substantially equal in size.
  - (c) The usage permitted of the vehicles in the two areas shall be as substantially equal as may be practicable.
  - (d) The areas and usage subject to the agreement shall be described in the agreement.

- (e) Proportional registration shall not be required under the agreement.
- (f) The agreement shall comply with other mandatory provisions of this section and may contain any other provisions described under this section.
- (g) A vehicle operating under the agreement may be required to obtain a permit under ORS 803.610.
- (12) An agreement may require the display or submission of evidence of registration for any vehicle operating under the agreement. [Formerly 768.003]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.007 - Authority for proportional registration agreements; permitted provisions; requirements; limitations; rules.**

The Department of Transportation may enter into agreements with the duly authorized representatives of any jurisdiction that issues out-of-state registration to provide for proportional registration of vehicles and for the apportionment of registration fees and other fixed fees and taxes on vehicles proportionally registered in this state and the other jurisdiction. All of the following apply to an agreement established under authority granted by this section:

- (1) An agreement may provide proportional registration only for commercial vehicles that are engaged in interjurisdictional commerce or combined interjurisdictional and intrajurisdictional commerce.
- (2) An agreement may provide for proportional registration for vehicles individually or in fleets but must comply with the requirements for proportional registration under ORS 826.009 for all proportionally registered vehicles and with the requirements under ORS 826.011 for all proportionally registered fleets.
- (3) An agreement may include provisions necessary to facilitate the administration of proportional registration.
- (4) Any apportionment of registration fees and other fixed vehicle fees or taxes may be made on a basis commensurate with and determined on the miles traveled on and use made of the highways of this state as compared with the miles traveled on and use made of other jurisdictions' highways, or may be made on any other equitable basis of apportionment.
- (5) No agreement shall contain any provision that requires a vehicle to be proportionally registered if the vehicle is:
  - (a) Registered by this state;
  - (b) Operating in this state under any vehicle permit that allows operation of an unregistered vehicle; or
  - (c) Legally operated in this state under an exemption provided under ORS 803.305.
- (6) Nothing in an agreement shall affect the right of the department to adopt rules as described in this subsection. The department may adopt any rules the department deems necessary to effectuate and administer the provisions of the agreement.
- (7) An agreement shall only provide for proportional registration of vehicles if the vehicle is any of the following:
  - (a) Registered in the jurisdiction where the person registering the vehicle has a legal residence.
  - (b) Registered in a jurisdiction where the commercial enterprise in which the vehicle is used has a place of business where the vehicle has been assigned and from which or in which the vehicle is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled.
  - (c) Registered in a jurisdiction where the vehicle has been registered because of an agreement between two jurisdictions or a declaration issued by any jurisdiction.
- (8) An agreement shall retain the right of the department to make the final determination as to the proper place of registration of a vehicle when there is a dispute or doubt concerning the proper place of registration. An agreement shall retain the right of the department to confer with the departments of other jurisdictions affected when making a determination under this subsection.
- (9) An agreement may provide that the department may deny any person further benefits under the agreement until all fees or taxes have been paid if the department determines that the person should have proportionally registered more vehicles in this state or paid additional fees or taxes on vehicles proportionally registered in this state.
- (10) An agreement may provide for arrangements with agencies of this state or other jurisdictions for joint audits of registrants of proportionally registered vehicles and for the exchange of audit information on persons who have proportionally registered vehicles.
- (11) An agreement may authorize a vehicle that would otherwise be required to be registered in one jurisdiction to be registered in another jurisdiction without losing any benefits under the agreement if the vehicle is operated from a base located in the other jurisdiction.
- (12) An agreement may allow the lessee or lessor of a vehicle, subject to the terms and conditions of the lease, to receive benefits of proportional registration under the agreement.
- (13) An agreement may authorize the department to suspend or cancel any benefits under the agreement if the person violates any of the terms or conditions of the agreement or violates any law or rule of this state relating to vehicles.
- (14) All agreements shall be in writing and shall be filed with the department within 10 days after execution or the effective date of the agreement, whichever is later.
- (15) Vehicles that are proportionally registered under an agreement, whether individually or in a fleet, are fully registered in this state for purposes of ORS 803.300 and any other portion of the vehicle code and are accorded the same privileges and duties as other vehicles registered in this state even though the vehicle may have primary registration in some other jurisdiction. This subsection does not grant authority required for intrastate movement where such authority is required under ORS chapter 825. Such authority must be granted in accordance with ORS chapter 825.
- (16) An agreement may only provide the benefits of proportional registration to a vehicle that is registered either proportionally or

otherwise in at least one other jurisdiction in addition to this one.

(17) Nothing in an agreement shall affect the right of the department to act under this subsection. The department may refuse to issue proportional registration in this state for vehicles from jurisdictions that do not grant similar privileges for vehicles from this state.

(18) An agreement shall not provide for any benefit, exemption or privilege with respect to fuel taxes, use fuel taxes, weight mile taxes or any other fees or taxes levied or assessed against the use of highways or use or ownership of vehicles except registration taxes, fees and requirements.

(19) An agreement may control the requirements for type, manner of display, number and other provisions relating to registration plates, registration cards or other proof of registration for vehicles that are subject to the agreement. [Formerly 768.005]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.008 - Certain records not public.**

(1) The following are not public records unless the public interest requires disclosure in the particular instance:

(a) Mileage information required to be filed with the Department of Transportation under agreements authorized by ORS 826.007.

(b) Information collected by the department from a motor carrier for the purpose of conducting an audit under an agreement authorized by ORS 826.007.

(2) A motor carrier to whom the information pertains, or a person who has written permission from the carrier, may inspect information described in subsection (1) of this section.

(3) The department, upon request or as required by law, shall disclose information from the records described in subsection (1) of this section to a government agency for use in carrying out its governmental functions. [1997 c.501 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.009 - Proportional registration of commercial vehicles.**

Proportional registration allows commercial vehicles to comply with registration requirements of more than one jurisdiction and to have registration fees, taxes or other fixed fees apportioned among the jurisdictions in which the vehicles are being operated. A vehicle may be registered under proportional registration if the vehicle qualifies for proportional registration under an agreement entered into under ORS 826.007. If a vehicle is going to be proportionally registered as part of a fleet, ORS 826.011 must be complied with in addition to this section. A vehicle is registered in this state if the vehicle is proportionally registered under this section. The following apply to proportional registration:

(1) The terms of an agreement established under ORS 826.007 control all of the provisions of proportional registration, including but not limited to the following, except as otherwise provided by this section:

(a) Qualification.

(b) Apportionment of fees, taxes and other fixed fees.

(c) Application and information required.

(d) Requirements for type, manner of display, number or any other provision relating to registration plates, registration cards and other proof of registration.

(e) Any other provision relating to the registration of proportionally registered vehicles.

(2) When initially registered, the registration fees for vehicles registered under this section may be reduced according to the schedule provided under ORS 826.021.

(3) The registration period for proportionally registered vehicles is a period of four consecutive quarters. The period begins on the first day of any calendar quarter and ends on the last day of the fourth consecutive quarter. All vehicles within a proportionally registered fleet shall be registered for the same registration period. Each carrier may select the calendar quarter in which the registration will begin except that, if necessary for administrative convenience, the Department of Transportation may require a carrier to adopt a registration year chosen by the department.

(4) The department may issue appropriate registration cards, stickers, permits, tabs, plates or other suitable identification devices the department considers convenient for proportionally registered vehicles. The fees for such stickers, permits, tabs or plates are as provided under ORS 826.023.

(5) Any applicant whose application for proportional registration under this section has been accepted by the department shall preserve the records on which the application is based for a period of four years following the year or the period upon which said application is based. Upon request of the department, the applicant shall make such records available to the department at its office for audit as to accuracy of mileage, number of vehicles, weights, computations and payment of fees or shall pay the reasonable costs of an audit at the home office of the applicant by a duly appointed representative of the department. An applicant shall comply with any audit provisions under the agreement allowing the registration.

(6) If a provision concerning the registration of vehicles is not provided under the agreement or under this section, provisions of the vehicle code applicable to registration shall be applicable to proportionally registered vehicles.

(7) If a vehicle qualifies for proportional registration, the department may issue temporary proportional registration permits under ORS 826.029 to allow operation of the vehicles pending issuance of evidence of proportional registration.

(8) The department may allow a carrier to operate on expired registration plates and registration for up to one extra quarter if the renewal application has been submitted and the required fees for registration have been paid on or before the last day of the

registration period for the vehicles. The extension of time allowed by this subsection shall be granted only if the department determines that the extension is necessary for the administrative convenience of the department.

(9) Vehicles registered and identified under this section shall be deemed to be fully registered in this state for any type of movement or operation, except that in these instances in which a grant of authority is required for intrastate movement or operation, no such vehicle shall be operated in intrastate commerce in this state unless the owner thereof has been granted intrastate authority or right by the department and unless said vehicle is being operated in conformity with such authority and rights.

(10) Registration cards may be issued for proportionally registered vehicles. Registration cards issued for proportionally registered vehicles shall be carried on the vehicle at all times or, in the case of a combination of vehicles, the registration card for a trailer may be carried in the vehicle supplying the motive power.

(11) In accordance with provisions of the agreement establishing proportional registration, the department may suspend or cancel the exemptions, benefits or privileges granted thereunder to a person who violates any of the conditions or terms of such agreements or arrangements or who violates the laws of this state relating to vehicles or regulations lawfully promulgated thereunder.

(12) A vehicle may be registered under this section prior to issuance of a certificate of title for the vehicle. [Formerly 768.007]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.010 - Quarterly payment of registration fees for vehicles registered under ORS 826.009.**

(1) Registration fees for commercial vehicles registered under the proportional registration provisions of ORS 826.009 may be paid quarterly provided that:

(a) The amount of Oregon apportioned registration fees for the carrier exceeds \$1,000 per year; and

(b) The registration fees are paid in equal quarterly installments.

(2) A carrier that pays in quarterly installments under this section shall pay a \$4 administrative processing fee with the first quarter payment for each year that the carrier pays in quarterly installments.

(3) Authorization for quarterly payment does not affect the registration period specified in ORS 826.009. [2003 c.618 §35]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.011 - Proportional fleet registration.**

Any registrant of a fleet of commercial vehicles that are operated in this state and in other jurisdictions may register the fleet under proportional fleet registration under this section in lieu of registering the vehicles as provided under the vehicle code if the fleet qualifies for proportional fleet registration under this section. Proportional fleet registration allows fleets of commercial vehicles to comply with registration requirements of more than one jurisdiction and to have registration fees, taxes or other fixed fees apportioned among the jurisdictions in which vehicles from the fleet are being operated. The following apply to proportional fleet registration:

(1) A vehicle may be registered under proportional fleet registration if the vehicle qualifies for proportional registration under an agreement entered into under ORS 826.007 and if the vehicle is part of a fleet that qualifies under this section.

(2) Except as provided in this section, the terms of an agreement established under ORS 826.007 and the provisions of ORS 826.009 control all of the provisions of proportional fleet registration, including but not limited to, the following:

(a) Qualification.

(b) Apportionment of fees, taxes and other fixed fees.

(c) Application and information required.

(d) Requirements for type, manner of display, number or any other provision relating to registration plates, registration cards and other proof of registration.

(e) Any other provision relating to the registration or titling of proportionally registered vehicles.

(3) In order to register vehicles under proportional fleet registration under this section, the vehicles must be part of a fleet that includes one or more commercial vehicles as designated by the Department of Transportation.

(4) The initial application for proportional fleet registration shall be completed according to interstate agreements or administrative rules.

(5) The department may issue any distinctive proof of registration under this section the department considers convenient. The fee for the issuance of plates, stickers or other suitable identification for proportionally registered fleets is as provided under ORS 826.023.

(6) Vehicles acquired by the registrant after the commencement of the registration period and subsequently added to a proportionally registered fleet shall be proportionally registered according to interstate agreements or administrative rules.

(7) If any vehicle is withdrawn from a proportionally registered fleet, the registrant of such fleet shall so notify the department on appropriate forms to be prescribed by the department. The department may require the registrant to surrender proportional registration cards and such other identification devices issued with respect to such vehicle as the department may deem advisable. Procedures for obtaining credit for fees paid on vehicles that are withdrawn from a proportionally registered fleet are provided under ORS 826.027.

(8) In addition to any grounds for denial of proportional registration benefits under ORS 826.009, or an agreement under ORS 826.007, the department may deny the registrant of a proportionally registered fleet the right of any further benefits under proportional registration if the department determines that the person should have prorated more vehicles in this state. The denial

under this subsection may continue until the fees for such additional vehicle or vehicles that have been prorated have been paid.  
[Formerly 768.009]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.013 - Registration weight.**

- (1) Vehicles registered under ORS 826.009, 826.011 or 826.031 are required to establish a registration weight.
- (2) Registration weight is established for the following purposes:
  - (a) The registration weight is the weight used in the declaration of weight under ORS 826.015 to determine the registration fees under ORS 826.017 and ORS 803.420 for vehicles required to establish registration weight under this section.
  - (b) A vehicle that is required to establish registration weight by this section is in violation of ORS 803.315 if the vehicle is operated on a highway of this state at a weight in excess of the registration weight except when carrying a load:
    - (A) Under the provisions of ORS 376.305 to 376.390;
    - (B) Of over 105,500 pounds combined weight under a variance permit issued under ORS 818.200;
    - (C) Under a registration weight trip permit issued under ORS 803.600; or
    - (D) Consisting of towed motor vehicles.
- (3) Registration weight is established at the time of registration and whenever the vehicle has been altered or reconstructed by furnishing a declaration of weight described under ORS 826.015 that contains a statement of the maximum combined gross weight at which the vehicle will be operated on the highways of this state except when carrying loads described under subsection (2)(b) of this section. The maximum registration weight for any vehicle required to establish a registration weight under this section is 105,500 pounds. Vehicles operating at weights above 105,500 pounds will operate under a variance permit issued under ORS 818.200.
- (4) The weight of a camper, a trailing manufactured structure or the following trailing vehicles should not be included in the registration weight:
  - (a) Trailers with a loaded weight of 8,000 pounds or less.
  - (b) Special use trailers, travel trailers and fixed load vehicles.
  - (c) Towed motor vehicles. [Formerly 768.011; 2003 c.655 §142]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.015 - Declaration of weight.**

- (1) For vehicles registered under ORS 826.031 or under proportional registration pursuant to ORS 826.009 or 826.011, the declaration of weight shall contain the combined weight of the vehicle.
- (2) For commercial buses, the declaration of weight shall contain the unloaded weight of the vehicle plus the unloaded weight of any bus trailer to be used in combination with the vehicle. The declaration shall also indicate the number of persons, including the driver, to be carried in the vehicle, plus the number of persons to be carried on any bus trailer to be used in combination with the vehicle. [Formerly 768.013; 2017 c.45 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.017 - Registration fees for proportionally registered vehicles.**

Registration fees for vehicles registered under ORS 826.009, 826.011 or 826.031 are as provided in ORS 803.420 for vehicles of the same class. The fees are for an entire registration period and are payable when a vehicle is registered and upon renewal of registration. The Department of Transportation shall apportion any fee under this section to reflect the number of quarters registered. [Formerly 768.015]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.019 - International Registration Plan fee.**

- (1) In addition to any other fee collected for registration, the Department of Transportation shall collect an International Registration Plan fee from each applicant for proportional registration under this chapter.
- (2) The amount of the fee required by this section shall be calculated annually by the department. The total fees collected by the department under this section may not exceed the amount of any annual fee for membership in the International Registration Plan. The department shall determine the amount to be paid by each applicant by dividing the amount of any membership fee by the total number of applications for proportional registration submitted in the previous calendar year.
- (3) Fees collected under this section shall be used to pay any membership fees required by the International Registration Plan agreement so long as the state is a signatory to the agreement. [1995 c.145 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.021 - Proration of fees for proportionally registered vehicles; adjustment of fees and registration periods by department; rules.**

- (1) For vehicles that are initially registered under proportional registration under ORS 826.009 or 826.011, the Department of

Transportation shall prorate the fees as provided in this subsection according to the registration period elected by the registrant and approved by the department for the vehicle or fleet of vehicles. The proration of fees under this subsection shall be as follows except that in no case shall the fee on which Oregon fees are based be less than \$10:

(a) If the vehicle is registered after the expiration of the first quarter of the registration period, three-fourths of the fees shall be used to determine the Oregon fees.

(b) If the vehicle is registered after the expiration of the first half of the registration period, one-half of the fees shall be used to determine the Oregon fees.

(c) If the vehicle is registered after the expiration of three-fourths of the registration period, one-fourth of the fees shall be used to determine the Oregon fees.

(2) The department, by rule, may adjust registration fees or registration periods for a vehicle, as is administratively convenient for the department, if:

(a) The vehicle is changed from one type of registration to another type; or

(b) Any other change relating to the registration of the vehicle is made where it would be administratively convenient for the department to make such adjustments. [Formerly 768.017]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.023 - Fees for cards, plates and stickers.**

(1) The fee for issuance of a duplicate or replacement registration card is \$3.

(2) The fee for issuance of each original, replacement or duplicate registration plate is \$3 and includes a registration card and sticker.

(3) The fee for renewal of a registration plate is \$3 and includes a registration card and sticker.

(4) The fee for issuance of replacement registration stickers is \$3.

(5) If a second plate is required for one vehicle, the fee for the plate or for a sticker for the plate is \$3. [Formerly 768.021; 2003 c.753 §2; 2017 c.750 §70]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.025 - Duplicate or replacement registration cards.**

The Department of Transportation may issue a duplicate or replacement registration card when:

(1) The department receives an application indicating the loss, mutilation or destruction of a registration card; and

(2) The fee for issuance of a duplicate or replacement card under ORS 826.023 is paid to the department. [Formerly 768.023]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.027 - Transfer of registration; withdrawal of vehicle from fleet.**

(1) The registrant of a vehicle which is proportionally registered under ORS 826.009 or 826.011 shall be permitted to transfer the registration plates from the vehicle to a like vehicle to be similarly used if the vehicle is destroyed or permanently withdrawn from service within this state. To make a transfer of registration under this section, the registrant of the vehicle shall pay the Department of Transportation a registration transfer fee established under ORS 826.023, file a written statement indicating the withdrawal or destruction with the department and surrender the registration card for the vehicle. The department shall issue a registration card without payment of further fee. If the weight on the certificate of weight of the vehicle receiving the transferred registration exceeds that of the vehicle destroyed or withdrawn, the registrant must pay registration fees on the increased weight.

(2) If a vehicle is permanently withdrawn from a fleet that is proportionally registered under ORS 826.009 or 826.011 because it has been destroyed, sold or otherwise completely removed from the service of the registrant, the department shall provide credit for the unused portion of the fees paid according to terms of interstate agreements or in a manner defined by rule. In no event shall any such amount be subject to refund. [Formerly 768.025]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.029 - Temporary proportional registration permits.**

The Department of Transportation may issue temporary proportional registration permits to qualifying persons pending registration of vehicles under proportional registration under ORS 826.009 or proportional fleet registration under ORS 826.011 and issuance of appropriate identification devices. [Formerly 768.027]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.031 - Registration for certain vehicles subject to weight mile tax and not otherwise registered.**

(1) The owner of a vehicle that is subject to the tax imposed under ORS 825.474 and that is not registered under the proportional registration provisions of this chapter and is not registered in any other jurisdiction shall register the vehicle with the Department of Transportation if the vehicle is to be operated in this state. Registration under this section is in lieu of registration under ORS chapter 803.

(2) The department shall determine the form of application for registration and renewal of registration and may require any

information that it determines necessary to facilitate the registration process.

(3) A vehicle registered under this section is subject to the insurance requirements of ORS 825.160 and not to the financial responsibility requirements of ORS chapter 806. Proof of compliance with financial responsibility requirements as specified in ORS 803.460 is not required for renewal of registration of a vehicle under this section.

(4) A vehicle registered under this section shall be deemed to be fully registered in this state for any type of movement or operation, except that in those instances in which a grant of authority is required for intrastate movement or operation, no such vehicle shall be operated in intrastate commerce in this state unless the owner thereof has been granted intrastate authority or right by the department and unless the vehicle is being operated in conformity with such authority and rights.

(5) A vehicle may be registered under this section prior to a certificate of title being issued for the vehicle but nothing in this section affects any requirement that a certificate of title be issued. [Formerly 768.029; 1997 c.249 §269; 2019 c.312 §15]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.033 - Application of other registration provisions of Oregon Vehicle Code to vehicles registered under this chapter.**

The provisions of ORS chapter 803 concerning the registration of vehicles apply to vehicles registered under this chapter, unless a specific provision of this chapter differs from a comparable provision of ORS chapter 803. [Formerly 768.031]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.035 - Registration identification devices and cards for vehicles registered under ORS 826.031.**

(1) The Department of Transportation may issue appropriate registration, stickers, plates or other suitable identification devices the department considers convenient for vehicles registered under ORS 826.031. The fees for such stickers or plates are as provided in ORS 826.023.

(2) Registration cards may be issued for vehicles registered under ORS 826.031. Registration cards issued for the vehicles shall be carried on the vehicle at all times. [Formerly 768.033]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.037 - Annual or quarterly registration under ORS 826.031.**

(1) Vehicles registered under ORS 826.031 may be registered under staggered registration.

(2) For purposes of this section, staggered registration starts on the first day of any calendar quarter and runs through the last day of the last calendar quarter in the registration period. The number of calendar quarters in a registration period is elected by the vehicle owner at the time of registration except that a person may not establish a staggered registration period of more than four quarters.

(3) The Department of Transportation may allow a carrier registered under ORS 826.031 to operate on expired registration plates and registration for up to one extra quarter if the renewal application has been submitted and the required fees for registration have been paid on or before the last day of the registration period for the vehicles. The extension of time allowed by this subsection shall be granted only if the department determines that the extension is necessary for the administrative convenience of the department.

(4) Nothing in this section requires the department to issue registration plates that are valid for less than a one-year period. An election by a carrier to operate in nonconsecutive quarters of a four-quarter period does not by itself require the carrier to renew registration plates. [Formerly 768.035]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.039 - Refund of certain registration fees.**

(1) The Department of Transportation shall grant a refund of that portion of the registration fee applicable to the unexpired portion of the registration period for a vehicle described in ORS 826.031 if the vehicle is sold and:

(a) The seller is an individual and does not intend to remain in, or within one year to reenter, business as a motor carrier;

(b) Neither the selling person if an individual nor substantially the same group of persons if a group intends to register, or within one year of the date of sale registers, an assumed business name under the provisions of ORS chapter 648 for the purpose of doing business as a motor carrier; or

(c) Neither the selling person if an individual nor substantially the same group of persons if a group intends to organize, or within one year from the date of sale organizes, as a corporation under the provisions of ORS chapter 60 for the purpose of doing business as a motor carrier.

(2) If the department grants a refund to a person or entity that attempts to reenter business as a motor carrier within one year of the date of the sale that led to the refund, the department may refuse to issue authority to the person or entity until the amount of the refund has been repaid. [Formerly 768.037]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 826 - Registration of Commercial Vehicles Section 826.041 - Agents for issuance of registration and collection of fees.**

The Department of Transportation may appoint agents to issue registration and to collect any fees required by this chapter. The



department shall prescribe the duties and compensation of such agents and may require them to give bonds, in such amount as the department determines appropriate, conditioned upon the faithful performance of their duties. [Formerly 768.039]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.005 - Definitions for chapter.**

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the State Marine Board.
- (2) "Boat" means every description of watercraft, including a seaplane on the water and not in flight, used or capable of being used as a means of transportation on the water, but does not include boathouses, floating homes, air mattresses, beach and water toys or single inner tubes.
- (3) "Boating offense" means violation of any provision of law that is made a crime or violation under the provisions of this chapter.
- (4) "In flight" means from the moment a seaplane starts its takeoff run until the end of a normal power-off landing run.
- (5) "Length" means the length of a boat measured from end to end over the deck excluding sheer.
- (6) "Motorboat" means any boat propelled in whole or in part by machinery, including boats temporarily equipped with detachable motors.
- (7) "Navigable waters of the United States" means those waters of the United States, including the territorial seas adjacent thereto, the general character of which is navigable, and that, either by themselves or by uniting with other waters, form a continuous waterway on which boats or vessels may navigate or travel between two or more states, or to and from foreign nations.
- (8) "Operate" means to navigate or otherwise use a boat.
- (9) "Operator of a boat livery" means any person who is engaged wholly or in part in the business of chartering or renting boats to other persons.
- (10) "Passenger" means every person on board a boat who is not the master, operator, crew member or other person engaged in any capacity in the business of the boat.
- (11) "Peace officer" includes a member of the Oregon State Police, a sheriff or deputy sheriff, a city police officer, an authorized tribal police officer as defined in ORS 181A.940, and a police officer commissioned by a university under ORS 352.121 or 353.125.
- (12) "State waters" means those waters entirely within the confines of this state that have not been declared navigable waters of the United States.
- (13) "Waters of this state" means all waters within the territorial limits of this state, the marginal sea adjacent to this state and the high seas when navigated as part of a journey or ride to or from the shore of this state. [Formerly 488.011; 1995 c.655 §1; 1999 c.59 §250; 1999 c.1051 §93; 2011 c.506 §53; 2011 c.644 §§35,57; 2013 c.180 §§59,60; 2015 c.174 §25]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.015 - Application of ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490; exemptions.**

- (1) ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 apply to all boats operated in the waters of this state.
- (2) Notwithstanding subsection (1) of this section, ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 do not apply to a boat when application of the statutes would be inconsistent with federal law or regulations or to a boat that is:
  - (a) A foreign boat operated temporarily in the waters of this state.
  - (b) A boat owned and operated by the United States or by an entity of the United States.
  - (c) A ship's lifeboat used solely for lifesaving purposes.
  - (d) A boat belonging to a class of boats that has been exempted from the provisions of ORS 830.705, 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 by the State Marine Board as provided in ORS 830.110.
- (3) Notwithstanding an exemption provided to a class of boats in subsection (2) of this section, a boat that would otherwise be exempt from regulation because the boat is of a class specified in subsection (2) of this section is not exempt if the boat is a:
  - (a) Passenger vessel of less than 100 gross tons;
  - (b) Commercial vessel that is not required to be inspected under federal law; or
  - (c) Publicly owned recreational vessel. [Formerly 488.021; 1993 c.18 §172; 2005 c.65 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.025 - Other boating laws not affected.**

- (1) Nothing in ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 is intended to affect the provisions of ORS 783.610, 830.060 to 830.140, 830.175 to 830.185, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 or 830.830 to 830.870.
- (2) The provisions of ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 are in addition to and not in lieu of any other statutes. [Formerly 488.180]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small**

**WatercraftSection 830.035 - Peace officers to enforce chapter; fleeing; attempts to elude.**

(1) The sheriff of each county and all other peace officers shall be responsible for the enforcement of this chapter and any regulations made by the State Marine Board pursuant thereto. In the exercise of this responsibility, a peace officer may stop any boat and direct it to a suitable pier or anchorage for boarding.

(2) No person, while operating a boat on any waters of this state, shall knowingly flee or attempt to elude any law enforcement officer after having received a signal from a law enforcement officer to bring the boat to a stop. [Formerly 488.027]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.037 - Notification of stolen boat; notice in electronic file system; issuance of new title or certificate of number.**

(1) Any law enforcement agency within the State of Oregon that receives a report of a previously unreported stolen boat shall notify the State Marine Board within 72 hours after receiving the report. The report shall include all information concerning the theft and the boat involved.

(2) Any law enforcement agency within the State of Oregon that recovers a boat that has been previously reported as stolen shall notify the board of the recovery within 72 hours after the recovery.

(3) When the board receives a report of the theft of a boat under subsection (1) of this section, the board shall place an appropriate notice of the theft in an electronic file system that identifies the boat during the processing of any new certificate of number or title. If a boat reported as stolen is identified during such processing, the board shall discontinue processing and notify the law enforcement agency that initiated the theft report. The board may not issue a new certificate of number or title unless the status of the boat as a stolen boat is cleared by the originating law enforcement agency.

(4) Any boat reported as stolen to the board shall remain on the records of the board as stolen until the originating law enforcement agency clears the record.

(5) The board shall prepare a report listing stolen and recovered boats as disclosed by the reports submitted to the board by law enforcement agencies, and shall distribute the report on a regular basis.

(6) When the board is notified that a previously listed stolen boat has been recovered, the board shall immediately record the recovery in the board's registration records. [1999 c.550 §2]

Note:

830.037 was added to and made a part of ORS chapter 830 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.040 - Contrary local laws prohibited.**

No political subdivision of this state may enact or enforce any law contrary to the provisions of this chapter. [Formerly 488.028]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.050 - Reporting lost boat.**

If any person finds a boat which is lost or adrift the person shall report the whereabouts of the boat to the owner or to any peace officer at the earliest possible time. [Formerly 488.124]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.053 - False or fraudulent report of theft of boat.**

No person shall make or file, with intent to deceive, with any law enforcement agency a false or fraudulent report of the theft of a boat required to be numbered in the State of Oregon. [1999 c.550 §3]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.055 - Oregon Adopt-a-River Program; implementation; rules.**

(1) As used in this section, "invasive species" has the meaning given that term in ORS 570.755.

(2) The State Marine Board shall administer a program designed to beautify and protect the state's rivers through the removal of litter and invasive species. The program shall include public informational activities, but shall be directed primarily toward encouraging and facilitating involvement of volunteer groups in the removal of litter and invasive species, assigning each group to a specific river or stream segment. The program shall be called the Oregon Adopt-a-River Program.

(3) Private landowners with rivers running through or adjacent to their property are vital to the success of the Oregon Adopt-a-River Program. The State Marine Board shall ensure that participants in the program comply with requirements to obtain permission from landowners for river access across private property.

(4) The State Marine Board shall compile a list of invasive species appropriate for removal by a volunteer group. Before compiling the list, the board shall consult with:

(a) The Invasive Species Council established under ORS 570.770;

(b) The State Department of Agriculture;

- (c) The State Forestry Department; and
- (d) The Department of Environmental Quality.
- (5) Program funding is an authorized use of the Boating Safety, Law Enforcement and Facility Account under ORS 830.140.
- (6) The State Marine Board may adopt any rules necessary for implementation of the Oregon Adopt-a-River Program.
- (7) An agreement entered into between the State Marine Board and a volunteer group under subsection (2) of this section shall include but need not be limited to:
  - (a) Identification of the designated river or stream segment. The volunteer group may request a specific segment of the river or stream it wishes to adopt, but the assignment shall be at the discretion of the State Marine Board. In assigning sections of a river, the board shall coordinate and cooperate with affected federal, state and local management agencies and private landowners.
  - (b) Specification of the duties of the volunteer group. The group shall remove litter and invasive species along the designated river or stream segment at least once each year.
  - (c) Specification of the invasive species that the volunteer group may remove. The group shall agree to not remove an invasive species that is not specified in the agreement. The group may report the existence of invasive species not specified in the agreement to the State Marine Board.
  - (d) Specification of the responsibilities of the volunteer group. The group shall agree to abide by all rules related to the program that are adopted by the State Marine Board.
  - (e) Duration of the agreement. The volunteer group shall contract to care for the designated river or stream segment for at least two years.
- (8) The State Marine Board shall create a recognition program to acknowledge the efforts of volunteer groups, agencies and businesses that participate in the Oregon Adopt-a-River Program.
- (9) The State Marine Board shall provide trash bags, instructions for the removal of invasive species, safety information and assistance to the participating volunteer groups. Instructions provided under this subsection must include instructions on best management practices, including how to properly dispose of an invasive species and how to decontaminate equipment to prevent the spreading of the invasive species.
- (10) The State Marine Board shall be responsible for facilitating the removal of large or heavy items from a river or stream segment if such items are found by a volunteer group.
- (11) The State Marine Board shall report the existence of an invasive species discovered by a volunteer group under subsection (7)(c) of this section to the appropriate management agency or the Invasive Species Council.
- (12) The State Marine Board shall not instruct a volunteer group or any member thereof participating in the Oregon Adopt-a-River Program in the measurement of water quality, encourage any participant to measure water quality or include the measuring of water quality in the duties of any participant.
- (13) The State Marine Board shall not instruct a volunteer group or any member thereof participating in the Oregon Adopt-a-River Program in the locating or monitoring of point or nonpoint pollution sources, encourage any participant to locate or monitor point or nonpoint pollution sources or include the locating or monitoring of point or nonpoint pollution sources in the duties of any participant. [1993 c.54 §2; 1995 c.165 §1; 2011 c.63 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.060 - Consistency with federal law.**

If any provision of ORS 830.060 to 830.140, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870 conflicts with federal requirements so that the system of identifying numbers for boats devised by the State Marine Board is not approved by the secretary of the department of the federal government under which the United States Coast Guard is operating, that provision of ORS 830.060 to 830.140, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870 is inoperative to the extent that it so conflicts, but such conflict shall not affect the remainder of ORS 830.060 to 830.140, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870. [Formerly 488.870; 1991 c.67 §231]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.080 - Boating Offense Compact.**

The Boating Offense Compact is enacted into law and entered into on behalf of this state with all other states legally joining therein in a form substantially as follows:

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**ARTICLE I**

**Findings and Declaration of Policy**

(1) The party states find that:

- (a) The safety of their waters is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of boats.
  - (b) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.
- (2) It is the policy of each of the party states to promote compliance with the laws, ordinances and administrative rules and

regulations relating to the operation of boats by their operators in each of the jurisdictions where such operators operate boats.

## ARTICLE II

### Definition

As used in this compact, "state" means a state that has entered into this compact.

## ARTICLE III

### Concurrent Jurisdiction

(1) If conduct is prohibited by two adjoining party states, courts and law enforcement officers in either state who have jurisdiction over boating offenses committed where waters form a common interstate boundary have concurrent jurisdiction to arrest, prosecute and try offenders for the prohibited conduct committed anywhere on the boundary water between the two states.

(2) This compact does not authorize:

(a) Prosecution of any person for conduct that is unlawful in the state where it was committed, but lawful in the other party state.

(b) A prohibited conduct by the party state.

## ARTICLE IV

### Entry Into Force and Withdrawal

(1) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same.

## ARTICLE V

### Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[1991 c.590 §5]

Note:

830.080 was added to and made a part of ORS chapter 830 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.082 - Mandatory boating safety education program.**

The State Marine Board shall establish and implement a program to provide mandatory boating safety education. [1999 c.716 §2; 2001 c.104 §310]

Note:

830.082 to 830.094 were added to and made a part of ORS chapter 830 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.084 - Requirements for mandatory boating safety education program; education card; rules; fee.**

In establishing the mandatory boating safety education program pursuant to ORS 830.082, the State Marine Board shall:

(1) Set a minimum standard of boating safety education. The minimum standard shall be consistent with the applicable standard established or approved by the National Association of State Boating Law Administrators. The board by rule may update the minimum standard as necessary.

(2) Create a boating safety course and examination designed to educate and test for the minimum standard established pursuant to subsection (1) of this section.

(3) Create an equivalency exam that may substitute for taking the boating safety course.

(4) Incorporate volunteer boating safety education programs to the maximum extent possible.

(5) Allow use of commercially provided boating safety courses, provided the courses meet the standard adopted by the board.

(6) Accept proof of prior completion of any approved boating safety course as meeting the requirement for a boating safety course.

(7) Establish a fee for the boating safety education card issued under ORS 830.086 that may not exceed \$20.

(8) Promote the fact that insurance discounts of 10 percent to 15 percent are widely available for taking a boating safety course that meets the minimum standard established pursuant to subsection (1) of this section. [1999 c.716 §3; 2001 c.104 §311; 2019 c.156 §1; 2019 c.389 §1]

Note:

See note under 830.082.

### **2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.086 - Boating safety education card; requirements; fee.**

A person may obtain a boating safety education card if the person:

- (1) Is at least 12 years of age;
- (2) Passes the boating safety course and examination described in ORS 830.084 (2), or the equivalency exam described in ORS 830.084 (3), or submits proof to the satisfaction of the State Marine Board that the person has taken a boating safety course that is substantively equivalent to the boating safety course described in ORS 830.084; and
- (3) Pays the fee required by the board. [1999 c.716 §4; 2001 c.104 §312; 2019 c.156 §3; 2019 c.431 §9]

Note:

See note under 830.082.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.088 - Operation of motorboat by person 12 to 15 years of age.**

A person 12 to 15 years of age who has obtained a boating safety education card may operate a motorboat with an engine of 10 horsepower or less. In addition, a person 12 to 15 years of age who has obtained a boating safety education card may operate a motorboat with an engine greater than 10 horsepower if accompanied by and under the direct supervision of a parent, guardian or responsible person 16 years of age or older who has obtained a boating safety education card. [1999 c.716 §5; 2019 c.156 §4; 2019 c.431 §10]

Note:

See note under 830.082.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.090 - Operation of motorboat by person 16 years of age or older.**

A person may operate a motorboat with an engine greater than 10 horsepower if the person:

- (1)(a) Is at least 16 years of age; and
- (b) Obtains a boating safety education card pursuant to ORS 830.086; or
- (2) Is accompanied by and under the direct supervision of a person 16 years of age or older who has obtained a boating safety education card pursuant to ORS 830.086. [1999 c.716 §6; 2019 c.156 §5; 2019 c.431 §11]

Note:

See note under 830.082.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.092 - Exemption from requirement to obtain boating safety education card.**

A boating safety education card is not required if a person:

- (1) Is at least 16 years of age and rents a motorboat with an engine greater than 10 horsepower and completes a required dockside safety checklist before operating the boat;
- (2) Possesses a current commercial fishing license as required by ORS 508.235;
- (3) Possesses a valid United States Coast Guard commercial motorboat operator's license; or
- (4) Is not a resident of this state, holds a boating safety education card approved by the National Association of State Boating Law Administrators and has the card in the person's possession. [1999 c.716 §7; 2003 c.14 §499; 2019 c.156 §2]

Note:

See note under 830.082.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.094 - Boating safety education card required to operate motorboat.**

A person operating a motorboat shall carry the person's boating safety education card on the boat and shall present the card to a peace officer upon request by the peace officer. [1999 c.716 §8; 2003 c.14 §500; 2019 c.156 §6]

Note:

See note under 830.082.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.096 - Conditional suspension of fine for violation of boating safety requirements.**

In any proceeding for a violation of ORS 830.088, 830.090, 830.092 or 830.094, the court shall conditionally suspend all or part of the fine to be imposed on the defendant if the defendant appears personally and agrees to complete, at the defendant's own expense, a boating safety course approved by the State Marine Board under ORS 830.084 within the time limits imposed by the court. [1999 c.716 §14; 2001 c.104 §313]

Note:

830.096 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.100 - Boating safety policy.**

It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of boats and to promote uniformity of laws relating thereto. [Formerly 488.710]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.105 - State Marine Board.**

- (1) There hereby is created the State Marine Board consisting of five members to be appointed by the Governor and to serve at the pleasure of the Governor.
- (2) Each member shall be a resident of this state, a citizen of the United States, and at the time of appointment shall have resided in this state for at least one year.
- (3) All appointments of members of the board by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. [Formerly 488.825]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.110 - Powers and duties of board; rules.**

In addition to the powers and duties otherwise provided in this chapter, the State Marine Board shall have the power and duty to:

- (1) Make all rules necessary to carry out the provisions of this chapter. The rules shall be made in accordance with ORS chapter 183.
- (2) Devise a system of identifying numbers for boats, floating homes and boathouses. If an agency of the federal government has an overall system of identification numbering for boats within the United States, the system devised by the board shall conform with the federal system.
- (3) Cooperate with state and federal agencies to promote uniformity of the laws relating to boating and their enforcement.
- (4) Make contracts necessary to carry out the provisions of ORS 830.060 to 830.140, 830.565 to 830.575, 830.630, 830.640 to 830.649, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870.
- (5) Advise and assist county sheriffs and other peace officers in the enforcement of laws relating to boating.
- (6) Study, plan and recommend the development of boating facilities throughout the state which will promote the safety and pleasure of the public through boating.
- (7) Publicize the advantage of safe boating.
- (8) Accept gifts and grants of property and money to be used to further the purposes of this chapter.
- (9) Exempt from any provisions of this chapter any class of boats if it determines that the safety of persons and property will not be materially promoted by the applicability of those provisions to the class of boats. The board may not exempt from numbering any class of boats unless:
  - (a) The board determines that the numbering will not materially aid in their identification; and
  - (b) The secretary of the department of the federal government under which the United States Coast Guard is operating has exempted from numbering the same boats or classes of boats.
- (10) Appoint and require the bonding of agents to issue a temporary permit to operate a boat. In addition to the prescribed fees, the agents may charge a fee prescribed by the board for their services in issuing the temporary permit. Every three years the board shall issue an order revising the fee imposed under this subsection on January 1, based on changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor. The board shall round the amount of the fee to the nearest half-dollar. The revised fee takes effect on January 1 and applies for the following three years.
- (11) Publish and distribute to the interested public the boating laws of this state and resumes or explanations of those laws.
- (12) Publish and distribute forms for any application required under this chapter and require the use of such forms.
- (13) Make rules for the uniform navigational marking of the waters of this state. Such rules shall not conflict with markings prescribed by the United States Coast Guard. No political subdivision or person shall mark the waters of this state in any manner in conflict with the markings prescribed by the board.
- (14) Make rules regarding marine toilets and their use consistent with the prevention and control of pollution of the waters of this state and not in conflict with the rules of the Oregon Health Authority or the Environmental Quality Commission.
- (15) Institute proceedings to enjoin unlawful obstructions injuring free navigation on the waters of this state.
- (16) Make rules regulating water ski course markers, ski jumps and other special use devices placed in the waters of this state. Such rules may regulate the installation and use of the devices and may require a permit.
- (17) Adopt rules necessary to carry out and enforce the provisions of ORS 830.950 and 830.955. The rules shall include but need not be limited to:
  - (a) The kinds of protective covering or physical barriers that are acceptable to be used between a submersible polystyrene device and the water.
  - (b) Guidelines for the use of submersible polystyrene devices for the repair or maintenance of existing docks or floats.
- (18) Adopt rules providing for establishment of a Safe Boating Education Course to be made available to courts and law enforcement agencies within this state for use as a sentencing option for those individuals convicted of boating offenses. The board shall specify the content of the Safe Boating Education Course and shall prescribe procedures for making the course available to local courts and law enforcement agencies, including procedures for promptly notifying such courts whether individuals required to enroll in the course have taken and successfully passed the course. Such rules may provide for administration of the course through

nonprofit organizations, such as the United States Coast Guard Auxiliary, United States Power Squadrons or similar groups.  
(19) For purposes of ORS 830.175, 830.180, 830.185, 830.187 and 830.195, in cooperation with the State Aviation Board, regulate boats that are seaplanes as provided in ORS 830.605 and 835.200. [Formerly 488.830; 1991 c.759 §6; 1991 c.931 §1; 1995 c.655 §9; 2001 c.104 §315; 2003 c.14 §501; 2007 c.147 §1; 2009 c.595 §1151; 2013 c.186 §5; 2019 c.57 §38; 2019 c.154 §7a; 2019 c.507 §10a; 2019 c.651 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.115 - Boating survey.**

The State Marine Board shall at least once every three years conduct a survey of owners and others to determine, by county, the kinds of boating activity on the various waters of the state during different periods of the year. Boating activity in a county shall be determined by taking into consideration the number and kinds of boats engaging in different boating activities in the county and the number of days during the last fiscal year that such activities were carried on in the county. The board may also consider other factors relating to the enforcement of boating safety and traffic regulations provided by this chapter and the regulations adopted pursuant thereto. [Formerly 488.833]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.120 - Term; vacancies.**

The term of office of a member is four years beginning on July 1 of the year of appointment. A member shall continue to serve until a successor has been appointed and qualifies. Before a member's term expires, the Governor shall appoint a successor to assume duties on July 1 at the expiration of the predecessor's term. A vacancy in office shall be filled by appointment for the unexpired term. [Formerly 488.840]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.125 - Compensation and expenses.**

Members of the State Marine Board are entitled to compensation and expenses as provided in ORS 292.495. [Formerly 488.845]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.130 - Officers; quorum; meetings.**

The State Marine Board shall select one of its members as chairperson and another as secretary, each of whom shall hold office for one year, or until the selection of a successor. Three members of the board constitute a quorum for the transaction of business. The board shall meet at least once every three months at a place, day and hour determined by the board. The board shall also meet at such other times and places as are specified by the call of the chairperson or of three members of the board. [Formerly 488.850]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.135 - State Marine Director.**

- (1) The State Marine Board shall appoint a State Marine Director who shall serve at the pleasure of the board.
- (2) The director shall devote full time to the duties of the office. With the approval of the board, the director shall:
  - (a) Administer the numbering, certificating, recording and licensing duties of the board.
  - (b) Perform any other duties assigned by the board.
  - (c) Hire subordinate employees and fix their compensation. [Formerly 488.855]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.137 - Disposition of funds received through Clean Vessel Act and through Boating Infrastructure Grant Program; priority.**

(1) In addition to the powers and duties otherwise provided in this chapter, the State Marine Board shall have the power and duty to make grants from funds received through the Clean Vessel Act of 1992, 16 U.S.C. 777c and 777g, P.L. 102-587, and through the Boating Infrastructure Grant Program, as established by the Sportfishing and Boating Safety Act of 1998, 16 U.S.C. 777g-1, P.L. 105-178, to eligible public agencies as provided in ORS 830.150. In addition, these funds may be distributed to eligible private marina or moorage facilities that are open and available for public use for the construction and operation of boat waste collection facilities.

(2) In distributing funds from the Clean Vessel Act of 1992, the board shall give first priority to public boating facilities. Distribution of funds from the Clean Vessel Act of 1992 shall be made on the basis of need as that need appears to the board. [1995 c.14 §2; 2013 c.147 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.140 - Boating Safety, Law Enforcement and Facility Account; sources; disposition; enforcement by cities and counties.**

(1) On or before the 10th day of each month, the State Marine Board shall pay into the State Treasury, except as provided in ORS

830.948, all moneys received by the board during the preceding calendar month. The State Treasurer shall credit the moneys to the Boating Safety, Law Enforcement and Facility Account, which account hereby is created, separate and distinct from the General Fund. The moneys in the account hereby are continuously appropriated to the board for the purpose of paying the expense of administering and enforcing the provisions of this chapter. The board shall keep a record of all moneys received and expended.

(2) After paying the necessary expenses incurred by the board in administering this chapter, the funds available in the account shall be distributed, in the amounts required, for the purpose of enforcing the provisions of this chapter and the regulations adopted pursuant thereto. The board shall determine the amount required for enforcement in each county, considering the survey conducted under ORS 830.115. The funds available shall be apportioned according to the amounts required and distributed, for enforcement in each county where there is a need, under a contract entered into with a city, with the Department of State Police or with the sheriff of the county. A contract with a city or a sheriff shall be entered into only with the approval of the governing body of the city or county. The board shall determine the intervals at which the moneys shall be distributed.

(3) The governing body of any county having within its boundaries a city providing recreational boating facilities including launching ramps, may contract with the city for the purpose of enforcing the provisions of this chapter and the rules and regulations made pursuant thereto.

(4) If the city enters into a contract with the board or with a county, the county is relieved of its enforcement responsibilities within the city as agreed to by the county and the city or by the board and the city. [Formerly 488.860; 2003 c.693 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.150 - Disbursement of funds for boating facilities; priorities; water quality protection; hearing.**

(1) Amounts remaining in the Boating Safety, Law Enforcement and Facility Account in excess of funds obligated under ORS 830.140 (2) shall be distributed, upon application, to a federal agency, the state, a city, county, water improvement district, park and recreation district or a port. Distribution shall be made on the basis of need for a facility as that need appears to the State Marine Board.

(2)(a) In distributing funds under subsection (1) of this section, the board shall give first priority to applications for facilities designed to control water pollution or otherwise enhance water quality, including but not limited to pumping stations for recreational boat holding tanks, and to those other facilities for which there appears the greatest public need.

(b) Subject to paragraph (a) of this subsection, the board may distribute funds for:

(A) Construction and maintenance of boating facilities, for the acquisition of property therefor, and other related facilities such as parking, potable water, sanitation and other facilities for the convenience of the public using the boating facilities; and

(B) Removal of derelict structures floating upon and abandoned dock or boat mooring facilities situated in, upon or over the waters of this state if such structures or facilities constitute a hazard to boating upon such waters.

(3) Prior to making any distribution of funds under this section, the board shall hold a public hearing in the area where a facility is to be constructed or land acquired if in the judgment of the board, use of the facility would stimulate significant change in the character of the recreational use of the waters.

(4) The board shall make no distribution of funds under this section for construction or acquisition if in the judgment of the board the applicant has not included in the construction or acquisition plans adequate provision for protecting the quality of the waters affected by the plans. The board's denial of any application under this subsection must include specific notice to the applicant of the point or points of the plan that are found by the board to be inadequate. [Formerly 488.875; 2013 c.147 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.155 - Revolving fund; limit.**

A revolving fund not to exceed \$2,500 may be established within the State Marine Board from funds available under section 1 (1), chapter 84, Oregon Laws 1991. This revolving fund may be used for payment of state claims appropriately authorized by the State Marine Board not to exceed \$50 per transaction. The fund shall be replenished periodically through charges made for such purchases to appropriate accounts or funds. [1991 c.84 §4]

Note:

830.155 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.160 - Board authority to remove obstructions from water.**

In addition to any other authority to promote safe boating pursuant to this chapter, the State Marine Board may cause the removal of any obstruction consisting of logs, rocks or other debris resulting from natural causes from the waters of this state if the board finds the obstruction to be an extraordinary hazard to boating safety. The board may pay the cost of such removal from amounts reserved therefor in the account created by ORS 830.140. [Formerly 488.883]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.165 - Boating safety educational program; youthful boat operator program.**



(1) In order to protect the public interest in the prudent and equitable use of the waters of this state and enhance the enjoyment of pleasure boating and other recreational water sports thereon, the State Marine Board shall establish and pursue comprehensive educational programs designed to advance boating safety.

(2) The board shall put into effect a program to train youthful boat operators. For the purpose of giving the courses of instruction, the director may designate as the agent of the director any person the director deems qualified to act in such capacity. No charge shall be made for any instruction given. [Formerly 488.200]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.170 - Agreements with other jurisdictions.**

The State Marine Board is authorized to enter into bilateral, reciprocal agreements with other jurisdictions to provide mutual assistance in the disposition of boating offenses committed by residents of one jurisdiction while in the other jurisdiction. [1991 c.590 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.172 - County boat use permit program review.**

(1) In addition to those powers and duties set forth in ORS 830.110, the State Marine Board shall review county boat use permit programs, adopted by county ordinance, for approval or denial.

(2) The board shall review county boat use permit programs under the following standards:

(a) Funds shall be dedicated to county boating programs for boating safety, marine law enforcement or boating facilities;

(b) The program applies only to counties bordering a state that allows imposition of a boat use permit fee;

(c) The program meets standards adopted by rule by the board pertaining to:

(A) Use of funds;

(B) Amount of fee;

(C) Administration; and

(D) Enforcement; and

(d) Boats with a current, valid certificate of number issued by the board under ORS 830.795 and manually propelled vessels are exempt from county boat use permits. [1991 c.590 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.175 - Regulations for specific areas; rules.**

(1) The State Marine Board, upon consideration of the size of a body of water and traffic conditions, may make special regulations consistent with the safety and the property rights of the public or when traffic conditions become such as to create excessive congestion, relating to the operation of boats in any waters within the territorial limits of any political subdivision of this state. The regulations may include, but need not be limited to, the establishment of designated speeds, the prohibition of the use of motorboats and the designation of areas and times for testing racing motorboats.

(2) The governing body of a political subdivision of this state may apply to the board for special regulations relating to the designation of moorage areas on lakes or reservoirs which are under the jurisdiction of a public agency, or to the operation of boats on the waters within the territorial limits of the political subdivision. Within a reasonable time, the board shall act upon the application in the manner provided in subsection (1) of this section. When special regulations have been established within a political subdivision in accordance with this subsection, the governing body shall establish and maintain the navigational markers prescribed by the board.

(3) The board may make special regulations relating to the operation of boats, including the establishment of designated speeds and prohibition of the use of motorboats for the protection of game and game fish at the request of the State Fish and Wildlife Commission, or for carrying out the provisions of the federal Wild and Scenic Rivers Act, Public Law 90-542, and the Oregon Scenic Waterways Act, ORS 390.805 to 390.925. Action necessary to implement this section, including but not limited to the operation and manner of operation of boats, shall be by a permit system initiated by the board.

(4)(a) The board may make special regulations relating to the operation of boats on the Willamette River within the Willamette River Greenway, including the establishment of designated speeds or other methods to manage boat wake energy, as may be needed for the protection of the shoreline, public and private property, fish and wildlife habitat and vegetation. When adopting regulations under this subsection, the board shall take into consideration the statewide land use planning goals and guidelines adopted by the Land Conservation and Development Commission to protect, conserve and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River Greenway.

(b) Paragraph (a) of this subsection does not apply to deep draft vessels, tugboats, towboats, barges, launch vessels and other commercial vessels, as those terms are defined by the board by rule, engaged in marine commerce or the transportation of cargo on the Willamette River beginning at river mile 0 and ending at river mile 26.

(5) The board may designate certain rivers or sections of rivers as hazardous. In making such designations, the board may consider recommendations of guide associations incorporated in this state.

(6) Regulations regarding operation of boats pursuant to this section shall be adopted in accordance with the provisions of ORS chapter 183.

(7) Any speeds in excess of the speeds designated by the board, as provided in this section, shall be prima facie evidence of the violation of ORS 830.315. [Formerly 488.600; 2019 c.192 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.180 - Use of motors prohibited on certain lakes; exceptions; rules.**

(1) Except as provided in subsections (2) and (3) of this section, a person may not use a motor for propelling a boat or for any purpose on the following named waters of this state:

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Counties  
Lakes, Reservoirs and Rivers  
Clackamas Trillium Lake  
Deschutes Charlton, Devils, Irish, Lucky,  
North and South Twin, Taylor,  
Three Creek and Todd Lakes  
Douglas Opal and Timpanagos Lakes  
Hood River Lost Lake  
Jackson Squaw Lakes  
Jefferson Horseshoe, Dark and Olallie  
Lakes, and on that portion of  
the Deschutes River between  
Pelton Dam and the Wasco  
County line  
Lane Gold Lake  
Linn Clear Lake  
Marion Breitenbush Lake  
Wasco Frog Lake, and on that portion  
of the Deschutes River  
bordering the Warm Springs  
Indian Reservation

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(2) The following may use a motor to propel a boat on the named waters described in this section:

(a) Public bodies, as defined in ORS 174.109, that have jurisdiction of the named waters described in this section; and

(b) The federal government.

(3) A person not otherwise described in subsection (2) of this section may use a motor to propel a boat on a specific named water described in this section if:

(a) The motor is an electric motor operated at a maximum of slow-no wake speed as defined by the State Marine Board by rule; and

(b) The board adopts a rule authorizing the use described in paragraph (a) of this subsection on a specific named water described in this section. [Formerly 488.610; 2019 c.214 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.185 - Speed restrictions in certain areas.**

(1) A person may not operate a boat with an outboard or inboard motor at a speed in excess of 10 miles per hour during those hours of the day and on those days of the year that it is lawful to fish, on East Lake, Paulina Lake and Elk Lake in Deschutes County; Magone Lake in Grant County; Timothy Lake in Clackamas County; and Davis Lake in Deschutes and Klamath Counties.

(2) A person may not operate a boat with an outboard or inboard motor at a speed in excess of 10 miles per hour on the following named waters of this state located in the counties named:

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Counties  
Lakes and Reservoirs  
Clackamas On that portion of the waters of the reservoir known as North Fork Reservoir which lies upstream from a line drawn across the reservoir at right angles to the thread of the stream at a point 2.3 miles upstream from the North Fork Dam measured along the thread of the stream  
Deschutes Hosmer, Lava, Little Cultus, Little Lava, Sparks Lakes and Crane Prairie Reservoir  
Jefferson On that portion of the waters behind Pelton Dam, known as Lake Simtustus, which lies upstream from a line drawn across the lake at right angles to the thread of the stream at a point 0.85 miles upstream from the Pelton Dam measured along the thread of the stream  
Klamath That portion of Upper Klamath Lake that lies west of a line beginning at a point on the north shore of Pelican Bay one-quarter mile east of Crystal Creek and extending due south to the opposite shore of the lake; any stream, creek or canal that leads into the portion of Upper Klamath Lake described above including Crystal Creek, Recreation Creek and Four-Mile Creek, also

known as Harriman Creek  
Linn Smith and Trailbridge Reservoirs  
Wasco Clear Lake

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(3)(a) The State Marine Board shall establish an appropriate decibel rating and speed restriction on Diamond Lake in Douglas County to allow recreational boating that is not limited to fishing. Recreational boating does not include operating a jet ski or similar personal watercraft. The speed established by the board:

(A) May not exceed 45 miles per hour between the hours of 9 a.m. and 6 p.m.;

(B) May not exceed 10 miles per hour between the hours of 6 p.m. and 9 a.m.; and

(C) Shall be restricted to 10 miles per hour at all times in any area within 200 yards of any boat ramp, boat dock, swimming area, inlet or outlet of the lake, designated campground or summer home.

(b) The board shall reduce the speed restriction on Diamond Lake to 10 miles per hour at all hours when the State Fish and Wildlife Director determines that the health of Diamond Lake is restored and the lake can be restocked for fishing. [Formerly 488.620; 1995 c.79 §383; 1999 c.252 §2; 2013 c.186 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.187 - Restrictions for Waldo Lake.**

(1) Except as provided in subsections (2) and (3) of this section, a person may not use a motor to propel a boat on Waldo Lake or use a seaplane to land on or take off from Waldo Lake.

(2) Subsection (1) of this section does not apply to the Department of State Police and any other public body, as defined in ORS 174.109, that has jurisdiction over the lake.

(3) Subsection (1) of this section does not apply to boats propelled by an electric motor when operated at a speed of less than 10 miles per hour. [2013 c.186 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.190 - Temporary suspension of speed restrictions.**

The governing body of a political subdivision of this state may apply to the State Marine Board for a temporary suspension of a speed restriction on a specific body of water within the territorial limits of the political subdivision and, after a hearing upon notice, the board may suspend the restriction, such suspension not to exceed 72 hours. [Formerly 488.625]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.195 - Board to protect traditional boating uses and prevent user conflicts.**

In addition to any other authority to regulate boating activities pursuant to this chapter, the State Marine Board may regulate and restrict boating activities to protect traditional boating uses and to prevent boating user conflicts. [Formerly 488.880]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.200 - County boat use permits.**

(1) Except as otherwise provided in this section, it is unlawful to operate a boat on the waters of this state if a county requires a boat use permit to do so and the operator of the boat has not obtained the permit.

(2) Notwithstanding the provisions of subsection (1) of this section, a resident of the State of Idaho may operate a boat on the waters of this state without a boat use permit. The provisions of this subsection do not become operative until laws, rules or regulations of the State of Idaho become operative that, in substance or effect, contain provisions which make lawful engaging in boating without obtaining a boat use permit or paying a fee to operate a boat. This subsection remains operative only while such laws, rules or regulations remain operative. [1991 c.590 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.210 - Operating improperly equipped boat prohibited.**

No person shall operate or give permission for another person to operate a boat which is not equipped as required under ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490. [Formerly 488.024]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.215 - Personal flotation devices; rules.**

(1) All boats must carry at least one United States Coast Guard approved personal flotation device in good and serviceable condition for each person on board. Each device must be of an appropriate size for the person for whom it is intended and must be readily accessible whenever the boat is in use. As used in this subsection, a personal flotation device is not "readily accessible" if it is stowed in a locked compartment or locker or is otherwise not immediately, physically available to persons on board the boat in case of an emergency.

(2) The State Marine Board by rule shall classify types of personal flotation devices and specify which types are approved for

various classes of vessels. The rules must be consistent with, but may not exceed those regulations promulgated by the United States Coast Guard.

(3) Notwithstanding the classification by the State Marine Board of the types of personal flotation devices approved for various classes of vessels pursuant to subsection (2) of this section, a person operating a boat on any section of waters rated class III or higher on a commonly accepted scale of river difficulty, and all passengers in the boat, shall wear a properly secured personal flotation device. The personal flotation device must be of a type prescribed by rules adopted by the State Marine Board. [Formerly 488.031; 2009 c.85 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.220 - Fire extinguishers; rules.**

(1) Every motorboat shall carry on board, fully charged and in good condition fire extinguishers of a type required by the board by rule.

(2) The State Marine Board shall make rules for fire extinguishers in accordance with ORS chapter 183.

(3) When the board makes rules under this section it may consider fire extinguisher requirements and standards adopted by the United States Coast Guard. [Formerly 488.090]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.225 - Lights; rules.**

On all waters of the state, every boat shall carry and exhibit the lights required by rules promulgated by the State Marine Board. Such rules shall be designed to prevent collisions and generally promote boating safety. In promulgating such rules the board may consider lighting requirements and standards adopted by the United States Coast Guard and by federal statutes. [Formerly 488.041]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.230 - Sound signaling devices; rules.**

(1) Each boat shall carry on board, in good and serviceable condition, sound signaling devices of a type required by the board by rule.

(2) The board shall make rules for sound signaling devices in accordance with ORS chapter 183.

(3) When the board makes rules under this section, it may consider sound signaling requirements and standards adopted by the United States Coast Guard. [Formerly 488.063]

Note:

830.230 was enacted into law by the Legislative Assembly but was not added to and made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.235 - Carburetors.**

Carburetors on all engines of motorboats, other than outboard motors, shall be fitted with a U. S. Coast Guard approved device for arresting backfire. [Formerly 488.071]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.240 - Ventilation systems; rules.**

(1) Motorboats using fuel having a flashpoint of 110 degrees Fahrenheit or less shall have ventilating systems that meet standards provided by the State Marine Board for the purpose of properly and efficiently ventilating the bilges of every engine and fuel compartment in order to remove any inflammable or explosive gases.

(2) The board may, in accordance with ORS chapter 183, adopt regulations providing standards for ventilating systems. Motorboats so constructed as to have the greater portion of the bilges under the engines and fuel tanks open and exposed to the natural atmosphere at all times are not required to be fitted with ventilators. [Formerly 488.080]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.245 - Safety devices on boat operated in tidewater; rules.**

No person shall operate a boat in the waters of this state which rise and fall with the ebb and flow of the tide unless the boat is equipped with safety devices of a type prescribed by regulations of the State Marine Board made in accordance with ORS chapter 183. [Formerly 488.092]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.250 - Additional equipment; rules.**

The State Marine Board may require by rule that all boats or any class of boats shall carry or install additional equipment which in the opinion of the board is necessary for the safety of persons and property. The rules shall be made in accordance with ORS chapter 183 and, to the extent considered by the board to be consistent with safety of persons and property, shall equal or exceed the

regulations promulgated by the United States Coast Guard. [Formerly 488.094]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.260 - Muffling devices.**

The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by equipment so constructed and used as to muffle or suppress the noise of the exhaust in a reasonable manner. The use of cutouts or open exhaust stacks is prohibited, except:

- (1) On motorboats competing in a regatta, race or trial for speed records authorized as provided in ORS 830.375.
  - (2) On racing motorboats while the boat or equipment on the boat is being tried or tested in compliance with ORS 830.350.
- [Formerly 488.052]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.270 - Notice to board on noise violation charge; board to supply information to court; suspension of certificate.**

- (1) Before hearing any charge for violation of ORS 830.260, a court shall notify the State Marine Board of the name of any person cited for violation of ORS 830.260 and the number of any boat used in the alleged violation.
  - (2) Upon receipt of a notification under subsection (1) of this section, the board shall:
    - (a) Notify the court of whether the person cited is the owner of the boat; and
    - (b) If the person is not the owner of the boat, notify the boat owner that the certificate of number of the boat will be suspended under ORS 830.815 if the person cited for operating the boat is convicted and there is no evidence to satisfy the court that the boat has been brought into compliance with standards for sound levels established by the board for purposes of ORS 830.815.
  - (3) At a hearing for violation of ORS 830.260, the court shall allow the owner of the boat used in the violation to show that the boat has been brought into compliance with standards for sound levels established by the board.
  - (4) If a court finds that a person has operated a boat in violation of ORS 830.260, the court shall provide the board with information necessary to suspend the certificate of number for the boat under ORS 830.815 unless evidence has been presented to the satisfaction of the court that the boat has been brought into compliance with the standards for sound levels established by the board.
- [Formerly 488.055]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.300 - Operating boat in violation of chapter prohibited.**

No person shall operate a boat in violation of any provision of this chapter. [Formerly 488.023]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.302 - Draining water from boat; exceptions.**

- (1) Except as provided in subsection (2) of this section, after leaving the waters of this state with a boat, a person shall remove or open all drain plugs, bailers, valves or other devices used to control the draining of water from ballast tanks, bilges, livewells and motorwells before transporting a boat within this state.
- (2) Subsection (1) of this section does not apply to:
  - (a) Marine sanitation devices;
  - (b) A person who holds a permit issued pursuant to ORS 498.222 to transport live fish;
  - (c) A person participating in a fishing tournament authorized by the State Department of Fish and Wildlife, except that after weighing the fish the person shall return to the boat launch site and drain the boat as required under subsection (1) of this section;
  - (d) Boats operated by a peace officer; or
  - (e) Boats operated by an emergency responder, as defined by the State Marine Board by rule. [2019 c.154 §2]

Note:

830.302 was added to and made a part of ORS chapter 830 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.305 - Unsafe operation.**

A person commits the crime of unsafe operation of a boat if the person operates a boat in a manner that endangers or would be likely to endanger any person or property. [Formerly 488.099]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.315 - Reckless boating; speed.**

- (1) A person commits the crime of reckless boating if the person recklessly operates a boat in a manner that endangers the safety of persons or property. As used in this subsection, "recklessly" has the meaning given that term in ORS 161.085.
- (2) A person may not operate any boat at a rate of speed greater than will permit that person in the exercise of reasonable care to

bring the boat to a stop within the assured clear distance ahead.

(3) Nothing in ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 is intended to prevent the operator of a boat actually competing in an event that is authorized as provided in ORS 830.375 from attempting to attain high speeds on a marked racing course. [Formerly 488.100; 2019 c.431 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.325 - Operating boat while under influence of intoxicants.**

(1) A person under the influence of an intoxicating liquor, cannabis, psilocybin, an inhalant or a controlled substance may not operate, propel or be in actual physical control of any boat on any waters of this state.

(2) An owner of a boat or person in charge or in control of a boat may not authorize or knowingly permit the boat to be propelled or operated on any waters of this state by any person who is under the influence of an intoxicating liquor, cannabis, psilocybin, an inhalant or a controlled substance. [Formerly 488.160; 1991 c.931 §4; 2017 c.21 §91; 2019 c.431 §13; 2021 c.253 §16]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.330 - Liability of owner for negligent operation of boat.**

(1) The owner of a boat shall be liable for the negligent operation of the boat in the same manner and to the same extent as the owner of a motor vehicle is liable under the rule of law which holds one person liable for the act of another who operates a motor vehicle for a family purpose.

(2) Subsection (1) of this section does not apply in actions in which courts of admiralty have jurisdiction. [Formerly 488.178]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.335 - Operator to maintain lookout.**

The operator of a boat shall keep a proper lookout at all times while underway. [Formerly 488.101]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.340 - Navigation rules.**

(1)(a) Except as provided by paragraph (b) of this subsection, when two boats are approaching each other "head on" or nearly so (so as to involve risk of collision), each boat shall bear to the right and pass the other boat on its left side.

(b) On rivers, or those sections of rivers, which are state waters, boats proceeding downstream shall have the right of way over boats proceeding upstream.

(2) When boats approach each other obliquely or at right angles, the boat approaching on the right side has the right of way.

(3) One boat may overtake another on either side but shall grant right of way to the overtaken boat. [Formerly 488.110]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.345 - Traffic lanes; swim areas.**

(1) No person shall so anchor a boat for fishing or other purposes on any body of water over which the state has jurisdiction in such a position as to obstruct a passageway ordinarily used by other boats.

(2) No person shall operate a boat within a water area which is clearly marked by buoys or some other distinguishing device as a bathing or swimming area. [Formerly 488.120]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.350 - Testing racing motorboat.**

(1) No person shall operate a racing motorboat, for the purpose of trying or testing the boat or equipment on the boat, in any areas or during the time when one of the following conditions exist:

(a) Where boats are anchored.

(b) Where people are swimming.

(c) Near populated beaches.

(d) Among water-skiers.

(e) Among boats underway.

(f) Where persons or property will be endangered because the area is otherwise congested.

(g) Where persons or property will be disturbed or endangered because the waters on which the boat is operated are within a residential area.

(2) Subject to subsection (1) of this section, motorboats may be operated on public waters without effective muffling devices as required by ORS 830.260, for the purpose of trying or testing the equipment on the boat, in areas and during times designated by the State Marine Board by regulations adopted under ORS 830.175.

(3) Within any county in which areas and times for trying or testing boats or the equipment on boats have been designated by the board under ORS 830.175, if a person wishes to operate a boat for such a purpose on public waters within the county, outside the designated testing area, the person shall apply to the sheriff of the county for a permit to do so. The permit, which may be issued

upon application, shall be conditioned upon compliance with subsection (1) of this section, and shall designate the areas where and the times when the boat may be operated for such purpose. Provided, however, the sheriff in issuing such a permit may waive subsection (1)(g) of this section if the boat being tested is muffled in accordance with ORS 830.260. [Formerly 488.102]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.355 - Overloading.**

No boat shall be loaded with passengers or cargo beyond its safe carrying capacity, taking into consideration weather and other normal operating conditions. [Formerly 488.130]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.360 - Riding on bow, gunwale or transom.**

- (1) No person operating a motorboat shall allow any person to ride or sit on the deck over the bow of the boat while under way unless the motorboat is provided with adequate guards or railing.
- (2) No person operating a motorboat shall allow any person to ride or sit on the starboard or port gunwales or on the transom of the boat while underway at a speed in excess of five miles per hour unless the motorboat is provided with adequate guards or railings.
- (3) No person operating a motorboat shall allow any person to ride or sit on the bow, gunwale or transom railings while underway.
- (4) Nothing in subsection (1) or (2) of this section:
  - (a) Is intended to prevent passengers or other persons aboard a boat from standing on the bow of the boat in order to moor the boat to a mooring buoy, float or dock or to cast off from such a buoy, float or dock or for any other necessary purpose; or
  - (b) Applies to a boat rigged and equipped as a sailboat when operating under sail power. [Formerly 488.140]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.362 - Operating motorboat with person holding on to or occupying parts aft of transom.**

- (1) A person may not operate a motorboat or have the motorboat engine idle while any person holds on to or occupies any portion of the motorboat that is located aft of the transom of the motorboat, including a step, ladder, platform or deck, in order to:
  - (a) Ride on that portion of the motorboat while the motorboat is under way at any speed; or
  - (b) Be pulled by the motorboat while holding on to any portion of the motorboat that is located aft of the transom, including a step, ladder, platform or deck.
- (2) Notwithstanding subsection (1) of this section, a person may operate a motorboat or have the motorboat engine idle with a person holding on to or occupying for a brief period of time a step, ladder, platform or deck that is located aft of the transom if that person is:
  - (a) Assisting in the docking or departure of the motorboat;
  - (b) Exiting or entering the motorboat; or
  - (c) Engaging in law enforcement activities. [2005 c.299 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.365 - Waterskiing, surfboarding and similar activities.**

- (1) No person shall ride or manipulate any water skis, surfboard or similar device in a reckless or negligent manner so as to endanger any person or property.
- (2) No person shall operate a boat for the purpose of towing a person on water skis, surfboard or similar device, and no person shall engage in waterskiing, surfboarding or similar activity at any time after sunset and before sunrise. This subsection does not apply to a person while engaged in a professional exhibition or to a person engaged in an activity authorized under ORS 830.375.
- (3) No person shall operate or manipulate any boat, tow rope or other device by which the direction or location of a person on water skis, surfboard or similar device may be affected or controlled in a reckless or negligent manner so as to cause the person on water skis, surfboard or similar device to collide with or strike against any person or object.
- (4) No person shall ride or manipulate any water skis, surfboard or similar device while under the influence of an intoxicating liquor, cannabis, psilocybin, or a controlled substance.
- (5) No person shall operate a boat on any waters of this state, towing a person on water skis, aqua-plane, surfboard, saucer, or similar device, unless there is in the boat another person, in addition to the operator, who is in a position to continuously observe the person being towed.
- (6) Notwithstanding subsection (5) of this section, persons operating a boat to tow a water-skier in an authorized competitive marine event, or engaged in practicing for a competitive water ski event on a water ski course authorized by the State Marine Board, may use either a curved, rearview mirror or another person, in addition to the operator, to continuously observe the person being towed.
- (7) No person shall operate any boat used for towing water skis, surfboards or similar devices on the waters of this state unless the boat is equipped with and displays a warning flag as follows:
  - (a) The warning flag, also known as the "skier down" flag, shall be international orange or red in color and shall be at least 12 inches in height and 12 inches in width.
  - (b) When any person being towed by the boat becomes disengaged from the towline and is down in the water, a person in the boat

shall immediately display the warning flag aloft, visible from all sides, as an indicator to other boats in the area that a person is down in the water. As long as the downed person is in the water, the flag shall remain displayed to prevent danger to that person and hazards to passing boats.

(c) The warning flag described in this section shall be displayed only under the conditions set forth in paragraph (b) of this subsection or when other imminent danger exists. [Formerly 488.144; 1993 c.589 §1; 2017 c.21 §92; 2021 c.253 §17]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.370 - Mooring to buoys and beacons; defacing or destroying navigational markers.**

- (1) No person shall moor a boat to any of the buoys or beacons placed in any waters of this state by the authority of the United States, an agency of the United States or by the State Marine Board nor in any manner hang on with a boat to such buoy or beacon.
- (2) No person shall deface, remove or destroy any buoy, beacon or other navigational marker maintained in the waters of this state.
- (3) This section does not apply to any action prohibited by ORS 783.610 regarding a buoy or beacon established or erected by the United States Coast Guard. [Formerly 488.150]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.375 - Authorization required to hold marine event; rules.**

- (1) At least 30 days before holding a regatta, boat race, marine parade, tournament or exhibition on the waters of this state, the person who will be in charge of the event shall apply to the State Marine Board for authorization to hold the event.
- (2) The board shall provide by regulation for the manner of applying for and granting authorization and shall approve all applications for authorization which are consistent with the safety and pleasure of the public.
- (3) The board may make rules and regulations restricting the operation of boats necessary to insure safety two hours prior to, during and two hours after the approved event.
- (4) No person shall hold a regatta, boat race, marine parade, tournament, trial for speed records or exhibition on the waters of this state, unless the authorization of the board has been secured, except that the board's authorization is not required if authorization or the equivalent has been secured from an appropriate agency of the United States.
- (5) An authorization by the board does not exempt a person holding an event from compliance with applicable federal law. [Formerly 488.108]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.380 - Peace officer authority to require operator to remedy especially hazardous condition.**

- (1) When a peace officer observes a boat being operated on the waters of this state in an especially hazardous condition and determines that continuance of the voyage of the boat could place the occupants in imminent danger, the peace officer may order the operator of the boat to take immediate and reasonable steps to remedy the especially hazardous condition, including but not limited to directing the operator to move to a moorage and remain there until the especially hazardous condition is remedied.
- (2) For purposes of this section, an especially hazardous condition is limited to the following conditions:
  - (a) Improper or insufficient personal flotation devices in violation of ORS 830.215;
  - (b) Improper or insufficient fire extinguishers in violation of ORS 830.220;
  - (c) Improper or insufficient backfire arresting devices on carburetors in violation of ORS 830.235;
  - (d) Improper or insufficient navigation lights in violation of ORS 830.225 if found between sunset and sunrise;
  - (e) Overloading in violation of ORS 830.355;
  - (f) Overpowering; or
  - (g) Leakage of fuel from the boat engine, fuel system or bilge. [1997 c.568 §2]

Note:

830.380 to 830.385 were added to and made a part of ORS chapter 830 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.383 - Person required to remedy especially hazardous condition.**

A person may not intentionally disobey a lawful order to take immediate and reasonable steps to remedy an especially hazardous condition that is issued under ORS 830.380 by another person known by the person to be a peace officer. [1997 c.568 §3]

Note:

See note under 830.380.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.385 - Commercial fishing boats exempt from regulation of especially hazardous condition.**

ORS 830.380 and 830.383 do not apply to commercial fishing boats. [1997 c.568 §4]

Note:

See note under 830.380.



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.390 - Minimum equipment and safety requirements for vessels engaged in Klamath Lake plankton fishery.**

(1) In addition to any other authority to regulate boats and equipment, the State Marine Board shall require that any vessel engaged in the Klamath Lake plankton fishery and any associated watercraft meet minimum equipment and safety requirements prescribed by the board.

(2) In adopting rules necessary to implement subsection (1) of this section, the board:

(a) Shall consult with vessel owners; and

(b) May not exceed regulations promulgated by the United States Coast Guard for equivalent classes of vessels and associated watercraft. [1997 c.737 §5]

Note:

830.390 was added to and made a part of ORS chapter 830 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.410 - Operator of boat livery to provide properly equipped boats.**

An operator of a boat livery may not permit any boat the operator rents to depart from the livery premises unless the boat is equipped as provided under ORS 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490. [Formerly 488.025; 2019 c.155 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.415 - Records of operator of boat livery.**

The operator of a boat livery shall make and preserve for at least six months a written record of:

(1) The name of each person who hires a boat from the livery.

(2) The identifying number of the boat.

(3) The date on which the boat is hired, and the hour of departure from the livery.

(4) The expected date and hour of return.

(5) The date and hour of return. [Formerly 488.098]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.420 - Minimum equipment requirements for rental or charter boats; rules; inspection; cancellation or revocation of certificate for failure to comply.**

(1) The State Marine Board shall provide by rule minimum equipment requirements for boats rented or chartered to the public. The rules shall be made in accordance with ORS chapter 183.

(2) Designated representatives of the board may annually inspect all rental or charter boats to check for the equipment required by the board. Any inspections conducted shall be coordinated with other state and federal agencies to minimize duplication of vessel inspections and boardings.

(3) After a hearing upon 10 days' notice to the owner of the boat, the board may cancel or revoke the certificate of number for any boat rented or chartered to the public if it does not equal or exceed the minimum equipment requirements provided by the board. [Formerly 488.026]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.425 - Minimum requirements for boat livery operation.**

(1) A person may not act as an operator of a boat livery without a boat livery registration issued by the State Marine Board.

(2) Application for a boat livery registration must be made in the form prescribed by the board and must contain the following:

(a) The applicant's name.

(b) The applicant's business address and telephone number.

(c) Proof of registration with the Secretary of State, if required.

(d) The number and types of boats provided by the livery at the time of registration.

(e) Any other information the board considers necessary.

(3) Every two years, each operator of a boat livery shall renew the boat livery registration by submitting a renewal application in the form prescribed by the board.

(4) An operator of a boat livery shall display proof of compliance with this section in the form and manner prescribed by the board. [2019 c.155 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.430 - Definitions for ORS 830.430 to 830.465 and 830.997.**

As used in ORS 830.430 to 830.465 and 830.997:

(1) "Charter boat" means:

- (a) A boat used to carry seven or more passengers for hire for angling, sightseeing or other recreational purposes; or
- (b) A boat that is licensed under ORS 830.447.
- (2) "Charter boat" does not include a "passenger vessel" or "small passenger vessel," as defined by the State Marine Board by rule, that:
  - (a) Has been inspected and documented by the United States Coast Guard;
  - (b) Carries more than 12 passengers for hire; and
  - (c) Operates east of the demarcation lines described in the International Collision Regulations at Sea of 1972 on waters identified by the board by rule. [1989 c.885 §2; 2013 c.146 §1; 2021 c.123 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.435 - Charter boat license; reciprocity with Washington license holders.**

- (1) Except as otherwise provided in this section, a person may not engage in the business of carrying seven or more passengers for hire for angling, sightseeing or other recreational purposes on the waters of this state without first obtaining a charter boat license from the State Marine Board.
- (2) A person who holds a valid license or registration issued by the State of Washington may engage in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes in this state without obtaining a charter boat license from the board if:
  - (a) The person operates a charter boat that leaves from and returns to a port in the State of Washington;
  - (b) The person operates the charter boat within the jurisdiction of the State of Oregon in the Pacific Ocean north of Cape Falcon, or in the Columbia River; and
  - (c) The State of Washington adopts provisions that allow a person to engage in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes with a valid Oregon charter boat license within the jurisdiction of the State of Washington in the Pacific Ocean south of Leadbetter Point, or in the Columbia River. [1989 c.885 §3; 1993 c.132 §1; 2005 c.115 §§2,4; 2007 c.148 §2; 2013 c.146 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.437 - Licensing; safety standards; rules.**

The State Marine Board shall adopt rules establishing:

- (1) Licensing requirements for operators of charter boats; and
- (2) Safety standards for charter boats. [2013 c.146 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.440 - License application; contents; fees; bond or financial security; transfer of license; rules.**

- (1) An individual who desires to obtain a charter boat license shall submit a written application to the State Marine Board. The application shall include information regarding the charter boat and copies of documents and licenses regarding operation of the charter boat as required by the board by rule. The application shall be accompanied by proof that the applicant has protection against liability imposed by law covering occurrences by the operator of the charter boat, and the employees of the operator, for the payment of damages for bodily injury or death in the minimum amount of \$500,000 per occurrence, at any time while engaged in carrying passengers for hire. The applicant shall certify that the charter boat complies with the equipment requirements established by the board under ORS 830.450.
- (2) With an application submitted under subsection (1) of this section, an applicant for a charter boat license must provide evidence of the charter boat's carrying capacity in the form of a certificate issued by the boat manufacturer or the United States Coast Guard or through a process established by the board by rule.
- (3) The annual fee for a charter boat license is:
  - (a) For charter boats owned by residents of this state if the charter boat has license, title and number issued pursuant to ORS chapter 830, \$50.
  - (b) For charter boats owned by residents of this state if the charter boat has a valid marine document issued by an agency of the federal government, \$100. Payment of a fee under this paragraph is in lieu of any other fee or tax imposed by the State of Oregon for possessing, owning or operating a charter boat.
  - (c) For charter boats owned by persons who reside in a state that requires Oregon residents to pay a license fee to operate a charter boat in the waters of that state, the same fee that is charged Oregon residents to operate a charter boat in the state where the nonresident applicant resides.
  - (d) For all charter boats owned by nonresidents other than those described in paragraph (c) of this subsection, \$100.
- (4)(a) A person who applies for a license to operate a charter boat and who accepts deposits from clients in excess of \$100 per person or whose agent accepts such deposits, shall submit a bond or other financial security in the amount of \$5,000 to the board at the time of application. The bond or other financial security shall be held by the board for the benefit of clients of the licensee who pay a money deposit to the licensee or the licensee's agent in anticipation of services to be received. The bond or other financial security amount shall be released to such client or clients conditioned upon a failure of the licensee or the licensee's agent to return

the deposit following cancellation of services or other failure to provide agreed upon services.

(b) The board shall release or retain all or any portion of a bond or other financial security as described in paragraph (a) of this subsection according to the provisions of ORS chapter 183.

(5) A license issued pursuant to this section is transferable to a replacement charter boat of the license holder and is transferable to the purchaser of the charter boat when the charter boat is sold. [1989 c.885 §4; 1995 c.759 §3; 2007 c.148 §3; 2013 c.146 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.445 - Liability insurance form; notice to board upon termination of coverage; license suspension for failure to maintain insurance.**

(1) The liability protection required by ORS 830.440 shall be provided in one of the following ways:

(a) By a policy or policies of bodily injury liability insurance described as protection and indemnity insurance in the Standard American Institute Hull Form, issued by an insurer authorized by ORS chapter 731 to transact such insurance in this state.

(b) By a bond or bonds, issued by a surety company or companies, authorized by ORS chapter 731 to transact such business in this state.

(c) By evidence of insurance issued on behalf of Lloyds of London by an insurance broker authorized by ORS chapter 731 to transact such business in this state.

(d) By any other evidence of liability protection approved by the State Marine Board.

(2) If the provider of liability protection cancels or refuses to renew the protection, the provider, not less than 30 days prior to the effective date of termination of the protection, shall notify the board in writing of the termination and its effective date. Upon receipt of a liability protection termination notice, the board shall send written notice to the charter boat operator that the board will suspend that person's charter boat license unless proof of liability protection required by ORS 830.440 is filed with the board prior to the effective date of the proposed liability protection termination. The board may suspend a charter boat license if the licensee fails to maintain in full force and effect the liability protection required by ORS 830.440. A license that has been suspended pursuant to this section may not be reinstated until proof of liability protection required by ORS 830.440 has been filed with the board. [1989 c.885 §11; 2013 c.146 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.447 - Optional charter boat licensing; rules.**

(1) The State Marine Board, by rule, shall provide for optional charter boat licensing if the boat is used to carry fewer than seven passengers for hire for angling, sightseeing or other recreational purposes.

(2) Upon request of a person, the board may issue a charter boat license for a boat that meets the requirements of rules adopted under this section.

(3) A boat that is licensed as a charter boat under this section is subject to the same provisions, conditions, fees and other requirements as are other charter boats under this chapter. [2021 c.123 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.450 - Equipment requirements; rules.**

The State Marine Board shall establish by rule the equipment that a charter boat must carry to operate in this state. The board shall consider requiring a charter boat to carry the following types of equipment:

(1) If the charter boat operates on navigable waters of the United States not more than 20 miles from the nearest port:

(a) First-aid kit.

(b) Automatic bilge warning light or bell for high water condition, audible or visible from each steering station.

(c) Depth finder.

(d) Life jackets.

(e) Light and smoke flares.

(f) VHF radio with frequencies appropriate to contact the United States Coast Guard.

(g) Power-operated bilge pumps.

(h) Running lights.

(i) Anchor and anchor chain or line.

(j) Displayed ocean class United States Coast Guard operator's license.

(k) Engine room space ventilation system and blower system.

(L) Fire extinguishers.

(m) Magnetic compass.

(n) Bailing buckets or hand-operated bilge pump.

(o) Installed electronic position fixing device or radar navigational equipment.

(p) Emergency Position Indicator Radio Beacon device (EPIRB).

(q) Life ring.

(2) If the charter boat operates on navigable waters of the United States more than 20 miles from the nearest port, in addition to the equipment specified in subsection (1) of this section:

- (a) Life raft or unsinkable shore boat.
- (b) Navigational charts for the area in which the charter boat is operating.
- (c) Water lights.
- (3) If the charter boat operates on state waters:
  - (a) First-aid kit.
  - (b) Automatic bilge warning light or bell for high water condition, audible or visible from each steering station.
  - (c) Depth finder.
  - (d) Life jackets.
  - (e) Light and smoke flares.
  - (f) Power-operated bilge pumps.
  - (g) Running lights.
  - (h) Anchor and anchor chain or line.
  - (i) Engine room space ventilation system and blower system.
  - (j) Fire extinguishers.
  - (k) Magnetic compass.
  - (L) Bailing buckets or hand-operated bilge pump.
  - (m) Life ring. [1989 c.885 §5; 2013 c.146 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.460 - Prohibited activities.**

- (1) A person may not make any false statement of material fact in submitting an application for a charter boat license under ORS 830.440.
- (2) A person may not operate a charter boat to engage in activities for which a charter boat license is required:
  - (a) If the State Marine Board or a representative of the board determines upon inspection that, or if a peace officer issues a citation because, the charter boat fails to comply with any equipment requirements imposed by the board pursuant to ORS 830.450.
  - (b) Without having protection against liability as described in ORS 830.440 and 830.445.
  - (c) If the number of persons on board the charter boat exceeds the carrying capacity of the charter boat.
  - (d) Without first providing to the board the names of all employees, agents and other persons who physically assist passengers of the charter boat with angling, sightseeing or other recreational activities.
- (3) A person may not offer for compensation or monetary gain or advertise the use of a charter boat for angling, sightseeing or other recreational activities without a charter boat license.
- (4) A person may not accept money or other remuneration for angling, sightseeing or other recreational activities for which a charter boat license is required without a charter boat license, except that a person may share the costs or expenses for a trip by trip participants. As used in this subsection:
  - (a)(A) "Costs or expenses for a trip" means the costs or expenses for food, fuel, bait or other consumable items used during a trip.
  - (B) "Costs or expenses for a trip" does not include any costs or expenses related to equipment maintenance, insurance, moorage, leases or fees for the use of an area.
  - (b) "Trip" means the duration of the angling, sightseeing or other recreational activity beginning at the point of departure from a dock, pier, float, moorage or shore-based landing where a person enters a charter boat. [1989 c.885 §6; 2013 c.146 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.465 - Disciplinary actions.**

- (1) For the purpose of ensuring the safe and legal operation of charter boats in this state, the State Marine Board:
  - (a) Shall require the disclosure of a boating, wildlife, hunting, angling, commercial fishing or public safety related violation by an operator, owner or deckhand of a charter boat that occurs within two years of the date on which a charter boat license is issued or updated.
  - (b) May revoke, suspend or deny issuance of a charter boat license for a violation of this chapter or ORS chapter 477, 496, 497, 498, 501, 506, 508, 509, 511, 530 or 704 or a rule adopted pursuant to this chapter or ORS chapter 477, 496, 497, 498, 501, 506, 508, 509, 511, 530 or 704, or for a violation of a law or rule regulating the safety and welfare of the public.
- (2) When a person is found guilty of a violation of ORS 830.430 to 830.465 or any rule adopted pursuant to ORS 830.430 to 830.465, the court having jurisdiction of the offense may order the board to revoke a charter boat license held by that person.
- (3) When a court orders revocation of a charter boat license under this section, the court shall take up the charter boat license and forward it with a copy of the revocation order to the board. Upon receipt of the charter boat license and the revocation order, the board shall revoke the charter boat license in accordance with the revocation order. [2013 c.146 §10]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.475 - Duties of operators and witnesses at accidents.**

- (1) A person commits the offense of failure to perform the duties of an operator if the person is the operator of any boat involved in an accident that results in property damage and the operator fails to take reasonable steps to notify the owner or person in charge of

the property of the damage, and provide to the owner or person in charge of the property the operator's name, address and the identification number of the boat.

(2) The operator of any boat involved in an accident which results in injury or death to any person immediately shall stop the boat at the scene of the accident, or as close thereto as possible, and shall remain at the scene of the accident until the operator has fulfilled the requirements of subsection (3) of this section.

(3) The operator of any boat involved in an accident resulting in injury or death to any person shall:

(a) Give to the other operator, surviving occupant or any person not injured as a result of the accident, the name, address and the identifying number of the boat which the operator is operating, and the name and address of any other occupants of the boat.

(b) Render reasonable assistance to any person injured in the accident, including the conveying or the making of arrangements for the conveying of the person to a physician, surgeon or hospital for medical or surgical treatment, if it is apparent that treatment is necessary or if conveyance is requested by any injured person.

(4) Any witness to the accident shall furnish to the operator, occupant or injured person, the name and address of the witness.

[Formerly 488.164; 1997 c.74 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.480 - Accident report required; rules.**

(1) The operator of any boat involved in an accident resulting in injury or death to any person or damage to property in excess of the dollar amount established by rule of the State Marine Board shall make a report of the accident to the board in such form and manner as the board by rule may prescribe.

(2) Whenever a report is insufficient in the opinion of the board, it may require the operator to file a supplemental report and may also require a witness to the accident to render a report to the board.

(3) Whenever the operator of a boat is physically incapable of making a required accident report and there was another occupant in the boat at the time of the accident capable of making a report, the occupant shall make or cause the report to be made. [Formerly 488.168; 1991 c.17 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.485 - Form of report; sending death record to State Marine Board.**

(1) The State Marine Board shall prepare and make available to the public forms for accident reports required in ORS 830.480. The report shall call for sufficiently detailed information to disclose the cause of an accident, conditions then existing, and the persons and vehicles involved. Every accident report shall be made on a form approved by the board.

(2) The State Health Officer shall on or before the 15th day of each month forward to the board a copy of the death record of any persons within the jurisdiction of the State Health Officer who died from a boat accident during the preceding calendar month.

[Formerly 488.172; 2013 c.366 §86]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.490 - Confidential nature of report.**

(1) All accident reports made to the State Marine Board shall be without prejudice to the individual reporting and shall be for the confidential use of administrative and enforcement agencies only.

(2) The board upon written request, shall, if available, disclose the following information to any party involved in the accident, or, in the event of the party's death, to any member of the party's family, or to the party's personal representatives:

(a) The identity of the owner, operator, occupants and the identifying number of a boat involved in an accident;

(b) The names of any companies insuring the owner or operator; and

(c) The identity of any witnesses to the accident.

(3) No such report shall be used as evidence in any trial, civil or criminal, arising out of the accident. The board shall furnish, upon demand of any person who has or claims to have made such a report or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the board, solely to prove a compliance or a failure to comply with the requirement that such a report be made to the board.

(4) The board shall compile and may analyze all accident reports and shall publish annually, or at more frequent intervals, statistical information relating to boat accidents.

(5) In response to any request duly made by an authorized official or agency of the United States, or in compliance with any federal requirement, the board shall transmit any information compiled or otherwise available to the board from the accident reports required by ORS 830.480 and 830.485. [Formerly 488.176; 1991 c.67 §232]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.495 - Report of accident resulting in death or disappearance; duties of passengers.**

(1) When, as a result of an occurrence that involves a boat or its equipment, a person dies or disappears from a boat, the operator shall, without delay, by the quickest means available, notify the nearest sheriff department, state police post, Coast Guard station or other law enforcement agency of:

- (a) The date, time and exact location of the occurrence;
  - (b) The name of each person who died or disappeared;
  - (c) The number and name of the boat; and
  - (d) The names and addresses of the owner and operator.
- (2) When the operator of a boat cannot give the notice required by subsection (1) of this section, each person on board the boat shall notify the casualty reporting authority or determine that the notice has been given. [Formerly 488.190]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.505 - Implied consent to chemical tests for intoxicants; refusal to submit; consequences.**

- (1) Any person who operates a boat on any waters of this state shall be deemed to have given consent to submit to chemical tests of the person's breath for the purpose of determining the alcoholic content of the person's blood if the person is arrested for operating a boat while under the influence of intoxicants while in violation of ORS 830.325 or of a municipal ordinance. Tests shall be administered upon the request of a peace officer having reasonable grounds to believe that the person arrested was operating a boat while under the influence of intoxicants while in violation of ORS 830.325 or of a municipal ordinance. Before the test is administered, the person requested to take the test shall be informed of rights and consequences as described in ORS 830.545.
- (2) Any person who operates a boat on any waters of this state shall be deemed to have given consent to submit to chemical tests of the person's urine for the purpose of determining the presence of cannabis, psilocybin, a controlled substance or an inhalant in the person's body if the person is arrested for operating a boat while under the influence of intoxicants while in violation of ORS 830.325 or of a municipal ordinance. Tests shall be administered upon the request of a peace officer having reasonable grounds to believe that the person arrested was operating a boat while under the influence of intoxicants while in violation of ORS 830.325 or of a municipal ordinance. Before the test is administered, the person requested to take the test shall be informed of rights and consequences as described in ORS 830.545.
- (3) A person asked to give a urine sample shall be given privacy and may not be observed by a peace officer when producing the sample.
- (4)(a) At the trial of any civil or criminal action, suit or proceeding arising out of the acts committed by a person operating a boat while under the influence of intoxicants, a valid chemical analysis of a person's urine is admissible as evidence and may be used with other evidence, if any, to determine whether the person was operating a boat while under the influence of intoxicants.
- (b) A chemical analysis of a person's urine is valid if analysis is performed in an accredited or licensed toxicology laboratory.
- (5) Within the time required by the State Marine Board by rule, the arresting officer shall report the following information to the board:
- (a) Whether the person refused to physically submit to a test.
  - (b) Whether the person was informed of rights and consequences as described under ORS 830.545.
  - (c) A report required by this section may be made on one or more forms provided by the board.
- (7) Nothing in this section precludes a peace officer from obtaining a chemical test through any lawful means for use as evidence in a criminal or civil proceeding including, but not limited to, obtaining a search warrant. [1991 c.931 §7; 2019 c.431 §14; 2021 c.253 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.510 - Chemical evidence of use of intoxicants.**

- (1) At the trial of any civil or criminal action, suit or proceeding arising out of the acts committed by a person operating a boat while under the influence of any intoxicants, if the amount of alcohol in the person's blood at the time alleged is less than 0.08 percent by weight of alcohol and shown by chemical analysis of the person's breath or blood, it is indirect evidence that may be used with other evidence, if any, to determine whether or not the person was then under the influence of intoxicants.
- (2) Not less than 0.08 percent by weight of alcohol in a person's blood constitutes being under the influence of intoxicating liquor.
- (3) Percent by weight of alcohol in the blood shall be based on grams of alcohol per 100 milliliters of blood or based on grams of alcohol per 210 liters of breath.
- (4) For purposes of ORS 830.505 to 830.545, "boat" means a motorboat or sailboat. [1991 c.931 §6; 2011 c.260 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.515 - Evidence of refusal to submit to test in legal proceeding.**

If a person refuses or fails to physically submit to chemical tests of the breath or urine as required by ORS 830.505, evidence of the person's refusal or failure to physically submit is admissible in any criminal or civil action or proceeding arising out of acts alleged to have been committed while the person was operating a boat while under the influence of an intoxicating liquor, cannabis, psilocybin, an inhalant or a controlled substance. [1991 c.931 §8; 2017 c.21 §93; 2019 c.431 §15; 2021 c.253 §19]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.520 - Circumstances under which chemical tests may be administered.**

Nothing in ORS 830.505 is intended to preclude the administration of chemical tests described in this section. A peace officer may

obtain a chemical test of the blood to determine the amount of alcohol in any person's blood or a test of the person's blood or a test of the person's blood or urine, or both, to determine the presence of cannabis, psilocybin, an inhalant or a controlled substance in the person as provided in the following:

- (1) If, when requested by a peace officer, the person expressly consents to such a test.
- (2) Notwithstanding subsection (1) of this section, from a person without the person's consent if:
  - (a) The peace officer has probable cause to believe that the person was operating a boat while under the influence of an intoxicating liquor, cannabis, psilocybin, an inhalant or a controlled substance and that evidence of the offense will be found in the person's blood or urine; and
  - (b) The person is unconscious or otherwise in a condition rendering the person incapable of expressly consenting to the test or tests requested. [1991 c.931 §9; 2017 c.21 §94; 2019 c.431 §16; 2021 c.253 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.525 - Chemical tests obtained by subject.**

In addition to chemical tests of the breath, blood or urine administered under ORS 830.505 and 830.520, upon the request of a peace officer, a person shall be permitted upon request, at the person's own expense, reasonable opportunity to have any licensed physician, licensed professional nurse or qualified technician, chemist or other qualified person of the person's own choosing administer a chemical test or tests of the person's breath or blood for the purpose of determining the alcoholic content of the person's blood or a chemical test or tests of the person's blood or urine, or both, for the purpose of determining the presence of cannabis, psilocybin, an inhalant or a controlled substance in the person. The failure or inability to obtain such a test or tests by a person shall not preclude the admission of evidence relating to a test or tests taken upon the request of a peace officer. [1991 c.931 §10; 2017 c.21 §95; 2019 c.431 §17; 2021 c.253 §21]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.535 - Criteria for chemical analyses.**

- (1) A chemical analysis is valid under ORS 830.505, 830.520 or 830.525 if:
  - (a) It is an analysis of a person's blood for alcohol content and is performed in:
    - (A) A laboratory certified or accredited under 42 C.F.R. part 493 and approved for toxicology testing;
    - (B) A laboratory licensed under ORS 438.110 and approved for toxicology testing; or
    - (C) A forensic laboratory established by the Department of State Police under ORS 181A.150 that is accredited by a national forensic accrediting organization.
  - (b) It is an analysis of a person's breath and is performed by an individual possessing a valid permit to perform chemical analyses issued by the Department of State Police under ORS 813.160 or by the State Marine Board under the provisions of this section. Chemical analyses must be performed according to methods approved by the Department of State Police under ORS 813.160 or approved by the board under this section. For purposes of this section, the board shall do all of the following:
    - (A) Approve methods of performing chemical analyses of a person's breath.
    - (B) Prepare manuals and conduct courses throughout the state for the training of peace officers in chemical analyses of a person's breath, which courses shall include, but are not limited to, approved methods of chemical analyses, use of approved equipment and interpretation of test results together with a written examination on these subjects.
    - (C) Test and certify the accuracy of equipment to be used by peace officers for chemical analyses of a person's breath before regular use of the equipment and periodically thereafter at intervals of not more than 90 days. Tests and certification required by this subparagraph must be conducted by trained technicians.
    - (D) Ascertain the qualifications and competence of individuals to conduct chemical analyses in accordance with one or more methods approved by the board or by the Department of State Police under ORS 813.160.
    - (E) Issue permits to individuals according to their qualifications. Permits may be issued to peace officers only upon satisfactory completion of the prescribed training course and written examination. A permit must state the methods and equipment that the peace officer is qualified to use. Permits are subject to termination or revocation at the discretion of the board.
- (2) In conducting a chemical test of the blood, only a duly licensed physician or a person acting under the direction or control of a duly licensed physician may withdraw blood or pierce human tissue. A licensed physician, or a qualified person acting under the direction or control of a duly licensed physician, is not civilly liable for withdrawing any bodily substance, in a medically acceptable manner, at the request of a peace officer.
- (3) An individual who performs a chemical analysis of breath or blood under ORS 830.505, 830.520 or 830.525 shall prepare and sign a written report of the findings of the test. A test administered at the request of a peace officer must include the identification of the peace officer upon whose request the test was administered.
- (4) Any individual having custody of the report mentioned in subsection (3) of this section shall, upon request of the person tested, furnish a copy of the report to that person or that person's attorney.
- (5) The expense of conducting a chemical test as provided by ORS 830.505 or 830.520 must be paid by the governmental units on whose equipment the test is conducted or by the governmental units upon whose request the test was administered if no governmental unit's equipment is used to conduct the test. [1991 c.931 §11; 2003 c.19 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.545 - Information about rights and consequences.**

This section establishes the requirements for information about rights and consequences for purposes of ORS 830.505. The following apply to the information about rights and consequences:

- (1) The information about rights and consequences shall be substantially in the form prepared by the State Marine Board. The board may establish any form it determines appropriate and convenient.
- (2) Except as provided in subsection (3) of this section, the information about rights and consequences shall be substantially as follows:
  - (a) Operating a boat while under the influence of intoxicants is a crime in Oregon and the person is subject to criminal penalties if the test shows that the person is under the influence of intoxicants. If the person fails a test, evidence of the failure may also be offered against the person.
  - (b) The person fails the test if the test shows the person is under the influence of intoxicants under Oregon law.
  - (c) If the person is convicted of operating a boat while under the influence of intoxicants, the person may not operate a boat for a period of time following the conviction.
  - (d) If the person is convicted of operating a boat while under the influence of intoxicants, the following apply for one year:
    - (A) The person is not eligible to apply for any certificate of title, registration or numbering; and
    - (B) The person's boating safety education card is suspended.
  - (e) After taking the test, the person shall have a reasonable opportunity, upon request, for an additional chemical test for blood alcohol content to be performed at the person's own expense by a qualified individual of the person's choosing.
- (3) A person who refuses to submit to a chemical test after being informed of the rights and consequences in subsection (2) of this section shall be provided additional information, substantially as follows:
  - (a) If the person refuses to provide consent to a breath or urine test, and is thereafter requested to provide only physical cooperation to submit to a breath or urine test and the person refuses to physically submit to a test, evidence of that refusal may be offered against the person.
  - (b) If the person refuses to physically submit to the test, the following apply for three years:
    - (A) The person is not eligible to apply for any certificate of title, registration or numbering; and
    - (B) The person's boating safety education card is suspended.
- (4) Notwithstanding subsection (3) of this section, the board may not impose the penalties described in subsection (3)(b) of this section for refusal to provide a urine sample if the person provides documentation from a physician licensed by this state showing that the person has a medical condition that makes it impossible for the person to provide a sample.
- (5) Nothing in this section prohibits the board from providing additional information concerning rights and consequences that the board considers appropriate or convenient. [1991 c.931 §12; 2019 c.431 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.550 - Implied consent to field sobriety tests for intoxicants; refusal to submit; consequences.**

- (1) Any person who operates a boat on any waters of this state shall be deemed to have given consent to submit to field sobriety tests upon the request of a peace officer for the purpose of determining if the person is under the influence of intoxicants if the peace officer reasonably suspects that the person has committed the offense of operating a boat while under the influence of intoxicants in violation of ORS 830.325 or a municipal ordinance. If the person refuses to consent to field sobriety tests, the person shall be asked to provide only physical cooperation to submit to nontestimonial field sobriety tests and the person shall be informed of the consequences of failing to physically submit to those tests under subsection (2) of this section.
- (2) If a person refuses or fails to physically submit to nontestimonial field sobriety tests as required by subsection (1) of this section and after the person has been informed of the consequences of refusing or failing to physically submit, evidence of the person's refusal or failure to physically submit is admissible in any criminal or civil action or proceeding arising out of allegations that the person was operating a boat while under the influence of intoxicants.
- (3) Within the time required by the State Marine Board by rule, the arresting officer shall report the following information to the board:
  - (a) Whether the person refused or failed to physically submit to a test.
  - (b) Whether the person was informed of rights and consequences as described under ORS 830.545.
  - (c) A report required by this section may be made on one or more forms provided by the board. [1991 c.931 §13; 2019 c.431 §18]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.555 - Additional penalties for failing to submit to testing for intoxicants.**

In addition to any other penalty, the State Marine Board shall suspend a person's boating safety education card issued under ORS 830.086 for three years from the date of conviction if the record of conviction under ORS 830.325 shows that the person willfully refused the request of a peace officer to physically submit to chemical testing of the breath or urine or a nontestimonial field sobriety test under ORS 830.505 and 830.550. [2019 c.431 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small**



**WatercraftSection 830.560 - Launching boat with aquatic invasive species prohibited; rules.**

(1) As used in this section:

(a) "Aquatic invasive species" means any aquatic life or marine life determined by the State Fish and Wildlife Commission by rule to be invasive or any aquatic noxious weed determined by the State Department of Agriculture to be invasive.

(b) "Launch" means any act that places a boat into a waterway for recreational boating, for flushing or testing an engine or for any other purpose.

(2) Except as provided in subsection (3) of this section, a person may not launch a boat into the waters of this state if:

(a) The boat has any visible aquatic species on its exterior hull or attached to any motor, propulsion system or component, anchor or other attached apparatus outside of the hull, or on the trailer or other device used to transport the boat; or

(b) The boat has any aquatic invasive species within its bilge, livewell, motorwell or other interior location.

(3) The State Fish and Wildlife Commission, in consultation with the State Department of Agriculture, by rule may allow the presence of certain aquatic species on or within a boat for activities including but not limited to hunting and photography.

(4) The State Marine Board shall provide information to the public about any rules adopted under subsection (3) of this section.

[2009 c.303 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.565 - Permit required.**

A person may not operate a sailboat that is at least 12 feet in length or a motorboat on the waters of this state without first obtaining an aquatic invasive species prevention permit from the State Marine Board under ORS 830.570. [2009 c.764 §7; 2019 c.507 §12]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.570 - Board to issue permit; fees.**

(1) The State Marine Board shall issue an aquatic invasive species prevention permit to, or renew the permit of, a person who pays the fee for the permit described in ORS 830.575.

(2) The board may appoint agents to issue aquatic invasive species prevention permits.

(3) Agents shall issue permits in accordance with procedures prescribed by the board by rule and shall charge and collect the aquatic invasive species prevention permit fees prescribed by law.

(4) The board may authorize an agent other than a board employee to charge a service fee of \$2, in addition to the permit fee, for the issuance service performed by the agent.

(5) The board may supply the agents with aquatic invasive species prevention permits. [2009 c.764 §8; 2019 c.154 §4; 2019 c.507 §13]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.575 - Annual fee for permit.**

(1) Notwithstanding ORS 830.790 (3), the annual fee for issuance and renewal of an aquatic invasive species prevention permit for a sailboat that is at least 12 feet in length and not registered in Oregon or a motorboat that is not registered in Oregon is \$20.

(2) All fees collected under this section shall be deposited into the Aquatic Invasive Species Prevention Fund established under ORS 830.585. [2009 c.764 §9; 2019 c.154 §5; 2019 c.389 §5; 2019 c.507 §14c]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.580 - Rules.**

The State Marine Board shall adopt rules for the implementation and administration of ORS 830.565 to 830.575, including but not limited to the exemption of certain boats from the requirements of ORS 830.565 and the method for displaying an aquatic invasive species prevention permit. [2009 c.764 §10; 2019 c.154 §6]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.585 - Aquatic Invasive Species Prevention Fund; uses of fund.**

(1) The Aquatic Invasive Species Prevention Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Aquatic Invasive Species Prevention Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Marine Board.

(2)(a) The fund consists of:

(A) Moneys deposited into the fund under ORS 830.575;

(B) Moneys transferred to the fund from the federal government, other state agencies or local governments;

(C) Any other moneys appropriated to the fund by the Legislative Assembly; and

(D) Moneys deposited into the fund under paragraph (b) of this subsection.

(b) The board may receive gifts, grants or contributions from any source, whether public or private. Moneys received under this paragraph shall be deposited into the fund.

(3) The board may use the moneys in the fund:

- (a) To pay the administrative costs of the aquatic invasive species prevention permit program;
- (b) To award grants and enter into grant agreements to prevent and control aquatic invasive species; and
- (c) For any other purpose of the board as described in ORS 830.565 to 830.575, 830.589 and 830.594. [2009 c.764 §11; 2019 c.154 §8]

Note:

830.585 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.587 - Definitions for ORS 830.589, 830.591, 830.594, 830.998 and 830.999.**

As used in ORS 830.589, 830.591, 830.594, 830.998 and 830.999.

- (1) "Aquatic invasive species" means any aquatic species of wildlife or any freshwater or marine invertebrate the State Fish and Wildlife Commission identifies as a prohibited species by rule, or any aquatic noxious weeds as specified by the State Department of Agriculture by rule.
- (2) "Recreational or commercial watercraft" means any boat, any equipment used to transport a boat and any auxiliary equipment for a boat, including but not limited to attached or detached outboard motors. [Formerly 570.850; 2019 c.154 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.589 - Watercraft check stations; rules; penalty.**

- (1) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may require a person transporting a recreational or commercial watercraft to stop at a check station to inspect the watercraft for the presence of aquatic invasive species. The purpose of the administrative search authorized under this section is to prevent and limit the spread of aquatic invasive species within Oregon.
- (2)(a) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may decontaminate, or order the decontamination of, any recreational or commercial watercraft that the agency inspects at a check station operated under authority of this section. If the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture orders decontamination, the person transporting the watercraft shall cooperate with the agency to complete the decontamination.
- (b) Failure to cooperate with the ordered decontamination process is subject to penalties under ORS 830.998.
- (3) All check stations operated under authority of this section must be plainly marked by signs that comply with all state and federal laws and must be staffed by at least one uniformed employee of the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture trained in inspection and decontamination of recreational or commercial watercraft.
- (4) An agency that operates a check station under this section shall require all persons transporting recreational or commercial watercraft to stop at the check station, and the agency shall inspect every recreational or commercial watercraft that goes through the check station.
- (5) Notwithstanding ORS 496.992, a person transporting a recreational or commercial watercraft who stops at a check station for inspection and who cooperates in the decontamination process is not subject to criminal sanctions for possessing or transporting aquatic invasive species.
- (6) The State Department of Fish and Wildlife, the State Marine Board and the State Department of Agriculture may adopt rules to carry out the provisions of this section. [Formerly 570.855; 2019 c.154 §10]

Note:

See note under 830.587.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.591 - Request to proceed to nearest station; penalty.**

- (1) When a peace officer stops a person transporting a recreational or commercial watercraft for failing to stop at an aquatic invasive species check station as required under ORS 830.589, the peace officer may request that the person immediately drive to the nearest aquatic invasive species check station and have the watercraft inspected and, if needed, decontaminated, provided that:
  - (a) The peace officer has probable cause that the person violated ORS 830.589 by failing to stop at an aquatic invasive species check station; and
  - (b) An aquatic invasive species check station is open within five miles of the location of the stop.
- (2) When it is necessary for the person to reverse direction in order to proceed to the nearest aquatic invasive species check station, the peace officer may assist the driver of the vehicle so that the turning movement can be made safely.
- (3) Failure to comply with a peace officer's request to proceed to the nearest aquatic invasive species check station under subsection (1) of this section is subject to criminal penalties under ORS 830.990. [2019 c.154 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.594 - Report of prevention efforts.**

(1) The State Department of Fish and Wildlife, after consultation with the State Marine Board, the State Department of Agriculture and the Department of State Police, shall report biennially to the Legislative Assembly on efforts to prevent aquatic invasive species from entering this state and may include in the report suggested legislation necessary to more effectively prevent aquatic invasive species from entering this state.

(2) Reports to the Legislative Assembly required under this section must be made in accordance with ORS 192.245. [Formerly 570.860]

Note:

See note under 830.587.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.600 - Applicability of boating laws to seaplanes.**

The provisions of ORS 830.172, 830.200, 830.210 to 830.240, 830.245, 830.250, 830.260, 830.270, 830.375, 830.410, 830.415, 830.420, 830.425, 830.430 to 830.465, 830.700 to 830.870 and 830.880 to 830.895 do not apply to seaplanes as defined in ORS 835.200. [1995 c.655 §3; 1999 c.692 §11; 2019 c.155 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.605 - State Marine Board and Oregon Department of Aviation to distribute information on regulation of seaplanes.**

(1) The State Marine Board and the Oregon Department of Aviation shall cooperate to publish and distribute information concerning laws, rules and regulations that govern seaplane safety and operations in Oregon.

(2) As used in this section, "seaplane" has the meaning given that term in ORS 835.200. [1995 c.655 §5; 2001 c.104 §316; 2005 c.22 §518]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.615 - Waterway Access Fund.**

(1) The Waterway Access Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Waterway Access Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Marine Board to carry out the provisions of ORS 830.615 to 830.630.

(2)(a) The fund consists of:

(A) Moneys deposited into the fund under ORS 830.627.

(B) Moneys received under paragraph (b) of this subsection.

(C) Any other moneys appropriated to the fund by the Legislative Assembly.

(b) The board may receive gifts, grants or contributions from any source, whether public or private. Moneys received under this paragraph shall be deposited into the fund.

(3) The board may use the moneys in the fund:

(a) To award grants as provided in ORS 830.618 and 830.621.

(b) For any other purpose described in ORS 830.615 to 830.630. [2019 c.507 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.618 - Grants for nonmotorized boat waterway access; rules.**

(1) As used in this section, "public body" has the meaning given that term in ORS 174.109.

(2) The State Marine Board may award grants under this section to public bodies, federally recognized Indian tribes in Oregon and federal agencies for the purposes of assisting with:

(a) The purchase of real property, leases or easements in order to provide access to public waterways.

(b) The construction, renovation, expansion or development of public boating facilities, including but not limited to public access to waterways and public sanitation facilities.

(c) The construction, renovation, expansion or development of public play parks for nonmotorized boat use, such as whitewater parks and competition courses.

(3) For the purpose of awarding grants under this section, the board shall develop a priority list, giving highest priority to:

(a) Projects that serve nonmotorized boat users; and

(b) Public boating facilities that are determined by the board to have the greatest need for construction, renovation, expansion or development.

(4) The board shall adopt rules for implementing the grant program described in this section. [2019 c.507 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.621 - Grants for boating safety education, boating equipment and waterway access to underserved communities; rules.**

(1) As used in this section:

- (a) "Nonprofit organization" means an organization described in section 501(c)(3) or (4) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.
- (b) "Public body" has the meaning given that term in ORS 174.109.
- (2) The State Marine Board may award, from moneys in the Waterway Access Fund established under ORS 830.615 and the Boating Safety, Law Enforcement and Facility Account established under ORS 830.140, grants to public bodies, federally recognized Indian tribes in Oregon, private entities and nonprofit organizations, for the purposes of:
- (a) Improving boating safety education; and
- (b) Providing waterway access to underserved communities, as described by the board by rule.
- (3) Grants may be awarded under this section to assist in paying for costs incurred to:
- (a) Provide boating safety education;
- (b) Purchase boating equipment; or
- (c) Provide waterway access to underserved communities.
- (4) The board shall adopt rules to implement the grant program described in this section. [2019 c.507 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.624 - Permit requirements for person 14 years of age or older; exceptions; rules.**

- (1) Except as provided in subsections (3) and (4) of this section, a person 14 years of age or older shall carry a waterway access permit while operating a nonmotorized boat that is at least 10 feet in length or a sailboat that is at least 10 feet but less than 12 feet in length, in the manner provided by the State Marine Board by rule. The person shall present proof of a permit upon request by a peace officer.
- (2) A waterway access permit under this section is transferrable to any nonmotorized boat that is at least 10 feet in length or a sailboat that is at least 10 feet but less than 12 feet in length.
- (3) Subsection (1) of this section does not apply to:
- (a) Days that the board designates, by rule, as free boating days and on which the board allows individuals to operate a boat described in subsection (1) of this section without holding an otherwise required waterway access permit.
- (b) A person operating a boat owned by an operator of a boat livery if the operator of a boat livery displays proof of holding a waterway access permit according to rules adopted by the board.
- (c) A person operating a boat on a federally designated wild and scenic river for which a separate fee system is in place.
- (d) A person operating a boat if the person is engaged in law enforcement, public safety or official business of a federal, state or municipal agency, as defined by the board by rule.
- (e) A resident of a bordering state who launches a boat from that bordering state into bordering waters, as defined by the board by rule.
- (f) A person operating a boat if the person holds a nonmotorized boating permit, a registration or a similar authorization that is issued by another state and accepted by the board by rule.
- (g) A person who is a member of a federally recognized Indian tribe in this state and who is engaged in tribal fishing or a tribal ceremony.
- (4) The board may adopt rules that provide additional exemptions from the requirement to obtain a permit under subsection (1) of this section. [2019 c.507 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.627 - Fees for issuance of permit.**

- (1) Notwithstanding ORS 830.790 (3), fees for issuance of a waterway access permit are as follows:
- (a) \$5 for a one-week permit.
- (b) \$17 for an annual permit.
- (c) \$30 for a biennial permit.
- (d) The annual fee for an operator of a boat livery that offers nonmotorized boats at least 10 feet in length or sailboats at least 10 feet but less than 12 feet in length is:
- (A) \$90 for an operator who owns 6 to 10 nonmotorized boats or sailboats.
- (B) \$165 for an operator who owns 11 to 20 nonmotorized boats or sailboats.
- (C) \$300 for an operator who owns 21 or more nonmotorized boats or sailboats.
- (2) The State Marine Board shall deposit fees received under this section into the Waterway Access Fund established under ORS 830.615 as follows:
- (a) \$4 for every one-week permit fee paid.
- (b) \$12 for every annual permit fee paid.
- (c) \$20 for every biennial permit fee paid.
- (d) \$60 for every permit fee paid by an operator of a boat livery who owns 6 to 10 nonmotorized boats or sailboats.
- (e) \$110 for every permit fee paid by an operator of a boat livery who owns 11 to 20 nonmotorized boats or sailboats.
- (f) \$200 for every permit fee paid by an operator of a boat livery who owns 21 or more nonmotorized boats or sailboats.
- (3) The board shall deposit fees received under this section into the Aquatic Invasive Species Prevention Fund established under

ORS 830.585 as follows:

- (a) \$1 for every one-week permit fee paid.
- (b) \$5 for every annual permit fee paid.
- (c) \$10 for every biennial permit fee paid.
- (d) \$30 for every permit fee paid by an operator of a boat livery who owns 6 to 10 nonmotorized boats or sailboats.
- (e) \$55 for every permit fee paid by an operator of a boat livery who owns 11 to 20 nonmotorized boats or sailboats.
- (f) \$100 for every permit fee paid by an operator of a boat livery who owns 21 or more nonmotorized boats or sailboats. [2019 c.507 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.630 - Issuance of permits; agents.**

- (1) The State Marine Board shall issue a waterway access permit to a person who pays the fee for the permit described in ORS 830.627.
- (2) The board may appoint agents to issue waterway access permits.
- (3) Agents shall issue waterway access permits in accordance with procedures prescribed by the board by rule and shall charge and collect the waterway access permit fees described in ORS 830.627.
- (4) The board may authorize an agent who is not a board employee to charge a service fee of \$2, in addition to the waterway access permit fee, for the issuance service performed by the agent.
- (5) The board may supply the agents with waterway access permits, if applicable. [2019 c.507 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.640 - Towed watersports program.**

- (1) There is created within the State Marine Board a towed watersports program.
- (2) The program shall:
  - (a) Provide towed watersports safety education;
  - (b) Issue and renew towed watersports endorsements;
  - (c) Issue and renew towed watersports motorboat certificates in the form of decals;
  - (d) Develop and promote towed watersports safety promotions, best practices and public education;
  - (e) Address wave energy management techniques and operator responsibilities for accident and property damage prevention; and
  - (f) Compile information regarding the make, model, length, dry gross weight and maximum factory ballast capacity specifications of motor boats for which the towed watersports motorboat decal was issued.
- (3) In establishing towed watersports safety education as part of the towed watersports endorsement, the board shall:
  - (a) Set a minimum standard of competency. The board may review and update the minimum standard of competency as necessary.
  - (b) Create a towed watersports endorsement course and towed watersports endorsement examination designed to educate and test for the minimum standard of competency under paragraph (a) of this subsection.
  - (c) Create an equivalency examination that may substitute for taking the towed watersports endorsement course.
  - (d) Allow use of commercially provided towed watersports endorsement courses provided the courses meet the standard adopted by the board.
- (e) Establish a fee under ORS 830.646 for the issuance and renewal of towed watersports endorsements. [2019 c.651 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.643 - Towed watersports endorsement and certificate; issuance; fees; rules.**

- (1) A person may obtain a towed watersports endorsement if:
  - (a)(A) The person is a resident of this state and the person holds a boating safety education card issued under ORS 830.086; or
  - (B) The person is not a resident of this state and the person holds a current out-of-state boating certificate;
  - (b) The person passes the towed watersports endorsement examination, or the equivalency examination, as described in ORS 830.640;
  - (c) The person pays the fee established by the State Marine Board under ORS 830.646; and
  - (d) The person provides any other information required by the board by rule.
- (2) A person may obtain a towed watersports motorboat certificate if the person is the owner of a registered motorboat and:
  - (a) The person holds a towed watersports endorsement issued under this section;
  - (b) The maximum loading weight of the motorboat is less than 5,500 pounds, which is the sum of the factory-specified dry gross weight of the motorboat and the factory-specified maximum factory ballast capacity of the motorboat;
  - (c) The person provides the board with information regarding the motorboat's make, model, length, dry gross weight and maximum factory ballast capacity specifications as listed by the manufacturer; and
  - (d) The person provides any other information required by the board by rule.
- (3) A towed watersports endorsement and towed watersports motorboat certificate issued under this section starts on the day the endorsement or certificate is issued and expires on December 31 of the last year in the two-year period.
- (4) A person issued a towed watersports endorsement or towed watersports motorboat certificate under this section may renew the

endorsement or certificate by:

- (a) Paying the towed watersports endorsement renewal fee established under ORS 830.646; and
- (b) Completing an application in the form and manner required by the board by rule.
- (5) The board shall issue a towed watersports motorboat certificate in the form of a decal. The decal must be affixed to the forward portion of the motorboat, visible above the waterline and in accordance with rules adopted by the board.
- (6) The board may appoint agents to issue towed watersports endorsements and towed watersports motorboat certificates.
- (7) Agents shall issue towed watersports endorsements and towed watersports motorboat certificates in accordance with procedures prescribed by the board by rule and shall charge and collect the endorsement fees prescribed by law.
- (8) The board may authorize an agent other than a board employee to charge a service fee of \$2, in addition to the towed watersports endorsement fee, for the issuance service performed by the agent.
- (9) The board shall supply the agents with towed watersports endorsements and towed watersports motorboat certificates, if applicable. [2019 c.651 §3; 2022 c.119 §1]

Note:

Section 4, chapter 119, Oregon Laws 2022, provides:

Sec. 4.

(1) The State Marine Board may conduct a study on increasing or decreasing the maximum loading weight prescribed in ORS 830.643. If the board undertakes a study, the board shall determine on the basis of objective, peer-reviewed scientific research whether increasing or decreasing the maximum loading weight is likely to:

- (a) Have an adverse effect on the waters, beds and banks of this state;
- (b) Have an adverse effect on aquatic, nearshore and shoreline habitats, fish and wildlife habitats and salmonid habitats; or
- (c) Exceed or violate state or federal turbidity limits.

(2) Before making a determination, the board shall consult with and receive comments from the Department of State Lands, the State Department of Fish and Wildlife and the Department of Environmental Quality.

(3) If the board undertakes a study under this section, the board shall report to the interim committees of the Legislative Assembly related to the environment, in the manner provided in ORS 192.245, on the board's research, findings, determinations and recommendations, including recommendations for legislative changes, if any. [2022 c.119 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.646 - Fees; rules.**

- (1) The State Marine Board, by rule, shall establish and collect issuance and renewal fees for towed watersports endorsements.
- (2) The amount of the fees may not exceed the amount to register a motorboat that is 20 feet in length.
- (3) The fees collected shall be used:
  - (a) To cover the costs of administering and implementing the towed watersports program; and
  - (b) To assist with paying the costs of law enforcement activities related to towed watersports on waters of this state described in ORS 830.649. The board shall determine the amount required for law enforcement activities and the intervals at which the moneys shall be deposited into the Boating Safety, Law Enforcement and Facility Account established under ORS 830.140. [2019 c.651 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.649 - Newberg Pool Congested Zone.**

(1) As used in this section:

- (a) "Newberg Pool Congested Zone" means the portion of the Willamette River beginning at Willamette Falls, river mile 26.6, and ending at the mouth of the Yamhill River, river mile 55.
- (b) "Towed watersports" has the meaning given that term by the State Marine Board by rule, but does not include wake surfing.
- (c) "Wake surfing" means the activity of propelling an individual forward on equipment similar to a surfboard, using a boat's wake. The person may be holding a rope or free riding. Equipment used in this activity may include but is not limited to wake surf boards, wake boards, stand up paddleboards and hydrofoils.

(2) Subject to subsection (5) of this section, a person shall carry a towed watersports endorsement if the person is:

- (a) Engaged in towed watersports; and
- (b) On waters within the Newberg Pool Congested Zone.
- (3) The owner of a motorboat shall display a towed watersports motorboat certificate decal if the motorboat is engaged in towed watersports within the Newberg Pool Congested Zone.
- (4) The person shall present proof of a towed watersports endorsement and towed watersports motorboat certificate upon request by a peace officer.
- (5) Within the Newberg Pool Congested Zone, a person may not:
  - (a) Use devices or individuals to increase wakes; and
  - (b) Engage in wake surfing. [2019 c.651 §5; 2022 c.119 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.652 - Additional penalties for violations occurring within Newberg Pool Congested Zone.**

- (1) As used in this section, "Newberg Pool Congested Zone" means the portion of the Willamette River beginning at Willamette Falls, river mile 26.6 and ending at the mouth of the Yamhill River, river mile 55.
- (2) Subject to subsection (3) of this section, the court shall, in addition to the penalties imposed under ORS 830.990 for the offenses listed in subsection (3) of this section:
- (a) Order the person not to operate a boat for a period of one year after the date of conviction; and
- (b) Order the person to complete a boating safety course approved by the State Marine Board.
- (3) Subsection (2) of this section applies when:
- (a) The peace officer who issued the citation notes on the citation that the offense occurred within the Newberg Pool Congested Zone; and
- (b) The person has at least one prior conviction for violating any of the following statutes within a three-year period preceding the date of the person's current conviction and the prior offense also occurred within the Newberg Pool Congested Zone:
- (A) ORS 830.305.
- (B) ORS 830.315.
- (C) ORS 830.335.
- (D) ORS 830.340.
- (E) ORS 830.345.
- (F) ORS 830.355.
- (G) ORS 830.360.
- (H) ORS 830.362.
- (I) ORS 830.365. [2019 c.651 §8; 2022 c.119 §3]

Note:

830.652 and 830.655 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.655 - Suspension.**

- (1) Upon conviction for an offense listed in ORS 830.652, a court shall issue a notice of suspension to the State Marine Board.
- (2) After receiving the notice of suspension, the board shall suspend for a period of one year from the date of conviction the person's:
- (a) Towed watersports endorsement; and
- (b) Towed watersports motorboat certificate. [2019 c.651 §9]

Note:

See note under 830.652.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.700 - Definitions for ORS 830.060 to 830.140 and 830.700 to 830.870.**

As used in ORS 830.060 to 830.140, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870, unless the context requires otherwise:

- (1) "Boat" means every description of watercraft used or capable of being used as a means of transportation on the water, but does not include aircraft equipped to land on water, boathouses, floating homes, air mattresses, beach and water toys or single inner tubes.
- (2) "Boathouse" means a covered structure on floats or piles used for the protected moorage of boats.
- (3) "Dealer" means a person who engages wholly or in part in the business of buying, selling or exchanging boats, floating homes or boathouses, either outright or on conditional sale, bailment lease, chattel mortgage or otherwise.
- (4) "Floating home" means a moored structure that is secured to a pier or pilings and is used primarily as a domicile and not as a boat.
- (5) "Operate" means to navigate or otherwise use a boat on water.
- (6) "Owner" means a person or persons who have a property interest other than a security interest in a boat, floating home or boathouse and the right of use or possession of the boat, floating house or boathouse, but does not include a lessee.
- (7) "Ownership" means a property interest other than a security interest.
- (8) "Security interest" means an interest reserved or created by agreement which secures payment or performance of an obligation as more particularly defined by ORS 71.2010 (2)(ii).
- (9) "State of principal use" means the state on whose waters a boat is used or to be used during most of a calendar year. [Formerly 488.705; 1999 c.59 §251; 2009 c.181 §110]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.705 - Applicability of numbering, title and license requirements.**

- (1) This section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 do not apply to:
- (a) A boat which has a valid marine document issued by the United States Coast Guard or any federal agency which succeeds to the duty of issuing marine documents.

- (b) Foreign boats operated only temporarily in the waters of this state.
  - (c) A boat owned and operated by the United States or a state or by an entity or political subdivision of the United States or a state, except recreational type public vessels.
  - (d) A ship's lifeboat used solely for lifesaving purposes.
  - (e) A boat belonging to a class of boats which has been exempted from the provisions of this section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 by the State Marine Board as provided in ORS 830.110 (9).
  - (f) A boat already covered by a number in full force and effect which has been issued to it pursuant to federal laws or a federally approved numbering system of another state; provided that such boat shall not have been within this state for a period in excess of 60 consecutive days.
- (2) This section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 do apply to all boats other than boats described in subsection (1) of this section which are propelled by machinery, whether or not the machinery is the principal source of propulsion and to sailboats which are 12 feet or more in length.
- (3) This section and ORS 830.300 and 830.710 to 830.870 do not apply to any vessel for which a charter boat license has been issued and for which the fee has been paid as provided in ORS 830.440. [Formerly 488.715; 1993 c.18 §173; 2013 c.146 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.710 - Report of transfer, abandonment or destruction of boat, boathouse or floating home or change of address of owner.**

- (1) Within 30 days after the transfer of all or any part of the interest of the owner in a boat, boathouse or floating home, or the abandonment or destruction of a boat, boathouse or floating home, for which a valid identifying number has been awarded by this state, the owner shall notify the State Marine Board of the transfer of interest, destruction or abandonment.
- (2) Within 30 days after any change in the address of the owner, the owner of a boat, boathouse or floating home for which a valid identifying number has been awarded by this state shall report the change to the board. [Formerly 488.750]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.715 - Record of certificates and numbers; fees for furnishing information.**

The State Marine Board shall keep a current record of outstanding certificates of title, certificates of number and registration and recorded numbers, which shall be a public record open to inspection by the public during reasonable office hours. However, the board may charge a reasonable fee for furnishing information concerning a boat, boathouse or floating home or its owner. [Formerly 488.810]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.720 - Cancellation of title upon scrapping of boat, boathouse or floating home.**

- (1) An owner who scraps, dismantles or destroys a boat, boathouse or floating home and a person who purchases a boat, boathouse or floating home as scrap or to be dismantled or destroyed shall immediately cause the certificate of title to be mailed or delivered to the State Marine Board for cancellation.
- (2) Upon the destruction of the certificate of title record of any boat, boathouse or floating home, the board shall maintain a file disclosing the last owner and security interest holders, if any, of the boat, boathouse or floating home as shown by the destroyed certificate of title record. [Formerly 488.774]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.725 - Distribution of lists of owners.**

The State Marine Board may publish and distribute to the sheriff, county assessor and county clerk of each county, the U. S. Coast Guard, Department of State Police and other interested agencies current lists of the names and addresses of boat, boathouse or floating home owners to whom valid, effective identifying numbers have been issued. The lists, if published, shall be arranged both alphabetically by the name of the owner and numerically by the identifying numbers. [Formerly 488.815]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.730 - False information prohibited.**

No person shall give any false statement or information or assist another to give any false statement or information in any application, notice, statement or report to a peace officer or the State Marine Board. [Formerly 488.820; 1999 c.391 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.740 - Perfection of security interest in boats, boathouses and floating homes covered by certificate of title; applicability of Uniform Commercial Code.**

- (1) Except as provided in subsection (2) of this section, the exclusive means of perfecting a security interest in a boat, boathouse or floating home covered by a certificate of title is by application for and notation of the security interest on the certificate of title in accordance with the provisions of ORS 830.720, 830.740 to 830.755, 830.785, 830.810, 830.850 and 830.855. The security interest



remains effective until released or terminated by the secured party.

(2) A security interest may not be perfected by notation of the security interest on the certificate of title if the debtor who granted the security interest is in the business of selling boats, boathouses or floating homes, and the boat, boathouse or floating home constitutes inventory held for sale or lease or the boat, boathouse or floating home is leased by the debtor as lessor. The filing provisions of ORS 79.0501 to 79.0528 shall apply to security interests in such boats, boathouses or floating homes.

(3) The rights and remedies of all persons in boats, boathouses and floating homes covered by this section shall be determined by the provisions of the Uniform Commercial Code. [Formerly 488.763; 2001 c.445 §185]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.745 - Notation on title of creation, satisfaction or assignment of security interest; fee.**

(1) In the event of the creation of a security interest in a boat, boathouse or floating home for which a certificate of title has been issued, the owner shall sign in an application space provided on the back and deliver the certificate of title to the person in whom the security interest was created, who shall, within 10 days thereof, present the certificate to the State Marine Board, with the name of the owner shown thereon. In the event a prior security interest holder is in possession of the certificate of title, the owner shall sign and may arrange for direct delivery by the prior security interest holder to the board. The board, upon payment of the required fee, shall issue a new certificate of title, note the change upon the records in order of priority and mail the certificate to the security interest holder first named on the certificate.

(2) Upon satisfaction of a security interest in a boat, boathouse or floating home for which a certificate of title has been issued, the security interest holder affected, if the holder is in possession of the certificate of title, shall sign a release on the certificate of title and deliver it to the security interest holder next named, if any, or if none, to the owner. In the event the security interest holder affected is not in possession of the certificate of title, the holder shall execute a release of interest to the person entitled thereto who shall promptly deliver it to the holder of the certificate of title. Within 10 days after the delivery of the certificate of title or release, the holder shall present the certificate of title and release, if any, to the board. Upon payment of the required fee, the board thereupon shall note the change upon its records and issue a new certificate of title to the first security interest holder then named, if any, otherwise to the owner.

(3) A security interest holder may without the consent of the owner assign interest in a boat, boathouse or floating home to a person other than the owner without affecting the interest of the owner or the validity or priority of the interest but a person without notice of the assignment is protected in dealing with the security interest holder until the assignee is named as security interest holder on the certificate. The assignee may have the certificate of title issued with the assignee named as security interest holder upon delivery to the board of the certificate with the signature of the assignor releasing interest together with the required fee. [Formerly 488.766]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.750 - Transfer of title subject to security interest; dealer transferees; fee.**

(1) If an owner transfers interest in a boat, boathouse or floating home for which an Oregon certificate of title has been issued, other than by the creation of a security interest as provided by ORS 830.745, the owner shall, with the signed consent of the security interest holder shown on the face of the certificate of title, indorse on the back of the certificate an assignment thereof, with warranty of title in a form printed thereon and a statement of all unsatisfied security interests shown on the face of the certificate. Except as provided in subsection (2) of this section, the transferee shall sign the certificate in an application space provided thereon, and shall indicate any new security interests in order of priority. The transferee or holder of the certificate shall, within 10 days after the transfer, present the certificate accompanied by the required fee to the State Marine Board, whereupon a new certificate of number or registration shall be issued and delivered to the transferee and a new certificate of title shall be issued to the transferee, and delivered to the first security interest holder in order of priority, if any, or if none, to the transferee.

(2) If the transferee is a dealer who purchases the boat, boathouse or floating home for resale, the transferor shall merely indorse the certificate of title, and the dealer shall not be required to present the certificate of title to the board until the dealer transfers the boat, boathouse or floating home. However, the dealer shall notify immediately the board that the boat, boathouse or floating home has been transferred to the dealer. Upon the transfer of the boat, boathouse or floating home by the dealer, the dealer shall deliver to the transferee the assigned certificate of title received by the dealer. The transferee, unless a dealer purchasing the boat, boathouse or floating home for resale, shall sign the certificate and complete it in the manner provided in subsection (1) of this section, whereupon the board shall issue and deliver a new certificate of number or registration and a new certificate of title in the manner provided in subsection (1) of this section. [Formerly 488.768]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.755 - Transfer by operation of law of title subject to security interest; fee.**

(1) In the event of the transfer by operation of law of the interest of an owner or security interest holder in a boat, boathouse or floating home for which an Oregon certificate of title has been issued, the certificate of title, if available, shall be signed upon the reverse side by the executor, administrator, receiver, trustee, sheriff or other representative or successor in interest of the person whose interest is so transferred in lieu of the person. The representative or successor shall file with the State Marine Board a notice of any transfer of the boat, boathouse or floating home by the representative or successor, together with evidence satisfactory to the board of all facts entitling the representative or successor to make the transfer. Upon the receipt of satisfactory evidence of the facts,

and the required fee, the board shall issue a new certificate of title and a certificate of number or registration. If a boat, boathouse or floating home is repossessed, satisfactory evidence must be presented to the board that the security interest holder has given at least 10 days' notice to the owner of the boat, boathouse or floating home, by registered mail or by certified mail with return receipt at the last-known post-office address of the owner the security interest holder's intention to apply for a certificate of title.

(2) As used in subsection (1) of this section, a transfer by operation of law includes inheritance, devise, bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performance of the terms of a security agreement, or any transfers effected other than by the voluntary act of the person whose interest is transferred. [Formerly 488.772; 1991 c.249 §74]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.770 - Certificate of number required on boat; exceptions.**

(1) A person may not operate a boat on the waters of this state, and an owner of a boat may not knowingly allow another person to operate the owner's boat on the waters of this state, unless:

(a) The owner of the boat holds a valid, effective certificate of number issued in the owner's name as owner:

(A) By this state, as provided in ORS 830.060 to 830.140 and 830.700 to 830.870;

(B) By an agency of the federal government; or

(C) By the state of principal use which issued the certificate of number under a federally approved numbering system.

(b) The certificate of number is carried on the boat, except as provided in subsection (2) of this section.

(2) Persons renting a boat from an operator of a boat livery are not required to carry the certificate of number on the boat, provided:

(a) The operator of the boat livery retains the certificate of number at the livery office for immediate inspection by a peace officer;

(b) The boat is clearly marked and identified as a livery boat; and

(c) The boat operator has a signed rental or lease agreement containing the boat's identifying number and the period of time for which the boat is rented or leased. [Formerly 488.720; 2003 c.14 §502; 2019 c.155 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.775 - Operation of certain boats without certificates of registration.**

(1) Notwithstanding the provisions of ORS 830.705, 830.710, 830.770, 830.780 to 830.805 and 830.830 to 830.870, no person shall operate a boat which is not used for commercial purposes and has a valid marine document issued by the United States Coast Guard or any federal agency which succeeds to the duty of issuing marine documents unless:

(a) The owner holds a certificate of registration issued in the name of the owner as owner.

(b) The certificate is carried on the boat.

(c) A decal awarded to the boat is conspicuously displayed.

(2) The State Marine Board shall issue a certificate of registration and a decal that recites its issuance by the board as prescribed by ORS 830.790. [Formerly 488.823; 1993 c.18 §174; 2003 c.455 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.780 - Identifying number on forward half of boat.**

(1) No person shall operate a boat on the waters of this state unless:

(a) There is painted on or attached to each side of the forward half of the boat a valid, effective identifying number awarded to the boat:

(A) By this state;

(B) By an agency of the federal government; or

(C) Subject to the provisions of ORS 830.805, by another state that awards identifying numbers under a federally approved numbering system.

(b) The identifying number described in paragraph (a) of this subsection is painted or attached on each side of the forward half of the vessel in such position as to provide clear legibility for identification. The numbers shall read from left to right and shall be in block characters of good proportion not less than three inches in height. The numbers shall be of a color that will contrast with the color of the background and so maintained as to be clearly visible and legible; i.e., dark letters on a light background, or light letters on a dark background.

(c) No number other than the identifying number described in paragraph (a) of this subsection appears on the forward half of the boat.

(2) No person or dealer shall sell or display for sale a boat previously numbered by this state, by an agency of the federal government or by another state that issued a certificate of number under a federally approved numbering system unless the identifying number appears on each side of the forward half of the boat. [Formerly 488.725; 2003 c.14 §503]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.785 - Application for boat number.**

Subject to the provisions of ORS 830.830, the owner of a boat which is operated principally on the waters of this state shall apply to the State Marine Board for an identifying number. The application shall include the true name of the owner, the residence or

business address of the owner, a description of the boat and any other information required by the board. The application shall be signed by the owner and shall be accompanied by the prescribed fee. [Formerly 488.730]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.790 - Certificate or registration fees.**

- (1) The biennial fee for the original or renewal certificate of number or registration is:
  - (a) \$5 plus \$5.95 per foot, or portion thereof, for all sailboats 12 feet in length or more and for all motorboats.
  - (b) \$6, for boats that are assessed by the Department of Revenue under ORS 308.505 to 308.674.
  - (c) \$6, for amphibious vehicles that are licensed by the Department of Transportation.
- (2) Notwithstanding subsection (1) of this section, no fee is required for boats owned by eleemosynary organizations which are operated primarily as a part of organized activities for the purpose of teaching youths scoutcraft, camping, seamanship, self-reliance, patriotism, courage and kindred virtues.
- (3) Except for the assessment referred to in subsection (1)(b) of this section, the fees provided by this section are in lieu of any other tax or license fee.
- (4) The operator of a boat livery holding five or more boats ready for hire may pay a biennial certificate of number fee of \$90 plus \$10 for each boat instead of the fee otherwise provided in this section.
- (5) For each original or renewal certificate fee collected under subsection (1)(a) of this section, the State Marine Board shall deposit \$5 of the amount collected into the Aquatic Invasive Species Prevention Fund established under ORS 830.585. [Formerly 488.732; 1997 c.432 §1; 2003 c.455 §1; 2015 c.627 §1; 2019 c.389 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.795 - Issuance of certificate of number and validation stickers; stickers placed on boats.**

- (1) Subject to the provisions of ORS 830.800, if the application is in order, the State Marine Board shall issue to the owner a certificate of number which shall state the identifying number awarded to the boat, the name and address of the owner, the description of the boat, the issue date and the expiration date of the certificate of number. The certificate of number shall be pocket size.
- (2) The board shall issue a set of validation stickers bearing the year through which the certificate of number is issued. The stickers shall be placed three inches to the rear of the identifying number placed on the boat as required by ORS 830.780. [Formerly 488.735]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.800 - Expiration of certificate of number; renewal of certificate and stickers.**

- (1) A certificate of number expires on December 31 of the year indicated on the certificate.
- (2) The State Marine Board may require the surrender of the expired certificate of number before issuing a new certificate of number.
- (3) The identifying number awarded to a boat by the board shall remain the same.
- (4) An application for renewal of a certificate of number shall be made in the same manner as provided in ORS 830.785. The application shall be accompanied by the fee prescribed by ORS 830.790. The board shall renew certificates of number and issue validation stickers in the same manner as provided in ORS 830.795. [Formerly 488.740]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.805 - Application by owner having number awarded by federal government or another state.**

The owner of any boat covered by a number in full force and effect which has been issued to it pursuant to the then operative federal law or a federally approved numbering system of another state, shall make application within 10 days after the 60-day reciprocity period provided in ORS 830.705 (1)(f). Such application shall be in a manner pursuant to the procedure required for the issuance of a number in ORS 830.785. [Formerly 488.755]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.810 - Certificate of title; exceptions; rules; application fees; penalty fee.**

- (1) Except as otherwise provided in this subsection, a person may not operate a boat for which an identifying number is required under ORS 830.705, 830.710, 830.770, 830.780 to 830.805 and 830.830 to 830.870, unless the owner has secured from the State Marine Board a certificate of title for the boat. This subsection does not apply to operation of:
  - (a) Amphibious vehicles that have a valid title issued by the Department of Transportation.
  - (b) A boat for which an identifying number issued under ORS 830.830 is required.
- (2) A certificate of title is prima facie evidence of the ownership of a boat or a security interest therein. A certificate of title is good for the life of the boat so long as the certificate is owned or held by the legal holder of the certificate.
- (3) The board may assess the following application fees:
  - (a) Original title or title transfer, \$75.

- (b) Duplicate title, \$25.
- (c) Duplicate certificate of number or registration, \$15.
- (d) Duplicate validation stickers, \$15.
- (4) The board shall establish, by rule, penalty fees for late application for certificates required by this section or ORS 830.710. A penalty fee may not exceed \$50.
- (5) Rules adopted pursuant to this section shall be in accordance with the provisions of ORS chapter 183. [Formerly 488.762; 2003 c.455 §2; 2015 c.627 §2; 2019 c.389 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.815 - Refusal to issue or suspension or cancellation of certificate.**

- (1) The State Marine Board may refuse to issue a certificate of title or a certificate of number or registration if the board determines at any time that an applicant for the certificate has:
  - (a) Given a false statement or false information in applying for the certificate;
  - (b) Otherwise failed to comply with the applicable provisions under ORS 830.060 to 830.140 and 830.700 to 830.870 pertaining to application for certificates; or
  - (c) Been convicted of operating a boat while under the influence of an intoxicating liquor, cannabis, psilocybin, an inhalant or a controlled substance within one year of the date of application or within three years of the date of application if the record of conviction shows that the person willfully refused the request of a peace officer to physically submit to chemical testing of the breath or urine or a nontestimonial field sobriety test pursuant to ORS 830.505 and 830.550.
- (2) After a hearing upon 10 days' notice, the board may cancel a certificate of title or certificate of number or registration if the board determines at any time that an owner, boat manufacturer or dealer named in the certificate:
  - (a) Gave a false statement or false information in applying for the certificate; or
  - (b) Otherwise failed to comply with the applicable provisions under ORS 830.060 to 830.140, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870 pertaining to applications for certificates.
- (3) The board shall automatically suspend the certificate of number for any boat if the board receives notification of a conviction for violation of ORS 830.260 under ORS 830.270. The suspension under this subsection is not subject to hearing. The board shall reinstate a certificate of number suspended under this subsection when the boat owner submits proof satisfactory to the board that the boat has been approved by a person designated by the board as meeting the standards for sound levels established by the board.
- (4) If the board receives notification from any court in this state that any person who is charged with a boating offense and who is the registered owner of the boat has failed to appear as required by law or has failed to comply with the judgment of the sentencing court, the board shall take the following actions:
  - (a) Notify, by certified mail, the registered owner of the boat involved in the offense of the owner's failure to appear or comply with the judgment of the court. The notification shall include a copy of the citation issued to the owner and will inform the owner that the board will suspend the certificate of number for the boat 45 days from the date of the mailing of the notice by the board. The notice shall include a statement that a hearing may be requested in writing within 10 days of the notice. Any hearing requested under this subsection shall be limited to the issue of whether the person is the person who failed to appear or comply with the judgment of the sentencing court.
  - (b) The board shall suspend the certificate of number for the boat involved 45 days after mailing notice of intent to suspend to the owner of the boat unless a hearing has been requested or, within the 45-day notice period, the board receives notice from the court that the owner has appeared in court and is in compliance with any court order entered in the proceeding. Notice from the court may consist of a copy of any receipt or other document issued by the court indicating that the person has appeared and is in compliance with any court order.
  - (c) Upon suspending any certificate of number under this subsection, the board may charge the owner a reinstatement fee sufficient to cover the actual expenses of the board in processing the transactions described in this section. The board shall reinstate any certificate of number suspended under this subsection upon receiving payment of any reinstatement fee and notice from the court that the owner has appeared and fully satisfied the judgment of the court.
- (5) Conviction of operating a boat while under the influence of an intoxicating liquor, cannabis, psilocybin, an inhalant or a controlled substance under ORS 830.325 constitutes grounds for suspension of a person's certificate of number or registration for all boats owned by the person. The following provisions apply to such suspension:
  - (a) Upon receipt of a record of conviction for a violation of ORS 830.325, the board shall notify the convicted person that all certificates of number or registration issued in the person's name are suspended. The notice shall include a statement that a hearing may be requested in writing within 10 days of the notice. Any hearing requested under this subsection shall be limited to the issue of whether the person is the person convicted.
  - (b) The suspension shall be for three years from the date of conviction if the record of conviction shows that the person willfully refused the request of a peace officer to physically submit to chemical testing of the breath or urine or a nontestimonial field sobriety test under ORS 830.505 and 830.550. Otherwise the period of suspension shall be for one year from the date of conviction. [Formerly 488.780; 1991 c.931 §3; 1997 c.48 §1; 1999 c.1051 §94; 2017 c.21 §96; 2019 c.431 §19; 2021 c.253 §22]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small**

**WatercraftSection 830.820 - Duplicate certificates or validation stickers.**

The State Marine Board may issue a duplicate certificate of number or registration, or title, or a duplicate set of validation stickers upon application by the person entitled to hold a certificate or to be in possession of the validation stickers if the board is satisfied that the original certificate or validation stickers have been lost, destroyed or mutilated. [Formerly 488.805; 2003 c.455 §3]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.825 - Hull identification number required.**

(1) No person shall operate a boat on the waters of this state or be in possession of a boat for which the State Marine Board has issued a certificate of boat title unless such boat has a hull identification number that complies with the requirements of this section. Hull identification numbers must be carved, burned, stamped, embossed, clearly imprinted or otherwise permanently affixed to the outboard side of the transom, or if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism above the waterline of the boat in such a way that alteration, removal or replacement would be obvious or evident. No person, firm, association or corporation shall destroy, remove, alter, cover or deface any number awarded to a vessel by the State Marine Board or the manufacturer's hull identification numbers.

(2) The hull identification numbers required under subsection (1) of this section shall comply with the following:

(a) All vessels built after 1984 shall have two identical hull identification numbers permanently affixed and displayed in accordance with federal regulations.

(b) The primary hull identification number shall be affixed to the outboard side of the vessel's transom, on the starboard side, within two inches of the top of the transom, gunwale or hull or deck joint, whichever is lowest, or if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism above the waterline of the boat in such a way that alteration, removal or replacement would be obvious or evident.

(c) A duplicate hull identification number shall be affixed in an unexposed location on the interior of the vessel or beneath a fitting or item of permanent hardware. A hull identification number may not be attached to any part of the vessel that is removable.

(d) A person who builds a vessel for the person's own use and not for the purpose of sale shall request a hull identification number from the State Marine Board and affix the awarded number in accordance with this section. [Formerly 488.778; 1999 c.391 §2]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.830 - Dealer or boat manufacturer number; fee.**

(1) A dealer or boat manufacturer:

(a) May apply to the State Marine Board for one or more identifying numbers issued under this section.

(b) Shall display an identifying number issued under this section on a boat while operating or using the boat for a purpose related to the testing, buying, selling or exchanging of the boat.

(2) The application for a number under this section shall include the name and the business address of the dealer or boat manufacturer. Any number of identifying numbers may be requested in the same application.

(3) An application for a number under this section shall be accompanied by the following fees:

(a) For the first number applied for, \$45.

(b) For each additional number applied for in any application and all renewals, \$10.

(4) The board shall issue a certificate of number or registration for each identifying number awarded under this section in the same manner as provided in ORS 830.795. Numbers and certificates issued under this section are subject to the following:

(a) An identifying number is valid for not more than two years.

(b) A boat may not be described in the certificate and each certificate must state that the identifying number has been awarded to a dealer or boat manufacturer.

(c) A certificate of number issued under this section expires on December 31 of the year indicated on the certificate.

(5) The provisions of ORS 830.800 (2) and (4) apply to a certificate of number issued under this section.

(6) An identifying number issued under this section shall be displayed on a boat of a dealer or boat manufacturer in the same manner as provided in ORS 830.780, except that the number may be temporarily attached.

(7) Unless a person is a dealer or boat manufacturer or a representative of a dealer or boat manufacturer, the person may not display or use an identifying number issued under this section.

(8) A person may not use an identifying number issued under this section for any purpose other than the purpose described in subsection (1) of this section. [Formerly 488.760; 2003 c.14 §504; 2015 c.627 §3]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 830 - Small WatercraftSection 830.850 - Identifying number plate required on floating homes and boathouses; certificate of title required; fee.**

(1) A person may not use a floating home or boathouse on the waters of this state unless there is affixed to the floating home or boathouse in plain sight an identifying plate with a unique number awarded to the floating home or boathouse by this state.

(2) A person may not use a floating home or boathouse for which an identifying plate is required unless the owner has secured from the State Marine Board a certificate of title for the floating home or boathouse. A certificate of title is prima facie evidence of the

ownership of the floating home or boathouse or a security interest therein. A certificate of title is good for the life of the floating home or boathouse so long as the certificate is owned or held by the legal holder of the certificate. The board shall charge a fee of \$100 for issuing each certificate of title. [Formerly 488.718; 2015 c.627 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.855 - Application for floating home or boathouse identifying plate; fee; issuance of certificate of title.**

(1) The owner of a floating home or boathouse that is used principally on the waters of this state shall apply to the State Marine Board for an identifying plate. The application shall include the true name of the owner, the residence or business address of the owner, a description of the floating home or boathouse, the location of the floating home or boathouse and any other information required by the board. The application shall be signed by the owner and be accompanied by a fee of \$50.

(2) Subject to ORS 830.860, if the application is in order, the board shall issue to the owner a certificate of title. The title shall contain the name and address of the owner, a description of the floating home or boathouse, the issue date, the location of the floating home or boathouse and a statement that the title is valid and effective only so long as ownership and location remain the same. [Formerly 488.726; 2015 c.627 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.860 - Validity of certificate of title; new certificates; fee.**

(1) A certificate of title for a floating home or boathouse is valid and effective only as long as ownership and location remain the same.

(2) The State Marine Board shall require the surrender of the certificate of title before issuing a new certificate of title unless the floating home was abandoned by a tenant under ORS chapter 90.

(3) The identifying plate issued by the board shall remain the same when a new certificate of title is issued.

(4) Application for a new certificate of title shall be made in the manner provided in ORS 830.855. The application shall be accompanied by a fee of \$100. The board shall issue the new certificate of title in the manner provided in ORS 830.855. [Formerly 488.727; 1997 c.577 §44; 2015 c.627 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.865 - Rules.**

In accordance with ORS chapter 183, the State Marine Board shall adopt rules necessary to carry out the provisions of ORS 830.850 to 830.860. [Formerly 488.728]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.870 - Duplicate certificate of title; fee.**

Upon receipt of proof satisfactory to the State Marine Board from the holder of a certificate of title issued pursuant to ORS 830.850 to 830.860 that the certificate of title has been lost, mutilated, destroyed or stolen, the board shall issue to the holder a duplicate certificate of title for a fee of \$50. [Formerly 488.720; 2015 c.627 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.875 - Definitions for ORS 830.880 to 830.895.**

As used in ORS 830.880 to 830.895:

(1) "Component" means any severable portion of a boat that possesses or did possess an identification number.

(2) "Identification number" means a distinguishing number assigned to a boat or component by the manufacturer, the State Marine Board or a police agency. [Formerly 488.900]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.880 - Seizure of boats and equipment from which identification number has been removed; inspection of property; check for stolen boats; renumbering.**

(1) When a peace officer discovers a boat or component from which a number awarded by the State Marine Board or the manufacturer's hull identification number assigned to the boat or the component identification number has been removed, defaced, covered, altered or destroyed, the peace officer may seize and hold it for identification and disposal as provided in ORS 830.880 to 830.895.

(2) The police agency having custody of the property shall have a specially qualified inspector or peace officer inspect the property for the purpose of locating the identification number. If the identification number is found it shall be checked with the list of stolen boats maintained by the National Crime Information Center. If the identification number is not found the police agency shall apply to the State Marine Board for renumbering as provided in ORS 830.895. [Formerly 488.905; 1999 c.391 §3; 2001 c.104 §317]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.885 - Return of seized property; investigation to determine ownership; notice to owner.**

- (1) When the property seized under ORS 830.880 is not listed as stolen by the National Crime Information Center and the hull identification number is established the property shall be returned to the person from whom it was seized if:
- (a) The person can establish that the person is the owner of the property; or
  - (b) The person executes a good and valid surety bond in an amount at least equal to the market value of the property and conditioned upon return of the property to the owner, if one can be established. The bond will be for a period of time determined by the State Marine Board.
- (2) If the person to whom the property was returned does not establish that the person is the owner of the property the police agency holding the property shall make reasonable efforts to determine the names and addresses of the owner and all persons of record having an interest in the property. If the police agency is able to determine the names and addresses of the owner and such other persons it shall immediately notify the owner by registered or certified mail of the disposition of the property.
- (3) When the property seized under ORS 830.880 is not listed as stolen by the National Crime Information Center and the hull identification numbers have been removed, altered or defaced and the person from whom the property was seized cannot establish that the person is the owner of the property, the sheriff of the county where the seizure took place shall take custody of the property and sell the property at public auction in the manner provided in ORS 87.192 and 87.196 or dispose of the property in a manner provided by local ordinance. If a bid for the property is not offered at the public auction, the sheriff may destroy or otherwise dispose of the property. [Formerly 488.910; 1999 c.391 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.890 - Public notice to persons having interest in seized property; court action; sale of property at public auction; disposition of proceeds.**

- (1) If the hull or component identification number of property seized pursuant to ORS 830.880 is not established or if the property is reported as stolen by the National Crime Information Center the police agency having custody of the property shall, after making reasonable efforts to ascertain the names and addresses of the owner and all persons of record having an interest in the property, notify the person from whom the property was seized, and the owner and such other persons if they can be ascertained, of their right to respond within 60 days from the issuance of the notice through court action for the return of the seized property. The taking of the property, the description thereof and a statement of the rights of an owner or other persons of record having an interest in the property to respond through court action for the return of the seized property shall be advertised in a daily newspaper published in the city or county where the property was seized, or if a daily newspaper is not published in such city or county, in a newspaper having weekly circulation in the city or county, once a week for two consecutive weeks and by handbills posted in three public places near the place of seizure.
- (2) If court action is not initiated within 60 days from the issuance of notice the property shall be sold at public auction by the sheriff or other local police agency having custody of the property. Property seized and held by or at the direction of the Department of State Police under ORS 830.880 shall be delivered to the sheriff of the county in which the vehicle was located at the time it was taken into custody for sale under this subsection. The sheriff or other local police agency shall, after deducting the expense of keeping the property and the cost of sale, pay all the security interests, according to their priorities which are established by intervention or otherwise at such hearing or in other proceeding brought for that purpose, and shall pay the balance of the proceeds into the general fund of the unit of government employing the officers of the selling police agency. [Formerly 488.915; 1999 c.391 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.895 - Renumbering; inspection requirement.**

- (1) A police agency having custody of a boat or component for which an identification number is not established or a person to whom a boat or component has been returned pursuant to ORS 830.885 shall apply to the State Marine Board for an identification number.
- (2) Except as provided in subsection (1) of this section the board shall not assign an identification number to a boat or component from which the identification number assigned to the boat or component by the board has been removed, defaced, covered, altered or destroyed unless the boat or component has been inspected pursuant to ORS 830.880. [Formerly 488.920]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.908 - Definitions for ORS 830.908 to 830.948.**

As used in ORS 830.908 to 830.948:

- (1) "Abandoned vessel" means a vessel that has been left without authorization on public or private land, the waters of this state, or any other water.
- (2) "Business day" means any day other than a Saturday, a Sunday or a legal holiday as described in ORS 187.010.
- (3) "Derelict vessel" means a vessel that is on the waters of this state and that is:
  - (a) Sunk or in imminent danger of sinking;
  - (b) Obstructing a waterway;
  - (c) Endangering life or property; or
  - (d) In such dilapidated condition that it is in danger of becoming a significant environmental hazard as evidenced by repeated and

documented instances of leaking fuel, sewage or other pollutants.

(4) "Enforcement agency" means a law enforcement agency, a federal agency, the State Marine Board or any other public body, as defined in ORS 174.109, that has responsibility for land or water on which an abandoned vessel or a derelict vessel is located.

(5) "Owner" means a person who has a property interest in a vessel.

(6)(a) "Vessel" means a boat, a boathouse as defined in ORS 830.700, a floating home as defined in ORS 830.700, or any other floating structure that is normally secured to a pier or pilings.

(b) "Vessel" does not include a dock as defined in ORS 307.120. [2013 c.680 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.911 - Authority to seize abandoned vessel or derelict vessel.**

(1) An enforcement agency may seize a vessel as an abandoned vessel if:

(a) The enforcement agency has probable cause to believe the vessel is an abandoned vessel; and

(b) An owner does not move the vessel to a place where the vessel can be lawfully kept within the time specified in the notice given under ORS 830.918, or within such additional time as may be specified in an order issued under ORS 830.936 (6).

(2) An enforcement agency may seize a vessel as a derelict vessel if:

(a) The enforcement agency has probable cause to believe the vessel is a derelict vessel and the enforcement agency documented the facts supporting that belief; and

(b) The owner does not correct the problems identified in the notice given under ORS 830.918 within the time specified in the notice, or within such additional time as may be specified in an order issued under ORS 830.936 (6).

(3) A vessel may be seized as a derelict vessel by reason of an imminent danger of sinking only if the enforcement agency has documented the facts supporting the belief that the vessel is in imminent danger of sinking.

(4) If an enforcement agency has probable cause to believe a vessel is an abandoned vessel or a derelict vessel, the enforcement agency may:

(a) Secure the vessel in such a manner as to prevent harm to life or damage to property or to prevent the vessel from becoming a hazard to navigation.

(b) Take action to mitigate any imminent environmental threat the vessel poses.

(c) Salvage, tow and store the vessel.

(5) If an enforcement agency has probable cause to believe a vessel is an abandoned vessel, the enforcement agency may enter and inspect the interior of the vessel, and objects in plain view within the interior of the vessel, only to the extent necessary to identify the owners of the vessel.

(6) If an enforcement agency has probable cause to believe a vessel is a derelict vessel by reason of endangering life or property, or by reason of being in danger of becoming an environmental hazard, the enforcement agency may enter and inspect the interior of the vessel, objects in plain view within the interior of the vessel, and closed compartments within the interior of the vessel, only to the extent necessary to determine whether the vessel endangers life or property, or is in danger of becoming an environmental hazard.

(7) An Oregon State Police officer, a sheriff, a deputy sheriff or a municipal police officer may enter privately owned land for the purpose of determining whether a vessel is abandoned only with the consent of the landowner. [2013 c.680 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.918 - Preseizure notice.**

(1) Except as provided in ORS 830.923, at least 10 business days before seizing an abandoned vessel or a derelict vessel an enforcement agency shall provide notice by:

(a) Attaching a notice to the vessel;

(b) If the vessel has or had a certificate under ORS 830.770 or 830.775, mailing notice to the persons last shown as owners of the vessel in the records of the State Marine Board; and

(c) Mailing notice to any other person for whom the enforcement agency has obtained a mailing address and who the enforcement agency has reason to believe is an owner of the vessel.

(2) The notice required under this section must include:

(a) The name, address and telephone number of the enforcement agency.

(b) A statement indicating whether the enforcement agency proposes to seize the vessel by reason of being an abandoned vessel, a derelict vessel, or both.

(c) The time by which the owner must act to avoid having the vessel seized.

(d) A statement indicating that if the vessel is seized, the owner will be liable for the costs of salvage, towing and storage of the vessel.

(e) A statement indicating that if the vessel is seized the vessel may be destroyed or sold if the costs of salvage, towing, storage and disposal are not paid.

(f) A statement indicating the owner may request a hearing before the enforcement agency seizes the vessel, and the time and manner in which a request may be made.

(3) In addition to the requirements of subsection (2) of this section, if an enforcement agency proposes to seize a vessel by reason of being an abandoned vessel the notice required by this section must indicate that:



- (a) The vessel will be seized unless the owner moves the vessel to a place where the vessel can be lawfully kept within the time specified in the notice; and
- (b) The owner may be cited for failure to remove an abandoned vessel if the owner fails to move the vessel to a place where the vessel can be lawfully kept within the time specified in the notice.
- (4) In addition to the requirements of subsection (2) of this section, if an enforcement agency proposes to seize a vessel by reason of being a derelict vessel the notice required by this section must indicate:
  - (a) The reason or reasons that the enforcement agency believes that the vessel is a derelict vessel;
  - (b) That the vessel will be seized unless either the problems identified in the notice are remedied within the time specified in the notice; and
  - (c) That the owner may be cited for possession of a derelict vessel if the owner fails to remedy the problems identified in the notice within the time specified in the notice.
- (5) An owner of a vessel may request a hearing before an enforcement agency seizes a vessel under ORS 830.908 to 830.948 by submitting a request for hearing to the enforcement agency not more than 10 business days after the notice required by this section is given. The request must indicate if the owner contends that the vessel is not abandoned or derelict, or indicate such other specific grounds on which seizure of the vessel is challenged. [2013 c.680 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.923 - Seizure without notice.**

- (1) Nothing in ORS 830.908 to 830.948 affects the ability of an enforcement agency to immediately seize without notice a vessel that presents a hazard to navigation or an imminent threat to public health or safety.
- (2) If an enforcement agency seizes without notice a vessel that presents a hazard to navigation or an imminent threat to public health or safety, and the enforcement agency wishes to dispose of the vessel under ORS 830.908 to 830.948, the enforcement agency shall provide notice as described in ORS 830.931. [2013 c.680 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.926**

[2003 c.693 §2; 2013 c.680 §13; renumbered 830.948 in 2013]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.928 - Manner and time of seizure.**

- (1) An enforcement agency may seize an abandoned vessel or a derelict vessel under ORS 830.908 to 830.948 by:
  - (a) Taking physical control of the vessel by towing or other means;
  - (b) Posting a notice on the vessel that indicates that the vessel has been seized, and giving the name, address and telephone number of the enforcement agency; or
  - (c) Marking a sunken vessel with a buoy that has the name and telephone number of the enforcement agency.
- (2) An abandoned vessel or a derelict vessel is considered to have been seized for the purposes of ORS 830.908 to 830.948 at the time the enforcement agency takes physical control of the vessel under subsection (1)(a) of this section, posts a notice on the vessel under subsection (1)(b) of this section or marks the vessel under subsection (1)(c) of this section. [2013 c.680 §5a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.931 - Post-seizure notice.**

- (1) Not more than seven days after an enforcement agency seizes a vessel under ORS 830.908 to 830.948, the enforcement agency shall post notice in the form required by this section on any website maintained by the enforcement agency and mail a copy of the notice to the persons described in ORS 830.918 (1).
- (2) The notice required under this section must include the date by which the costs of salvage, towing and storage must be paid to avoid title to the vessel vesting in the enforcement agency. The date may not be less than 30 days after the date on which the vessel was seized.
- (3) The notice required under this section must include a description of the vessel and of any personal property located on the vessel, and state all of the following:
  - (a) That the vessel has been seized.
  - (b) The time of the seizure.
  - (c) The name, address and telephone number of the enforcement agency.
  - (d) The reason the vessel was seized.
  - (e) That the owners of the vessel are liable for salvage, towing, storage and disposal costs incurred by the enforcement agency by reason of the seizure, and the amount of those costs that have accrued as of the date of the notice.
  - (f) That title to the vessel will vest in the enforcement agency if the costs of salvage, towing and storage are not paid, and the date by which those costs must be paid.
  - (g) That the owner may request a hearing, and the time and manner for requesting a hearing.

- (h) That the owner may challenge the reasonableness of any salvage, towing or storage costs at the hearing.
- (i) That the vessel and its contents may be immediately reclaimed by presenting proof of ownership or right to possession and payment of the costs that have accrued.
- (4) Except as provided in subsection (5) of this section, an owner of a vessel may request a hearing after an enforcement agency seizes a vessel under ORS 830.908 to 830.948 by submitting a written request for hearing to the enforcement agency not more than 10 business days after the notice required by this section is given. The request must include a statement of the specific grounds on which the seizure is challenged, and whether the owner challenges the reasonableness of any salvage, towing or storage costs incurred by the enforcement agency.
- (5) If an owner of a vessel requested a hearing under ORS 830.918 (5), the owner may request a hearing under subsection (4) of this section only for the purpose of challenging the reasonableness of any salvage, towing or storage costs incurred by the enforcement agency. [2013 c.680 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.933 - Reclamation of seized vessel.**

- (1) At any time before the date specified in the notice given pursuant to ORS 830.931 (2), any owner may reclaim the vessel by:
  - (a) Paying all costs incurred by the enforcement agency in salvaging, towing and storing the vessel; and
  - (b) Establishing to the satisfaction of the enforcement agency that the owner is able to move the vessel to a place where the vessel can be lawfully kept.
- (2) If a vessel seized under ORS 830.908 to 830.948 is not reclaimed in the manner provided by this section, title to the vessel and all personal property found in the vessel vests in the enforcement agency, and the enforcement agency may sell or otherwise dispose of the vessel and the property. [2013 c.680 §9]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.936 - Hearing.**

- (1) If an owner of a vessel requests a pre-seizure hearing as provided in ORS 830.918 (5), the enforcement agency may not seize the vessel until after the hearing.
- (2) If an owner of a vessel requests a hearing as provided in ORS 830.918 (5) or 830.931 (4), the enforcement agency shall set a time for the hearing that is no more than seven business days after the enforcement agency receives the request. The enforcement agency shall provide notice of the hearing to the person requesting the hearing, and to all other persons described in ORS 830.918 (1).
- (3) If an owner of a vessel requests a hearing under this section and fails to appear at the hearing, the owner is not entitled to another hearing unless the owner shows good reasons to the enforcement agency for the person's failure to appear.
- (4) An enforcement agency shall conduct a single hearing under this section for all requests for hearing that relate to the same vessel.
- (5) Hearings held under this section may be informal in nature, but the presentation of evidence in a hearing shall be consistent with the standards for presentation of evidence under ORS 183.450.
- (6) If the notice given under ORS 830.918 indicates that the enforcement agency proposes to seize a vessel by reason of being an abandoned vessel, and the owner of a vessel requests a pre-seizure hearing under ORS 830.918 (5), the owner may present a plan of action for moving the vessel to a place where the vessel can be lawfully kept. If the notice given under ORS 830.918 indicates that the enforcement agency proposes to seize a vessel by reason of being a derelict vessel, and the owner of a vessel requests a pre-seizure hearing under ORS 830.918 (5), the owner may present a plan of action for remedying the problems identified in the notice. If the hearing officer approves the plan of action, the hearing officer by order may establish a time for moving the vessel, or remedying the problems, that is later than the time specified in the notice. If the hearing officer issues an order under this subsection, and the owner fails to move the vessel, or to remedy the problems, within the time allowed, the enforcement agency may seize the vessel and take such other action authorized under ORS 830.908 to 830.948 without further notice to the owner or opportunity for hearing except:
  - (a) Giving post-seizure notice under ORS 830.931; and
  - (b) If the owner requests a hearing under ORS 830.918 (5), allowing the owner to challenge the reasonableness of salvage, towing or storage costs as provided under ORS 830.931 (5).
- (7) If the owner of a vessel requests a post-seizure hearing under ORS 830.931 (4) to challenge the reasonableness of costs incurred by the enforcement agency in salvaging, towing or storage of the vessel, costs that were incurred in compliance with laws, ordinances or rules establishing allowable costs for those purposes are reasonable as a matter of law.
- (8) If an enforcement agency determines after a hearing under this section that seizure of the vessel is not warranted under the law, the enforcement agency shall immediately release custody of the vessel to the owner who requested the hearing and may not charge the owner any costs incurred by the agency in salvaging, towing or storage of the vessel.
- (9) If an enforcement agency determines after a hearing under this section that seizure of the vessel is warranted, the enforcement agency shall seize the vessel if the vessel has not already been seized and dispose of the vessel as provided in ORS 830.933.
- (10) An enforcement agency shall mail a written statement of the enforcement agency's determination to all owners who requested a hearing under this section.

(11) The hearing officer at a hearing under this section may be an officer, official or employee of the enforcement agency but may not have participated in any determination or investigation related to seizure of the vessel that is the subject of the hearing.

(12) If the enforcement agency conducting a hearing under this section is a state agency, the determination of the enforcement agency is an order other than a contested case and is subject to review under ORS 183.484. If the enforcement agency conducting a hearing under this section is not a state agency, judicial review of the order is as provided in ORS 34.010 to 34.100. [2013 c.680 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.938 - Liability for costs of salvage, towing and storage.**

(1) Except as otherwise provided in ORS 830.908 to 830.948, the owner of an abandoned vessel or a derelict vessel is liable to an enforcement agency for all costs arising out of salvage, towing, storage and disposal of a vessel seized under ORS 830.908 to 830.948. Any order imposing liability for those costs is subject to judicial review as provided in ORS 830.936 (12).

(2) If an enforcement agency sells a vessel seized under ORS 830.908 to 830.948, the liability imposed under this section shall be reduced by the net proceeds of the sale.

(3) Except for costs of reclaiming a vessel under ORS 830.933 (1), an owner of a vessel whose only interest in the vessel is a security interest is not liable for costs arising out of salvage, towing, storage and disposal of a vessel under ORS 830.908 to 830.948. [2013 c.680 §8]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.940 - Use of contractor.**

An enforcement agency may enter into a contract with any person to carry out the provisions of ORS 830.908 to 830.948 on behalf of the enforcement agency. [2013 c.680 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.944 - Offenses.**

(1) A person commits the offense of failure to remove an abandoned vessel if the person is the owner of an abandoned vessel and, after notice is given under ORS 830.918, the person fails to move the vessel to a place where the vessel can be lawfully kept within the time specified in the notice, or within the time allowed under an order issued under ORS 830.936 (6).

(2) A person commits the offense of possession of a derelict vessel if the person is the owner of a derelict vessel and, after notice is given under ORS 830.918, the person fails to remedy the problems identified in the notice within the time specified in the notice, or within the time allowed under an order issued under ORS 830.936 (6).

(3) An owner of a vessel does not violate this section if the owner's only interest in the vessel is a security interest. [2013 c.680 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.948 - Salvaged Vessel Subaccount; sources; limits; uses.**

(1) The Salvaged Vessel Subaccount is established within the Boating Safety, Law Enforcement and Facility Account created under ORS 830.140. The subaccount shall consist of moneys deposited into the subaccount by the State Marine Board from fees collected pursuant to ORS 830.790 and 830.850. The moneys in the subaccount are continuously appropriated to the board for the purposes specified in this section.

(2) The board may not deposit more than \$150,000 per biennium into the Salvaged Vessel Subaccount and may not retain more than \$150,000 in the subaccount at any time. After the board has deposited \$150,000 into the subaccount under this subsection or any time there is more than \$150,000 in the subaccount, any remaining moneys from fees collected pursuant to ORS 830.790 and 830.850 shall be deposited in the Boating Safety, Law Enforcement and Facility Account.

(3) The board may use the moneys in the Salvaged Vessel Subaccount to pay the expenses of the board in implementing ORS 830.908 to 830.948 that are associated with the salvage, towing, storage and disposal of:

(a) Vessels other than boats that are abandoned vessels or derelict vessels; and

(b) Vessels that are boats of less than 200 gross tons.

(4) The board may use the moneys in the Salvaged Vessel Subaccount to pay an enforcement agency for no more than 90 percent of the costs of salvage, towing, storage and cleanup of an abandoned vessel or a derelict vessel that has or had a certificate under ORS 830.770 or 830.775 and that is:

(a) A boat of less than 200 gross tons; or

(b) Any other abandoned vessel or derelict vessel that is not a boat.

(5) The board may use the moneys in the Salvaged Vessel Subaccount to pay an enforcement agency for no more than 75 percent of the costs of salvage, towing, storage and cleanup of an abandoned vessel or a derelict vessel that has never had a certificate under ORS 830.770 or 830.775 and that is:

(a) A boat of less than 200 gross tons; or

(b) Any other abandoned vessel or derelict vessel that is not a boat.

(6) The board may reimburse an enforcement agency under subsection (4) or (5) of this section for costs associated with an abandoned vessel or a derelict vessel only if the enforcement agency complied with ORS 830.908 to 830.948 in seizing the vessel.

(7) The board may use the moneys in the Salvaged Vessel Subaccount to award grants to the state, a city, a county, a water improvement district, a park and recreation district or a port as provided in ORS 830.150 for the disposal of a vessel that has or had a certificate under ORS 830.770 or 830.775 and that the owner has surrendered to an accepting public agency if:

(a) The public agency has determined that the vessel was in danger of being an abandoned vessel or a derelict vessel and was likely to cause damage to the environment or become a hazard to navigation; and

(b) The decision to accept the vessel was based solely on the public agency's determination under paragraph (a) of this subsection.

(8) The board may recover payments made from the Salvaged Vessel Subaccount from an owner of a vessel who is liable for the costs of salvage, towing, storage and disposal under ORS 830.938. The board shall deposit all funds recovered under this section into the subaccount in accordance with the provisions of subsection (2) of this section. [Formerly 830.926]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.950 - Definitions for ORS 830.955.**

As used in ORS 830.955:

(1) "Encapsulated" means a protective covering or physical barrier between the polystyrene device and the water.

(2) "Submersible polystyrene device" means any molded or expanded type of polystyrene foam used for flotation. [1991 c.759 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.955 - Prohibition of installation of submersible polystyrene device.**

(1) No person shall install a submersible polystyrene device on a dock, buoy or float unless the device is encapsulated by a protective covering or is designed to prevent the polystyrene from disintegrating into the waters of this state.

(2) A person may repair and maintain a dock or float existing on September 29, 1991, with an expanded submersible polystyrene device in accordance with rules adopted by the State Marine Board under ORS 830.110.

(3) The board shall publish and distribute information to the public regarding the proper use and installation of submersible polystyrene devices. [1991 c.759 §§3,4,5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.990 - Penalties.**

(1) Violation of ORS 830.302 by a person operating a motorboat or violation of ORS 830.565 by a person operating a sailboat that is at least 12 feet in length or a motorboat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.302 or 830.565 by a person operating a motorboat is \$50.

(2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.215, 830.230, 830.415, 830.624, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855, or rules adopted to carry out the purposes of those statutes, commits a Class D violation.

(3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a Class C violation.

(4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.187, 830.195, 830.210, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.425, 830.495, 830.560, 830.649, 830.775, 830.795 or 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

(5) A person who violates ORS 830.305, 830.390 or 830.944, or rules adopted to carry out the purposes of those statutes, commits a Class A violation.

(6)(a) Notwithstanding subsection (4) of this section, a person who violates ORS 830.649 and has one or more prior convictions for violation of ORS 830.649 within a three-year period preceding the date of the person's current conviction, commits a Class A violation.

(b) In addition to the penalty imposed under this subsection, the court shall:

(A) Order the person not to operate a boat for a period of one year; and

(B) Order the person to complete a boating safety course approved by the State Marine Board.

(7) A person who violates ORS 830.591 commits a Class C misdemeanor.

(8) A person who violates ORS 830.383 commits a Class B misdemeanor.

(9) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730 or 830.955 (1) commits a Class A misdemeanor.

(10) A person who violates ORS 830.475 (2) commits a Class C felony. [Formerly 488.991; 1991 c.759 §7; 1997 c.74 §2; 1997 c.568 §5; 1997 c.737 §6; 1999 c.550 §4; 1999 c.692 §12; 1999 c.716 §13a; 1999 c.1051 §95; 2003 c.157 §1; 2005 c.299 §3; 2009 c.303 §3; 2009 c.764 §12; 2011 c.381 §1; 2011 c.597 §329; 2013 c.1 §97; 2013 c.186 §4; 2013 c.680 §17; 2015 c.27 §63; 2019 c.154 §13; 2019 c.155 §6; 2019 c.431 §2; 2019 c.507 §11a; 2019 c.651 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.992 - Penalty for purchase of boat or equipment from which hull or component identification number removed.**

Any person who knowingly buys, receives, disposes of, sells, offers for sale or possesses any boat or component from which the hull identification number assigned to the boat or component identification number has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the boat or component commits a Class A misdemeanor. [Formerly 488.993; 1999 c.391 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.993 - Penalties for violation of ORS 166.155 or 166.165.**

- (1) In addition to any other penalty imposed by law, if a person is convicted of a violation of ORS 166.155 or 166.165 committed while the person was on the waters of this state or on publicly owned land used for outdoor recreation, the State Marine Board:
- (a) Shall suspend the person's boating safety education card issued under ORS 830.086 for a period of at least six months, but not longer than five years from the date of conviction.
  - (b) Shall revoke the person's waterway access permit described in ORS 830.627 (1)(a) to (c).
  - (c) May not issue a boating safety education card under ORS 830.086 to the person for a period of at least six months, but not longer than five years from the date of conviction.
  - (d) May not issue a waterway access permit described in ORS 830.627 (1)(a) to (c) to the person for a period of at least six months, but not longer than five years from the date of entry of judgment of conviction.
- (2) The court shall notify the board of the entry of a judgment of conviction described in subsection (1) of this section. [2021 c.393 §2]

Note:

830.993 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.994 - Additional penalties for violation of ORS 830.325.**

- (1) When a person is convicted of a violation of any provision of ORS 830.315 or 830.325, the court shall comply with the following in addition to any other penalty imposed upon the person under ORS 830.990:
- (a) Order the person not to operate a boat for a period of one year;
  - (b) Order the person to complete a boating safety course conducted in a classroom and approved by the State Marine Board; and
  - (c) Order the board to suspend the person's boating safety education card issued under ORS 830.086 for one year.
- (2) When a person is convicted of a violation of any provision of ORS 830.325, the court shall, in addition to any other penalty imposed upon the person under ORS 830.990 or subsection (1) of this section, include in the record of conviction a finding whether the person willfully refused the request of a peace officer to physically submit to chemical testing of the breath or urine or a nontestimonial field sobriety test under ORS 830.505 and 830.550. For purposes of this subsection, a person shall be found to have willfully refused the request if the person was informed about rights and consequences concerning the test under ORS 830.505 and 830.545 and refused to physically submit to the test.
- (3) The record of conviction of each person convicted of violating ORS 830.315 or 830.325 shall be sent by the court to the board within 14 days of the entry of the judgment of conviction in the court register.
- (4) A person who knowingly operates a boat in violation of a court order under subsection (1)(a) of this section commits a Class A misdemeanor. [1991 c.931 §14; 1997 c.568 §6; 2019 c.431 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.997 - Penalty for charter boat violations.**

- (1) Violation of ORS 830.435 or 830.460 or a rule adopted pursuant to ORS 830.450 is a Class A misdemeanor.
- (2) Violation of ORS 830.440 is a Class B misdemeanor. [1989 c.885 §7; 1999 c.1051 §96; 2013 c.146 §11]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.998 - Penalty for failing to stop at an aquatic invasive species check station.**

- (1) A person who is transporting a recreational or commercial watercraft and fails to stop and submit to an inspection or complete the ordered decontamination at an aquatic invasive species check station operated by the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture as provided under ORS 830.589 commits a Class D violation.
- (2) Notwithstanding ORS 153.042, a peace officer may issue a citation under subsection (1) of this section when the conduct alleged to constitute a violation has not taken place in the presence of the peace officer, if the peace officer has reasonable grounds to believe that the conduct constitutes a violation on the basis of information received from an employee of an agency authorized to operate an aquatic invasive species check station who observed the violation. [Subsections (1) and (2) of 2011 Edition formerly 570.990(2) and (3); 2019 c.154 §14]

Note:

830.998 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 830 - Small Watercraft Section 830.999 - Penalty for transporting aquatic invasive species; exceptions; use of penalty moneys; rules.**

(1) A person is subject to a civil penalty in an amount to be determined by the State Fish and Wildlife Director of not more than \$6,250 if the person knowingly transports aquatic invasive species on or in a recreational or commercial watercraft. A second or subsequent violation of this subsection within a five-year period shall result in a civil penalty in an amount not less than \$5,000 and not more than \$15,000.

(2) Subsection (1) of this section does not apply to:

(a) A person who transports aquatic invasive species in ballast water, as defined in ORS 783.625.

(b) A person who complies with all instructions for the proper decontamination of the recreational or commercial watercraft given by an employee authorized under ORS 830.589 (1) to inspect recreational or commercial watercraft.

(c) A person who transports aquatic invasive species to the State Department of Fish and Wildlife or the State Department of Agriculture, or to another destination designated by the State Fish and Wildlife Commission by rule, in a manner designated by the commission for purposes of identifying or reporting an aquatic invasive species.

(3) The civil penalties authorized in this section shall be imposed as provided in ORS 183.745. Any civil penalty recovered under this section shall be deposited in the State Wildlife Fund. The commission by rule shall adopt the formula the State Fish and Wildlife Director shall use in determining the amount of civil penalties under this section. [Formerly 570.865; 2019 c.154 §15]

Note:

830.999 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 830 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.005 - Definitions.**

As used in this chapter and ORS chapters 836 and 837, unless the context requires otherwise:

(1) "Board" means the State Aviation Board.

(2) "Department" means the Oregon Department of Aviation.

(3) "Director" means the Director of the Oregon Department of Aviation. [Formerly 491.002; 1993 c.741 §90; 1999 c.935 §32]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.015 - Development of aviation.**

The State Aviation Board with the advice of the Oregon Department of Aviation shall incorporate as part of its program a definite plan for the development of airports, state airways, airplane industries and aviation generally. It shall through the department cooperate with and assist the federal government, the municipalities of the state, and other persons in the development of aviation activities. Municipalities are authorized to cooperate with the department in the development of aviation and aviation facilities in this state, and shall notify the department of, and allow the department to participate in an advisory capacity in, all municipal airport or aviation system planning. [Formerly 491.050]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.017 - Provision of central business operating services by Department of Transportation; rules.**

(1) At the Director of the Oregon Department of Aviation's request, the Department of Transportation shall provide any of the following central business operating services for the Oregon Department of Aviation:

(a) Budget preparation services;

(b) Daily processing for accounts payable, accounts receivable, payroll, receipts and disbursements;

(c) Records and inventory maintenance accounting services;

(d) Financial management reports and revenue and expenditure projections;

(e) Purchasing, leasing and contracting services;

(f) Internal audit services;

(g) Computer and information system services; and

(h) Human resource services.

(2) The Oregon Department of Aviation shall comply with all rules adopted by the Department of Transportation related to the services provided by the Department of Transportation under subsection (1) of this section.

(3) The Department of Transportation may charge the Oregon Department of Aviation a fee for the services the Department of Transportation provides under this section. The Department of Transportation shall calculate the rate of the fee using the same methodology the Department of Transportation uses to calculate the central services assessment imposed within the Department of Transportation for similar services. The Oregon Department of Aviation shall pay any fees imposed under this section within 30 days of receiving the request for payment.

(4) All moneys received by the Department of Transportation under this section shall be paid into the State Treasury each month and credited to the Department of Transportation Operating Fund established by ORS 184.642.

(5) The Department of Transportation shall adopt rules for the administration and implementation of this section. [2011 c.630 §29;

2019 c.225 §1]

Note:

835.017 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 835 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.020 - Contracts.**

Subject to ORS 835.017, the Director of the Oregon Department of Aviation may enter into any contracts authorized by the State Aviation Board and necessary to the execution of the powers granted by this chapter. All contracts made by the director, either as the agent of the state or as the agent of any municipality, shall be made pursuant to the laws of the state governing the making of like contracts; however, where the planning, acquisition, construction, improvement, maintenance or operation of any airport, or any navigation facility is financed wholly or in part with federal money, the director as the agent of the state or any municipality may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules or regulations made thereunder. [Formerly 491.060; 2011 c.630 §30]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.025 - Use and administration of federal and other moneys.**

The Director of the Oregon Department of Aviation as authorized by the State Aviation Board may accept, receive, receipt for, disburse and expend federal moneys and other moneys, public or private, made available to accomplish in whole or in part the acquisition, construction, improvement, maintenance and operation of airports, and other aviation facilities in this state. All federal moneys accepted under this section and ORS 836.070 shall be accepted and transferred or expended upon such terms and conditions as are prescribed by the United States. All moneys received pursuant to this section and ORS 836.070 shall be deposited in the State Treasury and, unless otherwise prescribed by the authority from which such moneys were received, shall be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. All such moneys are continuously appropriated to the department for the purposes for which the same were made available, to be disbursed or expended in accordance with the terms and conditions upon which they were made available. [Formerly 491.070; 2005 c.755 §57]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.030 - Employment of personnel.**

So far as is possible, all employees of the Oregon Department of Aviation shall be situated in the same building. [Formerly 491.090; 1993 c.741 §90a; 1999 c.935 §33]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.035 - General board powers; rules; United States facilities exempt from board orders.**

- (1) Subject to ORS 835.017, the State Aviation Board may perform such acts, adopt or amend and issue such orders, rules and regulations, and make, promulgate and amend such minimum standards, all consistent with the provisions of this chapter, as it considers necessary to carry out the provisions of this chapter and to perform its duties thereunder.
- (2) No such rule, regulation or order of the board shall apply to airports or air navigation facilities owned or operated by the United States.
- (3) All authority, power and duty delegated to the board by the provisions of this section shall be exercised and performed in all respects commensurate with and for the purpose of protecting and insuring the general public interest and safety, the safety of persons receiving instruction concerning, or operating, or using or traveling in aircraft, and of persons or property on land or water, and to develop and promote aviation in this state.
- (4) Promulgation of rules, conduct of hearings and issuance and judicial review of rules and orders shall be in accordance with ORS chapter 183. [Formerly 491.100; 2011 c.630 §31]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.040 - Limitations on rules and regulations.**

All rules and regulations prescribed by the State Aviation Board under authority of the aviation laws of this state shall be kept in conformity with, and limited to, as nearly as may be, the then current federal legislation governing aviation, the regulations duly promulgated thereunder, and rules and standards issued from time to time pursuant thereto. [Formerly 491.110]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.045**

[Formerly 491.120; 1995 c.79 §384; 1995 c.655 §10; 1999 c.935 §34; renumbered 835.205 in 1999]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation**

**AdministrationSection 835.060 - State Aviation Account; appropriation; use.**

(1) All fees and other moneys received by the Oregon Department of Aviation under ORS chapter 835, 836 or 837, except moneys received under the provisions of ORS 835.025 and 836.070, shall be paid into the State Treasury monthly. The State Treasurer shall credit such payments to the State Aviation Account in the General Fund. Moneys in the account are continuously appropriated to the department for the purpose of carrying out the provisions of this chapter. None of the funds in this section appropriated or hereafter made available for aviation purposes shall be expended upon any aviation project that is not carried out under the supervision and direction of the State Aviation Board. Fees paid into the account pursuant to ORS 837.045 shall be expended only for airport maintenance and capital construction and for payment of expenses of air search and rescue.

(2) The fiscal officer of the department shall keep a true and accurate account of all sums received and all vouchers issued by the department under this section. [Formerly 491.150; 1991 c.186 §6; 1993 c.741 §92; 1995 c.733 §77; 1997 c.263 §4; 1999 c.935 §35; 2005 c.755 §58; 2017 c.226 §4]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 835 - Aviation AdministrationSection 835.065 - Audit and payment of expenses.**

All expenses of the Oregon Department of Aviation incurred in carrying out the provisions of this chapter are open to inspection and audit by the Secretary of State and must be paid from the State Aviation Account in the same manner as other claims against the state are paid, after approval of the expenses by the Director of the Oregon Department of Aviation, or as provided by law. [Formerly 491.160; 2011 c.222 §3]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 835 - Aviation AdministrationSection 835.070 - Accounts.**

The Director of the Oregon Department of Aviation shall keep a true and accurate account of all sums received and of vouchers issued by the Oregon Department of Aviation. [Formerly 491.170]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 835 - Aviation AdministrationSection 835.075**

[Formerly 491.190; 1997 c.263 §1; renumbered 401.555 in 1997]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 835 - Aviation AdministrationSection 835.080**

[1995 c.655 §7; renumbered 835.200 in 1999]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 835 - Aviation AdministrationSection 835.085**

[1995 c.655 §8; renumbered 835.210 in 1999]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 835 - Aviation AdministrationSection 835.100 - Oregon Department of Aviation; director.**

(1) The Oregon Department of Aviation is established.

(2) The department is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers of the department, subject to ORS 835.017.

(3) For purposes of administration, subject to the approval of the State Aviation Board, the director may organize and reorganize the department as the director considers necessary to conduct properly the work of the department. [1999 c.935 §2; 2011 c.630 §32]

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 835 - Aviation AdministrationSection 835.102 - State Aviation Board; members.**

(1) There is established the State Aviation Board consisting of seven members appointed by the Governor, subject to confirmation by the Senate pursuant to ORS 171.562 and 171.565. The Governor shall appoint members of the board in compliance with all of the following:

(a) Members shall be appointed with consideration of the different geographic regions of the state, with one member being a resident of the area east of the Cascade Range.

(b) Not more than four members shall belong to the same political party. Party affiliation shall be determined by the appropriate entry on official election registration cards.

(2) The board membership shall represent diverse aviation interests from both the private and public sectors.

(3) The term of office of each member is four years. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. In case of a vacancy for any cause, the Governor shall appoint a person to fill the office for the unexpired term.

(4) A member of the board is entitled to compensation and expenses as provided by ORS 292.495. [1999 c.935 §2a; 2001 c.4 §1]



**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.104 - Board officers; quorum; meetings.**

(1) The Governor shall appoint one member of the State Aviation Board as chairperson and another member as vice chairperson. The chairperson and vice chairperson shall have such terms, duties and powers as the board determines are necessary for the performance of such offices.

(2) A majority of the members of the board constitutes a quorum for the transaction of business.

(3) The board shall meet at least once a quarter, at a time and place determined by the members of the board. The board shall also meet at such other times and places as are specified by the call of the chairperson or of a majority of the board.

(4) No vacancy shall impair the right of the remaining board members to exercise all the powers of the board, except that four members of the board shall constitute a quorum for the conduct of business of the board, and, in case the board members are unable to agree, the Governor shall have the right to vote as a member of the board.

(5) The board may provide an official seal. [1999 c.935 §2b; 2001 c.4 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.106 - Director of Oregon Department of Aviation; appointment; duties and powers.**

(1) The Governor shall appoint the Director of the Oregon Department of Aviation, subject to confirmation by the Senate pursuant to ORS 171.562 and 171.565, who holds office at the pleasure of the Governor.

(2) Subject to ORS 835.017 and the policy direction by the State Aviation Board, the director shall:

(a) Be the administrative head of the department;

(b) Have power, within applicable budgetary limitations, and in accordance with ORS chapter 240, to hire, assign, reassign and coordinate personnel of the department and prescribe their duties and fix their compensation, subject to the State Personnel Relations Law;

(c) Administer the laws of the state concerning aviation; and

(d) Intervene, as authorized by the board, pursuant to the rules of practice and procedure, in the proceedings of state and federal agencies that may substantially affect the interests of the consumers and providers of aviation services within Oregon.

(3) Subject to ORS 835.017, in addition to duties otherwise required by law, the director shall prescribe regulations for the government of the department, the conduct of its employees, the assignment and performance of its business and the custody, use and preservation of its records, papers and property in a manner consistent with applicable law.

(4) The director may delegate to any of the employees of the department the exercise or discharge in the director's name of any duty, function or power of whatever character, vested in or imposed by law upon the director, including duties, functions or powers delegated to the director by the board. The official act of any person acting in the director's name and by the authority of the director shall be considered to be an official act of the director.

(5) The director shall have authority to require a fidelity bond of any officer or employee of the department who has charge of, handles or has access to any state money or property, and who is not otherwise required by law to give a bond. The amounts of the bonds shall be fixed by the director, except as otherwise provided by law, and the sureties shall be approved by the director. The department shall pay the premiums on the bonds.

(6) The director shall prepare and submit to the board on or about December 31 of each year an annual report for the 12 months ending the prior June 30. The annual report shall set forth all that the department has done during the year. The report shall contain a statement of the parts of the state aviation system that were constructed, reconstructed or improved during the period, together with a statement showing in a general way the status of the state aviation system. [1999 c.935 §3; 2007 c.768 §62; 2011 c.630 §33]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.108 - Director's salary; expense reimbursement.**

The Director of the Oregon Department of Aviation shall receive such salary as may be provided by law or as fixed by the State Aviation Board. In addition to salaries, the director, or any deputy directors or assistant directors, subject to the limitations otherwise provided by law, shall be reimbursed for all reasonable expenses necessarily incurred in the performance of official duties. [1999 c.935 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.110 - Oaths, depositions and subpoenas.**

The Director of the Oregon Department of Aviation and specially authorized representatives of the director may administer oaths, take depositions and issue subpoenas to compel the attendance of witnesses and the production of documents or other written information necessary to carry out the functions of the department. If any person fails to comply with a subpoena issued under this section or refuses to testify on matters on which the person lawfully may be interrogated, the procedure set out in ORS 183.440 shall be followed to compel obedience. [1999 c.935 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.112 - Rules.**

In accordance with applicable provisions of ORS chapter 183, the Director of the Oregon Department of Aviation may adopt rules necessary for the administration of the laws that the department is charged with administering. [1999 c.935 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.114 - Exception to rulemaking authority.**

Except as required under ORS 197.180, the Oregon Department of Aviation may not adopt any rules intended primarily to implement ORS chapter 197, 197A, 215 or 227. The department shall comply with the land use planning goals and guidelines adopted under ORS 197.225 and rules adopted under ORS 197.040. The department may make recommendations to the Department of Land Conservation and Development regarding land use issues. [1999 c.935 §38a]

Note:

835.114 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 835 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.200 - Rules for operation and safety.**

(1) The State Aviation Board, pursuant to ORS 835.035 and utilizing the definitions contained in ORS 830.005:

(a) Shall adopt rules governing seaplane safety and operations on state waters, as defined in ORS 830.005, that shall be applicable to all seaplanes except when inconsistent with any applicable laws or regulations of an agency of the United States.

(b) May adopt rules governing seaplane safety and operations on waters of this state, as defined in ORS 830.005, that shall be applicable to all seaplanes except when inconsistent with any applicable laws or regulations of an agency of the United States.

(2) The State Aviation Board shall adopt the rules in subsection (1) of this section in consultation with the State Marine Board and the State Parks and Recreation Department.

(3) The rules in subsection (1) of this section shall include identification of zones and bodies of water on which seaplanes may not land, take off or operate.

(4) As used in this section and ORS 835.210, "seaplane" means an aircraft equipped to land on water. [Formerly 835.080; 2005 c.22 §519]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.205 - Seaplane regulation.**

For purposes of ORS 830.175, 830.180, 830.185, 830.187 and 830.195, the Oregon Department of Aviation, in cooperation with the State Marine Board, shall regulate boats that are seaplanes as provided in ORS 830.605 and 835.200. [Formerly 835.045; 2003 c.14 §505; 2013 c.186 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 835 - Aviation Administration Section 835.210 - Application by political subdivision for special regulation.**

(1) The governing body of a political subdivision of this state may apply to the State Aviation Board for special regulations relating to the operations of seaplanes on waters within the territorial limits of the political subdivision. These regulations may include, but need not be limited to, the establishment of limits on the areas of operations, hours and time of operations, and the prohibition of seaplane landings and takeoffs. Within a reasonable time, the board shall act upon the application in accordance with ORS chapter 183.

(2) For purposes of regulation, no political subdivision of this state may enact or enforce any law or other regulation for purposes of subsection (1) of this section. [Formerly 835.085]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.005 - Definitions.**

When used in the laws of this state relating to aviation, unless the context otherwise provides:

(1) "Air navigation facility" means any facility other than one owned or operated by the United States used in, available for use in, or designed for use in, aid of air navigation, including airports and any structures, mechanisms, lights, beacons, markers, communicating system or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking-off, navigation and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(2) "Aircraft" means any contrivance used or designed for navigation of or flight in the air, but does not mean a one-person motorless glider that is launched from the earth's surface solely by the operator's power.

(3) "Airport" means any area of land or water, within or without this state, that is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights of way, together with all airport buildings and facilities located thereon.

(4) "Airport hazard" means any structure, object of natural growth, or use of land, that obstructs the airspace required for the flight of aircraft in landing or taking off at an airport, or is otherwise hazardous to such landing or taking off.

- (5) "Aviation" means the science and art of flight and includes but is not limited to:
- (a) Transportation by aircraft;
  - (b) The operation, construction, repair or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes;
  - (c) The design, establishment, construction, extension, operation, improvement, repair or maintenance of airports or other air navigation facilities; and
  - (d) Instruction in flying or ground subjects pertaining thereto.
- (6) "Civil aircraft" means any aircraft other than a public aircraft.
- (7) "Department" means the Oregon Department of Aviation.
- (8) "Municipality" means any county, city, town, village, borough, authority, district or other political subdivision or public corporation of this state. "Municipal" means pertaining to a municipality as defined in this section.
- (9) "Operation of aircraft" or "operate aircraft" means the use, navigation or piloting of aircraft in the airspace over this state or upon any airport within this state.
- (10) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.
- (11) "Pilot" means any individual certificated by the federal government to operate an aircraft or an individual in training for such certification who possesses a valid student pilot certificate issued by the appropriate federal agency.
- (12) "Public aircraft" means any aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any state, territory or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.
- (13) "State" or "this state" means the State of Oregon and territory over which any municipality of the State of Oregon has jurisdiction. [Formerly 492.010; 1989 c.102 §1; 1993 c.741 §93; 1999 c.935 §36; 2003 c.14 §506]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.010 - Availability of services of department.**

The Director of the Oregon Department of Aviation may, insofar as is reasonably possible, make available the Oregon Department of Aviation's engineering and other technical services with or without charge, to any person requesting such services in connection with the planning, acquisition, construction, improvement, maintenance or operation of airports or air navigation facilities. [Formerly 492.020]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.015 - Financial assistance by director.**

The Director of the Oregon Department of Aviation as authorized by the State Aviation Board may render financial assistance by grant or loan, or both, to any municipality or municipalities acting jointly in the planning, acquisition, construction, improvement, maintenance or operation of an airport owned or controlled, or to be owned or controlled by such municipality or municipalities, out of appropriation made by the legislature for such purposes. The financial assistance may be furnished in connection with federal or other financial aid for the same purposes. [Formerly 492.030]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.020 - Department as municipal agent.**

The Oregon Department of Aviation shall, upon request, act as agent of any municipality or municipalities acting jointly, in accepting, receiving, receipting for and disbursing federal moneys and other moneys, public or private, made available to finance in whole, or in part, the planning, acquisition, construction, improvement, maintenance or operation of a municipal airport or air navigation facility. The department shall upon request, act as its or their agents in contracting for and supervising such planning, acquisition, construction, improvement, maintenance or operation. All municipalities are authorized to designate the department as their agent for such purposes. [Formerly 492.040]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.025 - Establishment of airports and air navigation facilities by department.**

- (1) The Oregon Department of Aviation may, on behalf of and in the name of the state, out of moneys made available for such purposes, plan, establish, construct, enlarge, improve, maintain, equip, operate, regulate, protect and police airports and air navigation facilities, either within or without the state, including the construction, installation, equipment, maintenance and operation at such airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers.
- (2) For such purposes the department may, by purchase, gift, devise, lease, condemnation or otherwise, acquire property, real or personal, or any interest therein, including easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit safe and efficient operation of the airports or to permit the removal, elimination, obstruction-marking or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards. In like manner the department may acquire

existing airports and air navigation facilities; provided it shall not acquire or take over any airport or air navigation facility owned or controlled by a municipality of this or any other state without the consent of the municipality. [Formerly 492.050]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.030 - Disposal of property.**

The Oregon Department of Aviation as authorized by the State Aviation Board may by sale, lease, or otherwise, dispose of any property mentioned in ORS 836.025, any airport, air navigation facility, or portion thereof or interest therein. The disposal by sale, lease or otherwise shall be in accordance with the laws of this state governing the disposition of other property of the state, except that in the case of disposals to any municipality or state government or the United States for aviation purposes incident thereto, the sale, lease, or other disposal may be effected in such manner and upon such terms as the department may deem in the best interest of the state. [Formerly 492.060]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.035 - Effect of statute on airport zoning.**

ORS 836.005 to 836.120, 836.200, 836.205, 836.215, 836.220 and 836.240 do not limit any right, power or authority of the state or a municipality to regulate airport hazards by zoning. [Formerly 492.070]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.040 - Joint exercise of power.**

The Oregon Department of Aviation may exercise any powers granted by ORS 836.025 to 836.050 jointly with any municipalities or agencies of the state government, with other states or their municipalities, or with the United States. [Formerly 492.080]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.045 - Condemnation by department.**

In the condemnation of property authorized by ORS 836.025, the Oregon Department of Aviation as authorized by the State Aviation Board shall proceed in the name of the state in the manner provided by ORS chapter 35. For the purpose of making surveys and examinations relative to any condemnation proceedings, it shall be lawful to enter upon any land in the manner provided by ORS 35.220, doing no unnecessary damage. Notwithstanding the provisions of any other statute, or the charter of any municipality, the department may take possession of any property to be condemned at any time after the commencement of the condemnation proceedings. The department shall not be precluded from abandoning the condemnation of any such property in any case where possession thereof has not been taken. [Formerly 492.090; 2003 c.477 §13]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.050 - Condemnation of railroad or public utility property.**

(1) No operating property of any public utility, as defined in ORS 757.005, or any telecommunications carrier as defined in ORS 133.721, shall be condemned pursuant to ORS 836.025 and 836.045 unless the Public Utility Commission, after notice and hearing in accordance with the rules of procedure of the commission, has found that public convenience and necessity require such condemnation. All administrative expenses incurred in any such hearing shall be paid by the party not prevailing therein.

(2) No operating property of any railroad, as defined in ORS 824.200, shall be condemned pursuant to ORS 836.025 and 836.045 unless the Oregon Department of Aviation, after notice and hearing, has found that public convenience and necessity require such condemnation. All administrative expenses incurred in any such hearing shall be paid by the party not prevailing therein. [Formerly 492.100; 1995 c.733 §50; 1999 c.1093 §20]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.055 - Commercial concessions at state airports and air navigation facilities.**

(1) In operating an airport or air navigation facility owned or controlled by the state, the Oregon Department of Aviation, as authorized by the State Aviation Board, may enter into contracts, leases and other arrangements, for a term not exceeding 30 years for noncommercial arrangements or 50 years for commercial arrangements:

(a) Granting the privilege of using or improving the airport or air navigation facility, or any portion or facility of, or space in, the airport or air navigation facility, for commercial purposes;

(b) Conferring the privilege of supplying goods, commodities, things, services or facilities at the airport or air navigation facility; or

(c) Making available services to be furnished by the department or its agents at the airport or air navigation facility.

(2) In each case the department may establish the terms and conditions and fix the charges, rentals or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service and shall be established with due regard to the property and improvements used and the expenses of operation to the state; provided, that in no case shall the public be deprived of its rightful, equal and uniform use of the airport, air navigation facility, or portion or facility of the airport or air navigation facility. [Formerly 492.110; 2021 c.526 §7; 2021 c.630 §41a]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.060 - Operation of state airports by private persons.**

(1) The Oregon Department of Aviation as authorized by the State Aviation Board may by contract, lease or other arrangement, upon a consideration fixed by it, grant to any qualified person for a term not to exceed 30 years the privilege of operating, as agent of the state or otherwise, any airport owned or controlled by the state; provided, that no such person shall be granted any authority to operate the airport other than as a public airport, or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the department might not have undertaken under ORS 836.055.

(2) The department shall grant no exclusive right for the use of any airway, airport, or air navigation facility under its jurisdiction. This subsection shall not prevent the making of contracts, leases, and other arrangements pursuant to this section or ORS 836.055. [Formerly 492.120]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.065 - Liens of state for repairs, improvements or services to personal property.**

To enforce the payment of any charges for repairs to, or improvements, or storage or care of any personal property made or furnished by the Oregon Department of Aviation or its agents in connection with the operation of an airport or air navigation facility owned or operated by the state, the state shall have liens on such property, which shall be enforceable by the department as provided by law. [Formerly 492.130]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.070 - Use of federal and other moneys.**

The Oregon Department of Aviation as authorized by the State Aviation Board may accept, receive, receipt for, disburse and expend federal moneys, and other moneys, public or private, made available to accomplish, in whole or in part, any of the purposes of this chapter and ORS chapters 835 and 837. In accepting federal moneys under this section, the department shall have the same authority to enter into contracts on behalf of the state as is granted to the department with respect to federal moneys accepted on behalf of municipalities. [Formerly 492.140]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.072 - Use of moneys from increase in taxes; rules.**

(1) Moneys from the increases in taxes by the amendments to ORS 319.020 by sections 1 and 3, chapter 1037, Oregon Laws 1999, shall be used by the Oregon Department of Aviation to establish and fund a program to maintain and preserve the pavements used for runways, taxiways and aircraft parking areas at public use airports in this state.

(2) Projects for maintenance and preservation of pavements at public use airports that are identified in the plan developed under ORS 835.015 are eligible for funding under this section. The following expenses of projects selected may be funded under this section:

- (a) Construction expenses;
- (b) Engineering expenses; and
- (c) Administrative expenses.

(3) The Director of the Oregon Department of Aviation shall prepare a list of recommended projects. Factors to be used by the director include, but are not limited to:

- (a) The age and condition of pavements;
- (b) An airport's role in the state's aviation system, as described by the plan developed under ORS 835.015; and
- (c) Local financial participation in projects.

(4) The director shall forward the list of recommended projects to the State Aviation Board for approval.

(5) The department may adopt such rules as it deems necessary for implementation of the airport pavement preservation program.

(6) No more than 55 percent of the combined tax revenue from aircraft fuel used or distributed by a dealer and aircraft fuel usable in aircraft operated by turbine engines may be used for operating expenses of the department.

(7) For purposes of this section, "operating expenses of the department" includes, but is not limited to, expenses for personal services, central business operating services described in ORS 835.017 (1), supplies and capital outlay. [1999 c.1037 §5; 2001 c.104 §318; 2001 c.378 §2; 2010 c.107 §§7,8; 2011 c.630 §35]

Note:

836.072 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 836 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.075 - State airway system.**

The Oregon Department of Aviation as authorized by the State Aviation Board may designate, design and establish, expand or modify a state airway system which will serve the interest of the state. It may chart such airways system and arrange for publication and distribution of such maps, charts, notices and bulletins relating to such airways as may be required in the public interest. The

system shall be supplementary to and coordinated in design and operation with the federal airways system. It may include all types of air navigation facilities, whether publicly or privately owned, provided that such facilities conform to federal safety standards. [Formerly 492.150]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.080 - Exemptions from ORS 836.085 to 836.120.**

- (1) The provisions of ORS 836.085 to 836.120 do not apply to airports owned or operated by the United States.
- (2) The Oregon Department of Aviation as authorized by the State Aviation Board may, from time to time, to the extent necessary, exempt any class of airports, pursuant to a reasonable classification or grouping, from any rule or regulation promulgated under ORS 836.085 to 836.120, or from any requirement of such a rule or regulation, if it finds that the application of such rule, regulation or requirement would be an undue burden on such class and is not required in the interest of public safety. [Formerly 492.160]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.085 - Approval of airport sites; fee.**

Except as provided in ORS 836.080, the Oregon Department of Aviation as authorized by the State Aviation Board shall provide for the approval of proposed airport sites and the issuance of certificates of such approval. The following apply to this section:

- (1) A nonrefundable fee of \$75, together with an amount not to exceed \$300 established by the department for the cost of inspecting and approving an airport site for potential approval, shall accompany the application for site approval.
- (2) The department shall determine approval of airport sites under this section based on the conditions under ORS 836.095. [Formerly 492.170; 1997 c.585 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.090 - Application for site approval; rules.**

Subject to the rules of procedure adopted by the State Aviation Board providing for such approvals, any municipality or person desiring or planning to construct or establish an airport must, prior to the construction or establishment of the proposed airport, submit to the Oregon Department of Aviation an application for approval of the site which shall include an outline plan and written description of the project, showing particularly the airport location in respect to surrounding topography that could affect the airport location. [Formerly 492.180]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.095 - Approval criteria and conditions.**

- (1) The Oregon Department of Aviation shall with reasonable dispatch grant approval of a proposed airport site if it is satisfied that the site is adequate for the proposed airport, that such proposed airport, if constructed or established, will conform to minimum standards of safety and that safe air traffic patterns could be worked out for such proposed airport and for all existing airport and approved airport sites in its vicinity. In determining whether an airport site is adequate for a proposed airport, the department shall evaluate all of the following aspects of the site:
  - (a) All real property devoted to or to be used in connection with any aviation activity at the proposed airport.
  - (b) The location of the airport in relation to any surrounding topography, trees or structures that could affect the safety of the airport.
  - (c) The location and configuration of the proposed airport's runways and operation areas in relation to those of existing and approved airports or airport sites in the vicinity that could affect the safety of aircraft operating from the proposed airport, or from other airports.
- (2) An approval of a proposed airport site may be granted under this section subject to any reasonable conditions which the department may deem necessary to effectuate the purposes of ORS 836.085 to 836.120, and shall remain in effect, unless sooner revoked by the department, until a license for an airport located on the approved site has been issued pursuant to ORS 836.105. [Formerly 492.190]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.100 - Revocation of approval.**

The Oregon Department of Aviation may, after notice and opportunity for hearing to holders of certificates of airport site approval under ORS 836.095, revoke such approval when it reasonably determines:

- (1) That there has been an abandonment of the site as an airport site;
  - (2) That there has been a failure within two years, to develop the site as an airport or to comply with the conditions of the approval;
- or
- (3) That prior to commencement of construction and because of change of physical or legal conditions or circumstances the site is no longer usable for the aviation purposes for which the approval was granted. [Formerly 492.200]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.105 - Licensing of airports; fees; rules.**

Except as provided in ORS 836.080, the Oregon Department of Aviation is authorized to provide for the licensing of airports and the annual renewal of such licenses. The following apply to this section:

(1) The department may charge license fees for each original license and for each renewal. The fee to be paid for each original license and each renewal is as follows:

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**AIRPORT CLASSIFICATION  
AND FEE SCHEDULE**

Category I Airport

- Commercial Service \$ 150

Category II Airport

- Urban General Aviation \$ 100

Category III Airport

- Regional General Aviation \$ 75

Category IV Airport

- Local General Aviation \$ 50

Category V Airport

- Remote Access \$ 30

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(2) Upon the adoption of a rule providing for such licensing, the department shall with reasonable dispatch, upon receipt of an application for an original license and the payment of the required fee, issue an appropriate license if it is satisfied that the airport conforms to minimum standards of safety and that safe air traffic patterns can be worked out for such airport and for all existing airports and approved airport sites in its vicinity.

(3) All licenses shall be renewable annually upon payment of the required fees.

(4) Licenses and renewals may be issued subject to any reasonable conditions that the department may deem necessary to effectuate the purposes of ORS 836.085 to 836.120. [Formerly 492.210; 1997 c.585 §2; 2015 c.450 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.110 - Revocation of license; refusal of renewal.**

The Oregon Department of Aviation may, after notice and opportunity for hearing to the licensee, revoke any airport license or renewal thereof, or refuse to issue a renewal, when it shall reasonably determine:

(1) That there has been an abandonment of the airport as such;

(2) That there has been a failure to comply with the conditions of the license or renewal thereof; or

(3) That because of change of physical or legal conditions or circumstances the airport has become either unsafe or unusable for the aviation purposes for which the license or renewal was issued. [Formerly 492.220]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.115 - Public hearing regarding site or license; transcripts.**

In connection with the grant of approval of a proposed airport site or the issuance of an airport license under ORS 836.085 to 836.110, the Oregon Department of Aviation may, on its own motion or upon the request of an affected or interested person, hold a hearing open to the public on any issue. Hearing transcripts shall be provided to requesting parties, at cost. [Formerly 492.230]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.120 - Unlicensed airport operation prohibited.**

Except as provided in ORS 836.080, no person, municipality or officer or employee thereof, shall operate an airport without an appropriate license for such, as is duly required by rule or regulation issued pursuant to ORS 836.105. [Formerly 492.240]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.200 - Authority to establish airports.**

All municipalities of this state, separately or jointly or in cooperation with the federal government or state, may acquire, establish, construct, expand or lease, control, equip, improve, maintain, operate, police and regulate airports for the use of aircraft, either within this state or within any adjoining state, and may use for such purposes any available property owned or controlled by such municipalities or political subdivisions. All municipalities shall notify the Oregon Department of Aviation of, and allow the department to participate in an advisory capacity in, all municipal airport or aviation system planning. [Formerly 492.310]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.205 - Acquisition of lands declared to be for public purpose.**

All lands heretofore or hereafter acquired, owned, leased, controlled or occupied by municipalities, for the purposes specified in ORS 836.200 are declared to be acquired, owned, leased, controlled or occupied for public and governmental and municipal

purposes. [Formerly 492.320]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.210 - Delegation of authority to develop and maintain airports; regulations for charges, fees and tolls.**

Municipalities of this state which establish airports, or which acquire, lease or set apart real property for such purposes, may:

(1) Delegate the authority for the planning, construction, equipment, improvement, maintenance and operation thereof in any offices, board or body of such municipality.

(2) Provide by regulation for charges, fees and tolls for the use of such airport and civil penalties for the violation of such regulations. [Formerly 492.330]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.215 - Municipal acquisition of property for airports.**

Private property, or any interest therein of whatever kind, and an easement for the operation of aircraft and all operations incidental thereto, to and from the property for the purposes specified in ORS 836.200, may be acquired by any municipality, by gift, grant, purchase, lease or contract, if the municipality is able to agree with the property owners on the terms of acquisition. If the municipality and the property owners are unable to agree upon terms, private property may be acquired by condemnation in the manner provided in ORS chapter 35. As an alternative, the municipality, if a port, may condemn the private property, or any interest therein, for the operation of aircraft and all operations incidental thereto, in the same manner and procedure as is provided by statute for condemnation of property by corporations organized for construction and operation of railroads. [Formerly 492.340; 2001 c.104 §319]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.220 - Source of airport funds.**

The purchase price or compensation for real or other property acquired in accordance with ORS 836.215 and the cost and expenses for the development, improvement, maintenance and operation of airports, may be paid for by appropriation of moneys available; or entirely or in part from the proceeds of the sale of bonds of the municipality, as the governing body of the municipality may determine, subject, however, to the authorization therefor at a regular or special election, if such authorization is a prerequisite to the issuance of bonds of the municipality for public purposes generally. [Formerly 492.350]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.230 - Use of funds from operation.**

The officials of any municipality acquiring, establishing, developing, operating, maintaining or controlling an airport under authority of ORS 836.200 may use for such purposes funds derived from operation of the airport. [Formerly 492.360]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.240 - Authorization to budget and levy taxes.**

Any municipality acting under authority of ORS 836.200 may provide in its annual budget and tax levy an amount of money necessary for the maintenance and operation of such airports. [Formerly 492.370]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.245 - Authority as supplemental.**

The authority conferred by ORS 836.200, 836.205, 836.215, 836.220 and 836.240 is in addition and supplemental to the authority conferred by any other law. [Formerly 492.380]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.250 - Acquisition by municipality of real property contiguous to airport; subsequent use or disposition; financing acquisition or use.**

(1) In addition to the authority conferred upon them by any other law, any municipality of this state acquiring, establishing, developing, operating, maintaining or controlling an airport under ORS 836.200 to 836.245, may acquire real property, or any interest therein of whatever kind, contiguous to the airport by gift, grant, purchase, lease or contract for future development and expansion of the airport or its facilities. Until needed for such future development and expansion, the municipality may use the real property or interest therein so acquired by renting, leasing, controlling or occupying it.

(2)(a) If any real property owned by any municipality referred to in subsection (1) of this section and held for the use of an airport or its facilities is determined not to be needed for such purposes by the governing body of a municipality controlling the airport, such governing body may lease, occupy, use, sell, convey or dispose of such real property.

(b) Except as provided in subsection (3) of this section, any sale of real property under paragraph (a) of this subsection shall be made in accordance with the provisions of ORS 275.110 and 275.120. The proceeds of any sales made by the municipality shall apply against any indebtedness acquired under ORS 836.220. If no indebtedness exists, such funds shall be deposited to the general



fund of such municipality.

(3) Sales of real property by the Port of Portland shall be governed by applicable federal laws and regulations and by the provisions of ORS chapters 777 and 778.

(4) All funds needed by any municipality to carry out any provision of this section may be provided in the same manner as funds may be provided under ORS 836.220 or 836.240, or both. [Formerly 492.390; 2003 c.139 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.340 - Procedure for relocation of public utility property.**

(1) No airport zoning regulations adopted under authority of ORS 836.600 to 836.630 shall require the alteration or relocation of the operating property of any public utility, as defined in ORS 757.005, without the consent of such utility or unless the Public Utility Commission, after notice and hearing in accordance with the rules of procedure of the commission, determines that such alteration or relocation is justified by the public interest.

(2) All administrative expenses incurred in any such hearing shall be paid by the party not prevailing therein. All actual and necessary expenses incurred in making such alteration or change, if any, shall be borne by the municipality. [Formerly 492.600; 1995 c.733 §51; 1997 c.859 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.410 - Permanent closure of public use airport; rules.**

At least 180 days before permanent closure of a public use airport, as defined by the Oregon Department of Aviation by rule, a person responsible for the operation of the airport shall notify the department of the planned closure. [2007 c.317 §1]

Note:

836.410 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 836 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.500 - Marks and lights on structures or obstructions; acquisition of right or easement.**

Every municipality which develops or operates an airport may acquire the right or easement for a term of years or perpetually, to place and maintain suitable marks for the daytime, and to place, operate and maintain suitable lights for the nighttime marking of buildings or other structures or obstructions, to enhance the safety of aircraft utilizing such airport. Such rights or easements may be acquired by grant, purchase, lease or condemnation in the same manner as is provided in ORS chapter 35. [Formerly 492.760]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.505 - Designation of landing places on public lands; rules governing user.**

(1) Landing places for aircraft may from time to time be designated, set apart and marked by the Oregon Department of Aviation or other public officials who are in charge of any land owned or controlled by the state or by any municipality, or park commission.

(2) Such officials may make reasonable rules and regulations subject to the approval of the State Aviation Board governing the use of the landing places by aviators and other persons, and may change the rules and regulations from time to time. The rules and regulations shall be such as will promote the safe and orderly use of the airports affected. All aviators and other persons using such landing places shall at all times comply with all such rules and regulations. [Formerly 492.770]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.510 - Use of certain ocean beaches as landing fields.**

Except as permitted under ORS 836.520, no person shall use for a landing field for aircraft any part of the Oregon shore of the Pacific Ocean between high and low tide, commonly known as the "beach," and which by law has been made a state recreation area, except for an emergency. [Formerly 492.780]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.515 - Petition to set aside shore as landing field.**

Any person, municipality or municipal corporation desiring to use for a landing field for aircraft any part of the Oregon shore of the Pacific Ocean described in ORS 836.510 shall petition the State Aviation Board to set aside and designate a particular area of the shore for a landing field for aircraft. The petition shall clearly describe the area sought for such purpose and shall contain information giving the type and number of aircraft which will use such field, the extent to which and the purpose for which such field shall be so used, together with such other information as the board may require. Before the petition is filed with the board it shall be approved in writing by the Oregon Department of Aviation. [Formerly 492.790]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.520 - Action on petition; order setting aside area for landing field; user permits; revocation of order or permit.**

The State Aviation Board shall give due consideration to each petition submitted under ORS 836.515, and may in its discretion order a public hearing in the vicinity in which it is proposed to establish the landing field, at which hearing all persons interested may appear and be heard. If after due consideration the board is of the opinion that the best interests of the general public will be served by granting the petition, an order may be made which shall be entered in the minutes of the board. The order shall provide that the described area shall be set aside as a landing field for aircraft and the order may authorize the issuance of a permit to the applicant to use the field for said purpose. The permit shall contain such conditions and safeguards with respect to policing and other matters incident to the public welfare as the board deems proper for the safety of the general public. The board may, for a violation of any of the terms or conditions of the permit, recall and cancel the same. The board may in its discretion vacate the order setting aside the area for a landing field whenever in the judgment of the board the interests of the general public warrant such action. [Formerly 492.800]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.525 - Enforcement of ORS 836.510 and 836.520.**

The law enforcing agencies authorized to enforce the laws of the state with respect to the rules of the road and the regulation of motor vehicles using the public highways of the state are likewise authorized to enforce ORS 836.510 and 836.520. [Formerly 492.810]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.530 - Rules and standards; orders; appeals; fees.**

- (1) In addition to any other rulemaking authority, the Director of the Oregon Department of Aviation may adopt rules:
- (a) To define physical hazards to air navigation and determine whether specific types or classes of objects or structures constitute hazards. Rules defining physical hazards and determining whether specific types or classes of objects or structures constitute hazards may be adopted only after a fact-finding process and must be supported by substantial evidence.
  - (b) Establishing standards for lighting or marking objects and structures that constitute hazards to air navigation.
  - (c) Establishing standards for mitigating physical hazards to air navigation by altering the height or location of objects and structures.
  - (d) Establishing standards for mitigating hazards to air navigation by altering approach surface standards or installing navigational aids.
  - (e) Establishing a fee to cover the costs of tall structure evaluations.
- (2) In accordance with the rules adopted under this section, the director shall do the following:
- (a) Determine whether specific objects or structures constitute a hazard to air navigation.
  - (b) Determine responsibility for installation and maintenance of lighting or marking and for alteration of the height or location of specific objects or structures that constitute hazards to air navigation.
  - (c) Issue orders to require that specific objects or structures determined to be hazards to air navigation be marked or lighted in accordance with rules adopted under this section.
  - (d) Make recommendations to the Federal Aviation Administration to require that airports alter approach surface standards or install navigational aids for the purpose of mitigating hazards to air navigation.
- (3) Rules and standards adopted under this section are limited to and may not be more restrictive than current federal norms, including but not limited to, regulations and circulars, pertaining to objects affecting navigable airspace.
- (4) Any person or entity required to comply with an order issued under this section may contest the order as provided under ORS chapter 183. [Formerly 492.820; 1999 c.935 §37; 2009 c.399 §3; 2021 c.566 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.535 - Hazards to air navigation prohibited; exceptions.**

- (1) A person may not construct an object or structure that constitutes a physical hazard to air navigation, as determined by the Oregon Department of Aviation in coordination with the governing body with land use jurisdiction over the property.
- (2) Subsection (1) of this section does not apply:
  - (a) To construction of an object or structure that is utilized by a commercial mobile radio service provider; or
  - (b) If a person received approval or submitted an application for approval from the Federal Aviation Administration or the Energy Facility Siting Council established under ORS 469.450 to construct an object or structure that constitutes a physical hazard to air navigation. [2009 c.399 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.600 - Policy.**

In recognition of the importance of the network of airports to the economy of the state and the safety and recreation of its citizens, the policy of the State of Oregon is to encourage and support the continued operation and vitality of Oregon's airports. Such encouragement and support extends to all commercial and recreational uses and activities described in ORS 836.616 (2). [1995 c.285 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.605 - Definitions for ORS 836.600 to 836.630.**

As used in ORS 836.600 to 836.630:

- (1) "Aircraft" means helicopters and airplanes but not hot air balloons or ultralights.
- (2) "Airports" means the strip of land used for taking off and landing aircraft, together with all adjacent land used in 1994 in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for the existing commercial and recreational airport uses and activities as of December 31, 1994. [1995 c.285 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.608 - Airport operation as matter of state concern; local planning documents to recognize airport location; limitations on use; expansion of facility.**

- (1) The continued operation and vitality of airports registered, licensed or otherwise recognized by the Department of Transportation on December 31, 1994, is a matter of state concern.
- (2) A local government shall recognize in its planning documents the location of private-use airports and privately owned public-use airports not listed under ORS 836.610 (3) if the airport was the base for three or more aircraft, as shown in the records of the Department of Transportation, on December 31, 1994. Local planning documents shall establish a boundary showing areas in airport ownership, or subject to long-term lease, that are developed or committed to airport uses described in ORS 836.616 (2). Areas committed to airport uses shall include those areas identified by the airport owner that the local government determines can be reasonably expected to be devoted to airport uses allowed under ORS 836.616 (2).
- (3)(a) A local government shall not impose limitations on the continued operation of uses described in ORS 836.616 (2) that existed at any time during 1996 at an airport described in subsection (2) of this section. A local government shall allow for the growth of uses described in ORS 836.616 (2) that existed at any time during 1996 at an airport described in subsection (2) of this section. A local government shall not impose additional limitations on a use approved by the local government prior to January 1, 1997, for an airport described in subsection (2) of this section. Notwithstanding subsection (4) of this section, the construction of additional hangars or tie-downs by the owner of an airport described in subsection (2) of this section, basing additional aircraft and increases in flight activity shall be permitted at an airport described in subsection (2) of this section.
- (b) A local government may authorize the establishment of a new use described in ORS 836.616 (2) at an airport described in subsection (2) of this section following a public hearing on the use. The hearing shall be for the purpose of establishing compliance with adopted clear and objective standards relating to the compatibility and adequacy of public facilities and services as provided under subsection (5) of this section. Standards and requirements as adopted by the local government shall further the policy of ORS 836.600 to the maximum extent practicable.
- (4) Growth of an existing use on an airport as described in subsection (3)(a) of this section that requires a building permit shall be allowed as an administrative decision without public hearing unless the growth:
  - (a) Cannot be supported by existing public facilities and services and transportation systems authorized by applicable statewide land use planning goals;
  - (b) Forces a significant change or significantly increases the costs of conducting existing uses on surrounding lands; or
  - (c) Exceeds the standards of ORS 215.296 (1) if the airport is adjacent to land zoned for exclusive farm use.
- (5) A local government shall authorize a new use described in subsection (3)(b) of this section provided the use:
  - (a) Is or will be supported by adequate types and levels of public facilities and services and transportation systems authorized by applicable statewide land use planning goals;
  - (b) Does not seriously interfere with existing land uses in areas surrounding the airport; and
  - (c) The local government reviews the use under the standards described in ORS 215.296 if the airport is adjacent to land zoned for exclusive farm use.
- (6) An applicant for a new use under subsection (5) of this section may demonstrate that the standards for approval will be satisfied through the imposition of conditions. Any conditions imposed shall be clear and objective.
- (7) A local government may adopt standards and requirements for the establishment of new airports, the expansion of existing airports and the regulation of uses and activities at airports serving as the base for two or fewer aircraft on December 31, 1994, as shown in the records of the Department of Transportation. The standards and requirements shall comply with applicable statewide land use planning laws.
- (8) The Land Conservation and Development Commission shall adopt rules regulating the height of structures to protect approach corridors at airports described in subsection (2) of this section and at publicly owned airports that are the base for two or fewer aircraft. [1997 c.859 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.610 - Local government land use plans and regulations to accommodate airport zones and uses; funding; rules.**

- (1) Local governments shall amend their comprehensive plan and land use regulations consistent with the rules for airports adopted by the Land Conservation and Development Commission under ORS 836.616 and 836.619. Airports subject to the rules shall

include:

- (a) Publicly owned airports registered, licensed or otherwise recognized by the Department of Transportation on or before December 31, 1994, that in 1994 were the base for three or more aircraft; and
- (b) Privately owned public-use airports specifically identified in administrative rules of the Oregon Department of Aviation that:
  - (A) Provide important links in air traffic in this state;
  - (B) Provide essential safety or emergency services; or
  - (C) Are of economic importance to the county where the airport is located.
- (2)(a) Local governments shall amend their comprehensive plan and land use regulations as required under subsection (1) of this section not later than the first periodic review, as described in ORS 197.628 to 197.651, conducted after the date of the adoption of a list of airports by the Oregon Department of Aviation under subsection (3) of this section.
- (b) A state agency or other person may provide funding to a local government to accomplish the planning requirements of this section earlier than otherwise required under this subsection.
- (3) The Oregon Department of Aviation by rule shall adopt a list of airports described in subsection (1) of this section. The rules shall be reviewed and updated periodically to add or remove airports from the list. An airport may be removed from the list only upon request of the airport owner or upon closure of the airport for a period of more than three years. [1995 c.285 §4; 1997 c.859 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.612 - Approval or expansion of land use activities subject to prior court decisions.**

Nothing in ORS 836.608 or 836.616 is intended to allow the approval or expansion of a land use activity inside the boundaries of an airport if the activity has been limited or prohibited by the decision of a court of competent jurisdiction rendered prior to August 13, 1997. [1997 c.859 §6]

Note:

See note under 836.608.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.616 - Rules for airport uses and activities.**

- (1) Following consultation with the Oregon Department of Aviation, the Land Conservation and Development Commission shall adopt rules for uses and activities allowed within the boundaries of airports identified in ORS 836.610 (1) and airports described in ORS 836.608 (2).
- (2) Within airport boundaries established pursuant to commission rules, local government land use regulations shall authorize the following uses and activities:
  - (a) Customary and usual aviation-related activities including but not limited to takeoffs, landings, aircraft hangars, tie-downs, construction and maintenance of airport facilities, fixed-base operator facilities and other activities incidental to the normal operation of an airport;
  - (b) Emergency medical flight services;
  - (c) Law enforcement and firefighting activities;
  - (d) Flight instruction;
  - (e) Aircraft service, maintenance and training;
  - (f) Crop dusting and other agricultural activities;
  - (g) Air passenger and air freight services at levels consistent with the classification and needs identified in the State Aviation System Plan;
  - (h) Aircraft rental;
  - (i) Aircraft sales and sale of aviation equipment and supplies; and
  - (j) Aviation recreational and sporting activities.
- (3) All land uses and activities permitted within airport boundaries, other than the uses and activities established under subsection (2) of this section, shall comply with applicable land use laws and regulations. A local government may authorize commercial, industrial and other uses in addition to those listed in subsection (2) of this section within an airport boundary where such uses are consistent with applicable provisions of the acknowledged comprehensive plan, statewide land use planning goals and commission rules and where the uses do not create a safety hazard or limit approved airport uses.
- (4) The provisions of this section do not apply to airports with an existing or approved control tower on June 5, 1995. [1997 c.859 §5 (enacted in lieu of 836.615)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.619 - State compatibility and safety standards for land uses near airports; rules.**

Following consultation with the Oregon Department of Aviation, the Land Conservation and Development Commission shall adopt rules establishing compatibility and safety standards for uses of land near airports identified in ORS 836.610 (1). [1997 c.859 §8 (enacted in lieu of 836.620)]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.623 - Local compatibility and safety requirements more stringent than state requirements; criteria; water impoundments; report to federal agency; application to certain activities.**

(1) A local government may adopt land use compatibility and safety requirements that are more stringent than the minimum required by Land Conservation and Development Commission rules for issues other than water impoundments where such regulations are within its authority. Local government action regarding new water impoundments shall comply with subsection (2) of this section. If a local government receives information in a hearing on a land use application alleging that public safety requires a higher level of protection than the minimum established in commission rules and if the information is supported by evidence, the governing body shall consider the information and adopt findings explaining the bases for any decision regarding the need for more stringent requirements. Land use requirements regarding safety and compatibility shall consider the effects of mitigation measures or conditions that could reduce safety risks and incompatibility.

(2) The following requirements and conditions shall apply to safety risks associated with potential bird strike hazards resulting from new water impoundments proposed in close proximity to an airport identified under ORS 836.610 (1):

(a) No new water impoundments of one-quarter acre or larger shall be allowed:

(A) Within an approach corridor and within 5,000 feet from the end of a runway; or

(B) On land owned by the airport or airport sponsor where the land is necessary for airport operations;

(b) A local government may adopt regulations that limit the establishment of new water impoundments of one-quarter acre or larger for areas outside an approach corridor and within 5,000 feet of a runway only where the local government adopts findings of fact, supported by substantial evidence in the whole record, that the impoundments are likely to result in a significant increase in hazardous movements of birds feeding, watering or roosting in areas across the runways or approach corridors. The local government shall consider the effects of mitigation measures or conditions that could reduce safety risks and incompatibility;

(c) A local government may adopt regulations that limit the establishment of new water impoundments of one-quarter acre or larger between 5,000 feet and 10,000 feet of a runway outside an approach corridor and between 5,000 feet and 40,000 feet within an approach corridor for an airport with an instrument approach only where the local government adopts findings of fact, supported by substantial evidence in the whole record, that the impoundments are likely to result in a significant increase in hazardous movements of birds feeding, watering or roosting in areas across the runways or approach corridors. The local government shall consider the effects of mitigation measures or conditions that could reduce safety risks and incompatibility;

(d) If a local government receives information and supporting evidence in the hearing process that alleges a significant increase in hazardous movements of birds feeding, watering or roosting in areas across the runways or approach corridors, the local government shall consider the information and evidence and adopt findings as required by paragraphs (b) and (c) of this subsection explaining the bases for any decision regarding the need to limit the establishment of new water impoundments of one-quarter acre or larger; and

(e) Notwithstanding the requirements of paragraphs (a) to (c) of this subsection, wetlands mitigation required for projects located within the areas identified in paragraphs (a) to (c) of this subsection shall be authorized where it is not practicable to provide off-site mitigation.

(3) A local government that receives information under subsection (2)(d) of this section shall forward the information to the Federal Aviation Administration for review and comment prior to any final action by the local government to impose a compatibility or safety standard more stringent than required by rule of the Land Conservation and Development Commission.

(4) Subsection (2) of this section does not apply to a storm water management basin established by an airport identified under ORS 836.610 (1) or agricultural water impoundments in which the water is used directly for growing crops such as cranberries or rice.

(5) Subsection (2)(a) to (c) of this section does not apply to seaplane landing areas.

(6) As used in this section, "significant" means a level of increased flight activity by birds across approach corridors and runways that is more than incidental or occasional, considering the existing ambient levels of flight activity by birds in the vicinity. [1997 c.859 §9]

Note:

See note under 836.608.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.625 - Application to airport uses of land use limitations in farm use zones; effect on tax assessment.**

(1) The limitations on uses made of land in exclusive farm use zones described in ORS 215.213 and 215.283 do not apply to the provisions of ORS 836.600 to 836.630 regarding airport uses.

(2) The provisions of this section do not affect the eligibility of a zone for special assessment under ORS 308A.050 to 308A.128. [1995 c.285 §7; 1997 c.859 §11; 1999 c.314 §77]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.630 - Siting of new airports to comply with land use laws; limitation on rules.**

(1) Nothing in ORS 836.600 to 836.625 shall be interpreted to allow the siting of a new airport except as provided in ORS chapters 197, 197A and 215 and in conformance with all applicable land use regulations and ordinances.

(2) The Oregon Department of Aviation shall propose and the Land Conservation and Development Commission shall adopt rules under ORS 836.616 and 836.619 that are no more restrictive than the commission determines necessary to effect the policy established in ORS 836.600.

(3) The provisions of ORS 836.600 to 836.630 and any rules established hereunder shall be liberally construed to further the policy established in ORS 836.600. [1995 c.285 §8; 1997 c.859 §12]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.636 - Vertiports.**

(1) As used in this section:

(a) "Local government" has the meaning given that term in ORS 174.116.

(b) "Vertiport" means an area of land or a structure used, or intended to be used, for vertical takeoff and landing aircraft.

(2) The governing body of a local government may not grant an exclusive right to one operator to develop vertiports or control vertiport operations within the local government's jurisdiction. [2023 c.516 §1]

Note:

836.636 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 836 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.640 - Definitions for ORS 836.640 and 836.642.**

As used in this section and ORS 836.642:

(1) "Airport boundary" includes the combined public and private properties that are permitted to have direct access to the airport runway by aircraft.

(2) "Customary and usual aviation-related activity" includes activities described in ORS 836.616 (2) and includes activities that a local government may authorize pursuant to ORS 836.616 (3).

(3) "Pilot site" means a rural airport identified to participate in the pilot program pursuant to ORS 836.642.

(4) "Rural airport" means an airport described in ORS 836.610 (1) that principally serves a city or metropolitan statistical area with a population of 500,000 or fewer.

(5) "Through the fence operation" means a customary and usual aviation-related activity that:

(a) Is conducted by a commercial or industrial user of property within an airport boundary; and

(b) Relies, for business purposes, on the ability to taxi aircraft directly from the property employed for the commercial or industrial use to an airport runway. [2005 c.820 §2; 2009 c.11 §100; 2009 c.398 §1; 2016 c.35 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.642 - Program for through the fence operations; rules.**

(1) The Oregon Department of Aviation shall establish a pilot program at up to six rural airports to encourage development of through the fence operations designed to promote economic development by creating family wage jobs, by increasing local tax bases and by increasing financial support for rural airports. To the extent practicable, the airport sponsor of a pilot site shall use public-private partnerships that incorporate:

(a) Innovative and creative technologies for increasing airport usability and safety;

(b) Innovative and creative performance of aviation services to make the services more competitive and useful for the public;

(c) Development of the pilot site as a setting for customary and usual aviation-related activities to develop and thrive, in concert with the goals of the Oregon Business Development Department; and

(d) Shared responsibility for:

(A) Establishing and meeting the fiscal needs of the pilot site;

(B) Maintaining safety of operations; and

(C) Maintaining positive community relations and compatibility with existing uses.

(2) The pilot program shall operate at:

(a) The Aurora State Airport; and

(b) Not more than five additional rural airports that volunteer to participate and are selected by the Oregon Department of Aviation with the concurrence of the county in which each rural airport is located.

(3) The Oregon Department of Aviation, by rule, shall provide standards and guidelines for through the fence operations that:

(a) Ensure that the operations provide financial support to the pilot sites in compliance with Federal Aviation Administration regulations;

(b) Require submission, review, approval and, as appropriate, revision of a facility site plan for each through the fence operation so that the real property covered by the site plan can be incorporated into the airport boundary and coordinated with the other aspects of the airport master plan;

(c) Ensure that the operations are conducted according to a written contract between the commercial or industrial user of property within the airport boundary and the airport sponsor;

(d) Ensure that pilot sites continue to operate in a safe manner and to fulfill their roles in Oregon's emergency response system;

- (e) Preserve investments in pilot sites and the level of service provided by pilot sites;
  - (f) Facilitate orderly management of pilot sites;
  - (g) Provide equitable and uniform treatment of airport tenants and users at pilot sites;
  - (h) Advance economic development through qualified customary and usual aviation-related activities within the airport boundaries of pilot sites;
  - (i) Encourage well-ordered economic development within the airport boundaries of the pilot sites;
  - (j) Facilitate and foster good relations with the communities surrounding the pilot sites;
  - (k) Enable conformity with approved airport master plans;
  - (L) Make pilot sites available for public use on reasonable terms; and
  - (m) Assist pilot sites in developing financial self-sufficiency through the use of innovative funding and economic development programs.
- (4) The Department of Land Conservation and Development, the county and a city, if any, within whose jurisdiction a pilot site is located shall coordinate with the Oregon Department of Aviation to ensure that the applicable comprehensive plans and land use regulations, including airport zoning classifications pursuant to ORS 836.600 to 836.630, facilitate through the fence operations and support the development or expansion of the pilot site consistent with applicable statewide land use planning requirements.
- (5) The Oregon Business Development Department shall assist the pilot sites to:
- (a) Identify, qualify for and apply for funding from appropriate grant and loan programs; and
  - (b) Develop innovative short-term and long-term funding opportunities.
- (6) To the extent practicable, the airport sponsors shall utilize innovative airport infrastructure and operations funding to support the pilot sites including, but not limited to:
- (a) Airport districts as provided in ORS chapter 838;
  - (b) Economic development programs administered by the Oregon Business Development Department;
  - (c) Tax increment financing to provide funding for airport-related infrastructure;
  - (d) United States Department of Agriculture Rural Development grants or low-interest loans; and
  - (e) Programs, including funding for short line railroads under ORS 367.067, designed to facilitate development of intermodal transportation projects. [2005 c.820 §3; 2009 c.398 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 836 - Airports and Landing Fields Section 836.990 - Civil penalties.**

- (1) In addition to any other penalty provided by law, the Director of the Oregon Department of Aviation may impose a civil penalty not to exceed \$2,500 for each violation of ORS 836.505 or any rule adopted or order issued under ORS 836.505.
- (2) The director shall impose civil penalties under this section in the manner provided in ORS 183.745.
- (3) All penalties recovered by the Oregon Department of Aviation under this section shall be paid into the State Treasury and deposited to the credit of the State Aviation Account. Such moneys shall be used by the department for the purpose of carrying out ORS 836.505. [2019 c.226 §1]

Note:

836.990 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 836 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.005 - Exemptions of certain aircraft from requirements of registration; rules.**

ORS 837.015 and 837.040 to 837.070 do not apply to:

- (1) Aircraft owned by any person, firm or corporation and certificated by the appropriate federal agency for domestic or foreign scheduled air commerce;
- (2) Military aircraft of the United States of America;
- (3) Aircraft licensed by a foreign country with which the United States has reciprocal relations exempting aircraft registered by the United States, or any political subdivision thereof, from registration within such foreign country; or
- (4) Classes of aircraft designated as exempt by rules adopted by the State Aviation Board. [Formerly 493.010; 2005 c.22 §520; 2005 c.75 §1]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.010 - Federal pilot certificate required.**

No person shall fly aircraft in this state unless holding a pilot certificate of competency issued by the appropriate federal agency. [Formerly 493.020]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.015 - Registration of aircraft.**

Unless exempted by ORS 837.005, no person shall fail to register any aircraft when required by ORS 837.040 to 837.070. [Formerly

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.030 - Exhibition of certificate on demand.**

Every pilot operating within this state shall present a federal certificate of competency on demand. The certificate shall be kept in the personal possession of the licensee when operating aircraft within this state and must be presented for inspection upon demand of any passenger, peace officer, official manager in charge of any airport, other aircraft operator or federal or state agent. [Formerly 493.060; 2017 c.226 §3]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.040 - Persons required to register aircraft; application; timing; late fees; rules.**

(1) Except as provided in subsection (2) of this section, the following are required to register civil aircraft with the Oregon Department of Aviation:

(a) The owner of a civil aircraft that is capable of flight and that is based in this state.

(b) The owner of a civil aircraft that is used for commercial operations in this state.

(2) An owner need not register a civil aircraft that is:

(a) Exempted by the provisions of ORS 837.005; or

(b) Subject to assessment and taxation under ORS 308.558.

(3) An owner who is otherwise required to comply with subsection (1) of this section is not exempt from compliance because the aircraft has an appropriate, effective permit or license issued by the United States.

(4) An owner applying for registration of an aircraft under this section shall file an application form supplied by the department. The State Aviation Board may adopt rules specifying the information that may be required on the application form.

(5)(a) The owner of a civil aircraft that is based in Oregon shall register the aircraft within 60 days of the date the aircraft becomes subject to registration. The owner of a civil aircraft that is not based in Oregon but that is used in Oregon for commercial operations shall register the aircraft prior to the first time the aircraft is used in Oregon for commercial operations.

(b) The department may impose a late fee on a person who fails to register an aircraft within the time required by this subsection. The board may determine by rule the amount of late fees that may be imposed under this paragraph. The board may adopt a graduated schedule of late fees, but the maximum amount of a late fee may not be more than the amount of the registration fee.

(6) An application for registration must be accompanied by the registration fee specified in ORS 837.045 and, if a late fee is imposed under subsection (5) of this section, by the late fee.

(7) Registration under this section is not complete until the owner receives a notice of registration from the department. [Formerly 493.080; 1993 c.741 §95; 2005 c.75 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.045 - Fee schedule.**

(1) The registration fee to be paid under ORS 837.040, and the fee to be paid upon renewal of registration under ORS 837.060, is as follows:

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**AIRCRAFT CLASSIFICATION  
AND FEE SCHEDULE**

Single engine fixed wing, piston \$ 65

Single engine fixed wing, turboprop 250

Multiengine fixed wing, piston 150

Multiengine fixed wing, turboprop 300

Turbojet fixed wing 700

Helicopter piston engine 65

Helicopter turbine engine 175

Lighter than air, home built,  
sailplane, experimental or gyrocopter 55

Ultralight aircraft 55

Ex-military multiengine or turbojet/

ex-air carrier 300

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(2) Any registration fees and penalties due in a previous year but not paid remain due and payable and may be collected by the Oregon Department of Aviation prior to renewal of registration of the aircraft in the current year. [Formerly 493.090; 1991 c.186 §2; 1997 c.585 §8; 2005 c.75 §3; 2009 c.693 §1; 2015 c.450 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.050 - Transfer of aircraft registration moneys to State Aviation Account.**



Notwithstanding ORS 293.445, the Oregon Department of Aviation may transfer to the State Aviation Account any and all moneys paid for aircraft registration under ORS 837.040 and 837.045 if the registration is not completed due to the failure of the aircraft owner to pay the appropriate registration fee or penalty due. This section applies to all moneys paid, but not yet refunded and to future payments. [Formerly 493.095]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.055 - Assignment of number; delivery of certificate of registration; duplicate certificates; applications as public records.**

- (1) Upon receipt of an application for registration of any aircraft and payment of the required license fee, the Director of the Oregon Department of Aviation shall assign to the application and the aircraft to be registered a distinctive number and register the facts stated in the application and the number in an index to be kept for that purpose.
- (2) A certificate of registration, bearing the same number assigned to the application, and in a form and design to be determined by the Oregon Department of Aviation, shall be delivered to the owner of the aircraft without further expense to such applicant.
- (3) The following apply to the use and display of certificates of registration and other signs denoting registration for aircraft:
  - (a) The certificate of registration shall be carried in the aircraft at all times.
  - (b) No sign to denote registration of aircraft by the State of Oregon, other than those furnished by the director, shall be used.
- (4) Duplicate certificates of registration may be obtained, upon proof of loss or destruction of the original, by application therefor to the department and the payment of \$15 for each additional certificate. The facts stated in any application for registration shall be a public record and open to inspection by the public during reasonable office hours.
- (5) Registration of an aircraft does not require, nor does it constitute, evidence of legal ownership of the aircraft. [Formerly 493.100; 1993 c.161 §1; 1993 c.741 §96; 1997 c.585 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.060 - Expiration and renewal of registrations; late fees.**

- (1) All registrations under ORS 837.040 expire annually on the anniversary of the date the aircraft is originally registered with the Oregon Department of Aviation.
- (2) The owner of an aircraft subject to renewal of registration shall renew the registration on or before the date of expiration by filing a form provided by the department and paying the fee for renewal of registration established in ORS 837.045. The department may impose a late fee on a person who fails to renew registration within the time required in the same manner and in the same amounts as late fees imposed under ORS 837.040. [Formerly 493.110; 1991 c.186 §3; 1997 c.585 §9; 2005 c.75 §4]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.065 - Effect of paying aircraft registration fee with worthless check.**

- If any person pays the aircraft registration fee to the Oregon Department of Aviation with a bank check and the check is returned to the department as uncollectible, the Director of the Oregon Department of Aviation shall charge the person the fee for dishonored checks under ORS 30.701 (5). If the person does not pay the fee charged under this section, the director may do all of the following:
- (1) Suspend the registration in payment of which the check was presented; and
  - (2) Authorize any department employee or police officer to seize and recover the registration certificate and any other evidence of the suspended registration certificate. [Formerly 493.120; 1997 c.585 §5; 2017 c.226 §5]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.070 - Notice of sale of aircraft; transfer of registration; fee.**

- (1) Upon the purchase of any aircraft registered in accordance with ORS 837.040, title to the certificate of registration assigned thereto shall vest in the purchaser. Within 10 days after the date of:
  - (a) Purchase, the purchaser shall file with the Oregon Department of Aviation an application to transfer the registration, stating the name and business address of the purchaser, the name of the seller, the registration number assigned to the aircraft, and a brief description of the aircraft as required for an original registration.
  - (b) Sale, the seller shall notify the Director of the Oregon Department of Aviation of the sale with the name and address of the purchaser, registration number assigned to the aircraft and a brief description of the aircraft as required for an original registration.
- (2) Upon the receipt of the application and the payment of a fee of \$15, the director shall transfer the license and registration number to the purchaser, and shall record the transfer. No sale or transfer of any aircraft registered under ORS 837.040 shall be valid without compliance with the provisions of this section. If an aircraft is not registered at the time of purchase, even though the aircraft may have been purchased within the state, new or used, the purchaser shall register it in accordance with ORS 837.040 and 837.045. [Formerly 493.130; 1993 c.741 §97; 1997 c.585 §6]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.075 - Aircraft dealer's license; fee.**

- (1) Any dealer in new or used aircraft, or both, shall apply to the Oregon Department of Aviation for a dealer's license. Upon such

application, the department shall issue an aircraft dealer's license to the applicant for an annual fee of \$250. The dealer's license shall be in lieu of all other licenses or registration required by ORS 837.040 upon the dealer's aircraft within this state, so long as they are kept for resale and are not used in commercial operations within this state.

(2) This section does not prohibit the registering of a dealer's aircraft under ORS 837.040.

(3) Upon the sale by a dealer of an aircraft which is not registered under ORS 837.040, the dealer shall advise the purchaser of the registration requirements under ORS 837.040 to 837.070 and furnish the purchaser with the proper application forms. [Formerly 493.140; 1997 c.585 §7]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.080 - Prohibited operation of aircraft.**

(1) A person commits the offense of prohibited operation of an aircraft if the person operates an aircraft in the air, or on the ground or water:

(a) While the person is under the influence of intoxicating liquor, drugs or controlled substances.

(b) In a careless or reckless manner so as to endanger the life or property of another.

(2) The offense described in this section, prohibited operation of an aircraft, is punishable as provided under ORS 837.990. [Formerly 493.160]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.085 - Dropping articles without permit prohibited; exceptions.**

(1) Unless a permit is granted by the Director of the Oregon Department of Aviation or except in an emergency, no person shall throw or drop any missile or other article or substance from any aircraft in flight, except over ground temporarily or permanently devoted to flying, or over open water.

(2) This section does not prohibit, or require a permit for, the use of an airplane for crop dusting or any other agricultural purposes or for seeding any agricultural or horticultural crop or for dusting or spraying in furtherance of insect and pest control. Any such use of an airplane shall be made with due regard for the safety of others. [Formerly 493.170]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.090 - Landings on public highways and grounds prohibited.**

Except in an emergency, no person shall land aircraft on highways or public parks or other public grounds without permission from the authorities in charge thereof. [Formerly 493.180]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.095 - Flying over military and naval establishments; photographs from airplanes.**

No person shall fly over a government fort or tract of land set aside for military or naval purpose, nor shall any person make any photograph or map of such fort or land from any aircraft without written permission having been obtained from the person in command of the fort or land. [Formerly 493.190]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.100 - Issuance of citations for violations.**

In addition to any other persons permitted to enforce violations, the Director of the Oregon Department of Aviation and any employee specifically designated by the director may issue citations for violations established under ORS 837.990 in the manner provided by ORS chapter 153. [Formerly 493.225; 1991 c.460 §11; 1999 c.1051 §114; 2011 c.597 §148]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.300 - Definitions.**

As used in ORS 837.300 to 837.390 and 837.995:

(1) "Aircraft" has the meaning given that term in ORS 836.005.

(2) "Law enforcement agency" means an agency that employs peace officers, as defined in ORS 133.005, or that prosecutes offenses.

(3) "Public body" has the meaning given that term in ORS 174.109.

(4) "Unmanned aircraft system" means an unmanned flying machine, commonly known as a drone, and its associated elements, including communication links and the components that control the machine.

(5) "Warrant" means a warrant issued under ORS 133.525 to 133.703. [2013 c.686 §1; 2015 c.315 §1; 2016 c.72 §1]

Note:

837.300 to 837.390 and 837.995 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 837 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft**

**OperationSection 837.310 - Restrictions; exceptions.**

(1) Except as otherwise provided in ORS 837.310 to 837.345, a law enforcement agency may not operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system or disclose information acquired through the operation of an unmanned aircraft system.

(2) Any image or other information that is acquired through the use of an unmanned aircraft system by a law enforcement agency in violation of ORS 837.310 to 837.345, and any evidence derived from that image or information:

(a) Is not admissible in, and may not be disclosed in, a judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding; and

(b) May not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed. [2013 c.686 §2; 2015 c.315 §2]

Note:

See note under 837.300.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 837 - Aircraft  
OperationSection 837.320 - Authorized use upon issuance of warrant; exigent circumstances.**

(1) A law enforcement agency may operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system, or disclose information acquired through the operation of an unmanned aircraft system, if:

(a) A warrant is issued authorizing use of an unmanned aircraft system; or

(b) The law enforcement agency has probable cause to believe that a person has committed a crime, is committing a crime or is about to commit a crime, and exigent circumstances exist that make it unreasonable for the law enforcement agency to obtain a warrant authorizing use of an unmanned aircraft system.

(2) A warrant authorizing the use of an unmanned aircraft system must specify the period for which operation of the unmanned aircraft system is authorized. In no event may a warrant provide for the operation of an unmanned aircraft system for a period of more than 30 days. Upon motion and good cause shown, a court may renew a warrant after the expiration of the 30-day period.

[2013 c.686 §3; 2015 c.315 §3]

Note:

See note under 837.300.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 837 - Aircraft  
OperationSection 837.330 - Written consent.**

A law enforcement agency may operate an unmanned aircraft system for the purpose of acquiring information about an individual, or about the individual's property, if the individual has given written consent to the use of an unmanned aircraft system for those purposes. [2013 c.686 §4; 2015 c.315 §4]

Note:

See note under 837.300.

**2023 Oregon Revised StatutesVolume : 19 - Utilities, Vehicle Code, Watercraft, AviationChapter 837 - Aircraft  
OperationSection 837.335 - Search and rescue; use in emergencies.**

(1) A law enforcement agency may operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system, or disclose information acquired through the operation of an unmanned aircraft system, for the purpose of search and rescue activities, as defined in ORS 404.200.

(2) A law enforcement agency may operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system, or disclose information acquired through the operation of an unmanned aircraft system, for the purpose of assisting an individual in an emergency if:

(a) The law enforcement agency reasonably believes that there is an imminent threat to the life or safety of the individual, and documents the factual basis for that belief; and

(b) Not more than 48 hours after the emergency operation begins, an official of the law enforcement agency files a sworn statement with the circuit court that describes the nature of the emergency and the need for use of an unmanned aircraft system.

(3) A law enforcement agency may operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system, or disclose information acquired through the operation of an unmanned aircraft system, during a state of emergency that is declared by the Governor under ORS chapter 401 if:

(a) The unmanned aircraft system is used only for the purposes of preserving public safety, protecting property or conducting surveillance for the assessment and evaluation of environmental or weather related damage, erosion or contamination; and

(b) The unmanned aircraft system is operated only in the geographical area specified in a proclamation pursuant to ORS 401.165

(5). [2013 c.686 §5; 2015 c.315 §5]

Note:

See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft  
Operation Section 837.340 - Investigations of crimes and accidents.**

(1) A law enforcement agency may operate an unmanned aircraft system, acquire information through the operation of an unmanned aircraft system, or disclose information acquired through the operation of an unmanned aircraft system, for the purpose of reconstruction of a specific crime scene or accident scene, or similar physical assessment, related to a specific investigation.

(2) The period that a law enforcement agency may operate an unmanned aircraft system under this section may not exceed five days for the purpose of reconstruction of a specific crime scene or accident scene, or similar physical assessment, related to a specific investigation. [2013 c.686 §6; 2015 c.315 §6; 2017 c.502 §2]

Note:

See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft  
Operation Section 837.345 - Training.**

(1) A law enforcement agency may operate an unmanned aircraft system for the purpose of training in:

(a) The use of unmanned aircraft systems; and

(b) The acquisition of information through the operation of an unmanned aircraft system.

(2) Any image or other information that is acquired through the use of an unmanned aircraft system by a law enforcement agency under this section, and any evidence derived from that image or information:

(a) Is not admissible in, and may not be disclosed in, a judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding; and

(b) May not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed. [2013 c.686 §7; 2015 c.315 §7]

Note:

See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft  
Operation Section 837.350 - Restrictions; authorized use; rules.**

(1) The State Parks and Recreation Commission shall adopt rules managing the use of unmanned aircraft systems by people in state parks to protect natural, cultural, scenic and recreational resources in a park property or adjacent areas while providing for enjoyment of recreational use of unmanned aircraft systems.

(2) Subject to ORS 837.300 to 837.390, rules adopted under this section may allow:

(a) The State Parks and Recreation Department and the department's agents and contractors to use unmanned aircraft systems in carrying out the duties of the department.

(b) The use of unmanned aircraft systems for the purpose of resource management, emergency operations or protection of property. [2021 c.172 §2]

Note:

See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft  
Operation Section 837.360 - Restrictions; exception for educational institution; civil penalties; registration; fees; rules.**

(1) As used in this section, "educational institution" means an education service district, school district, public charter school, community college or public university listed in ORS 352.002.

(2)(a) A public body, other than an educational institution, may not operate an unmanned aircraft system in the airspace over this state without registering the unmanned aircraft system with the Oregon Department of Aviation.

(b) An educational institution may not operate an unmanned aircraft system in the airspace over this state without registering as a user of unmanned aircraft systems with the department. The department may not require an educational institution to register individual unmanned aircraft systems under this section.

(3) The Oregon Department of Aviation may impose a civil penalty of up to \$10,000 against a public body that violates subsection (2) of this section.

(4) Evidence obtained by a public body through the use of an unmanned aircraft system in violation of subsection (2) of this section is not admissible in any judicial or administrative proceeding and may not be used to establish reasonable suspicion or probable cause to believe that an offense has been committed.

(5)(a) The Oregon Department of Aviation shall establish a registry of unmanned aircraft systems registered under subsection (2)(a) of this section and may charge a fee sufficient to reimburse the department for the maintenance of the registry.

(b) The department may not charge a fee to an educational institution under this subsection.

(6) The Oregon Department of Aviation shall require the following information for registration of an unmanned aircraft system under subsection (2)(a) of this section:

(a) The name of the public body that owns or operates the unmanned aircraft system.

- (b) The name and contact information of the individuals who operate the unmanned aircraft system.
  - (c) Identifying information for the unmanned aircraft system as required by the department by rule.
  - (7)(a) A public body that registers one or more unmanned aircraft systems under subsection (2)(a) of this section shall provide an annual report to the Oregon Department of Aviation that:
    - (A) Summarizes the frequency of use of the unmanned aircraft systems by the public body during the preceding calendar year;
    - (B) Summarizes the purposes for which the unmanned aircraft systems have been used by the public body during the preceding calendar year; and
    - (C) Indicates how the public can access the policies and procedures established under ORS 837.362.
  - (b) The department shall adopt rules requiring an educational institution that registers as a user of unmanned aircraft systems under subsection (2)(b) of this section to maintain records of the educational institution's use of unmanned aircraft systems.
  - (8) The State Aviation Board may adopt all rules necessary for the registration of unmanned aircraft systems in Oregon that are consistent with federal laws and regulations. [2013 c.686 §8; 2015 c.315 §8; 2016 c.72 §8; 2019 c.337 §2]
- Note:  
See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.362 - Policies and procedures for use of data.**

- (1) A public body that operates an unmanned aircraft system shall establish policies and procedures for the use, storage, accessing, sharing and retention of data, including but not limited to video and audio recordings, resulting from the operation of the unmanned aircraft system.
  - (2) The public body shall post the following information on the public body's website or otherwise make the following information available to the public:
    - (a) The policies and procedures established under this section.
    - (b) The text of ORS 192.345.
    - (3) The policies and procedures established under this section must include:
      - (a) The length of time data will be retained by the public body.
      - (b) Specifications for third party storage of data, including handling, security and access to the data by the third party.
      - (c) A policy on disclosure of data through intergovernmental agreements. [2016 c.72 §7]
- Note:  
See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.365 - Weaponized unmanned aircraft systems; penalties.**

- (1) Except as provided in subsection (3) of this section, a person may not intentionally, knowingly or recklessly operate or cause to be operated an unmanned aircraft system that is:
  - (a) Capable of firing a bullet or projectile; or
  - (b) Specifically designed or modified to cause, and is presently capable of causing, serious physical injury as defined in ORS 161.015.
- (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, violation of subsection (1) of this section is a Class A misdemeanor.
- (b) Violation of subsection (1) of this section is a Class C felony if the person intentionally, knowingly or recklessly operates an unmanned aircraft system and the unmanned aircraft system fires a bullet or projectile.
- (c) Violation of subsection (1) of this section is a Class B felony if the person intentionally, knowingly or recklessly operates an unmanned aircraft system and the unmanned aircraft system:
  - (A) Fires a bullet or projectile that causes serious physical injury, as defined in ORS 161.015, to another person; or
  - (B)(i) Is specifically designed or modified to cause, and is presently capable of causing, serious physical injury as defined in ORS 161.015; and
  - (ii) The design or modification causes serious physical injury, as defined in ORS 161.015, to another person.
- (3) Subsection (1) of this section does not apply if:
  - (a) The person uses the unmanned aircraft system to release, discharge, propel or eject a nonlethal projectile for purposes other than to injure or kill persons or animals;
  - (b) The person uses the unmanned aircraft system for nonrecreational purposes in compliance with specific authorization from the Federal Aviation Administration;
  - (c) The person notifies the Oregon Department of Aviation, the Oregon State Police and any other agency that issues a permit or license for the activity requiring the use of the unmanned aircraft system of the time and location at which the person intends to use an unmanned aircraft system that is capable of releasing, discharging, propelling or ejecting a projectile at least five days before the person uses the system;
  - (d) If the person intends to use an unmanned aircraft system that is capable of releasing, discharging, propelling or ejecting a projectile in an area open to the public, the person provides reasonable notice to the public of the time and location at which the

person intends to use the unmanned aircraft system; and

(e) The person maintains a liability insurance policy in an amount not less than \$1 million that covers injury resulting from use of the unmanned aircraft system.

(4) The notification requirement of subsection (3)(c) of this section does not apply to:

(a) A career school licensed under ORS 345.010 to 345.340;

(b) A community college as defined in ORS 341.005;

(c) A school;

(d) The Oregon Health and Science University;

(e) A public university listed in ORS 352.002; or

(f) An institution that is exempt from ORS 348.594 to 348.615 under ORS 348.597 (2).

(5) Notwithstanding subsection (3) of this section, a person may not use an unmanned aircraft system that is capable of releasing, discharging, propelling or ejecting a projectile for purposes of crowd management.

(6) As used in this section, "school" means a public or private institution of learning providing instruction at levels kindergarten through grade 12, or their equivalents. [2013 c.686 §10; 2015 c.315 §9; 2016 c.72 §2; 2017 c.502 §1; 2018 c.120 §6]

Note:

See note under 837.300.

Note:

The repeal of statutes in ORS chapter 345 by section 17, chapter 273, Oregon Laws 2023, becomes operative July 1, 2024. See section 19, chapter 273, Oregon Laws 2023. Until July 1, 2024, the reference to the series 345.010 to 345.340 should be considered a reference to the series 345.010 to 345.450. See Preface to Oregon Revised Statutes for further explanation.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft  
Operation Section 837.370 - Operation over privately owned premises; penalties.**

(1) Except as provided in subsection (2) of this section, a person may not operate an unmanned aircraft system over the boundaries of privately owned premises in a manner so as to intentionally, knowingly or recklessly harass or annoy the owner or occupant of the privately owned premises.

(2) Subsection (1) of this section does not apply to the use of an unmanned aircraft system by a law enforcement agency under ORS 837.335.

(3)(a) Except as provided in paragraphs (b) and (c) of this subsection, violation of subsection (1) of this section is a Class B violation.

(b) If, at the time of the offense, the person has one prior conviction under this section, violation of subsection (1) of this section is a Class A violation.

(c) If, at the time of the offense, the person has two or more prior convictions under this section, violation of subsection (1) of this section is a Class B misdemeanor.

(d) If the court imposes a sentence of probation for a violation under paragraph (c) of this subsection, the court may order as a condition of probation that the person may not possess an unmanned aircraft system. [2017 c.502 §4]

Note:

See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft  
Operation Section 837.372 - Operation over critical infrastructure facility; penalty.**

(1) As used in this section, "critical infrastructure facility" means any of the following facilities, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if marked with a sign conspicuously posted on the property that indicates that entry is forbidden:

(a) A petroleum or alumina refinery;

(b) An electrical power generating facility, substation, switching station or electrical control center;

(c) A chemical, polymer or rubber manufacturing facility;

(d) A water intake structure, water treatment facility, wastewater treatment plant or pump station;

(e) A natural gas compressor station;

(f) A liquid natural gas terminal or storage facility;

(g) A telecommunications central switching office;

(h) A port, railroad switching yard, trucking terminal or other freight transportation facility;

(i) A gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas;

(j) A transmission facility used by a federally licensed radio or television station;

(k) A steelmaking facility that uses an electric arc furnace to make steel;

(L) A dam that is classified as a high hazard by the Water Resources Department;

(m) Any portion of an aboveground oil, gas or chemical pipeline that is enclosed by a fence or other physical barrier that is obviously designed to exclude intruders; or

(n) A correctional facility or law enforcement facility.

- (2) Except as provided in subsection (3) of this section, a person commits a Class A violation if the person intentionally or knowingly:
- (a) Operates an unmanned aircraft system over a critical infrastructure facility at an altitude not higher than 400 feet above ground level; or
  - (b) Allows an unmanned aircraft system to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility.
- (3) This section does not apply to:
- (a) The federal government.
  - (b) A public body.
  - (c) A law enforcement agency.
  - (d) A person under contract with or otherwise acting under the direction or on behalf of the federal government, a public body or a law enforcement agency.
  - (e) An owner or operator of the critical infrastructure facility.
  - (f) A person who has the prior written consent of the owner or operator of the critical infrastructure facility.
  - (g) The owner or occupant of the property on which the critical infrastructure facility is located.
  - (h) A person who has the prior written consent of the owner or occupant of the property on which the critical infrastructure facility is located.
  - (i) A person operating an unmanned aircraft system for commercial purposes in compliance with authorization granted by the Federal Aviation Administration. [2016 c.72 §13]
- Note:  
See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.374 - Reckless interference with aircraft; penalties.**

- (1) Except as provided in subsection (3) of this section, a person commits a Class A violation if the person possesses or controls an unmanned aircraft system and recklessly causes the unmanned aircraft system to:
- (a) Direct a laser at an aircraft while the aircraft is in the air;
  - (b) Crash into an aircraft while the aircraft is in the air;
  - (c) Prevent the takeoff or landing of an aircraft; or
  - (d) Interfere with a wildfire suppression, law enforcement or emergency response effort.
- (2) Except as provided in subsection (3) of this section, a person commits a Class A misdemeanor if the person possesses or controls an unmanned aircraft system and knowingly or intentionally causes the unmanned aircraft system to:
- (a) Direct a laser at an aircraft while the aircraft is in the air;
  - (b) Crash into an aircraft while the aircraft is in the air;
  - (c) Prevent the takeoff or landing of an aircraft; or
  - (d) Interfere with a wildfire suppression, law enforcement or emergency response effort.
- (3) A person commits a Class A felony if the person possesses or controls an unmanned aircraft system and knowingly, intentionally or recklessly causes death or serious physical injury, as defined in ORS 161.015, to another person by causing the unmanned aircraft system to:
- (a) Direct a laser at an aircraft while the aircraft is in the air;
  - (b) Crash into an aircraft while the aircraft is in the air; or
  - (c) Prevent the takeoff or landing of an aircraft.
- (4) Notwithstanding subsection (1) of this section, a person commits a Class A misdemeanor if the person violates subsection (1) of this section and the person has one or more convictions under subsection (1) of this section at the time of the offense.
- (5) In addition to and not in lieu of any other sentence the court may impose, upon a person's second or subsequent conviction under this section, the court shall, at the time of sentencing, declare the unmanned aircraft system used in the offense to be contraband and order that the unmanned aircraft system be forfeited. [2016 c.72 §5; 2019 c.337 §1; 2023 c.114 §1; 2023 c.249 §1]
- Note:  
See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.375 - Interference with an unmanned aircraft system; unauthorized control.**

In addition to any other remedies allowed by law, a person who intentionally interferes with, or gains unauthorized control over, an unmanned aircraft system licensed by the Federal Aviation Administration, or operated by the Armed Forces of the United States as defined in ORS 352.313, an agency of the United States or a federal, state or local law enforcement agency, is liable to the owner of the unmanned aircraft system in an amount of not less than \$5,000. The court shall award reasonable attorney fees to a prevailing plaintiff in an action under this section. [2013 c.686 §14; 2015 c.315 §10]

Note:  
See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.380 - Action by owner of real property; Attorney General.**

(1) Except as provided in subsections (2) and (3) of this section, a person who owns or lawfully occupies real property in this state may bring an action against any person or public body that operates an unmanned aircraft system that is flown over the property if:

(a) The operator of the unmanned aircraft system has flown the unmanned aircraft system over the property on at least one previous occasion; and

(b) The person notified the owner or operator of the unmanned aircraft system that the person did not want the unmanned aircraft system flown over the property.

(2) A person may not bring an action under this section if:

(a) The unmanned aircraft system is lawfully in the flight path for landing at an airport, airfield or runway; and

(b) The unmanned aircraft system is in the process of taking off or landing.

(3) A person may not bring an action under this section if the unmanned aircraft system is operated for commercial purposes in compliance with authorization granted by the Federal Aviation Administration. This subsection does not preclude a person from bringing another civil action, including but not limited to an action for invasion of privacy or an action for invasion of personal privacy under ORS 30.831.

(4) A prevailing plaintiff may recover treble damages for any injury to the person or the property by reason of a trespass by an unmanned aircraft system as described in this section, and may be awarded injunctive relief in the action.

(5) A prevailing plaintiff may recover attorney fees under ORS 20.080 if the amount pleaded in an action under this section is \$10,000 or less.

(6) The Attorney General, on behalf of the State of Oregon, may bring an action or claim for relief alleging nuisance or trespass arising from the operation of an unmanned aircraft system in the airspace over this state. A court shall award reasonable attorney fees to the Attorney General if the Attorney General prevails in an action under this section. [2013 c.686 §15; 2015 c.315 §11; 2016 c.72 §10]

Note:

See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.385 - Preemption of local laws regulating unmanned aircraft systems.**

Except as expressly authorized by state statute, the authority to regulate the ownership or operation of unmanned aircraft systems is vested solely in the Legislative Assembly. Except as expressly authorized by state statute, a local government, as defined ORS 174.116, may not enact an ordinance or resolution that regulates the ownership or operation of unmanned aircraft systems or otherwise engage in the regulation of the ownership or operation of unmanned aircraft systems. [2013 c.686 §17; 2015 c.315 §12]

Note:

See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.387 - Regulation of unmanned aircraft systems in parks owned by local government.**

(1) Notwithstanding ORS 837.385, a local government, as defined in ORS 174.116, may enact an ordinance or resolution prohibiting or regulating the takeoff and landing of unmanned aircraft systems in parks owned by the local government.

(2) An ordinance enacted under subsection (1) of this section must:

(a) Allow utility providers a reasonable ability to use unmanned aircraft systems in parks for the purpose of inspecting utility lines.

(b) Allow public bodies to use unmanned aircraft systems in parks for emergency operations.

(c) Provide for an affirmative defense to a charge or claim of violation of the ordinance when a person performs an emergency landing of an unmanned aircraft system in a park in the absence of an equally safe alternative. [2023 c.115 §2]

Note:

See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.390 - Applicability.**

ORS 837.300 to 837.390 and 837.995 and section 11, chapter 686, Oregon Laws 2013, do not apply to the Armed Forces of the United States as defined in ORS 352.313. [2013 c.686 §16]

Note:

See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.990 - Penalties.**

(1) Except as otherwise provided in this section and subject to ORS 153.022, a person commits a Class A violation if the person violates any provision of this chapter or any rule adopted, or order issued, under this chapter.



(2) The offense described in ORS 837.080, prohibited operation of an aircraft, is a Class B misdemeanor. [Formerly 493.991; 1999 c.1051 §115; 2005 c.75 §5; 2007 c.71 §248]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.995 - Crimes involving unmanned aircraft systems; penalties.**

(1) A person commits a Class A felony if the person possesses or controls an unmanned aircraft system and intentionally causes, or attempts to cause, the unmanned aircraft system to fire a bullet or other projectile at an aircraft while the aircraft is in the air.

(2) A person who intentionally interferes with, or gains unauthorized control over, an unmanned aircraft system licensed by the Federal Aviation Administration, or operated by the Armed Forces of the United States as defined in ORS 352.313, an agency of the United States or a federal, state or local law enforcement agency, commits a Class C felony. [2013 c.686 §13; 2015 c.315 §13; 2023 c.114 §2]

Note:

See note under 837.300.

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 837 - Aircraft Operation Section 837.998 - Civil penalties.**

(1) Except as provided in subsection (2) of this section, in addition to any other penalty provided by law, the Director of the Oregon Department of Aviation may impose a civil penalty not to exceed \$720 for each violation of any provision of this chapter or any rule adopted, or order issued, under this chapter.

(2) The director may impose a civil penalty not to exceed \$2,500 for violation of ORS 837.080 or any rule adopted, or order issued, under this chapter to enforce ORS 837.080.

(3) The director shall impose civil penalties under this section in the manner provided in ORS 183.745. [2013 c.403 §2]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.005 - Definitions.**

As used in this chapter, unless the context requires otherwise:

(1) "District" means an airport district established under this chapter.

(2) "District board" means the governing body of the district. [Formerly 494.010]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.010 - Establishing district; election; tax rate limit; prerequisite for inclusion of county; prerequisite for inclusion of airport owned by city.**

(1) In addition to initiatory action authorized by ORS 198.705 to 198.955, proceedings to establish a district may be initiated by:

(a) A resolution adopted by the governing body of the most populous county in the proposed district and filed with the governing body of the principal county in the proposed district, petitioning that body to call the election; or

(b) A resolution adopted by the governing body of any city owning an airport within the proposed district and filed with the governing body of the principal county in the proposed district, petitioning that body to call an election.

(2) The petition or resolution initiating formation may request that the election to establish the district be held at the same time as an election to establish a permanent rate limit on operating taxes within the meaning of section 11 (3)(c), Article XI of the Oregon Constitution. If the petition or resolution does so, the election shall be held at that time and shall also request that the proposition to be voted on include a proposed permanent rate limit for operating taxes for the district within the meaning of section 11 (3), Article XI of the Oregon Constitution. If the petition or resolution does so, the proposition to be voted on at the election shall include a proposed permanent rate limit for the district, in accordance with the petition or resolution.

(3) After initiatory action has been taken pursuant to this section, airport district formation shall be conducted and completed as provided by ORS 198.705 to 198.955 except that where areas from more than one county are proposed to be included in the district, the election for district board members may be held at a date later than the election for formation, if successful. The later election for board members may also propose establishment of a district permanent rate limit for operating taxes.

(4) No county or portion thereof shall be included within a district unless a majority of the electors in the county approve the inclusion of such county or portion thereof within the district.

(5) No district shall include an airport owned by a city unless the governing body of such city has adopted a resolution approving the inclusion of the airport within such district or a majority of the electors within the city voting on the proposal approve the inclusion of the airport. [Formerly 494.020; 1997 c.541 §387]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.015 - Establishing tax rate limit.**

A permanent rate limit for operating taxes within the meaning of section 11 (3), Article XI of the Oregon Constitution, may be established for a district at the same election at which the district is established or at the first election of district board members, where that election is held after district establishment. If the petition or resolution for initiating proceedings to establish the district

contains both requests authorized by ORS 838.010 (2), the county governing body that calls the election shall confer about the proposed permanent rate limit with the governing bodies of all counties and cities having territory in the proposed district and shall then determine the rate limit to be proposed for the district. The proposition submitted to the electors of the district for the purpose of establishing the district shall propose the rate limit specified by the county governing body. The rate limit so proposed shall be the initial permanent rate limit for operating taxes of the district within the meaning of section 11 (3), Article XI of the Oregon Constitution, if the district is established at the election. [Formerly 494.030; 1997 c.541 §388; 1999 c.21 §79]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.020 - Governing body of district; first terms and meeting.**

(1) The governing body of a district shall be a district board consisting of five or seven members elected from the district at large. Except as provided in subsection (2) of this section, the term of district board member is four years. Candidates for the first district board shall be nominated as provided in ORS 255.235 and elected as provided in ORS 198.705 to 198.955 and 838.010.

(2) Not later than the 40th day after the first board members are elected, the district board members shall meet and organize as a board, first making and subscribing to an oath of office. Notwithstanding the term of office specified in subsection (1) of this section, the term of each board member shall be determined by lot at the first meeting of the board as follows:

(a) Of the members first elected to a seven-member board:

(A) The terms of four members shall expire June 30 next following the first regular district election; and

(B) The terms of three members shall expire June 30 next following the second regular district election.

(b) Of the members first elected to a five-member board:

(A) The terms of three members shall expire June 30 next following the first regular district election; and

(B) The terms of two members shall expire June 30 next following the second regular district election.

(3) The chairperson of the county governing body that calls the election on establishing the district shall convene the first meeting of the district board and shall serve as chairperson of the first meeting until the members choose a permanent chairperson. [Formerly 494.040]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.025 - Election laws apply.**

(1) ORS chapter 255 governs the following:

(a) The nomination and election of district board members.

(b) The conduct of district elections.

(2) The electors of a district may exercise the powers of the initiative and referendum regarding a district measure, in accordance with ORS 255.135 to 255.205. [Formerly 494.043]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.030 - Officers of board; vacancies; rules of procedure.**

(1) At its first meeting after July 1 each year the district board shall choose a chairperson for the ensuing year. The chairperson shall be the presiding officer of the board and have whatever additional functions the board prescribes.

(2) Vacancies shall be filled as provided in ORS 198.320.

(3) The district board may adopt and enforce rules of procedure governing its proceedings. [Formerly 494.046]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.035 - District.**

(1) An airport district has full power to carry out the objectives of its formation and to that end may have and use a seal, have perpetual succession, sue and be sued in its own name, and enter into contracts.

(2) Except as this chapter provides to the contrary, the powers of the district shall be vested in the district board of the district.

(3) An airport district formed under this chapter shall be considered a district for all purposes in ORS chapter 198. [Formerly 494.050; 2003 c.802 §158]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.040 - Powers of district.**

A district may establish, construct, expand or lease, control, equip, improve, maintain, operate, police and regulate airports and air navigation facilities, and to this end may exercise all the functions and powers provided in ORS 836.200 to 836.250 and may acquire by lease, purchase, gift, devise, condemnation proceedings or otherwise such real and personal property and rights of way, either within or without the limits of the district as, in the judgment of the board, are necessary or proper. [Formerly 494.060]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.045 - Regulations.**

The district board in accordance with ORS 198.510 to 198.600 may by ordinance make, modify or abolish regulations as convenient

or necessary to provide for policing or regulating the use of airports, and any facilities located at or in conjunction with airports, owned, operated, leased, maintained or controlled by the district. [Formerly 494.070]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.050 - Employees.**

The district board may employ whatever administrative, clerical, technical and other assistance is necessary for the proper functioning of the district, on whatever terms the board considers in the best interests of the district. [Formerly 494.080]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.055 - Contracting to carry out functions.**

A district may contract with any public or private agency for the agency to operate any facility or perform any function that the district is authorized to operate or perform. By contract the district may assume any function of any public corporation, city or county in the district that the district has power to assume under this chapter. [Formerly 494.090]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.060 - Ad valorem taxation; special tax; collection.**

(1) A district may levy annually an ad valorem tax on all taxable property within its boundaries not to exceed in any one year one-half percent (0.005) of the real market value of all taxable property within the boundaries of the district, computed in accordance with ORS 308.207. The district may also annually assess, levy and collect a special tax upon all such property in an amount sufficient to pay the yearly interest on bonds previously issued by the district and then outstanding, together with any portion of the principal of such bonds maturing within the year. The special tax shall be applied only in payment of the interest and principal of bonds issued by the corporation, but the corporation may apply any funds it may have toward the payment of principal and interest of any such bonds.

(2) Such taxes shall be levied in each year and returned to the county officer whose duty it is to extend the tax levy as provided in ORS 310.060. All taxes levied by the district shall become payable at the same time and be collected by the same officer who collects county taxes and shall be turned over to the district according to law. The county officer whose duty it is to extend the county levy shall extend the levy of the district in the same manner as city taxes are extended. Property shall be subject to sale for nonpayment of taxes levied by the corporation in like manner and with like effect as in the case of county and state taxes.

(3) In taxation a district may classify property on the basis of services received from the district and prescribe different tax rates for the different classes of property. [Formerly 494.110; 1991 c.459 §444]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.065 - General obligation bonds; amount; maturity; revenue bonds; issuance.**

(1) For the purpose of performing any service that the district has power to perform, the district, when authorized at any properly called election held for such purpose, shall have the power to borrow money by the issuance and sale of general obligation bonds. Such bonds shall never exceed in the aggregate 10 percent of the real market value of all taxable property within the district computed in accordance with ORS 308.207. The bonds shall be so conditioned that the district shall promise and agree therein to pay the bearer at a place named therein payable semiannually in accordance with the tenor and terms of the interest coupons attached. The bonds shall mature serially not to exceed 30 years from the date of issue.

(2) For the purpose of performing any of the powers conferred by this chapter a district, without the necessity of an election held for such purpose, shall have the power to borrow money by the issuance and sale also of revenue bonds and to pledge as security therefor, all or any part of the unobligated net income or revenue of the district. The revenue bonds shall be payable both as to principal and interest from revenues only. The revenue bonds shall not be subject to the percentage limitation applicable to general obligation bonds and shall not be a lien on any of the taxable property within the limits of the district and shall be payable solely from such part of revenues of the district as remains after the payment of obligations having a priority and of all expenses of operation and maintenance of the district. All revenue bonds shall contain a provision that both the principal and interest are payable solely from the operating revenues of the district remaining after paying such obligations and expenses.

(3) All general obligation bonds and revenue bonds shall be issued as prescribed in ORS chapter 287A. [Formerly 494.120; 1991 c.459 §445; 2007 c.783 §232]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.070 - General obligation bond election.**

Elections for the purpose of voting on the question of borrowing funds by issuance and sale of general obligation bonds shall be called by the district board. [Formerly 494.130]

**2023 Oregon Revised Statutes Volume : 19 - Utilities, Vehicle Code, Watercraft, Aviation Chapter 838 - Airport Districts Section 838.075 - Refunding bonds.**

Refunding bonds of the same character and tenor as those replaced thereby may be issued pursuant to a resolution adopted by the

district board without submitting to the electors the question of authorizing the issuance of the bonds. [Formerly 494.140]